

was produced in the preliminary injunction proceedings. Thus, no further discovery is needed as to this issue.

Second, this Court directed the parties to agree to a scheduling order. Plaintiff sent a proposed order, which Defendants rejected by submitting their own proposed order. See **Exhibit 1**. As the Court can see, after the parties conferred, the final agreed upon order that was submitted **is identical to the one suggested by Defendants**. See **Exhibit 1**. Thus, the current scheduling dates were those chosen by Defendants, who cannot now complain about having to adhere to a schedule they dictated, which allows this case to be ready for trial in mid-2014.

Third, the issues Defendants now claim warrant a revised scheduling order—the alleged need for items from the criminal case and a ruling on their Rule 12 motions—were both fully known when Defendants proposed the scheduling order that was eventually adopted.¹ Thus, these items are not new, just an excuse to seek a delay this matter.² Moreover, there was *never* any “understanding” incorporated into the current scheduling order that it would be extended if motions were not addressed, nor did Defendants seek to stay discovery until its motions were addressed. See **Exhibit 1**. Instead, Defendants agreed to proceed on a schedule they chose.

¹ The Rule 12(b)(6) motion is obviously without merit (as noted in Plaintiff's opposition), as both this Court and the Supreme Court clearly understand Plaintiff's allegations as discussed in their respective opinions, **both finding that Plaintiff is likely to succeed on the merits of his claim**. Moreover, if filing an answer is important to Defendants, they can file one without waiting for their Rule 12 motions to be addressed.

² Indeed, the Government made its files available years ago, resulting in boxes of documents being produced, thousands of which were then re-produced in this case. See **Exhibit 1**. The suggestion that there are some new documents not yet seen by counsel for the parties is nothing more than pure speculation.

Fourth, while Defendants reference the depositions Plaintiff has noticed, Plaintiff is aware of the scheduling order and has not asked this Court to extend it. Clearly it is prejudicial to Plaintiff to do anything to delay the trial date when he has been complying with the scheduling order entered by this Court (based on dates chosen by Defendants).

Finally, Defendants do not explain why the lengthy time they have had to do fact discovery to date was not sufficient to get any needed discovery done. If they chose not to do more fact discovery during that time period, that was their choice. For example, they never asked to do any fact depositions until last week. See **Exhibit 1**. In short, they have no legitimate basis for seeking an extension without explaining why the time they selected was insufficient to do this fact discovery.

While Defendants replaced one lawyer, but kept Nizar Dewood as co-counsel, that fact does not warrant a new scheduling order either. Indeed, new counsel certainly had to be aware of the current status of the case when entering its appearance.³ In short, the replacement of one counsel is not a basis for extending the case schedule, particularly since the issues have been significantly narrowed by the preliminary injunction proceedings and the subsequent decision of the V.I. Supreme Court.

As the V.I. Supreme Court noted during oral argument, this case should proceed expeditiously to resolve this conflict between these two families who have worked together for years. Indeed, **it is important to keep a scheduling order that allows this case to be heard in mid-2014**, which is already months beyond the time frame sought in Plaintiff's proposed scheduling order.

³ It should also be noted that United's former (well paid) lawyer *is still its counsel in the criminal case*. See Defendants' Exhibit 1. Thus, the changing of counsel appears to be nothing more than a tactic to be able to argue for an extension of the scheduling dates.

In summary, as there is no valid reason to continue any of the scheduling dates in this case that would affect the current schedule to have a trial in mid-2014, it is respectfully submitted that the "emergency motion" should be denied. A proposed Order is attached.

Dated: December 3, 2013



Joel H. Holt, Esq.
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Carl J. Hartmann III, Esq.
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Tele: (340) 719-8941

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of December, 2013, I served a copy of the foregoing in compliance with the parties consent, pursuant to Fed. R. Civ. P. 5(b)(2)(E), to electronic service of all documents in this action on the following persons:

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

Gregory H. Hodges
VI Bar No. 174
Law House, 10000 Frederiksberg Gade
P.O. Box 756
ST. Thomas, VI 00802
ghodges@dtflaw.com



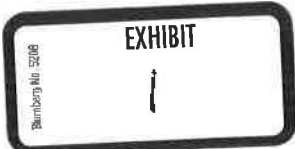
**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MOHAMMAD HAMED by His Authorized Agent WALEED HAMED,)	
)	
Plaintiff,	)	CIVIL NO. SX-12-CV-370
v.)	
	)	ACTION FOR DAMAGES
FATHI YUSUF and UNITED CORPORATION,	)	INJUNCTIVE AND
	)	DECLARATORY RELIEF
Defendants.)	
	)	JURY TRIAL DEMANDED

DECLARATION OF JOEL H. HOLT

I, Joel H. Holt, declare, pursuant to 28 U.S.C. Section 1746, as follows:

1. I am counsel of record and I have personal knowledge of the facts set forth herein.
2. When this Court directed the parties to submit a scheduling order on July 9, 2013, I promptly draft one and sent it to opposing counsel on July 11th. See **Exhibit A**. That proposal would have allowed this case to be ready for trial in early 2014.
3. Defense counsel eventually responded to this proposed scheduling order after I sent several follow-up emails, rejecting my dates and offering their own dates. See **Exhibit B**. That proposal allowed this case to be ready for trial in mid-2014.
4. Counsel then conferred by telephone. I reluctantly agreed to Defendant's proposed scheduling dates, which were then submitted to this Court by stipulation between counsel, which this Court entered. See **Exhibit C**.
5. At no time was there any discussion between counsel that this proposed schedule was based on some understanding that it would be extended if Defendants' Rule 12 motions were not addressed.
6. While fact discovery proceeded, at no time did defense counsel request to do any fact witness depositions until last week, which are now scheduled.
7. At no time did defense counsel indicate any problem in getting documents from the Government that were seized in the criminal case until the issue of extending the scheduling order came up. The Government previously made its files available in the criminal case years ago, which has resulted in Defendants producing thousands of documents in its Rule 26 Disclosure on a disc with an



Declaration
Page 2

881 page coversheet describing the contents of what was being produced. Indeed, the Government has continued to make its files available to defense counsel.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 3, 2013



JOEL H. HOLT

From: Joel Holt <holtvi@aol.com>

To: jdiruzzo <jdiruzzo@fuerstlaw.com>; dewoodlaw <dewoodlaw@gmail.com>

Cc: carl <carl@carlhartmann.com>; kimjapinga <kimjapinga@gmail.com>

Bcc: jwf <jwf@holtvi.com>

Subject: Plaza

Date: Thu, Jul 11, 2013 9:20 am

Attachments: Hamed_v_Yusuf_2013-07-11_Proposed_Joint_Scheduling_Order_V1.doc (54K)

Jor/Nizar-In light of everyone's comments at oral argument, attached is a proposed scheduling stip-
if OK, let me know and I will do the order

Joel H. Holt, Esq.
2132 Company Street
Christiansted, St. Croix
U.S. Virgin Islands 00820
(340) 773-8709



4. EXPERT DEPOSITIONS

Depositions of experts shall be completed by **November 15, 2013**.

5. MEDIATION

Mediation shall be completed not later than **November 20, 2013**.

6. MOTIONS

All dispositive motions shall be filed by **November 30, 2013**.

7. STATUS CONFERENCE.

A status conference will be held as scheduled by the Court

8. TRIAL DATE

A trial date will be scheduled by the Court.

Dated: July __, 2012

Joel H. Holt, Esq.
Counsel for Plaintiff
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820

Carl J. Hartmann III, Esq.
Co-Counsel for Plaintiff
5000 Estate Coakley Bay,
Unit L-6
Christiansted, VI 00820

Joseph A. DiRuzzo, III
Fuerst Littleman David & Joseph, PL
1001 Brickell Bay Drive, 32nd. Fl.
Miami, FL 33131

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

From: Nizar A. DeWood, Esq. <dewoodlaw@gmail.com>

To: 'Joel Holt' <holtvi@aol.com>; Carl Hartmann <carl@carlhartmann.com>

Cc: Christopher David <c david@fuerstlaw.com>; Joseph DiRuzzo <JDiRuzzo@fuerstlaw.com>; Frank Massabki <FMassabki@fuerstlaw.com>

Subject: Proposed Scheduling Order

Date: Tue, Jul 23, 2013 3:20 pm

Attachments: Proposed_Joint_Scheduling_Order.pdf (195K)

See attached proposed scheduling order. Please advise as to your availability for a Rule 26 Conference.

Nizar A. DeWood, Esq.

DeWood Law Firm

2006 Eastern Suburb, Suite 102

Christiansted, V.I. 00820

t. (340) 773.3444

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

MOHAMMAD HAMED by His Authorized Agent WALEED HAMED,)	
)	
<i>Plaintiff,</i>	)	CIVIL NO. SX-12-CV- 370
v.)	
	)	ACTION FOR DAMAGES
FATHI YUSUF and UNITED CORPORATION,	)	INJUNCTIVE AND
	)	DECLARATORY RELIEF
<i>Defendants.</i>)	
	)	JURY TRIAL DEMANDED
)	

PROPOSED STIPULATED SCHEDULING ORDER

COME NOW, the Parties by and through their counsel, and hereby stipulate and agree to the following Scheduling Order:

1. **RULE 26 DISCLOSURES**

The parties shall serve disclosures, pursuant to Fed. R. Civ. P 26(a)(i), by **August 1, 2013**.

2. **FACTUAL DISCOVERY**

All factual discovery, including written discovery and fact witness depositions, shall be completed by **December 15, 2013**.

2. **PLAINTIFF'S EXPERT REPORTS**

Plaintiff's expert disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2), if any, shall be submitted by **January 15, 2014**.

3. **DEFENDANT'S EXPERT REPORTS**

Defendant's expert disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2), if any, shall be submitted by **February 28, 2014**.



4. EXPERT DEPOSITIONS

Depositions of experts shall be completed by **April 15, 2014**.

5. MEDIATION

Mediation shall be completed not later than **January 31, 2014**.

6. MOTIONS

All dispositive motions shall be filed by **May 15, 2014**.

7. STATUS CONFERENCE.

A status conference will be held as scheduled by the Court

8. TRIAL DATE

A trial date will be scheduled by the Court.

August 5
Dated: ~~July 31~~, 2013



Joel H. Holt, Esq.
Counsel for Plaintiff
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820

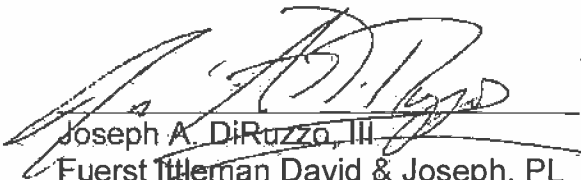
Carl J. Hartmann III, Esq.
Co-Counsel for Plaintiff
5000 Estate Coakley Bay,
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Christiansted, VI 00820

//

//

//

CIVIL NO. SX-12-CV- 370
Stipulated Scheduling Order
Page 3


Joseph A. DiRuzzo, III
Fuerst, Littleman David & Joseph, PL
1001 Brickell Bay Drive, 32nd. Fl.
Miami, FL 33131

7/31/2012

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

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

MOHAMMED HAMED BY HIS AUTHORIZED AGENT WALEED HAMED,

Plaintiff

Vs.

FATHI YUSUF AND
UNITED CORPORATION

Defendant

CASE NO. SX-12-CV-370

ACTION FOR: **DAMAGES INJUNCTIVE AND
DECLARATORY RELIEF**

**NOTICE
OF
ENTRY OF JUDGMENT/ORDER**

TO: ✓ JOEL HOLT, Esquire JOSEPH DIRUZZO, III, ESQ.
NIZAR DEWOOD, Esquire
CARL HARTMANN, Esquire

Please take notice that on AUGUST 15, 2013 Order was
entered by this Court in the above-entitled matter.

Dated: August 19, 2013

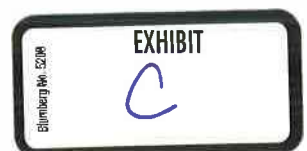
VENETIA H. VELAZQUEZ, ESQ.

Clerk of the Superior Court



By: IRIS D. CINTRON

COURT CLERK II



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

MOHAMMAD HAMED by His Authorized)
Agent WALEED HAMED,)
)
 Plaintiff,)
 v.)
)
 FATHI YUSUF and UNITED CORPORATION,)
)
 Defendants.)

CIVIL NO. SX-12-CV- 370
ACTION FOR DAMAGES
INJUNCTIVE AND
DECLARATORY RELIEF
JURY TRIAL DEMANDED

13
AUG
-5
P 4:59

SCHEDULING ORDER

The Parties having submitted a Joint Proposed Scheduling Order, it is hereby Ordered that the discovery schedule contained in the Joint Proposed Scheduling Order is approved and adopted as follows:

1. RULE 26 DISCLOSURES

The parties shall serve disclosures, pursuant to Fed. R. Civ. P 26(a)(i), by **August 1, 2013.**

2. FACTUAL DISCOVERY

All factual discovery, including written discovery and fact witness depositions, shall be completed by **December 15, 2013.**

2. PLAINTIFF'S EXPERT REPORTS

Plaintiff's expert disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2), if any, shall be submitted by **January 15 , 2014.**

3. DEFENDANT'S EXPERT REPORTS

Defendant's expert disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2), if any, shall be submitted by **February 28, 2014.**

4. EXPERT DEPOSITIONS

Depositions of experts shall be completed by **April 15, 2014**.

5. MEDIATION

Mediation shall be completed not later than **January 31, 2014**.

6. MOTIONS

All dispositive motions shall be filed by **May 15, 2014**.

7. STATUS CONFERENCE.

A status conference will be held ~~as scheduled by the Court~~

ON Monday, February 10, 2014 @ 3:30 p.m.

8. TRIAL DATE

A trial date will be scheduled by the Court.

August 15, 2013

[Signature]
HON. DOUGLAS BRADY

ATTEST: VENETIA VELASQUEZ

Clerk of the Court

BY:

[Signature]
Deputy Clerk

Dist: Joel H. Holt, Esq.
Joseph A. DiRuzzo, III
Nizar A. DeWood

CERTIFIED TO BE A TRUE COPY
This 19th day of Aug 2013
VENETIA H. VELAZQUEZ, ESQ.
CLERK OF THE COURT
By *[Signature]* Court Clerk

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

**MOHAMMAD HAMED, by his authorized
agent WALEED HAMED,**

Plaintiffs,

v,

**FATHI YUSUF and UNITED
CORPORATION,**

Defendants.

Case No.:SX-2012-cv-370

**ACTION FOR DAMAGES
INJUNCTIVE AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

ORDER

This matter is before the Court on behalf of the Defendants' Emergency Motion to Extend Scheduling Deadlines. Upon consideration of the matters before the Court, it is hereby;

ORDERED that the motion is **DENIED**

SO ORDERED this ____ day of _____, 2013.

Dated: December _____, 2013

Hon. DOUGLAS BRADY
Judge, Superior Court

Attested By: VENETIA VELAZQUEZ
Clerk of Court

By: Deputy Clerk

Dist.

cc: Joel H. Holt
Nizar A. DeWood
Gregory H. Hodges