

App. 1

VIRGINIA:

IN THE CIRCUIT COURT
FOR THE CITY OF NORFOLK

STEPHEN K. WALTON, SR.,)	
)	
Plaintiff,)	
)	
v.)	CASE NO.
)	
VIRGINIA INTERNATIONAL)	C119-2417
TERMINALS, LLC, et al.,)	
)	
Defendants.)	

TRANSCRIPT OF PROCEEDINGS

Norfolk, Virginia

October 8, 2019

Before: THE HONORABLE MICHELLE J. ATKINS,
Judge

[2] Appearances:

MONTAGNA, KLEIN, CAMDEN, LLP

By: JOHN MONTAGNA, ESQUIRE
425 Monticello Avenue
Norfolk, Virginia 23510
jmontagna@montagnalaw.com
Counsel for the Plaintiff

TROUTMAN SANDERS, LLP

By: JOHN HOLLOWAY, ESQUIRE
RYAN T. GIBSON, ESQUIRE
222 Central Park Avenue, Suite 2000

App. 2

Virginia Beach, Virginia 23462
john.holloway@troutman.com
ryan.gibson@troutman.com
Counsel for the Defendant Virginia
International Terminals

[3] INDEX
WITNESSES

ON BEHALF OF
THE PLAINTIFF Direct Cross Red. Rec.
Stephen Walton, Sr. 31 40 -- --

ON BEHALF OF
THE DEFENDANT

None

* * *

[31] his behalf, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION
BY MR. MONTAGNA:

Q. Mr. Walton, would you state your full name, please?

A. Stephen Kevin Walton.

Q. And what is your current job?

A. Reefer mechanic at MRS.

Q. And do you have a position with the union?

App. 3

A. Yes.

Q. What is that?

A. I'm president of the Local union.

Q. Which one?

A. 1970.

Q. Local 1970?

A. Yes, sir.

Q. And how long have you been a member of ILA Local 1970?

A. Since 1996.

Q. And who did you work for before your injury on March 15th, 2017?

A. Marine Repair Services.

[32] Q. And how long did you work for Marine Repair Services before your injury on March 15th, 2017?

A. Fifteen to 16 years.

Q. And, sir, how long have you been president of ILA Local 1970?

A. I've been president now maybe three months.

Q. And what are the duties of the president of ILA Local 1970?

App. 4

A. To carry on the day-to-day goings-on of the Local.

Q. And prior to being the president what position did you hold with ILA Local 1970?

A. I was the vice-president.

Q. How long were you vice-president?

A. I was vice-president for five years.

Q. And what are the duties of a vice-president?

A. To assist the president with the day-to-day goings-on of the Local.

Q. And are you familiar with the collective bargaining agreement that was in effect for the years 2013 through September 30, 2018 between the Hampton Roads Shipping Association and the International [34] VIT?

A. No, I was not.

Q. And was it the custom and practice for employees at Marine Repair Services and other container maintenance repair mechanics working at Norfolk International Terminals that the mechanic would report his injury to his immediate employer regarding who caused the injury?

A. Yes.

Q. And was it the custom and practice of employees of Marine Repair Services or any other container maintenance mechanic at Norfolk International

App. 5

Terminals to provide notice of injury to VIT if the mechanic was injured?

A. Could you repeat your question?

Q. Were you required, as an employee of MRS, to notify VIT that you were injured?

A. No. I was just to let MRS know.

Q. Thank you, sir.

And did you attend Contract Board meetings from 2015 up until the date you were injured?

A. Yes.

Q. And in what capacity did you attend those?

A. I attended them as a member because I [35] was the vice-president of the Local.

Q. And could you explain to us who makes up the Contract Board?

A. The Contract Board is a collective of also managers and stevedores and other ILA officials.

Q. And what does the Contract Board do?

A. We hear grievances.

Q. And did representatives of VIT attend these Contract Board meetings?

A. Yes.

Q. All right. Did VIT ever announce or otherwise notify persons attending the Contract Board meetings

App. 6

that it was planning to change its Schedule of Rates or tariff?

A. No.

Q. And did VIT ever announce or otherwise notify people at the Contract Board meetings that it was planning to adopt a new rule to require longshoremen working at the marine terminal to notify VIT of notice of claim or injury?

A. No.

Q. Did VIT ever announce or otherwise notify persons attending the Contract Board meetings that it had adopted a new rule upon longshoremen working on a marine terminal to provide VIT with a notice of claim [36] or injury?

A. No.

Q. Did VIT ever announce or otherwise notify people at the Contract Board meetings that it was planning to change the Schedule of Rates or tariff or that it was adopting a new rule requiring longshoremen working at a marine terminal to sue VIT within one year of their injury or their suit would be barred?

A. No.

Q. Did VIT ever announce or otherwise notify anyone at the Contract Board meetings that it had changed its Schedule of Rates or tariff or that it had in fact adopted a new rule requiring longshoremen working out of the marine terminal to sue VIT within one year of injury or their suit would be barred?

App. 7

A. No.

Q. Mr. Walton, did you ever attend any Safety Committee meetings from 2015 through the date you were injured?

A. Yes.

Q. In what capacity?

A. I was a member of the Safety Committee.

Q. Okay. And who makes up the Safety

* * *

[43] injury cases?

A. No.

Q. In your amended complaint you have attached a photograph. Have you seen that photograph?

A. Yes. I took it.

Q. When did you take it?

A. When I got injured.

Q. Okay. So what time of day was it when you got injured?

A. About midnight.

Q. And what time did you take the photograph?

MR. MONTAGNA: I'm going to object, Your Honor. This cross is outside the scope of direct.

THE COURT: Counsel, your response.

App. 8

MR. HOLLOWAY: Well, we have already gone far afield from this affidavit, I think, and the fact of the matter is, one of the issues we're talking about here is the failure to give notice of an accident. I think the fact that he is out there that night collecting evidence for a case certainly bears – to the extent equity has anything to do with this, it bears on that.

THE COURT: All right. And I would agree he's already answered some of the questions, but I

* * *

[72] [Court Reporter's Certificate Omitted]
