

SUPERIOR COURT
of the
State of Delaware

William L. Witham, Jr.
Resident Judge

Kent County Courthouse
38 The Green
Dover, Delaware 19901
Telephone (302) 739-5332

June 13, 2008

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Re: ***CIT Technologies Financing v. Owen Printing Dover, Inc., et al.***
C.A. No. 06C-08-047 WLW
Letter Decision on Defendants' Motion for Reargument

Dear Counsel:

On April 30, 2008, this Court issued its decision in the above matter. On May 2, 2008, Defendant Owen Printing Dover, Inc. d/b/a/ Sir Speedy, also known as Sir Speedy Printing Center and David Owen (collectively, "Defendants") filed a Motion for Reargument, arguing that the Court's fifth finding and its conclusion are inconsistent. The fifth finding by the Court is that the Court will grant Plaintiff costs and attorneys fees only for the Writ of Replevin. The Court then concluded that attorneys' fees accrued after the Replevin Order are awarded at the rate of 5%.

Plaintiff, CIT Technologies Financing¹ ("CIT"), argues that these are not inconsistent since the Court's fifth Finding of Fact goes on to discuss Title 10, Section 3912 of the Delaware Code, which allows the Court to award reasonable counsel fees of

¹Successor-in-Interest to Citicorp Vendor Finance, Inc.

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up to 20 percent of the amount due, but is subject to the discretion of the Court, which concluded that the award will be at the rate of 5 percent.

I do not find that the April 30, 2008 Order is inconsistent nor contradictory to any Finding of Fact by this Court. With respect to attorneys' fees, the Court awards attorneys' fees for the Replevin Order in the previously agreed to amount of \$1,275.00. Given that the Court finds CIT failed to mitigate its damages, the Court will not grant the statutory ceiling of 20 percent as provided by Section 3912. Instead, it invokes the discretionary provision of Section 3912, and awards attorneys' fees at the rate of 5 percent to accrue after the date of the Replevin Order.

IT IS SO ORDERED.

/s/ William L. Witham, Jr.

WLW/dmh

oc: Prothonotary

xc: John R. Weaver, Jr., Esquire

Thomas I. Barrows, Esquire