



RAND INSTITUTE FOR CIVIL JUSTICE CONFERENCE

CONSUMER LEGAL FUNDING IN THE US



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WHAT IS CONSUMER LEGAL FUNDING?

- “Consumer Legal Funding” (CLF) means a transaction in which a Consumer Legal Funding Company purchases and a consumer assigns the contingent right to receive an amount of the potential proceeds of a settlement, judgment, award or verdict obtained in the consumer’s legal claim to the Consumer Legal Funding Company.

WHAT IS CONSUMER LEGAL FUNDING?

- Also known as
 - Civil Litigation Funding
 - Pre-Settlement Funding
 - Litigation Financing
 - Lawsuit Financing
 - Non-recourse Funding
 - Lawsuit loan/ cash advance
- Industry-started in mid '90's, Grown significantly in past five years

WHO IS THE AMERICAN LEGAL FINANCE ASSOCIATION?

- Trade Group formed in 2004
- Consists of 21 companies nationwide
- Approx 90% of all fundings in US
- Stand for best practices
 - Disclosure and Transparency
 - Attorney Review
 - No deceptive advertising
 - Do not overfund
 - Never fund behind another member
 - Approved and standardized contracts



HOW DOES CONSUMER LEGAL FUNDING WORK?

- Attorney / client relationship
 - Client has already engaged lawyer and has an initiated a claim prior to CLF Company contact
 - CLF Company does not request or receive privileged information
 - CLF Company has no input into claim/case strategy
 - CLF Company has no input in settlement negotiations
 - From Legislation supported by ALFA:

“THE COMPANY AGREES THAT IT SHALL HAVE NO RIGHTS TO AND WILL NOT MAKE ANY DECISIONS WITH RESPECT TO THE CONDUCT OF THE UNDERLYING LEGAL CLAIM OR ANY SETTLEMENT OR RESOLUTION THEREOF AND THAT THE RIGHT TO MAKE SUCH DECISIONS REMAINS SOLELY WITH YOU AND YOUR ATTORNEY IN THE LEGAL CLAIM.”

CONSUMER LEGAL FINANCE - IT IS NOT A LOAN!

- At Risk - if you lose your case you do not repay the CLF Company
- Unknown Outcome
- Uncertain Maturity
- No ability to service current debt
- No collateral - other than the future value of case that may or may not be successful

HOW DOES CONSUMER LEGAL FUNDING WORK?

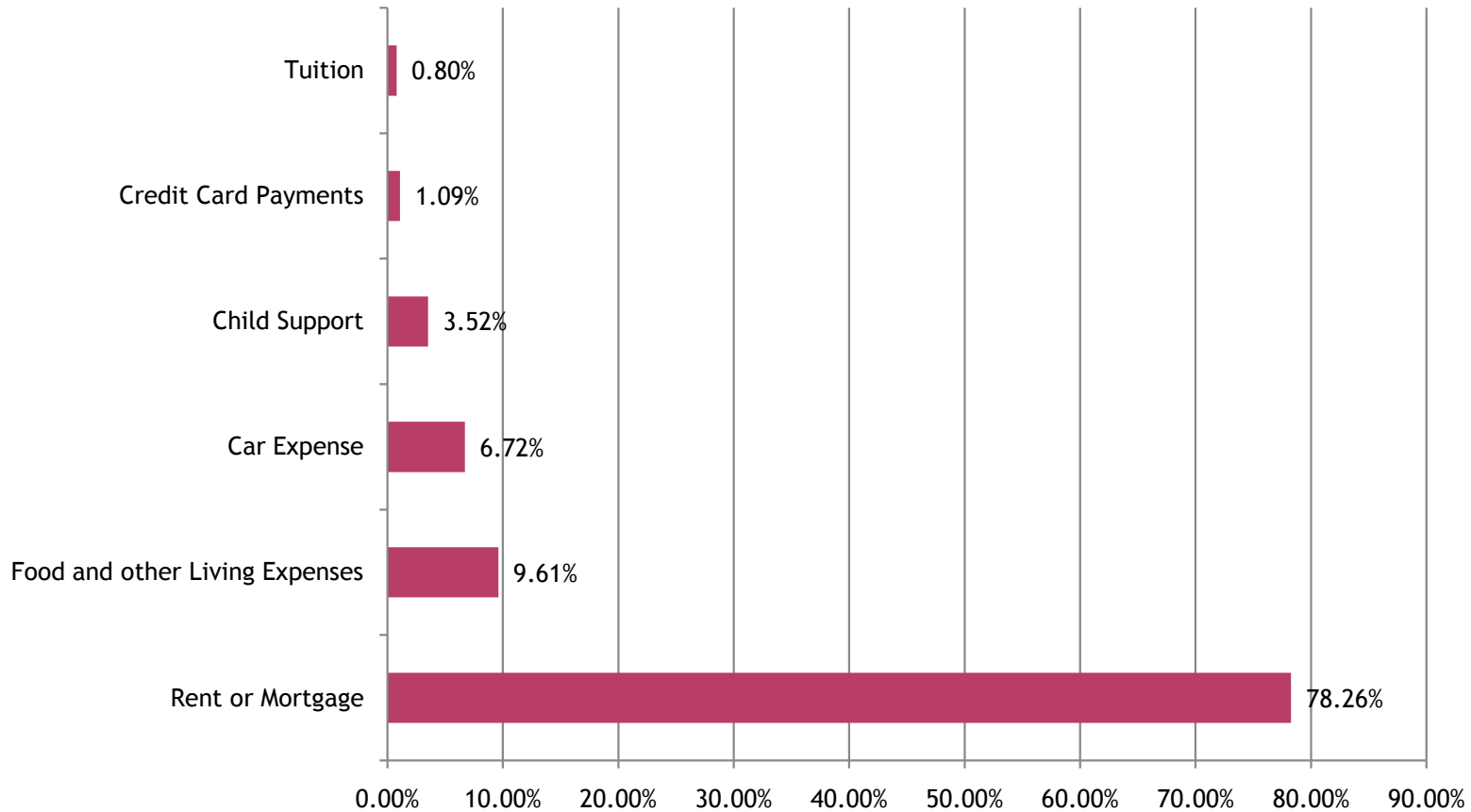
- Who uses CLF? ⁽¹⁾
 - 64% of applicants are less than 44 years of age.
 - 67% are single, 32% have children
 - Many are “female head of household”
 - Lower to middle income
 - 65% do not have a bank credit card.
 - 58% are homeowners

(1) Source: Leading ALFA Member proprietary customer profile and Sourcelink® Data

HOW DOES CONSUMER LEGAL FUNDING WORK?

- Use of proceeds for life needs
 - Greatest use - to stop foreclosures and evictions!
 - Basic food and household needs
 - Car payments and insurance

CRITICAL LIFE NEEDS - USES OF CLF⁽²⁾



(2) Source: LawCash proprietary customer survey

HOW DOES CONSUMER LEGAL FUNDING WORK?

- Not for use for attorneys fees or litigation costs!

From Legislation supported by ALFA:

“THE CONSUMER UNDERSTANDS AND AGREES THAT FUNDS RECEIVED FROM THIS CONSUMER LEGAL FINANCE TRANSACTION MAY NOT BE USED TO PAY FOR ATTORNEY’S FEES, EXPERT FEES, COSTS OR OTHER LITIGATION EXPENSES RELATED TO YOUR LEGAL CLAIM.”

HOW DOES CONSUMER LEGAL FUNDING WORK?

- Not for everyone
 - Savings
 - Family
 - Friends
 - Banks, Credit Unions or other financial institutions
 - Then consider a CLF Company



HOW DOES CONSUMER LEGAL FUNDING WORK?

- Credit History not a consideration
- No additional collateral
- No personal guarantee
- “10% Rule”
- Never get in the way of a settlement

HOW DOES CONSUMER LEGAL FUNDING WORK?

- **If you lose your case you pay nothing**

From Legislation supported by ALFA:

“THE CONSUMER LEGAL FUNDING COMPANY SHALL ONLY BE PAID FROM THE PROCEEDS OF THE LEGAL CLAIM. YOU WILL NOT OWE THE CONSUMER LEGAL FUNDING COMPANY ANYTHING IF THERE IS NO RECOVERY OF PROCEEDS FROM YOUR LEGAL CLAIM...”

HOW DOES CONSUMER LEGAL FUNDING WORK?

- The contract will clearly disclose what the consumer will owe the CLF Company

From Legislation supported by ALFA

- The contract shall contain:

The total dollar amount of funds to be paid to the consumer;

An itemization of one-time fees;

The total dollar amount being assigned by the consumer to the Consumer Legal Funding company, set forth in 6-month intervals for 36 months beginning 6 months after the start date of the contract;

HOW DOES CONSUMER LEGAL FUNDING WORK?

- Consumer has Five Business Day's right to rescind/cancel at no cost
 - From Legislation supported by ALFA

“Consumer’s right to cancellation: You may cancel this contract without penalty or further obligation within 5 business days after the date you receive funds from the Consumer Legal Funding company...”

HOW DOES CONSUMER LEGAL FUNDING WORK?

- Consumer understands what they are signing - and an attorney reviews the contract
 - From Legislation supported by ALFA

The contract shall contain a written acknowledgement by the attorney representing the consumer in the legal claim of the following:

That the attorney representing the consumer in the legal claim has reviewed the contract and all costs and fees have been disclosed, including the annualized rate of interest applied to calculate the amount to be paid by the consumer.

LIFE CIRCUMSTANCES OF THE CLF CONSUMER

- Bona fide personal injury case
- Has already retained legal counsel
- Not just indigent people - working people
- Many are working multiple jobs to make ends meet
- Some on disability or workers compensation
- “Wrong place and Wrong time”
- Banks will not lend money to those with less than perfect credit
 - Banks only lend money when you do not need it



CAMPBELL BROWN PROFILE



TESTIMONIALS

- K McSwain \$550
 - My light bill and phone bill needed to be paid.
- N Loggins \$1,050
 - I am able to pay my rent and past due utilities bill
- E Taylor \$2,050
 - At this time you have helped me more than you know!
- N Brown \$800
 - House payment keeps me from getting put out.
- C Mack \$550
 - Helps pay for medication

TESTIMONIALS

◎ Linda Bilello

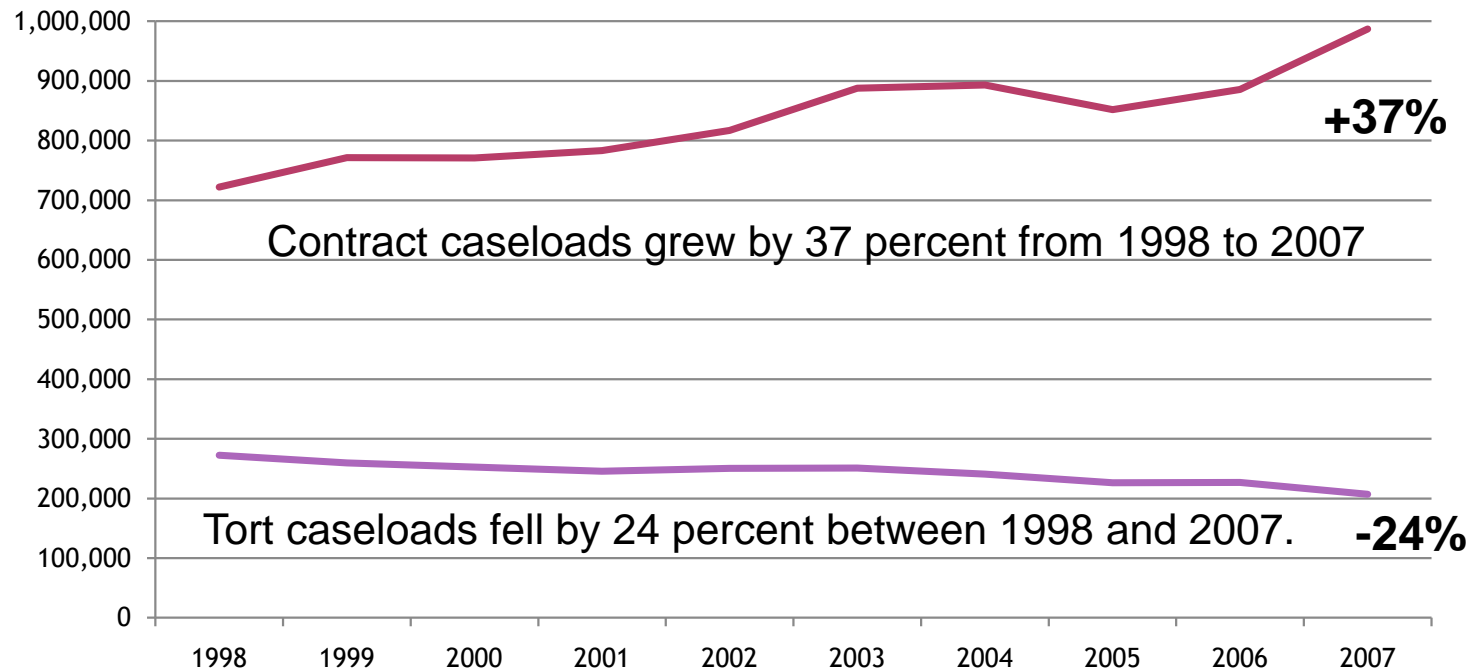
- I appreciate being able to get this at the time. My case is taking a little longer to settle than I thought and in the interim we were being threatened with foreclosure from our home. Due to the accident I had lost my job and our mortgage interest rate went up. Getting this money now will help us as we didn't know what to do. Thank you from the bottom of my heart.

◎ Yusef Desdoneas

- You have helped me out greatly. Without your help I don't know what I would have done. I don't have anywhere else to turn for monetary help. I have a number of debts to be paid and I have not been able to find viable employment. Without this help I would really be in a stressful situation. The money will not make my problem disappear, but it is helping with the load. This will help me get back on my feet.

COMMON MISCONCEPTIONS OF CONSUMER LEGAL FUNDING

- Promotes Frivolous Lawsuits??



Source: Examining the Work of State Courts: *An Analysis of 2007 State Court Caseloads*
Trial Courts: Civil Caseloads

COMMON MISCONCEPTIONS OF CONSUMER LEGAL FUNDING

- Nothing left for the Consumer
 - CLF companies provide very small funding amounts
 - Ensures the funding will not be an impediment to settlement
 - Ensures the plaintiff will receive a meaningful recovery from the settlement proceeds

From Legislation supported by ALFA

“... the amount to be paid to the Consumer Legal Finance Company shall not be determined based on a percentage of the consumer’s recovery in the underlying legal claim...”

COMMON MISCONCEPTIONS OF CONSUMER LEGAL FUNDING

- Nothing left for the consumer at the time of settlement??

\$60,000 Total Settlement

(\$20,000) Attorney Fee

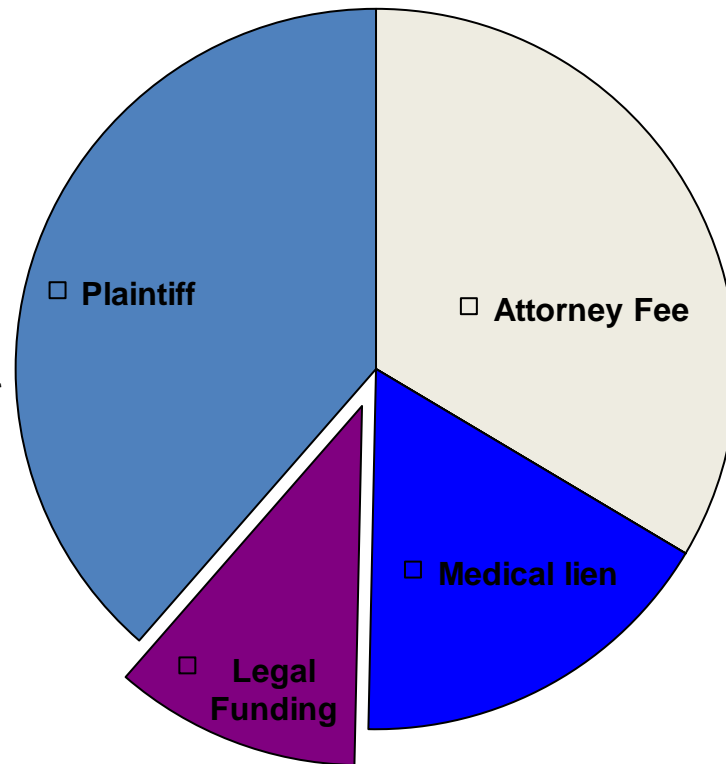
(\$10,000) Medical Lien

(\$6,600) Repayment for \$4,000
Legal Funding*

\$23,400 to Plaintiff at settlement

+ \$4,000 Legal Funding

\$27,400 Total to Plaintiff



*Funding repaid in 19 months

COMMON MISCONCEPTIONS OF CONSUMER LEGAL FUNDING

- CLF Delays settlements ???
 - Client is not forced into taking first offer due to financial hardship
 - No “homerun” or “jackpot” mentality, consumer is sure to get something

COMMON MISCONCEPTIONS OF CONSUMER LEGAL FUNDING

- CLF is more expensive than other options ???
- Repayment analysis of a sub-prime credit card user who charges \$1,000 on card

Calculations via by CreditCard.com

INTEREST RATE	PAYMENT PERCENT	MIN Monthly PAYMENT	TOTAL PAYMENTS	TIME TO PAY OFF
25%	2.50%	\$10.00	\$4,469	25 YRS 6 MO
35%	2.50%	\$25.00	\$25,535	30 YRS

Compare with a \$1,000 Consumer Legal Funding

Funding Amount	Amount owed 12 months	Amount owed 24 months	Amount owed 36 months
\$1,000	\$1,300	\$1,600	\$1,900

COMMON MISCONCEPTIONS OF CONSUMER LEGAL FUNDING

- Ethical considerations
 - Legislation supported by ALFA

“The Consumer Legal Funding company shall not pay or offer to pay any compensation to any attorney or employee of a law firm or to any medical provider, chiropractor, or physical therapist or their employees for referring a consumer to the Consumer Legal Funding company...”

COMMON MISCONCEPTIONS OF CONSUMER LEGAL FUNDING

- Funding Class-Actions ???
 - Legislation supported by ALFA

“The Consumer Legal Funding company shall not knowingly provide non-recourse Consumer Legal Funding to a consumer who is a plaintiff in a class action lawsuit at the time of the funding.”

FUTURE FOR CONSUMER LEGAL FUNDING

- Continued public awareness through ALFA
- Support consumer protection and sensible regulation
- Only for those who need it - it is not for everyone
- Helps meet Life Needs while waiting for settlement

ANY QUESTIONS?

