

May 15, 2013

VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

FATHI YUSUF and UNITED CORPORATION,
Appellants/Defendants,

S. Ct. Civ. No. 2013-0040
Re: Super. Ct. Civ. No. 370/2012 (STX)

v.

MOHAMMAD HAMED by his authorized agent,
WALEED HAMED,
Appellee/Plaintiff.

2013 MAY 15 PM 3:47

On Appeal from the Superior Court of the Virgin Islands

ORDER

THIS MATTER is before the Court on a Notice of Appeal filed on May 13, 2013 in which Appellants appeal an “Order dated April 25, 2013, granting Plaintiff’s emergency motion to renew application for TRO, with memorandum opinion of same date” along with another interlocutory order dated April 25, 2013¹.

Prior to considering the merits of an appeal, this Court must first determine if it has appellate jurisdiction over the matter. *V.I. Gov’t Hosp. and Health Facilities Corp. v. Gov’t*, 50 V.I. 276, 279 (V.I. 2008). Appellants correctly state that this Court has jurisdiction to consider an appeal from an order granting an injunction. *See* 4 V.I.C. §33(b)(1). However, Appellants state that the order they appeal grants a TRO, not an injunction. This Court has previously explained under what circumstances a party may immediately appeal a TRO:

As a general rule, temporary restraining orders are not appealable interlocutory orders. However, temporary restraining orders that are continued, without the consent of the parties, for a substantial length of time past the period typically permitted by statute or court rule become, in effect, appealable preliminary

¹ Specifically, Appellant appeals the April 25, 2013 Order granting: “(1) Plaintiff’s notice of filing supplemental deposition exhibits; (2) Plaintiff’s second request to take judicial notice and request to supplement the hearing record; (3) Plaintiff’s notice of supplementation of the preliminary injunction record; and (4) Plaintiff’s reply to opposition to Plaintiff’s notice of supplementation of the preliminary injunction record[.]”

injunctions. Here although 14 V.I.C. §606(h) states that a temporary restraining order shall expire within sixty days absent an extension for good cause, the Superior Court has extended the ... TRO beyond the typical sixty day period. Accordingly, the TRO has effectively become an appealable preliminary injunction.

Crucians in Focus, Inc. et al. v. VI 4D, LLP, 57 V.I. 529, 534-535 (V.I. 2012). (citations and quotations omitted). Because Appellant has not provided a copy of the TRO or the memorandum opinion accompanying the TRO, the Court cannot determine whether it has jurisdiction over this matter. *See, e.g., id.* at 535. (discussing whether the Court had jurisdiction to consider a TRO that was first issued on an ex parte basis pursuant to Fed.R.Civ.P. 65(b) and was extended beyond the date that it expired.) Accordingly, the premises considered, it is hereby

ORDERED that, within fourteen (14) days of the date of entry of this Order, Appellant **SHALL FILE** a brief, which may be in letter form, specifically addressing and discussing the issue of whether this Court has appellate jurisdiction over this appeal; and it is further

ORDERED that, within fourteen (14) days of the date of entry of this Order, Appellee **MAY FILE** a brief, which may be in letter form, specifically addressing and discussing the issue of whether this Court has appellate jurisdiction over Appellant's appeal; and it is further

ORDERED that this Order **SHALL NOT AFFECT** any other deadlines issued in this matter.

ORDERED that copies of this Order shall be served on the parties.

SO ORDERED this 15th day of May, 2013.

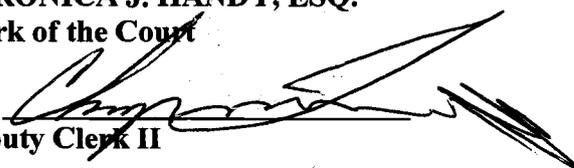


RHYS S. HODGE
Chief Justice

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ATTEST:

VERONICA J. HANDY, ESQ.
Clerk of the Court

By: 
Deputy Clerk II

Dated: 5/15/2013

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