

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 492 OF 2011

BETWEEN:

CARRELL WATSON



PLAINTIFF

AND:

~~CLEVELAND DILBERT T/A~~

~~RICKY WALTON CONSTRUCTION~~

1ST DEFENDANT

AND:



~~FILMORE W. WALTON T/A~~

~~RICKY WALTON CONSTRUCTION/RICKY WALTON~~

2ND DEFENDANT

AMENDED WRIT OF SUMMONS

To: Cleveland Dilbert
~~t/a Ricky Walton Construction. GT~~
~~Grand Cayman~~ c/o Mourant Ozannes
Attorneys-at-Law, Gt, Grand Cayman

To: Filmore W. Walton T/A/ Ricky Walton Construction/Ricky Walton
P.O. Box 35, West End, Cayman Brac, KY2-2000
Cayman Islands

THIS AMENDED 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 Fourteen (14) days after service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Courts Office, P.O. Box 495, G.T. Grand Cayman the accompanying Acknowledgment of Service form stating therein whether you intend to contest the proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you fail to return the Acknowledgment without stating therein an attention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued at George Town this 30th day of November, 2011
RE-ISSUED at George Town this 14th day of April, 2014.

NOTE: This Writ may not be served later than four (4) calendar months (or, if leave is required to effect service out of the jurisdiction, six (6) months being the date of issue unless renewed by Order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form

STATEMENT OF CLAIM

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 492 OF 2011

BETWEEN CARRELL WATSON PLAINTIFF

AND : CLEVELAND DILBERT ~~T/A RICKY~~
~~WALTON CONSTRUCTION~~ 1ST DEFENDANT

AND : FILMORE W. WALTON T/A
RICKY WALTON CONSTRUCTION/ RICKY WALTON 2ND DFENDANT

1. The Plaintiff, Carrell Watson, is a Carpenter/Mason and resides and has his true place of abode and postal address at Crawle District, Riversdale P.O in the parish of Saint Catherine.
2. The First Defendant Cleveland Dilbert ~~T/A Ricky Walton Construction operates a Construction Business in Cayman Brac and resides and has his place of business in Cayman Brac in the Cayman Islands is a Businessman and is the owner of premises in Cayman Brac, Grand Cayman on which the Alexander Hotel is being built. He is the owner of the said Hotel and is responsible for the employment of the Plaintiff on the said premises. The First Defendant is responsible for the Construction of the Alexander Hotel.~~
3. The Second Defendant was the name of the person referred to as Employer of the Plaintiff on the Plaintiff's work permit. The Address of the Second Defendant is Cayman Brac, Grand Cayman. At all material times he was the servant and/or agent of the First Defendant.
- ~~3.4.~~ That the Plaintiff was at all material times an Employee of the Defendant carrying on duties as a Carpenter, Helper and Mason on the premises of the First Defendant and on his instructions.
- ~~4.5.~~ The Defendant hired the Plaintiff in 2003 as part of his workforce to maintain the White River Hydro Power Station. That the Plaintiff was employed by the First Defendant to undertake duties in respect of the Construction of the Alexander Hotel.

THIS AMENDED WRIT OF SUMMONS AND STATEMENT OF CLAIM has been filed by HSM Chambers, whose address for service is Suite 3 Buckingham Square, 720 West Bay Road, Grand Cayman KY1-1207, Cayman Islands (Ref No. DJ/417886.0001).

5-6. On the 16th January, 2009 whilst the Plaintiff was in the employ of the First Defendant as a Carpenter/Helper/Mason and upon the Defendant's instructions to him to unload a container with ply boards and sheet racks he was seriously injured when the said materials got loose and cannoned into his body causing him immediately to fall to the ground. He was rendered unconscious. He was taken to the Cayman Brac Hospital where he was treated then transferred to the Cayman Hospital where he was further treated and was thereafter sent by Air Ambulance to the University Hospital of the West Indies (Tony Thwaites Wing) in Jamaica where he underwent most of his treatment.

6-7. At all material times the Container was consigned to the First Defendant. The Plaintiff injuries, loss and expenses were as a result of the breach of the Defendant's duty of care and/or statutory duty. At all material times the Plaintiff was operating under a valid work permit obtained by the Second Defendant and was also the beneficiary of Health Coverage.

7-8. Before the accident the Plaintiff was not suffering from any injury.

8-9. That the Plaintiff through his Attorneys-at-Law made contact with the Insurers of the Defendant and sent in a Claim form as far back as October 2010. To date the matter has not been settled.

**PARTICULARS OF NEGLIGENCE AND/OR BREACH OF THE CONTRACT
OF EMPLOYMENT OF BREACH OF STATUTORY DUTY**

1. Failing to provide proper gear to the Plaintiff for the duties he was instructed to carry out;
2. Failure to provide proper special safety instructions and safety equipment to the Plaintiff;
3. Failing to carry out adequate supervision of the task or put in place measures to ensure proper supervision of the unloading of the Trailer;
4. Failing to have sufficient handlers to unload the Trailer;
5. Failing to do any act that would have avoided the injuries sustained by the Plaintiff.
6. Knowing full well the container was overloaded with goods and materials for the First Defendant and did not take the necessary steps or put in place proper measures to avoid the Plaintiff getting injured when unloading same.

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5-7. Sending the Plaintiff to unload a container which was overloaded at all material times and posed a hazard or imminent danger to persons including the Plaintiff when unloading same. Failing to provide a safe system of work.

6-8. Acting in breach of Section 62 (c) of the Labour Law.

As a consequence of this accident, the Plaintiff sustained severe injuries, loss and incurred expenses. The defendants are either liable jointly and/or severally for the Plaintiffs said injuries, loss and expenses.

PARTICULARS OF INJURY TO THE PLAINTIFF

1. Fracture of the anterior column of the right acetabulum and the right sacro-iliac joint;
2. Swollen tender right leg and hip;
3. Severe pain in the right hip and burning sensation down the right thigh;
4. Neuropraxia of the right sciatic nerve;
5. Tendelenburg gait;
6. Permanent Partial Disability of 4%

The Plaintiff will rely upon medical evidence to detail the full extent of his injuries and the prognosis for his future medical condition and in particular Medical Report prepared by Dr. Akshai Mansingh dated March 8, 2010 and the Physiotherapy Report prepared by Ms. Gaynor P. Downer dated January 19, 2010 and an updated Medical Report from Dr. Mansingh dated June 13, 2011. The Plaintiff is still undergoing treatment and we await further Medical Reports.

By reason of his said injuries, the Plaintiff's personal and social life has changed completely. He has not been able to carry out his daily activities as he used to and has lost his employment with the Defendant. He continues to suffer from these injuries and is placed on anti-inflammatory pain relievers of voltarin as well as muscle relaxant. He walks with a limp and sometimes with the assistance of a cane.

PARTICULARS OF SPECIAL DAMAGES (ongoing)

i. Cost of Medical Reports so far	J\$ 10,000.00
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ii.	Transportation (so far)	52,500.00
iii.	Medical Expenses (incurred so far)	101,709.43
iv.	Household Help	25,500.00
v.	Cost for ankle foot orthosis x 10	15,500.00
vi.	Loss of Items due to the failure to retrieve them because of the Accident namely:	
	a. Television Set	
	b. Air Conditioning Unit	
	c. Radio	
	d. DVD Player	
	e. Gold Jewellery that is a rope chain, three rings and a Bracelet;	
	f. 10 pairs of Jeans;	
	g. 5 pairs of Sneakers;	
	h. 2 Pairs of Shoes;	
	i. 1 exercise bicycle;	
	TOTAL (J\$)	To be obtained
vii.	Loss of Earnings (Jan 8,09 – October 2011) ongoing	CI\$110,896.60

9-10. The Plaintiff's foot drop has gotten worse and he is unable to find employment in the field of carpentry and masonry.

10-11. The Plaintiff is still in need of future care for his foot drop;

11-12. Based on the Plaintiff's injuries a Claim is also being made for Loss of Future earnings in the sum of CI\$245,388.00.

12-13. Further the Plaintiff claims interest on the amount found to be due to the Plaintiff on Special Damages as well as General Damages.

The Plaintiff craves leave to amend the Particulars of Injuries and Particulars of Special Damages upon receipt of additional information.

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AND THE PLAINTIFF CLAIMS:

1. Damages for pain, suffering and loss of amenities resulting from the injuries he sustained in the accident.
2. Special Damages in the sum of J\$194,409.43 and CI\$110,896.00 (on going)
3. Loss of future earnings in the sum of CI\$245,388.00
4. Pre and Post Judgment Interest
5. Future medical expenses
6. Costs
7. Such further and/or other relief as this Honourable Court deems just

Dated the 30th day of November, 2011

Amended the 14th day of April, 2014

(SGD)

Morris M. Garcia

THIS AMENDED WRIT OF SUMMONS AND STATEMENT OF CLAIM has been filed by HSM Chambers, whose address for service is Suite 3 Buckingham Square, 720 West Bay Road, Grand Cayman KY1-1207, Cayman Islands (Ref No. DJ/417886.0001).