

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 763 OF 2001

BETWEEN: (1) **ROBINSON CRUSOE LANDING LTD.** Plaintiff

AND: (1) **WOODTECH LTD.**
(2) **SEAN WOOD**
(3) **CURTIS WOOD**
(4) **MERRILL WOOD** Defendants

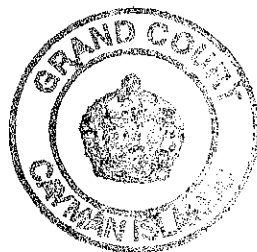
WRIT OF SUMMONS

TO: (1) **WOODTECH LTD.**
Suite 106, Crighton Building
George Town, Grand Cayman

(2) **SEAN WOOD**
George Town
Grand Cayman

(3) **CURTIS WOOD**
George Town
Grand Cayman

(4) **MERRILL WOOD**
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, PO Box 496, George Town, Grand Cayman, 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 Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

ISSUED this 13th day of September, 2001.

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

IMPORTANT

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

STATEMENT OF CLAIM

1. The Plaintiff was at all material times a Company registered in the Cayman Islands.
2. At all material times the First Defendant was a company that held it itself out as being skilled, experienced and competent in the construction of residential dwellings.
3. At all material times, the Second Defendant held himself out as being skilled, competent and experienced in the matters carried out by the First Defendant.
4. At all material times, the Second Defendant was the only registered member and director of the First Defendant.
5. At all material times, the Third Defendant held himself out as being an officer of the First Defendant.
6. At all material times the Fourth Defendant was an employee of the First Defendant and held himself out as being skilled, competent and experienced in the matters carried out by the First Defendant.
7. By a written contract dated the 5th October 1998 the Plaintiff entered into an agreement with the First Defendant whereby the First Defendant would construct a dwelling house at Block 53A, Parcel 82 ("the Dwelling"), at a total cost to the First Plaintiff of US\$199,000.00 ("the Agreement").
8. The following were *inter alia* express terms of the contract:
 - a) that the First Defendant would construct the Dwelling in accordance with the contract documents agreed and approved by the Plaintiff in the Agreement;

- b) the First Defendant would carry out and complete the construction of the Dwelling as shown upon the Quotation and Contract Drawings to the reasonable satisfaction of the Plaintiff;
- c) the First Defendant would take such steps and comply with all the requirements of the laws of the Cayman Islands, and obtain such permissions as are necessary under the laws of the Cayman Islands;
- d) the quality and quantity of the construction was to be deemed to be that which was shown upon the contract drawings;
- e) maintain quality control over suppliers, manufacturers, products, services, site conditions and workmanship to produce work of specified quality;
- f) comply with industry standards except when more restrictive tolerances or specified requirements indicate more rigid standards or more precise workmanship;
- g) all material, machinery, equipment and fixtures used in the construction would be new;
- f) the date for completion of the construction was 5th March 1999 (“the Completion Date”);
- g) It was an express term of the Agreement that payments would be made in the following pursuant to the Payment Schedule set out in the Agreement as follows:

(1)	On signing of the contract pursuant to appendix 2-A to the contract	10%
(2)	On completion of works pursuant to appendix 2-B to the contract	20%
(3)	On completion of works pursuant to appendix 2-C to the contract	20%
(4)	On completion of works pursuant to appendix 2-D to the contract	20%
(5)	On completion of works pursuant to appendix 2-E to the contract	20%
(6)	On completion of project	10%

9. It was an implied term of the Agreement that the Defendants would carry out the construction using all reasonable skill and care to be expected of a company and persons skilled, experienced and competent in the construction of dwellings.
10. Alternatively the Defendants were aware that the Plaintiff was relying on the Defendants' skill and expertise and therefore they owed a duty of skill and care to the Plaintiff to exercise such skill and care.
 - h) The Plaintiff paid a total of US\$179,100.00 to the First Defendant.
 - i) At all material times the Defendants were aware that the Dwelling was to be sold upon completion or alternatively to be rented to tenants.
 - j) It is claimed that the First Defendant was a sham and being used to defraud the Plaintiff.
11. The First Defendant is in breach of the terms of the Agreement.

PARTICULARS OF BREACH

- a) did not complete the construction of the dwelling by the completion date of 5th March 1999
 - b) did not construct the dwelling to the drawings and specifications and as agreed with the Plaintiff
 - c) the quality of materials and construction were not in accordance with the Agreement
 - d) did not comply with the laws and regulations of the Cayman Islands
12. And/or in the alternative, the First Defendant has negligently failed to carry out the construction or alternatively failed to carry out the construction using the requisite degree of professional skill, care and competence.

PARTICULARS OF NEGLIGENT WORK

- i) failure to construct interior support roofs
- ii) use of inferior material throughout
- iii) poor standards of construction
- iv) poor and faulty electrical work

The Plaintiff will rely on various reports prepared.

13. As a result of the First Defendant's breach and the failure to carry out the works in a competent and satisfactory manner, the Second Plaintiff has incurred considerable loss and expense and is unable to receive a Certificate of Occupancy.

PARTICULARS OF LOSS

Additional funds required to correct and complete construction	CI\$ 33,341.46
Loss of rental income	CI\$ 75,400.00

DECEIT

14. At all material times the Second, Third and Fourth Defendants represented to the Plaintiff that each stage of the residential dwelling was completed pursuant to the Agreement.
15. At all material times the Second, Third and Fourth Defendants represented to the Plaintiff that each stage of the construction had been satisfactorily approved by the Planning Department and the Inspector.
16. On or around December 1999 the Second and Third Defendants represented to the Plaintiff that the all requirements of the Planning Department had been met, Planning

Approval had been granted and the Certificate of Occupancy had been sent to the Plaintiff by mail.

17. The Defendants made these representations knowing them to be false, or not believing them to be true, or with reckless dishonesty, not caring whether they were true or false.
18. The Plaintiff relying on these representations, paid to the First Defendant each specified amount, except the final payment of 10%, pursuant to the written contract.
19. The Planning Department later confirmed that planning approval had not been granted because the Planning Department had not inspected and approved several stages of construction. The Planning Department also confirmed that the Plaintiff would not be receiving a Certificate of Occupancy because the construction of the Dwelling was in breach of the Planning laws and regulations of the Cayman Islands.
20. The Planning Department required that in order to obtain a Certificate of Occupancy a Structural Engineer's report had to be completed.
21. The Plaintiff immediately contracted BCQS Limited and APEC to complete a report on the dwelling. Portions of the roof and walls had to be removed in order for BCQS and APEC to complete their reports.
22. It was confirmed in these reports that the construction had not been completed in accordance with the Agreement.
23. It was confirmed in these reports that substantial remedial work had to be carried out in order to comply with the regulations of the Planning Department.
24. To date the remedial and corrective works have not been completed and the Plaintiff has not received a Certificate of Occupancy and is therefore unable to rent, sell or reside in the said dwelling.
25. By reasons of the matters aforesaid, the Plaintiff has suffered loss and damages


PARTICULARS OF LOSS

Additional funds required to correct and complete construction	CIS 33,341.46
Loss of rental income	CIS 75,400.00

AND THE PLAINTIFF CLAIMS AGAINST THE DEFENDANTS:

1. Damages CIS 108,741.46
2. Interest at the rate of 8% pursuant to the Judicature Law (1995 Revision) on the sum of CI\$108,741.46 from the 6th March 1999 until the 31st May 2001 amounting to CI\$19,448.34.
3. Interest at the rate of 6¼% per annum pursuant to the Section 34 of the Judicature Law (1995 Revision) from the 1st day of June, 2001, amounting to CI\$1,135.83 as at 31st July 2001 and then continuing until the date of judgment or sooner payment at the rate of CI\$18.62 per day.
4. Such orders as are necessary to secure payment of the debts found due, including if deemed necessary, such restraining or inhibitive orders.
5. Costs.

DATED this 13th day of September 2000


QUIN & HAMPSON
Attorneys-at-Law for the Plaintiffs

THIS WRIT was issued by Quin & Hampson, Attorneys-at-Law for and on behalf of the Plaintiffs herein whose address for service and correspondence is that of their Attorneys-at-Law, 3rd Floor, Harbour Centre, PO Box 1348, George Town, Grand Cayman, Cayman Islands, BWI.

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of Acknowledgment 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, P.O. Box 495G, George Town, Grand Cayman

2. A Defendant who states in his Acknowledgment 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 indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 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 indorsed on the Writ, the Defence need not be served until 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 14 days after his Acknowledgment, 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.

See over for notes for guidance

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 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 authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on his behalf.
7. Where the Defendant is a MINOR or a MENTAL 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 763 OF 2000

BETWEEN: ROBINSON CRUSOE LANDING LTD. Plaintiff

AND: (1) WOODTECH LTD.
(2) SEAN WOOD
(3) CURTIS WOOD
(4) MERRILL WOOD Defendants

ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

IMPORTANT. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against the Defendants whereby they may have to pay the costs of applying to set it aside.

1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (tick appropriate box)
 yes no

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

Service of the Writ is acknowledged accordingly

(Signed)

[Attorney] for

[Defendant in person]

Address for service:
overleaf

Please complete

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 the 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.

Indorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.