

FOR PUBLICATION

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FREDERICK ESPINOSA,	)	
	)	
Plaintiff,	)	CASE NO. SX-16-CV-286
	)	
v.	)	
	)	ACTION FOR DEFAMATION
HOLLAND REDFIELD, II,	)	
GWENDOLYN HALL BRADY, and	)	
HERBERT SCHOENBOHM,	)	<u>JURY TRIAL DEMANDED</u>
	)	
Defendants.	)	
FREDERICK ESPINOSA,	)	
	)	
Plaintiff,	)	CASE NO. SX-16-CV-544
	)	
v.	)	
	)	ACTION FOR DEFAMATION
JOHN YOB, WARREN COLE, GLENN	)	
WEBSTER, NOEL LOFTUS, TANYA	)	
MARIE SINGH, ELISSA RUNYON, FRED	)	
VIALET, JR., and AVA BOURDAN,	)	<u>JURY TRIAL DEMANDED</u>
	)	
Defendants.	)	

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Violet, Jr.*

MEMORANDUM OPINION
(Filed: September 21, 2018)

Pending before this Court is Defendant Noel Loftus, Defendant Elissa Runyon, and Defendant Fred Vialet, Jr.'s Motion to Dismiss on all Three Counts for Failure to State a Claim upon which Relief can be Granted, subject to Federal Rules of Civil Procedure 12(b)(6).

Also, pending before this Court is Defendant John Yob and Defendant Warren Cole's Motion to Dismiss on Counts I (Civil Conspiracy) and II (Civil Aiding and Abetting) for Failure to State a Claim upon which Relief can be Granted, subject to Federal Rules of Civil Procedure 12(b)(6). All Defendants filed their joint motion on February 24, 2017. For the following reasons, Defendants' motion will be granted.

I. FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff Frederick Espinosa's Original Complaint stems from an alleged illegal concerted action, that occurred on April 16, 2016, by all named Defendants in their attempt to defame Espinosa.¹ On January 13, 2017, the Court, *sua sponte*, granted the Plaintiff leave to amend his Complaint to sufficiently plead his claims.² Plaintiff filed his Amended Complaint on February 6, 2017. In the Amended Complaint, Plaintiff alleges three counts against all Defendants: 1.) Civil Conspiracy, 2.) Civil Aiding and Abetting, and 3.) Defamation.³ Defendants subsequently filed a Motion to Dismiss pursuant to Federal Rule of Civil Procedure Rule 12(b)(6) for failure to state a claim upon which relief may be granted.⁴ This Court agrees with Defendants, and accordingly, dismissal of all claims against Defendants Noel Loftus, Elissa Runyon, Fred Vialet, Jr., as well as dismissal of Counts I & II against Defendants John Yob and Warren Cole, is warranted.

¹ See generally Amended Complaint, para. 32-37.

² See Order by Judge Douglas A. Brady, at pg. 3.

³ See Amended Complaint, para. 49- 57.

⁴ See generally Defendants Loftus, Runyon, and Vialet, Jr's Motion to Dismiss.

II. LEGAL DISCUSSION

The Court will address the counts out of turn; first, Count III, the defamation charge as it relates to Defendants Loftus, Runyon, and Violet Jr. Then Count I, the conspiracy charge, and Count II, the aiding and abetting charge will be addressed for all moving defendants.

a. Motion to Dismiss for Failure to State A Claim Standard

Virgin Islands Rule of Civil Procedure 12(b)(6) allows a party to move for a motion to dismiss for “failure to state a claim upon which relief can be granted.”⁵ The sufficiency of a complaint is governed by the rule of pleadings in Rule 8 of the Virgin Islands Rules of Civil Procedure.⁶ Since the Virgin Islands is a “notice pleading jurisdiction,” it requires that a complaint must “adequately allege facts that places an accused party on notice of claims brought against it.”⁷ The United States Supreme Court has articulated, in *Bell Atlantic Corp. v. Twombly* and *Ashcroft v. Iqbal*, that the proper standard for evaluating motions to dismiss for failure to state a claim requires the complaint “to contain enough factual matter (taken as true) to suggest the required element.”⁸ Thus, under the *Twombly* and *Iqbal* standard, and subject to precedent from the Supreme Court of the Virgin Islands in *Joseph v. Bureau of Corrections*, a complaint must survive a three-pronged test when a trial court is reviewing a motion to dismiss filed under Rule 12(b)(6).⁹ The three-pronged test requires:

⁵ V.I. R. Civ. P. 12(b)(6) (The Virgin Islands Rules of Civil Procedure was promulgated on March 31, 2017. It is largely analogous to Fed. R. Civ. P. 12, which was still in effect at the time of the Defendants’ filing); *Robles v. HOVENSA, LLC*, 49 V.I. 491, 500-501 (V.I. 2008) (quoting *Phillips v. County of Allegheny*, 515 F.3d 224 (3d. Cir. 2008) (providing that the Third Circuit Court of Appeals has also reevaluated the *Twombly* standard).

⁶ V.I. R. Civ. P. 8 (Fed. R. Civ. P. 8’s language is similar, but V.I. R. Civ. P. 8 adds that “this is a notice pleading jurisdiction”); see also *Mills-Williams v. Mapp*, 67 V.I. 574, 584-86 (V.I. 2017) (stating that V.I. R. Civ. P8(a)(2) eliminates the plausibility standard and restores the notice pleading regime that had previously been in effect); *Brathwaite v. H.D.V.I. Holding Co.*, No. ST-16-CV-764, 2017 V.I. Lexis 76, at *2-4 (V.I. Super. Ct. May 24, 2017).

⁷ V.I. R. Civ. P. 8(a)(2). See also *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009) (noting that FRCP 8(a)(2) also requires a pleading to contain “a short and plain statement of the claim showing that the pleader is entitled to relief”).

⁸ *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007) (demonstrating that a complaint needs to provide grounds for relief and that requires a showing, rather than blanket assertions of entitlement to relief); *Iqbal*, 556 U.S. at 678- 79.

⁹ See *Joseph v. Bureau of Corrections*, 54 V.I. 644, 649- 50 (V.I. 2011) (affirming that *Robles*, *Twombly*, and *Iqbal* all look to this three-pronged test). See also *Brady v. Cintron*, 55 V.I. 802, 823; *Pollara v. Chateau St. Croix, LLC*, 58 V.I. 455, 471-472 (V.I. 2013) (finding that a Court must always seek to first to determine whether the Complaint is sufficient).

First, the court must take note of the elements a plaintiff must plead to state a claim, so that the court is aware of each item the plaintiff must sufficiently plead. Second, the court should identify allegations that, because they are no more than conclusions, are not entitled to the assumption of truth. These conclusions can take the form of either legal conclusions couched as factual allegations or naked factual assertions devoid of further factual enhancement. Finally, where there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement of relief. If there are sufficient remaining facts that the court can draw a reasonable inference that the defendant is liable based on the elements noted in the first step, then the claim is plausible.¹⁰

b. Count III: The Defamation Claim Does Not Survive the Three-Pronged Test with Respect to Defendants Loftus, Runyon, and Violet Jr.

This Court will begin its analysis with the defamation charge. The Virgin Islands jurisdiction has established in *Kendall v. Daily News Publ. Co.*, that the elements of a defamation claim are (a) “a false and defamatory statement concerning another; (b) an unprivileged publication to a third party; (c) fault amounting at least to negligence on the part of the publisher; and (d) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.”¹¹ Additionally, the burden to establish the existence of defamatory statements lies with the Plaintiff.¹²

This Court need not delve any further beyond the declaration of a false and defamatory statement as to the defamation claim because Espinosa has not pled any singular fact to establish the four *prima facie* elements of defamation as required by *Kendall*. Plaintiff hinges the defamation claim upon a conspiracy charge, which the Court finds that there was no conspiracy. Thus, the defamation claim must also fail. In the Virgin Islands, the Supreme Court has ruled in *Fleming v. Cruz* that the Plaintiff must provide “sufficient factual matter” needed to support its claims. The Superior Court in *Stevens v. Louise* also reiterated that the Plaintiff “need not make detailed factual allegations, but is

¹⁰ *Joseph*, 54 V.I. at 649- 50; *Santiago v. Warminster Twp.*, 629 F.3d 121, 130 (3d. Cir. 2010).

¹¹ Restatement (Second) of Torts § 588, (1977); *Kendall v. Daily News Publ’g Co.*, 53 V.I. 250, 261-62 (V.I. Super. Ct. 2010).

¹² See *Kendall*, 53 V.I. at 262.; see also *VECC, Inc. v. Bank of Nova Scotia*, 296 F. Supp. 2d 617, 622 (D.V.I. 2003).

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required to assert more than an unadorned, the-defendant-unlawfully-harmed-me accusation”.¹³ This Court recognizes the elements necessary for a defamation claim and finds that in light of the facts pleaded in the Amended Complaint, Plaintiff fails to provide a scintilla of evidence supporting the allegation that either Loftus, Runyon, or Violet Jr. “allegedly made and/or published” a defamatory statement toward Plaintiff.¹⁴

Further, despite the previous Court’s leave to amend the Complaint because the initial complaint contained labels and baldly asserted conclusions, Plaintiff still unsuccessfully demonstrates that Defendants Loftus, Runyon, and Violet, Jr. purportedly made or published any defamatory statement about Espinosa, which is a basic and necessary element of a defamation claim.¹⁵ This Court notes that Plaintiff readily identified the satisfactory defamatory actions of the other Defendants (Yob, Redfield, Webster, Schoenbohm, and Bourdan).¹⁶ As such, Plaintiff exercised due care to highlight the specific defamatory element of publishing by offering that the statements were widely circulated in “local, national, and international media.”¹⁷ He also goes to great length to precisely detail some of the contents of said statements.¹⁸ However, regarding Defendants Loftus, Runyon, and Violet, Jr., Plaintiff neither provides any illustration of an instance of an alleged defamatory statement nor indicates that any such statements were published. Instead, Espinosa merely employs broad language such as “others” or “other Defendants” when referring to Loftus, Runyon, and Violet, Jr.’s conduct relative to

¹³ *Fleming v. Cruz*, 62 V.I. 702, 714 (quoting *Twombly*, 550 U.S. at 557); *Stevens v. Louise*, No. SX-14-CV-456, 2016 V.I. Lexis 80, at *4 (asserting that the plaintiff failed to provide the Court with any basis to determine whether a disparaging statement was made).

¹⁴ See Amended Complaint, paras. 32 & 35 (finding that these are the only two paragraphs where Loftus, Runyon, and Violet Jr. are mentioned by name and they are only mentioned because they were present at the meeting and also voted).

¹⁵ See *Fleming*, 62 V.I. at 714 (noting that Complaints that contain labels and conclusions without factual enhancements to support those claims are the types of complaints that Iqbal warns against).

¹⁶ See Amended Complaint, paras. 40-45.

¹⁷ *Id.*

¹⁸ *Id.* (demonstrating that Plaintiff was very specific when it came to the comments that Defendants Redfield, Webster, Yob, Schoenbohm, and Bourdan made).

the generalized actions of the group of defendants.¹⁹ As the previous Court Opinion noted with respect to Defendant Tanya Singh's Motion to Dismiss, and as this Court reaffirms in this instance, the Plaintiff's Amended Complaint "presents vague allegations lumping all Defendants together but is devoid of a recitation of facts...that identifies tortious conduct" by Loftus, Runyon, and Violet, Jr.²⁰ Absent any facts in the Amended Complaint, this Court cannot rely on vague, broad, and unsubstantiated statements about the existence of alleged defamatory statements made by Defendants Loftus, Runyon, and Violet, Jr., where Plaintiff also provides particular factual examples regarding other Defendants. Hence, this Court need not address the other three elements of the defamation claim. Therefore, this Court finds that Plaintiff has failed to state a claim upon which relief can be granted and dismisses the defamation claim against Defendants Loftus, Runyon, and Violet, Jr.

c. Count I: The Civil Conspiracy Claim Does Not Survive the Three-Pronged Test with Respect to All Moving Defendants

Regarding the civil conspiracy claim, the elements of civil conspiracy are "when that person (1.) does a tortious act in concert with the co-defendant pursuant to a common design with him; (2.) knows that the co-defendant's conduct constitutes a breach of duty and gives substantial assistance or encouragement to the co-defendant to so conduct him or herself; or (3.) gives substantial assistance to the co-defendant in accomplishing a tortious result and his or her own conduct, separately considered, constitutes a breach of duty to the plaintiff."²¹

¹⁹ See Amended Complaint, para. 24, 38, 46 (highlighting where Plaintiff used others); Amended Complaint, para. 37, 39, 48 (highlighting where Plaintiff used other Defendants).

²⁰ See Order by Judge Douglas A. Brady, at pg. 2 (noting that Judge Brady was referring to the facts as it relates to Defendant Singh, but the facts are essentially identical as it relates to Defendants Loftus, Runyon, and Violet Jr., therefore the same reasoning is also applicable here).

²¹ See *Donastorg v. Daily News Publ'g Co., Inc.*, 63 V.I. 196, 330 (V.I. Super Ct. 2015); *Isaac v. Crichlow*, 63 V.I. 38, 65 (V.I. Super. Ct. 2015).

i. The Civil Conspiracy Claim Against Defendants Loftus, Runyon, Violet, Jr. is Dismissed

Plaintiff fails to adequately plead any relevant facts to ascertain that the moving Defendants were involved in a civil conspiracy because Plaintiff was unable to highlight the presence of a tortious act to hinge this claim on. Here, Plaintiff offered *Berrios v. Hovic* from the Virgin Islands District Court, in an effort to establish that the conspiracy claim implicates the Defendants regarding the defamation claim.²² *Berrios* also adds that “civil conspiracy consists of an agreement or combination to perform a wrongful act that results in damage to the plaintiff... [and] may also consist of an agreement to do a lawful act by unlawful means.”²³ Plaintiff somehow concludes that because Defendants Loftus, Runyon, and Violet, Jr., participated in the subsequent meeting at Defendant Warren Cole’s office, and voted in favor of the subsequent resolution, they are also implicated in the subsequent defamation of Espinosa by the other Defendants and are “liable as if [they] published the statements.”²⁴ This Court disagrees.

Plaintiff’s argument is deficient. Espinosa references the meeting that was held on April 16, 2016, at Attorney Warren Cole’s office, after the conclusion of the Republican Party meeting.²⁵ Espinosa incorrectly identifies the alleged illegal meeting as a wrongful act, but Espinosa neither cites to any authority nor provides any factual evidence to prove that such meetings are indeed illegal. Plaintiff’s Amended Complaint and his Opposition brief improperly characterizes the subsequent meeting as the “wrongful act,” and thus incorrectly analyzes the *Berrios* case to the facts pleaded. It is

²² See *Berrios v. Hovic*, No. 05-CV-192-F, 2010 U.S. Dist. Lexis 77525, at *20 (D.V.I. July 29, 2010).

²³ *Id.* at *18.

²⁴ *Id.*; see Plaintiff’s Opposition to Defendant Singh’s Motion, at pg. 2-3 (This Court relied, in part, on the arguments and analysis offered by the Plaintiff in its opposition to Defendant’s Singh’s motion because the same situation applies to Loftus, Runyon, and Violet Jr. as it did for Singh); see also Amended Complaint, para. 31 & 32.

²⁵ See Amended Complaint, para. 26 & 32.

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clear that the convening of the Defendants, after the conclusion of a properly conducted meeting, failed to comply with the Rules, Principles, and Policies of the Republican Party of the United States Virgin Islands.²⁶ However, absent a provision in the aforementioned rules, or other evidence provided by Plaintiff that such meetings are indeed illegal or unlawful, this Court cannot rely on Plaintiff's interpretation where case law clearly demonstrates that the unlawful act charged is presumed to be a tortious conduct, such as the violation of law.²⁷ Similarly, this Court echoes the previous Court's Order that Plaintiff failed to identify the qualifying tortious conduct that is "necessary to pursue Plaintiff's conspiracy claims."²⁸ Therefore, due to Espinosa's failure to sufficiently identify "the underlying tortious conduct" as relating to the above-named Defendants, this Court holds that the civil conspiracy claim fails.²⁹

Moreover, Plaintiff supported his reasoning for the conspiracy claim with persuasive but non-binding authority. This Court is neither required to consider nor apply non-binding precedent out of the Fifth Circuit in the face of binding case law within the Virgin Islands jurisdiction.³⁰ Alternatively, where Plaintiff provided binding Virgin Islands precedent, Plaintiff fails to take note that the civil conspiracy claims in those situations were predicated on some violation of applicable law—in *Sorber*, the plaintiff's claim was based on a violation of the Virgin Islands Wrongful Discharge Act, in *de*

²⁶ See Amended Complaint, para. 37.

²⁷ See *Berrios*, 2010 U.S. Dist. Lexis 77525, at *20 (noting that in *Berrios*, the unlawful act was a violation of Plaintiff's civil rights pursuant to 10 V.I.C. § 3); see generally Rules, Principles, and Policies of the Republican Party of the United States Virgin Islands (noting that there is no provision in the Rules that characterizes improperly conducted meetings as illegal).

²⁸ See Order by Judge Douglas A. Brady, at pg. 2 (illustrating that Judge Brady found this same issue in Plaintiff's first complaint as it relates to Defendant Singh, and the same situation arises yet again in Plaintiff's Amended Complaint with regard to Defendants Loftus, Runyon, and Violet Jr.).

²⁹ See generally *Crichlow*, 63 V.I. at 65; *Donastorg*, 63 V.I. at 330; *Sarpolis v. Tereshko*, 625 Fed. App'x 594, 598 (3d. Cir. 2016).

³⁰ Plaintiff provided the Court with a series of 5th Circuit cases to discuss the motion to dismiss standard such as *Lowrey v. Texas A&M Univ.*, 117 F.3d 242, 274 (5th Cir. 1997) and *In re Katrina Canal Breaches Litig.*, 495 F.3d 191, 205 (5th Cir. 2007).

Jongh, the underlying violation came in the form of an unfair labor practice claim, and *Capogrosso* is inapplicable because it specifically addresses the issue of judicial conspiracy.³¹ However, in this present case, Espinosa incorrectly asserts that Defendants' participation and voting in the subsequent meeting suffices as their role in the alleged conspiracy and subsequently attempts to link them to the defamatory conduct of the other Defendants.³² Accordingly, this Court remains unmoved by Plaintiff's arguments and dismisses the civil conspiracy claims against Defendants Loftus, Runyon, and Violet, Jr.

ii. The Civil Conspiracy Claim Against Defendant Yob is Unwarranted and is Dismissed

With respect to Defendant Yob, this court need not begin an analysis. Plaintiff Espinosa failed to provide evidence in his Amended Complaint that Yob was present at the meeting where the alleged conspiracy plans were discussed; and also fails to provide any facts to support the allegations that he was involved in any way with the supposed conspiracy whether before or after the fact.³³ Espinosa painstakingly mentions, by name, the Defendants that were present at the meeting, but lacks additional facts that allude to Defendant Yob's presence or knowledge of any alleged conspiratory plans.³⁴ Thus, in the absence of any factual evidence, Plaintiff has not succeeded on V.I. R. Civ. P.(8)(a)(2) grounds as he did not provide adequate facts to put Defendant Yob on notice of the claims against him, and thus are insufficient to survive a Rule 12(b)(6) motion to dismiss analysis. Hence, Plaintiff's civil conspiracy charge against Defendant Yob is dismissed.

³¹ See *Hill v. de Jongh*, No. ST-10-CV-585, 2012 V.I. Lexis 11, at *11 (V.I. Super Ct. Apr. 19, 2012); *Sorber v. Glacial Energy VI, LLC*, No. ST-10-CV-S88, 2011 V.I. Lexis 34, at *5 (V.I. Super. Ct. June 7, 2011); *Capogrosso v. Supreme Court of N.J.*, 588 F.3d 180, 184-185 (3d. Cir. 2009).

³² See generally Plaintiff's Opposition to Defendants Loftus, Runyon, and Violet, Jr.'s Motion.

³³ See Amended Complaint, para. 32 (specifying that Loftus, Singh, Cole, Violet, Jr., Redfield, Webster, Runyon, and Schoenbohm assembled at Cole's office).

³⁴ *Id.*

**iii. The Civil Conspiracy Charge Against Defendant Cole is Not Successfully
Pleaded and is Dismissed**

This Court then turns to the civil conspiracy claim against Defendant Cole. As it pertains to Defendant Cole, Plaintiff improperly assumes that the concerted action of the Defendants in attending, participating, and voting on a unanimous resolution, and the resulting alleged defamatory conduct by Cole gives rise to a viable claim of civil conspiracy. Plaintiff utilizes *Sorber v. Glacial Energy* to show that his facts satisfy the plausibility requirement of 12(b)(6).³⁵ In that case, a suit based on a violation of the V.I. Wrongful Discharge Act, the Superior Court found that the supervisors acted on a retaliatory motive and in a personal capacity to terminate Sorber, and thus they acted in concerted action that was outside the scope of their employment, and the Complaint adequately “support[ed] the inference that the Defendants acted outside the scope of their employment”.³⁶ This is not the case before this Court. Moreover, the Third Circuit has also promulgated, first in *Heffernan v. Hunter*, and then again in *Gen. Refractories Co. v. Fireman’s Fund Ins. Co.*, that regardless of whether “the challenged activity violates the canons of ethics, so long as it is within the scope of representation, it is exempt from a conspiracy charge.”³⁷ The Third Circuit also added that the mere fact that the Defendants acted with mixed motives, bad faith, or with the illegitimate purpose of abusing process, does not bring their actions outside the scope of their representation or agency relationship.³⁸

³⁵ See Plaintiff’s Opposition to Defendants Loftus, Runyon, and Violet, Jr.’s Motion, at pg. 3.

³⁶ *Id.* See generally *Sorber*, 2011 V.I. Lexis 34, at *8-9.

³⁷ *Heffernan v. Hunter*, 189 F.3d 405, 412-13 (3d. Cir. 1999) (adding that “it is, of course, axiomatic that if the challenged conduct occurs outside the scope of representation, no reason for immunity exists” and a conspiracy could be formed); *Gen. Refractories Co. v. Fireman’s Fund Ins. Co.*, 337 F.3d 297, 313-14 (3d. Cir. 2003) (if all defendants are acting within the scope of their agency, then they cannot be considered conspirators).

³⁸ *Heffernan*, 189 F.3d at 413; *Gen. Refractories Co.*, 337 F.3d at 314 (finding that the Court dismissed the argument that just by the mere nature of the conduct and despite the appellees referring to it as outrageous or illegitimate, did not take their conduct outside the scope of the representation)

This Court finds that Plaintiff Espinosa fails to point to any fact in the Amended Complaint that demonstrates that the purpose of the alleged illicit meeting was to conspire to defame him. Plaintiff alleges in his Opposition brief that he “identifies the people involved, the roles those persons played and the place and time the agreement took place, the reason as to why the Defendants chose to defame him, and the underlying tort claim.”³⁹ However, other than the blanket assertions and conclusory statements alleged that this was a “scheme” targeted at defaming Espinosa, this argument remains unpersuasive.⁴⁰

Applying the standards set out in *Sorber*, *Heffernan*, and *Gen. Refractories Co.*, this Court concludes that Plaintiff Espinosa does not illustrate any fact in the Amended Complaint that demonstrates that the purpose of the alleged illicit meeting was to conspire to defame him; he actually provides evidence to the contrary to show that the Defendants were still acting within the scope of their representation. In his Amended Complaint, he details the process through which Defendants conducted themselves: the subsequent meeting followed immediately after the initial meeting because the Defendants believed that all agenda items were not addressed, the chairman was identified, there was a roll call, one of the Defendants brought an agenda with three items to discuss, another defendant seconded the motion, and all parties voted for a resolution.⁴¹ All of which are adequately asserted and only lead to the inference that the Defendants acted within the scope of their representation as Republican Party members, notwithstanding that Defendants were disgruntled after the first meeting

³⁹ See Plaintiff’s Opposition to Defendants Loftus, Runyon, and Violet, Jr.’s Motion, at pg. 1.

⁴⁰ See *id.* at pg. 2.

⁴¹ See Amended Complaint, paras. 32-36 (listing that the three points discussed at the subsequent meeting were: 1) a resolution confirming the “winning delegates”, 2) condemnation of Plaintiff for assaulting Gwen Brady at the initial meeting, and 3) condemnation of the state chairman and a vote of no confirmation). See e.g. Rules, Principles, and Policies of the Republican Party of the United States Virgin Islands Rule 9 (detailing that the chairman presides at the meeting), Rules, Principles, and Policies of the Republican Party of the United States Virgin Islands Rule 5 (describing the need for an agenda that lists the points to be addressed at the meeting).

to signify a retaliatory motive, personal animus, or bias towards him. Nowhere in Plaintiff's account of the procedure or discussion of the agenda items is the alleged conspiracy, either overtly or covertly, to publicly defame Plaintiff mentioned. Instead, because Plaintiff Espinosa merely disagrees with the nature of the meeting —by calling it “illegal”, “illegitimate”, and “a scheme”— he summarizes that the subsequent meeting was a conspiracy to defame him. Plaintiff's Amended Complaint barely displays the elements of a cause of action for conspiracy, and only relies on conclusions which are insufficient to withstand a 12(b)(6) analysis. As such, because this Court is limited to the allegations contained in the Amended Complaint, and even when all allegations are still taken as true, this Court finds no viable conspiracy charge against Defendant Cole. Thus, the motion to dismiss is granted and the civil conspiracy charge is dismissed.

d. Count II: The Aiding and Abetting Claim Does Not Survive the Three-Pronged Test for all Moving Defendants

Notwithstanding the three-pronged test, and as stated in the Opinion regarding Defendant Tanya Singh, this Court determines that, based on the lack of statutory authority and absence of common law precedent, the Virgin Islands does not recognize the civil liability theory of aiding and abetting as an independent cause of action. Moreover, Plaintiff Espinosa failed to sufficiently plead facts that demonstrate and support the allegation that any of the moving Defendants “aided or abetted the other Defendants” due to their participation in the alleged illegal meeting. Consequently, this Court grants Defendants Loftus, Runyon, Violet Jr., Yob, and Cole's motion to dismiss on this claim likewise.

III. CONCLUSION

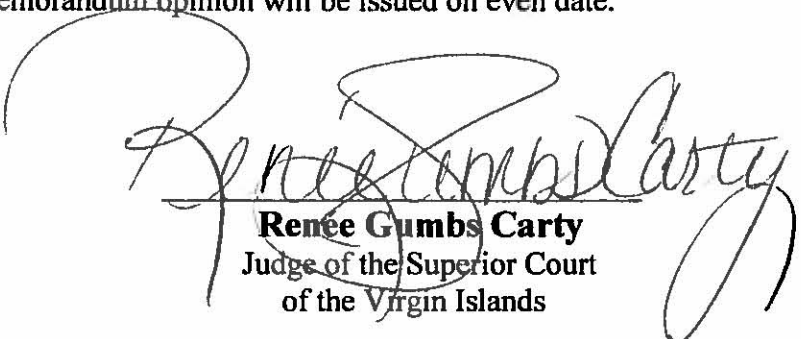
For the reasons stated herein, this Court concludes that Plaintiff Espinosa failed to meet the standard of review for failure to state a claim upon which relief can be granted, in accordance with Rule 12(b)(6). The facts alleged in the Amended Complaint are replete with vague and ambiguous

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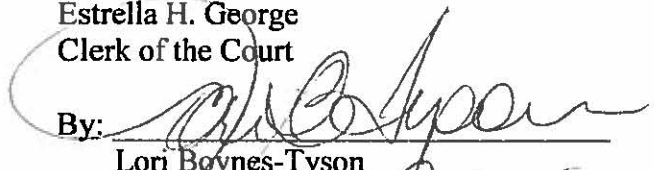
factual allegations pertaining to Defendants Loftus, Runyon, Violet Jr. on all counts, and to Defendants Yob and Cole with respect to the Civil Conspiracy and Civil Aiding and Abetting claims. However, this Court recognizes that the Plaintiff does not have to provide "detailed factual allegations," Rule 8(a)(2) still requires the Plaintiff to plead sufficient facts that "place the defendant on notice of the claims brought against him".⁴² Additionally, the Court duly notes that albeit the meeting violated the Republican Party's rules, this Court finds nothing wrong with a meeting between members of a group, suffice it to say, this Court recognizes that it is well within the Defendants' constitutional rights to freely assemble. Therefore, this Court will grant Defendants Loftus, Runyon, Violet Jr.'s motion to dismiss on all three claims because Plaintiff's Amended Complaint failed to illustrate that the Defendants engaged in 1.) a civil conspiracy, 2.) the tortious alleged act of defamation, and 3.) civil aiding and abetting. For the same reason, this Court will grant Defendants Yob and Cole's motion to dismiss on the civil conspiracy and civil aiding and abetting claims.

An Order consistent with this memorandum opinion will be issued on even date.

Dated: September 21, 2018


Renee Gumbs Carty
Judge of the Superior Court
of the Virgin Islands

ATTEST:
Estrella H. George
Clerk of the Court

By: 
Lori Boynes-Tyson
Chief Deputy Clerk 9/21/18

CERTIFIED A TRUE COPY

Date: 9/21/18

Clerk of the Court

By: 
Court Clerk

⁴² V.I. R. Civ. P. 8. See also *Mills-Williams v. Mapp*, 67 V.I. 574, 585 (V.I. 2017).