

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

FATHI YUSUF, )  
)  
Plaintiff, )  
)  
v. )  
)  
PETER'S FARM INVESTMENT )  
CORPORATION, SIXTEEN PLUS )  
CORPORATION, MOHAMMAD A. )  
HAMED, WALEED M. HAMED, )  
WAHEED M. HAMED, MUFEED M. )  
HAMED, and HISHAM M. HAMED, )  
)  
Defendants. )

CASE NO. ST-15-CV-344  
ACTION FOR DISSOLUTION  
AND OTHER RELIEF

10810-17-00000  
10810-17-00000  
10810-17-00000

PLAINTIFF'S BRIEF IN OPPOSITION TO DEFENDANTS' MOTION TO COMPEL

INTRODUCTION

This discovery dispute involves an attempt by one shareholder faction (the Hameds) to obtain discovery in this suit for use in another lawsuit brought by Defendant Sixteen Plus Corporation at their behest and without the approval of the other faction (the Yusufs). The discovery would be barred if it were sought in the other lawsuit, and the Hamed defendants (all of whom are shareholders of Sixteen Plus) should not be permitted to circumvent the discovery rules by the expedient of seeking the same discovery in this lawsuit.

**I. The Background to this Discovery Dispute.**

The background to this motion is that the Hamed and Yusuf families jointly own several corporations on a 50-50 basis, including Defendants Sixteen Plus Corporation ("Sixteen Plus") and Peters Farm Investment Corporation ("Peters Farm"). The two

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families also have equal ownership shares in a corporation known as Plessen Enterprises, Inc. Additionally, Plaintiff Fathi Yusuf, and Defendant Mohammad Hamed (who died in June of this year), were joint owners of a partnership that owned three Plaza Extra supermarkets, one in St. Thomas and two in St. Croix. The partnership has been dissolved and is being wound up in a Superior Court case styled as *Mohammad Hamed v. Fathi Yusuf, et al.*, SX-12-CV-370 (the "370 case").

Plessen Enterprises, Inc. ("Plessen"), which owns the land on which one of the St. Croix Plaza Extra stores was located ("Plaza Extra-West") is also a party to that action. The late Mohammad Hamed's sons, Defendants' Waleed Hamed, Waheed Hamed, Mufeed Hamed and Hisham Hamed, are shareholders of both Plessen and Sixteen Plus (and co-defendant Peter's Farm). Besides being parties to the 370 case and to the instant case, Defendants Waleed, Waheed, Mufeed and Hisham Hamed are also defendants in a Superior Court derivative action brought by Fathi Yusuf's son, Yusuf Yusuf, on behalf of Plessen, that is styled *Yusuf Yusuf, derivatively on behalf of Plessen Enterprises, Inc. v. Waleed Hamed, et al.*, Superior Court Case No. SX-13-CV-120 (the "120 case.>").

The attorney for three of Mohammed Hamed's sons (Waleed, Mufeed and Hisham Hamed) in the 370 case and for all four sons (including Waheed) in the 120 case is Attorney Mark Eckard, Esq. Attorney Eckard is also counsel for Waleed Hamed in a case styled *United Corporation v. Waleed Hamed*, Superior Court Case No. SX-13-CV-03 (the "03 case"). (See Exhibit A, excerpts of pleadings in the 370, 120 and 03 cases filed by Attorney Eckhard on behalf of the Hamed sons he represents in those cases).

Attorney Eckhard is also representing Sixteen Plus in a separate Superior Court case he has filed against Manal Yousef, a niece of the Plaintiff in the instant case, Fathi Yusuf, that is styled *Sixteen Plus Corporation v. Manal Yousef*, Superior Court Case No. SX-16-CV-65 (the "Manal Yousef case"). (See Exhibit B, Complaint in Manal Yousef Case). That case seeks to invalidate a recorded mortgage given by Sixteen Plus to Manal Yousef to secure a loan made by her. That case was brought by Sixteen Plus, at the behest of the Hamed ownership faction, without any advance notice to, let alone consent from, Fathi Yusuf (a director and shareholder of Sixteen Plus) or any of the other Yusuf family members who are shareholders of Sixteen Plus. Fathi Yusuf regards the lawsuit against Manal Yousef as devoid of merit, and has described it in interrogatory answers as "illegitimate." (See Exhibit C, Interrogatory Answer No. 6).<sup>1</sup>

This discovery dispute centers on an attempt by the Hamed faction to obtain discovery information in this case – specifically, the telephone number of Manal Yousef – that would not be discoverable in the Manal Yousef case.

### ARGUMENT

In *Nathaniel v. American Airlines*, 2008 U.S. Dist. LEXIS 95336, \*17 (D. V.I. 2008), the District Court ruled that "home addresses and telephone numbers of Defendant's employees . . . are not discoverable in this matter." The Court's ruling was based on Model Rule of Professional Conduct, which precludes a lawyer from communicating *ex parte* with a client who is represented by counsel. See *id.* at \*8. Under the holding in *Nathaniel*, the Hamed shareholder faction would be prohibited from

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<sup>1</sup>The secret filing of a lawsuit by Sixteen Plus at the behest of one shareholder faction and against the desires of the other (who regard the lawsuit as meritless) could not be plainer evidence of the shareholder deadlock that characterizes Sixteen Plus and the other Hamed/Yusuf jointly held corporations.

obtaining the telephone number of Defendant Manal Yousef in the Manal Yousef case. The attempt of the Hamed faction to obtain that information in a companion case is just an attempt to make an end-run around that prohibition. If the Hamed lawyer in the Manal Yousef case is prohibited from contacting Manal Yousef directly, then why should another lawyer for that same Hamed faction be permitted to contact her directly? At the very least, this Court should deny the motion to compel without prejudice and permit the Judge assigned to the Manal Yousef case (the Honorable Harold W. L. Willocks) to rule on this discovery issue once it is presented in that case.

The Hamed Defendants also argue that the *Nathaniel* case is distinguishable because “Manal Yousef is not an employee of the Plaintiff.” (Motion to Compel, p. 2). This is a distinction without a difference. MRPC 211.4.2, “Communication with Person Represented by Counsel,” is now codified as Virgin Islands Rule of Professional Conduct 211.4.2. That Rule specifically provides that “a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer other or is authorized to do so by law or a court order.” (See Exhibit D). Attorney Kye Walker is representing Manal Yousef in the Manal Yousef case, and she has advised the attorneys for Fathi Yusuf that she objects to direct telephone contact with her client by any lawyer for the Hameds in any of the various cases involving the two families.<sup>2</sup>

For all of the foregoing reasons, Plaintiff Fathi Yusuf requests that this Honorable Court deny Defendants’ Motion to Compel.

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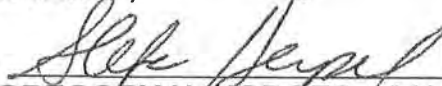
<sup>2</sup> Attorney Walker will submit to this Court a written statement to that effect very shortly.

Respectfully submitted,

**DUDLEY, TOPPER and FEUERZEIG, LLP**

Dated: September 7, 2016

By:

  
\_\_\_\_\_  
**GREGORY H. HODGES** (V.I. Bar No. 174)  
**STEFAN B. HERPEL** (V.I. Bar No. 1019)

Law House

1000 Frederiksberg Gade (P.O. Box 756)

St. Thomas, U.S.V.I. 00804-0756

Telephone: (340) 774-4422

Facsimile: (340) 715-4400

Attorneys for Plaintiff

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**  
1000 Frederiksberg Gade  
P.O. Box 756  
St. Thomas, U.S. V.I. 00804-0756  
(340) 774-4422

CERTIFICATE OF SERVICE

I hereby certify that on this the 7th day of September, 2016, a true and extract copy of the foregoing was served by email, as agreed by the parties.

Joel H. Holt, Esq.  
Law Offices of Joel H. Holt  
2132 Company Street  
Christiansted, VI 00820  
Email: [holtvi@aol.com](mailto:holtvi@aol.com)

Carl J. Hartmann III, Esq.  
5000 Estate Coakley Bay  
Unit L-6  
Christiansted, VI 00820  
Email: [carl@carlhartmann.com](mailto:carl@carlhartmann.com)



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# EXHIBIT A





6. Fathi Yusuf has knowledge of all of the facts related to the allegations in the complaint, including those giving rise to this case.
7. Mahar Yusuf has knowledge of all of the facts related to the allegations in the complaint, including those giving rise to this case.
8. Yusuf Yusuf has knowledge of all of the facts related to the allegations in the complaint, including those giving rise to this case.
9. Nejeff Yusuf - has knowledge of all of the facts related to the allegations in the complaint, including those giving rise to this case.
10. Ayman Al- Khaled, c/o Seaside Market and Deli - has knowledge of the accounting records of the three Plaza Extra Stores.
11. John Gaffney, c/o Plaza Extra West - has knowledge of the accounting records of the three Plaza Extra Stores.
12. Wadda Charriez, works at Plaza Extra at Sion Farm, St. Croix.
13. Kareema Dorsette, works at Plaza Extra at Tutu Mall, St. Thomas.
14. Tamarah Parson-Small- c/o VI Bureau of Internal Revenue - has knowledge of tax filings and tax payments.
15. Marcella Somersall - c/o VI Bureau of Internal Revenue - has knowledge of tax filings and tax payments.
16. Nisha Aubain- do Tropical Shipping & Construction Co., Ltd. - has knowledge of contract between Plaza Extra and Tropical Shipping.

**DOCUMENTS:**

All documents previously produced by Plaintiff, Defendant or Counterclaim Defendants in this case.

**INSURANCE:**

None

**DAMAGES:**

Counterclaim defendants seek no damages other than ancillary relief such as attorneys fees or costs that may be determined by the Court

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Respectfully submitted,

**ECKARD, PC**

Dated: August 27, 2014

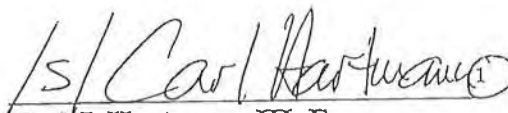
By:



Mark W. Eckard, Esquire  
OFFICE: #1 Company Street  
MAIL: P.O. Box 24849  
Christiansted, VI 00824  
Direct Dial: (340) 514-2690  
Email: [mark@markeckard.com](mailto:mark@markeckard.com)

Counsel to Waleed, Mufeed and Hisham Hamed

-- and --



**Carl J. Hartmann III, Esq.**  
*Counsel for Waheed Hamed*  
5000 Est. Coakley Bay, L6  
Christiansted, VI 00820  
Telephone: (340) 719-8941  
Email: [carl@carlhartmann.com](mailto:carl@carlhartmann.com)

Counsel to Waheed Hamed

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27<sup>th</sup> day of August 2014, I served a copy of the foregoing in compliance with the parties consent, pursuant to Fed. R. Civ. P. 5(b)(2)(E), to electronic service of all documents in this action on the following persons:

**Nizar A. DeWood, Esquire**  
Email: [dewoodlaw@gmail.com](mailto:dewoodlaw@gmail.com)

**Joel H. Holt, Esquire**  
*Counsel for Mohammad Hamed*  
[holtvi@aol.com](mailto:holtvi@aol.com)

**Gregory H. Hodges, Esquire**  
Email: [ghodges@dtflaw.com](mailto:ghodges@dtflaw.com)

**Jeffrey B.C. Moorhead, Esquire**  
*Counsel for Plessen Enterprises, Inc.*  
Email: [jeffreylaw@yahoo.com](mailto:jeffreylaw@yahoo.com)

<sup>1</sup> Signed by Mark W. Eckard, Esquire, with permission granted by Carl Hartmann, Esquire.

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

YUSUF YUSUF, derivatively on behalf of  
PLESSEN ENTERPRISES, INC.,

*Plaintiff,*

v.

WALEED HAMED, WAHEED HAMED,  
MUFEEED HAMED, HISHAM HAMED  
and FIVE-H HOLDINGS, INC.,

*Defendants,*

and

PLESSEN ENTERPRISES, INC.,

*Nominal Defendant.*

Case No. SX-13-CV-120

CIVIL ACTION FOR DAMAGES  
AND INJUCTIVE RELIEF

JURY TRIAL DEMANDED

**DEFENDANTS' JOINT OPPOSITION TO PLAINTIFF'S  
MOTION TO AMEND THE COMPLAINT**

On April 29, 2015, Plaintiff moved to amend the Complaint he had filed two years earlier. Both Plessen Enterprises, Inc. ("Plessen") and the "Hamed Defendants" jointly oppose this motion, which should be denied for the reasons set forth herein.

**I. FACTUAL BACKGROUND**

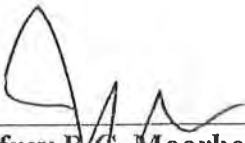
This case arises out of the removal of \$460,000 from Plessen's account by its Vice-President, Wally Hamed, who did so to protect these funds. See **Exhibit 1**. Because Plessen is owned 50/50 by the Hamed and Yusuf families, Hamed placed 50% of the removed funds with the Court, tendering a stipulation to Yusuf's counsel so they could immediately and unconditionally remove their half of the funds. See **Exhibit 1**. However, Yusuf did not withdraw these funds. Thus, Wally Hamed has now also tendered the balance of the funds into the Court

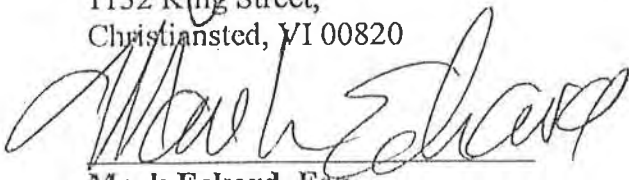
It would also be unduly prejudicial to Plessen to have to address this claim in both courts at the same time under the doctrine set forth in *Georgia Fed. Bank, FSB, supra*. As such, the request to add these three new Counts in this case should be denied. Alternatively, any Order granting the motion to amend in this case should be premised on the requirement that the claims against Plessen in SX-12-CIV-370 be withdrawn. Indeed, it is a waste of valuable judicial resources for two identical claims to be litigated in this Court in two different cases at the same time.

**VI. CONCLUSION**

For the reasons set forth herein, it is respectfully submitted that the Plaintiff's *Motion To Amend the Complaint* should be denied in whole, or at least in part as to (1) the two equitable claims (Counts IV and VI), (2) the claims related to the Plessen-KAC357 lease in paragraphs 59, 65-66, 72-73 and 78 and (3) the claims still pending in SX-12-CV-370 (Counts IX and X), unless those counts are dismissed in that case.

**Date:** May 13, 2015

  
\_\_\_\_\_  
**Jeffrey B.C. Moorhead, Esq.**  
*Counsel for Plessen Enterprises, Inc.*  
C.R.T. Building  
1132 King Street,  
Christiansted, VI 00820

  
\_\_\_\_\_  
**Mark Eckard, Esq.**  
*Counsel For Hamed Defendants*  
Eckard, PC  
P.O. Box 24849  
Christiansted, VI 00824  
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340-514-2690

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

UNITED CORPORATION,	)	CIVIL NO. SX-13-CV-03
	)	
Plaintiff,	)	ACTION FOR DAMAGES INJUNCTIVE
	)	RELIEF AND DECLARATORY RELIEF
v.	)	
	)	
WALEED HAMED	)	
	)	
Defendant.	)	
	)	

---

**DEFENDANT WALEED 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

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 judgement 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



**Mark W. Eckard**  
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Email: carl@carlhartmann.com

# EXHIBIT B

**AFFIDAVIT OF SERVICE**  
**(SUMMONS - civil action)**

COUNTRY: St. Croix, U.S.V.I.  
COURT: Superior Court of the Virgin Islands  
CAPTION: **SIXTEEN PLUS CORPORATION, plaintiff**

Vs.

**MANAL MOHAMMAD YOUSEF, defendant**

Case No: **Sx - 16 - W - 65**

St. Maarten,  
City of Philipsburg

I declare that I, **Solange Monique APON**, am a citizen of St. Maarten, over the age of twenty-one, not a party nor an attorney for any party in this action, and that within the boundaries of the country where service was effected, I was authorized to perform the following service:

- A) Summons
- B) Complaint

Date Received: April 4<sup>th</sup>, 2016

I, \_\_\_\_\_ Service on **Manal Mohammad Yousef**, was accomplished by personally delivering the above mentioned documents to:

- INDIVIDUAL SERVICE; Served the within-named person.
- SUBSTITUTE SERVICE; By serving it to .....
- CORPORATE SERVICE; Served the within named corporation by delivering a true copy of the within named corporation to any superior or officer of within mentioned corporation.
- NON SERVICE; for reasons detailed in the comments below;
- SERVICE ACCORDING to the laws of St. Maarten; "leaving at below address in a sealed envelope containing the particulars required by the law, because I saw no one there who could be left legally with a copy (ex. Art. 2 paragraph 1 + 2 Code of C v. Procedure)"



**SUMMONS**

(Civil Action -Original)

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

SIXTEEN PLUS CORPORATION,

Plaintiff

v.

MANAL MOHAMMAD YOUSEF,

Defendant.

Case No. SX-16-CV-65

Action for Declaratory Judgment


THE GOVERNMENT OF THE VIRGIN ISLANDS

To: MANAL YOUSEF, Defendant

Address: 25 Gold Finch Road, Pointe Blanche, St. Martin, N.A.

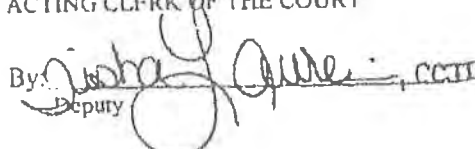
Within the time limited by law (see below) you are hereby required to appear before this Court and answer a Complaint filed against you in this action, and in case of your failure to appear and answer, judgment by default will be taken against you as demanded in the complaint

Witness my hand and Seal of this Court this 4th day of April, 2016

  
(Attorney for Plaintiff)

Mark W. Eckard, Esquire  
Hamm Eckard LLP  
5030 Anchor Way, Suite 13  
Christiansted, VI 00820-4692  
Phone: 340-773-6955; Fax: 855-456-8784

ESTRELLA H GEORGE  
ACTING CLERK OF THE COURT

By:   
Deputy

NOTE: The defendant, if served personally, is required to file his answer or other defense with the Clerk of this Court, and to serve a copy thereof upon the plaintiff's attorney within twenty (20) days after service of this summons, excluding the date of service. The defendant, if served by publication or by personal service outside of the jurisdiction, is required to file his answer or other defense with the Clerk of this Court, and to serve a copy thereof upon the attorney for the plaintiff within thirty (30) days after the completion of the period of publication or personal service outside of the jurisdiction.

**RETURN OF SERVICE**

I hereby certify that I received this summons on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, and that thereafter, on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, I did serve the same on the above-named defendant, \_\_\_\_\_, by showing h\_\_\_\_\_ this original and by then delivering to h\_\_\_\_\_ a copy of the complaint and of the summons which were forwarded to me attached thereto.

\_\_\_\_\_  
Marshal

\_\_\_\_\_  
Deputy

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

SIXTEEN PLUS CORPORATION, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 MANAL MOHAMMAD YOUSEF, )  
 )  
 Defendant. )

Civil No. SX-15-CV- 15 16  
ACTION FOR  
DECLARATORY JUDGMENT

54

COPY

COMPLAINT

Sixteen Plus Corporation ("Plaintiff"), by and through its undersigned counsel, files this Complaint against Defendant Manal Mohammad Yousef ("Defendant") and states as follows:

PRELIMINARY STATEMENT

1 Plaintiff seeks judgment declaring a mortgage to be null, void and unenforceable for lack of consideration.

PARTIES

- 2 Plaintiff is a Virgin Islands corporation in good standing.
- 3 Defendant is an adult individual who, upon information and belief, is a citizen of St. Maarten.

JURISDICTION; VENUE; STATUTORY PREDICATE FOR RELIEF

4 The Court has *in personam* jurisdiction over Defendant pursuant to 5 V.I.C. § 4903(5) because Defendant purports to have an interest (specifically, a security interest pursuant to a purported mortgage) in real property located within the Territory of the United States Virgin Islands

5 Venue of this Action is appropriate in the Division of St. Croix because the real property against which the invalid mortgage is recorded is located on the island of St. Croix.

6. Plaintiff seeks relief herein pursuant to Chapter 89 of Title 5 of the Virgin Islands Code.

FACTUAL BACKGROUND

7. Plaintiff is the fee simple owner of the following described real property (collectively, the "Property").

Parcel No. 8, Estate Cane Garden, consisting of approximately 2.6171 U.S. Acres,

Remainder no. 46A, Estate Cane Garden, consisting of approximately 7.6460 U.S. Acres,

Parcel No. 10, Estate Cane Garden, consisting of approximately 2.0867 U.S. Acres;

Road Plot No. 11, Estate Cane Garden, consisting of approximately 0.868 U.S. Acres;

Parcel No. 11, Estate Retreat, Matr. No. 37B of Company Quarter and Peter's Minde, Matr. No. 37A and 37BA, Company Quarter, and No. 54 Queen's Quarter all consisting of approximately 42.3095 U.S. Acres,

Remainder Matr. 32B, Estate Cane Garden of approximately 48.5175 U.S. Acres;

Parcel No. 9 Estate Cane Garden, consisting of approximately 11.9965 U.S. Acres,

Remainder Matr. 32A, Estate Granard, consisting of approximately 41.0736 U.S. Acres;

Parcel No. 40, Estate Granard, consisting of approximately 14.9507 U.S. Acres;

Remainder Matr. No. 31, Estate Diamond, consisting of approximately 74.4220 U.S. Acres;

Parcel No. 4, Estate Diamond, consisting of approximately 5.8662 U.S. Acres;

Parcel No. 1, Estate Diamond, consisting of approximately 61.2358 U.S. Acres.

Parcel No. 3, Estate Diamond, consisting of approximately 6.9368 U.S. Acres;

Parcel No. 2, Estate Diamond, consisting of approximately 6.5484 U.S. Acres;

Road Plot No. 12, Estate Cane Garden, consisting of approximately 0.4252 U.S. Acres;

Road Plot No. 41, Estate Granard, consisting of approximately 0.4255 U.S. Acres; and

Road Plot No. 6, Estate Diamond, of approximately 0.8510 U.S. Acres

8. On September 15, 1997, Plaintiff executed a mortgage on the Property to Defendant in the amount of \$4,500,000 (the "Mortgage")

9. Defendant did not have any funds to advance for the Mortgage.

10. Defendant simply agreed for her name to be used as a "straw" mortgagee, without any consideration given by her in exchange for the Mortgage.

11. The Mortgage was signed well over a year before the Property was purchased.

12. Defendant did not advance any funds or other consideration of any kind whatsoever to Plaintiff as consideration for the mortgage.

13. The Mortgage is unenforceable because Defendant did not give any consideration to Plaintiff in exchange for the Mortgage

#### COUNT FOR RELIEF

14. Plaintiff incorporates each and every of the foregoing allegations as though fully set forth herein.

15. Plaintiff is a person interested under the Mortgage, which constitutes a contract, as contemplated in 5 V.I.C. § 1262

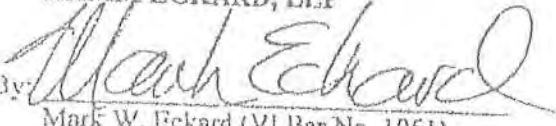
16. Plaintiff is entitled to declaratory judgment declaring the Mortgage to be null, void and unenforceable.

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in favor of Plaintiff and against Defendant: (i) declaring the Mortgage to be null, void and unenforceable; (ii) granting to Plaintiff such other and further legal and/or equitable relief as is just and proper; and (iii) granting to Plaintiff its attorneys' fees and costs incurred in connection with this Action.

PLAINTIFF DEMANDS TRIAL BY JURY

Respectfully submitted,

HAMMECKARD, LLP

By: 

Mark W. Eckard (VI Bar No. 1051)  
5030 Anchor Way, Suite 13  
Christiansted, VI 00820-4692  
Telephone: (340) 514-2690  
Facsimile: (855) 456-8784  
Email: [meckard@hammeckard.com](mailto:meckard@hammeckard.com)

Counsel to Sixteen Plus Corporation

Dated. February 9, 2016

# SUMMONS

(Civil Action -Original)

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

SIXTEEN PLUS CORPORATION,

Plaintiff

v.

MANAL MOHAMMAD YOUSEF,

Defendant.

Case No. SX-16-CV-65

Action for Declaratory Judgment


THE GOVERNMENT OF THE VIRGIN ISLANDS:

To: **MANAL YOUSEF**, Defendant

Address: 25 Gold Finch Road, Pointe Blanche, St. Martin, N.A.

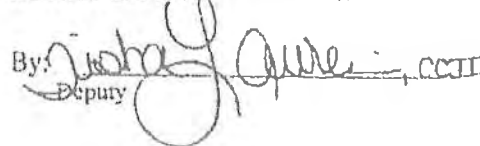
Within the time limited by law (see below) you are hereby required to appear before this Court and answer a Complaint filed against you in this action, and in case of your failure to appear and answer, judgment by default will be taken against you as demanded in the complaint

Witness my hand and Seal of this Court this 4<sup>th</sup> day of April, 2016

  
\_\_\_\_\_  
(Attorney for Plaintiff)

Mark W. Eckard, Esquire  
Hamm Eckard LLP  
5030 Anchor Way, Suite 13  
Christiansted, VI 00820-4692  
Phone: 340-773-6955; Fax: 855-456-8784

FSTRELLA H. GEORGE  
ACTING CLERK OF THE COURT

By:   
Deputy, CCJ

NOTE: The defendant, if served personally, is required to file his answer or other defense with the Clerk of this Court, and to serve a copy thereof upon the plaintiff's attorney within twenty (20) days after service of this summons, excluding the date of service. The defendant, if served by publication or by personal service outside of the jurisdiction, is required to file his answer or other defense with the Clerk of this Court, and to serve a copy thereof upon the attorney for the plaintiff within thirty (30) days after the completion of the period of publication or personal service outside of the jurisdiction.

### RETURN OF SERVICE

I hereby certify that I received this summons on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, and that thereafter, on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, I did serve the same on the above-named defendant, \_\_\_\_\_, by showing h\_\_\_\_\_ this original and by then delivering to h\_\_\_\_\_ a copy of the complaint and of the summons which were forwarded to me attached thereto.

\_\_\_\_\_  
Marshal

\_\_\_\_\_  
Deputy

# EXHIBIT C

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

FATHI YUSUF,	)	
	)	
Plaintiff,	)	<b>CASE NO. ST-15-CV-344</b>
	)	
v.	)	<b>ACTION FOR DISSOLUTION</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>	)	
	)	
Defendants.	)	
	)	
<hr style="width:50%; margin-left:0;"/>		

**PLAINTIFF'S SECOND SUPPLEMENTAL AND AMENDED RESPONSES TO  
DEFENDANT WALEED M. HAMED'S FIRST SET OF INTERROGATORIES**

Plaintiff, Fathi Yusuf, through his attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provides its Second Supplemental and Amended Responses to Defendant Waleed M. Hamed's First Set of Interrogatories:

**GENERAL OBJECTIONS**

Plaintiff makes the following general objections to the Interrogatories. These general objections apply to all or so many of the Interrogatories that, for convenience, they are set forth herein and are not necessarily repeated after each objectionable Interrogatory. The assertion of the same, similar, or additional objections in the individual responses to the Interrogatories, or the failure to assert any additional objections to a discovery request does not waive any of Plaintiff's objections as set forth below:



5. Did Sixteen Plus ever borrow funds to help secure the purchase of any property it has owned in the Virgin Islands and if so, please state for each such loan:
- a) The name and location of the lender;
  - b) The property purchased with the loan proceeds;
  - c) The amount of the loan;
  - d) The date of the loan;
  - e) The date of all payments on the loan;
  - f) The current address and phone number of the lender;
  - g) The last date you had any communication with the lender; and
  - h) The current balance on the loan.

**AMENDED AND SUPPLEMENTAL RESPONSE:**

Yes. The name of the lender is Manal Yousef. The date of the loan was September 15, 1997, and the amount, \$4.5 million dollars. Three interest-only payments were made during the 1998-2000 period to Manal Yousef. I do not recall the last date I had any communication with her. Manal Yousef's current address to the best of my knowledge is 25 Gold Finch Road, Pointe Blanche, St. Martin. She is represented by counsel (Kye Walker, Esq.) in an illegitimate lawsuit that was filed by Sixteen Plus Corporation without my authority or approval, and without consulting with me or any other of the Yusuf shareholders or letting any of us know it would be filed. The lawsuit is pending in the Virgin Islands Superior Court (St. Croix Division), and is styled Sixteen Plus Corporation v. Manal Mohammad Yousef, case no. SX-16-CV-65. Because Manal Yousef is represented by counsel in the lawsuit, and because the lawsuit was brought at the behest of the Hamed shareholder interests in Sixteen Plus Corporation, counsel for any of the Hameds are barred from speaking directly to Manal Yousef. For that reason, Defendant objects to providing her telephone number. You and other attorneys acting for the Hameds are permitted to discuss this matter with her counsel, Attorney Walker, whose phone number is (340) 773-0601. The current principal balance on the loan is \$4.5 million, plus accrued interest. I also spoke to an agent of Manal Yousef named Isam Yousuf, shortly after the service of the lawsuit filed against Manal Yousef. I do not recall the exact date. He telephoned me to tell me about the lawsuit, which I knew nothing about. I told him that the lawsuit was filed without my knowledge or approval, and that it was wrong in claiming that the mortgage given by Sixteen Plus to Manal Yousef was invalid. I have had no conversations with him since that one.

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

FATHI YUSUF, )  
)  
Plaintiff, ) CASE NO. ST-15-CV-344  
)  
v. ) ACTION FOR DISSOLUTION  
) AND OTHER RELIEF  
)  
PETER'S FARM INVESTMENT )  
CORPORATION, SIXTEEN PLUS )  
CORPORATION, MOHAMMAD A. )  
HAMED, WALEED M. HAMED, )  
WAHEED M. HAMED, MUFEED M. )  
HAMED, and HISHAM M. HAMED, )  
)  
Defendants. )  
\_\_\_\_\_ )

CERTIFICATION

I hereby swear and affirm that the factual portions of the Plaintiff's Second Supplemental and Amended Responses to Defendant Waleed M. Hamed's First Set of Interrogatories are true and correct to the best of my knowledge and belief.



FATHI YUSUF

SUBSCRIBED AND SWORN to, before me, this 9<sup>th</sup> day of August, 2016.



Notary Public

R:\DOCS\6254\10003\PLDGM16Q7596.DOCX

Rupertha A. Andrews  
Notary Public  
District of St. Croix, USVI  
Commission # NP-115-16  
Commission Expires October 21, 2019

# EXHIBIT D

**IN THE SUPREME COURT OF THE VIRGIN ISLANDS**

**IN RE:** ) **PROMULGATION No. 2013-001**  
 )  
 )  
**ADOPTION OF THE VIRGIN ISLANDS** )  
**RULES OF PROFESSIONAL CONDUCT.** )  
 )  
 )  
 )  
 )

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**ORDER OF THE COURT**

Pursuant to its inherent authority and the authority granted to it by section 21(c) of the Revised Organic Act of 1954, as amended, and title 4, sections 32(b), 32(e), 32(f)(2) and 34(a) of the Virgin Islands Code, and after considering comments submitted by the Office of Disciplinary Counsel during the comment period, it is hereby

**ORDERED** that Supreme Court Rule 211, attached hereto as Exhibit 1, **IS HEREBY ADOPTED and WILL TAKE EFFECT** on February 1, 2014. It is further

**ORDERED** that Supreme Court Rule 203(a) be **AMENDED** by inserting the phrase “Virgin Islands Rules of Professional Conduct and” between the words “adopts” and “the”, and by striking the phrase “Rules of Professional conduct and” after the word “ABA’s”. It is further

**ORDERED** that copies of this order be directed to the appropriate parties.

**SO ORDERED** this 23<sup>rd</sup> day of December, 2013.

/s/ Ive Arlington Swan  
**IVE ARLINGTON SWAN**  
Associate Justice

/s/ Maria M. Cabret  
**MARIA M. CABRET**  
Associate Justice

/s/ Rhys S. Hodge  
**RHYS S. HODGE**  
Chief Justice

**ATTEST:**  
**VERONICA J. HANDY, ESQ.**  
Clerk of the Court

condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 2.11.3.6 or this Rule.

- (g) When a prosecutor knows of new, credible and material evidence creating a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted, the prosecutor shall:
  - (1) promptly disclose that evidence to an appropriate court or authority, and
  - (2) if the conviction was obtained in the prosecutor's jurisdiction,
    - (i) promptly disclose that evidence to the defendant unless a court authorizes delay, and
    - (ii) undertake further investigation, or make reasonable efforts to cause an investigation, to determine whether the defendant was convicted of an offense that the defendant did not commit.
- (h) When a prosecutor knows of clear and convincing evidence establishing that a defendant in the prosecutor's jurisdiction was convicted of an offense that the defendant did not commit, the prosecutor shall seek to remedy the conviction.

### **211.3.9 Advocate in Nonadjudicative Proceedings**

A lawyer representing a client before a legislative body or administrative agency in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of Rules 211.3.3(a) through (c), 211.3.4(a) through (c), and 211.3.5.

### **211.4.1 Truthfulness in Statements to Others**

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of material fact or law to a third person; or
- (b) fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 211.1.6.

### **211.4.2 Communication with Person Represented by Counsel**

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

### **211.4.3 Dealing with Unrepresented Person**

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the