

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

LEEANN B. BRAMBLE,	)	CASE NO.: ST-06-CV-678
	)	
Plaintiff,	)	ACTION FOR DAMAGES
	)	
v.	)	
	)	JURY TRIAL DEMANDED
VIRGIN ISLANDS PORT AUTHORITY,	)	
	)	
Defendant.	)	
	)	

MEMORANDUM OPINION

THIS MATTER is before the Court on Defendant Virgin Islands Port Authority's ("VIPA") Motion for Partial Summary Judgment, filed on October 21, 2014.¹ Plaintiff Lecann Bramble ("Bramble") filed a response to VIPA's Motion for Partial Summary Judgment on November 10, 2014. VIPA filed a reply on November 28, 2014.

VIPA moves this Court to declare that a \$75,000 damages cap is applicable to this matter in light of a recent amendment to V.I. CODE ANN. tit. 29, § 556(c)-(d), which limits VIPA's liability in tort actions. Bramble argues that the application of the damages cap would have an improper retroactive effect on her claim, and should, therefore, not be applied to this matter.

Having considered the premises of the Motion, and the supporting documents, the Court finds that the \$75,000 damages cap is inapplicable to the instant matter because Bramble commenced her action prior to the enactment of the amendment, the Legislature did not prescribe the damages cap to apply retroactively, and the application of the damages cap would have an impermissible retroactive effect on Bramble's right to pursue her action as it existed at the time that she filed suit. Therefore, as a matter of law, the Court will deny VIPA's Motion for Partial Summary Judgment.

FACTUAL AND PROCEDURAL BACKGROUND

The relevant facts surrounding the Motion for Partial Summary Judgment are undisputed. On February 6, 2001, the Legislature of the Virgin Islands enacted Act No. 6391 to amend 29 V.I.C. § 556 to include subsection (c). Subsection (c) established a \$25,000 damages cap for all judgments rendered against the Virgin Islands Port Authority for any injury to or loss of property

¹ Plaintiff is represented by Francis E. Jackson, Jr., Esquire, of the Law Offices of Francis E. Jackson, Jr., and Ryan W. Greene, Esquire. Defendant is represented by Douglas L. Capdeville, Esquire, of the Law Offices of Douglas L. Capdeville.

or personal injury or death, except in cases of gross negligence.² In 2005, the Legislature repealed subsection (c), which removed the \$25,000 damages cap.³

On December 21, 2006,⁴ approximately one year after the damages cap was repealed, Plaintiff Leeann Bramble (“Bramble”) filed a Complaint against Defendant Virgin Islands Port Authority (“VIPA”) for damages arising out of injuries allegedly sustained while on VIPA’s premises.⁵ In the Complaint, Bramble asserts that on September 13, 2006, she slipped and fell on what appeared to be water in a bathroom located at the Cyril E. King Airport.⁶ On January 24, 2007,⁷ VIPA filed its Answer to Bramble’s Complaint.⁸

On December 6, 2013, approximately seven (7) years after Bramble filed her Complaint, the Legislature enacted Act No. 7574. This Act contained 23 sections amending various parts of the Virgin Islands Code.⁹ Section 14 of Act No. 7574 applied to the Virgin Islands Port Authority, and again amended 29 V.I.C. § 556 by adding subsections (c) and (d).¹⁰ This 2013 amendment placed a \$75,000 damages cap on judgments rendered against VIPA for “any injury to or loss of property or personal injury or death,” except in cases of gross negligence.¹¹ Section 14 did not include an effective date of the amendment. However, notably, in Section 1 of the same Act, which applied to another part of the Virgin Islands Code, the Legislature expressly stated that subsection (a) of Section 1 would “take[] effect retroactively on November 2, 2005.”¹² No such retroactive date was stated in Section 14.¹³

Since the enactment of Section 14 of Act. No. 7574, VIPA has not amended its Answer to assert the 2013 limitation of liability as an affirmative defense.¹⁴ Instead, on October 21, 2014, VIPA filed the instant Motion for Partial Summary Judgment requesting this Court to declare the \$75,000 damages cap applicable to this matter.¹⁵

² (Pl.’s Resp. to VIPA’s Mot. for Partial Summ. J. 3); (Reply to Pl.’s Counterstmt. of Facts & Reply to Pl.’s Resp. to VIPA’s Mot. for Summ. J. 1).

³ *Id.*

⁴ Although the parties agree that Bramble filed her Complaint on December 19, 2006, the record reflects that the Complaint was filed with the Clerk on December 21, 2006.

⁵ (See Compl. 1; Pl.’s Resp. to VIPA’s Mot. for Partial Summ. J. 3); (Reply to Pl.’s Counterstmt. of Facts & Reply to Pl.’s Resp. to VIPA’s Mot. for Summ. J. 1).

⁶ (See Compl. 1, ¶ 6).

⁷ Although the parties agree that VIPA filed its Answer on January 17, 2007, the record reflects that the Answer was filed with the Clerk on January 24, 2007.

⁸ (Pl.’s Resp. to VIPA’s Mot. for Partial Summ. J. 3); (Reply to Pl.’s Counterstmt. of Facts & Reply to Pl.’s Resp. to VIPA’s Mot. for Summ. J. 1).

⁹ The Governor of the Virgin Islands partially vetoed Act No. 7574, which was overridden by the Legislature on January 14, 2014. The \$75,000 damages cap at issue in this matter was enacted on December 6, 2013 with the Governor’s approval.

¹⁰ (Mem. in Supp. of VIPA’s Mot. for Partial Summ. J. 1-2); (Pl.’s Resp. to VIPA’s Mot. for Partial Summ. J. 1-2).

¹¹ 29 V.I.C. § 556(c)-(d).

¹² (Pl.’s Resp. to VIPA’s Mot. for Partial Summ. J. 3); (Reply to Pl.’s Counterstmt. of Facts & Reply to Pl.’s Resp. to VIPA’s Mot. for Summ. J. 1).

¹³ (Pl.’s Resp. to VIPA’s Mot. for Partial Summ. J. Ex. A, § 14); (Reply to Pl.’s Counterstmt. of Facts & Reply to Pl.’s Resp. to VIPA’s Mot. for Summ. J. 1).

¹⁴ (Pl.’s Resp. to VIPA’s Mot. for Partial Summ. J. 4); (Reply to Pl.’s Counterstmt. of Facts & Reply to Pl.’s Resp. to VIPA’s Mot. for Summ. J. 2).

¹⁵ (VIPA’s Mot. for Partial Summ. J.).

SUMMARY JUDGMENT STANDARD

Because summary judgment pursuant to Federal Rule of Civil Procedure 56,¹⁶ “is a drastic remedy, it should be granted only when ‘the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.’”¹⁷ The moving party has the initial burden of “pointing out to the court that there is an absence of evidence to support the non-moving party’s case.”¹⁸ The non-moving party has the burden of showing specific facts to establish a genuine issue for trial.¹⁹ The “[c]ourt must view the inferences to be drawn from the underlying facts in the light most favorable to the non-moving party, and [] must take the non-moving party’s conflicting allegations as true if ‘supported by proper proofs.’”²⁰ In doing so, “th[e] [c]ourt may not itself weigh the evidence and determine the truth; rather, we decide only whether there is a genuine issue for trial such that a reasonable jury could return a verdict for the non-moving party.”²¹

ANALYSIS

The limited issue before this Court is whether the \$75,000 damages cap set forth in 29 V.I.C. § 556(c)-(d) is applicable to this matter given that Bramble commenced her action against VIPA prior to the enactment of the statute.

I. Because Bramble commenced her action prior to the enactment of the statute, the question of whether the \$75,000 damages cap applies to this case raises an issue of retroactivity.

VIPA contends that its Motion for Partial Summary Judgment requesting this Court to determine the applicability of the \$75,000 damages cap does not raise an issue of retroactivity because the 2013 amendment only affects judgments rendered at the conclusion of a proceeding.²² Because a judgment has not been rendered in this case, VIPA asserts that the Court is not required to conduct a retroactivity analysis.²³ Instead, VIPA argues that the statute only requires the Court to prospectively apply the damages cap to the judgment that this Court will eventually render.²⁴

To support its argument, VIPA first cites to *Johnson v. Virgin Islands Port Authority*.²⁵ In *Johnson*, the plaintiff’s husband suffered severe injuries, and ultimately death, due to property

¹⁶ The Federal Rules of Civil Procedure are applicable to this matter pursuant to Superior Court Rule 7.

¹⁷ Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *Williams v. United Corp.*, 50 V.I. 191, 193-95 (V.I. 2008) (citation omitted).

¹⁸ *Williams*, 50 V.I. at 194.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 195 (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986)).

²² (Mem. in Supp. of VIPA’s Mot. for Partial Summ. J. 5).

²³ *Id.* at 5.

²⁴ *Id.* at 6.

²⁵ 236 F. Supp. 2d 503 (D.V.I. 2002).

owned and operated by VIPA.²⁶ The accident occurred on January 7, 2000.²⁷ Soon thereafter, on February 6, 2001, the Legislature of the Virgin Islands amended 29 V.I.C. § 556 to place a \$25,000 damages cap on all judgments rendered against VIPA.²⁸ Ten (10) months later, on December 21, 2001, the plaintiff filed her complaint against VIPA.²⁹ Upon ruling that the statute applied to the plaintiff's case, the District Court of the Virgin Islands reasoned that the damages cap applied "to judgments entered *on complaints brought after it became effective*."³⁰ The district court also provided that the damages cap only affected judgments rendered at the conclusion of proceedings.³¹ According to the district court, the amendment "would [have been] retroactive only if it capped judgments rendered before" its enactment.³²

VIPA also cites to *Weingrad v. Miles*³³—a case from the Florida Third District Court of Appeals—to support its contention that retroactivity is not at issue when a judgment has not been rendered prior to the enactment of a damages cap. In *Weingrad*, the court considered the constitutionality of a statute that limited non-economic damages recoverable under a common law tort claim.³⁴ The damages cap was enacted in 2003, and expressly provided that it "shall apply only to any medical incident for which a notice of intent to initiate litigation is mailed on or after the effective date of this act."³⁵ The act went into effect on September 15, 2003.³⁶ The appellees served their Notice of Intent to Initiate Medical Malpractice Litigation on September 9, 2005, and filed suit against the appellants on January 4, 2006.³⁷ The *Weingrad* court ruled that because the appellees had not filed a notice of intent to initiate litigation, filed a complaint, or obtained a judgment prior to the enactment of the damages cap, the appellees did not have a vested right to the specific damages award available under the tort claim.³⁸

Upon reviewing both cases, the Court first notes that decisions rendered by the District Court of the Virgin Islands while "sitting in its capacity as a local trial court are not binding on [this] Court,"³⁹ nor are decisions rendered by the Florida Third District Court of Appeals. However, upon considering both cases for persuasive authority, this Court concludes that they are distinguishable from the instant matter. In *Johnson*, the plaintiff filed her complaint more than ten (10) months *after* the enactment of the 2001 amendment.⁴⁰ Likewise, in *Weingrad*, the appellees filed their complaint more than two (2) years *after* the enactment of the damages cap.⁴¹ Because

²⁶ *Id.* at 504.

²⁷ *Id.*

²⁸ *Id.* at 505.

²⁹ *Id.*

³⁰ *Id.* (emphasis added).

³¹ *Id.* at 505 n.1.

³² *Id.*

³³ 29 So. 3d 406, 410 (Fla. 3d DCA 2010).

³⁴ *Id.* at 409.

³⁵ *Id.* at 408.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at 416.

³⁹ *Better Bldg. Maint. of the V.I., Inc. v. Lee*, 60 V.I. 740, 755 (V.I. 2014) (citing *Parrot v. Gov't of the V.I.*, 230 F.3d 615, 621 (3d Cir. 2000)).

⁴⁰ *Johnson*, 236 F. Supp. 2d at 505.

⁴¹ *Weingrad*, 29 So. 3d at 408.

the plaintiffs in both cases commenced their actions after the enactment of the statutes, their claims were subject to the then-existing laws. Thus, there was no issue of retroactivity.

But in the instant case, the facts and applicable law are distinct from *Johnson* and *Weingrad*. In *Davis v. Omitowaju*,⁴² the United States Court of Appeals for the Third Circuit—while serving as the *de facto* court of last resort in the Virgin Islands⁴³—stated that an issue of retroactivity arises when the “application of [a] new law would affect rights or obligations existing prior to the change in law.”⁴⁴ Such rights and obligations, as evidenced by the facts in *Davis*, include those that belong to the parties at the time an action is commenced.⁴⁵ Under Superior Court Rule 22, an action commences when a complaint is filed with the Clerk of the Court.

Bramble commenced her action against VIPA by filing her Complaint with the Clerk on December 21, 2006; approximately seven (7) years *before* the enactment of the \$75,000 damages cap.⁴⁶ When Bramble commenced her action, she availed herself of the rights and obligations of the then-existing laws. At that time, because the Legislature of the Virgin Islands had recently repealed the 2001 amendment that established the \$25,000 damages cap, and had not enacted any similar statute limiting VIPA’s liability,⁴⁷ Bramble had the right to recover damages in any amount determined by the trier-of-fact, if she prevailed on the merits. Thus, VIPA’s Motion for Partial Summary Judgment that seeks for this Court to apply the damages cap to this case undoubtedly affects Bramble’s rights and obligations existing prior to the change in law. Therefore, VIPA’s Motion for Partial Summary Judgment raises an issue of retroactivity.

II. Under the *Landgraf* anti-retroactivity test, the \$75,000 damages cap does not apply to this matter because the Legislature did not expressly prescribe the amendment to apply retroactively, and the application of the damage cap would have an impermissible retroactive effect.

While there is a presumption that statutes are to be applied prospectively,⁴⁸ this presumption can be overcome with rebuttal evidence.⁴⁹ But “deciding when a statute operates ‘retroactively’ is not always a simple or mechanical task.”⁵⁰ In *Nickeo v. Virgin Islands Telephone*

⁴² 883 F.2d 1155, 1170 (3d Cir. 1989).

⁴³ See *Better Bldg. Maint. of the V.I., Inc.*, 60 V.I. at 755 (“[T]he Superior Court is only required to follow cases the Third Circuit decided while serving in its capacity ‘as the *de facto* court of last resort in the Virgin Islands.’”); *Halliday v. Footlocker Specialty, Inc.*, 53 V.I. 505, 511 n.7 (V.I. 2010) (“[D]ecisions rendered by the Third Circuit and the Appellate Division of the District Court [are] ‘binding upon the Superior Court.’”).

⁴⁴ *Davis*, 883 F.2d at 1170.

⁴⁵ *Id.* at 1171 (“In the instant case, Davis chose to seek the Doctor’s services at the time when her recovery for any malpractice which might have ensued was limited by the 1975 statute. Thus the rights and obligations of the parties in this case were predicated upon the 1975 statute.”).

⁴⁶ (See Compl. 1).

⁴⁷ Act No. 6732, § 25 (V.I. Reg. Sess. 2005).

⁴⁸ *Walters v. Walters*, 60 V.I. 768, 781 n.14 (V.I. 2014) (citing *Davis*, 883 F.2d at 1170) (finding that former 28 V.I.C. § 207 was the applicable law in the matter before the court because the Act was passed after the commencement of the action, was presumed to apply prospectively.)

⁴⁹ See *Bryan v. Fawkes*, S. Ct. Civil No. 2014-0066, ___ V.I. ___, 2014 V.I. Supreme LEXIS 53, at *34 (V.I. Oct. 24, 2014) (citations omitted) (“Presumptions are precisely that – presumptions, i.e. ‘procedural device[s] to force the party against whom the presumption operates to come forward with rebuttal evidence.’”).

⁵⁰ *Landgraf v. USI Film Prods.*, 511 U.S. 244, 268 (1994).

Corporation,⁵¹ the Third Circuit⁵² cited to the anti-retroactivity test articulated by the Supreme Court of the United States in *Landgraf v. USI Film Products*. In *Landgraf*, the Supreme Court established the following two-part test—

[w]hen a case implicates a [statute] enacted after the events in the suit, the court's first task is to determine whether [the Legislature] has expressly prescribed the statute's proper reach. If [the Legislature] has done so, of course, there is no need to resort to judicial default rules. When, however, the statute contains no such express command, the court must determine whether the new statute would have retroactive effect, *i.e.*, whether it would impair rights a party possessed when he acted, increase a party's liability for past conduct, or impose new duties with respect to transactions already completed. If the statute would operate retroactively, our traditional presumption teaches that it does not govern absent clear [legislative] intent favoring such a result.⁵³

- a. The Legislature did not expressly state that the \$75,000 damage cap is to be retroactively applied to cases pending at the time of its enactment.**

Here, the parties do not dispute that the Legislature of the Virgin Islands did not prescribe the proper temporal reach of the \$75,000 damages cap.⁵⁴ Section 14 of Act No. 7574 states in its entirety—

SECTION 14. Title 29 Virgin Islands Code, chapter 10, subchapter III, section 556, is amended by adding subsections (c) and (d) to read as follows:

(c) No judgment may be rendered against the Authority in excess of \$75,000 in any suit or action against the Authority with respect to any injury to or loss of property or personal injury or death that:

(1) is caused by the negligent or wrongful act or omission of an employee of the Authority while acting within the scope of the employee's employment under circumstances where the Authority, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred; or

⁵¹ 42 F.3d 804, 806 (3d Cir. 1994); Although *Bramble* cites to *Matheson v. V.I. Cmty. Bank, Corp.*, 297 F. Supp. 2d 819, 828 (D.V.I. 2003), as binding authority for this Court to apply the *Landgraf* test, *Matheson* is not binding on this Court because the decision was not rendered by the Appellate Division of the District Court of the Virgin Islands. See *Better Bldg. Maint. of the V.I., Inc.*, 60 V.I. at 755; see also *Halliday*, 53 V.I. at 505.

⁵² Although the Third Circuit conducted its retroactivity analysis in connection with the Civil Rights Act of 1991, the court's decision was issued while the Third Circuit served as the *de facto* court of last resort in the Virgin Islands. See *Better Bldg. Maint. of the V.I., Inc.*, 60 V.I. at 755; see also *Halliday*, 53 V.I. at 505.

⁵³ 511 U.S. at 280.

⁵⁴ (Pl.'s Resp. to VIPA's Mot. for Partial Summ. J. Ex. A, § 14); (Reply to Pl.'s Counterstmt. of Facts & Reply to Pl.'s Resp. to VIPA's Mot. for Summ. J. 1).

(2) occurs in connection with the use of the Authority's facilities.

(d) Paragraphs (1) and (2) of subsection (c) do not apply if the injury, loss of property or death is caused by the gross negligence of an employee of the Authority while the employee is acting within the scope of employment.

This provision does not indicate that the amendment was intended to apply retroactively to cases pending at the time of its enactment.⁵⁵ As noted above, within the same Act, the Legislature demonstrated its ability to prescribe the retroactive application of a statute by expressly stating that Section 1 of Act No. 7574 would "take[] effect retroactively on November 2, 2005."⁵⁶ Thus, it can be reasonably inferred that the Legislature intentionally omitted similar language from Section 14.

In the absence of the Legislature's express command as to the temporal reach of the \$75,000 damages cap, the Court proceeds to determine whether an application of the damages cap to this case would have a retroactive effect.

b. Applying the \$75,000 damages cap to this matter would have a retroactive effect because the damages cap would impair Bramble's right to receive damages in the amount available to her at the time she commenced her action.

Under *Landgraf*, a statute has a retroactive effect if its application "would impair rights a party possessed when he acted, increase a party's liability for past conduct, or impose new duties with respect to transactions already completed."⁵⁷

VIPA asserts that none of the factors triggering the presumption against retroactivity are present in this case.⁵⁸ As to the first factor, VIPA contends that Bramble's rights are not impaired by limiting the amount of recoverable damages to \$75,000, absent a finding of gross negligence, because Bramble has no vested right to a particular damages award.⁵⁹ VIPA cites to *Weingrad* in support of this contention.⁶⁰ VIPA also avers that the second and third factors are not triggered by the facts of the instant matter because the damages cap "clearly do[es] not increase a party's liability for past conduct; or impose new duties with respect to transactions already completed."⁶¹

In opposition, Bramble argues that the application of the \$75,000 damages cap to this case would have an improper retroactive effect.⁶² To support her contention, Bramble cites to several

⁵⁵ Act No. 7574, § 14 (V.I. Reg. Sess. 2013).

⁵⁶ Act No. 7574, § 1 (V.I. Reg. Sess. 2013).

⁵⁷ *Landgraf*, 511 U.S. at 280; see *Davis*, 883 F.2d at 1170-71.

⁵⁸ (Mem. in Supp. of VIPA's Mot. for Partial Summ. J. 8).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² (Pl.'s Resp. to VIPA's Mot. for Partial Summ. J. 11).

cases from other jurisdictions to show that “the application of statutes capping damages to cases filed before the statute was enactment [has] a retroactive effect.”⁶³

Upon considering the *Landgraf* factors, this Court finds that the application of the \$75,000 damages cap would have an impermissible retroactive effect. In *Davis*, the Third Circuit established that a party’s rights and obligations are based upon those in effect at the time that the action is commenced.⁶⁴ In *Davis*, the appellant averred that the District Court of the Virgin Islands erred by failing to apply an amended damages cap to reduce the appellee’s damages awarded in a malpractice suit.⁶⁵ The appellee’s original action arose in July 1984.⁶⁶ After notifying the Malpractice Review Committee of her intent to file suit, the appellee filed her complaint with the district court in March 1986.⁶⁷ Three months later, in June 1986, the Legislature of the Virgin Islands amended the statutory damages cap.⁶⁸ Upon affirming the district court’s application of the pre-existing 1975 damages cap, the Third Circuit explained that “the rights and obligations of the parties in [that] case were predicated upon the 1975 statute” because the appellee “chose to seek the [appellant’s] services at the time when her recovery for any malpractice which might have ensued was limited by the 1975 statute.”⁶⁹

Here, similar to *Davis*, Bramble’s right to recovery is predicated on the pre-existing statute in place at the time that she filed her complaint. When Bramble commenced her action against VIPA in 2006, there was no limitation on the amount of damages that she could recover from VIPA. In fact, in 2005, the Legislature intentionally repealed the previous damages cap, and did not impose another limitation on VIPA’s liability until seven (7) years after Bramble filed her complaint. To retroactively impose the amended \$75,000 damages cap would impair Bramble’s right to pursue her action against VIPA as it existed at the time that she filed suit.⁷⁰ In other words, Bramble would be deprived of her right to receive damages in an unlimited amount, as determined by the trier-of-fact.⁷¹ This impairment causes a retroactive effect that conflicts with the presumption that statutes are to be applied prospectively.⁷² Therefore, because application of the \$75,000 damages cap would have a retroactive effect, the damages cap is not applicable here.

CONCLUSION

The Court concludes that the \$75,000 damages cap does not apply to the instant matter because Bramble commenced her action against VIPA prior to the enactment of the amendment to 29 V.I.C. § 556, the Legislature of the Virgin Islands did not expressly proscribe that the damages

⁶³ See *id.*

⁶⁴ *Davis*, 883 F.2d at 1170.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.* at 1171.

⁷⁰ See *id.*; see also *Prince George's County v. Longtin*, 19 A.3d 859, 881 (Md. 2011) (“Application of a damages cap deprives a person of compensation, . . . [M]ost courts that have considered the issue disallowed retroactive application of a statutory damages cap.”) (collecting cases).

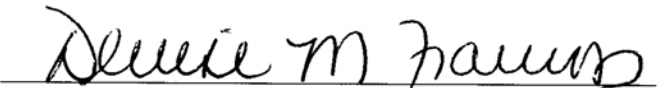
⁷¹ See *Davis*, 883 F.2d at 1171.

⁷² This Court recognizes that presumptions may be overcome with rebuttal evidence; but VIPA has failed to sufficiently overcome the presumption that statutes are to be applied prospectively.

cap would apply retroactively, and the application of the \$75,000 damages cap would have an impermissible retroactive effect on Bramble's right to pursue her action as it existed at the time she filed suit. Consequently, VIPA's Motion for Partial Summary Judgment will be denied as a matter of law.

An Order consistent with the Opinion will follow.

Dated: April 10, 2015



DENISE M. FRANCOIS

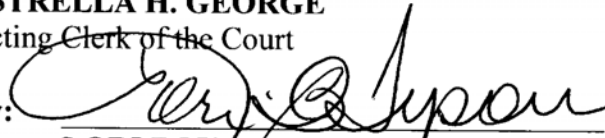
Judge of the Superior Court
of the Virgin Islands

ATTEST:

ESTRELLA H. GEORGE

Acting Clerk of the Court

By:


LORI BOYNES-TYSON
Court Clerk Supervisor 4/10/15

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

LEEANN B. BRAMBLE,

Plaintiff,

v.

VIRGIN ISLANDS PORT AUTHORITY,

Defendant.

CASE NO.: ST-06-CV-678

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

ORDER

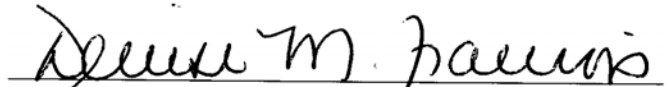
AND NOW, is it hereby

ORDERED that Defendant's Motion for Partial Summary Judgment is **DENIED**; and it is further

ORDERED, ADJUDGED, and DECREED that the \$75,000 damages cap set forth in 29 V.I.C. § 556(c)-(d) does not retroactively apply to the above-captioned matter; and it is further

ORDERED that a copy of this Order shall be directed to Francis E. Jackson, Jr., Esquire; Ryan W. Greene, Esquire; and Douglas L. Capdeville, Esquire.

Dated: April 10, 2015



DENISE M. FRANCOIS

Judge of the Superior Court
of the Virgin Islands

ATTEST:

ESTRELLA H. GEORGE

Acting Clerk of the Court

By:



LORI BOYNES-TYSON

Court Clerk Supervisor

4/10/15