



# Quarantine: The Law Market Response

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# The Quarantine Phenomenon

- Stigma and the *Inauthentic Claim* (the stranger's money should not flow to litigants or lawyers because it upsets the natural symmetries and balance of the justice process)
- Independent Professional judgment is fragile and will be compromised by the stranger's money
- Client secrets cannot be preserved when strange money comes into the system
- The lawyer monopoly over "investments" in cases perpetuates the quarantine

## *Why* do Law Markets Want Capital?

- Access to justice
- Law firm capital demands
- Complete or partial alternative to contingent fees
- Liquidity for working capital or expenses
- Risk hedge against assets of speculative value
- Choice and Options

# *Who* are Law Market Capital Participants?

Lawyers

Banks

Retail

Commercial

Ad hoc investors (funds, HNWIs and institutional investors)

Insurance companies

Brokerage/agents/intermediaries

*How much* has been invested?

## *How is Capital Entering the Law Market?*

- Recourse or non-recourse loans to claim or judgment holders
- Direct purchases of interests of claim or judgment holders
- Recourse and non-recourse loans to lawyers secured by fees
- Hybrid litigation risk-sharing arrangements
- Derivatives: collars and floors
- Insurance products

# *Forces Affecting Capital Flows into the Law Market*

## Drivers

- Marketplace demand
  - The anachronistic economic model of law firms
  - Innovation: sophistication of corporate legal departments
  - The desire for corporate risk mitigation
- Supply side opportunity
  - The “non-correlated investment” phenomenon
  - The “recession-proof” business model
  - The “counter-cyclical” nature of claim finance space
- Market size: possibility of massive capital absorption

## Inhibitors

- Regulation
- Perceptions, mythologies and prejudices
- The guild anachronism in the legal profession



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