



GRAND COURT OF THE CAYMAN ISLANDS
DIVISION

CAUSE NO: OF 2024

BETWEEN

BTP Development Ltd

PLAINTIFF

AND

Royale Medical and Wellness Center Ltd.

DEFENDANT

WRIT OF SUMMONS

TO: ROYALE MEDICAL & WELLNESS CENTER LTD.
P.O. Box 239
No. 68 West Bay Road
Grand Cayman
KY1-1501

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 495G, 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 Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 26 day of January 2024.

STATEMENT OF CLAIM

1. On 18 April 2019, the Defendant entered a lease with the former landlord, B&B Properties Ltd. (the "**Lease**") for part of the property legally registered as Registration Section George Town Central, Block 13E, Parcel 164, Grand Cayman, being that part identified as Area 104 on the plan annexed as Schedule II to the Lease comprising approximately 2,116.74 square feet (the "**Premises**"), within the commercial development located on 36 West Bay Road known as Bay Town Plaza.
2. The Lease required the Defendant, among other things, to:
 - a) pay Rent on the first business day of every month;
 - b) pay CAM on the first business day of every month; and,
 - c) pay utilities and outgoings on a monthly basis.
3. On 10 January 2020, the Plaintiff purchased Bay Town Plaza, including the Premises, and, assumed the Lease with the Defendant by way of an assignment from B&B Properties Ltd. The Plaintiff took custody of a security deposit paid by the Defendant under the terms of the Lease in the amount of US \$6,526.62 (the "**Security Deposit**").
4. The Defendant defaulted on Rent, CAM and utilities payments at several points during its tenancy at the Premises. The Plaintiff served the Defendant with Notices of Forfeiture and was preparing to commence enforcement action against the Defendant.
5. On 20 October 2023, the parties entered into a settlement agreement ("**Settlement Agreement**") on the following terms, among other things:

- a) Clauses 1.1 and 3.1: The Defendant agreed that the Lease was terminated.
- b) Clause 1.2: The Plaintiff agreed that notwithstanding the Lease's termination, the Defendant was permitted to continue to occupy the Premises and to operate its business therein until 22 November 2023 at 5:00 PM;
- c) Clause 1.4: In settlement of the breaches of the Lease, the Defendant agreed to pay the Plaintiff US \$134,968.71 (the "**Settlement Sum**").
- d) Clause 2.1 and Schedule A: The parties agreed the Settlement Sum would be paid by the following instalments:
 - i) US \$20,000.00 to be made on 20 October 2023;
 - ii) US \$10,297.63 to be made on 25 October 2023;
 - iii) US \$10,228.36 to be made on 30 October 2023; and
 - iv) US \$7,374.67 to be made on 17 November 2023.
- e) Clause 2.2: The balance of the Settlement Sum was payable after the Defendant vacated the Premises, by way of 12 consecutive equal payments of US \$7,255.67 on the first day of each month, commencing on 1 December 2023, with the last payment due on 1 November 2024.
- f) Clause 2.3: Time is of the essence in respect of all payment obligations.
- g) Clause 2.5: If the Defendant defaulted on the payment obligations, the full balance would become immediately payable to the Plaintiff together with interest at a rate 4% above the prime rate of Butterfield Bank, plus all reasonable legal costs and expenses incurred.

- h) Clause 2.6: If the Defendant defaulted on the payment obligations, it would not object to immediate enforcement of the Settlement Agreement by the Plaintiff.
 - i) Clauses 4.5: If the Plaintiff discovered damage to the Premises upon re-entry that required repair or replacement, the Plaintiff would be entitled to undertake the necessary works, invoice the Defendant and add the costs to the Settlement Sum.
6. On 23 October 2023, the Defendant paid US \$20,000 to the Plaintiff, plus an additional payment of US \$3,000 in advance of the next payment deadline.

Breach of Settlement Agreement

The Settlement Sum

7. On 25 October 2023, the Defendant failed to pay the sum of US \$7,297.63 due and owing, in breach of the Settlement Agreement. The Plaintiff sought an explanation from the Defendant on 26 October 2023. The Defendant, through its attorneys, McGrath Tonner, advised it was having online banking issues, but the payment was ready to be made, along with the upcoming payment due on 30 October 2023.
8. On 30 October 2023, the next payment of US \$10,228.36 came due. That same day, the Defendant paid US \$3,000, which left US \$14,525.99 unpaid under the terms of the Settlement Agreement. The Plaintiff again reached out for an explanation given the Defendant's earlier assurance, but received no update.
9. On 1 November 2023, following further inquiries from the Plaintiff, the Defendant paid US \$3,000, leaving US \$11,525.99 outstanding.
10. Despite frequent communication between the parties and its attorney, the Defendant has failed to make any further payments against the outstanding sums due under the Settlement Agreement.

11. Pursuant to the Settlement Agreement, clauses 2.5 and 2.6, the remaining balance of the Settlement Sum, an amount of US \$108,968.71, is due and immediately enforceable together with the prescribed rate of interest and the associated legal fees.

Repair works and cleaning required to the Premises

12. On 6 November 2023, the Plaintiff wrote to the Defendant to remind it of its obligations to vacate the Premises by 22 November 2023 and leave it in the condition anticipated by the Lease. The Plaintiff requested:
 - a) Details of the cleaning and moving companies the Defendant would be hiring;
 - b) Details of any other third parties engaged to assist with vacating the Premises, including repair and removal specialists, IT specialists, etc., along with the dates and times they were expected to attend at the building;
 - c) Confirmation of the Defendant's last planned day of business operations; and
 - d) The expected date of any further payments to be made under the terms of the Settlement Agreement.
13. The Defendant did not respond to this email or otherwise confirm any of the above information.
14. On 22 November 2023, and in the days following the Defendant's departure from the Premises, the Plaintiff discovered damage to the Premises that went well beyond normal wear and tear, and which amounted to a breach of the terms of the Settlement Agreement and negligence on the part of the Defendant:

- a) The Premises had mould growth in air intakes for the air conditioning, around sinks and in other water inflow areas;
 - b) There was significant dust and dirt buildup on the interior windows, ledges, vents and baseboards;
 - c) The floors were covered in dirt that had collected around machinery and equipment over the term of the Lease, to the point of damaging the flooring;
 - d) Water pipes were left uncapped and some were damaged during the Defendant's move, including one damaged pipe that created a water leak incident that necessitated an emergency clean-up by professional contractors;
 - e) The Defendant or its agent attempted to repair and patch holes in the wall, but the patching and repair was so poorly carried out (e.g., without first removing protrusions from the wall; without sanding surfaces first; and applying spackle unevenly) that a removal of the patch job and more extensive remediation of the wall was required; and
 - f) Further and other damages that the Plaintiff may discover as other remediation work is being performed.
15. The Plaintiff has provided the Defendant with details of the damage as well as the repair works and cleaning required, including photographs and invoices. The cost for the repair works and cleaning to date is US \$13,430.71. The Plaintiff demands reimbursement of this sum, less the Security Deposit held. The Plaintiff therefore claims US \$6,904.09 from the Defendant in respect of the repair works and cleaning required to the Premises.

AND THE PLAINTIFF claims:

16. Damages in the sum of US \$108,968.71, being the balance of the Settlement Sum;

17. Damages in the sum of US \$6,904.09 for the repair works and cleaning required to the Premises, together with interest at the court rate;
18. Contractual interest on the Settlement Sum in the amount of US \$2,981.71 to date, and continuing at a rate of 4% above Butterfield Bank's prime rate, pursuant to the terms of the Settlement Agreement, on any balance of the Settlement Sum until such time it is fully repaid;
19. The Plaintiff's legal fees and disbursements related to these proceedings to be taxed if not agreed, including the attorney fees incurred pre-issue (US \$22,152.50) as provided for under the terms of the Settlement Agreement, together with the reimbursement of *ad valorem* paid by the Plaintiff; and
20. Any further orders that this Honourable Court considers appropriate in the circumstances.



BEDELL CRISTIN CAYMAN PARTNERSHIP
Attorneys for the Plaintiff

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: OF 2024

BETWEEN BTP DEVELOPMENT LTD PLAINTIFF
AND ROYALE MEDICAL AND WELLNESS CENTER LTD. DEFENDANT

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).....
Attorney for

Please complete 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 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.

Bedell Cristin Cayman Partnership
18 Forum Lane, Unit 5305
P.O. Box 1990
Grand Cayman, KY1-1104
Cayman Islands

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