

STATE OF NEW YORK
COUNTY COURT : COUNTY OF ERIE

Waleed Hamed, as the Executor of the Estate of
Mohammed Hamed,
Plaintiff/Counterclaim Defendant,

v.

Fathi Yusuf and United Corporation,
Defendants/Counterclaimants,

v.

Waleed Hamed, Waheed Hamed, Mufeed Hamed,
Hisham Hamed, and Plessen Enterprises, Inc.,
Additional Counterclaim Defendants.

SUBPOENA PURSUANT TO CPLR 3119(4) FOR RECOGNITION OF OUT OF STATE SUBPOENA

US Virgin Islands Superior Court Case No. SX-12-CV-370

The People of the State of New York

TO: Randall Andreozzi, Esq., Andreozzi Bluestein, LLP
ADDRESS: 9145 Main Street
Clarence, NY 14031

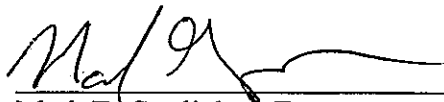
GREETING:

WE COMMAND YOU, that all business and excuses being laid aside you and each of you, appear at DePaolo Crosby Reporting located at 170 Franklin St., Suite 601, Buffalo, NY 14202 at **10:00 a.m.** on Friday, **August 24, 2018** and at any recessed or adjourned date to give testimony in this action on the part of the party indicated below and that you bring with you, and produce at the time and place aforesaid, the following: now in your custody, and all other writings, records and documents relating to the above records and to the issues relating to:

the attached Subpoena issued under the authority of the Superior Court of the United States Virgin Islands.

Failure to comply with this Subpoena is punishable as a contempt of Court; and shall make you liable to the person on whose behalf this Subpoena was issued for a penalty not exceeding Fifty dollars and damages sustained by reason of the failure to comply.

DATED: Buffalo, New York
August 10, 2018



Mark E. Guglielmi, Esq.
FEUERSTEIN & SMITH, LLP
Office, Post Office Address and Telephone
475 Delaware Avenue
Buffalo, NY 14202
(716) 856-9704 Telephone

CERTIFICATION

I, _____, hereby affirm under penalty of perjury, that the attached documents and/or records, from the _____, of which I am an employee, are:

- A. True and accurate and are copies of the business/medical records of the requested parties;
- B. That said documents and/or records are genuine copies of said organization;
- C. That said documents and/or records are kept in the regular course of business by said organization;
- D. That it is the regular course of business for said organization to make said records and/or documents within a reasonable time after said acts;
- E. That said organization has a duty to make and keep said documents and/or records; and
- F. That said documents and/or records are complete and current.

DATED: _____

Signature: _____

SUBPOENA DUCES TECUM

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

Waleed Hamed, as the Executor of the Estate of
Mohammed Hamed,

Plaintiff/Counterclaim Defendant,

v.

Fathi Yusuf and United Corporation,

Defendants/Counterclaimants,

v.

Waleed Hamed, Waheed Hamed, Mufeed Hamed,
Hisham Hamed, and Plessen Enterprises, Inc.,

Additional Counterclaim Defendants.

Case No. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF

JURY TRIAL DEMANDED

TO: Randall Andreozzi, Esq., Andreozzi Bluestein, LLP
ADDRESS: 9145 Main Street
Clarence, NY 14031

You are hereby subpoenaed to appear at DePaolo Crosby Reporting located at 170 Franklin St., Suite 601, Buffalo, NY 14202 at 10:00 a.m. on Friday, August 24, 2018, to give evidence in the cause of action captioned above on behalf of Fathi Yusuf and United Corporation, and to bring with you the documents identified in the attached Exhibit A.

****NOTE: DOCUMENTS ONLY WILL BE REQUIRED. YOU MAY COMPLY WITH THIS SUBPOENA DUCES TECUM BY PRODUCING THE REFERENCED DOCUMENTS ON OR BEFORE THE ABOVE-STATED DATE.**

Dated:

By:



Gregory H. Hodges (V.I. Bar No. 174)
Charlotte K. Perrell (V.I. Bar No. 1281)
1000 Frederiksberg Gade
P.O. Box 756
St. Thomas, VI 00804
Telephone: (340) 715-4405
Telefax: (340) 715-4400
E-mail: ghodges@dtflaw.com
E-mail: cparrell@dtflaw.com

Attorneys for Defendants Fathi Yusuf and United Corporation

RETURN OF SERVICE

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

Process Server

Dated: _____

By: _____
(Name)

RETURN OF SERVICE

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

Process Server

Dated: _____

By: _____
(Name)

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.

Process Server

Dated: _____

By: _____
(Name)

Virgin Islands Rule of Civil Procedure 45(d) and (e)

(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) fail 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
- (ii) 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 district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A

DEFINITION

The term "document" is used in its broadest sense and includes all original written, recorded or graphic items of every kind whatsoever and copies thereof including, but not limited to: agreements, forms, applications, contracts and memoranda of understandings; assignments; licenses, correspondence and communications, including intra-company correspondence and communications; cablegrams, SMS text messages, telex messages, social media messages (i.e. Facebook, Twitter), email, facsimiles, radiograms and telegrams; reports, notes and memoranda; summaries, minutes and records of telephone conversations, meetings and conferences, including lists of persons attending meetings or conferences; summaries and records of personal conversations and interviews; books, manuals, publications, and diaries; technical, laboratory and engineering reports, data sheets and notebooks; charts; plans; sketches and drawings; photographs, motion pictures; audio and video tapes and disks; computer printouts; computer software; models and mockups; reports and/or summaries of investigations; opinions and reports of experts and consultants; opinions of counsel; sales records, including purchase orders, order acknowledgments and invoices; books of account; statements, bills, checks and vouchers; reports and summaries of negotiations; brochures; pamphlets; catalogs and catalog sheets, sales literature and sales promotion materials, advertisements; displays; circulars, trade letters, notices and announcements; press, publicity, trade and product releases; drafts or originals of, or preliminary notes on, and marginal comments appearing on, any document; all documents kept by photographic, electronic or mechanical means including but not limited to the contents of computer memory and hard disks; other reports and records; and any other information-containing paper writing or physical thing.

DOCUMENTS TO BE PRODUCED:

1. Produce all invoices and any documents evidencing, referencing or relating to the payment of such invoices for any and all services rendered by any of the following attorneys or law firms:
 - a. Gordon Rhea,
 - b. Richardson, Patrick, Westbrook & Brickman, LLC,
 - c. Randall Andreozzi,
 - d. Andreozzi Fickless, LLP,
 - e. Andreozzi, Bluestein, Fickless, Muhlbauer, Weber, Brown LLP,
 - f. Andreozzi Bluestein, LLP, and
 - g. Pamela Colon,

for the attorney's or law firm's representation of Waleed Mohammed Hamed or Waheed Mohammed Hamed, including all associated costs, expenses, expert fees and consultant fees, including but not limited to fees paid to any of the following persons or entities:

- h. FreedMaxick, CPA's,
- i. RSM McGladrey,
- j. Leon Freidman,
- k. MRW Consulting Group,
- l. Pratts – Thomas Walker, and
- m. Eugene Benton,

for the period September 17, 2006 to the present, which were paid, directly or indirectly, by United Corporation or through escrow accounts or other accounts controlled or directed by Andreozzi Fickess, LLP, Andreozzi, Bluestein, Fickess, Muhlbauer Weber, Brown LLP, Andreozzi Bluestein, LLP, Richardson, Patrick, Westbrook & Brickman, LLC or any other person or entity (collectively hereafter, the "United Payments") in connection with *United States v. Yusuf et al*, District Court of the U.S. Virgin Islands, 2005-15 and any other matters.

2. Produce all fee agreements, contracts for services, retainer agreements, escrow agent service agreements and any other agreements reflecting an obligation to pay invoices for any and all services performed by any of the following attorneys or law firms:
 - a. Gordon Rhea,
 - b. Richardson, Patrick, Westbrook & Brickman, LLC,
 - c. Randall Andreozzi,
 - d. Andreozzi Fickless, LLP,
 - e. Andreozzi, Bluestein, Fickess, Muhlbauer, Weber, Brown LLP,
 - f. Andreozzi Bluestein, LLP, and
 - g. Pamela Colon,

for representation of Waleed Mohammed Hamed and Waheed Mohammed Hamed for the period September 17, 2006 to the present, in connection with *United States v. Yusuf et al*, District Court of the U.S. Virgin Islands, 2005-15 and any other matters.

3. Produce all documents evidencing, referencing or relating to any increase in the hourly rates during the course of the representation from the initial rate charged for any and all services performed by any of the following attorneys or law firms:
 - a. Gordon Rhea,
 - b. Richardson, Patrick, Westbrook & Brickman, LLC,
 - c. Randall Andreozzi,
 - d. Andreozzi Fickless, LLP,
 - e. Andreozzi, Bluestein, Fickess, Muhlbauer, Weber, Brown LLP,
 - f. Andreozzi Bluestein, LLP, and
 - g. Pamela Colon,

for representation of Waleed Mohammed Hamed and Waheed Mohammed Hamed for the period September 17, 2006 to the present, in connection with *United States v. Yusuf et al*, District Court of the U.S. Virgin Islands, 2005-15 and any other matters.

4. Produce all documents evidencing, referencing or relating to any entries for “File management” for any and all services performed by any of the following attorneys or law firms:
 - a. Gordon Rhea,
 - b. Richardson, Patrick, Westbrook & Brickman, LLC,
 - c. Randall Andreozzi,
 - d. Andreozzi Fickless, LLP,
 - e. Andreozzi, Bluestein, Fickess, Muhlbauer, Weber, Brown LLP,
 - f. Andreozzi Bluestein, LLP, and
 - g. Pamela Colon,

for representation of Waleed Mohammed Hamed and Waheed Mohammed Hamed for the period September 17, 2006 to the present, in connection with *United States v. Yusuf et al*, District Court of the U.S. Virgin Islands, 2005-15 and any other matters.

5. Produce all notations, notes, drafts, attorney work product or other writings created by any of the attorneys or law firms referred to in Paragraph 1(a-g) above, or their respective staff, in the course of the law firm’s or attorney’s representation of Waleed Mohammed Hamed or Waheed Mohammed Hamed for the period September 17, 2006 to the present, in connection with *United States v. Yusuf et al*, District Court of the U.S. Virgin Islands, 2005-15 and any other matters paid with United Payments, as that term is defined in Paragraph 1.
6. Produce all written correspondence (including emails) to or from any of the attorneys or law firms referred to in Paragraph 1(a-g) above, or their respective staff, that relate to the attorney’s or law firm’s representation of Waleed Mohammed Hamed and Waheed for the period September 17, 2006 to the present, in connection with *United States v. Yusuf et al*, District Court of the U.S. Virgin Islands, 2005-15 and any other matters paid with United Payments, as that term is defined in Paragraph 1.
7. Produce all work product included by not limited to notations, notes, drafts, work papers, compilations or other writings created by any person or entity referred to in Paragraph 1(h-m) for any of the attorneys or law firms referred to in Paragraph 1(a-g) above, for the period September 17, 2006 to the present, in connection with *United States v. Yusuf et al*, District Court of the U.S. Virgin Islands, 2005-15 and any other matters paid with United Payments, as that term is defined in Paragraph 1 or by Gordan Rhea or Pam Colon.
8. Produce all written correspondence (including emails) to or from any person or entity referred to in Paragraph 1(h-m) in connection with *United States v. Yusuf et al*, District

Court of the U.S. Virgin Islands, 2005-15 and any other matters paid with United Payments, as that term is defined in Paragraph 1 or by Gordan Rhea or Pam Colon for the period September 17, 2006 to the present.

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

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

Plaintiff/Counterclaim Defendant,)

vs.)

FATHI YUSUF and UNITED CORPORATION,)

Defendants/Counterclaimants,)

vs.)

WALEED HAMED, WAHEED HAMED,)
MUFEEED HAMED, HISHAM HAMED, and)
PLESSEN ENTERPRISES, INC.,)

Additional Counterclaim Defendants.)

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

JURY TRIAL DEMANDED

NOTICE OF INTENT TO SERVE SUBPOENAS

To: 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

Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, VI 00820
E-mail: jeffreymlaw@yahoo.com

DUDLEY, TOPPER
AND FEUERZEIG, LLP
1000 Frederiksberg Gade
P.O. Box 756
St. Thomas, U.S. V.I. 00804-0756
(340) 774-4422

PLEASE TAKE NOTICE that Defendants/Counterclaimants Fathi Yusuf (“Yusuf”) and United Corporation (“United”) (collectively, the “Defendants”), through their undersigned attorneys, on June 7, 2018, or as soon thereafter as service may be effectuated, will have the Subpoenas Duces Tecum attached hereto as Exhibit “A”¹, served upon the following non-parties, for the production of the items listed in said Subpoenas, allowing, in lieu of appearance, the production of the documents requested on or before the date, time and place set forth therein:

Pamela Colon, Esquire Law Offices of Pamela Lynn Colon, LLC 27 & 28 King Cross Street, 1st Floor St. Croix, VI 00820	Gordon Rhea, Esquire Richardson, Patrick, Westbrook & Brickman, LLC 11 A Norre Gade St. Thomas, VI 00802
Randall Andreozzi Andreozzi Bluestein LLP (former Andreozzi Fickess, LLP) 9145 Main Street Clarence, NY 14031	Records Custodian, Freed Maxick 424 Main St. Suite 800 Buffalo, NY 14202
Records Custodian, RSM McGladrey Liberty Building, Suite 800 424 Main St. Buffalo, NY 14202	Records Custodian, MRW Consulting Group, LLP 320 Davie Boulevard Ft. Lauderdale, FL 33315

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**
1000 Frederiksberg Gade
P.O. Box 756
St. Thomas, U.S. V.I. 00804-0756
(340) 774-4422

¹ The format of the subpoenas to be served outside of the Virgin Islands may be modified to comply with the applicable Florida statutes and the Uniform Interstate Depositions and Discovery Act adopted in New York (NY CPLR § 3119 (2016)).

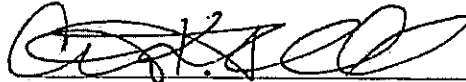
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Respectfully submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

DATED: May 31, 2018

By:



Gregory H. Hodges (V.I. Bar No. 174)
Charlotte K. Perrell (V.I. Bar No. 1281)
1000 Frederiksberg Gade
P.O. Box 756
St. Thomas, VI 00804
Telephone: (340) 715-4405
Telefax: (340) 715-4400
E-mail: ghodges@dtflaw.com
E-mail: cparrell@dtflaw.com

Attorneys for Fathi Yusuf and United Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of May, 2018, I caused the foregoing Notice of Intent to Serve Subpoenas Duces Tecum to be served upon the following via e-mail:

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
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Mark W. Eckard, Esq.
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Jeffrey B.C. Moorhead, Esq.
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**DUDLEY, TOPPER
AND FEUERZEIG, LLP**
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Notice of Intent to Serve Subpoenas
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The Honorable Edgar D. Ross
Email: edgarrossjudge@hotmail.com

and via U.S. Mail to:

The Honorable Edgar D. Ross
Master
P.O. Box 5119
Kingshill, VI 00851

Alice Kuo
5000 Estate Southgate
Christiansted, VI 00820

