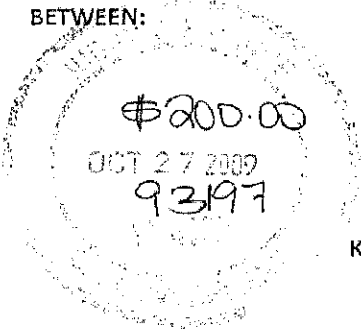


IN THE GRAND COURT OF THE CAYMAN ISLANDS

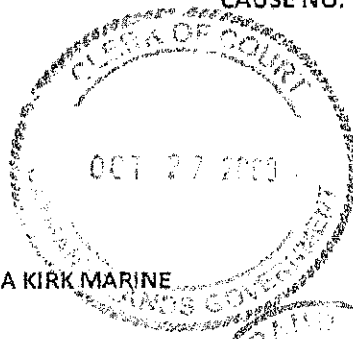
G0538

CAUSE NO. OF 2009

BETWEEN:



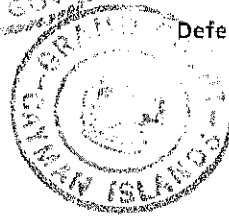
LELAND GRASKE



Plaintiff

AND:

KIRKCONNELL BROTHERS LTD T/A KIRK MARINE



Defendant

WRIT OF SUMMONS

TO: Kirkconnell Brothers  
T/a Kirk Marine  
PO Box 72 Lancaster Crescent  
George Town

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 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 Acknowledgement of Service, stating therein whether you intend to contest these proceedings.

*If you fail to satisfy the claim or return the Acknowledgement within the time stated, or if you return the Acknowledgement 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 <sup>27<sup>th</sup></sup> day of October 2009

**NOTE** - This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

**IMPORTANT**

Directions for Acknowledgement of Service are given with the accompanying form.

## STATEMENT OF CLAIM

1. On the 27<sup>th</sup> day of October 2003 the Defendant, its servants or agents were employed by the Plaintiff to carry out mechanical work to a Caribe motor boat (hereinafter 'the boat') which was at all relevant times motoring in the sea off Grand Cayman and was owned by the Plaintiff.
2. The said mechanical work was carried out by Mr Jason Haynes, an employee, servant or agent of the Defendant. The mechanical work included work to the steering mechanism of the boat.
3. On the 31<sup>st</sup> October 2003 the Plaintiff took the boat out with passengers on board for a pleasure cruise.
4. One of the passengers was named Daniel Doyle, a citizen and resident of the United States.
5. Whilst the Plaintiff was steering the boat the Plaintiff lost control of the boat and Mr Doyle was thrown into the water and struck by the boat.
6. The injuries of Mr Doyle and the accident itself were caused by the negligence of the Defendant, its servant or agents.
7. As a result of the personal injuries loss and damage sustained by Mr Doyle, Mr Daniel Doyle and Ms Anne Doyle (the wife of Mr Daniel Doyle) filed a civil suit in the United States District Court for the District of Nebraska case No 8:05CV21 (hereinafter the 'US suit') against Mr Leland Graske, the Plaintiff to this action (hereinafter referred to as 'Graske'). A copy of the Amended Complaint is annexed at Schedule 1 to this Statement of Claim.
8. Graske issued a Third Party complaint against the Defendant (hereinafter referred to as 'Kirk Marine.') alleging that the negligence of Kirk Marine was the proximate cause of the negligence and seeking contribution, indemnity or equitable subrogation from Kirk Marine.
9. After filing of Court papers in the US suit, the Court granted Kirk Marine's motion to dismiss for lack of jurisdiction without prejudice and by consent on the 27<sup>th</sup> September 2006.
10. On the 10<sup>th</sup> June 2008 in the US suit Mr Doyle was awarded damages of US\$3,238,153 and Ann Doyle the sum of US\$750,000 together with taxable Court costs. A copy of this judgment is annexed at Schedule 2 of the Statement of Claim.