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New research shows companies with large claims recover more and preserve budgets by using legal finance as part of their class action opt out strategies

Legal finance use is 3x likelier among companies that mostly/always opt out of the class vs. those that mostly/always remain in the class

New York City, September 13, 2022 - Burford Capital, the leading global finance and asset management firm focused on law, today releases new independent research demonstrating the value of legal finance for companies with valuable commercial class action claims. In recent years, Burford has seen an increasing number of major corporations choosing to opt out of class action lawsuits to pursue high value claims individually and has commissioned independent research to examine the trend in greater depth.

Although companies are currently still more likely to remain in the class than they are to opt out, the research reveals that their reasons for doing so are economic—and solvable with legal finance, which de-risks the choice to opt out and provides a clear benefit to corporations with high value claims. As most legal finance is non-recourse, companies can receive risk-free funding to pursue meritorious claims as individual plaintiffs, as well as to accelerate the often-significant value represented by pending claims.

Given the results of the research, Burford expects the trend toward opt outs will continue, with major companies choosing to rethink their opt out strategies with legal finance.

Christopher Bogart, CEO of Burford Capital, said: “Burford’s independent research on commercial class actions demonstrates the clear benefit that legal finance provides to companies with significant claims. If you’re a GC and you have a claim that’s big enough to merit opting out, you should, because you’ll recover more, and you can do so without budget implications by using legal finance capital. Further, your competitors who are already using legal finance are opting out three times more often. As a former GC, I recognize the importance of maintaining control and maximizing returns in litigation, and Burford works with many GCs to use legal finance to reduce risk, maintain greater control and enhance the likelihood of achieving greater recoveries.”

Key findings from the research include:

- **Use of legal finance correlates to opting out.**
 - Use of legal finance is 3x likelier among companies that mostly/always opt out vs. companies that mostly/always remain in the class, and 2x likelier than all companies.
- **Companies’ top reasons for opting out are maintaining control and maximizing return.**
 - The #1 reason large company GCs opt out is their fiduciary duty to maximize recoveries to their company.
- **Companies’ top reasons to stay in the class are economic.**



- Not being able to justify the cost of pursuing an opt out claim (64%) and not having the budget to do so (61%) are the top 2 reasons companies remain in the class.
- Legal finance ameliorates both cost and budget constraints.
- **GCs say the availability of legal finance would impact their opt out strategy.**
 - 1 of 2 (52%) say that while they have not used legal finance, its availability would positively impact the decision to opt out.

The [Report on Class Action Recoveries](#) can be downloaded on Burford's website, where full results are also available. The research report was conducted in June 2022 by GLG via an online survey, with responses from 150 US GCs, heads of litigation and other senior in-house lawyers responsible for their companies' commercial litigation.

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