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

MOHAMMAD HAMED, by his authorized agent, WALEED HAMED,	
Plaintiffs,)
v.	CIVIL NO. SX-12-CV-370
FATHI YUSUF and UNITED CORPORATION,))
Defendants.)))

DEFENDANTS' RESPONSE TO MOTION FOR LEAVE TO FILE UNDER SEAL

Defendants hereby provide this response to Plaintiffs' Motion to File Proposed Findings of Fact and Conclusions of Law Under Seal dated February 27, 2013 ("Motion for Leave"), on which motion Plaintiffs' counsel did not confer with Defendants' counsel prior to its filing.

Regardless, Defendants do not oppose Plaintiffs' request to "keep [Plaintiffs'] proposed findings of fact and conclusions of law] under seal until" Defendants have filed their own post-hearing papers in opposition to this application for a temporary restraining order ("TRO"). (Motion for Leave at 1).

Likewise, based on the course of events, Defendants do not oppose Plaintiffs' submissions that Defendants' (a) September 28, 2012 Motion to Proceed (on the TRO application as a motion for a preliminary injunction only) is now moot; and (b) November 2, 2012 Motion to Strike or, Alternatively, for Leave to File Sur-Reply (D.V.I. Doc. # 23) (regarding the October 22, 2012 Declaration of Waleed Hamed (D.V.I. Doc. # 18-5)) is now moot. (Motion for Leave at 1-2).

However, to the extent that Plaintiffs' ambiguous reference to "several other motions" (Motion for Leave at 2) refers to Defendants' November 2, 2012 Motion to Strike Self-Appointed Representative (pursuant to Rule 17 of the Federal Rules of Civil Procedure), Defendants do oppose any suggestion that the motion to strike somehow has been mooted – as the important issues

regarding Waleed Hamed's claim to be Mohammad Hamed's "authorized agent" remain extremely relevant and are unresolved. Indeed, the agency issues in this action were highlighted during the TRO hearings when, for example, Hisham Hamed claimed to be yet another self-appointed "agent for [his] father," Mohammad Hamed. (Jan. 25, 2013 Hr'g Tr. at 255:13-14).

Defendants also oppose Plaintiffs' disingenuous attempt to interject their TRO arguments, which should be reserved for their TRO papers, into a motion to file something under seal. The argument (on pages 2 and 3 of the motion) is wholly improper and irrelevant to the motion for leave. The argument thus should be disregarded *in its entirety*. Nor will Defendants stoop to Plaintiffs' level by addressing in this response brief the merits (or lack thereof) of Plaintiffs' improper argument in the underlying motion for leave.

Lastly, Defendants wish to clarify Plaintiffs' misleadingly inaccurate claim that "the defendant is seeking additional time to file" its post-hearing submissions. (Motion at 1). That is simply untrue. Rather, as reflected in Defendants' February 25, 2013 Supplement to Agreed Motion for Enlargement of Time, an incomplete version of the last of the hearing transcripts, consisting of 330 pages, was circulated to the parties via electronic-mail well after regular business hours on Friday, February 22, 2013. On the immediate next business day, Monday, February 25, 2013, Defendants notified the Court of their receipt of the transcript and requested seven (7) days, as agreed by the parties, *i.e.*, through March 4, 2013, within which to submit the post-hearing submissions. Further, because Plaintiffs now have indicated that they have provided "a disc in Word to assist the Court," Defendants similarly request through March 4, 2013, unless otherwise instructed by the Court, within which to prepare such disk and submit its full set of opposition materials.

A proposed Order consistent with the foregoing is attached hereto.

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Defendants' Response Re: Motion for Leave to File Under Seal

In conclusion, Plaintiffs' Motion for Leave to File should be denied, as set forth in the attached proposed Order.

Respectfully submitted,

Joseph A. DiRuzzo, III

USVI Bar # 1114

Christopher M. David

S. Ct. BA. No. 2013-0010 (pro hac vice)

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February 27, 2013

CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2013, a true and accurate copy of the foregoing was forwarded via email to the following: *Joel H. Holt, Esq.*, 2132 Company St., St. Croix, VI 00820, holtvi@aol.com; *Carl J. Hartmann III, Esq.*, 5000 Estate Coakley Bay, L-6, Christiansted, VI 00820, carl@carlhartmann.com; *Nizar DeWood, Esq.*, The DeWood Law Firm, 2006 Eastern Suburb, Suite 101, St. Croix, VI 00820, dewoodlaw@gmail.com; and *K. Glenda Cameron, Esq.*, Law Offices of K.G. Cameron, 2006 Eastern Suburb, Suite 101, St. Croix, VI 00820, kglenda@cameronlawvi.com.

Joseph A. DiRuzzo, III

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

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

ORDER

AND NOW, before the Court is Defendants' Agreed Motion for Enlargement of Time dated February 20, 2013, and the Supplement thereto dated February 25, 2013; and Plaintiffs' Motion to File Proposed Findings of Fact and Conclusions of Law Under Seal dated February 27, 2013. Defendants filed a Response dated February 27, 2013, to the motion for leave to file under seal.

Upon consideration of the record, and otherwise being fully advised in the premises, it is hereby

ORDERED and **ADJUDGED** that:

- 1. Defendants request to file their proposed findings of fact and conclusions of law, together with any memoranda in support thereof, by March 4, 2013, is **GRANTED**.
 - 2. Plaintiffs' Motion for Leave is granted, in part, and denied, in part, as follows.
- 3. Plaintiffs' request for leave to file its post-hearing submissions on the underlying application for a temporary restraining order ("TRO") under seal is **granted**. Upon Plaintiffs' receipt of Defendants' post-hearing submissions, Plaintiffs' own such submissions shall be unsealed and Plaintiffs shall forward same to Defendants.

- 4. Based on the course of events, Defendants' following motions are now moot and thus are hereby **denied**: Defendants' (a) September 28, 2012 Motion to Proceed; and (b) November 2, 2012 Motion to Strike or, Alternatively, for Leave to File Sur-Reply.
- 5. Plaintiffs' request to deem moot Defendants' November 2, 2012 Motion to Strike Self-Appointed Representative is **denied**, as the agency issues raised in the motion to strike remain unresolved and will be addressed separately, following a hearing on such motion.

]	DONI	E and ORDERED in Chambers this	day of, 20	13.
			Hon. Douglas Brady Judge of the Superior Court	
ATTEST	Г:	VENETIA H. VELAZQUEZ, ESQ. Clerk of the Court		
		By: Deputy Clerk		
		Dated:		
cc: A	All con	nsel of record		