

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

LEOPOLD WILLIAMS, as personal	)	
representative of the ESTATE OF	)	
WILLIAMS,	)	
	)	Case No. 1:11-cv-0025
Plaintiff,	)	
	)	
v.	)	
	)	
COST-U-LESS, INC.	)	
	)	
Defendant.	)	
	)	

Attorneys:

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ST. CROIX, U.S.V.I.
FOR PLAINTIFF LEOPOLD WILLIAMS

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FOR DEFENDANT COST-U-LESS, INC.

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ORDER¹

THIS MATTER comes before the Court on Defendant Cost-U-Less, Inc.'s ("Defendant") Motion to Dismiss Plaintiff's Third Amended Complaint filed on October 6, 2014. (ECF No. 175.) Plaintiff Leopold Williams ("Plaintiff"), as Personal Representative of the Estate of Elton Williams ("Williams"),² filed an Opposition on November 13, 2014. (ECF No. 180.) Defendant filed a Reply to Plaintiff's Opposition on December 15, 2014. (ECF No. 182.) On May 31, 2024, Judge Wilma A. Lewis referred Defendant's Motion to Dismiss to Magistrate Judge Emile A. Henderson III. (ECF No. 195.)

Magistrate Judge Henderson filed a Report and Recommendation ("R&R") on August 14, 2024, in which the Magistrate Judge recommended that the Court grant Defendant's motion and dismiss the Third Amended Complaint (ECF No. 174). (ECF No. 190.) Plaintiff filed an Objection to the R&R ("Objection") on August 28, 2024. (ECF No. 191.) Defendant filed a Response to Plaintiff's Objection on September 9, 2024. (ECF No. 193.) Plaintiff filed a Reply to this Response on September 23, 2024, with leave of the Court for an extended time to file this Reply. (ECF Nos. 194, 195, 196). For the reasons stated in the accompanying Memorandum Opinion of even date, it is hereby

ORDERED that Plaintiff Leopold Williams' Objection to Magistrate Judge's Report and Recommendation, ECF No. 191, is **OVERRULED IN PART**, and **SUSTAINED IN PART** as **MODIFIED** herein; it is further

¹ Due to the retirement of the judge previously assigned to this case, the undersigned, exercising his authority as Chief Judge of the District Court, reassigned this case to himself on February 17, 2026.

² Mr. Elton Williams passed away during the pendency of this litigation (ECF No. 91), and the personal representative of his estate, Mr. Leopold Williams, is substituted in this litigation.

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ORDERED that Magistrate Judge Emile A. Henderson III's Report and Recommendation, ECF No. 190, is **ADOPTED IN PART**, as **MODIFIED** herein; it is further

ORDERED that Defendant Cost-U-Less, Inc.'s Motion to Dismiss Plaintiff's Third Amended Complaint, ECF No. 175, is **GRANTED IN PART**, and **DENIED IN PART**; it is further

ORDERED that to the extent that Count One pleads Malicious Prosecution, that claim is permitted to **PROCEED**; it is further

ORDERED that to the extent that Count One alternatively pleads Abuse of Process, that claim is **DISMISSED WITH PREJUDICE** for failure to state a claim; it is further

ORDERED that Count Two (Defamation *Per Se*), Count Four (Intentional Infliction of Emotional Distress), and Count Five (Fraud), as set forth in Plaintiff's Third Amended Complaint, ECF No. 174, are **DISMISSED WITH PREJUDICE** as time-barred; it is further

ORDERED that to the extent that Count Three pleads a claim for Breach of Contract, that claim is **STRICKEN**; it is further

ORDERED that to the extent Count Three alternatively pleads a violation of the Virgin Islands Fair Labor Standards Act, that claim is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim; it is further

ORDERED that Plaintiff is **GRANTED LEAVE TO AMEND** his Complaint to address the deficiency identified in Count Three, to the extent that Count Three alternatively pleads a violation of the Virgin Islands Fair Labor Standards Act, as identified in the accompanying Memorandum Opinion of even date; it is further

ORDERED that Plaintiff shall have up to and including **April 14, 2026**, to **FILE** a Fourth Amended Complaint; it is further

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ORDERED that Plaintiff shall not include any new causes of action or allegations in his Fourth Amended Complaint, should he choose to file one.

Dated: March 24, 2026

/s/ Robert A. Molloy
ROBERT A. MOLLOY
Chief Judge