

# SUMMONS

(CIVIL ACTION - ORIGINAL)

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

13 MAY -3 P2:49

UNITED CORPORATION,

Plaintiff,

vs.

WADDA CHARRIEZ,

Defendant.

CIVIL NO. SX-13-CV- 152

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

TO: **WADDA CHARRIEZ**  
ADDRESS: C/O PLAZA EXTRA – SION FARM  
Christiansted, St. Croix USVI 00820

**YOU ARE HEREBY SUMMONED** and required to file with the Clerk of this Court and serve upon:

Plaintiff's Attorney:  
**NIZAR A. DEWOOD, ESQ.**  
2006 Eastern Suburb, Ste. 101  
Christiansted, VI 00820  
T: (340) 773-3444  
F: (888) 398-8428

an answer to the complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Witness my hand and the seal of this Court this 16th day of May, 2013.

VENETIA H. VELASQUEZ, ESQ.  
Clerk of the Court

  
Nizar A. DeWood, Esquire  
Attorney for Plaintiff

  
BY DEPUTY CLERK

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

13 MAY -3 12:49

UNITED CORPORATION, )  
)  
)  
Plaintiff )  
)  
Vs. )  
)  
WADDA CHARRIEZ )  
)  
)  
Defendant )  
\_\_\_\_\_ )

CIVIL NO. SX-13-CV-152  
  
CIVIL ACTION  
  
ACTION FOR DAMAGES  
& RECOUPMENT  
  
COMPLAINT  
  
JURY TRIAL DEMAND\

COMPLAINT

Plaintiff United Corporation ("United"), and by and through its undersigned counsel files this action for damages and alleges as follows:

**I. BACKGROUND**

1. This is a civil action for damages, compensatory and punitive, arising out of Defendant Charriez for fraud, breach of contract, breach of fiduciary duties, and conversion.

**II. JURISDICTION, VENUE, & DEMAND FOR JURY TRIAL**

- 2. This Court has jurisdiction pursuant to 4 VIC §76.
- 3. Venue is proper in the District of St. Croix because all of the parties are residents of the District of St. Croix, and the cause(s) of action arose in said District, pursuant to 4 VIC § 78.
- 4. A trial by jury is demanded pursuant to 4 VIC § 80.

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*Plaintiff's Complaint for Damages & Recoupment*  
*Page 2 of 6*

### III. THE PARTIES

5. Plaintiff United Corporation is a duly organized Virgin Islands Corporation since January of 1979, and is authorized to conduct business in the Virgin Islands. Plaintiff is *sui juris*.

6. Defendant Wadda Charriez is a natural person and is a resident of the U.S. Virgin Islands. Defendant Charriez is *sui juris*. At all times relevant to this action, Defendant Charriez has been an at-will employee of Plaintiff United.

### IV. FACTS

7. Plaintiff United operates three supermarket stores throughout St. Croix and St. Thomas under the trademark of "Plaza Extra" located in 4C & 4D Estate Sion Farm, St. Croix, 14 Estate Plessen, St. Croix and 4605 Tutu Park Mall, Suite 200, St. Thomas.

8. Plaintiff United is the employer of Wadda Charriez, who began her employment on January 5<sup>th</sup>, 1998 as a cashier. Thereafter, Defendant Charriez eventually became an office manager was assigned the duties of preparing and issuing payroll checks.

9. United utilizes a hand recognition payroll system where every employee must scan his or her right hand to "punch-in" and "punch-out"

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10. The system then automatically feeds the payroll system with time information obtained from each employee's hand scan.

11. Any print out from the payroll system would then show the date and time the hand was scanned. However, if an employee manually enters the entry and exit times, any printout of that employee's time sheets will show an asterisk next to the manually overridden time.

12. This punch-in and punch-out hand recognition procedure is required for all hourly wage based employees. Of all the hourly based employees, Defendant Charriez and by virtue payroll responsibilities has manually overridden the payroll system virtually every single time.

13. There is only one explanation as to why Defendant Charriez's timesheets would show consistent manual time entries: to report false hours and to cause the payroll system to issue overstated wages.

14. On April 29<sup>th</sup>, 2013, Plaintiff United Corporation terminated Defendant Wadda Charriez for reporting false hours causing Plaintiff United monetary losses of \$40,878 dollars.

15. Upon information, Defendant Charriez reported false hours for the years 2006 through 2009, the records of which are being collected and analyzed.

16. For the years 2010 through 2012, Defendant Charriez reported the following total false hours:

- i. Year 2010 ..... 786 hours @ \$18.00 = \$14,148
  - ii. Year 2011..... 832 hours @ \$18.00 = \$14,976
  - iii. Year 2012 ..... 615 hours @ \$18.00 = \$11,754
- \$40,878

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17. Plaintiff United warned Wadda Charriez on January 7<sup>th</sup>, 2013 of Plaintiff's intent to terminate her should she fail to explain why Defendant Charriez falsely reported such significant hours.

18. Plaintiff United provided Defendant Charriez over 120 days to explain her false reporting of work hours.

19. On April 29<sup>th</sup>, 2013, Defendant Charriez's employment was terminated. Employee Charriez never returned any of the monies she received as a result of her false hours, and never explained the reasons for her misconduct.

20. As an office manager, and an employee tasked with properly preparing, reporting, and issuing payroll checks for United's employee, Defendant Charriez violated her at-will employment agreement with United Corporation.

21. As an employee of Plaintiff United, Defendant violated her duties of loyalty and care owed to her employer Plaintiff United.

22. As a result of obtaining \$40,878 dollars in unauthorized and illegal compensation, Defendant Charriez caused Plaintiff United substantial monetary damages.

## **V. CAUSES OF ACTION**

### **FIRST CAUSE OF ACTION FRAUD**

23. Plaintiff incorporates paragraphs 1 through 22 inclusive as if fully set forth verbatim herein.

24. Defendant Charriez fraudulently reported hours of work to Plaintiff United during the period of January 1<sup>st</sup>, 2010 through December 15<sup>th</sup>, 2012, causing Plaintiff losses of \$40,878 dollars.

25. Plaintiff United materially relied on the representations of Defendant Charriez, and as a result issued numerous checks for overstated amounts to Defendant Charriez.

### **SECOND CAUSE OF ACTION**

#### **BREACH OF FIDUCIARY DUTIES**

26. Plaintiff incorporates paragraphs 1 through 25 inclusive as if fully set forth verbatim herein.

27. Defendant Charriez is an employee of Plaintiff United; as such Defendant owes Plaintiff various duties, including duty of loyalty and duty of care.

28. Defendant Charriez's reporting of false hours to gain for her personal benefit in the amount of \$40,878 is a breach of each of these duties. Defendant Charriez is therefore liable to Plaintiff for all damages sustained by Plaintiff United as a result of Defendant Charriez' breach of their duties.

### **THIRD CAUSE OF ACTION**

#### **CONVERSION/RECOUPMENT**

29. Plaintiff incorporates paragraphs 1 through 28 inclusive as if fully set forth verbatim herein.

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30. Defendant obtained and received \$40,878 in unauthorized and fraudulent compensation from Plaintiff United. Defendant is liable to Plaintiff for the conversion of said funds to her benefit.

31. As such, Plaintiff United is entitled to full recoupment of these funds including but not limited to a constructive trust in favor of Plaintiff United.

## VI. RELIEF REQUESTED

Wherefore, Plaintiff United Corporation, respectfully prays for the following relief:

- i. Compensatory damages in the amount of \$40,878 dollars.
- ii. Punitive damages in an amount to be determined at trial.
- iii. Attorney's fees and court costs for filing the Action
- iv. Any other relief the court deems equitable.

Date: May 3, 2013

Respectfully Submitted,

DeWood Law Firm  
Counsel for Plaintiff United

By: 

Nizar A. DeWood, Esq. (1177)  
2006 Eastern Suburb, Suite 102  
Christiansted, V.I. 00820  
T. (340) 773-3444  
F. (888) 398-8428

# Superior Court of the Virgin Islands Division of St. Croix



OFFICE OF THE CLERK  
(340) 778-9750

Date: May 6, 2013

Plaintiff s/Attorney's name NIZAR A. DEWOOD, ESQ.

Address 2006 EASTERN SUBURB, STE. 101 C'STED VI 00820

Address \_\_\_\_\_

### DOCKETING LETTER AND NOTICE OF JUDGE ASSIGNMENT

Dear ATTORNEY DEWOOD

The Court is in receipt of your CIVIL / CRIMINAL / FAMILY / PROBATE filing, which was docketed on MAY 6, 2013 and assigned Case Number SX-13-CV-152

The Judge / Magistrate Assigned to your case is the Honorable JUDGE HAROLD WILLOCKS

If there is a fee associated with your filing, such fee must be filed along with your petition/complaint, or within five (5) days thereafter. Failure to pay the required fee may result in your petition / complaint being dismissed for failure to prosecute.

If you have any questions or concerns, you may contact the Office of the Clerk of the Court at (340) 778-9750 (St. Croix) or 774-6680 (St. Thomas-St. John).

Sincerely,  
Venetia Velazquez, Esq.  
Clerk of the Court

  
BY: TAMARA G. ALLEN, COURT CLERK II

Cc: WADDA CHARRIEZ, Defendant  
Case File