Exton Advisors

Exton Advisors comments on uncertainty in the litigation funding sphere, in The Guardian

Lucy Glyn · Tuesday, October 8th, 2024

Following both the Post Office scandal and the Supreme Court judgment in PACCAR, an open letter by parties across the litigation funding industry was published yesterday, compelling the government to enact urgent legislation to protect the litigation financing sector and individuals' ability to bring cases against large companies.

Managing Director **Hash Dave**, commenting on behalf of Exton Advisors, said:

What has been the impact of the Supreme Court ruling in PACCAR?

"Immediately after the ruling we saw a clear downturn in the domestic market, most notably in commercial litigation and cases before the Competition Appeal Tribunal. From our own internal transaction data, we saw a decline in anticipated funding activity of greater than 75% in the second half of 2023."

"The fact is the legislative foundations for funding, and how returns on investment are calculated, had been seriously undermined. Understandably this resulted in funders, that did not have to invest in the UK, increasingly seeking greater relative value in other jurisdictions, especially for cases with cross-market application."

How did the domestic litigation funding market adapt post PACCAR?

"Pretty quickly we worked with funders, lawyers, and the wider investment community to develop a series of 'workarounds' to negate the chilling effect of PACCAR and provide certainty to investors. These 'workarounds' – and the anticipation of a bill being passed to reverse the Supreme Court

ruling – reopened the UK litigation funding market significantly in 2024."

The new government has indicated they want the Civil Justice Council to complete their review before legislating on litigation funding. What do you see as the risks in that policy?

"The government's approach might be seen as putting the horse before the cart – but it does carry an element of risk to the UK market. Renewed uncertainty will invariably damage the litigation funding sector in the UK, with even a "black swan" risk of a future judgement negating the 'workarounds' currently in place."

"What is needed now is for the Civil Justice Council to resist the temptation to meander through its review and complete it as quickly as possible, enabling the government to legislate."

An extract of Hash's comments were published in The Guardian, 7 October 2024, and can be found **here.**

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