

# When Lawsuits Work in Your Favor

Don't give up on clients with pending court cases — help them get legal financing

By **Alec Schibanoff**, director of marketing and business development, LawMax Legal Finance

**A** DIVORCEE LOOKING TO BUY A condominium. An injured worker behind on his mortgage payments. Like millions of Americans, they have an asset they might not realize: a legal claim.

Individuals in divorce cases, inheritance claims, personal-injury suits and other lawsuits may be able to get a portion of their expected settlements paid to them upfront. It's called legal finance, and for savvy mortgage brokers, it is the newest implement in their creative-financing tool belt.

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Clients expected to profit from a court case may qualify for legal financing, which could supply them with the funds to make a downpayment or take care of other mortgage expenses now, prior to the lawsuit's final outcome. This funding offers many benefits to your clients and can result in an upfront commission for you.

## How it works

The closest financial instrument to legal finance is accounts-receivables financing, also known as factoring. Like a receivable, a legal claim is a soft



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asset that could turn into hard cash. Legal-finance companies look at legal claims, and if they believe the litigant has a compelling case, they will advance a portion of the expected settlement to the claimant.

Although each legal-finance-funding company has its own underwriting guidelines, one factor that all funding companies look at is the defendant's ability to pay the settlement won by the plaintiff, especially in a personal-injury lawsuit. It is the brokers' responsibility to collect supporting documentation when submitting their clients' request for funding, but the legal-finance company will clearly define what is needed for each funding request. Typically, the plaintiff's attorney will already have the necessary paperwork in the clients' file.

Once a legal-finance company agrees to fund a legal action, that company assumes

all risk associated with the transaction. Brokers receive a commission as soon as clients receive their funding, and at that point, the legal financier takes responsibility for the advance. Should plaintiffs lose in court, the funding company writes the advance off as a loss.

## When it works

Personal-injury lawsuits are one of the most-popular types of suits filed every year, and most legal-finance advances involve this form of claim. These can involve auto, workplace, industrial and public-facilities accidents, as well as wrongful-death suits and medical malpractice. It doesn't end there: Personal-injury lawsuits also can be the result of burns, dog bites, electrocutions, construction accidents, building collapses, drownings, plane and bus crashes, assaults and many other causes.

Cases eligible for legal finance also include any civil action in which the plaintiff stands to

receive a cash settlement. This type of action can include divorce cases, inheritance claims or appellate suits.

## Benefits for borrowers

Several aspects of the legal financing process can help your clients:

- **No credit check:** Even clients with dreadful credit can qualify for a lawsuit advance because it is not based on their creditworthiness or their ability to repay it from their regular income stream. Their legal claims are the assets against which the advance is made.

- **No employment verification:** Because the advance will not be paid back from clients' regular income stream, it doesn't make any difference what clients make or if they are working at all.

- **No monthly payments:** A lawsuit advance is paid off in one lump sum from the proceeds of the settlement, so there are no monthly payments. That means clients receive an immediate cash infusion without increasing their monthly bills.

- **No interest:** Interest is charged on loans — but legal-claim advances are not loans. Instead, the legal-finance company charges a risk premium, which is added to the advance in set periods of time, such as every six months.

- **No recourse:** The advance is only paid back when claimants win their case at trial or reach an out-of-court settlement. Should litigants lose, they are not required to return their advance.

- **No report to credit agencies:** The lien for the lawsuit advance is against the lawsuit, not the clients' assets or income streams, so receiving a lawsuit advance has no effect on their credit scores or credit ratings. It is not reported as an outstanding obligation. In fact, if the cash is used to catch up on late payments, lawsuit advances can have a positive effect on clients' credit scores.

## Benefits for brokers

In addition to earning a commission for each

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## When Lawsuits Work

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client who receives funding, there are several ways for mortgage brokers to leverage a legal-finance advance into additional transactions.

For instance, clients may use a lawsuit advance to secure money for a downpayment, which might have held them back from otherwise completing a deal.

Other clients, especially accident victims, may use a lawsuit advance to catch up on late mortgage payments. In addition to building considerable goodwill with former clients, brokers arranging advances for these clients might also be able to refinance them into a mortgage with a lower monthly payment.

Brokers also can benefit by arranging advances for clients and counseling them to stretch out the advance by making only minimum payments on their monthly obligations. Doing this can allow clients to come through lawsuits with their credit not damaged too badly. Then brokers can advise clients to rebuild their credit to qualify for a mortgage.

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Ultimately, brokers who help their clients attain lawsuit advances almost always stand to earn two commission checks. Legal financing can be a creative and profitable way to turn around deals that once seemed impossible. **!!**