



**GRAND COURT OF THE CAYMAN ISLANDS  
DIVISION**

**CAUSE NO.                      OF 2022**

**BETWEEN:**

**DUNCAN NEALEY**

Plaintiff

**AND:**

**ENDEAVOUR MINING CORPORATION**

Defendant

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**WRIT OF SUMMONS**

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**To the Defendant:**

**Endeavour Mining Corporation.  
Mourant Governance Services (Cayman) Limited  
PO Box 1348  
94 Solaris Avenue  
Camana Bay  
George Town  
Grand Cayman**

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within 14 days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495 Grand Cayman KY1-1106, Cayman Islands, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the

Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

**Issued this 23<sup>rd</sup> day of September 2022**

  
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**PRIESTLEYS**  
Attorney for the Plaintiff

NOTE – This Writ may not be served later than 4 calendar months (or, if leave is required to effect service outside of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

**IMPORTANT**

Directions for Acknowledgement of Service are given with the accompanying form.

**PARTICULARS OF CLAIM**

1. The Defendant is and was at all material times a company registered in the Cayman Islands.
2. The Plaintiff was at all material times an individual and an employee of the Defendant from 25 April 2016 until 17 October 2016.
3. On 21 March 2016, The Plaintiff entered into a contract (“**the Contract**”) with The Defendant (“**the Company**”). He was to be employed as VP-Group Controller based in Paris, France. He commenced work on 25 April 2016. The Contract required him to sign an employment contract (“**the Second Contract**”) with La Mancha Services France (“LMSF”) in order to comply with the legal requirements of employment contracts in France. The Contract further stated that in the event of “*any discrepancy, this contract will be considered as the binding and intended terms and conditions of your employment.*”
4. The Contract was executed between the Plaintiff and the Defendant on 21 March 2016.
5. The Plaintiff’s employment was terminated by Henri de Joux, the HR Director for the Defendant by letter dated 17 October 2016.
6. The Contract contained the following express terms:
  - 6.1 That in the event of termination “*In addition, the Company shall pay you 3 months’ salary as an additional payment to any pay in lieu of notice, in the case of termination other than for just cause.*” This clause can be found on page 2 under the heading “Termination.”
  - 6.2 Under the heading “Annual Incentive Bonus” which can be found at page 2, paragraphs 8, The Plaintiff would be entitled to participate in the Company’s Annual Incentive Bonus and Long-Term Incentive Plan, payment of which was dependent on the financial success of the Endeavour Mining Group and the Plaintiff’s contribution to this success. Prior pay-outs commensurate with the Plaintiff’s role had been 40%, with a target of 50%.
  - 6.3 Under the heading “LTIP” which can be found at page 2, paragraphs 9 of the Contract, The Plaintiff was entitled to participate in the Company’s Long-Term Incentive Plan, the award which was dependent on the financial success of the Endeavour Mining Group and the Plaintiff’s contribution to this success. Prior awards commensurate with The Plaintiff’s role had been between 20% and 25%.
  - 6.4 The Contract stipulates that “*This employment arrangement is governed by the laws of the Cayman Islands.*”

in breach of the Contract the Defendant has failed to pay the above payments due under the Contract in full or at all and the sum of **€108,000.00** remains due and owing to the Plaintiff plus interest.

8. The above figure is calculated as follows:

- i. Annual Salary = €192,000 = €16,000 per month x 3 = €48,000 in relation to the Termination clause.
- ii. Annual Incentive Bonus is typically 40% of annual salary = €76,800 per annum divided by 12 = €6,400 per month x 6 to represent the number of months Our Client was in employment = €38,400
- iii. LTIP is typically 20% - 25% of annual salary, taking the midpoint of 22.5% = €43,200 divided by 12 = €3,600 per month x 6 to represent the number of months Our Client was in employment = €21,600


**Total:** €48,000 + €38,400 + €21,600 = **€108,000.00**

9. The interest has been calculated on the basis of Judgment Debts (Rates of Interest) Rules (2021 Revision) Twelfth Schedule, at a rate of 2¼ %, in the amount of €1077.3. The total amount due to the Plaintiff is therefore **€109,077.30**. Interest continues to accrue at the daily rate of €6.65.

10. Further, the Plaintiff claims the Plaintiff's costs (including but not limited to legal costs) arising from the Defendants failure to pay the sum set out in paragraph 7 above.

**AND** the Plaintiff Claims:

1. The sum of **€108,000.00**.
2. Interest as set out in paragraph 9 above.
3. Costs.

  
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**PRIESTLEYS**  
**Attorneys for the Plaintiff**

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, PO Box 495, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is endorsed on the Writ (i.e. the words “Statement of Claim” appear on the top of page 2). The defence must be served within fourteen (14) days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not endorsed on the Writ, the defence need not be served until fourteen (14) days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant’s goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for fourteen (14) days after his Acknowledgement, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by installments or otherwise.

**Notes for Guidance**

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of fourteen (14) days for acknowledging service, a Writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words “sued as (*the name stated on the Writ of Summons*)”.
4. Where the Defendant is a FIRM and an Attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description “Partner in the firm of (.....)” after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description “trading as (.....)” after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH PATIENT, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.



3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (*tick box*)

Yes [ ]      No [ ]

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Service of the Writ is acknowledged accordingly

(Signed) \_\_\_\_\_

Address for service:

*Please see overleaf.....*

**Notes on address for service**

Attorney: where the Defendant is represented by an Attorney, state the Attorney’s place of business in the Cayman Islands. A Defendant may not act by a foreign Attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, “residence” means its registered or principal office.

*Endorsement by Plaintiff’s Attorney (or by Plaintiff if suing in person) of his name, address and reference, if any, in the box below.*

**PRIESTLEYS**  
ATTORNEYS-AT-LAW  
SECOND FLOOR, CARIBBEAN PLAZA  
878 WEST BAY ROAD  
PO BOX 30310  
GEORGE TOWN, GRAND CAYMAN  
CAYMAN ISLANDS, KY1-1202

*Endorsement by Defendant’s Attorney (or by Defendant if suing in person) of his name, address and reference, if any, in the box below.*

[Empty box for Defendant's Attorney endorsement]