

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

\*\*\*\*\*

CHARLES A. KAPLANEK, III,	)	
	)	
Plaintiff,	)	CASE NO. ST-95-CV-459
v.	)	
	)	ACTION FOR DECLARATORY RELIEF,
BRUCE W. STREIBICH,	)	PRELIMINARY AND PERMANENT
	)	INJUNCTIVE RELIEF, AND DAMAGES
Defendant.	)	
	)	
WARREN STRYKER and MARGARET	)	
STRYKER,	)	
	)	
Intervening Plaintiffs.	)	
ARTHUR SCHMAUDER, ELIZABETH	)	
MCGUIRE, and BLUE WATERS	)	Cite as 2023 VI Super 10
RETREAT, LLC,	)	
	)	
Intervening Defendants.	)	

**ORDER**

**THIS MATTER** is before the Court on Defendant Bruce Streibich's "Motion to Dismiss," filed on September 2, 2022. Plaintiff Kaplanek, III and Intervening Plaintiffs Warren Stryker and Margaret Stryker filed a joint opposition on September 28, 2022, and Defendant filed a reply on October 13, 2022. The Court having issued a Memorandum Opinion on this date, it is hereby

**ORDERED** that the Defendant's motion is **GRANTED in part** and **DENIED in part**; and it is further

**ORDERED** that Count Two (Easement by Prescription) and Count Three (Easement by Estoppel) of the Verified Complaint are **DISMISSED**; and it is further


**ORDERED** that Counts Two, Three, Four, Five, and Six of the Complaint in Intervention were **DISMISSED** by stipulation on September 27, 2022; and it is further

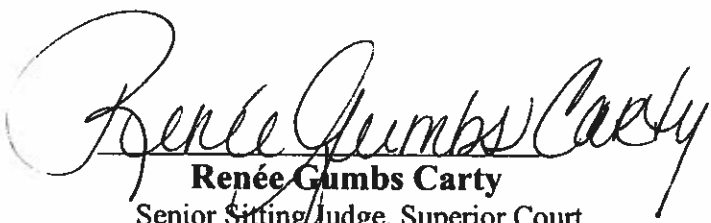
**ORDERED** that the motion to dismiss Count Four (Easement by Implication) of the Verified Complaint is **DENIED**; and it is further

**ORDERED** that a copy of this Order shall be directed to Michael E. Fitzsimmons, Esquire, Carol Ann Rich, Esquire, Gregory Adam Thorp, Esquire, Matthew J. Duensing, Esquire, and Mark D. Hodge, Esquire.

Dated: March 23, 2023

ATTEST:  
Tamara Charles  
Clerk of the Court

By:   
Donna D. Donovan  
Court Clerk Supervisor 3 / 23 / 2023

  
**Renée Gumbs Carty**  
Senior Sitting Judge, Superior Court  
of the Virgin Islands