

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

UNITED CORPORATION,)	
)	
Plaintiff,)	CASE NO. SX-13-CV-152
)	
vs.)	ACTION FOR DAMAGES
)	
WADDA CHARRIEZ,)	JURY TRIAL DEMANDED
)	
Defendant.)	
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WADDA CHARRIEZ,)	
)	
Counter-Claimant,)	CASE NO. SX-13-CV-152
)	
vs.)	ACTION FOR DAMAGES
)	
UNITED CORPORATION,)	JURY TRIAL DEMANDED
)	
Defendant.)	
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WADDA CHARRIEZ,)	
)	
Third-Party Plaintiff,)	CASE NO. SX-13-CV-152
)	
vs.)	ACTION FOR DAMAGES
)	
FATHI YUSUF,)	JURY TRIAL DEMANDED
)	
Third-Party Defendant.)	

**UNITED CORPORATION'S RESPONSE TO WADDA CHARRIEZ'S
FIRST REQUESTS TO ADMIT**

Plaintiff /Counterclaim Defendant UNITED CORPORATION ("United") hereby provides its Responses to Wadda Charriez's First Requests to Admit to Plaintiff United Corporation as follows:

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**
1000 Frederiksberg Gade
P.O. Box 756
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GENERAL OBJECTIONS

United makes the following general objections to the Requests to Admit. These general objections apply to all or many of the Requests to Admit, thus, for convenience, they are set forth herein and are not necessarily repeated after each objectionable Requests to Admit. The assertion of the same, similar, or additional objections in the individual responses to the Requests to Admit, or the failure to assert any additional objections to a discovery request does not waive any of United's objections as set forth below:

(1) United objects to these Requests to Admit to the extent they may impose obligations different from or in addition to those required under the Virgin Islands Rules of Civil Procedure.

(2) United objects to these Requests to Admit to the extent that they use the words "any" and "all" as being overly broad, unduly burdensome, immaterial, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

(3) United objects to these Requests to Admit to the extent they seek information which is protected by the attorney-client privilege or work-product doctrine, including information prepared in anticipation of litigation, or for trial, by or on behalf of United or relating to mental impressions, conclusions, opinions, or legal theories of its attorneys or representatives, or any other applicable privilege or doctrine under federal or state statutory, constitutional or common law. United's answers shall not include any information protected by such privileges or doctrine, and documents or information inadvertently produced which includes such privileged information shall not be deemed a waiver by United of such privilege or doctrine.

(4) United objects to these Requests to Admit to the extent that they seek information and documents concerning any matter that is irrelevant to the claims or defenses of any party to this action, and not reasonably calculated to lead to the discovery of admissible evidence.

(5) United objects to these Requests to Admit to the extent that they use terms or phrases that are vague, ambiguous, or undefined. United's response to such request will be based upon its understanding of the request.

(6) United objects to these Requests to Admit to the extent they seek documents or information not in the possession, custody or control of United, on the grounds that it would subject him to undue burden, oppression and expense, and impose obligations not required by the Virgin Islands Rules of Civil Procedure.

(7) United has not completed either his discovery or preparation for trial of this matter. Accordingly, United's response to these Requests to Admit is made without prejudice to United's right to make any use of, or proffer at any hearing or at trial, and are based only upon information presently available. If any additional, non-privileged, responsive documents are discovered, these Responses to Requests to Admit will be supplemented to the extent that supplementation may be required by the Virgin Islands Rules of Civil Procedure.

(8) United objects to these Requests to Admit to the extent that they are compound and not a single Request. Hence, these Requests to Admit should be counted as more than a single Request such that when all of the subparts are included together with other Requests to Admit they may exceed the 50 Requests to Admit agreed upon by the parties.

RESPONSES TO REQUESTS TO ADMIT

Request to Admit No. 1: Admit or deny that on January 8, 2013 Fathi Yusuf told Wadda Charriez she was fired.

Response: Admit that Fathi Yusuf told Wadda Charriez she was fired but upon reasonable inquiry has been unable to establish the precise date.

Request to Admit No. 2: Admit or deny that an hourly employee must be paid for all hours worked, whether that work is conducted on or off the employer's premises.

Response: Admit, subject to the qualification that the work off premises must be authorized by a superior.

Request to Admit No. 3: Admit or deny that with Wally Hamed, representing his father, Mohammad Hamed's, interests in the Hamed-Yusef partnership pursuant to a power of attorney, or the Hamed-Yusef partnership, authorized the current lawsuit, *United Corporation v. Wadda Charriez*, Superior Court of the Virgin Island, Division of St. Croix, No. 2013-CV-152.

Response: Denied. By way of further answer, United states that it rather than the partnership, initiated the suit against Wadda Charriez.

Request to Admit No. 4: Admit or deny that there was a telephonic conference with Judge Brady in *Hamed v. Yusuf* SX-12-CV-370, "On October 7, 2014".

Response: Admit.

Request to Admit No. 5: Admit or deny that at a telephonic conference with Judge Brady in *Hamed v. Yusuf*, SX-12-CV-370 - on October 7, 2014, "defendants' [Yusuf and United, stated their] agreement that the relationship between plaintiff and Yusuf constituted a partnership."

Response: Deny. By way of further answer, United states that their position regarding the existence of a partnership was set forth in Yusuf and United's June 2, 2014 opposition to the motion for summary judgment, and was not made orally at the October 7, 2014 telephonic conference.

Request to Admit No. 6: Admit or deny that a telephonic conference with a Judge Brady in *Hamed v. Yusuf*, SX-12-CV-370 on October 7, 20[14] "the Court advised that based Defendants' agreement that the relationship between Plaintiff and Yusuf constituted a partnership that it would enter Summary Judgment as to the existence of a partnership."

Response: Deny that the statement in quotation marks appears in the transcript of the October 7, 2014 telephonic conference. By way of further answer, United states that the quoted language, with one exception, appears in the Court's November 7, 2014 Order, and that the statement fairly paraphrases a statement made by the Court at the October 7, 2014 telephonic conference, at page 5 of that transcript. The exception is that the word "Defendant" appears in place of the word "Yusuf" in the November 7, 2014 Order.

Request to Admit No. 7: Admit or deny that "based Defendant's agreement that relationship between Plaintiff and Yusuf constituted a partnership" at that October 7, 2014 telephone conference Judge Brady entered Summary Judgment which stated, inter alia, "In his motion re:

Master, defendant Yusuf conceded the existence of a partnership by operation of law between himself and Plaintiff Hamed, and requested that this Court dissolve said partnership."

Response: Deny, insofar as the request to admit is asserting that either of the quoted statements were made by the Court at the October 7, 2014 telephonic conference or that the Court granted partial summary judgment at that conference. By way of further answer, United admits that Judge Brady entered a written order of partial summary judgment which contained the two quoted statements, with the one exception described above in United's response to request to admit number 6. By way of further answer, United states that the written order granting partial summary judgment is dated November 7, 2014.

Request to Admit No. 8: Admit or deny that "based Defendants' agreement that the relationship between Plaintiff and Yusuf constituted a partnership" at that October 7, 2014 telephonic conference, Judge Brady entered the Summary Judgment which stated, inter alia, "In subsequent filings and in open court, Defendants have reiterated their concession as to the existence of the partnership."

Response: Deny, insofar as the request to admit is asserting that either of the quoted statements were made by the Court at the October 7, 2014 telephonic conference or that the Court granted partial summary judgment at that conference. By way of further answer, United states that Judge Brady entered a written order of partial summary judgment which contained the two quoted statements, with the one exception described above in United's response to request to admit number 6, and further state that the written order granting partial summary judgment is dated November 7, 2014.

Request to Admit No. 9: Admit or deny that "based Defendants' agreement that the relationship between Plaintiff and Yusuf constituted a partnership" at that October 7, 2014 telephonic conference, Judge Brady entered Summary Judgment which stated, inter alia, "The formal declaration of the existence of a partnership is a necessary pre-requisite to the dissolution and winding-up of the partnership, the process upon which the parties have embarked."

Response: Deny, insofar as the request to admit is asserting that either of the quoted statements were made by the Court at the October 7, 2014 telephonic conference or that the Court granted partial summary judgment at that conference. By way of further answer, United states that Judge Brady entered a written order of partial summary judgment which contained the two quoted statements, with the one exception described above in United's response to request to admit number 6, and further states that the written order granting partial summary judgment is dated November 7, 2014.

Request to Admit No. 10: Admit or deny that "based Defendants' agreement that the relationship between Plaintiff and Yusuf constitutes a partnership" at the October 7, 2014 telephonic conference, Judge Brady entered the Summary Judgment which stated, inter alia, "The Court finds and declares that a partnership was formed in 1986 by the oral agreement between Plaintiff and defendant Yusuf for the ownership and operation of the three Plaza Extra Stores, with each partner having a 50% ownership interest in all partnership assets and profits, and a 50% obligation as to all losses and liabilities."

Response: Deny, insofar as the request to admit is asserting that either of the quoted statements were made by the Court at the October 7, 2014 telephonic conference or that the Court granted partial summary judgment at that conference. By way of further answer, United admits that

Judge Brady entered a written order of partial summary judgment which contained the two quoted statements, with the one exception described above in United's response to request to admit number 6, and United further states that the written order granting partial summary judgment is dated November 7, 2014.

Request to Admit No. 11: Admit or deny that in his Motion re Master, defendant Yusuf conceded the existence of a partnership between Hamed and Yusuf for the operation of the Plaza Extra Stores by operation of law between himself and Plaintiff Hamed and requested that this Court dissolve the partnership.

Response: Admit, subject to the qualification that the precise words used in that Motion were, "Given the animosity between the parties noted by this Court, Yusuf's complete lack of trust in Hamed, and Yusuf's unwillingness to continue to carry on any business relationship with Hamed, Yusuf now concedes for the purposes of this case that he and Hamed entered into a partnership to carry on the business of the Plaza Extra Stores and to share equally the net profits from the operation of the Plaza Extra Stores." United further states that the partners operated the Plaza Extra grocery stores under the corporate structure of United Corporation.

Request to Admit No. 12: Admit or deny that in subsequent filings and in open Court in *Hamed v. Yusuf*, defendants' have reiterated their concession as to the existence of the partnership between Hamed and Yusuf for the operation of the Plaza Extra Stores.

Response: United objects to this request on the grounds that it is ambiguous insofar as it uses the adjective "subsequent" without referring to an event or date to frame a time period. Subject to that objection, United admits that, in various filings and statements in open Court made since

entry of the Court's November 7, 2014 Order, United and Yusuf accept that there was a partnership between Hamed and Yusuf which operated the Plaza Extra Stores, albeit a partnership which acted through United Corporation. By way of further answer, United states that their filings and statements in open court since entry of the Court's November 7, 2014 Order generally discuss the partnership as an entity without couching that as a "concession."

Request to Admit No. 13: Admit or deny that Yusuf made a formal declaration of the existence of the Hamed-Yusuf Plaza Extra Stores partnership, and that Hamed and Yusuf have embarked on the dissolution and winding-up of the partnership.

Response: United objects to this request to admit on the ground that the term "formal declaration" is ambiguous. Subject to that objection, United incorporates its response to Request to Admit No. 12, and also admits that Hamed and Yusuf are dissolving and winding up the partnership.

Request to Admit No. 13: (sic): Admit or deny that a partnership was formed in 1986 by the oral agreement between Plaintiff and defendant Yusuf for the ownership and operation of the three Plaza Extra Stores, with each partner having a 50% ownership interest in all partnership assets and profits and a 50% obligation as to all losses and liabilities.

Response: Admit, subject to the qualification that the partnership was operated through United Corporation and that under an order of the Court signed on July 21, 2017, the 50% "interest" and "obligation" of each partner is not being enforced for periods preceding September 17, 2006.

Request to Admit No. 14: Admit or deny that Wadda Charriez was a witness at the TRO hearing in *Hamed v. Yusuf* in 2013.

Response: Admit.

Request to Admit No. 15: Admit or deny that when Wadda Charriez testified as a witness in the TRO hearing in *Hamed v. Yusuf* in 2013, her testimony was hostile to Yusuf and United and that she was questioned as a hostile witness.

Response: United objects to the adjective “hostile” in that request on the grounds that it is ambiguous, and objects to the request to admit that she was a “hostile witness” on the ground that that calls for a legal conclusion. Subject to these objections, United admits that Wadda Charriez was called as a witness at the preliminary injunction hearing by Hamed and testified on both direct and cross-examination. She was not called as a “hostile witness” by Hamed under the usual legal meaning of that term.

Request to Admit No. 16: Admit or deny that when Wadda Charriez testified as a witness in the TRO hearing in *Hamed v. Yusuf* in 2013, her testimony was that an attempt was made to terminate her because of her willingness to testify.

Response: Deny.

Request to Admit No. 17: Admit or deny that Wadda Charriez's attempted termination by United in 2013 was not successful.

Response: Admit that United attempted to terminate Wadda Charriez's employment and that the termination was not successful, subject to the qualification that it could not be effected because

of the issuance of the April 25, 2013 preliminary injunction which prohibited any unilateral action by a party to terminate an employee.

Request to Admit No. 18: Admit or deny that Wadda Charriez's attempted termination in 2013 did not result in her being separated from employment at Plaza Extra.

Response: Admit.

Request to Admit No. 19: Admit or deny that Wadda Charriez's attempted termination in 2013 did not result in her being separated from employment at Plaza Extra.

Response: See response to Request to Admit No. 18.

Request to Admit No. 20: Admit or deny that Wadda Charriez's attempted termination in 2013 did not result in her being separated from employment at Plaza Extra because of the intervention of the members of the Hamed family.

Response: United objects to this request to admit on the grounds that the term “intervention” is imprecise and ambiguous. Subject to that objection, United admits that the April 25, 2013 preliminary injunction entered in this case precluded her termination by United, and that the preliminary injunction was entered in response to Hamed’s filing of a motion for a TRO.

Request to Admit No. 20 (sic): Admit or deny that Wadda Charriez's attempted termination in 2013 did not result in her being separated from employment at Plaza Extra because of the intervention because Hamed was a 50% partner in the operation of the Plaza Extra Supermarkets.


Response: United objects to this request to admit on the grounds that it contains two “because” clauses and is therefore ambiguous. Assuming this request is asking United to admit that the attempted termination of Wadda Charriez was unsuccessful because Hamed was a 50% owner in the operation of the Plaza Extra Supermarkets, United denies it, and incorporates by reference its response to Request to Admit No. 20. The April 25, 2013 preliminary injunction did not determine that Hamed was a 50% owner in the operation of the Plaza Extra Supermarkets.

Respectfully submitted,

DUDLEY, TOPPER AND FEUERZEIG, LLP

DATED: May 15, 2018

By:



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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 2018, I caused the foregoing **UNITED CORPORATION'S RESPONSE TO WADDA CHARRIEZ'S FIRST REQUESTS TO ADMIT TO UNITED CORPORATION** to be served upon the following via e-mail:

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