

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

<b>MOHAMMAD HAMED, by his authorized agent WALEED HAMED,</b>	)	
	)	
Plaintiff,	)	<b>CIVIL NO. SX-12-CV-370</b>
v.	)	
	)	
<b>FATHI YUSUF and UNITED CORPORATION,</b>	)	<b>ACTION FOR DAMAGES, INJUNCTIVE AND DECLARATORY RELIEF</b>
	)	
Defendants.	)	<b>JURY TRIAL DEMANDED</b>
	)	

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**PLAINTIFF HAMED'S RESPONSE  
TO DEFENDANTS' RULE 17 MOTION TO STRIKE REPRESENTATIVE**

Plaintiff submits this memorandum in response to Defendants' Rule 17 motion to strike Waleed Hamed as the "authorized agent" of Plaintiff Mohammad Hamed. The plaintiff in this case is Mohammed Hamed, not Waleed Hamed. In this regard, Rule 17 provides in part as follows:

**Rule 17. Plaintiff and Defendant; Capacity; Public Officers**

**(a) Real Party in Interest.**

**(1) Designation in General.** An action must be prosecuted in the name of the real party in interest. . . .

Defendant is apparently confused about either the caption or Rule 17. Rule 17 prevents a person or entity for filing a suit in the place of the party in interest. In that event, the plaintiff here would have been "Wally Hamed" or "Wally Hamed as the authorized agent for Mohammad Hamed." However, the plaintiff is listed in the caption and described in the amended complaint as Mohammad Hamed. (Dist. Ct. D.E. 15). There is no attempt to make Waleed Hamed the Plaintiff.

Thus, Mohammad Hamed can neither "join" nor "substitute" as suggested by the defendants. Similarly, Waleed Hamed cannot be "stricken" as the party in interest or

plaintiff -- as he is not listed as either. However, this analysis is not necessary as Rule 17(c) allows for a party to clarify any doubt about this issue. Stating as follows:

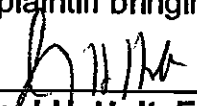
**(3) Joinder of the Real Party in Interest.** The court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action. After ratification, joinder, or substitution, the action proceeds as if it had been originally commenced by the real party in interest.

See, e.g., *ICON Group, Inc. v. Mahogany Run Dev. Corp.*, 829 F.2d 473, 477 (3d Cir. 1987)(ratification cures any question about who the party in interest might be).

In this regard, to the extent there is any doubt about this issue, attached is a declaration confirming and ratifying this pursuant to Rule 17(a)(3). Exhibit 1. In short, the motion is clearly mooted by the filing of this declaration.

Thus, the motion should be denied in all respects. A proposed order is attached that makes it clear that Mohammad Hamed is the party plaintiff bringing this action.

**Dated:** December 4, 2012

  
\_\_\_\_\_  
**Joel H. Holt, Esq.**  
*Counsel for Plaintiff*  
Law Offices of Joel H. Holt  
2132 Company Street,  
Christiansted, VI 00820

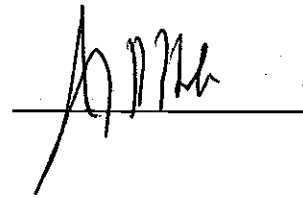
**Carl J. Hartmann III, Esq.**  
*Co-Counsel for Plaintiff*  
5000 Estate Coakley Bay,  
Unit L-6  
Christiansted, VI 00820

**CERTIFICATE OF SERVICE**

I hereby certify that on December 4, 2012, a true and accurate copy of the foregoing was forwarded via USPS and email to the following:

**Joseph A. DiRuzzo, III**  
Fuerst Ittleman David & Joseph, PL  
1001 Brickell Bay Drive, 32nd. Fl. 2006  
Miami, FL 33131

**Nizar A. DeWood**  
The Dewood Law Firm  
Eastern Suburb, Suite 101  
Christiansted, VI 00820



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Plaintiff, )

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ACTION FOR DAMAGES,  
INJUNCTIVE AND  
DECLARATORY RELIEF

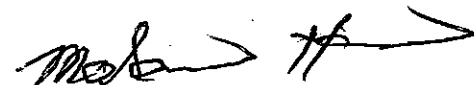
JURY TRIAL DEMANDED

DECLARATION OF PLAINTIFF MOHAMMED HAMED

I, Mohammad Hamed, declare, pursuant to 28 U.S.C. Section 1746, as follows:

1. I am the plaintiff in the captioned action before this Court.
2. If there is any doubt with regard to my status as the plaintiff and real party in interest in this action, I hereby confirm and ratify that I am the plaintiff pursuing this claim against the defendants.
3. I also confirm that my son Waleed Hamed is not the plaintiff.

I declare under penalty of perjury that the foregoing is true and correct.



\_\_\_\_\_  
Mohammad Hamed



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ORDER

This Matter having come before the Court on Defendants' motion pursuant to Rule 17, it is hereby

**ORDERED and ADJUDGED**

That the motion is denied as Mohammad Hamed has confirmed pursuant to Rule 17(c) that he is the plaintiff in the captioned action before this Court, not Waleed Hamed.

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Hon. Darryl D. Donohue  
Presiding Judge

**A T T E S T: VENETIA VELASQUEZ**  
Clerk of the Court

**BY:** \_\_\_\_\_  
Deputy Clerk

Dist: Joel H. Holt, Esq.  
Joseph A. DiRuzzo, III  
Nizar A. DeWood