PRETORIA NEWS

Litigation funder to help out ‘man in the street’

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THE FIRST dedicated litigation funding company has been established in South Africa.

Eddy de la Pierre, the chief executive of the South African Litigation Funding Company (Salf), said on Friday that the constitution prescribed everyone had the right to have any dispute that could be resolved by the application of law decided in a fair hearing before a court or similar forum.

But this did not happen in practice because only people who could afford to could exercise this right, he noted.

“The ordinary man on the street is so intimidated by the big guys with money that they wouldn’t think of taking them on because of fear of being wiped out financially. Salf’s objective is to ensure that an impact will be made in addressing this issue,” he said.

De la Pierre said the company had a number of cases in the pipeline and expected to have cases involving claims worth about R6 billion within the next few weeks. He declined to provide details about the claims the firm had secured.

The Salf was based on the model of litigation funding companies globally, he added.

Litigation funding was the provision of funding to meet a claimant’s total legal costs for conducting litigation to recover a debt. This included the adverse cost risk that would be payable or the security provided to the defendants if the litigation was unsuccessful, De la Pierre said.

If the claim was successful, the funder was firstly reimbursed for the costs incurred or invested in the claim plus a pre-determined percentage of the total amount recovered.

De la Pierre said outstanding debts were at an all-time high and increasing monthly but hundreds of millions in claims were written off or lost by claimants because of a lack of access to top class legal representation and a lack of funding to appoint able legal advisors to initiate and sustain any protracted legal matters.

“Salf creates an opportunity for claimants to proceed against debtors or defendants and, through Salf’s participation and funding for the best possible legal and project team, enhance their chances of recovering their claims without risking their own funds or assets,” he said.

Litigation was traumatic for claimants he said, and with intimidation a common tactic used by larger better-funded defendants together with their unfair access to experienced and expensive representation, this usually resulted in most claimants deciding against taking on litigation, he said.

Salf had links with several large international litigation funding companies, which would participate in selected Salf-originated litigation opportunities, he added.

But South African investors would also be able to participate directly in uniquely structured investment opportunities that were presented to Salf, De la Pierre said.

Each case taken on by Salf would be ring-fenced in a subsidiary firm, which would enable it to offer investors a new low risk investment opportunity, he added.

Prior to taking on a case, Salf would first put a project team together to evaluate whether it was worth pursuing and the strength of the case, which would then be presented to its advisory panel for a decision before being offered to investors, he said.

De la Pierre, the former chairman of venture capital firm Gilboa, said Salf had been born out of 12 years of “personal experience”.