

Ciarb Guideline on Third-Party Funding



Ciarb Guideline on Third-Party Funding

The rapid development of third-party funding in both litigation and arbitration over the past three decades represents both an expansion of access to justice and a challenge for those dealing with funders and funded parties within the dispute resolution process.



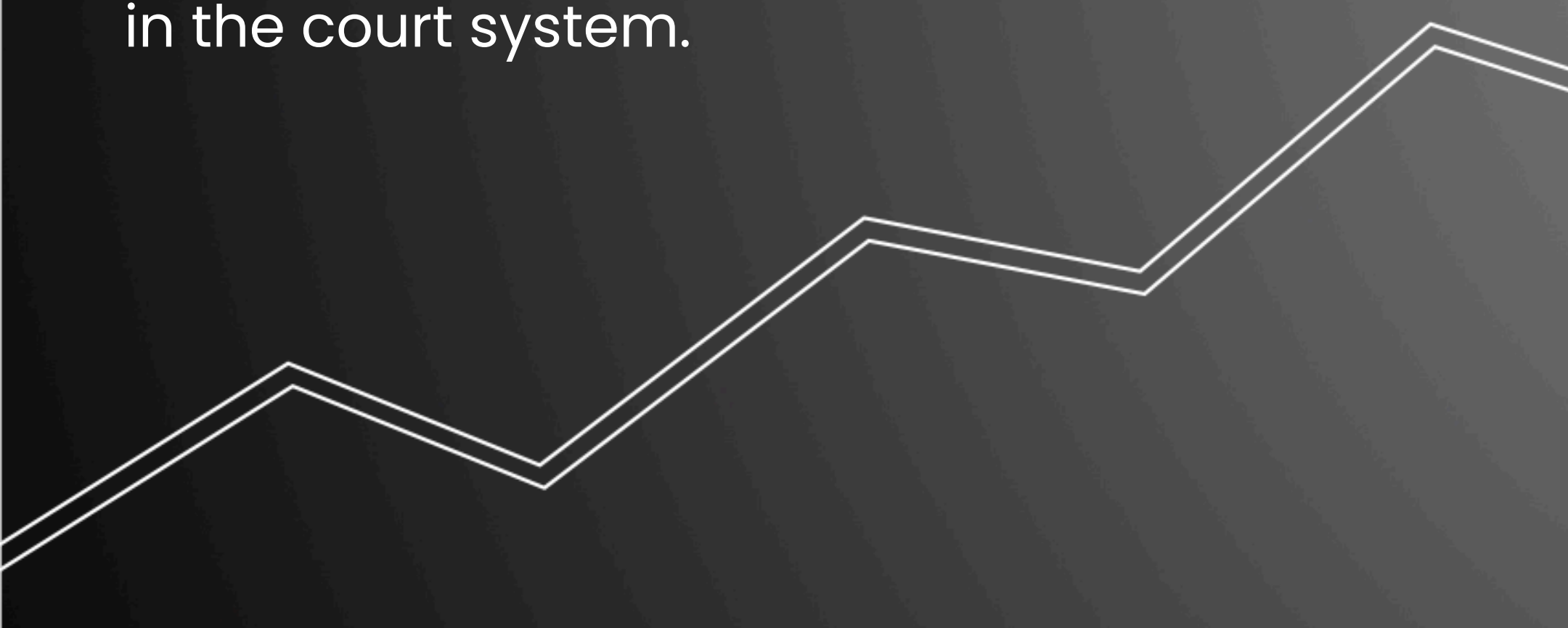
While some national courts have responded to the use of third-party funding, by issuing court rules mandating disclosure of aspects of third-party funding arrangements, the position in arbitration is different.



Ciarb Guideline on Third-Party Funding

This is, for many reasons, not least of which is the involvement of a third-party (the funder) in a process which is contractually limited (and often confidential) to the parties to the agreement to arbitrate.

A major distinction between arbitration and litigation – in some jurisdictions, at least – is the ability of arbitral tribunals to award the costs of third-party funding to the funded party if it is the successful party in the arbitration: an option usually not available in the court system.





Ciarb Guideline on Third-Party Funding

This area of arbitration practice remains dynamic; legislative, regulatory, and institutional rule and guidance developments may alter the picture in specific cases.



Therefore, this Guideline is expressly a general overview. Individual cases will be governed by the laws applicable to the parties, the funder, the seat of the arbitration, and the location of any related national court proceedings.