

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

GOVERNMENT EMPLOYEES	Plaintiff)
RETIREMENT SYSTEM, BOARD	)
OF	)
	)
	)
vs	)
	)
GOVERNMENT OF THE VIRGIN	)
ISLANDS OFFICE OF THE	)
ATTORNEY GENERAL	)

CASE NO. ST-15-MC-0000073

ACTION FOR: PETITION (GENERAL)

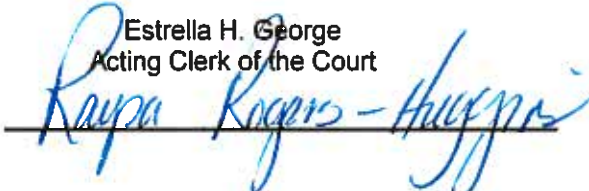
Defendant

**NOTICE OF ENTRY OF
ORDER**

TO: PEDRO K. WILLIAMS, ESQ.
RENEE GUMBS CARTY, ESQ.

Please take notice that on November 10, 2015 a(n) ORDER dated
November 10, 2015 was entered by the Clerk in the above-entitled matter.

Dated: November 10, 2015

Estrella H. George
Acting Clerk of the Court


RAYSA ROGERS-HUGGINS
COURT CLERK II

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

GOVERNMENT EMPLOYEES RETIREMENT)
SYSTEM, BOARD OF TRUSTEES,)
)
Petitioner,)
)
v.)
)
GOVERNMENT OF THE VIRGIN ISLANDS)
OFFICE OF THE ATTORNEY GENERAL,)
)
Respondent.)
_____)

CASE NO. ST-15-MC-73

PETITION TO QUASH
SUBPOENA

ORDER

THIS MATTER is before the Court on the “Informative Motion” filed by Petitioner, which was served on Respondent on October 30, 2015. Therein, Petitioner requests that this Court quash a subpoena Respondent served on the Chairperson of Petitioner’s governing board on October 9, 2015, as prayed for in Petitioner’s initial pleading. In light of the deficiencies in Petitioner’s submission, the Court will address this matter without any response from Respondent.

Petitioner filed a “Petition to Quash Attorney General’s Subpoena” (the “Petition”) on October 13, 2015. The Petition does not cite to any basis for invoking this Court’s jurisdiction, or clearly assert what procedural mechanism is being pursued to obtain the relief sought. The Petition also is unverified. Based upon the language of the Petition, the Court indicated that it appeared Petitioner was seeking an action for injunctive relief, opted to treat the Petition as a complaint, and directed Petitioner to properly serve Respondent as if this were a civil action.¹ Petitioner complied with the Court’s directive,² and submitted the present Informative Motion.

The Court notes that the present motion does not cite to any legal authority in violation of the procedural rules followed by this Court.³ In addition, Virgin Islands courts have repeatedly

¹ See, SUPER. CT. R. 21, 22.

² The record reflects that the Office of the Attorney General and the Office of the Governor were both served with a summons and a copy of the Petition on October 19, 2015. However, as of today, Respondent has not appeared, answered, or otherwise defended against this litigation.

³ See, SUPER. CT. R. 29 (directing that papers filed with the Superior Court shall comport with Rules 10 and 11 of the Federal Rules of Civil Procedure). See also, LRCi 11.1 (mandating that motions filed with the court include citations to all applicable law, first within, and then outside of, this jurisdiction). This rule is followed in Superior Court proceedings pursuant to Superior Court Rule 7. While the Superior Court should not blindly follow the federal and local rules promulgated for and by the District Court of the Virgin Islands, e.g., *Vanterpool v. Gov’t of the V.I.*, S. Ct. Civ. No. 2013-0072, 2015 V.I. Supreme LEXIS 23 (V.I. Aug. 10, 2015), the principle that motions must be properly supported by cognizable facts and pertinent law is so fundamental to our adversarial process that it cannot be reasonably be disputed. Therefore, the Court will hold Petitioner, and Respondent when it formally appears, to this standard.

held that unsworn statements of attorneys in motions are not evidence.⁴ Therefore, since the Petition is not verified, and no affidavit was submitted with the Informative Motion, there is no factual basis in the record on which any affirmative relief may be granted in favor of Petitioner. Further, the language of the Informative Motion, when read in conjunction with the language of the Petition, can be construed as seeking injunctive relief, a declaratory judgment, or a writ of review. While motions to quash subpoenas are regularly filed during discovery in existing litigation, the Court is unaware of, and Petitioner does not cite to, any authority supporting the procedural maneuver it is undertaking as a stand-alone action. As appropriately stated by one court,

However, when the parties have not provided sufficient legal or factual justification for this Court's jurisdiction, this Court is *not* obligated to embark on its own expedition beyond the parties' arguments in pursuit of a reason to exercise jurisdiction. The burden of establishing the existence of subject-matter jurisdiction falls on the party invoking that jurisdiction.⁵

In this instance, Petitioner's submissions indicate a dispute between an executive branch administrative agency and a statutorily-created public agency and corporation. Thus, this litigation may encompass significant legal issues of import to the public which must be properly addressed. Therefore, the Court will not hazard a guess as to the procedure Petitioner desires to use to obtain the relief sought. Rather, the Court will direct Petitioner to file and serve an amended pleading which makes clear the legal basis on, and the procedural mechanism by, which it asserts that this tribunal may proceed to adjudicate this matter. The Court also will set this matter for a status and scheduling conference. Therefore, it is hereby

ORDERED that Petitioner's Informative Motion is **DENIED**; and it is further

ORDERED that Petitioner shall file and serve an amended pleading which sets forth the basis on which this tribunal's jurisdiction is invoked and any legally recognized causes of action by **Tuesday, November 17, 2015**; and it is further

ORDERED that this matter is scheduled for **status and scheduling conference on Thursday, November 19, 2015 at 9:30 a.m., in Courtroom No. II**, Superior Court of the Virgin Islands, Alexander A. Farrelly Justice Complex, St. Thomas, U.S. Virgin Islands; and it is further

ORDERED that any motions for extension of time must conform to SUPER. CT. R. 10, any motions for continuance must conform to SUPER. CT. R. 10.1, and any non-conforming motions may be summarily denied; and it is further

⁴ See, e.g., *Mapp v. Fawkes*, 61 V.I. 521, 530 (V.I. 2014) (citations omitted); *Bank of Nova Scotia v. Dore*, 57 V.I. 105, 112-13 (V.I. Super. Ct. 2012) (citations omitted).

⁵ *Crutcher v. Williams*, 12 So.3d 631, 635-36 (Ala. 2008) (citations omitted).

**Government Employees Retirement System, Board of Trustees v.
Government of the Virgin Islands, Office of the Attorney General
Case No. ST-15-MC-73
Order**

ORDERED that copies of this Order shall be distributed to Pedro K. Williams, Esquire, and Deputy Attorney General Renee Gumbs Carty, Esquire.⁶

Dated: November 10, 2015

ATTEST:
Estrella George
Acting Clerk of the Court

By: Donna D. Donovan
Donna Donovan
Court Clerk Supervisor 11 / 10 / 2015


Hon. Adam G. Christian
Judge of the Superior Court
of the Virgin Islands

CERTIFIED A TRUE COPY
DATE 11/10/15
ESTRELLA H. GEORGE
ACTING CLERK OF THE COURT
BY Raysa Rogers-Huggins
COURT CLERK

⁶ Although Respondent has not appeared in this matter as yet, Petitioner served its Informative Motion on Attorney Gumbs Carty. Therefore, the Court is forwarding a copy of this Order to Attorney Gumbs Carty.