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ST-2024-CV-00094

TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

LESLIE LAMBERTIS,

Plaintiff,

v.

STARFISH MARKET CORPORATION,

Defendant.

CASE NO.: ST-2024-CV- 00094

JURY TRIAL DEMANDED

Cite as 2026 VI Super 31U

MEMORANDUM OPINION

¶1. **THIS MATTER** is before the Court on Defendant Starfish Market Corporations’ (“Defendant” or “Starfish”) Motion to Dismiss Plaintiff Leslie Lambertis’s (“Plaintiff” or “Lambertis”) Complaint for failure to state a claim for relief under Rule 12(b)(6) of the Virgin Islands Rules of Civil Procedure. For the following reasons, the Court shall grant the Motion to Dismiss and allow Plaintiff leave to amend his Complaint.

I. PROCEDURAL AND FACTUAL HISTORY

¶2. Lambertis began working at Starfish Market in 2000.¹ His duties included stocking produce, unloading goods from refrigerated shipping containers, and arranging fruits and vegetables in the store display area.² On August 27, 2018, Starfish laid off Lambertis, and he was subsequently terminated. At the time of his termination, Lambertis was 62 years old.³ On February 9, 2024, Plaintiff filed a complaint, alleging that Starfish wrongfully terminated his employment based on his age. Specifically, Count One of the Complaint alleges that “Starfish unlawfully terminated [Lambertis] because of his age in violation of the Virgin Islands Civil Rights Act,”

¹ Compl. at ¶ 10.

² Compl. at ¶ 11.

³ Compl. at ¶ 26.

citing 10 V.I.C. § 3.⁴ Count Two, titled “Discrimination in Payment of Wages,” also cites 10 V.I.C. § 3 and generally claims that Starfish unlawfully discriminated against Lambertis by paying him “lower wages than other employees even though he had more experience.”⁵ Counts Three and Four of the Complaint seek compensatory and punitive damages, respectively, arising from Starfish’s alleged discriminatory discharge. In response, Defendant filed its Motion to Dismiss, asserting that Plaintiff has failed to state a cognizable claim for relief.

II. LEGAL STANDARD

A. Motion to Dismiss

¶3. Rule 12(b)(6) of the Virgin Islands Rules of Civil Procedure governs motions to dismiss for failure to state a claim upon which relief can be granted. Rule 12(b)(6) motions test the sufficiency of the complaint. *Hess Oil Virgin Islands Corp. v. Fluor Daniel*, 72 V.I. 676, 719 (V.I. Super. Ct. April 8, 2020). The issue is “not whether the plaintiff will ultimately prevail, but whether the plaintiff is entitled to offer evidence to support the claim.” *Raymond v. Assefa*, 2017 WL 5303467, at *2 (V.I. Super. Ct. Nov. 8, 2017). Under Rule 8(a)(2) of the Virgin Islands Rules of Civil Procedure, a pleading that states a claim for relief must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.”

¶4. This Court sits in a “notice-pleading jurisdiction.” V.I. R. Civ. P. 8(a). Thus, a complaint is deemed sufficient “so long as it adequately alleges facts that put an accused party on notice of claims brought against it.” *Mills-Williams v. Mapp*, 67 V.I. 574, 585 (V.I. 2017) (internal citation omitted). However, a complaint fails to put a defendant on notice when the pleader “fails to

⁴ Compl. at ¶ 50.

⁵ Compl. at ¶ 58.

articulate a cognizable claim” or “has made an allegation that is not recognized in the law as a basis for recovery.” *Arno v. Hess Corp.*, 71 V.I. 463, 494-495 (V.I. Super. Ct. Oct. 17, 2019) (citations omitted).

III. DISCUSSION

(a) Counts One and Two

¶5. Defendant contends that the Complaint should be dismissed under Rule 12(b)(6) of the Virgin Islands Rules of Civil Procedure for failure to state a claim for relief. Specifically, Defendant argues that Plaintiff has failed to state a claim because 10 V.I.C. § 3, the statute cited in the Complaint, does not support recovery for wrongful termination based on age discrimination. The Court agrees that Plaintiff has failed to state a cognizable claim; however, the Court finds that it is in the interest of justice to permit Plaintiff leave to amend the Complaint to accurately reflect the statutory basis for recovery.

¶6. Regarding statutory interpretation, the Supreme Court of the Virgin Islands has instructed, in relevant part, the following:

The first step when interpreting a statute is to determine whether the language at issue has a plain and unambiguous meaning. It is well settled that when the statutory language is unambiguous and the statutory scheme is coherent and consistent, no further inquiry is needed. We thus begin and end our inquiry with the text, giving each word its ordinary, contemporary, common meaning.

Gov't of Virgin Islands Virgin Islands on behalf of Dep't of Lab.-Workers' Comp. Admin. v. George, 79 V.I. 1039, 1054 (V.I. 2025) (citations omitted). Furthermore, it is generally understood “that those things not covered in a statute are otherwise excluded, where the statute specifies and enumerates the persons or things to which it applies,” unless an exception exists. *Gov't of Virgin Islands v. Yarwood*, 45 V.I. 68, 73 (V.I. Super. Ct. 2002) (citing Sutherland Stat. Constr. §§ 47.18—

47.24). Primarily, this statutory canon can be overcome “where there is evidence of contrary legislative intent or where there is no evidence that the Legislature intended that the statute be a conclusive treatment of the issue.” *Id.*

¶7. In this case, the statute cited in Counts One and Two of the Complaint does not support relief based on age discrimination in the workplace. 10 V.I.C. § 3 provides in pertinent part:

(a) All natural persons within the jurisdiction of the United States Virgin Islands, without regard to race, creed, color, or national origin, and subject only to the conditions and limitations established by law and applicable in like manner to all persons, are entitled to-

(1) equal treatment with respect to employment, pay and working conditions in any and all businesses and industry, and with respect to union membership.

As Defendant contends, “[t]he plain language of § 3 does not include a prohibition of discrimination based on age.”⁶ Had the Legislature intended age to be covered, it would have included age in the list of unlawful discriminatory bases. In fact, Plaintiff does not directly challenge Defendant’s contention. Rather, in his Opposition, he argues that the Legislature included age discrimination as a basis for recovery under 10 V.I.C. § 64.⁷ Title 10 V.I.C. § 3 cannot form the basis for Plaintiff’s stated claim for relief —age discrimination; therefore, and the Court shall dismiss Counts One and Three for failure to state a claim.

⁶ Def.’s Mot. to Dismiss Compl. at 5.

⁷ 10 V.I.C. § 64 provides in relevant part:

It shall be an unlawful discriminatory practice [f]or an employer, because of age, race, creed, color, national origin, place of birth, sex, sexual orientation, gender identity, disability and/or political affiliation of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

¶8. However, Plaintiff may be able to recover under 10 V.I.C. § 64. As a notice pleading jurisdiction, the Court prioritizes substance over technical formalities.⁸ Thus, even if a complaint contains deficiencies, a court may grant a plaintiff an opportunity to amend unless the amendment would be futile or inequitable. Further, the Court may permit a plaintiff to make a curative amendment even if the plaintiff did not seek leave to amend. *Fenster v. DeChabert*, 65 V.I. 20, 65 (V.I. Super. Ct. 2016); *Est. of Burnett v. Kazi Foods of the Virgin Islands*, 69 V.I. 50, 54 (V.I. Super. Ct. 2016) (Court *sua sponte* granting plaintiff leave to amend complaint to cure deficiencies even though plaintiff did not file a motion to amend the complaint). The record shows that Plaintiff had an apparent misunderstanding about which statute correctly forms the basis for recovery. Thus, in the interest of justice and in light of the preference for deciding cases on their merits, the Court shall grant Plaintiff leave to amend his Complaint to provide Defendant with fair notice of a cognizable claim. *See Newrez LLC v. Est. of Green by & through Zeki*, 2025 WL 2491567, at *7 (V.I. Super. Ct. Aug. 25, 2025) (explaining that “it must always be remembered that it is entirely contrary to the spirit of the Rules of Civil Procedure for decisions on the merits to be avoided based on such mere technicalities”) (citations and internal quotations marks omitted).

(b) Counts Three and Four

¶9. A plaintiff alleging age discrimination may recover both compensatory and punitive damages.⁹ However, those damages cannot be pleaded as separate, standalone counts — they are

⁸ Compare *Rennie v. Hess Oil Corp.*, 62 V.I. 529, 553 at n.15 (V.I. 2015). In *Rennie*, the defendant argued that the plaintiff failed to state a claim under the Virgin Islands Civil Rights Act because he did not cite it in his complaint. The Supreme Court explained that “a complaint is not rendered deficient simply because the plaintiff fails to cite the specific statute governing the cause of action.” Unlike in *Rennie*, where the statute was not cited in the complaint, Plaintiff’s claim is premised on a statute cited in the complaint that cannot support his claim. Hence, those claims must be dismissed.

⁹ See *LIAT (1974), Ltd. v. Cherubin*, 77 V.I. 472, 486 (V.I. 2022).

remedies, not independent causes of action. Pleading them as separate counts renders those counts legally defective and subject to dismissal. Counts Three and Four seek compensatory and punitive damages pursuant to 24 V.I.C. 451(a). Title 24 V.I.C. § 451(a) provides:

- (a) In addition to other remedies, any person who has been discriminated against as defined in this section may bring an action for compensatory and punitive damages in any court of competent jurisdiction. The court in such action shall award to plaintiff reasonable attorney's fees and costs of the action, in addition to any judgment in favor of the plaintiff.

Clearly, section 451 is a remedies provision. It does not create any new causes of action. The plain statutory language shows that compensatory and punitive damages are available remedies for discrimination, not independent claims.¹⁰

¶10. Moreover, the Virgin Islands Supreme Court has held that neither compensatory nor punitive damages constitute separate causes of action. *Anthony v. FirstBank Virgin Islands*, 58 V.I. 224, 227, n.2 (V.I. 2013) (noting that claims for compensatory and punitive damages are not separate causes of action); *Bertrand v. Mystic Granite & Marble, Inc.*, 63 V.I. 772, 783, n.6 (V.I. 2015) (noting that the Superior Court “correctly held that a request for punitive damages is not an independent cause of action”). Multiple Superior Court cases have followed this principle, consistently dismissing counts for punitive and compensatory damages improperly pleaded as standalone counts. *See Der Weer v. Hess Oil Virgin Islands Corp.*, 60 V.I. 91, 95 (V.I. Super. Ct. March 21, 2014) (striking claim for punitive damages as “punitive damages is not a separate cause-of-action, but rather a demand for a certain type of damages”); *Bell v. Radcliffe*, 2015 WL 5773561,

¹⁰ Title 10 V.I.C. § 64(15) similarly provides that “[i]n addition to other remedies, any person who has been discriminated against as defined in this section may bring an action for compensatory and punitive damages in any court of competent jurisdiction. The Court in such action shall award to the plaintiff reasonable attorney's fees and costs of the action, in addition to any judgment in favor of the plaintiff.” This statutory language also demonstrates that compensatory and punitive damages are available remedies for age discrimination, not independent claims.

at *13 (V.I. Super. Ct. Apr. 30, 2015) (unpublished) (dismissing counts for compensatory and punitive damages and explaining that compensatory and special damages are not separate causes of action); *Est. of Burnett v. Kazi Foods of the Virgin Islands*, 69 V.I. 50, 55 (V.I. Super. Ct. May 24, 2016) (summarily dismissing count for punitive damages as a claim for punitive damages is not a separate cause of action); *Guardian Ins. Co. v. Est. of Knight-David*, 2017 WL 2814039, at *8 (V.I. Super. Ct. Apr. 7, 2017) (unpublished) (dismissing counts for punitive and compensatory damages because they are not causes of action or standalone claims); *James v. Mosler*, 2021 VI SUPER 53U, ¶ 96 (V.I. Super. Ct. May 24, 2021) (stating that “a separate claim for punitive damages cannot stand alone” and dismissing a separate count for punitive damages); *Nelson v. Centerline Car Rentals, Inc.*, 75 V.I. 126, 140 (V.I. Super. Ct. Oct. 29, 2021) (striking claim for punitive damages alleged as an independent cause of action). Counts Three and Four, which purport to state separate or standalone claims for compensatory and punitive damages, are not viable causes of action. Punitive and compensatory damages are remedies within the cause of action, not independent causes of action. Because Counts Three and Four do not state a claim upon which relief can be granted, they will be dismissed.

IV. CONCLUSION

¶11. Section 10 V.I.C. § 3 cannot support a claim for age discrimination. Therefore, the Court shall grant Defendant’s motion to dismiss Counts One and Two. However, the Court finds that Plaintiff may be able to recover under 10 V.I.C. § 64. Thus, the Court shall permit Plaintiff leave to amend his Complaint. As to Counts Three and Four, the Court shall dismiss the separately pleaded compensatory and punitive damages counts. Plaintiff may place his request for compensatory and punitive damages in the ad damnum clause or prayer for relief.

An Order consistent with this Memorandum Opinion shall follow.

Dated: July 9, 2026



Carol Thomas-Jacobs

Judge of the Superior Court
of the Virgin Islands

ATTEST:

Tamara Charles

Clerk of the Court

By: 

Latoya Camacho

Court Clerk Supervisor 07 / 10 / 2026