

BETWEEN

**PETER MARTIN WIEDEKAMM &
HEIDI WIEDEKAMM** of Elms horn,
Germany, retired

Plaintiffs

AND

NORSAND LIMITED a duly
incorporated company having its
registered office at 49 John Street,
Whangarei and carrying on business as
a boatyard

Defendant

STATEMENT OF CLAIM

22 SEPTEMBER 2015

**Henderson Reeves Connell Rishworth
Lawyers**

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The plaintiff says:

Parties

- 1 The plaintiffs are a married couple and at all material times were the owners of the sailing yacht *Stormvogel*.
- 2 The defendant is a duly incorporated company having its registered office at 49 John Street, Whangarei and carries on business as a boatyard in Whangarei.

Vessel

- 3 The *Stormvogel* is a 14.46m aluminium Koopman 48 sailing yacht, built in 1995 in Holland and registered in Germany with registration number XAL503.
- 4 In January 2012, the plaintiffs purchased the *Stormvogel* for €230,000 and undertook a major re-fit from February to May 2012 costing €320,000.
- 5 The plaintiffs were on a sailing trip when they arrived in Whangarei and decided to have some repairs and maintenance done on the *Stormvogel*.

Contract

- 6 In or about November 2013, the plaintiffs entered into an oral contract with the defendant to undertake work on the *Stormvogel*, including the work necessary to stop the swing keel from leaking ("**Contract**").
- 7 Express or implied terms of the Contract included:
 - (a) the work would be done competently, to the highest standards; and
 - (b) there were no cost constraints in relation to the repair of the swing keel or the work generally.

Work done

- 8 Between January 2014 and March 2014, the defendant undertook work on the swing keel of the *Stormvogel*.

- 9 In repairing the swing keel, the defendant failed to adequately secure the nut(s) under the aluminium cap on the port side of the pivot shaft, such that they were not adequately locked against each other or mechanically pinned together and were liable to come loose.

Mayday call

- 10 On 19 June 2014, the *Stormvogel* departed Opuia, Vanuatu bound for Cairns, Australia.
- 11 On 22 June 2014, while it was at position 159.02 East and 16.20 South, the *Stormvogel* suffered a significant water ingress with the water entering from the swing keel. At 1920 hours, the plaintiffs broadcast at Mayday and activated the *Stormvogel's* Emergency Position Indicating Radio Beacon.
- 12 Other vessels attended to the *Stormvogel* and temporary repairs were carried out while at sea to enable the *Stormvogel* to reach Cairns, Australia.
- 13 On 30 June 2014, the *Stormvogel* was slipped at Norship Marine boatyard in Cairns which undertook repairs to the swing keel costing AUD 16,251.68.
- 14 As a result of the faulty repairs, the plaintiffs also incurred the following costs:
- (a) Blackwater pump €940.17.
 - (b) New starter motor for the main engine SGD 2,583.66.
 - (c) Central bilge pump €2,848.34.

FIRST CAUSE OF ACTION: BREACH OF CONTRACT

- 15 In breach of the Contract, the defendant undertook a faulty repair of the *Stormvogel* as is set out in paragraph 9 above.

- 16 The defendant's breach of the Contract caused the plaintiffs to suffer loss and damage as is set out in paragraphs 13 and 14 above.

And the plaintiffs claim:

- (a) Damages in the sums of AUD 16,251.68, €3,788.51, and SGD 2,583.66.
- (b) General damages of \$20,000.
- (c) Interest under section 62B of the District Courts Act 1947.
- (d) Costs.

SECOND CAUSE OF ACTION: NEGLIGENCE

The plaintiff repeats the above and says in the alternative to the first cause of action.

- 17 The defendant owed a duty of care to the plaintiff to exercise all reasonable care and skill as a boat repairer in undertaking repairs on the *Stormvogel*.

- 18 The defendant breached its duty of care to the plaintiffs and was negligent in its repair of the *Stormvogel* as is set out in paragraph 9 above.

- 19 The defendant's breach of duty has caused the plaintiff to suffer loss and damage as is set out in paragraphs 13 and 14 above.

And the plaintiffs claim:

- (a) Damages in the sums of AUD 16,251.68, €3,788.51, and SGD 2,583.66.
- (b) General damages of \$20,000.
- (c) Interest under section 62B of the District Courts Act 1947.
- (d) Costs.

This document is filed by JEREMY ANDREW BROWNE, solicitor for the plaintiff, of the firm HENDERSON REEVES CONNELL RISHWORTH. The address for service of the plaintiff is 96 Bank Street, Whangarei 0140.

Documents for service on the filing party may be left at that address for service or may be:

- (e) Posted to the solicitor at PO Box 11, Whangarei;
- (f) Transmitted to the solicitor by fax to 09 438 6420;
- (g) Emailed to jeremybrowne@hendersonreeves.co.nz

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