

IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY

NOTICE OF FILING

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CASE DETAILS

Case Number:

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Warwick Soden

Dated:

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Note

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**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY
GENERAL DIVISION**



No. (P)VID541 of 2009

IN THE MATTER OF TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION) (ACN 092 311 469) and IN THE MATTER OF TIMBERCORP LIMITED (IN LIQUIDATION) (ACN 055 185 067)

TIMBERCORP LIMITED (IN LIQUIDATION) (ACN 092 311 469)
First Plaintiff

TIMBERCORP LIMITED (IN LIQUIDATION) (ACN 055 185 067)
Second Plaintiff

MARK ANTHONY KORDA
Third Plaintiff

LEANNE KYLIE CHESSER
Fourth Plaintiff

WA CHIP & PULP CO. PTY LTD (008 ACN 720 518)
First Defendant

WACAP TREEFARMS PTY LTD (ACN 009 378 607)
Second Defendant

JASPER FARMS HOLDINGS PTY LTD (ACN 108 265 023)
Third Defendant

ANGELA MARIE ZAMBONETTI
Fourth Defendant

DAVID JOHN TOWES
Fifth Defendant

HEATHER LEE TOWES
Sixth Defendant

EDVIGE MARY BICE ZAMBONETTI
Seventh Defendant

KEN ANTHONY ZAMBONETTI
Eighth Defendant

EDWIN JOHN ZAMBONETTI
Ninth Defendant

Filed on behalf of the Plaintiffs

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CHRISTINE MICHELE ZAMB
Tenth Defendant

GEOFFREY COUPER COUPER
Eleventh Defendant

JANET FEENEY COUPER
Twelfth Defendant

GRAHAM JOHN CHATLEY
Thirteenth Defendant

INTRINSIC PTY LTD (ACN 009 063 325)
Fourteenth Defendant

KENT ROCHESTER
Fifteenth Defendant

MICHELLE LEE ROCHESTER (NEE TYSOE)
Sixteenth Defendant

KIM ANDREW LAY
Seventeenth Defendant

MARSH JOHN FRANKLIN
Eighteenth Defendant

MELINDA MARIANNE NELL SINCLAIR
Nineteenth Defendant

BRADLEY DOUGLAS
Twentieth Defendant

RICHARD GERALD HARDIE
Twenty First Defendant

JOANNE LEA HARDIE
Twenty Second Defendant

RODNEY JOHN WINSTON HESTER
Twenty Third Defendant

LORRAINE GRACE HESTER
Twenty Fourth Defendant

WILLIAM NEIL ROCHESTER
Twenty Fifth Defendant

RONALD ARTHUR SIMPSON
Twenty Sixth Defendant

FAY LEONE SIMPSON
Twenty Seventh Defendant



FAIRWAY DEVELOPMENTS (WA) PTY LIMITED ACN 065
Twenty Eighth Defendant

WALITJ ABORIGINAL CORPORATION ABN 34 688 040 276
Twenty Ninth Defendant

KELVIN PHILIP WALLWORK
Thirtieth Defendant

MARIA JAINA DIXON
Thirty-First Defendant

WILLIAM JOHN DIXON
Thirty-Second Defendant

NEIL JAMES DIXON
Thirty-Third Defendant

ROBERT DE CAMPO
Thirty-Fourth Defendant

MARTIN JAMES SHUTTLEWORTH
Thirty-Fifth Defendant

CAMERON FARMS PTY LTD
Thirty-Sixth Defendant

ORDER

(Order 36, rule 1)

JUDGE: The Honourable Justice Finkelstein
DATE OF ORDER: 30 September 2009
WHERE MADE: Melbourne

UPON the Third and Fourth Plaintiffs, by their Counsel, undertaking that neither they nor the First or the Second Plaintiffs will, in this or any other proceeding between any of them, and the Defendants (Landlords), assert that a failure prior to 3 November 2009 by the Landlords to exercise a power to terminate any lease or sub-lease (whether under the lease or sub-lease or at common law), which is the subject of this proceeding (the Relevant Lease/Sub-Lease), constitutes an election to affirm the Relevant Lease/Sub-Lease; and

UPON the Third and Fourth Plaintiffs undertaking that they file an Affidavit of Service in respect of this Order.



THE COURT ORDERS THAT:

- 1 Bruce Jackson be added as a Defendant to the proceeding and the Amended Originating Process be amended accordingly.
- 2 The time by which the Third and Fourth Plaintiffs be entitled to disclaim the property the subject of the notice specified in Schedule 1 to this Order, under section 568(8) of the Corporations Act 2001 (Cth) (the Act), be extended to 3 November 2009 provided that nothing in this order affects any right, at law or otherwise, which the Landlord has in respect of any existing or future breach of the Relevant Lease/Sub-Lease.
- 3 Any person affected by this Order other than the First and Second Defendants have leave to apply to vary or discharge this Order, such application to be made on at least 24 hours' notice.
- 4 A copy of this Order is to be served upon each Defendant. Such service may be effected by providing a copy of this Order to any solicitor known to be acting for a Defendant.
- 5 The Third and Fourth Plaintiffs pay the costs of the Defendant Landlords specified in Schedule 1 to this Order, such costs to be taxed in default of agreement, with the costs having the priority prescribed by s 556(1)(dd) of the Act.
- 6 Reserve liberty to apply to all parties.

Date that entry is stamped:

.....

An officer acting with the authority of the
DISTRICT REGISTRAR

**SCHEDULE 1**

- 1 Notice served by the 1st Defendant (Charlottes Plain) on 6/07/09
- 2 Notice served by the 1st Defendant (Riggs, lease reference 0212-SL) on 6/07/09
- 3 Notice served by the 1st Defendant (Riggs, lease reference 0155-SL) on 6/07/09
- 4 Notice served by the 1st Defendant (Riggs, lease reference 0209-SL) on 6/07/09
- 5 Notice served by the 2nd Defendant (500 Acres) on 6/07/09
- 6 Notice served by the 2nd Defendant (Corbalup, lease reference 0269-SL) on 6/07/09
- 7 Notice served by the 2nd Defendant (Crosby 103) on 6/07/09
- 8 Notice served by the 2nd Defendant (Cyclone 106) on 6/07/09
- 9 Notice served by the 2nd Defendant (Duncton 140) on 6/07/09
- 10 Notice served by the 2nd Defendant (Lamberti 270) on 6/07/09
- 11 Notice served by the 2nd Defendant (Longhorn 283) on 6/07/09
- 12 Notice served by the 2nd Defendant (McAndrew 301) on 6/07/09
- 13 Notice served by the 2nd Defendant (McDaniel 304) on 6/07/09
- 14 Notice served by the 2nd Defendant (Minjiminjup, lease reference 0271-SL) on 6/07/09
- 15 Notice served by the 2nd Defendant (Minjiminjup, lease reference 0272-SL) on 6/07/09
- 16 Notice served by the 2nd Defendant (Southern Finch 418) on 6/07/09
- 17 Notice served by the 2nd Defendant (Van Bremen 462) on 6/07/09
- 18 Notice served by the 2nd Defendant (Waddington 466) on 6/07/09
- 19 Notice served by the 2nd Defendant (Wilcox) on 6/07/09
- 20 Notice served by the 1st Defendant (Adams 569) on 6/07/09



- 21 Notice served by the 1st Defendant (Anning 659) on 6/07/09
- 22 Notice served by the 1st Defendant (Beames 636) on 6/07/09
- 23 Notice served by the 1st Defendant (Carmarthen 638) on 6/07/09
- 24 Notice served by the 1st Defendant (Deep Creek 719) on 6/07/09
- 25 Notice served by the 1st Defendant (Determes, lease reference 0148-SL) on 6/07/09
- 26 Notice served by the 1st Defendant (Determes, lease reference 0149-SL1) on 6/07/09
- 27 Notice served by the 1st Defendant (Determes, lease reference 0149-SL2) on 6/07/09
- 28 Notice served by the 1st Defendant (Dhublock 674) on 6/07/09
- 29 Notice served by the 1st Defendant (Duncan, lease reference 0021-SL1) on 6/07/09
- 30 Notice served by the 1st Defendant (Duncan, lease reference 0021-SL2) on 6/07/09
- 31 Notice served by the 1st Defendant (Erith 718) on 6/07/09
- 32 Notice served by the 1st Defendant (Erskine 627) on 6/07/09
- 33 Notice served by the 1st Defendant (Field, lease reference 0128-SL) on 6/07/09
- 34 Notice served by the 1st Defendant (Field, lease reference 0129-SL) on 6/07/09
- 35 Notice served by the 1st Defendant (Gindarra 662) on 6/07/09
- 36 Notice served by the 1st Defendant (Grylls, lease reference 0033-SL) on 6/07/09
- 37 Notice served by the 1st Defendant (Grylls, lease reference 0034-SL) on 6/07/09
- 38 Notice served by the 1st Defendant (Grylls, lease reference 0035-SL) on 6/07/09
- 39 Notice served by the 1st Defendant (Henwood 711) on 6/07/09
- 40 Notice served by the 1st Defendant (Jenkins, lease reference 0228-SL) on 6/07/09
- 41 Notice served by the 1st Defendant (Jenkins, lease reference 0229-SL) on 6/07/09



- 42 Notice served by the 1st Defendant (Jones, lease reference 0042-SL) on 6/07/09
- 43 Notice served by the 1st Defendant (Jones, lease reference 0043-SL) on 6/07/09
- 44 Notice served by the 1st Defendant (Lymon 667) on 6/07/09
- 45 Notice served by the 1st Defendant (Martin 737) on 6/07/09
- 46 Notice served by the 1st Defendant (Nekel 637) on 6/07/09
- 47 Notice served by the 1st Defendant (Pavlovich, lease reference 0121-SL) on 6/07/09
- 48 Notice served by the 1st Defendant (Pavlovich, lease reference 0157-SL) on 6/07/09
- 49 Notice served by the 1st Defendant (Preston Park, lease reference 0136-SL) on 6/07/09
- 50 Notice served by the 1st Defendant (Preston Park, lease reference 0176-SL) on 6/07/09
- 51 Notice served by the 1st Defendant (Ross, lease reference 0250-SL) on 6/07/09
- 52 Notice served by the 1st Defendant (Ross, lease reference 0251-SL) on 6/07/09
- 53 Notice served by the 1st Defendant (Thomas 712) on 6/07/09
- 54 Notice served by the 1st Defendant (Townsend, lease reference 0144-SL) on 6/07/09
- 55 Notice served by the 1st Defendant (Townsend, lease reference 0145-SL) on 6/07/09
- 56 Notice served by the 1st Defendant (Townsend, lease reference 0146-SL) on 6/07/09
- 57 Notice served by the 1st Defendant (Weber, lease reference 0188-SL) on 6/07/09
- 58 Notice served by the 1st Defendant (Weber, lease reference 0194-SL) on 6/07/09
- 59 Notice served by the 1st Defendant (White Toro 713) on 6/07/09
- 60 Notice served by the 15th and 16th Defendant (Fishtrack 168) on 13/07/09
- 61 Notice served by the 25th Defendant (Fishtrack 169) on 13/07/09
- 62 Notice served by the 15th and 16th Defendant (Fishtrack 661) on 13/07/09



- 63 Notice served by the 35th Defendant (Mindijup 318) on 13/07/09
- 64 Notice served by the 4th Defendant (Zambonetti 740) on 13/07/09
- 65 Notice served by the 11th and 12th Defendants (Couper 102) on 13/07/09
- 66 Notice served by the 21st and 22nd Defendants (Hardie 210) on 14/07/09
- 67 Notice served by the 23rd and 24th Defendants (Emu Downs 651) on 14/07/09
- 68 Notice served by the 23rd and 24th Defendants (Sandy Springs 393) on 14/07/09
- 69 Notice served by the 13th Defendant (Chatley 76) on 15/07/09
- 70 Notice served by the 5th and 6th Defendants (Towes 452) on 16/07/09
- 71 Notice served by the 29th Defendant (Walitj A 904) on 16/07/09
- 72 Notice served by the 19th and 20th Defendants (Sinclair 412) on 21/07/09
- 73 Notice served by the 31st to 33rd Defendants (Dixon 123) on 23/07/09
- 74 Notice served by the 30th Defendant (Kelora 714) on 23/07/09
- 75 Notice served by the 34th Defendant (Circle Valley 86) on 27/07/09
- 76 Notice served by the 23rd and 24th Defendants (Hester 222) on 14/07/2009
- 77 Four notices served by the 36th Defendant (Cameron A) on or about 30 July 2009
- 78 Two notices served by the 17th Defendant (Lay 273) on 15/07/09
- 79 Two notices served by the 28th Defendant (Hair 207 and 208) on 14/07/09
- 80 Notice served by the 18th Defendant (Franklin 699) on 13 July 2009
- 81 Notice served by Julie Jay Strother (Strother 431) on or about 31 July 2009
- 82 Notice served by Leigh Domenic Reilly (Reilly 378) on or about 31 July 2009
- 83 Notice served by Minjah Pastoral Company Pty Ltd (Affleck 4, 5 & 6) on or about 5 August 2009



84 Notice Served by Robert James Geraghty and Dorothea Maria Geraghty (Gr
201) on or about 20 August 2009