

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

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

vs.

UNITED CORPORATION,
Defendant.

Case No.: SX-2014-CV-287

Consolidated with

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

vs.

FATHI YUSUF, *Defendant.*

Case No.: SX-2014-CV-278

Consolidated with

FATHI YUSUF, *Plaintiff,*

vs.

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

Defendants.

Case No.: ST-17-CV-384

KAC357 Inc., Plaintiff,

vs.

**HAMED/YUSUF
PARTNERSHIP,**

Defendant.

Consolidated with

Case No.: ST-18-CV-219

**YUSUF AND HAMED'S
JOINT MOTION
FOR ENLARGEMENT OF SCHEDULING ORDER**

The parties jointly request that the Special Master enlarge the existing Scheduling Order by 90 days. Presently there are depositions set for November 9-11, 2021, and thus the effect would be to move those to February 9-11, 2022, with all other dates being similarly moved.

Counsel for both sides represent that between Covid delays, family medical issues and the volume of materials involved in the last of the major "B(2)" claims, despite best efforts, the hearing, motions and discovery have been onerous. They assure the Special Master that the end of the major claims is clearly in sight.

Counsel for Hamed have agreed to the filing of this motion by counsel for Yusuf.

Dated: November 5, 2021

s/Charlotte K. Perrell _____

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November, 2021, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

Hon. Edgar Ross
Special Master

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CERTIFICATE OF WORD/PAGE COUNT

This document complies with the page or word limitation set forth in Rule 6-1 (e).

Index of Exhibits

Exhibit 1 – June 14, 2021 Scheduling Order

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
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INJUNCTIVE RELIEF AND
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HAMED/YUSUF PARTNERSHIP,
Defendant.

SECOND AMENDED JOINT DISCOVERY AND SCHEDULING PLAN

THE PARTIES to the above-captioned civil action, in accordance with Virgin Islands Rules of Civil Procedure 16 and 26, and the instructions of the Honorable Edgar D. Ross (the “Master”) agree and stipulate to the following discovery and scheduling plan for incorporation into a Case Management Order.

I. Current Status

On December 1, 2018, the Special Master entered an Order (the “December 1, 2018 Order”) following a telephonic conference with counsel as to the status of the claims. *See Exhibit A – December 1, 2018 Order*. The December 1, 2018 Order amended the discovery plan agreed to by the Parties and entered by the Master on January 29, 2018, as modified by Order dated August 6, 2018.

On October 5, 2019, the Master entered the latest amended discovery plan agreed to and submitted by the Parties. *See Exhibit B – October 5, 2019 Amended Scheduling Order*.

Therein, the claims were divided into two groups. Group A consisted of claims by Hamed that required the input of Accountant John Gaffney and Group B were party claims that did not require input from Gaffney. Of the Group B claims, they were further divided into sub-categories: B-1 and B-2. The B-1 Claims involved matters that did not need expert discovery and the B-2 Claims were those that may need expert testimony.

In March 2020, the COVID19 Pandemic impacted much of the progress and delayed adherence to the October 5, 2019 Amended Scheduling Order. Nonetheless, the parties submitted briefs and motions, undertook remote depositions, participated in remote interlocutory hearings and the Master has entered rulings as to various B-1 claims. The status of the B-1 Claims is set forth below and is nearing completion. As to the remaining B-2 Claims, new deadlines have been

provided that maintain the same cadence and sequence as originally contemplated in the prior Amended Scheduling Order, albeit it with new deadlines.

II. Remaining “Part B” Claims:

The remaining Part B Claims will continue to be addressed in two phases.

A. Part B(1) Claims

These claims consist of the following:

- Y-05 Reimburse United for Gross Receipt Taxes (B-1)
- Y-07 Ledger Balance Owed to United (B-1)
- Y-08 Water Revenue Owed United (B-1)
- Y-09 Unreimbursed Transfers to United (B-1)
- H-142 Half Acre in Estate Tutu (B-1)
- H-150 United Shopping Center’s Gross Receipt Taxes (B-1)
- H-160 United Shopping Centers gross receipt taxes (B-1)
- H-165 Outstanding debts identified by Yusuf (B-1)

1. Current Status:

Of the B(1) claims listed above, the Court has issued various rulings. Only two remain incomplete.

- a. Y-8 Claim – Water Revenue Owed to United – An interlocutory hearing on this matter was recently held and the parties have submitted their proposed findings to the Master for his consideration and ruling.
- b. H-142 Half Acre in Estate Tutu – The Master has determined through prior rulings that this claim requires an evidentiary hearing. The parties and counsel are coordinating for a proposed hearing date. As COVID19 protocols remain in place, counsel is attempting to schedule a hearing for a point in which an in-person hearing can

take place. After the hearing, the parties will submit their proposed findings of fact and conclusions of law to the Master for a ruling.

B. Part B(2) Claims

These claims consist of the following:

- Y-10 Past Partnership Withdrawals (B-2)
- Y-11 Lifestyle Analysis (B-2)
- Y-12 Foreign Accounts and Jordanian Property (B-2)
- ~~H-33 Merrill Lynch Accounts (B-2)~~¹
- H-146 Imbalance in Credit Card Points (B-2)
- H-151 Checks written to Fathi Yusuf for personal use (B-2)
- H-162 Claims based on monitoring reports/accounting 2007-2012 (B-2)
- ~~H-163 Loss of Assets as a result of Wrongful Dissolution~~²

1. Schedule for Remaining Discovery As to the Part B(2) Claims:

All written interrogatories, requests for production of documents, and requests for admissions have been exchanged between the parties as to these claims. Any motions to compel will be filed by August 16, 2021. Remaining fact witness depositions, including depositions of non-parties, taken for purposes of discovery and/or to preserve testimony for trial, shall be completed on a per-claim basis as agreed between the parties before November 15, 2021.

2. Schedule for Disposition of Part B(2) Claims:

The parties will each file motions for summary judgment on their affirmative remaining Part B(2) Claims by January 15, 2022. Claims for which the Master feels an evidentiary hearing is deemed necessary will be scheduled to occur promptly after denial of a summary judgment motion as the Master, the parties and counsel will be familiar and well versed on the issues, rather than waiting until a later date.

¹ This claim was stricken per Order dated July 7, 2020.

² This claim has already been the subject of briefing and an interlocutory hearing and is currently pending before the Master.

a. Expert Discovery and Disposition of remaining Part B(2) Claims:

The parties anticipate that following the close of the fact discovery of the Part B(2) claims, that many will require expert testimony and thus, expert discovery will be necessary.

The party asserting the claim(s) shall serve notices identifying all of his expert witnesses, and said expert witnesses' curriculum vitae and written reports, not later than February 15, 2022.

The party defending the claim(s) shall serve notices identifying all of their expert witnesses, and said expert witnesses' curriculum vitae and written reports, not later than March 15, 2022.

All expert witness depositions, for purposes of discovery and to preserve testimony for trial, shall be completed not later than April 30, 2022.

All motions to compel, for sanctions, or for protective orders with respect to expert discovery, shall be filed and served not later than May 15, 2022.

The parties shall jointly contact the Master to attempt an informal resolution of any discovery disputes prior to filing expert discovery motions.

Daubert/Kuhmo motions shall be filed and served not later than June 15, 2022.

b. Disposition of Claims After Expert Testimony:

As to the remaining claims that exist following the close of the expert discovery phase and *Daubert/Kuhmo* motions, to the extent any remaining claims may be disposed of through a summary judgment process, the parties will each file motions for summary judgment on their affirmative remaining Part B(2) claims by July 15, 2022. Claims for which the Master feels an evidentiary hearing is deemed necessary will be scheduled to occur promptly after any denial of a

summary judgment motion as the Master, the parties and counsel will be familiar and well versed in the topic, rather than waiting until a later date.

III. Interlocutory Hearings

To be efficient with the Master's and parties' time and resources, in the event that certain matters require an evidentiary hearing for the Part B(1) and (2) claims, the parties will attempt to group the claims to be heard at any single hearing with overlapping issues, documents and witnesses. No later than 10 days prior to any scheduled Interlocutory Hearing, all motions in limine and V.I. Rule of Evidence 104 motions shall be filed and served.

The parties ask the Master to tentatively schedule³ the first of these for the already briefed H-142 (half-acre at Tutu) for a full, in person hearing on Wednesday, September 8, 2021. If this is not convenient, other suggested dates are: August 30, September 1 or September 2, 2021.

IV. Remaining Part A Claims:

A. Claims to John Gaffney. With regard to the Part A Claims:

It should be noted that the Gaffney (Part A) process involved the Court less than the full-briefing (Part B) process – and thus 30 claims were added to the original 101 Part A claims. Thus, the “starting figure” for Part A claims was actually 131.

1. 101 original claims were designated as Part A Claims requiring a report from John Gaffney.
2. 30 Part B claims were moved to Gaffney / Part A.
3. Thus, **a total of 131 claims** are being submitted to Gaffney.
4. To date Gaffney has completed 30 claims.

³ Yusuf and United believe that this date is available, and thus, seek to hold it as a possible hearing date. Yusuf and United will be able to confirm their availability for these dates in July.

5. To date, Hamed has conceded approximately \$536,556, and Yusuf \$44,619.28.
6. Hamed has removed 6 other claims unilaterally.
7. 96 claims remain to be submitted to Gaffney.

While the process is slow, it has already diverted 30 of the original Part B claims from the need for full consideration by the Court. Therefore, the parties request that the Master allow it to continue at the current pace and to provide a status report every ninety (90) days to alert the Master if there have been any unforeseen delays.

If it appears after the submission of any particular report by Gaffney that the claim to which it pertains remains an open issue and is not resolved, the parties will confer to determine if any further discovery, including possible expert discovery, is needed and if not, then the claim will be briefed via a motion for summary judgment within 90 days of completion of the Gaffney claims – and if the Master feels an evidentiary hearing is deemed necessary it will be scheduled to occur thereafter.

V. Final Accounting Report and Ultimate Distribution Recommendation

The parties are undertaking to develop a comprehensive template for a Final Accounting Report and Ultimate Distribution Recommendation based upon the various interim rulings made by the Master. The parties anticipate they will stipulate to the format of the template and such template can be used by the Master to reflect the accounting allocations between the parties as determined by his various interlocutory Orders with his Final Accounting Report and Ultimate Distribution Recommendation submitted to Judge Brady.

Respectfully submitted,

LAW OFFICES OF JOEL H. HOLT

DATED: June 11, 2021

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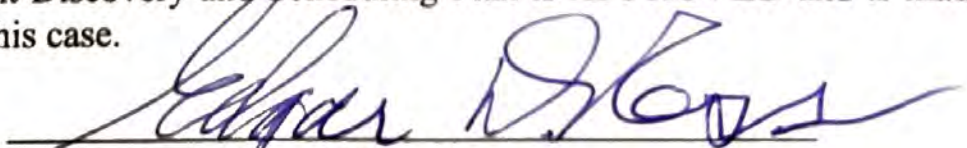
DATED: June 11, 2021

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The foregoing Amended Joint Discovery and Scheduling Plan is **APPROVED** and is made the Case Management Order in this case.

Dated: June 14th, 2021



Hon. Edgar D. Ross
Master

CERTIFICATE OF SERVICE

It is hereby certified that on this 11th day of June, 2021, I served a true and correct copy of the foregoing **Second Amended Joint Discovery and Scheduling Plan**, which complies with the page and word limitations set forth in Rule 6-1(e), via e-mail addressed to:

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