

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

**ELENA MURPHY, as mother and next of
friend of Desiree Irizarry Murphy, a Minor,**

Plaintiff,

v.

**GRACIELA RIVERA; CARIBBEAN AUTO
MART OF ST. CROIX, INC.; JAMAL
MISBEH d/b/a A One Mini Mart & Service
Station; and LUIS DANIEL RIVERA,**

Defendants.

2006-CV-0040

**TO: Lee J. Rohn, Esq.
Maria Tankenson Hodge, Esq.
Douglas L. Capedville, Esq.
Jomo Meade, Esq.**

ORDER DENYING PLAINTIFF'S MOTION TO COMPEL

THIS MATTER came before the Court upon Plaintiff and Defendant Caribbean Auto Mart's Joint Stipulation Regarding Plaintiff's Motion to Compel Defendant Caribbean Auto Mart For Complete Responses to Discovery (Docket No. 89).

Having reviewed the joint stipulation and upon due consideration thereof, the Court makes the following findings concerning the discovery requests at issue:

Murphy v. Rivera

2006-CV-0040

Order Denying Plaintiff's Motion to Compel

Page 2

Interrogatory Nos. 11 and 12: These interrogatories purportedly concern said Defendant's second and fourth affirmative defenses. A review of said Defendant's answer reveals that said Defendant's second affirmative defense does not assert failure to mitigate damages as stated in Interrogatory No. 11. Likewise, said Defendant's fourth affirmative defense does not assert that Plaintiff's damages were sustained as a result of Plaintiff's own actions as stated in Interrogatory No. 12; rather, the fourth affirmative defense asserts that the complaint fails to state a cause of action for punitive damages. Consequently, the Court finds these interrogatories to be nonsensical. As such, said Defendant is not required to provide a "complete response" to same.

Interrogatory Nos. 13 and 14: These interrogatories concern said Defendant's fifth and seventh affirmative defenses. A review of said Defendant's answer reveals that said Defendant's fifth affirmative defense asserts a statute of limitations

Murphy v. Rivera

2006-CV-0040

Order Denying Plaintiff's Motion to Compel

Page 3

defense and the seventh affirmative defense reserves the right to amend the said answer. Neither of these affirmative defenses contain anything remotely resembling the allegations of the interrogatories at issue. The Court finds that said Defendant cannot provide complete responses to these interrogatories.

Accordingly, it is now hereby **ORDERED** that Plaintiff's Motion to Compel Defendant Caribbean Auto Mart For Complete Responses to Discovery (Docket No. 89) is **DENIED**.

ENTER:

Dated: February 22, 2008

_____/s/
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE