

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

Appeal No. 2021-0001

**SENATOR ADLAH DONASTORG, JR., BENEDICTA DONASTORG,
ADLAH DONASTORG, SR., JOSEPINA DONASTORG, ELLA MORON
AND NORMA DURAN,
Appellants**

**DAILY NEWS PUBLISHING CO. INC., LOWE DAVIS, HOLLAND
“DYKE” REDFIELD, VITELCO AND OAKLAND BENTA.
Appellees.**

On Appeal from
The Superior Court of the Virgin Islands
Division of St. Thomas

Superior Court Civ. No. SX-2002-CV-00117 (STT)

**JOINT APPENDIX
Volume I**

LAW OFFICES OF LEE J. ROHN AND ASSOCIATES, LLC

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
934	03-17-2022 08:19 AM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Supreme Court AMENDED SCHEDULING ORDER. ORDERED that pursuant to V.I.R.App.P. 11(b), the Clerk of the Superior Court SHALL FILE the E-RECORD on or before March 17, 2022.	
933	03-17-2022 07:26 AM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Supreme Court Order of the Court and Opinion of the Court received. ORDERED that this Court SHALL EXERCISE jurisdiction over this appeal, and that the Clerk of the Court SHALL ISSUE a briefing schedule to the parties forthwith.	
932	08-03-2021 11:38 AM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Errata Order	Tamara Charles
931	08-03-2021 11:37 AM	Order - Order	Official		Errata Order - Ordered that the correct citation of 2021 VI Super 3U shall be reflected on the docket	Hon. Denise M. Francois
930	04-21-2021 10:22 AM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of an Order Granting Defendants Petition for withdrawal of Motion for an Award of Attorneys' Fees and Costs without Prejudice	Latoya A. Camacho, Court Clerk Supervisor
92B	04-19-2021 10:09 AM	Superior Court Transmittal - Superior Court Record	Official		Superior Court E-Record forwarded to the Supreme Court.	
929	04-21-2021 10:21 AM	Order - Order Granting	Official		Order Granting Defendants Daily News and Lowe Davis Petition for Withdrawal of Motion for an Award of Attorneys' Fees and Costs without Prejudice Signed.	Hon. Denise M. Francois
927	04-08-2021 12:01 PM	Action - File Forwarded To Judge's Chambers	Official		File Forwarded to Honorable Judge Denise M. Francois Chambers with a Petition for Withdrawal of Motion for an Award of Attorney's Fees and Costs without Prejudice attached.	
926	04-06-2021 03:30 PM	Notice - Proposed Order	Official		Proposed Order	Kevin A. Rames, Esq.
925	04-06-2021 03:29 PM	Motion - Motion for Costs	Official		Petition for Withdrawal of	Kevin A. Rames.

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**Superior Court of the Virgin Islands
Docket Sheet**

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#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		& Attorney's Fees			Motion for an Award of Attorney's Fees and Costs without Prejudice	Esq.
924	03-19-2021 11:43 AM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Supreme Court Scheduling Order Received	
923	03-11-2021 10:17 AM	Superior Court Transmittal - Other	Official		Superior Court Certified Docket forwarded to the Supreme Court.	
922	03-08-2021 10:59 AM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order dated March 5, 2021 to: Lee J. Rohn, Esq. Kevin A. Rames, Esq. Mark W. Eckard, Esq. Joel H. Holt, Esq. Michael A. Joseph, Esq.	
921	03-05-2021 10:54 AM	Order - Order Signed	Official		Ordered that defendants Daily News Publishing Company, Inc., and J. Lowe Davis' Unopposed First Motion for Extension of Time is granted. etc.	Hon. Denise M. Francois
920	03-04-2021 04:09 PM	Notice - Proposed Order	Official		PROPOSED ORDER FOR UNOPPOSED FIRST MOTION FOR EXTENSION OF TIME	KEVIN RAMES On Behalf of DAILY NEWS PUBLISHING CO., INC. Kevin A. Rames, Esq.
919	03-04-2021 04:09 PM	Motion - Motion for Extension of Time	Official		UNOPPOSED FIRST MOTION FOR EXTENSION OF TIME	KEVIN RAMES On Behalf of DAILY NEWS PUBLISHING CO., INC.
918	02-22-2021 12:46 PM	Motion - Opposition Motion	Official		OPPOSITION TO MOTION FOR AN AWARD OF ATTORNEY FEES AND COSTS AND PROPOSED ORDER	LEE J. ROHN On Behalf of SENATOR ADLAH DONASTORG, JR.
917	02-22-2021 12:46 PM	Notice - Proposed Order	Official		PROPOSED ORDER FOR OPPOSITION TO MOTION FOR AN AWARD OF ATTORNEY FEES AND COSTS	LEE J. ROHN On Behalf of SENATOR ADLAH DONASTORG, JR.
916	02-09-2021 04:34 PM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Supreme Court Docketing Order Received. Appeal docketed as SCT-Civ-2021-0001.	Supreme Court of the Virgin Islands
915	02-09-2021 04:28 PM	Notice - Notice Of Appeal Received	Official		Notice Of Appeal Received from the Supreme Court of the VI	Supreme Court of the VI

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
914	01-27-2021 12:12 PM	Notice - Notice of Entry of Judgment/Order			Notice of Entry of Order dated January 26, 2021 to: Lee J. Rohn, Esq. Kevin A. Rames, Esq. Mark W. Eckard, Esq. Joel H. Holt, Esq. Michael A. Joseph, Esq.	
913	01-26-2021 12:08 PM	Order - Order Signed	Official		Ordered that Plaintiff's Unopposed First Motion for Extension of Time which was filed on January 21, 2021 is Granted. Ordered that on or before February 22, 2021 Plaintiffs shall file their response to Defendants Daily News Publishing Co., Inc., and Jane Lowe Davis' Motion for An Award of Attorney's Fees and Costs.	Hon. Denise M. Francois
912	01-21-2021 01:21 PM	Notice - Proposed Order	Official		PROPOSED ORDER FOR UNOPPOSED FIRST MOTION FOR EXTENSION OF TIME	Rhea R. Lawrence, Esquire
911	01-21-2021 01:20 PM	Motion - Motion for Extension of Time	Official		UNOPPOSED FIRST MOTION FOR EXTENSION OF TIME	Rhea R. Lawrence, Esquire
910	01-11-2021 03:23 PM	Notice - Proposed Order	Official		PROPOSED ORDER FOR MOTION FOR AN AWARD OF ATTORNEYS' FEES AND COSTS	Kevin Rames, Esq.
909	01-11-2021 03:23 PM	Motion - Motion for Costs & Attorney's Fees	Official		MOTION FOR AN AWARD OF ATTORNEYS' FEES AND COSTS	Kevin Rames, Esq.
908	01-07-2021 03:40 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment dated January 7, 2021 to: Lee J. Rohn, Esq. Kevin A. Rames, Esq. Mark W. Eckard, Esq. Joel H. Holt, Esq. Michael A. Joseph, Esq. Judges & Magistrates Superior Court Information Technology Division Superior Court Law Librarian Order Book	
907	01-07-2021 03:39 PM	Memo - Memorandum Opinion	Official		Memorandum Opinion and Final Judgment as to	Hon. Denise M. Francois

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
906	01-07-2021 03:23 PM	Notice - Notice of Entry of Official Judgment/Order			Defendants Daily News Publishing Company, Inc., and J. Lowe Davis Notice of Entry of Order (3) dated January 7, 2021 to: Lee J. Rohn, Esq. Kevin A. Rames, Esq. Mark W. Eckard, Esq. Joel H. Holt, Esq. Michael A. Joseph, Esq.	
905	01-07-2021 03:18 PM	Order - Order Signed	Official		Ordered that defendant Oakland Benta's Motion Pursuant to Superior Court Rule 50, and Rule 60 of the Federal Rules of Civil Procedure, to Correct Record to Reflect Defendant Oakland Benta Did Join Defendant Daily News' Motion to Dismiss on the Pleadings, filed September 3, 2015 is denied.	Hon. Denise M. Francois
904	01-07-2021 03:17 PM	Order - Order Signed	Official		Order Dismissing Dally News Publishing Company, Inc., and Jane Lowe Davis' Counterclaim Signed	Hon. Denise M. Francois
903	01-07-2021 03:12 PM	Order - Order Signed	Official		Ordered that defendants Daily News Publishing Company, Inc., and Jane Lowe Davis' Motion for Certification Under Rule 54(b) of the Federal Rules of Civil Procedure filed October 16, 2015 is denied as Moot.	Hon. Denise M. Francois
902	05-22-2018 12:11 AM	Case Initiation - Opposition To Motion Received	Official		PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO ENTER FINAL JUDGMENT, FOR DAILY NEWS PUBLISHING COMPANY, INC., AND J. LOWE DAVIS AND, PROPOSED ORDER FILED BY RHEA LAWRENCE, ESQ., FOR LEE J. ROHN, ESQ.	
901	05-21-2018 12:11 AM	Motion - Reply Received	Official		REPLY TO OPPOSITION TOMOTION FOR CERTIFICATION UNDER RULE 54(b) OF, THE	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
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#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
900	02-07-2018 12:11 AM	Notice - Notice Of Filing Received	Official		FEDERAL RULES OF CIVIL PROCEDURE, SUBMITTED BY KEVIN RAMES, ESQ. NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, MOTION TO ENTER, FINAL JUDGMENT FOR DEFENDANTS DAILY NEWS PUBLISHING COMPANY, INC., AND J. LOWE DAVIS AND ORDER, SUBMITTED BY KEVIN A. RAMES, ESQ.	
899	02-02-2016 12:11 AM	Action - File Returned To Clerk's Office	Official		FILE RETURNED TO THE CLERKS OFFICE	
898	02-02-2016 12:11 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER, 02/02/2016, KEVIN RAMES, ESQUIRE 773-7282(FAX), JOEL H. HOLT, ESQUIRE 773-8677(FAX), MARK ECKARD, ESQUIRE 773-3650(FAX), MICHAEL JOSEPH, ESQUIRE 772-0376(FAX), LEE J. ROHN, ESQUIRE 773-2954(FAX)	
897	02-02-2016 12:11 AM	Order - Order Signed	Official		ORDER SIGNED BY JUDGE FRANCOIS RESERVING RULING ON DEFENDANTS DAILY, NEW PUBLISHING CO., INC. AND LOWE DAVIS' MOTION FOR ATTORNEYS' FEES....	
896	11-23-2015 12:11 AM	Motion - Reply Received	Official		REPLY IN FURTHER SUPPORT OF VITELCO'S MOTION FOR SUMMARY JUDGMENT, FILED BY MARK W. ECKARD, ESQ.	
895	11-04-2015 12:11 AM	Motion - Reply Received	Official		REPLY RECEIVED TO OPPOSITION TO MOTION FOR CERTIFICATION UNDER RULE, 54(B) OF THE FEDERAL RULES OF CIVIL PROCEDURE FILED BY KEVIN A., RAMES, ESQ.	
894	11-04-2015 12:11 AM	Notice - Notice To The Court Received	Official		NOTICE TO THE COURT RECEIVED OF REPLY TO OPPOSITION TO MOTION	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
893	11-03-2015 12:11 AM	Case Initiation - Petitioner's Response	Official		FOR, CERTIFICATION UNDER RULE 54(B) FILED BY KEVIN A. RAMES, ESQ. PLAINTIFF'S RESPONSE TO DEFENDANTS VITELCO'S ALLEDGED STATEMENT OF MATERIAL FACTS ABOUT WHICH THERE IS NO GENUINE ISSUE; SUBMITTED BY, LEE ROHN, ESQ.	
892	11-03-2015 12:11 AM	Case Initiation - Petitioner's Response	Official		PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND, BRIEF IN SUPPORT; SUBMITTED BY LEE ROHN, ESQ.	
891	11-03-2015 12:11 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION; SUBMITTED BY, LEE ROHN, ESQ.	
890	11-03-2015 12:11 AM	Response - Opposition Received	Official		OPPOSITION TO MOTION FOR RULE 54(B) CERTIFICATION RECEIVED;; SUBMITTED BY LEE ROHN, ESQ.	
889	10-16-2015 12:11 AM	Motion - Motion Received	Official		MOTION FOR CERTIFICATION UNDER RULE 54(B) OF THE FEDERAL RULES OF, CIVIL PROCEDURE FILED BY KEVIN A. RAMES, ESQ.	
888	10-16-2015 12:11 AM	Notice - Notice To The Court Received	Official		NOTICE OF FILING DOCUMENT IN OTHER DIVISION: MOTION FOR, CERTIFICATION UNDER RULE 54 FILED BY KEVIN A. RAMES, ESQ.	
887	10-15-2015 12:11 AM	Motion - Reply Received	Official		REPLY TO OPPOSITION TO MOTION FOR AN AWARD OF ATTORNEY'S FEES AND, COSTS FILED BY KEVIN A. RAMES, ESQ.	
886	10-15-2015 12:11 AM	Notice - Notice To The Court Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION: REPLY TO, OPPOSITION TO MOTION FOR ATTORNEY'S FEES AND	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
885	10-13-2015 12:11 AM	Case Initiation - Supplemental Documents(5) Received	Official		COSTS FILED BY KEVIN, RAMES, ESQ. VITELCO'S SUPPLEMENTAL BRIEF IN SUPPORT OF SUMMARY JUDGMENT, SUBMITTED BY MARK ECKARD, ESQ.	
884	09-25-2015 12:11 AM	Motion - Motion Received	Official		CORRECTED MOTION FOR VOLUNTARY DISMISSAL OF AMENDED COUNTERCLAIM, WITH PREJUDICE. ISSUED BY KEVIN A. RAMES, ESQ. ALONG WITH EXHIBIT A	
883	09-25-2015 12:11 AM	Case Initiation - Opposition To Motion Received	Official		OPPOSITION TO MOTION TO CORRECT ORDER ISSUED BY LEE J. ROHN, ESQ., ALONG WITH PROPOSED ORDER	
882	09-25-2015 12:11 AM	Case Initiation - Opposition To Motion Received	Official		OPPOSITION TO MOTION FOR ATTORNEY FEES AND COST ISSUED BY LEE J., ROHN, ESQ. ALONG WITH PROPOSED ORDER	
881	09-23-2015 12:11 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER (3) DATED: 09/22/2015, LEE J. ROHN, ESQ., VIA FAX 773-2954, KEVIN A. RAMES, ESQ., VIA FAX 773-7282, MARK W. ECKARD, ESQ., VIA EMAIL, JOEL H. HOLT, ESQ., VIA FAX 773-8677, MICHAEL A. JOSEPH, ESQ., VIA FAX 772-0376	
880	09-23-2015 12:10 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBER	
879	09-22-2015 12:10 AM	Order - Order Signed	Official		ORDERED THAT PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE 12(d), THIS COURT WILL TREAT THE 4 MOTIONS FOR JUDGMENT ON THE PLEADINGS, FILED BY VITELCO IN JANUARY OF 2011 AS MOTIONS FOR SUMMARY JUDGMENT, ON THE CLAIMS ADDRESSED IN THOSE 4 MOTIONS. ETC.	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
878	09-22-2015 12:10 AM	Order - Order Signed	Official		SIGNED BY JUDGE, DENISE M. FRANCOIS. ORDERED THAT PLAINTIFFS' MOTION FOR ENTRY OF DEFAULT AGAINST OAKLAND, BENTA AND HOLLAND REDFIELD IS DENIED. SIGNED BY JUDGE DENISE M., FRANCOIS.	
877	09-22-2015 12:10 AM	Order - Order Signed	Official		ORDERED THAT WITHIN 14 DAYS OF THE DATE OF ENTRY OF THIS ORDER,, DEFENDANTS DAILY NEWS PUBLISHING CO., INC., AND LOWE DAVIS SHALL, ADVISE THE COURT WHETHER THE AMENDED ANSWER AND COUNTERCLAIM,, PREPARED ON MARCH 14, 2002 AND REFERENCED IN THEIR MOTION FOR, ATTORNEYS' FEES WAS EVER FILED WITH THE COURT. ORDERED THAT THE, COURT HEREBY RESERVES RULING ON THE MOTION FOR VOLUNTARY DISMISSAL, OF COUNTERCLAIM, WITH PREJUDICE, WHICH WAS FILED BY DEFENDANTS, DAILY NEWS PUBLISHING CO., INC., AND LOWE DAVIS ON OR ABOUT, SEPTEMBER 2, 2015 PENDING PRODUCTION OF THE INFORMATION REQUESTED., ETC., SIGNED BY JUDGE DENISE M. FRANCOIS	
876	09-22-2015 12:10 AM	Notice - Notice	Official		NOTICE OF NO OBJECTION TO DISMISSAL OF DAILY NEWS PUBLISHING, CO.,, COUNTERCLAIM FILED BY LEE J. ROHN, ESQ.	
875	09-23-2015 12:10 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION SUBMITTED BY	

**Superior Court of the Virgin Islands
Docket Sheet**

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#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
874	09-03-2015 12:10 AM	Motion - Motion For Dismissal Received	Official		KEVIN, RAMES, ESQ. MOTION FOR VOLUNTARY DISMISSAL OF COUNTERCLAIM, WITH PREJUDICE, SUBMITTED BY KEVIN RAMES, ESQ.	
873	09-03-2015 12:10 AM	Motion - Motion Received	Official		MOTION PURSUANT TO SUPERIOR COURT RULE 50, AND RULE 60 OF THE FEDERAL RULES OD CIVIL PROCEDURE, TO CORRECT RECORD TO REFLECT, DEFENADNT OAKLAND BENTA DID JOIN DEFENDANT DAILY NEWS' MOTION TO, DISMISS ON THE PLEADINGS, SUBMITTED BY MICHAEL JOSEPH, ESQ.	
872	09-02-2015 12:10 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENT IN THE OTHER DIVISION RECEIVED OF MOTION, FOR AN AWARD OF ATTORNEYS' FEES AND COSTS SUBMITTED BY KEVIN A., RAMES, ESQ.	
871	09-02-2015 12:10 AM	Motion - Motion For Attorney's Fees And Costs Received	Official		MOTION FOR ATTORNEY'S FEES AND COSTS AND PROPOSED ORDER RECEIVED, SUBMITTED BY KEVIN A. RAMES, ESQ.	
870	08-20-2015 12:10 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBER	
869	08-19-2015 12:10 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF MEMORANDUM OPINION AND ORDER DATED:, 08/19/2015, LEE J. ROHN, ESQ., VIA FAX EMAIL, KEVIN A. RAMES, ESQ., VIA FAX EMAIL, MARK W. ECKARD, ESQ., VIA EMAIL, JOEL H. HOLT, ESQ., VIA EMAIL, OAKLAND BENTA VIA EMAIL, JUDGES & MAGISTRATES, SUPERIOR COURT, IT DIVISION, ORDER BOOK, LAW LIBRARIAN	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
868	08-19-2015 12:10 AM	Order - Memorandum Opinion And Order	Official		MEMORANDUM OPINION AND ORDER SIGNED BY JUDGE DENISE M. FRANCOIS., ORDERED THAT DEFENDANTS DAILY NEWS' PUBLISHING CO., INC., AND LOWE, DAVIS' MOTION FOR SUMMARY JUDGMENT IS GRANTED. ORDERED THAT COUNT 1, OF PLAINTIFFS' FOURTH AMENDED COMPLAINT IS DISMISSED WITH PREJUDICE, AS TO DEFENDANTS DAILY NEWS PUBLISHING CO. INC., AND LOWE DAVIS., ORDERED THAT COUNT 1 OF PLAINTIFFS' FOURTH AMENDED COMPLAINT IS, DISMISSED WITH PREJUDICE AS TO DEFENDANT HOLLAND 'DYKE' REDFIELD., ETC.	
867	08-04-2015 12:10 AM	Motion - Reply Received	Official		RESPONSE TO REPLY TO MOTION FOR ENTRY OF DEFAULT FILED BY LEE J., ROHN, ESQ.	
866	07-21-2015 12:10 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBER (LAW CLERK ATTORNEY SHIELDS)	
865	07-20-2015 12:10 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED: 07/17/2015, LEE J. ROHN, ESQUIRE VIA FAX 773-2954, KEVIN A. RAMES, ESQUIRE VIA FAX 773-7282, MARK W. ECKARD, ESQUIRE VIA EMAIL mark@markeckard.com, JOEL H. HOLT, ESQUIRE VIA FAX 773-8677, OAKLAND BENTA VIA EMAIL oakland.benta@yahoo.com	
864	07-17-2015 12:10 AM	Order - Order Signed	Official		ORDERED THAT THE JURY SELECTION SCHEDULED FOR SEPTEMBER 8, 2015 IS, CANCELLED. ORDERED THAT THE FINAL PRETRIAL CONFERENCE SCHEDULED	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
863	06-29-2015 12:10 AM	Answer - Answer	Official		FOR, AUGUST 25, 2015 IS CANCELLED. ORDERED THAT ALL REMAINING DEADLIENS, IN THIS CASE ARE HEREBY STAYED PENDING DISPOSITION OF THE FIVE, ABOVE-MENTIONED MOTIONS. SIGNED BY JUDGE DENISE M. FRANCOIS.	
862	06-29-2015 12:10 AM	Motion - Reply Received	Official		ANSWER TO FOURTH AMENDED COMPLAINT AND AFFIRMATIVE DEFENSES RECEIVED, SUBMITTED BY OAKLAND BENTA, PRO SE	
861	06-22-2015 12:10 AM	Motion - Motion For Entry Of Default Received	Official		REPLY TO MOTION FOR ENTRY OF DEFAULT FILED BY JOEL H. HOLT, ESQUIRE, ATTACHMENT INCLUDED MOTION FOR ENTRY OF DEFAULT AGAISNT OAKLAND BENTA AND HOLLAND, REDFIELD FILED BY LEE J. ROHN, ESQUIRE, PROPOSED ORDER ATTACHED	
860	03-09-2015 12:10 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DEFENDANT OAKLAND BENTA'S MOTION TO JOIN DEFENDANT, VITELCO'S MOTION FOR JUDGMENT ON THE PLEADINGS DISMISSING SENATOR, DONASTORG'S DEFENDANT CLAIM AND DEFENDANT OAKLAND BENTA'S MOTION TO, JOIN DEFENDANT VITELCO'S MOTION FOR JUDGMENT ON THE PLEADINGS, DISMISSING ALL CLAIMS ASSERTED AGAINST VITELCO BY BENEDICTA, DONASTORG, ADLAH DONASTORG, SR., JOSEFINA DONASTORG, ELLA MORON AND, NORMA DURAN FILED BY MARK ECKARD, ESQ.	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
859	02-19-2015 12:10 AM	Order - Order Signed	Official		ORDERED THAT WITHIN 14 DAYS FROM THE DATE OF ENTRY OF THIS ORDER,, DEFENDANT, OAKLAND BENTA, WITH THE ASSISTANCE OF DEFENDANT,, VITELCO, SHALL FILE WITH THE COURT COPIES OF ALL FILINGS EVIDENCING, THAT HE HAS JOINED EACH OF DEFENDANT VITELCO'S FOUR MOTIONS FOR JUDGMENT ON THE PLEADINGS. ORDERED THAT NOTWITHSTANDING THE, PRECEDING INSTRUCTION THE COURT'S PROHIBITION ON FILING DOCUMENTS, WITH THE COURT REMAINS IN EFFECT. SIGNED BY JUDGE DENISE M., FRANCOIS.	
858	02-19-2015 12:10 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATEO:, 02/19/2015, LEE J. ROHN, ESQUIRE VIA FAX 773-2954, KEVIN A. RAMES, ESQUIRE VIA FAX 773-7282, MARK W. ECKARD, ESQUIRE VIA EMAIL mark@markeckard.com, JOEL H. HOLT, ESQUIRE VIA FAX 773-8677, OAKLAND BENTA VIA EMAIL oakland.benta@yahoo.com AND U.S. MAIL	
857	02-18-2015 12:10 AM	Notice - Notice Of Service	Official		NOTICE OF SERVICE OF PLAINTIFF'S REPSONSE TO DEF.'S REDFIELD'S SECOND, SET OF DEMAND FOR PRODUCTION OF DCOUMENTS FILED BY LEE J. ROHN,, ESQ.	
856	01-23-2015 12:10 AM	Hearing - Record Of Proceeding	Official		RECORD OF PROCEEDING COMPLETED. JUDGE DENISE M. FRANCOIS, CT., REPORTER: PERSHA WARNER, RHEA LAWRENCE,	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
855	01-23-2015 12:10 AM	Motion - Reply Received	Official		ESQ., FOR LEE J. ROHN,, ESQ., KEVIN RAMES, ESQ., MARK ECKARD, ESQ., CARL HARTMAN, III,, ESQ., FOR JOEL HOLT, ESQ., AND OAKLAND BENTA. THE MATTER CAME ON FOR, A MOTIONS HEARING. THE COURT HEARD ORAL ARGUMENT FROM THE PARTIES,, THE COURT RESERVED DECISION ON THE MOTIONS.	
854	01-23-2015 12:10 AM	Notice - Documents Received	Official		REPLY TO OPPOSITION TO SUPPLEMENTAL MOTION FOR SUMMARY, JUDGMENT-CIVIL CONSPIRACY, INVASION OF PRIVACY, INTENTIONAL, INFLICTION OF EMOTIONAL DISTRESS, SUBMITTED BY SEMAJ JOHNSON, ESQ.	
853	01-12-2015 12:10 AM	Notice - Documents Received	Official		PLAINITFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY, JUDGMENT AND BRIEF IN SUPPORT FILED BY LEE J. ROHN, ESQUIRE.	
852	01-07-2015 12:10 AM	Motion - Reply Received	Official		DEFENDANT REDFIELD'S JOINDER IN VITELCO'S RULE 12 MOTION FILED BY, JOEL HOLT, ESQUIRE.	
851	01-07-2015 12:10 AM	Notice - Notice Of Filing Received	Official		REPLY TO OPPOSITION TO MOTION FOR SUMMARY JUDGMENT AND NOTIFE OF, FILING DOCUMENTS IN THE OTHER DIVISION FILED BY KEVIN RAMES, ESQ.	
					NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION SUPPLEMENTAL MOTION, FOR SUMMARY JUDGMENT-CIVIL CONSPIRACY. INVASION OF PRIVACY,, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, SUBMITTED BY	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
850	01-07-2015 12:10 AM	Notice - Notice	Official		KEVIN RAMES, ESQ. NOTICE OF PRODUCTION FILED BY LEE J. ROHN, ESQUIREW	
849	12-15-2014 12:10 AM	Notice - Documents Received	Official		PLAITNIFF'S RESPONSE TO DEFENDANTS' ALLEGED STATEMENT OF MATERIAL FACTS ABOUT WHICH THERE IS NO GENUINE ISSUE FILED BY ATTY. ROHN.	
848	12-15-2014 12:10 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED:, 12/12/2014, LEE J. ROHN, ESQUIRE VIA FAX 773-2954, KEVIN A. RAMES, ESQUIRE VIA FAX 773-7282, MARK W. ECKARD, ESQ., VIA EMAIL mark@markeckard.com, OAKLAND BENTA VIA EMAIL oakland.benta@yahoo.com, JOEL H. HOLT, ESQUIRE VIA FAX 773-8677	
847	12-15-2014 12:10 AM	Notice - Documents Received	Official		PLAINTIFF'S APPENDIX VOLUME VI FILED BY LEE J. ROHN, ESQ.	
846	12-12-2014 12:10 AM	Order - Order Signed	Official		ORDERED THAT PLAINTIFFS' EMERGENCY MOTION FOR CONTINUANCE OF ORAL, ARGUMENT TO JANUARY 23, 2015 IS GRANTED. ORDERED THAT ORAL ARGUMENT, ON ALL OUTSTANDING MOTIONS FOR JUDGMENT ON THE PLEADINGS PRESENTLY, SCHEDULED FOR DECEMBER 15, 2014 IS CONTINUED TO JANUARY 23, 2015, BEGINNING AT 11:00 A.M. ORDERED THAT THE HEARING SCHEDULED FOR, DECEMBER 15, 2014 IS CANCELLED. SIGNED BY JUDGE DENISE M. FRANCOIS.	
845	12-12-2014 12:10 AM	Motion - Motion To Continue	Official		EMERGENCY MOTION FOR CONTINUANCE OF ORAL ARGUMENT TO JANUARY	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					23., 2015 AND PROPOSED ORDER FILED BY RHEA LAWRENCE, ESQ.	
844	12-11-2014 12:10 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING MOTION IN ANOTHER DIVISION, REQUEST TO BE, EXCUSED FROM HEARING IN ST. CROIX DIVISION OF THE SUPERIOR COURT, SUBMITTED BY JOEL HOLT, ESQ.	
843	12-08-2014 12:10 AM	Motion - Motion Received	Official		MOTION FOR LEAVE TO FILE PLAINTIFFS' APPENDIX VOLUME VI UNDER SEAL, AND PROPOSED ORDER FILED BY LEE J. ROHN, ESQUIRE.	
842	12-08-2014 12:10 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER (3) DATED; 12/05/2014, LEE J. ROHN, ESQUIRE VIA FAX 773-2954, KEVIN A. RAMES, ESQUIRE VIA FAX 773-7282, MARK W. ECKARD, ESQ., VIA EMAIL mark@markeckard.com, OAKLAND BENTA VIA EMAIL oakland.benta@yahoo.com, JOEL H. HOLT, ESQUIRE VIA FAX 773-8677	
841	12-05-2014 12:10 AM	Order - Order Signed	Official		ORDERED THAT PLAINTIFFS' MOTION FOR LEAVE TO FILE PLAINTIFFS', APPENDIX VOLUME VI UNDER SEAL IS DENIED. SIGNED BY JUDGE DENISE M., FRANCOIS.	
840	12-05-2014 12:10 AM	Order - Order Signed	Official		ORDERED THAT DAILY NEWS AND DAVIS' AMENDED MOTION TO STRIKE, PLAINTIFF'S [SIC] OPPOSITION TO MOTION FOR SUMMARY JUDGMENT, (CORRECTED CERTIFICATE OF SERVICE) IS DENIED. ORDERED THAT, PLAINTIFFS' MOTION FOR LEAVE TO FILE BRIEF IN EXCESS OF PAGE LIMIT, IS GRANTED. SIGNED BY	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	File Date	Docket Entry Type	Status	Outcome	Description	Submitted By
839	12-05-2014 12:10 AM	Order - Order Signed	Official		JUDGE DENISE M. FRANCOIS. ORDERED THAT DAILY NEWS AND DAVIS' MOTION TO CONTINUE ORAL ARGUMENT, ON MOTION FOR SUMMARY JUDGMENT FOR FURTHER EXTENSION OF TIME TO, FILE REPLY TO OPPOSITION TO MOTION FOR SUMMARY JUDGMENT AND FOR, OTHER RELIEF IS GRANTED. ORDERED THAT ORAL ARGUMENT ON DAILY NEWS, AND DAVIS' MOTION FOR SUMMARY JUDGMENT SHALL BE HELD ON JANUARY 23,, 2015, AT 11:00 A.M. ORDERED THAT THE ORAL ARGUMENTS ON ALL, REMAINING MOTIONS FOR JUDGMENT ON THE PLEADINGS SHALL PROCEED AS, SCHEDULED ON DECEMBER 15, 2014. ETC. SIGNED BY JUDGE DENISE M., FRANCOIS.	
838	12-04-2014 12:10 AM	Case Initiation - Response To Linking Document Received	Official		RESPONSE TO MOTION TO CONTINUE ORAL ARGUMENT FILED BY RHEA LAWRENCE,, ESQ.	
837	12-03-2014 12:10 AM	Case Initiation - Petitioner's Response	Official		RESPONSE TO NOTICE OF JOINDER FILED BY DEFENDANT HOLLAND REDFIELD, FILED BY LEE J. ROHN, ESQUIRE	
836	12-03-2014 12:10 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DISCOVERY REQUEST RECEIVED, SUBMITTED BY JOEL HOLT, ESQ.	
835	11-21-2014 12:10 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DISCOVERY REQUEST FILED BY JOEL H. HOLT, ESQUIRE	
834	11-20-2014 12:10 AM	Notice - Documents Received	Official		PLAINTIFF'S APPENDIX VOLUME VII TO PLAINTIFF'S RESPONSE TO, DEFENDANTS' ALLEGED	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					STATEMENT OF MATERIAL FACTS ABOUT WHICH THERE IS, NO GENUINE ISSUE FILED BY LEE J. ROHN, ESQ.	
833	11-20-2014 12:10 AM	Notice - Documents Received	Official		PLAINTIFF'S APPENDIS VOLUME V TO PLAINTIFF'S RESPONSE TO DEFENDANTS', ALLEGED STATEMENT OF MATERIAL FACTS ABOUT WHICH THERE IS NO GENUINE, ISSUE FILED BY LEE J. ROHN, ESQ.	
832	11-20-2014 12:10 AM	Notice - Documents Received	Official		PLAINTIFF'S APPENDIX VOLUME IV TO PLAINTIFF'S RESPONSE TO, DEFENDANTS' ALLEGED STATEMENT OF MATERIAL FACTS ABOUT WHICH THERE IS, NO GENUINE ISSUE FILED BY LEE J. ROHN, ESQ.	
831	11-20-2014 12:10 AM	Notice - Documents Received	Official		PLAINTIFF'S APPENDIX VOLUME III TO PLAINTIFF'S RESPONSE TO, DEFENDANTS' ALLEGED STATEMENT OF MATERIAL FACTS ABOUT WHICH THERE IS, NO GENUINE ISSUE FILED BY LEE J. ROHN, ESQ.	
830	11-20-2014 12:10 AM	Notice - Documents Received	Official		PLAINTIFF'S APPENDIX VOLUME II TO PLAINTIFF'S RESPONSE TO, DEFENDANTS' ALLEGED STATEMENT OF MATERIAL FACTS ABOUT WHICH THERE, IS NO GENUINE ISSUE FILED BY LEE J. ROHN, ESQ.	
829	11-20-2014 12:10 AM	Notice - Documents Received	Official		PLAINTIFF'S APPENDIX VOLUME 1 TO PLAINTIFF'S RESPONSE TO DEFENDANT'S, ALLEGED STATEMENT OF MATERIAL FACTS ABOUT WHICH THERE IS NO GENUINE,	

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Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
828	11-20-2014 12:10 AM	Notice - Documents Received	Official		ISSUE FILED BY LEE J. ROHN, ESQ. PLAINTIFFS' AMENDED RESPONSE TO DEFENDANTS' ALLEGED STATEMENT OF, MATERIAL FACTS ABOUT WHICH THERE IS NO GENUINE ISSUE FILED BY LEE, J. ROHN, ESQ.	
827	11-19-2014 12:10 AM	Motion - Reply Received	Official		REPLY TO PLAINTIFF'S OPPOSITION TO DAILY NEWS PUBLISHING COMPANY,, INC. AND LOWE DAVIS' MOTION TO STRIKE PLAINTIFF'S OPPOSITION TO, MOTION FOR SUMMARY JUDGMENT, SUBMITTED BY KEVIN RAMES, ESQ.	
826	11-19-2014 12:10 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION DAILY NEWS, PUBLISHING, INC. AND LOWE DAVIS' AMENDED MOTION TO STRIKE, PLAINTIFF'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT, SUBMITTED BY KEVIN RAMES, ESQ.	
825	11-19-2014 12:10 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION MOTION FOR LEAVE TO, FILE BRIEF IN EXCESS OF PAGE LIMIT AND ORDER, SUBMITTED BY RHEA LAWRENCE, ESQ.	
824	11-19-2014 12:10 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION PLAINTIFFS', RESPONSE TO DEFENDANTS' ALLEGED STATEMENT OF MATERIAL FACTS ABOUT, WHICH THERE IS NO GENUINE ISSUE, SUBMITTED BY RHEA LAWRENCE, ESQ.	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
823	11-19-2014 12:10 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, PALINTIFFS', RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND BRIEF IN, SUPPORT, SUBMITTED BY RHEA LAWRENCE, ESQ.	
822	11-14-2014 12:10 AM	Notice - Documents Received	Official		JOINDER IN DEFENDANT'S MOTION FOR SUMMARY JUDGMENT FILED BY JOEL H., HOLT, ESQ.	
821	11-14-2014 12:10 AM	Answer - Answer	Official		ANSWER OF DEFENDANT HOLLAND REFIELD TO FOURTH AMENDED COMPLAINT FILED, BY JOEL H. HOLT, ESQ.	
820	11-12-2014 12:09 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED:, 11/10/2014, LEE J. ROHN, ESQUIRE VIA FAX 773-2954, KEVIN A. RAMES, VIA FAX 773-7282, MARK W. ECKARD, ESQUIRE VIA EMAIL mark@markeckard.com, OAKLAND BENTA VIA EMAIL oakland.benta@yahoo.com, JOEL H. HOLT, ESQUIRE VIA FAX 773-8677	
819	11-12-2014 12:09 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBER	
818	11-10-2014 12:09 AM	Order - Order Signed	Official		ORDERED THAT PLAINTIFFS SHALL HAVE THROUGH NOVEMBE 17, 2014 TO FILE, THEIR RESPONSE IN OPPOSITION TO DAILY NEWS' MOTION FOR SUMMARY, JUDGMENT. ORDERED THAT THE COURT SHALL HEAR ORAL ARGUMENTS ON ALL, OUTSTANDING DISPOSITIVE MOTIONS IN THIS MATTER ON DECEMBER 15,, 2014, AT 2:30 P.M. ETC. SIGNED BY JUDGE DENISE M.	

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Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					FRANCOIS.	
817	11-10-2014 12:09 AM	Notice - Notice Of Filing Received	Official		REQUEST FOR A DATE CERTAIN FOR THE FILING OF THE PLAINTIFFS' OPPOSITION TO MOTION FOR SUMMARY JUDGMENT, PROPOSED ORDER AND NOTICE, OF FILING IN OTHER DIVISION FILED BY KEVIN A. RAMES, ESQ.	
816	10-29-2014 12:09 AM	Notice - Notice Of Service	Official		NOTICE OF SERVICE OF COURT ORDER DATED OCTOBER 14, 2014 FILED BY, JEFFREY B.C. MOOREHEAD, ESQUIRE...	
815	10-29-2014 12:09 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN ANOTHER DIVISION RESPONSE TO OCTOBER, 14, 2014 COURT ORDER, SUBMITTED BY KEVIN RAMES, ESQ.	
814	10-29-2014 12:09 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN ANOTHER DIVISION DEFENDANTS DAILY, NEWS PUBLISHING CO., INC., AND LOWE DAVIS'S ANSWER TO FOURTH, AMENDED COMPLAINT, SUBMITTED BY KEVIN RAMES, ESQ.	
813	10-28-2014 12:09 AM	Case Initiation - Response To Linking Document Received	Official		RESPONSE TO SECOND MOTION FOR EXTENTION OF TIME FILED BY ATTORNEY, KEVIN RAMES	
812	10-28-2014 12:09 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN ANOTHER DIVISION FILED BY ATTORNEY, KEVIN RAMES	
811	10-27-2014 12:09 AM	Notice - Notice of Appearance	Official		NOTICE OF APPEARANCE RECEIVED FROM JOEL H. HOLT, ESQ	
810	10-24-2014 12:09 AM	Notice - Notice of Appearance	Official		NOTICE OF APPEARANCE FOR DEFENDANT FILED BY ATTORNEY JOEL HOLT (FOR, HOLLAND REDFIELD)	
809	10-22-2014 12:09 AM	Notice - Notice Of Filing Received	Official		AMENDED NOTICE OF FILING FILED BY LEE J.	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					ROHN, ESQ	
808	10-17-2014 12:09 AM	Motion - Motion For Extension Of Time Received	Official		SECOND MOTION FOR EXTENSION OF TIME AND PROPOSED ORDER FILED BY RHEA, LAWRENCE, ESQ.	
807	10-17-2014 12:09 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION FILED BY ATTORNEY, LEE ROHN	
806	10-17-2014 12:09 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION NOTICE OF FILING, SUBMITTED BY LEE J. ROHN, ESQ.	
805	10-15-2014 12:09 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED: 10/15/2014, LEE J. ROHN, ESQUIRE VIA FAX 773-2954, KEVIN A. RAMES, ESQUIRE VIA FAX 773-7282, MARK W. ECKARD, ESQUIRE VIA EMAIL mark@markeckard.com, OAKLAND BENTA VIA EMAIL oakland.benta@yahoo.com AND U.S. MAIL, HOLLAND REOFIELD VIA U.S. MAIL	
804	10-15-2014 12:09 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBER	
803	10-15-2014 12:09 AM	Order - Order Signed	Official		ORDERED THAT PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME IS, GRANTED. ORDERED THAT PLAINTIFFS SHALL FILE THEIR RESPONSE TO, DEFENDANTS DAILY NEWS AND DAVIS' MOTION FOR SUMMARY JUDGMENT ON OR, BEFORE OCTOBER 17, 2014. ORDERED THAT DAILY NEWS AND DAVIS SHALL, FILE THEIR REPLY TO PLAINTIFFS' RESPONSE WITHIN 14 DAYS AFTER, SERVICE OF PLAINTIFFS' RESPONSE. SIGNED BY JUDGE DENISE M., FRANCOIS.	

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Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
802	10-14-2014 12:09 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED:, 10/14/2014, LEE J. ROHN, ESQUIRE VIA FAX 773-2954, KEVIN A. RAMES, ESQUIRE VIA FAX 773-7282, MARK W. ECKARD, ESQUIRE VIA EMAIL mark@markeckard.com, OAKLAND BENTA VIA EMAIL oakland.benta@yahoo.com AND U.S. MAIL, HOLLAND REDFIELD VIA U.S. MAIL, JEFFREY B.C. MOOREHEAD, ESQUIRE VIA FAX 773-8659	
801	10-14-2014 12:09 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBER	
800	10-14-2014 12:09 AM	Order - Order Signed	Official		ORDERED THAT PLAINTIFFS' MOTION TO AMEND THE COMPLAINT IS GRANTED., ORDERED THAT ATTORNEY JEFFREY MOOREHEAD'S MOTION TO BE RELIEVED AS, COUNSEL FOR DEFENDANT OAKLAND BENTA IS GRANTED. ORDERED THAT, ATTORNEY KEVIN RAMES' MOTION TO BE RELIEVED AS COUNSEL FOR HOLLAND, 'DYKE' REDFIELD IS GRANTED. ORDERED THAT THIS MATTER IS SCHEDULED, FOR A FINAL PRETRIAL CONFERENCE ON AUGUST 25, 2015, AT 9:30 A.M., AND JURY SELECTION ON SEPTEMBER 8, 2015 AT 9:00 A.M. ETC. SIGNED BY, JUDGE DENISE M. FRANCOIS.	
799	10-07-2014 12:09 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN ANOTHER DIVISION RECEIVED FROM ATTY., RAMES WITH NOTICE OF RE-FILING ALL PLEADINGS IN SEPTEMBER 4, 2014, MOTION FOR SANCTIONS	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
798	10-07-2014 12:09 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED: 10/06/2014, LEE J. ROHN, ESQUIRE VIA FAX 773-2954, KEVIN A. RAMES, ESQUIRE VIA FAX 773-7282, MARK W. ECKARD, ESQUIRE VIA EMAIL mark@markeckard.com, OAKLAND BENTA VIA EMAIL oakland.benta@yahoo.com, HOLLAND REDFIELD	
797	10-07-2014 12:09 AM	Action - File Forwarded To Official Judge's Chambers			FILE FORWARDED TO JUDGE'S CHAMBER	
796	10-06-2014 12:09 AM	Order - Order Signed	Official		ORDERED THAT THE PARTIES' ATTORNEYS SHALL MEET AND CONFER AND, DETERMINE AND PLAINTIFFS' ATTORNEY SHALL FILE NOTICE WITH THE COURT, NO LATER THAN OCTOBER 15, 2014 ON WHICH OF THE TWO ABOVE-MENTIONED, DATES THE PARTIES WILL BE AVAILABLE FOR ORAL ARGUMENT ON ALL, OUTSTANDING DISPOSITIVE MOTIONS. SIGNED BY JUDGE DENISE M., FRANCOIS.	
795	10-03-2014 12:09 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING RECEIVED FROM LEEJ. ROHN, ESQ	
794	10-02-2014 12:09 AM	Notice - Substitution Of Counsel Received	Official		STIPULATION FOR SUBSTITUTION OF COUNSEL FOR OAKLAND BENTA FILED BY, JEFFREY B. C. MOORHEAD, ESQUIRE & OAKLAND BENTA, PROPOSED ORDER ATTACHED	
793	10-01-2014 12:09 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN ANOTHER DIVISION OPPOSITION TO, UNOPPOSED MOTION FOR EXTENSION OF TIME, SUBMITTED BY KEVIN RAMES, ESQ.	

JA000023

Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
792	09-24-2014 12:09 AM	Motion - Motion Received	Official		UNOPPOSED MOTION FOR EXTENSION OF TIME FILED BY RHEA LAWRENCE, ESQ, PROPOSED ORDER ATATCH	
791	09-18-2014 12:09 AM	Notice - Documents Received	Official		FAXED COPY OF MOTION TO APPEAR VIA TELEPHONE AT STATUS CONFERENCE, SCHEDULED FOR SEPTEMBER 18, 2014 AT 9:45 A.M. AND PROPOSED ORDER, FILED BY MARK ECKARD, ESQ.	
790	09-18-2014 12:09 AM	Hearing - Record Of Proceeding	Official		RECORD OF PROCEEDING COMPLETED. JUDGE DENISE M. FRANCOIS, CT., REPORTER: PERSHA WARNER, LEE J. ROHN, ESQ., KEVIN RAMES, ESQ., JEFFREY B.C. MOOREHEAD, ESQ., AND MARK W. ECKARD, ESQ. THE MATTER, CAME ON FOR A STATUS CONFERENCE. THE COURT ORDERED AS FOLLOWS: 1), THE PARTIES SHALL MEET, CONFER AND FILE A REVISED SCHEDULING ORDER., 2) THE MATTER SHALL BE SCHEDULED FOR JURY SELECTION ON 9/8/15 AT, 9:00 A.M. AND FINAL PRETRIAL CONFERENCE ON AUGUST 25, 2015, AT 9:30, A.M. ETC.	
789	09-18-2014 12:09 AM	Notlce - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED: 09/18/2014, LEE J. ROHN, ESQUIRE, KEVIN A. RAMES, ESQUIRE, MARK W. ECKARD, ESQUIRE, JEFFREY B.C. MOOREHEAD, ESQUIRE	
788	09-18-2014 12:09 AM	Order - Order Signed	Official		ORDERED THAT DEFENDANT VITELCO'S (MARK ECKARD, ESQ.) MOTION TO, APPEAR VIA TELEPHONE AT STATUS CONFERENCE SCHEDULED FOR SEPTEMBER 1, 8, 2014,	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
787	09-12-2014 12:09 AM	Notice - Notice Of Entry	Official		AT 9:45 A.M. IS GRANTED. SIGNED BY JUDGE DENISE M., FRANCOIS. NOTICE OF ENTRY OF ORDER DATED:, 09/12/2014, LEE J. ROHN, ESQUIRE VIA FAX 773-2954, KEVIN A. RAMES, ESQUIRE VIA FAX 773-7282, MARK W. ECKARD, ESQUIRE VIA EMAIL mark@markeckard.com, JEFFREY B.C. MOOREHEAD, ESQUIRE VIA FAX 773-8659	
786	09-12-2014 12:09 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED:, 09/11/2014, LEE J. ROHN, ESQUIRE VIA FAX 773-2954, KEVIN A. RAMES, ESQUIRE VIA FAX 773-7282, MARK W. ECKARD, ESQUIRE VIA EMAIL mark@markeckard.com, JEFFREY B.C. MOOREHEAD, ESQUIRE VIA FAX 773-8659	
785	09-12-2014 12:09 AM	Order - Order Signed	Official		ORDERED THAT THE MOTION TO APPEAR AT STATUS CONFERENCE, TELEPHONICALLY ON SEPTEMBER 18, 2014, WHICH WAS FILED BY DEFENDANTS, DAILY NEWS PUBLISHING COMPANY, INC., AND LOWE DAVIS IS GRANTED., SIGNED BY JUDGE DENISE M. FRANCOIS.	
784	09-11-2014 12:09 AM	Order - Order Signed	Official		ORDERED THAT DEFENDANT OAKLAND BENTA'S MOTION TO APPEAR AT STATUS, CONFERENCE TELEPHONICALLY ON SEPTEMBER 18, 2014, IS GRANTED., SIGNED BY JUDGE DENISE M. FRANCOIS.	
783	09-04-2014 12:09 AM	Motion - Motion Received	Official		DEFENDANT OAKLAND BENTA'S MOTION TO APPEAR AT STATUS	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
782	08-29-2014 12:09 AM	Notice - Notice Of Filing Received	Official		CONFERENCE, TELEPHONICALLY & PROPOSED ORDER FILED BY JEFFREY B.C. MOOREHEAD,, ESQUIRE. NOTICE OF FILING DOCUMENTS IN TH OTHER DISVISION, MOTION TO APPEAR, TELEPHONICALLY IN STATUS CONFERENCE SCHEDULED FOR SEPTEMBVER 18,, 2014 AND ORDER, SUBMITTED BY KEVIN RAMES, ESQ.	
781	08-18-2014 12:09 AM	Motion - Motion To Withdraw As Counsel Received	Official		JEFFREY B.C. MOOREHEAD'S MOTION TO BE RELIEVED AS COUNSEL FOR, DEFENDANT OAKLAND BENTA AND PROPOSED ORDER FILED BY JEFFREY B.C., MOOREHEAD, ESQ.	
780	08-13-2014 12:09 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED:, 08/13/2014, LEE J. ROHN, ESQUIRE VIA FAX 773-2954, KEVIN A. RAMES, ESQUIRE VIA FAX 773-7282, MARK W. ECKARO, ESQUIRE VIA EMAIL mark@markeckard.com, JEFFREY B.C. MOOREHEAD, ESQUIRE VIA FAX 773-8659	
779	08-13-2014 12:09 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBER LAW CLERK, ATTORNEY SHIELDS.	
778	08-13-2014 12:09 AM	Order - Order Signed	Official		ORDERED THAT THE HEARING PREVIOUSLY SCHEDULED FOR AUGUST 8, 2014, SHALL BE RESCHEDULED TO 9:45 A.M. ON SEPTEMBER 18, 2014. SIGNED BY, JUDGE DENISE M. FRANCOIS.	
777	08-07-2014 12:09 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, MOTION TO APPEAR, A STATUS CONFERENCE	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
776	08-05-2014 12:09 AM	Notice - Notice	Official		TELEPHONICALLY AND ORDER, SUBMITTED BY KEVIN RAMES, ESQ. NOTICE OF RULE 56.1 EXTENSION OF TIME FILED BY RHEA LAWRENCE, ESQ	
775	08-01-2014 12:09 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN ANOTHER DIVISION, STIPULATION TO, WITHDRAW AS COUNSEL, SUBMITTED BY KEVIN RAMES, ESQ. & HOLLAND REDFIELD	
774	07-30-2014 12:09 AM	Motion - Motion Received	Official		DAILY NEWS AND LOWE DAVIS' MOTION TO FILE BRIEF IN EXCESS OF TWENTY, (20) PAGES AND ORDER, SUBMITTED BY KEVIN RAMES, ESQ. & SEMAJ JOHNSON, ESQ.	
773	07-30-2014 12:09 AM	Notice - Notice To The Court Received	Official		DEFENDANTS' STATEMENT OF MATERIAL FACTS ABOUT WHICH THERE IS NO, GENUINE ISSUE, SUBMITTED BY KEVIN RAMES, ESQ.	
772	07-30-2014 12:09 AM	Motion - Motion For Summary Judgment Received	Official		DAILY NEWS PUBLISHING COMPANY, INC. AND LOWE DAVIS' MOTION FOR, SUMMARY JUDGMENT, MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' DAILY, NEWS PUBLISHING COMPANY, INC. AND JANE LOWE DAVIS' MOTION FOR, SUMMARY JUDGMENT, SUBMITTED BY KEVIN RAMES, ESQ.	
771	07-02-2014 12:09 AM	Action - Direct Judge Reassignment	Official		DIRECT JUDGE REASSIGNMENT FROM: AGC TO: DMF	
770	07-02-2014 12:09 AM	Hearing - Hearing	Official		STATUS HEARING/CONFERENCE SCHEDULED 08/08/2014 10:30 A.M.	
769	06-24-2014 12:09 AM	Order - Order Signed	Official		ORDER SIGNED BY HON. DENISE M. FRANCOIS, STATUS CONFERENCE	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					CONTINUED TO FRIDAY, AUGUST 8, 2014 AT 10:30AM	
768	06-24-2014 12:09 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED JUNE 24, 2014	
767	06-19-2014 12:09 AM	Motion - Motion To Continue	Official		MOTION TO CONTINUE THE JULY 11, 2014 STATUS CONFERENCE FAXED BY LEE, J. ROHN, ESQUIRE, PROPOSED ORDER ATTACHED	
766	05-30-2014 12:09 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF TWO ORDERS DATED MAY 29, 2014	
765	05-29-2014 12:09 AM	Order - Order Signed	Official		ORDER SIGNED BY HON. DENISE M. FRANCOIS, STIPULATION FOR SUBSTITUTION OF COUNSEL IS APPROVED	
764	05-29-2014 12:09 AM	Order - Order Signed	Official		ORDER SIGNED BY HON. DENISE M. FRANCOIS, STATUS CONFERENCE SCHEDULED FOR FRIDAY, JULY 11, 2014 AT 9:45AM	
763	04-18-2013 12:09 AM	Motion - Motion To Withdraw As Counsel Received	Official		SUBSTITUTION OF COUNSEL RECEIVED, SUBMITTED BY GERALD T. GRONER, ESQ. & MARK ECKARD, ESQ.	
762	09-17-2012 12:09 AM	Motion - Reply Received	Official		PLAINTIFFS' REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO RECONSIDER REFUSAL TO RECONSIDER RECUSAL FILED BY LEE J. ROHN, ESQ.	
761	09-13-2012 12:09 AM	Motion - Motion Received	Official		MOTION FOR EXTENSION OF TIME FILED BY LEE ROHN, ESQ.	
760	09-13-2012 12:08 AM	Motion - Motion For Extension Of Time Received	Official		MOTION FOR EXTENSION OF TIME, PROPOSED ORDER FILED BY LEE J. ROHN, ESQUIRE	
759	09-05-2012 12:08 AM	Motion - Motion For Extension Of Time Received	Official		MOTION FOR EXTENSION OF TIME, PROPOSED ORDER ATTACHED	
758	08-27-2012 12:08 AM	Motion - Reply Received	Official		PLAINTIFFS' RESPONSE TO	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
757	08-27-2012 12:08 AM	Case Initiation - Opposition To Motion Received	Official		DEFENDANT OAKLAND BENTA'S MOTION TO JOIN, VITELCO'S MOTION FOR JUDGMENT ON THE PLEADINGS PLAINTIFFS' OPPOSITION TO VITELCO'S MOTION FOR JUDGMENT ON THE, PLEADINGS, PROPOSED ORDER ATTACHED	
756	08-17-2012 12:08 AM	Motion - Motion Received	Official		MOTION TO RECONSIDER DENIAL OF MOTION TO RECONSIDER FILED BY LEE J., ROHN, ESQUIRE	
755	08-16-2012 12:08 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION OPPOSITION TO, MOTION TO RECONSIDER REFUSAL TO RECONSIDER RECUSAL, SUBMITTED BY KEVIN RAMES, ESQ.	
754	07-26-2012 12:08 AM	Motion - Motion For Extension Of Time Received	Official		MOTION FOR EXTENSION OF TIME AND PROPOSED ORDER FILED BY E. GEOFFREY, WOLFE, ESQUIRE.	
753	07-10-2012 12:08 AM	Motion - Motion Received	Official		MOTION FOR EXTENSION OF TIME & PROPOSED ORDER FILED BY, LEE J. ROHN, ESQUIRE	
752	05-30-2012 12:08 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION MOTION FOR, EXTENSION OF TIME AND ORDER, SUBMITTED BY LEE J. ROHN, ESQ.	
751	05-23-2012 12:08 AM	Motion - Motion Received	Official		DEFENDANT'S OAKLAND BENTA'S MOTION TO JOIN DEFENDANT VITELCO'S, MOTION FOR JUDGMENT ON THE PLEADINGS DISMISSING SENATOR DONASTORG'S, DEFAMATION CLAIM FILED BY JEFFREY B.C. MOOREHEAD, ESQUIRE.	
750	05-23-2012 12:08 AM	Motion - Motion Received	Official		DEFENDANT'S OAKLAND	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					BENTA'S MOTION TO JOIN DEFENDANT VITELCO'S, MOTION FOR JUDGMENT ON THE PLEADINGS DISMISSING ALL CLAIMS ASSERTED, AGAINST VITELCO BY BENEDICTA DONASTORG, ADLAH DONASTORG, SR., JOSEFINA DONASTORG ELLA MORON AND NORMA DURAN FILED BY JEFFREY B.C., MOOREHEAD, ESQUIRE.	
749	04-11-2012 02:48 PM	Notice - Letter/Document Received	Official		Letter to Venetia Valazquez, Clerk of the Court requesting the docket sheet	
748	02-29-2012 12:08 AM	Response - Opposition Received	Official		NOTICE OF NO OPPOSITION FILED BY LEE J. ROHN, ESQ.	
747	02-24-2012 12:08 AM	Notice - Notice To The Court Received	Official		NOTICE TO THE COURT FILED BY LEE J. ROHN, ESQ.	
746	02-03-2012 12:08 AM	Motion - Motion To Withdraw As Counsel Received	Official		NOTICE OF FILLING DOCUMENT IN THE OTHER DIVISION, MOTION TO BE RELIEVED AS COUNSEL FOR HOOLAN 'DYKE' REDFIELD AND, ORDER, SUBMITTED BY KEVIN RAMES, ESQ.	
745	01-11-2012 12:08 AM	Response - Opposition Received	Official		(2) OPPOSITION FILED BY LEE J. ROHN, ESQ., FOR THE FOLLOWING;; 1-PLAINTIFFS' OPPOSITION TO VITELCO'S MOTION FOR JUDGMENT ON THE, PLEADINGS DISMISSING SENATOR DONASTORG'S CLAIMS FOR (I)TORTIOUS, INTERFERENCE (II)INVASION OF PRIVACY (III)INTENTIONAL OR NEGLEGENT, INFLICTION OF EMOTIONAL DISTRESS AND (IV)PUNITIVE DAMAGES, 2-PLAINTIFS' OPPOSITION TO MOTION FOR JUDGMENT ON THE PLEADINGS, DISMISSING ALL CLAIMS ASSERTED AGAINST VITEL CO BY	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
744	01-11-2012 12:08 AM	Motion - Memorandum Of Law Received	Official		<p>BENEDICTA, DONASTOR, ADLAH DONASTORG, SR., JOSEPHINA DONASTORG AND ELLA MORON.</p> <p>(2) MEMORANDUM OF LAW FILED BY LEE J. ROHN, ESQ., FOR THE FOLLOWING; 1- PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT VITELCO'S, MOTION FOR JUDGMENT ON THE PLEADINGS DISMISSING ALL CLAIMS ASSERTED, AGAINST VITELCO FOR FAILURE TO ALLEGE A CONNECTION BETWEEN VITELCO, AND ANY OF THE PURPORTED WRONGS ALLEGED IN THE THIRD AMENDED, COMPLAINT., 2-PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT VITELCO'S, MOTION FOR JUDGMENT ON THE PLEADINGS DISMISSING SENATOR DONASTORG'S, DEFAMATION CLAIMS.</p>	
743	01-11-2012 12:08 AM	Motion - Motion Received	Official		<p>{2} MOTIONS FILED BY LEE J. ROHN, ESQ., FOR THE FOLLOWING; 1-MOTION TO FILE PLAINTIFFS' OPPOSITON TO DEFENDANT VITELCO'S MOTION, FOR JUDGMENT ON THE PLEADINGS DISMISSING SENATOR DONASTORG'S, DEFAMATION CLAIMS IN EXCESS OF 20 PAGES. FILED WITH PROPOSED ORDER, 2- MOTION TO FILE PLAINTIFFS' OPPOSITION TO DEFENDANT VITELCO'S, MOTION FOR JUDGMENT ON THE PLEADINGS DISMISSING ALL CLAIMS ASSERTED, AGAINST</p>	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
742	01-11-2012 12:08 AM	Motion - Motion Received	Official		VITELCO FOR FAILURE TO ALLEGE A CONNECTION BETWEEN VITELCO, AND ANY OF THE PURPORTED WRONGS ALLEGED IN THE THIRD AMENDED, COMPLAINT IN EXCESS OF 20 PAGES. FILED WITH PROPOSED ORDER (2) MOTIONS FILED BY LEE J. ROHN, ESQ., FOR THE FOLLOWING; 1-MOTION TO FILE PLAINTIFFS' OPPOSITION TO VITELCO'S MOTION FOR JUDGMENT ON THE PLEADINGS DISMISSING SENATOR DONASTORG'S CLAIMS FOR, (I)TORTIOUS INTERFERENCE (II)INVASION OF PRIVACY (III)INTENTIONAL, OR NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS AND (IV)PUNITIVE, DAMAGES IN EXCESS OF 20 PAGES. FILED WITH PROPOSED ORDER, 2-MOTION TO FILE PLAINTIFFS' OPPOSITION TO MOTION FOR JUDGMENT ON, THE PLEADINGS DISMISSING ALL CLAIMS ASSERTED AGAINST VITELCO BY, BENEDICTA DONASTORG, ADLAH DONASTORG, SR., JOSEPHINA DONASTORG AND, ELLA MORON IN EXCESS OF 20 PAGES. FILED WITH PROPOSED ORDER	
741	11-30-2011 12:08 AM	Notice - Notice To The Court Received	Official		NOTICE TO THE COURT RECEIVED, SUBMITTED BY LEE J. ROHN, ESQ.	
740	11-29-2011 12:08 AM	Response - Opposition Received	Official		PLAINTIFF'S OPPOSITION TO VITELCO'S MOTION TO FILE INVESTIGATIVE, REPORT UNDER SEAL FILED BY LEE J. ROHN, ESQ.	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
739	11-14-2011 12:08 AM	Motion - Motion Received	Official		MOTION FOR JUDGMENT ON THE PLEADINGS DISMISSING ALL CLAIMS ASSERTED, AGAINST VITELCO BY BENEDICTA DONASTORG, ADLAH DONASTORG, SR., JOSEFINA DONASTORG AND ELLA MORON, SUBMITTED BY MARK ECKARD, ESQ.	
738	11-14-2011 12:08 AM	Motion - Memorandum Of Law Received	Official		VITELCO'S MEMORANDUM OF LAW IN SUPPORT OF VITELCO'S MOTION FOR, JUDGMENT ON THE PLEADINGS DISMISSING SENATOR DONASTORG'S CLAIMS, AGAINST VITELCO FOR (i) TORTIOUS INTERFERENCE, (ii) INVASION OF, PRIVACY, (iii) INTENTIONAL OR NEGLIGENT INFLECTION OF EMOTIONAL, DISTRESS AND (iv) PUNITIVE DAMAGES, SUBMITTED BY MARK ECKARD, ESQ.	
737	11-14-2011 12:08 AM	Motion - Memorandum Of Law Received	Official		VITELCO'S MEMORANDUM OF LAW IN SUPPORT OF VITELCO'S MOTION FOR, JUDGMENT ON THE PLEADINGS DISMISSING ALL CLAIMS ASSERTED AGAINST, VITELCO BY BENEDICTA DONASTORG, ADLAH DONASTORG, SR., JOSEFINA DONASTORG AND ELLA MORON, SUBMITTED BY MARK ECKARD, ESQ.	
736	11-14-2011 12:08 AM	Motion - Motion Received	Official		VITELCO'S MOTION FOR JUDGMENT ON THE PLEADINGS DISMISSING SENATOR, DONASTORG'S CLAIMS FOR (i) TORTIUS INTERFFRENCE, (ii) INVASION OF, PRIVACY, (iii) INTENTIONAL OR NEGLIGENT INFLECTION OF EMATIONAL, DISTRESS AND	

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Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
735	11-14-2011 12:08 AM	Notice - Notice Of Filing Received	Official		(iv) PUNITIVE DAMAGES AND ORDER, SUBMITTED BY MARK ECKARD, ESQ. NOTICE OF FILING DOCUMENTS IN OTHER DIVISION RECEIVED, SUBMITTED BY MARK ECKARD, ESQ.	
734	11-10-2011 12:08 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, VITELCO'S OMNIBUS, MOTION TO FILE BRIEFS IN EXCESS OF TWENTY PAGES, ORDER, VITELCO'S, MOTION FOR JUDGMENT ON THE PLEADINGS DISMISSING ALL CLAIMS ASSERTED, AGAINST VITELCO FOR FAILURE TO ALLEGE A CONNECTION BETWEEN VITELCO, AND ANY OF THE PURPORTED WRONGS ALLEGED IN THE THIRD AMENDED, COMPLAINT AND ORDER, SUBMITTED BY MARK ECKARD, ESQ.	
733	11-10-2011 12:08 AM	Motion - Memorandum Of Law Received	Official		VITELCO'S MEMEORANDUM OF LAW IN SUPPORT OF VITELCO'S MOTION FOR, JUDGMENT ON THE PLEADINGS DISMISSING SENATOR DONASTORG'S DEFAMATION, CLAIM, SUBMITTED BY MARK ECKARD, ESQ.	
732	11-10-2011 12:08 AM	Motion - Memorandum Of Law Received	Official		VITELCO'S MEMORANDUM OF LAW IN SUPPORT OF VITELCO'S MOTION FOR, SUMMARY JUDGMENT ON THE PLEADINGS DISMISSING ALL CLAIMS ASSERTED, AGAINST VITELCO FOR FAILURE TO ALLEGE A CONNECTION BETWEEN VITELCO, AND ANY OF THE PURPORTED WRONGS ALLEGED IN THE THIRD	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
731	11-10-2011 12:08 AM	Motion - Motion Received	Official		AMENDED, COMPLAINT, SUBMITTED BY MARK ECKARD, ESQ. VITELCO'S MOTION TO FILE INVESTIGATIVE REPORT UNDER SEAL AND ORDER, SUBMITTED BY MARK ECKARD, ESQ.	
730	11-10-2011 12:08 AM	Motion - Motion Received	Official		VITELCO'S MOTION FOR JUDGMENT ON THE PLEADINGS DISMISSING SENATOR, DONASTORG'S DEFAMATION CLAIM, AND ORDER, SUBMITTED BY MARK ECKARD, ESQ.	
729	10-12-2011 12:08 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED, 10/12/2011, LEE J. ROHN, ESQUIRE, JEFFREY B.C. MOOREHEAD, ESQUIRE, KEVIN RAMES, ESQUIRE, MARK W. ECKARD, ESQUIRE	
728	10-12-2011 12:08 AM	Order - Order Signed	Official		ORDER SIGNED & ENTERED BY JUDGE HOLLAR, IT IS ORDERED THAT, PLAINTIFFS' MOTION TO RECONSIDER IS GRANED HOWEVER GIVEN THE, OPPOSITION AND A NEW POSSIBLE "APPEARANCE OF IMPROPRIETY" BECAUSE OF, LITIGATION BETWEEN COUNSEL FOR PLAINTIFF AND THE UNDERSIGNED'S, ASSIGNED MARSHAL, IT IS ORDERED THAT JUDGE BRENDA HOLLAR SHALL, DECLINE TO BE REINSTATED AS THE PRESIDING JUDGE IN THIS MATTER	
727	10-05-2011 12:08 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN OTHER DIVISION-REPLY TO OPPOSITION TO, PLAINTIFF'S MOTION TO COMPEL VITELCO TO SUPPLEMENT ITS RESPONSES TO, PLAINTIFF'S	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
726	08-16-2011 12:08 AM	Response - Opposition Received	Official		SECOND DEMAND FOR PRODUCTION OF DOCUMENTS, STIPULATION, OF TIME AN ORDER, SUBMITTED BY RHEA LAWRENCE, ESQ.	
725	08-05-2011 12:08 AM	Notice - Stipulation Received	Official		UNOPPOSED MOTION FOR EXTENSION OF TIME FILED BY RHEA LAWRENCE, ESQ., ATTACHED WITH PROPOSED ORDER.	
724	07-20-2011 12:08 AM	Notice - Stipulation Received	Official		STIPULATION FOR EXTENSION OF TIME AND PROPOSED ORDER FILED BY LEE J., ROHN, ESQUIRE.	
723	07-05-2011 12:08 AM	Notice - Notice Of Filing Received	Official		STIPULATION FOR EXTENSION OF TIME FILED BY LEE J. ROHN, ESQ.	
722	06-30-2011 12:08 AM	Motion - Motion For Extension Of Time Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION RECEIVED FROM MARK, ECKARD, ESQ. WITH RESPONSE IN OPPOSITION TO MOTION TO COMPEL, DEFENDANT VITELCO TO SUPPLEMENT ITS RESPONSES TO PLAINTIFF ADLAH, DONASTORG'S SECONO DEMAND FOR PRODUCTION OF DOCUMENTS WITH EXHIBIT, A-THIRO AMENDED COMPLAINT; EXHIBIT B- INVOICE; EXHIBIT C-COPY OF, CHECK; & EXHIBIT D-RESPONSES AND OBJECTIONS OF VIRGIN ISLANDS TELE-, PHONE CORPORATION TO PLAINTIFF ADLAH DONASTORG'S SECOND OEMAND FOR, PRODUCTION OF DOCUMENTS ATTACHED	
					APPLICATION FOR EXTENSION OF TIME TO RESPOND IN OPPOSITION TO MOTION, TO COMPEL	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					DEFENDANT VITELCO TO SUPPLEMENT ITS RESPONSES TO PLAINTIFF, ADLAH DONASTORG'S SECOND DEMAND FOR PRODUCTION OF DOCUMENTS, AND ORDER, SUBMITTED BY MARK ECKARD, ESQ.	
721	06-21-2011 12:08 AM	Motion - Motion to Compel	Official		MOTION TO COMPEL DEFENDANT VITELCO TO SUPPLEMENT IT RESPONSES TO, PLAINTIFF'S SECOND DEMAND FOR PRODUCTION OF DOCUMENTS WITH EXHIBITS, ATTACHED AND PROPOSED ORDER FILED BY LEE J. ROHN, ESQUIRE.	
720	06-09-2011 12:08 AM	Response - Opposition Received	Official		OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL SUPPLEMENTAL RESPONSES, TO DEMAND FOR PRODUCTION RECEIVED FROM ATTY. KEVIN A. RAMES ALONG, WITH EXHIBIT A ATTACHED	
719	06-07-2011 12:08 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING RECEIVED OF AMENDED NOTICE OF SERVICE RECEIVED, FROM ATTY. KEVIN A. RAMES	
718	06-07-2011 12:08 AM	Motion - Motion to Compel	Official		MOTION TO COMPEL DEFENDANTS TO PROPERLY RESPOND TO WRITTEN DISCOVERY, WITH EXHIBITS ATTACHED AND PROPOSED ORDER FILED BY LEE J. ROHN,, ESQUIRE.	
717	06-07-2011 12:08 AM	Motion - Motion to Compel	Official		MOTION TO COMPEL DEFENDANT DAILY NEWS TO SUPPLEMENT RESPONSES TO, PLAINTIFF'S (SECOND) DEMAND FOR PRODUCTION OF DOCUMENTS WITH, ATTACHMENTS AND PROPOSED ORDER FILED BY LEE J. ROHN, ESQUIRE.	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
716	06-04-2011 12:08 AM	Notice - Notice To The Court Received	Official		NOTICE OF SERVICE OF DEFENDANT J. LOW DAVIS' RESPONSE TO DEMAND FOR, PRODUCTION, SUBMITTED BY KEVIN RAMES, ESQ.	
715	06-02-2011 12:08 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, NOTICE OF SERVICE, OF DEFENDANT DAILY NEWS PUBLISHING CO., INC.'S RESPONSE TO, PLAINTIFF'S INTERROGATORIES AND NOTICE OF SERVICE OF DEFENDANT J., LOWE DAVIS RESPONSE TO PLAINTIFF'S INTERROGATORIES, SUBMITTED BY KEVIN RAMES, ESQ.	
714	06-01-2011 12:08 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION AND NOTICE OF, SERVICE OF DEFENDANT DAILY NEWS PUBLISHING CO., INC.'S RESPONSES, TO PLAINTIFF ADLAH DONASTORG, JR.'S DEMAND FOR PRODUCTION OF, DOCUMENTS, SUBMITTED BY KEVIN RAMES, ESQ.	
713	03-07-2011 12:08 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION WITH VITELCO'S, RESPONSE IN OPPOSITION TO PLAINTIFF SENATOR DONASTORG'S MOTION TO, RECONSIDERATION RECUSAL RECEIVED FROM ATTY. MARK W. ECKARD	
712	03-04-2011 12:08 AM	Response - Opposition Received	Official		OPPOSITION TO MOTION TO RECONSIDERATION RECEIVED FROM ATTY. KEVIN A., RAMES	
711	02-25-2011 12:08 AM	Motion - Motion Received	Official		MOTION TO RECONSIDER RECUSAL WITH PROPOSED ORDER ATTACHEO FILED BY,	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francols
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
710	02-23-2011 12:08 AM	Motion - Motlon Received	Official		LEE J. ROHN, ESQ. MOTION TO LIFT THE STAY AS TO JEFFREY PROSSER RECEIVED, FILED BY, LEE J. ROHN, ESQ.	
709	02-15-2011 12:08 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF MARTY SCHLADEN FILED BY LEE ROHN,, ESQ.	
708	02-03-2011 12:08 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF MARTY SCHLADEN FILED BY LEE J. ROHN, ESQ.	
707	12-29-2010 12:08 AM	Order - Order Bankruptcy Stayed	Official		NOTICE OF LIFTING OF BANKRUUPTCY STAY AS TO INNOVATIVE COMMUNICATION, CORPORATION FILED BY LEE J. ROHN, ESQ., PROPOSED ORDER FILED BY LEE J. ROHN, ESQ.	
706	12-08-2010 12:08 AM	Case Initiation - Miscellaneous	Official		NOTICE OF FILING DOCUMENTS ON THE OTHER DIVISION	
705	12-07-2010 12:08 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION RECEIVED FROM, SUPERIOR COURT OF THE VIRGIN ISLANDS DIVISON OF ST. CROIX ATTACHED, WITH AMENDED NOTICE OF SERVICE OF DEFENDANT DAILY NEWS PUBLISHING, CO. INC RESPONSE TO PLAINTIFF'S DEMAND FOR PRODUCTION OF DOCUMENTS, FILED BY KEVIN A. RAMES, ESQ.	
704	12-02-2010 12:08 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING FILED BY KEVIN A. RAMES, ESQ.	
703	11-29-2010 12:08 AM	Notice - Notice To The Court Received	Official		NOTICE OF SERVICE PURSUANT TO LRCi 26.1 OF RESPONSES AND OBJECTIONS, OF VIRGIN ISLANDS TELEPHONE CORPORATION TO PLAINTIFF ADLAH, DONASTROG'S SECOND	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francols
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
702	11-24-2010 12:08 AM	Notice - Notice To The Court Received	Official		DEMAND FOR PRODUCTION OF DOCUMENTS RECEIVED FROM, ATTY. MARK ECKARD	
701	11-24-2010 12:08 AM	Notice - Notice To The Court Received	Official		NOTICE OF SERVICE OF DEFENDANT DAILY NEWS PUBLISHING CO. INC, RESPONSE TO PLAINTIFF'S DEMAND FOR PRODUCTION OF DOCUMENTS RECEIVED, FROM ATTY. KEVIN RAMES	
700	10-26-2010 12:08 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION RECEIVED FROM ATTY., KEVIN RAMES WITH NOTICE OF SERVICE OF DEFENDANT DAILY NEWS, PUBLISHING CO. INC RESPONSE TO PLAINTIFF'S DEMAND FOR, PRODUCTION OF DOCUMENTS	
699	10-26-2010 12:07 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF PLAINTIFF ADLAH DONASTORG'S SECOND DEMAND FOR, PRODUCTION OF DOCUMENTS TO DEFENDANT VITELCO FILED BY LEE ROHN, ESQ.	
698	10-18-2010 12:07 AM	Action - Direct Judge Reassignment	Official		NOTICE OF SERVICE OF PLAINTIFF ADLAH DONASTORG'S DEMAND FOR, PRODUCTION OF DOCUMENTS TO DEFENDANT DAILY NEWS FILED BY LEE ROHN,, ESQ.	
697	10-12-2010 12:07 AM	Notice - Notice Of Filing Received	Official		DIRECT JUDGE REASSIGNMENT FROM: BJH TO: AGC	
					NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION AND NOTICE OF SERVICE OF DEFENDANT DAILY NEWS' SUPPLEMENTAL RULE 26 DISCLOSURES, SUBMITTED BY KEVIN RAMES, ESQ.	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
696	09-23-2010 12:07 AM	Order - Proposed Order	Official		PROPOSED ORDER RECEIVED	
695	09-23-2010 12:07 AM	Motion - Motion Received	Official		DEFENDANT OAKLAND BENTA'S MOTION FOR PROTECTIVE ORDER RESCHEDULING, OF HIS DEPOSITION RECEIVED	
694	09-14-2010 12:07 AM	Case Initiation - Opposition To Motion Received	Official		OPPOSITION TO MOTION FOR EXTENSION OF TIMEE AND/OR STAY OF DISCOVERY, AND ENTRY OF A DISCOVERY ORDER FILED BY LEE J. ROHN, ESQ	
693	09-14-2010 12:07 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF SUBPOENA FILED BY LEE J. ROHN, ESQ.	
692	09-14-2010 12:07 AM	Notice - Documents Received	Official		OFFICIAL TRANSCRIPT FOR JURY STATUS HEARING ON MARCH 19, 2010, RECEIVED.	
691	09-14-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		SEVENTH AMENDED NOTICE OF DEPOSITION OF J. LOWE DAVIS FILED BY LEE, J. ROHN, ESQ.	
690	09-14-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		FIFTH AMENDED NOTICE OF 30(B)(6) DEPOSITION OF VITELCO FILED BY LEE, J.ROHN, ESQ.	
689	09-14-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		SECOND AMENDED NOTICE OF DEPOSITION OF MIKE CUMBERBATCH RECEIVED	
688	09-10-2010 12:07 AM	Case Initiation - Opposition To Motion Received	Official		OPPOSITION TO MOTION FOR PROTECTIVE ORDER RECEIVED	
687	09-08-2010 12:07 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY MARK ECKARD, (MOTION FOR PROTECTIVE ORDER RESCHEDULING, DEPOSITIONS OF VITELCO AND MICHAEL CUMBERMACK)	
686	09-01-2010 12:07 AM	Service - Subpoena Received	Official		NOTICE OF SERVICE OF SUBPOENA RECEIVED FILED BY LEE J. ROHN, ESQ.	
685	09-01-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		SEVENTH AMENDED NOTICE OF DEPOSITION OF	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
684	09-01-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		JASON ROBBINS RECEIVED FILED, BY LEE J. ROHN, ESQ. AMENDED NOTICE OF DEPOSITION OF MIKE CUMBERBATCH RECEIVED FILED, BY LEE J. ROHN, ESQ.	
683	08-27-2010 12:07 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY MARK ECKARD, (MOTION FOR (i) EXTENSION OF TIME AND/OR STAY OF, DISCOVERY AND (ii) ENTRY OF SCHEDULING ORDER FILED)	
682	08-26-2010 12:07 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO MIKE CUMBERBATCH	
681	08-24-2010 12:07 AM	Notice - Substitution Of Counsel Received	Official		SUBSTITUTION OF COUNSEL FOR VITELCO FILED, BY ATTY KEVIN RAMES AND ATTY MARK ECKARD	
680	08-23-2010 12:07 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF PLAINTIFF ADLAH DONASTORG'S SUPPLEMENTAL, VOLUNTARY DISCLOSURE PURSUANT TO RULE 26 RECEIVED FILED BY, LEE J. ROHN, ESQ.	
679	08-11-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF TAKING DEPOSITION FILED, BY ATTY KEVIN RAMES	
678	08-03-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF JENNIFER MATARANGAS-KING RECEIVED,, FILED BY LEE J. ROHN, ESQ.	
677	07-29-2010 12:07 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDERS, 07/26/2010, LEE J. ROHN, ESQ., KEVIN A. RAMES, ESQ., PAUL J. RUSKIN, ESQ.	
676	07-27-2010 12:07 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO JENNIFER MATARANGES-KING	
675	07-26-2010 12:07 AM	Order - Order Signed	Official		ORDER SIGNED BY JUDGE	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					BRENDA J. HOLLAR; IT IS ORDERED THAT PURSUANT, TO 4 V.I. CODE ANN. 284(4), THE UNDERSIGNED HEREBY RECUSES HERSELF, FROM THE ABOVE-CAPTIONED MATTER BECAUSE SHE IS CLOSE FRIENDS OF THE, CARTY FAMILY AND DARLENE CARTY-BAPTISTE THE WIFE OF PLAINTIFF'S, RUNNING MATE, SAMUEL BAPTISTE IN THE GUBERNATORIAL RACE OF 2010., THE FILE IS HEREBY RETURNED TO THE CLERK OF THE COURT FOR, REASSIGNMENT.	
674	07-21-2010 12:07 AM	Service - Subpoena Received	Official		NOTICE OF SERVICE OF SUBPOENAS FOR ELING JOSEPH AND JEFFREY PROSSER, RECEIVED FILED BY LEE J, ROHN, ESQ.	
673	07-19-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF JENNIFER MATARANGAS-KING FILED BY, LEE J. ROHN, ESQUIRE	
672	07-14-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		FOURTH AMENDED NOTICE OF DEPOSITION OF JEFFREY PROSSER FILED BY, LEE J. ROHN, ESQUIRE	
671	07-12-2010 12:07 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA RETURN FOR DAVID SHARP & AFFIDAVIT, OF PROCESS SERVER MICHAEL A. RICHARDSON SERVED 7/9/10	
670	07-01-2010 12:07 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY KEVIN RAMES, (DEFENDANTS DAILY NEWS PUBLISHING CO. INC., AND LOWE DAVIS' ANSWER TO THIRD AMENDED COMPLAINT)	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
669	06-29-2010 12:07 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO JEFFREY PROSSER	
668	06-29-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		THIRD AMENDED NOTICE OF DEPOSITION OF JEFFREY, PROSSER FILED BY ATTY LEE ROHN	
667	06-29-2010 12:07 AM	Service - Subpoena Received	Official		SUBPOENA SERVED ON JEFFREY PROSSER FILED BY ATTY LEE J ROHN	
666	06-24-2010 12:07 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY KEVIN RAMES	
665	06-24-2010 12:07 AM	Notice - Notice To The Court Received	Official		RE-NOTICE OF TAKING DEPOSITION RECEIVED BY ATTY. RAMES	
664	06-24-2010 12:07 AM	Notice - Notice To The Court Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION RECEIVED BY ATTY., ROHN.	
663	06-23-2010 12:07 AM	Service - Subpoena Issued	Official		SUBPOENA FILED FOR MIKE CUMBERBATCH. FILED BY LEE J. ROHN, ESQ.	
662	06-23-2010 12:07 AM	Service - Subpoena Issued	Official		SUBPOENA FILED FOR DAVID SHARP. FILED BY LEE J. ROHN, ESQ.	
661	06-23-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF MIKE CUMBERBATCH RECEIVED. FILED BY LEE J., ROHN, ESQ.	
660	06-23-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF DAVID SHARP RECEIVED. FILED BY LEE J. ROHN., ESQ.	
659	06-22-2010 12:07 AM	Case Initiation - Letter Received	Official		REQUEST FOR LETTERS ROGATORY PURSUANT TO 5 V.I.C 4921 FILED BY LEE, J. ROHN, ESQ.	
658	06-22-2010 12:07 AM	Case Initiation - Letter Received	Official		REQUEST FOR LETTER OF ROGATORY PURSUANT TO 5 V.I.C. 4921 FILED BY, LEE J. ROHN, ESQ.	
657	06-22-2010 12:07 AM	Service - Subpoena Received	Official		SUBPOENA FOR JOE MINOR RECEIVED	
656	06-22-2010 12:07 AM	Service - Subpoena Received	Official		SUBPOENA FOR JEFFREY PROSSER RECEIVED	
655	06-22-2010 12:07 AM	Notice - Notice Of	Official		SIXTH AMENDED NOTICE OF	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Deposition Received			DEPOSITION OF JASON ROBBINS RECEIVED	
654	06-22-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF DAVID SHARP RECEIVED	
653	06-22-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF MIKE CUMBERBATCH RECEIVED	
652	06-22-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF JENNIFER MATARANGAS-KING RECEIVED	
651	06-22-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF ELING JOSEPH RECEIVED	
650	06-22-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		SIXTH AMENDED NOTICE OF 30(B)(6) DEPOSITION OF DAILY NEWS RECEIVED	
649	06-22-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF BILLY SHIELDS RECEIVED	
648	06-22-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		FOURTH AMENDED NOTICE OF 30(B)(6) DEPOSITION OF VITELCO RECEIVED	
647	06-22-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF OAKLAND BENTA RECEIVED	
646	06-22-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		SIXTH AMENDED NOTICE OF DEPOSITION OF J. LOWE DAVIS RECEIVED	
645	06-22-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF JOE MINOR FILED BY LEE J. ROHN, ESQ.	
644	06-22-2010 12:07 AM	Notice - Notice Of Deposition Received	Official		SECOND AMENDED NOTICE OF DEPOSITION OF JEFFREY PROSSER FILED BY, LEE J. ROHN, ESQ.	
643	06-22-2010 12:07 AM	Order - Proposed Order	Official		PROPOSED ORDER LETTERS ROGATORY PURSUANT TO 5 V.I.C 4921 FILE BY, LEE J. ROHN, ESQ.	
642	06-22-2010 12:07 AM	Order - Proposed Order	Official		PROPOSED ORDER REQUEST FOR LETTERS ROGATORY PURSUANT TO 5 V.I.C 4921, FILED BY LEE J. ROHN, ESQ.	
641	06-22-2010 12:07 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO JENNIFER MATARANGAS-KING	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
640	06-22-2010 12:07 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO ELING JOSEPH	
639	06-07-2010 12:06 AM	Motion - Reply Received	Official		REPLY TO OPPOSITION OT MOTION TO QUASH SUBPOENA DUCES TECUM FILED BY, ATTY KEVIN RAMES	
638	05-25-2010 12:06 AM	Motion - Reply Received	Official		REPLY TO OPPOSITION TO MOTION TO STRIKE SUR-REPLY AND FOR SANCTIONS, FILED BY LEE J. ROHN, ESQ.	
637	05-21-2010 12:06 AM	Notice - Notice Of Filing Received	Official		PLAINTIFFS' OPPOSITION OT INNOVATIVE COMMUNICATION CORPORATRION'S, MOTION TO QUASH SUBPOENA DUCES TECUM AND PROPOSED ORDER FILED BY, ATTY LEE J ROHN	
636	05-17-2010 03:21 PM	Response - Reply	Official		Reply to Plaintiff's Response Kevin Rames, Esq. to Motion for Stay (Misabeled a Sur-Reply)	
635	05-17-2010 03:19 PM	Response - Opposition Received	Official		Opposition to Plaintiff's Motion to Strike Sur-Reply and for Sanctions	Kevin Rames, Esq.
634	05-17-2010 03:17 PM	Notice - Notice of Filing	Official		Notice of Filing Documents in the Other Division	Kevin Rames, Esq.
633	05-17-2010 12:06 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY KEVIN RAMES, (REPLY TO PLAINTIFF'S RESPONSE TO MOTION FOR STAY AND, OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE SUR-REPLY	
632	05-11-2010 12:06 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, NOTICE OF MOTION TO QUASH DEPOSITION SUBPOENA DUCES TECUM, MOTION TO QUASH SUBPOENA DUCES TECUM AND PROPOSED ORDER	KEVIN RAMES, ESQ.
631	05-10-2010 12:06 AM	Motion - Motion To Strike	Official		MOTION TO STRIKE SUR-	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Pleading Received			REPLY FOR SANCTIONS FILED BY LEE J. ROHN, ESQ.	
630	05-10-2010 12:06 AM	Motion - Reply Received	Official		RESPONSE TO MOTION FOR STAY (MISLABLED A SUR-REPLY) FILED BY LEE, J. ROHN, ESQ.	
629	05-05-2010 12:06 AM	Motion - Motion Received	Official		MOTION TO COMPEL DEFENDANT OAKLAND BENTA TO RESPOND TO WRITTEN, DISCOVERY & PROPOSED ORDER FILED BY LEE J. ROHN, ESQUIRE	
628	05-03-2010 12:06 AM	Motion - Reply Received	Official		REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR SANCTION, FILED BY LEE J. ROHN, ESQ.	
627	04-29-2010 12:06 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY KEVIN RAMES, (SUR-REPLY TO PLAINTIFFS' MOTION FOR SANCTION FOR, FAILURE TO COMPLY WITH THE COURT'S ORDERS DATED, MARCH 30, 2010)	
626	04-27-2010 12:06 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF PROOF OF SERVICE FILE BY LEE J. ROHN, ESQ.	
625	04-23-2010 12:06 AM	Order - Proposed Order	Official		PROPOSED ORDER RECEIVED	
624	04-23-2010 12:06 AM	Motion - Motion Received	Official		MOTION FOR SANCTION FOR FAILURE TO COMPLY WITH THE COURT'S ORDERS, DATED MARCH 30, 2010 FILED BY LEE J. ROHN, ESQ.	
623	04-20-2010 12:06 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION FILED BY ATTY KEMIN, RAMES	
622	04-20-2010 12:06 AM	Response - Opposition Received	Official		OPPOSITION TO PLAINTIFFS' MOTION FOR SACTION FOR FAILURE TO COMPLY, WITH THF COURT'S ORDER DATED MARCH 30, 2010 FILED BY ATTY KEVIN, RAMES	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
621	04-13-2010 12:06 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBERS (BJH)	
620	04-12-2010 12:06 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION DUCES TECUM RECEIVED	
619	04-12-2010 12:06 AM	Notice - Notice Of Filing Received	Official		NOTICE OF INTENT TO SERVE SUBPOENA FILED BY LEE J. ROHN, ESQ.	
618	04-09-2010 12:06 AM	Motion - Motion Received	Official		MOTION TO AMEND THE COMPLAINT FILED BY, LEE J. ROHN, ESQUIRE	
617	04-07-2010 12:06 AM	Notice - Demand for Discovery or Production of Documents	Official		PLAINTIFFS' DEMAND FOR PRODUCTION OF DEOCUMENTS TO DEFENTANT VITELCO, FILED BY LEE J. ROHN, ESQ.	
616	04-06-2010 12:06 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO STAN SPRINGEL, ESQUIRE AS TRUSTEE FOR BANKRUPTCY, ESTATE OF ICC.	
615	03-30-2010 12:06 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED, 03/30/2010, LEE J. ROHN, ESQUIRE, KEVIN A. RAMES, ESQUIRE, JEFFREY B.C. MOOREHEAD, ESQUIRE, PAUL J. RUSKIN, ESQUIRE	
614	03-30-2010 12:06 AM	Order - Order Signed	Official		ORDERS (7) SIGNED & ENTERED BY JUDGE HOLLAR, IT IS ORDERED THAT, PLAINTIFFS' MOTION TO COMPEL DEF. VITELCO TO SUPPLEMENT ITS, RESPONSES TO DISCOVERY IS DENIED; PLAINTIFFS' MOTION TO COMPEL, REDFIELD TO SUPPLEMENT HIS RESPONSES TO DISCOVERY IS GRANTED; DEF.'S, BENTA'S MOTION TO STAY DISCOVERY IS DENIED; DEF. BENTA'S MOTION TO, DISMISS BASED ON THE STATUTE OF LIMITATIONS IS DENIED WITHOUT, PREJUDICE; PLAINTIFF FILED A MOTION TO BE ALLOWED	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					TO TAKE IN EXCESS, OF TEN DEPOSITIONS, EACH PARTY HAS LEAVE TO TAKE A TOTAL OF 20, DEPOSITIONS; DEFS. DAVIS & DAILY NEWS MOTION FOR MORE DEFINATE, STATEMENT IS DENIED.	
613	03-29-2010 03:41 PM	Notice - Letter/Document Received	Official		Letter to Judge Brenda Hollar	Lee Rohn, Esq.
612	03-19-2010 12:06 AM	Hearing - Record Of Proceeding	Official		RECORD OF PROCEEDING PREPARED. PRIOR TO THE MATTER COMING ON FOR, HEARING ON MOTIONS. PARTIES PRESENT: ATTYs ROHN, RAMES & MOOREHEAD,, & COURT REPORTER, BELL	
611	03-19-2010 12:06 AM	Hearing - Hearing	Official		HEARING CONCLUDED	
610	03-17-2010 12:06 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED, 03/16/2010, LEE J. ROHN, ESQUIRE, KEVIN A. RAMES, ESQUIRE, PAUL J. RUSKIN, ESQUIRE, JEFFREY B.C. MOOREHEAD, ESQUIRE	
609	03-17-2010 12:06 AM	Hearing - Matter Rescheduled For Hearing	Official		MATTER RESCHEDULED FOR HEARING 03/19/2010 02:00 P.M.	
608	03-16-2010 12:06 AM	Order - Order Signed	Official		ORDER SIGNED & ENTERED BY JUDGE HOLLAR, GRANTING MOTION TO, RESCHEDULE THE STATUS/MOTION HEARIING.	
607	03-15-2010 12:06 AM	Order - Proposed Order	Official		PROPOSED ORDER RECEIVED	
606	03-15-2010 12:06 AM	Motion - Motion Received	Official		MOTION TO RESCHEDULE RECEIVED	
605	03-10-2010 12:06 AM	Case Initiation - Opposition To Motion Received	Official		OPPOSITION TO DEFENDANT OAKLAND BENTA'S MOTION FOR STAY OF ALL, DISCOVERY PENDING RULING ON MOTION TO DISMISS THIRD AMENDED, COMPLAINT & PROPSED ORDER	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
604	03-10-2010 12:06 AM	Hearing - Hearing	Official		FILED BY LEE J. ROHN, ESQUIRE STATUS HEARING/CONFERENCE SCHEDULED 03/19/2010 11:00 A.M.	
603	03-10-2010 12:06 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED, 03/09/2010, LEE J. ROHN, ESQUIRE, KEVIN A. RAMES, ESQUIRE, PAUL J. RUSKIN, ESQUIRE, JEFFREY B.C. MOOREHEAD, ESQUIRE	
602	03-09-2010 12:06 AM	Order - Order Signed	Official		ORDER SIGNED & ENTERED BY JUDGE HOLLAR SCHEDULING STATUS CONFERENCE, ON 3/19/2010	
601	03-02-2010 12:06 AM	Motion - Motion To Stay Received	Official		DEFENDANT OAKLAND BENTA'S MOTION FOR STAY OF ALL DISCOVERY PENDING, RULING ON MOTION TO DISMISS THIRD AMANEDDED COMPLAINT AS BEING BARRED, BY TWO YEARS STATUTE OF LIMITATIONS WITH PROPOSED ORDEDR FILED BY, JEFFREY B.C. MOOREHEAD, ESQ.	
600	02-18-2010 12:06 AM	Motion - Reply Received	Official		REPLY TO OPOSITION TO MOTION TO COMPEL VITELCO RECEIVED, FILED BY, LEE J. ROHN, ESQ.	
599	02-18-2010 12:06 AM	Case Initiation - Opposition To Motion Received	Official		OPPOSITION TO MOTION FOR CONTINUANCE RECEIVED, FILED BY LEE J. ROHN,, ESQ.	
598	02-18-2010 12:06 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBERS BJH	
597	02-17-2010 12:06 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED 02/17/2010 ISSUED TO, LEE J. ROHN, ESQ., KAVIN A. RAMES, ESQ., PAUL J. RUSKIN, FSQ., JEFFREY B. C. MOOREHEAD, ESQ.	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
596	02-16-2010 12:06 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF CANCELLATION OF 30(B)(6) DEPOSITION OF VITELCO, SUBMITTED BY LEE J. ROHN, ESQ.	
595	02-16-2010 12:06 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF CANCELLATION OF 30(B)(6) DEPOSITION OF DAILY NEWS, PUBLISHING CO, INC, SUBMITTED BY LEE J. ROHN, ESQ.	
594	02-16-2010 12:06 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF CANCELLATION OF DEPOSITION OF J. LOWE DAVIS RECEIVED, SUBMITTED BY LEE J. ROHN, ESQ.	
593	02-16-2010 12:06 AM	Order - Order Signed	Official		ORDER SIGNED BY JUDGE BRENDA J. HOLLAR, DATED 02/16/2010 STATING THAT, THIS MATTER CAME BEFORE THE COURT ON REQUEST BY JEFFREY B. C., MOOREHEAD, ESQ, COUNSEL FOR DEF. OKLAND BENTA FOR CONTINUANCE, BECAUSE OF HIS INABILITY TO RETURN TO THE VIRGIN ISLANDS FOR THE HEARING. COUNSEL FOR THE PLAINTIFF OPPOSES THE CONTINUANCE. THE, COURT HAVING BEEN ADVISED IN TEH PREMISES, HEREBY GRANTS OAKLAND, BENTA'S MOTION.	
592	02-16-2010 12:06 AM	Hearing - Hearing	Official		HEARING CANCELLED	
591	02-11-2010 12:06 AM	Notice - Discovery Received	Official		DISCOVERY RECEIVED- NOTICE OF CANCELLATION OF DEPOSITION OF, JASON ROBBINS FILED BY LEE J. ROHN, ESQUIRE	
590	02-11-2010 12:06 AM	Notice - Discovery Received	Official		DISCOVERY RECEIVED-FIFTH AMENDED NOTICE OF 30(B)(6) DEPOSITION OF, DAILY NEWS PUBLISHING CO., INC. ***AMENDED TO CHANGE TIME FILED BY, LEE J. ROHN, ESQUIRE	
589	02-11-2010 12:06 AM	Motion - Motion To	Official		MOTION FOR	JEFFREY B.C.

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Continue			CONTINUANCE OF THE HEARING SCHEDULED FOR WEDNESDAY FEBRUARY 17, 2010 AT 9:00 AM AND PROPOSED ORDER	MOORHEAD, ESQ.
588	02-11-2010 12:06 AM	Motion - Reply Received	Official		REPLY TO EXPEDITED MOTION FOR LEAVE TO SCHEDULE DEPOSITION FILED BY, LEE J. ROHN, ESQUIRE	
587	02-05-2010 02:28 PM	Response - Opposition Received	Official		Defendant Vitelco's Opposition to Plaintiff's Motion to Compel Defendant Vitelco to Supplement its Responses to Discovery	Kevin Rames, Esq.
586	02-05-2010 02:26 PM	Response - Dpposition Received	Official		Defendant Holland Redfield's Opposition to Plaintiff's Motion to Compel Defendant Redfield to Supplement his Responses to Discovery	Kevin Rames, Esq.
585	02-05-2010 12:06 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, NOTICE TO THE COURT AND ALL OTHER PARTIES AND OPPOSITION TO EXPEDITED MOTION FOR LEAVE TO SCHEDULE DEPOSITIONS	KEVIN RAMES, ESQ.
584	02-02-2010 12:06 AM	Motion - Reply Received	Official		REPLY TO OAKLAND AND BENTA'S OPPOSITION TO MOTION FOR SANCTIONS, FILED BY LEE J. ROHN, ESQUIRE	
583	02-02-2010 12:06 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBERS (BJH) WITH MOTION	
582	02-01-2010 02:33 PM	Notice - Letter/Document Received	Official		Letter to Judge Brenda Hollar	Lee J. Rohn, Esq.
581	01-29-2010 12:06 AM	Case Initiation - Opposition To Motion Received	Official		DEFENDANT OAKLAND BENTA'S OPPOSITION TO MOTION FOR SANCTIONS, AGAINST OAKLAND BENTA FOR FAILURE TO ATTEND DEPOSITION OR TO PARTICIPATE IN THE	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francols
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
580	01-29-2010 12:06 AM	Motion - Motion Received	Official		LITIGATION OF THIS CASE & PROPOSED ORDER FILED BY, JEFFREY B.C. MOOREHEAD, ESQUIRE	
579	01-27-2010 12:06 AM	Motion - Motion Received	Official		EXPEDITED MOTION FOR LEAVE TO SCHEDULE DEPOSITIONS & PROPOSED ORDER, FILED BY LEE J. ROHN, ESQUIRE	
578	01-27-2010 12:06 AM	Notice - Notice Of Entry	Official		MOTION TO RESCHEDULE HEARING WITH PROPOSED ORDER FILED BY LEE J., ROHN, ESQ.	
577	01-27-2010 12:06 AM	Order - Order Scheduling Hearing	Official		NOTICE OF ENTRY OF ORDER ISSUED TO, 01/26/2010. LEE J. ROHN, ESQ., KEVIN RAMES, ESQ., PAUL J. RUSKIN, ESQ., JEFFREY B.C. MOORHEAD, ESQ.	
576	01-26-2010 12:06 AM	Notice - Documents Received	Official		ORDER SCHEDULING DOCKET/CALENDAR CALL 02/17/2010 09:00 A.M.	
575	01-26-2010 12:06 AM	Order - Order Granting	Official		FAXED COPY OF MOTION TO RESCHEDULE HEARING RECEIVED, FILED BY LEE J., ROHN, ESQ.	
574	01-26-2010 12:06 AM	Order - Order Scheduling Hearing	Official		ORDER GRANTING MOTION SIGNED BY JUDGE BRENDA J. HOLLAR, THIS MATTER, HAVING COME BEFORE THE COURT ON PLAINTIFF'S MOTION TO RESCHEDULE, DATED JANUARY 20, 2010, AND THE COURT HAVING BEEN ADVISED IN THE PREMISES, IT IS ORDERED, THAT PLAINTIFF'S MOTION IS GRANTED; AND IT IS FURTHER ORDERED, THAT THIS MATTER IS RESCHEDULED TO WEDNESDAY,, FEBRUARY 17, 2010 AT 9:00 A.M., COURTROOM NO.1.	
					ORDER SCHEDULING DOCKET/CALENDAR CALL	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					01/27/2010 11:00 A.M.	
573	01-25-2010 12:06 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DISVISION AND PLAINTIFF'S, REPLY TO BENTA'S OPPOSITION TO MOTION TO RESCHEDULE THE HEARING, SUBMITTED BY LEE J. ROHN, ESQ.	
572	01-22-2010 12:05 AM	Case Initiation - Opposition To Motion Received	Official		DEFENDANT OAK AND BENTA'S OPPOSITION TO MOTION TO RESCHEDULE, HEARING FILED BY JEFFREY B.C. MOORHEAD, ESQUIRE	
571	01-19-2010 12:05 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED 01/19/2010 ISSUED TO, LEE J. ROHN, ESQ., JAFFREY B. MOORHEAD, ESQ., KEVIN RAMES, ESQ.	
570	01-15-2010 12:05 AM	Action - File Returned To Clerk's Office	Official		FILE RETURNED TO THE CLERKS OFFICE	
569	01-15-2010 12:05 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF PLAINTIFF SENATOR ADLAH DONASTORG, JR.'S DEMAND, FOR PRODUCTION OF DOCUMENTS TO DEFENDANT OAKLAND BENTA, NOTICE OF, SERVICE OF PLAINTIFF SENATOR ADLAH DONASTORG, JR.'S FIRST SET OF, INTERROGATORIES TO DEFENDANT OAKLAND BENTA FILED BY LEE J. ROHN,, ESQ.	
568	01-14-2010 12:05 AM	Order - Order Signed	Official		ORDER SIGNED BY JUDGE BRENDA J. HOLLAR, DATED 01/15/2010 STATING THAT, THIS MATTER IS SCHEDULED FOR CALENDAR CALL AND HEARING ON ALL, OUTSTANDING MOTIONS ON WEDNESDAY, JANUARY 27, 2010 AT 11:00 AM IN, COURTROOM NO. 1.	
567	12-30-2009 12:05 AM	Order - Proposed Order	Official		PROPOSED ORDER	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					RECEIVED	
566	12-30-2009 12:05 AM	Order - Proposed Order	Official		PROPOSED ORDER	
					RECEIVED	
565	12-30-2009 12:05 AM	Motlon - Motlon Received	Official		MOTION TO COMPEL DEFENDANT HOLLAND REDFIELD TO SUPPLEMENT HIS, RESPONSES TO DISCOVERY RECEIVED, FILED BY LEE J. ROHN, ESQ.	
564	12-30-2009 12:05 AM	Motion - Motion Received	Official		MOTION TO COMPEL DEFENDANT VITELCO TO SUPPLEMENT ITS RESPONSES TO, DISCOVERY RECEIVED, FILED BY LEE J. ROHN, ESQ.	
563	12-30-2009 12:05 AM	Motion - Motlon Received	Official		MOTION FOR SANCTIONS AGAINST OAKLAND BENTA FOR FAILURE TO ATTEND, DEPOSITION OR TO PARTICIPATE IN THE LITIGATION OF THIS CASE, RECEIVED, FILED BY LEE J. ROHN, ESQ.	
562	12-21-2009 12:05 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF ELIZABETH COGGINS RECEIVED, SUBMITTED BY LEE J. ROHN, ESQ.	
561	12-21-2009 12:05 AM	Service - Subpoena Received	Official		SUBPOENA RECEIVED ISSUED TO ELIZABETH COGGINS	
560	12-18-2009 12:05 AM	Notice - Notice Of Deposition Received	Official		THIRD AMENDED NOTICE OF 30(B)(6) DEPOSITION OF VITELCO FILED BY, LEE J. ROHN, ESQUIRE	
559	12-18-2009 12:05 AM	Notice - Notice Of Deposition Received	Official		FIFTH AMENDED NOTICE OF DEPOSITION OF JASON ROBBINS FILED BY, LEE J. ROHN, ESQUIRE	
558	12-18-2009 12:05 AM	Notice - Notice Of Deposition Received	Official		FOURTH AMENDED NOTICE OF 30(b)(6) DEPOSITION OF DAILY NEWS, PUBLISHING COMPANY, INC. FILED BY LEE J. ROHN, ESQUIRE	
557	12-18-2009 12:05 AM	Notice - Notice Of Deposition Received	Official		FIFTH AMENDED NOTICE OF DEPOSITION OF J. LOWE DAVIS FILED BY, LEE J. ROHN, ESQUIRE	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denlse M. Francols
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC, et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
556	12-17-2009 12:05 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING RECEIVED--NOTICE OF NON SERVICE OF SUPOENA WITH, EXHIBIT "1" ATTACHED FILED BY LEE J. ROHN, ESQUIRE.	
555	12-15-2009 12:05 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION AND NOTICE OF, SERVICE OF SUPPLEMENTAL RULE 26(a)(1) DISCLOSURES BY DEFENDANTS, REDFIELD AND VITELCO, SUBMITTED BY KEVIN RAMES, ESQ.	
554	12-04-2009 12:05 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUMMONS NOT SERVED ON MARILYN BAILEY WITH, AFFIDAVIT OF MICHAEL A. RICHARDS, PROCESS SERVER.	
553	12-03-2009 12:05 AM	Notice - Notice To The Court Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION BY ATTY. K. RAMES.	
552	12-03-2009 12:05 AM	Notice - Notice of Appearance	Official		NOTICE OF APPEARANCE FILED BY ATTY. K. RAMES, ESQ.	
551	11-23-2009 12:05 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY KEVIN RAMES, (REPLY BRIEF IN SUPPORT OF DEFENDANT DAILY NEWS, PUBLISHING COMPANY, INC. AND JANE LOWE DAVIS', MOTION TO DISMISS)	
550	11-13-2009 12:05 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING FOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY KEVIN RAMES, (STIPULATION FOR EXTENSION OF TIME)	
549	11-12-2009 12:05 AM	Notlce - Notice Of Deposition Received	Official		FOURTH AMENDED NOTICE OF DEPOSITION OF J. LOWE DAVIS, SECOND AMENDED, NOTICE OF 30(B)(6) DEPOSITION OF VITELCO,	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					AMENDED NOTICE OF, DEPOSITION OF JEFFREY PROSSER, NOTICE OF DEPOSITION OF OAKLAND, BENTA, SECOND AMENDED NOTICE OF DEPOSITION OF MARILYN BAILEY, FOURTH, AMENDED NOTICE OF DEPOSITION OF JASON ROBBINS FILED BY LEE J. ROHN,, ESQ.	
548	11-12-2009 12:05 AM	Action - File Forwarded To Official Judge's Chambers			FILE FORWARDED TO JUDGE'S CHAMBER	
547	11-10-2009 12:05 AM	Motion - Memorandum Of Law Received	Official		PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT, OAKLAND BENTA'S MOTION TO DISMISS AND MOTION TO STAY MOTION UNTIL, THE CLOSE OF FACTUAL DISCOVERY FILED BY LEE J. ROHN, ESQUIRE	
546	11-10-2009 12:05 AM	Motion - Memorandum Of Law Received	Official		PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS DAILYNEWS, PUBLISHING COMPANY, INC. AND JANE LOWE DAVIS' MOTION TO DISMISS,, RECEIVED.	
545	11-04-2009 12:05 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO JEFFREY PROSSER.	
544	11-04-2009 12:05 AM	Service - Subpoena Received	Official		SUBPOENA RECEIVED FOR MARILYN BAILEY FILED BY, LEE J. ROHN, ESQUIRE	
543	10-29-2009 12:05 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF 30(B)(6) DEPOSITION OF VITELCO FILED BY, LEE J. ROHN, ESQUIRE	
542	10-29-2009 12:05 AM	Notice - Notice Of Deposition Received	Official		THIRD AMENDED NOTICE OF DEPOSITION OF J. LOWE DAVIS FILED BY, LEE J. ROHN, ESQUIRE	
541	10-29-2009 12:05 AM	Notice - Notice Of Deposition Received	Official		THIRD AMENDED NOTICE OF DEPOSITION OF JASON ROBBINS FILED BY, LEE J.	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					ROHN, ESQUIRE	
540	10-29-2009 12:05 AM	Notice - Notice Of Deposition Received	Official		THIRD AMENDED NOTICE OF 30(B)(6) DEPOSITION OF DAILY NEWS, PUBLISHING COMPANY, INC. FILED BY LEE J. ROHN, ESQUIRE	
539	10-13-2009 12:05 AM	Case Initiation - Miscellaneous	Official		MISCELLANEOUS- NOTICE OF PRODUCTION RECEIVED	
538	10-07-2009 12:05 AM	Notice - Discovery Received	Official		DISCOVERY RECEIVED- NOTICE OF SERVICE OF PLAINTIFFS' NINTH, SUPPLEMENTAL VOLUNTARY DISCLOSURE PURSUANT TO RULE 26 FILE BY, LEE J. ROHN, ESQUIRE	
537	10-06-2009 12:05 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER, 10/05/2006. LEE J. ROHN, ESQ., JEFFREY B. C. MOOREHEAD, ESQ., KEVIN RAMES, ESQ., PAUL J. RUSKIN, ESQ.	
536	10-05-2009 12:05 AM	Order - Order Signed	Official		ORDERED THAT PLAINTIFFS' MOTION IS GRANTED; AND FURTHER; ORDERED, THAT THE PLAINTIFFS' SHALL HAVE AN EXTENSION OF TIME OF THIRTY(30), DAYS OR UNTIL THURSDAY, OCTOBER 22, 2009 TO RESPOND TO BRIEF IN, SUPPORT OF DEFENDANT DAILY NEWS PUBLISHING COMPANY, INC. AND JANE, LOWE DAVIS' MOTION TO DISMISS. ORDER SIGNED BY JUDGE BRENDA J., HOLLAR	
535	09-30-2009 12:05 AM	Motion - Motion For Extension Of Time Received	Official		TWO (2) MOTIONS FOR EXTENSION OF TIME WITH PROPOSED ORDERS FILED BY, LEE J. ROHN, ESQ.	
534	09-16-2009 12:05 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF PRODUCTION- ST. CROIX AVIS ARTICLE DATED AUGUST 26, 2009 &, VIRGIN ISLANDS DAILY NEWS ARTICEL DATED AUGUST 27, 2009 RECEIVED	
533	09-08-2009 12:05 AM	Notice - Stipulation	Official		STIPULATION FOR	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Received			EXTENSION OF TIME & PROPOSED ORDER FILED BY, BY ATTY. LEE ROHN AND ATTY. JEFFREY, MOORHEAD	
532	08-27-2009 12:05 AM	Motion - Motion Received	Official		DEFENDANT OAKLAND BENTA'S MOTION TO DISMISS THIRD AMENDED COMPLAINT, AS BEING BARRED BY TWO YEAR STATUTE OF LIMITATIONS FILED BY, JEFFREY B.C. MOOREHEAD, ESQUIRE	
531	08-18-2009 12:05 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, (MOTION TO FILE BRIEF IN EXCESS OF TWENTY (20), PAGES) FILED BY ATTY. KEVIN RAMES	
530	08-11-2009 12:05 AM	Notice - Notice To The Court Received	Official		DEFENDANT BENTA'S SELF-EXECUTING DISCLOSURES, FILED BY ATTY. JEFFREY MOORHEAD	
529	06-16-2009 12:05 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF PLAINTIFF ADLAH DONASTORG, JR.'S RESPONSE TO, DEFENDANTS' DEMAND FOR PRODUCTION OF DOCUMENTS FILED BY LEE J. ROHN,, ESQ.	
528	06-16-2009 12:05 AM	Notice - Discovery Received	Official		DISCOVERY RECEIVED- NOTICE OF SERVICE OF PLAINTIFF NORMA DURAN'S, RESPONSE TO DEFENDANTS' DEMAND FOR PRODUCTION OF DOCUMENTS; NOTICE, OF SERVICE OF PLAINTIFF BENEDICTA DONASTORG'S RESPONSE TO, DEFENDANTS' DEMAND FOR PRODUCTION OF DOCUMENTS; NOTICE OF SERVICE, OF PLAINTIFF ADLAH DONASTORG SR.'S RESPONSE TO DEFENDANTS', DEMAND	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
527	06-08-2009 12:05 AM	Notice - Stipulation Received	Official		FOR PRODUCTION OF DOCUMENTS; NOTICE OF SERVICE OF PLAINTIFF, JOSEFINA DONASTORG'S RESPONSE TO DEFENDANTS' DEMAND FOR PRODUCTION, OF DOCUMENTS & NOTICE OF SERVICE OF PLAINTIFF ELLA MORON'S RESPONSE, TO DEFENDANTS' DEMAND FOR PRODUCTION OF DOCUMENTS FILED BY, LEE J. ROHN, ESQUIRE	
526	05-26-2009 12:05 AM	Notice - Notice Of Filing Received	Official		STIPULATION TO EXTEND THE DISCOVERY DEADLINES & PROPOSED, SCHEDULING ORDER FILED.	
525	05-26-2009 12:05 AM	Motion - Reply Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. KEVIN RAMES	
524	05-21-2009 12:05 AM	Action - File Forwarded To Judge's Chambers	Official		REPLY TO OPPOSITION TO MOTION FOR A MORE DEFINITE, STATEMENT FILED BY ATTY. KEVIN RAMES	
523	05-21-2009 12:05 AM	Notice - Notice Of Entry	Official		FILE FORWARDED TO JUDGE'S CHAMBER (BJH) WITH MOTION & NOTICE OF ENTRY OF ORDER DATED, 05/19/2009, LEE J. ROHN, ESQUIRE, KEVIN A. RAMES, ESQUIRE, PAUL J. RUSKIN, ESQUIRE	
522	05-19-2009 12:05 AM	Order - Order Signed	Official		ORDER SIGNED BY JUDGE HOLLAR GRANTING THE PARTIES STIPULATION FOR, EXTENSION OF TIME	
521	05-19-2009 12:05 AM	Motion - Memorandum Of Law Received	Official		MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT'S MOTION FOR A MORE, DEFINITE STATEMENT & PROPOSED ORDER FILED BY, LEE J. ROHN, ESQUIRE	
520	05-19-2009 12:05 AM	Motion - Motion Received	Official		MOTION FOR ENTRY OF	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v, DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
519	05-18-2009 12:05 AM	Answer - Answer	Official		DEFAULT & ENTRY OF DEFAULT FILED BY, LEE J. ROHN, ESQUIRE DEFENDANT OAKLAND BENTA'S ANSWER TO THIRD AMENDED COMPLAINT FILED BY, JEFFERY B. C. MOORHEAD, ESQ.	
518	05-15-2009 12:05 AM	Notice - Stipulation Received	Official		STIPULATION FOR EXTENSION OF TIME AND PROPOSED ORDER FILED	
517	05-11-2009 12:05 AM	Notice - Notice of Appearance	Official		NOTICE OF APPEARANCE FILED BY JEFFREY B. C. MOOREHEAD, ESQ. FOR, DEFENDANT OAKLAND BENTA	
516	04-16-2009 12:05 AM	Notice - Notice To The Court Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. KEVIN RAMES	
515	04-16-2009 12:05 AM	Motion - Motion Received	Official		MOTION FOR AMORE DEFINITE STATEMENT UNDER RULE, 12(e) OF THE FEDERAL RULES OF CIVIL PROCEDURE, FILED BY ATTY. KEVIN RAMES	
514	04-16-2009 12:05 AM	Notice - Discovery Received	Official		NOTICE OF PROOF OF SERVICE FILED BY, LEE J. ROHN, ESQUIRE	
513	04-16-2009 12:05 AM	Notice - Discovery Received	Official		NOTICE OF SERVICE OF PLAINTIFF'S SUPPLEMENTAL VOLUNTARY DISCLOSURE, PURSUANT TO RULE 26 FILED BY LEE J. ROHN, ESQUIRE	
512	04-16-2009 12:04 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBER (BJH) WITH REPLY MEMO	
511	03-30-2009 12:04 AM	Answer - Answer	Official		DEFENDANT REDFIELD'S ANSWER TO THIRO AMENDED, COMPLAINT FILED BY ATTY. PAUL RUSKIN	
510	03-30-2009 12:04 AM	Answer - Answer	Official		DEFENDANT VITELCO'S ANSWER TO THIRD AMENDED, COMPIAINT FILED BY ATTY. PAUL	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
509	03-30-2009 12:04 AM	Notice - Notice Of Filing Received	Official		RUSKIN NOTICE OF FILING DOCUMENTS IN THE OTHER, DIVISION FILED BY ATTY. PAUL RUSKIN	
508	03-30-2009 12:04 AM	Notice - Discovery Received	Official		NOTICE OF SERVICE OF DEFENDANT VITELCO AND, REDFIELD'S THIRD SUPPLEMENTAL RULE 26(A)(1), DISCLOSURES FILED BY ATTY. PAUL	
507	03-27-2009 12:04 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED, 03/23/2009, LEE J. ROHN, ESQUIRE, KEVIN A. RAMES, ESQUIRE, PAUL J. RUSKIN, ESQUIRE	
506	03-26-2009 12:04 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF CANCELLATION OF PLAINTIFFS' DEPOSITION RECEIVED, SUBMITTED BY KEVIN RAMES, ESQ.	
505	03-26-2009 12:04 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION RECEIVED, SUBMITTED BY KEVIN RAMES, ESQ.	
504	03-23-2009 12:04 AM	Order - Order Signed	Official		ORDER SIGNED BY JUDGE HOLLAR GRANTING PLAINTIFF'S MOTION TO AMEND, COMPLAINT.	
503	03-23-2009 12:04 AM	Hearing - Record Of Proceeding	Official		RECORD OF PROCEEDING COMPLETED JURY PRETRIAL CONFERENCE, LEE J. ROHN, ESQ. (TELEPHONIC), PAUL J. RUSKIN, ESQ., KEVIN A. RAMES, ESQ., COURT REPROTER AVLYNE ADAMS, COURT CLERK II, AUDREY C. BRIN, THE COURT HEARD ARGUMENTS FROM PARTIES WITH RESPECT TO MOTIONS, FILED. THERE BEING NO OPPOSITION TO THE PROTECTIVE ORDER., JUDGE BRENDA J. HOLLAR SIGNED IT.	
502	03-23-2009 12:04 AM	Motion - Reply Received	Official		REPLY MEMORANDUM OF LAW IN FURTHER SUPPORT	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Out come	Description	Submitted By
					OF PLAINTIFFS MOTION TO, AMEND THE COMPLAINT & PROPOSED ORDER FILED BY LEE J. ROHN, ESQUIRE	
501	03-23-2009 12:04 AM	Hearing - Hearing	Official		HEARING CONCLUDED	
500	03-16-2009 12:04 AM	Notice - Discovery Received	Official		NOTICE OF PRODUCTION FILED BY, MARY FAITH CARPENTER, ESQUIRE	
499	03-16-2009 12:04 AM	Order - Order Fixing Hearing Date	Official		ORDER FIXING HEARING DATE 03/23/2009 09:00 A.M.	
498	03-16-2009 12:04 AM	Hearing - Hearing	Official		STATUS HEARING SCHEDULED 03/23/2009 09:00 A.M.	
497	03-10-2009 12:04 AM	Hearing - Record Of Proceeding	Official		RECORD OF PROCEEDING PREPARED. ATTY. ROHN FILED A MOTION FDR, CONTINUANCE WHICH WAS GRANTED.	
496	03-10-2009 12:04 AM	Hearing - Hearing	Official		HEARING CONCLUDED	
495	03-05-2009 12:04 AM	Response - Opposition Received	Official		DEFENDANTS' JOINT OPPOSITION TO PLAINTIFFS' MOTION TO AMEND COMPLAINT SIGNED BY ATTY., KEVIN RAMES AND ATTY. PAUL RUSKIN	
494	03-05-2009 12:04 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. KEVIN RAMES	
493	03-03-2009 12:04 AM	Motion - Motion To Amend Received	Official		MOTION TO AMEND COMPLAINT RECEIVED, FILED BY, ATTY. LEE ROHN	
492	03-02-2009 12:04 AM	Motion - Reply Received	Official		NOTICE OF SERVICE OF PLAINTIFF ELLA MORON'S, RESPONSE TO DEFENDANTS' INTERROGATORIES FILED, BY ATTY. MARY FAITH CARPENTER	
491	03-02-2009 12:04 AM	Motion - Reply Received	Official		NOTICE OF SERVICE OF PLAINTIFF JOSEFINA DONASTORG'S, RESPONSE TO DEFENDANTS' INTERROGATORIES FILED BY, ATTY. MARY FAITH	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Fil ed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
490	03-02-2009 12:04 AM	Motion - Reply Received	Official		CARPENTER NOTICE OF SERVICE OF PLAINTIFF ADLAH DONASTORG SR.'S, RESPONSE TO DEFENDANTS' INTERROGATORIES FILED BY, ATTY. MARY FAITH CARPENTER	
489	03-02-2009 12:04 AM	Motion - Reply Received	Official		NOTICE OF SERVICE OF PLAINTIFF ADLAH DONASTORG JR.'S, RESPONSE TO DEFENDANTS' INTERROGATORIES FILED BY, ATTY. MARY FAITH CARPENTER	
488	03-02-2009 12:04 AM	Motion - Reply Received	Official		NOTICE OF SERVICE OF PLAINTIFF NORMA DURAN'S, RESPONSE TO DEFENDANTS' INTERROGATORIES FILED, BY ATTY. MARY FAITH CARPENTER	
487	03-02-2009 12:04 AM	Initiating Document - Amended Complaint	Official		THIRD AMENDED COMPLAINT RECEIVED, FILED BY, ATTY. LEE ROHN	
486	03-02-2009 12:04 AM	Notice - Notice Of Interrogatories Received	Official		NOTICE OF SERVICE OF PLAINTIFF BENEDICTA DONASTORG'S, RESPONSE TO DEFENDANTS' INTERROGATORIES FILED BY, ATTY. MARY FAITH CARPENTER (BENEDICTA DONASTORG)	
485	03-02-2009 12:04 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. KEVIN RAMES	
484	03-02-2009 12:04 AM	Service - Certified/Registered Mail Return Receipt Received	Official		CERTIFIED/REGISTERED MAIL RETURN RECEIPT RECEIVED NOT SERVED	
483	03-02-2009 12:04 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF SUBPOENAED DOCUMENTS FILED BY STACEY PLASKETT,, ESQ.	
482	02-27-2009 12:04 AM	Notlce - Notice Of	Official		RE-NOTICE OF TAKING	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francols
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Deposition Received			DEPOSITION RECEIVED, FILED, BY ATTY. KEVIN RAMES (BENEDICTA DONASTORG)	
481	02-27-2009 12:04 AM	Notice - Notice Of Deposition Received	Official		RE-NOTICE OF TAKING DEPOSITION RECEIVED, FILED BY, ATTY. KEVIN RAMES	
480	02-27-2009 12:04 AM	Notice - Notice Of Deposition Received	Official		RE-NOTICE OF TAKING DEPOSITION RECEIVED, FILED BY, ATTY. KEVIN RAMES (ADLAH DONASTORG, SR.)	
479	02-27-2009 12:04 AM	Notice - Notice Of Deposition Received	Official		RE-NOTICE OF TAKING DEPOSITION RECEIVED FILED, BY ATTY. KEVIN RAMES (ELLA MORON)	
478	02-27-2009 12:04 AM	Notice - Notice Of Deposition Received	Official		RE-NOTICE OF TAKING DEPOSITION RECEIVED, FILED, BY ATTY. KEVIN RAMES (NORMA DURAN)	
477	02-27-2009 12:04 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. KEVIN RAMES	
476	02-27-2009 12:04 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBER	
475	02-25-2009 12:04 AM	Motion - Motion To Continue	Official		MOTION TO CONTINUE FILED BY LEE J. ROHN, ESQ.	
474	02-25-2009 12:04 AM	Notice - Notice To The Court Received	Official		NOTICE OF NON-OPPOSITION FILED BY ATTY., KEVIN RAMES	
473	02-25-2009 12:04 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. KEVIN RAMES	
472	02-25-2009 12:04 AM	Order - Proposed Order	Official		PROPOSED ORDER FILED BY LEE J. ROHN, ESQ.	
471	02-24-2009 12:04 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. KEVIN RAMES	
470	02-24-2009 12:04 AM	Notice - Stipulation Received	Official		STIPULATED PROTECTIVE ORDER SIGNED BY ATTY., PAUL RUSKIN, ATTY. KEVIN RAMES AND ATTY., LEE	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
469	02-13-2009 12:04 AM	Notice - Notice Of Entry	Official		ROHN NOTICE OF ENTRY OF ORDER, 02/12/2009, LEE J. ROHN, ESQ., KEVIN A. RAMES, ESQ., PAUL J. RUSKIN, ESQ.	
468	02-12-2009 12:04 AM	Notice - Notice To The Court Received	Official		NOTICE OF NO OBJECTION RECEIVED, FILED BY, ATTY. LEE ROHN	
467	02-12-2009 12:04 AM	Hearing - Hearing	Official		STATUS HEARING/CONFERENCE SCHEDULED 03/10/2009 03:30 P.M. ORDER, SIGNED BY JUDGE BRENDA J.	
466	02-11-2009 12:04 AM	Notice - Notice To The Court Received	Official		NOTICE OF PROOF OF SERVICE RECEIVED, FILED BY ATTY. ANNA WASHBURN FOR ATTY., LEE ROHN	
465	02-09-2009 12:04 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF PROOF OF SERVICE FILED BY, LEE J. ROHN, ESQUIRE	
464	02-06-2009 12:04 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF PLAINTIFF SENATOR ADLAH DONASTORG, JR'S, RESPONSE TO VITELCO'S SECOND DEMAND FOR PRODUCTION OF DOCUMENTS, FILED BY LEE J. ROHN, ESQ.	
463	02-04-2009 12:04 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF DEFENDANT VITELCO SUPPLEMENTAL RESPONSES TO, PLAINTIFF ADLAH DONASTORG'S FIRST SET OF INTERROGATORIES TO, DEFENDANT VITELCO FILED BY PAUL J. RUSKIN, ESQ.	
462	02-04-2009 12:04 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF DEFENDANT VITELCO SUPPLEMENTAL RESPONSES TO, PLAINTIFF BENEDICTA DONASTORG'S DEMAND FOR PRODUCTION OF DOCUMENTS, FILED BY PAUL J. RUSKIN, ESQ.	
461	02-04-2009 12:04 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF DEFENDANT VITELCO	

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Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
460	02-04-2009 12:04 AM	Notice - Notice Of Service Of Discovery Received	Official		SUPPLEMENTAL RESPONSES TO, PLAINTIFF BENEDICTA DONASTORG'S FIRST SET OF INTERROGATORIES TO, DEFENDANT VITELCO FILED BY PAUL J. RUSKIN, ESQ. NOTICE OF SERVICE OF DEFENDANT VITELCO'S SUPPLEMENTAL RESPONSES TO, PLAINTIFF ADLAH DONASTORG'S DEMAND FOR PRODUCTION OF DOCUMENTS, FILED BY PAUL J. RUSKIN, ESQ.	
459	02-03-2009 12:04 AM	Motion - Memorandum Of Law Received	Official		MEMORANDUM IN SUPPORT OF DEFENDANTS' JOINT MOTION, FOR A PROTECTIVE ORDER SIGNED BY ATTY. KEVIN RAMES, AND ATTY. PAUL RUSKIN	
458	02-03-2009 12:04 AM	Motion - Motion Received	Official		DEFENDANTS' JOINT MOTION FOR A PROTECTIVE, ORDER SIGNED BY ATTY. KEVIN RAMES AND ATTY., PAUL RUSKIN	
457	02-03-2009 12:04 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. KEVIN RAMES	
456	01-27-2009 12:04 AM	Notice - Notice Of Interrogatories Received	Official		AMENDEO NOTICE OF SERVICE DEFENDANTS' FIRST SET, OF INTERROGATORIES TO PLAINTIFF (NORMA DURAN), FILED BY ATTY. KEVIN RAMES	
455	01-27-2009 12:04 AM	Notice - Notice Of Interrogatories Received	Official		AMENDED NOTICE OF SERVICE DEFENDANTS' FIRST, SET OF INTERROGATORIES TO PLAINTIFF (BENEDICTA, DONASTORG) FILED BY ATTY. KEVIN RAMES	
454	01-27-2009 12:04 AM	Notice - Notice Of Interrogatories Received	Official		AMENDED NOTICE OF SERVICE DEFENDANTS' FIRST, SET OF	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denlse M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
453	01-27-2009 12:04 AM	Notice - Notice Of Interrogatories Received	Official		INTERROGATORIES TO PLAINTIFF (ADLAH, DONASTORG, SR) FILED BY ATTY. KEVIN RAMES AMENDED NOTICE OF SERVICE DEFENDANTS' FIRST SET, OF INTERROGATORIES TO PLAINTIFF (ELLA MORON) FILED, BY ATTY. KEVIN RAMES	
452	01-27-2009 12:03 AM	Notice - Notice Of Interrogatories Received	Official		AMENDED NOTICE OF SERVICE DEFENDANTS' FIRST SET, OF INTERROGATORIES TO PLAINTIFF (JOSEFINA DONASTORG), FILED BY ATTY. KEVIN RAMES	
451	01-27-2009 12:03 AM	Notice - Notice Of Interrogatories Received	Official		AMENDED NOTICE OF SERVICE OF DEFENDANTS' FIRST, SET OF INTERROGATORIES TO PLAINTIFF (ADLAH, DONASTORG, JR.) FILED BY ATTY. KEVIN RAMES	
450	01-27-2009 12:03 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. KEVIN RAMES	
449	01-26-2009 12:03 AM	Notlce - Notice Of Interrogatories Received	Official		NOTICE OF SERVICE DEFENDANTS' FIRST SET OF, INTERROGATORIES TO PLAINTIFF (ADLAH DONASTORG, JR), FILED BY ATTY. KEVIN RAMES	
448	01-26-2009 12:03 AM	Notice - Notice Of Interrogatories Received	Official		NOTICE OF SERVICE DEFENDANTS' FIRST SET OF, INTERROGATORIES TO PLAINTIFF (NORMA DURAN), FILED BY ATTY. KEVIN RAMES	
447	01-26-2009 12:03 AM	Notice - Notice Of Interrogatories Received	Official		NOTICE OF SERVICE DEFENDANTS' FIRST SET OF, INTERROGATORIES TO PLAINTIFF (ELLA MORON), FILED BY ATTY. KEVIN RAMES	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
446	01-26-2009 12:03 AM	Notice - Notice Of Interrogatories Received	Official		NOTICE OF SERVICE DEFENDANTS' FIRST SET OF, INTERROGATORIES TO PLAINTIFF (JOSEFINA DONASTORG), FILED BY ATTY KEVIN RAMES	
445	01-26-2009 12:03 AM	Notice - Notice Of Interrogatories Received	Official		NOTICE OF SERVICE DEFENDANTS' FIRST SET OF, INTERROGATORIES TO PLAINTIFF (ADLAH DONASTORG), FILED BY ATTY. KEVIN RAMES	
444	01-26-2009 12:03 AM	Notice - Notice Of Interrogatories Received	Official		NOTICE OF SERVICE DEFENDANT'S FIRST SET OF, INTERROGATORIES TO PLAINTIFF (BENEDICTA, DONASTORG) FILED BY ATTY. KEVIN RAMES	
443	01-26-2009 12:03 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION. FILED BY ATTY. KEVIN RAMES	
442	01-22-2009 12:03 AM	Notice - Notice Of Filing Received	Official		AMENDED NOTICE OF INTENT TO SERVE SUBPOENA FILED BY LEE J. ROHN,, ESQ.	
441	01-22-2009 12:03 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION DUCES TECUM FILED	
440	01-22-2009 12:03 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBER	
439	01-21-2009 12:03 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. ANNA WASHBURN	
438	01-21-2009 12:03 AM	Notice - Notice To The Court Received	Official		NOTICE OF PRODUCTION FILED BY ATTY. ANNA, WASHBURN	
437	01-16-2009 12:03 AM	Motion - Reply Received	Official		RESPONSE TO OBJECTION BY ICC TO SUBPOENA DUCES TECUM	
436	01-14-2009 12:03 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF DEFENDANT HOLLAND REDFIELD'S SUPPLEMENTAL, RESPONSES TO PLAINTIFF ADLAH DONASTORG, JR'S DEMAND FOR PRODUCTION OF, DOCUMENTS FILED BY	

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**Superior Court of the Virgin Islands
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Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
435	01-14-2009 12:03 AM	Notice - Notice Of Service Of Discovery Received	Official		PAUL J. RUSKIN, ESQ. NOTICE OF SERVICE OF DEFENDANT VITELCO'S SECOND REQUEST FOR THE PRODUCTION OF DOCUMENTS TO PLAINTIFF SENATOR ADLAH DONASTORG, JR.	
434	01-14-2009 12:03 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF DEFENDANT HOLLAND REDFIELD'S SUPPLEMENTAL RESPONSES TO PLAINTIFF ADLAH DONASTORG, JR'S FIRST SET OF INTERROGATORIES TO DEFENDANT HOLLAND REDFIELD FILED BY PAUL J., RUSKIN, ESQ.	
433	01-12-2009 12:03 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING OF PROOF OF SERVICE FILED BY, LEE J. ROHN, ESQUIRE & ATTACHED AFFIDAVIT OF PROCESS SERVER, ANTONIO MESSER	
432	01-09-2009 12:03 AM	Notice - Notice Of Filing Received	Official		NOTICE OF PRODUCTION FILED BY LEE J. ROHN, ESQ.	
431	01-09-2009 12:03 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF SCHEDULING ORDER DATED, 01/08/2009, LEE J. ROHN, ESQUIRE, KEVIN A. RAMES, ESQUIRE	
430	01-08-2009 12:03 AM	Order - Order Signed	Official		SCHEDULING ORDER SIGNED BY JUDGE HOLLAR APPROVING DEADLINE DATES	
429	01-05-2009 12:03 AM	Case Initiation - Miscellaneous	Official		MISCELLANEOUS-NOTICE OF DEPOSITION DUCES TECUM FILED BY, LEE J. ROHN, ESQUIRE	
428	01-05-2009 12:03 AM	Case Initiation - Miscellaneous	Official		MISCELLANEOUS-NOTICE OF INTENT TO SERVE SUBPOENA FILED BY, LEE J. ROHN, ESQUIRE & ATTACHED SUBPOENA FOR ENNIS SHERAW	
427	12-31-2008 12:03 AM	Notice - Discovery Received	Official		SUPPLEMENTAL RULE 26 DISCLOSURES FILED BY,	

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Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francols
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
426	12-24-2008 12:03 AM	Case Initiation - Miscellaneous	Official		ATTY. LEE ROHN MISCELLANEOUS-NOTICE OF CANCELLATION OF 30(B)(6) DEPOSITION OF VITELCO FILED BY LEE J. ROHN, ESQUIRE	
425	12-24-2008 12:03 AM	Notice - Notice Of Service Of Discovery Received	Official		NOTICE OF SERVICE OF SUBPOENAS FILED BY LEE J. ROHN, ESQ., SUBPOENA FOR DENNIS SHERWA AND JULIE ERICKSON AND AFFIDAVITS OF PROCESS SERVER ANTOINO MESSER ATTACHED.	
424	12-24-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF JULIE ERICKSON FILED BY LEE J. ROHN,, ESQ.	
423	12-24-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF CANCELLATION OF DEPOSITION OF JEFFREY PROSSER FILED BY LEE, J. ROHN, ESQ.	
422	12-24-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		SECOND AMENDED NOTICE OF DEPOSITION OF HOLLAND REDFIELD FILED, BY LEE J. ROHN, ESQ.	
421	12-24-2008 12:03 AM	Notice - Discovery Received	Official		DISCOVERY-SUPPLEMENTAL RULE 26 DISCLOSURES FILED BY, LEE J. ROHN, ESQUIRE	
420	12-17-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF BILL BROWN FILED BY, LEE J. ROHN, ESQUIRE	
419	12-17-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF MARILYN BAILEY FILED BY, LEE J. ROHN, ESQUIRE	
418	12-17-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF 30(B)(6) DEPOSITION OF DAILY NEWS PUBLISHING, COMPANY, INC. FILED BY LEE J. ROHN, ESQUIRE	
417	12-17-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF J. LOWE DAVIS FILED BY, LEE J.	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					ROHN, ESQUIRE	
416	12-17-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		SECOND AMENDED NOTICE OF DEPOSITION OF JASON ROBBINS FILED BY, LEE J. ROHN, ESQUIRE	
415	12-17-2008 12:03 AM	Service - Subpoena Received	Official		SUBPOENA RECEIVED FOR MARILYN BAILEY AND ATTACHED SECOND AMENDED, NOTICE OF DEPOSITION OF MARILYN BAILEY FILED BY LEE J. ROHN, ESQ.	
414	12-16-2008 12:03 AM	Service - Subpoena Received	Official		SUBPOENA FOR ECONOMIC DEVELOPMENT COMMISSION DATED 12-16-08	
413	12-15-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		THIRD AMENDED NOTICE OF DEPOSITION OF BILL BROWN, FILED BY ATTY. LEE ROHN	
412	12-15-2008 12:03 AM	Service - Subpoena Received	Official		SUBPOENA FOR ECONOMIC DEVELOPMENT COMMISSION RECEIVED	
411	12-15-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF HOLLAND REDFIELD FILED BY, LEE J. ROHN, ESQUIRE	
410	12-15-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF BILL BROWN FILED BY, LEE J. ROHN, ESQUIRE	
409	12-15-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF DENNIS SHERAW FILED BY, LEE J. ROHN, ESQUIRE	
408	12-15-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF MARILYN BAILEY FILED BY, LEE J. ROHN, ESQUIRE	
407	12-15-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF 30(B)(6) DEPOSITION OF DAILY NEWS PUBLISHING, COMPANY, INC. FILED BY LEE J. ROHN, ESQUIRE	
406	12-15-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION DUCES TECUM FILED BY, LEE J. ROHN, ESQUIRE	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
405	12-15-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF JEFFREY PROSSER RECEIVED	
404	12-15-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF LOWE DAVIS RECEIVED	
403	12-15-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF JULIE ERICKSON RECEIVED	
402	12-15-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		AMENDED NOTICE OF DEPOSITION OF JASON ROBBINS RECEIVED	
401	12-15-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION DUCES TECUM FILED BY LEE J. ROHN	
400	12-11-2008 12:03 AM	Notice - Discovery Received	Official		NOTICE OF SERVICE OF DEFENDANT HOLLAND REDFIELD'S FIRST, SUPPLEMENTAL RULE 26(A)(1) DISCLOSURES FILED BY, PAUL J. RUSKIN,	
399	12-11-2008 12:03 AM	Financial - Fee Received	Official		FEE RECEIVED, RECEIPT # - 00068543	
398	12-10-2008 12:03 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF 30(B)(6) DEPOSITION OF VITELCO, FILED BY ATTY. LEE ROHN	
397	12-10-2008 12:03 AM	Notice - Discovery Received	Official		SUPPLEMENTAL RULE 26 DISCLOSURES FILED BY, LEE J. ROHN, ESQUIRE	
396	11-05-2008 12:03 AM	Answer - Answer	Official		DEFENDANT REDFIELD'S ANSWER TO SECOND AMENDED COMPLAINT FILED BY, PAUL J. RUSKIN, ESQUIRE. DELIVERY DATE 10/20/08 & 11/5/08	
395	10-23-2008 12:03 AM	Service - Certified/Registered Mail Return Receipt Received	Official		CERTIFIED/REGISTERED MAIL RETURN RECEIPT RETURNED FOR, PAUL J. RUSKIN, ESQUIRE. DELIVERY DATE 10/20/08	
394	10-20-2008 12:03 AM	Answer - Answer	Official		DEFENDANT REDFIELD'S ANSWER TO SECOND AMENDED, COMPLAINT FILED BY ATTY. PAUL RUSKIN	
393	10-20-2008 12:03 AM	Answer - Answer	Official		DEFENDANTS' DAILY NEWS PUBLISHING CO., INC'S, AND JANE LOWE DAVIS' ANSWER TO SECOND AMENDED,	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
392	10-20-2008 12:02 AM	Answer - Answer	Official		COMPLAINT FILED BY ATTY. KEVIN RAMES DEFENDANT VITELCO'S ANSWER TO SECOND AMENDED, COMPLAINT FILED BY ATTY. PAUL RUSKIN	
391	10-20-2008 12:02 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. KEVIN RAMES	
390	10-20-2008 12:02 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. KEVIN RAMES	
389	10-20-2008 12:02 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION, FILED BY ATTY. KEVIN RAMES	
388	10-20-2008 12:02 AM	Notice - Notice To The Court Received	Official		NOTICE AS TO THE REPRESENTATION OF DEFENDANTS, BY ATTORNEY PAUL J. RUSKIN FILED BY ATTY., PAUL RUSKIN	
387	10-20-2008 12:02 AM	Notice - Notice To The Court Received	Official		NOTICE AS TO THE REPRESENTATION OF DAILY NEWS, PUBLISHING COMPANY, INC. BY KEVIN A. RAMES, ESQ., FILED BY ATTY. KEVIN RAMES	
386	10-10-2008 12:02 AM	Notice - Notice To The Court Received	Official		NOTICE OF NO OBJECTION FILED BY LEE J. ROHN, ESQUIRE	
385	10-10-2008 12:02 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBER	
384	10-10-2008 12:02 AM	Order - Proposed Order	Official		PROPOSED SCHEDULING ORDER RECEIVED	
383	10-10-2008 12:02 AM	Order - Order Signed	Official		PROPOSED SCHEDULING ORDER FILED	
382	10-08-2008 12:02 AM	Service - Certified/Registered Mail Return Receipt Received	Official		CERTIFIED/REGISTERED MAIL RETURN RECEIPT RECEIVED FOR, PAUL J. RUSKIN, ESQUIRE. DELIVERY DATE 10/7/08	
381	10-01-2008 12:02 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER, 09/30/2008, KEVIN A. RAMES, ESQ., LEE J.	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
380	09-30-2008 12:02 AM	Order - Order Signed	Official		ROHN, ESQ., PAUL J. RUSKIN, ESQ. ORDER GRANTING MOTION TO SEVER JEFFREY POROSSER AND ICC, MOTION FOR, SUMMARY JUDGMENTS DENIED, MOTION TO DISQUALIFY JUDGE HOLLAR DENIED,, ORAL MOTION BY DEFENDANTS TO CERTIFY THE DENIAL OF THE MOTION TO, DISQUALIFY HOLLAR DENIED, MOTION FOR RECONSIDERATION OF 3 TO 5, ORDERS ENTERED ON APRIL 13, 2003 IS WITHDRAWN AND THEREFORE DENIED,, THE PLAINTIFFS' MOTION FOR SANCTION FOR VIOLATION OF RULE 7.1, FILED, ON AUGUST 9, 2004 IS WITHDRAWN AND THEREFORE DENIED, THE MOTION OF, FERN CLARKE TO QUASH NOTICE OF DEPOSITION OF FERN CLARK IS DENIED,, THE PLAINTIFFS' MOTION FOR ENTRY OF DEFAULT FILED JULY 9, 2004, DENIED. SIGNED BY JUDGE BRENDA J. HOLLAR	
379	09-16-2008 12:02 AM	Hearing - Record Of Proceeding	Official		RECORD OF PROCEEDING PREPARED. MATTER CAME ON FOR STATUS CONFERENCE.. THE COURT WAS ADVISED THAT PLAINTIFF HAS MOVED TO SEVERE PROCESSER, & ICC, THEY ARE IN BANKRUPTCY. DEFENSE WILL NOT CONTEST THE, SEVERANCE. ATTY. RAMES INFORMED THE COURT THAT THERE IS A CONFLICT, OF INTEREST BETWEEN	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					VITELCO AND ICC, HOWEVER, HE IS REPRESENTING ALL, THE PARTIES TODAY, IN THE FUTURE HE WILL BE REPRESENTING DAILY NEWS, & DAVIS & ATTY. RUSKIN WILL BE REPRESENTING VITELCO & REDFIELD WILL, HAVE TO HIRE HIS OWN ATTY. MOTION TO DISQUALIFY THE JUDGE WAS ARGUED, AND DENIED FOR NO MERITS. MOTION TO DISQUALIFY ATTY. ROHN WAS WITH-, DRAWN BY ATTY. RAMES. MOTION FOR SANCTION WAS TAKEN UNDER ADVISEMENT.	
378	09-16-2008 12:02 AM	Hearing - Hearing	Official		HEARING CONCLUDED	
377	09-12-2008 12:02 AM	Service - Certified Registered Mail W/ Return Receipt Issued	Official		CERTIFIED REGISTERED MAIL W/ RETURN RECEIPT ISSUED, FOR PAUL J. RUSKIN, ESQUIRE	
376	09-11-2008 12:02 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED, 09/10/2008, LEE J. ROHN, ESQUIRE 773-2954(FAX), KEVIN RAMES, ESQUIRE 773-7282(FAX), PAUL J. RUSKIN, ESQUIRE 201-985-8252	
375	09-10-2008 12:02 AM	Order - Order Signed	Official		ORDER SIGNED--ORDERED. THAT THE ABOVE CAPTIONED MATTER IS SCHEDULED, FOR STATUS HEARING AND HEARING ON ALL OUTSTANDING MOTIONS ON, TUESDAY, SEPTEMBER 16, 2008 @ 10:00 A.M., COURTROOM NO. I. ENTERED, BY JUDGE BRENDA J. HOLLAR.	
374	09-10-2008 12:02 AM	Hearing - Hearing	Official		STATUS HEARING/CONFERENCE SCHEDULED 09/16/2008 10:00 A.M.	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
373	10-11-2007 12:02 AM	Motion - Motion Received	Official		MOTION TO SEVER DEFENDANT JEFFREY PROSSER AND INNOVATIVE, COMMUNICATION CORPORATION RECEIVED	
372	10-11-2007 12:02 AM	Order - Proposed Order	Official		PROPOSED ORDER ON PLAINTIFF'S MOTION TO SEVER DEFENDANT RECEIVED	
371	09-05-2007 12:02 AM	Action - File Forwarded To Judge's Chambers	Official		FILE FORWARDED TO JUDGE'S CHAMBERS MOTION.	
370	09-04-2007 12:02 AM	Motion - Motion Received	Official		MOTION FOR STATUS CONFERENCE, FILED BY LEE J. ROHN, ESQ.	
369	09-04-2007 12:02 AM	Order - Proposed Order	Official		PROPOSED ORDER RECEIVED	
368	07-25-2007 12:02 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER DATED, 07/25/2007, LEE J. ROHN, ESQUIRE,, KEVIN RAMES, ESQUIRE,, PAUL J. RUSKIN, ESQUIRE	
367	07-25-2007 12:02 AM	Order - Order Signed	Official		ORDER SIGNED BY JUDGE BRENDA J. HOLLAR, GRANTING PLAINTIFFS' MOTION FOR EXTENSION OF TIME. 07/25/2007	
366	07-09-2007 12:02 AM	Motion - Motion Received	Official		MOTION FOR COMMENCEMENT OF ACTION UNDER CHAPTER 11 OF THE UNITED, STATES BANKRUPTCY CODE; AUTOMATIC STAY, SUBMITTED BY KEVIN RAMES, ESQ.	
365	06-20-2007 12:02 AM	Case Initiation - Opposition To Motion Received	Official		REPLY TO OPPOSITION TO MOTION FOR SANCTIONS RECEIVED	
364	06-06-2007 11:39 AM	Response - Reply	Official		Reply to Opposition to Motion to Quash Writ of Execution	Lee Rohn, Esq.
363	05-31-2007 12:02 AM	Order - Proposed Order	Official		PROPOSED ORDER RECEIVED, FILED BY LEE J. ROHN, ESQ.	
362	05-31-2007 12:02 AM	Motion - Motion For Extension Of Time Received	Official		MOTION FOR EXTENSION OF TIME RECEIVED, FILED BY LEE J. ROHN, ESQ.	

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**Superlor Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
361	05-17-2007 12:02 AM	Case Initiation - Opposition To Motion Received	Official		DEFENDANTS OPPOSITION TO MOTION FOR SANCTIONS RECEIVED, FILED BY, KEVIN A. RAMES, ESQ.	
360	05-01-2007 12:02 AM	Motion - Motion Received	Official		MOTION FOR SANCTIONS RECEIVED FILED BY LEE J. ROHN, ESQ.	
359	05-01-2007 12:02 AM	Order - Proposed Order	Official		PROPOSED ORDER RECEIVED FILED BY LEE J. ROHN, ESQ.	
358	04-30-2007 11:46 AM	Response - Response	Official		Response to Motion to Quash	Lee Rohn, Esq.
357	04-30-2007 12:02 AM	Notice - Documents Received	Official		NOTICE OF PROOF OF SERVICE OF SUBPOENA TO EUNICE BEDMINISTER, RECEIVED	
356	04-30-2007 12:02 AM	Affidavit - Affidavit Of Process Server Filed	Official		Affidavit Of Process Server Filed	
355	04-30-2007 12:02 AM	Service - Subpoena Received	Official		SUBPOENA TO EUNICE BEDMINISTER RECEIVED	
354	04-30-2007 12:02 AM	Order - Proposed Order	Official		PROPOSED ORDER FILED BY LEE J. ROHN, ESQUIRE	
353	04-30-2007 12:02 AM	Notice - Notice To The Court Received	Official		NOTICE TO THE COURT FILED BY, LEE J. ROHN, ESQUIRE	
352	04-30-2007 12:02 AM	Notice - Notice Of Filing Received	Official		NOTICE OF SERVICE OF SUBPOENAS FILED BY, LEE J. ROHN, ESQUIRE	
351	04-30-2007 12:02 AM	Motion - Reply Received	Official		REPLY TO MOTION TO QUASH FILED BY, LEE J. ROHN, ESQUIRE	
350	04-30-2007 12:02 AM	Motion - Motion Received	Official		MOTION TO FILE SURREPLY TO REPLY TO OPPOSITION, TO MOTION FOR PROTECTIVE ORDER, FILED BY LEE J. ROHN, ESQUIRE	
349	04-30-2007 12:02 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF CANCELLATION OF DEPOSITION OF ALMANDO LIBURD, FILED BY LEE J. ROHN, ESQUIRE	
348	04-30-2007 12:02 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF CANCELLATION OF DEPOSITION OF MARILYN BAILY, FILED BY LEE J. ROHN, ESQUIRE	
347	04-30-2007 12:02 AM	Notice - Notice Of	Official		NOTICE OF CANCELLATION	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Deposition Received			OF DEPOSITION FOR FERN CLARKE, FILED BY LEE J. ROHN, ESQUIRE	
346	04-23-2007 12:02 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING-- NOTICE OF PRODUCTION FILED BY LEE J. ROHN, ESQ.	
345	04-19-2007 12:02 AM	Motion - Reply Received	Official		REPLY TO OPPOSITION TO MOTION FOR PROTECTIVE ORDER FILED BY, KEVIN A. RAIMES, ESQ.	
344	04-18-2007 12:02 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING --- RESPONSE TO THIRD SUPPLEMENTAL MEMORANDUM IN, IN SUPPORT OF THE MOTION FOR PROTECTIVE ORDER FILED BY LEE J. ROHN,, ESQ.	
343	04-18-2007 12:02 AM	Motion - Motion To Quash Received	Official		MOTION TO QUASH PLAINTIFF'S NOTICE OF DEPOSITION OF FERN CLARKE, FILED BY FERN CLARKE	
342	04-16-2007 12:02 AM	Notice - Notice Of Filing Received	Official		NOTICE OF FILING --- NOTICE OF NON SERVICE FILED BY LEE J. ROHN,, ESQ.	
341	04-13-2007 12:02 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA TO AMANDO LIBURD AND AFFIDAVIT, OF PROCESS SERVER (SERVED 4/12/07)	
340	04-12-2007 12:02 AM	Motion - Memorandum Of Law Received	Official		DEFENDANTS THIRD SUPPLEMENTAL MEMORANDUM IN SUPPORT, OF THEIR MOTION FOR A PROTECTIVE ORDER FILED BY, ATTY. KEVIN RAMES	
339	04-12-2007 12:02 AM	Service - Subpoena Received	Official		SUBPOENA RECEIVED.	
338	04-12-2007 12:02 AM	Notlce - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF ALMANDO LIBURD, FILED BY LEE J. ROHN, ESQUIRE	
337	04-12-2007 12:02 AM	Case Initiation - Opposition To Motion Received	Official		OPPOSITION TO DEFENDANTS' MOTION FOR A PROTECTIVE ORDER, AND OPPOSITION TO AMENDED SUPPLEMENTAL	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					MEMORANDUM IN, SUPPORT OF THEIR MOTION FOR A PROTECTIVE ORDER, FILED BY LEE J. ROHN, ESQUIRE	
336	04-12-2007 12:02 AM	Order - Proposed Order	Official		PROPOSED ORDER FILED BY LEE J. ROHN, ESQUIRE	
335	04-11-2007 12:02 AM	Service - Subpoena Received	Official		SUBPOENA FOR MARILYN BAILEY RETURNED., SERVED 4/10/07 BY PROCESS SERVER MICHAEL A. RICHARDSON	
334	04-11-2007 12:02 AM	Affidavit - Affidavit Of Process Server Filed	Official		Affidavit Of Process Server Filed	
333	04-10-2007 12:02 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF FERN CLARK FILED BY, LEE J. ROHN, ESQUIRE	
332	04-10-2007 12:02 AM	Service - Subpoena Received	Official		SUBPOENA RECEIVED FOR MATT MONROE. RETURNED, NOT FOUND BY PROCESS SERVED MICHAEL A. RICHARDSON	
331	04-10-2007 12:02 AM	Affidavit - Affidavit Of Process Server Filed	Official		Affidavit Of Process Server Filed	
330	04-04-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO, AMANDO LIBURD FOR DEPOSITION SCHEDULED FOR APRIL 21, 2007, AT 12:00 P.M.	
329	04-04-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO, FERN CLARK FOR DEPOSITION SCHEDULED ON APRIL 21, 2007, AT 10:00 A.M.	
328	04-04-2007 12:01 AM	Service - Subpoena Received	Official		SUBPOENA RECEIVED FOR BILL BROWN. SERVED ON 04/02/2007, BY PROCESS SERVED MICHAEL A. RICHARDSON	
327	04-04-2007 12:01 AM	Service - Subpoena Received	Official		SUBPOENA RECEIVED FOR ARIEL MELCHOR, JR., SERVED ON 02/02/2007 BY PROCESS SERVER, MICHAEL A. RICHARDSON	
326	04-04-2007 12:01 AM	Service - Subpoena Received	Official		SUBPOENA RECEIVED FOR BARBARA PARY. SERVED, ON 04/03/2007 BY PROCESS	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
325	04-04-2007 12:01 AM	Service - Subpoena Received	Official		SERVER MICHAEL A. RICHARDSON SUBPOENA RECEIVED FOR JASON ROBBINS. SERVED ON, 04/07/2007 BY PROCESS SERVER MICHAEL A. RICHARDSON	
324	04-04-2007 12:01 AM	Affidavit - Affidavit Of Process Server Filed	Official		Affidavit Of Process Server Filed	
323	04-04-2007 12:01 AM	Affidavit - Affidavit Of Process Server Filed	Official		AFFIDAVIT OF PROCESS SERVER FILED.	
322	04-04-2007 12:01 AM	Affidavit - Affidavit Of Process Server Filed	Official		AFFIDAVIT OF PROCESS SERVER FILED.	
321	04-04-2007 12:01 AM	Affidavit - Affidavit Of Process Server Filed	Official		AFFIDAVIT OF PROCESS SERVER FILED.	
320	04-02-2007 12:01 AM	Case Initiation - Miscellaneous	Official		NOTICE OF PRODUCTION RECEIVED, FILED BY LEE J. ROHN, ESQ.	
319	04-02-2007 12:01 AM	Motion - Memorandum Of Law Received	Official		DEFENDANTS SECOND SUPPLEMENTAL MEMORANDUM IN SUPPORT, OF THEIR MOTION FOR A PROTECTIVE ORDER FILED BY, ATTY. KEVIN RAMES	
318	04-02-2007 12:01 AM	Motion - Memorandum Of Law Received	Official		AMENDED DEFENDANTS SUPPLEMENTAL MEMORANDUM IN SUPPORT, OF THEIR MOTION FOR A PROTECTIVE ORDER FILED BY, ATTY. KEVIN RAMES	
317	04-02-2007 12:01 AM	Case Initiation - Miscellaneous	Official		NOTICE OF PRODUCTION, RECEIVED, FILED BY LEE J. ROHN, ESQ.	
316	03-30-2007 12:01 AM	Motion - Memorandum Of Law Received	Official		DEFENDANTS SUPPLEMENTAL MEMORANDUM IN SUPPORT OF, THEIR MOTION FOR A PROTECTIVE ORDER FILED BY, ATTY. KEVIN RAMES	
315	03-26-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF EDWARD CROUCH, RECEIVED, FILED BY LEE J. ROHN, ESQ.	
314	03-26-2007 12:01 AM	Notice - Notice Of	Official		NOTICE OF DEPOSITION OF	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Deposition Received			MATT MONROE, RECEIVED, FILED BY LEE J. ROHN, ESQ.	
313	03-26-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF JASON ROBBINS, RECEIVED, FILED BY LEE J. ROHN, ESQ.	
312	03-26-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF MARILYN BAILY, RECEIVED, FILED BY LEE J. ROHN, ESQ.	
311	03-26-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF ARIEL MELCHOR, RECEIVED, FILED BY LEE J. ROHN, ESQ.	
310	03-26-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF BARBARA PARRY, RECEIVED, FILED BY LEE J. ROHN, ESQ.	
309	03-26-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF BILL BROWN, RECEIVED, FILED BY LEE J. ROHN, ESQ.	
308	03-22-2007 12:01 AM	Motion - Memorandum Of Law Received	Official		DEFENDANT'S MEMORANDUM IN SUPPORT OF THEIR MOTION, FOR A PROTECTIE ORDER FILED BY ATTY. KEVIN RAMES	
307	03-22-2007 12:01 AM	Motion - Motion Received	Official		DEFENDANT'S MOTION FOR A PROTECTIVE ORDER, FILED BY ATTY. KEVIN RAMES	
306	03-20-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF HOLLAND REDFIELD, FILED BY LEE J. ROHN, ESQUIRE	
305	03-20-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF LOWE DAVIS, FILED BY LEE J. ROHN, ESQUIRE	
304	03-20-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF JEFFREY PROSSER, FILED BY LEE J. ROHN, ESQUIRE	
303	03-20-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF 30(b)(6) DEPOSITION OF DAILY NEWS PUBLISHING CO. INC, FILED BY LEE J. ROHN, ESQUIRE	
302	03-20-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF EUNICE BEDMINISTER, FILED BY LEE J. ROHN, ESQUIRE	
301	03-20-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF SUSANNA HENIGHAN, FILED BY LEE J. ROHN, ESQUIRE	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
300	03-20-2007 12:01AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION FOR BILLY SHIELDS, FILED BY LEE J. ROHN, ESQUIRE	
299	03-20-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF CHRIS LARSON, FILED BY LEE J. ROHN, ESQUIRE	
298	03-16-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO BILLY SHIELDS, FOR DEPOSITION ON APRIL 19, 2007 AT 2:00 P.M.	
297	03-16-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO SUSANNA HENIGHAN, FOR DEPOSITION ON APRIL 18, 2007 AT 1:00 P.M.	
296	03-16-2007 12:01AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO EUNICE BEDMINISTER, FOR DEPOSITION ON APRIL 19, 2007 AT 1:00 P.M.	
295	03-16-2007 12:01AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO, CHRIS LARSON FOR DEPOSITION ON APRIL 19, 2007, AT 3:00 P.M.	
294	03-05-2007 12:01 AM	Notice - Notice Of Filing Received	Official		NOTICE OF CANCELLATION OF DEPOSITION RECEIVED FROM, PLAINTIFFS FILED BY LEE J. ROHN, ESQ.	
293	02-07-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO JASON ROBBINS.	
292	02-07-2007 12:01AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO ARIEL MELCHOR, JR. FOR, DEPOSITION ON MARCH 30, 2007 AT 2:00 P.M.	
291	02-07-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO EUNICE BEDMINISTER FOR, DEPOSITION ON MARCH 30, 2007 AT 10:30 A.M.	
290	02-07-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO BARBARA PARY, FOR DEPOSITION ON MARCH 29, 2007 AT 1:00 P.M.	
289	02-07-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO EDWARD CROUCH FOR, DEPOSITION ON MARCH 30, 2007 AT 2:30 P.M.	
288	02-07-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO MARILYN BAILEY, FOR	

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Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
287	02-07-2007 12:01 AM	Service - Subpoena Issued	Official		DEPOSITION ON MARCH 30, 2007 AT 4:00 P.M. SUBPOENA ISSUED TO BILL BROWN FOR, DEPOSITION ON MARCH 30, 2007 AT 11:30 A.M.	
286	02-07-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO MATT MONROE FOR, DEPOSITION ON MARCH 30, 2007 AT 9:30 A.M.	
285	02-07-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO JASON ROBBINS, FOR DEPOSITION ON MARCH 29, 2007 AT 1:00 P.M.	
284	02-07-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO SUSANNA HENIGHAN FOR, DEPOSITION ON MARCH 29, 2007 AT 2:00 P.M.	
283	02-07-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO CHRIS LARSON, FOR DEPOSITION ON MARCH 29, 2007 AT 4:00 P.M.	
282	02-07-2007 12:01 AM	Service - Subpoena Issued	Official		SUBPOENA ISSUED TO BILLY SHIELDS, FOR DEPOSITION ON MARCH 29, 2007 AT 3:00 P.M.	
281	02-07-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF EUNICE BEDMINISTER, FILED BY LEE J. ROHN, ESQUIRE	
280	02-07-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF ARIEL MELCHOR, FILED BY LEE J. ROHN, ESQUIRE	
279	02-07-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF EDWARD CROUCH, FILED BY LEE J. ROHN, ESQUIRE	
278	02-07-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF MARILYN BAILY, FILED BY LEE J. ROHN, ESQUIRE	
277	02-07-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF BILL BROWN	
276	02-07-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF MATT MONROE, FILED BY LEE J. ROHN, ESQUIRE	
275	02-07-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF CHRIS LARSON, FILED BY LEE J. ROHN, ESQUIRE	

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Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
274	02-07-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF BARBARA PARRY, FILED BY LEE J. ROHN, ESQUIRE	
273	02-07-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF BILLY SHIELDS, FILED BY LEE J. ROHN, ESQUIRE	
272	02-07-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF JASON ROBBINS, FILED BY LEE J. ROHN, ESQUIRE	
271	02-07-2007 12:01 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF SUSANNA HENIGHAN, FILED BY LEE J. ROHN, ESQUIRE	
270	02-07-2007 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF HOLLAND REDFIELD, FILED BY LEE J. ROHN, ESQUIRE	
269	02-07-2007 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF DAILY NEWS PUBLISHING CO. INC., FILED BY LEE J. ROHN, ESQUIRE	
268	02-07-2007 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF LOWE DAVIS, FILED BY LEE J. ROHN, ESQUIRE	
267	02-07-2007 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF JEFFREY PROSSER FILED BY, LEE J. ROHN, ESQUIRE	
266	11-29-2006 03:08 PM	Notice - Notice of Filing	Official		Notice of Additional Authority	Kevin Rames, Esq.
265	09-29-2006 11:54 AM	Motion - Motion To Continue	Official		Motion To Continue Hearing and Proposed Order	Kevin Rames, Esq.
264	09-29-2006 12:00 AM	Hearing - Record Of Proceeding	Official		RECORD OF PROCEEDING PREPARED. MATTER WAS CONTINUED SINE DIE	
263	09-29-2006 12:00 AM	Hearing - Hearing	Official		HEARING CONCLUDED	
262	09-28-2006 12:00 AM	Motion - Motion Received	Official		FAXED MOTION TO CONTINUE RECEIVED FROM, KEVIN A. RAMES, ESQUIRE,	
261	09-28-2006 12:00 AM	Order - Proposed Order	Official		PROPOSED ORDER RECEIVED FROM, KEVIN A. RAMES, ESQUIRE	
260	09-28-2006 12:00 AM	Hearing - Hearing	Official		HEARING SCHEDULED 09/29/2006 10:00 A.M.	
259	09-28-2006 12:00 AM	Order - Order Fixing Hearing Date	Official		ORDER FIXING HEARING DATE ENTERED 09/29/2006 10:00 A.M.	
258	09-27-2006 12:00 AM	Order - Order Signed	Official		ORDER ENTERED AND SIGNED BY JUDGE BRENDA J.	

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Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					HOLLAR	
257	09-27-2006 12:00 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER ISSUED TO, KEVIN A. RAMES, ESQUIRE,, LEE J. ROHN, ESQUIRE,, PAUL J. RUSKIN, ESQUIRE	
256	09-22-2006 12:00 AM	Action - File Forwarded To Official Judge's Chambers			FILE FORWARDED TO JUDGE'S CHAMBER MOTION TO SEVER JEFFREY PROSSER.	
255	09-20-2006 12:00 AM	Order - Proposed Order	Official		PROPOSED ORDER RECEIVED	
254	09-20-2006 12:00 AM	Motion - Motion Received	Official		MOTION TO SEVER JEFFREY PROSSER RECEIVED FILED BY LEE J. ROHN,ESQ.	
253	09-18-2006 12:00 AM	Notice - Notice Of Entry	Official		NOTICE OF ENTRY OF ORDER TO LEE J. ROHN, PAUL J. RUSKIN AND, KEVIN A. RAMES, ESQS.	
252	09-14-2006 12:00 AM	Order - Order Signed	Official		ORDER ENTERED AND SIGNED BY JUDGE BRENDA J. HOLLAR, THE STATUS, HEARING SCHEDULED FOR 10:30 A.M. IN ST. CROIX IS CONT.; ORDERED THAT, COUNSEL FOR THE P.T.F. SHALL ADVISE THE COURT NO LATER THAT 10-2-06, WHETHER SHE INTENDS TO PROCEED WITHOUT JEFFREY PROSSER.	
251	09-13-2006 12:00 AM	Action - File Forwarded To Official Judge's Chambers			FILE FORWARDED TO JUDGE'S CHAMBER WITH NOTICE OF COMMENCEMENT OF, ACTION UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE;, AUTOMATIC STAY ATTACHED.	
250	09-12-2006 12:00 AM	Case Initiation - Miscellaneous	Official		NOTICE OF COMMENCEMENT OF ACTION UNDER CHAPTER 11 OF THE UNITED, STATES BANKRUPTCY CODE; AUTOMATIC STAY RECEIVED, FILED BY PAUL J., RUSKIN, ESQ.	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
249	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR JOEL HOLT, ESQ. ON, JULY 7, 2006.	
248	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR OKLAND BENTA ON, JULY 7, 2006.	
247	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR EDWIN CALWOOD ON, JULY 7, 2006.	
246	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR JULIE ERICKSON ON, JULY 7, 2006.	
245	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR SUSANNA HENIGHAN ON, JULY 7, 2006.	
244	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR EDWARD COURCH ON, JULY 7, 2006.	
243	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPDENA ISSUED FOR HOLLAND REDFIELD ON, JULY 7, 2006.	
242	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR BILL BROWN ON, JULY 7, 2006.	
241	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR ARIEL MELCHOIR, JR ON, JULY 7, 2006.	
240	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR MARILYN BAILEY ON JULY 7,, 2006.	
239	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR BARBARA PARY ON JULY 7,, 2006.	
238	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR EUNICE BEDMINISTER ON	

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**Superior Court of the Virgin Islands
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Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					JULY, 7, 2006.	
237	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR JASON ROBBINS ON JULY 7,, 2006.	
236	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR HAL HATFIELD ON JULY 7,, 2006.	
235	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR BILLY SHIELDS ON JULY 7,, 2006.	
234	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR CHRIS LARSON ON JULY 7,, 2006.	
233	08-03-2006 12:00 AM	Service - Return Of Service	Official		RETURN OF SERVICE FOR SUBPOENA ISSUED FOR MATT MONROE ON JULY 7,, 2006.	
232	07-07-2006 04:48 PM	Service - Subpoena Issued	Official		Subpoena (17) Issued to Matt Monroe, Chris Larson, Billy Shields, Hal Hatfield, Jason Robbins, Eunice Bedminister, Barbara Pary, Marilyn Bailey, Ariel Melchor, Jr., Bill Brown, Holland Redfield, Edward Crouch, Susanna Henighan, Julie Erickson, Edwin Calwood, Okland Benta and Joel Holt, Esq.	Lee J. Rohn, Esq.
231	05-16-2006 04:43 PM	Notice - Notice Of Deposition Received	Official		Notice Of Deposition of Jason Robbins	Lee J. Rohn, Esq.
230	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF HOLLAND REDFIELD RECEIVED, FROM LEE J. ROHN, ESQUIRE	
229	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF BILL BROWN RECEIVED, FROM LEE J. ROHN, ESQUIRE	
228	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF MARILYN BAILY RECEIVED, FROM LEE J. ROHN, ESQUIRE	
227	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF EDWARD CROUCH RECEIVED, FROM LEE J.	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
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#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					ROHN, ESQUIRE	
226	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF ARIEL MELCHOR RECEIVED, FROM LEE J. ROHN, ESQUIRE	
225	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF BARBARA PARY RECEIVED, FROM LEE J. ROHN, ESQUIRE	
224	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF HAL HATFIELD RECEIVED, FROM LEE J. ROHN, ESQUIRE	
223	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF SUSANNA HENIGHAN RECEIVED, FROM LEE J. ROHN, ESQUIRE	
222	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF BILLY SHIELDS RECEIVED, FROM LEE J. ROHN, ESQUIRE	
221	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF CHRIS LARSON RECEIVED, FROM LEE J. ROHN, ESQUIRE	
220	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF MATT MONROE RECEIVED, FROM LEE J. ROHN, ESQUIRE	
219	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF JEFFREY PROSSER RECEIVED, FROM LEE J. ROHN, ESQUIRE	
218	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF LOWE DAVIS RECEIVED, FROM LEE J. ROHN, ESQUIRE	
217	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF DEPOSITION OF EUNICE BEDMINISTER RECEIVED, FROM LEE J. ROHN, ESQUIRE	
216	05-16-2006 12:00 AM	Notice - Notice Of Deposition Received	Official		NOTICE OF 30(b)(6) DEPOSITION OF INNOVATIVE COMMUNICATION CORPORATION RECEIVED FROM LEE J. ROHN, ESQUIRE.	
215	03-29-2006 12:00 PM	Notice - Notice of Filing	Official		Notice of Production	Lee Rohn, Esq.
214	11-30-2005 12:00 AM	Financial - Fee Waived	Official		FEE WAIVED-CASE FILED PRIOR TO ENACT.	
213	09-07-2005 04:34 PM	Notice - Response to Motion	Official		Response to Defendants' Motion for Disqualification of Judge Brenda Hollar and	Lee J. Rohn, Esq.

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**Superior Court of the Virgin Islands
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Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					Proposed Order	
212	08-31-2005 12:00 AM	Motion - Reply Received	Official		REPLY IN SUPPORT OF DEFENDANTS MOTION FOR DISQUALIFICATION OF JUDGE, BRENDA J. HOLLAR RECEIVED, FILED BY KEVIN A. RAMES ESQ.	
211	08-22-2005 12:00 AM	Motion - Request For Production Of Documents Received	Official		NOTICE FOR PRODUCTION OF DOCUMENTS RECEIVED, FILED BY LEE J. ROHN, ESQ.	
210	07-15-2005 12:00 AM	Initiating Document - Case Added To Enact - Prior Doc(S) In File Folder	Official		Case Added To Enact - Prior Doc(S) In File Folder	
209	07-14-2005 01:13 PM	Notice - Stipulation Received	Official		Stipulation for Extension of Time and Proposed Order	K. Glenda Cameron, Esq., & Kevin Rames, Esq.
208	06-28-2005 01:15 PM	Motion - Motion Received	Official		Motion for Disqualification of Judge Brenda Hollar, Memorandum in Support of Defendants' Motion for Disqualification of Judge Brenda Hollar and Proposed Order	Kevin Rames, Esq., & Paul Ruskin, Esq.
207	06-22-2005 01:17 PM	Motion - Motion to Compel	Official		Motion to Compel Defendants to Respond to Discovery and Provide Rule 26 Disclosures and Proposed Order	Lee Rohn, Esq.
206	06-20-2005 01:21 PM	Response - Opposition Received	Official		Opposition to Motion to Compel Defendants to Respond to Discovery and Provide Rule 26 Disclosures	Kevin Rames, Esq.
205	01-19-2005 01:19 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Supplemental Rule 26 Disclosures	Lee Rohn, Esq.
204	12-22-2004 01:25 PM	Notice - Notice of Filing	Official		Plaintiff's Notice of Filing Additional Authority in Support of Plaintiffs' Motion for Sanctions	Lee Rohn, Esq.
203	12-01-2004 01:32 PM	Motion - Motion Received	Official		Motion to Allow a Surreply in Opposition to Plaintiffs' Motion for Sanctions Dated September 3, 2004	Kevin Rames, Esq. & Paul Ruskins, Esq.
202	12-01-2004 01:29 PM	Notice - Notice of Filing	Official		Notice of Filing Additional Authority in Support of Defendants' Opposition to Plaintiffs' Motion for	Kevin Rames, Esq.

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#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					Sanctions	
201	12-01-2004 01:27 PM	Response - Reply	Official		Reply in Support of Motion to Allow A Surreply in Opposition to Plaintiffs' Motion for Sanctions Dated September 3, 2004	Kevin Rames, Esq., & Paul Ruskin, Esq.
200	11-23-2004 01:34 PM	Response - Opposition Received	Official		Plaintiffs' Opposition to Defendants' Motion to Allow Surreply in Opposition to Plaintiffs' Motion for Sanctions	Lee Rohn, Esq.
199	11-08-2004 01:36 PM	Response - Reply	Official		Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Sanctions	Lee Rohn, Esq.
198	10-26-2004 01:38 PM	Notice - Stipulation Received	Official		Stipulation for Extension of Time	Lee Rohn, Esq., & Kevin Rames, Esq.
197	10-15-2004 01:39 PM	Response - Opposition Received	Official		Opposition to Plaintiffs' Motion for Sanctions dated September 3, 2004	Kevin Rames, Esq.
196	10-05-2004 01:41 PM	Notice - Notice of Filing	Official		Notice of Filing of Relevant Recent Authority agalnst Defendant's Motion to Disqualify Lee J. Rohn	Lee Rohn, Esq.
195	09-22-2004 12:05 PM	Notice - Notice of Filing	Official		Notice of Filing Additional Authority in Regards to Defendants' Motion to Disqualify Plaintiff's Counsel	Kevin Rames, Esq.
194	09-22-2004 12:03 PM	Notice - Stipulation Received	Official		Stipulation for Extension of Time	Kevin Rames, Esq. & Lee Rohn, Esq.
193	09-09-2004 04:29 PM	Motion - Motion Received	Official		Plaintiffs' Motion for Sanctions and Memorandum In Support thereof	Lee J. Rohn, Esq.
192	08-26-2004 01:11 PM	Notice - Notice of Filing	Official		Notice of production	Lee Rohn, Esq.
191	08-19-2004 01:52 PM	Response - Opposition Received	Official		Opposition to Plaintiffs' Motion for Sanctions for Violation of Rule 7.1	Kevin Rames, Esq.
190	08-12-2004 02:27 PM	Motion - Motion Received	Official		Motion for Sanctions for Violation of Rule 7.1 and Proposed Order	Lee Rohn, Esq.
189	08-02-2004 02:29 PM	Response - Reply	Official		Reply to Defendants' Opposition to Motion for Entry of Default	Lee Rohn, Esq.
188	07-27-2004 12:07 PM	Notice - Notice of Filing	Official		Notice of Production	Lee Rohn, Esq.

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#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
187	07-21-2004 01:55 PM	Response - Opposition Received	Official		Defendants' Opposition to Plaintiffs' Motion for Entry for Default	Kevin Rames, Esq.
186	07-21-2004 01:54 PM	Response - Reply	Official		Reply in Support of Defendants' Motion for a Stay of All Proceedings and Preliminary Injunction	Kevin Rames, Esq.
185	07-19-2004 01:57 PM	Notice - Notice of Filing	Official		Notice of Filing Additional Authority in Support of Plaintiffs' Opposition to Defendants' Motion to Disqualify Attorney Lee J. Rohn	Lee Rohn, Esq.
184	07-15-2004 02:00 PM	Response - Opposition Received	Official		Plaintiffs' Opposition to Motion for a Stay of all Proceedings and Preliminary Injunction	Lee Rohn, Esq.
183	07-15-2004 01:59 PM	Motion - Motion For Entry Of Default Received	Official		Motion For Entry Of Default and Proposed Order	Lee Rohn, Esq.
182	06-30-2004 02:05 PM	Notice - Notice of Filing	Official		Notice of Production	Lee Rohn, Esq.
181	06-30-2004 02:04 PM	Notice - Notice to the Court	Official		Notice to the Court	Lee Rohn, Esq.
180	06-21-2004 02:22 PM	Motion - Motion Received	Official		Motion for Extension of Time and Proposed Order	Lee Rohn, Esq.
179	06-10-2004 04:20 PM	Motion - Motion To Stay Received	Official		Motion for A Stay of all Proceedings and Preliminary Injunction	Kevin A. Rames, Esq., and Paul J. Ruskin, Esq.
177	06-03-2004 04:27 PM	Response - Opposition Received	Official		Defendant Prosser's Opposition to Plaintiff's Rule 56(f) Motion in Opposition to Defendant Prosser's Motion for Summary Judgment	Kevin A. Rames, Esq.
176	06-03-2004 04:24 PM	Opposition Motion - Opposition Motion	Official		Plaintiffs' Rule 56(f) Motion in Opposition to Defendant Prosser's Motion for Summary Judgment	Lee J. Rohn, Esq.
178	06-04-2004 02:34 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Adlah Donastorg Jr.'s Responses to Defendant Vitelco First Set of Interrogatories	Lee Rohn, Esq.
175	06-02-2004 02:33 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Adlah Donastorg Jr.'s Responses to Defendant Holland Redfield's First Set	Lee Rohn, Esq.

**Superior Court of the Virgin Islands
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Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francols
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#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					of Interrogatories	
174	06-01-2004 02:23 PM	Response - Opposition Received	Official		Defendant Prosser's Opposition to Plaintiffs' Rule 56(F) Motion in Opposition to Defendant Prosser's Motion for Summary Judgment	Kevin Rames, Esq. & Paul Ruskin, Esq.
173	05-28-2004 02:37 PM	Notice - Notice of Filing	Official		Notice of Filing Under Seal the source documents for the investigative reports of Dennis R. Sheraw & Associates, Inc.	Kevin Rames, Esq.
172	05-27-2004 02:07 PM	Response - Reply	Official		Reply In Support of Defendants' Motion to Disqualify Plaintiffs' Counsel	Kevin Rames, Esq. & Paul Ruskins, Esq.
171	05-27-2004 02:07 PM	Notice - Notice Of Service	Official		Notice Of Service	Lee Rohn, Esq.
170	05-24-2004 02:02 PM	Response - Opposition Received	Official		Plaintiffs' Opposition to Defendants' Motion to Disqualify Plaintiffs' Counsel	Lee Rohn, Esq.
169	05-20-2004 02:12 PM	Notice - Notice of Filing	Official		Notice of Compliance with Court Order Dated May 4, 2004	Lee Rohn, Esq.
168	05-12-2004 02:14 PM	Motion - Motion Received	Official		Motion for Extension of Time and Proposed Order	Lee Rohn, Esq.
167	05-11-2004 02:15 PM	Motion - Motion Received	Official		Motion for Extension of Time and Proposed Order	Lee Rohn, Esq.
166	05-10-2004 02:16 PM	Notice - Stipulation Received	Official		Stipulation for Extension of Time	K. Glenda Cameron, Esq. & Kevin Rames, Esq.
165	05-07-2004 02:18 PM	Notice - Stipulation Received	Official		Stipulation for Extension of Time	Lee Rohn, Esq. & Kevin Rames, Esq.
164	05-07-2004 12:10 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order dated May 6, 2004 to: Lee J. Rohn, Esq. Kevin A. Rames, Esq. Paul J. Ruskin, Esq.	
163	05-06-2004 12:08 PM	Order - Order Signed	Official		Ordered that the Plaintiffs shall respond to Defendants' Motion to Disqualify Plaintiff's Counsel from continuing in the instant action no later than May 19, 2004	
162	05-05-2004 12:15 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order (3) dated May 4, 2004 to: Lee Rohn, Esq.	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francols
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
161	05-05-2004 12:12 PM	Motion - Motion Received	Official		Kevin Rames, Esq. Paul Ruskin, Esq. Defendants' Motion to Disqualify Plaintiffs' Counsel, Memorandum in Support of Defendants' Motion to Disqualify Plaintiffs' Counsel and Proposed Order	Kevin Rames, Esq., & Paul Ruskin, Esq.
160	05-04-2004 02:09 PM	Motion - Motion Received	Official		Motion for Extension of Time and Proposed Order	Lee Rohn, Esq.
159	05-04-2004 12:21 PM	Order - Order Signed	Official		Ordered that the Plaintiffs' Motion to Amend the Complaint is hereby Granted. etc.	
158	05-04-2004 12:16 PM	Order - Order Signed	Official		Ordered that the Plaintiffs shall respond to Defendant Jeffrey Prosser's Motion for Summary Judgment no later than May 17, 2004.	
157	05-03-2004 12:18 PM	Order - Order Signed	Official		Ordered that the Motion to Reconsider is denied in part and granted in part.	
156	04-21-2004 03:18 PM	Notice - Letter/Document Received	Official		Letter to Jonathan Rebell, Law Clerk to Judge Hollar	Lee J. Rohn, Esq.
155	04-14-2004 04:12 PM	Response - Opposition Received	Official		Defendants' Further Opposition to Plaintiff's Motion to Amend the Complaint (dated 8/27/03)	Kevin A. Rames, Esq., and Paul J. Ruskin, Esq.
154	04-14-2004 02:19 PM	Motion - Motion For Summary Judgment Received	Official		Defendant Jeffrey Prosser's Motion For Summary Judgment, and Memorandum in Support of Defendant Jeffrey Prosser's Motion for Summary Judgment	Kevin Rames, Esq. & Paul Ruskin, Esq.
153	04-02-2004 12:22 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order (3) dated April 1, 2004 to: Lee Rohn, Esq. Kevin Rames, Esq. Paul Ruskin, Esq.	
152	04-01-2004 12:27 PM	Order - Order Signed	Official		Ordered that the defendants shall brief the court on the possible defenses that would no longer be available to them by granting the plaintiffs'	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					motion to amend complaint as well as any other prejudices which may arise if the motion is granted. etc.	
151	04-01-2004 12:25 PM	Order - Order Signed	Official		Ordered that plaintiffs' motion for sanctions against Attorney Rames and the defendants for violation of Rule 11.2 is denied.	
150	04-01-2004 12:23 PM	Order - Order Signed	Official		Ordered that Ms. Gilmore's social security number, address and phone number of Lori Gilmore be redacted from the file concerning the investigation file.	
149	01-12-2004 03:48 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Holland Redfield's Answers to Plaintiff Benedicta Donastorg's First Set of Interrogatories and Plaintiff Benedicta Donastorg's Demand for Production of Documents to Defendant Holland Redfield	Kevin Rames, Esq.
148	01-12-2004 03:46 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Holland Redfield's Answers to Plaintiff Adlah Donastorg, Jr.'s First Set of Interrogatories and Plaintiff Adlah Donastorg, Jr.'s Demand for Production of Documents to Defendant Holland Redfield	Kevin Rames, Esq.
147	01-12-2004 03:44 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Dally News Publishing Company Inc.'s Answers to Plaintiff Benedicta Donastorg's First Set of Interrogatories and Plaintiff Benedicta Donastorg's Demand for Production of Documents to Defendant Daily News Publishing Company, Inc.	Kevin Rames, Esq.
146	01-12-2004 03:41 PM	Notice - Notice Of Service	Official		Notice Of Service Of	Kevin Rames, Esq.

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Of Discovery Received			Defendant Daily News Publishing Company Inc.'s Answers to Plaintiff Adlah Donastorg, Jr.'s First Set of Interrogatories and Plaintiff Adlah Donastorg, Jr.'s Demand for Production of Documents to Defendant Daily News Publishing Company, Inc.	
145	01-12-2004 03:39 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Jeffrey Prosser's Answers to Plaintiff Benedicta Donastorg's First Set of Interrogatories and Plaintiff Benedicta Donastorg's Demand for Production of Documents to Defendant Jeffrey Prosser	Kevin Rames, Esq.
144	01-12-2004 03:37 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Jeffrey Prosser's Answers to Plaintiff Adlah Donastorg, Jr.'s First Set of Interrogatories and Plaintiff Adlah Donastorg, Jr.'s Demand for Production of Documents to Defendant Jeffrey Prosser	Kevin Rames, Esq.
143	01-12-2004 03:33 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Innovative Communication Corporation's Answers to Plaintiff Benedicta Donastorg's First Set of Interrogatories and Plaintiff Benedicta Donastorg's Demand for Production of Documents Innovative Communication Corporation	Kevin Rames, Esq.
142	01-12-2004 03:31 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Innovative Communication Corporation's Answers to Plaintiff Adlah Donastorg, Jr.'s First Set of Interrogatories and Plaintiff Adlah Donastorg, Jr.'s	Kevin Rames, Esq.

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francols
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					Demand for Production of Documents to Defendant Innovative Communication Corporation	
141	01-12-2004 03:27 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Lowe Davis's Answers to Plaintiff Benedicta Donastorg's First Set of Interrogatories and Plaintiff Benedicta Donastorg's Demand for Production of Documents to Defendant Lowe Davis	Kevin Rames, Esq.
140	01-12-2004 03:25 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Lowe Davis' Answers to Plaintiff Adlah Donastorg, Jr.'s First Set of Interrogatories and Plaintiff Adlah Donastorg, Jr.'s Demand for Production of Documents to Defendant Lowe Davis	Kevin Rames, Esq.
139	01-12-2004 03:22 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Vitelco's Answers to Plaintiff Benedicta Donastorg's First Set of Interrogatories and Plaintiff Benedicta Donastorg's Demand for Production of Documents to Defendant Vitelco	Kevin Rames, Esq.
138	01-12-2004 03:18 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Vitelco's Answers to Plaintiff Adlah Donastorg, Jr.'s First Set of Interrogatories and Plaintiff Adlah Donastorg, Jr.'s Demand for Production of Documents to Defendant Vitelco	Kevin Rames, Esq.
137	12-17-2003 12:45 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Lee Rohn, Esq. Benedicta Donastorg's First Set of Interrogatories to Defendant Innovative Communication Corporation and Notice of Service of Plaintiff Benedicta	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					Donastorg's Demand for Production of to Defendant Innovative Communication Corporation	
136	12-17-2003 12:42 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Lee Rohn, Esq. Benedicta Donastorg's First Set of Interrogatories to Defendant Jeffrey Prosser and Notice of Service of Plaintiff Benedicta Donastorg's Demand for Production of to Defendant Jeffrey Prosser	
135	12-17-2003 12:40 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Lee Rohn, Esq. Benedicta Donastorg's Demand for Production of Documents to Defendant Daily News Publishing Co. Inc.	
134	12-17-2003 12:39 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Lee Rohn, Esq. Benedicta Donastorg's First Set of Interrogatories to Defendant Daily News Publishing Co., Inc.	
133	12-16-2003 01:06 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Adlah Donastorg Jr.'s Demand for Production of Documents to Defendant Jeffrey Prosser and Notice of Service of Plaintiff Adlah Donastorg Jr.'s First Set of Interrogatories to Defendant Jeffrey Prosser	Lee Rohn, Esq.
132	12-16-2003 01:04 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Lee Rohn, Esq. Adlah Donastorg Jr.'s First Set of Interrogatories to Defendant Lowe Davis and Notice of Service of Plaintiff Adlah Donastorg Jr.'s Demand for Production of to Defendant Lowe Davis	
131	12-16-2003 01:01 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Lee Rohn, Esq. Benedicta Donastorg's Demand for Production of to Defendant Holland Redfield and Notice of Service of Plaintiff	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
130	12-16-2003 01:00 PM	Notice - Notice Of Service Of Discovery Received	Official		Benedicta Donastorg's First Set of Interrogatories to Defendant Holland Redfield Notice Of Service Of Plaintiff Lee Rohn, Esq. Benedicta Donastorg's First Set of Interrogatories to Defendant Lowe Davls and Notice of Service of Plaintiff Benedicta Donastorg's Demand for Production of to Defendant Lowe Davis	
129	12-16-2003 12:57 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Lee Rohn, Esq. Adlah Donastorg Jr.'s Demand for Production of to Defendant Daily News Publishing Co. Inc. and Notice of Service of Plaintiff Adlah Donastorg Jr.'s First Set of Interrogatories to Defendant Daily News Publishing Co. Inc.	
128	12-16-2003 12:55 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Lee Rohn, Esq. Adlah Donastorg Jr.'s First Set of Interrogatories to Defendant Innovatiave Communication Corporation and Notice of Service of Plaintiff Adlah Donastorg Jr.'s Demand for Production of to Defendant Innovative Communication Corporation	
127	12-16-2003 12:53 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Lee Rohn, Esq. Adlah Donastorg Jr.'s Demand for Production of to Defendant Holland Redfield and Notice of Service of Plaintiff Adlah Donastorg Jr.'s First Set of Interrogatories to Defendant Holland Redfield	
126	12-16-2003 12:51 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Lee Rohn, Esq. Benedicta Donastorg's Demand for Production of to Defendant Vitelco and Notice of Service of Plaintiff Benedicta Donastorg's First Set of Interrogatories to	

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
125	12-16-2003 12:47 PM	Notice - Notice Of Service Of Discovery Received	Official		Defendant Vitelco Notice Of Service Of Plaintiff Adlah Donastorg Jr.'s First Set of Interrogatories to Defendant Vitelco and Notice of Service of Plaintiff Adlah Donastorg, Jr.'s Demand for Production of to Defendant Vitelco	Lee Rohn, Esq.
124	12-05-2003 03:50 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff Adlah Donastorg, Jr.'s Responses to Defendant Dally News' Demand for Production of Documents	Lee Rohn, Esq.
123	11-21-2003 03:51 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Plaintiff's Responses to Defendant's Daily News' First Set of Interrogatories	Lee Rohn, Esq.
122	10-22-2003 02:11 PM	Notice - Notice Of Dismissal	Official		Notice Of Dismissal of Edwin Callwood as a Plaintiff	Lee Rohn, Esq.
121	10-10-2003 12:32 PM	Response - Opposition Received	Official		Opposition to Motion for Sanctions	Kevin Rames, Esq. & Paul Ruskin, Esq.
120	10-07-2003 03:55 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Vitelco's First Request for the Production of Documents to Plaintiffs and Defendant Vitelco's First Set of Interrogatories to Plaintiffs	Kevin Rames, Esq.
119	10-07-2003 03:53 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Holland Redfield's First Request for the Production of Documents to Plaintiffs and Defendant Holland Redfield's First Set of Interrogatories to Plaintiffs	Kevin Rames, Esq.
118	10-02-2003 04:12 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Daily News' First Request for the Production of Documents to Plaintiffs and Defendants Daily News' First Set of Interrogatories to Plaintiffs	Kevin Rames, Esq.
117	10-01-2003 12:35 PM	Response - Response	Official		Response to Opposition to Motion to Amend the Complaint	Lee Rohn, Esq.

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
116	10-01-2003 12:33 PM	Motion - Motion Received	Official		Motion for Sanctions and Proposed Order	Lee Rohn, Esq.
115	09-25-2003 03:21 PM	Notice - Notice of Filing	Official		Notice of Filing Response of Lori Gilmore	Lee Rohn, Esq.
114	09-25-2003 12:37 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Rule 26(a)(1) Disclosures by Defendants Redfield and Vitelco	Kevin Rames, Esq., & Paul Ruskin, Esq.
112	09-17-2003 11:29 AM	Answer - Answer to Complaint	Official		Defendants Daily News Publishing Co., Inc.'s and Lowe Davis's Answer to First Amended Complaint	Kevin A. Rames, Esq.
111	09-17-2003 11:27 AM	Answer - Answer to Complaint	Official		Defendants Innovative Corporation's and Jeffrey Prosser's Answer to First Amended Complaint	Kevin A. Rames, Esq.
113	09-19-2003 11:26 AM	Answer - Answer to Complaint	Official		Defendant Redfield's Answer to First Amended Complaint	Kevin A. Rames, Esq.
110	09-17-2003 11:25 AM	Answer - Answer to Complaint	Official		Defendant Vitelco's Answer to First Amended Complaint	Kevin A. Rames, Esq.
109	09-17-2003 11:23 AM	Response - Opposition Received	Official		Defendants' Opposition to Plaintiff's August 27, 2003 Motion to Amend the Complaint	Kevin A. Rames, Esq.
108	09-11-2003 04:14 PM	Notice - Notice Of Service	Official		Notice Of Service that Jada Finch-Sheen as resident agent for Vitelco was served with the Summons and Complaint	Lee Rohn, Esq.
107	09-03-2003 12:29 PM	Motion - Motion To Amend Received	Official		Motion To Amend The Complaint, Redline First Amended Complaint, Second Amended Complaint and Proposed Order	Lee Rohn, Esq.
106	08-18-2003 02:44 PM	Notice - Letter/Document Received	Official		Letter to Judge Brenda Hollar	Lee Rohn, Esq.
105	07-25-2003 04:16 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Defendant Daily News' Supplemental Response to Plaintiffs' Demand for Production of Documents	Kevin Rames, Esq.
104	07-24-2003 04:20 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order dated July 23, 2003 to: Lee Rohn, Esq. Kevin Rames, Esq.	

Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
103	07-24-2003 02:50 PM	Notice - Notice of Entry of Official Judgment/Order			Paul Ruskin, Esq. Treston Moore, Esq. Notice of Entry of Order dated July 23, 2003 to: Lee Rohn, Esq. Kevin Rames, Esq. Paul Ruskin, Esq.	
102	07-23-2003 04:17 PM	Order - Order Signed	Official		Ordered that defendant, Daily News, respond to plaintiff's motion to compel no later than August 8, 2003.	
101	07-23-2003 02:51 PM	Order - Order Signed	Official		Ordered that defendant Daily News respond to plaintiff's motion to compel no later than August 8, 2003	
100	07-21-2003 04:22 PM	Motion - Motion to Compel	Official		Motion to Compel Daily News and Proposed Order	Lee Rohn, Esq.
99	07-18-2003 04:24 PM	Notice - Notice of Filing	Official		Notice of Filing Affidavit of Sterling McPherson	Lee Rohn, Esq.
98	07-11-2003 03:56 PM	Service - Certified/Registered Mail Return Receipt Received	Official		Certified Mail Return Receipt Received Served on Paul J. Ruskin, Esq. (Article # 70010360 0002 1126 2225)	
97	07-11-2003 02:58 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Daily News Publishing Co., Inc.'s Responses to Plaintiffs' Demand for Production of Documents	Kevin Rames, Esq.
96	07-11-2003 02:56 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Defendant Jeffrey Prosser's Responses to Plaintiffs' Demand for Production of Documents	Kevin Rames, Esq.
95	06-30-2003 11:32 AM	Case Transcript - Transcript Received	Official		Transcript of Excerpt of Hearing held on June 30, 2003	Jasmine Wade Francis, Court Reporter
94	06-19-2003 04:33 PM	Notice - Notice of Entry of Official Judgment/Order			Notice of Entry of Order dated June 19, 2003 to: Lee Rohn, Esq. Kevin Rames, Esq. Paul Ruskin, Esq. Treston Moore, Esq.	
93	06-19-2003 04:25 PM	Order - Order Signed	Official		Ordered that this matter is scheduled for a status hearing and argument on all	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					pending motions on June 30, 2003 at 1:30 pm.	
92	06-10-2003 04:39 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Demand for Production to Jeffrey Prosser	Lee Rohn, Esq.
91	06-10-2003 04:37 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Demand for Production to Daily News Publishing Company, Inc.	Lee Rohn, Esq.
90	06-10-2003 04:34 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Demand for Production to Innovative Communication Corporation	Lee Rohn, Esq.
89	05-27-2003 02:45 PM	Response - Opposition Received	Official		Plaintiffs' Opposition to Dennis Sheraw's Motion to Reconsider Denial of Motion for Protective Order and Motion to Strike	Lee Rohn, Esq.
88	05-20-2003 02:54 PM	Response - Reply	Official		Reply in Support of Defendants' Motion for Reconsideration of Three of the Five Orders Entered on April 15, 2003	Kevin Rames, Esq.
87	05-19-2003 02:49 PM	Notice - Notice to the Court	Official		Notice to the Court	Lee Rohn, Esq.
86	05-15-2003 03:04 PM	Response - Opposition Received	Official		Opposition to Motion for Reconsideration	Lee Rohn, Esq.
85	05-15-2003 03:02 PM	Motion - Motion Received	Official		Motion for Leave to File Opposition to Defendants' Motion for Reconsideration Out of Time	Lee Rohn, Esq.
84	04-30-2003 03:06 PM	Motion - Motion To Reconsider Received	Official		Motion for Reconsideration of Three of the Five Orders Entered On April 15, 2003	Kevin Rames, Esq. & Paul Ruskin, Esq.
83	04-28-2003 02:53 PM	Motion - Motion To Reconsider Received	Official		Motion To Reconsider Denial of Motion for Protective Order with Points and Authorities	Treston Moore, Esq.
82	04-25-2003 04:41 PM	Notice - Letter/Document Received	Official		Letter to Judge Hollar dated April 23, 2003 Received	Lee Rohn, Esq.
81	04-23-2003 04:47 PM	Notice - Notice of Appearance	Official		Notice of Appearance for as co-counsel for Defendants	Paul Ruskin, Esq.
80	04-23-2003 04:45 PM	Notice - Letter/Document Received	Official		Letter to Judge Brenda Hollar dated April 22, 2003 Received	Paul Ruskin, Esq.
79	04-22-2003 04:43 PM	Notice - Letter/Document	Official		Letter to Judge Brenda	Treston Moore, Esq.

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**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Received			Hollar dated April 22, 2003 Received	
78	04-27-2003 02:47 PM	Notice - Letter/Document Received	Official		Letter to Judge Brenda Hollar	Paul Ruskins, Esq.
77	04-16-2003 04:38 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order (5) dated April 15, 2003 to: Lee Rohn, Esq. Kevin Rames, Esq. Paul Ruskins, Esq. Treston Moore, Esq. John Sopuch III, Esq.	
76	04-16-2003 04:19 PM	Notice - Letter/Document Received	Official		Letter to Judge Brenda Hollar with proposed Orders	Lee Rohn, Esq.
75	04-15-2003 04:30 PM	Order - Order Signed	Official		Order on Motion for Rule 35 Examination of Benedicta Donastorg Signed	Hon. Brenda Hollar
74	04-15-2003 04:27 PM	Order - Order Signed	Official		Order on Motion to Quash Subpoena Duces Tecum to Dennis Sheraw and Associates and on Dennis Sheraw's Motion for Protective Order Signed	Hon. Brenda Hollar
73	04-15-2003 04:25 PM	Order - Order Signed	Official		Order on Plaintiffs' Motion to Amend the Complaint Signed	Hon. Brenda Hollar
72	04-15-2003 04:24 PM	Order - Order Signed	Official		Order on Motion to Stay Signed	Hon. Brenda Hollar
71	04-15-2003 04:22 PM	Order - Order Signed	Official		Order Denying Defendants' Motion to Disqualify Attorney Lee J. Rohn as Counsel Signed	
70	04-07-2003 04:43 PM	Hearing - Record Of Proceeding	Official		Record Of Proceeding - Motions Hearing	
69	03-27-2003 04:47 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order dated March 26, 2003 to: Kevin Rames, Esq. Lee Rohn, Esq.	
68	03-26-2003 04:45 PM	Order - Order Signed	Official		Ordered that oral argument on all outstanding motions shall be heard on April 7, 2003 at 2:00 p.m. Signed	Hon. Brenda Hollar
67	03-21-2003 08:12 AM	Response - Reply	Official		Reply to Plaintiffs' Opposition to Defendants' Motion to Disqualify Counsel for Conflict of Interest	Kevin Rames, Esq.

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
66	03-17-2003 03:01 PM	Motion - Motion to Compel	Official		Motion to Compel Daily News	Lee Rohn, Esq.
65	03-05-2003 08:18 AM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order dated March 4, 2003 to: Lee Rohn, Esq. Kevin Rames, Esq.	
64	03-04-2003 08:17 AM	Order - Order Signed	Official		Order for Stipulation for Extension of Time Signed	
63	02-27-2003 08:21 AM	Opposition Motion - Opposition Motion	Official		Plaintiffs' Opposition to Motion for a Stay Proceedings and, in Particular of Consideration of Motion to Quash, or, in the Alternative for a Protective Order	Lee Rohn, Esq.
62	02-24-2003 08:23 AM	Notice - Stipulation Received	Official		Stipulation for Extension of Time	Suzette Richards, Esq., and Kevin Rames, Esq.
61	02-04-2003 08:25 AM	Motion - Motion Received	Official		Motion for a Stay of all Proceedings and, in Particular of Consideration of Motion to Quash, or, in the Alternative, for a Protective Order and Proposed Order	Kevin Rames, Esq.
60	01-30-2003 08:30 AM	Motion - Motion Received	Official		Motion for Leave to file Supplemental Authority in Support of Plaintiffs' Opposition to Dennis Sheraw's Amended Motion for Protective Order	Lee Rohn, Esq.
59	01-27-2003 08:35 AM	Opposition Motion - Opposition Motion	Official		Opposition to Defendants' Motion to Disqualify Counsel for Conflict of Interest	Lee Rohn, Esq.
58	01-27-2003 08:33 AM	Opposition Motion - Opposition Motion	Official		Plaintiffs' Opposition to Dennis Sheraw's Amended Motion for Protective Order	Lee Rohn, Esq.
57	01-24-2003 08:51 AM	Opposition Motion - Opposition Motion	Official		Plaintiffs' Opposition to Motion to Quash or in the Alternative for a Protective Order	Lee Rohn, Esq.
56	01-23-2003 04:04 PM	Service - Certified/Registered Mail Return Receipt Received	Official		Certified Mail Return Receipt Received Served on Paul J. Ruskin, Esq. (Article # 7001 1140 0003 3705 3580)	
55	01-23-2003 08:53 AM	Motion - Motion for	Official		Motion for Extension of	K. Glenda Cameron,

JA000105

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Extension of Time			Time and Proposed Order	Esq.
54	01-07-2003 08:59 AM	Notice - Notice of Entry of Judgment/Order			Notice of Entry of Order dated January 2, 2003 to: Lee Rohn, Esq. Kevin Rames, Esq. Paul Ruskin, Esq.	
53	01-02-2003 08:56 AM	Order - Order Signed	Official		Ordered that Plaintiff shall have up to and including January 20, 2003 to respond to Defendant's motion to quash and motion to disqualify counsel. etc.	Hon. Brenda Hollar
52	12-27-2002 04:02 PM	Service - Certified/Registered Mail Return Receipt Received	Official		Certified Mail Return Receipt Received Served on Paul J. Ruskin, Esq. (Article # 7001 1140 0003 7658 9675)	
51	12-27-2002 09:13 AM	Motion - Motion for Extension of Time	Official		Motion for Extension of Time	K. Glenda Cameron, Esq.
50	12-27-2002 09:10 AM	Notice - Notice to the Court	Official		Notice to the Court	Lee Rohn, Esq.
49	12-18-2002 09:34 AM	Notice - Notice of Entry of Judgment/Order			Notice of Entry of Order dated December 18, 2002 to: K. Glenda Cameron, Esq. Treston Moore, Esq. Kevin Rames, Esq. Paul Ruskin, Esq.	
48	12-17-2002 09:18 AM	Order - Order Signed	Official		Ordered that plaintiff will have until December 20, 2002 to respond to Dennis Sheraw & Associate's Amended Motion for Protective Order.	Hon. Brenda Hollar
47	12-06-2002 09:46 AM	Notice - Notice of Entry of Judgment/Order			Notice of Entry of Order dated December 5, 2002 to: K. Glenda Cameron, Esq. Kevin Rames, Esq. Paul Ruskin, Esq.	
46	12-05-2002 09:43 AM	Order - Order Signed	Official		Ordered that plaintiff shall have up to and including December 20, 2002 to respond to defendant's Motion to Quash and Motion to Disqualify Counsel.	Hon. Brenda Hollar
45	12-03-2002 09:37 AM	Motion - Opposition Motion	Official		Defendant' Opposition to Plaintiff's Motion for	Kevin Rames, Esq.

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					Continuance	
44	11-27-2002 09:50 AM	Motion - Motion To Continue	Official		Motion for Continuance	K. Glenda Cameron, Esq.
43	11-25-2002 04:06 PM	Service - Certified/Registered Mail Return Receipt Received	Official		Certified Mail Return Receipt Received Served on Paul J. Ruskin, Esq. (Article # 7001 1140 0003 7658 7510)	
42	11-13-2002 10:10 AM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order (2) dated November 12, 2002 to: K. Glenda Cameron, Esq. Kevin Rames, Esq. Paul Ruskin, Esq.	
41	11-12-2002 10:07 AM	Order - Order Signed	Official		Ordered that plaintiff will have until November 22, 2002 to respond to defendant ICC's Motion Quash Subpoena.	Hon. Brenda Hollar
40	11-12-2002 10:04 AM	Order - Order Signed	Official		Ordered that plaintiff will have until November 22, 2002 to respond to defendants Motion to Disqualify Counsel for Conflict of Interest	Hon, Brenda Hollar
39	11-07-2002 09:54 AM	Motion - Motion Received	Official		Amended Motion for Protective Order and Proposed Order	Treston Moore, Esq.
38	11-07-2002 09:51 AM	Motion - Motion Received	Official		Motion for Protective Order	Treston Moore, Esq.
37	11-04-2002 10:12 AM	Notice - Letter/Document Received	Official		Internal Memo to Rosalie Griffith, Supervisor recusing himself from the case	Hon. Ive Arlington Swan
36	10-29-2002 03:45 PM	Service - Return of Service of Subpoena Duces Tecum	Official		Return of Service of Subpoena Duces Tecum Served on Dennis Sheraw and Affidavit of Service (Served October 24, 2002)	
35	10-24-2002 03:13 PM	Motion - Motion Received	Official		Notice of Motion and Motion to Disqualify Counsel for Conflict of Interest	Kevin A. Rames, Esq.
34	10-23-2002 03:10 PM	Motion - Motion To Quash Received	Official		Notice of Motion, Motion To Quash, or in the Alternative Motion for a Protective Order	Paul J. Ruskin, Esq.
33	10-17-2002 03:01 PM	Notice - Notice Of Deposition Received	Official		Notice Of Deposition Duces Tecum of Dennis Sheraw	Lee J. Rohn, Esq.

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Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
32	10-15-2002 03:43 PM	Service - Subpoena Duces Tecum	Official		Subpeona Duces Tecum Received and Issued to Dennis Sheraw	
31	10-11-2002 03:00 PM	Notice - Notice to the Court	Official		Notice to the Court that Defendants do not oppose Plaintiffs' Motion to Amend the Complaint	Lee J. Rohn, Esq.
30	10-10-2002 02:58 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order dated October 9, 2002 to: Lee J. Rohn, Esq. Kevin A. Rames, Esq. Paul J. Ruskin, Esq.	
29	10-09-2002 02:56 PM	Order - Order of Recusal	Official		Notice of Recusal	
28	10-07-2002 02:47 PM	Motion - Motion To Amend Received	Official		Motion To Amend The Complaint, Redline Markup First Amended Complaint, First Amended Complaint and Proposed Order	Lee J. Rohn, Esq.
27	08-31-2002 02:42 PM	Response - Reply	Official		Defendants' Reply to Opposition to Motion for rule 35 Examination of Plaintiff Benedicta Donastorg	Kevin A. Rames, Esq.
26	08-15-2002 01:46 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order dated August 15, 2002 to: Lee J. Rohn, Esq. Kevin A. Rames, Esq.	
25	08-15-2002 12:33 PM	Order - Order Signed	Official		Ordered that the time for defendants to submit their reply to plaintiff's opposition to Rule 35 Examination of Benedicta Donastorg is extended to August 30, 2002.	
24	08-13-2002 12:32 PM	Notice - Stipulation Received	Official		Stipulation for Extension of Time	Kevin A. Rames, Esq., and Lee J. Rohn, Esq.
23	07-26-2002 12:30 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order dated July 25, 2002 to: Lee J. Rohn, Esq. Kevin A. Rames, Esq.	
22	07-25-2002 12:26 PM	Order - Order Signed	Official		Ordered that the time for defendants to submit their reply to plaintiff's Opposition to Rule 35 Examination of Benedicta Donastorg is extended to	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					August 9, 2002	
21	07-19-2002 12:23 PM	Notice - Stipulation Received	Official		Stipulation for Extension of Time	Kevin A. Rames, Esq., and Lee J. Rohn, Esq.
20	07-10-2002 12:14 PM	Notice - Notice of Filing	Official		Notice of Change of Address	Kevin A. Rames, Esq.
19	07-02-2002 12:21 PM	Response - Opposition Received	Official		Opposition to Motion to Rule 35 Examination of Benedicta Donastorg	Lee J. Rohn, Esq.
18	07-01-2002 12:18 PM	Response - Opposition Received	Official		Opposition to Motion for Extension of Time and Motion to Deem Conceded Defendants' Motion for Rule 35 Examination of Plaintiff Benedicta Donastorg	Kevin A. Rames, Esq.
17	06-24-2002 12:16 PM	Motion - Motion for Extension of Time	Official		Motion for Extension of Time and Proposed Order	Lee J. Rohn, Esq.
16	06-07-2002 12:12 PM	Notice - Notice of Filing	Official		Voluntary Disclosure Pursuant to Rule 26	Lee J. Rohn, Esq.
15	06-05-2002 12:10 PM	Motion - Motion Received	Official		Motion for Rule 35 Examination of Plaintiff Benedicta Donastorg, Memorandum in Support of Defendants' Motion for Rule 35 Examination of Plaintiff and Proposed Order	Kevin A. Rames, Esq.
14	04-05-2002 12:08 PM	Answer - Answer	Official		Answer to Counterclaim	Lee J. Rohn, Esq.
13	03-22-2002 12:05 PM	Notice - Notice Of Service Of Discovery Received	Official		Notice Of Service Of Rule 26 Disclosures	Kevin A. Rames, Esq.
12	03-19-2002 03:40 PM	Service - Return of Service	Official		Return of Service for Summons Served on Kevin A. Rames, Esq., as resident agent for Innovative Communications Company and Affidavit of Process Server (Served March 15, 2002)	
11	03-19-2002 03:38 PM	Service - Return of Service	Official		Return of Service for Summons Served on Jeffrey Prosser and Affidavit of Process Server (Served March 15, 2002)	
10	03-15-2002 11:56 AM	Answer - Amended Answer Received	Official		First Amended Answer and Counterclaim Received	Kevin A. Rames, Esq.
9	03-13-2002 03:35 PM	Service - Return of Service	Official		Return of Service for Summons Served on Lowe	

CERTIFIED TO BE A TRUE COPY
 This copy is the property of
 TAMARA CHARLES
 CLERK OF THE COURT
 20

JA000109

Superior Court of the Virgin Islands

Docket Sheet

Case #	ST-2002-CV-00117	Judge	Hon. Denise M. Francois
Case Title	SENATOR ADLAH DONASTORG, JR., et al v. DAILY NEWS PUBLISHING CO., INC. et al	Case Type	Civil - Contract - Damages

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
8	03-06-2002 11:54 AM	Answer - Answer	Official		Davis Editor and Chief Executive Officer of Daily News and Affidavit of Process Server (served March 6, 2002) Answer of Innovative Communication Corporation and Jeffrey Prosser	Paul J. Ruskin, Esq.
7	03-05-2002 11:51 AM	Answer - Answer	Official		Answer of Daily News Publishing Co., Inc., and Lowe Davis	Kevin A. Rames, Esq.
6	03-02-2002 03:31 PM	Service - Return of Service Official 20			Return of Service for Summons Served on CT Corporation System as resident agent for Daily News Publishing Company and Affidavit of Process Server (Served March 4, 2002)	
5	03-01-2002 03:28 PM	Service - Summons Received	Official		Summons (4) Received and issued to CT Corporation System as resident agent for Daily News Publishing Company, Inc., Lowe Davis, Editor and Chief Executive Officer of Daily News, Jeffrey Prosser, and Kevin A. Rames, Esq., as resident agent for Innovative Communications Company	Lee J. Rohn, Esq.
4	03-01-2002 12:00 AM	Initiating Document - Civil Complaint	Official		Converted Claims	
3	03-01-2002 12:00 AM	Notice - Demand For A Speedy Trial Received	Official		TRIAL BY JURY DEMANDED	
2	03-01-2002 12:00 AM	Financial - Filing Fee Assess	Official		FILING FEE ASSESSED	
1	03-01-2002 12:00 AM	Initiating Document - Complaint	Official		Verified Complaint Received	

CERTIFIED TO BE A TRUE COPY
 This 17th day of March 2022
TAMARA CHARLES
CLERK OF THE COURT
 By Tamara Charles Court Clerk III

FILED

February 22, 2021

SCT-Civ-2021-0001

VERÓNICA HANBY, ESQUIRE
CLERK OF THE COURT

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

SENATOR ADLAH DONASTORG,
Jr., BENEDICTA DONASTORG,
ADLAH DONASTORG, Sr.,
JOSEFINA DONASTORG, ELLA
MORON and NORMA DURAN,

Plaintiff/Appellant,

v.

DAILY NEWS PUBLISHING CO.
INC., LOWE DAVIS, HOLLAND
"DYKE" REDFIELD, VITELCO and
OAKLAND BENTA.

Defendant/Appellee.

S. Ct. Civ. No. 2021-0001

Re: Super. Ct. Civ. No. 2002-117
(STT)

AMENDED NOTICE OF APPEAL¹

Notice is hereby given that Plaintiffs, in the above captioned case, by and through the undersigned counsel, appeals to the Supreme Court of the Virgin Islands, from the following:

- The August 19, 2015, Memorandum Opinion and Order disposing of the claims against Defendants The Daily News, J. Lowe Davis, and Holland "Dyke" Redfield. (Order, entered August 19, 2015, **Exhibit**

¹ Plaintiffs never received Docketing Order entered February 9, 2021 requiring an amended notice of appeal and only happened upon the Order after checking the docket on February 22, 2021 for a court stamped copy of the original notice of appeal.

Donastorg, Adlah et al. v. Daily News et al., S. Ct. Civ. No. 2021-0001

AMENDED NOTICE OF APPEAL

Page 2

1.)

- The entry of final judgment pursuant to V.I.R. Civ. P. 54(b) as to the claims against defendants, Daily News Publishing Co., Inc., and J.

Lowe Davis. (Order of Judgment entered January 7, 2021, **Exhibit 2.**)

Plaintiffs intend to raise the following issues on appeal.

- Did the Superior Court err in granting summary judgment in favor of Defendant the Daily News?
- Did the Superior Court err in granting summary judgment in favor of Defendant J. Lowe Davis?
- Did the Superior Court err in granting summary judgment in favor of Defendant Holland “Dyke” Redfield?²

Notice Regarding Possible Jurisdictional Defect: The claims of defendants VITELCO and Oakland Benta remain pending in the Superior Court of the Virgin Islands. However, this appeal has been taken now due to what appears to be a conflict between this Court’s prior precedent *Stiles v. Yob*, No. S.CT.CIV. 2016-

² The Superior Court, in its January 7, 2021 Order, did not certify final judgment as to Defendant Holland “Dyke” Redfield despite the grant of summary judgment in his favor on August 19, 2015. However, because all claims against Defendant Redfield were dismissed in the August 19, 2015 Order, Plaintiffs have included review of the entry of judgment as to Redfield’s claims out of an abundance of caution.

AMENDED NOTICE OF APPEAL

Page 3

0027, 2016 WL 3211244, at *4 (2016) and the promulgation of V.I.R. Civ. P. 54(b) on March 31, 2017. Prior to the promulgation of Rule 54(b), it was generally accepted that the certification procedures of then applicable Fed. R. Civ. P. 54(b) cannot confer jurisdiction on this Court. *Stiles v. Yob*, No. S.CT.CIV. 2016-0027, 2016 WL 3211244, at *4 (2016) (“Unquestionably, it is this procedure [4 V.I.C. §33]—and not that set forth in Federal Rule 54(b)—that governs certification of interlocutory appeals in the Virgin Islands, for to hold otherwise would effectively divest the Legislature of its authority under the Revised Organic Act of 1954 to determine the jurisdictional limits of Virgin Islands courts.”)

However, as the Superior Court noted in *Alkon v. Kuykendall*, 70 V.I. 451, 460–61, 2019 WL 1768496, at *5 (Super. Ct. 2019), the promulgation of V.I.R. Civ. P. 54(b) has created an apparent conflict between *Stiles* and the new rule regarding this Court’s jurisdiction. *Id.* (“To grant the motion, the Court would have to assume that Virgin Islands Rule of Civil Procedure 54(b) is valid, and leave it to the Supreme Court to decide (as in *Stiles*) whether the Court has jurisdiction. And to deny the motion, the Court would have to assume that Virgin Islands Rule of Civil Procedure 54(b) is invalid, and potentially abuse its discretion by applying the wrong legal standard. Clearly, *Stiles* and Virgin Islands Rule of Civil Procedure

Donastorg, Adlah et al. v. Daily News et al., S. Ct. Civ. No. 2021-0001

AMENDED NOTICE OF APPEAL

Page 4

54(b) are contradictory. Unfortunately, this Court cannot resolve the contradiction.”)

Because it is unclear to Plaintiffs whether the Superior Court’s Rule 54(b) certification of final judgment as to Defendants Daily News and J. Lowe Davis confers jurisdiction on this Court, this appeal has been taken within thirty (30) days of the January 7, 2021 Order or risk the loss of appellate review.

RESPECTFULLY SUBMITTED,
LEE J. ROHN AND ASSOCIATES, LLC
Attorneys for Appellants/Plaintiffs

DATED: February 22, 2021

BY: /s/ Rhea R. Lawrence
Rhea Lawrence, Esq.
V.I. Bar No. 1192
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Suite 3
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U.S. Virgin Islands 00820
Telephone: (340) 778-8855
rhca@rohnlaw.com

JA000114

AMENDED NOTICE OF APPEAL

Page 5

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on February 22, 2021, I CONVENTIONALLY SERVED Defendants, at the email addresses designated below, with the original notice of appeal and electronically filed the foregoing Amended Notice of Appeal with the Clerk of the court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Joel H. Holt, Esq.
Law Offices of Joel H. Holt
2132 Company Street
Christiansted, VI 00820
Email Address: joelholtpc@gmail.com
Attorney For: Holland "Dyke" Redfield

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Michael Joseph, Esq.
P.O. Box 936
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Email Address: michaeljosephlaw@gmail.com
Attorney For: Oakland Benta

BY: /s/ Rhea R. Lawrence

JA000115

FILED

February 22, 2021
SCT-Civ-2021-0001
VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

SENATOR ADLAH DONASTORG, JR.,)
et al.,)
)
Plaintiffs,) CIVIL NO. ST-02-CV-117
)
vs.)
)
DAILY NEWS PUBLISHING CO., INC.,)
et al.,)
)
Defendants.)

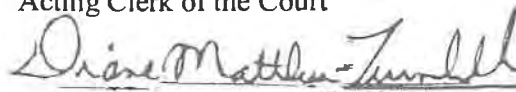
NOTICE OF ENTRY OF
MEMORANDUM OPINION
AND ORDER

TO: LEE J. ROHN, ESQUIRE VIA EMAIL
KEVIN A. RAMES, ESQUIRE VIA EMAIL
MARK W. ECKARD, ESQUIRE VIA EMAIL
JOEL H. HOLT, ESQUIRE VIA EMAIL
OAKLAND BENTA VIA EMAIL
JUDGES & MAGISTRATES, SUPERIOR COURT
IT DIVISION
ORDER BOOK
LAW LIBRARIAN

Please take notice that on August 19, 2015 a(n) MEMORANDUM OPINION AND ORDER dated August 19, 2015, was entered by the Clerk in the above-entitled matter.

Dated: August 19, 2015

ESTRELLA H. GEORGE,
Acting Clerk of the Court


DIANE MATTHEW-TURNBULL
COURT CLERK II

JA000116



FOR PUBLICATION

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

SENATOR ADLAH DONASTORG, JR.,	)	Case No. ST-2002-CV-117
BENEDICTA DONASTORG, ADLAH)	
DONASTORG, SR., JOSEFINA)	
DONASTORG, ELLA MORON, and	)	ACTION FOR DAMAGES
NORMA DURAN,)	
)	
Plaintiffs,)	
v.	)	JURY TRIAL DEMANDED
)	
DAILY NEWS PUBLISHING CO., INC.,)	
LOWE DAVIS, HOLLAND "DYKE")	
REDFIELD, VITELCO, and OAKLAND)	
BENTA,)	
)	
Defendants.)	

FRANCOIS, J.

Lee J. Rohn, Esquire
Lee J. Rohn and Associates, LLC
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Christiansted, St. Croix, VI 00820-4933
Attorney for Plaintiffs

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*Attorney for Defendant
Holland "Dyke" Redfield*

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Christiansted, St. Croix, VI 00824
Attorney for Defendant VITELCO

IT Division

Law Librarian

MEMORANDUM OPINION

(Filed August 19, 2015)

JA000117

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 iii. This jurisdiction recognizes a cause of action for intentional interference with prospective business relations.59

b. To the extent that Plaintiffs have stated a claim for intentional interference with existing contractual relations against Daily News and Redfield on behalf of any of the Plaintiffs, Daily News and Redfield are entitled to summary judgment their favor on those portions of Plaintiffs' Complaint.62

c. To the extent that Plaintiffs have stated a claim for intentional interference with prospective business relations against Daily News and Redfield on behalf of any of the Plaintiffs, Daily News and Redfield are entitled to summary judgment in their favor on those portions of Plaintiffs' Complaint.62

III. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS 63

a. Applicable law 63

b. To the extent that Plaintiffs have stated a claim for intentional infliction of emotional distress on behalf of Senator Donastorg against Daily News, Daily News is entitled to summary judgment in its favor on those portions of Plaintiffs' Complaint.63

c. To the extent that Plaintiffs have stated a claim for intentional infliction of emotional distress on behalf of Senator Donastorg against Redfield, Redfield is entitled to summary judgment in his favor on those portions of Plaintiffs' Complaint.65

d. To the extent that Plaintiffs have stated a claim for intentional infliction of emotional distress on behalf of Senator Donastorg's family against Daily News and Redfield, Daily News and Redfield are entitled to summary judgment in their favor on those portions of Plaintiffs' Complaint.66

IV. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS 68

a. Applicable law 68

b. To the extent that Plaintiffs have stated a claim for negligent infliction of emotional distress against Daily News and Redfield on behalf of any Plaintiff, Daily News and Redfield are entitled to summary judgment in their favor on those portions of Plaintiffs' Complaint.77

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INTRODUCTION

Before the Court is a Motion for Summary Judgment (the “Motion”) filed by Defendants Daily News Publishing Co., Inc. and Lowe Davis (“Davis”). Defendants Daily News Publishing Co. Inc. and Davis are collectively referred to as “Daily News” throughout this Memorandum Opinion.¹ On November 19, 2014, Plaintiffs filed their Response to Defendants’ Motion for Summary Judgment and Brief in Support (Plaintiffs’ “Opposition”). On January 7, 2015, Daily News filed its Reply to Plaintiffs’ Opposition. By filing dated January 12, 2015, Defendant Holland “Dyke” Redfield (“Redfield”) joined Daily News’ Motion, “adopting the arguments set forth therein in full.”² None of the other Defendants have joined Daily News’ Motion. The parties came before the Court for oral argument on January 23, 2015.

Daily News and Redfield move for summary judgment on all claims asserted by Plaintiffs. Plaintiffs’ Fourth Amended Complaint³ purports to state five causes of action against Daily News and Redfield: (1) defamation; (2) interference with business relationships; (3) intentional infliction of emotional distress; (4) negligent infliction of emotional distress;⁴ and (5) invasion of privacy.⁵ As to Plaintiffs’ defamation claim: no reasonable jury could find in Plaintiffs’ favor against Daily News or Redfield because Senator Donastorg is a public figure and Plaintiffs have failed to adduce clear and convincing evidence that all but one of the allegedly-defamatory statements made by either Daily News or Redfield were made with actual malice. As to the last allegedly-defamatory statement, no reasonable jury could find in Plaintiff’s favor against Daily News or Redfield because the parties do not dispute that the factual content of that statement is true.

As to Plaintiffs’ interference with business relationships claim: no reasonable jury could find in Plaintiffs’ favor against either Daily News or Redfield because, regardless of how the Court conceptualizes this tort, Plaintiffs have not produced evidence that any of the Plaintiffs had a specific contract or a prospective business relation about which either Daily News or Redfield knew and with which either Daily News or Redfield intentionally interfered.

¹ Although named as separate defendants, Plaintiffs do not allege that Davis engaged in any tortious activity distinct from the tortious activity allegedly perpetrated by Daily News Publishing Co., Inc. Because Plaintiffs have not asserted an independent basis for liability against Davis, this Memorandum Opinion analyzes Plaintiffs’ claims against Daily News Publishing Co., Inc. and Davis, together. This approach mirrors Plaintiffs’ treatment of their own claims. See generally Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 9–46 (discussing the allegedly-actionable conduct of all Defendants without differentiating between Daily News Publishing Co., Inc. and Davis).

² Def. Redfield’s Joinder in VITELCO’s Rule 12 Mot. 1.

³ Unless otherwise stated, all references to the Complaint contained in this Memorandum Opinion refer to Plaintiffs’ Fourth Amended Complaint.

⁴ Count III of Plaintiffs’ Complaint purports to state a claim for intentional infliction of emotional distress. Fourth Am. Compl. ¶ 31. In the alternative, Count III purports to state a claim for negligent infliction of emotional distress. *Id.* ¶ 32. Each putative cause of action is analyzed in a separate portion of this Memorandum Opinion for the sake of clarity.

⁵ Count V of Plaintiffs’ Complaint purports to state a claim for punitive damages. *Id.* ¶¶ 37–38. A claim for punitive damages is not recognized as an independent cause of action in this jurisdiction. *Anthony v. FirstBank Virgin Islands*, 58 V.I. 224, 227 n.4 (V.I. 2011). Consequently, this Memorandum Opinion does not treat Plaintiffs’ request for punitive damages as a separate cause of action.

As to Plaintiffs' intentional infliction of emotional distress claim: no reasonable jury could find in Plaintiffs' favor against Daily News or Redfield. The alleged wrongdoing attributed to Daily News consists of the publication of allegedly-defamatory articles and the alleged intrusion upon the seclusion of Plaintiff Senator Adlah Donastorg, Jr. ("Senator Donastorg"). No reasonable jury could conclude that Daily News' allegedly-defamatory publications represented an intentional infliction of emotional distress because Plaintiffs have not adduced clear and convincing evidence that Daily News' articles were published with actual malice or otherwise constitute actionable defamation, and no reasonable jury could conclude that the questioning of a public official in a public office about an unidentified senator by a reporter from The Virgin Islands Daily News constitutes extreme and outrageous conduct that exceeds all possible bounds of decency such that it is regarded as atrocious and utterly intolerable in a civilized society. No reasonable jury could conclude that Redfield's allegedly-defamatory statements constitute an intentional infliction of emotional distress because no reasonable jury could find that those statements were made with actual malice. Finally, no reasonable jury could conclude that Redfield, engaged in extreme and outrageous conduct that exceeds all possible bounds of decency such that it is regarded as atrocious and utterly intolerable in a civilized society by speaking about the private investigation of Senator Donastorg (the "Sheraw Investigation") with private investigator Dennis Sheraw ("Sheraw") on one occasion, approximately four years after the investigation took place, when Redfield did not commission the investigation.

As to Plaintiffs' negligent infliction of emotional distress claim: no reasonable jury could find in Plaintiffs' favor against either Daily News or Redfield because Plaintiffs have failed to produce any evidence that Daily News or Redfield owed any of the Plaintiffs a duty of care to ensure their mental wellbeing.

As to Plaintiffs' invasion of privacy claim: the common law of this jurisdiction only recognizes one of the two variations of this tort advanced by Plaintiffs. No reasonable jury could conclude that Daily News intruded upon Plaintiffs' seclusion by asking questions of a public official in a public office about an unidentified senator. No reasonable jury could conclude that Redfield intruded upon Plaintiffs' seclusion by discussing the Sheraw Investigation with Sheraw approximately four years after the investigation took place, or by allegedly following Senator Donastorg.

Plaintiffs also argue that Daily News and Redfield are liable for the alleged misconduct of each other, as well as that of Defendant VITELCO ("VITELCO") and Defendant Oakland Benta ("Benta"). The common law of this jurisdiction only recognizes some of the theories advanced by Plaintiffs to sustain this claim, but no reasonable jury could find for Plaintiffs on any of the theories recognized in this jurisdiction. Plaintiffs have not introduced evidence that either Daily News or Redfield exercised sufficient control over VITELCO to justify holding the either Daily News or Redfield liable for VITELCO's alleged misconduct. Further, since no reasonable jury could find either Daily News or Redfield liable for the claims asserted against them, no reasonable jury could conclude that Daily News nor Redfield participated in a conspiracy with the VITELCO or Benta.

Having considered the premises set forth by the parties in their filings and oral arguments, the Court will grant Daily News' Motion, and enter summary judgment in favor of Daily News and Redfield on all counts of Plaintiffs' Complaint.

PROCEDURAL HISTORY

This case was filed on March 1, 2002 by Senator Donastorg and his wife, Defendant Benedicta Donastorg, against Daily News, Innovative Communication Corporation ("ICC"), and ICC's owner, Jeffrey Prosser ("Prosser"). At the time, VITELCO was the recipient of certain tax-related benefits from the Government of the Virgin Islands. Plaintiffs allege that ICC, Daily News' parent company, acting at the behest of Prosser through Daily News, set out to defame Senator Donastorg due to Senator Donastorg's efforts to have VITELCO audited. According to Plaintiffs, Senator Donastorg's attempts to audit VITELCO made him "a Prosser enemy."⁶ Plaintiffs attribute Prosser's motivation to the fact that, at the time this action was filed, ICC owned both Daily News and VITELCO. Plaintiffs also allege that Prosser caused Sheraw to undertake a private investigation in order to "find dirt" on Senator Donastorg,⁷ and that this investigation yielded information from confidential sources, information from sources in law enforcement, information concerning the criminal and employment histories of various Plaintiffs, and bank account information, among other things.⁸

ICC and Prosser were severed as defendants in this action. ICC entered bankruptcy and no longer owns either Daily News or VITELCO. VITELCO and Redfield would later be added as Defendants. Senator Donastorg's father, Adlah Donastorg, Sr.; Senator Donastorg's mother, Josefina Donastorg; and Senator Donastorg's sisters, Ella Moron and Norma Duran, would be added as Plaintiffs. Excluding Senator Donastorg, the Plaintiffs in this case are sometimes collectively referred to as "Senator Donastorg's family."

Although Plaintiffs purport to state multiple causes of action against Defendants, the Plaintiffs' theories of liability distill into two categories. Under the first category, Plaintiffs allege that a specific defendant took a specific action, which in turn harmed a specific plaintiff. As an example, Plaintiffs allege that Daily News published certain articles and editorials, thereby defaming Senator Donastorg.⁹ Under the second category, Plaintiffs allege that all Defendants in this case were acting in concert, such that any Defendant's allegedly-tortious conduct may be imputed to any or all of the other Defendants.¹⁰ In order to analyze Plaintiffs' second theory, it is helpful to identify the allegedly-tortious conduct perpetrated by each Defendant individually. Only

⁶ Pls.' Am. Resp. to Defs.' Stmt. of Facts 20.

⁷ Fourth Am. Compl. ¶ 18.

⁸ Pls.' Am. Resp. to Defs.' Stmt. of Facts 17-18.

⁹ *See, e.g.*, Fourth Am. Compl. ¶ 12b (alleging that Daily News "printed a false story that Senator Donastorg voted against his own bill . . ."); Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 43-44 (arguing that Daily News published a "false and defamatory" story concerning a foreclosure action that had been filed against Senator Donastorg); Pls.' Am. Resp. to Defs.' Stmt. of Facts 45 (alleging that Daily News published an editorial that defamed Senator Donastorg by implying that Senator Donastorg endorsed cockfighting).

¹⁰ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 26-28; Pls.' Am. Resp. to Defs.' Stmt. of Facts 10-15.

once a defendant's liability for its own alleged misconduct can be ascertained may that liability be imputed to other defendants.

Daily News is alleged to have published defamatory articles and editorials concerning Senator Donastorg.¹¹ Daily News is also alleged to have invaded Senator Donastorg's privacy by inquiring into the status of child support payments.¹²

Redfield is alleged to have made defamatory statements concerning Senator Donastorg while speaking on a local radio show, in a press release issued by ICC,¹³ in several articles published in the St. Croix Avis, and in one article published in The Virgin Islands Daily News.¹⁴ Redfield is also alleged to have invaded Plaintiffs' privacy by "being a contact person[] for Sheraw," by being a person with whom Sheraw discussed his investigation of Senator Donastorg,¹⁵ and by being one of "the primary principals charged with defending VITELCO by attacking Senator Donastorg."¹⁶

Although Plaintiffs have pled that defamatory statements were made "on behalf of VITELCO,"¹⁷ Plaintiffs have not alleged that VITELCO published a single defamatory statement concerning Plaintiffs.¹⁸ Plaintiffs have alleged that VITELCO used rate payers' funds to fund the private investigation conducted by Sheraw.¹⁹ It is also alleged that VITELCO cut Senator Donastorg's personal telephone service for over three weeks, failed to respond to calls to repair his lines for over three weeks, and called Senator Donastorg's business clients to ask about the clients' business dealings with Senator Donastorg.²⁰ Plaintiffs allege that, as a result of these calls,

¹¹ See Pls.' Am. Resp. to Defs.' Stmt. of Facts 4-6 (listing the articles and editorials that Plaintiffs claim are actionable); *id.* at 7 (explaining that, by listing the allegedly-defamatory articles in the preceding pages, Plaintiffs "have identified defamatory and/or false-light publications contained in the pleading and discovery record"); *id.* at 8 (same). Plaintiffs allege that twenty-three of these articles were published in The Virgin Islands Daily News, and that another four of these articles were published in the St. Croix Avis, a nonparty to this suit. The final three instances of allegedly-defamatory conduct proffered by Plaintiffs are portions of the Sheraw Investigation, a press release from ICC dated March 1, 2002, and a copy of a transcript of a local radio broadcast.

¹² Pls.' Am. Resp. to Defs.' Stmt. of Facts 18-19.

¹³ *Id.* at 88.

¹⁴ *Id.* at 31-36.

¹⁵ *Id.* at 16.

¹⁶ *Id.* at 80.

¹⁷ Fourth Am. Compl. ¶¶ 12(a)-(c), 20. See also Pls.' Mem. of Law in Opp. to Def. VITELCO's Mot. for J. on the Pleadings Dismissing Sen. Donastorg's Defamation Claim 18-20 (arguing that Redfield made defamatory statements on VITELCO's behalf); *id.* at 26-36 (arguing that the allegedly-defamatory material published by Daily News should be attributed to VITELCO).

¹⁸ In opposition to VITELCO's Motion for Judgment on the Pleadings Dismissing Senator Donastorg's Defamation Claim, Plaintiffs identify a memorandum allegedly circulated by VITELCO the day before an election, which memorandum alleged that Senator Donastorg was trying to obtain the private information of VITELCO employees. *Id.* at 5-6. However, nowhere in any filing in the Court's record have Plaintiffs claimed that this memorandum is defamatory. Plaintiffs' Amended Response to Defendants' Statement of Material Facts sets forth thirty (30) allegedly-defamatory publications. Plaintiffs have not alleged that VITELCO authored a single one of these publications.

¹⁹ Fourth Am. Compl. ¶ 22.

²⁰ Pls.' Am. Resp. to Defs.' Stmt. of Facts 19.

a client of Senator Donastorg's company "wanted to discontinue doing business with Donastorg's company."²¹

Plaintiffs allege that Benta "did security work for Prosser, ICC, VITELCO, and the subsidiaries that commissioned an investigation into Senator Donastorg and his family's private life."²² Plaintiffs further allege that "ICC and its related companies, through [Benta]" instructed Sheraw to investigate Senator Donastorg, Senator Donastorg's family, and Senator Donastorg's associates.²³ Plaintiffs allege that Benta, among others, was an "ICC contact person[] for Sheraw" or was a person with whom Sheraw discussed his investigation.²⁴ Plaintiffs also claim that the report provided by Sheraw to Benta constitutes actionable defamation.²⁵

The actions described in the preceding paragraphs are the foundation for the counts of Plaintiffs' Complaint. Although not set forth in a separate count, Plaintiffs also allege that the Defendants "have set out a concerted effort to slander, defame, and cast in a bad light Senator Donastorg,"²⁶ and that the Defendants' actions "constitute a conspiracy to discredit Senator Donastorg's reputation in the community."²⁷ In their Opposition and at oral argument, Plaintiffs set forth several theories in an attempt to justify imposing liability on all Defendants for the actions of any one Defendant.

SUMMARY JUDGMENT STANDARD

"A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought."²⁸ The party moving for summary judgment bears the burden of demonstrating that there is no genuine issue of any material fact and that it is entitled to judgment as a matter of law.²⁹ This burden may be met by pointing out that there is an absence of evidence to support a particular element of the nonmoving party's case.³⁰

²¹ *Id.* But see Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. VI, Ex. 3, at Bates No. D. 1298 (indicating that, although MD McCauley Company was identified as a supplier for Senator Donastorg's business, Sheraw and his team were unable to contact that company).

²² *Id.* at 16.

²³ *Id.*

²⁴ *Id.*

²⁵ Portions of the Sheraw Investigation are attached as Exhibits 3 and 4 to Volume VI of the appendix to Plaintiffs' Opposition.

²⁶ Fourth Am. Compl. ¶ 10.

²⁷ *Id.* ¶ 25.

²⁸ FED. R. CIV. P. 56(a). Federal Rule of Civil Procedure 56 applies to this case through the operation of Superior Court Rule 7.

²⁹ *Id.*

³⁰ *Id.* 56(c)(1)(B). *Accord Bordeaux v. Swift Transportation Co. Inc.*, 402 F.3d 536, 544 (5th Cir. 2005); *Martinez v. CO2 Services, Inc.*, 12 Fed. Appx. 689, 694 (10th Cir. 2001); *Fairbank v. Wunderman Cato Johnson*, 212 F.3d 528, 531 (9th Cir. 2000); *Hartsel v. Keys*, 87 F.3d 795, 799 (6th Cir. 1996); *Geonaga v. March of Dimes Birth Defects Foundation*, 51 F.3d 14, 18 (2d Cir. 1995).

Once the moving party makes its showing, the opposing party must “make a showing sufficient to establish existence of [every] element essential to that party’s case, and on which that party will bear the burden of proof at trial.”³¹ The opposing party “may not rest on mere allegations but must present actual evidence showing a genuine issue for trial.”³² The opposing party must provide more than a scintilla of supporting evidence to survive a motion for summary judgment.³³

The Court will consider the evidence provided by both parties and view all inferences to be drawn from that evidence in a light most favorable to the nonmoving party before ruling.³⁴ If the Court does not grant all of the relief requested by the motion, it “may enter an order stating any material fact—including an item of damages . . . that is not genuinely in dispute and [treat] that fact as established in the case.”³⁵ “A fact is material if it can affect the outcome of the case,”³⁶ and a genuine dispute of material fact exists if the evidence is such that a reasonable jury could find in favor of the nonmoving party on the disputed fact.³⁷ Summary judgment shall be granted if there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law.³⁸

ANALYSIS

I. DEFAMATION

Count I of Plaintiffs’ Complaint purports to state a claim for defamation on behalf of Senator Donastorg.³⁹

a. Applicable law

In *Joseph v. Daily News Publishing Company, Inc.*,⁴⁰ the Supreme Court of the Virgin Islands adopted the principles of law summarized in the Restatement (Second) of Torts pertaining to defamation.⁴¹ *Joseph* was rendered in acknowledgment of the Supreme Court’s decision in *Banks v. International Rental & Leasing Corp.*⁴² Consequently, the principles of law summarized in the Restatement (Second) of Torts pertaining to defamation represent the point of departure for analyzing Senator Donastorg’s defamation claim.

³¹ *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

³² *Williams v. United Corp.*, 50 V.I. 191, 194–95 (V.I. 2008) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).

³³ *Joseph v. Hess Oil Virgin Islands Corp.*, 54 V.I. 657, 664 (V.I. 2011).

³⁴ *Id.*

³⁵ FED. R. CIV. P. 56(g).

³⁶ *Burd v. Antilles Yachting Services, Inc.*, 57 V.I. 354, 360 (V.I. 2012) (quoting *Anderson*, 477 U.S. at 254) (internal quotation marks omitted).

³⁷ *Anderson*, 477 U.S. at 248.

³⁸ FED. R. CIV. P. 56(a).

³⁹ Fourth Am. Compl. ¶¶ 24–26.

⁴⁰ 57 V.I. 566 (V.I. 2012).

⁴¹ *Id.* at 585.

⁴² *Id.* at 585 n.10 (citing *Banks v. International Rental & Leasing Corp.*, 55 V.I. 967, 979 (V.I. 2011)).

In accordance with those principles, a plaintiff may only prevail on a defamation claim by proving: (1) the existence of “a false and defamatory statement concerning another;” (2) the existence of “an unprivileged publication [of the false and defamatory statement] to a third party;” (3) “fault amounting to at least negligence on the part of the publisher;” and (4) “either the actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.”⁴³

In certain circumstances, the First Amendment imposes an additional burden on a plaintiff that seeks to recover for defamation. Beginning with the case of *New York Times Co. v. Sullivan*,⁴⁴ the Supreme Court of the United States has held that “[a] public figure may not recover damages for a defamatory falsehood without clear and convincing proof that the false ‘statement was made with actual malice’”⁴⁵ When the allegedly-defamatory statement has only a defamatory meaning, ‘actual malice’ must be established with clear and convincing evidence that the defendant knew that a statement was false at the time he or she made the statement, or that the defendant made the statement with reckless disregard for whether it was false.⁴⁶ “Recklessness is shown by demonstrating that ‘the defendant in fact entertained serious doubts as to the truth of the statement or that the defendant had a subjective awareness of probable falsity.’”⁴⁷ When the allegedly-defamatory statement has competing meanings—one that is defamatory, and one that is not—a plaintiff has alleged defamation by implication.⁴⁸ Defamation by implication occurs when one “juxtaposes a series of facts to imply a defamatory connection between them.”⁴⁹ To survive summary judgment, a plaintiff that has alleged defamation by implication must introduce clear and convincing evidence from which a reasonable jury could conclude that the defendant not only knew that the statement was false, but also that the defendant intended to communicate the defamatory meaning over the non-defamatory meaning.⁵⁰ In either instance, the ‘actual malice’ standard “is a subjective one, based on the defendant’s actual state of mind” at the time the statement was made.⁵¹

Proof of “ill will, evil motive, [or] intent to injure” does not constitute actual malice.⁵² “Debate on public issues will not be uninhibited if the speaker must run the risk that it will be proved in court that he spoke out of hatred; even if he did speak out of hatred, utterances honestly believed contribute to the free interchange of ideas and the ascertainment of truth.”⁵³ Indeed, “in

⁴³ *Id.* at 585–88.

⁴⁴ 376 U.S. 254 (1964).

⁴⁵ *Harte-Hanks Communications v. Connaughton*, 491 U.S. 657, 659 (1989) (quoting *New York Times Co. v. Sullivan*, 376 U.S. 254, 279–80 (1964)).

⁴⁶ *Kendall v. Daily News Publishing Co.*, 716 F.3d 82, 89 (3d Cir. 2013) (quoting *Schiavone Construction Co. v. Time, Inc.*, 847 F.2d 1069, 1089 (3d Cir. 1988)).

⁴⁷ *Id.* (quoting *Schiavone Construction Co.*, 847 F.2d at 1089).

⁴⁸ *Id.*

⁴⁹ *Id.* (quoting 50 AM. JUR. 2D *Libel and Slander* § 158 (West 2015)).

⁵⁰ *Id.* at 90.

⁵¹ *Id.* at 89 (quoting *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968)) (internal quotations omitted).

⁵² *Rosenblatt v. Baer*, 383 U.S. 75, 84 (1966) (quoting *Garrison v. Louisiana*, 379 U.S. 64, 74 (1964)).

⁵³ *Garrison*, 379 U.S. at 73.

charges against a popular political figure . . . it may be almost impossible to show freedom from ill-will or selfish political motives.”⁵⁴

b. Daily News is entitled to summary judgment in its favor on Senator Donastorg’s defamation claim.

Senator Donastorg’s defamation claim against Daily News is premised on twenty-two allegedly-defamatory articles and editorials published in The Virgin Islands Daily News.⁵⁵ Senator Donastorg is a public figure, and twenty-one of the twenty-two articles implicate matters of public concern. Of the twenty-one articles that implicate matters of public concern, Plaintiffs have not provided clear and convincing evidence that Daily News published any of these twenty-one articles with actual malice. The parties do not dispute the truth of the statements contained in the one article that does not implicate matters of public concern. Consequently, no reasonable jury could find Daily News liable for defamation against Senator Donastorg.

i. Senator Donastorg is a public figure.

“In some instances an individual may achieve such pervasive fame or notoriety that he becomes a public figure for all purposes and in all contexts.”⁵⁶ Senator Donastorg is one such individual. In his deposition, Senator Donastorg testified that he assumed office as a Virgin Islands senator in 1996 and maintained that position through 2006.⁵⁷ The first allegedly-defamatory publication was made in March 21, 1997, and the last was made on August 22, 2004, all during the period that Senator Donastorg served the Virgin Islands as a public official. Plaintiffs have also introduced evidence that Senator Donastorg first ran for public office in 1992,⁵⁸ and that Senator Donastorg ran for governor 2006.⁵⁹ As an elected official that served this territory for approximately a decade, Senator Donastorg is a public figure.⁶⁰

ii. With one exception, all twenty-two the allegedly-defamatory statements made by Daily News implicate matters of public concern.

“[S]peech on public issues occupies the ‘highest rung of the hierarchy of First Amendment values,’ and is entitled to special protection.”⁶¹ Debate on public issues “should be uninhibited,

⁵⁴ *Rosenblatt*, 383 U.S. at 74 (quoting Dix W. Noel, *Defamation of Public Officers and Candidates*, 49 COL. L. REV. 875, 893 n.90 (1949)) (internal quotations omitted).

⁵⁵ See Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 5–6 (listing the allegedly-defamatory publications). Of the thirty publications listed, only twenty-two of them have been attributed to Daily News. Seven of the remaining eight publications pertain to Plaintiffs’ defamation claim against Redfield. The last allegedly-defamatory publication is Sheraw’s investigative report, which was published by neither Daily News nor Redfield.

⁵⁶ *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 n.3 246 (1986) (quoting *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 351 (1974)).

⁵⁷ Pls.’ Opp. to Defs.’ Mot. for Summ. J. and Br. in Supp. App. Vol. III, Donastorg Dep. Tr. at 11:4–14.

⁵⁸ *Id.* App. Vol. III, Benedicta Donastorg Dep. Tr. 12:24–25; *id.* at 13:15–19.

⁵⁹ *Id.* at 15:3–5.

⁶⁰ See *New York Times Co. v. Sullivan*, 376 U.S. 254, 256 (1964) (observing that the plaintiff was an elected commissioner of Montgomery, Alabama).

⁶¹ *Connick v. Myers*, 461 U.S. 138, 145 (1983) (citations omitted).

robust, and wide-open, and . . . it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.”⁶² A determination of whether speech addresses matters of public concern “must be determined by [the expression's] content, form, and context . . . as revealed by the whole record.”⁶³

1. *March 21, 1997 article titled “Senator: no conflict of interest with firm selling to hospital”*

This article implicates matters of public concern because it discusses how funds of a public institution are being used. The article explains that the Roy L. Schneider Hospital purchased goods from a company owned by a Virgin Islands senator. The article provides specific figures: the hospital paid \$36,682 to the company in December of 1995 in exchange for a three-month supply of infectious-waste bags; the hospital paid \$47,261 to the company in May of 1996 in exchange for a three-month supply of infections-waste bags and trash-can liners; the hospital paid a total of \$104,938 to the company in 1996; and, as of March 31, 1997, the hospital had paid \$11,485 to the company in 1997. The manner in which the Government of the Virgin Islands spends its money is a matter of public concern,⁶⁴ as is the relationship between public institution and a public official’s business interests.

2. *May 29, 1988 editorial titled “The public’s right to know”*

This editorial implicates matters of public concern because it discusses the operation of Virgin Islands’ utilities and the impact of those operations on residents of this Territory. The editorial suggests that the costs of reports concerning VITELCO’s telephone rates—and reports concerning rates of the Virgin Islands Water and Power Authority and the ferry boats—are ultimately passed on to the consumers of those utilities. The editorial also opines on how one Virgin Islands senator is addressing the regulation of public utilities in the Territory. Both the operation of this Territory’s utilities and the Legislature’s opinions in response thereto are matters of public concern.

3. *July 15, 1998 article titled “Vitelco disputes PSC study”*

This article implicates matters of public concern because it discusses the operation of Territorial utilities and the Legislature’s response thereto. The article discusses the relationship between VITELCO’s Industrial Development Commission (“IDC”) tax credits and the possibility of rate increases for VITELCO’s customers. The article also states that the Legislature mandated an examination into the possibility of a rate reduction. The article specifically observes that one Virgin Islands senator “continued to question the strength of VITELCO’s arguments and the

⁶² *New York Times Co.*, 376 U.S. at 270 (citing *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949)).

⁶³ *Dun & Bradstreet v. Greenmoss Builders*, 472 U.S. 749, 761–62 (1985) (quoting *Connick*, 461 U.S. at 147–48) (internal quotations omitted). *Accord Snyder v. Phelps*, 562 U.S. 443, 453 (2011) (quoting *Dun & Bradstreet*, 472 U.S. at 761).

⁶⁴ See, e.g., *Chaklos v. Stevens*, 560 F.3d 705, 708 (7th Cir. 2009) (explaining that a letter concerning government spending addressed a matter of public concern); *Weeks v. Bayer*, 246 F.3d 1231, 1236 (9th Cir. 2001) (holding that “[d]iscussions about the funding and finances of public programs are sometimes matters of public concern”).

validity of its IDC benefits.”⁶⁵ As with the preceding editorial, an article that discusses the operation of public utilities and the Legislature’s response thereto implicate matters of public concern.

4. *June 9, 2000 article titled “ICC, Donastorg square off over Vitelco tax breaks”*

As with the July 15, 1998 article discussed above, this article implicates matters of public concern because it discusses the operation of a public utility and the response of a Virgin Islands senator to the operation of that utility.

5. *August 17, 2000 article titled “Sen. Donastorg demands data on Vitelco’s IDC compliance”*

This article implicates matters of public concern because it discusses the criticisms leveled by a Virgin Islands senator against the director of the IDC over whether VITELCO has complied with the employment guidelines in its IDC certificate. The compliance of a utility with local law and the Legislature’s opinion on whether that utility has complied with local law are both matters of public concern.

6. *September 8, 2000 article titled “Donastorg asks court to make Vitelco open employee records”*

This article implicates matters of public concern for the same reasons as the preceding articles. Specifically, this article further chronicles the efforts of a Virgin Islands senator to determine whether VITELCO had complied with its IDC certificate.

7. *November 1, 2000 article titled “Donastorg, IDC director wrangle over accusations of abuses”*

This article implicates matters of public concern because it discusses how a Virgin Islands senator had questioned the leadership of the IDC. The article explains that the senator criticized the IDC’s director for not penalizing any IDC beneficiaries since assuming her role in April of 1999. The article also explains that the senator accused the IDC’s director of using her position as director to solicit funds for a foundation that she chairs. The article explains that this accusation was contained in a letter dated October 24, 2000, sent by the senator to then-Governor Charles W. Turnbull. The article concludes by quoting the portion of that letter in which the senator calls for the IDC director’s resignation. The operation of the IDC and the criticism thereof by a Virgin Islands senator are both matters of public concern.

⁶⁵ Norberto Santana Jr., *Vitelco disputes PSC study*, THE VIRGIN ISLANDS DAILY NEWS, July 15, 1998, at page 1.

8. *June 12, 2001 article titled "Legislation reduction on agenda for Rules Committee"*

This article implicates matters of public concern because it discusses a bill introduced in the Legislature of the Virgin Islands, and how several senators voted on that bill.

9. *June 14, 2001 article titled "Setting the record straight"*

This article implicates matters of public concern because it clarifies an error that was printed in the June 12, 2001 article discussed in the preceding paragraph. Specifically, this article clarifies how a Virgin Islands senator voted in relation to a particular bill.

10. *February 6, 2002 article titled "Sen. Donastorg and wife face foreclosure on their Winberg home"*

This article does not implicate a matter of public concern. Due to "a strong interest in debate about those persons who are in a position significantly to influence the resolution of [public] issues,"⁶⁶ speech relating to a public official's "conduct, fitness, or role in that capacity"⁶⁷ is constitutionally protected.⁶⁸ "[S]ociety's interest in the officers of government is not strictly limited to the formal discharge of official duties,"⁶⁹ and "[p]ublic discussion about the qualifications of a candidate for elective office presents what is probably the strongest possible case for application of the *New York Times* rule."⁷⁰ Quoting the Kansas Supreme Court, the Supreme Court of the United States has observed that

a candidate must surrender to public scrutiny and discussion so much of his private character as affects his fitness for office, and the liberal rule requires no more. But in measuring the extent of a candidate's profert of character it should always be remembered that the people have good authority for believing that grapes do not grow on thorns nor figs on thistles.⁷¹

However, while "a charge of criminal conduct against an official or a candidate, no matter how remote in time or place, is always relevant to his fitness for office for purposes of applying the *New York Times* rule of knowing falsehood or reckless disregard of the truth,"⁷² the Court has discovered no authority that a civil foreclosure action carries the same weight. Nor has Daily News advanced such a claim. Consequently, the fact that a foreclosure action was filed against a

⁶⁶ *Rosenblatt v. Baer*, 383 U.S. 75, 85 (1966).

⁶⁷ *Joseph v. Daily News Publishing Co., Inc.*, 57 V.I. 566, 588 (V.I. 2012) (citing RESTATEMENT (SECOND) OF TORTS § 580A).

⁶⁸ See *Joseph*, 57 V.I. at 589 (citing RESTATEMENT (SECOND) OF TORTS § 580B) (explaining that the Restatement—and consequently, the Virgin Islands—does not apply First Amendment protections to statements that do not implicate a public official's "conduct, fitness, or role in his public capacity").

⁶⁹ *Gertz v. Robert Welch*, 418 U.S. 323, 344 (1974).

⁷⁰ *Ocala Star-Banner Co. v. Damron*, 401 U.S. 295, 300-01 (1971).

⁷¹ *Garrison v. Louisiana*, 379 U.S. 64, 77 (1964) (quoting *Coleman v. MacLennan*, 98 P. 281, 291 (1908)).

⁷² *Ocala Star-Banner Co.*, 401 U.S. at 300 (internal quotations omitted).

Virgin Islands senator does not constitute a matter of public concern for purposes of determining whether the *New York Times* standard applies to this article.

11. February 7, 2002 editorial titled "Insolvent V.I. Senators"

This editorial implicates matters of public concern because it invites discussion concerning the qualifications of Virgin Islands senators to perform their jobs. The editorial also invites discussion about the relationship between then-Governor Charles W. Turnbull and the Virgin Islands senators due to the fact that the editorial chastises the former governor for criticizing Virgin Islands senators for passing costly legislation.

12. April 25, 2003 article titled "Big money title fight rings up big gamble on marketing in the V.I."

This article implicates matters of public concern because it discusses how the Legislature of the Virgin Islands appropriated funds to bring a boxing event to the Virgin Islands. These actions are germane to the public interest they involve the use of public funds by publically-elected officials to produce a sporting event that would be held in the Territory.

13. May 30, 2013 article titled "~~V.I.-backed boxing event called off; future uncertain~~"

This article implicates matters of public concern because it discusses the appropriation of public funds for a public sporting event that was designed to boost the tourism economy of this Territory.

14. October 24, 2003 article titled "No TV contract yet, but ESPN will still visit St. Thomas boxing site"

This article implicates matters of public concern for the same reasons as articles twelve and thirteen, discussed above.

15. October 29, 2003 editorial titled "Volunteerism is nice, but . . ."

This editorial implicates matters of public concern for the same reasons as articles twelve through fourteen, discussed above.

16. November 1, 2003 article titled "No ESPN contract yet for V.I. boxing card"

This article implicates matters of public concern for the same reasons as articles twelve through fifteen, discussed above.

17. November 5, 2003 article titled "ESPN commits to televising V.I.'s 'Rumble in Paradise'"

This article implicates matters of public concern for the same reasons as articles twelve through sixteen, discussed above.

18. November 27, 2003 article titled "Sugar Ray Leonard to promote V.I. boxing match for ESPN2's 'Friday night at the Fights,' planners say"

This article implicates matters of public concern for the same reasons as articles twelve through seventeen, discussed above.

19. December 11, 2003 editorial titled "Boxing and tourism, a TKO; maybe 'Spongebob' can help"

This editorial implicates matters of public concern for the same reasons as articles twelve through eighteen, discussed above.

20. March 1, 2004 editorial titled "GERS as political fodder"

This editorial implicates matters of public concern because it discusses the position of a Virgin Islands senator during an election year. Specifically, the editorial observes that, in 2004, the senator is attempting to enforce a "policy that has been on the books since 2000."⁷³ The policy referred to is a policy under which the Government Employee Retirement System ("GERS") would pay four percent interest on the money participants withdraw from the system when they leave government employment before retirement. The editorial opines that this particular policy "is not what people should be concerned about" because "even by the most conservative estimates, the GERS is underfunded by \$1 billion dollars." The editorial claims that "Senators do not have the financial wisdom to properly manage [GERS], and most are motivated only by political advancement." The article also opines that the senator's position might "hurt[] the pensions of thousands of current and future V.I. government employees."

This editorial expresses an opinion on a candidate's position during a period of time when that candidate is up for re-election, and debate on public issues must remain "uninhibited, robust, and wide-open."⁷⁴ The editorial's position concerning the involvement of Virgin Islands senators with GERS invites discussion about that topic, a matter of public concern due to the fact that residents of this Territory will rely on GERS as they plan for retirement.

⁷³ Editorial, *GERS as political fodder*, THE VIRGIN ISLANDS DAILY NEWS, March 1, 2004.

⁷⁴ *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 20 (1990) (quoting *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964)) (internal quotation marks omitted).

21. April 6, 2004 editorial titled "Registering V.I. automobiles"

The opening sentences of this editorial encapsulate why this editorial implicates matters of public concern: "Say 'Motor Vehicles Department' or 'Inspection Lane' to any Virgin Islands motorist and you won't have to wait long to see him wince. Is there anyone who owns or drives a motor vehicle in the territory and hasn't had an unpleasant experience with this bureaucratic jungle?"⁷⁵

The editorial observes that, "with an election seven months away," a Virgin Islands senator is proposing to create a separate governmental agency to manage the Bureau of Motor Vehicles.⁷⁶ The editorial's author criticizes this plan as "an election year strategy to curry favor with voters and offer hope of creating jobs in a new government bureaucracy."⁷⁷ The editorial's author also claims that "we are wary of any proposal [from that senator] to create a new government agency" for two reasons: "As chairman of the Senate Finance Committee [the senator] has been unable to pass a territorial budget for fiscal year 2004," and because the senator allegedly has "problems in managing his personal finances and the government's."⁷⁸

As with the preceding editorial concerning GERS, this editorial implicates matters of public concern because it expresses an opinion on a senator's position during a period of time when that senator is up for re-election. Also like the GERS editorial, the statements made in this editorial invite discussion concerning a senator's proposals for the Government of the Virgin Islands and that senator's qualifications for making such proposals.

22. August 22, 2004 editorial titled "Blind eye to cockfighting? Animal cruelty nonetheless!"

This editorial implicates matters of public concern because it discusses a bill passed by the Legislature of the Virgin Islands that affects the penalties for those found guilty of animal cruelty or animal neglect. The author of the editorial criticizes the bill because it excludes cockfighting from its definition of animal cruelty. The author alleges that "money is spent illegally gambling on cockfights in the Virgin Islands," and that "law enforcement officials have documented a strong connection between cockfighting and the distribution of illegal drugs."⁷⁹ As with the GERS and the V.I. Automobiles editorials discussed above, this editorial represents an opinion on the issues it addresses, and thus invites discussion about the propriety of such a bill and the exclusion of cockfighting therefrom.

⁷⁵ Editorial, *Registering V.I. automobiles*, THE VIRGIN ISLANDS DAILY NEWS, April 6, 2004.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ Editorial, *Blind eye to cockfighting? Animal cruelty nonetheless!*, THE VIRGIN ISLANDS DAILY NEWS, Aug. 22, 2004.

- iii. Plaintiffs have not produced clear and convincing evidence from which a reasonable jury could conclude that any of the allegedly-defamatory statements made by Daily News that implicate matters of public concern were made with actual malice.

“In the context of the underlying defamation action brought by a public official regarding a matter of public concern, the question becomes ‘whether the evidence in the record could support a reasonable jury finding either that the plaintiff has shown actual malice by clear and convincing evidence or that the plaintiff has not.’”⁸⁰ “The question [of] whether the evidence in the record . . . is sufficient to support a finding of actual malice is a question of law.”⁸¹ “At the trial phase . . . ‘where the *New York Times*’ clear and convincing evidence requirement applies, the trial judge’s inquiry as to whether a genuine issue of material fact exists will be whether the evidence presented is such that a jury applying that evidentiary standard could reasonably find for either the plaintiff or the defendant.’”⁸²

As a public figure suing for defamation over articles and editorials that implicate matters of public concern, the First Amendment requires that Senator Donastorg substantiate his claims with clear and convincing evidence that Daily News published each of the articles and editorials in question with actual malice. Plaintiffs have not provided a statement-by-statement analysis of why they believe that Daily News’ allegedly-defamatory statements were made with actual malice. Instead, Plaintiffs chose to discuss the articles and editorials by theme.⁸³ Since actual malice must be present for every alleged defamation in an action brought by a public official concerning matters of public concern,⁸⁴ the Court must examine each article individually to determine whether a reasonable jury could find, based upon clear and convincing evidence, that Daily News published each piece with actual malice. No reasonable jury could reach such a conclusion with regard to any of the twenty-one articles and editorials discussed below.

⁸⁰ *Joseph v. Daily News Publishing Co., Inc.*, 57 V.I. 566, 584 (V.I. 2012) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255–56 (1986)).

⁸¹ *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 17 (1990) (quoting *Harte-Hanks Communications, Inc. v. Connaughton*, 491 U.S. 657, 685 (1989)) (internal quotations omitted).

⁸² *Joseph*, 57 V.I. at 584 (quoting *Anderson*, 477 U.S. at 255–56).

⁸³ See Pls.’ Resp. to Defs.’ Mot. for Summ. J. and Br. in Supp. 41–50 (grouping the allegedly-defamatory publications into eight separate categories for purposes of Plaintiffs’ analysis); Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 19–46 (same).

⁸⁴ See *Milkovich*, 497 U.S. at 14 (citing *New York Times Co. v. Sullivan*, 376 U.S. 254, 279–80 (1964)) (observing that a public official cannot recover damages for a defamatory falsehood “unless he proves that *the statement* was made with actual malice”) (emphasis supplied). To hold to the contrary would permit the imposition of liability for defamation of a public official for an article that was not, itself, published with actual malice. Such a result would contradict the requirements set forth by *New York Times* and its progeny.

1. *March 21, 1997 article titled "Senator: no conflict of interest with firm selling to hospital"*

Nowhere in Plaintiffs' Opposition or Plaintiffs' Amended Response to Defendants' Statement of Facts do Plaintiffs address this article.⁸⁵ Thus, Plaintiffs have not presented clear and convincing evidence that Daily News either knew that the contents of this editorial were false, or that Daily News entertained serious doubts as to the truth or falsity of this editorial. Due to this absence of evidence, no reasonable jury could conclude that this article was published with actual malice.

2. *May 29, 1998 editorial titled "The public's right to know"*

Plaintiffs' Opposition quotes the portion of this editorial in which the author claims that "Donastorg is an example of one of the most anti-business legislators in recent memory."⁸⁶ To support the proposition that this article is actionable, Plaintiffs cite to "[t]he articles discussed in RSOF ¶4.B.2"⁸⁷ Aside from the blanket citation to "RSOF ¶4.B.2," Plaintiffs' Opposition provides no factual support for the claim that any portion of the May 29, 1998 editorial was published with actual malice.

Plaintiffs' Amended Response to Defendants' Statement of Facts proffers four pieces of evidence to establish that the May 29, 1998 editorial was published with actual malice. First, Plaintiffs claim that the "portion of the [editorial] that purports to state facts about Donastorg is false and was intended to paint Senator Donastorg in a false, bad light."⁸⁸ Plaintiffs support this contention with citations to Senator Donastorg's deposition testimony.

Second, Plaintiffs claim that an editor of the paper resigned due to the publication of the editorial because, in her opinion, the editorial "destroyed the last shred of credibility that may have remained"⁸⁹ Plaintiffs support this contention with citations to the deposition testimony of Jason Robbins, an employee of Daily News who has held various editorial positions therewith over the course of his career.

Third, Plaintiffs claim that Prosser broke his promise that he "was not going to interfere with the news operations" of Daily News by appointing Ed Crouch to the editorial board, and that Ed Crouch "immediately replaced [an editorial piece] with one critical of Senator Donastorg"⁹⁰ Plaintiffs cite to the deposition testimony of Ariel Melchior Jr. to support this fact. Plaintiffs claim that "a reasonable jury could conclude there was bad motive and a subjective intent to

⁸⁵ See Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 41-42 (containing no discussion of the March 21, 1997 article); Pls.' Am. Resp. to Defs.' Stmt. of Facts 19-28 (same).

⁸⁶ Editorial, *The public's right to know*, THE VIRGIN ISLANDS DAILY NEWS, May 29, 1998.

⁸⁷ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 41. The acronym RSOF refers to Plaintiffs' Amended Response to Defendants' Statement of Undisputed Material Facts.

⁸⁸ Pls.' Am. Resp. to Defs.' Stmt. of Facts 62-63.

⁸⁹ *Id.* at 63.

⁹⁰ *Id.*

defame” when “editors and reporters are quitting over the unfair contents of articles due to their unfair and conflicted nature.”⁹¹

Fourth, Plaintiffs claim that the Daily News’ editorial board included people that were employed by ICC. Plaintiffs support this fact with a citation to Robbins’ deposition transcript. Plaintiffs further claim that “Robbins admitted that The Daily News . . . described Senator Donastorg as a “Rogue Senator . . .,” and as “one of the most ‘anti-business legislators in recent memory’” despite the fact that Robbins “could not articulate any factual support” for making such assertions.⁹² These alleged facts are also supported by citations to Robbins’ deposition transcript.

The evidence proffered by Plaintiffs does not constitute clear and convincing evidence that Daily News published this editorial with actual malice. First, Senator Donastorg’s belief that the published material was false does not constitute evidence that Daily News knew it was publishing false information at the time this editorial was published. Similarly, the fact that employees of Daily News resigned does not constitute evidence that Daily News knew it was publishing false information about Senator Donastorg. Although the employees may have disagreed with the content of certain pieces, Plaintiffs have introduced no evidence where a former employee of Daily News testified that Daily News deliberately chose to publish false information about Senator Donastorg in this editorial. Third, the fact that a member of Daily News’ editorial board elected to publish an editorial piece that was critical of Senator Donastorg does not constitute evidence that Daily News knew it was publishing false information about Senator Donastorg or that Daily News entertained serious doubts about the truth or falsity of the editorial’s content but nonetheless published the editorial.

Finally, the statements from Robbins’ deposition—the description of Senator Donastorg as a “rogue senator” and the characterization that Senator Donastorg was “an example of one of the most anti-business legislators in recent memory” do not constitute clear and convincing evidence of actual malice because they are statements of opinion. “[A] statement on matters of public concern must be provable as false before there can be liability under state defamation law, at least in situations, like the present, where a media defendant is involved.”⁹³ The question of whether one is a rogue senator or whether a senator is one of the most anti-business legislators in recent memory are statements that are not provably false. The classification of ‘rogue’ invites multiple interpretations: one person’s rogue may be another person’s hero.⁹⁴ The allegation that Senator Donastorg “represents one of the most anti-business legislators in recent memory’ is not provably false because ‘recent memory’ is an ambiguous frame of reference, as is the classification ‘anti-business.’ As statements that are not provably false, the phrases relied upon by Plaintiffs do not constitute evidence that the May 28, 1998 editorial was published with actual malice.

⁹¹ *Id.*

⁹² *Id.* at 64.

⁹³ *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 19–20 (1990).

⁹⁴ The parties’ filings illustrate the ambiguity of the phrase: Plaintiffs argue that the word carries the negative connotation of belonging to a rogues’ gallery, while Daily News points to former Vice-Presidential hopeful Sarah Palin’s book *Going Rogue* as an example of how the word ‘rogue’ can be used to cast someone in a positive light. The legend of Robin Hood also comes to mind as an example where the designation of ‘rogue’ carries both positive and negative connotations.

Having reviewed the evidence offered by Plaintiffs that relates specifically to the May 28, 1998 editorial, no reasonable jury could conclude that Daily News knew that this editorial contained false statements when it published the editorial, or that Daily News entertained serious doubts as to the truth or falsity of this editorial's contents. Consequently, no reasonable jury could conclude that this editorial was published with actual malice.

3. *July 15, 1998 article titled "Vitelco disputes PSC study"*

This article is not addressed in Plaintiffs' Opposition, nor is it addressed in paragraph 4.B.2. of Plaintiffs' Amended Response to Defendants' Statement of Facts. The article is mentioned once in Paragraph thirty-six of Plaintiffs' Amended Response to Defendants' Statement of Facts, but only to explain that the June 9, 2000 article titled "ICC, Donastorg square off over Vitelco tax breaks" must be viewed in conjunction with several other articles in order for the "gist of the defamation" to be understood.⁹⁵ Plaintiffs have introduced no evidence that Daily News knew that the contents of this article were false, or that Daily News entertained serious doubts about the article's truth or falsity. Consequently, Plaintiffs have introduced no evidence from which a reasonable jury could conclude that Daily News published this article with actual malice.

4. *June 9, 2000 article titled "ICC, Donastorg square off over Vitelco tax breaks"*

In their Opposition, Plaintiffs argue that "[t]he articles" discussed in paragraph 4.B.2 of Plaintiffs' Amended Response to Defendants' Statement of Facts—a set of articles of which this article is a member—"falsely painted Senator Donastorg as an 'anti-business' senator who was out to destroy ICC, VITELCO, and the economy of the Virgin Islands."⁹⁶ Without identifying this article specifically, Plaintiffs argue that "the defamatory 'sting' of the false facts arose from the false facts; the false facts were about Senator Donastorg; the Daily News knew the facts were false when it published them; and The Daily News was motivated to publish the false facts to protect its parent and sister companies, ICC and Vitelco, and knew that the sting of the piece was defamatory."⁹⁷

Plaintiffs clarify why they believe this article is actionable in their Amended Response to Defendants' Statement of Facts. They argue that "the gist of the defamation" of this article can only be understood if this article is read in conjunction with five other articles: (1) the May 29, 1998 editorial titled "The public's right to know;" (2) the July 15, 1998 article titled "Vitelco disputes PSC study;" (3) the August 17, 2000 article titled "Donastorg demands data on Vitelco's IDC compliance;" (4) the September 8, 2000 article titled "Donastorg asks court to make Vitelco open employee records;" and (5) the November 1, 2000 article titled "Donastorg, IDC director wrangle over accusations of abuses." Plaintiffs claim that, when read together, these articles portray Senator Donastorg as "a rogue, anti-business Senator who has a regular practice of making false and unsupported accusations against companies to harm the Virgin Islands for the sole purpose of furthering his political career" and portray "ICC and VITELCO as the victim of Senator

⁹⁵ Pls.' Am. Resp. to Defs.' Stmt. of Facts 73.

⁹⁶ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 41.

⁹⁷ *Id.*

Donastorg's unfair, unsupported, and anti-business attacks"⁹⁸ Even if the Court accepts the proposition that, when read together, these articles paint an unflattering picture of Senator Donastorg, Plaintiffs are still obligated to provide evidence that Daily News published the June 9, 2000 article with actual malice. As discussed in section one above, the classifications 'rogue' and 'anti-business' are not provably false, and therefore cannot support a claim for defamation.

In their Amended Response to Defendants' Statement of Facts, Plaintiffs examine the November 1, 2000 article titled "Donastorg, IDC director wrangle over accusations of abuses."⁹⁹ Plaintiffs quote portions of the November 1, 2000 article,¹⁰⁰ which states that "Donastorg failed to produce any documentation to back up his accusations and . . . he would not return calls to his office requesting further comment and information."¹⁰¹ Plaintiffs contrast this language to language in the June 9, 2000 article,¹⁰² which states that "Donastorg's office on Thursday provided The Daily News with a copy of the Vitelco employee list, which his spokesman said was the list Donastorg was operating from."¹⁰³ Plaintiffs contend that, by admitting that it received documents from Senator Donastorg's office in the June 9, 2000 article, Daily News lied when it said in the November 1, 2000 article that Senator Donastorg failed to produce any documentation to back up his accusations. Plaintiffs would have this Court conclude that this discrepancy indicates that Daily News knowingly made a false statement of fact, and thus acted with actual malice.

~~et Plaintiffs have mischaracterized the June 9, 2000 and November 1, 2000 articles because the articles refer to two separate requests for information. The November 1, 2000 article's comment that "Donastorg failed to produce any documentation to back up his accusations" refers to a request that Senator Donastorg substantiate his allegation that IDC Director Frandelle Gerard used her position as director of the IDC to solicit donations for a foundation that she chairs. By contrast, the June 9, 2000 article refers to a document upon which Senator Donastorg relied to support his claims that VITELCO's payroll included people working for other ICC subsidiaries. Because the articles were referring to two different requests, they do not contradict each other,¹⁰⁴ and consequently, do not constitute evidence that Daily News published the June 9, 2000 article with actual malice.~~

Reviewing the remainder of the articles that Plaintiffs claim are interrelated, the Court finds no factual inconsistencies that would suggest that Daily News had preexisting knowledge of certain facts, but chose to print contradictory facts in the June 9, 2000 article. Plaintiffs have proffered no additional evidence that Daily News knew that the June 9, 2000 article was false or

⁹⁸ Pls.' Am. Resp. to Defs.' Stmt. of Facts 73.

⁹⁹ *Id.* at 76.

¹⁰⁰ *Id.* at 79.

¹⁰¹ Susanna Henighan, *Donastorg, IDC director wrangle over accusations of abuses*, THE VIRGIN ISLANDS DAILY NEWS, Nov. 1, 2000, at page 5.

¹⁰² Pls.' Am. Resp. to Defs.' Stmt. of Material Facts. at 76.

¹⁰³ Perry Brothers, *ICC, Donastorg square off over Vitelco tax breaks*, THE VIRGIN ISLANDS DAILY NEWS, June 9, 2000.

¹⁰⁴ The distinction between these requests is further supported by the deposition testimony on page 116 of Davis' deposition transcript and on page 64 of Robbins' deposition transcript, both of which were cited on page 76 of Plaintiffs' Amended Response to Defendants Statement of Facts.

that Daily News entertained serious doubts as to the truth of that article. Consequently, no reasonable jury could conclude that the June 9, 2000 article was published with actual malice.

5. *August 17, 2000 article titled "Sen. Donastorg demands data on Vitelco's IDC compliance"*

Like the July 15, 1998 article titled "Vitelco disputes PSC study" discussed under section three above, this article is not addressed in Plaintiffs' Opposition, nor is it addressed in paragraph 4.B.2. of Plaintiffs' Amended Response to Defendants' Statement of Facts. The article is mentioned once in paragraph thirty-six of Plaintiffs' Amended Response to Defendants' Statement of Facts, but only to explain that the June 9, 2000 article titled "ICC, Donastorg square off over Vitelco tax breaks" must be viewed in conjunction with several other articles in order for the "gist of the defamation" to be understood.¹⁰⁵ Plaintiffs have introduced no evidence that Daily News knew that the contents of this article were false, or that Daily News entertained serious doubts about the article's truth or falsity. Consequently, no reasonable jury could conclude that this article was published with actual malice.

6. *September 8, 2000 article titled "Donastorg asks court to make Vitelco open employee records"*

Like the July 15, 1998 article titled "Vitelco disputes PSC study" discussed under section three above and the August 17, 2000 article titled "Donastorg demands data on Vitelco's IDC compliance" discussed under section five above, this article is not addressed in Plaintiffs' Opposition, nor is it addressed in paragraph 4.B.2. of Plaintiffs' Amended Response to Defendants' Statement of Facts. The article is mentioned once in paragraph thirty-six of Plaintiffs' Amended Response to Defendants' Statement of Facts, but only to explain that the June 9, 2000 article titled "ICC, Donastorg square off over Vitelco tax breaks" must be viewed in conjunction with several other articles in order for the "gist of the defamation" to be understood.¹⁰⁶ Plaintiffs have introduced no evidence that Daily News knew that this article's contents were false, or that Daily News entertained serious doubts about the article's truth or falsity. Consequently, no reasonable jury could conclude that this article was published with actual malice.

7. *November 1, 2000 article titled "Donastorg, IDC director wrangle over accusations of abuses"*

This article discusses Senator Donastorg's allegation that IDC Director Frandelle Gerard used her position as director of the IDC to solicit donations for a foundation that she chairs.¹⁰⁷ According to the article, this allegation was made in a letter written by Senator Donastorg to then-Governor Charles W. Turnbull on October 24, 2000.¹⁰⁸ In their Opposition, Plaintiffs state that Daily News "makes the false claim that Donastorg: (1) made false, unsupported allegations against

¹⁰⁵ Pls.' Am. Resp. to Defs.' Stmt. of Facts 73.

¹⁰⁶ *Id.*

¹⁰⁷ Susanna Henighan, *Donastorg, IDC director wrangle over accusations of abuses*, THE VIRGIN ISLANDS DAILY NEWS, Nov. 1, 2000, at page 5.

¹⁰⁸ *Id.*

the IDC Director; (2) was asked for but refused to produce documents by The Daily News; and that (3) he was called, but 'refused' to respond to accusations that he had made false and unsupported claims and personal attacks" against the director.¹⁰⁹ Plaintiffs argue that the evidence cited in paragraph 4.B.2 of Plaintiffs' Amended Response to Defendants' Statement of Facts establishes that Daily News knew that these three statements were false when this article was published.

As discussed under section four above—concerning the June 9, 2000 article titled "ICC, Donastorg square off over Vitelco tax breaks"—Plaintiffs claim that the contents of the June 9, 2000 article contradict the this article's statement that Senator Donastorg failed to produce documents to back up his accusations.¹¹⁰ But as explained above, the request for documents referenced in this article is not the same request for documents discussed in the June 9, 2000 article. Consequently, statements made in the June 9, 2000 article do not constitute evidence that Daily News knowingly published a false statement in the November 1, 2000 article when it stated that "Donastorg failed to produce any documents to back up his accusations" that the IDC director abused her position.

Plaintiffs cite to the deposition testimony of Senator Donastorg to support the proposition that "[i]t was an absolutely false statement that Senator Donastorg did not have documents to back up his allegations."¹¹¹ But the in pages cited by Plaintiffs, Senator Donastorg does not identify any documents to back up his accusation that the IDC director abused her position, or testify that he produced those documents to Daily News before this article ran. Consequently, this citation to Senator Donastorg's deposition testimony does not constitute evidence that Daily News knowingly published a false statement in the November 1, 2000 article.

The Court is also not persuaded by Plaintiffs' arguments pertaining to the statement that "Donastorg . . . would not return calls to his office requesting further comment and information." Plaintiffs argue that the author of the article "made no effort to reach Senator Donastorg's office during business hours before the story ran," but instead "left a voice message at 8:00 p.m.—substantially after hours."¹¹² Plaintiffs also state that Senator Donastorg "requested a clarification of [the representation that he would not return calls or requests for more information] within 72 hours but one never came."¹¹³ Citing to pages 161–68 of Robbins' deposition transcript, Plaintiffs claim that "Robbins admitted that the 'chronology' indicated that the paper was working on the story for three days and had been working with the people accused of wrongdoing to get their side of the story for three days before it ran and that Donastorg's office could have been contacted earlier, during regular business hours . . ."¹¹⁴ Finally, citing pages 77–112 and 116–19 of Davis' deposition transcript, Plaintiffs claim that "Davis was questioned at length in her deposition . . . why the article was presented in such a slanted way and she was evasive, defensive, and adequately

¹⁰⁹ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 41.

¹¹⁰ Pls.' Am. Resp. to Defs.' Stmt. of Facts 23.

¹¹¹ *Id.* at 76.

¹¹² *Id.* at 79.

¹¹³ *Id.*

¹¹⁴ *Id.* at 79–80.

couldn't explain the basis for any of The Daily News' factual misrepresentations."¹¹⁵ From these citations, Plaintiff would have the Court conclude that the November 1, 2000 article was published with actual malice.

But Plaintiffs' arguments concerning Senator Donastorg's responsiveness to requests for information are as unpersuasive as Plaintiffs' attempt at demonstrating knowledge of falsity with reference to the June 9, 2000 article. First, neither the timing of Daily News' phone call to Senator Donastorg's office nor Senator Donastorg's request that Daily News print a clarification establishes that Senator Donastorg responded to Daily News before the this article was published. Second, Plaintiffs mischaracterize Robbins' deposition testimony. Although Plaintiffs claim that "Robbins admitted that . . . Donastorg's office could have been contacted earlier," Robbins testified to the opposite. Specifically, Robbins testified that Daily News' staff

did not have their questions ready for Senator Donastorg until the 31st [of October—the day before the article ran], and that they immediately began trying to contact him as soon as they were prepared to properly interview him and to request information about this matter.¹¹⁶

Consequently, Plaintiffs' citation to Robbins' deposition transcript does not establish that Daily News knowingly published false information, or entertained serious doubts about the truth of the statements it published.

The portions of Davis' deposition testimony cited by Plaintiffs are similarly unresponsive of Plaintiffs' position. Although Plaintiffs' attorney reviewed the November 1, 2000 article with Davis in the cited pages, Davis never testified that Donastorg responded to Daily News' phone calls or provided documents to Daily News before this article was printed. Thus, Davis' testimony does not support the conclusion that Daily News knowingly published a false statement by stating that Donastorg did not respond to Daily News' requests for information.

When viewed together, the evidence provided by Plaintiffs does not establish that Daily News knowingly published false statements of fact in the November 1, 2000 article, or that Daily News entertained doubts as to the truth or falsity of the November 1, 2000 article. Plaintiffs have not introduced any information that Senator Donastorg produced documents or responded to Daily News' phone calls, or produced evidence that such material was received by Daily News before it published this article. Accordingly, no reasonable jury could conclude that this article was published with actual malice.

8. *June 12, 2001 article titled "Legislation reduction on agenda for Rules Committee"*

The article begins by observing that "Sen. Adlah Donastorg Jr.'s bill would cut the Senate's membership" and "appropriate \$9,975,000 to the Legislature for Fiscal Year 2002, a 25-percent

¹¹⁵ *Id.* at 80.

¹¹⁶ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. II, Robbins Dep. Tr. 163.

cut from its current \$14.4 million appropriation.”¹¹⁷ The article continues by stating that, “[i]ronically, Donastorg voted no on his own bill, while three senators who oppose the bill . . . voted to send it on to the Rules Committee. Donastorg wanted to send his bill directly to the full Senate for a vote when it meets in session on June 25.”

Plaintiffs contend that the reference to how Senator Donastorg voted shows that Senator Donastorg is “incompetent or dishonest because he sponsored a bill and then voted against it.”¹¹⁸ Although Daily News later determined that the article was not accurate when it was published due to reliance on sources the Daily News believed to be true when it published the article,¹¹⁹ Daily News argues that “the article can fairly be read as indicating that Senator Donastorg voted against sending the bill to the Rules Committee in order to avoid legislative red tape, thereby forcing an early vote on the measure by the entire Senate.”¹²⁰

Plaintiffs would have this Court conclude that Daily News knew this article was defamatory when it was published, and that Daily News intended to publish that defamatory meaning. As evidence, Plaintiffs observe that the story did not attribute a source to its factual representations,¹²¹ that Daily News did not contact Donastorg to verify the accuracy of the article,¹²² that the article’s author did not reveal his source to Senator Donastorg,¹²³ and “the hatred Prosser, ICC and The Daily News had for Donastorg.”¹²⁴

However, a reporter’s failure to verify facts does not rise to the level of actual malice required by the First Amendment,¹²⁵ and “even an extreme departure from professional standards, without more, will not support a finding of actual malice.”¹²⁶ And since any personal feelings that Prosser, ICC, or Daily News may have harbored with regard to Senator Donastorg have no bearing on whether this article was published with actual malice, Plaintiffs have not provided clear and convincing evidence that Daily News knowingly published a false statement of fact in the June 12, 2001 article, or that Daily News entertained serious doubts about the truth or falsity of that article. Consequently, no reasonable jury could conclude that this article was published with actual malice.

¹¹⁷ Hal Hatfield, *Legislation reduction on agenda for Rules Committee*, THE VIRGIN ISLANDS DAILY NEWS, June 12, 2001, at page 11.

¹¹⁸ Pls.’ Resp. to Defs.’ Mot. for Summ. J. and Br. in Supp. 42.

¹¹⁹ Defs.’ Mot. for Summ. J. 34.

¹²⁰ *Id.* at 33.

¹²¹ Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 28.

¹²² *Id.* at 28–29.

¹²³ *Id.* at 29.

¹²⁴ *Id.*

¹²⁵ *McDowell v. Paiewonsky*, 769 F.2d 942, 951 (3d Cir. 1985).

¹²⁶ *Tucker v. Fischbein*, 237 F.3d 275, 286 (3d Cir. 2001) (citing *Harte-Hanks Communications, Inc. v. Connaughton*, 491 U.S. 657, 665 (1989)).

9. *June 14, 2001 article titled "Setting the record straight"*

This article consists entirely of two factual representations, which read as follows:

Sen. Adlah Donastorg Jr. did not vote against the bill to reduce the size of the Senate from 15 to nine members when it was approved by the Committee on Government Operations, Planning, and Environmental Protection last week. An article Tuesday on Page 11 of The Daily News about the vote was based on information provided by committee staff.

Citing to Senator Donastorg's deposition testimony, Plaintiffs argue that this piece was published with actual malice because the article "was placed so inconspicuously when the false article was prominent and caused [Senator Donastorg] such bad publicity."¹²⁷ Senator Donastorg's testimony concerning the placement of this article does not establish that Daily News knew either knew this article was false or entertained serious doubts about its truth. In fact, the parties do not dispute that the first sentence in the article is true: Senator Donastorg did not, in fact, vote against his own bill to reduce the size of the legislature. Senator Donastorg's testimony concerning the placement of this article does not establish that Daily News knew that the contents of this article were false when the article was published, or that Daily News entertained serious doubts about the truth of this article. Consequently, no reasonable jury could conclude that this article was published with actual malice.

10. *February 7, 2002 editorial titled "Insolvent V.I. Senators"*

This editorial is not mentioned in Plaintiffs' Opposition, but is cited as an example of Daily News' allegedly-defamatory conduct in Plaintiffs Amended Response to Defendants' Statement of Facts.¹²⁸ Yet, this article is only mentioned in a subheading for a section titled "Actionable Conduct and Publications,"¹²⁹ and Plaintiffs do not attempt to explain why they have categorized this editorial as defamatory or attempt to provide evidence that Daily News published this editorial with knowledge of its falsity or with reckless disregard thereto. Consequently, no reasonable jury could conclude that Daily News published this editorial with actual malice.

11. *April 25, 2003 article titled "Big money title fight rings up big gamble on marketing in the V.I."*

This article is the first of eight allegedly-defamatory publications relating to efforts to bring a heavyweight boxing championship fight to St. Thomas. In their Opposition, Plaintiffs claim that these publications first foreshadow that the fight will be a failure entirely of Senator Donastorg's making, but later attribute none of the event's success to Senator Donastorg.¹³⁰ Plaintiffs cite

¹²⁷ Pls.' Am. Resp. to Defs.' Stmt. of Facts 29 (citing Donastorg Dep. Tr. 220).

¹²⁸ *Id.* at 30-31.

¹²⁹ *Id.* at 15.

¹³⁰ See Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 45-47 (constructing Plaintiffs' theory).

generally to paragraph 4.B.6 of their Amended Response to Defendants' Statement of Facts and the evidence referenced therein to substantiate these claims.

This particular article claims that "[t]he Virgin Islands is poised to take a jab at the big money world of professional boxing, and local lawmakers are banking on a knockout show that will bring visitors and high profile exposure to the territory. But like everything with a potential for major payouts, bringing a fight to St. Thomas will have a considerable initial cost."¹³¹ In the article, Senator Donastorg is identified as being "instrumental in working . . . to bring the fight [to St. Thomas]," but the article also reports that "[m]any issues remain to be settled" before the fight can occur.¹³² In their Amended Response to Defendants' Statement of Facts, Plaintiffs contend that this series of articles was "designed to: (1) set Donastorg up as the fall guy for the \$300,000 if the event failed; (2) exclude him from positive coverage for the event if and when it succeeded; and (3) slam him as being solely responsible for the \$300,000 earmark regardless of whether it succeeded."¹³³

Although Plaintiffs discuss other articles concerning the boxing match, Plaintiffs do not identify a single statement in this article that they claim was published with actual malice. Because Plaintiffs have not endeavored to explain how this article was published by Daily News with knowledge of its falsity or with reckless disregard thereto, no reasonable jury could conclude that this article was published with actual malice.

12. May 30, 2013 article titled "V.I.-backed boxing event called off, future uncertain"

Citing to the deposition transcript of Tim McDonald at pages 82 and 111–13, Plaintiffs claim that this article was originally written in a way that "did not have anything to do with Senator Donastorg or the \$300,000 appropriation."¹³⁴ Plaintiffs claim that "Davis changed the lead in the story about the boxing match and left McDonald's byline on it," and that "Davis inserted a paragraph that emphasized that Donastorg was the senator who 'pushed' for a \$300,000 appropriations bill."¹³⁵ According to Plaintiffs, McDonald testified that "Davis completely changed the content of the first two paragraphs by adding two new paragraphs."¹³⁶ Plaintiffs further allege that "Davis changed other parts of the story:" she allegedly "inserted Senator Donastorg into the story when 'it was [McDonald's] belief that he had nothing to do with the story,'" and that she "changed the story to falsely claim that, 'Donastorg did not return Daily News telephone calls requesting comments about the status of the bout,' because McDonald—the supposed author of the story—never contacted Senator Donastorg and didn't turn in a story with

¹³¹ Sean McCoy, *Big money title fight rings up big gamble on marketing in the V.I.*, THE VIRGIN ISLANDS DAILY NEWS, Apr. 25, 2006.

¹³² *Id.*

¹³³ Pls.' Am. Resp. to Defs.' Stmt. of Facts 38.

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.* at 38–39 (citing Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. IV, McDonald Dep. Tr. 82).

¹³⁷ *Id.* at 39 (citing McDonald Dep. Tr. 86).

his name in it.”¹³⁸ Based on these changes, “McDonald testified the new article was offensive and disparaging to Senator Donastorg because it claims he ‘pushed’ for a \$300,000 appropriation for an event that the story claimed “will not happen as scheduled.”¹³⁹ Plaintiffs claim that the use of the verb ‘pushed’ “target[s] Senator Donastorg as the only proponent of the boxing match and solely responsible for the \$300,000.”¹⁴⁰

Plaintiffs further claim that “[t]he statement that there was ‘no TV coverage scheduled despite promises when Donastorg got V.I. to appropriate \$300,000’ is blatantly misleading because while there was no contract in place, they were simply negotiating over the terms of the contract; the fact of TV coverage was not in doubt.”¹⁴¹ Plaintiffs also claim that this article quotes the fight’s promoter as saying “its [sic] all up in the air right now,” but state that Daily News misquoted the promoter.¹⁴² As authority for that proposition, Plaintiffs cite to page 376 of Senator Donastorg’s deposition transcript.¹⁴³

Plaintiffs’ arguments do not constitute clear and convincing evidence that Daily News published this article with actual malice. The facts that Davis changed the story’s lead and that she inserted a paragraph identifying Senator Donastorg as a proponent of the \$300,000 expenditure, alone, do not constitute evidence that Davis made those additions knowing they were false, or while entertaining serious doubts as to their truth or falsity. And while McDonald claimed that Senator Donastorg had nothing to do with the article, Davis may have disagreed; McDonald’s opinion on the draft of the article he wrote is not dispositive as to Daily News’ frame of mind when it published the article. McDonald’s testimony that he never contacted Senator Donastorg does not establish that the sentence alleging that “Donastorg did not return Daily News telephone calls to his office requesting comment about the status of the boxing bent” is false. The fact that McDonald never called Senator Donastorg does not establish that no other member of the Daily News contacted him. Finally, the Daily News’ use of the verb “pushed” does not indicate that the Daily News knowingly published a false statement because Senator Donastorg himself testified that he was “the primary sponsor” of the legislation to appropriate money for the boxing match.¹⁴⁴

Nor is there anything misleading about the portion of the article that reads “No TV coverage scheduled despite promise when Donastorg got V.I. to appropriate \$300,000.”¹⁴⁵ The article states that “Showtime officials said on Thursday that they will not televise the fight and had no plans to do so,” but also explains that the fight’s promoter “is talking with several cable networks [including] HBO, ESPN, and a pay-per-view station.”¹⁴⁶ The Plaintiffs’ own argument explains why the article’s language cannot be defamatory: Plaintiffs concede that, “while there

¹³⁸ *Id.* (citing McDonald Dep. Tr. 114).

¹³⁹ *Id.* (citing McDonald Dep. Tr. 118–19).

¹⁴⁰ *Id.* at 91 (citing Pls.’ Resp. to Defs.’ Mot. for Summ. J. and Br. in Supp. App. Vol. III, Donastorg Dep. Tr. 269).

¹⁴¹ *Id.* at 40 (citing Donastorg Dep. Tr. 265–70).

¹⁴² *Id.* at 41.

¹⁴³ *Id.*

¹⁴⁴ Donastorg Dep. Tr. 269:13–15.

¹⁴⁵ Tim McDonald, *V.I.-backed boxing event called off, future uncertain*, THE VIRGIN ISLANDS DAILY NEWS, May 30, 2003, at page 3.

¹⁴⁶ *Id.*

was no contract in place, they were simply negotiating over the terms of the contract.”¹⁴⁷ Consequently, the statement that “No TV coverage [was] scheduled” was factually accurate at the time this article ran, and thus cannot support a finding of actual malice.

Nor have the Plaintiffs persuaded the Court that Daily News knowingly published false information when in quoted the fight’s promoter as saying “[i]t’s all up in the air right now.” The only evidence Plaintiffs provide in support of their position is a citation to a single page of Senator Donastorg’s deposition transcript, in which he was asked: “Have you ever had a conversation with Mr. McPherson about whether or not he actually made that statement?”¹⁴⁸ Senator Donastorg responded:

Yes. In fact, Mr. McPherson was really irate about it and decided to call Mr. Tim McDonald. And what he related to me or conveyed to me after this article is that Tim McDonald told him that the article may have miss – well, mischaracterized his position but – or his statements, and that it was not really him, that it’s just that the paper despises Donastorg.¹⁴⁹

Yet Senator Donastorg did not testify that the language of the quote itself had been altered. And testimony about what the fight’s promoter told Tim McDonald does not establish that the fight’s promoter did not say “it’s all up in the air right now.”¹⁵⁰ Since Plaintiffs have not cited to any additional evidence to support their contention that the promoter was misquoted, Plaintiffs have not demonstrated that this language was published with knowledge of its falsity, or with reckless disregard thereto.

When Plaintiffs’ arguments and evidence are viewed in the aggregate, no reasonable jury could conclude that Daily News published this article with actual malice.

13. September 27, 2003 article titled “Sugar Ray Leonard to promote V.I. Boxing match for ESPN2’s ‘Friday night at the Fights’”

Plaintiffs have not alleged that any specific portion of this article is defamatory. Instead, Plaintiffs compare this article to several other articles to demonstrate that, “when The Daily News ran positive stories about the Boxing Match, Senator Donastorg’s name wasn’t included.”¹⁵⁰ Since Plaintiffs have not presented any evidence that any portion of this article was published with knowledge of its falsity or with reckless disregard thereto, no reasonable jury could conclude that this article was published with actual malice.

¹⁴⁷ Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 40.

¹⁴⁸ Donastorg Dep. Tr. 376:9–11.

¹⁴⁹ *Id.* at 376:12–19.

¹⁵⁰ Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 41.

14. *October 24, 2003 article titled "No TV contract yet, but ESPN will still visit St. Thomas boxing site"*

Plaintiffs claim that this article "focuses on the uncertainty of the [boxing] event and the fact that Senator Donastorg 'sponsored the amendment' for the appropriation."¹⁵¹ Plaintiffs invite the Court to contrast this article with an article published by Daily News on November 7, 2003, which is allegedly "a positive article about Sugar Ray Leonard coming to promote the fight" in which Senator Donastorg's name is not mentioned. Plaintiffs claim that this is evidence that, "when The Daily News ran positive stories about the Boxing Match, Senator Donastorg's name wasn't included."¹⁵²

The fact that Senator Donastorg may not have been mentioned in the November 7, 2003 article does not establish that anything written in the October 24, 2003 article was false or that Daily News was aware of that falsity when it published the article. Plaintiffs claim that this article is one of a series of "false news reports that the event was doomed,"¹⁵³ but have pointed to no language in this article that they claim to be published with knowledge of falsity or reckless disregard thereto.

Plaintiffs have also made a claim that may relate to this article. Without identifying the article to which they are referring, Plaintiffs claim that "The Daily News . . . falsely reported that there was no ESPN contract in place and that there would not be a championship fight . . ."¹⁵⁴ Plaintiffs cite to excerpts from Senator Donastorg's deposition transcript, and to an affidavit of the fight's promoter, Sterling McPherson to support this statement, which, despite being listed in the appendix to Plaintiffs' Opposition, was not attached as an exhibit to Plaintiffs' Opposition. Assuming that this claim refers to the October 24, 2003 article, Senator Donastorg's testimony does not establish that Daily News published the October 24, 2003 article with actual malice. Unlike Plaintiffs' assertion, the headline of this article states that there is "no TV contract yet, but ESPN will visit St. Thomas" to inspect a proposed venue. Nothing in Senator Donastorg's deposition testimony indicates that a television contract had been finalized as of October 24, 2003, or that ESPN did not plan on visiting St. Thomas. Even if Plaintiffs' claim pertained to this article, Plaintiffs have not produced clear and convincing evidence that Daily News knew that the article's tagline was false, but published it anyway.

Plaintiffs have not produced clear and convincing evidence that Daily News published this article knowing that the article was false, or with reckless disregard as to whether it was false. Consequently, no reasonable jury could find that Daily News published this article with actual malice.

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.* at 42.

¹⁵⁴ *Id.* at 93.

15. October 29, 2003 editorial titled "Volunteerism is nice, but . . ."

This editorial pertains to an initiative undertaken by the Virgin Islands Police Department to solicit volunteers "to help in jobs ranging from mechanics to keep police cars running to clerical help in the office."¹⁵⁵ The author invites the reader to "look at the Police Department's volunteer initiative from the taxpayers['] viewpoint" because "[t]his is a territory of 108,000 people that cannot provide some of the most basic services for its residents."¹⁵⁶ It criticizes the Legislature for spending tax dollars on music festivals, "a boxing match that may or may not persuade tourists to visit the islands," and luxury vehicles.¹⁵⁷ The author opines that "taxpayers will be delighted to consider volunteering" when "the Legislature and other agencies get serious about spending tax money."¹⁵⁸

Although identified as a defamatory publication in Plaintiffs' Amended Response to Defendants' Statement of Facts,¹⁵⁹ Plaintiffs have not identified a statement in this editorial that they allege to be false. Consequently, no reasonable jury could find, by clear and convincing evidence, that Daily News published this editorial with actual malice.

16. November 1, 2003 article titled "No ESPN contract yet for V.I. boxing card"

As with the October 24, 2003 article titled "No contract yet, but ESPN will visit St. Thomas boxing site," Plaintiffs invite the Court to contrast this article with an article published by Daily News on November 7, 2003, which is allegedly "a positive article about Sugar Ray Leonard coming to promote the fight" in which Senator Donastorg's name is not mentioned. Plaintiffs claim that this is evidence that, "when The Daily News ran positive stories about the Boxing Match, Senator Donastorg's name wasn't included."¹⁶⁰ Also like the October 24, 2003 article, Plaintiffs' claim that "The Daily News . . . falsely reported that there was no ESPN contract in place and that there would not be a championship fight"¹⁶¹ might apply to this article.

The fact that Senator Donastorg may not have been mentioned in the November 7, 2003 article does not establish that anything written in the November 1, 2003 article was false. Plaintiffs claim that this article is another in a series of "false news reports that the event was doomed,"¹⁶² but have pointed to no language in this article that they claim to be published with knowledge of falsity or with reckless disregard thereto. To the extent that Plaintiffs' claim that "[t]he Daily News . . . falsely reported that there was no ESPN contract in place and that there would not be a championship fight" was made in reference to this article and not the October 24, 2003 article, Plaintiffs have not provided clear and convincing evidence that the statement was made with

¹⁵⁵ Editorial, *Volunteerism is nice, but . . .*, THE VIRGIN ISLANDS DAILY NEWS, Oct. 29, 2003.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ Pls.' Am. Resp. to Defs.' Stmt. of Facts 6.

¹⁶⁰ *Id.* at 41.

¹⁶¹ *Id.* at 93.

¹⁶² *Id.* at 42.

knowledge of its falsity, or with reckless disregard for the truth. Consequently, no reasonable jury could find that this article was published with actual malice.

17. November 5, 2003 article titled "ESPN commits to televising V.I.'s 'Rumble in Paradise'"

Although identified as a defamatory publication in Plaintiffs' Amended Response to Defendants' Statement of Facts,¹⁶³ Plaintiffs have not presented evidence that this editorial was published with actual malice. Senator Donastorg is mentioned three times in this article, but Plaintiffs have not provided evidence to demonstrate that any of those references was inaccurate. On page 90 of their Amended Response to Defendants' Statement of Facts, Plaintiffs dispute "that the 'professional boxing match' was 'underwritten by an appropriation of \$300,000 from the Tourism Revolving Fund.'" Language in this article states that Senator Donastorg "sponsored legislation to appropriate \$300,000 from the Tourism Revolving Fund to bring the fight to the territory." However, the language in Plaintiffs' Amended Response to Defendants' Statement of Facts is not a response to the text of this article, but rather represents Plaintiffs' position on one of the facts that Daily News claims is undisputed. Further, Senator Donastorg testified that he was the primary sponsor of the legislation to appropriate the \$300,000 for the fight.¹⁶⁴ Plaintiffs have not provided clear and convincing evidence that Daily News published this article knowing that its contents were false, or with a reckless disregard to whether this article's contents were false. Consequently, no reasonable jury could find that this article was published with actual malice.

18. December 11, 2003 editorial titled "Boxing and tourism, a TKO; maybe 'Spongebob' can help"

Published after the boxing match mentioned in the preceding articles and editorials, the author of this editorial cautions readers not to be "surprised if the true ratings for last Friday night's boxing match, 'Rumble in Paradise' fall far, far short of the 'estimated 85 million viewers.'"¹⁶⁵ The author objects "to squandering \$300,000 of V.I. taxpayers' money on the event under the guise of promoting tourism" when the author claims that the event "was, in reality, an ego trip for a couple of senators—at taxpayers' expense."¹⁶⁶ The author also states that the statistic that an estimated 85 million people would view the fight is a "false, or wildly inflated statistic[] to validate the wasteful spending of \$300,000"¹⁶⁷

Plaintiffs claim that this editorial is "another nasty article about the match and Senator Donastorg" that "contained false, defamatory statements about Senator Donastorg, including that Senator Donastorg had taken money from the tourism fund solely for an 'ego trip;' that Senator Donastorg had intentionally used false or inflated statistics to validate the \$300,000 appropriation;

¹⁶³ *Id.* at 6.

¹⁶⁴ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. III, Donastorg Dep. Tr. 269:13-15.

¹⁶⁵ Editorial, *Boxing and tourism, a TKO; maybe 'Spongebob' can help*, THE VIRGIN ISLANDS DAILY NEWS, Dec. 11, 2003.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

and that the \$300,000 appropriation was wasteful.”¹⁶⁸ In support of these allegations, Plaintiffs cite to pages 136–37 of Davis’ deposition transcript and pages 202–03 of Robbins’ deposition transcript for the proposition that “[n]either Robbins nor Davis had any facts” to support the assertions made in this editorial.

Even if true, the fact that Robbins and Davis had no facts to support the assertions made in this editorial does not constitute clear and convincing evidence that Daily News published this editorial with actual malice. In the pages of Davis’ deposition transcript cited by Plaintiffs, Davis testified that “[t]his is an editorial; it appeared on the Opinion page. I don’t know who wrote the editorial; I don’t know what was in the mind of the editorial writer or what the editorial writer relied upon to produce the editorial.”¹⁶⁹ Davis also testified that she was not “going to agree to anything out of an editorial,”¹⁷⁰ and that the editorial “was not a news story, so I cannot comment on it.”¹⁷¹ In the pages of Robbins’ deposition transcript cited by Plaintiffs, Robbins testified that the editorial “is a statement of opinion presented as an opinion in an article labeled ‘Editorial.’ It was produced and published by ICC, as a corporate function, outside the scope of responsibilities of myself or anyone else at the Daily News. I have no further information about it.”¹⁷²

One might argue that the publication of an editorial without knowing the factual basis for the opinions contained therein constitutes a reckless disregard for the truth or the falsity of the matters contained in the article.—However,—[r]ecklessness is shown by demonstrating that “the defendant in fact entertained serious doubts as to the truth of the statement or that the defendant had a subject awareness of probable falsity.”¹⁷³ The deposition testimony cited by Plaintiffs only establishes that neither Robbins nor Davis knew the factual basis for the statements made in this editorial. Their testimony does not establish that Daily News entertained serious doubts about the representations made in this editorial, or that it was subjectively aware that the statements in the editorial were probably false.

Nor would such a conclusion be warranted based upon the contents of this editorial. The author of the editorial discloses the factual basis for the editorial’s content by referencing viewership statistics from different sources.¹⁷⁴ Furthermore, statements that the \$300,000 appropriation was “wasteful” and “an ego trip for a couple of senators” are not provably false, and statements on matters of public concern published by a media defendant that are not provably false are not actionable under state defamation law.¹⁷⁵

¹⁶⁸ Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 42.

¹⁶⁹ Pls.’ Resp. to Defs.’ Mot. for Summ. J. and Br. in Supp. App. Vol. II, Davis Dep. Tr. 136:11–15.

¹⁷⁰ *Id.* at 136:19–20.

¹⁷¹ *Id.* at 136:24–25.

¹⁷² Pls.’ Resp. to Defs.’ Mot. for Summ. J. and Br. in Supp. App. Vol. I, Robbins Dep. Tr. 202:18–23.

¹⁷³ *Kendall v. Daily News Publishing Co.*, 716 F.3d 82, 89 (3d Cir. 2013) (quoting *Schiavone Construction Co. v Time, Inc.*, 847 F.2d 1069, 1089 (3d Cir. 1988)).

¹⁷⁴ See Editorial, *Boxing and tourism, a TKO; maybe ‘Spongebob’ can help*, THE VIRGIN ISLANDS DAILY NEWS, Dec. 11, 2003 (citing to statistics from the Associated Press and Nielsen Media Research to present viewership statistics for NFL championships and the top ten network television sporting events during a week’s time).

¹⁷⁵ *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 19 (1990).

Consequently, Plaintiffs have not presented clear and convincing evidence that Daily News knew that the content of this editorial was false when it was published, or that Daily News entertained serious doubts as to the truth or falsity of this editorial. Accordingly, no reasonable jury could conclude that this editorial was published with actual malice.

19. March 1, 2004 editorial titled "GERS as political fodder"

This editorial expresses an opinion on Senator Donastorg's attempt "to get the GERS to pay 4 percent interest on the money participants withdraw from the system when they leave government employment before retirement."¹⁷⁶ Plaintiffs argue that Daily News "accused Senator Donastorg of using [GERS] to advance his re-election efforts, 'even if it hurts the pensions of thousands of current and future V.I. Government employees.'"¹⁷⁷ Plaintiffs also state that this editorial "falsely reported that Senator Donastorg had 'no support from anyone else in the legislature' and was guilty of 'pre-election politicking.'"¹⁷⁸ Plaintiffs then claim that "[t]he Daily News falsely reported that GERS was under an imminent threat of collapse and implied that Senator Donastorg was responsible for an imminent collapse that, in fact, never happened."¹⁷⁹ Next, Plaintiffs claim that the editorial "makes a number of false factual assertions that GERS was 'underfunded by \$1 billion' and about the way interest calculated [sic] in an effort to put Senator Donastorg in a false, bad light."¹⁸⁰ Finally, Plaintiffs claim that the editorial attributed a quote to the Senator that he did not make.¹⁸¹ With one exception, the only evidence proffered by Plaintiffs is Senator Donastorg's deposition testimony.

Senator Donastorg's testimony does not establish that Daily News acted with actual malice when it published this editorial. Plaintiffs' claim that the editorial "falsely reported that Senator Donastorg had 'no support from anyone else in the legislature' and was guilty of 'pre-election politicking'" is supported by a citation to testimony concerning an article published on May 29, 1998.¹⁸² The testimony cited by Plaintiffs has nothing to do with this editorial.¹⁸³ Other portions of Senator Donastorg's testimony cited by Plaintiffs relate to this editorial, but only constitute evidence that Senator Donastorg held the belief that the representations made in this editorial were false. Senator Donastorg's opinions do not constitute evidence that Daily News knew that the content of this editorial were false, or that Daily News published this editorial despite entertaining serious concerns about the truth or falsity of the editorial.

¹⁷⁶ Editorial, *GERS as political fodder*, THE VIRGIN ISLANDS DAILY NEWS, Mar. 1 2004.

¹⁷⁷ Pls.' Am. Resp. to Defs.' Stmt. of Facts 41-42 (internal citations omitted).

¹⁷⁸ *Id.* at 43.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.* at 44.

¹⁸¹ *Id.*

¹⁸² Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. III, Donastorg Dep. Tr. 308-13.

¹⁸³ Plaintiffs also cite to testimony concerning the May 28, 1998 article to support the proposition that "[t]he article misquotes Senator Donastorg in a defamatory way, who never indicated that unless the agency must 'do it my way or I'll get rid of you,' and in fact, this was never one of his 'hallmarks;'" and the proposition that "Senator Donastorg is, himself, a businessman, and he's never been 'anti-business' and he didn't take any actions designed to 'cripple' the Virgin Islands economy." Since these propositions refer to statements that are not a part of the GERS editorial, they are irrelevant to a determination of whether the GERS editorial was published with actual malice.

The only evidence provided by Plaintiffs outside of Senator Donastorg's testimony comes from the deposition transcripts of Robbins and Davis. Plaintiffs claim that "[n]either Robbins nor Davis could articulate facts that supported the language of the editorial."¹⁸⁴ As discussed above, the fact that neither Davis nor Robbins were aware of the factual bases relied upon by the editorial's author does not constitute evidence that Daily News published this editorial with actual malice because their testimony does not establish Daily News entertained serious doubts about the representations made in this editorial, or that it was subjectively aware that the statements in the editorial were probably false.

The Supreme Court of the United States instructs that statements implicating matters of public concern published by a media defendant are only actionable if they are provably false.¹⁸⁵ Plaintiffs have provided this Court with no evidence to determine, as the editorial claims, that someone is engaged in 'pre-election politicking,' that conservative estimates concerning the undervaluation of GERS are inaccurate, that Virgin Islands Senators do not have the financial wisdom to properly manage GERS, or that a senator is advancing his reelection efforts even doing so hurts thousands of current and future V.I. government employees.¹⁸⁶ Consequently, the deposition testimony cited to by Plaintiffs does not constitute clear and convincing evidence that Daily News published this editorial knowing that it was false or with reckless disregard for its truth or falsity. No reasonable jury could conclude that this editorial was published with actual malice.

20. April 6, 2004 editorial titled "Registering V.I. automobiles"

In Plaintiffs' Opposition, Plaintiffs state that this editorial "falsely claimed Senator Donastorg had 'problems managing his personal finances' . . . and that Senator Donastorg had been 'unable to pass a territorial budget for fiscal year 2004'"¹⁸⁷ Plaintiffs allege that "Robbins admitted that Senator Donastorg is the senator referenced in the piece and the primary target of the article's attacks and he did not have any factual basis for the accusation that Senator Donastorg has 'problems managing he [sic] personal finances' or that he was responsible for failing to pass the territorial budget."¹⁸⁸ Plaintiffs would have the Court conclude that the statements concerning Senator Donastorg's personal finances and alleged failure to pass a territorial budget are "objectively and provably false facts" that were published "with reckless disregard for the truth and with intent to defame" Senator Donastorg "as a result of actual malice."¹⁸⁹

Plaintiffs cite to pages 183–85 of Robbins' deposition transcript to support the proposition that "Robbins admitted that Senator Donastorg is the Senator referenced in Exhibit 85 and the primary target of the article's attacks . . . [and that Robbins] could not articulate any factual basis for the accusation that Senator Donastorg has 'problems managing he [sic] personal finances or

¹⁸⁴ Pls.' Resp. to Defs.' Stmt. of Facts 43.

¹⁸⁵ *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 19 (1990).

¹⁸⁶ Editorial, *GERS as political fodder*, THE VIRGIN ISLANDS DAILY NEWS, March 1, 2004.

¹⁸⁷ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 48–49 (quoting Editorial, *Registering V.I. automobiles*, THE VIRGIN ISLANDS DAILY NEWS, Apr. 6, 2004).

¹⁸⁸ *Id.* at 49.

¹⁸⁹ *Id.*

that he was responsible for failing to pass the territorial budget.”¹⁹⁰ Plaintiffs also cite to pages 124–26 of Davis’ deposition transcript to support the proposition that “Davis admitted she had no facts to support these assertions.”¹⁹¹

Both Robbins and Davis testified that the content of this editorial was the opinion of the editorial board,¹⁹² and Robbins and Davis each testified that they were not aware of the facts upon which the editorial board relied on forming its opinions. As discussed above, “[r]ecklessness is shown by demonstrating that ‘the defendant in fact entertained serious doubts as to the truth of the statement or that the defendant had a subject awareness of probable falsity.’”¹⁹³ The deposition testimony cited by Plaintiffs only establishes that neither Robbins nor Davis knew the factual basis for the statements made in this editorial. Their testimony does not establish that Daily News entertained serious doubts about the representations made in this editorial, or that it was subjectively aware that the statements in the editorial were probably false.

Plaintiffs also cite to pages 203–04 of Robbins’ deposition transcript to support the proposition that “Robbins . . . admitted that The Daily News knew the foreclosure action was dismissed in April 2002 . . . so the 2002 dismissed foreclosure actions [sic] provides no support for the false fact that Senator Donastorg had problems managing his personal finances.” Yet Plaintiffs mischaracterize Robbins’ testimony. After being shown “Plaintiffs’ Exhibit 172,”¹⁹⁴ Robbins testified that he was “not aware that The Daily News ever became aware of this filing until the proceedings in this case”¹⁹⁵ Thus, contrary Plaintiffs’ assertion, the testimony reflected in pages 203–04 of Robbins’ deposition transcript does not establish that Daily News knew that the foreclosure action was dismissed in April 2002. This citation to Robbins’ deposition testimony does not constitute evidence that Daily News entertained serious doubts as to the truth or falsity of this editorial’s content.

Finally, Plaintiffs cite to page 51 of Davis’ deposition transcript to support the proposition that “Davis admitted that The Daily News knew the action had been dismissed over two years prior to the 2004 article.” Beginning on page 50, Davis testified that Daily News ran a story on the foreclosure case as soon as it was filed.¹⁹⁶ On the page cited by Plaintiffs, Davis testified that “the reporter asked Senator Donastorg about [the foreclosure action] several times, and said, ‘Let me know how this ends.’ And Donastorg said, ‘I will.’ And then he did not. And eventually the filing from the court showed up—or the filing in court.”¹⁹⁷ However, nowhere on the page cited by Plaintiffs does Davis testify that the foreclosure action was dismissed in 2002. Thus, Plaintiffs have provided no basis upon which the Court can conclude that Davis had a subjective basis to

¹⁹⁰ Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 44 (citing Pls.’ Resp. to Defs.’ Mot. for Summ. J. and Br. in Supp. App. Vol. I, Robbins Dep. Tr. 183–85).

¹⁹¹ *Id.* (citing Pls.’ Resp. to Defs.’ Mot. for Summ. J. and Br. in Supp. App. Vol. II, Davis Dep. Tr. 124–26).

¹⁹² Robbins Dep. Tr. at 185; Davis Dep. Tr. at 126.

¹⁹³ *Kendall v. Daily News Publishing Co.*, 716 F.3d 82, 89 (3d Cir. 2013) (quoting *Schiavone Construction Co. v. Time, Inc.*, 847 F.2d 1069, 1089 (3d Cir. 1988)).

¹⁹⁴ “Plaintiffs Exhibit 172” is a document purports to memorialize the dismissal of a foreclosure action that was filed against Senator Donastorg in 2002. Robbins Dep. Tr. at 203.

¹⁹⁵ *Id.* at 204.

¹⁹⁶ Davis Dep. Tr. at 50.

¹⁹⁷ *Id.* at 51.

believe that this editorial's representation concerning Senator Donastorg's finances was probably false.

The evidence cited by Plaintiffs does not constitute clear and convincing evidence that Daily News knew that this editorial was false, or that Daily News entertained serious doubts as to the truth or falsity of the editorial. Consequently, No reasonable jury could conclude that this editorial was published with actual malice.

21. August 22, 2004 editorial titled "Blind eye to cockfighting? Animal cruelty nonetheless!"

Plaintiffs argue that "the gist of this piece is that Senator Donastorg sponsored a bill that 'specifically excludes cockfighting' from the definition of animal cruelty and falsely implies that he was in favor of or promoted cockfighting."¹⁹⁸ Plaintiffs support their interpretation of the editorial by citing to Robbins' deposition testimony, in which Robbins allegedly "admitted that The Daily News has no facts ton [sic] support anything in the article." This citation appears both in Plaintiffs' Opposition¹⁹⁹ and in Plaintiffs' Amended Reponse to Defendants' Statement of Facts.²⁰⁰

~~Robbins did not make the admission that Plaintiffs attribute to him. As to the editorial, Robbins testified that it was~~

a statement of opinion. It was produced by ICC. I have no knowledge of the production of the editorial, who did it, or what the decision making process was. Aside from that, it was an expression of opinion, and was on the Opinion page, separate from the operations of The Daily News and Daily News Publishing Company. It was outside the portfolio of responsibility of anyone employed by the Daily News, and I cannot comment or provide insight on anything to do with it.²⁰¹

From Robbins' testimony—the only piece of evidence offered to support Plaintiffs' claim that this editorial was published with actual malice—a reasonable person could conclude that Daily News knew nothing about the content of the article. This does not constitute evidence that Daily News knew that the editorial was false, or that Daily News entertained doubts as to the truth of this editorial.

Further, Plaintiffs have failed to identify any false information in the editorial. Instead, by arguing that "the *gist* of the piece is that Senator Donastorg . . . was in favor of or supported cockfighting," Plaintiffs argue that this editorial has both defamatory and non-defamatory meanings. Plaintiffs are thus required to introduce clear and convincing evidence from which a reasonable jury could find not only that Daily News knew of the allegedly-defamatory message

¹⁹⁸ Pls.' Am. Resp. to Defs.' Stmt. of Facts 45.

¹⁹⁹ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 49.

²⁰⁰ Pls.' Am. Resp. to Defs.' Stmt. of Facts 70–72.

²⁰¹ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. I, Robbins Dep. Tr. 190–91.

behind the editorial, but that that Daily News also intended for this editorial to convey that message. Since Plaintiffs have only introduced evidence that Robbins could not “comment or provide insight on anything to do with [the editorial]” no reasonable jury could conclude that Robbins’ testimony constitutes clear and convincing evidence that this editorial was published with actual malice.

iv. The February 6, 2002 article titled “Sen. Donastorg and wife face foreclosure on their Wintberg home” is not actionable.

Falsity is a prerequisite for maintaining a defamation claim. Even if one publishes a statement that harms the reputation of another, that person or entity cannot be liable for defamation if the statement is true.²⁰² Although “[t]he truth or falsity of a statement is generally a question of fact for the jury,”²⁰³ the parties here have agreed that there is no genuine dispute of material fact concerning the content of the article. Plaintiffs have admitted that this article “noted the filing of a Complaint in federal court for debt and foreclosure of mortgage on property owned by Senator and Mrs. Donastorg, a Complaint which demanded judgment for the outstanding amount of the mortgage, plus accrued and outstanding interest.”²⁰⁴ Plaintiffs have also admitted that this article “quoted accurately from Paragraph 7 of the Complaint, which declared a default of the Donastorg’s Mortgage,”²⁰⁵ and that Senator Donastorg was contacted for a comment and replied “that ‘it’s being taken care of; the bank dropped the ball, I don’t understand why it’s a major issue’”²⁰⁶ Based on these admissions, no reasonable jury could conclude that the content of the February 6, 2002 article is actionable.

Plaintiffs make several claims as to why this article is actionable. First, they argue that “Daily News claimed that Senator Donastorg was going to be ‘finding himself looking for a new place to live.’”²⁰⁷ This is an inaccurate characterization of the article, which opens with the following sentence: “A St. Thomas senator may find himself looking for a new place to live if he cannot pay off the mortgage on his Wintberg home.”²⁰⁸ The sentence is true when read as a whole: mortgage lenders may elect to foreclose on borrowers that do not pay their mortgage.

Plaintiffs also assert that this article is actionable because “Daily News falsely reported or implied that Senator Donastorg could not pay off his mortgage or meet his monthly obligations,” that “Daily News selectively ignored a foreclosure action brought against Jeffrey Prosser’s

²⁰² RESTATEMENT (SECOND) OF TORTS § 581A. See also *Joseph v. Daily News Publishing Co., Inc.*, 57 V.I. 566, 585–86 n.10 (V.I. 2012) (acknowledging, after applying the three non-dispositive *Banks* factors, that the Supreme Court of the Virgin Islands would continue to follow the principles of defamation law set forth in the Restatement (Second) of Torts).

²⁰³ *Joseph*, 57 V.I. at 586.

²⁰⁴ Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 88.

²⁰⁵ *Id.*

²⁰⁶ *Id.* at 88–89.

²⁰⁷ *Id.* at 30 (quoting Billy Shields, *Sen. Donastorg and wife face foreclosure on their Wintberg home*, THE VIRGIN ISLANDS DAILY NEWS, Feb. 8, 2002).

²⁰⁸ Billy Shields, *Sen. Donastorg and wife face foreclosure on their Wintberg home*, THE VIRGIN ISLANDS DAILY NEWS, Feb. 8, 2002.

friend,²⁰⁹ that Daily News never wrote a follow up story about the foreclosure action being dismissed,²¹⁰ and that “Davis could not adequately explain why an unverified, unsupported foreclosure action against the Senator was even newsworthy.”²¹¹

Plaintiffs’ arguments are unavailing. Plaintiffs have not introduced evidence from which a reasonable jury could conclude that Daily News was aware that this article carried both defamatory and nondefamatory meanings, and intended to publish the defamatory meaning. Plaintiffs’ statement that “Davis could not adequately explain why . . . [the] foreclosure action against the Senator was even newsworthy” is premised on pages 54 and 55 of Davis’ deposition transcript. In those pages, the following exchange takes place:

Q: So can you tell me again why this unsubstantiated dispute over a bank payment is newsworthy, but the fact that your parent company was trying to dig up dirt on the senator wasn’t?

Mr. Rames: Object to form.

A: You’re making a lot of presumptions there. I don’t know anything about the parent company digging up dirt on Senator Donastorg. At the time of the investigation you seem to be talking about, the parent company of The Daily News was the Gannett Corporation, and as far as I know, they did not dig up dirt on Senator Donastorg.²¹²

This testimony has no bearing on Daily News’ state of mind when it published the February 6, 2002 article. Similarly, the questions of whether Daily News chose to publish a story concerning a foreclosure filed against Prosser’s friend or whether Daily News chose to write a follow-up story about the dismissal of the foreclosure action filed against Senator Donastorg have no bearing on Daily News’ state of mind when it published the February 6, 2002 article.

The arguments raised by Plaintiffs are irrelevant in light of the fact that they have not disputed that the factual content of the February 6, 2002 article is true. Consequently, no reasonable jury could determine that the February 6, 2002 article pertaining to the foreclosure lawsuit filed against Senator Donastorg constitutes actionable defamation.

c. Redfield is entitled to summary judgment in his favor on Senator Donastorg’s defamation claim.

Plaintiffs’ defamation claim against Redfield is premised on seven statements made by Redfield that were either broadcast on a local radio show, published in an ICC press release,

²⁰⁹ Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 30.

²¹⁰ *Id.* at 30–31.

²¹¹ *Id.* at 30 (citing Pls.’ Resp. to Defs.’ Mot. for Summ. J. and Br. in Supp. App. Vol. II, Davis Dep. Tr. 54–55).

²¹² Davis Dep. Tr. 54–55.

published in The Virgin Islands Daily News, or published in the St. Croix Avis.²¹³ As discussed above, Senator Donastorg is a public figure for purposes of this Court's defamation analysis. All of the allegedly-defamatory statements made by Redfield implicate matters of public concern, but Plaintiffs have not introduced clear and convincing evidence from which a reasonable jury could conclude that any of Redfield's statements were made with actual malice. Consequently, no reasonable jury could find for Plaintiffs on Senator Donastorg's defamation claim against Redfield.

- i. All of the allegedly-defamatory statements made by Redfield implicate matters of public concern.

The question of whether speech addresses a matter of public concern "must be determined by [the expression's] content, form, and context . . . as revealed by the whole record."²¹⁴

1. *March 1, 2002 ICC Press Release*

This press release implicates matters of public concern because it references a lawsuit that a Virgin Islands senator intended to file against a local utility. The press release also implicates matters of public concern because it contains an opinion about the First Amendment implications of filing lawsuits against newspapers. The boundaries of the First Amendment and lawsuits against local utilities are both matters of public concern.

2. *May 11, 2002 article titled "Outright lies"*

This article implicates matters of public concern because it discusses a public utility's position on a deal with the Government of the Virgin Islands, under which the utility would add a surcharge to customers' bills. The article also explains that a Virgin Islands senator is attempting to audit the utility due to questions over whether that a surcharge imposed by the utility was given to the government or kept by the utility. The article quotes the senator as saying that "[t]here is evidence that the VI government and the taxpayers have been defrauded," and by doing so, captures the essence of why this article implicates matters of public concern.

3. *August 1, 2002 article titled "Innovative official fires back at Donastorg"*

This article chronicles the response of a public utility to a lawsuit filed against it by a Virgin Islands senator. Given that a spokesperson for the utility claimed that the lawsuit "clearly borders on abuse of legislative power," the article invites discussion concerning the relationship between the Government of the Virgin Islands and its utilities, and thus implicates matters of public concern.

²¹³ See Pls.' Am. Resp. to Defs.' Stmt. of Facts 31-36 (identifying the factual support underlying Plaintiffs' defamation claim against Redfield).

²¹⁴ *Dun & Bradstreet v. Greenmoss Builders*, 472 U.S. 749, 761-62 (1985) (quoting *Connick v. Myers*, 461 U.S. 138, 147-48 (1983)) (internal quotations omitted). *Accord Snyder v. Phelps*, 562 U.S. 443, 453 (2011) (quoting *Dun & Bradstreet*, 472 U.S. at 761).

4. *Comments made by Redfield on a local radio show on October 2, 2002*

Plaintiffs have provided a transcript that memorializes comments made by Redfield on a local radio show. These comments implicate matters of public concern because the conversation between the host and Redfield addresses the purpose of a private investigation conducted about a Virgin Islands senator, portions of which had just been released by that senator to the media. At one point in the discussion, the host asks Redfield about the balance between protecting corporate interests and respecting the privacy of public officials. Not only is the use of corporate power to investigate public officials a matter of public concern, a private investigation into a senator's life becomes a matter of public concern when that senator voluntarily discloses portions of the investigation to the media.

5. *October 2, 2002 article titled "Looking for dirt"*

This article implicates matters of public concern because it discusses the ongoing efforts of a Virgin Islands senator to audit a public utility. The article also discusses the utility's response to the senator's efforts, which response included a private investigation of the senator. As with the previous articles, this article invites debate about the relationship between the Government of the Virgin Islands and its utilities, and about the boundaries between corporate power and the private lives of public officials.

6. *Oct. 3, 2002 article titled "Senator strikes back"*

This article implicates matters of public concern for the same reasons as the articles identified in sections one through three, and five, above.

7. *October 5, 2002 article titled "Lawsuits fly back-and-forth in controversy over investigation of senator"*

This article implicates matters of public concern because it explains how a Virgin Islands senator responded to a private investigation, portions of which were disclosed by that senator to members of the media. The article mentions that Redfield explained that the private investigation of the senator was commissioned "to determine whether there was truth to allegations that [the senator] was attacking ICC in exchange for favors from one of ICC's competitors."²¹⁵ The article also explains that revelations concerning the existence of the private investigation prompted the public official to add both Redfield and VITELCO as defendants to a lawsuit that the public official had brought against Daily News.

²¹⁵ Matt Monhoe, *Lawsuits fly back-and-forth in controversy over investigation of senator*, THE VIRGIN ISLANDS DAILY NEWS, Oct. 5, 2002, at page 3.

- ii. Plaintiffs have not introduced clear and convincing evidence from which a reasonable jury could conclude that any of the allegedly-defamatory statements made by Redfield were made with actual malice.

1. *March 1, 2002 ICC Press Release*

This document purports to be a press release issued by ICC on or about March 1, 2002. The document comments on “a copy of a complaint that Senator Donastorg allegedly intends to file” The document does not indicate who authored it.

The document claims that Redfield, “on behalf of ICC” stated the following:

Is this for real? The suit is almost humorous except for the fact that it attempts to put a gag on the most fundamental rights set forth in the First Amendment to the Constitution which guarantees freedom of press and freedom of speech, as the suit requests the Territorial Court to enjoin the Daily News from writing further stories about Senator Donastorg.

We suspect that all other news media in the Virgin Islands, print or electronic, finds this assault on the press to be offensive, particularly when filed by an elected leader who is duly sworn to uphold the Constitution of the United States. The allegations in the complaint are not only denied, but I am sure that these allegations will not hinder the Daily News from reporting about Senator Donastorg or any other public official as it sees fit. Indeed, it is the people’s right to know the facts. For example, it is true that a bank is foreclosing on Senator Donastorg and the suit is still pending. As long as politicians don’t pay their bills, while the rest of us do, newspapers will report it.

Plaintiffs’ Opposition does not mention this press release at all. Plaintiffs’ Amended Response to Defendants’ Statement of Facts refers to this press release as an example of the “defamatory and false-light articles” introduced through the deposition of Marty Schladen.²¹⁶ It also references the press release in response to Daily News’ admission that it published an article about the foreclosure action pending against Senator Donastorg.²¹⁷ Yet nowhere in Plaintiffs’ Opposition or Amended Response to Defendants’ Statement of Facts do Plaintiffs introduce evidence that Redfield made the statements attributed to him in this press release knowing that they were false or while entertaining serious doubts as to their truth or falsity. Consequently, no reasonable jury could find that the statements attributed to Redfield in this press release were published with actual malice.

²¹⁶ Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 3.

²¹⁷ *Id.* at 88.

2. *May 11, 2002 article titled "Outright lies"*

The article attributes several quotations to Redfield. Plaintiffs' Opposition cites generally to their Amended Response to Defendants' Statement of Facts to support their allegations that the statements made by Redfield in this article are defamatory.²¹⁸ This article is cited once in Plaintiffs' Amended Response to Defendants' Statement of Facts in support of the proposition that "[i]n several press releases or quotes Redfield made to the St. Croix Avis, Redfield made the unsupported accusation that Senator Donastorg was telling, 'outright lies' and that ICC was an innocent victim in the attacks over surcharge issues."²¹⁹ Plaintiffs cite to Redfield's deposition testimony at pages 177-85 and at pages 224-30 in support of this proposition. The remaining discussion contained in Plaintiffs' Opposition and Amended Response to Defendant's Statement of Facts pertains to the allegedly-defamatory statements made by Redfield on a local radio show, discussed under section four, below.

The pages of Redfield's deposition transcript cited by Plaintiffs do not establish that Redfield's comments in this article were the product of actual malice. The article quotes a letter from Redfield to the Governor of the Virgin Islands in which Redfield stated that ICC "has been subject to attacks, misrepresentations, and outright lies regarding the role we play"²²⁰ During his deposition, Redfield was asked: "Well, who were you accusing of having lied about the collection of this surcharge, sir?"²²¹ Redfield responded that he "was talking figuratively,"²²² but when asked again "Who were you referring to, sir?"²²³ Redfield replied "Mr. Donastorg, I guess."²²⁴ Redfield then explained that his statement was premised on his belief that ICC was in compliance with the legislation concerning the surcharge based on statements made to Redfield by other employees of ICC.²²⁵ The later pages of Redfield's deposition transcript cited to by Plaintiffs memorialize a portion of the questioning directed at Redfield concerning three articles, none of them being the May 11, 2002 article at issue.²²⁶ From this testimony, no reasonable jury could conclude that Redfield knew he was making false statements concerning Senator Donastorg's criticisms of ICC's collection of the surcharge, or that Redfield entertained doubts about the truth or falsity of same.

The article later claims that Redfield stated that "ICC can make better use of its time and money than being embroiled in this mean-spirited issue."²²⁷ Although a plain reading of this article demonstrates that the term "mean-spirited" was being used as an adjective to describe the implication that ICC was mishandling surcharges, Redfield testified that the adjective "mean-

²¹⁸ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 44-45.

²¹⁹ Pls.' Am. Resp. to Defs.' Stmt. of Facts 31.

²²⁰ Matt Collingsworth, 'Outright Lies', ST. CROIX AVIS, May 11, 2002, at page 1.

²²¹ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. II, Redfield Dep. Tr. at 180:10-11.

²²² *Id.* at 180:14.

²²³ *Id.* at 180:16.

²²⁴ *Id.* at 180:18.

²²⁵ *Id.* at 180:20-23.

²²⁶ *See id.* at 222-30 (containing Plaintiffs examination of Redfield concerning an October 2, 2002 article titled "Looking for dirt," an October 4, 2002 article titled "The plot thickens," and an October 5, 2002 article titled "Donastorg-ICC fight unleashes flurry of lawsuits").

²²⁷ Matt Collingsworth, 'Outright Lies', ST. CROIX AVIS, May 11, 2002, at page 2.

spirited” referred to “the inferences made regarding [the surcharge issue] . . . by Senator Donastorg.”²²⁸ However, Redfield again explained that his use of the adjective “mean-spirited” was due to his belief—based on information he had received—that ICC was in compliance with the laws surrounding the surcharge.²²⁹

When further questioned as to “what other fact [Redfield relied upon] to substantiate that the motive of Senator Donastorg was not because he was truly concerned about this issue, but because he was simply being meanspirited [sic],”²³⁰ Redfield replied that, in addition to the information provided by ICC personnel, Redfield also relied upon “the actions of the Public Service Commission” and “the IG’s report,” neither of which “referred to [ICC] trying to keep money and use it for our own purposes.”²³¹ This evidence further suggests that Redfield’s statements in the May 11, 2002 article titled “Outright Lies” were not made with knowledge of their falsity, or with reckless disregard of same. To the contrary, the only evidence proffered by Plaintiffs in support of their argument that Redfield’s statements in this article were made with actual malice illustrates that Redfield’s statements were made based upon information he received from ICC and from other reports, and thus, were made by Redfield with the subjective belief that they were true.

It must also be observed that an accusation that someone is ‘mean-spirited’ is a statement that is not provably-false.—Since “a-statement-on-matters-of-public-concern-must-be-provable-as-false-before-there-can-be-liability-under-state-defamation-law,”²³² Redfield’s use of the term ‘mean-spirited’ cannot support Senator Donastorg’s claim for defamation.

When viewed in total, the facts offered by Plaintiffs do not constitute clear and convincing evidence that the statements attributed to Redfield in this article were made with either knowledge of their falsity, or a reckless disregard for same. Accordingly, no reasonable jury could conclude that the statements at issue in this article were made with actual malice.

3. August 1, 2002 article titled “Innovative official fires back at Donastorg”

In the article, Redfield is quoted as saying that the lawsuit filed by Senator Donastorg was “mean-spirited and illogical.”²³³ As with the preceding article, this article is cited once in Plaintiffs’ Amended Response to Defendants’ Statement of Facts in support of the proposition that, “[i]n several press releases or quotes Redfield made to the St. Croix Avis, Redfield made the unsupported accusation that Senator Donastorg was telling, ‘outright lies’ and that ICC was an innocent victim in the attacks over surcharge issues.”²³⁴ Aside from the citation to pages 177–85 and pages 224–30 of Redfield’s deposition transcript discussed above, Plaintiffs provide no additional support to substantiate their claim that this article was published with actual malice. For

²²⁸ Redfield Dep. Tr. 182:3--183:5.

²²⁹ *Id.* at 183:6–16.

²³⁰ *Id.* at 184:21–24.

²³¹ *Id.* at 185:11–15.

²³² *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 19–20 (1990).

²³³ Valarie Lovett, *Innovative official fires back at Donastorg*, ST. CROIX AVIS, Aug. 1, 2002, at page 1.

²³⁴ Pjs.’ Am. Resp. to De’s.’ Stmt. of Facts 31.

the same reasons discussed in the preceding section, no reasonable jury could conclude that the statements attributed to Redfield in this article were published with actual malice.

4. *Comments made by Redfield on a local radio show on October 2, 2002*

After Senator Donastorg disclosed portions of the Sheraw Investigation to the St. Croix Avis, the investigation of Senator Donastorg was discussed on a local radio show. Redfield called into that radio show and discussed ICC's position on the investigation of Senator Donastorg. Plaintiffs allege that the comments made by Redfield during his call-in constitute defamation of Senator Donastorg. In paragraph 4.B.5 of Plaintiffs Amended Response to Defendants Statement of Facts, Plaintiffs identify several statements made during the course of Redfield's call that Plaintiffs claim are contradicted by Redfield's deposition testimony. Although the phrase "actual malice" appears nowhere in paragraph 4.B.5, the Court finds that the juxtaposition of the statements made by Redfield on air with the statements made by Redfield in his deposition represent Plaintiffs' attempt to prove that Redfield's on-air statements were made with actual malice.

First, citing to pages 196–97 of Redfield's deposition transcript, Plaintiffs state that "Redfield told [the show's host] the investigation occurred in 1998 and that 'the victim in this situation is not Senator Donastorg, its [sic] ICC,' because Senator Donastorg for years has made slanderous statements against Prosser and was also 'questioning and attacking.'"²³⁵ Plaintiffs then claim that "Redfield, in his deposition, could not actually testify to any 'slanderous statements' Senator Donastorg had made against Prosser."²³⁶ However, when asked to identify the slanderous statement to which he was referring, Redfield testified at his deposition as follows: "I have heard then, but I can't recall them. It has to do with, again, some of these issues like over earning and keeping the money and, you know, we're talking about the one dollar was the one that really—."²³⁷ Redfield was then interrupted by Plaintiffs' attorney, who asked: "Well, how does that have anything to do with slandering Mr. Prosser personally?"²³⁸ Redfield responded that "it was referring to the fact that he would allow something like that to go on in his company."²³⁹ Plaintiffs' attorney then asked Redfield: "Well, we now know he would, don't we?"²⁴⁰ And Redfield replied over objection: "I didn't at the time."²⁴¹ This exchange between Redfield and Plaintiffs' attorney illustrates that Redfield believed the statement he was making on air were true at the time he made them. Since this citation is the only evidence offered by Plaintiffs to prove that Redfield's on-air comments referring to Donastorg's 'slanderous statements' were made with actual malice, Plaintiffs have not produced clear and convincing evidence that Redfield either knew his statements was false, or entertained serious doubts as to their truth or falsity. To the contrary, the pages of Redfield's deposition transcript cited by Plaintiffs indicate that Redfield honestly believed that what he said on air was true.

²³⁵ *Id.*

²³⁶ *Id.* at 31–32.

²³⁷ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. II, Redfield Dep. Tr. 197:3–6.

²³⁸ *Id.* at 197:7–8.

²³⁹ *Id.* at 197:9–10.

²⁴⁰ *Id.* at 197:11.

²⁴¹ *Id.* at 197:14.

Second, citing to pages 200–01 of Redfield’s deposition transcript, Plaintiffs state that “Redfield falsely claimed that the investigation related to an ‘alleged event that took place, back in—in that time period where it was alleged that [Senator Donastorg] had flown on an AT&T aircraft down to a jazz festival.’”²⁴² Plaintiffs then argue that “Redfield admits he didn’t have any information that Senator Donastorg flew on an AT&T jet to a jazz festival, but he nevertheless stated, ‘This is what instituted the investigation.’”²⁴³ Redfield was asked specifically: “What information did you have that this flight, supposed flight to St. Lucia, was in 1998?”²⁴⁴ He responded: “I didn’t have any. The only information I knew was what was represented to me with reference to the motives.”²⁴⁵ This testimony again demonstrates that Redfield’s on-air comments were based on information that was represented to him, thus suggesting that Redfield honestly believed what he was saying when he was describing the purpose of the Sheraw Investigation on air. Because these citations are the only evidence offered by Plaintiffs in support of their claim that this statement was made with actual malice, Plaintiffs have not produced clear and convincing evidence from which a reasonable jury could conclude that Redfield either knew his statement was false, or entertained serious doubts as to its truth or falsity. Again, the pages of Redfield’s deposition transcript cited by Plaintiffs indicate otherwise.

Third, citing to pages 204–05 of Redfield’s deposition transcript, Plaintiffs state that “Redfield also falsely claimed that the investigation was justified because Senator Donastorg was ‘extremely close to this Georgetown group that was evaluating the company, but he admitted in his deposition that the events he was describing on the radio occurred after the report was completed.’”²⁴⁶ Redfield did state that Senator Donastorg’s accusations concerning ICC’s overearning and alleged ties to the Georgetown Group were events that happened after 1998,²⁴⁷ but Redfield continued by testifying that “the only motive that [he] was given was the issue of the airplane flight.”²⁴⁸ This testimony indicates that Redfield’s statements were based off of conversations that he had with other people concerning the investigation of Senator Donastorg, and that Redfield believed that the statements he was making were true at the time that he made him. Consequently, no reasonable jury could conclude that the testimony cited by Plaintiffs constitutes clear and convincing evidence that Redfield either knew that his statements were false, or that Redfield entertained serious doubts as to the truth or falsity of his statements.

Fourth, citing to pages 206–07, 210, and 211–12 of Redfield’s deposition transcript, Plaintiffs claim that “Redfield stated that, ‘[t]he report was done to basically find out whether there was some relationship that was developing between our competitors and [Senator Donastorg], to the detriment of the company.’”²⁴⁹ Plaintiffs also claim that “Redfield represented that there was ‘absolutely nothing’ to any of Senator Donastorg’s allegations, and that Senator Donastorg just wanted to ‘destroy the livelihoods of over four hundred and some employees, and put in jeopardy

²⁴² Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 32 (citing Redfield Dep. Tr. 200).

²⁴³ *Id.* (citing Redfield Dep. Tr. 200–01).

²⁴⁴ Redfield Dep. Tr. 200:12–13.

²⁴⁵ *Id.* at 200:14–16.

²⁴⁶ Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 32 (citing Redfield Dep. Tr. 204–05).

²⁴⁷ Redfield Dep. Tr. 205:1–7.

²⁴⁸ *Id.* 205:19–20.

²⁴⁹ *Id.* (citing Redfield Dep. Tr. 206–07).

a utility [ICC] in the Virgin Islands.”²⁵⁰ Plaintiffs then claim that “Redfield could not articulate a factual basis to make this representation in his deposition”²⁵¹

In the cited pages of Redfield’s deposition transcript, Redfield testifies that he “did not have any specifics that [he] could refer to,” but he qualified that statement by explaining that he “can’t recall them . . . [t]his was a long time ago.” Redfield also testified, both on the cited pages and the pages surrounding them, that he was relying on “information that was made available to [him] by the telephone company with reference to the determination that was made by the Public Service Commission”²⁵² and that he “didn’t understand [Senator Donastorg’s] motivations [for accusing ICC and VITELCO] when these things were proven not to be true.”²⁵³ Again, this testimony indicates that Redfield’s on-air statements were the product of information that he had received prior to appearing on the radio show and of the beliefs he held at the time that the statements were made.

Plaintiffs’ assertion that Redfield stated “that Senator Donastorg just wanted to destroy the livelihoods of over four hundred and some employees and put in jeopardy a utility [ICC] in the Virgin Islands” mischaracterizes Redfield’s on-air statement. The statement pertaining to the “livelihoods of over 400 and some off employees” was phrased as a rhetorical question by Redfield as a means of explaining that he did not understand why Senator Donastorg leveled accusations against ICC.— The relevant portion of the transcript from Redfield’s on-air statement reads as follows: “Why would somebody want to destroy the livelihoods of over 400 and some off employees and put in jeopardy a utility in the Virgin Islands claiming it’s either over earning, stealing money from the public or whatever?”²⁵⁴ Following this statement, Redfield claimed that ICC has been “proven absolutely innocent” with regard to allegations that it was pocketing the surcharges it had imposed on its customers. Consequently, no reasonable jury could conclude that the pages cited by Plaintiffs constitute clear and convincing evidence that Redfield made his on-air statements with knowledge of their falsity, or that Redfield entertained serious doubts as to the truth or falsity of the statements he made.

Fifth, citing to pages 213–14 of Redfield’s deposition testimony, Plaintiffs claim that “Redfield represented on the radio that Senator Donastorg was leveling charges either to benefit ICC competitors or because he was simply mean-spirited.”²⁵⁵ In the following sentence, Plaintiffs state that “Redfield admitted he had no facts that Senator Donastorg was in bed with ICC’s competitors.”²⁵⁶ Yet in the pages of Redfield’s deposition testimony cited by Plaintiffs, Redfield testified that “[t]he only motive [he knew of] for the investigation was the issue of the possibility that [Senator Donastorg] flew on an airplane from AT&T.”²⁵⁷ Yet again, the pages cited by Plaintiff constitutes evidence that Redfield’s statements were premised on what he had been told

²⁵⁰ *Id.* at 32–33 (quoting Redfield Dep. Tr. 210).

²⁵¹ *Id.* at 33 (quoting Redfield Dep. Tr. 211–12).

²⁵² Redfield Dep. Tr. 208:16–20.

²⁵³ *Id.* at 211:4–5.

²⁵⁴ Pls.’ Am. Resp. to Defs.’ Stmt. of Facts App. Vol. VII, Ex. 16, page 5.

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ Redfield Dep. Tr. 214:12–14.

by others at ICC. Consequently, no reasonable jury could conclude that the cited pages constitute clear and convincing evidence that Redfield made his on-air statements with knowledge of their falsity, or that Redfield entertained serious doubts as to the truth or falsity of the statements he made.

Sixth, citing to pages 215–19 of Redfield’s deposition testimony, Plaintiffs claim that “Redfield said on the radio that, Senator Donastorg was a ‘mean-spirited individual who was trying to destroy a company,’ to ‘seek votes or to gain sympathy from the public,’ but admitted he didn’t have any facts to support this statement either.”²⁵⁸ As discussed in the preceding paragraphs, Redfield testified in these pages that his on-air statements were premised on information that he received from ICC and VITELCO.

Seventh, citing to pages 119–26 of Redfield’s deposition testimony, Plaintiffs claim that “Redfield falsely told the public that the purpose of the investigation was to look for an AT&T connection with Senator Donastorg and that it was ‘professionally done’; but in his deposition Redfield claimed that he didn’t actually know why they conducted the investigation or who even conducted it.”²⁵⁹ However, Redfield testified that he assumed that the report was done by a professional.²⁶⁰ This assumption indicates that Redfield honestly believed that the report was done by a professional, and that Redfield did not entertain serious doubts as to whether or not the report was done by a professional.

Plaintiffs also claim that “Redfield . . . admitted no facts were disclosed to him that revealed any connection between Senator Donastorg and AT&T,”²⁶¹ that “Redfield finally admitted he did nothing to verify any connection between Senator Donastorg and AT&T or the plane trip and he was not aware of any facts to support the allegation,”²⁶² and that “Redfield admitted that he went on the air with the allegation without a ‘shred of evidence’ to support that statement.”²⁶³ But, as explained in the preceding paragraphs, Plaintiffs’ characterization of Redfield’s testimony is contradicted by Redfield’s actual testimony. A showing of actual malice requires that Plaintiffs produce clear and convincing evidence that Redfield either knew his on-air statements were false when he made them, or that Redfield entertained serious doubts as to the truth or falsity of those statements. Redfield’s deposition testimony only constitutes evidence that Redfield’s statements were based upon information he had received through his employer and on opinions that Redfield held as a result of previous audits of ICC and VITELCO. Consequently, no reasonable jury could conclude that Redfield’s on-air statements were made with actual malice.

²⁵⁸ Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 33 (quoting Redfield Dep. Tr. 215–19).

²⁵⁹ *Id.* (quoting Redfield Dep. Tr. 119–26).

²⁶⁰ Redfield Dep. Tr. 122:24–25.

²⁶¹ Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 34.

²⁶² *Id.*

²⁶³ *Id.* (quoting Redfield Dep. Tr. 143–44).

5. *October 2, 2002 article titled "Looking for dirt"*²⁶⁴

According to this article, Redfield characterized Senator Donastorg's "repeated public attacks on ICC" as "slanderous, unfounded, relentless and mean spirited."²⁶⁵ Like the articles discussed in sections two and three above, Plaintiffs only cite to pages 177–85 and pages 224–30 of Redfield's deposition transcript as evidence that the statements attributed to Redfield in this article were made with actual malice. Unlike the articles examined in sections two and three above, this article is mentioned in the cited pages of Redfield's deposition transcript. Specifically, Redfield was asked to identify the "ongoing attacks and slanderous statements and unfounded, relentless, meanspirited [sic] behavior by Senator Donastorg that indicated he was seeking to curry favor from a competitor."²⁶⁶ Redfield testified in response that he could not recall, but "there were constant discussions with him on the floor of the Senate and this and that regarding the company."²⁶⁷ Earlier in his deposition, as discussed under section two above, Redfield explained that his characterizations of Senator Donastorg's attempts to investigate ICC were the result of assurances Redfield had received that ICC was in compliance with any applicable laws and regulations pertaining to the surcharge. Redfield's justification for his opinions on Senator Donastorg's motives does not establish that Redfield's characterization of Senator Donastorg's investigation of ICC was made with knowledge of its falsity, or with reckless disregard for same. Consequently, no reasonable jury could find that the statements attributed to Redfield in this article were made with actual malice.

6. *Oct. 3, 2002 titled "Senator Strikes Back"*

Similar to the article discussed in section five above, this article quotes Redfield as saying that Senator Donastorg's "repeated public attacks . . . toward ICC . . . [are] slanderous, unfounded, relentless and mean-spirited."²⁶⁸ And as with the statements discussed in sections one through three, and five, above, the only evidence cited by Plaintiffs to demonstrate Redfield's statements were made with actual malice are pages 177–85 and 224–30 of Redfield's deposition transcript. For the reasons set forth in those sections, Plaintiffs have not demonstrated with clear and convincing evidence that the statements attributed to Redfield in this article were made with actual malice.

7. *October 5, 2002 article titled "Donastorg-ICC fight unleashes flurry of lawsuits"*

This article is not specifically cited in either Plaintiffs' Opposition or Plaintiffs' Amended Response to Defendants' Statement of Facts. The article quotes statements made by Redfield on a local radio show—the same statements discussed under section four, above. Since Plaintiffs have not provided clear and convincing evidence that Redfield made his on-air statements with

²⁶⁴ The copy of this article provided to the Court is difficult to read. Page one is illegible, and only portions of page two can be read.

²⁶⁵ Valarie Lovett, *Looking for dirt*, ST. CROIX AVIS, Oct. 2, 2002, at page 2.

²⁶⁶ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. II, Redfield Dep. Tr. 225:2–5.

²⁶⁷ *Id.* at 225:11–14.

²⁶⁸ Valarie Lovett, *Senator strikes back*, ST. CROIX AVIS, Oct. 3, 2002, at page 2.

actual malice, Daily News' republication of those same statements does not expose Redfield to additional liability.

II. INTERFERENCE WITH BUSINESS RELATIONSHIPS

In paragraph 28 of their Complaint, Plaintiffs allege that “[t]he [Defendants’] actions constitute a concerted effort to harass and discredit Plaintiffs and to interfere with their business relationships.”²⁶⁹ The Court has identified several cases in the Territory where the tort of interference with “business relationships” has been alleged,²⁷⁰ but none of those cases define the elements of that cause of action in detail. Plaintiffs’ Opposition does not assist the Court in determining exactly what claim Plaintiffs are attempting to allege, as Plaintiffs’ Opposition claims that “courts interpreting Virgin Islands law have consistently relied on Restatement [(Second) of Contracts] § 766 *et seq.* to supply the rule of decision in the past in tortious interferences cases.”²⁷¹ Yet “§ 766 *et seq.*” sets forth several theories of liability.²⁷² Regardless of the theory applied, Plaintiffs have not demonstrated genuine issues of material fact to justify submitting their second cause of action to a jury.

a. Applicable law

It is helpful to adopt consistent terminology at the outset of this analysis—A cause of action that protects business relationships or contracts that are reasonably certain to occur, but that may not have been reduced to writing, enjoys no less than twenty-four similar, yet distinct titles across fifty-four jurisdictions.²⁷³ The most common title given to such a tort is “intentional interference with prospective business relations,” which is the term that the Court will adopt for the purpose of its analysis.

It is also necessary to detail the interrelationship between three closely-related, but distinct theories of liability. While the law of contracts prescribes the rights, obligations, and remedies for parties to a contract, a cause of action that protects parties to an existing contract from interference by a third party is generally referred to as a claim for intentional interference with existing contractual relations. Since parties to a contract expect to derive some benefit from their contract, courts generally consider a claim for intentional interference with existing contractual relations to

²⁶⁹ Fourth Am. Compl. ¶ 28.

²⁷⁰ *Pemberton Sales & Service, Inc. v. Banco Popular de Puerto Rico*, 877 F. Supp. 961 (D.V.I. 1994); *Fountain Valley Corp. v. Wells*, 98 F.R.D. 679 (D.V.I. 1983); *Wells v. Rockefeller*, 97 F.R.D. 42 (D.V.I. 1983); *Storage on Site, LLC v. Slodden*, 57 V.I. 94 (V.I. Super. Ct. 2012).

²⁷¹ Pls.’ Resp. to Defs’. Mot. for Summ. J. and Br. in Supp. 60.

²⁷² See, e.g., RESTATEMENT (SECOND) OF CONTRACTS § 766A (describing the principles for a cause of action based on the intentional interference with existing contractual relations); *id.* § 766B (describing same for a cause of action based on the intentional interference with prospective business relations).

²⁷³ See, e.g., *Dube v. Likens*, 167 P.3d 93, 98 (Ariz. Ct. App. 2007) (identifying such a tort as a claim for “tortious interference”); *Soderland Bros, Inc. v. Carrier Corp.*, 663 N.E.2d 1, 7–8 (Ill. App. Ct. 1995) (titing the tort “interference with prospective business advantage”); *Gieseke ex rel. Diversified Water Diversion, Inc. v. IDCA, Inc.*, 844 N.W.2d 210, 215 (Minn. 2015) (acknowledging the tort as “interference with a prospective economic advantage”); *M & M Rental Tools, Inc. v. Milchem, Inc.*, 1980-NMCA-072, ¶ 20, 94 N.M. 449, 453, 612 P.2d 241, 245 (acknowledging the tort as “prospective contract interference”).

be an example of a broader cause of action for intentional interference with prospective business relations.²⁷⁴ This second cause of action protects an anticipated economic advantage in one's business dealings from the interference of others. However, both of these torts are examples of an even broader cause of action for intentional interference with prospective economic advantage.²⁷⁵ This third cause of action protects economic expectations that arise outside the scope of business—one's ability to receive an inheritance, for example.²⁷⁶

Because Plaintiffs' Complaint alleges an interference with "business relationships,"²⁷⁷ this Court need not consider the broadest of the three torts discussed in the preceding paragraph. But while some jurisdictions distinguish between a cause of action for intentional interference with existing contractual relations and a cause of action for intentional interference with prospective business relations, other jurisdictions treat them as the same cause of action.²⁷⁸ Before the Court can define the parameters of the tort at issue, the Court must first determine how it will treat causes of action that protect the expectancies of one's business dealings.

- i. This jurisdiction recognizes a distinction between claims for intentional interference with existing contractual relations and intentional interference with prospective business relations.

Although similar, each cause-of-action shelters a different legally-protected interest and is justified by a different policy. Causes of action for intentional interference with existing contractual relations protect the right of contracting parties to receive the benefit of their bargain without improper interference from a third party,²⁷⁹ and support the policy that parties should be encouraged to contract freely without fear of improper interference from third parties.²⁸⁰ In contrast, a cause of action for intentional interference with prospective business relations protects an individual's right to develop networks and relationships and generally conduct business without

²⁷⁴ E.g., *Oaksmith v. Bruisch*, 774 P.2d 191, 198 (Alaska 1989); *Gifford v. Sun Data, Inc.*, 686 A.2d 472, 474 (Vt. 1996).

²⁷⁵ *Oaksmith*, 774 P.2d at 198. See also *Korea Supply Co. v. Lockheed Martin Corp.*, 63 P.3d 937, 953 (Cal. 2003) (observing that the tort of interference with a prospective economic advantage is "considerably more inclusive" than actions in contract or interference with contract).

²⁷⁶ See, e.g., *Allen v. Hall*, 974 P.2d 199, 202–03 (Or. 1999) (en banc) (concluding that inheritance is an interest that "fits by logical extension within the concept underlying the tort of intentional interference with prospective economic advantage," despite the fact that such a tort has generally been used to protect commercial interests).

²⁷⁷ Fourth Am. Compl. ¶ 28.

²⁷⁸ See, e.g., *Dube*, 167 P.3d at 98 (explaining that a plaintiff who wishes to assert a claim for tortious interference must allege the existence of a valid contractual or business relationship); *Calboni v. Knudtson*, 396 P.2d 148, 162–63 (Wash. 1964) (clarifying that "[t]he basic elements going into a prima facie establishment of the tort are (1) the existence of a valid contractual relationship or business expectancy . . .").

²⁷⁹ See generally RESTATEMENT (SECOND) OF TORTS § 766 cmt. c (summarizing the historical development of the tort of intentional interference with contractual relations, and observing that the tort is "but one instance . . . of protection against improper interference in business relations"). Some courts have characterized interference with an existing contractual relationship as an interference with property rights. E.g., *Lien v. Northwestern Engineering Co.*, 39 N.W.2d 483, 486 (S.D. 1949).

²⁸⁰ See *Watson's Carpet and Floor Coverings, Inc. v. McCormick*, 247 S.W.3d 169, 174 (Tenn. Ct. App. 2007) (explaining that an action for interference with existing contractual relations "is based on society's need for stability in contractual relations").

fear that their efforts will be unlawfully undermined by competitors.²⁸¹ The latter tort promotes the policy that, while competition should be open and robust, some activities cross the line that divides lawful competition from unlawful activity. The law should incentivize the former, and penalize the latter.

One might argue that the distinction between these two theories is unnecessary because all circumstances under which a plaintiff could state a cause of action for intentional interference with existing contractual relations could also justify a claim for intentional interference with prospective business relations. Some courts recognize this overlap. However, this criticism ignores the fact that each tort protects a unique interest. Consequently, this Court recognizes two separate torts: the tort of intentional interference with existing contractual relations, and the tort of intentional interference with prospective business relations.

ii. This jurisdiction recognizes a cause of action for intentional interference with existing contractual relations.

Since at least 1621, courts have recognized that certain forms of interference with another's business constitute tortious conduct,²⁸² and courts in every jurisdiction in the United States recognize that certain interference with the contractual relations of others constitutes actionable conduct. Because the Supreme Court of the Virgin Islands has not yet defined this cause of action, this Court must determine the soundest rule of law for the Virgin Islands.²⁸³

I. Approaches taken by other courts in this jurisdiction

Courts in the Virgin Islands have acknowledged two situations where a cause of action will lie for intentional interference with existing contractual relations. For claims that a defendant caused a third party to breach an existing contractual relation with the plaintiff, both the Superior Court of the Virgin Islands and the District Court of the Virgin Islands have relied on the principles of law summarized in the Restatement (Second) of Torts, Section 766 to determine when the

²⁸¹ See, e.g., *Hawaii Medical Association v. Hawaii Medical Service Association, Inc.*, 148 P.3d 1179, 1217 (Hawaii 2006) (explaining that the purpose of this tort "is the protection of legitimate and identifiable business expectancies" by "[w]eighing against social and individual interests in protection of business expectancies and efforts to acquire property . . . the interests in legitimate business competition") (emphasis in original).

²⁸² See generally *Tortious Interference with Conduct of a Business*, 56 YALE L.J. 885, 885 (1947) (citing *Garret v. Taylor*, Cro. Jack 567, 79 Eng. Rep. 485 (K.B. 1621); *Gregory v. Duke of Brunswick*, 6 Man. & G. 205, 134 Eng. Rep. 866 (C.P. 1843); *Tarleton v. McGawley*, Peake N.P. 270, 170 Eng. Rep. 153 (K.B. 1793); and *Keeble v. Hickeringill*, 11 Mod. 130, 88 Eng. Rep. 945 (K.B. 1707)) (discussing the origins of tortious interference claims).

²⁸³ See *Malloy v. Reyes*, S. Ct. Civ. No. 2012-0081, 2014 WL 3697332, at *5 (V.I. July 22, 2014) (observing that, "when the Superior Court confronts an issue of common law that this Court has yet to address . . . it must conduct a three-factor *Banks* analysis"); *Government of the Virgin Islands v. Connor*, S. Ct. Civ. No. 2014 WL 702639, at *3 (V.I. Feb. 24, 2014) (holding that, pursuant to *Banks v. International Rental and Leasing Corp.*, 55 V.I. 967 (V.I. 2011), the Superior Court must consider the approaches taken by other courts in the Virgin Islands, the approaches taken by a majority of other jurisdictions—along with any competing approaches—and most importantly, the soundest rule for the Virgin Islands, when the Superior Court considers a question of common law not foreclosed by binding authority).

interfering party may be held liable.²⁸⁴ Courts in the Virgin Islands have not developed any competing approaches to Section 766's standard, under which a plaintiff must prove that: "[1] there was an existing contract, [2] that the alleged tortfeasor knew of the existing contract, [3] that the alleged tortfeasor's actions were the proximate cause of the third person's failure to perform, and [4] that the tortfeasor's actions were intentional, improper, and caused damages."²⁸⁵ To determine if the alleged interference was improper under this standard, courts have considered the factors listed in the Restatement (Second) of Torts Section 767.²⁸⁶

When a defendant has allegedly interfered with the plaintiff's performance of the plaintiff's contractual obligations to a third party, the United States Court of Appeals for the Third Circuit has opined that the principles of law summarized in Section 766A represent the law of Virgin Islands.²⁸⁷ Under this standard, a plaintiff must prove that there was an existing contract, that the alleged tortfeasor knew of that contract, that the defendant's actions proximately caused the plaintiff to either breach the contract or perform the contract under substantially more expensive or burdensome conditions than the plaintiff had originally bargained for, and that the plaintiff suffered damages as a result.²⁸⁸

2. Approaches taken by other jurisdictions

~~Every jurisdiction in the United States recognizes a cause of action for intentional interference with existing contractual relations. To prevail on such a claim, thirty-four jurisdictions explicitly require that a plaintiff prove the existence of a contract.²⁸⁹ The remaining jurisdictions either imply that a plaintiff must prove the existence of a contract,²⁹⁰ or, similar to~~

²⁸⁴ *E.g., Board of Directors of Sapphire Bay Condominiums West v. Simpson*, Civil No. 04-62, 2014 WL 4067175, at *12 (D.V.I. Aug. 13, 2014); *Sorber v. Glacial Energy VI, LLC*, ST-2010-CV-588, 2013 WL 6184064, at *5 (V.I. Super. Ct. Nov. 22, 2013).

²⁸⁵ *Government Guarantee Fund of Republic of Finland v. Hyatt Corp.*, 955 F. Supp. 441, 452 (D.V.I. 1997) (citing RESTATEMENT (SECOND) OF TORTS § 766).

²⁸⁶ *See id.* (listing factors such as "the nature of the actor's conduct . . . the actor's motive . . . the interests of the other with which the actor's conduct interferes . . . the interests sought to be advanced by the actor . . . the societal interests in protecting the freedom of action of the actor . . . the contractual interests of the other, and . . . the relations between the parties").

²⁸⁷ *Barefoot Architect, Inc. v. Bunge*, 632 F.3d 822, 833-34 (3rd Cir. 2011).

²⁸⁸ *See id.* (explaining that action rendering a third-party's performance more burdensome, expensive, or impossible is not actionable, but that action rendering a plaintiff's performance more burdensome, expensive, or impossible is actionable pursuant to Section 766A).

²⁸⁹ *E.g., Paul v. Howard University*, 754 A.2d 297, 308-09 (D.C. 2009); *Levee v. Beeching*, 729 N.E.2d 215, 222 (Ind. Ct. App. 2000); *Brass Metal Products, Inc. v. E-J Enterprises, Inc.*, 984 A.2d 361, 383 (Md. Ct. Spec. App. 2009); *Community Title Co. v. Roosevelt Federal Savings and Loan Association*, 796 S.W.2d 369, 372 (Mo. 1990) (en banc); *Snyder v. Sony Music Entertainment, Inc.*, 684 N.Y.S.2d 235, 238 (N.Y. App. Div. 1999); *Hill v. Heritage Resources, Inc.*, 964 S.W.2d 89, 123 (Tex. Ct. App. 1997).

²⁹⁰ *See, e.g., Nelser v. Fisher and Co., Inc.*, 752 N.W.2d 191, 194 (Iowa, 1990) (requiring a plaintiff to plead that the defendant had improperly interfered with the performance of a contract); *Bolz v. Myers*, 651 P.2d 606, 611 (Mont. 1982) (citing *Bermil Corp. v. Sawyer*, 353 So.2d 579, 585 (Fla. Dist. Ct. App. 1977)) (stating that, "[i]n order to establish a prima facie case of interference with contractual or business relations, it must be shown that the acts were intentional and willful, (2) were calculated to cause damage to the plaintiff in his or her business, (3) were done with the unlawful purpose of causing damage or loss, without any right or justifiable cause on the part of the actor, and (4) that actual damages and loss resulted").

courts in Nebraska, require that a plaintiff prove “the existence of a valid business relationship or expectancy”—a requirement that encapsulates an existing contractual agreement.²⁹¹ At least thirty-one jurisdictions require the plaintiff prove that the defendant had knowledge of the contract at issue.²⁹² Jurisdictions that do not explicitly state that the defendant’s knowledge of the contract is an element of the plaintiff’s case require the plaintiff to prove that the defendant’s conduct was intentional.²⁹³ Twenty-nine jurisdictions explicitly require a plaintiff to plead that the contract at issue was breached or terminated,²⁹⁴ while other jurisdictions only require a showing that the defendant interfered with the contract.²⁹⁵ Across all jurisdictions, a plaintiff must prove that the defendant’s interference damaged the plaintiff.

In order to be actionable, over forty jurisdictions require that a defendant’s interference be something more than intentional. In defining the behavior that constitutes actionable interference, jurisdictions have variously required that interference be “improper,”²⁹⁶ “unprivileged”²⁹⁷ or “unjustified.”²⁹⁸ There is no clear majority position as to how improper, unprivileged, or unjustified interference is defined. Some jurisdictions look to the factors listed in Section 767 of the Restatement (Second) of Torts,²⁹⁹ while others evaluate the facts of each case.³⁰⁰ Although only arising in the context of a claim for intentional interference with prospective business relations, a minority of courts have observed that the touchstone of impropriety is that the

²⁹¹ See *Midwest, Inc. v. Lund Co.*, 826 N.W.2d 225, 229 (Neb. 2012) (analyzing an alleged inducement to breach an existing lease agreement as a claim for “interference with a business relationship”).

²⁹² E.g., *White Sands Group, L.L.C., v. PRS II, LLC*, 32 So.3d 5, 14 (Ala. 2009); *Beard Research, Inc. v. Kates*, 8 A.3d 573, 605 (Del. Ch. 2010); *Cohen v. Battaglia*, 293 P.3d 752, 755 (Kan. 2013); *Royal Realty Co. v. Levin*, 69 N.W.2d 667, 671 (Minn. 1955); *Sunridge Builders, Inc. v. Olde Blue, LLC*, Nos. 56338, 57316, 2013 WL 485831, at *1 (Nev. Feb. 6, 2013); *Belliveau Building Corp. v. O’Coin*, 763 A.2d 622, 627 (R.I. 2000).

²⁹³ See, e.g., *Allen v. Hall*, 974 P.2d 199, 202 (Or. 1999) (en banc) (requiring a plaintiff to plead both the existence of a professional or business relationship, “which could include . . . a contract,” and an “intentional interference with that relationship”).

²⁹⁴ E.g., *Stewart Title Guarantee Co. v. American Abstract & Title Co.*, 215 S.W.3d 596, 601 (Ark. 2005); *Smith v. Ocean State Bank*, 335 So.2d 641, 643 (Fla. Dist. Ct. App. 1976); *Galinski v. Kessler*, 480 N.E.2d 1176, 1182 (Ill. Ct. App. 1985); *Duggin v. Adams*, 360 S.E.2d 832, 835 (Va. 1987).

²⁹⁵ E.g., *Downes-Patterson Corp. v. First National Supermarkets, Inc.*, 780 A.2d 967, 976 (Conn. 2001); *Shaw v. Southern Aroostook Community School District*, 683 A.2d 502, 503 (Me. 1996) (citing *Barnes v. Zappia*, 685 A.2d 1086, 1090 (Me. 1995)); *Bolz v. Myers*, 651 P.2d 606, 611 (Mt. 1982) (citing *Bermil Corp. v. Sawyer*, 353 So.2d 579, 585 (Fla. Dist. Ct. App. 1977)).

²⁹⁶ E.g., *ASC Construction Equipment, USA, Inc. v. City Commercial Real Estate, Inc.*, 693 S.E.2d 559, 563 (Ga. Ct. App. 2010) (requiring the plaintiff to show that the defendant “acted improperly” in a claim for “tortious interference with contracts and business relationships”); *Nelser v. Fisher and Co., Inc.*, 752 N.W.2d 191, 194 (Iowa 1990) (requiring interference to be intentional and improper); *Allen*, 974 P.2d at 202 (requiring that the defendant interfere by improper means or for an improper purpose).

²⁹⁷ E.g., *Cohen*, 293 P.3d at 755; *Snyder v. Sony Music Entertainment, Inc.*, 684 N.Y.S.2d 235, 238 (N.Y. App. Div. 1999); *Thompson Coal Co. v. Pike Coal Co.*, 412 A.2d 466, 471 (Pa. 1979).

²⁹⁸ E.g., *Galinski*, 480 N.E.2d at 1182; *Recio v. Evers*, 771 N.W.2d 121, 131 (Neb. 2009).

²⁹⁹ E.g., *Amoco Oil v. Ervin*, 908 P.2d 493, 500 (Colo. 1995) (en banc); *Culhorn v. Knudtson*, 396 P.2d 148, 151–52 (Wash. 1964) (en banc).

³⁰⁰ E.g., *Top Service Body Shop, Inc. v. Allstate Insurance Co.*, 582 P.2d 1365, 1371 (Or. 1978) (en banc).

defendant acted with either an improper motive, or interfered using improper means—means which, by themselves, would be actionable.³⁰¹

Finally, a small minority of jurisdictions only require that a plaintiff prove that a defendant's intentional interference with the contractual relation of another was the proximate cause of harm to the plaintiff.³⁰² In these jurisdictions, interference alone is wrongful, regardless of the method of, or justification for the interference.

3. *The soundest rule of law for the Virgin Islands*

In determining the soundest rule to apply, the weight of authority supports the conclusion that a plaintiff must demonstrate the existence of a specific contract, that the defendant knew of that contract, and that the defendant intentionally interfered with that contract. The Supreme Court of New Mexico provides the clearest justification for the knowledge requirement: “[o]ne cannot be held liable . . . unless he has knowledge of the contract; without such knowledge, the requisite intention is absent.”³⁰³ Additionally, requiring a plaintiff to plead both the existence of a contract and the defendant's knowledge of that contract comports with past approaches utilized by courts in the Virgin Islands.

~~The weight of authority also supports the conclusion that a plaintiff must prove that the defendant's conduct damaged the plaintiff. Every jurisdiction requires a plaintiff to plead causation and damages, including the Virgin Islands. There is no compelling reason to abandon these requirements here.~~

A plaintiff in the Virgin Islands must also demonstrate that the defendant's interference was improper. The Supreme Court of Connecticut has explained that “not every act that disturbs a contract . . . is actionable,”³⁰⁴ and as discussed above, a clear majority of jurisdictions require that a defendant's interference be more than intentional before it will be actionable. This shifting attitude can also be seen in the change in language from the Restatement (First) of Torts, which required only that interference be purposeful, to the language in the Restatement (Second) of Torts, which now states that interference must be both intentional and improper.³⁰⁵ Again, such a requirement is consistent with previous opinions from courts in the Virgin Islands.

Requiring a plaintiff to prove impropriety also serves the important objective of distinguishing legitimate competition from unlawful activity. Although this concern bears more

³⁰¹ *E.g., id.* at 1371; *Crandall Corp. v. Navistar International Transportation Corp.*, 396 S.E.2d 179, 266 (S.C. 1990); *Leigh Furniture and Carpet Co. v. Isom*, 657 P.2d 293, 300 (Utah 1982); *Duggin v. Adams*, 360 S.E.2d 832, 836 (Va. 1987).

³⁰² *E.g., Korean Supply Co. v. Lockheed Martin Corp.*, 63 P.3d 937, 953 (Cal. 2003); *Hill v. Heritage Resources, Inc.*, 964 S.W.2d 89, 123 (Tex. Ct. App. 1997).

³⁰³ *Wolf v. Perry*, 339 P.2d 679, 682 (N.M. 1959).

³⁰⁴ *Larsen Chelsey Realty Co. v. Larsen*, 656 A.2d 1009, 1022 n.24 (Conn. 1995). *Accord Dolton v. Capitol Federal Savings and Loan Association*, 642 P.2d 21, 22–23 (Colo. Ct. App. 1981) (explaining that, while interference with voidable contracts is actionable, interference with contracts that are void as a matter of law is not actionable).

³⁰⁵ RESTATEMENT (SECOND) OF TORTS § 766, reporters note.

weight in the context of an alleged interference with prospective business relations, an example illustrates how the same concerns apply where parties have reduced their agreements to a contract. A defendant, aware of an existing contract between the plaintiff and a third party, could intentionally adjust its prices to create a situation where it would be economically efficient for the third party to breach its contract with the plaintiff and contract with the defendant instead. In this situation, the principles of contracts law entitle the plaintiff to be made whole by the third party, and the defendant and the third party benefit by way of their newly-formed relationship. Liability in tort should not attach to economic activity that leave all parties involved in no worse a position than where they began.

It is axiomatic the law should not incentivize unlawful behavior. When a defendant interferes with an existing contract using means that are proscribed by some constitutional, statutory, regulatory, common law, or other determinable legal standard,³⁰⁶ however, a cause of action for intentional interference with existing contractual relations exists. Similarly, when a defendant is not motivated by a genuine business purpose, but rather interferes with a plaintiff's contract solely for the purpose of injuring the plaintiff, a cause of action for intentional interference also exists.³⁰⁷ Thus, in order to prevail on a claim for intentional interference with existing contractual relations, a plaintiff must prove that the defendant's interference was the product of either an improper means or an improper motive. This approach to impropriety comports with a growing-minority-of-jurisdictions,³⁰⁸ and strikes the appropriate balance between promoting competition and disincentivizing illegal behavior.

This Court rejects the approach of jurisdictions where plaintiffs are required to establish impropriety with reference to Section 767 of the Restatement (Second) of Torts. Section 767's approach effectively requires a plaintiff to disprove any legitimate reason that a defendant might have for its actions. This greatly increase a plaintiff's burden of persuasion, and the fact-intensive nature of such an inquiry almost guarantees that such a claim cannot be resolved on the pleadings alone. Thus, a disgruntled plaintiff could use a lawsuit to force a competitor into discovery. At best, the suit would disrupt operations and cash flow. At worst, it could compromise trade secrets or other proprietary information, and may even culminate in the termination of a business.

³⁰⁶ *Accord Korean Supply Co.*, 63 P.3d at 954 (discussing impropriety in the context of claims for intentional interference with prospective business relations, and concluding that an improper act is one that is "proscribed by some constitutional, statutory, regulatory, common law, or other determinable legal standard"); *Gieseke ex rel. Diversified Water Diversion, Inc. v. IDCA, Inc.*, 844 N.W.2d 210, 219 (Minn. 2014) (requiring interference to be independently tortious or in violation of a state or federal statute or regulation).

³⁰⁷ *Accord Top Service Body Shop, Inc. v. Allstate Insurance Co.*, 582 P.2d 1365, 1368 (Or. 1978) (en banc) (permitting a cause of action for intentional interference with prospective business relationships where a defendant's motive is to harm the plaintiff).

³⁰⁸ *See, e.g., Trade 'N Post, L.L.C. v. World Duty Free Americas, Inc.*, 2001 ND 116, ¶ 36, 628 N.W.2d 707, 717 (requiring "an independently tortious or unlawful act of interference"); *Top Service Body Shop, Inc.*, 582 P.2d at 1371 (requiring interference to be "unlawful by some measure beyond the fact of the interference itself," as derived, for example, from "a statute or other regulation, or a recognized rule of common law, or perhaps an established standard of a trade profession"); *Trau-Med of America, Inc. v. Allstate Insurance Co.*, 71 S.W.3d 691, 701 (Tenn. 2002) (citing *Top Service Body Shop, Inc.*, 852 P.2d at 1371) (requiring "improper motive or improper means"); *Leigh Furniture and Carpet Co. v. Isom*, 657 P.2d 293, 304 (Utah 1982) (citing *Top Service Body Shop, Inc.*, 582 P.2d at 1371) (same).

To prevail on a claim for intentional interference with existing contractual relations, a plaintiff in this jurisdiction must prove: (1) the existence of a contract between the plaintiff and a third party; (2) that the defendant knew of that contract; (3) that the defendant interfered with the contract using improper means or with an improper motive; and (4) that the plaintiff was damaged as a result.

iii. This jurisdiction recognizes a cause of action for intentional interference with prospective business relations.

Like the tort of intentional interference with existing contractual relations, a cause of action for the intentional interference with prospective business relations is widely recognized across the United States. Because no binding authority directs this Court on the nature of a claim for intentional interference with prospective business relations, this Court is again obligated to determine the soundest rule of law for the Virgin Islands.³⁰⁹

1. Approaches taken by other courts in this jurisdiction

In the Virgin Islands, courts have looked to the principles summarized in the Restatement (Second) of Torts, Section 766B, to determine when a plaintiff may prevail on a claim for interference-with prospective-business-relations.³¹⁰ In doing so, Virgin-Islands-courts-have-drawn no distinction between claims titled “tortious interference,” “tortious interference with prospective advantage,” “tortious interference with prospective economic advantage,” “interference with prospective contractual relations,” or “intentional interference with prospective contractual relations.”³¹¹ Courts here have stated that the expected benefit must be “sufficiently concrete” before a cause of action will lie.³¹² Courts in the Virgin Islands have not utilized other standards to analyze claims of this nature. In determining whether a defendant’s conduct is improper, some courts in the Virgin Islands have looked to the factors listed in the Restatement (Second) of Torts Section 767.³¹³ Others have rendered their opinion after considering the facts of each case.³¹⁴ No court in the Virgin Islands has addressed the question of whether a defendant’s conduct must be independently actionable.

³⁰⁹ *Government of the Virgin Islands v. Connor*, S. Ct. Civ. No. 2014 WL 702639, at *3 (V.I. Feb. 24, 2014).

³¹⁰ *Board of Directors of Sapphire Bay Condominiums West v. Simpson*, Civ. No. 04-62, 2014 WL 4067175, at *12 (D.V.I. Aug. 13, 2014); *First American Development Group/Carib, LLC v. WestLB AG*, 55 V.I. 316, 333–34 (V.I. Super. Ct. 2011).

³¹¹ Compare *Simpson*, 2014 WL 4067175, at *12 (analyzing a claim for “intentional interference” under the standard set forth in Section 766B), with *Pourzal v. Marriot International, Inc.*, 45 V.I. 488, 491–92 (D.V.I. 2004) (analyzing a claim for “tortious interference with prospective advantage” under the same standard), *Government Guarantee Fund of the Republic of Finland v. Hyatt Corp.*, 35 V.I. 356, 375–76 (D.V.I. 1997) (analyzing a claim for “tortious interference with prospective economic advantage” under the same standard), and *First American Development Group/Carib, LLC*, 55 V.I. 316 at 333–34 (analyzing a claim for “interference with prospective contractual relations” under the same standard).

³¹² See, e.g., *Government Guarantee Fund of the Republic of Finland*, 35 V.I. at 376–77 (determining that a plaintiff, a contractor, did not state a claim for intentional interference with prospective economic advantages because he did not demonstrate that he had any concrete plans for future contracting work).

³¹³ E.g., *Pourzal*, 45 V.I. at 492; *Government Guarantee Fund of Republic of Finland*, 35 V.I. at 369–70.

³¹⁴ E.g., *Board of Directors of Sapphire Bay Condominiums West*, 2014 WL 4067175, at *12; *First American Development Group/Carib, LLC*, 55 V.I. at 333–34.

2. Approaches taken by other jurisdictions

In every jurisdiction, the existence of a prospective business relation is a prerequisite for prevailing on this cause of action. The interest has been variously described as “a valid contractual relationship or business expectancy,”³¹⁵ a “prospective contract,”³¹⁶ a “business relationship[] not formally reduced to contract,”³¹⁷ a “reasonable probability that a contractual relationship would have been entered,”³¹⁸ “a prospective relationship with an identifiable class of third persons,”³¹⁹ and a “reasonable expectation of an economic advantage,”³²⁰ among other descriptions. However termed, the interest must be “something more than a mere hope or the innate optimism of the salesman,”³²¹ and must be “sufficiently definite, specific, and capable of acceptance in the sense that there is a reasonable probability of it maturing into a future economic benefit to the plaintiff.”³²²

At least twenty-five jurisdictions explicitly require a plaintiff to prove that the defendant knew of the relation.³²³ All remaining jurisdictions imply that such knowledge is a prerequisite to maintaining a cause of action for intentional interference with prospective business relations by requiring the plaintiff to prove that the defendant acted intentionally. One cannot intentionally interfere with a relationship about which one knows nothing.

At least forty-three jurisdictions require that a defendant’s interference be wrongful by some measure beyond the interference itself.³²⁴ Some of these jurisdictions require the plaintiff to establish that interference was improper with reference to the factors listed in Section 767 of the Restatement (Second) of Torts.³²⁵ Other jurisdictions require the plaintiff to prove that the defendant acted without justification or without privilege.³²⁶ A minority of jurisdictions require a plaintiff to prove that the defendant’s interference was the product of either improper motive or

³¹⁵ *Calbom v. Knudtson*, 396 P.2d 148, 162 (Wash. 1964).

³¹⁶ *Allen Realty Corp. v. Holbert*, 318 S.E.2d 592, 597 (Va. 1984).

³¹⁷ *Gifford v. Sun Data*, 686, A.2d 472, 474 (Vt. 1996).

³¹⁸ *Hill v. Heritage Resources, Inc.*, 964 S.W.2d 89, 124 (Tex. Ct. App. 1997).

³¹⁹ *Trau-Med of America, Inc. v. Allstate Insurance Co.*, 71 S.W.3d 691, 701 (Tenn. 2002).

³²⁰ *Printing Mart-Morristown v. Sharp Electronics Corp.*, 563 A.2d 31, 37 (N.J. 1989).

³²¹ *Thompson Coal Co. v. Pike Coal Co.*, 412 A.2d 466, 471 (Pa. 1979).

³²² *Hawaii Medical Association v. Hawaii Medical Service Association, Inc.*, 148 P.3d 1179, 1218 (Hawaii 2006).

³²³ E.g., *White Sands Group, L.L.C. v. PRS II, LLC*, 32 So.3d 5, 14 (Ala. 2009); *Dube v. Likens*, 167 P.3d 93, 98 (Ariz. Ct. App. 2007); *Hi-Ho Tower, Inc. v. Com-Tronics, Inc.*, 761 A.2d 1268, 1273 (Conn. 2000); *Cedroni Associates, Inc. v. Tomblinson, Harburn Associates, Architects & Planners, Inc.*, 821 N.W.2d 1, 4 (Mich. 2012); *Gieseke ex rel. Diversified Water Diversion, Inc. v. IDCA, Inc.*, 844 N.W.2d 210, 219 (Minn. 2014); *Calbom v. Knudtson*, 396 P.2d 148, 162 (Wash. 1964); *Gore v. Sherard*, 50 P.3d 705, 710 (Wyo. 2002).

³²⁴ E.g., *Ethan Allen, Inc. v. Georgetown Manor, Inc.*, 647 So.2d 812, 814 (Fla. 1994) (requiring interference to be “intentional and unjustified”); *United Truck Leasing Corp. v. Geltman*, 551 N.E.2d 20, 23 (Mass. 1990) (requiring proof of “malicious” conduct); *Nichols v. Tri-State Brick and Tile Co., Inc.*, 608 So.2d 324, 328 (Miss. 1992) (requiring proof that interference was “done with the unlawful purpose of causing damage and loss, without right or justifiable cause on the part of the defendant”); *Allen Realty Corp. v. Holbert*, 318 S.E.2d 592, 597 (Va. 1984) (requiring both intentional and improper interference).

³²⁵ E.g., *Crandall Corp. v. Navistar International Transportation Corp.*, 396 S.E.2d 179, 226 (S.C. 1990).

³²⁶ E.g., *Leavitt v. Leisure Sports Incorporation*, 734 P.2d 1221, 1225 (Nev. 1987).

improper means.³²⁷ Remaining jurisdictions only require that the defendant's intentional interference with the relation caused the plaintiff to suffer damages.³²⁸

As with the previous tort of intentional interference with existing contractual relations, all jurisdictions require a plaintiff must prove damages in order to prevail on a claim for intentional interference with prospective business relations.

3. *The soundest rule of law for the Virgin Islands*

In order to prevail a claim for intentional interference with prospective business relations, a plaintiff in the Virgin Islands must prove the existence of a business relation that was reasonably certain to produce an economic benefit for the plaintiff. A plaintiff must also prove that the defendant knew of that relationship. Adopting these requirements harmonizes Virgin Islands law with the majority of other jurisdictions and conforms to the decisions of prior Virgin Islands courts. For these reasons, a plaintiff must also prove damages as a result of the defendant's interference.

A plaintiff must also demonstrate that the defendant's conduct was wrongful for reasons beyond the interference itself. A plaintiff must satisfy this requirement by proving that the defendant's interference was the result of either improper means or an improper motive. Improper means include acts that would be independently actionable, in violation of existing laws, statutes, or regulations.³²⁹ Improper means may also include an extreme departure from an established industry standard.³³⁰ An improper motive exists when the defendant acts with no legitimate business objective, but instead acts only to harm the plaintiff.

A brief discussion of the evolution of this particular tort illustrates the propriety of such an approach. Early formulations of this tort allowed a plaintiff to prevail over a defendant by proving that the defendant intentionally interfered with a prospective business relation, thereby damaging the plaintiff.³³¹ Courts have criticized this approach for requiring too little of a plaintiff and for exposing a wide range of otherwise-legal conduct to liability.³³² In response, courts began placing the burden on the plaintiff to demonstrate that the defendant acted without privilege or

³²⁷ E.g., *Leigh Furniture and Carpet Co. v. Isom*, 657 P.2d 293, 304 (Utah 1982).

³²⁸ E.g., *Soderlund Bros., Inc. v. Carrier Corp.*, 663 N.E.2d 1, 7 (Ill. Ct. App. 1995).

³²⁹ See, e.g., *Gieseke ex rel. Diversified Water Diversion, Inc. v. IDCA, Inc.*, 844 N.W.2d 210, 219 (Minn. 2014) (citing *Hayes v. N. Hills General Hospital*, 590 N.W.2d 243, 248 (S.D. 1999)) (requiring that interference be "independently tortious or in violation of a state or federal statute or regulation"); *Top Service Body Shop, Inc. v. Allstate Insurance Co.*, 582 P.2d 1365, 1371 (Or. 1978) (en banc) (explaining that means may be improper "by reason of statute or other regulation, or a recognized rule of common law, or perhaps an established standard of a trade or profession") *Watson's Carpet and Floor Coverings, Inc. v. McCormick*, 247 S.W.3d 169, 176 (Tenn. Ct. App. 2007) (providing examples of improper conduct, such as "means that are illegal, independently tortious, or that violate an established standard of a trade or profession" and "violations of statutes, rules, or recognized common law rules, violence, threats, bribery, unfounded litigation, fraud, misrepresentation, defamation, duress, undue influence, misuse of confidential information, or breach of a fiduciary duty").

³³⁰ *Top Service Body Shop, Inc.*, 582 P.2d at 1371.

³³¹ See *Leigh Furniture and Carpet Co.*, 657 P.2d at 302 (discussing early formulations of the tort).

³³² E.g., *id.* at 303.

justification.³³³ Again, this shift can be seen when one reviews the change in language from the Restatement (First) which required only that interference be purposeful, to the language in the Restatement (Second) which now states that interference must be both intentional and improper.³³⁴ But if the early approaches to this tort required too little of the plaintiff, the revised approach requires too much because it required a plaintiff to effectively disprove that a defendant's conduct was lawful.

Acknowledging these two extremes, a few courts utilize the approach adopted above. By requiring a plaintiff to establish that a defendant's interference resulted from either improper means or an improper motive, these courts implicitly determined that liability should only flow when the defendant has committed an independently-wrongful act. Since a cause of action for intentional interference with prospective business should not impinge upon lawful competition, it makes sense to identify actionable conduct based on the illegality of that conduct.

Thus, to prevail on a claim for interference with prospective business relations, a plaintiff in this jurisdiction must demonstrate: (1) the existence of a professional or business relation that is reasonably certain to produce an economic benefit for the plaintiff; (2) intentional interference with that relationship by the defendant; (3) that was accomplished through improper means or for an improper purpose; and (4) that the defendant's interference damaged the plaintiff.

- b. To the extent that Plaintiffs have stated a claim for intentional interference with existing contractual relations against Daily News and Redfield on behalf of any of the Plaintiffs, Daily News and Redfield are entitled to summary judgment their favor on those portions of Plaintiffs' Complaint.**

In order to prevail on a claim for intentional interference with existing contractual relations, Plaintiffs must identify a specific contract about which Daily News or Redfield knew, and with which Daily News or Redfield intentionally interfered. Despite having provided hundreds of pages of evidence to support their Opposition, Defendants have failed to identify such a contract. Consequently, no reasonable jury could find Daily News or Redfield liable for intentionally interfering with a contract to which any of the Plaintiffs were a party.

- c. To the extent that Plaintiffs have stated a claim for intentional interference with prospective business relations against Daily News and Redfield on behalf of any of the Plaintiffs, Daily News and Redfield are entitled to summary judgment in their favor on those portions of Plaintiffs' Complaint.**

Although Plaintiffs allege that the allegedly-defamatory material published by Daily News and Redfield discouraged companies from doing business with Senator Donastorg, Plaintiffs do not identify a single business relationship between any of the Plaintiffs and a third party about which Daily News or Redfield knew and with which Daily News or Redfield improperly

³³³ See generally RESTATEMENT (SECOND) OF TORTS § 766, cmt. a (tracing the evolution of interference torts from the 1600s to present).

³³⁴ See *id.* reporters note (observing the change in language).

interfered. Consequently, no reasonable jury could find Daily News and Redfield liable to any of the Plaintiffs for intentionally interfering with a prospective business relationship.

III. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

a. Applicable law

There is no binding authority that compels this Court to adopt a specific formulation of the tort of intentional infliction of emotional distress. However, in the case of *Joseph v. Sugar Bay Club & Resort Corp.*,³³⁵ the Superior Court of the Virgin Islands, Francois, J., conducted a *Banks* analysis and concluded that the principles of law summarized in Section 46 of the Restatement (Second) of Torts represented the soundest rule of law for the Virgin Islands. Having reviewed the reasoning set forth in *Joseph*, there is no need to revisit this Court's conclusion, and *Joseph's* reasoning is incorporated by reference in this Memorandum Opinion.

In order for a plaintiff's intentional infliction of emotional distress claim to survive a motion for summary judgment, a plaintiff must demonstrate genuine issues of material fact concerning whether a defendant: (1) intentionally or recklessly; (2) engaged in extreme and outrageous conduct that exceeds all possible bounds of decency such that it is regarded as atrocious and utterly-intolerable in a civilized-society; (3) that caused the plaintiff to suffer-severe-emotional distress.³³⁶

For a public official, the burden is higher. According to the Supreme Court of the United States, when a claim for intentional infliction of emotional distress is brought by a public official and the official alleges that the actionable conduct constitutes defamation:

public figures and public officials may not recover for the tort of intentional infliction of emotional distress . . . without showing . . . that the [allegedly-defamatory] publication contains a false statement of fact which was made with 'actual malice,' *i.e.*, with knowledge that the statement was false or with reckless disregard as to whether or not it was true."³³⁷

b. To the extent that Plaintiffs have stated a claim for intentional infliction of emotional distress on behalf of Senator Donastorg against Daily News, Daily News is entitled to summary judgment in its favor on those portions of Plaintiffs' Complaint.

As evidence of genuine disputes of material fact, Plaintiffs offer all citations contained in paragraph 4 of Plaintiffs' Amended Response to Defendants' Statement of Facts.³³⁸ Paragraph 4

³³⁵ Case No. ST-2013-CV-491, 2014 WL 1133416 (V.I. Super. Ct. Mar. 17, 2014), *rev'd on other grounds*, S. Ct. Civ. No. 2014-0048, 2015 V.I. Supreme LEXIS 4 (V.I. Feb. 10, 2015).

³³⁶ See RESTATEMENT (SECOND) OF TORTS § 46 (outlining the tort of intentional infliction of emotional distress).

³³⁷ *Hustler Magazine v. Falwell*, 485 U.S. 46, 56 (1988).

³³⁸ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 59.

of Plaintiffs' Amended Response to Defendants' Statement of Facts contains two categories of facts. First, paragraph 4.B.1 discusses the Sheraw Investigation and the alleged relationship of all Defendants thereto. Second, paragraphs 4.B.2–9 discuss a series of allegedly-defamatory statements, some made by Daily News, others made by Redfield. As discussed under the section pertaining to Senator Donastorg's defamation claim, Plaintiffs have not adduced clear and convincing evidence from which a reasonable jury could conclude that the allegedly-defamatory statements implicating matters of public concern made by Daily News were made with actual malice.³³⁹ Consequently, no reasonable jury could conclude that the allegedly-defamatory statements referenced in paragraphs 4.B.2–9 constitute the extreme and outrageous conduct necessary to support Senator Donastorg's intentional infliction of emotional distress claim against Daily News.

The only remaining evidence that could support Senator Donastorg's claim must be found in paragraph 4.B.1. In paragraph 4.B.1, Plaintiffs identify the actions that allegedly constitute an invasion of Senator Donastorg's privacy, and Daily News is only mentioned once in that paragraph. Citing to the affidavit of Attorney Dean Barnes, Plaintiffs claim that "[a] The [sic] Daily News reporter . . . also improperly tried to get confidential information from a government agency about alleged claims that Donastorg was not paying child support which was just false."³⁴⁰ Although Attorney Barnes states in his affidavit that a reporter from the Daily News visited the Division of Paternity and Child Support because the reporter "had received a tip that a senator was not paying his child support,"³⁴¹ nowhere in his affidavit does Attorney Barnes state that the reporter inquired specifically about Senator Donastorg. To the contrary, Attorney Barnes stated that the reporter "did not mention . . . the name of any specific senator."³⁴² Consequently, Attorney Barnes' affidavit does not constitute evidence from which a reasonable jury could conclude that Daily News engaged in "extreme and outrageous conduct that exceeds all possible bounds of decency such that it is regarded as atrocious and utterly intolerable in a civilized society" with respect to Senator Donastorg.

The evidence discussed in the preceding two paragraphs is the only evidence offered by Plaintiffs to substantiate the existence of genuine disputes of material fact on Senator Donastorg's intentional infliction of emotional distress claim against Daily News. Since no reasonable jury could find for Senator Donastorg on this evidence, Daily News is entitled to summary judgment on Senator Donastorg's intentional infliction of emotional distress claim.

³³⁹ Although the February 6, 2002 article titled "Sen. Donastorg and wife face foreclosure on their Wintberg home" was not analyzed to determine whether it was published with actual malice, the article cannot form the basis for Senator Donastorg's defamation claim because the parties agree that the contents of the article were factually accurate. Since the truth of this article precludes it from supporting a defamation action, this article cannot constitute one of the allegedly-defamatory statements upon which Senator Donastorg's intentional infliction of emotional distress claim could be founded.

³⁴⁰ Pls.' Am. Resp. to Defs.' Stmt. of Facts 18–19.

³⁴¹ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. V, Aff. of Atty. Dean L. Barnes ¶ 4.

³⁴² *Id.* ¶ 9.

- c. **To the extent that Plaintiffs have stated a claim for intentional infliction of emotional distress on behalf of Senator Donastorg against Redfield, Redfield is entitled to summary judgment in his favor on those portions of Plaintiffs' Complaint.**

Plaintiffs allege that the same evidence supporting Senator Donastorg's intentional infliction of emotional distress claim against Daily News also supports Senator Donastorg's intentional infliction of emotional distress claim against Redfield. As with Daily News, Plaintiffs have not set forth clear and convincing evidence that any of the allegedly-defamatory publications attributed to Redfield in paragraphs 4.B.2-9 were made with actual malice. Consequently, no reasonable jury could conclude that Redfield's statements constitute the extreme and outrageous conduct necessary to support Senator Donastorg's intentional infliction of emotional distress claim against Redfield.

In paragraph 4.B.1, Plaintiffs allege that Redfield committed two specific acts that each represent evidence that Redfield intentionally inflicted emotional distress upon Senator Donastorg. First, citing to pages 16, 17, and 83 of Sheraw's deposition transcript, Plaintiffs claim that "Holland Redfield [was an] ICC contact person [] for Sheraw or [was a] person [] with which Sheraw discussed the report."³⁴³ Second, citing to pages 94 and 95 of Senator Donastorg's deposition transcript, Plaintiffs claim that "~~Prosser, Redfield, ICC, and the cabal had Senator Donastorg followed in 2000, 2001, and 2002.~~"³⁴⁴

Neither of these two propositions is supported by the citations provided by Plaintiffs. First, Redfield is not mentioned anywhere in pages 16, 17, or 83 of Sheraw's deposition transcript. Consequently, these pages do not constitute evidence that Redfield engaged in the sort of conduct for which a claim for intentional infliction of emotional distress may lie. Even when read as a whole, no reasonable jury could find that Sheraw's deposition transcript constitutes evidence that Redfield engaged in extreme and outrageous conduct. Sheraw testified that he communicated once with Redfield, and that Redfield "told [Sheraw] that Donastorg had called him and told him that he had this investigative file."³⁴⁵ Sheraw was later asked whether he had "ever been hired by Holland Redfield to do an investigation of Donastorg or any member of his family," to which Sheraw replied: "no."³⁴⁶ Based upon this evidence, the Court is not persuaded that a reasonable jury could find that Redfield engaged in extreme and outrageous conduct toward Senator Donastorg that is utterly intolerable in a civilized society.

Second, Redfield is not mentioned anywhere in pages 94 or 95 of Senator Donastorg's deposition transcript. Like the pages of Sheraw's deposition transcript cited by Plaintiffs, these pages do not constitute evidence that Redfield engaged in the sort of conduct for which a claim for intentional infliction of emotional distress exists. Page 94 of Senator Donastorg's deposition transcript memorializes Senator Donastorg's testimony that he observed "[t]wo gentlemen in a

³⁴³ Pls.' Am. Resp. to Defs.' Stmt. of Facts 16 (citing Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. IV, Sheraw Dep. Tr. 16-17, 83).

³⁴⁴ *Id.* at 18 (citing Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. III, Donastorg Dep. Tr. 94-95).

³⁴⁵ Sheraw Dep. Tr. 84:13-17.

³⁴⁶ *Id.* at 99:14-16.

white car; just certain individuals, other individuals that I don't ever recall or could identify" that were allegedly following him.³⁴⁷ Senator Donastorg's failure to identify Redfield as one of the men who allegedly followed him precludes a reasonable jury from concluding that Redfield engaged in the conduct upon which a claim for intentional infliction of emotional distress can be founded.

Even when viewed in a light most favorable to Senator Donastorg, the evidence cited by Plaintiffs in paragraph 4.B.1 does not establish genuine disputes of material fact over whether Redfield's alleged malfeasance exceeds all possible bounds of decency in a civilized society. Consequently, Redfield is entitled to summary judgment in his favor on Senator Donastorg's intentional infliction of emotional distress claim.

d. To the extent that Plaintiffs have stated a claim for intentional infliction of emotional distress on behalf of Senator Donastorg's family against Daily News and Redfield, Daily News and Redfield are entitled to summary judgment in their favor on those portions of Plaintiffs' Complaint.

The tort of intentional infliction of emotional distress is meant to impose liability for only extreme and outrageous conduct. Other opinions from courts in this Territory demonstrate that termination of an employee does not meet this standard,³⁴⁸ that the failure to warn firefighters that they are operating in a building containing asbestos does not meet this standard,³⁴⁹ and a financial institution's alleged breach "of its contractual duty of confidentiality and good faith during bankruptcy proceedings and negotiations, concerning . . . [a] mortgage account" with that institution does not state a claim for intentional infliction of emotional distress.³⁵⁰ When compared against such examples and in light of the evidence proffered by Plaintiffs, no reasonable jury could conclude that either Daily News or Redfield engaged in the extreme and outrageous conduct for which a claim for intentional infliction of emotional distress will lie simply because Senator Donastorg's family was mentioned in an investigative report authorized under the Virgin Islands Code.

Plaintiffs claim that Senator Donastorg's family suffered an intentional infliction of emotional distress due to the events described in paragraph 4.B.1 of Plaintiffs' Amended Response to Defendants' Statement of Facts.³⁵¹ In paragraph 4.B.1, Plaintiffs only address the impact of the Sheraw Investigation on Senator Donastorg's family in broad terms by stating that:

[w]ith respect to Senator Donastorg and all of his family members, the evidence shows that Sheraw gathered 'confidential source information' from 'law enforcement' sources and campaign contributors; gathered private bank-account information that is 'difficult to obtain and highly confidential in nature and should

³⁴⁷ Donastorg Dep. Tr. 94:5-7.

³⁴⁸ *Hodge v. Daily News Publishing Co., Inc.*, 52 V.I. 186, 198 (V.I. Super. Ct. 2009).

³⁴⁹ *Louis v. Caneel Bay, Inc.*, 50 V.I. 7, 20-21 (V.I. Super. Ct. 2008).

³⁵⁰ *FirstBank of Puerto Rico v. Prosser*, Case No. SX-09-CV-520, 2015 V.I. LEXIS 72, at *3, 9-12 (V.I. Super. Ct. June 22, 2015).

³⁵¹ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 60.

be handled accordingly,'; and made 'pretext calls to gain confidential information from medical providers including the St. Thomas Hospital, in an effort to find 'indiscretions'; and made pretext calls to lawyers and colleges like California State University, Fullerton.³⁵²

Nothing in paragraph 4.B.1 alleges that either Daily News or Redfield commissioned or facilitated the research into Senator Donastorg's family, and Plaintiffs have provided no evidence of same. Further, the Virgin Islands Code authorizes the investigation of a person with reference to "[t]he identity, habits, conduct, movement, whereabouts, affiliation, associations, transactions, reputation or character of any person, group or [sic] persons, association, organization, society, other group of persons or partnership or corporation."³⁵³

Additionally, the portions of the Sheraw Investigation submitted by Plaintiffs to the Court demonstrate that Senator Donastorg's family receives little exposure in the report. An April 16, 1998 report begins by indicating that several court cases involving Adlah Donastorg, Sr. had been identified.³⁵⁴ The report does not discuss these cases. The report later indicates that Ella Moran, Norma Duran, and Josefina Donastorg are the directors of Senator Donastorg's corporation, "Carrier Multi-Service, Inc."³⁵⁵ The report concludes that further investigation will occur pertaining to "Josephine Donastorg's experience in the business."³⁵⁶ No other information about Senator Donastorg's family is contained in this report.

A May 20, 1998 report indicates that "Josephine Donastorg is the subject's mother and Benedicta Donastorg is the subject's wife."³⁵⁷ The report also indicates that "Ella Moran and Norma Duran . . . are listed as Directors of Carrier Multi Service, Inc. – the corporate name of Donastorg's Company. No entries were found for Moran, however, a criminal case was found for Duran."³⁵⁸ The report clarifies that "Ms. Duran was arrested on August 10, 1993 for defrauding the Department of Agriculture by falsifying her income in order to obtain low income housing[.]" but also indicates that "the case was dismissed on March 22, 1996, and the case file contained no information regarding why the case was dismissed"³⁵⁹ In a section titled "Business Licensing," the report states that the business license file for Senator Donastorg's company lists Josefina Donastorg, Ella Moron, and Glenda Hamm, but not Norma Duran, as the directors.³⁶⁰ The report concludes by noting that there would be further investigation "regarding the dismissal of the criminal case against Norma Duran" and "into Josephine Donastorg's qualifications and involvement in Carrier Medical Supply."³⁶¹ No further mention is made of Senator Donastorg's family in this report.

³⁵² Pls.' Am. Resp. to Defs.' Stmt. of Facts 14–15.

³⁵³ 23 V.I.C. § 1301(f)(2).

³⁵⁴ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. VI, Ex. 3, at Bates No. D 1300.

³⁵⁵ *Id.* at Bates No. D 1303–04.

³⁵⁶ *Id.* at Bates No. D 1306.

³⁵⁷ *Id.* at Bates No. D 1288.

³⁵⁸ *Id.*

³⁵⁹ *Id.* at Bates No. D 1289.

³⁶⁰ *Id.* at Bates No. D 1290.

³⁶¹ *Id.* at Bates No. D 1294.

A June 24, 1998 report indicates that Duran's criminal case was likely dismissed because Duran immediately vacated the premises that she was inhabiting and paid some restitution, and because the US Attorney's Office was overworked and may have missed a filing deadline.³⁶² This report also indicates that Josephine Donastorg "was the Head Office Clerk in St. Thomas" for a local supermarket, that she held that position from approximately 1960 through 1980, and that she has been retired since that time.³⁶³ The report observes that a source "had heard nothing about Josephine working for (or running) her son's company"³⁶⁴ The report concludes by offering to further research "how active (if at all) Josephine Donastorg is in the company."³⁶⁵ No further mention of Senator Donastorg's family is made in this report.

Plaintiffs have provided no other excerpts from the Sheraw Investigation that reference Senator Donastorg's family. Due to the fact that Senator Donastorg's family receives little mention in the Sheraw Investigation, coupled with the fact that Plaintiffs have not demonstrated that either Daily News or Redfield commissioned or participated in the Sheraw Investigation, no reasonable jury could find either Daily News or Redfield liable for intentional infliction of emotional distress to Senator Donastorg's family.

IV. NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS

~~Plaintiffs' claim for negligent infliction of emotional distress is alleged as an alternative cause of action to Plaintiffs' claim for intentional infliction of emotional distress.~~³⁶⁶

a. Applicable law

Unlike the version of this tort predicated upon intent, there is no authority to inform this Court on the parameters of the tort of negligent infliction of emotional distress that comports with the framework established by *Banks v. International Rental & Leasing Corp.* Consequently, this Court must determine the soundest rule of law for the Virgin Islands.³⁶⁷

i. Approaches taken by other courts in this jurisdiction

Courts in the Virgin Islands have approached causes of action for negligent infliction of emotional distress in different ways. In the case of *Berry v. Jacobs, IMC, LLC*,³⁶⁸ the United States Court of Appeals for the Third Circuit affirmed an entry of summary judgment against an employee in a suit brought by the employee against his employer.³⁶⁹ The employee premised his claim for negligent infliction of emotional distress on his employer's alleged discrimination,

³⁶² *Id.* at Bates No. D 1295.

³⁶³ *Id.* at Bates No. D 1297.

³⁶⁴ *Id.*

³⁶⁵ *Id.* at Bates No. D 1299.

³⁶⁶ Fourth Am. Compl. ¶ 32.

³⁶⁷ *King v. Appleton*, 61 V.I. 339, 349 (VI. 2014) (citations omitted).

³⁶⁸ 99 Fed. Appx. 405 (3d Cir. 2004).

³⁶⁹ *Id.* at 410.

breaches of contract, and violations of federal laws.³⁷⁰ Citing to the summary of law set forth in Section 313 of the Restatement (Second) of Torts,³⁷¹ the Third Circuit observed that the employee did not produce evidence that he suffered any sort of physical injury as a result of his employer's conduct, or evidence that it was reasonably foreseeable that his employer's conduct would result in physical injury.³⁷²

In the case of *Mingolla v. Minnesota Mining and Manufacturing Co.*,³⁷³ the wife and children of a deceased patient brought a wrongful death suit on the patient's behalf for injuries arising out of the use of a surgical pin that had been implanted in the decedent. The plaintiffs in *Mingolla* alleged that they suffered emotional distress as a result of witnessing their father suffer.³⁷⁴ They premised their right to recovery on Sections 402A,³⁷⁵ 436,³⁷⁶ and 436A³⁷⁷ of the Restatement (Second) of Torts. The Appellate Division of the District Court of the Virgin Islands observed that, although the plaintiffs alleged emotional distress, the plaintiffs' complaint failed to state a claim because the plaintiffs did not allege that the emotional distress resulted in physical harm. The Appellate Division also cited Section 436A to explain that the plaintiffs could not recover for negligent infliction of emotional distress absent some showing of bodily harm.

³⁷⁰ *Id.* at 407.

³⁷¹ Section 313 reads:

- (1) If the actor unintentionally causes emotional distress to another, he is subject to liability to the other for resulting illness or bodily harm if the actor:
 - (a) should have realized that his conduct involved an unreasonable risk of causing the distress, otherwise than by knowledge of the harm or peril of a third person, and
 - (b) from facts known to him should have realized that the distress, if it were caused, might result in illness or bodily harm.
- (2) The rule stated in Subsection (1) has no application to illness or bodily harm of another which is caused by emotional distress arising solely from harm or peril to a third person, unless the negligence of the actor has otherwise created an unreasonable risk of bodily harm to the other.

³⁷² 99 Fed. Appx. at 410.

³⁷³ 893 F. Supp. 499 (D.V.I. App. Div. 1995).

³⁷⁴ *Id.* at 505.

³⁷⁵ Section 402A concerns the right of an end user to recover in strict liability for a defective or unreasonably dangerous product. The court dismissed the plaintiffs' claim because they were not the end-users of the surgical pin that had been implanted in the decedent.

³⁷⁶ Section 436 reads:

- (1) If the actor's conduct is negligent as violating a duty of care designed to protect another from a fright or other emotional disturbance which the actor should recognize as involving an unreasonable risk of bodily harm, the fact that the harm results solely through the internal operation of the fright or other emotional disturbance does not protect the actor from liability.
- (2) If the actor's conduct is negligent as creating an unreasonable risk of causing bodily harm to another otherwise than by subjecting him to fright, shock, or other similar and immediate emotional disturbance, the fact that such harm results solely from the internal operation of fright or other emotional disturbance does not protect the actor from liability.
- (3) The rule stated in Subsection (2) applies where the bodily harm to the other results from his shock or fright at harm or peril to a member of his immediate family occurring in his presence.

³⁷⁷ Section 463A reads: "If the actor's conduct is negligent as creating an unreasonable risk of causing either bodily harm or emotional disturbance to another, and it results in such emotional disturbance alone, without bodily harm or other compensable damage, the actor is not liable for such emotional disturbance."

Since *Mingolla*, the District Court for the Virgin Islands has clarified when a plaintiff who witnesses injury to a third person may recover for negligent infliction of emotional distress. In the case of *Cohler v. United States ex rel. National Park Services*,³⁷⁸ the District Court drew from Sections 436(2)-(3) and 436A of the Restatement (Second) of Torts, and stated that a claim for negligent infliction of emotional distress premised on “witnessing injury to a third person” requires a plaintiff to allege: (1) that the defendant's negligence placed the plaintiff in danger for his own safety—in other words, the plaintiff was in the “zone of danger” when the accident occurred; (2) that the emotional disturbance manifested physical symptoms; and (3) that the plaintiff is a member of the injured third party's immediate family.³⁷⁹

In the case of *Hill v. De Jongh*,³⁸⁰ the Superior Court of the Virgin Islands relied on Section 313 of the Restatement (Second) of Torts when analyzing an employee's claim for negligent infliction of emotional distress. The employee based his claim on allegations that his union failed to represent him in his effort to seek back pay under the terms of a collective bargaining agreement between the union and the government.³⁸¹ The Superior Court dismissed the employee's claim for negligent infliction of emotional distress because the employee failed to allege that he suffered physical harm as a result of the defendants' conduct.³⁸²

Two observations can be drawn from these cases. First, a plaintiff may state a direct cause of action against a defendant for negligent infliction of emotional distress. Both the *Berry* and *Hill* cases illustrate this, and demonstrate that a plaintiff who alleges emotional distress resulting from a defendant's alleged negligence may not recover without demonstrating that the emotional distress caused physical harm. In *Berry* and *Hill*, the absence of an intrusion upon the plaintiff's physical wellbeing justified dismissing the plaintiff's claims.

The second observation to be drawn from the Virgin Islands courts' past treatment of negligent infliction of emotional distress claims is that a cause of action for negligent infliction of emotional distress may lie for those who witness injury to a third person. The plaintiffs in both *Mingolla* and *Cohler* premised their right to recovery on the suffering they witnessed others endure. The *Cohler* opinion drew a clear boundary for such claims when it stated a conjunctive, three-part test to determine which plaintiffs could recover for being a bystander to the injury of another.

ii. Approaches taken by other jurisdictions

Although recognized in nearly every jurisdiction,³⁸³ approaches to the tort of negligent infliction of emotional distress vary from jurisdiction to jurisdiction. The extent to which other

³⁷⁸ 48 V.I. 575 (D.V.I. 2006).

³⁷⁹ *Id.* at 578–79 (citing RESTATEMENT (SECOND) OF TORTS §§ 463(2)–(3), 463A.

³⁸⁰ ST-2010-CV-585, 2012 WL 1439591 (V.I. Super. Ct. Apr. 19, 2012).

³⁸¹ *Id.* at *1.

³⁸² *Id.* at *5.

³⁸³ *But see, e.g., FMC Corp., Inc. v. Helton*, 202 S.W.3d 490, 502 (Ark. 2005) (explaining that Arkansas does not recognize the tort of negligent infliction of emotional distress); *Hamilton v. Ford Motor Credit Co.*, 502 A.2d 1057, 1065–66 (Md. Ct. Spec. App. 1986) (explaining that Maryland does not recognize an independent tort of negligent

jurisdictions recognize the tort of negligent infliction of emotional distresses depends upon the extent to which each jurisdiction characterizes a defendant's duty toward the emotional wellbeing of others.³⁸⁴ Noting that traditional negligence principles define a defendant's liability by the foreseeability of harm caused, most jurisdictions have determined that foreseeability alone is both too speculative for an award of damages and does not guarantee the veracity of a plaintiff's mental suffering.³⁸⁵ Consequently, nearly every jurisdiction has determined that a defendant owes no general duty of care to refrain from negligently inflicting emotional distress on others.³⁸⁶

However, under certain circumstances, a clear majority of jurisdictions have determined that a defendant owes a duty of care toward the emotional wellbeing of others. The scope of this duty is defined by the context in which a plaintiff alleges injury: whether the plaintiff was the direct victim of the defendant's negligence, or whether the plaintiff was a bystander who witnessed the defendant's conduct injured a third party.³⁸⁷

In the context of direct victim cases, there is little uniformity as to how a defendant's duty is defined. Some jurisdictions state that a claim for negligent infliction of emotional distress will only lie when a defendant has breached a duty that was imposed upon him or her by the operation of law or contract.³⁸⁸ In these cases, the plaintiff and defendant enjoy a special relationship, beyond the general relationship that strangers share with each other. Due to the nature of this relationship, the defendant has undertaken a duty to avoid negligently inflicting emotional distress upon the plaintiff.

Other jurisdictions have defined a defendant's duty by the zone of danger the defendant creates as the result of the defendant's negligent conduct.³⁸⁹ Courts that employ this standard

infliction of emotional distress, but that mental anguish may be an element of damages under other recognized theories of recovery).

³⁸⁴ See *Lee v. State Farm Mutual Insurance Co.*, 533 S.E.2d 82, 86 (Ga. 2000) (citations omitted) (explaining that rules for recovery for negligent infliction of emotional distress "run the gamut from variations of the impact approach, to analysis under a so-called 'zone of danger,' to a broader rule based on foreseeability of injury assessed by application of factors relating to proximity, direct observation, and relationship to the victim, to the most expansive view of reasonable foreseeability of injury under general tort theory").

³⁸⁵ See, e.g., *Curtis v. Porter*, 2001 ME 158, ¶18, 784 A.2d 18, 25 (reasoning that "the determination of duty in [claims of negligent infliction of emotional distress] is not generated by traditional concepts of foreseeability"). But see *O'Donnell v. HCA Health Services of New Hampshire, Inc.*, 883 A.2d 319, 324 (N.H. 2005) (clarifying that New Hampshire has "relied upon the traditional tort concepts of foreseeability and causation" when evaluating claims for negligent infliction of emotional distress).

³⁸⁶ See *Boyles v. Kerr*, 855 S.W.2d 593, 598 n.2 (Tex. 1993) (collecting cases).

³⁸⁷ See, e.g., *Burgess v. Superior Court*, 831 P.2d 1197, 1200-01 (Cal. 1992) (en banc) (discussing the differences between direct victim and bystander causes of action for negligent infliction of emotional distress); *Corgan v. Muehling*, 574 N.E.2d 602, 605 (Ill. 1991) (same); *Clark v. Estate of Rice ex rel. Rice*, 653 N.W.2d 166, 170-71 (Iowa 2002) (same); *Jarrett v. Jones*, 258 S.W.3d 442, 446 (Mo. 2008) (en banc) (same); *Montoya v. Pearson*, 2006-NMCA-097, ¶ 19 142 P.3d 11, 16 (acknowledging the distinction between direct victim and bystander claims).

³⁸⁸ E.g., *Burgess*, 831 P.2d at 1201; *Spangler v. Betchel*, 958 N.E.2d 458, 466 (Ind. 2011); *Boyles v. Kerr*, 855 S.W.2d 593, 596 (Tex. 1993).

³⁸⁹ E.g., *Armstrong v. A.I. Dupont Hospital for Children*, 60 A.3d 414, 426 (Del. Super. Ct. 2012) (citations omitted); *Hedgepeth v. Whitman Walker Clinic*, 22 A.3d 789, 798 (D.C. 2011) (citing *Washington v. John T. Rhines Co.*, 646 A.2d 345, 347-48 (D.C.1994)); *Bohdan v. Altool Manufacturing Co.*, 411 N.W.2d 902, 907 (Minn. Ct. App. 1987); *Vaillancourt v. Medical Center Hospital of Vermont, Inc.*, 425 A.2d 92, 95 (Vt. 1980).

permit a plaintiff to recover for mental anguish when the defendant's negligent action places the plaintiff within a zone of physical danger. Some jurisdictions that rely on the zone-of-danger test require that a plaintiff's mental anguish manifest itself in the form of physical symptoms,³⁹⁰ but some do not.³⁹¹ At least one jurisdiction examines whether serious emotional harm was reasonably foreseeable.³⁹²

In contrast to direct victim cases, jurisdictional approaches to bystander cases have been more uniform. Most jurisdictions employ some variation of the test first articulated by the Supreme Court of California in the case of *Dillon v. Legg*.³⁹³ Under that standard, courts must determine the existence of a duty of care on a case-by-case basis by weighing three factors: (1) whether the plaintiff was located near the scene of the accident; (2) whether the shock to the plaintiff resulted from "the sensory and contemporaneous observation of the event;" and (3) whether the plaintiff and the victim were closely related.³⁹⁴ The *Dillon* test was later refined by the same court in *Thing v. La Chusa*.³⁹⁵ Thus, in California, bystander recovery is limited to circumstances where: "(1) the plaintiff is closely related to the injury victim; (2) is present at the scene of the injury-producing event at the time it occurs and is then aware that it is causing injury to the victim and, (3) as a result suffers emotional distress beyond that which would be anticipated in a disinterested witness."³⁹⁶ Most notably, *Thing* clarified the quantum of psychological injury one must suffer in order to prevail in a claim for negligent infliction of emotional distress.³⁹⁷

The evolution of bystander liability in California mirrors the evolution of bystander liability around the country. Although a clear majority of jurisdictions still require that a plaintiff be closely related to the victim and that the plaintiff contemporaneously perceive the injury-causing event, other requirements have emerged. Some jurisdictions explicitly require that the victim suffer severe injury or death,³⁹⁸ while other jurisdictions require the plaintiff to be within the zone of danger created by the event that injured the victim. Some jurisdictions require that the plaintiff be at the scene as the injury occurs,³⁹⁹ while other jurisdictions allow a plaintiff to maintain an action if he or she arrives at the scene of the accident shortly after its occurrence.⁴⁰⁰ Some jurisdictions require that the bystander substantiate his or her claim for mental anguish by

³⁹⁰ E.g., *Bohdan*, 711 N.W.2d at 907.

³⁹¹ *AALAR, Ltd. Inc., v. Francis*, 716 So.2d 1141, 1147 (Ala. 1998).

³⁹² *Johnson v. Ruark Obstetrics and Gynecology Associates, P.A.*, 395 S.E.2d 85, 97 (N.C. 1990) (citations omitted).

³⁹³ 441 P.2d 912 (Cal. 1968) (en banc). But see *AALAR, Ltd. Inc.*, 716 So.2d at 1147 (citing *Gideon v. Norfolk Southern Corp.*, 633 So.2d 453, 454 (Ala. 1994)) (explaining that the Alabama Supreme Court has "refused to extend liability so far as to recognize a right of recovery in bystanders").

³⁹⁴ 441 P.2d at 920.

³⁹⁵ 771 P.2d 814 (Cal. 1989).

³⁹⁶ *Id.* at 866.

³⁹⁷ See *id.* (requiring that a bystander must suffer "emotional distress beyond that which would be anticipated in a disinterested witness").

³⁹⁸ *Browne v. Kommel*, No. FSTCV085006167S, 2009 WL 2506328, at * 3 (Conn. Super. Ct. July 14, 2009) (citing *Clohesy v. Bachelor*, 675 A.2d 852, 865 (Conn. 1996)).

³⁹⁹ E.g., *Heldreth v. Marrs*, 425 S.E.2d 157, 169 (W. Va. 1992).

⁴⁰⁰ E.g., *Eskin v. Barte*, 262 S.W.3d 727, 739-40 (Tenn. 2008).

demonstrating that the anguish manifested itself with physical symptoms,⁴⁰¹ while some jurisdictions do not.⁴⁰² And not all jurisdictions permit bystanders recovery.⁴⁰³

Finally, some jurisdictions reject a cause of action for negligent infliction of emotional distress entirely. Both Arkansas⁴⁰⁴ and Maryland⁴⁰⁵ explicitly reject the tort.

iii. The soundest rule of law for the Virgin Islands

The soundest rule of law for the Virgin Islands is to treat a claim for negligent infliction of emotional distress similar to the manner in which this Court would treat an ordinary claim for negligence: a plaintiff must demonstrate the existence of a duty, a breach of that duty, direct and proximate causation, and damages. By recognizing a claim for negligent infliction of emotional distress, the Court recognizes that individuals have a legally protected interest in some degree of emotional tranquility. The corollary of this proposition is that individuals owe some duty of care to refrain from impinging upon that degree of emotional tranquility. However, “[c]omplete emotional tranquility is seldom attainable in this world, and some degree of transient and trivial emotional distress is part of the price of living among people.”⁴⁰⁶ The soundest rule of law for this jurisdiction must thus address two concerns: First, mindful that “emotional disturbance can be too easily feigned or imagined,”⁴⁰⁷ the Court must define the nature of the interest protected by this tort.⁴⁰⁸—Second, the law must ensure that a defendant’s liability is proportional to his or her culpability.⁴⁰⁹

The first of these concerns is addressed by requiring that a plaintiff suffer serious or severe emotional distress. Although the description of compensable emotional distress within the context of a claim for negligent infliction of emotional distress varies by jurisdiction,⁴¹⁰ a clear majority

⁴⁰¹ *E.g.*, *Wargelin v. Sisters of Mercy Health Corp.*, 385 N.W.2d 732, 735 (Mich. Ct. App. 1986).

⁴⁰² *E.g.*, *Burgess v. Superior Court*, 831 P.2d 1197, 1200 (Cal. 1992) (en banc) (citing *Thing*, 771 P.2d at 866).

⁴⁰³ See *AALAR, Ltd. Inc. v. Francis*, 716 So.2d 1141, 1147 (Ala. 1998) (observing that the Supreme Court of Alabama “has, however, refused to extend liability so far as to recognize a right of recovery in bystanders”).

⁴⁰⁴ *FMC Corp. v. Helton*, 202 S.W.3d 490, 502 (Ark. 2005).

⁴⁰⁵ *Hamilton v. Ford Motor Credit Co.*, 502 A.2d 1057, 1065–66 (Md. Ct. Spec. App. 1986).

⁴⁰⁶ *Thing v. La Chusa*, 771 P.2d 814, 839 (Cal. 1989). Accord *Osborne v. Keeney*, 399 S.W.3d 1, 17 (Ky. 2012) (explaining that “emotional tranquility is rarely attained and that some degree of emotional harm is an unfortunate reality of living in a modern society”).

⁴⁰⁷ *Chizmar v. Mackie*, 896 P.2d 196, 201 (Alaska 1995).

⁴⁰⁸ See *Consolidated Rail Corp. v. Gottshall*, 512 U.S. 532, 545 (1994) (explaining that “[n]o jurisdiction, however, allows recovery for all emotional harms, no matter how intangible or trivial, that might be causally linked to the negligence of another”). Accord *Bowen v. Lumbermens Mutual Casualty Co.*, 517 N.W.2d 432, 443 (Wis. 1994) (explaining the policy considerations underlying the tort of negligent infliction of emotional distress).

⁴⁰⁹ *Burgess v. Superior Court*, 831 P.2d 1197, 1200 (Cal. 1992) (en banc). Accord *Bowen*, 517 N.W.2d at 443–44 (explaining that courts ensure the “fairness of the financial burden placed upon a defendant” by considering, among other things, “whether allowance of recovery would place an unreasonable burden on the negligent tortfeasor,” “whether allowance of recovery would be too likely to open the way to fraudulent claims,” and “whether allowance of recovery would enter a field that has no sensible or just stopping point”).

⁴¹⁰ Compare, e.g., *Carrol v. Allstate Ins. Co.*, 815 A.2d 119, 127 (Conn. 2003) (requiring that emotional injury be “severe enough that it might result in illness or bodily harm”), with *Osborne*, 399 S.W.3d at 17 (requiring that the emotional injury be one where “a reasonable person, normally constituted, would not be expected to endure the mental stress engendered by the circumstances of the case”).

jurisdictions that recognize claims for negligent infliction of emotional distress explicitly require that the alleged emotional distress be serious or severe.⁴¹¹ The Supreme Court of Kentucky provides a framework that requires a plaintiff's suffering to be sufficiently serious but still allows a jury to consider the facts of the case in light of their life experiences and common sense. According to the Supreme Court of Kentucky, "[a] serious or severe emotional injury occurs where a reasonable person, normally constituted, would not be expected to endure the mental stress engendered by the circumstances of the case."⁴¹² Accordingly, in order to prove that a defendant has encroached upon the legally-protected interest for which a claim of negligent infliction of emotional distress will provide a remedy, a plaintiff in this jurisdiction must prove that he or she has suffered a serious or severe mental injury by demonstrating that a reasonable person, normally constituted, would not be expected to endure the mental stress engendered by the circumstances of the plaintiff's case.

In light of the historical approaches to this tort, further clarification on what constitutes a serious or severe emotional injury is necessary. In the past, jurisdictions had satisfied themselves that a plaintiff's alleged distress was the type of distress for which the law should provide a remedy if the plaintiff proved that his or her mental suffering was precipitated by a physical injury. However, recognizing that a near miss could be as frightening as a direct hit,⁴¹³ almost every jurisdiction has abandoned the requirement that emotional distress stem from a physical impact.⁴¹⁴ Now, some jurisdictions find that a plaintiff has suffered serious emotional injuries only if he or she was in the zone of danger created by the trauma-inducing event.⁴¹⁵ Other jurisdictions state that mental suffering is only serious when accompanied by physical symptoms.⁴¹⁶ However, a growing minority of jurisdictions has abandoned these legal fictions entirely.⁴¹⁷

This Court joins that growing minority. The jurisdictions that have abandoned the legal fictions surrounding the tort of negligent infliction of emotional distress reason that medicine and science have advanced to the point where the testing and diagnosis by medical professionals

⁴¹¹ E.g., *Chizmar*, 896 P.2d at 201; *Burgess*, 831 P.2d at 1201; *Clohessy v. Bachelor*, 675 A.2d 852, 865 (Conn. 1996); *Hedgepeth v. Whitman Walker Clinic*, 22 A.3d 789, 796-97 (D.C. 2011); *Lee v. State Farm Mutual Insurance Co.*, 533 S.E.2d 82, 86-87 (Ga. 2000); *Doe Parents No. 1 v. State Department of Education*, 58 P.3d 545, 581 (Haw. 2002); *Clark v. Estate of Rice ex rel. Rice*, 653 N.W.2d 166, 170 (Iowa 2002); *Osborne*, 399 S.W.3d at 17; *Gammon v. Osteopathic Hospital of Maine, Inc.*, 534 A.2d 1282, 1284 (Me. 1987); *Sacco v. High Country Independent Press, Inc.*, 896 P.2d 411, 425 (Mont. 1995); *O'Donnell v. HCA Health Services of New Hampshire, Inc.*, 883 A.2d 319, 324 (N.H. 2005); *Paugh v. Hanks*, 451 N.E.2d 759, 765 (Ohio 1983); *Reilly v. United States*, 547 A.2d 894, 895 (R.I. 1988); *Camperv. Minor*, 915 S.W.2d 437, 446 (Tenn. 1996); *Heldreth v. Marrs*, 425 S.E.2d 157, 161 (W.Va. 1992). The words 'severe' and 'serious' function as synonyms, and although the adjective varies by jurisdiction, the principle that an emotional injury must surpass a certain threshold before the law will provide a remedy does not.

⁴¹² *Osborne*, 399 S.W.3d at 17.

⁴¹³ *Consolidated Rail Corp.*, 512 U.S. at 547 (citations omitted).

⁴¹⁴ *But see Lee*, 533 S.E.2d at 86 (retaining the rule that a plaintiff must suffer physical impact before he or she can recover for negligent infliction of emotional distress).

⁴¹⁵ E.g., *Armstrong v. A.I. Dupont Hospital for Children*, 60 A.3d 414, 423 (Del. Super. Ct. 2012).

⁴¹⁶ E.g., *Payton v. Abbott Labs*, 437 N.E.2d 171, 181 (Mass. 1982).

⁴¹⁷ *Osborne* 399 S.W.3d at 6. *See also id.* (explaining that "societal advancements in mental health treatment and education . . . assures [that] individuals suffering from legitimate emotional injuries will be able to seek recovery"); *Camper v. Minor*, 915 S.W.2d 437, 446 (Tenn. 1996) (concluding that "the claimed injury or impairment must be supported by expert medical or scientific proof").

provide a more accurate method for determining whether a plaintiff has suffered severe emotional distress.⁴¹⁸ Although there may never be an exact method for determining whether a plaintiff has suffered the kind of mental distress for which the law should provide a remedy, there is no longer a need to define the severity of a plaintiff's emotional injury based upon arbitrary standards such as his or her presence on the 'zone of danger' or the presence of physical symptoms when medicine can provide a more individualized diagnosis.

The Court will not rely on zone of danger test as the sole means of determining whether a plaintiff may recover for the negligent infliction of emotional distress because this fiction does not allow a plaintiff to be assessed as an individual, and individuals respond differently to the same stimulus. For example, a defendant may negligently crash his car into a diner in which two patrons are enjoying their coffee. One patron may be startled by this occurrence, but may nonetheless finish her coffee, pay her tab, exit the diner, and continue her day unfazed. The other patron may be so shaken by this occurrence that he spills his coffee, collapses into a corner, and relives the incident every evening in vivid nightmares for the following month. Under the zone of danger test, each patron's claim to mental anguish would be equally viable. However, medical diagnosis would likely confirm that the first patron suffered little mental anguish, while the second patron's suffering was severe.

The Court also rejects the requirement that emotional distress must produce physical symptoms before the emotional injury will be considered severe. Although courts in the Virgin Islands have imposed such a requirement in the past, this requirement ignores the facts that individuals respond differently to the same event, and that some mental injuries persist despite an absence of physical symptoms. Courts from other jurisdictions have criticized such a requirement for being both over and under inclusive,⁴¹⁹ and medicine has advanced to the point where medical professionals can accurately determine the nature and extent of an individual's mental injury. Given the advances in medicine that make such diagnoses possible, courts no longer need to impose an arbitrary bar that prohibits recovery for mental distress absent physical symptoms.

It should be noted that a plaintiff's presence in the zone of danger and the manifestation of physical symptoms may still constitute evidence that a plaintiff has suffered a severe or serious emotional injury. Indeed, such facts are relied upon by physicians in assessing the extent of a plaintiff's mental injury.⁴²⁰ However, neither fact is a prerequisite for recover under a theory of negligent infliction of emotional distress in this jurisdiction.

⁴¹⁸ See Comment, *Negligently Inflicted Mental Distress: The Case for an Independent Tort*, 59 GEO. L.J. 1237, 1247-54 (1970) (explaining the medical aspects of mental distress). See also *Leong v Takasaki*, 520 P.2d 758, 766-67 (Haw. 1974) (explaining how a calculation of damages can be accomplished with reference to the medical aspects of mental distress).

⁴¹⁹ *Chizmar v. Mackie*, 896 P.2d 196, 202 (Alaska 1995) (citing *Molien v. Kaiser Foundation Hospitals*, 616 P.2d 813, 838 (Cal. 1980) (en banc)).

⁴²⁰ Comment, *Negligently Inflicted Emotional Distress: The Case for an Independent Tort*, *supra* note 418, at 1248-52 (explaining that traumatic stimuli cause both primary and secondary reactions, and observing that, "[d]ue to the subjective nature of [primary reactions], precise levels of suffering and disability cannot be objectively determined, and the psychiatrist must rely on the plaintiff's testimony the context in which the trauma occurred, and on his general knowledge of the amount of pain and disability likely to result from such a trauma").

By determining that a claim for negligent infliction of emotional distress only provides redress to a plaintiff that has suffered a serious or severe emotional injury, it follows that, in some instances, individuals have a duty to refrain from negligently inflicting serious or severe emotional injury upon others. Having identified the duty implicated by the tort of negligent infliction of emotional distress, the Court must next define the class of individuals to whom this duty is owed.

The concern that a defendant's liability must be proportionate to his or her negligence is fundamentally a question of fairness. In the context of negligence, a plaintiff's duty, and hence a plaintiff's liability, is premised on foreseeability of harm.⁴²¹ The soundest rule for the Virgin Islands will clearly define the class of people to whom the defendant owes a duty of care, thereby ensuring that any award of liability is proportionate to the defendant's misconduct.

In direct victim cases, the rule that most closely guarantees that a defendant's liability will be foreseeable, and hence proportionate to his or her negligence, is a rule that requires a showing of some preexisting duty between the plaintiff and the defendant, imposed either by law or contract, such that the defendant has undertaken a special relationship to ensure the emotional wellbeing of the plaintiff. Although many jurisdictions rely on the zone-of-danger concept to determine to whom a defendant owed a duty of care, the zone of danger rule is arbitrary because it is incapable of a precise definition. Effectively, the zone of danger test requires a determination that anyone within a fifteen-foot radius of a defendant's negligent act is owed a duty of care, but that anyone standing sixteen feet away has no right to recovery. Under the zone of danger rule, a potential defendant cannot foresee the extent to which his or her actions may result in liability. When compared to the zone of danger test, the requirement of a preexisting duty more accurately defines the category of people to whom a duty of care is owed; the zone-of-danger rule is inferior at protecting against fraudulent claims because it may expose the tortfeasor to greater liability than justice requires. Consequently, in the absence of a preexisting duty imposed by law or contract, a plaintiff may not recover damages for mental anguish premised solely on the negligence of the defendant.

In bystander cases, jurisdictions are nearly unanimous that a defendant's duty only extends to those who satisfy the factors first set forth by the Supreme Court of California in *Dillon v. Legg*. Thus, in a claim for negligent infliction of emotional distress premised on witnessing the injury of another, a defendant's duty of care only extends to those in a familial or a close personal relationship with the victim who were present at the scene of the injury or arrived immediately thereafter, before the scene had been altered. Case law from other jurisdictions has provided no reason to expand the scope of a defendant's duty in bystander cases, and the Court perceives no reason to do so here.

Thus, to prevail on a claim of negligent infliction of emotional distress under a theory that the plaintiff was the direct victim of a defendant's negligent conduct, a plaintiff must prove: (1) that the defendant owed the plaintiff a duty of care to ensure the plaintiff does not suffer serious

⁴²¹ *Accord Machado v. Yacht Haven U.S.V.I., LLC*, 61 V.I. 373, 386, (V.I. 2014) (quoting *Perez v. Ritz-Carlton (Virgin Islands), Inc.*, 59 V.I. 522, 533 (V.I. 2013)) (holding that "the foreseeability of harm 'is the touchstone of the existence of [a land possessor's] duty of reasonable or ordinary care'").

or severe emotional injury, which duty either arose by contract or was imposed as an independent legal obligation; (2) that the defendant breached its contractual or legal obligation, i.e. its duty; and (3) that, as a direct and proximate result of defendant's breach, the plaintiff suffered a serious or severe emotional injury. To prevail on a claim of negligent infliction of emotional distress under a theory that the plaintiff witnessed the defendant cause injury to a third party, the plaintiff must prove: (1) that the plaintiff was in a familial or a close personal relationship with the victim and that the plaintiff was present at the scene of the injury or arrived immediately thereafter, before the scene had been altered; (2) that the defendant's conduct caused the victim to suffer severe injuries or death; and that (3) as a direct and proximate result of either witnessing the victim's injury or arriving at the scene of the victim's injury shortly after the injury occurred—but before the scene has been altered—the plaintiff suffered a serious or severe emotional injury.

b. To the extent that Plaintiffs have stated a claim for negligent infliction of emotional distress against Daily News and Redfield on behalf of any Plaintiff, Daily News and Redfield are entitled to summary judgment in their favor on those portions of Plaintiffs' Complaint.

In their Opposition, Plaintiffs do not address their claim for negligent infliction of emotional distress. Consequently, to the extent that they have stated a claim for such a tort, they have not demonstrated genuine issues of material fact on any of its elements.

Nor is it clear that they could, based on the standards adopted above. Plaintiffs have not introduced evidence that either Daily News or Redfield owed any of the Plaintiffs a duty of care that arose from a contract or existed due to a previously-imposed legal obligation. Nor have Plaintiffs introduced evidence that any of the Plaintiffs were bystanders to a physical injury sustained by a family member or a close personal relation, that any of the Plaintiffs were present when that injury was sustained, and that any of the Plaintiffs believed that the injured party suffered severe injuries or death.

Due to Plaintiffs' failure to introduce evidence pertaining to any element of a claim for negligent infliction of emotional distress, no reasonable jury could find either Daily News or Redfield liable to any of the Plaintiffs for the negligent infliction of emotional distress.

V. INVASION OF PRIVACY

Plaintiffs have alleged that Defendants' conduct constitutes an "invasion of privacy,"⁴²² and cite to the evidence referenced in paragraph 4.B.1 of Plaintiffs' Amended Response to Defendants' Statement of Facts to substantiate their claim. Whether by statute or evolution of common law, all fifty states and the District of Columbia recognize that certain invasions of one's privacy are actionable in tort. The concept of a common law right to privacy was first advanced in a law review article written by Samuel Warren and Louis Brandeis in 1890,⁴²³ but the modern understanding of an actionable invasion of privacy can be traced back to a law review article

⁴²² Fourth Am. Compl. ¶¶ 34–36.

⁴²³ Samuel D. Warren & Louis D. Brandeis, *The Right To Privacy*, 4 HARV. L. REV. 193 (1890).

written by Professor William Prosser in 1960.⁴²⁴ Based upon a review of over three hundred opinions issued since Warren and Brandeis' article, Professor Prosser concluded that the right to privacy "[i]s not one tort," but is rather "four distinct kinds of invasion of four different interests of the plaintiff, which are tied together by the common name, but otherwise have almost nothing in common"⁴²⁵ Following Professor Prosser's guidance—first due to his law review article and then later due to his position as a reporter for the American Law Institute—every jurisdiction in the United States to address the issue has acknowledged Prosser's four-part distinction. Yet the extent to which each of Prosser's four torts is recognized varies by jurisdiction.

a. Applicable law

There is no binding authority in this jurisdiction addressing the extent to which these four torts are actionable in the Virgin Islands. Plaintiffs' Opposition narrows the scope of the Court's inquiry because it only argues that Defendants are liable for the torts of intrusion upon seclusion and for publically portraying Plaintiffs in a false light. Yet the Court must still determine whether to recognize each of these causes of action, and if so, how to define them.

i. This jurisdiction recognizes a cause of action for intrusion upon seclusion.

~~A cause-of action-for intrusion-upon-seclusion-protects-an-individual-from~~ "intentional interference with his interest in solitude or seclusion, either as to his person or as to his private affairs or concerns, of a kind that would be highly offensive to a reasonable man."⁴²⁶ It protects "the home, hospital room or other place the privacy of which is legally recognized, as well as unwarranted sensory intrusions such as eavesdropping, wiretapping, and visual or photographic spying."⁴²⁷ Given that past practices by courts in the Virgin Islands mirror the approach taken by a majority of other jurisdictions, the Virgin Islands should continue to recognize a cause of action for intrusion upon seclusion.

1. *Approaches taken by other courts in this jurisdiction*

The tort of intrusion upon seclusion has been analyzed several times by courts in the Virgin Islands.⁴²⁸ In each instance, the court has applied the principals of law summarized in Section 652B of the Restatement (Second) of Torts to analyze the plaintiff's claims.⁴²⁹ Section 652B requires a plaintiff to prove (1) an intrusion upon the solitude, seclusion, or private affairs or concerns of another; (2) that is intentional; and (3) that would be highly offensive to a reasonable person.⁴³⁰

⁴²⁴ William L. Prosser, *Privacy*, 48 CALIF. L. REV. 383 (1960).

⁴²⁵ *Id.* at 389.

⁴²⁶ RESTATEMENT (SECOND) OF TORTS § 652B cmt. a.

⁴²⁷ *Shulman v. Group W. Productions, Inc.*, 955 P.2d 469, 489 (Cal. 1998).

⁴²⁸ *Anderson v. Government of the Virgin Islands*, 199 F. Supp. 2d 269 (D.V.I. 2002); *Venzen v. Abraham*, 18 V.I. 385 (D.V.I. 1981); *FirstBank Puerto Rico v. Webster*, ST-2012-CV-239, 2013 WL 436702 (V.I. Super. Ct. Jan. 17, 2013).

⁴²⁹ *Anderson*, 199 F. Supp. at 278; *Venzen*, 18 V.I. at 388-89; *Webster*, 2013 WL 436702 at *3.

⁴³⁰ RESTATEMENT (SECOND) OF TORTS § 652B.

2. Approaches taken by other jurisdictions

At least forty-three jurisdictions recognize a common law cause of action for intrusion upon seclusion, and another four jurisdictions have created a statutory right to bring such a claim. Only two jurisdictions explicitly reject the cause of action.

There is a great deal of similarity across the jurisdictions that recognize a common law cause of action for intrusion upon seclusion, but each jurisdiction enumerates the elements of the tort with slight differences. For example, all jurisdictions recognizing a common law cause of action for intrusion upon seclusion require the alleged intrusion to be offensive to some degree. At least thirty-one jurisdictions require the intrusion to be “highly offensive to a reasonable person,”⁴³¹ while at least seven jurisdictions require the intrusion be offensive or objectionable to a reasonable person.⁴³² The remaining jurisdictions require that the intrusion would cause mental suffering to an ordinary person.⁴³³ As another example, all jurisdictions require some form of intrusion into the plaintiff’s solitude or seclusion, but at least two jurisdictions have held that the intrusion must be physical,⁴³⁴ while others permit a cause of action for intrusion “by use of a defendant’s sense of sight or hearing, or by use of some other form of investigation or examination,”⁴³⁵ and at least one has required that the defendant’s actions be “intrusive into a matter that the plaintiff has a right to expect privacy.”⁴³⁶ However, despite these variations, there is no deviation from the general principle, first articulated by Professor Prosser, that a cause-of-

⁴³¹ *E.g.*, *Phillips v. Smalley Maintenance Services, Inc.*, 435 So.2d 705, 708–09 (Ala. 1983); *Shulman v. Group W. Productions, Inc.*, 955 P.2d at 490 (citing *Miller v. National Broadcasting Co.*, 232 Cal. Rptr. 668, 678 (Cal. Ct. App. 1986)); *Danai v. Canal Square Associates*, 862 A.2d 395, 400 (D.C. 2004); *Froelich v. Adair*, 516 P.2d 993, 997 (Kan. 1973); *Furman v. Sheppard*, 744 A.2d 583, 585 (Md. Ct. Spec. App. 2000); *PETA v. Bobby Berosini, Ltd.*, 895 P.2d 1269, 1279 (Nev. 1995); *Burgess v. Busby*, 544 S.E.2d 4, 10–11 (N.C. Ct. App. 2001); *Mauri v. Smith*, 929 P.2d 307, 310 (Or. 1975); *Valenzuela v. Aquino*, 853 S.W.2d 512, 513 (Tex. 1993); *Hillman v. Columbia County*, 474 N.W.2d 913, 918–19 (Wis. Ct. App. 1991).

⁴³² *E.g.*, *Doe v. High-Tech Institute, Inc.*, 972 P.2d 1060, 1076 (Colo. Ct. App. 1998) (requiring that the intrusion be “offensive or objectionable to a reasonable person”); *Yarbray v. Southern Bell Telephone & Telecommunications Co.*, 409 S.E.2d 835, 837 (Ga. 1991) (requiring intrusion “which would be offensive or objectionable to a reasonable person”); *Burns v. Masterbrand Cabinets, Inc.*, 874 N.E.2d 72, 77 (Ill. Ct. App. 2007) (same); *Dalley v. Dykema Gossett*, 788 N.W.2d 679, 687 (Mich. Ct. App. 2010) (requiring that the intrusion be “objectionable to a reasonable man”); *Remsburg v. Docusearch, Inc.*, 816 A.2d 1001, 1008 (N.H. 2003) (requiring that the intrusion be “offensive to persons of ordinary sensibilities”); *Hougum v. Valley Memorial Homes*, 1998 ND 24, ¶ 14, 574 N.W.2d 812, 817 (requiring that the intrusion be “objectionable to a reasonable person”); *Roth v. Farner-Bocken Co.*, 2003 SD 80, ¶ 19, 667 N.W.2d 651, 660–61 (requiring that the intrusion be “unreasonable, unwarranted, serious, and offensive”).

⁴³³ *See Rucinsky v. Hentchel*, 881 P.2d 616, 618 (Mont. 1994) (citing *Sistok v. Northwestern Telephone Systems, Inc.*, 615 P.2d 176, 182 (Mont. 1980)) (requiring that the invasion be conducted “in such a manner as to outrage or cause mental suffering, shame, or humiliation to a person of ordinary sensibilities”); *Snakenberg v. Hartford Casualty Insurance Co., Inc.*, 383 S.E.2d 2, 6 (S.C. Ct. App. 1989)) (citing *Meetze v. Associated Press*, 95 S.E.2d 606 (S.C. 1956) (requiring conduct that “would cause mental injury to a person of ordinary feelings and intelligence in the same circumstances”).

⁴³⁴ *Newman v. Jewish Community Center Association of Indianapolis*, 875 N.E.2d 729, 737 (Ill. Ct. App. 2007); *Nelson v. Maine Times*, 373 A.2d 1221, 1223 (Me. 1977) (citing *Estate of Berthiaume v. Pratt, M.D.*, 365 A.2d 792, 795 (Me. 1976)).

⁴³⁵ *Danai*, 862 A.2d at 400.

⁴³⁶ *Koepfel v. Speirs*, 808 N.W.2d 177, 181 (Iowa 2011).

action will lie when a defendant intentionally intrudes upon a place where the plaintiff has secluded him or herself, and the defendant's intrusion was offensive to some degree.

3. *The soundest rule of law for the Virgin Islands*

Given the nearly uniform approach to this tort across other jurisdictions in the United States, the soundest rule for the Virgin Islands is to recognize a cause of action for intrusion upon seclusion under the same parameters as courts in the Virgin Islands have previously done. Thus, in order to prevail on a claim for intrusion upon seclusion in the Virgin Islands, a plaintiff must prove: (1) an intrusion upon the solitude, seclusion, or private affairs or concerns of another; (2) that is intentional; and (3) that would be highly offensive to a reasonable person. This approach mirrors the common law in a majority of other jurisdictions, and facilitates consistency amongst trial court opinions here in the Virgin Islands. As the common law of this Territory develops, it will fall to the courts to determine exactly where an individual enjoys the solitude or seclusion upon which a defendant may not intrude, or what conduct will be deemed highly offensive.

ii. This jurisdiction does not recognize a cause of action for false light invasion of privacy.

~~There is no binding precedent in this jurisdiction that addresses a cause of action for false light invasion of privacy.~~ Because the Supreme Court of the Virgin Islands has not yet addressed this cause of action, this Court must determine the soundest rule of law for the Virgin Islands.⁴³⁷ Although there is a growing trend to recognize the existence of this tort, the Virgin Islands lacks sufficient safeguards to ensure that a cause of action for false light invasion of privacy does not chill the freedoms protected by the First Amendment.

1. *Approaches taken by other courts in this jurisdiction*

No court in the Virgin Islands has addressed a cause of action for false light invasion of privacy. Although a few courts have acknowledged that false light invasion of privacy constitutes one of four torts that comprise a broader common-law right to privacy,⁴³⁸ no court in this jurisdiction has set forth the elements for such a claim.

2. *Approaches taken by other jurisdictions*

A majority of jurisdictions recognize a cause of action for false light invasion of privacy. Of those jurisdictions, at least twenty eight draw their statement of the law directly from Section 652E of the Restatement (Second) of Torts.⁴³⁹ At least nineteen of these jurisdictions cite to the

⁴³⁷ *Malloy v. Reyes*, S. Ct. Civ. No. 2012-0081, 2014 WL 3697332, at *5 (V.I. July 22, 2014).

⁴³⁸ See, e.g., *Venzen v. Abraham*, 18 V.I. 385 (D.V.I. 1981) (discussing how the concept of a common-law right to privacy, as first articulated in 1890 and later refined by Professor Prosser in the 1960s, generally comprises four interrelated, but distinct torts).

⁴³⁹ E.g., *Regions Bank v. Plott*, 897 So.2d 239, 344 (Ala. 2004) (citing to the Restatement (Second) of Torts § 652E); *Goodrich v. Waterbury Republican-American, Inc.*, 448 A.2d 1317, 1330-31 (Conn. 1982) (adopting the Restatement (Second) of Torts § 652E); *Chung v. McCabe Hamilton & Renny Co., Ltd.*, 128 P.3d 833, 847 (Haw. 2006) (citing to

Restatement—and often to Professor Prosser’s article as well—without conducting any additional analysis of whether their jurisdiction should adopt a cause of action for false light invasion of privacy. However, a few jurisdictions that draw their definition of this tort directly from the Restatement have done so after analyzing whether it was appropriate to recognize such a cause of action. A few other jurisdictions recognize the tort as an evolution of their common law without reference to the Restatement.⁴⁴⁰

Two minority positions exist relative to this cause of action. The larger of these positions rejects the concept of false light invasion of privacy by operation of statute.⁴⁴¹ The smaller of these position is held by a group of states that do not recognize the existence of this cause of action at common law.⁴⁴² The jurisdictions that do not recognize this tort reason that the tort of false light invasion of privacy is so similar to the tort of defamation that there is very little conduct that could not be properly addressed by a claim for defamation, or by other causes of action. These jurisdictions also point out that many of the protections that have evolved to prohibit the abuse of defamation lawsuits have not evolved to address the potential chilling effects that allegations of false light invasions of privacy could have. These jurisdictions have questioned whether non-defamatory speech should be actionable on any grounds at all.

3. *The soundest rule of law for the Virgin Islands*

Despite the widespread recognition of a cause of action for false light invasion of privacy, the Virgin Islands is best served by rejecting this tort at this time. The third prong of the *Banks* analysis mandates that this Court “determine the appropriate common law rule based on the unique characteristics and needs of the Virgin Islands.”⁴⁴³ When the criticisms of false light claims are

the Restatement (Second) of Torts § 652E); *Wingard v. Larson*, 260 N.W.2d 816, 823 (Iowa 1977) (same); *Cole v. Chandler*, 2000 ME 104, ¶ 17, 752 A.2d 1189, 1197 (same); *Meyerkord v. Zipatoni Co.*, 276 S.W.3d 319, 325 (Mo. Ct. App. 2008) (same); *Romaine v. Kallinger*, 537 A.2d 284, 289–90 (N.J. 1988) (collecting cases from New Jersey that cite the Restatement (Second) of Torts § 652E); *Marleau v. Truck Insurance Exchange*, 37 P.3d 148, 153–54 (Or. 2001) (recognizing by implication a cause of action for false light invasion of privacy and citing to the Restatement (Second) of Torts § 652E); *West v. Media General Convergence, Inc.*, 53 S.W.3d 640, 648 (Tenn. 2001) (citing to the Restatement (Second) of Torts § 652E); *Crump v. Beckley Newspapers, Inc.*, 320 S.E.2d 70, 85 (W. Va. 1983) (same); *Bolalin v. Guam Publications, Inc.*, 4 N.M.I. 176, ¶¶ 19–23 (same).

⁴⁴⁰ E.g., *Association Services, Inc. v. Smith*, 549 S.E.2d 454, 459 (Ga. Ct. App. 2001); *Hoskins v. Howard*, 971 P.2d 1135, 1140 (Idaho 1998); *Stern v. Doe*, 806 So.2d 98, 101 (La. Ct. App. 2001); *Tobin v. Michigan Civil Service Commission*, 331 N.W.2d 184, 189 (Mich. 1982); *Lake v. Wal-Mart Stores, Inc.*, 582 N.W.2d 231, 235–36 (Minn. 1998).

⁴⁴¹ See, e.g., *Ayash v. Dana Farber Cancer Institute*, 822 N.E.2d 667, 681 n.16 (Mass. 2005) (citing MASS. GEN. LAWS ch. 214 § 1B) (observing that Massachusetts has not interpreted its privacy statute to permit claims for false light invasion of privacy); *Johnson v. Staten Island Advance Newspaper, Inc.*, 38480/03, 2004 WL 4986754, at *7–8 (N.Y. City Civ. Ct. July 23, 2004) (citing *Arrington v. New York Times Co.*, 434 N.E.2d 1319, 1323 (N.Y. 1982)) (explaining that New York’s statutory right to privacy only applies to situations where a person’s photograph is used for advertising or trade without that person’s consent); *Ladd v. Uecker*, 2010 WI App. 28, ¶ 5, 780 N.W.2d 216, 218–19 (citing WIS. STAT. § 995.50) (acknowledging that Wisconsin does not recognize false light privacy claims under its privacy statute).

⁴⁴² E.g., *Denver Publishing Co. v. Bueno*, 54 P.3d 893, 894 (Colo. 2002) (en banc); *Cain v. Hearst Corporation*, 878 S.W.2d 577, 577 (Tex. 1994).

⁴⁴³ *Government of the Virgin Islands v. Connor*, S. Ct. Civ. No. 2013 0095, 2014 WL 702639, at *3 (V.I. Feb. 24, 2014).

compared to the present development of the Virgin Islands Judiciary, the desirability of rejecting this tort becomes apparent.

Critics of false light invasion of privacy point out that the tort lacks many of the procedural safeguards that protect free speech in the context of defamation claims.⁴⁴⁴ This criticism is most easily illustrated with reference to printed media, where even the smallest factual inaccuracy could form the basis for a cause of action against the author or the publisher.⁴⁴⁵ Proponents of the tort argue that the criteria that a false statement be highly offensive to a reasonable person guarantees that free speech will not be chilled. But the definition of “highly offensive” is also highly subjective. Consequently, journalists and publishers are left to speculate whether the subject of a story will consider their portrayal to be highly offensive. Critics of the false light tort argue that this ambiguity disincentivizes the open and robust debate encouraged by the First Amendment by encouraging journalists and newspapers to tread softly.⁴⁴⁶ This Court agrees with the critics.

As the tort of defamation has evolved, absolute and qualified privileges have developed to ensure that defamation remained the exception to the general rule of free speech. For example, absolute privileges protect statements made during judicial proceedings, by legislators during legislative debates, and between spouses. Qualified privileges protect statements made in government reports of official proceedings, fair criticism of published media, and statements made in self-defense.—Given the novelty of false light claims, it is unclear to what extent the privileges pertaining to defamation apply to claims of false light invasion of privacy.

This concern is magnified by the infancy of the common law in the Virgin Islands. Although the Supreme Court of the Virgin Islands has acknowledged the existence of both absolute and qualified privileges in the context of defamation claims,⁴⁴⁷ it has not issued an opinion establishing whether or to what extent these privileges are recognized in the Virgin Islands. Only as recently as October of 2014 has the Supreme Court issued an opinion that conclusively establishes the elements of negligence without relying on the Restatements of Law.⁴⁴⁸ Thus, it is difficult to believe that the Supreme Court will issue an opinion that comprehensively defines the privileges that will defeat a defamation action in the near future. Given the novelty of false light claims, the likelihood of receiving such an opinion concerning the privileges that will defeat false light claims anytime soon decreases even further. Finally, the Virgin Islands Code does not codify privileges for the journalist, reporter, or publisher. Consequently, the burden falls upon the Superior Court to adjudicate, on a case-by-case basis, whether these privileges exist in the Virgin Islands. With this in mind, it is not hard to see how a well-pled complaint and the threat of voluminous discovery could be used as a weapon to pacify media here in the Territory.

⁴⁴⁴ *E.g., Lake*, 582 N.W.2d at 235–36; *Arrington*, 434 N.E.2d at 1323.

⁴⁴⁵ *See Cain*, 878 S.W.2d at 577 (observing that “any fact in the story, no matter how seemingly innocuous, may prove to be a basis for liability”).

⁴⁴⁶ *E.g., Jews for Jesus, Inc. v. Rapp*, 997 So.2d 1098, 1113–14 (Fla. 2003); *Lake v.*, 582 N.W.2d at 235–36; *Moats v. Republican Party of Nebraska*, 796 N.W.2d 584, 588–89 (Neb. 2011).

⁴⁴⁷ *See Joseph v. Daily News Publishing Co.*, 57 V.I. 566, 586 (V.I. 2012) (discussing the second element of a claim for defamation in the Virgin Islands).

⁴⁴⁸ *Machado v. Yacht Haven U.S.V.I., LLC*, S. Ct. Civ. No. 2012-0137, 2014 WL 5282116, at *2 (V.I. Oct. 16, 2014).

It is also worth noting that the majority position concerning the recognition of this tort is somewhat misleading. Although a clear majority of jurisdictions permit a cause of action for false light invasion of privacy, at least half of those jurisdictions do not appear to have analyzed the development of their jurisdiction's common law or the unique characteristics of their jurisdiction to determine whether it would be appropriate to adopt such a cause of action.⁴⁴⁹ Rather, these jurisdictions simply acknowledge the four-part distinction articulated in Professor Prosser's article and copy their legal standard straight from the Restatement. Thus, at least half of the jurisdictions to recognize a cause of action for false light invasion of privacy have done so in a manner that resembles the mechanistic application of the Restatement that the Supreme Court of the Virgin Islands has deemed to be unconstitutional.

Of the jurisdictions that have adopted the tort of false light invasion of privacy after analyzing the propriety of doing so, some have satisfied themselves that First Amendment guarantees will not be chilled due to the Supreme Court of the United States' holding in the case of *Time, Inc. v. Hill*.⁴⁵⁰ In that case, the Supreme Court held that a plaintiff alleging false light invasion of privacy pursuant to a state's privacy statute must establish 'actual malice' when that plaintiff is a public figure, like in a claim for defamation.⁴⁵¹ However, the requirement that a public figure establish that false light publications were either made with knowledge of their falsity or reckless disregard thereto does not address the concern that false light claims require a journalist or publisher to gamble on whether a reasonable person would find an article's content highly offensive. Although the Supreme Court of the United States has expanded First Amendment protections in the context of false light claims in one instance, members of the media in a jurisdiction lacking robust protections for journalists, reporters, and publishers—jurisdictions like the Virgin Islands—are still only safe from legal action so long as the subject of a story does not take offense to that story.

Courts have correctly pointed out that false light claims protect a different interest than defamation claims: defamation claims protect one's reputation in the community, while false light claims protect one's right to the integrity of one's image.⁴⁵² However, this Court has not discovered a single example of a case that succeeded as a claim for false light invasion of privacy, but failed as a claim for defamation.⁴⁵³ Furthermore, the success of such a claim assumes that non-defamatory speech should be actionable. In the context of a claim for false light invasion of privacy, the Supreme Court of the United States has cautioned that it would "create a grave risk of serious impairment of the indispensable service of a free press in a free society if [the Court were to] saddle the press with the impossible burden of verifying to a certainty the facts associated in

⁴⁴⁹ *E.g.*, *Cole v. Chandler*, 2000 ME 104, ¶ 17, 752 A.2d 1189, 1197.

⁴⁵⁰ 385 U.S. 374 (1967).

⁴⁵¹ *Id.* at 387-88.

⁴⁵² *E.g.*, *Easter Seal Society for Crippled Children & Adults, Inc. v. Playboy Enterprises, Inc.*, 530 So.2d 643, 646 (La. Ct. App. 1988).

⁴⁵³ *But see Jensen v. Sawyers*, 2005 UT 81, ¶ 57, 130 P.3d 325, 337 (observing that the Supreme Court of Utah "remain[s] sufficiently persuaded that there is certain unacceptable conduct that could be within the reach of false light invasion of privacy, but not defamation"). The *Jensen* Court vacated an award of damages on claims for defamation and false light invasion of privacy that were each premised on the same set of facts. Consequently, *Jensen* does not provide guidance as to the type of conduct that would be actionable under the theory of false light invasion of privacy but not as a claim for defamation.

news articles with a person's name, picture or portrait, particularly as related to nondefamatory matter."⁴⁵⁴ Such a concern militates against lawsuits for nondefamatory speech.

Assuming that some forms of non-defamatory speech should be actionable, there may come a day when a claim for false light invasion of privacy is necessary to remedy a wrong that cannot be addressed by any other cause of action, and can proceed in a manner that does not chill First Amendment freedoms. But it is not this day. At present, this Court will not embrace the questionable protection afforded by false light claims where the attendant potential for their abuse is so great.

b. To the extent that Plaintiffs have stated a claim for intrusion upon seclusion on behalf of any Plaintiff against Daily News, Daily News is entitled to summary judgment in its favor on those portions of Plaintiffs' Complaint.

Plaintiffs state that the facts supporting their intrusion upon seclusion claim against Daily News are contained in paragraph 4.B.1 of Plaintiffs' Amended Response to Defendant's Statement of Facts.⁴⁵⁵ Daily News is only mentioned once in paragraph 4.B.1. Citing to the affidavit of Attorney Dean Barnes for support, Plaintiffs allege that "[a] The [sic] Daily News reporter . . . also improperly tried to get confidential information from a government agency about alleged claims that Donastorg was not paying child support which was just false."⁴⁵⁶

As the only piece of evidence offered to support Plaintiffs' intrusion upon seclusion claim against Daily News, the Barnes Affidavit does not constitute evidence of any of the three elements of the tort of intrusion upon seclusion. In his affidavit, Barnes testifies that, on or about March 7, 2006, he met with a reporter from The Virgin Islands Daily News.⁴⁵⁷ Barnes testified that the reporter "said that he had received a tip that a senator was not paying his child support,"⁴⁵⁸ but that he "did not mention . . . the name of any specific senator."⁴⁵⁹ Barnes further testified that he did not "refer to or otherwise identify any party to a child support case."⁴⁶⁰ Because Barnes' affidavit establishes that Senator Donastorg was never identified during Barnes' encounter with the reporter, the Barnes Affidavit does not constitute evidence that Daily News intentionally intruded upon solitude, seclusion, or private affairs or concerns of any of the Plaintiffs. Consequently, no reasonable jury could find Daily News liable for the tort of intrusion upon seclusion in favor of any of the Plaintiffs.

⁴⁵⁴ *Time, Inc.*, 385 U.S. at 389.

⁴⁵⁵ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 58-59.

⁴⁵⁶ Pls.' Am. Resp. to Defs.' Stmt. of Facts 18-19.

⁴⁵⁷ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. V, Aff. of Atty. Dean L. Barnes ¶¶ 2-3.

⁴⁵⁸ *Id.* ¶ 4.

⁴⁵⁹ *Id.* ¶ 9.

⁴⁶⁰ *Id.* ¶ 12.

- c. **To the extent that Plaintiffs have stated a claim for intrusion upon seclusion on behalf of any Plaintiff against Redfield, Redfield is entitled to summary judgment in his favor on those portions of Plaintiffs' Complaint.**

The facts supporting Plaintiffs' intrusion upon seclusion claim against Redfield are also contained in paragraph 4.B.1 of Plaintiffs' Amended Response to Defendants' Statement of Facts. The Sheraw Investigation forms the basis of Plaintiffs' intrusion upon seclusion claim against Redfield. Citing to Pages 16, 17, and 83 of Sheraw's deposition transcript, Plaintiffs allege that Redfield was "[an] ICC contact person[] for Sheraw or [was a] person[] with which [sic] Sheraw discussed the report."⁴⁶¹ Plaintiffs also claim that Redfield's alleged intrusion upon Plaintiffs' seclusion extended beyond Redfield's discussion of the report with Sheraw. Citing to pages 94-95 of Senator Donastorg's deposition transcript, Plaintiffs allege that Redfield, along with Prosser, ICC, "and the cabal" all "had Senator Donastorg followed in 2000, 2001, and 2002."⁴⁶²

The evidence provided by Plaintiffs concerning Sheraw's investigation of Senator Donastorg does not show that Redfield had any role in the commission or execution of the investigation. As discussed in the section pertaining to Plaintiffs' intentional infliction of emotional distress claim, Redfield is not mentioned in the pages of the deposition transcripts cited by Plaintiffs. The surrounding pages of Sheraw's deposition transcript demonstrate Redfield did not hire Sheraw to conduct an investigation of Senator Donastorg or Senator Donastorg's family. Sheraw's deposition transcript reveals that Redfield spoke to Sheraw only once: after Senator Donastorg had received a copy of the Sheraw Investigation from his attorney.

Additionally, the portions of the Sheraw Investigation attached to Plaintiffs' Opposition contain no reference to Redfield. Instead, those documents indicate that Benta was Sheraw's contact person. By letter dated April 16, 1998, directed to Benta, Sheraw confirmed that he had undertaken a "background search on Adlah Donastorg" "pursuant to [Benta's] request."⁴⁶³ By letter dated June 24, 1998, directed to Benta, Sheraw confirmed that his investigation of Senator Donastorg was complete.⁴⁶⁴ Sheraw's June 24, 1998 letter to Benta identifies that Sheraw provided Benta with one additional progress report on his investigation of Senator Donastorg, which was dated May 20, 1998.⁴⁶⁵ These documents were all addressed to "Mr. Oakland Benta, Security Director, Emerging Communications, P.O. Box 1730 St. Croix, V.I. 00821."⁴⁶⁶ Additionally, the invoice for Sheraw's services was directed to Benta under the same title and at the same address,⁴⁶⁷ and was paid in full by Atlantic Tele-Network Co., P.O. Box 1730, Christiansted, St. Croix, USVI 00821.⁴⁶⁸ Redfield's name does not appear in any of these documents.

⁴⁶¹ Pls.' Am. Resp. to Defs.' Stmt. of Facts 16.

⁴⁶² *Id.* at 18.

⁴⁶³ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. App. Vol. VI, Ex. 3, at Bates No. D 1300.

⁴⁶⁴ *Id.* at Bates No. D 1295.

⁴⁶⁵ *Id.* at Bates No. D 1287.

⁴⁶⁶ *See id.* at Bates No. D 1300 (directing the initial report to Benta); *id.* at Bates No. D 1287 (directing the second progress report to Benta); *id.* at Bates No. D 1295 (directing the final report to Benta).

⁴⁶⁷ *Id.* at App. Vol. VI, Ex. 4, at 1-2

⁴⁶⁸ *Id.* at 2.

The pages of Senator Donastorg's deposition testimony are similarly unavailing to Plaintiffs, as these pages do not demonstrate that Redfield had Senator Donastorg followed. Senator Donastorg testified that he saw "two gentlemen in a white car" that were "just certain individuals, other individuals that I don't ever recall or could identify."⁴⁶⁹ Based upon Senator Donastorg's failure to identify Redfield as one of the men allegedly following him, no reasonable jury could find that Redfield intruded upon Senator Donastorg's seclusion.

From the evidence submitted by Plaintiffs, no reasonable jury could find that Redfield intruded upon the seclusion of any of the Plaintiffs, whether through his alleged involvement with the Sheraw Investigation or due to Plaintiffs' allegation that Redfield was part of an alleged cabal that had Senator Donastorg followed.

VI. PLAINTIFFS' CONCERTED ACTION THEORIES

In addition to allegations that each Defendant has engaged in one or more of the torts described in analysis sections I through V above, Plaintiffs have also proffered multiple theories under which the conduct of one Defendant may be imputed upon another Defendant for purposes of establishing the liability of the second Defendant. Plaintiffs allege that "[t]he V.I. Supreme Court . . . expressly, and broadly, recognizes 'alter-ego,' 'joint-enterprise,' and 'concerted-action' theories-as-viable-under-the-law."⁴⁷⁰ As authority for this proposition, Plaintiffs cite to a number of cases from courts in the Third Circuit—none of which constitute binding precedent on this Court⁴⁷¹—and to an opinion from the Supreme Court of the Virgin Islands concerning a conviction for the crime of aiding and abetting.⁴⁷²

The three terms used by Plaintiffs—alter-ego, joint-enterprise, and concerted-action—refer to three distinct categories of liability. Generally, alter-ego liability pertains to circumstances where a court will disregard the legal fiction that business entities and those entities' owners are separate. Joint-enterprise liability refers to circumstances where courts will disregard the legal fiction that business entities owned by a parent corporate retain a distinct existence from one another. Concerted-action is more appropriately termed civil conspiracy, and refers to situations where courts can impute the tortious conduct one person to other members of a group.

a. Applicable law

Despite Plaintiffs' assertion that the Supreme Court of the Virgin Islands "expressly[] and broadly" recognizes the theories of liability set forth by Plaintiffs, there is no binding authority in this jurisdiction addressing civil conspiracy, corporate veil piercing, or the joint enterprise theory of liability. Plaintiffs have also cited to case law in which federal courts have employed 'single employer' and 'joint employer' tests. Although the discussions in analysis sections I through V

⁴⁶⁹ *Id.* at App. Vol. III, Donastorg Dep. Tr. 94:5-7.

⁴⁷⁰ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. In Supp. 27-29. See also *id.* at 27 n.16 (collecting cases).

⁴⁷¹ See *id.* at 27 n.16 (citing opinions issued by the United States Court of Appeals for the Third Circuit that originated outside of the Virgin Islands, opinions from the District Court of the Virgin Islands, opinions from various courts in Pennsylvania, and an opinion from Texas).

⁴⁷² *Id.* at 27 (citing *Nanton v. People of the Virgin Islands*, 52 V.I. 466, 484-85 (V.I. 2009)).

above explain why Daily News and Redfield are entitled to summary judgment on each claim asserted by Plaintiffs against them directly, the Court must also determine whether the plethora of joint liability theories advanced by Plaintiffs could justify holding Daily News or Redfield liable for the conduct of the remaining Defendants.

i. Civil conspiracy

Amongst the theories propounded by Plaintiffs, Plaintiffs argue first that the Supreme Court of the Virgin Islands has “expressly[] and broadly”⁴⁷³ recognized the principles of law summarized in the Restatement (Second) of Torts Section 876.⁴⁷⁴ However, the Supreme Court of the Virgin Islands has never issued an opinion adopting the principles set forth in Section 876. Plaintiffs have thus asserted a proposition of common law for which there is no binding precedent in this jurisdiction, and this Court must determine whether, and if so, the extent to which the common law of this jurisdiction embraces the principles of law summarized in Section 876.

In the case of *Isaac v. Crichlow*,⁴⁷⁵ the Superior Court of the Virgin Islands, Molloy, J., conducted the three-prong analysis mandated by *Banks v. International Rental & Leasing Corp.*⁴⁷⁶ and determined that the provisions of law summarized in Section 876 represented the soundest rule for the Virgin Islands. Being satisfied that the principles of law contained in Section 876 have not only been relied upon by courts in this jurisdiction,⁴⁷⁷ but are also relied upon by a majority of other jurisdictions,⁴⁷⁸ this Court agrees with the Honorable Judge Molloy’s conclusion that the principles of law summarized in Section 876 represent the soundest rule for the Virgin Islands pertaining to liability for civil conspiracy. All portions of the *Banks* analysis in *Crichlow* not previously cited are incorporated herein by reference.

As reasoned in *Crichlow* and reaffirmed in this Memorandum Opinion, the soundest rule for the Virgin Islands is that a person is subject to liability for harm resulting to a plaintiff from the tortious conduct of co-defendant when that person (1) does a tortious act in concert with the co-defendant pursuant to a common design with him; (2) knows that the co-defendant’s conduct constitutes a breach of duty and gives substantial assistance or encouragement to the co-defendant to so conduct him or herself; or (3) gives substantial assistance to the co-defendant in accomplishing a tortious result and his or her own conduct, separately considered, constitutes a breach of duty to the plaintiff. The existence of tortious conduct is a prerequisite for liability under this standard. Absent tortious conduct, there cannot be a generalized claim for civil conspiracy.⁴⁷⁹

⁴⁷³ Pls.’ Resp. to Defs.’ Mot. for Summ. J. and Br. In Supp. 27.

⁴⁷⁴ *Id.* at 27–28 (quoting RESTATEMENT (SECOND) OF TORTS § 876). Plaintiffs do not identify a case where the Supreme Court of the Virgin Islands has addressed the legal foundations for a civil conspiracy claim.

⁴⁷⁵ Civil No. SX-2012-CV-065, 2015 V.I. LEXIS 15 (V.I. Super. Ct. Feb. 10, 2015).

⁴⁷⁶ 55 V.I. 967 (V.I. 2011).

⁴⁷⁷ See 2015 V.I. LEXIS 15, at *32 n.11 (collecting cases from the Virgin Islands).

⁴⁷⁸ See *id.* n.12 (collecting cases).

⁴⁷⁹ See *Mieczkowski v. York City School Dist.*, 414 Fed. Appx. 441, 450 (3d Cir. 2011) (citing *Boyanowski v. Capital Area Intermediate Unit*, 215 F.3d 396, 407 (3d Cir. 2000)) (explaining that “[t]here is no liability for civil conspiracy where there is no liability for the act or acts underlying the conspiracy”). Accord 16 AM. JUR. 2D *Conspiracy* § 64 (2009) (same).

ii. Plaintiffs' corporate law theories

Plaintiffs have advanced three distinct corporate law theories under which a corporate entity may be disregarded: traditional piercing of the corporate veil, reverse piercing of the corporate veil, and the single enterprise theory of liability.⁴⁸⁰

1. *Traditional veil piercing*

"Piercing the corporate veil 'is an equitable remedy whereby a court disregards the existence of the corporation to make the corporation's individual principals and their personal assets liable for the debts of the corporation.'"⁴⁸¹ This Court must determine whether, and if so the extent to which this jurisdiction embraces such a remedy because the Supreme Court of the Virgin Islands has never issued an opinion discussing the extent to which the concept of piercing the corporate veil applies in this jurisdiction.

a. Approaches taken by courts in this jurisdiction

In the case of *Matheson v. Virgin Islands Community Bank Corp.*,⁴⁸² the Appellate Division of the District Court of the Virgin Islands explained that this remedy should be applied "when the court must prevent fraud, injustice, or when recognition of the corporate entity would defeat public policy or shield someone from liability."⁴⁸³

Matheson concerned a motion for summary judgment filed by a defendant corporation and its sole shareholder on, among other things, whether it was appropriate to disregard the corporation's separate existence.⁴⁸⁴ In granting summary judgment for the corporation on the veil-piercing issue, the Appellate Division considered eight factors upon which the United States Court of Appeals for the Third Circuit had previously relied:

- (1) whether the corporation suffers from gross undercapitalization;
- (2) a failure to observe corporate formalities;
- (3) the non-payment of dividends;
- (4) the insolvency of the debtor corporation;
- (5) the siphoning of funds from the debtor corporation from the dominant stockholder;
- (6) the presence of nonfunctioning officers;
- (7) the absence of corporate records; and

⁴⁸⁰ See Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. in Supp. 27 n.16 (citing to *Schwab v. McDonald*, 405 B.R. 555, 563 (Bankr. M.D. Pa. 2009) to illustrate the concept of reverse veil piercing, to *Gateco, Inc. v. Safeco Ins. Co. of Am.*, Civ. No. 05-2869, 2006 U.S. Dist. LEXIS 50313 (E.D. Pa. July 24, 2006) to illustrate the concept of traditional veil piercing in the context of parent and subsidiary corporations, and to *Hoffmann v. Dandurand*, 180 S.W.3d 340, 348 (Tex. Ct. App. 2005) to illustrate the single enterprise theory of liability).

⁴⁸¹ *Matheson v. V.I. Community Bank, Corp.*, 297 F. Supp. 2d 819, 833 (D.V.I. App. Div. 2003) (quoting *Trustees of the Nat'l Elevator Industry Pension, Health Benefit & Educ. Funds v. Lutyk*, 332 F.3d 188, 192 (3d Cir. 2003)).

⁴⁸² 297 F. Supp. 2d 819 (D.V.I. App. Div. 2003).

⁴⁸³ *Id.* (quoting *Pearson v. Component Technology Corp.*, 247 F.3d 471, 484 (3d Cir. 2001)).

⁴⁸⁴ *Id.* at 822-23.

- (8) whether the corporation is merely a facade for the operation of the dominant stockholder.⁴⁸⁵

The Appellate Division concluded that “Plaintiff’s claims amount to nothing more than conclusory allegations that [the sole shareholder] was involved in the [corporation]’s operations,”⁴⁸⁶ and consequently, that veil piercing was not justified.

Quoting *Matheson* and the Third Circuit case law cited therein, the Superior Court has continued to follow this standard.⁴⁸⁷

b. Approaches taken by other jurisdictions

A clear majority of jurisdictions recognize that corporate separateness may be disregarded when necessary to prevent fraud or injustice.⁴⁸⁸ Although approaches vary by jurisdiction, most jurisdictions analyze a nonexclusive list of factors like those enumerated in *Matheson* in order to determine whether a defendant shareholder exercised sufficient domination and control over the corporation and used the corporate form to perpetrate fraud or injustice.⁴⁸⁹ Any attempt to quantify the specific factors utilized by every jurisdiction would transform an already-lengthy opinion into a bona fide treatise on corporate law. However, several factors consistently present themselves in circumstances where courts find that the disregard of the corporate entity is appropriate: whether corporate formalities have been observed; whether the corporation was adequately capitalized; whether, and if so, the extent to which personal and corporate assets have been comingled; whether the corporate form has been used to promote fraud or injustice; and whether there is a causal connection between the shareholder’s control and the malfeasance at issue.⁴⁹⁰ There is no uniformity concerning the quantum of proof necessary to disregard the corporate existence; courts examine the facts of each case in order to determine whether to disregard the concept of limited liability that is a “‘bedrock’ principle of corporate law.”⁴⁹¹

c. The soundest rule of law for the Virgin Islands

The soundest rule of law is to disregard corporate separateness and utilize the assets of a shareholder to satisfy a corporation’s liability, but only in those circumstances where the

⁴⁸⁵ *Id.*

⁴⁸⁶ *Id.*

⁴⁸⁷ *E.g., Balbo Corp. v. Enighed Condominiums, LLC*, Civil No. ST-09-CV-399, 2011 V.I. LEXIS 11, at *5 (V.I. Super. Ct. Feb. 7, 2011) (citations omitted); *People of the Virgin Islands v. Alkhatib*, 53 V.I. 131, 136 (V.I. Super. Ct. 2010) (citations omitted).

⁴⁸⁸ See generally *Henn & Alexander*, *LAW OF CORPORATIONS AND OTHER BUSINESS ENTERPRISES* 344–56 (3d ed. 1988) (collecting authorities).

⁴⁸⁹ See, e.g., *Mesler v. Bragg Management Co.*, 702 P.2d 601, 606–07 (Cal. 1985) (identifying factors that indicate when a shareholder or group of shareholders has exercised sufficient domination and control over a corporation that the disregard of corporate separateness may be justified); *Morris v. State Dep’t of Taxation & Fin.*, 623 N.E.2d 1157, 1160–61 (N.Y. 1993) (same).

⁴⁹⁰ See generally Douglas G. Smith, *Piercing the Corporate Veil in Regulated Industries*, 2008 BYU L. REV. 1165, 1169–82 (2008) (collecting and summarizing authorities).

⁴⁹¹ *Id.* at 1169 (quoting *Escobedo v. BHM Health Assoc., Inc.*, 818 N.E.2d 930, 933 (Ind. 2004)).

shareholder has exercised such domination and control over the corporation that the corporation has become an alter ego of the shareholder, and where the shareholder has utilized the corporate form to perpetuate the fraud or injustice at issue in the litigation. Adopting this standard harmonizes the law of the Virgin Islands with well-established principles of corporate law while still providing equitable relief in appropriate circumstances. In determining whether a shareholder has exercised sufficient domination and control over the corporation to justify treating the corporation and the shareholder as a single entity, courts in this jurisdiction should consult the nonexclusive list of factors identified in *Matheson*, and any other factors that may be appropriate. By incorporating these factors into the Court's opinion, the Court ensures that the common law of this jurisdiction evolves in a manner that is mindful of the case law that existed before the creation of the Supreme Court of the Virgin Islands while also allowing courts the flexibility to consider the facts of each case.

By adopting this approach to piercing the corporate veil, the Court also recognizes that "the corporate form will be disregarded only in narrowly defined circumstances and only when the ends of justice so require."⁴⁹² The corporate form should not be disregarded lightly, especially because doing so threatens a company's ability to conduct business in this Territory.⁴⁹³ The Virgin Islands, as in other jurisdictions, will respect corporate separateness unless presented with a compelling reason to disregard such a well-entrenched concept.

2. Reverse veil piercing

In the last several decades, some jurisdictions have developed a variation to the traditional corporate veil piercing doctrine known as reverse piercing.⁴⁹⁴ Jurisdictions that apply this doctrine do so in two situations.⁴⁹⁵ In the first, a dominant shareholder or other controlling insider attempts to have the corporate entity disregarded in order to avail him or herself of corporate claims against third parties, or to shield assets from claims asserted against the insider in his or her personal capacity.⁴⁹⁶ Because the party seeking to disregard corporate separateness operates from within the corporation, commentators refer to this situation as 'inside reverse piercing.' The second situation under which a reverse pierce might occur arises when a third party seeks to disregard the corporate entity in order to hold the corporation liable for the debts of a corporate insider.⁴⁹⁷ This is known as 'outside reverse piercing,' and more closely resembles the traditional concept of veil piercing. Because Plaintiffs argue that Redfield's actions are attributable to Daily News and VITELCO,⁴⁹⁸ this case may represent an example of a situation where an outside reverse pierce of the corporate veil is appropriate.

⁴⁹² *Mesler*, 702 P.2d at 607.

⁴⁹³ See Smith, *supra* note 490, at 1182-88 (discussing the costs, externalities, and other implications of veil piercing).

⁴⁹⁴ E.g., *In re Phillips*, 139 P.3d 639, 645 (Colo. 2006) (en banc) (recognizing the concept of outside reverse piercing in the state of Colorado); *State v. Easton*, 647 N.Y.S.2d 904, 909 (N.Y. Sup. Ct. 1995) (recognizing the same concept in the state of New York). See generally, Gregory S. Crespi, *The Reverse Pierce Doctrine: Applying Appropriate Standards*, 16 CORP. L. J. 33, 34-37 (1990) (discussing the evolution of both traditional and reverse pierce claims).

⁴⁹⁵ See Crespi, *supra* note 494, at 37 (classifying reverse pierce claims as either 'inside' or 'outside' reverse piercing).

⁴⁹⁶ *Id.*

⁴⁹⁷ *Id.* at 55-56.

⁴⁹⁸ Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. In Supp. 27-29.

Despite Plaintiffs' representations, there is no binding authority in this jurisdiction that recognizes an outside reverse veil pierce as a remedy.⁴⁹⁹ Consequently, this Court must determine whether the law of this jurisdiction embraces such a remedy.⁵⁰⁰

a. Approaches taken by courts in this jurisdiction

Although there have been several cases in this Territory concerning traditional veil piercing,⁵⁰¹ no court in this Territory has addressed the concept of either inside or outside reverse veil piercing. As mentioned above, there is case law from other courts in the Third Circuit that addresses the concept of reverse piercing. However, because none of these cases concern the interpretation of Virgin Islands law, they are not relevant to this prong of the analysis.

b. Approaches taken by other jurisdictions

A growing minority of other jurisdictions have allowed the creditors of a debtor to disregard the corporate entity owned or controlled by the debtor in certain circumstances.⁵⁰² Many commonalities exist between the approaches applied by these jurisdictions. First, they all rely on

⁴⁹⁹ In a related filing, Plaintiffs have argued that three cases demonstrate the applicability of the outside reverse veil pierce to this jurisdiction: *In re DiLoreto*, 266 Fed. Appx. 140 (3d Cir. 2008); *In re Blatstein*, 192 F.3d 88 (3d Cir. 1999); and *In re Mass*, 178 B.R. 626 (M.D. Pa. 1995). None of these three cases bind this Court. Ultimately appealed to the United States Court of Appeals for the Third Circuit, *DiLoreto* was filed in the United States Bankruptcy Court for the Eastern District of Pennsylvania, and the concept of reverse piercing was approached under both Pennsylvania common law and federal law. 266 Fed. Appx. at 143. Although *DiLoreto* constitutes persuasive authority as to when a court might decide to permit a reverse pierce, neither Pennsylvania common law nor federal law represents the law of this Territory. See *Malloy v. Reyes*, S. Ct. Civ. No. 2012-0081, 2014 WL 3697332, at *5 (V.I. July 22, 2014) (stating that the Superior Court must conduct an independent analysis to determine the appropriate rule of law where the question has not been foreclosed by the Supreme Court of the Virgin Islands); *Najawicz v. People*, 58 V.I. 315, 327-28 (V.I. 2013) (observing that the Superior Court is only bound by decisions from the Third Circuit issued when the Third Circuit was sitting as the de facto court of last resort for the Virgin Islands). Importantly, in *Najawicz*, the Supreme Court of the Virgin Islands rejected the proposition that a Third Circuit case originating out of the Western District of Pennsylvania had any binding authority on the Superior Court. 58 V.I. at 327. Plaintiffs' reliance on *Blatstein* and *Mass* is similarly flawed. Like *DiLoreto*, both *Blatstein* and *Mass* originated in the bankruptcy courts of Pennsylvania. Although *Blatstein* was appealed to the Third Circuit and *Mass* to the district court, both cases approached the concept of reverse piercing under either Pennsylvania common law or federal law. Neither source of law binds this Court.

⁵⁰⁰ *Malloy*, 2014 WL 3697332, at *5.

⁵⁰¹ E.g., *Matheson v. Virgin Islands Community Bank Corp.*, 297 F. Supp. 2d 819, 833-34 (D.V.I. App. Div. 2003).

⁵⁰² E.g., *In re Phillips*, 139 P.3d 639, 645 (Colo. 2006) (en banc); *Litchfield Asset Management Corp. v. Howell*, 799 A.2d 298, 311 (Conn. App. Ct. 2002); *Estudios, Proyectos, e Inversiones de Centro America, S.A. v. Swiss Bank Corporation (Overseas) S.A.*, 507 So.2d 1119, 1120-21 (Fla. Dist. Ct. App. 1987); *Minich v. Gem State Developers, Inc.*, 591 P.2d 1078, 1083 (Idaho 1979); *Lambert v. Farmers Bank, Frankfort, Indiana*, 519 N.E.2d 745, 747 (Ind. Ct. App. 1988); *Central Nat. Bank & Trust Co. of Des Moines v. Wagener*, 183 N.W.2d 678, 681-82 (Iowa 1971); *Dictoguard, Inc. v. Lopeo*, 948 So.2d 305, 308-09 (La. Ct. App. 2006); *Clark v. United Technologies Automotive, Inc.*, 594 N.W.2d 447, 451-53 (Mich. 1999); *Medlock v. Medlock*, 642 N.W.2d 113, 124 (Neb. 2002); *LFC Marketing Group, Inc. v. Loomis*, 8 P.3d 841, 846 (Nev. 2000); *State v. Easton*, 647 N.Y.S.2d 904, 909 (N.Y. Sup. Ct. 1995); *Lifshutz v. Lifshutz*, 61 S.W.3d 511, 516-17 (Tex. App. 2001); *C.F. Trust, Inc. v. First Flight Limited Partnership*, 580 S.E.2d 806, 810 (Va. 2003); *Olen v. Phelps*, 546 N.W.2d 176, 181 (Wis. Ct. App. 1996); *United Enterprises, Inc. v. King*, Nos. Civ. 93-1174, 94-046, 1995 WL 1943000, at *2 (N. Mar. I. 1995).

the same “alter ego” metaphor that courts apply in traditional veil piercing cases,⁵⁰³ explaining that the corporate existence will only be disregarded when the separation of the corporation and its shareholders ceases to exist. To determine whether the debtor and corporation are alter egos of each other, courts consult a nonexclusive list of factors similar to the one in *Matheson*, discussed above.⁵⁰⁴ Courts that have adopted the concept of outside reverse piercing also acknowledge that its application is only appropriate “to prevent fraud or achieve equity,”⁵⁰⁵ and that it is only appropriately applied to one who owns or controls the corporation.⁵⁰⁶

A smaller number of jurisdictions have rejected the concept of outside reverse piercing.⁵⁰⁷ These jurisdictions do not permit reverse outside piercing because the doctrine’s application can harm innocent corporate shareholders and other corporate creditors.⁵⁰⁸ Additionally, these courts recognize that there are other theories that protect judgment creditors without disturbing the corporate identity, such as agency law or vicarious liability.⁵⁰⁹ Still other jurisdictions have not considered whether it would be appropriate to apply the principle of outside reverse piercing.

⁵⁰³ E.g., *In re Phillips*, 139 P.3d at 644; *Dictoguard, Inc.*, 948 So.2d at 308, *LFC Marketing Group, Inc.*, 8 P.3d at 846.

⁵⁰⁴ See, e.g., *In re Phillips*, 139 P.3d at 644 (considering “a variety of factors, including whether (1) the corporation is operated as a distinct business entity, (2) funds and assets are commingled, (3) adequate corporate records are maintained, (4) the nature and form of the entity’s ownership and control facilitate misuse by an insider, (5) the business is thinly capitalized, (6) the corporation is used as a ‘mere shell,’ (7) shareholders disregard legal formalities, and (8) corporate funds or assets are used for noncorporate purposes”); *United Enterprises, Inc.*, 1995 WL 1943000, at *2 (considering a nonexclusive list of factors, including “undercapitalization, failure to observe corporate formalities, nonpayment of dividends, siphoning of corporate funds by dominant stockholders, nonfunctioning of other officers or directors, absence of corporate records, use of the corporation as a facade for the operations of the dominant stockholders, and use of the corporate entity in promoting injustice or fraud,” along with additional factors, such as “[w]hether the individual is in a position of control or authority over the entity; [w]hether the individual controls the entity’s actions without need to consult others; [w]hether the individual uses the entity to shield himself from personal liability; [w]hether the individual uses the business entity for his or her own financial benefit; [w]hether the individual mingles his own affairs in the affairs of the business entity; [w]hether the individual uses the business entity to assume his own debts, or the debts of another, or whether the individual uses his own funds to pay the business entity’s debts”).

⁵⁰⁵ *Easton*, 647 N.Y.S.2d at 909. See also *Estudios Proyectos*, 507 So.2d at 1120 (observing that an outside reverse pierce is warranted when a controlling shareholder attempts to “deceive or defraud his personal creditors”); *Lambert*, 519 N.E.2d at 747 (finding an outside reverse pierce appropriate when an individual attempts to use the corporate form to fraudulently shield himself); *Clark*, 594 N.W.2d at 451 (observing that equity is the touchstone of the reverse pierce analysis).

⁵⁰⁶ See, e.g., *In re Phillips*, 139 P.3d at 645 (holding that the doctrine applies to a “dominant shareholder or other corporate insider”); *Estudios Proyectos*, 507 So.2d at 1120 (applying the doctrine to “a controlling shareholder”); *Lambert*, 519 N.E.2d at 747 (applying the doctrine to one who “own[s] and control[s] the corporation”); *Dictoguard, Inc.*, 948 So.2d at 308 (applying the doctrine to “a corporate shareholder or officer”); *United Enterprises, Inc.*, 1995 WL 1943000, at *2 (stating that the doctrine applies to “a dominant stockholder”).

⁵⁰⁷ E.g., *Postal Instant Press, Inc. v. Kaswa Corp.*, 77 Cal. Rptr. 3d 96, 102–03 (Cal. Ct. App. 2008) (California); *Acree v. McMahon*, 585 S.E.2d 873, 874 (Ga. 2003) (Georgia); *Mathias v. Rosser*, 2002 Ohio 2772, at ¶ 35 (Ohio).

⁵⁰⁸ *Postal Instant Press, Inc.*, 77 Cal. Rptr. 3d at 98.

⁵⁰⁹ *Id.* See also Cathy S. Krendl & James R. Krendl, *Piercing the Corporate Veil: Focusing the Inquiry*, 55 DEN. L. J. 1, 2–4 (1978) (observing that other causes of action, such as agency, fraud, estoppel, unjust enrichment, and breach of fiduciary duty, might afford a plaintiff the same relief without the necessity of disregarding the corporate existence).

c. The soundest rule of law for the Virgin Islands

The soundest rule of law for the Virgin Islands is to permit outside reverse piercing in the extremely limited circumstances where a debtor's conduct is so indistinguishable from the debtor's corporation that the debtor and the corporation are essentially the same entity, where the debtor exercised sufficient ownership or control over the corporation to perpetrate the malfeasance at issue, where the corporation was used by the debtor to perpetrate the malfeasance at issue, and where exposing the corporation to liability would not injure innocent shareholders or creditors.

Following the example set by a majority of the courts that have accepted outside reverse piercing as a method of disregarding the corporate entity, courts in the Virgin Islands should first consider the following non-exclusive list of factors to determine whether the legal separateness of the debtor and the corporation is an illusion:

1. The degree to which the corporate entity is undercapitalized;
2. The degree to which the corporation has failed to observe corporate formalities;
3. Whether and to what extent the corporation has paid dividends, if required;
4. Whether and to what extent dominant stockholders have siphoned corporate funds for personal use;
5. ~~The presence of nonfunctioning officers or directors;~~
6. Whether and to what extent the corporation has kept records of its business;
7. Whether and to what extent the corporation has been used as a facade for the operations of the dominant stockholders;
8. Whether the debtor mingles his own affairs in the affairs of the corporation;
9. Whether the debtor uses the corporation to assume his or her personal debts, or the personal debts of another; and
10. Whether the debtor uses his or her own funds to pay the corporation's debts.

Once a court has made the determination that the conduct of the debtor and the corporation justifies treating them as the same entity, the court must be satisfied that the individual exercised sufficient ownership or control over the corporation such that the actions complained of by the plaintiff could actually have been orchestrated by the debtor. By adopting this approach, the Court recognizes that stock ownership is not a prerequisite for outside reverse piercing. To illustrate, a board of directors may own 100% of a corporation's stock and elect a chief executive officer to run the corporation. The board may—through lack of diligence, willful neglect, or otherwise—turn a blind eye to how the CEO chooses to run the corporation. The CEO might then proceed to operate the company in such a manner to justify treating the CEO and the company as a single entity. Under such a scenario, it may be proper to hold the corporation liable for malfeasance committed by the CEO in his personal capacity, despite the fact that the CEO did not own any stock in the corporation. However, when the debtor through whom the creditor seeks to reach does not have sufficient control or ownership to utilize the corporation as his or her instrument, it is inappropriate to impose the debtor's liability on the corporation.

Once a court has determined that the corporation and the individual can be treated as the same entity and that the debtor has sufficient control over the corporation to have perpetrated the malfeasance at issue, the court must then determine whether the particular facts of the case merit imposing liability on the corporation. Courts that adopt outside reverse piercing inquire whether the debtor attempted to use the corporation to shield themselves from liability,⁵¹⁰ to avoid a personal obligation, to perpetuate a fraud or crime, to commit an injustice, or to gain an unfair advantage.⁵¹¹ Conversely, even if the debtor and corporation can be treated as the same entity, a court should decline to disregard the corporate existence where the debtor's relationship to the corporation bears no relation to the causes of action raised in the case.

Finally, and most importantly, a Court must determine that imposing liability on the corporation will not unjustly injure innocent shareholders or other creditors. The concerns raised by the courts that have rejected outside reverse piercing are well-placed, and a court's role as an institution of equity would be seriously compromised if innocent investors and creditors were injured in order to satiate a creditor of an individual that also owns and operates a corporation.

This test imposes a very heavy burden on the party seeking to hold a corporation liable for the debts of an individual. But because a rule to the contrary may jeopardize the ability of businesses to form and operate in this Territory, an individual who seeks to disregard the corporate existence should bear such a burden:

3. *The single enterprise theory of liability*

This theory is also referenced by the Plaintiffs as one of the several avenues by which one defendant may be held liable for the tortious conduct of another.⁵¹² The "single entity theory,"⁵¹³ also termed by courts as the "entity enterprise liability theory"⁵¹⁴ and the "single business enterprise theory,"⁵¹⁵ refers to a situation where "two or more corporations share common ownership and are, in reality, operating as a corporate combine."⁵¹⁶ Under this theory—referred to herein as the single enterprise theory for the sake of consistency—"when corporations are not operated as separate entities but rather integrate their resources to achieve a common business purpose, each constituent corporation may be held liable for debts incurred in pursuit of that business purpose."⁵¹⁷ No binding authority in this jurisdiction has opined on the applicability of the single enterprise theory in the Virgin Islands, and the concept of the single enterprise theory

⁵¹⁰ *Lambert*, 519 N.E.2d at 747.

⁵¹¹ *C.F. Trust, Inc. v. First Flight Limited Partnership*, 580 S.E.2d 806, 810 (Va. 2003).

⁵¹² Pls.' Resp. to Defs.' Mot. for Summ. J. and Br. In Supp. 27 n.16 (citing *Hoffmann v. Dandurand*, 180 S.W.3d 347, 348 (Tex. App. 2005)).

⁵¹³ *Miners, Inc. v. Alpine Equipment Corp.*, 722 A.2d 691, 695 (Pa. Super. Ct. 1998).

⁵¹⁴ *Id.*

⁵¹⁵ *SSP Partners v. Gladstrong Investments (USA) Corp.*, 275 S.W.3d 444, 452 (Tex. 2009).

⁵¹⁶ *Miners, Inc.*, 722 A.2d at 695.

⁵¹⁷ *Paramount Petroleum Corp. v. Taylor Rental Center*, 712 S.W.2d 534, 536 (Tex. App. 1986) (abrogated by *SSP Partners*, 275 S.W.3d at 453). See also *SSP Partners*, 275 S.W.3d at 453 (explaining that the Supreme Court of Texas does not suggest "that unity of enterprise alone would justify disregarding corporate structures").

has not been addressed by courts in this jurisdiction. This Court must thus determine the soundest rule of law for the Virgin Islands.⁵¹⁸

a. Approaches taken by other jurisdictions

Only a small minority of jurisdictions have adopted the single enterprise theory. In the case of *Las Palmas Associates v. Las Palmas Center Associates*,⁵¹⁹ the California Court of Appeals observed that, while alter-ego liability is reserved for a parent-subsiary relationship, the single enterprise theory allows liability to be found between sister companies.⁵²⁰ The theory looks at two or more distinct corporate personalities and determines that “there is but one enterprise,” and that the enterprise has been handled in such a way that it should respond as a whole for the debts of its component parts.⁵²¹ However, the California Court of Appeals later clarified that courts should use the same tests for determining whether to pierce the corporate veil as they would for determining whether to impose alter ego liability between affiliated corporations.⁵²²

Another jurisdiction to recognize the single enterprise theory is Louisiana. In the case of *Green v. Champion Insurance Co.*,⁵²³ the Louisiana Court of Appeals explained that, like in veil-piercing cases, courts look to a nonexclusive list of factors to determine whether a group of corporations constitute a “single business enterprise.”⁵²⁴ Once a court makes such a finding, the court “may disregard the concept of corporate separateness to extend liability to each of the affiliated corporations to prevent fraud or achieve equity.”⁵²⁵

⁵¹⁸ *Malloy v. Reyes*, S. Ct. Civ. No. 2012-0081, 2014 WL 3697332, at *5 (V.I. July 22, 2014).

⁵¹⁹ 1 Cal. Rptr. 2d 301 (Cal. Ct. App. 1991).

⁵²⁰ *Id.* at 318.

⁵²¹ *Id.*

⁵²² See *Toho-Towa Co., Ltd. v. Morgan Creek Productions, Inc.*, 159 Cal. Rptr. 3d 469, 480 (Cal. Ct. App. 2013) (explaining that, “[i]n California, common principles apply regardless of whether the alleged alter ego is based on piercing the corporate veil to attach liability to a shareholder or to hold a corporate liable as part of a single enterprise”). See also *id.* at 480–81 (explaining that courts should consider factors such as “the commingling of funds and assets of the two entities, identical equitable ownership in the two entities, use of the same offices and employees, disregard of corporate formalities, identical directors and officers, and use of one as a mere shell or conduit for the affairs of the other,” but that no one factor governs and courts must consider the circumstances of each case).

⁵²³ 577 So.2d 249 (La. Ct. App. 1991).

⁵²⁴ *Id.* at 259. See also *id.* at 257–58 (listing the factors that guide a court’s inquiry into whether multiple corporations are functioning as a single business entity).

⁵²⁵ *Id.* at 259.

At least four jurisdictions explicitly reject the theory,⁵²⁶ and another four have issued opinions mentioning the of single enterprise theory without adopting it.⁵²⁷

b. The soundest rule of law for the Virgin Islands

The soundest rule of law for the Virgin Islands is to reject the adoption of the single enterprise theory. The single enterprise theory is accepted in very few jurisdictions, and has been rejected in more jurisdictions than it has been accepted. As the Supreme Court of Texas observed, “[t]here is nothing abusive or unjust” about the “sharing of names, offices, accounting, employees, services, and finances.”⁵²⁸

Criticisms of a related theory advanced by Plaintiffs in a separate filing—the theory of triangular veil piercing—are illustrative of the problems created by adopting the single entity theory. In the case of *Minno v. Pro-Fab, Inc.*,⁵²⁹ the Supreme Court of Ohio held that a corporation could not be held liable for the debts of its sister corporation due to their common ownership by a parent company. The *Minno* Court reasoned that control is a fundamental element in determining whether to disregard separate corporate personalities.⁵³⁰ The *Minno* Court then observed that a debtor corporation had no ownership interest in its sister corporation, and thus had no way of controlling the sister corporation’s actions.⁵³¹ Federal courts to address the concept of triangular piercing have similarly focused on the lack of control that one sister corporation exercises over another.⁵³² One court has observed that the concept of triangular piercing “is plainly out of

⁵²⁶ See *Hart Holding Co., Inc. v. Drexel Burnham Lumber, Inc.*, 18 DEL. J. CORP. L. 700, 718 (Del. Ch. 1992) (observing that, in the context of personal jurisdiction, the enterprise theory “certainly does not represent the law of Delaware”); *Restaurant of Hattiesburg, LLC v. Hotel & Restaurant Supply Co.*, 84 So.3d 32, 42 (Miss. Ct. App. 2012) (observing that Mississippi “has never adopted the ‘single business enterprise’ theory to justify holding affiliated LLCs jointly liable for each other’s debts”); *SSP Partners v. Gladstrong Investments (USA) Corporation*, 275 S.W.3d 444, 456 (finding that the single business enterprise theory is “fundamentally inconsistent” with Texas’ approach to corporations law, and holding that the theory “will not support the imposition of one corporation’s obligations on another”); *Assisted Living Concepts, Inc. v. Siegel Gallagher, Inc.*, 2012 WI App 52, ¶ 24 n.6, 813 N.W.2d 247 (declining to adopt the single business enterprise theory without further discussion).

⁵²⁷ See *Island Tobacco Co., Ltd. v. R. J. Reynolds Tobacco Co.*, 627 P.2d 260, 274 (Haw. 1981) (rejecting plaintiff’s attempts to circumvent the proposition that corporations and their subsidiaries generally cannot conspire for purposes of violating the Sherman Antitrust Act because they constitute a single entity); *Wood v. McDonald’s Corporation*, 603 S.E.2d 539, 547–48 (N.C. Ct. App. 2004) (rejecting plaintiff’s attempt to disregard the corporate form based on the theory that the corporation and the owner were engaged in a joint venture); *Walkovsky v. Carlton*, 223 N.E.2d 6, 10 (N.Y. 1966) (finding that plaintiff’s complaint failed to plead facts that, if true, would permit the court to disregard the separate existence of multiple corporations all owned by the same individual); *Advanced Telephone Systems, Inc. v. Com-Net Professional Mobile Radio, LLC*, 846 A.2d 1264, 1296 n.9 (Pa. Super. Ct. 2004) (observing that the single entity theory still has yet to be adopted in Pennsylvania).

⁵²⁸ *SSP Partners*, 275 S.W.3d at 454.

⁵²⁹ 2009-Ohio-1247, 905 N.E.2d 613.

⁵³⁰ *Id.* ¶ 11, at 617.

⁵³¹ *Id.* ¶ 12, at 617.

⁵³² See *S.E.C. v. Hickey*, 322 F.3d 1123, 1128 (9th Cir. 2003) (observing that ownership is a prerequisite to alter ego liability, and consequently rejecting the argument that an individual need not own any part of a corporation for an alter ego relationship to exist); *Johnson v. Medisys Health Network*, No. 10-CV-1596 (ERK)(WP), 2011 WL 5222917, at *22 (E.D.N.Y. June 1, 2011) (dismissing a complaint that requested direct, reverse, and triangular piercing—without discussing these theories—because the plaintiff failed to allege how the defendants controlled the entities,

harmony with both the traditional piercing doctrine and the more novel ‘reverse piercing’ doctrine” because it disregards the corporate existence without regard to ownership or control.⁵³³

To the extent that the theories are distinct, the single enterprise theory works the same harms as the concept of triangular veil piercing by threatening to impose liability on sister corporations by virtue of ownership by a common parent corporation without a showing that one sister corporation controlled the other. At its most fundamental level, the purpose of any corporate structure is to pursue the common purpose of its owners.⁵³⁴ There are many legitimate reasons why a holding company would choose to operate through a number of subsidiaries, not the least of which is to hedge against the possibility that the business of one subsidiary might fail. The ability of entrepreneurs to manage multiple ventures through a single holding company encourages investment because it allows the entrepreneur to minimize costs while diversifying investments. But common ownership does not imply that subsidiaries exercise any degree of control over one another. A rule that permits the debtor of one entity to reach to other entities solely by virtue of common ownership and a shared business purpose discourages the use of a fundamental business strategy and, in turn, signals to potential investors that the Virgin Islands has little respect for the risks undertaken by investors. Such a result does not serve the Virgin Islands in the slightest, and mandates the rejection of the single enterprise theory of liability.

iii. Plaintiffs’ employment law theories: ‘single-employer’ and ‘joint employer’ liability

Citing to the case of *N.L.R.B. v. Browning-Ferris Industries of Pennsylvania, Inc.*,⁵³⁵ Plaintiffs refer to the theory of joint’ or ‘co-employer’ liability in employment cases.”⁵³⁶ The single employer and joint employer concepts are separate theories utilized by the National Labor Relations Board (“NLRB”) to determine for whom an individual works.⁵³⁷ Plaintiffs have provided no argument as to why this Court should apply principles utilized by the NLRB in this case, and this case does not involve disputes between any of the corporate defendants and the individually-named defendants in this case. Because these theories have no application to this case, the Court has no need to determine the extent to which the common law of the Virgin Islands embraces similar concepts.

undercapitalized the entities, or ignore the corporate formalities of the entities); *Nursing Home Consultants, Inc. v. Quantum Health Services, Inc.*, 926 F. Supp. 835, 840 n.12 (1996) (rejecting the concept of triangular piercing because it allows for the imposition of liability absent control) *aff’d*, 112 F.3d 513 (8th Cir. 1997).

⁵³³ *Nursing Home Consultants, Inc.*, 926 F. Supp. at 840 n.12.

⁵³⁴ *Accord Burvett v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751, 2771–72 (2014) (explaining that the proper use of the corporate form depends on the law of the state of incorporation, and observing that states generally permit corporations to be formed for “any lawful purpose or act”).

⁵³⁵ 691 F.3d 1117 (3d Cir. 2001).

⁵³⁶ Pls.’ Resp. to Defs.’ Mot. for Summ. J. and Br. in Supp. 27 n.16.

⁵³⁷ See 691 F.2d at 1122–23 (discussing the distinction between the theories). Compare *Radio & Television Broadcast Technicians Local Union v. Broadcast Service of Mobile, Inc.*, 380 U.S. 255 (1965) (providing the conceptual justifications for the single employer theory), with *Boire v. Greyhound Corp.*, 376 U.S. 473 (1964) (providing the conceptual justifications for the joint employer theory).

b. Plaintiffs' allegations of conspiracy do not save their putative causes of action against Daily News and Redfield from summary judgment.

In order for the jury to consider whether either Daily News or Redfield is liable as part a civil conspiracy with the other Defendants, Plaintiffs must demonstrate the existence of genuine disputes of material fact concerning any of the following scenarios: (1) whether any of the allegedly-tortious acts committed by Daily News or Redfield were done in concert with the other Defendants pursuant to a common design; (2) whether either Daily News or Redfield knew that their co-defendant's action constituted a breach of duty and gave substantial assistance or encouragement to the co-defendant so to perform that action; or (3) whether either Daily News or Redfield gave substantial assistance to a co-defendant in accomplishing a tortious result, and the conduct of Daily News or Redfield, separately considered, constitutes a breach of duty to the Plaintiffs. The second and third scenarios each require Plaintiffs to introduce evidence of a duty and a breach of that duty. No such allegations appear anywhere in Plaintiffs' Complaint or Plaintiffs' Opposition to Daily News' Motion. Consequently, the Court confines its inquiry to the first scenario only.

Tortious conduct is a prerequisite for civil conspiracy. As discussed in analysis sections I through V above, Plaintiffs have not introduced evidence from which a reasonable jury could find either Daily-News-or-Redfield-liable-for-any-of-the-tortious-conduct-attributed-to-them-in Plaintiffs' Complaint or Plaintiffs' Opposition. Because no reasonable jury could reach such a conclusion, it follows that no reasonable jury could conclude that either Daily News or Redfield committed their allegedly-tortious conduct in concert with the other Defendants. Consequently, Plaintiffs' civil conspiracy allegations cannot justify holding Daily News or Redfield liable for the conduct of the remaining Defendants.

c. Plaintiffs' veil-piercing theories do not save their putative causes of action against Daily News and Redfield from summary judgment.

The traditional concept of piercing the corporate veil is utilized to impose liability on a shareholder for acts undertaken by a corporation. Here, Plaintiffs have introduced no evidence that either Daily News or Redfield owned any portion of VITELCO. To the contrary, Plaintiffs pled that VITELCO was wholly owned by ICC during the operative periods of this lawsuit. Consequently no reasonable jury could find that either Daily News or Redfield exercised sufficient control over VITELCO to justify holding either Daily News or Redfield accountable for any liability that VITELCO may incur.

Benta is being sued as an individual and not as a corporate defendant. Consequently, the theory of traditional corporate veil piercing has no bearing on the question of whether Daily News and Redfield can be held liable for Benta's alleged misconduct.

An outside reverse veil pierce is used to hold a corporation liable for the debts of one of its shareholders or controlling officers. Plaintiffs have not introduced any evidence that either VITELCO or Benta owned any portion of Daily News, or occupied a position from which they could exercise control over Daily News' operations. Rather, Plaintiffs have pled that Daily News

was owned by ICC for all relevant periods to this suit. Consequently, no reasonable jury could determine that either Daily News or Redfield exercised the necessary level of control over VITELCO to justify holding Daily News or Redfield accountable for any liability that VITELCO may incur.

Redfield is being sued as an individual, not as a corporate defendant. Consequently, the theory outside reverse corporate veil piercing has no bearing on the question of whether Redfield may be held liable for the alleged misconduct of VITELCO and Benta.

CONCLUSION

Plaintiffs have advanced a number of theories under which they contend Daily News and Redfield may be held liable. Plaintiffs have attempted to support their arguments with hundreds of pages of documents, including affidavits, entire deposition transcripts, newspaper articles, and copies of investigation reports. Despite the voluminous evidence offered in support of their positions, Plaintiffs have not demonstrated that genuine issues of material fact exist concerning any of the claims brought by Plaintiffs against either Daily News or Redfield that would justify submitting those claims to a jury. Consequently, both Daily News Publishing Co. Inc. and Lowe Davis are entitled to summary judgment in their favor on all counts of Plaintiffs' Complaint. Likewise, Redfield is entitled to summary judgment in his favor on all counts of Plaintiffs' Complaint. An appropriate order shall follow.

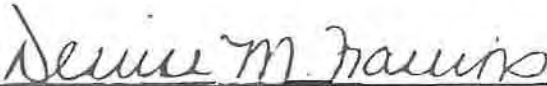
Dated: August 19, 2015

ATTEST:

Estrella H. George
Acting Clerk of the Court

By: 

Lori Boynes-Tyson
Court Clerk Supervisor 8/19/15



DENISE M. FRANCOIS
Judge of the Superior Court
of the Virgin Islands

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

SENATOR ADLAH DONASTORG, JR.,	)	Case No. ST-2002-CV-117
BENEDICTA DONASTORG, ADLAH)	
DONASTORG, SR., JOSEFINA)	
DONASTORG, ELLA MORON, and	)	ACTION FOR DAMAGES
NORMA DURAN,)	
)	
Plaintiffs,)	
v.	)	JURY TRIAL DEMANDED
)	
DAILY NEWS PUBLISHING CO., INC.,)	
LOWE DAVIS, HOLLAND "DYKE")	
REDFIELD, VITELCO, and OAKLAND)	
BENTA,)	
)	
Defendants.)	

ORDER

On July 30, 2014, Defendants Daily News Publishing Co., Inc. and Lowe Davis (collectively, "Daily News") filed a Motion for Summary Judgment (the "Motion"). On November 19, 2014, Plaintiffs filed their response in opposition to Daily News' Motion. On January 7, 2015, Daily News filed a reply to Plaintiffs' response in opposition. By filing dated January 12, 2015, Defendant Holland "Dyke" Redfield joined Daily News' Motion, "adopting the arguments set forth therein in full."¹ None of the other Defendants have joined Daily News' Motion. The parties then came before the Court for oral argument on January 23, 2015. For the reasons set forth in the accompanying Memorandum Opinion

it is:

ORDERED that Defendants Daily News' Publishing Co., Inc. and Lowe Davis' Motion for Summary Judgment is **GRANTED**; and it is further

ORDERED, ADJUDGED, AND DECREED that Count One of Plaintiffs' Fourth Amended Complaint is **DISMISSED WITH PREJUDICE** as to Defendants Daily News Publishing Co., Inc. and Lowe Davis; and it is further

ORDERED, ADJUDGED, AND DECREED that Count One of Plaintiffs' Fourth Amended Complaint is **DISMISSED WITH PREJUDICE** as to Defendant Holland "Dyke" Redfield; and it is further

¹ Def. Redfield's Joinder in VITELCO's Rule 12 Mot. 1.

JA000216

ORDERED, ADJUDGED, AND DECREED that Count Two of Plaintiffs' Fourth Amended Complaint is **DISMISSED WITH PREJUDICE** as to Defendants Daily News Publishing Co., Inc. and Lowe Davis; and it is further

ORDERED, ADJUDGED, AND DECREED that Count Two of Plaintiffs' Fourth Amended Complaint is **DISMISSED WITH PREJUDICE** as to Defendant Holland "Dyke" Redfield; and it is further

ORDERED, ADJUDGED, AND DECREED that Count Three of Plaintiffs' Fourth Amended Complaint is **DISMISSED WITH PREJUDICE** as to Defendants Daily News Publishing Co., Inc. and Lowe Davis; and it is further

ORDERED, ADJUDGED, AND DECREED that Count Three of Plaintiffs' Fourth Amended Complaint is **DISMISSED WITH PREJUDICE** as to Defendant Holland "Dyke" Redfield; and it is further

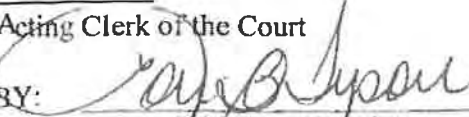
ORDERED, ADJUDGED, AND DECREED that Count Four of Plaintiffs' Fourth Amended Complaint is **DISMISSED WITH PREJUDICE** as to Defendants Daily News Publishing Co., Inc. and Lowe Davis; and it is further

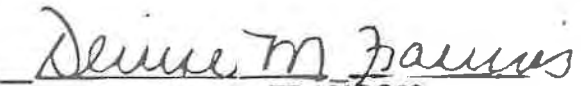
ORDERED, ADJUDGED, AND DECREED that Count Four of Plaintiffs' Fourth Amended Complaint is **DISMISSED WITH PREJUDICE** as to Defendant Holland "Dyke" Redfield; and it is further

ORDERED that a copy of this Order be directed to Defendant Oakland Benta, *pro se*, at P.O. Box 3388, Frederiksted, VI 00841; to Attorney Kevin Rames, counsel for Defendants Daily News Publishing Co., Inc., and Lowe Davis; to Attorney Joel Holt, counsel for Defendant Holland "Dyke" Redfield; to Attorney Mark W. Eckard, counsel for Defendant VITELCO; and to Attorney Lee Rohn, counsel for Plaintiffs.

DATED: August 19, 2015

ATTEST:
ESTRELLA H. GEORGE
Acting Clerk of the Court

BY: 
LORI BOYNES-TYSON
Court Clerk Supervisor 8/19/2015


DENISE M. FRANCOIS
Judge of the Superior Court
Of the Virgin Islands

FILED

January 07, 2021
ST-2002-CV-00117
TAMARA CHARLES
CLERK OF THE COURT

FILED

February 22, 2021
SCT-Civ-2021-0001
VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

SENATOR ADLAH DONASTORG, Jr.,	)	Case No.: ST-2002-CV-00117
BENEDICTA DONASTORG, ADLAH)	
DONASTORG, Sr., JOSEFINA)	
DONASTORG, ELLA MORON and	)	ACTION FOR DAMAGES
NORMA DURAN,)	
)	
	)	JURY TRIAL DEMANDED
Plaintiffs,)	
v.)	
)	
DAILY NEWS PUBLISHING CO. INC.,)	
LOWE DAVIS, HOLLAND "DYKE")	
REDFIELD, VITELCO, and OAKLAND)	
BENTA,)	
)	
Defendants.)	

Cite as: 2021 VI Super 109U

MEMORANDUM OPINION

¶1 **THIS MATTER** is before the Court on the following:

1. Motion to Enter Final Judgment for Defendants Daily News Publishing Company, Inc. and J. Lowe Davis, filed February 7, 2018; and
2. Plaintiffs' Opposition To Defendants' Motion To Enter Final Judgment For Daily News Publishing Company, Inc. And J. Lowe Davis, filed May 22, 2018.

¶2 Because there are no outstanding claims against The Daily News Publishing Co. Inc. and J. Lowe Davis, and the remaining claims involve different parties, the Court will grant the Motion.

I. BRIEF BACKGROUND

¶3 Plaintiffs Senator Adlah Donastorg Jr., Benedicta Donastorg, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron, and Norma Duran¹ (hereinafter referred to as "Donastorg")

¹ The initial action was filed on March 1, 2002 by Senator Donastorg and his wife Benedicta against Daily News Innovative Communication Corporation ("ICC"), and ICC's owner, Jeffrey Prosser ("Prosser"). ICC and Prosser were severed as defendants in this action. ICC entered bankruptcy and no longer owns either Daily News Publishing Co., Inc., or VITELCO. VITELCO and Holland "Dyke" Redfield were added later added as Defendants. Senator Donastorg's father, Adlah Donastorg, Sr., Senator Donastorg's mother, Josefina Donastorg, and Senator Donastorg's sisters, Ella Moron and Norma Duran, were also later added as Plaintiffs.

JA000218



asserted five causes of action against Daily News Publishing Co., Inc. and J. Lowe Davis² (collectively “Daily News”): (1) defamation; (2) interference with business relationships; (3) intentional infliction of emotional distress; (4) negligent infliction of emotional distress; and (5) invasion of privacy.³ On July 30, 2014, Daily News moved for summary judgment.⁴ By Order dated August 19, 2015, summary judgment was granted in favor of Daily News and Holland “Dyke” Redfield on all putative claims asserted against them in Donastorg’s Fourth Amended Complaint.⁵

¶4 This matter still proceeds as to the remaining defendants VITELCO and Oakland Benta (“Benta”). As a result, Daily News now moves to “enter final judgment for [Daily News] and against [Donastorg] . . . pursuant to Rule 54(b) of the Virgin Islands Rules of Civil Procedure.”

II. LEGAL STANDARD

¶5 Rule 54(b) provides:

When an action presents more than one claim for relief — whether as a claim, counterclaim, crossclaim, or third-party claim — or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties’ rights and liabilities.⁶

III. DISCUSSION

¶6 Daily News argues that because the Court’s summary judgment decision found that “there is no genuine issue of material fact to support the claim that they acted in a tortious manner, either singly or in concert with the remaining Defendants,” the summary judgment decision should be adduced to a final judgment, which will allow Daily News to secure a judgment for attorney’s fees and costs.

² Although named as separate defendants, Plaintiffs do not allege that Davis engaged in any tortious activity distinct from the tortious activity allegedly perpetrated by Daily News Publishing Co., Inc. Because Plaintiffs have not asserted an independent basis for liability against Davis, this Memorandum Opinion analyzes Plaintiffs’ claims against Daily News Publishing Co., Inc. and Davis, together. This approach mirrors Plaintiffs’ treatment of their own claims. *See generally* Pls.’ Am. Resp. to Defs.’ Stmt. of Facts 9–46 (discussing the allegedly actionable conduct of all Defendants without differentiating between Daily News Publishing Co., Inc. and Davis).

³ Pls.’ Fourth Am. Compl.

⁴ On January 12, 2015, Redfield joined Daily News’ summary judgment motion.

⁵ *See generally* *Donastorg v. Daily News Publ’g Co. Inc.*, 63 V.I. 196 (V.I. 2015).

⁶ V.I. R. Civ. P. 54(b).

¶7 Rule 54(b)⁷ “attempts to strike a balance between the undesirability of piecemeal appeals and the need for making review available at a time that best serves the needs of the parties.”⁸ In rendering a final judgment decision, the U.S. Supreme Court has cautioned that this rule is not to be used routinely, and specifically, “the court must exercise its discretion ‘in the interests of sound judicial administration’.”⁹

¶8 When entering a decision under Rule 54(b), the court must make two findings. First, the court must make “an express determination that there was no just reason for delay, as literally required by the text of Rule 54(b).”¹⁰ Second, the Court must make a clear indication “that it was considering all the questions relevant to a Rule 54(b) determination.”¹¹ In addition, the Court must consider several non-exclusive factors in certifying a judgment as final under Rule 54(b):

(1) the relationship between the adjudicated and unadjudicated claims; (2) the possibility that the need for review might or might not be mooted by future developments in the [trial] court; (3) the possibility that the reviewing court might be obliged to consider the same issue a second time; (4) the presence or absence of a claim or counterclaim which could result in set-off against the judgment sought to be made final; (5) miscellaneous factors such as delay, economic and solvency considerations, shortening the time of trial, frivolity of competing claims, expense, and the like.¹²

¶9 The Court finds the circumstances of this case support entering the Court’s summary judgment as final pursuant to Rule 54(b). There is no just reason for delaying the entry of judgment with respect to the adjudicated claims against Daily News. In entering summary judgment, the Court stated that:

Although Plaintiffs purport to state multiple causes of action against Defendants, the Plaintiffs’ theories of liability distill into two categories. Under the first category, Donastorg alleges that a specific defendant took a specific action, which in turn harmed a specific plaintiff. As an example, Plaintiffs allege that Daily News published certain articles and editorials, thereby defaming Senator Donastorg. Under the second category, Plaintiffs allege that all Defendants in this case were acting in concert, that any Defendant’s allegedly-tortious conduct may be imputed to any or all of the other Defendants. Only once a defendant’s

⁷ The cases cited in this Opinion analyze the FED. R. CIV. P 54(b) which is identical to the V.I. R. CIV. P. 54(b).

⁸ *Devcon Intern. Corp. v. Reliance Ins. Co.*, Civ. No. 2009-136, 2007 WL 4800356, at *2 (D.V.I. Dec. 21, 2007).

⁹ *Id.* (quoting *Curtiss-Wright Corp. v. General Elec. Co.*, 446 U.S. 1, 10 (1980)).

¹⁰ *Hagley v. Hendricks*, S. Ct. Civ. No. 2007-26, 2007 WL 5060412, at *3 (V.I. Dec. 28, 2007) (unpublished).

¹¹ *Id.*

¹² *Firstbank Puerto Rico v. Webster*, Super. Ct. Civ. No. ST-12-CV-239, 2016 WL 3702773, at *4 (V.I. Super. Ct. July 1, 2016) (unpublished) (citing to *Hagley*, S. Ct. Civ. No. 2007-26, 2007 WL 5060412, at *4).

liability for its own alleged misconduct can be ascertained may that liability be imputed to the other defendants.¹³

¶10 Considering that, the Court found that Daily News was absolved of any liability under the theories of civil conspiracy, veil-piercing and reverse veil-piercing theories.¹⁴ Under the first theory, the Court found that because tortious conduct is a prerequisite for civil conspiracy, no reasonable jury could find Daily News liable. In other words, Daily News is not liable for any of the tortious conduct attributed to them, and as a result, “no reasonable jury could conclude that Daily News committed their allegedly-tortious conduct in concert with the other remaining Defendants.”¹⁵ In addition, under the second theory, this Court held that no reasonable jury could find that Daily News exercised sufficient control over VITELCO to justify holding Daily News liable for any liability that VITELCO may incur.¹⁶ Alternatively, there is no evidence that suggests VITELCO or Benta owned any portion of or occupied a position sufficient to exercise control over Daily News to also justify holding Daily News accountable for any liability that VITELCO or Benta may incur.¹⁷

¶11 Accordingly, “no appellate court would have to decide the same issues more than once even if there were subsequent appeals” since the Court found no concerted action pursuant to an alleged common design between Daily News and any of the other parties.¹⁸

¶12 In specifically applying the factors above to this case, there is no relationship between the adjudicated and unadjudicated claims. Donastorg argues that the claims and parties are interrelated because VITELCO and Daily News were used to further their former owner’s personal objectives. In addition, Donastorg argues that Benta was an agent of VITELCO and participated in the scheme.

¶13 While the factual relationship between the claims is one factor to be considered in granting a final judgment under Rule 54(b), it is not determinative.¹⁹ The Court rejected the multiple theories under which Donastorg proffers that the conduct of one defendant may be imputed upon another defendant for the purposes of establishing the liability of the second defendant.²⁰ In other words, Donastorg failed to establish that Daily News was controlled by VITELCO or Benta to subject itself to liability, or that VITELCO or Benta controlled Daily News to subject Daily News

¹³ *Donastorg*, 63 V.I. at 218-19.

¹⁴ *Id.* at 328-46.

¹⁵ *Id.* at 345.

¹⁶ *Id.* at 345-46 (“To the contrary, Plaintiffs pled that VITELCO was wholly owned by ICC during the operative periods of this lawsuit.”). Benta was not analyzed under the veil-piercing theory because Benta is an individual and not a corporate defendant.

¹⁷ *Id.*

¹⁸ *Id.*; *Devcon Intern. Corp.*, Civ. No. 2009-136, 2007 WL 4800356, at *3 (potential future appeals will not involve similar issues because summary judgment absolved claims).

¹⁹ *Cold Metal Process Co. v. United Engineering & Foundry Co.*, 76 S. Ct. 904, 909 (1956).

²⁰ *Donastorg*, 63 V.I. at 328-46.

also to any liability they may incur.²¹ The claims against Daily News are adjudicated because, not only was Daily News not found liable for its own alleged tortious conduct, but because of such, Daily News could not be found to be liable for any tortious conduct that may be attributed to the remaining claims against VITELCO and Benta.²²

¶14 Similarly, there is no possibility that the need for review is likely to be mooted by future developments in the trial court. Donastorg argues that all the Defendants are intertwined based on their business relationships. However, the remaining claims and parties different from the adjudicated claims.²³ Moreover, Donastorg's remaining claims against VITELCO and Benta are completely distinct from the claims against Daily News.²⁴ In fact, Donastorg does not assert that VITELCO published defamatory statements but, rather, that the statements were made on behalf of VITELCO.²⁵ Likewise, Donastorg alleges that Benta was used by VITELCO and others to investigate Donastorg.²⁶ Conversely, Daily News is alleged to have published the defamatory statements and invaded Donastorg's privacy.²⁷ Furthermore, this Court found that there were no concerted actions among Daily News, VITELCO and Benta that would warrant Daily News being held accountable for any liability that VITELCO and Benta may incur.²⁸

¶15 While Donastorg correctly asserts that Rule 54(b) is used to avoid unnecessary piecemeal appeals, Donastorg has offered no compelling arguments that the claims dismissed by the summary judgment decision are likely to be heard a second time. Rather, Donastorg states that the parties will seek appeals especially if VITELCO and Benta's pending summary judgment motions are decided in their favor. Furthermore, Donastorg states that "judicial efficiency will be preserved by allowing the appellate court to review this case as whole." While Donastorg asserts that this case's foundation involves claims against specific defendants, and that all defendants acted in concert, this is unfounded.²⁹ The instant case is unlike *Frederick v. Armstrong*, where the claim against two parties involved identical facts and transactions.³⁰ Here, there is no factual overlap in the remaining claims against VITELCO and Benta.³¹

²¹ *Id.* at 344-46.

²² *Id.*

²³ *Id.*

²⁴ Fourth Am. Compl. ¶¶ 12(a)-(c), 20. *See also* Pls.' Mem. of Law in Opp. to Def. VITELCO's Mot. for J. on the Pleadings Dismissing Sen. Donastorg's Defamation Claim 18-20 (arguing that Redfield made defamatory statements on VITELCO's behalf); *id.* at 26-36 (arguing that the allegedly-defamatory material published by Daily News should be attributed to VITELCO).

²⁵ *Donastorg*, 63 V.I. at 218-19 n.18.

²⁶ *Id.* n. 22-23.

²⁷ *Id.* 328-46.

²⁸ *Id.*

²⁹ *Donastorg*, 63 V.I. at 218-19.

³⁰ *Frederick v. Armstrong*, 47 V.I. 473, 482-83 (D.V.I. 2005).

³¹ *Id.* at 483. (quoting *Consolidated Rail Corp. v. Fore River Ry. Co.*, 861 F.2d 322, 326 (1st Cir.1988) (claims arising from identical facts too intertwined to justify review).

¶16 Moreover, the Court has no method to determine the possibility that the reviewing court might be obliged to consider the same issue a second time. However, in *Devcon Intern. Corp. v. Reliance Ins. Co.*, the court, in analyzing this factor, determined that since a favorable summary judgment fully removed that defendant from liability, “no possibility exists that could result in a setoff against its liability or lack thereof.”³² Similarly, here, this Court’s 2015 decision absolved Daily News from any liability – both individually or in concert with the other defendants – and therefore, the Court is inclined to reach the same conclusion on this factor as in *Devcon*.³³

¶17 The last factor considers delay, economic and solvency considerations, shortening the time of trial, frivolity of competing claims, expense, and the like. Donastorg argues that Daily News only “want to collect fees and expenses.” Such a response does not explicitly address these miscellaneous factors as to the other Defendants or Plaintiffs in this case. However, it does imply an economic consideration that actually favors Daily News – Donastorg’s claims in this case, ultimately unfounded, have resulted in drawn out, expensive litigation that has burdened Daily News.

¶18 Furthermore, Donastorg argues that Daily News failed to state any reasons that “would hinder delay, nor any economic solvency considerations.” While Daily News provides no reason that satisfies this factor, the Court notes that these factors are not exclusive.³⁴ Rather, these non-exclusive factors are not a prerequisite but are used to determine whether an entry under Rule 54(b) advances judicial administration and the equities of the parties.³⁵ While an entry of a final judgment pursuant to Rule 54(b) is not advised to accommodate counsel, the Court recognizes that aside from the \$280,000.00 in expenses, this litigation has been ongoing for eighteen years.³⁶

IV: CONCLUSION

¶19 By an 89-page Memorandum Opinion and Order entered August 19, 2015, the Court granted summary judgment to Daily News on each claim, finding that no reasonable jury could find in Donastorg’s favor against Daily News. Because of this, Daily News could not be held liable for any liability the remaining Defendants VITELCO and Benta may incur. Since there are no outstanding claims against Daily News, the Court finds that there is no just reason for delay. In addition, the adjudicated claims are distinct from the remaining parties and the claims against them.

³² *Devcon Intern. Corp.*, Civ. No. 2009-136, 2007 WL 4800356, at *3.

³³ *Id.*

³⁴ *Armstrong*, 47 V.I. at 482.

³⁵ *Id.*

³⁶ *Braswell Shipyards, Inc.*, 2 F.3d 1335-6 (quoting *Morrison-Knudsen Co. v. Archer*, 655 F.2d 962, 965 (9th Cir.1981) (“Judgments under Rule 54(b) must be reserved for the unusual case in which the costs and risks of multiplying the number of proceedings and overcrowding the appellate docket are outbalanced by pressing needs of the litigants for an early and separate judgment as to some claims or parties.”)).

¶20 Thus, the Court finds the entry of final judgment on the claims between Donastorg and Daily News to be in the interest of sound judicial administration. Accordingly, the Motion to Enter Final Judgment for Defendants Daily News Publishing Company, Inc. and J. Lowe Davis, filed February 7, 2018, will be granted. A judgment consistent with this Memorandum Opinion follows.

DATED: January 7, 2021



DENISE M. FRANCOIS
Judge of the Superior Court
of the Virgin Islands

ATTEST:

TAMARA CHARLES
Clerk of the Court

By: 
for **LORI BOYNES**
Chief Deputy Clerk 1/7/2021

FILED

July 18, 2022 08:21 AM
SCT-Civ-2021-0001
VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

FILED

January 07, 2021
ST-2002-CV-00117
TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
District of St. Thomas/St. John

SENATOR ADLAH DONASTORG, JR. et al, Case Number: **ST-2002-CV-00117**
Action: **Damages**
Plaintiffs
v.
DAILY NEWS PUBLISHING CO., INC.
et al,
Defendants.

NOTICE of ENTRY
of
MEMORANDUM OPINION AND
JUDGMENT

TO: LEE J. ROHN, ESQUIRE
KEVIN A. RAMES, ESQUIRE
MARK W. ECKARD, ESQUIRE
JOEL H. HOLT, ESQUIRE
MICHAEL A. JOSEPH, ESQUIRE
JUDGES & MAGISTRATES SUPERIOR COURT
INFORMATION TECHNOLOGY DIVISION SUPERIOR COURT
LAW LIBRARIAN
ORDER BOOK

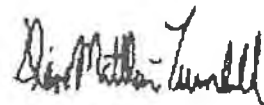
Please take notice that on January 07, 2021
a(n) MEMORANDUM OPINION AND JUDGMENT
dated JANUARY 7, 2021 was/were entered
by the Clerk in the above-titled matter.

Dated January 07, 2021

Tamara Charles

Clerk of the Court

By:



Diane Matthew-Turnbull
Court Clerk II

JA000225

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

SENATOR ADLAH DONASTORG, Jr.,	)	Case No.: ST-2002-CV-00117
BENEDICTA DONASTORG, ADLAH)	
DONASTORG, Sr., JOSEFINA)	
DONASTORG, ELLA MORON and	)	ACTION FOR DAMAGES
NORMA DURAN,)	
)	
	)	JURY TRIAL DEMANDED
Plaintiffs,)	
v.)	
)	
DAILY NEWS PUBLISHING CO. INC.,)	
LOWE DAVIS, HOLLAND "DYKE")	
REDFIELD, VITELCO, and OAKLAND)	
BENTA,)	
)	
)	
Defendants.)	

FINAL JUDGMENT AS TO DEFENDANTS DAILY NEWS PUBLISHING
COMPANY, INC. AND J. LOWE DAVIS

AND NOW, consistent with this Court's Memorandum Opinion entered on even date, it is hereby

ORDERED that the Motion to Enter Final Judgment for Defendants Daily News Publishing Company, Inc. and J. Lowe Davis, filed February 7, 2018, is GRANTED; and it is further

ORDERED, ADJUDGED AND DECREED that final judgment is entered against the Plaintiffs and in favor of Defendants Daily News Publishing Company, Inc. and J. Lowe Davis with respect to this Court's Memorandum Opinion and accompanying Order entered on August 19, 2015, which dismissed with prejudice Counts One, Two, Three and Four of Plaintiffs' Fourth Amended Complaint as to Defendants Daily News Publishing Company, Inc. and J. Lowe Davis; and it is further

Donastorg et al. v. Daily News Publishing Co. Inc. et al.

Case No. ST-2002-CV-00117

Final Judgment as to Defendants Daily News Publishing Company, Inc. and J. Lowe Davis

Page 2 of 2

ORDERED that a copy of this Final Judgment as to Defendants Daily News Publishing Company, Inc. and J. Lowe Davis and accompanying Memorandum Opinion shall be directed to counsel of record.

DATED: January 7, 2021

De M. Francois

DENISE M. FRANCOIS

Judge of the Superior Court of the Virgin Islands

ATTEST:

TAMARA CHARLES

Clerk of the Court

By: *Lori M. Boynes*
for **LORI BOYNES**
Chief Deputy Clerk 11/7/2021

JA000227

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

SENATOR ADLAH DONASTORG, Jr.,
BENEDICTA DONASTORG, ADLAH
DONASTORG, Sr., JOSEFINA
DONASTORG, ELLA MORON and
NORMA DURAN,

Plaintiffs,

v.

DAILY NEWS PUBLISHING CO. INC.,
LOWE DAVIS, HOLLAND "DYKE"
REDFIELD VITELCO and OAKLAND
BENTA,

Defendants.

CIVIL NO. 117/2002

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

FOURTH AMENDED COMPLAINT

COMES NOW the Plaintiffs, SENATOR, ADLAH DONASTORG, Jr., BENEDICTA DONASTORG, ADLAH DONASTORG, Sr., JOSEFINA DONASTORG, EDWIN CALLWOOD, ELLA MORON AND NORMA DURAN by and through undersigned counsel, and for their complaint against the Defendants, DAILY NEWS PUBLISHING COMPANY, INC., INNOVATIVE COMMUNICATION CORPORATION, JEFFREY PROSSER, LOWE DAVIS, HOLLAND "DYKE" REDFIELD, VITELCO and OAKLAND BENTA alleges and states as follows:

1. This Court has jurisdiction of the subject matter pursuant to 4 V.I.C. § 76.
2. Plaintiffs Senator, Adlah Donastorg, Jr., and Benedicta Donastorg are husband and wife and citizens of the United States Virgin Islands.

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3. Plaintiffs Adlah Donastorg, Sr. and Josefina Donastorg are husband and wife, are citizens of the United States Virgin Islands and are the parents of Adlah Donastorg, Jr.
4. Plaintiffs, Ella Moron and Norma Duran are sisters of Adlah Donastorg, Jr. and are citizens of the United States Virgin Islands.
5. Defendant, The Daily News Publishing Company is a company that was wholly owned by Innovative Communication Corporation (ICC) which was wholly owned by Jeffrey Prosser and is a Virgin Islands corporation.
6. Defendant, Oakland Benta is a citizen of the United States Virgin Islands.
7. Defendant, Lowe Davis is the Executive Editor and Chief Executive Officer to the Daily News and is a resident of the United States Virgin Islands.
8. Defendant, Holland "Dyke" Redfield is a citizen of the Virgin Islands and was an executive of ICC and its related companies and made public statements on behalf of Vitelco and the Daily News.
9. Defendant, VITELCO, is a Virgin Islands Corporation.
10. The Daily News on its own and through the actions and omissions of the Defendants herein, have set out a concerted effort to slander, defame and cast in a bad light Senator Donastorg.
11. The motivation for the attempts to and actual slander of Plaintiff Senator Donastorg is the fact that he has diligently sought to have another ICC owned company, VITELCO audited, its rates reduced and its IDC benefits withdrawn and other adverse acts and statements against Defendants .

12. In retaliation for those efforts and in an effort to attempt to pressure Senator Donastorg to cease those efforts, the Defendants have engaged in the following tortuous activity:
 - a. Davis and the Daily News on their own and on behalf of Vitelco have offered reporters bonuses if the recipients would write derogatory stories about Senator Donastorg, with no requirement that the stories actually be truthful.
 - b. On June 12, 2001, Davis and the Daily News on their own and on behalf of Vitelco printed a false story that Senator Donastorg voted against his own bill to reduce the size of the Legislature.
 - c. Davis and the Daily News on their own and on behalf of Vitelco refused to properly retract the false story even when Defendants other than Benta knew the story was false.
 - d. Threatening to run personal stories about Senator Donastorg unless "a positive working relationship" can be obtained by Davis, Daily News and Vitelco.
 - e. Writing derogatory editorials that contained false facts and were written for the purpose of having the public regard Senator Donastorg in a bad light, including but not limited to, calling him a "Rogue Senator" having a motivation to get attention rather than a concern for public good for his actions as a Legislator obtained by Defendants Davis, Daily News and Vitelco.

- f. Requiring reporters and employees to constantly be on the look out for negative stories about Senator Donastorg to be published and selectively targeting Senator Donastorg for negative stories while directing that stories of similar conduct by pro senators not be reported obtained by Davis, Daily News and Vitelco.
- g. Slanting news stories associated with Senator Donastorg in a negative light so as to discredit Senator Donastorg, as such, writing false facts on the story of November 1, 2000, regarding the St. Croix Foundation. Despite receiving information that the facts were false, refused to correct the story and other false stories obtained by Defendants Davis, Daily News and Vitelco.
- h. Making derogatory statements to third person about Senator Donastorg, to include but not be limited to, falsely accusing him of covering up an arrest that in reality never occurred, that he was a fiscally irresponsible person, that he had ulterior motives for wanting VITELCO audited that he was taking bribes and requesting bribes that he had questionably sexual tendencies and similar personal attacks and it is believed that other derogatory and untruthful statements were made obtained by all Defendants Davis, and the Daily News.
- i. The Defendants ignored and failed to adhere to established policies and procedures to safe guard against untrue and biased stories in its efforts to print defamatory, negative stories against the Plaintiffs.

13. In January 2002, Defendants Daily News, Davis and Vitelco caused to be published a "News Story" that Plaintiffs Senator Donastorg and Benedicta Donastorg were behind on their mortgage payments and were being foreclosed. This story was written before the foreclosure law suit had even been served on said Plaintiffs and upon information, before the suit had been filed. Upon information, Defendants unduly investigated this matter and printed the story although it was against the newspaper's policy, solely in furtherance of their conspiracy to defame and discredit Senator Donastorg.
14. Defendants had a related ICC company, VITELCO send letters to its employees and employees of other ICC companies, including the Daily News, encouraging them to vote against Senator Donastorg in violation of their voting rights.
15. Reporters of the Daily News were sent to intimidate Senator Donastorg that he "had to be careful" and advised him to discontinue his attacks on VITELCO.
16. Defendants had an employee of ICC contact Senator Donastorg and offer to build a library in his name or take what ever other actions or remuneration he wished, in exchange for him not criticizing VITELCO or other ICC related companies.
17. In September 2002, Plaintiff Senator Donastorg learned that Defendants other than Benta had caused an in-depth, evasive, months long investigation into Plaintiff, his wife, his mother, his sisters and brothers, his

friends and neighbors to be conducted. That investigation went so far as to get information as to his bank account records and balances. Plaintiffs in 2009 learned of Benta's conspiracy and involvement in that activity.

18. The purpose of that investigation was to attempt to intimidate Plaintiffs and to attempt to find "dirt" on Senator Donastorg to use to convince him to stop attempting to get justice for the people of the Virgin Islands against Defendants.
19. When Plaintiff Senator Donastorg discovered the investigations, Defendants in an attempt to cover up for their own reprehensible behavior and activity and those of their Co-Defendants then further slandered and defamed him to include accusing him of taking bribes, falsely claiming that the investigation was as a result of attempting to substantiate those claims when the investigation documents contain no such investigation, falsely claiming that Senator Donastorg flew on a private AT&T plane to the St. Lucia Jazz Festival, falsely stating that Senator Donastorg sets out to slander businesses.
20. Defendant, Holland "Dyke" Redfield, on his own and as an officer of ICC made statements on behalf of Vitelco then went on the radio as well as speaking to others in the public making and knowingly repeated these false accusations, as set out in paragraph 21, for the purpose and intent to defame and slander and attempt to ruin the reputation of Senator Donastorg. Redfield has stated under oath that he received that false

information from Oakland Benta to be then repeated publicly. Redfield revealed Benta's involvement for the first time in 2009.

21. Oakland Benta made those false and slanderous statements not only to Redfield but also on his own and for Defendants made such false statements to members of the public and other employees of Defendants from the time of the disclosure to the present as well as other derogatory statements about Senator Donastorg.
22. Defendant, VITELCO, a public service corporation used rate payers funds to fund the investigation against Senator Donastorg's family and upon information and belief has paid for other such investigations out of rate payer funds as well as financing political candidates and spending money to defeat Plaintiff Senator Donastorg politically.
23. Plaintiffs Benedicta Donastorg, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron and Norma Duran, as a result of their association with Senator Donastorg, were themselves subjected to personal investigations into their private lives and actions, by Defendants Daily News, and VITELCO and Benta.

Count I

24. Plaintiff Senator Donastorg repeat and re-allege the allegations contained in paragraphs 1-23 as through more fully set forth herein;
25. The actions of the Defendants constitute defamation, slander, libel and constitute a conspiracy to discredit Senator Donastorg's reputation in the community and as such, constitute defamation per se by Defendants.

26. As a result, Senator Donastorg has suffered loss of reputation, humiliation, mental anguish, loss of income, loss of capacity to earn income, physical injuries, medical expenses, pain and suffering all of which is expected to continue into the foreseeable future and has had to expend funds to attempt to correct the attempts to damage his reputation.

Count II

27. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1-26 as through more fully set forth herein;
28. The actions constitute a concerted effort to harass and discredit Plaintiffs and to interfere with their business relationships.
29. As a result, Plaintiffs have suffered embarrassment, detrimental damage to their business relationships, loss of reputation, mental anguish, and suffering.

Count III

30. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1-29 as through more fully set forth herein;
31. The actions of the Defendants constitute intentional infliction of emotional distress.
32. If not intentional then they constitute negligent infliction of emotional distress.
33. As a result, Plaintiffs have suffered physical injuries, mental and physical anguish, emotional distress, suffering and loss of enjoyment of life.

Count IV

34. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1-33 as through more fully set forth herein;
35. The actions of Defendants constitute invasion of privacy.
36. As a result Plaintiffs have suffered damages as set out herein.

Count V

37. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1-36 as through more fully set forth herein.
38. The actions of Defendants are so reprehensible, so outrageous, were done with such reckless disregard as to the rights and interest of the Plaintiffs as to entitle them to an award of punitive damages.

WHEREFORE, Plaintiffs pray for damages as they may appear, an injunction prohibiting defendants from purposefully slandering the Plaintiffs in the future, costs and fees and such other relief as this Court deems fair and just.

RESPECTFULLY SUBMITTED,

LAW OFFICES OF ROHN AND CARPENTER, LLC
Attorneys for Plaintiff

DATED: March 31, 2009

BY: 

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JA000236

**SUPERIOR COURT OF THE VIRGIN ISLAND
DIVISION OF ST. THOMAS AND ST, JOHN**

SENATOR ADLAH DONASTORG, JR.,
DENEDICATA DONASTORG, ADLAH
DONASTORG, SR., JOSEFINA
DONASTORG, ELLA MORON, and
NORMA DURAN,

Plaintiffs

v.

DAILY NEWS PUBLISHING CO., INC.,
LOWE DAVIS, HOLLAND "DYKE"
REDFIELD, VITELCO and
OAKLAND BENTA,

Defendants

CIVIL NO. 117/2002

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

**DEFENDANTS DAILY NEWS PUBLISHING CO., INC.,
AND LOWE DAVIS'S ANSWER TO FOURTH AMENDED COMPLAINT**

COME NOW the Defendants DAILY NEWS PUBLISHING CO., INC. and LOWE DAVIS (hereinafter "Defendants") by and through counsel, and for their Answer to the Fourth Amended Complaint of the Plaintiffs state as follows:

1. Paragraph One of Plaintiffs' First Amended Complaint constitutes a legal conclusion for which no response is required. Notwithstanding this, Defendants affirmatively states that they are within the *in personam* jurisdiction of this Court.
2. Defendants are without sufficient information to admit or to deny the citizenship or marital status of the Plaintiffs, leaving Plaintiffs to their proof thereof.
3. Defendants are without sufficient information to admit or to deny the citizenship, offspring or marital status of the Plaintiffs, leaving Plaintiffs to their proof thereof.
4. Defendants are without sufficient information to admit or to deny the citizenship or sibling

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status of the Plaintiffs, leaving Plaintiffs to their proof thereof.

5. Denied, except to admit that the Daily News Publishing Co., Inc. ("the Daily News") is a Virgin Islands corporation, and that at the time the Fourth Amended Complaint was filed (March 31, 2009) it was a wholly-owned subsidiary of Time-Shamrock Communications of Scranton, Pennsylvania.

6. Defendants are without sufficient information to admit or to deny the citizenship of Oakland Benta, leaving Plaintiffs to their proof thereof.

7. Admitted.

8. Defendants are without sufficient information to admit or to deny the representations regarding Holland "dyke" Redfield, leaving Plaintiffs to their proof thereof.

9. Admitted.

10. To the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.

11. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.

12. Defendants deny the entirety of this paragraph, including but not limited to having engaged in any "tortuous (sic) activity" and more specifically denies the subparagraphs as follows:

- a. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.
- b. To the extent the extent that this paragraph alleges any acts by Defendants or any

participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.

- c. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.
- d. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.
- e. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.
- f. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.
- g. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.
- h. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.
- i. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.

13. Defendants acknowledge that on or about February 6, 2002, these Defendants published a news article that referenced the filing of a foreclosure action by FirstBank Puerto Rico against Adlah F. Donastorg, Jr. and Benedicta Acosta-Donastorg. The remaining allegations in this paragraph are denied.

14. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments

in this paragraph, such averments are denied.

15. Denied.

16. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.

17. Defendants is without sufficient information to admit or to deny what Plaintiff learned or when he allegedly learned it, however to the extent the extent that this paragraph alleges any acts by Defendant or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.

18. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.

19. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.

20. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.

21. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.

22. To the extent the extent that this paragraph alleges any acts by Defendants or any

participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.

23. To the extent the extent that this paragraph alleges any acts by Defendants or any participation whatsoever by Defendants, whether directly or vicariously, with regard to the averments in this paragraph, such averments are denied.

24. Defendants repeats and realleges its answers to Paragraphs 1 through 23 of the Fourth Amended Complaint.

25. Denied.

26. Denied.

27. Defendants repeat and reallege its answers to Paragraphs 1 through 26 of the Fourth Amended Complaint as though fully set forth here.

28. Denied.

29. Denied.

30. Defendants repeats and realleges its answers to Paragraphs 1 through 29 of the Fourth Amended Complaint as though fully set forth here.

31. ~~Denied.~~

32. Denied.

33. Denied.

34. Defendants repeats and realleges its answers to Paragraphs 1 through 33 of the of the Fourth Amended Complaint as though fully set forth here.

35. Denied.

36. Denied.

37. Defendants repeats and realleges its answers to Paragraphs 1 through 36 of the Fourth Amended Complaint as though fully set forth here.

38. Denied.

AFFIRMATIVE DEFENSES

1. Plaintiffs' Fourth Amended Complaint demands the unlawful prior restraint of a newspaper in derogation of the First Amendment of the Constitution of the United States of America.
2. Plaintiffs' Fourth Amended Complaint fails to state claims upon which relief can be granted.
3. Plaintiffs' Fourth Amended Complaint is barred, in whole or in part, by the Statute of Limitations.
4. Any damages sustained by Plaintiffs were not proximately caused by the Defendants generally, or Defendants in particular.
5. Senator Donastorg is a public official and a public figure. Benedicta Donastorg is a public figure as the wife of a senator of the U.S. Virgin Islands generally and as Senator Donastorg's wife in particular.
6. All published statements averred to in the Fourth Amended Complaint were either true, non-defamatory, or made without malice, as that term has been defined by the courts in cases involving defamation.
7. One or more of the published statements averred to in the Fourth Amended Complaint were opinions, opinion commentary, or editorial expressions.
8. The determination of what articles to publish in the Virgin Islands Daily News, what articles to pursue for publication and how to write those articles are editorial functions and decisions, protected by the First Amendment to the U.S. Constitution.

9. The fourth Amended Complaint fails to allege a cause of action against Defendants, in that it fails to allege any acts by Defendants or publication of statements by Defendants to third parties.
10. Benedicta Donastorg, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron and Norma Duran have not alleged any false statements about them were published by Defendants generally or Defendants in particular, and therefore they has failed to allege a claim for defamation.
11. Benedicta Donastorg, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron and Norma Duran have not alleged any business relationships that they claim were interfered with by Defendants generally or Defendants in particular, and therefore they have failed to allege claims for interference with business relationships.
12. The Fourth Amended Complaint fails to allege a cause of action against Defendants in that Plaintiffs have failed to allege any acts by Defendants with regard to the Sheraw investigation of Senator Donastorg, his family or friends.
13. The Fourth Amended Complaint fails to allege a cause of action against Defendants in that Plaintiffs have failed to allege any acts by Defendants with regard to hiring Dennis Sheraw and Associates to perform any investigation of Senator Donastorg, his family or friends.
14. ~~Neither of the Defendants ever published information from the Sheraw investigation files regarding Senator Donastorg, his family or friends to any third party, thus no cause of action for defamation has been pleaded or can be proven.~~
15. Defendants complied with all applicable Territorial and Federal laws
16. Senator Donastorg's claims are barred by the equitable doctrine of unclean hands.
17. The Fourth Amended Complaint fails to allege a cause of action against Defendants in that Plaintiffs Benedicta Donastorg, Adlah Donastorg Sr., Josefina Donastorg, Ella Moron, and Norma

Duran have alleged no acts by these Defendants.

WHEREFORE, Defendants respectfully request that this Fourth Amended Complaint be dismissed with prejudice and that Defendants be awarded all costs, including reasonable attorney's fees, incurred by Defendants in defending against this action, and such further relief as this Honorable Court deems just and proper.

Respectfully Submitted,



Dated: October 28, 2014

By:

Kevin A. Rames
K. A. Rames, P.C.
Attorney for Defendants
2111 Company Street, Suite 3
Christiansted, VI 00820
Telephone: (340) 773-7284
Facsimile: (340) 773-7282

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of October, 2014, I caused a true and correct copy of the foregoing **Answer to Fourth Amended Complaint** to be served upon the following:

Lee J. Rohn, Esq. Law Offices of Rohn and Carpenter, LLC 1101 King Street Christiansted, VI 00820 <i>Counsel for the Plaintiffs</i>	Marc W. Eckard, Esq. P.O. Box 24849 Christiansted, V.I. 00824 <i>Counsel for Virgin Island Telephone Corporation</i>
Oakland Benta P.O. Box 3388 Frederiksted, St. Croix U.S. Virgin Islands 00841 <i>Pro se</i>	Joel H. Holt, Esq Law Offices of Joel H. Holt 2132 Company Street, Christiansted St. Croix, U.S. Virgin Islands 00820 <i>Counsel for Holland "Dyke" Redfield</i>



KEVIN A. RAMES, ESQ.

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

SENATOR ADLAH DONASTORG, JR.)	
BENEDICTA DONASTORG, ADLAH)	
DONASTORG, SR. JOSEFINA)	
DONASTORG, ELLA MORON and)	
NORMA DURAN,)	
)	
Plaintiffs,	)	CIVIL NO. ST-2002-CV-117
v.)	
)	
DAILY NEWS PUBLISHING CO, INC.	)	ACTION FOR DAMAGES
LOWE DAVIS, HOLLAND "DYKE" REDFIELD)	
VITELCO, AND OAKLAND BENTA)	
	)	JURY TRIAL DEMANDED
)	
Defendant.)	
_____)	

ANSWER TO FOURTH AMENDED COMPLAINT

Comes now the defendant, Holland Redfield, by counsel and answers the fourth amended complaint as follows:

1. Admit.
2. Admit
3. Admit
4. Admit
5. Admit
6. Admit
7. Admit
8. Admit
9. Admit
10. Deny

Answer to Fourth Amended Complaint
Page 2

11. Deny

12. Deny

13. Deny

14. Deny

15. Deny

16. Deny

17. Deny

18. Deny

19. Deny

20. Deny

21. Deny

22. Deny

23. Deny

24. As Alleged

25. Deny

26. Deny

27. As Alleged

28. Deny

29. Deny

30. As Alleged

31. Deny

32. Deny

33. Deny

34. As Alleged

35. Deny

36. Deny

37. Deny

38. Deny

AFFIRMATIVE DEFENSES


1. Plaintiffs' Fourth Amended Complaint fails to state claims upon which relief can be granted,
2. Plaintiffs' Fourth Amended Complaint is barred, in whole or in part, by the Statute of Limitations,
3. Any damages sustained by Plaintiffs were not proximately caused by the Defendants generally, or Defendants in particular.
4. Senator Donastorg is a public official and a public figure, Benedicta Donastorg is a public figure as the wife of a senator of the U. S, Virgin Islands generally and as Senator Donastorg's wife in particular.
5. All published statements averred to in the Fourth Amended Complaint were either true, non-defamatory or made without malice, as the term has been defined by the court in cases involving defamation.
6. One or more of the published statements averred to in the Fourth Amended Complaint were opinions, opinion commentary, or editorial expressions.
7. The fourth Amended Complaint fails to allege a cause of action against Defendants, in that it fails to allege any acts by Defendants or publication of statements by Defendants to third parties.

8. Benedicta Donastorg, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron and Norma Duran have not alleged any false statements about them were published by Defendants generally or Defendants in particular, and therefore they have failed to allege a claim for defamation.
9. Benedicta Donastorg, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron and Norma Duran have not alleged any business relationships that they claim were interfered with by Defendants generally or Defendants in particular, and therefore they have failed to allege claims for interference with business relationships.
10. The Fourth Amended Complaint fails to allege a cause of action against Defendants in that Plaintiffs have failed to allege any acts by Defendants with regard to the Sheraw investigation of Senator Donastorg, his family or friends.
11. The Fourth Amended Complaint fails to allege a cause of action against Defendants in that Plaintiffs have failed to allege any acts by Defendants with regard to hiring Dennis Sheraw and Associates to perform any investigation of Senator Donastorg, his family or friends.
12. Neither of the Defendants ever published information from the Sheraw investigation files regarding Senator Donastorg, his family or friends to any third party, thus no cause of action for defamation has been pleaded or can be proven.
13. Defendants complied with all applicable Territorial and Federal laws
14. Senator Donastorg's claims are barred by the equitable doctrine of unclean hands.

15. The Fourth Amended Complaint fails to allege a cause of action against Defendants in that Plaintiffs Benedicta Donastorg, Adlah Donastorg Sr., Josefina Donastorg, Ella Moron, and Norma Dutan have alleged no acts by these Defendants.

WHEREFORE, Defendants respectfully request that this Fourth Amended Complaint be dismissed with prejudice and that Defendants be awarded all costs, including reasonable attorney's fees, incurred by Defendants in defending against this action, and such further relief as this Honorable Court deems just and proper,

Dated: November 13, 2014



Joel H. Holt
2132 Company Street
Christiansted, VI 00820
(340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that on this November 13, 2014, I caused a true and exact copy of the foregoing to be hand delivered to:

Lee J. Rohn, Esq.
1101 King Street
Christiansted, VI 00820

Kevin Rames, Esq.
2111 Company Street, Suite 3
Christiansted, VI 00822

Oakland Benta
P.O. Box 3388
Frederiksted, VI 00841

Mark W. Eckard, Esquire
P.O. Box 24849
Christiansted, VI 00824



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

SENATOR ADLAH DONASTORG, JR.)	
BENEDICTA DONASTORG, ADLAH)	
DONASTORG, SR. JOSEFINA)	
DONASTORG, ELLA MORON and)	
NORMA DURAN,)	
)	
Plaintiffs,	)	CIVIL NO. ST-2002-CV-117
v.)	
)	
DAILY NEWS PUBLISHING CO, INC.	)	ACTION FOR DAMAGES
LOWE DAVIS, HOLLAND "DYKE" REDFIELD)	
VITELCO, AND OAKLAND BENTA	)	JURY TRIAL DEMANDED
)	
Defendants.)	
)	

ANSWER TO FOURTH AMENDED COMPLAINT

Comes now the defendant, Oakland Benta, *pro se*, and answers the fourth amended complaint as follows:

1. Admit.
2. Admit
3. Admit
4. Admit
5. Admit
6. Admit
7. Admit
8. Admit
9. Admit
10. Deny

11. Deny
12. Deny
13. Deny
14. Deny
15. Deny
16. Deny
17. Deny
18. Deny
19. Deny
20. Deny
21. Deny
22. Deny
23. Deny
24. As Alleged
25. Deny
26. Deny
27. As Alleged
28. Deny
29. Deny
30. As Alleged
31. Deny
32. Deny
33. Deny

34. As Alleged

35. Deny

36. Deny

37. Deny

38. Deny

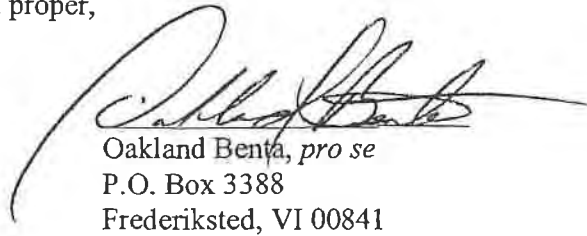
AFFIRMATIVE DEFENSES

1. Plaintiffs' Fourth Amended Complaint fails to state claims upon which relief can be granted,
2. Plaintiffs' Fourth Amended Complaint is barred, in whole or in part, by the Statute of Limitations,
3. Any damages sustained by Plaintiffs were not proximately caused by the Defendants generally, or Defendants in particular.
4. Senator Donastorg is a public official and a public figure, Benedicta Donastorg is a public figure as the wife of a senator of the U. S, Virgin Islands generally and as Senator Donastorg's wife in particular.
5. All published statements averred to in the Fourth Amended Complaint were either true, non-defamatory or made without malice, as the term has been defined by the court in cases involving defamation.
6. One or more of the published statements averred to in the Fourth Amended Complaint were opinions, opinion commentary, or editorial expressions.
7. The fourth Amended Complaint fails to allege a cause of action against Defendants, in that it fails to allege any acts by Defendants or publication of statements by Defendants to third parties.

8. Benedicta Donastorg, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron and Norma Duran have not alleged any false statements about them were published by Defendants generally or Defendants in particular, and therefore they have failed to allege a claim for defamation.
9. Benedicta Donastorg, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron and Norma Duran have not alleged any business relationships that they claim were interfered with by Defendants generally or Defendants in particular, and therefore they have failed to allege claims for interference with business relationships.
10. The Fourth Amended Complaint fails to allege a cause of action against Defendants in that Plaintiffs have failed to allege any acts by Defendants with regard to the Sheraw investigation of Senator Donastorg, his family or friends.
11. The Fourth Amended Complaint fails to allege a cause of action against Defendants in that Plaintiffs have failed to allege any acts by Defendants with regard to hiring Dennis Sheraw and Associates to perform any investigation of Senator Donastorg, his family or friends.
12. Neither of the Defendants ever published information from the Sheraw investigation files regarding Senator Donastorg, his family or friends to any third party, thus no cause of action for defamation has been pleaded or can be proven.
13. Defendant complied with all applicable Territorial and Federal laws.
14. Senator Donastorg's claims are barred by the equitable doctrine of unclean hands.
15. The Fourth Amended Complaint fails to allege a cause of action against Defendant in that Plaintiffs Benedicta Donastorg, Adlah Donastorg Sr., Josefina Donastorg, Ella Moron, and Norma Dutan have alleged no acts by these Defendants.

WHEREFORE, Defendants respectfully request that this Fourth Amended Complaint be dismissed with prejudice and that Defendant be awarded all costs, including reasonable attorney's fees, incurred by Defendant in defending against this action, and such further relief as this Honorable Court deems just and proper,

Dated: June 26, 2015



Oakland Benta, *pro se*
P.O. Box 3388
Frederiksted, VI 00841

CERTIFICATE OF SERVICE

I hereby certify that on this June 26, 2015, I caused a true and exact copy of the foregoing to be mailed:

Lee J. Rohn, Esq.
1101 King Street
Christiansted, VI 00820

Joel H. Holt
2132 Company Street
Christiansted, VI 00820

Kevin Rames, Esq.
2111 Company Street, Suite 3
Christiansted, VI 00822

Mark W. Eckard, Esquire
P.O. Box 24849
Christiansted, VI 00824



IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

FEB 8 2018

NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION

I. Caption of case including proper division:

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

SENATOR ADLAH DONASTORG, JR.; BENEDICTA DONASTORG; ADLAH DONASTORG, SR.; JOSEFINA DONASTORG, ELLA MORON and NORMA DURAN, Plaintiffs, vs. DAILY NEWS PUBLISHING CO., INC.; LOWE DAVIS; HOLLAND "DYKE" REDFIELD; VITELCO and OAKLAND BENTA Defendants.	CASE NO.: SX-02-CV-117 ACTION FOR DAMAGES
---	--

Description of Document:

- I. Motion to Enter Final Judgment for Defendants Daily News Publishing Company, Inc. and J. Lowe Davis
- II. Certification of mailing or delivery to each of the following:

<u>Name of Attorney</u>	<u>Type of Service</u>	<u>Date of Service</u>
Rhea Lawrence, Esq.	Email and First Class Mail	February 7, 2018
Joel H. Holt, Esq.	Email and First Class Mail	February 7, 2018
Mark Eckard, Esq.	Email and First Class Mail	February 7, 2018

Dated: February 7, 2018



Signature of Counsel

JA000256

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DISTRICT OF ST. THOMAS & ST. JOHN**

SENATOR ADLAH DONASTORG, JR.;)	
BENEDICTA DONASTORG; ADLAH)	
DONASTORG, SR.; JOSEFINA	)	CASE NO.: SX-02-CV-117
DONASTORG, ELLA MORON and)	
NORMA DURAN,)	
	)	ACTION FOR DAMAGES
Plaintiffs,)	
)	
vs.)	
)	
DAILY NEWS PUBLISHING CO., INC.;)	
LOWE DAVIS; HOLLAND "DYKE")	
REDFIELD; VITELCO and OAKLAND)	
BENTA)	
)	
Defendants.)	

MOTION TO ENTER FINAL JUDGMENT FOR DEFENDANTS
DAILY NEWS PUBLISHING COMPANY, INC. AND J. LOWE DAVIS

COME NOW the Defendants, The Daily News Publishing Company, Inc., and Lowe Davis ("Defendants") by and through their undersigned counsel, The Law Offices of K. A. Rames, P.C., and moves this honorable Court to enter final judgment for them and against Plaintiffs in this cause pursuant to Rule 54(b) of the Virgin Islands Rules of Civil Procedure.

Rule 54(b) of the Virgin Islands Rules of Civil Procedure states as follows:

(b) Judgment on Multiple Claims or Involving Multiple Parties. When an action presents more than one claim for relief - whether as a claim, counterclaim, crossclaim, or third-party claim - or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.

The Local Rule is a restatement of the corollary Rule 54(b) of the Federal Rule of Civil Procedure.

This case has two categories of claims: The first is specific claims against specific Defendants. The second attempts to link all Defendants in a series of concerted, tortious actions. With respect to The Daily News and J. Lowe Davis, this Court found for them and against all Plaintiffs, on Summary Judgment, as to all claims in both categories.

This Court has found that, as to The Daily News and J. Lowe Davis, there is no genuine issue of material fact to support the claim that they acted in a tortious manner, either singly or in concert with the remaining Defendants, to the detriment of the Plaintiffs.

This August 19, 2015 decision brought to an end thirteen years of litigation and the expenditure of over Two Hundred Eighty Thousand Dollars in attorneys' fees and costs. However, this litigation continues, because this matter has not been resolved as to Defendants Virgin Islands Telephone Corporation (Vitelco) and Oakland Benta.

The decision on Summary Judgment absolving The Daily News and J. Lowe Davis of any liability should be reduced to a final Judgment, so that this litigation can end as to them, allowing them to secure a Judgment for attorney's fees and costs and thereby to recover as much of the resources that were invested in this case as this Court will allow.

Prior to the adoption of the Virgin Islands Rules of Civil Procedure, the Supreme Court in *Hagley v. Hendricks*, 2007 WL 5060412, at *1 (V.I. Dec. 28, 2007)¹ applied the following five factors in determining whether a decision as to some, but not all Defendants should be reduced to

¹ The Supreme Court in *Stiles v. Yob* 2016 WL 3211244 (V.I. June 8, 2016) abrogated *Hagley* on the basis that Appellant applied FRCP 54(b) through the disfavored use of Superior Court Rule 7. However, with the adoption of the Virgin Islands Rules of Civil Procedure, in which VI Civ. Pro 54(b) mirrors FRCP 54(b), the logic of *Hagley* applies.

a final Judgment. In adopting reasoning from the Third Circuit Court of Appeals, the *Hagley* Court explained that:

“...[T]he Third Circuit Court of Appeals has set forth several factors that courts should consider when assessing the propriety of certifying a judgment as final under Rule 54(b): (1) the relationship between the adjudicated and unadjudicated claims; (2) the possibility that the need for review might or might not be mooted by future developments in the [trial] court; (3) the possibility that the reviewing court might be obliged to consider the same issue a second time; (4) the presence or absence of a claim or counterclaim which could result in set-off against the judgment sought to be made final; (5) miscellaneous factors such as delay, economic and solvency considerations, shortening the time of trial, frivolity of competing claims, expense, and the like.

As to the first factor, there is no relationship between the adjudicated and the unadjudicated claims. This Court determined that there was no concerted action, no grand conspiracy between these Defendants on the one hand and Vitelco or Oakland Benta on the other. The claims are separate and those as to The Daily News and J. Lowe Davis have been fully adjudicated. The second factor is whether or not developments in the trial court may moot the need for review. This is clearly not the case. Whatever happens with Vitelco and Oakland Benta will have no effect whatsoever on whether or not the Plaintiff chooses to appeal the decision as to The Daily News and J. Lowe Davis. The third factor is whether the reviewing Court will be required to consider the same issue a second time. The answer is clearly no. The claims against The Daily News and J. Lowe Davis were based on a series of newspaper articles over a period of years, the claims against Oakland Benta and Vitelco were based upon actions taken by them wholly independent from The Daily News. The third factor is whether, among the remaining Defendants, there is a claim or counterclaim that may result in set off. There is not. The fifth and final factor is whether any miscellaneous factors such as are listed (delay, economic and solvency considerations, shortening the time of trial, frivolity of competing

claims, expense) may apply. These miscellaneous factors do not appear to these Defendants to apply here.

The Daily News and J. Lowe Davis want to put this sixteen year old case behind them. They cannot do so until a final Judgment is rendered in this case. The Daily News and J. Lowe Davis respectfully requests that this honorable Court do so.



February 7, 2018

Kevin A. Rames, Esq.
K.A. Rames, P.C.
Suite 3, 2111 Company Street
Christiansted, St. Croix
U.S. Virgin Islands 00820
(340) 773-7284 / (340) 773-7282

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of February, 2018, I caused a true and correct copy of the foregoing **Motion to Enter Final Judgment for The Daily News and J. Lowe Davis** to be served upon:

Rhea Lawrence, Esq.
Lee J. Rohn & Associates, LLC
1101 King Street
Christiansted, VI 00820
Via Email

Joel H. Holt, Esq.
Law Offices of Joel H. Holt
2132 Company Street, Suite 2
Christiansted, St. Croix, VI 00820
Via Email

Mark Eckard, Esq.
Hamm Eckard P.C.
5030 Anchor Way
Christiansted, VI 00820
Via Email



Kevin A. Rames, Esq.

JA000260

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DISTRICT OF ST. THOMAS & ST. JOHN

SENATOR ADLAH DONASTORG, JR.;
et. al.

Plaintiffs,

vs.

DAILY NEWS PUBLISHING CO., INC.; *et. al.*,

Defendants.

)
)
) CASE NO.: SX-02-CV-117
)
)

) ACTION FOR DAMAGES
)
)

ORDER

THIS MATTER is before the Court on Motion of the Defendants Daily News Publishing Company, Inc, and J. Lowe Davis under and pursuant to Virgin Islands Rule of Civil Procedure 54(b) for an Order converting the August 19, 2015 Memorandum Opinion and Order a final Judgment as to them.

Finding no reason for delay, and good cause appearing therefor, it is

ORDERED that the August 19, 2015 Memorandum Opinion and Order be, and the same is a final order of this Court as to Defendants Daily News Publishing Company, Inc, and J. Lowe Davis.

DONE on this ____ day of February, 2018.

HON DENISE M. FRANCOIS
Judge of the Superior Court

ATTEST:

ESTRELLA GEORGE
Clerk of the Superior Court

By: _____
Deputy Clerk

JA000261

When an action presents more than one claim for relief – whether as a claim, counterclaim, crossclaim, or third-party claim – or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a

Virgin Islands Civil Rule of Procedure 54(b) states

a. A Rule 54(b) Motion for Final Judgment is unwarranted.

Company, Inc. and J. Lowe Davis' Motion to Enter Final Judgment pursuant to Rule 54(b). by and through their undersigned counsel, oppose Defendants Daily News Publishing Joestina Donastorg, Ella Moron, and Norma Duran (hereinafter referred to as "Plaintiffs"), Plaintiffs, Senator Adlah Donastorg, Jr., Benedicta Donastorg, Adlah Donastorg, Sr.,

PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO ENTER FINAL JUDGMENT FOR DAILY NEWS PUBLISHING COMPANY, INC. AND J. LOWE DAVIS

SENATOR ADLAH DONASTORG, JR.,
DONASTORG, SR., JOSEFINA
DONASTORG, ELLA MORON and
NORMA DURAN,
Plaintiffs,
v.
DAILY NEWS PUBLISHING CO. INC.,
LOWE DAVIS, HOLLAND "DYKE"
REDFIELD, VITELCO and OAKLAND
BENTA,
Defendants.

ACTION FOR DAMAGES
JURY TRIAL DEMANDED

CIVIL NO. 117/2002

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

judgment adjudicating all the claims and all the parties' rights and liabilities.¹

Defendants' Daily News Publishing Co, Inc. and Lowe Davis contend that a Final Judgment in their favor is warranted so that their litigation can end and so that they can secure attorney's fees and recover resources expended. These requests most certainly do not warrant a Rule 54(b) Final Judgment. The Third Circuit, which remains persuasive authority, has held that "Rule 54(b) orders should not be entered routinely or as a courtesy or accommodation to counsel. The power in which this Rule confers upon the trial judge should be used only in the infrequent harsh case as an instrument for the improved administration of justice and the more satisfactory disposition of litigation in the light of the public policy indicated by statute [28 U.S.C. § 1291] and the rule."² The reasoning stated by Defendants simply constitutes an accommodation to counsel so that they can collect fees and does not constitute as an "infrequent harsh case" warranting a 54(b) Final Judgment.

Further, the Supreme Court of the Virgin Islands held in *First American Development Group/Carib, LLC*, that "a trial court order certifying judgment as a "final judgment" must expressly state that there is "no just reason for delay" in addition to an analysis of the following factors:

¹ V.I. R. Civ. P. 54(b) NOTE ("Subpart (b) is the well-known "partial final judgment" provision applicable in federal practice and that of most states for many decades. In a multi-claim case, it allows the court to direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. If that recitation is *not* made, *any order or other decision that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties* and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.)(emphasis added).

² *Elliott v. Archdiocese of New York*, 682 F.3d at 220.

- (1) The relationship between the adjudicated and unadjudicated claims;
- (2) The possibility that the need for review might or might not be mooted by future developments in the [trial] court;
- (3) The possibility that the reviewing court might be obliged to consider the same issue a second time;
- (4) The presence or absence of a claim or counterclaim which could result in set-off against the judgment sought to be made final;
- (5) The miscellaneous factors such as delay, economic and solvency considerations, shortening the time of trial, frivolity of competing claims, expenses, and the like.³

Here, the relationship between the adjudicated and unadjudicated claims are very much intertwined. Summary Judgment has only been entered for three of the five Defendants: Daily News Publishing Co. Inc., Lowe Davis, and Holland "Dyke" Redfield. (**See generally Ex. 1, Memorandum Opinion and Order**). The unadjudicated claims against the remaining Defendants involve the other three Defendants because of the nature of their interrelationships and the claims against them. Specifically, at the time of this dispute, VITELCO, The Daily News Publishing, and ICC were owned by Prosser who used VITELCO and The Daily News to further both his personal and business objectives. Further, Oakland Benta was an agent of VITELCO and acted as a participant in the scheme orchestrated by Prosser, the owner of VITELCO and The Daily News, and conducted the investigation of Plaintiffs on behalf of Prosser and ICC's subsidiaries. The foregoing constituting an abbreviated web of the interrelated claims and parties in this matter.

Plaintiffs anticipate that the claims against the remaining Defendants will go to trial, in which case, it is uncertain whether the need for review will be mooted by future

developments regarding the remaining Defendants. However, the need for appellate review of the claims against the other three Defendants will not be mooted by developments at trial, as Plaintiffs will be seeking appellate review.

If Defendants' 54(b) Motion for Final Judgment is granted, the possibility that the reviewing court, or appeals court, would be obliged to hear this matter a second time is very likely. If the remaining Defendants' pending motions for summary judgment are granted, Plaintiffs will most certainly seek appeal. If the remaining Defendants' motions are denied, it is incredibly likely that the Defendants' will seek appellate review after trial. Thus, the reviewing court would be obliged to hear the same issues on multiple occasions in almost any circumstance if Defendants' Motion for Final Judgment is granted. This Court should, like the Third Circuit⁴, take into consideration the purpose of Rule 54(b) and the unnecessary and unfair nature of piecemeal appeals and Defendants' self-serving request to reduce their liability to a final judgment for the sole purpose of seeking costs and fes. Judicial efficiency will be preserved by allowing the appellate court to review this case as a whole.

Further, any set-offs stemming from a claim or counterclaim would not be revealed until all claims have been fully adjudicated, in trial or through the appellate process, where necessary.

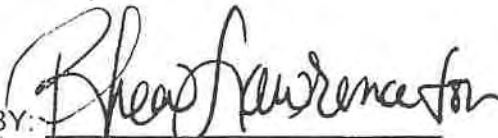
³ *First American Development Group/Carib, LLC v. WestLB AG*, 2012 WL 1526100, 2 (V.I. 2012).

⁴ *Elliott v. Archdiocese of New York*, 682 F.3d 213, 220 (3d Cir. 2012)(citing *Allis-Chambers Corp. v. Phila Elec. Co.*, 521 F.2d 360, 363 (3d Cir. 1975)(holding that "By allowing a district court to enter a final judgment on an order adjudicating only a portion of the matters pending before it in multi-party or multi-claim litigation and thus allowing an immediate appeal, Rule 54(b) "attempts to strike a balance between the undesirability of piecemeal appeals and the need for making review available at a time that best serves the needs of the parties.")).

In regard to any miscellaneous factors, Defendants have not stated any reasons why they would be hindered by a delay, nor any economic solvency considerations. Defendants simply want to collect fees and expenses. Defendants have also failed to produce any reason why a final judgment would improve "the administration of justice" in this case⁵. In fact, a final judgment would only hinder the justice system by breaking this case into piecemeal appeals for the reviewing court to sort out. Further, a final judgment would drastically burden Plaintiffs who would have to litigate simultaneously at both the trial and appellate levels. It is important to note that the Third Circuit has held that certification of a judgment as final under Rule 54(a) is "the exception, *not* the rule, to the usual course of proceedings"⁶ Thus, Plaintiffs respectfully request this Court to **DENY** Defendants' Motion for Rule 54(b) Final Judgment.

RESPECTFULLY SUBMITTED,
LEE J. ROHN AND ASSOCIATES, LLC
Attorneys for Plaintiffs

DATED: May 16, 2018

BY: 


Lee J. Rohn, Esq.
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⁵ *Elliott v. Archdiocese of New York*, 682 F.3d at 220.

⁶ *Elliott v. Archdiocese of New York*, 682 F.3d at 220. (emphasis added).

CERTIFICATE OF WORD/PAGE COUNT

This document complies with the page or word limitation set forth in Rule 6-1 (e).

BY: 
Lee J. Rohn, Esq.

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on this 16 day of MAY, 2018, I caused a true and correct copy of the foregoing **PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO ENTER FINAL JUDGMENT FOR DAILY NEWS PUBLISHING COMPANY, INC. AND J. LOWE DAVIS** to be served via US MAIL POSTAGE PREPAID / HAND-DELIVERY / ELECTRONIC MAIL upon:

Via Hand-Delivery

Joel H. Holt, Esquire
Law Offices of Joel H. Holt
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Attorney For: Holland "Dyke" Redfield

Via Hand-Delivery

Kevin Rames, Esquire
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St. Croix, VI 00820
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kevin.rames@rameslaw.com
Attorney For: Daily News Publishing Co.

Via Electronic and U.S. Mail

Mark W. Eckard, Esquire
The Law Offices of Mark W. Eckard, P.C.
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Email Address: Mark@MarkEckard.com
Attorney For: VITELCO

Via U.S. Mail

Oakland Benta, *pro se*
P.O. Box 3388
Frederiksted, VI 00841

BY:  (divn)

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

SENATOR ADLAH DONASTORG, Jr.,
BENEDICTA DONASTORG, ADLAH
DONASTORG, Sr., JOSEFINA
DONASTORG, ELLA MORON and
NORMA DURAN,

Plaintiffs,

v.

DAILY NEWS PUBLISHING CO. INC.,
LOWE DAVIS, HOLLAND "DYKE"
REDFIELD, VITELCO and OAKLAND
BENTA,

Defendants.

CIVIL NO. 117/2002

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

ORDER

THIS MATTER having come before the Court on Defendants' Motion to Enter Final Judgment for Defendants Daily News Publishing Company, Inc. and J. Lowe Davis dated February 7, 2018, and the Court having been advised in its premises, it is;

ORDERED that Defendants' Motion is **DENIED**, and further;

SO ORDERED this _____ day of _____ 2018.

Judge of the Superior Court

ATTEST:

MS. ESTRELLA GEORGE
CLERK OF THE COURT

By: _____
Clerk Supervisor

DATE: _____

Distribution List:

Lee J. Rohn, Esq.
Joel Holt, Esq.
Kevin Rames, Esq.
Mark W. Eckard, Esq.
Oakland Benta, *pro se*

JA000269

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DISTRICT OF ST. THOMAS & ST. JOHN

SENATOR ADLAH DONASTORG, JR.;)	
BENEDICTA DONASTORG; ADLAH)	
DONASTORG, SR.; JOSEFINA	)	CASE NO. SX-02-CV-117
DONASTORG, ELLA MORON and)	
NORMA DURAN,	)	ACTION FOR DAMAGES
)	
Plaintiffs,)	
)	
vs.)	
)	
DAILY NEWS PUBLISHING CO., INC.;)	
LOWE DAVIS; HOLLAND "DYKE")	
REDFIELD; VITELCO and OAKLAND)	
BENTA)	
)	
Defendants.)	
)	

**REPLY TO OPPOSITION TO MOTION FOR CERTIFICATION UNDER
RULE 54(b) OF THE FEDERAL RULES OF CIVIL PROCEDURE**

COMES NOW the Defendants The Daily News Publishing Company, Inc. (herein "The Daily News") and Jane Lowe Davis, by and through counsel, and for its Reply to Plaintiffs' Opposition to Motion for certification under Rule 54(b) of the Federal Rules of Civil Procedure.

This Court has made the well warranted determination that there is no genuine issue of material fact that requires further proceedings in this matter as to Daily News Publishing Company, Inc., its Editor, J. Lowe Davis and Holland "Dyke" Redfield. This Court made the determination that the Plaintiffs were not defamed by these Defendants, and that the effort to cobble together the allegations made against these Defendants with the separate and distinct allegations made against Virgin Islands Telephone Corporation (Vitelco) and Oakland Benta were unavailing. The allegations against Benta, appearing at Paragraph Twenty of the Fourth

Amended Complaint, are that he was the source of allegedly false information that Redfield repeated on a radio station. If the claims against Redfield cannot survive summary judgment, how, then, can the claim against Benta survive summary judgment? The allegation against Vitelco at Paragraphs 17 through 20 of the Fourth Amended Complaint was that Vitelco financed an investigation against Plaintiffs, an investigation that yielded some allegedly false information that was released to the news media by Donastorg. There has never been a nexus drawn between the investigation, or the Investigative Report, and The Daily News, Davis or Redfield. There is no basis for keeping The Daily News, Davis or Redfield as party defendants in this case.

Donastorg milked this case, and his vendetta against Prosser-owned companies, for over a decade, as a lifeline for repeated attempts to secure political office. It is time to pay the piper for his ill-conceived foray into First Amendment jurisprudence. Sixteen years is long enough for The Daily News, Davis and Redfield to be tied up in this litigation.

WHEREFORE, The Daily News and Jane Lowe Davis respectfully request that this Court certify the decision on summary judgment as a final judgment under and pursuant to Rule 54(b) FRCP.

Respectfully submitted,

K.A. RAMES, P.C.



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Counsel for Daily News Publishing
Company, Inc. and Jane Lowe Davis

May 19, 2018

JA000271

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of May, 2018, I caused a true and correct copy of the foregoing Reply to Opposition to Motion For Certification Under Rule 54(b) of The Federal Rules of Civil Procedure to be served via hand-delivery, where possible, or First Class United States Mail, postage prepaid, upon the following:

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Kevin A. Rames, Esq

JA000272

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION

Caption of case including proper division:

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS

SENATOR ADLAH DONASTORG, JR.;)	
BENEDICTA DONASTORG; ADLAH)	
DONASTORG, SR.; JOSEFINA)	
DONASTORG; ELLA MORON and	)	CIVIL NO. 117/2002
NORMA DURAN,)	
)	
Plaintiffs)	
)	
v.	)	ACTION FOR DAMAGES
)	
DAILY NEWS PUBLISHING CO., INC.;)	
INNOVATIVE COMMUNICATION)	
CORPORATION; JEFFREY PROSSER;)	
LOWE DAVIS; HOLLAND "DYKE"	)	<u>JURY TRIAL DEMANDED</u>
REDFIELD and VITELCO,)	
)	
Defendants.)	

I. Description of Document(s): Motion for Certification Under Rule 54 (b) of the Federal Rules of Civil Procedure And Proposed Order

Number of Pages: 6

II. Certification of mailing or delivery to each of the following:

Name of Attorney	Type of Service	Date Delivered/Mailed
Lee. Rohn, Esq.	Email and Hand Delivered	October 15, 2015
Joel Holt, Esq.	Email	October 15, 2015
Mark Eckard, Esq.	Email	October 15, 2015
Oakland Benta	Email and U.S. Mail	October 15, 2015

Dated: September 15, 2015



Signature of Counsel

JA000273

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DISTRICT OF ST. THOMAS & ST. JOHN**

SENATOR ADLAH DONASTORG, JR.;)	
BENEDICTA DONASTORG; ADLAH)	
DONASTORG, SR.; JOSEFINA	)	CASE NO. SX-02-CV-117
DONASTORG, ELLA MORON and)	
NORMA DURAN,	)	ACTION FOR DAMAGES
)	
Plaintiffs,)	
)	
vs.)	
)	
DAILY NEWS PUBLISHING CO., INC.;)	
LOWE DAVIS; HOLLAND "DYKE")	
REDFIELD; VITELCO and OAKLAND)	
BENTA)	
)	
Defendants.)	
)	

**MOTION FOR CERTIFICATION UNDER RULE 54(b) OF
THE FEDERAL RULES OF CIVIL PROCEDURE**

COMES NOW the Defendants The Daily News Publishing Company, Inc. (herein "The Daily News") and Jane Lowe Davis, by and through counsel, and the move this honorable Court for an Order, under and pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, for certification of the August 19, 2015 Order granting summary judgment for The Daily News and Jane Lowe Davis and against Plaintiffs as a final judgment..

The Court's order granting summary judgment for The Daily News and Jane Lowe Davis was a final judgment in that it was the ultimate disposition of the Plaintiffs' claims against those Defendants and there is no just reason for delay in entering final judgment and allowing an appeal. "Ordinarily, an appeal can be taken only after a final judgment has been entered as to all of the pending claims and parties in a case." *Bush v. Adams*, 629 F.Supp.2d 468 (E.E. Pa. 2009)

citing *Morton Int'l Inc. v. A.E. Staley Mfg. Co.*, 460 F.3d 470, 476 (3d Cir. 2006). Rule 54(b) “attempts to strike a balance between the undesirability of piecemeal appeals and the need for making review available at a time that best serves the needs of the parties.” *Devcon International Corp., V.I. v. Reliance Insurance Company*, 2007 WL 4800356 (D.V.I., 2007) citing *Allis-Chalmers Corp. v. Philadelphia Elec. Co.*, 521 F.2d 360, 363 (3d Cir. 1975). “The purpose of Rule 54(b) is to allow a court that dismisses some, but not all, of the claims or parties in a case to nonetheless enter final judgment as to the dismissed claims, allowing an immediate appeal without waiting for the remaining claims to be decided.” *Bush supra* at 472. With the present set of facts, it is appropriate for this Honorable Court to exercise its authority under Fed. R. Civ. Pro. 54(b). The two requirements for entry of judgment under Rule 54(b) are: 1. That the order at issue be a final judgment, meaning the ultimate disposition of an individual claim entered in the course of a multiple claims action; and, 2. That there must be no just reason for delay, taking into account both the equities involved and judicial administrative interests. See *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 7-8 (1980). The above requirements are met herein and courts, including this Court, routinely enter judgment under Rule 54(b) in multidefendant cases when not all parties are dismissed. See: *Bell Tel. Co., Inc. v. Global NAPs Ill. Inc.*, 551 F.3d 587 (7th Cir. 2008); *DeJames v. Magnificence Carriers, Inc.*, 654 F.2d 289 (3d Cir. 1981); *Chamberlain v. Harnischfeger Corp.*, 516 F.Supp. 428 (E.D. Pa. 1981). Case: 3:11-cv-00115-CVG-RM Document #: 104 Filed: 09/28/12 Page 3 of 8.

Firstly, the order dismissing The Daily News and Jane Lowe Davis was a final judgment as defined by the Supreme Court in the *Curtiss* decision. In order to be a final judgment, the Supreme Court has held that the Court’s order must only, “be a ‘judgment’ in the sense that it is a decision upon a cognizable claim for relief, and it must be ‘final’ in the sense that it is an

ultimate disposition of an individual claim entered in the course of a multiple claims action.” *Curtiss-Wright*, 446 U.S. at 7. Herein, the Court’s Order and accompanying Memorandum held that Plaintiffs’ claims against The Daily News and Jane Lowe Davis were not cognizable as a matter of law. As a result of the Court’s order, The Daily News and Jane Lowe Davis were dismissed from the present case and there is no further action the Plaintiffs can take against them. Thus, these claims have reached their ultimate disposition.

Secondly, judicial administrative interest and equity both demonstrate that there is no just reason for a delay in entering judgment as to The daily News and Jane Lowe Davis. Two factors routinely taken into account by Courts when determining whether the interest of judicial administration favor immediate appeal (and thus entry of judgment under Rule 54(b)) are whether or not litigation of the remaining claims would moot an appeal of the dismissed claims or whether or not the appellate court would have to consider the same issue twice. *See Berkeley Inv. Group, Ltd. v. Colkitt*, 455 F.3d 195, 203-205 (3d Cir. 2006). Under either rubric, judicial administrative interest favors entry of judgment under Rule 54(b). The claims brought against The Daily News and Jane Lowe Davis concern federal constitutional principles of freedom of the press and the law of defamation. These claims are entirely different than the claims brought against the remaining Defendants, Virgin Islands Telephone Corporation and Oakland Benta, which are based upon an investigation of the Plaintiffs and the alleged damages arising from the disclosure of the Report of that investigation, a matter that dis not implicate The Daily News or Jane Lowe Davis. Litigating the remaining claims will not implicate The Daily News or Jane Lowe Davis, who have no nexus to those claims. Further, there is no risk that the Supreme Court would have to hear duplicative appeals. The issue of whether or not The Daily News or Jane Lowe Davis defamed any of the Plaintiffs, or if they were otherwise damaged due to the news

gathering and reporting process cannot be raised again in a later appeal because these claims only relate to The Daily News and Jane Lowe Davis and bear no relation to the claims against the remaining Defendants. Accordingly there is no just reason for delay in entering final judgment.

WHEREFORE, The Daily News and Jane Lowe Davis respectfully request that this Court certify the decision on summary judgment as a final judgment under and pursuant to Rule 54(b) FRCP.

Respectfully submitted,

K.A. RAMES, P.C.



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Facsimile: (340) 773-7282
Email: kevin.rames@rameslaw.com

Counsel for Daily News Publishing
Company, Inc. and Jane Lowe Davis

October 15, 2015

JA000277

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of October, 2015, I caused a true and correct copy of the foregoing Motion For Certification Under Rule 54(b) of The Federal Rules of Civil Procedure to be served via hand-delivery, where possible, or First Class United States Mail, postage prepaid, upon the following:

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Kevin A. Rames, Esq

JA000278

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DISTRICT OF ST. THOMAS & ST. JOHN**

SENATOR ADLAH DONASTORG, JR.;)	
BENEDICTA DONASTORG; ADLAH)	
DONASTORG, SR.; JOSEFINA	)	CASE NO. SX-02-CV-117
DONASTORG, ELLA MORON and)	
NORMA DURAN,	)	ACTION FOR DAMAGES
)	
Plaintiffs,)	
)	
vs.)	
)	
DAILY NEWS PUBLISHING CO., INC.;)	
LOWE DAVIS; HOLLAND "DYKE")	
REDFIELD; VITELCO and OAKLAND)	
BENTA)	
)	
Defendants.)	

ORDER

THIS MATTER is before the Court on the Motion of the Defendants, Daily News Publishing Company, Inc. and Jane Lowe Davis, for certification of the August 19, 2015 Order granting summary judgment for Daily News Publishing Company, Inc. and Jane Lowe Davis, as a final judgment, under and pursuant to Rule 54(b) of the Federal Rules of Civil Procedure. .

ORDERED that Defendant's Motion for certification of the August 19, 2015 Order granting summary judgment for Daily News Publishing Company, Inc. and Jane Lowe Davis, as a final judgment, under and pursuant to Rule 54(b) of the Federal Rules of Civil Procedure be, and the same is hereby **GRANTED**.

SO ORDERED this _____ day of _____ 2015

Hon. Denise M. Francois
Judge
Superior Court of the Virgin Islands

ATTEST
ESTRELLA GEORGE
Acting Clerk of the Court

Deputy Clerk

JA000279

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

SENATOR ADLAH DONASTORG, Jr.,
BENEDICTA DONASTORG, ADLAH
DONASTORG, Sr., JOSEFINA
DONASTORG, ELLA MORON and
NORMA DURAN,

Plaintiffs,

v.

DAILY NEWS PUBLISHING CO. INC.,
LOWE DAVIS, HOLLAND "DYKE"
REDFIELD, VITELCO and OAKLAND
BENTA,

Defendants.

CIVIL NO. 117/2002

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

OPPOSITION TO MOTION FOR RULE 54(b) CERTIFICATION

Plaintiffs, by and through undersigned counsel, oppose Defendants Daily News Publishing Co., Inc. and Lowe Davis' (collectively Daily News) Motion for Rule 54(b) Certification as follows:

a. Defendants' motion is untimely.

This Court entered judgment as to Defendants' Daily News and Lowe Davis on August 20, 2015. Pursuant to Superior Court Rule 36(b), the time for filing any post-trial motions is 30 days from entry or on or about September 20, 2015. Defendants' motion filed on October 15, 2015 is untimely.

b. Rule 54(b) Certification is unwarranted

In *First Am. Dev. Group/Carib, LLC v. WestLB AG*, 2012 V.I. Supreme LEXIS 39, 7-

8 (VI. 2012), the Virgin Islands Supreme Court reemphasized that prior to certifying a matter pursuant to Federal Rule of Civil Procedure this Court must expressly state that there is "no just reason for delay," and must also consider a number of relevant factors such as (1) the relationship between the adjudicated and unadjudicated claims; (2) the possibility that the need for review might or might not be mooted by future developments in the [trial] court; (3) the possibility that the reviewing court might be obliged to consider the same issue a second time; (4) the presence or absence of a claim or counterclaim which could result in set-off against the judgment sought to be made final; (5) miscellaneous factors such as delay, economic and solvency considerations, shortening the time of trial, frivolity of competing claims, expense, and the like.

The factors weigh in favor of denying Rule 54(b) certification. There are still two defendants remaining in this litigation, specifically, VITELCO and Oakland Benta. The remaining parties are currently briefing summary judgment with the possibility of a trial. It would be an unfair and burdensome for this Court to put Plaintiffs through the additional time and expense of having to litigate at both the trial level and the appellate level simultaneously mitigates against Rule 54(b) certification. Splitting Plaintiffs focus in such a manner would have the result of giving the Defendants an unfair litigation advantage.

Further, Plaintiffs contend that Prosser, owned, operated and controlled ICC, VITELCO, and The Daily News, and operated them in a joint and integrated fashion to achieve both his personal and business objectives; (2) Prosser and VITELCO used The Daily News to publish both editorials and news articles that furthered Prosser and VITELCO's interests pursuant to a common-scheme or plan; (3) Prosser's interests

included carrying out a common goal, scheme or plan of, (a) unfairly and falsely slanting the news and editorials in favor of VITELCO and ICC to garner public support for the "Prosser Plan" and his other business interests, while at the same time, (b) discrediting Prosser's opponents (like Senator Donastorg) and dissuading them from challenging his veiled scheme to defraud Virgin Islands rate payers and taxpayers and loot employee pensions by defaming opponents, by painting them in a false light, and intimidating them through invasive, privacy invading tactics, if they would not accept bribes kick-backs (like offering to build Senator Donastorg a library wing, *i.e.*, effectively offering rivals a carrot or the stick); and (4) that at all material times, Prosser and VITELCO agents like Oakland Benta and former Senator Holland Redfield acted as participants in the common scheme on behalf of Prosser and ICC's subsidiaries like VITELCO. The adjudicated and unadjudicated claims are all interrelated and it promotes judicial efficiency to have the appellate court review the case as a whole because even if this Court were to deny VITELCO and Benta's motion for summary judgment, they will more than likely seek appellate review after trial.

Additionally, Defendants Daily News have not argued or provided any evidence that there is any urgency that would require appellate review immediately. In fact this case has been pending for 13 years with no indication from Defendants that there was some factor that necessitated a quick resolution to this case. The very last thing that is needed and this juncture is to complicate this procedural posture of this matter with an interlocutory appeal.

WHEREFORE, based on the foregoing, Plaintiffs respectfully request this Court **DENY** Defendants' Motion for Rule 54(b) Certification.

Donastorg v. Daily News, et al, CIVIL NO. 117/2002
Opposition to Motion for Rule 54(b) Certification
Page 4

RESPECTFULLY SUBMITTED,
LEE J. ROHN AND ASSOCIATES, LLC
Attorneys for Plaintiffs

DATED: November 2, 2015

BY: 

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lee@rohnlaw.com

JA000283

CERTIFICATE OF SERVICE

• **THIS IS TO CERTIFY** that on November 2, 2015, I serve a true and correct copy of the forgoing **OPPOSITION TO MOTION FOR RULE 54(b) CERTIFICATION** to the following via email and/or mail postage prepaid:

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Oakland Benta, pro se
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BY:  (rl)

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

SENATOR ADLAH DONASTORG, Jr.,
BENEDICTA DONASTORG, ADLAH
DONASTORG, Sr., JOSEFINA
DONASTORG, ELLA MORON and
NORMA DURAN,

Plaintiff(s),

v.

DAILY NEWS PUBLISHING CO. INC.,
LOWE DAVIS, HOLLAND "DYKE"
REDFIELD, VITELCO and OAKLAND
BENTA,

Defendant(s).

CIVIL NO. 117/2002

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

ORDER

THIS MATTER having come before the Court on Defendants Daily News Publishing Co., Inc. and Lowe Davis' (collectively Daily News) **MOTION FOR RULE 54(b) CERTIFICATION** and the Court having been advised in its premises, it is;

ORDERED that Defendant's Motion is **DENIED**, and further;

SO ORDERED this _____ day of _____ 2015.

Judge of the Superior Court

ATTEST:
MS. ESTRELLA GEORGE
ACTING CLERK OF THE COURT

By: _____
Clerk Supervisor

Distribution List:
Lee J. Rohn, Esq.
Joel Holt, Esq.
Kevin Rames, Esq.
Mark W. Eckard, Esq.

DATE: _____

JA000285

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

NOTICE OF FILING DOCUMENTS IN THE OTHER DIVISION

Caption of case including proper division:

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS

SENATOR ADLAH DONASTORG, JR.;)	
BENEDICTA DONASTORG; ADLAH)	
DONASTORG, SR.; JOSEFINA)	
DONASTORG; ELLA MORON and	)	CIVIL NO. 117/2002
NORMA DURAN,)	
)	
Plaintiffs)	
)	
v.	)	ACTION FOR DAMAGES
)	
DAILY NEWS PUBLISHING CO., INC.;)	
INNOVATIVE COMMUNICATION)	
CORPORATION; JEFFREY PROSSER;)	
LOWE DAVIS; HOLLAND "DYKE")	<u>JURY TRIAL DEMANDED</u>
REDFIELD and VITELCO,)	
)	
Defendants.)	


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Dated: November 4, 2015



Signature of Counsel

JA000286

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DISTRICT OF ST. THOMAS & ST. JOHN**

SENATOR ADLAH DONASTORG, JR.;)	
BENEDICTA DONASTORG; ADLAH)	
DONASTORG, SR.; JOSEFINA	)	CASE NO. SX-02-CV-117
DONASTORG, ELLA MORON and)	
NORMA DURAN,	)	ACTION FOR DAMAGES
)	
Plaintiffs,)	
)	
vs.)	
)	
DAILY NEWS PUBLISHING CO., INC.;)	
LOWE DAVIS; HOLLAND "DYKE")	
REDFIELD; VITELCO and OAKLAND)	
BENTA)	
)	
Defendants.)	
)	

**REPLY TO OPPOSITION TO MOTION FOR CERTIFICATION
UNDER RULE 54(b) OF THE FEDERAL RULES OF CIVIL PROCEDURE**

COMES NOW the Defendants The Daily News Publishing Company, Inc. (herein "The Daily News") and Jane Lowe Davis, by and through counsel, and they reply to Plaintiffs' Opposition to the Motion of The Daily News for an Order, under and pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, for certification of the August 19, 2015 Order granting summary judgment for The Daily News and Jane Lowe Davis and against Plaintiffs as a final judgment.

For some unaccountable reason, Plaintiffs have advanced the argument that the Daily News' Motion is out of time under Rule 36(b) of the Rules of the Superior Court of the Virgin Islands. Plaintiffs make this argument, without actually referencing the substance of the Rule

Rule 36(b) of the Rules of the Superior Court states as follows:

(b) Where no deadline is set in these Rules for the filing of post-trial motions, the filing deadline shall be thirty (30) days from final judgment, except with respect to Rule 50 of these rules and Rules 59 through 61, inclusive, of the Federal Rules of Civil Procedure. CONSIDERATION OF MOTIONS, Superior Court Rule 36.

The Daily News' Motion is not a post-trial Motion, as referred to in the Rules. Further, the parties have agreed in earlier pleadings that there is no final judgment in this cause, for any party. Of course, The Daily News' Motion is for the purpose of converting the interlocutory decision of this Court on summary judgment into a final judgment. On that basis, The Daily News' Motion for Certification is not untimely.

Plaintiffs' second argument is equally unavailing. Plaintiffs cannot resurrect claims of civil conspiracy against The Daily News that had no substance in the first instance. Plaintiff had no substantive evidence or well-reasoned arguments to support their theory of the case against The Daily News. Plaintiffs had the burden to prove that a genuine issue of material fact exists that would preclude summary judgment and failed utterly in their attempt to do so. This Court reviewed the entire record, including Plaintiffs' Opposition, and found that Plaintiffs presented no legally cognizable evidence that The Daily News engaged in any tortious behavior toward the Plaintiffs, whether alone or in concert with others. In reaching this conclusion, this Court stated, in relevant part, as follows:

"...Tortious conduct is a prerequisite for civil conspiracy. As discussed in analysis sections I through V above, Plaintiffs have not introduced evidence from which a reasonable jury could find (The Daily News) liable for any of the tortious conduct attributed to them in Plaintiffs' Complaint or Plaintiffs' Opposition. Because no reasonable jury could reach such a conclusion, it follows that no reasonable jury could conclude that (The Daily News) committed their allegedly-tortious conduct in concert with the other Defendants. Consequently, Plaintiffs' civil conspiracy allegations cannot justify holding (The Daily News) liable for the conduct of the remaining Defendants." *Memorandum Opinion* at Page 98

The courts of the Territory have been working assiduously to develop an intellectually consistent and legally defensible First Amendment jurisprudence that clarifies applicable law in a

definitive and unequivocal manner. *See: Joseph v. Daily News Publ'g Co., Inc.*, 2012 WL 5419155 (V.I. Oct. 31, 2012); *Kendall v. Daily News Pub. Co.*, 2011 WL 4434922 (V.I. Sept. 21, 2011) *aff'd*, 716 F.3d 82 (3d Cir. 2013). The decision on summary judgment in this matter is a significant milestone in that effort. If the decision is to be appealed, it should stand apart from the Virgin Islands Telephone Corporation/Oakland Benta aspect of the case, which does not implicate press freedom. The two controversies, one resolved and the other currently unresolved, should have been brought as two separate cases in the first instance.

WHEREFORE, The Daily News and Jane Lowe Davis respectfully request that this Court certify its decision on summary judgment as a final judgment under and pursuant to Rule 54(b) FRCP.

Respectfully submitted,

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November 4, 2015

JA000289

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of November, 2015, I caused a true and correct copy of the foregoing Reply to Opposition to Motion For Certification Under Rule 54(b) of The Federal Rules of Civil Procedure to be served via hand-delivery, where possible, or First Class United States Mail, postage prepaid, upon the following:

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**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DISTRICT OF ST. THOMAS & ST. JOHN**

SENATOR ADLAH DONASTORG, JR.;)	
BENEDICTA DONASTORG; ADLAH)	
DONASTORG, SR.; JOSEFINA)	CASE NO.: SX-02-CV-117
DONASTORG, ELLA MORON and)	
NORMA DURAN,)	
)	ACTION FOR DAMAGES
Plaintiffs,)	
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vs.)	
)	
DAILY NEWS PUBLISHING CO., INC.;)	
LOWE DAVIS; HOLLAND "DYKE")	
REDFIELD; VITELCO and OAKLAND)	
BENTA)	
)	
Defendants.)	

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' DAILY NEWS
PUBLISHING COMPANY, INC. AND JANE LOWE DAVIS'
MOTION FOR SUMMARY JUDGMENT**

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PRELIMINARY STATEMENT¹

It is a touchstone of First Amendment jurisprudence that people in the public sphere who seek governmental office or public prominence “must accept certain necessary consequences of that involvement in public affairs.” *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 344 (1974) (citing *New York Times v. Sullivan*, 376 U.S. 254 (1964)) (addressing defamation actions); *see also Marcone v. Penthouse Int'l Magazine for Men*, 754 F.2d 1072, 1079–82 (3d Cir. 1985) *cert. denied*, 474 U.S. 864, 106 S.Ct. 182, 88 L.Ed.2d 151 (1985); *Schiavone Const. Co. v. Time, Inc.*, 847 F.2d 1069, 1077 n.6 (3d Cir. 1988) (same). On March 1, 2002, former senator and current gubernatorial candidate, Adlah F. Donastorg, Jr. (“Mr. Donastorg” or “Senator Donastorg”) filed this defamation suit arising from certain newspaper articles and editorials that were published by the Virgin Islands Daily News concerning his conduct while in public office.

Because free speech is such a cherished right under the United States Constitution, there is a special burden on public officials, like Senator Donastorg, who

¹ VITELCO was added as a defendant in Sen. and Mrs. Donastorg's First Amended Complaint, together with the first appearance of allegations related to the Investigative Report and the Alleged Statements. Adlah Donastorg, Sr. (Sen. Donastorg's father), Josefina Donastorg (Sen. Donastorg's mother), Norma Duran and Ella Moron (Sen. Donastorg's sisters) were added as plaintiffs in the Second Amended Complaint. Sen. Holland Redfield was added as a defendant in the First Amended Complaint. Oakland Benta (“Mr. Benta”) was added as a defendant in the Third Amended Complaint. On March 3, 2009 Plaintiffs moved to amend their Second Amended Complaint and to file a Third Amended Complaint. On March 23, 2009, Hon Judge Brenda Hollar granted Plaintiffs' Motion to Amend the Complaint. On March 31, 2009, Plaintiffs filed their Motion to Amend the Third Amended Complaint and file a Fourth Amended Complaint. That motion remains pending; accordingly, the Third Amended Complaint is currently the operative pleading in this action.

complain that they are victims of defamation.² To prevail on his claims, Senator Donastorg must demonstrate both the objective standard that the challenged articles were false and the subjective "actual malice" standard that the reporters and editorial staff at The Daily News knew the truth, appreciated the truth and recklessly disregarded the truth when it published false articles. *Kendall v. Daily News Pub. Co.*, 11-4162, 2013 WL 856433 (3d Cir. Mar. 8, 2013) (citing *Sullivan*, 376 U.S. at 271-72, 279-80, 285); *Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767, 770 (1986); *see also Jenkins v. KYW*, 829 F.2d 403, 407-08 (3d Cir. 1987).

Plaintiffs fail to overcome the first hurdle of demonstrating falsity. The record informs us that the series of challenged articles were thoroughly researched and fact-checked.³ Throughout the course of voluminous discovery, Plaintiffs have not adduced a shred of evidence that The Daily News seriously doubted the truth of any of its reports. Rather, the undisputed record establishes just the opposite. In reporting on Senator Donastorg's conduct, and the controversies they provoked, The Daily News believed its reporting was accurate and never doubted the truth of what it published.

The Daily News' reporters regularly attended legislative hearings, reviewed pertinent court records, interviewed stakeholders, exchanged correspondence with Senator Donastorg's office and routinely offered him the opportunity to rebut his critics. As the undisputed record now before the Court makes clear, Senator Donastorg has not adduced affirmative evidence of actual malice, let alone the clear and convincing evidence required by the First

² The "standard of actual malice is a daunting one." *See e.g., McFarlane v. Esquire Magazine*, 74 F.3d 1296, 1308 (D.C. Cir. 1996), and "[s]ummary judgment for the publisher is quite often appropriate because of the difficulty . . . in showing 'actual malice.'" *St. Surin v. Virgin Islands Daily News, Inc.*, 21 F.3d 1309, 1318 (3d Cir. 1994).

³ In the one instance where The Daily News published a factual error, that error was attributed to legislative staff who gave the paper inaccurate information. In response, the newspaper ran an immediate retraction.

Amendment. All of his claims must therefore be dismissed on summary judgment. *See Gertz* 418 U.S. at 323 (*New York Times v. Sullivan* “bars media liability for defamation of a public official absent proof that the defamatory statements were published with knowledge of their falsity or in reckless disregard of the truth.”).

I. STANDARDS OF REVIEW

In *Anderson v. Liberty Lobby*, the Supreme Court addressed summary judgment on the question of actual malice in defamation suits. 106 S.Ct. 2505 (1986). The Court explained that in determining whether a genuine factual issue exists as to actual malice, the court “must bear in mind the actual quantum and quality of proof necessary to support liability under *New York Times*.” *Id.* at 2513.

“[T]he appropriate summary judgment question will be whether the evidence in the record could support a reasonable jury finding either that the plaintiff has shown actual malice by clear and convincing evidence or that the plaintiff has not.” *Id.* at 2514; *see Jenkins v. KYW*, 829 F.2d 403, 405 (3d Cir.1987) (quoting *Liberty Lobby*); *Schiavone Const. Co. v. Time, Inc.*, 847 F.2d 1069, 1089 (3d Cir. 1988); *New York Times*, 376 U.S. at 285-86 (to survive summary judgment a public figure must present affirmative evidence from which a reasonable fact finder can find actual malice with “convincing clarity.”); *Tucker v. Fischbein*, 237 F.3d 275, 284 (3d Cir. 2001) (on summary judgment concerning public figure defamation actions the court “must be guided by the *New York Times* ‘clear and convincing’ evidentiary standard in determining whether a genuine issue of actual malice exists.”).

A. Defamation

Although replete with First Amendment implications, a defamation suit is fundamentally a Territorial cause of action and Virgin Islands law applies. *See Steaks*

Unlimited, Inc. v. Deaner, 623 F.2d 264, 269-70 (3d Cir. 1980); *Pierce v. Capital Cities Commc'n, Inc.*, 576 F.2d 495, 501-02 (3d Cir. 1978).

In the Virgin Islands, at a minimum, to state a cause of action for defamation, a plaintiff must satisfy four elements:

- a) a false defamatory statement concerning another;
- b) an unprivileged publication to a third party;
- c) fault amounting at least to negligence on the part of the publisher;
and
- d) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.

Ross v. Bricker, 26 V.I. 314, 319 (D.V.I. 1991) (citing RESTATEMENT (SECOND) OF TORTS § 558 (1977)). A statement or communication is only defamatory if "it tends to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him." *Joseph v. Daily News Publishing Company, Inc.*, 2012 WL 5419155, at *5 (Supreme Court V.I. October 31, 2012) (citing RESTATEMENT (Second) of Torts § 559); *see also* V.I. CODE ANN. tit 1, § 4; *Banks v. International Rental Leasing Corp.*, 2011 WL 6299025, at *2 (V.I. Dec. 15, 2011); *Gov't of the V.I. v. Conner*, 2014 WL 702639, at *1 (V.I. Feb. 24, 2014).

The element of fault requires a higher threshold when the plaintiff in a defamation action is a public official or public figure, or the alleged defamatory statements reference matters of public concern. In the case of a plaintiff who is *not* a public figure or official, the minimum standard applies, and the plaintiff need only prove that the publisher acted *at least* negligently in failing to ascertain whether the statements concerning the defendant were true or false. *Joseph*, 2012 WL 5419155, at *5.

Where public figures are concerned, however, the First Amendment's protections require the plaintiff to bear a heavier burden of proof. *Id.*; *see also Gertz*, 418 U.S. at 347 (public figures must demonstrate clear and convincing proof of "actual malice" to make out a case for defamation).

B. Public Figures

Under *New York Times* and its progeny, public figures fall into two categories: (1) all-purpose, or general-purpose public figures, and (2) limited-purpose public figures. *New York Times*, 376 U.S. at 279–80; *see also Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 22 (1990). General-purpose public figures are individuals who have achieved such pervasive fame or notoriety that they become public figures for all purposes and in all contexts. *Ratner v. Young*, 465 F. Supp. 386, 399 (D.V.I. 1979) (citing *Time, Inc. v. Firestone*, 424 U.S. 448, 457 (1976) ("[P]articipants in some litigation may be legitimate 'public figures,' either generally or for the limited purpose of that litigation . . .")). Limited-purpose public figures are only public figures for a limited range of issues surrounding a particular public controversy. *See Gertz*, 418 U.S. at 351. Whether, under the circumstances, a person is a public figure is a matter of law. *Rosenblatt v. Baer*, 383 U.S. 75 (1966).

Senator Donastorg is a career politician who, for decades, voluntarily thrust himself into the arena of public affairs. He is a quintessential, general purpose public figure and must prove "actual malice" to sustain his defamation claim. *Id.*; *see Marcone v. Penthouse Int'l Magazine for Men*, 754 F.2d 1072, 1079–82 (3d Cir.) (interpreting *Gertz*), *cert. denied*, 474 U.S. 864, 106 S.Ct. 182, 88 L.Ed.2d 151 (1985)

C. Actual Malice

The United States Supreme Court has long-held that to provide the “breathing space” needed to preserve the First Amendment freedom of expression, public figures like Senator Donastorg, can proceed with a defamation claim – and defeat a summary judgment motion – only if he can establish that: 1) the allegedly defamatory statement is false and 2) the defendant published the statement with actual malice – *i.e.*, “with knowledge that it was false or with reckless disregard of whether it was false or not.”⁴ *Kendall*, 2013 WL 856433, at *3 (citing *New York Times*, 376 U.S. at 271-72, 279-80, 285); *Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767, 770 (1986); *see also Jenkins v. KYW*, 829 F.2d 403, 407-08 (3d Cir. 1987). Applying this standard in *Kendall v. Daily News*, the Third Circuit Court of Appeals vindicated the *Daily News*' reports concerning a Virgin Islands judge and explained that;

Actual malice is a term of art that the Court has explained “should not be confused with the concept of malice as an evil intent or a motive arising from spite or ill will”; it should be understood to be a ‘shorthand [used] to describe the First Amendment protections for speech injurious to reputation.’

Kendall, 2013 WL 856433, at *3 (quoting *Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496, 510–11 (1991)); *Garrison v. Louisiana*, 379 U.S. 64, 74 (1964); *see also Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 20 (1990) (must establish that statements “were made with knowledge of their false implications or with reckless disregard of their truth”).

The Supreme Court of the United States has stated:

A “reckless disregard” for the truth... requires more than a departure from reasonably prudent person conduct. There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication. The standard is a subjective one—there must

⁴ The Court must decide at the outset if a statement is defamatory, not a jury. *Tucker v. Fischbein*, 237 F.3d 275, 281 (3d Cir. 2001) (“court must decide at the outset whether a statement is capable of defamatory meaning”); *Dunn v. Gannett N.Y. Newspapers, Inc.*, 833 F.2d 446, 449 (3d Cir. 1987) (“function of the court, and not the factfinder, to decide if the contested statement is defamatory on its face”); *Marcone*, 754 F.2d at 1078 (“Whether a statement is capable of defamatory meaning is a question the judge, as distinguished from the jury, must determine.”).

be sufficient evidence to permit the conclusion that the defendant actually had a high degree of awareness of probable falsity. As a result, failure to investigate before publishing, even when a reasonably prudent person would have done so, is not sufficient to establish reckless disregard.”

Harte-Hanks Communications, Inc. v. Connaughton, 491 U.S. 657, 688 (1989) (internal quotation marks and citations omitted). “The Supreme Court has cautioned that ‘reckless conduct’ is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing.” *Schiavone Constr. Co.*, 847 F.2d at 1089 (quoting *St. Amant*, 390 U.S. at 731). Thus, negligence, such as a reporter’s “failure to verify his facts,” “does not rise to the level of actual malice,” *McDowell v. Paiewonsky*, 769 F.2d 942, 951 (3d Cir. 1985), and “even an extreme departure from professional standards, without more, will not support a finding of actual malice.” *Tucker* 237 F.3d at 286; *Connaughton*, 491 U.S. at 685. Additionally, misinterpretation of official documents does not constitute actual malice. *Pape*, 401 U.S. 1015. Rather, actual malice can only be proved by evidence demonstrating that the authors had the subjective intent to disregard the truth. *St. Amant*, 390 U.S. at 731.⁵

Virgin Islands Courts underscore that the actual malice standard “is a subjective one, based on the defendant’s actual state of mind.” *Joseph*, 2012 WL 5419155, at *5; *see also St. Amant*, 390 U.S. at 731 (“reckless disregard” requires that a defendant *subjectively* believed the challenged statement was probably false); *Tucker*, 237 F.3d at 286 (“Actual malice requires a plaintiff to establish that the defendant had a *subjective* belief that the statement was false when made.”)(emphasis added).

⁵ Indeed, while a reporter’s “failure to investigate,” *St. Surin v. V.I. Daily News, Inc.*, 21 F.3d 1309, 1317 (3d Cir. 1994), or making a “mistake” might be “unprofessional,” neither is sufficient to establish actual malice, *Marcone*, 754 F.2d at 1090. Likewise, “actual malice cannot be imputed merely because the information turns out to be false.” *Schiavone Constr. Co.*, 847 F.2d at 1090. And, “[a]n erroneous interpretation of the facts does not meet the standard.” *Id.*

In sum, under summary judgment's burden shifting framework, Donastorg ultimately has two significant burdens of production to bear. *First*, he must raise a genuine issue of material fact that each and every one of the statements that he alleges are actionable were both false and defamatory. *Second*, he must demonstrate, by clear and convincing evidence, that The Daily News' publications were made with subjective, actual malice. *Garrison*, 379 U.S. at 74 *see also Milkovich*, 497 U.S. at 20.

II. BACKGROUND

The United States Supreme Court has long recognized that suits by public figures against the press pose a grave risk to our country's First Amendment freedoms, to the press' role as the public's watchdog, and to our "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open." *New York Times v. Sullivan*, 376 U.S. 254, 270 (1964).

Senator Donastorg has been a seven term member of the Virgin Islands Legislature. Mr. Donastorg has never been media-shy, and has effectively used the power of the press to advance his political career. Tackling issues in Mr. Donastorg's inimitable way has often caused public controversy, including when he was ousted as the President of the 26th Legislature, and for the long-running drama of his ongoing efforts to bring to light alleged wrongdoing of the Governor of the Virgin Islands with respect to the use of government funds. Senator Donastorg continues to reinforce his political ambitions; and in 2014 he announced his candidacy Governor of the Virgin Islands.

The Daily News has covered the political career, the activities and the antics of Senator Donastorg for over a decade. That coverage is incisive, it is truthful and it is motivated only by The Daily News' affirmation of the people's right to know critical

details of the public lives of local political figures and, occasionally, about how public aspects of their private lives inform the readers of the nature of their character.

Senator Donastorg now finds himself in a bind. After years of complaining about being oppressed by the press, and The Daily News in particular, Mr. Donastorg filed this lawsuit, in which he is required to describe his claims with plausibility and to provide a legal framework within which to test those claims against fifty years of jurisprudence that enshrines the First Amendment's free speech guarantees.

A. Summary of Plaintiffs' Arguments⁶

1. The Complaint

Because the Third Amended Complaint ("Complaint" or "Compl.") is vague, loosely couched and lacks descriptive headings, it has been challenging to ascertain Plaintiffs' causes of action.⁷ However, The Daily News has been able to divine that, Count I of the

⁶ **Count II** purports to allege a claim for tortious interference with business relations. Complaint at ¶¶ 27-28. Count II of the Third Amended Complaint is brought by "Plaintiffs" generally. *Id.* at ¶ 27. Count II is not specifically stated as against any of the Defendants. *See id.* at ¶ 28 ("The actions constitute . . ."). Count II does not state which facts alleged in the Third Amended Complaint give rise to a claim for tortious interference with business relations.

Count III of the Third Amended Complaint alleges alternative claims for either intentional infliction of emotional distress or negligent infliction of emotional distress. Complaint at ¶¶ 30-33. Count III is brought by "Plaintiffs" against "Defendants" generally does not state which facts alleged in the Third Amended Complaint give rise to a claim for intentional or negligent infliction of emotional distress.

Count IV of the Third Amended Complaint seems to allege a claim for "invasion of privacy." Exhibit A at ¶¶ 34-36 ("[t]he actions of Defendants constitute invasion of privacy. As a result, Plaintiffs have suffered damages as set out herein." *Id.* at ¶¶ 35-36. Count IV is brought by "Plaintiffs" against "Defendants" generally does not state which facts alleged in the Third Amended Complaint give rise to a claim for any of the four sub sets of invasion of privacy.

Count V of the Third Amended Complaint purports to allege a claim for punitive damages. *Id.* at ¶¶ 37-38 ("The actions of Defendants are so reprehensible, so outrageous, were done with such reckless disregard as to the rights and interest of the Plaintiffs as to entitle them to an award of punitive damages."). Count V does not state which facts alleged in the Third Amended Complaint give rise to a claim for punitive damages..

⁷ As Defendant Vitelco noted in its Memorandum in Support of its Motion for Judgment on the Pleadings, the Third Amended Complaint asserts that nondescript "Defendants" made "derogatory statements" to an unnamed "third person" about the Senator. Complaint at ¶ 12(h). Plaintiffs assert that such derogatory statements included "falsely accusing [the Senator] of covering up an arrest that in reality never occurred,

Third Amended Complaint generally alleges defamation and relates to two categories of publications: (i) Editorials and (ii) Articles.

2. The Publications

Plaintiffs only identify, by date, three news articles published on November 1, 2000, June 12, 2001 and sometime "[i]n January 2002."⁸ Compl. ¶¶ 12(b), 12(e), 12(g) and 13; SOF 1. By virtue of thoroughly sifting through document production, interrogatories, deposition testimony and Senator Donastorg's response to a pending Motion for a More Definite Statement, The Daily News has ascertained the dates of articles and editorials that are referred to, but are not pled by date of publication in the Complaint; including editorials published on March 1, 2004, April 6, 2004 and August 30, 2004; and an editorial published on May 29, 1998, that characterized Senator Donastorg as a "rogue senator." Compl. ¶ 12(e); SOF 2. Other generally referenced publications include news stories published on June 9, 2000, December 1, 2000, February 6, 2002 and a series of

that [the Senator] was a fiscally irresponsible person, that [the Senator] had ulterior motives for wanting VITELCO audited." *Id.* Plaintiffs assert further that, "it is believed that other derogatory and untruthful statements were made." *Id.* Plaintiffs do not allege when, to whom or by whom these alleged statements were made – other than to state that they were made to an unidentified "third person" by unidentified "Defendants." *Id.*

Plaintiffs assert that nondescript "Defendants" "slandered and defamed" Sen. Donastorg in an attempt to "cover up for their own reprehensible behavior." Complaint at ¶ 19. According to the Third Amended Complaint, the alleged statements occurred when "Defendants" allegedly (i) accused Sen. Donastorg of taking bribes, (ii) falsely claimed that the Investigative Report was an attempt to substantiate claims of Sen. Donastorg taking bribes, (iii) falsely claimed that "Sen. Donastorg flew on a private AT&T plane to the St. Lucia Jazz Festival," and (iv) falsely claimed that "Sen. Donastorg sets out to slander businesses." *Id.* at ¶ 19. Plaintiffs do not allege when, to whom or by whom these Alleged Statements were made – other than to state that they were made by unidentified "Defendants." *Id.* Because this Complaint is so broad, makes such wide allegations, and seems so poorly researched it is the type of pleading that could take Plaintiffs half an hour to compile, but requires Defendants to invest months of research to properly research, deconstruct and defend.

⁸ Plaintiffs First Set of Interrogatories reference a January 15, 2002 article. *See* Exh. 16. However, the averment at Complaint ¶ 13, factually references a February 6, 2002 article concerning a First Bank foreclosure action filed against Senator Donastorg and his wife regarding their Wintberg home. The Daily News, therefore assumes that averment 13 concerns the February 6, 2002 article.

articles on the use of public monies to fund a boxing event that ran from May 30, 2003 – December 16, 2003. SOF 3. Because, no genuine issue of material fact exists as to and of Plaintiffs' insinuations, The Daily News will address each article in turn.

B. The Record

1. Depositions

Donastorg and his co-Plaintiffs noticed the depositions of over thirty witnesses including: Marilyn Bailey, Eunice Bedminster, Bill Brown, Oakland Benta, Fern Clark, Percival Clouden, Elizabeth Coggins, Edward Crouch, Michael Cumbermack , Lowe Davis, Julie Erickson, Hal Hatfield, Susan Henighan, Chris Larsen, Almando Liburd, Jennifer Matarangas-King, Ariel Melchoir, Joe Minor, Matt Monroe, Barbara Perry, Jeffrey Prosser, Eling Joseph, Holland Redfield, Anthony Robbins, Marty Schladen, David Sharp, Dennis Sheraw, Billy Shields, Stan Spiegel, Esq. as Trustee for the Bankruptcy estate of ICC, and the 30(b)(6) deponents of both Vitelco and ICC.⁹

Of the thirty-two depositions noticed, Plaintiffs deposed eleven witnesses¹⁰ who were either Daily News reporters or employees, or affiliated with The Daily News' parent company, ICC. Despite lengthy depositions, there has been absolutely no testimony to support a *prima facie* defamation claim. No deponent testified that The Daily News falsified any of the alleged articles, or that the news staff, reporters or editorial staff had knowledge of their false implications or published the articles and editorials with reckless disregard of their truth. SOF 4-6. No deponent testified that the Daily News harbored a

⁹ On February 20, 2007, Plaintiffs' counsel cancelled several depositions.

¹⁰ Plaintiffs deposed former St. Croix Bureau Chief and Reporter Eunice Bedminster,; Elizabeth Coggins, Michael Cumberback, Lowe Davis, Julie Erickson, Ella Moron, Holland Redfield, former reporter - Marty Schladen.

subjective intent to defame Donastorg. SOF 5. The fact is, there is an absolute absence of any facts to support Donastorg's broad allegations of falsity. This undisputed factual paradigm is a threshold certainty that sweeps across this action.

The Daily News reporting was factually accurate and hard-hitting. Even the most disgruntled former employees, like former reporter and St. Thomas Bureau Chief Eunice Bedminster, who was highly critical of the newspaper and characterized The Daily News as a "plantation", (Dep. 13:21) testified that the news stories were factually accurate and thoroughly investigated; that she never heard the editorial staff imply that the Senator was a *persona non grata* (Dep. 21:22-22:2); or speak about Senator Donastorg in a derogatory manner (Dep. 16:20-23; 17:1-3), and that she could not identify any stories concerning Senator Donastorg that were even unfair in her opinion (Dep. 20:14-20). *See* Bedminster Dep. 24:20-25, 26:2-25; 27:1-18, April 19, 2007; SOF 7; Exh. 12. Bedminster wrote the February 6, 2002 Daily News Article concerning First Bank's foreclosure action against Senator Donastorg and his wife on their Estate Wintberg, St. Thomas home. She testified that the article was based wholly on a thorough investigation of Court documents. Dep. 26.¹¹ Bedminster also testified that she never witnessed the editorial staff make substantive changes to reporters' articles. Dep. 21:2-7.

Former Daily News reporter Marty Schladen testified that, although he was aware that Senator Donastorg thought the paper was "after him", that The Daily News wrote a number of stories in support of Senator Donastorg's positions. Schladen Dep. 27:7-14,

¹¹ It seems apparent that Plaintiffs' depositions, like its case, is tooled to intimidate the press and chill free speech targeted at Plaintiff and his counsel. For instance, during Bedminster's deposition taken only for the purpose of this case, Plaintiff's counsel Lee Rohn asks several questions about the Daily News' coverage about her – personally, even though it had nothing to do with this action. *See* Bedminster Dep. 25 ("Who else besides Any Simpson gives information about me?").

Feb. 14, 2011; SOF 14; Exh. 13. Mr. Schladen further testified that he never heard Daily News executive editors, Lowe Davis or Jason Robbins ever make any negative comments about Senator Donastorg. Dep. 36:7-14.

Paragraph 12(a) does not speak to any of the elements of defamation, but alleges that the Daily News “[o]ffered reporters bonuses if the recipients would write derogatory stories about Senator Donastorg with no requirement that the stories are actually truthful.” Compl. ¶ 12(a). Both of the Daily News’ 30(b)(6) witnesses, Jason Robbins and former Daily News Executive Editor J. Lowe Davis testified that the Daily News never offered any such incentives. *See* Exh. 14, Robbins Dep. 76:16-19, Sept. 13, 2010; *see also* Exh. 15 Davis Dep. 19:14-20, Sept. 15, 2010. In fact, Lowe Davis testified that she never even assigned a reporter to cover the foreclosure action concerning the Donastorg home, but rather, that it was the practice of the paper to have the reporter assigned to the Court “beat” review District Court filings and write a story anytime a high-ranking official was named in a Complaint. Exh. 14, Davis Dep. 49:18-22.

2. Interrogatories

When asked about the truthfulness of its articles, The Daily News’ sworn responses to interrogatories confirm that:

The Daily News relies upon its experienced and professional reporters to diligently pursue facts and to report on the reactions and responses of individuals both within and without the U.S. Virgin Islands to those facts and their implications. The Daily News relies upon its experienced and professional editors to review and assess every news article that is prepared by its reporters in reliance on those facts. This process constitutes the method by which the employees of The Daily News ensure that the news articles printed in The Daily News accurate and reliable.

Def.’s Resp. to Pl.’s First Set of Irogs No. 9.

The Daily News further responded that:

No employee of The Daily News was ever offered, given, paid, or received any bonus, payment, benefit, compensation or other perk consequent to providing The Daily News with any article or information concerning Adlah F. Donastorg, Jr.

Def.'s Resp. to Pl.'s First Set of Irogs. No. 7.

3. Affidavits

By affidavit dated March 5, 2004, Lowe Davis stated that in her capacity as editor in chief of the Daily News, she knows "of no news stories or editorials about Plaintiffs in the Daily News that concerned matters outside the public interest." Exh. 17, SOF 79; Davis Aff. ¶ 17. Davis further stated that, "[a]ll the information in news stories or editorials about Plaintiffs in the Daily News was gleaned from public sources, including court files, other public document and interviews with willing third parties." *Id.* at ¶ 27.

The record is in harmony with the objective facts and undisputed. The Daily News and its reporters believed that every fact reported in the publications was true when published, and they did not include any facts they knew to be false or about which they entertained doubts.

C. Plaintiffs Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron and Norma Duran must be dismissed as Party-Plaintiffs

Senator Donastorg's five-count Third Amended Complaint is full of holes. In particular, the numbered averments in the Complaint that reference Donastorg's family members blindly fire broad allegations that make no cognizable claim for relief under

recognized causes of action. These allegations seem only intended to include Senator Donastorg's family members as additional Plaintiffs.¹²

Averment 17 of the Complaint alleges that "Defendants" had caused an in-depth evasive, months-long investigation into Plaintiff, his wife, his mother, his sisters and brothers, his friends and neighbors."¹³ Compl. ¶ 17. However, the Complaint does not allege that The Daily News conducted the alleged investigation, commissioned the investigation or took part in any aspect of the investigation; nor does the pleading make reference to any defamatory communication on the part of The Daily News resulting from the investigation. Even if this allegation were true against any of the other four Defendants named in this suit, the Third Amended Complaint fails to allege how such an investigation factually supports any of the purported causes of action against The Daily News.

The remaining allegations in the Third Amended Complaint that include Donastorg's family members are simply baffling. Averment 12(i) of the Complaint alleges that The Daily News defamed Senator Donastorg and his wife Benedict Donastorg when it published that they "were behind on their mortgage payments and were being

¹² The Plaintiffs are: Senator Donastorg; his wife Benedicta Donastorg; his father, Adlah Donastorg Sr; Senator Donastorg's mother, Josefina Donastorg; and his sisters, Ella Moron and Norma Duran. Complaint ¶¶ 2-4.

¹³ Plaintiffs allege that Sen. Donastorg learned of an Investigative Report in September 2002. Compl. ¶ 17 ("In September 2002, Plaintiff Sen. Donastorg learned that Defendants had caused an in-depth, evasive, months long investigation into Plaintiff, his wife, his mother, his sisters and brothers, his friends and neighbors to be conducted."). Plaintiffs allege that the purpose of the Investigative Report "was to attempt to intimidate Plaintiffs and to attempt to find 'dirt' on Sen. Donastorg to use to convince him to stop attempting to get justice for the people of the Virgin Islands against Defendants." *Id.* at ¶ 18. Plaintiffs assert that Mrs. Donastorg, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron and Norma Duran were "subjected to personal investigations into their private lives and actions, by Defendants The Daily News and VITELCO." *Id.* at ¶ 23. Plaintiffs do not allege that the Daily News, Lowe Davis or Holland Redfield had any involvement with the Investigative Report. *Id.* at ¶ 22.

foreclosed.” The Complaint further alleges that “[u]pon information, Defendants **unduly investigated** this matter and printed the story...” Compl. ¶ 12(i). This averment does not deny the truth of the article, and instead appears to allege that The Daily News, a newspaper that won the Pulitzer Prize for investigative reporting, investigated this truthful article a little too thoroughly. This allegation is but one of the several frivolous allegations in the operative Complaint.

The Complaint otherwise makes no allegations that The Daily News published any articles whatsoever about Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron or Norma Duran, so it is unclear how these family members are implicated by the conduct of The Daily News. From the outset, the allegations as to these Plaintiffs must be dismissed against The Daily News for lack of standing, for failure to state a claim for which relief may be granted, and because no genuine issue of material fact exists concerning these Plaintiffs.

III. ARGUMENTS

A. COUNT I, DEFAMATION, THE CHALLENGED EDITORIALS¹⁴

Under the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas.

Gertz v. Robert Welch, Inc., 418 U.S. 323, 339–40, 94 S.Ct. 2997, 3006–07, 41 L.Ed.2d 789 (1974). Consequently, a statement of pure opinion receives absolute protection under the First Amendment. *U.S. Healthcare, Inc. v. Blue Cross of Greater Philadelphia*,

¹⁴ The Daily News published the editorials. However, it is undisputed that, The Daily News staff did not write, edit or have any role or knowledge of the process that went into the deliberative process of the authors of the challenged editorials. Exh.14-15, Robbins Dep. 207:1-10.

898 F.2d 914, 927 (3d Cir. 1990); *see Milkovich*, 497 U.S. at 19–20; *Kendall*, 2011 WL 4434922, at *8 (only statements that are “provable as false” are actionable, and expressions of opinion or hyperbole are constitutionally protected).

1. On May 29, 1998, “The Public’s Right to Know” Editorial

On May 29, 1998, The Daily News published an editorial entitled “*The public’s right to know*”, attached hereto as Exhibit 7, SOF 2(d) that refers to Senator Donastorg as a “rogue” senator. Plaintiffs filed their Complaint in 2002. At the outset, this allegation fails because the 1998 editorial is outside of the two-year limitations period codified at Title 5 V.I.C. § 31(5)(a). The editorial criticized Mr. Walter Challenger, then the Chairman of the Virgin Islands Public Services Commission (PSC), for failing to release a telephone rate investigation Report that was commissioned by the PSC.¹⁵

There are three paragraphs that refer to Senator Donastorg directly, and one that appears to refer to him indirectly. The paragraph referenced in Plaintiffs’ Complaint states:

....Utilities, especially monopolies such as electric and telephone companies, should be regulated. But the regulatory body should not be threatened by as rogue senator who is trying - yet again - to play politics and jeopardize the economic well-being of the people he supposedly represents. Enter Sen. Adlah Donastorg who is threatening an attempt to disband the PSC and fire its chairman.

¹⁵ The PSC is responsible for insuring that public utilities in the Territory “...furnish service and facilities reasonably safe and adequate and in all respects just and reasonable....” The PSC is also given the authority to insure that “[T]he charge made by any such public utility for any facility or services furnished, or rendered, or to be furnished, or rendered, shall be reasonable, just and non-discriminatory....” Public utilities are required to adhere to lawful orders of the PSC. *See* Title 30 V.I.C. § 2. Given its mandate, the threatened abolition of the Commission is a matter of the gravest public interest.

Senator Donastorg appears to take exception to The Daily News' characterization of him as a "rogue senator" (Compl. ¶ 12(e)). This characterization is an opinion that is corollary to Senator Donastorg's threat to attempt to disband the PSC. The term "rogue" has been applied liberally in the press to refer to public figures as diverse as Senator Tom Coburn of Oklahoma, Senator Jim Jeffords of Vermont, former Governor of Alaska Sarah Palin and former Representative Republican House Majority leader Tom Delay of Texas. The May 29, 1998 editorial constitutes protected opinion.

2. March 1, 2004, the "GERS As Political Fodder" Editorial

On March 1, 2004, The Daily News published an editorial entitled "*GERS as political fodder*" attached hereto as Exhibit 4, SOF 2(a) in which the newspaper criticized the efforts of Senator Donastorg to mandate that the Government Employees Retirement System (GERS) pay four percent (4%) interest on the lump sum funds paid to persons who elect to leave government service before retirement. The payment requirement, which had been passed into law under the sponsorship of Senator Donastorg, had not been implemented because the method of the calculation of the interest had neither been specified in the legislation nor was it later clarified.

It has become axiomatic in the U.S. Virgin Islands that the GERS retirement scheme is an underfunded mandate. In its 2004 editorial, The Daily News cited a conservative estimate of One Billion Dollars (\$1,000,000.00). The Daily News raised the specter of bankruptcy for the system, which it states occurred in the nearby Commonwealth of Puerto Rico.

The Daily News made generic references to senators who use special interest adjustments to the GERS to win votes, without sober consideration of the financial

consequences of those adjustments. The Daily News chided those senators for failing to demonstrate financial wisdom in the pursuit of political advantage.

The editorial ends with The Daily News taking Senator Donastorg to task for claiming that the four percent payout is a "pittance", and noted his apparent lack of understanding of the long term implications of such decisions.

The March 1, 2004 publication is an *editorial*, which is definitively protected opinion. Moreover, there is nothing false, defamatory or offensive about the editorial. Indeed, the Daily News is exercising its right to comment on critical issues of public interest, and to take to task public officials who, in its opinion, are not in accord with the best interests of the people of the Virgin Islands. The role of a newspaper in a civil society is to act as a daily record of current events and as a spotlight to illuminate issues of legitimate public interest. There is nothing actionable about The Daily News publishing an article criticizing an elected public official for advancing a special interest that is, in the opinion of the newspaper, contrary to the public interest.

3. April 6, 2004, "Registering V.I. Automobiles" Editorial

On April 6, 2004, the Daily News published an editorial entitled "*Registering V.I. automobiles*", attached hereto as Exhibit 5, SOF 2(b), in which the newspaper decried the complexity and the axiomatic unpleasantness attendant to obtaining a driver's license or a vehicle in the Virgin Islands. The Daily News referenced three propositions to improve the system, one from Elton Lewis, the Commissioner of Police, who suggested hiring a consultant to pose alternative solutions, one from Andrew Rutnik, the Commissioner of Licensing and Consumer Affairs, who suggested that jurisdiction be transferred to his Department, and one from Senator Donastorg, who suggested that the Division of Motor

Vehicles be made its own department outside the direct purview of the Police Department.

The editorial opposed establishing a new Department of Motor Vehicles, which, the proposal suggested be funded with either One Million Dollars (1,000,000.00) or ten percent (10%) of vehicle and license fees, whichever was greater. The Daily News referred to the well documented failure of the Senate Finance Committee to pass a FY 2004 budget under the chairmanship of Senator Donastorg, noting that as of April 6, 2004, the budget was some six months overdue. In the editorial, reference was made to Senator Donastorg's " . . . problems in managing his personal finances and the government's..." a clear reference to the foreclosure action on his personal residence that had been filed by FirstBank Puerto Rico in 2002 and to the failure of his legislative committee to vote out a FY 2004 budget. The Daily News characterized Senator Donastorg's proposal as electioneering in advance of the November 2004 elections, and suggested that the matter of licensing drivers and their vehicles should be left to those professionals in the industry.

The April 6, 2004 editorial mildly criticizes Senator Donastorg for failing to pass the budget for the Territory by October, 2003, and had not yet done so by April, 2004. This issue directly affects thousands of Virgin Islanders on a multi-year basis. Senator Donastorg clearly subjected himself by chairing a legislative committee which had failed to pass a budget. The April 6, 2004 editorial is protected opinion, there is nothing in the editorial that is false or defamatory, and the newspaper as a conduit for mild comments and constructive criticism is well within the scope of its role as a watchdog of the public interest.

4. **The August 30, 2004, “Blind Eye to Cockfighting? Animal Cruelty Nonetheless!” Editorial**

On August 30, 2004, The Daily News published an editorial entitled “*Blind eye to cockfighting? Animal cruelty nonetheless!*” See Exh. 6, SOF 2(c). This editorial concerned a bill that ultimately became Title 14 Chapter 7 of the Virgin Islands Code, entitled “Animals and Birds.” This Code section concerned criminal penalties and standards for animal abuse in the Territory of the Virgin Islands. The particular focus of the editorial is the definition of animal abuse in the first degree which provides, at Title 14 V.I.C. § 181(e), as follows:

Any person who maliciously and unnecessarily:
(e) uses or traps domestic dogs, cats or other animal as bait, prey or target or other malicious activities, including for the purpose of, but not limited to, training dogs or other animals to fight, **excluding adult male fowl used for the sport of cockfighting...** (emphasis added)

The Daily News took strong exception to the exclusion of cockfighting from the definition of animal abuse. The editorial noted the cruelty of the sport, the prospect for illegal wagering on the sport and the numbing effect of the violence on young children.

Senator Donastorg is only mentioned in the editorial as follows: “[w]e are puzzled why senators specifically excluded cockfighting from Bill 25-0149, whose primary sponsor is Sen. Adlah Donastorg. This legislation needs more work...”

A copy of the editorial and of Bill No. 25-0149 are attached hereto as Exhibit 5. The editorial constitutes protected opinion. There are no false or defamatory statements in the editorial, and the only reference to Senator Donastorg is as the primary sponsor of the Bill. A review of the Bill clearly demonstrates that fact.

The Daily News editorial took a position against cockfighting, and truthfully and accurately identified Senator Donastorg as the prime sponsor of a Bill that addresses animal cruelty but fails to outlaw cockfighting. This editorial, like all of the others mentioned in Plaintiffs' Third Amended Complaint, is neither false nor defamatory.

B. COUNT I, DEFAMATION - THE CHALLENGED ARTICLES

1. June 9, 2000 The "ICC, Donastorg Square off over Vitelco Tax Breaks" Article is not Actionable

The Daily News published an article entitled "*ICC, Donastorg square off over Vitelco tax breaks*". Exh. 9, SOF. 36-39. The article refers to a press release by Senator Donastorg, which alleges that employees from a variety of Innovative Communication Corporation (ICC) subsidiaries were working for Vitelco in an effort to secure and maintain tax exemption benefits, which requires a certain level of hiring. The principals of ICC, through its chief operating officer and its spokesman, denied the allegations, claiming that the purpose of the personnel decisions was "corporate consolidation, not tax evasion." Senator Donastorg was quoted extensively in the article, and the documentary evidence that Donastorg provided to The Daily News was referred to objectively. Senator Donastorg reiterated his repeated statements that the IDC and the PSC should investigate Vitelco.

Nothing in the article is false. Moreover, the article does not even characterize Senator Donastorg in any way, nor does it characterize his allegations against Vitelco, the PSC or the IDC. Senator Donastorg's allegations are given balanced coverage, and are referenced both before and after ICC's response. The article is neither false nor is it defamatory.

2. The November 1, 2000 St. Croix Foundation Article is not actionable

The Senator's sole reference to the November 1, 2000 Article states as follows:

Slanting news stories associated with Senator Donastorg in a negative light so as to discredit Senator Donastorg, as such, writing false facts on the story of November 1, 2000, regarding the St. Croix Foundation. Despite receiving information that the facts were false, refused to correct the story and other false stories."

Third Amended Compl. ¶ 12(g).

On November 1, 2000, The *Daily News* published a news article entitled "Donastorg, IDC director wrangle over accusations of abuses" attached as Exhibit 1, SOF 40-47. The November 1, 2000 Article reports on a public controversy regarding a letter dated October 24, 2000 in which Senator Donastorg charged that (then) Virgin Islands Industrial Development Commission (the "IDC") Director Frandelle Gerard ("Director Gerard") "used her position to solicit donations from Caneel Bay for the St. Croix Foundation for Community Development, which she chairs." *See* Exhibit 1. The November 1, 2000 Article reports on Director Gerard's response to Senator Donastorg's October 24, 2000 letter and the response of Caneel Bay's counsel. *Id.* The November 1, 2000 Article states that Senator Donastorg also charged in his October 24, 2000 letter that Director Gerard had "not penalized any IDC beneficiaries since becoming director in April 1999." *Id.* The November 1, 2000 Article also discusses Director Gerard's response to this additional charge. *Id.*

Nothing in this article is false. The November 1, 2000 article is a fact-based account of a letter sent by the Senator to (then) IDC Director Frandelle Girard. As a matter of law, there is nothing even remotely defamatory about a report of a senator

overseeing and performing due diligence on an agency within the Executive Branch of government. Such activities are well within the purview of a Virgin Islands senator and occur with such regularity as to be mundane. Senator Donastorg does not – nor could he – allege how a report of his exercise of his duties as a Virgin Islands senator could possibly lower his reputation in the community or deter anybody from dealing with him. As a matter of law, nothing stated in the November 1, 2000 article is capable of defamatory meaning.

Moreover, in the Third Amended Complaint, Senator Donastorg does not allege how or why the November 1, 2000 article is false. The Senator merely states a solitary conclusion that DNPC published “false facts on the story of November 1, 2000.” Compl. ¶ 12(g). Such a bare conclusory allegation fails to plausibly plead falsity. Further, such a bare conclusory allegation fails to give the defendants herein notice of the basis for Senator Donastorg’s defamation claim related to the November 1, 2000 Article. Senator Donastorg’s defamation claim must be dismissed as to the November 1, 2000 Article.

3. The June 12, 2001, “*Legislation Reduction on Agenda for Rules Committee*” Article is Not Actionable.

On June 12, 2001, The Daily News published an article entitled “*Legislation reduction on agenda for Rules Committee.*” The article is attached hereto as Exhibit 2A. SOF 48-5-. Although the headline has a grammatical error, the focus of the article was the scheduling of a hearing on the bill, sponsored by Senator Donastorg, to reduce the size of the Legislature from 15 to 9, and to reduce the Legislature’s budget concomitantly. The Rules Committee’s consideration of the measure followed it being voted out of the Committee on Government Operations, Planning and Environmental

Protection the previous week "...after lengthy hearings on all islands...." This is the one and only article that contains a factual error. The article incorrectly stated that Senator Donastorg voted against the bill in that Committee, on the basis that he wanted to send the bill to the floor of the Senate for consideration, rather than to the Rules Committee. That reporting was in error.

As a matter of law, it is not necessary that a report be exact in every detail or that it conforms to that precision demanded in technical or scientific reporting. *Kendall*, 2010 WL 2218633, at *5. It is enough that it conveys to the persons who read it a substantially correct account of the proceedings. RESTATEMENT (SECOND) OF TORTS § 611 cmt. f.

On June 14, 2001, two days after the article was published and long before this suit was filed, a correction appeared under the headline "Setting the record straight" in a boxed statement on page 11 of that edition of The Daily News. Exh 2B, SOF 51-53. The correction reported that the reference made to Senator Donastorg's vote in the July 12 story was in error, and that Senator Donastorg did in fact vote to refer the bill to the Rules Committee. The correction attributed the error to the staff of the legislative committee.

The June 14, 2001 Retraction, entitled "Setting the Record Straight," stated as follows:

Sen. Adlah Donastorg, Jr. did not vote against the bill to reduce the size of the Senate from 15 to nine members when it was approved by the Committee on Government Operations, Planning and Environmental Protection last week.

See Exhibit 2B.

Senator Donastorg contends that the June 12 article was false and defamatory, given that it depicted him as a legislator who “. . . voted against his own bill...” Senator Donastorg's Complaint seems to imply that The Daily News intended to imply that he was either confused or was not entirely committed to the reduction in the size of the Legislature from 15 to 9.

However, the article can fairly be read as indicating that Senator Donastorg voted against sending the bill to the Rules Committee in order to avoid legislative red tape, thereby forcing an early vote on the measure by the entire Senate.¹⁶ In fact, this is the rationale expressed in the June 12th article. Far from depicting Senator Donastorg as a person who was confused or was less than fully committed to the reduction of the Legislature, a fair reading of the June 12 article is that Senator Donastorg was advancing a legislative maneuver that would expedite final legislative consideration of the Bill. While the initial report contained an error, Donastorg cannot sustain an allegation that this reporting was reckless.

¹⁶A report of an official proceeding is privileged “[s]o long as the account presents a fair and accurate summary of the proceedings.” *Medico v. Time, Inc.*, 643 F.2d 134, 137 (3d Cir. 1981). This fair report privilege protects “the interest of the public in having information made available to it as to what occurs” in government proceedings and is central to the public's ability to hold officials accountable. RESTATEMENT SECOND OF TORTS § 611 cmt. a. Under this well-established principle, “there can be no liability” when a report is “reasonably accurate and fair.” *Lavin v. New York News, Inc.*, 757 F.2d 1416, 1420 (3d Cir. 1985). As the *Restatement* explains, “[i]t is not necessary that [the report] be exact in every immaterial detail or that it conform to that precision demanded in technical or scientific reporting. It is enough that it conveys to the persons who read it a substantially correct account of the proceedings.” Restatement § 611 cmt. f. To determine whether a report meets this standard, the Court must compare the proceedings in question and “the article as a whole.” *Reilly v. N. Hills News Record*, 1998 WL 1113472, at *2 (W.D. Pa. Oct. 26, 1998). If the report is reasonably fair and accurate, the defamation claim fails as a matter of law. See *Schiavone Constr. Co. v. Time, Inc.*, 735 F.2d 94, 97 (3d Cir. 1984); accord *Reilly*, 1998 WL 1113472, at *2 n.2 (granting motion to dismiss on fair report privilege) *Lavin v. N.Y. News, Inc.*, 757 F.2d 1416, 1420 (3d Cir. 1985)

Actual malice is a subjective test that turns on the defendants' actual state of mind, hence "the Supreme Court has cautioned that 'reckless conduct is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing.'" *Schiavone Constr. Co.*, 847 F.2d at 1089 (quoting *St. Amant*, 390 U.S. at 731). Thus, negligence, such as a reporter's "failure to verify his facts," "does not rise to the level of actual malice," *McDowell v. Paiewonsky*, 769 F.2d 942, 951 (3d Cir. 1985), and "even an extreme departure from professional standards, without more, will not support a finding of actual malice." *Tucker* 237 F.3d at 286; *Connaughton*, 491 U.S. at 685. Additionally, misinterpretation of official documents does not constitute actual malice. *Pape*, 401 U.S. 1015. Rather, actual malice can only be proved by evidence demonstrating that the authors had the subjective intent to disregard the truth. *St. Amant*, 390 U.S. at 731. The Daily News admits that the article was not completely accurate when published, but it was based upon government sources that The Daily News believed to be true when it published the article. Moreover, the inaccuracy was immediately corrected. There is no evidence of record to suggest that the article was falsified, intentionally false, or written with the subjective intent to defame Senator Donastorg.¹⁷

4. The February 6, 2002 "Sen. Donastorg and Wife Face Foreclosure on Their Wintberg Home" Article is not actionable.

On February 6, 2002, The Daily News published an article, attached as Exhibit 7, entitled "*Sen. Donastorg and wife face foreclosure on their Wintberg home.*" Exh. 10A SOF 54-59. The article noted the filing of a Complaint in federal court for debt and

¹⁷ Indeed, while a reporter's "failure to investigate," *St. Surin v. V.I. Daily News, Inc.*, 21 F.3d 1309, 1317 (3d Cir. 1994), or making a "mistake" might be "unprofessional," neither is sufficient to establish actual malice, *Marcone*, 754 F.2d at 1090. Likewise, "actual malice cannot be imputed merely because the information turns out to be false." *Schiavone Constr. Co.*, 847 F.2d at 1090. And, "[a]n erroneous interpretation of the facts does not meet the standard." *Id.*

foreclosure of mortgage on property owned by Senator and Mrs. Donastorg, a Complaint which demanded judgment for the outstanding amount of the mortgage, plus accrued and outstanding interest. The article quoted accurately from Paragraph 7 of the Complaint, which declared a default of the Donastorgs' Mortgage. Senator Donastorg was contacted for a comment on the proceedings, and stated, without further clarification, that ". . .It's being taken care of; the bank dropped the ball, I don't understand why its a major issue."

The article reported on a Complaint that had been filed in the U.S. District Court on February 4, 2002, in which FirstBank Puerto Rico claimed that Senator and Mrs. Donastorg had defaulted in the payment of their mortgage. The Complaint by FirstBank against Senator and Mrs. Donastorg demands a judgment of priority and foreclosure, and a personal judgment against them for any deficiency if the entire judgment on the debt is not satisfied by the sale of the residence. Senator Donastorg's statement that the matter was in the process of being resolved is borne out by the Civil Docket, which recorded the February 2, 2002 filing of the Complaint, the Service of Process on the Defendants on February 5 and February 12, 2002 and the April 29 filing and the Court's April 30, 2002 Order confirming the voluntary dismissal of the Complaint. SOF 59, Exh. 10B.

It is incontrovertible that when the February 6, 2002 article was published, that the action for foreclosure and debt had been filed, that Senator Donastorg was aware of the filing, and that the case was pending for approximately three months before it was dismissed of record.

There are no false statements in the February 6, 2002 article. The facts included in the article were all fairly drawn from the Complaint and from the statements made by Senator Donastorg himself. The article was not defamatory, as it simply recited the

details of a public document filed in federal court, followed by Senator Donastorg's response to its filing.

As the Third Circuit Court of Appeals held,

[U]nder the law of libel, a report of an official proceeding or record, including court proceedings and court records, is privileged, and therefore cannot be the basis for a judgment against Defendants if the account presents a fair and accurate summary of the proceedings or the contents of the official record.

Medico v. Time, Inc., 643 F.2d, 134, 137 (3d Cir.1981). The Daily News is fully entitled to publish a fair report concerning documents filed in the public record, particularly those filed in the courts of the territory in the preparation and the publications of its articles.

5. There are no Actionable Articles in the Series of Articles Concerning the May 30 2003-December, 2003 Boxing Event on St. Thomas, V.I.

Between May 30, 2003 and December 16, 2003, The Daily News published a series of fourteen articles concerning a professional boxing match that was underwritten by an appropriation of \$300,000.00 from the Tourism Revolving Fund. The articles are attached hereto as SOF 60-78, Exh. 11. The primary sponsor of the legislation that granted the appropriation was Senator Donastorg. The articles commence with reporting on the preliminary contract negotiations and conclude with a post fight analysis. Of the twelve articles, Senator Donastorg is mentioned in seven of the fourteen articles.

The first article of the series, dated May 30, 2003, had the headline "*VI-backed boxing event called off, future uncertain*" with the sub-headline "*No TV coverage scheduled despite promise when Donastorg got VI to appropriate \$300,000.00.*" Exhibit 13). The article reported that Senator Donastorg pushed the VI government to support the event, but that no TV coverage had yet been arranged. The promoter, Sterling

McPherson was quoted as saying that there were ongoing negotiations with various cable networks. Other than identifying Senator Donastorg as the moving force behind that legislation, there was no reference to Senator Donastorg.

The second article of the series, dated September 22, 2003, had the headline "*Sugar Ray Leonard to promote VI boxing match for ESPN2's Friday Night at the fights, planners say*" (Exhibit 14). The article did not make any reference to Senator Donastorg.

The third article of the series, dated October 24, 2003, had the headline "*No contract yet, but ESPN will visit St. Thomas boxing site*" (Exhibit 15) referred to a site visit by representatives of ESPN and that a formal announcement was imminent. Peter Sauer, the UVI Athletic Director, who was providing the venue, was reported as saying that he was negotiation with officials, including Senator Donastorg on the logistics of the fight. In addition, Senator Donastorg was identified as having sponsored the amendment that appropriated the funds to pay for the event.

On October 31, 2003 The Daily News published two articles (the fourth and fifth in the series). The first article was entitled "*Sugar Ray says VI boxing events is a go*" (Exhibit 16) with the sub-headline "*No world title at stake, but welterweights include a talented prospect.*" The second article, on the same page, was entitled "*Leonard Readies St. Thomas for Rumble in Paradise.*"

In the first October 31 article, there is a one-paragraph reference to Senator Donastorg as follows "[T]he government appropriation, which Sen. Adlah Donastorg, Jr. sponsored as an amendment to a bill and will draw from the Revolving Tourism Fund, is intended to show case the Virgin Islands as a tourism destination."

Senator Donastorg is not referred to in the second October 31 article.

The sixth article of the series was published on November 1, 2003 and had the headline "*No ESPN contract yet for VI boxing card*" (Exhibit 17). The only reference to Senator Donastorg was as follows "Sen. Adlah Donastorg, Jr., who has been the point man for the Virgin Islands in bringing the fight to town, also was unavailable for comment." The articles focused on the efforts of the promoters to firm up the bout and the fighters, and gave some details about the complexity of the preparations.

The seventh article of the series was published on November 5, 2003 and was entitled "*ESPN commits to televising V.I.'s 'Rumble in Paradise'*" (Exhibit 18). The article had a photograph of Senator Donastorg and Sugar Ray Leonard in a press conference with the caption "Sen. Adlah Donastorg, Jr. and Sugar Ray Leonard announcing plans for the fight during Leonard's trip to the Virgin Islands last week." The article reported three quotes from Senator Donastorg lauding the fight as a springboard for future sporting events, and concerning the fact that the main event was for the "Continental America's" title, which likened the title to a Double-A baseball title.

The eighth article of the series was published on November 7, 2003 and was entitled "*UVI Sports Center secured as the site for boxing bouts ticket situation unclear*" (Exhibit 19) reported on the uncertainty of where and when to secure tickets for the six-fight card. In the article, there are three references to Senator Donastorg. The first was that he was unavailable for comment, the second was that he worked with UVI officials to secure use of the VI Sports Center and, third, that neither he nor the University officials would comment on the financial arrangements for the use of the facility.

The ninth article of the series, published on November 8, 2003, was entitled "*Two local boxers ready to rumble in December's professional event*" (Exhibit 20). The November 8 article did not mention Senator Donastorg.

The tenth and eleventh articles were published on December 4, 2003. The first December 4 article was entitled "*Heavyweight bout dropped from St. Thomas boxing card*" (Exhibit 21) did not mention Senator Donastorg. The second December 4 article, on the same page, was entitled "*Leather ready to fly at last in St. Thomas boxing show.*" In that article, Senator Donastorg was identified as the "Rumble in Paradise ringmaster who sponsored legislation to bring the fight to St. Thomas." Senator Donastorg was quoted as lauding the upcoming ESPN broadcast and characterizing it as a "...springboard for future major events..."

The twelfth article of the series was published on December 5, 2003, the day of the fights. The article was entitled "*Countdown to fight time marked by flurry of activity*" (Exhibit 22). Senator Donastorg is not mentioned in the December 5 article.

The thirteenth article of the series was published on December 6, 2003 and is entitled "*Rumble in Paradise - Burton Defeats Lorenzo in Main Event*" (Exhibit 23). Senator Donastorg is not mentioned in the December 6 article.

The fourteenth and final article in the boxing series was published in The Daily News on December 16, 2003. The article was entitled "*Boxing event showcases 'paradise' for 781,000 viewers*" (Exhibit 24). Senator Donastorg was reported as saying that the publicity the Virgin Islands received far exceeds the \$300,000.00 expenditure from the Tourism Revolving Fund. In addition, the article quotes Senator Donastorg as

saying that "...The timing couldn't have been better as Northeastern viewers got to see our sunshine and beaches on the eve of the season's first major snowstorm."

There is literally not a single negative reference to Senator Donastorg in the entire series of fourteen articles, and there are certainly no false statements in any of the fourteen articles. The articles depict Senator Donastorg as the person responsible for securing the funding support for the event from the Tourism Revolving Fund, they show him engaged in the pre-fight activities, such as entertaining Sugar Ray Leonard, a world-renowned former boxing champion and successful promoter, and they report on him congratulating all concerned for a job well done. There is nothing false, derogatory or offensive in any of the fourteen articles.

C. COUNT II - PLAINTIFFS' CLAIM FOR INTERFERENCE WITH BUSINESS RELATIONSHIP FAILS.

Deep into the second count of the Third Amended Complaint, Plaintiffs allege that, "The actions constitute a concerted effort to harass and discredit Plaintiffs and to interfere with their business relationships." (Compl. ¶ 28.) There is no statutory cause of action for "interference with business relationship" in the Virgin Islands. As such, the Restatement (Second) of Torts § 766C, "Negligent Interference with Contract or Prospective Contractual Relation" is informative, and provides in pertinent part that:

One is not liable to another for pecuniary harm not deriving from physical harm to the other, if that harm results from the actor's negligently

- (a) causing a third person not to perform a contract with the other, or
- (b) interfering with the other's performance of his contract or making the performance more expensive or burdensome, or
- (c) interfering with the other's acquiring a contractual relation with a third person.

Restatement (Second) of Torts § 766C. *See also* 1V.I.C. § 4.

An action for negligent interference with contract, for economic or pecuniary loss, is not recognized as a viable cause of action under the Restatement.¹⁸ Third Circuit jurisprudence echoes the Restatement and “adhere[s] to the rule defined by Justice Holmes in *Robins*, incorporated in the Restatement of Torts (Second) § 766C, and embraced by the leading commentators that[,] where the negligence does not result in physical harm, thereby providing no basis for an independent tort, and the plaintiff suffers only pecuniary loss, he may not recover for the loss of the financial benefits of a contract or prospective trade.” *Getty Ref. & Mktg. Co. v. MT FADI B*, 766 F.2d 829, 832-33 (3d Cir. 1985)(emphasis added)(courts have drawn a “conspicuous bright line rule” precluding recovery for negligent interference with contract); *see also Robins Dry Dock & Repair Co. v. Flint*, 275 U.S. 303, 48 S.Ct. 134, 72 L.Ed. 290 (1927)(creating bright line rule of limitation of liability under which plaintiff cannot recover economic loss damages resulting from negligent interference with contractual right unless plaintiff also sustained some physical harm to person or to property as result of defendant's negligent conduct.); *see also In re Oriental Republic of Uruguay*, 821 F. Supp. 934, 937 (D. Del. 1993)(applying “*Robins* bright line rule”).¹⁹ Courts across the country follow the

¹⁸ As noted *supra*, this is not an action where Gerard alleges that Dempsey physically harmed him.

¹⁹ “The Restatement's drafters report that it is the character of the contract or prospective interest itself that has led courts to refuse to give the interest protection against negligent interference.” *Getty Ref. & Mktg. Co.*, 766 F.2d at 832 (citing Restatement (Second) of Torts comment a)). The extremely variable nature of the relations between the parties, the fear of an undue burden upon the defendant's freedom of action, the probable disproportion between the large damages that might be recovered and the extent of the defendant's fault, and perhaps in some cases the difficulty of determining whether the

Restatement's clear position. *See PPG Indus., Inc. v. Bean Dredging*, 447 So. 2d 1058, 1060 (La. 1984). ("Recovery of economic losses for negligent interference with contractual relations is almost uniformly denied in the jurisdictions."); *Ins. Co. of North America v. Waterhouse*, 424 A.2d 675, 678 (1980) (under negligent interference with contract theory, an agent is not responsible for economic loss to third persons when he negligently fails to perform duties owed to his principal); *Institutional Food v. Golden State Strawberries*, 587 F.Supp. 1105, 1111, *affirmed* 747 F.2d 448 (8th Cir.1984) (observing that under the Restatement there is no liability for negligent interference with an existing contract and granting defendant's motion to dismiss).²⁰

Plaintiffs disregard long-established precedent and ground their theory of recovery in a cause of action that - based on governing law- does not exist in the context of this litigation. For these reasons, Donastorg's claim for negligent interference of contract must fail.

D. COUNT III – PLAINTIFFS' CLAIM FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS FAILS AS A MATTER OF LAW

Count III of the Third Amended Complaint alleges intentional infliction of emotional distress. An intentional infliction of emotional distress tort is committed when, "one who by extreme and outrageous conduct intentionally or recklessly causes severe

interference has in fact resulted from the negligent conduct, all have influenced the courts against permitting recovery. *Id.*

²⁰ *See also* W. Prosser, *Law of Torts* § 129 at 930 (4th Ed.1971).

emotional distress to another." Restatement (Second) of Torts, § 46²¹; *see also Cox v. Keystone Carbon Co.*, 861 F.2d 390 (3d Cir. 1980); *Moolenaar v. Atlas Motor Inns, Inc.*, 616 F.2d 87 (3d Cir. 1980); *Alvarez v. Pueblo Int'l, Inc.*, 24 V.I. 141, 147 (1988) (the defendant's conduct must be "so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized society," citing Restatement (Second) of Torts, § 46, cmt. D.) Although the absence of any physical injury is not fatal to a claim for intentional emotional distress, if a plaintiff has not suffered physical injury as a result of a defendant's conduct, the conduct must have been sufficiently extreme and outrageous to ensure the genuineness of the claim. *Heywood v. Cruzan Motors, Inc.*, 792 F.2d 367, 372 (3d Cir. 1986). Negligent infliction of emotional distress is governed by Restatement (Second) of Torts § 436A. Under section 436A, "the negligent actor is not liable when his conduct results in emotional disturbance alone, without the bodily harm or other compensable damages; *Id.*; *Mingolla v. Minnesota Mining & Mfg. Co.*, 893 F.Supp. 499, 506 (D.V.I.1995) (describing the elements of negligent infliction of emotional distress); *Lempert v. Singer*, 26 V.I. 326, 766 F.Supp. 1356 (D.V.I.1995) (holding that, absent any physical harm, plaintiff cannot prevail on negligent infliction of emotional distress).

There is nothing extreme and outrageous about a newspaper publishing news articles about a public official. Plaintiffs otherwise fail to raise a genuine issue of material fact concerning the alleged defamation that they purport caused actionable

²¹ V.I. Code Ann., tit. 1 § 4; *see also Banks v. International Rental and Leasing Corp.* 2011 WL 6299025 (V.I. Dec. 15, 2011); *Government of the Virgin Islands v. Conner*, 2014 WL 702639, at *4 (V.I. February 24, 2014).

emotional distress and fail to raise a genuine issue of material fact as to physical injury. Accordingly, Plaintiffs' negligent and intentional infliction of emotional distress claims must fail.

E. COUNT IV – INVASION OF PRIVACY

The Restatement (Second) of Torts provides the following standard for establishing an invasion of privacy claim:

One who gives publicity to a matter concerning the private life of another is subject to liability to the other for invasion of his privacy, if the matter publicized is of a kind that (a) would be highly offensive to a reasonable person, and (b) is not of legitimate concern to the public.

Restatement (Second) of Torts § 652D; *Smith v. Virgin Islands Port Auth.*, CIV.NO.2002-227, 2005 WL 15459 (D.V.I. Jan. 2, 2005). Plaintiffs' claims all fail, in this litigation which concerns publications regarding a then-sitting Virgin Islands Senator, because the subject matter of each and every one of the referenced articles are of legitimate public concern, including the life choices of the Senator himself.

IV. CONCLUSION

Because "actual malice" is so difficult to prove, Virgin Islands courts and the Third Circuit Court of Appeals all routinely dismiss defamation claims on summary judgment on actual malice grounds. *See, e.g., Dunn v. Gannett N.Y. Newspapers, Inc.*, 833 F.2d 446, 451-52 (3d Cir. 1987); *Jenkins*, 829 F.2d at 407-08; *Pierce v. Capital Cities Commc'ns, Inc.*, 576 F.2d 495, 507-10 (3d Cir. 1978); *Joseph v. Daily News Publ'g Co.*, 2009 V.I. LEXIS 5, at *44-45 (V.I. Super. Ct. Jan. 21, 2009); *Ratner v. Young*, 465 F. Supp. 386, 400 (D.V.I. 1979) (all granting or affirming summary judgment on actual malice grounds). To survive summary judgment and best the citadel of First Amendment protections afforded to news reports about politicians, Senator Donastorg

must raise a genuine issue of material fact that The Daily News publications were both false and published with subjective knowledge of their falsity and/or for reckless disregard for the truth. The Senator fails to remotely prove either element. There is no testimony, documentary evidence or factual assertion anywhere in this record that indicate that any of the challenged articles or editorials contained any intentionally false, derogatory or slanderous statements about senator Donastorg or his family. The one error that was noted in the June 12, 2001 article was immediately corrected.

This case is the archetype of a meritless suit, supported by a vague Complaint (although three times amended) that lacks sufficient factual content to give rise to even a prima facie cause for defamation, intentional infliction of emotional distress or tortious interference of contractual relationships. The ambiguity of the Third Amended Complaint has forced The Daily News to pay counsel to conduct extensive factual research, resulting in this equally extensive motion, just to piece together what articles and Defendants are referenced in Plaintiffs' pleading. Reading through the allegations, it seems apparent that this haphazard action was filed as a strategic move by a seasoned politician intended to chill press coverage of his activities in the public arena.

Although it is difficult to ascertain the good faith basis by which Plaintiffs brought this cause under existing law; it is apparent that the defense of this frivolous suit has incurred costs to the Defendants. In this vein, censorship by litigation has the improper potential of placing free speech on economic ice by putting the press in the position to make a choice between free expression concerning public officials and the legal fees associated with defending meritless suits, like this one. Defendants, The Daily News and Lowe Davis respectfully urge this Court to vindicate First Amendment

perogatives and reject Senator Donastorg's unwieldy and unsupported allegations. Accordingly, because Plaintiffs fail to raise a genuine issue of material fact concerning any of their claims, this Court must enter judgment for The Daily News Publishing Company, Inc. and Jane Lowe Davis and against Plaintiffs on all counts of the Third Amended Complaint and for such other relief as may be proper.



Dated: July 30, 2014

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of July, 2014, I caused a true and correct copy of the foregoing Memorandum in Support of Motion for Summary Judgment to be served upon:

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JA000336

Sen. Adlah F. Donastorg, Jr., *et al.* v. Daily News Publishing Company, Inc., *et al.*
Superior Court Case No. SX-02-CV-117
Defendants Daily News and J. Lowe Davis' Motion for Summary Judgment
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A handwritten signature in black ink, appearing to read "Semaj I. Johnson", written over a horizontal line.

Semaj I. Johnson, Esq.

JA000337

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

SENATOR ADLAH DONASTORG, JR.)	
BENEDICTA DONASTORG, ADLAH)	
DONASTORG, SR., JOSEFINA)	
DONASTORG, ELLA MORON and	)	Civil No. 117/2002
NORMA DURAN,)	
)	
Plaintiffs,	)	Action for Damages
)	
v.	)	Jury Trial Demanded
)	
DAILY NEWS PUBLISHING CO. INC.,)	
LOWE DAVIS, HOLLAND REDFIELD,)	
VITELCO and OAKLAND BENTA,)	
)	
Defendants.)	

**DEFENDANTS' STATEMENT OF MATERIAL FACTS
ABOUT WHICH THERE IS NO GENUINE ISSUE**

Defendants, Daily News Publishing Co. Inc. and Lowe Davis, by and through their undersigned counsel, in support of his Motion for Summary Judgment hereby submit this statement, pursuant to LRCi 56.1(a)(1), of material facts about which there is no genuine issue:

I. Editorials and News Articles

1. Plaintiffs only identify, by date, three news articles published on:

- a. November 1, 2000, *see* Exh. 1;
- b. June 12, 2001, *see* Exh. 2A;
- c. and sometime "[i]n **January 2002.**" Complaint at ¶¶ 12(b), 12(e), 12(g) and 13;
See also Exhibit 3.

2. The Daily News, through counsel, has ascertained during the course of discovery, the dates of articles and editorials seemingly referred to, but not pled by date in the Complaint; including editorials published on:

- a. March 1, 2004, *see* Exh. 4;

b. April 6, 2004; *see* Exh. 5 and

c. August 30, 2004; *see* Exh. 6;

d. and an editorial published on May 29, 1998 that characterized Senator Donastorg as a "rogue senator" *see* Exh. 7. The term "rogue" has been applied liberally in the press to refer to public figures as diverse as Senator Tom Coburn of Oklahoma, Senator Jim Jeffords of Vermont, former Governor of Alaska Sarah Palin and former Representative Republican House Majority leader Tom Delay of Texas. This is evidenced by a simple internet search that reveals the repeated use of the term "rogue" in a manner that describes a politician who either departs from the mainstream of his party, or who takes anomalous or contrarian political positions. *See* Exh. 8.

3. Other publications referenced in this action include news stories published on:

a. June 9, 2000; *see* Exh. 9.

b. February 6, 2002 and; *see* Exh.10.

d. a series on the use of public monies to fund a boxing event that ran from May 30, 2003 – December 16, 2003. *See* Exh. 11.

II. Depositions and Interrogatories

4. There has been no deposition testimony to support a prima facie defamation claim. *See* Exhs. 12-15.

5. No deponent testified that The Daily News falsified any of the alleged articles. *Id.*

6. No deponent testifies that The Daily News reporters or editorial staff had knowledge of the false implications of any news articles. or published any articles with reckless disregard of their truth. *Id.*

7. Former reporter and St. Thomas Bureau Chief Eunice Bedminster characterized The Daily News as a "plantation." *See* Bedminster Dep. 24:20-25, 26:2-25; 27:1-18, April 19, 2007. *See* Exh. 12.
8. Bedminster wrote the February 6, 2002 Daily News Article concerning First Bank's foreclosure action against Senator Donastorg and his wife on their Estate Wintberg home. *Id.*
9. Bedminster testified that the news stories were factually accurate and thoroughly investigated; that she never heard the editorial staff imply that the Senator was a *persona non grata* (Dep. 21:22-22:2); or speak about Senator Donastorg in a derogatory manner (Dep. 16:20-23; 17:1-3). *See* Exh. 12.
10. Bedminster also testified that she could not identify any stories concerning Senator Donastorg that were even unfair in her opinion (Dep. 20:14-20). *See* Bedminster Dep. 24:20-25, 26:2-25; 27:1-18, April 19, 2007. *See* Exh. 12
11. Bedminster testified that the article was based wholly on a thorough investigation of Court documents. (Dep. 26.) *See* Exh. 12
12. Bedminster also testified that she never witnessed the editorial staff make substantive changes to reporters' articles. (Depo. 21:2-7.) *See* Exh. 12
13. Former Daily News reporter Marty Schladen testified that, although he was aware that Senator Donastorg thought the paper was after him, that the Daily News wrote a number of stories in support of Senator Donastorg's positions. Schladen Dep. 27:7-14, Feb. 14, 2011. *See* Exh. 13.

14. Mr. Schladen further testified that he never heard The Daily News editors Lowe Davis or Jason Robbins ever make any negative comments about Senator Donastorg. (Dep. 36:7-14.) *See* Exh. 13.
15. Paragraph 12(a) does not speak to any of the elements of defamation, but alleges that the Daily News “[o]ffered reporters bonuses if the recipients would write derogatory stories about Senator Donastorg, with no requirement that the stories are actually truthful.” Complaint ¶ 12(a).
16. Both the Daily News’ 30(b)(6) witness, Jason Robbins and former Daily News Executive Editor J. Lowe Davis testified that, the Daily News never offered any such incentives. Robbins Dep. 76:16-19, Sept. 13, 2010; Davis Dep. 19:14-20, Sept. 15, 2010. *See* Exhs. 14, 15.
17. Lowe Davis testified that she never even assigned a reporter to cover the foreclosure action concerning the Donastorg’s Estate Wintberg home, but, rather, that it was the practice of the paper to have the reporter assigned to the Court “beat” review District Court filings and write a story anytime a high-ranking official was named in a Complaint. Davis Dep. 49:18-22.
18. The Daily News’ sworn responses to interrogatories state that:

The Daily News relies upon its experienced and professional reporters to diligently pursue facts and to report on the reactions and responses of individuals both within and without the U.S. Virgin Islands to those facts and their implications. The Daily News relies upon its experienced and professional editors to review and assess every news article that is prepared by its reporters in reliance on those facts. This process constitutes the method by which the employees of The Daily News ensure that the news articles printed in The Daily News accurate and reliable.

Def.’s Resp. to Pl.’s First Set of Irogs No. 9. *See* Exh. 16.

19. The Daily News’ sworn responses to interrogatories further state that

no employee of The Daily News was ever offered, given, paid, or received any bonus, payment, benefit, compensation or other perk consequent to providing The Daily News with any article or information concerning Adlah F. Donastorg, Jr.

Def.'s Resp. to Pl.'s First Set of Irogs. No. 7. *See* Exh. 16.

III. Substance of Editorials and Articles

20. On **May 29, 1998**, the Daily News published an editorial entitled "*The public's right to know*", attached hereto as Exhibit 3 that refers to Senator Donastorg as a "rogue" senator. Exh. 7.

21. The editorial criticized Mr. Walter Challenger, then the Chairman of the Virgin Islands Public Services Commission (PSC), for failing to release a telephone rate investigation Report that was commissioned by the PSC. Exh. 7.

22. There are three paragraphs that refer to Senator Donastorg directly, and one that appears to refer to him indirectly. The paragraph referenced in Plaintiffs' Complaint states:

....Utilities, especially monopolies such as electric and telephone companies, should be regulated. But the regulatory body should not be threatened by as rogue senator who is trying - yet again - to play politics and jeopardize the economic well-being of the people he supposedly represents. Enter Sen. Adlah Donastorg who is threatening an attempt to disband the PSC and fire its chairman. Exh. 7.

23. On March 1, 2004, The Daily News published an editorial entitled "*GERS as political fodder*" attached hereto as Exhibit 1, in which the newspaper criticized the efforts of Senator Donastorg to mandate that the Government Employees Retirement System (GERS) to pay four percent (4%) interest on the lump sum funds paid to persons who elect to leave government service before retirement. *See* Exh. 4.

24. The March 1, 2004 editorial ends with The Daily News stating that the four percent payout is a "pittance", and noted Senator Donastorg's lack of understanding the long term implications of such decisions. *See* Exh. 4.
25. On April 6, 2004, the Daily News published an editorial entitled "*Registering V.I. automobiles*", attached hereto as Exhibit 2, concerning the unpleasantness attendant to obtaining a driver's license or a vehicle in the Virgin Islands. *See* Exh. 5.
26. The April 6, 2004 editorial referenced three propositions to improve the system, one from Elton Lewis, the Commissioner of Police, who suggested hiring a consultant to pose alternative solutions, one from Andrew Rutnik, the Commissioner of Licensing and Consumer Affairs, who suggested that jurisdiction be transferred to his Department, and one from Senator Donastorg, who suggested that the Division of Motor Vehicles be made its own department outside the direct purview of the Police Department. *See* Exh. 5.
27. The April 6, 2004 editorial opposed establishing a new Department of Motor Vehicles, which, the proposal suggested be funded with either One Million Dollars (1,000,000.00) or ten percent (10%) of vehicle and license fees, whichever was greater. *See* Exh. 5.
28. The April 6, 2004 editorial referred to the failure of the Senate Finance Committee to pass a FY 2004 budget under the chairmanship of Senator Donastorg, noting that as of April 6, 2004, the budget was some six months overdue. *See* Exh. 5.
29. In the April 6, 2004 editorial, reference was made to Senator Donastorg's ". . . problems in managing his personal finances and the government's..." a clear reference to the foreclosure action on his personal residence that had been filed by FirstBank Puerto Rico in 2002 and to the failure of his legislative committee to vote out a FY 2004 budget. *See* Exh. 5.

29. The April 6, 2004 editorial states that Senator Donastorg's Finance Committee failed to pass the budget for the Territory by October, 2003, and had not yet done so by April, 2004. *See* Exh. 5.
30. Passing a budget for the Territory directly affects thousands of Virgin Islanders on a multi-year basis.
31. Senator Donastorg subjected himself to public critique by chairing a legislative committee which failed to pass a budget.
32. On August 30, 2004, The Daily News published an editorial entitled "*Blind eye to cockfighting? Animal cruelty nonetheless!*" This editorial concerned a bill that ultimately became Title 14 Chapter 7 of the Virgin Islands Code, entitled "Animals and Birds." This Code section concerned criminal penalties and standards for animal abuse in the Territory of the Virgin Islands. *See* Exh. 6.
33. The particular focus of the editorial is the definition of animal abuse in the first degree which provides, at Title 14 V.I.C. § 18.1(e), as follows:

Any person who maliciously and unnecessarily:
(e) uses or traps domestic dogs, cats or other animal as bait, prey or target or other malicious activities, including for the purpose of, but not limited to, training dogs or other animals to fight, excluding adult male fowl used for the sport of cockfighting... *See* Exh. 6.
34. The editorial noted the cruelty of the sport, the prospect for illegal wagering on the sport and the numbing effect of the violence on young children. *See* Exh. 5.
35. Senator Donastorg is only mentioned in the editorial as follows: "...[w]e are puzzled why senators specifically excluded cockfighting from Bill 25-0149, whose primary sponsor is Sen. Adlah Donastorg. *See* Exh. 6.

36. On June 9, 2000 The Daily News published an article, "*ICC, Donastorg Square off over Vitelco Tax Breaks*" See Exh. 9.
37. The article refers to a press release by Senator Donastorg, which alleges that employees from a variety of Innovative Communication Corporation (ICC) subsidiaries were working for Vitelco in an effort to secure and maintain tax exemption benefits, which requires a certain level of hiring. See Exh. 9.
38. The principals of ICC, through its chief operating officer and its spokesman, denied the allegations, claiming that the purpose of the personnel decisions was "corporate consolidation, not tax evasion." See Exh. 9.
39. Senator Donastorg was quoted in the article. See Exh. 9.
40. The Daily News published an article on November 1, 2000 entitled "*Donastorg, IDC director wrangle over accusations of abuse*", attached hereto as Exhibit 1, in which Senator Donastorg charges that the Director of the Industrial Development Commission improperly used her position to solicit donations for the St. Croix Foundation. See Exh. 1.
41. The November 1, 2000 Article reports on a public controversy regarding a letter dated October 24, 2000 in which Sen. Donastorg charged that (then) Virgin Islands Industrial Development Commission (the "IDC") Director Frandelle Gerard ("Director Gerard") "used her position to solicit donations from Caneel Bay for the St. Croix Foundation for Community Development, which she chairs." See Exh. 1.
42. The November 1, 2000 Article reports on Director Gerard's response to Sen. Donastorg's October 24, 2000 letter and the response of Caneel Bay's counsel. *Id.*

43. The November 1, 2000 Article states that Sen. Donastorg also charged in his October 24, 2000 letter that Director Gerard had "not penalized any IDC beneficiaries since becoming director in April 1999." *Id.*
44. In the November 1, 2000 article, both Ms. Frandelle Gerard, the Executive Director of the IDC, and Mr. Roger Dewey, the Executive Director of the St. Croix Community Foundation, are reported to have denied the allegations. *Id.*
45. The November 1, 2000 Article also discusses Director Gerard's response to this additional charge. *Id.*
47. The article reports on complaints that Senator Donastorg raised over time concerning the operation and management of the IDC, with a reference to Senator Donastorg's earlier written demand for Ms. Gerard's resignation. *Id.*
48. On June 12, 2001, The Daily News published an article entitled "*Legislation reduction on agenda for Rules Committee.*" Exh. 2A.
49. The focus of the June 12, 2001 article was the scheduling of a hearing on the bill, sponsored by Senator Donastorg, to reduce the size of the Legislature from 15 to 9, and to reduce the Legislature's budget concomitantly. The article reports that, the Rules Committee's consideration of the measure followed it being voted out of the Committee on Government Operations, Planning and Environmental Protection the previous week "...after lengthy hearings on all islands..." *Id.*
50. The June 12, 2001 article is the one and only article referenced in this litigation that contains a factual error. The article incorrectly stated that Senator Donastorg voted against the bill in that Committee, on the basis that he wanted to send the bill to the floor of the Senate for consideration, rather than to the Rules Committee. *Id.*

51. On June 14, 2001, two days after the article was published, a Correction appeared under the headline "Setting the Record Straight" in a boxed statement on page 11 of that edition of The Daily News. Exh. 2B.
52. The June 14, 2001 Retraction reported that the reference made to Senator Donastorg's vote in the July 12 story was in error, and that Senator Donastorg did in fact vote to refer the bill to the Rules Committee. The Correction attributed the error to the staff of the legislative committee. *Id.*
53. The June 14, 2001 Retraction, entitled "Setting the Record Straight," stated as follows:
- Sen. Adlah Donastorg, Jr. did not vote against the bill to reduce the size of the Senate from 15 to nine members when it was approved by the Committee on Government Operations, Planning and Environmental Protection last week.
- See Exhibit 2B.*
54. On February 6, 2002, The Daily News published an article, attached as Exhibit 7, entitled "*Sen. Donastorg and wife face foreclosure on their Wintberg home.*" *See Exh. 10A*
55. The February 6, 2002 article noted the filing of a Complaint in federal court for debt and foreclosure of mortgage on property owned by Senator and Mrs. Donastorg, a Complaint which demanded judgment for the outstanding amount of the mortgage, plus accrued and outstanding interest. *Id.*
56. The February 6, 2002 article quoted accurately from Paragraph 7 of the Complaint, which declared a default of the Donastorgs' Mortgage. Senator Donastorg was contacted for a comment on the proceedings, and stated, without further clarification, that ". . .It's being taken care of; the bank dropped the ball, I don't understand why its a major issue. . .". *Id.*

57. The February 6, 2002 article reported on a Complaint that had been filed in the U.S. District Court on February 4, 2002, in which FirstBank Puerto Rico claimed that Senator and Mrs. Donastorg had defaulted in the payment of their mortgage. *Id*
58. The February 6, 2002 article references a Complaint by FirstBank against Senator and Mrs. Donastorg demands a judgment of priority and foreclosure, and a personal judgment against them for any deficiency if the entire judgment on the debt is not satisfied by the sale of the residence. *Id*
59. The Complaint by FirstBank was filed on February 2, 2002, the Service of Process on the Defendants on February 5 and February 12, 2002 and the April 29 filing and the Court's April 30, 2002 Order confirm the voluntary dismissal of the Complaint. *See* Exh. 10B
60. Between May 30, 2003 and December 16, 2003, The Daily News published a series of fourteen articles concerning a professional boxing match that was underwritten by an appropriation of \$300,000.00 from the Tourism Revolving Fund. Exh. 11.
61. The primary sponsor of the legislation that granted the appropriation was Senator Donastorg. *Id*
62. The articles commence with reporting on the preliminary contract negotiations and conclude with a post-fight analysis. Of the twelve articles, Senator Donastorg is mentioned in seven of the fourteen articles. *Id*
63. The first article of the series, dated May 30, 2003, had the headline "*VI-backed boxing event called off, future uncertain*" with the sub-headline "*No TV coverage scheduled despite promise when Donastorg got VI to appropriate \$300,000.00.*" Exhibit 13. The article reported that Senator Donastorg pushed the VI government to support the event, but that no TV coverage had yet been arranged. The promoter, Sterling McPherson, was

quoted as saying that there were ongoing negotiations with various cable networks.

Other than identifying Senator Donastorg as the moving force behind that legislation, there was no reference to Senator Donastorg. *Id*

64. The second article of the series, dated September 22, 2003, had the headline "*Sugar Ray Leonard to promote VI boxing match for ESPN2's Friday Night at the fights, planners say*" (Exhibit 14). The article did not make any reference to Senator Donastorg. *Id*

65. The third article of the series, dated October 24, 2003, had the headline "*No contract yet, but ESPN will visit St. Thomas boxing site*" referred to a site visit by representatives of ESPN and that a formal announcement was imminent. Peter Sauer, the UVI Athletic Director, who was providing the venue, was reported as saying that he was negotiation with officials, including Senator Donastorg on the logistics of the fight. In addition, Senator Donastorg was identified as having sponsored the amendment that appropriated the funds to pay for the event. *Id*

66. On October 31, 2003 The Daily News published two articles (the fourth and fifth in the series). The first article was entitled "*Sugar Ray says VI boxing events is a go*" (Exhibit 16) with the sub-headline "*No world title at stake, but welterweights include a talented prospect.*" *Id*

67. The second article, on the same page, was entitled "*Leonard Readies St. Thomas for Rumble in Paradise.*" *Id*.

68. In the first October 31 article, there is a one-paragraph reference to Senator Donastorg as follows "[T]he government appropriation, which Sen. Adlah Donastorg, Jr. sponsored as an amendment to a bill and will draw from the Revolving Tourism Fund, is intended to show case the Virgin Islands as a tourism destination." *Id*.

69. Senator Donastorg is not referred to in the second October 31 article. *Id*
70. The sixth article of the series was published on November 1, 2003 and had the headline “*No ESPN contract yet for VI boxing card*” (Exhibit 17). The only reference to Senator Donastorg was as follows “Sen. Adlah Donastorg, Jr., who has been the point man for the Virgin Islands in bringing the fight to town, also was unavailable for comment.” The articles focused on the efforts of the promoters to firm up the bout and the fighters, and gave some details about the complexity of the preparations. *Id*
71. The seventh article of the series was published on November 5, 2003 and was entitled “*ESPN commits to televising V.I.’s “Rumble in Paradise”*” (Exhibit 18). The article had a photograph of Senator Donastorg and Sugar Ray Leonard in a press conference with the caption “Sen. Adlah Donastorg, Jr. and Sugar Ray Leonard announcing plans for the fight during Leonard’s trip to the Virgin Islands last week.” The article reported three quotes from Senator Donastorg lauding the fight as a springboard for future sporting events, and concerning the fact that the main event was for the “Continental America’s” title, which likened the title to a Double-A baseball title. *Id*
72. The eighth article of the series was published on November 7, 2003 and was entitled “*UVI Sports Center secured as the site for boxing bouts ticket situation unclear*” (Exhibit 19) reported on the uncertainty of where and when to secure tickets for the six-fight card. In the article, there are three references to Senator Donastorg. The first was that he was unavailable for comment, the second was that he worked with UVI officials to secure use of the VI Sports Center and, third, that neither he nor the University officials would comment on the financial arrangements for the use of the facility. *Id*

73. The ninth article of the series, published on November 8, 2003, was entitled "*Two local boxers ready to rumble in December's professional event*" (Exhibit 20). The November 8 article did not mention Senator Donastorg. *Id*
74. The tenth and eleventh articles were published on December 4, 2003. The first December 4 article was entitled "*Heavyweight bout dropped from St. Thomas boxing card*" (Exhibit 21) did not mention Senator Donastorg. *Id*
75. The second December 4 article, on the same page, was entitled "*Leather ready to fly at last in St. Thomas boxing show.*" In that article, Senator Donastorg was identified as the "Rumble in Paradise ringmaster who sponsored legislation to bring the fight to St. Thomas." Senator Donastorg was quoted as lauding the upcoming ESPN broadcast and characterizing it as a "...springboard for future major events..." *Id*.
76. The twelfth article of the series was published on December 5, 2003, the day of the fights. The article was entitled "*Countdown to fight time marked by flurry of activity*" (Exhibit 22). Senator Donastorg is not mentioned in the December 5 article. *Id*
77. The thirteenth article of the series was published on December 6, 2003 and is entitled "*Rumble in Paradise - Burton Defeats Lorenzo in Main Event*" (Exhibit 23). Senator Donastorg is not mentioned in the December 6 article. *Id*
78. The fourteenth and final article in the boxing series was published in The Daily News on December 16, 2003. The article was entitled "*Boxing event showcases 'paradise' for 781,000 viewers*" (Exhibit 24). Senator Donastorg was reported as saying that the publicity the Virgin Islands received far exceeds the \$300,000.00 expenditure from the Tourism Revolving Fund. In addition, the article quotes Senator Donastorg as saying that

"...The timing couldn't have been better as Northeastern viewers got to see our sunshine and beaches on the eve of the season's first major snowstorm." *Id*

IV. Affidavits

79. By affidavit dated March 5, 2004, Lowe Davis stated that in her capacity as editor in chief of the Daily News that she "knows of no news stories or editorials about Plaintiffs in the Daily News that concerned matters outside the public interest." Davis Aff. ¶ 17, Exh. 17

80. Davis further stated that, "[a]ll the information in news stories or editorials about Plaintiffs in the Daily News was gleaned from public sources, including court files, other public document and interviews with willing third parties." *Id.* ¶ 27, Exh. 17.



Dated: July 30, 2014

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of July, 2014, I caused a true and correct copy of the foregoing Statement of Material Facts About Which There is No Genuine Issue to be served upon:

Lee J. Rohn, Esq.
Law Offices of Rohn & Carpenter, LLC
1101 King Street
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Via Hand Delivery

Jeffrey B. C. Moorhead, Esq.
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Counsel for Oakland Benta
Via Hand Delivery

and

Mark Eckard, Esq.
P.O. Box 24849
Christiansted, VI 00824
Counsel for VITELCO and Holland Redfield
Via U.S. Mail

A handwritten signature in black ink, appearing to read "Semaj I. Johnson", written over a horizontal line.

Semaj I. Johnson, Esq.

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN.

SENATOR ADLAH DONASTORG, Jr.,
BENEDICTA DONASTORG ADLAH
DONASTORG Sr. JOSEFINA
DONASTORG ELLA MORON and
NORMA DURAN,

Plaintiffs,

v.

DAILY NEWS PUBLISHING CO. INC.,
LOWE DAVIS HOLLAND "DYKE"
REDFIELD VITELCO and OAKLAND
BIENTA

Defendants.

CIVIL NO. 117/2002

ACTION FOR DAMAGES

JURY TRIAL DEMANDED
~~JURY TRIAL DEMANDED~~

THIRD AMENDED COMPLAINT

COMES NOW the Plaintiffs, SENATOR, ADLAH DONASTORG, JR. BENEDICTA DONASTORG, ADLAH DONASTORG, Sr., JOSEFINA, DONASTORG, EDWIN CALLWOOD, ELLA MORON AND NORMA DURAN by and through undersigned counsel, and for their complaint against the Defendants, DAILY NEWS PUBLISHING COMPANY, INC., INNOVATIVE COMMUNICATION CORPORATION, JEFFREY PROSSER, LOWE DAVIS, and HOLLAND "DYKE" REDFIELD and VITELCO alleges and states as follows:

1. This Court has jurisdiction of the subject matter pursuant to V.I.C. § 70.
2. Plaintiffs Senator, Adlah Donastorg, Jr., and Benedicta Donastorg are husband and wife and citizens of the United States Virgin Islands.
3. Plaintiffs Adlah Donastorg, Sr. and Josefine Donastorg are husband and wife, are citizens of the United States Virgin Islands, and are the parents of

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Adlah Donastorg, Jr.

4. Plaintiffs, Ella Moron and Norma Duran are sisters of Adlah Donastorg, Jr. and are citizens of the United States Virgin Islands.
5. Defendant, The Daily News Publishing Company is a company that is wholly owned by Innovative Communication Corporation (ICC) which is wholly owned by Jeffrey Prosser and is a Virgin Islands corporation.
6. Defendant, Oakland Benta is a citizen of the United States Virgin Islands.
7. Defendant, Lowe Davis is the Executive Editor and Chief Executive Officer to the Daily News and is a resident of the United States Virgin Islands.
8. Defendant, Holland "Dyke" Redfield is a citizen of the Virgin Islands and an executive of ICC and its related companies and made public statements on behalf of Vitelco and the Daily News.
9. Defendant, VITELCO, is a Virgin Islands Corporation.
10. The Daily News on its own and through the actions and omissions of the Defendants herein, have set out a concerted effort to slander, defame and cast in a bad light Senator Donastorg.
11. The motivation for the attempts to and actual slander of Plaintiff Senator Donastorg is the fact that he has diligently sought to have another ICC owned company, VITELCO audited, its rates reduced and its IDC benefits withdrawn any other adverse acts and statements against Defendants .
12. In retaliation for those efforts and in an effort to attempt to pressure Senator Donsatorg to cease those efforts, the Defendants have engaged in the

following tortuous activity:

- a. Offered reporters bonuses if the recipients would write derogatory stories about Senator Donastorg, with no requirement that the stories actually be truthful.
- b. On June 12, 2001, printing a false story that Senator Donastorg voted against his own bill to reduce the size of the Legislature.
- c. Refusing to properly retract the false story even when Defendants knew the story was false.
- d. Threatening to run personal stories about Senator Donastorg unless "a positive working relationship" can be obtained.
- e. Writing derogatory editorials that contained false facts and were written for the purpose of having the public regard Senator Donastorg in a bad light, including but not limited to, calling him a "Rogue Senator" having a motivation to get attention rather than a concern for public good for his actions as a Legislator.
- f. Requiring reporters and employees to constantly be on the look out for negative stories about Senator Donastorg to be published and selectively targeting Senator Donastorg for negative stories while directing that stories of similar conduct by pro senators not be reported.
- g. Slanting news stories associated with Senator Donastorg in a negative light so as to discredit Senator Donastorg, as such, writing

false facts on the story of November 1, 2000, regarding the St. Croix Foundation. Despite receiving information that the facts were false, refused to correct the story and other false stories.

- h. Making derogatory statements to third person about Senator Donastorg, to include but not be limited to, falsely accusing him of covering up an arrest that in reality never occurred, that he was a fiscally irresponsible person, that he had ulterior motives for wanting VITELCO audited and it is believed that other derogatory and untruthful statements were made.
 - i. The Defendants ignored and failed to adhere to established policies and procedures to safe guard against untrue and biased stories in its efforts to print defamatory, negative stories against the Plaintiffs.
13. In January 2002, Defendants caused to be published a "News Story" that Plaintiffs Senator Donastorg and Benedicta Donastorg were behind on their mortgage payments and were being foreclosed. This story was written before the foreclosure law suit had even been served on said Plaintiffs and upon information, before the suit had been filed. Upon information, Defendants unduly investigated this matter and printed the story although it was against the newspaper's policy, solely in furtherance of their conspiracy to defame and discredit Senator Donastorg.
14. Defendants had a related ICC company, VITELCO send letters to its employees and employees of other ICC companies, including the Daily

News, encouraging them to vote against Senator Donastorg in violation of their voting rights.

15. Reporters of the Daily News were sent to intimidate Senator Donastorg that he "had to be careful" and advised him to discontinue his attacks on VITELCO.
16. Defendants had an employee of ICC contact Senator Donastorg and offer to build a library in his name or take what ever other actions or remuneration he wished, in exchange for him not criticizing VITELCO or other ICC related companies.
17. In September 2002, Plaintiff Senator Donastorg learned that Defendants had caused an in-depth, evasive, months long investigation into Plaintiff, his wife, his mother, his sisters and brothers, his friends and neighbors to be conducted. That investigation went so far as to get information as to his bank account records and balances.

18. The purpose of that investigation was to attempt to intimidate Plaintiffs and to attempt to find "dirt" on Senator Donastorg to use to convince him to stop attempting to get justice for the people of the Virgin Islands against Defendants.
19. When Plaintiff Senator Donastorg discovered the investigations, Defendants in an attempt to cover up for their own reprehensible behavior and activity then further slandered and defamed him to include accusing him of taking bribes, falsely claiming that the investigation was as a result of attempting to substantiate those claims when the investigation documents contain no such investigation, falsely claiming that Senator Donastorg flew on a private AT&T plane to the St. Lucia Jazz Festival, falsely stating that Senator Donastorg sets out to slander businesses.
20. Defendant, Holland "Dyke" Redfield, on his own and as an officer of ICC statements on behalf of Vitelco then went on the radio as well as speaking to others in the public making and knowingly repeated these false accusations, as set out in paragraph 21, for the purpose and intent to defame and slander and attempt to ruin the reputation of Senator Donastorg. Redfield has stated under oath that he received those false information from Oakland Benta to be then repeated publicly.
21. Oakland Benta made those false and slanderous statements not only to Redfield but also on his own and for Defendants made such false statements to members of the public and other employees of Defendants from the time of the disclosure to the present as well as other derogatory statements about

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Senator Donastorg.

22. Defendant, VITELCO, a public service corporation used rate payers funds to fund the investigation against Senator Donastorg's family and upon information and belief has paid for other such investigations out of rate payer funds.
23. Plaintiffs Benedicta Donastorg, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron and Norma Duran, as a result of their association with Senator Donastorg, were themselves subjected to personal investigations into their private lives and actions, by Defendants Daily News, and VITELCO.

Count I

24. Plaintiff Senator Donastorg repeat and re-allege the allegations contained in paragraphs 1-23 as through more fully set forth herein;
25. The actions of the Defendants constitute defamation, slander, libel and constitute a conspiracy to discredit Senator Donastorg's reputation in the community and as such, constitute defamation per se.
26. As a result, Senator Donastorg has suffered loss of reputation, humiliation, mental anguish, loss of income, loss of capacity to earn income, physical injuries, medical expenses, pain and suffering all of which is expected to continue into the foreseeable future and has had to expend funds to attempt to correct the attempts to damage his reputation.

Count II

27. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1-26 as

through more fully set forth herein;

28. The actions constitute a concerted effort to harass and discredit Plaintiffs and to interfere with their business relationships.
29. As a result, Plaintiffs have suffered embarrassment, detrimental damage to their business relationships, loss of reputation, mental anguish, and suffering.

Count III

30. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1-29 as through more fully set forth herein;
31. The actions of the Defendants constitute intentional infliction of emotional distress.
32. If not intentional then they constitute negligent infliction of emotional distress.
33. As a result, Plaintiffs have suffered physical injuries, mental and physical anguish, emotional distress, suffering and loss of enjoyment of life.

Count IV

34. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1- 33 as through more fully set forth herein;
35. The actions of Defendants constitute invasion of privacy.
36. As a result Plaintiffs have suffered damages as set out herein.

Count V

37. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1-36 as through more fully set forth herein.

38. The actions of Defendants are so reprehensible, so outrageous, were done with such reckless disregard as to the rights and interest of the Plaintiffs as to entitle them to an award of punitive damages.

WHEREFORE, Plaintiffs pray for damages as they may appear, an injunction prohibiting defendants from purposefully slandering the Plaintiffs in the future, costs and fees and such other relief as this Court deems fair and just.

RESPECTFULLY SUBMITTED,

LAW OFFICES OF ROHN AND CARPENTER,
LLC

Attorneys for Plaintiff

DATED: March 3, 2009

BY: 

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Donastorg, IDC director wrangle over accusations of abuses

By STEPHANIE KENNEDY

By the level of giving

ST. THOMAS. — Sen. Adam Donastorg Jr. has charged that Island Development Commission Director Franklin Gerard used his position to solicit donations from Gov. Charles Tompall in which he called for an investigation of the St. Croix Foundation and as a result of its financial expenditures.

Donastorg said the accusation against Gerard in an Oct. 24 letter to Gov. Charles Tompall in which he called for an investigation of the St. Croix Foundation and as a result of its financial expenditures.

Donastorg said he was appalled by Donastorg's actions because the members of the Legislature were given copies of the foundation's 1998-1999 annual report, which includes the list of donors.

According to the annual report, some of the foundation's largest financial contributors came from AmeriCorp, the Axtell and Braden Foundation Board and the Lee J. Rubin Scholarship Fund. The only IDC beneficiary on the donor list was the Buccaneer Hotel, which gave \$200 in 1999.

The 10-year-old foundation is responsible for a number of community development programs including the Women's Business Center, professional of Marine Surgery in Christened and the Community Business Loan Program. Gerard has been criticized for four years.

Donastorg also charged in his Oct. 24 letter that Gerard had not provided any IDC beneficiaries since becoming director in April 1999.

No beneficiaries have been identified in the past few years, but Donastorg said that investigation into the director's control.

According to the IDC web site, in 1981, after the director or commission members can address an investigation of whether a beneficiary is eligible for the foundation.

Before a beneficiary loses the right to receive services, the IDC must investigate why.

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6/12/01

Nibbs refuses to testify on corruption allegations

By ROBERT MONTGOMERY Daily News Staff ST. THOMAS — The former...

posed to testify at an earlier...

the final division of the Federal...

action, "not to someone who simply...

off my demand responsibility from...

Legislation reduction on agenda for Rules Committee

By RALPH WATKINS Daily News Staff ST. THOMAS — Senate Rules...

It also would appropriate...

mentie Chairman Donald Cook...

Man charged in BVI murder

TORTOLA (AP) — Police...

Tolson detailed Brent and...

SOME PROMOTIONS GIVE YOU MOVIE TICKETS. WE'RE GIVING YOU THE THEATER! Advertisement for Dell.com/vi featuring Dell PC and printer promotions.

Small text at the bottom of the Dell advertisement regarding product availability and terms.

...d from voting for the changes in the fee structure. He said the measures — which are introduced and voted on with-

don't know," Matthews said.

The airline industry, however, shares Stridiron's concern.

As recently as last week,

...airline seasonal services to Tortola and Old San Juan later this summer so the company will not depend solely on the St. Thomas-St. Croix route.

ed to redesign St. Thomas waterfront

The redesign features wider crosswalks, historic lighting, palm trees and other vegetation that would transform the stark concrete apron lining the waterfront into a park-like promenade stretching between the Blyden Terminal and King's Wharf, where the Coast Guard dock is.

...rked on waterfront concepts in ... California and Spain. The redesign features wider crosswalks, historic lighting, palm trees and other vegetation that would transform the stark concrete apron lining the waterfront into a park-like promenade stretching between the Blyden Terminal and King's Wharf, where the Coast Guard dock is.

The design contract will cost the Authority \$1.4 million. The total cost of the waterfront walkway is unknown, but Port Authority Executive Director on Finch predicted that it will be a multi-million-dollar project. A palm tree can cost as much as \$100.

Ysis' designs were familiar to Johnson, a principal of Paradigm, who suggested that Paradigm did most of the work while Ysis got the credit.

Johnson said that the Ysis concept was a modified version of designs that Paradigm shared with Ysis when the groups were working together at a Community Development and Transportation workshop.

"We shared our digital files, never with the intention that we would be facing those same files across the room from us," Johnson said as he shined a laser pointer on images of people and cars used to show scale on Ysis' displays that mirrored such images on Paradigm's displays.

"They are the same identical prints — digital fingerprints," Johnson said.

Johnson said Paradigm asked Callwood to get involved with their efforts because she had been outspoken on revitalizing the waterfront.

Callwood agreed that the designs looked similar but defended herself,

saying the similarities are to be expected because the groups worked together and later had a falling out over the direction of the project design.

"We entered the competition jointly. ... We came up with ideas together," Callwood told the board.

Before the board voted, Stridiron told the presenters "you said the same things, and I suppose that is because you have worked together."

Stridiron said that the board was impressed with both plans, but "it is simply that, like in a beauty contest, we have to make a decision."

June 14, 2001

Setting the record straight

Sen. Adlah Donastorg Jr. did not vote against the bill to reduce the size of the Senate from 15 to nine members when it was approved by the Committee on Government Operations, Planning and Environmental Protection last week. An article Tuesday on page 11 of The Daily News about the vote was based on information provided by committee staff.



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Open at

Tiger Woods talks with good friend Mark O'Meara during practice on Wednesday.

there somewhere."

AD 0011

JA000365

Swan orders TRO against 'sick' corrections officers

By BILLY SHIELDS
Daily News Staff Feb. 22, 2000

ST. THOMAS — Territorial Judge Ivo Swann has granted a request by Attorney General Iver Sverdrup for a temporary restraining order mandating the island's corrections officers to cease work stoppages.

On Monday, the Attorney General's Office requested a temporary restraining order against 16 Bureau of Corrections officers who staged a sickout over the weekend, leading the order at 8:50 p.m. Monday, Swann found that the work stoppage, involving 16 officers during four shifts on Saturday and Sunday, constituted a strike and violated the terms of their collective bargaining agreement.

The large number of absences appears to be willful and also jeopardizes the ability of the Bureau of Corrections to discharge its statutory duties and responsibilities in its effort to protect the welfare and public safety of the community due to a lack of adequate staffing and manpower.

—Ivo Swann,
Territorial Court Judge

"The large number of absences appears to be willful and also jeopardizes the ability of the Bureau of Corrections to discharge its statutory duties and responsibilities in its effort to protect the welfare and public safety of the community due to a lack of adequate staffing and manpower," Swann wrote in the order.

At 8 a.m., seven correctional officers failed to report to work at the Alexander Family Criminal Justice Center jail. During the same time,

two out of three officers at the Sub Baine Annex also failed to show up for their shifts. For the 4 p.m. shift, three out of six failed to show up to work at the main jail, all of the scheduled officers arrived for work at the Annex.

A similar "this time" occurred at 8 p.m. Sunday when four officers out of seven at the main jail and three out of four at the Annex failed to report to work. Later, four out of six failed to report for the 4 p.m. shift that day.

During these absences, off-duty Corrections officers were brought in and paid overtime to bolster the numbers. The main jail houses about 50 inmates, the Annex houses roughly 40.

Swann said that the officers' failure to show up for work on the island is a violation of the collective bargaining agreement. The contract expires Sept. 30, 1999, and has been extended on a day-by-day basis since then.

A preliminary injunction hearing on the matter is scheduled for 10:30 a.m. Friday in Judge Swann's court.

Sen. Donastorg and wife face foreclosure on their Winberg home

By BILLY SHIELDS
Daily News Staff Feb. 22, 2000

ST. THOMAS — A St. Thomas legislator may find himself looking for a new place to live if he cannot pay off the mortgage on his Winberg home.

FirstBank Puerto Rico has filed an action in District Court for debt and foreclosure for a property mortgage against Sen. Adalberto Donastorg Jr. and his wife, Benedekta Acosta-Donastorg.

FirstBank said in court documents that the Donastorgs owe \$232,573.52, plus attorney's fees and costs and annual interest of 8.75 percent.

On May 31, 2000, they entered into a \$228,000, 30-year mortgage with First Virginia Islands Federal Savings Bank, which merged with FirstBank on Sept. 25, 2000.

The Donastorgs have failed to comply with the terms and conditions of the Note and Mortgage, and are in default under these instruments for failing to pay principal

and interest when due, the suit reads.

Under the terms of the mortgage, the Donastorgs had to make monthly payments of \$1,795.88.

When contacted at his office, the senator said the bank letter made a mistake or that he took care of the problem and left any further correspondence to the bank.

"The bank takes care of" Sen. Donastorg said. "I've been dropped and I don't understand why this is a major issue."

He would not comment further or clarify his statements about the suit.

Bankruptcy attorneys representing FirstBank would not comment Tuesday.

The original was filed in District Court, branch of Territorial Court, before the two parties come from different sections. FirstBank is based in Puerto Rico, the Donastorgs live from the Virginia Islands.

The Daily News, Monday, March 1, 2004

The Daily News of the Virgin Islands GERS as political fodder

It's an election year and at least one senator is attempting to use the Government Employees Retirement System to advance his re-election efforts, even if it hurts the pensions of thousands of current and future V.I. government employees.

Sen. Adlah Donastorg, Jr. is pushing to get the GERS to pay 4 percent interest on the money participants withdraw from the system when they leave government employment before retirement. This policy has been on the books since 2000, but apparently no interest has been paid because legislation creating the policy did not explain how the interest is to be calculated. Sen. Donastorg sponsored the legislation.

GERS officials say the interest will be paid as soon as actuaries determine how to calculate it.

The issue of interest payments is not what people should be concerned about. This issue is being raised only in an attempt to endear a senator to voters in an election year. The issue all current V.I. government employees should be concerned about is how senators continue to use the GERS as political fodder. No senator has taken any action to prevent the imminent collapse of the GERS because they don't want to jeopardize their re-election campaigns.

By even the most conservative estimates, the GERS is underfunded by \$1 billion dollars. V.I. government employees under the age of 40 will not receive anywhere near the retirement benefits awarded to earlier retirees, even if the GERS is still solvent in 25 years. In fact, future retirees could face a bankrupt retirement system such as Puerto Rico government employees experienced.

Senators continue to tap into GERS assets in order to win votes. Without any consideration of the financial consequences, the Legislature approves special-interest early retirement benefits, low-interest loans and other rewards that are costing the GERS millions of dollars and putting future retirement benefits at risk.

The GERS needs to be removed from the micro-management of the V.I. Legislature. Senators do not have the financial wisdom to properly manage it, and most are motivated only by political advancement.

The fact that Sen. Donastorg states the GERS should "be happy to pay out (the 4 percent interest) as it is only a pittance compared to what they would owe any employee that chooses to retire with the system," shows how little he understands about investing money for the long term.

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Editorial for April 6 Registering V.I. automobiles Tuesday, April 6th 2004

Say "Motor Vehicles Department" or "Inspection Lane" to any Virgin Islands motorist and you won't have to wait long to see him wince. Is there anyone who owns or drives a motor vehicle in the territory and hasn't had an unpleasant experience with this bureaucratic jungle?

Excuse after excuse has been given to Virgin Islands motorists for more than two decades as to why the simple processes of obtaining a driver's license or a vehicle license is far more complicated than obtaining a U.S. passport.

With an estimated 30,000 vehicles in the territory and a similar number of drivers, a substantial percentage of Virgin Islanders are affected by the inefficiencies of this V.I. government bureaucracy.

In recent months Police Commissioner Elton Lewis brought in consultants who have suggested ways to streamline the processes, including implementing online registrations. The Motor Vehicles Department falls under his purview. Also, Commissioner of Licensing and Consumer Affairs Andrew Rutnik has suggested his department is capable of taking over management of Motor Vehicles. It is computerized and already issues a variety of licenses.

Now, with an election seven months away, Sen. Adlah Donastorg Jr. is floating a proposal that would separate Motor Vehicles from the Police Department and create a new government bureaucracy. He wants to guarantee that \$1 million, or 10 percent of the amount collected for vehicle and license fees - whichever is greater, would be used to financially support the newly created government agency. The Motor Vehicles Department generates between \$10 million and \$12 million annually and spends about \$1.1 million.

As chairman of the Senate Finance Committee he has been unable to pass a territorial budget for fiscal year 2004, which began Oct. 1, 2003. With the senator's problems in managing his personal finances and the government's, we are wary of any proposal from him to create a new government agency. This appears to be an election year strategy to curry favor with voters and offer hope of creating jobs in a new government bureaucracy.

It's best to let the professionals deal with this. We are confident that Commissioner Lewis will come up with a workable plan that may or may not involve Licensing and Consumer Affairs. Solving the problems at Motor Vehicles is not a task for the Senate Finance

AD 0025

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Committee chairman.

Section Headlines

- [White House against chief financial officer bill »](#)
- [Senators reject Motor Vehicles reorganization »](#)
- [Senate panel supports limiting AG's service on boards »](#)
- [\\$9.3 million contract OK'd for Red Hook ferry project »](#)
- [USVI, BVI chefs win silver medals at Caribbean culinary competition »](#)

- [7th man arrested in the gang rape of 13-year-old girl »](#)
- [Two traffic deaths on Tortola prompt police to urge caution »](#)
- [Latifah Laneles is crowned St. John Junior Miss »](#)
- [Two St. Kitts politicians arrested amid voters' list flap »](#)
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Blind eye to cockfighting? Animal cruelty nonetheless!

Something is missing from a bill that emerged this week from the Senate Public Safety, Judiciary, Homeland Security and Justice Committee. The bill claims to increase penalties for people found guilty of animal cruelty or animal neglect. But because of some apparent behind-the-scenes lobbying, the bill would only penalize for cruelty to some, not all animals. While dogfighting is cited as an animal abuse, cockfighting is specifically excluded.

The territory's animal rights activists are uncharacteristically passive about the exclusion.

Cockfighting is illegal in 47 states, Louisiana, Oklahoma and parts of New Mexico allow it. (Strong opposition in Oklahoma could make that the next to outlaw cockfighting.) In those three states it is estimated that illegal gambling on cockfights creates a billion-dollar-a-year industry, according to an ABC-TV report earlier this year.

No statistics, of course, are available on how much money is spent illegally gambling on cockfights in the Virgin Islands. But those who have attended local cockfights say it is not unusual for "thousands" of dollars to change hands at a typical cockfight on St. Thomas or St. Croix.

Cockfighting involves owners placing specially bred roosters into pits, and the rooster then fight to the death. The surviving rooster wins. Razor-sharp knives are often tied to the rooster's spurs in an effort to create more violent fights. People wager on the bird most likely to survive.

The Humane Society of the United States, based in Washington, D.C., notes that the presence of young children at cockfights is disturbing because exposure to such brutality "compromote insensitivity toward animal suffering and enthusiasm for violence." (Free admission is routinely granted to children under 12-year-old at legal cockfights in Oklahoma.)

The Humane Society also says that law enforcement officials have documented a strong connection between cockfighting and the distribution of illegal drugs, firearms, and other weapons are common at cockfights because of the large amounts of cash exchanged, according to Humane Society officials.

We are puzzled as to why Virgin Islands senators specifically excluded cockfighting from Bill 25-0149, whose primary sponsor is Sen. Adiah Dorcas. This legislation needs more work.

Lesson for N.J.'s McGreevey and others: You n

James McGreevey is not here. That's the first thing we need to get straight. To the contrary, reports on the embattled New Jersey governor detail an administration so steeped in corruption that one day... Cipel. He says he was a victim here, repeatedly subjected to McGreevey's sexual advances. Which ever vision of the tale you choose to buy, it's clear the governor...



Leonard Pitts

hurricanes all our place on

Dr. Paley, professor emerita of political science, University of the Virgin Islands is a contributing columnist for The Daily News.

As if we were once again in the year, the rest of the Hurricane Charley Florida revival pair Houses were torn and futures ruined. once again corner

The unexpected means that we have of no avail. The wind an unexpected place become regular vic Charwel's tropical disturbances form Africa, waiting to be and acquire that detail that means trouble.

It is the annual game of hurricane roulette. Will we luck out once again and watch the storm pass by, or will we become the bull's-eye in the center of its aim?

At least with hurricanes we have some warning. We can make preparations and bunker down. But we face another threat that can arrive without any advance notice, and can be even more devastating... earthquakes. Without any previous hint of trouble, the seemingly solid earth fractures and slides. The six-inch skin that masles the enormous geological forces at work below rips apart in an instant terrible devastation occurs.

In the Virgin Islands we have learned from recent experience with hurricanes. We have adopted building codes designed to minimize losses. We know how to prepare and how to prepare plans and no emergency response have been refined. s, such as buried key electrical lines, has been put in place. But what if we have been focusing on the wrong things?

We live in geologically active zone. Deep below us targe plates that grind against each other, building up



It is the art of hurricane luck out or watch the or will we bull's-eye i its aim?

Minor earth felt on a reef since we have ended a major more than there is no equivalent Channel, we complacence

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BILL NO. 25-0149

**Twenty-Fifth Legislature of the Virgin Islands
of the United States**

JANUARY 16, 2003

To repeal sections 181, 182, 183 and 184, chapter 7, title 14, Virgin Islands Code, and add new section increasing the penalties for animal cruelty

PROPOSED BY:

Senator Adlah "Foncie" Donastorg
Co Sponsors: Lorraine L. Berry, Roosevelt St. C. David,
Shawn-Michael Malone and Ronald E. Russell

1 BE IT ENACTED by the Legislature of the Virgin Islands:

2 SECTION 1. (a) Title 14, chapter 7, Virgin Islands Code, is amended by
3 repealing §181, 182, 183, and 184, adding new sections as follows, and by re-designating
4 the remaining sections:

5 "§180. Definitions

6 The following terms, wherever used or referenced in this chapter, shall have the
7 following meanings, unless a different meaning clearly appears from the context:
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(a) 'Adequate care' means the provision of adequate sanitary conditions, exercise, rest, and veterinary medical attention in order to maintain the animal in a state of good health.

(b) 'Adequate food' means the provision, at suitable intervals, of wholesome foodstuff, suitable for the species and age of the animal and adequate to maintain a reasonable level of nutrition to allow for proper growth and weight in the animal, all of which foodstuff is served in a safe clean dish or container.

(c) 'Animal' means any non-human mammal, bird, reptile or amphibian.

(d) 'Animal impound' means any premises designated by the Commissioner of Agriculture or his designated agent for the purpose of impounding and caring for animals.

(e) 'To cause or permit unjustifiable pain' includes overloading, overworking, overdriving, over exercising, tormenting, unjustifiably beating or cruelly whipping an animal, using a disabled animal, maliciously abandoning or restraining an animal.

(f) 'Humane Society' and 'Animal Shelter' means a non-profit corporation organized under the laws of the Virgin Islands as a humane society or shelter, or as a society or shelter for the prevention of cruelty to animals.

(g) 'Maliciously' means intentionally acting with a depravity of mind or reckless and wanton disregard for life.

(h) 'Neglect' means to fail to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized.

(i) 'Owner' means any person that (1) has a right of property in an animal, (2) keeps or harbors an animal, (3) has an animal in his care, or (4) acts as a custodian of an animal.

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(j) 'Person' includes any individual, partnership, . . .

(k) 'Serious physical injury' means any injury that results in a serious or permanent impairment of a bodily function, leaves the animal disfigured causes prolonged pain or impairment of health.

(l) 'Shelter' means continuous and adequate protection from the elements, suitable for the age and species of animal and weather conditions, to maintain the animal in a state of good health, including appropriate space or provisions for adequate exercise.

(m) 'State of good health' means freedom from disease and illness and in a condition of proper cleanliness, body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate medical treatment.

(n) 'Unnecessarily kills an animal' means an act that is not reasonably necessary to terminate an animal's suffering, to protect the life of the actor or another person or animal or if other means of disposing of an animal exist which would not impair the health or well being of the animal.

(o) 'Provision of adequate water' means provision of potable water made continuously available in a safe, clean dish, receptacle or container.

§181. Animal Abuse in the First Degree

Any person who maliciously or unnecessarily

(a) kills any animal; or

(b) tortures, maims, mutilates, disfigures, wounds, or inflicts unjustifiable pain on any animal; or

1 (c) forces, causes or induces a minor to maliciously or unnecessarily kill,
2 torture, maim or mutilate; or maliciously disfigure, wound or inflict unjustifiable pain on
3 any animal; or

4 (d) causes or permits the cropping of any animal's ears or the docking of any
5 animal's tail by a person other than a licensed veterinarian; or

6 (e) uses or traps to use domestic dogs, cats or any other animal as bait, prey or
7 target or other malicious activities, including for the purpose of, but not limited to,
8 training dogs or other animals to fight, excluding adult male fowl used for the sport of
9 cockfighting.

10 (f) administers any poison to an animal or exposes any poisonous substance
11 with the intent that the substance be taken or swallowed by the animal shall, for each
12 offense, be guilty of a misdemeanor punishable by imprisonment for not exceeding one
13 (1) years and fined not less than \$1,000 but not exceeding \$5,000.

14 §182. Animal Abuse in the Second Degree

15 Any person who intentionally or knowingly

16 (a) causes, permits or inflicts unjustifiable or repeated physical pain, suffering
17 or injury to any animal; or

18 (b) leads any animal from any vehicle or from a trailer drawn by a motor
19 vehicle in a malicious or negligent manner; or

20 (c) transports an animal in a malicious manner or causes an animal to be
21 transported in a malicious manner that results in unreasonable pain and suffering; or
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1 (d) kills, wounds or traps any bird; destroys any bird's nest; or removes any
2 eggs or young birds from any nest shall, for every such offense, be guilty of a
3 misdemeanor punishable by imprisonment not exceeding one (1) year and a fine of \$500.

4 **§183. Animal Neglect in the First Degree**

5 Any person who intentionally, knowingly, recklessly or negligently:

6 (a) fails to provide an animal in such person's custody or control with
7 adequate care, and such failure causes serious physical injury or death to the animal; or

8 (b) abandons an animal or causes an animal to be abandoned in any place
9 without making provisions for the animal's adequate care, unless premises are
10 temporarily vacated for the protection of human life during disaster; or

11 (c) disposes of any live animal at or into a dumpster or at any garbage
12 disposal site; or

13 (d) allows an animal, including one who is aged, diseased, maimed,
14 hopelessly sick, disabled or nonambulatory to suffer torture or unnecessary neglect or
15 pain; or

16 (e) while operating a motor vehicle, hits or injures any animal and fails to
17 make all reasonable efforts to contact the owner of the animal and otherwise attend to the
18 animal's medical well-being; or

19 (f) confines an animal in a motor vehicle or other enclosed space in which the
20 temperature is so high as to cause or threaten serious harm to the animal; shall, for every
21 such offense, be guilty of a misdemeanor punishable by imprisonment for not exceeding
22 one (1) year and a fine of \$1,000.
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1 §184. Animal Neglect in the Second Degree

2 (a) Any person who intentionally, knowingly, recklessly or negligently fails
3 to provide adequate care for an animal in such person's custody and such failure causes
4 the animal needless suffering shall, for every such offense be guilty of a misdemeanor
5 punishable by a fine of up to \$500 and up to one hundred (100) hours of community
6 service.

7 (b) In case any domestic animal is at any time impounded and continues to be
8 without necessary food and water for more than 12 consecutive hours, it is lawful for any
9 person, from time to time, as may be considered necessary, to enter into and upon any
10 pound or area in which the animal is confined, and supply it with necessary food and
11 water so long as it remains so confined. Such a person is not liable for the entry and may
12 collect the reasonable cost of the food and water from the owner of the animal, and the
13 owner is subject to enforcement of a money judgment for the reasonable cost of such
14 food and water.
15

16 §185. Future Animal Custody and Counseling

17 (a) If a person is convicted of any offense defined in sections 181, 182, 183
18 and 184 of this chapter, the court shall, in addition to any other sentence or penalty
19 imposed, enter an order enjoining the person from acting as a custodian of any animal
20 for a period of not less than five years from the date of sentence, or from the person's
21 release from custody, if a term of custody is imposed and may or for a greater period, up
22 to the lifetime of the person convicted, in the discretion of the court. To the extent that
23 the duration of an order coincides with the term of probation imposed, as a result of such
24 conviction, a violation of an order shall be treated as a violation of probation, and
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punished as such; otherwise, any violation of an order shall be deemed
contempt of Court and punished as such.

(b) (1) If a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for the counseling, the court may develop a sliding fee schedule based on the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee.

(2) The counseling specified in paragraph (1) of this subsection shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine.

(3) The provisions in this subsection specifies a mandatory additional term of probation and may not be used as an alternative in lieu of imprisonment when such a sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering.

§186. Animal Abuse Fund

(a) There is established a special fund in the Treasury of the Virgin Islands known as the Animal Abuse Fund, referred to as the 'Fund'. The Commissioner of Finance shall provide for the administration of the Fund as a separate fund in the treasury of the Virgin Islands.

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(b) The Fund shall consist of all sums appropriated thereto from time to time from the Legislature of the Virgin Islands, all fines collected under Sections 181, 182, 183 and 184 of this chapter, and such other monies, grants, contributions, gifts and bequests, federal or local, as may be made thereto and which the Commissioner of Finance is hereby authorized to accept and deposit therein.

(c) There is appropriated from the General Fund in each fiscal year, a sum of not less than \$100,000 to be deposited into the Fund for the purpose of implementing the provisions of this Chapter.

(d) Monies in the Fund shall be used solely for the purposes stated in this subsection and for no other purpose. The Commissioner of Finance shall disburse monies from the Fund solely for non-reimbursed expenses incurred by a Humane Society, Animal Shelter, licensed veterinarian, or animal impound pursuant to this chapter, and expenses for cruelty prevention or education programs.

(e) The Commissioner of Finance shall maintain a record of all monies deposited into and disbursed from the Fund and shall annually report to the Governor and the Legislature on the status of the Fund.

§187. Seizure

(a) Any employee of the Department of Agriculture appropriately designated by the Commissioner of Agriculture, peace officer, animal warden or agent of a Humane Society or Animal Shelter designated by the Commissioner of Agriculture pursuant to title 19, section 2604 of this code, who becomes aware of any animal that the officer, warden or agent determines, in his sole discretion, to be an apparent victim of animal abuse or neglect under this chapter, shall take possession of such animal and shall deliver

June 9, 2000

the whole region. "This is a mission to make sure we as a people work together on issues of trade," Goodwin said.

In his opening remarks, Goodwin described one way he thinks the region could cooperate to increase trade. Companies outside the Virgin Islands could partner with V.I. companies who can export to the United States more freely than other coun-

Caribbean goods abounded. In one corner were pictures of prefabricated wooden homes available from a Dominican company, and in another were handmade masks made on St. Lucia.

Margaret Dyer-Howe, a joint partner in Howe's Enterprises Ltd., brought a selection of food items — including lime juice, mango preserves, hot pepper sauce and guava

and food safety requirements. But she hopes to meet possible exporters to other markets — with fewer rules — at the trade mission.

On the other side of the room, Cleave St. John of Super Wood Products on Dominica stood next to a video showing pictures of the company's prefabricated wooden homes, windows and other home fixtures. St. John said the company also has an

Warner said that she hopes to collect orders for the straw dolls, some of which hold small bottles of rum and Caribbean spices.

The Caribbean Trade Mission exhibits continue today and Saturday at Marriot's Frenchman's Reef, a does the trade conference. The exhibits will be open from 9 a.m. to 5 p.m. Friday, and from 11 a.m. to 5 p.m. Saturday.

ICC, Donastorg square off over Vitelco tax breaks

By PERRY BROTHERS
Daily News Staff

ST. CROIX — Innovative Communication Corp. executives on Thursday disputed a Virgin Islands senator's allegations that an ICC subsidiary, I.L. Telephone Corp., violated tax-exemption regulations.

Sen. Adiah Donastorg had issued a press release Thursday morning saying he sought and obtained a Vitelco employee list that, he said, showed the telephone company's payroll included people working on other ICC subsidiaries.

ICC owns The Daily News, Vitelcom, Vitelcellular and two cable TV companies. The senator claimed the company is paying "at least 50" employees from those companies through Vitelco to meet its tax exemption requirements established by the Industrial Development Commission.

As Minnich, ICC's chief operating officer, rebuffed the allegations as false. He said Vitelco is people on the payroll who do work for the other companies, but the purpose is corporate consolidation, not tax evasion.

Minnich said the consolidation of the companies' accounting, human resources and payroll departments is in compliance with IDC regulations as

well as the requirements of more than a dozen other regulatory agencies, including the Federal Communications Commission.

"I saw no good purpose, when I came here, in having a full accounting force in each of these companies," Minnich said. "That's too expensive."

Minnich, accompanied by ICC spokesman Holland Redfield, met with members of the media on Thursday at ICC headquarters in Golden Rock. Minnich said IDC officials have reviewed, verbally, ICC's consolidation process and found no problems with it. The IDC requested no documents during those discussions, he said.

More consolidation between the companies is on the way, Minnich said, and it, too, will be in compliance with IDC guidelines.

Redfield said he could not provide an exact number of how many of Vitelco's 466 employees perform work for other ICC subsidiaries, but he said any employees who do "crossover" work keep track of the hours they work for the other companies, and the subsidiaries are billed for their time. Each crossover Vitelco employee works at least the minimum number of hours required by IDC for full-time employee status, Redfield said.

Vitelco provides IDC with a head count, he said. Donastorg's office on Thursday provided The

Daily News with a copy of the Vitelco employee list, which his spokesman said was the list Donastorg was operating from. That list contained the names of two former employees, one of whom has left the Virgin Islands and one of whom transferred to Vitelco at her own request in early 1999. It also contained the names of three current employees who do crossover work for multiple companies.

Donastorg accused the company of playing a shell game and said the company should be investigated.

"They can say whatever they want," he said. "The question is whether or not IDC will conduct an investigation in light of this new information."

Donastorg told The Daily News on Thursday afternoon that he has asked IDC for months to investigate Vitelco and has repeatedly called for a Public Services Commission investigation of Vitelco's telephone rates. Those requests, he said, have fallen on deaf ears.

"The IDC and the PSC may as well not exist," he said.

IDC Executive Director Frandell Girard and spokespersons for the PSC did not return Daily News phone calls requesting information and comment Thursday.

JAD0038

1 the animal to a Humane Society, Animal Shelter, Animal Impound or licensed
2 veterinarian to be sheltered, cared for and given medical attention, if necessary. If the
3 animal is taken to a licensed veterinarian, the officer, warden or agent shall notify the
4 appropriate Animal Shelter or Humane Society of that fact. Any employee of the
5 Department of Agriculture appropriately designated by the Commissioner of Agriculture,
6 peace officer, animal warden or agent of a Humane Society or Animal Shelter designated
7 by the Commissioner of Agriculture pursuant to title 19, section 2604 of this code, acting
8 pursuant to this section may take any action that such officer, warden or agent considers,
9 in his sole discretion, reasonably necessary to seize such animal so endangered and to
10 remove the threat of further harm to the animal, and no such officer, warden, veterinarian
11 or agent, or his employers, or the Government of the Virgin Islands shall be liable for any
12 harm or damages of whatever nature caused by such action or for any other action taken
13 pursuant to this chapter.
14

15 (b) The veterinarian, animal warden or agent of a Humane Society, Animal
16 Shelter, or Animal Impound receiving an animal from the Department of Agriculture
17 pursuant to this section may humanely euthanize the animal, if such veterinarian, warden
18 or agent, in his sole discretion, determines that the animal is injured or diseased past
19 recovery, or that the animal's continued existence is inhumane and that euthanizing the
20 animal is necessary to relieve pain or suffering.

21 (c) It is the duty of any veterinarian licensed in the United States Virgin
22 Islands to report to the Police Department, Department of Justice, Department of
23 Agriculture, any peace officer or other appropriate enforcement agency, any animal
24 found, reasonably known or believed to be abandoned, neglected or abused as set forth
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in this chapter, and such veterinarian is not subject to any civil or criminal liability for such reporting or for participating in an investigation of animal abuse or neglect, if done in good faith.

(d) If an animal seized under §187(a) of this chapter is not euthanized pursuant to subsection (b), the Animal Shelter, Humane Society or Animal Impound in possession of the animal or notified of a veterinarian's possession of the animal shall make reasonable efforts to notify the owner or custodian of the animal of such seizure pursuant to the terms hereof.

(1) If the identity and the mailing address of the custodian or owner are known, written notice of seizure shall be given and shall be deposited in the postal service, postage pre-paid and certified.

(2) The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice and the date of the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a post seizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing pursuant to the procedures set forth in subsection (d) of this section.

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(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(F) Notice shall be deemed accomplished three days after the mailing of the notice, and in no event may proof of receipt of such notice be required.

(G) If the identity of the custodian or owner is known, but such custodian or owner's mailing address is unknown, notice of seizure shall be given either by delivery of written notice to the custodian or owner, in which case, notice shall be deemed accomplished upon delivery or by the procedures set forth in paragraph (3) of this subsection.

(H) If the identity of the custodian or owner is unknown, notice of seizure shall be given either by posting for written notice thereof at the physical location of such seizure or by publishing written notice thereof in a newspaper of general circulation on the island of seizure and notice shall be deemed accomplished three days after such posting or publication.

(e) The owner or custodian of the seized animal must deliver to the Animal Shelter, Humane Society or Animal Impound written notice of the owner's or custodian's desire to contest the seizure of the animal and to regain custody of the animal within three days after delivery of such notice. To be considered effective, the notice of the owner or custodian of the seized animal must set forth the owner's or custodian's or

1 physical address and mailing address. If the owner or custodian of the animal fails to
2 deliver such notice within the specified period, then the owner or custodian shall be
3 deemed to have relinquished all legal and custodial rights to such animal and to have
4 delivered such animal to the ownership and custody of the Department of Agriculture.

5 (f) If the owner or custodian of the animal delivers the notice set forth in
6 §187(d) within the stated period, the Commissioner of Agriculture, within five (5) days
7 of receipt of such notice shall hold an administrative hearing to make a determination as
8 to whether the animal should have been removed. After a determination that the animal
9 should have been removed, the Commissioner shall file a complaint in the Territorial
10 Court setting forth the facts and circumstances relating to the seizure of the animal and
11 such facts as he has been able to determine relating to the animal's care, custody, and
12 condition and requesting that legal and custodial rights to such animal be transferred to
13 the Animal Shelter or Humane Society. A copy of such a complaint shall be served on
14 the owner or custodian of the animal.

15 (g) If the owner or custodian of the animal wishes to dispute the allegations of
16 the complaint or the requested relief, he shall file an answer to the complaint within 10
17 days after service, setting forth his response to the allegations of the complaint. If no
18 such answer is filed within ten-day time limit, the legal and custodial rights to animal
19 shall be deemed transferred to the Animal Shelter or Humane Society, and the court shall,
20 on application of the Department of Agriculture and the consent of the Animal Shelter or
21 Human Society, enter an order to that effect. If an answer is filed, the Court shall hold a
22 hearing on the merits of the matter within 30 days thereafter. Neither party shall have the
23 right to trial by jury at such a hearing.
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(h) At the adjudicatory hearing, the Department of Agriculture shall bear the burden of proving by preponderance of evidence that the seized animal was neglected or abused as defined in this chapter, and that the owner or custodian was either responsible for or had or should have had knowledge of the same. If the Court so finds, the court shall enter an order transferring legal and custodial rights to the animal to the Department of Agriculture and shall enter judgment against the owner or custodian for the amount set forth in subsection (h) of this section.

(i) The owner or custodian of such animal shall be liable to the Department of Agriculture, Humane Society, Animal Shelter, or licensed veterinarian for the payment of such care keeping and medical attention to the Department of Agriculture, Humane Society, Animal Shelter, or licensed veterinarian that receives and cares for any animal pursuant to this chapter, provides care, keeping and medical attention to such animal from the date of its delivery to the date of its release.

SECTION 2. Permitting Animals to stray on Public Roads.

Whoever permits Donkeys, horses, mules, sheep, cattle, hogs or goats to stray at large so as to create a menace or hazard upon any public road, street or highway shall be fined not more than \$1,000 or imprisoned not more than one year or both.

SECTION 3. Dogs Running at Large

It shall be unlawful for any person owning, controlling, or having in their care or custody any dog, whether Licensed or Unlicensed, to permit the dog to be upon any public street, alley, or public place, or private places open to the public, or upon any unenclosed land or property unless the dog is upon a leash, not exceeding six feet in length, and in the hands of a person capable of controlling the dog.

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Any person violating this provision shall be fined not less than ...
exceeding \$1,000.

BILL SUMMARY

This bill amends the animal cruelty statute by consolidating the sections addressing cruelty to animals and by increasing the penalties. The bill categorizes cruelty to animals in the first and second degree, and animal neglect in the first and second degree. This Bill establishes a method for the Department of Agriculture, with the cooperation of local animal shelters and veterinarians, to seize abused animals. An "Animal Abuse Fund" is also established to receive appropriations and grants to fund the enforcement of these new sections. Other sections in title 14, chapter 7 remain intact and address: owners of ferocious animals, the wrongful taking of animals, the importation of snakes, the wrongful killing of animals for financial gains, and harm to animals utilized by police officers.

BR03-0060/ September 23, 2003/ Reviewed By YLT

Opinion

The public's right to know

Public Services Commission Chairman Walter Challenger owes the public an explanation as to why he did not release a report recently completed regarding telephone rates.

Keeping the report secret was wrong. It gave the appearance that the PSC chairman was trying to protect Vitelco. The Daily News was prepared to file a request under the Freedom of Information Act to obtain a copy of the PSC report, which has been criticized as a sloppy attempt to call for a review of the Virgin Islands Telephone Corporation rates. This became unnecessary when Challenger announced late Thursday that the report was available. (Disclosure: This newspaper and Vitelco are subsidiaries of companies owned or controlled by the same management.)

At the PSC hearing Wednesday Vitelco President Samuel Ebbensen said the PSC consultant's report is seriously flawed. Ebbensen told the PSC that in his career — he was an army general as well as a deputy U.S. Secretary of Defense — he was involved with hundreds of reports and studies. However, until PSC consultant Jamshed Madan's report, he's never seen such a "sloppy, factually inaccurate and opinionated" report, adding that "at worst, the Madan report is designed to drag" out the process.

It is important to remember that Connecticut-based Madan has enjoyed a long and enormously lucrative relationship with the PSC. When the PSC accepts his recommendation that a utility — Vitelco, Wapa, ferry boats — should be subject to a rate investigation, Madan then supervises the investigation and bills hundreds of thousands of dollars in fees. Who pays the fees? Not the utility, but the utility's customers.

Utilities, especially monopolies such as electric and telephone companies, should be regulated. But the regulatory body should not be threatened by a rogue senator who is trying — yet again — to play politics and jeopardize the economic well being of the people he supposedly represents. Enter Sen. Adlah Donastorg who is threatening an attempt to disband the PSC and fire its chairman.

Fortunately, this move apparently has no support from anyone else in the Legislature and is another case of Donastorg's pre election politicking. It seems that when the senator doesn't like the way a regulatory body does its job, he thinks he should get rid of it. He also wanted to abolish the Industrial Development Commission. This attitude of "do it my way, or I'll get rid of you" has been a hallmark of Donastorg's.

Donastorg is an example of one of the most anti-business legislators in recent memory. This is exactly the kind of senator that continues to cripple the economic growth of the Virgin Islands. Do we need to remind him what happens to government when growth stops in the private sector? Attempts to abolish boards and commissions — by any senator — does nothing but destroy public confidence in the system.

Meanwhile, we encourage the PSC to have serious deliberations on this and all rate issues, and not jump into costly, protracted proceedings that benefit no one except off-island consultants, and provide a political platform for a senator.

owner H. Wayne Huizenga, sporting the latest in Kevlar bulletproof leisure wear. National anthem is sung by Mickey Roucke, substituting for an ailing Gloria Estefan. Marlins lose 8-0 to Pirates. Paid attendance: 841.

April 30. Newly acquired shortstop Burt "Spliffy" Marley is placed on the disabled list after being bitten by a U.S. Customs dog at Miami International. He's replaced in the lineup by veteran stadium peanut vendor Earl Trock, who goes two for four as Florida bows to the Dodgers.

May 7. Huizenga's latest plan to sell the Marlins stalls when three of the five Spice Girls back out of the deal. Knuckleballer Paul "Drooly" Lundquist takes a no-hitter into the fourth inning before giving up three triples, a double, five walks and a balk. Marlins drop a 14-2 heart-breaker to the Expos.

May 21. Annual "Glock Day" promotion draws the season's biggest crowd, as the first 10,000 fans get a free semiautomatic and two clips. Addressing the throng from his teal-colored armored personnel carrier, Huizenga pronounces the event a "smoking success," despite a 6-5 loss to San Diego.

June 4. One day after ret to the lineup, Burt "Spliffy" homers twice and turns a rare play in a thrilling 7-2 win over Braves. Marley is immediately sent away for three Khoury L prospects and a batboy to be later. Marlins president Don announces the team payroll been cut to \$162,410.

June 15. Stirring ceremony right field as a bronzed E lounge is dedicated in tribute fielding skills of ex-Marlin Gary Sheffield. Peanut vendor Trock hits for the cycle, but I drops a nail-biter to the Huizenga says unless taxpayers build him a retractable-dome stadium, he'll cut the roster to players and rotate pitching among "various family members."

July 2. Not one Marlin is to the National League All Team. A bitter Huizenga is unusually heavy balloting by Florida fans.

July 20. Pitching on two sleep, knuckleballer Paul "D Lundquist hurls his first no-Minutes later, Lundquist is to the Phillies in exchange for team mascot and two peanut

Reflections on America

WASHINGTON — Remember the 1996 welfare reform law? The one that President Clinton took a drubbing for signing, partly because it was mainly a Republican design which, among other things, outlawed food stamps for immigrants, including legal ones?

The president was sheepish about signing the thing — rightly so — and, conceding that it was far from perfect, assuaged his critics (or tried to) by promising to clean it up later. But for the time being, he noted then, up with bipartisanship!

Clinton has been pretty quiet about welfare reform since then. Hasn't seemed to pay much attention to the law's flaws.

However, there are people on the other end of Pennsylvania Avenue who have not forgotten that welfare reform, as we know it, needs tending. Thus, are they attempting to correct one of its flagrant faults: the no-food-stamps rule.

Tucked away in a \$1.9 billion omnibus bill is a provision that would restore food stamps to thou-



Debora Mathis

"It's a matter of principle said.

No, congressman, it's a matter of decency, which is always more than principle, especially principle is indecent, which is food to people certainly is.

Fortunately, most of Sol's colleagues didn't buy his ratic you can call it that. By a vote 120, the House rejected his plan including 98 of his own party among them, fellow New Republican James Walsh.

"We need to show that we he said. "Welfare reform worked, but there were aspects of it, including food that went too far."

In saner days, we might

What's on your mind?

AD 0008

We welcome letters, guest editorials and guest columns. Sign each submission, and include an address and day-

JA000385

The Rogue Senator and the Protection of Genetic Information

The editors of *Nature* have today called for the US Senate to bypass Senator Tom Coburn's (Republican, Oklahoma) 'hold' the Genetic Information Non-discrimination Bill. The Bill, if enacted "would protect people from being discriminated against by health insurers or employers on the basis of their genetic information" but Senator Coburn has used a procedural manoeuvre called a "hold" to prevent it from coming to a vote in the Senate. In their editorial the editors suggest that by putting a hold on this Bill, the senator from Oklahoma is preventing the enormous research and clinical progress from continuing and further developing the era of personalised medicine.

<http://www.practicaethicsnews.com/practicaethics/2008/02/the-rogue-senat.html>

Defection of rogue Senator rocks Bush administration

Senator James Jeffords of Vermont delivered a body blow to George Bush's four-month-old presidency yesterday, announcing that he was leaving the Republican Party to become an Independent.

<http://www.independent.co.uk/news/world/americas/defection-of-rogue-senator-rocks-bush-administration-685953.html>

ScienceDebate2008.com Post-Election Report to Supporters

Senator McCain's answer to the embryonic stem cell question came into play a number of times - first when his wording appeared to pull back from his earlier support for embryonic stem cell research, a characterization both campaigns battled over in radio ads, and later when his running mate, Governor Sarah Palin, flatly contradicted his answer in an interview with James Dobson and was subsequently described as "going rogue."

<http://www.researchamerica.org/app/webroot/blog/?p=471>

Justice DeLayed

The President of the United States by historical precedent usually refuses to comment on on-going legal cases. The most recent "no comment" came in the Valerie Plame case, in which the staffs of both the President and Vice-President were accused of leaking the identity of Plame, a covert CIA officer, apparently to "punish" her outspoken husband, Ambassador Joseph Wilson. The inconsistency was explained by press secretary Scott McClellan as a "presidential prerogative." It may be a "prerogative," but it is also nothing short of jury tampering by a President and Republican-led Congress that appears to be doing everything in its power to protect an 11-term rogue congressman.

<http://www.jacksonprogressive.com/issues/editorials/braschjusticedelayed122105.html>

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS

SENATOR, ADLAH DONASTORG, Jr., and)
BENEDICTA DONASTORG)

Plaintiffs,)

v.)

DAILY NEWS PUBLISHING CO. INC.,)
INNOVATIVE COMMUNICATION)
CORPORATION and JEFFREY PROSSER and)
LOWE DAVIS,)

Defendants.)

CIVIL No. _____/2007

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

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TERRITORIAL COURT OF
THE VIRGIN ISLANDS

COMPLAINT

COMES NOW the Plaintiffs, SENATOR, ADLAH DONASTORG, Jr. and BENEDICTA DONASTORG by and through undersigned counsel, and for their complaint against the Defendants, DAILY NEWS PUBLISHING COMPANY, INC., INNOVATIVE COMMUNICATION CORPORATION, JEFFREY PROSSER and LOWE DAVIS alleges and states as follows:

1. This Court has jurisdiction of the subject matter pursuant to 4 V.I.C. § 76.
2. Plaintiffs Senator, Adlah Donastorg, Jr., and Benedicta Donastorg are husband and wife and citizens of the United States Virgin Islands.
3. The Daily News Publishing Company is a company that is wholly owned by Innovative Communication Corporation (ICC) which is wholly owned by Jeffrey Prosser and is a Virgin Islands corporation.
4. Defendant, Innovative Communication Corporation (ICC), is a Virgin Islands corporation with its principle place of business in Florida but which owns and

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JA000388

directors the Daily News.

5. Defendant, Jeffrey Prosser is the owner of the Daily News through his ownership of ICC. He is a resident of Florida but regularly travels to the Virgin Islands to conduct business here.
6. Lowe Davis is the Executive Editor and Chief Executive Officer to the Daily News and is a resident of the United States Virgin Islands.
7. The Daily News on its own and through the actions and omissions of the Defendants here in have set out a concerted effort to slander, defame and cast in a bad light Senator Donastorg.
8. The motivation for the attempts to and actual slander of Plaintiff Senator Donastorg is the fact that he has diligently sought to have another ICC owned company, VITELCO audited, its rates reduced and its IDC benefits withdrawn.
9. In retaliation for those efforts and in an effort to attempt to pressure Senator Donsatorg to cease those efforts, the Defendants have engaged in the following tortuous activity:
 - a. Offered reporters bonuses if they would write derogatory stories about Senator Donastorg, with no requirement that the stories actually be truthful.
 - b. On June 12, 2001, printing a false story that Senator Donastorg voted against his own bill to reduce the size of the Legislature.
 - c. Refusing to retract the false story even when Defendants knew the story was false.

JA000389

- d. Threatening to run personal stories about Senator Donastorg unless "a positive working relationship" can be obtained.
- e. Writing derogatory editorials that contained false facts and were written for the purpose of having the public regard Senator Donastorg in a bad light, including but not limited to, calling him a Rogue Senator having a motivation to get attention rather than a concern for public good for his actions as a Legislator.
- f. Requiring reporters and employees to constantly be on the look out for negative stories about Senator Donastorg to be published and selectively targeting Senator Donastorg for negative stories while directing that stories of similar conduct by pro senators not be reported.
- g. Slanting news stories associated with Senator Donastorg in a negative light so as to discredit Senator Donastorg, as such, writing false facts on the story of November 1, 2000, regarding the St. Croix Foundation. Despite receiving information that the facts were false, refused to correct the story.
- h. Making derogatory statements to third person about Senator Donastorg, to include but not be limited to, falsely accusing him of covering up an arrest that in reality never occurred, that he was a fiscally irresponsible person, that he had ulterior motives for wanting VITELCO audited and it is believed that other derogatory and untruthful statements were made.

- i. The Defendants ignored and failed to adhere to established policies and procedures to safe guard against untrue and biased stories in its efforts to print defamatory, negative stories against the Plaintiffs.
10. In January 2002, Defendants caused to be published a "News Story" that Plaintiffs were behind on their mortgage payments and were being foreclosed. This story was written before the foreclosure law suit had even been served on Plaintiffs and upon information, before the suit had been filed. Upon information, Defendants unduly investigated this matter and printed the story although it was against the newspaper's policy, solely in furtherance of their conspiracy to defame and discredit Senator Donastorg.
11. Defendants had a related ICC company, VITELCO send letters to its employees and employees of other ICC companies, including the Daily News, encouraging them to vote against Senator Donastorg in violation of their voting rights.
12. Reporters of the Daily News were sent to intimidate Senator Donostorg that he "had to be careful" and advised him to discontinue his attacks on VITELCO.
13. Defendants had an employee of ICC contact Senator Donostorg and offer to build a library in his name or take what ever other actions or remuneration he wished, in exchange for him not criticizing VITELCO or other ICC related companies.

Count I

14. Plaintiff repeats and realleges the allegations contained in paragraphs 1-13 as through more fully set forth herein;

15. The actions of the Defendants constitute defamation, slander, libel and constitute a conspiracy to discredit Senator Donastorg's reputation in the community.

16. As a result, Senator Donastorg has suffered loss of reputation, humiliation, mental anguish, suffering all of which is expected to continue into the foreseeable future and has had to expend funds to attempt to correct the attempts to damage his reputation.

Count II

17. Plaintiff repeats and realleges the allegations contained in paragraphs 1-16 as through more fully set forth herein;

18. The actions constitute a concerted effort to harass and discredit Plaintiffs and to interfere with their business relationships.

19. As a result, Plaintiffs have suffered embarrassment, detrimental damage to their business relationships, loss of reputation, mental anguish, and suffering.

Count III

20. Plaintiff repeats and realleges the allegations contained in paragraphs 1-19 as through more fully set forth herein;

21. The actions of the Defendants constitute intentional infliction of emotional distress.

22. If not intentional then they constitute negligent infliction of emotional distress.

23. As a result, Plaintiffs have suffered physical injuries, mental and physical anguish, emotional distress, suffering and loss of enjoyment of life.

WHEREFORE, Plaintiffs pray for damages as they may appear, an injunction prohibiting defendants from purposefully slandering the Plaintiffs in the future, costs and fees and such other

Complaint
Donastorg v. ICC
Page 6

relief as this Court deems fair and just.

DATED: 2/28/02

LAW OFFICES OF LEE J. ROHN
Attorneys for Plaintiff

By: 

Lee J. Rohn, Esquire
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340-778-8855
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rohn@viaccess.net

JA000393

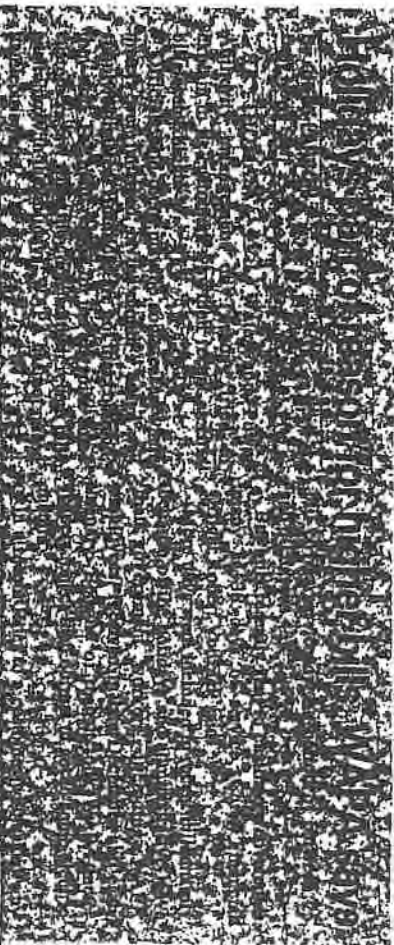
WAPA board takes steps toward issuing \$60M in bonds

ON

The V.I. Water Authority is moving fast to issue up to \$60 million in bonds, money that will be used to improve the safety of capital projects in the utility.

The new money would not be used for day-to-day operating expenses but rather capital improvements at WAPA facilities and systems across the territory.

On Tuesday, the board unanimously approved a resolution allowing the authority to proceed with the next steps necessary to the finance resolution. The resolution means that WAPA facilities and systems



Donastorg and wife face foreclosure on their Wintberg home

A St. Thomas resident is facing foreclosure on a property owned by Donastorg and his wife, Benedicita Acosta-Wintberg.

Benham & Gillette, PC
Certified Public Accountants

\$233,573.52, plus attorney's fees and costs and annual interest of 8.75 percent.

On May 31, 2000, they entered into a \$228,000, 30-year mortgage with First Virginia Islands Federal Savings Bank, which merged with FirstBank on Sept. 25, 2000.

The "Donastorgs have failed to comply with the terms and conditions of the Note and Mortgage, and are in default under these instruments for failing to pay principal

and interest when due," the suit reads.

Under the terms of the mortgage, the Donastorgs had to make monthly payments of \$1,793.68.

When contacted at his office, the senator said the bank either made a mistake or that he took care of the problem and left any further communication to the bank.

"It's being taken care of," Sen. Donastorg said. "The bank dropped the ball. I don't understand why this is a major issue."

He would not comment further or clarify his statements about the suit.

Bence Bennett, the attorney representing FirstBank, would not comment Tuesday.

The complaint was filed in District Court, instead of Territorial Court, because the two parties come from different territories. FirstBank is based in Puerto Rico, the Donastorgs are from the Virgin Islands.

AD 0007

JA000394

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

FIRSTBANK PUERTO RICO,
Plaintiff,

vs.

ADLAH DONASTORG a/k/a
ADLAH A. DONASTORG, JR. and
BENEDICTA DONASTORG a/k/a
BENEDICTA ACOSTA-DONASTORG a/k/a
BENEDICTA A. DONASTORG,
Defendants.

CIVIL NO. 2002/ 17

ACTION FOR DEBT
AND FORECLOSURE
REAL PROPERTY

CLERK OF THE
DISTRICT COURT
ST. THOMAS, V.I.

12 FEB -4 A9 34

RECEIVED

COMPLAINT

Plaintiff, FIRSTBANK PUERTO RICO ("FirstBank"), through undersigned counsel, Hunter Cole & Bennett, as and for its complaint against defendants, ADLAH DONASTORG a/k/a ADLAH A. DONASTORG, JR. and BENEDICTA DONASTORG a/k/a BENEDICTA ACOSTA-DONASTORG a/k/a BENEDICTA A DONASTORG, states and alleges as follows:

I. JURISDICTION

1. This Court has jurisdiction pursuant to 28 U.S.C. §1332(a), 48 U.S.C. §1612(a), 28 U.S.C. §1367 and 15 U.S.C. §634(b)(1), because there is diversity of citizenship among the parties and the amount in controversy is in excess of \$75,000.00, exclusive of interest and costs.

Handwritten notes:
150-08984
2/1/02

II. PARTIES

2. FirstBank, successor by merger to First Virgin Islands Federal Savings Bank ("FVI"), is a banking corporation, organized and existing under the laws of the Commonwealth of Puerto Rico, with its principal place of business in San Juan, Puerto Rico, and which is authorized to do business in the U.S. Virgin Islands.

3. Defendants, ADLAH DONASTORG a/k/a ADLAH A. DONASTORG, JR. and BENEDICTA DONASTORG a/k/a BENEDICTA ACOSTA-DONASTORG a/k/a BENEDICTA A DONASTORG (the "DONASTORGS"), are citizens and residents of the U.S. Virgin Islands residing on St. Thomas and who own the certain real property which is mortgaged to FirstBank, described as:

**PARCEL NO. 369 ESTATE WINTBERG
NO. 3 NORTHSIDE QUARTER
ST. THOMAS, VIRGIN ISLANDS
("Mortgaged premises").**

III. FACTS GIVING RISE TO COMPLAINT

4. On or about May 31, 2000, the DONASTORGS executed a Mortgage Note ("Note") pursuant to which they promised to repay to FVI the principal sum of TWO HUNDRED TWENTY EIGHT THOUSAND AND 00/100 DOLLARS (\$228,000.00), together with interest at the rate of 8.750% per annum, in equal consecutive monthly installments of ONE THOUSAND SEVEN HUNDRED NINETY THREE AND 68/100 DOLLARS (\$1,793.68), with any

remaining indebtedness due and payable on June 1, 2030. A true and correct copy of the Note is attached hereto as Exhibit A.

5. The repayment of DONASTORGS' indebtedness is secured by a first priority mortgage ("Mortgage") originally executed on May 31, 2000, in the principal amount of \$228,000.00 from DONASTORGS to FVI, which was recorded at the Office of the Recorder of Deeds for St. Thomas and St. John on June 1, 2000 as Doc. No. 2000002592. A true and correct copy of the Mortgage is attached hereto as Exhibit B.

6. On September 25, 2000 FirstBank merged with FVI and FirstBank thereby acquired all of FVI's right, title and interest in the Note and Mortgage.

7. DONASTORGS have failed to comply with the terms and conditions of the Note and Mortgage and are in default under those instruments for failing to pay principal and interest when due.

8. FirstBank, pursuant to the terms and conditions of the Note and Mortgage, has elected to declare the entire unpaid principal sum with all accrued interest and late charges due and payable, and there is, accordingly, due and owing to FirstBank as of January 31, 2002, the sum of at least \$232,573.52, plus attorney's fees and costs, plus further interest accruing at the rate of 8.750% per annum until the date of judgment.

9. During the pendency of this action and prior to the foreclosure sale of the property, FirstBank may be required to pay real property taxes, insurance premiums or other similar charges with respect to the Mortgaged premises, which pursuant to the Mortgage become part of the principal amount of the indebtedness and for which FirstBank is entitled to be reimbursed from Jacobs; as well as costs and fees, including reasonable attorney's fees as a result of protecting First Bank's legal rights, which also become a lien on the property until paid under the provisions of the Mortgage.

ACCORDINGLY, FirstBank respectfully requests judgment as follows:

a) Judgment against ADLAH DONASTORG a/k/a ADLAH A. DONASTORG, JR. and BENEDICTA DONASTORG a/k/a BENEDICTA ACOSTA-DONASTORG a/k/a BENEDICTA A DONASTORG, jointly and severally, for all unpaid principal, interest, escrow, late charges and miscellaneous fees due and payable as of the date of judgment, plus interest accruing thereafter at the legal rate until the judgment is satisfied; and

b) Judgment recognizing FirstBank's mortgage to be a valid first priority mortgage against the property, and enforcing and foreclosing the Mortgaged premises under FirstBank's priority lien, and, to the extent there are any competing liens, determining the

priority of liens and ordering the Mortgaged premises sold in satisfaction of Jacobs' total indebtedness to FirstBank, in accordance with the provisions of 28 V.I.C. §§ 531, et. seq.; and

c) A personal judgment against ADLAH DONASTORG a/k/a ADLAH A. DONASTORG, JR. and BENEDICTA DONASTORG a/k/a BENEDICTA ACOSTA-DONASTORH a/k/a BENEDICTA A DONASTORG, jointly and severally, for any deficiency if the entire judgment on debt is not satisfied after such sale; and

d) Possession of the mortgaged property to FirstBank or the purchaser at the foreclosure sale against Jacobs or anyone holding under him; and

e) Appointing a receiver to manage the property pending sale, and to apply all income generated by the property against the outstanding indebtedness; and

f) Awarding FirstBank the costs and fees incurred in protecting its rights in the property, including but not limited to real property taxes and insurance premiums respecting the Mortgaged premises during the pendency of this action and prior to the foreclosure sale thereof, together with post judgment interest on the judgment amount, costs and reasonable attorney's fees; and

First Bank Puerto Rico v. Donastorg et al
Complaint
Page 6

g) Awarding FirstBank such other and further relief as the Court determines to be just and proper.

Respectfully submitted,

HUNTER COLE & BENNETT
Attorneys for Plaintiff

By: _____

Bruce B. Bennett
1138 King Street, 3rd Floor
Christiansted, St. Croix
U.S. Virgin Islands 00820
Tel. (340) 773-3535

DATED: 2/1/20

JA000400

District Court of the Virgin Islands
District of the Virgin Islands (St. Thomas Division)
CIVIL DOCKET FOR CASE #: 3:02-cv-00017-TKM

Firstbank Puerto Rico v. Donastorg, Adlah Aka
Assigned to: THOMAS K. MOORE
Demand: \$0

Date Filed: 02/04/2002
Date Terminated: 04/30/2002
Nature of Suit: 220 Real Property:
Foreclosure
Jurisdiction: Federal Question

Plaintiff

Firstbank Puerto Rico

represented by Bruce P Bennett
Hunter, Cole & Bennett
Pentheny Bldg., 3rd Fl.
1138 King Street, Suite 301
St Croix, VI 00820
340-773-3535
Fax: 340-778-8241
Email: hbennett@hcbvllaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

v.

Defendant

Donastorg, Adlah Aka

Defendant

Donastorg, Benedicta Aka

Defendant

Donastorg, Benedicta A

Date Filed	#	Docket Text
02/04/2002	1	COMPLAINT eod 02/04/02 [CAB] (Entered: 02/04/2002)
02/04/2002	1	FILING FEE PAID Receipt No. 050938 eod 02/04/02 [CAB] (Entered: 02/04/2002)
02/04/2002	2	SUMMONS issued to Benedicta Donastorg eod 02/04/02 [CAB] (Entered: 02/04/2002)
02/04/2002	3	SUMMONS issued to Adlah Donastorg eod 02/04/02 [CAB] (Entered: 02/04/2002)
02/11/2002	4	RETURN of service executed on Benedicta Donastorg on February 5, 2002 eod 02/12/02 [CAB] (Entered: 02/11/2002)
02/11/2002	5	RETURN of service executed on Adlah Donastorg eod 02/12/02 [CAB] (Entered: 02/11/2002)
02/21/2002	6	NOTICE OF FILING return of service on Deft. Adlah Donastorg a/k/a Adlah A. Donastorg, Jr. eod 02/22/02 [CAB] (Entered: 02/21/2002)
02/21/2002	7	NOTICE OF FILING return of service on Deft. Benedicta Donastorg a/k/a Benedicta Acosta-Donastorg eod 02/22/02 [CAB] (Entered: 02/21/2002)
02/21/2002	8	NOTICE of service of Defendant Kathleen D. McCarthy's Response to plaintiff's opposition to motion for partial summary judgment on the issue of RHA Remedies eod 02/22/02 [CAB] (Entered: 02/21/2002)

04/29/2002	9	NOTICE of voluntary dismissal by FirstBank Puerto Rico sod 04/30/02 [CAB] (Entered: 04/29/2002)
04/29/2002	9	CLOSED Dismissed Voluntary Each party shall bear its own costs and attorneys' fees sod 04/30/02 [CAB] (Entered: 04/29/2002)

V.I.-backed boxing event called off, future uncertain

No TV coverage scheduled despite promise when Donastorg got V.I. to appropriate \$300,000

By **TIM McDONALD** MAY 30 2003
Daily News Staff

The professional boxing event that Sen. Adiah Donastorg Jr. pushed the V.I. government to support with \$300,000, on the basis that it would tout the Virgin Islands to millions of Showtime cable television network viewers, will not happen in time as scheduled.

The event's future is uncertain. Showtime officials said Thursday they will not televise the fight and had no plans to do so.

The fight was to feature South African heavyweight Francois "The White Buffalo" Botha, but the promoter disclosed Thursday that the event is postponed, most likely until July 29.

Without a television deal, a fight of that magnitude is not likely.

"That fight may or may not happen," said Martina Caporro of Showtime Boxing, which handles the cable company's boxing broadcasts. "In any case, we won't televise it."

In April, the Senate appropriated \$300,000 from the Tourism Revolving Fund, which is designated for promotion of the Virgin Islands, to bring the fight here.

Behind a push from Donastorg, the appropriation was tacked onto a bill intended to fund the rebuilding of the collapsed Market Square pavilion.

Donastorg did not return Daily News telephone calls to his office requesting comment about the status of the boxing bout.

The critical issue for the bout is the television contract because that is where most of the promotional and marketing value to the Virgin Islands would come from.

Boxing promoter Sterling McPherson claimed last month that he had a preliminary deal with Showtime to televise the bout, but that deal never materialized.

McPherson, who is on St. Thomas now, said Thursday that he is talking with several cable networks. He named Showtime, HBO, ESPN and a pay-per-view station as possibilities, but he did not indicate their levels of interest.

"It's all up in the air right now," he said.

As is the \$300,000 that the V.I. government is supposed to provide. The appropriation has been signed into law by Gov. Charles Turnbull, but the money has not yet been released, according to Tourism Commissioner Pamela Richards.

The government also has not yet signed the contract with McPherson's company, Sterling Promotions. After the government signs, McPherson has three days to prove he has a television contract, according to Richards. Until then, she said, the money will be released, according to a stipulation in the contract.

The governor must approve the agreement before it takes effect.

McPherson said he is in the process of reviewing the contract and may come to an agreement as early as today.

The promoter said the money provided by the Senate is necessary to help a TV network cover the costs of bringing a major fight to the Virgin Islands.

"This is not a normal situation where they're driving to Miami," he said. "There's a big cost factor involved in bringing all that equipment across the water."

Richards said the delay will help the event. "It's actually better," she said. "It gives us more time to put the word out. We can market it better."

To date, Tourism has done no major advertising for the bout, which was supposed to occur three weeks from now.

In addition to commercials and promotional spots, Richards said the July fight would be marketed through Tourism's Web site, newsletters and press releases.

McPherson has had an on-and-off association with Botha as his manager. He also has helped manage Mike Tyson. McPherson has received accolades within boxing circles for getting fights for Botha with WBC champion Lennox Lewis, Tyson and Shannon Briggs, among others.

McPherson met with Richards and Tourism

officials Tuesday. He applied for and received a V.I. business license earlier this week.

Botha, now 34 and living in California, has had a career as frustrating as it has been rewarding. He has a record of 40-3-1, with 24 wins coming by knockout.

He beat International Boxing Federation heavyweight champion Axel Schultz of Germany in 1995 only to be stripped of his title four months later when he tested positive for steroids.

He was knocked out by Lewis in the second round in 2000, fought Briggs to a draw in 1999, lost to Tyson via a fifth-round knockout and lost by TKO to Michael Moorer in 1996.

Botha, known for a big punch, has said he wants to use his planned opponent in the V.I. bout, World Boxing Union champ Georgi Kandelaki, as a steppingstone to a big-money rematch with Tyson.

Kandelaki, 23-0-0, is a former world amateur champion. Though he is the reigning World Boxing Union champ, he is not ranked by any of the better-known boxing organizations like the WBC, WBA or IBF. He is ranked sixth in the European heavyweight rankings.

The undercard for the June bout had not been firming up. It was expected to feature several Caribbean fighters.

Sugar Ray Leonard to promote V.I. boxing match for ESPN2's 'Friday Night at the Fights,' planners sa

By TIM McDONALD
Daily News Staff

SEP 27 2003

ST. THOMAS — Sugar Ray Leonard, one of the most famous names in sports, plans to personally promote a professional boxing show at Lionel Roberts Stadium on Dec. 5, according to people involved in the event.

"Sugar Ray Leonard lends instant credibility," said Attorney General Iver Stridiron, whose office approved a contract between the government and Sterling McPherson, a promoter who originally attempted to stage the bout three months ago.

That contract calls for a "world championship boxing match" as defined by one of the major sanctioning bodies, such as the World Boxing Council, World Boxing Union, World Boxing Organization or International Boxing Federation.

McPherson said he and Leonard are meeting this weekend in Los Angeles to hammer out details, including which fighters will appear.

He and Leonard could be in St. Thomas as early as next week to make a formal announcement, McPherson said.

"Sugar Ray will be there live and in color," McPherson said.

The event is supposed to be broadcast by ESPN, the best-known of the cable sports networks. The government has given \$300,000 to McPherson to be used in the promotion of the event, although a television contract has yet to be finalized, according to ESPN Director of Boxing Bob Yalen.

"It's still in the talking stages," Yalen said Friday. "We still haven't confirmed anything."

Tourism Commissioner Pamela Richards

It's still in the talking stages. We still haven't confirmed anything.

— Bob Yalen, ESPN Director of Boxing



Sugar Ray Leonard

pointed out the contract between the government and the promoter has a performance clause that says "all monies are refundable" if McPherson fails to get the event televised.

"We have written such an ironclad contract, if we feel that at any time he's not going to deliver, he has to return the money," Richards said.

The boxing show has had problems, typical in the world of pro boxing. Originally scheduled for late June, it was postponed until July, and then September, because, Stridiron said, officials took so long reviewing the contract that not enough time was left to promote the event adequately.

McPherson said the plans solidified when he contacted Leonard's company, which had plans to put together a Dec. 5 card for ESPN2.

Leonard's stature in the boxing world and his relationship with ESPN give the Virgin Islands event a major boost.

A six-time world champion and one of sport's biggest attractions, Leonard started his promotion company in 2001.

The company, SRL Boxing, has put together 26 boxing cards since then, including several for ESPN2 and Showtime.

The card would be part of the ESPN2's "Friday Night at the Fights" series.

McPherson believes that there is still plenty of time to promote the show and that the date will not be changed again.

"That is an etched-in-stone date," McPherson said. "It is done."

Heavyweight Francois "The White Buffalo" Botha of South Africa, originally slated to be the

star of the postponed June show, may still part of the event, McPherson said.

Leonard has several fighters under contract who would almost certainly be part of the card. They include former world champions Lou Bradley and Diosbelys Hurtado, as well as highly regarded featherweight Daniel Seda, heavyweights Lawrence Clay-Bey and J Carlos Gomez.

The V.I. government committed \$300,000 to the event in hopes it will publicize the territory as a tourism destination.

"If we're able to pull this whole thing off, if it's being televised nationally, I think it will be a great event in terms of exposure for Virgin Islands," Stridiron said.

Although ESPN claims a total audience of 10 million people — through television, print, radio and Internet outlets — its viewership for Friday Night Fights series averages fewer than 1 million viewers, according to ESPN statistics.

The contract with McPherson, which was signed by Gov. Charles Turnbull months ago, requires some tinkering, Stridiron said. The contract must be changed, as well as the name of the television provider.

The Virgin Islands is supposed to be promoted in a variety of ways during the broadcast according to the contract.

The ring posts and ring mat will advertise the islands, for example, as will signs in the crowd at the stadium.

"It's supposed to be a complete package that gives the Virgin Islands a maximum amount of exposure," Stridiron said. "That's one of the things we wanted in the contract."

McPherson said he has invited former world champion Thomas Hearns to attend and plans to invite former champions Larry Holmes, Fi Trindad and other boxing luminaries.

In addition, a music festival to coincide with the boxing match is in the early planning stages, Stridiron said.

BY TIM McDONALD
Daily News Staff OCT. 24 1983

ST. THOMAS — The planned professional boxing match on St. Thomas, funded in part by \$300,000 from the V.I. Tourism Revolving Fund, is moving ahead, though there is still no television contract, according to officials involved in the event.

Cable sports network ESPN confirmed this week it is planning a "site visit" this week or next to the University of the Virgin Islands Sports and Fitness Center, where the event would be held.

"We have to find out if it's workable," said Bob Yalen, ESPN director of boxing.

If ESPN agrees to broadcast the event, Sugar Ray Leonard will be on St. Thomas as early as Wednesday to make a formal announcement, said Bjorn Rebney, president of Leonard's promotion company.

The fighters have yet to be determined, but the contract between the government and fight promoters calls for a "world championship boxing match" as defined by one of the major sanctioning bodies, such as the World Boxing Council, World Boxing Union, World Boxing Organization or International Boxing Federation.

The event is contingent on its being broadcast. Tourism Commissioner Pamela Richards said earlier this month the contract has a performance clause that says "all monies are refundable" if the event is not shown on television. If the event happens, it will be at the UVI venue as opposed to



Sugar Ray Leonard

It's not easy moving things at the last minute, but we think it's an important event for the Virgin Islands, and we're going to do everything we can.

— UVI Athletic Director Peter Sauer

Lionel Roberts Stadium, where it was originally scheduled to take place. The UVI facility seats approximately 4,000. Yalen said he was impressed with photos of the facility on the Internet, and Rebney called it a "top-tier facility."

UVI Athletic Director Peter Sauer confirmed he is in negotiations with officials, including Sen. Adiah Donastorg Jr., and said he is working to reschedule events already planned for the proposed Dec. 5 fight date.

Donastorg sponsored an amendment to a bill appropriating the money from Tourism to pay for the event.

"If they get ESPN, we're going to make every effort to have this

toward it." The fight, from the point of view of tourism officials, is intended to showcase the Virgin Islands as a tourism destination.

The ring posts and ring mat will advertise the islands, for example, as well as signs in the sports center.

Co-promoter Sterling McPber-

son said he has invited former world champion Thomas Hearns to attend the "star-studded" fight and plans to invite former champions Larry Holmes and Felix Trinidad, as well as other boxing luminaries.

In addition, a music festival in conjunction with the boxing match is in the planning stages.

Sugar Ray says V.I. boxing event is a go

No world title at stake, but welterweights include a talented prospect

By TIM McDONALD
Daily News Staff OCT. 23, 1992

ST. THOMAS — It may not be for a world championship and they may not know yet where it will be held, but the proposed professional boxing match promoted by boxing legend Sugar Ray Leonard — the "Rumble in Paradise" — took a major step forward Thursday.

Leonard and his fellow promoters flew to St. Thomas on Wednesday and spent Thursday promoting the scheduled Dec. 5 bout, which features a heavy-weight fight for the International Boxing Association's vacant "Americas" championship.

Promoters said they had a contract with ESPN2 to televise the fight card on its weekly "Friday Night Fights" series. An ESPN spokesman said Thursday he could not confirm that an agreement has been reached and said other ESPN officials who have been negotiating the broadcast rights were unavailable.

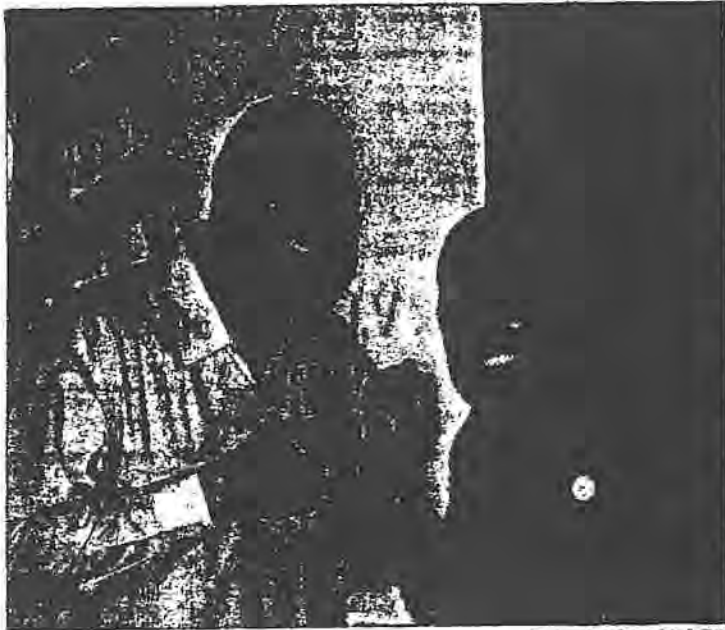
The V.I. government appropriated \$300,000 for the event, and although the contract with fight promoters calls for a "world championship boxing match" as defined by one of the major sanctioning bodies, none of the fights planned for the Dec. 5 card is for a world title.

One of the "co-main events" features a hot young heavy-weight prospect, but none of the four fighters named to appear so far are close to fighting for a world championship belt.

Former U.S. Olympian Lawrence Clay-Bey will fight Samuel Peter of Nigeria in the heavyweights fight, while Puerto Rican welterweights Carlos "Indio" Quintana will take on David Estrada from Chicago in the other.

Of the four, only Quintana and Peter are currently ranked by any of the major boxing sanctioning bodies: Quintana is ranked 15th among welterweights by the World Boxing Organization and Peter is ranked 30th among heavyweights by the World Boxing Council.

IBA President Dean Chacon, while praising the hard-hitting Peter, 23, described the "Americas" class as the equivalent to a Major League Baseball "double-A" farm team. The IBA has champions in three classes: In descending order,



Gov. Charles Tumbull meets boxer Sugar Ray Leonard on Thursday.

Governor Charles Tumbull Photo by PAUL BUCHANAN

they are "World," "Continental" and "Americas."

"You've got a tremendous young prospect in Samuel Peter, and he's going to fight a cagey veteran who has had his shot a couple of times and never quite gotten over the hump," Chacon said. "It should be a hell of a fight."

Clay-Bey, 37, has a record of 19-2. Recvot losses to two ranked fighters knocked him out of the rankings, according to Chacon. Peter is 16-0 with 15 knockouts.

Quintana, from Moca, Puerto Rico, has a 14-0 record with 11 knockouts, and Estrada is 15-1 with seven KO's, according to promoters.

The four undercard fights will be lined up next week, according to promoters, who said they hoped to get St. Croix native Lloyd Joseph on the card. Joseph currently lives in New York.

The venue for the event is still

unsettled. Co-promoter Sterling McPherson said after a Thursday press conference that he expects to have that set soon, perhaps today.

The fight likely will be held at either Lincoln Roberts Stadium or the UVI Sports and Fitness Center. "They asked us about availability and cost, and we're trying to accommodate them," UVI Athletic Director Peter Saur said.

ESPN officials were impressed during a site visit earlier this week, Saur said.

"They said they loved the arena and said they thought it would be a great arena to televise from," he said.

The government appropriation, which Sen. Adiah Doesborg Jr. sponsored as an amendment to a bill and will draw from the Revolving Tourism Fund, is intended to attract the Virgin Islands as a tourist destination.

ESPN claims a total audience of

90 million people, through television, print, radio and Internet outlets, although viewership for the "Friday Night Fights" series averages less than 1 million viewers, according to company figures.

Officials involved in the fight say they plan to start running media ads next week, and marketing efforts will reach nearby islands, including Puerto Rico.

"I want the people around the world to see what St. Thomas is all about," Leonard said.

Promoters said they do not expect the event to be a big revenue-generator. However, if it is successful, it could lead to future events here, said Bjorn Robney, president of Sugar Ray Boxing.

Tickets for the fight are to go on sale Monday and will range from \$75 for ringside seats to \$25 for general admission.

Promoters said a competition for "ring girls" will be held Nov. 29.

Leonard reaches St. Thomas for 'Rumble in Paradise'

By TIM McDONALD
Daily News Staff

ST. THOMAS — The long line of legends, great fighters and boxing promoters who say this sport is a big part of their lives — Leonard, the most famous of them all — took a major step forward Thursday.

Leonard and his fellow promoters flew to St. Thomas on Wednesday and spent Thursday promoting the scheduled Dec. 5 bout, which features a heavy-weight fight for the International Boxing Association's vacant "Americas" championship.

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Of the four, only Quintana and Peter are currently ranked by any of the major boxing sanctioning bodies: Quintana is ranked 15th among welterweights by the World Boxing Organization and Peter is ranked 30th among heavyweights by the World Boxing Council.

IBA President Dean Chacon, while praising the hard-hitting Peter, 23, described the "Americas" class as the equivalent to a Major League Baseball "double-A" farm team. The IBA has champions in three classes: In descending order,

JA000406

No ESPN contract yet for I. boxing card

By TIM McDONALD
Daily News Staff

NOV. 1, 2003

ST. THOMAS— The "Rumble in Paradise" is still without a site or a television contract.

Promoters for the professional boxing show scheduled to take place Dec. 5 on St. Thomas said at a Thursday press conference that an agreement with ESPN2 was a "done deal."

But on Friday, ESPN denied that a contract was in place.

"There's nothing to confirm," ESPN spokesman Nate Smeltz said Friday.

Sugar Ray Leonard and Bjorn Rebney, the president of Leonard's promotion company, Sugar Ray Leonard Boxing, left St. Thomas on Friday morning and could not be reached for comment.

The location for the fights also is up in the air.

Co-promoter Sterling McPherson, who said at a Thursday press conference that he expected to have the venue settled as soon as Friday, also was unavailable for comment.

Fight promoters have been negotiating with the University of the Virgin Islands to hold the bouts in the UVI Sports and Fitness Center. UVI

Promoters for the professional boxing show scheduled to take place Dec. 5 on St. Thomas said at a Thursday press conference that an agreement with ESPN2 was a "done deal."

Athletic Director Peter Sauer said Friday that the two sides were not that far apart.

"We're confident an agreement can be reached," Sauer said.

ESPN gave its stamp of approval to the UVI arena last week. Officials have security concerns about another possible location, Lionel Roberts Stadium. Ivanna Zadorn Kean High School is a long shot.

Sen. Adnah Donastorg Jr., who has been the point man for the Virgin Islands in bringing the fight to town, also was unavailable for comment.

The two unknowns — the TV contract and the venue — are the only missing pieces of the puzzle that need to be solved before the event can be held.

Leonard and the other promoters held a press conference and gave media interviews Thursday in an effort to bolster interest in the fights.

Leonard's stature in the boxing world revved the event when it looked like it would wither.

The high production costs of transport and expensive electronic equipment threatened to derail the event, but promoters said Thursday that most of the logistical problems have been ironed out.

Leonard and his fellow promoters announced two of the fights that are scheduled to take place: Former U.S. Olympian Lawrence Clay-Boy fight Samuel Peter of Nigeria in the heavyweight bout, while Puerto Rican welterweight Carlos "Indio" Quintana will take on David Est from Chicago in the other.

Promoters said they hope to fill out the undercard fights by next week. St. Croix as Lloyd Joseph, now living in New York, a potential fighter.

Although the setting for the fights has not been settled, tickets are due to go on sale Monday through a variety of outlets around the island. They range in cost, according to promoters, from \$10 for ringside seats to \$25 for general admission.

JA00610

ESPN commits to televising V.I.'s 'Rumble in Paradise'

By SEAN MCCOY **Nov 05 2003**
Daily News Staff

ST. THOMAS — The Rumble is on. After months of negotiations, a sanctioned professional boxing bout planned for St. Thomas finally has the commitment of a major television network.

It will be the first time a sporting event is televised live from the Virgin Islands and only the second worldwide live broadcast ever from the island.

Bob Yalen, ESPN's boxing director, said Tuesday that the sports channel will show noon and 4 p.m. bouts of fights from "Rumble in Paradise" live on ESPN2 on Dec. 5.

"We are all set to do the fight," Yalen said. "We are fully intent on covering these. The major aspects are taken care of."

Yalen said that a multibout contract is in place with Sugar Ray Leonard Boxing, the promotions company led by the boxing great.

"Rumble in Paradise is part of that multibout contract."

"I believe it will be a significant live major sporting event," said Sen. Adolph L. Hamilton Jr., who sponsored legislation an appropriate \$100,000 from the Tourism Revolving Fund to bring the fight to the territory.

Co-directors of the NCAA Division I basketball tournament Paradise Jam, held annually in the Virgin Islands, have sought the media coverage in the past. A successful broadcast may help create television coverage for that and other competitions.

If we can show them that it is workable, they may set the precedent for future major sporting events televised by C. Donastorg and

The involved committee is contributing to the excitement part of a community effort by V.I. and U.S. promoters to bring professional boxing to the Virgin Islands.

Included in the contract between the Virgin Islands and boxing promoter is a money deal worth about \$1 million, a complete bond of the event and a money deal fight will be held nationally.

Yalen said they are currently in negotiations from competing to form contracts. Yalen said "It's an exciting deal."

ESPN's deal on Friday will provide a live telecast of the fight. A television contract was signed on Tuesday. Yalen said that there had been confusion about the contracting process and that the fight will be aired.

In the high-stakes world of boxing promotions, that is about par for the course. The six events were planned for the event, generally scheduled for July 27 - 31, to set a medium type in the classic process of organizing



Sen. Adolph Donastorg Jr. (left) and Sugar Ray Leonard announcing plans for the fights during Leonard's trip to the Virgin Islands last week.

a major fight. The card once tentatively featured WBI Heavyweight Champion George Kamichaka versus Ibrahim "The White Buffalo" Deana. Now, neither is on board, replaced by an International Boxing Association Heavyweight American title fight and a welterweight fight that is not for a title.

A contract between the Virgin Islands and Sterling Promotions that

was sent to The Daily News on Sept. 26 stipulated that the televised fight be a "world championship boxing match," as defined by any of the major sanctioning bodies.

That leaves a lot of room for interpretation. There are several world sanctioning bodies with varying levels of competition.

According to International Boxing Association President Dean Chace, the main event between Lawrence

Clay-Bey (19-2, 14) and Bernard Peter (16-0, 15) is for a heavyweight American title — a title he compared to a Double-A baseball league title.

On the other hand, both boxes fighting for that title are on the rise.

"It is a championship fight," Donastorg said. "The TV is not following the title itself, they are following the individuals."

Sterling Promotions and Sugar Ray Leonard Boxing did not return

repeated calls on Tuesday seeking comment on where tickets, which were to go on sale Monday and cost between \$25 and \$75, can be purchased.

In the other on-fight fight, former US Olympian Lawrence Clay-Bey will fight Bernard Peter of Nigeria in the heavyweight bout. Puerto Rico's Carlos "Tula" Quiroz will take on David Estrella from Chicago in the other co-feature.

Quintana and Peter are ranked by major boxing sanctioning bodies, but fall short of world championship contention. Quintana is ranked 15th among welterweights by the World Boxing Organization and Peter is 30th among heavyweights, according to the World Boxing Council.

Yalen called Peter "one of the hottest prospects in boxing."

The boutcard, which has not yet been set, will likely feature St. Croix native Lloyd Joseph.

The event has also changed venues and television stations during the six months of negotiations. In April, the plan was to hold the fights at Lionel Roberts Stadium and have Showtime televise them. Now, the bout will be held at the University of the Virgin Islands Sports and Fitness Center and will be covered by ESPN2.

When Sugar Ray Leonard announced on Thursday that the fight would be held on St. Thomas, a contract locking down the Sports and Fitness Center in a venue had not been finalized. That contract is still in the works, but should be nailed down by today.

"There are just a couple minor details left to work out," UVI Athletic Director Peter Siver said. "We look forward to hosting the event."

UVI Sports Center secured as the site for boxing bouts; ticket situation uncertain

By JIM McDONALD
News Staff NOV. 07 2003

ST. THOMAS — The "Rumble in Paradise" now has a site to go with its television contract.

The six-fight card scheduled to be televised by ESPN2 on Dec. 5 will be held at the University of the Virgin Islands Sports and Fitness Center.

Now all Virgin Islands fight fans need to know is how and where to buy tickets.

Fight organizers said at a press conference last week that tickets for the bout were to go on sale earlier this week.

Sen. Adlah Donastorg Jr.'s office said ticket information was available, but his chief of staff, Geraldine Gurnbs, refused to release it to the newspaper.

Donastorg did not return repeated phone calls from The Daily News.

University officials came to an agreement to use the 4,000-seat facility Thursday after weeks of negotiations with fight promoters and Donastorg.

"The contract has been completed," said UVI Athletic Director Peter Sauer. "We look forward to hosting the event."

Neither Sauer nor Donastorg's office would reveal details of the contract.

UVI officials moved their Christmas concert, which was scheduled for Dec. 6 with rehearsals scheduled for the day before, to later in the month to accommodate the event.

Fight organizers also had considered holding the event at Lionel Roberts Stadium, an outdoor venue, but ESPN officials were concerned about several factors, including weather, parking and security.

In fact, government officials

were holding out Lionel Roberts as an alternative venue as late as Thursday.

"We do have the fight penciled in for that day," said Housing, Parks and Recreation Commissioner Ira Hobson. "No one else can use it. If they don't want it, then so be it. But for now it's penciled in."

The Sports and Fitness Center holds roughly 4,000. Lionel Roberts holds about 3,500 in the stadium grandstands, with the capacity to accommodate 1,000-2,000 more with temporary seating on the field, Hobson said.

Only two of the six scheduled bouts have been finalized. And, although the government appropriated \$300,000 to hold a "world championship" event, neither of the fights so far are for a world championship, as defined by one of the major boxing sanctioning bodies.

The star attraction so far is

heavyweight Samuel Peter Nigeria, considered a big prospect in the world. Peter is scheduled to fight 37-year-old former U.S. Olympic champion Lawrence Clay-Bey.

The two will fight for International Boxing Association vacant Americas champion IBA head Dean Chance despite the Americas class as the equivalent of a double-A Major League Baseball farm team.

In the featured event, Mexican welterweight Carlos Quintana will take on Estrada of Chicago.

Only two of the boxers ranked: Quintana is ranked among welterweights by the World Boxing Organization and Peter ranked 30th among heavyweights by the World Boxing Council.

JA000009

Two local boxers ready to rumble in December's professional event

By TIM McDONALD
Daily News Staff NOV. 9 @ 2003

ST. THOMAS — Two local fighters, one of whom is the brother of V.I. boxing legend Julian Jackson, were added Friday to the "Rumble in Paradise."

David Rogers, the brother of the former world welterweight champion, and Didier Hughes will fight on the undercard of the professional boxing show scheduled for Dec. 5 at the University of the Virgin Islands Sports and Fitness Center.

Both boxers are well-known to the

local boxing community. They fought and won at last year's Boxing in Paradise "Homegrown" pro event last June at the Sports and Fitness Center.

Hughes is 12-1 with six knockouts, and Rogers is 9-0 with five knockouts.

"Both of these guys are good boxers," said Robert Moorhead, President of the V.I. Amateur Boxing Federation. "Julian kind of overshadowed everybody, but both these guys have put a lot back into the local boxing community."

Opponents for the local fighters have not been named yet. The undercard is expected to be filled out as early as next week, according to promoter Sterling McPherson.

The two "co-train events" of the card are expected to be televised live by ESPN2. Promoters say one or possibly two of the undercard fights could be televised as well.



David Rogers



Didier Hughes

The highlight of the event so far is the heavyweight fight between Samuel Peter of Nigeria and former U.S. Olympic team captain Lawrence Clay-Bey.

"The heavyweight match, in my opinion and the opinion of numerous others, is probably the most significant fight of the year on ESPN," said Ron Katz, a veteran matchmaker who now

works for the promotion company of Sugar Ray Leonard, one of the co-promoters.

"You have Peter, one of the most highly touted young guys, a guy considered one of the hardest one-punch guys in the division," Katz added. "Clay-Bey is a very highly skilled boxer with good hand speed with deceiving power. Clay-Bey is by far the most dangerous guy Peter will have faced to date."

Peter is 16-0 and Clay-Bey is 19-2, according to promoters.

The other co-train event will feature Puerto Rican welterweight Carlos "Indio" Quintana against Chicago's David Estrada.

"Quintana is a punching machine," Katz said. "He makes great action fights. Estrada was a highly touted amateur, trained by Angelo Dundee. That should be a sensational fight."

Tickets for the event are scheduled to go on sale online Sunday at 4 p.m. at www.uvibotickets.com, according to officials at the University of Nevada Las Vegas, where the tickets are being printed. Tickets are to be available to the public in the Virgin Islands at 10 area outlets by next Wednesday or Thursday, according to McPherson.

Ringside seats are priced at \$75, middle-area seating is \$50 and general admission is \$25.

The outlets are: Modern Music at Haversight Mall, Sports-O-Kama, Changes at Tulu Mall, Petite Pump Room, Sunrise Pharmacy in Red Hook, Nisky Pharmacy, Forever Flowers, Family Billiards Center, St. John Drug Center and St. John Car Rental.

Heavyweight bout dropped from St. Thomas boxing card

By TIM McDONALD
Daily News Staff
DEC. 2 8 2003

ST. THOMAS — The Big Bear is getting smaller.

The "co-main" heavyweight event for the scheduled Dec. 5 professional boxing card on St. Thomas has been canceled and is being replaced by two lightweights.

Heavyweight Lawrence Clay-Boy, who was supposed to fight Samuel Peter, suffered an shoulder injury last week in training and had to pull out, according to fight organizers.

Unable to find a legitimate opponent for Peter, organizers replaced the fight with a bout between lightweights Courtney Burton and Francisco Lorenzo.

The loss of Clay-Boy and Peter means no heavyweights have yet been named to the card. But co-promoter Sterling McPherson said fans will still get their money's worth, pointing out that Burton is

the highest-ranked fighter yet on the card.

"This is a dynamic fight, too," said McPherson, in town to take care of last-minute preparations.

Burton has a record of 19-1 with 11 knockouts and is ranked seventh among lightweights by the International Boxing Federation and the World Boxing Association.

The other co-main event will feature Puerto Rican welterweight Carlos "Jacko" Quintana against Chicago's David Estrada.

Quintana is ranked 15th among welterweights by the World Boxing Organization, and Peter is ranked 30th among heavyweights by the World Boxing Council.

The parade of Burton's career thus far was his technical knockout of highly regarded lightweight Alfred Masfedy. That fight was televised nationally by ESPN2, which is broadcasting the Dec. 5 card from the University of the Virgin Islands Sports and Fitness Center.

Lorenzo, who is from the Dominican Republic, has a record of 19-2 and 11 KOs. His last fight was a decision over undefeated lightweight Juan Diaz in a bout broadcast on Showtime.

McPherson said the change in the card would not affect ESPN's planned broadcast, in which both co-main events are set for, or possibly two, of the undercard bouts will be shown.

Two local fighters are scheduled to fight: David Rogers, the brother of the former world welterweight champion from the Virgin Islands, Julius Jackson, and Didier Hughes. Their opponents have yet to be named.

Although the V.I. government appropriated \$300,000 for the event, and although the contract with fight promoters calls for a "world" championship boxing match as defined by one of the major sanctioning bodies, none of the fights placed for the Dec. 5 card will be for a world title.

Leather ready to fly at last in St. Thomas boxing show

By SEAN MCCOY
Daily News Staff
DEC. 4 2003

ST. THOMAS — After months of preparations, myriad schedule and fight card changes and grueling contract negotiations, the boxes are finally ready to rattle.

Rumble in Paradise, the six-fight professional boxing event sponsored in part with \$300,000 in Tourism Revolving Fund monies that will be televised live on ESPN 2, will open at 6 p.m. at the University of the Virgin Islands Sports and Fitness Center on Friday night.

The card is now full and boxers weigh in today at 3 p.m. At 8 p.m., fans who would like to meet Sugar Ray Leonard will have the chance at the Sugar Ray Leonard Pre-Fight Social at the Hard Rock Cafe, for a \$10 cover.

All that's left is for boxers to touch gloves and throw the first punches — which will happen when the first fight gets under way at 9 p.m.

Asked if he was ready for his fight with Courtney Burton, lightweight co-feature boxer Francisco Lorenzo replied in Spanish. "Claro que si," he said — of course I am.

Those words resonated among the many promoters and politicians who have been involved in bringing the big bout to St. Thomas.

The fight is a culmination of months of hard work.

"I've never worked so hard in my life," said Sterling McPherson, the promoter who was among the first people involved in bringing the bout to life.

And on Wednesday night, the first sign that those labors are about to bear fruit took place at the Petite Pump Room on the Charlotte Amalie waterfront.

Dozens of stylish guests — including pro boxers, local senators and boxing promoters — mingled in the low light of the club during a VIP reception.

It was a black-tie event without the ties. Women in billowing African-print dresses and sharply dressed men chinked glasses and talked about the coming fight.

At this table, wearing a crisp black shirt and holding a crystal glass was six-time world champion and indisputably one of the current heavyweight champions of boxing promotion, Sugar Ray Leonard.

And at the next, in creamed gray swirl pants and a black shirt that barely hid the muscles betraying a former career boxer, promoter Sterling McPherson.

Sen. Adiah Donastorg Jr., the Rumble in Paradise ringmaster who sponsored legislation to bring

Fight card

WBO-NABO title fight

135 pounds: Courtney Burton (19-1, 12 KO) vs. Francisco Lorenzo (19-2, 17 KO)

Bout 2

148 pounds: Carlos Quintana (14-0, 11 KO) vs. David Estrada (16-1, 7 KO)

Bout 3

128 pounds: Jason Litzau (5-0, 3 KO) vs. Jose Diaz (8-14-1, 3 KO)

Bout 4

175 pounds: David Rogers (4-0-2, 3 KO) vs. Danny Sheehan (10-24, 5 KO)

Bout 5

181 pounds: Didea Hughes (11-1-1, 5 KO) vs. Frey Luis Sierra (11-10-1, 5 KO)

Bout 6

117 pounds: Jose Nieves (7-0-2, 5 KO) vs. Felix Flores Murillo (10-0-1, 8 KO)

the fight to St. Thomas, walked the floor working out final details.

"This is something that we have never been able to achieve: TV," Donastorg said. "It is the springboard for future major events."

Only one nationwide live broadcast has ever taken place from the Virgin Islands, Donastorg said. It was a "Good Morning America" show many years ago.

But other entities, mainly the NCAA Division I Paradise Jam Basketball Tournament, strive to bring nationwide broadcasts to the table in future contests.

The fight that attracted national attention will be between 135-pounders Courtney Burton (19-1, 12 KO) and Francisco Lorenzo (19-2, 17 KO) for the World Boxing Organization's North American Boxing Organization lightweight championship.

Leonard said the fight will be hotly contested.

"What I pride myself in is matchmaking," Leonard said. "Any given night, one of these guys could win."

The title in contention, Leonard said, will move the victor one step closer to a world championship fight with current WBO champion Artur Grigorian or possibly move them toward a fight with reigning champions of other sanctioning organizations such as current World Boxing Council champion Floyd Mayweather.

"It's a springboard," Leonard said. "It's a big fight."

JA00011

Countdown to fight time marked by flurry of activity

By SEAN MCCOY
Daily News Staff Writer O & 2003

ST. THOMAS — In a crowded conference room at the Holiday Inn Windward Passage Hotel, Francisco Lorenzo stepped to the scale, lifted his arms and flexed the muscles that made him appear to be sculpted out of bronze.

Yes, the rumble is on.

Tonight, Kumble in Paradise, the Virgin Islands first-ever live televised sporting event, will send images of brawling professional boxers over the airwaves to households across America.

On Thursday, the fighters and those who make the fight happen were all business.

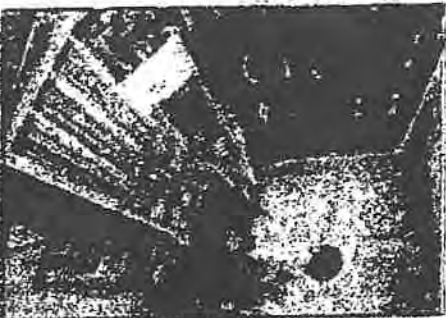
The 10 boxers at the weigh-in sat in running clothes or T-shirts, ready to tip the scale as they glowered across the room at one another.

The V.I. Boxing Commission was there, as was a doctor and many other officials whose task is to ensure that the fighters are physically ready.

Among them was the Virgin Islands' own Dieter Hughes, a 16-year-old St. Thomas resident who will battle Fray Luis Sierra of Miami in the undercard welter-weight fight.

"I'm as ready as I can be," Hughes said, willing to have his blood pressure checked. "You get a little anxious to get it over I feel strong."

But while the center of attention was on the boxers one day before



ESPN Friday Night Fights producer, Fred Berger works in the control room at the UVI Sports and Fitness Center on Thursday afternoon.

the big fight, the eye of the hurricane was at the University of the Virgin Islands Sports and Fitness Center.

In the center of the gymnasium, a ring was already standing. Around the ring were stacks of hundreds of chairs, dozens of TV cameras, miles of coaxial cables and boxes upon boxes of the mysterious computerized gizmos that will track the fight to America and the world.

In a room marked simply "Fighting Center," a back corner near wall-removed from the gym, the nerve center of the program was being put together piece-by-



Francisco Lorenzo, who will fight Courtney Burton in the WBO-NABO lightweight title fight tonight, weighs in on Thursday night at Holiday Inn Windward Passage.

piece like a very expensive Erector set.

Dozens of miniature TV screens lit up the back wall of the room. The rest of the room was filled with massive mixing consoles, huge banks of a spectral universe of colorful knobs.

The undertaking created, from scratch, the contents of a mobile TV production vehicle.

"Usually, in the States, you walk into a self-contained unit," said Rub Reiter, producer for ESPN Friday Night Fights. "We are mimicking the same thing as a mobile unit. It creates massive challenges because we don't want to spend all the money to come down here and do less than an outstanding job."

The fight kick off tonight at 9 p.m. and will be on the air from 10 p.m.

until 12 p.m. on ESPN 2.

Tickets cost between \$25 and \$75 and are available at Modern Music at Havensight Mall, Sports-O-Rama, Champ's at Tuva Mall, Petite Pump Room, Sunrise Pharmacy in Red Hook, Micky Pharmacy, Forever Flowers, Family Gilberts, Center, St. John Drug Center and St. John Car Rental.

Daily News Photos by SEAN MCCOY

RUMBLE IN PARADISE

BURTON DEFEATS LORENZO IN MAIN EVENT



By **MATTHEW BLATER**
Daily News Staff **DEC 05 2006**

ST THOMAS An unusual storm didn't hold down an intimate Dominican Republic on Friday night. Francisco Lorenzo unleashed a torrent of wild punches on Courtney Burton of Michigan. In the end that Mustang will own Las Vegas the WIRANABO lightweight title.

And FRENCH made sure its nation's audience knew what it sounds like when punches rain down.

The simply 71 eight-five million people can know when St. Thomas is, "my moment," Jeff Capone believed before the first bout of the night.

In the display of many in the crowd, Burton won the 12-round bout of the much anticipated Rumble in Paradise at the University of the Virgin Islands Sports and Fitness Center by split decision 115-114 113-115 116-113. Lorenzo's thumping style was his downfall. The judges ruled that Burton knocked down Lorenzo twice, but the crowd clearly felt both were either by a tip.

Burton's score is 113-111 with 12 knockouts. Lorenzo falls to 19-3 with 11 KOs.

Lorenzo started out in the first round as a blur of motion, jabbing a handful of elbows and gloves. Smaller and skinnier, he went for the jugular early and landed often.

At one point, he connected on a crushing blow — well below Burton's belt. In an all too familiar display, Burton usually felt nothing, then a few seconds later groined and crumpled to the mat. No points were shown for the infraction.

Lorenzo cut Burton's right eye in the third round after a series of Burton punches, but Burton held steady, letting his opponent come to him and packing his shots.

Burton, in black trunks with orange trim, came alive in the fourth. He began to take control of the pace of the fight as his confidence and power improved. But once again, this time after the bell had

Copy News Photo by KEVIN MCCOY

Courtney Burton squarely lands a punch on the head of Francisco Lorenzo during the main event of Rumble in Paradise on Friday. Burton won the bout.

See RUMBLE, page 36

RUMBLE

CONTINUED FROM PAGE 34C

ring, I don't know how the hell...

The only two rounds were a back-and-forth action with few punches landing cleanly and both fighters carrying to each other as they met. The crowd wanted their money's worth, because neither was giving for action and offering heavy advice from the crowd to the absent One. He slammed up the nose when he's asked, "You're on ESPN, get a job!"

In an aggressive ship, Loraean went down in the ninth round. As he fell, Burgos's confidence rose. He began to hold his head out, during Loraean's punch, which, of course, he did.

The 11th was the best round of boxing all night. Burgos connected several at a distance, and Loraean held on for dear life. He fought back valiantly and the speedy crowd came alive, screaming and waving their feet.

Burgos's second knockdown, on the 12th round, was no less controversial than the first. A wild right to the back of the head sent Loraean down, as money in the crowd yelled "push!"

When the signal for the last 10 seconds came, both fighters stepped in a last-gasp flurry, arms flailed and several soared out of the ring. Rumble in Paradise co-promoter and boxing legend Sugar Ray Leonard jumped from the crowd in delight, and the rest of the crowd followed, drowning out the final bell with a wall of noise.

Welterweight biter

In what was billed as the "underdog" of the night, welterweights Carlos Quintana of Miami, Puerto Rico, and Candy "The Candyman" Robertson of Salem, Mass., danced around the ring... literally. In a bizarre display of his (to other-



St. Thomas' Dicker Hughes waves to the crowd while Jackson "The Hawk" Jackson removes his glove. Hughes beat Frey Luis Sierra by unanimous decision.

perative dancer with a sprinkling of Grace-Roman wrestling, the fighters grappled, twirled and threw each other in the air with gusto.

But Quintana also threw punches, devastating punches. At the 2-minute, 46-second mark of the eighth round, he landed a solid left and Robertson crumpled. With blank eyes he stared to the left, then the right, until referee Steve Smoger counted to 10.

An entire section of the crowd jumped to their feet, waving Puerto Rico's flag.

Among the oddities of the fight, Smoger deducted a point from Robertson in the seventh round after he lost his mouthpiece the fourth time.

"Four times, I gotta take a point, come on," Smoger said after the fight.

Clearly, the better-trained fighter, Quintana controlled the pace throughout, yiping up Robertson when



Candy Robertson lands a punch to the face of Carlos Quintana during the co-main event at Rumble in Paradise.

he needed to end waiting for his chance to strike. His record now stands at 15-0 with 12 KOs. The Candyman talks to 14-7 with 10 KOs.

Other fights

Promising junior lightweight Loran Litzau of St. Paul, Minn., stayed perfect in the first bout by way of a technical knockout against Alaris Barcoy of Miami.

For a small guy, Litzau really packs a punch. All six of his wins have been knockouts.

When Smoger stopped the fight in the second round when Litzau had knocked his second knockout, Litzau ran to his corner and yelled to Sugar Ray, "I love you" and kissed his gloves.

After the fight, the confident Litzau said, "I knew no one could beat me."

In a six-round undercard, St. Thomas' own Dicker Hughes won a unanimous decision over Frey Luis Sierra, whom he knocked down in the third round.

And in a fight that ended before many mulling about outside realized it was over, it took Jose Alvarez of Salem, Puerto Rico, just 2 minutes, 41 seconds to knock out Felix Flores Martillo of Miami.

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1 IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
 2 DIVISION OF ST. THOMAS AND ST. JOHN
 3
 4 SENATOR ADLAH DONASTORG, Jr.,
 5 BENEDICTA DONASTORG, ADLAH
 6 DONASTORG, Sr., JOSEFINA
 7 DONASTORG, ELLA MORON and NORMA
 8 DURAN,
 Plaintiffs,
 vs. Case No. 117/2002
 9 DAILY NEWS PUBLISHING CO. INC.,
 10 INNOVATIVE COMMUNICATION
 11 CORPORATION, JEFFREY PROSSER,
 12 LOWE DAVIS, HOLLAND "DYKE"
 13 REDFIELD and VITELCO,
 Defendants.
 14
 15 THE ORAL DEPOSITION OF EUNICE BEDMINSTER
 16 was taken on the 19th day of April, 2007, at the Law Offices
 17 of Rohn & Cameron, 1101 King Street, Christiansted,
 18 St. Croix, U.S. Virgin Islands, between the hours of
 19 1:41 p.m. and 3:38 p.m. pursuant to Notice and Federal Rules
 20 of Civil Procedure.
 21 Reported by:
 22 Cheryl L. Haase
 23 Registered Professional Reporter
 24 Caribbean Scribes, Inc.
 25 2132 Company Street, Suite 3
 Christiansted, St. Croix U.S.V.I.
 (340) 773-8161

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 25

Cheryl L. Haase
 (340) 773-8161

1 EUNICE BEDMINSTER -- DIRECT
 2 EUNICE BEDMINSTER,
 3 Called as a witness, having been first duly sworn,
 4 Testified on her oath as follows:
 5 DIRECT EXAMINATION
 6 BY MS. ROHN:
 7 Q. Good afternoon. Could you state your name for the
 8 record?
 9 A. Eunice Bedminster, that's with an I,
 10 B-E-D-M-I-N-S-T-E-R.
 11 Q. Okay. Ms. Bedminster, where do you live?
 12 A. Now, at 287 LaGrande Princesse.
 13 Q. And are you employed?
 14 A. Yes.
 15 Q. Where are you employed?
 16 A. I am the spokeswoman for the Department of Health.
 17 Q. Okay. What are your phone numbers?
 18 A. 773-1311, extension 3240. That's work,
 19 You need home?
 20 Q. Yeah.
 21 A. 719-6174.
 22 Q. Got a cell?
 23 A. Yeah, 277-2369. Best to get me on that.
 24 Q. How long have you been working at the V.I.
 25 Department of Health?
 A. Two years and a couple months-

Cheryl L. Haase
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- 1 Q. Prior to that, where did you work?
 2 A. Virgin Islands Daily News.
 3 Q. How long did you work for the V.I. Daily News?
 4 A. I think it's twelve years, from '94 to 2005.
 5 Q. When you started, what was your job?
 6 A. News Clerk.
 7 Q. And when you finished, what was your job?
 8 A. Bureau chief for the St. Croix Bureau.
 9 Q. And when did you become the bureau chief of the
 10 St. Croix Bureau?
 11 A. 1998.
 12 Q. And before that, what were you?
 13 A. I was a reporter covering mainly education and
 14 police from some time in 1995, I think. I did not stay a
 15 news clerk for long. I came in July of 1994, and maybe
 16 later that year or early the next year I was a reporter,
 17 full-time reporter. News clerk slash part-time reporter.
 18 Q. During the time you worked at the Daily News, did
 19 you ever get paid overtime?
 20 A. Yes.
 21 Q. And when were you paid overtime?
 22 A. I think up until Prosser took over.
 23 MS. ROHN: Off the record.
 24 (Discussion held off the record.)
 25 Q. (Ms. Rohn) Now, what were your job

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- 1 responsibilities as bureau chief?
 2 A. I supervised, if I recall correctly, four
 3 reporters and one photographer. I was responsible for the
 4 day-to-day operations of the St. Croix Bureau. I would -- I
 5 basically was the eyes and ears of the Daily News over here.
 6 Considered management. Would discuss the -- what we
 7 discussed over here with my staff as to what would be in the
 8 paper the next day. Some of the things we came up with,
 9 some of the things were, for lack of a better word, dictated
 10 to us.
 11 Q. I was going to ask you, how did you get your story
 12 ideas?
 13 A. Like I said, some of it were follow-up stories
 14 from reporters themselves. Some of them were story ideas I
 15 came up with.
 16 But for the most part, stories like
 17 investigative reporting or stuff that would be sent away for
 18 prizes, journalism prizes, would usually start off with an
 19 idea from the top, meaning -- I can't even remember her
 20 title -- Lowe Davis.
 21 Q. Lowe Davis?
 22 A. Yes, whatever title she had.
 23 Q. Have you discussed this Donastorg lawsuit against
 24 the Daily News with anyone?
 25 A. I don't even recall the lawsuit. I know there was

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- 1 a lawsuit, but to be honest, I -- when I got the subpoena, I
 2 tried to think back. And maybe as some of the things come
 3 out I'll remember, but I can't remember what it was about.
 4 Q. Okay. Has anyone that represented -- any of the
 5 attorneys that represent the Daily News or any of the
 6 defendants ever contact you about the lawsuit?
 7 A. No.
 8 Q. Have --
 9 Go ahead.
 10 A. I know there was a lawsuit involving -- what's her
 11 name? Perry, Perry --
 12 Q. Perry brothers?
 13 A. (Witness nods head.) So at the time I think I was
 14 still working for the Daily News. So if that's the same
 15 case, then yes.
 16 Q. No, this is --
 17 A. Oh.
 18 Q. -- the case of Senator Donastorg against the Daily
 19 News.
 20 But what discussions did you have when it was
 21 the Perry brothers suit?
 22 A. Just what I remembered.
 23 Q. Okay. Why did you leave the Daily News?
 24 A. You don't really want to know. For a variety of
 25 reasons. One of them was health, and the second one was

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- 1 really because I was fed up.
 2 Q. Why were you fed up?
 3 A. There were a lot of reporters, there were a lot of
 4 folks that, in between the time that Mr. Prosser took over,
 5 and when we -- we were owned by Gannet and Mr. Prosser took
 6 over, that were either let go, quit, for a variety of
 7 reasons that they should not have been let go or they should
 8 not have been put in a position to be forced to quit.
 9 Q. And what do you mean by that?
 10 A. The most recent case was Marty Schladen, for
 11 example. And another reporter of mine's name Nancy, but I
 12 can't remember her last name. And they were -- I think they
 13 were contesting a story that was written that they thought
 14 that put Delegate Christensen in a bad light, and I think he
 15 may have called over to management and said --
 16 Q. He being Mr. Prosser?
 17 A. No, Mr. Schladen. It's S-C-H-L-A-D-E-N.
 18 Q. Okay.
 19 A. You know, this is what -- I don't recall the exact
 20 conversation, but this is what the community talks about, we
 21 do things that are not right. And it was an article where
 22 the headline read, Delegate Christensen -- not -- that's not
 23 the word, but in cahoots with some burglars or robbers.
 24 It was an incident where she just happened to
 25 be at a party where some people with some questionable

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1 background were. You would have to actually read the story
2 to see that she had nothing whatsoever to do with those
3 folks. Can't recall that story, but I know that that was
4 the gist of it.

5 And all of a sudden he was *persona non grata*,
6 and he was by far my best reporter. He was older than I was
7 and did not have to listen to me, but always came and talked
8 over stories to me. And it just got to the point that it
9 was really bad. We were called over to St. Thomas. He
10 was -- his workload was changed. Well, I was told to change
11 it. I never did.

12 And then he eventually quit, and he quit
13 around at November, maybe. Maybe November 2003, because I
14 had surgery in 2004, and at that time we had been planning a
15 staff party. So when he quit, I decided to take him out to
16 lunch anyway, because I don't have a problem with him. They
17 had.

18 Long story short, within maybe an hour of
19 sitting down at my desk, I got a call from Ms. Davis and she
20 said if I did not know that I should not have taken him to
21 lunch. And I was like, why not? I don't have a problem
22 with him. After that, I was *persona non grata*. And
23 basically I felt harassed until the point that I was able to
24 save enough to quit.

25 Q. Who told you to change his work?

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1 A. I can't remember specifically who, but it was
2 Jason and Lowe in that meeting with us, and they have
3 tactics where one is usually bad guy, one is usually the
4 good guy.

5 But I remember that day, it was Lowe mostly
6 doing the talking and Jason adding. Because that very day
7 when I was called over, when I became *persona non grata*, I
8 had been there about ten or eleven years, it was the first
9 time I had ever gotten a bad evaluation. I got two or three
10 reprimand letters that very day, and a bad evaluation, and
11 was forced to sign it even though I did not want to because
12 I had no -- I was unable to read it. I read it on the ICC
13 plane, some of it. And I know that for certain, because
14 Jennifer Matrangus came, was on that plane, and I was
15 explaining to her what had just happened to me.

16 So I came back with all those letters, and
17 when I came back to those letters, I went straight to my
18 office, I packed up all of my personal stuff because I knew
19 that was it for me; that I was -- eventually I was going to
20 leave. And they have a habit of asking you leave, and what
21 they do is bring boxes, and they tell you pack your stuff
22 and leave. And so I decided that when it came to be my
23 turn, I would just have to pick up my handbook and leave.
24 Nobody was going to bring me boxes.

25 Q. How did you know to go to St. Thomas for the

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1 meeting?

2 A. The meeting where I became *persona non grata*?

3 Q. No, I'm talking about the meeting you had with
4 Jason and Lowe about Schladen.

5 A. They called us. I was actually in court that day
6 because when -- even though I was bureau chief, I still
7 covered -- I now was covering courts regularly. And I
8 recall that I was in Superior Court at the time, Territorial
9 Court, and I got a call, and I can't remember if it was from
10 one of the reporters or the receptionist, and I got the call
11 that when I got out of court -- I may have gotten a note --
12 came out of court, called back, and they told me I needed to
13 get in touch with them right away.

14 I called them --

15 Q. Who did you call?

16 A. I think I got Jason. Usually if you made a call,
17 you would normally get Jason first. He said, I want you and
18 your two employees in my office right now. And I think we
19 may have gone the next day, because they may have made
20 reservations for us.

21 Q. Okay. In that meeting, you were told to change
22 Mr. Schladen's work assignment?

23 A. Yes.

24 Q. And how were you supposed to change them?

25 A. I was supposed to give him, in my opinion, merital

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1 tasks. Like, for example, do the blotter. Anybody can do
2 the blotter. You go in the blotter, you check it. Write
3 police stories, which are also basic, because -- and that's
4 one of the reasons why I still did it, because as bureau
5 chief, even though I had all these responsibilities, I could
6 easily whip a police story together, because they're facts.
7 You know, you just get it from the police and write it up in
8 three paragraphs. To do that.

9 Marty was a very, very strong legislative
10 writer. He was the type of writer who could make any
11 difficult task, he can just explain it very simple. So I
12 used him when I needed the legislature covered, I used him
13 when I couldn't cover the hard court cases, and I also used
14 him whenever we had audits. Oh, he can read through that
15 like that and write a story. I couldn't give him those, but
16 I didn't care, I gave it to him anyway. Because if he
17 didn't do it, I would have had to do it.

18 Q. Okay.

19 A. So.

20 Q. Now, you said that you'd seen this over and over
21 again.

22 A. Yes.

23 Q. And can you describe to me what you'd been
24 witnessing?

25 A. As far as?

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1 Q. Seeing them make somebody *persona non grata* and
2 then run them out?

3 A. Isaac Coursey was one of them; Isaac Coursey was
4 the Daily News sports reporter slash editor for a number of
5 years. I think when he was let go or basically forced to
6 resign, he had put in eleven years. Isaac was a very hard
7 worker, would put the entire sports page -- he was the only
8 person there for a while, he'd put the entire sports pages
9 together. He would edit, write, paginate, everything.

10 And again, when Mr. Prosser had Lowe Davis, I
11 don't know what happened between the two of them where it
12 did not work out, and all of a sudden she sent him over to
13 St. Croix. I think there was one time where he may have
14 written her and told her that this was a plantation, and
15 that was the gist of it. She had been, for example, there
16 was one intern who -- this is the other person she later
17 ousted, he ran for Senate recently, Carl Caesar. Carl
18 Caesar was an intern that Isaac brought in, and eventually
19 she would promise the younger folks bigger jobs, more money,
20 and they would spy on other folks. It was really a
21 plantation. And so that's what happened.

22 Eventually she hired some other folks, she
23 sent him to St. Croix, but now he was now reporting back to
24 Carl, and then, you know, there'd be letters coming across
25 saying that he did things wrong, that there were errors in

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1 the paper. And we have editors who are supposed to catch
2 these things. You know?

3 I just felt that he was hard on her, and he
4 could have been hard on other folks -- she could have been
5 hard on other folks --

6 Q. You mean she on he?

7 A. I'm sorry?

8 Q. You said he was hard on her, you mean she was hard
9 on him?

10 A. I'm sorry. She was hard on him.

11 So those were the kind of letters that were
12 going back and forth. So Isaac Coursey, Carl Caesar, Marty.
13 Nancy was the other one with Marty, because she wrote that
14 letter, too, or may have signed the letter that Marty wrote
15 saying that you put Delegate Green in a bad light, and
16 that's what makes us look bad because people think we're
17 vindictive.

18 Nancy eventually couldn't take it. She quit.
19 Marty stayed on for as long as he could, and then he
20 wanted -- he left, because he wanted to file suit and he
21 couldn't. I think he was told by his lawyer that he
22 couldn't do that, or whatever negotiations he had with the
23 daily News's attorney and his attorney, he couldn't stay on
24 and do that. So that's why he eventually quit. But he had
25 planned on sticking it out no matter what they did to him.

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1 He's now, he went back to his paper, and this
2 is to show you how great he is, because he works for the
3 Galveston Times. I think it's Galveston Times or Galveston
4 Daily. He was back there now, I know he was, because he was
5 reporting during Katrina. I think right now he's -- they
6 gave him some time off to go to grad school. Yeah.

7 Q. Well, this -- the case Senator Donastorg has
8 against the Daily News and ICC and Dyke Redfield and a whole
9 bunch of people is that Jeffrey Prosser has used the Daily
10 News to constantly paint him in a bad light.

11 A. Uh-huh.

12 Q. And to do stories about him that aren't true or
13 are purposely slanted so that they portray him in a bad
14 light?

15 A. Uh-huh.

16 Q. And also because he discovered that the Daily News
17 put him under investigation and investigated his wife, his
18 kids, --

19 A. I remember that.

20 Q. -- all of his friends.

21 And when that investigation came to light,
22 Dyke Redfield lied and said that the reason they had
23 investigated him was that they heard that he had taken a
24 free trip to St. Maarten --

25 A. I remember that.

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1 Q. -- on behalf of somebody that was up before the
2 Legislature, and that's why they had investigated him.

3 Of course, Senator Donastorg had never been
4 to St. Maarten.

5 A. Right.

6 Q. But he said that on the radio on Alvin G's show,
7 so that's why they're suing. So he sued them.

8 A. Uh-huh.

9 Q. And I have heard from other reporters -- did you
10 know a Tim McDonald that was doing sports?

11 A. The name sounds familiar, but this is what I'm
12 telling you, they came in and left, the folks --

13 Q. He's also suing them.

14 A. The folks who could leave, left. The folks who
15 stayed there and take it are still there. So that's, as far
16 as sports is concerned, a lot of folks came in, came out,
17 and a lot of folks came in and out of the newsroom. Let's
18 say the news -- the news reporting end of it, we had very,
19 very high turnover.

20 Q. Well, Tim McDonald tells me that he regularly
21 heard Lowe Davis and Jason Robbins refer to Senator
22 Donastorg in a derogatory manner; that stupid guy, that
23 ignorant guy.

24 Did you ever hear them refer to Senator

25 Donastorg in that way?

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1 A. No, but hold on. Tim McDonald is the guy who did
2 the interview with the boxing?
3 Q. Yes.
4 A. Okay. All right.
5 Q. And who dared to explain.
6 A. I've never heard them. If they -- I think it's
7 because they realized I knew Senator Donastorg, and I knew
8 Nicole, I still spoke with Nicole. I know they no longer
9 spoke to Nicole. So they never actually brought up that
10 name to me.
11 Q. And who's Nicole?
12 A. Nicole Bollenfanti (phonetic) is a former reporter
13 with the Daily News, and she left the Daily News to become
14 Donastorg's spokesperson. And there was a point while she
15 was there, they tried to woo her back to the Daily News with
16 a salary considerably higher than what we were making, but
17 she chose to stay with Donastorg. And eventually, when she
18 protested whatever it is that they may have written at some
19 point, she now became *persona non grata*. Because Nicole and
20 Lowe's daughter, I think her name is Kelly, were very, very
21 close, and so now I -- I'm not sure if they're friends now.
22 But even when there was a parting of ways with Lowe and
23 Jason and Nicole, she still was friends with her daughter,
24 but with the agreement that they would never discuss her
25 mother.

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1 Q. It is a plantation?
2 A. Yeah.
3 Q. All right. Were you aware of stories that were
4 written at the paper that you felt were improper? For
5 instance, the headlines, "Prosser Bails Out the Virgin
6 Islands?"
7 A. Yes. Yes. I thought it was, even though I worked
8 there, I thought it was an April Fool's joke myself.
9 Q. And what did you think was improper about that?
10 A. Other than the headlines, I was a part of that. I
11 was called over -- I think I got a call from Lowe, we have
12 this great story, and the government is doing this, the
13 government is doing that. I was like, wow. And I want you
14 over to help.
15 Let's put it this way: When that story came
16 out, I was happy that the only part that I did was to
17 research the background of the Caranbola land. I was not
18 responsible for the first set, the stories that came out
19 about the deal. There may have been a lot of information
20 saying that we investigated, but it was basically just spat
21 out by Lowe.
22 Q. Do you know where she got her facts from?
23 A. I have no idea.
24 Q. But it wasn't investigated. It was just
25 information she put out in the paper?

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1 A. We had a meeting, and she gave us the information.
2 Q. Was there any indication that she had gotten the
3 information from Jeffrey Prosser, or somebody in his
4 organization?
5 A. She may have said she talked with someone that --
6 and she was not at liberty to say who.
7 Q. What was Jeffrey Prosser's involvement in the
8 paper?
9 A. This is honest. Personally, I don't know. I
10 thought for a time that he was deeply involved, because
11 prior to Lowe Davis, myself and another reporter named Will
12 Jones wrote a political column that was not too friendly
13 towards the former governor, Roy Schneider, who most people
14 know was Mr. Prosser's friend.
15 And we got a directive that we were to quit,
16 and I think I got wind of a letter that says that Eunice
17 Bedminster is not a political columnist; she ought to stick
18 to what she knows, which is news. And it blew up to the
19 point that we had a column review. I can't remember. But
20 it's a very important print journalism or magazine, and they
21 actually wrote a story about the fact that Prosser had
22 purchased the Daily News, and there was a lot of
23 editorializing to the point that Ms. Feuerzeig had quit, and
24 that the two reporters -- and if you go and Google you can
25 search for it. Every time I put my name, that story comes

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1 up, that Eunice Bedminster and Will Jones were told to quit.
2 And so, but there were other times that I
3 thought -- and the only other time that I thought he was
4 involved in something was when I was no longer there, when I
5 understand that Mr. Claxton wrote a story about Antigua's
6 Prime Minister Bird, and that Mr. Prosser called and told
7 them to do something about that story.
8 But I think, to me personally, there were
9 times when I think it was more of Ms. Davis trying to --
10 what is the word?
11 Q. Please?
12 A. Yeah, well, this is what I want, trying to
13 anticipate what would please him, and go that route.
14 Q. Okay. Did you see evidence of stories about
15 Senator Donastorg that were not fair?
16 A. There may have been, but off the top of my mind, I
17 can't remember any stories that I could -- I can pinpoint.
18 But we've all gone through stories and said we did not think
19 that way, or we may have heard reporters saying I did not do
20 this, I did not write that.
21 As a matter of fact, we have one of the --
22 one of the reporters who they had on a pedestal quit because
23 he felt that stuff was changed in his story --
24 Q. And who was that?
25 A. -- that he didn't like.

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1 Lee -- Lee -- Lee Williams.
 2 Q. Okay. Were there recurring incidents of stories
 3 being changed by Lowe or Jason?
 4 A. Well, in journalism, and I just need to clarify
 5 that, you have changes in stories because reporters --
 6 Q. Right. I mean substantive changes.
 7 A. I've never seen them do it. I've never been --
 8 actually see them do it, but in huge stories like that,
 9 maybe there was a huge story about Donastory; a huge story
 10 about you, because you know they've written about you; huge
 11 story about other folks, it would normally have to go
 12 through her first. So a regular editor did not just get
 13 that story.
 14 Q. Was there an acknowledged list of people that it
 15 was known that the paper was not in favor of?
 16 A. Acknowledged as in listed or we just know?
 17 Q. You knew.
 18 A. Yes.
 19 Q. How would you know who the paper thought
 20 negatively of?
 21 A. I guess because no matter what, it may have been
 22 something insignificant, and it suddenly became a huge
 23 story.
 24 Q. Okay. Was Senator Donastory one of those people?
 25 A. I can't recall, because like I said, where he is

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1 concerned, I was never privy. But if you are asking about
 2 people on St. Croix, I would.
 3 Q. Was I one of those people?
 4 A. Yes.
 5 Q. What sorts of things would they do about me?
 6 A. As far as --
 7 Q. Trying to paint me in a bad light?
 8 A. It -- it would have to be information, maybe a
 9 reporter would have written a story. I know, for example,
 10 in the case, because I was the last reporter writing about
 11 that, in the case at the airport, even though Mr. -- what's
 12 his last name? Mr. Hodge was -- and he had explained in
 13 detail to me that this is the procedure, it wasn't believed
 14 that this was the procedure. It was looked upon as, okay,
 15 his father was a former client, and so he must be doing his
 16 father a favor. That kind of thing.
 17 And it wasn't quite written like that, but by
 18 them -- and then, I'm saying the editors, but I know it has
 19 to go through there, posturing, putting him out there, made
 20 it seem as if that's what was being done.
 21 Q. Who's Hodge?
 22 A. I forgot his last name, but he's a U.S. Customs --
 23 Q. Oh.
 24 A. He is Hilary Hodge, Jr. Sorry.
 25 Q. Oh, yeah.

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1 A. Yeah.
 2 And right when I was getting ready to leave,
 3 I know there was a story coming out, and it was about that
 4 time I was getting fed up, so I just delayed it and delayed
 5 it and delayed it, until when I was leaving, and I just
 6 killed it.
 7 Q. A story about what?
 8 A. About you. I can't remember. It might have been
 9 a follow-up on that -- oh, I know what it was. It was about
 10 the landlord issue.
 11 Q. Okay. And who directed you to do those types of
 12 stories?
 13 A. Ms. Davis.
 14 Q. Okay. Who made the decision to put the mug shot
 15 in the paper?
 16 A. I wasn't privy to that, but it -- like I tell you,
 17 huge stories like that, she babysits them. So --
 18 Q. Who else is on, in St. Croix, is on their bad
 19 list?
 20 A. Right now, and because I've been gone for two
 21 years --
 22 Q. Well, when you were there, who else was on their
 23 bad list?
 24 A. Just you, I think. There may have been others,
 25 but I know that the Lee Robin stories kept coming to me. You

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1 know.
 2 And I thought, and I don't want to praise
 3 myself, but I thought it was more of a if Eunice Bedminster
 4 writes it, it must be true, because most people in the
 5 community had come to believe that they knew I took a stand
 6 that if it's not true that I'm not going to write it. But
 7 there were sometimes I would have to call folks and tell
 8 them, Hey, I have a job to do. I'm doing a job.
 9 Q. Did they change any of the stories that you wrote
 10 about me?
 11 A. There -- and I would -- when I would write those
 12 stories, I would always say, if there was significant
 13 changes, I would go to them. But there were no significant
 14 changes to my stories that I would have to get upset about
 15 and threaten to quit. And I think they realized that,
 16 because I would not -- while some reporters may leave the
 17 story and go home, I would not leave. I wanted to read the
 18 story before I left. So if I had to wait until 1:00 or
 19 2:00 o'clock, I waited.
 20 Q. Were you aware that they wrote stories about
 21 Fannie's, Senator Donastory's, house being foreclosed on?
 22 A. Yeah.
 23 Q. What do you know about that?
 24 A. I think I may have written that story.
 25 Q. How did you get the information that his house was

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1 being foreclosed on?
 2 A. I don't -- it would have -- how I would have found
 3 out was through Lowe. How she found out, I don't know. She
 4 would know, she may have presented the court case, or
 5 certain lawyers who knew would call and give the
 6 information, as they would about you.
 7 Q. As they would about me?
 8 A. Yeah.
 9 Q. Like Andrew Simpson?
 10 A. Yeah.
 11 Q. Who else besides Andy Simpson gives information
 12 about me?
 13 A. That's about the only one I know.
 14 Q. Who else would give information to Lowe Davis
 15 about cases that were going on, do you know?
 16 A. I guess any lawyer who -- any lawyer who knew and
 17 who talked and got up to them.
 18 Q. Okay.
 19 A. And some of stuff, we had a subscription to the --
 20 Q. Commercial Reporter?
 21 A. Yes. Yeah. Because I know that there were a
 22 couple, there may have been something about the Hansens in
 23 there or something like that.
 24 Q. Do you recall whether or not you actually saw the
 25 lawsuit, or she just told you she heard there was going to

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1 be a foreclosure?
 2 A. I actually went and got the lawsuit.
 3 Q. So you went and got the lawsuit?
 4 A. Yeah. I actually wrote the story.
 5 Q. But she didn't give it to you?
 6 A. If she gave me the lawsuit?
 7 Q. Uh-huh. Or you had to go to court and get it?
 8 A. I'm not sure on that, because she could have given
 9 it to me, but I may have gone to court to get more
 10 information or -- because sometimes they would get cases,
 11 they would fax it to us.
 12 Q. Do you know whether or not the bank gave her the
 13 information that they were going to foreclose?
 14 A. I don't think so. It would have been -- I'm not
 15 sure who the landlord was, but I vaguely remember that -- if
 16 I could remember the landlord's name, I would probably
 17 remember what happened. But I think it was -- I'm not sure
 18 if the landlord had -- I can't remember.
 19 Q. Well, wouldn't be a landlord, because it's a
 20 foreclosure. It would be a bank. They were calling in his
 21 mortgage.
 22 A. No, it wasn't a foreclosure, it was holding the
 23 money in escrow, something like that, whatever the --
 24 Q. Oh, yeah, because he claimed that he wasn't late
 25 on his mortgage payments; that they had all this money in

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1 escrow. That was supposed to be taken towards his payment,
 2 that he wasn't delinquent, that they had the money already.
 3 So I think that might have been about the escrow.
 4 A. Yeah, it wasn't -- oh, I'm sorry, I'm confused
 5 here. I was talking about this building. I didn't know you
 6 were talking about Donastorg.
 7 With the Donastorg one, that would have
 8 happened on St. Thomas, so if I'm writing about it, it would
 9 be sent to me.
 10 Q. Okay. But I'm trying to figure out how they knew
 11 that he was going to be foreclosed on before he even knew?
 12 A. Oh. Okay. Well, I don't know about that one.
 13 Yeah, you're right. Yeah, because he sure did. Yeah. I
 14 don't know.
 15 Q. Do you know whether or not there were people at
 16 FirstBank that would give them information about what was
 17 going on?
 18 A. Not that I know of.
 19 Q. Do you know whether or not the attorneys that
 20 represented the banks would give them information?
 21 A. I don't know.
 22 Q. On the lawsuit about me and the landlord, --
 23 A. Uh-huh.
 24 Q. -- who assigned that story to you?
 25 A. Ms. Davis.

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1 Q. And did she give you any instructions?
 2 A. Huh-uh. Not that I can recall.
 3 Q. Well, did she tell you how she knew that there was
 4 a dispute between me and my landlord?
 5 A. I can't recall that.
 6 Q. All right. Do you know whether or not
 7 Andy Simpson had given her the information?
 8 A. Could be.
 9 Q. Okay. Why did you ultimately not do the story?
 10 A. Because, like I said, I and a lot of reporters
 11 felt that way, we had a job to do, but we also realized that
 12 some of the stuff was just -- we didn't think they were
 13 newsworthy, and if we thought that if it was someone else,
 14 it would not be newsworthy. So I wrote the story, but I sat
 15 on it and I kept saying I was waiting for confirmations.
 16 There was something missing from the court, and I would need
 17 to do that, I would need to look it up before I can go with
 18 the story.
 19 I just kept delaying it, delaying it. It had
 20 been in my computer for months, and I can't remember if I
 21 made myself a copy, but I doubt it. But I remember deleting
 22 it so that nobody else would maybe look through for the
 23 reporting and it got printed.
 24 So I can't recall if that ever made the light
 25 of day. Maybe not. I think it just died a natural death.

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1 Q. What kind of other occasions did you think they
2 were doing stories that weren't newsworthy, but only doing
3 them because of who they involved?

4 A. Well, I think towards the end when I did not want
5 to do, or I took too long to do stories, it was given to
6 Mr. Williams, and who -- well, we were not friends at the
7 time, since at least exchanging a couple e-mails. We were
8 not friends at the time, and he wrote the first set, but the
9 second set he wasn't pleased. And then I think when I quit,
10 like I said, we were not friends, so I would have no
11 occasion to tell him that I left.

12 But one of the reporters, Ms. Blackburn, sent
13 him a note saying, yeah, Eunice left, and he sent me an
14 e-mail basically that said freaked out with exclamation
15 point, and said you should have left a long time ago.

16 Q. So what other kind of non-newsworthy stories were
17 you aware of being assigned that were just because of the
18 people that it was about, rather than the newsworthiness of
19 the story?

20 A. That would be all, of that I know.

21 Q. Okay.

22 A. The ones that I'm involved, in the ones that other
23 people were involved with, I wouldn't know.

24 Q. You said that we all knew that they did stories
25 that weren't newsworthy except for the people they were

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1 after.

2 Was that discussion that was had?

3 A. It was a discussion among reporters. You know,
4 it's not just because it's this newspaper, there are stories
5 some reporters just don't want to do, but that had become a
6 recurrent discussion.

7 Q. Who were the reporters that were discussing it?

8 A. Again, people like Mr. Schladen and Nancy, and
9 those would be the last two reporters that I worked with who
10 really felt that way.

11 Q. Okay. If you were to sit here and compare the
12 newspaper under Mr. Prosser as opposed to the newspaper
13 under Gannet, what is your comparison as to the integrity of
14 the paper?

15 A. I would still be a reporter.

16 Q. If Mr. Prosser hadn't bought it?

17 A. If Gannet was still --

18 Q. Did you feel that the integrity of the paper
19 declined after Mr. Prosser bought it?

20 A. Most people think so, including myself.

21 Q. How did it decline?

22 A. It ceased being a community paper and became a
23 vendetta paper under Prosser. Under Gannet, for example,
24 when Ms. Feuerzeig ran the paper, I recall always being
25 frightened, we hated working on Sundays, because the way the

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1 paper was set up, we would have what we call a hard news
2 story and a soft news story. So it would usually be a
3 people feature. Then we would have had a hard news story
4 about what the government was doing.

5 Pery would usually wait on Sunday morning to
6 call you, and you have to spend all day trying to find
7 government officials. But it worked, because we could write
8 about stuff, I mean we could write about when people's
9 phones were not working, we could write about the television
10 station, things that Mr. Prosser had owned when we were not
11 owned -- the Daily News was not owned by Mr. Prosser, which
12 we couldn't do.

13 And like I said, I was very fortunate never
14 to have written a lot of those kinds of stories, because I
15 never had to worry about what we call self-editing, where
16 you hold back what you really want to write, but you know
17 it's going to be edited out anyway.

18 (Whereupon Mr. Rames entered
19 the room at 2:15 p.m.)

20 Q. (Ms. Rohn) Was there a lot of self-editing going
21 on at the Daily News after Mr. Prosser bought it?

22 A. I can't say for certain, because I don't know what
23 the other folks were thinking, because I always wrote what I
24 wanted.

25 Q. Now, you said you couldn't write about the phone

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1 company and stuff about Prosser?

2 MR. RAMES: Objection as to form.

3 MS. ROHN: May I finish my question first?

4 Q. (Ms. Rohn) Was there an understanding you didn't
5 print Prosser or his company in a bad light?

6 MR. RAMES: Objection as to form.
7 Mischaracterizing the testimony.

8 A. Understanding from management or understanding
9 with the reporters?

10 Q. (Ms. Rohn) Understanding with reporters.

11 A. Yeah, I would say yes. And we didn't go after it,
12 either.

13 Q. Why didn't you go after it?

14 A. Because if -- and I'm just using this as an
15 example -- if people are complaining that their phones are
16 not working, and the Avis writes about it, the source wasn't
17 there at that time, but if the source writes about it and
18 the radio's talking about it and we don't write anything
19 about it, then I mean nobody has to --

20 Q. Pretty obvious?

21 A. Yeah.

22 Q. Were you aware of any stories about Prosser or his
23 companies that were killed?

24 A. No.

25 Q. Now, you said it turned into a vendetta paper?

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1 what about the paper made you call it a vendetta paper?
 2 A. Because of stories -- like I said, I can't speak
 3 to the Donastorg issue. Like I said, in our minds, in our
 4 personal opinion, we felt that some of the stories were not
 5 worth covering. Like I would not want to write about a
 6 landlord issue I don't think newsworthy.
 7 So to me, that would have been -- that would
 8 fall in the vendetta rank.
 9 MR. RAMES: Could you say that word again,
 10 Land lot?
 11 MS. ROHN: Landlord.
 12 MR. RAMES: Landlord.
 13 Q. (Ms. Rohn) Have you ever talked to Senator
 14 Donastorg about this?
 15 A. As far as --
 16 Q. His belief that the Daily News puts him as one of
 17 the -- uses him as one of the people they paint in a bad
 18 light?
 19 MR. RAMES: Objection as to form.
 20 Q. (Ms. Rohn) You can answer. All the objections
 21 are just for later.
 22 A. We've now had an extensive conversation. It's
 23 perhaps maybe I may have called him as a reporter on one or
 24 two occasions, and he may have said I have nothing to say
 25 because -- excuse me -- because the Daily News doesn't like

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1 me, something like that. And I usually would, because he
 2 knew me, I try to talk him into giving me a comment.
 3 Q. Do you know Mr. Crouch?
 4 A. Yeah.
 5 Q. What was his involvement in the Daily News?
 6 A. Well, I know he was, I think, in between
 7 Mr. Middlesworth and Mr. Davis -- Ms. Davis, sorry. Was
 8 like an acting -- what is the position? Acting CEO.
 9 It may not be correct, but I know that he
 10 helped transition, and then Lowe got it, and then he is
 11 the -- one of the editorial page editors.
 12 Q. Did he ever give you directions to write stories?
 13 A. No.
 14 Q. Do you know if he ever gave Lowe Davis directions
 15 to write stories?
 16 A. I would doubt it.
 17 Q. Do you know whether or not Jeffrey Prosser ever
 18 wrote any of the editorials?
 19 A. No, I don't think he ever wrote any.
 20 Q. How often would you see Jeffrey Prosser at the
 21 paper?
 22 A. I don't think I've ever seen him.
 23 Q. Have you ever spoken to him?
 24 A. Mr. Prosser?
 25 Q. Uh-huh.

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1 A. (Witness shakes head). Maybe in passing.
 2 Q. What did you understand Holland Redfield's
 3 relationship was to the paper?
 4 A. You tell me. I don't know.
 5 Q. Did you ever see him at the paper?
 6 A. No.
 7 Q. Did you participate in the boxing story that
 8 Mr. McDonald complained was changed?
 9 A. No, I --
 10 MR. RAMES: Objection as to form.
 11 Q. (Ms. Rohn) Did you read the story?
 12 A. I think I read the story maybe after all hell
 13 broke loose.
 14 Q. What do you mean, all hell broke loose?
 15 A. Because then I think there was a story where he
 16 said he was made to write some stuff. I can't remember
 17 exactly what it is, but there was some backlash maybe after
 18 he left, or maybe the reason why he left or something like
 19 that.
 20 Q. There were stories that were written about
 21 Mr. Donastorg, Senator Donastorg, about him not having --
 22 not being able to take care of his finances. Did you read
 23 those stories?
 24 A. When was that?
 25 Q. That would have been back in about 2000, 2001?

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1 A. I don't recall.
 2 Q. There were editorials about Mr. -- Senator
 3 Donastorg. One called him a rogue.
 4 Do you recall that?
 5 A. I think I remember that.
 6 Q. Do you -- did you have any information as to who
 7 wrote those editorials? Did you form any opinions about the
 8 fairness of those editorials towards Senator Donastorg?
 9 A. I can't answer that, because I remember reading
 10 the editorial like that, but I can't remember my reaction.
 11 If I remembered the gist of it, then I'll be
 12 able to tell you maybe what it was I felt then.
 13 Q. But you'd have to review the stories?
 14 A. Yeah.
 15 Q. Did you recall ever forming the opinion that the
 16 stories about Senator Donastorg weren't fair, that he was
 17 obviously somebody they'd picked out as one of the people
 18 they were after?
 19 MR. RAMES: Objection as to form.
 20 A. At times.
 21 MS. ROHN: I don't have any further
 22 questions.
 23 MR. RAMES: I'll ask the court reporter if
 24 she noted for the record when I came into the room?
 25 MS. ROHN: This deposition started at

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1 1:00 o'clock.
 2 MR. RAMES: Excuse me. I didn't ask you
 3 anything.
 4 MS. ROHN: Excuse me. I don't know if you
 5 asked me or not.
 6 MR. RAMES: I'll tell you, the question was,
 7 did you note when I came into the room.
 8 THE REPORTER: (Nods affirmatively.) Yes.
 9 MS. ROHN: I saw her note it.
 10 MR. RAMES: I would like an objection on the
 11 record for anything that was said before I arrived.
 12 MS. ROHN: You don't show up for a deposition
 13 and you want to --
 14 MR. RAMES: I can't recall, literally, in
 15 twenty years of practicing law, anyone who started a
 16 deposition with another person absent without making a phone
 17 call.
 18 MS. ROHN: Sir, you did not appear --
 19 MR. RAMES: The point -- that is not --
 20 MS. ROHN: -- here for a deposition that was
 21 noticed.
 22 MR. RAMES: That is not the case.
 23 MS. ROHN: How would I think you're going to
 24 appear for the deposition?
 25 MR. RAMES: Because we discussed it

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1 yesterday.
 2 MS. ROHN: Yes, and we discussed that it
 3 started at 1:00 o'clock. You arrived at 2:30.
 4 MR. RAMES: Exactly. I arrived at 2:15.
 5 But the fact of the matter is we discussed
 6 this particular deposition yesterday, and the fact that it
 7 would be going on, and that you would --
 8 MS. ROHN: And I'm supposed to wait an hour
 9 and a half?
 10 MR. RAMES: I waited an hour and fifteen
 11 minutes for you to get off a conference call yesterday.
 12 MS. ROHN: No, sir. That conference call
 13 lasted thirty minutes.
 14 MR. RAMES: Excuse me. It did not last --
 15 MS. ROHN: Whatever, sir. Do you have any
 16 questions to ask?
 17 MR. RAMES: The fact of the matter is, I want
 18 to object formally for the record with respect to anything
 19 that was said in this room before I arrived.
 20 MS. ROHN: Great. Your objection's noted.
 21 CROSS-EXAMINATION
 22 BY MR. RAMES:
 23 Q. Ms. Bedminster, --
 24 A. Uh-huh.
 25 Q. -- I may be repeating some of the questions you

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1 were previously asked. I hope you indulge me a bit.
 2 What is your current employment?
 3 A. Spokesperson for the V.I. Department of Health.
 4 Can I have some more water, please?
 5 MS. ROHN: Sure. Let's take a break.
 6 (Discussion held off the record.)
 7 Q. (Mr. Rames) There was a time when you worked as a
 8 journalist, is that not correct?
 9 A. Yes.
 10 Q. How many papers did you work as a journalist for?
 11 A. Two.
 12 Q. And what were they?
 13 A. Delaware State News, and the V.I. Daily News.
 14 Q. What was the duration of your employment with the
 15 Delaware State News?
 16 A. It was over the course of four years, it was an
 17 internship, a little bit after I got out of college, and
 18 then I came and worked for the Delaware State Government,
 19 and then came down here.
 20 But I had done other stuff, like radio and TV
 21 reporting.
 22 Q. And when did you commence work for the Virgin
 23 Islands Daily News?
 24 A. July of '94.
 25 Q. When did you stop working for the Virgin Islands

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1 Daily News?
 2 A. March 2005.
 3 Q. And when you left the Virgin Islands Daily News,
 4 did you do so voluntarily?
 5 A. Yes.
 6 MS. ROHN: Objection. Asked and answered.
 7 A. Yes.
 8 Q. (Mr. Rames) Okay. And why did you leave your
 9 employment at the Virgin Islands Daily News?
 10 MS. ROHN: Objection. Asked and answered.
 11 A. I left for two reasons. One, I am a brain surgery
 12 survivor, I had brain surgery in 2004. The job was
 13 stressful, and I was basically fed up with the way the paper
 14 was going, and I did not need the additional stress.
 15 Q. And when you say you were fed up with the way the
 16 paper was going, to what are you referring?
 17 MS. ROHN: Asked and answered.
 18 MR. RAMES: Can you make that a standing
 19 objection?
 20 MS. ROHN: No, I'm going to say it every
 21 time, sir.
 22 MR. RAMES: Well, that's just great.
 23 Q. (Mr. Rames) Please go ahead.
 24 A. Writing stories that I thought personally were not
 25 newsworthy and were vendetta-based.

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- 1 Q. Okay. Did you ever work as an editor for any
2 newspaper?
- 3 A. I was a quasi-editor as a bureau chief.
- 4 Q. And what were your responsibilities as a bureau
5 chief?
- 6 A. I supervised about four reporters, one
7 photographer. I was the one responsible for the day-to-day
8 operations of the Daily News, basically coming up with story
9 ideas for reporters, reporting back to St. Thomas as to the
10 stories that the St. Croix half of the paper would have for
11 the next day's paper.
- 12 Q. When you are referring to being bureau chief, you
13 mean the bureau on St. Croix?
- 14 A. Yes, sir.
- 15 Q. How long did you act as St. Croix Bureau chief?
- 16 MS. ROHN: Asked and answered.
- 17 A. From 1998 to the time that I resigned.
- 18 Q. (Mr. RAMES) During that period of time, did you
19 actually physically edit stories?
- 20 A. Yes, mostly stories by Fiona Stokes-Gift.
21 There were other reporters where I would do
22 little touches, but hers mostly.
- 23 Q. (Mr. RAMES) And was the editing of your stories
24 limited to issues of typographical errors?
- 25 MS. ROHN: Objection. Leading question.

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- 1 A. No.
- 2 Q. (Mr. RAMES) What other types of editing were you
3 doing other than typographical errors?
- 4 A. For content; a lot for clarity.
- 5 Q. And were you also doing editing for context,
6 making sure there was appropriate context?
- 7 A. Yes.
- 8 Q. Were you also doing fact checking?
- 9 A. I guess, yes.
- 10 Q. Okay.
- 11 A. Because I would have to call back, call her back
12 if something did not pan out.
- 13 Q. Did you also do editing for ensuring that it
14 was -- that the stories were consistent with the
15 instructions that you had given to your staff?
- 16 A. Yes.
- 17 Q. If matters were inconsistent with the -- if the
18 stories were inconsistent with the instructions you had
19 given to your staff, would you hesitate to make the changes
20 necessary?
- 21 A. No. Like I explained earlier, that's a part of
22 editing, but there are the differences when you edit stuff
23 and when you add stuff to the story that the reporter never
24 put there in the first place.
- 25 Q. When you're editing for context, what do you take

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- 1 that to mean?
- 2 A. The facts of the story.
- 3 Q. And if a story lacks the appropriate analysis of
4 the facts or it lacks key facts, is -- can that story be
5 taken out of context?
- 6 A. Yes, but there's a difference. When you talk
7 about analysis, it would be somebody's personal
8 interpretation of what the story should say; whereas, if you
9 have factual background that we have may have used in a
10 prior story, and I could just take and put it in there to
11 make the story concise.
- 12 Q. So what you're saying is there are circumstances
13 in which you would add facts to a story?
- 14 MS. ROHN: Objection. Leading question.
- 15 Q. (Mr. RAMES) In other words, there are
16 circumstances in which you would add facts to a story if you
17 believed that those facts were --
- 18 A. Were necessary.
- 19 MS. ROHN: Objection. Leading question.
- 20 Q. (Mr. RAMES) Were necessary?
21 And if you believed those facts were in fact
22 true, is that not correct?
- 23 MS. ROHN: Objection. Leading question.
- 24 A. Yes.
- 25 Q. (Mr. RAMES) Okay. Now, you indicated that the

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- 1 newspaper became -- I'm sorry.
- 2 And you also edited for content, is that
3 correct?
- 4 MS. ROHN: Objection. Leading story -- I
5 mean, question.
- 6 A. Yes.
- 7 Q. (Mr. RAMES) And in editing a story for content,
8 what would you do?
- 9 A. Well, we had to be -- especially in Ms. Stokes's
10 stories we had to be very careful, because in the court
11 stories sometimes they would send out information as a black
12 man, --
- 13 Q. Uh-huh.
- 14 A. -- so we'd make sure that sometimes, unless the
15 ethnicity was warranted, that it would not be in there, or
16 would be in there if it was warranted. Those kind of
17 things.
- 18 Not content as in not the way that the story
19 was written, that it did not, what we call -- what is the
20 word I want to use?
- 21 In instances, for example, we would not say
22 that someone committed a murder, because we did not know
23 that. We'd say this alleged person, those kind of things.
- 24 Q. And if a reporter believed that the inclusion of
25 the race or ethnicity of a person were important, would

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1 you -- would you feel it was in your authority to overrule
2 that?

3 A. Yeah, in some instances, because the way that
4 our -- it works, reporters write, and sometimes editors have
5 the last word.

6 However, it is up to the reporter to
7 sometimes stick around to read over the story to make sure
8 that information that the reporter did not write or the
9 reporter thinks is objectionable does not get into the
10 story.

11 Q. Okay.

12 A. Because once it's printed, you can't take it back.

13 Q. But this includes -- this includes not only
14 additions, but it includes deletions as well, is that not
15 correct?

16 MS. ROHN: Objection. Leading question.

17 A. Yes.

18 Q. (Mr. Rames) Okay. So what you explained with
19 respect to the responsibility of the reporter, that includes
20 what was included as well as what was excluded?

21 MS. ROHN: Objection. Leading question.

22 A. I'm sorry. Can you repeat that.

23 Q. (Mr. Rames) Does that include what was included,
24 as well as what was excluded?

25 MS. ROHN: Objection to the form of the

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1 question as unintelligible.

2 Q. (Mr. Rames) The question was, --

3 A. Uh-huh.

4 Q. -- the responsibility of the reporter --

5 A. Uh-huh.

6 Q. -- in dealing with an editor, --

7 A. Uh-huh.

8 Q. -- does it include both what was included by the
9 editor, and what was deleted by the editor?

10 MS. ROHN: Leading question.

11 A. Usually when something's deleted or when something
12 is included by the editor, --

13 Q. Uh-huh.

14 A. -- the editor, in past occurrences, at least
15 before Mr. Prosser came in, would let the reporters know,
16 hey, I've included this in your story. Is this correct?
17 Does that make your story wrong?

18 Q. Uh-huh.

19 A. Sometimes you would read the story, and you figure
20 you didn't get a call, so it went as is.

21 Q. Is that something that you would do as an editor?

22 MS. ROHN: What?

23 A. What?

24 Q. (Mr. Rames) What you just said.

25 A. You mean call?

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1 Q. What an editor must do.

2 A. Call the reporters?

3 Q. And tell them why you changed the story.

4 A. She would normally be there when I'm doing it.

5 Q. But is that something you would do as an editor?

6 A. If I had to call, yes.

7 Q. And you would do it every time, without exception?

8 A. If it's -- if I'm deleting the word black, the
9 ethnicity out, I probably wouldn't. But if I am making a
10 substantial change, I would have to check with that person.

11 Q. Isn't the deletion of the word black simply your
12 own bias?

13 A. I just told you --

14 MS. ROHN: Objection. Argumentative.

15 Q. (Mr. Rames) Isn't the deletion of the word black
16 simply your own bias.

17 MS. ROHN: Objection. Argumentative.

18 A. No. Because it is an understood policy at the
19 Daily News to be sensitive to words such as the ethnicity of
20 the person, and calling someone mentally retarded as opposed
21 to mentally challenged, naming rape victims sometimes, along
22 those lines.

23 So those are things editors can do without
24 having to get on the phone and say that I --

25 Q. Do you draw an equivalency between calling a

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1 person black, and naming a rape victim?

2 A. No. I was using those as examples.

3 Q. Isn't refusing to name a rape victim part of a
4 national trend toward shield laws?

5 MS. ROHN: Objection. Leading question.

6 A. Sometimes.

7 It's not, and you know that.

8 Q. (Mr. Rames) It's not? Please explain why it's
9 not?

10 A. I don't know.

11 Q. You don't know why it's not?

12 MS. ROHN: You're being argumentative.

13 MR. RAMES: And I'll be continue to be, thank
14 you very much.

15 MS. ROHN: And rude to the witness.

16 MR. RAMES: That is absolutely untrue.

17 MS. ROHN: I think we're all sitting here
18 acknowledging that you are.

19 MR. RAMES: Please place on the record if you
20 think I'm being rude.

21 MS. ROHN: I just did.

22 MR. RAMES: Not you.

23 THE WITNESS: I don't like your line of
24 questioning.

25 MR. RAMES: Okay. I understand that. I

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1 understand that.
 2 Q. (Mr. Rames) You indicated that, prior to
 3 Mr. Prosser's arrival --
 4 A. Uh-huh.
 5 Q. Withdraw the question.
 6 You indicated that subsequent to
 7 Mr. Prosser's arrival as owner of the paper, --
 8 A. Uh-huh.
 9 Q. -- information was added to stories?
 10 A. Uh-huh.
 11 Q. Please give me every example of it that you're
 12 aware.
 13 A. Well, you were the attorney, and there were many
 14 times I had to wait up until midnight for you to check over
 15 stuff before it was in the paper.
 16 So those are some instances.
 17 Q. I understand. Please -- excuse me.
 18 As Counsel for the Daily News, --
 19 A. Uh-huh.
 20 Q. -- do you have any specific recollection of me --
 21 A. This is what I'm telling you. I was getting
 22 ready --
 23 Q. Let me finish.
 24 A. Well, I wasn't finished answering, either.
 25 I do not know the specific instances, but I'm

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1 pretty sure if I go back or I see or those stories come
 2 back, and when I leave here, I'll be making my mind to think
 3 of it, I'll bring it up to you.
 4 Q. I'd like to take a little moment, if you could,
 5 since it is a central aspect of this lawsuit.
 6 MS. ROHN: Objection to the statement.
 7 MR. RAMES: It's an important issue.
 8 MS. ROHN: Objection to your connotation of
 9 what you think is important and not important.
 10 Q. (Mr. Rames) Please give me every example of which
 11 you are aware concerning the addition of language or
 12 material to a story by an editor that had not been approved
 13 by the reporter.
 14 A. That was not the question. The question --
 15 Q. That's the question now, though.
 16 A. Well, I can't tell you right off my mind, but I
 17 can tell you who to go to, and that will be Lee Williams.
 18 That's the reason he's no longer at the Daily News. It had
 19 to do with a story about this lawyer here, Ms. Rohn, and the
 20 fact of the matter, if you take the Daily News, you will see
 21 that it has a double byline, Jason Robbins and Lee Williams.
 22 And the reason why, as I was told by Lee to
 23 all the reporters, was because they added stuff about
 24 Ms. Rohn that he was not -- he was objectionable to, and
 25 told them to take his byline off of that story. And that's

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1 how Jason Robbins' byline got on that story.
 2 Q. So you know of one example. Tell me of some more.
 3 A. That is the best example, and the biggest example.
 4 Q. I understand.
 5 A. Because remember --
 6 Q. Excuse me. I'm sorry.
 7 A. Remember, he was the one, the poster child for the
 8 Daily News, and he eventually left.
 9 Q. When you say he, who are you referring to?
 10 A. Lee Williams.
 11 Q. Okay. Do you have any other examples at all of
 12 what you allege to be the addition of material to a story by
 13 an editor over the objections of a reporter?
 14 A. They were not done to me, but they were done to
 15 other reporters who complained to me. They included folks
 16 by Marty Schladen, Nancy, whose name I can't remember, and
 17 several other reporters that you've had to deal with that.
 18 I've had to have depositions in your office because they
 19 were leaving.
 20 Q. Okay. And you mentioned Marty Schladen; you
 21 mentioned a woman, Nancy, whose last name you cannot recall.
 22 Please give me such other names as you recall.
 23 A. There was Mr. Boursey. I believe Ms. Brothers.
 24 At least those in the office. There are others that I don't
 25 remember who had to come through you. Catherine Fahy,

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1 F-A-H-Y.
 2 I've had so many reporters come through
 3 there. I can't remember them off the top of my head.
 4 Q. Okay. Do you -- I don't --
 5 A. Those are the ones -- sorry, but those are the
 6 ones that I do know, because they worked directly with me.
 7 There were others on St. Thomas, and we -- things that we
 8 heard through the grapevine, and names, and so many other
 9 folks coming in and out that I would not be able to tell
 10 you.
 11 Q. Want to make sure that I understand what you said.
 12 You said there are so many other names, and so many other
 13 things in the grapevine that you wouldn't be able to --
 14 probably should have you read that back if you would.
 15 THE REPORTER: "Those are the ones -- sorry,
 16 but those are the ones that I do know, because they worked
 17 directly with me. There were others on St. Thomas, and we
 18 -- things that we heard through the grapevine, and names,
 19 and so many other folks coming in and out that I would not
 20 be able to tell you."
 21 Q. (Mr. Rames) Okay. Is that a statement intended
 22 to impart that you simply can't remember the names of most
 23 of these reporters?
 24 A. Of the -- you were asking me of instances?
 25 Q. Yes.

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1 A. And so I was trying to be as -- give you as much
2 information as I did, and the ones that I could remember
3 mostly were folks who worked directly with me. However,
4 there were other instances, people who worked out of the
5 St. Thomas office.

6 The reason why I said so many ins and outs is
7 because we were not there, so we did not know who came in.
8 We just heard that somebody got tired or somebody's story
9 got changed and they left.

10 Some of them were in there for a day.

11 Q. So did you know what Isaac Coursey's beat was?

12 A. Yes.

13 Q. And what was his beat?

14 A. Isaac Coursey just did not have a beat. He was,
15 for a long time, a very valuable sports editor and reporter,
16 as well as paginator.

17 So, in essence, he covered the story, he
18 wrote the story, he edited it, he paginated it. He did that
19 all on his own.

20 Q. So do you have a specific recollection of any
21 sports stories that were researched, written, edited, or
22 paginated by Mr. Coursey that were changed over his
23 objection by any editor?

24 A. He had objections to the point that he wrote to
25 Ms. Davis calling the Daily News' atmosphere a plantation,

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1 and after that he was *persona non grata*. That's how he got
2 to St. Croix, --

3 Q. Uh-huh.

4 A. -- and eventually, in my opinion, forced out.

5 Q. Okay. So that, of course, is not directly
6 responsive to my question.

7 A. Uh-huh.

8 Q. The question was, do you know of any specific
9 instance --

10 A. No, I do not.

11 Q. -- of any editor modifying a story over his byline
12 that he had researched, written, or edited?

13 A. I don't.

14 Q. Do you know of any specific stories that was
15 researched or drafted by Perry Brothers that were modified
16 by an editor over her byline?

17 A. At the point that Ms. Brothers left, that was not
18 the issue.

19 Q. I understand. But, of course, that's not directly
20 responsive to my question. I didn't ask why she left. I
21 asked specifically --

22 A. No, I do not.

23 Q. -- about --

24 A. I do not.

25 Q. Okay. Did you ever have a conflict with any of

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1 your subordinates with regard to changing a story that was
2 over their byline?

3 A. No.

4 Q. And did you personally have any stories that were
5 changed over your byline by any of the editors of the Daily
6 News?

7 A. Like I said before, personally, the changes that
8 were made were not significant enough for me to object, and
9 if they were, I would have objected.

10 I was never, fortunately, never been placed
11 in that position, but I had already made myself clear that I
12 did not want my stories changed, and when they -- when I
13 knew they were important enough, I would wait around for it
14 to be edited to read it over and make my objections then.

15 Q. Is -- are all the reporters that you have personal
16 experience with at the Daily News, were they all as
17 committed as you were to the integrity of their stories?

18 A. I know Mr. Schladen was.

19 Q. Excuse me. That's not my question. My question
20 was, were all of the employees that you worked with at the
21 Daily News as committed as you were --

22 A. Yes.

23 Q. -- to the integrity of their stories?

24 A. And I say yes, because the reporters who wrote the
25 investigative stories, they would wait around. And that

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1 included myself, Marty Schladen, Lee Williams. Those folks.

2 Q. Okay. So when you say that they would wait around
3 and read the final version of their stories --

4 Is that what you mean, wait around to read
5 the final version of their stories?

6 A. Yes.

7 Q. When you say that these people would wait around
8 to read the final version of their stories, is that what you
9 mean by being committed to the integrity of their stories?

10 A. Yes, --

11 Q. Okay.

12 A. -- but I'm glad you pointed that out, because
13 sometimes even though we waited around, it never happened to
14 me, but in Mr. Williams' case, even though he may have
15 waited around, the next day there was something different
16 than what he read, and what was said to be the final edit.

17 Q. When you are referring to this, are you referring
18 to the story --

19 A. Yes.

20 Q. -- regarding the arrest of Attorney Rahn?

21 A. Yes. That was a follow-up story. It was, I
22 think, the anniversary, or a couple months after that of her
23 arrest. Or it may have been the double jeopardy case.

24 Q. When you say "case," you mean a story about a
25 double jeopardy issue?

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- 1 A. Yes. Sorry.
 2 Q. Okay.
 3 A. Yes.
 4 Q. Are conflicts between editors and reporters common
 5 or uncommon?
 6 MS. ROHN: Objection to form.
 7 A. It's common everywhere, but I have never
 8 experienced it to the point that it is here.
 9 Q. (Mr. Rames) And --
 10 A. And other reporters have said, because I've only
 11 worked at two newspapers, so I can't say.
 12 Q. Sure. And how would you characterize the
 13 conflicts between editors and reporters at the Virgin
 14 Islands Daily News?
 15 A. As far as how would I characterize it?
 16 Q. Yes.
 17 A. The fact that if you were given a final version to
 18 read, and that's what it should be, that's what it should be
 19 in the paper the next day.
 20 Q. Okay. In that context, are you specifically
 21 referring to the Lee Williams story, to which you previously
 22 referred?
 23 A. Yeah, in that case, yes.
 24 Q. And can you give me any other examples at all of
 25 this issue, this phenomena that you just discussed?

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- 1 A. Of course there are other examples, but we were
 2 referring to -- I think this line of questioning came
 3 through what was conflict, what was vendetta, and those were
 4 the instances. That's why I keep referring back to those
 5 specific folks.
 6 Q. Let me bring you to, then, areas that were not
 7 reflective of any conflict or not reflective of any of what
 8 you constitute as a vendetta.
 9 Do you have any other examples to which you
 10 can point us, other than the Lee Williams follow-up story?
 11 A. Well, there are reporters, a lot of people
 12 believe, for example, that what is in the paper is usually
 13 what the reporters write. There are reporters who can
 14 report, but cannot write, so the stories lack clarity, lack
 15 conciseness, needs background information, so those would be
 16 changed.
 17 But --
 18 Q. Uh-huh.
 19 A. -- the reporters would not object, because in that
 20 sense, the editor was doing the reporter a favor, if you
 21 will.
 22 Q. Uh-huh.
 23 A. By making the story right.
 24 Q. On occasion --
 25 A. But reporter --

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- 1 Q. I'm sorry.
 2 MS. ROHN: Let her finish.
 3 MR. RAMES: I said I'm sorry.
 4 A. But reporters like myself and Lee Williams and
 5 Marty Schladen and Nancy and Perry Brothers, those are
 6 reporters who came to the Daily News with writing skills
 7 that were always applauded. So whatever I wrote is usually
 8 what showed up in the paper; whatever Lee Williams wrote is
 9 what usually would appear in the paper; whatever Marty
 10 Schladen wrote, or whatever Perry Brothers wrote.
 11 But there are some reporters at the Daily
 12 News even today who did not have those skills, so their
 13 stories, if you get the story that they turned in and the
 14 story that's in the paper, it would be totally different.
 15 Q. Uh-huh. And that transition between what they
 16 turned in and what ended up in the paper, is that interim
 17 period the proper function of an editor or not?
 18 A. Yeah, I would guess so, yeah.
 19 Q. Okay.
 20 A. That's what they do, they edit.
 21 Q. And that's what you did for your reporters?
 22 A. Yes.
 23 Q. You used the word favor. Did you believe you were
 24 doing a favor as well?
 25 A. Well, I guess I used favor, because I think if an

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- 1 editor changed my story to make it better, I call it him or
 2 her doing a favor. And what I usually do, just like I
 3 complain when they mess up, I call them and say thank you
 4 when they do something right.
 5 Q. Okay.
 6 A. So I'm using it as favor because that's how I
 7 personally look at it. I don't know what the other
 8 reporters look at it.
 9 Q. So other than the Lee Williams follow-up story
 10 regarding the incident involving Ms. Rohn, is it your
 11 testimony that, if we were going to identify other issues
 12 like that, it would have to come from those particular
 13 reporters and not from you?
 14 A. Uh-huh.
 15 Q. Okay. Okay. Did you ever cover any stories
 16 regarding Senator Donastory?
 17 A. I vaguely remember, I may have written a story in
 18 the beginning, or I may have called him for a comment as a
 19 senator. But I've never actually written a story that just
 20 focused directly on him. Although I am thinking that I may
 21 have written the story about his foreclosure. I can't
 22 recall.
 23 Q. And the conversation to which you just referred,
 24 is that the conversation you referred to earlier in the
 25 deposition?

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- 1 A. Yes.
- 2 Q. Okay. And if my recollection of your earlier
- 3 testimony is correct, he said I'm not -- you said, I'm not
- 4 speaking to you?
- 5 A. I -- I have no comment. It's usually I have no
- 6 comment. The Daily News doesn't like me.
- 7 Q. When you say it's usually, does that mean you
- 8 heard that from him more than once?
- 9 A. I may have.
- 10 Q. Oh, so you may have?
- 11 A. Not just from him, but I would normally have to go
- 12 through Nicky.
- 13 Q. Who is Nicky, please?
- 14 A. His spokesperson who is my friend, who's a former
- 15 Daily News reporter.
- 16 Q. Okay. And Nicky is -- is Nicky sort of chief of
- 17 staff? Not chief of staff formally, but --
- 18 A. She was his spokesperson. I don't know her formal
- 19 title.
- 20 Q. Okay. I'm trying to figure out whether I know
- 21 this lady. Could you describe her for me?
- 22 MS. ROHW: One of the people that was
- 23 investigated in the Donastorg investigation.
- 24 A. Italian, full figured.
- 25 Q. (Mr. Rames) Yes. Kind of accompanies Senator

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- 1 Donastorg to PSC meetings?
- 2 A. More than likely, yes.
- 3 Q. Yes. Okay.
- 4 And you say this person is your friend?
- 5 A. Uh-huh.
- 6 Q. How long has this person been employed by Senator
- 7 Donastorg, if you know?
- 8 A. Maybe as early as 1995. I'm not sure when he got
- 9 in -- well, within months or the year after, she went over
- 10 where.
- 11 Q. Have you been her friend since that time?
- 12 A. Yes.
- 13 Q. Were you her friend before she started to work for
- 14 Senator Donastorg?
- 15 A. Yes, because we met at the Daily News.
- 16 Q. Did you have anything to do with her being hired
- 17 by Senator Donastorg?
- 18 A. No.
- 19 Q. Okay. Have you --
- 20 A. Because I know Donastorg through her.
- 21 Q. Ah, yes, I understand.
- 22 Have you ever provided any personal advice to
- 23 Senator Donastorg?
- 24 A. No. I knew my place.
- 25 Q. Have you ever provided any --

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- 1 Say again, please?
- 2 A. No. I said I knew my place.
- 3 Q. Okay. Have you ever provided any political advice
- 4 to Senator Donastorg?
- 5 A. No.
- 6 Q. Have you ever been hired by Senator Donastorg?
- 7 A. No.
- 8 Q. On contract or otherwise?
- 9 A. No.
- 10 Q. Okay. Your current position is a spokesman for
- 11 the Department of Health?
- 12 A. Uh-huh.
- 13 Q. Were any politicians involved in your -- in your
- 14 ascension to that job?
- 15 A. No. I can tell you precisely how I got that job.
- 16 A former reporter, I mentored her, Dorrette Fitch, she now
- 17 lives in Washington, D.C., she knew after my surgery that I
- 18 was trying to get out of the Daily News, and she knew
- 19 Darlene Carty through -- because she's very close to one of
- 20 her cousins, and she says, Hey, if you need a spokesperson,
- 21 this is it, and that's how I was hired.
- 22 Q. Uh-huh. Do you -- are you fully recovered from
- 23 your medical issues associated with your surgery?
- 24 A. Well, as much as I could. It usually grows back,
- 25 but that's the least of my worries.

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- 1 Q. Why would you say the least of your worries?
- 2 A. I don't let it bother me. That's what I meant.
- 3 Q. Oh, I understand.
- 4 A. Yeah.
- 5 Well, let me take it back. I -- when you say
- 6 fully recovered, I did lose some of my hearing.
- 7 Q. Okay. Did you have any -- did you have any
- 8 associated memory loss?
- 9 A. No. And I was quite shocked.
- 10 Q. Okay.
- 11 A. In two weeks, good as new.
- 12 Q. So you believe you fully recall those --
- 13 A. Oh --
- 14 Q. -- those incidents?
- 15 A. I fully recall it.
- 16 And as a bureau chief, I have -- I eventually
- 17 knew that I would be *persona non grata*, and every time like
- 18 in Isaac Coursey's case or some other folks' case, whatever
- 19 they wrote, and I happened to get a copy of it, I kept it.
- 20 Q. So you -- so when you say kept it, could you
- 21 please be more specific?
- 22 A. I have, for example, a copy of a letter that --
- 23 let's put it this way: Like I explained earlier, when
- 24 Mr. -- when Mr. Coursey became *persona non grata*, he felt,
- 25 and I felt, based on what was going on, that he was being

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1 harassed. So there was an intern who was used to harass
2 him, and the intern, Mr. Carl Caesar, has since been persona
3 non grata to the point he was running for senator, and what
4 did they do? They wrote a story about the fact that he had
5 some sort of gun issue, when they knew all of that when they
6 hired him. It wasn't an issue then.

7 Q. Well, let's talk about that then.

8 First of all, do you know what the gun issue
9 was?

10 A. I can't recall, but I know that while he worked at
11 the Daily News, I was still working on St. Thomas, he would
12 have to leave the Daily News, I'm not sure if it's to go on
13 probation back to the States or whatever, but --

14 Q. Do you think that what would disqualify you from
15 being a reporter from the Daily News --

16 A. I'm sorry?

17 Q. Excuse me. I'll ask you the question differently.

18 Do you believe the standards for being a
19 reporter at the Daily News are similar to the standards of
20 being a Virgin Islands legislator?

21 A. I don't know what you're asking.

22 Q. Well, are you saying that if you are --

23 A. I can tell you what I believe, though.

24 Q. Please do. You see where I'm going with this.

25 A. Yes.

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1 Q. You're saying --

2 A. This is my personal opinion?

3 Q. Yes. Sure.

4 A. When they need you and you have an objectionable
5 past, it's not a problem. When they don't need you, your
6 objectionable past becomes a problem.

7 Q. So, in other words, Mr. Caesar as a result of his
8 gun issue should have been denied employment at the Daily
9 News.

10 Is that your position?

11 A. That's not for me to answer.

12 Q. Well, would you have hired him knowing that he had
13 a gun issue, and that he was on probation?

14 A. If that was a policy against it, yeah. But I
15 don't run the Daily News.

16 Q. Would you have voted for him for senator knowing
17 he had a gun issue and was on probation?

18 A. I would have voted for him.

19 Q. And you objected to the fact that the Daily News
20 brought up this issue, is that correct?

21 A. I did not object in the sense that, wow, I don't
22 believe, you know, he had a gun issue. I object to it
23 because I knew -- as a matter of fact, I knew that it was
24 coming.

25 Q. You knew that the story was coming?

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1 A. Yes, I knew that eventually.

2 Q. Okay.

3 A. And it sure did. It came.

4 Q. And I wonder if you could expand on that a little.
5 I mean, are you saying it was sort of held in abeyance for
6 some reason?

7 A. It wasn't held, but at the time that Mr. Caesar
8 left, he was persona non grata. And the fact that he did
9 run for senator, I knew that story would come back to haunt
10 him.

11 Q. Okay. Okay. I understand.

12 Do you believe that the Daily News showed
13 some hypocrisy or showed some --

14 A. Yes.

15 Q. -- other negative characteristic as a result of
16 running the story?

17 A. Most definitely. Most definitely.

18 Q. Do you attribute that to a particular person?

19 A. Uh-huh.

20 Q. Who do you attribute that to?

21 A. Ms. Davis.

22 Q. I wonder if you would tell me why you believe that
23 running a story about a person running for senator being on
24 probation for gun charges was hypocritical?

25 A. Because when he was hired by the senate, she could

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1 have written it then.

2 Q. But when he was hired by the senate, he wasn't
3 asking people for votes, was he?

4 A. Doesn't matter. When he was hired by the senate,
5 she could have written it then, because she writes about
6 other folks who are hired by the government. She could have
7 written it then.

8 It had to take him saying I'm running for
9 senator for that to come out.

10 Q. So is it your position, then, that Ms. Davis was
11 protecting him --

12 A. Mh-hh.

13 Q. Let me finish my question.

14 Is it your position then that Ms. Davis was
15 shielding him from potentially not getting the job in the
16 senate?

17 A. No. She was not protecting him. It was a pattern
18 that she had used from the time she got there. I can tell
19 you -- I don't want to get into people's personal business,
20 but I can tell you, people in the Daily News with alcoholic
21 problems who that does not come up until it becomes an
22 issue, and so I had seen that pattern with different folks,
23 different Achilles' heel, if you will, that were not used
24 until it was the time to use it.

25 Q. Okay.

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1 A. So that's how I know that Carl was going to get
2 his.
3 Q. So, but the Daily News is an information-gathering
4 machine, isn't it?
5 MS. ROHN: Objection. Leading question.
6 A. I know that. I know that.
7 MS. ROHN: Argumentative.
8 A. I know that.
9 Q. (Mr. Rames) Let me just ask the question
10 differently.
11 The role, what is the role of the Daily News?
12 MS. ROHN: Oh, please.
13 A. You're asking me for my opinion.
14 MR. RAMES: Yes, I understand.
15 A. So I'm telling you my opinion, based on someone
16 who worked there and what people were feeling. We still did
17 our jobs, because that's what we had to do, but we were not
18 unfeeling persons --
19 Q. Sure.
20 A. -- or blind persons, not to know what was going
21 on.
22 We knew that when someone -- we used to call
23 it the shit list. We knew that. That's what we call it:
24 Oh, you're on the shit list. And so people would start
25 watching their backs because they know it would be a pattern

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1 of vindictiveness that they would either resign or be forced
2 to quit. Then they would have to come through you.
3 Q. Okay. Let's take that one step at a time.
4 Your role at the Daily News as a reporter is
5 to gather information, is that not correct?
6 A. Uh-huh.
7 Q. Occasionally that information would be positive
8 about a person, is that not correct?
9 A. Yes.
10 Q. And occasionally it would be negative.
11 A. Exactly.
12 Q. And if you discern negative information about a
13 person, would you automatically publish it?
14 A. No.
15 Q. Okay. Why not?
16 A. Because we talk it over with the editors. Then
17 they would decide no.
18 And if you want me to give you an example, I
19 can give you an example.
20 Q. Sure.
21 A. I discovered a case where Ms. Brodurst and her
22 siblings were in court over, I guess, some financial issues,
23 housing issues. I thought it was newsworthy for some reason
24 or another. I can't remember what was happening at that
25 point. And I brought it to them, because those were the

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1 kind of stories that they used, and I was a court reporter,
2 and I had to produce.
3 That story wasn't used.
4 Q. Okay. And who made the determination that that
5 story would not be used?
6 A. Ms. Davis.
7 Q. And was the reason for not using the story ever
8 explained to you?
9 A. She never told you.
10 Q. Did you -- I'm sorry.
11 A. She -- and there was also a habit that we know
12 that nothing went in writing, so there was nothing to prove
13 that what was said and what wasn't said.
14 Q. Why don't you tell me what was said.
15 A. I can't recall exactly, but I know basically that
16 she wasn't -- it wasn't a story that she was interested in.
17 Q. I understand.
18 Did you object to that?
19 A. No.
20 Q. Do you have --
21 A. However, I can tell you how I felt when she pushed
22 stories that I did not want to do.
23 Q. We'll get to that in a minute, I guess.
24 But with respect to this particular story,
25 are you saying you did or did not have a discussion with her

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1 about it?
2 A. Yes, I did.
3 Q. What was the nature of that discussion?
4 A. I called and told her what I had discovered, and
5 it was a non-story.
6 Q. Did you actually write the story?
7 A. I never did.
8 Q. Okay.
9 A. But I actually went to court and got the courtroom
10 documents.
11 Q. I understand. So there was no suppression of a
12 story, is that correct?
13 MS. ROHN: Objection. Argumentative.
14 MR. RAMES: Just asking the question.
15 MS. ROHN: That's not a question, sir. That
16 was a statement.
17 Q. (Mr. Rames) Well, confirm or deny.
18 A. Well, you -- it's a matter of semantics. I call
19 it suppression, because I thought it was a story and it was
20 not.
21 Q. Okay. And did you object to this?
22 MS. ROHN: You asked her that.
23 A. You did, you did, you did. I told you why.
24 If she said don't do a story, I didn't do it.
25 If she said do a story, you know, I did it even if I didn't

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1 want to.

2 Q. Well, there we are. Did she or did she not say,

3 don't do the story?

4 A. She had to have told me not to do it for me not to

5 do it.

6 Q. But you don't specifically recall that?

7 A. I am telling you that, because I would not -- in a

8 situation like this, I would not waste my time to start

9 writing a story, then she tells me no. So the policy is you

10 discuss stories, you don't just write a story and send it to

11 them. You discuss it with them, and they make the decision

12 whether to go with the story, not to go.

13 The only story that I would do on my own is

14 what we call a follow-up story, whereas I might have written

15 about her (indicating), for example, and there was maybe an

16 update in the case, and I just did the follow-up --

17 Q. Okay.

18 A. -- and send it to them, say I have a follow-up on

19 the Lee Rohn case.

20 Q. Are you a student of newspapers? Do you study

21 newspapers?

22 A. No, but just so you know, that didn't stop

23 the Daily News from making me their number one reporter.

24 Q. Are you proud of that?

25 A. Very proud.

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1 up, I couldn't remember firsthand, but I remember there was

2 a boxing story with a reporter named Tim McDonald. And so

3 that's how I know. And Andy -- Andy, what was his name?

4 Will Jones, Andy -- what is his name?

5 Q. Gross?

6 A. Yes.

7 Q. Sure?

8 A. Yeah.

9 Q. Anyone else you can think of?

10 A. That's all I can think of right now.

11 Q. And all of these --

12 A. Those are the folks I know.

13 Q. To your knowledge, are any of them still working

14 at the Daily News?

15 A. That's why they're not working at the Daily News.

16 Q. To your knowledge, are -- are any of them still

17 working at the Daily News?

18 A. None.

19 Q. Okay. All right. You used the word vendetta a

20 couple of times.

21 A. Oh, and Dale Kyte.

22 Q. Dale Kyte?

23 A. Yeah. Who is --

24 Q. Dale Kyte of Innovative?

25 A. Who was a sales manager and friend to

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1 Q. You indicated earlier that you used the term, with respect

2 to three individuals, the term *persona non grata*.

3 What does that term mean to you?

4 A. You got on their shit list. That's the other name

5 we called it.

6 Q. Tell me everyone you know who was on their shit

7 list?

8 A. Marty Schladen, Nancy, Perry Brothers, Gary

9 McCracken, Isaac Coursey, Eunice Bedminster, Nancy -- I

10 can't remember her last name. Couple sports reporters,

11 Vincent -- I can't remember his last name.

12 Let me see who I remembered on St. Thomas.

13 Folks like -- what's Patrice's last name? Patrice, who now

14 works as the spokesperson for UVI. Karen Goodlaw, who now

15 works for UVI. At one point, Derek Phipps, Nicole

16 Bollatini, but I believe she had already left, but she was

17 very close, very good friends with Lowe's daughter. But at

18 some point they remained friends, but neither she nor Jason

19 or Lowe saw eye to eye.

20 Q. Okay.

21 A. And a whole host of St. Thomas folks that I

22 can't -- like I said, they came in, they went out. We just

23 heard about it. We don't know these peoples by names. We

24 just know them -- I mean by faces, we just know them by

25 names, because, for example, when the name Tim McDonald came

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1 Mr. Prosser's son, Adrian.

2 Stepson.

3 Q. Well, okay. Do you have -- I'm sorry. Withdrawn.

4 Have you ever read the personnel files of any

5 of these individuals to whom you referred?

6 A. No.

7 Q. Do you have any knowledge of the specific bases of

8 their separation of employment from the Daily News?

9 MS. ROHN: Objection to the form of the

10 question. I have no idea what that means.

11 A. Repeat that question so I can understand.

12 Q. (Mr. Rames) Do you have any specific knowledge,

13 any factual knowledge of the basis --

14 A. Other than what she told you and what you all

15 worked out, what agreement you all worked out, no, I

16 wouldn't know.

17 Q. When you said the word "she," who are -- to whom

18 are you referring?

19 A. Davis, Lowe Davis.

20 Q. Okay.

21 A. Because remember, as a Daily News attorney, all of

22 those separation from the Daily News at some point came

23 through you.

24 Q. Is it your presumption that when Lowe Davis is

25 involved in a conflict with someone --

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EUNICE BRIDGEMASTER -- CROSS

1 A. Uh-huh.

2 Q. -- that she's wrong?

3 A. A hundred percent. Because --

4 Q. That's --

5 MS. ROHN: Let her finish her answer.

6 A. Because they have -- they usually have nothing to

7 do with the person's ability to do their job. They are

8 things that, I think, bordered on vindictiveness, harassment

9 and like I keep saying, I'm not saying this because it

10 happened to me personally, I was fortunate enough, but I've

11 been around to see it happen time and time again to other

12 folks who did not deserve the treatment that they got --

13 Q. Can you --

14 A. -- from her.

15 You get a letter-writing campaign from her,

16 all of a sudden you go from having, in my case -- and this

17 happened in one instance, but like I said, it was not

18 constant like those other folks did, there were no -- all of

19 a sudden there were evaluations, there are mistakes, for

20 example, in Mr. Coursey's case there were issues about him

21 constantly getting wrong information in the Daily News. And

22 they were typos, yet we have editors to check for those.

23 And he was being written up on that while

24 other reporters were doing the same thing and were not being

25 written up.

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1 Q. Okay. So you are referring to issues of

2 favoritism?

3 A. It's not favoritism, Kevin, and you know it.

4 Q. I'm just asking, what do you --

5 A. If you want to call it that.

6 Q. What do you want to call it?

7 A. Vindictiveness for someone because someone did not

8 pander to whatever her whim was at the moment.

9 Q. Okay. So tell me, please, what whims are you

10 referring to?

11 A. Let me --

12 Q. And in what manner --

13 A. Again --

14 Q. -- did Mr. Coursey fail to pander?

15 A. People like Mr. Coursey may have been asked to do

16 stuff that he felt was not newsworthy, like most of the

17 reporters, and all of a sudden or he would stand up for what

18 he believed to be his rights, like in writing his letter and

19 calling the Daily News a plantation, and all of a sudden

20 things became hard. You couldn't -- you know, you had to

21 dot your eyes, like they say, and cross your Ts, you know.

22 Normally when it would be a comfortable

23 situation, it became -- I mean, for example, people knew to

24 the point that you were in trouble because -- and it's

25 usually the folks from St. Thomas, it was easily, you could

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1 easily tell, because the folks would come from St. Thomas

2 and they would have them sit outside the St. Thomas office

3 half an hour to an hour at least before they call them in.

4 So everybody on St. Thomas knew, okay, that person was on

5 the shit list.

6 Q. Uh-huh. The word plantation, of course, has --

7 A. That's not me, that's Isaac.

8 Q. Yes, of course. I understand.

9 A. Okay.

10 Q. I understand that, but it has social, historical,

11 and racial connotations?

12 A. Yes. And at the time, he felt that it was a

13 plantation in the fact that a lot of the folks who initially

14 were being forced out were black and lower.

15 Q. Okay. And so -- okay.

16 You used the word vendetta a couple of times

17 in the early part of your deposition. Please explain who,

18 to your knowledge, had a vendetta against them?

19 A. You really want me to answer that question?

20 Q. Yes, of course.

21 A. Some of your attorneys who would call in to Lowe

22 who would give her information, especially when something

23 related to this woman here, and everybody else.

24 Q. Okay. So you're saying that these attorneys were

25 acting as sources?

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EUNICE BRIDGEMASTER -- CROSS

1 A. Yeah.

2 Q. Okay. And do you --

3 A. Mr. Ruskin.

4 Q. But these people weren't your sources.

5 Were these people your sources?

6 A. At some point I believe I may have spoken to him.

7 Otherwise I wouldn't know it was him.

8 Q. Okay. And do you have anything --

9 A. I just told you, they never put anything in

10 writing. They were talking.

11 Q. I understand. You indicated that attorneys would

12 call the Daily News about Ms. Rohn?

13 A. You asked for an example.

14 MS. ROHN: Said some of your attorneys.

15 A. I said some of your attorneys.

16 Q. (Mr. Raab) Oh, excuse me, my attorneys. Okay.

17 A. I shouldn't say your attorneys. I say your

18 attorneys, attorneys who worked in this organization.

19 Q. Ah, I understand.

20 A. ICC.

21 Q. Okay.

22 A. And outside attorneys.

23 Q. Okay. Who?

24 A. (No response.)

25 Q. Excuse me. There's a question on the table. Do

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DUNICK BROWNSTEIN -- CROSS

1 you know?
 2 A. Do I know what?
 3 Q. Who?
 4 A. Who was the source?
 5 Q. You said outside attorneys, yes, who were
 6 providing Daily News --
 7 A. I've quoted him in some of my stories. He doesn't
 8 mind being known. Mr. Simpson.
 9 Q. Anyone else?
 10 A. Those are the ones that I know.
 11 Q. Okay. So when a prominent local attorney is
 12 accused of some level of, albeit minor level, of drug
 13 involvement, is that newsworthy?
 14 MS. ROHN: You really don't want to go there.
 15 MR. RAMES: I'm asking.
 16 MS. ROHN: Kevin, how many stories are there
 17 about you?
 18 MR. RAMES: Excuse me?
 19 MS. ROHN: How many stories are there about
 20 you?
 21 MR. RAMES: Often.
 22 MS. ROHN: About you and drugs, Kevin.
 23 MR. RAMES: About drugs? Absolutely none.
 24 MS. ROHN: Exactly my point.
 25 MR. RAMES: I --

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DUNICK BROWNSTEIN -- CROSS

1 MS. ROHN: You really don't want to go there.
 2 MR. RAMES: I have no idea what you're
 3 referring to.
 4 MS. ROHN: Sir, don't go there with me. I
 5 know the people you go to. Don't go there with me.
 6 THE WITNESS: I don't know about him.
 7 MR. RAMES: Are you insane?
 8 MS. ROHN: I am not insane, sir, so don't
 9 start this with me.
 10 MR. RAMES: Are you insane?
 11 MS. ROHN: No, sir. I'm not. Would you like
 12 me to have them come and testify under oath about you?
 13 MR. RAMES: I think you can do whatever you'd
 14 like.
 15 MS. ROHN: yes, sir. I don't go there with
 16 me.
 17 MR. RAMES: (Laughing).
 18 MS. ROHN: you think it's funny? You think
 19 it's funny? They'd be more than glad to come in and
 20 testify.
 21 MR. RAMES: God help me. God help me.
 22 Q. (Mr. Rames) Do you have any problems, as a former
 23 reporter, revealing those sources?
 24 A. The sources?
 25 Q. Yeah.

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DUNICK BROWNSTEIN -- CROSS

1 A. You mean like the --
 2 Q. Ruskin?
 3 A. No.
 4 Q. No problem?
 5 A. But I'm saying you were asking specific questions.
 6 You were the one who got me there.
 7 Q. Oh, yes, of course.
 8 A. Yeah.
 9 Q. You know --
 10 A. So I answered.
 11 Q. I understand. I understand.
 12 So when I mentioned the word vendetta, --
 13 A. Uh-huh.
 14 Q. -- when I mentioned the word vendetta --
 15 A. Uh-huh.
 16 Is it okay if I chew?
 17 Q. Sure. You can do whatever you like.
 18 -- you made reference to stories about
 19 Attorney Rohn.
 20 A. Uh-huh.
 21 Q. Okay. Anyone else, to your knowledge?
 22 A. This is what I said prior, I only know of stories
 23 involving me.
 24 Q. When you say involving you --
 25 A. I was the one who mostly wrote about her.

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DUNICK BROWNSTEIN -- CROSS

1 Q. Okay. So the issue of -- when you are raising the
 2 issue of the vendetta, you're only raising it in the context
 3 of your own personal knowledge and own personal work?
 4 A. There were others who felt that, but I know for
 5 certain I can vouch for who I wrote about, not who they
 6 wrote about.
 7 Q. Tell me then, when you talk about others, to what
 8 are you referring?
 9 MS. ROHN: Objection. Asked and answered.
 10 Read the deposition.
 11 MR. RAMES: No, we never --
 12 A. Yeah, we go back to the Lee Williams, that's why
 13 he left.
 14 Q. (Mr. Rames) Lee Williams and Attorney Rohn?
 15 A. Yes.
 16 Q. Okay. I'm speaking about others to whom a
 17 vendetta was directed.
 18 A. Well --
 19 Q. Besides Attorney Rohn.
 20 A. There was Ms. Brothers, who said that she had been
 21 called and said they would give her extra money if she wrote
 22 about Donastorg. And Mr. Jones made that argument also.
 23 Q. Okay. So Brothers and Jones re: Donastorg.
 24 Anyone else?
 25 A. Those are the folks that I know.

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RUDICE BROWNINGER -- CROSS

1 Q. And those are the two instances of vendetta that
2 you know, or do you know others?

3 A. Those are the two that I can recall as we speak
4 here.

5 Q. If we took a little moment, would it then help
6 refresh your recollection with respect to this?

7 A. So many things have happened since the change of
8 ownership.

9 Q. Yes.

10 A. I can't. It's some of the stuff that I've
11 probably just (indicating), decided I didn't want to think
12 about.

13 But no, not right now.

14 Q. You indicated that it was easier under Gannet?

15 A. It was easier, and a lot of folks -- and I -- I'll
16 use an example, tell you what it is felt, it was a more
17 credible paper under Gannet, because there was no white
18 elephant under Gannet. A host of reporters, maybe not here,
19 because we have new reporters but who since left, felt that
20 writing about the company's -- especially, for example, the
21 phone company, where everybody in the island was affected
22 when there was no phone service, and we could not write
23 about that, we felt that this was a white elephant.

24 Q. When you say white elephant, specifically to what
25 are you referring?

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RUDICE BROWNINGER -- CROSS

1 MS. ROHN: She just told you.

2 MR. RAMES: Well --

3 A. We felt that this was a white elephant, companies
4 that we normally wrote about. If you go back to the Daily
5 News where, in Gannet's days, and Daily News in
6 Mr. Prosser's days, a big blackout of telephone service or
7 lack of cell phone service or the fact that every time you
8 pick up the phone, it says we're temporarily disconnected,
9 etcetera, would have been a story. It has yet to be in the
10 Daily News.

11 Q. Have you attempted to write such stories?

12 A. I'm no longer there.

13 Q. Back then?

14 A. I've never attempted. And this is what I said
15 before, there was no written policy, but it was understood.
16 If it was in the various other papers, we never picked it
17 up, and we have picked up stories that's been reported first
18 in other papers, and we never did. It's understood.

19 Q. Do you know any specific instance when a story was
20 written and suppressed on the issue of telephone service?

21 A. It -- when you --

22 Q. Please answer my question directly.

23 A. No. But I have to put it in context, when you are
24 using the word suppressed, you are using it as in there's a
25 story written and it was never printed. And I've told you,

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RUDICE BROWNINGER -- CROSS

1 we do not write stories and send it in. We discuss stories,
2 and it is a decision made sometimes between the reporter and
3 the editor, sometimes just the editor alone, what
4 constitutes a story.

5 Q. Okay.

6 A. And because there have been backlash, slowly and
7 surely there have been stories written about Mr. Prosser's
8 companies, but it's never in the same context as to what you
9 want read in the other paper, in the other media, or hear
10 about in the other media.

11 Q. Sort of like the Source and Mr. Prior?

12 A. Yeah, if you want to call it that.

13 Q. Is it acceptable with the Source?

14 MS. ROHN: Oh, please. What relevancy does
15 that have to this case? Oh, please.

16 MR. RAMES: Ms. Rohn, please.

17 MS. ROHN: Oh, please.

18 Q. (Mr. Rames) Well, of course you already admitted
19 it. Yes, like the Source and Mr. Prior.

20 A. I would say it's relevant because that's the only
21 way I get the information.

22 Q. Okay. Okay. Or like the Avis and the Broadhurst
23 family financial squabbles, did you find that in the Avis?

24 MS. ROHN: Yeah, it was printed in the Avis.

25 A. It was not.

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RUDICE BROWNINGER -- CROSS

1 IT WELLS?

2 MS. ROHN: I read it in the Avis.

3 MR. RAMES: Are you under oath?

4 MS. ROHN: I read it.

5 THE WITNESS: I don't recall reading it.

6 Q. (Mr. Rames) Okay. I understand.

7 A. But if it was, that's fantastic that she writes
8 about her own self in her own paper. Then people think
9 you're credible.

10 Q. Do you believe that your health difficulties were
11 in part stress-related?

12 MS. ROHN: Why is her personal life a matter
13 of your knowledge?

14 MR. RAMES: She can answer it or not answer
15 it. If she chooses not to answer it, I may follow-up, but I
16 may not.

17 MS. ROHN: This is --

18 A. No, it only became stressful to me when
19 Mr. Robbins announced it to the entire -- entire St. Thomas
20 staff, you know, and we have HIPA laws. He could have said
21 I was going on leave for a while. He told everybody.

22 And there, the reason I know, some staff on
23 St. Thomas were offended and called me. I said, you know
24 what? Hey, just leave it alone.

25 Q. You believe that was improper?

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RUNICE BROMINGSTER -- CROSS

1 A. I think it was.
 2 Q. You believe that was an invasion of privacy?
 3 A. Yes.
 4 Q. You resent him for it?
 5 A. No, I don't. I don't resent him, because I told
 6 the person, Hey, what's done is done.
 7 Q. Have you ever -- oh. Excuse me. Asked and
 8 answered. Okay.
 9 You indicated that you have never had a
 10 conversation with Mr. Prosser about your newspaper work?
 11 A. Yeah.
 12 Q. Have you had any conversations with anyone as an
 13 intermediary for Mr. Prosser about your newspaper?
 14 A. I don't follow.
 15 Q. Did he ever send anybody to you?
 16 A. Mr. Prosser?
 17 Q. To you, yes.
 18 A. Oh. No. No. Unless Lowe is an intermediary.
 19 MR. RAMES: I understand. I understand.
 20 Nothing further.
 21 REDIRECT EXAMINATION
 22 BY MS. ROHN:
 23 Q. I got a follow-up question.
 24 You said Mr. Rames had involvement with
 25 stories?

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RUNICE BROMINGSTER -- REDIRECT

1 Did he have involvement with stories?
 2 A. Not in the sense that he changed stuff, but in the
 3 sense that the Daily News attorney would have to basically
 4 check it for libel.
 5 Q. What information did Mr. Ruskin give you?
 6 A. It was information that may have -- I was told
 7 that Mr. Ruskin gave to Ms. Davis that came to me.
 8 Q. What information did he give to Ms. Davis?
 9 A. I think it may have been a decision on, or I can't
 10 recall whether it was Mr. Simpson or him, a decision --
 11 there were two decisions; one that Judge Finch ruled on, and
 12 the second one may have been about this issue, this landlord
 13 issue.
 14 Q. Did you give depositions while you were --
 15 A. Yes.
 16 Q. -- at the Daily News?
 17 A. Yeah.
 18 Q. Did you ever have your testimony suggested to you
 19 as to what you should say?
 20 A. No.
 21 Q. Have you ever known Mr. Hartmann, Carl Hartmann?
 22 A. That name doesn't sound familiar.
 23 Q. He never got you ready for any depositions?
 24 A. Guess not, if he doesn't sound familiar.
 25 MS. ROHN: I have no further questions.

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RUNICE BROMINGSTER -- REDIRECT

1 MR. RAMES: One question only, and it's been
 2 asked and answered.
 3 MS. ROHN: Oh, I'm sorry. I had some more
 4 questions.
 5 MR. RAMES: Please, go right ahead.
 6 Q. (Ms. Rohn) Do you know of any files that were
 7 kept on Senator Donastorg or myself?
 8 A. No.
 9 Q. Do you know what the policy of the Daily News was
 10 regarding running paid advertisements or censoring paid
 11 advertisements?
 12 A. What do you mean?
 13 Q. Well, if there were some paid advertisements, that
 14 they had a policy of certain types of paid advertisements
 15 they wouldn't run?
 16 A. Only policy that we had is that we would not, that
 17 I know of as far as ads -- and let me qualify this. I am
 18 not in the ad department, I was in news -- but I knew around
 19 election times there are certain days up to election we
 20 would not run candidates that were basically bashing someone
 21 else.
 22 Q. Did you ever hear any discussions at the Daily
 23 News about voting or not voting for Senator Donastorg?
 24 A. No.
 25 Q. Were you aware of any paid advertisements that

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RUNICE BROMINGSTER -- REDIRECT

1 were tendered to the newspaper by either Senator Donastorg
 2 or myself or about us that the newspaper refused to run?
 3 A. I can't recall.
 4 Q. For instance, I understand that there was a group
 5 on St. Thomas that wanted to run an ad congratulating me for
 6 being named female lawyer of the year, and Lowe Davis
 7 refused to run it.
 8 Do you know anything about that?
 9 A. No.
 10 MS. ROHN: No further questions.
 11 RECROSS-EXAMINATION
 12 BY MR. RAMES:
 13 Q. One more.
 14 The landlord issue, to what are you
 15 referring?
 16 A. Ms. Rohn ran -- there was a case that came out
 17 with whoever owns this place, and money was being put into
 18 escrow.
 19 Q. Moravian Church?
 20 MS. ROHN: No. Lutheran Church.
 21 MR. RAMES: Okay. Okay. Nothing further.
 22 Thank you very much.
 23 THE WITNESS: Thank you.
 24 MR. RAMES: Hope I won't have to see you at
 25 trial.

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EUNICE BEDWINSTER -- ASCROSS

1 (Whereupon the deposition concluded
 2 at 3:38 p.m.)
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CERTIFICATE

1 C-E-R-T-I-F-I-C-A-T-E
 2
 3 I, CHERYL L. HAASE, a Registered Professional Reporter
 4 and Notary Public No. NP-158-03 for the U.S. Virgin Islands,
 5 Christiansted, St. Croix, do hereby certify that the above
 6 and named witness, EUNICE BEDWINSTER, was first duly sworn
 7 to testify the truth; that said witness did thereupon
 8 testify as is set forth; that the answers of said witness to
 9 the oral interrogatories propounded by counsel were taken by
 10 me in Stenotype and thereafter reduced to typewriting under
 11 my personal direction and supervision.
 12 I further certify that the facts stated in the caption
 13 hereto are true; and that all of the proceedings in the
 14 course of the hearing of said deposition are correctly and
 15 accurately set forth herein.
 16 I further certify that I am not counsel, attorney or
 17 relative of either party, nor financially or otherwise
 18 interested in the event of this suit.
 19 IN WITNESS WHEREOF, I have hereunto set my hand as such
 20 Certified Court Reporter on this the 2nd day of May, 2007,
 21 at Christiansted, St. Croix, United States Virgin Islands.
 22
 23 Cheryl L. Haase, RPR
 24 My Commission Expires 11/9/07
 25

CERTIFICATE

	accurately [1] 94/15	Andrew [1] 25/9
	accused [1] 81/12	Andy [5] 25/11 28/7 75/3
	Achilles [1] 68/23	75/3 75/4
0	acknowledged [2] 21/14	Andy Simpson [2] 25/11
	21/16	28/7
00820 [2] 2/7 2/14	acknowledging [1] 48/18	anniversary [1] 56/22
03 [1] 94/4	across [1] 13/24	announced [1] 88/19
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<p>U us... [5] 14/16 19/1 26/11 58/10 92/2 use [3] 44/20 68/24 85/16 used [17] 12/12 12/12 12/13 15/9 43/9 59/23 59/25 65/1 68/18 68/23 69/22 71/1 71/3 71/5 74/1 75/19 79/16 uses [1] 33/17 using [6] 32/14 48/2 60/6 71/7 86/24 86/24 usually [17] 6/18 10/3 10/3 11/16 31/2 31/5 34/1 46/11 58/12 59/7 59/9 60/2 61/5 61/7 63/24 77/6 78/25 <u>U</u> [2] 74/14 74/15</p>	<p>washington [1] 63/17 wasn't [18] 18/24 22/13 22/17 23/16 26/22 26/24 27/2 27/4 29/9 32/16 49/24 65/6 67/7 68/2 71/3 71/13 71/16 71/16 waste [1] 73/8 watching [1] 69/25 water [1] 39/4 way [12] 16/25 18/15 20/19 28/11 30/10 30/25 40/13 40/15 44/18 45/3 64/23 87/21 ways [1] 17/22 we [99] we'd [2] 44/14 44/23 we'll [1] 71/23 we're [3] 14/16 48/17 86/8 we've [2] 20/18 33/22 weeks [1] 64/11 we'll [38] 9/10 15/7 16/20 20/12 21/4 23/22 26/19 27/12 28/3 29/4 29/6 34/6 40/22 44/9 45/14 45/20 45/24 49/13 49/24 50/16 53/16 58/11 59/24 59/25 62/9 63/24 64/5 65/7 65/22 66/12 72/17 72/18 73/2 76/3 84/18 86/2 87/18 91/13 went [9] 10/17 15/1 26/2 26/3 46/20 62/9 71/12 72/9 74/22 were [145] weren't [4] 29/2 29/25 36/16 80/4 what [148] what's [4] 7/10 22/11 74/13 89/6 whatever [14] 6/22 14/22 17/18 26/23 38/15 59/7 59/8 59/9 59/10 64/18 65/13 78/8 82/13 83/17 whatsoever [1] 9/2 when [92] 5/5 5/7 5/9 5/21 7/1 7/20 8/5 9/15 10/7 10/7 10/17 10/22 11/6 11/11 12/12 12/13 13/5 13/10 15/21 17/17 17/22 18/15 20/4 20/4 20/9 23/2 23/5 23/22 24/11 29/4 29/9 30/24 31/8 31/10 35/24 36/24 37/7 39/7 39/22 39/25 40/3 40/15 41/12 42/22 42/23 42/25 43/6 46/11 46/11 47/4 50/2 51/9 55/12 55/12 56/2 56/7 56/17 56/24 60/3 60/4 61/7 62/8 64/5 64/20 64/23 64/24 65/5 65/5 66/4 66/5 67/25 68/2 68/4 69/22 71/21 74/25 76/17 76/24 78/22 79/22 81/11 83/12 83/14 83/24 84/1 84/7 85/22 85/24 86/19 86/21 86/23 88/18 whenever [1] 12/14 where [19] 4/10 4/14 5/1 8/21 8/24 8/25 10/3 11/2 13/11 13/13 18/22 21/25 31/15 35/15 41/21 65/24 70/21 85/21 86/5 whereas [2] 43/8 73/14 WHEREOF [1] 94/19</p>	<p>whereupon [2] 31/18 93/1 whether [9] 25/24 26/12 27/15 27/19 28/6 34/17 61/20 73/12 90/10 which [9] 12/3 19/18 31/11 43/13 43/16 50/10 57/21 58/9 60/23 while [7] 13/8 17/14 24/16 65/10 77/23 88/21 90/14 whim [1] 78/8 whims [1] 78/9 whip [1] 12/6 white [4] 85/17 85/23 85/24 86/3 who [76] 9/25 10/1 11/15 12/10 13/16 14/1 16/14 16/14 17/1 17/5 19/6 19/13 20/22 20/24 21/19 23/11 23/14 23/18 23/22 25/5 25/11 25/14 25/16 25/16 25/17 26/15 27/24 29/3 29/6 30/7 30/9 36/6 37/15 50/17 51/9 51/15 51/25 53/3 53/4 53/7 55/24 58/13 59/6 59/12 61/13 61/14 65/1 67/20 68/6 68/21 69/16 71/4 74/6 74/12 74/13 74/14 75/23 75/25 76/17 77/12 79/13 79/17 79/21 79/22 80/18 80/23 81/3 81/4 81/5 83/6 83/25 84/4 84/5 84/5 84/20 85/19 who's [3] 17/11 22/21 61/14 whoever [1] 92/17 whole [2] 15/8 74/21 whom [3] 76/5 76/17 84/16 whose [2] 51/16 51/21 why [26] 7/23 8/2 9/21 12/4 14/24 16/2 16/7 28/9 32/13 35/18 40/8 47/3 48/8 48/11 50/22 53/6 54/20 58/4 64/1 67/22 70/15 71/14 72/23 75/15 84/12 88/12 wife [1] 15/17 will [7] 19/11 20/1 50/17 50/20 58/21 68/23 75/4 Williams [13] 21/1 29/6 50/17 50/21 51/10 56/1 57/21 58/10 59/4 59/8 60/9 84/12 84/14 Williams' [1] 56/14 wind [1] 19/16 Withdraw [1] 49/5 Withdrawn [1] 76/3 within [2] 9/18 62/9 without [3] 37/16 47/7 47/23 witness [8] 4/2 7/13 35/1 48/15 94/6 94/7 94/8 94/19 witnessing [1] 12/24 woman [2] 51/21 79/23 won't [1] 92/24 wonder [2] 67/4 67/22 woo [1] 17/15 word [17] 6/9 8/23 20/10 33/9 44/20 45/5 47/8 47/11 47/15 59/23 75/19 76/17 79/6 79/16 83/12 83/14 86/24 words [3] 43/15 47/19 66/7 work [12] 4/17 5/1 5/3 9/25 11/22 13/12 39/10 39/22</p>
<p>V V.I [4] 4/23 5/3 39/3 39/13 vaguely [2] 26/15 60/17 valuable [1] 53/15 variety [2] 7/24 8/6 various [1] 86/16 vendetta [15] 30/23 32/25 33/1 33/8 40/25 58/3 58/8 75/19 79/16 79/18 83/12 83/14 84/2 84/17 85/1 vendetta-based [1] 40/25 version [4] 56/3 56/5 56/8 57/17 very [20] 10/6 10/10 12/9 12/9 12/11 13/6 16/18 16/19 17/20 17/20 19/20 31/13 44/10 48/14 53/15 63/19 73/25 74/17 74/17 92/22 victim [2] 48/1 48/3 victims [1] 47/21 Vincent [1] 74/11 vindictive [1] 14/17 vindictiveness [3] 70/1 77/8 78/7 VIRGIN [14] 1/1 1/17 2/7 2/14 5/2 18/5 39/22 39/25 40/3 40/9 57/13 65/20 94/4 94/21 VITELCO [1] 1/11 voluntarily [1] 40/4 voted [2] 66/16 66/18 votes [1] 68/3 voting [2] 91/23 91/23 vouch [1] 84/5</p>	<p>W wait [9] 24/18 31/5 38/8 49/14 55/13 55/25 56/2 56/4 56/7 waited [4] 24/19 38/10 56/13 56/15 waiting [1] 28/15 want [26] 7/24 10/11 11/17 18/13 20/12 24/2 29/4 30/5 31/16 33/5 37/13 38/17 44/20 52/11 55/12 68/19 70/18 71/22 73/1 78/5 78/6 79/19 81/14 82/1 85/11 87/12 wanted [5] 14/20 14/20 24/17 31/24 92/5 warranted [2] 44/15 44/16 was [318]</p>	<p>W wait [9] 24/18 31/5 38/8 49/14 55/13 55/25 56/2 56/4 56/7 waited [4] 24/19 38/10 56/13 56/15 waiting [1] 28/15 want [26] 7/24 10/11 11/17 18/13 20/12 24/2 29/4 30/5 31/16 33/5 37/13 38/17 44/20 52/11 55/12 68/19 70/18 71/22 73/1 78/5 78/6 79/19 81/14 82/1 85/11 87/12 wanted [5] 14/20 14/20 24/17 31/24 92/5 warranted [2] 44/15 44/16 was [318]</p>
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<p>W</p> <p>work ... [4] 41/1 62/13 84/3 89/10</p> <p>worked [17] 5/18 18/7 30/9 31/7 39/7 39/18 52/6 52/16 53/3 53/4 55/20 57/11 65/10 69/16 76/15 76/15 80/18</p> <p>worker [1] 13/7</p> <p>working [10] 4/23 7/14 30/25 31/9 32/16 39/25 65/11 75/13 75/15 75/17</p> <p>workload [1] 9/10</p> <p>works [4] 15/2 45/4 74/14 74/15</p> <p>worries [2] 63/25 64/1</p> <p>worry [1] 31/15</p> <p>worth [1] 33/5</p> <p>would [140]</p> <p>wouldn't [7] 26/19 29/23 47/9 52/13 76/16 80/7 91/15</p> <p>wow [2] 18/13 66/21</p> <p>write [26] 12/2 12/7 12/15 13/9 20/20 24/6 24/11 31/7 31/8 31/9 31/16 31/25 32/18 33/5 34/12 34/15 35/16 45/4 45/8 58/13 58/14 72/6 73/10 85/22 86/11 87/1</p> <p>writer [2] 12/10 12/10</p> <p>writes [5] 24/4 32/16 32/17 68/5 88/7</p> <p>writing [10] 22/10 27/8 40/24 59/6 71/12 73/9 77/15 78/18 80/10 85/20</p> <p>written [26] 8/13 13/14 17/18 18/4 21/10 22/9 22/17 24/24 31/14 35/20 44/19 53/21 54/12 60/17 60/19 60/21 68/1 68/5 68/7 73/14 77/23 77/25 86/15 86/20 86/25 87/7</p> <p>wrong [4] 13/25 46/17 77/2 77/21</p> <p>wrote [28] 14/13 14/14 19/12 19/21 20/5 24/9 24/20 26/4 28/14 29/8 31/23 34/18 34/19 36/7 53/18 53/24 55/24 59/7 59/8 59/10 59/10 64/19 65/4 83/25 84/5 84/6 84/21 86/4</p>	<p>52/25 53/12 55/22 55/24 56/6 56/10 56/19 56/21 57/1 57/3 57/16 57/23 59/22 61/1 61/25 62/2 62/3 62/12 62/15 62/21 65/25 66/3 67/1 67/14 69/14 70/9 72/2 75/6 79/8 79/12 79/20 81/5 82/15 83/7 84/15 85/9 87/19 89/3 89/17 90/15</p> <p>yesterday [3] 38/1 38/6 38/11</p> <p>yet [2] 77/22 86/9</p> <p>you [489]</p> <p>you'd [4] 12/20 12/23 36/13 82/13</p> <p>you're [14] 27/13 37/23 42/25 43/12 48/12 49/11 65/21 66/1 69/13 69/24 79/24 82/2 84/2 88/9</p> <p>you've [1] 51/17</p> <p>younger [1] 13/19</p> <p>your [64] 4/6 4/16 5/5 5/7 5/25 6/11 10/21 11/18 30/13 38/20 39/2 39/14 40/8 41/4 41/23 42/15 42/19 45/1 46/16 46/17 47/11 47/16 48/23 50/8 51/18 55/1 55/5 59/21 60/10 61/2 62/4 63/10 63/13 63/13 63/23 63/23 64/1 66/5 66/10 68/10 68/14 70/4 75/13 75/16 76/24 78/21 78/21 79/17 79/18 79/21 80/4 80/5 80/14 80/15 80/17 80/17 83/21 84/3 85/6 88/10 88/13 89/10 89/13 90/18</p>
<p>Y</p> <p>yeah [38] 4/19 4/22 15/6 18/2 20/12 22/25 23/1 24/22 25/8 25/10 25/21 26/4 26/24 27/4 27/13 27/13 27/13 29/13 32/11 32/21 34/4 36/14 45/3 57/23 59/18 59/18 64/4 66/14 75/8 75/23 80/1 82/25 83/8 84/12 87/12 87/24 89/11 90/17</p> <p>year [4] 5/16 5/16 62/9 92/6</p> <p>years [8] 4/25 5/4 10/8 13/5 13/6 23/21 37/15 39/16</p> <p>yes [68] 4/13 5/20 6/22 7/15 11/23 12/22 17/3 18/7 18/7 21/18 22/4 25/21 32/11 37/8 38/2 39/9 40/5 40/7 41/14 41/20 42/7 42/9 42/16 43/6 43/24 44/6 45/17 47/6</p>	<p>JA000455</p>

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on July 15, 2022, I electronically filed the foregoing with the Clerk of the Court using the VIJFES system, which will send a notification of such filing (NEF) to the following:

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Attorney For: Daily News Publishing Co., Lowe Davis

BY: /s/ Rhea R. Lawrence