

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

Consolidated with

Case No.: SX-2014-CV-278

Consolidated with

Case No.: ST-17-CV-384

Consolidated with

Case No.: ST-18-CV-219

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.*

FATHI YUSUF, *Plaintiff,*

vs.

MOHAMMAD A. HAMED TRUST, *et al,*

Defendants.

KAC357 Inc., *Plaintiff,*

vs.

HAMED/YUSUF PARTNERSHIP,

Defendant.

**REPORT TO THE MASTER ON PROGRESS IN CLAIMS PROCESSING AND
REQUEST FOR STATUS CONFERENCE**

I. Introduction

As the Master is aware, the approximately 180 remaining claims of the parties were split into two groups for processing in the “*Joint Discovery and Scheduling Plan*” dated January 29, 2018:

1. Part A: 100 Hamed claims being first submitted to John Gaffney for review and report.
2. Part B: Claims being dealt with directly by the parties.

As discussed in greater detail below, the parties are pleased to inform the Master that (1) the Part A procedure is having great success and the parties have been able to work together, participate in periodic or weekly conferences with each other and Mr. Gaffney - - and have achieved very positive results in resolving or withdrawing many of these Part A claims, as described below. Similarly, (2) there has been success in reducing the number of Part B claims and staying on the Master's timeline for a March 2019 submission of dispositive motions.

The parties respectfully submit this Report and request a telephone conference at the Master's convenience to discuss a point of mutual agreement with regard to the final piece of the claims puzzle – the reports and depositions with regard to experts.

II. Status of the Part B (Non-Gaffney) Claims

When the claims process began, this part of the claims process, which is the most time-consuming for both the parties and the Master, involved approximately 64 items. That list is now down to 43 -- 11 for Yusuf and 32 for Hamed -- two of which are already

briefed and pending - leaving 41.¹ The schedule for this – a combination of what the Master has ordered and the parties have agreed to -- is as follows:

Motions to Compel

Motions	December 20, 2018
Oppositions	10 Days Later
Replies	5 Days Later
Court Disposition	By Friday, January 18, 2019

Non-Expert Depositions:

Waleed Hamed	Monday, January 21, 2019
Fathi Yusuf	Tuesday, January 22, 2019
Alternating Hamed & Yusuf Witnesses	January 23, 2019 – January 25, 2019
Liquidating Partner (perhaps with Mr. Gaffney)	January 28, 2019
KAC 357, Inc.	January 29, 2019
United Corporation	January 30, 2019

Expert Depositions (See Section IV below)

Dispositive Part B Motions (See Section IV Below)

Motions	February 25, 2018
Oppositions	14 Days Later
Replies	14 Days Later

¹ As part of this, the parties have agreed to move 23 items from the more complex Part B process to the much more streamlined Part A process – and resolving several others. See § III, below.

III. Status of the Part A (Gaffney) Claims

Selected claims from Part A are provided to Gaffney together with a form for him to complete providing the necessary explanation. Gaffney completes the form and provides it to the parties with all backup documentation. Invoices are submitted by Gaffney and payment is promptly processed. The parties have also agreed upon a process for Gaffney to provide supplementation. The explanations as to various accounting entries have resulted in clarification and ultimately to both parties resolving or withdrawing a number of claims. As additional explanations are provided, the parties anticipate additional claims will be eliminated.

It would be hard to overstate how successful this process has been so far. The communications have been mutual and productive, Mr. Gaffney's responses detailed, and the resolutions quick. Based in part on the success of the Part A process, the parties have agreed to move 23 Part B claims (H-19, H-20, H-21, H-23-30, H-35, H-37, H-39, H-40, H-144, H-147-149, H-155-157, and H-159 totaling more than \$1.5 million) to the Part A process.² Of the 123 claims to be presented to Gaffney for review and report, to date 11 have been presented to him, he has issued reports on 10, and reports are pending regarding 1 claim. Mr. Gaffney has been presented with 7 additional claims that relate to the 1 claim pending so that he can file a comprehensive report on the 8 related claims. Of the 10 claims reported to date by Gaffney, 3 of them (H-41, H-42, and H-44) have been withdrawn by Hamed and 1 has been conceded by Yusuf (H-133).

The largest constraint here is Mr. Gaffney's available time. As there are 113 remaining claims for Mr. Gaffney to report on and if they are processed at a rate that all

² The Master is respectfully requested to approve this agreement to move 23 Part B claims to the Part A process.

feel is sustainable - 3 claims per week the parties anticipate that the revised Part A process will be completed in approximately 38 weeks or in or around August of 2019.

Of particular interest to the Master will be the fact that the parties anticipate that a **significant number of the claims will never reach him as they are being withdrawn or resolved in this process.** Moreover, on November 9, 2018, the parties filed a stipulation that withdrew in excess of twelve (12) million dollars in Part B claims.

IV. Expert Depositions Affecting both Part A and Part B

Attempting two rounds of expert depositions and reports may be problematic – as some of the issues and all of the witnesses “cross-over” between the two sets of claims. Thus, there may be a mutually acceptable solution, but a telephone conference with the Master would be appreciated at his convenience.

V. Conclusion

Upon consideration of this Report, the parties respectfully request a telephone conference at the Master's convenience. This report is being filed with the consent and permission of counsel for Hamed.

Dated: November 19, 2018

**DUDLEY, TOPPER and FEUERZEIG,
LLP**

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of November, 2018, I served a copy of the foregoing, which complies with the page or word limitations of Rule 6-1(e), by email (via CaseAnywhere), as agreed by the parties, on:

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