

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

Laurie Green,

Plaintiff,

v.

Sterisil International, LLC,

Defendant

Civil No. SX-17-CV-354

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

OPINION AND ORDER

THIS MATTER is before the Court on Plaintiff's Motion to Amend the Complaint and Defendant's opposition thereto. For the reasons that follow, Plaintiff's request for leave to amend will be **GRANTED**.

Factual and Procedural Posture

Plaintiff filed this action on August 31, 2017. In Count I, the Plaintiff alleges wrongful discharge under the Virgin Islands Wrongful Discharge Act ("WDA"), Title 24 V.I.C. § 76. In Count 2, the complaint alleges a breach of the duty of good faith and fair dealing. On January 18, 2018 Defendant filed an answer to the complaint including affirmative defenses. On March 15, 2018 the Defendant filed a Motion for Judgment on the Pleadings, asserting that (1) Plaintiff was employed for less than six (6) months and was therefore not protected by the WDA; (2) Plaintiff was in an "at-will employment" relationship and could not sustain a claim for breach of duty of good faith and fair dealing. On April 4, 2018, the Plaintiff filed a Motion for Leave to Amend the Complaint. Defendant filed its opposition to the Motion for Leave to Amend on April 19, 2018.

In the proposed amendments, the Plaintiff withdrew Count I of the Complaint so that Count 2 of the Original Complaint became Count I of the First Amended Complaint. Plaintiff also made amendments to the wording of the Complaint and the remaining count. The Defendant opposes

the Motion to Amend on the premise that the amendments fails to comply with V.I.R.Civ.P. Rule 15-1, and that the Plaintiff failed to plead a valid claim for breach of duty of good faith and fair dealing in the “at-will employment context”.

Analysis:

Amendment of a complaint is governed by V.I.Super.Ct.R. 8 and V.I.R.Civ.P. Rule 15. Pursuant to Rule 15, leave to amend should be freely given when justice so requires and prejudice would not be caused to the opposing party. *Halliday v. Foot Locker Specialty, Inc.*, 2014 V.I. LEXIS 92 (Super. Ct. 2014). Leave to amend a complaint should be freely granted and may be denied for reasons as such as undue delay, bad faith or dilatory motive on the part of the defendant, undue prejudice to the opposing party by virtue of the allowance of the amendment, or futility of the amendment. *Gourmet Gallery Crown Bay Inc. v. Crown Bay Marina L.P.*, 2017 V.I. LEXIS 73 (Super. Ct. 2017)

Defendant contends that the Motion to Amend is deficient because it does not include a “red-line” version of the Complaint in compliance with V.I.R.Civ.P. 15-1. The Defendant further contends that the amendment does not adequately delineate the substantial changes that were made to the Complaint. For example, Defendant contends that Paragraph 6 of the Original Complaint is substantially different to Paragraph 6 of the First Amended Complaint, and that the First Amended Complaint does not show that the original Paragraph 6 was deleted or amended. This Court finds that the proposed amendment shows Paragraph 6 as an addition that does not violate V.I.R.Civ.P. Rule 15-1. V.I.R.Civ.P. Rule 15-1(a) provides substantially as follows:

Except as otherwise ordered by the court, any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, must reproduce the entire pleading as amended specifically delineating the changes or additions and may not incorporate any prior pleading by reference.

In this case, the Proposed Amendment shows Paragraph 6 as an addition to the Amended Complaint such that Paragraph 6 of the Original Complaint becomes Paragraph 7 of the Amended Complaint. This change to the Complaint does not appear to violate Rule 15-1(a). Neither does it show any degree of prejudice to the Defendant. Rule 15-1 requires Plaintiff to reproduce the entire pleading as amended. Plaintiff has filed with the Court an entire copy of the Amended Complaint substantially showing the changes. In addition, mere technical deficiencies are not an adequate basis to deny leave to amend a pleading.

The Defendant also argues that the amendment is futile because the Plaintiff failed to plead a valid claim of breach of duty of good faith in the “at-will employment context”. Defendant argues this contention in the context of a Motion to Dismiss for failure to state a claim upon which relief can be granted. In substance, the Defendant argues that Plaintiff has not shown the factual basis of a claim for relief in the “at-will employment” relationship.

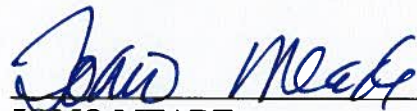
For purposes of pleading a claim, the Virgin Islands is a “notice” jurisdiction. Rule 8 of the V.I.R.Civ.P. restores the Virgin Islands as a notice pleading regime. *Mills-Williams v. Mapp*, 67 V.I. 574 (V.I. 2017). Accordingly, the Amended Complaint is sufficient if it puts the Defendant on notice of the Plaintiff's claims. Here, the Amended Complaint alleges that the Defendant breached a duty of good faith and fair dealing in an employment relationship. The specific nature of the employment relationship cannot be determined at the pleading stage of the litigation as additional discovery may be required. Moreover, “at-will employment” is a common law doctrine and Defendant has not cited any authority to show its applicability to the Virgin Islands. In fact, the Virgin Islands Wrongful Discharge Act is a statutory abrogation of the common law rule of at-will employment. *Pedro v. Ranger American of the V.I.*, 63 VI 511, 519 (V.I. 2015). While the Defendant seeks to apply the common law on the basis of the restatements, the Virgin Islands

Supreme Court has stated that "it is the court who has the inherent authority to shape Virgin Islands common law". *Banks v. Int'l Rental & Leasing Corp.*, 55 V.I. 967 (V.I. 2011). The Defendant has failed to show prejudice, undue delay, bad faith, dilatory motive or futility of the amendment.

It is therefore

ORDERED that Plaintiff's Motion to Amend is hereby **GRANTED**.

DONE AND SO ORDERED this 26 day of July, 2018.


JOMO MEADE
Judge

A T T E S T:
ESTRELLA GEORGE
Clerk of the Court

By:


Court Clerk Supervisor

Dated:

7 / 26 / 18