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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

ROBIN SELLS, an individual,  
Plaintiffs/Counter-Defendant,

vs.

COLDFEVER INTERNATIONAL  
GROUP OF COMPANIES, a foreign  
company, GABRIEL EHRENFELD, an  
individual,

Defendants/Counter-Claimants.

No.: 08-2-05613-9 SEA

JUDGMENT

**JUDGMENT SUMMARY**

- |                                     |   |
|-------------------------------------|---|
| 1. Judgment Creditor:               | Robin Sells   |
| 2. Judgment Debtor:                 | ColdFever International Group of Companies;<br>and Gabriel Ehrenfeld  |
| 3. Attorneys for Judgment Creditor: | Douglas W. Elston,<br>Law Offices of Douglas W. Elston<br>4613 145 <sup>th</sup> Place SE Snohomish, WA 98296<br>(424) 338-7036 |
| 4. Principal Judgment Amount:       | \$53,504.00   |
| 5. Interest to Date of Judgment:    | \$1,567.47  |

JUDGMENT SUMMARY  
AND JUDGMENT - 1

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**Douglas W. Elston**  
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Snohomish, Washington 98296  
Phone (425) 338-7036 Fax (425)337-7704

6. Taxable Costs: \$250.00

7. Other Recovery Amounts: \$2,100.00


8. All recovery amounts shown above bear interest from the date of judgment at the rate of twelve percent (12%) per annum.

**JUDGMENT**

THIS MATTER came before the undersigned Judge of the above-entitled Court on August 31, 2009, and the matter was tried to the Court sitting without a jury. Based upon the Court's previously entered Findings of Fact and Conclusions of Law, which are incorporated herein by this reference, it is now, therefore, hereby

ORDERED, ADJUDGED AND DECREED that Plaintiff Robin Sells is awarded judgment against Defendants ColdFever International Group of Companies and Gabriel Ehrenfeld in the amounts set forth above in the judgment summary for a total judgment of \$71,421.47. The judgment shall bear interest at the rate of twelve percent (12%) per annum from the date of entry of this judgment until paid.

DONE IN OPEN COURT this 18 day of September, 2009.

  
Honorable Barbara A. Mack  
Judge of the Superior Court

Presented by:

LAW OFFICES OF  
DOUGLAS W. ELSTON

Douglas W. Elston, WSBA #10592  
Attorneys for Plaintiff Robin Sells  
JUDGMENT SUMMARY  
AND JUDGMENT - 2

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1. A judgment shall be entered against Defendants for the following relief:

- a. Damages in the amount of \$53,504.00.
- b. Interest at 12% per annum from March 29, 2007 through the date of Judgment;
- c. Attorneys fees in an amount to be determined by the Court upon submission of appropriate documentation;
- d. Costs of \$250.00; and
- e. An injunction prohibiting Defendants from further promotion or use of the Solo, SkiFree and Wake Trainer names or likenesses, the names or likenesses of Robin Sells, Jerry Nunn, Karyn Scarpa, Mike Murphy and "Banana" George Blair, and products related thereto, and requiring Defendants to return to Plaintiff all intellectual and proprietary property obtained from Sells or from any of his vendors, suppliers or other representatives. Said intellectual and proprietary property shall include, but is not limited to: drawings; schematics and specifications; literature; photographs, videotapes, CDs and other forms of imaging; and marketing materials.
- f. Reduction of this Court's previous Order awarding sanctions against Defendants, and in favor of the Plaintiff, in the amount of \$2,100.00 for violation of the Order Compelling Discovery to a judgment against Defendants.

DONE IN OPEN COURT this 18 day of Sept, 2009.



Honorable Barbara A. Mack  
Judge of the Superior Court

Presented by:

LAW OFFICES OF  
DOUGLAS W. ELSTON

Douglas W. Elston, WSBA #10592  
Attorneys for Plaintiff Robin Sells

JUDGMENT SUMMARY  
AND JUDGMENT - 4

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

ROBIN SELLS, an individual,  
  
Plaintiffs/Counter-Defendant,  
  
vs.  
  
COLDFEVER INTERNATIONAL  
GROUP OF COMPANIES, a foreign  
company, GABRIEL EHRENFELD, an  
individual,  
  
Defendants/Counter-Claimants.

No.: 08-2-05613-9 SEA  
  
FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

This case came on regularly for trial on August 31, 2009, before the undersigned judge sitting without a jury. Plaintiff Robin Sells (“Sells”) was represented by Douglas W. Elston and the Law Offices of Douglas W. Elston his attorneys. Defendants ColdFever International Group of Companies (“ColdFever”) and Gabriel Ehrenfeld (“Ehrenfeld”) (collectively “Defendants”) are no longer represented by counsel and failed to appear for trial. The Court having heard and considered all the evidence and argument presented by the Plaintiff and being fully advised in the premises, now, therefore,

FINDINGS OF FACT AND CONCLUSIONS  
OF LAW - 1

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enters the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1  
2  
3 1. At all times relevant hereto, Sells owned the intellectual and proprietary rights  
4 related to a highly specialized personal watercraft (the "Product") which he had been in the  
5 process of developing and attempting to produce and distribute for some twenty years.

6 2. In late 2005, Defendant Ehrenfeld, purportedly a resident of Australia,  
7 approached Sells about forming a joint venture for the production and distribution of the  
8 Product. During the course of their negotiations, Sells fully disclosed to Defendants all of  
9 the problems he had experienced in his efforts to bring the Product to the commercial  
10 marketplace and the status of his ownership of all intellectual and proprietary property  
11 associated therewith.

12  
13 3. During their negotiations, the Defendants made numerous material  
14 representations to Sells about their capabilities and intentions, including the size and  
15 complexity of the business, the size and makeup of the board of directors, and the existence,  
16 extent, and location of their manufacturing facilities.

17 4. Based in substantial part upon the representations made by Defendants, Sells  
18 entered into a written contract on or about February 6, 2006 for services related to the  
19 production and distribution of the Product.

20  
21 5. Sells subsequently discovered that certain of Defendants' material  
22 representations concerning their capabilities and intentions, including but not limited to: the  
23 composition of the company and its board of directors; the company's capitalization; and the  
24 size, nature and location of its manufacturing facilities; were false and that Defendants had

actual knowledge or reason to know of their falsity at the time they were made.

1           6.     In spite of repeated demands by Sells, Defendants refused to perform many of  
2 their obligations under the contract including but not limited to: payment of compensation to  
3 Sells; payment of contractual obligations to various vendors, consultants, service providers  
4 and others; development of manufacturing facilities; and meeting of various deadlines  
5 necessary for timely production and distribution of products.  
6

7           7.     Defendants have failed to pay Sells' compensation in the amount of  
8 \$42,050.00 and out-of-pocket expenses in the amount of \$3,775.00, which amounts were  
9 earned and payable under the terms of the contractual agreement of the parties.  
10

11           8.     Sells has taken personal responsibility to reimburse some vendors and other  
12 service providers who have yet to be compensated by Defendants for services provided to  
13 Defendants in the total amount of \$7,679.00.

14           9.     On March 29, 2007, Sells, through his attorney, formally demanded that  
15 Defendants cease and desist from all further activity related to their contract with Sells and  
16 from any further use of Sells' intellectual and proprietary information.

17           10.    Defendants failed to respond to Sells' demand and, in spite of his objections,  
18 are now actively promoting their personal business interests based upon Sells' intellectual  
19 and proprietary information.  
20

21           11.    Defendants failed to comply with this Court's discovery order and as a result,  
22 on July 29, 2009, Sells was awarded sanctions by this Court (Judge Erlick) in the amount of  
23 \$2,100.00, the Order stating that this amount would be reduced to judgment in the event of  
24 non-payment.

25 FINDINGS OF FACT AND CONCLUSIONS  
OF LAW - 3

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12. Defendants failed to pay the sanctions as ordered by this Court.

13. The Court finds that Sells has been damaged in the total amount of \$53,504.00.

14. The Court finds that Sells is entitled to an Order prohibiting Defendants from any further activity related to their contract with Sells and from any further use of Sells' intellectual and proprietary information, including but not limited to further promotion or use of the Solo, SkiFree and Wake Trainer names or likenesses, the names or likenesses of Robin Sells, Jerry Nunn, Karyn Scarpa, Mike Murphy and "Banana" George Blair, and products related thereto, and mandating the return to Sells of all intellectual and proprietary property obtained from Sells or from any of his vendors, suppliers or other representatives.

15. The Court finds the damages and injunctive relief are supported by the testimony and evidence submitted at trial.

16. The Court finds the damages shall bear interest from March 29, 2007 at the rate of 12% per annum through the date of judgment.

17. The Court finds no credible evidence to support the defenses or counterclaims asserted by Defendants.

### CONCLUSIONS OF LAW

1. This Court has jurisdiction over the parties and the subject matter of this lawsuit.

2. King County is the proper venue for this lawsuit.

3. All proper and necessary parties are named and joined in this lawsuit.

FINDINGS OF FACT AND CONCLUSIONS  
OF LAW - 4

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1 4. Defendants have not established any causes of action, counterclaims,  
2 affirmative defenses, or other basis for denying the relief granted herein.

3 5. Defendants' counterclaims are dismissed with prejudice since Defendants  
4 offered no evidence and failed to prove by a preponderance of the evidence any basis for their  
5 counterclaims.

6 6. Plaintiff proved by a preponderance of the evidence that defendants materially  
7 breached the contract with Sells, and that Sells has suffered damages as a direct result, for  
8 which he is entitled to relief.

9 7. The contract between the parties contained an implied covenant of good faith  
10 and fair dealing by which Defendants promised to fairly, honestly and reasonably perform the  
11 terms and conditions of the Agreement.

12 8. Plaintiff proved by a preponderance of the evidence that the conduct of  
13 Defendants materially breached their covenant of good faith and fair dealing to Sells, as a  
14 direct and proximate result of which Sells has suffered damages for which he is entitled to  
15 relief.  
16

17 9. Plaintiff proved by clear, cogent, and convincing evidence, that Defendants  
18 made false representations to Plaintiff concerning material facts about the size of the  
19 business, size and composition of the board of directors, location and capability of  
20 manufacturing facilities, and Defendants' intentions.  
21

22 10. Defendants knew, or should have known, that their statements were false and  
23 that Plaintiff would rely upon Defendants' statements.  
24

25 FINDINGS OF FACT AND CONCLUSIONS  
OF LAW - 5

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11. Plaintiff relied upon, and acted upon Defendants' fraudulent misrepresentations to its detriment, as a direct and proximate result of which Sells has suffered damages for which he is entitled to relief.

12. Plaintiff is entitled to an injunction requiring Defendants to cease and desist from any further activity related to or using Plaintiff's intellectual or proprietary property in any way.

13. Defendants are ordered to forthwith to return to Sells all intellectual and proprietary property obtained from Sells and any of Sells' representatives, agents, suppliers, consultants or others connected in any way with Sells.


14. Defendants failed to pay \$2,100.00 to Sells as ordered by this Court on July 29, 2009 as sanctions for violation of the Court's previous Order Compelling Discovery.

15. A judgment shall be entered against Defendants for the following relief:

- a. Damages in the amount of \$53,504.00.
- b. Interest at 12% per annum from March 29, 2007 through the date of Judgment;
- c. Costs of \$250.00; and
- d. An injunction prohibiting Defendants from further promotion or use of the Solo, SkiFree and Wake Trainer names or likenesses, the names or likenesses of Robin Sells, Jerry Nunn, Karyn Scarpa, Mike Murphy and "Banana" George Blair, and products related thereto, and requiring Defendants to return to Plaintiff all intellectual and proprietary property obtained from Sells or from any of his vendors, suppliers or

1 e. Judgment in the amount of \$2,100.00 pursuant to this Court's previous  
2 Order awarding sanctions against Defendants and in favor of the  
3 Plaintiff for violation of the court's previous discovery order.  
4

5 DONE IN OPEN COURT this 18 day of Sept., 2009.  
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8   
9 Honorable Barbara A. Mack  
Judge of the Superior Court

10 Presented by:

11 LAW OFFICES OF  
12 DOUGLAS W. ELSTON  
13

14 Douglas W. Elston, WSBA #10592  
15 Attorneys for Plaintiff Robin Sells  
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25 FINDINGS OF FACT AND CONCLUSIONS  
OF LAW - 7

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