

**IN THE SUPREME COURT OF THE VIRGIN ISLANDS**

FATHI YUSUF and UNITED CORPORATION,	)	
	)	
Appellants/Defendants,	)	
	)	
v.	)	S. Ct. Civ. No. 2013-0040
	)	Re: Super. Ct. Civ. No. 370/2012(STX)
MOHAMMAD HAMED, by his	)	
authorized agent, WALEED HAMED,	)	
	)	
Appellee/Plaintiff.	)	
_____	)	

**APPELLANTS' MOTION FOR EXPEDITED APPEAL**

**COME NOW** Appellants/Defendants FATHI YUSUF and UNITED CORPORATION, by and through undersigned counsel, pursuant to VISCR 6(b) and 5(e) and this Court's May 22, 2013 Order, and hereby move for an expedited review of the interlocutory appeal filed on May 13, 2013. In support of this motion for expedited review, the Appellants/Defendants state as follows:

1. On April 25, 2013, the Superior Court, pursuant to Fed. R. Civ. P. 65(a), entered an order, and an accompanying memorandum opinion, granting Appellee/Plaintiff's motion for a preliminary injunction finding, *inter alia*, that the Appellee/Plaintiff had demonstrated the existence of an at-will oral partnership between Appellant/Defendant Fathi Yusuf and Appellee/Plaintiff Mohammad Hamed dating back to the 1980s regarding certain supermarket businesses. Exhibit A.

The Superior Court also compelled the alleged partners to continue the subject at-will oral partnership by, among other directives, "jointly managing" the supermarket stores. In order to form the factual basis for its decision, the Superior Court relied upon a document from settlement discussions that terminated the arrangement between Fathi Yusuf and Mohammad Hamed, although the Superior Court nevertheless compelled the continuation of the alleged at-will oral partnership. Additionally, absent any direct evidence regarding the full consequences of a security bond, the

Superior Court fixed a nominal bond of \$25,000.00 in the event Appellants/Defendants were wrongfully enjoined.

2. On May 1, 2013, the Appellee/Plaintiff posted the nominal \$25,000 bond with the Clerk of the Superior Court.

3. In this appeal, the Appellants/Defendants seek review of the Superior Court's April 25, 2013 injunction orders, as identified below, which are among the enumerated interlocutory orders from which an appeal may be had to this Court. *See* 4 V.I.C. § 33(b)(1).

4. On May 13, 2013, the Appellants/Defendants filed their Notice of Appeal, appealing two orders. *See* Notice of Appeal at ¶¶ 1 and 2. Specifically the Appellants/Defendants appealed the Superior Court's: (A) Order dated April 25, 2013 (Exhibit A), granting Plaintiff's emergency motion to renew application for TRO, with memorandum opinion of same date; and (B) Court Order dated April 25, 2013 (Exhibit B), granting: (1) Plaintiff's notice of filing supplemental deposition exhibits; (2) Plaintiff's second request to take judicial notice and request to supplement the hearing record; (3) Plaintiff's notice of supplementation of the preliminary injunction record; and (4) Plaintiff's reply to opposition to Plaintiff's notice of supplementation of the preliminary injunction record (which included as Exhibit A another document to supplement the record below).

5. As this appeal is interlocutory in nature, the instant motion is being filed in accordance with this Court's May 22, 2013 Order, and with VISCR 6(b), which states that "[i]n all interlocutory appeals, appellant shall move for expedited review under 5(e)."

6. This case is currently pending before the Superior Court and the issues on appeal require expedited review before final disposition of the underlying proceeding.

7. An emergency application for a stay pending appeal was presented to the Superior Court on May 9, 2013, which application was fully briefed as of May 16, 2013. To date, the Superior Court has yet to rule on the motion to stay.

8. Separately, an emergency application for reconsideration of the security bond amount was presented to the Superior Court on May 9, 2013, which application was fully briefed as of May 16, 2013. To date, the Superior Court has yet to rule on the emergency bond motion.

9. Concurrent with the filing of the instant motion, the Appellants/Defendants are filing a motion to stay pending appeal for this Court's consideration.

10. The underlying case continues to be disputed on the merits and remains a live case and controversy and, in turn, the case before this Court is not moot.

11. The Appellants/Defendants submit that it is in the best interests of the parties and justice that this appeal be heard and decided on an expedited basis.

**WHEREFORE**, based on the foregoing, the Appellants/Defendants request that the Court grant the relief requested herein.

Respectfully submitted,

/s/ Joseph A. DiRuzzo, III

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*Counsel for Appellants/Defendants Fathi Yusuf and United Corporation*

Dated: May 28, 2013

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was filed on VISCEFS on May 28, 2013, and the undersigned certifies that Clerk will electronically serve the foregoing pursuant to Rule 15(d) on:

*Joel H. Holt, Esq.*, counsel for Appellee/Plaintiff, 2132 Company St., St. Croix, VI 00820, [holtvi@aol.com](mailto:holtvi@aol.com);

*Carl J. Hartmann III, Esq.*, counsel for Appellee/Plaintiff, 5000 Estate Coakley Bay, L-6, Christiansted, VI 00820, [carl@carlhartmann.com](mailto:carl@carlhartmann.com).

Respectfully submitted,

**/s/ Joseph A. DiRuzzo, III**

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