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

BANCO POPULAR DE PUERTO RICO, **PLAINTIFF,** **V.** **JOSEPHAT JOHN; ELIZABETH TORRES-JOHN; TRANSAMERICA FINANCIAL SERVICES; AND UNITED STATES OF AMERICA INTERNAL REVENUE SERVICE,** **DEFENDANTS.**	**SX-13-CV-214** **ACTION FOR DEBT AND MORTGAGE FORECLOSURE**

MEMORANDUM OPINION

THIS MATTER came before the Court on Plaintiff Banco Popular de Puerto Rico's (hereinafter "Plaintiff"): (1) motion for summary judgment against Defendant United States of America Internal Revenue Service (hereinafter "IRS") and default judgment against Defendant Josephat John (hereinafter "Josephat") and Defendant Elizabeth Torres-John (hereinafter "Elizabeth"), filed on August 3, 2013; and (2) renewed motion for summary judgment and default judgment, filed on October 12, 2016. No opposition has been filed in response to either of the motions.

BACKGROUND

On June 25, 2013, Plaintiff commenced an action for debt and mortgage foreclosure against Defendant Josephat, Defendant Elizabeth, Defendant IRS, and Defendant Transamerica Financial Services (hereinafter "Transamerica") in connection with the real property described as Plot 5A (1.38 U.S. acre) of Estate Mountain, Prince Quarter, St. Croix, U.S. Virgin Islands (hereinafter "Subject Property"). Plaintiff alleged the following in its complaint:

> On March 14, 1991, Defendant Josephat and Defendant Elizabeth executed and delivered to Metmor Financial, Inc., a promissory note in the amount of $50,300.00, together with interest at the rate of 10.5% per annum (hereinafter "Promissory Note").

> (Compl. ¶ 4) To secure payment of the Promissory Note, Defendant Josephat and Defendant Elizabeth executed and recorded a first priority mortgage of the Subject Property, dated March 14, 1991, in favor of Metmor Financial, Inc. (hereinafter "Mortgage"). (Id., at ¶ 6) On or about April 7, 1998, Metmor Financial, Inc. assigned its entire interest in the Promissory Note and the Mortgage to Plaintiff. (Id., at ¶ 7)
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> On February 1, 2013, Defendant Josephat and Defendant Elizabeth defaulted under the terms and conditions of the Promissory Note and the Mortgage. (Id., at ¶ 9) Despites demands by Plaintiff, Defendant Josephat and Defendant Elizabeth remains in default under the Promissory Note and the Mortgage. (Id., at ¶ 11) Pursuant to the terms of the Promissory Note and the Mortgage, Plaintiff exercised its option to accelerate the indebtedness evidenced by the Promissory Note and secured by the Mortgage. (Id., at ¶ 15) As of May 15, 2013, Defendant Josephat and Defendant Elizabeth owes Plaintiff a total amount of $37,743.13 under the Promissory Note—to wit: $30,202.72 (principal), plus $1,187.43 (accrued interest from February 1, 2013 to May 15, 2013), plus $418.71 (late charges as of May 15, 2013), plus $5,904.27 (escrow due), plus $30.00 (additional fees), and plus interest at the rate of $8.69 per diem. (Id., at ¶ 19)

As such, Plaintiff sought to collect its debt from Defendant Josephat and Defendant Elizabeth, and foreclose its lien on the Subject Property. Defendant Transamerica and Defendant IRS were joined as parties claiming a right, title, or interest in the Subject Property by virtue of certain recorded encumbrances listed on the title search of the Subject Property—to wit: Second Priority Mortgage to secure an original indebtedness in the amount of $56,010.25, and any other amounts or obligations secured thereby, given by Josephat John and Elizabeth Torres-John in favor of Transamerica Financial Services, Inc. dated June 7, 1991, recorded June 12, 1991 at PC 397, page 381, Doc. No. 3575; Federal Tax Lien in the amount of $41,858.78 against John Josephat [sic] (Centerline Bakery and Deli Inc., a corporation) dated May 2, 1995, recorded May 9, 1995 at PC 543, page 329, Doc. No. 3019 [NOTE: ID No.: 66-0486023; Kind of Taxes: 940 and 941]; and Federal Tax Lien in the amount of $5,176.80 against John Josephat [sic] (Centerline Bakery and Deli Inc., a corporation) dated September 23, 2011, recorded October 11, 2011 at PC 1286, page 123, Doc No. 2011003851 [NOTE: ID No.: 66-0486023; Kind of Taxes: 941].

On October 11, 2013, Defendant IRS and Plaintiff filed a stipulation whereby they stipulated that Plaintiff's interest in the Subject Property is senior and superior to the interest of Defendant IRS's interest in the Subject Property.[1] When the remaining defendants—Defendant Josephat, Defendant Elizabeth, and Defendant Transamerica—failed to file a response to Plaintiff's complaint, Plaintiff filed a motion for an entry of default. The Court granted Plaintiff's request and an entry of default was entered against Defendant Transamerica on November 20, 2014, and entered against Defendant Josephat and Defendant Elizabeth on July 15, 2015. The Court also entered an order whereby the Court granted Plaintiff's motion to dispense with mediation as required under Title 28 V.I.C. § 531(b). On August 3, 2015, Plaintiff filed a motion for summary judgment against Defendant IRS and default judgment against Defendant Josephat and Defendant Elizabeth.[2] On October 12, 2016, Plaintiff filed a renewed motion for summary judgment against Defendant IRS and default judgment against Defendant Josephat, Defendant Elizabeth, and Defendant Transamerica. No oppositions were filed in response to Plaintiff's motion for summary judgment and default judgment.

[1] It has come to the Court's attention that this stipulation has not been granted. The Court will enter a separate order granting said stipulation.

[2] Plaintiff did not move for default judgment against Defendant Transamerica in its August 3, 2015 motion. Moreover, the Court noticed that the August 3, 2015 motion referenced a different real property described as "Plot Nos. 9-V and 9-W (consisting of 0.566 U.S. acres each) of Estate Cottage, Queen Quarter, St. Croix, U.S. Virgin Islands." The Court believes that this was a clerical error and should instead have read "Plot 5A (1.38 U.S. acre) of Estate Mountain, Prince Quarter, St. Croix, U.S. Virgin Islands." The complaint, the renewed motion for summary judgment and default judgment, and the supporting documents all referenced "Plot 5A (1.38 U.S. acre) of Estate Mountain, Prince Quarter, St. Croix, U.S. Virgin Islands."

STANDARD OF REVIEW

Motion for Summary Judgment[3]

A moving party will prevail on a motion for summary judgment where the record shows that there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law. *Williams v. United Corp.*, 50 V.I. 191, 194 (V.I. 2008). As to materiality, "only those facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment." *Id*, at 195 (citations omitted).

"[T]o survive summary judgment, the nonmoving party's evidence must amount to more than a scintilla, but may amount to less (in the evaluation of the court) than a preponderance." *Williams*, 50 V.I. at 195 (quotation omitted). The nonmoving party then has the burden of "set[ting] out specific facts showing a genuine issue for trial." *Id.* (citation omitted). The Court must view all inferences from the evidence in the light most favorable to the nonmoving party, and take the nonmoving party's conflicting allegations as true if properly supported. *Id*; *see also Perez v. Ritz-Carlton (Virgin Islands), Inc.*, 59 V.I. 522, 527; *Joseph v. Hess Oil V. I. Corp.*, 54 V. I. 657, 668 (V.I. 2011).

Motion for Default Judgment

Entry of default and default judgment are separate matters under Superior Court Rules 47 and 48. In *King v. Appleton*, 61 V.I. 339, 346 (V.I. 2014), the Supreme Court of the Virgin Islands (hereinafter, "Supreme Court") instructed that "after entering the default, the Superior Court must consider whether the unchallenged facts constitute a legitimate cause of

[3] Plaintiff cited to Federal Rule of Civil Procedure 56 as the applicable rule for its motion for summary judgment. However, in light of the Supreme Court of the Virgin Islands' ruling in *Vanterpool v. Gov't of the V.I.*, 63 V.I. 563, 576 (V.I. 2015),"the Federal Rules of Civil Procedure... should be invoked only when a thorough review of applicable Virgin Islands statutes, Superior Court rules, and precedents from this Court reveals the absence of any other [applicable] procedure." Since there are precedents from the Supreme Court of the Virgin Islands regarding motions for summary judgment, the Court will use the standard of review set forth in said precedents.

action, since a party in default does not admit mere conclusions of law." (internal quotations omitted). The Supreme Court explained that a defendant, "by his default, admitted the plaintiff's well-pleaded allegations of fact, [he] is concluded on those facts by the judgment, and is barred from contesting the facts thus established." *Id.* In other words, a defendant's default does not in itself warrant the court to enter a default judgment. *Id.* ("the mere fact of [the defendant's] default did not entitle [the plaintiff] to the entry of a default judgment against [the defendant]; instead, [the defendant's] default only conceded the facts as alleged in [the plaintiff's] complaint"). Rather, "[t]here must be a sufficient basis in the pleadings for the judgment entered." *Id.* Thus, if the court finds the facts, as alleged in the plaintiff's complaint, constituted a valid cause of action under the Virgin Islands law, the court is to hold a hearing to establish the amount of damages. *Id.; see also, Appleton v. Harrigan*, 61 V.I. 262, 269 (V.I. 2014) (after entry of default, damages generally must be established in an evidentiary proceeding [where] the defendant is afforded the opportunity to contest the amount claimed) (internal quotations and citations omitted).

However, such a hearing is not required "[w]hen the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain." *Harrigan*, 61 V.I. at 270 (citing Super. Ct. R. 48(a)(1)). The Supreme Court explained that, "[a] claim is not a sum certain unless there is no doubt as to the amount to which a plaintiff is entitled as a result of the defendant's default." (citation omitted). *Harrigan,* 61 V.I. at 270 (the Supreme Court found the damage claimed therein—namely, unpaid rent—did not qualify as a sum certain because sum certain for the purposes of Superior Court Rule 48 "contemplates a situation in which, once liability has been established, there can be no dispute as to the amount due, as in actions on money judgments and negotiable instruments") (internal quotations and citation omitted).

DISCUSSION

A. Whether Plaintiff is Entitled to Summary Judgment Against Defendant IRS

Here, Plaintiff argued that the liens of Defendant IRS are subsequent and inferior to Plaintiff's mortgage lien. In support of its assertion, Plaintiff cited to *Balbo Corp. v. Enighed Condos, LLC*,. 58 V.I. 93, 100 (Super. Ct. Mar. 8, 2013), where the court noted that, "[i]n the Virgin Islands, the priority of liens is determined by the time of the recording of the liens." As such, Plaintiff argued that there is no genuine issue as to any material fact and that Plaintiff is entitled to judgment as a matter of law against Defendant IRS.

Lawsuits to enforce promissory notes are well-suited for summary judgment "due to the well-established legal principles and often uncontested facts." *Balbo Corp.*, 58 V.I. at 100; *see also Celestin v. LLP Mortg., Ltd.*, 2007 V.I. Supreme LEXIS 6, *5 (V.I. 2007) ("In this case Appellants acknowledge that they signed the contract (note and mortgage), received the funds and for a while made loan repayments. There is no showing of fraud, coercion or other nefarious inducement into the contract. Rather this is simply a case where one party to a loan contract's trying to avoid their obligation to repay a loan."). Here, Defendant IRS was joined as a party claiming a right, title, or interest in the Subject Property by virtue of certain recorded encumbrances listed on the title search of the Subject Property. *See* Title 28 V.I.C. § 532 ("Any person having a lien subsequent to the plaintiff upon the same property or any part thereof, or who has given a promissory note or other personal obligation for the payment of the debt or any part thereof, secured by the mortgage or other lien which is the subject of the action, shall be made a defendant in the action."). Plaintiff submitted, *inter alia*, copies of executed Promissory Note, executed Mortgage, executed Assignment of Mortgage and title search of the Subject Property as evidence that its mortgage lien has priority over Defendant

IRS's liens. Based upon the dates of recording and upon Plaintiff and Defendant IRS's stipulation, Plaintiff is entitled to judgment as a matter of law against Defendant IRS.

B. Whether Plaintiff is Entitled to Default Judgment Against Defendant Josephat and Defendant Elizabeth

The Court will first determine whether the facts, as alleged in Plaintiff's complaint, constitute a legitimate cause of action. According to Plaintiff's complaint, Defendant Josephat and Defendant Elizabeth executed and delivered to Plaintiff the Promissory Note in the amount of $50,300.00 on March, 1991. To secure their obligations under the Promissory Note, Defendant Josephat and Defendant Elizabeth executed and recorded the Mortgage in favor of Metmor Financial, Inc. on March 14, 1991. Subsequently, Metmor Financial, Inc. assigned its entire interest in the Promissory Note and the Mortgage to Plaintiff. Plaintiff alleged that, notwithstanding the demands made by Plaintiff, Defendant Josephat and Defendant Elizabeth failed to pay the principal and interest due pursuant to the Promissory Note. In support of its allegations, Plaintiff submitted, *inter alia*, copies of executed Promissory Note, executed Mortgage, executed Assignment of Mortgage and title search of the Subject Property. Based on the foregoing, the Court finds that these unchallenged facts constitute a legitimate cause of action for debt.

The Court must now determine whether an evidentiary hearing is necessary to establish the amount of damages. In its motion, Plaintiff indicated that Defendant Josephat and Defendant Elizabeth defaulted in the payment of the principal and interests pursuant to the promissory note, in the total amount of $50,088.97 as of July 17, 2015. Plaintiff submitted the affidavit of Josephine Williams, assistant VP and collection department manager of Plaintiff, in support of its motion for default judgment against Defendant Josephat and Defendant Elizabeth. Josephine Williams stated in her affidavit that Defendant Josephat and Defendant Elizabeth defaulted in the payment of the principal and interests pursuant to the Promissory Note, in the total amount of $50,088.97 as of July 17, 2015—to wit: $30,202.72 (principal), plus $8,067.12 (accrued interest from February 1, 2013 to July 17, 2015), plus $1,261.91 (late charges as of July 17, 2015), plus $3,105.22 (insurance for the Subject Property), plus $7,422.00 (property taxes), and plus $30.00 (non-sufficient funds fee)—with interest accruing at the rate of $6.86 per diem. Based on the foregoing, the Court finds Plaintiff's claim for the total amount owed under the Promissory Note qualifies as a sum certain because "there is no doubt as to the amount to which [Plaintiff] is entitled as a result of [Defendant's] default." *Harrigan,* 61 V.I. at 270. In other words, the Court finds that there can be no dispute as to the amount due under the Note. Thus, a hearing is not necessary to establish the amount of damages in this matter against Defendant Josephat and Defendant Elizabeth.

C. Whether Plaintiff is Entitled to Default Judgment Against Defendant Transamerica

Here, Defendant Transamerica was joined as a party claiming a right, title, or interest in the Subject Property by virtue of certain recorded encumbrances listed on the title search of the Subject Property. *See* Title 28 V.I.C. § 532 ("Any person having a lien subsequent to the plaintiff upon the same property or any part thereof, or who has given a promissory note or other personal obligation for the payment of the debt or any part thereof, secured by the mortgage or other lien which is the subject of the action, shall be made a defendant in the action."). Based on the dates of recording, Plaintiff's interest in the Subject Property is senior and superior to the interest of Defendant Transamerica's interest in the Subject Property. Based on the foregoing, the Court finds that the unchallenged facts constitute a legitimate cause of action and a hearing is not necessary to establish the damages in this matter against Defendant Transamerica.

D. Whether Plaintiff is Entitled to Attorney's Fees and Costs

Plaintiff also filed an affidavit of its counsel, Attorney Samuel T. Grey of Nichols Newman Logan & Grey, P.C., for attorney's fees and costs, although no motion for the same appears in the record. In the affidavit of Attorney Samuel T. Grey, he asserted that the subject matter of this suit is neither novel nor complex, that Plaintiff incurred $3,000.00 in attorney's fees and $632.19 in costs in this matter, and that it is anticipated that Plaintiff will incur at least an additional $1,800.00 in attorney's fees. A copy of the slip listing including the itemization of the attorney's fees and a copy of the slip listing including the itemization of the costs were attached as Exhibit 1 and Exhibit 2 to Attorney Samuel T. Grey's affidavit.

Title 5, Section 541 of the Virgin Islands Code[4] (hereinafter, "Section 541") governs the award of attorney's fees and costs in civil matters. The prevailing party routinely requests, and the Court often grants, an award for attorney's fees and costs, so long as they are provided for within the confines of the Section 541. The language of Section 541 and case law are clear that the decision to award attorney's fees and costs, and the amount to be

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[4] Title 5, Section 541 of the Virgin Islands Code provides:

(a) Costs which may be allowed in a civil action include:

(1) Fees of officers, witnesses, and jurors;

(2) Necessary expenses of taking depositions which were reasonably necessary in the action;

(3) Expenses of publication of the summons or notices, and the postage when they are served by mail;

(4) Compensation of a master as provided in Rule 53 of the Federal Rules of Civil Procedure;

(5) Necessary expense of copying any public record, book, or document used as evidence on the trial; and

(6) Attorney's fees as provided in subsection (b) of this section.

(b) The measure and mode of compensation of attorneys shall be left to the agreement, express or implied, of the parties; but there shall be allowed to the prevailing party in the judgment such sums as the court in its discretion may fix by way of indemnity for his attorney's fees in maintaining the action or defenses thereto; provided, however, the award of attorney's fees in personal injury cases is prohibited unless the court finds that the complaint filed or the defense is frivolous.

(c) For the purposes of this section, "frivolous" means:

(i) without legal or factual merit; or

(ii) for the purpose of causing unnecessary delay; or

(iii) for the purpose of harassing an opposing party.

awarded, is within the Court's discretion. Title 5 V.I.C. § 541; *Kalloo v. Estate of Small,* 62 V.I. 571, 584 n. 11 (V.I. 2015) (noting that a trial judge has discretion in determining reasonable attorney's fees and costs); *see also, Pedro v. Huggins,* SX-98-CV-792, 53 V.I. 98, 105-06 (Super. Ct. Mar. 5, 2010) (unpublished). In *Kalloo*, the Supreme Court pointed out that the "attorney's fees awards should represent a 'fair and *reasonable* portion of… [the] attorney's fees incurred in the prosecution or defense of the action, and not [necessarily] the whole amount charged by the attorney.'" 62 V.I. at 584 fn. 11 (quoting *Estien v. Christian*, 11 V.I. 464 (3d Cir. 1975) (applying the "lodestar" test in determining the reasonableness of attorney's fees under Section 541)) (emphasis in original). In considering the reasonableness of the attorney's fees, the Supreme Court found guidance in the factors discussed by the Appellate Division of the District Court of the Virgin Islands in *Andrew Evans v. R&G Mortgage Corp.,* D.C. Civ. App. No. 2003/126 (D.V.I. App. Jan. 10, 2007)—namely:

> the time and labor required, the novelty and difficulty of the issues involved, the level of skill needed to properly conduct the case, the customary charges of the bar for similar services, the amount involved in the controversy, the benefits resulting to the client from the services, and the contingency or certainty of compensation. *Judi's of St. Croix Car Rental v. Weston*, 2008 V.I. Supreme LEXIS 21,*3 (V.I. 2008).[5]

Here, Plaintiff sought recovery of $3,000.00 in attorney's fees, accounting for ten hours spent by Attorney Samuel T. Grey in prosecuting this matter. Plaintiff also sought recovery of $632.19 in costs and $1,800.00 in anticipated attorney's fees. The Court notes at the outset that Plaintiff is the prevailing party in this matter based on the Court's finding above that Plaintiff is entitled to summary judgment against Defendant IRS and default judgment against Defendant Josephat, Defendant Elizabeth, and Defendant Transamerica. The Court further notes that this is not a frivolous personal injury action. Thus, Section 541

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[5] While the Supreme Court in *Judi's* addressed the reasonableness of the attorney's fees requested under Supreme Court Rule 30, the Court nevertheless finds the factors considered therein to be helpful in this instance. Thus, the Court is guided by the same factors the Supreme Court considered in *Judi's*.

is applicable. The Court will now determine whether the attorney's fees and costs requested falls within the confines of Section 541.

a. Attorney's Fees

First, the Court reviews the time and labor expended in this matter. According to the slip listing including the itemization of the attorney's fees, Attorney Samuel T. Grey spent a total of ten hours preparing, drafting, review, revising various documents. (Grey Aff., Ex. 1) The Court finds the services rendered and the time spent by Attorney Samuel T. Grey to be reasonable. Second, the Court evaluates the novelty and difficulty of the issues involved. The Court finds that the issues involved herein is neither novel nor complex, given that it is a straightforward collection's case and that the record in this case is minimal. Third, the Court evaluates the level of skill required of counsel to properly conduct the case. As the Court just noted, this matter is a straightforward collection's case. This means that the counsel was only required to have a basic understanding of the Superior Court Rules and some basic drafting skills to properly conduct this case. The Court finds that this matter did not require a high degree of skill by counsel. Fourth, the Court compares the hourly rate charged in this matter with the customary charges of Virgin Islands attorneys. The Court finds the $300.00 hourly rate charged by Attorney Samuel T. Grey to be consistent with the customary and prevailing market rates attorneys charge in the U.S. Virgin Islands. *See, e.g., Garvey v. Estate of Moorhead,* SX-13-CV-210, 2016 V.I. LEXIS 107, *11 (Super. Ct. Aug. 1, 2016) (unpublished) ("Here, without any proffer of its reasonableness from Petitioner, the Court finds the claimed hourly rate of $400 to be excessive, and will assign as reasonable an hourly rate of $300."); *Chapa v. Sepe,* ST-12-CV-504, 2013 V.I. LEXIS 72, *2 (Super. Ct. June 3, 2013) (unpublished) ("While Three hundred and ninety-five dollars ($395.00) is at the high end of the customary and prevailing market rates attorneys charge in the Virgin Islands, a majority of the hours billed were at a rate of Two hundred ninety-five dollars ($295.00), which is a moderate hourly rate as compared to what other attorneys charge in the Virgin Islands."); *Interocean Ins. Agency v. Joseph*, SX-06-CV-177, 2014 V.I. LEXIS 73, *10 (V.I. Super. Ct. Sep. 12, 2014) (unpublished) (the court accepted the attorney's hourly rates of $350.00 for in-court services and $300.00 for other services as "fair and reasonable for an attorney with his experience and record"). Fifth, the Court considers the amount in controversy and the attorney's fees requested. In *Judi's*, the Supreme Court found that the attorney's fees is unlikely to be reasonable when the attorney's fees requested was almost four times the amount in controversy. 2008 V.I. Supreme LEXIS 21 at *3. Here, the amount in controversy was $50,088.97 and the attorney's fees requested was $3,000.00. The Court finds that the relationship between the amount in controversy and the attorney's fees requested to be within reason. Sixth, the Court considers the benefits resulting to Plaintiff from the services. Here, as the result of the services rendered by Attorney Samuel T. Grey, Plaintiff obtained a favorable outcome—namely, judgment against all the defendants. The Court finds that Plaintiff benefited from the service of its counsel. Lastly, the Court considers the contingency or certainty of compensation. According to Attorney Samuel T. Grey's affidavit, Plaintiff retained Nichols Newman Logan & Grey, P.C.—at the hourly rate of $300.00. (Grey Aff., Ex.1) Thus, it appears that Plaintiff and Nichols Newman did not have a contingency fee agreement. Based on the foregoing, the Court finds the attorney's fees sought by Plaintiff to be reasonable.

b. Costs

According to the slip listing including the itemization of the costs, Plaintiff was billed for title report fee, filing fee, recording fee, process service fees, certified mail fees, and miscellaneous fees. (Grey Aff., Ex. 2) Section 541 only permits the recovery of certain costs.[6] Here, only certified mail fees fall under the allowable costs of Section 541. *See* Title 5 V.I.C. § 541(a)(3)("Expenses of publication of the summons or notices, and the postage when they are served by mail"). Thus, the Court will only grant costs as to certified mail fees, in the total amount of $51.19.

c. Anticipated Attorney's Fees

The Court will deny Plaintiff's request for attorney's fees for work to be done in the future. "[A]ttorney's fees are awarded on the basis of time spent on the case, not that which is anticipated and may not be realized". *In re Estate of Melchior*, 2012 V.I. LEXIS 73 * (Super. Ct. Oct. 29, 2012) (quoting *Devcon Int'l Corp. v. Reliance Ins. Co.*, 2008 U.S. Dist. LEXIS 1087, at *7 (D.V.I. Jan. 2, 2008)).

CONCLUSION

Based on the foregoing, the Court will grant Plaintiff's motion and renewed motion for summary judgment against Defendant IRS and default judgment against Defendant Josephat, Defendant Elizabeth, and Defendant Transamerica. The Court will also grant Plaintiff's request for attorney's fees and costs but deny Plaintiff's request for anticipated attorney's fees. A Judgment and Order of Foreclosure consistent with this Memorandum Opinion will follow.

DONE and so ORDERED this 20 day of June, 2017.

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

ATTEST:
Estrella H. George
Clerk of the Court

By:
Court Clerk Supervisor

Dated: 6/21/17

CERTIFIED TO BE A TRUE COPY
This 21 day of June 2017
ESTRELLA GEORGE
CLERK OF THE COURT
By ________ Court Clerk

[6] *Supra*, fn. 4.