

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

MOHAMMAD HAMED

Plaintiff/Counterclaim Defendant

Vs.

**FATHI YUSUF
UNITED CORPORATION**

Defendants/Counterclaimants

VS.

**WALEED HAMED, WAHEED HAMED,
MUFEED HAMED, HISHAM HAMED,
And PLESSEN ENTERPRISES, INC.**

Counterclaim Defendants

CIVIL NO. SX-12-CIV-370

CIVIL ACTION

ACTION FOR DAMAGES

**RESPONSE TO PLAINTIFF’S NOTICE
RE ALLEGED MISSED PAYROLL AND
REQUEST FOR ASSISTANCE BY
MASTER TO TERMINATE ALL NO
SHOW EMPLOYEES & TO IMPLEMENT
EMPLOYEE TIME ATTENDANCE
SYSTEM**

**RESPONSE TO PLAINTIFF’S NOTICE RE ALLEGED MISSED PAYROLL AND
REQUEST FOR ASSISTANCE BY MASTER TO TERMINATE ALL NO SHOW
EMPLOYEES & TO IMPLEMENT EMPLOYEE TIME ATTENDANCE SYSTEM**

Fathi Yusuf has successfully made full payroll to all employees of the Plaza Extra – East store, with the sole exception of Waleed Hamed.¹ Physical checks were cut for each employee, and all employees were able to cash their checks. Waleed Hamed, an employee of the Plaza Extra – East store, has unilaterally refused to show up for work for the last 18 months despite repeated requests, and accordingly has been removed from the payroll until such time as he resumes full time work.

¹ It is presumed that Attorney Holt is unaware that none of the Hamed managers appeared for work yesterday in the Plaza Extra – East store. In fact, all the Hamed managers are away. Accordingly, the false allegation that “none of the 200 employees for Plaza East were paid” is obviously based on an inaccurate assumption that could have been avoided if Waleed Hamed was present and working at the store where he is supposed to be.

See Correspondences to Joel Holt, attached as **Exhibits A through F**. Waleed Hamed has now collected in excess of \$400,000 in unearned wages. Not only does Waleed Hamed not show up while collecting his \$5,500 weekly pay, but he also threatens not to sign the payroll for every employee unless Plaza Extra – East pays him despite his refusal to work. Fathi Yusuf respectfully requests that Waleed Hamed’s name be removed from the Plaza Extra - East payroll because of his continued failure to show up for work.

Accordingly, it is respectfully requested that the Master immediately terminate Waleed Hamed’s employment and remove him from payroll. Further, it is respectfully requested that the Master forthwith implement the store’s current fingerprint based employee time-attendance system to document each Hamed and Yusuf manager’s work hours. This will ensure work compliance and eliminate disputes regarding entitlement to pay.

Date: September 24, 2014

Respectfully Submitted,

The DeWood Law Firm
Attorneys for Defendants



By: _____

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V.I. Bar No. 1177
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CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on this 25th day of September, 2014, I caused a true and exact copy of the foregoing Response Notice to be served on counsel for the Plaintiff at the below address.

Joel H. Holt
2132 Company Street
Christiansted, VI 00820
holtvi@aol.com

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5000 Estate Coakley Bay, L-6,
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BY: EMAIL ONLY

September 11, 2014

**Joel Holt, Esq.
2132 Company Street
Christiansted, V.I. 00820**

Re: Waleed Hamed Work Hours

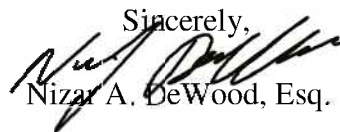
Dear Attorney Holt,

Since January 2013, Waleed Hamed has almost completely failed to work at the Plaza Extra East Store. As of today, Waleed Hamed has collected over \$400,000 dollars in unearned wages since the beginning of 2013. This needs to stop promptly. Naturally, I anticipate you accusing the Yusufs of also not reporting to work to muddy the issue. The PI has specifically ordered the parties to maintain the past customs, practices, and business operations of the Plaza Extra Stores – that includes showing up for work.

Therefore, to comply with the PI, Waleed Hamed, including his brothers, must report to work in a timely manner. Because you will accuse the Yusufs of not showing up, there currently is a fingerprint based punch-in and punch-out system. This will be implemented immediately for all managers to avoid any back and forth accusations that may be leveled against the Yusufs.

Advise your clients to report to work and to punch in and out every day. This applies to all managers. Thank you.

Sincerely,



Nizar A. DeWood, Esq.

EXHIBIT A

JOEL H. HOLT, ESQ. P.C.

2132 Company Street, Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

Tele. (340) 773-8709
Fax (340) 773-8677
E-mail: holtvi@aol.com

September 15, 2014

Nizar A. DeWood

The DeWood Law Firm
2006 Eastern Suburb, Suite 101
Christiansted, VI 00820

Re: Hamed/Yusuf

Dear Nizar:

In response to your letter dated September 11th, it is odd your client has now become interested in attendance at work after his son took off months to open his own store. Indeed, if Mr. Yusuf was so interested in productivity at work, he would (1) stop playing cards for hours while in the store and (2) would have Yusuf Yusuf stop interfering with the stocking of the store by refusing to sign the routine paperwork needed to get merchandise into the store.

In any event, such a unilateral change is not permitted by the preliminary injunction order. The time clock is not an acceptable change for the Hameds, so it will not be implemented. As the Master will be in place shortly, I suggest your client await his appointment to deal with this issue if it still something he wants to pursue.

Cordially,



Joel H. Holt
JHH/jf

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BY: EMAIL ONLY

September 19, 2014

**Joel Holt, Esq.
2132 Company Street
Christiansted, V.I. 00820**

Dear Attorney Holt,

Your letter has failed to address Waleed Hamed's failure to report to work. Plaza Extra will not pay an employee who fails to show up for work. Instead you resort to false accusations against the Yusufs, including such things as Mr. Yusuf playing cards, and Maher Yusuf spending time at the Seaside Deli.

My letter anticipated these false accusations against the Yusufs in advance. Because of that all managers must utilize the finger-print based punch-in punch-out time system. Waleed Hamed has collected well over \$400,000 dollars in unearned wages, which is contrary to the Preliminary Injunction that requires the parties to continue operations of the Plaza Extra Supermarkets as in the past.

If Waleed Hamed does not show up for work and utilize the finger-print based system to document his work hours, like everyone else, he will not be paid. We have no problem taking this up with Judge Brady.

I trust showing up to work is not a difficult issue to agree on.

Sincerely,



Nizar A. DeWood, Esq.

EXHIBIT C

JOEL H. HOLT, ESQ. P.C.

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September 22, 2014

Nizar A. DeWood
The DeWood Law Firm
2006 Eastern Suburb, Suite 101
Christiansted, VI 00820

Re: Hamed/Yusuf

Dear Nizar:

In response to your letter dated September 19, 2014, as you well know there is no requirement that a manager work a set number of hours. In this regard, Wally spends extensive time communicating with his brothers while reviewing data regarding the operations and making decisions regarding the Plaza Extra Supermarkets. The fact that he does not do so in the presence of Mr. Yusuf (who tried to have the police remove his entire family and denied him access to the financial systems for months) is irrelevant. Indeed, your clients cannot make UNILATERAL changes to the management process that has been in place for years without violating the Court's standstill order.

Moreover, to the extent that Wally has spent less time in the Plaza East store in the past weeks it is because he is opening a smaller market on St. Thomas, just like Mike Yusuf did on St. Croix. In fact, Mike used Plaza Extra personnel, materials and resources to do so – Wally did not. The balance is therefore maintained because each family has done one such development/opening. You cannot have Mike build out his new store first (when he had prolonged absences from work, which continue), and then claim Wally cannot do the same because his is a few weeks later -- as both families have taken EXACTLY EQUAL steps to begin to re-establish their lives as Plaza closes.

Further, I again suggest that you wait until the Master is appointed so he can hopefully address these issues, as that appointment is about to happen according the Order directing the parties to select a Master.

Cordially,

Joel H. Holt
JHH/jf

EXHIBIT D

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BY: EMAIL ONLY

September 22, 2014

**Joel Holt, Esq.
2101 Company Street
Christiansted, V.I. 00820**

Re: Waleed Hamed's failure to report to work

Dear Joel,

Waleed needs to report to work, period.

First you accuse the Yusufs of not showing up for work, then for playing cards, and then you accuse Maher Yusuf of spending time at Seaside Deli. Incredibly, you then excuse Waleed by telling us that he does "data review." Let him do the "data review" and communicate with his brothers right there in his office at the Plaza Extra – East store.

Simply stated, your letter confirms that Waleed does not show up for work.

Not only has Waleed not shown up for work for almost two years, while collecting \$5,500 a week to do "data review" somewhere else, but he has the audacity to raise the Preliminary Injunction as a threat every time there is a demand for him to comply with his duties as a manager. At this point, we need to return to Judge Brady and find out if an employee can earn \$5,500 a week and never show up for work. You raise the issue of UNILATERAL change. The only one who has done this is Waleed. All Mr. Yusuf wants is to document attendance by way of an existing system. This is not unilateral change, this is the right way to avoid accusations like yours, and put an end to any manager failing to show up for work without back and forth accusations; be it a Hamed or Yusuf.

Let's not argue over Waleed's refusal to return to work. Tell him to show up for work, and put an end to this matter.

Sincerely,


Nizar A. DeWood, Esq.

EXHIBIT E

From: Gregory H. Hodges
Sent: Friday, August 29, 2014 6:39 PM
To: 'Joel Holt'
Cc: dewoodlaw@gmail.com
Subject: RE: plaza

Joel,

I am informed that there has **never** been any sharing of mileage as you claim below. If you have any evidence to support that claim, please let me see it. In fact, years ago, when Yusuf Yusuf was struggling for miles, Mufeed refused to share his, saying "my miles are mine and yours are yours." Although this appears to be a problem driven by Mufeed's fixation on what's on Yusuf's plate rather than his own, as I stated in my earlier email, neither your client nor his sons have any authority to unilaterally change the credit card custom and practice that has been in place for many years. Any attempt to do so would be a clear violation of the preliminary injunction ordering "that the operations of the three Plaza Extra Supermarket stores shall continue as they have throughout the years prior to the commencement of this litigation...without unilateral action by either party, or representative(s), affecting the ...methods, procedures and operations." While the Hameds may refuse in the future to cosign checks for reimbursement of credit card payments because they are peeved that the Yusufs would not cave to yet another effort to change the way business has been done, this will only prompt the Yusufs to similarly withhold their signatures from checks the Hameds want signed. As you know, this sort of situation can quickly spiral out of control.

Now that Judge Brady has entered an order indicating he is prepared to promptly appoint a master, I suggest we both counsel our clients to avoid any unilateral actions affecting established business procedures and save these "day to day" issues for the master, if they can't deal with them directly.

One issue that Mr. Yusuf feels must be addressed immediately is Waleed's complete failure to show up for work for months. It is hard to argue that Waleed should continue to receive his salary from Plaza Extra for working at his new store on St.Thomas. Please ask Waleed to meet with Mr. Yusuf by Monday to discuss the matter.

Gregory H. Hodges
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EXHIBIT F