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IP File

July 5, 2016

Litigation Financing Is Not Champerty: Delaware Confirms That Litigation Financing Is Here To Stay

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On March 9, 2016, in *Charge Injection Technologies, Inc. v. E.I. Dupont De Nemours & Company*, C.A. No. 07C-12-134-JRL, the Superior Court of the State of Delaware issued a decision on a motion to dismiss for violating state champerty and maintenance laws. In 2008, plaintiff Charge Injection Technologies, Inc. (“CIT”) sued E.I. Dupont De Nemours & Company (“Dupont”) for various patent and trade secrets related infractions. During the course of the litigation, CIT entered into a litigation financing arrangement with Burford Capital LLC (“Burford”). Dupont sought to have the case dismissed, arguing in part that CIT was not the true owner of the claims and Burford was wielding de facto control over the lawsuit. The Court denied Dupont’s motion, finding that CIT had not assigned its claim to Burford, and Burford had no right to maintain, direct, control or settle the litigation. In denying the motion, the Court affirmed the propriety of litigation financing, and strongly dispelled many of the criticisms raised by those opposed to such arrangements.

TAGS: champerty, champerty and maintenance, CIT v. Dupont, ethical conflicts, frivolous litigation, Intellectual Property, Intellectual Property, legal ethics, Litigation, litigation financing, patent, patent case, patent claim, Patent Litigation, patent litigation