



LITIGATION AND DISPUTE RESOLUTION

Professional Third Party Litigation Funding Unlawful in Ireland

by **Ciarán Markey, Michael Kavanagh**

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On the 23rd of May 2017, the Supreme Court confirmed that professional third party funding of litigation is unlawful in Ireland.

[View the Judgments](#)

In summary, the court found that an agreement to fund where there is no connection between the Plaintiffs and the funder other than the decision to fund is contrary to law, specifically the ancient torts and offences of maintenance and champerty.

The court recognised that the prohibition on litigation funding could present difficulties for Plaintiffs who cannot fund litigation through their own resources and could potentially raise constitutional issues regarding the effective right of access to the court. However, the court found that questions as to how such difficulties might potentially be overcome (including, possibly changing the law to permit third party funding) are matters for the legislature. In this regard Chief Justice Denham held as follows:

"It may be said that in light of modern issues, such as Ireland being an international trading State, issues arising on international arbitrations, and in the Commercial Court, it might well be appropriate to have a modern law on champerty and the third party funding of litigation. However, that is a complex multifaceted issue, more suited to a full legislative analysis. This is re-enforced by the retention of the old statutes by the Statute Law Revision Act 2007, and by the work of the Law Reform Commission."

It remains to be seen whether the legislature will take up the invitation to change the law in this area and if so, how. In the meantime, this decision will come as a blow to impecunious Plaintiffs with otherwise good claims.

Other articles on this topic:

[Crowdfunding The Irish Brexit Challenge - PUBLISHED: 24th January 2017](#)

[Litigation Funding Declared Illegal - PUBLISHED: 21st April 2016](#)

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