



GOVERNMENT OF
THE UNITED STATES VIRGIN ISLANDS



P. O. Box 302608 - Charlotte Amalie
St. Thomas, VI 00803-2608
(340) 776-3700 x2009
Fax (340) 774-5908

4401 Sion Farm
Csted, St. Croix, VI 00820-4245
(340) 773-1994
Fax (340) 773-0094

Anita L. Etienne-Administrative Officer I
Email: aetienne@vidol.gov

MAY 29, 2012

Manuel Gonzalez
P. O. Box 8286
St. Thomas, VI 00801

Dear Mr. Gonzalez,

The enclosed documents contain important material that you should read very carefully. It consists of a Notice regarding your upcoming hearing date, information about the procedures that will be followed, hearing instructions and the rules that this Unit will follow in the adjudication process of your case.

In order to expedite the movement of your case, on the day of your hearing, **two (2)** brief procedures will take place: a **Preliminary Hearing**, where after an analysis of the facts and testimony taken under oath and on the record, an oral determination will be issued by the **Hearing Examiner** as to the agency's jurisdiction over the dispute. Immediately thereafter a **Pre-hearing Conference** will take place. At this informal stage, the purpose of the **Pre-Hearing Conference** is to streamline the issues, and grant stipulations, if any. Also at this procedure, the parties must identify the names of prospective witnesses who will testify at the next level and inform the Hearing Examiner what each parties' anticipated exhibits will be to prove your case. Finally, a timeline for the final hearing, to be scheduled in the order that it was filed, the Formal Hearing date, will be discussed.

As a reminder, **THE MEDIATION PROCESS** is a fair and efficient avenue provided to both of the parties if each of you is interested in engaging in this step on an informal and confidential basis, and is available at any junction of the hearing process, before a **Formal Hearing** is held and a written opinion is issued. The goal of mediation is designed to resolve disputes and reach an amicable resolution. If you are interested in discussing this process, please contact us at the telephone number provided above. This dispute will not be resolved until both of the relevant parties agree to mediate this case, or a **Final Order** is prepared in this case after a full **Formal Hearing** is held.

Enclosures: *Notice of Hearing & Instructions*

CC: LSJ Employees, LLC

EFTA01077815

GOVERNMENT OF
THE VIRGIN ISLANDS OF THE UNITED STATES
DEPARTMENT OF LABOR
HEARINGS AND APPEALS UNIT
P.O. Box 302608
ST. THOMAS, VI 00803
Tel. (340) 776-3700 Fax (340) 774-5908

NOTICE OF PRELIMINARY HEARING

COMPLAINANT: MANUEL GONZALEZ
P. O. BOX 8286
ST. THOMAS, VI 00801

EMPLOYER: LSJ EMPLOYEES, LLC
6100 RED HOOK QUARTERS, B-3
ST. THOMAS, VI 00802-1348
ATTN: HUMAN RESOURCES

DATE OF MAILING: May 29, 2012

CASE NO. WD-061-2012-STT

You are notified to appear for a Preliminary Hearing on the Complainant's allegation of Wrongful Discharge.

DATE: Wednesday, June 27, 2012

TIME: 11:00 a.m.

PLACE: Department of Labor
Hearings & Appeals Unit
2353 Kronprindsens Gade
St. Thomas, VI 00802-6221

Postponements will only be granted for emergency reasons. Please be prompt!

If you are handicapped as defined in Section 504 of the Rehabilitation Act of 1973, please call the Department at the above telephone number.

Please refer to *INSTRUCTIONS TO THE COMPLAINANT AND EMPLOYER*.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of May, 2012 I prepared a true and exact copy of the foregoing **NOTICE OF PRELIMINARY HEARING** to be mailed via U.S. certified mail, postage prepaid to the above captioned parties at the addresses first mentioned.


Anita Etienne
Administrative Officer I

Order

1. Bring to the pre-hearing conference the original and two (2) copies of each documentary exhibit intended to be offered at the hearing;
2. Be prepared to address any pending motions, and to discuss stipulations and admissions where appropriate.

SO ORDERED,

DATED: 5/29/12

Anita Etienne for
James W. Kitson, J.D.
Administrative Law Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of May, 2012
I prepared a true and exact copy of the foregoing NOTICE OF PRE-HEARING
CONFERENCE to be mailed via U.S certified mail, postage prepaid to the above
captioned parties at the addresses first mentioned.

Anita Etienne
Anita Etienne
Administrative Officer I

DISTRIBUTION LIST

MANUEL GONZALEZ
P. O. BOX 8286
ST. THOMAS, VI 00801

LSJ EMPLOYEES, LLC
6100 RED HOOK QUARTERS, B-3
ST. THOMAS, VI 00802-1348
ATTN: HUMAN RESOURCES

GOVERNMENT OF
THE VIRGIN ISLANDS OF THE UNITED STATES



DEPARTMENT OF LABOR

4401 Sion Farm
St. Croix, VI 00820
Telephone: (340) 773-1994
Fax: (340) 773-1858

P. O. Box 302608 - Charlotte Amalie
St. Thomas, VI 00803-2608
Telephone: (340) 776-3700
Fax: (340) 774-5908

Labor Relations Division

Wrongful Discharge

WD-061-2012-STT

DATE FILED: May 14, 2012

Applicant Information

Full Name: GONZALEZ MANUEL J
Last First M.I.

Address: [Redacted]
Physical Address City/State/Zip

Phone: [Redacted] Rate of Pay: [Redacted]

Indicate Job Classification
Part time or Full Time: Full Time

Employer Information

Employer: LSJ Employees, LLC [Redacted]

Address: [Redacted]
Mailing Address City/State/Zip

Phone: [Redacted] Period Employed: [Redacted]
Fax: [Redacted]

Special Needs Required:

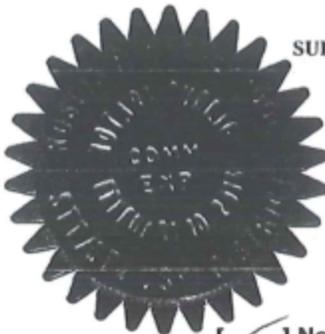
Facts on which the Complaint is based. (Be specific as to facts, names, dates, etc.)

- I. "The relief being sought is reinstatement with back pay pursuant to Title 24 V.I.C. § 77(c)"
- II. I believe I was wrongfully discharged or resigned for the following reasons: (explain in your own words)
I don't think my conduct was bad. I was all ways a good employ.

The Rules and Regulations under Title 24 V.I.C. Section 76 et. Seq. mandates in part that the Complainant must communicate promptly to the Division of Hearings and Appeals any change in their name, mailing address, or daytime telephone number. A party who fails to furnish such information shall be deemed to have waived the right to notice and service under the rules V.I.R. & Regs. Title 24 § 77-21 (1991)

I swear or affirm that I received a copy of the Wrongful Discharge Act. I have read the above complaint and it is true to the best of my knowledge, information and belief.

Manuel J Gonzalez
Signature of Complainant



SUBSCRIBED AND SWORN TO BEFORE ME
this 14 day of MAY 2012
2012
(year)
Rosemarie Winterfeld
Notary Public
NP# 12-12
WP February 10, 2012

Employer has (5) five or more employees
 Complainant worked more than (6) six months

No Union or Contract
 Complainant was not a Supervisor

V.I. DEPARTMENT OF LABOR

THE WRONGFUL DISCHARGE ACT
ACT 5227 TITLE 24 VIRGIN ISLANDS
CODE §76

§76. GROUNDS FOR DISCHARGE

- (a) Unless modified by union contract, an employer may dismiss any employee:
- (1) who engages in a business which conflicts with his duties to his employer or render him a rival of his employer;
 - (2) whose insolent or offensive conduct toward a customer of the employer injures the employer's business;
 - (3) whose use of intoxicants or controlled substances interferes with the proper discharge of his duties;
 - (4) who willfully and intentionally disobeys reasonable and lawful rules, orders and instructions of the employer; provided, however, the employer shall not bar an employee from patronizing the employer's business after the employee's working hours are completed;
 - (5) who performs his work assignments in a negligent manner;
 - (6) whose continuous absences from his place of employment affect the interest of his employer;
 - (7) who is incompetent or inefficient, thereby impairing his usefulness to his employer;
 - (8) who is dishonest; or
 - (9) whose conduct is such that it leads to the refusal, reluctance or inability of other employees to work with him.
- (b) The Commissioner may by rule or regulation adopt additional grounds for discharge of an employee not inconsistent with the provisions enumerated in subsection (a) of this section.
- (c) Any employee discharged for reasons other than those in subsection (a) of this section shall be considered to have been wrongfully discharged; however, nothing in this section shall be construed as prohibiting an employer from terminating an employee as a result of the cessation of business operations or as a result of a general cutback in the workforce due to economic hardship, or as a result of the employee's participation in concerted activity that is not protected by this title. - Added Dec. 29, 1986, No. 5227, §2, Sess. L. 1986

MEDIATION

THE MEDIATION PROCESS takes place on an informal and confidential basis. It is a fair and efficient process between parties designed to resolve disputes and reach an amicable resolution. The Mediator shall have full authority to propose alternative settlement options including, but not limited to, reinstatement of the Complainant with partial or no back pay or back pay without reinstatement. If a settlement is reached between the parties, the Complaint will be withdrawn and the case will be dismissed. *If the matter cannot be resolved at this level, instructions will be given as to the next step.*

PRELIMINARY HEARING INSTRUCTIONS TO THE COMPLAINANT

REASONS FOR THE HEARING: The hearing is being held to determine the agency's jurisdiction over the matter, whether a meritorious case exists, and if so, if the possibility of settlement can be discussed through mediation.

SUBJECT OF THE HEARING: The hearing will cover all issues relating to your alleged Wrongful Termination.

APPEARANCE: Attendance at the preliminary hearing is mandatory for both parties named in the Complaint. At the hearing you will be sworn and questions will be asked of you about your Complaint. If you do not appear at the hearing, **your case may be dismissed.** 24 V.I.R.R § 77-25.

POSTPONEMENT: The hearing will be postponed only for good cause. **Postponements must be requested in writing. A copy of the request must also be provided to the Respondent.** If an emergency arises directly prior to the scheduled time, and you cannot come to the hearing, notify the place of hearing. (Telephone numbers are indicated on the *Notice of Preliminary/Mediation Hearing*). No person who is a party to, or agent of a party to, or who intercedes on-the-record proceeding shall make an **unauthorized ex parte communication** to the Hearing Officer/Examiner/ALJ . . . nor shall the Hearing Officer/Examiner/ALJ make any such ex parte communication to any of the parties, 24 V.I.R.R § 77-52.

WITNESSES: If you have witnesses whom you wish to have testify on your behalf, **such testimony may be presented at the Formal Hearing, should the matter proceed to that level.**

REPRESENTATIVE: Any complainant in any proceeding before a hearing examiner may be represented by counsel or other duly authorized agent.

IF YOU WISH TO WITHDRAW YOUR COMPLAINT: Send a written request to: VI Dept. of Labor, 3012 VITRACO Mall, Hearings & Appeals Unit, Christiansted, St. Croix, VI 00820.

WHAT TO BRING WITH YOU TO THE HEARING: This notice, all statements, decisions, forms and letters that are connected with your claim and all papers and books that are connected with this case. In cases involving health, a doctor's certificate may be important.

INSTRUCTIONS TO EMPLOYER

REASON FOR THE HEARING: The hearing is being held to determine jurisdiction over the matter, whether a meritorious case exists, and if so, if the possibility of settlement can be discussed through mediation.

SUBJECT OF THE HEARING: The hearing will cover all issues relating to the alleged Wrongful Termination.

APPEARANCE: Attendance at the preliminary hearing is mandatory for both parties named in the Complaint. If you do not appear at the hearing, **a judgment may be entered against you.** At the hearing you will be sworn. Beginning with the Respondent, the parties shall thereafter state their full positions on the legality of the discharge under the Act. **THE RESPONDENT OR THE RESPONDENT'S DESIGNEE SHALL HAVE FULL SETTLEMENT AUTHORITY,** 24 V.I.R.R § 77-25.

POSTPONEMENT: This hearing will be postponed only for good cause. **Postponement must be requested in writing. A copy of the request must also be provided to the Complainant.** If an emergency arises directly prior to the scheduled time, and you cannot come to the hearing, notify the place of hearing. (Telephone Number indicated on the *Notice of Preliminary/Mediation Hearing*). No person who is a party to, or agent of a party to, or who intercedes in an on-the-record proceeding shall make an **unauthorized ex parte communication** to the Hearing Officer/Examiner/ALJ . . . nor shall the Hearing Officer/Examiner/ALJ make any such ex parte communication to any of the parties, 24 V.I.R.R § 77-52.

WITNESSES: If you have witnesses whom you wish to have testify on your behalf, **such testimony may be presented at the Formal Hearing, should the matter proceed to that level.**

REPRESENTATIVES: You may appear at the hearing without representation. However, if you wish, counsel may represent you, or other duly authorized agent may appear with you.

WHAT TO BRING WITH YOU TO THE HEARING: This notice, all statements, decisions, forms and letters that are connected with this matter and all papers and books that are connected with this case.

Government of the United States Virgin Islands

Department of Labor

Hearings and Appeals Unit

St. Thomas

2353 Kronprindsdens Gade

P.O. Box 302608

Charlotte Amalie, VI 00803-2608

Phone: (340) 776-3700

Fax: (340) 774-5908



St. Croix

#3012 Vitraco Mall

Estate Golden Rock

Christiansted, V I 00820-4379

Phone: (340) 692-9686

Fax: (340) 713-8367

INSTRUCTIONS TO THE COMPLAINANT

REASON FOR PRE-HEARING CONFERENCE: The pre hearing conference is being held to ascertain the parties' readiness to move forward to a formal hearing, and to clarify issues, if necessary.

POSTPONEMENT: This pre hearing conference will be postponed only for good cause. Postponement must be requested in writing. If an emergency arises directly prior to the scheduled time, notify the place of hearing. (Telephone Number shown above).

SUBJECT OF THE PRE-HEARING CONFERENCE: The pre-hearing conference will cover all issues relating to your alleged Wrongful Termination.

REPRESENTATION: Any complainant in any proceeding before a hearing examiner may be represented by counsel or other duly authorized agent.

IF YOU WISH TO WITHDRAW YOUR COMPLAINT: Send a written request to: V.I. Dept. of Labor, 2353 Kronprindsdens Gade. St. Thomas, V.I. 00802.

BRING WITH YOU TO THE PRE-HEARING CONFERENCE: This notice, list of witnesses you intend to call, any questions or concerns you would like to raise with respect to the adjudication of your complaint.

INSTRUCTIONS TO EMPLOYER

REASON FOR THE PRE HEARING CONFERENCE: The pre-hearing conference is being held to ascertain the parties' readiness to move forward to a formal hearing, and to clarify issues, if necessary.

POSTPONEMENT: This pre-hearing conference will be postponed only for good cause. Postponement must be requested in writing. If an emergency arises directly prior to the scheduled time, notify the place of hearing. (Telephone Number shown above).

REPRESENTATIVES: You may appear at the pre-hearing conference without representation. However, if you wish, you may be represented by an attorney or anyone else you select.

BRING WITH YOU THE PRE-HEARING CONFERENCE: This notice, list of witnesses you intend to call, and any questions or concerns you may have regarding the adjudication of this matter.