

For Publication

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

JOSEPH PARRIS, JR.,) **S. Ct. Civ. No. 2020-0096**
Appellant/Defendant,) Re: Super. Ct. Civ. No. 011/2014 (STX)
)
v.)
)
CLAYTON NURSE)
Appellee/Plaintiff,)
)
and)
)
ST. CROIX FINANCIAL CENTER, INC. d/b/a)
GREEN CAY MARINA,)
Appellee/Cross-Defendant.)
_____)

On Appeal from the Superior Court of the Virgin Islands
Division of St. Croix
Superior Court Judge: Hon. Douglas A. Brady

Argued: May 11, 2021
Filed: March 29, 2022

Cite as 2022 VI 6

BEFORE: **RHYS S. HODGE**, Chief Justice; **MARIA M. CABRET**, Associate Justice; and
IVE ARLINGTON SWAN, Associate Justice.

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OPINION OF THE COURT

HODGE, Chief Justice

¶ 1 Joseph Parris, Jr. appeals the Superior Court’s order dismissing his counterclaims against Clayton Nurse. Parris argues that the Superior Court erred in determining that his counterclaims were time barred by the statute of limitations. For the reasons that follow, we will reverse the Superior Court’s dismissal order.

I. BACKGROUND

¶ 2 This case arises from an altercation that occurred on January 29, 2012, between Clayton Nurse — a security guard at Green Cay Marina — and Joseph Parris, Jr., who had been employed to clear coconuts at the same marina. Nurse alleged that Parris attacked him with a machete at Green Cay Marina’s premises because Parris mistakenly believed that Nurse was stealing coconuts. (J.A. 32-33.) Nurse filed his legal action in the Virgin Islands Superior Court on January 24, 2014, for assault and battery against Parris, and for negligent hiring and supervision against St. Croix Financial Center d/b/a Green Cay Marina.¹ (J.A. 33-34.)

¶ 3 On January 31, 2014, Nurse served Parris with the complaint. (J.A. 43, 66.) On February 12, 2014, Parris answered the complaint and asserted counterclaims against Nurse for assault, battery, mental and physical suffering, emotional distress, loss of enjoyment of life, and loss of income. (J.A. 37-41.) Parris alleged that on January 29, 2012, Nurse approached him first in an aggressive manner with a machete while Parris was clearing coconuts from Green Cay Marina. (J.A. 37-38.)

¶ 4 On April 1, 2014, Nurse filed a motion to dismiss Parris’s counterclaims. He argued that these claims were barred under the Virgin Islands two-year statute of limitations for tort claims.²

¹ Parris was arrested after the altercation but there was no conviction. The criminal case was dismissed in February 2015.

² Title 5, § 31 of The Virgin Islands Code provides:

(J.A. 42). On May 12, 2014, Parris opposed the motion to dismiss, arguing that the filing of plaintiff's complaint tolls the statute of limitations for assertion of a defendant's counterclaims pursuant to the holding of *James v. Antilles Gas Corp.*, 43 V.I. 37 (V.I. Super. Ct. 2000). (J.A. 66-67.) Parris additionally argued that Nurse served him beyond the deadline imposed by the two-year statute of limitations and therefore he filed his counterclaim at the first opportunity available.³ (J.A. 66.)

¶ 5 On May 3, 2016, the Superior Court issued an opinion and order in which it decided that Parris's counterclaims were barred by the two-year statute of limitations. (J.A. 25.) The Superior Court determined that the issue was one of first impression and, following *Banks v. Int'l Rental & Leasing Corp.*, 55 V.I. 967 (V.I. 2011), determined that the soundest rule to adopt for the Virgin Islands was that the filing of plaintiff's complaint only tolls the statute of limitations of counterclaims "for recoupment, or another 'defensive' claim arising out of the same transaction or occurrence." (J.A. 28.)

¶ 6 On April 1, 2020, the Superior Court entered an order noting that the parties had settled all remaining claims between them, and that Nurse would stipulate to a dismissal upon execution of a release between himself and Parris. The court gave the parties until April 27, 2020 to file a

Civil actions shall only be commenced within the periods prescribed below after the cause of action shall have accrued, except when, in special cases, a different limitation is prescribed by statute:

(5) Two years

(A) *An action* for libel, slander, assault, battery, seduction, false imprisonment, or for any injury to the person or rights of another not arising on contract and not herein especially enumerated, or to set aside a sale of real property for non-payment of real property taxes pursuant to Title 33, chapter 89, subchapter III of this Code. [Emphasis added]

³ Nurse's complaint was filed within the two-year time limit under Section 31 but was served two days more than two years after the incident.

stipulation for dismissal or show cause as to why the remaining claims should not be dismissed with prejudice. (J.A. 23.) However, the parties took no action and on June 28, 2020, the Superior Court issued an order stating that all claims not previously dismissed were dismissed with prejudice. (J.A. 23.) Parris filed a timely notice of appeal with this Court on July 16, 2020. (J.A. 20).⁴

II. DISCUSSION

A. Jurisdiction and Standard of Review

¶ 7 “The Supreme Court [has] jurisdiction over all appeals arising from final judgments, final decrees or final orders of the Superior Court.” 4 V.I.C. § 32(a); *see also* 48 U.S.C. § 1613a(d). Because the Superior Court’s June 28, 2020 order dismissed all outstanding claims between the parties, it is a final judgment within the meaning of section 32(a), thereby conferring jurisdiction on this Court. Additionally, “[i]t is well established that prior interlocutory orders merge with the final judgment in a case and the interlocutory orders . . . may be reviewed on appeal from the final order.” *In re Estate of George*, 59 V.I. 913, 919 (V.I. 2013). Therefore, the Court also has jurisdiction over the Superior Court’s May 4, 2016 opinion and order dismissing Parris’s counterclaims.

¶ 8 This Court exercises plenary review of the Superior Court’s application of law. *Simon v. Joseph*, 59 V.I. 611, 620 (V.I. 2013) (citing *St. Thomas–St. John Bd. of Elections v. Daniel*, 49 V.I. 322, 329 (V.I. 2007)).

B. Applicability of Statute of Limitations to Counterclaims

⁴ Parris only appealed the dismissal of his counterclaims against Nurse even though he had also asserted crossclaims against St. Croix Financial Center d/b/a Green Cay Marina that were dismissed on the ground that they were commenced outside the statute of limitations. We do not address whether the statute of limitations applies to crossclaims at this instance.

¶ 9 As previously mentioned, the Superior Court addressed whether the filing of plaintiff's complaint tolls the statute of limitations as a common law issue of first impression. (J.A. 28-29.) As such, the Superior Court conducted a *Banks* analysis.⁵ The Superior Court first determined that there was not a settled rule in the Virgin Islands because only one case, *James v. Antilles Gas Corp.*, 43 V.I. 37 (V.I. Super. Ct. 2000), had directly addressed the issue.

¶ 10 In *James*, the defendant argued that the third-party defendants could not file a counterclaim against it because the claims were filed 26 months after the fire causing the injury, and therefore such claims were barred under the two-year statute of limitations period. *Id.* The Territorial Court reviewed the two approaches followed in the jurisdictions of the United States: (1) the tolling of the statute of limitation, and (2) not tolling the statute of limitations unless it is a claim for recoupment or setoff. *Id.* at 44-47. Ultimately, that court held that the counterclaims were not barred because “[w]here, as in this case, the limitations period expired after the third-party plaintiff filed its claims but before the third-party defendants filed their [compulsory] counterclaim, it makes little sense to time-bar the counterclaim.” *Id.* at 46-47. The court explained that the evidence would be related and that the evidence would be available for both claims. *Id.* at 47.

¶ 11 The Superior Court in this case, however, after comparing the same two competing views addressed in *James*, determined that the soundest rule was to apply the statute of limitations to affirmative counterclaims, while only allowing the filing of the complaint to extend the statutory period of limitations for “defensive” counterclaims or those for recoupment. (J.A. 28.) It found

⁵ In conducting a *Banks* analysis, a court must “consider three non-dispositive factors: (1) whether any Virgin Islands courts have previously adopted a particular rule; (2) the position taken by a majority of courts from other jurisdictions and (3) most importantly, which approach represents the soundest rule for the Virgin Islands.” *Simon*, 59 V.I. at 623 (citing *Matthew v. Herman*, 56 V.I. 674, 680-81 (V.I. 2012)).

that this interpretation of the rule would advance the goals of statute of limitations, *i.e.*, to avoid “burden[ing] the courts with litigation of stale claims, long after memories fade, witnesses relocate or pass away, and evidence is lost,”⁶ and “prevent[ing] undue delay in bringing suit on claims . . . to the surprise of the parties or their representatives,”⁷ while preserving a defendant’s opportunity to be heard in court. (J.A. 29.) The court further reasoned that this rule would prevent defendants from “sleeping on their claims and from using their counterclaim solely in retaliation for plaintiff’s decision to file a complaint.” (J.A. 29.) However, “a *Banks* analysis was unnecessary . . . because the issue here is purely a matter of statutory interpretation.” *Smith v. Henley*, 69 V.I. 965, 970 n.2 (V.I. 2017).⁸ It involves the construction of Federal Rule of Civil Procedure 13(a)⁹ and title 5, section 31 of the Virgin Islands Code.

⁶ *Castillo v. St. Croix Basic Servs., Inc.*, 72 V.I. 528, 560-61 (V.I. Super. Ct. 2020).

⁷ *Dublin v. V.I. Tel. Corp.*, 15 V.I. 214, 232 (V.I. Terr. Ct. 1978).

⁸ The Superior Court did not commit error by not following *James*, which addressed the same issue, as it was not binding precedent. The Territorial Court is the predecessor of the Superior Court. *Mendez v. Gov’t of the V.I.*, 56 V.I. 194, 201 n.3 (V.I. 2012) (observing that the name of the Territorial Court was changed to the Superior Court on October 29, 2004); *Hodge v. Bluebeard’s Castle, Inc.*, 62 V.I. 671, 676 & n.2 (V.I. 2015) (same, and treating the Territorial Court as the direct equivalent of the modern Superior Court). It is well-established that a prior decision of one Superior Court judge in one case “does not constitute controlling authority in any subsequent proceeding.” *Edney v. Edney*, 64 V.I. 661, 665 n.2 (V.I. 2016); *see also In Matter of Q.G.*, 60 V.I. 654, 661 n.8 (V.I. 2014) (“[T]he decision of a single Superior Court judge . . . is not binding precedent on other Superior Court judges.”) (citing *Threadgill v. Armstrong World Indus.*, 928 F.2d 1366, 1371 & n.7 (3d Cir. 1991)).

⁹ The Superior Court’s memorandum opinion and order dismissing Parris’s counterclaims utilized the Federal Rules of Civil Procedure because the order was entered in 2016 prior to the adoption of the Virgin Islands Rules of Civil Procedure. This Court adopted the Virgin Islands Rules of Civil Procedure on March 31, 2017, which superseded all previous civil procedure rules applicable to the Superior Court, including the Federal Rules of Civil Procedure. *Mills-Williams v. Mapp*, 67 V.I. 574, 585 (V.I. 2017). Federal Rule of Civil Procedure 13 and Virgin Islands Rule of Civil Procedure 13 are identical and all discussion relating to Federal Rules of Civil Procedure 13 applies with equal force to Virgin Islands Rule of Civil Procedure 13.

¶ 12 At the time Parris filed his counterclaims, the Federal Rule of Civil Procedure 13(a) provided in relevant part:

A pleading must state as a counterclaim any claim that—at the time of its service—the pleader has against an opposing party if the claim:

- (A) arises out of the transaction or occurrence that is the subject matter of the opposing party’s claim; and
- (B) does not require adding another party over whom the court cannot acquire jurisdiction.

FED. R. CIV. P. 13(a)(1).

¶ 13 Nurse argues that the plain reading of Rule of Civil Procedure 13(a)(1) supports the Superior Court’s ruling because the “at the time of its service” language means that the claim must have remained independently actionable at the time when the counterclaim is asserted. (Appellee’s Br. 7.) He argues, that at the time the counterclaim was served, the two-year limitations period for Parris to separately assert his claims had expired and the claims asserted in the counterclaim were barred. We disagree.

¶ 14 “The canons of construction in statutory interpretation equally apply to the interpretation of court procedural rules.” *Whyte v. Bockino*, 69 V.I. 749, 754 (V.I. 2018) (citing *Corraspe v. People*, 53 V.I. 470, 480-81 (V.I. 2010)). If the text is unambiguous, the analysis will also end there. *Haynes v. Ottley*, 61 V.I. 547, 561 (V.I. 2014).

¶ 15 The issue here is whether the institution of a civil action by a plaintiff tolls the statute of limitations for compulsory counterclaims under Rule 13(a). Similar to the Virgin Islands counterpart, “[t]he text of Rule 13(a) itself does not offer any solution [to the issue].” 6 CHARLES ALAN WRIGHT & ARTHUR R. MILLER, *FEDERAL PRACTICE AND PROCEDURE — CIVIL* § 1419 (3d ed. 1998); *Connecticut Gen. Life Ins. Co. v. BioHealth Labs., Inc.*, 988 F.3d 127, 135 (2d Cir. 2021) (“[T]he text of Rule 13(a) itself does not offer any solution to the problem of whether the

institution of an action tolls the running of the limitations period on compulsory counterclaims or reflect any federal policy on the question”) (quoting WRIGHT & MILLER § 1419). Thus, a plain reading of the rule does not provide a clear and unambiguous answer.

¶ 16 When federal courts have addressed this issue regarding federal claims, they have determined that a compulsory counterclaim relates back to the filing of plaintiff’s complaint. *See, e.g., Jonathan H. v. Souderton Area Sch. Dist.*, 562 F.3d 527, 529 (3d Cir. 2009) (statute of limitation under Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”) requiring person to “bring a civil action” within 90 days of challenged administrative decision applies only to the initial complaint filed by plaintiff, and proper timing of counterclaims asserted by defendant is governed by pleadings deadlines set in court orders and rules); *Kirkpatrick v. Lenoir Cty. Bd. Of Educ.*, 216 F.3d 380, 387-88 (4th Cir. 2000) (discussing that a compulsory counterclaim relates back to the filing of plaintiff’s complaint in IDEA action). However, federal courts often apply a state’s limitations law if there is no federal policy or statute involved.¹⁰ WRIGHT & MILLER, *supra*, at § 1419; *Connecticut Gen. Life Ins. Co.*, 988 F.3d at 136 (“Indeed, even the circuits that have adopted th[e] federal tolling rule have, by and large, recognized that it does not displace state tolling law.”) We therefore turn to other courts’ interpretations of analogous rules as persuasive authority when applying and construing these rules. *See Smith v. Gov’t of V.I.*, 67 V.I. 797, 802 n.3 (V.I. 2017) (citing *Ventura v. People*, 64 V.I. 589, 615 (V.I. 2016)).

¹⁰ *In Walker v. Armco Steel Corp.*, 446 U.S. 740 (1980), the United States Supreme Court held that for claims governed by federal law, Civil Rule 3 means that a claim is “commenced” for statute of limitations purposes upon filing of the complaint, but that – if local law has by statute prescribed instead a requirement for service of process to initiate a claim for limitations purposes, that statute is “substantive law” that would override a locality’s general language in the form of Civil Rule 3. *Id.* at 745.

Jurisdictions that have interpreted Rule 13(a) analogs as to whether institution of an action tolls the statute of limitations on defendant’s counterclaims have taken two approaches. Allan E. Korpela, LL.B., Annotation, *Tort Claim Against Which Period of Statute of Limitations Has Run as Subject of Setoff, Counterclaim, Cross Bill or Cross Action in Tort Acting Arising Out of Same Accident or Incident*, 72 A.L.R.3d 1065 (1976, updated 2022).

¶ 17 One approach holds that compulsory counterclaims seeking affirmative relief are barred if the statute of limitations governing an independent claim ran after the filing of plaintiff’s complaint. 3 JAMES WILLIAM MOORE, *MOORE’S FEDERAL PRACTICE* §13.93 (3d. ed. 2009); see *Duhammel v. Star*, 653 P.2d 15, 17 (Ariz. Ct. App. 1982) (explaining that “where a counterclaim is filed beyond the applicable statute of limitations it will be barred . . . even if the counterclaim is a compulsory counterclaim”); *DiNorscia v. Tibbett*, 124 A.2d 715, 716-17 (Del. 1956) (barring defendant’s counterclaim because defendant was seeking affirmative relief and there was no statutory exception or tolling provision); *Harmer v. Husley*, 467 A.2d 867, 869 (Pa. Super. Ct. 1983) (“[A] counterclaim provoked by the plaintiff’s alleged negligence must be raised within the time allotted for an action under the appropriate statute of limitations.”). These courts stress the importance of preserving statutes of limitations as ones of repose. *Crivaro v. Rader*, 469 N.E.2d 1184, 1186 (Ind. Ct. App. 1984).

¶ 18 The other approach holds, as did *James*, that a compulsory counterclaim is not barred by the running of the statute after plaintiff’s complaint is timely filed, if the counterclaim was not barred as of the date the complaint was filed. WRIGHT & MILLER, *supra*, at § 1419; see *Trindade v. Superior Court of Contra Costa Cty.*, 106 Cal. Rptr. 48, 49 (1973) (stating that “the commencement of an action tolls the statute of limitations as to a defendant’s then unbarred cause of action against the plaintiff”); *Armstrong v. Logsdon*, 469 S.W.2d 342, 344 (Ky. 1971) (holding

that “in a tort action, if a claim of a defendant arising out of the same occurrence which is the basis of the plaintiff’s claim is not barred by limitation when the suit is brought, it may be asserted by a pleading timely served in such suit even though the limitation period has elapsed between the time of the commencement of the suit and the serving of the counterclaim”). These courts favor underlying policy considerations, such as: (1) to avoid plaintiff delaying the commencement of their action until the statute has almost run on defendant’s counterclaim so that it may be barred, (2) a lack of prejudice to the plaintiff, and (3) the close relationship between claim and counterclaim ensures that the counterclaim is not “stale.” *WRIGHT & MILLER, supra*, at § 1419. The determination of which approach is followed turns on how each jurisdiction has interpreted its statute of limitations.

¶ 19 The Virgin Islands Legislature has articulated the public policy of the Territory regarding statutes of limitations in section 31 in chapter 3 of part 1 of subtitle 1 of title 5 of the Code, styled “Limitation of Actions”. Title 5, section 31(a) states in part, “[c]ivil actions shall only be commenced within the periods prescribed below after the cause of action shall have accrued, except when, in special cases, a different limitation is prescribed by statute.” Specifically, for an action for an “injury to the person,” subsection 31(a)(5) prescribes a two-year period of limitations. No provision in section 31 further defines what it means for an action to “be commenced” as provided in section 31(a).

¶ 20 However, general provisions in title 5 state that the limitations subtitle “applies to [] suits . . . which are brought in one form of action known as ‘civil action’ pursuant to [the Federal Rules of Civil Procedure.]” 5 V.I.C. § 1; *see also Kelley v. Gov’t of the V. I.*, 59 V.I. 742, 745-46 (V.I. 2013). The Federal Rules of Civil Procedure — and identically in the present V.I. Rules of Civil Procedure — define commencement of an action. The applicable rule provides that a civil action

is commenced by the filing of a complaint. FED. R. CIV. P. 3; *see also* VI. R. CIV. P. 3. Because the provisions of Federal Rule of Civil Procedure 13 governed the process at the time the present complaint was filed, and the counterclaims were served,¹¹ the definition of commencement of the action under Rule 3 governed — as it does under current V.I. Rule of Civil Procedure 3.¹² It is evident that under Rule 13, there is an inherent connection between defendant’s compulsory counterclaims and plaintiff’s complaint. By definition, they arise out of the same transaction or occurrence, and often involve the same evidence. Under the mandatory provisions of Civil Rule 13, a compulsory counterclaim cannot be asserted separately and will be lost if the defendant fails to plead it in response to plaintiff’s institution of a civil action.¹³ As a result, a compulsory counterclaim does not commence a separate civil action under section 31 because it is reactive and can only be filed after the plaintiff has filed the underlying complaint. *See Souderton Area Sch. Dist.*, 562 F.3d at 529; *see also* BLACK’S LAW DICTIONARY 402 (9th ed. 2009) (defining

¹¹ This Court has explained that former Superior Court Rule 7 provided that “[t]he practice and procedure in the Superior Court shall be governed by the Rules of the Superior Court and, to the extent not inconsistent therewith, by ... the Federal Rules of Civil Procedure.” Super. Ct. R. 7; *see also Santiago v. V.I. Hous. Auth.*, 57 V.I. 256, 276 (V.I. 2012). No Superior Court Rule addresses whether counterclaims relate back to date of filing or not. As such, we apply Federal Rule of Civil Procedure 13.

¹² In cases filed after March 31, 2017, and where the V.I. Rules of Civil Procedures apply, this interpretation becomes even more compelling when looking at the Reporter’s Note, which accompanies Virgin Islands Rule 13. *See Mills-Williams v. Mapp*, 67 V.I. 574, 585 & n.6 (V.I. 2017) (utilizing Reporter’s Note to determine the meaning of a provision in the Virgin Islands Rules of Civil Procedure). The Reporter’s Note states that a compulsory counterclaim “arise[s] out of the same conduct, transaction, or occurrence as the plaintiff’s complaint . . . and **must be pled in response to the pending case to avoid being lost.**” V.I. R. CIV. P. 13 Reporter’s Note ¶1 (emphasis added).

¹³ Defendant must file their responses within the time limits established in Civil Rule of 12(a). *See generally* WRIGHT & MILLER, *supra*, at § 1419.

counterclaim as “a claim for relief asserted against an opposing party after an original claim has been made”). Therefore, the filing of plaintiff’s complaint stops the running of the statute of limitations on the defendant’s claims and defendant’s compulsory counterclaims relate back to the date when plaintiff filed his complaint.¹⁴

¶ 21 The only question left to answer in the present appeal is whether Parris’s counterclaims are compulsory. Here, Nurse filed his complaint on January 24, 2014, seeking damages arising from the incident that occurred on January 29, 2012, commencing this action just five days before the running of the applicable two-year statute of limitations. Nurse served Parris with the complaint on January 31, 2014;¹⁵ two days after the statute of limitations ran on the incident. Parris filed his counterclaims on February 12, 2014, well within the 21 days of being served with Nurse’s complaint. *See* V.I. R. Civ. P. 12(a)(1). Therefore, Parris’s counterclaims will be deemed commenced as of January 24, 2014 – when Nurse timely filed his complaint – only if the counterclaims are compulsory.

¹⁴ We are also persuaded by the policy considerations referenced by *James* and those jurisdictions that deem that the filing of the complaint tolls the statute of limitations for compulsory counterclaims. Considerations of fair play and justice require that a defendant be provided an opportunity to respond and assert a compulsory counterclaim, even in those cases where a plaintiff chooses to file a complaint on the day before the statute of limitations expires on his claim. *See Azada v. Carson*, 252 F. Supp 988, 989 (D. Haw. 1966). “[A] defendant should not be prevented from [asserting a counterclaim] by a mere technicality,” *id.*, especially when the timely claim and purportedly untimely counterclaims arise out of the same occurrence. Additionally, this approach favors judicial economy by not forcing a party who has a valid claim but elects not to pursue legal action in court to file a case just on the off chance the other party makes a filing at the last minute. It also prevents the filing of stale claims because there should still be a close relationship between both the plaintiff’s claim and defendant’s counterclaim, such that the evidence is available to adjudicate both claims. *See* WRIGHT & MILLER, *supra*, at §1419.

¹⁵ Although Nurse served his complaint after the two-year time limit, the civil action was actually commenced at the time of filing the complaint. *See* FED. R. CIV. P. 3. Therefore, the action was timely filed on January 24, 2014.

C. Parris' counterclaims are compulsory under Rule 13(a).

¶ 22 Nurse argues that Parris's counterclaim does not arise out of the same incident. We disagree.

¶ 23 As previously stated, Rule 13(a) defines a compulsory counterclaim as one that “arises out of the transaction or occurrence that is the subject matter of the opposing party’s claim; and does not require adding another party over whom the court cannot acquire jurisdiction.” V.I. R. CIV. P. 13(a); *see also* FED. R. CIV. P. 13(a). In determining whether a counterclaim is compulsory, a court must ask whether “it bears a logical relationship to an opposing party’s claim.” *Gov’t Guarantee Fund v. Hyatt Corp.*, 34 V.I. 257, 271 (D.V.I. 1996) (quoting *Xerox Corp. v. SCM Corp.*, 576 F.2d 1057, 1059 (3d Cir. 1978)). That is, “a claim should be asserted as a compulsory counterclaim if it involves: (1) many of the same factual issues; (2) the same factual and legal issues; and (3) offshoots of the same basic controversy between the parties.” *Id.* (internal quotation marks omitted).

¶ 24 Here, the original suit is for damages arising from an incident that occurred at the Green Cay Marina on January 29, 2012 in which Parris allegedly assaulted Nurse with a machete. (J.A. 25.) Nurse alleged that Parris accused him of taking some coconuts, and as Nurse was retreating to his vehicle, Parris attacked him with a machete. (J.A. 32-33). Parris, in turn, asserted that on January 29, 2012, Nurse approached him in an aggressive manner with a machete he (Parris) had been using to clear coconuts in Green Cay Marina, in order to get Parris off the premises. (J.A. 37.) Both the claim and counterclaim arose on the same date and at the same location and time, although the claims differ as to the sequence of how the event transpired. The factual issue as to who approached whom and whether one or both individuals used machetes overlap. It is likely that the same type of evidence and witnesses could shed light on these factual issues. The close

relationship in time, date, and location between the claims ensures that evidence and witnesses are accessible to decide them both. *See* WRIGHT & MILLER, *supra*, at §1419. Therefore, this Court concludes that Parris’s counterclaim is compulsory under Rule 13(a) and that the Superior Court erred in dismissing Parris’s counterclaim.

III. CONCLUSION

¶ 25 A civil action can only be commenced when a plaintiff files a complaint. For the reasons discussed above, a compulsory counterclaim does not commence a separate civil action and is instead considered commenced as of plaintiff’s filing of the complaint.¹⁶ Therefore, this Court reverses the Superior Court’s judgment dismissing Parris’s counterclaims and remands the matter for further proceedings consistent with this opinion.

Dated this 29th day of March, 2022.

BY THE COURT:

/s/ Rhys S. Hodge
RHYS S. HODGE
Chief Justice

ATTEST:

VERONICA J. HANDY, ESQ.
Clerk of the Court

By: /s/ Natasha Illis
Deputy Clerk

Dated: March 29, 2022

¹⁶ We do not address whether the same rule applies to permissive counterclaims and express no opinion on that issue.