

Why Willkie, Longford Want Their \$50M Funding Deal Public

By **Steven Lerner**

Law360 (June 24, 2021, 4:41 PM EDT) -- The \$50 million litigation funding agreement between Willkie Farr & Gallagher LLP and Longford Capital Management LP is a market milestone in the acceptance of third-party financing among lawyers and clients alike.

The deal, announced Wednesday, provides equity capital to cover litigation costs for certain corporate clients of Willkie's Chicago office.

William P. Farrell Jr., Longford's co-founder and managing director, told Law360 Pulse that BigLaw firms are embracing litigation finance at an increasing rate.

"The level of awareness and acceptance of litigation finance among key constituencies, corporate clients, leading law firms, and even the judicial system, is growing in ways that embrace and favor the use of litigation finance," Farrell said.

Craig C. Martin, chairman of Willkie's Midwest arm and a member of the firm's executive committee, told Law360 Pulse that while litigation funding is a topic that is not talked about much, many BigLaw firms are engaged in it.

The relationship between Martin and Farrell goes back many years in the Chicago legal community. Farrell was a partner at Neal Gerber & Eisenberg LLP before starting Longford. Martin was previously the chairman of Jenner & Block LLP. Justin Maleson, a director for Longford, was previously a partner at Jenner & Block.

Last year, Martin left Jenner & Block to launch Willkie's Chicago office. Martin said the office now has about 45 lawyers who focus on commercial disputes. Some of the litigation work involves breach of contract matters as well as disputes over intellectual property, patents and copyrights.

Willkie's trial and litigation areas overlap the types of cases that Longford looks to invest in, according to Farrell.

"We find it very important to invest in meritorious legal claims that are being prosecuted by highly successful and accomplished trial lawyers," Farrell said. "Craig Martin has been exactly one of those trial lawyers for a long time."

The overlapping of practice areas and Farrell's long-standing relationship with Martin aligned Willkie and

Longford as suitable partners for a litigation funding deal.

"The types of clients that Craig and his firm represent really benefit from options and alternatives in ways of financing large scale, high-stakes commercial litigation," Farrell said.

Discussions to form a litigation funding pact began after Martin joined Willkie in 2020. Both Martin and Farrell say that the idea to make the litigation funding announcement public is to empower Willkie's clients through new options for financing.

"The client community and the corporate community we think should have available to them any mechanism or alternative that's appropriate in terms of funding their offensive or defensive litigation," Martin said. "The fundamental issue that brings about this agreement and our announcement of it is we want to empower our clients to have everything that should be available to them in the litigation space."

Farrell added that it makes the most sense for Willkie to have clients be aware of this new funding option.

"We want to empower corporate private equity and business clients with alternatives, including the litigation funding alternative for major commercial litigation, more typically on the plaintiff's side in business-to-business disputes, but [it] also does include the defendant's side in terms of protecting revenue streams," Martin said.

According to Farrell, after a client makes a decision to fund its litigation with third-party financing, both Willkie and Longford will evaluate the case to ensure that it works. Some of the characteristics that Longford looks for in litigation investment opportunities include the applicable law, evidence that supports or disproves a claim, and the jurisdiction of the case.

The deal comes as the U.S. District Court for the District of New Jersey is considering a rule change that would require the disclosure of third-party litigation funding.

Martin said the New Jersey proposal did not impact the timing of the announcement.

With more than \$1 billion in assets under management, \$50 million is a fraction of what Longford has in its financial arsenal. But the mere disclosure of such a deal with a BigLaw firm is important because it could cause a wave of other firms to announce similar agreements.

Martin said that he's not sure how other law firms will respond to the news.

"It really goes back to the fundamental proposition that litigation funding, we believe, is very prevalent among large law firms at this point," Martin said.

Farrell predicted the announcement would lead to additional disclosures from law firms.

"It's further evidence that litigation finance has moved into the mainstream in the American legal industry," Farrell said. "I think that other similar announcements will follow in the time to come."

--Additional Reporting by Nick Muscavage. Editing by Jill Coffey.

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