

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

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<b>FATHI YUSUF</b>	)	<b>Case No. ST-2015-CV-344</b>
	)	
<b>Plaintiff</b>	)	<b>ACTION FOR DISSOLUTION</b>
<b>v.</b>	)	<b>AND OTHER RELIEF</b>
	)	
<b>PETER'S FARM INVESTMENT</b>	)	
<b>CORPORATION, SIXTEEN PLUS</b>	)	
<b>CORPORATION, MOHAMMAD A.</b>	)	
<b>HAMED, WALEED M. HAMED,</b>	)	
<b>WAHEED M. HAMED, MUFEED M.</b>	)	
<b>HAMED, and HISHAM M. HAMED,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	
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**ORDER**

Before the Court is a document titled “Motion and Memorandum in Support of Defendants’ Motion to Dismiss or Sever for Misjoinder of Parties,” (the “Motion”) which was filed by Defendants on September 22, 2015. Plaintiff filed a response in opposition to Defendants’ Motion on October 2, 2015, and Defendants filed a reply in support of their Motion on October 16, 2015. Defendants request that the Court either dismiss or sever one of the corporate defendants named in this matter. Plaintiff has alleged a nexus between his claims against each corporation, but the record is not sufficiently developed for this Court to conclusively determine that each corporate defendant was properly joined in this matter. Therefore, the Court will deny Defendants’ Motion without prejudice.

“Persons . . . may be joined in one action as defendants if any right to relief is asserted against them . . . severally . . . with respect to or arising out of the same transaction, occurrence, or series of transactions and occurrences, and any question of law or fact common to all defendants will arise in the action.”<sup>1</sup> Although “[m]isjoinder of parties is not a ground for dismissing an action[,] “the court may at any time, on just terms . . . drop a party [or] sever any claim against a party.”<sup>2</sup> “The [C]ourt may issue orders—including an order for separate trials—to protect a party against . . . prejudice that arises from including a person against whom the party asserts no claim and who asserts no claim against the party.”<sup>3</sup>

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<sup>1</sup> FED. R. CIV. P. 20(a)(2). Federal Rule of Civil Procedure 20 applies to this proceeding as a rule of last resort through the operation of Superior Court Rule 7. *Sweeney v. Ombres*, 60 V.I. 438, 442 (V.I. 2014). Because the Rules of the Superior Court do not address the permissive joinder of parties, the Court elects to rely on the well-developed framework provided by Federal Rule of Civil Procedure 20.

<sup>2</sup> FED. R. CIV. P. 21. Like Federal Rule of Civil Procedure 20, Federal Rule of Civil Procedure 21 applies to this proceeding as a rule of last resort through the operation of Superior Court Rule 7.

<sup>3</sup> FED. R. CIV. P. 20(b).

Plaintiff filed his Complaint on July 27, 2015, seeking the dissolution of Defendant Peter's Farm Investment Corporation and Defendant Sixteen Plus Corporation. These two corporations are jointly owned by various members of the Hamed and Yusuf families. In his Complaint, Plaintiff alleges that a series of occurrences between the Hamed and Yusuf families has resulted in "deep acrimony and distrust" between the two families,<sup>4</sup> such that "it [is] impossible for them to jointly manage and operate any business they jointly own."<sup>5</sup> Plaintiff therefore requests that the Court compel shareholders' meetings for each corporation,<sup>6</sup> order the dissolution of each corporation,<sup>7</sup> and appoint a receiver to oversee the winding up of each corporation.<sup>8</sup>

Defendants filed their Motion in response to the fact that both corporations are named as defendants in Plaintiff's Complaint. Defendants move "to dismiss one of the two corporations named in the Complaint, as well as their respective shareholders, for misjoinder," or alternatively "to sever the two claims against the two different corporations . . ."<sup>9</sup> Defendants contend that the two corporations should not be named as defendants in the same lawsuit because "the two corporations are different, have different owners, own different assets and are not part of 'one transaction.'"<sup>10</sup> Defendants also allege that "the two separate corporations were . . . both formed for different reasons at different times to engage in separate business transactions."<sup>11</sup>

Plaintiff argues that "[t]he transactions or occurrences that underlie the dissolution and receivership counts in this case . . . have everything to do with the allegations of irreconcilable conflict between the Yusufs and the Hameds, which make it impossible for them to conduct business jointly."<sup>12</sup> Plaintiff claims that this "deep-seated conflict and mutual antagonism, and the resulting shareholder deadlock[,] is the predicate for the relief sought as to both corporations in the dissolution and receivership counts."<sup>13</sup>

It is unclear from Plaintiff's Complaint exactly what transpired between the Yusuf and Hamed families. It is clear, however, that Plaintiff's alleged right to relief arise out of the series of transactions and occurrences that have given life to the "deep-seated conflict and mutual antagonism" alleged by Plaintiff. Regardless of whether one of the corporate defendants is severed from this action, the nature of these transactions and occurrences represents a question of fact that must be resolved before the Court can determine whether Plaintiff is entitled to the relief he seeks against each corporation. Based on Plaintiff's allegations, both corporate defendants are properly joined in this matter.

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<sup>4</sup> Compl. ¶ 21.

<sup>5</sup> *Id.* ¶ 22.

<sup>6</sup> *Id.* ¶¶ 23–27.

<sup>7</sup> *Id.* ¶¶ 28–30.

<sup>8</sup> *Id.* ¶¶ 30–33.

<sup>9</sup> Defs.' Mot. and Mem. in Support of Defs.' Mot. to Dismiss or Sever for Misjoinder of Parties 1.

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.*

<sup>12</sup> Pl.'s Br. in Opp. to Defs.' Mot. to Dismiss or Sever for Misjoinder of Parties 4–5.

<sup>13</sup> *Id.* at 5.

But the parties have not conducted any discovery in this matter, and the record is not yet sufficient to substantiate the veracity of Plaintiff's allegations. The Court will deny Defendants' Motion without prejudice, permitting Defendants to renew same after the completion of discovery.

Accordingly, it is

**ORDERED** that Defendants' Motion and Memorandum in Support of Defendants' Motion to Dismiss or Sever for Misjoinder of Parties is **DENIED WITHOUT PREJUDICE**; and it is further

**ORDERED** that, within twenty-one (21) days from the date of entry of this Order, the parties shall meet and confer pursuant to Federal Rule of Civil Procedure 26(f) and Plaintiff's attorney shall submit a proposed scheduling order to the Court, which proposed scheduling order shall bear the original signatures of counsel for both parties; and it is further

**ORDERED** that a copy of this Order be directed to Attorneys Gregory H. Hodges and Nizar A. DeWood, counsel for Plaintiff, and to Attorneys Joel H. Holt and Carl J. Hartmann III, counsel for Defendants.

Dated: December 9, 2015

ATTEST:

**Estrella H. George**  
Acting Clerk of the Court

By: \_\_\_\_\_

**Donna D. Donovan**  
Court Clerk Supervisor \_\_\_\_/\_\_\_\_/\_\_\_\_



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**DENISE M. FRANCOIS**  
Judge of the Superior Court  
of the Virgin Islands