CERTUM GROUP

IN-HOUSE LITIGATION RISK

Trends, Gaps, & Strategic Opportunities

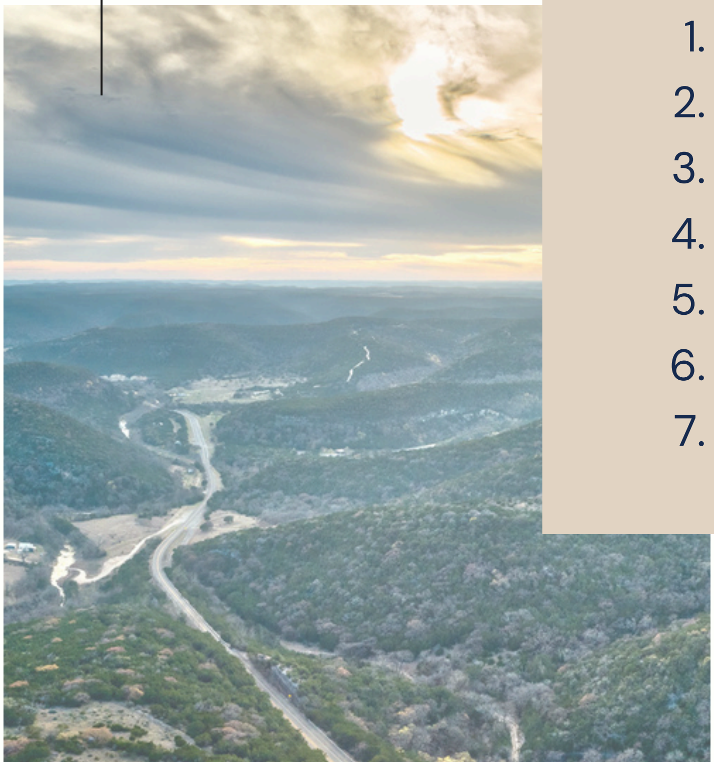
A Research Brief on Litigation Risk Transfer, Based on a Survey of Corporate Legal Leaders

Corporate legal departments are navigating a litigation environment defined not by extreme exposure, but by persistent, operational risk coupled with constrained internal resources. This structural constraint is critical: litigation decisions are made by small teams with broad responsibilities, where efficiency and predictability are paramount. Based on survey responses from General Counsel and in-house litigation attorneys, this brief identifies a clear pattern: companies are highly disciplined in litigation decision-making yet underutilize available tools that could materially improve financial outcomes and reduce volatility.

The findings point to a significant market opportunity. While awareness of litigation risk transfer solutions—such as funding and insurance—is relatively high, actual adoption remains minimal. For in-house litigation counsel, the implication is simple: leveraging tools such as funding and insurance can help address their core concerns of cost certainty, downside protection, and operational efficiency.

**Survey findings are based on responses from 44 corporate legal leaders.*

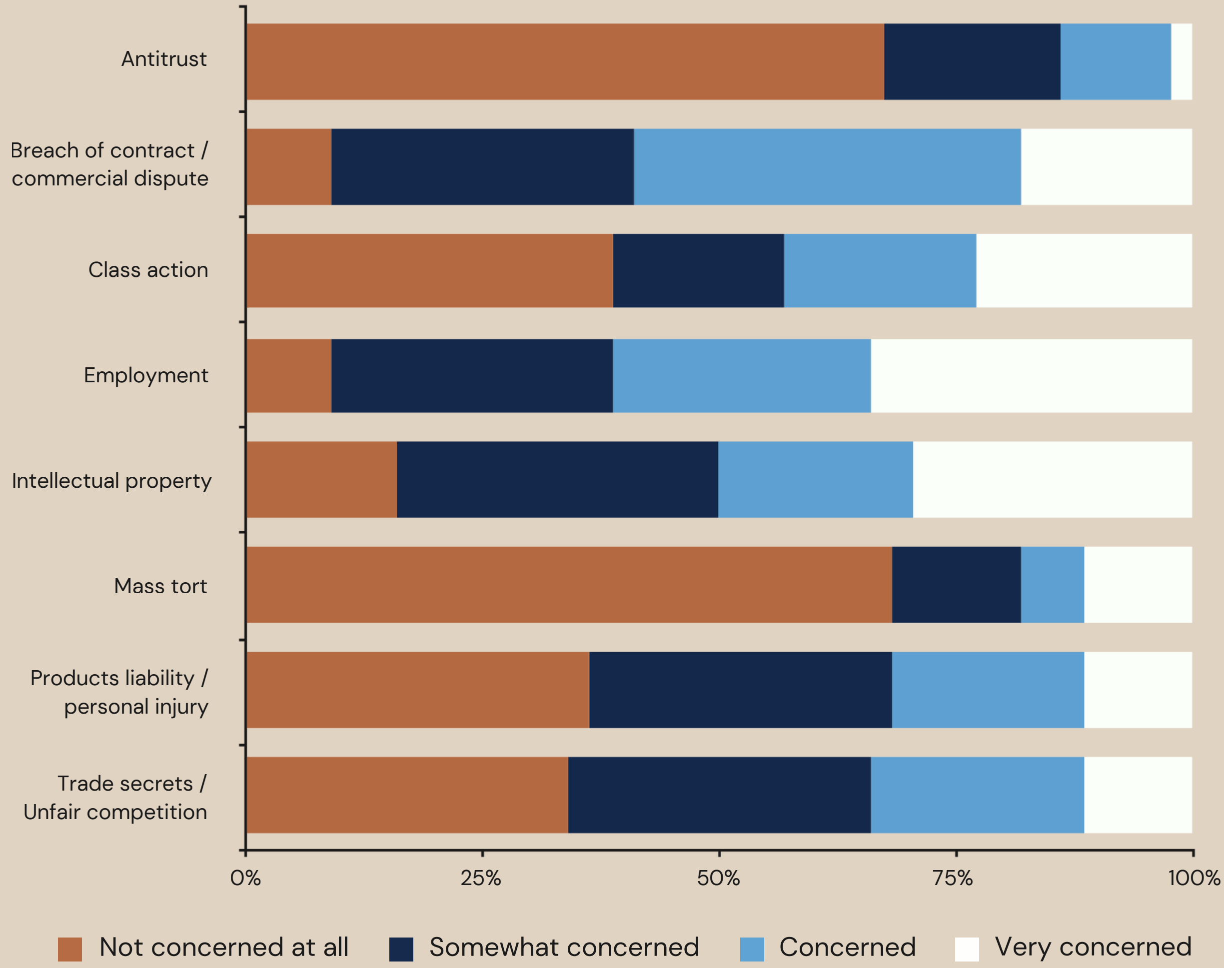
In this brief



Litigation Risk Landscape: Operational, Not Existential

The most common litigation types affecting our respondents reflect day-to-day business activity, such as employment disputes, commercial contract disputes, and intellectual property matters. By contrast, areas such as antitrust and mass torts are largely viewed as low-risk or irrelevant—roughly two-thirds of respondents are not concerned at all about either.

How concerned are you with each of the following types of litigation?



Concern levels reinforce this pattern: Employment and IP litigation generate the highest levels of concern, drawing the largest shares of "very concerned" responses; class actions represent a secondary but meaningful risk; and catastrophic litigation categories are not a primary focus.

Decision Framework: Economics Drive Behavior

Across both defensive and affirmative litigation contexts, decision-making is highly consistent and rational.

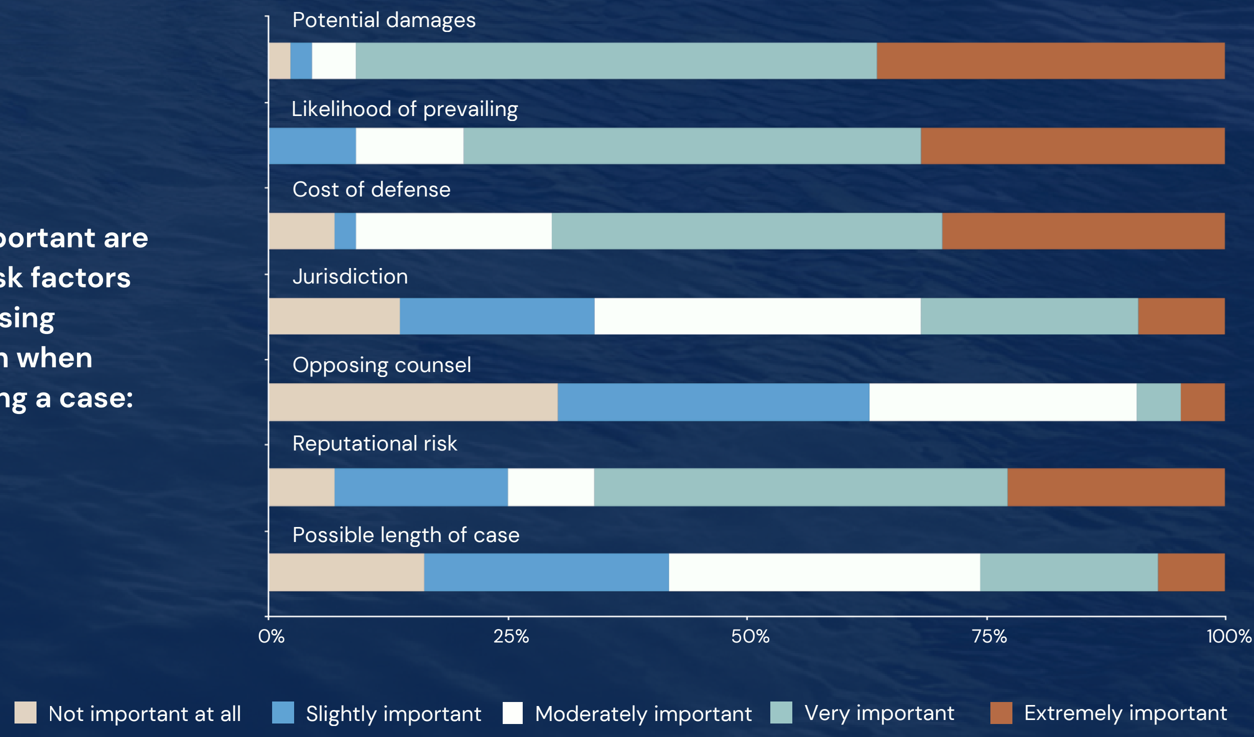
Three variables dominate:

- Likelihood of success
- Financial exposure (damages or recovery)
- Cost of litigation

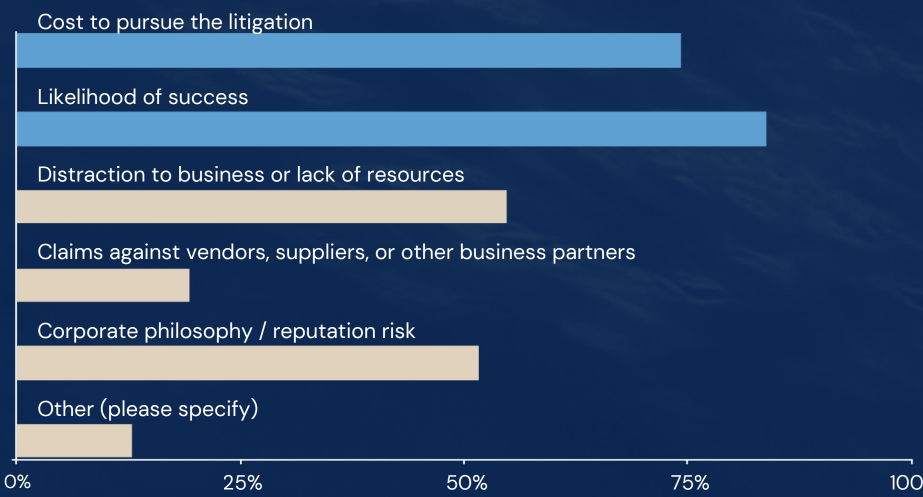
When deciding whether to pursue a claim, likelihood of success (~84%) and cost to pursue (~74%) are the most frequently cited factors.

Secondary considerations include business disruption, reputational impact, and internal resource constraints.

How important are these risk factors in assessing litigation when defending a case:



What are your key factors in determining whether to pursue a claim?



Affirmative Litigation Insight

Even when companies have viable claims, they frequently decline to pursue them due to cost sensitivity, competing internal priorities, and resource limitations.

However, they would be more likely to pursue a claim if they could shift the cost and risk to:

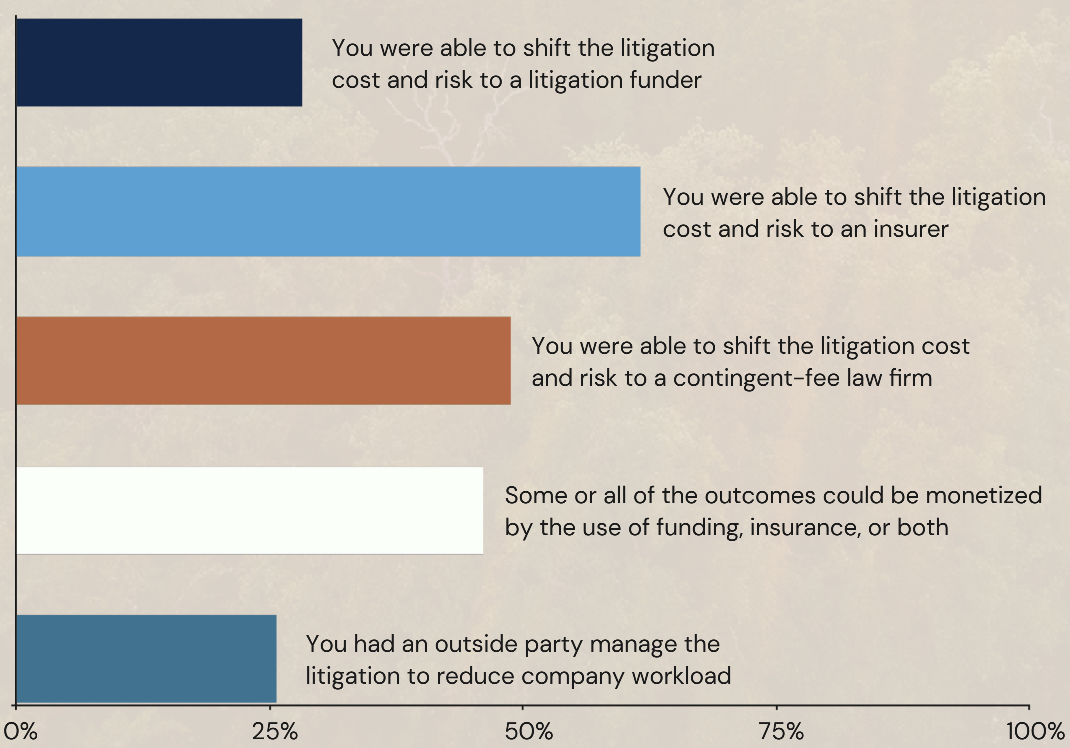
An insurer (~62%)

A contingent-fee firm (~49%)

Monetize the claim (~46%)

A litigation funder (~28%)

Would you be more likely to pursue a claim if... (Please check all that apply)



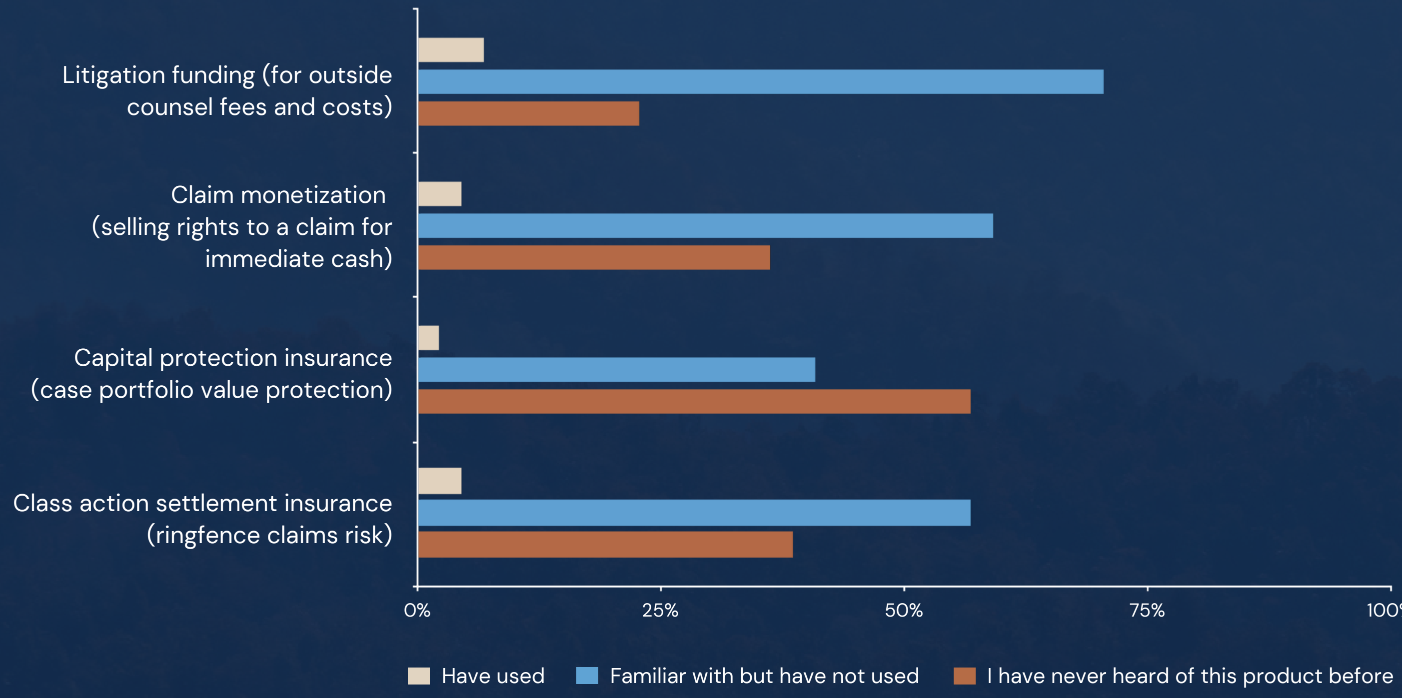
Awareness vs. Adoption: A Market Disconnect

While familiarity with litigation funding and related solutions is relatively high, most respondents are aware but have not used these products. **For litigation funding, roughly 70% are familiar but have never used it, while only about 6% have.**

A meaningful portion also remain unfamiliar with more specialized offerings such as capital protection insurance.

> "For litigation funding, roughly 70% are familiar but have never used it, while only about 6% have."

Which of the following litigation risk transfer products are you familiar with?



Future Adoption

This current state looks set to trend in a different direction: many respondents reported a willingness to use these solutions in the future.

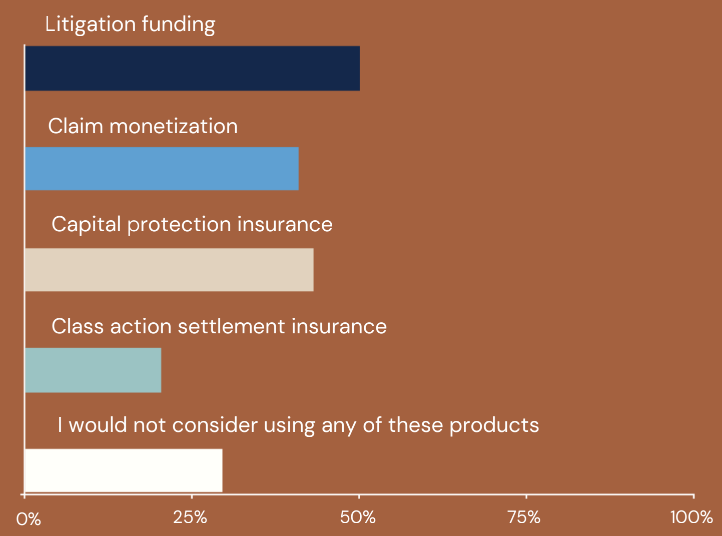
Litigation Funding (~51%)

Capital Protection Insurance (~43%)

Claim Monetization (~41%)

Would not consider these products (~30%)

Which of the following litigation risk transfer products would you consider using in the future?



The reasoning behind this interest ties directly back to how economics drive behavior among in-house counsel—most notably:

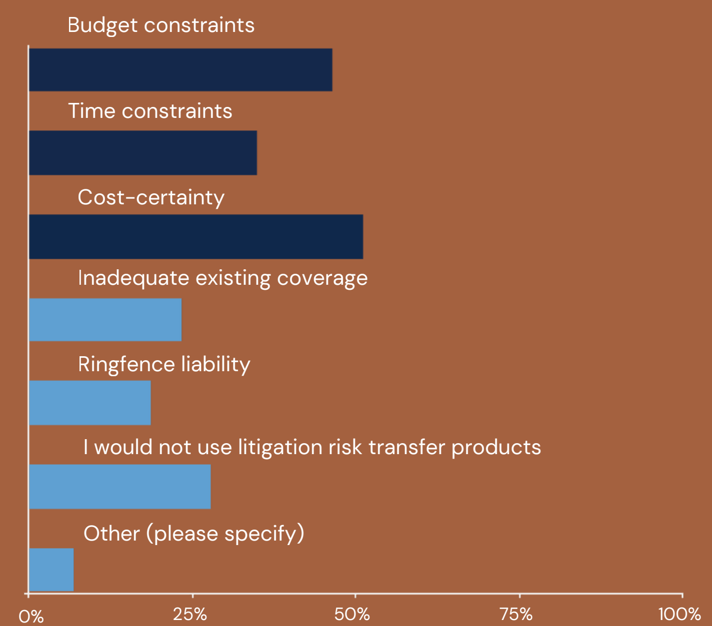
Litigation cost certainty (~51%)

Budget constraints (~46%)

Time constraints (~35%)

This is consistent with the broader growth of these tools in the marketplace, as their use continues to expand among corporations and law firms.

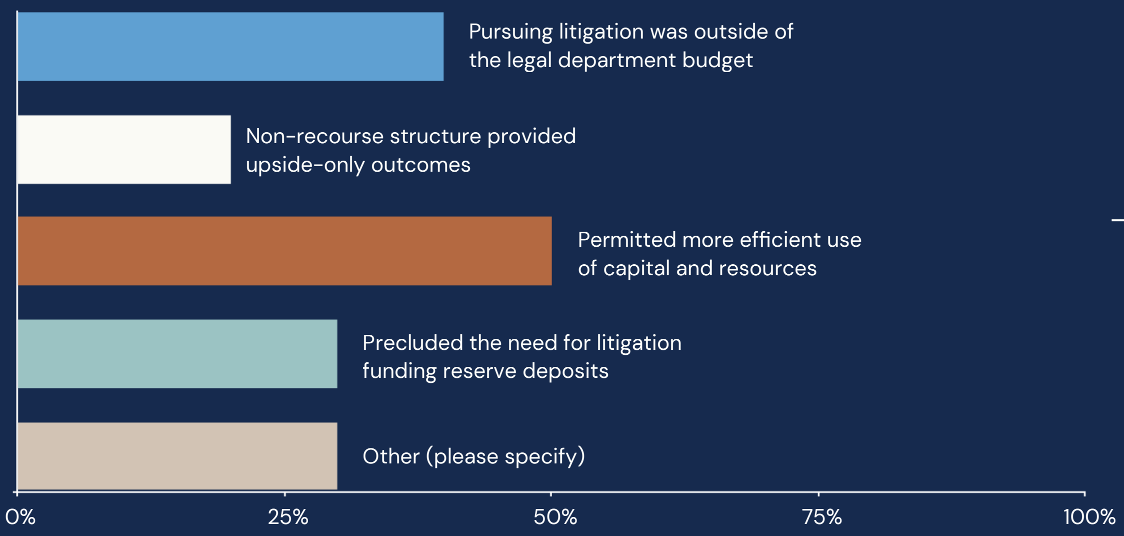
What are the key factors influencing your interest in litigation risk transfer products?



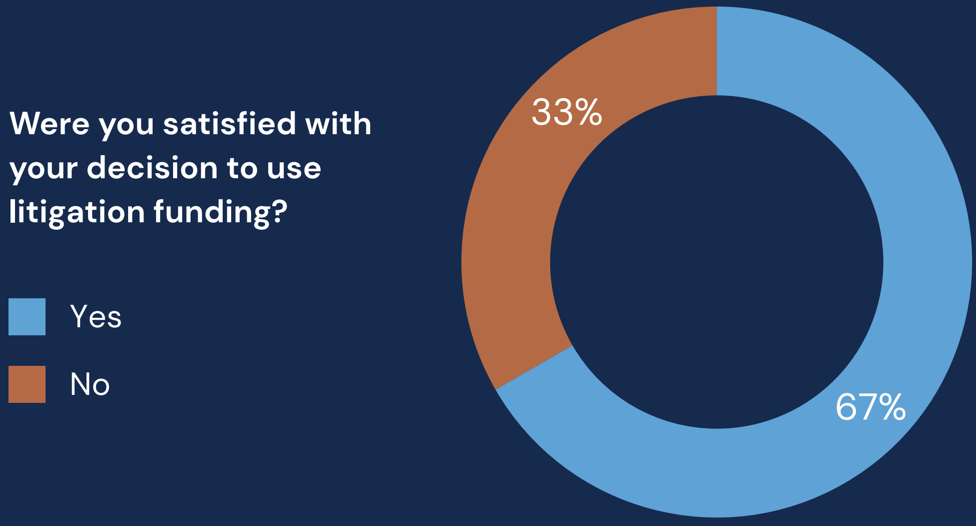
Adoption: Client Satisfaction

Lastly, even though only a small fraction of respondents have used litigation funding, two-thirds of those who used it reported being satisfied with their experience—citing capital efficiency, budget relief, and avoiding the need for litigation reserves.

What were the primary reasons for using litigation funding?



Were you satisfied with your decision to use litigation funding?



Conclusion

> **"In-house counsel consistently weigh the same three variables: likelihood of success, financial exposure, and cost."**

The survey reveals a legal function that is disciplined, cost-conscious, and economically rational, yet not fully equipped with the tools available to manage the risks it identifies. In-house counsel consistently weigh the same three variables: likelihood of success, financial exposure, and cost. These are precisely the concerns that litigation risk transfer products are built to address.

The result is a clear and widening opportunity. Awareness of funding and insurance solutions is already high, satisfaction among the few who have used them is strong, and stated willingness to adopt them is growing. The gap between what in-house teams already know and what they currently use is the next frontier in corporate litigation strategy. For departments seeking cost certainty, downside protection, and more efficient use of capital, the question is shifting from whether to consider these tools to when to deploy them.

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