

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

HISHAM HAMED, derivatively, on behalf)
of **SIXTEEN PLUS CORPORATION**,)

Plaintiff,)

vs.)

FATHI YUSUF, ISAM YOUSUF and)
JAMIL YOUSEF,)

Defendants,)

and)

SIXTEEN PLUS CORPORATION,)

a nominal defendant.)

Case No.: 2016-SX-CV-650

DERIVATIVE SHAREHOLDER
SUIT, ACTION FOR DAMAGES,
CICO RELIEF, EQUITABLE RELIEF
AND INJUNCTION

JURY TRIAL DEMANDED

**DEFENDANT, FATHI YUSUF'S MOTION FOR LEAVE,
NUNC PRO TUNC, TO FILE A MOTION OVER 20 PAGES**

Defendant, Fathi Yusuf ("Mr. Yusuf"), through undersigned counsel, hereby moves the Court for leave, *nunc pro tunc*, to file his Motion to Dismiss Plaintiff, Hisham Hamed's First Amended Complaint ("Complaint") which motion is twenty seven (27) pages and, in support, states as follows.¹

1. Plaintiff's twenty three (23) page Complaint asserted eight (8) claims in total: violations of three separate provisions of the Criminally Influenced and Corrupt Organizations Act ("CICO"), conversion, breach of fiduciary duty, civil conspiracy, usurpation of corporate opportunity and the "tort of outrage."

2. On January 9, 2017, Mr. Yusuf timely moved to dismiss all claims on statute of limitations grounds, for failure to properly plead the claims, and for failure to join a necessary and indispensable party.

¹ This Motion is being timely submitted in lieu of an opposition to Plaintiff's Motion to Strike Mr. Yusuf's Motion to Dismiss on the grounds that it exceeded twenty (20) pages.

3. Given the complexity and volume of the allegations—and the multiple different arguments in favor of dismissal of the eight counts—Mr. Yusuf needed more than the twenty (20) pages allowed by the Local Rules of Civil Procedure to properly address the failures in the Complaint.

4. It was mere inadvertence—not disregard of the applicable rules of the Court—that the Motion to Dismiss at issue was filed absent a contemporaneous request for leave to file a brief with an additional seven (7) pages.

5. On the basis of the foregoing, Mr. Yusuf respectfully requests that the Court grant him leave *nunc pro tunc* to January 9, 2017, to file his twenty seven (27) page Motion to Dismiss.

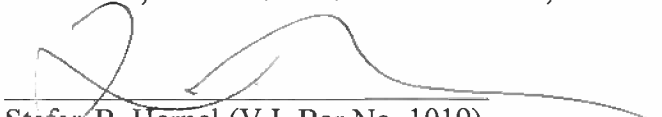
6. If the Court is not so inclined, alternatively, Mr. Yusuf respectfully requests that the Court give him a *nunc pro tunc* extension to file a Motion to Dismiss the Complaint which has twenty pages (20) or less.

Respectfully Submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: February 6, 2017

By:


Stefan B. Herpel (V.I. Bar No. 1019)

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HAMD640900

Hamed v. Yusuf, et al.

Case No. 16-SX-CV-650

F. Yusuf's Motion for Leave to File a Brief Over 20 Pages

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CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of February, 2017, I served the foregoing
*DEFENDANT, FATHI YUSUF'S MOTION FOR LEAVE, NUNC PRO TUNC, TO FILE A
MOTION OVER 20 PAGES* via e-mail addressed to:

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HAMD640901

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ORDER

THIS MATTER came before the Court on Defendant, Fathi Yusuf's Motion for Leave, *nunc pro tunc*, to file a twenty seven (27) page Motion to Dismiss Plaintiff, Hisham Hamed's First Amended Complaint ("Motion"). The premises being duly considered, it is hereby

ORDERED and AJUDGED that the Motion is **GRANTED** and Fathi Yusuf's twenty seven (27) page Motion to Dismiss the First Amended Complaint is deemed properly filed as of its original date of filing, January 9, 2017.

DATED: February ____, 2017

Robert A. Molloy
Judge of the Superior Court

A T T E S T:

Estrella H. George
Acting Clerk of the Court

By: _____
Deputy Clerk ____/____/____

cc: Joel H. Holt, Esq.
Stefan B. Herpel, Esq.