

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

ELEANOR ABRAHAM et al.,

Plaintiff(s),

v.

ST. CROIX RENAISSANCE GROUP, LLLP,

Defendant(s).

CIVIL NO. 12-CV-0011

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

**PLAINTIFFS' MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION FOR
A MORE DEFINITE STATEMENT PURSUANT TO RULE 12 (E)**

Plaintiffs, by and through their undersigned Counsel, respectfully submit this memorandum in Opposition to Defendant St. Croix Renaissance Group, LLLP's ("SCRG") Motion for More Definite Statement.

INTRODUCTION

Defendant's Motion for a More Definite Statement discusses the pleading requirements of *Iqbal* and *Twombly* and asserts wrongly that Plaintiffs fail to plead their claims adequately under the Supreme Court's precedent. First, Defendant mistakenly believes that Plaintiffs are required, under *Iqbal* and *Twombly*, to expressly set out detailed allegations supporting each element of each claim against each defendant. The bar is simply not that high under *Iqbal*, *Twombly*, or recent Third Circuit opinions interpreting those decisions. Second, Defendant mischaracterizes this case as a multi-party action involving claims that overlap in part but are not conceivably identical to one

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another. Def's Motion at pp. 9, 12. Instead, it is a mass tort case¹ involving the negligent conduct of SCRG from the time it took ownership of the alumina refinery in 2002, and in which all the Plaintiffs were injured in substantially the same way and at substantially the same time—they were exposed to toxic dusts blown from the refinery onto their persons and properties during and after SCRG took control of the property. Previous cases *Henry* and *Abednego* address the liability of the alumina refinery's previous owners and/or operators, thus the claims herein all deal with liability against SCRG for intentional and negligent acts done from 2002 to the present and future when SCRG was the owner and/or operator of the refinery. Plaintiff filed an Amended Complaint on August 1, 2012, and re-filed a corrected Amended Complaint on August 7, 2012 (Doc. # 22) to clarify the time period involved in this case as 2002 to present, and to clarify that the exposure was coming from the same place, the old alumina refinery, and to clarify that the emissions were multiple and continuous and affected Plaintiffs in the same manner because the same toxic materials in the dangerous dispersion of pollutants blew onto them and their property whenever strong winds blew or machinery disturbed the piles of red mud. *See* First Amended Complaint, attached as **Exhibit 1**². Plaintiffs seek damages for their personal and property injuries and also seek to enjoin Defendant from subjecting Plaintiffs to future harm from similar exposures.

The distinction between, on the one hand, a multi-party case involving distinct occurrences and, on the other hand, a mass tort arising from one occurrence and/or related occurrences is an

¹ A mass tort case should not be confused with a "mass action," defined by 28 U.S.C. §1332 (d) (11), under the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. §1332 (d) and 28 USCS § 1453. Defendant is concurrently moving to remove this case from the Superior Court of the Virgin Islands, alleging that it is "mass action" subject to removal under CAFA. But a "mass action" is a creature of statute with an expressly defined meaning, whereas a "mass tort" is a term that encompasses much more than the limited statutory definition of a "mass action."

² Plaintiffs withdrew the First Amended Complaint on August 7, 2012 (Doc. 21) in order to correct typographical errors and subsequently refiled it on August 7, 2012 (Doc. 22).

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important one because, as the Third Circuit has explained, context plays a key role in the analysis of motions to dismiss under *Twombly*:

[T]he *Twombly* decision focuses our attention on the "context" of the required short, plain statement. Context matters in notice pleading. Fair notice under *Rule 8(a)(2)* depends on the type of case -- some complaints will require at least some factual allegations to make out a "showing that the pleader is entitled to relief, in order to give the defendant fair notice of what the . . . claim is and the grounds upon which it rests."

Phillips v. County of Allegheny, 515 F.3d 224, 233 (3d Cir.

2008) (citations omitted).

Viewed in the proper context, Plaintiffs' First Amended Complaint includes sufficient factual allegations "to raise a right to relief above the speculative level," which is all that the law of this jurisdiction requires, *see Phillips*, 515 F.3d at 234-35, and the motion for a more definite statement should be denied.

Furthermore, Defendant improperly argues that this Court should apply Louisiana law on medical monitoring claims as addressed in *Royal v. Exxon Mobil Corp.*, Civ. No. 12-00081, Sec. F, 2012 U.S. Dist. LEXIS 13800 (E.D. La. Feb. 6, 2012). In *Royal*, the Court found that the plaintiff failed to state a medical monitoring claim because he failed to allege a "manifest physical injury or mental injury or disease," as required by Louisiana statute, Article 2315(B). *Id.* at **3-4. First and foremost, Louisiana statutes do not apply in this jurisdiction, thus any reference to *Royal* and its interpretation of Louisiana statute Article 2315(B) should be disregarded. Second, the District Court in *Josephat v. St. Croix Alumina, LLC*, 2000 U.S. Dist. LEXIS 13102 (D.V.I. Aug. 7, 2000) addressed the requirements for medical monitoring claims in this jurisdiction specifically under *In re Paoli Railroad Yard PCB Litigation.*, 916 F.2d 829 (3d Cir. 1990) (Paoli I), which sets forth four factors a plaintiff must prove in order to recover for a medical monitoring claim, none of which is

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the allegation of a “manifest physical injury or mental injury or disease,” as in Louisiana. It is clear that Defendant has attempted to mislead the Court by citing to case law outside this jurisdiction that not only does *not* apply here, but is inapposite to the applicable law.

Similarly, Defendant has not shown how severance is warranted³ given the fact that the exposure of each individual Plaintiff occurred out of the same series of transactions, and the issues to be tried are significantly the same requiring the same expert and corporate defendant witnesses. *See* Judge Maria Cabret’s decision in *Alexander v HOVIC*, Civ. No. 323/1997, attached as **Exhibit 2**; *see also German v. Federal Home Loan Mortgage Corp.*, 896 F. Supp. 1385, 1400 (S.D.N.Y. 1995)(cited by Defendant SCRG in its Motion for Severance for factors to consider for severance to be granted). Clearly, the factors weigh in favor of non-severance.

Lastly, Plaintiffs object to Defendant’s motions to sever and for more definite statement as premature and respectfully request that this Court delay consideration of these motions until it decides the jurisdiction of this lawsuit.⁴ In *Steel Co. v. Citizens for a Better Environment*, 118 S. Ct. 1003, 1012, (1998), the Supreme Court stated that “the requirement that jurisdiction be established as a threshold matter. . . is ‘inflexible and without exception.’” *Id.*, quoting *Mansfield, C. & L.M.R. Co. v. Swan*, 111 U.S. 379, 382 (1884). Thus, the Court should determine its jurisdiction to hear this matter before deciding whether to sever any claims or order more definite statement. *See Moseley v. City of Pittsburg Public School District*, No. 07-1560, 2008 U.S. Dist. LEXIS 42189, at * 6 (W.D. Pa. May 27, 2008) (agreeing that a motion to remand must be decided before a motion to dismiss on the merits); *see also Blake v. Macy’s Inc.*, No. 08-1040, 2008 U.S. Dist. LEXIS 45776, at *4-5 (E.D.

³ Defendant has filed concurrently a Motion for Severance of the over 450 Plaintiffs pursuant to Rule 21, which Plaintiffs have opposed and which is currently pending.

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Pa. June 12, 2008) (stating that any decision on the merits is futile if the court lacks jurisdiction to hear the case and resolving a motion for remand before addressing the motion to dismiss).

In the related case of *Abednego v. St. Croix Alumina, et. al.*, SX-09-CV-571, the District Court determined that it did not have federal jurisdiction over the case and remanded it back to Superior Court, after prematurely dismissing 198 Plaintiffs from the lawsuit. Those 198 Plaintiffs are now seeking relief under Rule 60(b)(4) to vacate that premature judgment and be reinstated in the *Abednego* case. Therefore, Plaintiffs respectfully request that this Court decide the removal issue before determining Defendant's motions for severance and for more definite statement.

RELEVANT FACTS

The St. Croix Alumina Refinery is located just south of several residential neighborhoods. **Exhibit 1**, Pl's First Am. Compl., ¶ 462. The refinery used red-colored ore called bauxite as a raw material and produced a red substance generally called "red mud" as a byproduct in the alumina refining process. *Id.* For many years, previous owners and operators of the refinery failed to correctly store or contain the bauxite or the red mud. **Exhibit 1**, Pl's First Am. Compl. ¶¶ 463, 471. Instead, the red mud, which contains numerous toxic substances and known irritants, were placed in large uncovered piles. *Id.* at ¶ 471. Additionally, the refinery contained unabated asbestos in various conditions that was never removed, in violation of the law. *Id.* at ¶¶ 476-480. The previous owners/operators retain some liability for environmental conditions existing at the time of the sale to Defendant SCRG in 2002, and claims against those defendants are the subject of other lawsuits *Henry* and *Abednego*.

In 2002, SCRG obtained the refinery. Since doing so, SCRG has continued to inadequately

4 On April 12, 2012, Plaintiffs filed a Motion to Remand this case to the V.I. Superior Court on the grounds that the

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store and/or secure the bauxite, red mud, and asbestos and permitted the emissions of the dangerous particulates onto Plaintiffs' property and persons. **Exhibit 1**, ¶¶ 472-474. By at least 2006, SCRG had learned that the asbestos in the refinery was friable and dangerous. *Id.* at ¶ 476. Although the asbestos had been unsecured for approximately ten years, Plaintiffs never knew about this dangerous condition. Upon learning of the situation itself, SCRG concealed and made false reports about the dangers posed by the asbestos. **Exhibit 1**, ¶¶ 477-481.

Because SCRG has never properly secured the bauxite, red mud, asbestos, and other particulates, Plaintiffs continued to be exposed to these substances even at this late date. *Id.* at ¶¶ 472, 483-484. Plaintiffs' exposure to the bauxite, red mud, asbestos, and other particulates have caused them personal injuries, property damages, loss of earning capacity, mental anguish, pain and suffering, loss of enjoyment of life, and reasonable fears of contracting future illnesses. *Id.* at ¶ 483-484. In this case, Plaintiffs seek compensatory damages, punitive damages, and injunctive relief to compensate them for their injuries and damages and protect Plaintiffs from continuing harm from the fugitive dusts being emitted from the refinery.

LEGAL ARGUMENT

I. DEFENDANT'S RULE 12 MOTION FOR MORE DEFINITE STATEMENT MUST BE DENIED BECAUSE PLAINTIFFS HAVE PROPERLY PLED THEIR CLAIMS UNDER THE APPLICABLE LAW

In urging a more definite statement of Plaintiffs' claims, Defendant has wrongly read the U.S. Supreme Court's holdings in *Twombly* and *Iqbal* to require each and every Plaintiff to expressly allege detailed facts regarding every element of their claims against each Defendant independently. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007); *Ashcroft v.*

District Court lacks subject matter jurisdiction over their claims. That Motion is currently pending.

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Iqbal, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009). Defendant's perspective is contrary to the Third Circuit's recent pronouncement that,

[w]hile *Rule 12(b)(6)* does not permit dismissal of a well-pleaded complaint simply because "it strikes a savvy judge that actual proof of those facts is improbable," the "[f]actual allegations must be enough to raise a right to relief above the speculative level."

The Supreme Court's *Twombly* formulation of the pleading standard can be summed up thus: "stating . . . a claim requires a complaint with enough factual matter (taken as true) to suggest" the required element. This "does not impose a probability requirement at the pleading stage," but instead "simply calls for enough facts to raise a reasonable expectation that discovery will reveal evidence of" the necessary element.

Phillips, 515 F.3d at 234-35 (citations omitted).

A. Twombly's Plausibility Standard Does Not Require Detailed Factual Allegations.

The respondents in *Twombly* were local telephone and Internet users who filed suit against local exchange carriers for violation of § 1 of the Sherman Antitrust Act. The complaint alleged that the defendants conspired to restrain trade by engaging in parallel conduct in their respective service areas and by refraining from competing against one another in nearby markets despite attractive business opportunities. *See* 550 U.S. at 551-52. The district court dismissed the complaint, concluding that allegations of parallel conduct, taken alone, did not state a claim under § 1 of the Sherman Act. *See Twombly v. Bell Atl. Corp.*, 313 F. Supp. 2d 174, 179 (S.D.N.Y. 2003). The Second Circuit Court of Appeals reversed.

On review, the Second Circuit held that the plaintiffs had established sufficient allegations to survive Bell Atlantic's motion to dismiss as the plaintiffs

must plead facts that include conspiracy among the realm of 'plausible' possibilities in order to survive a motion to dismiss...[and] to rule that allegations of parallel anticompetitive conduct fail to support a plausible conspiracy claim, a court would have to conclude that there is no set of facts that would permit a plaintiff to

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demonstrate that the particular parallelism asserted was the product of collusion rather than coincidence.

Twombly v. Bell Atl. Corp., 425 F.3d 99, 114 (2d Cir. 2005).

The U.S. Supreme Court began its opinion by recognizing that Rule 8(a) of the Federal Rules of Civil Procedure requires only a “short and plain statement of the claim showing that the pleader is entitled to relief” giving the defendant “fair notice of what the...claim is and the grounds upon which it rests.” *Twombly, supra*, 550 U.S. at 555 (citing *Conley v. Gibson*, 355 U.S. 41; 78 S. Ct. 99; 2 L. Ed. 2d 80 (1957)). A court must ask whether the complaint “contain[s] either direct or inferential allegations respecting all the material elements necessary to sustain recovery under some viable legal theory.” *Twombly*, 550 U.S. at 562 (quoting *Car Carriers, Inc. v. Ford Motor Co.*, 745 F.2d 1101, 1106 (7th Cir. 1984)); *see also id.* at 555 (the plaintiff “does not need detailed factual allegation[s].”). The High Court further found that “[w]hile a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitlement to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Id.* Specifically, the Court concluded that a complaint alleging conspiracy under § 1 of the Sherman Antitrust Act will only survive a motion to dismiss if it includes “enough factual matter (taken as true) to suggest that an agreement was made.” 550 U.S. at 556. “The need at the pleading stage for allegations plausibly suggesting (not merely consistent with) agreement reflects the threshold requirement of Rule 8(a)(2) that the ‘plain statement’ possesses enough heft to sho[w] that the pleader is entitled to relief.” *Id.* at 557. “[O]nce a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint.” *Id.* at 563 (citing *Sanjuan v American Bd. Of Psychiatry and*

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Neurology, Inc., 40 F.3d 247, 251 (7th Cir. 1994) (“[At the pleading stage] the plaintiff receives the benefit of imagination, so long as the hypotheses are consistent with the complaint.”)).

Subsequent to issuing its opinion in *Twombly*, the Supreme Court reiterated that Rule 8 requires only a short and plain statement of the claim showing that the pleader is entitled to relief. *Erickson v. Pardus*, 551 U.S. 89, 93; 127 S. Ct. 2197; 167 L. Ed. 2d 1081 (2007). “Specific facts are not necessary; the statement need only give the defendant fair notice of what the claim is and the grounds upon which it rests.” *Id.*

B. *Iqbal* Reiterated that Neither *Twombly* nor the Federal Rules of Civil Procedure Require Detailed Factual Allegations.

Nearly two years from the date of its ruling in *Twombly*, the Supreme Court clarified its holding in its opinion in *Ashcroft v. Iqbal, supra*. In *Iqbal*, the petitioner, a Pakistani citizen, filed suit against several public officials after his release from prison alleging deprivation of various constitutional protections. The issue before the Supreme Court was whether *Iqbal* pleaded matters that, if taken as true, stated a claim that the respondents deprived him of his clearly established constitutional rights. The petitioner argued that the *Twombly* “plausibility requirement” applied only to antitrust actions. The Supreme Court found otherwise, holding that “[t]his argument is not supported by *Twombly* and is incompatible with the Federal Rules of Civil Procedure.” *Iqbal*, 129 S.Ct. at 1949. Rule 8, the Court noted, “governs the pleading standard for ‘all civil actions.’” *Id.*

The *Iqbal* Court reiterated its ruling in *Twombly*, stating that while “[d]etailed factual allegations are not required,” Rule 8 does require “sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Id.* (citing *Twombly*, 550 U.S. at 570). The Supreme Court further explained that “[a] claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the

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misconduct alleged.” *Id.* Here, the Court noted that “[t]he plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Id.*

The *Iqbal* Court held that two principles underlie its previous decision in *Twombly*: “First, the tenet a court must accept as true all allegations contained in a complaint is inapplicable to *legal conclusions.*” *Id.* Second, “[o]nly a complaint that states a plausible claim for relief survives a motion to dismiss.” *Id.* Accordingly, the Court held that under *Twombly*, *Iqbal*’s complaint had not “nudged [his] claims” of invidious discrimination “across the line from conceivable to plausible” because (1) certain of the allegations contained in the complaint were conclusory and not entitled to be assumed true, and (2) the remaining factual allegations suggest a lawful and nondiscriminatory intent to detain illegal aliens who had potential connections to terrorist acts. *Id.* 129 S.Ct at 1952.

C. The Third Circuit Does Not Impose a “Probability Requirement” to Overcome Dismissal.

Even after *Iqbal*, in the Third Circuit, a court deciding a motion to dismiss must still “accept all factual allegations as true, construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief.” *Paschal v. Billy Beru, Inc.*, No. 09-2764, 2010 U.S. App. LEXIS 7239 (3d Cir. 2010), *citing Phillips*, 515 F.3d at 233; *see also Charleswell, et al. v. Chase Manhattan Bank, et al.*, No. 01-119, 2009 U.S. Dist. LEXIS 54519 *1, *18 (D.V.I. June 22, 2009); *see also Umland v. Planco Fin. Servs.*, 542 F.3d 59, 64 (3d Cir. 2008).

Also left intact in the Third Circuit, after *Twombly* and *Iqbal*, is the notion that courts will read complaints to determine if “under any reasonable reading...the plaintiff may be entitled to relief.” *Valentine v. Bank of America*, 2010 U.S. Dist LEXIS 8546 at *6 (D.N.J. 2010), *citing Pinker*

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v. *Roche Holdings, Ltd.* 292 F.3d 361, 374 n. 7 (3d Cir. 2002). Moreover, the Third Circuit has explained that the Supreme Court’s new plausibility requirement “‘does not impose a probability requirement at the pleading stage,’ but instead ‘simply calls for enough facts to raise a reasonable expectation that discovery will reveal evidence of’ the necessary element.” *Wilkerson v. New Media Tech. Charter Sch., Inc.*, 522 F.3d 315, 322 (3d Cir. 2008); see also *Bearden v. Honeywell Int’l, Inc.*, No. 3:09-01035, 2010 U.S. Dist. LEXIS 28331, *6-7 (M.D. Tenn. Mar. 24, 2010) (“The court must assume that all of the factual allegations are true, even if they are doubtful in fact. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007).”)

D. The Law Does Not Require Each Plaintiff to Allege Detailed Facts for Each Element of Each Claim Against Defendant; Instead, the Law Permits Common Allegations By Multiple Plaintiffs

The above-stated standards for proper pleadings in the Third Circuit apply whether there is one plaintiff or one thousand plaintiffs. Defendant repeatedly argues that Plaintiffs should be held to a more detailed pleading standard because of their number and that the Court should not permit Plaintiffs to make “joint,” or “collective” allegations. Defendant inappropriately refers to Plaintiffs’ Complaint as a “shotgun pleading.” Specifically, in this Motion for a More Definite Statement, Defendant asks the Court to require each individual Plaintiff to allege separate counts and to identify his or her particular exposures and damages. But this position is contrary to the applicable law, stated above, governing motions to dismiss and the common practice in mass torts.

In this action for personal injuries and property damages, every single cause of action arises from the same set of operative facts—the release of red dust, bauxite, and asbestos from the alumina refinery during the time that SCRG owned and/or operated the refinery, which is 2002 onwards. Plaintiffs also seek to enjoin Defendant from subjecting Plaintiffs to future harm from similar

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exposures.

Plaintiffs have alleged liability against only one Defendant, SCRG, about one main issue--the release of particulates from the red mud at the alumina refinery during heavy winds and several related incidents, including the failure to clean up the hazardous materials at the refinery and the subsequent failure to inform Plaintiffs of the dangers of the friable asbestos being blown into the Plaintiff's homes. Plaintiffs here have clearly set out the claims and SCRG's role in each of these incidents. **Exhibit 1** at ¶¶ 471- 482.

For example, the First Amended Complaint explains that the red dust, bauxite, and asbestos problem originated under other entities' ownership of the alumina refinery, but that SCRG obtained the refinery and failed to correct the improper storage of the toxic particulates, which were blown by heavy winds into Plaintiffs' neighborhoods. *See Exhibit 1*, ¶¶ 471-482. The First Amended Complaint sets out how when SCRG took over the refinery in 2002, and failed to properly store the bauxite and red dust and it failed to contain the friable asbestos. *Id.* Thus, although there are a series of related occurrences giving rise to SCRG's liability, those occurrences are inextricably intertwined. Plaintiff's First Amended Complaint informs Defendant SRCG of its role specifically in the occurrences that gave rise to this suit.

In the case *Fiorentino v. Cabot Oil & Gas Corp.*, 750 F. Supp. 2d 506 (M.D. Pa. 2010), sixty-three individuals alleged that defendant, under leases to extract natural gas from their properties, improperly released methane, natural gas, and other toxins onto their land and into their groundwater. *Id.* at pp. 509-510. The 63 plaintiffs claimed damage to property, physical illness and severe emotional distress and fear of future illness. *Id.* The Defendant moved to strike claims related to, amongst other things, Plaintiffs' alleged injuries and damages based on fear of future physical

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illness, emotional distress, punitive damages, and negligence per se. The Court held:

We are cognizant of Defendants' argument that Plaintiffs have failed to identify which individual Plaintiff suffers from which exact symptoms and note that, if the Second Amended Complaint was elsewhere deficient, these somewhat imprecise allegations might have been insufficient to demonstrate any entitlement to relief. However, *viewing the well-pleaded allegations of the Second Amended Complaint as a whole*, we find that physical illnesses of Plaintiffs have been pleaded with sufficient particularity to put Defendants on notice of the relevant claims. Defendants will have the opportunity to fully develop the record in this regard via discovery, and after they do so will be free to reassert any legal arguments related to a failure by any Plaintiff to show a physical manifestation of his or her injury.

Id. at 514, fn 3 (emphasis added).

The *Fiorentino* Court went on to conclude that the Second Amended Complaint as a whole demonstrates that some, “even if not all, Plaintiffs have suffered actual, physical injury that could plausibly be the proximate result of Defendants' action. Thus, damages for fear of future illness and for emotional distress should not be stricken for a lack of allegations regarding physical injury, and we will deny Defendants' Motion to Strike with respect to those allegations.” *Id.* at p. 514-515.

In *Jones v. ConocoPhillips Co.*, 198 Cal. App. 4th 1187, 1195 (Cal. App. 2d Dist. 2011), the California Appellate Court reversed the lower court's dismissal of a complaint alleging exposure to multiple toxins over the duration of a plaintiff's employment. The complaint did not allege specific facts regarding the particular toxins and products involved. *Id.* The Court of Appeal reversed, finding the allegations sufficient to meet the causation pleading threshold for a complaint alleging harmful long-term exposure to multiple toxins. In keeping with the rule that facts should be alleged in ordinary and concise language, the Court ruled that allegations of toxic exposure can be made in a conclusory fashion absent knowledge of the precise cause of injury. Allegations that each manufacturer concealed or failed to disclose the toxic properties of its product sufficiently stated a

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cause of action for fraudulent concealment. *Jones, supra*. Specifically, the Appellate Court held that “[o]nce the product had been identified, the plaintiff could allege that ‘the toxins’ in the product entered his body and were ‘a substantial factor in bringing about, prolonging, or aggravating [his] illness.’” *Jones*, 198 Cal. App. 4th at 1194. The Court explained that expert medical and scientific evidence would be required to prove the plaintiff’s case, thus “his lack of personal knowledge regarding the precise mechanism by which [his injury] occurred should not be viewed as an admission that he cannot identify which specific products caused his injuries.” *Id.* at 1195. The court rejected the defendants’ argument that a complaint is unacceptably speculative if a plaintiff has not specifically identified which toxin contained in a particular product caused the alleged injury or has sued the manufacturers of multiple products, alleging all of them contained toxins that were substantial factors in causing his injury. *Jones*, 198 Cal. App. 4th at 1195.

Similarly, in this case, the Court should reject Defendant SCRG’s argument that Plaintiff’s claims are speculative merely because they are unable at this stage to identify exactly which toxins caused their injuries and when they did so, so long as Plaintiffs have alleged, as they did, what toxins they were exposed to over the course of time, from 2002 to the present and that they have suffered injuries therefrom. It is well accepted that Plaintiffs require and will continue to produce medical and engineering experts to assess those aspects of their claims. *Id.*

Cases cited by Defendant in the instant Motion for More Definite Statement simply fail to support Defendant’s position that the Amended Complaint is deficient. For instance, Defendant cites to a case in which a pro se prisoner plaintiff was appealing the trial court’s dismissal of his complaint alleging constitutional violations. *See Everly v. Allegheny County Exec. Dir.*, No. 11-1106, 2012 U.S. App. LEXIS 256 (3d Cir. Pa. Jan. 5, 2012). First, the opinion is marked as “Non-

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Precedential.” *Id.* Second, the Third Circuit Court found that the pro se plaintiff’s complaint was “exceptionally under-developed” with no facts as to who violated his constitutional rights, what conduct was at issue, when it occurred and what injuries he suffered. *Id.* at *1. Obviously the *Everly* case does not apply here where Plaintiffs have set forth a pleading replete with factual allegations as to SCRG’s tortious conduct at issue, the Plaintiffs’ exposure to the particulates, and their claims of physical and mental injuries. The Court should disregard this non-precedential case that bears no resemblance to the facts in this case.

Likewise, the Defendant cites to the non-precedential case of *Binsack v. Lackawanna County Prison*, 438 Fed. Appx. 158 (3d Cir. Pa. 2011), in which the Third Circuit found a pro se’s prisoner’s complaint to be so unfocused as to be “unintelligible.” *Id.* at 160. The Court concluded that the complaint failed to state “a short and plain statement of the grounds for the court’s jurisdiction” and “a short and plain statement of the claim showing that the pleader is entitled to relief.” *Id.* (quoting Fed. R. Civ. Pro. 8(a)(1), (2)) The complaint failed to give the numerous defendants notice of claims against them individually. *Id.* Here, there is only one Defendant, SCRG, thus no confusion as to which claims applies to it, and the Amended Complaint is undisputedly clear and intelligible so dismissal pursuant to the case law cited by Defendant is unwarranted.

In addition, none of the cases cited by Defendant involve mass torts; instead, Defendant’s authorities all arose from separate and distinguishable occurrences involving varying circumstances as to each plaintiff and defendant. Contrary to Defendant’s characterization of Plaintiffs’ claims, this case involves the conduct of one company SCRG from the time it obtained the refinery in 2002. Here, all the Plaintiffs were injured in substantially the same way and at substantially the same time—they were exposed to toxic dusts blown from the refinery onto their properties and into their

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lungs during high winds on St. Croix. Consequently, Defendant has not cited any persuasive authorities urging the Court to require each of the 450 plus Plaintiffs to file individual complaints or to file more definite statements.

II. Common Allegations are Typically Permitted in Mass Tort Actions.

Rather than looking at cases that simply involve multiple parties on one or both sides, as Defendant has done, it is more instructive to look at how courts have handled other mass tort cases.

Turner, et al., v. Murphy Oil USA, Inc., No. 05-4206 Consol. Case Sec. "L"(2), 2005 U.S. Dist. LEXIS 45123, *2 (E.D. La. Dec. 29, 2005) involved twenty-six consolidated class actions. The plaintiffs were residents and homeowners of St. Bernard Parish, Louisiana. According to the plaintiffs, an oil tank at Murphy Oil's Meraux, Louisiana oil refinery came loose from its bearings during (or shortly after) Hurricane Katrina and released thousands of barrels of oil into the surrounding neighborhoods, where plaintiffs lived. *Turner, et al., v. Murphy Oil USA, Inc.*, No. 05-4206 Consol. Case Sec. "L"(2), 2005 U.S. Dist. LEXIS 45123, *2 (E.D. La. Dec. 29, 2005). Plaintiffs sought recovery for personal injuries, property damage, and mental anguish resulting from the spill. *Id.*

Under Rule 42a, the court consolidated actions from numerous courts and ordered that the plaintiffs prepare a Master Complaint that would govern all actions. *Id.* at **4-5. Although the Master Complaint is not a substantive pleading and is just a procedural device used to streamline motions and discovery, the Louisiana district court referred to the normal standards regarding motions to dismiss. *Id.*

Like the Defendant SCRG here, Murphy Oil challenged the plaintiffs' general allegations that they suffered personal injuries, property damages, and mental anguish as not sufficiently

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establishing injuries-in-fact to meet the standing requirement. *Id.* at *10. The court rejected this argument because “the court must presume that general allegations embrace the specific facts that are necessary to support the Plaintiffs’ claim.” *Id.* at *10. It determined that the plaintiffs’ general allegation that they resided near the oil refinery and suffered injuries as a result of the oil discharge was sufficient to put the defendant on notice of the claims against it. *Id.* Although the *Turner* court used the *Conley v. Gibson* standard for evaluating the motions to dismiss, its rationale is still applicable.

Courts still employ the presumption regarding general allegations embracing specific facts under the new *Twombly* standard. In *Consumer Protection Corp. v. Neo-Tech News*, No. CV 08-1983-PHX-JAT, 2009 WL 2132694, *1 (D. Ariz. July 16, 2009), the court denied a motion to dismiss a class claim that the defendant sent unsolicited advertisement faxes in violation of the Telephone Consumer Protection Act. *Consumer Protection Corp. v. Neo-Tech News*, No. CV 08-1983-PHX-JAT, 2009 WL 2132694, *1 (D. Ariz. July 16, 2009). The court held that the plaintiff’s bare allegations that the defendant sent unsolicited faxes were conclusory and not entitled to presumption of truth, but it credited the following allegations as factual: the defendant (1) knew the faxes were advertisements; (2) participated in preparing the faxes; (3) provided/obtained class members’ fax numbers; (4) paid a contractor to transmit faxes, and/or (5) knew that class members had not authorized the fax. Assuming these to be true, plaintiff alleged a plausible violation of the Act. *Id.* at *4-5. The court invoked the “general allegation” presumption in rejecting the defendants’ argument that the plaintiffs had to address the moving defendant specifically. *Id.* at **6-7.

Just like the Louisiana court in *Turner*, the Arizona court in *Neo-Tech News* held that “[o]n a

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motion to dismiss, we are required to assume that all general allegations embrace whatever specific facts might be necessary to support them.” *Id.* at *7; *see also In re Whirlpool Corp. Front-Loading Washer Products Liability Litigation*, NO. 1:08-wp-65000, 2009 U.S. Dist. LEXIS 102468, *1, *40-41 (N.D. Ohio Nov. 3, 2009) (denying motion to dismiss putative class action for failure to allege violation of specific warranty provisions, but the court holds that plaintiff need not allege specific facts; it is sufficient that plaintiffs’ allegations put defendant on notice of alleged breach of written warranty.) Thus, contrary to Defendant’s argument that the complaint suffers from a “shotgun” approach in that it fails to include individual allegations about Plaintiffs’ physical injuries, emotional injuries, and property damages, these cases demonstrate that simple allegations of damages are sufficient to survive dismissal.

Similarly, *In Re Digitek Products Liability Litigation*, MDL NO. 2:08-md-01968, 2009 U.S. Dist. LEXIS 113947, *1 (S.D. W. Va. Aug. 3, 2009), numerous groups of Plaintiffs filed civil actions in state and federal courts across the country against many groups of defendants that manufactured, marketed, tested, promoted, sold and/or distributed Digitek, a drug used to treat a number of heart conditions that was recalled and allegedly caused various injuries to plaintiffs. In 2008, the Judicial Panel on Multidistrict Litigation entered an order establishing a multidistrict litigation (“MDL”) proceeding consolidating the federal Digitek-related actions for joint case management. *Id.* at 97. As in *Turner*, the MDL court ordered the plaintiffs to prepare a Master Complaint, which it evaluated under the normal standards for a motion to dismiss.

As the court explained, “[t]he Mylan defendants are correct that the master complaint lacks detailed factual allegations respecting their specific knowledge of a manufacturing defect. It does allege though that all of the defendants knew generally of a manufacturing defect and that they failed

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to act.” *Id.* Thus, once again, a post-*Iqbal* court dealing with a mass tort reiterated the rule that courts must assume that general allegations contain the specific facts that they subsume.

These cases support Plaintiffs’ position in this case that the First Amended Complaint against Defendant need not set out detailed allegations as to each Plaintiff’s claims. Unlike the authorities Defendant relies upon, these cases share a similar context with this case—they all involve mass torts in which the plaintiffs generally allege facts putting the defendant(s) on notice of the type of claims at issue and the bases for them. This practice is both common and practical for the administration of cases involving so many parties and so many claims. To require anything more would be to overwrite the law regarding dismissals in this jurisdiction.

Contrary to Defendant’s claims, Plaintiffs have alleged sufficient facts and need not provide a more definite statement. These allegations include that:

- Plaintiffs were residents of neighborhoods located downwind from the refinery;
- Red mud, bauxite, asbestos, and the other particulates that blew into Plaintiffs’ neighborhoods contained toxic and/or irritating contaminants;
- The red mud and bauxite were stacked in open mounds outdoors and the asbestos was left exposed;
- The dusty materials were blown by strong winds into the Plaintiffs’ neighborhoods;
- Plaintiffs’ real and personal property were coated with red dust and/or bauxite and Plaintiffs’ ingested and/or inhaled the dusty particulates, causing them personal injuries; and
- SCRG concealed from Plaintiffs the dangers associated with the friable asbestos
- SCRG failed to take proper measures to control emissions

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- Plaintiffs suffered and continue to suffer physical injuries, mental, psychological damages and medical expenses, amongst other damages

Accepting these and all other factual allegations as true and construing them in the light most favorable to the plaintiff, a reasonable reading of the complaint shows that the Plaintiffs may be entitled to relief under this pleading and a more definite statement is not warranted under Rule 12.

III. CONCLUSION

Plaintiffs' Complaint does not allege a "variety" of unrelated exposures as Defendant claims, but substantially similar exposures from the same source and, in this case, over the same period of time, from 2002 onward when SCRG took control of the alumina refinery. A more definite statement is unnecessary given the extensive factual pleadings in this case with descriptions of SCRG's wrong-doing. **Exhibit 1**, ¶¶ 472-482. Collective allegations about Plaintiffs' exposure, proximity to the alumina refinery and damages are also proper in a mass tort action such as this one. Rule 8 (a)'s requirement of a short plain statement has been amply satisfied and no further explanatory facts are necessary. Thus, Plaintiffs respectfully request that the Court deny the Defendant's Motion for a More Definite Statement, and permit the Plaintiffs to litigate their case as joined parties.

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

DATED: September 19, 2012

BY: s/ Lee J. Rohn
Lee J. Rohn, Esq.

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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on September 19, 2012, 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 (dr)

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

Abraham, Eleanor; Abraham, Phillip; Abraham, Ratcliffe; Abreu, Elizabeth; Acosta, Edelmiro; Acosta, Martha; Acosta, Tomas J.; Acosta, Tomas Jr.; Acosta, Yamaris; Albert, Charmaine N. individually and as parent to minors Andre, Austin B. Andre, Bevington R., Andre, Chris L. and Andre, Felisha C; Aldonza, Davidson, individually and as parent to minors Aldonza, Abigail, Aldonza, Brianner Aldonza, Bryson and Aldonza, Ruthlin,; Alexander, Christina; Alexander, Olive; Alphonse, Anastasia; Alphonse, Brian; Alphonse, Kelvin; Andrew, Julita; Anthony, Jerome; Anthony, Violet; Antoine, Priscilla; Arjune, Camille; Arjune, Ian; Arroyo, Hector M. Jr.; Arroyo, Hector M. Sr.; Arroyo, Maria C.; Arroyo, Marilyn; Arroyo, Paula; Arroyo, Petra; Athill, Christopher; Auguste, Merkey R.; Augustine, Denis J.; Ayala, Awilda; Ayala, Carmela; Ayala, Evangelista J. Jr.; Ayala, Evangelista J. Sr.; Ayala, Jahaira; Ayala, Jesus M.; Ayala, Manuel; Ayala, Rosanda individually and as parent to minors Ayala, Jason A. and Ayala, Jesus JB.; Barnard, Melvina A.; Barnard, Sandra individually and as parent to minor Concepcion, Trejuan,; Barnard, Shawn; Barnard-Liburd, Leonor individually and as parent to minor Parris, Millina,; Benjamin, Akima; Benjamin, Alie; Benjamin, Ashsba; Benjamin, Yvette individually and as parent to minors Harris, Ashema and Harris, Joseph N.,; Beras, Catherine; Beras, Lulila; Bonit, Andria; Bonit, Timothy; Boulogne, Carlo J.; Bright, Alexis; Brooks, Edred; Bright, Lestroy; Brown, Iva T.; Browne, Gweneth; Browne, Sylvia; Bryan, George O. Jr.; Burgos, Kayla K.; Caines, Imogen; Candelario, Aura E.; Carmona, Francisco J.; Carmona, Wilfredo Jr.; Carrasquillo, Lao Carmen; Carrasquillo, Amparo individually and as parent to minor Navarro, Jahvan J.,; Carrasquillo, Angel Mario; Carrasquillo, Julio A.; Carrasquillo, Leisha L. individually and as parent to minors Nolasco, Marcus A. Jr. and Villanueva, Edilberto III Anthony,; Cartier, Shermaine; Ceden, Valentin; Cepeda, Johanna; Cepeda, Luz individually and as parent to minor Cepeda, Anthony,; Cepeda, Regalado III; Cepeda, Regalado IV; Cepeda, Regalado, Jr.; Chassana, Vitalienne A.; Christophe, Joseph; Christophe, Maryanna; Cirlio,

CIVIL NO. 12-CV-0011

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

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Ana; Cirlio, Sonia N.; Clarke, Tuwanda; Clercin, Skitter; Clovis, Celestin; Clovis, Regina J.; Cobb, Theophilus; Cobb, Veronica; Codrington, Raymond; Colon, Ivette; Colon, Luis R.; Cordice, Lendale Jr.; Coron, Domingo; Correa, Maria P.; Cruz, Christina; Cruz, Maria; Cruz, Orlando; Cuencas, Alfredo Jr.; Daniel, Adrea Y.; Daniel, Cammie O.; Daniel, Cyril Jr.; Daniel, Stanley; Daniel, Suzette; David, Francis; David, Ruby C.; Davis, Enrique; Davis, Mercedes; Davis, Samuel; Davis-Feliz, Gladys individually and as parent to minor Davis, Eric O.; DeJesus, Elie; DeJesus, Theodore M.; deLande, Kevin F.; Denis, Matthew; Dennie, Mary; Dennie, Nkosi B.; Diaz, Elizabeth; Diaz, Fiadalizo; Drew, Maud; Durand, Benjamin; Durand, David; Durand, Fennella individually and as parent to minors Coureure, Jasi R. and Coureure, Shomalie C.; Durand, Gweneth; Durand, Jamal R.; Durand, Kishma R.; Durand, Rudolph; Durand, Rudolph Jr.; Duvivier, Brandon C.; Edward, Leara individually and as parent to minor Cooper, Neges; Edward, Patrick; Estephane, Virginia; Ettienne, Carlton; Ettienne, Madona individually and as parent to minors Ettienne, Kareem and Sylvain, Jady; Evelyn, Sylvia; Felix, Alane K.; Felix, Alvin; Felix, Domingo; Felix, Edymarie; Felix, Hyacinth M.; Felix, Isabel; Felix, Isidoro; Felix, Jasmine; Felix, Maria B.; Felix, Marius F.; Felix, Mathilda; Felix, Sasha Marie individually and as parent to minors Felix, Taheyrah, Hospedales, Dani Marie, Hospedales, Dennis K. and Hospedales, Destani L.; Ferdinand, Neeshawn; Ferdinand, Pearline; Ferdinand, Renee; Ferdinand, Rinel; Fulgencio, Jose Antonio; Flavien, Delia; Fontenelle, Kenyan; Fulgencio, Luis M.; Fulgencio, Nilsa Cruz; Garcia, Martha; George, Alcenta; George, Amos; George, Charles; George, Inez; George, Lucia M.; Gill, Sharon E.; Glasgow, George; Glasgow, Wilhemina; Gomez, Angel Luis; Green, Vernon; Greenaway, Charles; Greenaway, Veronica; Grouby, Wendell; Guadalupe, Margarita; Guerrero, Alcides; Guerrero, Casiano; Hanes, Veronica; Hendrickson, Kenisha C. individually and as parent to minors Almestica, Zaquan, Jonas, Jahi and Jonas, Zaryah; Henry, Josephat; Henry, Lucille; Henry, Mary; Hepburn, Maria; Hodge, Edmond; Irwin, Vera; Isaac, Stella B.; Isaac, Verrall; Jacobs, Janet C. individually and as parent to minor Joseph, Justin J.; Jairam, Barbara;

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Jairam, Kelman; James, Akeem; James, Kareem; James, Sybil; Jean-Baptiste, George; Jean-Baptiste, Lisa; Jean-Baptiste, Magdalena individually and as parent to minors Jean-Baptiste, Tamera and Jean-Baptiste, Tia; John, Alfred Jr.; John, Estrellita Marie; John, Ignatius; John, Yahmillia; Jordan, John; Khan, Ingema; Kiture, Emily J. individually and as parent to minors Carmona, Kish'Marie V., Carmona, Wilmarice S. and Carmona, E'Marley; Kiture, Janice; Kiture, Lucina; Knight, Barbara; LaForce, Cassandra; LaForce, Joseph Jr.; Lebron, Fermin Jr.; Lebron, Mariluz; Leo, John B.; Leonce, Herbert; Liburd, Leonard; Llanos, Veronica individually and as parent to minor Llanos, Veronique; Lopez, Carmen M. individually and as parent to minors Lopez, Jashira M. and Allen, Alloy O. Jr.; Lopez, Maishaleen; Lopez, Miguel A.; Lopez, Miguel A. Jr.; Lopez, Myrna; Lubin, Apreel; Lubin, Joel Patrick; Lubin, Jonah Newell; Lubin-Duman, Beverly Ann; Lugo, Corali individually and as parent to minors Lugo, Giselle and Lugo, Marc A.; Lugo, Jerge L.; Lugo, Krystal; Malaykhan, Ejajie; Malaykhan, Sham; Malaykhan, Suraj; Maldonado, Ana; Mark, Cynthia; Martinez, Humberto; Martinez, Andrea; Martinez, Conception; Martinez, Lynnette individually and as parent to minor Vazquez, Jose E. Jr.; Martinez, Ramon; Matthew, Alford; Matthew, Asiah; Matthew, Estine; Matthew, Euphelie; Matthew, Maria; Matthew, Martin; Matthew, Michael L.; Matthew, Shirley (La Force); Maynard, Chamarie ; Maynard, Maria; Maynard, Nadeen V. individually and as parent to minor Walters, Nadean V.; Melendez, Jose Reyes; Miranda, Andrea; Miranda, Miguel; Mitchell, Claire-Mina; Mitchell, Clarie-Mina A.; Mitchell, Janice individually and as parent to minor Mitchell, Queana; Mitchell, Nancy; Mitchell, Sharon; Moe, Melwyn; Morales, Maria Luz; Morris, Ersilie; Morris, Sennet E.; Morton, Catherine; Morton, Julian E. Jr.; Morton, Monroe; Navarro, Carmen, individually and as parent to minor Ruiz, Cristina; Navarro, Luz D.; Navarro, Marco A.; Navarro, Maria individually and as parent to minors Navarro, Gilberto and Navarro, Gilmarie; Navarro, Maria Mercedes; Navarro, Nelson; Nicholas, Joan; Nicholas, Latoya Y.; Nicholas, Sandy; Noorhasan, Dorette F.; Noorhasan, Lennox E.; Noorhasan, Shane Antonio; Nyack, Marilyn; O'Reilly, Wilburn; Paige, Alvin;

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Paige, Ara individually and as parent to minor Burke, Ian; Parrilla, Carmen Amaro individually and as parent to minors Parrilla, Christian Jr., Parrilla, Miguel J. and Parrilla, Natacha; Parrilla, Delores I., individually and as parent to minor Parrilla, Roberto Jr.; Parrilla, Joel; Parrilla, Juan; Parrilla, Orlando; Parrilla, Raquel; Parrilla, Pedro Juan; Parrilla, Roberto Sr.; Parrilla, Sonia M.; Parrilla, Tara; Parrilla, Wilfredo; Parrilla, Orlimagelys; Parrilla-Ferdinand, Delores; Pemberton, Candis M.; Pemberton, Majarie C.; Pena, Marco Garcia; Perez, Carlos A.; Perez, Carlos Alberto; Perez, Carmen L.; Perez, Jorge A.; Perez, Jose M.; Perez, Naishma K.; Perez, Nydia, individually and as parent to minor Perez, Paula Y.; Perez, Tuwanda; Perez, Victor M.; Perez, Xavier M.; Perez, Yamileisy; Perez, Yaritza; Perez, Ylonis J.; Perez, Yomar A.; Perez, Zalemie Y.; Perez-Ayala, America individually and as parent to minors Perez, Neishalee and Perez, Victor Manuel III; Phillip, Arthur; Phillip, Martial; Phillip, Marva; Phillip, Marvin; Phillip, Terry M.; Picart, Jose; Pilier, Demetrio A. individually and as parent to minors Pilier, Lizandro and Pilier, Lizangel; Plaskett, Cripson; Plaskett, Dilia individually and as parent to minor Ventura, Angela S.; Plaskett, William A.; Polidore, Cornelia; Polidore, Keriscia; Polydore, Lawrence; Prescott, Miscelda; President, Kimbel; President, Kimberly; Preville, Godfrey G.; Profil, Migdalia; Pryce, David; Pryce, Philbert Jr.; Quildan, Isabella N.; Quildan, Kareem; Quinones, Iris M.; Quinones, Jose William; Quinones, Ruth A.; Quinones, Sila; Ramirez, Andres Mercado; Ramos, Brunilda; Ramos, Daniel; Ramos, Gabriel; Ramos, Jorge; Ramos, Josefina; Ramos, Marcela; Reyes, Eridania; Reyes, Evaristo; Reyes, Francisca C., individually and as parent to minor Reyes, Nayoshe; Reyes, Juan A.; Reyes, Juanico; Reyes, Maximo Guerrero; Reyes, Wanda J.; Richardson, Laurencea; Richardson, Marilyn, individually and as parent to minor Gonzague, Jovon; Rios, Cecilia; Rivera, Ana Celia; Rivera, Beatrice; Rivera, Belkis; Rivera, Ebony; Rivera, Miriam; Rivera, Sandro; Robles Jessica C.; Robles, Benjamin Jr.; Robles, Benjamin Sr.; Robles, Elise; Robles, Ismael ; Robles, Ivette; Robles, Jose Luis; Rodney, Martina L.; Rodriguez, Julio; Rodriguez, Lillian R. individually and as parent to minor Rodriguez, Miguel A.; Rodriguez, Miguely; Rogers, Akeel;

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Rojas, Pablo; Roldan, Frenando L.; Roldan, Jeremy L.; Rosario, Angela Pagan; Ross, Neelia; Ruiz, Joanne, individually and as parent to minors Carmona, Angelo J., Greenidge, Alaika E., Greenidge, Allen H., Jr., Greenidge, Talaiya A. and Ruiz, Takima T.; Ruiz, Rut individually and as parent to minor Leo, Jahliah T.; Saldana, Carmen; Saldana, Eddie Adner; Saldana, Edwin; Saldana, Raquel individually and as parent to minor Maragh, Krystal; Sanchez, Angel Alberto; Sanchez, Edith; Sanchez, Jose Alberto; Sanchez, Jose E.; Sanchez, Jose Roberto; Sanes, Angel L.; Sanes, Joshua; Sanes, Miguel Angel; Santana, Yadira; Santiago, Jose Lanso; Santiago, Artemia; Santiago, Carlos L.; Santiago, Chayanne; Santiago, Eliever; Santiago, Lydia; Santiago, Maynaly; Santos, Angelica; Santos, Ramona; Santos, Theresita; Serrano, Maria; Serrano, Martha; Serrano, Martin Jr.; Shalto, Greta; Shaw-Jacobs, Jeanette; Shirley, Helen; Slater, Ramisha individually and as parent to minor Wilson, Brandon T.B. II; Smith, Keisha P.; Smith, Kevin E.; Smith, Natasha; Soto, Jennifer; Soto, Jeremy; Soto, Jorge ; Soto, Luis Enrique individually and as parent to minor Soto, Luis E.; Soto, Maria L.; Soto, Rosa; St. Brice, Anthony; Stevens, Claudia; Stubbs, Jeremiah C. individually and as parent to minor Stubbs, Mariah C.; Taylor, Annette J.; Taylor, Beryl E.; Taylor, Debbie R.; Theophilus, Alita V.; Thomas, Marsha individually and as parent to minors Tanis, Tamirea N. and Tanis, Nahomey; Torres, Jose Manuel, Jr.; Torres, Linda; Valentine, Carmen; Valentine, Santiago O. Jr.; Vasquez, Noemi S.; Vega, Efrain; Vega, Luis Felix Jr.; Vega, Luz Delia individually and as parent to minors, Vega, Shanley T. and Vega, Fransheska; Vega, Luis Felix; Vegas Lebron, Fermin; Velez, Carmen R.; Velez, Corporina; Velez, Jose R.; Velez, Jose Ramon; Velez, Margarita; Velez, Miguel Angel; Velez, Norma; Velez, Yesenia; Ventura, Angel L.; Ventura, Anna Maria; Ventura, Carlos Jr.; Ventura, Carmen L.; Ventura, Edna; Ventura, Jose Miguel; Ventura, Karla Jeanette; Ventura, Noelia Soto; Ventura, Xiomara I. individually and as parent to minor Denis, Diane N.; Villanueva, Shelia L.; Williams, Clayton; Williams, Idelfonsa; Williams, Urma; Wilson, Alfred; Wilson, Brandon T.B.; Wilson, Cindy, individually and as parent to minor Rivera, Justin; Wilson, Diana N., individually and as

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parent to minor Roldan, Shaedean N.; Wiltshire, Dunn; Wiltshire, Ethelbert; Wiltshire, Gregg; Wiltshire, Hermine, individually and as guardian to minor Wiltshire, Christina; and Wiltshire, Peter,

Plaintiffs,

v.

St. Croix Renaissance Group LLLP,

Defendant.

FIRST AMENDED COMPLAINT

COME NOW, the Plaintiffs by and through their undersigned counsel, and file their First Amended Complaint and respectfully represent to the Court as follows:

1. This Court has jurisdiction pursuant to 4 V.I.C Section 76, *et seq.*
2. Abraham, Eleanor is a citizen of St. Croix, United States Virgin Islands.
3. Abraham, Phillip is a citizen of St. Croix, United States Virgin Islands.
4. Abraham, Ratcliffe is a citizen of St. Croix, United States Virgin Islands.
5. Abreu, Elizabeth is a citizen of St. Croix, United States Virgin Islands.
6. Acosta, Edelmiro is a citizen of St. Croix, United States Virgin Islands.
7. Acosta, Martha is a citizen of St. Croix, United States Virgin Islands.
8. Acosta, Tomas J. is a citizen of St. Croix, United States Virgin Islands.
9. Acosta, Tomas Jr. is a citizen of St. Croix, United States Virgin Islands.
10. Acosta, Yamaris is a citizen of St. Croix, United States Virgin Islands.
11. Albert, Charmaine N. individually and as parent to minors Andre, Austin B. Andre, Bevington R., Andre, Chris L. and Andre, Felisha C., citizens of St. Croix U.S. Virgin Islands;

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12. Aldonza, Davidson, individually and as parent to minors Aldonza, Abigail, Aldonza, Brianner Aldonza, Bryson and Aldonza, Ruthlin, citizens of St. Croix U.S. Virgin Islands;
13. Alexander, Christina is a citizen of St. Croix, United States Virgin Islands.
14. Alexander, Olive is a citizen of St. Croix, United States Virgin Islands.
15. Alphonse, Anastasia is a citizen of St. Croix, United States Virgin Islands.
16. Alphonse, Brian is a citizen of St. Croix, United States Virgin Islands.
17. Alphonse, Kelvin is a citizen of St. Croix, United States Virgin Islands.
18. Andrew, Julita is a citizen of St. Croix, United States Virgin Islands.
19. Anthony, Jerome is a citizen of St. Croix, United States Virgin Islands.
20. Anthony, Violet is a citizen of Miramar, Florida.
21. Antoine, Priscilla is a citizen of St. Croix, United States Virgin Islands.
22. Arjune, Camille is a citizen of Tampa, Florida.
23. Arjune, Ian is a citizen of St. Croix, United States Virgin Islands.
24. Arroyo, Hector M. Jr. is a citizen of St. Croix, United States Virgin Islands.
25. Arroyo, Hector M. Sr. is a citizen of St. Croix, United States Virgin Islands.
26. Arroyo, Maria C. is a citizen of St. Croix, United States Virgin Islands.
27. Arroyo, Marilyn is a citizen of St. Croix, United States Virgin Islands.
28. Arroyo, Paula is a citizen of St. Croix, United States Virgin Islands.
29. Arroyo, Petra is a citizen of St. Croix, United States Virgin Islands.
30. Athill, Christopher is a citizen of St. Croix, United States Virgin Islands.
31. Auguste, Merkey R. is a citizen of St. Croix, United States Virgin Islands.
32. Augustine, Denis J. is a citizen of St. Croix, United States Virgin Islands.

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33. Ayala, Awilda is a citizen of St. Croix, United States Virgin Islands.
34. Ayala, Carmela is a citizen of St. Croix, United States Virgin Islands.
35. Ayala, Evangelista J. Jr. is a citizen of St. Croix, United States Virgin Islands.
36. Ayala, Evangelista J. Sr. is a citizen of St. Croix, United States Virgin Islands.
37. Ayala, Jahaira is a citizen of St. Croix, United States Virgin Islands.
38. Ayala, Jesus M. is a citizen of St. Croix, United States Virgin Islands.
39. Ayala, Manuel is a citizen of Oviedo, Florida.
40. Ayala, Rosanda individually and as parent to minors Ayala, Jason A. and Ayala, Jesus JB., citizens of St. Croix U.S. Virgin Islands;
41. Barnard, Melvina A. is a citizen of St. Croix, United States Virgin Islands.
42. Barnard, Sandra individually and as parent to minor Concepcion, Trejuan, citizens of St. Croix U.S. Virgin Islands;
43. Barnard, Shawn is a citizen of St. Croix, United States Virgin Islands.
44. Barnard-Liburd, Leonor individually and as parent to minor Parris, Millina, citizens of St. Croix U.S. Virgin Islands;
45. Benjamin, Akima is a citizen of St. Croix, United States Virgin Islands.
46. Benjamin, Alie is a citizen of St. Croix, United States Virgin Islands.
47. Benjamin, Ashsba is a citizen of St. Croix, United States Virgin Islands.
48. Benjamin, Yvette individually and as parent to minors Harris, Ashema and Harris, Joseph N., residents of St. Croix U.S. Virgin Islands.
49. Beras, Catherine is a citizen of St. Croix, United States Virgin Islands.
50. Beras, Lulila is a citizen of St. Croix, United States Virgin Islands.
51. Bonit, Andria is a citizen of St. Croix, United States Virgin Islands.

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52. Bonit, Timothy is a citizen of St. Croix, United States Virgin Islands.
53. Boulogne, Carlo J. is a citizen of St. Croix, United States Virgin Islands.
54. Bright, Alexis is a citizen of St. Croix, United States Virgin Islands.
55. Brooks, Edred is a citizen of St. Croix, United States Virgin Islands.
56. Bright, Lestroy is a citizen of St. Croix, United States Virgin Islands.
57. Brown, Iva T. is a citizen of St. Croix, United States Virgin Islands.
58. Browne, Gweneth is a citizen of St. Croix, United States Virgin Islands.
59. Browne, Sylvia is a citizen of St. Croix, United States Virgin Islands.
60. Bryan, George O. Jr. is a citizen of St. Croix, United States Virgin Islands.
61. Burgos, Kayla K. is a citizen of St. Croix, United States Virgin Islands.
62. Caines, Imogen is a citizen of St. Croix, United States Virgin Islands.
63. Candelario, Aura E. is a citizen of St. Croix, United States Virgin Islands.
64. Carmona, Francisco J. is a citizen of St. Croix, United States Virgin Islands.
65. Carmona, Wilfredo Jr. is a citizen of St. Croix, United States Virgin Islands.
66. Carrasquillo Lao Carmen is a citizen of St. Croix, United States Virgin Islands.
67. Carrasquillo, Amparo individually and as parent to minor Navarro, Jahvan J., citizens of St. Croix U.S. Virgin Islands;
68. Carrasquillo, Angel Mario is a citizen of St. Croix, United States Virgin Islands.
69. Carrasquillo, Julio A. is a citizen of St. Croix, United States Virgin Islands.
70. Carrasquillo, Leisha L. individually and as parent to minors Nolasco, Marcus A. Jr. and Villanueva, Edilberto III Anthony, citizens of Charlotte, North Carolina.
71. Cartier, Shermaine is a citizen of St. Croix, United States Virgin Islands.
72. Cedeno, Valentin is a citizen of St. Croix, United States Virgin Islands.

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73. Cepeda, Johanna is a citizen of St. Croix, United States Virgin Islands.
74. Cepeda, Luz individually and as parent to minor Cepeda, Anthony, citizens of St. Croix U.S. Virgin Islands;
75. Cepeda, Regalado III is a citizen of St. Croix, United States Virgin Islands.
76. Cepeda, Regalado IV is a citizen of St. Croix, United States Virgin Islands.
77. Cepeda, Regalado, Jr. is a citizen of St. Croix, United States Virgin Islands.
78. Chassana, Vitalienne A. is a citizen of St. Croix, United States Virgin Islands.
79. Christophe, Joseph is a citizen of St. Croix, United States Virgin Islands.
80. Christophe, Maryanna is a citizen of St. Croix, United States Virgin Islands.
81. Cirlio, Ana is a citizen of St. Croix, United States Virgin Islands.
82. Cirlio, Sonia N. is a citizen of St. Croix, United States Virgin Islands.
83. Clarke, Tuwanda is a citizen of St. Croix, United States Virgin Islands.
84. Clercin, Skitter is a citizen of St. Croix, United States Virgin Islands.
85. Clovis, Celestin is a citizen of St. Croix, United States Virgin Islands.
86. Clovis, Regina J. is a citizen of St. Croix, United States Virgin Islands.
87. Cobb, Theophilus is a citizen of St. Croix, United States Virgin Islands.
88. Cobb, Veronica is a citizen of St. Croix, United States Virgin Islands.
89. Codrington, Raymond is a citizen of St. Croix, United States Virgin Islands.
90. Colon, Ivette is a citizen of Kissimmee, Florida
91. Colon, Luis R. is a citizen of St. Croix, United States Virgin Islands.
92. Cordice, Lendale Jr. is a citizen of St. Croix, United States Virgin Islands.
93. Coron, Domingo is a citizen of St. Croix, United States Virgin Islands.
94. Correa, Maria P. is a citizen of St. Croix, United States Virgin Islands.

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95. Cruz, Christina is a citizen of St. Croix, United States Virgin Islands.
96. Cruz, Maria is a citizen of St. Croix, United States Virgin Islands.
97. Cruz, Orlando is a citizen of St. Croix, United States Virgin Islands.
98. Cuencas, Alfredo Jr. is a citizen of St. Croix, United States Virgin Islands.
99. Daniel, Adrea Y. is a citizen of St. Croix, United States Virgin Islands.
100. Daniel, Cammie O. is a citizen of St. Croix, United States Virgin Islands.
101. Daniel, Cyril Jr. is a citizen of St. Croix, United States Virgin Islands.
102. Daniel, Stanley is a citizen of St. Croix, United States Virgin Islands.
103. Daniel, Suzette is a citizen of St. Croix, United States Virgin Islands.
104. David, Francis is a citizen of St. Croix, United States Virgin Islands.
105. David, Ruby C. is a citizen of St. Croix, United States Virgin Islands.
106. Davis, Enrique is a citizen of Kissimmee, Florida.
107. Davis, Mercedes is a citizen of St. Croix, United States Virgin Islands.
108. Davis, Samuel is a citizen of St. Cloud, Florida.
109. Davis-Feliz, Gladys individually and as parent to minor Davis, Eric O., citizen of Kissimmee, Florida.
110. DeJesus, Elie is a citizen of Kissimmee, Florida.
111. DeJesus, Theodore M. is a citizen of St. Croix, United States Virgin Islands.
112. deLande, Kevin F. is a citizen of St. Croix, United States Virgin Islands.
113. Denis, Matthew is a citizen of St. Croix, United States Virgin Islands.
114. Dennie, Mary is a citizen of St. Croix, United States Virgin Islands.
115. Dennie, Nkosi B. is a citizen of St. Croix, United States Virgin Islands.
116. Diaz, Elizabeth is a citizen of St. Croix, United States Virgin Islands.

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117. Diaz, Fiadalizo is a citizen of St. Croix, United States Virgin Islands.
118. Drew, Maud is a citizen of St. Croix, United States Virgin Islands.
119. Durand, Benjamin is a citizen of St. Croix, United States Virgin Islands.
120. Durand, David is a citizen of St. Croix, United States Virgin Islands.
121. Durand, Fennella individually and as parent to minors Coureure, Jasi R. and Coureure, Shomalie C. citizens of St. Croix U.S. Virgin Islands;
122. Durand, Gweneth is a citizen of St. Croix, United States Virgin Islands.
123. Durand, Jamal R. is a citizen of St. Croix, United States Virgin Islands.
124. Durand, Kishma R. is a citizen of St. Croix, United States Virgin Islands.
125. Durand, Rudolph is a citizen of St. Croix, United States Virgin Islands.
126. Durand, Rudolph Jr. is a citizen of St. Croix, United States Virgin Islands.
127. Duvivier, Brandon C. is a citizen of St. Croix, United States Virgin Islands.
128. Edward, Leara individually and as parent to minor Cooper, Neges, citizens of St. Croix U.S. Virgin Islands.
129. Edward, Patrick is a citizen of St. Croix, United States Virgin Islands.
130. Estephane, Virginia is a citizen of West Palm Beach, Florida.
131. Ettienne, Carlton is a citizen of St. Croix, United States Virgin Islands.
132. Ettienne, Madona individually and as parent to minors Ettienne, Kareem and Sylvain, Jady, citizens of St. Croix U.S. Virgin Islands;
133. Evelyn, Sylvia is a citizen of Miami, Florida.
134. Felix, Alane K. is a citizen of St. Croix, United States Virgin Islands.
135. Felix, Alvin is a citizen of St. Croix, United States Virgin Islands.
136. Felix, Domingo is a citizen of St. Croix, United States Virgin Islands.

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137. Felix, Edymarie is a citizen of St. Croix, United States Virgin Islands.
138. Felix, Hyacinth M. is a citizen of St. Croix, United States Virgin Islands.
139. Felix, Isabel is a citizen of St. Croix, United States Virgin Islands.
140. Felix, Isidoro is a citizen of St. Croix, United States Virgin Islands.
141. Felix, Jasmine is a citizen of St. Croix, United States Virgin Islands.
142. Felix, Maria B. is a citizen of St. Croix, United States Virgin Islands.
143. Felix, Marius F. is a citizen of St. Croix, United States Virgin Islands.
144. Felix, Mathilda is a citizen of St. Croix, United States Virgin Islands.
145. Felix, Sasha Marie individually and as parent to minors Felix, Taheyrah, Hospedales, Dani Marie, Hospedales, Dennis K. and Hospedales, Destani L., citizens of St. Croix U.S. Virgin Islands;
146. Ferdinand, Neeshawn is a citizen of Orlando, Florida.
147. Ferdinand, Pearline is a citizen of St. Croix, United States Virgin Islands.
148. Ferdinand, Renee is a citizen of St. Croix, United States Virgin Islands.
149. Ferdinand, Rinel is a citizen of St. Croix, United States Virgin Islands.
150. Fulgencio, Jose Antonio is a citizen of St. Croix, United States Virgin Islands.
151. Flavien, Delia is a citizen of St. Croix, United States Virgin Islands.
152. Fontenelle, Kenyan is a citizen of St. Croix, United States Virgin Islands.
153. Fulgencio, Luis M. is a citizen of St. Croix, United States Virgin Islands.
154. Fulgencio, Nilsa Cruz is a citizen of St. Croix, United States Virgin Islands.
155. Garcia, Martha is a citizen of St. Croix, United States Virgin Islands.
156. George, Alcenta is a citizen of St. Croix, United States Virgin Islands.
157. George, Amos is a citizen of St. Croix, United States Virgin Islands.

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158. George, Charles is a citizen of St. Croix, United States Virgin Islands.
159. George, Inez is a citizen of St. Croix, United States Virgin Islands.
160. George, Lucia M. is a citizen of St. Croix, United States Virgin Islands.
161. Gill, Sharon E. is a citizen of St. Croix, United States Virgin Islands.
162. Glasgow, George is a citizen of St. Croix, United States Virgin Islands.
163. Glasgow, Wilhemina is a citizen of St. Croix, United States Virgin Islands.
164. Gomez, Angel Luis is a citizen of St. Croix, United States Virgin Islands.
165. Green, Vernon is a citizen of St. Croix, United States Virgin Islands.
166. Greenaway, Charles is a citizen of St. Croix, United States Virgin Islands.
167. Greenaway, Veronica is a citizen of St. Croix, United States Virgin Islands.
168. Grouby, Wendell is a citizen of St. Croix, United States Virgin Islands.
169. Guadalupe, Margarita is a citizen of St. Croix, United States Virgin Islands.
170. Guerrero, Alcides is a citizen of St. Croix, United States Virgin Islands.
171. Guerrero, Casiano is a citizen of St. Croix, United States Virgin Islands.
172. Hanes, Veronica is a citizen of St. Croix, United States Virgin Islands.
173. Hendrickson, Kenisha C. individually and as parent to minors Almestica, Zaquan, Jonas, Jahi and Jonas, Zaryah , citizens of St. Croix U.S. Virgin Islands;
174. Henry, Josephat is a citizen of St. Croix, United States Virgin Islands.
175. Henry, Lucille is a citizen of Mableton, Georgia.
176. Henry, Mary is a citizen of St. Croix, United States Virgin Islands.
177. Hepburn, Maria is a citizen of St. Croix, United States Virgin Islands.
178. Hodge, Edmond is a citizen of St. Croix, United States Virgin Islands.
179. Irwin, Vera is a citizen of St. Croix, United States Virgin Islands.

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180. Isaac, Stella B. is a citizen of St. Croix, United States Virgin Islands.
181. Isaac, Verrall is a citizen of St. Croix, United States Virgin Islands.
182. Jacobs, Janet C. individually and as parent to minor Joseph, Justin J., citizens of St. Croix U.S. Virgin Islands.
183. Jairam, Barbara is a citizen of St. Croix, United States Virgin Islands.
184. Jairam, Kelman is a citizen of St. Croix, United States Virgin Islands.
185. James, Akeem is a citizen of St. Croix, United States Virgin Islands.
186. James, Kareem is a citizen of St. Croix, United States Virgin Islands.
187. James, Sybil is a citizen of St. Croix, United States Virgin Islands.
188. Jean-Baptiste, George is a citizen of St. Croix, United States Virgin Islands.
189. Jean-Baptiste, Lisa is a citizen of St. Croix, United States Virgin Islands.
190. Jean-Baptiste, Magdalena individually and as parent to minors Jean-Baptiste, Tamera and Jean-Baptiste, Tia, citizens of St. Croix U.S. Virgin Islands.
191. John, Alfred Jr. is a citizen of St. Croix, United States Virgin Islands.
192. John, Estrellita Marie is a citizen of St. Croix, United States Virgin Islands.
193. John, Ignatius is a citizen of St. Croix, United States Virgin Islands.
194. John, Yahmillia is a citizen of St. Croix, United States Virgin Islands.
195. Jordan, John is a citizen of St. Croix, United States Virgin Islands.
196. Khan, Ingema is a citizen of St. Croix, United States Virgin Islands.
197. Kiture, Emily J. individually and as parent to minors Carmona, Kish'Marie V., Carmona, Wilmarice S. and Carmona, E'Marley residents of St. Croix U.S. Virgin Islands.
198. Kiture, Janice is a citizen of St. Croix, United States Virgin Islands.

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199. Kiture, Lucina is a citizen of St. Croix, United States Virgin Islands.
200. Knight, Barbara citizens of St. Croix U.S. Virgin Islands.
201. LaForce, Cassandra is a citizen of St. Croix, United States Virgin Islands.
202. LaForce, Joseph Jr. is a citizen of St. Croix, United States Virgin Islands.
203. Lebron, Fermin Jr. is a citizen of St. Croix, United States Virgin Islands.
204. Lebron, Mariluz is a citizen of St. Croix, United States Virgin Islands.
205. Leo, John B. is a citizen of St. Croix, United States Virgin Islands.
206. Leonce, Herbert is a citizen of St. Croix, United States Virgin Islands.
207. Liburd, Leonard is a citizen of St. Croix, United States Virgin Islands.
208. Llanos, Veronica individually and as parent to minor Llanos, Veronique, citizens of St. Croix U.S. Virgin Islands.
209. Lopez, Carmen M. individually and as parent to minors Lopez, Jashira M. and Allen, Alloy O. Jr., citizens of St. Croix U.S. Virgin Islands;
210. Lopez, Maishaleen is a citizen of St. Croix, United States Virgin Islands.
211. Lopez, Miguel A. is a citizen of St. Croix, United States Virgin Islands.
212. Lopez, Miguel A. Jr. is a citizen of St. Croix, United States Virgin Islands.
213. Lopez, Myrna is a citizen of St. Croix, United States Virgin Islands.
214. Lubin, Apreel is a citizen of St. Croix, United States Virgin Islands.
215. Lubin, Joel Patrick is a citizen of Charlotte, NC.
216. Lubin, Jonah Newell is a citizen of St. Croix, United States Virgin Islands.
217. Lubin-Duman, Beverly Ann is a citizen of St. Croix, United States Virgin Islands.
218. Lugo, Corali individually and as parent to minors Lugo, Giselle and Lugo, Marc A. is a citizen of St. Croix, United States Virgin Islands.

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219. Lugo, Jerge L. Is a citizen of St. Croix, United States Virgin Islands.
220. Lugo, Krystal is a citizen of St. Croix, United States Virgin Islands.
221. Malaykhan, Ejajie is a citizen of St. Croix, United States Virgin Islands.
222. Malaykhan, Sham is a citizen of St. Croix, United States Virgin Islands.
223. Malaykhan, Suraj is a citizen of St. Croix, United States Virgin Islands.
224. Maldonado, Ana is a citizen of St. Croix, United States Virgin Islands.
225. Mark, Cynthia is a citizen of St. Croix, United States Virgin Islands.
226. Martinez, Humberto is a citizen of St. Croix, United States Virgin Islands.
227. Martinez, Andrea is a citizen of St. Croix, United States Virgin Islands.
228. Martinez, Conception is a citizen of St. Croix, United States Virgin Islands.
229. Martinez, Lynnette individually and as parent to minor Vazquez, Jose E. Jr., citizens of Longwood, Florida.
230. Martinez, Ramon is a citizen of St. Croix, United States Virgin Islands.
231. Matthew, Alford is a citizen of St. Croix, United States Virgin Islands.
232. Matthew, Asiah is a citizen of St. Croix, United States Virgin Islands.
233. Matthew, Estine is a citizen of Baytown, Texas.
234. Matthew, Euphelie is a citizen of St. Croix, United States Virgin Islands.
235. Matthew, Maria is a citizen of St. Croix, United States Virgin Islands.
236. Matthew, Martin is a citizen of St. Croix, United States Virgin Islands.
237. Matthew, Michael L. is a citizen of St. Croix, United States Virgin Islands.
238. Matthew, Shirley (La Force) is a citizen of St. Croix, United States Virgin Islands.
239. Maynard, Chamarie is a citizen of St. Croix, United States Virgin Islands.
240. Maynard, Maria is a citizen of St. Croix, United States Virgin Islands.

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241. Maynard, Nadeen V. individually and as parent to minor Walters, Nadean V., citizens of St. Croix U.S. Virgin Islands.
242. Melendez, Jose Reyes is a citizen of St. Croix, United States Virgin Islands.
243. Miranda, Andrea is a citizen of St. Croix, United States Virgin Islands.
244. Miranda, Miguel is a citizen of St. Croix, United States Virgin Islands.
245. Mitchell, Claire-Mina is a citizen of St. Croix, United States Virgin Islands.
246. Mitchell, Clarie-Mina A. is a citizen of St. Croix, United States Virgin Islands.
247. Mitchell, Janice individually and as parent to minor Mitchell, Queana, citizen of St. Croix U.S. Virgin Islands.
248. Mitchell, Nancy is a citizen of St. Croix, United States Virgin Islands.
249. Mitchell, Sharon is a citizen of St. Croix, United States Virgin Islands.
250. Moe, Melwyn is a citizen of St. Croix, United States Virgin Islands.
251. Morales, Maria Luz is a citizen of St. Croix, United States Virgin Islands.
252. Morris, Ersilie is a citizen of St. Croix, United States Virgin Islands.
253. Morris, Sennet E. is a citizen of St. Croix, United States Virgin Islands.
254. Morton, Catherine is a citizen of St. Croix, United States Virgin Islands.
255. Morton, Julian E. Jr. is a citizen of St. Croix, United States Virgin Islands.
256. Morton, Monroe is a citizen of St. Croix, United States Virgin Islands.
257. Navarro, Carmen, individually and as parent to minor Ruiz, Cristina, residents of St. Croix U.S. Virgin Islands.
258. Navarro, Luz D. is a citizen of St. Croix, United States Virgin Islands.
259. Navarro, Marco A. is a citizen of St. Croix, United States Virgin Islands.

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260. Navarro, Maria individually and as parent to minors Navarro, Gilberto and Navarro, Gilmarie citizens of St. Croix, United States Virgin Islands.
261. Navarro, Maria Mercedes is a citizen of St. Croix, United States Virgin Islands.
262. Navarro, Nelson is a citizen of St. Croix, United States Virgin Islands.
263. Nicholas, Joan is a citizen of St. Croix, United States Virgin Islands.
264. Nicholas, Latoya Y. is a citizen of St. Croix, United States Virgin Islands.
265. Nicholas, Sandy is a citizen of St. Croix, United States Virgin Islands.
266. Noorhasan, Dorette F. is a citizen of St. Croix, United States Virgin Islands.
267. Noorhasan, Lennox E. is a citizen of St. Croix, United States Virgin Islands.
268. Noorhasan, Shane Antonio is a citizen of St. Croix, United States Virgin Islands.
269. Nyack, Marilyn is a citizen of St. Croix, United States Virgin Islands.
270. O'Reilly, Wilburn is a citizen of St. Croix, United States Virgin Islands.
271. Paige, Alvin is a citizen of St. Croix, United States Virgin Islands.
272. Paige, Ara individually and as parent to minor Burke, Ian, citizens of St. Petersburg, Florida.
273. Parrilla, Carmen Amaro individually and as parent to minors Parrilla, Christian Jr., Parrilla, Miguel J. and Parrilla, Natacha, citizens of St. Croix U.S. Virgin Islands;
274. Parrilla, Delores I., individually and as parent to minor Parrilla, Roberto Jr., citizens of St. Croix U.S. Virgin Islands.
275. Parrilla, Joel is a citizen of St. Croix, United States Virgin Islands.
276. Parrilla, Juan is a citizen of St. Croix, United States Virgin Islands.
277. Parrilla, Orlando is a citizen of St. Croix, United States Virgin Islands.
278. Parrilla, Raquel is a citizen of St. Croix, United States Virgin Islands.

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279. Parrilla, Pedro Juan is a citizen of St. Croix, United States Virgin Islands.
280. Parrilla, Roberto Sr. is a citizen of St. Croix, United States Virgin Islands.
281. Parrilla, Sonia M. is a citizen of St. Croix, United States Virgin Islands.
282. Parrilla, Tara is a citizen of Orlando, Florida.
283. Parrilla, Wilfredo is a citizen of St. Croix, United States Virgin Islands.
284. Parrilla, Orlimagelys is a citizen of St. Croix, United States Virgin Islands.
285. Parrilla-Ferdinand, Delores is a citizen of St. Croix, United States Virgin Islands.
286. Pemberton, Candis M. is a citizen of St. Croix, United States Virgin Islands.
287. Pemberton, Majarie C. is a citizen of St. Croix, United States Virgin Islands.
288. Pena, Marco Garcia is a citizen of St. Croix, United States Virgin Islands.
289. Perez, Carlos A. is a citizen of St. Cloud, Florida.
290. Perez, Carlos Alberto is a citizen of St. Cloud, Florida.
291. Perez, Carmen L. is a citizen of St. Cloud, Florida.
292. Perez, Jorge A. is a citizen of Atlanta, Georgia.
293. Perez, Jose M. is a citizen of St. Croix, United States Virgin Islands.
294. Perez, Naishma K. is a citizen of St. Cloud, Florida.
295. Perez, Nydia, individually and as parent to minor Perez, Paula Y., citizens of San Antonio, Texas.
296. Perez, Tuwanda is a citizen of St. Croix, United States Virgin Islands.
297. Perez, Victor M. is a citizen of St. Croix, United States Virgin Islands.
298. Perez, Xavier M. is a citizen of St. Croix, United States Virgin Islands.
299. Perez, Yamileisy is a citizen of St. Croix, United States Virgin Islands.
300. Perez, Yaritza is a citizen of St. Croix, United States Virgin Islands.

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301. Perez, Ylonis J. is a citizen of St. Croix, United States Virgin Islands.
302. Perez, Yomar A. is a citizen of St. Cloud, Florida.
303. Perez, Zalemie Y. is a citizen of San Antonio, Texas.
304. Perez-Ayala, America individually and as parent to minors Perez, Neishalee and Perez, Victor Manuel III, residents of St. Croix U.S. Virgin Islands.
305. Phillip, Arthur is a citizen of St. Croix, United States Virgin Islands.
306. Phillip, Martial is a citizen of St. Croix, United States Virgin Islands.
307. Phillip, Marva is a citizen of St. Croix, United States Virgin Islands.
308. Phillip, Marvin is a citizen of St. Croix, United States Virgin Islands.
309. Phillip, Terry M. is a citizen of St. Croix, United States Virgin Islands.
310. Picart, Jose is a citizen of St. Croix, United States Virgin Islands.
311. Pilier, Demetrio A. individually and as parent to minors Pilier, Lizandro and Pilier, Lizangel, citizens of St. Croix U.S. Virgin Islands.
312. Plaskett, Cripson is a citizen of St. Croix, United States Virgin Islands.
313. Plaskett, Dilia individually and as parent to minor Ventura, Angela S., citizens of St. Croix U.S. Virgin Islands.
314. Plaskett, William A. is a citizen of St. Croix, United States Virgin Islands.
315. Polidore, Cornelia is a citizen of St. Croix, United States Virgin Islands.
316. Polidore, Keriscia is a citizen of St. Croix, United States Virgin Islands.
317. Polydore, Lawrence citizens of St. Croix U.S. Virgin Islands.
318. Prescott, Miscelda is a citizen of Mattapan, Massachusetts.
319. President, Kimbel is a citizen of St. Croix, United States Virgin Islands.
320. President, Kimberly is a citizen of St. Croix, United States Virgin Islands.

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321. Preville, Godfrey G. is a citizen of St. Croix, United States Virgin Islands.
322. Profil, Migdalia is a citizen of St. Croix, United States Virgin Islands.
323. Pryce, David is a citizen of St. Croix, United States Virgin Islands.
324. Pryce, Philbert Jr. is a citizen of St. Croix, United States Virgin Islands.
325. Quildan, Isabella N. is a citizen of St. Croix, United States Virgin Islands.
326. Quildan, Kareem is a citizen of St. Croix, United States Virgin Islands.
327. Quinones, Iris M. is a citizen of St. Croix, United States Virgin Islands.
328. Quinones, Jose William is a citizen of St. Croix, United States Virgin Islands.
329. Quinones, Ruth A. is a citizen of St. Croix, United States Virgin Islands.
330. Quinones, Sila is a citizen of St. Croix, United States Virgin Islands.
331. Ramirez, Andres Mercado is a citizen of St. Croix, United States Virgin Islands.
332. Ramos, Brunilda is a citizen of St. Croix, United States Virgin Islands.
333. Ramos, Daniel is a citizen of St. Croix, United States Virgin Islands.
334. Ramos, Gabriel is a citizen of St. Croix, United States Virgin Islands.
335. Ramos, Jorge is a citizen of St. Croix, United States Virgin Islands.
336. Ramos, Josefina is a citizen of St. Croix, United States Virgin Islands.
337. Ramos, Marcela is a citizen of St. Croix, United States Virgin Islands.
338. Reyes, Eridania is a citizen of St. Croix, United States Virgin Islands.
339. Reyes, Evaristo is a citizen of St. Croix, United States Virgin Islands.
340. Reyes, Francisca C., individually and as parent to minor Reyes, Nayoshe, citizens of St. Croix U.S. Virgin Islands.
341. Reyes, Juan A. is a citizen of St. Croix, United States Virgin Islands.
342. Reyes, Juanico is a citizen of St. Croix, United States Virgin Islands.

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343. Reyes, Maximo Guerrero is a citizen of St. Croix, United States Virgin Islands.
344. Reyes, Wanda J. is a citizen of St. Croix, United States Virgin Islands.
345. Richardson, Laurencea is a citizen of St. Croix, United States Virgin Islands.
346. Richardson, Marilyn, individually and as parent to minor Gonzague, Jovon, citizens of St. Croix U.S. Virgin Islands.
347. Rios, Cecilia is a citizen of St. Croix, United States Virgin Islands.
348. Rivera, Ana Celia is a citizen of St. Croix, United States Virgin Islands.
349. Rivera, Beatrice is a citizen of St. Croix, United States Virgin Islands.
350. Rivera, Belkis is a citizen of St. Croix, United States Virgin Islands.
351. Rivera, Ebony is a citizen of St. Croix, United States Virgin Islands.
352. Rivera, Miriam is a citizen of St. Croix, United States Virgin Islands.
353. Rivera, Sandro is a citizen of St. Croix, United States Virgin Islands.
354. Robles Jessica C. is a citizen of St. Croix, United States Virgin Islands.
355. Robles, Benjamin Jr. is a citizen of St. Croix, United States Virgin Islands.
356. Robles, Benjamin Sr. is a citizen of St. Croix, United States Virgin Islands.
357. Robles, Elise is a citizen of St. Croix, United States Virgin Islands.
358. Robles, Ismael is a citizen of St. Croix, United States Virgin Islands.
359. Robles, Ivette is a citizen of St. Croix, United States Virgin Islands.
360. Robles, Jose Luis is a citizen of St. Croix, United States Virgin Islands.
361. Rodney, Martina L. is a citizen of St. Croix, United States Virgin Islands.
362. Rodriguez, Julio is a citizen of St. Croix, United States Virgin Islands.
363. Rodriguez, Lillian R. individually and as parent to minor Rodriguez, Miguel A. , citizens of St. Croix U.S. Virgin Islands.

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364. Rodriguez, Miguely is a citizen of St. Croix, United States Virgin Islands.
365. Rogers, Akeel is a citizen of St. Croix, United States Virgin Islands.
366. Rojas, Pablo is a citizen of St. Croix, United States Virgin Islands.
367. Roldan, Frenando L. is a citizen of St. Croix, United States Virgin Islands.
368. Roldan, Jeremy L. is a citizen of St. Croix, United States Virgin Islands.
369. Rosario, Angela Pagan is a citizen of St. Croix, United States Virgin Islands.
370. Ross, Neelia is a citizen of St. Cloud, Florida.
371. Ruiz, Joanne, individually and as parent to minors Carmona, Angelo J., Greenidge, Alaika E., Greenidge, Allen H., Jr., Greenidge, Talaiya A. and Ruiz, Takima T., citizens of St. Croix U.S. Virgin Islands.
372. Ruiz, Rut individually and as parent to minor Leo, Jahliah T., citizens of St. Croix U.S. Virgin Islands.
373. Saldana, Carmen is a citizen of St. Croix, United States Virgin Islands.
374. Saldana, Eddie Adner is a citizen of St. Croix, United States Virgin Islands.
375. Saldana, Edwin is a citizen of Bronx, NY.
376. Saldana, Raquel individually and as parent to minor Maragh, Krystal, citizens of St. Croix U.S. Virgin Islands.
377. Sanchez, Angel Alberto is a citizen of St. Croix, United States Virgin Islands.
378. Sanchez, Edith is a citizen of St. Croix, United States Virgin Islands.
379. Sanchez, Jose Alberto is a citizen of St. Croix, United States Virgin Islands.
380. Sanchez, Jose E. is a citizen of St. Croix, United States Virgin Islands.
381. Sanchez, Jose Roberto is a citizen of St. Croix, United States Virgin Islands.
382. Sanes, Angel L. is a citizen of St. Croix, United States Virgin Islands.

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383. Sanes, Joshua citizens of St. Croix U.S. Virgin Islands.
384. Sanes, Miguel Angel is a citizen of St. Croix, United States Virgin Islands.
385. Santana, Yadira is a citizen of St. Croix, United States Virgin Islands.
386. Santiago, Jose Lanso is a citizen of St. Croix, United States Virgin Islands.
387. Santiago, Artemia is a citizen of St. Croix, United States Virgin Islands.
388. Santiago, Carlos L. is a citizen of St. Croix, United States Virgin Islands.
389. Santiago, Chayanne is a citizen of St. Croix, United States Virgin Islands.
390. Santiago, Eliever is a citizen of St. Croix, United States Virgin Islands.
391. Santiago, Lydia is a citizen of St. Croix, United States Virgin Islands.
392. Santiago, Maynalys is a citizen of St. Croix, United States Virgin Islands.
393. Santos, Angelica is a citizen of St. Croix, United States Virgin Islands.
394. Santos, Ramona is a citizen of St. Croix, United States Virgin Islands.
395. Santos, Theresita is a citizen of St. Croix, United States Virgin Islands.
396. Serrano, Maria is a citizen of Sanford, Florida.
397. Serrano, Martha is a citizen of San Antonio, Texas.
398. Serrano, Martin Jr. is a citizen of San Antonio Texas.
399. Shalto, Greta is a citizen of St. Croix, United States Virgin Islands.
400. Shaw- Jacobs, Jeanette is a citizen of St. Croix, United States Virgin Islands.
401. Shirley, Helen is a citizen of St. Croix, United States Virgin Islands.
402. Slater, Ramisha individually and as parent to minor Wilson, Brandon T.B. II, citizens of St. Croix U.S. Virgin Islands.
403. Smith, Keisha P. is a citizen of St. Croix, United States Virgin Islands.
404. Smith, Kevin E. is a citizen of St. Croix, United States Virgin Islands.

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405. Smith, Natasha is a citizen of St. Croix, United States Virgin Islands.
406. Soto, Jennifer is a citizen of Camden, New Jersey.
407. Soto, Jeremy is a citizen of St. Croix, United States Virgin Islands.
408. Soto, Jorge is a citizen of St. Croix, United States Virgin Islands.
409. Soto, Luis Enrique individually and as parent to minor Soto, Luis E., citizens of St. Croix U.S. Virgin Islands.
410. Soto, Maria L. is a citizen of Miramar, Florida.
411. Soto, Rosa is a citizen of St. Croix, United States Virgin Islands.
412. St. Brice, Anthony is a citizen of St. Croix, United States Virgin Islands.
413. Stevens, Claudia is a citizen of St. Petersburg, Florida.
414. Stubbs, Jeremiah C. individually and as parent to minor Stubbs, Mariah C., citizens of St. Croix U.S. Virgin Islands.
415. Taylor, Annette J. is a citizen of St. Croix, United States Virgin Islands.
416. Taylor, Beryl E. is a citizen of Dundee, Florida.
417. Taylor, Debbie R. is a citizen of St. Croix, United States Virgin Islands.
418. Theophilus, Alita V. is a citizen of St. Croix, United States Virgin Islands.
419. Thomas, Marsha individually and as parent to minors Tanis, Tamireia N. and Tanis, Nahomey citizens of St. Croix U.S. Virgin Islands.
420. Torres, Jose Manuel, Jr. is a citizen of St. Croix, United States Virgin Islands.
421. Torres, Linda is a citizen of St. Croix, United States Virgin Islands.
422. Valentine, Carmen is a citizen of St. Croix, United States Virgin Islands.
423. Valentine, Santiago O. Jr. is a citizen of St. Croix, United States Virgin Islands.
424. Vasquez, Noemi S. is a citizen of St. Croix, United States Virgin Islands.

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425. Vega, Efrain is a citizen of St. Croix, United States Virgin Islands.
426. Vega, Luis Felix Jr. is a citizen of St. Croix, United States Virgin Islands.
427. Vega, Luz Delia individually and as parent to minors, Vega, Shanley T. and Vega, Fransheska citizens of St. Croix U.S. Virgin Islands.
428. Vega, Luis Felix is a citizen of St. Croix, United States Virgin Islands.
429. Vegas Lebron, Fermin is a citizen of St. Croix, United States Virgin Islands.
430. Velez, Carmen R. is a citizen of St. Croix, United States Virgin Islands.
431. Velez, Corporina is a citizen of St. Croix, United States Virgin Islands.
432. Velez, Jose R. is a citizen of St. Croix, United States Virgin Islands.
433. Velez, Jose Ramon is a citizen of St. Croix, United States Virgin Islands.
434. Velez, Margarita is a citizen of St. Croix, United States Virgin Islands.
435. Velez, Miguel Angel citizens of St. Croix U.S. Virgin Islands.
436. Velez, Norma citizens of St. Croix U.S. Virgin Islands.
437. Velez, Yesenia citizens of St. Croix U.S. Virgin Islands.
438. Ventura, Angel L. is a citizen of St. Croix, United States Virgin Islands.
439. Ventura, Anna Maria is a citizen of St. Croix, United States Virgin Islands.
440. Ventura, Carlos Jr. citizens of St. Croix U.S. Virgin Islands.
441. Ventura, Carmen L. citizens of St. Croix U.S. Virgin Islands.
442. Ventura, Edna is a citizen of Boston, Massachusetts.
443. Ventura, Jose Miguel is a citizen of St. Croix, United States Virgin Islands.
444. Ventura, Karla Jeanette is a citizen of St. Croix, United States Virgin Islands.
445. Ventura, Noelia Soto is a citizen of Carolina, Puerto Rico.

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446. Ventura, Xiomara I. individually and as parent to minor Denis, Diane N., citizens of St. Croix U.S. Virgin Islands.
447. Villanueva, Shelia L. is a citizen of Charlotte, North Carolina.
448. Williams, Clayton is a citizen of St. Croix, United States Virgin Islands.
449. Williams, Idelfonsa is a citizen of St. Cloud, Florida.
450. Williams, Urma is a citizen of St. Croix, United States Virgin Islands.
451. Wilson, Alfred is a citizen of St. Croix, United States Virgin Islands.
452. Wilson, Brandon T.B. is a citizen of St. Croix, United States Virgin Islands.
453. Wilson, Cindy, individually and as parent to minor Rivera, Justin citizens of St. Croix U.S. Virgin Islands.
454. Wilson, Diana N., individually and as parent to minor Roldan, Shaedean N., residents of St. Croix U.S. Virgin Islands.
455. Wiltshire, Dunn is a citizen of St. Croix, United States Virgin Islands.
456. Wiltshire, Ethelbert is a citizen of St. Croix, United States Virgin Islands.
457. Wiltshire, Gregg is a citizen of St. Croix, United States Virgin Islands.
458. Wiltshire, Hermine individually and as guardian to minor Wiltshire, Christina, citizens of St. Croix U.S. Virgin Islands.
459. Wiltshire, Peter is a citizen of St. Croix, United States Virgin Islands.
460. At all times relevant to this action, and within the time period of 2002 to the present, all Plaintiffs were residents of or guests staying in close proximity to the Defendant's alumina refinery on the south shore of St. Croix.

FACTUAL BACKGROUND

461. For about thirty years, an alumina refinery located near thousands of homes on

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the south shore of the island of St. Croix was owned and/or operated by a number of entities. The facility refined a red ore called bauxite into alumina, creating enormous mounds of the by-product, bauxite residue, red mud, or red dust.

462. St. Croix Renaissance Group LLLP (“SCRG”) upon information is a Limited Liability Limited Partnership and is deemed to be a citizen of Delaware, Florida, Massachusetts, Puerto Rico and St. Croix, U.S. Virgin Islands. In or about 2002, Alcoa World Alumina, LLC (“ALCOA”) and St. Croix Alumina, LLC (“SCA”) entered into a Purchase and Sale Agreement (“PSA”) for the refinery with Brownfields Energy Recovery Corporation (“BRC”) and Energy Answers Corporation of Puerto Rico (“EAPR”) and BRC and EAPR immediately transferred their interests in the refinery to St. Croix Renaissance Group (“SCRG”).

463. SCRG has owned and/or operated the refinery from 2002 to the present.

464. Alumina is extracted from a naturally-occurring ore called bauxite. Bauxite is red in color. The Material Safety Data Sheets (“MSDS”) for bauxite warn that it can cause irritation of the eyes, skin and upper respiratory tract.

465. The byproduct of the alumina refining process used at the St. Croix refinery is a red substance called bauxite residue, or “red mud” or “red dust,” which is indistinguishable in color and texture from bauxite. Red mud causes damages to real and personal property.

466. Red mud causes significant physical injuries. The MSDS for red mud states that it can cause “severe irritation and burns [of eyes], especially when wet,” “can

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cause severe irritation [of skin], especially when wet,” “can cause irritation of the upper respiratory tract,” and that is a “cancer hazard.” The MSDS also advises against skin and eye exposure to red mud.

467. From the beginning of the alumina refinery’s operations, hazardous materials, including chlorine, fluoride, TDS, aluminum, arsenic, molybdenum, and selenium, as well as coal dust and other particulates were buried in the red mud, and the red mud was stored outdoors in open piles that at times were as high as approximately 120 feet and covered up to 190 acres of land. The piles of red mud erode into the environment if they are not secured by vegetation or retaining walls. For years, the uncovered piles often emitted fugitive dust when winds blew across the refinery and on the frequent occasions when bulldozers ran over them.

468. In addition, the refinery contained asbestos and other particulates and hazardous substances in various conditions that were never removed from the premises, in violation of law.

469. The bauxite was stored in a steel A-frame structure with plastic sheets hung down the sides, called the bauxite storage shed. In 1995, Hurricane Marilyn hit St. Croix and damaged the roof of the bauxite storage shed, which allowed the dusty bauxite to be blown out of the shed.

470. Previous owners ALCOA and St. Croix Alumina added red dust, coal dust and other particulates to the materials left behind by Virgin Islands Alumina Company, Glencore, Ltd., Glencore International AG, and Century Aluminum Company, the former owners and/or operators of the refinery, and continued to

stack and store them in huge uncovered piles.

471. When SCRG purchased the refinery it had knowledge of the potential for red mud releases. It was aware of the loose bauxite and piles of red mud and knew that those substances had the propensity for particulate dispersion when exposed to wind and that the refinery was in close proximity to thousands of residential dwellings. Indeed, all of the Plaintiffs lived or were staying or still live in close proximity to the dangerous dispersion of the red dust particulates. SCRG knew that every time there was a strong wind the toxic substances in the piles would be dispersed into the air, where they were inhaled by Plaintiffs, deposited onto Plaintiffs' persons and real and personal properties, and deposited into the cisterns that are the primary source of potable water for many Plaintiffs. This dispersion of toxic materials occurred continuously from the same source, the red mud piles at the alumina refinery, and SCRG, owner of the refinery from 2002, did nothing to abate it, and instead, allowed the series of continuous transactions to occur like an ongoing chemical spill. Each Plaintiff's exposure occurred out of the same dispersions of toxic materials including the coal dust, which is buried in the red mud, and which was stored outdoors.

472. Despite that knowledge SCRG failed to take proper measures to control those emissions ever since it took control of the refinery from 2002 to the present.

473. In addition, SCRG took actions related to the red mud piles that increased the disbursement of the toxic substances into Plaintiffs' properties and further resulted in Plaintiffs' additional exposure to those toxic substances.

474. Red mud contains caustic soda, crystalline silica, iron oxide, titanium dioxide,

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and other toxic substances that make it a health risk to Plaintiffs and exposes Plaintiffs to toxic injuries.

475. SCRG discovered that ALCOA had not abated the asbestos in the property on or about 2006 when it was informed by DPNR.

476. SCRG attempted to conceal the fact it had friable asbestos in the plant and left it there for years.

477. SCRG knew that friable asbestos was being blown into Plaintiffs' homes and being inhaled by Plaintiffs but failed to disclose its knowledge or warn Plaintiffs.

478. During its operation and/or ownership of the alumina refinery, SCRG failed to remove the asbestos from the refinery for years and upon information asbestos remains in the property.

479. Upon information the asbestos has been friable and in an extremely dangerous condition for at least 10 years but Plaintiffs had no way of knowing or discovering that. In particular, Defendant concealed the existence of the friable asbestos from Plaintiffs until 2010, when DPNR produced documents, indicating the presence of asbestos in discovery in the Bennington v. SCRG matter indicating that unencapsulated asbestos fibers were permitted to hang and blow about freely.

480. Upon information SCRG hid the fact that it had friable asbestos not only from the Plaintiffs but also from Department of Natural Resources (DPNR) and Environmental Protection Agency (EPA) and in fact, made false reports concerning the same.

481. SCRG has done nothing to remove that asbestos to the present.

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482. As a result of Defendant's conduct, Plaintiffs suffered and continue to suffer physical injuries, medical expenses, damage to their properties and possessions, loss of income, loss of capacity to earn income, mental anguish, pain and suffering and loss of enjoyment of life, a propensity for additional medical illness, and a reasonable fear of contracting illness in the future, all of which are expected to continue into the foreseeable future.

483. To this date, Defendant is continuing to expose Plaintiffs to red dust, bauxite, asbestos and other particulates and hazardous substances. Defendants' conduct is also continuing to prevent Plaintiffs from freely enjoying their properties.

COUNT I: Abnormally Dangerous Condition

484. Plaintiffs repeat and re-allege each allegation of Paragraph 1-483 as if set forth herein verbatim.

485. The actions of the Defendant constitute maintaining an abnormally dangerous condition.

486. The St. Croix alumina refinery is located in a known hurricane zone at the head of the Kraus Lagoon Channel at Port Alucroix, which leads to the Caribbean Sea. The natural resources of the Virgin Islands are particularly sensitive and precious.

487. Thousands of residential dwellings are located in close proximity to the refinery and all of the Plaintiffs lived or stayed at or still live in close proximity to the refinery and certainly within range of the dispersion of the toxic materials from the refinery.

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488. Defendant's use, storage, disposal and failure to remediate the bauxite, red dust and/or red mud, asbestos, coal dust, and other particulates and hazardous materials at the refinery is solely for Defendant's own business purposes.
489. Defendant knows and understands that there is a high risk that strong winds could blow bauxite, red mud, asbestos and other particulates and hazardous materials into Plaintiffs' neighborhoods.
490. Defendant's ongoing storage, disposal, and failure to remediate the bauxite, red mud, asbestos, and other particulates and hazardous materials presented and continues to present a high risk of great harm to Plaintiffs' health, chattel, and properties. Bauxite and red mud can irritate the skin, respiratory tract, and eyes and can permanently stain, clog, and otherwise damage property and objects. Friable asbestos is also a known carcinogen that can cause a variety of respiratory illnesses.
491. Defendant's ongoing use, storage, disposal and failure to remediate bauxite, red mud, asbestos and other particulates and hazardous materials at the alumina refinery caused and continue to cause serious harm to Plaintiffs' persons, chattel, and properties. As a result, the Plaintiffs suffered damages as alleged herein.

COUNT II: Public Nuisance

492. Plaintiffs repeat and re-allege each allegation of Paragraph 1-491 as if set forth herein verbatim.
493. The actions of Defendant constitute a public nuisance.
494. Specifically, the ongoing release of harmful dusts, including bauxite, red mud, coal dust, asbestos, and other particulates and hazardous materials, from the

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alumina refinery unreasonably threatens and interferes with the public rights to safety, health, peace, comfort, and the enjoyment of private land and public natural resources.

495. The actions of Defendant violated the statutes of the Virgin Islands (including, but not limited to, 12 V.I.R. & R. § 204-20(d) & (e), §§ 204-25(a)(2) & (3), § 204-25(c), and § 204-27(a)) and constitute nuisance *per se*.

496. Defendant knows or has reason to know that its conduct has a significant effect on the public rights.

497. Plaintiffs are entitled to damages as a result, thereof.

498. The Plaintiffs are further entitled to an injunction requiring Defendant to desist all activities that allow the release of pollutants, further requiring Defendant to remove the piles of “red dust”, coal dust and other particulates and hazardous materials, to remove all such pollutants, “red dust”, coal dust and other particulates and hazardous materials including asbestos from the island of St. Croix, and to refrain from allowing said substances from accumulating again on St. Croix.

COUNT III: Private Nuisance

499. Plaintiffs repeat and re-allege each allegation of Paragraph 1-498 as if set forth herein verbatim.

500. Defendant’s actions constitute a private nuisance in violation of 28 V.I.C. § 331 and Virgin Islands common law against each Plaintiff as they all lived within close proximity to the refinery and were subjected to the dangerous ongoing emissions.

501. Defendant’s recurring releases of massive quantities of bauxite, red mud,

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asbestos, and other particulates and hazardous substances have stained, clogged, and otherwise significantly damaged and/or destroyed Plaintiffs' homes and yards, and the damages and destruction continue to date.

502. Defendant's recurring releases of massive quantities of bauxite, red mud, asbestos, and other particulates and hazardous substances have exposed and continue to expose Plaintiffs' bodies to toxic and/or irritating dusts.

503. By so doing, Defendant has wrongfully and unreasonably interfered with Plaintiffs' private use and enjoyment of their homes and properties. As a result, Plaintiffs have been damaged, and continue to be damaged, as alleged, herein.

504. Pursuant to 28 V.I.C. § 331, in addition to damages, Plaintiffs are entitled to a warrant to abate the nuisance and/or an injunction to prevent the continuance of the nuisance.

COUNT IV: Intentional Infliction of Emotional Distress

505. Plaintiffs repeat and re-allege each allegation of Paragraph 1-504 as if set forth herein verbatim.

506. The actions of Defendant constitute the intentional infliction of emotional distress on Plaintiffs.

507. Defendant knows and understands that exposure to bauxite, red mud, asbestos, and other particulates and hazardous substances presented and continues to present serious risks to the health and property of thousands of St. Croix residents. Defendant also understands that the emissions posed and continue to pose serious threats to the local environment and natural resources.

508. Defendant knows that wind, rain and/or flooding, and other physical disturbances

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could release bauxite, red mud, asbestos and other particulates and hazardous substances from the alumina refinery into Plaintiffs' neighborhoods.

509. Defendant understands that St. Croix is a hurricane-prone area and that local residents rely on cisterns as their primary source of potable water.

510. Since at least 2006, Defendant SCRG also knew that dangerous friable asbestos was present at the refinery and could, along with the red mud and related particulates and hazardous substances, be blown by winds into Plaintiffs' neighborhoods, and that it did in fact do so.

511. Despite this knowledge, Defendant has knowingly and intentionally failed to take precautions to prevent bauxite, red mud, asbestos and other particulates and hazardous substances from blowing into Plaintiffs' neighborhoods, where it did blow and was dispersed exposing each Plaintiff to the harmful emissions and toxic substances continuously.

512. After Defendant permitted Plaintiffs to be exposed to bauxite, red mud, asbestos and other particulates and hazardous substances emissions from the alumina refinery, Defendant purposefully concealed and/or misrepresented the health risks associated with exposure to the emissions from Plaintiffs.

513. Years after learning that emissions from the alumina refinery presented high risk of serious injury to Plaintiffs and the natural resources of the Virgin Islands, Defendant continues to allow bauxite, red mud, asbestos and other particulates and hazardous substances to blow into Plaintiffs' neighborhoods and cause significant harm to Plaintiffs' minds, bodies, and property.

514. As a result of Defendant's callous disregard for the health, safety, well-being and

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property of Plaintiffs, Plaintiffs have suffered damages as alleged herein, including severe emotional distress and physical ailments resulting from such distress.

COUNT V: Negligent Infliction of Emotional Distress

515. Plaintiffs repeat and re-allege each allegation of Paragraph 1-514 as if set forth herein verbatim.

516. In the alternative to intentional infliction of emotional distress, the actions of Defendant constitute the negligent infliction of emotional distress.

517. As a result, Plaintiffs have been damaged as alleged, herein.

COUNT VI: Negligence as to Defendant

518. Plaintiffs repeat and re-allege each allegation of Paragraph 1-517 as if set forth herein verbatim.

519. The actions of Defendant constitute negligence.

520. SCRG has owned and/or operated the alumina refinery from 2002 to the present.

521. SCRG has failed and continues to fail to properly store and/or secure bauxite, red mud, related particulates, hazardous substances, and asbestos on the premises.

522. SCRG knew and/or should have known that its failure to secure these dangerous materials would allow them to blow freely into Plaintiffs' neighborhoods and harm Plaintiffs and their properties.

523. SCRG's failure to properly secure, store and/or maintain the bauxite, red mud, related particulates, hazardous substances, and asbestos at the alumina refinery has allowed and continues to allow these materials to blow into the nearby areas

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and harm Plaintiffs and their properties.

524. As a result Plaintiffs have been damaged as alleged, herein.

COUNT VII: Punitive Damages

525. Plaintiffs repeat and re-allege each allegation of Paragraph 1-524 as if set forth herein verbatim.

526. The actions of Defendant were and are so callous and done with such extreme indifference to the rights and interests of the Plaintiffs and the citizens of St. Croix so as to entitle Plaintiffs to an award of punitive damages.

WHEREFORE, Plaintiffs pray for damages as they may appear, compensatory and punitive, an injunction requiring that Defendant cease and desist all activities that result in pollutants being discharged and, further requiring a cleanup of all pollutants and removal of the piles of "Red Dust", coal dust and particulates and hazardous substances, costs and fees and such other relief as this Court deems fair and just.

RESPECTFULLY SUBMITTED,

LAW OFFICES OF LEE J. ROHN AND
ASSOCIATES, LLC
Attorneys for Plaintiffs

DATED: August 7, 2012

BY: s/ Lee J. Rohn
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U.S. Virgin Islands 00820
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IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

LOUIS ALEXANDER & MARY	Plaintiff)
ALEXANDER, et al.,)
)
Vs.)
HOVIC, Amerada Hess Corp., et al.,	Defendant)

CASE NO. Giv. 323/97, 324/97, 19
328/97, 329/97, 400/97, 417/97, 513/97,
563/97, 687/97, 688/97
 ACTION FOR: _____

NOTICE OF ENTRY OF JUDGMENT/ORDER

TO: Thomas H. Hart, III, Esquire
Jacqueline W. Mills, Esquire
Douglas L. Capdeville, Esquire
Mary Faith Carpenter, Esquire
Britain H. Bryant, Esquire
Richard H. Daley, Esquire

Felice M. Quigley, Esq.
 Michael J. Sanford, Esq.
 George H. Logan, Esq.
 John H. Benham, Esq.
 John R. Coon, Esq.
 Kevin A. Ramos, Esq.

Please take notice that on DECEMBER 12, 1997 Judgment/Order was

entered by this Court in the above-entitled matter.

C. Michael Evert, Jr., Esq.
 James L. Hynes, III, Esq.
 Bernard C. Pattie, Esq.

Dated: DECEMBER 12, 1997

YVONNE V. WESSLEHOFF

Clerk of the Territorial Court

By: *Harlow P. Turnbull*
 Deputy



THE TERRITORIAL COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

Louis Alexander & Mary Alexander, et. al.	Plaintiffs	Civil No. 323/1997
HOVIC, Amerada Hess Corp. et.al.	Defendants	
Kevin Manbodh, et. al.	Plaintiffs	Civil No. 324/1997
HOVIC, Amerada Hess Corp. et.al.	Defendants	
Josephat Henry, et. al.	Plaintiffs	Civil No. 328/1997
HOVIC, Amerada Hess Corp. et.al.	Defendants	
Arthur Paul, et. al.	Plaintiffs	Civil No. 329/1997
HOVIC, Amerada Hess Corp. et.al.	Defendants	
Joseph King, et.al.	Plaintiffs	Civil No. 400/1997
HOVIC, Amerada Hess Corp. et.al.	Defendants	
Logan N. Joseph, et.al.	Plaintiffs	Civil No. 417/1997
HOVIC, Amerada Hess Corp. et.al.	Defendants	

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Hector Martinez, et. al.

Plaintiffs

Civil No. 513/1997

v.

HOVIC, Amerada Hess Corp. et.al.

Defendants

Francis Laurencin, et. al.

Plaintiffs

Civil No. 514/1997

v.

HOVIC, Amerada Hess Corp. et.al.

Defendants

Ralph Soodcen, et.al.

Plaintiffs

Civil No. 563/1997.

v.

HOVIC, Amerada Hess Corp. et.al.

Defendants

Rahamut Ali & Ameena Ali, et. al

Plaintiffs

Civil No. 687/1997

v.

HOVIC, Amerada Hess Corp. et.al.

Defendants

Roy Clement, et.al.

Plaintiffs

Civil No. 688/1997

v.

HOVIC, Amerada Hess Corp. et. al

Defendants

ORDER

The Court acting *sua sponte* has reviewed the 13 cases filed by 235 plaintiffs against a total of 30 defendants which allege exposure to asbestos and related

Civil Nos. 323/324/328/329/400/417/513/563/687 & 688
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complications. In the eleven cases captioned above, each complaint consists of 15 to 30 plaintiffs. The court finds that joinder improper and will therefore sever the plaintiffs.

The Federal Rules of Civil Procedure provide generally that persons who assert any right to relief, whether jointly, severally or in the alternative, may join in one action as plaintiffs if their cause of action arises out of the same transaction, occurrences, or series of transactions or occurrences, if any question of fact or law common to all these persons will arise in the action. *Fed.R.Civ.P. 20*. Adversely, Rule 21 permits a court to drop or add parties on its own initiative, or sever a claim against a party and proceed with each separately on such terms as are just. *Fed.R.Civ.P. 21*.


In each case, plaintiffs allege employment at the Hess Oil Refinery on St. Croix between the years of 1971 and 1990, and that each plaintiff encountered the alleged exposure during his or her employment. The court finds these allegations an insufficient basis to justify a Rule 20 joinder. While all plaintiffs may have worked with the same employer, there are no allegations that each individual's exposure occurred out of the same transaction, occurrence or series of transactions or occurrences. Indeed, it appears to the Court that plaintiffs' arbitrary joinder is an attempt to avoid paying the required filing fees. The premises considered, it is hereby

Civil Nos. 323/324/328/329/400/417/513/563/687 & 698
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ORDERED that in the above-captioned complaints, except for the first mentioned plaintiffs and spouses, all other plaintiffs shall re-file individual complaints within thirty (30) days of the date of entry of this order; and it is finally

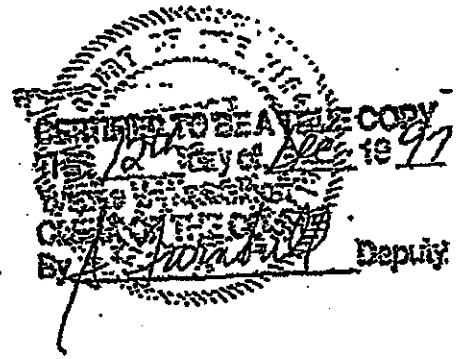

ORDERED that failure of the plaintiffs to proceed as ordered herein shall result in the DISMISSAL of their causes of action.

DATED: December 11, 1997.


MARIA M. CABRET
Judge

ATTEST:
YVONNE V. WESSELHOFT
Clerk of the Court

By: 
Karlene Surabull
Deputy Clerk
12/12/97


PERMITTED TO BE A TRUE COPY
12 days of Dec 1997
Clerk of the Court
By:  Deputy