

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

|  |   |                           |
|--|---|---------------------------|
| MOHAMMED HAMED by his authorized agent | ) |                           |
| WALEED HAMED,                          | ) |                           |
|  | ) | CIVIL NO. SX-12-CV-370    |
| v.                                     | ) |                           |
|  | ) | ACTION FOR DAMAGES;       |
| FATHI YUSUF and UNITED CORPORATON,     | ) | PRELIMINARY AND PERMANENT |
|  | ) | INJUNCTION; DECLARATORY   |
|  | ) | RELIEF                    |
|  | ) |                           |
| Defendants,                            | ) | JURY TRIAL DEMANDED       |
|  | ) |                           |
|  | ) |                           |
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**ORDER**

**THIS MATTER** is before the Court on (1) Plaintiff's Notice of Filing Supplemental Deposition Exhibits, filed February 19, 2013; (2) Plaintiff's Second Request to Take Judicial Notice and Request to Supplement the Hearing Record, filed February 19, 2013; (3) Plaintiff's Notice of Supplementation of the Preliminary Injunction Record, filed March 18, 2013; and (4) Plaintiff's Reply to Opposition to Plaintiff's Notice of Supplementation of the Preliminary Injunction Record (which includes as Exhibit A another document to supplement the record), filed April 4, 2013. Defendants have responded in opposition to the supplementation of the hearing record. For the following reasons, Plaintiff's requests are GRANTED and the record shall reflect the supplemented documentation.

(1) Plaintiff notes that he has supplemented the record by the submission of (a) Deposition Exhibit no. 7, to the February 2, 2000 deposition of Fathi Yusuf in the matter known as *Idheileh v. United Corp. and Yusuf*, Super. Ct., Div. St. T., Civ. No 156/1997, Plaintiff's Hearing Exhibit 1, as requested by Defendants at the conclusion of the January 31, 2013 hearing; and (b) Deposition Exhibit no. 6 to Plaintiff's Exhibit 1, an affidavit of Fathi Yusuf, accepted by agreement of the parties at the conclusion of hearing.

(2) Plaintiff's request includes two answers to interrogatories of the Defendants in the same *Idheileh v. United* case (proposed Plaintiff's Exhibit 28); an excerpt from Motion for Summary Judgment of Defendants in that case (proposed Plaintiff's Exhibit 29); and two checks dated January 21, 2013 and February 13, 2013, drawn on Plaza Extra Supermarket accounts in payment of Defendants' counsel fees in this matter (proposed Plaintiff's Exhibit 30).

(3) By Plaintiff's "Notice," he supplements Plaintiff's Hearing Exhibits 7 and 15, providing a post-hearing notice of rents due from Defendant United directed to Plaza Extra c/o Plaintiff; and another check drawn on a supermarket account as a post-hearing payment to Defendants' counsel.

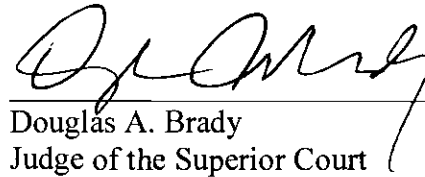
(4) Plaintiff's April 4, 2013 filing provides another post-hearing rent notice from United to Plaza Extra c/o Plaintiff.

Defendants object to the proffered new exhibits and supplementation of existing exhibits, claiming that they are presented untimely; that Defendants are deprived of the opportunity to respond and that it is improper for the Court to take judicial notice of matters from another case.

The exhibits submitted as item (1), above, were agreed to by the parties at the hearing. Exhibits 28 and 29, included within item (2) are admissible as admissions against interest (Fed. R. Evid. 801(d)). The fact that they were not discovered until after the hearing has not unduly prejudiced Defendants. Exhibit 30 and the documents included within items (3) and (4), above, simply supplement similar documentation already admitted into the record and, even though they do demonstrate a continuing pattern of conduct, they are all largely cumulative. Defendants are not prejudiced as they are aware of the content and substance of the proffered documents which were generated by them or on their behalf. Thus, having considered the premises, it is hereby

ORDERED that the record is supplemented by the admission of Plaintiff's Exhibits 28, 29 and 30; proffered notices of rents due are admitted as supplementing Plaintiff's Exhibit 7; and checks representing payments to Defendants' counsel are admitted as supplementing Plaintiff's Exhibit 15.

Dated: April 25, 2013

  
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Douglas A. Brady  
Judge of the Superior Court

ATTEST:

VENETIA H. VELASQUEZ  
Clerk of the Court

By:   
\_\_\_\_\_  
Chief Deputy Clerk

Dated: 4/25/13