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## Legal financing helps out little guys

November 30, 2005

**BY MARY WISNIEWSKI Business Reporter**

What if you build a better mousetrap, and a big company steals your idea?

You can sue -- but it will cost you. A patent case can cost more than \$1 million to take to trial. What's a little company to do?

One option is legal financing. Three-year-old Oasis Capital, based in Northbrook, is a leader in the growing business of financing commercial lawsuits, such as patent and contract disputes.

The financing cost is high. If the litigant wins, Oasis gets a return on its loan of 20 to 50 percent, plus sometimes a percent of the final judgment. But the loan is non-recourse, meaning that if the case is lost, the plaintiff doesn't have to pay back the money.

"The plaintiff is the little guy in a 'David and Goliath' scenario," explained Gary Chodes, founder and CEO of Oasis Capital. Oasis Capital mostly represents small-business owners or inventors fighting large companies.

The potential damages must be substantial -- generally more than \$500,000 -- and the defendant must be big enough or have good enough insurance to pay out. The facts of the case also must be strong enough for an investment, said Chodes, who uses legal experts to evaluate a suit's chances.

"We have to believe in the case," said Chodes, whose company typically invests more than \$100,000 in each suit. Oasis gets its capital from a hedge fund, which Chodes declined to name.

Oasis is helping fund the appeal of an \$800 million lawsuit against a unit of Electronic Data Systems, the world's second largest seller of computer systems.

ISG State Operations, an information technology company, was awarded a \$25.2 million contract in 1994 by National Heritage Insurance Corp. to re-engineer the Medicaid program for the state of Texas. The ISG contract was awarded under a state law that required some state work to go to minority-owned businesses, ISG founder Ken Blow said.

But when Ann Richards lost the Texas governor's office to George W. Bush, the emphasis on minority hiring faded, and ISG lost the contract, said Blow, who went into personal bankruptcy. NHIC said that ISG lost the work because the company failed to meet contractual obligations.

ISG sued NHIC for lost revenues, plus interest. To help keep the suit going, Oasis loaned ISG about \$1.3 million last year, mostly to help Blow and his family.

ISG lost at trial in April, and the case is now on appeal.

"Gary Chodes is the kind of guy who does exactly what he tells you he's going to do," Blow said. "Oasis single-handedly allowed me to continue this fight and keep my family's head above water."

Law firms might take cases on a contingency basis, meaning the litigant doesn't have to pay the lawyer unless the

litigant wins. But expenses like expert witnesses, deposition transcripts and travel often have to come out of a litigant's pocket.

Tom Scavone, a partner with the patent and intellectual property law firm of Niro, Scavone, Haller & Niro, said that individuals or small companies with "meaningful claims" often are foreclosed from the legal process because they can't afford expenses like expert witnesses.

"There are cases I've chosen not to undertake because it was apparent that the prospective client was unable to fund disbursements," Scavone said. "That's where companies like Oasis fill a valuable need."

Scavone noted that investing in these kinds of lawsuits is "very high risk. We all know how unpredictable these are."

Chodes has a division devoted to consumer cases, called Oasis Legal Finance, that finances small, individual complaints, such as vehicle collisions, job injuries and employment-related disputes. Money is loaned to plaintiffs to cover medical and other living costs while a suit is pending.

The legal finance industry has been criticized as a form of predatory lending, because financing costs are so high. To raise standards and improve their image, industry players such as Oasis Legal Finance and LawCash organized a trade group earlier this year called the American Legal Finance Association.

ALFA Chairman Harvey R. Hirschfeld said commercial litigation is a small but growing part of the legal finance industry, and that Oasis Capital is one of the biggest players.

"They take big risks when they put money out," Hirschfeld said. With a complex commercial case, "You could lose for all the wrong reasons."

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