

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

UNITED CORPORATION,

Plaintiff,

v.

WALEED HAMED,

Defendant.

Case No.: SX-13-CV-03

PLAINTIFF UNITED'S MOTION TO SUBSTITUTE NECESSARY PARTY


COMES NOW Plaintiff United Corporation, ("Plaintiff" or United"), by its Counsel, and pursuant to Fed. R. Civ. P. 17(a)(3) respectfully moves to substitute Fathi Yusuf for Plaintiff United as necessary Plaintiff party in this action. Defendant Waleed Hamed ("Hamed") continues to insist in various filings that United (which employed him for 30 years) has no "standing" to maintain prosecution of this matter because liquidating partner Fathi Yusuf conceded there was a partnership by operation of law in April of 2015. To avoid any delays, this Motion moots any objections to issues of "standing" that Defendant continually offers before this honorable court.

WHEREFORE, for the reasons in the attached supporting Memorandum, the Court should grant this Motion. A proposed Order is attached herewith.

Dated: July 11, 2016

Respectfully Submitted,

**THE DEWOOD LAW FIRM
Counsel for Plaintiff**

By: 
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Email: nizar@dewood-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 11, 2016 I caused the foregoing **MOTION, SUPPORTING MEMORANDUM, AND PROPOSED ORDER** to be served upon the following via e-mail as agreed to by the parties.

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The Honorable Edgar A. Ross
Email: edgarrossjudge@hotmail.com

Q



Christina Joseph

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

UNITED CORPORATION,

Plaintiff,

v.

WALEED HAMED,
(a/k/a Wally or Waleed)

Defendant.

Case No.: SX-13-CV-03

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION TO
SUBSTITUTE NECESSARY PARTY**

INTRODUCTION

Plaintiff United Corporation, (“Plaintiff” or “United”), by its Counsel, pursuant to Fed. R. Civ. P. 17, respectfully moves to substitute Fathi Yusuf for United as Plaintiff in this action. Defendant Waleed Hamed (“Defendant” or “Waleed”) continues to argue that this matter should be dismissed because United (which employed Waleed for 30 years) has no standing to prosecute this matter. Hamed points that partner Fathi Yusuf (Yusuf) conceded there was a “partnership” between Yusuf and the late Mohammed Hamed (Defendant’s father). Waleed argues therefore that he was really an employee of a “partnership” instead of United, notwithstanding that Waleed never received a single “partnership” check during his 30-year employ at United.

To avoid further delay from Hamed’s baseless argument denying “standing” by United to maintain this suit (an argument already rejected by the Virgin Islands Supreme Court in *United v. Wabeed Hamed* (15-21), this Rule 17(a)(3) Motion moots Defendant’s objections to United’s standing in case this court deems substitution is necessary.

DISCUSSION

Substitution of Fathi Yusuf for United is Appropriate

i. Applicable Rule

Fed. R. Civ. P. Rule 17(a)(3) provides:

“The court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action. After ratification, joinder, or substitution, the action proceeds as if it had been originally commenced by the real party in interest.”

Hamed argues repeatedly that United has no standing to represent the interest of the Plaza Extra Supermarkets because liquidating partner Fathi Yusuf conceded that a “partnership” existed between Yusuf and Waleed’s father Mohammed Hamed to split profits. Waleed makes this unfounded argument 1) despite receiving payroll checks for 30 years from United (and not from a “partnership”), and 2) despite conceding that United operated the Plaza Extra stores. That same argument was made before the Virgin Islands Supreme Court, in *United Corporation v. Wabeed Hamed* (2015-21), and was thoroughly rejected.

Here, Fathi Yusuf is the liquidating partner and is authorized to prosecute the interests of the “partnership” against Defendant Waleed. Defendant of course never provides any support that a Rule 17 substitution cannot resolve this simple issue of standing (if one even exists). Fed. R. Civ. P. 17(a)(3) clearly provides for the substitution of Fathi Yusuf for United. For the reasons above, and to moot any future groundless procedural objections by Defendant Waleed, the court should grant this Motion.

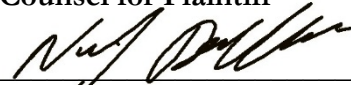
WHEREFORE, it is respectfully requested that the court grant this Motion.

Dated: July 11, 2016

Respectfully Submitted,

THE DEWOOD LAW FIRM
Counsel for Plaintiff

By:



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ORDER

Before the Court is Plaintiff's Motion to Substitute Necessary Party; duly advised in the premises and for good cause shown it is hereby

ORDERED that the Motion is **GRANTED**;

ORDERED that Fathi Yusuf shall be substituted for United Corporation.

ORDERED that caption herein shall be amended to reflect "Fathi Yusuf" as the Plaintiff in this matter.

ORDERED that copies of this Order be served upon the parties of record.

ORDERED this ____ day of _____, 2016.

**HON. ROBERT MOLLOY
SUPERIOR COURT JUDGE**

ATTEST

ESTRELLA GEORGE
ACTING CLERK OF THE COURT

BY: _____
Deputy Clerk