

Exton Advisors



Matthew Lo comments on the Merricks v Mastercard proceedings, in Law360

Lucy Glyn · Friday, February 7th, 2025

Director [Matthew Lo](#) comments on how the Merricks v Mastercard proceedings highlight the importance of developing strong funder-claimant relationships and ensuring independent advice is sought regarding litigation finance.

“Mr Merricks’ witness statement, though heavily redacted, reveals that when seeking further funding from Innsworth, he felt forced into an amended LFA that handed the funder greater control over the conduct of the litigation and settlement. The introduction of a binding KC process, where there was previously room for negotiation, troubled Mr Merricks.

“As for the settlement, it appears Mr Merricks formed his view based on legal advice he had received that fighting on would not allow him to obtain a better recovery for the Class. Innsworth allegedly refused to engage in the KC process under the LFA and when Mr Merricks agreed the settlement, they ultimately

commenced arbitration against him – a move he described as very distressing.

“This situation is above all a result of the particular and difficult circumstances of this long-running matter and what appears to have been an unfortunate breakdown in the relationship with the funder. Many funded claims proceed smoothly without contentious issues of this sort arising – it is regrettable, but inevitable, that it is the most problematic cases that are most heavily publicised.

“In light of the ongoing review of litigation funding by the CJC, the case is a timely reminder of the conflicting interests that can emerge between stakeholders in funded litigation – especially in ‘opt-out’ collective actions. Such issues require careful management, for example by ensuring claimants have access to appropriate independent advice.”

An extract of Matthew’s comments was published in [Law360](#), 7 February 2025.

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