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**RELEASE TO AUSTRALIAN STOCK EXCHANGE (“ASX”)**

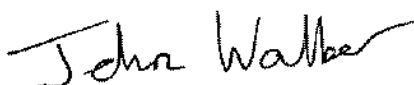
**WEDNESDAY, 30 AUGUST 2006**

**HIGH COURT OF AUSTRALIA DECISION SUPPORTS LITIGATION  
FUNDING MARKET**

1. On 30 August 2006, the High Court of Australia handed down its judgment in the matter of *Campbells Cash & Carry Pty Ltd v Postif Pty Ltd* (which can be found at [http://www.austlii.edu.au/au/cases/cth/high\\_ct/2006/41.html](http://www.austlii.edu.au/au/cases/cth/high_ct/2006/41.html)).
2. IMF was not the funder in this matter, although sought and obtained the right to intervene and be heard on the issue of litigation funding and the related abuse of process issue at the hearing.
3. In that matter the High Court was addressing a litigation funding transaction in which:
  - (a) the funder had advertised for clients wishing to have their cases funded;
  - (b) the litigation funding agreement provided that the funder chose and appointed the solicitors and then instructed the solicitors on behalf of the clients;
  - (c) the funder and the clients were both represented by the same solicitors;
  - (d) the funder instructed the solicitors on behalf of the clients as to the conduct of the litigation;
  - (e) the litigation funding agreement provided for the funder to be able to settle the litigation without reference back to the clients so long as the settlement was at or above a nominated figure;
  - (f) the funder was responsible for overall project management, technical issues and communications with the defendants;
  - (g) the funder collected the documentary evidence and provided it to the solicitors; and
  - (h) the funder communicated the progress of the action to the clients.

4. The High Court was dealing with an appeal by the defendant at first instance against a unanimous decision of the New South Wales Court of Appeal which decided not to grant a stay of the proceedings as the Court of Appeal found there had been no abuse of process as a result of the funding arrangements.
5. In the Court of Appeal, Mason P said: *“the law now looks favourably on funding arrangements that offer access to justice so long as any tendency to abuse of process is controlled... [p]ublic policy now recognises that it is desirable, in order to facilitate access to justice, that third parties should provide assistance designed to ensure that those who are involved in litigation have the benefit of legal representation.”*
6. After reviewing the history of maintenance and champerty in the context of the *Maintenance, Champerty and Barratry Abolition Act 1993* (NSW), the majority of the High Court found that the litigation funding arrangements did not *“warrant condemnation as being contrary to public policy or leading to any abuse of process”*.
7. The effect of the decision is:
  - (a) that the judiciary continues to have a view consistent with the view of the legislature identified in the recent discussion paper on the regulation of litigation funding that funding is in the public interest;
  - (b) to give the legislature certainty as to the judiciary’s views on litigation funding before the Standing Committee of Attorneys-General embark upon regulating funders;
  - (c) to give the legislature and the judiciary a clear basis for legislative and Court Rule reform of representative proceedings to enable them to fulfil their purpose; namely to facilitate access to justice for multiple claims that are the same or similar;
  - (d) interlocutory applications by defendants seeking a stay of the proceedings because they are being funded, which have delayed the progress of many of IMF’s funded cases, are likely to cease; and
  - (e) IMF will be freer to become more involved in proceedings it funds, with expected benefits in reducing the cost of proceedings to funded parties and improving their efficiency and timeliness.
8. A more detailed commentary on the High Court’s decision will be posted on IMF’s website ([www.imf.com.au](http://www.imf.com.au)) in due course.

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