

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

|                   |   |              |
|-------------------|---|--------------|
| TONY SPILLER      | : | CIVIL ACTION |
|                   | : |              |
| v.                | : |              |
|                   | : |              |
| PASQUALE R. LUCCI | : | NO. 06-83    |

MEMORANDUM

Bartle, C.J.

September 23, 2010

Defendant, Pasquale R. Lucci, prevailed at a one-day non-jury trial in which plaintiff, Tony Spiller, had alleged breach of an oral contract. The court had previously granted partial summary judgment in favor of defendant on claims against him for breach of another oral contract and for fraudulent misrepresentation. Defendant now seeks attorney's fees in the amount of \$7,633.33 and \$2,985.96 in costs under 5 V.I.C. § 541. This statute allows the court in its discretion to make such an award to the prevailing party in an action such as this involving claims under territorial law. See Acosta v. Honda Motor Co., Ltd., 717 F.2d 828, 843-44 (3d Cir. 1983).

In our view, an award of attorney's fees is appropriate in this case. Counsel for defendant, George H. Hodge, Jr., Esquire has submitted an affidavit setting forth his hourly rate of \$200 per hour as well as the number of hours expended and a description of his services. After review of the affidavit and having familiarity with this action, we find that the hourly rate and time are most reasonable under the circumstances.

Defendant properly incurred the cost of deposition transcripts in the amount of \$791, and that sum will be awarded. In addition, defendant seeks costs in the amount of \$2,194.96 for expenses related to traveling to St. Croix from Florida for purposes of this action. Because defendant regularly travels to St. Croix on business, it does not seem appropriate to tax these costs to the plaintiff. We will deny the defendant's motion in this respect.

Accordingly, we will enter an amended judgment in favor of defendant and against the plaintiff for \$7,633.33 in attorney's fees plus \$791 in costs for a total of \$8,424.33.