

ST. CROIX ISLANDS  
THE VIRGIN ISLANDS  
SUPERIOR COURT

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

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MOHAMMAD HAMED, by his  
authorized agent, WALEED HAMED,

Plaintiffs,

v.

CIVIL NO. SX-12-CV-370

FATHI YUSUF and UNITED CORPORATION,

Defendants.

**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S SECOND MOTION  
TO TAKE JUDICIAL NOTICE AND REQUEST TO SUPPLEMENT THE HEARING  
RECORD**

Defendants hereby respond in opposition to the Plaintiffs' Second Motion to take Judicial Notice and Request to Supplement the Hearing Record. In support of the Defendants' opposition they state as follows.

At this late stage in the TRO proceedings the Plaintiff asks this Court to take judicial notice not of the fact that interrogatory responses were filed in the case of *Idbeileh v. United Corporation, et al.*, case no. SIT-civ-156/1997, but for the truth of the matter assert therein. This Court should deny the request for judicial notice on two independent grounds.


First, the Plaintiff has not shown good cause why the interrogatory responses were not filed sooner. Counsel for the Plaintiff admits that the document was available in the court file of the *Idbeileh* case, a court file that counsel for the Plaintiff was acutely aware of given that the basis for the majority of the Plaintiff's claims stems from the deposition of Fathi Yusuf in the *Idbeileh* case. The Plaintiff is improperly attempting to put into the record evidence that the Defendants did not have a reasonable opportunity to dispute. Accordingly, the Court should deny the request.

Second, courts may not take judicial notice of either factual findings or the record of a different case, including testimony, as substantive proof. *See U.S. v. Jones*, 29 F.3d 1549, 1552-53

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(11<sup>th</sup> Cir. 1994) (holding that “findings of fact and references to witness’ testimony from prior case were inadmissible and not subject to judicial notice for the truth of the matter asserted in the other litigation) (internal quotations and citations omitted). Accordingly, for this independent, yet cumulative, reason the Court should deny the Plaintiff’s request.

Respectfully submitted,



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*Defendants' Response Re: 2<sup>nd</sup> Motion to Take Judicial Notice*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 4, 2013, a true and accurate copy of the foregoing was forwarded via email to the following: *Joel Ft. Holt, Esq.*, 2132 Company St., St. Croix, VI 00820, [holtvi@aol.com](mailto:holtvi@aol.com); *Carl J. Hartmann III, Esq.*, 5000 Estate Coakley Bay, L-6, Christiansted, VI 00820, [carl@carlhartmann.com](mailto:carl@carlhartmann.com); and *K. Glenda Cameron, Esq.*, Law Offices of K.G. Cameron, 2006 Eastern Suburb, Suite 101, St. Croix, VI 00820, [kglenda@cameronlawvi.com](mailto:kglenda@cameronlawvi.com).

  
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