

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

**MOHAMMAD HAMED, BY HIS
AUTHORIZED AGENT WALEED HAMED,**

PLAINTIFF/COUNTERCLAIM DEFENDANT,

v.

**FATHI YUSUF AND UNITED
CORPORATION,**

DEFENDANTS/COUNTERCLAIMANTS,

v.

**WALEED HAMED, WAHEED HAMED,
MUFEED HAMED, HISHAM HAMED,
AND PLESSEN ENTERPRISES, INC.,**

COUNTERCLAIM DEFENDANTS.

**WALEED HAMED, AS EXECUTOR OF THE
ESTATE OF MOHAMMAD HAMED,**

PLAINTIFF,

v.

UNITED CORPORATION,

DEFENDANT.

MOHAMMAD HAMED,

PLAINTIFF,

v.

FATHI YUSUF,

DEFENDANT.

Civil No. SX-12-CV-370

**ACTION FOR INJUNCTIVE
RELIEF, DECLARATORY
JUDGMENT, PARTNERSHIP
DISSOLUTION, WIND UP, and
ACCOUNTING**

CONSOLIDATED WITH

Civil No. SX-14-CV-287

**ACTION FOR DAMAGES and
DECLARATORY JUDGMENT**

CONSOLIDATED WITH

Civil No. SX-14-CV-378

**ACTION FOR DEBT and
CONVERSION**

ORDER

THIS MATTER came before the Special Master (hereinafter “Master”) on Hamed’s motions for summary judgment as to Hamed Claim No. H-1: Hamed Partnership Interest in Sale of the Dorothea property (\$802,966),¹ Hamed Claim No. H-2: \$2.7 million unilateral withdrawal from the Partnership account by Yusuf,² Hamed Claim No. H-16: NejeH Yusuf’s use of Partnership resources for his private businesses on St. Thomas,³ and Hamed Claim No. H-34: Rents collected from Triumphant church.⁴ In response, Yusuf filed oppositions and Hamed filed replies thereto.⁵

Rule 56 of Virgin Islands Rules of Civil Procedure (hereinafter “Rule 56”) provides that “[e]ach summary judgment motion shall include a statement of undisputed facts in a separate section within the motion” and that “[e]ach paragraph stating an undisputed fact shall be serially numbered and each shall be supported by affidavit(s) or citations identifying specifically the location(s) of the material(s) in the record relied upon regarding such fact.” V.I. R. CIV. P. 56(c)(1). Rule 56 also provides that “[a] party opposing entry of summary judgment must address in a separate section of the opposition memorandum each of the facts upon which the movant has relied pursuant to subpart (c)(1) of this Rule, using the corresponding serial numbering...” V.I. R. CIV. P. 56(c)(2)(B). Furthermore, under Rule 56, “a party opposing summary judgment may, if it elects to do so, state additional facts that the party contends are disputed and material to the motion for summary judgment, presenting one or more genuine issues to be tried” and “[t]he party shall supply affidavit(s) or citations

¹ See Hamed’s Amended Accounting Claims, filed on Oct. 30, 2017, p. 3.

² *Id.*, at p. 4.

³ *Id.*, at p. 14.

⁴ *Id.*, at p. 16.

⁵ The Master was appointed by the Court to “direct and oversee the winding up of the Hamed-Yusuf Partnership” (Sept. 18, 2015 order: Order Appointing Master) and “make a report and recommendation for distribution [of Partnership Assets] to the Court for its final determination.” (Jan. 7, 2015 order: Final Wind Up Plan) The Master finds that Hamed’s instant motions for summary judgment falls within the scope of the Master’s report and recommendation given that Hamed Claim No. H-1 is an alleged debt owed by the Partnership to Hamed and Hamed Claim Nos. H-2, H-16 and H-34 are alleged debts owed by Yusuf to the Partnership.

ORDER

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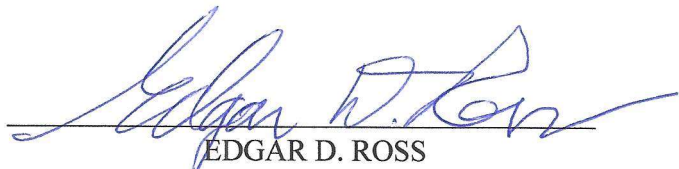
specifically identifying the location(s) of the material(s) in the record relied upon as evidence relating to each such material disputed fact, by number.” V.I. R. Civ. P. 56(c)(2)(C). Finally, Rule 56 requires the court to “state on the record the reasons for granting or denying the motion.” V.I. R. Civ. P. 56(a).

In this instance, Hamed filed a statement of facts for each of his motions for summary judgment as required under Rule 56. *See* V.I. R. Civ. P. 56(c)(1). However, Yusuf, the opposing party, failed to respond thereto as required under Rule 56. *See* V.I. R. Civ. P. 56(c)(2)(B). The Master will give Yusuf “an opportunity to properly support or address the fact” pursuant to Rule 56(e)(1). V.I. R. Civ. P. 56(e)(1) (“If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may: (1) give an opportunity to properly support or address the fact...”). Accordingly, it is hereby:

ORDERED that, within fourteen (14) days from the date of this Order, Yusuf shall file amended oppositions, in compliance with all applicable rules, to Hamed’s motions for summary judgment as to Hamed Claim Nos. H-1, H-2, H-16, and H-34. **And** it is further:

ORDERED that Hamed may file amended replies thereto.

DONE and so **ORDERED** this 13th day of May, 2019.


EDGAR D. ROSS
Special Master

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CONVERSION**

ORDER

THIS MATTER came before the Special Master (hereinafter “Master”) on United’s motion for summary judgment as to Yusuf Claim No. Y-2:¹ past rent due to United for Bay Nos. 5 and Bay 8 of the United Shopping Plaza, Yusuf Claim No. Y-3:² interest for the rent awarded by the Court’s April 27, 2015 memorandum opinion and order (hereinafter “Rent Order”), and Yusuf Claim No. Y-4:³ interest for the past rent due to United for Bay Nos. 5 and Bay 8 of the United Shopping Plaza.⁴ In response, Hamed filed an opposition as to Yusuf’s Claim No. Y-2, and a separate opposition as to Yusuf’s Claim Nos. Y-3 and Y-4. Thereafter, United filed a separate reply thereto.

Rule 56 of Virgin Islands Rules of Civil Procedure (hereinafter “Rule 56”) provides that “[e]ach summary judgment motion shall include a statement of undisputed facts in a separate section within the motion” and that “[e]ach paragraph stating an undisputed fact shall be serially numbered and each shall be supported by affidavit(s) or citations identifying specifically the location(s) of the material(s) in the record relied upon regarding such fact.” V.I. R. Civ. P. 56(c)(1). Rule 56 also provides that “[a] party opposing entry of summary judgment must address in a separate section of the opposition memorandum each of the facts

¹ Yusuf Claim No. Y-2: The amount of outstanding rent due to United for Bay Nos. 5 and 8 was “not adjudicated in the Rent Order¹ and they remain an outstanding rent claim against the Partnership.” Yusuf claimed that the “total amount due to United for unpaid rent for [Bay Nos.] 5 and 8 is \$793,984.34. See the Yusuf Declaration at ¶¶ 21-25.” (Yusuf’s Amended Accounting Claims, filed Oct. 30, 2017, p. 9)

² Yusuf Claim No. Y-3: “The interest that accrued at 9% per annum on the rent actually awarded by the Rent Order (\$6,248,924.14) is \$881,955.08 as of May 11 2015, when that rent was paid to United. See calculation of interest on Bay I rent attached as Exhibit D to the Original Claims.” (Yusuf’s Amended Accounting Claims, filed Oct. 30, 2017, p. 9) A footnote thereto indicated that “This amount does not include any interest accruing at the 9% rate on each month’s unpaid rent from June 1, 2013 through March 8, 2015.” (Id., at footnote 13)

³ Yusuf Claim No. Y-4: “The interest due for the unpaid rent on [Bay Nos.] 5 and 8 is also claimed by United. The total interest calculated at 9% per annum for the period from May 17, 2013 through September 30, 2016 is \$241,005.18. Such interest continues to accrue at the daily rate of \$195.78 until paid. See calculations of interest on Bay [Nos.] 5 and 8 rent attached as Exhibit E to the Original Claims.” (Yusuf’s Amended Accounting Claims, filed Oct. 30, 2017, pp. 9-10)

⁴ The Master was appointed by the Court to “direct and oversee the winding up of the Hamed-Yusuf Partnership” (Sept. 18, 2015 order: Order Appointing Master) and “make a report and recommendation for distribution [of Partnership Assets] to the Court for its final determination.” (Jan. 7, 2015 order: Final Wind Up Plan) The Master finds that that United’s instant motion for summary falls within the scope of the Master’s report and recommendation given that Yusuf Claim Nos. Y-2, Y-3, and Y-4 are alleged debt owed by the Partnership to United.

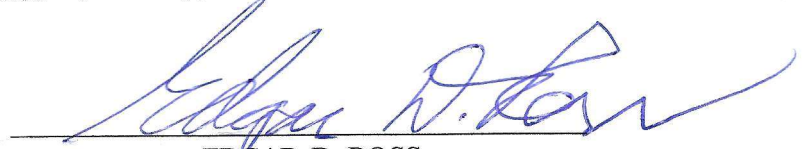
upon which the movant has relied pursuant to subpart (c)(1) of this Rule, using the corresponding serial numbering...” V.I. R. CIV. P. 56(c)(2)(B). Furthermore, under Rule 56, “a party opposing summary judgment may, if it elects to do so, state additional facts that the party contends are disputed and material to the motion for summary judgment, presenting one or more genuine issues to be tried” and “[t]he party shall supply affidavit(s) or citations specifically identifying the location(s) of the material(s) in the record relied upon as evidence relating to each such material disputed fact, by number.” V.I. R. CIV. P. 56(c)(2)(C). “If the non-moving party has identified additional facts as being material and disputed, as provided in subpart (c)(2)(C) of this Rule, the moving party shall respond to these additional facts by filing a response using the corresponding serial numbering of each such fact identified by the non-moving party...” V.I. R. CIV. P. 56(c)(3). Finally, Rule 56 requires the court to “state on the record the reasons for granting or denying the motion.” V.I. R. CIV. P. 56(a).

In this instance, United failed to include a statement of undisputed facts in his motion as required under Rule 56. *See* V.I. R. CIV. P. 56(c)(1). Moreover, despite the fact that Hamed filed a counter-statement of facts, United also failed to respond thereto as required under Rule 56. *See* V.I. R. CIV. P. 56(c)(3). Furthermore, United’s motion exceeded the 20-page limit under Rule 6-1 of the Virgin Islands Rules of Civil Procedure (hereinafter “Rule 6-1”) without leave. *See* V.I. R. CIV. P. 6-1(e)(2) (“Unless otherwise ordered by the court, all motions, responses and replies filed with the court shall not exceed the greater of 20 pages or 6,000 words in length unless leave of court has been obtained in advance for a longer submission.”) As such, the Master will deny United’s motion for summary judgment as to Yusuf Claim Nos. Y-2, Y-3, and Y-4 without prejudice for failure to comply with Rule 56 and Rule 6-1; United may re-file in compliance with Rule 56 and Rule 6-1. Accordingly, it is hereby:

ORDERED that United's motion for summary judgment as to Yusuf Claim Nos. Y-2, Y-3, and Y-4 is **DENIED WITHOUT PREJUDICE**. And it is further:

ORDERED that Parties shall comply with all applicable rules when filing their briefs.

DONE and so **ORDERED** this 13th day of May, 2019.

A handwritten signature in blue ink, appearing to read "Edgar D. Ross", is written over a horizontal line.

EDGAR D. ROSS
Special Master

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ORDER

THIS MATTER came before the Special Master (hereinafter “Master”) on Yusuf’s motion for summary judgment as to Yusuf Claim No. Y-14: half of the value of six containers at Plaza Extra-Tutu Park store.¹ In response, Hamed filed an opposition and Yusuf filed a reply thereafter.

Rule 56 of Virgin Islands Rules of Civil Procedure (hereinafter “Rule 56”) provides that “[e]ach summary judgment motion shall include a statement of undisputed facts in a separate section within the motion” and that “[e]ach paragraph stating an undisputed fact shall be serially numbered and each shall be supported by affidavit(s) or citations identifying specifically the location(s) of the material(s) in the record relied upon regarding such fact.” V.I. R. CIV. P. 56(c)(1). Rule 56 also provides that “[a] party opposing entry of summary judgment must address in a separate section of the opposition memorandum each of the facts upon which the movant has relied pursuant to subpart (c)(1) of this Rule, using the corresponding serial numbering...” V.I. R. CIV. P. 56(c)(2)(B). Furthermore, under Rule 56, “a party opposing summary judgment may, if it elects to do so, state additional facts that the party contends are disputed and material to the motion for summary judgment, presenting one or more genuine issues to be tried” and “[t]he party shall supply affidavit(s) or citations specifically identifying the location(s) of the material(s) in the record relied upon as evidence relating to each such material disputed fact, by number.” V.I. R. CIV. P. 56(c)(2)(C). “If the non-moving party has identified additional facts as being material and disputed, as provided in subpart (c)(2)(C) of this Rule, the moving party shall respond to these additional facts by filing a response using the corresponding serial numbering of each such fact identified by the non-

¹ The Master was appointed by the Court to “direct and oversee the winding up of the Hamed-Yusuf Partnership” (Sept. 18, 2015 order: Order Appointing Master) and “make a report and recommendation for distribution [of Partnership Assets] to the Court for its final determination.” (Jan. 7, 2015 order: Final Wind Up Plan) The Master finds that Yusuf’s instant motion for summary judgment falls within the scope of the Master’s report and recommendation given that Yusuf Claim No. Y-14 is an alleged debt owed by Hamed to the Partnership.

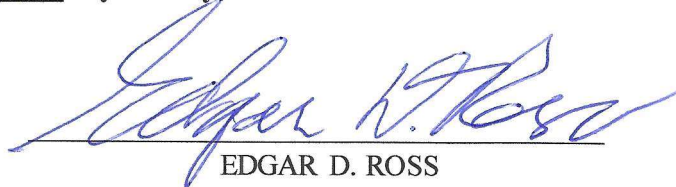
moving party...” V.I. R. CIV. P. 56(c)(3). Finally, Rule 56 requires the court to “state on the record the reasons for granting or denying the motion.” V.I. R. CIV. P. 56(a).

In this instance, Yusuf failed to include a statement of undisputed facts in his motion as required under Rule 56. *See* V.I. R. CIV. P. 56(c)(1). Moreover, despite the fact that Hamed filed a counter-statement of facts, Yusuf also failed to respond thereto as required under Rule 56. *See* V.I. R. CIV. P. 56(c)(3). As such, the Master will deny Yusuf’s motion for summary judgment as to Yusuf Claim No. Y-14 without prejudice for failure to comply with Rule 56; Yusuf may re-file in compliance with Rule 56. Accordingly, it is hereby:

ORDERED that Yusuf’s motion for summary judgment as to Yusuf Claim No. Y-14 is **DENIED WITHOUT PREJUDICE**. And it is further:

ORDERED that Parties shall comply with all applicable rules when filing their briefs.

DONE and so **ORDERED** this 11th day of May, 2019.



EDGAR D. ROSS
Special Master