

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

UNITED CORPORATION,

Plaintiff,

v.

WADDA CHARRIEZ,

Defendant.

Case No.: SX-13-CV-152

**PLAINTIFF UNITED'S MOTION TO SUBSTITUTE NECESSARY
PARTY**

COMES NOW Plaintiff United Corporation, ("Plaintiff" or United"), by its Counsel, and pursuant to Rule 17(a)(3) respectfully moves to substitute liquidating party Fathi Yusuf for Plaintiff United in this action. Defendant Wadda Charriez ("Defendant" or "Charriez") continues to argue that United (which employed and paid her for years) has no standing to maintain prosecution of this matter because liquidating partner Fathi Yusuf conceded "partnership" with the late Mohammed Hamed in April of 2015. Defendant makes this objection even though she is neither the daughter nor an agent of the late Mohammed Hamed. However, as extra precaution and to avoid further delay that may be caused by Defendant's recurrent arguments that United has no "standing," this Rule 17 Motion will moot any further issues concerning United's standing to maintain this action.

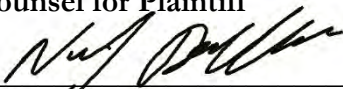
WHEREFORE, the Court should grant this Motion. A proposed Order is attached.

Dated: July 12, 2016

Respectfully Submitted,

THE DEWOOD LAW FIRM
Counsel for Plaintiff

By:



Nizar A. DeWood, Esq. (1177)
2006 Eastern Suburb, Suite 102
Christiansted, V.I. 00820
T. 340.773.3444 | F. 888.398.8428
Email: nizar@dewood-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 12, 2016 I caused the foregoing **MOTION, SUPPORTING MEMORANDUM, AND PROPOSED ORDER** to be served upon the following via e-mail as agreed to by the parties.

Joel H. Holt, Esq.
Law Office of Joel Holt
2132 Company Street
Christiansted, V.I. 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

Carl Hartmann, III, Esq.
5000 Estate Coakley Bay, #L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com
Tele: (340) 642-8784

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, VI 00820
Email: jeffreymlaw@yahoo.com
Tele: (340) 773-2539

COURTESY COPY:
The Honorable Edgar A. Ross
Email: edgarrossjudge@hotmail.com



Christina Joseph

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

UNITED CORPORATION,

Plaintiff,

v.

WADDA CHARRIEZ,

Defendant.

Case No.: ST-13-CV-152

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION TO
SUBSTITUTE NECESSARY PARTY**

COMES NOW Plaintiff United Corporation, (“Plaintiff” or “United”), by its Counsel, and respectfully moves to substitute liquidating partner Fathi Yusuf as Plaintiff for United in this action. Defendant Wadda Charriez (“Defendant” or “Charriez”) continues to argue in various filings that this matter should be dismissed because United (which for years employed and issued Defendant’s payroll checks) has no standing to prosecute this matter because partner Fathi Yusuf (Yusuf) conceded there was a partnership by operation of law in April of 2015. To put to rest Defendant Charriez’s recurrent argument that United has no standing, this Rule 17(a)(3) Motion moots Defendant’s objections to Plaintiff United’s standing. In the interest of avoiding unnecessary delay, and to begin discovery, the court should grant this Motion for the below reasons.

1. Defendant argues repeatedly that United has no standing to represent the interest of the Plaza Extra Supermarkets because liquidating partner Fathi Yusuf conceded that a “partnership” existed based on Yusuf’s agreement with Mohammed Hamed to split profits. Defendant makes this baseless argument despite the fact that 1) Defendant received payroll checks from United during her employ at Plaza Extra East, 2) Defendant was an employee of United and not an employee of a

“partnership” entity, 3) Defendant is neither a family member nor agent of the late Mohammed Hamed, and 4) that same argument was made before and rejected by the Virgin Islands Supreme Court, in *United Corporation v. Waheed Hamed* (2015-21).

2. Fed. R. Civ. P. Rule 17(a)(3) provides:

“The court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action. After ratification, joinder, or substitution, the action proceeds as if it had been originally commenced by the real party in interest.”

3 Here, Fathi Yusuf is the liquidating partner and is authorized to prosecute the interests of the “partnership” against Defendant. Because Defendant has at minimum conceded that Fathi Yusuf is a partner, therefore it follows that Fathi Yusuf could be named the real party in interest in lieu of United.

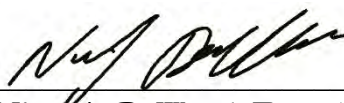
4 At every point, Plaintiff United has stated that if this Court deemed United not a real party in interest, it should permit Fathi Yusuf to be substituted for United in this action. Fed. R. Civ. P. 17(a)(3) clearly provides for the substitution of Fathi Yusuf for United. For the reason above the court should grant this Motion.

WHEREFORE, it is respectfully requested that the court grant this Motion.

Dated: July 12, 2016

Respectfully Submitted,

THE DEWOOD LAW FIRM
Counsel for Plaintiff

By: 

Nizar A. DeWood, Esq. (1177)
2006 Eastern Suburb, Suite 102
Christiansted, V.I. 00820
T. 340.773.3444 | F. 888.398.8428
Email: nizar@dewood-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 12, 2016 I caused the foregoing **SUPPORTING MEMORANDUM** to be served upon the following via e-mail as agreed to by the parties.

Joel H. Holt, Esq.
Law Office of Joel Holt
2132 Company Street
Christiansted, V.I. 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

Carl Hartmann, III, Esq.
5000 Estate Coakley Bay, #L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com
Tele: (340) 642-8784

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, VI 00820
Email: jeffreylaw@yahoo.com
Tele: (340) 773-2539

COURTESY COPY:

The Honorable Edgar A. Ross
Email: edgarrossjudge@hotmail.com



Christina Joseph

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

UNITED CORPORATION,

Plaintiff,

v.

WADDA CHARRIEZ,

Defendant.

Case No.: SX-13-CV-152

ORDER

Before the Court is Plaintiff's Motion to Substitute Necessary Party; duly advised in the premises and for good cause shown it is hereby

ORDERED that the Motion is **GRANTED**;

ORDERED that "Fathi Yusuf" shall be substituted for United Corporation as Plaintiff in this action.

ORDERED that copies of this Order be served upon the parties of record.

ORDERED this ____ day of _____, 2016.

HON. ROBERT E. MOLLOY
SUPERIOR COURT JUDGE

ATTEST

ESTRELLA GEORGE
ACTING CLERK OF THE COURT

BY: _____
Deputy Clerk