

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

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD 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

Consolidated with

Case No.: SX-2014-CV-287

**ACTION FOR
DECLARATORY JUDGMENT**

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-278

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD HAMED,

Plaintiff,

vs.

UNITED CORPORATION,

Defendant.

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD HAMED,

Plaintiff,

vs.

FATHI YUSUF,

Defendant.

NOTICE OF INTENT TO SERVE SUBPOENA

PLEASE TAKE NOTICE that on May 8, 2018, or as soon thereafter as service may be effectuated, and pursuant to V.I.R. Civ. P. 30(b)(6) & 45, Counsel for the Plaintiff, Joel H. Holt and Carl J. Hartmann, will issue and serve the Subpoena attached hereto as "Exhibit A," for the deposition and production of the items listed in the Subpoena at the time and place specified therein.

Dated: May 8, 2018



Carl J. Hartmann III, Esq (Bar #48)
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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) 773-867

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of May, 2018, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on the following and that the documents meets the page and word limitations under the applicable Rule:

Hon. Edgar Ross (w/ 2 copies by Mail)
Special Master
edgarrossjudge@hotmail.com

Gregory H. Hodges
Stefan Herpel
Charlotte Perrell
Law House, 10000 Frederiksberg Gade
P.O. Box 756
St. Thomas, VI 00802
ghodges@dtflaw.com

Mark W. Eckard
Hamm, Eckard, LLP
5030 Anchor Way
Christiansted, VI 00820
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Christiansted, VI 00820
jeffreymlaw@yahoo.com



Carl J. Hamed

**Issued by the
SUPERIOR COURT OF THE VIRGIN ISLANDS**

DIVISION OF ST. CROIX

SUBPOENA IN A CIVIL CASE

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD 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.

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD HAMED,

Plaintiff,

vs.

UNITED CORPORATION,

Defendant.

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD HAMED,

Plaintiff,

vs.

FATHI YUSUF,

Defendant.

EXHIBIT A

Case No.: SX-2012-CV-370

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

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-287

**ACTION FOR DECLARATORY
JUDGMENT**

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-278

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

**EXHIBIT
A**

SUBPOENA DUCES TECUM

TO: **Dudley, Topper and Feuerzeig, LLP**
ADDRESS: **Attn: Custodian of Records**
Law House, 1000 Frederiksberg, St Thomas 00802

YOU ARE HEREBY COMMANDED to appear in the Superior Court of the Virgin Islands in the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

YOU ARE HEREBY COMMANDED to appear in the Superior Court of the Virgin Islands in the place, date, and time specified at the taking of a Deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

Joel H. Holt, Esq.
Law Offices of Joel H. Holt
2132 Company Street
Christiansted, VI 00820
(340) 773-8709

Friday, June 1, 2018,
at 10:00 a.m.

Video Taped 30(b)(6) deposition of DTF

YOU ARE HEREBY COMMANDED to produce and permit inspection and copying of the following documents or object at the place, date and times specified below (list documents or objects):
All Documents provided to you by prior counsel or your client that are to or from, created by or provided by Joseph DiRuzzo or his firm in 2012-2013, as to which your client does not claim privilege.

PLACE: Law Offices of Joel H. Holt

2132 Company Street, Christiansted, VI 00820
(340) 773-8709

DATE AND TIME:

Friday, June 1, 2018,
at 10:00 am

YOU ARE HEREBY COMMANDED to permit inspection of the following premises at the date and time specified below:

PREMISES

DATE AND TIME:

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE

JOEL H. HOLT

Attorney-at-Law

/s/ Carl J. Hartmann

DATE

5/8/18

By: 

ISSUING ATTORNEY'S ADDRESS AND TELEPHONE NUMBER:

Carl J. Hartmann
c/o Law Offices of Joel H. Holt
2132 Company Street
Christiansted, VI 00820
(340) 773-8709

RETURN OF SERVICE

I personally served the within subpoena duces tecum by delivering a copy to _____

Dated: _____

By: _____

RETURN OF SERVICE

This is to certify that _____ cannot be found in this jurisdiction.

Dated: _____

By: _____

RETURN OF SERVICE

I hereby certify that I served the within subpoena duces tecum by leaving a copy at _____, the usual place of abode, with _____, a member of his/her family over the age of 14 years, then residing with him/her.

Dated: _____

By: _____

Pursuant to V.I. R. Civ. P. 30(b)(2) and 30(b)(6) and 45, as well as R. Civ. P. 34, the deponent(s) shall bring all preparations, notes, briefings and documents necessary to allow full and complete testimony on the topics.

SCHEDULE A - Topics for Entity Witness

In relation to Hamed Claim H-3:

Topic A:

With regard to all work performed that resulted in the payment amounts paid to Fuerst Ittleman David & Joseph, PL, as the same are described in the Special Master's Order of May 8, 2018, to wit,

**\$15,067.26 October 19, 2012
\$29,011.50 October 19, 2012
\$99,254.45 November 16, 2012
\$111,660.24 January 21, 2013
\$112,383.32 February 13, 2013
\$82,274.84 March 6, 2013
\$54,938.89 April 3, 2013**

As Yusuf and United now claim that some or all of this work was done "for the Partnership" or "for the Partnership under the umbrella of United" and not for Yusuf personally or United as a distinct entity; no privilege attaches to such work. Therefore, THE CUSTODIAN OF RECORDS will supply and be ready to testify regarding the firm's receipt, retention, retention policies and status of the following documents supplied to you by prior counsel or your client, as follows:

(1) all written correspondence (including emails) from or to Fuerst Ittleman David & Joseph, PL, its attorneys or staff as to all work performed that was "for the Partnership" or "for the Partnership under the umbrella of United",

(2) all notations, notes, drafts, attorney work product or other writings created by Fuerst Ittleman David & Joseph, PL, its attorneys or staff for those such "Partnership" charges (this would include any files or other writings transferred to the Dudley Firm, and

(3) all other physical evidence in the possession of DTF as to the nature and production of that work.

**Rules Governing the
Superior Court of the Virgin Islands**

Rule 30. Depositions by Oral Examination

* * *

(b) Notice of the Deposition; Other Formal Requirements.

* * *

(6) *Notice or Subpoena Directed to an Organization.* In its notice or subpoena, a party may name as the deponent a public or private corporation, a partnership, an association, a governmental body, or other entity and must describe with reasonable particularity the matters for examination. The named organization must then designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf; and it may set out the matters on which each person designated will testify. A subpoena must advise a nonparty organization of its duty to make this designation. The persons designated must testify about information known or reasonably available to the organization. This paragraph (6) does not preclude a deposition by any other procedure allowed by these rules.

Rule 45. Subpoena

(a) In General.

(1) Form and Contents.

(A) *Requirements — In General.* Every subpoena must:

- (i) state the court from which it issued;
- (ii) state the title of the action and its civil-action number;
- (iii) command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or permit the inspection of premises; and
- (iv) set out the text of Rule 45(d) and (e).

(B) *Command to Attend a Deposition — Notice of the Recording Method.* A subpoena commanding attendance at a deposition must state the method for recording the testimony.

(C) *Combining or Separating a Command to Produce or to Permit Inspection; Specifying the Form for Electronically Stored Information.* A command to produce documents, electronically stored information, or tangible things or to permit the inspection of premises may be included in a subpoena commanding attendance at a deposition, hearing, or trial, or may be set out in a separate subpoena. A subpoena may specify the form

or forms in which electronically stored information is to be produced.

(D) *Command to Produce; Included Obligations.* A command in a subpoena to produce documents, electronically stored information, or tangible things requires the responding person to permit inspection, copying, testing, or sampling of the materials.

(2) *Issuing Court.* A subpoena must issue from the court where the action is pending.

(3) *Issued by Whom.* The clerk of court must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete it before service. An attorney also may issue and sign a subpoena if the attorney is authorized to practice in the Virgin Islands.

(4) *Notice to Other Parties Before Service.* If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then — at least 5 days before it is served on the person to whom it is directed — a notice and a copy of the subpoena must be served on each party.

(b) Service.

(1) *By Whom and How; Tendering Fees.* Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering a copy to the named person.

(2) *Service in the Virgin Islands.* A subpoena may be served at any place within the United States Virgin Islands.

(3) *Service in a Foreign Country.* A subpoena may be served at any place outside the United States Virgin Islands consistent with the provisions of 5 V.I.C. § 505.

(4) *Proof of Service.* Proving service, when necessary, requires filing with the issuing court a statement showing the date and manner of service and the names of the persons served. The statement must be certified by the server.

(c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the division where the action is pending must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the division where the action is pending for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the division where the action is pending must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court where the action is pending may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(i) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's

study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified

information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the division where the action is pending for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(f) Contempt. The court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

(g) Subpoenas and discovery outside the Virgin Islands. The procedures for use of letters rogatory for discovery outside the Virgin Islands are set forth in 5 V.I.C. § 4921. The Uniform Interstate Depositions and Discovery Act (Chapter 505 of Title 5 of the Virgin Islands Code, 5 V.I.C. § 4922 et seq.) provides for discovery involving jurisdictions recognizing reciprocal discovery obligations, and includes provisions for issuance and service of subpoenas for depositions and production of documents in those jurisdictions.