

**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 VIII**

---

**LAW OFFICES OF LEE J. ROHN AND ASSOCIATES, LLC**

Lee J. Rohn, Esquire  
Rhea R. Lawrence, Esquire  
Counsel for Appellants  
1108 King Street, 3<sup>rd</sup> Floor  
Christiansted, St. Croix  
U.S. Virgin Islands 00820-4933  
(340)778-8855 Telephone  
(340)773-2954 Facsimile

**JOINT APPENDIX INDEX**

**VOLUME I**

	<b>Page</b>
Certified List of Docket Entries.....	<b>1</b>
Amended Notice of Appeal.....	<b>111</b>
<i>Exhibits to Amended Notice of Appeal</i> .....	<b>116</b>
Memorandum Opinion Granting Summary Judgment in favor of Daily News, J. Lowe Davis and Holland Redfield.....	<b>116</b>
Order Granting Summary Judgment in favor of Daily News, J. Lowe Davis and Holland Redfield.....	<b>216</b>
Memorandum Opinion regarding Entry of Final Judgment.....	<b>218</b>
Order of Entry of Final Judgment.....	<b>226</b>
Fourth Amended Complaint.....	<b>228</b>
Answer of Daily News and J. Lowe Davis to Fourth Amended Complaint.....	<b>237</b>
Answer of Holland Redfield to Fourth Amended Complaint.....	<b>246</b>
Answer of Oakland Benta to Fourth Amended Complaint.....	<b>251</b>
Daily News and Lowe Davis’ Motion to Enter Final Judgment.....	<b>256</b>
Plaintiffs’ Opposition to Daily News and Lowe Davis’ Motion to Enter Final Judgment.....	<b>262</b>
Daily News and Lowe Davis’ Reply to Opposition to Daily News and Lowe Davis’ Motion to Enter Final Judgment.....	<b>270</b>
Daily News and Lowe Davis’ Motion for Rule 54(b) Certification.....	<b>273</b>

Plaintiffs’ Opposition to Motion for Rule 54(b) Certification.....	280
Daily News and Lowe Davis’ Reply to Opposition to Motion for Rule 54(b) Certification.....	286
Daily News and Lowe Davis’ Memorandum of Law in Support of Motion for Summary Judgment.....	291
Daily News and Lowe Davis’ Statement of Material Facts.....	338
<i>Exhibits to Daily News and Lowe Davis’ Statement of Material Facts.....</i>	<b>354</b>
Third Amended Complaint.....	<b>354</b>
Newspaper Articles.....	<b>363</b>
Bill No. 25-0149.....	<b>371</b>
Newspaper Articles.....	<b>385</b>
Complaint.....	<b>388</b>
Newspaper Article.....	<b>394</b>
Complaint (FirstBank v. Donastorg et al 2002/17).....	<b>395</b>
Civil Docket for 3:02-cv-00017.....	<b>401</b>
Newspaper Articles.....	<b>403</b>
Deposition of Eunice Bedminister.....	<b>415</b>
<b>VOLUME II</b>	
Deposition of Marty Schladen.....	<b>456</b>

Deposition of Jason Robbins.....	<b>478</b>
Deposition of J. Lowe Davis.....	<b>561</b>
Daily News Responses to Plaintiff’s First Set of Interrogatories.....	<b>614</b>
Affidavit of Lowe Davis.....	<b>635</b>
Joinder of Holland Redfield in Daily News and Lowe Davis’s Motion for Summary Judgment.....	<b>639</b>
Plaintiffs’ Response to Daily News and Lowe Davis’ Motion for Summary Judgment.....	<b>641</b>
Plaintiffs’ Amended Response to Daily News and Lowe Davis’ Alleged Statement of Material Facts.....	<b>705</b>

**VOLUME III**

<i>Exhibits to Plaintiffs’ Amended Response to Daily News and Lowe Davis’ Alleged Statement of Material Facts.....</i>	<b>810</b>
Deposition of Jason Robbins dated September 13, 2010.....	<b>810</b>
Deposition of J. Lowe Davis dated September 15, 2010.....	<b>1030</b>

**VOLUME IV**

Deposition of Holland Redfield dated December 20, 2008.....	<b>1172</b>
---	-------------

**VOLUME V**

Deposition of Senator Adlah Donastorg, Jr. Volume I dated December 16, 2008.....	<b>1410</b>
--	-------------



Deposition of Senator Adlah Donastorg, Jr. Volume II dated December 17, 2008.....**1662**

**VOLUME VI**

Deposition of Benedicta Donastorg dated September 13, 2010.....**1836**  
Deposition of Senator Adlah Donastorg, Sr. dated September 13, 2010..**1918**  
Deposition of Josefina Donastorg dated September 13, 2010.....**1988**  
Deposition of Marty Schladen dated February 14, 2011.....**2014**  
Deposition of David Sharp dated September 15, 2010.....**2061**  
Deposition of William Brown dated December 17, 2008.....**2110**  
Deposition of Julie Erickson dated December 19, 2008.....**2195**

**VOLUME VII**

Deposition of Elizabeth Coggins dated December 29, 2008.....**2272**  
Deposition of Timothy McDonald dated January 2, 2008.....**2325**  
Deposition of Ariel Melchior, Jr dated August 8, 2003.....**2556**  
Deposition of Dennis Sheraw dated December 19, 2008.....**2583**  
Deposition of Eunice Bedminster dated April 19, 2007.....**2690**

**VOLUME VIII**

Deposition of Michael Cumbermack dated September 16, 2010.....**2784**

Trial Transcript in the matter of <i>Timothy McDonald v. ICC, et al</i> dated March 9, 2009.....	2904
Affidavit of Will Jones.....	2941
Affidavit of Benedicta Donastorg.....	2944
Affidavit of Fela McBean.....	2945
Affidavit of Josefina Donastorg.....	2946
Affidavit of Ella Moron.....	2947
Affidavit of Marvin Bramble.....	2948
Affidavit of Angel Ortiz.....	2949
Affidavit of Kenrick Augustus.....	2950
Affidavit of Dean Barnes, Esq.....	2951
Complaint, <i>Donastorg v. ICC</i> , Civil No. 2002/97.....	2953
Answer, <i>Donastorg v. ICC</i> , Civil No. 2002/97.....	2959
Judgment, <i>McDonald v. Daily News</i> , Civil No.2004-93.....	2963
Plaintiffs’ Exhibit 6 Early VITELCO PSC Dispute Articles.....	2967
Plaintiffs’ Exhibit 7 March 31, 1997 No Conflict of Interest Article.....	2986
Plaintiffs’ Exhibit 8 1998 Rogue Articles.....	2987
Plaintiffs’ Exhibit 9 Donastorg-Vitelco Dispute Series.....	2994
Plaintiffs’ Exhibit 10 “Setting the record Straight”—June 14, 2001.....	3007

Plaintiffs’ Exhibit 11 Foreclosure Articles and Dismissal.....	<b>3010</b>
Plaintiffs’ Exhibit 12 Do Not Vote for Donastorg Article.....	<b>3015</b>
Plaintiffs’ Exhibit 13 Judge Upholds Data Subpoena Article.....	<b>3017</b>
Plaintiffs’ Exhibit 14 2003 Boxing Articles.....	<b>3044</b>
Plaintiffs’ Exhibit 15 ICC Press Release.....	<b>3046</b>
Plaintiffs’ Exhibit 16 Sam Topp/Redfield Radio Transcript.....	<b>3047</b>
Plaintiffs’ Exhibit 17 Flurry of ICC Lawsuits Article.....	<b>3055</b>
Plaintiffs’ Exhibit 18 Outright Lies/Redfield Articles.....	<b>3058</b>
Plaintiffs’ Exhibit 19 GERS Op Ed March 2004.....	<b>3067</b>
Plaintiffs’ Exhibit 20 Auto Registration Op Ed April 2006.....	<b>3068</b>
Plaintiffs’ Exhibit 21 Cockfighting Op Ed March 2004.....	<b>3070</b>
Plaintiffs’ Exhibit 22 Redfield Employee File.....	<b>3071</b>
Plaintiffs’ Exhibit 23 Donastorg’s Interrogatory Responses.....	<b>3080</b>
Plaintiffs’ Exhibit 24 Joint Insurance Policy.....	<b>3106</b>
Daily News and J. Lowe Davis’ Reply to Opposition to Motion for Summary Judgment.....	<b>3116</b>
Daily News and J. Lowe Davis’ Supplemental Motion for Summary Judgment.....	<b>3159</b>
Plaintiffs’ Response to Daily News and J. Lowe Davis’ Supplemental Motion for Summary Judgment.....	<b>3178</b>

Daily News and J. Lowe Davis’ Reply to Opposition to Supplemental Motion for Summary Judgment.....**3197**

Daily News and J. Lowe Davis’ Motion for Voluntary Dismissal of Counterclaim with Prejudice.....**3210**

Notice of No Objection to Motion for Voluntary Dismissal of Counterclaim....**3214**

Corrected Motion for Voluntary Dismissal of Counterclaim.....**3216**

Order Dismissing Daily News and J. Lowe Davis’ Counterclaim.....**3230**

**VOLUME IX (SEALED)**

*Sealed Exhibits to Plaintiffs’ Amended Response to Daily News and Lowe Davis’ Alleged Statement of Material Facts*.....**3233**

    Plaintiffs’ Exhibit 1 Madan Report (Separate Sealed Volume).....**3233**

    Plaintiffs’ Exhibit 2 Faulkner Report(Separate Sealed Volume).....**3307**

    Plaintiffs’ Exhibit 3 Donastorg Report(Separate Sealed Volume).....**3356**

    Plaintiffs’ Exhibit 4 Donastorg Report Confidential Data (Separate Sealed Volume).....**3436**

    Plaintiffs’ Exhibit 5 Letter from Kevin Rames, Esq. dated April 22, 2003 (Separate Sealed Volume).....**3489**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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, )

vs. )

Case No. 117/2002

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

Defendant. )

THE ORAL DEPOSITION OF MICHAEL CUMBERMACK

was taken as a 30(b)(6) witness on behalf of VITELCO on the  
16th day of September, 2010, at the Law Offices of Rohn &  
Carpenter, 1101 King Street, Christiansted, St. Croix, U.S.  
Virgin Islands, between the hours of 9:23 a.m. and 2:35 p.m.  
pursuant to Notice and Federal Rules of Civil Procedure.

Reported by:

Cheryl L. Haase  
Registered Professional Reporter  
Caribbean Scribes, Inc.  
2132 Company Street, Suite 3  
Christiansted, St. Croix U.S.V.I.  
(340) 773-8161

## APPEARANCES

## A-P-P-E-A-R-A-N-C-E-S

**For the Plaintiff:**

Law Offices of  
Rohn & Carpenter  
1101 King Street  
Suite 2  
Christiansted, St. Croix  
U.S. Virgin Islands 00820

By: Lee J. Rohn

**For Defendant Daily News Publishing Co. and Lowe Davis:**

Law Offices of  
Kevin A. Rames  
2111 Company Street  
Suite 3  
Christiansted, St. Croix  
U.S. Virgin Islands 00820

By: Kevin A. Rames

**For Defendant Vitelco:**

Law Offices of  
Groner & Eckard, P.C.  
53 King Street, 3rd Floor  
Christiansted, St. Croix  
U.S. Virgin Islands 00820-4998

By: Mark W. Eckard

## INDEX

1			
2		<b>E-X-A-M-I-N-A-T-I-O-N</b>	
3	<b>Description</b>	<b>Counsel</b>	<b>Page</b>
4	Direct	by Ms. Rohn	5
5	Cross	by Mr. Eckard	116
6	Cross	by Ms. Rohn	117
7		<b>E-X-H-I-B-I-T-S</b>	
8	<b>Exhibit</b>	<b>Description</b>	<b>Page</b>
9	1	Investigation Files	88
10	2	St. Croix Avis Newspaper article, "PSC puts Vitelco's rate cut on hold"	91
11			
12	3	Virgin Islands Business Journal article, "Vitelco fights latest assessment, asks for audit of the PSC"	96
13			
14	4	Daily News article, Phone customers to get \$14 credit in PSC-VITELCO settlement	96
15			
16	8	St. Croix Avis article, "Vitelco wants PSC audit"	99
17			
18	12	Daily News article, "PSC: Rate-cut orders not on Vitelco settlement list"	101
19			
20	26	Daily News article, Abramson deposition delayed; Vitelco, PSC disagree over fees	103
21			
22	28	Daily News article, "Vitelco, PSC to iron out wrinkles in settlement"	105
23			
24			
25			

## INDEX

1	31	St. Croix Avis article, "Vitelco officer faces criminal charges"	106
2			
3	33	Letter dated April 3, 1997 to Mr. Ed Crouch, Re: Faulkner and Gilmore, from Lisa Wallace, Investigator, with attachments	107
4			
5			
6	34	Letter dated May 20, 1998 to Mr. Oakland Benta from Julie Erikson Re: Senator Adlah A. Donastorg, Jr.	109
7			
8			
9	36	Letter dated April 16, 1998 to Mr. Oakland Benta from Julie Erikson Re: Senator Adlah "Foncie" Donastorg, with attachments	110
10			
11			
12	70	Daily News article, "Sen. Donastorg demands data on Vitelco's IDC compliance"	111
13			
14	71	Daily News article, "Donastorg asks court to make Vitelco open employee records"	112
15			
16	80	Handwritten note	113
17	85	Transcript between Sam and Redfield	114
18			
19	200	Virgin Islands Telephone Corporation Total Access Lines	87
20			
21			
22			
23			
24			
25			



MICHAEL CUMBERMACK -- DIRECT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MICHAEL CUMBERMACK,

Called as a witness, having been first duly sworn,

Testified on his oath as follows:

DIRECT EXAMINATION

BY MS. ROHN:

Q. Good morning.

A. Morning.

Q. Would you state your name for the record, please?

A. Michael Cumbermack.

MS. ROHN: Do you need the spelling, or did you get the spelling?

THE REPORTER: Got it.

Q. (Ms. Rohn) Mr. Cumbermack, where do you live?

A. I live at Enfield Green, St. Croix.

Q. Enfield Green?

A. Enfield Green, St. Croix.

Q. How long have you lived there?

A. About six years.

Q. Where did you live before that?

A. Point Pleasant.

Q. In St. Thomas?

A. No.

Q. Point Pleasant here?

A. Yeah.

Q. And where in Point Pleasant?

MICHAEL CUMBERMACK -- DIRECT

1 A. In the west.

2 Q. How long did you live there?

3 A. About a year.

4 Q. Where did you live before that?

5 A. In Judith's Fancy.

6 Q. And the place that you presently live, do you live  
7 there with anyone?

8 A. Yes. I'm married. My wife.

9 Q. Are you employed?

10 A. Yes.

11 Q. Where are you employed?

12 A. At Vitelco.

13 Q. And what is your present position at Vitelco?

14 A. CFO.

15 Q. What are your job duties in that regard?

16 A. I oversee the accounting department for Vitelco,  
17 and seven or eight other ICC operating companies.

18 Q. And what are those?

19 A. The two cable companies, St. Thomas and St. Croix;  
20 B.V.I. Cable.

21 Q. You what did you say, UVI?

22 A. B.V.I. B.V.I. Cable, uh-huh.

23 Long distance, Innovative Long Distance;

24 Innovative Powernet; Innovative Wireless; TV 2.

25 Q. So Innovative Long Distance, Innovative Internet?

Cheryl L. Haase

JAC002789-8161

## MICHAEL CUMBERMACK -- DIRECT

1 A. Yes.

2 Q. And what was the last one?

3 A. TV 2.

4 Q. TV 2.

5 And who do you report to?

6 A. I report to Byron Smyl and Aian Slimmon.

7 Q. Wait. Wait? I-A --

8 A. A-I-A-N, Slimmon is the last name, S-L-I-M-M-O-N.

9 Q. Slimmon, S-L-I-M --

10 A. -- M-O-N.

11 And Clark Garnett.

12 Q. Clark Garnett?

13 A. Yeah, G-A-R-N-E-T-T.

14 Q. Who do they work for?

15 A. Mr. Byron Smyl and Aian Simmon works for Alvarez &  
16 Marsal, who are the present trustees. Mr. Clark Garnett  
17 works for Vitelco.

18 Q. What's his position with Vitelco?

19 A. He's the CEO of Vitelco.

20 Q. So you report to two representatives of the  
21 trustee, and the CEO?

22 A. And it's just -- uh-huh.

23 Q. What did you say? I'm sorry.

24 A. I was going to say, it's just dotted lines to  
25 them. They all give me instructions, basically.

## MICHAEL CUMBERMACK -- DIRECT

1 Q. And how long have you held the position of CFO of  
2 Vitelco?

3 A. Since about '98, I guess, around 1998.

4 Q. And how long have Byron Smyl, et al., been your  
5 supervisor?

6 A. The end of -- around September of 2007.

7 Q. Who do you understand now owns Vitelco?

8 A. Vitelco is owned by ICC, who is presently in  
9 bankruptcy. And Alvarez & Marsal have been retained by the  
10 bankruptcy court to run all the operating companies.

11 Q. Is there -- has there been a sale of Vitelco  
12 through exchange of debt to one of the debtors?

13 A. There's a pending sale. Sale has not been  
14 consumed (sic).

15 Q. Who is that pending sale to?

16 A. RTFC/CFC, which is the parent company.

17 Q. RTFC slash --

18 A. CFC is the parent company of RTFC.

19 Q. Have you had any communication with persons from  
20 RTFC/CFC?

21 A. No.

22 Q. They've never come to you and asked you for the  
23 financial status or any information in that regard?

24 A. Well, we do provide that to them, but they never  
25 ask me directly. It's done through Mr. Smyl and

## MICHAEL CUMBERMACK -- DIRECT

1 Mr. Slimmon.

2 Q. Now, prior to 2007, who was your -- who did you  
3 report to?

4 A. Dave Sharp.

5 Q. How long did you report to Dave Sharp?

6 A. I don't remember the exact year, but -- I don't  
7 remember the exact year. It could have been six, eight  
8 years. I don't remember the exact year.

9 Q. And before that, who did you report to?

10 A. Sam Ebbesen. Yeah, he was --

11 Q. How long did you report to Sam Ebbesen?

12 A. Ooh, about couple years, maybe.

13 Q. And before that, who did you report to?

14 A. It was Dave Sharp again.

15 Q. And before that, who did you report to?

16 A. I think before him, Mr. Prosser and Mr. Prior had  
17 just bought the company, and they -- they ran the company,  
18 so we would have been reporting to them.

19 Q. Would you like a glass of water or something?

20 A. No, no. Just have a sore throat that is coming  
21 on, so it's -- I'm okay.

22 Q. Now, who reports to you?

23 A. Well, several people. About thirty of them.

24 Q. And what types of people report to you?

25 A. People in the accounting department.

MICHAEL CUMBERMACK -- DIRECT

1 Q. Uh-huh.

2 A. All accountant.

3 Q. Has the number of persons who report to you  
4 remained pretty much the same?

5 A. Yes.

6 Q. Okay. And have you -- the accounting -- has the  
7 accounting department always reported to you?

8 A. Well, I wouldn't say always, but to some extent,  
9 because I was not always the CFO. So they were -- at  
10 different levels of my tenure with the company, I had  
11 different, maybe three people, maybe four, depending on my  
12 position. But it was always in accounting, yes.

13 Q. When did you start working for -- were you working  
14 for Vitelco when Prior and Prosser took it over?

15 A. Yes.

16 Q. How long had you been working for Vitelco at that  
17 point?

18 A. Probably about ten years.

19 Q. And who owned the company when you first started  
20 working for it?

21 A. ITT.

22 Q. When you started working for Vitelco, what was  
23 your position?

24 A. Staff accountant.

25 Q. And how long did you hold the position of staff

## MICHAEL CUMBERMACK -- DIRECT

1 accountant?

2 A. I have no idea, as far as the number of years.

3 Q. When Prior and Prosser took over, were you still  
4 staff accountant?

5 A. No. No.

6 Q. At the time Prior and Prosser took over, what was  
7 your position at Vitelco?

8 A. Assistant comptroller.

9 Q. And what were your job duties as assistant  
10 comptroller?

11 A. In charge of the accounting section, responsible  
12 for all the accounting functions, day-to-day operations, and  
13 the financial reporting.

14 Q. All right. Now, after Prior and Prosser took  
15 over, did your position stay the same?

16 A. No.

17 Q. Okay. How long after they took over did your  
18 position change?

19 A. Maybe four or five years.

20 Q. Okay. And what was the change?

21 A. To CFO.

22 Q. And have you been CFO ever since?

23 A. Yes.

24 Q. Is there a difference in your job responsibilities  
25 between assistant comptroller and CFO?

MICHAEL CUMBERMACK -- DIRECT

1           A.    Yes, to the extent that there was more involvement  
2 in making decisions and giving more directions.

3           Q.    When Prosser and Prior took over, did they make  
4 any changes in the way the accounting was done at Vitelco?

5           A.    No.

6           Q.    At any time since they took over, have there been  
7 changes as to how the accounting is done at Vitelco?

8           A.    No.

9           Q.    Well --

10          A.    Well, let me take that back. Around 1999, they  
11 instituted consolidation of different functions throughout  
12 the company.

13          Q.    And what do you mean by that?

14          A.    Well, we first implemented a billing system, so  
15 that we would have one billing system that would produce  
16 several bills for the different companies, and also with the  
17 ability, if needed, to provide one bill to a customer for  
18 the various services.

19                   The people out in the field were trained to  
20 do more than one job. They were trained to, if they roll  
21 one truck and will go out to your home, they can either fix  
22 your telephone or your cable thing. Same thing applies to  
23 the people in the cashiers. They can collect money for all  
24 the companies. The service representatives, if you have a  
25 problem with your phone, you can go in and they were trained



MICHAEL CUMBERMACK -- DIRECT

1 to be knowledgeable about the different services that ICC  
2 provided.

3 Q. Well, the billing system, the one billing system,  
4 was that being done through Vitelco?

5 A. Yes.

6 Q. So one of the changes was that Vitelco became, am  
7 I correct, became the company that performed the billing  
8 system for all of the other subsidiaries?

9 A. Not all. Most of them, yes.

10 Q. Which ones did it not include?

11 A. Powernet, V.I. Powernet.

12 Q. Uh-huh.

13 A. That's all.

14 Q. Okay. Now, did you ever work for a company called  
15 Atlantic Tele-Network, Inc.?

16 A. Yes.

17 Q. Okay.

18 A. Well, I take that back. Sorry.

19 Well, I have to say yes. Yes.

20 Q. Well, let me ask you this: Did you work for  
21 Vitelco, but do work for Atlantic Tele-Network, Inc., or did  
22 you actually work for Atlantic Tele-Network Inc.?

23 A. Well, when Mr. Prosser and Mr. Prior purchased the  
24 company, the company they formed to own the company is  
25 Atlantic Tele-Network, Inc.

MICHAEL CUMBERMACK -- DIRECT

1 I also worked, but I did work directly, for  
2 Atlantic Tele-Network Co.

3 Q. Can you explain to me the relationship between the  
4 Atlantic Tele-Network, Inc. and Atlantic Tele-Network Co.?

5 A. It was just two separate corporations. As far as  
6 I know, if I could recall correctly, Co. was the V.I.  
7 corporation, and Atlantic Tele-Network, Inc. was the  
8 Delaware corporation.

9 Q. Did Atlantic Tele-Network, Inc. own Atlantic  
10 Tele-Network Co.?

11 A. Probably, yes.

12 Q. And then Atlantic Tele-Network Co. --

13 A. Owned all the other operations.

14 Q. So they were both holding companies?

15 A. Yes.

16 Q. During that period of time that you did work  
17 Atlantic Tele-Network Co., were you still on the Vitelco  
18 payroll?

19 A. No.

20 Q. You got your check from Atlantic Tele-Network Co.?

21 A. Yes.

22 Q. And how many other people do you -- well, let me  
23 rephrase that question.

24 Were there other people who also still were  
25 in the Vitelco office, but began to get paychecks from

MICHAEL CUMBERMACK -- DIRECT

1 Atlantic Tele-Network Co.?

2 A. Not unless they were transferred over to Atlantic  
3 Tele-Network Co.

4 Q. And do you know any that were?

5 A. No.

6 Q. Did you remain in your same office, although you  
7 worked for Atlantic Tele-Network Co.?

8 A. No. When I got a position to work for Atlantic  
9 Tele-Network Co., I was relocated to St. Croix.

10 Q. Now, did Atlantic Tele-Network Co., is that the  
11 company that then began to do all the billing for the other  
12 companies?

13 A. No, it was Vitelco.

14 Q. It was Vitelco?

15 A. Yes.

16 Q. And you continued to do that, work on that?

17 A. No, I didn't work on it.

18 Q. Did you help set up that system?

19 A. No, I did not.

20 Q. So what were you doing for Atlantic Tele-Network  
21 Co.?

22 A. I was the CFO.

23 Q. But what types of accounting work were you doing?

24 A. All general type of accounting.

25 Q. I understand. Who did you do accounting for?

MICHAEL CUMBERMACK -- DIRECT

1 What was your accounting function, specifically, at that  
2 time?

3 A. Well, Atlantic Tele-Network Co., being the parent  
4 companies of the other operating companies, they will then  
5 send their financial statements that had to be consolidated  
6 at the Atlantic Tele-Network Co. level.

7 Q. Did you oversee the accounting function of  
8 Vitelco?

9 A. To a certain extent.

10 Q. Did you oversee the accounting functions of any  
11 other companies while you were at Atlantic Tele-Network Co.?

12 A. Yes.

13 Q. And what other companies? Or would it be easier  
14 to tell me what companies you didn't oversee?

15 A. No. Whatever we had owned at that point, it was  
16 all the companies.

17 Q. So there has been some testimony in this case that  
18 there became a process where the profits of the various  
19 companies would be swept into the parent company.

20 Are you aware of that?

21 A. No.

22 Q. You never knew of monies from the various  
23 subsidiaries being transferred to --

24 A. Okay. Monies, yes. I'm aware of monies being  
25 transferred; not profits, as you referred to.

MICHAEL CUMBERMACK -- DIRECT

1 Q. Sorry. My bad.

2 A. Yeah.

3 Q. All right. So monies were transferred from the  
4 subsidiaries to the parent company?

5 A. Yes.

6 Q. And when did that begin?

7 A. Not long after Mr. Prosser bought the company. I  
8 don't remember the exact year. But once he instituted that  
9 all the companies were daily with what we call -- he created  
10 a central cash management, where all the collections on a  
11 daily basis would be swept to ICC, and whatever needs are  
12 required by the operating companies will be sent back down  
13 to them.

14 Q. And how did you know that that was going to start  
15 being the policy at -- was that while it was Atlantic  
16 Tele-Network?

17 Was that while it was at Atlantic  
18 Tele-Network?

19 A. Yes.

20 Q. Okay. So when, how did you learn that Atlantic  
21 Tele-Network was -- let me ask you this. Was it swept in,  
22 or, excuse me, was it placed in Atlantic Tele-Network Co, or  
23 Atlantic Tele-Network, Inc.?

24 A. Atlantic Tele-Network Co.

25 Q. And after it got to Atlantic Tele-Network Co., did

MICHAEL CUMBERMACK -- DIRECT

1 any of the money go to Inc.?

2 A. As far as I remember, when Mr. Prior and  
3 Mr. Prosser parted their ways, Mr. Prior went with the  
4 company's name of Atlantic Tele-Network, Inc. Exactly what  
5 the other one was, I don't recall.

6 Q. Is that when ICC was formed?

7 A. I think we had, after they parted ways, Atlantic  
8 Tele-Network Co. remained with Mr. Prosser. Inc. went with  
9 Mr. Prior. Mr. Prosser then formed a company called EmCom,  
10 and then later on he changed the name of Atlantic  
11 Tele-Network Co. to ICC.

12 Q. And what was the relationship between EmCom and --  
13 Atlantic Tele-Network -- wish he had picked an easier  
14 name -- Atlantic Tele-Network Co.?

15 What was the relationship between those two  
16 companies?

17 A. EmCom had owned some percentage of all the  
18 companies. I don't remember if it's 40 percent. I don't  
19 recall exactly how much it was.

20 Q. And who owned EmCom?

21 A. ICC, LLC.

22 Q. And who owned ICC, LLC?

23 A. Mr. Prosser.

24 Q. Okay. Let's go back to this, where the monies are  
25 put into a central cash management, I think you called it.

MICHAEL CUMBERMACK -- DIRECT

1 A. Uh-huh.

2 Q. How, mechanically, did that work?

3 MR. ECKARD: Object to form.

4 Q. (Ms. Rohn) I mean, how did the funds get from,  
5 for instance, a Vitelco account into the central cash  
6 management account?

7 A. We would write checks from one, if we had money in  
8 one bank account and would be deposit from one bank account,  
9 we would write checks, clear that, send it over to ICC.

10 Q. Or, at that time, Atlantic Tele-Network?

11 A. I'm sorry.

12 Q. Talking at the beginning.

13 A. ICC, formerly known as Atlantic Tele-Network.

14 Q. All right.

15 A. During that period of time, all the companies had  
16 accounts with VICB, and including ICC. Monies were  
17 deposited into the various companies' accounts, and then  
18 swept via -- the bank had instructions, I guess, to sweep  
19 into ICC's account.

20 Q. Okay. How was -- or let me rephrase the question.

21 Was their an accounting function to determine  
22 how much of each company's money was in the central cash  
23 management account?

24 A. Yes.

25 Q. And how was that done?

MICHAEL CUMBERMACK -- DIRECT

1           A.    Well, each company has a variety of accounts  
2           called -- we refer to as inter-company accounts.  And as  
3           transactions occur between companies, it is recorded on the  
4           balance sheet as a due-to or due-from each company.  Monies  
5           was put into ICC account, it would be a due-from ICC.

6           Q.    And if a company needed to pay for an expenditure,  
7           how would that occur?

8           A.    The same exact way.  If the company -- if one  
9           company paid an expense, say, for another company, it would  
10          be recorded under the intercompany account as a due-from  
11          that company.

12          Q.    That was my next question.  Once the monies were  
13          swept into account, were their occasions when the cash  
14          management account would pay expenses, and then dock, put  
15          them on -- note them on the books as having been paid for  
16          another company?

17          A.    Yeah, that's the whole crux of the intercompany  
18          system that was set up on everybody's books.

19          Q.    Okay.  So then the expenditures, am I correct,  
20          expenditures would be paid for by at Atlantic Tele-Network,  
21          or ICC, as it became; but then, in a bookkeeping function,  
22          docketed as having been paid on behalf of that company?

23          A.    That's correct.

24          Q.    And do you know where those books are now?

25          A.    What books?



MICHAEL CUMBERMACK -- DIRECT

1 Q. The books and records back from 1998, 1999,  
2 showing what bills, for instance, Atlantic Tele-Network,  
3 Inc. paid, or Atlantic Tele-Network Co. paid for Vitelco?

4 A. I don't have a clue for that long period of time.

5 Q. Okay. Were there also occasions where Atlantic  
6 Tele-Network would borrow money from Vitelco?

7 A. No.

8 Q. And that -- well, but there -- let me rephrase the  
9 question.

10 So the Vitelco monies --

11 A. Uh-huh.

12 Q. -- would actually be in the control of Atlantic  
13 Tele-Network, is that correct?

14 A. That is correct. All the companies.

15 Q. And was Atlantic Tele-Network, then, allowed to  
16 spend those monies?

17 A. Well, once it became in their possession, it's up  
18 to them to -- Vitelco had absolutely nothing to do with  
19 that.

20 Q. So once the Vitelco funds went to Atlantic  
21 Tele-Network, Atlantic Tele-Network could spend those funds  
22 as it desired?

23 A. Yep.

24 Q. In addition to paying whatever bills it needed to  
25 pay for Vitelco, is that correct?

## MICHAEL CUMBERMACK -- DIRECT

1           A.    Whatever they have to, they have made a decision  
2   on to pay, they would pay.

3           Q.    Okay.  So I'm back to do you know where those  
4   books are?

5           A.    1998, 1999.  We have books, current books now, but  
6   I don't know how far back, because we -- we usually dump a  
7   lot of stuff.  I mean, we just don't have the storage to  
8   maintain so many years of records.

9           Q.    Are they -- have they been scanned, and are they  
10  in a computer somewhere?

11          A.    We may have.  I'm not sure how far back the system  
12  goes.  We may have -- not scanned, but we may have records  
13  of specific transactions.  We may have that.  I don't know  
14  how far back it goes, because the system -- I'm trying to  
15  remember what year we implemented the system we have today.

16                    Don't know what year.

17          Q.    The bank records of checks, canceled checks, how  
18  were they maintained?

19          A.    Canceled checks are filed away and kept.

20          Q.    And how far back are those retained?

21          A.    The benchmark for retaining records is about seven  
22  years.

23          Q.    Can you tell me your educational background?

24          A.    I'm from Trinidad, and I was educated in Trinidad.  
25  I left there and came to the United States in maybe '69,

MICHAEL CUMBERMACK -- DIRECT

1 '70. I don't remember exactly when. Came to the Virgin  
2 Islands. Took some classes down at UVI. Went to Canada,  
3 did some classes in Canada. But all my accounting was done  
4 in Trinidad.

5 Q. So do you have any degrees?

6 A. Trinidad do not issue degrees.

7 Q. So you have no degrees?

8 A. No.

9 Q. Do you have any certificates?

10 A. Yep, they did do certificates.

11 Q. And what type of certificates do you have?

12 A. Those would be just certificates related to  
13 accounting and doing an exam and passing them. They issue  
14 them.

15 Q. And how long have you been doing accounting?

16 A. Forty years.

17 Q. Now, during the time it was Atlantic Tele-Network,  
18 how often did you have interaction with Jeffrey Prosser?

19 MR. ECKARD: Object to form.

20 Q. (Ms. Rohn) You can answer.

21 A. I don't remember the number of times.

22 Q. Was it frequent, infrequent?

23 A. When I did move to St. Croix and worked in the  
24 office over here, if he were at work, most of the time I was  
25 in the office, I would see him.

MICHAEL CUMBERMACK -- DIRECT

1 Q. Was he hands-on, as far as the accounting  
2 department?

3 A. When I was there, not really. He is an accountant  
4 and he has knowledge of what should be done, what should not  
5 be done. But the hands-on guy for accounting was Jim  
6 Heying.

7 Q. Now, how long did you work for Atlantic  
8 Tele-Network?

9 A. It was about a year.

10 Q. And then what company did you work for?

11 A. Went back to Vitelco.

12 Q. You went back to Vitelco.

13 Were you doing the same job when you went  
14 back to Vitelco, or a different job?

15 A. No. Before I came to Atlantic Tele-Network, I was  
16 just CFO of Vitelco only. When I went back to Vitelco, as I  
17 say, back to Vitelco, it incorporated all the other  
18 companies in the Virgin Islands.

19 Q. So you were doing the same job function, except  
20 you were a Vitelco employee?

21 A. Right. Same -- well, not the same job, because it  
22 didn't incorporate all the companies. Just the companies in  
23 the Virgin Islands.

24 Q. So when you went back to Vitelco, you did the same  
25 job function, but only for the V.I. companies instead of

MICHAEL CUMBERMACK -- DIRECT

1 also the foreign companies?

2 A. Right.

3 Q. And have you worked for Vitelco ever since, or  
4 were you ever --

5 A. Yes.

6 Q. -- transferred to another company?

7 A. No.

8 Q. And have you -- strike that.

9 And who started doing your job function for  
10 the foreign companies?

11 A. They, at that time, the offices were relocated to  
12 West Palm Beach. They hired new people up at West Palm  
13 Beach.

14 Q. That did the foreign companies?

15 A. That did everything. They were overseeing all the  
16 companies.

17 Q. So they oversaw your work --

18 A. Yes.

19 Q. -- and did the foreign companies themselves?

20 A. That's correct.

21 Q. And ever since Atlantic Tele-Network, when they've  
22 had a central cash management, has that central cash  
23 management occurred continuously since then?

24 A. Yes.

25 Q. When it went to West Palm Beach, who did you

MICHAEL CUMBERMACK -- DIRECT

1 report to in West Palm Beach?

2 MR. ECKARD: Object to form.

3 Q. (Ms. Rohn) From West Palm Beach, sorry.

4 A. Whoever, it was just a dotted line to West Palm  
5 Beach. My direct supervision came from Mr. Sharp, who was  
6 the -- or Mr. Ebbesen, at whichever point it was, whoever  
7 was the CEO of Vitelco.

8 Q. So would it be correct that Mr. Sharp and  
9 Mr. Ebbesen were also overseeing the U.S. companies as the  
10 president or CEO of Vitelco?

11 A. No. No.

12 Q. No. So as to the work that you were doing on the  
13 other companies, who did you report to?

14 A. I really didn't report to anybody as far as --  
15 sending the financial statements, they all went -- ended up  
16 at West Palm.

17 Q. Now, the budgeting function for the various  
18 companies, --

19 A. Uh-huh.

20 Q. -- who was responsible for that?

21 A. I was.

22 Q. So you did the -- you generated the budget for all  
23 U.S. companies?

24 A. Not me personally, but I had people below me who  
25 would do that, generate the budgets for each company.

MICHAEL CUMBERMACK -- DIRECT

1 Q. And then you were responsible for overseeing the  
2 final product?

3 A. The final product would be reviewed by me, then it  
4 had to be reviewed by the various managers of the different  
5 companies, and then it would go before the board for  
6 approval.

7 Q. And that would be either Atlantic Tele-Network or  
8 ICC?

9 A. That's correct.

10 Q. Or I guess, for a short period of time, EmCom?

11 A. I think it was always ATN Atlantic Tele-Network  
12 Co. even when EmCom was there.

13 Q. If there was a need for a capital expenditure, how  
14 would that company obtain the funds to make that capital  
15 expenditure?

16 What would be the process they would have to  
17 go through?

18 MR. ECKARD: Object to form.

19 Q. (Ms. Rohn) Go ahead.

20 A. That would be part of the budgeting process. We  
21 had two budgets. We had an operating budget and a capital  
22 expenditures budget. I did not participate in the capital  
23 expenditures. The engineering section sort of spear-headed  
24 that. The process was the same, as far as the reviewing and  
25 approving by, finally, by the board of directors.

Cheryl L. Haase

JACO02870-8161

MICHAEL CUMBERMACK -- DIRECT

1 Q. What did you do to prepare for your deposition?

2 A. I met with Attorney Finch-Sheen, our in-house  
3 legal counsel, Mr. Attorney Kevin Rames, and Attorney  
4 Eckard.

5 Q. And when was that?

6 A. Last Friday.

7 Q. And how long did that meeting take place?

8 A. Hour-and-a-half to two hours.

9 I also met with Attorney Eckard this morning  
10 for about half an hour.

11 Q. Okay. Did you review any documents?

12 A. Yes.

13 Q. What documents did you review?

14 A. There was a document with a list of potential  
15 questions, maybe coming from your firm.

16 Q. Called a Notice of Deposition?

17 A. I wouldn't -- yeah, I don't know what it's called.

18 Also reviewed the actual documents that was  
19 filed in the court.

20 Q. Complaint?

21 A. Complaints, that's correct.

22 Q. Okay. What else? Anything else?

23 A. I saw a copy of a check. I don't remember who it  
24 was paid to, something to do with investigative services  
25 that was written by ICC, 1998, I think, which I was not

Cheryl L. Haase

JA002811-8161



MICHAEL CUMBERMACK -- DIRECT

1 aware of. First time I've seen that check.

2 I also saw copies of depositions.

3 Q. Whose depositions?

4 A. Liz Goggins, Holland Redfield. Who else? That's  
5 about it, I think.

6 Q. Did you read those depositions?

7 A. Yes.

8 Q. Do you know Liz Goggins?

9 A. Yes.

10 Q. And how do you know her?

11 A. How?

12 Q. Yes.

13 A. She used to work for the company.

14 Q. Did you get along with her?

15 A. Yes.

16 Q. Was there anything in her deposition that you  
17 reviewed that you disagreed with, or felt that was not  
18 accurate?

19 MR. ECKARD: Object to form.

20 A. Yes.

21 Q. (Ms. Rohn) Okay.

22 A. Trying to think of --

23 Q. What was that?

24 A. There were a few items in there where she made  
25 reference to my name which I would have knowledge of, which

MICHAEL CUMBERMACK -- DIRECT

1 I didn't.

2 Q. Okay. Anything else?

3 MR. ECKARD: I object to him being asked  
4 to --

5 MS. ROHN: I note your objection.

6 MR. ECKARD: -- speak for a deposition he  
7 doesn't have in front of him.

8 Q. (Ms. Rohn) Anything else?

9 A. I don't recall.

10 Q. Anything about Mr. Redfield's deposition that  
11 stood out to you that you disagreed with?

12 MR. ECKARD: Object to form.

13 A. I may not have disagreed, but I had no knowledge  
14 of some of the stuff he was saying, so --

15 Q. (Ms. Rohn) Anything else you reviewed before  
16 coming here as a 30(b)(6) witness?

17 A. Oh, I checked into some dates when -- from  
18 Mr. Redfield's deposition relative to his working at  
19 Vitelco, and if he did, when he did, when he moved, when he  
20 came there or whatever.

21 Q. And what did you do to check on those dates?

22 A. What?

23 Q. What did you do to check on those dates?

24 A. Oh, I went to our human resources department.

25 Q. And who did you speak with?

MICHAEL CUMBERMACK -- DIRECT

1 A. Caley Richardson.

2 Q. And what's her position, or his position?

3 A. She is maybe senior analyst at HR. I'm not sure  
4 of that.

5 Q. And which company does she work for?

6 A. She works for -- she's on Vitelco's payroll, but  
7 they handle HR responsibilities for all the companies.

8 Q. Is there some mechanism that her salary is paid  
9 back by other companies?

10 A. Yes.

11 Q. And how does that work?

12 A. What we have is a FCC procedure called Part 64.

13 Q. Part 64?

14 A. And that's what we use to reallocate or move out  
15 of Vitelco to the various companies those charges, based on  
16 the functions of the work that they did.

17 Q. And how is it kept track of as to how much work  
18 they do for the various companies?

19 A. There's, as I said, there's a procedure that is in  
20 place. It is not kept on a minute-by-minute. It's a study  
21 that was done sometime in the past to determine the  
22 activity, and a percentage has been developed, and that's  
23 based on the expenses incurred. And the company, they apply  
24 that percentage to move that amount of money out of Vitelco  
25 over to the other companies.

Cheryl L. Haase

JACO2874-8161

MICHAEL CUMBERMACK -- DIRECT

1 Q. Well, in that -- in the case of somebody who works  
2 for another company, wouldn't the money go from that company  
3 into Vitelco?

4 MR. ECKARD: Object to form.

5 A. What are we talking about now? Just talking about  
6 HR?

7 Q. (Ms. Rohn) Right.

8 A. You just mentioned money. I'm not sure what --

9 Q. Oh, sorry. All right. Let me just see if I  
10 understand this. Ms. Richardson is paid by Vitelco, is that  
11 correct?

12 A. Yes.

13 Q. But she does work for other companies?

14 A. Yes.

15 Q. Okay. Is there some function where those  
16 companies reimburse Vitelco for the work she does for them?

17 A. The companies, it's recorded on their books.  
18 There has been -- there is not a process in place to do  
19 settlements, so there has been an accumulation of due-to and  
20 due-from in all the companies.

21 Q. Ah, so you keep a record of what's owed, but the  
22 money's not actually transferred, is that correct?

23 A. That's correct. Some of it is settled; some of  
24 comes back, through need. Some comes back to the companies  
25 through need.

MICHAEL CUMBERMACK -- DIRECT

1 Q. But when that money goes back to the company  
2 through need --

3 A. Yeah. It's then, it is then reducing the accounts  
4 receivables that that company has from the other company.

5 Q. Okay. Is this a bookkeeping nightmare?

6 A. Well, sometimes.

7 Q. Okay. Why is the bookkeeping done this way?

8 A. Why?

9 Q. Uh-huh.

10 A. That's pretty normal. There's absolutely nothing  
11 wrong with that.

12 Q. Well, when Vitelco goes to the PSC as to its  
13 expenses, does it reduce its expenses by the amount of money  
14 owed to it by other companies?

15 MR. ECKARD: Object to form.

16 A. Well, monies on behalf of another company never  
17 gets recorded as an expense on Vitelco's books.

18 Q. (Ms. Rohn) Even though it's owed to the other  
19 companies?

20 A. That's correct. There's a difference between  
21 expenses that is in the profit and lost statement, versus  
22 your balance sheet. Those transactions are maintained on  
23 your balance sheet.

24 Q. So when the Vitelco goes to the PSC, as to the  
25 documents that are given to the PSC, they record that they

MICHAEL CUMBERMACK -- DIRECT

1 paid the entire salary of Ms. Richardson?

2 A. No. Well, what would be left for -- if you're  
3 speaking about Ms. Richardson herself, remember there is --

4 Q. I'm using her as an example.

5 A. Yeah. Well, there are various types of  
6 transactions. Some transactions are recorded as an expense,  
7 and then part of it is allocated back out to the company,  
8 because of the example you just gave. Because  
9 Ms. Richardson is being paid by Vitelco, that is an expense  
10 that hits Vitelco's books. But then at the end of the  
11 month, when we are closing the books, Part 64 is done, and  
12 what is carved out of here, whatever number has been  
13 developed, is carved out and charged back to the other  
14 company. And then at the end of the day, the net amount  
15 remains on Vitelco's books, and that is the financial  
16 statement that the PSC would see.

17 Q. Now, this allocation of Part 64, --

18 A. Uh-huh.

19 Q. -- did it only apply to Vitelco, or did it also  
20 apply to persons who were working for ICC, but who may be  
21 doing -- performing work for various subsidiaries?

22 MR. ECKARD: Object to form.

23 MS. ROHN: Huh? I'm sorry.

24 MR. ECKARD: You can answer.

25 A. Vitelco only.

MICHAEL CUMBERMACK -- DIRECT

1 Q. (Ms. Rohn) Vitelco only.

2 So, for instance, if Holland Redfield was the  
3 PR person, --

4 A. Uh-huh.

5 Q. -- and he did PR for the various companies, would  
6 there be any mechanism to charge those companies for his  
7 work?

8 A. Yes.

9 Q. And what's that mechanism?

10 A. It's called, referred to as management fees or  
11 advisory fees, which all the companies has to pay to ICC for  
12 services they provide.

13 MR. ECKARD: Off the record for just one  
14 second.

15 (Discussion held off the record.)

16 Q. (Ms. Rohn) So is this a set percentage? How is  
17 this management fee calculated?

18 A. It's a set percentage.

19 Q. And what types of services does this management  
20 fee pay for?

21 A. All the services that ICC provides. It could be  
22 accounting, engineering, marketing, legal, HR.

23 Q. Public relations?

24 A. Public relations.

25 Q. Do you know what the percentage is?

MICHAEL CUMBERMACK -- DIRECT

1           A.    Most of the time, it's 6 percent. I think a  
2 couple companies it's 15 percent.

3           Q.    Some companies it's 50 percent?

4           A.    Fifteen, one five.

5           Q.    Oh, 15 percent.

6                         And is that a percentage of the gross, or the  
7 net?

8           A.    That's the percentage of revenues, gross revenues.

9                         MS. ROHN: Now I'm going to go get you water.

10                         (Short recess taken.)

11           Q.    (Ms. Rohn) How long has this percentage for  
12 management fees occurred as -- was this instituted at the  
13 same time as the sweeping?

14           A.    No.

15           Q.    When was this instituted?

16           A.    This came over from when ITT owned the company.

17           Q.    So it's been since before Prosser and Prior  
18 purchased the company?

19           A.    That is correct.

20           Q.    And the Part 64, how long has that been in  
21 existence?

22           A.    That's an FCC regulation, and it's always been  
23 existing. Vitelco is a regulated company, and has to follow  
24 the rules of the FCC and the PSC.

25           Q.    The Federal Communication?



MICHAEL CUMBERMACK -- DIRECT

1 A. Yes.

2 Q. So then, would that be true that Part 64 has been  
3 in existence since Vitelco has been in existence?

4 A. That's correct. When the FCC changed their rules  
5 and regulations, I don't know exactly when they started, but  
6 as far as I can remember, it's been always there.

7 Q. Okay. Do you know Senator Donastorg?

8 A. Do I? I know of him. I don't really know him.

9 Q. Never met him?

10 A. Just, Hi, on the street, How you doing? That's  
11 it. Never had any conversation with him.

12 Q. Have you ever heard Jeffrey Prosser discuss  
13 Senator Donastorg?

14 A. No.

15 Q. Okay.

16 A. No.

17 Q. Were -- were you aware that there were daily  
18 luncheons?

19 A. Yes.

20 Q. Did you attend the daily luncheons?

21 A. When I was at ATN Co., Atlantic Tele-Network Co.  
22 yes.

23 Q. When you were where?

24 A. When I was at ATN Atlantic Tele-Network Co., if I  
25 was invited, yes.

## MICHAEL CUMBERMACK -- DIRECT

1 Q. And who would do the inviting?

2 A. Mr. Prosser or Eling, or somebody would say you  
3 can join us at lunch meetings.

4 Q. And where would those luncheons occur?

5 A. In the conference room.

6 Q. At -- in St. Croix?

7 A. Yes.

8 Q. And when you attended, who else was attending?

9 A. It would start off, would be maybe Mr. Prosser and  
10 Mr. Minnich, Bill Chow, --

11 Q. Bill Chow?

12 A. -- C-H-O-W; Laurie Williams, maybe.

13 Q. Laurie Williams?

14 A. Yes.

15 Q. Uh-huh.

16 A. There's another guy, I'm trying to remember his  
17 name. For some reason, I can't remember his name. There's  
18 another guy, trying to think, but I can't remember his name.  
19 But it started off as that. When they were done, if there  
20 was leftovers, the rest of the staff would join in and eat.

21 Q. What position did Bill Chow have?

22 A. He was the IT, vice-president of IT.

23 Q. What's IT? You mean tech, technology?

24 A. Yeah, internet technology. EDP, that's the old  
25 name.

## MICHAEL CUMBERMACK -- DIRECT

1 Q. Who did he work for?

2 A. He worked for ICC.

3 Q. Who was Laurie Williams?

4 A. ICC.

5 Q. What did she do?

6 A. He.

7 Q. Oh, sorry. What did he do?

8 A. He was an engineer also for ICC. An engineer for  
9 ICC.

10 Q. Ever see Holland Redfield at any of those  
11 meetings?

12 A. Did I see Holland Redfield? Hmm. I don't recall.  
13 I've seen him in the office, but I don't remember if he was  
14 in any of those meetings. He could have been. I don't  
15 recall.

16 Q. Ever see Elizabeth Goggins at any of them?

17 A. No, I can't recall her being there as far as being  
18 at the start of the luncheon. She may have joined after, I  
19 don't know. I don't recall.

20 Q. Now, when you had those luncheons, were they  
21 working luncheons, or were they social luncheons?

22 MR. ECKARD: Object to form.

23 A. My opinion, they were just social. Just come and  
24 eat. Maybe somebody would bring up something in the  
25 newspaper or something like that, but there was never

MICHAEL CUMBERMACK -- DIRECT

1 anything official.

2 Q. (Ms. Rohn) The sweeping and the Part 64 and the  
3 management fees, did that also apply to The Daily News?

4 MR. ECKARD: Object to form.

5 A. When the company did own The Daily News, yes.

6 Q. (Ms. Rohn) Were you aware of whether or not Lowe  
7 Davis's salary was actually paid by ICC?

8 A. I don't know.

9 Q. You don't know?

10 A. No.

11 Q. Okay. Would there be a document that would show  
12 what company actually paid her salary?

13 A. There should be some -- some document that would  
14 indicate who was paying, yeah.

15 Q. And what would that document be?

16 A. What would we would refer to it as?

17 Q. What?

18 A. ER-20, a PAN? I'm trying to think. Over the  
19 years, the names changed.

20 Q. I didn't understand either one of those.

21 A. Okay. One time we called it an ER-20.

22 Q. And then another time you called it a what?

23 A. PAN, P-A-N.

24 Q. PAN? Personnel, does that stand for?

25 A. Authorization, or something.

MICHAEL CUMBERMACK -- DIRECT

1 Q. Okay. And would that document, would you have  
2 access to that document?

3 A. Vitelco, we would not have that.

4 Q. Who would have access to that document?

5 MR. ECKARD: Object to form.

6 A. Well, I don't know, but there's -- because of the  
7 fact that HR did a lot of the companies, their function was  
8 supplied to some of the other companies, it's possible that  
9 they may have something.

10 Q. (Ms. Rohn) And that's the ICC HR, or the Vitelco  
11 HR?

12 A. Well, there's only one HR.

13 Q. Which company is it under?

14 A. Vitelco.

15 Q. Okay.

16 A. They sit with Vitelco.

17 THE REPORTER: Sorry, what?

18 THE WITNESS: They sit physically, or it's  
19 located at Vitelco.

20 Q. (Ms. Rohn) Now, Elizabeth Goggins testified that  
21 she got certain benefits, I think a vehicle, her rent paid,  
22 that sort of thing.

23 Did you see that in her deposition?

24 A. Yes.

25 Q. Who would that be charged against?

MICHAEL CUMBERMACK -- DIRECT

1 A. Certainly would not be Vitelco.

2 Q. So who would pay it that?

3 A. If ICC gave it to her, it would be ICC.

4 Q. During the time that you have worked for the  
5 companies, have you received similar benefits?

6 A. I get to use a company car, and I do get a housing  
7 allowance.

8 Q. And is that paid by Vitelco, or by ICC?

9 A. Vitelco.

10 Q. Is any of that charged back to anyone else?

11 A. It will get picked up through the allocation  
12 process.

13 Q. Picked up by whom?

14 A. The accounting people who performs that function.

15 Q. And when it's picked up, what happens to it when  
16 it's picked up?

17 A. It will get disbursed, or it will get charged via  
18 the intercompany accounts to all the other companies, or  
19 whoever the company is related to.

20 Q. Are you considered part of the management fee?

21 A. Me? No.

22 Q. So you, and your accounting function, is not  
23 included in the 6 or 15 percent that the other companies  
24 pay?

25 A. No.

MICHAEL CUMBERMACK -- DIRECT

1 Q. So the companies are also, then, additionally  
2 charged for your services?

3 A. Yes.

4 Q. And how is that charge done?

5 A. There is an allocation process, Part 64.

6 Q. But again, this is all charges on paper, is that  
7 right?

8 A. It's done on paper, yes.

9 Q. Are there other persons similar to you that are  
10 also charged back to the companies?

11 A. Very, very little. It all depends on their  
12 function or what they do. I mean, we do have, because of  
13 the consolidation process, we have a lot of people out in  
14 the field or in the commercial offices that gets charged  
15 back to the other companies.

16 Q. Now, when the sale is finalized, will this change?

17 A. That would be left up to the new owners. I don't  
18 know.

19 Q. Well, what is being sold to the new owners? Is it  
20 just Vitelco, or Vitelco plus additional companies?

21 A. All the V.I. companies.

22 Q. All the V.I. companies?

23 A. That's right.

24 Q. Okay. You said that you reviewed the documents  
25 related to Holland Redfield. What was the purpose of your

MICHAEL CUMBERMACK -- DIRECT

1 reviewing those documents?

2 MR. ECKARD: Object to form.

3 Q. (Ms. Rohn) Why did you look at those documents?

4 A. They were documents I received from the attorney.

5 Q. And what information did you glean from those  
6 documents?

7 A. Nothing, really. Just --

8 MR. ECKARD: Object to the term "documents."

9 Q. (Ms. Rohn) What did you say? Nothing really,  
10 because what?

11 A. Just for informational purposes.

12 Q. (Ms. Rohn) Did Mr. Redfield, at some point, work  
13 for Vitelco?

14 A. Yes.

15 Q. And what period of time was that?

16 I should say worked directly for Vitelco,  
17 right?

18 A. He was on Vitelco's payroll sometime in I think  
19 it's between February and October, November, of 1999.

20 Q. And then I take it he is part -- he would have  
21 been part of the management fee as far as his public  
22 relations to the other companies at the other times?

23 A. Not --

24 MR. ECKARD: Object to form.

25 A. When he was at Vitelco, he would not have been.



MICHAEL CUMBERMACK -- DIRECT

1 Q. (Ms. Rohn) No, I mean at the other times when he  
2 wasn't at Vitelco, he would have been part of the management  
3 fee?

4 A. Yes.

5 Q. Do you know what work he did for Vitelco?

6 A. Not specifically, no.

7 Q. Did you -- before you looked at those documents,  
8 did you ever know he worked for Vitelco?

9 A. Didn't recall that. Didn't recall that at all.

10 Q. Do you recall a period of time when Senator  
11 Donastorg was complaining that Vitelco was in violation of  
12 its IDC requirements --

13 MR. ECKARD: Object to form.

14 Q. (Ms. Rohn) -- as to the number of employees it  
15 was required to have?

16 A. Did I recall -- could you rephrase your question?

17 Q. Sure. I'll try to make it more clear, too.

18 Do you recall a period of time when Senator  
19 Donastorg was claiming that IDC -- that Vitelco was in  
20 violation of its IDC requirements?

21 A. No, I don't.

22 Q. Do you recall a period of time when there was an  
23 investigation of whether or not Vitelco had the required  
24 number of employees to keep its IDC benefits?

25 A. Could you repeat the question again?

MICHAEL CUMBERMACK -- DIRECT

1 Q. Sure.

2 Do you recall at any time an investigation as  
3 to whether or not Vitelco had the required number of  
4 employees to keep its IDC benefits?

5 A. No.

6 Q. Were you aware that Vitelco had a certain number  
7 of employees it had to employ as a condition of receiving  
8 IDC benefits?

9 A. Yes.

10 Q. And how did you become aware of that?

11 A. Because it's in the IDC agreement.

12 Q. And why would you, as an accountant, see that  
13 agreement?

14 A. It's my position, at that time, that document is  
15 shared with the accounting department because there's a  
16 fulfillment in there that we have to take care of, other  
17 than the benefits. But there are certain specific  
18 requirement in the agreement that Vitelco has to give money,  
19 certain contributions they have to do; there are certain,  
20 you know, maybe ten different things that they are required  
21 to do in order to get these benefits.

22 Q. And who was in charge of making sure those  
23 financial obligations were met?

24 A. That would be me.

25 Q. And were they met?

MICHAEL CUMBERMACK -- DIRECT

1           A.    We had one instance where -- and I don't recall  
2 exactly what they were, but there was there was a review  
3 process, or what it's called, compliance process that EDC  
4 normally go through, and there was a couple items which I  
5 don't recall exactly what they were. I know one of them,  
6 specifically, was we were not going out for bids when we  
7 were purchasing materials. That one, specifically.

8                   I do not recall what the others were, but,  
9 yes, there was a couple of violations.

10           Q.    Was one of your functions to audit to make sure  
11 that Vitelco had the required number of employees?

12           A.    No.

13           Q.    Were you aware of a period of time when a number  
14 of employees from other companies were transferred to the  
15 Vitelco payroll?

16           A.    Yes.

17           Q.    And do you know why that occurred?

18           A.    Specifically, it was done during the consolidation  
19 process, when we were bringing all the services together.

20           Q.    So what types of employees were then transferred  
21 to the Vitelco payroll?

22           A.    Well, we had the employees from the cable  
23 companies that, whether it was a cashier, service  
24 representative, an installer-repairman, they came over to do  
25 both sets of jobs, Vitelco and cable work. So they were on

MICHAEL CUMBERMACK -- DIRECT

1 Vitelco's payroll, and then whatever work they perform,  
2 expenses related to that goes back out to the various  
3 companies.

4 Q. That's that Part 64?

5 A. No, that's another allocation process.

6 Q. Okay. What allocation process is that?

7 A. Just an allocation process based on function and  
8 what they did, what they're there for.

9 Q. Was it done on paper only, or was there actually  
10 cash transferred?

11 A. No, on paper.

12 Q. So Vitelco still paid their entire salary, --

13 A. Yes.

14 Q. -- even though they may have done the majority of  
15 the work for another company?

16 A. Well, I wouldn't say the majority of the work.  
17 Whatever it was.

18 Q. For instance, I had a client, Mr. Nyfield, who was  
19 transferred to Vitelco payroll but never did any work for  
20 Vitelco. He was a cable man, was never trained to do  
21 Vitelco work, and only did cable work.

22 MR. ECKARD: Object to form.

23 A. If that was the case.

24 Q. (Ms. Rohn) So how would that happen?

25 A. His salary would be charged right back to -- be

MICHAEL CUMBERMACK -- DIRECT

1 charged back to The Daily News.

2 Q. Or the cable company?

3 A. Or the cable company. Whatever company he worked  
4 for.

5 Q. But it was charged back on paper, but never paid,  
6 is that correct?

7 A. As far as which company are you referring to?

8 Q. The cable company.

9 A. The cable company's? No, I don't think we've done  
10 any settlements as yet.

11 Q. Now, are there employees of The Daily News that  
12 were on the Vitelco payroll?

13 A. I think there is a couple people in accounting  
14 that was on the Vitelco payroll.

15 Q. And that would be the same paper charge-back?

16 A. Yes.

17 Q. Do you know Oakland Benta?

18 A. Yes.

19 Q. And how do you know Oakland Benta?

20 A. Met him when I went over to ICC.

21 Q. Beg your pardon, sir?

22 A. I met him when I went over to ICC.

23 Q. And what did you understand his position was?

24 A. He was in charge of security.

25 Q. Was Mr. Benta's -- who paid Mr. Benta's salary,

MICHAEL CUMBERMACK -- DIRECT

1 which companies?

2 A. Not Vitelco.

3 Q. Okay. Do you know what companies paid his salary?

4 A. I would suspect it's ICC.

5 Q. Would he be one of the -- well, were you aware of  
6 whether or not ICC provided security to the various  
7 subsidiaries?

8 A. There's one person over at Vitelco that I'm aware  
9 of.

10 Q. And is -- are his services allocated by paper to  
11 Vitelco?

12 A. No, they are on Vitelco's payroll, and because she  
13 does Vitelco, it just stays there.

14 Q. As to Mr. Benta and the other companies,  
15 Mr. Benta's security force and the other companies, is there  
16 a charge-back on that?

17 MR. ECKARD: Object to the form.

18 A. Security?

19 MR. ECKARD: This is a 30(b)(6) deposition of  
20 Vitelco.

21 Q. (Ms. Rohn) Right. Is there a charge-back to  
22 Vitelco or to other companies?

23 A. The security guards at Vitelco gets paid by  
24 Vitelco, and stays in Vitelco.

25 Q. Now, other than the persons who have been already

MICHAEL CUMBERMACK -- DIRECT

1 named in this case, are you aware of any other persons who  
2 would have relevant knowledge of the allegations of  
3 Mr. Donastorg, or the affirmative defenses of the defendant?

4 A. No.

5 Q. Okay. Now -- now, are you, from your accounting  
6 work, aware of the relationship between The Daily News and  
7 ICC?

8 MR. ECKARD: Object to the form.

9 A. Relationship in what manner?

10 Q. (Ms. Rohn) Financial relationship.

11 A. No.

12 Q. Does your department do the accounting for The  
13 Daily News?

14 A. When ICC owned it, yes.

15 Q. I think my question was inartful, but at the time,  
16 are you aware of the relationship between The Daily News and  
17 ICC during the time that ICC owned The Daily News?

18 MR. ECKARD: Object to form. This is a  
19 30(b)(6) deposition of Vitelco.

20 MS. ROHN: Who does all the accounting for  
21 the different departments.

22 Q. (Ms. Rohn) Were you aware of the relationship  
23 during that period of time?

24 A. I'm not sure what you mean by "the relationship."  
25 What type of relationship?

MICHAEL CUMBERMACK -- DIRECT

1 Q. Well, was there a requirement at The Daily News,  
2 did you do the budgets for The Daily News? Did your  
3 department do the budget for The Daily News?

4 A. Yes.

5 Q. And that budget would then have to be approved by  
6 ICC, is that correct?

7 A. Yes.

8 Q. To your knowledge, were there common officers  
9 between The Daily News and the ICC?

10 A. Not that I'm aware of, no.

11 Q. Okay. And would you also, your department, also  
12 be responsible for the Part 64, monitoring Part 64 for The  
13 Daily News?

14 A. If there was any, yes.

15 Q. And The Daily News would be responsible for their  
16 percentage of the management fees?

17 A. Yes.

18 Q. Now, on the -- do you recall any occasions in  
19 which there were articles in the newspaper about Senator  
20 Donastorg and Vitelco that Mr. Prosser would comment on  
21 those stories?

22 MR. ECKARD: Object to form.

23 A. He may have, and he may not. I don't recall  
24 specifically him making any statements.

25 Q. (Ms. Rohn) Did you ever draw a conclusion as to



MICHAEL CUMBERMACK -- DIRECT

1 whether or not Mr. Prosser disliked Senator Donastorg?

2 MR. ECKARD: Object to form.

3 A. I -- I don't know. I couldn't say. I never  
4 thought about it.

5 Q. (Ms. Rohn) Do you recall a time when  
6 Jeffrey Prosser met with the employees of Vitelco and urged  
7 them not to vote for Senator Donastorg?

8 A. No.

9 MR. ECKARD: Object to form.

10 Q. (Ms. Rohn) Do you recall any discussions with  
11 Vitelco as to persons running for office, and who was being  
12 favored?

13 A. No.

14 MR. ECKARD: Object to form.

15 Q. (Ms. Rohn) Were you aware of political  
16 contributions made by Jeffrey Prosser, or any of the  
17 companies, towards politicians?

18 A. No.

19 MR. ECKARD: Object to form.

20 A. No.

21 Q. (Ms. Rohn) Were you aware that one or some of  
22 the -- some company owned by Jeffrey Prosser paid for the  
23 inauguration of Roy Schneider?

24 MR. ECKARD: Object to form.

25 A. I don't know, no. I -- (witness shakes head). I

**MICHAEL CUMBERMACK -- DIRECT**

1 don't recall anything like that.

2 Q. (Ms. Rohn) Well, Elizabeth Goggins testified that  
3 she was aware that the -- a certain amount of money was paid  
4 from ICC for the inauguration of Roy Schneider.

5 If that had occurred, how would that have  
6 been booked?

7 MR. ECKARD: Object to form.

8 A. Well, that's --

9 MR. ECKARD: Calls for speculation.

10 A. -- speculation, I was going to say.

11 I would not know that.

12 Q. (Ms. Rohn) Why would you, as the head of the CFO,  
13 not know that?

14 A. Because -- well, I'm here to say, as far as  
15 Vitelco didn't pay any of this. I don't know how they would  
16 have booked it. They have other CFOs at ICC.

17 Q. Who would have been the CFO? Was that Jim Heying?

18 MR. ECKARD: Object to form. Calls for  
19 speculation.

20 A. I don't even know what period we're referring to,  
21 as far as when Schneider was in office. Could have been any  
22 of several people.

23 Q. (Ms. Rohn) Well, who were the CFOs for ICC that  
24 you can recall?

25 A. Jim Heying, Craig Knock.

## MICHAEL CUMBERMACK -- DIRECT

1 Q. Who?

2 A. Craig Knock.

3 Q. How do you spell Knock?

4 A. K-N-O-C-K.

5 Q. Who?

6 A. K-N-O-C-K.

7 Q. Uh-huh.

8 A. There was -- there were two other guys that, when  
9 they moved to West Palm, that I don't remember their name.  
10 Dennis Kanai.

11 Q. Dennis Kanai?

12 A. K-A-N-A-I.

13 Q. K-A-N --

14 A. -- A-I.

15 Q. Were you aware that Kenneth Mapp was being paid  
16 \$25,000 a month --

17 MR. ECKARD: Object.

18 Q. (Ms. Rohn) -- from ICC?

19 MR. ECKARD: Object to form.

20 A. I have no evidence, or seen any evidence to that  
21 effect. I've heard that, but I have no knowledge of that as  
22 far as actual payments made.

23 Q. (Ms. Rohn) Did you read Elizabeth Goggins  
24 deposition in which she actually wrote the check?

25 A. I did.

MICHAEL CUMBERMACK -- DIRECT

1 MR. ECKARD: Object to form.

2 Q. (Ms. Rohn) Who did Elizabeth Goggins work for at  
3 that time?

4 A. ICC.

5 Q. So those expenditures would have been booked by  
6 ICC?

7 A. That would be correct.

8 Q. Did you see in Elizabeth Goggins deposition that  
9 she testified that some \$97,000 in cash was withdrawn from  
10 Vitelco, and then later intercompany charged off?

11 MR. ECKARD: Object to form.

12 A. Yes, I saw that.

13 Q. (Ms. Rohn) Did you collect that cash?

14 A. I -- \$98,000 is a lot of money. I've never seen  
15 that amount of money.

16 Q. Well, were there times when you collected cash?

17 MR. ECKARD: Object to form.

18 A. There were, yes, there would be occasions where I  
19 would get a call to say go pick up a package at the bank,  
20 and send it over to St. Croix. It could have been, yeah.

21 Q. (Ms. Rohn) And that package at the bank would be  
22 cash?

23 A. Picking up from the bank, I would have to assume  
24 it was. I did not open it.

25 Q. And who would call you to tell you to go get cash

MICHAEL CUMBERMACK -- DIRECT

1 from the bank?

2 MR. ECKARD: Object to form.

3 A. Presently, I don't recall. It could have been  
4 Mr. Prosser's secretary, it could have been Liz. I don't  
5 know. Could have been anybody out of that office.

6 Q. (Ms. Rohn) Did you ever get those calls from  
7 Mr. Prosser?

8 A. I don't recall.

9 Q. If Eling called you, would she be calling you on  
10 behalf of Mr. Prosser?

11 MR. ECKARD: Object to form.

12 A. I don't know.

13 Q. (Ms. Rohn) Well, what was your understanding of  
14 who Eling worked for?

15 A. Mr. Prosser.

16 Q. And who would you send that cash to?

17 A. Oh, we would just put it on the plane.

18 Q. On the company plane?

19 A. Company plane.

20 Q. How would you book this cash that you would go and  
21 get?

22 MR. ECKARD: Object to form.

23 A. No different than any transaction that we do on  
24 behalf of ICC. We would book it as an intercompany  
25 transaction, due from ICC. This is how we make deposits to

MICHAEL CUMBERMACK -- DIRECT

1 the account. It's the same exact transaction to ICC.

2 Q. (Ms. Rohn) So you would take it from the Vitelco  
3 account and then book it to ICC?

4 A. We take it out of Vitelco's bank accounts, and it  
5 would be a debit to ICC's intercompany account, which is a  
6 due-from ICC.

7 Q. But again, that would be on paper, is that right?

8 A. Yes.

9 Q. How often would you go get cash?

10 MR. ECKARD: Object to form.

11 A. That was a long time ago. I don't recall how many  
12 times it was. And it was not just me, it could have been  
13 other people. If I'm not there, they probably call somebody  
14 else. But I don't recall that to -- I don't recall doing  
15 anything like that for a long, long time.

16 Q. (Ms. Rohn) Do you recall if one of those times  
17 that you went to get cash was at or near the time  
18 Mr. Prosser was trying to get the Prosser bill, that he not  
19 pay any taxes, passed?

20 MR. ECKARD: Object to form.

21 A. I don't think so.

22 Q. (Ms. Rohn) Were you aware of a payment or a loan  
23 to Rocky Liburd of \$20,000?

24 A. No.

25 MR. ECKARD: Object to form.

MICHAEL CUMBERMACK -- DIRECT

1 Q. (Ms. Rohn) Were you aware of any loans to any  
2 politicians?

3 MR. ECKARD: Object to form.

4 A. No.

5 Q. (Ms. Rohn) Were you aware of any payments to any  
6 politicians?

7 A. No.

8 Q. Did you believe that Senator Donastorg was against  
9 Vitelco?

10 MR. ECKARD: Object to form. This is a  
11 30(b)(6) deposition of a corporate entity.

12 A. I would, based on certain statements he had made,  
13 I would have to speculate and say it appears that way.

14 Q. (Ms. Rohn) Were you ever privy to any  
15 conversations concerning investigating him?

16 A. No.

17 Q. Were you aware that he was being investigated?

18 A. No.

19 Q. Were you ever aware that he had been investigated?

20 A. I've heard so recently. Well, some time in the  
21 past, I've heard that.

22 Q. Okay. Where did you hear that?

23 A. Probably in the newspapers, probably when this  
24 lawsuit came up.

25 Q. Were you aware of a person by the name of

MICHAEL CUMBERMACK -- DIRECT

1 Mr. Madan, who was with Georgetown Consulting Group?

2 A. Do I know -- yes, I know of Mr. Madan, yes.

3 Q. And was there a feeling at Vitelco that he was  
4 against Vitelco?

5 MR. ECKARD: Object to form.

6 A. I -- I would think that there was some things that  
7 he have done that certainly made it appear that way.

8 Q. (Ms. Rohn) And were you aware that he was  
9 investigated?

10 A. No. First time I'm hearing that is right now.

11 Q. Were you aware that two individuals, one Lori  
12 Gilmore, and Riel Faulkner, filed complaints with the PSC  
13 against Vitelco, claiming that Vitelco discriminated against  
14 residential users?

15 A. I vaguely remember those names. Could have been  
16 something in the newspaper or something, but I'm not --

17 Q. Were you aware that they were then investigated?

18 A. No.

19 Q. Do you know -- I'll get to some documents and ask  
20 you some questions.

21 MR. ECKARD: Is this a good time for a  
22 bathroom break?

23 MS. ROHN: Yeah.

24 (Discussion held off the record.)

25 MR. ECKARD: Okay.



MICHAEL CUMBERMACK -- DIRECT

1 Q. (Ms. Rohn) In this case, Defendant Vitelco has  
2 filed an Answer, which I believe you reviewed prior to your  
3 deposition, to the Complaint, is that correct?

4 A. (Witness shakes head). No.

5 Q. You didn't review the Answer?

6 A. (Witness shakes head). No.

7 Q. Okay. The Vitelco has alleged in its Second  
8 Affirmative Defense that all published statements complained  
9 of in the Complaint were either true, non-defamatory, or  
10 made without malice.

11 How would Vitelco know whether or not the  
12 stories in The Daily News were true or not?

13 A. I don't know.

14 Q. What does Vitelco claim I did to damage the  
15 plaintiffs?

16 A. I have no knowledge of anything like that.

17 Q. What knowledge does Vitelco have that the actions  
18 of Dennis Sheraw were all done within the law?

19 A. Well, Vitelco has no knowledge of anything that  
20 Dennis Sheraw did.

21 Q. Well, the president of Vitelco was  
22 Jeffrey Prosser, isn't that correct?

23 A. The president of Vitelco was Dave Sharp.

24 Q. Was Mr. Prosser on the board of directors of  
25 Vitelco?

## MICHAEL CUMBERMACK -- DIRECT

1 A. Yes.

2 Q. And the persons that he appointed were also on the  
3 board of directors of Vitelco, were they not?

4 MR. ECKARD: Object to form.

5 A. The persons he appointed to what?

6 Q. (Ms. Rohn) To the Board of Directors.

7 A. Which Board of Directors?

8 Q. The Board of Directors for Vitelco.

9 A. And the question was?

10 Q. Mr. Prosser selected who was on the Board of  
11 Directors for Vitelco, isn't that true?

12 A. That would be correct.

13 Q. And the Board of Directors of Vitelco was  
14 Mr. Sharp's boss, weren't they?

15 A. Yes, probably.

16 Q. And so Mr. Prosser, as the chairman of the board  
17 of directors, --

18 A. Right.

19 Q. -- had the ability to determine actions taken by  
20 Vitelco, did it not?

21 MR. ECKARD: Object to form.

22 A. I -- I suppose it does.

23 Q. (Ms. Rohn) And if Mr. Prosser decided that he, as  
24 the chairman of the board of directors for Vitelco, wanted  
25 to institute an investigation, that was within his power,

MICHAEL CUMBERMACK -- DIRECT

1 wasn't it?

2 MR. ECKARD: Object to form.

3 A. He could very well institute anything he wanted to  
4 do, but whether it was done is another story. I have no  
5 knowledge of any investigation, as far as Vitelco goes.

6 Q. (Ms. Rohn) Well, if Mr. Prosser, as the chairman  
7 of the board of directors of Vitelco, directed that  
8 something be done, am I correct that Vitelco was obligated  
9 to do what he directed?

10 MR. ECKARD: Object to form. Calls for  
11 speculation.

12 A. I don't know.

13 Q. (Ms. Rohn) Did Mr. Prosser ever direct you to  
14 take actions?

15 A. Yes.

16 Q. And when he did that, were you obligated to follow  
17 his directions?

18 A. Yes.

19 Q. And what types of directions did Mr. Prosser give  
20 to you?

21 A. Could be any -- it could be a various amount of  
22 directives related to my responsibilities in accounting.

23 Q. Like what?

24 A. Getting the budget prepared by a certain date;  
25 getting the financial statements done by a certain date;

MICHAEL CUMBERMACK -- DIRECT

1 what number related to the budget that ICC is looking for.

2 Q. Would you say that again?

3 A. What type of -- the end result of the budget  
4 process, he'd say, This is what we're looking for.

5 Q. Like what would he say he was looking for?

6 A. Just a number. I don't remember any number they  
7 would give.

8 Q. He would tell you what number he wanted in the  
9 budget?

10 A. Bottom line number.

11 Q. How would he tell you what the bottom line number  
12 should be?

13 A. Because we had to develop a budget.

14 MR. ECKARD: Object to form.

15 Q. (Ms. Rohn) So what would this bottom line number  
16 be concerning?

17 MR. ECKARD: Object to form.

18 Q. (Ms. Rohn) Profits, or I don't understand your --

19 A. Net income. Any business would like to see the  
20 net income grow from year to year in different aspects.

21 Q. So he would tell you what number your net income  
22 number should be?

23 A. At times, he would do that.

24 MR. ECKARD: Object to form.

25 Q. (Ms. Rohn) Would you use that number, even if it

MICHAEL CUMBERMACK -- DIRECT

1 wasn't substantiated by the records?

2 A. We would present the number as we see fit, as far  
3 as what we determine the number is. Then the board of  
4 directors would say what they agree with, what they don't  
5 agree with. You have to hit the numbers, cut expenses here  
6 cut expenses there. It's a normal operation in any  
7 business.

8 Q. Okay. How much funds did Vitelco save as a result  
9 of receiving EDC benefits?

10 MR. ECKARD: Object to form. Calls for  
11 speculation.

12 MS. ROHN: It's No. 20 on the 30(b)(6)  
13 notice.

14 MR. ECKARD: I didn't say it was outside the  
15 scope. I just object to form.

16 MS. ROHN: No, no. I'm just putting on the  
17 record what number it is.

18 A. How did they determine that? We never really  
19 looked at that number, as far as -- I've never looked at it,  
20 these are -- the number of exemptions under the taxes we  
21 would get would far outweigh the -- the -- the obligations  
22 that Vitelco had.

23 Q. (Ms. Rohn) Well, what benefits did Vitelco get,  
24 as a result of having EDC benefits?

25 MR. ECKARD: Object to form. Go ahead,

MICHAEL CUMBERMACK -- DIRECT

1 answer.

2 A. If I recall, gross receipt taxes, excise taxes,  
3 income taxes. I think customs; customs due.

4 Q. (Ms. Rohn) And gross receipts taxes are what  
5 percentage of receipts?

6 A. Four.

7 Q. Of the gross, is that correct?

8 A. Four percent of revenues, yes.

9 Q. And excise taxes would be imports?

10 A. Yes. Yes.

11 Q. Are you aware of whether or not the newspaper for  
12 The Daily News was ordered through Vitelco?

13 MR. ECKARD: Object to form.

14 A. Newspaper?

15 Q. (Ms. Rohn) The actual paper --

16 A. Uh-huh.

17 Q. -- used by The Daily News.

18 MR. ECKARD: Object to form.

19 A. No, I'm not aware of that.

20 Q. (Ms. Rohn) Were there items that were ordered  
21 through Vitelco that were then allotted to other companies?

22 A. No.

23 Q. So if another --

24 A. I'm trying to say, unless there was a common use  
25 for it.

MICHAEL CUMBERMACK -- DIRECT

1 Q. Like what kinds of things would be common use?

2 A. Well, the bills that -- the bills we sent out,  
3 Vitelco would purchase the paper that it was sent out on,  
4 then allocate, of course, to other companies.

5 Q. On paper again?

6 A. On paper again, yes.

7 Q. Anything else that was common use?

8 A. Right off the top --

9 Q. For instance, vehicles, company vehicles?

10 A. Yes, some of that too, yeah.

11 Q. All right. And income taxes, --

12 A. Uh-huh.

13 Q. -- what is -- what was the average net income of  
14 Vitelco over the last ten years?

15 A. It ranged from 8 or 9 million to today it's  
16 about 2 or 1.

17 Q. And given that amount, what tax bracket would  
18 Vitelco have been in, had it not had to pay taxes?

19 MR. ECKARD: Object to form. Calls for  
20 speculation. Hypothetical.

21 Q. (Ms. Rohn) Well, we all know over a certain  
22 number we're all in the same tax bracket, aren't we?

23 A. I don't know what that number would be for  
24 Vitelco.

25 Q. And customs, what kind of things would Vitelco

MICHAEL CUMBERMACK -- DIRECT

1 bring in that they would waive custom duties on?

2 A. They wouldn't waive it. It's a reduction, a  
3 reduced percentage.

4 Q. Reduce it.

5 A. If we order material or a piece of equipment that  
6 was made or produced in a foreign country, we'd have to pay  
7 taxes on it; customs duty on it. It was not a lot.

8 Q. When this transfer of employees to the Vitelco  
9 payroll occurred that we've previously discussed, --

10 A. Uh-huh.

11 Q. -- who directed that that occur?

12 MR. ECKARD: Object to form.

13 A. Who directed it?

14 Q. (Ms. Rohn) Uh-huh.

15 A. Could have been ICC. I'm not sure who. I never  
16 saw anything in writing. I'm trying to think of who  
17 actually said that this is what we are doing. I think the  
18 plan was always to consolidate. Who specifically gave that  
19 direction, whether it was Mr. Minnich, I don't know. I  
20 don't know.

21 Q. (Ms. Rohn) Were you aware that there were  
22 certain -- that there were some planes that were purchased?

23 A. Yes, I was.

24 MR. ECKARD: Object to form.

25 Q. (Ms. Rohn) What planes are you aware of?



MICHAEL CUMBERMACK -- DIRECT

1           A.    I am not an expert in names of types.  I think  
2 you're looking for type of name of plane?

3           Q.    Well, was there a jet?

4           A.    Yes, there was a jet.

5           Q.    Then there were some other smaller planes?

6           A.    Yes.

7           Q.    How many other smaller planes?

8           A.    There was one small plane, and then we -- then ICC  
9 acquired a bigger plane.  Then that small plane was sold,  
10 and they bought another small plane.  Then that other small  
11 plane was sold.  The trustees sold the jet, and we just have  
12 one plane right now.

13          Q.    The jet, who was that billed to?

14          A.    ICC.

15                   MR. ECKARD:  Object to form.

16          Q.    (Ms. Rohn)  Did people other than -- did employees  
17 of Vitelco use the jet?

18          A.    No.

19          Q.    Never?

20          A.    Not that I'm aware of.

21          Q.    Okay.  The other planes, did Vitelco use those?

22                   MR. ECKARD:  Object to form.

23          A.    Yes.

24          Q.    (Ms. Rohn)  And who were those planes charged to?

25          A.    Those are all charged back.  There's a manifest

## MICHAEL CUMBERMACK -- DIRECT

1 log that is kept on a daily basis, --

2 Q. Uh-huh.

3 A. -- and indicating which company employees use the  
4 plane. Then there would be a charge-back to all the  
5 companies, based on the expenses incurred for the airplane,  
6 back to all the other companies.

7 Q. Is that done on an actual basis, or a percentage  
8 basis?

9 A. The distribution?

10 Q. Yes, the charge-back.

11 A. Well, you develop a percentage based on the usage  
12 of the company.

13 Q. And who was that charged back to?

14 A. Depends on who used the plane during that period.

15 Q. I understand there's a charge to that company, but  
16 who is the charge in behalf of? In other words, this  
17 company owes so much to who?

18 A. The plane was in a company called Atlantic  
19 Aircraft, that owned the plane. And the usage was charged  
20 back to the various companies that use it between them.

21 Q. Did Jeffrey Prosser remove funds from Vitelco?

22 MR. ECKARD: Object to form.

23 A. I don't know of that. I have no knowledge of  
24 that.

25 Q. (Ms. Rohn) Have you been keeping up on the

MICHAEL CUMBERMACK -- DIRECT

1 bankruptcy, as to the funds that were withdrawn from  
2 Vitelco?

3 A. Yes.

4 Q. And how much are you aware of that the bankruptcy  
5 trustee claims were removed?

6 MR. ECKARD: Object to form. This is a  
7 30(b)(6) deposition of Vitelco.

8 A. When you use the word "removed," I'm not sure how  
9 to interpret "removed." But there were funds, there were  
10 payments made on his behalf. I don't know if you're  
11 referring to that as "removed," but there were payments made  
12 on his behalf, yes.

13 Q. (Ms. Rohn) The monies that went from Vitelco --

14 A. Uh-huh.

15 Q. -- for, well, first Atlantic Tele-Network, and  
16 then ICC, --

17 A. Uh-huh.

18 Q. -- is Vitelco owed money --

19 A. Yes.

20 Q. -- back?

21 A. Yes.

22 MR. ECKARD: Object to form.

23 Q. (Ms. Rohn) All right. How much money is Vitelco  
24 owed back?

25 A. Millions.

MICHAEL CUMBERMACK -- DIRECT

1 Q. Are the funds available to pay Vitelco back?

2 A. I don't know. And the situation they're in, I  
3 would have to say no, because they're in bankruptcy.

4 Q. So the funds that were used, for instance, to pay  
5 for the plane, the jet, did those funds come from the monies  
6 swept from Vitelco?

7 MR. ECKARD: Object to form.

8 A. Those monies came from ICC, I will have to say. I  
9 couldn't say dollar for dollar, This is a Vitelco dollar  
10 that was used to pay anything. It's a consolidation of  
11 funds that Vitelco and all the other companies owes to ATN  
12 via the advisory fees that they're using to do whatever,  
13 because they don't generate any cash at all.

14 Q. (Ms. Rohn) Well, other than the advisory fees, --

15 A. Uh-huh.

16 Q. -- or I think you called them management fees or  
17 whatever.

18 A. Management fees, that's advisory fees.

19 Q. Other than those fees, am I correct, ICC earns no  
20 money?

21 A. Right.

22 Q. So if they spent more than their 6 to 15 percent,  
23 then the additional money spent would have belonged to one  
24 of the subsidiary companies, is that correct?

25 A. Or a combination.

MICHAEL CUMBERMACK -- DIRECT

1 Q. Was there a pension program for Vitelco employees?

2 A. Yes.

3 Q. And what was the nature of that pension program?

4 MR. ECKARD: Object to form.

5 A. For pension for the employees.

6 Q. (Ms. Rohn) Well, was there -- what percentage did  
7 Vitelco contribute to that pension plan?

8 A. There were two plans.

9 Q. Okay.

10 A. A management plan, and a plan for the union.

11 Seventy to 80 percent of the employees under  
12 that plan worked for Vitelco, so that would be the same sort  
13 of range that would be picked up by Vitelco.

14 Q. But generally, what I'm speaking of is usually  
15 there's an employee percentage contribution, and an employer  
16 percentage contribution to a pension plan.

17 What was the employer's contribution?

18 MR. ECKARD: Object to form.

19 A. The employer paid a hundred percent.

20 Q. (Ms. Rohn) And what was the payment based on?  
21 Was it a percentage of salary?

22 How did they determine what they were paying  
23 for each employee?

24 A. Payments were developed by the actuaries, one of  
25 these firms that specialized in doing actuarial work, and

MICHAEL CUMBERMACK -- DIRECT

1 they would send to us or ICC, whomever, how much has to be  
2 contributed to the fund.

3 Q. And were those payments made?

4 A. Yes.

5 Q. All of them?

6 A. No.

7 Q. And during what period of time did the payments  
8 not -- were the payments not made?

9 A. Vitelco is -- ICC made those payments.

10 Q. With Vitelco money?

11 A. ICC made those payments.

12 Q. Where did they get the money to make the payments?

13 A. Out of the funds that was collected from all the  
14 companies.

15 Q. So ICC, in reality, paid the various companies'  
16 monies for those payments, is that correct?

17 MR. ECKARD: Object to form.

18 A. Yes.

19 Q. (Ms. Rohn) Okay. And when did Vitelco -- when  
20 did ICC discontinue paying to that pension from the  
21 different companies' monies?

22 MR. ECKARD: Object to form.

23 A. I think a few payments were missed, I think. I'm  
24 not sure. And exactly when they actually stopped paying it,  
25 might have been 2006 or something like that.

MICHAEL CUMBERMACK -- DIRECT

1 Q. (Ms. Rohn) Were you aware of that back in 2006?

2 A. Yes.

3 Q. And did you draw this to anybody's attention?

4 A. I think --

5 MR. ECKARD: Object to form.

6 A. I think the management team was aware that the  
7 payments were behind, yes.

8 Q. (Ms. Rohn) How did you become aware that they  
9 were behind?

10 A. Because normally when a payment is made, we'll get  
11 a charge-back to Vitelco from ICC, so we now have to record  
12 that on the books. So if we don't get it, we would also be  
13 advised as to what payments were going to be made, so we  
14 knew when payments had to be made. So we try to follow up  
15 and see, Was this payment made? We were told, It's not made  
16 as yet. It will be made next week or whatever the story  
17 was.

18 Because the bulk of the payment was coming  
19 back to Vitelco.

20 Q. Because you had the most employees.

21 A. Yes.

22 Q. When you learned that the payments were not being  
23 made, or when Vitelco learned that the payments were not  
24 being made, did Vitelco notify their employees?

25 A. Yes.

MICHAEL CUMBERMACK -- DIRECT

1 Q. And what was the manner in which they notified  
2 their employees?

3 A. I think at the beginning of the year, there's a  
4 standard form that is distributed to employees indicating  
5 that funds were -- the fund was underfunded. Something like  
6 that. I mean, they -- this is information coming from the  
7 actuaries. They would go through HR, and HR would then  
8 publish that.

9 Q. Does Vitelco have the ability to listen in on  
10 phone calls?

11 MR. ECKARD: Object to form.

12 A. Not that I know. I don't know, no.

13 Q. (Ms. Rohn) You do not?

14 A. They do not.

15 Q. Didn't ask you if they did it. I asked you if  
16 they had the ability to do that.

17 A. I don't know.

18 Q. The reason I'm asking this question is that one  
19 meeting Mr. Prosser boasted that he listened to Governor  
20 Farrelly's phone calls.

21 Would he have had the ability to have done  
22 so?

23 MR. ECKARD: Object to form.

24 A. I am not a technical person. I am not aware that  
25 such exists.



## MICHAEL CUMBERMACK -- DIRECT

1 Q. (Ms. Rohn) Well, what did you do to attempt to  
2 find out, so that you could answer that line of questions?

3 A. I didn't do anything, because I didn't read that.

4 Q. Who in Vitelco would be the person who could  
5 answer that question?

6 A. Emile Michaels.

7 Q. Is that E-M-I-L or A-M-I-L?

8 A. No, E-M-I-L-E.

9 Q. Emile Michaels?

10 A. Yeah.

11 Q. Anyone else who would know that information?

12 A. He's the chief engineering guy.

13 Q. That's his title, chief engineer? What's his  
14 title at Vitelco?

15 A. He's the manager of central office engineering.

16 Q. Manager of central what?

17 A. Office engineering.

18 Q. How many phone lines does Vitelco have that are  
19 subscribed to customers?

20 A. Presently, there is about fifty-something thousand  
21 access lines.

22 Q. Fifty-something. Do you know exactly how many  
23 there are?

24 A. I don't know exactly. It's fifty-five, fifty-six  
25 thousand, something like that.

MICHAEL CUMBERMACK -- DIRECT

1 Q. Are you able to answer how many phone lines were  
2 subscribed to customers from 1995 to the present?

3 A. Yes. Well, I can't tell you off the top of my  
4 head.

5 MS. ROHN: Do you have a document that will  
6 tell me that.

7 MR. ECKARD: Can we go off?

8 MS. ROHN: You can put it on the record.

9 MR. ECKARD: Yes, we do. I had a report --

10 MS. ROHN: Where is the document?

11 MR. ECKARD: I could print it out for you.

12 MR. RAMES: You can show it on the computer.

13 MS. ROHN: Why don't you send it to me. Can  
14 you e-mail it to me?

15 MR. ECKARD: Yeah.

16 MS. ROHN: Then I'll have my office -- I'll  
17 send it to my office and have them print it.

18 Isn't that scary?

19 MR. ECKARD: We're still on the record,  
20 right?

21 MS. ROHN: Yeah.

22 MR. ECKARD: As you know, there was a lot of  
23 hustling around for me to get ready for this deposition,  
24 having just entered my notice of appearance.

25 I will e-mail this to my office. Can we take

MICHAEL CUMBERMACK -- DIRECT

1 a break while we do that?

2 MS. ROHN: Yeah, sure.

3 (Discussion held off the record.)

4 (Respite.)

5 Q. (Ms. Rohn) Were you aware that there was a  
6 requirement that Vitelco pay a dollar per subscribed line to  
7 the government?

8 A. Yes.

9 Q. And how did you become aware of that?

10 A. We were notified by I think the PSC, I don't  
11 recall, or by some legislation. I think it was a document  
12 from the legislature department advising us that we had to  
13 do that, yes.

14 Q. And who was in charge of monitoring to make sure  
15 that that payment was made?

16 A. That would be our EDP department.

17 Q. Who?

18 A. EDP, IT department.

19 Q. ADP?

20 A. EDP, electronic data processing.

21 Q. Do you know what they did to monitor that?

22 A. Well, they built a program within the system to  
23 look at every access line, and attach a one dollar charge to  
24 it, which came out on the --

25 Well, let me retract that, please.

MICHAEL CUMBERMACK -- DIRECT

1 Q. Yeah, I was going to ask you some questions about  
2 that, because I don't think that's exactly accurate.

3 A. Exactly. The bill said that it's one dollar per  
4 bill, and not access line. That it's per bill. So within  
5 the billing system, they would see every bill that is  
6 produced would have a one-dollar charge on it.

7 So I just wanted to clarify that it's not  
8 line, but it's per bill.

9 Q. So, for instance, I have six lines, but one bill.  
10 I would -- Vitelco would only pay one dollar for mine?

11 A. If you have one bill, that is correct.

12 Q. And was the -- were the amounts paid to the  
13 government?

14 A. Yes.

15 Q. Always?

16 A. Always.

17 Q. Even when the pension plan fund wasn't being paid?

18 A. Yes, it was paid.

19 Q. Who would have been the person at EDP who would  
20 have been charged with calculating the amount due?

21 A. Based on my prior statement, there was not a  
22 person doing it. The system generated that one dollar  
23 charge on each bill.

24 Q. And do you -- are you prepared to tell me how much  
25 was paid on a yearly basis since 2005?

## MICHAEL CUMBERMACK -- DIRECT

1 A. It was an average of about \$60,000 every month.

2 Q. Is there some way you could pull up exactly what  
3 was paid?

4 A. I can go and look and see if they have it on the  
5 records, as a result of an audit that was done, but -- so we  
6 may have some information to that effect.

7 Q. If you can find those records, would you please  
8 give them to Attorney Eckard, so he can produce them in this  
9 case?

10 A. Okay.

11 Q. Do you know who paid for the investigations into  
12 Adlah Donastorg?

13 A. No. Well --

14 No.

15 Q. Do you know who paid for the investigations into  
16 Mr. Madan and the Georgetown Consulting Group?

17 A. No.

18 Q. Do you know who paid for the investigations into  
19 Riel Faulkner and Lori Gilmore?

20 A. No.

21 Q. Do you know whether Vitelco has ever been sued for  
22 defamation before?

23 A. No, this is the first time I've heard about that.

24 Q. Do you know what Vitelco did to investigate the  
25 claims that they -- that it, sorry, had defamed Senator

MICHAEL CUMBERMACK -- DIRECT

1 Donastorg?

2 MR. ECKARD: Object to form.

3 A. I have no knowledge of anybody doing anything,  
4 because Vitelco didn't do anything related to Donastorg.

5 Q. (Ms. Rohn) Were you aware that, after the  
6 investigation into Senator Donastorg was disclosed, that  
7 Holland Redfield went on the radio and various talk shows  
8 and claimed that the reason for the investigation was that  
9 Vitelco believed that Mr. Donastorg was taking benefits from  
10 a competitor?

11 MR. ECKARD: Object to form.

12 A. I've heard that. I have no proof, or any  
13 information to support that statement, no.

14 Q. (Ms. Rohn) How did you hear that Mr. Redfield had  
15 made that statement?

16 A. On the street, different employees. People were  
17 saying the information that -- rumors.

18 Q. Did you ever hear conversations about that at  
19 Vitelco?

20 A. No.

21 Q. Did you ever speak to Mr. Redfield about that?

22 A. No.

23 Q. The second reason that Mr. Redfield gave for  
24 Mr. Donastorg deserving to be investigated was that  
25 Mr. Donastorg was anti-VITELCO.

MICHAEL CUMBERMACK -- DIRECT

1 Did you ever hear any discussions about that?

2 A. No.

3 MR. ECKARD: Object to form.

4 A. No.

5 Q. (Ms. Rohn) Did you read the deposition of  
6 Mr. Redfield?

7 A. Yes.

8 Q. And where he claims that there were two persons  
9 who gave him that information, Oakland Benta and/or Jeffrey  
10 Prosser?

11 MR. ECKARD: Object to form.

12 Q. (Ms. Rohn) Did you see that --

13 A. Yes.

14 Q. -- in his deposition?

15 A. Yeah.

16 Q. Did you ever hear either one of those persons make  
17 those comments about Senator Donastorg?

18 A. No.

19 Q. Have you ever had any conversations with  
20 Mr. Redfield about Senator Donastorg?

21 A. No.

22 Q. Have you ever had any conversations with  
23 Oakland Benta about Senator Donastorg?

24 A. No.

25 Q. Have you ever had any conversations with

MICHAEL CUMBERMACK -- DIRECT

1 Mr. Redfield about myself?

2 A. No.

3 Q. Same question for Oakland Benta.

4 A. No.

5 MR. ECKARD: Object to form.

6 Q. (Ms. Rohn) Have you ever heard anyone at Vitelco  
7 or ICC make those comments about Senator Donastorg?

8 MR. ECKARD: Object to form.

9 A. No.

10 Q. (Ms. Rohn) Have you ever heard any discussions  
11 about Senator Donastorg being involved in any criminal  
12 activity?

13 MR. ECKARD: Object to form.

14 A. Only recently.

15 Q. (Ms. Rohn) And those would be the newspaper  
16 stories --

17 A. Right.

18 Q. -- about his domestic --

19 A. Yes.

20 Q. -- charges?

21 A. Right.

22 MR. ECKARD: Object to form.

23 Please let Attorney Rohn finish asking her  
24 question --

25 THE WITNESS: I'm sorry.



MICHAEL CUMBERMACK -- DIRECT

1 MR. ECKARD: -- before you answer.

2 Q. (Ms. Rohn) Did you ever hear any discussions  
3 about Mr. Donastorg and his financial matters?

4 MR. ECKARD: Object to form.

5 A. No.

6 Q. (Ms. Rohn) Have there been discussions with,  
7 between Holland Redfield and Vitelco, about defending and  
8 indemnifying Holland Redfield?

9 A. I don't know.

10 MR. ECKARD: Object to form.

11 Q. (Ms. Rohn) What did you do to find out?

12 A. Well, you asked me if I've heard that, and I heard  
13 nobody say anything about that.

14 Q. (Ms. Rohn) Sir, I'm taking you as Vitelco. Have  
15 there been discussions between Holland Redfield, and/or his  
16 counsel and Vitelco, about defending and indemnifying  
17 Holland Redfield?

18 MR. ECKARD: Object to form, especially to  
19 the extent that it calls for information between  
20 Holland Redfield and his counsel.

21 Q. (Ms. Rohn) No, any conversations between Holland  
22 Redfield or his counsel and Vitelco about defending and  
23 indemnifying Mr. Redfield.

24 A. I have no knowledge of that.

25 Q. What did you do to find out?

MICHAEL CUMBERMACK -- DIRECT

1 A. I did nothing.

2 Q. Who are you going to present for that issue?

3 A. Uh --

4 Q. That's No. 31.

5 A. Check with J'Ada.

6 MR. ECKARD: I'm sorry. I object to that as  
7 outside the scope of this notice. Thirty-one says nothing  
8 about indemnification for Holland Redfield.

9 MS. ROHN: All conversations with Holland  
10 Redfield, or someone purporting to agree to give information  
11 for Mr. Redfield, regarding plaintiffs use of AT&T's plane,  
12 trips to St. Lucia, or other matters concerning plaintiffs,  
13 when they occurred, who participated in the conversations,  
14 and what if anything was done to determine the truthfulness  
15 of the statements, and any agreement to defend or indemnify  
16 Holland Redfield.

17 MR. ECKARD: I see. I see.

18 MS. ROHN: Who are you going to present for  
19 that?

20 MR. ECKARD: Let me inquire and get back to  
21 you on that.

22 MS. ROHN: Okay.

23 Q. (Ms. Rohn) Now, I got a letter from  
24 Jeffrey Moorhead that indicated that Vitelco was going to  
25 defend and indemnify Oakland Benta.

MICHAEL CUMBERMACK -- DIRECT

1 Are you aware of that?

2 A. No.

3 Q. Are you aware of any conversations in that regard?

4 A. No.

5 Q. Does Vitelco have any knowledge that Senator  
6 Donastorg had any involvement with AT&T, or any other  
7 competitor of Vitelco?

8 A. No.

9 MR. ECKARD: I need to take a break just for  
10 one second, please.

11 (Discussion held off the record.)

12 (Noon recess taken.)

13 (Deposition Exhibit No. 200 was  
14 marked for identification.)

15 MS. ROHN: Exhibit 200.

16 Does he have a copy in front of him?

17 MR. ECKARD: Of this?

18 MS. ROHN: Yes.

19 MR. ECKARD: That's Exhibit 200?

20 MS. ROHN: That's Exhibit 200.

21 Q. (Ms. Rohn) You have Exhibit 200 in front of you,  
22 which says Virgin Islands Telephone Corporation Total Access  
23 Lines?

24 A. Yes.

25 Q. Did you compile this document?

MICHAEL CUMBERMACK -- DIRECT

1 A. Not me, personally. Someone who works for me.

2 Q. Who did it?

3 A. It was listed off of monthly reports that we  
4 provide, historical.

5 Q. And who do you provide those monthly reports to?

6 A. The management and the PSC.

7 Q. And what, from that monthly report, gave you this  
8 information as to access lines?

9 A. Well, they're reports that comes off of the  
10 billing system, that tells us how many access lines are in  
11 service.

12 Q. So these aren't just the bills. These are the  
13 actual access lines?

14 A. These are the access lines, yes.

15 Q. So would you extrapolate from the bill how many  
16 lines were on the bill, and come up with the total number of  
17 lines?

18 A. The system does that.

19 Q. Going to show you Plaintiff's Exhibit No. 1.

20 (Deposition Exhibit No. 1 was  
21 marked for identification.)

22 MR. ECKARD: May I see that, please?

23 MS. ROHN: It's the same one we did several  
24 times.

25 MR. ECKARD: (Witness nods head.)

## MICHAEL CUMBERMACK -- DIRECT

1 Q. (Ms. Rohn) First of all, have you ever seen that  
2 document before?

3 A. No.

4 Q. (Ms. Rohn) Do you know -- did you know  
5 Albert Sheen?

6 A. Somewhat, yes.

7 Q. Was he legal counsel for Vitelco?

8 A. He was legal counsel for ICC, I think.

9 Q. Did he also do legal work for Vitelco?

10 A. I don't recall whether he did work for Vitelco.

11 Q. You don't know?

12 A. No, I don't recall. I don't recall whether he did  
13 or not.

14 Q. If you go to the page, there'll be pages at the  
15 bottom -- numbers at the bottom about this far down, there's  
16 a No. 1196.

17 A. Yep.

18 Q. And that's a check from Hodge & Sheen to pay  
19 Dennis R. Sheraw, and we'll get to the documents, but for  
20 the bill for this report.

21 Do you know from what funds Hodge & Sheen  
22 would have paid this?

23 A. No.

24 Q. If you go to the Page 1147.

25 A. Okay.

MICHAEL CUMBERMACK -- DIRECT

1 Q. It indicates, in pertinent part, if you go to the  
2 second paragraph, about next-to-the-last sentence, as to  
3 Patrick Rice. He revealed that GCG consults on issues  
4 regarding WAPA, ferry boat concessions, and Vitelco. The  
5 PSC office in St. Thomas has two full-time employees, Rice  
6 and a secretary.

7 And then further down, if you go to the  
8 fourth paragraph, A stack of invoices/financial papers at  
9 the PSC office contained the following  
10 letters/invoices/notes relating to GCG work on Vitelco  
11 cases.

12 Were you aware that the Georgetown Consulting  
13 Group -- was Vitelco aware that Georgetown Consulting Group  
14 was, indeed, investigating Vitelco?

15 MR. ECKARD: I'm going to object to this as  
16 outside of the scope of the 30(b)(6) notice.

17 MS. ROHN: No, it's in the notice. It has to  
18 do with the investigation. I'm asking questions following  
19 up on that.

20 MR. ECKARD: Investigations regarding Senator  
21 Donastorg?

22 MS. ROHN: No, the investigation into Senator  
23 Donastorg. This was part of the investigation packet that  
24 was produced to Senator Donastorg as to the investigation.  
25 It is a five-inch thick investigation file.

Cheryl L. Haase

JA002873-8161

MICHAEL CUMBERMACK -- DIRECT

1 Q. (Ms. Rohn) Would you answer my question? Was  
2 Vitelco aware that Georgetown Consulting Group was  
3 investigating Vitelco on behalf of the PSC?

4 A. No.

5 Q. Vitelco didn't know that Georgetown Consulting  
6 Group was hired by the PSC?

7 A. Specifically, to be specific related to this, I  
8 don't know.

9 Q. I'm not asking you if you knew that they were  
10 being investigated. I'm asking if Vitelco knew that  
11 Georgetown Consulting Group was hired by the PSC to  
12 investigate Vitelco?

13 A. To my recollection, most of the times there's any  
14 kind of a rate case investigation, any work the PSC is  
15 doing, they've hired the Georgetown Consulting Group for  
16 many, many items. That is correct, yes.

17 (Deposition Exhibit No. 2 was  
18 marked for identification.)

19 Q. (Ms. Rohn) Exhibit 2.

20 (Discussion held off the record.)

21 Q. (Ms. Rohn) All right. This is a story in the  
22 Avis, which indicates that there was an agreement to delay  
23 the PSC's determination that Vitelco needed to reduce its  
24 rates by \$4 million.

25 Were you -- was Vitelco aware of that ruling

MICHAEL CUMBERMACK -- DIRECT

1 by the PSC?

2 A. I should say yes.

3 Q. Now, this indicates that the ninety-day delay is  
4 to give Vitelco a chance to issue stock.

5 Did Vitelco indeed sell stock?

6 MR. ECKARD: Object to form.

7 A. No.

8 Q. (Ms. Rohn) It also indicates, as part of the  
9 compromise, Vitelco agreed to implement a 911 emergency  
10 telephone service within the next six months.

11 Did Vitelco actually do that?

12 A. Yes.

13 Q. Then if we go to the second page of this document,  
14 if you go to the one, two, third full paragraph, says,  
15 Atlantic Tele-Network Co., Vitelco's parent company, and  
16 Vitelco also agreed to pay back, over the next twelve  
17 months, loans and advances made to the affiliates over the  
18 past several years to the tune of about \$10 million.

19 First of all, was Atlantic Tele-Network Co.  
20 Vitelco's parent company?

21 A. Yes.

22 Q. Indeed, had Vitelco advanced and/or loaned its  
23 affiliates, over the past several years, \$10 million?

24 MR. ECKARD: Object to the form.

25 A. I don't recall what the number would have been,



MICHAEL CUMBERMACK -- DIRECT

1 but I know of no official loan document that says a loan of  
2 anything like that.

3 Q. (Ms. Rohn) Were the funds swept by Atlantic  
4 Tele-Network, and then spent by Atlantic Tele-Network,  
5 logged as loans --

6 A. No.

7 Q. -- on any books?

8 A. No.

9 Q. Were they logged as advances?

10 A. They were logged as intercompany transactions.

11 Q. And then it goes on to say, And there's not going  
12 to be any more loans or advances in the future.

13 In fact, did Atlantic Tele-Network continue  
14 to sweep the account of Vitelco after this hearing?

15 MR. ECKARD: Object to form.

16 A. Yes.

17 Q. (Ms. Rohn) And then it says, Additionally, the  
18 company agreed that Jeffrey Prosser and Prior would resign  
19 as its chief executives.

20 Did that occur?

21 A. Yes.

22 Q. And it says, They no longer will draw their  
23 \$250,000-a-year salaries.

24 Had they been drawing \$250,000 a year as  
25 salaries?

Cheryl L. Haase

(340) 773-8161  
JA002878

MICHAEL CUMBERMACK -- DIRECT

1 A. Yes.

2 Q. Then in the last column, in the middle it says,  
3 The PSC, in 1989, ordered Vitelco to refund 1.7 million to  
4 its customers. The refund was never paid after Vitelco  
5 claimed they didn't have the money because of the heavy cash  
6 outflow due to Hurricane Hugo.

7 Was Vitelco aware of the order to refund  
8 \$1.7 million?

9 MR. ECKARD: Object to form.

10 A. Yes.

11 Q. (Ms. Rohn) And did Vitelco, indeed, represent to  
12 the PSC that it was unable to do so because of Hurricane  
13 Hugo costs?

14 MR. ECKARD: Object to form.

15 A. I don't recall that.

16 Q. (Ms. Rohn) Well, in fact, was Vitelco able to  
17 refund -- to issue the \$1.7 million refund if it's funds had  
18 not been swept by ATN?

19 MR. ECKARD: Object to form.

20 A. Well, the reasons given was because of Hurricane  
21 Hugo --

22 Q. (Ms. Rohn) Right.

23 A. -- which caused, I think, the bill on that was  
24 close to \$50 million. So I would think that would be the  
25 reason given.

MICHAEL CUMBERMACK -- DIRECT

1 Q. However, the question really is --

2 A. Uh-huh.

3 Q. -- how much money was on the books that was owed  
4 to Vitelco that had been swept by ATN?

5 Isn't that the real issue?

6 MR. ECKARD: Object to form.

7 A. At this point, I would not -- I don't recall what  
8 was on the books.

9 Q. (Ms. Rohn) Goes on to say, Subsequently, the PSC  
10 discovered Vitelco diverted \$30 million to ATN in loans and  
11 advisory fees over the past two years.

12 Were you aware, was Vitelco aware, that  
13 \$30 million of its money had been diverted to ATN?

14 MR. ECKARD: Object to form.

15 A. Advisory fees were reflected on the books as owed  
16 to ATN.

17 Q. (Ms. Rohn) What were advisory fees?

18 A. I'm sorry. Advisory/management fees same thing.

19 Q. Were you aware of any loans from Vitelco to ATN?

20 A. No.

21 Q. And indeed, though, there were on the books, am I  
22 correct, sums acknowledged to be owed to Vitelco that had  
23 been swept by ATN?

24 A. Yes.

25 Q. Is that correct?

MICHAEL CUMBERMACK -- DIRECT

1 A. Yes.

2 Q. Do you know if those amounts, those amounts due,  
3 totaled \$30 million?

4 A. I don't recall what it was at that time, no.

5 (Deposition Exhibit No. 3 was  
6 marked for identification.)

7 MS. ROHN: Exhibit No. 3. I don't think you  
8 have that one yet.

9 MR. ECKARD: I don't think I do, no.

10 Q. (Ms. Rohn) This is an article from the Virgin  
11 Islands Business Journal from July 15, 1991.

12 During this period of time, 1991, was Vitelco  
13 repeatedly being assessed by the PSC?

14 A. I would have to say yes.

15 (Deposition Exhibit No. 4 was  
16 marked for identification.)

17 Q. (Ms. Rohn) Exhibit No. 4 is an article from The  
18 Daily News, July 27, 1991, entitled, Phone customers to get  
19 \$14 credit in PSC-VITELCO settlement. And it also  
20 indicates, if you go to the next-to-the-last column, Vitelco  
21 agreed that there would be no more loans or advances to  
22 parent company Atlantic Tele-Network, Inc. and subsidiaries.

23 In fact, after this date, did Atlantic  
24 Tele-Network continue to sweep the funds from Vitelco?

25 A. Yes.

MICHAEL CUMBERMACK -- DIRECT

1 Q. (Ms. Rohn) It also says, ATN and subsidiaries  
2 will repay loans and advances of \$10 million to Vitelco  
3 within twelve months.

4 In fact, did Atlantic Tele-Network, during  
5 this period of time, pay to Vitelco, in cash, \$10 million?

6 MR. ECKARD: Object to form.

7 A. I do not recall.

8 Q. (Ms. Rohn) Are you aware of whether or not funds  
9 swept from Vitelco by ATN were then used to purchase Puerto  
10 Rico TeleCom, Inc.?

11 MR. ECKARD: Object to that as outside the  
12 scope of the 30(b)(6) deposition notice.

13 Where is it in there?

14 MS. ROHN: He can answer of his own personal  
15 knowledge.

16 Q. (Ms. Rohn) Were you aware of that?

17 MR. ECKARD: No, he's not. He's a 30(b)(6)  
18 witness.

19 MS. ROHN: Right, and the law says that if it  
20 is outside the scope, then the witness's answer is to his  
21 own personal knowledge, rather than the corporate knowledge.

22 Q. (Ms. Rohn) Can you answer my question, please?

23 MR. ECKARD: No, he's a 30(b)(6) witness.

24 This is outside of the scope of the deposition.

25 MS. ROHN: Are you directing him not to

MICHAEL CUMBERMACK -- DIRECT

1 answer? Because the only reason you can direct a witness  
2 not to answer is because of a privilege.

3 Q. (Ms. Rohn) Can you answer my question, please?

4 A. No, I have no knowledge of where ICC got the  
5 funds, or ATN, to purchase that company.

6 Q. If -- if ATN had paid -- actually paid and  
7 transferred the funds of \$10 million to Vitelco, what  
8 records would there be concerning that?

9 MR. ECKARD: Object to form. Speculation.

10 MS. ROHN: Great.

11 MR. ECKARD: Calls for speculation. It's a  
12 hypothetical question.

13 MS. ROHN: It's not a hypothetical question  
14 at all.

15 Q. (Ms. Rohn) What documents would be generated by  
16 Vitelco if it received \$10 million transferred to it by  
17 Atlantic Tele-Network?

18 MR. ECKARD: Object to form. Calls for  
19 speculation.

20 A. It will come through the intercompany account.

21 Q. (Ms. Rohn) Okay. Where are these intercompany  
22 accounts now?

23 A. Where are they?

24 MR. ECKARD: Object to form.

25 Q. (Ms. Rohn) Yeah. Are they in a computer, or are

MICHAEL CUMBERMACK -- DIRECT

1 they on paper, or are they both.

2 A. They're in the computer on the general ledger  
3 books.

4 Q. And how far back do they go in the computer?

5 A. I'm not sure, but I think you should be able to  
6 get in the mid-nineties or so.

7 Q. Has a copy of these intercompany accounts been  
8 given to the trustee in bankruptcy?

9 A. Yes.

10 Q. Exhibit 8.

11 (Deposition Exhibit No. 8 was  
12 marked for identification.)

13 Q. (Ms. Rohn) In 1991, did Vitelco request an audit  
14 of the PSC?

15 A. According to this article, I'd have to say yes.

16 Q. And was one of the items that Vitelco was seeking  
17 to have audited was the payments made to Georgetown's Madan?

18 A. The -- what Vitelco would be looking for relative  
19 to an audit is that, based on the assessments paid to them,  
20 the PSC should then provide the support of how these monies  
21 were spent, and who they were paid to.

22 Q. And did Vitelco take the position that the hiring  
23 of Mr. Madan was improper because it wasn't done by  
24 competitive bidding?

25 A. Specifically, what period are you speaking about,

MICHAEL CUMBERMACK -- DIRECT

1 because --

2 Q. This is on or about June of 1991. There's, on the  
3 last column it says, The approval process should be a matter  
4 of grave public concern because these bills are ultimately  
5 paid by the taxpayers.

6 The PSC's refusal to follow the competitive  
7 bidding requirements of the V.I. Code, with respect to  
8 hiring consultants, produces a cozy relationship that is the  
9 root cause of these run away expenses.

10 A. Yes, that is correct.

11 Q. Were you aware of whether or not these -- well,  
12 for instance, it goes on to say, Madan's expense reports  
13 provide blanks in which to fill in the amounts spent on such  
14 items as lodging, airfare, auto rental and meals. Mr. Madan  
15 claims thousands.

16 Were you aware of whether or not that  
17 allegation was made as a result of the results of the  
18 investigation into Mr. Madan?

19 MR. ECKARD: Object to form. This is a  
20 30(b)(6) deposition of Vitelco.

21 Q. (Ms. Rohn) Was -- did Vitelco use the  
22 investigation report of Mr. Madan as the basis for these  
23 attacks on Mr. Madan?

24 A. No.

25 MR. ECKARD: Object to form.



MICHAEL CUMBERMACK -- DIRECT

1 Q. (Ms. Rohn) How do you know not?

2 A. I'm not aware of that. I've never heard anybody  
3 said anything to that effect.

4 Q. Do you know whether or not at that time  
5 Mr. Prosser and Mr. Prior ran Vitelco, didn't they?

6 A. We have always asked for support -- even up to  
7 today, they send us support -- when they give us  
8 assessments, what it is being used for.

9 Q. Sir, at the time that Vitelco was challenging  
10 Mr. Madan, Mr. Prosser and Mr. Prior were running Vitelco,  
11 were they not?

12 A. 1991? I think so.

13 Q. And you don't know whether Mr. Prosser had  
14 received the investigation report, and was using the results  
15 of the investigation report to make these attacks, do you?

16 A. No, I don't know that.

17 MR. ECKARD: Object to the term  
18 "investigation report." The witness has already testified  
19 he's never seen that.

20 (Deposition Exhibit No. 12 was  
21 marked for identification.)

22 Q. (Ms. Rohn) Exhibit No. 12.

23 Were you -- are you aware that, in exchange  
24 for \$9.4 million, Atlantic Tele-Network gave Vitelco shares  
25 of stock in Puerto Rico TeleCom?

MICHAEL CUMBERMACK -- DIRECT

1 MR. ECKARD: Object to form.

2 A. I don't recall. I'm trying to think about that,  
3 of -- I really don't recall that particular -- I don't know  
4 how to answer that. I don't recall.

5 Q. (Ms. Rohn) This article says, A 1989 settlement  
6 agreement between Vitelco and the commission requires all  
7 transfers of property from Vitelco to ATN or to any other  
8 subsidiary of ATN to be approved by the commission to ensure  
9 that the transfer is "justified as one for reasonable value  
10 and at arm's length."

11 In fact, despite that 1989 settlement  
12 agreement, Vitelco continued to -- well, excuse me -- ATN  
13 continued to daily take the money from ATN without approval  
14 of the commission, did it not?

15 MR. ECKARD: Object to form.

16 I think that's been asked and answered.

17 MS. ROHN: This is a different one. That was  
18 the 1991 agreement. This is the 1989 agreement.

19 A. If my memory serves me correctly, the item  
20 referred to in the PSC's order related to dividends, I  
21 think, and there was an approval process, certain  
22 requirement that has to be met before that could be done,  
23 and that was done.

24 Q. (Ms. Rohn) Do you know Ann Abramson?

25 A. Yes.

MICHAEL CUMBERMACK -- DIRECT

1 Q. How do you know Ann Abramson?

2 MR. ECKARD: Object to form. This is a  
3 30(b)(6) deposition.

4 Q. (Ms. Rohn) Did Ann Abramson ever perform any  
5 consulting work for Vitelco?

6 A. No.

7 Q. Did Ann Abramson ever bring a suit against the PSC  
8 on behalf of Vitelco?

9 MR. ECKARD: I object to the question as  
10 outside the scope of the deposition notice.

11 A. I don't know about that.

12 (Deposition Exhibit No. 26 was  
13 marked for identification.)

14 Q. (Ms. Rohn) Exhibit No. 26.

15 This is an article from **The Daily News** from  
16 February 2009, Abramson deposition delayed; Vitelco, PSC  
17 disagree over fees. Subtitle, Prosser says phone company  
18 paid 145,000.

19 Says, The V.I. Telephone Corp. and the Public  
20 Services Commission continue to disagree Friday over the  
21 importance of the \$440,000 paid to V.I. businesswoman Ann  
22 Abramson by Vitelco and its parent company, Atlantic  
23 Tele-Network.

24 Does that refresh your recollection as to  
25 whether Ms. Abramson was paid consulting fees by Vitelco?

MICHAEL CUMBERMACK -- DIRECT

1 MR. ECKARD: I object to the question as  
2 outside the scope of the deposition notice.

3 A. I -- I --

4 Q. (Ms. Rohn) Goes on to say, Vitelco President  
5 Jeffrey Prosser said Vitelco paid Abramson \$145,000, and the  
6 rest was paid by ATN.

7 In fact, was the money that ATN had, Vitelco  
8 money?

9 MR. ECKARD: There's nothing in the  
10 deposition notice related to this.

11 A. I don't recall this at all.

12 Q. (Ms. Rohn) All right. There's a statement in the  
13 second column, a quote from Mr. Prosser that says, Although  
14 all the invoices were addressed to Vitelco, Prosser said  
15 Vitelco only paid \$140,000 to Abramson. The remaining  
16 \$295,000 was paid by ATN, But, quote, if ATN checks were  
17 used to pay Vitelco expenses, they were charged to Vitelco.

18 Indeed, were ATN checks periodically used to  
19 pay Vitelco expenses?

20 MR. ECKARD: I object to this as outside the  
21 scope of the deposition notice.

22 Q. (Ms. Rohn) Were they?

23 A. There's a possibility that ATN, certain  
24 transactions that covers all the companies, that ATN pays,  
25 but it's -- for instance, for an example, insurance. They

MICHAEL CUMBERMACK -- DIRECT

1 would have one insurance policy that ATN would pay, and then  
2 the charge-backs come back to the various entities that it  
3 covered.

4 Q. Well, in fact --

5 A. So I think that answers --

6 Q. I'm sorry. I didn't mean to interrupt.

7 A. I'm saying, I think that answers your question as  
8 to whether a check from ATN goes to the benefit of Vitelco  
9 or any of the subsidiaries.

10 Q. Well, in fact, sir, because ATN swept the accounts  
11 of Vitelco, wouldn't ATN from time to time pay bills owed by  
12 Vitelco, and then simply log those as having been paid on  
13 behalf of Vitelco?

14 A. Yes.

15 MR. ECKARD: Object to form.

16 (Deposition Exhibit No. 28 was  
17 marked for identification.)

18 Q. (Ms. Rohn) Exhibit 28.

19 Please hand it to the witness.

20 MR. RAMES: This is a copy of this one?

21 MS. ROHN: I don't have an original -- oh, I  
22 do have an original. Sorry.

23 Q. (Ms. Rohn) This indicates -- this is an article  
24 from July 26, 1991, from *The Daily News*, and in the third  
25 column it states, In the past two years, Vitelco has loaned

Cheryl L. Haase

(340) 773-8161  
JA002888

MICHAEL CUMBERMACK -- DIRECT

1 ATN \$17 million, and paid ATN another \$13 million in  
2 dividends and advisory fees.

3 Was that the average of dividends and  
4 advisory fees that were paid by Vitelco to ATN every two  
5 years?

6 MR. ECKARD: Object to form.

7 A. The advisory fees was always 6 percent of  
8 revenues. I don't know what -- at different times of  
9 operations, if revenues were down, it would be a lower  
10 number; if it's up, it would be a higher number. And the  
11 dividends would vary also.

12 Q. (Ms. Rohn) You previously told me it was  
13 somewhere between 6 and 15 percent.

14 Who paid 6 and who paid 15?

15 A. I think it was just the cable companies might have  
16 paid 15 percent, owing to the effect that when they were  
17 bought, that's what they were paying.

18 (Deposition Exhibit No. 31 was  
19 marked for identification.)

20 Q. Exhibit 31.

21 This is an article from the *Avis* from  
22 December 1990, Vitelco officer faces criminal charges.

23 James Heying, the Virgin Islands Telephone  
24 Corp.'s chief financial officer, will be hit with criminal  
25 charges because he refused to provide access to documents

Cheryl L. Haase

JACO2889-8161

MICHAEL CUMBERMACK -- DIRECT

1 requested by the Public Services Commission.

2 Was Jim Heying, in 1990, the chief financial  
3 officer for Vitelco?

4 A. Yes.

5 (Deposition Exhibit No. 33 was  
6 marked for identification.)

7 Q. (Ms. Rohn) Exhibit 33.

8 Have you ever seen this document before, sir?

9 A. No.

10 MR. ECKARD: I object to questions on this  
11 document as outside the scope of the deposition notice.

12 Q. (Ms. Rohn) In April of 1996, was Ed Crouch -- did  
13 Ed Crouch work for Atlantic Tele-Network?

14 A. Yes.

15 Q. Do you remember what his position was?

16 A. Don't remember his title, but I do know he worked.

17 No, I don't remember what his title was.

18 Q. This indicates that, at his request, a background  
19 investigation on Riel Faulkner and Lori Gilmore was  
20 conducted. And then the second paragraph it says, We found  
21 little derogatory information.

22 Was Vitelco aware that, as a result of  
23 their -- these people's complaints against Vitelco, that  
24 Atlantic Tele-Network had them investigated?

25 A. No.

MICHAEL CUMBERMACK -- DIRECT

1 Q. Do you know whether or not the cost of this  
2 investigation was intercompany charged to Vitelco?

3 A. No.

4 Q. Would there be documents from 1996 that would tell  
5 me that?

6 MR. ECKARD: Object to the form as calling  
7 for speculation.

8 A. I have to look and see.

9 Q. (Ms. Rohn) Well, if there were still the  
10 intercompany transfer documents, --

11 A. Uh-huh.

12 Q. -- should this bill be on them --

13 MR. ECKARD: Object to form as calling for  
14 speculation.

15 Q. (Ms. Rohn) -- as cost for this investigation?

16 MR. ECKARD: It calls for speculation.

17 A. If it was charged, it should be.

18 Q. (Ms. Rohn) Do you know whether or not there were  
19 ICC bills, ICC records, as to what they spent money on? Or  
20 Atlantic Tele-Network? Sorry, that was an inartful  
21 question.

22 Were there records of Atlantic Tele-Network  
23 as to expenditures?

24 A. Yes, they should have records.

25 Q. Would those be on a computer, as well?



MICHAEL CUMBERMACK -- DIRECT

1 A. I would think so.

2 Q. And would you have access to that computer --

3 A. No.

4 Q. -- database?

5 A. No.

6 Q. Who would have access to that computer database?

7 MR. ECKARD: Object to form. It's a 30(b)(6)  
8 deposition of Vitelco.

9 Q. (Ms. Rohn) Who would have access to that  
10 database?

11 A. Dennis Kanai is the current chief financial  
12 officer.

13 Q. For?

14 A. ICC.

15 Q. Where is he working out of?

16 A. West Palm Beach.

17 (Deposition Exhibit No. 34 was  
18 marked for identification.)

19 Q. (Ms. Rohn) Exhibit 34.

20 This is a report from Dennis Sheraw to  
21 Oakland Benta dated May 20th, 1998, concerning investigating  
22 the supporters of Senator Donastorg.

23 Have you ever seen this document before?

24 A. No.

25 Q. Do you know who paid for this report?

MICHAEL CUMBERMACK -- DIRECT

1 A. Don't know.

2 Q. Do you know whether or not Vitelco was  
3 intercompany charged for this report?

4 A. I don't know.

5 (Deposition Exhibit No. 36 was  
6 marked for identification.)

7 Q. Exhibit 36.

8 Have you ever seen this document before?

9 A. No.

10 Q. Do you know whether or not Vitelco was  
11 intercompany charged for this portion of the investigation?

12 A. No, I do not.

13 Q. This is from 1998. Should there be documents that  
14 would show -- documents in Vitelco that would show whether  
15 or not it was a charge intercompany?

16 A. If it was charged intercompany, yes.

17 Q. If it was charged --

18 A. If it was charged to Vitelco via the intercompany,  
19 there should be a document, yes.

20 Q. Do you know William Challenger.

21 A. Yes, know of him. Don't really know him  
22 personally.

23 Q. Was he the chairman of the PSC for a period of  
24 time?

25 A. Yes.

MICHAEL CUMBERMACK -- DIRECT

1 Q. And do you know whether or not Mr. Prosser had any  
2 influence in his being appointed to the PSC?

3 A. No, I don't know that.

4 Q. Was he pro-Vitelco while he was on the PSC?

5 A. I don't know.

6 MS. ROHN: Off the record for a second.

7 (Respite.)

8 Q. (Ms. Rohn) Do you -- does Vitelco recall there  
9 was a period of time in -- hold on -- 2000 -- 2000 and 2001,  
10 in which Senator Donastorg mandamus -- attempted to mandamus  
11 the IDC to obtain documents to determine if Vitelco was in  
12 compliance with its IDC benefits?

13 MR. ECKARD: Object to form.

14 A. I don't recall him doing that.

15 Q. (Ms. Rohn) All right. Let me go to the document,  
16 then. Exhibit 70.

17 (Deposition Exhibit No. 70 was  
18 marked for identification.)

19 Q. (Ms. Rohn) Exhibit 70 is an article in **The Daily**  
20 **News**, August 17th, 2000, entitled, Senator Donastorg demands  
21 data on Vitelco's IDC compliance.

22 Do you recall that Senator Donastorg was  
23 requesting that the IDC obtain benefits -- excuse me --  
24 documents from Vitelco to determine whether or not they were  
25 qualified for their IDC benefits?

MICHAEL CUMBERMACK -- DIRECT

1           A.    Vaguely remember something like this, but I'm not  
2 quite certain that this compliance had anything to do with  
3 Donastorg. I don't have any memory of that.

4           Q.    Well --

5           A.    But it says right here that he did ask for data  
6 related to it, so --

7                                (Deposition Exhibit No. 71 was  
8                                marked for identification.)

9           Q.    (Ms. Rohn) Exhibit 71.

10                               This is an article in **The Daily News**  
11 entitled, Donastorg asks court to make Vitelco open employee  
12 records.

13                               Does that refresh your recollection?

14           A.    No. I've never seen -- I don't recall this, and I  
15 haven't seen any mandate from anybody to do this.

16           Q.    In this article, almost to the end of the first  
17 column, it says, In a statement issued Thursday, Donastorg  
18 said that the IDC is acting to protect Vitelco by refusing  
19 to hand over documents.

20                               Next paragraph says, ICC Vice President for  
21 Corporate Affairs, Holland Redfield, declined to comment on  
22 Donastorg's action, saying corporate policy prohibits  
23 comments on pending litigation.

24                               Do you know why Holland Redfield would be  
25 responding to the charges that Mr. Donastorg brought against

MICHAEL CUMBERMACK -- DIRECT

1 Vitelco?

2 MR. ECKARD: Object to form.

3 A. I suppose under the hat of corporate affairs,  
4 maybe he fell under that. I have no idea.

5 Q. (Ms. Rohn) Does that refresh your recollection as  
6 to whether or not Redfield from time to time would make  
7 statements on behalf of Vitelco?

8 A. Oh, yes.

9 Q. Yes.

10 A. Yes.

11 Q. What did you say?

12 A. I didn't say anything.

13 (Deposition Exhibit No. 80 was  
14 marked for identification.)

15 Q. (Ms. Rohn) Exhibit 80.

16 This is a document signed by Rocky Liburd  
17 verifying a loan of \$20,000.

18 Have you ever seen this document before?

19 A. Nope.

20 Q. If Mr. Liburd had been loaned \$20,000 by either  
21 Atlantic Tele-Network or ICC, should it be included in the  
22 records of ICC?

23 MR. ECKARD: Objection. Calls for  
24 speculation. Calls for a wild hypothetical.

25 A. I would think, yes.

MICHAEL CUMBERMACK -- DIRECT

1 Q. (Ms. Rohn) If that loan had been charged to  
2 Vitelco, should it be in the intercompany transfers of  
3 Vitelco?

4 A. Yes.

5 MR. ECKARD: Objection. Calls for  
6 speculation.

7 (Deposition Exhibit No. 86 was  
8 marked for identification.)

9 Q. (Ms. Rohn) Exhibit 86.

10 This is a transcript from the radio talk show  
11 Sam Top and Mr. Redfield's participation in that show. If  
12 you go to the second page of that document, about four lines  
13 down it begins, The senator -- referring to Donastorg --  
14 continues barraging the corporation with these baseless  
15 accusations regarding the company when these reports come  
16 out the reports are almost useless because it doesn't make  
17 any difference. The question is, Why was he constantly  
18 attacking this company which employs over 400 and some odd  
19 employees?

20 Now, do you understand that that company that  
21 he's referencing is Vitelco?

22 A. Yes.

23 Q. And then he goes on, on the next Redfield: Well  
24 our concern was if there was an ulterior motive, information  
25 that was always coming out seemed to be coming out from

MICHAEL CUMBERMACK -- DIRECT

1 competitors.

2 Do you understand that to be competitors of  
3 Vitelco?

4 MR. ECKARD: Objection. Are we are we  
5 talking about this as if it's a certified exact transcript  
6 of that?

7 MS. ROHN: I note your objection.

8 Would you answer my question, please?

9 A. I don't know.

10 Q. (Ms. Rohn) Well, on the next page it says, under  
11 Redfield, about the middle, starts out, I know for a fact  
12 that it was a great concern over a period of years of these  
13 constant attacks on this company, and again, when these  
14 attacks are rebuffed, in fact, the investigations come out  
15 and there are no improprieties. In fact, this rate  
16 investigation is taking place right now where under  
17 earning -- should be we are only earning -- where only  
18 earning about 6 percent return.

19 Do you understand that to be a reference to  
20 Vitelco?

21 A. Yes.

22 Q. And if you go to the next page, under Redfield,  
23 midway down, it says, Why would somebody want to destroy the  
24 livelihood of over 400 and some odd employees and put in  
25 jeopardy a utility in the Virgin Islands.

MICHAEL CUMBERMACK -- DIRECT

1 Do you understand that to be a reference to  
2 Vitelco?

3 A. Yes.

4 Q. Then if you go to two pages further under  
5 Redfield, the first Redfield in the middle, I think the  
6 company has every right to protect itself, and every right  
7 to institute an investigation of why would an individual  
8 want to do this, and why would they want to destroy the  
9 livelihood of over 400 employees.

10 Do you understand that that company is  
11 referring to Vitelco?

12 A. Yes.

13 MS. ROHN: I have no further questions.

14 Do you have any, Kevin?

15 MR. ECKARD: I'm just looking at my notes.

16 MS. ROHN: I didn't know who was going to go  
17 first. Sorry.

18 CROSS-EXAMINATION

19 BY MR. ECKARD:

20 Q. Good afternoon, Mr. Cumbermack. For the benefit  
21 of the record, my name's Mark Eckard. I represent Vitelco.

22 Telling that to the court reporter.

23 The cash management structure, cash  
24 management system of which Vitelco was a part, is there  
25 anything unordinary about that in relation to the way many



MICHAEL CUMBERMACK -- CROSS

1 other multi-company organizations function?

2 MS. ROHN: Objection as to form. Asking an  
3 opinion when no opinion has been produced in this case.

4 Q. (Mr. Eckard) You can answer the question.

5 A. No.

6 Q. And a number of times today I heard the word "he"  
7 or "him" in relation to Jeffrey Prosser, in issuing  
8 instructions or asking for things with regard to Vitelco.

9 When Jeffrey Prosser asked for things or gave  
10 instructions, was it your understanding that that was  
11 Jeffrey Prosser as an individual, or was that  
12 Jeffrey Prosser asking as an officer of ICC?

13 MS. ROHN: Objection. Leading question, and  
14 I move to strike the preamble of that question.

15 Q. (Mr. Eckard) You can answer.

16 A. A -- as ICC.

17 MR. ECKARD: I have nothing further at this  
18 time.

19 MR. RAMES: I have nothing for this witness.

20 CROSS-EXAMINATION

21 BY MS. ROHN:

22 Q. I have two follow-up questions.

23 When you answered that there was nothing  
24 improper about that, you would agree with me that if a  
25 utility is regulated by a commission, then it has to follow

## MICHAEL CUMBERMACK -- CROSS

1 the rules of that commission, isn't that true?

2 A. That is true.

3 MR. ECKARD: I object to the  
4 characterization. I did not use the word "improper."

5 MS. ROHN: All right. I note your objection.

6 Q. (Ms. Rohn) And a utility regulated by a  
7 commission has to follow those rules and regulations,  
8 doesn't it?

9 A. That's correct.

10 Q. Now, you were asked about Jeffrey Prosser.

11 Mr. Jeffrey Prosser had many hats, did he not?

12 A. Beg pardon?

13 Q. Many hats? He was the head of ICC, he was head of  
14 The Daily News, he was head of Vitelco, he was the head of  
15 the cable company, isn't that true?

16 MR. RAMES: Object to form.

17 A. He was the head of ICC and ATN.

18 Q. (Ms. Rohn) Well, he was chairman of the board of  
19 Vitelco?

20 A. Chairman of the board.

21 Q. Sir, how would you know, when Mr. Prosser told you  
22 something, if he was doing it as chairman of the board as  
23 Vitelco, or in his position of ICC?

24 MR. ECKARD: Object to form.

25 A. Depending what he was telling me, he would say who

MICHAEL CUMBERMACK -- CROSS

1 it relates to.

2 Q. (Ms. Rohn) Well, if he gave instructions to  
3 Vitelco to do things a certain way, did he have the power to  
4 do that in his position of chairman of the board of Vitelco?

5 A. Yes.

6 MS. ROHN: No further questions.

7 MR. ECKARD: Nothing further.

8 (Whereupon the deposition concluded  
9 at 2:35 p.m.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## CERTIFICATE

## C-E-R-T-I-F-I-C-A-T-E

1  
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, MICHAEL CUMBERMACK, 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 1st day of October,  
21 2010, at Christiansted, St. Croix, United States Virgin  
22 Islands.

**CERTIFIED TRUE COPY**

*Cheryl L. Haase*

Cheryl L. Haase, RPR  
My Commission Expires 1/26/12

JA002903

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

---

TIMOTHY MCDONALD,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL NO. 2004-93
	)	
JANE LOWE DAVIS; INNOVATIVE	)	
COMMUNICATIONS CORPORATION;	)	
THE DAILY NEWS PUBLISHING	)	
COMPANY, INC.; and JASON	)	
ROBBINS,	)	
	)	
Defendants.	)	
	)	

---

REPORTER'S TRANSCRIPT

JURY TRIAL

DAY 1

March 9, 2009

---

BEFORE: THE HONORABLE CURTIS V. GOMEZ  
Chief Judge

APPEARANCES: LEE J. ROHN, ESQ.

For the Plaintiff

KEVIN RAMES, ESQ.  
JENNIFER CLARK, ESQ.

For the Defendants

---

COURT REPORTER: CHANDRA R. KEAN, RMR  
Official Court Reporter  
Virgin Islands District Court  
St. Thomas, Virgin Islands

1 stories that I covered, kind of stories that I covered.

2 Q. Now, could you write any story you wanted to, or  
3 did you have to be assigned a story?

4 A. No, you could not write any story you wanted to.  
5 They generally came from assignments from Bill.

6 Q. What, when you started at the paper, was your  
7 relationship with Lowe Davis?

8 A. Well, we didn't really have a relationship. She  
9 was the CEO, so I really didn't have that much  
10 interaction with her.

11 Q. And when you started working at the paper, did you  
12 have any interaction with Jason Robbins?

13 A. Very little.

14 Q. Now what did you understand Jason Robbins' position  
15 to be at the paper?

16 A. He was right behind Lowe, sort of Lowe's  
17 assistant -- or lieutenant, I should say.

18 Q. Now after going to work for the Daily News for a  
19 period of time, did you discovery whether or not there  
20 was a dislike at the Daily News for Mr. Donastorg?

21 A. Yes, I did.

22 Q. Or I should say Senator Donastorg, shouldn't I?  
23 How did you discover that?

24 A. Well, Lowe and Jason continually demeaned him,  
25 insulted him. They called him an idiot, and they made

1 fun of him, and were very demeaning in general to him.

2 Q. What did they call him, besides "idiot"?

3 A. They called him corrupt --

4 MR. RAMES: Objection, Your Honor.

5 THE WITNESS: -- incompetent --

6 THE COURT: Sustained.

7 MR. RAMES: Objection, Your Honor.

8 THE COURT: Sustained.

9 BY MS. ROHN:

10 Q. How did that make you feel, working for a paper  
11 that was supposed to have integrity and honesty?

12 MR. RAMES: Objection, Your Honor.

13 THE COURT: Sustained.

14 BY MS. ROHN:

15 Q. Had you ever worked for a paper where similar  
16 conduct had occurred?

17 A. Never --

18 MR. RAMES: Objection, Your Honor. Presumes  
19 the conduct that occurred, Your Honor.

20 THE COURT: Sustained.

21 BY MS. ROHN:

22 Q. Okay.

23 Did there come a time at the newspaper where you  
24 had a run-in with anyone over your work at the  
25 newspaper?

1 A. Yes, there did.

2 Q. And when was that?

3 A. That was the story of May the 30th.

4 Q. 2003?

5 A. 2003.

6 Q. And what was that story about?

7 A. That story was about a simple boxing change -- a  
8 postponement in a boxing card that was supposed to  
9 happen on St. Thomas.

10 Q. And did you write that story?

11 A. I wrote the story.

12 Q. And when you wrote the story, did it have any  
13 reference to Senator Donastorg in it?

14 A. When I wrote the story, it had absolutely no  
15 reference to Senator Donastorg at all.

16 Q. And who did -- who worked with you on editing that  
17 story?

18 A. Lowe Davis, which is very unusual.

19 Q. And what did she do with you, editing that story?

20 A. Well, we went through the usual editing process,  
21 going over the story to make sure it was, it read  
22 correctly, making sure the facts were okay, sort of your  
23 standard procedure.

24 Q. And why do you say it was unusual for Lowe Davis to  
25 participate in the editing of that story with you?



1 A. Well, because it was the first time that I had --  
2 she had ever done it with me, and it was the last time;  
3 it was the only time that she had ever done it with me.

4 Q. Did you come to an agreement on the story before  
5 you left?

6 A. Yes, we did.

7 Q. Okay.

8 Was Senator Donastorg mentioned in the story before  
9 you left?

10 A. No, he was not.

11 Q. Did there come a time that you learned that he had  
12 been added to the story?

13 A. Yes, there did.

14 Q. And how did you learn that?

15 A. Well, the next morning I was still in bed, and I  
16 got a call from the promoter of the boxing event. And  
17 he was livid, he was screaming and yelling, and just  
18 extremely upset.

19 And at first, I didn't know what he was talking  
20 about, and I tried to get him to calm down.

21 And he eventually calmed down. And he told me he  
22 was really upset with the story. And he started reading  
23 the story to me.

24 And I said: If what you're reading is accurate, I  
25 did not write that story.

1           And he said: Really?

2           And I said: Yes.

3           So we talked some more, and he hung up. I calmed  
4 him down a little bit.

5           I still wasn't sure in my mind, so I drove up to  
6 the store, bought a copy of the newspaper, read the  
7 story, and I was stunned to believe that he was telling  
8 the truth.

9           MS. ROHN: And let me show you Exhibit 25.

10           (Plaintiff's Exhibit No. 25 marked for  
11 identification.)

12 BY MS. ROHN:

13 Q. Is that the story?

14 A. Yes, that's the story.

15           MS. ROHN: I move to publish.

16           MR. RAMES: Without objection.

17           THE COURT: All right. Exhibit 25 is admitted.

18           (Plaintiff's Exhibit No. 25 admitted into  
19 evidence.)

20 BY MS. ROHN:

21 Q. The headline on it says, "VI-Backed Boxing Event  
22 Called Off, Future Uncertain."

23           Was that a fair headline?

24           MR. RAMES: Object to form.

25           THE COURT: Sustained.

1 BY MS. ROHN:

2 Q. Was that a headline in keeping with the story you  
3 had written?

4 A. No --

5 MR. RAMES: Object to form.

6 THE COURT: Overruled.

7 MS. ROHN: You can answer, sir.

8 THE WITNESS: No, it was not.

9 BY MS. ROHN:

10 Q. And how was it not in keeping with the story you  
11 had written?

12 A. Well, several different ways.

13 First of all, the future of the event wasn't  
14 uncertain. It was just a postponement.

15 And second of all, in the subhead it talks about --

16 Q. I'll get to that. I'll get to that.

17 A. Okay. Sorry.

18 Q. The sub-headline says:

19 No TV coverage scheduled, despite promise  
20 when Donastorg got V.I. to appropriate  
21 \$300,000.

22 Was that sub-headline in keeping with the story you  
23 had written?

24 A. No, it was not.

25 Q. And how was it not?

1       A.     Because in the original story, the story that I  
2       wrote, as I say, the senator was never mentioned. He  
3       was no part of the story.

4       Q.     And the story then goes on to say:

5                     The professional boxing event that  
6                     Senator Adlah Donastorg, Jr., pushed the V.I.  
7                     Government to support with \$300,000, on the  
8                     basis that it would tap the Virgin Islands to  
9                     millions of Showtime cable television network  
10                    viewers, will not happen in June, as  
11                    scheduled.

12       MR. RAMES:  Objection, Your Honor.

13       Sidebar?

14       THE COURT:  All right.

15       MR. RAMES:  Thank you, Your Honor.

16       (Sidebar discussion held as follows:)

17       MR. RAMES:  Your Honor, the Court has already  
18       made the determination that the May 30th story was a,  
19       was a, was not a story that was of any significance with  
20       respect to whether or not Mr. McDonald was in any manner  
21       ill-treated on the job at the Daily News.

22                    This is the subject of my motion. It is  
23                    inflammatory. It is irrelevant, ultimately, to the  
24                    issue of his termination.

25                    Your Honor has made a decision in the memorandum

1 opinion with respect to summary judgment that Mr.  
2 McDonald was not ill-treated on the job, that this was  
3 a -- that the -- I believe Your Honor's exact words --

4 MS. ROHN: Your Honor, if he could lower his  
5 voice.

6 MR. RAMES: -- that Mr. McDonald's -- that the  
7 Court's exact words with respect to this article was  
8 that: Even if it happened, it did not constitute any  
9 intolerable circumstance at the Daily News, and that his  
10 complaints about it at the time were -- I believe the  
11 Court said --

12 THE COURT: I don't need you to recite -- let's  
13 assume for the sake of argument that there is some  
14 discussion in the memorandum opinion about this article  
15 with respect to constructive discharge.

16 Isn't the plaintiff's theory now, going forward,  
17 that there's this vendetta, and that the vendetta was --  
18 the seed for it was planted with this story, and it  
19 culminated in the termination?

20 Is that your point, Attorney Rohn?

21 MS. ROHN: Yes, sir.

22 THE COURT: Okay.

23 If that's the case, wouldn't it be permissible,  
24 then, for the plaintiff to at least discuss the seeds of  
25 this vendetta, this thing, which I presume the

1 plaintiff's theory is it came to fruition in December or  
2 thereabouts with the termination, or at least  
3 contributed in part?

4 Is your concern that it's dominating the case?

5 Because --

6 MR. RAMES: Not --

7 THE COURT: -- we're not even a couple hours  
8 into the case yet, so --

9 MR. RAMES: Not so much that it dominates the  
10 case, but that the presumption is that this article is,  
11 in fact, negative.

12 And I understand where the judge is coming from,  
13 and I guess I can clear that up on cross --

14 THE COURT: That's what cross is for.

15 The other thing, Attorney Rames, is you didn't  
16 object to this article coming in, did you?

17 MR. RAMES: No, I did not.

18 THE COURT: All right.

19 Thank you.

20 MS. ROHN: Excuse me.

21 While we're at sidebar, in the opening, Mr. Rames  
22 repeatedly referred to Mr. McDonald as being from  
23 Florida, and showing him Virgin Islands justice.

24 Well, I would like an instruction, first of all,  
25 that we disregard where people are from, and that

1 everyone is treated the same; and also an instruction to  
2 Mr. Rames to discontinue the "Virgin Islands versus  
3 Florida" line of questioning and evidence as  
4 inappropriate --

5 THE COURT: Well, he hasn't --

6 (Simultaneous discussion)

7 THE COURT: Hold on.

8 He hasn't done any questioning yet. And the  
9 opening, the jurors are aware that's not evidence.  
10 They're instructed on that, and they're presumed to  
11 follow the instruction. And it's reiterated at the  
12 conclusion of the case.

13 So let's go on. Let's end this sidebar.

14 (End sidebar conference, open court as follows:)

15 THE COURT: Go ahead, Attorney Rohn.

16 BY MS. ROHN:

17 Q. I think I was back here on the article, that "Mr.  
18 Donastorg pushed the Virgin Islands Government to give  
19 the \$300,000, and the event's future is uncertain."

20 Was that a -- in your original story?

21 A. No.

22 Q. From your knowledge of the story, was it true that  
23 the event's future was uncertain?

24 A. No.

25 Q. And was it -- from your knowledge of the story, was

1 it true that Mr. Donastorg or Senator Donastorg had  
2 pushed the V.I. Government to come up with this money?

3 A. No. He was just part of the process.

4 Q. Now, when you found out what had happened to your  
5 story, what did you do?

6 A. I went directly to my supervisor and complained --  
7 excuse me -- Bill Brown, and made an official complaint  
8 to him. And I told several of the people in the  
9 newsroom, as well, what had happened.

10 Q. Now, what were your feelings when you learned that  
11 this had happened to a story that your byline, that "Tim  
12 McDonald" had been left on?

13 A. I was, I was stupefied. I mean, I've been in the  
14 business for 20 years, and I've never personally  
15 witnessed anything like this. Any -- it was the most  
16 serious journalistic breach that I've ever witnessed,  
17 personally.

18 Q. Now, were Lowe Davis and Jason Robbins made aware  
19 of your dissatisfaction with their action?

20 A. Well, I'm sure they were, because I asked Bill to  
21 talk to them about it.

22 Q. And who changed your story?

23 A. Lowe Davis.

24 Q. And after you started complaining or -- about what  
25 she did, was there any change in the way you were



1 treated at the Daily News?

2 A. Yes. There was a change almost right off the bat,  
3 after those complaints.

4 Q. And can you tell the ladies and gentlemen of the  
5 jury how long after you complained about Lowe Davis'  
6 actions that change occurred?

7 A. Well, it was virtually overnight, virtually  
8 simultaneously.

9 Q. And what happened to you?

10 A. Well, they -- for one thing, they rarely talked to  
11 me any more. And if they did, they were very sure not  
12 to talk about the senator in a demeaning way.

13 Those were two ways.

14 I found myself working longer hours. At one point  
15 I worked 14 straight days. Another point I worked 14  
16 out of 15 days.

17 Another point, my wife had come over, and I had  
18 asked -- she only got to come over about once every  
19 couple of months or so. So I had asked for some time  
20 off so I could spend it with her when she came over.

21 And they said fine. I asked Bill Brown. He said  
22 okay.

23 But once she did get over, the other sports writer,  
24 Sean McCoy, had abruptly left the island, and I had to  
25 work the entire time that my wife was over here. And we

1 didn't have any time together, because I was covering  
2 for Sean.

3 So I was doing the same thing for Sean that I got  
4 punished for, but Sean never got punished for that sort  
5 of -- -

6 MR. RAMES: Objection to the -- objection, Your  
7 Honor.

8 THE COURT: Sustained, to the last portion of  
9 the answer.

10 Go ahead. Next question.

11 BY MS. ROHN:

12 Q. How long did that treatment last?

13 A. That lasted until the day I was fired.

14 Q. Well, did you get assigned any boxing stories?

15 A. I believe that was the last boxing story I did.

16 Q. Well, how were the stories on the boxing match  
17 assigned?

18 A. Well, there was -- there was really -- it was  
19 whoever was available to write these stories. It was  
20 generally me or Sean, whoever was there.

21 Q. Well, when they did this breach of the, your  
22 journalistic efforts, why didn't you quit?

23 A. Well, I thought about it, but I thought my  
24 complaint might eventually lead somewhere, that we would  
25 talk about it sometime.

1 Q. When did you actually return to the Virgin Islands?

2 A. December the 3rd.

3 Q. And about what time was that?

4 A. That was late in the afternoon.

5 Q. When did you go back to work?

6 A. I went back to work the next day, December 4th.

7 Q. And about what time did you go to work?

8 A. It was about -- as I recall, it was midmorning.

9 Q. Was that your normal time for going to work?

10 A. Yes.

11 Q. What happened after you got to work?

12 A. Well, I hadn't been there five minutes when Lowe

13 Davis called me into a meeting.

14 Q. And where was the meeting?

15 A. The meeting was in the office of Jason, Jason

16 Robbins.

17 Q. Who attended the meeting?

18 A. It was Jason Robbins, Lowe Davis, and myself.

19 Q. What happened at that meeting?

20 A. Well, they, they accused me of being dishonest.

21 And they told me to go home, that I was suspended, and

22 that they would call me within 24 hours.

23 I tried to explain to them what had happened, my

24 story, my version of the events, but they didn't want to

25 listen.

1 Q. What was their demeanor, what was their attitude  
2 towards you?

3 A. They were very hostile.

4 Q. And why do you say that?

5 A. Well, they were angry, and they made these  
6 unfounded accusations without really letting me tell my  
7 side of the story.

8 MS. ROHN: Okay.

9 Let me show you Exhibit 107.

10 (Plaintiff's Exhibit No. 107 marked for  
11 identification.)

12 BY MS. ROHN:

13 Q. Do you recognize that document, sir?

14 A. Yes, I do.

15 Q. And what is that document?

16 A. This is the suspension document that they gave to  
17 me when they suspended me.

18 Q. And was that at that meeting?

19 A. I believe it was, yes.

20 MS. ROHN: I move Exhibit Number 107 into  
21 evidence.

22 THE COURT: Attorney Rames?

23 MR. RAMES: One moment, Your Honor.

24 (Counsel conferring)

25 MR. RAMES: Without objection, Your Honor.

1 Thank you.

2 THE COURT: All right. Exhibit 107 is  
3 admitted.

4 (Plaintiff's Exhibit No. 107 admitted into  
5 evidence.)

6 MS. ROHN: May I publish, please?

7 THE COURT: Yes.

8 MS. ROHN: Am I supposed to push a button?

9 THE COURT: No. I think it might be the  
10 projector.

11 MS. ROHN: Oh. Usually it's my fault.

12 (Pause)

13 THE COURT: It will go away. Just wait a  
14 moment.

15 MS. ROHN: Oh, okay. Here we go.

16 (Exhibit published)

17 BY MS. ROHN:

18 Q. This letter says, "Re: Suspension," and then it's  
19 dated, am I correct, December 4th, 2003?

20 A. Yes.

21 Q. And that would have been the date that you had your  
22 conversation with Mr. Robbins and Ms. Davis?

23 A. That's correct.

24 Q. And it says:

25 The company has reason to question the

1 A. Yes, that's correct.

2 Q. And that contract indicates that you would not be  
3 paid overtime; is that correct?

4 A. Yes, that's correct.

5 Q. And were you paid overtime the first year at Travel  
6 Golf?

7 A. No.

8 Q. And were you paid overtime the second year at  
9 Travel Golf?

10 A. No.

11 Q. Were you paid overtime at any time during your  
12 employment at Travel Golf?

13 A. No.

14 Q. Have you sued Travel Golf?

15 A. No.

16 Q. You indicated in your earlier testimony that  
17 something happened in May 2003 to change your  
18 relationship with the people at the Daily News.

19 A. Yes.

20 Q. And you indicated that it was the May 30th, 2003,  
21 article?

22 A. That's correct.

23 Q. Okay.

24 An article concerning boxing, is that correct?

25 A. That's correct.

1 MR. RAMES: I would like to show the witness  
2 that article.

3 If I can put it on the screen, please.

4 THE COURT: Is this in evidence?

5 MR. RAMES: It is in evidence as Plaintiff's  
6 25, Your Honor.

7 THE COURT: All right.

8 (Exhibit published)

9 BY MR. RAMES:

10 Q. Okay.

11 Now you were talking earlier about this document,  
12 and made specific reference to the headline, "VI  
13 boxing" -- "Backed Boxing Event Called Off, Future  
14 Uncertain."

15 Okay. Was this boxing match VI-backed?

16 A. Was the -- I'm sorry.

17 Q. Was the boxing match VI-backed?

18 A. Yes.

19 Q. Okay.

20 And at the time, had the date for the boxing match  
21 been established?

22 A. I believe it had been, yes.

23 Q. So at the time this article was written, you're  
24 saying that there was a firm date for this boxing match,  
25 is that correct?

1 A. That's the way I recall it.

2 Q. Okay.

3 A. But, like I said, the story was almost six years  
4 ago, so it's hard to remember.

5 Q. You have indicated in your, in your deposition that  
6 this story had been changed, is that correct?

7 A. That's correct.

8 Q. And you're saying that this story had changed over  
9 your -- it was changed over your byline; is that  
10 correct?

11 A. Yes, it was.

12 Q. And you indicated in your deposition that the story  
13 had been changed by the addition of the first two  
14 paragraphs. Is that correct?

15 A. Yes.

16 Q. Okay.

17 A. But that was incorrect.

18 Q. What was incorrect?

19 A. Well, it wasn't actually the first two paragraphs.  
20 It was the first paragraph, and, obviously, the  
21 paragraph at the very end, on the left-hand side, that  
22 says:

23 Behind the push from Donastorg, the  
24 appropriation was tacked on to a bill intended  
25 to fund the rebuilding of the collapsed Market



1 Square Pavilion.

2 I didn't write that.

3 MR. RAMES: I'm a little confused here.

4 BY MR. RAMES:

5 Q. You went to a -- you did a deposition in this case,  
6 is that correct?

7 A. Yes, sir.

8 Q. Okay.

9 And I questioned you in that deposition; is that  
10 correct?

11 A. Yes, sir.

12 Q. Okay.

13 And I asked you about this particular document in  
14 that deposition; is that correct?

15 A. Yes, sir.

16 Q. And this document was considered by you to be the  
17 document that caused your relationship with the  
18 principals of the Daily News to begin to unravel; is  
19 that correct?

20 A. Absolutely.

21 Q. Okay.

22 And you indicated in that deposition that this  
23 article was changed by the addition of the first two  
24 paragraphs; is that correct?

25 A. Yes, that's correct.

1 Q. And you didn't indicate in your deposition that any  
2 other changes had been made, did you?

3 A. I hadn't -- that -- when you were asking me those  
4 questions, it had been five years since I had written  
5 the story, and I was, my memory was spotty.

6 Q. Yes, but --

7 A. But I also said, sir, that I never mentioned  
8 Donastorg in the story at all. And anybody could  
9 surmise from that, that the paragraph I'm referring to  
10 here was not my paragraph. That was not my writing.

11 I may not have pointed out that specifically to  
12 you, because, like I said, it was quite a bit of time  
13 lapsed between that time I had written that story and  
14 the time you questioned me about it.

15 But --

16 Q. Mr. McDonald --

17 MS. ROHN: Excuse me --

18 THE COURT: Hold on one second.

19 We're going to take a 10-minute break now. We'll  
20 resume promptly.

21 All right. All rise.

22 (Jury out, 3:00 p.m.)

23 MR. RAMES: Thank you, Your Honor.

24 THE COURT: All right. We're going to take a  
25 10-minute break.

1 Mr. McDonald, you're under oath.

2 Do you understand that?

3 THE WITNESS: Yes, sir.

4 THE COURT: You're not to discuss your  
5 testimony with anyone during that 10-minute break.

6 Do you understand?

7 THE WITNESS: Yes, sir.

8 THE COURT: All right. Be back on the stand in  
9 10 minutes.

10 (Witness stood aside)

11 MR. RAMES: Your Honor, if I may, I asked for a  
12 sidebar earlier. Can I have just a moment?

13 THE COURT: Yes. There's no jury here.

14 MR. RAMES: Okay. I'm sorry. Absolutely --

15 THE COURT: Can you come to the lectern, so we  
16 can all hear you clearly?

17 MR. RAMES: Of course. Of course.

18 Just momentarily --

19 THE COURT: I note on ECF, I didn't see any  
20 filing. So I'm guessing that matter hasn't been  
21 resolved.

22 MR. RAMES: Just now you checked, Your Honor?  
23 Because my staff was given that document an hour ago.  
24 That's very unusual.

25 THE COURT: Well, has the document been filed?

1 MR. RAMES: My understanding is it was provided  
2 to my staff, and my staff was instructed to file it  
3 immediately. That would be very, that would be un- --  
4 not unprecedented, but unusual.

5 THE COURT: All right. All right.

6 MR. RAMES: In any case, I'll make the call  
7 during the break.

8 THE COURT: Yeah. There's been no motion  
9 that's been filed today by the defendants.

10 MR. RAMES: I will have that immediately  
11 corrected, Your Honor.

12 The reason why I wanted to go sidebar is because  
13 Juror Number 8 was --

14 THE COURT: If it involves a juror issue, then  
15 we can take it at sidebar.

16 Is this a juror issue?

17 MR. RAMES: Yes.

18 THE COURT: All right.

19 (Sidebar discussion held as follows:)

20 MR. RAMES: Just that Juror Number 8 was  
21 asleep, Your Honor.

22 MS. ROHN: They're all asleep.

23 Juror Number 3 keeps his eyes closed, but he's --

24 THE COURT: All right. Sometimes a juror might  
25 appear that they're asleep; but they may appear not to

1 be.

2 We'll ask the CSOs to keep an eye on it, and  
3 they'll tap them or tap the bar, and make sure they're  
4 alert.

5 MS. ROHN: I saw Juror 3. I thought he was  
6 asleep. And somebody tapped him, and he told the  
7 person: No, I just had my eyes closed.

8 MR. RAMES: There you go. Okay.

9 THE COURT: Okay.

10 Thank you, counsel.

11 (End sidebar conference, open court as follows:)

12 THE COURT: All right. We'll take a 10-minute  
13 break.

14 (Court in recess, 3:03 p.m.)

15 (After recess, 3:16 p.m., jury present.)

16 (Witness resumed stand)

17 THE COURT: Attorney Rames, ready to proceed?

18 MR. RAMES: Thank you, Your Honor.

19 THEREUPON, TIMOTHY MCDONALD, previously duly sworn,  
20 was examined and testified further as follows:

21 CROSS-EXAMINATION (Cont'd)

22 BY MR. RAMES:

23 Q. Mr. McDonald, before we broke a few moments ago we  
24 were talking about this article dated May 30th of 2003.

25 And we did talk about this in your deposition, is

1       that correct?

2       A.    Yes, sir.

3       Q.    And I did hand you this during the deposition, is  
4       that correct?

5       A.    Yes.

6       Q.    And you were looking at this document, or you were  
7       referring to this document when you were testifying  
8       about it, is that correct?

9       A.    Yes.

10      Q.    And when you testified about this document, you  
11      indicated that the first two paragraphs of this story  
12      was changed, is that correct?

13      A.    Among other things, yes, sir.

14      Q.    Did you say "among other things" in your  
15      deposition?

16      A.    I don't believe -- I can't remember if I did or  
17      not. I know that, as I said previously, it had been a  
18      long time since I wrote this story when you put it in  
19      front of me --

20      Q.    But it had been a long time --

21                MS. ROHN:  Excuse me.  Could the witness finish  
22      his answer --

23                MR. RAMES:  Excuse me --

24                MS. ROHN:  -- before --

25                THE COURT:  Attorney Rohn, Attorney Rohn, if

1 you have an objection, you state an objection. If you  
2 have an objection, stand up and state it.

3 MS. ROHN: Sorry, Your Honor.

4 THE COURT: Thank you.

5 I understand. You can sit down now.

6 Go ahead. Next question.

7 MR. RAMES: Thank you, Your Honor.

8 BY MR. RAMES:

9 Q. But it wasn't -- you said it was a length of time  
10 between what and what?

11 A. There was -- five years had passed between the time  
12 that I had written this story and the time that you set  
13 it in front of me at the deposition, as I recall.

14 Q. Okay.

15 And now it is your testimony that more than just  
16 the first two paragraphs of this story was changed. Is  
17 that correct?

18 A. Yes, it is.

19 Q. Okay.

20 And what are you saying now that was changed in  
21 your, in this story, other than the first two  
22 paragraphs?

23 A. The eighth paragraph, the last paragraph in the far  
24 left column, that begins with, "Behind a push from  
25 Donastorg..."

1 Q. Could you read the rest of that paragraph, please?

2 A. (Reading:)

3 Behind a push from Donastorg, the  
4 appropriation was tacked on to a bill intended  
5 to fund the rebuilding of the collapsed Market  
6 Square Pavilion.

7 Q. And what do you -- I'm sorry.

8 What do you take that paragraph to mean?

9 A. Well, what it says to me is that the senator was  
10 trying to strong-arm this appropriation over other  
11 people's objections.

12 Q. Is there anything in this -- I'm sorry. Please go  
13 ahead.

14 A. When you use a verb like "push," "Behind a push  
15 from Donastorg," that's the image one gets. That's the  
16 image I get.

17 Q. The -- okay.

18 Behind a push from Donastorg, the  
19 appropriation was tacked on to a bill intended  
20 to fund the rebuilding of the collapsed Market  
21 Square Pavilion.

22 So isn't it true that this paragraph indicates that  
23 Mr. Donastorg got the appropriation?

24 First of all, let me ask you, do you understand  
25 what an appropriation is?



1 A. Yes.

2 Q. Okay.

3 An appropriation is a dedication of funds from the  
4 Government of the Virgin Islands, or a government, to a  
5 particular purpose; is that correct?

6 A. That's the way I understand it, yes.

7 Q. Okay.

8 And the purpose in this case was to support the  
9 boxing event, is that correct?

10 A. Well, yes. Yes.

11 Q. Okay.

12 To provide financial support for the boxing event,  
13 is that correct?

14 A. That's correct.

15 Q. Okay.

16 And to provide financial support by virtue of a  
17 legislative appropriation; is that correct?

18 A. Well, that's not the way this paragraph reads.

19 Q. No, but I'm asking you --

20 A. I'm sorry?

21 Q. I'm asking you, Mr. McDonald --

22 A. Yes.

23 Q. -- the funds were provided by virtue of a  
24 legislative appropriation; is that correct?

25 A. Yes.

1 Q. Okay.

2 And Mr. Donastorg, the article indicates that Mr.  
3 Donastorg was involved in that legislative  
4 appropriation, is that correct?

5 Somehow engaged, somehow involved in that; is that  
6 correct?

7 A. I'm -- repeat the question, please.

8 Q. This paragraph indicates that Mr. Donastorg was  
9 somehow involved in making that appropriation happen, is  
10 that correct?

11 A. What I read from it is, he was much more than  
12 involved.

13 Q. Okay.

14 A. The way I read it is he was a driving force behind  
15 this thing.

16 Q. Okay.

17 So he was a driving force behind getting the  
18 appropriation; is that correct?

19 A. Behind getting this appropriation tacked on to this  
20 bill that was intended to fund the rebuilding of the  
21 collapsed Market Square Pavilion.

22 Q. Okay.

23 And what was the amount of that appropriation?

24 A. His was \$300,000, as I recall it.

25 Q. And based on your reporting, do you know where that

1       \$300,000 came from?

2       A.    I think it was from the Tourism Revolving Fund, I  
3       think.

4       Q.    All right.

5                So if my understanding is correct, other than the  
6       first paragraph, the second paragraph, and the paragraph  
7       to the left on the, in the first column, the rest of the  
8       story is yours, is that correct?

9       A.    No, sir.

10      Q.    The rest of the story is not yours?

11      A.    No, sir.

12      Q.    What else, other than what you've just indicated,  
13      is someone else's language?

14      A.    Well, it should be obvious, the following  
15      paragraph:

16                        Donastorg did not return Daily News'  
17                        telephone calls to his office requesting  
18                        comment about the status of the boxing bout.

19                That was a paragraph that I could not have possibly  
20       written, since I, as I pointed out before, never  
21       mentioned Donastorg in my version of the story, my  
22       original story

23      Q.    So you're saying that this is your story, other  
24      than any paragraph that has Donastorg's name mentioned  
25      in it?

1 A. Yes, sir.

2 Q. Okay. Have you ever written about boxing before?

3 A. Many times.

4 Q. Have you ever written about state-sponsored boxing?

5 A. State-sponsored boxing? I don't believe I have.

6 Q. Governmental sponsored boxing?

7 A. I may have in the past.

8 Q. Do you recall having written about governmental

9 sponsored boxing before?

10 A. I don't recall, no, sir.

11 Q. And how long have you been a sports writer?

12 A. About 20 years.

13 Q. How long have you been covering boxing?

14 A. Over those 20 years, I've covered many boxing

15 events.

16 Q. And you've never heard about governmental sponsored

17 boxing events?

18 A. Sure, I have.

19 Q. You have heard about governmental sponsored boxing.

20 You've written about governmental sponsored boxing --

21 A. No, I'm sorry. I've heard about them. I simply

22 don't remember writing about them, other than this

23 particular story, and with the senator.

24 Q. Okay.

25 Now, you indicated that after you saw this article,

1 you were concerned, is that correct?

2 A. I was very upset.

3 Q. Okay.

4 And you brought your concerns to Bill Brown?

5 A. Yes, sir.

6 Q. And my understanding is correct, you told Bill

7 Brown that you were concerned?

8 A. Yes, sir, I did.

9 Q. Did Mr. Brown tell you anything in return?

10 A. He told me that he, that he read my original story  
11 and he, that he read the story that ended up in the  
12 paper, that Lowe Davis had changed. And he said: Yes,  
13 you're right. It really does change dramatically the  
14 meaning of the story.

15 And he also told me -- I asked him if he would look  
16 into it for me, and ask why she did that.

17 And he said that he would.

18 Q. Did you ever receive a report back?

19 A. No, sir, I never --

20 Q. Sorry.

21 Did you ever follow up with anyone about that?

22 A. I asked him about it. As I recall, it was about, I  
23 would say probably two or three weeks later.

24 And he didn't respond.

25 Q. Tell me what you know about the editing process at

1 the Daily News.

2 A. Well, the Daily News -- when I worked there,  
3 anyway -- had a, as I recall, a universal copy desk,  
4 which means that it had a row of editors who sat in the  
5 editorial department, and they edited the reporter's  
6 copy.

7 Q. Okay.

8 And so, what is a first read?

9 A. First read?

10 Q. Yeah. What is a first read?

11 A. That would be the editor reads the story first.

12 Q. And who would generally do your first reads?

13 A. It varied. It depended on who was working the copy  
14 desk that night. There was a nice fellow named Kemp, I  
15 believe was his name, who often did a lot of sports copy  
16 editing.

17 Q. Okay.

18 And do you know how many editors a story would go  
19 through, generally, before it got into the newspaper?

20 A. At the Daily News, I don't remember; probably  
21 about -- I can't say for sure.

22 Q. Okay.

23 And you indicated that this story, this "VI-Backed  
24 Boxing Event Called Off, Future Uncertain," is the only  
25 time that you're aware of that Lowe Davis edited your

1 copy?

2 A. That's, that's correct.

3 Q. Okay.

4 And you never worked with Lowe Davis on any other  
5 news stories, to your knowledge?

6 A. Not that I recall. Not -- certainly not to that  
7 extent.

8 Q. Okay.

9 You indicated earlier that you believed that the  
10 Daily News had a vendetta against Senator Donastorg. Is  
11 that correct?

12 A. That's correct.

13 Q. Okay.

14 And you think that that vendetta -- or you've  
15 testified that that vendetta is played out by virtue of,  
16 in part, this story; is that correct?

17 A. I believe this story was certainly part of it, yes.

18 Q. Okay.

19 So let me, let me see if I understand you, then.

20 The story indicates that Senator Donastorg was a  
21 moving force behind getting a third of a million  
22 dollars, \$300,000, for a sporting event, is that  
23 correct?

24 A. Yes.

25 Q. Okay.

1           And you said, I believe you used the word "driving  
2           force"; is that correct?

3           A.    Yes.

4           Q.    So he did, in fact -- was a supporter of this  
5           boxing event, is that correct?

6           A.    I would say so, of course.  Yes, sir.

7           Q.    Okay.  And the boxing event was intended to  
8           spotlight the US Virgin Islands, wasn't it?

9           A.    Yes.

10          Q.    It was intended to be on national TV, isn't that  
11          correct?

12          A.    Yes.

13          Q.    On ESPN, is that correct?

14          A.    I believe it was ESPN, yes.

15          Q.    Okay.  It was originally supposed to be Showtime,  
16          is that correct?

17          A.    Well, there were a number of networks that were  
18          mentioned, as I recall.

19          Q.    But in any case, it was supposed to have been a  
20          national network, showing a boxing event --

21                   THE COURT:  Counsel, come to sidebar.

22                   MR. RAMES:  Yes, please.

23                   (Sidebar discussion held as follows:)

24                   THE COURT:  Tell me --

25                   MS. ROHN:  I apologize, by the way, for not



1 standing up. I'm sorry.

2 THE COURT: That's all right.

3 What's the point of this inquiry, Attorney Rames?

4 As I understand it, the only reason we're getting  
5 into the story is because, if I understand the  
6 plaintiff's story, the seed was planted, germinated over  
7 time, the seed being there's a grudge, a vendetta, some  
8 ill will towards the plaintiff here because of his  
9 stands on some, reporting some story. And as a result  
10 of that thing germinating, he was fired.

11 Now it seems we're getting into a vendetta with  
12 respect to Senator Donastorg, and there's more  
13 development of that issue and Mr. Donastorg. The  
14 senator is not a party to this action.

15 But it seems you're heading down that road, which  
16 it seems to me would be creating a 403 trial within  
17 another trial, and confusing the issues.

18 Senator Donastorg is not on trial. The parties  
19 are, the Daily News and Mr. McDonald.

20 So where is it that you -- you're going with this?

21 And tell me, in that context, how it is that it's  
22 relevant to the issues presented by the parties' claims.

23 MR. RAMES: I understand precisely what Your  
24 Honor is saying. I appreciate the question. And it  
25 will be more appropriate -- if Senator Donastorg was

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**

**AFFIRMATION OF WILL JONES**

TERRITORY OF THE VIRGIN ISLANDS

)

DIVISION OF ST. CROIX

)

SS.

)

I, Will Jones, being first duly sworn, declare under penalty of perjury that the following is true and correct.

1. I make this affirmation of my own personal knowledge.
2. I am a former reporter of the Daily News and worked at the paper from April 1994 to December 1999. I was the Bureau Chief from September 1995 to February 1999 when I was demoted for failure to write a false story about Senator Donastorg.
3. It was part of the general knowledge at the Daily News that to get ahead you had to be willing to write negatively false stories about those on ICC and Prosser's enemy list, including Senator Donastorg.

4. J. Lowe Davis and Jason Robbins regularly spoke badly about Senator Donastorg and it was clear from my observation that they harbored malice towards him.
5. It was clear that Mr. Prosser did not like Senator Donastorg and neither did Lowe Davis who was the Editor in Chief of the paper and regularly sought to have negative stories printed against him.
6. The Daily News through Davis and Robbins assigned reporters like myself to dig up dirt on Senator Donastorg.
7. I met with Ed Crouch at Breezes Restaurant on a Sunday morning in 1998.
8. Mr. Crouch handed me an envelope and said it was a Police Report that Senator Donastorg had fired a gun at someone but the top brass at the Police Department was covering it up.
9. Mr. Crouch instructed me to go from St. Croix to St. Thomas to investigate but not to report to any one but him and Middlesworth what I learned.
10. Mr. Crouch assured me that if I could dig up dirt on Senator Donastorg on this I would get a benefit.
11. Mr. Crouch told me that the reason that the Daily News knew it was a cover up is that the Police Report had not been filed.
12. I went to St. Thomas and to the Police Department and checked the blotter and the incident was indeed listed on the blotter as a disturbance of the peace.
13. I called the Assistant Commissioner of Police, Bruce Hamlin who read the report to me over the phone and informed me that someone had gone to the Donastorg home in the early morning and was banging on the door and that Donastorg's father called

AFFIRMATION OF WILL JONES

Page 3

the police and fired a shot in the air.

14. I informed Middleworth and Crouch about the information and they attempted to get me to write a story anyway about Donastorg being the one who fired the gun and I refused.

15. After I refused to write the story I was ostracized and was removed as Bureau Chief and transferred back to St. Thomas and Ed Crouch would no longer speak to me.

Dated: 11/17/14

  
\_\_\_\_\_  
Will Jones

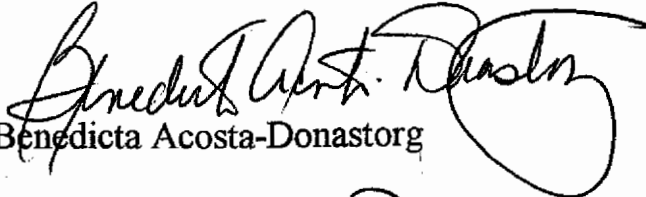
**To whom it may concern,**

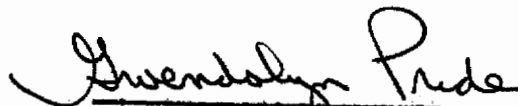
I am writing this affidavit to express my feeling about the investigation that was done against my husband, Adlah A. Donastorg, Jr. I have known my husband for the past 23 years. I will describe him as a man who is a good provider, sensitive, protector, caring and understanding.

When my husband learned about the investigation, he went berserk. It seriously affected him. My husband was very upset and livid to see how people will go to the extreme. What did he do so wrong that an investigation had to be conducted on him? Why slander his name or his performance. As far I am concern all he did was protect the people who elected him. This investigation caused my husband to be stressed out for months. He became more sensitive to issue that original will not be of such importance. He became short of patience with me, the kids, his family and his co-workers. At times, when I bring it back he gets very angry to the point that his eyes gets watery. How all that information could be giving away that easily? How could the banks we trusted for so many years do this to us? It was shocking to know that they knew every little detailed to the penny.

It is obvious that people who are greedy and malicious will go to the extreme to fabricate and hurt a family. I love my husband very much and I must say that I am sick and tired of people trying to hurt him or discredit his character. I want them to know that this family is with him 100% and nothing they say or do will change the love we have for him as a father and as a husband. He is loved by many, especially people who pray.

Distressfully,

  
Benedicta Acosta-Donastorg



**NOTARY PUBLIC**

Ms. Gwendolyn J. Pride

My Commission Exp. July 25, 2006

My Commission # NJ 100000000

JA002944



AD 0014

Fela McBean  
900B Estate Wintberg, Apt. E1  
Estate Thomas, St. Thomas 00802

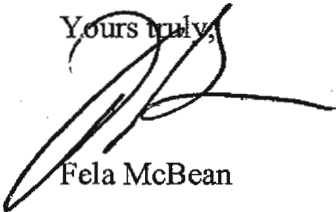
During the year 2002, I witnessed the distress experienced by my younger brother, Adlah "Foncie" Donastorg, Jr. That was the year his privacy was invaded by his financial affairs making headline news, his entire family investigated, an election was on the line and most importantly, he was grieving the death of his brother.

I can recall many days when I would beg Foncie to eat something or to get some rest. The paranoia in which he lived also trickled down to the rest of us. I still feel at times that I am being watched and followed around. Just think about all the "what if" scenarios that could have come about from his banking information being released without his consent; not to mention the investigation of family members.

My brother could have lost his job and could have been put in a position of not being able to adequately provide for his children. The possible ramifications from these unwarranted and malicious attacks are endless.

There were so many times I tried to convince my brother to let it go, not because I did not believe in his fight, but I just did not want to loose another brother. I just don't know hw he got through it all. The entire family drew form Foncie's strength to make it through that time.

Yours truly,

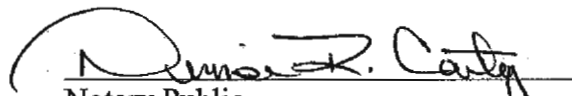


Fela McBean

District of St. Thomas/St. John ss:

On this, the 30<sup>th</sup> day of January 2004, before me, Fela McBean, personally appeared and satisfactorily proved to be the person(s) whose name(s) is subscribed to the within instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
Notary Public

My Commission Expires: August 18, 2006

AD 0015  
JA002945



**JOSEFINA A. DONASTORG**  
**Estate Tutu No. 148-243**  
**St. Thomas, VI 00802**

**AFFIDAVIT**

**TO WHOM IT MAY CONCERN:**

During the election time of the year 2002, my son Adlah "Foncie Donastorg, Jr. learned that his personal banking information was exposed to the public and further, was investigated along with other members of our family.

At that time I thought my family grieving the death of my other son was traumatic enough, but when I observed Foncie's reaction to his personal banking information being exposed to the public and his being investigated to the extent in which he was, I witnessed how distraught my only surviving son became. The months following that, we spent a lot of time in his campaign headquarters across from the Chase Manhattan Bank in Sugar Estate. Foncie was very hurt and looked like a wounded animal. He withdrew from the rest of us; was often in deep thought; was on edge and snapping at us for unapparent reasons; was depressed and sad most times during those months before the General Election. It was almost as though the individuals that did this to him intentionally planned to destroy my son just before the election. How vicious can one get? Lord have mercy!

It hurt me deeply to see my son suffering like this, especially since we had not yet gotten over grieving his brother's death. I pray that God will forgive those who performed such a vicious act against my son Foncie, and hence, my family.

Respectfully,

*Josefina A. Donastorg*  
Josefina A. Donastorg  
Mother of Senator Donastorg

Name: Joseph Griffin  
My Commission Expires: March 4, 2005  
NP #: NP-026-01

*Joseph Griffin*

AD 0016

JA002946

1/11/2004

Ella F. Morón  
P. O. Box 304644  
St. Thomas, Virgin Islands 00803

December 9, 2003

To Whom It May Concern:

I have chosen to write this affidavit to express what I personally witnessed when my beloved brother, Adlah "Foncie" Donastorg, Jr., was violated by having his personal banking history exposed to the public, and if that was not enough, was investigated along with other members of our family. An act, I might add, that hurt drastically.

We were still grieving the loss of our brother and this happening when it did, took a very serious toll on Foncie and our family. Foncie became very withdrawn; depressed; sad; unfocused; distracted, to mention a few. When I would ask him why he looked so haggard and why were his eyes so red all the time, he would explain it was because he was not sleeping well and had the situation on his mind constantly. Had this happened to me, I too would suffer with insomnia. It would be interesting to know how something like this would affect those that committed this evil against my brother; unless of course, they have no conscience that our sovereign God pricks, as He does mine.

I know my brother extremely well and I know he's been deeply hurt by all this. We are all hurt by this, but Foncie being a public official whose personal business was thrown in the public like dirty laundry, is far worst. What manner of evil human being(s) could do something so evil, vicious, wicked and vindictive against my brother and family, and live with themselves? May Almighty God have mercy on all of them. I sincerely hope they know that God's Word says ...whatsoever a man soweth that shall he also reap we will pay for what we do against others.

Respectfully,

*Ella F. Morón*  
Ella F. Morón  
Foncie's Sister

Name: Joseph Griffin  
My Commission Expires: March 4, 2005  
NP #: NP-026-01

*Joseph Griffin*  
*Notary*

AD 0018

JA002947

*1/11/2004*



DECEMBER 31, 2003

MARVIN BRAMBLE  
P.O. BOX 304892  
ST. THOMAS, VI, 00803

Affidavit

TO WHOM IT MAY CONCERN:

ADLAH DONASTORG, JR., OR FONCIE AS HE IS AFFECTIONATELY KNOWN AS, IS LIKE A BROTHER TO ME. I WAS OFF ISLAND AT THE TIME WHEN I HEARD NEWS ABOUT WHAT HAD HAPPENED TO FONCIE WITH RESPECT TO HIS FINANCIAL INFORMATION BEING PROVIDED TO A PRIVATE INVESTIGATOR AND ULTIMATELY BEING DIVULGED BY WAY OF MASS MEDIA.

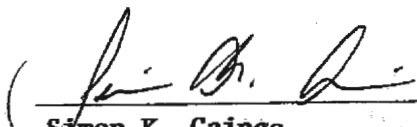
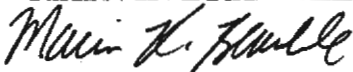
I IMMEDIATELY CONTACTED HIM AND I AM NOT REGRETFUL I DID. I WAS AMAZED TO LEARN OF THE EXTENT OF WHAT HE AND HIS FAMILY WAS BEING PUT THROUGH.

THROUGH THE YEARS, I WAS ALWAYS ABLE TO OFFER FONCIE MORAL SUPPORT, BUT FOR THAT PARTICULAR TIME, I COULD BARELY FIND THE WORDS TO CONSOLE HIM. THE STRESS AND PRESSURE I SAW HIM UNDERTAKE IN THAT ONE YEAR I HAVE YET TO ENDURE IN MY LIFETIME.

I AM THANKFUL THAT THE WHEELS OF JUSTICE HAVE BEGUN TO TURN FOR FONCIE AND HIS FAMILY.

RESPECTFULLY,

MARVIN BRAMBLE



Simon K. Caines  
Notary Executive Office

Prescribed and Sworn before me this

16<sup>th</sup> day of January of 2004,  
2004.

JA002948

AD 0017

Angel Ortiz  
3-10A St. Joseph & Rosendahl  
Charlotte Amalie, VI 00802

To Whom It May Concern:


Adlah's brother and I were the best of friends. From that close relationship with his brother, Adlah came be to considered family. No one mourned more for the loss of his loved one in the Donastorg family, like Foncie and his mother, for my best friend.

To deal with that loss and to be put through the ringer and be publicly scrutinized and targeted all in the same year was just too much. Our friendship suffered because of Foncie keeping away, not returning phone calls and just trying to stay out of harm's way.

I witnessed some of the suffering that his parents and family went through. His mother and grandmother were extremely depressed and his father almost suffered a nervous breakdown. His wife and children complained about being ridiculed and even slighted at school and at work because of what had been done to him.

I am surprised that Foncie did not take matters into his own hands; as a father and a husband, I may have handled the situation differently. I am sure that his brother is proud of the way Foncie is dealing with getting justice and his looking over his family. I hope that the jury will make sure that these people who did this to Foncie get exactly what they deserve.

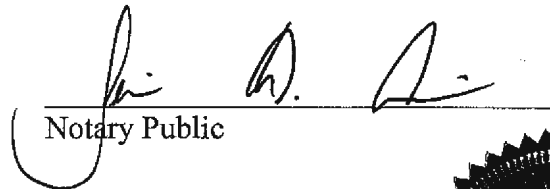
Sincerely,

  
Angel Ortiz

District of St. Thomas/St. John ss:

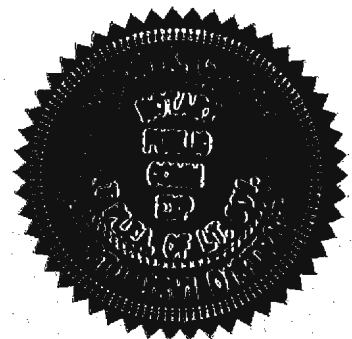
On this, the 30<sup>th</sup> day of January, 2004, before me, Angel Ortiz, personally appeared and satisfactorily proved to be the person(s) whose name(s) is subscribed to the within instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
Notary Public

My Commission Expires: at plea of the St. Gov.

AD 0019  
JA002949



Kenrick Augustus  
Hospital Ground Bldg. G  
Charlotte Amalie, VI 00802

To Whom It May Concern:

I have known Senator Adlah "Foncie" Donastorg, Jr., for over fifteen years. We have become good traveling buddies over the years. After what I saw him and his family go through in 2002, I developed a new found respect for "Foncie." I would not trade my profession for his for all of the wealth in the world.

I could not imagine being personally invaded and put through the ringer in front of the public's eye like that. Many of his other friends distanced themselves from him out of fear that they may be investigated. Foncie also began to distance himself from his friends and even his immediate family for their own protection. It would be days at a time that I would not hear from him because he became leery of speaking on the telephone.

"Grace Under Fire" are the words that best describes how Foncie endured all those attacks and still ran an effective and successful campaign. I am glad to write this affidavit and I hope it makes an impact on all those who read it.

Sincerely,



Kenrick Augustus

District of St. Thomas/St. John ss:

On this, the <sup>nd</sup> 2 day of February 2004, before me, Kenrick Augustus, personally appeared and satisfactorily proved to be the person(s) whose name(s) is subscribed to the within instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

My Commission Expires: February 27 2004

AD 0020  
JA002950



Charles W. Turnbull  
GOVERNOR

Kerry Druce, Esquire  
ATTORNEY GENERAL

Regius de Chabert  
DIRECTOR



THE UNITED STATES VIRGIN ISLANDS  
DEPARTMENT OF JUSTICE  
PATERNITY AND CHILD SUPPORT  
DIVISION

Dean L. Barnes  
ASSISTANT ATTORNEY  
GENERAL

8000 Nisky Center, 2nd Floor, Suite #500, St. Thomas, VI 00802-5810  
(340) 775-3070, (340) 775-3808 (fax)

AFFIDAVIT


I, Dean L. Barnes, Esq. being of legal age, sound mind, and not acting under duress, fraud or undue influence of any person whomever, do hereby depose and say:

1. That I am an Assistant Attorney General and the Coordinating Attorney for the United States Virgin Islands Department of Justice, Division of Paternity and Child Support.
2. That on or about March 7, 2006, I received a internal telephone call stating that there was someone at the front desk and asking if I would be able to assist him.
3. I walked to the front desk and met a person who introduced himself as Joseph Tsidulko and identified himself as a reporter for the Virgin Islands Daily News.
4. Mr. Tsidulko said that he had received a tip that a senator was not paying his child support.
5. I asked Mr. Tsidulko to follow me to my office in the Legal Section away from the public area of PCSD.
6. Mr. Tsidulko walked with me to my office where he sat down and spoke with me for a few minutes.
7. Legal Secretary, Lydia Morris was present in the outer office and the door to my office remained open during the time in which I spoke with Mr. Tsidulko.
8. Mr. Tsidulko repeated that he had heard that there was a senator who had not paid his child support.
9. Mr. Tsidulko did not mention, to me, the name of any specific senator.
10. I told Mr. Tsidulko that I considered the information about any PCSD case confidential and that I could and would not reveal any information about a case to anyone not a party to the case.
11. I informed Mr. Tsidulko that if he wished more information about our confidentiality policy he could speak with Director DeChabert.
12. At no time did I refer to or otherwise identify any party to a child support case to Mr. Tsidulko..
13. I told Mr. Tsidulko that it seemed as though someone sent him on an election year fishing expedition.
14. Mr. Tsidulko did not reveal who had told him the "tip" about the senator.

JA002951

15. I told Mr. Tsidulko that it was unlikely that any government worker was not paying their child support since, as regular wage recipients, they would be subject to payroll withholding.
16. I also, briefly informed Mr. Tsidulko about the other methods available to PCSD for the collection of delinquent child support arrears including Tax Intercept, FIDM and the filing of requests for Orders to Show Cause.
17. I informed Mr. Tsidulko that there was a time in 2000 – 2001 in which PCSD had a reputation for not performing its function in an efficient or orderly manner and in which PCSD was discussed on the radio talk shows.
18. I told Mr. Tsidulko that because of the hard work of the staff and management at PCSD we had achieved Federal certification of our computerized accounting system and improved the efficiency of our operations such that there was hardly any mention of us in the news these days.
19. Mr. Tsidulko noticed a photograph which I had taken on the wall and we had a brief discussion about photography. I mentioned that I occasionally had the opportunity to take photographs of sailboat races and that I sometimes shared a press boat with daily news photographers.
20. Since I had work to do, I showed Mr. Tsidulko out of the office.

Further, the affiant sayeth not.

  
DEAN L. BARNES, AAG  
Coordinating Attorney

Subscribed and sworn to before me  
This 1st day of June 2006.

  
Notary Public

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

SENATOR, ADLAH DONASTORG, Jr.	)	
	)	CIVIL No. 2002/
	)	
Plaintiffs,	)	
	)	
v.	)	<b>ACTION FOR DAMAGES</b>
	)	<b>(RICO)</b>
INNOVATIVE COMMUNICATION	)	
CORPORATION, VITELCO and	)	<u>JURY TRIAL DEMANDED</u>
JEFFREY PROSSER,	)	
	)	
Defendants.	)	

COMPLAINT

**COMES NOW** the Plaintiffs, SENATOR, ADLAH DONASTORG, Jr. by and through undersigned counsel, and files his complaint against the Defendants, Innovative Communication Corporation, VITELCO and Jeffrey Prosser and complains as follows:

1. This Court has federal question jurisdiction over the federal Racketeer Influence And Corrupt Organizations ("RICO") claims of this action pursuant to 18 U.S.C. § 1964(c) and pendent jurisdiction over the remaining claims under statutory and common law.
2. Plaintiff Senator, Adlah Donastorg, Jr., is a citizen of the United States Virgin Islands and a tax payer thereof and brings this action in his own behalf and as a private Attorney General for the citizens of the United States Virgin Islands..
3. Defendant, Innovative Communication Corporation ("ICC"), is a Virgin Islands corporation with its principle place of business in Florida.
4. Defendant, VITELCO is upon information and belief a Virgin Islands corporation that is wholly owned by ICC.

LAW OFFICES OF  
LEE J. ROHN  
1101 King Street  
Suite 2  
Christiansled, St. Croix  
U.S.V.I. 00820-4933  
(340) 778-8855  
FAX (340) 773-2954  
e-mail: rohn@vifaccess.net

JA002953

5. Defendant, Jeffrey Prosser is upon information a citizen of Florida who is the owner and sole shareholder of ICC and controls and makes all major decisions for said companies.

6. Defendant, VITELCO is a publicly regulated telephone company.

7. Plaintiff is a customer of VITELCO.

8. Pursuant to Act No. 633, Bill No. 23-0178, the Government of the Virgin Islands directed VITELCO to collect one dollar (\$1) per month on each telephone bill beginning January 1, 2000, to be paid to the Virgin Islands Government for Emergency Services.

9. Upon information and belief, Defendants used the U.S. mails to send out the telephone bills used to collect the one dollar (\$1) per month charge to its customers.

10. Upon information and belief, Defendants have failed to either correctly collect said sums, or if collected, to pay said funds collected in full to the Virgin Islands Government and has further failed and refused to correctly account for the funds received.

11. The law further requires that any funds collected be paid to the Virgin Islands Government within fifteen (15) days of collection.

12. Upon information, Defendants failed to pay said funds within said fifteen (15) days.

13. The funds were to be dedicated to the Emergency Service Funds to pay for emergency services for the citizens of the United States Virgin Islands.

#### COUNT I

14. Plaintiff repeats and realleges the allegations contained in paragraphs 1- 13 as though more fully set herein.

15. Upon information, the failure to collect and timely pay said funds properly to the government was and is a result of fraud or reckless disregard and are in violation of Act No. 633 Bill No. 23-01 78.

16. As a result the citizens of the Virgin Islands and Plaintiff in particular have been deprived of said funds and the services they were to pay to provide to.

17. As such, Defendants are liable for punitive damages.

## COUNT II

18. Plaintiff repeats and realleges the allegations contained in paragraphs 1 - 17 as though more fully set herein.

19. The actions of the Defendants constitute federal mail fraud and a conspiracy to falsely state what funds have been collected to the Virgin Islands Government.

20. The Defendants mail fraud further includes, upon information, the failure to properly bill, collect, account, and timely pay funds collected as directed by the act.

21. Each individual act of Defendants of placing or conspiring to place in the post office or authorized depository for mail, the telephone bills or related matter used to collect the emergency service funds from customers, which are not fully remitted to the government, or accounted to the Government, constitutes distinct and separate mail fraud violations.

22. As a consequence, Defendants' use of such emergency service funds collected from customers to operate and/or maintain its affairs constitute RICO violations pursuant to 18 U.S.C. §§ 1962(a), (b) and (d).

23. As such, pursuant to 18 U.S.C. § 1964(c), Defendants are liable for treble



damages, costs, and attorney's fees as well as punitive damages and pre and post judgment interest.

### COUNT III

24. Plaintiff repeats and realleges the allegations contained in paragraphs 1 - 23 as though more fully set herein.

25. The actions of the Defendants constitutes a violation of Title 10 of the Virgin Islands Code § 601 et seq.

26. The Defendants have engaged in a pattern of criminal activities as alleged herein, which includes but not limited to, failure to properly collect the \$1.00 surcharge for each phone bill sent to a customer, failure to properly account for said funds collected, failure to pay to the proper funds all funds collected, failure to timely pay the sums collected, the filing of false reports as to the funds collected, and the diverting of funds collected.

27. As such, Plaintiff is entitled to an order from this Court requiring Defendants to properly account for all said funds collected or that should have been collected, having Defendants turn over to the Government any assets purchased from said withheld funds, ordering Defendants Prosser and ICC to divert themselves from the owners representative of VITELCO, award of triple damages, cost and attorneys fees, and for costs of investigation.

28. Contemporaneous with the filing of this Complaint, Plaintiff is serving on the Virgin Islands Attorney General.

**WHEREFORE,** Plaintiff requests this Court for damages as they may appear including treble damages, costs and fees associated with this matter and the investigation thereof, an accounting from Defendants, pre and post judgment interest and punitive damages and for such other relief as this Court deems fair and just.

LAW OFFICES OF LEE J. ROHN  
Attorneys for Plaintiff

DATED: 7/30/92

By: 

Lee J. Rohn, Esquire  
1101 King Street, Suite 2  
Christiansted, St. Croix 00820  
340-778-8855  
340-773-2954 telefax  
[rohn@viaccess.net](mailto:rohn@viaccess.net)

01030871081 2334 0000 INTUIT INC 1 2007 4340-010

THE LAW OFFICE OF LEE J. ROHN  
OPERATING ACCOUNT  
1101 KING STREET, SUITE 2  
ST. CROIX, USVI 00820-4933  
(340) 778-8855

THE CHASE MANHATTAN BANK  
ST. CROIX, USVI 00820  
101-904/218

23334

7/30/2002


PAY TO THE ORDER OF DISTRICT COURT

\$ \*\* 50.00

Fifty and 00/100 \*\*\*\*\* DOLLARS

DISTRICT COURT

Donastrog v. ICC, Vitelco



MEMO

⑈ 0 2 3 3 3 4 ⑈



RECEIVED  
AUG 23 2002

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX

SENATOR, ADLAH DONASTORG, JR.	)	
	)	
Plaintiff,	)	CIVIL NO. 2002/0097
	)	
v.	)	ACTION FOR DAMAGES
	)	(RICO)
INNOVATIVE COMMUNICATION CORP.	)	
VITELCO, and JEFFREY PROSSER,	)	JURY TRIAL DEMANDED
	)	
Defendants.	)	
	)	

ANSWER

Comes now the defendants INNOVATIVE COMMUNICATION CORP., VITELCO and JEFFREY PROSSER, by and through the undersigned counsel, and hereby answer the complaint as follows:

1. Deny.
2. Admit the plaintiff is a resident of the Virgin Islands, otherwise deny.
3. Admit ICC is a Virgin Islands corporation, but otherwise deny.
4. Admit.
5. Admit Jeffrey Prosser is the sole beneficial owner of ICC, but otherwise deny.
6. Admit.
7. Admit.
8. Admit the Bill was passed which speaks for itself. Otherwise deny..
9. Admit.
10. Deny.

11. The averments in this paragraph state a legal conclusion for which no admission or denial is required, and therefore the paragraph is denied.
12. Deny.
13. The averments in this paragraph state a legal conclusion for which no admission or denial is required, and therefore the paragraph is denied.

**COUNT I**

14. As alleged.
15. Deny.
16. Deny.
17. Deny.

**COUNT II**

18. As alleged.
19. Deny.
20. Deny.
21. Deny.
22. Deny.
23. Deny.

**COUNT III**

24. As alleged.
25. Deny.
26. Deny.


27. Deny.
28. Deny for lack of knowledge.

**AFFIRMATIVE DEFENSES**

1. The complaint fails to state a cause of action upon which relief can be sought.
2. The plaintiff has failed to exhaust his administrative remedies.
3. The plaintiff lacks standing to raise these claims.
4. This Court does not have subject matter jurisdiction over these claims.
5. The complaint fails to adequately plead the requisite predicate acts for a civil RICO complaint.
6. The complaint fails to adequately plead the requisite elements of mail fraud.
7. The complaint fails to adequately plead elements of a civil RICO complaint.
8. Plaintiff has not complied with Fed. R. Civ. P. 9(b) with regard to all claims involving fraud.
9. Plaintiff has suffered no injury.
10. Plaintiff has failed to allege any injury to himself.

Wherefore, the defendants seek dismissal of this complaint with prejudice along with an award of attorney's fees and costs.

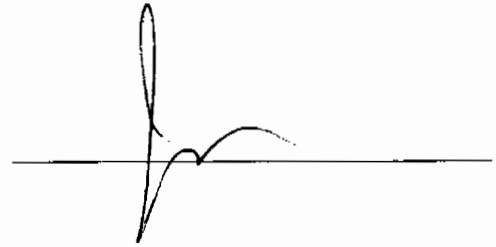
Dated: August 23, 2002

  
\_\_\_\_\_  
Joel H. Holt  
2132 Company Street  
Christiansted, St. Croix  
USVI, 00820  
(340) 773-8709

**CERTIFICATE OF SERVICE**

I hereby certify that on August 23, 2002, I caused a true and exact copy of the foregoing Answer to be hand delivered to:

Lee J. Rohn, Esq.  
1101 King Street, Suite 2  
Christiansted, VI 00820-4909

A handwritten signature in black ink is written over a solid horizontal line. The signature is stylized and appears to be 'L. Rohn'.

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS & ST. JOHN

TIMOTHY McDONALD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Civil No. 2004-93
JANE LOWE DAVIS, THE DAILY	)	
NEWS PUBLISHING COMPANY, INC.,	)	
and JASON ROBBINS,	)	
	)	
Defendants.	)	
	)	

VERDICT FORM

1A. Do you find, by a preponderance of the evidence, that defendant The Daily News Publishing Co., Inc. wrongfully discharged the plaintiff?

  X    
Yes

\_\_\_\_\_  
No

If you answered "Yes" with respect to Question 1A, please answer the following.

1B. Indicate the amount of compensatory damages, if any, that you find, by the preponderance of the evidence, the plaintiff is entitled to for wrongful discharge.

  \$ 20,000.00  

1C. Indicate the amount of punitive damages, if any, that you find, by clear and convincing evidence, the plaintiff is entitled to for wrongful discharge.

  \$ 75,000.00



McDonald v. Davis, et al.  
Civil No. 2004-93  
Verdict Form  
Page 2

2A. Do you find, by a preponderance of the evidence, that defendant Jane Lowe Davis is liable to the plaintiff for intentional infliction of emotional distress?

  X    
Yes

        
No

2B. Do you find, by a preponderance of the evidence, that defendant Jason Robbins is liable to the plaintiff for intentional infliction of emotional distress?

  X    
Yes

        
No

2C. Do you find, by a preponderance of the evidence, that defendant The Daily News Publishing Co., Inc. is liable to the plaintiff for intentional infliction of emotional distress?

  X    
Yes

        
No

McDonald v. Davis, et al.  
Civil No. 2004-93  
Verdict Form  
Page 3

If you answered "Yes" with respect to Questions 2A, 2B or 2C, please answer the following.

2D. Indicate the amount of compensatory damages, if any, that you find, by the preponderance of the evidence, the plaintiff is entitled to for intentional infliction of emotional distress.

Nothing 0

2E. Indicate the amount of punitive damages, if any, that you find, by clear and convincing evidence, the plaintiff is entitled to for Jane Lowe Davis's intentional infliction of emotional distress.

\$ 75,000.00

2F. Indicate the amount of punitive damages, if any, that you find, by clear and convincing evidence, the plaintiff is entitled to for Jason Robbins' intentional infliction of emotional distress.

\$ 75,000.00

2G. Indicate the amount of punitive damages, if any, that you find, by clear and convincing evidence, the plaintiff is entitled to for The Daily News Publishing Co., Inc.'s intentional infliction of emotional distress.

\$ 175,000.00

McDonald v. Davis, et al.  
Civil No. 2004-93  
Verdict Form  
Page 4

3A. Do you find, by a preponderance of the evidence, that defendant The Daily News Publishing Co., Inc. violated the Virgin Islands Fair Labor Standards Act?

  X    
Yes

            
No

If you answered "Yes" with respect to Question 3A, please answer the following.

3B. Indicate the amount of compensatory damages, if any, that you find, by the preponderance of the evidence, the plaintiff is entitled to.

\$ 13,075.80

SATURDAY, DECEMBER 1, 1990 No. 312

THE ST. CROIX AVIS

## Vitelco officer faces criminal charges

By LYNDA LOHR

St. Thomas Bureau

James Heying, the Virgin Island's Telephone Corp.'s chief financial officer, will be hit with criminal charges because he refused to provide access to documents requested by the Public Services Commission.

PSC Attorney Maria T. Hodge said yesterday that Heying said when he appeared to give a deposition that "he was files for answers" to questions U.S. District Court Magistrate Geoffrey Barnard and Jeffrey Resnick ordered him to answer.

The judge had ordered him to answer certain questions about transactions to affiliates," said Hodge.

She said that in addition to the criminal charges she expects to

file shortly with the Attorney General's office, she filed contempt charges against Heying in U.S. District Court on Thursday.

Heying did not return a phone call requesting comment.

The deposition was done in preparation for a three-day hearing on the PSC's plan to force VITELCO to reduce its rates by a total of about \$5 million per year.

The hearing starts Jan. 8, 1990 at Bluebeard's Castle Hotel.

"A preliminary review of VITELCO's financial records show that they are still overcharging," said Hodge.

The PSC has said that VITELCO is making illegal loans and dividends to its parent company, Atlantic TeleNetwork.

Hodge said that if Heying is convicted of the criminal charges he faces a fine of up to \$1,000 for each day of each offense.

She said he could be convicted of misdemeanor charges.

Daily

News

2/23/91

Donastorg v. Daily News  
D 1230

Daily News. 2/23/91.

## Virgin Islands

# Abramson deposition delayed; Vitelco, PSC disagree over fees

### Prosser says phone company paid \$145,000

By TRICIA CAMBRON  
Daily News Staff

The V.I. Telephone Corp. and the Public Services Commission continued to disagree Friday over the importance of the \$440,000 paid to V.I. businesswoman Ann Abramson by Vitelco and its parent company, Atlantic Tele-Network.

Vitelco President Jeffrey J. Prosser said Vitelco paid Abramson \$145,000; the rest was paid by ATN.

The money was paid to Abramson between 1988 and 1991 for consulting and public-relations services.

Abramson filed a suit Dec. 19 against the commission and its consultant, Georgetown Consulting Group. Her deposition in the case, scheduled for Friday, was canceled because she was ill.

Her suit charges that the contract Georgetown has held for at least 12 years should have been put out to competitive bid.

Abramson said in her court papers she was filing the suit as a private individual. However, if Abramson is in fact an agent of Vitelco, she would be barred from bringing the suit, commission attorney Maria Tankenson Hodge said.

Documents subpoenaed by the commission disclosed that Vitelco most recently paid Abramson \$25,000 on Dec. 6 and \$25,000 on Jan. 13.

"The issue before the court ... is whether Ms. Abramson is 'in private' with Vitelco; which is to say, so closely connected with Vitelco that the action should be considered one brought by Vitelco itself."

Hodge said the commission, which monitors Vitelco finances,

*'The issue before the court ... is whether Ms. Abramson is ... so closely connected with Vitelco that the action should be considered one brought by Vitelco itself.'*

*PSC attorney Maria Tankenson Hodge*

has never seen reports of the fees paid to Abramson.

"They (commission members) scrutinized Vitelco's consulting fees during rate cases in 1988, 1989 and 1990 and accepted them," Prosser said.

Hodge said Vitelco submits reports to the commission listing any consultant paid over \$25,000. "She was not on the list of people — it turns out that this particular reporting requirement cuts off at exactly \$25,000."

Although all the invoices were addressed to Vitelco, Prosser said Vitelco only paid \$145,000 to Abramson. The remaining \$295,000 was paid by ATN. But "if ATN checks were used to pay Vitelco expenses, they were charged to Vitelco," Prosser said.

Where Vitelco ends and ATN begins has been the subject of a commission investigation. Vitelco's president Prosser is ATN's board chairman. ATN's president Cornelius B. Prior Jr. is chairman of the board of Vitelco. The two companies also share the same chief financial officer.

ATN is not subject to regulation by the commission.

Hodge said the commission has

been concerned about the way the two companies account for financial transactions and the way they allocate expenses between themselves.

In September, the commission ordered that all Vitelco and ATN finances be kept separate.

Prosser insisted Friday that "the PSC attorney is trying to cloud the issue of the \$1 million paid to Georgetown, based in Connecticut, while Virgin Islanders have never been given an opportunity at this lucrative contract."

Georgetown Consulting Group's president Jamash Madan has been critical of Vitelco. In September, he recommended the commission decrease phone rates by \$6.8 million. Madan also recommended the commission deny Vitelco's request for a \$6.75 million rate increase.

Hearings on the rate decrease are scheduled for March 19, 20 and 21, having been postponed at the court's request after Abramson filed her suit.

Hodge said the commission is allowed to hire consultants without competitive bids under the V.I. Code.

Georgetown also represents the Public Services Commission in Guam.

Donastorg v. Daily News  
D 1230

CRMA DAN

JA002968

# THE BLUE STRIPER

Virgin Islands Telephone Corporation

Volume 15, Number 3

April, 1991

## Vitelco customers asked to pay \$372,000 to PSC's off-island consultant

According to a March 25 Public Services Commission assessment, Jamshed Madan and his Georgetown Consulting Group — the Connecticut firm that advises the V.I. Public Services Commission — have charged the PSC more than \$372,000.

The fees are for consulting work dealing with Vitelco matters.

Georgetown's \$372,000 in fees do not include PSC consulting work for other utilities, such as V.I. Water and Power, ferry services and cable television.

Since the PSC generates no income, it charges the utilities for all expenses incurred. For example, Vitelco's customers pay Georgetown's Vitelco-related fees through their telephone rates.

While Madan criticized the \$125,000 salaries paid to Vitelco's top two full-time executives, Madan and his firm are being paid at a substantially higher rate than that for part-

time consulting work on Vitelco matters.

And that's work that could involve Virgin Islanders. Georgetown has a

been paid more than \$1 million for consulting work concerning Virgin Islands utilities.

That's why St. Croix businesswoman Ann Abramson filed suit against Georgetown, the PSC and V.I. Property and Procurement. She says that Virgin Islanders should be given a fair chance at bidding on this lucrative contract.

Vitelco agreed and joined Mrs. Abramson's suit. A federal judge ruled that the PSC is exempt from putting contracts out to public bid. Vitelco and Mrs. Abramson are ap-

pealing that decision.

Vitelco's position is: If Mr. Madan and Georgetown offer the best deal to Virgin Islanders, why doesn't the PSC put the contract out for bid just to make sure?

Mr. Madan can't lose. The more aggressive he is about lowering Vitelco's rates, the lengthier the case becomes. And his fees soar regardless of whether Vitelco's rates go up or down.

In addition, according to the PSC's latest invoice to Vitelco, the St. Thomas law firm of Maria Tankenson Hodge has charged the PSC \$268,000 for legal work involving Vitelco. That, too, is passed along to Vitelco's customers. The \$268,000 does not include work done for WAPA, cable television or ferry service companies.

And neither Georgetown's \$372,000 nor Hodge's \$268,000 includes fees for the current rate case.

### What Vitelco's customers are paying PSC consultants

Georgetown Consulting Group  
Jamshed Madan, principal  
Connecticut \$ 372,418.00

Law Offices of  
Maria Tankenson Hodge  
St. Thomas \$ 268,181.00

small staff and hires other consultants who are experts in certain aspects of setting rates for public utilities. Virgin Islands firms could do the same.

The PSC has never put Georgetown's contract out to public bid. Madan's firm has had a sweetheart deal with the PSC for more than 10 years.

During that time, Georgetown has

## New rate request means residential customers would pay only \$4 to \$5 per month more for service

No one wants higher prices.

But we must face facts. Nothing is going down in price: salaries, fuel, vehicles or equipment.

Vitelco customers who are familiar with other islands in the Caribbean know that the Virgin Islands has the st telephone service in the region.

Common sense tells you that Vitelco cannot maintain service or continue to improve service by rolling back telephone rates to what they were in 1970.

That's what the Public Service Commission's rate consultant thinks

*continued on back page*

Donastorg v. Daily News  
D 1236

JA002969

32

---

---

## Crown Mountain Road buried cable project is underway

Vitelco's \$1.2 million buried cable project on Crown Mountain Road is underway and on schedule.

After burying 125 miles of telephone cable on St. Croix, in late February, Vitelco began an underground cable program on St. Tho-

mas.

The Crown Mountain Road project consists of 2.5 miles of telephone cable. That cable is vital for carrying long-distance calls from St. John and St. Croix to Vitelco's microwave atop Crown Mountain.

Burying major telephone cables underground offers better protection during storms and hurricanes. Following major storms, telephone service can be restored more quickly.

The project is expected to be completed in May.

---

## Vitelco Classical Music Contest April 7

More than 35 people — twice the number from last year — will participate in the Vitelco Classical Piano and Voice Competition on Sunday, April 7 at Tillett Gardens on St. Thomas.

The event begins at noon and is open to the public. Admission is free.

Vitelco is sponsoring the second-annual competition and is donating \$5,000 for awards.

"We are delighted to continue our support of this competition, which not

only provides an incentive for talented Virgin Islanders to strive for excellence, but an opportunity for the winners to test their musical abilities in public performances," said Vitelco Chairman Cornelius B. Prior, Jr.

Any non-professional musician may enter. Awards will be made in senior and junior categories.

"We have a very wide mix of people, from a 7 year-old to a 57 year-old," said Rhoda Tillett, competition coordinator.

Judges are three off-island musicians who will perform April 10 at Tillett Gardens: Joy Cline, pianist; Scott Woolweaver, violist; and Paulette Bowes, clarinetist.

Additional information is available from Rhoda Tillett, 775-1929.



Don't miss the Vitelco music competition at Tillett Gardens

---

ew rate request means residential customers would pay only \$4 to \$5 per month more for service ...continued

should be done: Charge Vitelco customers what they paid 21 years ago.

But Vitelco is asking for a rate increase that will allow us to enhance telephone service and continue with a territory-wide improvement program.

Following Hurricane Hugo in September 1989, Vitelco began a massive rebuilding program.

It cost \$62 million to rebuild the telephone system in the territory — almost as much as Vitelco was sold for in 1987. (International Telephone and Telegraph Corp. sold Vitelco for \$86 million.)

That amount of money would normally warrant twice the rate increase that Vitelco is asking for. But Vitelco was able to borrow the money at highly favorable rates, so telephone customers are benefiting from that low cost loan.

1 the loan must be repaid. And Vit... continues to enhance the tele-

phone system. In 1991, Vitelco plans to spend another \$11 million to upgrade the system.

For example, Vitelco is the only Virgin Islands utility that is aggressively involved in a buried cable program.

More than 125 miles of telephone cable has been buried on St. Croix.

On St. Thomas, an underground cable project is underway on Crown Mountain Road.

Should another storm hit the territory, Vitelco will be ready to restore telephone quickly and efficiently.

How much of an increase does Vitelco need? If the PSC approves Vitelco's rate request, the average residential customer would be charged an additional \$4.50 to \$5 per month.

We believe that is a realistic and fair rate. Consider that in 1980 a Vitelco residential customer paid \$20.50 per month.



---

## Vitelco helps archeologists discover Virgin Islands history

Remains of an Indian village, perhaps 900 years old, have been discovered in St. Thomas' Estate Tutu and Vitelco is helping to retrieve the history of the village and its people.

While excavating a site for a new shopping center, construction workers discovered artifacts that led to the village site. Some experts believe the village may be one of the most unique finds in the Caribbean.

Vitelco is among the private and corporate citizens and government agencies that are coming forward with much-needed help. Vitelco donated \$10,000 to help pay for carbon dating.

## Farrelly sends PSC nominees to Senate

### Daily News Staff

Gov. Alexander A. Farrelly has submitted to the Legislature the names of seven nominees to the Public Services Commission, including the renomination of three incumbents whose terms have expired.

The nominees were announced by Government House late Thursday afternoon.

Under the V.I. Code, the commission consists of seven members, but only five people have served on its board for the last two years. All five members have served beyond their three-year terms.

On April 19, Sen. Adelbert M.

Bryan, an ex-official PSC member, sent a letter to Farrelly, urging the nominations. Bryan pointed out that three commissioners — Rivera, Sewer and Hayes — had terms that expired in 1986; Parrott's term ended in 1988; and Adams' in 1989.

The nominees include PSC incumbents Alphonse Adams of St. Thomas, a retired career government employee; Hector Rivera, a St. Croix businessman; and Alfred Hayes, a former St. Croix businessman.

New faces to the PSC would be nominees Rosie MacKay of St. Croix, a former safety engineer; Rosalia Payne of St. Thomas, an

educator; Aubrey Nelsoff, a self-employed St. Thomas businessman; and Andrew Ruitnik, a St. John businessman.

Two PSC members who have served with expired terms — Madeline H. Sewer of St. John, whose term expired in 1986, and George Parrott of St. Thomas, whose term expired in 1988 — were not renominated.

Valdemar Hill of St. Thomas and Kenneth Knopp of St. Croix both resigned four years ago and neither was replaced.

Patrick M. Rice, PSC executive director, said that, under the law, a PSC member may continue to serve beyond the term of office until a

successor is nominated and approved.

By law, the seven-member PSC must have three St. Croix members, three St. Thomas members and one St. John member. The candidates are nominated by the governor but must be approved by the Legislature.

A V.I. senator from each district also sits on the board as a non-voting member. The 19th Legislature is represented by Bryan of St. Croix and Sen. Arturo Watlington Jr. of the St. Thomas-St. John district.

PSC members do not receive a salary, but do receive a \$50 stipend for each day they meet on commission matters.



AVIS News 6/25/91

# Vitelco wants PSC audit

In the wake of almost \$500,000 in assessments within 90 days for Public Services Commission consultant fees, the Virgin Islands Telephone Corporation is challenging a \$350,000 assessment and calling for an independent audit of the PSC.

And the fact that the PSC allowed payment of invoices to continue until its account was overdrawn nearly \$285,000 reflects serious fiscal irresponsibility and an apparent lack of internal controls," Vitelco charged in its Petition of Recalculation filed with the PSC late Friday.

reimbursements to its consultants without any receipts or other evidence of payments," Vitelco chairman Cornelius B. Prior, Jr., said Sunday.

On March 19, the PSC assessed Vitelco \$850,000, which the telephone company paid. On June 6, the PSC assessed the company an additional \$100,000.

All of the money is primarily for payment to PSC legal counsel Maria Tankenson Hodge and PSC rate consultant Jarnahed Madan of Connecticut-based Georgetown Consulting Group.

The PSC regulates certain rates for utilities in the territory, including, Vitelco, WAPA, ferry services and cable television. Each utility is assessed for the

PSC's legal, accounting and other expenses in regulating the utility. The V.I. code limits the amount of assessments the PSC can make.

In its petition, Vitelco, said the PSC did not separate assessments for completed cases from ongoing matters, and the PSC failed to allocate its assessments among the various proceedings.

"By lumping together numerous unrelated proceedings in a single assessment, the PSC has totally obscured whether it is complying with the law, Vitelco claims.

"Irregularities in the invoices submitted to the PSC and the manner in which these invoices are approved raise further serious questions about the propriety of the PSC assessments," the petition says.

Overdrawing the PSC's account by \$285,000 "cries out for an independent audit," Vitelco said in its petition.

"To our knowledge, the PSC has not been audited in at least 15 years, if ever. Yet hundreds of thousands of dollars flow through that public agency annually," Vitelco President Jeffrey J. Prosser said Sunday.

Among the items cited in the petition are expenses reports from Georgetown's Madan.

## PSC From Page 4

(Madan's expense) reports provide blanks in which to fill in the amount spent on such items as lodging, airfare, auto rental and meals. Mr. Madan claims thousands of dollars for these items but provides not a single receipt," the petition says.

"Consequently, it is impossible to tell where he has lodged - in a hotel or his (St. Thomas) condominium, his length of stay or where he took his meals.

"Given the excruciating detail that Mr. Madan and PSC Counsel (Hodge) have demanded of Vitelco executives regarding their expenses, the paucity of information provided by Mr. Madan is extraordinary," the petition says.

"More alarming, however, is that none at the PSC has ever raised any questions. Apparently, the PSC rubber-stamps these invoices 'approved' as quickly as they come in.

"The approval process should be a matter of grave public concern because these bills are ultimately paid by the ratepayers," the petition says.

"The PSC's refusal to follow the competitive bidding requirement of the V.I. code - with respect to hiring consultants - produces a cozy relationship that is the root cause of these runaway expenses," Prior said.

See PSC Page 17



# Daily News

UPS 144-180

A member of the Gannett Group of Newspapers published by The Daily News Publishing Co., Inc. daily except Sunday, Christmas Day and New Year's Day at 49-52 Forest Thomas, Charlotte Amalie, St. Thomas, U.S.V.I., 00801. Second-class postage paid at Charlotte Amalie, VI.

**Editor:** Ann Macdonald, Jr.  
**CEO/General Manager:** Arnold DeWitt  
**Executive Editor:** Perry Faurzich  
**Circulation Director:** Alfred Lubin  
**Advertising Director:** Robin Pendergast  
**Production Director:** Howard G. Lawrence  
**Controller:** Debra Lynn-Wright-Crowley  
Subscription rates \$9 cents daily. Other subscription rates available on request.  
Postmaster: send form 3579, notice of address change, to: Circulation Director, Daily News, P.O. Box 7780, St. Thomas, VI 00801.  
The publisher reserves the right to change subscription rates during the term of a subscription from 30 days notice. This notice may be mailed by mail to the subscriber, by notice sent by mail to the newspaper, hand or otherwise. Subscription rate changes may be implemented by changing the duration of the subscription.

## PSC: Rate-cut orders not on Vitelco settlement list

(Continued from page 1)  
cern to the commission," Sheen said at the beginning of hearings on a \$1.7 million rate reduction before the commission.

Madan said the commission and staff would be "keen" to hear what level of rates Vitelco would accept in a settlement. The list of issues proposed by Vitelco as ripe for settlement did not mention rates.

Hearing examiner Alfred B. Hayes said he could not stop the hearings for the settlement discussions because he was sitting as hearing examiner and commissioners were present only as observers. Sheen and the PSC ~~met after the hearing to discuss~~ talks on the settlement, however.

ATN was founded in 1986 and bought Vitelco in 1987. Since then, ATN acquired Vitelco cellular and other telecommunications businesses in the Caribbean, including Guyana Telephone and Telegraph and Puerto Rico Telecom.

All of ATN's stock is now privately held by Vitelco president Jeffrey S. Prosser and Vitelco chairman Cornelius B. Prior Jr.

The announcement of the stock offering was made at the beginning of a Wednesday rate case hearing before the Public Services Commission.

The hearing is to determine whether Vitelco's finances dictate implementation of a \$1.7 million rate reduction previously ordered by the commission or a \$6.75 million rate increase — about \$12 a month on individual phone bills — as requested by Vitelco.

A proposed additional reduction of \$4.2 million is under review by the commission in a separate case.

The commission previously ~~ordered the \$1.7 million reduction to go into effect~~, but the District Court ordered a rehearing of the case after finding the original hearing tainted by the prejudice of former commission member and senator Allan Paul Shalhin.

Another concern — the fact that the top executive officers of Vitelco are also the top executives and shareholders of ATN — also will be addressed because Prosser and Prior will step down as managers of the phone company.

## ORDER: Vitelco official to testify

(Continued from page 1)  
ordered Vitelco president Jeffrey S. Prosser to appear today, with records, to answer both questions for the Public Services Commission.

At issue is a PSC consultant's contention that Vitelco improperly transferred some of its assets to Puerto Rico Telecom.

It did this, Jamshad Madan said, by paying back \$9.4 million loaned from Vitelco to its parent company, Atlantic Tele-Network Inc., by giving it stock it says is worth an equal amount. Puerto Rico Telecom is a long-distance provider similar to AT&T or the VI-based CATS.

It has about a 13 percent share of Puerto Rico's long-distance market and has been in business for "almost a year," ATN spokesman Edwin Crouch said Wednesday.

Between January 1989 and March 31, Vitelco loaned ATN \$17 million. On May 13 and 14, according to Vitelco financial reports, Vitelco converted \$9.4 million of the \$17 million to Puerto Rico Telecom stock.

Commission consultant Madan recommended the commission seek testimony from Prosser and Vitelco

chairman Cornelius B. Prior Jr. Prior, as well as the records of the transfer, to determine whether "the conversion of almost \$10 million of Vitelco's capital represented an improper transfer of the public utility's assets to an affiliate."

A 1989 settlement agreement between Vitelco and the commission requires all transfers of property from Vitelco to ATN or to any other subsidiary of ATN to be approved by the commission to ensure that the transfer is "justified as one for reasonable value and at arms-length."

Vitelco maintains that the \$9.4 million does not constitute "property" within the meaning of the agreement and therefore the transfer did not require commission approval.

The commission Wednesday subpoenaed Prosser and Prior's testimony and records. Vitelco asked the PSC to quash the subpoena. The commission denied the motion.

Vitelco appealed to the U.S. District Court late Wednesday afternoon. The court ruled Prosser — but not Prior — must appear before the commission and produce the documents the PSC requested.

Donations  
D 1214

Virgin Islands Business Journal  
July 15, 1991

*Index & Contents for the 1991 Year*  
**Vitelco fights latest assessment, asks for audit of the PSC**

By Elvin Crabbe Jr.

Controversy has again erupted between Virgin Islands Telephones Corporation (Vitelco) and the Public Service Commission as Vitelco received their highest six-digit assessment ever issued by the PSC, and the PSC has overdrawn Vitelco's account by nearly \$285,000.

In the wake of almost a half-million dollars in assessments within 90 days for PSC consultant fees, Vitelco is challenging a \$350,000 assessment and calling for an independent audit of the PSC.

The PSC regulates certain rates for utilities in the territory, including Vitelco, V.I. Water and Power Authority, ferry services

and cable television. Each utility is assessed for the PSC's legal, accounting and other expenses in regulating the utility. The V.I. Code limits the amount of assessments the PSC can make.

And "the fact that the PSC allowed payment of invoices to continue until its account was overdrawn nearly \$285,000 reflects serious fiscal irresponsibil-

ity and an apparent lack of internal controls," Vitelco charged in its Petition of Reconsideration filed with the PSC.

"Even worse is the fact that the PSC appears to have approved thousands of dollars in expense reimbursements to its consultants without any receipts or other evidence of payments,"

*Continued on Page 18.*

The Daily News  
7/25/91

# Vitelco's parent company to go public with stock

**TRICIA CAMBRON**  
News Staff

V.I. Telephone Corp.'s parent company to go public with its stock, Vitelco's counsel said Wednesday.

The proceeds of the public offering of V.I. Telephone Corp. stock, which owns the Atlantic Telc-Network, could pump \$20 million into the V.I. Telephone Corp. parent company.

Most of the money will go to repay \$17

million in loans Vitelco has made to ATN in the past two years, Vitelco attorney Albert Sheen said.

Sheen said the stock offering could be the basis for settling all conflicts between the Public Services Commission and Vitelco.

"We don't concede we have erred with respect to any and all of these matters, but certainly we are aware they are areas of concern," he said.

See PSC, page 2

## Judge demands Vitelco official, records

**By TRICIA CAMBRON**  
Daily News Staff

Was it a good deal when V.I. Telephone Corp.'s parent company paid back a \$9.4 million loan from the utility with stock in a

Puerto Rico company it also owns? And could the loan-for-stock exchange be made without the permission of the Public Services Commission? A federal judge Wednesday after

See ORDER, page 2

# WAPA sides with PSC in Vitelco suit

By TRICIA CAMBRON  
Daily News Staff

The V.I. Water and Power Authority has joined in the suit between Ann Abramson and the Public Service Commission, saying WAPA will be irreparably harmed if Abramson prevails in the suit.

As public utilities, both WAPA and the V.I. Telephone Corp. are regulated by the commission. Vitelco has joined Abramson in the suit.

Abramson filed suit Dec. 19 against the commission and its consultant, Georgetown Consulting Group.

Her suit charges that the consulting contract Georgetown has held for at least 12 years should have been put out for competitive bids.

WAPA executive director Alberto Bruno-Vega and commission attorney Maria Tankenson Hodge contend consulting fees such those paid to Georgetown are exempt from the competitive-bidding process.

WAPA executive director Alberto Bruno-Vega said Tuesday the authority joined the suit because "we will be prejudiced if our side of the story is not heard."

On Feb. 4, WAPA asked for commission approval of a bond issue to fund "critically needed" capital projects.

He said Georgetown has begun evaluating the request and "we don't want them to stop; we want them to continue."

"To bring in someone else at this 11th hour — at this late date — will prejudice the position of WAPA and do some serious damage to our position."

Vitelco President Jeffrey J. Prosser maintained Friday that the commission is breaking the law by not putting the consultant contract out to bid.

"It is hard to imagine why WAPA is intervening," Prosser said. "If the PSC is breaking the law, WAPA should be intervening with all ratepayers to stop the PSC from breaking the law."

"If the utility is pushing for a

See WAPA, page 2

*WAPA*

*1120r*

*for Daily News  
Branck, 2, 1991*



ANIS

News

7/25/91



# Vitelco offers to settle all rate cases with PSC

Vitelco officials yesterday offered to settle all pending cases before the V.I. Public Services Commission.

The announcement was made at the beginning of a PSC hearing by V.I. Telephone Corp. legal counsel Albert Sheen.

Among the issues Vitelco officials said would be resolved:

- Vitelco Chairman Cornelius B. Prior Jr. and Vitelco President Jeffrey J. Prosser will step aside as officers of the telephone company, and Prior and Prosser will stop receiving a salary from Vitelco, within a year.
- Vitelco will limit dividends to the parent company (Atlantic Tele-Network Co.) to 60 percent of net income — the industry standard.
- New capital will be injected into Vitelco to bring its equity to 25 percent.
- All loaner company loans/investments made after Hurricane Hugo will be re-paid.
- Wednesday's hearing — which, unless a

settlement is reached, is scheduled to continue today at Frenchman's Reef Beach Resort — is a re-hearing on an earlier case.

It involves the PSC's claim that Vitelco should lower rates by \$1.7 million, whereas Vitelco says rates should be increased to help pay for the \$70 million the telephone company spent for reconstruction after Hurricane Hugo.

A District Judge ordered the case to be re-heard after he determined that the first hearing was tainted by the participation of Sen. Allan Paul-Shauhin, an ex officio member of the PSC who demonstrated bias against Vitelco.

Prosser said Vitelco's offer to settle all pending cases covers all of the major concerns the PSC has expressed about the telephone company.

He said that Atlantic Tele-Network Inc. expects to offer a portion of its stock for sale publicly later this year. Money from that

offering will be used to pay off loans and increase Vitelco's equity.

PSC Chairman Alfred B. Hayes took no action on Vitelco's offer to settle the cases and proceeded with the hearing.

Sheen then asked to have PSC member Hector Rivera removed from the hearing because of bias.

Rivera has a large outstanding bill for telephone service with Vitelco and has failed to meet payment schedules he and Vitelco agreed to, Sheen said. The telephone has been disconnected and removed from Rivera's St. Croix business.

Sheen said that Rivera's inaction toward paying his telephone bill and Vitelco's pending litigation against him for non-payment demonstrates Rivera's adversarial relationship with Vitelco.

Hayes said that the commission was not hearing the case, but only he — Hayes — was

See VITTELCO, Page 27

## VITTELCO, from Page 3

hearing the case as hearing chairman. Other PSC members were attending the hearing as observers, he said.

Hayes also explained that Rivera's bill with Vitelco was not evidence of bias.

Later during the hearing when...

Sheen repeated Vitelco's offer to settle all cases, Hayes said he could neither encourage nor discourage Vitelco to pursue a settlement with the PSC. Hayes again explained that he was sitting as a hearing examiner, not chairman of the PSC.

Donastoy  
D 209

7/25/91

The Daily News, Thursday, Jt

# Island people *cut out*

The top executive officers of the V.I. Telephone Corp. recently purchased a private jet, but they assure ratepayers they won't be using it for Vitelco business.

Jeffrey S. Prosser and Cornelius B. Prior, president and chairman



Cornelius Prior

of the board, respectively, of Vitelco, bought the plane for Vitelco's parent company — Atlantic Tele-Net- work — of which Prior

is president and Prosser is chairman of the board.

The plane — a Jet Commander valued at \$750,000 to \$4 million depending on age and condition, according to an aviation expert — will be used for transportation "throughout the Caribbean and South America for ATN business," Vitelco spokeswoman Katrina White-Commissioug said.

In the meantime, Vitelco execs will continue to commute between St. Croix and St. Thomas via a lease arrangement with Bolake Airways.



Jeffrey Prosser



**FILED**

July 18, 2022 11:07 AM  
SCT-Civ-2021-0001  
VERONICA HANDY, ESQUIRE  
CLERK OF THE COURT

ANIS

News

7/25/91

EXHIBIT  
Robbins

# Vitelco offers to settle all rate cases with PSC

Vitelco officials yesterday offered to settle all pending cases before the V.I. Public Services Commission.

The announcement was made at the beginning of a PSC hearing by V.I. Telephone Corp. legal counsel Albert Sheen.

Among the issues Vitelco officials said would be resolved:

- Vitelco Chairman Cornelius B. Prior Jr. and Vitelco President Jeffrey J. Prosser will step aside as officers of the telephone company, and Prior and Prosser will stop voting a salary from Vitelco, within a year.
- Vitelco will limit dividends to its parent company (Atlantic Tele-Network Co.) to 60 percent of net income — the industry standard.
- New capital will be injected into Vitelco to bring its equity to 25 percent.
- All inner company loans/investments made after Hurricane Hugo will be re-paid, Wednesday's hearing — which, unless a

settlement is reached, is scheduled to continue today at Frenchman's Reef Beach Resort — is a re-hearing on an earlier case. It involves the PSC's claim that Vitelco should lower rates by \$1.7 million, whereas Vitelco says rates should be increased to help pay for the \$70 million the telephone company spent for reconstruction after Hurricane Hugo.

A District Judge ordered the case to be re-heard after he determined that the first hearing was tainted by the participation of Sen. Allan Paul-Shalkin, an ex officio member of the PSC who demonstrated bias against Vitelco.

Prosser said Vitelco's offer to settle all pending cases covers all of the major concerns the PSC has expressed about the telephone company.

He said that Atlantic Tele-Network Inc. expects to offer a portion of its stock for sale publicly later this year. Money from that

# offering will be used to pay off loans and increase Vitelco's equity.

PSC Chairman Alfred B. Hayes took no action on Vitelco's offer to settle the cases and proceeded with the hearing.

Sheen then asked to have PSC member Hector Rivera removed from the hearing because of bias.

Rivera has a large outstanding bill for telephone service with Vitelco and has failed to meet payment schedules he and Vitelco agreed to, Sheen said. The telephone has been disconnected and removed from Rivera's St. Croix business.

Sheen said that Rivera's inaction toward paying his telephone bill and Vitelco's pending litigation against him for non-payment demonstrates Rivera's adversarial relationship with Vitelco.

Hayes said that the commission was not hearing the case, but only he — Hayes — was

See VITTELCO, Page 27

## VITTELCO, from Page 3

hearing the case as hearing examiner. Other PSC members were attending the hearing as observers, he said.

Hayes also explained that Rivera's bill with Vitelco was not evidence of bias.

Later during the hearing when...

Sheen repeated Vitelco's offer to settle all cases. Hayes said he could neither encourage nor discourage Vitelco to pursue a settlement with the PSC. Hayes

again explained that he was sitting as a hearing examiner, not chairman of the PSC.

Dunast D 209



# Vitelco, PSC to iron out wrinkles in settlement

By FRICIA CAMBRON  
Daily News Staff

The V.I. Telephone Corp. and the Public Services Commission will meet this morning to put the finishing touches on a settlement agreement that could mean dollars and safety for "one customers."

With all participants stressed Wednesday that the agreement is not cast in stone, the

parties were to meet Thursday evening to finalize the terms.

The agreement would settle the question of a \$1.7 million rate reduction over which the commission and Vitelco began hearings Wednesday.

The week's hearings were to be a repeat of the September hearings deemed void by the U.S. District Court, which found the hearings tainted by the bias of former Sen. Allan Paul

Shatkin, then a commission member.

Commission Chairman Alfred B. Hayes said the proposed agreement "benefits everyone."

"I think if we settle this thing in a matter satisfactory to everybody, that's a lot better than fighting them through an extended hearing process and through court channels."

Vitelco Chairman Cornelius B. Prior Jr. agreed. "We're pleased to be negotiating a

settlement to the long-standing differences with the commission."

Commission consultant Jamshed K. Madan said the settlement gives the customers about \$1.2 million in rate reductions in addition to providing the 911 emergency service. He said all costs of operating the 911 service will be absorbed by Vitelco, meaning Vitelco cannot claim the service as an

See PSC, page 2

## PSC: Chairman says agreement 'benefits everyone'

(Continued from page 1)

expense. As a public utility, Vitelco is subject to regulation by the commission, which monitors the company's profits and expenses to determine the fair rate a customer should be charged.

Conditions of the proposed settlement include:

- A \$700,000 fund originally to be used to institute a "lifeline" program for the disabled will be refunded to Vitelco's estimated 45,000 customers over two months, resulting in an approximate \$8 decrease in each customer's bill.

More money for the lifeline program is being set aside each month and will be sufficient to run the program once Human Services is ready to administer it.

- Vitelco will implement an "enhanced 911" service, whereby

V.I. residents can call 911 in an emergency and the caller's phone number and address will appear on the computer screen.

Vitelco agreed to hire as many as possible of the operators AT&T plans to lay off when it moves its long-distance offices to Puerto Rico. Vitelco will pay all the costs of installing the service — about \$1 million — as well as pay all operating and maintenance expenses.

If Vitelco does not implement the service in six months, the phone company will make another lump-sum rate reduction to customers of \$700,000 over two months' bills.

- Vitelco agreed it would not pay advisory fees to its parent company Atlantic Tele-Network Inc. without prior approval of the commission.

Vitelco further agreed to make no more loans or advances to ATN from the date of the agreement.

The payments by Vitelco to ATN have formed the crux of a dispute between Vitelco and the commission.

In the past two years, Vitelco has loaned ATN \$17 million and paid ATN another \$13 million in dividends and advisory fees, according to financial records submitted by Vitelco to Georgetown Consultant Group Inc.

The dispute came to a head when Vitelco maintained following Hurricane Hugo that it was too cash-poor to institute the \$1.7 million rate reduction. The commission delayed the reduction but subsequently found Vitelco had transferred millions of dollars to ATN in the form of loans, advisory fees and dividends in the months prior to and following Hurricane Hugo.

- Vitelco President Jeffrey S. Prosser and Prior, chairman, will

resign their management positions at the phone company but will remain on the board of directors. However, Prior will remain president and Prosser will remain chairman of ATN.

The commission has questioned how Prosser and Prior as top executives of both Vitelco and its parent company ATN could conduct "arms-length" transactions with themselves.

- Vitelco will increase its equity ratio to 25 percent.

- ATN will repurchase all the stock in Puerto Rico Tele-Com Inc. purchased by Vitelco in May. The commission questioned the propriety of the stock transaction in which Vitelco reduced the \$17 million owed it by ATN by buying \$9.3 million in stock from the Puerto Rico company, which is also owned by ATN.

## PSC puts Vitelco's rate cut on hold

By LYNDA LOHR  
St. Thomas Bureau

In a settlement reached yesterday, the Virgin Islands Telephone Corp. and the Public Services Commission agreed to delay for 90 days a decision on the PSC's request that Vitelco reduce rates by about \$4 million.

The \$1.7 million refund requested by the PSC, which was the subject of the hearings that began Wednesday, has been dropped.

"The 90 days will give Vitelco a chance to issue stock," said PSC Director Patrick Rice, referring to an announcement made Wednesday.

Vitelco Chairman Cornelius Prior said following the settlement that opening up the ownership of Vitelco through the sale of stock helped the PSC to understand the company was making efforts to improve the company for the benefit of everybody.

The rate issue has been pending since 1990 and when decided will be retroactive to January.

According to the terms of the settlement, customers will continue indefinitely to get the \$267,000 credit negotiated in a previous rate case.

As part of the compromise, Vitelco agreed to implement a 911 emergency telephone service within the next six months.

If they fail to install the emergency service, they must pay their customers \$350,000 for two months.

Implementation of the service will cost an estimated \$1 million. Vitelco will pick up the tab for the operating costs.

Vitelco Vice-president Jack Basford said the system would provide a computerized address

See PSC Page 19

Ex 2

**PSC, From Page 1**

or area designation to the system operator.

The methods of dispatch

have to be worked out with the Virgin Islands government," said Basford.

Vitelco's customers will get payments of \$950,000 in both October and December as credit for money not used in the life-line program.

However, the life-line program, which provides reduced cost service for those who can't afford it, will be implemented soon.

Atlantic Tele-Network Co., Vitelco's parent company, and Vitelco also agreed to pay back over the next 12 months loans and advances made to its affiliates over the past several years to the tune of about \$10 million.

"And there's not going to be any more (loans or advances) in the future," said Maria Hodge, the PSC's attorney.

Vitelco also agreed to bring its equity ratio back up to 25 percent by the end of the year.

"And keep it there," said Hodge.

Additionally, the company agreed that Jeffrey Prosser and Prior would resign as its chief executives.

Prosser and Prior, who also are the top officers at ATN, will be replaced by someone from outside the company within the next year. When they are replaced they no longer will draw their \$250,000 per year salaries.

"They will launch a nationwide search for replacements within the year," said Hodge.

ATN must purchase Vitelco's stock in the Puerto Rican Telecom Inc. for \$9.38 million, the same amount Vitelco paid.

Alfred Hayes, the PSC chairman, said he was surprised the commission and Vitelco were able to reach an agreement.

"What is proposed is that the commission give up and the utility give up until it's pretty well balanced," said Hayes.

He said if the settlement was not reached, the case would have dragged on for more than a year through the courts. "I'm confident we would have prevailed in the end," said Hayes.

The PSC in 1969 ordered Vitelco to refund \$1.7 million to its customers. The refund was never paid after Vitelco claimed they didn't have the money because of the heavy cash outflow due to Hurricane Hugo.

Subsequently, the PSC discovered Vitelco diverted \$30 million to ATN in loans and advisory fees over the past two years, including the period following the hurricane.

This issue has been the bone of contention between Vitelco and the PSC.

The case went to the U.S. District Court, which said re-hearings were in order because former PSC ex-officio member Sen. Allan Paul Shalitin tainted the commission when he publicly stated he would not vote for a rate increase if he had voting privileges.

This week's hearings were the result of that court decision.



# Phone customers to get \$14 credit in PSC-Vitelco settlement

• Guyana orders audit of Vitelco parent firm, page 7.

By CURTIS WALCOTT  
Daily News Staff

The Public Services Commission Friday approved a settlement agreement with Vitelco that provides a \$7 credit for October and November phone bills.

Under the agreement, hammered out after a two-day PSC hearing at Fireman's Reef Beach Resort,

Vitelco would also fund and operate a \$1 million "stand-by" 911 emergency service.

The agreement, however, doesn't involve future rates. A rate decision is expected by October.

This week's proceedings were in a repeat of the September hearings nullified by the U.S. District Court, which ruled they were tainted by former Sen. Allan Paul Sluiter, then a commissioner.

The key elements of the settle-

ment:

• The \$7 credit for October and November bills coming from surplus funds in Vitelco's "Hillside" program for the disabled.

• Vitelco will establish and operate a 911 emergency service, allowing residents to call 911 in an emergency and the caller's phone number will appear on the computer screen.

• If Vitelco doesn't implement the system in six months the phone

company will make another rate reduction to customers of \$700,000 over two months' bills.

• Vitelco agreed there would be no more loans or advances to parent company Atlantic Tele-Network Inc. and subsidiaries.

• ATN and subsidiaries will repay loans and advances of \$10 million to Vitelco within 12 months.

The payments by Vitelco to ATN — which have been estimated at \$30 million — have been the

center of the PSC-Vitelco dispute.

• Vitelco President Jeffrey S. Prosser and Prior, the chairman, will resign their management positions at Vitelco but will remain on the board of directors.

• Vitelco will increase its equity ratio to 25 percent.

• ATN will repurchase all stock in Puerto Rico Tele-Com Inc. Vitelco in May bought the stock for \$9.3 million. The company is owned by ATN.

# PSC: Rate-cut orders not on Vitelco settlement

(Continued from page 1)

cern to the commission," Sheen said at the beginning of hearings on a \$1.7 million rate reduction before the commission.

Madan said the commission and staff would be "keen" to hear what level of rates Vitelco would accept in a settlement. The list of issues proposed by Vitelco as ripe for settlement did not mention rates.

Hearing examiner Alfred B. Hayes said he could not stop the hearings for the settlement discussions because he was sitting as hearing examiner and commissioners were present only as observers. Sheen and the PSC met after the hearing to continue talks on the settlement, however.

ATN was founded in 1986 and bought Vitelco in 1987. Since then, ATN acquired Vitel-Cellular and other telecommunication businesses in the Caribbean, including Guyana Telephone and Telegraph and Puerto Rico TeleCom.

All of ATN's stock is now privately held by Vitelco president Jeffrey S. Prosser and Vitelco chairman Cornelius B. Prior Jr.

The announcement of the stock offering was made at the beginning of a Wednesday rate-case hearing before the Public Services Commission.

The hearing is to determine whether Vitelco's finances dictate implementation of a \$1.7 million rate reduction previously ordered by the commission or a \$6.75 million rate increase — about \$12 a month on individual phone bills — as requested by Vitelco.

A proposed additional reduction of \$4.2 million is under review by the commission in a separate case.

The commission previously ordered the \$1.7 million reduction to go into effect, but the District Court ordered a rehearing of the case after finding the original hearing tainted by the prejudices of former commission member and senator Allan Paul Shatkin.

Another concern — the fact that the top executive officers of Vitelco are also the top executives and shareholders of ATN — also will be addressed because Prosser and Prior will step down as managers of the phone company.

# ORDER: Vitelco official to testify

(Continued from page 1)

ordered Vitelco president Jeffrey S. Prosser to appear today, with records, to answer both questions for the Public Services Commission.

At issue is a PSC consultant's contention that Vitelco improperly transferred some of its assets to Puerto Rico TeleCom.

It did this, Jamshad Madan said, by paying back \$9.4 million loaned from Vitelco to its parent company, Atlantic Tele-Network Inc., by giving it stock it says is worth an equal amount. Puerto Rico TeleCom is a long-distance provider similar to AT&T or the V.I.-based CALLS.

It has about a 13 percent share of Puerto Rico's long-distance market and has been in business for "almost a year," ATN spokesman Edwin Crouch said Wednesday.

Between January 1989 and March 31, Vitelco loaned ATN \$17 million. On May 13 and 14, according to Vitelco financial reports Vitelco converted \$9.4 million of the \$17 million to Puerto Rico TeleCom stock.

Commission consultant Madan recommended the commission seek testimony from Prosser and Vitelco

chairman Cornelius B. Prior as well as the records of the transfer to determine whether "the capital represented a transfer of the public utility to an affiliate."

A 1989 settlement between Vitelco and the PSC requires all transfers of public utility assets from Vitelco to ATN or to any subsidiary of ATN to be approved by the commission to ensure the transfer is "justified as one of value and at arms-length."

Vitelco maintains that the settlement does not constitute a "transfer" within the meaning of the law and therefore the settlement does not require commission approval.

The commission Wednesday subpoenaed Prosser and Prior to produce the records. Vitelco and the PSC to quash the subpoena. The commission denied the motion.

Vitelco appealed to the District Court late Wednesday. The court ruled Prosser and Prior — must appear before the commission and produce the records the PSC requested.

Daily News

UPS 144-180

A member of the Gannett Group of Newspapers published by The Daily News Publishing Co., Inc. daily except Sunday, Christmas Day and New Year's Day at 49-52 Estate Thomas, Charlotte Amalie, St. Thomas, U.S.V.I., 00801. Second-class postage paid at Charlotte Amalie, V.I.

Publisher: Ariel Melchor, Jr.  
 CEO/General Manager: Rita's Oline  
 Executive Editor: Penny Feuerzok  
 Circulation Director: Alfred Loban  
 Advertising Director: Robin Prendergast  
 Production Director: Howard G. Lawrence  
 Controller: Deborah Wright-McDonald

Subscription rates 50 cents daily. Other subscription rates available on request.

Post Master, send form 3572, notice of address change, to: Circulation Director, Daily News, P.O. Box 7760, St. Thomas, V.I. 00801.

The publisher reserves the right to change subscription rates during the term of a subscription from 30 days notice. The notice may be made by mail to the subscriber, by notice contained in the newspaper itself or otherwise. Subscription rate changes may be implemented by changing the duration of the subscription.



# Senator: No conflict of interest with firm selling to hospital

BY PATRICE K. JOHNSON  
Daily News Staff

ST. THOMAS — A discussion of hospital purchasing has put Sen. Adlai "Foncle" Donastorg on the offensive after last week's Senate Health Committee hearing.

At the hearing, Sen. Adelbert M. "Bert" Bryan asked Joanne Bozzuto, acting Finance commissioner, how much Donastorg's company, Carrier Medical Supplies & Equipment — received for items bought by Roy L. Schneider Hospital.

Seated next to Bryan and across the floor from Donastorg in the Legislative chambers, Bozzuto said so far this year Donastorg's company has been paid \$11,485. In 1996, Carrier was paid \$104,938, Bozzuto said.

Donastorg said Bozzuto came armed with financial information about his company, while a comparison of amounts paid to other hospital-supply companies was not immediately available.

"They are trying to point the finger at me, and I know it's politically motivated," Donastorg said. Bozzuto said she testified from financial information requested by the Legislature.

"At the hearing we were asked to provide similar information on all payments to hospital-supply compa-

nies within 30 days and the Department of Finance will do so," she said.

Donastorg told the committee that in 1994, before he became a senator, he founded Carrier Medical Supplies & Equipment, a family-run business. After he was elected to the Senate, he made Josefina Donastorg, his mother, president.

After the financial discussion at the Senate Health Committee hearing, Bryan asked Garry Sprauve, purchasing agent for Schneider Hospital, where he had worked before.

Sprauve said he worked in the Licensing and Consumer Affairs Department and in the Legislature's business office, and when pressed further by Bryan added that at one time he worked for Donastorg.

Schneider Hospital bought a three-month supply of infectious-waste bags from Carrier in December 1995 at a cost of \$36,682, Sprauve said. Another three-month supply of infectious-waste bags and trash-can liners was purchased in May 1996 at a cost of \$47,261, Sprauve said.

Arturo Wallington Jr., the Legislature's chief legal counsel, said the V.I. Code does not preclude a business owned by a government official from doing business with the government.

## Senate agenda

### Monday

Holiday: Easter Monday, Transfer Day.

### Tuesday

10 a.m.  
St. Thomas  
Special legislative session will be held in Senate chambers to consider the following nominations to the

Parole Board:

Sanitigo Diaz, Antonio Acevedo, Evelyn James, Ralph Delemos, Pierre Dancel Jr. and Melville Samuel.

Senators also will consider a bill submitted by Gov. Roy L. Schneider to permit the government to withhold the 4 percent gross-receipts tax on any single payment to a vendor of at least \$10,000 or on any payment made under a contract providing for total expenditures of at least \$80,000.

### Wednesday

10 a.m.  
St. Croix  
Labor and Veterans Affairs Committee will meet in the legislative conference room, Fredericksted, for a report from the Labor Department on Brown & Root.

Invited to testify are:

• Alex Moorhead, vice president, human resources, Heale Oil Virgin Islands Corp.

### Monday

• Lloyd Daley, president, United Steelworkers of America, local chapter.  
• Carmelo Rivera, acting Labor commissioner.  
• Jackson Rount, general manager, Brown & Root Industrial Services.

### 6 p.m. St. Thomas

Education Committee will hold a public hearing in Senate chambers to hear testimony on University of the Virgin Islands unrealized education.

Invited to testify are:

• Acting Finance Commissioner Joanne Bozzuto.  
• Nelson L. Bowry, director, Office of Management and Budget.  
• Dr. Orville Kearn, president, University of the Virgin Islands.  
• Paul Arnold, chairman, University of the Virgin Islands board of trustees.  
• George Dudley Jr., chairman of the finance committee of the UVI board of trustees.

### Thursday

Reserved for constituent meetings and office work.

### Friday

10 a.m.  
St. Croix  
Economic Development, Agriculture and Consumer Protection Committee will meet in the legislative conference room, Fredericksted, to hear testimony from representatives of supermarkets on food pricing.

## Schneider sends one bill to Senate

Daily News Staff

ST. THOMAS — A Government House release Thursday erroneously said Gov. Roy L. Schneider added two proposals to the agenda for the special session he called for Tuesday.

Schneider added only one bill to the agenda, a proposal to permit the government to withhold the 4 per-

cent gross-receipts tax on any single payment to a vendor of at least \$10,000 or on any payment made under a contract providing for total expenditures of at least \$60,000.

The original agenda for the special session consisted of the nominations of six people for the V.I. Parole Board.

Schneider said the board must

consider the release of nonviolent prisoners held by the Corrections Bureau, in order to reduce prison overcrowding as required by a District Court consent order.

The nominees for the parole Board are Sanitigo Diaz, Antonio Acevedo, Evelyn James, Ralph Delemos, Pierre Dancel Jr. and Melville Samuel.

THE PEOPLE WHO KNOW HOW TO SAVE YOU MORE

# Puebio®

5% OFF SENIOR CITIZENS

DISCOUNT



## Opinion

### The Daily News of the Virgin Islands

Founded Aug. 1, 1930, by J. Antonio Jarvis and Ariel Melchior Sr.  
Editorial board members are:

ARIEL MELCHIOR JR.  
Publisher & Editor  
PENNY FEUSZKIO  
Editorial Page Editor

MIKE MIDDLESWORTH  
CEO & Executive Editor  
EDMUND C. CROUCH  
IDG Consultant

## 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 James 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, Waps, 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.

### What's on your mind?

We welcome letters, guest editorials and guest cartoons. Sign each submission, and include an address and daytime phone number for verification.

We edit letters for brevity, clarity, libel and propriety. We prefer that they be timely and about 200 words; our limit is 400 words. Guest editorials may be up to 600 words; please include a picture. Writers will be allowed only one letter per month.

Send entries to The Daily News, P.O. Box 7760, St. Thomas, VI 00001. Fax 776-0740; e-mail address dailynews@islands.vi

Donastorg  
1370

## Marlins: one she

Florida Marlins Highlight Reel, 1999:

**Opening Day.**—Stirring ceremony retires the protective cup worn by catcher Mike Piazza, the last Marlins player the fans ever heard of. First pitch is tossed out by owner H. Wayne Huizenga, sporting the latest in kevlar bulletproof leisure wear. National anthem is sung by Mickey Rourke, submitting for an ailing Gloria Estefan. Marlins lose 8-0 to Pirates. Paid attendance: 841.

**April 30.** Newly acquired shortstop Burt "Spiffy" 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.



Carl Hias

**June 4.** One day after to the lineup, Burt "Spiffy" homers twice and turns a play in a thrilling 7-2 win over Braves. Marley is immediately away for three Khor prospects and a batboy to later. Marlins president Donastorg announces the team pay been cut to \$162,410.

**June 15.** Stirring ceremony field as a bronze lounge is dedicated to its fielding skills of ex-Mar Gary Sheffield. Peanut vendor Trock hits for the cycle, he drops a nail-biter to the Huizenga says unless he build him a retractable-domum, he'll cut the roster players and rotate pitching among "various family members."

**July 2.** Not one Marlin to the National League Team. A bitter Huizenga unusually heavy balling Florida fans.

**July 20.** Pitching on two sleep, knuckleballer Paul Lundquist burles his first 9 minutes later, Lundquist to the Phillies in exchange team mascot and two peas

## Reflections on Ame

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 foibles: the no-food-stamps rule.

Tucked away in a \$1.9 billion agriculture bill is a provision that would restore food stamps to thousands of legal immigrants. And about time.

Only Rep. Gerald Solomon, R-N.Y., tried to pull the provision out of the bill. He claimed that restoring food stamp privileges would open the door to wholesale repeat of the 1996 welfare law — the old, give 'em an inch argument.



Deborah Mathis

"It's a matter of principle," said.

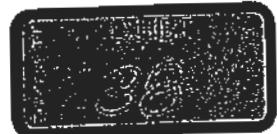
No, congressman, it's a matter of decency, which is always the principle, especially principle is indecent, which food to people certainly is.

Fortunately, most of So colleagues didn't buy his rati you can call it that. By a vote 120, the House rejected his 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 wondered what in the we ever possessed the Congress privileges to the very people helped make the country a in the first place. It is America's nature, for heaven's sake.

The backlash against immigration is becoming a nation that to be a lover of freedom and





# Schneider signs Hess oil

Governor vetoes bill allowing VITRAN employees to operate bus service

MATT ZALAZNICK

ST. THOMAS — The agreement allowing Hess Oil Virgin Islands Corp., to enter a joint venture with Venezuelan-owned PDVSA, V.I., was signed into law by Gov. Roy Schneider yesterday.

"The ratification of the agreement by the Legislature of the Virgin Islands provides HOVIC with the impetus to revitalize its St. Croix refinery," Schneider said in a Government House press release issued last night. "Implementation of the Extension Agreement will lead to an increase in jobs for residents and training in different skilled areas. HOVIC will continue to purchase the majority of its equipment and supplies locally thereby creating a positive ripple effect throughout the St. Croix business community."

The agreement also assures the V.I. government and the

Water and Power Authority of a continuous supply of reduced-price fuel, the release said.

The agreement was negotiated by Schneider and his staff and then approved by the senate after five days of tempestuous hearings.

Under the Joint Venture PDVSA Inc. will pay HOVIC \$625,000,000 for a 50 percent interest in the St. Croix refinery.

The companies will then split the costs of building a \$500 million coker facility. Officials from both HOVIC and PDVSA have said the coker is crucial to the venture's success.

Under an accompanying long term contracts, PDVSA will supply the refinery with more than 50 percent of its crude oil requirements at competitive prices.

The V.I. government receives a payment of \$8 million from HOVIC to fund vocational, youth summer and environmental programs.

The joint venture will equip four specialized classrooms at the St. Croix Vocational Technical Center and establish the required training programs to

see HESS page 2

## Special Services wear



Clients of the Dept. of Human Services' Special Services pr

WILLIE EMERSON

Seldom discussed, rarely heard and almost never seen, the division of Department of Human Services known as Special Services is striving to make an impact on the lives of disabled men and women.

Mark Vinzant, Director of Special Services, noted that the department, which is unknown to many, encompasses several important divisions:

The community rehabilitation facility — where individuals with disabilities are hired to work on craft items;

Adults with disabilities — currently working with approximately 70 persons on issues ranging from housing to food procurement;

Developmental abilities council — offshoots to programs including developmentally disabled adults;

Disabled persons fund — providing financial assistance to individuals with disabilities; and

The cancer program — making assistance available to cancer survivors.

The compound itself, a result of damage from Hurricane Marilyn, is tucked away in a beaten area off the beaten south of Territorial Court. Owned by the DHS compound suffers from ceilings, exposed areas and other structural problems.

"We're hoping that building will be fixed," said Vinzant, noting it

# Top Daily News editor resigns

Frustrated Feuerzeig quits over paper's loss of credibility

KRIS DRESSEN

ST. THOMAS — A top editor at the Daily News quit yesterday because she believes the newspaper has lost its journalistic credibility since territorial tycoon Jeffrey Prosser took it over just five months ago.

The last straw for Penny Feuerzeig, who was editorial page editor and a former executive editor since 1982, was the editorial written by Prosser defending Vitelco rates published in yesterday's edition. In a one-page letter, she cited the editorial as the reason for her immediate resignation.

"There's no longer the com-

mitment to the same high standards as journalism excellence and independence, and there's very little commitment to serving the public's best interest," Feuerzeig said after her resignation.

Feuerzeig said the newspaper has soured from a prize-winning paper that strived for the highest standards to one without integrity.

The editorial destroyed the last shreds of credibility that may have remained, Feuerzeig wrote. She said it also crossed an ethical line that she felt so strongly about that she couldn't work for the Daily News any longer.

The editorial criticized Public Services Commission Chairman Walt Challenger's refusal

see RESIGN page 2



# Daily News loses top editor

RESIGN from page 1

tor, yesterday's piece was written and "unilaterally imposed" by Ed Crouch, vice president at Emerging Communications, which owns Vitelco. He is also a Daily News editorial board member.

The editorial was written by Prosser, said Daily News CEO and Executive Editor Mike Middlesworth. While Feuerzeig's resignation is a loss, Prosser has a legal right as owner to express his views in the paper, he said. Those who disagree with those views can choose to stay or go, he said.

"I'm sorry she did (quit) because she's been a very valuable member of the staff of this newspaper," Middlesworth said. "I think it's unfortunate it came to this," Prosser said.

Crouch could not be reached for comment on Friday.

Feuerzeig's resignation didn't come as a surprise to some newsroom staff and former employees, who said her frustration is felt by nearly all at the Daily News. Former reporter Laurence Rake said he felt stifled and recent changes contributed to his decision to take another position as assistant city editor

views.

Middlesworth also wrote that there's no question Prosser is a "noveau riche" when it comes to news-papery and some are making concerted efforts to help him better understand the role of community newspapers.

The editorial was prompted by a consultant's report to the Public Services Commission that found Vitelco to be earning more money than it is legally entitled to. It had numerous financial findings regarding Vitelco, which is controlled by Jeffrey Prosser, a friend of Gov. Roy Schneider. Prosser reportedly made campaign contributions to Schneider, who served on Vitelco's board of directors for several years before quitting when he ran for governor.

The PSC recently approved the purchase of St. Thomas-St. John Cable TV by Innovative Communications Corp. which is controlled by Prosser. It joins St. Croix Cable TV under the Prosser grip.

Prosser's ICC bought the Virgin Islands Daily News for a reported \$17 million a few months ago, after the Vitelco's tax breaks were approved by the PSC.

Emerging Communications owns Vitelco and other communications companies.

There is a lot of unhappiness, Feuerzeig said.

One major change was made almost immediately after Crouch sold the 14,000-circulation newspaper to Prosser.

Feuerzeig was removed as executive editor and placed as editorial page editor. She had served as the paper's top editor since 1982.

**"There is a lot of unhappiness."**

Penny Feuerzeig

St. Thomas

verbally, or in writing, in operating the service," Schneider said. "The task of operating a transit system, particularly in the territory, is an arduous task."

St. Thomas

According to the Commissioner of

St. Thomas

According to the Commissioner of

St. Thomas

According to the Commissioner of

St. Thomas

According to the Commissioner of

# Schneider signs HOVIC agreement

RESIGN from page 1

upgrade the skills of Virgin Islanders.

# Donastorg wants PSC examined

CARL D. HOLCOMBE

ST. THOMAS — While Sen. Adiah "Foncle" Donastorg continues to call for examination of the Public Services Commission, Sen. Holland Redfield is pulling back on a public hearing.

Redfield, who chairs the senate's Economic Development and Agriculture Committee, said yesterday now that the report on the Virgin Island Telephone Co. profits has been released to the public, it's time to let the PSC do its job.

The report, which had a gag-order slapped on it since May 1 by PSC chair Walter Challenger, confirmed that Vitelco is already "over-earning."

Vitelco is guaranteed a certain profit level by the PSC — the company's rates are then supposed to be adjusted as the profits increase or decrease.

"(Senate) involvement in the matter would be moot and only heighten an already politically charged issue," said Redfield. "We would be better served by allowing the PSC to fulfill their appropriate role as a quasi-judicial regulatory agency within our government."

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

# Gov's block grant projects to face pub

MATT ZALAZNICK

The projects Governor Roy Schneider has proposed for \$2.17 million worth of block grant funds will face public hearings next week and what could be a tumultuous ratification session of the V.I. Legislature on June 8.

"It's going to create a political problem because the list is unbalanced," Senate President Lorraine Berry said. "There are

more projects for St. Thomas than for St. Croix.

"I believe there is going to have to be some compromise on the projects."

The governor has allocated \$1.14 million for projects on St. Thomas, \$630,700 for St. Croix and \$90,000 for St. John.

Schneider has recommended giving the rest, \$434,000, to the Department of Planning and Natural Resource's Community Development Block Grant pro-

gram.

"We always have far more applications than there are block grant monies available," said Hal Hatfield, a spokesman for the Governor. "These recommendations are a result of a great deal of research by DPNR, as well as information gained through public hearings."

Of Schneider's support of the proposals, Hatfield said, "The fact that we submitted to the Legislature speaks for itself."

Berry said she did not want to

comment on specific projects she wanted the Governor to select to receive funds.

"We need to see a those who applied, and were not considered why," Berry said. "I'll be at all the proposals during the presentation of public and the administrative."

The first public hearing will take place in Fredrick Croix on Tuesday, June 8, 7 p.m. The St. Thomas hearing will take place the following day, Wednesday, June 9, 7 p.m. in the Senate Chamber.

Individuals or organizations who applied for funds, but were not selected by the governor could make a presentation at the hearing and petition a senator to add them to the funding, Berry said.

The Governor's list of construction and public projects for all three islands

include \$163,000 to renovate the Tutu Recreation Center, \$150,000 to build a community center and basketball court in Est. Bon, \$110,000 in loans and grants to rebuild homes in Savar, \$100,000 to erect playground in Winberg and Smith Estate.

Schneider has also recommended \$117,500 to build a community center in St. Croix General Gades in Savar funding for several after school and youth counseling programs.

The St. Croix projects include \$155,200 to construct a man's facility, \$150,000 to renovate the Herbert E. Grigg for the Aged, \$68,000 to build a recreation facility at Wal, \$75,000 in loans for bushes in Christiansted and Fred, and \$7,500 to install signs in William's Delight.

Also on the list for St. Croix is \$25,000 for the Camp A Job Training Program, \$12,000 to computer train disabled at Ricardo Ric Elementary School.

St. John's projects include \$40,000 to build a paddle in Cruz Bay and \$50,000 after school, counseling, computer training for the disabled programs at the J Sprauve School.

## Reaction to Penny

CARL D. HOLCOMBE

ST. THOMAS — While Sen. Adlah "Foncle" Donastorg continues to call for examination of the Public Services Commission, Sen. Holland Redfield is pulling back on a public hearing.

Redfield, who chairs the senate's Economic Development and Agriculture Committee, said yesterday now that the report on the Virgin Island Telephone Co. profits has been released to the public, it's time to let the PSC do its job.

The report, which had a gag-order slapped on it since May 1 by PSC chair Walter Challenger, confirmed that Vitelco is already "over-earning." Vitelco is guaranteed a certain profit level by the PSC — the company's rates are then supposed to be adjusted as the profits increase or decrease.

"(Senate) involvement in the matter would be moot and only heighten an already politically charged issue," said Redfield. "We would be better served by allowing the PSC to fulfill their appropriate role as a quasi-judicial regulatory agency within our government."

Redfield said Thursday that a review of the PSC's conduct regarding Vitelco would be performed.

The PSC gave Vitelco 45

days to prepare a written response to the report. The findings are supposed to be given to Georgetown Consulting two to three weeks before any public meeting.

Redfield said Challenger and the PSC has competent attorneys and consultants and their advice should be followed. But he cautioned "his eyes will be closely watching their actions . . . political interference with the deliberations of the PSC only strains the process."

Donastorg, who authored a bill to petition to reduce Vitelco rates by 20 percent, has called for the resignation of Challenger and the breakup of the PSC. He has called the report a victory for the people of the Virgin Islands.

The report found that Industrial Development Commission tax cuts would give Vitelco about \$35 million over five years. Even subtracting hurricane repairs, Vitelco would still be able to give at least 20 percent rate cuts for residential and single-line small business customers.

Vitelco officials have ripped the report, written by Jamshed Madan, of Georgetown Consulting Group, beginning with Samuel Ebbesen during Wednesday's PSC meeting.

He called the report "sloppy," and Vitelco officials said it contained numerous miscalculations and misrepresentations.

Vitelco already appears to be earning that its guaranteed by the PSC rate base of 11.5 percent. The company is actually earning a base rate of 12.8 percent, which equates to a return on equity of approximately 25 percent, the report said.

Factoring the IDC the benefits and the hurricane damages, Vitelco's base rate and equity return would increase again.

According to the report, "The value of the tax benefits provided by the PSC appear more than sufficient for Vitelco to recover the local portion of storm damage . . . as well as to provide for a 20 percent reduction in local rates for residents."

The IDC benefits, based on data for a 12-month period ending October 1997, would save Vitelco about \$6.9 million a year — or \$34.6 million over the five-year life of the benefits. Vitelco estimated those savings at about \$5 million based on 1999 projections, but didn't provide supporting evidence.

In that same 1996-97 period, had IDC benefits been in effect, Vitelco's total tax bill would've been \$873,000, instead of \$14.7 million — total tax cut of about 94 percent, according to the report.

Madan wrote that Vitelco didn't provide some information, but that had little effect on the findings.

## Students injured as school bus pelted with rock

Donastorg v. Daily News D 1387

It's like going away present

A school monitor said

Managing Editor  
Published daily, except holidays by:  
Brodhurst's Printery, Inc.  
36 A&B La Grande Princesse, 00820  
P. O. Box 750, Christiansted 00821  
Tel. (340) 773-2300 Fax (340) 773-5511

## EDITORIAL

# What a rogue

Recently, a newspaper here in the territory blasted Sen. Adlah "Foncle" Donastorg on a number of issues.

It characterized Donastorg as a "rogue" senator for calling on the Public Services Commission to investigate whether phone customers should enjoy a 20 percent reduction in rates while the phone company enjoys enormous tax breaks.

The paper also labeled Donastorg as being one of the most anti-business legislators in recent memory.

Why? Well, the senator is advocating the dismantling of the Industrial Development Commission. The same body which bestowed the tax exemptions on the phone company.

The newspaper in question also said Donastorg is calling for the break up of the PSC as well. The newspaper called Donastorg's rhetoric "pre election politicking."

Hmmmm. If the other newspaper's editorial on May 29 justifying the phone company's position wasn't a little bit of politicking, we'd like to know what it was.

This paper neither supports or opposes Donastorg. It does, however, agree — somewhat — with him on the above issues.

The PSC is stacked with Gov. Roy Schneider-appointed commissioners who are hardly autonomous. The same could be said for the IDC board.

Actually, Donastorg is calling for the PSC board to be disbanded and replaced with members who are truly looking out for the consumers of this territory. Walter Challenger? Forget it.

On that point, we agree with Donastorg.

And while we don't necessarily agree the IDC should be scrapped, it does need some serious retooling. We don't think there is anyone in the territory who would disagree. That's why there is a task force looking into just that issue.

The other newspaper says Donastorg's statements about dismantling these commissions "does nothing but destroy public confidence in the system."

Huh? What about 100 percent tax breaks to a corporation from a commission loaded with members appointed by the governor — himself a former board member of that same company. So if Donastorg is a "rogue" senator for calling them like he sees them, then maybe we need a few more in what could be his reduced-seat Legislature.

And when it comes to the PSC and the IDC, we submit that the public's confidence is already "destroyed."

Dear Editor:

This is regarding the HOV-IC/PDVSA V.I. Joint Venture that was voted on May 18. In my opinion there should have been public hearings and meetings on this before it was negotiated by the Governor and sent to the Legislature to be voted on.

However, the behavior by some of the senators was downright deplorable. These elected officials should not be allowed to shout at one another or the people who are participating in the process. The senators who know of the testifiers should not talk about them personally, or of their family this is not relevant to the proceedings furthermore it is very humiliating and belittling.

These senators are elected to represent us but some of them conduct themselves in an unprofessional manner that they end up misrepresenting the public. This should not be allowed to continue. They should be held accountable for their actions and be made to pay a fine or be censored.

Don't they know that the youth are seeing this and will think this is acceptable behavior. The lights and the microphone should be controlled from outside the hearing room or by the senate president, then no one will be able to turn them off or on, as they wish.

Do you think any investor will come here to subject themselves to being called A LIAR, A CHEAT, ETC? Be firm negotiators but keep an open mind.





Stamps	35-40
Stocks	7
TV schedule	27
Weather	18
World	13-14

The Virgin Islands  
**Daily News**  
 © 1998 Daily News Publishing Co.  
 UPS 144-180

The Virgin Islands Daily News is owned by Creative Communication Corp. and published every Saturday, Christmas Day and New Year's Day at 45-52 Estate 7, Antigua Avenue, St. Thomas, U.S. 00801. Second-class postage paid at Charlotte Amalie, VI.

**Advertising:** Deborah Wiggins-McDonald, Advertising Director, Lerna Joseph, Publisher

**Editorial:** Arvel Madan, Jr., Managing Editor, Mike Middleton, Editorial Page Editor, Gwendolyn Kelly, Circulation/Production, Ken E. Ryan, Advertising Director

**Subscription rates:** \$80 cents daily. Other subscription rates available on request. Postmaster, send form 3579, notice of address change, to: Circulation Director, Daily News, P.O. Box 7760, St. Thomas, VI 00801.

The publisher reserves the right to change subscription rates during the term of a subscription with 30 days notice. The notice may be made by mail to the subscriber, by other means to the newspaper's head office or otherwise. Subscription rate changes may be implemented by changing the duration of the year.

▼ **REACHING US**

**St. Thomas**  
 774-8772  
 Sunday-Friday

**Fax**  
 News: 776-0740  
 Advertising: 774-6986

**E-mail**  
 dajnews@standa.vi

**Address**  
 P.O. Box 7760  
 Thomas, U.S.V.I. 00801

**St. Croix**  
 773-4425

Sabino faxed the cover letter that accompanied the report, but not the report. The letter said that because

resuscitate program. Schiro wrote there are remaining concerns that need to be addressed by the hospital. He gave the hospital

He said the report also said there were improvements in discharge planning, an area of concern in past surveys.

at the hospital. If the hospital obtains the certification, it would not have to ask HCFA for yearly certification, Woods said.

**EBBESSEN: 'I think it is sloppy ... skewed for political reasons'**

Following the earlier action by the Legislature, the PSC appointed James K. Madan of the Georgetown Consulting Group to examine the issue. In early May, Madan delivered his report, which concluded that a full rate case investigation was warranted.

In his July 13 letter, Ebbesen stuck to his guns regarding the veracity of Madan's report. "I had some harsh statements to make at the May meeting," he stated. "I do not withdraw my earlier comments. Indeed, I am even more distressed with the content of the report."

Madan paid in gross receipts taxes during the year. Vieico argues doing so would bring that rate of return down to 11.48 percent. That rate drops even further when insurance costs are considered, says the company. According to their review, Madan only figured in insurance costs for several months of 1997. Vieico also argues that Madan did not figure in the \$2.37 million the company lost from reductions in the federal government's universal service fund during 1997. Adding in these factors, Vieico said that its rate of return falls to just under 10 percent.

verify those losses. Vieico argues it has already provided extensive proof regarding the losses to the Federal Communications Commission, which allowed the company to include the interstated portion of the losses in its rate base and to depreciate them over a five-year period.

"Since we believe that the data shows that a decrease of 20 percent or greater in local rates is warranted given the IDC benefits and that since rates can only be changed in a rate proceeding, a full rate case investigation appears warranted," concluded the study submitted by Madan.

The Georgetown (Consulting Group) report contains many very significant errors. Some of them are so clear that it is impossible to believe that they are errors. In other places, data is used one way when it helps the view that the consultant has pursued and the opposite way when it would help Vieico's view," Ebbesen stated.

Value of IDC benefits. Vieico argues that Madan's report does not recognize the effect a 20 percent rate reduction would have on the value of IDC benefits. Because the amount of gross receipts and income taxes paid would be less under a 20 percent cut, the value of IDC tax exemptions being granted also would lessen, the company argues.

Lack of insurance. Madan pointed out that Vieico did not pay for insurance coverage of its plants for two years. He raises the question of whether the company should be able to receive full credit for its losses when it did not make premium payments for those years. Vieico argues that the consultant is well aware of the fact that insurance coverage was unworkable to attain during those years, making it virtually impossible to pay for coverage.

**UNION**

CONTINUED FROM PAGE 1

the Legislature. There, frustrated senators tell union members that their grips is back over at Government Hill, not at the Senate.

By MICHAEL WALL  
 Daily News Staff

**Retired firefighter preaches fire safety**

of various storage areas." In his search for hazardous materials, Jennings discovered other fire hazards surrounded the people of St. Thomas.

around doors and windows are also a threat when a fire breaks out. "Those security gates and iron bars on windows are fine, but people don't know where the key is to get out of the house," he said. "When there is a fire, those bars are a problem."

Union members don't care how they get paid. They just want their money.

"The Legislature controls the purse strings, not the purse," said Finance Committee Chairwoman

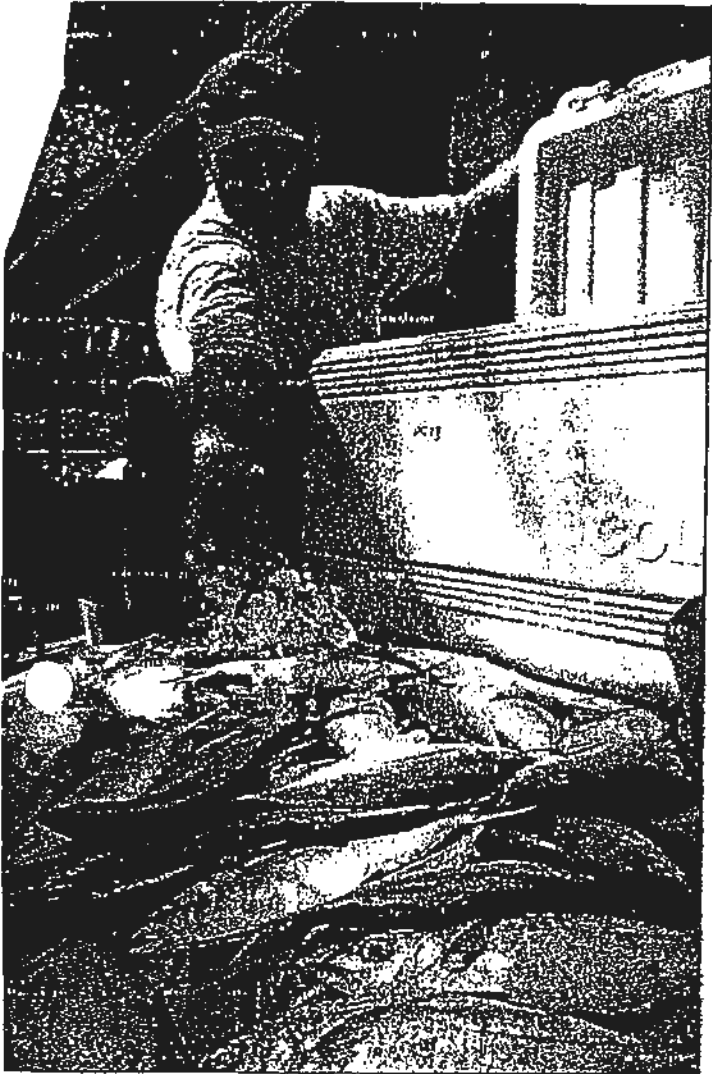
ST. THOMAS — When retired firefighter Rodolph Jennings learned that the Fire Service was to receive hazardous material training, he wanted to use real, local material for the training.

"I wanted to use local material

Propane tanks present a problem when improperly installed, Jennings said.

"The propane deliverer must make sure there is no leakage and

Contrary to popular practice, Jennings said citizens should store



Daily News Photos by CALEB KENNA

# Vitelco disputes PSC study

## Says consultant's report is flawed

By NORBERTO SANTANA JR.  
Daily News Staff

ST. THOMAS — V.I. Telephone Corp. filed its response Monday to a Public Services Commission consultant's report issued in early May. That report recommended a full rate case investigation based on a series of tax benefits Vitelco acquired from the Industrial Development Commission.

Given its reported \$29 million in hurricane losses and \$100 million investment in equipment upgrades, Vitelco argues that its IDC benefits are the only method to avoid seeking a rate increase directly from consumers.

"The bottom line is this: There is no basis to begin a rate-making proceeding. Even with the IDC credit, Vitelco's rate of return will not exceed 11.5 percent. This matter should be closed," stated Vitelco President Samuel E. Ebbesen in a July 13 letter to PSC Chairman Walter L. Challenger.

The Senate passed legislation unanimously last year mandating that the PSC examine the rate of return of the phone company and consider a 20 percent rollback in rates. Sen. Adlah "Foncie" Donastorg sponsored the legislation after the company received the IDC tax exemptions, arguing that rate payers should receive reductions in phone charges.

On the Senate floor Tuesday, Donastorg continued to question the strength of Vitelco's arguments and the validity of its IDC benefits.

"It's a lot of documents and a bunch of nothing," Donastorg said of the 10-inch-thick response Vitelco filed with the PSC.

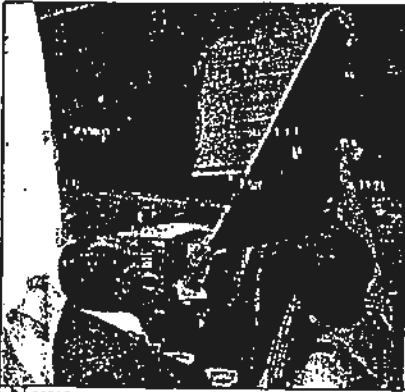
This newspaper and Vitelco are owned or controlled

“  
It's a lot of documents  
and a bunch of  
nothing.

— Sen. Adlah "Foncie"  
Donastorg

catch picture

ery, above, throws ice  
afternoon on the day's  
skipjacks at the newly  
d Joseph Paul Bryan  
ket outside Lionel E.  
Stadium. Gov. Roy L.  
r, at right, and a mem-  
Bryan family unveil a  
10 a.m. dedica-  
no.



Donastorg v. Daily News  
DT376

See VITELCO, page 2



# ICC, Donastorg square off over Vitelco tax breaks

6/9/00

By PERRY BROTHERS 0002 5 - NMT  
Daily News Staff

**ST. CROIX** — Innovative Communication Corp. executives on Thursday disputed a Virgin Islands senator's allegations that an ICC subsidiary, V.I. 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 for other ICC subsidiaries.

ICC owns The Daily News, Vitelcom, Vitelohair 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.

Thomas Minnich, ICC's chief operating officer, dismissed the allegations as false. He said Vitelco has 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 consultation 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.

ICC Executive Director Pamela Ward said spokespersons for the PSC did not return Daily News phone calls requesting information and comment Thursday.

For Immediate Release  
 July 8, 2000  
 Office of Senator Adiah "Foncie" Donastorg  
 Contact: Nicole Holterman (940) 699-0633  
 699-2596, 699-1703  
 1 PAGE

## IDC, Labor Dep't. fail to turn over VITELCO documents

**ST. THOMAS —** Has the Industrial Development Commission kept any records on its largest beneficiaries?

More than one month has passed since Senator Adiah "Foncie" Donastorg requested information on the transfer of more than 50 employees to the VITELCO payroll and IDC Director Frandell Gerard has failed to turn over a single sheet of paper. [REDACTED] payroll with employees from Thomas-St. John Cable TV, St. Croix Cable TV, VITELCOM, VITELCELLULAR, V.I. Powernet and the Daily News. ICC owner Jeffrey Prosser's personal security force are also on the VITELCO payroll.

[REDACTED] attempts to review the report Gerard claims IDC did on VITELCO payroll, which VITELCO describes as a "consolidation/integration" effort.

"I remain convinced that IDC never approved the practice and no such reports exist," Donastorg said. "In fact, it's been nearly a year since anything at all was filed with IDC on VITELCO. If anything exists today, I believe it was fabricated after I made my requests."

Donastorg expressed disappointment at the IDC's efforts to protect VITELCO from scrutiny when it is the IDC's duty to investigate tax beneficiaries and ensure they are complying with their tax break agreements.

"The VITELCO tax agreement has nearly bankrupted this Government and if the IDC found violations we could be entitled to millions in tax revenues," Donastorg said.

[REDACTED] letter from Gerard indicating that she could not [REDACTED] However, under Virgin Islands law IDC records are not confidential information and any citizen has a right to examine them.

"These are stalling tactics," Donastorg said. "All I have asked is to review public records — what is everyone running from?"

The Labor Department also continues to withhold information on VITELCO. Dedicated Labor Department employees were asked to compile reports on VITELCO's employment practices, but the Department's management will not even acknowledge looking into the matter.

"I have proof the Labor Department report exists, but I believe that those in charge were disturbed by what they found," he said. "This information has been suppressed."

Donastorg said he's not surprised that so many Government employees have lost all faith in their leadership.

"The people in these departments and agencies recognize what's going on," he said. "And this is so unfair to the VITELCO employees — at this point, who can they turn to if their rights are violated? Even the majority of the territory's attorneys are now on the VITELCO payroll."

Donastorg v. Daily News, et al.  
 D 1117



JA002995



For immediate release  
 August 17, 2000  
 Office of Senator Adiah "Foncie" Donastorg  
 Contact: Nicole Bolestad (340) 693-3888  
 693-3888, 693-1703  
 1 PAGE

## **IDC testifies at least 64 non-VITELCO employees on payroll Sen. Donastorg prepares to take legal action for release of IDC records**

ST. THOMAS — The Industrial Development Commission has at last acknowledged VITELCO's failure to comply with its tax benefit agreement, however the IDC Director still refuses to turn Commission records over to Senator Adiah "Foncie" Donastorg.

IDC compliance officers testified Wednesday that 64 employees of other ICC enterprises such as the Daily News, VITELCELLULAR, VITELCOM, V.I. Powernet and the cable companies were on the VITELCO payroll yet did not perform any duties related to VITELCO's operations.

"Sixty-Four employees is a huge number — at first VITELCO denied any payroll transfers were taking place. Then, when caught, they stated it was just a handful of people," Donastorg said. "This is not only a blatant violation of the IDC agreement, but also forces all of us to subsidize VITELCO's less profitable sister companies when we pay our monthly phone bills."

The IDC also testified that VITELCO had been employing less than the 421 workers required under its tax break agreement.

"As a result of these and other violations the IDC has the power to revoke or renegotiate VITELCO's tax breaks and this territory could be entitled to millions in current and back taxes," Donastorg said. "We need to go after VITELCO and all other beneficiaries that abuse the system."

Donastorg hopes that IDC records will help shed some light on his many concerns regarding the program. He has also successfully requested an audit of the IDC from the office of the Inspector General.

"I expect to file a Writ of Mandamus with the court of competent jurisdiction on Monday," he said. "It is illegal for the IDC to continue to withhold public documents. It's simply a misguided attempt to protect the violators."

The senator had hoped to file the Writ of Mandamus today, but additional paperwork must be completed before he can proceed.

Donastorg said he will consider taking similar legal action against the Department of Labor for failing to turn over a report it completed on VITELCO earlier this year. Donastorg said the existence of such a report is well documented, yet Labor Department officials have acted to suppress it.

"The situation becomes serious when you have the leadership of at least three government agencies acting in tandem to shield the businesses they are supposed to regulate," Donastorg said. "Not everyone understands the importance of these issues, but they are indicative of what is destroying this economy and this community. Here we have a blatant failure to collect revenues owed the V.I. Treasury, corruption and collusion among Government officials, unfair labor practices, overpriced utilities and a continued effort to serve the powerful at the expense of the people. When we begin to right these wrongs we will all begin to prosper."

For Immediate Release  
September 7, 2000  
Office of Senator Adlah "Foncie" Donastorg  
Contact: Nicole Bollenzi (940) 693-3695  
693-3695, 693-4705  
1 PAGE

## Donastorg takes legal action against IDC IDC Director continues to withhold documents

ST. THOMAS — Senator Adlah "Foncie" Donastorg has taken the Industrial Development Commission to court over its failure to release public information regarding the compliance records of tax beneficiaries.

Donastorg has stated on several occasions that the IDC was acting to protect VITELCO and other beneficiaries engaged in illegal business and employment practices. VITELCO receives a near 100 percent tax exemption from the IDC.

"Rather than penalize violators or recoup the taxes lost to the Treasury, the IDC has elected to ignore and even conceal VITELCO's violations," Donastorg said. "The IDC is now operating in the same unethical mode as the PSC — only this may be worse as the stakes are even higher."

Donastorg had threatened legal action over the past three months as IDC Director Frandelle Gerard denied his repeated requests for information regarding VITELCO's compliance record. Much of the controversy involves the transfer of more than 70 employees of other ICC enterprises such as the Daily News, VITELCELLULAR, VITELCOM, V.I. Powernet and the cable companies to the VITELCO payroll. IDC's own compliance officers have testified that these employees do not perform any duties related to VITELCO's operations.

"As a result of these and other violations the IDC has the power to revoke or renegotiate VITELCO's tax breaks and this territory could be entitled to millions in current and back taxes," Donastorg said. "We need to go after VITELCO and all other beneficiaries that abuse the system — getting these records will shed some light on the problems within IDC."

The IDC Director has made numerous excuses for her failure to release the information requested. First saying that the documents contained confidential personnel data and later stating that one of the reports requested had not been finalized.

A petition for a Writ of Mandamus for the release of the IDC records was filed in Territorial Court on Tuesday afternoon. The petition cites both Virgin Islands code and case law supporting Donastorg's request for the IDC documents.

The senator said he deeply regrets having to take legal action against IDC, but had no other recourse.

"It is a sad state of events when appointed government officials must be forced by a judge to do their jobs and work in the public interest," Donastorg said. "Unfortunately, I may be compelled to take the same steps regarding the Labor Department as this agency has also withheld public documents and failed to protect the people of the Virgin Islands. As I have said, not everyone understands the importance of these issues, but they are indicative of what is destroying this economy and this community."

# 8/17/00 Sen. Donastorg demands data on Vitelco's IDC compliance

By SUSANNA HENIGHAN  
Daily News Staff

ST. THOMAS — Wednesday's Senate Labor and Veteran's Affairs Committee meeting became a launching pad for Sen. Adlai Donastorg to attack Industrial Development Commission Director Frandelle Gerard over whether Virgin Islands Telephone Corp. has followed the employment guidelines in its IDC certificate.

At the hearing, Gerard released figures on Vitelco employment, showing that during four of the last five quarters the company has maintained employment levels above the minimum required by the IDC.

In the quarter ending June 30, however, the number of IDC-eligible employees was 400, 21 below the minimum required by the IDC in its agreement with Vitelco. Gerard said that during that period, the total number of Vitelco employees was actually 452 but that 52 were deemed "ineligible" because they also perform duties for other subsidiaries owned by Vitelco's parent company, Innovative Communication Corp.

In the four preceding quarters, the number of ineligible employees grew from two in the quarter ending June 30, 1999, Gerard said that the figures are preliminary and still must be verified by the Department of Labor.

Labor Commissioner Sonia Jacobs Dow was invited to the hearing but did not attend, indicating by letter that she is ill and has been ordered by her doctor to rest. Dow also said that the two assistant

commissioners with knowledge of the issues were off-island and could not attend.

Donastorg was not satisfied with the information Gerard supplied, and he said that the IDC director should supply a preliminary report on Vitelco's compliance. "That preliminary report should be made available to us," he said.

Gerard said that the report, which she received on Monday, is not a public document until it is presented to IDC members.

On Aug 9, Donastorg wrote to Gerard demanding all documents relating to Vitelco's IDC compliance and threatened to go to court to obtain the documents. After Wednesday's hearing, Gerard said she had done what she could to comply with his request.

Wednesday afternoon, Donastorg aide Nicole Bollenkain said that the senator plans to file a writ of mandamus today in Territorial Court asking the court to require the IDC to turn over records on Vitelco.

Donastorg believes Vitelco is "payroll padding" by adding employees of other ICC subsidiaries to the Vitelco payroll to keep its staffing numbers above the IDC minimum.

ICC officials have said that employees have been shuffled between subsidiaries in an effort to streamline and consolidate redundant functions such as payroll and accounting. Other ICC subsidiaries include Vitelcom, Vitelcellular, St. Thomas-St. John Cable TV, St. Croix Cable TV and The Daily News.

Vitelco is the only ICC sub-

sidary that receives IDC tax breaks.

During the hearing, Gerard provided a chronology of the IDC's investigation into Vitelco's employment practices. The

irretrievable dates back to September 1999, when Donastorg first wrote to the IDC with his inquiry.

Over the last 10 months, the Department of Labor and the IDC worked together to check the com-

pany's compliance, Gerard said. They met or corresponded with ICC executives, union officials, the ICC's tax assessor and a representative of the office of corporations and trademarks, she said.

# Donastorg asks court to make Vitelco open employee records

By SUSANNA HENRICHLIN  
Daily News Staff

**ST. THOMAS** — Sen. Adolph Donastorg has gone to court to further his quest to see documents relating to Virgin Islands Telephone Corp.'s cooperation with Industrial Development Commission stipulations.

Donastorg on Tuesday filed a writ of mandamus in Territorial Court which, if granted by a judge, would force the IDC to hand over documents relating to Vitelco's compliance.

Donastorg has long asserted that as part of consolidation of Vitelco and other companies owned by International Communication Corp., the number of Vitelco employees had fallen below the numbers allowed by the company's IDC certificate. He has asked the IDC repeatedly for documentation of the employment changes.

IDC Director Franklin Gerard, who released preliminary numbers on employment during a Senate hearing last month, has said that he will not release a more detailed report because it is still in the preliminary stages.

In a statement issued Thursday, Donastorg said that the IDC is acting to protect Vitelco by refusing the hand over documents.

IDC Vice President for Corporate Affairs Helmut Redfield II declined to comment on Donastorg's action, saying corporate policy prohibits comments on pending litigation.

Donastorg said Thursday he did not know that Donastorg had filed the writ. Asked if the filing worried her or

encouraged her to speed up her investigation into Vitelco's compliance, Oberndorf said, "Absolutely not."

Oberndorf said the IDC is still compiling a final report on Vitelco's employment record, and she indicated that that document will not be released until it is final.

"We are doing what we can as quickly as humanly possible," Gerard said, adding that the IDC deficiencies will meet balance Donastorg's requests with other compliance issues.

Gerard could not predict when the report will be final, but said that the IDC recently received a new batch of information from Vitelco, which IDC officers must process. "It is literally hundreds of pages," she said.

According to numbers released by Gerard last month, Vitelco's employment level did fall to 400 in the second quarter of 1999, a number 21 lower than allowed by its IDC certificate.

Gerard said that the IDC monitors best-factory compliance on an annual basis and will keep checking Vitelco's level of employment to see if it conforms to full. She said her based on her research to date on Vitelco's employment practices, she sees no reason to be concerned that the company might be violating the terms of its IDC certificate.

Vitelco's parent company, ICC, also owns Yachtclub, Wisconsin, Wisconsin, St. Croix Cable TV, St. Thomas-St. John Cable TV, The Daily News and other companies.

# Development panel to review plan for economic growth

By SUSANNA HENRICHLIN  
Daily News Staff

**ST. THOMAS** — The Governor's Comprehensive Economic Development Strategy Committee will meet Monday morning to review the territory's plan for economic growth.

The plan is required by the U.S. Economic Development Authority, which provides grant funds to assist various economic growth initiatives in the territory.

The original plan dates back to 1993, and the committee, comprised of a wide range of high-level government officials, is working on a final draft of a new, up-to-date plan.

At Monday's meeting, Bureau of Economic Research Director Lauritz Mills is scheduled to present the outline of the new plan. Committee members are to discuss plans to hold public hearings on the document.

Also on the agenda is a presentation about the territory's last-ever Consumer Dependence Study, completed by the Eastern Caribbean Center of the University of the Virgin Islands, and discussion on retail grants received by the BEER.

The committee is chaired by Gov. Charles Tuckwell. The meeting is scheduled for the video conference room at the Department of Education and starts at 10 a.m. Monday.





**Legislature of the Virgin Islands**  
CAPITOL BUILDING, CHARLOTTE AMALIE  
ST THOMAS, U.S. VIRGIN ISLANDS 00804

**ADLAN "FONCE" DONASTORG, JR.**  
SENATOR

Liaison to the U.S. Congress

**CHAIRMAN**  
Planning & Environmental Protection

**VICE CHAIRMAN**  
Committee on Health

October 24, 2000

P.O. Box 1890  
(340) 774-0880  
(340) 893-8665  
Fac (340) 893-3834  
omafonca@senate.gov.vi

**MEMBER, Committee on:**  
Rural  
Economic Development,  
Agriculture  
& Consumer Protection

*Chris*

The Honorable Charles W. Turnbull  
Governor  
Government House  
Charlotte Amalie, St. Thomas  
US Virgin Islands 00802

Dear Governor Turnbull,

I write to you today with a sense of utmost seriousness and deep regret. I must ask that you call for the resignation of Industrial Development Commission Director Francelle Gerard.

This is an extremely sensitive and important position and the person that holds this post must not only be well versed on economic issues, but also must possess a high level of professionalism and adhere to a strict ethical code.

Ms. Gerard has failed on all fronts — the lack of respect is now so low within the IDC that employees have staged sick outs. Even her own staff is disheartened by Ms. Gerard's questionable decisions and unscrupulous tactics. Your administration has lost its Tourism Commissioner at the dawn of high season due to the actions of Ms. Gerard.

I expressed my doubts regarding Ms. Gerard's qualifications from the very start — as you will recall I voted against her nomination as IDC Director. I have witnessed first hand the way this Commission has operated and I know that this individual was uniquely unqualified for the job. To put a person in such an important position whom own personal finances are in such a state of chaos is a serious mistake. Such an individual has not only demonstrated a personal inability to manage money, but more importantly remains extremely vulnerable to corruption.

\* I ask you to consider the facts. I, an elected representative of the people of the Virgin Islands, have been attempting to review public records within IDC for nearly a year now. Ms. Gerard has made it her personal mission to withhold these records in order to protect VTELECO and ICC from scrutiny. I have had to go so far as to file legal action within the Territorial Court in order to review these documents and I am still awaiting the court's ruling despite numerous attempts orchestrated by Ms. Gerard to delay the matter indefinitely.

\* Despite her claims to be actively investigating violations by those or state beneficiaries, Ms. Gerard has failed to penalize a single IDC recipient. She has instead focused her energies on granting 10-year 100 percent tax breaks to entities like Caneel Bay, which has been in business for decades and plans neither significant expansion nor new hirings.

Donastorg v. Daily News, et al.  
D 1015

EXHIBIT  
54



# Donastorg, IDC director wrangle over accusations of abuses

By SUSANNA HENIGMAN  
Day News Staff

ST. THOMAS, — Sen. Arlath Donastorg Jr. has charged that Industrial Development Commission Director Fradelle Gerard used her position to solicit donations from Caneel Bay for the St. Croix Foundation for Community Development, which she chairs.

Gerard and Roger Dewey, executive director of the foundation, were denied Donastorg's accusation Tuesday. Both said that Gerard does not seek donations for the foundation from IDC beneficiaries.

Donastorg failed to produce any documentation to back up his accusations, and on Tuesday he would not return calls to his office requesting further comments and information.

Attorney George Dudley, who represents Gerard Bay in IDC-related matters, said Tuesday that the report did not appear to donate any money to the St. Croix Foundation.

He said Gerard has pledged \$300,000 that will go to a commercial development fund being organized by the IDC.

Gerard said the new fund will provide venture capital to help finance small, local businesses, and other beneficiaries also are being asked to contribute. The fund is not yet set up, and through several beneficiaries have made pledges, they have not yet placed money in the fund, she said.

All recipients of IDC tax breaks are required to donate to a community service organization or set up their own philanthropic funds. Gerard said one of her projects as IDC director has been to increase

the level of giving.

Donastorg made the accusation against Gerard in an Oct. 24 letter to Gov. Charles Turnbull in which he called for an investigation of the St. Croix Foundation and an audit of its financial contributions.

Dewey said he was angered by Donastorg's action 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 contributions came from AmeriCorp, the Athl-Liter and Beautification Board and the Lee J. Rahn Scholarship Fund. The only IDC beneficiary on the donor list was the Business Horzi, which gave \$800 in 1999.

The 10-year-old foundation is responsible for a number of community development programs including the Women's Business Center, revitalization of Market Square in Christened and the Community Business Loan Program. Gerard has been chairman for four years.

Donastorg also charged in his Oct. 24 letter that Gerard had not penalized any IDC beneficiaries since becoming director in April 1999.

No beneficiaries have had their benefits revoked in that period, but IDC regulations state that revocation is not solely in the director's control.

According to the IDC rules, written in 1981, either the director or community members can petition an investigation of whether a beneficiary is abusing its certificate.

Before a beneficiary loses its certificate, the IDC must investigate any

infraction and share the committee's findings with the beneficiary. The IDC then must hold a public hearing before voting on the matter. The governor makes the final decision.

The director does not have a vote in any IDC decisions. Gerard said two beneficiaries' certificates are in the revocation pipeline, and seven or eight more are under investigation.

"My commitment to enforcement is very serious, but unfortunately we do not have the personnel or resources to give it the attention we should," Gerard said.

The IDC's Fiscal Year 2001 budget request includes funding for two compliance officers. The same request has been made in the last two fiscal years, but the government has not granted it, Gerard said.

Currently, one staff member with other duties is responsible for enforcement and monitoring.

Donastorg's letter to the Island in a long — and often personal — attack on the IDC and Gerard. Recently he filed a writ of mandamus in Territorial Court seeking copies of employment records from the Virgin Islands Telephone Corp., an IDC beneficiary.

Gerard has maintained that she and the IDC are working to satisfy Donastorg's demand, but that the paperwork is extensive and is complicated by the necessity to remove the Virgin workers' private personal information from the records that Donastorg wants made public.

In the Oct. 24 letter, Donastorg asks for Gerard's resignation. "Ms. Gerard has failed on all

fronts," he wrote. Gerard said that most members of her small staff are dedicated to their work. "It's a yeoman's task, and they do it without a lot of export," she said.



**Legislature of the Virgin Islands**

CAPITOL BUILDING, CHARLOTTE AMALIE,  
ST. THOMAS, U.S. VIRGIN ISLANDS 00804

**ADLAH "FONCIE" DONASTORG, JR.**  
SENATOR

Liaison to the U.S. Congress

**CHAIRMAN**  
Planning & Environmental Protection

**VICE CHAIRMAN**  
Committee on Health

November 2, 2000

VIA FAX: (340) 776-0740

P.O. Box 1690  
(340) 774-0880  
(340) 693-3835  
Fax (340) 693-3834  
email:foncie@senate.gov.vi

**MEMBER, Committee on:**  
Rules  
Economic Development,  
Agriculture  
& Consumer Protection

Ms. Susanna Henighan  
Reporter  
Virgin Islands Daily News  
P.O. Box 7760  
St. Thomas, USVI 00801

Dear Ms. Henighan,

I'd like to preface my remarks by stating that the vast majority of Daily News employees are both intelligent and ethical. In fact, you may not even be personally responsible for the matter at hand. However, you are listed as the sole author of a news story appearing on page five of the November 1, 2000 edition.

For nearly three years I have tolerated Daily News articles and editorials that range from the subtly slanted to the blatantly inaccurate. I rarely comment on these matters and in most cases I've remained open, helpful and cooperative despite these unrelenting attacks. It makes no sense for me to raise objections to your interpretation of the facts when the community is well aware of the motivations of your newspaper's ownership. That said, I find the November 1 article's focus and various statements contained within to be both misleading and sadly misguided. I will not comment on or attempt to argue these points, but it's become increasingly difficult to endure outright dishonesty.

You stated in your story that, "Donastorg failed to produce any documentation to back up his accusations, and on Tuesday he would not return calls to his office requesting further comment and information." This is a boldfaced lie. You first spoke with a member of my staff after 8 p.m. Tuesday evening at her residence. She immediately attempted to reach me, but she was unable to relay your message to me until after midnight. The next day my staff member checked the voice mail on her personal cell phone and it was indicated that you had also attempted to contact her at approximately 6 p.m. In fact, you state the time you are calling in the very message you left.

How can you make such statements about my failure to return calls or provide information when you did not even speak with a member of my staff until after 8 p.m. in the evening? You made no effort to reach me at my office nor during office hours. Your very first attempt to reach me was to leave a message on the voice mail of a staffer's private cell phone after 6 p.m. And how could I have "failed to produce" anything when nothing was requested?

If the Daily News is willing to print untruths about matters as simple as this, the public must continue to question the newspaper's overall credibility. This is obviously not the first time such unfair characterizations have been made. However, this time I am requesting that you take responsibility for your actions by running a clearly worded clarification on page 3 of your newspaper. Failure to run such a clarification within 72 hours of receipt of this letter can only be interpreted as malicious intent on the newspaper's part.

Sincerely,

Adlah "Foncie" Donastorg  
Donastorg v. Daily News, et al.  
D 1017







The Virgin Islands  
**Daily News**  
A Virgin Islands News Service

Tel: (340) 774-8772  
Fax: (340) 776-0740 (News)  
(340) 774-6886 (Advertising)

**J. Lowe Davis**  
Executive Editor and Chief Executive Officer

Nov. 4, 2000

Sen. Adlah Donastorg Jr.  
23rd Legislature of The Virgin Islands

Dear Sen. Donastorg,

Ms. Susanna Henighan has given me your letter concerning her Nov. 1 story, and I am writing you in hopes that we can forge a better working relationship between your office and ours.

After I read your letter, I could understand your concern about having your statements, views and actions fairly and accurately represented.

After you read my letter, I hope that you'll have more information about the way our news department and staff operate and that it can move us forward into better communication.

On Sunday, Oct. 29, our St. Thomas newsroom received, via fax, a copy of your letter to Gov. Charles Turnbull calling for the replacement of Frandelle Gerard as director of the IDC. We immediately began making efforts to independently verify the facts underlying your charges against her. That proved to be quite time-consuming, as we needed to speak with Caneel Bay representatives, obtain a copy of Caneel Bay's IDC certificate, speak with Caneel Bay's attorney, speak with the St. Croix Foundation, obtain a copy of the foundation's annual report as a 501(c)3 organization, and of course, speak with Ms. Gerard.

All of the above is standard procedure for our news staff. We hold fairness to be equally important as accuracy, and we go to great lengths to give all sides equal treatment and equal opportunity to defend themselves. The public is always free to sit in and observe our News Budget Meetings. Those who have taken the opportunity can testify, after hearing and seeing the way we evaluate stories and their content, that we don't print news about accusations unless we have independently verified the points in the accusations.

We also don't print stories containing attacks on anyone unless we have given that person, or his or her spokesperson, an opportunity to respond.

It was about 6 p.m. on Tuesday, Oct. 31, that Ms. Henighan finally got all the other information together, and the one remaining point needed in the story was your response to the information and comments we had obtained. Ms. Henighan called your aide, Nicole Bollentini, and left a message on her cell phone that she was seeking you. We have previously called your staff around that time and had success obtaining information, and we hoped we would at this time.

Parcels 49 and 52A • Estate Thomas • P.O. Box 7760 • St. Thomas, USVI 00801

**Donastorg v. Daily News, et al.**  
D 1018



JA003004

Not wishing to disturb your spokesperson at home, Ms. Henighan waited until around 8 p.m. for a response to her message. At that point, she did call your spokesperson, Ms. Nicole Bollentini, at home. She informed Ms. Bollentini that since none of the documentation we found had revealed what you charged in your letter to the governor, we were looking for documentation or further comment from you.

Ms. Bollentini said that we should get the Caneel Bay certificate and we would see the proof. Ms. Henighan said that she had it right in front of her and there was nothing in it about the St. Croix Foundation. Ms. Henighan emphasized that she wanted to hear from you. Ms. Bollentini said she would try to contact you and ask you to call back.

We held the story until after midnight, waiting for your call back. Our experience with other senators has been that, thanks to cell phones, we generally do get a quick call back when we need to speak with them after normal business hours. When we did not hear from you, we believed that you did not choose to respond, which has been the case very often in the recent past, according to your spokesperson.

I regret that we did not get the chance to get your response and any documentation you wish to provide into that story, and we are willing to write a story immediately if you now wish to comment or provide the documentation.

An additional point of information might give you a new perspective on the workings of The Daily News. The News Department is entirely separate from the Opinion pages, which carry the editorials, columns and Letters to the Editor. The Opinion staff is not part of News and does not suggest News stories; on the other hand, the News staff does not suggest editorials. The editorials are the viewpoint of the ownership of the newspaper, they are not the opinions of anyone in News.

Our News staff is even careful to avoid voicing opinions in public or in the newsroom about any person or topics they cover. We take that to the extreme of requiring that none of our News staff join organizations or organizations that take a stand on issues we cover. Those organizations include EAST and SEA as well as the political parties.

The objective of the News Department is to report the news fairly, accurately and comprehensively, giving equal weight and balance to all sides.

The objective of the Opinion staff is to produce editorials that give a single point of view: that of the ownership of the newspaper.

These two aspects of the way we work are in accord with what is traditional in reputable newspapers in America, and they are the earmarks of an ethical newspaper operation:

- \* News and Opinion are separate.

- \* The editorials reflect the views and opinions of the owner of the newspaper.

These points were obscured under the previous ownership, which as a large corporate entity seldom held or espoused a single corporate opinion about a news event other than to make endorsements in presidential elections:

Further, the previous ownership did not divide News and Opinion here, although that is the standard at its other newspapers. Here, the Executive Editor not only directed the news reporting and edited stories, she also wrote the editorials. Over time, Daily News readers came to see no difference between editorials and the News.

That has not been the case since I took the position of Executive Editor, in December 1998, but many readers are not aware of the change. The editorials are not influenced by the News staff now, and the news is not influenced by the owner or any of his designees. He understands the importance of objectivity as the basis for a successful newspaper's credibility, and his outlook is carried through to his corporate staff and to the management of the subsidiary companies of Innovative Communication Corp.

That is not to say we don't get "news tips" from various people working for ICC or a subsidiary. If we get one, we treat those the way we do the dozens of other tips we get every day. We check it out. If there's anything to it, we do our homework.

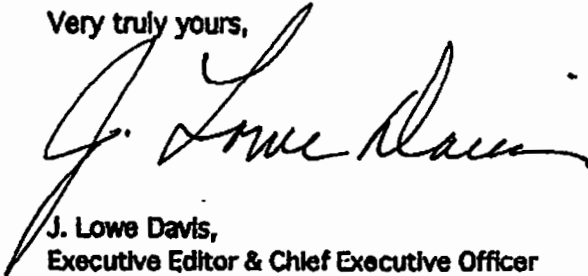
Sometimes we don't run a story that has checked out. Why not? Because we don't run stories that do not serve the general public interest. Some people would argue that it's a big story if we find out a public official has been hit with a complaint about failure to pay alimony or child support. I, however, tend to think this is more a private matter and should not become a story in our newspaper unless it develops into something of much greater general public concern, such as ability to handle the public's money.

As a final note, I hope that our staff and yours can achieve a more positive working relationship. It was detrimental to that relationship when Ms. Bollentini called The Daily News from your offices on Thursday, Nov. 2 and, acting in her official capacity as your spokesperson, denounced Ms. Henighan as "a stupid fucking bitch."

The fact that she turned the matter into a personal attack on a member of the media and did so in such a lamentable and vulgar way was compounded by the fact that she made this remark not to Ms. Henighan but to another reporter, who was appalled and outraged enough to inform me about it.

Please let me know what steps I can take to ensure effective, productive communications with your office. I would like to meet with you at your convenience to achieve that goal.

Very truly yours,



J. Lowe Davis,  
Executive Editor & Chief Executive Officer

EXHIBIT  
128  
JUN 14 2001

# Nibbs refuses to testify on corruption allegations

By DARRIN MORTENSON  
Daily News Staff

ST. THOMAS — The former researcher for the Legislature's housing committee who was expected to blow the whistle on corruption within the territory's public housing agencies finally turned up to testify but refused to spell his allegations out before the Senate Housing, Parks and Recreation Committee on Monday at the Legislature.

Alphonse Nibbs Sr., a former executive director of the V.I. Housing Authority who researched housing issues for committee Chairman Celestino White Sr. between January and May, was sub-

poenaed to testify at an earlier meeting about allegations he made in the media of system-wide corruption in the VIHA, the V.I. Housing Finance Authority and the V.I. Department of Housing, Parks and Recreation.

After not showing up for the May 21 hearing, Nibbs was not expected to testify at Monday's hearing either, but he shocked White when he unexpectedly popped into the Senate chamber about 30 minutes into White's monologue on Nibbs' apparent refusal to appear.

Finally on the stand, Nibbs testified that he turned over an undisclosed quantity of documents regarding corruption to the FBI and

the fraud division of the Federal Emergency Management Agency and that he was restricted from discussing the details of the documents before the committee.

"It would be inappropriate," Nibbs said, shortly after coolly strolling into the Senate chamber with a stack of papers tucked under his arm and his attorney at his side.

"I'm legally constrained from discussing them," he said.

Within five minutes of their arrival and curt testimony, White excused Nibbs and attorney Lauren Caffee of the A.J. Weiss and Associates law firm.

White said that Nibbs was subpoenaed to substantiate his earlier

claims, "not as someone who stands accused," and that it was his right, "legal and otherwise," to refuse to testify on ongoing federal investigations.

Neither federal agency could be reached to confirm that they had received Nibbs' documentation or if it would prompt an investigation.

While he did not detail any allegations, Nibbs gave reporters a copy of a June 7 letter summarizing the work he did for White during his four months as housing committee sleuth.

Nibbs said that he kept White informed of the many problems in the housing agencies and that White did nothing about the problems and

did not demand accountability from V.I. Housing Authority Executive Director Conrad Francois II.

White denied the charges and said that as chairman of the housing committee, he did not receive any information from Nibbs indicating corruption in the housing agencies.

"But that is not to say he doesn't have it," White said.

White said it was unfortunate that the housing agencies would have to continue operating under a "cloud of suspicion" while federal agencies look into Nibbs' allegations.

## Legislation reduction on agenda for Rules Committee

By HAL HATFIELD  
Daily News Staff

ST. THOMAS — Senate Rules Committee Chairman Carlton Dove has added the controversial legislation to reduce the size of the Senate to his committee's agenda for Thursday.

Sen. Adiah Donastorg Jr.'s bill would cut the Senate's membership from 15 to four Senators from each legislative district and

it also would appropriate \$9,975,000 to the Legislature for Fiscal Year 2002, a 25-percent cut from its current \$13.3 million appropriation.

The Government Operations, Planning and Environmental Protection Committee passed the bill on a 3 to 1 vote Thursday after holding lengthy hearings on all three islands.

Ironically, Donastorg voted no on his own bill, while three senators who oppose the bill — com-

mittee Chairman Donald Cole, Sen. Adelbert Bryan and Sen. David Jones — 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.

The strategy of members of the Senate majority is to pass the bill through the Government Operations and Rules committees to force all senators to take a stand on the legislation in the full Senate.

## Man charged in BVI murder

TORTOLA (AP) — Police have charged a 21-year-old man with murder in the stabbing death of a man at a recent beach concert.

Kassin Benti, 21, a resident of Tortola's East End community, was charged late last week in the murder of Jermaine Brown, 21.

Brown, a native of St. Thomas who lived on Tortola, was stabbed multiple times with a knife at a beach concert June 5.

Police detained Benti and another man for questioning, and have released the other man without charges. The motive for the stabbing was not clear.

Benti appeared in court Thursday and has been jailed pending a yet-unscheduled preliminary hearing. The territory does not allow bail for murder suspects.

Brown's murder is the first of the year for British Caribbean territory.

6/12/01

# Nibbs refuses to testify on corruption allegations

By DARRIN MORTENSON  
Daily News Staff

ST. THOMAS — The former researcher for the Legislature's housing committee who was expected to blow the whistle on corruption within the territory's public housing agencies finally turned up to testify but refused to spell his allegations out before the Senate Housing, Parks and Recreation Committee on Monday at the Legislature.

Alphonse Nibbs Sr., a former executive director of the V.I. Housing Authority who researched housing issues for committee Chairman Celestino White Sr. between January and May, was sub-

poenaed to testify at an earlier meeting about allegations he made in the media of system-wide corruption in the VINA, the V.I. Housing Finance Authority and the V.I. Department of Housing, Parks and Recreation.

After not showing up for the May 21 hearing, Nibbs was not expected to testify at Monday's hearing either, but he shocked White when he unexpectedly popped into the Senate chamber about 30 minutes into White's monologue on Nibbs' apparent refusal to appear.

Finally on the stand, Nibbs testified that he turned over an undisclosed quantity of documents regarding corruption to the FBI and

the fraud division of the Federal Emergency Management Agency and that he was restricted from discussing the details of the documents before the committee.

"It would be inappropriate," Nibbs said, shortly after coolly strolling into the Senate chamber with a stack of papers tucked under his arm and his attorney at his side.

"I'm legally constrained from discussing them," he said. Within five minutes of their arrival and our testimony, White excused Nibbs and attorney Laurence Caffee of the A.J. Weiss and Associates law firm.

White said that Nibbs was subpoenaed to substantiate his earlier

claims, "not as someone who stands accused," and that it was his right, "legal and otherwise," to refuse to testify on ongoing federal investigations.

Neither federal agency could be expected to confirm that they had received Nibbs' documentation or if it would prompt an investigation.

White he did not detail any allegations, Nibbs gave reporters a copy of a June 7 letter summarizing the work he did for White during his four months as housing committee staff.

Nibbs said that he kept White informed of the many problems in the housing agencies and that White did nothing about the problems and

did not demand accountability from V.I. Housing Authority Executive Director Conrad Francois II.

White denied the charges and said that as chairman of the housing committee, he did not receive any information from Nibbs indicating corruption in the housing agencies.

"But that is not to say he doesn't have it," White said. White said it was unfortunate that the housing agencies would have to continue operating under a "cloud of suspicion" while federal agencies look into Nibbs' allegations.

"The whistle was given to Mr. Nibbs, and he failed to blow it," White said. "Closure needs to be brought to this."

## Legislation reduction on agenda for Rules Committee

By HAL HATFIELD  
Daily News Staff

ST. THOMAS — Senate Rules Committee Chairman Carlton Dowe has added the noncontroversial legislation to reduce the size of the Senate to his committee's agenda for Thursday.

Sen. Adiah Donastorg Jr.'s bill would cut the Senate's membership from 13 to 9 — four Senators from each legislative district and one at-large member.

It also would appropriate \$9,975,000 to the Legislature for Fiscal Year 2002, a 25-percent cut from its current \$13.3 million appropriation.

The Government Operations, Planning and Environmental Protection Committee passed the bill on a 3 to 1 vote Thursday after holding lengthy hearings on all three islands.

Ironically, Donastorg voted no on his own bill, while three senators who oppose the bill — com-

mittee Chairman Donald Cole, Sen. Adelbert Bryan and Sen. David Jones — 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.

The strategy of members of the Senate majority is to pass the bill through the Government Operations and Rules committees to force all senators to take a stand on the legislation in the full Senate.

## Man charged in BVI murder

TORTOLA (AP) — Police have charged a 21-year-old man with murder in the stabbing death of a man at a recent beach concert.

Kassin Benti, 21, a resident of Tortola's East End community, was charged late last week in the murder of Jermaine Brown, 28.

Brown, a native of St. Thomas who lived on Tortola, was stabbed multiple times with a knife at a beach concert June 5.

Police detained Benti and another man for questioning, and have released the other man without charges. The motive for the stabbing was not clear.

Benti appeared in court Thursday and has been jailed pending a yet-unscheduled preliminary hearing. The territory does not allow bail for murder suspects.

Brown's murder is the first of the year for this British Caribbean territory.

**SOME PROMOTIONS GIVE YOU MOVIE TICKETS. WE'RE GIVING YOU THE THEATER.**

**YOUR GIFT: A DVD**

Upgrade your CD-ROM to a DVD at no additional cost on any Dimension L100, L106, or Inspiron 8000 purchase. Get ready to see your favorite movies at home, the office, or wherever you have your computer. Also, if you choose the Dimension L106 with an Intel® Pentium® 4 processor, you'll have the maximum power available to fully enjoy the crisp images and vibrant sounds of DVD movies. \*Required software not included.

**Intel Inside**

**www.dell.com/vi**  
Call toll free and configure your own system.  
**1-877-702-4360**  
(Monday thru Friday 8:00am to 9:00pm  
Saturdays 10:00am to 3:00pm)

Advertisement price includes shipping and standard hardware options. Small and medium business options. Configurations are not available for every Dell PC's use genuine Microsoft Windows www.microsoft.com/pricing/howtoget

**DELL**

**DESKTOP DELL DIMENSION L100** **MSRP \$749\***

Order with this code: 200046

Intel® Pentium® 4 processor at 3.0GHz

4GB SDRAM memory

17" TFT Widescreen monitor

30GB hard drive

CD-ROM Upgrade to DVD at no additional cost

Sound Blaster sound card with 5.1 value

Human Earlyn speakers

5007 modem

Microsoft Windows Millennium

Microsoft Works Suite 2001

One year limited warranty and on-site service!

Win your 2001 Pentium® 4 processor in 1042 **MSRP \$799\***

Order with this code: 200047

**DESKTOP DELL DIMENSION L106** **MSRP \$1,189\***

Order with this code: 200048

Intel® Pentium® 4 processor at 3.0GHz

4GB SDRAM memory

17" TFT Widescreen monitor

30GB hard drive

CD-ROM Upgrade to DVD at no additional cost

Sound Blaster sound card with 5.1 value

Human Earlyn speakers

5007 modem

Microsoft Windows Millennium

Microsoft Works Suite 2001

One year limited warranty and on-site service!

**DESKTOP DELL DIMENSION L100** **MSRP \$1,359\***

Order with this code: 200049

Intel® Pentium® 4 processor at 3.0GHz

4GB SDRAM memory

17" TFT Widescreen monitor

30GB hard drive

CD-ROM Upgrade to DVD at no additional cost

Sound Blaster sound card with 5.1 value

Human Earlyn speakers

5007 modem

Microsoft Windows Millennium

Microsoft Works Suite 2001

One year limited warranty and on-site service!

**NOTEBOOK DELL INSPIRON™ 8000** **MSRP \$1,499\***

Order with this code: 200050

Intel® Pentium® 4 processor at 3.0GHz

4GB SDRAM memory

14.1" display with SXGA resolution

30GB hard drive

CD-ROM Upgrade to DVD at no additional cost

Sound Blaster sound card with 5.1 value

Human Earlyn speakers

5007 modem

Microsoft Windows Millennium

Microsoft Works Suite 2001

One year limited warranty and on-site service!

**NOTEBOOK**

\*Suggested retail price. Prices and specifications are subject to change without notice. Offer limited to 5 systems per order. This offer, stock and apply to Dimension L100, L106 and Inspiron 8000 series. The total accessible capacity is dependent on operating system. \*Required software not included. © 2001 Dell Computer Corporation. All rights reserved.

Donastorg v. Daily News, et al.  
D 1009





6/14/01

Inside

- Calendar.....34
- Classifieds.....35-37
- Comics.....32-33
- Crossword.....33
- Editorial.....24-25
- Horoscope.....32
- Nation & World.....13-23
- Obituaries.....11
- Public Records.....11
- Sports.....27-44
- Stocks.....12
- TV schedule.....34
- Weather.....14

The Virgin Islands Daily News

© 2001 Daily News Publishing Co.  
 The Daily News Publishing Co., owned by  
 Interstate Communications Corp., publishes  
 the Virgin Islands Daily News daily, except  
 Sundays, Christmas Day and New Year's Day at  
 1000 Estate Diamond, St. Thomas, VI 00802.  
 Telephone: 340-774-8772  
 Fax: 340-774-8772  
 News Fax: 340-774-0140  
 Advertising Fax: 340-774-0140  
 E-mail: dnews@vnews.net

**Contact us**  
 St. Thomas-St. John  
 3105 Estate Thomas  
 St. Thomas, VI 00802  
 340-774-8772  
 News Fax: 340-774-0140  
 Advertising Fax: 340-774-0140  
 E-mail: dnews@vnews.net

**Publisher and Editor**  
 Adel Malcher Jr.

**Executive Editor and Chief Executive Officer**  
 J. Loren Davis

**Deputy Executive Editor/CEO**  
 Jason Riddle  
 News Editor  
 Barbara Perry  
 St. Croix Bureau Chief  
 Justice DeBruin  
 St. Thomas-St. John  
 Sports Chief  
 Earl Casper  
 Features Editor  
 Sherita Alvarez  
 Shopping Editor  
 Eric Francis

**Managing Editor**  
 Marilyn Bailey  
 Consultant  
 Deborah Wright-McDonald  
 Production Director  
 Ron C. Fryer  
 Circulation Director  
 Tom Lambert

**Advertising**  
 340-774-8772  
 Classified: 340-774-0120  
 Fax: 340-774-0140

Subscription rates: \$100 per year. Other subscription rates available. The publisher reserves the right to change subscription rates during the term of a subscription with 30 days notice. The notice may be mailed by first class mail, but must be received by the publisher at least 30 days before the change becomes effective. Subscribers may be contacted by telephone for a change of address. Subscribers may be contacted by telephone for a change of address. Subscribers may be contacted by telephone for a change of address.

USPS 144-180  
 Postmaster, send form 3576 notice of address change to Circulation Director, Daily News, P.O. Box 7782, St. Thomas, VI 00802.

# Port Authority board alters fee structure, sweetens deal for St. Croix ferry service

By MATT MONROE  
Daily News Staff

ST. THOMAS — Boston Harbor Cruises is still waffling about whether it will come back to provide low-priced ferry service between St. Thomas and St. Croix during the high-tourism season, but the V.I. Port Authority board passed three measures Wednesday that would sweeten its deal.

The board voted to change the Port Authority's fee structure for all companies operating high-speed ferries between the two islands. The changes place particular emphasis on encouraging businesses to base their operations on St. Croix and on providing incentives for start-up ferry services.

- The measures include:
- Waving docking fees on St. Croix for the first two years of service.
  - Reducing the head tax and placing it in over a three-year period. Ferry companies would pay nothing the first year, \$1.50 the second year and \$3 the third year. The new \$3 cap represents a \$2.75 reduction of the per-passenger fee that was paid during the DHC ferry's trial run in April.
  - Waving all fees for companies that base their operations in Frederiksted.

BHC Director of Operations Kevin Matthews said the changes

At Wednesday's V.I. Port Authority board meeting, principals of the newly formed Crucian Express Inc. announced their plans to purchase a high-speed ferry and operate a year-round service between the two islands. The Norwegian vessel, named Tyving, would seat 271 and run at speeds of 40 knots.

would help the company provide lower rates for passengers, but he had hoped the board would vote to phase in the head tax over five years instead of three, a proposal he discussed recently with Port Authority Executive Director Gordon Finch.

"It's not as good as we discussed last week, but it's better than we had," Matthews said.

For the first time in public, Matthews indicated that BHC is considering operating a year-round operation between St. Thomas and St. Croix, but in order to do so, DHC would need to run for a few seasons to make sure that the demand exists to support such a venture.

DHC also is considering routes in Florida and may not come back at all.

Attorney General Iver Stridiron, a Port Authority board member, abstained from voting for the changes in the fee structure.

He said the measures — which were introduced and voted on with-

in an hour during the daylong meeting — came about too hastily and require more discussion. The fast pace of the meeting at one point left Stridiron, board member Robert O'Connor Jr. and staff members confused about what the board was even voting on.

Stridiron also expressed concern that a high-speed ferry service operating along the route could put into jeopardy local airlines, which have invested heavily in building businesses that depend on travelers flying between St. Thomas and St. Croix.

Matthews would not speculate about how inter-island ferries would affect the regional airlines, but he said that in New England, where BHC shares routes with Cape Air, the airline has not been impacted.

"How will it impact Seaborne, Cape Air or American Eagle? I just don't know," Matthews said.

The airline industry, however, shares Stridiron's concern. As recently as last week,

Seaborne Airlines President and Chief Executive Officer Martin Kurg said that a ferry service could damage the airline industry. When Boston Harbor sold 340 tickets for the 600-passenger Saluda, which ran on an April test run, Seaborne was forced to slash its \$150 rate for V.I. residents to \$50 in order to fill seats.

The dynamic of the travel market could change dramatically in the coming months.

At Wednesday's board meeting, principals of the newly formed Crucian Express Inc. announced their plans to purchase a high-speed ferry and operate a year-round service between the two islands. The Norwegian vessel, named Tyving, would seat 271 and run at speeds of 40 knots.

Kurg said that the year-round ferry industry between the two islands is still unproven.

The rough sketch of the Crucian Express that Stridiron the islands has left ferry passengers wary while sinking businesses that have attempted to run ferry services in the past.

"This one may work, but all past efforts have failed," Kurg said, adding that he is speeding up plans to expand Seaborne services to Tortola and Old San Juan later this summer so the company will not depend solely on the St. Thomas-St. Croix route.

# Local group picked to redesign St. Thomas waterfront

By MATT MONROE  
Daily News Staff

ST. THOMAS — Since a joint venture working to design a boulevard between Veterans Drive and St. Thomas Harbor fell up over the direction of the project, the V.I. Port Authority on Wednesday was forced to pick sides.

The Port Authority listened to two very similar presentations describing how the two companies would redesign the waterfront but overwhelmingly voted to select locally owned Yasis Group as the principal architect for the project.

In November, the Port Authority selected the joint venture of Yasis and Paradigm Designs, but the groups split over irreconcilable differences. Yasis principal Chancel Callwood said.

Board members Attorney General Iver Stridiron, Department of Natural Resources Commissioner Dean Plakett, Hector Figueroa, Kent Bernier, Leslie Milliner and Tourism Commissioner and board Chairman Pamela Richards voted in favor of Yasis.

Robert O'Connor Jr. was the only member to vote in favor of Paradigm, a firm that designed the Coral World grounds and has

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 Hyden Terminal and King's Wharf, where the Coast Guard dock is.

worked on waterfront concepts in Boston, 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 Hyden Terminal and King's Wharf, where the Coast Guard dock is.

The design contract will cost the Port Authority \$1.4 million.

The total cost of the waterfront renewal is unknown, but Port Authority Executive Director Gordon Finch predicted that it will be a multi-million-dollar project. A single palm tree can cost as much as \$10,000.

Yasis' designs were familiar to Torge Johnson, a principal of Paradigm, who suggested that Paradigm did most of the work involved while Yasis got the credit.

Johnson said that the Yasis concept was a modified version of designs that Paradigm shared with Yasis 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 aimed a laser pointer on images of people and cars used to show scale on Yasis' displays that mirrored such images as 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 group 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."

**Setting the record straight**

Sen. Adah Dowstorg 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.



# Swan orders TRO against 'sick' corrections officers

By BILLY SHIELDS  
Daily News Staff FEB 06 2002

ST. THOMAS — Territorial Judge Ivo Swan has granted a request by Attorney General Iver Stridiron 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.

Issuing the order at 8:50 p.m. Monday, Swan 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 Swan,  
Territorial Court judge

"The large number of absences to a lack of adequate staffing and 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," Swan wrote in the order.  
At 8 a.m., seven correctional officers failed to report to work at the Alexander Farrelly Criminal Justice Complex jail. During the same time,

two out of four officers at the Sub Base annex also failed to show up for their shifts. For the 4 p.m. shifts, 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 "blue flu" occurred at 8 a.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 sickouts, off-duty Corrections officers were brought in and paid overtime to bolster the watches. The main jail houses about 80 inmates, the annex houses roughly 40.

Bureau of Corrections officers are Class 3 employees and are prohibi-

ed from staging job actions, including organized "sickouts" in which several officers call in sick at once.

Eugene Irish, local vice president of the United Industrial Workers of the Seafarers International Union, which represents BOC officers, would not comment Monday and did not return phone calls Tuesday. Stridiron and BOC officers say the sickouts occurred to force the government's hand in scheduling contract negotiations. The current collective bargaining agreement expired Sept. 30, 1999, and has been extended on a day-to-day basis since then.

A preliminary injunction hearing on the matter is scheduled for 10:30 a.m. Friday in Judge Swan's court.

# Sen. Donastorg and wife face foreclosure on their Wintberg home

By BILLY SHIELDS  
Daily News Staff FEB 06 2002

ST. THOMAS — 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.

FirstBank Puerto Rico has filed an action in District Court for debt and foreclosure for a property mortgage against Sen. Adlan Donastorg Jr. and his wife, Benediceta 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 Virgin 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 those 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 commitment 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.

Bruce 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.

EXHIBIT  
61

## The Daily News of the Virgin Islands

Founded Aug. 1, 1930, by J. Antonio Jarvis and Ariel Melchior Sr.

Editorial  
Board

Ariel Melchior Jr.  
Edwin C. Crouch

Publisher  
ICC Vice President

### Insolvent V.I. senators?

It was revealed this week that a bank filed for foreclosure on the home of a V.I. senator. (This is the same senator who self-published a children's book on business management.) But financial problems are not unique to members of the V.I. Legislature.

At least one other senator defaulted on home mortgage payments, causing the bank to begin foreclosure. The senator later managed to cure the problem. Another senator is currently making payments to the V.I. Internal Revenue Bureau for back taxes. At least one senator bankrupted a business. Re-paying student loans, staying up to date on utility bills, credit card payments and car loans, also have had a low priority with many Virgin Islands senators over the years.

Gov. Charles W. Turnbull needs to have more compassion when he criticizes senators for passing legislation when there is no money to pay for their lofty ideas. Clearly, many V.I. senators can't even manage their own money, how can we expect them to know how to manage taxpayers' money?

### Young people get involved

About 30 students from St. Croix's Educational Complex deserve a pat on the back for their continuing efforts to clean up 22 acres of land in Estate Bethlehem.

Sponsored by St. Croix Farmers in Action, the high school students have held four weekend clean-ups in recent months, with more to come. The next clean-up day is scheduled for Feb. 23. The goal is to restore the area and ruins of a sugar mill and factory that once operated on the site. Percival Edwards, president of Farmers in Action, said the plan is to convert the buildings into an agriculture museum and art center.

The mechanic shop, laboratory and the smokestack have been cleaned, and the group is now working on removing overgrown trees and other bush from the greathouse.

"You never know what interesting thing you can learn in such a historic place," said Laurelle Panchoo, a volunteer at last weekend's cleanup.

"When this is finished ... we get the satisfaction of knowing we had a hand in the starting phases," said I'anna Smith, another volunteer.

It's refreshing to see young people in the territory take an interest in such a project. We wish them continued success.





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 OF  
REAL PROPERTY MORTGAGE

**NOTICE OF VOLUNTARY DISMISSAL**

Plaintiff, **FIRSTBANK PUERTO RICO**, pursuant to Fed. R. Civ. P. 41, hereby dismisses the above-captioned matter. Each party shall bear its own costs and attorneys' fees.

Respectfully submitted,

HUNTER COLE & BENNETT  
*Counsel for Plaintiff*

DATED: April 26, 2002

Bruce P. Bennett, Esq.  
Hunter Cole & Bennett  
1138 King Street, 3<sup>rd</sup> Floor  
Christiansted, St. Croix 00820  
Telephone: (340) 773-3535

CLERK OF THE  
DISTRICT COURT  
ST. THOMAS & ST. JOHN

02 APR 29 PM 3:06

RECEIVED

EXHIBIT  
172

How can we in good faith ask Congress for the tax benefit program to remain as it is when the EDA is willing to renew benefits for a business that blatantly violated the provisions of its previous tax benefit agreement? What kind of message does this send? It is simply irresponsible.

I don't understand the continued willingness to allow VITELCO such extreme privilege, especially in light of the many things that have been made public in recent months, to include VITELCO's transfer of millions of dollars in local revenues to Belize, the default of its loan from the Rural Telephone Finance Corporation, the assessment of penalties by the Federal Communications Corporation and a lawsuit by stateside shareholders.


How can you, as the Chief Executive, in good conscience further jeopardize the future of our EDA program by allowing this benefit package to be approved? How can you justify the needless loss of revenue when our roads are nearly impassable and our children lack school books? And perhaps you only use satellite phones as the rest of us continue to suffer from busy circuits and special feature code error messages.

VITELCO is not a good corporate citizen. It has fired striking workers. It has blatantly lied to the Economic Development Authority and the Public Services Commission. It has overcharged Virgin Islands ratepayers. It has used its power to manipulate and intimidate employees, customers and officials. It has hired private investigators to stalk and harass those that dare to question its business practices. It has quashed every attempt to introduce competition. It has left the Virgin Islands behind when it comes to telecommunications technology. It has twisted every law and skirted every regulation it possibly could. It has made millions, perhaps, billions of dollars off of this community and given back so very little.

I ask you not to rubber stamp this tax benefit agreement, but to consider the hardworking Virgin Islanders that are struggling to pay their own taxes each month in an economy where the cost of living far exceeds the average salary. Aren't these the individuals that truly deserve some kind of tax break? Are you intent on creating a society where the rich will continue to get richer, while the poor are ignored and abused?

I ask you not to approve any tax benefits for Innovative Communications or any of its subsidiaries

Sincerely,

  
Adlah "Foncie" Donastorg

**Lee J. Rohn**

---

**From:** Adlah A. Donastorg [adonastorg@attglobal.net]  
**Sent:** Sunday, February 02, 2003 2:24 PM  
**To:** Lee Rohn  
**Subject:** Fw: New Development

----- Original Message -----

**From:** Adlah A. Donastorg  
**To:** Lee Rohn  
**Sent:** Sunday, February 02, 2003 1:23 PM  
**Subject:** New Development

Lee,

I forgot to mention something else. I had an interesting conversation with one of your associates, Attorney Riel Fnulker. He indicated that while he was working for Dudley's firm, there were some conversations regarding Senator Rocky Liburd's home being in foreclosure. He further indicated that Mr. Valentino McBean was quite lenient although Mr. Liburd was 11 months past due and owed over some \$35,000 for mortgage. Now, I learned from Mr. Edwin Callwood that Prosser and Attorney Holt were fully aware because during the infamous "Prosser Plan", Rocky was continuously calling Attorney Holt's office asking for money to take his house out of foreclosure in exchange for his vote on the "Prosser Plan". Not long after the passage of the "Prosser Plan", Rocky's house was no longer in foreclosure. Now I do understand that Mr. McBean, President of Banco Popular, has the discretion to handle foreclosures the way he chooses to but then if Prosser knew about this then why did he never write about it. This really makes for an interesting case, not to mention the discrimination that has taken place when it comes to other customers.

Additionally, he indicated that Senator Donald Cole was calling continuously for his share of money for the vote on the "Prosser Plan".

I wanted to share this information with you for whatever it is worth. I do believe we can eventually depose Edwin, for that will be critical to breaking all these cases since he was always a confidant to Attorney Holt and may very well be the most credible witness we can get. He knows a lot, Lee. Talk to you soon.

Foncie



2/10/2003

JA003014

OnePaper Putting the community back into community news

call 776-8050  
or click here  
**GUARDIAN**  
Investment Company

FRONTIERS KEEP  
A LEARNING STAR  
**Marrriott**  
SOLUTIONS  
TO YOUR BUSINESS

**AT&T**  
Virgin Islands

**CHASE**

**The Roy L. Schneider Hospital**

Login



Tuesday, Mar. 5, 2002

St. Thomas, US Virgin Islands

Stocks..

Directories...

Fun Stuff...



News

- Local
- Local Government
- Local Sports
- Breaking News

Business

- St. Thomas
- Legal Notices
- Island Directory
- Real Estate
- Classifieds
- Advertisers
- Links

Community

- People
- Calendar
- Organizations
- Schools
- Services
- Data
- Other stuff

Commentary

- Editorials
- Op-ed
- Open Forum

Arts/Entertainment

- Things to do
- Movies
- Music
- Showcase

Lifestyles

- Advice
- Health/Fitness
- Home/Garden
- Food
- Religion
- Other stuff

Visitor's Center

- Accommodations
- Transportation
- Attractions
- Dining Out

# ST. THOMAS SOURCE

Contact St. Thomas Source | Search OnePaper

Local News

**Credit Alert!**

**Get your Free Credit Report now!**

## PRE-ELECTION VITELCO MEMO AIMED AT DONASTORG

by Jamie Bate

Saying they are trying to protect confidential information about its employees, Virgin Islands Telephone Corp. officials notified their workers in an internal memo Monday that the company plans to fight an effort to release information about its operations to a local senator.

The memo, signed by Vitelco President Samuel Ebbesen and circulated the day before Tuesday's general election, said that Sen. Adlab "Foncie" Donastorg's effort to obtain documents on Vitelco's compliance with the Industrial Development Commission tax-benefit program would break the promise of confidentiality the company has with the IDC concerning employees.

The company told its employees that the information "demanded" by Donastorg includes age, sex, address, citizenship, wages, percentage of wages as benefits, Social Security number, job title and total hours worked per quarter.

"Vitelco opposes the release of the information and has instructed its legal counsel to intervene in the lawsuit to protect your personal and confidential information from distribution to Senator Donastorg and to the general public," Ebbesen wrote.

Donastorg questioned the release of the memo a day before the election. He said he filed his lawsuit against the IDC in September in Territorial Court seeking information about the phone company's compliance with the tax program. Vitelco's effort to cast a negative light on him a day before the election was not a coincidence, Donastorg said.

"An employer trying to influence employees' vote is serious," he said. "It's a cheap play to misinform Vitelco employees. This is amateurish."

For more than a year, Donastorg has asked the IDC for information regarding Vitelco's use of employees from its sister companies, all

AD \*0001

The Point of

SEARCH:

WEB SITE

by GC

ADVERTIS

four

SOI

Island

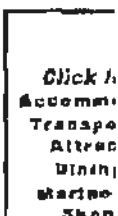


EXHIBIT  
175A

Marine Science  
Shopping

About...  
OnePaper  
St. Thomas Source  
Copyright

owned by Innovative Communication Corp. Vitelco is an IDC tax beneficiary and receives almost 100 percent tax breaks.

Donastorg has asserted that by placing subsidiary employees on Vitelco's payroll, ICC is forcing telephone rate payers to subsidize its other enterprises. Both ICC and IDC Executive Director Frandelle Gerard say the transfer of employees is legal and part of a consolidation process.

Gerard has also denied Donastorg's request for information on Vitelco, claiming that much of the information sought is confidential and not for public review.

That position is one Holland Redfield, ICC's vice president of corporate affairs, adamantly supports.

"We're not comfortable with any kind of this nonsense," Redfield said, "just like any other private company would be."

Vitelco is closely scrutinized by the IDC and the V.I. Department of Labor regarding employment levels mandated in its IDC contract, Redfield said. The information being sought by Donastorg is already held by the IDC - a regulatory agency - under strict confidentiality.

"This company is investigated ad nauseam. We do everything but jump through hoops to make sure we're in compliance," Redfield said. "The question is, who is our master -- an individual senator or the agencies regulating us?"

Redfield said the issue is "far bigger than Donastorg" and said the senator should amend his lawsuit to explain what he plans to do with the information.

"All I can say is the type of information he is trying to obtain is confidential information about employees," Redfield said. "There is nothing we are trying to hide."

Donastorg, though, said he has no interest in the personal information of Vitelco employees, "and they know this." He said his effort is to determine if ICC is padding Vitelco's payroll with subsidiary workers in order to benefit from the tax breaks. That, he said, would affect the phone company's expenses, its guaranteed rate of return and whether a rate study is warranted.

"A rate investigation would actually help the employees," said Donastorg. "It would tell them exactly what the financial situation of the company is."

As for the memo warning Vitelco workers that Donastorg's efforts would release company records "to the general public," Redfield said there was nothing unusual in the timing.

"It's not strange to us. We communicate with our employees from time to time through memos," he said. "Whatever conclusion he wants to draw is his own."

Donastorg said the memo is just another "lame" attempt by Vitelco and ICC to attack his efforts to scrutinize their operations.

"I feel confident the people of the Virgin Islands know this is an attempt to discredit me any way they can," he said.

AD 0002

# Big money title fight rings up big gamble on marketing the V.I.

47

## BOXING

CONTINUED FROM BACK PAGE

By SEAN McCOY  
Daily News Staff APR. 25 2008

ST. THOMAS — The Virgin Islands is poised to take a job 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. The gamble is that the benefits will outweigh the \$300,000 in public funds that must be spent to bring the event to the Virgin Islands.

Many details of the proposed June 19 heavyweight World Boxing Union championship bout between Francois "The White Buffalo" Botha and current WBU Heavyweight Champion Georgi Kandelaki have yet to be set, which is why boxing promoter Sterling "Pookie" McPherson of Sterling Promotions will arrive on St. Thomas today.

In McPherson's own words, he is here "to case the place."

Government officials have good reason to take notice of his visit. McPherson has worked out a preliminary deal with the Showtime cable channel to televise the title fight — and possibly the under-card bouts — with a potential audience of more than 40 million people.

A fight between Botha and Kandelaki — even for an obscure WBU belt — would generate a buzz in the boxing world.

Botha, a slugger from South Africa, is popular at home and abroad. In 1995, Botha defeated German Axel Schulz in a 12-round International Boxing Federation title fight. Botha's belt was stripped

four months later when he failed a test for steroids.

In 1996, Botha won the first four rounds of a fight with Mike Tyson and seemed on course for a win before being chopped down by a single blow from the powerful Tyson.

Kandelaki, a Georgian, came out of a strong boxing scene in Eastern Europe and fought to a 23-0 professional record with 17 knockouts between July 1998 and December 2002, when he won the WBU belt.

A fight between these two veteran boxers would receive attention from boxing fans worldwide.

The 25th Legislature already has approved a \$300,000 appropriation to cover the cost of bringing the fight to Lionel Roberts Stadium. The appropriation was tacked onto a bill to fund the reconstruction of the collapsed Market Square bungalow that the Senate passed April 16. The legislation now awaits Gov. Charles Turnbull's signature.

Government House, which could not be reached for comment Thursday night, will have little time to decide whether to pass the bill. Advertising for the event is planned to begin about May 19, a month before the fight is set to take place.

Sen. Adlah Donastorg Jr., who has been instrumental in working with McPherson to bring the fight here, said he was confident the executive branch will support it.

"We already spoke about it because it's coming from the Tourism Revolving Fund," Donastorg said of the appropriation to fund the event. "The governor was elated about the possibility of the Virgin Islands being in 48 million homes."

▼ See BOXING, page 47

Donastorg said he has asked that images of the Virgin Islands — aerial shots, daily life and others to be arranged by local experts — be included in programming and promotional materials related to the fight. Other promotional plans are to place the Virgin Islands seal and the letters "USVI" prominently on the ring.

Yet in the sometimes seedy, always nebulous world of big time boxing, nothing is for certain until the boxers touch gloves.

Many issues remain to be settled. It is unclear how much time the Virgin Islands would be featured in the programming, how many times the territory would be mentioned by commentators or if Sterling Promotions will be able to sell enough tickets to cover the allocation.

The under-card is also still largely vacant, although Donastorg and McPherson both mentioned the name of a strong Virgin Islands fighter who now lives in Philadelphia: Christian Lloyd Joseph.

Joseph represented the U.S. Virgin Islands in the 1992 Olympics, but his professional career has been relatively quiet ever since.

This could be a chance for the St. Croix native; to return to the Caribbean and put on a show. His likely adversary would be former U.S. Boxing Association Welterweight Champion Raul Frank.

Other under-card bouts likely would include boxers from the territory or other Caribbean nations.

"They are going to be feature kids on cards," McPherson said. "There's no reason to bring kids from Minnesota there."

Tourism Commissioner Paul Richards agreed that the \$300,000 will be well spent, even though it is into resources meant only for the promotion of tourism in the territory.

"It's a chunk of money, but I look at it for the returns you get," Richards said. "Think about what a minute will cost in a national television ad — about a million dollars. I'm going to get at least a 30 minute fight, and it probably will be re-run."

Contracts spelling out exactly what the Virgin Islands will get for its investment are still far from finalized, but it is clear that boxing can attract a lot of tourists.

"What does Vegas try to do? What does Atlantic City try to do? They try to bring in tourists," McPherson said. "When they open a new hotel, they have a fight. This is the Virgin Islands' chance to show the people they can do fights as well as other cities and other states."

That could be a future revenue generator for a territory still searching to bolster a sagging tourism industry.

"Why don't you sell them a St. Croix as part of this package," Richards said, explaining that it would be possible to bring visitors to the Big Island, especially with the draw of a casino. "Is it marketing? Yes. It is coming with Showtime attached."

Exhibit 6



# 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  
Daily News Staff  
MAY 30 2003

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 June 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 Martin Caputo of Showtime Boxing, which handles the cable company's boxing broadcast. "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, no 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, newsmen 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.

Pherson 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.

FILE DEF: 13  
MFC: SLO: 7 / S: 2003  
DATE: 12/17/03  
From: Lewis  
Caribbean Reporting Service





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.

(  
Serv  
O)

McPherson said the plans solidified when he contacted Leonard's company, which had plans to put together a Dec. 5 card for ESPN2.

The  
Expe  
Secret

Leonard's stature in the boxing world and his relationship with ESPN give the Virgin Islands event a major boost.

St  
(  
Fo  
Rcstat

A six-time world champion and one of sport's biggest attractions, Leonard started his promotion company in 2001.

O

The company, SRL Boxing, has put together 26 boxing cards since then, including several for ESPN2 and Showtime.

1.

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 be 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 Lonnie Bradley and Diosbelys Hurtado, as well as highly regarded featherweight Daniel Seda and heavyweights Lawrence Clay-Bey and Juan 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, and if it's being televised nationally, I think it will be a great event in terms of exposure for the Virgin Islands," Stridiron said.

Although ESPN claims a total audience of 90 million people - through television, print, radio and Internet outlets - its viewership for the 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 date 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 outdoor 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, Felix Trinidad and other boxing luminaries.

In addition, a music festival to coincide with the boxing match is in the early planning stages, Stridiron said.

---

**Section Headlines**

---

- [UVI Sports Center secured as the site for boxing bouts; ticket situation unclear »](#)
  - [Advocacy group targets government, hospitals in blistering lawsuit over V.I. mental health care »](#)
  - [Residents flock to grand opening of Sears on St. Thomas »](#)
  - [V.I. set for brief respite from stormy weather, then another dose of gloom »](#)
  - [Federal indictments detail hurricane claims fraud and harboring of illegal aliens »](#)
  - [St. Croix police chaplain gets badge »](#)
  - [Youth on parade »](#)
  - [Man gets 5 years for setting mother's house ablaze - with her inside - for the second time »](#)
  - [Judge sentences two men nabbed in high-profile Estate Profit drug raid »](#)
  - [Series of power failures hits St. Croix »](#)
- 



---

[Home](#) | [My VI Daily News](#) | [Business](#) | [Sports](#) | [Features](#) | [Editorial Opinion](#)  
[Obituaries](#) | [Records](#) | [Live Action](#) | [Local Calendar](#) | [Online Media Kit](#)  
[Print Advertising](#) | [Contact us](#) | [Terms of use](#) | [Need Help?](#)

---

Virgin Islands Daily News

Home My VI Daily News Classifieds Sports Local Calendar Wedding Guide Island Guide



- Classifieds**
  - General
  - Real Estate
  - Employment
  - Cars
  - Classified Ad Placement

- Newspaper Section**
  - Home
  - My VI Daily News
  - Business
  - Sports
  - Features
  - Editorial Opinion
  - Obituaries
  - Records
  - Local Calendar
  - Business Directory
  - Specials & Coupons
  - Online Media Kit
  - Print Advertising
  - Wedding Guide
  - Island Guide
  - Contact us

**Search**

Keyword

Type



Full Story

[Click headline to enlarge](#)

## No TV contract yet, but ESPN will visit St. Thomas boxing site

By TIM McDONALD  
Friday, October 24th 2003

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 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. Adlah 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

St. T

86

mo

St. :

C

TEE-PARA

100 copies ready for 1

Cust Chan

Aut

Sin

The

2

St

(

FO

Restat

Q

Gen

Find

40



gave media interviews Thursday in an effort to bolster interest in the fights.

Dive  
1  
Qs

Leonard's stature in the boxing world revived the event when it looked like it would wither.

The high production costs of transporting expensive electronic equipment threatened to derail the event, but promoters said Thursday that most of the logistical problems have been ironed out.

Zoi  
Custo:  
Bag:

St  
(  
Sho

Leonard and his fellow promoters announced two of the fights that are scheduled to take place. Former U.S. Olympian Lawrence Clay-Bey will fight Samuel Peter of Nigeria in the heavyweight bout, while Puerto Rican welterweight Carlos "Indio" Quintana will take on David Estrada from Chicago in the other.

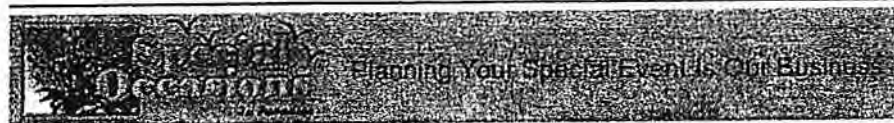
Qi

Promoters said they hope to fill out the four undercard fights by next week. St. Croix native Lloyd Joseph, now living in New York, is a potential fighter.

Although the setting for the fights has not been settled, tickets are due to go on sale Monday at a variety of outlets around the island. They will range in cost, according to promoters, from \$75 for ringside seats to \$25 for general admission.

**Section Headlines**

- [UVI Sports Center secured as the site for boxing bouts; ticket situation unclear »](#)
- [Advocacy group targets government, hospitals in blistering lawsuit over V.I. mental health care »](#)
- [Residents flock to grand opening of Sears on St. Thomas »](#)
- [V.I. set for brief respite from stormy weather, then another dose of gloom »](#)
- [Federal indictments detail hurricane claims fraud and harboring of illegal aliens »](#)
- [St. Croix police chaplain gets badge »](#)
- [Youth on parade »](#)
- [Man gets 5 years for setting mother's house ablaze - with her inside - for the second time »](#)
- [Judge sentences two men nabbed in high-profile Estate Profit drug raid »](#)
- [Series of power failures hits St. Croix »](#)



[Home](#) | [My VI Daily News](#) | [Business](#) | [Sports](#) | [Features](#) | [Editorial Opinion](#)  
[Obituaries](#) | [Records](#) | [Live Action](#) | [Local Calendar](#) | [Online Media Kit](#)  
[Print Advertising](#) | [Contact us](#) | [Terms of use](#) | [Need Help?](#)

Virgin Islands Daily News

Home My VI Daily News Classifieds Sports Local Calendar Wedding Guide Island Guide



Friday, November 7, 2003



Full Story

- Classifieds
  - General
  - Real Estate
  - Employment
  - Cars
  - Classified Ad Placement

- Newspaper Section
  - Home
  - My VI Daily News
  - Business
  - Sports
  - Features
  - Editorial Opinion
  - Obituaries
  - Records
  - Local Calendar
  - Business Directory
  - Specials & Coupons
  - Online Media Kit
  - Print Advertising
  - Wedding Guide
  - Island Guide
  - Contact us

Search

Keyword

Type

Legal Directory

Medical Directory

### Editorial for October 29, 2003

#### Volunteerism is nice, but ... Wednesday, October 29th 2003

[Click headline to enlarge](#)

Under budget constraints the V.I. Police Department is soliciting volunteers to help in jobs ranging from mechanics to keep police cars running to clerical help in the office.

In theory, it is an excellent idea and we commend Police Commissioner Elton Lewis for attempting to come up with ways to economically solve manpower shortages. But we are troubled with some aspects of the department's volunteer initiative:

First of all, we haven't heard from union officials representing workers in the department. How excited are they going to be to see jobs filled by volunteers?

Secondly, volunteers who help with answering the phones, filing, computer training or with similar jobs will have access to sensitive information. If they breach confidentiality guidelines, what recourse does the department have - fire the volunteer?

An employee who depends upon a regular paycheck and has retirement and other benefits at risk is far less likely to violate rules than someone who, essentially, has nothing to lose. Contrary to claims from the department, we believe it is impossible to shield volunteers from all privileged information.

The idea that the community and the police need to work together in partnership is a good one. We continue to support community involvement in police activities, especially when it comes to stepping forward as witnesses. But let's look at the Police Department's volunteer initiative from the taxpayers' viewpoint.

This is a territory of 108,000 people that cannot provide some of the most basic services for its residents, such as accredited public schools, parks and recreational facilities, up-to-date libraries, reliable public transportation, decent public housing, and an array of social services that are now forced upon private-sector, non-profit organizations.

However, the V.I. Legislature sees fit to spend hundreds of thousands of tax dollars on music festivals no one attends and a boxing match that may or may not persuade tourists to visit the islands. V.I. senators insist that taxpayers lease them a \$1-million fleet of luxury vehicles. And taxpayers are being forced to fritter away more than \$5 million on fees - not interest - for the portion of money the Public Finance Authority borrowed to pay past-due income-tax refunds and vendor payments.

St. T

86

St. :

C

1

TEE-PARA

100 years ready for 1

St. J

Cust Chan

Aut

Sin

The

2

St

(

Fo

Restat

Q



We believe that when the Legislature and other agencies get serious about spending tax money, taxpayers will be delighted to consider volunteering.



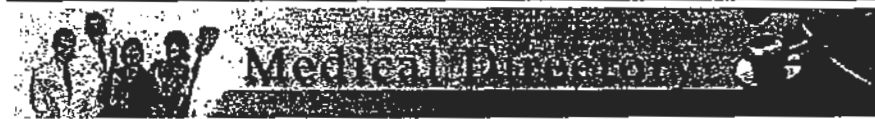
Put

**Section Headlines**

- UVI Sports Center secured as the site for boxing bouts; ticket situation unclear »
- Advocacy group targets government, hospitals in blistering lawsuit over V.I. mental health care »
- Residents flock to grand opening of Sears on St. Thomas »
- V.I. set for brief respite from stormy weather, then another dose of gloom »
- Federal indictments detail hurricane claims fraud and harboring of illegal aliens »
- St. Croix police chaplain gets badge »
- Youth on parade »
- Man gets 5 years for setting mother's house ablaze - with her inside - for the second time »
- Judge sentences two men nabbed in high-profile Estate Profit drug raid »
- Series of power follures hits St. Croix »



Put



Home | My VI Daily News | Business | Sports | Features | Editorial Opinion  
 Obituaries | Records | Live Action | Local Calendar | Online Media Kit  
 Print Advertising | Contact us | Terms of use | Need Help?

Virgin Islands Daily News





Home My VI Daily News Classifieds Sports Local Calendar Wedding Guide Island Guide



Friday, November 7, 2003



Classifieds

- General
- Real Estate
- Employment
- Cars
- Classified Ad Placement

Newspaper Section

- Home
- My VI Daily News
- Business
- Sports
- Features
- Editorial Opinion
- Obituaries
- Records
- Local Calendar
- Business Directory
- Specials & Coupons
- Online Media Kit
- Print Advertising
- Wedding Guide
- Island Guide
- Contact us

Search

Keyword

Type

GO

islands.com



Full Story

Click headline to enlarge

No ESPN contract yet for V.I. boxing card

By TIM McDONALD

Saturday, November 1st 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 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 Eudora Kean High School is a long shot.

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 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

Car

St. Th



86 mg

St. J



TEE-PARA



NO more ready for 2



Cust Chan



AUT



Voi Affoi

FO Restal

QI

De

Frede

EXHIBIT

110



money from Tourism to pay for the event.

St  
(  
Rea  
Qi

"If they get ESPN, we're going to make every effort to have this facility available," Sauer said. "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."

Qily

The UVI Christmas Concert is scheduled for Dec. 6 with rehearsals planned for the day before.

Subte  
Pest  
Plot f

ESPN and promoters have run into obstacles connected with the territory's distance from the mainland.

Chr  
(  
Serv  
Qj

"The problem is it's horrendously expensive to get down there," Yalen said.

"We're looking at different ways to do it. It's just a matter of all the equipment and people having to be flown in. We're working 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 McPherson 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.

**Section Headlines**

- UVI Sports Center secured as the site for boxing bouts; ticket situation unclear »
- Advocacy group targets government, hospitals in blistering lawsuit over V.I. mental health care »
- Residents flock to grand opening of Sears on St. Thomas »
- V.I. set for brief respite from stormy weather, then another dose of gloom »
- Federal indictments detail hurricane claims fraud and harboring of illegal aliens »
- St. Croix police chaplain gets badge »
- Youth on parade »
- Man gets 5 years for setting mother's house ablaze - with her inside - for the second time »
- Judge sentences two men nabbed in high-profile Estate Profit drug raid »
- Series of power failures hits St. Croix »



Home | [My VI Daily News](#) | [Business](#) | [Sports](#) | [Features](#) | [Editorial Opinion](#)  
[Obituaries](#) | [Records](#) | [Live Action](#) | [Local Calendar](#) | [Online Media Kit](#)  
[Print Advertising](#) | [Contact us](#) | [Terms of use](#) | [Need Help?](#)

Virgin Islands Daily News

# ESPN commits to televising V.I.'s 'Rumble in Paradise'

By BEAM MCCOY  
Nov. 5 2003  
Daily News Staff

ST. THOMAS — The Rumble in Paradise

After months of negotiations, a national professional boxing bout slated for St. Thomas finally has a 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 nationwide live broadcast ever from the island.

Bob Yalen, ESPN's boxing director, said Tuesday that the sports network will show two and a half hours 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 coming down there. The major sports 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 springboard for major sporting events," said Sen. Adiah Donastorg Jr., who sponsored legislation to appropriate \$300,000 from the Tourism Revolving Fund to bring the fight to the territory.

Organizers of the NCAA Division I basketball tournament Paradise Jam, held annually in the Virgin Islands, have sought live media coverage in the past. A successful broadcast may help coerce television coverage for that and other competitions.

"If we can show them that it is workable, this may set the precedent for future major sporting events televised here," Donastorg said.

The finalized contract comes as something of an exclamation point in a six-month effort by V.I. officials and boxing promoters to bring a professional bout to the Virgin Islands.

Included in the contract between the Virgin Islands and boxing promoters was wording that would cause a complete refund of the government's money if the fight was not aired nationally.

"Unless there's a hurricane, I can't see anything from stepping us from coming," Yalen said. "It's on our schedule."

ESPN denied on Friday — when promoters called the fight a "done deal" — that a television contract was in place. 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 promotion, that is about par for the course. The six months since plans for the event — originally scheduled for July 29 — were set in motion typify the chaotic process of organizing



Sen. Adiah 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 WBU Heavyweights Champion George Kandelaki versus Francois "The White Buffalo" Botha. Now neither is on board, replaced by an International Boxing Association Heavyweight Americas 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 various levels of competition.

According to International Boxing Association President Dean Chance, the main event between Lawrence

Clay-Bey (19-2, 14) and Samuel Peter (15-0, 15) is for a heavyweight Americas title — a title he compared to a Double-A baseball league title.

On the other hand, both buyers 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 whom tickets, which were to go on sale Monday and cost between \$25 and \$75, can be purchased.

In the other co-feature fight, former U.S. Olympian Lawrence Clay-Bey will fight Samuel Peter of Nigeria in the heavyweight bout. Puerto Rico's Carlos "Indio" Quijana will take on David Estrada from Chicago in the other co-feature.

Quijana and Peter are ranked by major boxing sanctioning bodies, but fall short of world championship contention. Quijana 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."

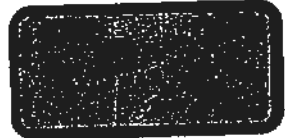
The undercard, which has not yet been set, will likely feature St. Croix native Lloyd Joseph.

The event has also changed venues and television stations during the six months of negotiations. In April, the plan was to host 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 as 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 Esser said. "We look forward to hosting the event."

Exhibit 12



# UVI Sports Center secured as the site for boxing bouts; ticket situation unclear

By **TRUD MCDONALD** NOV. 07 2003  
Day News Staff

**ST. THOMAS** — The "Gumbie in Paradise" gym 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. Adolph Doucassery Jr.'s office said ticket information was available, but his chief of staff, Geraldine Gumbie, refused to release it to the **SPRINGFIELD** **REPORTER**.

University officials came to an agreement to use the 4,000-seat facility Thursday after weeks of negotiations with fight promoters and Doucassery.

"The contract has been completed," said UVI Athletic Director Peter Sauer. "We look forward to heading the event."

Neither Sauer nor Doucassery'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 Lloyd 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 Lloyd Roberts as an alternative venue as late as Thursday.

"We do have the right provided in for that day," said Fleming, Parks and Recreation Commissioner in Hobsons. "No one else can use it, if they don't want it, then so be it. But for now it's provided to."

The Sports and Fitness Center holds roughly 4,000. Lloyd Roberts holds about 3,500 in the stadium grandstand, with the capacity to accommodate 1,000-2,000 more with temporary seating on the field, Hobsons said.

Only two of the six scheduled bouts have been finalized. And, although the government appropriated \$100,000 to hold a "world championship" event, members of the rights to the gym for a world championship, as defined by one of the major boxing sanctioning bodies. The star attraction so far is

heavyweight Samuel Peter Niyorta, considered a big prospect in the world. Peter is scheduled to

37-year-old former U.S. Olympic boxer Clay-Boy Lawrence.

The two will fight for International Boxing Association versus Americas champion IBA head Dean Chance due to the American class as the equal of a double-A Major League Baseball team name.

In the featured event, 18-year-old boxer Carlos Quintana will take on 18-year-old boxer from Chicago.

Only two of the bouts announced. Quintana is ranked among welterweights by the Boxing Organization and ranked 30th among heavyweights by the World Boxing Council.

NOV 12 2003  
TRUD MCDONALD  
SPRINGFIELD REPORTER

# Two local boxers ready to rumble in December's professional event

By TIM McDOONALD  
Daily News Staff NOV. 01, 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 McCune, President of the V.I. Amateur Boxing Federation.

"Julian kind of overshows 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-main 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 highlights of the event so far is the heavyweight fight between Samuel Peter of Nigeria and former U.S. Olympic team captain Lawrence Clay-Boy.

"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 manufacturer who now

works for the promotional 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-Boy is a very highly skilled boxer with good hand speed with devastating power. Clay-Boy is by far the most dangerous guy Peter will have faced to date."

Peter is 16-0 and Clay-Boy is 19-2, according to promoters.

The other co-main 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 ranked winner, 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.univdelvibes.com](http://www.univdelvibes.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 a.m. 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 venues are: Modern Music at Havensight Mall, Sports-Or-Rama, Champ at Tatu Mall, Peite, Pump Room, Sunrise Pharmacy in Red Hook, Nisky Pharmacy, Forever Flowers, Family Billiards Center, St. John Drug Center and St. John Car Rental

P.J. \_\_\_\_\_  
 WT: \_\_\_\_\_  
 BPTN: BAC \_\_\_\_\_  
 CYPH: \_\_\_\_\_



# Countdown to fight time marked by flurry of activity



Photo from Photos by GARY MCCOY



ESPN Friday Night Fight producer Rob Benner works in the control room at the UVI Sports and Fitness Center on Thursday afternoon.

**BY BEAN MCCOY**  
Daily News Staff Writer 6/5/2003

**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, Rumble 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 rip the scale as they slithered across the room in 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 Didier Hughes, a 36-year-old St. Thomas resident who will battle Frey Luis Sicora of Miami in the undercard welterweight fight.

"I'm as ready as I can be," Hughes said, willing to have his blood pressure checked. "You got a little nervous, in 84 it over, I feel strong."

But while the center of attention sat on the boards one day before

Francisco Lorenzo, who will fight Courtney Duran in the HBO-MQIP Agreement, this fight tonight, weights in the Thursday night at Holiday Inn Windward Passage.

plans like a very expensive exercise.

Dozens of rounder TV screens lit up the back wall of the room. The rest of the room was filled with massive niking consoles, huge banks of a special universe of colorful knobs.

The undercarding created, from scratch, the contours of a mobile TV production vehicle.

"Usually, in the States, you will have a self-contained unit," said Rob Benner, producer for ESPN Friday Night Fight. "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 took off tonight at 8 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 Harveyside Mall, Sports-O-Rama, Champs at Two Mile, Peckle Pump Room, Sunrise Pharmacy in Red Hook, Nikky Pharmacy, Forever Fighters, Family Shields-Center, St. John Drug Center and St. John City Retail.

ID: KEVIN D R...

JRN-02-2007 05:14PM FAX:

NY 17  
with Business  
MFR MAC 9-12

# RUMBLE IN PARADISE

## BURTON DEFEATS LORENZO IN MAIN EVENT



Chris Burton volantly lands a punch on the head of Francisco Lorenzo during the main event of Rumble in Paradise in Friday. Burton won the bout.

By MATTHEW ALAYER  
Daily News Staff

**DEC. 13, 2000**  
**51 FIGHTS** — An intriguing main event took place on Monday night at the Rumble in Paradise on Friday night. Francisco Lorenzo, a former world champion, defended his title against Chris Burton, a former world champion, in the main event of the night.

In the end, Burton won the fight by a unanimous decision. The judges scored the fight 115-112, 113-110, and 115-110.

And Lorenzo, who was a former world champion, was a former world champion. He was a former world champion. He was a former world champion. He was a former world champion.

And Lorenzo, who was a former world champion, was a former world champion. He was a former world champion. He was a former world champion.

Lorenzo showed me in the first round to a time of 1:30, great, showing a number of other and gloves. He was a former world champion. He was a former world champion.

At one point, he connected in a position. He was a former world champion. He was a former world champion. He was a former world champion.

I noticed that Burton's right eye in the third round after a series of four punches. He was a former world champion. He was a former world champion.

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 returned. But once again, this time when the bell had

10:13487737282 P.14-15

JA003034

PLJ  
 BY: Bidmaster's  
 NTR: MAC 9-13-14

# RUMBLE

Continued from page D-1

ring. Latorre, a Cuban native, is bell.

The two men, each with a back-to-back stance, were low, jabbing. Landing straight and hook punches, competing in a war of attrition.

The crowd, ranging from every 2000, became raucous, begging for action and offering boisterous advice from the sides of the arena. One fan, shouting up the noise when he yelled, "You're on, Latorre, let's go!"

In an apparent slip, Latorre went down in the sixth round. As he fell, Burton's confidence rose. He began to land his head out, driving Latorre to punch, which, of course, he did.

The 11th was the best round of boxing all night. Both men connected several solid hits, and Latorre held on for dear life. He fought back valiantly and the abeyant crowd came alive, screaming and waving their feet.

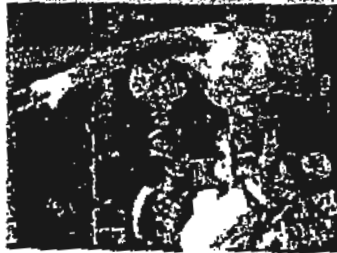
Burnton's second knockdown, in the 12th round, was no less controversial than the first. A weak right to the back of the head sent Latorre down, as many in the crowd yelled "push."

When the signal for the last 10 seconds came, both fighters stepped in a last-gasp flurry, arms flailing and feet scurrying out of the ring. Ramblé in Paradise no-promoter and former legend Sugar Ray Leonard jumped from his chair in delight, and the rest of the crowd followed, drowning out the final bell with a wall of noise.

## Welterweight battles

In what was billed as the "over-the-top" of the night, welterweight Calisto Quintana of Boca, Puerto Rico, and Candy "The Candyman" Robertson of Saige, Tex., shared the ring — literally.

In a hectic display of tactics un-



St. Thomas' Dickie Hughes was not in the crowd while Alden "The Hawk" Asakior removed his glove. Hughes beat Frye Lee Burns by unanimous decision.

pressive dance took a spinning of Gyro-Romero leaving the fighters grappled, tangled, and threw each other in the first such game.

But Quintana also threw punches, delivering punishing 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, and referee Steve Scaeger counted to 10.

An entire section of the crowd jumped to their feet, waving Puerto Rico's flag.

Among the oddities of the fight, Scaeger declared a pause from Robertson in the seventh round after he lost his mouthpiece for fourth time.

"Four times, I guess talk a pain, come out," Scaeger said after the fight.

Clearly the better-trained fighter, Quintana controlled the pace throughout, tying up Robertson when



Candy Robertson lands a punch to the face of Carlos Quiroga during the main event of Rumble in Paradise.

he needed to end waiting for his chance to strike. His second knockdown at 1:40 with 12 KOs. The Cuban-born falls to 14-7 with 10 KOs.

## Other fights

Promising junior lightweight Jason Latorre of St. Paul, Minn., scored points in the first round by way of a technical knockout against Alvaro Barquero of Miami.

For a small guy, Latorre really packs a punch. All six of his wins have been knockouts.

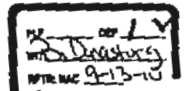
When Scaeger stopped the fight in the second round after Latorre had knocked out his opponent, Latorre ran to his corner and yelled to Scaeger, "Ray, I love you" and kissed his gloves.

After the fight, the confident Latorre said, "I knew no one could beat me."

On a six-round undercard, St. Thomas' own Dickie Hughes won a unanimous decision over Frye Lee Burns, whom he knocked down in the third round.

And in a fight that ended before many realized about outside rainfall it was over, it took Jose Herrera of Saige, Puerto Rico, just 2 minutes, 41 seconds to knock out Felix Flores Marillo of Miami.

Day News Photos by BLA WOOD





DN  
McDonald  
clip

# Boxing event showcases 'paradise' for 781,000 viewers

By TIM FIELDS  
Daily News Staff

**ST. THOMAS** — According to Nielsen Media Research, 781,000 people tuned in to the Hurricane in Paradise boxing event on Dec. 5. Government and tourism officials say that makes it worth spending \$300,000 of taxpayers' money to hold the event.

The Hurricane in Paradise was the fifth most viewed Friday night boxing event of 45 the network had broadcast this year, ESPN officials said.

More viewers may get a chance to watch the event during an ESPN2 rebroadcast, said Dan Quinn, a spokesman for ESPN.

While a far cry from the production's estimated 85 million potential viewers, 781,000 viewers is a good, solid number, he said.

"Boxing is one of the highest rated sports on ESPN2, and the number is probably low because it doesn't record the people watching the match in places like sports bars and airports," said Bob Yelton, director of programming and acquisitions for ESPN2.

The event took place at the Virgin Islands Convention Center in St. Thomas. The event was broadcast on ESPN2 and ESPN.

The two-hour broadcast had footage throughout of beaches, boats sailing into the sunset, local bands playing



Some fans in the crowd were seen cheering for the Hurricane in Paradise boxing event held Dec. 5 at the University of the Virgin Islands Sports and Fitness Center. The show was broadcast by the ESPN2.

...and people enjoying the view and scenery. Boxes were set up with St. Thomas Harbor in the background throughout the show in case the fight. Commentators talked about the history of the island and the fun to be had in the Virgin Islands.

Inside the University of the Virgin Islands Sports and Fitness Center, an from Beach Popular and Tunes Ft BBO received affiliate during the broadcast. A banner from the University of the Virgin Islands got the

...and people enjoying the view and scenery. Boxes were set up with St. Thomas Harbor in the background throughout the show in case the fight. Commentators talked about the history of the island and the fun to be had in the Virgin Islands.

While there may be no immediate economic impact on the territory, such as local businesses and increased sales at local businesses, such as tourism and expenses is necessary to promote the territory. Tourism Commissioner Pamela Richards said.

"Sports tourism is growing, and getting the Virgin Islands more out there is our goal. We are constantly competing with many other Caribbean nations to attract tourists looking for an island paradise," Richards said.

According to ESPN, 215,000 men ages 24 to 46 watched the fight. Dec. 5. Also, messages 18 to 34 made up 33 percent of the viewing audience. ESPN2 did not have median annual income of these viewers or statistics on their traveling habits.

Nearly 1,500 people attended the boxing match at the arena center, which can seat 4,000 people, according to UVI.

Now many tickets were sold or given away in random. Strolling throughout the event's co-ordinator, did not report cable fans. The Daily News.

Richards said she wants to see the activity sector get more involved in promoting and sponsoring the event next year.

"I've showed that such an event could be done, and I don't anticipate the government will be leading the way next time," she said.

WPA 9-13-10

# Two local boxers ready to rumble in December's professional event

By TIM MASHONHALD

Daily News Staff, NOV. 9, 2003

ST. THOMAS — Two local fighters, one of whom is the brother of a V.I. boxing legend, Julian Jackson, were added Friday to the "Rumble in Paradise."

local boxing community. They fought and won at last year's Boxing in Paradise "tournament" pro event, but later 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 Macintosh, President of the V.I. Amateur Boxing Federation. "Julian kind of overdid it every body 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 MacPherson.

The two "co-main events" of the card are expected to be televised live by ESPN2. Promoters say one or possibly two of his undercard fights could be televised as well.



David Rogers

Dicker Hughes

The highlights of the event so far is the heavy-weight fight between Samuel Peter of Nigeria and former U.S. Olympic team captain Lawrence Clay-Boy.

"The heavy-weight 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 broadcaster who now

works for the promotion courtesy 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 island's top-notch guys in the division," Katz added. "Clay-Boy is a very highly skilled boxer with good hand speed with deceiving power. Clay-Boy is by far the most dangerous guy Peter will have to deal with."

Peter is 16-0 and Clay-Boy is 19-2, according to promoters.

The other co-main event will feature Puerto Rican welterweight Carlos "Radio" Quintana against Chicago's David Bayada.

"Quintana is a punching machine," Katz said. "He makes great action fights. Bayada 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.vi/hydro.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 MacPherson.

Ringside seats are priced at \$75, mid-level seating is \$50 and general admission is \$25.

The outlets are: Modern Music at Havenight Mall, Spittle-O-Rama, Champs at Tully Mall, Petre Pump Room, Sunrise Pharmacy in Red Hook, Minky Pharmacy, Forever Flowers, Family Billiard Center, St. John Drug Center and St. John Car Rental.

P.J. \_\_\_\_\_ DOB: 12  
 WT: \_\_\_\_\_  
 BIRTH: \_\_\_\_\_  
 PUBLISHED: \_\_\_\_\_



# RUMBLE IN PARADISE

## BURTON DEFEATS LORENZO IN MAIN EVENT



On Friday, 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.

By MATTHEW BLAIR  
Only Times Staff

ST. THOMAS — A tropical storm (also has been an Olympic Democratic Movement on Friday night. Francisco Lorenzo, a 26-year-old Cuban, was scheduled to fight against the 26-year-old American, Burton. In the end, the Hawaiian and the Cuban, the WIKIWIKI 6:30 p.m. fight.

And PAPA? It was a matter of minutes before the fight was under way. The fight was a matter of minutes before the fight was under way. The fight was a matter of minutes before the fight was under way.

In the history of many in the crowd, Burton won the 12-round bout of the main event of Rumble in Paradise at the University of the Virgin Islands Sports and Fitness Center by split decision (11-11, 11-11, 11-11). Lorenzo's former style was too slow. The judge ruled that Burton knocked down Lorenzo twice but that he also landed more other hits.

Burton entered the ring with 12 knockouts. Lorenzo had 19-5 with 11 KOs.

Lorenzo showed me to the first round in a blur of activity, punching a jab of about 10 inches and giving a smile and almost in one for the popular and honest.

At the end, he connected on a crushing blow — well below Burton's eye. In all, two beautiful punches. Burton actually hit Lorenzo twice in the second round and continued to hit him. He never was satisfied for the first round.

I caught on Burton's right eye in the third round after a series of punches, but Burton held steady, using his opponent's arms to his and pushing him down.

Finally, in the fourth round, with a few more punches, he began to take control of the pace of the fight as his confidence and power improved. But again, this time after the bell had rung.

For Sun FEBRUARY, page 26

P.14.15

10:13:427737292

FILED  
 BY Bl. Donastors  
 DATE REC 9-13-10

Sports

The Daily News, Saturday, December 6, 2003

RUMBLE

COMBATED FROM EARLY FIGHT

ring, Latorre, 6, thumped Antonio Jax, 46, both with a back-kick.

The two men traded with a back-kick landing cleanly and both fighters circling in each other as two tired men, Latorre's energy sagging for action and selecting heavy strikes from the crowd to the crowd. (The line, "You're on ESPN, let's go!")

In an aggressive slip, Latorre was shot in the mouth round. As he fell, Boron's confidence rose. He began to hold his head out, urging Latorre to punch which, of course, he did.

The 11th was the first round of boxing all night. Boron connected several solid hits, and Latorre held on for dear life. He fought back valiantly and the sleepy crowd came alive, screaming and waving their feet.

Boron's second knockdown, in the 12th round, was so low, controversial that the first A with fight in the back of the head sent Latorre down, as many in the crowd yelled "push."

When the signal for the last 10 seconds came, both fighters erupted in a last-gasp flurry, arms flailing and vocal sound out of the ring. Bumble in Paradise so-normally and boxing legend Sugar Ray Leonard jumped from his chair in delight, and the rest of the crowd followed, drowning out the faint bell with a wall of noise.



St. Thomas' Didier Hughes wept in the crowd while John "The Herk" Jackson removed his glove. Hughes beat Frye Last Seven by unanimous decision.



Didier Hughes wept in the crowd while John "The Herk" Jackson removed his glove. Hughes beat Frye Last Seven by unanimous decision.

positive despite with a spitting of Choro-Komata's vomiting, the fighter grappled, tripped and threw each other in the far reach zone.

But Quiñones also threw punches, a physical punchline. At the 2-minute, 46-second mark of the eighth round, he landed a mild left and Robertson crumpled. With blood eyes he stared to the left, then the right, and reflexes Steve Scaeger counted to 10.

An entire section of the crowd jumped to their feet, waving Puerto Rico's flag.

Among the relatives of the fight, Scaeger advanced a polite front. Robertson in the seventh round after he lost his mouthpiece the fourth time.

"Four times, I gotta take a polite shove on," Scaeger said after the fight.

Clearly the better-trained fighter, Quiñones controlled the pace throughout, tying up Robertson when

he needed to end writing for his piece a punch. All six of his wins have been lopsided.

When Scaeger stopped the fight in the second round after Quiñones had noticed his second knockdown, Latorre ran to his corner and yelled to Scaeger: "Buy, I love you" and kissed his gloves.

After the fight, the confident Latorre said, "I know no one could beat me."

For a small guy, Latorre really packs a punch. All six of his wins have been lopsided.

When Scaeger stopped the fight in the second round after Quiñones had noticed his second knockdown, Latorre ran to his corner and yelled to Scaeger: "Buy, I love you" and kissed his gloves.

After the fight, the confident Latorre said, "I know no one could beat me."

Other Fights

Promising junior lightweight Juan Litauo of St. Paul, Minn., stopped opponent in the first round by way of a technical knockout against Almaris Becerra of Miami.

Other Fights

Promising junior lightweight Juan Litauo of St. Paul, Minn., stopped opponent in the first round by way of a technical knockout against Almaris Becerra of Miami.

JAN-02-2007 05:15PM FAX:

ID:KEVIN R PAPER P

17  
 M. D. DeSoto  
 9-13-10  
 RPT: MAC

# Boxing event showcases 'paradise' for 781,000 viewers

By TIM FIELDS  
Daily News Staff

ST THOMAS — According to Nielsen Media Research ratings, 781,000 people tuned in to the Rumble in Paradise boxing event on Dec. 5. Government and tourism officials say that makes it worth spending \$3,000,000 of taxpayers' money to hold the event.

The Rumble in Paradise was the fifth most viewed Friday night boxing event of 45 the network has broadcast this year, ESPN officials said.

More viewers may get a chance to watch the event during an ESPN2 rebroadcast, said Dan Quinn, a spokesman for ESPN.

While a far cry from the production costumed \$5 million potential viewers, 781,000 viewers is a good, solid number, he said.

"Having in one of the highest rated series on ESPN2, and the number is probably low because it doesn't record the people watching the match in places like sports bars and airports," said Bob Yering, director of programming and acquisitions for ESPN2.

Yering said the event, which was broadcast on ESPN2, was a "major success" for the network. He said the event was a "major success" for the network.

The two-hour broadcast had ESPN2 throughout of beaches, boat sailing into the sunset, local bands playing



Daily News Photo  
Cecily Robinson leads a procession left to Carlos Christian's band during the Rumble in Paradise boxing event held Dec. 5 at the University of the Virgin Islands Sports and Fitness Center. The show was broadcast by the ESPN2.

most during and people enjoying the show and procession. Robinson was back with St. Thomas Harbor in the background throughout the show in connection. Robinson said about the fight. Commentators talked about the history of the island and the fun came to be had in the Virgin Islands.

ESPN2's boxing event was a major success for the network. The event was a major success for the network. The event was a major success for the network.

...and ...

While there may be no immediate economic impact on the territory, such as local reservations and increased sales at local businesses, such as parking and expenses is necessary to promote the territory. Tourism Commissioner Pamela Richardson said.

"Sports tourism is growing, and getting the Virgin Islands name out there is our goal. We are constantly competing with many other Caribbean nations to attract tourists looking for an island paradise," Richardson said.

According to ESPN, 215,000 men ages 24 to 46 watched the fight. Dec. 5. Also, managers 18 to 54 made up 33 percent of the viewing audience. ESPN2 did not have much annual income of these viewers or statistics on their traveling habits.

Nearly 1,500 people watched the boxing match at the sports center, which can seat 4,000 people, according to UVI.

How busy visitors were said to have given away to students. Standing in front of the event's entrance, he did not report cable fees. The Daily News.

Richardson said she wants to see the event next year. She said she wants to see the event next year. She said she wants to see the event next year.

DJ  
McDonald  
clip

FILED  
NOV 20 2006  
OFFICE  
9-13-10

Home My VI Daily News Classifieds Sports Local Calendar Wedding Guide Island Guide



Classifieds

- General
- Real Estate
- Employment
- Cars
- Classified Ad Placement

Newspaper Section

- Home
- My VI Daily News
- Business
- Sports
- Features
- Editorial Opinion
- Obituaries
- Records
- Local Calendar
- Business Directory
- Specials & Coupons
- Online Media Kit
- Print Advertising
- Wedding Guide
- Island Guide
- Contact us

Search

Keyword

Type



Links

- Newspaper Directory

Special Supplement in the Daily News

# HOLIDAY DINING & ENTERTAINMENT GUIDE

Full Story

**Editorial for Dec. 11**  
**Boxing and tourism, a TKO; maybe 'Spongebob' can help**  
 Thursday, December 11th 2003

[Click headline to enlarge](#)

Don't be surprised if the true ratings for last Friday's night's boxing match, "Rumble in Paradise," fall far, far short of the "estimated" 85 million viewers. The two-hour match took place at the University of the Virgin Islands' sports complex on St. Thomas and was televised on ESPN2.

Local promoters touted the boxing match as the best thing ever to help promote tourism in the Virgin Islands. As fast as you could say TKO, Senate Finance Chairman Adiah Donastory managed to get legislation passed that pulled \$300,000 out of the Tourism Revolving Fund so V.I. taxpayers could subsidize the boxing match.

While we have no objection to the boxing match itself, we do object to squandering \$300,000 of V.I. taxpayers' money on the event under the guise of promoting tourism. It was, in reality, an ego trip for a couple of senators - at taxpayers' expense.

Using false, or wildly inflated statistics to validate the wasteful spending of \$300,000 helps no one. Does anyone believe that 85 million people, or one-third of the entire population of the United States, would watch a two-hour boxing match from the Virgin Islands?

The most-watched sporting event in TV history was the 1996 Superbowl, which had 138.5 million viewers. (Nine of the 15 highest-rated television shows in history are National Football League championships, according to The Associated Press. No boxing match has ever come anywhere close to that number.)

In fact, adding up viewership for the top 10 network television sporting events in a typical week last month, the entire audience totaled only 70.2 million viewers - for all 10 shows combined, according to Nielsen Media Research.

(An NFL game garnered the most viewers, 13.5 million; a President's Cup golf tournament finished 10th with 1.5 million.)

For cable programming, including ESPN, the viewership was even lower. The combined viewership for all top 10 cable programs for the week preceding Thanksgiving totaled only 34.9 million. Again, an NFL game on ESPN finished first with 7.1 million viewers, and

ST. THOMAS  
 ST. JOHN  
 ST. CROIX  
 ST. PETER  
 ST. PATRICK  
 ST. GEORGE  
 ST. ANDREW  
 ST. DAVID  
 ST. ELIZABETH  
 ST. JAMES  
 ST. MICHAEL  
 ST. NICHOLAS  
 ST. RICHARD  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH  
 ST. LEONARD  
 ST. LOUIS  
 ST. MARTIN  
 ST. MARY  
 ST. PETER  
 ST. ROSE  
 ST. SEBASTIAN  
 ST. STEPHEN  
 ST. SYDNEY  
 ST. THOMAS  
 ST. VINCENT  
 ST. WALTER  
 ST. YVES  
 ST. ZEPHYRUS  
 ST. ANTHONY  
 ST. BARNABAS  
 ST. CASSIUS  
 ST. CYPRIAN  
 ST. EMMETT  
 ST. EUSTACE  
 ST. FELIX  
 ST. GABRIEL  
 ST. GREGORY  
 ST. HENRY  
 ST. ISIDORE  
 ST. JACOB  
 ST. JOSEPH

"Spongebob" on Nickelodeon finished 10th with 2.8 million.

Q1

While tourism statistics for the Virgin Islands - St. Croix in particular - plummet, our elected officials tap the dwindling Tourism Revolving Fund for a one-night boxing match. Our senators have never been known for their marketing expertise and we truly wonder how the demographics for an ESPN boxing match compare to those of potential Virgin Islands tourists.

Stay tuned.

Put

**Section Headlines**

- **Confident Kean awaits evaluation team »**
- **Festive pan show thrills thousands »**
- **Festival Prince and Princess get their crowns »**
- **Trial begins for woman charged with stabbing boyfriend to death »**
  
- **Two men arrested on rape charges »**
- **UWI taps medical scholar for vice chancellor post »**
- **Glowing Christmas tribute »**
- **Floods put law earmarking taxes for road repair to work early »**
- **It's never too early ... »**
- **Charlotte Amalie businesses plan later hours on Tuesdays »**

Put

Special Supplement in The Daily News!

## HOLIDAY DINING & ENTERTAINMENT GUIDE

Home | My VI Daily News | Business | Sports | Features | Editorial Opinion  
Obituaries | Records | Live Action | Local Calendar | Online Media Kit  
Print Advertising | Contact us | Terms of use | Need Help?

Virgin Islands Daily News



OnePaper - Putting the community back into community news

Login

call 776-8050  
or click here  
**GUARDIAN**  
INSURANCE COMPANY



FRENCHMAN'S REEF  
& MORNING STAR  
**MARriott**  
BEACH RESORT  
15 TOWNSHIP  
ST. THOMAS, VI



**TOM BOLT & ASSOCIATES**  
PROFESSIONAL CORPORATION



Port to Port  
with NO  
Airport



**CHOICE**  
TRAVEL



Stocks...  
Directories...  
Fun Stuff...

Thursday, May. 1, 2003

St. Thomas, US Virgin Islands

SEARCH

# ST. THOMAS SOURCE

Contact St. Thomas Source | Search OnePaper

Local News

Consider the Source up-to-the-minute news and information

## JUDGE UPHOLDS SUBPOENA OF DATA ON DONASTORG

by Valerie Lovett

April 29, 2003 - A private investigation firm hired by Innovative Communication Corp. or related companies has been ordered to turn over all information resulting from a secret investigation of Sen. Adlah "Foncie" Donastorg to the senator in connection with his defamation lawsuit against ICC and others.

In an order signed April 15, Territorial Court Judge Brenda Hollar denied ICC's motion either to quash Donastorg's subpoena of the documents or to issue a protective order against their release, along with an amended motion for a protective order filed by Dennis Sheraw and Associates.

Last October, Donastorg went public with the investigation conducted by Sheraw and Associates, a St. Croix private investigation firm. The investigation report, obtained by the senator, included detailed information about his bank accounts, education and criminal and sexual history. Sheraw and Associates also sought information about members of the senator's family, office staff and campaign contributors.

In March 2002, Donastorg and his wife, Benedicta, sued ICC, the Daily News Publishing Co., Jeffrey Prosser and J. Lowe Davis, accusing the newspaper of "a concerted effort to slander, defame and cast [the senator] in a bad light." ICC executive Holland L. Redfield II was later added as a defendant. Prosser owns ICC and the firm which publishes The Virgin Islands Daily News, among other companies. Davis is executive editor and chief executive officer of the Daily News.

The suit, filed by lawyer Lee J. Rohn, alleges that the newspaper acted because of Donastorg's ongoing questioning of the business

Donastorg vs 4/29/03 Daily News

- News
  - Local
  - Local Government
  - Local Sports
  - Breaking News
- Business
  - St. Thomas
  - Legal Notices
  - Island Directory
  - Real Estate
  - Classifieds
  - Advertisers
  - Links
- Community
  - People
  - Calendar
  - Organizations
  - Schools
  - Services
  - Data
  - Deaths
  - Other stuff
- Commentary
  - Editorials
  - Op-ed
  - Open Forum
- Arts/Entertainment
  - Things to do
  - Movies
  - Music
  - Showcase
- Lifestyles
  - Advice
  - Health/Fitness
  - Home/Garden
  - Food
  - Religion
  - Other stuff
- Visitor's Center
  - Accommodations
  - Transportation

WEB SI

by Cc  
ADVERTISE

Where  
St. Th  
women  
Part of St  
Haven

four  
SOL  
Island



Your Inform  
HIV Clear



C.F.  
Community I  
Of The Virg



Be an

coral



EXHIBIT  
92



Attractions  
Dining Out  
Marine Scene  
Shopping

About...

OnePaper  
St. Thomas Source  
Copyright

practices of another ICC-owned company, Innovative Telephone, and his efforts to have the phone company audited, its rates reduced and its Economic Development Commission tax benefits withdrawn. Innovative Telephone was formerly known as the V.I. Telephone Corp., or Vitelco.

Hollar denied ICC's request to keep the investigation findings out of court and also upheld Rohn's request that Sheraw submit information about any other investigations involving Donastorg's family or acquaintances, Public Services Commission officials or attorneys conducted for ICC or its related companies over the last 10 years.

The subpoena Hollar upheld described the documents requested as including but not limited to correspondence, e-mails and memorandums.

The judge's order gives Sheraw and Associates 10 days, meaning 10 working days, in which to comply with her order to produce the material. Since April 15, there have been three V.I. holidays -- Holy Thursday, Good Friday and Easter Monday -- which would make May 2 -- Friday -- the 10th working day. However, Friday also is a holiday, V.I. Carnival Children's Parade day; thus, the deadline date was unclear.

Hollar also ruled that the defendants were obligated to have disclosed the existence of the investigation and any pertinent documents known to exist.

"ICC should've revealed they were conducting the investigation," Rohn said.

ICC attorneys also failed in an effort to have the court disqualify Rohn as Donastorg's lawyer in the case on grounds that she was responsible for having given the investigation report to the senator. ICC claimed disclosure of the information was unethical under the American Bar Association's Rules of Professional Conduct and the V.I. Code. Hollar disagreed.

*Publisher's note : Like the St. Thomas Source now? Find out how you can love us twice as much -- and show your support for the islands' free and independent news voice ... [click here](#).*

### **NO STRUCTURED APPROACH TO FISCAL RECOVERY**

The Turnbull administration, after appointing a 26-member task force which four years ago created a Five-Year Operating and Strategic Financial Plan, has steadfastly ignored its call for the creation of a Fiscal Recovery Implementation Task Force to put the plan into effect, and this has worked to the detriment of the government.

*Second of two parts*

*[Click here for More...](#) 2003-04-30 23:05:24*

### **POLICE: CURFEW CRACKDOWN IS TO PROTECT KIDS**

A new police initiative to keep minors from being out after curfew and from buying liquor or tobacco is aimed at keeping the youngsters out of trouble and opening dialogue between their parents and police, Commissioner-designate Elton Lewis said.

*[Click here for More...](#) 2003-04-30 19:52:56*

### **FISCAL OFFICERS WARNED OF PENDING DEFICIT, AGAIN**

In June of 1999, one of Gov. Charles W. Turnbull's financial advisers warned that



Innovative Communications Corp.  
Bjerge House  
PO Box 1731  
St. John, US Virgin Islands, COA31  
Tel 340 776 7766  
Fax 340 776 7761

### PRESS RELEASE

ICC received a copy of a complaint that Senator Donastorg allegedly intends to file today. It is unknown if the suit was actually filed. In response, Holland Redfield, Vice President of Corporate Affairs for ICC stated today on behalf of ICC: "Is this for real? The suit is almost humorous except for the fact that it attempts to put a gag on the most fundamental right 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." Redfield further said "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."

Donastorg v. Daily News, et al.  
D 1030



JA003046

Speaker 1: Good morning \*\*\*\*. Hello?

Speaker 2: Sam?

Speaker 1: Yes, it is.

Speaker 2: Yeah. Hi. It's Senator Redfield and ICC. How you doing?

Speaker 1: Just fine. How are you, sir?

Speaker 2: Good. You were talking about this investigation and –

Speaker 1: Yes.

Speaker 2: – I wanted to make comments on it.

Speaker 1: You, you certainly, you certainly may. You, you were quoted in the \*\*\*\* –

Speaker 2: Yes.

Speaker 1: In relationship to the acknowledgement that the investigation in fact did occur.

Speaker 2: Yes, it did.

Speaker 1: Alright.

Speaker 2: And it – and, Sam, it occurred in, in 1998. And let me just say, first of all, the victim in this situation is, is not Senator Donastar; it's ICC. And let me, let me speak to that issue. For years, the senator has constantly had a barrage against this company. And in many cases, slanderous statements made directly to – directly against the founder of the company and different people that work for this company and questioning the integrity of the company. Let's speak to what prompted this. First of all, there was an event that took place – an alleged event that took place – back in, in that time period where it was alleged that he had flown on an AT&T aircraft down island to a jazz festival. This is what instituted the investigation, along with many of the slanderous statements that he had made. Any company worth its salt has to defend itself, particularly if it's being dealt with unfairly. So an investigation of this sort is not a non-routine matter in any, any sense of the word. Either private or public people are susceptible to any sort of investigation. The investigation was not intended at all to be made public. This investigation was made public – and I don't know how Senator Donastar got ahold of this information – which is really questionable – how this investigation became public. It – certainly it wasn't by our company and we were – we did not intend – this was for internal purposes to find out exactly where this individual was going with – going, going for with reference to these unvalidated accusations against the company. Now these accusations have been proven absolutely baseless.



The first one of the accusations was we were over earning and this was – this Georgetown group that was \*\*\*\* Senator Donastar was extremely close to made some serious errors in their, in their evaluation of the company and its rate of return and had to admit that. The current investigation that's taking place by the Public Service Commission and the report that comes out says clearly there was no irregularities with reference to the way the, the holding company works with reference to the, to the telephone company. There is nothing unusual. There is nothing that we did wrong. All these things that are constantly accusations that are made are found baseless. But the baselessness of these accusations don't make any difference. The senator continues barraging the corporation with these baseless accusations regarding the, the company. When these reports come out, the reports are almost useless because it doesn't make any difference. The question is is why is he constantly attacking this company which employs over 400 and some odd employees and constantly questioning it. And then this is exactly why it was done. It was done based on these facts and the facts that he constantly is barraging the company, attacking the company, and questioning the founder of our company, questioning everybody who works for the company. And with absolute baseless information.

Speaker 1: Then, is it to be concluded that the reason that ICC investigated Senator Donastar was to attempt to find something that would compromise his integrity or something that, that would indicate a compromised integrity because you suspect that he was – that he had an ulterior motive?

Speaker 2: Well, our concern was that there was an ulterior motive. Information that was always coming out seemed to be coming out from competitors. That type of thing you're dealing with the basic survival of a corporation. You're dealing in that kind of – there was no intention – if there was an intent to hurt Senator Donastar, the information would have been made public. It's just amazing to me that this close to an election he himself decides to release this information.

Speaker 1: So you do – it was him that released the information?

Speaker 2: Absolutely. It was –

Speaker 1: \*\*\*\* –

Speaker 2: – \*\*\*\* –

Speaker 1: – \*\*\*\* –

Speaker 2: – \*\*\*\* as a matter of fact, I have not seen the report myself.

Speaker 1: – now, let me ask you this. You say that, that it was not intended – the, the company did not release the report.

Speaker 2: That's correct.

Speaker 1: But didn't the report conclude that there was really nothing that had been found to discredit Senator Donastar in –

Speaker 2: \*\*\*\* –

Speaker 1: – in that area?

Speaker 2: – \*\*\*\* to be honest with you, I have not seen the report myself. And, I mean, that may sound naïve. I have not seen the report myself.

Speaker 1: So, we don't know then whether the report does have –

Speaker 2: Well, the report –

Speaker 1: – something that –

Speaker 2: – the, the report was done to basically find out whether there was some unsavory relationship that was developed between our competitors and him to the detriment of our company.

Speaker 1: – and was that, was that found?

Speaker 2: As I – as I'm – as I'm telling you that I have not seen the report. However, the report is being published in the newspapers. And, again, I will probably get a copy of this report. I, I was not working for the company at the time. However, I know for a fact there has been great concern over a period of years of these constant attacks on this company. And, again, when these attacks are rebuffed and in fact the investigations come out that there's no improprieties. In fact, in this \*\*\*\* investigation that's taking place right now, we're under earning. We're only earning about 6 percent return on investment. And, I mean, obviously the cost of these investigations are absolutely astronomical. There's no place in the United States for utilities – whether they be power and water authority, telephone company or ferry companies – are investigated every two years. And there is absolutely nothing that this company has to hide. The only problem with this is there is always put in question the integrity of our company and there's always accusations made with reference to our tax exemptions and all these other points which he brings up that have been found baseless. Absolutely baseless. There's been nothing to them. If there were, you would be reporting them on your news.

Speaker 1: And, and just as – I would think – if there were something discovered about Senator Donastar that would explain to the company what you suspect \*\*\*\* investigation that it would have been made public in some way. Otherwise –

Speaker 2: \*\*\*\* –

Speaker 1: – otherwise –

Speaker 2: – \*\*\*\* I'm assuming it would be.

Speaker 1: – otherwise, why have the investigation.

Speaker 2: Well, now wait a minute.

Speaker 1: \*\*\*\*

Speaker 2: First of all, you have an investigation to find out whether –

Speaker 1: Exactly.

Speaker 2: – there is something.

Speaker 1: I know. And if there is something –

Speaker 2: You can appreciate the fact, Sam, that if your company is constantly being deceived –

Speaker 1: – no, no, no. I'm not – I'm, I'm – first of all, I'm not – I am not – I'm not passing judgment here.

Speaker 2: – yeah.

Speaker 1: Because, because – I do, however – and I think that the fact that you are talking publicly about it –

Speaker 2: Yes.

Speaker 1: – understand that this raises quite a disturbing specter. If public officials who – and based on – I mean, we have no reason to – to, to – to believe – yet – based on what's been disclosed or not disclosed – we don't have any reason to believe that Senator Donastar has an ulterior motive other than what he has claimed. And that is his mistrust of the company's accounting.

Speaker 2: Correct.

Speaker 1: Basically.

Speaker 2: But if there's –

Speaker 1: Now, now, now if, if a public officer – if a public officer in questioning a private entity and consistently questioning and refusing to back – back off of his

questioning is to be investigated in this way, does that – would that not serve to perhaps – as, as he has suggested – intimidate public officers?

Speaker 2: – no, Sam. Because first of all, if you consistently do this and you've been proven absolutely – there is absolutely no volition to the argument that he's making – and it's been proven by investigators – that in fact are agents of the government and are basically your Public Service Commission, your IBC program, your other programs – and find out that there's absolutely nothing to it and continuously – continually attack the company, the question is why. 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? These are slanderous statements. When these statements are disproved by the media or disproved, rather, by the investigating bodies that are doing these, then all of a sudden, you know, it, it – we, we have the situation of the one dollar that we're dealing with. Again, there was a claiming that we are putting that one dollar in our pocket. This is absolutely untrue. It'll be proven that it's untrue. I think at this point there hasn't been any indication that this has happened. We're getting these audits day in and day out – which, again, resources of the company. We're proven absolutely innocent when this stuff takes place. And we're still the guilty party. Who is the one in this case who's being, being victimized? It's the company. Now, it doesn't only happen with this company. And let me speak very straightly to you. I've been in public life for years. This besieging and attacking of companies in the Virgin Islands is not limited to our company. It's – it, it takes place with \*\*\*\*. It takes place with other big corporations in this – in the Virgin Islands. And there's, and there's some way that we have to defend ourselves with these baseless accusations that take place day in and day out. This investigation was done professionally. It was done in such a way that it was done professionally and it was not done to have – be revealed to the public. We were trying to find out – to survive as a company – why an individual would constantly try to attack and destroy this company. Plain and simple.

Speaker 1: And what have you concluded about –

Speaker 2: Like I said, I have –

Speaker 1: – his motives?

Speaker 2: – not seen the report. I have not seen the report.

Speaker 1: So –

Speaker 2: It would be dishonest if I said I had received the report.

Speaker 1: – so –

Speaker 2: \*\*\*\* seen it.



Speaker 1: – so it is – it is – the fact that Senator Donastar – as you said – has released it –

Speaker 2: \*\*\*\* let's say the report says there's nothing there which says that he, he was doing it on the basis of competitors or whatever. Well, then, the, the conclusion would be he's done it basically because he's mean spirited. Now, if you're a mean spirited individual trying to destroy a company, again, a profile of the individual trying to destroy a company for what purpose, again, would be a question that we would have to ask. I mean, I can't understand why constantly this is taking place and these kind of pressures are being put to bear on institutions that are investigating the, the company – why we're constantly under the target on these things – and then we're being disproved – it's, it's being disproved. So is mean spiritedness a public leader trying to attack a company and destroying it just because of either trying to seek votes or sympathy from the public? Again, is that an, an honorable thing for an individual to be doing? We really feel that this company is the victim. And it is – and, and – you know – I have not worked here that long. And I, I just – I just don't understand it.

Speaker 1: I would – and I appreciate you calling, Senator Redfield – and I certainly don't want to abuse this privilege of being able to talk about this on this program \*\*\*\*. But I – but I would – I do have to ask – given the fact that you – as a former member of the Legislature – and all of us who have been around the politics in the Virgin Islands any time –

Speaker 2: Yes.

Speaker 1: – for any time – the fact that we do know that politicians often have resorted – in an effort to curry voter favor – attacked businesses.

Speaker 2: Correct.

Speaker 1: Does that mean that businesses – or others – would be justified in launching background investigations and personal investigations on all public officials who do this?

Speaker 2: Excuse me. Let me say, when I was in public office, I clearly understood I had a responsibility as a public leader – as, as a corporation would have a responsibility to themselves – to the basic survival of their companies. When it comes to an extreme of this matter – of this magnitude – a company has to defend itself. And many other companies – I am sure – do the same thing. It's nothing that is pleasant, but when you are actually – the economic survival of the company is at stake – and you are trying to survive and you have somebody – either \*\*\*\* because they're mean spirited – are constantly attacking the company – found out that all these accusations are baseless, I think a company has every right to protect itself and every right to institute an investigation –

Speaker 1: \*\*\*\*

Speaker 2: – of why an individual would want to do this and why would they want to destroy the livelihoods of over 400 employees.

Speaker 1: – but –

Speaker 2: I mean, I – I'm telling you right straight out, if I was in the Legislature again and consistently did this to a particular company without any basis to it, I believe I should be called on the carpet by the voters and the subscribers and the \*\*\*\* of the company that's being constantly attacked.

Speaker 1: – it would appear – and I say this with all due respect to the fact that you have not read the report – but given the account that appears in today's \*\*\*\* newspaper – and based on Senator Donastar's recent correspondence to the Chairman of the Public Services Commission – the investigation went way back into his childhood and investigated – there were people who \*\*\*\* – who are around him – relatives as well – and it would seem that it exceeded the scope of determining his integrity as a public officer.

Speaker 2: Well, Sam, I'm not an expert on investigations. All I can say to you, again – and I'm gonna repeat this – is if one is constantly attacked – and you question what did the report – I did not see the report, which I have not – let's say the report for, for hypothetical purposes – absolutely nothing to it. Then we get back to the issue of just basically mean spiritedness. Is it, is it \*\*\*\* a company in the Virgin Islands – any corporation – that is trying to exist and survive should be susceptible to this kind of thing when these accusations are baseless? And then, what is the intent of the individual to do this? I mean, is he intent to get votes at the expense of a company and try to destroy it? I mean, we really feel that this thing has just gone totally out of control. And let me repeat the other thing. This report was not intended to be made public. Why was it made public? The senator made it public himself for what purpose? To try to curry favor with the voters? Say that he's – sympathy – he's been picked on? The question is is who's been picked on? this corporation has been picked on and I know that these statements that I'm going to be making probably people will say, well, you know, it's a big company and this and that. We have developed an attitude in the Virgin Islands which is unfortunate. That business is the enemy. You've seen this, Sam. You've seen attacks on \*\*\*\* and other companies. You've seen how we're – we are depicted as the evil empire. Our, our corporate directors and our people that are in the company are particularly – you know, as – portrayed as evil. We're painted as, as, as just, you know, not caring for the people of the Virgin Islands. This corporation has made thousands and hundreds of thousands and millions of dollars in contributions supporting this community. Have we done it just because we want to curry favor? What are we doing it for? The founder of this company is committed to the Virgin Islands. And Jeff \*\*\*\* is extremely committed to these Virgin Islands and has made every effort to try to make the best telecommunications system he can, investing and consolidating and working and promoting the Virgin Islands to make it a better place to

live. And, and, and I – as I say – it just, it just baffles me the degree that the senator has gone to to discredit this company.

Speaker 1: Alright. Well, I, I appreciate your, your comments. I must tell you that the, the specter of investigations is always one that raises certain – a certain level of concern and alarm. I mean –

Speaker 2: I understand that, Sam. And all I ask you is to be fair and I believe that you are fair and that – and your, your questions were fair to me. Some of them were difficult; however, let me just say to you, again, this is not a pleasant experience. This was not intended to be released. For whatever reason it was released. I question that – why it was released. But, in any event, I appreciate the time you gave me.

Speaker 1: Thank you very much, Senator Redfield.

Speaker 2: Thank you.

Speaker 1: Alright. We'll be right back with more Top Talk. It's 11:14. This is Radio One WDWI AM 1000 St. Thomas, US Virgin Islands. The program is Top Talk.

SpeakWrite  
www.speak-write.com  
Job Number: 00345-001  
Billed Word Count: 3101

Donastorg vs Daily News, et al



The Virgin Islands

# Daily News

A Pulitzer Prize-winning newspaper

## Health clinic to open at C

Federal grant will establish V.I.'s first school-based community h

## Hot work for wet weather



Island Roads workers Raphael Victor and Odirgo Jose prepare a concrete drainage gutter Friday afternoon along Mandahl Road on St. Thomas

### Donastorg-ICC fight unleashes flurry of lawsuits

Senator, companies, attorneys, private investigator all drawn in

Page 3

### Friday night tackle football

Arawaks vs. Devil Rays  
Chickenhawks vs. Pirates

Sports



EXHIBIT  
167

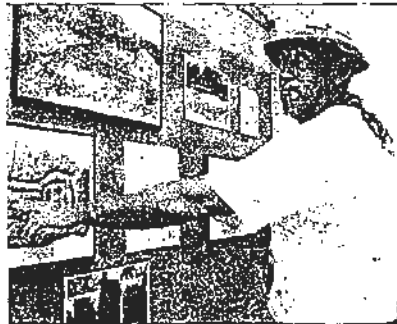
### American Taliban: John Walker Lindh sent to prison fo





Ben Twiggey  
St. Croix are now on display at the St. Croix Archeological

on south shore cliff



Ben Twiggey  
site points to photos of petroglyphs Friday that were found at the area in 1925 by Gudmund Holt.

s very impressed," said  
upline. Haysan's hus-  
workmate at the New  
d firm. "She had plenty  
rt."  
in images of the petro-  
St. Croix Archeological  
seum contains scores of  
rifacts from the U.S.,  
nds and Puerto Rico —  
h were donated by two  
s collectors.  
1th century seashell  
to 5th century orna-  
nts and dishes that

Pamela Richards  
But for Bourdon, the most  
intriguing artifact remains the  
vomiting spatula. "The beautiful-  
ly carved piece, Bourdon said, was  
once used by natives of Puerto  
Rico after they consumed the hal-  
lucinogenic seeds of the *Cobolpa*  
plant.  
"Apparently by purging them-  
selves, it made the effects of the  
seeds even more powerful," he said.  
"We're hoping to rotate our items  
and have feature exhibits next  
month."

BATTLE: PSC vs. Innovative

FROM PAGE ONE

tion) or not, but I'm sure it was  
filed," Dunn said.  
However, shortly after 5 p.m.,  
Friday, Keithley Joseph, PSC executive  
director, was waiting in the  
clock at the PSC office — waiting  
for an Innovative official to deliver  
the check.

Joseph said he was waiting for  
the check to be delivered in order  
to alert the PSC board, and as of  
5 p.m., he said, there had been  
"no communication between  
Innovative and PSC."

"That's it: I'm going home,"  
Joseph said. "A receipt has to be  
written by me for the check and I  
can't give it to them at my home."

Spat over school  
policy on braids  
gets a bit hairy

CRYSTINE HARTY

ST. CROIX — The John H.  
Woodson Junior High School is a  
hair's breadth away from a lawsuit  
after transferring a student for  
wearing braids.

Attorney Lee Rohn has threaten-  
ed a lawsuit — against the  
Department of Education, the  
Board of Education, Jack  
Peterson, the school's vice principal  
and John H. Wadson  
Principal Vaughn Hewitt — for  
allegedly violating Anthony  
Gibson's freedom of expression  
and his 14th Amendment right  
to equal protection and due  
process.

Gibson, 12, was suspended from  
Woodson School Sept. 19 and 20  
for wearing his hair in braids,  
which, according to Peterson, was  
against the school's policy.

Things intensified on Sept. 20,  
when Peterson reportedly told  
Anthony Gibson's father, Shawn  
Gibson, that his son would be  
escorted off campus by police if  
the braids were seen again.

"John is, Woodson," Peterson  
said, "has maintained a no-braids  
policy for many years in order to  
instill a proper sense of decorum  
among students."

"We try to teach here that there  
is a time and place for everything.  
There's a way you dress, when  
going for a job interview, and a  
way that's acceptable when hang-  
ing out with your friends."

Peterson said fights have start-  
ed in school because of hairstyles.

would start over it," Peterson said.  
"But more importantly, this is  
about rules. You can't just decide  
to break the law because you don't  
agree with it."

But according to Rohn, it's the  
VI education system that is bent  
on breaking the law.

"Peterson has since slandered  
both Anthony and Shawn Gibson  
by claiming that braids are worn  
by gang members and that Shawn  
is forcing his son to wear braids,"  
Rohn said.

Woodson went on to further  
violate Anthony Gibson's civil  
rights, she said, by transferring  
him to another school without his  
or his parents' consent.

When the school transferred  
Anthony Gibson, Rohn argued  
that Woodson failed to follow its  
own disciplinary guidelines set  
for dealing with dress code viola-  
tions. These guidelines, Rohn said,  
include parental contact, coun-  
seling and direction, detention,  
denials, warning and referral.

"None of these disciplinary steps  
were followed," Rohn said, "and  
instead the student was summar-  
ily suspended."

In letters to Education  
Commissioner Norcen Michael,  
St. Croix district schools  
Superintendent Terrance Joseph,  
Hewitt, and nine members of the  
school board — Rohn gave the  
school until Oct. 13 to rescind  
their no-braids policy, and to  
accept Anthony Gibson back to  
school.

Anthony Gibson and his father

**Get a job**  
Bush pushes stiffer work requirements for welfare system  
Inside



**Up the river**  
Spy Robert Hanssen sentenced to life in jail  
Inside



**Showdown**  
Duncan, Spurs look to take advantage in Game 3  
Sports



# St. Croix Alerts



USVI 158th YEAR

SATURDAY, MAY 11, 2002, NO. 107

50¢

# 'OUTRIGHT LIES'

MATT COLLINGSWORTH

ST. CROIX — With several public officials recently hinting that they believe the territory's phone service provider is pocketing funding from a \$1 surcharge meant to go toward emergency services, one of the company's top officers is firing back, saying the whole thing is a bunch of lies.

In a heated letter to Gov. Charles Turibull, Holland Redfield, vice president of Innovative Communications Corp., parent company to Innovative Telephone, said his company had reservations a year ago about adding a \$1 surcharge to customers' bills that would go to the government. But he said, acting in good faith, ICC went ahead with the deal.

Innovative vice president says his company an innocent victim in attacks over surcharge issue

The legislation calling for the \$1 surcharge was passed in 2000 as part of the Omnibus Authorization Act. In the legislation, the "Emergency Services Special Fund" was created and the Department of Finance was given the responsibility of collecting the money from the surcharge from ICC and depositing it into the special fund.

Now, with longtime ICC opponent Sen. Adiah Donastorg and U.S. Department of Interior Inspector General Arnold Van Bevern both acknowledging that they have concerns about

"This company has been a victim to attacks, misrepresentations and outright lies regarding the role we play in merely conducting collection of these monies for the government."

Holland Redfield, ICC vice president, said the surcharge and whether it has been given to the government or

kept by ICC, Redfield said the worst fears his company had about entering into the deal with the government have been realized.

"From the inception of this legislation, and the enactment of the law under your signature, ICC had serious misgivings, and our initial concerns have come true," Redfield said in his letter to the governor. "This company has been subject to attacks, misrepresentations and outright lies regarding the role we play as merely a conduit to collect these monies for the government."

Redfield said ICC officials have been accused of collecting the money and keeping it for themselves and withholding it from emergency services agencies. He said while these accusations have been made, the silence on the part of the government — especially Turibull — has been deafening.

Donastorg said innovative's attempt to discontinue collection of the emergency services surcharge will not eliminate the need for an audit.

Vitelco (Innovative's former name) is running from any investigation as there are numerous discrepancies in its collection

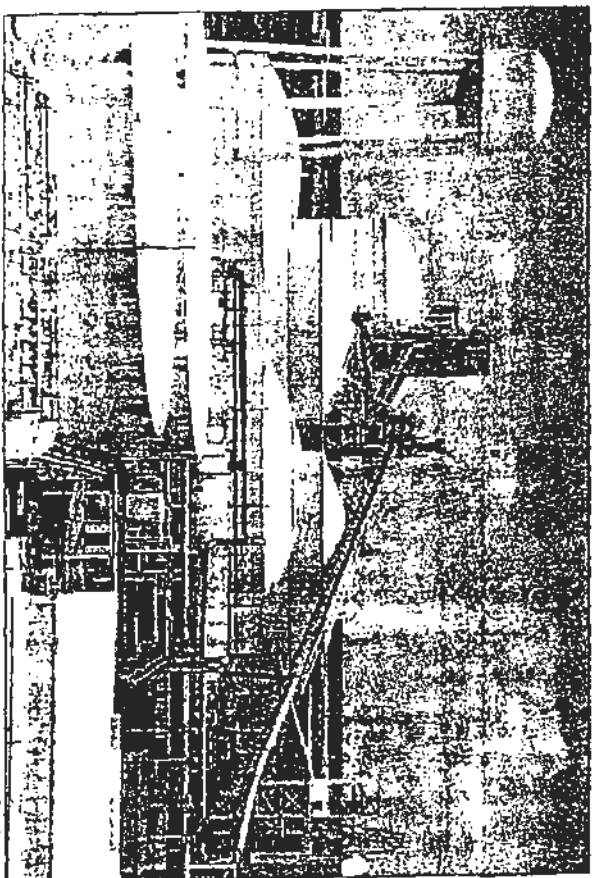
## Island revival?

STX group posing solutions for waste and energy problems

CHEYENNE HARTY







The remains of the St. Croix Alumina are seen as valuable resources to the St. Croix Renaissance Group. The company specializes in turning derelict structures and valuable land into eco-friendly industrial parks.

## REVIVAL: Company wants to start recycling facility

FROM PAGE ONE

waste segregation and recycling facility, owned and managed by St. Croix Renaissance, Mahoney said.

Once garbage haulers, private businesses and individuals bring their waste to the center, and the trash is separated, Mahoney said trucks will take the trash to the plant where the waste will be handled accordingly.

Solid waste — Once weighed, non-recyclable material will be trucked to a building formerly used to store hydrated alumina. The transported trash will then be placed on a conveyor belt that will move it into the building's ballers. Mahoney said the mechanical ballers will shape the trash into one-ton cubes. Another machine will subsequently wrap the heavy cubes with plastic; then the wrapped cubes will be taken to the plant's former bauxite storage dwelling. The cubes will be stored there until discarded using a long-term plan chosen by the govern-



Myron Alick and Mary Ann Mahoney, of the St. Croix Renaissance Group, discuss the purchase of the St. Croix Alumina plant and the company's proposal for handling St. Croix's solid waste problem, Friday, at the plant.

Glass — Once brought to the site, glass will be pulverized to create a sand substitute that can be used as road filler or as an aggregate in asphalt.

Household appliances and junk cars — Local contractors will extract hazardous fluids from appliances, such as refrigerator

## ICC: Redfield says accusations 'lies'

FROM PAGE ONE

process," Donalofsky said. "There is evidence that the VJ government and the taxpayers have been defrauded."

The government knows Donalofsky's claims are a false, Redfield said. He said while his company has worked to try to help the government, the government has turned its back on ICC.

By their silence, the government has allowed a misperception and inaccuracies to continue," Redfield said. He added that what's worse is ICC President Samuel Ebbsen, a native Virgin Islander who Redfield said has a deep interest in benefiting the community, has been painted as a criminal.

Ebbsen's character, Redfield said, has needlessly been attacked and not one government official has come forward to defend him.

"I suppose it is far easier to abandon a private-sector company that agreed to assist the government in this collection at absolutely no cost to the government," Redfield said. "In that light,

ICC has made the decision to request of your office to draft legislation that would take Innovative Telephone out of the process of collecting revenues for the government of the Virgin Islands."

Redfield said, the VJ Water and Power Authority, a quasi-governmental agency, should be made to add the emergency services surcharge to customers' monthly bills. He said ICC can make better use of its time and money than "being embroiled in this mean-spirited issue."

"This is the very environment that leads to the perception that the government is anti-business," Redfield said.

## US Airways warns of bankruptcy if it can't get federal loans

### Airline's daily flight from Philadelphia to St. Croix may be in jeopardy

ARLINGTON, Va. (AP) — US Airways warned on Friday that it might have to file for Chapter 11 bankruptcy if it cannot obtain federally backed loans that will probably require concessions from employees and suppliers.

The airline has one daily flight that flies into St. Croix from Philadelphia that may be in jeopardy. However, according to an

The company's president said it is to reach an accord with the new stakeholders and retain its operations under the federal bailout, the airline said.





# ST. LOUIS AIDS



USVI 158th YEAR

THURSDAY, AUGUST 1, 2002, NO. 175

50\*

# SECOND CHANCE

## VI toddler in good health following transplant, but health officials lament lack of local blood and organ donations

CHEYENNE HARTY

**ST. CROIX** — With bright, blue lips and a bluish tongue from the candy she ate, Naeoya Armstrong sat in the lap of her grandfather Richard Samuel, where she is intensely focused on her coloring book.

Naeoya already has her dreams mapped out for the future. When she grows up, Naeoya said she wants "to have more crayons."

She takes a green crayon and resumes coloring a little outside the lines. Her next color choice is red.

From her exuberance and bright, brown eyes, it would be impossible to guess by looking at her that Naeoya became the first of a young girl liver transplant recipient less than a year ago.

Yellow — her grandmother Geraldine Samuel said — was a worry for her family when Naeoya was only two months old. Her eyes were yellow — jaundiced — so we took her to the hospital, Geraldine Samuel said. Upon being taken to JRH, her grandmother said Naeoya was transferred to a hospital in Puerto Rico.

Naeoya had varicose veins in her esophagus, and the veins were bleeding.

In Puerto Rico, the veins in her esophagus were cauterized to stop the bleeding.

But months later, when Naeoya was 1 year old, the bleeding resumed.

This time she was bleeding so heavily that all her shoes were red with blood. Geraldine Samuel said.

It was back to Puerto Rico and another cauterization for Naeoya. A year later, however, the bleeding began again, by this time it was determined that cauterization was not the solution.

Currently, blood donations at JRH Hospital are abysmally low, said hospital spokespersons. Officially, there is no list of donors.

What Naeoya needed was a new liver.

She was put on a waiting list that only lasted three months, said Lillian Sutherland, president of the VI Minority Organ/Tissue Transplant and Exchange Program.

After the surgery, Naeoya, like most recipients, faced the task of her body rejecting the liver. She was taking more than six types of anti-rejection pills. "Now she only has to take one," her grandmother said.

Today, Naeoya, who had her third birthday Sunday, is serving as a young spokesperson for VI MOTTET, her good health a testament to the importance of organ transplant, Sutherland said.

Currently, she said, MOTTET is on an aggressive campaign to increase organ and tissue donation in the Virgin Islands, which according to Sutherland, is very low.

Although many organ recipients must receive organs from cadavers, Sutherland said it is a myth that people can only donate tissue or organs when they are deceased.

Naeoya's bone marrow and blood can all be donated by living people. Currently, blood donations at Juan Luis Hospital are abysmally low, said hospital spokespersons Carol Lee.

And they have been low for quite some time, causing a longstanding dependency on blood from Puerto Rico, Lee said.

But there is a national blood shortage, and Puerto Rico is no exception. Subsequently, Lee said, the price of the blood the hospital imports has gone up.

"We currently spend \$275 per pint of blood," Lee said. "Months ago it was \$200 per pint. It's like-



Naeoya Armstrong puts some crayons away Wednesday at Juan F. Luis Hospital during a press conference about organ donation.

# Innovative official fires back at Donastorg

## Calls senator's lawsuit over emergency-services surcharge 'mean-spirited and illogical'

VALERIE LOVETT

**ST. CROIX** — An innovative Communication Dept. official fired back Wednesday at Sen. Adolph Donastorg, who filed a lawsuit in District Court the day before over accounting practices surrounding the \$1 emergency-services surcharge on VI residents' telephone bills.

ICC Vice President of Corporate Affairs

Holland Redfield called Donastorg's suit "mean-spirited and illogical." This action clearly borders on abuse of legislative power," said Redfield, who served six terms in the VI Legislature. Donastorg

Donastorg's complaint is that the company charges more than \$1 to customers with more than one phone line and then fails to turn over all of the collection to the VI government. He said he pays the \$1 charge for each of the five phone lines under his name.

Donastorg also announced Tuesday that

# LAWSUIT: ICC official fires back

FROM PAGE ONE

The U.S. Department of the Interior's inspector general granted his request to conduct an audit of the surcharge program.

He also has requested that the Public Services Commission investigate the matter. Redfield said ICC has cooperated fully in that investigation.

In a June 14 letter to PSC Executive Director Kiehlley Joseph, Innovative Telephone President and Chief Executive Officer Samuel Ebbesen quoted the law that set up the program, pointing out that the \$1 surcharge was added to all telephone bills beginning April 1, 2002.

Ebbesen said the company's billing system is based on customer accounts rather than telephone numbers, and customers have the option of aggregating multiple services on one bill.

He said ICC had no record that Donastorg had requested a consolidation of his phone bills, but based on his complaint to the PSC, they were merged into one bill effective May 70.

Ebbesen said Innovative had 70,461 lines in service at the end of May and based on customers' preferences for one bill, only 61,337 accounts were changed to the \$1 tax.

Redfield said the charges are politically motivated and that Donastorg has slandered him. ICC owner Jeffrey Prosser, who is named along with the company in the lawsuit, and Ebbesen in the past.

"One can only conclude that he feels that by suing Innovative Telephone he is getting his voice at the expense of a company that has clearly contributed significantly to the Vi community," Redfield said.

One can only conclude that he feels that by suing Innovative Telephone he is getting his voice at the expense of a company that has clearly contributed significantly to the Vi community.

Redfield said that from the inception of the tax legislation, the company worked in tandem with the Vi government to implement checks and balances and a strict system of accountability in the process.

"All this information is readily available to the senator, however he persists in these irresponsible and slanderous attacks on the company," Redfield said.

Redfield added that on May 9, ICC requested that Gov. Charles Turnbull draft legislation relieving the company from the duty of collecting taxes for the government. He said ICC suggested that the Vi Water and Power Authority take on the responsibility.

"It is Innovative's understanding that legislation is forthcoming, and we welcome it," Redfield said. "What is crucial is that when Innovative is absolved from wrongdoing, it will be meaningless to the senator, as his baseless accusations have been spread throughout the media. When this goes to court, Innovative will be absolved."

## Police blotter

ST. CROIX

**Arrest:**  
9:35 p.m. Tue., Stanley, Walter, 30, of 218 Peter's Rest, was arrested on charges of aggravated assault and battery after allegedly assaulting his ex-girlfriend.

Mail.

2:50 p.m. Tue., Gallons Bay, 7:44 p.m. Tue., Dorech Beach.  
8:50 p.m. Tue., Fredensborg.  
**Assaults:**  
ST. THOMAS



Nancy Armstrong, 3, releases Wednesday at Saint Luke's Hospital during a press conference about organ donation and her liver transplant.

## CHANCE: Health officials say too few donate blood

FROM PAGE ONE

By that the cost will keep rising.

One pint of blood from local donors would only cost the hospital \$80 per pint. Lee said local blood donations would at least provide some help to the underfunded hospital.

According to JCH Chief Executive Officer Thomas Robinson, the hospital is plagued with an insufficient number of nurses, stretched air conditioning and a lack of medical equipment. It is \$20 million short of what it needs to avoid a major operational crisis.

Virgin Islanders, Sutherland said, have traditionally shied away from organ, tissue and blood donation.

It was in March 2001, Sutherland said, that

the hospital received its first local donation of human skin tissue. It was donated from Al Alliboa, a 28-year-old man who died in a motorcycle accident.

"There are so many people who need life-changing tissue transplants," his parents, Shirley and Nancy Alliboa, said in a hospital statement. "We are heartbroken that our son had to die, but we are grateful to know that he will help others through this donation."

Currently, Sutherland aims to encourage Virgin Islanders to follow their example by donating while alive and posthumously.

"Aug. 1 is National Minority Organ Donor Awareness Day," Sutherland said, "and we will be running around giving pamphlets and speaking on talk shows to encourage people to participate."

## Camacho drops out of race for lt. governor

VALERIE LOVETT

ST. CROIX — gubernatorial candidate Lloyd Williams plans

to announce his new running mate for the territory's top seat next month, since Miguel Camacho bowed out of the race this week.

dedicated and smart person," Williams, a St. Thomas business man, said he is not concerned that Camacho's move will negatively impact his campaign.

Camacho's pullout of the campaign follows that of two gubernatorial candidates in the



**Score!**  
V.I.'s Raja Bell si... with  
Dallas Mavericks  
Sports

**Getting stronger**  
Lili batters Cuba, expected  
to strengthen in Gulf  
1997

**War watch**  
Bush says U.N. needs to  
'show its backbone' to Iraq  
Iraqie



# St. Croix Avis



USVI 158th YEAR

WEDNESDAY, OCTOBER 2, 2002, NO. 225

56r

# Looking for dirt

VALERIE LOVETT

**Part of a two-part series**  
ST. CROIX — Sen. Adiah Donastorg, 1998 was the subject of an intricate, secret investigation staged by his longtime rival, Innovative Telecommunications Corporation and its owner Jeffrey Prosser, ICC Vice President of Corporate Affairs and former Sen. Roland Redfield confirmed Tuesday.  
According to reports from a private investigator hired by the company, Donastorg had the personal life of the senator, inquiring about such as his marital status, his banking, education, criminal and sexual history. They also sought similar background information about members of Donastorg's immediate and extended family, as well as his office staff and campaign contributors.  
In the initial April 16, 1998 report by St. Croix-based Dennis Sherwin and Associates

## Innovative admits hiring investigation firm to delve into Sen. Donastorg's private life

— the private investigation firm hired by ICC — and confidential sources, both cited as working with law enforcement, were contacted to search of information about the senator.  
"Donastorg, as typical of West Indians, likes his wrap and reportedly has several girlfriends," the report said, adding that one of the girlfriends, by telephone, to be a police officer at St. Thomas.  
"Otherwise, according to this source, the senator seems to have few, if any, skeletons he may be hiding," it said.  
Another source, who called the senator "knowledgeable but feisty, strong and difficult to deal with" and who said he "did not

know much about the subject's personal life," also said Donastorg has girlfriends.  
"Our source indicated that the subject frequents her books and was elected based on that," the report said. "She has heard rumors that he is bisexual and 'leppo' a young boy, but could provide no further details along that avenue."  
Donastorg emphatically denied that allegations and said any rumors about girlfriends "might be giving me more credit than I do."  
The Sherwin and Associates report also included copies of newspaper articles — including the VI Daily News which is owned by ICC — about the senator, list educa-

tional and employment history, a detailed review of court records, and a list of people involving Donastorg in the past week. The report also listed several individuals about Donastorg's activities.  
A second report, dated May 10, 1998, listed details of Donastorg's social three accounts, including his account at Banco Popular VI, his account at Bank and Chase Bank, and his account at which included Donastorg's company No., listed the names of several individuals as the balances of several accounts. The latter that the information was obtained and highly confidential.  
It also said Donastorg had a criminal attorney (Jeffrey) White in a criminal case, a client White represented in a criminal case.

DIRT, PAGE 2

## Innovative's workers vote for strike

ALEX BROWN

ST. CROIX — Innovative telephone and cable workers voted 303-7 to strike Tuesday, after rejecting the company's latest labor offer.  
During separate union meetings held on St. Thomas and St. Croix, workers voted their disapproval at Innovative Telephone's proposal — a stay after the previous labor agreement expired.  
Neither United Steel Workers union representative Randolph Allen, nor Innovative Telephone president and Chief Executive Officer Sam Elbeson would show into the speeches of the dispute Tuesday.  
However, Allen did suggest

Innovative's new pension and benefits deal was not satisfactory to employees, even though it was a slight improvement in the previous agreement.  
"We explained to them the offer the company gave us, and they gave it the thumbs down," Allen said. "I don't want to get into specifics, because this shouldn't be regurgitated in the press."  
"We want to get back to the table as soon as we can. But what the company has offered so far is not enough."  
Until a resolution is agreed upon, Allen predicted the company would struggle to offer full telephone and cable services.  
The United Steel Workers Union

STRIKE, PAGE 2

**What would they do?**  
Candidates for lieutenant governor read over some questions about how they would handle VI insurance troubles, Tuesday, during a forum at Gertrude's Restaurant. See story on page 3.

Dan Tomphey

# DIRT: Sen. Donastorg investigated

FROM PAGE ONE

Of course, we will give an audit report to attorney Weiss that our investigation is in regard to the Senator."

Donastorg, in a radio address Monday morning, said his "efforts to prevent and inform consumers" prompted the investigation to find evidence of impropriety on his part.

"This has been going on for nearly four years and, to date, they have found nothing," Donastorg said. "I am telling you this today because I think it's important everyone know exactly how far this corporation is willing to go to protect itself from any kind of scrutiny."

"I am calling on ICC for an explanation," Donastorg said. He said ICC's intention was an attempt at discrediting him because he has "gotten too close."

"I have exposed many of their schemes to rip you off and it's costing them both money and their credibility," he said.

However, Redfield offered an explanation for the background investigation, noting that the move was not unusual for a company, whether the individual be a private or public citizen, if they are believed to pose an adverse impact on the company's name.

Sen. Donastorg's repeated public attacks on ICC several years ago raised some serious questions regarding these attacks which were slanderous, unfounded, relentless and mean-spirited," Redfield said. "The company believed they may have been prompted by his efforts to curry favor with a competitor of ICC."

Redfield cited as an example an allegation that Donastorg received free travel from a competitor on their corporate aircraft to the St. Lucia Jazz Festival as a "perk." Without disclosing the identity of that or any other company alluded to in his statement,

Redfield said Donastorg consistently supported the competitor and others, prompting the investigation.

"It should be further noted that ICC hired a licensed investigation firm to conduct this investigation and to the best of ICC's knowledge, the investigation was conducted professionally and did not violate any laws," Redfield said. "However, the timing and source of the release of a four-year-old file at this time is both troubling and suspicious."

He said the investigation ended "sometime around 1998."

But Donastorg said he is unsettled by the ordeal and believes ICC has hired people to follow him even now.

"It's kind of scary at this point. The sad part about it is to think they are using money from a public utility to pay for this," Donastorg said.

ICC, formerly Atlantic Tele-Net Co. (ATN), paid Sherwin and Associates \$6,588 in a check dated June 25, 1998. That check was signed by Prosser and Thomas Minnich, former ICC chief operating officer. Current ATN Chairman and Chief Executive Officer Cornelius Prior, whose company was co-owned by Prosser before 1998, said he knew nothing of the investigation, as he and Prosser had not been in business together for several months by the time that check was cut.

Donastorg said ICC's deal with him began in 1998 when he questioned the phone company's receipt of a 100-percent tax break and began calling for a rate investigation by the Public Services Commission.

"I have done nothing wrong," Donastorg said. "I am here helping my mother, my father, my friends, every friend I have. This was an invasion of all these people's privacy."

Part II: Thursday



Sen. Donastorg

## Back yard fun

Ysatis Peiner, 6, swings a hoola-hoop Tuesday afternoon outside her home in Christiansted.

**#16 UP FOR #16**

**HIRE SENATOR**

**RAYMOND "USIE" RICHARDS**

Political Action Committee Presents

---

**GRAND QUADRILLE DANCE**

FRIDAY, OCTOBER 4, 2002

**ST. GERARD'S HALL FREDERIKSTED**

Music By Stanley and the Ten Sleepless Knights

MUSIC STARTS AT 10 PM TICKETS \$5 AT THE DOOR \$7

---

**SATURDAY OCTOBER 12**

**"A GRAND ALL KIND A SOUP SALE"**

Christian, Shan, Hendricks Veggieable Market

Beginning at 11:30 pm Music By DJ COMCOMBO

Part of the Business Planning Action Committee

## STRIKE: Telephone and cable workers vote for strike

FROM PAGE ONE

represent all Innovative Telephone workers, ranging from journeymen to technicians, he added.

But Saut said he hoped services would not be affected and workers would return to work out of concern for customers.

"Although there was no new agreement, I would encourage our workers to report to work and carry out their duties as they have in the past," Ebbeson said.

"I am deeply disappointed we haven't been able to agree on a new bargaining agreement, but we

intend to continue negotiating in good faith."

"There is a sense of 'oneness' among the team we have here, and I have every expectation they will continue to provide top quality service."

Despite Ebbeson's call to work, Allen expected none of 310 employees to report for duty Wednesday.

The strike, Allen added, would be the first by Virgin Islands telephone workers since 1977.

Innovative is trying to break the union, Allen said. "But we're united. As of now, the workers are on strike."

There was, however, a glimmer of hope for a prompt resolution to the labor stalemate.

Both Ebbeson and Allen said they were anxious to return to the bargaining table and reach a compromise.

"We're flexible," Allen said. "By taking this action we're hoping to change (Innovative's) position."

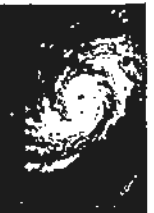
"We have a very stable workforce and we have a good relationship with the company. But the workers have made up their mind that there has to be some kind of pension and benefits increase in the contract."

LJR 0002

**FIL B playoffs**  
Giants take Game One against Atlanta Sports



**Hawkish**  
Senate, House rally behind Iraq war resolution Inside



**Monster storm**  
Gulf Coast braces for Lili's 140 mph winds Inside



# St. Croix *Almiz*

USVI 158th YEAR

THURSDAY, OCTOBER 3, 2002, NO. 226

50¢

# Senator strikes back

VALERIE LOVETT

**ST. CROIX** — Sen. Adiah Donastorg is urging the Public Services Commission to look into allegations that a local utility paid over \$100,000 in 1998 to investigate him, his family, coworkers and campaign contributors.

In an Oct. 1 letter addressed to PSC Chairman Desmond Maynard, Donastorg said he is in possession of checks written from a corporate account belonging to what is now Innovative Communication Corporation to fund the inquiry.

"If Vitelco paid for this investigation," Donastorg wrote, "aren't ratepayers then ultimately paying for a private company to stalk and harass a public official?"

He also asked Maynard whether ICC's action constitutes an abuse of privileges to operate in the territory as a monopoly with 100-percent tax benefits.

## Donastorg urges PSC to scope allegations that Innovative paid \$100,000 to dig up dirt on him

Further, if Vitelco can use its immense resources to try and embarrass or ruin me, couldn't they do the same to any member of the PSC that happens to disagree with their position now or in the future?" Donastorg said.

Donastorg urged the PSC to examine the legality of using regulated money for such an investigation, adding that it was conducted with the clear intention of uncovering negative information in an effort to discredit, intimidate and destroy him.

In a press release issued Wednesday, Donastorg said ICC for several years has been working to silence efforts to protect consumers from being overcharged by the utility. The senator said he learned of the investigation last week and was compelled to release the files to the media in order to protect his family.

"I know the community would share my shock and horror at the idea of a private company investigating, not just me, but dozens of other Virgin

islanders," Donastorg said. "What is almost amusing is that their own investigators had to tell Vitelco in this report that I had no skeletons and was generally well liked in the community," he said. "The only negative things I said about me came from an anonymous source — I mean they were totally fabricating stuff that is so ridiculous no one could possibly believe it."

One of those sources said it was rumored that Donastorg is bisexual and "keeps" a young boy and another commented about rumors of extramarital affairs. Those same reports, sent to ICC Security Director Oakland Benta from private investigation firm Dennis Sherwin and Associates, included confidential banking information about the senator as well as his Social Security number and those of sev-

SENATOR, PAGE 2



## Audit blasts Personnel Division office on STX

Some applicants for gov't jobs given preferential treatment, auditors report

EXHIBIT  
145



# SENATOR: Donastorg strikes back at Innovative

FROM PAGE ONE

eral officers apparently being monitored.

Donastorg pointed out in his letter to Maynard that ICC used a New York investigative firm to access his bank accounts and their balances.

The firm also made several "pre-text calls" to obtain information about Donastorg under false pretenses. One of those contacted was attorney Jeffrey Weiss for information about a client he represented in a federal criminal case. "Of course, we will give no indication to attorney Weiss that our investigation is in regards to the senator," the report said.

Other calls were made to a medical supply company Donastorg owns, the report said, and Donastorg unknowingly gave infor-

mation about the company and its assets to the investigators.

These calls, according to billing records from Sheraw and Associates, were made from The VI Daily News, a company owned by ICC, on May 15, 1998.

In response to Donastorg's release of information about the investigation, ICC Vice President of Corporate Affairs and former Sen. Holland Redfield said the move came on the heels of repeated public attacks by Donastorg toward ICC, which Redfield called "slandrous, unfounded, relentless and irreun-spirited."

"The company believed they may have been prompted by his efforts to curry favor with a competitor of ICC," he said.

But Donastorg dismissed Redfield's statement as "entirely ludicrous."



Sen. Adlan Donastorg

"There was nothing even about this in the dossier," Donastorg said. "Redfield is fabricating this only now in order to try to justify Vidler's extreme actions."

# AUDIT: Inspector General's Office finds shenanigans

FROM PAGE ONE

names of certain individuals seeking employment in favor of others, giving preferential treatment to Clintons over others of differing ethnic backgrounds.

Although the Inspector General's Office found there was insufficient evidence to file criminal charges against the supervisor, a civil suit could be filed allegedly violating the federal Civil Rights Act, according to the audit.

The audit also found no evidence that pre-employment tests were being sold, but an undercover investigation did find many tests already marked with the correct answers before being distributed to the job applicants.

An undercover agent was sent to the St. Croix Personnel Office in November to apply for employment for a law-enforcement and corrections position, which required a pre-employment test. An unnamed employee at the department gave the agent both copies of the tests with many of the answers to the test questions marked, according to the investigation.

When the agent took the test to become a corrections officer in December, many of the answers were already marked on the tests, according to the Inspector General's report.

The undercover agent's application file soon disappeared, leading the Inspector General's office to believe employees at the division "learned of this

were already marked on almost all the test booklets kept in an unlocked file cabinet in an administrator's office, according to the audit.

"This general lack of security, the breach of basic testing protocol and failure to properly monitor examinations may explain the rumors that pre-employment tests were being sold by Personnel employees," the audit said. "The conduct is outside the accepted norms of testing, a conflict with established office procedures and probably violates the VI Code of Ethics."

Among other findings and violations of conduct by the Inspector General's office included:

- Pieces of unopened mail found on a supervisor's desk not addressed to that individual, including one sent from a former government employee to the Government's Group Insurance Office that had "apparently been intercepted by this supervisor for unknown reasons, and not forwarded to the person for whom it was intended."
- Materials indicating a supervisor had been doing work for a church and "other personal interests" while working at the Personnel Division.
- Reports of employees frequently leaving work on personal business without checking out.

Barry did not return calls seeking comment, but in a letter to Inspector General Steven Van Beverhout said her office would comply with a list of recommendations contained in the audit and that

# Police blotter

ST. THOMAS

Arrest: 4:15 p.m. Tue., Jannal Arthur, 20, of Nadir, was charged with possession of ammunition after police said he was found with a .380 caliber ammunition in his pants pocket. Bail was set at \$25,000.

10:30 a.m. Wed., Laura E. Brooks, 39, of Nadir, was charged with theft by deception after police said she was arrested under a warrant issued by Glen County, Ga. No bail was set.

Assault: 4:30 p.m. Mon., Anna's Fancy, 8:46 a.m. Tue., Boyoni, 5:25 p.m. Tue., Sugar Estate, Burglaries: 5:59 a.m. Tue., Silke Gade, 7:10 a.m. Tue., Friendly Supermarket, 6:26 p.m. Tue., Boyoni, 9:01 a.m. Wed., Bierge Gade, Larccenies: 10:12 a.m. Tue., Nisky Center, 12:50 p.m. Tue., Havensight, 3:58 p.m. Tue., Havensight, Robbery: 2:32 p.m. Tue., Boyoni, File: 11:28 p.m. Mon., area of

Mountain Top, ST. CROIX

Arrest: 8:25 a.m. Wed., George Ventura, 36, of 29-C Mon Bijou, was charged with grand larceny. He was arrested on a warrant issued by Territorial Court Judge Edgar Ross.

Assault: 5:57 p.m. Mon., reported from Juan Luis Hospital, 8:15 p.m. Mon., Lorraine Village, 12:39 p.m. Tue., Barren Spot, 3:28 p.m. Tue., Harvey housing community, 9:54 p.m. Tue., Estate Profit, Burglaries: 4:31 p.m. Mon., Concordia Manor, Fredricksted, 4:38 p.m. Mon., La Grande-Princesse, 2:30 a.m. Tue., Sunny Isle, 9:31 a.m. Tue., Estate Carlton, 4:03 p.m. Tue., Estate SI John, 4:16 p.m. Tue., Castle Cockley, Larccenies: 6:07 p.m. Tue., Catherine's Rest, 8:25 a.m. Wed., Department of Justice.

# The plot thickens

## Sen. Donastorg seeks to add more charges in lawsuit against Innovative

ANAL. BRUCE

**ST. CROIX** — Just days after being the Public Services Commission to probe allegations of Innovative Communications Corporation using company funds to pay for an investigation of Sen. Donastorg, the territorial court is asking the Territorial Court to allow him to amend his earlier lawsuit filed against ICC to include new charges.

The complaint, which was filed Thursday in Territorial Court on St. Thomas by Attorney Lee Baker, seeks to amend a suit he filed in March, when the senator charged that the VI Daily News offered its reporter, James, to write slanted articles about him.

In the original suit, Donastorg claimed the Daily News deliberately printed falsehoods to deny his reputation, and refused to retract stories when they were proved to be incorrect.

In the complaint filed Thursday,

Donastorg alleged that a \$100,000 investigation paid for by ICC — which went on for months — was to get information about Donastorg's bank account records and balances — was for the purpose of intimidating the senator by digging up dirt on him.

According to a statement issued Wednesday, Donastorg said ICC for several years has been working to silence him because of his efforts to protect government from being overcharged by the state.

According to Baker, the amended suit was also in response to ICC Vice President for Corporate Affairs Richard Haddock's statement on a radio program that repeated allegations and accusations that

Donastorg accepted bribes and kickbacks from AT&T.

The suit said Haddock, in an attempt to defame and slander the senator's reputation, also repeated allegations on radio that Donastorg was on a private AT&T plane to the St. John's Festival.

Baker said this was not the end. The attorney said after conducting investigations, he found that Donastorg never took any kickbacks or fees on any private plane that belonged to AT&T.

Baker went on to say that the false accusations against Donastorg and the investigations into his private life were simply an attempt by ICC owner Jeffrey Prosser to protect his company.

"We as attorneys do not have the person who owns the telephone company, the cable company, the newspaper and other companies, who can threaten his power and investigate a senator — and who knows who else — as far as I know, there is no one to protect his reputation," Baker said. ICC's holdings include the Daily News and Interactive Telephone Company.

"I hope a jury gets a hold of how and could him out of this territory with his suit between his legs."

Haddock, who was questioned Thursday for comment on the amended suit, said he had not yet received a copy of it and would not comment.

He also said it would be inappropriate for him to speak of any legal issues concerning the company.

Haddock said regardless of what has been stated, he is confident it will be vindicated of any wrongdoing.

## Heath Department maps out anti-smoking campaign

CHESTER'S HARTY

**ST. CROIX** — It's an addiction stronger than heroin or cocaine, but you can buy it for just \$2.50 at your local grocery store. Now, the Department of Health is seeking ways to help those hooked on cigarettes.

The new anti-smoking campaign will be a five-year plan that would try more aggressively to weed tobacco addiction from the territory.

Previous DOH anti-smoking programs have focused on educating non-addicted non-smokers about the dangers of things like side street smoke. But now, the DOH will specifically try to target smokers, and program administrator Sandra Petersen.

Petersen said the program is still in the planning stages and would be an anti-smoking campaign. She did not disclose what they propose to do.

However, additional funds tend to fund programs called "quitlines," in which specialists speak in tobacco-addicted consumers via telephone.

And according to tests done at University of California at San Diego and reported in the New

England Journal of Medicine, smokers who get counseling stopped smoking at twice the rate as those who did not.

To test California quitlines, researchers counted 3,063 calls in the study. All received a packet of self-help information to call with instructions to call back a counseling counselor.

After a month, 81 percent of those who got counseling had quit, compared with 10 percent of those who did not get counseling.

Most of the state quitlines were started in the last three years, and some states are using their share of the of the 1998 national tobacco settlement to pay for them.

Supporters of the quitlines say telephone services are particularly effective because they reach more people than group programs. Via the telephone, someone who is trying to quit could access the service of home to deal with cravings or dangers.

"For this reason, we think have authorized an telephone counseling service for smokers trying to quit."

The DOH has looked into counseling by fax or the mail as anti-smoking campaign. The next meeting is scheduled for Oct. 13.

## Dominican in immigrant smuggling case gets jail time

BARBARA WELLS

**ST. THOMAS** — A Dominican man has been sentenced to a 1 1/2 years in prison in connection with the smuggling of a hundred of illegal immigrants July 18, 2001, that resulted in six deaths.

Dominican Gregory Davis was sentenced by District Judge Thomas Moore, who also gave Davis credit for time already served. Davis had been incarcerated since the incident.

Davis could have received the death penalty if convicted of the criminal charge of alien smuggling resulting in death. A plea agreement was reached that Davis would plead guilty to one count of acting as an accessory after the fact. He would have faced a possible maximum sentence of 15 years in prison.

The 33-foot single-engine boat, Double Impact, was carrying nearly 30 illegal immigrants from Haiti, Dominican Republic when it capsized following an early morning chase by the U.S. Coast Guard cutter Cushing. Six people, including a 9-year-old girl, were confirmed dead in the incident and a 7-year-old boy is still missing and presumed dead.

The court recommended that Davis serve his sentence in a Florida prison and participate in an inmate Financial Program. Following the acceptance of his sentence he will be placed on three years supervised release.

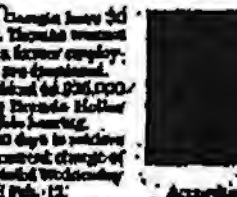
A jury in December found two other men involved in the incident — Andrew Davis of Dominican and Robert Pagan of St. Thomas — not guilty on six counts of alien smuggling resulting in death and 17 counts of jeopardizing lives in connection with the sinking of the ship named Double Impact last July.

## St. Thomas woman arrested on warrant in Georgia theft


**ST. THOMAS** — Authorities in Georgia have 30 days to retrieve a 28-year-old St. Thomas woman accused of stealing \$20,000 from a former employer or liable the biggest amount her previous employer.

Laura T. Brooks, of St. Thomas, was placed on \$20,000 bond by Territorial Court Judge Brenda Holter Thursday during her return to St. Thomas. Holter gave Georgia authorities 30 days to retrieve Brooks before she otherwise her current charge of theft by deception. Brooks was arrested Wednesday night on a Georgia warrant issued Feb. 12.

Brooks is wanted on a theft by deception charge for allegedly stealing the money from a former employer. Brooks, 28, had her warrant set in March 2001.



According to court documents on March 28, 2001, Brooks was found taking cash payments from hotel guests and then placing their charges on an American Express account and keeping the cash for personal use.

 <p>US Virgin Islands Gaming &amp; Lottery VGC</p>	<p><b>PICK 3</b></p> <p>WEDNESDAY 1st Draw - 888 2nd Draw - 888 3rd Draw - 888</p>	<p><b>PICK 4</b></p> <p>WEDNESDAY 1st Draw - 3888 2nd Draw - 8887 3rd Draw - 8818</p>	<p><b>1-800-365</b></p> <p>22 28 21 7</p>	<p><b>LOTTO</b></p> <p>WEDNESDAY 11:00 PM 21 28 21 21 21</p>
	<p>THURSDAY 1st Draw - 887 2nd Draw - 888 3rd Draw - 848</p>	<p>THURSDAY 1st Draw - 8887 2nd Draw - 8818 3rd Draw - 1788</p>	<p><b>CURRENT JACKPOT</b> FOR NEXT DRAW DATE: Oct. 5, 2002 <b>USD\$ 602,785</b></p>	<p>FREE TICKET LETTER <b>C</b></p>
	<p>FRIDAY 1st Draw - 888 2nd Draw - 878 3rd Draw - 818</p>	<p>FRIDAY 1st Draw - 8887 2nd Draw - 8818 3rd Draw - 1788</p>		
	<p>St. Thomas: Port of Sale, Doughnut - St. George: Supply 1st, Shopping Center (Hotline: 340-713-7230)</p>			

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.

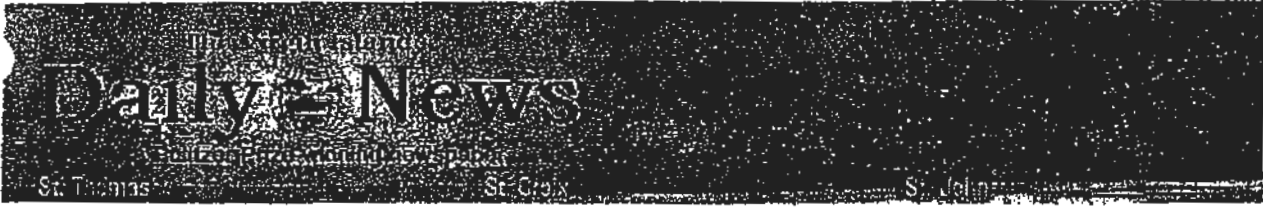
The fact that Sen. Donastorg states the GERS should "be happy to pay out (the 4 percent interest) as it is only a pittance compared to what they would owe any employee that chooses to retire with the system," shows how little he understands about investing money for the long term.



JA003067



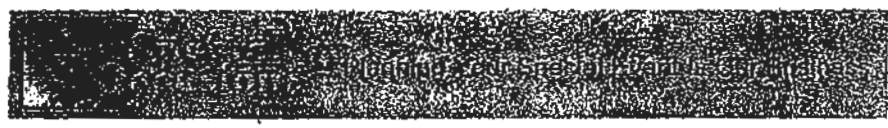
AUG 10 2004



Business directory keyword search:

Category: All

- Classifieds
- General
- Real Estate
- Employment
- Cars
- Classified Ad Placement



- St. 1
- St. 2
- St. 3
- St. 4
- St. 5
- St. 6
- St. 7
- St. 8
- St. 9
- St. 10
- St. 11
- St. 12
- St. 13
- St. 14
- St. 15
- St. 16
- St. 17
- St. 18
- St. 19
- St. 20
- St. 21
- St. 22
- St. 23
- St. 24
- St. 25
- St. 26
- St. 27
- St. 28
- St. 29
- St. 30
- St. 31
- St. 32
- St. 33
- St. 34
- St. 35
- St. 36
- St. 37
- St. 38
- St. 39
- St. 40
- St. 41
- St. 42
- St. 43
- St. 44
- St. 45
- St. 46
- St. 47
- St. 48
- St. 49
- St. 50

- Newspaper Sections
- Home
- My VI Daily News
- Business
- Sports
- Features
- Editorial Opinion
- Obituaries
- Records
- Local Calendar
- Menu du Jour
- Business Directory
- Specials & Coupons
- Online Media Kit
- Print Advertising
- Wedding Guide
- Contact us

Full Story

Click headline to enlarge

**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. Adiah 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

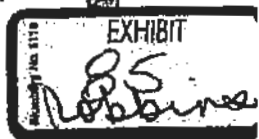
Search

Keyword

Type

- Featured Links
- Food Reference
- Links
- Stabroeknews
- TrinidadExpress
- The Tobagonews
- Newspaper Directory

AD 0025




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 Landos is crowned St. John Junior Miss »](#)
- [Two St. Kitts politicians arrested amid voters' list flap »](#)
- [Montserrat looks to cash in on ash from Soufriere Hills volcano »](#)

**Plant Depot**  
*& Garden Center*

We service  
St. John



[Home](#) | [My VI Daily News](#) | [Business](#) | [Sports](#) | [Features](#) | [Editorial Opinion](#)  
[Obituaries](#) | [Records](#) | [Local Calendar](#) | [Online Media Kit](#)  
[Print Advertising](#) | [Contact us](#) | [Terms of use](#) | [Need Help?](#)

© Virgin Islands Daily News

Powered by [CPSG Software Inc.](#)

AD 0026

JA003069

# The Daily News of the Virgin Islands

Founded Aug. 1, 1930, by J. Antonio Jarvis and Ariel Melchior Sr.

## Editorial Board

Ariel Melchior Jr. Publisher  
774-8772 ext. 351  
amelchior@dailynews.vi

Edwin C. Crouch ICC Vice President  
719-1582  
edcrouch@vipowernet.net

## 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 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 state 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 roosters then fight to the death. The surviving rooster wins. Razor-sharp knives are often tied to the roosters' 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 presences of young children at cockfights is disturbing because exposure to such brutality "can promote insensitivity toward animal suffering and enthusiasm for violence." (Free admission is routinely granted to children under 12-years-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. Adlah Donastorg. This legislation needs more work.

# Hurricanes and our place on this

Dr. Paul Leary, professor emeritus of political science, University of the Virgin Islands, is a contributing columnist for The Daily News.



Paul Leary

As if we needed a reminder that we are once again in that dangerous time of year, the recent devastating passage of Hurricane Charley through Central Florida revived painful memories.

Houses were torn apart, lives lost, and finances ruined. Blue FEMA taps once again bloomed.

The unpredictability of the storm meant that even evacuation plans, were of no avail. The winds burst ashore in an unexpected place. So once again we become regular viewers of the Weather Channel's tropical update, watching as disturbances form off the coast of Africa, waiting to see if they will grow and acquire that deadly swirling signature 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 hunker 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 thin surface skin that masks 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 what emergency supplies to store and how to prepare our homes. Emergency plans and responses have been refined. Infrastructure, such as buried key electrical lines, has been put in place. But what if we have been focusing on the wrong threat?

We live in a geologically active zone. Deep below lies huge plates that grind against each other, building up

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?

Minor earth tremors felt on a regular basis since we have not experienced a major quake more than 100 years there is no geological equivalent to the Virgin Channel, we have become complacent.

We continue to build a landfill that will turn to jello if a major jolt. We construct homes with concrete columns that break like matchsticks when they overlook. We have not the faintest idea what to do if an earthquake strikes.

unimaginable pressures. Virgin Islands such as St. John are built on a shaky basis. But since we have experienced a major quake in the

# Lesson for N.J.'s McGreevey and others: You must

James McGreevey is not a hero. That's the first thing we need to get straight.

To the contrary, press reports on the embattled New Jersey governor detail an administration so steeped in corruption that it has become a

Cipel. Cipel, however, has denied both the affair and the extortion allegation. He says he was the victim here, repeatedly subjected to McGreevey's unwanted sexual advances.

Whichever version of the tale you choose to buy, it's clear the governor



1976 founded an organization called Exodus. Its stated mission "freedom from homosexual power of Christ."

Exodus is still around, and Busse are no longer a threat. The two men left the gr

<b>VITELCO PERSONNEL TRANSACTION FORM (ER20)</b>				EFFECTIVE DATE THIS ACTION MONTH 01 DAY 12 YEAR 99			
NAME (LAST, FIRST, MIDDLE INITIAL) #9014 Redfield II, Holland				TYPE OF ACTION Enter on payroll			
PRESENT				PROPOSED (Blank if no change)			
ORGANIZATION, LOCATION (CITY) EreCOM				ORGANIZATION, LOCATION (CITY)			
POSITION TITLE Director, Gvt Aff. & <sup>Emp</sup> Dev.				POSITION TITLE Dev.			
POSITION GRADE & RANGE				POSITION GRADE & RANGE			
GR.	MINIMUM	MID	MAXIMUM	GR.	MINIMUM	MID	MAXIMUM
SALARY BASE \$ [REDACTED]				SALARY BASE			
SALARY WITH PREMIUMS AND ALLOWANCES *				SALARY WITH PREMIUMS AND ALLOWANCES *			
SERVICE DATE 01/12/1999				AMT. & % OF INC.		MOS. SINCE LAST INC.	
DATE ENTERED PRESENT POSITION 01/12/1999				<input type="checkbox"/> W/IN <input type="checkbox"/> EXCEPTION <input type="checkbox"/> OTHER POLICY			
PAYROLL DESTINATION <input type="checkbox"/> VITELCO <input type="checkbox"/> OTHER (SPECIFY)							

OTHER ACTION RECOMMENDED OR COMMENTS ON ABOVE

DOB: 04/10/43

DOB: 01/12/99

SS#: [REDACTED]

Address: P.O. Box 26562  
Christiansted  
St. Croix, V.I. 00824

\* LIST PREMIUMS AND ALLOWANCES:

REVIEWS & APPROVALS		ATTACHMENTS		<input type="checkbox"/> SUPPORTING MEMO <input type="checkbox"/> OTHER: _____		
ROUTING	NAME	INITIAL	DATE SIGNED	THIS SPACE FOR PAYROLL SECTION ONLY		
	T. Minnich			<div style="border: 2px solid black; padding: 5px; display: inline-block;">                     EXHIBIT 96                 </div>		
	B. Chongasing					
				SOCIAL SECURITY NUMBER		

<b>VITELCO PERSONNEL TRANSACTION FORM (ER20)</b>				EFFECTIVE DATE THIS ACTION MONTH 02 DAY 22 YEAR 99			
NAME (LAST, FIRST, MIDDLE INITIAL) #9014 Reulfield, Hollana				TYPE OF ACTION Transfer			
PRESENT				PROPOSED (Blank if no change)			
ORGANIZATION, LOCATION (CITY) EmCOM - SIX				ORGANIZATION, LOCATION (CITY) Vitelco			
POSITION TITLE Dir., Gvt. Aff. & Empl. Dev.				POSITION TITLE Dir., Gvt. Aff. & Empl. Dev.			
POSITION GRADE & RANGE				POSITION GRADE & RANGE			
GR.	MINIMUM	MID	MAXIMUM	GR.	MINIMUM	MID	MAXIMUM
SALARY BASE \$ [REDACTED]				SALARY BASE \$ [REDACTED]			
SALARY WITH PREMIUMS AND ALLOWANCES * N/A				SALARY WITH PREMIUMS AND ALLOWANCES * N/A			
SERVICE DATE 02/22/99				AMT. & % OF INC.		MOS. SINCE LAST INC.	
DATE ENTERED PRESENT POSITION 01/12/99				<input type="checkbox"/> W/IN <input type="checkbox"/> EXCEPTION <input type="checkbox"/> OTHER POLICY			
				PREVIOUS INCREASES (Om) if no salary change			
				DATE			
				AMOUNT			
				%			
				TYPE			
				PAYROLL DESTINATION <input type="checkbox"/> VITELCO <input type="checkbox"/> OTHER (SPECIFY)			

OTHER ACTION RECOMMENDED OR COMMENTS ON ABOVE

\* LIST PREMIUMS AND ALLOWANCES:

<b>REVIEWS &amp; APPROVALS</b>		<b>ATTACHMENTS:</b>		<input type="checkbox"/> SUPPORTING MEMO    OTHER: <input type="checkbox"/> _____		
ROUTING	NAME	INITIAL	DATE SIGNED	THIS SPACE FOR PAYROLL SECTION ONLY		
	J. Chongasing					
	S. Ebbesen					
	T. Minnich					
				SOCIAL SECURITY NUMBER		

icc

PERSONNEL ACTION NOTIFICATION

Personal and Confidential

(PAN#) 0028

Nature of Action (Check all that apply)			Effective Date of Action		
<input type="checkbox"/> New Employee	<input checked="" type="checkbox"/> Transfer	<input type="checkbox"/> Promotion	Month 11	Day 24	Year 99
<input type="checkbox"/> Position Change	<input type="checkbox"/> Leave of Absence	<input type="checkbox"/> Termination	Date Prepared		
<input type="checkbox"/> Rate Change	<input type="checkbox"/> Change of wage hour status	<input type="checkbox"/> Other	Month 12	Day 09	Year 99

EMPLOYEE'S NAME: (Last, First, Middle Initial)	Employee #	Date of Birth (Month, Day, Year)	
Redfield, Holland	9014	[REDACTED]	
Mailing Address: P.O. Box 26562 C'sted, St.Croix, VI 00824		Social Security Number	Sex: Male <input checked="" type="checkbox"/> Female <input type="checkbox"/>
		[REDACTED]	

PRESENT	PROPOSED	Previous Increases (Omit if no salary change)			
ORGANIZATION: (Island) Vitelco	ORGANIZATION (Island) icc	Date			
Position Title Dir.Gvt. Affairs&Empl.Dev	Position Title V.P. of Corporate Affairs	Amount			
Pay Grade	Pay Grade	%			
Salary Base \$ [REDACTED]	Salary Base \$ [REDACTED]	Type			
Salary with Premiums and Allowances *	Salary with Premiums and Allowances *				
Service Date 1/12/99	AMT. & % INC.	PAYROLL DESTINATION			
Check All That Apply <input checked="" type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent <input type="checkbox"/> Leased <input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt	Check All That Apply <input checked="" type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent <input type="checkbox"/> Leased <input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt	<input type="checkbox"/> Vitelco <input checked="" type="checkbox"/> iCC <input type="checkbox"/> Cable <input type="checkbox"/> Daily News <input type="checkbox"/> Other (specify) _____			

LIST PREMIUMS & ALLOWANCES, AND OTHER ACTION RECOMMENDED OR COMMENTS ON ABOVE

ROUTING: REVIEWS & APPROVALS			THIS SPACE FOR PAYROLL SECTION ONLY
NAME	INITIAL	DATE SIGNED	
B. Chongasing	[Signature]	12.9.99	
M. Cumbermack	[Signature]	12/9/99	
T. Minnich	[Signature]	12/10/99	

iCC

**PERSONNEL ACTION NOTIFICATION**

Personal and Confidential

(PAN) # 1929

<b>Nature of Action (Check all that apply)</b> <input type="checkbox"/> New Employee <input type="checkbox"/> Transfer <input type="checkbox"/> Promotion <input type="checkbox"/> Position Change <input type="checkbox"/> Leave of Absence <input type="checkbox"/> Termination <input type="checkbox"/> Rate Change <input type="checkbox"/> Change of wage hour status <input type="checkbox"/> Other _____	<b>Effective Date of Action</b>	
	Month _____ Day <u>22</u> Year <u>01</u>	<b>Date Prepared</b>
	Month <u>1</u> Day <u>22</u> Year <u>01</u>	

<b>EMPLOYEE'S NAME: (Last, First, Middle Initial)</b> Bedfield, Rolland	<b>Employee #</b>	<b>Date of Birth (Month, Day, Year)</b> [REDACTED]
<b>Mailing Address:</b>	<b>Social Security Number</b>	<b>Sex:</b> Male ___ Female ___

PRESENT		PROPOSED		Previous Increases (Omit if no salary change)			
<b>ORGANIZATION: (Island)</b> iCC	<b>ORGANIZATION: (Island)</b> Same	<b>Date</b>					
<b>Position Title</b> VB Corporate Affairs	<b>Position Title</b> Same	<b>Amount</b>					
<b>Pay Grade</b>	<b>Pay Grade</b>	<b>%</b>					
<b>Salary Base</b> \$ [REDACTED]	<b>Salary Base</b> \$ [REDACTED]	<b>Type</b>					
<b>Salary with Premiums and Allowances *</b>	<b>Salary with Premiums and Allowances *</b>						
<b>Service Date</b> 1/12/99	<b>AMT. &amp; % INC.</b>	<b>PAYROLL DESTINATION</b>					
<b>Check All That Apply</b> <input checked="" type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent <input type="checkbox"/> Leased <input type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt		<b>Check All That Apply</b> <input checked="" type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent <input type="checkbox"/> Leased <input type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt		<input type="checkbox"/> Vitelco <input type="checkbox"/> iCC <input type="checkbox"/> Cable <input type="checkbox"/> Daily News <input type="checkbox"/> Other (specify) _____			

LIST PREMIUMS & ALLOWANCES, AND OTHER ACTION RECOMMENDED OR COMMENTS ON ABOVE

ROUTING: REVIEWS & APPROVALS			THIS SPACE FOR PAYROLL SECTION ONLY
NAME	INITIAL	DATE SIGNED	
A. Cho. Gasling			
B. [REDACTED]	1/11	1/23/01	
T. [REDACTED]	[REDACTED]	1/23/01	

ICC

**PERSONNEL ACTION NOTIFICATION**

Personal and Confidential

(PAN) # 2822

Nature of Action (Check all that apply)			Effective Date of Action			
<input type="checkbox"/> New Employee	<input type="checkbox"/> Transfer	<input type="checkbox"/> Promotion	Month	07	08	2002
<input type="checkbox"/> Position Change	<input type="checkbox"/> Leave of Absence	<input type="checkbox"/> Termination	Day			Year
<input checked="" type="checkbox"/> Rate Change	<input type="checkbox"/> Change of wage hour status	<input type="checkbox"/> Other _____	Date Prepared			
			Month	07	16	2002
			Day			Year

EMPLOYEE'S NAME: (Last, First, Middle Initial) <u>Rodfield, Holland</u>	Employee # <u>9014</u>	Date of Birth (Month, Day, Year) [REDACTED]
Mailing Address: <u>P.O. Box 26562, GB St. Croix 00824</u>	Social Security Number [REDACTED]	Sex: Male <input checked="" type="checkbox"/> Female _____

PRESENT	PROPOSED	Previous Increases (Omit if no salary change)	
ORGANIZATION: (Island) <u>ICC</u>	ORGANIZATION (Island) <u>ICC</u>	Date	<u>1/22/01</u>
Position Title <u>VP Corporate Affairs</u>	Position Title <u>Same</u>	Amount	\$ [REDACTED]
Pay Grade <u>Grade 20</u>	Pay Grade <u>Grade 20</u>	%	<u>2</u>
Salary Base [REDACTED] \$ [REDACTED]	Salary Base [REDACTED]	Type	<u>Rate Change</u>
Salary with Premiums and Allowances *	Salary with Premiums and Allowances *		
Service Date <u>1/12/99</u>	AMT. & % INC \$ [REDACTED]	<b>PAYROLL DESTINATION</b>	
Check All That Apply <input checked="" type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Leased <input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt	Check All That Apply <input checked="" type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Leased <input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt	<input type="checkbox"/> Vitelco <input checked="" type="checkbox"/> iCC <input type="checkbox"/> Cable <input type="checkbox"/> Daily News <input type="checkbox"/> Other (specify) _____	

LIST PREMIUMS & ALLOWANCES, AND OTHER ACTION RECOMMENDED OR COMMENTS ON ABOVE

ROUTING: REVIEWS & APPROVALS			THIS SPACE FOR PAYROLL SECTION ONLY
NAME	INITIAL	DATE SIGNED	
<u>Bi Chongesing</u>	<u>HC</u>	<u>7-17-02</u>	
<u>J. Heying</u>	<u>HC</u>	<u>7-17-02</u>	



ICC

**PERSONNEL ACTION NOTIFICATION**

Personal and Confidential

No. 3840  
(PAN) #

Nature of Action (Check all that apply) <input type="checkbox"/> New Employee <input type="checkbox"/> Transfer <input type="checkbox"/> Promotion <input type="checkbox"/> Position Change <input type="checkbox"/> Leave of Absence <input type="checkbox"/> Termination <input checked="" type="checkbox"/> Rate Change <input type="checkbox"/> Change of wage hour status <input type="checkbox"/> Other _____	Effective Date of Action Month 01    Day 01    Year 04		
	Date Prepared Month 01    Day 07    Year 04		

EMPLOYEE'S NAME: (Last, First, Middle Initial) <b>REDFIELD II, Holland</b>	Employee # <b>9014</b>	Date of Birth (Month, Day, Year) [REDACTED]
Mailing Address: <b>P.O. Box 26562, GB St.Croix 00824</b>		Social Security Number [REDACTED]
		Sex: Male <input checked="" type="checkbox"/> Female <input type="checkbox"/>

PRESENT	PROPOSED	Previous Increases (Omit if no salary change)		
ORGANIZATION: (Island) <b>ICC</b>	ORGANIZATION (Island) <b>ICC</b>	Date	<b>1/01</b>	
Position Title <b>VP Corporate Affairs</b>	Position Title <b>VP Corporate Affairs</b>	Amount	<b>[REDACTED]</b>	
Pay Grade <b>21</b>	Pay Grade <b>21</b>	%	<b>[REDACTED]</b>	
Salary Base \$ [REDACTED]	Salary Base \$ [REDACTED]	Type		
Salary with Premiums and Allowances * \$ [REDACTED]	Salary with Premiums and Allowances * \$ [REDACTED]			
Service Date <b>1/12/1999</b>	AMT. & % INC.	<b>PAYROLL DESTINATION</b> <input type="checkbox"/> Vitelco <input checked="" type="checkbox"/> ICC <input type="checkbox"/> Cable <input type="checkbox"/> Daily News <input type="checkbox"/> Other (specify) _____		
Check All That Apply <input checked="" type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Leased <input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt		Check All That Apply <input checked="" type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Leased <input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt		

LIST PREMIUMS & ALLOWANCES, AND OTHER ACTION RECOMMENDED OR COMMENTS ON ABOVE

ROUTING: REVIEWS & APPROVALS			THIS SPACE FOR PAYROLL SECTION ONLY
NAME	INITIAL	DATE SIGNED	
B. Chongasing	MC	1-9-04	
J. Minor	MC	1/21/04	
J. Heving			

icc

PERSONNEL ACTION NOTIFICATION

Personal and Confidential

(PAN) # 5051

Nature of Action (Check all that apply)			Effective Date of Action		
<input type="checkbox"/> New Employee	<input type="checkbox"/> Transfer	<input type="checkbox"/> Promotion	Month 01	Day 01	Year 06
<input type="checkbox"/> Position Change	<input type="checkbox"/> Leave of Absence	<input type="checkbox"/> Termination	Date Prepared		
<input checked="" type="checkbox"/> Rate Change	<input type="checkbox"/> Change of wage hour status	<input type="checkbox"/> Other	Month 01	Day 05	Year 06

EMPLOYEE'S NAME: (Last, First, Middle Initial)	Employee #	Date of Birth (Month, Day, Year)	
REDFIELD, Hollana	9014	[REDACTED]	
Mailing Address		Social Security Number	Sex:
P.O. Box 26562 G.B.S. St. Croix 00824		[REDACTED]	Male ___ Female ___

PRESENT	PROPOSED	Previous Increases (Omit if no salary change)		
ORGANIZATION (Island) ICC	ORGANIZATION (Island) SMRE	Date	1/04	1/01
Position Title VP Corporate Affairs	Position Title same	Amount	--	[REDACTED]
Pay Grade 20	Pay Grade 20	%	--	3
Salary Base \$ [REDACTED]	Salary Base \$ [REDACTED]	Type	Allowance Rate	
Salary with Premiums and Allowances *	Salary with Premiums and Allowances *	PAYROLL DESTINATION		
Service Date 01/12/1999	AMT. & % INC. [REDACTED]	<input type="checkbox"/> Vitelco <input checked="" type="checkbox"/> iCC <input type="checkbox"/> Cable <input type="checkbox"/> Daily News <input type="checkbox"/> Other (specify) _____		
Check All That Apply <input type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent <input type="checkbox"/> Leased <input type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt		Check All That Apply <input type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent <input type="checkbox"/> Leased <input type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt		

LIST PREMIUMS & ALLOWANCES, AND OTHER ACTION RECOMMENDED OR COMMENTS ON ABOVE

Rate Change as per J. Prosser

ROUTING: REVIEWS & APPROVALS			THIS SPACE FOR PAYROLL SECTION ONLY
NAME	INITIAL	DATE SIGNED	
J. Prosser	[Signature]	1/17/06	

icc

PERSO~~N~~NEL ACTION NOTIFICATION

Personal and Confidential

(PAN) # 5894

Nature of Action (Check all that apply) <input type="checkbox"/> New Employee <input type="checkbox"/> Transfer <input type="checkbox"/> Promotion <input type="checkbox"/> Position Change <input type="checkbox"/> Leave of Absence <input checked="" type="checkbox"/> Termination <input type="checkbox"/> Rate Change <input type="checkbox"/> Change of wage hour status <input type="checkbox"/> Other _____	Effective Date of Action Month 101 Day 12 Year 07
	Date Prepared Month 10 Day 15 Year 07

EMPLOYEE'S NAME: (Last, First, Middle Initial) <b>BEDFIELD, Holland</b>	Employee # 9014	Date of Birth (Month, Day, Year) [REDACTED]
Mailing Address P. 00 Box 26562 G.B.S. St. Croix 00824	Social Security Number [REDACTED]	Sex: Male <input checked="" type="checkbox"/> Female <input type="checkbox"/>

PRESENT	PROPOSED	Previous Increases (Omit if no salary change)			
ORGANIZATION: (Island) ICC	ORGANIZATION (Island)	Date			
Position Title Vt Corporate Affairs	Position Title	Amount			
Pay Grade 20	Pay Grade	%			
Salary Base [REDACTED]	Salary Base	Type			
Salary with Premiums and Allowances *	Salary with Premiums and Allowances *				
Service Date 01/12/1999	AMT. & % INC.	<b>PAYROLL DESTINATION</b> <input type="checkbox"/> Vitelco <input type="checkbox"/> iCC <input type="checkbox"/> Cable <input type="checkbox"/> Daily News <input type="checkbox"/> Other (specify) _____			
Check All That Apply <input type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent <input type="checkbox"/> Leased <input type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt	Check All That Apply <input type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent <input type="checkbox"/> Leased <input type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt				

LIST PREMIUMS & ALLOWANCES, AND OTHER ACTION RECOMMENDED OR COMMENTS ON ABOVE

Remove from payroll

ROUTING: REVIEWS & APPROVALS			THIS SPACE FOR PAYROLL SECTION ONLY
NAME	INITIAL	DATE SIGNED	
B. Chongasing	<i>HC</i>	10-16-07	
B. Smyl	<i>BS</i>	10-19-07	

a Control number 10-0008274		Void <input type="checkbox"/>		OMB No. 1545-0008	
b Employer identification number 66-0445332			1 Wages, tips, other compensation [REDACTED]	2 VI Income tax withhold [REDACTED]	
c Employer's name, address, and ZIP code INNOVATIVE COMMUNICATION CORPORATION F/K/A ATLANTIC TELENETWORK CO PO BOX 1730 CHRISTIANSTED, ST. CROIX 00821			3 Social security wages [REDACTED]	4 Social security tax withheld [REDACTED]	
			5 Medicare wages and tips [REDACTED]	6 Medicare tax withheld [REDACTED]	
			7 Social security tips	8 [REDACTED]	
d Employee's social security number [REDACTED]			9 Advance EIC payment	10 [REDACTED]	
e Employee's first name and initial HOLLAND		Last name REDFIELD	11 Nonqualified plans	12a See Form W-3SS instructions D [REDACTED]	
P.O. BOX 26562 CHRISTIANSTED VI 00824			13 Statutory employee <input type="checkbox"/> Retirement plan <input checked="" type="checkbox"/> Third-party sick pay <input type="checkbox"/>	12b [REDACTED]	
			14 Other CAR-672-00	12c [REDACTED]	
f Employee's address and ZIP code [REDACTED]				12d [REDACTED]	

Form **W-2VI** U.S. Virgin Islands  
Wage and Tax Statement  
Copy D - For Employer

**2002**  
(Rev. February 2002)

Department of the Treasury - Internal Revenue Service  
For Privacy Act and Paperwork Reduction Act Notice  
and Instructions, see Form W-3SS.



IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS

SENATOR ADLAH DONASTORG, JR., and  
BENEDICTA DONASTORG

SEP 6 2003

Plaintiffs,

v.

CIVIL NO. 117/2002

DAILY NEWS PUBLISHING CO., INC.,  
INNOVATIVE COMMUNICATION  
CORPORATION AND JEFFREY PROSSER  
LOWE DAVIS, HOLLAND "DYKE" REDFIELD  
AND VITELCO

ACTION FOR DAMAGES

Defendants.

Responses to:

DEFENDANT DAILY NEWS'  
FIRST SET OF INTERROGATORIES TO PLAINTIFFS

COMES NOW Defendant Daily News, by its counsel, and pursuant to Federal Rules of Civil Procedure 26 and 33, propounds the following Interrogatories to be answered within thirty (30) days. These interrogatories are continuing in nature, and require supplementation if additional or different information is obtained before trial.

DEFINITIONS

In answering the following interrogatories you should apply the following definitions.

- A. Unless more specifically defined, "Plaintiff," "you" or "your" refers to, Senator Adlah Donastorg, Jr., and Benedicta Donastorg and their attorneys, agents and representatives, jointly and severally; and if a different response is necessary for one or more of them than for any other, then separate responses should be given for each.

B. "Document(s)" means any document in your custody, possession or control, or in the possession or control of your agents or representatives, including, but not limited to, any printed, written, recorded, taped, electronic, graphic, or other tangible matter from whatever source, however sent or received or neither, including the original, all amendments and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) of any and all writings, correspondence, letters, telegrams, telex communications, cables, notes, notations, papers, newsletters, memoranda, inter-office communications, releases, agreements, contracts, books, pamphlets, studies, minutes of meetings, recordings, or other memorials of any type of personal or telephone conversations, meetings or conferences (including, but not limited to, telephone bills and long distance charge slips), reports, analyses, evaluations, estimations, projections, forecasts, receipts, statements, accounts, books of account, diaries, calendars, desk pads, appointment books, stenographers notes, transcripts, ledgers, registers, worksheets, journals, statistical records, cost sheets, summaries, lists, tabulations, digests, canceled or uncanceled checks or drafts, vouchers, charge slips, invoices, purchase orders, hotel charges, accountants' reports, financial statements, newspapers, periodical or magazine materials, and any material underlying, supporting, or used in the preparation of any documents.

C. "Relating" or "relate to" means concerning, referring to, reflecting, describing, mentioning, evidencing, discussing, constituting, noting, containing, analyzing, evaluating, comprising, or relevant to.

D. "Identify" when referring to a natural person means to provide an identification sufficient to notice the deposition of such person and to serve such person with process to require

his or her attendance at a place of examination and shall include, without limitation, his or her full name, present or last known business affiliation and address, title or occupation, and each of the positions held by such person during the applicable time covered by any answer referring to such person.

E. "Identify" when referring to a document means to give the following information:

- (1) its nature, e.g. letter, memorandum, tape recording, etc.;
- (2) its specific subject, and a description of its contents;
- (3) the name, title, address of the person(s) by whom it was made and to whom it was directed if it was directed to some other person;
- (4) the date upon which it was made; and
- (5) who has possession of the original and any copies.

In lieu of identifying the document, you may attach a copy to your response to these Interrogatories.

F. "Identify" with respect to an oral communication means to provide the following information:

- (1) by whom it was made and to whom it was directed;
- (2) its specific subject, and a description of its content;
- (3) the date upon which it was made;
- (4) who else was present when it was made;
- (5) whether it was recorded, described or summarized in any writing or tape; if so, identify each such writing in the manner indicated above.



G. "Identify" and "a summary of the testimony you expect them to provide," when referring to an expert, means to provide the following information:

- (1) Name, address, social security number;
- (2) Schools attended after the primary level, years of attendance, degrees earned, and date of graduation;
- (3) Their employment history, including employer, dates of employment, position, and description of duties for the last ten years;
- (4) A list of all cases in which they have been involved as experts in the same field as in this case;
- (5) A list of all articles, speeches, treatises, books or other published material prepared by them in connection with their expertise in the field relevant to their testimony in this case;
- (6) A list of all their professional associations, licenses, certifications, awards and other accomplishments in the relevant fields;
- (7) A summary of the experience or course of study, to the extent not set forth above, which qualifies them to act as experts in this action;
- (8) A detailed description of the testimony or opinions you expect them to provide, and the bases for such testimony or opinions;
- (9) Identify any and all materials upon which they relied or which they reviewed in connection with this matter;
- (10) A description or copy of the agreement, whether oral or written, under which you have retained them, and their basis and rate of compensation.

H. "Person" shall mean any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments, and other units therein and shall include, but not be limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau or department.

INTERROGATORIES

1. State the current marital status, domicile and all actual addresses of residence of each Plaintiff.

1.  
Married, 369 Wentberg and 1-123-13 Wentberg.

2. State each and every factual basis for the allegation in paragraph 9 of the first amended complaint that, "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", and for each factual basis also identify all documents evidencing it and all persons who have knowledge of it.

2.  
Will Jones has informed Plaintiff that he was instructed to write negative stories as to Plaintiff, false stories were repeatedly placed in the paper, Hal Hatfield stated he was off to write a Donastorg story so he could get a bonus, there was a policy at the Daily News to portray Plaintiff in a negative light, The Daily News had Plaintiff investigated to try and dig up dirt on Plaintiff. See Plaintiff's Response to Demand for Production for relevant documents.

3. State each and every factual basis for the allegation in paragraph 11a of the first amended complaint that, "Defendants have . . . Offered reporters bonuses if they would write derogatory stories about Senator Donastorg, with no requirement that the stories actually be truthful", and for each factual basis also identify all documents evidencing it and all persons who have knowledge of it.

3. Hal Hatfield made that statement in front of Kennech Augustus, Desmond Perceival, Winsten, last name unknown, Will Jones told the same.

4. State each and every factual basis for the allegation in paragraph 11b of the first amended complaint that, "Defendants have . . . On June 12, 2001, print[ed] a false story that Senator Donastorg voted against his own bill to reduce the size of the Legislature", and for each factual basis also identify all documents evidencing it and all persons who have knowledge of it.

4.  
See the story in the Daily News and the Legislative voting record. Hal Hatfield, Plaintiff, Nicole Bollentina, all the readers of the Daily News and members of the Legislative.

5. State each and every factual basis for the allegation in paragraph 11d of the first amended complaint that, "Defendants have . . .Threaten[ed] to run personal stories about Senator Donastorg unless 'a positive working relationship' can be obtained", and for each factual basis also identify all documents evidencing it and all persons who have knowledge of it.

5.  
Letter from Lower Doves to Bollentina and Senator Donastorg. Plaintiff and Davis and Bollentina.

6. State each and every factual basis for the allegation in paragraph 11f of the first amended complaint that, "Defendants have . . . Requir[ed] reporters and employees to constantly be on the look out for negative stories about Senator Donastorg to be published and selectively target[ed] Senator Donostorg for negative stories while directing that stories of similar conduct by pro senators not be reported", and for each factual basis also identify all documents evidencing it and all persons who have knowledge of it.

6. Stories in the Daily News regarding Senator Donastorg vs not printing same re Rocky Liburd, David Jones, Emmett Hansen, Penny Feurezig, Will Jones, Ariel Melchoir, Mike Middlesworth, Andy Gross, George Dudley, Plaintiff, Valentino McBean, Ed Crites, Hal Halfield, and Billy Shields.



7. State each and every factual basis for the allegation in paragraph 11g of the first amended complaint that, "Defendants have . . . Slant[ed] 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 for each factual basis also identify all documents evidencing it and all persons who have knowledge of it.

7.  
See Response to Interrogatory No. 6.

8. State each and every factual basis for the allegation in paragraph 11h of the first amended complaint that, "Defendants have . . . Ma[de] derogatory statements to third person about Senator Donsastorg, 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", and for each factual basis also identify all documents evidencing it and all persons who have knowledge of it.

8.  
Will Jones told Plaintiff so, see articles and editorials Daily News, Ed Crouch, Jeffrey Prosser has made those statements to Joel Holt, Edwin Callwood.

9. State each and every factual basis for the allegation in paragraph 13 of the first amended complaint that, "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", and for each factual basis also identify all documents evidencing it and all persons who have knowledge of it.

9.  
See Sam Eppeson letter sent every person whose names were included on the Vitelco payroll. Sena, Vitelco, had falsely listed Daily News employees as well as other related company employees on its payroll to defraud IDC, they received copies of the letter.

10. State each and every factual basis for the allegation in paragraph 14 of the first amended complaint that, "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", and for each factual basis also identify all documents evidencing it and all persons who have knowledge of it.

10.  
Will Jones told Plaintiff so.

11. State each and every factual basis for the allegation in paragraph 15 of the first amended complaint that, "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", and for each factual basis also identify all documents evidencing it and all persons who have knowledge of it.

11.  
John Tutien while employed by ICC said so.

12. State how and from whom Plaintiff learned that Defendants had allegedly caused an investigation about Plaintiffs, their family and associates, and state with specificity all communications between Plaintiff and such source regarding such investigations.

12.  
Objection. Attorney client privilege. Plaintiff was warned of an investigation by Vitelco employee, but Plaintiff has forgotten his name. Plaintiff also had suspicions he was being followed.

13. State each and every factual basis for the allegation in paragraph 18 of the first amended complaint that, Defendants "defame[d] [Senator Donastorg] to include accessing (sic) him of taking bribes, falsely claiming that the investigation was as a result of attempting to substantiate those claims when that (sic) 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", and for each factual basis also identify all documents evidencing it and all persons who have knowledge of it.

13.  
Redfield made such statements on the radio including ICC had heard Donastorg was accepting perks from AT&T and had flown on their private plane to St. Lucia. Everyone who heard the radio statements has knowledge.

14. State each and every factual basis for the allegation in paragraph 19 of the first amended complaint that, Holland Redfield "went on the radio and knowingly repeated these false accusations, as set out in paragraph 18, for the purpose and intent to defame and slander and attempt to ruin the reputation of Senator Donastorg", and for each factual basis also identify all documents and/or recording media evidencing it and all persons who have knowledge of it.

14.  
See Response to Interrogatory No. 13.



15. State each and every factual basis for the allegation in paragraph 20 of the first amended complaint that, "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", and for each factual basis also identify all documents and/or recording media evidencing it and all persons who have knowledge of it.

15.  
The bills in the investigation file so indicate.

16. Set forth in detail, for each Plaintiff, all damages allegedly suffered as a result of the acts of Defendants alleged in the first amended complaint.

16.  
Mental anguish, loss of reputation, emotional distress, sleeplessness, anxiety, loss of enjoyment of life, tearfulness, humiliation and tears of frustration and pain.

17. Set forth in detail for each Plaintiff, including the identification of all supporting evidence and persons with knowledge, all injuries allegedly suffered as a result of the acts of Defendants alleged in the first amended complaint, including any injuries to each Plaintiff's:

- a. reputation;
- b. mental anguish;
- c. loss of income;
- d. loss of capacity to earn income;
- e. detrimental damage to their business relationships;
- f. physical injuries;
- g. medical expenses;
- h. pain and suffering.

17.

- a. See previous answer. There are persons who approach Plaintiff in the street, believe the false statements and have made nasty or derogatory remarks to Plaintiff regarding the same.
- b. Plaintiff is afraid he is being followed, fears for his life, has watched his wife, children and family members suffer, rarely travels alone, has to endure false statements made about him.
- c. Plaintiff's business income decreased.
- d. & e. There are persons who will not do business with Plaintiff because of the false stories.
- f. Sleeplessness, nausea, loss of appetite, headaches, pain in chest, nervousness
- g. Dr. Allah for check up
- h. See a-g

18. Identify all medical, mental health, counseling or other such practitioners each Plaintiff has obtained services from for the period January 1, 1998 through the present.

18.  
Dr. Allah

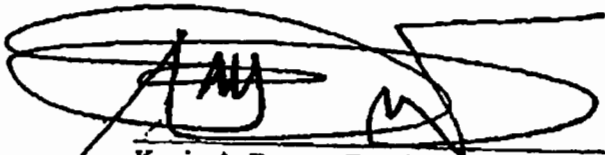
19. Identify all witnesses Plaintiffs intends to call at a trial in this matter, including for each, the last known address and telephone number.

19.  
No decisions as to witnesses has been made at this time.

20. Identify all expert witnesses Plaintiffs have consulted with regard to the claims made in the first amended complaint, including for each: the address and telephone number, the area of expertise, and the purpose for which the expert was consulted.

20.  
No decision as to experts has been made at this time.

Dated: September 25, 2003



A handwritten signature in black ink, appearing to read 'K. Rames', is enclosed within a large, hand-drawn oval. A thin line extends from the bottom left of the oval towards the text block below.

Kevin A. Rames, Esquire  
Law Offices of Kevin A. Rames, P.C.  
2111 Company Street, Suite 3  
Christiansted, St. Croix USVI 00820  
(340) 773-7284 /Fax (340) 773-7282

Paul J. Ruskin, Esquire  
126 Sussex Street  
Jersey City, NJ 07302  
(201) 985-8225 /Fax (201) 985-8252

*Attorney for Defendants*

# MUTUAL INSURANCE COMPANY LIMITED

41 CEDAR AVENUE  
P.O. BOX HM 1179, HAMILTON, BERMUDA HM EX

(hereinafter called the Company)

THIS POLICY IS APPLICABLE ONLY TO CLAIMS MADE AGAINST INSURED DURING THE PERIOD PROVIDED FOR BY THE SAID POLICY.  
PLEASE READ THE POLICY CAREFULLY.

The Company agrees with the Named Insured in Item 1 of each Certificate of Indemnity issued by the Company and made a part of this policy, in consideration of the payment of premium and in reliance upon the representations contained in the application received from said Named Insured, and subject to the limits of liability, conditions and all other terms of the policy:

I. **INDEMNITY AGREEMENT.** To indemnify the Insured for Loss sustained by the Insured, in excess of the retention and within the limit of liability per Event stated in the Certificate of Indemnity, resulting from any claim for damages first made during the Policy Period or the Extended Claims Reporting Period, if applicable, against any of them for:

- A. Libel, slander, product disparagement, trade libel, infliction of emotional distress, or other forms of defamation;
- B. Invasion or infringement of the right of privacy including unwarranted or wrongful publicity or the unlawful use of name or likeness for profit;
- C. Wrongful entry, trespass or other invasion of the right of private occupancy;
- D. Infringement of copyright, title or slogan;
- E. Plagiarism, piracy or misappropriation of ideas or other liabilities under implied contract; and
- F. Breach of contract, promissory estoppel or misrepresentation claims brought by a confidential source and arising out of an allegedly broken promise or false representation to maintain that source's anonymity;

committed or alleged to have been committed in the course of the Named Insured's Business.

II. **APPLICATION OF POLICY.** This policy applies only to claims for damages first made by a person or organization against the Insured during the Policy Period or the Extended Claims Reporting Period if this right is exercised by the Named Insured in accordance with the terms thereof, based on acts solely committed or alleged to have been committed in the course of the Named Insured's Business on and after the Retroactive Date set forth in Item 8 of the Certificate of Indemnity and before the termination date thereof. A claim shall be considered as being first made against the Insured at the earlier of the following times:

- A. When written claim for damages is first made against the Insured; or
- B. When written notice is first given to the Company by or on behalf of the Insured of specific circumstances involving a particular Event which may result in a claim for damages.

If more than one claim is made which arises out of the same Event, all subsequent claims for damages shall be deemed to have been made at the time the first of those claims is made against the Insured.

III. **EXTENDED CLAIMS REPORTING PERIOD.** In the event a Certificate of Indemnity is cancelled by the Company other than for non-payment of premium or if the Company or the Named Insured does not renew the Certificate of Indemnity for any reason, then the Named Insured shall have the right to extend the claims reporting period provided by this policy for a further period of sixty (60) months following the termination date of said Certificate subject to the following conditions:

- A. The Named Insured makes a written request for the Extended Claims Reporting Period which is received by the Company within sixty (60) days after the date the Certificate of Indemnity is terminated with payment of an additional premium not to exceed 50% of the last annual premium for the terminated Certificate. In no event will the Extended Claims Reporting Period take effect unless the Named Insured's request for this extension is accompanied by payment of premium as aforesaid nor, once effective, may this extension be cancelled by the Company;
- B. The Extended Claims Reporting Period applies only to claims first made during said period for an Event first committed or alleged to have been committed during the period beginning with the Retroactive Date shown in Item 8 of the Certificate of Indemnity and ending on the termination date of said Certificate;
- C. The fact that this Policy may be extended by virtue of the exercise of the Extended Claims Reporting Period shall not in any way increase the applicable Limit of Liability set forth in the Declarations.

IV. **RETENTION.** The Insured shall pay all Loss incurred as a result of all claims arising from each Event in the amount stated in Item 7 of the Certificate of Indemnity, but, if Defense Expense exceeds the amount of said retention, the Insured also shall pay 20% of such Defense Expense subject to a limit equal to the lesser of ten (10) times the stated retention or \$500,000 (hereinafter referred to in combination as the retention). In the event any one Event involves two or more newspapers and other media identified as covered publications in Item 3 of the same Certificate of Indemnity with different retentions, the highest retention applicable to any one of said newspapers and other media shall apply.

V. **LIMIT OF LIABILITY.** Regardless of the number of (a) Insureds under this policy, (b) publications or distributions covered hereunder, (c) persons or organizations who sustain damages, or (d) claims made or suits brought on account of injury, the Company's limit of liability for Loss sustained shall be the amount stated in Item 6 of the Certificate of Indemnity as respects each Event.

- VI. **EXCLUSIONS.** This policy does not apply to claims arising out of:
  - A. Violation of anti-trust laws, restraint of trade or unfair competition;
  - B. Any act or publication of material occurring after the termination date of the Certificate of Indemnity issued to the Named Insured;
  - C. Criminal acts; or
  - D. Employer/employee disputes and/or litigation.

VII. **DEFINITIONS.** When used in this policy, including endorsements forming a part hereof:

- A. The unqualified word "Insured" means the Named Insured in Item 1 of the Certificate of Indemnity and any subsidiary, each person who is a director, officer, partner or employee thereof while acting within the scope of his duties as such, and, at the sole option of the Named Insured, any distributor, advertiser, advertising agency, printer, correspondent, stringer or free-lance writer of the Named Insured and each person who is a director, officer, partner or employee thereof while acting within the scope of his duties as such. Former directors, officers and employees (or the estates of such persons) who were Insured at the time the event happened giving rise to a claim to which this policy applies shall continue to be deemed an Insured at the time the claim is first made.
- B. "Named Insured's Business" means 1) the gathering, utterance, publication, dissemination, or distribution of Material contained in newspapers and other media identified as covered publications in Item 3 of each Certificate of Indemnity made a part of this policy, and 2) the Commercial Printing Business, if any, designated in Item 5 of said Certificate as covered hereunder.
- C. "Commercial Printing Business" means a facility owned by the Named Insured or a subsidiary thereof which produces miscellaneous printed matter for others.
- D. "Loss" means the total sum which the Insured becomes legally obligated to pay in settlement of claims or in satisfaction of judgments, including court costs and Defense Expense incident thereto paid or payable by the Insured for settling or defending claims or suits. "Loss" does not include government or criminal fines or penalties or any Defense Expense resulting therefrom.
- E. "Damages" means all forms of monetary damages including actual damages, statutory damages, and punitive or exemplary damages and Defense Expense.
- F. "Defense Expense" means (a) reasonable legal fees and expenses, and (b) all other fees and expenses approved by the Company which are incurred by the Insured for settling or defending claims or suits. "Defense Expense" does not include salaries and other compensation of the Insured's employees.
- G. "Event" means (a) the gathering of Material for publication in a covered publication which occurs after the Retroactive date set forth in Item 8 of the Certificate of Indemnity and before the termination date thereof which is in no way related to the gathering of Material for publication in a covered publication which occurs prior to the Retroactive Date set forth in Item 8 of the Certificate of Indemnity, and (b) the utterance, publication, dissemination or distribution of a covered publication by or with the permission of the Insured which occurs subsequent to the Retroactive Date set forth in Item 8 of the Certificate of Indemnity and before the termination date thereof which is in no way related to the utterances, publication, dissemination or distribution of a covered publication by or with the permission of the Insured which occurs prior to the Retroactive Date set forth in Item 8 of the Certificate of Indemnity; provided, however, all utterances or disseminations of Material, including acts relating to gathering such Material, published or distributed one or more times during a Policy Period or Periods relating to the same subject, person(s) or organization(s) or classes of persons or organizations and any repetitions thereof, shall be deemed to be one Event as of the date of the first publication of such Material.
- H. "Material" means the content of newspapers and other media identified as covered publications in Item 3 of each Certificate of Indemnity made a



Donastorg  
D 1121

dissemination or distribution of a covered publication by or with the permission of the Insured which occurs subsequent to the Retroactive Date set forth in Item 8 of the Certificate of Indemnity and before the termination date thereof which in no way related to the utterances, publication, dissemination or distribution of a covered publication by or with the permission of the Insured which occurs prior to the Retroactive Date set forth in Item 8 of the Certificate of Indemnity; provided, however, all utterances or disseminations of material, including acts relating to gathering such material, published or distributed one or more times during a Policy Period or Periods relating to the same subject, person(s) or organization(s) or classes of persons or organizations and any repetitions thereof, shall be deemed to be one Event as of the date of the first publication of such Material.

- H. "Material" means the content of newspapers and other media identified as covered publications in Item 3 of each Certificate of Indemnity made a part of this policy and the use of such Material by others.
- I. "Subsidiary" means any entity which is wholly owned or more than fifty percent (50%) owned and controlled by the Named Insured.
- J. "Policy Period" means the period from the effective date to the expiration date as set forth in Item 9 of the Certificate of Indemnity made a part of this policy, or its earlier cancellation or termination date, if any.

#### GENERAL CONDITIONS

1. **POLICY PERIOD - TERRITORY.** This policy shall take effect at 12:01 a.m. Eastern Standard Time, 1, September, 1993 and shall remain in force until the liability of the Company under any Certificate of Indemnity forming a part of the policy has been discharged. The territory of the policy is worldwide.
2. **CERTIFICATE OF INDEMNITY.** Each Certificate of indemnity issued by the Company shall constitute part of the Group Policy for the annual period specified therein. Certificates are renewable for successive annual periods by payment of the annual premium due for the next succeeding annual period unless terminated in accordance with General Condition 12. The premium for each Certificate is subject to adjustment during each annual period based on changes in the covered exposure or on any renewal date.
3. **INSURED'S DUTIES - DEFENSE OF CLAIM AND SUITS.**
  - A. Immediately after the Insured becomes aware of facts or circumstances that indicate a claim or suit may be filed against the Insured alleging any injury of the kind described in the Indemnity Agreement hereof, the Named Insured shall conduct such investigation and take all steps (such as publication of retractions or corrections and fulfillment of all statutory requirements) which the Named Insured deems prudent and reasonably necessary in order to avert a claim or suit if possible and, failing in this, to minimize the loss that may result therefrom. The Insured's awareness of fact or circumstances which may result in claim or suit is not notice of a claim first made during the insurance period designated in the Certificate of Indemnity unless written notice thereof is given to the Company as provided for in Section II - Application of Policy.
  - B. If a claim is made or suit is brought against the Insured for injury or damage described in the Indemnity Agreement hereof, the Named Insured will take the following actions:
    1. Promptly give the Company notice thereof by International Air Mail which notice shall include as circumstances may require: (a) a description of the injurious act or acts committed in gathering material for publication and the date(s) such act(s) were committed or (b) three copies of the material complained of and the date of publication, and (c) the date on which the Insured received notice of such claim or suit.
    2. Retain counsel, subject to the continuing approval by the Company, for the defense or settlement of such claim or suit and furnish the name and address of said counsel to the Company. The Insured shall advise the Company and its U.S. General Counsel of any relevant information regarding the claim or suit, including, but not limited to: the factual background; the likelihood of the Insured's success or failure; an initial estimate of legal costs; offers of settlement, if any; and any special information which would be pertinent to the claim or defense thereof. The Insured shall further provide, at intervals of not more than six (6) months, a current report of the status of said claim and any developments therein.
    3. The Insured also agrees to forward by International Air Mail three legible copies of every demand, notice, summons, complaint or other process or corresponding documents, both received by the Insured or its legal representative or created by the Insured or its legal representative, for purposes of such claim or suit. Proper notice of appearance of the Insured and pleadings shall be served in a suit within the period required by law.
    4. In the event the costs incurred by the Insured in the settlement or defense of a claim or suit exceed, or if it appears likely they will exceed, the stated retention, the Insured will give the Company prompt notice thereof and shall thereafter, at intervals of not more than six months, send copies of all invoices for services rendered on such claim or suit to the Company in sufficient detail to show nature of services, by whom and at what rate of compensation.
  - C. The Company shall not be called upon to assume charge of the settlement or defense of any claim made or suit brought or proceeding instituted against the Insured, but the Company shall have the right and shall be given the opportunity to (1) associate with the Insured in the defense and the control of any claim, suit or proceeding which involves, or appears likely to involve, payment by the Company, in which event the Insured and the Company shall cooperate fully in the defense or settlement of such claim, suit or proceeding; or, 2) upon dissatisfaction with the Insured's retained counsel, suggest the retention of new counsel, such suggestion not be unreasonably denied by the Insured, to be jointly appointed by the Company and the Insured, for the defense and control of any claim, suit or proceeding which involves, or appears likely to involve, payment by the Company. No settlement shall be made without the Company's consent, such consent not to be unreasonably withheld.
  - D. If a judgment is rendered in any suit against the Insured, and the Insured is not willing to appeal therefrom, the Company shall have the right to appeal from such judgment and shall bear the costs thereof plus the interest incidental to such appeal.
  - E. Failure to comply with the provisions of this General Condition 3, or any other provision of this policy, may result in a denial of liability in respect of the applicable claim.
4. **OTHER INSURANCE.** If the Insured has other valid and collectible insurance for a loss covered by the policy, the insurance afforded by this policy shall be excess over such other insurance, except that any insurance which is specifically issued to be in excess of this policy shall not be deemed "other insurance".
5. **SUBROGATION.** The Company shall be subrogated to the extent of any payment hereunder to all the Insured's right of recovery therefrom. The Insured shall do nothing after loss to prejudice such rights and shall do everything necessary to secure such rights. Any amount so recovered shall be apportioned as follows. Any person or organization (including the Insured) who has paid an amount in excess of the retention plus the limit of liability hereunder shall be first reimbursed to the extent of actual payment. The Company shall next be reimbursed to the extent of its actual payment. Any balance remaining in the amount of recovery shall be paid to those persons or organizations who have paid the amount of the retention. The expenses of all such recovery proceedings shall be apportioned in the ratio of respective recoveries. If there is no recovery in proceedings conducted solely by the Company, it shall bear the expense thereof.
6. **PAYMENT AND PROOF OF LOSS.** Losses will be paid in currency of the United States of America. No indemnity will be due from or paid by the Company to any Insured until the loss paid or incurred by such Insured as a result of an Event exceeds the Insured's retention as shown by the Certificate of Indemnity issued to such Insured and the Insured has complied with all provisions of this policy. Subject to all other provisions of the policy, interim payments on account of loss in excess of the Insured's retention shall be made by the Company on receipt of satisfactory evidence that the Insured has paid or is obligated to pay such loss and the amount thereof exceeds \$5,000. Interim payments shall not affect the rights of the Company or the Insured in the ultimate determination of the amount of loss payable under this policy. Proof of loss in form and substance satisfactory to the Company or its Adjuster covering the aggregate loss paid or incurred by an Insured with respect to each Event must be filed by the Insured with the Company or its Adjuster not more than forty-five (45) days after the final loss is paid or incurred by the Insured. Such period of forty-five (45) days may be extended by writing signed by the Company or its Adjuster.
7. **ARBITRATION CLAUSE.** If any disagreement shall arise as to the amount of loss payable hereunder, it may be referred by the Company or by the Interested Insured with the consent of the other party to three arbitrators, one to be chosen by the Company, and one by the said Insured, and such arbitrators shall choose a third arbitrator. The decision of any two of the three arbitrators shall be absolutely binding upon all the interested parties, which shall equally bear the expenses.
8. **ACTION AGAINST COMPANY.** No suit or action on this policy or recovery of any claim hereunder shall be sustainable in any court of law or equity unless, as a condition precedent thereto, the Insured shall have duly complied with all the requirements of this policy including all of the General Conditions, full satisfaction of the retention, and each and every other provision of the policy. No suit or action on this policy or recovery of any claim hereunder shall be sustainable in any court of law or equity unless commenced within twelve (12) months next after the filing of Proof of Loss hereunder as provided in paragraph 6 hereof.
9. **JURISDICTION.** In the event of the failure of the Company to pay any amount claimed to be due hereunder, the Company, at the request of the Insured, will submit to the jurisdiction of any Federal Court of competent jurisdiction within the United States and will comply with all requirements necessary to give such Court jurisdiction, and all matters arising hereunder shall be determined in accordance with the law and practice of such Court.
10. **SERVICE OF PROCESS.** Service of process in any suit as described in General Conditions 8 and 9 hereof, may be made upon O'Brien, Bimey and Butler, 888 Seventeenth Street, NW, Washington, DC 20006, and, in any suit instituted against it upon this agreement, the Company agrees to abide by the final decision of such Court or of any Appellate Court in the event of any appeal. Said O'Brien, Bimey and Butler is hereby authorized and directed to accept service of process on behalf of the Company in any such suit and/or upon the request of the Insured to give a written undertaking to the Insured that it will enter a general appearance upon the Company's behalf in the event such suit shall be instituted.
11. **WAIVER - CHANGES.** Notices received or knowledge possessed by any person shall not effect a waiver or change in any part of this policy or any Certificate of Indemnity; nor shall any provision or condition of this policy or any forfeiture be held to be waived by any requirement, act or proceeding on the part of this Company relating to arbitration; nor shall the terms of this policy or any Certificate of Indemnity be waived or changed except by endorsement issued in form and not thereof.

Tuesday, March 19, 2002.max

JA003107



**MUTUAL INSURANCE COMPANY LIMITED**

41 CEDAR AVENUE  
P.O. BOX HM 1179, HAMILTON, BERMUDA HM EX

**CERTIFICATE OF INDEMNITY**

NO. 38 1297-1154

In consideration of the premium, and of the statements in the application of the Insured, this Company's Group Policy No. 38 is hereby extended to insure:

- 1. Name of Insured ..... Innovative Communications Corporation & Daily News Publishing Co., Inc.  
..... d/b/a The Virgin Islands Daily News
- 2. Address of Insured ..... Chase Financial Center, P.O. Box 1730, Christiansted, St. Croix, VI.00821
- 3. Covered Publications: (a) Virgin Islands Daily News  
(b) ..... (c) .....
- 4. Each of said publications is owned by the Insured or by a partnership or corporation in which the Insured has a majority interest.  
..... St. Thomas, VI
- 5. (a) A commercial printing business by the Named Insurer at: .....  
.....  
..... is covered hereunder.
- 6. Limit of Liability per Event \$ 15,000,000.00 ..... 7. Retention \$ 50,000.00 .....  
plus additional amounts provided for by Section IV Retention of the Policy.  
December 30, 1997
- 8. Retroactive Date .....  
December 30, 1997 ..... December 30, 1998
- 9. Policy Period: ..... to .....  
12:01 A.M. Standard Time at the address of the Insured.
- 10. Annual Premium ..... \$39,337.00

IN WITNESS WHEREOF, the Company has caused this CERTIFICATE to be countersigned by its Secretary at Hamilton, Bermuda.

Dated ..... December, 31 ..... 19 97



.....  
Secretary

Facsimile: (809) 295-7562  
Telephone: (809) 292-7633

Tuesday, March 19, 2002.max

JA003108

Donastorg v. Daily News, et :

D 1123

**MUTUAL INSURANCE COMPANY LIMITED**

P.O. BOX HM 3212

HAMILTON HM NX

BERMUDA

L. DORSEMENT to be attached to and forming part of Certificate No. 1297-1154  
of Group Policy No. 38

Endorsement No. EIGHT Date of Endorsement February 18, 19 99.

Name of Insured Innovative Communications Corporation & Daily News Publishing Co., Inc. d/b/a  
The Virgin Islands Daily News

In consideration of premium in the amount of \$ 47,415.00, the effective date of the  
above mentioned Certificate is extended for one year from December 30, 1998.

Mutual Insurance Company Limited



F. C. White  
Secretary

This Endorsement is NOT an invoice. It should be attached  
to the Certificate, thus maintaining a current policy record.

Donastorg v. Daily News, et  
D 1124

**MUTUAL INSURANCE COMPANY LIMITED**

P.O. BOX HM 3212

HAMILTON HM NX

BERMUDA

1297-1154

ENDORSEMENT to be attached to and forming part of Certificate No. ....  
of Group Policy No. 38

Endorsement No. ONE Date of Endorsement December 30 19 97

Name of Insured Innovative Communications Corporation & Daily News Publishing Co., Inc.  
d/b/a The Virgin Islands Daily News

Effective December 30, 1997 - Certificate No. 1297-1154 issued to Innovative Communications Corporation is amended as follows:

**VII. DEFINITIONS**

A. The unqualified word "INSURED" means:

- 1) The NAMED INSURED IN ITEM 1 of the Certificate of Indemnity and any subsidiary (and subsidiaries thereof) owned and controlled by the NAMED INSURED.
- 2) Any subsidiary companies or subsidiaries thereof now existing hereafter created or acquired and any other company or entity of which financial control is maintained, or for which insurance is to be provided by the NAMED INSURED through a written contract or agreement executed by the NAMED INSURED prior to an event giving rise to a claim. Financial control shall exist when more than fifty percent (50%) ownership is acquired.
- 3) At the sole option of the NAMED INSURED, any distributor, advertiser, advertising agency, printer correspondent, stringer or free-lance writer of the NAMED INSURED.
- 4) Each officer, director, trustee, partner or employee of entities defined in A. (1), (2), or (3) while acting within the scope of the person's duties as such, any former officer, director, trustee, partner or employee (or estates of such persons) who were insured at the time the event giving rise to a claim occurred.

Attached to and forming part of Certificate No. 1297-1154 issued to Innovative Communications Corporation & Daily News Publishing Co., Inc. d/b/a The Virgin Islands Daily News by Mutual Insurance Company Limited, Hamilton, Bermuda.

Mutual Insurance Company Limited



F. C. White  
Secretary

Donastorg v. Daily News, et  
D 1125

**MUTUAL INSURANCE COMPANY LIMITED**

P.O. BOX HM 3212

HAMILTON HM NX

BERMUDA

ENDORSEMENT to be attached to and forming part of Certificate No. ....1297-1154.....  
of Group Policy No. 38

---

Endorsement No. TWO Date of Endorsement December 30 19 97  
Name of Insured Innovative Communications Corporation & Daily News Publishing Co., Inc.  
d/b/a The Virgin Islands Daily News

---

Effective December 30, 1997 - Certificate No. 1297-1154 issued to Innovative  
Communications Corporation is amended as follows:

**COVERED MEDIA**

**ITEM 3. COVERED PUBLICATIONS**

The term "PUBLICATIONS" is amended to read "MEDIA" and includes all  
publishing, printing, broadcast, cablecast, telecast, production, syndication,  
electronic and other communications businesses and operations of the  
INSURED listed in ITEM 1

The NAMED INSURED agrees to report to the Company all MEDIA newly  
created or acquired to which this CERTIFICATE OF INDEMNITY will apply  
annually at least sixty days prior to the renewal of this CERTIFICATE OF  
INDEMNITY and pay the Company any additional premium determined and  
computed in accordance with the Company's rating schedules.

Attached to and forming part of Certificate No. 1297-1154 issued to Innovative  
Communications Corporation & Daily News Publishing Co., Inc. d/b/a The Virgins  
Islands Daily News by Mutual Insurance Company Limited, Hamilton, Bermuda.

Mutual Insurance Company Limited



F. C. White  
Secretary

Tuesday, March 19, 2002.max

JA003111

**FILED**

July 18, 2022 11:07 AM  
SCT-Civ-2021-0001  
VERONICA HANDY, ESQUIRE  
CLERK OF THE COURT

**Donastorg v. Daily News, et  
D 1126**

**MUTUAL INSURANCE COMPANY LIMITED**

P.O. BOX HM 3212

HAMILTON HM NX

BERMUDA

**ENDORSEMENT** to be attached to and forming part of Certificate No. ....1297-1154.....  
of Group Policy No. 38

Endorsement No. **THREE** Date of Endorsement ..... December 30 19 97

Name of Insured ..... Innovative Communications Corporation & Daily News Publishing Co., Inc.  
d/b/a The Virgin Islands Daily News

It is hereby understood and agreed that 1. **INDEMNITY AGREEMENT** is amended to include any negligent act, error, omission, misleading statement or misstatement, committed in the preparation, utterance or dissemination of matter by or with the permission of the Named Insured resulting in any claim for damages first made during the Policy Period or the Extended Claims Reporting Period, if applicable.

The coverage afforded by this endorsement does not apply to claims for damages:

1. For or arising out of the discrimination, express warranties or guarantees.
2. For the costs of recall, recovery, reprinting, correction, shipment or other additional services resulting from any defect in printing or publishing error which makes such material unusable.
3. From any entity or person who is an Insured as defined in this Certificate of Indemnity or endorsements thereto.

This endorsement does not amend, alter or change any other provisions of the Certificate of Indemnity to which it is attached.

Attached to and forming part of Certificate No. 1297-1154 issued to Innovative Communications Corporation & Daily News Publishing Co., Inc. d/b/a The Virgin Islands Daily News by Mutual Insurance Company Limited, Hamilton, Bermuda.

Mutual Insurance Company Limited



F. C. White  
Secretary

Donastorg v. Daily News, et :

D 1127

**MUTUAL INSURANCE COMPANY LIMITED**

P.O. BOX HM 3212

HAMILTON HM NX

BERMUDA  
1297-1154

.DORSEMENT to be attached to and forming part of Certificate No. ....  
of Group Policy No. 38

Endorsement No. FOUR Date of Endorsement December 30 19 97

Name of Insured Innovative Communications Corporation & Daily News Publishing Co., Inc.  
d/b/a The Virgin Islands Daily News

Effective December 30, 1997 - It is hereby understood and agreed that coverage afforded by Section 1. **INDEMNITY AGREEMENT** is extended to include any negligent act, error, omission, misstatement or misleading statement committed in the preparation, utterance or dissemination of material printed commercially for third parties by or with the permission of the Named Insured or its subsidiary subject to all of the provisions of the Certificate of Indemnity.

The additional coverage afforded by this endorsement does not apply to:

- A. Claims for or resulting from the discharge, dispersal, escape or release of smoke, fumes, soot, vapors, toxic chemicals, liquids or gases, water materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or anybody of water, whether or not such discharge, dispersal, release or escape is sudden or accidental.
- B. Claims for or arising out of express warranties or guarantees, or breach of contract or in respect of any agreement to perform work within specified time or within a specified fee.
- C. Claims made by any business venture, company or enterprise, or its assignees, that is owned wholly or in part, operated or managed by the Insured or parent company or any affiliated, subsidiary or associated company, or any employee of the business venture or enterprise, or an employee of a contractor of the business venture or enterprise.
- D. The cost of shipment, recovery or reprinting caused by a physical defect in the printing or publishing material, which defect makes material unusable; or the costs of correction of printing errors; or the costs of any additional services performed to correct defects in the original services performed for others.
- E. Claims for or arising out of discrimination.

Attached to and forming part of Certificate No. 1297-1154 issued to Innovative Communications Corporation & Daily News Publishing Co., Inc. d/b/a The Virgin Islands Daily News by Mutual Insurance Company Limited, Hamilton, Bermuda.

Mutual Insurance Company Limited



F. C. White  
Secretary

SCHEDULE OF COVERED FACILITIES

1. (a) Radio or TV Stations.

CALL LETTERS	AM/FM or TELEVISION	AREA SERVED
.....	.....	.....
.....	.....	.....
.....	.....	.....

(b) Community Antenna Television Systems

NAME	LOCATION
St. Croix Cable TV	Virgin Islands
St. Maarten Cable TV	Virgin Islands
BVI Cable TV	Virgin Islands

2. With respect to the stations and systems named above, the following entities are added as additional named insureds in Item 1 of the Certificate of Indemnity.

.....
.....
.....

3. Subject to the provisions of Section IV of the policy, the RETENTION Applicable to the stations and systems named in the

Schedule is: \$ 50,000.00.....

4. Additional Premium: \$ (INCLUDED).....

Attached to and forming part of Certificate No. 1297-1154 this 30th

day of December 19 97

Mutual Insurance Company Limited



## BROADCASTER'S LIABILITY ENDORSEMENT

In consideration of the premium and of the representations contained in the application received from the Named Insured for Broadcaster's Liability and subject to the limits of liability, conditions and other terms of this policy, Group Policy No. 38 is extended to include the following Indemnifying Agreement.

### BROADCASTER'S INDEMNIFYING AGREEMENT

The Company agrees to indemnify the Insured for loss sustained by the Insured, in excess of the deductible set forth in the following Schedule of Covered Facilities and within the limit of liability per event stated in the Certificate of Indemnity, resulting from any claim for damages first made during the Policy Period or the Extended Claims Reporting Period, if applicable, against any of them for:

- (A) Libel, slander, product disparagement, trade libel, infliction of emotional distress or other forms of defamation;
- (B) Invasion or infringement of the right of privacy including unwarranted or wrongful publicity or the unlawful use of name or likeness for profit;
- (C) Wrongful entry, trespass or other invasion of the right of private occupancy;
- (D) Infringement of copyright, title or slogan;
- (E) Plagiarism, privacy or misappropriation of ideas under implied contract; and
- (F) Breach of contract, promissory estoppel, or misrepresentation claims brought by a confidential source and arising out of an allegedly broken promise or false representation to maintain that source's anonymity

committed or alleged to have been committed in the course of the Named Insured's Business as owner and/or operator of the radio station(s), television station(s) or community antenna television system(s) named in the Schedule of Covered Facilities which follows.

All other terms and conditions of Group Policy No. 38 shall include, as the context and circumstances may require, claims and losses arising out of the ownership and/or operation of the broadcasting facilities named herein as covered facilities, it being understood and agreed that the terms "publication", "published" and "media" include acts in gathering material for and/or the utterance or dissemination of material by said facilities.



**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 SUMMARY JUDGMENT**

COME NOW the Defendants, Daily News Publishing Company, Inc. and J. Lowe Davis, and file herewith their Reply to the Plaintiffs' Opposition to their Motion for Summary Judgment.

The Plaintiffs' Response to Defendants' Motion for Summary Judgment and Brief in Support (herein "Opposition") is a convoluted presentation of often disparate, irrelevant and unsubstantiated factual allegations and legal theories by Senator Donastorg against these Defendants. Many of Senator Donastorg's allegations are attempts to recast as tortious behavior the occasionally fractious but far from uncommon entanglements that occurred between himself and persons or corporations that he has targeted as an individual litigant and in his official capacity as a member of the Virgin Islands Legislature.

Senator Donastorg has admittedly made a *cause célèbre* of the interrelationships that existed at the time among Jeffrey Prosser, Innovative Communication Corporation (herein “ICC”), Virgin Islands Telephone Corporation (herein “Vitelco”) the Executive Branch of the Government of the Virgin Islands, and two of its statutory bodies, the Industrial Development Commission (herein “IDC”) and the Virgin Islands Public Services Commission (herein “VIPSC”). Over a period of years, Senator Donastorg aggressively criticized ICC, Vitelco, the IDC and the VIPSC and their principals for a wide array of perceived misdeeds. He also held to task government agencies and government officials whom he deemed responsible for inadequate oversight of Vitelco’s compliance with tax abatement statutes and for their alleged failure to hold the line on the cost of telephone services to the consumer. Senator Donastorg sought to accomplish this by a strategy of:

- holding legislative hearings in which government officials were grilled about their alleged ties to the company and about the details of Vitelco’s compliance with statutory or regulatory mandates;
- sponsoring Bill No 22-0105 as Senate Resolution 1582 (passed June 30, 1997) petitioning the VIPSC to reduce Vitelco’s rates by twenty percent (20.0%)<sup>1</sup>;
- filing a Writ of Mandamus in the Superior Court of the Virgin Islands against the IDC to require it to release Vitelco’s sensitive financial information (*Donastorg v. IDC and Vitelco, Intervenor* ST-00-cv-517)<sup>2</sup>;
- filing a civil RICO case in the U.S. District Court of the Virgin Islands against Jeffrey Prosser, ICC and Vitelco (*Donastorg v. ICC, et. al.* D.C. St. Croix 2002/0097) alleging

---

<sup>1</sup> The VIPSC’s subsequent rejection of Senate Resolution 1582 was the subject of a Complaint by the Legislature to the Virgin Islands Bureau of Audit and Control. In a December 10, 1999 Letter Audit No. AM-02-PSC-00 entitled *Review of the Circumstances Surrounding the PSC’s Decision Not to Conduct a Formal Hearing on the Legislature’s Resolution 1582* <http://www.viig.org/pdf/audits/AM-02-PSC-00.pdf> it was determined by Inspector Stephen van Beverhoudt that in rejecting the Resolution, the VIPSC acted within its statutory authority and that claims that Vitelco had unduly influenced its members were meritless.

<sup>2</sup> *Donastorg v. IDC, et. al.* was dismissed with prejudice due to Senator Donastorg’s lack of standing. An judgment for attorney’s fees and costs of Three Thousand Five Hundred Dollars (\$3,500.00) was rendered against him and for Vitelco in its capacity as Intervenor (Order dated February 9, 2007 *Hollar, J presiding*).

fraud, embezzlement and misappropriation of funds attendant to the collection and disposition of funds collected by Vitelco for emergency services.<sup>3</sup>

- filing a Complaint alleging civil conspiracy to defame, tortious interference with contractual relations and intentional infliction of emotional distress against Jeffrey Prosser and Joel Holt, Esq. (*Donastorg v. Holt and Prosser* T.C. Civil No. 597/2004)<sup>4</sup>

Senator Donastorg's efforts were accompanied by a near constant barrage of press releases, which were formulated and timed to support his legislative, regulatory, litigative and electoral agenda. Invariably, however, his efforts came to naught. During this period, The Daily News reported on Senator Donastorg's activities, using its editorial discretion to publicize, *inter alia*, his press releases against ICC and its subsidiaries and their individual or collective responses.

In this matter, Senator Donastorg takes aim at the messenger. Over the course of the prosecution of this case, Senator Donastorg has mischaracterized ordinary and customary news articles and editorials in The Daily News as invasive, false and defamatory and has taken fair and balanced reporting and mischaracterized it as unfair and unbalanced.

ICC and Vitelco appear to have responded to Senator Donastorg in kind. ICC apparently hired a private investigator to do opposition research on Senator Donastorg. This may be annoying to a veteran politician, but should not be unexpected. Vitelco's ownership and upper management urged its employees not to vote for Senator Donastorg. Whether this foray into electoral politics resulted in more or less votes for Senator Donastorg among the rank-and-file of Vitelco's employees cannot be known, but it is well within Vitelco's rights to look to its own self-interest in any lawful manner.

---

<sup>3</sup> *Donastorg v. ICC, et. al.* was dismissed with prejudice due to Senator Donastorg's lack of standing. (Order dated June 22, 2005 *Brotman, J presiding*). .

<sup>4</sup> *Donastorg v. Holt, et. al.* was voluntarily dismissed with prejudice by Senator Donastorg for no consideration (Order dated October 15, 2010 *Dunston, J presiding*)

Additionally, ICC occasionally used its editorial page in The Daily News to criticize local politicians, including Senator Donastorg. Nothing is more consistent with First Amendment principles and, again, should not be unexpected by a veteran politician.

Plaintiffs' Opposition to the Daily News and J. Lowe Davis' Motion for Summary Judgment rests on fundamental misstatements of the governing law and blatant misrepresentations of the evidentiary record. Indeed, nearly every material statement of fact and law in the Opposition represents a half-truth, distortion, or plain misrepresentation. The Daily News and J. Lowe Davis do not make these charges lightly, particularly because Plaintiff is a former Senator of the Virgin Islands Legislature. Therefore, in the pages that follow, the Daily News and J. Lowe Davis will set the record straight by carefully reviewing the cases that Senator Donastorg has cited and deconstructing his distortion of the evidence. When the actual, undisputed facts are considered, and the controlling precedent is examined, it becomes clear Plaintiffs cannot meet their "daunting" burden of proving by clear and convincing evidence that the Daily News and J. Lowe Davis published the articles and editorial at issue knowing they were false or entertaining serious doubts about their truth *McFarlane v. Esquire Magazine*, 74 F.3d 1296, 1308 (D.C. Cir. 1996).

## **ARGUMENT**

### **I. PLAINTIFFS HAVE NOT MADE OUT A CLAIM FOR CIVIL CONSPIRACY AMONG THE DEFENDANTS. THEREFORE, THERE IS NO JUSTICIABLE CLAIM FOR JOINT AND SEVERAL LIABILITY.**

Plaintiffs allege in their Fourth Amended Complaint that a civil conspiracy existed among the Defendants, the object of which was to discredit, defame and intimidate Senator Donastorg. Senator Donastorg alleges that the conspirators committed a variety of torts to his

detriment. Those named include Jeffrey Prosser, who is alleged to have orchestrated the conspiracy to gain personal and business advantage, ICC, Prosser's wholly-owned holding company, the Daily News and Vitelco, two wholly-owned subsidiaries of ICC, ICC employee Oakland Benta, ICC and Vitelco employee Holland Redfield and Daily News employee J. Lowe Davis.

Senator Donastorg alleges that under Prosser's ownership, operation and control, in order "to achieve his personal and business objectives" the Defendants acted in "a joint and integrated fashion" "carrying out a common goal, scheme or plan" to "discredit Prosser's opponents (like Senator Donastorg)" by defaming them and "by painting them in a false light" Opposition at 27-29.

In their Supplemental Motion for Summary Judgment-Civil Conspiracy, Invasion of Privacy, Intentional Infliction of Emotional Distress (herein "Supplemental Motion"), Defendants counter the Plaintiffs claims of civil conspiracy by invoking the intracorporate (or intraenterprise) conspiracy doctrine, which provides that a controlled group of corporations, their agents and employees cannot conspire with one another, on the basis that a conspiracy requires a multiplicity of parties. Senator Donastorg's "alter-ego," "joint enterprise," and "concerted-action" allegations are premised on his assertion that the Defendants acted as a single enterprise with a singular goal. *See Copperweld Corp. v. Independence Tube Corp.*, 467 U.S. 752, 777, 104 S.Ct. 2731, 81 L.Ed.2d 628 (1984) ((holding that "[t]he officers of a single firm are not separate economic actors pursuing separate economic interests, so agreements among them do not suddenly bring together economic power that was previously pursuing divergent goals") This doctrine extends to the parent-subsidary relationship *Id.* at 770-71 ("...there can be little doubt that the operations of a corporate enterprise organized into divisions must be judged as the

conduct of a single actor [and] the coordinated activity of a parent and its wholly owned subsidiary must be viewed as that of a single enterprise”).

Defendants adopt, for the purposes of this Reply, the arguments made in their Supplemental Motion filed on even date herewith.

Senator Donastorg’s proposition that a civil conspiracy existed among the Defendants is offered to support a finding of joint and several liability *citing* §876 of the Restatement (Second) Of Torts. With such a finding, Senator Donastorg seeks to impose liability for defamation upon the Daily News and J. Lowe Davis for certain statements allegedly made by Prosser or Benta and published or republished by Redfield, and for invasion of privacy, intentional interference with contractual relations and intentional infliction of emotional distress upon the Daily News and J. Lowe Davis due to ICC’s retention of the firm of Dennis R. Sheraw & Associates (herein DS&A”) to prepare an Investigative Report (herein “Report”) of Senator Donastorg. Opposition at 29.

Although the intracorporate (intraenterprise) conspiracy doctrine obviates joint and several liability against The Daily News and J. Lowe Davis due to actions or statements by others, the statements attributed to Prosser or Benta and Redfield are nonetheless not actionable because they were not published with actual malice.

**II. SENATOR DONASTORG CANNOT DEMONSTRATE BY CLEAR AND CONVINCING EVIDENCE THAT THE CHALLENGED STATEMENTS ATTRIBUTED TO PROSSER OR BENTA AND REDFIELD ARE DEFAMATORY OR WERE MADE WITH ACTUAL MALICE.**

Paragraph 19 of the Plaintiffs’ Fourth Amended Complaint characterizes the challenged statements allegedly made by Prosser or Benta to Redfield and by Redfield to the media as follows:

“Defendants....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 document contained 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 business...” Fourth Amended Complaint at ¶19.

In Paragraph 20 of the Fourth Amended Complaint, the challenged statements were attributed to a 2002 call-in interview between Sam Topp, host of a radio program on WVWI-AM 1000 and Redfield, who was a call-in guest. In Paragraph 21 of the Fourth Amended Complaint, Senator Donastorg further attributes the challenged statements to Benta, suggesting that he published the challenged statement to Redfield and to unnamed others.<sup>5</sup>

There is no allegation in the Complaint that Prosser or Benta made any other defamatory or otherwise challenged statements concerning Senator Donastorg.

There is no allegation in the Complaint, or in the Opposition, that either the Daily News or J. Lowe Davis published or republished the challenged statements by Prosser, Benta or Redfield.

According to Senator Donastorg, the two challenged statements by Prosser or Benta and Redfield are, *first*, that ICC commissioned the Report to investigate whether or not Senator Donastorg took a junket on AT&T’s private aircraft and whether or not Senator Donastorg had an “unsavory” relationship with AT&T <sup>6</sup>, and, *second*, whether Senator Donastorg “set out to slander business”.

The Daily News and J. Lowe Davis test these statements to determine whether they meet the criteria for actionable defamation of a public official.

---

<sup>5</sup> Deposition of Holland Redfield, *generally* at Page 121, Line 2 (herein “Page/Line”) and 129/4, 132/4, 134/10 and 142/8 in which Redfield testifies that he was informed by either Prosser or Benta that ICC’s motive for commissioning DS&A to investigate Senator Donastorg was his alleged flight to the 1998 St. Lucia Jazz Festival on an AT&T corporate aircraft.

<sup>6</sup> AT&T was, at the time, ICC’s primary competitor in the local long distance telephone market.

The source of the challenged statements has allegedly been reduced to an unsigned, unsworn, uncertified eight-page transcript (herein the “Transcript”) which has been included in the Opposition as Exhibit 86A to Redfield’s December 20, 2008 deposition.<sup>7</sup>

There is no direct allegation in the Transcript or otherwise in the record of this matter to a bribe having been offered by anyone to or on behalf of Senator Donastorg or to a bribe having been solicited or accepted from anyone by or on behalf of Senator Donastorg.

In a general reference to what he was informed led ICC to commission the Report, Redfield makes a singular reference to the allegation that Senator Donastorg may have flown on an AT&T’s corporate aircraft as follows:

Redfield: “...Let’s speak to what prompted this. First of all, there was an event that took place – an alleged event that took place – back in, in that time period when it was alleged that he had flown on an AT&T aircraft down island to a jazz festival. That is what instituted the investigation, along with many of the slanderous statements that he had made.” Transcript at 1.

Redfield goes on to state that “...the Report was done to basically find out whether there was some unsavory relationship that was (sic) developed between our competitors and him to the detriment of our company...” Transcript at 3. Redfield also states repeatedly that he had never seen the Report, Transcript at 2, 3, 5 and 7, and that Senator Donastorg himself released the Report to the media Transcript at 2, 5 (confirming Sam Topp’s reiteration of Redfield’s statement that Senator Donastorg released the Report to the *St. Croix Avis*).<sup>8</sup>

---

<sup>7</sup> In the Deposition of Holland Redfield at 194/5-18, the Transcript was presented as an Exhibit by Attorney Rohn and objected to by Paul Ruskin, Esq., counsel for Vitelco, on the grounds of authenticity. Rohn replied that proof of authenticity would be provided. There is nothing in the record of this matter to confirm that an authenticated copy of the Transcript was ever produced.

<sup>8</sup> DS&A was retained by ICC in 1998 to produce the Report. At the time, DS&A had been providing contract security services for all of ICC’s subsidiaries. In 2000, DS&A’s contract with ICC expired and was not renewed. DS&A sued ICC, alleging Breach of Contract and Damages (*DS&A v. ICC, Prosser and Benta* T.C. Civil No 243/2000 (District of St. Croix)). During the course of the litigation, DS&A delivered the Report to its counsel, Lee J. Rohn, Esq. Lee J. Rohn delivered the Report to Senator Donastorg. Senator Donastorg promptly delivered the Report to the *St. Croix Avis*. In 2002, ICC sued Sheraw, DS&A, Rohn, Law Offices of Lee J. Rohn and



With respect to the challenged statement that Senator Donastorg slandered business(es) in the Territory, Redfield stated repeatedly in his deposition at 188/10 through 190/8 and at 196/22 through 202/13 that the reference to slandering business(es) concerned Senator Donastorg's allegations that Vitelco was overearning<sup>9</sup> and that Vitelco was embezzling a statutorily mandated One Dollar (\$1.00) per land telephone line Emergency Services Special Fund surcharge.

**III. SENATOR DONASTORG CANNOT DEMONSTRATE BY CLEAR AND CONVINCING EVIDENCE THAT REDFIELD'S STATEMENTS TO THE MEDIA WERE DEFAMATORY OR WERE MADE WITH ACTUAL MALICE.**

Senator Donastorg is a former member of the Legislature of the Virgin Islands, having served seven two-year terms. In addition, he ran for Governor of the Virgin Islands three times, in 2006, 2010 and in 2014. As a public official, Senator Donastorg's claim of defamation must be balanced against "...a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials." *New York Times Co. v. Sullivan*, 376 U.S. 254, 270-71, 84 S. Ct. 710, 721, 11 L. Ed. 2d 686 (1964) (*citing cases*)

Actual malice in a public official defamation case may only be demonstrated by evidence that the defendant published the statement at issue "with knowledge that it was false or with

---

Senator Donastorg for Breach of Fiduciary Duty, Conversion, Tortious Invasion of Privacy, Negligence *Per Se* (violation of Title 23 V.I.C. §1320, Common Law Tort, Defamation, Civil Extortion and Breach of Contract. *ICC v. Sheraw, et. al.* T.C. Civil No. 493/2002 (District of St. Thomas & St. John). That case was voluntarily dismissed by ICC after its filing of a Petition in Bankruptcy.

<sup>9</sup> An allegation of over earning by Vitelco may be considered defamatory because Vitelco is a regulated utility under the jurisdiction of the Virgin Islands Public Services Commission. *See* Title 30 V.I.C. §1(2). The VIPSC is responsible for setting telephone rates and Vitelco is mandated to "obey the lawful orders of the Commission" *See* Title 30 V.I.C. §2. If Vitelco over earns, it is not only in violation of the relevant Order(s) of the VIPSC, it is also charging rates to the detriment of all of the ratepayers in the U.S. Virgin Islands. In a subsequent VIPSC rate investigation, it was determined that Vitelco was, in fact, under earning Redfield Dep. at 99/13-18 and 208/12-20.

reckless disregard of whether it was false or not.” *New York Times*, 376 U.S. at 281, 84 S.Ct. at 726. Reckless disregard may be established by clear and convincing evidence that the false statements were made with a “high degree of awareness of their probable falsity,” *Garrison v. Louisiana* (1964), 379 U.S. 64, 74, 85 S.Ct. 209, 216, or that “the defendant in fact entertained serious doubts as to the truth of his publication” *St. Amant v. Thompson* (1968), 390 U.S. 727, 731, 88 S.Ct. 1323. In addition, when a case involves the reporting of a third party's allegations, “recklessness may be found where there are obvious reasons to doubt the veracity of the informant or the accuracy of his reports.” *Id.* at 732, 88 S.Ct. at 1325.<sup>10</sup>

Therefore, in order for Senator Donastorg to demonstrate that Redfield’s statement regarding ICC’s motivation for commissioning the Report was made with actual malice, he must establish, by clear and convincing evidence, that Redfield entertained a high degree of awareness of or serious doubts about the probable falsity of the statement, or that he was reckless by not doubting the veracity of the source or the accuracy of the statement.

In *Kendall v. Daily News Pub. Co.*, 716 F.3d 82, 89 (3d Cir. 2013) the Third Circuit Court of Appeals reiterated the standard that “[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 subjective awareness of probable falsity.” *Id.* (internal citations and quotation marks omitted). “[This] standard is a subjective one, based on the defendant's actual state of mind....” *Id.* (citing *St. Amant v. Thompson*, 390 U.S. 727, 731, 88 S.Ct. 1323, 20 L.Ed.2d 262 (1968)). The *Kendall* Court also held that in order to demonstrate the falsity element, plaintiffs

---

<sup>10</sup> In an exhaustive study, the Media Law Resource Center found that actual malice “is the single most-often litigated issue in summary judgment motions, and it has been decided in favor of defendants in 82.5 percent of the summary judgment decisions since 1986.” *MLRC Study Shows that Defendants Win 78.3% of Summary Judgment Motions*, at [http://www.medialaw.org/Content/NavigationMenu/About\\_MLRC/News/2007\\_Bulletin\\_No\\_2B.htm](http://www.medialaw.org/Content/NavigationMenu/About_MLRC/News/2007_Bulletin_No_2B.htm).

must show that the defendant either knew that the defamatory meaning of his statement was false or was reckless in regard to the defamatory meaning's falsity. *Id.*

The challenged statement made by Redfield was not that Senator Donastorg flew on an AT&T aircraft to the 1998 St. Lucia Jazz Festival or that he had an “unsavory” relationship with AT&T. The challenged statement made by Redfield was that ICC’s motivation for commissioning the Report was to determine whether or not Senator Donastorg flew on an AT&T aircraft to the 1998 St. Lucia Jazz Festival and whether or not Senator Donastorg had an “unsavory” relationship with AT&T. Redfield identified the source of that statement as either Prosser or Benta. *See* Redfield Dep. 134/6-14.

This is not a matter of ordinary defamation, in which the alleged defamatory statement has only a defamatory meaning. Restatement (Second) of Torts § 559 (explaining that “[a] communication is defamatory if it tends to so 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”) (1977). It is not unusual, nor is it particularly noteworthy, for a politician to travel on a corporate aircraft. In fact, on January 3, 2013, the first day of the 113<sup>th</sup> Congress of the United States, the House passed H.R. 5, which allows members of the United States House of Representatives to travel on corporate aircraft <http://www.insidepoliticallaw.com/2013/01/03/new-house-rules-allow-members-of-congress-to-pay-to-fly-on-corporate-jets/> (includes a link to H.R. 5). In addition, it is not facially violative of the Virgin Islands statute prohibiting Conflicts of Interest.<sup>11</sup>

---

11

§1102 Prohibited Acts, 3 V.I.C. §1102

No territorial officer or employee shall:

- 1) be financially interested in any contract made or negotiated by him in his official capacity, or by any public agency of which he is a member.
- (2) be a purchaser at any sale or a vendor at any purchase made by him in his official capacity.

The statement that *ICC was investigating* whether or not Senator Donastorg flew on an AT&T aircraft to the 1998 St. Lucia Jazz Festival and that *ICC was investigating* whether or not Senator Donastorg had an “unsavory” relationship with AT&T is not *per se* defamatory. However, given that Paragraph 19 of the Fourth Amended Complaint charges that “Defendants....slandered and defamed him (Senator Donastorg) to include accusing him of taking bribes...” we are left to conclude that Senator Donastorg is characterizing Redfield’s statement as an implication that the alleged flight on an AT&T aircraft to the 1998 St. Lucia Jazz Festival combined with the reference to whether there was an unsavory relationship between AT&T and Senator Donastorg is an allegation of bribery against Senator Donastorg and is therefore defamatory by implication.

In defamation-by-implication cases, the alleged defamatory statement has two possible meanings, one that is defamatory and one that is not. *See* 50 Am.Jur.2d *Libel and Slander* § 158 (explaining that “... [d]efamation by implication’ occurs when a defendant juxtaposes a series of facts to imply a defamatory connection between them”).

In *Kendall* at 90, the Third Circuit Court of Appeals stated that “plaintiffs in defamation-by-implication cases must show something beyond knowledge of, or recklessness in regard to, the falsity of the statement's defamatory meaning. *Compuware Corp. v. Moody's Investors Servs., Inc.*, 499 F.3d 520, 528–29 (6th Cir.2007); *Howard v. Antilla*, 294 F.3d 244, 252 (1st

- 
- (3) have any interest, financial or otherwise, direct or indirect, or engaged in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the laws of the Virgin Islands.
  - (4) accept other employment which will either impair his independence of judgment as to his official duties or require him, or induce him, to disclose confidential information acquired by him in the course of and by reason of his official duties.
  - (5) wilfully and knowingly disclose, for pecuniary gain to any other person, confidential information acquired by him in the course of and by reason of his official duties or use any information for the purpose of pecuniary gain.

Cir.2002); *Newton v. Nat'l Broad. Co., Inc.*, 930 F.2d 662, 681 (9th Cir.1990); *Saenz v. Playboy Enters., Inc.*, 841 F.2d 1309, 1317–18 (7th Cir.1988). The Supreme Court has explained that in the libel context, “[m]alice [has been] defined in numerous ways, but in general depend[s] upon a showing that the defendant acted with improper motive.” *Herbert v. Lando*, 441 U.S. 153, 163–64, 99 S.Ct. 1635, 60 L.Ed.2d 115 (1979). Showing motive “hinge[s] upon the intent or purpose with which the publication was made.” *Id.* at 164, 99 S.Ct. 1635. These statements show that the intent of the publisher is linked to determining if that publisher had the actual malice necessary to support a libel claim. *Harte-Hanks Commc'ns, Inc. v. Connaughton*, 491 U.S. 657, 688, 109 S.Ct. 2678, 105 L. Ed. 2d 562 (1989) (explaining that actual malice involves a subjective inquiry into a defendant's mental state rather than just an objective determination of a statement's truth); *Saenz*, 841 F.2d at 1317 (“Proof of actual malice depends upon the defendant's actual state of mind.” (citing *Herbert*, 441 U.S. at 160, 99 S.Ct. 1635)).”

Therefore, the Court of Appeals held that in defamation by implication cases, a plaintiff must “show (with clear and convincing evidence) something that establishes defendant’s intent to communicate the defamatory meaning” *Kendall* at 90.

Clear and convincing evidence of defendant’s intent to communicate a defamatory meaning “...requires that plaintiff provide evidence so clear, direct, weighty, and convincing as to enable a clear conviction, without hesitation, about whether or not the defendants acted” in a way that renders them liable *Kendall* at 92 citing *Amica Mut. Ins. Co. v. Fogel*, 656 F.3d 167, 179 (3d Cir.2011).

There is no basis in this record for a determination that Redfield intended to communicate a defamatory meaning, much less a basis that is “clear, direct, weighty, and convincing”. Redfield was not asked nor did he state whether knew or believed that Senator Donastorg flew to

the 1998 St. Lucia Jazz Festival on an AT&T aircraft. Redfield was not asked nor did he state that the relationship between Senator Donastorg and AT&T was “unsavory”. Redfield offered no opinion and made no statement about those matters. Redfield’s statement was limited to what he was informed by Prosser or Benta to be ICC’s motivation for commissioning the Report. As the spokesperson for ICC, responding to Senator Donastorg’s release of the Report to the *St. Croix Avis*, Redfield was simply explaining his understanding as to why the Report came to be. Redfield’s evident “intent or purpose” was not fueled by the “improper motive” of defaming Senator Donastorg that is required by the Supreme Court in *Herbert, infra*. Redfield’s statement cannot constitute the clear and convincing evidence of intent to defame that is required in cases of defamation by implication.

**IV. SENATOR DONASTORG CANNOT DEMONSTRATE BY CLEAR AND CONVINCING EVIDENCE THAT REDFIELD’S STATEMENT REGARDING SENATOR DONASTORG’S ALLEGED SLANDER OF LOCAL BUSINESSES IS DEFAMATORY OR WAS MADE WITH ACTUAL MALICE.**

Defendants have found no reference in reported cases to a public official prosecuting an action for defamation on the basis of a statement by a defendant that that the public official had defamed a third party. In any case, Paragraph 19 of the Fourth Amended Complaint alleges, *inter alia*, that Redfield has defamed Senator Donastorg “...to include...falsely stating that Senator Donastorg sets out to slander business...” In Redfield’s deposition, Attorney Rohn questioned him closely about this allegation. Redfield replies consistently that the target of the Senator Donastorg’s slander was Vitelco. Redfield bases his claim on *first*, Senator Donastorg’s allegation that Vitelco was earning profits in excess of the twelve percent (12.0%) annual rate of return that Vitelco is authorized to earn as a utility whose rates and services are regulated by the VIPSC and, *second*, Senator Donastorg’s claim that Vitelco or its principals were either diverting

or embezzling the statutorily mandated Emergency Services Special Fund of One Dollar (\$1.00) per land telephone line.

Redfield's references to Senator Donastorg's allegations against Vitelco for overearning are at 97/17 through 104/25 of his deposition. At 99/13-19 and at 208/12-20, Redfield testifies that the VIPSC determined that Vitelco was actually earning a six percent (6.0%) rate of return, or only half of what had been authorized by the VIPSC. At no point during the deposition did Attorney Rohn challenge Redfield on his statement that Senator Donastorg charged Vitelco with overearning, nor did Attorney Rohn challenge Redfield on his statement that Vitelco was under earning.

With respect to Senator Donastorg's claim that the One Dollar (\$1.00) per land telephone line Emergency Services surcharge was being diverted or embezzled by Vitelco, Redfield was clearly in error when he offered that those claims constituted a basis for ICC decision to commission the Report.

The Report, submitted with the Opposition as Plaintiffs' Exhibit 3, is dated May 20, 1998. The establishment of the Emergency Services Special Fund (the One Dollar (\$1.00) per land telephone line surcharge) is at Section 29 of Act 6333 (Bill No. 23-0178) which was passed by the Virgin Islands Legislature on November 23, 1999 and signed into law by Governor Charles W. Turnbull on December 2, 1999.

During the course of Redfield's deposition, Attorney Rohn was apparently unaware that the establishment of the Emergency Services Special Fund postdated the completion of the Report by some eighteen months and, therefore, failed to challenge Redfield on that point.

As a public official, in order for Senator Donastorg to make out a claim for ordinary defamation against Redfield for his statement that Senator Donastorg slandered Vitelco, he must

demonstrate that Redfield made the statement with knowledge that it was false or with reckless disregard of whether it was false or not.” *New York Times*, 376 U.S. at 281, 84 S.Ct. at 726. Reckless disregard may be established by clear and convincing evidence that the false statements were made with a “high degree of awareness of their probable falsity,” *Garrison v. Louisiana* (1964), 379 U.S. 64, 74, 85 S.Ct. 209, 216, or that “the defendant in fact entertained serious doubts as to the truth of his publication.” *St. Amant v. Thompson* (1968), 390 U.S. 727, 731, 88 S.Ct. 1323. There is no showing in this record that Redfield entertained any doubts whatsoever regarding whether Senator Donastorg slandered Vitelco by claiming that it was over earning. In fact, that question was never asked of Redfield during the course of his deposition. With respect to what Prosser or Benta may have known, or what doubts they may have entertained regarding Senator Donastorg’s statement are likewise unknown, as Senator Donastorg never deposed them, notwithstanding that Prosser has been a Defendant in this cause for thirteen years, and Benta has been a Defendant in this cause for five years. Therefore, Plaintiffs can make no showing of any subjective awareness by Prosser, Benta or Redfield that the challenged statements were false or otherwise unreliable. There is also no basis in this record to claim that Redfield should have disbelieved Prosser or Benta’s statements to him. That question likewise was left unasked in Redfield’s deposition.

In addition, with the unrebutted statement in the record that Vitelco was under earning by half, Redfield characterization that Senator Donastorg’s allegation of over earning were slanderous is arguably objectively true. Truth is a complete defense to a claim of defamation. *Greene v. Virgin Islands Water & Power Auth.*, 2011 WL 3032466, at \*10 (D.V.I. July 22, 2011) *aff’d sub nom. Greene v. Virgin Islands Water & Power Auth.*, 557 F. App’x 189 (3d Cir. 2014) *citing Cohen v. Raedler*, 17 V.I. 46 (1980).



**V. SENATOR DONASTORG HAS ELICITED NO TESTIMONY OR OTHER EVIDENCE THAT EITHER THE DAILY NEWS OR J. LOWE DAVIS HAD ANY INVOLVEMENT WITH OR ACCESS TO THE INVESTIGATIVE REPORT**

Senator Donastorg alleges in his Fourth Amended Complaint that The Daily News and J. Lowe Davis share joint and several liability with the remaining Defendants for invasion of privacy in connection with the Report. However, it has been demonstrated herein and at further length in the Supplemental Motion that the intracorporate (intraenterprise) conspiracy doctrine shields these Defendants from joint and several liability for the actions or statements of others.

Without a showing of joint and several liability, Senator Donastorg is left to demonstrate that there is a direct nexus between these Defendants and ICC's commission of the Report. Senator Donastorg fails to do so. Senator Donastorg makes a weak pass at drawing the required nexus at page 17 of his Opposition, in which he states that Edward Crouch, the ICC representative on the Editorial Board of The Daily News "had access" to the "privacy-invading report". Plaintiff failed to take the deposition of Edward Crouch and thereby failed to determine whether Edward Crouch ever saw or read the Report, much less published it to others. However, Jason Robbins, who was at all relevant times the Assistant Executive Editor of The Daily News, was deposed and confirmed that Edward Crouch was an ICC employee, Robbins Deposition 31/18-19, and that his name was listed under the heading Editorial Board "...on a page of The Daily News -- Virgin Islands Daily News that was controlled, managed and operated by ICC..." Robbins Deposition at 31/22-25. Further, Robbins testified that "...Mr Crouch was not an employee of The Daily News and had no role in newsroom operations." Robbins Deposition at 179/6-7. With respect to the Report, Robbins testified that he had no knowledge of it other than what he read about in the pleadings and other documents in this litigation. Robbins Deposition at

90/25 to 91/13. In fact, Robbins testifies at Robbins Deposition 95/13 to 96/9 that no one at The Daily News ever had a copy of the Report; that The Daily News never asked for a copy of the Report and that The Daily News never communicated with ICC about the Report or its contents. Robbins makes a complete and definitive statement confirming any claim of a nexus between The Daily News and the Report at Robbins Dep. 186/23 to 187/13 in which he states, *inter alia*, that there is "...no substance, no accuracy, no validity to any allegation against The Daily News as having used that report or anything related to that investigation in regard to the production of any news story whatsoever...". Throughout the Robbins deposition, and likewise throughout this case, Senator Donastorg fails to make a showing that there is any nexus whatsoever between The Daily News and the Report.

J. Lowe Davis, who was Executive Editor of The Daily News throughout the relevant period, stated that she never spoke to Edward Crouch Davis Dep. at 29/12-13. Attorney Rohn presented no information to the contrary. The fact that The Daily News never had the Report is expressly confirmed in Davis' Dep. at 46/18-21. Perhaps seeing the proverbial "writing on the wall" Attorney Rohn asked no further questions of J. Lowe Davis about the Report.

There is no justiciable joint and several liability shared by The Daily News and J. Lowe Davis concerning ICC's commissioning of the Report. There has been no proof of any nexus between The Daily News, J. Lowe Davis and the Report in this record, nor can there be.

**VI. THE CLAIMS OF ADLAH DONASTORG, SR. JOSEFINA DONASTORG, NORMA DURAND AND ELLA MORON AGAINST THE DAILY NEWS AND J. LOWE DAVIS CANNOT STAND, AS THOSE CLAIMS RELATE EXCLUSIVELY TO THE REPORT.**

In paragraphs 19 and 24 of Plaintiffs Second Amended Complaint, Senator Donastorg added four additional party Plaintiffs to the litigation. Those included his father, Adlah

Donastorg, Sr., his mother, Josefina Donastorg and his sisters, Ella Moron and Norma Duran. The allegations made by Senator Donastorg's family concern the alleged invasion of privacy attendant to the ICC's commissioning of the Report and the execution of the investigation that led to its preparation. The references to Senator Donastorg's family in the Second Amended Complaint, which were carried forward to the Third and the Fourth Amended Complaints, are as follows:

19. 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.

and

24. Plaintiffs Benedicta Donastorg, Adlah Donastorg, Sr. Josefina Donastorg, Edwin Callwood, Ella Morin 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 ICC, Jeffrey Prosser and Vitelco.

(Second Amended Complaint at ¶¶ 19, 14; Fourth Amended Complaint at ¶¶ 17, 23).

The Daily News and J. Lowe Davis have demonstrated that no allegation of civil conspiracy with respect to the commissioning, preparation or dissemination of the Report can lie against them. In addition, no evidence has been adduced that The Daily News or J. Lowe Davis ever had access to the Report or ever utilized any of its contents or its conclusions for any purpose.

Finally, there has been no allegation in this matter that the names of Adlah Donastorg, Sr. Josefina Donastorg, Ella Morin or Norma Duran ever even appeared in The Daily News.

Therefore, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron and Norma Duran have not made out a claim against either The Daily News or J. Lowe Davis.

The Daily News and J. Lowe Davis, having amply demonstrated that they bear no derivative liability to these Plaintiffs arising from the alleged actions or statements of ICC, Vitelco, Prosser, Benta or Redfield and that they bear no direct liability to these Plaintiffs arising from the commission, the execution or the dissemination of the Report, should be granted summary judgment in each of these particulars.

**VI. THE CLAIMS OF SENATOR DONASTORG FOR TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS AGAINST THE DAILY NEWS AND J. LOWE DAVIS CANNOT STAND, AS THOSE CLAIMS RELATE EXCLUSIVELY TO THE REPORT.**

To state a claim for tortious interference with contractual relations, a party must allege the following six elements: (1) a contract existed between the complaining party and a third party; (2) the alleged tortfeasor knew of the contract's existence; (3) the defendant intentionally and improperly interfered with the contract; (4) the interference was the proximate cause of one party failing to perform; (5) the defendant intended to harm the complaining party by interfering with the contract; and (6) the non-performance resulted in harm to the complaining party *Gov't Guar. Fund of Rep. of Finland (Skopbank) v. Hyatt Corp.*, 955 F. Supp. 441, 452 (D.V.I. 1997), *See also Pourzal v. Marriott Int'l, Inc.*, 2006 WL 2471695, at \*2 (D.V.I. Aug. 17, 2006); *Bethea v. Merchants Commercial Bank*, 2012 WL 3550781, at \*3 (D.V.I. Aug. 15, 2012).

Senator Donastorg alleges tortious interference with contractual relations against The Daily News and J. Lowe Davis. However, his demonstration of proof is less than half-hearted and wholly fails to meet the six-part test described in the case law. In his Fourth Amended Complaint, Senator Donastorg fails to enunciate facts that could be interpreted as proof of even one of the six elements of this claim. In his Opposition at pages 60-62, Senator Donastorg alleges that Vitelco failed to provide him telephone service for a period of three weeks and that

some unknown person contacted certain unidentified business clients and asked questions about their dealings. Donastorg goes on to state that he learned about the contact from "...a client MD McCaley; and as a result, the client wanted to discontinue doing business with Donastorg's company, Carrier Medical Supplies." Not only does Senator Donastorg fail to allege the requisite harm, or identify who or what that harm may have been caused by, his company, Carrier Medical Supplies, is not a party Plaintiff in this matter. Senator Donastorg directs the Court to RSOF §4.B.1 for further support of his allegations. Upon review of RSOF §4.B.1, we note not a single substantive reference to The Daily News or to J. Lowe Davis<sup>12</sup>, nor any substantive effort to make out any of the six-part test for proof of his allegation of tortious interference.

Senator Donastorg has presented no competent evidence whatsoever in support of his claim of interference with contractual relations against The Daily News and J. Lowe Davis. Summary Judgment should be granted on that claim.

**VII. FOUR (4) OF THE TWENTY-THREE (23) CHALLENGED NEWSPAPER ARTICLES AND EDITORIALS ARE BARRED BY THE APPLICABLE STATUTE OF LIMITATIONS.**

The statute of limitations for the torts of defamation, for invasion of privacy and for tortious interference with contractual relations is two years *See* Title 5 V.I.C. §31(5)(A). The Daily News and J. Lowe Davis, as the newspaper of record in the U.S. Virgin Islands and its Executive Editor, publish daily editions of the newspaper for distribution to the general public. Senator Donastorg has alleged, in ROSF §1, that he is aggrieved of twenty-three (23) different newspaper articles that were published between March 31, 1997 and August 22, 2004.

---

<sup>12</sup> There is a reference in RSOF §4.B.1 to The Daily News and Jane Lowe Davis failing to adequately address the Report in its Motion for Summary Judgement at page 15, and there is a further reference to a telephone call from a Daily News reporter to an unnamed government agency to inquire into Senator Donastorg's child support payments at pages 18-19. Clearly, these references do not make out a claim for tortious interference with contractual relations.

The Complaint in this matter was filed on March 1, 2002. Therefore, the three challenged newspaper articles and editorials that predate March 1, 2000 are time-barred. These include the following:

- Exhibit 46 (“*Senator: no conflict of interest with firm selling hospital*” – March 21, 1997)
- Exhibit 38 (“*The public’s right to know*” – May 29, 1998)
- Exhibit 39 (“*Vitelco disputes PSC Study*” – July 15, 1998)

The editorial that was published on August 22, 2004 entitled “*Blind eye to cockfighting? Animal cruelty nonetheless!*” (Exhibit 98A) is likewise time-barred, because it was published after the Second Amended Complaint was “so ordered” by this Court on May 4, 2004 and filed on May 17, 2004, and more than two years before the Motion to Amend Second Amended Complaint was filed on March 3, 2009.

Plaintiff drops footnote 54 at page 42 of their Opposition to advance the proposition that the Supreme Court in *Anthony v. First Bank Virgin Islands*, 58 V.I. 224, 230-31 (V.I. 2013) held that multiple, discrete acts of alleged defamation can be deemed a “continuing tort” or a “continuing violation” for the purpose of the application of the statute of limitations. Plaintiffs misread *Anthony*. Initially, the Supreme Court’s reference to the “continuing violations doctrine” in *Anthony* is *dicta*; Anthony’s counterclaims against First Bank were dismissed on statute of limitations grounds and the continuing violations doctrine was not applied. In *Anthony*, the Supreme Court cites to a trespass action, *Bluebeard’s Castle, Inc. v. Hodge* 51 V.I. 672, 685 (D.V.I App. Div. 2009) as its primary case in support of the continuing violations doctrine. In that matter, Bluebeard’s erected a gate across a disputed roadway, blocking access to the Hodge’s property. Attorney and Mr. Hodge sued Bluebeard’s in 1997 on various theories of relief. Bluebeard’s argument that the case was time-barred was rejected by the Appellate Division of the District Court with the following reasoning:

“...[C]ourts routinely apply the continuing torts doctrine to nuisance claims where the injury is categorized as continuing rather than permanent. *See, e.g., Flotech, Inc. v. E.I. Du Pont de Nemours Co.*, 627 F.Supp. 358, 363 (D.Mass.1985) (noting that the doctrine applies in nuisance and trespass actions where the harm is classified as a continuing tort).”

*Bluebeard’s at \*6*

Conversely, with respect to defamation actions, courts have routinely determined that the continuing torts or continuing violations doctrine does not apply.

In the matter *Smith v. IMG Worldwide, Inc.*, 437 F. Supp. 2d 297, 304-05 (E.D. Pa. 2006) the court stated that “... [F]ederal courts “almost universally decline to apply the [continuing tort] doctrine” to defamation claims. *See Card v. Pipes*, 398 F.Supp.2d 1126, 1133 (D.Or.2004). “[A] cause of action for defamation accrues immediately upon the occurrence of the tortious act and, thus, is not appropriate for the continuing violation exception.” *Flowers v. Carville*, 310 F.3d 1118, 1126 (9th Cir.2002) (quoting *Lettis v. U.S. Postal Serv.*, 39 F.Supp.2d 181, 205 (E.D.N.Y.1998)), “[R]epeated defamations do not constitute a continuing tort; rather, as courts have uniformly recognized, each separate defamatory statement itself constitutes a separate and distinct cause of action.” *Lewis v. Gupta*, 54 F.Supp.2d 611, 616 (E.D.Va.1999); *see also Celli v. Shoell*, 995 F.Supp. 1337, 1345 (D. Utah 1998) (holding that each alleged defamatory statement constitutes a distinct cause of action) *See also Wallace v. Skadden, Arps, Slate, Meagher & Flom*, 715 A.2d 873, 882–83 (D.C.1998) (refusing to apply the continuing tort doctrine to defamation cases and stating that the court was unable to find any such cases applying the continuing tort doctrine to libel and slander claims), *Atkinson v. McLaughlin*, 462 F. Supp. 2d 1038, 1051 (D.N.D. 2006) (in light of the persuasive reasoning of other courts, the Court is unwilling to go against the great weight of authority and extend the continuing tort doctrine to defamation claims), *McBride v. Peak Wellness Ctr., Inc.*, 688 F.3d 698, 710 (10th Cir. 2012)

((“The [continuing-tort] doctrine applies where there is no single incident that can fairly or realistically be identified as the cause of significant harm. Here, however, publication of the book was a single incident”), *Brillhart v. Sharp*, 2008 WL 2857713, at \*5 (M.D. Pa. July 21, 2008) (“there is no ‘continuing tort’ exception to Pennsylvania’s one-year statute of limitations for action for defamation or invasion of privacy”).

Although the Supreme Court of the Virgin Islands has not weighed in on the applicability of the continuing tort or continuing violation doctrine to the tort of defamation, it is reasonably likely that it will conform with the great weight of authority from other jurisdictions in their determination that the individual, discrete, clearly definable tort of defamation is not amenable to the doctrine and that the statute of limitations should apply in the customary fashion

**VII. SENATOR DONASTORG CANNOT DEMONSTRATE THAT ANY OF THE CHALLENGED ARTICLES AND EDITORIALS WERE PUBLISHED WITH ACTUAL MALICE.**

The Daily News and J. Lowe Davis have hereinabove addressed Senator Donastorg’s claims arising from alleged concerted action with the other Defendants, any claims for tortious interference with contractual relations, invasion of privacy or intentional infliction of emotional distress arising from ICC’s commission and limited distribution of the Report. What remains to be analyzed are the challenged newspaper articles and editorials, without the myriad other distractions that Plaintiffs have propagated in their pleadings. Defendants will address each of the publications individually, in the order presented Plaintiff’s RSOF Section 1.

Initially, however, Defendants will describe the tests that The Court of Appeals in *Kendall* instructs courts to apply to determine whether a news article or editorial contains actionable defamation.



In *Kendall*, the Court of Appeals provides us with a functional template to determine whether Senator Donastorg can demonstrate that a publication was made with actual malice. In order to prove actual malice for *ordinary defamation*, Senator Donastorg must show by clear-and-convincing evidence (1) that the statement was defamatory, and (2) that the statement was made with “knowledge that [the] statement was false or [with] reckless disregard of whether it was false or not.” *Schiavone Constr. Co.*, 847 F.2d at 1089 (quoting *Sullivan*, 376 U.S. at 280, 84 S.Ct. 710) *Kendall* at 94. In order to prove actual malice for *defamation by implication*, Senator Donastorg must show by clear-and-convincing evidence (1) that the statement had a defamatory meaning, (2) that The Daily News and J. Lowe Davis either intended the defamatory meaning or knew of the defamatory meaning and were reckless in regard to it, and (3) that The Daily News and J. Lowe Davis made the statement with “knowledge that [the] statement was false or [with] reckless disregard of whether it was false or not,” *Schiavone Constr. Co.*, 847 F.2d at 1089 (quoting *Sullivan*, 376 U.S. at 280, 84 S.Ct. 710) *Kendall* at 92-93. With this, we can proceed to an individual analysis of the challenged articles and editorials. The news articles and editorials referred to herein are drawn from Plaintiffs’ ROSF ¶1, in which Senator Donastorg states that they are “exhibits...containing or relating to actionable conduct...” The publications are addressed in the order presented in ROSF ¶1.

**1. “Senator: No Conflict of Interest with firm selling hospital” (March 21, 1997)**

This news article was written by the reporter Patrice K. Johnson. Ms. Johnson was not deposed in this matter. There has been no evidence adduced regarding the reporter’s knowledge of falsity or awareness of probable falsity of any facts reported in this news article. Therefore,

there can be no finding of actual malice<sup>13</sup>. This news article was published prior to March 1, 2000 and is, therefore, outside of the two-year statute of limitations *See* Title 5 V.I.C. §31(5)(A). The substance of the article cannot be characterized as defamatory. The article concerns a 1997 Senate Finance Committee hearing in which Senator Donastorg was asked about the business relationship between his company, Carrier Medical Supplies & Equipment, Inc. and the Roy L. Schneider Hospital. The article ends with a statement from the Legal Counsel for the Legislature that government officials are not precluded from doing business with the Government. There appears to be no reference to this article in the body of the Opposition or in the Amended Response to Defendants' Statement of Facts. Therefore, Plaintiffs provide no rationale for including the publication in the list of challenged articles. There is no evidence that the article is defamatory or that either The Daily News or J. Lowe Davis acted with actual malice in its publication.

**2. "The public's right to know" (May 29, 1998)**

This editorial was written by the one of the members of the Editorial Board. No member of the Editorial Board of The Daily News was deposed in this matter. There has been no evidence adduced regarding the Editorial Board's knowledge of falsity or awareness of probable falsity of any facts reported in this editorial. Therefore, there can be no finding of actual malice *See fn. 13, infra*. This editorial was published prior to March 1, 2000 and is, therefore, outside of

---

<sup>13</sup> The actual malice standard requires that the defendant make the defamatory remarks with "knowledge that [the statement] was false or with reckless disregard of whether it was false or not" *New York Times Co. v. Sullivan*, 376 U.S. 254, 280, 84 S.Ct. 710, 726 (1964). The Supreme Court subsequently explained that reckless disregard for the truth means that the defendant "in fact entertained serious doubts as to the truth" of the statement, *St. Amant v. Thompson*, 390 U.S. 727, 731, 88 S.Ct. 1323, 1325, 20 L.Ed.2d 262 (1968), or that the defendant had a "subjective awareness of probable falsity." *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 335 n. 6, 94 S. Ct. 2997, 3004 n 6 (1974).

the two-year statute of limitations *See* Title 5 V.I.C. §31(5)(A). The substance of the editorial includes the following three paragraphs:

“...Utilities, especially electrical and telephone companies should be regulated. But the regulatory body should not be threatened by as (sic) rogue senator who is trying - yet again – to play politics and to jeopardize the economic well-being of the people he supposedly represents. Enter Sen. Adlah Donastorg who is threatening to attempt to disband the PSC and fire its chairman.

Fortunately, this move apparently has little support from anyone else in the Legislature and is another case of Donastorg’s pre-election politicking. It seems that when the senator does not 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 will 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 of 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.”

Notwithstanding the limitations to the scope of protected opinion defined by the United States Supreme Court in *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 20, 110 S.Ct. 2695, 2706, 111 L.Ed.2d 1 (1990), there continues to be First Amendment protection for editorial opinions. Plaintiffs have asserted that *Milkovich* is the vehicle by which they can successfully attack the normal and customary process of editorializing in the newspaper business. Plaintiffs travel a bridge too far. The Supreme Court has long recognized “a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 270, 84 S.Ct. 710, 721, 11 L.Ed.2d 686 (1964). Acknowledging that debate “may well include vehement, caustic, and sometimes unpleasantly sharp attacks,” *id.*, the Court nevertheless has decided that such attacks are constitutionally protected and those who make them are exempt from liability for defamation if the attacks are

simply “rhetorical hyperbole.” See *Milkovich*, 497 U.S. 1 at 20, 110 S.Ct. 2695 at 2706; *Old Dominion Branch No. 496, Nat'l Ass'n of Letter Carriers v. Austin*, 418 U.S. 264, 285–86, 94 S.Ct. 2770, 2782, 41 L.Ed.2d 745 (1974) (*Letter Carriers*); *Greenbelt Coop. Publ'g Ass'n v. Bresler*, 398 U.S. 6, 14, 90 S.Ct. 1537, 1542, 26 L.Ed.2d 6 (1970). The constitutional protection provided such rhetorical hyperbole “reflects ‘the reality that exaggeration and non-literal commentary have become an integral part of social discourse.’” See *Horsley v. Rivera*, 292 F.3d 695, 701 (11th Cir. 2002) (quoting *Levinsky's, Inc. v. Wal-Mart Stores, Inc.*, 127 F.3d 122, 128 (1st Cir.1997)); see also *Horsley v. Feldt*, 304 F.3d 1125, 1131 (11th Cir. 2002). The Virgin Islands Supreme Court has acknowledged this reality in footnote 18 of *Kendall v. Daily News Pub. Co.*, 2011 WL 4434922 (V.I. Sept. 21, 2011) *aff'd*, 716 F.3d 82 (3d Cir. 2013) which, in making reference to a scathing Daily News editorial article concerning a former Judge of the Superior Court held that:

“...the statements that Judge Kendall “display[s] an arrogance that we've not seen from any other judge,” and his decisions “leave us concerned for the very safety of Virgin Islands citizens and the integrity of the territory's Superior Court,” are clearly constitutional protected opinions. See *Milkovich*, 497 U.S. at 19–20, 110 S.Ct. at 2706–07; *Shepard v. Courtoise*, 115 F.Supp.2d 1142, 1147 (E.D.Mo.2000) (describing “arrogant” as “imaginative expression and rhetorical hyperbole” that is “not actionable as defamation”)

Plaintiffs make much of the editorial's use of the term “rogue senator” in describing Senator Donastorg, correlating it to the description of a list of criminals (a “rogue's gallery”) and deeming it *per se* defamatory as a result. However, an alternative, non-defamatory definition of the word “rogue” is in current parlance due, in no small measure, to its self-descriptive use by the former Alaska Governor and 2008 Vice Presidential candidate Sarah Palin, as a reference to someone who does not conform to or follow the crowd. In fact, *Going Rogue: An American Life* is the name of former Governor Palin's 2009 autobiography.

If the term “rogue” is to be characterized by some as defamatory, then its’ non-defamatory alternative usage may render it defamatory by implication. It is clear from the context of the editorial that the reference to “rogue senator” is correlated to the editorial’s later reference to Senator Donastorg having diverged from all of the other senators in calling for the abolition of the VIPSC and the IDC. In doing so, Senator Donastorg was not conforming to or following the crowd. Therefore, it is clear from the face of the editorial and from the context of the reference that the non-defamatory meaning of the term “rogue” was intended, and that actual malice cannot be demonstrated.

**3. “Vitelco disputes PSC study” (July 15, 1998)**

This news article was written by the reporter Norberto Santana, Jr. Mr. Santana was not deposed in this matter. There has been no evidence adduced regarding the reporter’s knowledge of falsity or awareness of probable falsity of any facts reported in this news article. Therefore, there can be no finding of actual malice *See fn. 13, infra*. This news article was published prior to March 1, 2000 and is, therefore, outside of the two-year statute of limitations *See* Title 5 V.I.C. §31(5)(A). The Plaintiffs have only provided the court with the first section of a two section article. In the first section, the article references a Bill No 22-0105 (Senate Resolution 1582), sponsored by Senator Donastorg and passed by the Senate on a 14-1 vote, which mandated that the VIPSC initiate a rate investigation of Vitelco and that it consider a twenty percent (20.0%) roll back in rates. Senator Donastorg goes on to question Vitelco’s response to the VIPSC’s consultant’s report on the need for a rate investigation.

There is nothing in this news article that could even vaguely be considered defamatory or even critical of Senator Donastorg.

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

This news article was written by the reporter Perry Brothers. Ms. Brothers was not deposed in this matter. There has been no evidence adduced regarding the reporter’s knowledge of falsity or awareness of probable falsity of any facts reported in this news article. Therefore, there can be no finding of actual malice *See fn. 13, infra*. This news article reports on a confrontation of views between Senator Donastorg and two representatives of ICC, Thomas Minnich, its Chief Operating Officer, and Redfield, the ICC spokesman. The confrontation concerned whether Vitelco was in violation of certain territorial tax-exemption regulations. In the article, Senator Donastorg charges Vitelco with shifting employees from other ICC subsidiaries into Vitelco to pad its payroll. Vitelco denies the allegation. The article ends with Senator Donastorg challenging the IDC to launch an investigation of Vitelco.

There is nothing in this news article that could even vaguely be considered defamatory or even critical of Senator Donastorg.

5. **“Donastorg demands data on Vitelco’s IDC compliance” (August 17, 2000)**

This news article was written by the reporter Susanna Henighan. Ms. Henighan was not deposed in this matter. There has been no evidence adduced regarding the reporter’s knowledge of falsity or awareness of probable falsity of any facts reported in this news article. Therefore, there can be no finding of actual malice *See fn. 13, infra*. This news article reports on a confrontation between Senator Donastorg and Frandelle Gerard, then the Executive Director of the IDC. The confrontation concerned the testimony of Ms. Gerard concerning the employee count at Vitelco. Senator Donastorg expressed dissatisfaction with the testimony and requested a preliminary compliance report, which was not forthcoming. The article aired Senator

Donastorg's viewpoint on the alleged "payroll padding" by Vitelco. The article ended with a statement that the IDC and the Virgin Islands Department of Labor had been meeting with Vitelco on compliance issues over a period of ten (10) months.

There is nothing in this news article that could even vaguely be considered defamatory or even critical of Senator Donastorg.

**6. "Donastorg asks court to make Vitelco open employee records" (September 6, 2000)**

This news article was written by the reporter Susanna Henighan. Ms. Henighan was not deposed in this matter. There has been no evidence adduced regarding the reporter's knowledge of falsity or awareness of probable falsity of any facts reported in this news article. Therefore, there can be no finding of actual malice *See fn. 13, infra*. This news article concerns the filing by Senator Donastorg of a Writ of Mandamus with the Superior Court to force the IDC to release documents concerning the levels of employment at Vitelco and Vitelco's compliance with IDC regulations. The article quotes Frandelle Gerard as stating that the IDC is working as "quickly as humanly possible" to complete the compliance report, and that the documents would not be released until the report was final.

There is nothing in this news article that could even vaguely be considered defamatory or even critical of Senator Donastorg.

**7. "Donastorg, IDC director wrangle over accusations of abuse" (November 1, 2000)**

This news article was written by the reporter Susanna Henighan. Ms. Henighan was not deposed in this matter. There has been no evidence adduced regarding the reporter's knowledge of falsity or awareness of probable falsity of any facts reported in this news article. Therefore, there can be no finding of actual malice *See fn. 13, infra*. This news article concerns a charge leveled by Senator Donastorg that Frandelle Gerard used her position as Executive Director of

the IDC to solicit donations from IDC beneficiaries to the Community Foundation of the Virgin Islands. The article states that Senator Donastorg failed to provide documentation to support his charge against Ms. Gerard, and that he would not return calls to his office requesting further comment and information. Senator Donastorg is aggrieved of both statements by The Daily News. In his Opposition, Senator Donastorg conflates the documents that were requested by The Daily News in support of his charge against Ms. Gerard with the documents relating to Vitelco's compliance with IDC regulations, suggesting that the latter documents were in the possession and control of Ms. Gerard, and that The Daily News was being duplicitous by suggesting that Senator Donastorg had the capacity to produce them. Senator Donastorg appears to be oblivious to his own sleight of hand. Senator Donastorg goes on to express outrage at The Daily News' suggestion that a reporter's call was not returned, on the basis that the call was made after normal business hours. These convoluted charges may be generally representative of this litigation, and may be informative of the relationship between Senator Donastorg and The Daily News reporters, but does not constitute defamation or proof of actual malice.

There is nothing in this news article that could even vaguely be considered defamatory or even critical of Senator Donastorg.

8. **“Legislation reduction on Agenda for Rules Committee” (June 12, 2001) and “Setting the record straight” (June 14, 2001).**

This news article was written by the reporter Hal Hatfield. The late Mr. Hatfield was not deposed in this matter. There has been no evidence adduced regarding the reporter's knowledge of falsity or awareness of probable falsity of any facts reported in this news article. Therefore, there can be no finding of actual malice *See fn. 13, infra*. In this news article, The Daily News made an error in reporting how Senator Donastorg voted on a bill in his Government Operations,



Planning and Environmental Protection Committee. The article stated, in part, as follows: “...Ironically, Donastorg voted no on his own bill – committee Chairman Donald Cole, Sen. Adelbert Bryan and Sen. David Jones – 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.” The article appeared on page 11 of The Daily News, and the retraction, which stated that Senator Donastorg actually voted for the bill in Committee and that the erroneous information was provide to the reporter by a member of the committee staff, appeared in a box on page 2 of The Daily News two days later. Senator Donastorg is predictably outraged by the news article and deems the published retraction inadequate. However, the article simply states that Senator Donastorg wanted to bypass the Rules Committee and to send his bill directly to the floor of the Senate. This is a common legislative maneuver, not a basis for claiming that one has been defamed. The Daily News referred to the presumed legislative maneuver as ironic, and expressly stated that he did so in an effort to have the Bill fast-tracked.

There is nothing in this news article that could even vaguely be considered defamatory or even critical of Senator Donastorg.

9. **“Sen Donastorg and wife face foreclosure on their Wintberg home” (February 6, 2002)**

This news article was written by the reporter Billy Shields. Mr. Shields was not deposed in this matter. There has been no evidence adduced regarding the reporter’s knowledge of falsity or awareness of probable falsity of any facts reported in this news article. Therefore, there can be no finding of actual malice *See fn. 13, infra*. This news article was based upon a foreclosure action filed by First Bank Puerto Rico against Senator Donastorg and his wife, Benedicta. The lawsuit was filed on February 4, 2002; the news article was published on February 6, 2002, the

case was voluntarily dismissed by First Bank on April 29, 2002 Plaintiff's Exhibit 11. Senator Donastorg is aggrieved of the self-evident statement in the news article that if his mortgage is foreclosed, he will have to find somewhere else to live. The remainder of the article is drawn directly from the allegations in the Complaint. At the time of the commencement of the litigation, Senator Donastorg was the Chairman of the Committee on Finance of the 24<sup>th</sup> Legislature of the Virgin Islands, the Committee responsible for passing the territorial budget. The facts in the news article are neither false nor defamatory. Senator Donastorg makes much of the fact that the filing of the foreclosure action was bank error. Not only does he fail to provide any proof of that allegation, it is irrelevant for the limited purposes here. Regardless of the undisclosed facts of the business relationship between Senator Donastorg and First Bank, The Daily News and J. Lowe Davis are nonetheless be immunized by the Fair Report Privilege.

In *Kendall v. Daily News Pub. Co.*, 2010 WL 2218633, at \*6 (V.I. Super. May 27, 2010) *aff'd*, 2011 WL 4434922 (V.I. Sept. 21, 2011) *aff'd*, 716 F.3d 82 (3d Cir. 2013), the Court construed the Fair Report Privilege as follows:

“... [T]he “fair report privilege” is provided as a means to protect the public's interest in having information made available to it about what occurs in government proceedings, including judicial proceedings, because access to such information is considered central to the public's ability to hold their government officials accountable. Restatement § 611 cmt. a. It is not necessary that the report be exact in every immaterial detail or that it conforms 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. If the report is reasonably fair and accurate, the defamation claim fails as a matter of law....”

In this matter, the challenged news article is a substantially correct recitation of the Complaint filed by First Bank. The relevant facts were drawn from the Complaint and they are both accurate and fairly representative of its contents. The Fair Report Privilege applies and

immunizes The Daily News and J. Lowe Davis from liability for the publication of the news article.

**9. “Insolvent V.I. Senators” (February 7, 2002)**

This editorial was written by the one of the members of the Editorial Board. No member of the Editorial Board of The Daily News was deposed in this matter. There has been no evidence adduced regarding the Editorial Board’s knowledge of falsity or awareness of probable falsity with respect to any facts alleged in this editorial. Therefore, there can be no finding of actual malice *See fn. 13, infra*. This editorial makes reference to at least four unnamed members of the Virgin Islands Legislature whose financial difficulties were aired in the public arena. There are specific references to a business bankruptcy, to tax liens and to two foreclosures. There are general references to the non-payment of student loans, utility bills, credit cards and auto loans. No Senator is identified in the editorial. The editorial ends with the phrase “...[C]learly, many V.I. senators can’t even manage their own money, how can we expect them to know how to manage taxpayers’ money?”...” This editorial, with its specific and general references to at least four unnamed senators, is protected opinion *See Levinsky's, Inc. v. Wal-Mart Stores, Inc.*, 127 F.3d 122, 128 (1st Cir.1997).; *See also Kendall v. Daily News Pub. Co.*, 2011 WL 4434922 (V.I. Sept. 21, 2011) *aff'd*, 716 F.3d 82 (3d Cir. 2013) *fn. 18*.

**10. “Donastorg - ICC Fight Unleashes a flurry of lawsuits” (October 5, 2002)**

This news article was written by the reporter Matt Monroe. Mr. Monroe was not deposed in this matter. There has been no evidence adduced regarding the reporter’s knowledge of falsity or awareness of probable falsity of any facts reported in this news article. Therefore, there can be no finding of actual malice *See fn. 13, infra*. This news article is a factual recitation of the allegations made in the instant lawsuit and in the lawsuit between ICC and DS&A entitled *ICC v.*

*Sheraw, et. al.* T.C. Civil No. 493/2002 (District of St. Thomas & St. John, which was precipitated by Senator Donastorg's release of the Report to the *St. Croix Avis*. See Footnote 4, *infra*.

There is nothing in this news article that could even vaguely be considered defamatory or even critical of Senator Donastorg.

11. **"Big money title fight rings up big gamble on marketing the V.I." (April 5, 2003); "V.I. Backed boxing event called off, future uncertain; no TV coverage scheduled despite promise Donastorg got V.I. to appropriate \$300,000.00" (May 30, 2003); "No TV contract yet, but ESPN will visit St. Thomas boxing site" (October 28, 2003); "No ESPN contract yet for V.I. boxing card" (November 1, 2003); "ESPN commits to televising V.I.'s "Rumble in Paradise"" (November 5, 2003); "Sugar Ray Leonard to promote V.I. boxing match for ESPN2's "Friday Night at the Fights"" (November 7, 2003); "Boxing and Tourism, a TKO, maybe "SpongeBob" can help" (December 11, 2003)**

The first six of these publications are news articles, the seventh is an editorial. The first and fifth articles were written by the reporter Sean McCoy. Mr. McCoy was not deposed in this matter. With respect to those news articles, there has been no evidence adduced regarding the Mr. McCoy's knowledge of falsity or awareness of probable falsity of any facts reported in this news articles. The second, third, fourth and sixth articles were written by the reporter Tim McDonald. Mr. McDonald was not deposed in this matter. However, Mr. McDonald was deposed in his own wrongful discharge case, the deposition and trial transcript in that matter have been submitted by the Plaintiffs as evidence in this cause. In his deposition and at trial, Mr. McDonald testified about the disagreements that he had with his editor on whether and how to emphasize Senator Donastorg's involvement in the boxing matches. These disagreements concerned how Senator Donastorg's involvement was characterized, whether he made himself

available for an interview and whether the fight was ever at risk of cancellation<sup>14</sup>. Although Plaintiff attempts to recast these disagreements between reporter and editor as defamatory to Senator Donastorg, an objective reading of the news articles and editorial reveals otherwise. Because Plaintiff failed to depose Mr. McCoy or Mr. McDonald on the relevant facts and allegations in this case, there has been no evidence adduced regarding the respective reporter's knowledge of falsity or awareness of probable falsity of any of the facts in the newspaper articles. There can be no finding of actual malice *See fn. 13, infra*. Likewise, the seventh publication, the editorial, was written by one of the members of the Editorial Board. No member of the Editorial Board of The Daily News was deposed in this matter. Therefore, there has been no evidence adduced regarding the Editorial Board's knowledge of falsity or awareness of probable falsity of any of the facts stated in the editorial. Therefore, there can be no finding of actual malice *See fn. 13, infra*.

It is impossible from the pleadings to determine the basis for Senator Donastorg's allegation that he was defamed by the series of news articles in April-December, 2003 regarding a boxing match, underwritten by the Government of the Virgin Islands with \$300,000.00 from the Tourism Revolving Fund, further to a Bill that Senator Donastorg initiated and sponsored.

---

<sup>14</sup> In Plaintiffs' Amended Response to Defendants' Statement of Facts at Section 6, pages 36-42 (herein "Response"), Plaintiffs conflate all of the boxing articles together in one statement so that it is difficult, if not impossible, to determine which allegation refers to which article. However, there are three claims of falsity in this Section. The first concerns The Daily News' statement that Senator Donastorg was the prime mover behind the \$300,000.00 appropriation. Senator Donastorg has not denied that it was his Bill that appropriated the \$300,000.00. Therefore, The Daily News' characterization of Senator Donastorg as the person who "pushed" the legislation was true. The second claim of falsity concerns whether Senator Donastorg returned telephone calls requesting his comment about the status of the bout. Senator Donastorg never claims that he returned The Daily News' telephone call requesting comment, he simply references Mr. McDonald's claim that he did not make the call requesting comment. Response at page 39. This is not proof of falsity. The third claim of falsity concerns The Daily News' statement in the November 1, 2003 article that no ESPN contract was in place. The Plaintiffs' allege that The Daily News "created a false uncertainty" as to the scheduling of the bout where none existed. Response at page 40. Plaintiffs do not state that the ESPN Contract was in place on November 1, 2003. Therefore, this is not an allegation of falsity.

Apparently, Senator Donastorg is of the opinion that when something negative occurred with respect to the boxing match, the resultant news article should emphasize that a minimum of eight Senators voted for the \$300,000.00 appropriation, and the Governor signed the appropriation. But when something positive occurred with respect to the boxing match, the resultant news article should afford him a sufficiently high profile. The Daily News is not a vehicle for Senator Donastorg's ambitions, it simply reports on and opines about the news. .

The Statement of Facts filed attendant to the Defendants' Motion for Summary Judgment describes, with specificity, the content of each of the fourteen (14) boxing articles, seven (7) of which were identified by Senator Donastorg as "containing or relating to actionable conduct". Upon review of the same, it is evident that the occasional references to Senator Donastorg were in context, were neither false nor defamatory and were not published with actual malice.

There is nothing in the series of articles about the boxing match that could even vaguely be considered defamatory of Senator Donastorg. The Daily News' expression of concern about the reasonableness of spending \$300,000.00 in government funds in this manner and about the impact of the boxing match on The Virgin Islands' tourism product is protected opinion. *See Levinsky's, Inc. v. Wal-Mart Stores, Inc.*, 127 F.3d 122, 128 (1st Cir.1997).; *See also Kendall v. Daily News Pub. Co.*, 2011 WL 4434922 (V.I. Sept. 21, 2011) *aff'd*, 716 F.3d 82 (3d Cir. 2013) *fn.* 18.

**12. "Volunteerism is nice...but" (October 29, 2003)**

This editorial was written by the one of the members of the Editorial Board. No member of the Editorial Board of The Daily News was deposed in this matter. There has been no evidence adduced regarding the Editorial Board's knowledge of falsity or awareness of probable falsity with respect to this editorial. Therefore, there can be no finding of actual malice *See fn.*

13, *infra*. This editorial does not mention Senator Donastorg. The article comments on the wisdom of, among other things, spending \$300,000.00 of taxpayer's money for a boxing match that "may or may not persuade tourists to visit the island." The editorial is protected opinion. *See Kendall v. Daily News Pub. Co.*, 2011 WL 4434922 (V.I. Sept. 21, 2011) *aff'd*, 716 F.3d 82 (3d Cir. 2013) *fn.* 18.

There is nothing in this news article that could even vaguely be considered defamatory or critical of Senator Donastorg.

**13. "GERS as political fodder" (March 1, 2004)**

This editorial was written by the one of the members of the Editorial Board. No member of the Editorial Board of The Daily News was deposed in this matter. There has been no evidence adduced regarding the Editorial Board's knowledge of falsity or awareness of probable falsity with respect to this editorial. Therefore, there can be no finding of actual malice *See fn.* 13, *infra*. This editorial takes Senator Donastorg to task for advocating the position that the GERS pay out four percent (4.0%) on the money withdrawn from the system when they leave government employment before retirement. The Daily News characterized Senator Donastorg's position as election year politicking. The editorial is protected opinion *See Kendall v. Daily News Pub. Co.*, 2011 WL 4434922 (V.I. Sept. 21, 2011) *aff'd*, 716 F.3d 82 (3d Cir. 2013) *fn.* 18.

**14 "Registering V.I. automobiles" (April 6, 2004)**

. This editorial was written by the one of the members of the Editorial Board. No member of the Editorial Board of The Daily News was deposed in this matter. There has been no evidence adduced regarding the Editorial Board's knowledge of falsity or awareness of probable falsity with respect to this editorial. Therefore, there can be no finding of actual malice *See fn.* 13, *infra*. This editorial takes Senator Donastorg to task for advocating the creation of a new

department of the V.I. Government by separating the Division of Motor Vehicles from the Virgin Islands Police Department. The editorial opposes Senator Donastorg's proposal on fiscal grounds, and suggests that he has problems managing both his personal finances and the government's. The former reference is apparently to his personal foreclosure action and the latter reference concerns the failure of his Committee on Finance to pass a Fiscal Year 2004 budget. The Daily News characterized Senator Donastorg's position on severing the DMV from the VIPD as an election year strategy. The editorial is protected opinion. *See Kendall v. Daily News Pub. Co.*, 2011 WL 4434922 (V.I. Sept. 21, 2011) *aff'd*, 716 F.3d 82 (3d Cir. 2013) *fn.* 18.

**14. "Blind eye to cockfighting? Animal cruelty nonetheless!"(August 22, 2004)**

This editorial was written by the one of the members of the Editorial Board. No member of the Editorial Board of The Daily News was deposed in this matter. There has been no evidence adduced regarding the Editorial Board's knowledge of falsity or awareness of probable falsity with respect to this editorial. Therefore, there can be no finding of actual malice *See fn.* 13, *infra*. This editorial was published on August 22, 2004, which was after the Second Amended Complaint was "so ordered" on May 4, 2004, but five years before the Motion to Amend Second Amended Complaint was filed on March 3, 2009. Therefore, the editorial was not subsumed under the Second Amended Complaint and, assuming that it was intended to be subsumed under the Third Amended Complaint, it was outside of the two-year statute of limitations *See* Title 5 V.I.C. §31(5)(A). Forestalling any arguments that the Third Amended Complaint "relates back" to the Second Amended Complaint for statute of limitations purposes, it is noted that courts have repeatedly refused to relate back defamation claims under FRCP Rule 15(c) for separate and distinct allegation of defamation. *See Jackson v. Ideal Publishing Corp.*, 274 F.Supp. 318 (E.D.Pa.1967); *Rickman v. Cone Mills Corp.*, 129 F.R.D. 181 (D.Kan.1989);



*Cole v. Atlanta Gas Light Co.*, 144 Ga. App. 575, 241 S.E.2d 462 (1978); *Municipal Training Center, Inc. v. National Broadcasting Corp.*, 87 Misc.2d 1044, 387 N.Y.S.2d 40 (N.Y.Sup.Ct.1976). *Cf. Kakuris v. Klein*, 88 Ill.App.3d 597, 43 Ill.Dec. 851, 854–55, 410 N.E.2d 984, 988–89 (1980); *Pendrell v. Chatham College*, 386 F.Supp. 341 (W.D.Pa.1974); *Hartmann v. Time, Inc.*, 64 F.Supp. 671 (E.D.Pa.1946), *modified*, 166 F.2d 127 (3rd Cir.1947); *cert. denied*, 334 U.S. 838, 68 S.Ct. 1495, 92 L.Ed. 1763 (1948).

The issue of the statute of limitations aside, this editorial takes the Legislature to task for proposing an animal cruelty bill that did not account for cockfighting. The Daily News expressed the opinion that cockfighting was animal cruelty of the same character proscribed in the Bill and should have been included as prohibited conduct. Senator Donastorg was the primary sponsor of the Bill. The editorial is protected opinion. *See Kendall v. Daily News Pub. Co.*, 2011 WL 4434922 (V.I. Sept. 21, 2011) *aff'd*, 716 F.3d 82 (3d Cir. 2013) *fn.* 18.

#### VIII. CONCLUSION

Senator Donastorg characterizes himself as a crusading underdog tilting against corporate interests for the benefit of the people of the Virgin Islands. ICC and Vitelco characterize him as an invariably hostile, grandstanding politician who punches with a vengeance and whines when he gets punched back. The Daily News simply reported the facts and interposed its editorial opinions within the confines of its First Amendment privilege. The Daily News and J. Lowe Davis cannot be deemed conspirators with ICC, Vitelco or its employees on the facts as presented, and each one of the challenged articles and editorials, standing alone, has not been shown to be false, or defamatory, or actionable under applicable case law.

WHEREFORE, The Daily News and J. Lowe Davis pray that summary judgment be granted for them and against the Plaintiffs in this matter all of its particulars.

Respectfully submitted,  
K. A. RAMES, P.C.



Dated: January 5, 2015

---

Kevin A. Rames, Esq.  
V.I. Bar No. 193  
2111 Company Street, Suite 3  
Christiansted, VI 00820  
(340)773-7284 / Fax (340)773-7282



---

Semaj I. Johnson, Esq.  
V.I. Bar No. 1151  
2111 Company Street, Suite 3  
Christiansted, VI 00820  
(340)773-7284 / Fax (340)773-7282  
*Attorneys for Daily News Publishing Corp. and  
J. Lowe Davis*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5<sup>th</sup> day of January, 2015, I caused a true and correct copy of the foregoing Daily News Publishing Co., Inc. and J. Lowe Davis' Reply to Opposition to Motion for Summary Judgment to be served upon:

Rhea Lawrence, Esq.  
Law Offices of Rohn & Carpenter, LLC  
1101 King Street  
Christiansted, VI 00820

Joel H. Holt, Esq.  
Law Offices of Joel H. Holt  
2132 Company Street, Suite 2  
Christiansted, St. Croix, VI 00820

JA003157

*Attorney for Plaintiffs*  
Via Email

Mark Eckard, Esq.  
P.O. Box 24849  
Christiansted, VI 00824  
*Attorney for VITELCO*  
Via Email

*Attorney for Holland "Dyke" Redfield*  
Via Email

Oakland Benta  
P.O. Box 3388  
Frederiksted, V.I. 00840  
*Pro Se*  
Via Email



---

Semaj I. Johnson, Esq.

**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.	)	

---

**SUPPLEMENTAL MOTION FOR SUMMARY JUDGMENT - CIVIL CONSPIRACY,  
INVASION OF PRIVACY, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

COME NOW THE DEFENDANTS, Daily News Publishing Company, Inc. and Jane Lowe Davis, by and through counsel, The Law Office of K.A. Rames, P.C., and hereby submit their Supplementary Motion for Summary Judgment for themselves and against the Plaintiffs herein on the Plaintiffs' allegation of civil conspiracy, invasion of privacy and intentional infliction of emotional distress, all under and pursuant to Rule 56.1 of the Local Rules of Civil Procedure of the District Court of the Virgin Islands, made applicable herein by Rule 7 of the Superior Court of the Virgin Islands.

**I. FACTUAL BACKGROUND**

On March 1, 2002, Plaintiffs Adlah F. Donastorg (herein "Senator Donastorg") and his wife, Benedicta Donastorg, filed a three count Complaint in this Court centering on newspaper

articles that he alleged were defamatory, slanderous, libelous and constituted a conspiracy by the Defendants to discredit his reputation in the community *See* Count I at ¶15 of the Complaint. In addition, Senator Donastorg complained of the existence of a concerted and coordinated effort by the Defendants to harass and discredit him and to interfere with his business relationships *See* Count II at ¶18 of the Complaint. On July 30, 2014, Daily News Publishing Co., Inc. and J. Lowe Davis filed a Motion for Summary Judgment on the defamation claim. The Motion did not address Senator Donastorg's supplemental claims. In Plaintiffs' Response to Defendants' Motion for Summary Judgment and Brief In Support Thereof (herein "Opposition"), Senator Donastorg emphasizes that the Motion for Summary Judgment left the claim of civil conspiracy un rebutted, and expounded on his claim as follows:

"Plaintiffs allege throughout their Fourth Amended Complaint – and specifically in ¶¶ 10, 12 and 13, that all Defendants were acting in concert or in a conspiracy in a common scheme to defame and discredit and intimidate Senator Donastorg. Plaintiffs have also raised alter ego and joint enterprise in numerous previous motions..." Opposition at 28.

Senator Donastorg proceeds to identify Jeffrey Prosser (herein "Prosser") as the central figure in the civil conspiracy, alleging that he orchestrated it to serve his personal and business interests:

RSOF ¶4.A shows: (1) 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) in conjunction with RSOF ¶4, Prosser's interests included carrying out a common goal, scheme or plan of (a) unfairly slanting the news and editorials in favor of VITELCO and ICC to garner support for the "Prosser Plan" and his other business interests, while at the same time (b) discrediting any opponents of the Prosser Plan and opponents (Like Senator Donastorg) and dissuading him from challenging his veiled scheme to defraud Virgin Islands ratepayers and taxpayers

and loot employee pensions by defaming opponents, by painting them in false light and intimidating them through invasive, privacy invading tactics.”

Opposition at 29.

Senator Donastorg’s allegation that the Defendants engaged in a civil conspiracy against him has a singular purpose. Senator Donastorg explains that his “alter-ego,” “joint enterprise,” and “concerted-action” allegations are intended to precipitate a finding by this Court of joint and several liability among the Defendants for the alleged tortious actions of any one of them *citing* §876 of the Restatement (Second) Of Torts. *See* Opposition at 27.

The Defendants listed in the original Complaint were Innovative Communication Corporation (herein “ICC”), Jeffrey J. Prosser, its Chief Executive Officer, The Daily News Publishing Company, Inc., a wholly owned subsidiary of ICC and Jane Lowe Davis, its Executive Editor (herein “J. Lowe Davis”).

On or about October 3, 2002, Plaintiffs filed a Motion to Amend Complaint, pleading the addition of Virgin Islands Telephone Corporation (herein “Vitelco”), a wholly owned subsidiary of ICC and Holland “Dyke” Redfield, an employee of ICC, as party Defendants. The First Amended Complaint was “so ordered” by the Court on April 15, 2003. In their First Amended Complaint, Plaintiffs continued to assert the allegations of “conspiracy” and “concerted action” at Count I and Count II thereof. *See* First Amended Complaint at ¶¶ 21, 25.

On or about September 3, 2003, Plaintiffs filed a Motion to Amend First Amended Complaint, seeking the addition of Adlah Donastorg, Sr., Josefina Donastorg, Norma Duran and Ella Moron as party Plaintiffs. On May 4, 2004, the Court granted the Motion, ordering the Plaintiff to file their Second Amended Complaint on or before May 17, 2004. In their Second

Amended Complaint, Plaintiffs continued to assert the allegations of “conspiracy” and “concerted action” at Count I and Count II thereof. *See* Second Amended Complaint at ¶¶ 26, 29.

On or about March 3, 2009, Plaintiffs filed a Motion to Amend Second Amended Complaint, dismissing ICC and Jeffrey J. Prosser, albeit without prejudice, due to their bankrupt status and adding Oakland Benta, the Head of Security at ICC, as a party Defendant. The Third Amended Complaint was “so ordered” by the Court on March 23, 2009. In their Third Amended Complaint, Plaintiffs continued to assert the allegations of “conspiracy” and “concerted action” at Count I and Count II thereof. *See* Third Amended Complaint at ¶¶ 25, 28.

On or about March 31, 2009, Plaintiffs filed a Motion to Amend Third Amended Complaint pleading certain other factual allegations against Oakland Benta. The Fourth Amended Complaint was “so ordered” on October 14, 2014. In their Fourth Amended Complaint, Plaintiffs continued to assert the allegations of “conspiracy” and “concerted action” at Count I and Count II thereof. *See* Fourth Amended Complaint at ¶¶ 25, 28. .

Notwithstanding that the group of individuals and corporations named as party Defendants has thrice been changed, they retain the commonality as either wholly-owned subsidiaries of ICC or employees of ICC or its subsidiaries. Senator Donastorg’s claim that the Defendants have engaged in a civil conspiracy to defame and to discredit him has been advanced in various pleadings throughout the course of this litigation.

Senator Donastorg has alleged certain facts in support of his assertion that a civil conspiracy existed among the Defendants to his detriment. Senator Donastorg asserts at ROSF ¶4.A 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..."

*See* "Opposition" at 2.

In addition to his broad-based allegations that ICC and its subsidiaries acted in concert at the behest and for the benefit of Prosser, Senator Donastorg states in his Opposition that "...Prosser's agents, like Oakland Benta and former Senator Holland Redfield acted as participants in the common scheme on behalf of Prosser and ICC's subsidiaries, including The Daily News (ROSF ¶4.A and B.).

Senator Donastorg expounds on his theory of concerted action in his first legal argument at Section A.1 *See* Opposition at 26-28, and in Section A.2 *See* Opposition at 29. In Section A.1, Senator Donastorg cites to Virgin Islands Supreme Court precedent on the theories of "...alter-ego, "joint enterprise" and "concerted action" as the basis for a finding of joint and several liability among the Defendants. Senator Donastorg then correlates those theories to his allegation that "all Defendants were acting in concert or in a conspiracy in a common scheme to defame and discredit and intimidate Senator Donastorg..." *See* Opposition at 27-29. In Section A.2, Senator Donastorg restates his allegations at RSOF ¶4.A that a civil conspiracy existed among the Defendants and that as a result, The Daily News and J. Lowe Davis are liable for any defamatory statement that is found to have been uttered by any of the other Defendants.

It is quite a challenge to draw out from Senator Donastorg's pleadings what The Daily News is alleged to have done to either join or advance a civil conspiracy to defame and to discredit him. The pleadings state the self-evident fact that The Daily News acted as a newspaper, publishing articles and editorials about issues of the day. The pleadings go on to



state the equally self-evident facts that The Daily News was a member of a group of corporations that were wholly owned by ICC, that there was commonality with respect to makeup of the various boards of directors of ICC's subsidiaries, that certain of the corporate functions of the subsidiaries, such as human resources, marketing and financial management were centralized by ICC and that representatives of all ICC subsidiaries, including The Daily News, attended annual budget meetings in which financial matters were discussed. Presumably, Senator Donastorg is attempting to make a showing that The Daily News and others had the *opportunity* to engage in concerted tortious conduct against Senator Donastorg, but Senator Donastorg falls far short of a factual averment that any tortious conduct took place.

Senator Donastorg alleges, at RSOF ¶4.B.2 and Opposition at 5, 6 that the civil conspiracy was retaliative against him, because he:

- led legislation mandating that the PSC examine Vitelco's rate structure;
- questioned Vitelco's compliance with its obligations to obtain IDC tax benefits;
- pressed claims for fraud against Vitelco;
- prosecuted a civil action to make Vitelco open its employee records; and
- questioned Vitelco's rate-formula and rate of return figures

Senator Donastorg alleges that both the corporate and the individual defendants were advancing Prosser's interests by way of a civil conspiracy to defame him. There is no allegation that any of the individual Defendants were pursuing their personal interests separate and apart from those of the corporate Defendants. Rather, Senator Donastorg alleges that the actions of the individual Defendants were in the course and scope of their official duties.

In this Supplemental Motion for Summary Judgment, The Daily News and J. Lowe Davis need not parse through the various statements, press releases, news articles and editorials to refute Senator Donastorg's civil conspiracy claims. Applicable law does so quite adequately.

## **II. LEGAL ARGUMENT.**

### **A. SUMMARY JUDGMENT STANDARD**

Summary Judgment will be granted if the “pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law.” FED. R. CIV. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23 (1986); *see also Skopbank v. Allen–Williams Corp.*, 7 F.Supp.2d 601, 605, 39 V.I. 220, 227 (D.V.I.1998). The mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247–48 (1986). A fact is material only if its existence or non-existence will affect the outcome of a lawsuit under applicable law, and an issue is “genuine” if the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The role of the court is not to weigh the evidence for its truth or credibility, but merely to ascertain whether a triable issue of fact remains in dispute. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247–48 (1986). The non-moving party receives “the benefit of all reasonable doubts and inferences drawn from the underlying facts” *Aristide v. United Dominion Constructors. Inc.*, 30 V.I. 224, 226 (D.V.I.1994) (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986)).

### **B. THERE HAS BEEN NO TORTIOUS ACT COMMITTED BY THE DEFENDANTS, OR ANY OF THEM. THEREFORE, THERE CAN BE NO CIVIL CONSPIRACY.**

Senator Donastorg has failed to adequately support his allegation that an actionable tort has been committed by any of the Defendants and, therefore, there is no legal basis for a claim of

civil conspiracy. Senator Donastorg has identified a series of newspaper articles and editorials in The Daily News, published over a period of years, which are substantive, hard-hitting, well-researched and well-documented. These publications take public officials like Senator Donastorg to task for making statements or taking actions with respect to matters of public concern. However, Senator Donastorg, as a public figure, fails entirely to make out a justiciable claim of falsity, defamation *per se*, intent to convey defamatory meaning, or actual malice. The Defendants' Reply to Opposition to Motion for Summary Judgment (herein the "Reply"), filed contemporaneously herewith, deconstructs Senator Donastorg's claims of actionable defamation as to the statements attributed to Oakland Benta and to Holland Redfield and to each of the dozens of publications complained of in his Opposition. The Reply is adopted here. It is axiomatic that if there is no actionable tort, there can be no civil conspiracy.

The rule that civil conspiracy may not exist without an underlying tort is a common one. *See In re Orthopedic Bone Screw Prods. Liab. Litig.*, 193 F.3d 781, 789 & n. 7 (3d Cir.1999) (collecting cases). In *Boyanowski v. Capital Area Intermediate Unit*, 215 F.3d 396, 405-06 (3d Cir. 2000) the Third Circuit Court of Appeals stated that "we are unaware of any jurisdiction that recognizes civil conspiracy as a cause of action requiring no separate tortious conduct." *See also Schoellkopf v. Pledger*, 778 S.W.2d 897, 900 (Tex. App.—Dallas 1989, writ denied). It is well settled that a civil conspiracy requires an agreement and the commission of either a criminal act or intentional tort. *Boyanowski*, at 406. *See also: Duffy v. Lawyers Title Ins. Co.*, 972 F. Supp. 2d 683, 698 (E.D. Pa. 2013), *appeal dismissed* (July 9, 2014). The Reply analyzes each of the statements and each of the publications Senator Donastorg complains of and establishes that no actionable defamation has occurred. Therefore, Senator Donastorg cannot make out a case that a

civil conspiracy existed among the Defendants. “Absent a civil cause of action for a particular act, there can be no cause of action for civil conspiracy” *Pelagatti v. Cohen*, 370 Pa.Super. 422, 432, 536 A.2d 1337, 1342 (1987).

**C. A CORPORATION CANNOT CONSPIRE WITH ITS SUBSIDIARIES, ITS EMPLOYEES OR ITS AGENTS.**

During the relevant period, the Defendants were a parent company (ICC), its sole owner (Jeffrey Prosser), its wholly owned subsidiaries (Vitelco and The Daily News), its employee (Oakland Benta) and employees of its subsidiaries (Holland “Dyke” Redfield and J. Lowe Davis). Under the intracorporate (or intraenterprise) conspiracy doctrine, it is well settled that a corporation cannot conspire with its subsidiaries, its employees or its agents. *Gov't Guarantee Fund of Republic of Finland v. Hyatt Corp.*, 955 F. Supp. 441, 457 (D.V.I. 1997) (granting summary judgment and holding that for the purpose of asserting a claim for civil conspiracy “[a] parent and its wholly owned subsidiary have a complete unity of interest. Their objectives are common, not disparate; their general corporate actions are guided or determined not by two separate corporate consciousness, but one”); *Hodge v. Nat'l Rural Utilities Coop. Fin. Corp.*, No. 13-CV-00032 (SDW), 2014 WL 1757229, at \*6 (D.V.I. Apr. 28, 2014)(dismissing civil conspiracy claim where Plaintiff failed to allege that entity co-conspired with a separate entity), *Glessner v. Kenny*, 952 F.2d 702, 710 (3d Cir.1991), *Gen. Refractories Co. v. Fireman's Fund Ins. Co.*, 337 F.3d 297, 313 (3d Cir.2003) (applying Pennsylvania law) (citing *Heffernan v. Hunter*, 189 F.3d 405, 413 (3d Cir.1999)). *See also: Guardian Insurance Company v. Hani Khalil* 2012 WL 3114601 (V.I. Super. July 26, 2012) (Under the intracorporate conspiracy doctrine, “an entity cannot conspire with one who acts as its agent” *citing Gen. Refractories Duffy v. Lawyers Title Ins. Co.*, 972 F. Supp. 2d 683, 699 (E.D. Pa. 2013), *appeal dismissed* (July

9, 2014); *Copperweld Corp. v. Independence Tube Corp.*, 467 U.S. 752, 777, 104 S.Ct. 2731, 81 L.Ed.2d 628 (1984) ((holding that “[t]he officers of a single firm are not separate economic actors pursuing separate economic interests, so agreements among them do not suddenly bring together economic power that was previously pursuing divergent goals”). This doctrine extends to the parent-subsidiary relationship *Id.* at 770–71 (“...there can be little doubt that the operations of a corporate enterprise organized into divisions must be judged as the conduct of a single actor [and] the coordinated activity of a parent and its wholly owned subsidiary must be viewed as that of a single enterprise”); *Bryant Heating and Air Conditioning Corp. v. Carrier Corp.*, 597 F.Supp. 1045 (S.D.Fla.1984) (manufacturer, wholly owned subsidiary, and individual officers and/or personnel did not constitute requisite combination of a separate economic group necessary to establish Florida tort of conspiracy); *McAndrew v. Lockheed Martin Corp.*, 206 F.3d 1031, 1036 (11th Cir.2000) (*en banc*) (“[T]he intracorporate conspiracy doctrine holds that acts of corporate agents are attributed to the corporation itself, thereby negating the multiplicity of actors necessary for the formation of a conspiracy (“a corporation cannot conspire with its employees, and its employees, when acting in the scope of their employment, cannot conspire among themselves.”). *Id.* at 1036.

In the matter *Commonwealth v. BASF Corp.*, 2001 WL 1807788, at \*17 (Pa. Com. Pl. Mar. 15, 2001), the intracorporate conspiracy doctrine was described as follows: “...[I]n order to state a cause of action for civil conspiracy, a plaintiff must show ‘that two or more persons combined or agreed with intent to do an unlawful act or to do an otherwise lawful act by unlawful means.’ citing *Brinich v. Jencka*, 757 A.2d 388, 403 (Pa.Super.Ct.2000) (citations omitted). Moreover, “[a] single entity cannot conspire with itself and, similarly, agents of a

single entity cannot conspire among themselves.” *Rutherford v. Presbyterian-University Hosp.*, 417 Pa. Super. 316, 333-34, 612 A.2d 500, 508 (1992) (determining that agents of a corporation acting within the scope of their employment cannot be liable for civil conspiracy) (there cannot be a conspiracy among directors, officers, and employees of a single corporation or related corporations when the alleged conspirators are acting within the scope of their employment. *Herrmann v. Moore*, 576 F.2d 453, 459 (2d Cir.1978); *Girard v. 94th St. & Fifth Ave. Corp.*, 530 F.2d 66, 72 (2d Cir.1976); *49 WB, LLC v. Village of Haverstraw*, 2012 WL 336152, at \*11 (S.D.N.Y. Feb. 2, 2012) *see also*, *Thompson Coal Co. v. Pike Coal Co.*, 488 Pa. 198, 212-13, 412 A.2d 466, 473 (1979) (holding that sole shareholder/director/officer of a corporation could not conspire with his corporation as a matter of law). The Pennsylvania Superior Court in *Commonwealth v. BASF Corp.* has refused, however, to promulgate a *per se* rule mandating the application of the doctrine. In a nod toward *Shared Commc'ns Servs. of 1800-80 JFK Blvd. Inc. v. Bell Atl. Properties Inc.*, 692 A.2d 570, 574 (Pa. Super. Ct. 1997), the *Commonwealth v. BASF* court held that a parent and a subsidiary could be so distinct and so separate in its operations “...under its own management and with its own goals...” that the requisite plurality of actors could be found to allow for the finding of a civil conspiracy. However, the *Commonwealth v. BASF* court goes on to state that if the Plaintiff alleges alter-ego, no claim of civil conspiracy may lie \*16.

In this matter, Senator Donastorg’s entire legal theory of the existence of a civil conspiracy rests on his vague proposition that there was a common scheme or plan, orchestrated by Jeffrey Prosser and implemented at his behest and on his behalf by ICC, Vitelco, The Daily News, Oakland Benta and Holland “Dyke” Redfield. *Hill v. De Jongh*, No. ST-10-CV-585,

2012 WL 1439591, at \*4 (V.I. Super. Apr. 19, 2012) (“Claims of conspiracy that are vague and provide no basis in fact must be dismissed.”). Senator Donastorg also argues, in exhaustive detail, that the alleged common scheme or plan had the singular business purposes of retaliating against him for investigating, bringing attention to and litigating about the actions of Prosser and Vitelco and their interrelationship with the Government of the Virgin Islands. Senator Donastorg does not intimate, much less argue, that any of the Defendants acted alone, for their own corporate or individual purpose, or for any other purpose could be deemed separate and distinct from the alleged motivations of Jeffrey Prosser.

Defendants emphasize that they do not concede to engaging in any concerted action to commit any tort; much less to engaging in a civil conspiracy. However, Senator Donastorg has pled “...alter-ego, “joint enterprise” and “concerted action...” as well as civil conspiracy with respect to these Defendants. Senator Donastorg’s positions are legally irreconcilable. The factual predicate that Senator Donastorg has enunciated precludes a finding of civil conspiracy. As the master of his pleadings, Plaintiff has the right to plead himself out of court *See Estrada v. Dwyer*, 2001 WL 520826, at \*2 (N.D. Tex. May 14, 2001). In this instance, with respect to his claim of civil conspiracy, Senator Donastorg has done so.

Senator Donastorg’s allegation of a conspiracy to defame cannot stand, given that it is premised upon his further allegation that Jeffrey Prosser, having the corporate authority to do so, controlled and directed the tortious behavior of each of the Defendants in order to advance his personal and business interests. The factual allegations that undergird Senator Donastorg’s claim of civil conspiracy run foursquare within the parameters of the intracorporate conspiracy doctrine and cannot precipitate a finding of joint and several liability among the Defendants. Senator

Donastorg must find individual liability in the customary manner in order to advance his cause against any of the Defendants. The pending Motion for Summary Judgment demonstrates that he cannot do so.

**D. PLAINTIFFS HAVE NOT MADE OUT A CLAIM FOR INVASION OF PRIVACY AGAINST THESE DEFENDANTS.**

Plaintiffs have alleged two types of invasion of privacy in their Opposition, neither of which was described with any specificity in Count IV of Plaintiffs' Fourth Amended Complaint, the Count in which Senator Donastorg alludes to an invasion of privacy. Plaintiffs chide the Defendants in their Opposition at pages 50-59 concerning their alleged failure to read into Count IV separate claims of "unreasonable invasion into the seclusion of another" under Restatement (Second) of Torts §652B and "unreasonable publicity that places another in a false light before the public" under Restatement (Second) of Torts §652E. Although Defendants must admit to an inability to perceive that which does not appear, Defendants address these claims in brief.

**i. Defendants' Have Not Unreasonably Invaded Into the Seclusion of the Plaintiffs**

The term "invasion into seclusion" or any derivation thereof appears only in a small number of reported cases, each of which invariably cite to the others in a bit of an intellectual closed loop. *See Montesano v. Donrey Media Group*, 99 Nev. 644, 668 P.2d 1081, 1084 (1983) (invasion into seclusion can be made out when a public disclosure of private facts has occurred which would be offensive and objectionable to a reasonable person of ordinary sensibilities.) *cited in Flowers v. Carville*, 112 F. Supp. 2d 1202, 1213 (D. Nev. 2000) *aff'd in part, rev'd in part*, 310 F.3d 1118 (9th Cir. 2002); *Dubinsky v. United Airlines Master Executive Council*, 303 Ill. App. 3d 317, 331, 708 N.E.2d 441, 452 (1999) (the tort of invasion into seclusion is based



upon an invasion into the plaintiff's physical solitude or affairs"); *Lovgren v. Citizens First Nat. Bank of Princeton*, 126 Ill. 2d 411, 417, 534 N.E.2d 987, 989 (1989) (the core of this tort is the offensive prying into the private domain of another (Restatement (Second) of Torts § 652B, comments *a, b*, at 378-79 (1977)) cited in *Lanigan v. Resolution Trust, No. 91 C 7216*, 1994 WL 8160, at \*3 (N.D. Ill. Jan. 11, 1994).

Senator Donastorg is a veteran politician. He served seven terms in the Virgin Islands Legislature and he ran for the Office of the Governor of the Virgin Islands three times. During the relevant period, Senator Donastorg had a press secretary on his staff, Nicole Bollentini, who managed his relationship with the media. It is unreasonable for Senator Donastorg to allege that he sought seclusion. It is likewise unreasonable for him to allege that his seclusion was tortiously invaded by standard-practice news gathering and reporting.

Plaintiffs' factual support for their allegation of invasion into seclusion appears in their Opposition at pages 57-59. Plaintiffs' claim is premised upon the alleged invasive nature of the Report, and the investigation that precipitated the Report. The Daily News appears to have been inserted into their Plaintiffs' factual construct as an afterthought. However, as amply demonstrated in Defendants refutation of Plaintiffs' claim of civil conspiracy, *infra*, The Daily News and J. Lowe Davis had no involvement with and no connection to the Report. Therefore, Plaintiffs can make out no claim of invasion into seclusion against these Defendants.

**ii. Defendants' Have Not Committed False Light Invasion of Privacy Against Senator Donastorg.**

Senator Donastorg has alleged that the Defendants have committed the tort of false light invasion of privacy. Senator Donastorg suggests the factual support for this claim in his Opposition at pages 52-56. *Francis v. Pueblo Xtra Int'l, Inc.*, 412 F. App'x 470 (3d Cir. 2010) is

binding precedent in this jurisdiction for making out a claim of false light invasion of privacy. In

*Francis*, the Court of Appeals set the bar for false light invasion of privacy as follows:

“...[C]omment c to the Restatement explains that this cause of action exists “only when the defendant knows that the plaintiff, as a reasonable man, would be justified in the eyes of the community in feeling seriously offended and aggrieved by the publicity.... It is only when there is such a major misrepresentation of his character, history, activities or beliefs that serious offense may reasonably be expected to be taken by a reasonable man in his position...” *Francis* at 476

Senator Donastorg’s laundry list of nine conclusory allegations has a fictional tone *See* Opposition at 56, but the Defendants will nonetheless respond to them in turn:

(1)(6). That Senator Donastorg is anti-business or makes unsupported allegations against business.

It is indisputable that Senator Donastorg has attacked ICC, Vitelco and its principals, has used the power of his office to their detriment, that he has filed a series of frivolous lawsuits and that he has attacked the IDC, the PSC and its members for not being sufficiently strict or uncompromising in their oversight of businesses that are within their regulatory scope. There is no countervailing evidence in this record of Senator Donastorg’s support of business.

(2). That Senator Donastorg is a liar.

No publications have been identified by the Plaintiffs that characterize Senator Donastorg in that manner.

(3)(4). That Senator Donastorg is a slanderer, a defamer and is corrupt.

This characterization is drawn from the Report and from Redfield’s statements regarding the Report. There has been no connection drawn between these Defendants and the Report or Redfield’s statements regarding the Report.

(4 *sic*). That Senator Donastorg cannot manage his personal finances or public finances.

This characterization is a reference to The Daily News reporting on Senator Donastorg's personal mortgage foreclosure and to his failure, as the Chairman of the Committee on Finance, to oversee the passage of a territorial budget. Both of these matters are proper subjects for news reports and editorials.

(5). That Senator Donastorg votes against his own bills.

This is reference to a single news article on page 11 of the June 12, 2001 edition of The Daily News that was the subject of a retraction on page 2 of the June 14, 2001 edition of The Daily News.

(8). That Senator Donastorg wants to use public funds and programs to further his own political career.

This is presumably a reference to Senator Donastorg having sponsored legislation to commit the Virgin Islands Government to spend \$300,000.00 to promote a 2003 boxing match. This issue has been addressed adequately in the Reply. Nothing in that series of news articles and editorials characterize Senator Donastorg's political career as a whole in that manner.

(9) The reference to Senator Donastorg as a "rogue" senator.

This reference is to an editorial that is outside of the statute of limitations. Notwithstanding that it is not actionable on that basis, the reference to Senator Donastorg as a rogue politician is protected opinion.

(10) That Senator Donastorg hates animals and supports cockfighting.

This refers to an editorial that takes an animal cruelty bill, sponsored by Senator Donastorg, to task for not including cockfighting as a banned practice. Senator Donastorg's overheated characterizations notwithstanding, the editorial is protected opinion.

What appears in Senator Donastorg's laundry list of rhetorical overstatements is normal and customary political discourse. There is nothing here that meets the high bar that was set by the Court of Appeals in *Francis* for a finding of false light invasion of privacy.

**E. PLAINTIFFS CANNOT MAKE OUT A CLAIM FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS.**

The United States Supreme Court has long held that plaintiffs may not end-run First Amendment protections afforded to publication torts such as defamation by pleading their causes of action as emotional distress claims. *See Hustler Magazine v. Falwell*, 485 U.S. 46, 55-56 (1988)) in which the Supreme Court stated as follows:

“.... [W]e conclude that public figures and public officials may not recover for the tort of intentional infliction of emotional distress by reason of publications .....without showing in addition that the 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. This is not merely a “blind application” of the *New York Times* standard, see *Time, Inc. v. Hill*, 385 U.S. 374, 390, 87 S.Ct. 534, 543, 17 L.Ed.2d 456 (1967), it reflects our considered judgment that such a standard is necessary to give adequate “breathing space” to the freedoms protected by the First Amendment...”

Consistent with Supreme Court precedent, Virgin Islands courts have held that where the gravamen of the intentional infliction of emotional distress claim sounds in defamation, an independent action for intentional infliction of emotional distress cannot lie. *Illaraza v. Hovenssa, L.L.C.*, No. 2007-CV-125, 2010 WL 2342424, at \*6 (D.V.I. June 7, 2010); *Ali v. Intertek Testing Servs.*, 332 F. Supp. 2d 827, 831 (D.V.I. 2004). The basis for rejecting such claims is the courts' concern that plaintiffs would circumvent the restrictions imposed on defamation claims, such as the defense of truth or privilege, if allowed to recast such tort claims as intentional infliction of emotional distress *See Barker v. Huang*, 610 A.2d 1341, 1351 (Del.1992). In this matter,

Defendants have demonstrated that Senator Donastorg's defamation claims lack merit. Therefore, his claim of intentional infliction of emotional distress fails as well.

WHEREFORE, The Daily News and J. Lowe Davis pray that they be granted a judgment disposing of this matter in all of its particulars.

Respectfully submitted,  
K. A. RAMES, P.C.



Dated: January 5, 2015

---

Kevin A. Rames, Esq.  
V.I. Bar No. 193  
2111 Company Street, Suite 3  
Christiansted, VI 00820  
(340)773-7284 / Fax (340)773-7282



---

Semaj I. Johnson, Esq.  
V.I. Bar No. 1151  
2111 Company Street, Suite 3  
Christiansted, VI 00820  
(340)773-7284 / Fax (340)773-7282  
*Attorneys for Daily News Publishing Corp. and  
J. Lowe Davis*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5<sup>th</sup> day of January, 2015, I caused a true and correct copy of the foregoing Daily News Publishing Co., Inc. and J. Lowe Davis' Supplemental Motion for Summary Judgment - Civil Conspiracy, Invasion of Privacy and Intentional Infliction of emotional Distress to be served upon:

Rhea Lawrence, Esq.  
Law Offices of Rohn & Carpenter, LLC  
1101 King Street  
Christiansted, VI 00820  
*Attorney for Plaintiffs*  
Via Email

Joel H. Holt, Esq.  
Law Offices of Joel H. Holt  
2132 Company Street, Suite 2  
Christiansted, St. Croix, VI 00820  
*Attorney for Holland "Dyke" Redfield*  
Via Email

Mark Eckard, Esq.  
P.O. Box 24849  
Christiansted, VI 00824  
*Attorney for VITELCO*  
Via Email

Oakland Benta  
P.O. Box 3388  
Frederiksted, V.I. 00840  
*Pro Se*  
Via Email



---

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,

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

**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION  
FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT**

**I. Introduction**

Plaintiffs submit their Response to Defendants Daily News Publishing Co. Inc. and Lowe Davis' Supplemental Motion for Summary Judgment and Brief in Support. Plaintiffs incorporate their Responses to Defendants' "Statement of Material Facts About Which There is No Genuine Issue" herein for all purposes, and will refer to their Responses to Defendants' facts as "RSOF ¶\_\_" for ease of reference. Plaintiffs also incorporate their initial Response to Defendants Daily News Publishing Co. Inc. and Lowe Davis' Motion for Summary Judgment herein for all purposes. Defendants did not file any new evidence or statement of facts in support of their supplemental motion. They make only legal arguments for dismissing Plaintiffs' civil-

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 2

conspiracy theory of joint-and-several liability, their claims for invasion of privacy, and Senator Donastorg's claim for intentional infliction of emotional distress.

Importantly, Defendants claim that they are not jointly and severally liable under a civil-conspiracy theory because at all material times all of the relevant actors were acting in the course and scope of their employment for the same unified, interrelated, joint entity. Defendants argue that one unified corporate entity and its agents can't "conspire with itself." Defendants effectively concede that they are a "joint enterprise" or operate as "alter egos" of each other. Thus, even if they are successful in convincing the Court that, as a matter of law, all of the actors are one corporate entity that can't conspire with itself, they are still jointly and severally liable for all of the misconduct discussed in Plaintiffs' initial summary-judgment response. Moreover, Defendants failed to show that the law and undisputed facts mandate entry of judgment in their favor on the substantive claims, so their supplemental motion must be denied.

**II. Supplemental Facts and Evidence**

RSOF ¶4.A shows: (1) 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) in conjunction with RSOF ¶4.B, Prosser's interests included a 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



**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 3

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, agents like Oakland Benta and former Senator Holland Redfield acted as participants in the common scheme on behalf of Prosser and ICC's subsidiaries, including The Daily News. (RSOF ¶4.A & B.) Defendants provide no contrary evidence in their supplemental motion and they fail to even attempt to show that any evidence Plaintiffs cited in their RSOF is inadmissible or does not support these factual inferences.

To the contrary, Defendants now concede that is "self-evident" that "The Daily News was a member of a group of corporations that were wholly owned by ICC, that there was commonality with respect to the makeup of the various boards or directors of ICC subsidiaries, that certain of the corporate functions of the subsidiaries, such as human resources, marketing and financial management were centralized by ICC and that representatives of all ICC subsidiaries, including The Daily News, attended annual budget meetings in which financial matters were discussed." (Supp. Mot. 6.) Defendants do not dispute that, shortly after Redfield started working for ICC, he was promoted to Vice President of Corporate Affairs working directly for ICC and held this position during the entire period relevant to this lawsuit, although his VITELCO "employee number" remained the same and his "starting service date" remained the same until he was terminated in 2007. (Redfield Dep. 49-52, 64-65, 72; **MSJ Ex. 22**; *see*

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 4

also Robbins Dep. 42-43.) As V.P. of Corporate Affairs, Redfield dealt with “media issues” and was “working for, you know, the different entities under that umbrella.” (Redfield Dep. 53.) ICC was a holding company that “oversaw all the other different companies” and Redfield was tasked with “dealing with problems, dealing with issues related to these companies.” (Redfield Dep. 76.) These entities included the entities “that were under Innovative Communications.” (Redfield Dep. 53-54.) Redfield also acted as, “well, an in-between at times,” “between the entity, the holding company, and the—and the different subsidiaries.” (Redfield Dep. 56.) Redfield’s job covered “service-related issues with the different companies.” (Redfield Dep. 66-67.) Redfield consulted with Davis on issues; Davis and Redfield attended board meetings together. (Redfield Dep. 106.) Redfield made press releases on behalf of The Daily News, including a press release about this lawsuit because The Daily News was one of ICC’s subsidiaries—and without any factual support—claimed Senator Donastorg was “not paying his bills.” (E.g., Redfield Dep. 157-63; **MSJ Ex. 16**.) Defendants also failed to dispute that ICC and its related companies, through Oakland Benta, contacted Sheraw to conduct unlimited, “*carte blanche*” investigations into numerous people, including Senator Donastorg, various local lawyers, Falkner, PSC consultant Madan, and Senator Donastorg’s family and associates. (Sheraw Dep. 8-15, 18; Erickson Dep. 12, 18-19, 30, 34; *see also* Erickson Dep. Exs. 1, 3, 4, 33, 34, 35, 36, 48, 52, 92A.) Thus, Defendants did not dispute that, at all material times, Redfield, Benta, and Sheraw, were acting as agents of ICC and all of its subsidiaries, including The Daily News, and that all of the Defendants were operating as a joint, integrated enterprise to further Prosser’s interests and as alter egos of each other.

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 5

**III. Argument**

**A. Civil Conspiracy**

In Plaintiffs' first MSJ response, they briefed the joint-and-several liability theories they are asserting, including: (1) "civil-conspiracy" liability; (2) "acting-in-concert" liability; (3) "aiding-and-abetting" liability; (4) "alter-ego" liability, and (5) "joint-enterprise" liability. Plaintiffs also asserted that, at all material times, Redfield, Benta, and Sheraw, were acting as agents of ICC and all of its subsidiaries, including The Daily News.<sup>1</sup> These theories are independent theories that are primarily (but not exclusively) relevant to holding The Daily News

---

<sup>1</sup> See *Pearson v. Component Tech. Corp.*, 247 F.3d 471, 484-495 (3d Cir. 2001) (discussing similarities and differences between "alter ego," "joint or common enterprise," "co-employer," and "direct" liability for employment torts and officers, agents, parents, and subsidiary corporations); *Graves v. Lowery*, 117 F.3d 723, 728 (3d Cir. 1997) (using the terms "co-employer" and "joint-employer" interchangeably and applying the control test to determine whether a person is in an employment discrimination case); *N.L.R.B. v. Browning-Ferris Indus. Of Pa., Inc.*, 691 F.2d 1117, 1123 (3d Cir. 1982) (discussing "joint" or "co-employer" liability in employment cases); *Shillingford v. Hess Oil of the Virgin Islands*, No. 98-232, 2009 U.S. Dist. LEXIS 53371 at \*13-15 (D.V.I. June 18, 2009) (ruling that other factors, such as an employee's expectations, while not dispositive, are relevant to the inquiry); *Schwab v. McDonald* (In re LMcd, LLC), 405 B.R. 555, 563 (Bankr. M.D. Pa. 2009) ("[i]n a 'reverse' piercing, assets of the corporate entity are used to satisfy the debts of a corporate insider so that the corporate entity and the individual will be considered one and the same.") (quoting *In re Mass*, 178 B.R. 626, 627 (M.D. Pa. 1995)); *Mendez v. HOVENSA, L.L.C.*, 49 V.I. 826, 836 (D.V.I. 2008) (ruling that the "control test" and the "joint employer doctrine" apply to the V.I. Wrongful Discharge Act and should be expansively applied to "ensure that the remedial purpose of the laws intended to protect workers are fulfilled," and that a person or entity may be a "joint employer" when he did the hiring and firing; (2) directly administered any disciplinary procedures; (3) maintained records of hours, handled the payroll, or provided insurance; (4) directly supervised the employees; or (5) participated in the collective bargaining process."); *Gateco, Inc. v. Safeco Ins. Co. of Am.*, Civ. No. 05-2869, 2006 U.S. Dist. LEXIS 50313 (E.D. Pa. July 24, 2006) (Where one corporation so dominates and controls another to the point where its separate existence is a sham, a court may pierce the corporate veil of the subservient corporation and hold that it and the dominant corporation are one.); *Hoffmann v. Dandurand*, 180 S.W.3d 340, 348 (Tex. App.—Dallas, 2005) (Considerations to be weighed before liability attaches under a single enterprise theory are: "(1) common employees; (2) common offices; (3) centralized accounting; (4) payment of wages by one corporation to another corporation's employees; (5) common business name; (6) services rendered by the employees of one corporation on behalf of another corporation; (7) undocumented transfers of funds between corporations; and (8) unclear allocation of profits and losses between corporations."); *Sleasman v. Brooks*, 32 Pa. D. & C.3d 187, 192-96 (Pa. Ct. Cm. Pls. 1984) (collecting cases and authorities on liability for "co-employer," or "joint" or "common" enterprise liability making each party liable for the conduct of the other members of the joint enterprise).

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 6

liable for Redfield's tortious acts and for Benta commissioning the privacy-invading report.<sup>2</sup>

With the present supplemental motion, Defendants attack only the "civil conspiracy" theory of joint-and-several liability, and have not moved on "acting-in-concert" liability, "aiding-and-abetting" liability, "alter-ego" liability, or "joint-enterprise" liability. Independently, Defendants did not cite any evidence disputing that, at all material times, Redfield, Benta, and Sheraw, were acting as agents of ICC and all of its subsidiaries, including The Daily News, let alone provide conclusive evidence to the contrary. In fact, they claim this agency relationship that they now admit existed precludes a finding of civil conspiracy.<sup>3</sup> Thus, despite having a second bite at the apple, Defendants have not filed a summary-judgment motion that could even in theory dispose of claims against The Daily News on the grounds that it is not responsible for the torts committed by Redfield on behalf of The Daily News and the other subsidiaries or for claims based on the privacy-invading report commissioned by Benta and prepared by Sheraw on behalf of The Daily News and the other subsidiaries.

**1. Underlying Torts and Civil Conspiracy**

Defendants contend that they may not be held liable for civil conspiracy unless Plaintiffs defeat summary judgment on at least one underlying tort. (Supp. Mot. 7-8.) "Under Virgin

---

<sup>2</sup> Specifically, while "civil conspiracy," "concerted action," and "aiding and abetting" may contain similar elements, they are separate and independent theories of joint and several liability. *See, e.g., Pfizer Inc. v. Giles (In re Asbestos Sch. Litig.)*, 46 F.3d 1284, 1291-94 (3d Cir. 1994); *Bair v. Purcell*, 500 F. Supp. 2d 468, 496 (M.D. Pa. 2007); *Kranzendorf v. Green*, 582 F. Supp. 335, 338-39 (E.D. Pa. 1983).

<sup>3</sup> A corporation and its agents are considered a "single entity" for purposes of tortious interference and civil-conspiracy only when then the agents are acting in the course and scope of their employment. *See Bethea v. Merchs. Commer. Bank*, No. 11-51, 2014 U.S. Dist. LEXIS 124764, at \*53-56 (D.V.I. Sep. 8, 2014); *Sorber v. Glacial Energy VI, LLC*, No. ST-10-CV-S88, 2011 V.I. LEXIS 34, at \*3-8 (V.I. Super. Ct. Jun. 7, 2010); *see also Kia v. Imaging Sci. Int'l*, 735 F. Supp. 2d 256, 268 (E.D. Pa. 2010) (citing *Michelson v. Exxon Research and Eng'g Co.*, 808 F.2d 1005, 1007-08 (3d Cir. 1987)).

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 7

Islands law, a civil conspiracy consists of an agreement or combination to perform a wrongful act that results in damage to the plaintiff. A conspiracy may also consist of an agreement to do a lawful act by unlawful means.”<sup>4</sup> Generally, a plaintiff must show that damage occurred “from conduct independently actionable” to recover for civil conspiracy.<sup>5</sup> A conspiracy finding results in joint-and-several liability for the wrongful conduct.<sup>6</sup>

Plaintiffs generally agree with the proposition that civil conspiracy is a theory of joint-and-several liability for the commission of an underlying tort or other unlawful act that allows recovery against all co-conspirators, even if one or more of the co-conspirators doesn't independently complete each element of an underlying tort or commit an unlawful act. As shown in Plaintiffs' summary-judgment response and response to Defendants' fact statement, Plaintiffs have sufficient evidence to support the underlying torts of defamation, false-light invasion of privacy, intrusion-into-seclusion invasion of privacy, intentional infliction of emotional distress, and tortious interference with contract. Thus, summary judgment may not be entered on this ground.

**2. Intracorporate Conspiracy Defense**

Defendants contend in their supplemental motion that it is entitled to summary-judgment on a civil conspiracy theory of joint-and-several liability because “a corporation cannot conspire with its subsidiaries, its employees or its agents.” (Supp. Mot. 9.) Similarly, Defendants argue

---

<sup>4</sup> See *Gov't Guar. Fund of Repub. of Fin. v. Hyatt Corp.*, 955 F. Supp. 441, 456, 35 V.I. 356 (D.V.I. 1997).

<sup>5</sup> See *id.*; *Sorber*, 2011 V.I. LEXIS 34 at \*5-6.

<sup>6</sup> See *Williams v. Lower Merion Township*, No. 68-63, 1995 U.S. Dist. LEXIS 11083, at \*14-15 (E.D. Pa. 1995).

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 8

at one point in its summary-judgment reply that, “a controlled group of corporations, their agents and employees cannot conspire with one another, on the basis that a conspiracy requires a multiplicity of parties.” (Def’s Reply. 5.) Defendants also argued in their Reply that the following Defendants are “all one party” for purposes of summary judgment on the civil-conspiracy theory: “ICC, Prosser’s wholly owned holding company, The Daily News and Vitelco, two wholly-owned subsidiaries of ICC, ICC employee Oakland Benta, ICC and Vitelco employee Holland Redfield and Daily News employee J. Lowe Davis.” (Def.’s Reply 5.) Yet, in its Reply brief, The Daily News also argues separately that it is not liable for the “statements and actions to others”; by “others,” it means ICC, Vitelco, Benta, and Redfield. (Def’s Reply 6, 17-21.)

This Court discussed the intra-corporate conspiracy doctrine in *Sorber v. Glacial Energy VI, LLC*. Under the intracorporate conspiracy doctrine, “an entity cannot conspire with one who acts as its agent.”<sup>7</sup> However, “a conspiracy may exist between a corporation and an officer ‘if the officer is acting in a personal, as opposed to official, capacity.’”<sup>8</sup> Moreover, such actions must be motivated by a personal bias and not partially to benefit the corporation.<sup>9</sup> Whether an agent acted “outside the scope” of his agency is “crucial” to the analysis.<sup>10</sup> As noted by an 11<sup>th</sup> Circuit case cited by Defendants (Supp. Mot. 10), “the intracorporate conspiracy doctrine holds that acts of corporate agents are attributed to the corporation itself, thereby negating the multiplicity of

---

<sup>7</sup> *Sorber*, 2011 V.I. LEXIS 34 at \*5-6.

<sup>8</sup> *See id.*

<sup>9</sup> *See id.*

<sup>10</sup> *Sorber*, 2011 V.I. LEXIS 34 at \*5-6.

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 9

actors necessary for the formation of a conspiracy.”<sup>11</sup> In other words, corporations are liable for the conduct of their agents under the doctrine of *respondeat superior*—and not “conspiracy.”<sup>12</sup> In contrast, “conspiracy” requires “separateness” or “multiple parties,” and non-agents or employees acting outside the scope of their employment may conspire among themselves or with a separate corporation.<sup>13</sup>

Here, Plaintiffs the evidence shows that—at all material times, Benta, Redfield, and Sheraw, were all acting as corporate agents on behalf of ICC and its wholly owned subsidiaries, including The Daily News, as a joint enterprise, making The Daily News jointly and severally liable for the acts of Benta, Redfield, and Sheraw, because they were agents acting in the course and scope of their agency on behalf of The Daily News and the joint enterprise. The Daily News asserts that this scenario entitles it to summary-judgment on the issue of conspiracy due to a lack of “separateness.” Contradictorily, The Daily News continues to defend the vicarious liability issue as it relates to Redfield, Benta, and Sheraw’s conduct, claiming that The Daily News is “separate” and distinct from Redfield, Benta, and Sheraw. (Def’s Reply 6, 17-21; Supp. Mot. 14.) If the Court granted summary judgment on this issue, there is no doubt that The Daily News will continue to attempt to defend at trial by claiming that it is not vicariously liable for Redfield, Benta, and Sheraw’s conduct, because they are “separate” and “others” and not agents of The

---

<sup>11</sup> See *McAndrew v. Lockheed Martin Corp.*, 206 F.3d 1031, 1036 (11<sup>th</sup> Cir. 2000) (“Therefore, just as it is not legally possible for an individual person to conspire with himself, it is not possible for a single legal entity consisting of the corporation and its agents to conspire with itself.”).

<sup>12</sup> See, e.g., *Defoe v. Phillip*, 56 V.I. 109, 132-33 (V.I. 2012) (noting that the doctrine of *respondeat superior* makes the principle vicariously liable for the conduct of the agent, while the agent also remains liable for his own tortious acts or conduct).

<sup>13</sup> *Sorber*, 2011 V.I. LEXIS 34 at \*5-6.

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 10

Daily News. Therefore, there is a question of fact that has to be resolved by the jury as to whether Benta, Redfield and Sheraw were acting as agents for ICC, DailyNews, VITELCO or as a part of the joint conspiracy.

Under Federal Rule of Civil Procedure 8(d), a party is entitled to assert inconsistent and alternative theories if necessary. If the jury believes that Redfield, Benta, and Sheraw are somehow “separate” from The Daily News and the joint enterprise; or that they were acting for personal reasons; or that they were acting outside the scope of their agency, then Plaintiffs are entitled to a finding on civil conspiracy. Absent a binding stipulation that Redfield, Benta, and Sheraw were acting in the course and scope of their agency on behalf of The Daily News and the joint enterprise, Defendants are not entitled to summary judgment on the issue of civil conspiracy based on the intercorporate conspiracy doctrine.

Finally, the Virgin Islands Supreme Court has not yet ruled on the applicability of the intercorporate conspiracy doctrine. To determine an unsettled principle of Virgin Islands common law, as established in *Banks v. Int'l Rental & Leasing Corp.*, 55 V.I. 967, 981-84 (V.I. 2011), or when confronted with a common-law issue that the V.I. Supreme Court has not resolved—or that has been addressed only through erroneous reliance on former 1 V.I.C. § 4—courts must “engage in a three-factor analysis: first examining which common law rule Virgin Islands courts have applied in the past; next identifying the rule adopted by a majority of courts of other jurisdictions; and then finally—but most importantly—determining which common law



**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 11

rule is soundest for the Virgin Islands.”<sup>14</sup> As discussed above, the courts in this jurisdiction have ruled that only a showing of complete unity can defeat a conspiracy claim and that agents must be acting in the course and scope for the intracorporate conspiracy doctrine to apply. The “better rule” for the Virgin Islands on intercorporate conspiracy would be to: (1) apply the rule to defeat civil conspiracy only when the corporation is otherwise subject to liability under the doctrine of *respondeat superior* for the acts of the agent; and (2) to only apply it to bar parent/subsidiary conspiracy when the “joint enterprise” or similar doctrine makes two separate corporations “one entity” for all purposes. In any given case, two corporations should either be treated as “separate” or the “same”—but not both simultaneously in a way that defeats all alternative theories of liability. Plaintiffs do not believe that the Virgin Islands Supreme Court would allow two companies to claim both “sameness” and “separateness” at the same time to defeat alternate liability theories in this way.

**B. Invasion of Privacy**

**1. Intrusion into Seclusion**

Plaintiffs—including Senator Donastorg and his family—briefed the merits of this claim in his summary-judgment response, and he reincorporates the substantive briefing for that claim here. With the supplemental motion, Defendants do not contend that the privacy-invading report could not support a claim for intrusion-into-seclusion under the RESTATEMENT (SECOND) OF TORTS § 654B. Rather, Defendants contends that, “The Daily News and J. Lowe Davis had no

---

<sup>14</sup> See *Better Bldg. Maint. of the V.I., Inc. v. Lee*, 60 V.I. 740, 757 (V.I. 2014) (citing *Gov't of the V.I. v. Connor*, 60 V.I. 597, 603 (V.I. 2014)); see also *Walters v. Walters*, 60 V.I. 768, 777 n.11 (V.I. 2014) (“[W]e recently explained [in *Connor*] that the Superior Court is not bound by this Court’s ‘prior erroneous reliance’ on 1 V.I.C. § 4.”).

**DONASTORG V. DAILY NEWS, ET AL., CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 12

involvement with and no connection to the Report,” “as amply demonstrated in Defendants’ refutation of Plaintiffs’ claim of civil conspiracy.” (Supp. Mot. 14.)

To the contrary, The Daily News argued that there could be no conspiracy because Benta and Sherah were acting as the corporate agents of ICC and the subsidiaries, including The Daily News, on behalf of the joint enterprise, making them all one entity. The Daily News did not move for summary judgment on the agency issues, and, to the contrary, argues for summary judgment claiming there was really only one entity and that Benta was acting in the course of his corporate agency when he commissioned the report. To the extent The Daily News is not claiming “separateness,” Plaintiffs are entitled to show conspiracy. Defendants certainly are not entitled to summary judgment on this issue.

**2. False-Light Invasion of Privacy**

Plaintiffs briefed the law on false-light invasion of privacy in their summary-judgment response, and cited to evidence supporting the claim in response to Defendants’ statement of facts. Plaintiffs incorporate the arguments, law, and facts cited therein in this response for all purposes. With the supplemental motion, Defendants do not challenge the law cited by Plaintiffs or assert any affirmative defenses to this claim. Defendants argue only that: (1) the evidence is insufficient to support this claim; and (2) “there has been no connection drawn between [The Daily News and Redfield] and the Report or Redfield’s statements regarding the report.” (Supp. Mot. 13-17.)

Regarding the sufficiency of the evidence, the evidence discussed in RSOF ¶4 shows that Defendants consistently—and over a period of years—painted Senator Donastorg with false

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 13

*characteristics, conduct or beliefs* in a manner that a reasonable person would find highly offensive for the improper purpose of discrediting him and covering up Prosser, ICC, and VITELCO's misconduct. The false *characteristics, conduct, or beliefs* include that Senator Donastorg: (1) is anti-business when he's not; (2) is a liar when he's not; (3) is a slanderer and defamer when he's not; (4) is corrupt, takes bribes, and is in bed with AT&T when he's not; (4) can't manage his personal finances or public finances and is incompetent when the evidence shows he's not; (5) votes against his own bills when he doesn't; (6) systematically makes *false, unsupported allegations* against businesses because he's mean and vindictive and to further his political career and because he wants to destroy the economy of the Virgin Islands, when, in fact he had support for his allegations and Defendants knew it and he did it to stop Prosser's corruption; (8) wants to use public funds and programs solely to further his own political career when the contrary is true; (9) acts on his own as a "rogue" and makes decisions based solely on his ego and without support from any other member of the legislature when he does not; and (10) hates animals and supports cockfighting when he, in fact, is an animal rights supporter.

Defendants failed to object to the admissibility of any evidence Plaintiffs referenced in response to Defendants' statement of facts, and contend in conclusory fashion that Defendants merely engaged in a "laundry list of rhetorical overstatements," that is "normal and customary political discourse." (Supp. Mot. 17.) Defendants cite no authority that the jury is not entitled to draw reasonable inferences from the evidence Plaintiffs cited, or that the evidence Plaintiffs' cited is insufficient to take this claim to the jury. To the contrary, this type of evidence sits

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 14

squarely within the Restatement illustrations that Plaintiffs discussed in detail in their summary-judgment response.<sup>15</sup>

“[D]ifferent inferences might be drawn from the evidence presented in the record. On summary judgment, however, when viewing the sufficiency of the [evidence], our role is not to act as factfinder. Instead, we must consider the evidence taken in the light most favorable to the non-movant and determine whether the evidence is [sufficient to support the non-movant’s case].”<sup>16</sup> One definition of a “fact finding” itself is just a fact-finder’s “conclusion by way of reasonable inference from the evidence,”<sup>17</sup> and “the jury may draw whatever reasonable inference or inferences that flow from” the evidence presented in the record.<sup>18</sup> The U.S. Supreme Court recognizes that “facts” themselves are a product of inference and reflection based on an opinion of what more basic facts imply.<sup>19</sup> In contrast, inferences from evidence are only impermissible when they are based solely on “surmise,” “speculation,” and “conjecture,” and the Court must view the record evidence as a whole to determine whether any view of the evidence

---

<sup>15</sup> See RESTATEMENT (SECOND) OF TORTS § 652A, comments and illustrations.

<sup>16</sup> See *Farrell v. Planters Lifesavers Co.*, 206 F.3d 271, 286 (3d Cir. 2000).

<sup>17</sup> See *Beech Aircraft Corp. v. Rainey*, 488 U.S. 153, 164 (1988) (citing Black’s Law Dictionary 569 (5th ed. 1979)).

<sup>18</sup> See *Waters v. Genesis Health Ventures, Inc.*, 400 F. Supp. 2d 814, 820 (E.D. Pa. 2005).

<sup>19</sup> See *Beech Aircraft Corp.*, 488 U.S. at 168-69 (citing E. Cleary, McCormick on Evidence 27 (3d ed. 1984) (“There is no conceivable statement however specific, detailed and ‘factual,’ that is not in some measure the product of inference and reflection as well as observation and memory”); R. Lempert & S. Saltzburg, *A Modern Approach to Evidence* 449 (2d ed. 1982) (“A factual finding, unless it is a simple report of something observed, is an opinion as to what more basic facts imply”).

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 15

can support reasonable inferences in favor of the non-movant.<sup>20</sup> Plaintiffs have cited to and discussed more than sufficient evidence to take this claim to the jury.

Regarding Defendants' claim that, "there has been no connection drawn between [The Daily News and Redfield] and the Report or Redfield's statements regarding the report," (Supp. Mot. 13-17) it moved for summary judgment on the intercorporate issue admitting that all of the entities acted as a joint enterprise, and that Redfield was an agent acting in the course and scope of his agency on behalf of the joint enterprise. (Supp. Mot. 5.) The Daily News did not move for summary judgment on the agency issues, and, to the contrary, argues for summary judgment claiming there was really only one entity and that Redfield and Benta were acting in the course of their corporate agency for that one entity (made up of ICC, DailyNews, Prosser) when Benta commissioned the report and when Redfield provided false reasons for the commissioning report on the radio. To the extent The Daily News is now claiming "separateness," Plaintiffs are entitled to show conspiracy. Defendants certainly are not entitled to summary judgment on this issue.

**C. Intentional Infliction of Emotional Distress**

Defendants do not contest that this jurisdiction recognizes a claim for intentional infliction of emotional distress, but no local statute addresses the claim, and the Supreme Court

---

<sup>20</sup> *E.g., Fireman's Fund Ins. Co. v. Videfreeze Corp.*, 540 F.2d 1171, 1179-81 (3d Cir. 1976) (trial judge erred in analyzing an expert's testimony in isolation in from the record as a whole in connection with a Rule 50 motion, and noting that much of the supporting evidence "cuts both ways," or could be viewed differently by reasonable jurors).

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 16

of the Virgin Islands has yet to adopt the common-law elements.<sup>21</sup> Under the Restatement rule, to recover for intentional infliction of emotional distress, a plaintiff must show the defendant, “who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to” the plaintiff, and that the Defendant’s conduct was “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.”<sup>22</sup> Applying a *Banks* analysis, this Court has previously ruled that Restatement (Second) of Torts § 46 reflects the common law of this jurisdiction:

First, the general rule of this section has been adopted by virtually every Virgin Islands court to address intentional infliction of emotional distress. Second, a review of the case citations listed in the Restatement (Second) of Torts § 46 suggests that a majority of jurisdictions have adopted a similar rule to § 46. Finally, considering the longstanding application of this construction of Intentional Infliction of Emotional Distress in Virgin Islands courts, the Court finds that the Restatement (Second) of Torts § 46 represents the soundest rule for the Virgin Islands, and is in accord with local public policy.<sup>23</sup>

Here, the evidence discussed in RSOF ¶4 and throughout independently shows that Defendants engaged in extreme and outrageous conduct designed to threaten, bully and intimidate Senator Donastorg and to ruin him, and that this multi-year pattern of outrageous conduct caused him to suffer from severe emotional distress. Moreover, the investigation was conducted on all the members of Senator Donastorg’s family, and all Plaintiffs have been injured by the outrageous conduct of Defendants. (RSOF ¶4.B.1.)

---

<sup>21</sup> See *Joseph v. Sugar Bay Club & Resort*, No. Civil No. ST-13-CV-491. 2014 V.I. LEXIS 14, at \*3-11 (V.I. Super. Ct. Mar. 17, 2014.)

<sup>22</sup> See RESTATEMENT (SECOND) OF TORTS § 46 (1977).

<sup>23</sup> See *id.* at \*3-11.

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 17

Defendants' do not attack the sufficiency of the evidence in support of any specific element of Senator Donastorg's claim for intentional infliction of emotional distress. (Supp. Mot. 17-18.) The sole ground for summary judgment Defendants assert is that Senator Donastorg's intentional-infliction-of-emotional-distress claim fails because this claim is really just a "recouched" or "recast" defamation claim and the defamation claims also fail as a matter of law. (Supp. Mot. 17-18.) Defendants do not address the emotional distress inflicted by the privacy-invading report or move on any claim for IIED asserted by the other plaintiffs, *i.e.*, the other members of Senator Donstorg's family. This claim is based on the years-long pattern of misconduct and intimidation as well as the privacy-invading report, in addition to the defamation and false-light reporting. Senator Donastorg is also entitled to take this claim to the jury in connection with the privacy-invading report, because Defendants did not move for summary judgment on this issue and the report was obviously designed to intentionally inflict emotional distress. In any event, to the extent the Court denies summary judgment on any defamation claim, it must deny summary judgment on intentional infliction of emotional distress, because this is the sole ground asserted by Defendants for summary judgment.

Finally, Defendants did not move on this claim at all with respect to Senator Donastorg's other family members, so there is no summary-judgment motion to grant or deny as to the IIED claims asserted by the other Plaintiffs.

**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 18

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

DATED: January 16, 2015

BY: 

Lee J. Rohn, Esq.

VI Bar No. 52

1101 King Street

Christiansted, St. Croix

U.S. Virgin Islands 00820

Telephone: (340) 778-8855

lee@rohnlaw.com

JA003195



**DONASTORG V. DAILY NEWS, ET AL, CIVIL NO. 117/2002**  
**PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY**  
**JUDGMENT AND BRIEF IN SUPPORT**

Page 19

**CERTIFICATE OF SERVICE**

THIS IS TO CERTIFY that on this 20 day of JANUARY, 2015, I caused a true and correct copy of **PLAINTIFFS' RESPONSE TO DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT** to the following:

**Joel H. Holt, Esquire**

Law Offices of Joel Holt

Quinn House

2132 Company Street, Suite 2

Christiansted, VI 00820

Email Address: holtvi@aol.com

Attorney For: Holland "Dyke" Redfield and Innovative Communications Corporation

**Kevin Rames, Esquire**

K. A. Rames, P.C.

2111 Company Street, Suite 3

St. Croix, VI 00822

Email Address: kevin.rames@rameslaw.com

Attorney For: Daily News Publishing Co., Lowe Davis

**Oakland Benta**

P.O. Box 3388

Frederiksted, VI 00841

BY: M. Williams (rl)

JA003196



upon the evidentiary record, then a unity of identity must be found to exist, thereby rendering all Defendants liable for the tortious actions of any of them under the theory of *respondeat superior*. This is an unreasonable result and cannot be sustained against either Lowe Davis or The Daily News.

**I. THE INTRACORPORATE CONSPIRACY DOCTRINE PRECLUDES PLAINTIFFS' CLAIMS OF JOINT AND SEVERAL LIABILITY AMONG THE DEFENDANTS.**

The Virgin Islands Supreme Court has not had occasion to address the intracorporate conspiracy doctrine. Therefore, to determine the appropriate common law rule, Virgin Islands courts perform a *Banks* analysis, in which the court considers “three non-dispositive factors: (1) whether any Virgin Islands courts have previously adopted a particular rule; (2) the position taken by a majority of courts from other jurisdictions; and (3) most importantly, which approach represents the soundest rule for the Virgin Islands.” *Thomas v. Virgin Islands Bd. of Land Use Appeals*, No. S.CT.CIV. 2013-0001, 2014 WL 691657, at \*5 (V.I. Feb. 24, 2014) (quoting *Simon v. Joseph*, S.Ct. Civ. No. 2012-0011, 2013 WL 4854776, at \*7 (V.I. Sept. 11, 2013) (citing *Matthew v. Herman*, 56 V.I. 674, 680-81 (V.I.2012)).

There are two Virgin Islands Superior Court cases that touch upon intracorporate conspiracy. Both adopt the doctrine as applied by The Daily News and Lowe Davis. *See Sorber v. Glacial Energy VI, LLC.*, No. ST-10-CV-588, 2011 WL 3854244, at \*2 (V.I. Super. June 7, 2011)(under the intracorporate conspiracy doctrine, “an entity cannot conspire with one who acts as its agent[.]” [;] however, “a conspiracy may exist between a corporation and an officer ‘if the officer is acting in a personal, as opposed to official, capacity’ and “if such actions are motivated by a *solely* personal bias and not partially to benefit the corporation.”); *see also Guardian*, 2012 WL 3114601, at \*10 (same).

There are one hundred twenty-nine reported cases in state and federal jurisprudence in which the intracorporate conspiracy doctrine was raised as a defense to defamation. In the twenty-three states where their respective courts have ruled on its applicability, they are unanimous that the intercorporate conspiracy doctrine applies in the manner suggested by The Daily News and J. Lowe Davis in its Supplemental Motion for Summary Judgment. In the scores of cases applying the doctrine, courts have not imposed, or otherwise referred to limiting the doctrine in the manner suggested by Plaintiffs. Indeed, the argument advanced by these Defendants is the soundest rule for the Virgin Islands because there is no support in law or logic for Plaintiffs' proposition that the doctrine should only be allowed as a defense in cases where it is found that the alleged actors are "one entity" for all purposes. *See* Opposition at 11.

A brief synopsis of the application of the doctrine in the twenty-three states that have addressed the issue follows: Connecticut recognizes the intracorporate conspiracy doctrine as an extension of agency law and adopts the requirement that the corporate agents must be acting within the scope of their employment. *Harp v. King*, 266 Conn. 747, 835 A.2d 953 (2003). New York recognizes the intracorporate conspiracy doctrine but holds that it can be defeated with a showing that the individual defendants were motivated by an independent personal stake in achieving the corporation's objective' rather than 'merely carrying out the corporation's managerial policy. *Reich v. Lopez*, No. 13-CV-5307 JPO, 2014 WL 4067179, at \*20 (S.D.N.Y. Aug. 18, 2014). Georgia acknowledges that under the doctrine, two city employees working together cannot conspire together to undertake a retaliatory prosecution. *Rehberg v. Paulk*, 611 F.3d 828, 854 (11th Cir. 2010) *aff'd*, 132 S. Ct. 1497, 182 L. Ed. 2d 593 (2012). Pennsylvania law provides that under the doctrine, an entity cannot conspire with someone who is its agent. *Gen. Refractories Co. v. Fireman's Fund Ins. Co.*, 337 F.3d 297, 313 (3d Cir. 2003) *citing cases*. Illinois courts recognize that the intracorporate conspiracy doctrine barred a Title 42 U.S.C.A §

1985(2) claim against public school administrators who allegedly agreed with each other and with school counselors to disregard state law requirements. *Wright v. Illinois Dep't of Children & Family Servs.*, 40 F.3d 1492, 1508 (7th Cir. 1994). Under North Carolina law, a municipality could not be a party to a conspiracy, and pursuant to the intracorporate conspiracy doctrine, could not conspire with itself in the form of its agents, officers or employees. *Alexander v. City of Greensboro*, 762 F. Supp. 2d 764 (M.D.N.C. 2011); Under the Florida intracorporate conspiracy doctrine, a corporation's officers, directors or employees, acting as agents of the corporation, are deemed incapable of conspiring among themselves or with the corporation, however, an exception is found where the officer, director or employee of the corporation has a personal stake in the illegal activities separate and distinct from that of the corporation. *Microsoft Corp. v. Big Boy Distribution LLC*, 589 F. Supp. 2d 1308 (S.D. Fla. 2008). Under Alabama law, the intracorporate conspiracy doctrine applies when agents of a single government entity are said to have conspired with one another or with the entity. *Horne v. Russell Cnty. Comm'n*, 295 F. Supp. 2d 1289 (M.D. Ala. 2003). Arizona law precludes liability where the allegation is that an entity conspired with its employees to violate an individual's constitutional rights. *Donahoe v. Arpaio*, 869 F. Supp. 2d 1020 (D. Ariz. 2012) *aff'd sub nom. Stapley v. Pestalozzi*, 733 F.3d 804 (9th Cir. 2013). Ohio law provides that members of the same legal entity cannot conspire with one another as long as their alleged acts are within the scope of their employment. *Jackson v. City of Columbus*, 194 F.3d 737 (6th Cir. 1999) *abrogated on other grounds by Swierkiewicz v. Sorema N. A.*, 534 U.S. 506, 122 S. Ct. 992, 152 L. Ed. 2d 1 (2002). Texas courts apply the intercorporate conspiracy doctrine but allow for an exception where corporate employees act for their own personal purpose. *Benningfield v. City of Houston*, 157 F.3d 369, 379 (5th Cir. 1998). California courts acknowledges the intracorporate conspiracy doctrine but holds that it is inapplicable to a claim brought under 42 U.S.C. § 1985(3) because

“such conspiracies are within the purview of the statute.” *Rashdan v. Geissberger*, No. C 10-00634 SBA, 2011 WL 197957, at \*7 (N.D. Cal. Jan. 14, 2011). Indiana courts have held that managers of a corporation jointly pursuing its lawful business do not become ‘conspirators’ when acts within the scope of their employment and that “[E]xceptions to the intracorporate conspiracy doctrine exist in “egregious circumstances.” *Taylor-Hudgins v. Spurgeon*, No. 1:02-CV-1130-LJM-WTL, 2004 WL 828093, at \*4 (S.D. Ind. Mar. 3, 2004). Michigan courts have held that “Under the widely-accepted “intracorporate conspiracy doctrine....a corporation cannot ordinarily conspire with its agents or employees...” *Innovative Env'tl. Solutions, Inc. v. AIG Domestic Claims, Inc.* No. CIV.A.08-CV-13212, 2008 WL 5110589, at \*1 (E.D. Mich. Dec. 2, 2008). In Louisiana, it is a longstanding rule that “a corporation cannot conspire with itself any more than a private individual can, and it is the general rule that the acts of the agent are the acts of the corporation. *Hardesty v. Waterworks Dist. No. 4 of Ward Four*, 954 F. Supp. 2d 461, 473 (W.D. La. 2013). Virginia courts have held that the intracorporate conspiracy doctrine forecloses a conspiracy claim because a conspiracy cannot exist without at least two participants and a corporation, which can act only through its officers, directors and employees. *Saleh v. Univ. of Virginia*, No. CIV.A. 3:97-CV-460 R, 1999 WL 34798179, at \*19 (E.D. Va. Feb. 25, 1999) *aff'd sub nom.* *Saleh v. Upadhyay*, 11 F. App'x 241 (4th Cir. 2001). Minnesota courts have held that the intracorporate conspiracy doctrine bars conspiracy claims under Title 42 U.S.C. § 1985, unless there is a showing of “direct financial benefit to one of the participants separate and apart from the benefit to the corporate entity.” *Richmond v. Bd. of Regents of Univ. of Minnesota*, 957 F.2d 595, 596 (8th Cir. 1992). Kansas courts have held that “[t]here is no way that the corporate defendant can be guilty of inducing itself, or ‘conspiring’ with itself.....[B]ut ... the doctrine....does not apply to civil rights cases.” *Keeler v. ARAMARK*, No. 11-1372-EFM, 2013 WL 1568039, at \*8 (D. Kan. Apr. 12, 2013) *reconsideration denied*, No. 11-1372-EFM, 2013

WL 1788001 (D. Kan. Apr. 26, 2013) and *aff'd*, 536 F. App'x 771 (10th Cir. 2013) *cert. denied*, 134 S. Ct. 1289, 188 L. Ed. 2d 317 (2014). Colorado courts have followed the standard enunciated in *Keeler see: Martensen v. Koch*, No. 13-CV-02411-REB-CBS, 2014 WL 3057172, at \*5 (D. Colo. July 7, 2014); in Mississippi, both District Courts have applied the intracorporate conspiracy doctrine to civil conspiracy claims holding that a corporation cannot conspire with its own employees or agents. *Wesley Health Sys., LLC v. Forrest Cnty. Bd. of Sup'rs*, No. 2:12-CV-59-KS-MTP, 2014 WL 232109, at \*12 (S.D. Miss. Jan. 22, 2014) (citing cases). Maryland courts have adopted the intracorporate conspiracy doctrine, but acknowledge that an exception may be justified “when the officer has an independent personal stake in achieving the corporation's illegal objective.” *Hoffman v. Baltimore Police Dep't*, 379 F. Supp. 2d 778, 796 (D. Md. 2005). The District of Columbia law acknowledges that “[G]enerally, the law does not recognize a conspiracy between a corporation and its agents.” *Williams v. Fed. Nat. Mortgage Ass'n*, No. CIV 05-1483 (JDB), 2006 WL 1774252, at \*7 (D.D.C. June 26, 2006); and Wisconsin courts have adopted the intracorporate conspiracy doctrine but acknowledge an exception if elements of the conspiracy predate the formation of the corporation. *Starsurgical Inc. v. Aperta, LLC*, No. 10-CV-01156, 2014 WL 4072117, at \*12 (E.D. Wis. Aug. 14, 2014).

The Virgin Islands Superior Court has previously adopted the rule as advanced by The Daily News and Lowe Davis, a majority of courts from other jurisdictions are in line with this position and this approach represents the soundest rule for the Virgin Islands. Accordingly, Plaintiffs' civil conspiracy claim must fail.

**II. NEITHER REDFIELD NOR BENTA ARE AGENTS, EMPLOYEES OR SERVANTS OF THE DAILY NEWS OR J. LOWE DAVIS FOR THE PURPOSE OF RESPONDEAT SUPERIOR LIABILITY**

Plaintiffs shift ground, as they must, and argue in the alternative that if their intracorporate conspiracy claims fail, then under agency principles Defendants may be held

liable under *respondeat superior* for the statements of Redfield and the alleged statements of Benta concerning Senator Donastorg.

If this is indeed a shift in ground by the Plaintiffs, rather than an attempt to wholly recast an alleged conspiracy as an alleged agency, or to impermissibly conflate the two, then this argument is inapplicable to The Daily News. Although it may be permissibly argued that there was an agency relationship between Innovative Communication Corporation as principal, master, or employer and Benta and Redfield as agents, servants or employees, there is no evidence in this record that either Benta or Redfield were ever authorized to act or acted as agents, servants or employees of either The Daily News or J. Lowe Davis.

Plaintiffs rebut the record by simply arguing that, because they aver the existence of a principal-agent, master-servant or employer-employee relationship in their pleadings, that they have raised a genuine issue of material fact precluding summary judgment. However, it is Plaintiffs' obligation to identify a genuine issue of material fact based upon the evidentiary record.<sup>1</sup> Plaintiffs have not done so. Since Plaintiffs have again asserted that these Defendants have failed to refute a fact that was raised in a pleading but not established in the record, Defendants will review the applicable law and the evidentiary record to put this issue to rest.

In the matter *Godfrey v. Int'l Moving Consultants, Inc.*, 1980 WL 626401, at \*10 (D.V.I. Dec. 12, 1980), the District Court found that the agency relationship is properly defined as follows:

- (1) Agency is the fiduciary relation which results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act.
- (2) The one for whom action is to be taken is the principal.
- (3) The one who is to act is the agent.

---

<sup>1</sup> *Chapman v. Cornwall*, No. Sct. Civ. No. 2012-0032, 2013 WL 2145092, at \*6 (V.I. May 15, 2013)(granting summary judgment to Defendant on defamation claim and requiring sufficient evidence of a factual dispute rather than mere contentions to preclude summary judgment).



*citing* Restatement (Second) of Agency § 1. In *John v. Christian*, 1991 WL 11818246, at \*4 (Terr. V.I. June 11, 1991) *aff'd*, 1993 WL 13748629 (D.V.I. Dec. 17, 1993) *aff'd*, 46 F.3d 1117 (3d Cir. 1994) the court identified the elements required to establish that an agency relationship existed between certain parties when it held that

An agency is a fiduciary relationship which results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act. Restatement (Second) of Agency, § 1 (1958). Thus, three elements are required in order to show that an agency relationship exists: (1) manifestation by the principal that the agent will act for him, (2) acceptance by the agent of the undertaking, and (3) an understanding between the parties that the principal will be in control of the undertaking. *Housatonic Valley Publishing Co. v. City-trust*, 4 Conn. App. 12, 492 A.2d 203, 205 (1985).

*See also* *Giovan v. St. Thomas Diving Club, Inc.*, 1997 WL 360867, at \*3 (Terr. V.I. June 16, 1997), *Bowen v. Zacko*, 2008 WL 4372949, at \*2 (V.I. Super. July 22, 2008), *Phillips v. Andrews*, 332 F. Supp. 2d 797, 802 (D.V.I. 2004) *aff'd*, 128 F. App'x 935 (3d Cir. 2005) (an agency relationship is formed by the “manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other to so act.” *citing* Restatement (Second) of Agency § 15 (1981).

In order to establish that the requisite relationship existed between the parties to support a claim of *respondeat superior* liability, the Plaintiffs must first establish that there was a “manifestation of consent” by both parties.

Plaintiffs deposed Jason Robbins and J. Lowe Davis in their individual capacities, but, unaccountably, did not depose The Daily News. In the Robbins deposition, Plaintiffs never asked whether Redfield was an agent or servant of The Daily News. In fact, the only references to Redfield in the Robbins deposition are at pages 39, 41, 88 and 96. At page 39, Robbins denies that Redfield is employed by The Daily News, or that he provides news articles to The Daily News, or that he does public relations for The Daily News. Robbins does state that when

Redfield, as the spokesman for ICC, makes statements for ICC as a whole, he is, by necessity, including The Daily News in its capacity as an ICC subsidiary. At page 41, Robbins confirmed that he met Redfield at annual ICC budget meetings. At page 89, Robbins confirmed that The Daily News did not publish a news article on Redfield's claims about the Report and at page 96, Robbins confirmed that The Daily News was never contacted by Redfield about the Report. Plaintiffs did not ask Robbins any questions about Benta.

In the Davis deposition, Plaintiffs never asked whether Redfield was an agent, employee or servant of The Daily News. The only references to Redfield in the Davis deposition are at pages 23, 24, 60, 119 and 120. At page 23, Davis stated that she had a vague recollection of Redfield from ICC's annual budget meetings. At page 24, Davis states that Redfield was a spokesman for ICC. At Page 60, Davis states that Redfield never advised her of the motivation for ICC commissioning the Report. At page 119, a Press Release from Redfield is read to Davis and at page 120; Davis testifies that she does not recall receiving the Press Release from Redfield.

Benta, who was ICC's Head of Security, is mentioned in the Davis deposition at pages 40 and 41, wherein Davis states that Benta did not provide security services for The Daily News.

In the Redfield deposition, Plaintiffs never asked him if he was an agent, a servant or an employee of The Daily News and Redfield never stated that he acted in any of those capacities.

After what these Defendants aver was an exhaustive search of the record of this matter, not a single Interrogatory or Response to Interrogatory or a single Demand for Production or Response to Demand for Production has been identified that inquires of, or alludes to or avers that Benta or Redfield are agents, servants or employees of The Daily News or J. Lowe Davis.

Based upon this record, or, more precisely, the lack of a record, a genuine issue of material fact cannot be established that The Daily News or J. Lowe Davis manifested that

Redfield or Benta would act for them, nor that Redfield or Benta either accepted such an undertaking or agreed to perform such an undertaking under the control of The Daily News or J. Lowe Davis.

Nonetheless, Plaintiffs suggest that even upon the failure of their claim of civil conspiracy, The Daily News and J. Lowe Davis can be held liable to the Plaintiffs for their actions based upon the theory of *respondeat superior*. In *Bowen* at \*2-3, the Court cited the Restatement (Third) of Agency § 7.07(2) for a definition of *respondeat superior*, finding that the doctrine holds an employer vicariously liable for the tortious conduct of its employees that occurs within the “scope of employment.” *Id.*; see also *Williams v. Rene*, 33 V.I. 297, 301, 72 F.3d 1096, 1099 (3d Cir.1995) (“[A]n employee acts within the scope of employment when performing work assigned by the employer or engaging in a course of conduct subject to the employer's control. An employee's act is not within the scope of employment when it occurs within an independent course of conduct not intended by the employee to serve any purpose of the employer.”).

There is not a scintilla of evidence in the record that there ever existed a principal-agent, master-servant, employer-employee or other similar relationship between Redfield and/or Benta on the one hand and The Daily News and/or J. Lowe Davis on the other.

Plaintiffs’ attempt to impose joint and several liability upon these Defendants under a civil conspiracy theory has failed, and Plaintiffs’ last-ditch effort to impose *respondeat superior* liability upon these Defendants fails as well.

**III. PLAINTIFFS HAVE NOT MADE OUT A CLAIM OF INTRUSION INTO SECLUSION**

Plaintiffs claim of invasion into seclusion is based upon their assertion that if joint and several liability under their civil conspiracy claim is avoided, that their vicarious liability claim

must survive. This claim is hinged solely on ICC and Benta's conduct in commissioning the Report, and Defendants have demonstrated, *supra*, that Benta was not an agent-employee-servant of these Defendants and that *respondeat superior* liability cannot lie against them.

**IV. DEFENDANTS ARE NOT LIABLE TO PLAINTIFF FOR FALSE LIGHT INVASION OF PRIVACY**

Plaintiffs' claims of false light invasion of privacy are simply efforts to make an end-run around the law of defamation of a public official. The Virgin Islands Supreme Court has not adopted the tort of false light invasion of privacy, which is drawn from the Restatement (Second) of Torts, which imposes liability on a person who publishes material that "is not true, is highly offensive to a reasonable person, and is publicized with knowledge or in reckless disregard of its falsity." *Larsen v. Phila. Newspapers, Inc.*, 375 Pa. Super. 66, 543 A.2d 1181, 1188 (1988) (en banc) (citing Restatement (Second) of Torts § 652E); *see also Vogel v. W.T. Grant Co.*, 458 Pa. 124, 327 A.2d 133, 135–36 (1974); *see Graboff v. Colleran Firm*, 744 F.3d 128, 136 (3d Cir. 2014). To adopt common law false light invasion of privacy where public figures are concerned in the manner suggested by Plaintiffs would effectively nullify Virgin Islands Supreme Court jurisprudence that speaks directly to this issue. *See, e.g., Kendall v. Daily News Pub. Co.*, No. CIV. 2010-0046, 2011 WL 4434922, at \*10 (V.I. Sept. 21, 2011) *aff'd*, 716 F.3d 82 (3d Cir. 2013); *see also Gov't of Virgin Islands v. Connor*, No. S.CT.CIV. 2013-0095, 2014 WL 702639, at \*3 (V.I. Feb. 24, 2014)(articulating *Banks* analysis); *Thomas*, 2014 WL 691657, at \*5 (the most important element of a *Banks* analysis is which approach is "the soundest rule for the Virgin Islands").

Defendants have scoured the record of this matter and, in its Supplemental Motion, have refuted each of the ten-point "grab-bag" of alleged "false characteristics, conduct or beliefs" that have allegedly been published by the Defendants about the Plaintiffs. Plaintiffs ignore this

detailed refutation and simply recapitulate their ten-point “grab-bag”. Plaintiffs are no more persuasive here than they were in their initial Opposition to Motion for Summary Judgment.

V. **PLAINTIFFS CANNOT MAKE OUT A CLAIM FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS.**

In their Opposition, Defendants have cited to United States Supreme Court precedent and local follow-on cases holding that Plaintiffs cannot sidestep the rigorous requirements of public figure defamation law by attempting to make out a claim for intentional infliction of emotional distress (hereinafter “IIED”) arising from a challenged publication. Plaintiffs ignore these relevant cases and rely instead on factually inapplicable cases that generally speak to the viability of a claim for IIED damages, but do not concern public figure defamation claims. Defendants do not assert that IIED claims lack validity; they only assert that Plaintiffs cannot make out such a claim in a public figure defamation case.

With respect to the Plaintiffs who are relatives of Senator Donastorg, they are Plaintiffs in this case as a result of the investigation that was done of them and the statements that were made about them in the Report. Defendants have demonstrated, *supra*, that these Defendants are not liable for anything arising from or relating to either the investigation or the Report.

WHEREFORE, The Daily News and J. Lowe Davis pray that they be granted a judgment disposing of this matter in all of its particulars.

Respectfully submitted,  
K. A. RAMES, P.C.



Dated: January 23, 2015

---

Kevin A. Rames, Esq.  
V.I. Bar No. 193  
2111 Company Street, Suite 3  
Christiansted, VI 00820  
(340)773-7284 / Fax (340)773-7282



Semaj I. Johnson, Esq.

V.I. Bar No. 1151

2111 Company Street, Suite 3

Christiansted, VI 00820

(340)773-7284 / Fax (340)773-7282

*Attorneys for Daily News Publishing Corp. and  
J. Lowe Davis*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of January, 2015, I caused a true and correct copy of the foregoing Daily News Publishing Co., Inc. and J. Lowe Davis' Reply to Opposition to Supplemental Motion for Summary Judgment - Civil Conspiracy, Invasion of Privacy and Intentional Infliction of Emotional Distress to be served upon:

Rhea Lawrence, Esq.

Law Offices of Rohn & Carpenter, LLC

1101 King Street

Christiansted, VI 00820

*Attorney for Plaintiffs*

Via Email

Joel H. Holt, Esq.

Law Offices of Joel H. Holt

2132 Company Street, Suite 2

Christiansted, St. Croix, VI 00820

*Attorney for Holland "Dyke" Redfield*

Via Email

Mark Eckard, Esq.

P.O. Box 24849

Christiansted, VI 00824

*Attorney for VITELCO*

Via Email

Oakland Benta

P.O. Box 3388

Frederiksted, V.I. 00840

*Pro Se*

Via Email



Semaj I. Johnson, Esq.

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.	)	

RECEIVED  
SEP 04 2015  
ST. THOMAS

I. Description of Document(s): Motion to Dismiss Counterclaim and Proposed Order

Number of Pages 3

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	September 2, 2015
Joel Holt, Esq.	Email and Hand Delivered	September 2, 2015
Mark Eckard, Esq.	Email and Hand Delivered	September 2, 2015
Oakland Benta	Email and U.S. Mail	September 2, 2015

Dated: September 2, 2015



Signature of Counsel

JA003210

**N THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DISTRICT OF ST. THOMAS & ST. JOHN**

SENATOR ADLAH DONASTORG, JR.; et.	)	
al.	)	CASE NO. SX-02-CV-117
	)	
Plaintiffs,	)	
	)	ACTION FOR DAMAGES
vs.	)	
	)	
DAILY NEWS PUBLISHING CO., INC.; et.	)	
al.	)	
	)	
Defendants.	)	
_____	)	

**MOTION FOR VOLUNTARY DISMISSAL OF COUNTERCLAIM, WITH PREJUDICE**

COME NOW the Defendants, Daily News Publishing Company, Inc. (herein “The Daily News”) and Jane Lowe Davis, by and through counsel, and they move this honorable Court for an Order confirming the voluntary dismissal of the Counterclaim filed by them, with prejudice.

The Counterclaim was filed by the Defendants on March 4, 2002. The Plaintiffs filed an Answer to Counterclaim on April 5, 2002. From that date to the date hereof, the Defendants-Counterclaimants filed no documents and took no actions in furtherance of the Counterclaim.

WHEREFORE, Defendants pray that this honorable Court dismiss the Counterclaim, with prejudice.

Respectfully submitted,

**K.A. RAMES, P.C.**



Kevin A. Rames, Esq  
Suite 3, 2111 Company Street  
Christiansted, VI 00820  
Telephone: (340) 773-7284  
Facsimile: (340) 773-7282  
Email: [kevin.rames@rameslaw.com](mailto:kevin.rames@rameslaw.com)

September 2, 2015



**CERTIFICATE OF SERVICE**

I hereby certify that on this 2nd day of September, 2015, I caused a true and correct copy of the foregoing MOTION FOR VOLUNTARY DISMISSAL OF COUNTERCLAIM WITH PREJUDICE to be served via email and hand-delivery or First Class United States Mail, postage prepaid, upon the following:

Lee. J. Rohn, Esquire  
Law Offices of Lee J. Rohn  
1101 King Street  
Christiansted, VI 00820  
Telephone: (340) 778-8855  
Facsimile: (340) 773 2954

Mark W. Eckard, Esquire  
Hamm & Eckard, P.C.  
53 King Street, 3rd Floor  
Christiansted, VI 00820  
Telephone: (340) 773-3660  
Facsimile: (340) 773-3650

Oakland Benta  
P.O. Box 3388  
Frederiksted, VI 00840

Joel H. Holt, Esq.  
Law Offices of Joel Holt  
2132 Company Street, Suite 2  
Christiansted, VI 00820  
Telephone: (340) 773-8709  
Telefax: (340) 773-8677



---

Kevin A. Rames, Esq

**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, to dismiss the within Counterclaim, with prejudice.

**ORDERED** that Defendant's Motion to Dismiss the Counterclaim 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

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

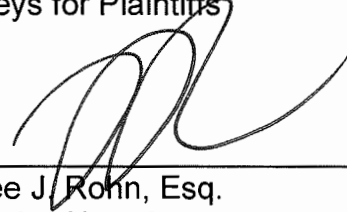
**ACTION FOR DAMAGES**

JURY TRIAL DEMANDED

**NOTICE OF NO OBJECTION TO DISMISSAL OF  
DAILY NEWS PUBLISHING, CO. COUNTERCLAIM**

**COMES NOW** Plaintiffs, by and through the undersigned counsel, and files with this Court notice of No Objection to Dismissal of Daily News Publishing Co. Counterclaim filed with prejudice.

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



DATED: September 14, 2015

BY: \_\_\_\_\_

Lee J. Rohn, Esq.  
VI Bar No. 52  
1101 King Street  
Christiansted, St. Croix  
U.S. Virgin Islands 00820  
Telephone: (340) 778-8855  
[lee@rohnlaw.com](mailto:lee@rohnlaw.com)

LEE J. ROHN AND  
ASSOCIATES, LLC  
1101 King Street  
Christiansted  
VI 00820-4933  
Tel: 340.778.8855  
Fax: 340.773.2954  
[lee@rohnlaw.com](mailto:lee@rohnlaw.com)

JA003214

**CERTIFICATE OF SERVICE**

**THIS IS TO CERTIFY** that on September 14, 2015, I caused a true and correct copy of the foregoing **NOTICE OF NO OBJECTION TO DISMISSAL OF DAILY NEWS PUBLISHING, CO. COUNTERCLAIM** to be delivered to the following via U.S. Mail and or Email:

Joel H. Holt, Esquire  
Law Offices of Joel Holt  
Quinn House  
2132 Company Street, Suite 2  
Christiansted, VI 00820  
Email Address: [holtvi@aol.com](mailto:holtvi@aol.com)  
**Attorney For: Holland "Dyke" Redfield**

Kevin Rames, Esquire  
K. A. Rames, P.C.  
2111 Company Street, Suite 3  
St. Croix, VI 00822  
Email Address: [kevin.rames@rameslaw.com](mailto:kevin.rames@rameslaw.com)  
**Attorney For: Daily News Publishing Co.**

Mark W. Eckard, Esq  
The Law Offices of Mark W. Eckard, P.C.  
P.O. Box 24849  
St. Croix, VI 00824  
Email Address: [Mark@MarkEckard.com](mailto:Mark@MarkEckard.com)  
**Attorney For: VITELCO**

Oakland Benta  
P.O. Box 3388  
Frederiksted, VI 00841

BY:  (cle)

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS**  
**DIVISION OF ST. CROIX**  
**NOTICE OF FILING DOCUMENTS IN ANOTHER DIVISION**

I. Caption of case including proper division:

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

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,	)	
OAKLAND BENTA	)	
	)	
Defendants.	)	

Description of Document(s):

1. Corrected Motion for Voluntary Dismissal of Amended Counterclaim With Prejudice

No. of Pages: 13

II. Certification of mailing or delivery to each of the following:

Name of Attorney	Type of Service	Date Delivered/Mailed
Lee J. Rohn	U.S. Mail	September 23, 2015
Joel Holt, Esq.	U.S. Mail	September 23, 2015
Oakland Benta	U.S. Mail	September 23, 2015
Mark Eckard, Esq.	U.S. Mail	September 23, 2015



Dated: September 23, 2015

\_\_\_\_\_  
Signature of Counsel

JA003216

**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	)	
	)	
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.	)	
<hr style="width:40%; margin-left:0;"/>		

**CORRECTED MOTION FOR VOLUNTARY DISMISSAL  
OF COUNTERCLAIM, WITH PREJUDICE**

COME NOW the Defendants, Daily News Publishing Company, Inc. (herein "The Daily News") and Jane Lowe Davis, by and through counsel, and they move this honorable Court for an Order confirming the voluntary dismissal of the Amended Counterclaim filed by them, with prejudice.

The initial Answer and Counterclaim was filed by the Defendants on March 4, 2002. The Counterclaim was amended, filed and served on March 14, 2002 (See date-stamped copy attached as Exhibit 1). The Plaintiffs filed an Answer to Counterclaim on April 5, 2002. From that date to the date hereof, the Defendants-Counterclaimants filed no documents and took no actions in furtherance of the Counterclaim.

WHEREFORE, Defendants pray that this honorable Court dismiss the Amended Counterclaim, with prejudice.

Respectfully submitted,

**K.A. RAMES, P.C.**



---

Kevin A. Rames, Esq  
Suite 3, 2111 Company Street  
Christiansted, VI 00820  
Telephone: (340) 773-7284  
Facsimile: (340) 773-7282  
Email: [kevin.rames@rameslaw.com](mailto:kevin.rames@rameslaw.com)

September 23, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of September, 2015, I caused a true and correct copy of the foregoing CORRECTED MOTION FOR VOLUNTARY DISMISSAL OF COUNTERCLAIM WITH PREJUDICE to be served via email and hand-delivery or First Class United States Mail, postage prepaid, upon the following:

Lee. J. Rohn, Esquire  
Law Offices of Lee J. Rohn  
1101 King Street  
Christiansted, VI 00820  
Telephone: (340) 778-8855  
Facsimile: (340) 773 2954

Mark W. Eckard, Esquire  
Hamm & Eckard, P.C.  
53 King Street, 3rd Floor  
Christiansted, VI 00820  
Telephone: (340) 773-3660  
Facsimile: (340) 773-3650

Oakland Benta  
P.O. Box 3388  
Frederiksted, VI 00840

Joel H. Holt, Esq.  
Law Offices of Joel Holt  
2132 Company Street, Suite 2  
Christiansted, VI 00820  
Telephone: (340) 773-8709  
Telefax: (340) 773-8677



---

Kevin A. Rames, Esq

**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, to dismiss the within Amended Counterclaim, with prejudice.

**ORDERED** that Defendant's Motion to Dismiss the Amended Counterclaim 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



# EXHIBIT 1

Water Stamp

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. 117/2002

ACTION FOR DAMAGES

RECEIVED  
15-04-2002  
15-04-2002

**FIRST AMENDED ANSWER**  
**AND COUNTERCLAIM**

COMES NOW the Defendants Daily News Publishing Co., Inc. and Lowe Davis, by and through counsel, The Law Offices of Kevin A Rames, P.C., and for their Answer in this matter states as follows:

1. Paragraph One of Plaintiffs' Complaint constitutes a legal conclusion for which no response is required. Notwithstanding this, Defendants affirmatively state 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 admit that the Daily News Publishing Co., Inc. is a Virgin Islands corporation wholly owned by Innovative Communication Corporation. Defendants deny that Innovative Communication Corporation is wholly owned by Jeffrey J. Prosser.

4. Defendants admit that Innovative Communication Corporation is a Virgin Islands corporation, the principal place of business of which is the U.S. Virgin Islands. The remainder of Paragraph Four of Plaintiffs' Complaint is unintelligible.
5. Defendants admit that Jeffrey J. Prosser is the beneficial owner of the Virgin Islands Daily News. Defendants deny the remaining allegations in Paragraph Five of Plaintiffs' Complaint.
6. Admitted.
7. Denied.
8. Denied.
9.
  - a. Denied.
  - b. Denied.
  - c. Denied.
  - d. Denied.
  - e. Denied.
  - f. Denied.
  - g. Denied.
  - h. Denied.
  - i. Denied.
10. Admitted that in January, 2002 the Virgin Islands Daily News published a news story that Defendant Adlah Donastorg was in default of his mortgage payments

and was being foreclosed upon. All remaining allegations in Paragraph Ten of Plaintiffs' Complaint are denied.

11. Denied.
12. Denied.
13. Denied.
14. Defendants repeat and reallege their answers to Paragraphs 1 through 13 of the Complaint as though fully set forth here.
15. Denied.
16. Denied.
17. Defendants repeat and reallege their answers to Paragraphs 1 through 16 of the Complaint as though fully set forth here.
18. Denied.
19. Denied.
20. Defendants repeat and reallege their answers to Paragraphs 1 through 19 of the Complaint as though fully set forth here.
21. Denied.
22. Denied.
23. Denied.

#### AFFIRMATIVE DEFENSES

1. Plaintiffs' 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' Complaint fails to state a claim upon which relief can be granted.
3. Plaintiffs' 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.
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 Senator Donastorg's wife in particular.
6. All published statements averred to in the Complaint were either true 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 Complaint were opinions or editorial expressions of a newspaper.
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. Benedicta Donastorg has not alleged any false statements about her were published by Defendants, and therefore she has failed to allege a claim for defamation.
10. Benedicta Donastorg has not alleged any business relationships that she claims were interfered with by Defendants, and therefore she has failed to allege a claim for interference with business relationships.

11. Senator Donastorg's claims are barred by the equitable doctrine of unclean hand

## COUNTERCLAIM

### COUNT I - DEFAMATION

1. Adlah Donastorg, Jr. is a citizen of the United States Virgin Islands and currently holds the office of Senator in the Virgin Islands Legislature. Adlah Donastorg, Jr. ("Senator Donastorg") is the husband of Benedicta Donastorg.
2. Benedicta Donastorg ("Mrs. Donastorg") is a citizen of the United States Virgin Islands and the wife of Adlah Donastorg, Jr.
3. The Daily News Publishing Company is a United States Virgin Islands corporation which owns and operates the Virgin Islands Daily News, a newspaper of general circulation in the United States Virgin Islands.
4. Lowe Davis is a citizen of the United States Virgin Islands, and is the Chief Executive Officer and Executive Editor of the Virgin Islands Daily News ("The Daily News").
5. On or about March 1, 2002 beginning approximately at 12:50 pm, Adlah Donastorg, Jr. and Benedicta Donastorg, by their agent The Law Offices of Lee J. Rohn, did publish to numerous entities, including WVWI Radio One, WYAC Sistema 102, WICI FM 96 Rock, WJKC Isle Rock, WRRR, WVPI Mongoose 104.3 FM, WSTA The Lucky 13, and WSTX Magic 97 X (collectively, "the Third Party Recipients"), a document purporting to be a civil complaint brought by Senator Donastorg ("the Donastorg Complaint").

6. The Donastorg Complaint was published to the Third Party Recipients by fax or by otherwise delivering a copy to each of them.
7. The Donastorg Complaint was published to one or more of the Third Parties prior to its filing in the Territorial Court of the Virgin Islands. Thereafter, it was filed in the Territorial Court of the Virgin Islands in the form which is now the complaint in the instant action.
8. The Donastorg Complaint contained within it false statements about the Daily News and Lowe Davis, including, *inter alia*, false statements in paragraphs 9 - 13.
9. Senator and Mrs. Donastorg, as well as their agent The Law Offices of Lee J. Rohn, knew that some or all of the false statements in the Donastorg Complaint were false.
10. Senator and Mrs. Donastorg, as well as their agent The Law Offices of Lee J. Rohn, had a reckless disregard for the truth of falsity of statements it made in the Donastorg Complaint regarding the Daily News and Lowe Davis.
11. Senator and Mrs. Donastorg, through their agent The Law Offices of Lee J. Rohn, published the Donastorg Complaint to the Third Party Recipients to cast the Daily News, Lowe Davis, Innovative Communication Corp. and Jeffrey Prosser in a bad light to the public.
12. A further reason why Senator and Mrs. Donastorg, through their agent The Law Offices of Lee J. Rohn, published the Donastorg Complaint to the Third Party Recipients was to portray Senator Donastorg in a false good light to the public,

at the expense of the reputations of the Daily News, Lowe Davis, Innovative Communication Corp. and Jeffrey Prosser.

13. Senator and Mrs. Donastorg, as well as their agent The Law Offices of Lee J. Rohn, had actual malice towards Daily News, Lowe Davis, Innovative Communication Corp. and Jeffrey Prosser.
14. The Daily News and Lowe Davis suffered general and specific damages thereby, in amounts to be proved at trial.

COUNT II - VIOLATION OF 42 U.S.C. § 1983

15. Counterclaimants incorporate herein each and every averment set forth in the foregoing paragraphs of these Counterclaims, as if set forth fully herein.
16. The Donastorg Complaint and the complaint filed herein name Adlah Donastorg, Jr. as "Senator Donastorg" in the caption.
17. Throughout the Donastorg Complaint and the complaint filed herein Adlah Donastorg, Jr. is referred to as "Senator Donastorg."
18. The Donastorg Complaint and the complaint filed herein make specific references to Senator Donastorg's activities as a Senator of the U.S. Virgin Islands, including but not limited to paragraphs 8, 9, 11, 12, and 13.
19. More specifically, the Donastorg Complaint and the complaint filed herein complain of alleged grievances to Senator Donastorg in his capacity of Senator of the U.S. Virgin Islands.



20. The complaint seeks relief which includes, *inter alia*, prior restraint of a news paper, in that it requests, ". . .an injunction prohibiting defendants from purposefully slandering Plaintiffs in the future. . ."
21. Thus, the complaint represents a Senator of the U.S. Virgin Islands (a government official) using an instrumentality of the government (i.e. this Court) to deprive persons of civil rights guaranteed to them under the First and Fourteenth Amendments of the U.S. Constitution.
22. The Donastorg Complaint and the complaint filed herein on their face and by the relief requested have presently and actually deprived the Daily News and Lowe Davis of civil rights guaranteed to them under the First and Fourteenth Amendments of the U.S. Constitution. This deprivation is without regard to whether or not the Court ultimately grants any of the relief requested.
23. By his actions as set forth herein, Senator Donastorg has used his position as a government official and Senator of the U.S. Virgin Islands for his personal purposes and gain.
24. Counterclaimants have been and continue to be injured thereby in an amount to be determined at trial.

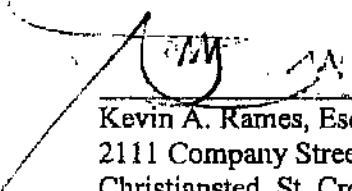
**WHEREFORE**, Counterclaimants pray that this Court advance this matter to a trial by jury at the earliest possible time, and enter Judgment as follows:

- A. Damages for *per se* defamation;
- B. Compensatory damages for defamation;

- C. Damages for violation of 42 U.S.C. § 1983 and injuries suffered thereby;
- D. Punitive damages;
- E. Interest, costs, and attorneys fees;
- F. Any and all other relief that this Court might deem appropriate.

Respectfully Submitted,  
The Law Offices of Kevin A. Rames, P.C.

Dated: March 14<sup>th</sup> 2002

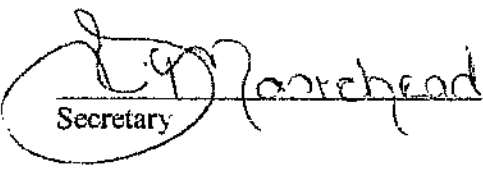


---

Kevin A. Rames, Esq.  
2111 Company Street, Suite 3  
Christiansted, St. Croix  
U.S. Virgin Islands 00820  
Telephone: (340) 773-7284  
Facsimile: (340) 773-7282  
*Counsel for Defendants Daily News  
Publishing Co., Inc. and Lowe Davis*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a true and correct copy of the foregoing **First Amended Answer and Counterclaim** to be hand delivered to Lee J. Rohn, Esq., counsel for the Plaintiffs, at 1101 King Street, Suite 2, Christiansted, St. Croix, U.S. Virgin Islands 00820 on this 14<sup>th</sup> day of March, 2002.



---

Secretary

**FILED**

January 07, 2021

ST-2002-CV-00117

TAMARA CHARLES  
CLERK OF THE COURT

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

\*\*\*\*\*

<b>SENATOR ADLAH DONASTORG, Jr.,</b>	)	<b>CASE NO. ST-2002-CV-00117</b>
<b>BENEDICTA DONASTORG, ADLAH</b>	)	
<b>DONASTORG, Sr., JOSEFINA</b>	)	
<b>DONASTORG, ELLA MORON and</b>	)	<b>ACTION FOR DAMAGES</b>
<b>NORMA DURAN,</b>	)	
	)	
	)	<b>JURY TRIAL DEMANDED</b>
<b>v.</b>	)	
	)	
<b>DAILY NEWS PUBLISHING CO. INC.,</b>	)	
<b>LOWE DAVIS, HOLLAND "DYKE"</b>	)	
<b>REDFIELD, VITELCO, and OAKLAND</b>	)	
<b>BENTA,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER DISMISSING DAILY NEWS PUBLISHING COMPANY, INC.  
AND JANE LOWE DAVIS' COUNTERCLAIM**

**THIS MATTER** is before the Court on:

1. Defendants Daily News Publishing Company, Inc. and Jane Lowe Davis' ("Daily News") Motion For Voluntary Dismissal Of Counterclaim, With Prejudice, filed September 3, 2015;
2. Plaintiffs' Notice Of No Objection To Dismissal Of Daily News Publishing, Co. Counterclaim, filed September 22, 2015; and
3. Defendants Daily News Publishing Company, Inc. and Jane Lowe Davis' Corrected Motion For Voluntary Dismissal Of Counterclaim, With Prejudice ("Corrected Motion"), filed September 25, 2015.

Plaintiffs Senator Adlah Donastorg Jr., Benedicta Donastorg, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron, and Norma Duran<sup>1</sup> (hereinafter referred to as "Donastorg")

<sup>1</sup> The initial Complaint in this matter was filed on March 1, 2002, by Sentaor Donastorg and his wife 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 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 added later as Plaintiffs.

asserted five causes of action against Daily News Publishing Co., Inc. and Jane Lowe Davis (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.<sup>2</sup> On March 15, 2002, Daily News filed a First Amended Answer and Counterclaim alleging (1) defamation; and (2) violation of 42 U.S.C. § 1983.<sup>3</sup> On July 30, 2014, Daily News moved for summary judgment.<sup>4</sup> 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.<sup>5</sup>

In its Motion For Voluntary Dismissal of Counterclaim, With Prejudice and its Corrected Motion, Daily News notes that it has filed no documents and has taken no actions in furtherance of its counterclaim. Further, Donastorg does not object to the voluntary dismissal. Virgin Islands Rule of Civil Procedure 41 governs dismissal of a claim or counterclaim. Rule 41(a)(2) states that "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper."<sup>6</sup> Here, neither party objects and Daily News has not pursued its counterclaim. Thus, dismissal is proper.

Accordingly, it is hereby

**ORDERED** that Defendants Daily News Publishing Company, Inc. and Jane Lowe Davis' Corrected Motion For Voluntary Dismissal Of Counterclaim, With Prejudice, filed September 25, 2015 is **GRANTED**; and it is further

**ORDERED** that Defendants Daily News Publishing Company, Inc. and Jane Lowe Davis' Motion For Voluntary Dismissal Of Counterclaim, With Prejudice, filed September 3, 2015 is **DENIED** as moot; and it is further

**ORDERED** that Defendants' counterclaims against Plaintiffs for Count I – Defamation and Count II – Violation of 42 U.S.C. § 1983, filed March 15, 2002, are **DISMISSED** with prejudice as to Plaintiffs Senator Adlah Donastorg, Jr., Benedicta Donastorg, Adlah Donastorg, Sr., Josefina Donastorg, Ella Moron, and Norma Duran; and it is further

---

<sup>2</sup> Pls.' Fourth Am. Comp).

<sup>3</sup> Defs.' First Am. Answer and Countercl. 5-9.

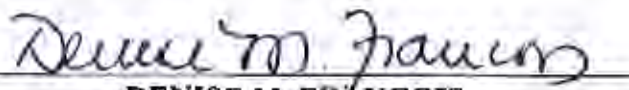
<sup>4</sup> On January 12, 2015, Redfield joined Daily News' summary judgment motion.

<sup>5</sup> See generally *Donastorg v. Daily News Publ'g Co. Inc.*, 53 V.I. 196 (V.I. 2015).

<sup>6</sup> V.I. R. Civ. P. 41(a)(2).


**ORDERED** that a copy of this Order Dismissing Daily News Publishing Company, Inc. and Jane Lowe Davis' Counterclaim shall be directed to counsel on record.

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

**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:

Kevin Rames, Esq.

K. A. Rames, P.C.

2111 Company Street, Suite 3

St. Croix, VI 00820

Email Address: kevin.rames@rameslaw.com;

jannett@rameslaw.com

Attorney For: Daily News Publishing Co., Lowe Davis

BY: /s/ Rhea R. Lawrence