

**In the
United States Court Of Appeals
For the
Third Circuit**

Case No. 12-8114

St. Croix Renaissance Group, LLLP

Petitioners,

Eleanor Abraham, *et. al.*

Respondents.

Petition from the District Court of the Virgin Islands
Division of St. Croix, Civil No. 12-CV-0011
District Judge: Hon. Harvey J. Bartle III

**RESPONDENTS' RESPONSE IN OPPOSITION TO MOTION TO STRIKE
OR IN THE ALTERNATIVE FOR LEAVE TO FILE A CROSS-ANSWER
IN OPPOSITION REGARDING RESPONDENTS *DE FACTO* CROSS
PETITION FOR REVIEW OF A CAFA REMAND ORDER PURSUANT TO
28 U.S.C § 1453(c)(1)**

LAW OFFICES OF LEE J. ROHN AND ASSOCIATES

Lee J. Rohn

1101 King Street

Christiansted, St. Croix

U. S. Virgin Islands 00820-4933

(340) 778-8855 Telephone

(340) 773-2954 Facsimile

Attorneys for Respondents

Petitioner has moved to strike Sections I, II and VI of Respondents' Opposition to Petition for *De Novo* Review (Doc. No. 003111116226) or in the alternative for permission to respond to those sections of Respondents' Opposition which Petitioner argues is a *de facto* cross-petition by Respondents. Petitioner contends that Sections I, II and VI of Respondents' Opposition are cross-petitions.

Respondents respectfully maintain that this Court lacks jurisdiction to review the remand order by permission or otherwise. Respondents will concede that **if** this Court determines that it has jurisdiction to entertain the Petition, Section VI of Respondents' Opposition is a cross-petition to which Petitioner is allowed to respond. However, Petitioner's contentions with regard to Sections I and II are baseless. First, Section I of Respondents' Opposition concerns solely the issue of whether this court may review the remand order. This is a **jurisdictional question**. It is fundamental, that jurisdiction to entertain an appeal is the first question a Court must resolve. Petitioner specifically raised the issue of jurisdiction in its Petition. (*See* Doc. No. 003111108126, pg. 1 "Statement of Jurisdiction".) Respondents disagree with Petitioner's jurisdictional statement and have dedicated Section I of their brief to that issue.

Second, Section II of Respondents' Opposition directly addresses the first issue of CAFA raised by Petitioner in its Petition. (*See* Doc. No. 003111108126,

pg. 6 “The Questions Presented”.) Petitioner’s first issue deals with CAFA and “mass actions”. Respondents Section II is directly responsive to that issue. Respondents respectfully request, if this Court agrees with Respondents, that the Court disregard Section II of Petitioner’s Motion to Strike as extra briefing not permitted.

CONCLUSION

Respondents respectfully maintain that this Court lacks jurisdiction to review the remand order by permission or otherwise as these orders are non reviewable. There is only one exception---remand orders concerning “class actions”. This matter does not meet the statutory definition of “class action”. It was not filed as a class action pursuant to any rule of civil procedure or state statute.

If this Court determines that it has jurisdiction, then it is Respondents position that only Section VI of its Opposition to Petition for *De Novo* Review contains arguments that are a cross-petition and to which Petitioner is allowed to answer.

RESPECTFULLY SUBMITTED,
LEE J. ROHN AND ASSOCIATES LLC
Attorneys for Plaintiff

DATED: January 10, 2013

BY: /s/ Lee J. Rohn
Lee J. Rohn, Esq.
VI Bar No. 52
1101 King Street
Christiansted, St. Croix, U.S.V.I. 00820
Telephone: (340) 778-8855
Fax: (340) 773-2954

CERTIFICATE OF SERVICE

I, **HEREBY CERTIFY** that on this 10th day of January, 2013, , I electronically filed the foregoing with the Clerk of the court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Carl J. Hartmann III, Esquire
Law Office of Carl J. Hartmann III
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Attorney For: SCRG

Joel Holt, Esquire
Law Offices of Joel Holt
Quinn House
2132 Company Street, Suite 2
Christiansted, VI 00820
Attorney For: SCRG

BY: /s/ Lee J. Rohn
Lee J. Rohn, Esq.
Attorney for Appellant
VI Bar No. 52
1101 King Street
Christiansted, St. Croix, U.S.V.I. 00820
Telephone: (340) 778-8855
Fax: (340) 773-2954