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How Litigation Financing Is Reshaping Real Estate Claims



Third-party litigation financing, or TPLF, began as a mechanism to help individuals and small businesses pursue legitimate claims against well-resourced defendants. What started as a niche legal instrument to help plaintiffs has now evolved into a sophisticated, institutionalized asset class, operating on an entirely different scale.

Hedge funds, private equity firms and sovereign wealth funds are investing in lawsuits, taking between 20% and 40% of any recovery, plus interest, in exchange for funding a plaintiff's legal costs. As it increasingly becomes a profit-making tool for investors, funded litigation is a concern for multifamily and hospitality property owners.

Changing trajectory of litigation funding

Jimmy Clark, Senior Vice President and Executive Director of Gallagher's Real Estate & Hospitality Practice Group, has tracked the rise of litigation financing across the real estate sector. "Investments in litigation funding are now in the tens of billions of dollars globally, with projections suggesting that this figure could double or even triple over the next decade."

Funding organizations are leveraging advanced data analytics and artificial intelligence to identify cases with the highest likelihood of producing large verdicts. This is a data-driven, calculated industry that is expanding rapidly.

"Litigation funding has been a lucrative area for investors with the potential to give big returns; some hedge funds and private equity firms made 20% on their money," Clark states.

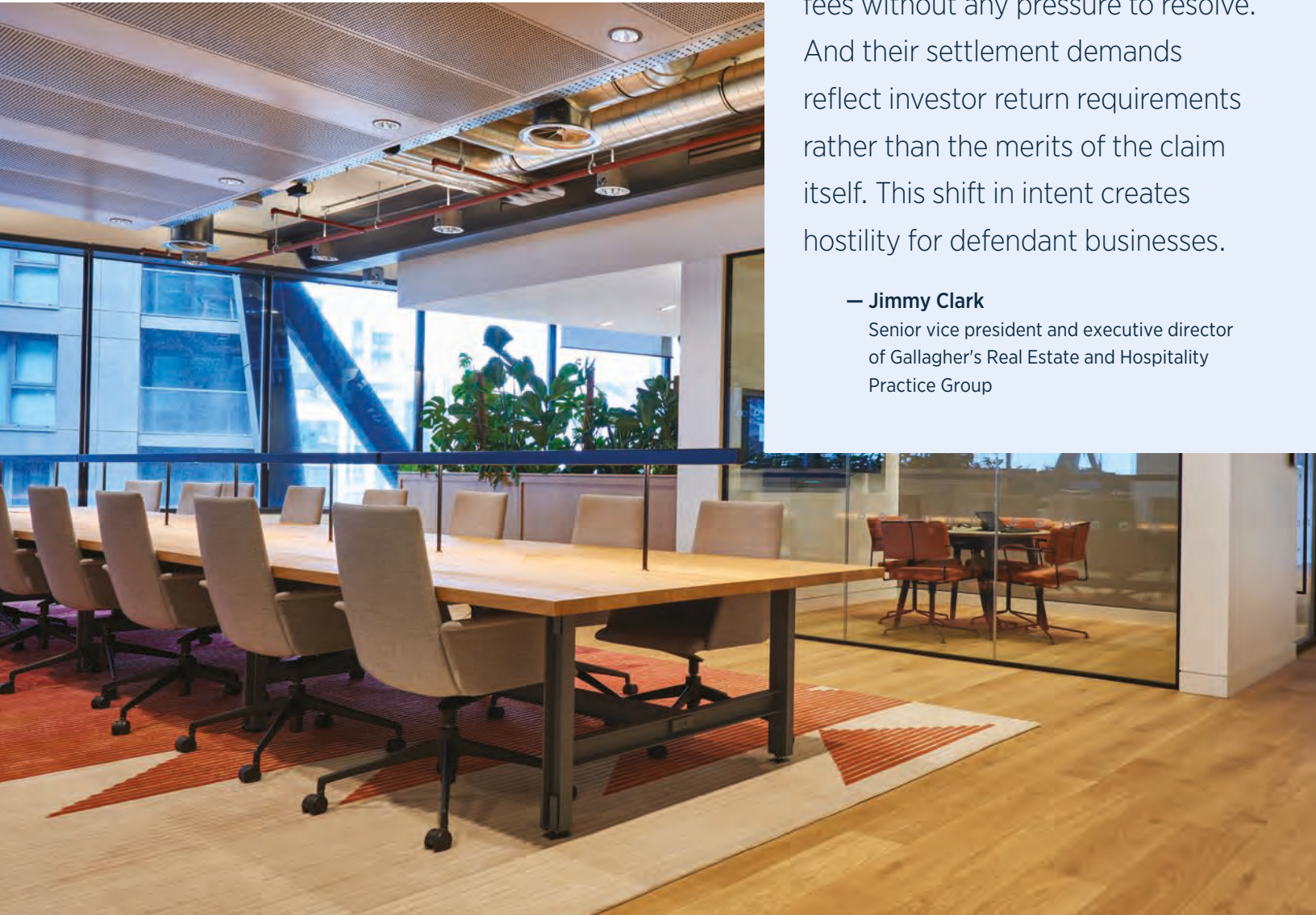
For property owners on the other side of those cases, the consequences are significant.



Plaintiffs backed by outside capital can sustain years of expert witnesses, depositions and legal fees without any pressure to resolve. And their settlement demands reflect investor return requirements rather than the merits of the claim itself. This shift in intent creates hostility for defendant businesses.

— **Jimmy Clark**

Senior vice president and executive director of Gallagher's Real Estate and Hospitality Practice Group





How it affects your claims

When third-party financing enters a case, the economics shift in ways that disadvantage defendants from the outset. Funders want big returns on their investment, so they look for large verdicts or settlements to make their efforts worthwhile.

The changing nature of litigation funding is driving a measurable rise in what the industry calls nuclear verdicts, awards exceeding \$10 million, and thermonuclear verdicts, awards exceeding \$100 million. In 2024 alone, 135 corporate defendants faced nuclear verdicts totaling \$31.3 billion, 49 of which were thermonuclear.¹ For a business without adequate coverage or risk controls in place, a single verdict at that level is not a financial setback. It is an existential problem.

For real estate owners, the claims that most commonly attract third-party funders involve security failures, pool drownings, assault and battery, abuse and molestation cases, and Legionnaires' disease.

There is currently no universal requirement to disclose when outside financing is part of a case. Property owners and their legal teams can be well into proceedings before they fully understand what they are facing.

What the insurance market reflects

Insurers have been following these verdict trends and are responding with substantive changes to policy language. Umbrella and primary policies are increasingly incorporating exclusions for human trafficking, sexual assault and molestation, assault and battery, and firearms-related incidents. Pool safety requirements are being enforced more rigorously.

Coverage adequacy has become a more pressing question as a result. Limits that were appropriate several years ago may leave significant gaps today. Property owners should evaluate their coverage against the settlement values now being pursued in funded cases.

Can third-party litigation funding be regulated?

Eight states — California, Georgia, Kansas, Oklahoma, Arizona, Colorado, Montana and Tennessee — have enacted reforms to regulate litigation financing. Additionally, New York's Consumer Litigation Financing Act takes effect in June 2026, and additional states are considering similar measures.

These laws vary, but focus on three priorities

- 1** Transparency is required when third-party funding is involved in a case.
- 2** Funders are prohibited from exercising control over legal strategy.
- 3** Investment is restricted from sovereign wealth funds of countries that raise national security concerns.

Property owners and risk managers can support these efforts by contacting their state legislators directly and advocating for stronger disclosure and regulation requirements. As the businesses are most directly affected, their voices carry weight in these conversations.

Staying ahead of the risk

The most effective response to third-party litigation financing is a strong risk management posture established well before any claim arises.

The most prepared owners treat each property individually. This means:

- Conducting regular risk engineering assessments on site
- Keeping maintenance records detailed and up to date
- Installing cameras and performing routine security audits
- Training staff thoroughly and documenting this
- Reviewing insurance limits against current claim values, not outdated assumptions

Partnering with a broker and claims team that moves quickly and decisively on claims management is essential. The goal is resolution before outside financing changes the dynamic entirely.

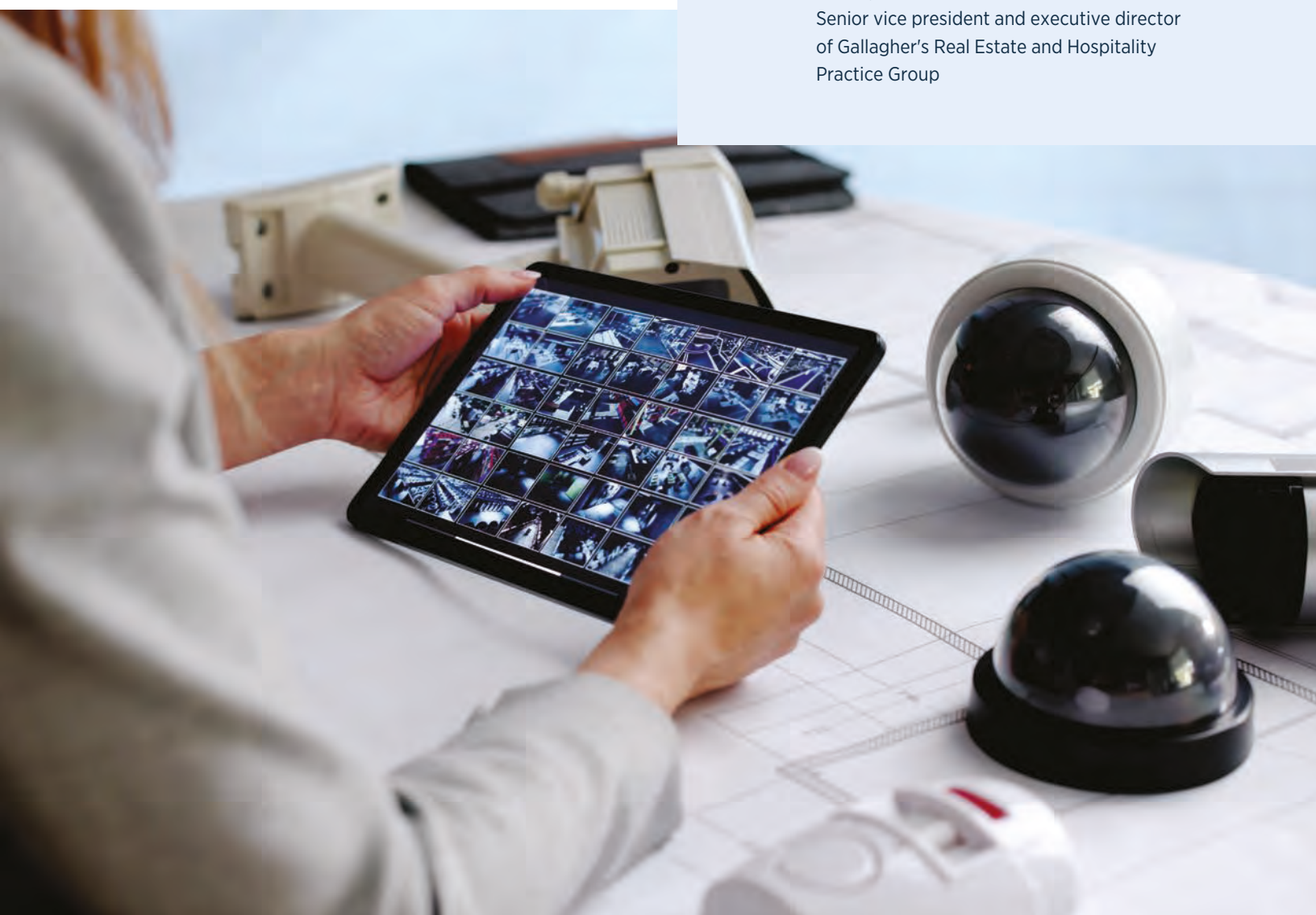
Gallagher's Casualty and Real Estate specialists work with multifamily and hospitality owners to assess exposure, strengthen risk programs and structure coverage for today's litigation landscape. Contact your representative to get started.



Focus on asset-level risk management, risk control and loss control. Ensure you have the right claims and legal team in place for all casualty claims. Be prepared for some instability in the casualty market over the next few years, at least until legislative changes and processes take effect.

— **Jimmy Clark**

Senior vice president and executive director
of Gallagher's Real Estate and Hospitality
Practice Group





Sources

¹Amacher, Ezra. "Corporate Nuclear Verdicts Surged to New Record High in 2024, Report Says," *Insurance Journal*, 22 May 2025.

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