

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

STEADROY WILLIAMS,

PLAINTIFF,

v.

**VIRGIN ISLANDS WATER AND POWER
AUTHORITY; ELITE SECURITY AGENCY,
INC.; AND RAMON RICHARDSON,**

DEFENDANTS.

SX-10-CV-140

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

MEMORANDUM OPINION

THIS MATTER came before the Court on Defendant Virgin Islands Water and Power Authority's (hereinafter "WAPA") motion for additional time to respond to Plaintiff Steadroy Williams' (hereinafter "Plaintiff") complaint, filed on May 1, 2017. No opposition has been filed in response.

BACKGROUND¹

On March 10, 2010, Plaintiff commenced a lawsuit against Defendant WAPA, Defendant Elite Security Agency, Inc. (hereinafter "Elite"), and Defendant Ramon Richardson (hereinafter "Richardson") in connection with injuries Plaintiff sustained on or about September 16, 2009. Plaintiff alleged that while he was at Defendant WAPA's Richmond plant, he was physically and brutally assaulted by one of Defendant Elite's security guard, Defendant Richardson. (Compl. ¶ 8) Plaintiff further alleged that he sustained "serious bodily injuries, mental and physical pain, emotional distress, loss of enjoyment of life, medical expenses and loss of income, past present and

¹ This memorandum opinion recites the factual background only to the extent necessary to explain the present issues and the bases of the Court's decision.

future.” Although Plaintiff did not plead any causes of action by name in his complaint, it appears that Plaintiff alleged an assault claim against Defendant Richardson and other claims of negligence against Defendant WAPA and Defendant Elite.

On May 10, 2010, Defendant WAPA filed a motion to dismiss pursuant to the exclusive remedy provision of the Virgin Islands Workers’ Compensation Act. On July 15, 2010, Defendant WAPA filed a motion to deem conceded its May 10, 2010 motion to dismiss. Both motions were denied by the Court in an order entered on February 21, 2017. On May 1, 2017, Defendant WAPA filed this instant motion for additional time to respond to Plaintiff’s complaint. On May 18, 2017, Defendant WAPA filed its responsive pleading to Plaintiff’s complaint.

STANDARD OF REVIEW

Under Virgin Islands Superior Court Rule 10, “[w]hen an act is required or allowed to be done at or within a specified time—[t]he court for cause shown may at any time in its discretion: (1) With or without notice, order the period enlarged if application therefor is made before the expiration of the period originally prescribed or as extended by a previous order of the court; (2) On motion, permit the act to be done after the expiration of the specified period if the failure to act was the result of excusable neglect.” Super. Ct. R. 10(a). Similarly, Virgin Islands Rule of Civil Procedure 6 provides that “[w]hen an act is required or allowed to be done by or within a specified period, the court may upon a showing of good cause or excusable neglect, extend the date for doing that act.” V.I. R. CIV. P. 6(b). Virgin Islands Rule of Civil Procedure 6 further provides that “[t]he court may consider whether the request to extend time is made before or after the required date; the reason for the movant’s delay; whether the reason for delay was within the reasonable control of the movant; the danger of prejudice to the parties; the length of the delay; the potential impact of the delay on judicial proceedings; whether the party seeking the extension has acted in good faith, and all other relevant circumstances surrounding the party’s failure to meet the originally prescribed deadline.” Id.

Moreover, under Virgin Islands Rule of Civil Procedure 6-2, “[a]ll motions seeking an extension of time under Rule 6(b) shall include the following: (a) A statement that the moving party has conferred with opposing parties and there is agreement or objection to the motion or that despite diligent effort, the moving party cannot ascertain opposing counsel’s position; and (b) A representation reporting the number of motions for extension of time that have been filed in the pending action by the movant with respect to the same prescribed time period.” V.I. R. Civ. P. 6-2.

DISCUSSION

In its motion, Defendant WAPA argued that “good cause exists in this matter in that obtaining such additional documentation will result in judicial efficiency and economy in that [WAPA] will no longer be a party to this action will streamline and consolidate the moving forward” and “that BoltNagi PC has only recently become engaged in the matter.” (Motion, p. 2) Defendant WAPA further argued that “[t]he motion, *sub judice*, is made in good faith and the granting of this motion will not negatively impact the proceedings, cause undue delay or prejudice any party.” (Id., at p. 3) Thus, Defendant WAPA requested the Court to grant it an additional thirty days to file its response to Plaintiff’s response.

In this instance, after the Court denied Defendant WAPA’s motion to dismiss on February 21, 2017, Defendant WAPA had 14 days after notice of the Court’s denial of its motions to serve its responsive pleading. *See* FED. R. CIV. P. 12(a)(4)(A).² As such, the deadline for Defendant WAPA to file its responsive pleading was March 7, 2017. *See* Super. Ct. R. 9.³ Here, Defendant WAPA did

² Federal Rule of Civil Procedure 12, which was in effect at the time, provides:

Rule 12. Defenses and Objections: When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hear

(a) TIME TO SERVE A RESPONSIVE PLEADING.

....

(4) *Effect of a Motion.* Unless the court sets a different time, serving a motion under this rule alters these periods as follows:

(A) if the court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court’s action. FED. R. CIV. P. 12(a)(4)(A).

³ Superior Court Rule 9, which was in effect at the time, provides:

not file this instant motion for additional time until after the expiration of the period prescribed for it to file a response. Defendant WAPA did not include any reasons for its delay. Although Defendant WAPA mentioned that it engaged the services of BoltNagi, PC on or about April 10, 2017 to assist in this matter, the deadline for Defendant WAPA to file its responsive pleading has already passed by then. Nevertheless, the Court finds that good cause exists in this instance—namely, Defendant WAPA is “working diligently on obtaining additional documents...[which] will unequivocally establish that Plaintiff’s claim against [WAPA] is barred by [Virgin Islands Workers’ Compensation Act].” (Motion, p. 2) However, the Court notes that Defendant WAPA failed to comply with the requirements under Virgin Islands Rule of Civil Procedure 6-2. Even so, in the interest of justice, the Court will still grant Defendant WAPA’s motion for additional time. *See Carty v. Mason*, 2010 V.I. LEXIS 34, *13 (V.I. Super. Ct. May 6, 2010) (“the law favors dispositions of cases on their merits, rather than on procedural technicalities”). Parties are advised to comply with the requirements of all applicable rules for future motions.

CONCLUSION

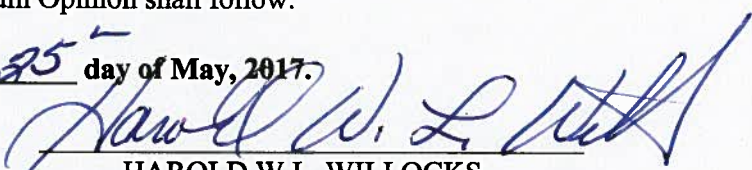
Based on the foregoing, the Court will grant Defendant WAPA’s motion for additional time.

An Order consistent with this Memorandum Opinion shall follow.

DONE and so ORDERED this 25th day of May, 2017.

ATTEST:

Estrella H. George
Clerk of the Court


HAROLD W.L. WILLOCKS
Administrative Judge of the Superior Court

By: 

Court Clerk Supervisor

Dated: 5/25/17

Rule 9. Computation of time

In computing any period of time prescribed or allowed by these rules, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which even the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When a period of time prescribed or allowed by these rules is less than eleven days, intermediate Saturdays, Sundays and holidays shall be excluded from the computations.