

stores shall continue as they have throughout the years prior to this commencement of this litigation, with Hamed, or his designated representative(s), and Yusuf, or his designated representative(s), jointly managing each store, without unilateral action by either party, or representative(s), affecting the management, employees, methods, procedures and operations.

Thus, that Order enjoins and restrains unilateral acts by any of the parties after April 25, 2013 regarding "employees" -- including but not limited to discipline, the filing of suits for the recovery of funds, aspects of the employer-employee relationship or termination.

Nor do United and Yusuf dispute that the Order, at paragraph 40, specifically identifies defendant-counterclaimant third-party claimant Wadda Charriez ("Charriez") as just such an employee of Plaza Extra Supermarkets.

40. On January 8, 2013, Yusuf confronted and unilaterally terminated 15 year accounting employee Wadda Charriez for perceived irregularities relative to her timekeeping records of her hours of employment, threatening to report her stealing if she challenged the firing or sought unemployment benefits at Department of Labor **Charriez had a "very critical job" with Plaza Extra.** . . .and the independent accountant retained by Yusuf agreed that she was "a very good worker" and that her work was "excellent." . . .Because the Hamed co-managers had not been consulted concerning the termination or shown any proof of the employee's improper activity, Mafeed Hamed instructed Charriez to return to work the following day. . . . On Charriez' January 9, 2013 return to work, Yusuf started screaming at her, and told her to leave or he would call the police. . . . Yusuf did call police and demanded on their arrival that Charriez, and Mufeed Hamed and Waleed Hamed be removed from the store, and threatened to close the store. . . .

Thus, the filing of this suit by United is an overt act of contempt of this Court and the Opposition is similarly an act of contempt and should be disregarded.

REPLY

A. Prima Facie Tort

United and Yusuf argue facts. They also attempt to argue the merits of the case. In fact, they do everything except state a basis for not granting Charriez' motions. This is a procedural point -- not summary judgment. The only actual law discussed is a complete contradiction -- prima facie tort does not apply because other torts cover the acts, yet they moved to dismiss the interference with a witness at a trial because no such cause of action exists. Well, which is it? It is clear that no tort in this jurisdiction directly addresses the federal tort which was originally pled. That is the purpose of prima facie tort. At 3 of the Opposition, they state:

Compellingly, as conceded by her Motion to File the proposed Second Amended Counter-Claim, "Charriez makes no other significant changes to her filing other than to bring the exact same allegations, facts and allegations of damage under the theory of **prima facie tort.**" (emphasis in the original). In other words, the gist of the allegations in the Defendant's proposed Second Amended Counter-Claim and Third-Party Complaint are duplicative or indistinct from other earlier asserted allegations; namely, that United Corporation, through Fathi Yusuf and other officers, agents and/or employees of the corporation, acted unlawfully when they attempted to terminate Wadda Charriez. . . .

Exactly. They originally pointed out that the wrong of terminating an employee for giving true testimony to a court of law is not under the federal statute because this is a state court. Thus, the facts are the same, but the cause of action changes to be prima facie tort. There is no basis for denying Charriez an opportunity to prove the tort at this early procedural stage. Again, the opposition is a summary judgment motion -- as can be seen from the amount of factual pleading. Simply put her claims of tampering with and intimidating her as a witness are not "duplicative or indistinct from other asserted

claims," and she should be allowed to amend. The substantive attacks are best left for Rule 12 or summary judgment practice.

B. The "Renewed Motion"

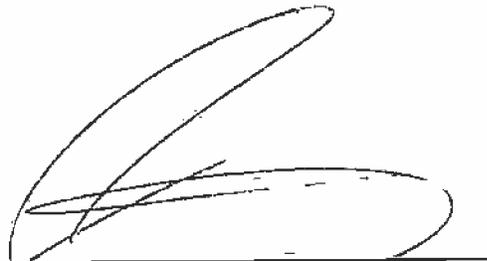
The entire (extensive) second half of the opposition has the following caption:

PLAINTIFF UNITED CORPORATION AND THIRD-PARTY
DEFENDANT FATHI YUSUF **RENEW THEIR MOTION TO
DISMISS** ALL REMAINING CLAIMS OF THE FIRST AMENDED
COUNTER-CLAIM AND THIRD-PARTY COMPLAINT AS WELL
AS THE PROPOSED SECOND AMENDED COUNTER-CLAIM
AND THIRD-PARTY COMPLAINT

What does this even mean? It violates the crystal clear rule against filing any pleading after the motion, opposition and reply -- and is nothing more than more argument on another motion. It should be ignored.

Charriez simply re-asserts all of her positions in the original briefing.

Date: December 13, 2013

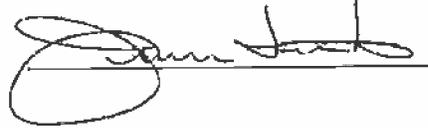


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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of December, 2013, I served a copy of the foregoing document by hand on:

Nizar A. DeWood
The DeWood Law Firm
2006 Eastern Suburb, Suite 101
Christiansted, VI 00820

A handwritten signature in black ink, appearing to read "Nizar DeWood", written over a horizontal line.