

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

IDA SMITH,)
)
Plaintiff,)
)
v.)
)
)

ALL PERSONS CLAIMING A PRESENT OR)
FUTURE INTEREST IN ESTATE 13,)
FRIIS, LINDA V. SMITH-FRANCIS,)
WILLIAM E. SMITH, ELOISE V. SMITH-)
HENDRICKS, BAB FRIIS NO. 1, PAUL)
HOFFMAN, JANE HOFFMAN-WALKER,)
ELEANOR ADAMS HOFFMAN, MAXWELL)
ADAMS HOFFMAN, GLORIA FRANCOIS)
MCGOWAN, DAVID A. BORN AS TRUSTEE)
TO THE GAF TRUST ESTATE 14 JOHN'S)
FOLLY EXCLUDING ALL HEIRS AT LAW,)
ESTATE 15 CONCORDIA A, CORAL BAY)
QUARTER, ST JOHN UNITED STATES)
VIRGIN ISLANDS, NATIONAL PARK)
SERVICE, LAND RESOURCES DIVISION,)
DEPARTMENT OF INTERIOR, THE UNITED)
STATES OF AMERICA, STANLEY)
SELENGUT, WILLIAM B. POPPELTON,)
LORRAINE A. POPPELTON, KEVIN M.)
WALSH, MARIA K. STURATIS, SCOTT E.)
WILMOSKI, CHARLES M. PERDUE,)
MONICA PERDUE, JOZSEF NEMETH,)
NANCY NEMETH, FRED S. PATTERSON,)
MARGARET D. PATTERSON, JOHN R.)
PERGOLIZZI, TREASURE VIEW LLC,)
GEORGE PILLORGE, DEBORAH PILLORGE,)
SCOTT L. HARTSHORN, CLAUDETTE C.)
HARTSHORN, HEINZ G. FISHER, LINDA)
G. BURDET TRUSTEES OF THE HEINZ G.)
FISHER TRUST, DONALD DURANTE,)
SAFIA B. DURANTE, CRAIG E.)
MITCHELL, ALAN MARTIN KAUFMAN,)
RACHELLE KAUFMAN, JEFFREY J.)
McCRAVE, ANN McCRAVE, DOROTHY K.)
JANOSKO, WILLIAM R. KINCER, SUSAN)
B. KINCER, SUSAN GREER)
LITTLEFIELD, WAYNE CHESTERFIELD,)
MONIQUE FRANCOIS, PEDRITO)

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FRANCOIS, SALT POND VISTA LLC,)
V.I. JOSEPH PALMINTERI, CARRIE)
GLENN, MARC KAVE, EMILY J.)
BRATTON, RICK HATHAWAY, RENE A.)
SERVANT aka RENE H. SERVANT, MARIE)
THERESE L. SERVANT, LORI JANE)
SNACK, BRIAN K. WALDEN,)
MINISTER ISHMAEL R. MUHAMMED,)
MICHAEL CARPER, REUBEN WHEATLEY,)
et al.,)
Defendants.)
_____)

APPEARANCES:

Ida Smith
New York, NY
Pro se plaintiff.

Matthew J. Duensing, Esq.
Stryker, Duensing, Casner & Dollison
St. Thomas, U.S.V.I.
*For the defendants all persons claiming a present or future
interest and Clotte Diede.*

Maria Tankenson Hodge, Esq.
Hodge & Francois
St. Thomas, U.S.V.I.
*For the defendants Paul Hoffman; Jane Hoffman Walker; and
David A. Bornn, Trustee of the GAF Trust.*

Rafael F. Muilenburg, Esq.
Morrisette & Muilenburg
St. John, U.S.V.I.
*For the defendants William E. Smith; Eloise V. Smith;
Deborah Pillorge; Claudette C. Hartshorn; Scott L.
Hartshorn; Linda V. Smith-Francis; and George Pillorge.*

Gloria McGowan
Pro se defendant.

Wayne Chesterfield
Pro se defendant and cross claimant.

Monique Francois

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Pro se defendant.

Pedrito Francois

Pro se defendant.

Joseph Palminteri

Pro se defendant.

W. Mark Hillsman, Esq.

Law Offices of Norman P. Jones, P.C.
St. Thomas, U.S.V.I.

For the defendants Carrie Glenn; Lori Jane Snack; William B. Poppelton; Lorraine A. Poppelton; Maria K. Sturaitis; Charles M. Purdue; Monica Purdue; Salt Pond Vista, LLC; Heinz G. Fisher; Linda G. Burdet, Trustee of the Heinz G. Fisher; Safia B. Durante; Donald Durante.

Marc Kave

Pro se defendant.

Emily J. Bratton

Pro se defendant.

Rick Hathaway

Pro se defendant.

Rene A. Servant

Pro se defendant.

Marie Therese Servant

Pro se defendant.

Brian K. Walden

Pro se defendant.

John H. Benham, III, Esq.

Watts, Benham & Sprehn, P.C.
St. Thomas, U.S.V.I.

For the defendant Stanley Selengut.

Mark D. Hodge, Esq.

Hodge & Francois
St. Thomas, U.S.V.I.

For the defendants Kevin M. Walsh and Treasure View LLC.

Scott E. Wilmoski

Pro se defendant.

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Jozef Nemeth

Pro se defendant.

Nancy Nemeth

Pro se defendant.

Fred S. Patterson

Pro se defendant.

Margaret D. Patterson

Pro se defendant.

John R. Perquilizzi

Pro se defendant.

Terryhill Enterprises, II

Pro se defendant.

Missouri LLC

Pro se defendant.

Craig E. Mitchell

Pro se defendant.

Michael E. Fitzsimmons, Esq.

Stryker, Duensing, Casner & Dollison
St. Thomas, U.S.V.I.

For the defendant Alan Martin Kaufman.

Ann McCrave

Pro se defendant.

Jeffrey J. McCrave

Pro se defendant.

William R. Kincer

Pro se defendant.

Susan B. Kincer

Pro se defendant.

Susan Greer Littlefield

Pro se defendant.

Kurt Shore

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Pro se defendant.

Suzanne L. Shore

Pro se defendant.

Dorothy Janosko (also known as "Dorothy K. Janoko")

Pro se defendant.

ORDER

GÓMEZ, J.

Before the Court is Plaintiff Ida Smith's ("Smith") motion to strike Defendants Paul Hoffman, David Bornn as Trustee of the GAF Trust, and Jane Hoffman Walker's (the "Hoffman Defendants") motion to dismiss. Smith files this motion pursuant to Federal Rule of Civil Procedure 12(f).

Smith initiated this action on March 24, 2011. A week later, Smith filed her first amended complaint. Smith then attempted to further amend her complaint on three occasions. On the first two occasions, the Court denied her leave to amend her complaint. On the third occasion, the Magistrate Judge granted Smith leave to amend her complaint. Accordingly, Smith filed her second amended complaint.

Subsequently, the Hoffman Defendants filed a motion to dismiss Smith's second amended complaint for failure to state a claim. In their motion, the Hoffman Defendants argued that Smith's claims were barred by *res judicata*. In response, Smith

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filed this Rule 12(f) motion to strike the Hoffman Defendants' motion to dismiss.

Rule 12(f) generally proscribes filing pleadings containing redundant, immaterial, impertinent, or scandalous material. Fed. R. Civ. P. 12(f). This proscription is specifically focused on pleadings. See *id.* Indeed, Rule 12(f), in relevant part, only authorizes the Court to "strike [material] *from a pleading.*" *Id.* (emphasis added).

A motion to dismiss is not a pleading.¹ Accordingly, it cannot be stricken by a Rule 12(f) motion.

The premises considered, it is hereby

ORDERED that Plaintiff Ida Smith's motion to strike the Hoffman Defendants' January 17, 2014 motion to dismiss is **DENIED.**

S\ _____
Curtis V. Gómez
District Judge

¹ A pleading is "a complaint; an answer to a complaint; an answer to a counterclaim designated as a counterclaim; an answer to a crossclaim; a third-party complaint; an answer to a third-party complaint; . . . [or] if the court orders one, a reply to an answer." Fed. R. Civ. P. 7(a).