

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX: AT FREDERIKSTED

OLRIC CARRINGTON,

Plaintiff

vs.

WINSTON DAVIS and
ISLAND FURNITURE HOUSE OF
ST. CROIX, INCORPORATED,

Defendants)

CIVIL NO. 686/1982

ACTION FOR DAMAGES

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PETERSEN, Judge

MEMORANDUM OPINION
October 21, 1982

The complaint in this action alleges that the Defendant operated a vehicle owned by his employer, while in the scope of his employment, in a reckless and negligent manner and caused it to collide into the rear of Plaintiff's vehicle, resulting in Plaintiff's injury. The Plaintiff has moved for Summary Judgment, claiming that the deposition of the Defendant, and all other pleadings filed herein show that there is no issue as to the Defendant's liability. The Defendant opposes this motion arguing that there is a genuine issue of fact as to the Defendant's negligence.

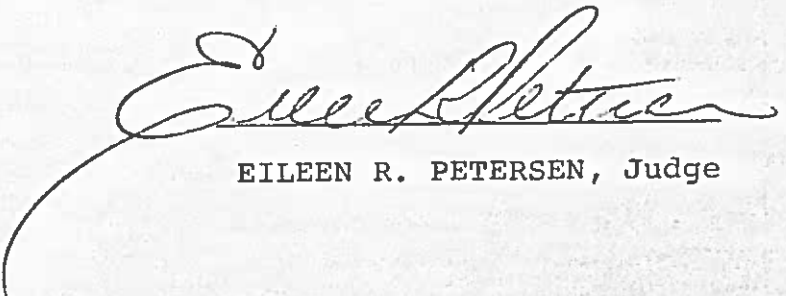
An order granting Summary Judgment in favor of a moving party is proper only when it is clear that there are no genuine issues of material fact to be resolved in the case. F.R.C.P. Rule 56, 5 V.I.C. App.I Rule 56. As is stated in 10 C. Wright & A. Miller, Federal Practice and Procedure, Civil, Section 2729 (1973), "a motion for summary judgment under Rule

Summary
Judgment
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56 ... is not commonly interposed, and even less frequently granted, in negligence actions" Negligence is the failure to act as an ordinarily prudent person would act under the same or similar circumstances. As the concepts of negligence and reasonableness are elusive, and the readonable person standard usually requires a full analysis of all the underlying facts and considired circumstances, Summary Judgment is generally inappropriate.

After due consideration herein this Court concludes that Plaintiff's Motion for Summary Judgment must be DENIED.

A handwritten signature in cursive script, appearing to read "Eileen R. Petersen", written in dark ink. The signature is fluid and extends across the width of the page.

EILEEN R. PETERSEN, Judge