

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

MOHAMMAD HAMED by His Authorized )  
Agent WALEED HAMED, )  
 )  
Plaintiff, )  
v, )  
 )  
FATHI YUSUF and UNITED CORPORATION, )  
 )  
Defendants. )  
\_\_\_\_\_ )

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF

JURY TRIAL DEMANDED

**PLAINTIFF'S MOTION TO COMPEL DEFENDANTS  
TO COMPLY WITH THE PRELIMINARY INJUNCTION**

Plaintiff, Mohammed Hamed, moves the Court for the issuance of an Order to Compel the Defendants to comply with the terms of the April 25<sup>th</sup> Preliminary Injunction Order. The basis for the motion is more fully set forth in the memorandum being submitted in support of said motion, which is incorporated herein by reference. For the reasons set forth therein, it is respectfully submitted that the relief sought be granted. A proposed order is also being submitted with this motion.

**Dated:** January 22, 2014

  
\_\_\_\_\_  
**Joel H. Holt, Esq.**  
*Counsel for Plaintiff*  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>nd</sup> day of January, 2014, I served a copy of the foregoing in compliance with the parties consent, pursuant to Fed. R. Civ. P. 5(b)(2)(E), to electronic service of all documents in this action on the following persons:

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

<b>MOHAMMAD HAMED by His Authorized Agent WALEED HAMED,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>CIVIL NO. SX-12-CV-370</b>
v.	)	
	)	<b>ACTION FOR DAMAGES</b>
<b>FATHI YUSUF and UNITED CORPORATION,</b>	)	<b>INJUNCTIVE AND</b>
	)	<b>DECLARATORY RELIEF</b>
<b>Defendants.</b>	)	
	)	<b>JURY TRIAL DEMANDED</b>

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**PLAINTIFF'S MEMORANDUM IN SUPPORT OF  
MOTION TO COMPEL DEFENDANTS TO COMPLY  
WITH THE PRELIMINARY INJUNCTION**

In ruling on this motion, this Court needs to determine whether any of the following matters violate the April 25<sup>th</sup> preliminary injunction ("PI") issued by this Court:

- Yusuf's unilateral decision not to pay the managers their annual bonuses and vacation pay;
- United's failure to share with Hamed the password to provide mutual access to the 'live' Peachtree accounting system used daily in the three stores;
- United's failure to sign the necessary documents to give Hamed access to all bank accounts and statements;
- United's unilateral decision to file a lawsuit against Wadda Charriez; and
- Yusuf's refusal to authorize Wadda Charriez's annual bonus.

If this Court finds that such acts violate the PI, then it has full authority to enforce its PI, ordering the Defendants to show cause why they should not be held in contempt **if they fail to do so** pursuant to 4 V.I.C. § 284(4), stating "every court shall have the power:"

(4) To compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in all actions, or proceedings pending therein;

Each act will be discussed separately for the sake of clarity.

I. **The annual bonuses and vacation pay**

In the PI order, this Court enjoined Defendant Yusuf as follows:

**ORDERED** that the operations of the three Plaza Extra Supermarket stores **shall continue as they have throughout the years prior to this commencement of this litigation**, with Hamed, or his designated representative(s), and Yusuf, or his designated representative(s), jointly managing each store, **without unilateral action** by either party, or representative(s), affecting the management, employees, **methods, procedures and operations**. It is further. . . (Emphasis added.)

Notwithstanding this clear language, Defendant Yusuf unilaterally declared that he would not sign the checks for regular annual bonuses and vacation pay to be paid to the store managers this year (See **Exhibit 1**) even though (1) they were routinely paid annually in the past in the amount of \$61,000 for each manager and (2) there are ample funds on hand to pay these bonuses. See **Exhibit 2**. Indeed, Yusuf cannot dispute the fact that this was a regular payment, as his counsel submitted a declaration from United's accountant stating in May of 2013 that **this \$61,000 was routinely calculated as part of each manager's salary at the time the PI was issued**. See **Exhibit 3**.<sup>1</sup>

As such, it is respectfully requested that this Court order these annual bonuses and accrued vacation pay of \$61,000 to be paid forthwith to each store manager.

II. **The "live" Sage50/Peachtree accounting "password"**

In its May 31<sup>st</sup> Order clarifying access to the accounting systems, this Court directed as follows:

**ORDERED** that only **mutual access of all sensitive financial data, records and financial statements** shall be permitted according to a process to be determined by the Parties. (Emphasis added.)

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<sup>1</sup> Clearly this act was designed to cause economic duress to Plaintiff, as there was no business reason to change the status quo.

Hamed has patiently sought access to the Peachtree accounting systems that hold the critical daily financial information regarding the three Plaza Extra Supermarkets.<sup>2</sup> However, to date the password needed to access this system has never been provided to Plaintiff by United despite many excuses. See **Exhibit 4**. Again, as the May 31<sup>st</sup> Order is clear, it is respectfully requested that this Court order United to provide a "password" forthwith to Plaintiff.

### **III. The bank records**

The Hamed and Yusuf families have always enjoyed equal access to the bank account information of the Plaza Extra Supermarkets until just before the PI was issued.<sup>3</sup> See **Exhibit 2**. Due to this litigation, the banks (Scotiabank and Banco Popular) holding the Plaza Extra Supermarket accounts requested the Hamed and Yusuf families to sign new bank documents so the banks could provide the Plaza Extra banking information to both parties as directed by the Court. See **Exhibit 5**. To date, the Yusufs have not signed these documents. See **Exhibit 5**. As such, Hamed still cannot fully access these accounts, even though such access always existed in the past, which

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<sup>2</sup> At the PI hearing Yusuf and United made much of the importance of access to the "Peachtree" accounting system -- it is the backbone of the operations. The name has been changed to "Sage50."

<sup>3</sup> As this Court noted in footnote 10 of its April 25<sup>th</sup> opinion:

Most troubling is the substance of Plaintiff's Motion to Supplement the Record, dated and filed April 23, 2013, after the Opinion was largely completed. Therein, Waleed Hamed states that the Hamed family has been denied access to the supermarket accounts and signature authorization to Hamed family members has been revoked by the depository banks based upon instructions from Yusuf. Deprivation of access to bank accounts and signature authorization on bank accounts clearly constitute denial of partnership management rights not compensable by an award of monetary damages.

information is needed to function day-to-day in order to maintain control of the financial aspects of the Plaza Extra Supermarkets.

As both the April 25<sup>th</sup> Order and the May 31<sup>st</sup> Order quoted above make clear, Hamed is entitled to access to this information.<sup>4</sup> Thus, it is respectfully requested that this Court order the Defendants to execute these bank documents forthwith.

#### IV. The Charriez lawsuit and bonus

Wadda Charriez has been employed by Plaza Extra for the past 15 years as an office manager doing important accounting work. See **Exhibit 2**. She testified at the PI hearing, resulting in this Court stating in Finding of Fact ¶ 40 in the PI memorandum:

40. On January 8, 2013, Yusuf confronted and unilaterally terminated 15 year accounting employee Wadda Charriez for perceived irregularities relative to her timekeeping records of her hours of employment, threatening to report her stealing if she challenged the firing or sought unemployment benefits at Department of Labor . . . . Charriez had a "very critical job" with Plaza Extra. . . .and the independent accountant retained by Yusuf agreed that she was "a very good worker" and that her work was "excellent." . . .Because the Hamed co-managers had not been consulted concerning the termination or shown any proof of the employee's improper activity, Mafeed Hamed instructed Charriez to return to work the following day. . . .

Again, the PI Order enjoined Defendant United in part as follows:

**ORDERED** that. . .Hamed, or his designated representative(s), and Yusuf, or his designated representative(s), jointly managing each store, without unilateral action by either party, or representative(s), affecting the **management, employees, methods**, procedures and operations. It is further. . .(Emphasis added.)

However, United filed a lawsuit against Wadda Charriez **after the PI was entered without consulting Hamed (and over his specific subsequent objections)**, seeking

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<sup>4</sup> As stated in part in Conclusion of Law 24 of the April 25<sup>th</sup> memorandum:

The relief sought and granted to provide equal access to all aspects of the business will not harm Defendants more than the denial of such relief harms Plaintiff.

to, *inter alia*, terminate her services. See **Exhibit 5**. Despite a demand that this lawsuit be dropped, United has actively continued to pursue this claim. See **Exhibit 5**.<sup>5</sup>

Moreover, Yusuf refused to sign the \$4500 check for Charriez's Christmas bonus as well, even though she has always received one in the past, **including annual bonuses since 2010 in that exact same amount**. Indeed, all of the other office workers at the Sion Farm store each received their normal bonus. See **Exhibit 2**. As such, the Court should direct this \$4500 bonus to be paid as well.

In summary, since this lawsuit was filed without Hamed's consent against a witness here specifically identified by the Court as a key employee of Plaza Extra, it violates the PI -- the bringing of a legal action against an employee for her job duties at Plaza Extra. Thus, it is respectfully requested that United be instructed to immediately dismiss that litigation as well as to authorize payment of Charriez's Christmas bonus.

## **V. Conclusion**

In summary, Plaintiff seeks an order directing the Defendants to comply with the most basic requirements of the April 25<sup>th</sup> and May 31<sup>st</sup> Orders as follows:

- Directing Yusuf to authorize payment of the managers' annual bonuses and vacation pay;
- Directing United to give Hamed the password to access the live Peachtree accounting system;
- Directing United's officers to sign the necessary documents to give Hamed access to all bank records of the Plaza Extra Supermarket operations;
- Directing United to dismiss or stay the lawsuit against Wadda Charriez; and
- Directing Yusuf to pay Charriez's \$4500 Christmas bonus.

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<sup>5</sup> This not only is direct violation of the PI, it is also intimidation of a key witness.

If Defendants refuse to comply with any of these directives, it is respectfully submitted that this Court then enter a show cause Order against them as well in order to hold them in contempt of this Court. *See, e.g., In re Rogers*, 56 V.I. 325 (V.I. 2012) ("It is clear that the Superior Court has both statutory and inherent power to compel obedience to its orders by way of contempt" citing, V.I.C. § 243(4)).

One final comment is in order. Plaintiff has worked hard to try to deal with each of these issues directly with Defendants and their counsel. It is with great reluctance that these matters are being brought to this Court's attention, but since it is clear these issues will not resolve without the Court's help, Plaintiff has no other alternative. Indeed, there are still on-going matters that may require the Court's assistance, but hopefully they can be worked out without the need of a second motion.

**Dated:** January 22, 2014

  
**Joel H. Holt, Esq.**  
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Tele: (340) 719-8941



**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of January, 2014, I served a copy of the foregoing in compliance with the parties consent, pursuant to Fed. R. Civ. P. 5(b)(2)(E), to electronic service of all documents in this action on the following persons:

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# Plaza Extra

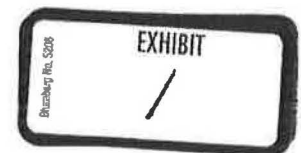
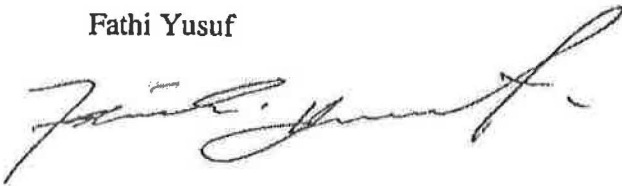
ST. CROIX ST. THOMAS  
4605 Tutu Park Mall Ste. 200  
4 CD Estate Sion Farm  
# 14 Estate Plessen

Date: December 04, 2013

To: Hamed & Yusuf Families

Due to the present circumstances and so you can plan accordingly, this will provide notice that there will be no vacation pay or bonus checks this year for any of the Hamed and Yusuf family store managers because the Yusuf's will not agree to any such payments. Thank you.

Fathi Yusuf



IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
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MOHAMMAD HAMED,

Plaintiff,

v.

FATHI YUSUF and UNITED CORPORATION,

Defendants.

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,  
INJUNCTIVE AND  
DECLARATORY RELIEF

JURY TRIAL DEMANDED

**DECLARATION OF WALEED HAMED**

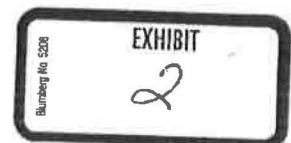
I, Waleed Hamed, declare, pursuant to 28 U.S.C. Section 1746, that I am over 18 years of age and have personal knowledge of the foregoing facts:

1. The annual bonuses and vacation pay totaling \$61,000 for each Hamed and Yusuf store manager have been paid at Christmas on a regular basis for years, as per the attached company records. See **Exhibit A**. Fathi Yusuf circulated a memo stating these payments would not be paid this year even though there are ample funds to pay these amounts. As such, these payments were not made.
2. Wadda Charriez has always received a bonus, like all other office employees at the Sion Farm Supermarket, as per the attached company records. See **Exhibit B**. This year she was scheduled to receive \$4500 as she has received every year since 2010, but Yusuf refused to authorize that as well, even though all of the other office workers at the her store (Sion Farm) received their annual bonus at Christmas this past December.
3. Wadda Charriez is a 15 year employee of the Plaza Extra Supermarket at Sion Farm, working in the office as the accounting manager. At no time did any Hamed manager authorize a lawsuit to be filed against her seeking to terminate her employment, not were we even asked to consider doing so, as the lawsuit was filed without our knowledge or permission.
4. Both Hamed and Yusuf, as well as the Hamed and Yusuf managers, have always had equal access to all banking records and accounts until just prior to the Preliminary Injunction being entered, when Yusuf told the both Scotiabank, Banco Popular and Popular Securities to take the Hamed names off the bank records.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 22, 2014

  
Waleed Hamed



PLAZA EXTRA (EAST) BONUS 2010

WADDA E. CHARRIEZ	OFFICE MANAGER	\$4,500.00
MARY S. GONZALEZ	ACCOUNTS PAYABLE	\$3,000.00
LAVEINA BARTLETTE	ASST. ACCOUNT PAYABLES	\$1,000.00
JACEIVER BARTLETTE	RECEIVABLE	\$500.00
ALBERTO MALDONADO	GROCERY MANAGER	\$2,000.00
MICHAELINA HENRY	FLOOR MANAGER	\$4,500.00
FATHI HANNUN	PRODUCE MANAGER	\$2,000.00
CHRITUS THEOPHILUS	WAREHOUSE	\$2,500.00
CLARIS JOSEPH	RECEIVING	\$1,000.00
RAYMOND WILLIAMS	DAIRY MANAGER	\$3,500.00
FUAD MAHMOUD	SECURITY	\$3,000.00
JUAN CONCEPCION	SECURITY	\$7,000.00
JOAQUIN ORTIZ	MEAT MANAGER	\$9,000.00
MANUELA LIMA	MEAT CLERK	\$1,000.00
WALLY HAMED	GENERAL MANAGER	\$50,000.00 ←
MUFEEED HAMED	MANAGER	\$50,000.00 ←
YUSUF YUSUF	MANAGER	\$50,000.00 ←
MONICA LLOYD	DELI-BAK MANAGER	\$250.00
GERRY SEERAM	PRODUCE ASST.	\$2,000.00
NEALYSA ARMSTRONG	COMPUTER ROOM	\$500.00
REUEL SALTERS	FROZEN MANAGER	\$2,000.00

TOTAL \$199,250.00



## PLAZA EXTRA (EAST) BONUS 2011

WADDA E. CHARRIEZ	OFFICE MANAGER	4500.00
LAVEINA BARTLETTE	OFFICE ASST.	1000.00
MARY S. GONZALEZ	ACCOUNTS PAYABLE	3,000.00
JACEIVER BARTLETTE	RECEIVABLE	750.00
ALBERTO MALDONADO	GROCERY MANAGER	2,000.00
MICHAELINA HENRY	FLOOR MANAGER	4,500.00
FATHI HANNUN	WAREHOUSE MANAGER	2,000.00
CHRISTUS THEOPHILUS	WAREHOUSE	2,500.00
CLARIS JOSEPH	RECEIVING	1,000.00
RAYMOND WILLIAMS	DAIRY MANAGER	3,500.00
FUAD MAHMOUD	SECURITY	3,000.00
JUAN CONCEPCION	SECURITY	7,000.00
JOAQUIN ORTIZ	MEAT MANAGER	9,000.00
WALLY HAMED	GENERAL MANAGER	50,000.00 ←
MUFEEED HAMED	MANAGER	50,000.00 ←
YUSUF YUSUF	MANAGER	50,000.00 ←
MONICA LLOYD	DELI-BAK MANAGER	500.00
GERRY SEERAM	PRODUCE ASST.	2,000.00
NEALYSA ARMSTRONG	COMPUTER ROOM	500.00
REUEL SALTERS	FROZEN MANAGER	2,000.00
TROY WILLIAMS	VALUE PACK	1000.00

**TOTAL 199,750.00**

PLAZA EXTRA (EAST) BONUS 2012

WADDA E. CHARRIEZ	OFFICE MANAGER	4500.00
LAVEINA BARTLETTE	OFFICE ASST.	1000.00
MARY S. GONZALEZ	ACCOUNTS PAYABLE	3,000.00
SABRINA MOTILAL	RECEIVABLE	500.00
ALBERTO MALDONADO	GROCERY MANAGER	2,000.00
MICHAELINA HENRY	FLOOR MANAGER	4,500.00
FATHI HANNUN	WAREHOUSE MANAGER	2,000.00
CHRISTUS THEOPHILUS	WAREHOUSE	2,500.00
CLARIS JOSEPH	RECEIVING	1,000.00
RAYMOND WILLIAMS	DAIRY MANAGER	3,500.00
FUAD MAHMOUD	SECURITY	3,000.00
JUAN CONCEPCION	SECURITY	7,000.00
JOAQUIN ORTIZ	MEAT MANAGER	9,000.00
WALLY HAMED	GENERAL MANAGER	50,000.00 ←
MUFEEED HAMED	MANAGER	50,000.00 ←
YUSUF YUSUF	MANAGER	50,000.00 ←
MONICA LLOYD	DELI-BAK MANAGER	500.00
GERRY SEERAM	PRODUCE ASST.	2,000.00
REUEL SALTERS	FROZEN MANAGER	2,000.00
TROY WILLIAMS	VALUE PACK	1000.00
KIZMA PETERSEN	FRONT END	500.00
KATISHA KING	ASST. FLOOR/FRONT	500.00

**TOTAL 200,000.00**

**PLAZ EXTRA WEST**

**Plaza Extra West  
Bonus 2010**

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Name	Position	Amount
Khalil Ahmad	Warehouse Manager	\$6,000.00
Myra Senhouse	Office Clerk	\$3,500.00
Veronica Cruz	Office Clerk	\$600.00
Clara Modeste	Office Clerk	\$2,000.00
Lissette Lima	Office Clerk	\$3,500.00
Salomon Laurencin	Meat Manager	\$8,000.00
Juan Ledesma	Asst. Meat Manager	\$3,500.00
Orlando Garcia	Frozen	\$1,500.00
Patricia Martin	Meat Clerk	\$800.00
Iris Osorio	Meat Clerk	\$750.00
Karen Quinn	Computer Room Manager	\$3,000.00
Virgilio Henriquez	Produce Manager	\$2,000.00
Abdelkrem Boucenna	Grocery Manager	\$20,000.00
Victor Petersen	Grocery	\$1,500.00
Trevor Sablon	Floor Manager	\$3,000.00
Mariya Samson	Deli Manager	\$750.00
Kenja Walcott	Asst. Deli Manager	\$500.00
Maheer Yusuf	General Manager	\$50,000.00
Hisham Hamed	Asst. General Manager	\$50,000.00
Marian James	Grocery Clerk	\$1,500.00
Mary Jn Baptiste	Grocery Clerk	\$800.00
Raymond Davis	Dairy Manager	\$2,000.00
	<b>Total</b>	<b>\$165,200.00</b>



Plaza Extra West  
Bonus 2011

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Name	Position	Amount
Khalil Ahmad	Warehouse Manager	\$6,000.00
Myra Senhouse	Office Clerk	\$3,500.00
Veronica Cruz	Office Clerk	\$800.00
Clara Modeste	Office Clerk	\$2,000.00
Lissette Lima	Office Clerk	\$3,500.00
Salomon Laurencin	Meat Manager	\$8,000.00
Juan Ledesma	Asst. Meat Manager	\$3,500.00
Orlando Garcia	Frozen	\$1,500.00
Iris Osorio	Meat Clerk	\$750.00
Karen Quinn	Computer Room Manager	\$3,000.00
Abdelkrem Boucenna	Grocery Manager	\$24,000.00
Trevor Sablon	Floor Manager	\$3,000.00
Marva Samson	Deli Manager	\$750.00
Maher Yusuf	General Manager	\$50,000.00
Hisham Hamed	Asst. General Manager	\$50,000.00
Marian James	Grocery Clerk	\$1,500.00
Mary JnBaptiste	Grocery Clerk	\$800.00
Jess Isale	Warehouse Assistant	\$1,000.00
	<b>Total</b>	<b>\$163,400.00</b>

Plaza Extra West  
Bonus 2012

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Name	Position	Amount
Khalil Ahmad	Warehouse Manager	\$6,000.00
Myra Senhouse	Office Clerk	\$3,500.00
Veronica Cruz	Office Clerk	\$600.00
Clara Modeste	Office Clerk	\$2,000.00
Lissette Lima	Office Clerk	\$3,500.00
Salomon Laurencin	Meat Manager	\$8,000.00
Juan Ledesma	Asst. Meat Manager	\$3,500.00
Orlando Garcia	Frozen	\$1,500.00
Iris Osorio	Meat Clerk	\$750.00
Karen Quinn	Computer Room Manager	\$3,000.00
Abdelkrim Boucenna	Grocery Manager	\$24,000.00
Trevor Sablon	Floor Manager	\$3,000.00
Marva Samson	Deli Manager	\$750.00
Maher Yusuf	General Manager	\$50,000.00
Hisham Hamed	Asst. General Manager	\$50,000.00
Marian James	Grocery Clerk	\$1,500.00
Mary JnBaptiste	Grocery Clerk	\$800.00
Jess Isale	Warehouse Assistant	\$1,000.00
Alfredo Nieves	Produce Manager	\$2,000.00
	<b>Total</b>	<b>\$165,400.00</b>

# PLAZA EXTRA ST. THOMAS

**United Corporation**  
**Payroll Register**  
**For the Period From Dec 31, 2010 to Dec 31, 2010**

Filter Criteria includes: Report order is by Check Date. Report is printed in Detail Format.

Employee ID Employee Masked SS No Reference Date	Pay Type	Pay Hr	Pay Amt	Amount	Gross MedicalIns Garnishment Soc_Sec_ER MedicalIns_	Fed_Income EmplLoan MASA Medicare_ER	Soc_Sec ChildCare CashDrawer FUTA_ER	Medicare HigherEduc AFLAC SUI_ER
580083688 RICHARDS, CHERYL XXX-XX-3688 141769 12/31/10	Salary		750.00	596.11	750.00	-96.51	-46.50	-10.88
					-46.50	-10.88		
580089201 FREYLINGER, GERAR XXX-XX-9201 141770 12/31/10	Salary		9,000.00	5,784.66	9,000.00	-2,526.84	-558.00	-130.50
					-558.00	-130.50		
580091013 YUSUF, FATHI XXX-XX-1013 141771 12/31/10	Salary		50,000.00	32,521.00	50,000.00	-16,754.00		-725.00
						-725.00		
580139068 HAMED, WAHEED M. XXX-XX-9068 141772 12/31/10	Salary		50,000.00	32,594.70	50,000.00	-16,680.30		-725.00
						-725.00		
580151861 INDUSTRIOUS, JUDIT XXX-XX-1861 141773 12/31/10	Salary		400.00	341.59	400.00	-27.81	-24.80	-5.80
					-24.80	-5.80		
580161493 JACKSON, MAUREEN XXX-XX-1493 141774 12/31/10	Salary		400.00	341.59	400.00	-27.81	-24.80	-5.80
					-24.80	-5.80		
580168521 BRATHWAITE, CARIN XXX-XX-8521 141775 12/31/10	Salary		300.00	272.72	300.00	-4.33	-18.60	-4.35
					-18.60	-4.35		

**United Corporation**  
**Payroll Register**  
**For the Period From Dec 31, 2010 to Dec 31, 2010**

Filter Criteria includes: Report order is by Check Date. Report is printed in Detail Format.

Employee ID Employee Masked SS No Reference Date	Pay Type	Pay Hr	Pay Amt	Amount	Gross Medicallns Garnishment Soc_Sec_ER Medicallns_	Fed_Income EmplLoan MASA Medicare_ER	Soc_Sec ChildCare CashDrawer FUTA_ER	Medicare HigherEduc AFLAC SUI_ER
580169216 LAKE-KING, JENNIFER XXX-XX-9216 141776 12/31/10	Salary		125.00	100.44	125.00	-15.00	-7.75	-1.81
					-7.75	-1.81		
580169659 MADURO, JULIA XXX-XX-9659 141777 12/31/10	Salary		500.00	440.00	500.00	-21.75	-31.00	-7.25
					-31.00	-7.25		
580175988 GUMBS, WENTWORT XXX-XX-5988 141778 12/31/10	Salary		17,000.00	10,291.50	17,000.00	-5,408.00	-1,054.00	-246.50
					-1,054.00	-246.50		
580253840 YUSUF, NAJEH F. XXX-XX-3840 141779 12/31/10	Salary		50,000.00	32,521.00	50,000.00	-16,754.00		-725.00
						-725.00		
580339392 DE LA ROSA CASTILL XXX-XX-9392 141780 12/31/10	Salary		2,500.00	1,903.50	2,500.00	-405.25	-155.00	-36.25
					-155.00	-36.25		
580358101 MAHD, MA'MOUN F. XXX-XX-8101 141781 12/31/10	Salary		3,000.00	2,101.82	3,000.00	-668.68	-186.00	-43.50
					-186.00	-43.50		
580372698 ESPRIT, LINDA L. XXX-XX-2698 141782 12/31/10	Salary		100.00	67.73	100.00	-20.00	-6.20	-1.45
					-6.20	-1.45	-0.80	

**United Corporation\***  
**Payroll Register**  
**For the Period From Dec 30, 2011 to Dec 30, 2011**

Filter Criteria includes: Report order is by Check Date. Report is printed in Detail Format.

Employee ID Employee Masked SS No Reference Date	Pay Type	Pay Hr	Pay Amt	Amount	Gross MedicalIns Garnishment PreTxAFLAC FUTA_ER	Fed_Income EmplLoan MASA PreTxCIGNA SUI_ER	Soc_Sec ChildCare CashDrawer Soc_Sec_ER MedicalIns_	Medicare HigherEduc AFLAC Medicare_ER
580067334 JOSEPH BLYDEN, CH XXX-XX-7334 151102 12/30/11	Regular		250.00	235.87	250.00		-10.50	-3.63
							-15.50	-3.63
580068397 ABRAHAM, DIANE C. XXX-XX-8397 151103 12/30/11	Regular		150.00	117.56	150.00	-23.96	-6.30	-2.18
							-9.30	-2.18
580071889 CASTRO, CARLOS XXX-XX-1889 151104 12/30/11	Regular		300.00	262.95	300.00	-20.10	-12.60	-4.35
							-18.60	-4.35
580083204 BELL, ANTOINETTE E. XXX-XX-3204 151105 12/30/11	Regular		100.00	94.35	100.00		-4.20	-1.45
							-6.20	-1.45
580083688 RICHARDS, CHERYL XXX-XX-3688 151106 12/30/11	Regular		750.00	604.74	750.00	-102.88	-31.50	-10.88
							-46.50	-10.88
580089201 FREYLINGER, GERAR XXX-XX-9201 151107 12/30/11	Salary		9,000.00	5,974.07	9,000.00	-2,517.43	-378.00	-130.50
							-558.00	-130.50
580091013 YUSUF, FATHI XXX-XX-1013 151108 12/30/11	Salary		50,000.00	32,532.09	50,000.00	-16,742.91		-725.00
								-725.00



**United Corporation\***  
**Payroll Register**  
**For the Period From Dec 30, 2011 to Dec 30, 2011**

Filter Criteria includes: Report order is by Check Date. Report is printed in Detail Format.

Employee ID Employee Masked SS No Reference Date	Pay Type	Pay_Hr	Pay Amt	Amount	Gross Medicallns Garnishment PreTxAFLAC FUTA_ER	Fed_Income EmplLoan MASA PreTxCIGNA SUI_ER	Soc_Sec ChildCare CashDrawer Soc_Sec_ER Medicallns_	Medicare HigherEduc AFLAC Medicare_ER
580139068 HAMED, WAHEED M. XXX-XX-9068 151109 12/30/11	Salary		50,000.00	32,606.80	50,000.00	-16,668.20		-725.00
								-725.00
580161493 JACKSON, MAUREEN XXX-XX-1493 151110 12/30/11	Regular		500.00	421.65	500.00	-50.10	-21.00	-7.25
							-31.00	-7.25
580168521 BRATHWAITE, CARIN XXX-XX-8521 151111 12/30/11	Regular		400.00	352.98	400.00	-24.42	-16.80	-5.80
							-24.80	-5.80
580169216 LAKE-KING, JENNIFER XXX-XX-9216 151112 12/30/11	Regular		125.00	102.94	125.00	-15.00	-5.25	-1.81
							-7.75	-1.81
580169659 MADURO, JULIA XXX-XX-9659 151113 12/30/11	Regular		500.00	471.75	500.00		-21.00	-7.25
							-31.00	-7.25
580170806 DORSET, KAREEMA XXX-XX-0806 151114 12/30/11	Regular		500.00	471.75	500.00		-21.00	-7.25
							-31.00	-7.25
580175988 GUMBS, WENTWORT XXX-XX-5988 151115 12/30/11	Salary		17,000.00	10,564.81	17,000.00	-5,474.69	-714.00	-246.50
							-1,054.00	-246.50

**United Corporation\***  
**Payroll Register**  
**For the Period From Dec 30, 2011 to Dec 30, 2011**

Filter Criteria includes: Report order is by Check Date. Report is printed in Detail Format.

Employee ID Employee Masked SS No Reference Date	Pay Type	Pay Hr	Pay Amt	Amount	Gross Medicallns Garnishment PreTxAFLAC FUTA_ER	Fed_Income EmplLoan MASA PreTxCIGNA SUL_ER	Soc_Sec ChildCare CashDrawer Soc_Sec_ER MedicalIns_	Medicare HigherEduc AFLAC Medicare_ER
580212663 REDD, BRITTANY L. XXX-XX-2663 151116 12/30/11	Regular		150.00	137.67	150.00	-3.85	-6.30	-2.18
							-9.30	-2.18
580253840 YUSUF, NAJEH F. XXX-XX-3840 151117 12/30/11	Salary		50,000.00	32,556.99	50,000.00	-16,718.01		-725.00
								-725.00
580270349 CALLWOOD, KANEES XXX-XX-0349 151118 12/30/11	Regular		100.00	94.35	100.00		-4.20	-1.45
							-6.20	-1.45
580339392 DE LA ROSA CASTILL XXX-XX-9392 151119 12/30/11	Regular		3,000.00	2,302.32	3,000.00	-528.18	-126.00	-43.50
							-186.00	-43.50
580358987 EUSEBE, ANDREW R. XXX-XX-8987 151120 12/30/11	Regular		250.00	222.02	250.00	-13.85	-10.50	-3.63
							-15.50	-3.63
580372698 ESPRIT, LINDA L. XXX-XX-2698 151121 12/30/11	Regular		125.00	79.48	125.00	-38.46	-5.25	-1.81
							-7.75	-1.81
580373276 LEWIS, EDILIA XXX-XX-3276 151122 12/30/11	Regular		200.00	188.70	200.00		-8.40	-2.90
							-12.40	-2.90



## United Corporation - STT OLD

## Payroll Register

For the Period From Dec 29, 2012 to Dec 29, 2012

Filter Criteria includes: Report order is by Check Date. Report is printed in Detail Format.

Employee ID Employee Masked SS No Reference Date	Pay Type	Pay Hr	Pay Amt	Amount	Gross Medicallns Garnishment PreTxAFLAC FUTA_ER	Fed_Income EmplLoan MASA PreTxCIGNA SUI_ER	Soc_Sec ChildCare CashDrawer Soc_Sec_ER	Medicare HigherEduc AFLAC Medicare_ER
580169216 LAKE-KING, JENNIFER XXX-XX-9216 65182 12/29/12	Regular		125.00	102.94	125.00	-15.00	-5.25	-1.81
						-0.63	-7.75	-1.81
580169659 MADURO, JULIA XXX-XX-9659 65183 12/29/12	Regular		500.00	444.20	500.00	-27.55	-21.00	-7.25
						-2.50	-31.00	-7.25
580170806 DORSET, KAREEMA XXX-XX-0806 65184 12/29/12	Regular		500.00	471.75	500.00		-21.00	-7.25
							-31.00	-7.25
580175988 GUMBS, WENTWORT XXX-XX-5988 65185 12/29/12	Salary		17,000.00	10,576.45	17,000.00	-5,463.05	-714.00	-246.50
							-1,054.00	-246.50
580253840 YUSUF, NAJEH F. XXX-XX-3840 65186 12/29/12	Salary		50,000.00	32,602.03	50,000.00	-16,672.97		-725.00
								-725.00
580339392 DE LA ROSA CASTILL XXX-XX-9392 65187 12/29/12	Regular		3,000.00	2,308.67	3,000.00	-521.83	-126.00	-43.50
							-186.00	-43.50
580372698 ESPRIT, LINDA L. XXX-XX-2698 65188 12/29/12	Regular		125.00	99.57	125.00	-18.37	-5.25	-1.81
						-0.63	-7.75	-1.81

**United Corporation - STT OLD**  
**Payroll Register**  
**For the Period From Dec 29, 2012 to Dec 29, 2012**

Filter Criteria includes: Report order is by Check Date. Report is printed in Detail Format.

Employee ID Employee Masked SS No Reference Date	Pay Type	Pay Hr	Pay Amt	Amount	Gross MedicalIns Garnishment PreTxAFLAC FUTA_ER	Fed_Income EmplLoan MASA PreTxCIGNA SUI_ER	Soc_Sec ChildCare CashDrawer Soc_Sec_ER	Medicare HigherEduc AFLAC Medicare_ER
580071889 CASTRO, CARLOS XXX-XX-1889 65175 12/29/12	Regular		300.00	263.58	300.00	-19.47	-12.60	-4.35
							-18.60	-4.35
580083688 RICHARDS, CHERYL XXX-XX-3688 65176 12/29/12	Regular		750.00	606.80	750.00	-100.82	-31.50	-10.88
							-46.50	-10.88
						-3.75		
580089201 FREYLINGER, GERAR XXX-XX-9201 65177 12/29/12	Salary		9,000.00	5,989.49	9,000.00	-2,502.01	-378.00	-130.50
							-558.00	-130.50
580091013 YUSUF, FATHI XXX-XX-1013 65178 12/29/12	Salary		50,000.00	32,550.87	50,000.00	-16,724.13		-725.00
								-725.00
580139068 HAMED, WAHEED M. XXX-XX-9068 65179 12/29/12	Salary		50,000.00	32,627.61	50,000.00	-16,647.39		-725.00
								-725.00
580161493 JACKSON, MAUREEN XXX-XX-1493 65180 12/29/12	Regular		500.00	422.28	500.00	-49.47	-21.00	-7.25
							-31.00	-7.25
580168521 BRATHWAITE, CARIN XXX-XX-8521 65181 12/29/12	Regular		400.00	353.89	400.00	-23.51	-16.80	-5.80
							-24.80	-5.80
						-2.00		

## PLAZA EXTRA (EAST) BONUS 2012

WADDA E. CHARRIEZ	OFFICE MANAGER	4500.00
LAVEINA BARTLETTE	OFFICE ASST.	1000.00
MARY S. GONZALEZ	ACCOUNTS PAYABLE	3,000.00
SABRINA MOTILAL	RECEIVABLE	500.00
ALBERTO MALDONADO	GROCERY MANAGER	2,000.00
MICHAELINA HENRY	FLOOR MANAGER	4,500.00
FATHI HANNUN	WAREHOUSE MANAGER	2,000.00
CHRISTUS THEOPHILUS	WAREHOUSE	2,500.00
CLARIS JOSEPH	RECEIVING	1,000.00
RAYMOND WILLIAMS	DAIRY MANAGER	3,500.00
FUAD MAHMOUD	SECURITY	3,000.00
JUAN CONCEPCION	SECURITY	7,000.00
JOAQUIN ORTIZ	MEAT MANAGER	9,000.00
WALLY HAMED	GENERAL MANAGER	50,000.00
MUFEEED HAMED	MANAGER	50,000.00
YUSUF YUSUF	MANAGER	50,000.00
MONICA LLOYD	DELI-BAK MANAGER	500.00
GERRY SEERAM	PRODUCE ASST.	2,000.00
REUEL SALTERS	FROZEN MANAGER	2,000.00
TROY WILLIAMS	VALUE PACK	1000.00
KIZMA PETERSEN	FRONT END	500.00
KATISHA KING	ASST. FLOOR/FRONT	500.00

**TOTAL 200,000.00**



**PLAZA EXTRA (EAST) BONUS 2011**

WADDA E. CHARRIEZ	OFFICE MANAGER	4500.00
LAVEINA BARTLETTE	OFFICE ASST.	1000.00
MARY S. GONZALEZ	ACCOUNTS PAYABLE	3,000.00
JACEIVER BARTLETTE	RECEIVABLE	750.00
ALBERTO MALDONADO	GROCERY MANAGER	2,000.00
MICHAELINA HENRY	FLOOR MANAGER	4,500.00
FATHI HANNUN	WAREHOUSE MANAGER	2,000.00
CHRISTUS THEOPHILUS	WAREHOUSE	2,500.00
CLARIS JOSEPH	RECEIVING	1,000.00
RAYMOND WILLIAMS	DAIRY MANAGER	3,500.00
FUAD MAHMOUD	SECURITY	3,000.00
JUAN CONCEPCION	SECURITY	7,000.00
JOAQUIN ORTIZ	MEAT MANAGER	9,000.00
WALLY HAMED	GENERAL MANAGER	50,000.00
MUFEEED HAMED	MANAGER	50,000.00
YUSUF YUSUF	MANAGER	50,000.00
MONICA LLOYD	DELI-BAK MANAGER	500.00
GERRY SEERAM	PRODUCE ASST.	2,000.00
NEALYSA ARMSTRONG	COMPUTER ROOM	500.00
REUEL SALTERS	FROZEN MANAGER	2,000.00
TROY WILLIAMS	VALUE PACK	1000.00

**TOTAL 199,750.00**

**PLAZA EXTRA (EAST) BONUS 2010**

<b>WADDA E. CHARRIEZ</b>	<b>OFFICE MANAGER</b>	<b>\$4,500.00</b>
<b>MARY S. GONZALEZ</b>	<b>ACCOUNTS PAYABLE</b>	<b>\$3,000.00</b>
<b>LAVEINA BARTLETTE</b>	<b>ASST. ACCOUNT PAYABLES</b>	<b>\$1,000.00</b>
<b>JACEIVER BARTLETTE</b>	<b>RECEIVABLE</b>	<b>\$500.00</b>
<b>ALBERTO MALDONADO</b>	<b>GROCERY MANAGER</b>	<b>\$2,000.00</b>
<b>MICHAELINA HENRY</b>	<b>FLOOR MANAGER</b>	<b>\$4,500.00</b>
<b>FATHI HANNUN</b>	<b>PRODUCE MANAGER</b>	<b>\$2,000.00</b>
<b>CHRITUS THEOPHILUS</b>	<b>WAREHOUSE</b>	<b>\$2,500.00</b>
<b>CLARIS JOSEPH</b>	<b>RECEIVING</b>	<b>\$1,000.00</b>
<b>RAYMOND WILLIAMS</b>	<b>DAIRY MANAGER</b>	<b>\$3,500.00</b>
<b>FUAD MAHMOUD</b>	<b>SECURITY</b>	<b>\$3,000.00</b>
<b>JUAN CONCEPCION</b>	<b>SECURITY</b>	<b>\$7,000.00</b>
<b>JOAQUIN ORTIZ</b>	<b>MEAT MANAGER</b>	<b>\$9,000.00</b>
<b>MANUELA LIMA</b>	<b>MEAT CLERK</b>	<b>\$1,000.00</b>
<b>WALLY HAMED</b>	<b>GENERAL MANAGER</b>	<b>\$50,000.00</b>
<b>MUFEEED HAMED</b>	<b>MANAGER</b>	<b>\$50,000.00</b>
<b>YUSUF YUSUF</b>	<b>MANAGER</b>	<b>\$50,000.00</b>
<b>MONICA LLOYD</b>	<b>DELI-BAK MANAGER</b>	<b>\$250.00</b>
<b>GERRY SEERAM</b>	<b>PRODUCE ASST.</b>	<b>\$2,000.00</b>
<b>NEALYSA ARMSTRONG</b>	<b>COMPUTER ROOM</b>	<b>\$500.00</b>
<b>REUEL SALTERS</b>	<b>FROZEN MANAGER</b>	<b>\$2,000.00</b>
	<b>TOTAL</b>	<b>\$199,250.00</b>



## PLAZA EXTRA (EAST) BONUS 2008

WADDA E. CHARRIEZ	OFFICE MANAGER	4000.00
LAVEINA BARTLETTE	OFFICE ASST.	750.00
MARY S. GONZALEZ	ACCOUNTS PAYABLE	3,000.00
AVILIA JOSEPH	RECEIVABLE	1,500.00
ALBERTO MALDONADO	GROCERY MANAGER	2,000.00
MICHAELINA HENRY	FLOOR MANAGER	2,000.00
FATHI HANNUN	WAREHOUSE MANAGER	5,000.00
CHRISTUS THEOPHILUS	WAREHOUSE	2,500.00
CLARIS JOSEPH	RECEIVING	750.00
ANTONIO GRAVEY	PRODUCE MANAGER	1,500.00
RAYMOND WILLIAMS	DAIRY MANAGER	4,500.00
FUAD MAHMOUD	SECURITY	2,500.00
JUAN CONCEPCION	SECURITY	6,500.00
JOAQUIN ORTIZ	MEAT MANAGER	9,000.00
MANUELA LIMA	MEAT CLERK	1,000.00
WALLY HAMED	GENERAL MANAGER	50,000.00
MUFEED HAMED	MANAGER	50,000.00
YUSUF YUSUF	MANAGER	50,000.00
MONICA LLOYD	DELI-BAK MANAGER	500.00
GERRY SEERAM	PRODUCE ASST.	1000.00
NEALYSA ARMSTRONG	COMPUTER ROOM	<u>500.00</u>
		198,500.00

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

MOHAMMAD HAMED, by his authorized  
agent WALEED HAMED,

Plaintiff,

CASE # SX-12-CV-370

vs.

FATHI YUSUF and UNITED CORPORATION,

Defendants.

**DECLARATION OF JOHN GAFFNEY**

I, John Gaffney, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am employed by United Corporation d/b/a Plaza Extra in a controller capacity.

2. The statements in this declaration are based on my personal knowledge and my review of United Corporation d/b/a Plaza Extra's business records, as those records are kept and maintained in the regular course of business and upon which records I rely as part of my regular duties. If called as a witness, I could and would testify competently to the facts set forth in this declaration.

3. United Corporation d/b/a Plaza Extra presently employs, and pay salaries to, four members of the Hamed family in the supermarket stores at issue in this litigation as follows, in relevant part:

<u>Name</u>	<u>Store</u>	<u>Position</u>	<u>2012 Annual Earnings (Base Salary + Bonus + Vacation)</u>
Waleed Hamed	St. Croix East	Manager	\$347,000 (286,000 + 50,000 + 11,000)
Mufeed Hamed	St. Croix East	Manager	\$347,000 (286,000 + 50,000 + 11,000)
Hisham Hamed	St. Croix West	Manager	\$347,000 (286,000 + 50,000 + 11,000)
Waheed Hamed	St. Thomas	Manager	\$347,000 (286,000 + 50,000 + 11,000)

4. United Corporation d/b/a Plaza Extra also employs and pays a salary to Wadda Charriez, who is an accounting supervisor at the St. Croix East store, as follows, in relevant part:

<u>Name</u>	<u>2012 Annual Earnings (Hourly @ \$12/hr + Overtime + Bonus + Vacation)</u>
Wadda Charriez	\$45,221 (24,960 + 14,864 + 4,500 + 897)

5. Assuming that a final judgment in this action on the merits will not be entered for another two years, *i.e.*, until May 2015, and assuming that the foregoing salaries remain constant





through that date, the combined salaries of Waleed Hamed, Mufeed Hamed, Hisham Hamed, Waheed Hamed and Wadda Charriez to be paid by United Corporation d/b/a Plaza Extra to those employees from May 2013 through May 2015 is \$2,866,442.

6. Plaintiff Mohammad Hamed's last rent payment to United Corporation d/b/a Plaza Extra for the lease at the Sion Farm Plaza Extra East supermarket was made on or about February 7, 2012, in the amount of \$5,408,806.74 for the period May 2004 through December 2011.

7. Additional rent for the Plaza Extra East store remains unpaid and is due and owing to United Corporation d/b/a Plaza Extra.

8. Specifically, with respect to the areas referred to by the parties as "Bay No. 1," "Bay No. 5," and "Bay No. 8" of the Plaza Extra East store:

- a. \$3,967,894.19 is owed for Bay No. 1 from January 1, 1994, through April 4, 2004;
- b. \$243,904.00 is owed for Bay No. 5 from May 1, 1994, through October 31, 2001; and
- c. \$381,250.00 is owed for Bay No. 8 from April 1, 2008, through May 30, 2013;

for a combined amount as of those dates of \$4,593,048.19

9. Separately, as of May 1, 2013, Plaintiff Mohammad Hamed owes to United Corporation d/b/a Plaza Extra \$4,419,711.31 in outstanding rent, including base rent and late fees, for the lease at the Sion Farm Plaza Extra supermarket from January 1, 2012, through May 1, 2013.

10. As of December 31, 2011, the net equity of United Corporation d/b/a Plaza Extra exceeds \$68 million.

I declare under penalty of perjury, on this 8th day of May, 2013, that the foregoing is true and correct.

  
JOHN GAFFNEY

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

MOHAMMAD HAMED,

Plaintiff,

v.

FATHI YUSUF and UNITED CORPORATION,

Defendants.

CIVIL NO. SX-12-CV-370

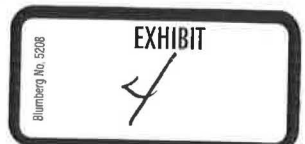
ACTION FOR DAMAGES,  
INJUNCTIVE AND  
DECLARATORY RELIEF

JURY TRIAL DEMANDED

DECLARATION OF CARL J. HARTMANN III

I, Carl J. Hartmann III, declare, pursuant to 28 U.S.C. Section 1746, as follows:

1. I am co-counsel of record for the Plaintiff and have personal knowledge of the foregoing facts.
2. Since the issuance of the PI and subsequent "mutual access order" I have been tasked with getting access to the Peachtree "live" accounting system that provides "live" access to the day-to-day financial operating systems and records of the three Plaza Extra Supermarkets, which is critical to understanding the current status of the accounting for these three stores and daily operations.
3. I am highly knowledgeable in this area. I was the *computer code* and substantive author of the ~~first~~ ABA-Approved, commercially available PC-based litigation support software system ("Litigation Manager") -- and have taught the use of computers in law office and management environments for organizations such as ALI-ABA and the Center for Legal Studies, Western Area Power Authority and others since the 1980's. This includes having consulted on financial accounting, litigation support, database and other systems.
4. Access to the Sage50 (formerly Peachtree) system is accomplished through the use of a unique password. Each user (or related group of users) can use a password. There is no reason not to simply provide the password that gives immediate access to this "live" accounting system. The Plaza Extra system utilizes a separate implementation for each store but is used across departments for payroll, accounts payable and receivable and other standard operational functions.
5. I have sent many dozens of emails and voluminous letters, all of which can be supplied to the Court if requested, explaining why this password is needed, first after the original order, then after the clarifying order. After months of delay and various explanations, I was finally able to obtain *month old backup copies*. This is grossly insufficient -- and was to be an interim solution only until promised additional "user" passwords were obtained.
6. Attempting to participate and manage by use of old (possibly altered) backups is time consuming, inaccurate and wholly insufficient. First, the information can be altered



without detection. Second, my client is totally and completely blocked from daily participation in the operations -- as he and his agents have zero "real-time" data.

7. Thus, the process we go through is that I receive the data well after the period closes. It then requires me to reconstitute the backup copies to a working copy -- then distribute it to my client -- at which time my client's agent has to spend absurd amounts of time trying to understand late data with no way to interact with the actual system or data -- offsite -- which takes him away from the stores. It does not give my client direct access to this information, much less timely access to be able to manage in real time or determine the accuracy of the information provided.
8. At the request of opposing counsel -- after failing to get the information and passwords, I was directed to the Comptroller -- who sees himself as directed by and under the sole direction and supervision of Yusuf. I have followed up with dozens and dozens of phone calls and emails directly with him, John Gaffney. He continually promises this password but does not provided it. Indeed, most recently I patiently waited for this password yet again, which was promised after the first of the year, as per the attached email.
9. Notwithstanding these promises, to date I still do not have this password. The fifth and most recent reason (December-January) is that the Yusufs decided not to pay the extra \$3000 to get the next higher version that would allow more passwords. I offered to pay this amount as it costs more than that in my time and my clients' time each month to go through this process.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 22, 2014



Carl J. Harbman

## Carl Hartmann

---

**From:** Carl Hartmann  
**Sent:** Wednesday, December 04, 2013 10:13 PM  
**To:** John Gaffney  
**Subject:** Re: ps....RE: Quick Question for Mr. Gaffney

John

That is very, very disappointing. I have not pressed the password/access issue despite denial of live access being a direct violation of the Court's order because it was represented that with the new version there would be new licenses.

I will personally pay the difference, as it is a huge problem to be operating off backups for us beyond the violation of the order and burden on my client,

We have been able to work together on differences and build some level of trust...and this was at the heart of the matter.

As recently as a month ago I was assured this was happening and that the new licenses were "just about" to be secured.

Carl

[carl@carlhartmann.com](mailto:carl@carlhartmann.com)

On Dec 4, 2013, at 9:52 PM, John Gaffney <[johngaffney@tampabay.rr.com](mailto:johngaffney@tampabay.rr.com)> wrote:

Okay.

No on the 10-user license. That can only be done upgrading to Quantum which is another \$3,000. Being so close to year-end, we thought it best to proceed with just the upgrade for Sage Complete.

---

**From:** Carl Hartmann [<mailto:carl@carlhartmann.com>]  
**Sent:** Wednesday, December 04, 2013 1:22 PM  
**To:** John Gaffney  
**Cc:** Shawn Hamed  
**Subject:** RE: ps....RE: Quick Question for Mr. Gaffney

Ok...don't do any more on it for now – I'll let you know.

Yes, I will upgrade to 2014. Did they get a 10 user license ?

Thank you

Carl

---

**From:** John Gaffney [<mailto:johngaffney@tampabay.rr.com>]  
**Sent:** Wednesday, December 04, 2013 1:19 PM  
**To:** 'Carl Hartmann'

Cc: [shawnhamed@live.com](mailto:shawnhamed@live.com)

Subject: RE: ps....RE: Quick Question for Mr. Gaffney

Hi Carl,

The login for all 3 stores is:

[REDACTED]

I just tested it on my companies here and it worked. In order to activate the "Auditor" user account, another user had to be deactivated. I'm sure this step was done before backups were made. But there's no way to be absolutely certain without restoring the backups myself.

Let me know if you are still having problems and I'll provide new backups.

A couple of other things you should know. First, I've been working at Plaza East for the last 2 weeks and have accomplished a lot of cleanup. Second, I'm scheduled to upgrade to Sage 2014 tomorrow at Plaza West. The other 2 locations will soon follow. Backups will not be downwardly compatible. Do you have access to Sage 2014 software?

Regards...John

---

**From:** Carl Hartmann [<mailto:carl@carlhartmann.com>]

**Sent:** Wednesday, December 04, 2013 12:06 PM

**To:** [shawnhamed@live.com](mailto:shawnhamed@live.com)

**Cc:** [johngaffney@tampabay.rr.com](mailto:johngaffney@tampabay.rr.com)

**Subject:** ps....RE: Quick Question for Mr. Gaffney

Ps. I also used Auditor as the name and Auditor1 as the password

---

**From:** Carl Hartmann [<mailto:carl@carlhartmann.com>]

**Sent:** Wednesday, December 04, 2013 11:43 AM

**To:** '[shawnhamed@live.com](mailto:shawnhamed@live.com)'

**Cc:** '[johngaffney@tampabay.rr.com](mailto:johngaffney@tampabay.rr.com)'

**Subject:** Quick Question for Mr. Gaffney

Shawn:

Could you ask Mr. Gaffney for the Name and Password for the 11/22/13 Backups

Tell him I've tried both [REDACTED] for the password.

Thanks,

Carl

cc. John Gaffney

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

MOHAMMAD HAMED,

Plaintiff,

v.

FATHI YUSUF and UNITED CORPORATION,

Defendants.

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,  
INJUNCTIVE AND  
DECLARATORY RELIEF

JURY TRIAL DEMANDED

DECLARATION OF JOEL H. HOLT

I, Joel H. Holt, declare, pursuant to 28 U.S.C. Section 1746, as follows:

1. I am counsel of record for the Plaintiff and have personal knowledge of the foregoing facts.
2. Banco Popular and Scotiabank have requested new bank documents to be signed so that the Hamed managers could access the accounts. The Hamed managers signed right away, but to date the Yusufs have not signed the documents, as evidence by just a sample of the exchanges with counsel about this issue attached as Group **Exhibit A**.
3. After the Preliminary Injunction was entered, United unilaterally filed a lawsuit against a key accounting employee, Wadda Charriez, without asking for Hamed's consent. See **Exhibit B**. A demand was made by me to United's counsel to dismiss the suit, but United has never dismissed it and has continued to actively litigate that case.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 22, 2014

  
\_\_\_\_\_  
Joel H. Holt



Joel H. Holt, Esq.  
2132 Company Street  
Christiansted, St. Croix  
U.S. Virgin Islands 00820  
(340) 773-8709

-----Original Message-----

From: Joel Holt <holtvi@aol.com>  
To: dewoodlaw <dewoodlaw@gmail.com>  
Cc: sgrey <sgrey@nnldlaw.com>  
Sent: Mon, Nov 18, 2013 11:38 am  
Subject: bank resolution

Nizar-I circulated the attached letter to my clients who say they have signed this---can you get your clients to sign as requested by the bank?

Joel H. Holt, Esq.  
2132 Company Street  
Christiansted, St. Croix  
U.S. Virgin Islands 00820  
(340) 773-8709



ATTORNEYS AT LAW

**NICHOLS NEWMAN LOGAN & GREY, P.C.**

November 12, 2013



Nizar A. Dewood, Esq.  
2006 Eastern Suburbs, Suite 101  
Christiansted, St. Croix  
United States Virgin Islands 000820

Joel H. Holt, Esq.  
Law Office of Joel H. Holt  
2132 Company Street, Suite 2  
Christiansted, St. Croix  
U.S. Virgin Islands 00820

Re: Hamed/Yusef/Plaza Extra

Dear Counsel:

I'm writing you to follow up on the need for your respective clients to execute the corporate resolution that was circulated a few months ago. Please let me know what needs to be done in order to finalize this matter.

Very truly yours,

NICHOLS NEWMAN  
LOGAN & GREY, P.C.

  
Samuel T. Grey



**From:** Sam Grey <[sgrey@nnldlaw.com](mailto:sgrey@nnldlaw.com)>  
**To:** Joel Holt <[holtvi@aol.com](mailto:holtvi@aol.com)>  
**Subject:** RE: Plaza  
**Date:** Tue, Jan 21, 2014 9:27 am

---

Not yet. I spoke with Nizar about this last week. I also sent him the version of the resolution that I had. Asked him to communicate with you to determine if that was the latest version.

---

**From:** Joel Holt [<mailto:holtvi@aol.com>]  
**Sent:** Monday, January 20, 2014 5:10 PM  
**To:** [sgrey@nnldlaw.com](mailto:sgrey@nnldlaw.com)  
**Subject:** Plaza

As per your attached request, did these ever get signed?

Joel H. Holt, Esq.  
2132 Company Street  
Christiansted, St. Croix  
U.S. Virgin Islands 00820  
(340) 773-8709

ATTORNEYS AT LAW

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November 12, 2013

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NICHOLS NEWMAN  
LOGAN & GREY, P.C.

  
Samuel T. Grey

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.



*United v. Wadda Charriez*  
*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"

*United v. Wadda Charriez  
Plaintiff's Complaint for Damages & Recoupment  
Page 3 of 6*

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

*United v. Wadda Charriez  
Plaintiff's Complaint for Damages & Recoupment  
Page 4 of 6*

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.

*United v. Wadda Charriez  
Plaintiff's Complaint for Damages & Recoupment  
Page 5 of 6*

## **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.

*United v. Wadda Charloz  
Plaintiff's Complaint for Damages & Recoupment  
Page 6 of 6*

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: TAMARIKA M. ALLEN, COURT CLERK II

Cc: WADDA CHARRIEZ, Defendant  
Case File

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

<b>MOHAMMAD HAMED by His Authorized Agent WALEED HAMED,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>CIVIL NO. SX-12-CV-370</b>
v.	)	
	)	<b>ACTION FOR DAMAGES INJUNCTIVE AND DECLARATORY RELIEF</b>
<b>FATHI YUSUF and UNITED CORPORATION,</b>	)	
	)	
<b>Defendants.</b>	)	<b>JURY TRIAL DEMANDED</b>
_____	)	

**ORDER**

This matter having come on before the Court on Plaintiff Hamed's Motion to Compel the Defendants to comply with the terms of the April 25<sup>th</sup> Preliminary Injunction Order and the Court being fully advised in its premises, it is hereby

**ORDERED** that the following actions shall take place within 5 days of this Order:

- 1) Yusuf is directed to authorize payment of the managers' annual bonuses and vacation pay.
- 2) United shall give Hamed the password to access the live Peachtree accounting system;
- 3) United's officers shall sign the necessary documents to give Hamed access to all bank records of the Plaza Extra Supermarket operations.
- 4) United shall dismiss or stay the lawsuit against Wadda Charriez until Hamed consents to the prosecution of the lawsuit.
- 5) Yusuf is directed to authorize payment of Charriez's \$4500 Christmas bonus.

This Court shall be provided notice of compliance with these directives or else an order to show cause shall be issued.

Dated:

\_\_\_\_\_  
Honorable Douglas A. Brady  
Judge, Superior Court

ATTEST:  
Clerk of Court

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