

At an I.A.S. Term, Part of the Supreme Court of the State of New York, held in and for the County of Nassau, 100 Supreme Court Drive, Mineola, NY 11501 on the day of July 2018 , .

P R E S E N T :

Hon. Justice. _____ -

-----X

THOMAS PHILIP

Plaintiff,

-against-

Index No:
607981/2018:

HILO MATERIAL HANDLING GROUP and
MITSUBISHI CATERPILLAR FORKLIFT AMERICA,
INC.,

ORDER TO
SHOW CAUSE

Defendants.

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UPon the reading and filing of the affirmation of SHERMAN B. KERNER, dated June 25, 2018, and sufficient cause having been shown therein;

LET the Plaintiffs and Defendants appear and show cause at IAS Part _____ held at the Court House located at 100 Supreme Court Drive, Mineola, N.Y. 11501, on the _____ day of _____, 2018 at _____ in the forenoon/afternoon of that day, or as soon thereafter as counsel can be heard, why and order pursuant to CPLR §321(b) (2) should not be granted:

1. Permitting the law firm of GREY & GREY, LLC., to be relieved as counsel as the attorneys of record for the Plaintiff, THOMAS PHILIP,

2. Staying the litigation of this matter for sixty (60) days to afford the plaintiff the opportunity to obtain new counsel;

3. And for such and further relief as this Court deems just and proper.

SUFFICIENT REASON APPEARING THEREFORE, let service by certified mail return receipt requested and/or personal service pursuant to the applicable CPLR section of copy of this order, together with the papers upon which it was granted upon the plaintiff, THOMAS PHILIP at 1824 Bensen Avenue, Elmont, N.Y. 11003, and LITCHFIELD CAVO, LLP, attorneys for HILO MATERIAL HANDLING GROUP, at 420 Lexington Avenue, Suite 2104, New York, N.Y. 10170, and STRONGIN, ROTHMAN & ABRAMS, LLP, attorneys for MITSUBISHI CATERPILLAR FORKLIFT AMERICA, INC., 80 Pine Street, 10th Floor, New York, N.Y. 10005, on or before the _____ day of _____, 2018, be deemed good and sufficient service.

IT IS FURTHER ORDERED, that all proceedings in this action are hereby stayed pending a determination of the instant motion.

ENTER:

HON. _____
Justice of the Supreme Court

E N T E R :

J. S. C.

-----X
THOMAS PHILIP

Plaintiff,

-against-

HILO MATERIAL HANDLING GROUP and
MITSUBISHI CATERPILLAR FORKLIFT AMERICA,
INC.,

Defendants.
-----X

Index No:
607981/2018:

AFFIRMATION
IN SUPPORT

SHERMAN B. KERNER, an attorney admitted to practice law in the Courts of the State of New York affirms the following under the penalties of perjury:

1. I am the attorney for Thomas Philip, , and I am fully familiar with the facts and circumstances of this matter based upon the case files maintained by this office. I submit this Order to Show Cause on behalf of GREY & GREY LLC., seeking pursuant to CPLR 321(b)(2) to be relieved as Counsel.

2. This action was originally commenced in Supreme Court Queens County by means of a summons and complaint, exhibit "A".

3. The Summons and Complaint was served on both of the Defendants, HILO MATERIAL HOLDING GROUP (HILO), and MITSUBISHI CATERPILLAR FORKLIFT AMERICA, INC., (MITSUBISHI) pursuant to 307 BCL, exhibit "B".

4. The law firm of STRONGIN ROTHMAN & ABRAMS interposed an answer on behalf of MITSUBISHI, exhibit "C".

5. With the answer the STRONGIN law firm served a demand to change Venue pursuant to CPLR §511, exhibit “D”. Plaintiff’s law firm agreed to the change of venue from Queens County to Nassau County.

6. The law firm of Litchfield Cavo, LLP, has represented the interest of HILO, exhibit “E”.

7. The case involves a claim that on November 29, 2016 the plaintiff while working in a MABSTOA warehouse was injured while operating a MITSUBISHI folk lift model EDR-3656-05 when without warning the forklift mal-functioned.

8. HILO is alleged to be the company that maintained and repaired the folk lift.

9. We have requested from our client permission to withdraw as counsel but have not been granted same.

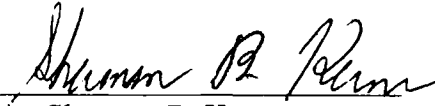
10. It is our opinion that we can not fully, completely and unequivocally represent the full and complete interest of Mr. Philip.

11. This does not mean that Mr. Philip does not have a case but rather the firm of Grey & Grey LLC can not do justice to the representation that Mr. Philip needs and deserves.

12. No previous application for the relief sought herein has been made to this or any court or judge.

WHEREFORE, it is respectfully requested that the order to show cause attached herein issue from this Court, and on the return date, that order be entered permitting the law firm of Grey & Grey LLC.

Dated: Farmingdale, New York
June 25, 2018


Sherman B. Kerner

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