

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ⁴⁰⁰ OF 2007

B E T W E E N:

TROPICAL METALS LTD.

and

- (1) **WENDEL WENDEL**
- (2) **BEVERLEY WENDEL**
- (3) **GET WET WATER SPORTS LTD.**
- (4) **WENDELL CONSTRUCTION LTD.**

Plaintiff

Defendants

WRIT OF SUMMONS

TO: The First and Second Defendants
Mr. Wendel and Beverley Wendel
PO Box 1913 GT
Bonnie View Estates
Spotts
Grand Cayman

AND TO: The Third Defendant
Get Wet Water Sports Ltd.
PO Box 11175 APO
Grand Cayman

AND TO: The Fourth Defendant
Wendel Construction Ltd.
PO Box 11175 APO
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 495GT, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement 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 13th day of September 2007

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.

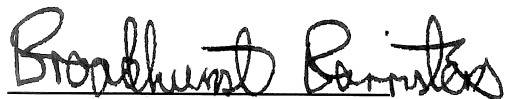
IMPORTANT

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

GENERAL INDORSEMENT

1. The First Defendant was at all material times the managing director of the Plaintiff company, in charge of its day to day running. The Second Defendant is the First Defendant's wife. The Third and Fourth Defendant companies' registered office addresses are the same post office box as the Plaintiff, and are wholly owned and controlled by the First Defendant.
2. Throughout 2005 and 2006 the First Defendant caused payments to be made from the Plaintiff's bank account(s) to benefit the Defendants without authority to do so and thereby misappropriated the Plaintiff's funds by causing payments to be made totaling CI\$1,181,888.14 to or for the benefit of the Defendants.
3. The First Defendant acted in breach of contract, in breach of his duties (fiduciary and otherwise) as an employee of the Plaintiff company, and in breach of his fiduciary duties as a Director of the Plaintiff company by misappropriating the Plaintiff's funds as aforesaid.
4. the Plaintiff seeks damages from the Defendants in the sum of the funds misappropriated from it by the Defendants during the material period of time.
5. Further, the Plaintiff seeks equitable relief to trace these misappropriated funds in the Defendants' possession or against any third parties in knowing receipt of these funds and furthermore for an account to be given by the Defendant(s) of the said misappropriated funds.
6. The Plaintiff will further seek interest on any sums that the Court thinks fit to award.

Dated this 13th day of September 2007



Broadhurst Barristers

Attorneys-at-Law for the Plaintiff

This Writ of Summons and General Indorsement was issued by Broadhurst Barristers, Attorneys-at-Law for the Plaintiff, whose address for service is 40 Linwood Street, P.O. Box 2503 KY1-1104, George Town, Grand Cayman, Cayman Islands, British West Indies

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. _____ OF 2007

B E T W E E N:

TROPICAL METALS LTD.

Plaintiff

and

(1) **WENDEL WENDEL**

(2) **BEVERLEY WENDEL**

(3) **GET WET WATER SPORTS LTD.**

(4) **WENDELL CONSTRUCTION LTD.**

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 a Defendant whereby he 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 [] No []

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.

BROADHURST BARRISTERS
ATTORNEYS-AT-LAW
40 LINWOOD STREET
PO BOX 2503 GT KY1-1104
GEORGE TOWN, GRAND CAYMAN
CAYMAN ISLANDS, BRITISH WEST INDIES

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]

**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.