

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS
APPELLATE DIVISION**

INTERNATIONAL RENTAL AND LEASING)
CORPORATION, d/b/a BUDGET RENT A)
CAR ST. THOMAS,)
)
Appellant,)
)
v.)
)
KASHAN McCLEAN,)
)
Appellee.)

Civ. App. No. 2002-93

Re: Terr. Ct. No.
197/2001

On Appeal from the Territorial Court of the Virgin Islands

BEFORE: **RAYMOND L. FINCH**, Chief Judge of the District Court of the Virgin Islands; **THOMAS K. MOORE**, Judge of the District Court of the Virgin Islands; and **MARIA M. CABRET**, Judge of the Territorial Court, Division of St. Thomas, sitting by designation.¹

ATTORNEYS:

A.J. Weiss, Esq.
St. Thomas, U.S.V.I.
Attorney for Appellant,

Stephen A. Bruschi, Esq.
St. Thomas, U.S.V.I.
Attorney for Appellee.

¹ Chief Judge Raymond L. Finch did not participate in consideration of this motion for clarification.

ORDER

Per curiam.

On February 19, 2004, this Court issued a decision in this matter, thereby reversing certain evidentiary rulings below and remanding to the trial court for further proceedings. See *Int'l Rental and Leasing v. McClean*, 303 F. Supp. 2d 573 (D.V.I. 2004). In compliance with an order issued by the trial judge on remand, the appellant has moved to clarify this Court's February 19, 2004 decision. (Mot. for Clarification at Ex. 1.) As is apparent from the trial judge's order on remand, the trial judge is uncertain "whether the remand is for further proceedings and a determination by the Court of the weight and sufficiency of that evidence as defendant suggests, or whether as plaintiff suggests the Court is now required to enter judgment in plaintiff's favor" (*Id.*)

As detailed in our previous decision, the trial judge discredited the appellant's market-value based estimate of the damages to its vehicle because the appellant could not also provide a repair-cost estimate. The trial judge also refused to allow the appellant's general manager to provide testimony under Rules 701 or 702 of the Federal Rules of Evidence regarding

estimated repair costs because he could not also provide itemized repair costs for the damaged vehicle. We reversed both decisions because they improperly elevated the importance of repair-cost evidence. We explained that there is no single test for determining the value of damaged property and that an itemized repair list is not a prerequisite for the general manager's ability to testify under Rules 701 or 702.

In remanding for further proceedings, we intended for the trial judge to conduct new hearings that would permit her to consider all relevant evidence. The trial judge's previous rulings prevented such a complete hearing by over-emphasizing the importance of repair-cost evidence to such an extent that she neglected to consider other relevant evidence. We did not in our previous decision, and do not now, suggest the weight the trial judge should give to any type of evidence presented by the parties. We merely required then and will require again that the trial judge engage in a comprehensive evaluation of all the relevant evidence. Accordingly, it is hereby

CLARIFIED that this Court's previous decision contemplated new evidentiary hearings in this matter; it is further

ORDERED that this matter is again remanded to the trial judge for proceedings consistent with this order and our February 19, 2004 decision.

ENTERED this 27th day of December, 2004.

ATTEST:
WILFREDO MORALES
Clerk of the Court

By: _____
Deputy Clerk

Copies to:
Judges of the Appellate Panel
Hon. G.W. Barnard
Hon. G.W. Cannon
Judges of the Territorial Court
A.J. Weiss, Esq.
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St. Thomas law clerks
St. Croix law clerks
Ms. Nydia Hess
Ms. Cicely Francis
Ms. Kim Bonelli

