

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

DIVINE DESTINATIONS, LLC,	)	
	)	SMALL CLAIMS NO. ST-13-SM-207
Plaintiff,	)	
	)	ACTION FOR DEBT
vs.	)	
	)	
BRUCE W. SHORTZ and MARIE	)	
ANICK O'MEARA,	)	
	)	
Defendants.	)	
_____	)	

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court on the Defendants' undated Motion for Continuance.¹ In the Motion, the Defendants request a continuance in this matter, which is currently set for trial on Wednesday, April 17, 2013, because (1) the service of process was improper, (2) even if the service of process was proper, they have not been given sufficient time to answer the Complaint, and (3) even if the Defendants have had enough time to answer, the Defendants are off-island and unable to appear until the end of May 2013, when they are scheduled to return to the island. The motion will be granted.

Service of process issues in the Virgin Islands are governed by Rule 4 of the Federal Rules of Civil Procedure, which states that service is effective if the manner in which the process is served follows the law of the state or territory where the action is brought.² In the Virgin Islands, service is effective when the summons and complaint are deposited at the post office and the Defendant submits a "written admission" that he or she received the summons and complaint.³ In this matter, the Defendants' present motion is a "written submission" stating that both parties received the summons and complaint. Therefore, service is effective on the Defendants.

Issues related to the time and date set for trial in the Small Claims Court of the Virgin Islands are governed by Superior Court Rule 63, which states that "[t]he return-day, which shall

¹ This Motion has been received by the Court, but has not been filed.

² Fed. R. Civ. P. 4(e)(1).

³ V.I. Code Ann. tit. 5 § 114(a) (1921).

be stated in the summons, shall not be less than 5, nor more than 15 days from the date of filing the action...."⁴ The Rule further states that "[t]he trial shall be held on the return-day, unless for good cause shown...."⁵ In this matter, the return-day is twelve (12) days from the date of filing the action, which clearly fits within the parameters in Superior Court Rule 63.

Lastly, as previously stated, a trial date in Small Claims Court may be continued for good cause shown.⁶ Here, the Defendants state that they are in New Mexico and unable to appear on the date of trial. They are set to return at the end of May. The Court finds that the Defendants' long absence from the territory, as well as their scheduled return, constitute good cause under the Rule. Therefore, it is hereby

ORDERED that this matter is **RESCHEDULED** for Tuesday, June 4, 2013 at 10:00 a.m. in courtroom No. 3 of the Superior Court, Magistrate Division, Barbel Plaza South, St. Thomas, Virgin Islands; and it is further

ORDERED that copies of this Memorandum Opinion and Order shall be directed to the parties herein.

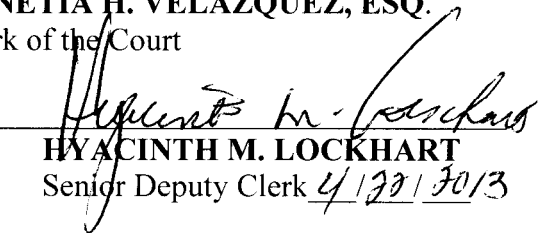
Dated: April 16, 2013



ALAN D. SMITH
Magistrate of the Superior Court
of the Virgin Islands

ATTEST:

VENETIA H. VELAZQUEZ, ESQ.
Clerk of the Court

By: 

HYACINTH M. LOCKHART

Senior Deputy Clerk 4/20/2013

⁴ Super Ct. R. 63(a).

⁵ Super Ct. R. 63(b).

⁶ *Id.*