

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

MOHAMMAD HAMED, by his
authorized agent WALEED HAMED,

Plaintiff,

vs.

FATHI YUSUF and UNITED CORPORATION,

Defendants.

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

JURY TRIAL DEMANDED

13 DEC 16 P4 53

**EMERGENCY MOTION TO VACATE INJUNCTION DUE TO PLAINTIFF'S
FAILURE TO FORTHWITH FILE THE REQUIRED BOND**

SUPERIOR COURT
THE VIRGIN ISLANDS
ST. CROIX, V.I.

Defendants Fathi Yusuf ("Yusuf") and United Corporation ("United") (collectively, the "Defendants"), through their undersigned counsel, respectfully move this Court, on an emergency basis, to vacate the preliminary injunction that was entered in this case on April 25, 2013, see Hamed v. Yusuf, 58 V.I. 117, 138 (Super. Ct. 2013), due to Plaintiff's failure to "forthwith" file a bond in the amount of One Million Two Hundred Thousand (\$1,200,000) as required by this Court's Order dated December 5, 2013 (the "Bond Order").

In support of this Emergency Motion, Defendants respectfully represent the following:

1. On November 15, 2013, Defendants filed their Motion to Vacate Injunction Pending Posting of Additional Security (the "Motion to Vacate"). Plaintiff filed his Opposition to the Motion to Vacate on November 18, 2013, and Defendants filed their Reply on December 2, 2013.

2. On December 5, 2013, this Court entered the Bond Order, which provided:

ORDERED that Defendants' Motion to Vacate . . . is DENIED, as MOOT.
It is further

ORDERED that Plaintiff Mohammed Hamed or his authorized agent, **shall forthwith** file a bond in the amount of One Million Two Hundred Thousand (\$1,200,000), crediting the \$25,000 bond previously posted, with the Clerk of the Court, and shall provide notice of the posting to Defendants. (Emphasis supplied).

3. As of the filing of this Emergency Motion, Plaintiff has not filed the bond that the Bond Order required to be filed “forthwith.” The term “forthwith” has been defined as “immediately; without delay . . . [t]he first opportunity offered.” See United States ex rel. Carter v. Jennings, 333 F.Supp 1392, 1397 (E.D. Pa. 1971)(quoting from Black’s Law Dictionary (1951)). Instead of “forthwith” compliance with the Bond Order, on Friday, December 13, 2013, Plaintiff filed his “Motion To Partially Reconsider/Clarify Bond Order,”¹ which makes it clear that Plaintiff has no intention of complying with the Bond Order unless this Court reconsiders and “clarifies” (i.e. modifies) it as requested by Plaintiff.

4. As the Virgin Island Supreme Court has acknowledged, Fed. R. Civ. P. 65(c) “provides that a court may issue a preliminary injunction ‘**only if** the movant gives security in an amount that the Court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.’” Yusuf v. Hamed, 2013 V.I. Supreme LEXIS 67, * 38 (2013) (emphasis supplied). See also the Bond Order at p. 2. Because Plaintiff has clearly failed to “forthwith” post the \$1,200,000 security considered proper by this Court, the preliminary injunction should be immediately vacated because Plaintiff has failed to provide the security that is a condition precedent to any injunctive relief.

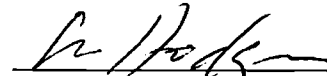
For all of the foregoing reasons, Defendants respectfully request this Court to vacate the preliminary injunction due to Plaintiff’s failure to forthwith comply with the Bond Order and provide Defendants with such further relief as is just and proper under the circumstances.

¹ Defendants will separately oppose this motion, which does not even bother to cite LRCi 7.3 or any other legal authority for reconsideration or “clarification.”

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: December 16, 2013

By:


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Attorneys for Fathi Yusuf and United Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of December, 2013, I caused the foregoing **EMERGENCY MOTION TO VACATE INJUNCTION DUE TO PLAINTIFF'S FAILURE TO FORTHWITH FILE THE REQUIRED BOND** to be served upon the following via e-mail:

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ORDER

UPON consideration of Defendants' Emergency Motion To Vacate Injunction Due To
Failure To File The Required Bond and for good cause shown, it is hereby

ORDERED that the preliminary injunction entered by this Court on April 25, 2013 is
vacated pending further orders of this Court.

Douglas A. Brady
Judge of the Superior Court

ATTEST:

Venetia H. Velasquez
Clerk of the Court

By: _____
Deputy Clerk

cc: Joel H. Holt, Esq.
Nizar A. DeWood, Esq.
Gregory H. Hodges, Esq.