

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

UNITED CORPORATION,)	CIVIL NO. ST-13-CV-101
)	
Plaintiff,)	ACTION FOR DAMAGES INJUNCTIVE
)	RELIEF AND DECLARATORY RELIEF
v.)	
)	
WAHEED HAMED,)	
)	
Defendant.)	
)	

**DEFENDANT WAHEED HAMED’S REPLY TO UNITED’S OPPOSITION
TO HAMED’S MOTION AND MEMORANDUM FOR SUMMARY JUDGEMENT**

Defendant moved for summary judgment pursuant to Rule 56, as there are no genuine issues of fact in dispute that United has no claim against the Defendant -- warranting dismissal of this case. Plaintiff (United Corporation) raised two arguments in its opposition memorandum:

1. United asserts that the Defendant’s motion was procedurally deficient because it did not contain a separate *Statement of Facts*, as required by local District Court Rule 56.1; and
2. United asserts that the Defendant’s motion was predicated on a “standing” argument that has already been decided by the V.I. Supreme Court.

Both of these arguments are without merit, nor do they create an issue of fact sufficient to defeat the Defendant’s Rule 56 motion.

I. Local District Court Rule 56.1 does not apply

The V.I. Supreme Court recently held that a party is not required to submit a Rule 56.1 Statement of Facts. *See Vanterpool v Government of the Virgin Islands*, 2015 WL 4723651 at *9 (S. Ct. Civ. No. 2013-0072, August 10, 2015) (“District Court Rule 56.1 does not apply to

proceedings in the Superior Court"). Thus, United's argument that the Defendant's motion was procedurally flawed is simply incorrect as a matter of law.

II. The Defendant did not raise a standing argument, but a summary judgment argument based on the undisputed facts in the record.

The motion is not predicated on a standing argument, but on the admission by United that it has never owned the Plaza Extra Supermarkets.

In this regard, United's Complaint filed in this case sought money damages from Defendant based solely on the allegation that the Defendant misappropriated funds from the Plaza Extra Supermarkets, which United claimed it owned in the Complaint. The lack of United's ownership is not a matter of standing here – but rather an issue of damages necessary to the prima facie case. However, because United now concedes that the supermarket business has always been owned by a partnership between Fathi Yusuf and Mohammad Hamed, not United – it admits a lack of damages. It fails to satisfy the cause of action pled as a matter of uncontested fact having nothing to do with standing. Thus, this case must be dismissed, as United has now admitted it has NEVER owned the supermarket and there are no damages as the alleged victim in this case, as initially alleged in the Complaint.

Thus, there being no dispute of this material fact that United does not own the Plaza Extra Supermarket from which the Defendant allegedly misappropriated funds and therefore it lacks a necessary element of the cause of action, summary judgment is warranted. As such, this case should be dismissed with prejudice.

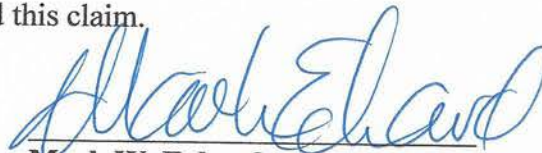
III. Conclusion

For the reasons set forth herein, it is respectfully submitted that this case should be dismissed, as there is no genuine issue of fact that the claim as pled by United fails as to a

necessary element since it now admits it does not own the Plaza Extra Supermarket, as initially pled in its Complaint. There are no damages.

One final comment is in order—the belated argument that this Court should entertain a Rule 17 motion to substitute a party, raised in an opposition memorandum to a summary judgment motion, is without merit, as such relief would need to be raised by a separate motion, so it could be properly briefed. Needless to say, even if it had been properly raised, the request would be without merit, as this motion to substitute should have been made a long time ago, not after a summary judgment motion has been filed. The person who can properly allege such damages is before another Court on that identical claim. It is time to end this ill-conceived claim raised by United, who now admits it should never have filed this claim.

Dated: May 10, 2016



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CERTIFICATE OF SERVICE

I hereby certify that on this ___ day of May, 2016, I served a copy of the foregoing Reply

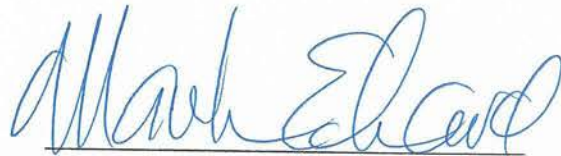
Memorandum by email, as agreed by the parties, on:

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