

**FILED**

March 07, 2022 02:21 PM  
SCT-Civ-2021-0001  
VERONICA HANDY, ESQUIRE  
CLERK OF THE COURT

**Not for Publication**

**IN THE SUPREME COURT OF THE VIRGIN ISLANDS**

|                                         |   |                                        |
|-----------------------------------------|---|----------------------------------------|
| <b>SENATOR ADLAH DONASTORG, Jr.,</b>    | ) | <b>S. Ct. Civ. No. 2021-0001</b>       |
| <b>BENEDICTA DONASTORG, ADLAH</b>       | ) | Re: Super. Ct. Civ. No. 117/2002 (STT) |
| <b>DONASTORG, Sr., JOSEFINA</b>         | ) |                                        |
| <b>DONASTORG, ELLA MORON and</b>        | ) |                                        |
| <b>NORMA DURAN,</b>                     | ) |                                        |
| Appellants/Plaintiffs,                  | ) |                                        |
|                                         | ) |                                        |
| v.                                      | ) |                                        |
|                                         | ) |                                        |
| <b>DAILY NEWS PUBLISHING CO., INC.,</b> | ) |                                        |
| <b>JANE LOWE DAVIS, HOLLAND</b>         | ) |                                        |
| <b>“DYKE” REDFIELD, VITELCO and</b>     | ) |                                        |
| <b>OAKLAND BENTA,</b>                   | ) |                                        |
| Appellees/Defendants.                   | ) |                                        |
|                                         | ) |                                        |

---

On Appeal from the Superior Court of the Virgin Islands  
Division of St. Thomas-St. John  
Superior Court Judge: Hon. Denise M. Francois

Considered and Filed: March 7, 2022

Cite as: 2022 VI 1U

**BEFORE:**     **RHYS S. HODGE**, Chief Justice; **MARIA M. CABRET**, Associate Justice; and  
                  **IVE ARLINGTON SWAN**, Associate Justice.

**Rhea R. Lawrence, Esq.**

**Lee J. Rohn, Esq.**

Lee J. Rohn and Associates, LLC

St. Croix, U.S.V.I.

*Attorney for Appellants,*

**Kevin A. Rames, Esq.**

K.A. Rames, P.C.

St. Croix, U.S.V.I.

*Attorney for Appellees Daily News Publishing Co., Inc., and Jane Lowe Davis.*

**OPINION OF THE COURT**

**PER CURIAM.**

¶ 1 This matter comes before the Court pursuant to a joint motion of the parties for this Court to determine whether it possesses jurisdiction over this appeal. For the reasons that follow, we conclude that exercise of jurisdiction by this Court is proper.

### **I. BACKGROUND**

¶ 2 On February 28, 2002, the Appellants sued the Appellees in the Superior Court for numerous causes of action. After more than a decade of litigation not relevant to this appeal, three of the Appellees—the Daily News Publishing Company, Inc., Jane Lowe Davis, and Holland Redfield—filed a motion for summary judgment, which the Superior Court ultimately granted in an August 19, 2015 opinion and order. Although the other Appellees—VITELCO and Oakland Benta—had filed a motion for judgment on the pleadings, the August 19, 2015 opinion and order did not rule on that motion, and the motion remains pending.

¶ 3 On February 7, 2018, the Daily News and Davis filed a motion for the Superior Court to enter the August 19, 2015 opinion and order as a final judgment pursuant to Rule 54(b) of the Virgin Islands Rules of Civil Procedure. The Superior Court granted that motion in a January 7, 2021 opinion and order, and Appellants filed a notice of appeal with this Court on February 8, 2021. However, in their notice of appeal, the Appellants noted that this Court had previously held that Federal Rule of Civil Procedure 54(b), at the time made applicable through former Superior Court Rule 7,<sup>1</sup> could not provide for jurisdiction in this Court, *see Stiles v. Yob*, S. Ct. Civ. No. 2016-0027, 2016 WL 3211244 (V.I. June 8, 2016) (unpublished), and that the subsequent promulgation of Virgin Islands Rule of Civil Procedure 54(b) containing virtually identical

---

<sup>1</sup> “The practice and procedure in the Superior Court shall be governed by the Rules of the Superior Court and, to the extent not inconsistent therewith . . . the Federal Rules of Civil Procedure. . . .” Former Super. Ct. R. 7 (repealed 2017).

language to Federal Rule 54(b) created uncertainty as to whether this Court had intended to overrule the *Stiles* precedent or had promulgated an invalid court rule. On May 27, 2021, all parties to this appeal jointly filed a motion requesting that this Court determine whether it possesses jurisdiction over this appeal.

## II. JURISDICTION

¶ 4 “This Court [has] jurisdiction over all appeals arising from final judgments, final decrees or final orders of the Superior Court.” 4 V.I.C. § 32(a); *see also* 48 U.S.C. § 1613a(d). Because the Appellants’ claims against VITELCO and Benta remain pending in the Superior Court, the parties all agree that neither the August 19, 2015 opinion and order, the January 7, 2021 opinion and order, nor any other order entered in the underlying matter, qualifies as a traditional final judgment in that all claims against all parties have not been adjudicated. *Davis v. Allied Mortg. Capital Corp.*, 53 V.I. 490, 498 (V.I. 2010). And while the Legislature has provided for this Court to hear appeals from certain interlocutory orders, *see* 4 V.I.C. § 33(b)-(d), none of the parties allege that any of these statutory exceptions to the final judgment rule apply to this case.

¶ 5 Nevertheless, the Superior Court in its January 7, 2021 opinion and order certified the August 19, 2015 opinion and order as a final judgment pursuant to Rule 54(b) of the Virgin Islands Rules of Civil Procedure, which provides that

[w]hen an action presents more than one claim for relief . . . or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before entry of a judgment adjudicating all the claims and all the parties’ rights and liabilities.

The parties, however, question the relationship between Virgin Islands Rule 54(b) and our decision in *Stiles*, which held that Federal Rule of Civil Procedure 54(b) was ineffective to confer jurisdiction on this Court. Specifically, the parties contend that it is unclear whether this Court intended to overrule *Stiles* by promulgating Virgin Islands Rule 54(b), or whether that rule is invalid under the decision in *Stiles*.

¶ 6 The parties are mistaken to the extent they perceive a conflict between *Stiles* and Virgin Islands Rule of Civil Procedure 54(b). This Court in *Stiles* did not hold that Federal Rule of Civil Procedure 54(b) was invalid; rather, it found Federal Rule 54(b), *as purportedly incorporated through Superior Court Rule 7*, could not expand the jurisdiction of this Court. 2016 WL 3211244, at \*3. Specifically, we noted that “[t]his Court has repeatedly questioned whether Superior Court Rule 7 represents a valid exercise of rule-making authority under the Revised Organic Act of 1954,” but that “regardless of Superior Court Rule 7’s validity, this Court has expressly held that no rule adopted by the Superior Court may limit or expand this Court’s review on appeal.” *Id.* (collecting cases). As we explained in another decision issued two months after *Stiles*, this is because “[w]ithin every judicial system in the United States, including the Virgin Islands, courts are arranged in a pyramid, with trial courts at its base and a single court at the top with ultimate authority,” and that “[i]n such a hierarchical system, the trial court lacks the authority to take any action that conflicts with those established by a higher court or state statute.” *Gerace v. Bentley*, 65 V.I. 289, 304 (V.I. 2016). In other words, this Court did not hold in *Stiles* that a court rule can never provide clarification as to what constitutes a final judgment; rather, it held that the Superior Court, as a lower court, could not unilaterally adopt a court rule that would compel this Court to accept jurisdiction over an appeal, in effect making this Court subservient to the Superior Court. In fact, *Stiles* itself noted that certifications under Federal Rule 54(b) served a purpose, in that even

if not binding on this Court, it could nevertheless “inform” our consideration of whether the order qualifies as a final judgment under section 32. *Id.* (quoting *First Am. Dev. Group/Carib, LLC v. WestLB AG*, S. Ct. Civ. No. 2012–0023, 2012 WL 1526100 (V.I. Apr. 30, 2012) (unpublished)).

¶ 7 Virgin Islands Rule of Civil Procedure 54(b) is not a rule unilaterally adopted by the Superior Court but was promulgated directly by this Court pursuant to its rulemaking authority. Therefore, unlike Federal Rule of Civil Procedure 54(b) incorporated through former Superior Court Rule 7, the procedure in Virgin Islands Rule 54(b) does not infringe on the authority of this Court as the court of last resort for the Virgin Islands. Accordingly, this Court has jurisdiction to review the August 19, 2015 opinion and order in light of the January 7, 2021 opinion and order designating it as a final judgment pursuant to Virgin Islands Rule 54(b).

### III. CONCLUSION

¶ 8 For the foregoing reasons, we conclude that we possess jurisdiction over this appeal. We therefore direct the Clerk of the Court to issue a briefing schedule to the parties forthwith.

**Dated this 7th day of March , 2022.**

**ATTEST:**

**VERONICA J. HANDY, ESQ.**  
**Clerk of the Court**

**By: /s/ Natasha Illis**  
**Deputy Clerk**

**Dated: March 7, 2022**