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Departmental and Other Notices

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
COMMONWEALTH OF DOMINICA
CIVIL

SUIT No: DOMHCV2009/0327

Between:

Kelvin Firmin *Claimant*

and

E.H. Charles & Co. Ltd. *Defendant*

Appearances:

Mrs. Laurina Vidal Telemaque for the Claimant
Mrs. Hazel Johnson for the Defendant

2014: October 20th, 21st
2015: January 27th
January 28th – Re-Issue

JUDGMENT

- [1] THOMAS, J (Ag.): In this claim form filed on 10th September 2009, Kelvin Firmin, the claimant is seeking damages flowing from the alleged negligence of the defendant, E.H. Charles & Co. Ltd.
- [2] It is the claimant's case that at all materials time he was employed by the defendant as a construction worker/handyman and that on 3rd February 2007, as part of his duties he was directed to place bat proofing in the ceiling of the defendant's building at Fond

Cole. It is further pleaded that in order to perform his duties he was given certain items, namely: a fiber glass ladder and a bucket with bat proofing soaking in copper green wood preservative with an oil base. Further, that he was required to go up and down the ladder repeatedly to a height of up to fourteen feet. And further still that in the process of executing the said bat proofing the ladder on which he was doing the work slipped and he fell to the floor thereby sustaining serious injury.

- [3] In terms of the injuries the claimant's plea is apart from both of his elbows being placed in plaster of paris, he had to be operated on by Dr. Julian De Armas on 13th June 2007.
- [4] In his statement of claim the claimant pleads: particulars of negligence, particulars of injury and particulars of damages, including exemplary damages.

DEFENCE

- [5] At paragraph 3 of the amended defence, the defendant denies the claimant's pleadings regarding the equipment supplied for the purposes of work. The averment is as follows:

“(a) The Claimant and other workmen were supplied with aluminum ladders, adjustable up to 14 feet with rubber grips at the base.

(b) The Claimant was provided with bat proofing which had been soaked in a solution and which