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Litigation Funding of Class Actions Approved in Queensland while Maintenance and Champerty Remain the Law – *Wayne Attrill*

In its landmark 2006 decision of *Campbells Cash and Carry Pty Ltd v Fostif Pty Ltd*, the High Court held that a commercial litigation funding arrangement supporting litigation in New South Wales was not contrary to public policy or an abuse of the Court's process even though it contravened centuries-old prohibitions on maintenance and champerty. New South Wales had by statute abolished maintenance and champerty as torts, but retained the rule that a contract giving effect to maintenance or champerty may be declared contrary to public policy or otherwise illegal. Victoria, South Australia, Tasmania and the Australian Capital Territory have also abolished the torts, while Queensland, Western Australia and the Northern Territory retain them. This article considers the ongoing relevance of maintenance and champerty to litigation funding arrangements in Australia with a focus on the Queensland Supreme Court's decision in *Murphy Operator v Gladstone Ports Corp* (No 4), which declared the funding agreements in that case to not be unenforceable "by reason of maintenance, champerty or public policy". 132

Documents Within Reach: Discovery "Powers" – *Alexander Sloan*

This article explores the concept of "power" in the context of litigants' discovery obligations. The concept defines the circumstances in which a litigant must make discovery of relevant documents in the possession of others – that is, in the possession of non-parties. It applies to court proceedings in nearly all Australian jurisdictions, and disputes regarding its scope will therefore likely arise in practice. That is all the more so where the litigation involves parties who have a close relationship with the holder of relevant documents. The interests of the non-party document holder will likely be adverse to the document-seeking party. This article focuses on three main contexts where such disputes as to the "power" question tend to arise: corporate groups; directors; and liquidators. 147

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