

NOT FOR PUBLICATION

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

VI TAXI ASSOCIATION,

Plaintiff,

ST-16-CV-551

v.

**ACTION FOR DAMAGES,
DECLARATORY JUDGMENT,
TEMPORARY RESTRAINING
ORDER, PRELIMINARY AND
PERMANENT INJUNCTION**

**THE WEST INDIAN COMPANY, LIMITED;
BLUE EXECUTIVE SERVICES
AND TRANSPORTATION, LLC d/b/a/
BEST TAXI; KERRY HARRIGAN;
AND TERRI GRIFFITHS,**

Defendants.

JURY TRIAL DEMANDED

MEMORANDUM OPINION

BEFORE THE Court are two motions. On October 11, 2016, Plaintiff VI Taxi Association (hereinafter “VITA” or “Plaintiff”) filed a Motion to Quash Subpoena Duces Tecum Served On VITA By Best Taxi and a Motion to Show Cause Why WICO Should Not Be Found In Contempt of Court (hereinafter “Motions”). No responses were filed for either motion. For the following reasons, the Court will deny both motions.

FACTS AND PROCEDURAL HISTORY

On September 21, 2016, Plaintiff VITA filed a Complaint against Defendant The West Indian Company, Limited (hereinafter “WICO”), Defendant Blue Executive Services & Transportation, LLC d/b/a Best (hereinafter “Best Taxi”), Defendant Kerry Harrigan, and Defendant Terri Griffiths. On September 23, 2016, Plaintiff filed an emergency motion for temporary restraining order (hereinafter “TRO”) and preliminary injunction against Defendant WICO (hereinafter “Emergency Motion”). In its Emergency Motion, Plaintiff moved the Court to enjoin

Defendant WICO from awarding Defendant Best Taxi the 2016-0001 concession agreement for taxi services at the WICO Cruise Ship Dock.

By Order entered September 28, 2016, the Court, *inter alia*, granted VITA's Emergency Motion for a TRO enjoining WICO from awarding the 2016-0001 concession agreement to Best Taxi until the matter has been resolved. *Virgin Islands Taxi Ass'n v. The W. Indian Co.*, ST-16-CV-551, 2016 V.I. LEXIS 150, *16 (Super. Ct. Sep. 28, 2016) (unpublished) (explaining that VITA had made a sufficient showing on all four factors and is entitled to the extraordinary remedy of the issuance of a TRO). A hearing on the preliminary injunction was scheduled on October 4, 2016 and is still in progress.

VITA filed a Motion to Quash Subpoena Duces Tecum Served On VITA By Best Taxi as well as a Motion to Show Cause Why WICO Should Not Be Found In Contempt of Court. Both Motions are devoid of any legal authority to support VITA's arguments. The issue before the Court is whether VITA's motions are properly before this Court.

DISCUSSION

VITA moves this Court to quash the subpoena and to order WICO to show cause why it should not be held in contempt of court without providing a legal basis for its propositions.

The Supreme Court of the Virgin Islands (hereinafter "Supreme Court") maintains the position that in order for a motion to be properly before the court, parties must support their arguments by citing the proper legal authority, statute or rule.¹ *See* Supreme Court Rule 22. The Supreme Court explained that

¹ *See Bernhardt v. Bernhardt*, 51 V.I. 341, 345-46 (V.I. 2009); *see also Davis v. Varlack Ventures, Inc.*, 59 V.I. 229, 238-239 (V.I. 2013) (in the context of appellate review, explaining that in order for a motion to be properly before the court, parties must support their arguments by citing the proper legal authority, statute or rule).

[t]he rules that require a litigant to brief and support his arguments, both here and before the Superior Court, are not mere formalistic requirements. They exist to give the Superior Court the opportunity to consider, review, and address an argument before it is presented to this Court. That requirement permits the Superior Court to develop the record so that, in the event of an appeal, this Court can then make informed rulings.²

Pursuant to Rule 11.1(a) of the Local Rules of Civil Procedure (hereinafter “Rule 11.1(a)”), by filing a motion and supporting memorandum, the movant certifies that the proper legal authorities have been cited. *See* LRCi 11.1(a). *See also* *Tutu Park, Ltd. v. Harthman Leasing I, LLLP*, 2016 V.I. LEXIS 159, *26 n. 68 (V.I. Super. Ct. Sept. 27, 2016) (citing *Benjamin v. Coral World VI, Inc.*, 2014 V.I. LEXIS 35, *10 n.38 (V.I. Super. Ct. June 12, 2014) (reminding parties that under LCRi 11.1, by signing a motion or supporting memorandum, an attorney certifies that the applicable law in this jurisdiction has been cited, including authority for or against the position being advocated by counsel and warning parties that motions not supported by proper legal authority may be struck by the court as fatally deficient)) (citations omitted). Past practices in the Superior Court dictate that when a movant fails to cite the proper legal authority to support their legal propositions, Rule 11.1(a) is invoked to reject the motion as fatally deficient.³

According to *Vanterpool v. Gov't of the Virgin Islands*, 63 V.I. 563, 582 (VI. 2015), “the Local Rules of the District Court should represent rules of last resort rather than first resort.”⁴ This Court has made an independent determination that Rule 11.1(a) serves a valid purpose when applied to the Superior Court and should be applicable where a motion is unsupported by the proper legal authority.⁵ The Supreme Court Rules prescribe that motions that do not conform to the rules of the

² *Simpson v. Golden*, 56 V.I. 272, 280-281 (VI. 2012).

³ LRCi 11.1(a). *See Pate v. Gov't of the Virgin Islands*, 62 V.I. 271, 291 (V.I. Super. Ct. 2015); *see also V.I. Daily News v. PSC*, 45 V.I. 139, 146 (V.I. Terr. Ct. 2002) (finding attorney's failure to cite binding authority rendered it fatally deficient).

⁴ The Local Rules of the District Court are made applicable to the Superior Court through Superior Court Rule 7. *See* SUP. CT. R. 7. In *Vanterpool*, the Supreme Court questioned the validity of Superior Court Rule 7, as a rote mechanism for applying, *inter alia*, the Local Rules of the District Court. Ultimately, the Court declined to make an affirmative ruling. *See Vanterpool*, 63 V.I. at 581-582.

⁵ *Id.*

court may be rejected. See Supreme Court Rule 20. In that vein, the Superior Court should also have the discretion to reject motions not properly before the court.

Rule 11.1(a) provides this Court with the mechanism to strike improper motions as fatally deficient.⁶ Courts have reasoned that by failing to develop the law by citing the appropriate legal authority to bolster arguments, movants defeat the purpose of adversarial system.⁷ In *Antilles School, Inc. v. Lembach*, 2016 V.I. Supreme LEXIS 7, n. 13 (V.I. 2016), the Supreme Court clearly stated that “[m]embers of the Virgin Islands Bar ... must be cognizant of their responsibility to serve as advocates for their clients, which includes making all necessary legal arguments ...”⁸ “It is not the Court's job to research and construct legal arguments open to parties ... In order to develop a legal argument effectively, the facts at issue must be bolstered by relevant legal authority; a perfunctory and undeveloped assertion is inadequate.”⁹ Accordingly, if a movant fails to identify applicable law to support its motion, this Court shall deny the motion as deficient.¹⁰

⁶ See LRCi 11.1(a).

⁷ See *Tutu Park, Ltd.*, 2016 V.I. LEXIS 159, *26 n. 67 (citing *Carducci v. Regan*, 714 F.2d 171, 176, 230 U.S. App. D.C. 80 (D.C. Cir. 1983) (suggesting that, while courts are not precluded from reaching decisions on issues beyond the briefings, attempting to resolve complex legal questions without proper briefing by the parties deprives the court of the assistance of counsel necessary to properly develop the law in an adversarial system and declining to entertain appellant's argument); *Southwestern Pa. Growth Alliance v. Browner*, 121 F.3d 106, 121 (3rd Cir. 1997) (refusing to address complicated legal issues that were not properly developed by the parties in their briefs); The Supreme Court of the Virgin Islands has also spoken on the importance of this principle: “The rules that require a litigant to brief and support his arguments ... before the Superior Court, are not mere formalistic requirements. They exist to give the Superior Court the opportunity to consider, review, and address an argument[.]” *Simpson*, 56 V.I. at 280.

⁸ See *In re AG Subpoena of Terminix Int'l USVI, LLC*, 2016 V.I. LEXIS 146, *13 (V.I. Super. Ct. Sept. 16, 2016) (unpublished) (quotation marks omitted).

⁹ See *Charles v. CBI Acquisitions, LLC*, 2016 V.I. LEXIS 62, *27 n. 66 (V.I. Super. Ct. May 9, 2016) (citing *Schneider's Dairy v. Serv. Pers. & Empls., Teamsters Local Union No. 205*, 2013 U.S. Dist. LEXIS 174350, *5-6 n.1 (W.D. Pa. Dec. 10, 2013)) (internal citation and quotation marks omitted). Cf. *Joseph v. Joseph*, 2015 V.I. LEXIS 43, *5 (V.I. Super. Ct. Apr. 23, 2015) (the Court will not make a movant's arguments for him when he has failed to do so.); cf. *See Tutu Park, Ltd.*, 2016 V.I. LEXIS 159 n. 67; see also *People of the Virgin Islands v. Penn*, 53 V.I. 315, 318 (V.I. Super. CL 2010) (denying a defendant's motion to dismiss when he did not present any argument or case law supporting his claim of discrimination). *In re Catalyst Litig.*, 2015 V.I. LEXIS 145, *3-6 n. 12 (V.I. Super. Ct. 2015) (“The Supreme Court of the Virgin Islands has established that in order for a motion to be properly before the court, parties must support their arguments by citing the proper legal authority, statute or rule”).

¹⁰ See *id.*

In the case at bar, VITA did not develop its assertions or construct legal arguments. VITA merely laid out its arguments and legal conclusions. VITA failed to cite any binding authority or any legal basis to support its arguments in either motion. As a result, both Motions are fatally deficient and must be denied.

CONCLUSION

Based on the foregoing reasons, the Court will deny both Motions. VITA's Motions are devoid of any legal basis to support its propositions. As a result, these Motions are not properly before the Court. Therefore, both Motions shall be denied. The Court will issue an Order consistent with this Memorandum Opinion.

Dated: 10-18-16

ATTEST:

Estrella George
Acting Clerk of the Court

By: 

Deputy Clerk



HAROLD W. L. WILLOCKS
Administrative Judge of the Superior Court

Dated: 10/19/16