

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS/ST. JOHN**

**UNITED CORPORATION,**

*Plaintiff,*

**v.**

**WAHEED HAMED,**  
*(a/k/a Willy or Willie Hamed),*

*Defendant.*

**Case No.: 2013-CV-101**

**ACTION FOR DAMAGES**

**JURY TRIAL DEMANDED**

**MOTION AND MEMORANDUM  
AS TO BILL OF COSTS AND ATTORNEY FEES**

**COMES NOW** defendant, Waheed Hamed, by counsel, and Moves this Court for costs and attorney fees as set forth herein.

**I. Costs**

Plaintiff seeks no costs.

**II. Attorney Fees**

A. *Amount.* A Schedule of attorney fees in this action in the amount of \$15,606 is attached to the appended *Declaration of Carl J. Hartmann*. The schedule reflects an hourly rate of \$295.00 per hour, which is counsel's regular rate for on-going or volume clients. *Id.*

B. *Standard.* 5 V.I.C. § 541(b) provides that “there shall be allowed to the prevailing party in the judgment such sums as the court in its discretion may fix by way of indemnity for his attorney's fees in maintaining the action or defenses thereto...” *Mahabir v. Heirs of George*, 2014 WL 1392954 (V.I.Super.), 1 (V.I.Super., 2014). The criteria for an award of attorney's fees are “the time and labor required, the uniqueness of the questions involved, the legal skill demanded, the customary charges for these services, the amount involved in the dispute, the benefits resulting to the client, and the contingency or certainty of payment.” *Id.* The amount of attorney's fees to be awarded to the prevailing party is “intended to be an indemnification for a fair and reasonable portion of his attorney's fees and not for the whole amount charged by the attorney.” *Id.*

As is his normal practice, counsel did not charge his time when he was engaged in any of the following:

1. Conferences or communications with his client or opposing counsel.
2. Conferences or communications with counsel in related cases or their clients.
3. Paralegal or secretarial assistance.
4. Travel

Finally, no fees are sought for time other than attorney time (no paralegal or secretarial time.)

As set forth in counsel's Declaration, it is counsel's opinion that this case was brought for dilatory purposes and to multiply fees.

A. The uniqueness of the questions involved

The action involved a unique question involving the statute of limitations.

B. The legal skill demanded

The legal skill demanded was average for the nominal defense of a dilatory action.

C. The customary charges for these services

As set forth in counsel's Declaration, this case was charged at hi lowest rate -  
- the rate given to repeat and on-going clients.

D. The amount involved in the dispute

The amount claimed was substantial -- in excess of \$100,000

E. The benefits resulting to the client

The client prevailed and no longer has to defend the action here.

F. The contingency or certainty of payment

There was no contingency.

Thus, amount of attorney's fees to be awarded to the prevailing party to "be an indemnification for a fair and reasonable portion of his attorney's fees and not for the whole amount charged by the attorney" is \$15,606.

A proposed Order is attached.

**Dated:** September 16, 2014

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**Carl J. Hartmann III, Esq.**  
(V.I. Bar No. 48)  
*Counsel for Defendant Hamed*  
5000 Estate Coakley Bay, L-6  
Christiansted, VI 00820  
Telephone: (340) 719-8941  
Email: carl@carlhartmann.com

### **CERTIFICATE OF SERVICE**

I hereby certify that on September 16, 2014, a true and accurate copy of the foregoing was served by email and U.S. Mail on:

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

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**Carl J. Hartmann III, Esq.**  
*Counsel for Defendant*

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DECLARATION OF CARL J. HARTMANN  
IN SUPPORT OF  
MOTION AND MEMORANDUM  
AS TO BILL OF COSTS AND ATTORNEY FEES

I Declare upon my oath and under the penalty of perjury that the following is true and correct:

1. I am an attorney admitted to the practice of law before this Court. My Bar Number is 48.
2. I am the counsel for Defendant in this matter.
3. I did the work described for the amount of time described in the **Exhibit** 1 hereto. I expended 52.9 hours. I charged \$295.00 per hour. The total of my billing is \$15,606. I made contemporaneous notation of these activities and times -- and in any instance where I recorded time for work in another action or cause, I differentiated the amount ascribable to this action.

4. I defended this action based on my understanding that its purpose was dilatory, and in my opinion, brought in with the intent to multiply costs and harass. The claim here is the subject of the claim in another action before this Court, and the purpose appears to me to have been to multiply attorney fees.

**Dated:** September 16, 2014

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**Carl J. Hartmann III, Esq.**  
(V.I. Bar No. 48)  
*Counsel for Defendant Hamed*  
5000 Estate Coakley Bay, L-6  
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**Carl J. Hartmann III, Esq.**  
*Counsel for Defendant*

## EXHIBIT 1

	Description of Work	Hours	Per Hr.
		<b>52.9</b>	<b>295</b>
<b>Date</b>	<b>Totals</b>		<b>\$15,606</b>
4/10/2013	Review Complaint and client documents	3.1	
4/10/2013	Legal Research re Motion to Dismiss; Drafting of Motion to Dismiss	3.0	
4/15/2013	Final revisions and filing of Motion to Dismiss	0.8	
6/1/2013	Review opposition to Motion to Dismiss and research Reply	2.1	
6/2/2013	Additional research and drafting of Reply to Mot to Dismiss	1.9	
6/27/2013	Review and research re Court's Order dismissing \$70k claim	0.8	
7/20/2013	Legal Research re Answer	3.2	
7/21/2013	Legal research and drafting of answer	1.9	
8/16/2013	Investigation and drafting of Rule 26 Disclosures	2.4	
8/21/2013	Research and drafting of Interrogatories and Requests for documents and admissions	3.6	
10/17/2013	Review, abstract and process discovery responses from D	3.6	
11/6/2013	Collect and process documents for responses	2.2	
11/7/2013	Answers to additional P discovery	2.6	
11/8/2013	Answers to additional P discovery	2.1	
1/20/2014	Research on Motion for SJ	3.0	
1/22/2014	Research on Motion for SJ	2.1	
1/23/2014	Research on Motion for SJ	3.0	
1/25/2014	Research on Motion for SJ	2.0	
12/8/2014	Work on discovery	2.9	
4/3/2014	Legal Research for Reply on SJ	3.1	
4/4/2014	Drafting and Legal Research on SJ	2.8	
4/21/2014	Drafting Motion to Dismiss	0.7	

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**ORDER**

**THIS MATTER** having come on before the Court on the motion of defendant, Waheed Hamed, for costs and attorney fees as set forth herein. It is hereby:

**ORDERED:**

1. Defendant having prevailed, and the Court being advised in the premises of the Motion, Plaintiff shall pay no costs, but shall pay attorney fees in the amount of \$15,606.

**Dated:** \_\_\_\_\_, 2014

ATTEST: Estrella H. George  
Acting Clerk of Court \_\_\_/\_\_\_/2014

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**HON. MICHAEL C. DUNSTON**  
JUDGE, THE SUPERIOR COURT  
OF THE VIRGIN ISLANDS

by: \_\_\_\_\_