



## **Burford Chief Investment Officer Authors Major White Paper Detailing Impact of Litigation Funding on Large-Scale Commercial Disputes**

*“Theory and Practice in Litigation Risk” written by Burford’s Jonathan Molot, also a leading scholar on litigation finance and risk management at Georgetown Law Center; paper illustrates successful application of investment capital for leveling playing field in burgeoning litigation funding marketplace; Molot to lead workshop on litigation funding May 2 at George Washington University Law School*

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NEW YORK (April 25, 2012) – One of the country’s leading experts on litigation finance and risk management has authored a major new white paper that details the impact of third-party financing on large-scale commercial disputes.

Author **Jonathan T. Molot** is chief investment officer at **Burford Group Limited**, the investment advisor to **Burford Capital**, the world’s largest provider of investment capital and risk solutions for financing for litigation. He is also a tenured professor at Georgetown University Law Center, where he developed a pioneering theory that envisioned using investment capital to help level the playing field in litigation between parties with unequal financial resources or risk tolerances.

At Burford, Prof. Molot has had the opportunity to test that theory in practice. As he writes in his paper, his ideas about the positive role that capital markets might play in rectifying financial or risk-related imbalances between litigants have been proven right.

Indeed, the paper cites roughly a half dozen cases in which timely infusions of capital from Burford helped smaller or less well-financed litigants retain higher caliber lawyers or otherwise mount a more vigorous prosecution of their cases—and ultimately obtain a fairer resolution of their claims.

Since its formation, Burford has committed some \$280 million in investment capital to a portfolio of more than three dozen lawsuits and arbitration matters. The firm’s average investment has been \$8 million per case over the past year. In addition to direct investments in disputes, Burford recently acquired **Firstassist**, the leading litigation expenses insurance provider in the UK, giving the firm entree into the UK litigation finance market.

On May 2, Prof. Molot will be leading a roundtable on trends in litigation at George Washington University Law School in Washington, D.C.

“We’re using market forces to help right the scales of justice,” said Prof. Molot, who presented his paper, entitled “**Theory and Practice in Litigation Risk**,” at a faculty workshop at Georgetown University Law Center in March. Without outside financing, he adds, some of the litigants would have had to drop their suits or settle for far smaller amounts. “Because of our funding, there were able to stand up in the litigation on equal terms and battle for their cases.”

In one example of Burford's impact, Prof. Molot describes a major dispute over a residential housing project in Arizona between a large real estate developer and a rival. The plaintiff – the smaller company – had a strong case and retained a top-flight attorney from one of the country's most respected law firms to pursue its claim. However, midway through the litigation, the company ran out of money, and its legal team, already owed more than \$1 million in unpaid bills, was set to withdraw from the case.

Rather than scramble to find another firm willing to take the matter on contingency, the plaintiff struck a financing deal with Burford, under which it ultimately secured a total of \$6 million to cover the costs of the litigation through trial, as well as pay its outstanding legal bills.

In 2010, the jury returned a \$110 million verdict against the defendant, which prompted it to settle the case and resulted in a favorable outcome for the smaller developer. "Without Burford's funding, I am confident that the result would have been different," Prof. Molot writes.

Along with an assessment of the role outside financing has played in specific cases, Prof. Molot's paper offers a back-story look at his own personal journey from full-time academic to chief investment officer at what is now the world's largest dispute financing firm. A former Supreme Court clerk and *magna cum laude* graduate of Harvard Law School, he is now one of the country's top authorities on civil procedure, with a specific expertise in complex litigation and litigation risk issues.

At Georgetown, much of his scholarly research has focused on how mismatches in financial resources or risk tolerances between parties in a lawsuit can skew litigation outcomes, as litigants who can't afford a protracted fight are often forced to drop their claims or settle for far less than they deserve despite having a strong case on the merits.

Prof. Molot concluded that outside financing of cash-strapped or risk adverse litigants offered a more efficient way to correct those imbalances than procedural reforms. In articles in the University of Chicago Law Review and the Georgetown Law Journal, he sketched out detailed proposals for how the sort of market solution he envisioned might work – for both plaintiffs and defendants. He also has taught courses about defense and plaintiffs' side market mechanisms at George Washington, Georgetown, and Harvard Universities.

"But, of course, that was in theory," recalls Prof. Molot. "My colleagues and my students naturally asked whether what I posited in theory could actually work in practice."

He soon got a chance to find out. After delivering a paper on litigation finance at a 2009 RAND/UCLA legal conference, he was approached by a group of lawyers interested in launching a new business venture aimed at helping litigants and law firms manage the financial burdens and risks of large-scale litigation.

Prof. Molot agreed to join the venture, and Burford Group was formed. Prospective investors were enthusiastic, and after the group successfully raised initial financing for its investment fund, he decided to take an unpaid leave from Georgetown to devote himself to building the business full-time.

Two years later, Burford Capital has raised more than \$300 million in investment capital and is now traded on the London Stock Exchange. (BUR:LN) Last year, it generated \$15.9 million in profits,

up sharply from just under \$2 million in 2010, according to the firm's 2011 year-end investment results, announced on April 4. Total 2011 income was \$25 million, up from \$7 million the previous year.

"Investors increasingly recognize that this is a good space to invest in," said Prof. Molot, who added that the firm's litigation portfolio continues to perform strongly in 2012. One major case Burford provided financing for settled earlier this year, producing a 30% IRR, while lawyers in another case recently prevailed in the liability portion of the litigation, paving the way for a another profitable return.

Burford's portfolio ranges from commercial contract and real estate disputes to intellectual property, trade secrets, and antitrust cases. Burford has worked with many leading law firms, including half of the AmLaw 50.

"The speed of acceptance of the role Burford can play in financing major litigation has been impressive, and it's increasing," said Prof. Molot. "We're seeing a growing interest from companies and law firms."

"The economic pressures and risks associated with large-scale litigation today are such that even the most profitable law firms and corporations are looking for financial partners in advancing their cases," added Burford Group CEO **Christopher Bogart**, who previously served as general counsel of Time Warner Inc. and is a former litigator at Cravath, Swaine & Moore.

Of course, as Prof. Molot's paper points out, when Burford was launched there was no guarantee that a market for litigation financing could flourish—or that the firm's business model would be viable. "Whether my theoretical model could work in practice was something I would not know until I tried," he writes. "Having now helped to construct an active litigation finance business I am pleased to find that what I posited in theory is indeed feasible. My practical project has reinforced the arguments I advanced as a scholar."

For further information, visit [www.burfordfinance.com](http://www.burfordfinance.com).

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