

# IT'S TIME FOR SUNSHINE ON THIRD-PARTY LITIGATION FUNDING

## TPLF IS BIG BUSINESS AND GROWING

**\$5 billion**

TPLF industry in the United States today<sup>1</sup>



**\$500 million**

In 2017, two of the largest funders, Burford Capital and Longford Capital, each raised half a billion dollars<sup>2,3</sup>

**4x**

The growth in the number of U.S. lawyers from 2013 to 2016 who said their firms have used TPLF<sup>4</sup>

## SECRETIVE TPLF RAISES SERIOUS PROBLEMS

Unnecessary, risky health procedures<sup>5</sup>



Exorbitant loan rates and recovery fees<sup>7</sup>



Conflicts of interest<sup>6</sup>



Frivolous litigation<sup>8</sup>



## NEED FOR DISCLOSURE, COMPLIANCE AND CONSISTENCY

- **6 U.S. Courts of Appeals** and **25% of all U.S. District Courts** have local rules for federal courts that ostensibly require identifying litigation funders<sup>9</sup>
- **Wisconsin** became the first state to expressly require disclosure of TPLF in 2018<sup>10</sup>

**But practices under local rules are inconsistent, rarely enforced and don't go far enough – that's why the Federal Rules of Civil Procedure should require disclosure of third-party litigation funding for all federal civil litigation.**

### SOURCES

<sup>1</sup><https://www.law360.com/in-depth/articles/992299>

<sup>2</sup><http://www.burfordcapital.com/newsroom/burford-capital-closes-500-million-complex-strategies-investment-fund/>

<sup>3</sup><http://www.longfordcapital.com/media/longford-capital-closes-fund-ii>

<sup>4</sup><http://www.burfordcapital.com/blog/litigation-finance-beyond-litigation/>

<sup>5</sup><https://www.nytimes.com/2018/04/14/business/vaginal-mesh-surgery-lawsuits-financing.html>

<sup>6</sup><https://www.law360.com/articles/1041305/opioid-md-atys-must-disclose-outside-funding-judge-says>

<sup>7</sup><https://www.nytimes.com/2011/01/17/business/17lawsuit.html?action=click&module=RelatedCoverage&pgtype=Article&region=Footer>

<sup>8</sup><http://www.abjournal.com/news/article/serial-ads-suits-operated-like-a-carnival-shell-game-depriving-plaintiff-of>

<sup>9</sup>Memorandum from Patrick A. Tighe, Rules Law Clerk, to Ed Cooper, Don Coquillette, Rick Marcus, Cathie Struve, Survey of Federal and State Disclosure Rules Regarding Litigation Funding (Feb. 7, 2018), Agenda Materials at 209.

<sup>10</sup><https://blogs.findlaw.com/strategist/2018/04/new-law-all-third-party-litigation-funding-must-be-disclosed-in-wisconsin.html>