

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

SIXTEEN PLUS CORPORATION, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MANAL MOHAMMAD YOUSEF, )  
)  
Defendant. )  
\_\_\_\_\_)  
)  
MANAL MOHAMMAD YOUSEF, )  
)  
Counter-Claimant, )  
)  
vs. )  
)  
SIXTEEN PLUS CORPORATION, )  
)  
Counter-Defendant. )  
\_\_\_\_\_)  
)  
HISHAM HAMED, on behalf of himself )  
and derivatively, on behalf of SIXTEEN )  
PLUS CORPORATION, )  
)  
Plaintiff, )  
)  
vs. )  
)  
FATHI YUSUF, ISAM YOUSUF and )  
JAMIL YOUSEF, )  
)  
Defendants, )  
)  
and )  
)  
SIXTEEN PLUS CORPORATION, )  
)  
a nominal defendant. )  
\_\_\_\_\_)

CIVIL NO. SX-16-CV-65  
\_\_\_\_\_  
ACTION FOR  
DECLARATORY JUDGMENT  
\_\_\_\_\_  
JURY TRIAL DEMANDED

COUNTERCLAIM

Case No.: 2016-SX-CV-650  
DERIVATIVE SHAREHOLDER  
SUIT, ACTION FOR DAMAGES,  
CICO RELIEF, EQUITABLE RELIEF  
AND INJUNCTION  
JURY TRIAL DEMANDED

**SIXTEEN PLUS CORP. v. MANAL MOHAMMAD YOUSEF (SCVI/STX Case No. SX-16-CV-065);**  
**HISHAM HAMED v. FATHI YUSUF, et al. (SCVI/STX Case No. SX-16-CV-650); and**  
**MANAL MOHAMMAD YOUSEF v. SIXTEEN PLUS CORPORATION (SCVI/STX Case No. SX-17-CV-342)**  
**BRIEF OF YOUSEF/YOUSUFS REGARDING THEIR POSITION ON COMPLEX LITIGATION DESIGNATION**

MANAL MOHAMMAD YOUSEF,	)	
a/k/a MANAL MOHAMAD YOUSEF,	)	
	)	CIVIL NO. SX-17-CV-342
Plaintiff,	)	
	)	ACTION FOR DEBT AND
vs.	)	FORECLOSURE OF REAL
	)	PROPERTY MORTGAGE
SIXTEEN PLUS CORPORATION,	)	
	)	COUNTERCLAIM FOR
Defendant.	)	DAMAGES
_____	)	
	)	JURY TRIAL DEMANDED
SIXTEEN PLUS CORPORATION,	)	
	)	
Counterclaim Plaintiff,	)	
	)	
Vs.	)	
	)	
MANAL MOHAMMAD YOUSEF a/k/a	)	
MANAL MOHAMAD YOUSEF and	)	
FATHI YUSUF,	)	
	)	
Counterclaim Defendants.	)	
_____	)	

**BRIEF OF YOUSEF/YOUSUFS**  
**REGARDING THEIR POSITION ON COMPLEX LITIGATION DESIGNATION**

**COME NOW**, Manal Mohammad Yousef and Isam Yousuf and Jamil Yousuf<sup>1</sup> (hereinafter collectively “Yousef/Yousefs”), by and through their undersigned counsel, and pursuant to V.I.R.Civ.P. 92 request this Court to designate the three (3) actions, Civil Numbers SX-16-CV-65, SX-16-CV-650 and SX-17-CV-342, as not complex and request that the cases remain with Judge Jomo Meade, to whom they were assigned. On August 23, 2019, Judge

<sup>1</sup> Isam Yousuf and Jamil Yousuf do not voluntarily appear in this matter, do not submit to the jurisdiction of the Court, and do not waive any objections to subject matter jurisdiction, personal jurisdiction, improper venue, insufficiency of process, insufficiency of service of process, or failure to state a claim upon which relief can be granted, or any other defense or objection which may be presented whether by pleading or motion in the action.

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HISHAM HAMED v. FATHI YUSUF, et al. (SCVI/STX Case No. SX-16-CV-650); and  
MANAL MOHAMMAD YOUSEF v. SIXTEEN PLUS CORPORATION (SCVI/STX Case No. SX-17-CV-342)  
**BRIEF OF YOUSEF/YOUSUFS REGARDING THEIR POSITION ON COMPLEX LITIGATION DESIGNATION****

Robert A. Molloy ordered the parties, in accordance with V.I.R.Civ.P. 92(d), to address whether the three (3) cases should be transferred to the Complex Litigation Division (“CLD”). These cases are not “complex” within the meaning of V.I.R.Civ.P. 92. The actions do not provisionally present complex case management issues under Rule 92(b). Because the cases do not involve a substantial number of parties, do not involve novel legal issues, involve civil CICO/tort claims in SX-16-CV-650 and mortgage and its enforceability in SX-17-CV-342 and SX-16-CV-65, and the proof of the claims and defenses will not require coordinated scientific testing and analysis, these cases should not be designated as complex pursuant to Rule 92(c). The Court should determine the cases do not qualify as complex cases. The Court should issue an order denying complex case treatment. The undersigned is unable to attend the hearing scheduled for September 10, 2019, and respectfully requests the position of the Yousufs and Yousef be submitted on this written brief.

The Court considers V.I.R.Civ.P. 92 in determining whether a case is complex. Rule 92 defines a “complex case” is a civil action that “requires exceptional judicial management to avoid placing unnecessary burdens on the court or the litigants and to expedite the case, keep costs reasonable, and promote effective decision making by the court, the parties, and counsel.” V.I.R.Civ.P. 92(a). The three (3) actions do not fit within the types of claims deemed presumptively complex under Rule 92(b). An action is presumptively complex if falls within the following categories of claims:

- 1) environmental tort claims, mass tort claims, or toxic tort claims commenced by multiple parties (whether as one action or multiple, individual actions);
- 2) the same or similar construction, design, or manufacturing defect claims stated in multiple actions or involving multiple parties, structures, or products;

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**BRIEF OF YOUSEF/YOUSUFS REGARDING THEIR POSITION ON COMPLEX LITIGATION DESIGNATION**

- 3) contract, statutory, or tort claims commenced by multiple parties (whether as one action or multiple, individual actions) arising out of a natural disaster or other territory-wide or island-wide event;
- 4) securities claims or investment losses involving multiple parties;
- 5) class actions; and
- 6) insurance coverage claims (including indemnification and contribution claims) arising out of multi-party proceedings in any of the above categories of cases.

V.I.R.Civ.P. 92(b)(1)-(6). The three (3) cases are not presumptively complex. The cases do not involve environment tort, mass tort or toxic tort claims. The cases do not involve construction, design, or manufacturing defect claims. The cases do not involve a natural disaster or a territory-wide or island-wide event. The cases do not involve securities claims or investment losses involving multiple parties. The cases do not involve a class action. The cases do not involve insurance coverage claims. Since the actions are not presumptively complex pursuant to Rule 92(b), the Court then considers the factors identified in Rule 92(c) in determining whether the case warrants designation as a complex case.

In assessing a proper assignment of a potentially complex case to the CLD, the Presiding Judge considers the type of claims involved, the law governing the action/proceeding, and the following components:

- 1) whether the action involves a large number of parties; many claims with common, recurrent issues of law or fact associated with a single product, natural disaster, or complicated environmental or toxic tort; or a high degree of commonality of injury or damages among the claimants; and
- 2) whether assignment to the Complex Litigation Division may unreasonably delay the case, increase expense, complicate the action, or unfairly prejudice a party; whether coordinated discovery would be advantageous; whether the cases require specialized expertise and case processing by the dedicated Complex Litigation Division judge and staff; whether assignment would result in the efficient utilization of judicial resources and the facilities and personnel of the court; whether issues of insurance, limits on assets and potential bankruptcy can be best

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MANAL MOHAMMAD YOUSEF v. SIXTEEN PLUS CORPORATION (SCVI/STX Case No. SX-17-CV-342)  
**BRIEF OF YOUSEF/YOUSUFS REGARDING THEIR POSITION ON COMPLEX LITIGATION DESIGNATION****

addressed in coordinated proceedings; or whether there are related matters pending in federal court or in other state or Territorial courts that require coordination by the Complex Litigation Division judge.

V.I.R.Civ.P. 92(c).

The actions do not meet the requirements for the cases to be transferred to the CLD. The three (3) cases are not the variety of claims typically assigned to the CLD such as refinery (asbestos) cases, silica/red dust (chemical release) cases or hurricane claims. Civil Nos. SX-17-CV-324 and SX-16-CV-65 involve a mortgage foreclosure and the enforceability of the mortgage whereas Civil No. SX-16-CV-650 involves civil CICO, tort of outrage, breach of fiduciary duty (Fathi Yusuf only), and usurping of corporate opportunity (Fathi Yusuf only). These actions are neither unusually complicated nor uncommon. The type of claims at issue in each case does not create the kind of complex litigation for which assignment to the CLD is particularly appropriate. The law governing the multiple cases does not render them complex either. Yousef/Yousufs do not anticipate numerous pretrial motions raising difficult or novel legal issues. The three (3) cases neither involve a large number of separately represented parties nor claims associated with a single product, natural disaster, or complicated environmental or toxic tort. A high degree of commonality of injury or damages among the claimants does not exist either as to warrant complex treatment. V.I.R.Civ.P. 92(c)(1). The cases should remain with the judge, Judge Jomo Meade, to whom they are assigned. Judge Meade is not only familiar with all three (3) actions but also has heard oral argument in 2017 on various motions in SX-16-CV-650. Yousef/Yousufs do not anticipate pretrial management of a large number of witnesses or an overly substantial amount of documentary evidence. The proof of claims and defenses will not require coordinated scientific testing and analysis. Yousef/Yousufs do not

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**BRIEF OF YOUSEF/YOUSUFS REGARDING THEIR POSITION ON COMPLEX LITIGATION DESIGNATION****

anticipate management at trial of a large number of experts, witnesses, attorneys, or exhibits. Efficient use of judicial resources, facilities and manpower will not be realized and the calendar of the court will not be benefited if the actions are assigned to the CLD. Issues of insurance is a non-factor in the three (3) cases. Limits on assets and potential bankruptcy will not be best addressed in coordinated proceedings. There are no complex, related cases pending in the federal court or other state/Territorial courts that require coordination by the CLD judge. V.I.R.Civ.P. 92(c)(2).

WHEREFORE, bases upon the foregoing, Manal Mohammad Yousef and Isam Yousuf and Jamil Yousuf respectfully request the Court enter an order designating these cases as non-complex and that the actions shall remain with the judge, Judge Jomo Meade, to whom they are assigned. Yousef/Yousufs further pray that the order contains such other relief as this Court deems just and proper.

This Brief is submitted to the Court bearing the signature of H.A. Curt Otto, Esq., who has signed this document on behalf of James L. Hymes, III, with his permission.

Respectfully Submitted,

DATED: September 3, 2019.

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Isam Yousuf, and Jamil Yousuf*

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

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**CERTIFICATE OF SERVICE**

I hereby certify this document complies with the page or word limitation set forth in V.I. R. Civ. P. 6-1(e), and that on this the 3<sup>rd</sup> day of September, 2019, I caused an exact copy of the foregoing **“BRIEF OF YOUSEF/YOUSUFS REGARDING THEIR POSITION ON COMPLEX LITIGATION DESIGNATION”** together with a proposed Order submitted for consideration therewith, to be served electronically by e-mail, and by mailing same, postage pre-paid, to the following counsel of record:

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

SIXTEEN PLUS CORPORATION,	)	
	)	CIVIL NO. SX-16-CV-65
Plaintiff,	)	
	)	ACTION FOR
vs.	)	DECLARATORY JUDGMENT
	)	
MANAL MOHAMMAD YOUSEF,	)	JURY TRIAL DEMANDED
	)	
Defendant.	)	
<hr/>		
MANAL MOHAMMAD YOUSEF,	)	
	)	
Counter-Claimant,	)	
	)	COUNTERCLAIM
vs.	)	
	)	
SIXTEEN PLUS CORPORATION,	)	
	)	
Counter-Defendant.	)	
<hr/>		
HISHAM HAMED, on behalf of himself	)	
and derivatively, on behalf of SIXTEEN	)	
PLUS CORPORATION,	)	
	)	Case No.: 2016-SX-CV-650
Plaintiff,	)	
	)	DERIVATIVE SHAREHOLDER
vs.	)	SUIT, ACTION FOR DAMAGES,
	)	CICO RELIEF, EQUITABLE RELIEF
FATHI YUSUF, ISAM YOUSUF and	)	AND INJUCTION
JAMIL YOUSEF,	)	
	)	
Defendants,	)	JURY TRIAL DEMANDED
	)	
and	)	
	)	
SIXTEEN PLUS CORPORATION,	)	
	)	
a nominal defendant.	)	
<hr/>		



**SIXTEEN PLUS CORP. v. MANAL MOHAMMAD YOUSEF** (SCVI/STX Case No. SX-16-CV-065);  
**HISHAM HAMED v. FATHI YUSUF, et al.** (SCVI/STX Case No. SX-16-CV-650); and  
**MANAL MOHAMMAD YOUSEF v. SIXTEEN PLUS CORPORATION** (SCVI/STX Case No. SX-17-CV-342)  
**ORDER DENYING COMPLEX CASE TREATMENT**

MANAL MOHAMMAD YOUSEF,	)	
a/k/a MANAL MOHAMAD YOUSEF,	)	
	)	CIVIL NO. SX-17-CV-342
Plaintiff,	)	
	)	ACTION FOR DEBT AND
vs.	)	FORECLOSURE OF REAL
	)	PROPERTY MORTGAGE
SIXTEEN PLUS CORPORATION,	)	
	)	COUNTERCLAIM FOR
Defendant.	)	DAMAGES
_____	)	JURY TRIAL DEMANDED
SIXTEEN PLUS CORPORATION,	)	
	)	
Counterclaim Plaintiff,	)	
	)	
Vs.	)	
	)	
MANAL MOHAMMAD YOUSEF a/k/a	)	
MANAL MOHAMAD YOUSEF and	)	
FATHI YUSUF,	)	
	)	
Counterclaim Defendants.	)	
_____	)	

**ORDER DENYING COMPLEX CASE TREATMENT**

This matter was considered on the Court’s motion to determine whether to designate these cases as a “complex case” as defined in Rule 92 of the Virgin Islands Rules of Civil Procedure, and the Court being fully satisfied with the premises contained therein, it is hereby

**ORDERED** that the cases do not meet the criteria for proceeding as complex cases under Rule 92; and it is further

**ORDERED** that the cases be and hereby are designated not complex; and it is further

**ORDERED** that the cases shall remain with Judge Jomo Meade, to whom they were assigned, in accordance with Rule 92; and it is further

**ORDERED** that a copy of this Order be directed to \_\_\_\_\_, Esq., and James L. Hymes, III, Esq.

**ENTERED** this \_\_\_\_ day of \_\_\_\_\_, 2019.

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**ROBERT A. MOLLOY**  
**JUDGE OF THE SUPERIOR COURT**  
**OF THE VIRGIN ISLANDS**

**A T T E S T:**

**THE HON. ESTRELLA H. GEORGE**  
**Clerk of the Superior Court**

By: \_\_\_\_\_  
**Deputy Clerk**

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