

Independent Study Paper Title	Funding of Class Action
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ABSTRACT

This Independent Study aims to research the most suitable solution for the financial problem in class action that is a significant barrier of access to justice. Class action is a complex litigation which related to a numerous injured persons. The Class action proceeding tends to generate substantial costs and disbursements, for instant, court fee, attorney's fee, expert witness fee, notification fee and other cost in relation to the accumulation of class's evidence. Additionally, the law provides the financial burden of the class' disbursement and adverse cost (if the class failed) solely on the Representative Plaintiff. It is likely to increase an excess financial burden for one person. Under this circumstance, no one would volunteer to step into the role of the Representative Plaintiff and it may cause injured persons to file separate lawsuit instead of pursuing the Class action proceeding in order to avoid such burden of cost.

Based on the outcome of studying, there are a number of litigation funding in foreign countries operated by either public sector or private sector. The litigation funding basically provides a financial assistance and in return obtains an agreed percentage share in benefit generated from the successful case. It is a mechanism that could increase the access to justice for people and could improve an effectiveness of class action proceeding. Nevertheless, litigation funding is still not acceptable in Thailand since the involvement of the third-party who is unaffiliated with the case in other's litigation is prohibited under public policy pursuant to Section 150 of the Civil and Commercial Code.

The results from this study have demonstrated that litigation funding should be operated by the public sector rather than the private sector due to the fact that the private sector will focus mainly on commercial interest and expect a substantial profit in return. However, the current legal aids in Thailand, the exemption of court's fee and

the Justice Fund, are not suitable enough for the Class action proceeding due to the complexity and a substantial cost occurred from the conduct of class action. I would like to propose that the establishment of a special fund so called "Class Action Fund" is the most suitable method of litigation funding for the Class action proceeding. There are great models of litigation funding which can be prototype for the Class Action Fund in Thailand currently operated in Quebec province and Ontario province known as "the Fonds D'Aide aux Recours Collectifs" of Quebec province and "the Class Proceeding Fund" of Ontario province respectively. The functions of both entities have very interesting and very vibrant in their operations which can be readjusted for establishing the most suitable Class Action Fund in Thailand.

