

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

IDONA WALLACE

v.

KMART CORPORATION

1:02-cv-107

**ERROL STANLEY, NIGEL CHARLES,
MELVIN NEAL, JOSEPH SONNY,
WRANDA DAVIS**

v.

**ST. CROIX BASIC SERVICES, INC., BASIC
INDUSTRIES, INC., HOVENSA, L.L.C., and
AMERADA HESS CORPORATION**

1:03-cv-55

FORREST THOMAS

v.

**CENTENNIAL COMMUNICATIONS
CORP., CENTENNIAL CARIBBEAN
HOLDING CORP., and CENTENNIAL
USVI OPERATIONS CORP.**

1:03-cv-163

MARK VITALIS,

v.

**SUN CONSTRUCTORS, INC., RICHARD
"DOC" LANGNER, and EXCEL GROUP,
INC.**

1:05-cv-101

Wallace v. Kmart Corp.

1:02-cv-107

Order Denying Plaintiffs' Motion to Vacate

Page 2

PATRICE CANTON

1:05-cv-143

v.

KMART CORPORATION

GLENFORD RAGGUETTE

1:06-cv-173

v.

PREMIER WINES AND SPIRITS, LTD.

TERRANCE ALEXIS

1:07-cv-91

v.

**HOVENSA, L.L.C., and HESS f/k/a
Amerada Hess Corporation**

HELEN JAMES-STEELE

1:04-CV-123

v.

FORD MOTOR COMPANY

TO: See attached distribution list

**ORDER DENYING PLAINTIFFS' MOTION TO VACATE AUGUST 17, 2010[,]
DISCOVERY ORDERS IN COMPLIANCE WITH AUGUST 13, 2010[,] **ORDER OF**
THE THIRD CIRCUIT COURT OF APPEALS**

Wallace v. Kmart Corp.

1:02-cv-107

Order Denying Plaintiffs' Motion to Vacate

Page 3

THIS MATTER came before the Court upon Plaintiffs' Motion to Vacate August 17, 2010[,] Discovery Orders in Compliance with August 13, 2010[,] Order of the Third Circuit Court of Appeals (1:02-cv-107, Docket No. 294). Defendant Kmart Corporation filed an opposition to said motion, and Plaintiffs filed a reply thereto.

Being advised in the premises and upon due consideration thereof, the Court finds that Plaintiffs' motion is without merit and, consequently, will deny the motion.

With regard to the order (1:02-cv-107, Docket No. 285 (identified by Plaintiffs in their motion as Case No. 2003/163, Doc. No. 260)) ruling upon Plaintiffs' Motion For Protective Order and to Sequester Witnesses, the Court finds that the order does not violate the order of the Third Circuit dated August 13, 2010, and entered in these matters on August 17, 2010. It is clear from the order that Judge Savage signed and dated that order on August 12, 2010; hence, before the Third Circuit's decision. It would appear that, as the chambers' staff who normally docket Judge Savage's orders were attending a court-related forum on that date and were unavailable to docket the order immediately, docketing of the order was delayed until such time that a Deputy Clerk was informed of its readiness and available to perform the task. Thus, the Court finds that the order was issued prior to the entry of the Third Circuit order and is not in violation thereof.

Wallace v. Kmart Corp.

1:02-cv-107

Order Denying Plaintiffs' Motion to Vacate

Page 4

The other order with which Plaintiffs take issue also does not violate the Third Circuit's August 13, 2010, order. That order (1:02-cv-107, Docket No. 286) addresses Plaintiffs' failure to comply with a previous order of the Court. Nothing in the order of the Third Circuit stays, vacates, alters, amends, or modifies any orders, decisions, or rulings made by Judge Savage prior to the date of its order directing him to refer all discovery matters relating to the issue of disqualification to a U.S. Magistrate Judge. Moreover, nothing in the Third Circuit order restricts Judge Savage from enforcing or requiring compliance with any of his previous orders, decisions, or rulings. Therefore, the order stands.

Accordingly, it is hereby **ORDERED** that Plaintiffs' Motion to Vacate August 17, 2010[,] Discovery Orders in Compliance with August 13, 2010[,] Order of the Third Circuit Court of Appeals (1:02-cv-107, Docket No. 294) is **DENIED**.

ENTER:

Dated: August 26, 2010

/s/ George W. Cannon, Jr.
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE

Wallace v. Kmart Corp.

1:02-cv-107

Order Denying Plaintiffs' Motion to Vacate

Page 5

ECF: Lee J. Rohn, Esq.
Eugenio W.A. Geigel-Simounet, Esq.
George H. Logan, Esq.
Linda J. Blair, Esq.
Simone R.D. Francis, Esq.
David J. Cattie, Esq.
Anna H. Paiewonsky, Esq.
Stephanie L. Adler, Esq.
Daryl C. Barnes, Esq.