

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

<p>MOHAMMAD HAMED,</p> <p style="padding-left: 100px;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>FATHI YUSUF,</p> <p style="padding-left: 100px;">Defendant.</p> <hr style="width: 80%; margin-left: 0;"/>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>CIVIL NO. SX-14-CV-278</p> <p>ACTION FOR DEBT AND CONVERSION</p> <p><u>JURY TRIAL DEMANDED</u></p>
--	---	--

**OPPOSITION TO HAMED’S MOTION AND MEMORANDUM FOR PARTIAL
SUMMARY JUDGMENT**

Defendant Fathi Yusuf (“Yusuf”), through his undersigned counsel, respectfully submits this Opposition to “Hamed’s Motion and Memorandum for Partial Summary Judgment” filed on November 17, 2016 (the “Motion”). Because the Motion is filled with misrepresentations and is noncompliant with the summary judgment procedure followed by this Court, it should be summarily denied. Furthermore, the Motion improperly cites and relies upon a portion of Yusuf’s Accounting Claims and Proposed Distribution Plan (“Yusuf’s Claim”), which was not filed with the Court but rather submitted only to the Master and counsel for Hamed pursuant to this Court’s January 7, 2015 Order Adopting Final Wind Up Plan (the “Wind Up Order”) in the pending case captioned *Hamed v. Yusuf*, Civ. No. SX-12-CV-370 (the “370 Case”), the November 13, 2015 Order approving the parties’ Stipulation Regarding Motion To Clarify Order of Liquidation (the “Stipulated Order”) in the 370 Case, and the September 22, 2016 directive of the Master in the 370 Case. Contrary to Hamed’s representation at p. 2 of the Motion, Yusuf’s Claim was never filed with the Court. In fact, the only portions of Yusuf’s Claim that have been filed with the Court are the portions Hamed has cherry picked and improperly filed in an effort to

mislead this Court into believing that Yusuf has conceded that he owes \$802,966 to Hamed. Nothing could be further from the truth. Although Yusuf has filed motions to strike and for sanctions in the 370 Case because of Hamed's clear violation of the Wind Up Order, Stipulated Order, and the Master's directive by filing his accounting claims and portions of Yusuf's Claim directly with the Court, because Hamed has so far escaped the consequences of his intentional violation of this Court's Orders and the Master's directive, he continues to mischaracterize Yusuf's Claim, which is not before the Court in this case or in the 370 Case, because it was submitted only to the Master and counsel as required by the Wind Up Order, Stipulated Order, and the Master's directive.

By quoting from § V of Yusuf's Claim only, without the context of the entire Yusuf Claim, Hamed attempts to give this Court the false impression that Yusuf concedes he owes Hamed \$802,966. This is the same false impression that Hamed attempted to give the Court in the 370 Case in his "Opposition to Yusuf's Motion to Strike Supplemental Claims" filed in that case on October 25, 2016 (the "Opposition"). At p. 4 of the Opposition, Hamed misquoted a footnote to the Claim Distribution Summary attached as Exhibit A to Yusuf's Claim, which reflected that the total due from Hamed to Yusuf was \$13,402,709.36. The footnote actually read as follows:

This amount [\$13,402,709.36] represents the sum of \$9,670,675.36 from § V and \$4,385,000 from § VIII less \$652,966.00 (\$802,966.00 from § VI - \$150,000.00 from Claim n. 15). It represents the amount known as of September 30, 2016 based upon the information available, not including any punitive damages to which Yusuf may be entitled. It is subject to further revision following the reopening of discovery.

Clearly, Yusuf is claiming that Hamed owes him at least \$13,402,709.36 after crediting Hamed with the \$802,966 at issue. Hamed's claim that there is no dispute that the \$802,966 is due and owing to him is simply disingenuous.

Hamed claims at p. 1 of the Motion that "to date, no consolidation order has been entered" in this case. This is untrue since this Court entered an order granting the stipulation for consolidation on October 13, 2016. Accordingly, the Motion should be summarily denied since it should have been filed in the consolidated 370 Case.

Finally, the Motion should be summarily denied because it is clearly noncompliant with LRCi. 56.1(a)(1), the provisions of which are routinely followed by this Court pursuant to Super. Ct. R.7. The Motion is deficient in that it is not supported by any affidavits and it is not accompanied by a separate statement of the material facts about which Hamed contends there is no genuine issue.

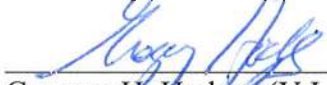
For all of the foregoing reasons, Yusuf respectfully requests this Court to deny the Motion and to provide him such further relief as is just and proper under the circumstances.

Respectfully submitted,

DUDLEY, TOPPER AND FEUERZEIG, LLP

Dated: December 7, 2016

By:



Gregory H. Hodges (V.I. Bar No. 174)
1000 Frederiksberg Gade - P.O. Box 756
St. Thomas, VI 00804
Telephone: (340) 715-4405
Telefax: (340) 715-4400
E-mail: ghodges@dtflaw.com

Attorneys for Fathi Yusuf

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of December, 2016, I caused the foregoing First **Opposition To Hamed's Motion And Memorandum For Partial Summary Judgment** to be served upon the following via email:

Joel H. Holt, Esq.
LAW OFFICES OF JOEL H. HOLT
2132 Company Street
Christiansted, V.I. 00820
Email: holtvi@aol.com

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

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

Michelle Barker

R:\DOCS\6254\1000\DRFTPLDG\16Y9795.DOCX

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422