

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE  
COMMERCIAL AND EQUITY DIVISION  
COMMERCIAL COURT

List B  
S CI 2013 01478

B E T W E E N

THE TRUST COMPANY (NOMINEES) LIMITED (ACN 000 154 441)

Plaintiff

and

MICHAEL FUNG IN HIS CAPACITY AS RECEIVER AND MANAGER OF ALIGN FUNDS  
MANAGEMENT LIMITED (RECEIVER AND MANGER APPOINTED) (ACN 105 684 231) IN  
ITS CAPACITY AS THE RESPONSIBLE ENTITY OF THE TIMBERCORP ORCHARD  
TRUST & ORS (ACCORDING TO THE ATTACHED SCHEDULE)

Defendants

SUMMONS  
(KANGARA RIGHTS PROCEEDING)

Date of document: 12 March 2014

Filed on behalf of: The Plaintiff

Prepared by:

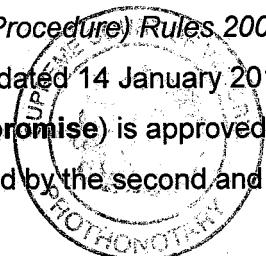
**Allens**  
Lawyers  
101 Collins Street  
Melbourne VIC 3000

Solicitor code: 21455  
DX 30999 Melbourne  
Tel 9614 1011 Fax 9614 4661  
Ref: CCHM:120338387

To: the first to third defendants.

You are summoned to attend before the Court on the hearing of an application by the plaintiff for the following orders:

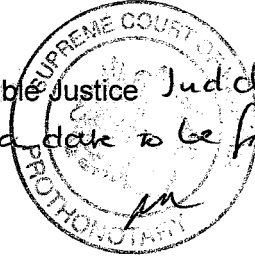
1. Pursuant to rule 16.01(4) of the *Supreme Court (General Civil Procedure) Rules 2005*, the compromise set out in clause 2 of the deed of compromise dated 14 January 2014 between the plaintiff and the first to third defendants (the **Compromise**) is approved and shall be binding on the absent persons who are represented by the second and third defendants.
2. The proceeding is dismissed.
3. The plaintiff's and the second and third defendants' costs of this proceeding, including their costs of and incidental to negotiating and giving effect to the deed of compromise,



be paid in accordance with paragraph 6 of the orders of the Honourable Justice Judd made on 19 July 2013.

4. There be otherwise no order as to costs.

This application will be returnable before the Honourable Justice Judd in Court No. Supreme Court, 210 William Street, Melbourne, on a date to be fixed at



DATE: 12 March 2014

This summons was filed by Allens of 101 Collins Street, Melbourne, solicitors for the plaintiff.

**SCHEDULE**

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE  
COMMERCIAL AND EQUITY DIVISION  
COMMERCIAL COURT**

**LIST**

SCI 2013 01478

**BETWEEN**

**THE TRUST COMPANY (NOMINEES) LIMITED (ACN 000 154 441)**

Plaintiff

and

**MICHAEL FUNG IN HIS CAPACITY AS RECEIVER AND MANAGER OF ALIGN  
FUNDS MANAGEMENT LIMITED (RECEIVER AND MANAGER APPOINTED) (ACN  
105 684 231) IN ITS CAPACITY AS THE RESPONSIBLE ENTITY OF THE  
TIMBERCORP ORCHARD TRUST**

First Defendant

and

**GREGORY WESTAWAY IN HIS CAPACITY AS REPRESENTATIVE OF THE  
GROWERS IN THE 2004 TIMBERCORP CIRTUS PROJECT (ARSN 108 887 538)**

Second Defendant

and

**ROBERT AND ELIZABETH BUDGEN IN THEIR CAPACITY AS  
REPRESENTATIVES OF THE GROWERS IN THE 2005 TIMBERCORP CITRUS  
PROJECT (ARSN 114 091 299)**

Third Defendants