

02/24/2015

VERONICA HANDY, ESQUIRE
CLERK OF THE COURT**IN THE SUPREME COURT OF THE VIRGIN ISLANDS****UNITED CORPORATION,**

Appellant,

v.

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

Appellee.

S. CT. CIV. NO. 2015-**Re: Super. Ct. Civ. ST-2013-CV-101**

ACTION FOR DAMAGES

NOTICE OF APPEAL**NOTICE OF APPEAL**

Notice is hereby given that United Corporation (“United”), plaintiff in the above-referenced Superior Court action, pursuant to V.I. Code Ann. Tit. 4, §33(a), appeals the Superior Court’s September 2, 2014 Order¹ (the “Order”) granting defendant Waheed Hamed’s Motion for Summary Judgment on all remaining claims in this case. On September 29, 2014, United filed a timely Rule 59(e) Motion for Reconsideration and to Alter or Amend Judgment of the Order (the “Motion”). The Superior Court did not rule on the Motion within 120 days of the September 29, 2014 motion – i.e., by January 27, 2015. Under Supreme Court Rule 5(a)(4), the 30-day time for appealing the order began running on January 27, 2015, which means that this is a timely appeal of the September 2, 2014 Order and all interlocutory orders of this Court, including a June 24, 2013 Order granting in part Defendant Hamed’s Motion to Dismiss.

The issues to be presented on appeal include 1) whether the Superior Court erred in applying the law and/or evaluating the evidence when it granted summary judgment on statute of limitations grounds on the basis of statements in FBI affidavits regarding “unfettered access” to documents

¹The September 2, 2014 Order was entered on September 4, 2014.

02/24/2015

VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

that were filed in a criminal proceeding involving these same parties, but which were challenged by Defendant Waheed Hamed as false in that proceeding, and which were necessarily treated as false by a ruling of a federal judge in that proceeding; 2) whether the Superior Court erred in its September 2 Order by ruling as a matter of law that a party who has access to hundreds of thousands of documents is presumed for statute of limitations discovery rule purposes to have knowledge of any document in that group of documents that provides notice of a claim; and 3) whether the Superior Court erred in its June 24, 2013 Order granting in part Defendant Waheed Hamed's Motion to Dismiss on statute of limitations grounds by ruling because a criminal indictment accused both United and Waheed Hamed of collectively engaging in a conspiracy to underpay United's gross receipts taxes, that indictment necessarily put United on notice that Waheed Hamed might be misappropriating money from United; and 4) whether the Superior Court erred in its June 24, 2013 Order granting in part Defendant Waheed Hamed's Motion to Dismiss on statute of limitations grounds by ruling that United should in the exercise of reasonable care have "retained copies" of documents that were seized by the FBI, and that may have given it notice of claims it had against Waheed Hamed, even though the seizure of documents was pursuant to *ex parte* search warrants and United had no opportunity during the execution of those search warrants to retain copies of any documents being seized.

Respectfully submitted,

DeWood Law Firm

By: /s/ Nizar A. DeWood
Nizar A. DeWood, Esq. (1177)
2006 Eastern Suburb, Suite
Christiansted, St. Croix 00820
T. (340) 773-3444; F. (888) 398-8428
Co-Counsel for Appellant UNITED CORP.

CERTIFICATE OF SERVICE

I hereby certify that on February 24th, 2015, I caused the foregoing Notice of Appeal to be electronically filed with the Clerk of the Court using the V.I. Supreme Court e filing system, and I caused a copy of same to be mailed to the following attorney for the Appellee via first class mail and email at the physical and email addresses below.

Carl Hartmann
5000 Estate Coakley Bay, L-6
Christiansted VI 00820
(340) 719-8941
carl@carlhartmann.com

/s/ Nizar DeWood
Nizar A. DeWood