

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

**MOHAMMAD HAMED**, by his  
authorized agent **WALEED HAMED**,  
  
*Plaintiff/Counterclaim Defendant*,  
  
vs.  
  
**FATHI YUSUF** and  
**UNITED CORPORATION**,  
  
*Defendants/Counterclaimants*,  
  
vs.  
  
**WALEED HAMED, WAHEED  
HAMED, MUFEED HAMED,  
HISHAM HAMED,  
and PLESSEN ENTERPRISES, INC.**,  
  
*Counterclaim Defendants.*

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**CIVIL NO. SX-12-CV-370**

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

**JURY TRIAL DEMANDED**

**OPPOSITION TO “EMERGENCY” MOTION TO “OPEN BANK ACCOUNT”  
AND APPOINT A PLESSEN RECEIVER**

First, the Yusufs once again create an illusory “emergency” and then run to this Court to try to hustle a quick “solution” before the facts can be reviewed. Once understood, this Court will find that it can summarily deny the motion.

Second, Judge Willocks recently requested that these same parties explain, in the parallel pending case, why a receiver might be needed for Plessen as suggested by the Yusufs. **When the Yusufs did not respond to his directions, Judge Willocks issued an order on May 31, 2016, denying this request for the appointment of a receiver for Plessen, stating (see Exhibit A):**

In an Order dated April 19, 2016 (hereinafter, "April 19, 2016 Order") and entered on April 21, 2016, the Court ordered, inter alia, the parties to file an updated brief addressing the present necessity and propriety of a

Plessen receivership within four weeks from the date of entry of the April 19, 2016 Order. In their Joint Response, Defendants argued that a receiver is not necessary at this time given that "the corporation is functioning exactly as a corporation is expected to perform, even better in fact." **Plaintiffs, the party that moved for an appointment of a receiver for Plessen, did not file a response to the Court's April 19, 2016 Order to argue that such an appointment is still necessary. At this juncture, it is appears that that it the appointment of a receiver for Plessen is not necessary.**

Accordingly, it is hereby:

**ORDERED** that Plaintiff Yusuf Yusuf's motion for the appointment of a receiver for Plessen is **DENIED**. (Emphasis added.)

No motion to reconsider this Order was filed before Judge Willocks, even though the issue involving the opening of a bank account for Plessen was an open (and well discussed) issue between March and May of 2016, as noted by the multiple emails attached as Exhibits 3-7 to the Yusuf's instant motion.

Thus, the current motion to appoint a receiver is nothing more than crass forum-shopping, failing to inform this Court of Judge Willocks' recent Order denying the same request – an order entered only after the Yusufs failed to even respond to Judge Willock's request that the Yusufs provide the Court with any facts that would support the need to appoint a receiver for Plessen. Thus, the request for a receiver for Plessen can (again) be denied, as nothing new regarding the opening of the bank account has been presented to this Court that could not have been presented to Judge Willocks if the Yusufs thought this alleged dispute warranted such extraordinary relief.

Third, the request for this Court's assistance in the opening of a bank account is patently absurd. As can be seen from the email chain in Exhibit 3, the Hameds **DID open exactly the bank account requested for Plessen at Banco Popular in May**

**2016.** However, after the Plessen account was opened and the funds at issue were deposited into it, **Mr. Yusuf unilaterally told Banco Popular to close the account** (which it did) solely because the Hameds **did not list Maher (Mike) Yusuf as a director in the bank account application!** See **Exhibit B.**

In short, the motion before this Court is nothing more than a THIRD attempt to have this Court make Mike Yusuf a director of Plessen, as this Court has rejected this argument twice already, finding that Mike Yusuf has never been elected as a director of Plessen under its by-laws and articles of incorporation.<sup>1</sup>

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<sup>1</sup> In its original July 22, 2014 Memorandum Decision on the make-up of Plessen's Board and its operations, this Court has found, at footnote 2, that during the pendency of this action, the Plessen Board did not include Maher Yusuf.

[2] Defendant Yusuf claims that his son Maher ( "Mike ") is a director of Plessen, and that failure to notify him of the special meeting renders all actions therein null and void. Motion, at 6, n.3. As proof that Mike is a director, Yusuf cites a February 14, 2013 "List of Corporate Officers for Plessen" from the electronic records of the Department of Licensing and Consumer Affairs. Motion, at 6, n.4, Exhibit D; and presents a Scotiabank account application information form wherein Mike is designated "Director /Authorized Signatory" on Plessen's account. Plaintiff denies that Mike is a director, relying upon Plessen's Articles of Incorporation which name Mohammad Hamed, Waleed Hamed, and Fathi Yusuf as the only three directors. Opposition, Exhibit A. Plessen's By-Laws state that the number of directors can be changed only by majority vote of current directors. Opposition, Exhibit B, Section 2.2. Plessen director Waleed Hamed declares: **"There have been no resolutions of the Board or votes by the shareholders of Plessen Enterprises, Inc. that have ever changed these three Directors as provided for in the articles of incorporation over the last 26 years."** Opposition, Exhibit 1, Declaration of Waleed Hamed. Defendant Yusuf concurs: **"Until the Special Meeting of the Board of Directors of Plessen was held on April 30, 2014, there had no meeting of the directors or shareholders of Plessen since its formation in 1988."** Motion, Exhibit K ¶15. As such, and for the limited purpose of addressing this Motion, the Court finds that **Plessen has three directors: Mohammad Hamed, Waleed Hamed, and Fathi Yusuf.** (Emphasis added.)

This Court also denied the motion for reconsideration on December 5, 2014.

Again, this is a wholly manufactured "emergency." The Yusufs **caused Banco Popular to close the newly opened Plessen account for only one reason** – to try to force this Court to make Mike Yusuf a director. That would require the Hameds (1) to ignore this Court's order regarding the makeup of the Plessen Board, and (2) to submit a false document to a bank to open an account. Thus, this Court need not get involved in this issue, as the matter is entirely within the control of the Yusuf's to simply allow the account to be opened, as was once done already, by the properly elected directors, not by someone who was never elected to the Board pursuant to the governing documents of Plessen.

Two final comments are in order. First, the Hameds have agreed that the opening of the Plessen bank account will not be used in any other litigation, so that no admission can be construed from the Yusufs cooperating in this process. See **Exhibit B**. Second, while Mohammad Hamed has died, that point is a non-issue for the limited purposes of this motion, as the bank account for the corporation can be opened by the two remaining directors. See **Exhibit B**.

**Dated:** July 19, 2016



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### CERTIFICATE OF SERVICE

I hereby certify that on this 19<sup>th</sup> day of July, 2016, I served a copy of the foregoing by email, as agreed by the parties, on:

**Hon. Edgar Ross**  
Special Master  
% edgarrossjudge@hotmail.com

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A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to be the name of the person who served the documents, likely Jeffrey B. C. Moorhead.

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

YUSUF YUSUF, ON BEHALF OF **Plaintiff** )  
PLESSEN ENT., INC. )

CASE NO. SX-13-CV-0000120

ACTION FOR: DAMAGES - CIVIL

vs )

WALEED HAMED )  
WAHEED HAMED )  
MUFEEED MOHAMMAD HAMED )

**Defendant**

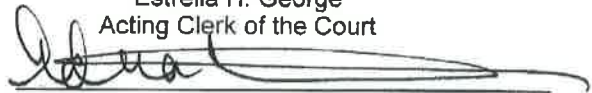
**NOTICE OF ENTRY OF  
ORDER DENYING MOTION  
FOR APPOINTMENT OF  
RECEIVER**

TO: MARK ECKARD, ESQ.  
ANDREW SIMPSON, ESQ.

Please take notice that on June 01, 2016 a(n) ORDER DENYING  
MOTION FOR APPOINTMENT OF RECEIVER dated May 31, 2016 was entered  
by the Clerk in the above-entitled matter.

Dated: June 01, 2016

Estrella H. George  
Acting Clerk of the Court



EDNA HAMILTON  
COURT CLERK II/INTERPRETER



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

**YUSUF YUSUF, derivatively on behalf of  
PLESSEN ENTERPRISES, INC.,**

**Plaintiff,**

**v.**

**WALEED HAMED, WAHEED HAMED,  
MUFEED HAMED, HISHAM HAMED and  
FIVE-H HOLDINGS, INC.,**

**Defendants,**

**and**

**PLESSEN ENTERPRISES, INC.,  
Nominal  
Defendant.**

**SX-13-CV-120**

**ORDER**

**THIS MATTER** is before the Court on Defendants and Nominal Defendant's Joint Response to the Court's April 19, 2016 Order Regarding the Appointment of a Receiver, filed on May 19, 2016 (hereinafter, "Joint Response"). No other responses were filed.

In an Order dated April 19, 2016 (hereinafter, "April 19, 2016 Order") and entered on April 21, 2016, the Court ordered, *inter alia*, the parties to file an updated brief addressing the present necessity and propriety of a Plessen receivership within four weeks from the date of entry of the April 19, 2016 Order. In their Joint Response, Defendants argued that a receiver is not necessary at this time given that "the corporation is functioning exactly as a corporation is expected to perform, even better in fact." Plaintiffs, the party that moved for an appointment of a receiver for Plessen, did not file a response to the Court's April 19, 2016 Order to argue that such an appointment is still necessary. At this juncture, it appears that that the appointment of a receiver for Plessen is not necessary.

Accordingly, it is hereby:

**ORDERED** that Plaintiff Yusuf Yusuf's motion for the appointment of a receiver for Plessen is **DENIED**.

**DONE** and so **ORDERED** this 31<sup>st</sup> day of May, 2016.

**ATTEST:**

Estrella H. George  
Acting Clerk of the Court

By: [Signature]  
Court Clerk Supervisor

Dated: 5/11/16

[Signature]  
HAROLD W.L. WILLOCKS  
Administrative Judge of the Superior Court

**CERTIFIED-A TRUE COPY**

DATE: 5-2-16

ESTRELLA H. GEORGE  
ACTING 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**,  
  
*Plaintiff/Counterclaim Defendant*,  
  
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HAMED, MUFEEED HAMED,  
HISHAM HAMED,  
and PLESSEN ENTERPRISES, INC.**,  
  
*Counterclaim Defendants*.

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**CIVIL NO. SX-12-CV-370**

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

**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 for the Plaintiff herein and have personal knowledge of the facts set forth herein.
2. Nizar Dewood and I agreed in March that the Hameds would open a new account for Plessen at Banco Popular, which was to be done without prejudice to any arguments that could be made in any pending litigation regarding who were the proper directors of Plessen. All withdrawals would require one signature from the Hamed's and one from the Yusuf's.
3. The Hameds then opened a bank account for Plessen at Banco Popular in May of 2016.




**Declaration**  
**Page 2**

4. However, after the Plessen account was opened and funds were deposited into it, Fathi Yusuf unilaterally told Banco Popular to close the account, which it did.
5. When I confronted Nizar Dewood about this matter, I was told that I had misunderstood our earlier conversation and that the Yusufs would only agree to the opening of a Plessen bank account if Maher (Mike) Yusuf was listed as a director in the bank account application.

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

Dated: July 19, 2016



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JOEL H. HOLT