

**IN THE CIRCUIT COURT FOR
MONTGOMERY COUNTY, MARYLAND**

FREDERICK "CORK" GRAHAM



Plaintiff,

v.

DISCOVERY COMMUNICATIONS, INC.,
1 DISCOVERY PLACE
SILVER SPRING, MD 20910

SERVE:
THE CORPORATION TRUST, INC.
2405 YORK ROAD, SUITE 201
LUTHERVILLE-TIMONIUM MD 21093

and

DISCOVERY COMMUNICATIONS, LLC,
1 DISCOVERY PLACE
SILVER SPRING, MD 20910

SERVE:
THE CORPORATION TRUST, INC.
2405 YORK ROAD, SUITE 201
LUTHERVILLE-TIMONIUM MD 21093

and

DISCOVERY TALENT SERVICES, LLC,
1 DISCOVERY PLACE
SILVER SPRING, MD 20910

SERVE:
THE CORPORATION TRUST, INC.

: RECEIVED

: JUL 23 2018

**: Clerk of the Circuit Court
Montgomery County, Md.**

: Case No.

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2405 YORK ROAD, SUITE 201
LUTHERVILLE-TIMONIUM MD 21093

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Defendants.

PLAINTIFF FREDERICK “CORK” GRAHAM’S ORIGINAL COMPLAINT

COMES NOW Plaintiff, **FREDERICK “CORK” GRAHAM**, files this original petition and request for disclosure against Defendants, **DISCOVERY COMMUNICATIONS, INC., DISCOVERY COMMUNICATIONS, LLC, and DISCOVERY TALENT SERVICES, LLC**, and alleges as follows:

I. PARTIES

1. Plaintiff, Frederick “Cork” Graham, an individual, is a resident of Alaska, and can be served through his attorneys of record, Guy Fisher, of Provost Umphrey Law Firm, LLP, at 490 Park St., Beaumont, TX 77701, and Matthew Watts, of Mooney, Green, Saindon, Murphy & Welch, P.C., at 1920 L Street, NW, Suite 400, Washington, DC 20002.

2. Defendant, Discovery Talent Services, LLC,¹ a business entity, is a Delaware registered company whose registered agent is the Corporation Trust Company who can be served at Corporation Trust Center, 1209 Orange St., Wilmington DE 19801, or wherever it may be found.

3. Discovery Communications, INC.,² a business entity, is a Delaware registered company whose registered agent is the Corporation Trust Company, who can be served at Corporation Trust Center, 1209 Orange St., Wilmington DE 19801, or wherever it may be

¹ Herein sometimes referred to as the “Discovery Defendants.”

² Herein sometimes referred to as the “Discovery Defendants.”

found. Upon information and belief, Discovery Communications, INC. formally converted to Discovery Communications, LLC in 2007, but continues to operate and do business as Discovery Communications, INC.

4. Discovery Communications, LLC,³ a business entity, is a Delaware registered company whose registered agent is the Corporation Trust Company, who can be served at Corporation Trust Center, 1209 Orange St., Wilmington DE 19801, or wherever it may be found. Upon information and belief, Discovery Communications, INC. formally converted to Discovery Communications, LLC in 2007, but continues to operate and do business as Discovery Communications, INC.

II. JURISDICTION

5. The Court has subject-matter jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements, and because a contract clause designates the State of Maryland as the proper venue for disputes arising between Plaintiff Graham and the Discovery Defendants.

III. VENUE

6. Venue is proper in Montgomery County, Maryland because Discovery Communications, INC.'s corporate headquarters in Silver Springs, Maryland located at: One Discovery Pl, Silver Spring, MD 20910.

IV. FACTS

³ Herein sometimes referred to as the "Discovery Defendants."

7. On May 4, 2016, while filming in the jungles of Argentina for the Discovery Communications, Inc. television show *Treasure Quest: Snake Island*,⁴ Plaintiff Cork Graham suffered an assault and battery from Jeremy Whalen, a “treasure Recovery Specialist,” and Brett Tutor a “Security Expert.”

8. *Treasure Quest* is a semi-fictional, scripted show currently producing its third season. One or more of the Discovery Defendants hired and employed the actors/cast, producers, productions company, and security for *Treasure Quest*.

9. Keith Plaskett, a *Treasure Quest* actor/cast member, suffered a mental breakdown of some sort during filming for a scene. Plaintiff Graham calmed Mr. Plaskett.

10. Shortly after Plaintiff Graham treated Mr. Plaskett, and while still filming for the show, Jeremy Whalen did commit an assault and a battery by striking Plaintiff Graham in the eye with Mr. Whalen’s closed fist.

11. Jeremy Whalen continued to strike Plaintiff Graham. Brett Tutor then did commit a battery on Plaintiff Graham by choking Plaintiff Graham. All this did cause injury and damage to Plaintiff Graham. The entire incident had been recorded by the camera.

12. The Discovery Defendants became aware of the situation or should have become aware of the situation. Plaintiff Graham requested additional funds to complete the filming and that his assailants would not be at the film location and Plaintiff Graham. These terms were discussed orally and then reiterated in an email. Plaintiff Graham prioritized that Brett Tutor and Jeremy Whalen must be removed from filming for Plaintiff Graham to return due to their joint attack on Plaintiff Graham. However upon returning, Brett Tutor and Jeremy

⁴ Herein sometimes referred to as “*Treasure Quest*.”

Whalen were not terminated, nor were they removed from filming. Plaintiff Graham was forced to film with his assailants for an additional two weeks out in a remote jungle.

13. One or more of the Discovery Defendants ratified these actions by not terminating Brett Tutor and Jeremy Whalen.

14. Due to damages sustained by these events Plaintiff Graham cannot work.

15. The Discovery Defendants are in charge of the hiring and firing of all the actors/cast members, producers, production company, and the security for *Treasure Quest*.

COUNT I - NEGLIGENCE

15. Plaintiff Graham reasserts, repleads, and incorporates by reference the factual allegations contained in the preceding paragraphs and those that hereinafter follow.

16. Plaintiff Graham sues Discovery Defendants for negligence.

17. Defendant owed a legal duty to Plaintiff. The Discovery Defendants owed a duty to supervise their employees' activities as a Respondeat Superior.

18. The Discovery Defendants breached their duty to Plaintiff by failing to supervise their employees' activities as a Respondeat Superior. The Discovery Defendants failed to have a representative from the network at the film site to monitor the day-to-day activities as a Respondeat Superior.

19. As a producing and/or proximate result of Defendants' negligence, Plaintiff has suffered injuries and sustained harm, including, but not limited to, physical pain and suffering, medical expenses, physical impairment, disfigurement, lost wages, and loss of earnings.

20. Defendants are liable to Plaintiff for damages in an amount to be proven at trial for all such physical pain and suffering, medical expenses, physical impairment, disfigurement,

lost wages, and loss of earnings caused by the Defendants' negligence, as well as an additional amount in exemplary damages because Defendants acted with malice.

COUNT II - NEGLIGENT HIRING

21. Plaintiff Graham reasserts, repleads, and incorporates by reference the factual allegations contained in the preceding paragraphs and those that hereinafter follow.

22. In the alternative to other counts, the Discovery Defendants negligently supervised and retained Defendants' employee.

23. Defendants had a legal duty to supervise and retain competent employees.

24. The Discovery Defendants breached the duty when Defendants negligently supervised and retained Brett Tutor and Jeremy Whalen. By negligently supervising Brett Tutor and Jeremy Whalen before, during, and after the attack on Plaintiff Graham, and then by negligently retaining Brett Tutor and Jeremy Whalen for the following two weeks after the attack, the Discovery Defendants breached their duty by not terminating the employment of Brett Tutor and Jeremy Whalen, and also by negligently allowing MAK Pictures, LLC to continue to film with Plaintiff Graham, Brett Tutor, and Jeremy Whalen in light of Plaintiff Graham's PTSD.

25. As a producing and/or proximate result of Defendants' negligent hiring, Plaintiff has suffered injuries and sustained harm, including, but not limited to, physical pain and suffering, medical expenses, physical impairment, disfigurement, lost wages, and loss of earnings.

26. Defendants are liable to Plaintiff for damages in an amount to be proven at trial for all such physical pain and suffering, medical expenses, physical impairment, disfigurement,

lost wages, and loss of earnings caused by the Defendants' negligent hiring, as well as an additional amount in exemplary damages because Defendants acted with malice.

COUNT III - VICARIOUS LIABILITY – RESPONDEAT SUPERIOR

27. Plaintiff Graham reasserts, repleads, and incorporates by reference the factual allegations contained in the preceding paragraphs and those that hereinafter follow.

28. The acts of Brett Tutor were performed while in the employment of the Discovery Defendants and were within the scope of that employment or within the authority delegated to the employee. Brett Tutor was hired and employed as a security expert by one or more of the Discovery. As the “security expert” for the show *Treasure Quest* Brett Tutor did commit an assault and battery upon Plaintiff Graham in the course of Brett Tutor's employment as a security personnel. Brett Tutor was not privileged to conduct such an action upon Plaintiff Graham, and therefore the Discovery Defendants are vicariously liable for the actions of Brett Tutor, including, but not limited to, the actions resulting in the injuries described in Counts I and II.

COUNT IV - VICARIOUS LIABILITY – RATIFICATION

29. Plaintiff Graham reasserts, repleads, and incorporates by reference the factual allegations contained in the preceding paragraphs and those that hereinafter follow.

30. At the time of assault and battery, Brett Tutor and Jeremy Whalen were acting on the Discovery Defendants' behalf. Brett Tutor and Jeremy Whalen were hired and employed by the Discovery Defendants. The assault and battery committed by Tutor and Whalen did occur while filming an episode for the Discovery Defendants. MAK Pictures, LLC is the production company hired and employed by the Discovery Defendants to produce and direct the show.

31. After the events complained of, the Discovery Defendants were fully aware of Brett Tutor and Jeremy Whalen's acts and approved them by the Discovery Defendants' actions. The Discovery Defendants failed to terminate Jeremy Whalen and Brett Tutor after the two tortfeasors attacked Plaintiff Graham, and further, the Discovery Defendants did continue to have Plaintiff Graham work with his tortfeasors for two additional weeks with knowledge that Plaintiff Graham did suffer from PTSD the entire time.

32. The Discovery Defendants approved Brett Tutor's and Jeremy Whalen's acts with the intent to validate them. The Discovery Defendants did use the film and video, taken during and after the attack on Plaintiff Graham, in the final edit of the episodes aired by the network, and thus the Discovery Defendants did profit on the actions of Brett Tutor, Jeremy Whalen, and MAK Pictures.

33. Defendants' are therefore vicariously liable for Brett Tutor's and Jeremy Whalen's actions by ratification, including those actions resulting in the injuries described in Counts I and II.

PRAYER FOR RELIEF

WHEREFORE THE PREMISES CONSIDERED, Plaintiff Frederick "Cork" Graham moves and prays these Honorable Courts grant Plaintiff Graham the following Relief:

A. That the Court enter an order awarding Plaintiff damages in an amount to be proven at trial for all physical pain and suffering, medical expenses, physical impairment, disfigurement, lost wages, and loss of earning suffered by Plaintiff as the result of Defendants conduct;

B. That the Court enter an order awarding Plaintiff additional nominal, actual, compensatory, exemplary and punitive damages, as allowable by law;

- C. That Plaintiff Graham be awarded pre-judgment and post-judgment interest, as allowable by law;
- D. That Plaintiff Graham be awarded attorneys' fees and costs, as allowable by law;
- E. That the Court retain jurisdiction of this case pending compliance with its Orders;
- and
- F. That the Court grant such additional relief as the Court may deem appropriate.

RULE 1-313 CERTIFICATION

Pursuant to Maryland Rule 1-313, I hereby certify that I am admitted to practice in the state of Maryland.

Respectfully submitted,



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Counsel for the Plaintiff

Dated: July 23, 2018