

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

FRANK C. POLLARA GROUP, L.L.C.,

Plaintiff,

v.

**SOUTHGATE CROSSING
INVESTMENTS, L.L.C.,**

Defendant.

1:09-cv-60

**TO: K. Glenda Cameron, Esq.
Rachelle M. Shocklee, Esq.**

ORDER GRANTING DEFENDANT'S MOTION TO STRIKE

THIS MATTER came for consideration upon Defendant's Motion to Strike Document Number 37 - Notice of Filing of Amended Complaint and Request for Waiver of Service of Summons (Docket No. 38). Plaintiff filed a response thereto, and Defendant filed a reply.

Federal Rule of Civil Procedure 15(a)(2) provides for amendments under two circumstances: with the opposing party's written consent or the court's leave. Plaintiff failed to obtain either the opposing party's written consent or the court's leave before filing the Notice of Filing. Plaintiff did file a Motion to Amend (Docket No. 36), but waited only three

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(3) days before filing Notice of Filing. The short amount of time did not give Defendant the opportunity to oppose the Motion to Amend. It also did not give the Court the opportunity to consider the motion for leave to file the amended complaint.

Based on the foregoing, it is hereby **ORDERED**:

1. Defendant's Motion to Strike Document Number 37 (Docket No. 38) is **GRANTED**.
2. Plaintiff's Notice of Filing of Amended Complaint and Request For Waiver of Service of Summons (Docket No. 37) is **STRICKEN** from the record.

ENTER:

Dated: July 9, 2010

/s/ George W. Cannon, Jr.
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE