Sykes Steel (Wetherby) Stockholders Made-up Limited

Manchester Yard

4 York Road

Pool

XX5 2GH

5th October 2016

Dear Sirs

**Oliver Boroughbridge v You**

**Fork Lift Truck Accident on July 2015**

We are instructed by our above-named client, regarding a claim for personal injuries, suffered in an accident at work on or about 4 July 2015.

Our client considers that the injuries occurred through your negligence and/or breach of statutory duty and he claims damages accordingly.

Please find enclosed an additional copy of this letter for you to send to your insurers. You must refer the copy letter to the relevant insurers at your soonest. If you do not do so, then this may impact upon your insurance cover and/or the conduct of any potential legal proceedings.

Please note: this is a letter of claim for a personal injury claim, sent in accordance with the [Pre-action Protocol for Personal Injury Claims](http://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_pic). At this stage, therefore, matters which arise will be dealt with under that Protocol. We trust your insurers will reciprocate by meeting their obligations under the Protocol.

We should like to deal with liability promptly. Once liability is conceded, we hope that it will then allow us to enter negotiations on quantum and explore the possibility of settlement. If liability is not accepted, and/or you blame anyone else for our client’s injuries, please provide full details so that we may consider your position and take our client’s instructions.

This letter only provides a summary of the factual matrix of this claim, and the reasons why it is that you are liable for our client’s injuries. This summary, however, should not be taken to be complete recitation of the facts, and we reserve the right to amend the claim in due course, should we be instructed to do so. Should court proceedings be issued, then we reserve the right to fully plead the claim as we see fit, without reference to this letter of claim.

**Circumstances of the Accident**

We are instructed that you employed our client from 30 August 2011 to 9 September 2015, as a Fork Lift Truck Driver.

Our client instructs us that on 4th July 2014, at around midnight, he was asked to move a number of steel bars. Our client had carried out this task on many occasions previously. Our client loaded the bars onto his fork lift truck to transport them nearer to where he had been instructed to take them. As our client was removing a steel bar, from the fork lift truck, one of the other bars on the fork lift was dislodged and fell onto our client’s foot, causing injury.

In the past, our client was frequently instructed to move steel bars as part of his duties. Our client informs us that he had not received any training, or even a demonstration of how the steel bars should be moved. When the accident occurred, our client informs us he was using the same method of transporting the steel bars that his colleagues employed and that he had been following their example.

Our client instructs us that he was not provided with any metal toe-capped boots to protect his feet whilst he was moving the steel bars, or at any other time during his employment.

Our client reported the accident to his supervisor, Nancy, and she made a written report of the accident.

After the accident, our client informs us that he was instructed to employ a different method of moving the steel bars.

Our client contends injuries, losses and expenses were caused by the matters already outlined and that, for the following reasons, you are liable for these.

1. In breach of the Manual Handling Regulations 1992, Regulation 4, you failed to avoid the need for the Claimant to undertake this dangerous manual handling operation which involved risk to the Claimant of being injured contrary to Regulation 4(1)(a) of the Regulations or at all;
2. You failed to make a suitable and sufficient assessment of the manual handling operation to be undertaken by the Claimant or to take appropriate steps to reduce the risk of injury arising out of the operation to the lowest level contrary to Regulation 4(1)(b) of the Manual Handling Regulations or at all;
3. You caused, permitted, required or suffered the Claimant to work as above when it was unsafe so to do;
4. Failed to provide appropriate personal protective equipment by way of protective footwear, in breach of regulation 4 of the Personal Protective Equipment Regulations 1992;
5. Were in breach of regulations 10, 11 and 13 of the Management of Health and Safety at Work Regulations 1999;
6. Failed to provide our client with any or any adequate training in relation to how to move the steel bars;
7. Failed to assess the risks to our client’s health, safety and welfare adequately or at all and/or were negligent contrary to Regulation 3 of the Management of Health and Safety at Work Regulations 1999;
8. Failed to enforce a safe system of work;
9. Failed to provide a safe working environment for employees and workers;
10. Failed to take any or adequate care for the safety of our client;
11. In the circumstances exposed our client to a foreseeable and unnecessary risk of injury of the type which occurred.

In addition, the accident is of a kind which should not occur. Therefore, it is alleged that the very fact of the accident is evidence of your negligence.

We consider this summary is sufficient for the claim to be properly investigated, and a decision on liability given, in good time. The timescale stipulated under the Protocol has commenced. We would remind you that if you contend otherwise, you should advise us within 21 days of the date of this letter.

**Disclosure**

Unless liability is fully admitted, we will expect full disclosure of documents to be provided together with your denial. We reserve the right to make an application for Pre-Action Disclosure, should you not provide disclosure in full.

Please preserve all relevant documents. If relevant documents are only disclosed upon the issuing of proceedings, then we will seek our costs from you in the event that the claim is unsuccessful.

It is our position that documents within the following categories are relevant and that copies should be supplied to us in the event that liability is not admitted in full. In compliance with the Protocol, these documents should be provided without making a charge.

Please provide the following documents within the next three months, if liability is not admitted in full:

1. Accident book entry;
2. All accident book entries relating to the movement of steel bars;
3. Accident investigation report;
4. RIDDOR report to the Health and Safety Executive;
5. All communication with the Health and Safety Executive and/or local authority;
6. First Aid report;
7. Pre and post-incident earnings information;
8. Pre and post-incident Risk Assessment required by Regulation 3 of the Management of Health and Safety at Work Regulations;
9. Our client’s training records;
10. Instructions to staff relating to the moving of steel bars;
11. Minutes of meetings where our client’s accident was discussed;
12. Minutes of meetings where PPE and manual handling were discussed in the 24 months prior to our client’s accident;
13. Assessment of the PPE, specifically the steel toe-capped boots, in the 36 months before the accident and all assessments post-accident until the present day;
14. Our client’s personnel file;
15. Details of all similar accidents in the 12 months prior to the date of our client’s accident;
16. Our client’s occupational health file;
17. CCTV footage from the date of the accident.

Within these categories, if there are documents which you contend are privileged, please state the grounds of the claim for privilege and sufficiently identify the documents so that we may assess the validity of your claim for privilege. We do not anticipate that you will succeed with any claim for privilege.

Currently, we can only summarise the general nature of our client’s injuries and losses as follows below.

**General Damages**

Our client has suffered multiple fractures to his left foot. Our client has not returned to work following the accident. This is, however, just a summary and should not be regarded as a comprehensive description of the injuries, pending receipt of expert medical opinion(s).

We will obtain medical evidence and would suggest, as suitable experts, that we a Consultant Orthopaedic Surgeon with a specialism in foot injuries. Unless we hear from you to the contrary on this point, then we will instruct the expert of our choosing.

**Expenses and Losses.**

We anticipate a claim for expenses and losses will include the following non-exhaustive heads:

1. Loss of earnings.
2. Medical expenses.
3. Travel expenses.
4. Care and assistance.
5. Loss of enjoyment of holiday.

We confirm that, when requested in due course, we will provide your insurers with the necessary details for the claim to be registered with the Compensation Recovery Unit.

Please note that our client is willing to consider the resolution of this claim by Alternative Dispute Resolution (ADR). Our view is that the appropriate mechanism of ADR to be negotiation. Please inform us if you consider that any other method of ADR to be appropriate and we will consider your position.

We look forward to hearing from you, as specified above.

Yours faithfully