

The Virgin Islands Consortium

Third Circuit Court Will No Longer Hear Cases Already Heard By VI Supreme Court

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The Third Circuit Court of Appeals today issued an en banc opinion reversing a prior decision that it could continue to hear appeals of decisions made by the Virgin Islands Supreme Court, the law firm Lee J. Rohn and Associates, which argued the case that led to the decision, made known via a Wednesday morning release.

The Third Circuit in December 2017 granted what the release described as an extraordinary request by respondents Victoria Vooys and Joseph Gerace, represented by the Law Offices of Rohn and Associates, for an en banc hearing. An en banc is one heard by all active judges of the Third Circuit Court. The Vooys/Gerace hearing took place on February 21 in Philadelphia, Pennsylvania, where the respondents position that

the Third Circuit could no longer hear appeals from decisions of the Virgin Islands Supreme Court, was argued by Rhea R. Lawrence Esq. of Rohn and Associates. The Virgin Islands Bar Association also participated as an Amicus Curiae (an impartial adviser, often voluntary, to a court of law in a particular case).

According to the release, in a near unanimous decision, the Third Circuit agreed with the positions argued by the law firm that the Third Circuit, as of December 28, 2012, was divested of its authority to review Virgin Islands Supreme Court decisions.

"This opinion represents a huge victory for the People of the Virgin Islands," said Rohn & Associates. "The Third Circuit acknowledged its error in attempting to retain jurisdiction, and reaffirmed that H.R.6116, passed by Congress and signed by President Barack H. Obama, was meant to immediately place the Virgin Islands Supreme Court on the same level as other state and territory supreme courts -- with direct review by the Supreme Court of the United States only."

According to the release, the case also relates "to the right of poor people to be able to continue to have their day in court in the face of more wealthy defendants."

Rohn & Associates said the lower court, on a motion filed Mr. Mosler, a candidate for governor in the upcoming general election, and others, had argued that the plaintiffs' failure to post a bond because of lack of money meant that the plaintiffs, who Rohn & Associates said were poor, had to have their case dismissed. The Superior Court had agreed and dismissed the plaintiffs' case. However, the Supreme Court of the Virgin Islands overturned that decision and ruled that the statute that allowed for dismissal was unconstitutional, according to the release.

Mr. Mosler, however, in an interview with The Consortium Wednesday morning, challenged Rohn & Associates' stance that the plaintiffs were poor. He said the plaintiffs were renting "Eat at Cane Bay Restaurant", which Mr. Mosler owns, on a month-to-month basis; there was no lease agreement, he said. The plaintiffs didn't pay their rent for up to six months, at which point Mr. Mosler said he visited them to discuss next steps. "You're not paying your rent, you must be leaving or something. What's your exit strategy? What are you going to do?" Mr. Mosler said he asked the tenants.

Mr. Mosler said the tenants then asked him if they were being kicked out, to which he responded that if they were going to stay, they had to come current with what was owed.

"They got really upset and went to seek Lee Rohn," he said. "The next thing I knew they paid the rent, so they were up to date. Then the next thing I knew they were going along for a while and then they sold the restaurant to somebody for \$35,000, and they took the money and they left. And then I got a lawsuit from Lee Rohn for wrongful eviction."

Mr. Mosler said he fought the case, stating that one can't be wrongfully evicted if there wasn't an eviction to begin with. He said the former tenants had left the territory and returned after some time, and opened a new restaurant in Chritiansted, where Mr. Mosler said they made good money.

According to court documents, in 2003, Plaintiffs Joseph Gerace and Victoria Vooyoys purchased Cane Bay Beach Bar. In 2005, they sued defends Mosler, Chris Hanley, Chrismos Cane Bay LLC, and others in the Superior Court of the Virgin Islands for

breach of contract and other claims related to the sale of that business. The plaintiffs resided in the territory from the time they filed their suit until the fall of 2012, when they moved to the U.S., mainland. Their suit was still pending when they relocated. Upon learning that plaintiffs were no longer Virgin Islands residents, the defendants petitioned the Superior Court for an order requiring plaintiffs to post a security bond for potential costs pursuant to title 5, section 547 of the Virgin Islands Code. That provision allows defendants to demand that nonresident plaintiffs post a bond to cover potential costs of litigation and allows a court to stay litigation until the bond is paid.

According to the release, following the V.I. Supreme Court's ruling in the plaintiffs' favor, Mr. Mosler along with defendants Chris Hanley and Chrismos Cane Bay, LLC, then attempted to overturn the ruling through the Third Circuit Court of Appeals. The Law Office of Lee J. Rohn and Associates, through its associate of nine years, Rhea R. Lawrence, argued that the territory's Supreme Court should be treated as every other state and territorial supreme court in the United States, and that only the United States Supreme Court should reverse a decision of the Virgin Islands Supreme Court -- in keeping with the law passed by Congress in 2012.

The Third Circuit Court of Appeals acknowledged how professional and capable the Virgin Islands Supreme Court is and that it was more than qualified to make judicial decisions without the Third circuit looking over its shoulders, according to the release.

Feature Image: VI Supreme Court Justices.