



for Yusuf's alleged wrongful dissociation." Master's November 16, 2021 Memorandum Opinion at p. 11. Recognizing that Hamed had not pled a claim for wrongful dissociation in his amended Complaint in this case, the Master added that "[i]f Hamed wishes to proceed with a wrongful dissociation cause of action against Yusuf personally, then Hamed needs to file a separate lawsuit against Yusuf personally for Yusuf's alleged wrongful dissociation." *Id.* at p. 12.

Hamed's Motion for a Second Rule 53 Reference to Special Master Ross asks this Court to overrule Judge Ross's determination that the H-163 claim for damages, if it is to be litigated at all, must be asserted in a new lawsuit. In making this request, Hamed simply asserts, without any pertinent citations to allegations of his amended Complaint, that he "filed an amended complaint to add a claim for wrongful dissociation pursuant to the Revised Uniform Partnership Act ("RUPA")." Hamed's Motion at p. 2. A review of the amended Complaint in this case reveals no claim for wrongful dissociation. The words "wrongful dissociation" appear nowhere in Counts I, II or III, or in the detailed prayer for relief at the end of the Amended Complaint. *See* Hamed's Amended Complaint, attached hereto, pp. 13-15, and 15-17. Count II mentions "dissociation," as Hamed notes, but not in the context of a wrongful dissociation. Instead, Count II seeks a judicial determination under 26 V.I.C. § 121(5) that it is "not practicable to continue the Partnership with Yusuf so that Yusuf's partnership interests should be disassociated from the business, allowing Hamed to continue the Partnership's business without him..." *See* Amended Complaint, p. 14, ¶ 42; *see also* Prayer for Relief, p. 16, item 8. "Not practicable" hardly is tantamount to an allegation that Yusuf acted in a way that amounts to a wrongful dissociation.

The July 2017 ruling of this Court (per the Honorable Douglas A. Brady) striking the jury demand in this case also reinforces that no claim for damages for "wrongful dissociation" was ever pled. This Court specifically held in that ruling that Hamed's Amended Complaint seeks equitable

relief only, and not damages. It analyzed the three Counts in Hamed’s Complaint and found that each of them sought exclusively equitable relief, not damages. *See Hamed v. Yusuf, supra*, 69 V.I. at 178. As this Court ruled, Count II (and Count III) “*explicitly* contemplate only declaratory and injunctive relief and therefore present only equitable claims carrying no right to trial by jury.” *Hamed v. Yusuf, supra*, 69 V.I. at 173, 174 (emphasis added).

As for the request in Count II that Yusuf be dissociated from the business, the Court found that this is “properly construed not as a separate cause of action, but as a prayer for relief in the form of the dissolution and wind up of the partnership . . .” *Id.* at 174, n. 2.<sup>1</sup> This is the very relief that the Court provided when it dissolved the partnership and adopted the Final Wind Up Plan in this case. *See Hamed v. Yusuf, supra*, 69 V.I. at 168, n.2 (“the Court has already effectively entered judgment on Count II of Plaintiff’s Complaint, by dissolving the partnership and adopting the Final Wind Up Plan on January 7, 2015”). What Hamed is seeking in the instant Motion is, therefore, at complete loggerheads with this Court’s prior ruling on what the Amended Complaint actually alleged. Because the Court has in effect already ruled that Hamed has not plead a claim for damages against Yusuf, and indeed has already provided all the relief sought in Count II by ordering dissolution, what Hamed is asking this Court to do is to make a Rule 53 reference to the Master on a non-existent claim for damages.

Moreover, even if a claim for damages for wrongful dissociation had been pled, that claim could not be maintained as a matter of law because Hamed agreed that dissolution and windup of the partnership was an appropriate remedy. Hamed acknowledged in a filing nearly six years ago

---

<sup>1</sup>The Court went on to hold that despite what it termed a “nominal, unsupported request for compensatory damages . . .” in Count I of Hamed’s Complaint and in Yusuf’s counterclaim counts for breach of fiduciary duty, conversion and civil conspiracy, *see* 69 V.I. at 178 and 183, both parties had functionally pled “a single, tripartite action for the equitable dissolution, wind up, and accounting of the partnership pursuant to 26 V.I.C. § 75(b)(2)(iii).” *See also* 69 V.I. at 196 (same).

that whether Yusuf engaged in a rightful or wrongful dissociation when he attempted to dissolve the partnership in February 2012 is “now moot, as Mohammad Hamed likewise has given notice that *he* is dissolving the partnership.” See Hamed’s April 30, 2014 Response to Defendant’s Motion to Appoint Master for Judicial Supervision of Partnership Wind Up, p. 2 (emphasis added). See also Hamed’s Notice of Dissolution of Partnership, appended to its April 20, 2014 Response as Exhibit 1. Hamed acknowledged that because “dissolution is the stated preference of both partners,” the “legal arguments raised in [Yusuf’s and United’s] memorandum as to Yusuf’s alleged ‘right’ to dissolve the partnership need no response” and “all of these arguments are now moot.” *Id.* at p. 2. Hamed is plainly not entitled to proceed on an issue he conceded to be moot years ago. Nor, in light of that concession, can Hamed now claim that Judge Brady erred by construing Count II of his Complaint as a request for the dissolution and wind up of the partnership, and then granting precisely that equitable relief.

The Court should therefore deny Hamed’s request to reverse the Master’s November 16 ruling and refer the wrongful dissociation claim back to him for decision. The Master was correct to treat the H-163 damages claim as an unpled claim that must be asserted, if at all, in a separate lawsuit.

Respectfully submitted,

**DUDLEY NEWMAN FEUERZEIG, LLP**

**DATED:** December 21, 2021

By: s/Charlotte K. Perrell  
**CHARLOTTE K. PERRELL** (V.I. Bar No. 1281)  
Law House 1000 Frederiksberg Gade  
P.O. Box 756  
St. Thomas, VI 00804-0756  
Telephone: (340) 715-4422  
Telefax: (340) 715-4400  
E-Mail: cperrell@dnfvi.com

Attorneys for Fathi Yusuf and United Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of November , 2021, I caused the foregoing Opposition which complies with the page and word limitations of Rule 6-1(e), to be served upon the following via the Case Anywhere docketing system:

Joel H. Holt, Esq.  
**LAW OFFICES OF JOEL H. HOLT**  
Quinn House - Suite 2  
2132 Company Street  
Christiansted, St. Croix  
U.S. Virgin Islands 00820  
E-Mail: [holtvi.plaza@gmail.com](mailto:holtvi.plaza@gmail.com)

Carl J. Hartmann, III, Esq.  
5000 Estate Coakley Bay – Unit L-6  
Christiansted, St. Croix  
U.S. Virgin Islands 00820  
E-Mail: [carl@carlhartmann.com](mailto:carl@carlhartmann.com)

Mark W. Eckard, Esq.  
**ECKARD, P.C.**  
P.O. Box 24849  
Christiansted, St. Croix  
U.S. Virgin Islands 00824  
E-Mail: [mark@markeckard.com](mailto:mark@markeckard.com)

Jeffrey B.C. Moorhead, Esq.  
**JEFFREY B.C. MOORHEAD, P.C.**  
C.R.T. Brow Building – Suite 3  
1132 King Street  
Christiansted, St. Croix  
U.S. Virgin Islands 00820  
E-Mail: [jeffreymlaw@yahoo.com](mailto:jeffreymlaw@yahoo.com)

The Honorable Edgar D. Ross  
E-Mail: [edgarrossjudge@hotmail.com](mailto:edgarrossjudge@hotmail.com)

and via U.S. Mail to:

The Honorable Edgar D. Ross  
Master  
P.O. Box 5119  
Kingshill, St. Croix  
U.S. Virgin Islands 00851

Alice Kuo  
5000 Estate Southgate  
Christiansted, St. Croix  
U.S. Virgin Islands 00820

\_\_\_\_\_  
s/Stefan B. Herpel