

An LFJ Conversation with Ben Ruzow, VP Litigation Funding, Argo Partners

Argo Partners provides litigation financing with a unique presence in the middle-market, serving a critical gap in non-recourse financing between \$50-\$500k.

Litigation Finance Journal Conversations

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Argo Partners is one of the few providers of middle-market commercial litigation finance in the U.S., funding between \$50,000 to \$500,000 per investment (and above in certain limited situations). Specifically, Argo Partners provides non-recourse litigation funding to litigants and counsel at both the trial and appellate levels in state and federal courts, regulatory proceedings, and arbitrations (both domestic and international) across all claims ranging from complex commercial to product liability to personal injury. Litigation funding is one of several investment strategies at Argo Partners, which was founded in 1992 as an investment fund dedicated to acquiring creditors' claims against distressed companies. We have been an active provider of litigation finance since 2010.

Why did you decide to make a move from litigation to Litigation Finance?

I enjoyed many aspects of being a litigator, including research, writing, case development, and working on a trial team, but I didn't enjoy the drudgery attendant to large-scale discovery nor the unpredictable demands of the job. Thankfully, I became aware of litigation finance while working on a case while still practicing at a firm. Discovery revealed that our client's adversary was funded, which raised several questions about litigation funding generally, and about the role of funders, champerty, and ethical issues in particular. Litigation finance was only finding its footing in the U.S. at the time (about six years ago), but it presented an extremely enticing opportunity to put my litigation skills to work in a way I had never even known possible. The more I learned about the industry, the more excited I got, as it seemed I could pursue the aspects of litigation that interested me while avoiding many of the headaches associated with litigating in Big Law. Argo Partners sought to scale up its litigation funding strategy, which I've enjoyed leading over the past several years.

ABOUT THE SPEAKER



BEN RUZOW

VP Litigation Funding, Argo Partners

Ben Ruzow leads the [Litigation Funding strategy at Argo](#), including sourcing and underwriting investments in commercial litigation and arbitration and bankruptcy proceedings. Ben is a leading professional in middle-market commercial litigation funding. Before joining Argo Partners in 2017, Ben was a litigator at Jones Day and Bracewell, where he represented clients in complex commercial litigation in state and federal courts, including bankruptcy and appellate litigation. Ben graduated with a B.A., magna cum laude, from New York University in 2005 and a J.D., cum laude, from American University's Washington College of Law in 2008.

What would you say is the main difference in sourcing large corporate cases versus smaller deals?

One difference is that you generally see less competition among funders at the smaller end of the commercial litigation finance market since few funders are willing to consider deals below \$1 million in funding. The industry is very top-heavy, and even among the relatively few funding sources willing to consider smaller deals, our understanding is that those shops are more opportunistic than having a dedicated litigation funding desk, as Argo Partners has. But the most significant difference that working at the smaller end of the spectrum presents is the wide range of sophistication we see in litigants and counsel. A funder with a \$2 million investment minimum will only sometimes be dealing with small, family-owned businesses that lack meaningful resources for litigation.

We frequently deal with very small companies or individuals that have been wronged and for which \$100,000 or \$200,000 in funding (or more) makes a significant difference, whether that funding is to be used for operations while the litigation proceeds or to cover hard costs of the litigation, such as expert fees and court costs. Relatedly, many of the litigants we have funded had never been involved in litigation before and may require a certain amount of hand-holding through the funding process.

We strongly believe funding in this market segment fills a critical gap. Attorneys tell us that they wish they had found Argo Partners sooner and that they assumed no funder would dedicate resources to funding amounts under \$500,000 per investment. We're structured to do just that with our litigation finance strategy.

Are there aspects of underwriting bankruptcy litigation that make it more or less challenging than underwriting other forms of litigation?

Underwriting bankruptcy litigation is, in general, more challenging than non-bankruptcy litigation, often because you must be somewhat familiar with portions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the general structure of a bankruptcy case (and post-confirmation trusts) – all in addition to everything else litigation-wise that general commercial litigation funders should know.

Another complicating factor in underwriting bankruptcy litigation funding is the issue of disclosure: does the bankruptcy court require disclosure and possibly a bidding process before funding may be provided to the recipient? This can add uncertainty, not to mention time and costs, to the funding process, none of which may be present in non-bankruptcy situations (depending on the jurisdiction or forum). On the other hand, because bankruptcy is so disclosure-oriented, there may be more publicly available information regarding the parties and facts of the litigation than when underwriting a traditional commercial claim. Argo Partners is well-versed in all of these considerations, thanks in no small part to our deep roots in the claims trading space and our relationships with a broad spectrum of bankruptcy professionals.

What skill sets are most helpful to those working in bankruptcy and insolvency claims?

Patience, for one. As anyone familiar with bankruptcy would tell you, resolving litigation claims in the context of bankruptcy can take a long time. Especially if such claims are left for a post-confirmation liquidation or litigation trustee to handle (after the bankruptcy process has likely taken a year or longer to progress from the petition date to a confirmed plan), it's an area in which a funder must accept some durational risk. Another essential skill is seeing the big picture and thinking creatively. A bankruptcy trustee has an obligation to maximize creditor recoveries rather than secure a "win" in litigation, which any funder must keep in mind.

In fact, on more than one occasion, trustees have used our offer of funding to convince adverse parties to come to the table rather than see litigation through. While we'd prefer to fund (and see returns on) meritorious cases, pre-funding resolution comes with the territory, especially in bankruptcy.

What advancements would you like to see Argo Partners make in the near future?

I would love to see Argo Partners' litigation funding activity grow year over year, both in terms of the number of deals, the amount invested, and even deal size.

We're very excited about our growing volume of deal activity, which made 2022 our busiest year yet, including repeat transactions with several small law firms.

We hope to continue this trend and reach a larger audience as litigation finance awareness and acceptance grows, particularly at the smaller end of the commercial funding market.

In addition to litigants and counsel in commercial litigation, we also hope that bankruptcy and post-confirmation liquidating trustees will seriously consider using litigation funding to improve recoveries where litigation is the creditors' only hope. This will be especially important in the coming twelve to eighteen months should a global recession materialize and, with it, increased bankruptcy filings.