) )
) )
) CIVIL NO. SX-12-CV-370
) ) )
) )
) ACTION FOR DAMAGES ) INJUNCTIVE RELIEF AND
DECLARATORY RELIEF
)  JURY TRIAL DEMANDED  )
) ) )

### MOTION AND MEMORANDUM FOR SUBSTITUTION OF NAMED PLAINTIFF

On June 16, 2016, Plaintiff Mohammad Hamed passed away. On June 22, 2016, Defendants filed a statement of his death with this Court.

Rule 26 of the Federal Rules of Civil Procedure as applicable here provides in part as follows:

- (a) DEATH.
- (1) Substitution if the Claim Is Not Extinguished. If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative.

Attached as **Exhibit A** is the Order of the Probate Court, dated September 19, 2016.

Attached as **Exhibit B** are the Letters Testamentary of the same date, appointing Waleed M. Hamed as Executor of the Estate with full power to administer the same.

Therefore, Waleed M. Hamed, as Executor of the Estate Mohammad Hamed, asks that the Court substitute him as the named Plaintiff in this action.

Dated: September 20, 2016

Joel H. Holt, Esq.

Counsel for Plaintiff
Law Offices of Joel H. Holt
2132 Company Street,

Christiansted, VI 00820 Email: holtvi@aol.com Tele: (340) 773-8709

Fax: (340) 773-8677

Carl J. Hartmann III, Esq.

Co-Counsel for Plaintiff 5000 Estate Coakley Bay, L6 Christiansted, VI 00820

Email: carl@carlhartmann.com

Tele: (340) 719-8941

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of September, 2016, I served a copy of the foregoing by email, as agreed by the parties, on:

## Hon. Edgar Ross

Special Master % edgarrossjudge@hotmail.com

#### Nizar A. DeWood

The DeWood Law Firm 2006 Eastern Suburb, Suite 101 Christiansted, VI 00820 dewoodlaw@gmail.com

#### **Gregory H. Hodges**

Law House, 10000 Frederiksberg Gade P.O. Box 756 St. Thomas, VI 00802 ghodges@dtflaw.com Motion for Substitution Page 3

Mark W. Eckard HAMM Eckard, LLP 5030 Anchor Way Christiansted, VI 00820 mark@markeckard.com

Jeffrey B. C. Moorhead CRT Brow Building 1132 King Street, Suite 3 Christiansted, VI 00820 jeffreymlaw @yahoo.com

Jan And

IN THE MATTER OF THE ESTATE OF MOHAMMAD A. HAMED,

File No. SX-016-PB- 7

Deceased.

## **ORDER**

This matter is before the Court on a Petition for Probate of Will and for issuance Letters Testamentary. All the deceased's heirs have executed and delivered to the Court appropriate Waivers. No objections to the Petition or the relief sought therein have been filed with the Court. The Court being thus satisfied in the premises, its

#### ORDERED:

That the Last Will and Testament of Mohammad A. Hamed, dated September 12, 2012 be, and hereby is admitted to probate; and it is further

#### ORDERED:

That petitioner Waleed M. Hamed be, and hereby is, appointed Executor of the Estate of Mohammad A. Hamed and that all requirements of the posting of a bond or undertaking in this matter be, and hereby are, waived.

Dated: September 19, 2016

Superior Court Magistrate

ATTEST:

Estrella H. George

Acting Clork of the Court

**CERTIFIED A TRUE COPY** 

**EXHIBIT** 

IN THE MATTER OF THE ESTATE OF MOHAMMAD A. HAMED,

File No. SX-016-PB-76

Deceased.

### LETTERS TESTAMENTARY

TO ALL TO WHOM these presents shall come:

KNOW YE, that the Will of Mohammad A. Hamed, deceased, a copy of which is hereto annexed, has been duly proven in this Court, and that Waleed M. Hamed has been duly appointed Executor.

This therefore authorizes the said Waleed M. Hamed to administer the Estate of said Mohammad A. Hamed, deceased, according to law.

Magistrate of the Superior Court

ATTEST:

Estrella H. George

Acting Clerk of the Court

CERTIFIED A TRUE COPY





IN THE MATTER OF THE ESTATE OF MOHAMMAD A. HAMED,

File No. SX-016-PB- 7



## ORDER

This matter is before the Court on a Petition for Probate of Will and for issuance Letters Testamentary. All the deceased's heirs have executed and delivered to the Court appropriate Waivers. No objections to the Petition or the relief sought therein have been filed with the Court. The Court being thus satisfied in the premises, its

#### ORDERED:

That the Last Will and Testament of Mohammad A. Hamed, dated September 12, 2012 be, and hereby is admitted to probate; and it is further

#### ORDERED:

That petitioner Waleed M. Hamed be, and hereby is, appointed Executor of the Estate of Mohammad A. Hamed and that all requirements of the posting of a bond or undertaking in this matter be, and hereby are, waived.

Dated: September 19, 2016

Superior Court Magistrate

ATTEST:

Estrella H. George

Acting Clerk of the Court

**CERTIFIED A TRUE COPY** 

MOHAMMAD HAMED, by his authorized agent WALEED HAMED,	)
Plaintiff/Counterclaim Defendant,	) }
VS.	CIVIL NO. SX-12-CV-370
FATHI YUSUF and UNITED CORPORATION,	) )
Defendants/Counterclaimants,	)
vs.	) ACTION FOR DAMAGES ) INJUNCTIVE RELIEF AND ) DECLARATORY RELIEF
WALEED HAMED, WAHEED HAMED, MUFEED HAMED,	)
HISHAM HAMED, and PLESSEN ENTERPRISES, INC.,	) JURY TRIAL DEMANDED )
Counterclaim Defendants.	

#### **ORDER**

This matter is before the Court on the Plaintiff's Motion for Substitution of Waleed M. Hamed, the Executor of the Estate for Mohammad Hamed, in place of Mohammad Hamed (deceased). Thus, upon consideration of the matters before the Court, it is hereby

ORDERED THAT THE MOTION IS GRANTED. Waleed M. Hamed, as the Executor of the Estate of Mohammad Hamed, is hereby substituted as the named plaintiff in the above matter.

Dated:	
Datou.	HONORABLE DOUGLAS A BRADY
	Judge, Superior Court

Orde	r
Page	2

ATTEST: ESTRELLA GEORGE
Acting Clerk of Court

By:		
Deputy Clerk		

Dist: Honorable Edgar Ross, Joel H. Holt, Carl Hartmann, Gregory Hodges, Nizar Dewood, Mark Eckard, Jeffrey Moorhead