



**THE
WESTFLEET
INSIDER**

2023 Litigation Finance Market Report



**WESTFLEET
ADVISORS**

OVERVIEW

The 2023 edition of *The Westfleet Insider* represents the fifth year in which Westfleet Advisors has published its widely-cited, data-driven report on the US commercial litigation finance industry.



Last year's results are indicative of an industry in a state of flux, with some notable players exiting the industry, numerous professionals making lateral moves, and capital commitments to new deals contracting by nearly 14%.

The reduction in new capital commitments is not a reflection of softening demand, rather, it is driven primarily by macro trends in the broader financial markets. The interest rate environment has afforded investors the ability to generate attractive risk-adjusted returns in other assets, making legal finance relatively less attractive. Further, private credit and private equity asset classes have also been subjected to a widespread pull-back as asset allocators have moved to rebalance their portfolios, and these trends have generally resulted in less capital available for asset classes such as legal finance.

Unable to raise ample amounts of new funding, many funders began rationing their capital. This rationing is the main driver of the reduction in capital commitments to new deals in our annual report as well as the shake-up of dozens of professionals who left their roles with funders during 2023. These individuals made lateral moves to other funders, started their own litigation finance funds, pursued careers in adjacent areas such as contingent risk insurance, or left the industry entirely.

Some speculation exists that the prevalence of contingent risk insurance in the last few years has started to have a measurable impact on commercial litigation financing activity. Indeed, some have predicted that this rapidly growing area of insurance will displace litigation funding to a significant degree. While we acknowledge the importance and increased utilization of contingent risk insurance, we do not believe it has materially displaced litigation finance except in areas such as appellate monetizations.

While the downward trends of new transactions in 2023 are undeniable, we do note that many funders thrived both in terms of new capital raised, capital committed to new deals, growth in their headcount, and profitability. We believe that current conditions favor industry incumbents with strong track records and a proven ability to consistently attract new capital. Those funders that have been inconsistent in their ability to service new transactions will

likely experience problems with relationships that drive originations, which could become a vicious cycle if their deteriorating pipelines make it even more difficult to attract new capital. We expect to see continuing consolidation and likely additional shakeout in 2024.

Litigation finance market conditions continue to be opaque and inefficient, which creates substantial disparity in deal terms that can be exploited by parties with superior knowledge. The rationing of capital across many funders has resulted in greater difficulty in obtaining funding for most law firms and companies that seek it. Now more than ever, parties seeking funding need expertise on their side of the fundraising, deal structuring, negotiation processes to successfully navigate this niche capital market.

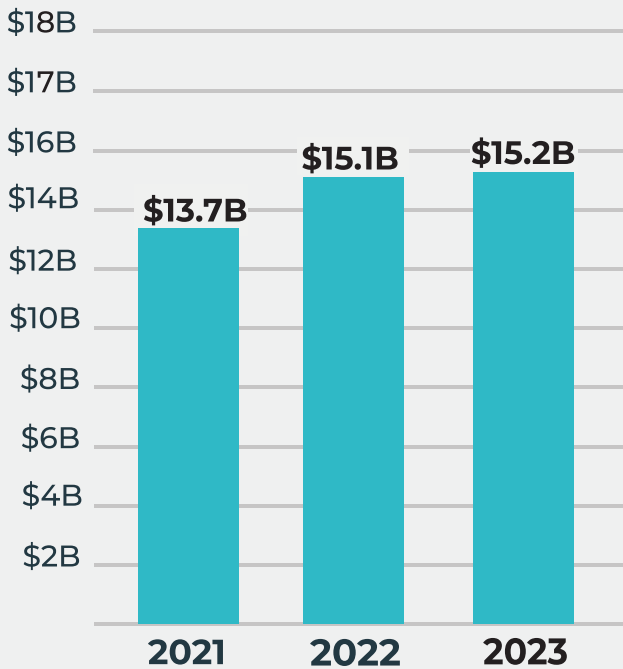
As a leading advisory firm exclusively serving law firms and their clients, Westfleet's core mission has always been to promote transparency in the litigation finance industry, increasing the utility of this valuable form of financing. In addition to our deal advisory work, one of the most important manifestations of our commitment to this mission is the publication of this annual report. We are grateful for our relationships within the litigation finance industry, without which the data collection upon which this report relies would not be possible. It is with great pride that we present *The Westfleet Insider: 2023 Litigation Finance Report*.

INDUSTRY SIZE & RECENT TRENDS

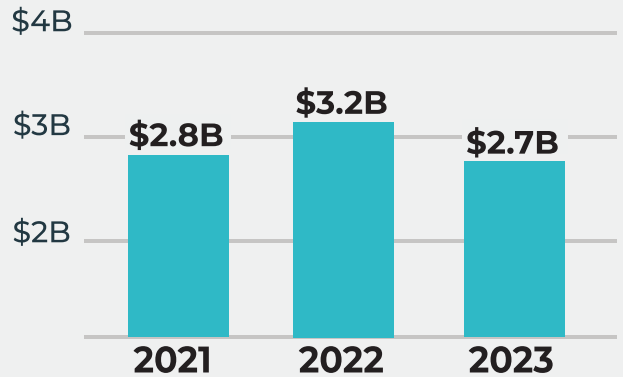


Growth of Industry

Assets Under Management*



New Commitments to Deals



*In this year's industry report, we revised our methodology for calculating AUM to more accurately account for undrawn capital commitments for certain industry participants. Thus, the above figures for 2022 and 2021 were previously reported as \$13.5B and \$12.4B, respectively.

TYPES OF COMMERCIAL LITIGATION FUNDERS

Litigation funders in the U.S. can be divided into three types: *dedicated*, *multi-strategy*, and *ad hoc*.

DEDICATED FUNDERS

Dedicated funders, as their name suggests, specialize in litigation finance. These funders account for most of the capital available, and most of the deals completed, in the litigation finance industry. Some dedicated funders enjoy full autonomy to invest in deals that fit their mandate. Others manage their investors' capital but with limited autonomy. For instance, investors may reserve veto authority over financing deals. Several entities that hold themselves out as dedicated litigation funders do not manage a dedicated pool of capital at all, but instead, approach investors on a deal-by-deal basis to raise capital on the fly.

Two of the funders in this category with significant US activities are publicly traded entities, while the other funders in this category are privately held.

MULTI-STRATEGY FUNDERS

Multi-strategy funders are entities—usually hedge funds—that invest in various markets and asset classes and have established a dedicated litigation finance area (or “desk”). This specific litigation finance area typically operates much like a dedicated funder, but these multi-strategy funders often have greater sensitivity to business conflicts and capital markets compliance issues due to the broader activities.

AD HOC FUNDERS

Ad hoc funders are entities like hedge funds or family offices that only occasionally participate in the litigation finance space and do not have dedicated litigation finance desks. Ad hoc funders have an appetite for litigation finance deals, but most do not publicize their participation in the market. No reliable way exists to measure the investment activity within this category of funders.

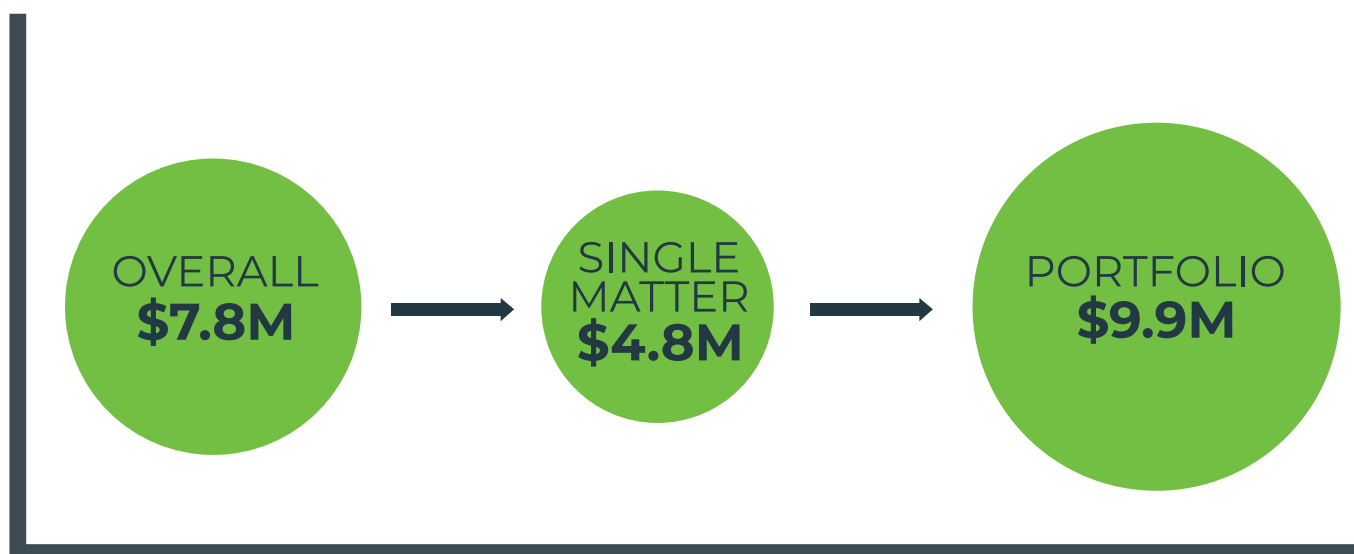
BREAKDOWN OF NEW CAPITAL COMMITTED

The following sections provide an overview of some of the key metrics we collect from funders that reflect in greater detail how the capital committed to new deals in 2023 was allocated. Generally, we observed consistency in statistics such as average deal size, breakdown by type of user and by type of deal structure. Notably, allocations to monetization deals increased substantially, and we have observed a steady trend in this regard for the last three years. Big Law utilization was up significantly in 2023, both as a percentage of total new commitments and in absolute terms.

Average Deal Size

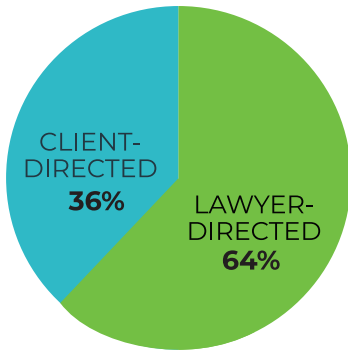
In 2023, the average size of the transactions of all types that we analyzed was \$7.8 million (\$8.6 million in 2022). Single-matter deals averaged \$4.8 million (\$4.3 million in 2022), while portfolio deals averaged \$9.9 million (\$10.5 million in 2022). Although these figures vary somewhat year to year, our observations reflect a fairly stable pattern. The longer term trend continues to be toward larger average transaction size across all types of deals, however.

2023 Average Deal Size



Type Of User

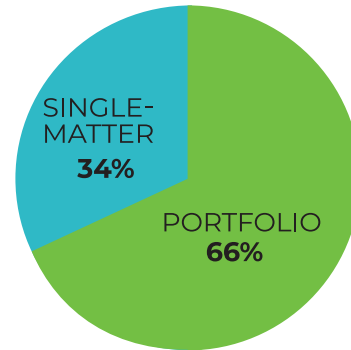
The allocation of capital between client-directed and lawyer-directed deals was consistent with prior years. In 2023, lawyer-directed deals made up approximately 64% of capital commitments versus 61% in 2022.



**2023 Commitments
By Type Of User**

Type Of Deal Structure

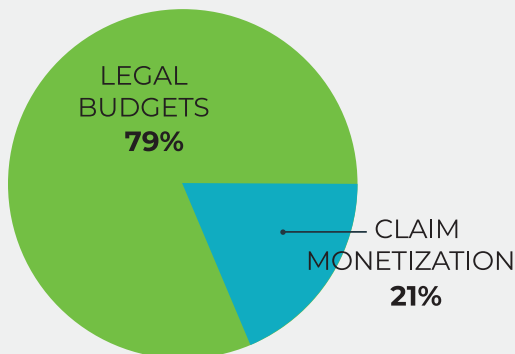
The allocation of capital between single-matter and portfolio deals remained consistent in 2023 compared with prior years, with portfolios comprising 66% of new capital commitments. The ratio of portfolio deals to single-matter deals has remained approximately 2:1 consistently from 2019 through 2023.



**2023 Commitments
by Type of Deal**

Use Of Proceeds

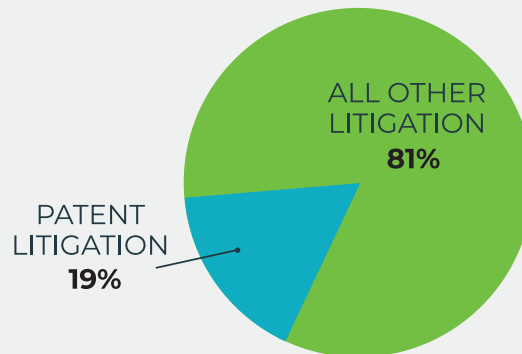
The allocation of capital toward claim monetization has consistently increased during the last three years. In 2023, claim monetization comprised 21% of new capital commitments (versus 14% in 2022 and 8% in 2021). Corporate client monetization deals appear to be a major driver of this trend.



**2023 Commitments
By Use of Proceeds**

Patent Litigation

Patent litigation attracted a percentage of new commitments in 2023 that was consistent with historical norms, comprising 19% of all capital commitments. This type of litigation continues to be the largest category of funded matters.

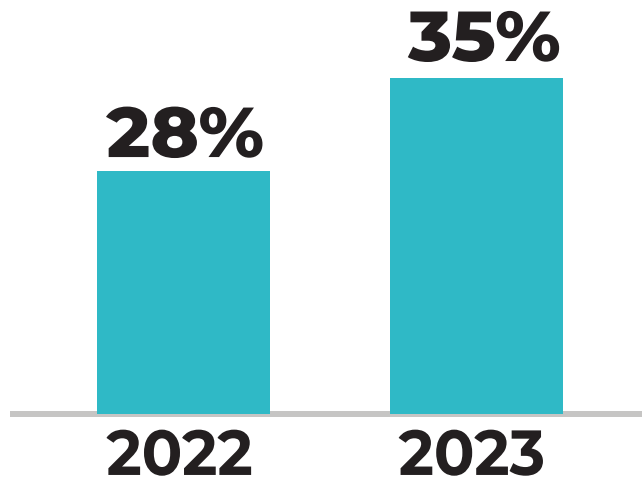


**2023 Commitments
For Patent Litigation**

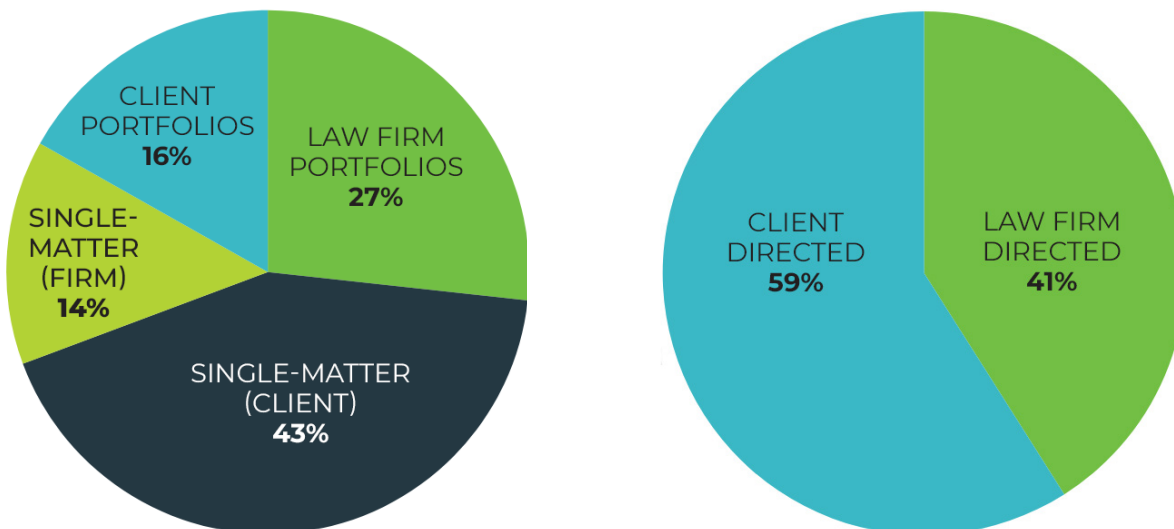
Big Law

Utilization among the largest 200 US law firms (Big Law) in 2023 increased both in relative and absolute terms. As a percentage of total new commitments, Big Law represented 35% in 2023. Although the total commitments decreased in 2023 (approximately \$2.7 billion in 2023 versus approximately \$3.2 billion in 2022), new commitments of approximately \$960 million last year were allocated to Big Law compared to approximately \$890 million in 2022.

Percentage of Total Commitments Allocated to Big Law



Allocation of Commitments to Big Law



WESTFLEET'S METHODOLOGY

This report would not have been possible without the participation of most of the major litigation funders, which provided thoughtful responses to our requests for information, and, through a third party, submitted confidential information from which we aggregated a complete picture of the industry's size and scope. By design, that third party shared no attributable data with anyone, even with Westfleet, which only received the aggregated information found in this report.

Further, much of the data relating to transactional volume and AUM is available online for the publicly traded entities, as these firms are required to adhere to a certain level of transparency in their operations. The more granular data included in our report was only gathered from those funders that directly participated in our survey. Nonetheless, based on the scope and composition of these participants, we believe these more granular data points accurately reflect the broader industry's activities.

The methodology used in this guide was as follows:

- Funder data was included in this report if the organization had substantial participation in the U.S. commercial litigation finance market as of the report's publication.
- The transaction data we collected relates to the 12 months from July 1, 2022 to June 30, 2023.
- As used in this report, "litigation finance" refers only to commercial litigation finance, which we define as transactions between commercial entities in which the financier's repayment is contingent upon the outcome of one or more legal matters. Other forms of finance – including consumer litigation finance, law firm finance (including mass tort and personal injury firms), receivables factoring, and other legal finance in which repayment is not contingent on the outcome of legal matters—are excluded from consideration in this report.
- Only commercial litigation finance activities with a nexus to the U.S. (i.e., transactions that involve a U.S. law firm as lead counsel, a U.S. counterparty, and/or U.S. litigation or arbitration or related proceedings) are included in this report.
- Law firm portfolio transactions are included even where the underlying cases may contain cases that are not commercial (e.g., cases involving bodily injuries) if the nature of the law firm's repayment obligations are contingent upon recoveries in the underlying cases.
- Some funders manage capital that is not exclusively dedicated to U.S. commercial litigation finance. For these funders, we have adjusted to exclude any capital not dedicated or allocated to U.S. commercial litigation finance from our estimate of industry-wide AUM.



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