

LitCap Marketplace Q&A

LitCap Corporate Profile

Founded as a private corporation in Houston, Texas in the fall of 2011, with launch of the LitCap Marketplace for [attorney case cost financing](#) September 1st, 2013, LitCap is an online marketplace that connects attorneys with qualified investors/lenders for case cost financing. Membership is exclusive for preeminent attorneys who have obtained a high level of peer recognition in the areas of the law that they regularly practice.

LitCap Founders

- ❖ Cofounded by Mr. Hugh Jones Plummer, Jr., a second generation trial attorney noted as a National Trial Lawyer Top 40 under 40 in 2013, Texas Super Lawyer Rising Star from 2011-2013, and now serving as LitCap Managing Director.
- ❖ Cofounded by Mr. Britton J. Holland, former energy trader with extensive experience in banking and asset management, now serving as LitCap President.

At LitCap we believe...

1. Case cost financing should function exactly the same way a lawyer's contingent fee agreement works with the lawyer's client.
2. Attorney, firm and client interests should be aligned in the best interests of all.
3. Investors should have access to preeminent low risk attorneys who list meritorious cases, with a good potential return on investment.
4. A small fee is charged on a case by case basis, and is repaid when the case is successful.

Benefits of [Nonrecourse Legal Financing](#) using the LitCap Marketplace:

1. Transfers financial risk away from firms and their clients reducing case litigations and financial risks.
2. Potentially unlimited financing is available to better suit a litigators' interests with no periodic re-payment.
3. If an attorney fails to make recovery the loan and finance charges can be forgiven.

LitCap Marketplace Q&A

Question: What type of case costs are funded on the LitCap Marketplace?

Answer: Loans funded through the LitCap marketplace are used for case related expenses and cover virtually all aspects of civil litigation, including business litigation, employment disputes, wrongful death claims, and even large case related expenses such as intellectual property or class action litigation. We have funded a wide variety of case types this year, really too many to list. We've done everything from employment law to civil to commercial litigation, civil personal injury litigation, even broader, products liability cases have been funded such as pharma and medical device, and there has been some "tire" (automotive) cases funded. With regards to the size, we are very proud that we've been able to fund a case as little as \$4,500.00 dollars, that is what they asked for. Yes, we funded a case for \$4,500 dollars through our system. There have also been cases which sought millions of dollars which have been funded on the LitCap marketplace."

Question: Why was the LitCap Marketplace created?

Answer: At LitCap we believe that case cost financing for attorneys should function like your contingent fee cases in that the expenses are only paid when the case is resolved successfully.

The majority of the attorneys that we talk to understand that funding their clients' case costs is the least effective use of their funds, but until now lawyers have not had a product that is as flexible and well suited for their practice as LitCap. Lawyers can now use their revenue much more efficiently and effectively without worrying if they can afford to finance the next case that comes through the door. When Lawyers take the time to learn about what we [LitCap] are doing, a light bulb goes off and they instantly get it. It was designed for trial lawyers around the way they practice law, so having contingent financing that mirrors a lawyer's contingent contract with their client is very appealing. Having the option to have multiple investors bid against each other for the lawyer's business is equally appealing. We have been told numerous times, 'I just can't believe no one has thought of this before.'

From the beginning people would ask us, 'Why would big name firms use LitCap?' Ironically, the fact was the bigger and better the law firm, the more they needed our product to efficiently manage and maintain a large, growing and profitable practice. The more successful the firm, the more money they need to finance their case-related expenses. A firm's success can often times outpace its cash flow. Because of this, we have seen the greatest response for our product from some of the largest firms in the nation.

LitCap Marketplace Q&A

To create a marketplace, where both the investors from the financial sector and the attorneys could benefit from the products of the Marketplace was why we created the LitCap Marketplace. From the lawyers perspective, LitCap was designed to provide virtually unlimited attorney capital, provided they were a solid investment for investors and the cases they listed were solid for investors. It's a natural product of how the practice of law should have worked all along.

Historically, attorneys used banks, interfirm relationships, but currently the banking industry in recent years is making a lot of changes, and the current environment makes it hard for law firms to manage their business with banking loans, which are not tailored to the attorney's business."

Question: What makes the LitCap Marketplace unique from alternative litigation financing lenders?

Answer: Many people at first did not realize that with LitCap you can fund cases on an *individual* basis and not have to tie up other parts of your docket. Attorneys can now fund just one case or all of their cases on a case by case basis as well as *ethically* pass some or all of the related costs to the client.

Question: How does the LitCap Marketplace improve cash flow?

Answer: "Successful attorneys, our clients, can often times be victims of their own success. The more successful and productive they are, the bigger and better cases they get, as well as more and more referral cases which adds to the cash flow constraints that they have. We allow them to alleviate cash flow constraints by borrowing to fund their cases, which is often a very large percentage of their capital requirements.

Question: What is the vision for the LitCap Marketplace?

Answer: Lawyers have been financing their contingent cases the same way for decades, just as it was done when Abraham Lincoln was trying cases, before the telegram, before the car, and before electricity or the internet. Having a marketplace that mitigates the ability for the big guy to outspend the little guy in litigation, truly brings balance to the civil justice system in the United States. It circumvents the inherent conflict between a lawyer and his contingent client and directly benefits the State Bar IOLTA program in every state where LitCap is used. We believe that LitCap is to case cost financing what Westlaw and Lexis Nexis were to legal research.

LitCap Marketplace Q&A

***Question:* What is benefit of the LitCap Marketplace for contingent fee trial attorneys?**

Answer: A contingency fee agreement is where the attorney assumes the risk, and is going to assume the case costs and fees on behalf of their client, and they are only going to be paid back for those case expenses if there is a successful recovery. If you understand that, then you understand what does an attorney need money for? Well, for every client that walks in the door an attorney not only needs to pay for the secretary and staff, and the attorney overhead of rent, phones, copiers licensing fees, and he is going to pay for every client who walks in the door. Now, attorneys only take clients/cases they believe in. They are burdened, and obligated, really to put the best case forward for their client. So as you can imagine, the more case you get, the more clients whom walk through the door, and the better you get, the more your reputation grows, the more expensive it is to maintain and manage your practice. With the legal attorney financing LitCap Marketplace, every time a good case walks through my door, or I am referred a case by a colleague, with LitCap I know that I have the ability to fund and finance the case on the marketplace, assuming it is in fact a good case. And if in fact, the investor believes in my ability and the case. If the case is good, there is not limit. That's a fundamental pro that I see as a trial lawyer.

Secondly, with LitCap you are not securing your house, there is no security involved. With LitCap, your reputation is what secures these loans. If you have a good reputation, and you keep and maintain your reputation, then you can borrow indefinitely. You have a marketplace with investors, who are looking, and competing with each other, and that is in your best interest. They are coming to you, they are looking at this marketplace for cases like the ones you list. You don't have to put on your suit, and go to a banker's office, and fill out a bunch of forms and wait to see whether or not your line of credit has been extended. You just list your case, it gets funded. And that month the funds go into your IOTA account and you have funded your client's case.

***Question:* Why is the LitCap Marketplace needed?**

Answer: "I've been practicing as a Civil Trial Lawyer for 10 years. During that time, it became obvious to me that the way contingent fee lawyers finance their client's case related expenses was out dated. It was an honor to help build something that will, in my view, have a tremendous impact on the way contingent lawyers are able to finance cases, or provide options to clients who the money to cover case expenses. With LitCap, each client you add does not put a strain on your line of credit or personal money. Your success as a lawyer brings clients to your door. Having to turn the refer clients or traffic

LitCap Marketplace Q&A

away, the same traffic your success generated, because your current docket has exhausted your line of credit or resources, is a very tough position to be in. Likewise, having to go back to the bank, and ask someone who doesn't understand your business, to extend your line of credit because you just had a monster case walk through the door, is equally frustrating. I believe that LitCap will enhance the way attorneys practice law, improve attorney client relationships, and provide "good" attorneys with access to potentially unlimited capital to use for the benefit of their clients. Financing terms found on LitCap are often better than anything you could get from a bank or commercial loan and come with many added benefits. Civil litigation has some level of case related costs or expenses and often these costs can become *quite large. LitCap makes it possible to fund all of your cases, no matter how large or how small, with the click of a button.*"

Question: How can I be considered to become a LitCap attorney, or eligible for this type of funding?

Answer: LitCap membership is offered to preeminent, exceptional attorneys. LitCap attorneys consist of arguably the best trial lawyers in the United States. Here is what you will need to qualify to become a LitCap member, each Attorney seeking membership must have the following:

- I. A minimum of 5 years of continued legal practice;
- II. Must be in good standing with your State Bar Association;
- III. Must have independent references that will or may verify the attorney's professional reputation, such as other attorneys or Judges;
- IV. Must have been honored and accepted by "Super Lawyer Magazine™" as either a "Super Lawyer™" or "Rising Star™," ranked as "Rated," "BV Distinguished®" "AV Preeminent®" by Martindale Hubble or have achieved board certification by the attorney's board of legal specialization or have achieved acceptance into other nationally recognized (such as ABOTA) or local or regionally recognized legal organizations where the attorney practices;
- V. Must maintain a current and verified IOLTA account, and the lawyer must accept funds into his or her IOLTA account and be compliant with IOLTA account rules and regulations;

Once you meet the threshold requirements listed above, you will fill out a membership application. After your background has been checked, your application has been verified, and approved you will become a LitCap member. You will then receive your username and password.

While rigid, these strict requirements are necessary to protect the integrity of our system, and to ensure that our lawyers are able to obtain case financing

LitCap Marketplace Q&A

for a small fee which is superior to any other comparable existing financial system or institution available. With low default rates, LitCap can offer attorneys funding at rates and with features superior to any financing system currently available.

Question: How are cases listed on LitCap?

Answer: After completing a detailed attorney evaluation form, and after being approved to participate in LitCap, an attorney will then be allowed to list his cases for financing on the LitCap platform. In keeping with the strict ethical guidelines outlined by the American Bar Association, and the State Bar Associations where LitCap is available, lawyers will complete a detailed “case information” form that contains “non-privileged” information about the case listed for funding. These questions will help the investors evaluate the case, along with the attorneys performance record (the LitCap Score™), and assign a fee to the case for funding. Likewise, the attorney will list the amount the attorney wishes to borrow, fill out a form indicating what the attorney anticipates the funds will be used for, supply other case related information, as well as the fee the lawyer desires for funding. Once the case is listed, and if it is funded, the attorney will be required to upload a PDF file stamped copy of the lawsuit on file. The attorney will be required to make quarterly case updates, which will consist of filling out a case update form. After obtaining a recovery, the attorney will upload the case closing details, and return the investment principal plus a small fee.

Question: How does the LitCap Marketplace change the way lawyers finance their practice?

Answer: First of all, there is no attorney capital limit. Unlimited capital for attorneys. Secondly, the single case and multi plaintiff case notes are unsecured.

Question: Are the case investments truly “non-recourse legal financing?”

Answer: A non-recourse debt or a non-recourse loan is typically a secured loan (debt) that is secured by a pledge of collateral, typically real property, but for which the borrower is not personally liable. LitCap notes are not typical “loans” but are “investments” and are governed by the regulations set forth by the United States Securities Exchange Commission. The investments are secured by the Attorney’s user agreement, and the lawyer’s ability to recover case costs on behalf of his client. The LitCap notes are for case expenses only, and are unrelated to the fees the attorney will charge his clients. The funds borrowed are to be used by the attorney for the benefit of his client, and only for expenses related to the client’s case.

If the attorney fails to make a recovery in the case (for example loses at trial, on summary judgment, or on appeal), the repayment obligations will be

LitCap Marketplace Q&A

terminated. The attorney will have to show that he received an adverse verdict, lost on summary judgment, terminated on other grounds, or some other excusable resolution that precludes a recovery from occurring. An attorney that allows a case to expire, to be dismissed for want of prosecution, or to intentionally fail, will not have his repayment obligations forgiven.

Attorneys are incentivized to maintain a high level of performance. Funding rates are heavily influenced by successful attorney performance. The attorney's *LitCap Score™* is a visible measure of the attorney's performance. The case financing request represents only a fraction of the expected recovery which incentivizes the attorney to win or settle the case instead of focus on a relatively small loan. Even the best lawyers lose on occasion, and we believe that as long as the attorneys are working diligently to protect their clients' interests, an occasional loss will not drastically affect their ability to obtain nonrecourse legal financing.

Question: Why would a lawyer that almost never loses want to use LitCap?

Answer: When you look at the numbers, and consider financing your case costs, nothing compares with the flexibility offered by the LitCap Marketplace platform. Running the numbers you will see that no other platform or financing option is as attractive as the LitCap. Lawyers using LitCap may marginally or nominally pay a little more on case financing on a case by case basis, however, if a case loss occurs, the case does not have painful financial implications, or a financial impact on the lawyer. In almost every case financed, the lawyers have the ability (or option) to pass along some or all of the incremental costs or fee payments associated with a LitCap note to referring attorneys or clients. A lawyer will only need to make small modifications to the contingent fee agreement to compensate for use of the LitCap systems, and in most instances will significantly reduce costs. No other litigation financing system offers attorneys the ability to ethically and fairly pass the costs of financing your client's case on to your client.

Virtually no other known banks, let you off the hook if you lose a case. At LitCap, ***if you lose the case, you do not have to repay the note.*** Most of our lawyers do not lose, and if they do lose, it happens rarely. Having the repayment obligation tied to success, frees up an attorney's ability to focus not on his or her personal stake in a case, but in putting on the best possible case for your client. Many attorneys believe this benefit worth the added fee they may have to pay on a case by case basis. Banks and other credit or financing sources do not offer this type of debt forgiveness.

LitCap funding also has many advantages over the traditional line of credit with a bank. The lawyer does not have to post any personal collateral with

LitCap Marketplace Q&A

the lender or defer income for the firm and will have no credit rating exposure because of the funding. There are no periodic repayments of capital and they only owe the money back if they make a recovery. These rates are insignificant when compared to some types of lending arrangements where the lawyer will give up multiples of case costs or large percentage portions of cases to other attorneys.

The LitCap funding method essentially removes working capital constraints for a growing firm as well as an established firm. An attorney will no longer have to refer out a case because of capital restrictions. Larger firms will be better able to make important budgeting, capital allocation, and income distribution decisions. Attorneys will no longer need to risk personal or company funds, or tie all of their personal wealth up into their client's cases. Firm capital or income may be used for purposes such as marketing, growing the business, or hiring additional attorneys or staff. A lawyer has more freedom with case costs and is free to make unrestrained financial decisions so he/she can more effectively litigate a case. Attorneys maintain total autonomy in trying a case. There is no interaction allowed between attorney and investor after the case is funded. Loans will never convert to permanent loans as is often the case with many lines of credit and may be paid in full, or partially repaid, at any time.

LitCap Marketplace Q&A

Question: Why do attorneys recommend the LitCap Marketplace?

"There are better ways for attorneys to finance their practice," commented Hugh Jones Plummer, Jr., Managing Director of LitCap. "Capital financing has evolved, and the cost demands of managing a legal practice have risen; which is why we founded LitCap to provide a better alternative to legal financing for lawyers by lawyers. When asked about the webinar he stated, "Members constantly tell us they wished they had known about the LitCap Marketplace sooner."

"From the beginning people would ask us, 'Why would big name firms use LitCap?' Ironically, the fact was the bigger and better the law firm, the more they needed our product to efficiently manage a large, growing and profitable practice. The more successful the firm, the more money they need to finance their case-related expenses. A firm's success can often times outpace its cash flow. Because of this, we have seen the greatest response for our product from some of the largest firms in the nation."

"The majority of the attorneys that we talk to understand that funding their clients' case costs is the least effective use of their funds, but until now lawyers have not had a product that is as flexible and well suited for their practice as LitCap. Lawyers can now use their revenue much more efficiently and effectively without worrying if they can afford to finance the next case that comes through the door."

"Lawyers have been financing their contingent cases the same way for decades, just as it was done when Abraham Lincoln was trying cases, before the telegram, before the car, and before electricity or the internet. Having a platform that mitigates the ability for the big guy to outspend the little guy in litigation, truly brings balance to the civil justice system in the United States. It circumvents the inherent conflict between a lawyer and his contingent client and directly benefits the State Bar IOLTA program in every state where LitCap is used. We believe that LitCap is to case cost financing what Westlaw and Lexis Nexus were to legal research."



Take control of your case cost financing today and contact Aubree Feldmann at LitCap via email at [Aubree\[at\]LitCap.net](mailto:Aubree[at]LitCap.net)

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