

**IN THE HIGH COURT OF NEW ZEALAND
NEW PLYMOUTH REGISTRY**

**I TE KOTI MATUA O AOTEAROA
NGAMOTU ROHE**

CIV: 2021-443-11

UNDER: the Companies Act 1993

IN THE MATTER OF: the liquidation of Clarence William Withers (Professional Swindler) Sting Operation Limited (formerly 2004 Holdings Limited)

BETWEEN: CLARENCE WILLIAM WITHERS
Plaintiff

AND: CLARENCE WILLIAM WITHERS (PROFESSIONAL SWINDLER) STING OPERATION LIMITED (formerly 2004 Holdings Limited)
Defendant

**MEMORANDUM IN SUPPORT
OF FILING STATEMENT OF DEFENCE**

Dated: 15 April 2021

PRESENTED BY:

Dennis A. Smith, 2a Para Street, Matapuna, Taumarunui 3920
dennis@dennis.nz

May It Please The Court

1. This memorandum follows new advice received today from a Deputy Registrar at Wellington Central Processing Centre that a Statement of Defence previously accepted for filing within the required timeframe cannot now be filed.
2. The Defendant company ceased trading in mid 2020.
3. It currently has and had no assets, nor liabilities at that time.
4. As the new Director of this company, I correctly advised the District Court in New Plymouth of a change of representation and a change of address for service.
5. This notice was returned to me by a DCJ at New Plymouth with instructions that I could not represent the company, as I was not a lawyer, but with no reference to my role as Director of the company.
6. The companies registration then lapsed in October 2020 and it ceased to exist.
7. Following those events, on 16 November 2020, solicitor for the Plaintiff, Lauren Wallace from Govett Quilliam in New Plymouth advised the District Court in New Plymouth that she intended to apply to restore the company to the Company register.
8. On 17 November 2020 the District Court issued a judgment (in my absence) from the District Court New Plymouth against the Defendant company even though the company did not exist at the time.
9. No reference was made to the company status at the time (that it didn't then exist), in the judgment.
10. Govett Quilliam's application to restore the company was Gazetted on 3 December 2020 and in due course the Defendant company was restored in January 2021.
11. This current proceeding is an abuse of the court processes. It is frivolous and vexatious as all parties know full well that the company ceased trading, was struck off and has neither assets nor liabilities, and was only restored in order to attempt to cover for the fact that a judgment was entered against a non-existent entity.
12. As a Director I cannot secure legal representation as the company has neither capacity to pay for any legal fees, nor will it ever, as it ceased trading in 2020. I cannot also therefore permit it to incur debt.
13. It is my submission that I have been incorrectly prevented from representing the Defendant company in the District Court which led to this matter.
14. A judgment has been entered against one of my companies without the opportunity to defend which is, I also submit, a clear miscarriage of justice.

15. I filed a Statement of Defence within the required timeframe which was initially accepted but recently rejected.

16. I respectfully submit that in the circumstances the Statement of Defence be accepted for filing and that I be permitted to address the Court on behalf of the Defendant company.

17. I am prepared to file a Strike Out Application if the court so orders.

A handwritten signature in cursive script, reading "Dennis A. Smith". The signature is written in black ink and is positioned above a horizontal line.

Dennis A. Smith

Director

Defendant