

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,

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.

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

**HAMED'S INFORMATIONAL NOTICE REGARDING MASTER'S
NOVEMBER 16, 2021 ORDER (WRONGFUL DISSOCIATION)**

The Master's November 16, 2021 Order held that the issue of wrongful dissociation is not a claim within a RUPA partnership accounting, but rather, is an independent cause of action that must be litigated between the partners. However, Hamed notes that the Master's comments that another action can be brought to prosecute this claim is not applicable under the present procedural posture of the case. Hamed requests no action by the Master, but files this informational notice to further good order.

RUPA provides that all claims between the partners, by third parties, between the partners and the partnership and involving partnership accountings can now, after the 1997¹ amendments, be brought in a single civil action. 26 V.I.C. § 47 ("Actions by and against partnership and partners (a) A partnership may sue and be sued in the name of the partnership. (b) An action may be brought against the partnership *and, to the extent not inconsistent with* ²*section 46 of this chapter, any or all of the partners in the same action or in separate actions.*") In bringing an action against the partnership, the plaintiff may sue in the names of the partners as individuals doing business as the partnership, or in the firm name, or both, *Andrews v. Gonzalez*, 386 Ill. Dec. 81, 82, 19 N.E.3d 1234, 1235 (2014).

¹ Adopted in the USVI in 1998.

² Similarly, in jurisdictions where this has arisen, it has been held that if the cause wasn't initially pursued together, if a separate, subsequent suit is necessary, the statute of limitations is considered tolled. *See, e.g., Kingsbury v. Westlake Mgmt. Co.*, No. CIV-14-468-M, 2015 U.S. Dist. LEXIS 47849, at *5-6 (W.D. Okla. Apr. 13, 2015). ("In allowing separate suits, the Legislature must have contemplated that at least some subsequent actions against partners would be brought outside of the original limitations period.")

Therefore, when Hamed, a partner, filed the original action in this matter he sued not only for an accounting, but also pursuant to the statutory dissociation provisions of RUPA—individually, against Yusuf as a partner. See Count 2 of the October 19, 2012 *First Amended Complaint*, at paragraphs 41-42. (“Yusufs partnership interests should be disassociated from the business. . . .”) Moreover, in that amended complaint, Hamed sought the identical *relief* sought in his motion for summary judgment—redress for unjust enrichment.³ See *ad damnum* section at paragraphs 8 and 9, *First Amended Complaint* at 16.

8) A judicial determination under 26 V.I.C. including § 121(5) that it is not practicable to continue the Partnership with Yusuf so that Yusufs partnership interests should be disassociated from the business, allowing Hamed to continue the Partnership business without him pursuant to the provisions of 26 V.I.C. including §§ 122 -123, 130 and what is now Subchapter VII of Title 26;

9) A judicial determination that the defendant United Corporation would be unjustly enriched if it does not disburse the Partnership funds and property belonging to the plaintiff forthwith;

Therefore, Hamed will address the issue of dissociation directly—before Judge Brady, as the Master has made it clear that this is not a RUPA accounting claim yet assigned to him, and is, therefore is presently subject to broader individual litigation between the partners—which is still before Judge Brady along with the balance of this action.

³ In the instant motion, Hamed sought a judicial determination that the defendant United Corporation would be unjustly enriched if it does not disburse the Partnership funds associated with the wrongful dissociation.

Dated: November 22, 2021

A handwritten signature in blue ink that reads "Carl J. Hartmann III". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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CERTIFICATE OF SERVICE

I hereby certify that on this 22th 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

edgarrossjudge@hotmail.com

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CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

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