

## SUPREME COURT OF THE STATE OF DELAWARE

# Invenergy Renewables LLC v. Leaf Invenergy Company

No. 293, 2019 · No. No. 293, 2019 · Decided September 19, 2019

### SUMMARY

The Delaware Supreme Court affirmed the Court of Chancery's calculation of prejudgment interest in a dispute arising from a contractual redemption obligation under an LLC agreement. The court held that interest accrued from the date of the Material Partial Sale, when the contractual payment obligation arose, rather than from the later date on which the investor surrendered its membership interest.

### CASE DETAILS

|                       |                                                                                                                                                         |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Delaware                                                                                                                  |
| WRITING FOR THE COURT | Gary F. Traynor; Justice Vaughn; Justice Seitz; Justice Traynor                                                                                         |
| JURISDICTION          | Delaware                                                                                                                                                |
| DECIDED               | September 19, 2019                                                                                                                                      |
| DOCKET                | No. 293, 2019                                                                                                                                           |
| DISPOSITION           | affirmed                                                                                                                                                |
| PROCEDURAL POSTURE    | Expedited appeal from a final judgment of the Delaware Court of Chancery concerning the calculation of prejudgment interest following remand in Leaf I. |
| STANDARD OF REVIEW    | The date when payment is due, and thus the date from which prejudgment interest accrues, is a matter of law subject to plenary review.                  |
| PRECEDENTIAL VALUE    | published opinion                                                                                                                                       |
| PARTIES               | Invenergy Renewables LLC v. Leaf Invenergy Company                                                                                                      |

### TOPICS

[breach of contract](#) [contract interpretation](#) [damages](#) [remedies](#) [appellate procedure](#)

### PRACTICE AREAS

[contract law](#) [limited liability companies](#) [remedies](#) [appellate procedure](#)

## QUESTIONS PRESENTED

1. Whether prejudgment interest on Leaf's contractual damages should accrue from December 15, 2015, when the Material Partial Sale closed, or from June 20, 2018, when Leaf surrendered its membership interest.
2. Whether Leaf was entitled to attorney's fees based on an informal request under Supreme Court Rule 20(f).

## HOLDINGS

1. Where the underlying obligation arises from a contract, prejudgment interest accrues from the date payment was due under the contract. Because the LLC agreement entitled Leaf to the Target Multiple when Invenergy closed the TerraForm transaction on December 15, 2015, prejudgment interest properly ran from that date.
2. The court will not consider an informal request for attorney's fees under Supreme Court Rule 20(f) absent a formal motion presented in accordance with the Supreme Court Rules.

## KEY QUOTATIONS

*"A party is entitled to prejudgment interest running from the date payment is due. The determination of the date when payment is due is a matter of law subject to plenary review."* (§ 3)

*"Where . . . the underlying obligation to make payment arises ex contractu, we look to the contract itself to determine when interest should begin to accrue."* (§ 5)

*"Rather, what entitled Leaf to the Target Multiple was the LLC agreement and Invenergy's undertaking of a Material Partial Sale that triggered the contractual provisions we interpreted in Leaf I."* (§ 6)

## FACTUAL BACKGROUND

Invenergy and Leaf were parties to an LLC agreement under which Leaf was entitled to a contractually defined Target Multiple when Invenergy conducted a Material Partial Sale. Invenergy closed the TerraForm transaction on December 15, 2015, triggering Leaf's contractual entitlement. Leaf later surrendered its membership interest under a redemption agreement dated June 20, 2018, but the Supreme Court held that the surrender did not postpone the accrual of prejudgment interest.

## PROCEDURAL HISTORY

In Leaf I, the Delaware Supreme Court held that Invenergy breached its LLC agreement by conducting a Material Partial Sale without redeeming Leaf for the contractually defined Target Multiple. The court remanded for further proceedings, after which the Court of Chancery entered final judgment awarding prejudgment interest from December 15, 2015, the closing date of the sale. Invenergy appealed the interest calculation, and Leaf informally requested attorney's fees.

## DISPOSITION

affirmed

#### CASES CITED

- Leaf Invenergy v. Invenergy, 210 A.3d 688 (Del. 2019)
- Hercules, Inc. v. AIU Insurance Co., 784 A.2d 481, 508 (Del. 2001)
- Citadel Holding Corp. v. Roven, 603 A.2d 818, 826 (Del. 1992)
- Glanden v. Quirk, 128 A.3d 994, 1006 (Del. 2015)

#### OPINION

##### PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE INVENERGY RENEWABLES LLC, § a Delaware limited liability company, § No. 293, 2019 § Defendant Below-Appellant/ § Court Below—Court of Chancery § of the State of Delaware v. § § C.A. No. 11830 LEAF INVENERGY COMPANY, § a Cayman Islands exempt limited § liability company, § § Plaintiff Below-Appellee/ § Cross-Appellant. § Submitted: September 18, 2019 Decided: September 19, 2019 Before VAUGHN, SEITZ, and TRAYNOR, Justices.

ORDER (1) This expedited appeal follows our recent opinion in Leaf Invenergy v. Invenergy<sup>1</sup> (Leaf I). In Leaf I, we concluded that Invenergy breached the terms of the LLC agreement it had with one of its investors—Leaf Invenergy (“Leaf”)—by conducting a “Material Partial Sale” without redeeming Leaf for a contractually defined “Target Multiple.” We held that “Leaf is entitled to damages in the amount of the Target Multiple on the condition that Leaf surrenders its membership interest in Invenergy”<sup>2</sup> and remanded the case to the Court of Chancery.

1 210 A.3d 688 (Del. 2019). 2 Id. at 704. (2) After our remand, the Court of Chancery entered a final judgment and order that included prejudgment interest from December 15, 2015, the closing date of the aforementioned Material Partial Sale. Invenergy appeals the calculation of prejudgment interest, which amounts to nearly \$30 million.

(3) “A party is entitled to prejudgment interest running from the date payment is due. The determination of the date when payment is due is a matter of law subject to plenary review.”<sup>3</sup> (4) Invenergy argues that prejudgment interest should not have been calculated from December 15, 2015 but rather from June 20, 2018, because on that date, Leaf surrendered its membership interest to Invenergy via a redemption agreement<sup>4</sup> and, as mentioned, our opinion in Leaf I awarded damages “on the condition that Leaf surrenders its membership interest.” (5) We disagree with Invenergy. “Where... the underlying obligation to make payment arises ex contractu, we look to the contract itself to determine when interest should begin to accrue.”<sup>5</sup> Under the LLC agreement, which is the relevant contract here, Leaf was entitled to the Target Multiple when Invenergy closed the TerraForm deal, which occurred on December 15, 2015.

3 Hercules, Inc. v. AIU Ins. Co., 784 A.2d 481, 508 (Del. 2001). 4 Although the parties executed this agreement before the submission date of Leaf I, the parties did not appear to have made this agreement a part of the appellate record in Leaf I. 5 Citadel Holding Corp. v. Roven, 603 A.2d 818, 826 (Del. 1992). 2 (6) Contrary to what Invenergy's argument suggests, it was not our opinion that ultimately entitled Leaf to the Target Multiple.

Rather, what entitled Leaf to the Target Multiple was the LLC agreement and Invenergy's undertaking of a Material Partial Sale that triggered the contractual provisions we interpreted in Leaf I. And because Leaf's contractual right to the Target Multiple was not contingent upon a prior unconditional surrender of its membership interests, neither does Leaf's prejudgment failure-to-surrender diminish Leaf's right to prejudgment interest on damages for an undisputed counterparty breach.

That we required Leaf to surrender its membership interest is nothing more than a judicial effort to enforce the terms of the parties' agreement, which provided that payment of the Target Multiple would redeem Leaf's interests.

(7) Leaf's informal request for fees is denied. "Although we have authority under Supreme Court Rule 20(f) to award attorneys' fees in the case of a frivolous appeal, we will not consider an informal request in the absence of a formal motion made and presented in accordance with the Supreme Court Rules." 6 NOW, THEREFORE, IT IS ORDERED that the judgment of the Court of Chancery is AFFIRMED.

BY THE COURT: /s/ Gary F. Traynor Justice 6 Glanden v. Quirk, 128 A.3d 994, 1006 (Del. 2015).  
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