

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, MUFEEED  
HAMED, HISHAM HAMED, and PLESSEN  
ENTERPRISES, INC.,**

*Counterclaim Defendants,*

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

vs.

**UNITED CORPORATION,** *Defendant.*

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

vs.

**FATHI YUSUF,** *Defendant.*

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**FATHI YUSUF,** *Plaintiff,*

vs.

**MOHAMMAD A. HAMED TRUST,** *et al,*

*Defendants.*

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**KAC357 Inc.,** *Plaintiff,*

vs.

**HAMED/YUSUF PARTNERSHIP,**

*Defendant.*

**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**

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**HAMED'S MOTION FOR EXPEDITED DETERMINATION BY JANUARY 17, 2019,  
OF HIS MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO CLAIM H-142—  
THE HALF-ACRE ACCESS PARCEL AT TUTU—  
PRIOR TO THE SCHEDULED JANUARY 21, 2020 DEPOSITIONS**

This motion addresses Claim H-142, as to a 0.536 acre parcel near Tutu Park Mall. It arises *solely* because the entity that both the Court and Master have identified as “*United operating as a separate distinct entity from the Partnership*” claims to have been in record title since a 2008 deed—rather than “*United operating as the Partnership.*” Hamed seeks a very limited holding: The “United” in record title since 2008 is “United operating as the Partnership.”

The motion will be fully briefed by December 23, 2019.<sup>1</sup> Depositions begin January 21, 2020, and it is apparent that they will be greatly reduced by a prior decision either way.<sup>2</sup>

This claim is well-understood—it has been examined in prior motions and a Master’s Order. In that order, the claim was simplified procedurally: In his denial of the Yusuf/United motion to strike this claim, dated July 12, 2018, the Master held that the 2008 *Deed in Lieu of Foreclosure* issued and was recorded after the bar date. Thus, he observed that the Limitation Order is not implicated here “because the transaction...did not occur until October 23, 2008.”

Hamed’s motion notes that the undisputed material facts regarding record title (which is unchanged since 2008) are all a matter of Yusuf admissions, physical bank checks, and official, recorded filings—requiring no outside references. He shows that it is undisputed “on paper alone” that: (1) Yusuf admitted the Partnership paid the seller \$330,00—which came from the Partnership’s “store income,” by checks from its “d/b/a Plaza Extra” account. In return, (2) one of those two versions of “United” received a simultaneous purchase money note and mortgage

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<sup>1</sup> Hamed’s motion was filed on November 20, 2019. The opposition is due on Friday, December 20<sup>th</sup>. Hamed is NOT asking the Master to order Yusuf to expedite the opposition or accelerate his activities in any way. Hamed will submit his reply in three days, on the following Monday, December 23<sup>rd</sup>. Also, Hamed is mindful of the aggressive schedule the parties have committed to as to these B(1) depositions and motions. Therefore, in addition, Hamed hereby agrees to a requested extension until January 15, 2020, for the filing of two other, non-B(1) oppositions that would have been due from United/Yusuf prior to the New Year.

<sup>2</sup> This claim, H-142, is a B(1) claim, and will be one of the subjects of those January depositions.

for \$330,000. In 2008 (3) that version of United took a deed in lieu of foreclosure which recited that it issued solely on basis of the note and mortgage. Thus, (4) the “United” providing funds, the mortgagee, United as the Partnership Representative, is the “United” in record title.<sup>3</sup>

There is only one, minor, complicating factor that could somewhat slow a very fast determination: Hamed now expects Yusuf to try to ‘add’ an alleged, subsequent, 2010 settlement negotiation resulting in an “oral” purchase of Hamed’s half-interest by Yusuf, to an opposition that should end with the 2008 Deed. However, even if Yusuf attempts to add this: (1) those unrelated acts were well after the events here, and (2) because there is no writing or record filing, they would not affect record title in any way. Thus, while the Master could decide those 2010 issues, he might just as well allow them to be dealt with as a separate Yusuf claim.

Finally, the discovery plan/scheduling order was specifically drafted to allow such motions at any time for this very reason.<sup>4</sup> Here, a determination prior to depositions will greatly assist in paring down the issues now. If Yusuf wants to depose about a 2010 claim....fine.

In conclusion, Hamed asks that the Master issue a determination by January 17<sup>th</sup>.

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<sup>3</sup> Hamed’s motion also discusses the legal position that if there is any question at all as to the identity of the mortgagee and transferee after the facial reading of the three documents involved, RUPA creates a presumption that the mortgage/note are Partnership property—but those are not facts or findings he believes necessary to this determination of record title.

<sup>4</sup> See *Joint Discovery and Scheduling Plan*, January 29, 2017. Paragraph 8 of that Plan provides for one party to file dispositive motions on a matter for which it believes no additional fact inquiry is required at any time, particularly mentioning that such leave is “without regard for the discovery schedule.”

B. Remaining Claims. . . .8. A motion regarding any claim may be filed at any time, without regard for the discovery schedule, and need not be held until the end of this process. Timing of responses and replies shall be governed by the V.I. Rules of Civil Procedure.

Hamed also notes that, while not required by the rules to do so, he would normally seek a position on this from opposing counsel. This motion arises because of Hamed’s understandings following routine, mutual, cooperative emails with opposing counsel yesterday. Because of the short time, late hour and holidays, he has not sought agreement—but it shouldn’t be implied that the request would have been contentious, or that Yusuf’s counsel was uncooperative.

**Dated:** November 27, 2019



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of November, 2019, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

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Special Master  
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