

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

WALEED HAMED and KAC357, INC.,)	CIVIL NO. SX-16-CV-429
)	
<i>Plaintiffs,</i>)	
)	
v.)	
)	ACTION FOR DAMAGES
)	
BANK OF NOVA SCOTIA,)	
d/b/a SCOTIABANK, FATHI YUSUF,)	
MAHER YUSUF, YUSUF YUSUF,)	
and UNITED CORPORATION,)	
)	
<i>Defendants.</i>)	JURY TRIAL DEMANDED
)	

**PLAINTIFFS' NOTICE TO THE COURT
AS TO INABILITY TO COMPLY WITH THE COURT'S OCTOBER 31, 2017 ORDER
AND REQUEST FOR INSTRUCTIONS**

Plaintiffs Hamed and KAC357, Inc. filed a *First Amended Complaint* (hereinafter referred to as the "FAC") on January 30, 2017. On March 9, 2017, defendants United/Yusuf ("Yusuf") and BNS filed each filed its own, separate *Motion to Dismiss the Amended Complaint* based on Rule 56(b)(6). The issues are:

1. Malicious Prosecution
2. Defamation
3. Trade Disparagement
4. The Prima Facie Tort/Outrage
5. CICO / CICO Conspiracy

On March 22, 2017, Hamed opposed those two motions.

After the defendants filed replies, as well as motions to stay, **this Court issued its October 31, 2017 Order**, in which it converted the two motions to dismiss to motions for summary judgment, allowed Plaintiffs additional discovery and permitted Hamed and KAC357 to file an opposition to the summary judgments 21 days after all supplemental discovery answers were received.

Plaintiffs then propounded additional discovery to BNS as follows:

11/6/2017	Court-ordered discovery 1 of 3 - To BNS - RFA
11/6/2017	Court-ordered discovery 2 of 3 - To BNS - RFPD
11/6/2017	Court-ordered discovery 3 of 3 - To BNS - Interrogatories

However, although BNS requested additional time for responding to the discovery months ago, it never answered this discovery. This delay has further delayed the summary judgment process the Court was clearly trying to move along.


Plaintiffs note that Yusuf did answer discovery as directed. The Plaintiffs then filed an opposition to Yusuf's "converted" motion for summary judgment on January 12, 2018. On page 1 of that opposition, the BNS' deficiency was discussed as follows:

However, although BNS requested additional time for responding to the discovery, it has not submitted a proffered stipulation or motion to stay. This has further delayed the process.

Even with this comment in the record, BNS has still not answered discovery.

The failure to respond to this discovery, despite the Court's Order that it do so, makes it impossible for Plaintiffs to file their opposition to the BNS "converted" motion for summary judgment. Thus, notice of this problem is being provided to the Court along with a request as to how this Court wishes to proceed on BNS's "converted" Rule 56 motion, which the Plaintiffs respectfully submit should just be denied since BNS has failed to comply with this Court's October 31, 2017, Order.

Dated: March 5, 2018



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CERTIFICATE OF SERVICE

I certify that this filing complies with the page or word limitation set forth in Rule 6-1(e). I also hereby certify that on this 5th day of March, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

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