

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

MOHAMMAD HAMED, by his
authorized agent **WALEED HAMED**,

Plaintiff/Counterclaim Defendant,
vs.

FATHI YUSUF and **UNITED CORPORATION**,

Defendants and Counterclaimants.
vs.

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

Counterclaim Defendants.

Case No.: SX-2012-cv-370

**ACTION FOR DAMAGES,
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

MOHAMMAD HAMED,

vs. *Plaintiff,*

FATHI YUSUF,

Defendant.

Case No.: SX-2014-CV-278

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

**HAMED'S RESPONSE TO YUSUF'S MOTION FOR CERTIFICATION FOR
IMMEDIATE APPELLATE REVIEW**

For the reasons set forth herein, the Plaintiff hereby opposes Yusuf's request for immediate appellate review of the isolated issues raised in his August 11th request, which are all related to this Court's July 24th Order. Such appeals are governed by 33 V.I.C. § 33(c), which states:

(c) Whenever the Superior Court judge, in making a civil action or order not otherwise appealable under this section, is of the opinion that the order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of litigation, the judge shall so state in the order.

At the outset, the six issues listed in Yusuf's request do not involve "controlling questions of law," as Yusuf has misconstrued the Court's July 24th Order as a summary judgment order in favor of the Plaintiff. Instead, the Order barred claims by both parties prior to September 17, 2006, based on several equitable considerations in determining how the final accounting in this protracted partnership wind-up should proceed. The Court's authority to enter such orders has already been recognized and approved by the V.I. Supreme Court in *Yusuf v Hamed*, 2015 WL 877879 at *2 (V.I. 2015). There, the Supreme Court held that this Court has broad powers related to "the administration of winding up the partnership," over which it "possesses considerable discretion." Thus, there is no controlling issue of law upon which there is a substantial ground for difference, as this "rule of law" is now settled.¹

Second, the certification of these limited issues would not materially advance the resolution of this case, as there are multiple other issues that may result in an appeal of a final judgment in this case, such as the one Yusuf already attempted to raise in *Yusuf v Hamed, supra*, or those involving the *Daubert* rulings, the jury issue, the SOL issue and others. In short, an appeal on the six issues listed by Yusuf will not materially advance this litigation, or lead to closure such as by summary judgment or settlement. To the contrary, an interim appeal will just bog this protracted litigation down further.

Finally, the procedure set by the Court for going forward should not take that long, as the claims are now limited. It is certainly in the interest of the parties to complete the wind-up process as soon as possible so any appeal can involve all issues, not just a selected few. If the Supreme Court finds that these pre-2006 claims should have been addressed, this Court will still have resolved all of the post 2006 claim. Thus, continuing with the claims as limited by this Court will not be a waste of time. Moreover,

¹ Indeed, the six issues involve mixed questions of fact and law, not pure legal issues.

there is no overlapping discovery on these pre-2006 and post-2006 claims, as the discovery to each set of claims is distinctly different.

As such, it is respectfully submitted that the motion for an interim appeal pursuant to 33 V.I.C. §33(c) be denied, so the accounting process can proceed forthwith.

Dated: August 15, 2017



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CERTIFICATE OF WORD/PAGE COUNT

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of August, 2017, I served a copy of the foregoing by email, as agreed by the parties, on:

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