New research offers inside look at how businesses are managing litigation in uncertain economy

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3 in 4 GCs expect litigation to increase—and most expect economic climate to impact legal activity and lead to new tools and thinking

NEW YORK, June 22, 2023 /PRNewswire/ -- Burford Capital, the leading global finance and asset management firm focused on law, today releases new independent research on how in-house lawyers are adjusting their strategies in a period of sustained uncertainty. Businesses are seeking to manage risks and costs, and in turn, legal departments—and the outside law firms that work with them—have the opportunity to position themselves as part of the solution, with legal finance expected to play a role.

To better understand how macroeconomic trends impact senior in-house lawyers' thinking about litigation, managing risk and their expectations for their law firm partners, Burford commissioned independent research that was conducted via extensive one-on-one interviews with 66 GCs, heads of litigation and other senior lawyers responsible for litigation at companies in the US, Europe, Asia and Australia.

Nearly three in four (74%) senior in-house lawyers expect to see an increase in the volume of disputes over the next two years due to the current geopolitical, economic and regulatory environment. Four in five (80%) say the current economic uncertainty will have knock-on effects for the legal department. Not surprisingly, a solid majority (62%) expect their law firms to offer more cost and risk-sharing solutions, and over half (51%) expect their firms to be knowledgeable about legal finance.

Christopher Bogart, CEO of Burford Capital, said: "We at Burford have been at the forefront of legal finance since 2009, working with lawyers in good and bad economic times. What remains constant is that in-house lawyers are always looking for ways to maximize corporate value and share risk. Burford's latest research confirms that legal finance has taken on greater importance for businesses, especially as uncertainty in the global economy remains. We stand ready to partner with clients to solve their pressing needs, and to equip their outside counsel to be as nimble and innovative as their clients expect."

Key findings from the research include:

- **The economy is increasing the volume and potential budget challenges of commercial litigation and arbitration.**

    - Senior in-house lawyers expect to see an increase in the frequency of commercial disputes in the next two years, and the economy is exacerbating the challenges in-house lawyers face in paying for litigation and arbitration.
    - Cost causes some businesses to forgo meritorious claims and awards, while others are becoming more proactive in safeguarding claims as valuable business assets.
        - *"[I]n an economic downturn, we may not be as motivated to pursue some litigation or transactional matters without creative billing options. Law firms want to be sticky with their clients, and companies are increasingly narrowing down who they work with to add more favorable terms with a select group of firms,"* said an associate general counsel of a media and entertainment corporation.

- **GCs believe it is important for the legal department to show it can not only manage costs, but also add value to the business.**
    - Cash flow and liquidity remain very important factors for GCs when they consider pursuing meritorious claims.
    - While GCs don't use quantitative financial modeling of commercial claims, most say it would be valuable to be able to predict potential returns.
    - The availability of legal finance increasingly plays a role in deciding whether or not to pursue meritorious litigation or arbitration claims.
        - *" [Legal finance] gave the CFO the opportunity to time recoveries as he needed them and use that funding to invest in the company,"* said a general counsel of a global food and beverage company.
        - *"I have explored the use of legal finance and would do so again. The liquidity aspect is a big needle-mover for many companies, especially because it could provoke a settlement earlier, bring in money earlier and de-risk litigation,"* said corporate counsel and director of a global retail corporation.

- **GCs expect more financial innovation from outside counsel.**
    - GCs expect their law firms to offer more cost and risk-sharing solutions, particularly in a down economy, which also means that law firms are expected to be knowledgeable about legal finance.
        - *"I want my outside counsel to be aware of and advise on every option available to us in setting a strategy,"* said a chief litigation counsel of a manufacturing corporation.

The **2023 GC Survey** can be downloaded on Burford's website. Extensive one-on-one interviews were conducted by phone between March and May 2023 by Ari Kaplan Advisors.

About Burford Capital

Burford Capital is the leading global finance and asset management firm focused on law. Its businesses include litigation finance and risk management, asset recovery and a wide range of legal finance and advisory activities. Burford is publicly traded on the New York Stock Exchange (NYSE: BUR) and the London Stock Exchange (LSE: BUR), and it works with companies and law firms around the world from its offices in New York, London, Chicago, Washington, DC, Singapore, Dubai, Sydney and Hong Kong.

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