

Q&A: Bentham Capital CIO Ralph Sutton

By Jan Wolfe

December 6, 2013

Among litigation funding firms in the United States, Bentham Capital doesn't have the name recognition of Burford Capital or Juridica Investments. But that could change over time.

After launching in New York in late 2011, Bentham Capital added a smaller Los Angeles office in September. The firm agreed to fund three cases in 2012 and five cases in 2013, according to its chief investment officer, Ralph Sutton. He declined to speak about the specifics of those cases because of confidentiality agreements, but expressed optimism about their pending outcomes.

Sutton has reason to be confident in Bentham's potential. As we explained here, Bentham Capital is the U.S. arm of the Australian litigation funding pioneer Bentham IMF. By Sutton's count, the parent has won or favorably settled about 95 percent of its cases and has generated \$1.3 billion in revenue from settlements and judgments since its founding in 2001. The litigants that do business with IMF have kept about two-thirds of that recovery, Sutton said. IMF pockets about 21 percent and the outside law firms representing the plaintiffs get a cut of about 13 percent.

In an interview with The Litigation Daily, Sutton spoke highly of rivals Burford and Juridica. But he was also quick to point to an aspect of Bentham's business model that he says sets it apart: a focus on transparency. Our conversation has been edited for brevity and clarity.

Lit Daily: How did you land at Bentham?

Sutton: I spent most of my career as a trial lawyer. In 2006 I decided it was time to do something different and got a job doing litigation funding at Credit Suisse AG. I got to know IMF's directors and learned more about what we called the "Australian model" of litigation finance. I was thrilled to help launch the U.S. arm.

Lit Daily: How's the Australian model differ from the U.S. model?

Sutton: We're transparent, for one thing. Public information on our website is extremely clear and audited by Ernst & Young. You can see what we do and how our cases perform. You can't ask any other funder what their win-loss record is and get a straight answer. Our model for compensating employees also creates less of what I



Ralph Sutton

call a "pressure to deploy," i.e., a pressure to get money into new cases. Other litigation funders, including the other publicly traded ones like Burford, generate revenue through performance fees, like hedge funds. We, on the other hand, have a compensation committee that sets everyone's salary and determines what the bonus pool will be. That model creates less pressure. We can be more selective. We turn down 97 percent of what we look at. The amount of due diligence that goes into our cases is astonishing.

Lit Daily: The U.S. Chamber of Commerce has argued that "third-party funding poses a major threat to the integrity of the legal system by shifting the focus from justice for the litigants to profit for the investor." What's your take?

Sutton: I think we provide access to justice. Our lawyers will always be as good as the company lawyers. We even out the playing field.

Reprinted with permission from the AMLAW LITIGATION DAILY featured on December 6, 2013 © 2013 ALM Media Properties, LLC. All rights reserved. Further duplication without permission is prohibited. For information, contact 877-257-3382 or reprints@alm.com. # 002-12-13-03

Bentham IMF

712 Fifth Avenue, 14th Floor
New York, NY 10019
212-488-5331

523 West Sixth Street, Suite 1220
Los Angeles, CA 90014
213-550-2687

www.benthamimf.com