

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

**HISHAM HAMED, individually, and
derivatively, on behalf of SIXTEEN PLUS
CORPORATION,**

Plaintiff,

v.

**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
AND CICO RELIEF**

JURY TRIAL DEMANDED

PLAINTIFF'S NOTICE OF SUPPLEMENTAL AUTHORITY

The Plaintiff hereby gives notice of supplemental (and overriding precedential) authority of the applicable standard to apply to the Defendant Fathi Yusuf's pending Rule 12(b)(6) motion. In this regard, the V.I. Supreme Court has adopted new civil rules, known as the Virgin Islands Rules of Civil Procedure (to be cited as V.I. R.CIV. P.). As these new rules relate to the pending Rule 12(b)(6) motion, Rule 1.1(c) states:

(c)Application to Pending Proceedings. These rules, and subsequent amendments, govern:

.....

(2) proceedings in any action pending on the effective date of the rules or amendments, unless:

.....

(B) the Superior Court makes an express finding that applying them in a particular previously-pending action would be infeasible or would work an injustice.

Thus, these new rules apply to this case. V.I. R.CIV. P. 8 then provides in relevant part as follows:

(a) Claim for Relief. Except as otherwise provided in these Rules, a pleading that states a claim for relief must contain:

.....

(2) a short and plain statement of the claim showing that the pleader is entitled to relief — **because this is a notice pleading jurisdiction** (Emphasis added)

Thus, in addressing the Defendant's pending Rule 12(b)(6) motion, this Court need not apply the more stringent standard required in federal court (i.e., the standard established by the "*Iqbel, Twombly*" line of cases), as the First Amended Complaint need only meet the "notice pleading" requirement of V.I. R. CIV. P. 8.

Dated: April 10 , 2017



Joel H. Holt, Esq. (Bar # 6)
Counsel for Plaintiffs
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709
Fax: (340) 773-8677

Carl J. Hartmann III, Esq.
Co-Counsel for Plaintiffs
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page limitation set forth in Rule 6-1(e), and was served this 10th day of April, 2017, by mail and email on:

Gregory H. Hodges

Stefan Herpel

Lisa Komives

Counsel for Fathi Yusuf

Law House, 10000 Frederiksberg Gade

P.O. Box 756

St. Thomas, VI 00802

ghodges@dtflaw.com,

sherpel@dtflaw.com,

lkomives@dtflaw.com

James Hymes VI Bar No. 264

Counsel for Isam and Jamil Yousef

P.O. Box 990

St. Thomas, Virgin Islands 00804-0990

jjm@hymeslawvL.com

rauna@hymeslawvi.com

