

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHARLES L. GRIMES,	§	
	§	No. 3, 2001
Plaintiff Below,	§	
Appellant,	§	
	§	
v.	§	Court Below: Court of
	§	Chancery of the State of
JAMES L. DONALD, CLEMENT M.	§	Delaware in and for
BROWN, JR., FRANK J. CUMMISKEY,	§	New Castle County
RAYMOND J. DEMPSEY, JOHN	§	C.A. No. 13358
FAIRCLOUGH, JAMES L. FISCHER,	§	
ROBERT S. FOLSOM, JAMES P.	§	
LEAKE, JAMES M. NOLAN,	§	
JIM A. WATSON,	§	
	§	
Defendants Below,	§	
Appellees,	§	
	§	
and	§	
	§	
DSC COMMUNICATIONS	§	
CORPORATION,	§	
	§	
Nominal Defendant	§	
Below, Appellee.	§	

Submitted: October 10, 2001

Decided: October 26, 2001

Before **WALSH, HOLLAND** and **BERGER**, Justices.

ORDER

This 26th day of October, 2001, on consideration of the briefs and arguments of the parties, it appears to the Court that:

1) This appeal involves an application for attorneys' fees by Charles L. Grimes, a stockholder whose claims were mooted by a merger. The Court of Chancery dismissed the fee petition because it found no basis on which to infer that there was a causal connection between Grimes' claims and the subsequent corporate actions that mooted those claims. On appeal, this Court concluded that the fee petition should not have been dismissed and that the corporate defendants had the burden of rebutting the inference, created by the sequence of events, that there was a causal connection.¹

2) On remand, the Court of Chancery found that the corporate defendants rebutted the inference that Grimes' litigation influenced James L. Donald's decision to retire as CEO and Chairman of DSC Communications Corporation. The Court of Chancery relied on the un rebutted affidavit of DSC's General Counsel, who stated that the Grimes litigation was not a factor and did not in any way cause Donald's departure.

3) Since the trial court's finding is supported by the record, we affirm its decision denying the application for attorneys' fees without considering the court's other conclusions as to mootness or the merit of Grimes' claims.

¹*Grimes v. DSC Communications Corporation*, Del. Supr., 2000 WL 949628.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Court of Chancery be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice