

**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 REPLY IN SUPPORT OF HIS
MOTION FOR LEAVE TO FILE A SUR REPLY TO
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendant, Fathi Yusuf ("Mr. Yusuf"), through undersigned counsel, pursuant to Local Rule of Civil Procedure 7.1(a), hereby replies in support of his motion to file a sur-reply to Plaintiff, Hisham Hamed's Motion for Partial Summary Judgment on Count III (Breach of Fiduciary Duty) of the Complaint ("Motion for Sur-Reply") and, in support, states as follows.

1. In Plaintiff's Response to the Motion for Leave to File a Sur Reply ("Response"), Plaintiff does not challenge the law cited in the Motion for Sur-Reply, or argue that a sur-reply is inappropriate under the circumstances at issue.

2. Rather, Plaintiff conceded that leave for Mr. Yusuf to file his sur-reply is properly granted. Response, p. 3 ("[T]he proffered sur-reply can be deemed filed . . .").

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3. Accordingly, the Court should grant Mr. Yusuf's Motion for Sur-Reply.

4. Turning to the balance of Plaintiff's Response, it is plainly **not** a response to Mr. Yusuf's Motion for Sur-Reply, but rather argument directed to the merits of Mr. Yusuf's proposed sur-reply in attempted support of Plaintiff's Motion for Summary Judgment.

5. Therefore, Plaintiff needed to seek leave of the Court before filing it. *See* LRCi 7.1 ("Only a motion, response in opposition, and a reply may be served on counsel and filed with the Court; further response or reply may be made only by leave of Court obtained before filing[.]")

6. As Plaintiff impermissibly used the Response to advance arguments in support of his Motion for Partial Summary Judgment, as opposed to strictly addressing the merits of Mr. Yusuf Motion for Sur-Reply, the balance of the filing is properly ignored by the Court.

7. Mr. Yusuf recognizes that the Court may, in its discretion, decide to entertain the arguments in the balance of Plaintiff's filing.

8. If the Court does so, Plaintiff claims that "the deficiencies noted in the Rule 11 motion raise the same problem that exists in the motion to file a sur-reply and the attached proposed sur-reply . . ." Response, p. 2.

9. Accordingly, with respect to the unauthorized and improperly filed balance of the Response, Mr. Yusuf incorporates the arguments made in the Opposition to Plaintiff's Motion for Rule 11 Sanctions filed contemporaneously herewith.

WHEREFORE, on the basis of the foregoing, Defendant, Fathi Yusuf, respectfully requests that the Court grant him leave to file a sur-reply in the form attached to his Motion for Leave to File Sur Reply and award him such other relief as the Court deems just and proper.

Hamed v. Yusuf, et al.

Case No. 16-SX-CV-650

F. Yusuf's Reply in Support of Motion for Leave to File a Sur-Reply

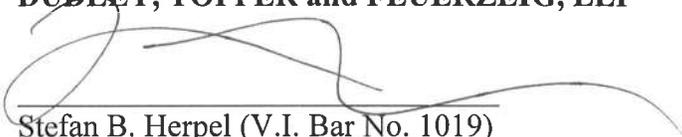
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Respectfully Submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: April 3, 2017

By:


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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of April, 2017, I served the foregoing *DEFENDANT, FATHI YUSUF'S REPLY IN SUPPORT OF HIS MOTION FOR LEAVE TO FILE A SUR REPLY TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT* via e-mail addressed to:

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