

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

KEITH NICHOLSEN,	)	
	)	
Plaintiff,	)	Case No. 3:20-cv-0023
	)	
v.	)	COMPLAINT FOR DAMAGES
	)	
UNITED STATES OF AMERICA and	)	JURY TRIAL DEMANDED
SHAMALI DENNERY,	)	
	)	
Defendants.	)	
	)	
	)	
SHAMALI DENNERY,	)	
	)	
Third Party Plaintiff,	)	Case No. 3:20-cv-0023
	)	
v.	)	COMPLAINT FOR DAMAGES
	)	
BERNARD WESSELHOFT d/b/a Slim Man's	)	JURY TRIAL DEMANDED
Parking Lot,	)	
	)	
Third Party Defendant.	)	
	)	
	)	
SHAMALI DENNERY,	)	
	)	Case No. 3:20-cv-0023
Cross Claimant,	)	
	)	COMPLAINT FOR CONTRIBUTION
v.	)	
	)	JURY TRIAL DEMANDED
UNITED STATES OF AMERICA,	)	
	)	
Cross Defendant.	)	
	)	
	)	
SHAMALI DENNERY,	)	
	)	Case No. 3:20-cv-0023
Counter Claimant,	)	
	)	COMPLAINT FOR DAMAGES
v.	)	
	)	JURY TRIAL DEMANDED
KEITH NICHOLSEN,	)	
	)	
Counter Defendant.	)	
	)	
	)	

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ATTORNEYS:

Thomas Friedberg

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*For Plaintiff and Counter Defendant Keith Nicholsen and
Third Party Defendant Bernard Wesselhoft*

Kimberly L. Cole

United States Attorney's Office
St. Thomas, VI

For Defendant and Cross Defendant United States of America

Gaylin Vogel

Law Office of Kevin F. D'Amour, PC
St. Thomas, VI

*For Defendant, Third Party Plaintiff, Cross Claimant, and Counter Claimant
Shamali Dennery*

ORDER

BEFORE THE COURT is the motion of the United States of America (the "Government") to dismiss the complaint for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1), filed on June 22, 2020. (ECF Nos. 16). For the reasons stated in the accompanying Memorandum Opinion of even date, it is hereby

ORDERED that the United States' Motion to Dismiss the Complaint for Lack of Subject Matter Jurisdiction, ECF No. 16, is **GRANTED**; it is further

ORDERED that Plaintiff Nicholsen's complaint is **DISMISSED without prejudice**; it is further

ORDERED that Defendant Dennery's crossclaim is **DISMISSED**; it is further

ORDERED that Defendant Dennery's counterclaim is **DISMISSED**; it is further

ORDERED that Defendant Dennery's third-party complaint is **DISMISSED**; it is further

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ORDERED that the Government's Motion to Dismiss Dennery's Crossclaim, ECF No. 40, is **MOOT**; it is further

ORDERED that the Government's motions to stay discovery, ECF Nos. 74 and No. 77, are **MOOT**; it is further

ORDERED that Nicholsen's Motion for Leave to File Supplemental Opposition to Defendant's Motion to Dismiss, ECF No. 80, is **MOOT**; it is further

ORDERED that the Government's Motion for Summary Judgment, ECF No. 82, is **MOOT**; it is further

ORDERED that Dennery's Motion for Certification that Shamali Dennery was Acting within the Scope of his Employment, ECF No. 88, is **MOOT**; it is further

ORDERED that Dennery's Motion to Dismiss for Failure to State a Claim or in the Alternative, Motion for Summary Judgment, ECF No. 94, is **MOOT**; it is further

ORDERED that the Plaintiff **SHALL** file a motion to amend the complaint, asserting a plausible claim under the FTCA, within twenty-one (21) days of the date of entry of this Order. Defendants **SHALL** file a response no later than fourteen (14) days after filing and service of the motion. Plaintiff **SHALL** have ten (10) days after filing and service of Defendants' response to file a reply. There shall be no further briefing without leave of the Court.

DATED: March 28, 2022

/s/ Robert A. Molloy
ROBERT A. MOLLOY
Chief Judge