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SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

SIXTEEN PLUS CORPORATION, ) CASE NO.: SX-2016-CV-00065  
PLAINTIFF, )  
V. )  
MANAL YOUSEF, )  
DEFENDANT. )

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HASHIM HAMED on behalf of ) CASE NO.: SX-2016-CV-00650  
SIXTEEN PLUS CORPORATION, )  
PLAINTIFF, )  
V. )  
FATHI YUSUF, ET AL., )  
DEFENDANTS. )

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MANAL MOHAMMAD YOUSEF, ) CASE NO.: SX-2017-CV-00342  
PLAINTIFF, )  
V. )  
SIXTEEN PLUS )  
CORPORATION, ET AL., )  
DEFENDANTS. )

Thursday, April 27, 2023  
Kingshill, St. Croix

The above-entitled matter came on for a  
**STATUS CONFERENCE** hearing, a hearing held  
before The Honorable Judge Douglas A. Brady,  
commencing at 9:45 a.m.

THIS TRANSCRIPT REPRESENTS THE PRODUCT OF AN OFFICIAL  
COURT REPORTER, ENGAGED BY THE COURT, WHO HAS PERSONALLY  
CERTIFIED THAT IT REPRESENTS HIS ORIGINAL NOTES AND  
RECORDS OF TESTIMONY AND PROCEEDINGS OF THE CASE AS  
RECORDED.

Randall Jon Belsvik, RMR, FCRR  
Official Court Reporter  
(340) 778-9750, Ext. 7152

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## 1 PROCEEDINGS

2 (Proceedings commence at 9:45 a.m.)

3 THE CLERK: Sixteen Plus Corporation  
4 versus Manal Yousef, SX-2016-CV-00065; Hisham Hamed  
5 on behalf of Sixteen Plus Corporation versus Fathi  
6 Yusuf, *et al.*, SX-2016-CV-00650; and Manal Mohammad  
7 Yousef versus Sixteen Plus Corporation, *et al.*,  
8 SX-2017-CV-00342.

9 THE COURT: Good morning, everyone.  
10 Could I hear your appearances, please. I know the  
11 cases were called in chronological order. The  
12 first and the last are consolidated. The second  
13 one is the subject of a motion to consolidate, but  
14 is not yet consolidated. But I believe the same  
15 attorneys are involved in all three, so we'll  
16 address all three jointly this morning.

17 MR. HARTMANN: Good morning, Your Honor.  
18 Carl Hartmann and Joel Holt for Sixteen Plus in the  
19 65 and 342 cases, and for Hisham Hamed, the  
20 derivative plaintiff, in the 650 case.

21 THE COURT: Good morning.

22 MR. HYMES: Good morning, Your Honor.  
23 James L. Hymes, III, for Manal Yousef in the  
24 foreclosure action. And I also represent Isam  
25 Yousef and Jamil Yousef in 650.

1 MS. PERRELL: Good morning, Your Honor.  
2 Charlotte Perrell and Stefan Hardball, as well as  
3 Lisa Komives, representing Fathi Yusuf in the  
4 various matters.

5 THE COURT: Okay. Good morning to all.  
6 The referral to Complex Division didn't occur.  
7 Judge Molloy's opinion thoroughly set forth the  
8 history, some of which I'm privy to, and we  
9 presently have, among other things, the -- well,  
10 let me just say, in the context of the briefing of  
11 those -- of that question as to whether or not  
12 these matters should be put in the Complex  
13 Division, I guess the Yousef side of the parties  
14 suggested that this sounds like a matter  
15 appropriately to be addressed by the Special Master  
16 Ross.

17 Why is this matter not appropriate for  
18 having it folded into what the special master's  
19 considering in the primary case?

20 MR. HARTMANN: Judge, this is Carl  
21 Hartmann, Your Honor, because the parties here are  
22 not the parties there. Sixteen Plus is a separate  
23 entity, not a party.

24 THE COURT: Isn't the master addressing  
25 corporate entities that were created by the

1 partners?

2 MR. HARTMANN: To an extent, he is, but  
3 he doesn't have the power to bring in the  
4 defendants that are necessary in this case.  
5 Manal -- when the case was -- just brief history:  
6 In 2015, Fathi Yusuf filed the first of these  
7 cases, the 344 case in St. Thomas, and tried to  
8 collapse Sixteen Plus. At that time, Sixteen Plus  
9 brought an action against Manal who is not in that  
10 case and could not be brought into that case  
11 because she is a non-resident and wasn't within the  
12 jurisdiction.

13 So the primary issue in the case, the  
14 mortgage note, are not subject to that case.  
15 Manal's not subject to the case, Hisham is not  
16 subject to the case, nor is Jamil. So what you  
17 have is a kind of contained column of three or four  
18 cases dealing with Diamond Keturah, involving  
19 different parties and entities that can't be  
20 reached by that case.

21 THE COURT: Okay. And obviously the  
22 question of the source of those funds for the  
23 purchase of Diamond Keturah is the primary disputed  
24 matter; is that correct? I mean, nobody -- I mean,  
25 we know that they came through St. Martin, but I

1           guess the -- that's what the case is all about,  
2           right, where those funds -- were those -- was that  
3           a legitimate loan and --

4                   MR. HARTMANN: Yes, Your Honor. I think  
5           that would be a correct characterization.

6                   THE COURT: All right.

7                   MR. HARTMANN: Your Honor, if I may add  
8           one extra thing though. The actual foreclosure is  
9           not a matter of where the funds came from, but  
10          whether this particular party, Manal, has standing  
11          and can litigate this case. Both sides raised the  
12          concept of *in pari delicto* and whether this should  
13          even be heard by the Court.

14                   The real issue here is that you have a  
15          plaintiff who's not subject to the 370 case, the  
16          case you -- you're overseeing, and she's asserting  
17          a mortgage presently, and making statements and  
18          taking positions that are basically -- in which I  
19          know we can't say she doesn't have standing in this  
20          jurisdiction, but she has no standing. She has no  
21          interest. That's the real litigation from 2016 on.

22                   THE COURT: But her -- she is the  
23          mortgagee on the -- and she's the payee on the  
24          note, correct, so she is (overlapping speakers) ...

25                   MR. HARTMANN: Well, not under

1 restatement of mortgages third, Your Honor. She's  
2 a person who claims to be the mortgagee, but if in  
3 fact that is a -- under that applicable statute,  
4 then she is at the -- a fraudulent mortgagee, then  
5 she has no standing.

6 MR. HYMES: Your Honor, if I may add?

7 THE COURT: Sure.

8 MR. HYMES: She has submitted herself to  
9 this jurisdiction by filing the action to foreclose  
10 her mortgage. It's only Sixteen Plus and the  
11 Hameds who are raising the issue of *in pari*  
12 *delicto*, trying to cleanse their own hands by  
13 bringing her into their wrongdoing. So I think she  
14 has every right to --

15 THE COURT: But of course she hasn't made  
16 herself available, has she?

17 MR. HYMES: Yes, she has.

18 THE COURT: Oh, so she's been deposed?

19 MR. HYMES: No, she hasn't been, but she  
20 amenable to being deposed. We just haven't agreed  
21 on a date.

22 THE COURT REPORTER: Your Honor, this is  
23 the court reporter. Am I hearing a feedback?

24 THE COURT: There was -- there is some  
25 feedback, so let's -- I'm not sure where that's

1 coming from. Maybe we could all mute unless we're  
2 speaking.

3 All right. Well, we have some agreed  
4 matters that are pending to enlarge the time in  
5 both of the consolidated cases and in case number  
6 650, and also a joint motion to seal passports. To  
7 the extent that this matter is going to remain  
8 here, to the extent that we're going to go ahead  
9 and try to bring everything into a manner where  
10 we're going to move forward in a steady way -- and  
11 I know this has been pretty disjointed from 2017 up  
12 until now, but the motion for enlargement -- the  
13 two joint motions for an enlargement of time, the  
14 motions to seal the passports that covers all of  
15 the cases, I assume that there's no reason I  
16 shouldn't go ahead and rule on those and just sign  
17 off on those. So I'll go ahead and do that.

18 MR. HARTMANN: Your Honor?

19 THE COURT: Yeah, go ahead.

20 MR. HARTMANN: I'm sorry. This is Carl  
21 Hartmann. May I return to something you said  
22 earlier?

23 THE COURT: Sure.

24 MR. HARTMANN: And let me preface it by  
25 saying that I think this group of attorneys works



1           extraordinarily well together in terms of moving  
2           this case. As you know it was only reassigned in  
3           2022, and since then a great deal has been  
4           accomplished. It's moved very quickly since then.  
5           And I think everybody -- we've all worked together  
6           and I think it's going quickly.

7                         Going back to your statement about the --  
8           it going to Complex Litigation, if the Court were  
9           inclined to allow the consolidation, as I read the  
10          refusal for Complex Litigation, the problem was  
11          that all the cases hadn't been gathered yet. So if  
12          the Court could consider the consolidation motion  
13          as the next matter before the Court, we would  
14          then -- and it was consolidated, we would then  
15          remake the motion to move it to Complex  
16          Litigation.

17                        THE COURT: I took -- I took Judge Molloy  
18          to be saying -- to be looking at all three of these  
19          cases, and to be saying, well, there's three cases  
20          you're talking about here, but there's a total of  
21          19 cases that are pending between the parties. So  
22          it makes no sense to address a small handful of the  
23          global number of disputes. That's what I thought  
24          he was saying. I didn't think he was just speaking  
25          only about these three.

1 MR. HARTMANN: Oh.

2 THE COURT: And then what makes this so  
3 complex? I mean, it's -- I mean, it's complex in  
4 the sense --

5 MR. HARTMANN: Multi-jurisdictional  
6 discovery, clients that can't appear here  
7 apparently were taking -- he has to take  
8 depositions in several other countries, you know?  
9 It's -- it's a difficult case.

10 THE COURT: Yeah, but difficult doesn't  
11 necessarily make it complex; right?

12 MR. HARTMANN: You're correct, Your  
13 Honor.

14 THE COURT: Is in-person deposition  
15 necessary?

16 MR. HARTMANN: We'd certainly like an  
17 in-person deposition of the three primary  
18 witnesses, Manal, Fathi Yusuf, and Isam --

19 THE COURT: Manal does have to figure out  
20 a way to make herself available in the Virgin  
21 Islands, doesn't she?

22 MR. HARTMANN: That would be for  
23 Mr. Hymes to answer, Your Honor.

24 THE COURT: You're muted, Attorney Hymes.  
25 Attorney Hymes, you're muted, sir.

1 MR. HYMES: Thank you. I was trying to  
2 see if my system was causing that noise. I  
3 apologize. She has tried to get a Visa to travel  
4 here and has been denied. She is more than willing  
5 to give a deposition by Zoom, and that can be done.  
6 The same Zoom depositions could be done of Jamil  
7 and Isam from St. Martin.

8 THE COURT: That's an interesting  
9 question.

10 MR. HYMES: It's an easy -- it's an easy  
11 production, done daily in today's litigation world.

12 THE COURT: So the fact that she is  
13 unable to come to the Virgin Islands because of  
14 political barriers, does that have any affect on  
15 her ability to prosecute a case in the Virgin  
16 Islands?

17 MR. HYMES: It shouldn't. That would be,  
18 you know, an act on her extreme prejudice and I  
19 think equal treatment under the law.

20 THE COURT: All right.

21 MS. PERRELL: Your Honor?

22 THE COURT: Yeah, go ahead.

23 MS. PERRELL: Thank you, Your Honor, if I  
24 may. Again, Charlotte Perrell on behalf of Fathi  
25 Yusuf.

1           And just to pick up on what the Court had  
2 mentioned earlier, about the possibility of moving  
3 these cases over to the special master, I think all  
4 the attorneys, with the exception of Attorney  
5 Hymes, who was not involved in the matter with  
6 regard to the special master, we've had a lot of  
7 success with that process in that, you know,  
8 counsel and I have been working through obviously  
9 all of the voluminous claims. And Master Ross,  
10 we've kind of gotten into a bit of a cadence.

11           And so my suggestion is, is while perhaps  
12 the master doesn't have that authority as we sit  
13 here today with regard to the Manal -- what I would  
14 call the St. Martin side, perhaps that's something  
15 that the parties or at least counsel should  
16 revisit.

17           There is a wealth of background  
18 information as to the parties. There's a wealth of  
19 understanding as to just the historical back and  
20 forth between the various parties that Master Ross  
21 has unfortunately developed over the course of the  
22 last couple of years and being intimately involved  
23 with all the various things that have gone on. I  
24 think it would probably make for a resolution of  
25 this entire matter in a more expeditious may.

1                    Obviously, we can't force anybody to do  
2                    that, but I would suggest that if that is something  
3                    that is viable, that the parties would really  
4                    consider, I think it might make sense. And I think  
5                    we could easily fold it in. We've been able to do  
6                    the depositions and limited hearings, and things like  
7                    that; judges have ruled on various motions to, you  
8                    know, discovery motions and so forth, or the master  
9                    has.

10                    THE COURT: What about that  
11                    dilemma (overlapping speakers) ...

12                    MS. PERRELL: (Inaudible.)

13                    THE COURT: -- of the --

14                    MS. PERRELL: -- revisit it --

15                    THE COURT: What about the fact that --  
16                    of the non-Hamed Yousef parties in these cases?

17                    MS. PERRELL: That's what I'm saying.  
18                    I'm wondering if perhaps that -- the non-Hamed  
19                    Yousef, which is what I would call some of the  
20                    St. Martin contingents, or, you know, Jordanian  
21                    contingents, you know, that part of Jim's --  
22                    Attorney Hymes' clients, maybe we need to chat  
23                    about that and see if they would be willing to  
24                    concede to allow a special master to maybe not fold  
25                    into the 370, but just have that special master,

1           who happens to have all of this information, run a,  
2           you know -- act as a special master in these three  
3           matters, just because of the fact that he's, you  
4           know, got this wealth of knowledge. It doesn't  
5           necessarily affect the 370, but it definitely, you  
6           know -- there's overlap. So that would be  
7           (overlapping speakers) ...

8                         THE COURT: I mean, you all know a lot  
9           better than I, but the source of the funds was --  
10          wasn't that a part of the criminal prosecution  
11          and -- and funds from the partnership obviously are  
12          what the special master is dealing with, so -- I  
13          mean, yes, you talk about the overlap, so the, you  
14          know, this (overlapping speakers) ...

15                        MR. HARTMANN: Your Honor, if I may?

16                        THE COURT: Yeah, you're hearing the  
17          construction in the background at the court.  
18          Sorry.

19                        MR. HARTMANN: Your Honor, there's two  
20          problems with this: The first is that obviously my  
21          clients would like a jury trial, especially on the  
22          CICO and judiciary duty breaches; the second  
23          problem is that it's a case about whether or not  
24          Manal Yousef is or is not -- it's a binary  
25          question, is or is not the source. It isn't an

1 effort by either party to recover their funds.

2 THE COURT: Well, if the answer to that  
3 question is no, then isn't it really to -- a matter  
4 that is in the bailiwick of the special master?

5 MR. HARTMANN: Absolutely. If it were  
6 determined in this proceeding that she is not the  
7 source of the funds, then it might properly be --  
8 is a totally different case before the master,  
9 although neither party is seeking to recover those  
10 funds. Neither -- all claims (inaudible) in that  
11 case, and this is not one of the claims.

12 THE COURT: Attorney Komives -- I mean,  
13 Attorney (overlapping speakers) ...

14 MR. HARTMANN: (Inaudible.)

15 THE COURT REPORTER: I'm getting a  
16 rather --

17 THE COURT: Yeah, there's a feedback  
18 again. I'm not sure where it's coming from, so  
19 you're -- just the speaker if you can mute.

20 MS. PERRELL: Yes, Your Honor. Is this  
21 on?

22 THE COURT: Yeah. Go ahead.

23 MS. PERRELL: Sure. To respond, you  
24 know, Sixteen Plus is jointly owned by half the  
25 Yousef family and half the Hamed family. And at

1 the end of the day, the allegation that has been  
2 made by Hisham Hamed as, you know, allegedly as  
3 the -- sort of the derivative party on behalf of  
4 Sixteen Plus is that these are actually partnership  
5 monies sent to St. Martin, and then turned around  
6 and repatriated back. That's their argument.

7 And that despite the fact that there's a  
8 corporate resolution, despite the fact that there's  
9 a mortgage, despite the fact that, you know, all of  
10 this is recorded and that Waleed Hamed is the one  
11 that put all of that into motion, that that's all a  
12 farce and this is really partnership funds, and  
13 therefore the mortgage should not be paid and all  
14 of the monies should remain in Sixteen Plus to be  
15 split between both the Hameds and the Yousefs.  
16 That's really their argument at the end of the day.

17 Obviously, Manal's argument is that, no,  
18 these are funds that came from my father, who is  
19 not the Hameds or the Yousefs in this case,  
20 and (overlapping speakers) ...

21 THE COURT: Does your client take a  
22 position one way or the other? What's your client  
23 say?

24 MS. PERRELL: Fathi Yusuf says that the  
25 money was Manal Yousef's money; that she received



1           it from her father; that she loaned the money; and  
2           that that money is due and owing to Manal Yousef  
3           and should be paid by Sixteen Plus. That's his  
4           position.

5                        THE COURT: All right.

6                        MR. HARTMANN: Which, Your Honor, takes  
7           it completely out of the 370.

8                        THE COURT: Yeah, of course it does. I  
9           mean, that's completely out of 370. And to the  
10          extent that those claims that Manal's father left  
11          her this money, which seemingly -- I don't know.  
12          You all again know a lot better than I do, but  
13          seems like there's a lot of evidence that will be  
14          presented to suggest otherwise, or to suggest that  
15          whatever the FBI found out and whatever the  
16          Prosecution was all about, as far as I understood,  
17          that the Sixteen Plus funds were a part of that.

18                       So if -- if there were a -- and of course  
19          the fact that the corporate resolution has both the  
20          family signatures on it, as I understand it,  
21          everybody was in agreement. Here's what we're  
22          going to do. I mean, the allegations, I should  
23          say, this is how we're going to handle it. And  
24          then the concept came that let's keep this clean,  
25          let's keep it outside of the -- keep the source of

1           these funds private and we can do that by creating  
2           this sham transaction.

3                       But since nobody on the Yousef side is  
4           conceding it's a sham transaction, isn't that what  
5           these three cases are all about, to decide whether  
6           that's true or not --

7                       MR. HARTMANN:   Exactly.

8                       THE COURT:   -- you know?  And if -- I  
9           mean, as much as I would like to say, here, special  
10          master, this is yours, the -- to the extent that  
11          these allegations exist as they do, then certainly  
12          there's entitlement to a jury trial, so --

13                      MR. HARTMANN:  Thank you, Your Honor.

14                      THE COURT:  I mean, it seems to me -- I  
15          wish it were otherwise, but I don't see how you get  
16          around that.  So explain to me, Attorney Perrell,  
17          how I get around that.

18                      MS. PERRELL:  Well, my thought was  
19          simply, Your Honor, that Master Ross has -- is  
20          intimately familiar with the facts of the various  
21          parties, all of the interactions between the  
22          parties.  It's not just Sixteen Plus, there's Plus  
23          and there's a whole host of other entities.  He's  
24          involved in all of that.  He knows the timeline of  
25          the parties.  He knows what's been happening with

1 the parties and the various timelines.

2 So that's where I was coming from, is  
3 just that he has general familiarity with the  
4 thing, but from our perspective, our argument is as  
5 I just said, you know, and the only thought I had  
6 was is that if the Court wanted to have Master Ross  
7 be appointed as a special master just for these  
8 three cases, not necessarily as a fold-in (sic) for  
9 the 370, but as a special master, that is a special  
10 master who has a unique perspective in that he has,  
11 you know, some historical knowledge and background.  
12 That's my only thought. And I would assume that he  
13 would pursue this matter in that way, in the same  
14 way that he's done with the others. So that was my  
15 thought, Your Honor. But I understand the  
16 logistics of that and the concerns, so --

17 THE COURT: All right. And in terms  
18 of -- I mean, you all know presumably, and maybe --  
19 I mean, what's the end game, the goal? Is the goal  
20 to recognize that it is a -- Diamond Keturah is  
21 owned 50/50 by the two families, or is it that  
22 we're not looking for -- that resolution would  
23 be -- if the Hameds are successful, that would be a  
24 part of the resolution, but we're going beyond that  
25 and we want damages. I mean, how are we going to

1 get damages against the St. Martin group? How are  
2 we ever going to collect any money from those folks  
3 is a real question. And to the extent that we're  
4 talking about Fathi being the actual target, well,  
5 isn't a 50/50 ownership of Diamond Keturah the  
6 appropriate bottom line result?

7 Anyway, so --

8 MR. HERPEL: Your Honor, (inaudible)  
9 something?

10 THE COURT: Yeah, sure.

11 MR. HERPEL: Could the special master be  
12 given a role similar to a Federal Magistrate Judge  
13 to make a report and recommendation on, say, cross  
14 motions for summary judgment on this issue after  
15 discovery's completed?

16 THE COURT: Well --

17 MR. HARTMANN: I think that the -- as  
18 Charlotte -- excuse me, Attorney Perrell outlined  
19 their factual assertions, there's no chance in a  
20 million that this will ever be settled on summary  
21 judgment, because the fundamental factual issue is  
22 did the father Manal Yousef give her money that she  
23 then used for this mortgage? That's entirely a  
24 factual issue.

25 And one of the reasons that I'm insisting

1           having Judge Ross assigned to another of these  
2           efforts is that we're just finishing up the B  
3           claims in that case and are now confronting some 56  
4           A claims. He's trying to get that -- the B claims  
5           done by the end of 2023. And if we're very lucky,  
6           we'll get the A claims done by the end of 2024.  
7           Which means that there's just no bandwidth -- maybe  
8           I'm more frantic about this because I'm a claims  
9           guy, but you just -- you just can't take him down  
10          off the stuff he's doing and expect to get this  
11          case done before the '30's.

12                   THE COURT: Does everybody agree that 650  
13                   should be consolidated with the other two?

14                   MR. HARTMANN: Yes, Your Honor.

15                   THE COURT: I mean, that's the Hamed side  
16                   motion I believe, that -- that was opposed, was it  
17                   not? And if so, what's the -- what are the grounds  
18                   for opposing that?

19                   MR. HARTMANN: That was long ago, Your  
20                   Honor. Go ahead, Charlotte. Sorry.

21                   MS. PERRELL: No. I was -- Stefan, I  
22                   think you were going to address that component.

23                   MR. HERPEL: Yeah, my understanding is  
24                   that we did not take a position on that at the time  
25                   when it was before Judge Meade. I wasn't in the

1 courtroom, but that's my recollection of what  
2 transpired.

3 I think Attorney Hymes took a position  
4 opposing that. Well, I think one fundamental  
5 question is, why do we have both a traditional  
6 action brought on behalf of the corporation, that's  
7 the 65 case, and a derivative case asserting  
8 essentially the same claims. It seems to me it's  
9 one or the other, either the corporation is  
10 intending to bring the claim, and has brought it,  
11 or someone has to bring it derivatively because the  
12 corporation won't bring it.

13 We think it's kind of anomalous that the  
14 Sixteen Plus, which is a 50 percent Hamed Yousef  
15 corporation, is proceeding against one of its  
16 shareholders in a situation in which they're being  
17 represented by the Hamed attorney, but -- that's  
18 anomalous to me, and also the fact that we have  
19 both a traditional action pending and a derivative  
20 action pending. They can't both coexist in my  
21 view.

22 MR. HARTMANN: Your Honor, the procedural  
23 posture of this case is largely a function of who  
24 could and could not be claimed as a proper  
25 defendant at the time the cases were being brought.

1 The original motion to dismiss filed by Attorney  
2 Hymes was filed on the basis that Manal was not a  
3 proper defendant. The -- then Manal came forward  
4 and filed her own case. By that time, the 650 case  
5 had already been filed.

6 So this has nothing to do with proper  
7 jurisdictional positions or claims. It has simply  
8 to do with timing of unavailable defendants. And  
9 no one has really -- we've all acted as though  
10 these cases are consolidated. We're filing  
11 duplicate motions in duplicate cases about the  
12 identical facts, the identical fact packet, the  
13 identical parties. It's just a procedural  
14 nightmare.

15 MR. HERPEL: Your Honor, I think the  
16 proper sequence was the traditional action on  
17 behalf of the corporation, the 65 case. Then  
18 Manal's foreclosure case, the 342 case, with which  
19 its consolidated. Then the derivative case, the  
20 650 case. I don't know if it matters, but I  
21 believe that was the sequence of the filings.

22 MR. HARTMANN: That's the sequence. And  
23 the problem is, is that when the 65 case was  
24 originally brought, we couldn't get it -- we  
25 couldn't get to Jamil and to -- Jamil on the same

1 case, so what happened was the 650 case was brought  
2 to get everybody in two separate cases. Then she  
3 submitted to the jurisdiction of the court by  
4 filing her own case in 2017, and that obviated  
5 that. At that point, we filed a motion to  
6 consolidate (overlapping speakers) ...

7 MR. HERPEL: Excuse me. Carl, her case  
8 was about numbers.

9 MR. HARTMANN: (Inaudible.)

10 THE COURT REPORTER: Your Honor, I'm  
11 having a problem with --

12 THE COURT: Yeah. Okay.

13 THE COURT REPORTER: -- feedback and also  
14 now the attorneys are overlapping speaking.

15 THE COURT: Yeah. Let's, you know --  
16 we've got our court reporter, who does such a great  
17 job, he's in Minnesota right now, so let's give the  
18 guy a break. And it's hard enough figuring out who  
19 the players are, and, yeah, we got this -- there is  
20 some feedback on a couple of lines it sounds like,  
21 and then I got this construction going on behind me  
22 here. So I see -- let's go ahead, Attorney Herpel.

23 MR. HERPEL: I don't know if it matters,  
24 but don't the case numbers themselves indicate,  
25 Carl, that the sequence was the traditional



1 corporate action filed on behalf of Sixteen Plus;  
2 then the foreclosure case filed by Manal, the 342  
3 case; then the derivative case? Now, I don't know  
4 if it matters, but at least we should, you know, be  
5 clearer about the sequence. Isn't that the correct  
6 sequence? You're on mute, Carl.

7 THE COURT: I think that the 650 case was  
8 filed before the Manal case, wasn't it?

9 MR. HARTMANN: Yes.

10 THE COURT: That's a 2017 case, Manal.

11 MR. HERPEL: Okay.

12 MR. HARTMANN: Yes. 65 was filed first.  
13 342 was filed second -- I mean, 650 was filed  
14 second. And then she filed 342 last.

15 MR. HERPEL: Okay. Then I stand  
16 corrected.

17 MR. HARTMANN: It was only when she filed  
18 it, everybody could be gotten together.

19 MR. HERPEL: I can't -- I guess it does  
20 seem peculiar to me that we have both a traditional  
21 action brought by the corporation and a derivative  
22 action covering the same transaction pending, the  
23 65 and the 650 --

24 MR. HARTMANN: But --

25 MR. HERPEL: But maybe it's -- maybe it's

1 unimportant at the end of the day if discovery's  
2 proceeding on the assumption that, you know -- the  
3 same discovery orders and the same discovery is  
4 proceeding as to all three cases.

5 MR. HARTMANN: Yeah. I'm sorry, but just  
6 from a procedural standpoint, that's what's --  
7 that's what's happened. As the Judge pointed out,  
8 65 was brought first, 650 was second, and then  
9 Manal became available. So the answer is, you have  
10 three separate cases, two of which have been  
11 consolidated which deal with the exact same stuff.  
12 All we're -- all it's doing is simply getting us to  
13 file duplicates of everything.

14 I mean, I don't -- all those objections  
15 that you raised may be perfectly good objections,  
16 but they're just as good objections in the  
17 consolidated, you know? There's no tactical or  
18 strategic advantage. It's just killing us in terms  
19 of duplication of effort.

20 THE COURT: All right. I see no reason  
21 that 650 shouldn't be consolidated, and I hear no  
22 objection to it, so I'll go ahead and do that.

23 MR. HARTMANN: Thank you, Your Honor.  
24 Would you like me to draw up an order?

25 THE COURT: Sure. If there isn't one

1 already in the file, you can go ahead and do that.

2 MR. HARTMANN: Thank you, Your Honor.

3 THE COURT: Send it to your colleagues on  
4 the other side to make sure that there's no  
5 disagreement.

6 Okay. I don't know how far we can get on  
7 anything today, but let me just try to identify as  
8 I am able what is pending. 342, there's a motion  
9 to dismiss the third party action, which I guess  
10 is -- is that Attorney Hymes' clients, or is that  
11 Fathi who has filed that motion?

12 MR. HERPEL: That's our -- Fathi Yusuf's  
13 motion, Your Honor. He's the third party defendant  
14 in the derivative case.

15 THE COURT: Okay.

16 MR. HERPEL: Or excuse me. Not the  
17 third -- not in the derivative case.

18 THE COURT: In the 342 case.

19 MR. HERPEL: Yes.

20 THE COURT: And then the third-party  
21 action -- wow. The third party action in the -- in  
22 the foreclosure action, that is the 342 case, does  
23 that present the same issues as the 650 case?

24 MR. HERPEL: Yes, it does, Your Honor.

25 THE COURT: Is that superfluous,

1 gentlemen, the third party action in (overlapping  
2 speakers) ...

3 MR. HARTMANN: (Inaudible.)

4 THE COURT: -- 342?

5 MR. HARTMANN: -- superfluous once its  
6 consolidated, Your Honor, yes.

7 THE COURT: Okay. All right. In the 65,  
8 342, there's a -- let me just take a look at the  
9 long, outstanding motions. In addition to that  
10 motion to dismiss the third-party action, the 342,  
11 there is Fathi's motion to dismiss the 650. And  
12 there is Isam and Jamil's motion to dismiss, 650.  
13 And then five years after those were filed, the  
14 plaintiff in 650 has moved to amend to join Manal  
15 and moved to supplement the First Amended complaint  
16 as well, I think to add some factual allegations.

17 Those are -- the motion to amend to join  
18 Manal in 650 and the motion to supplement the First  
19 Amended complaint are both filed within the last  
20 couple of months or several months, whereas those  
21 motions to dismiss, they're so old that they  
22 predate the -- they're still using the  
23 Iqbal-Twombly standards.

24 So if I am inclined to grant the motion  
25 to amend to join Manal, then technically I think

1           that moots the motions to dismiss, and that will  
2           allow, to the extent that the parties are so  
3           inclined motions to dismiss, a new amended  
4           complaint to be presented using the correct present  
5           legal standard. I'm just talking outloud. I'm not  
6           necessarily saying what I'm going to do. I'm just  
7           trying to identify what's out there and take a look  
8           at how it appears as though they might go forward.

9                         In the consolidated actions, I've got a  
10           motion to amend the answer to add one sentence to  
11           two separate affirmative defenses, which is  
12           opposed, and I think that's fully briefed and can  
13           be ruled on. There's also a motion to compel Manal  
14           to produce I guess bank records and -- I'm not sure  
15           what all else. And that's both in the -- that's in  
16           all three actions, there's a motion to compel.

17                         (Pause in proceedings.)

18                         There are -- and then there's another  
19           motion to compel in 650 to compel Fathi to -- I'm  
20           not too sure what that's about, the Fifth Amendment  
21           assertions. I'm not too clear on that, but it  
22           seems to be ripe for ruling.

23                         MR. HERPEL: That last one, Your Honor,  
24           was just fully briefed as of I think a couple of  
25           months ago, the motion to compel regarding the

1 invocation of the Fifth and other objections to  
2 interrogatories.

3 THE COURT: All right. And then just  
4 to -- the last item is the newly filed Manal's  
5 motion for summary judgment and then the Rule 56(d)  
6 response to that. If Manal has not been deposed  
7 yet, I'm not too sure how she can be filing her  
8 motion for summary judgment and not expect that she  
9 has to provide complete discovery, so it seems as  
10 though that 56(d) motion is well-taken.

11 All right. Is there any -- just circling  
12 back to where we started, is there any point in me  
13 asking all of you to put your heads together and --  
14 I mean, just -- let me just -- it doesn't seem to  
15 me, and I could be wrong, that the target of the  
16 Hamed group is the St. Martin defendants, or the  
17 Middle East defendants, and what we're really  
18 trying to do is -- what the Hamed group is really  
19 trying to do is simply get what the Hameds believe  
20 is appropriately theirs out of the Diamond Keturah  
21 property, and those other three individuals just  
22 happen to be players in the conduct that brought  
23 all these issues to the floor.

24 So assuming that that's all correct, and  
25 assuming somehow those issues could be put to the

1 side, and assuming -- other than pursuing some  
2 claim against Fathi, there's no real need to  
3 present things to a jury, then is it proper for me  
4 to encourage or direct all of you to speak among  
5 yourselves to decide if Judge Ross should be  
6 addressing some or all of these issues?

7 MR. HARTMANN: Your Honor, I would say  
8 two things in response to that, and I think  
9 Charlotte would probably agree: There's probably a  
10 lot more willingness to find solutions and to  
11 streamline the process among counsel than there are  
12 among the clients. That's the first thing.

13 And the second thing is, while counsel  
14 has been able to find a lot of procedural paths to  
15 streamline the process, that when it comes to a  
16 question of this ilk for instance, suggesting to  
17 the parties that they reach some sort of compromise  
18 around the jury trial or efforts to reach solutions  
19 which would allow something like that, I would say  
20 that the possibilities are almost zero.

21 I just -- I don't want to waste the  
22 Court's time by pursuing a process that we've --  
23 Charlotte and I -- Stefan wasn't in on this  
24 earlier, but Charlotte and I have come up with  
25 probably a half a dozen different, extraordinarily

1           logical good solutions. And to be fair, each side  
2           has submarined half of them. But there just isn't  
3           going to be the kind of solution that you're  
4           looking at here.

5                     THE COURT: Well, I mean -- okay. So, in  
6           other words, the three parties are going to remain  
7           a part of this action, is what you're telling me.

8                     MR. HARTMANN: Absolutely, with the  
9           damage claims and the treble damage claim.

10                    THE COURT: Okay.

11                    MR. HARTMANN: And there's just no give  
12           from either side. We -- it is not for a lack of  
13           trying on both sides.

14                    THE COURT: Well, that is the parties'  
15           representatives are trying, but the parties  
16           themselves may not be trying. Okay.

17                    MR. HARTMANN: This is a DR action.

18                    THE COURT: DR action.

19                    MR. HARTMANN: As you know, Your Honor.

20                    THE COURT: Okay. As I said before, I'm  
21           open to hearing anything -- and I think I was --  
22           largely, I was guided by Mr. Hartmann's chart to  
23           identify all of these outstanding matters. Are  
24           there other things that you're aware of that are  
25           pending that need to be addressed that were not



1 mentioned?

2 MR. HARTMANN: I don't believe so.

3 MS. PERRELL: No, Your Honor.

4 MR. HARTMANN: I think we're all pretty  
5 much in agreement with where we are.

6 MS. PERRELL: Your Honor, just to provide  
7 a little bit more on the procedural background and  
8 sort of the open motions. Back in literally August  
9 of 2017, shortly before the storms all hit,  
10 Attorney \* Cummins and I appeared before Judge  
11 Meade and argued a number of -- the motion to  
12 dismiss, I think that we at the time had a rule on  
13 some summary judgment motions, and so forth. Those  
14 all unfortunately just weren't ruled upon by Judge  
15 Meade, and then of course the matter has sort of  
16 bopped around a little bit as far as, you know, the  
17 court and which judge it's to be pending.

18 I think at this juncture it makes sense  
19 to let this discovery process finish out based upon  
20 the time line that we've all agreed to, and I think  
21 the close of discovery is around -- if the Court  
22 enters that order, would be September 30. And then  
23 let us reevaluate. At the point, we have a  
24 deadline for dispositive motions. And if the  
25 answer is, is we, you know -- we stick or we

1 resubmit some of those motions, we'll just do  
2 another new scheduling order is my thoughts, Your  
3 Honor, rather than having the Court address some of  
4 the current summary judgments that were pending and  
5 filed back in January of '17.

6 Again, those are probably a bit stale  
7 given what's transpired in the interim, but I would  
8 suggest just allowing the discovery process to  
9 complete out, and then we will revisit the summary  
10 judgment motions depending upon how the discovery  
11 plays out.

12 THE COURT: All right. Are you  
13 conflating the motion to -- pending motions to  
14 dismiss or identifying those as summary judgment,  
15 or is there something separate from the motions to  
16 dismiss that I simply didn't find?

17 MS. PERRELL: Your Honor, I'd have to go  
18 back and look, but it was my recollection that we  
19 had -- definitely we had a motion -- we had some  
20 motions to dismiss that were filed -- Fathi filed  
21 on January 9, 2017, and then subsequently there was  
22 motions for summary judgment filed not long  
23 thereafter. I'll have to go back and take a look  
24 at that, but that's my understanding. (Overlapping  
25 speakers) ...

1 MR. HARTMANN: (Inaudible) so, but -- I  
2 don't believe so, Charlotte, but --

3 MS. PERRELL: Okay. And perhaps I'm  
4 getting this conflated with something else, so I  
5 apologize, but --

6 MR. HARTMANN: I think it's the motions  
7 to dismiss that are the only old ones.

8 MR. HERPEL: Right. And, Your Honor, I  
9 think -- so we have a motion to dismiss the third  
10 party claim, which I think I heard Attorney  
11 Hartmann say will be superfluous and could be  
12 dropped after consolidation. I mean, so that would  
13 moot that motion.

14 And then we have a motion to dismiss the  
15 derivative action, the 650 action, which means  
16 Fathi is a defendant. So the third-party defendant  
17 motion to dismiss, if I'm not misstating what  
18 Attorney Hartmann said, seems to me to be -- will  
19 be mooted by the withdrawal of that claim.

20 MS. PERRELL: That's correct, Your Honor.  
21 I stand corrected. As I was looking through my  
22 list, it was the plaintiff that had filed a motion  
23 for partial summary judgment I think at some point  
24 early on in this matter.

25 MR. HARTMANN: Yeah, it was withdrawn.

1 MS. PERRELL: That's been withdrawn. So  
2 I apologize.

3 THE COURT: All right.

4 MS. PERRELL: I got confused.

5 THE COURT: Attorney Hartmann, if I do  
6 consolidate 650 into the other two, is it proper  
7 for you to go ahead and then withdraw your -- what  
8 would it be, the --

9 MR. HARTMANN: Yeah, the third.

10 THE COURT: The third party? Or is it --  
11 yeah, the third party (overlapping speakers) ...

12 MR. HARTMANN: (Inaudible) the third  
13 party?

14 (Pause in proceedings.)

15 THE COURT: In other words, 650 presents  
16 the same claims against Fathi as does the  
17 third-party action and the foreclosure action.

18 MR. HARTMANN: That's correct, Your  
19 Honor. And if the motion to dismiss with regard to  
20 the 650 action is no longer in existence, then  
21 obviously the opposition to their motion to dismiss  
22 as a third-party is moot as well.

23 THE COURT: Well, it's not moot in the  
24 sense that if -- in other words, there's  
25 duplicative pleadings that --

1 MR. HARTMANN: But you can't drop them  
2 both.

3 THE COURT: No. You -- so anyway, my  
4 plan would be to go ahead and grant the  
5 consolidation of 650. So maybe what I will do is  
6 let you, yourself, Attorney Hartmann, address  
7 that -- Fathi's motion to dismiss on the -- on 342.

8 MR. HARTMANN: Yeah, I'll deal with  
9 (overlapping speakers) ...

10 THE COURT: If that is indeed -- if  
11 that's superfluous, then get rid of it, please.

12 MR. HARTMANN: I'll do it. Charlotte  
13 suggested also. I'll get with her and Stefan, and  
14 look at it now it's consolidated, and see if we can  
15 sort of agree what's now superfluous, get rid of  
16 it, and maybe suggest a slight realignment.

17 THE COURT: All right. So maybe rather  
18 than trying to bite off more than I should try to  
19 be chewing right now, if I just consolidate the  
20 three cases, sign off on the enlargement of time  
21 and the sealing of the passports, and then ask all  
22 of you to confer and to agree as to what other  
23 pending motions can be resolved by agreement and/or  
24 have become superfluous and what remains disputed,  
25 just give me your list. As I said, the chart that

1 I received was helpful, and --

2 MR. HARTMANN: And, Your Honor --

3 THE COURT: Yeah?

4 MR. HARTMANN: -- is it your inclination  
5 to grant the motion to amend to add Manal, although  
6 that's -- you said you were inclined to do that.  
7 Does the supplementation also go with that?

8 THE COURT: Yeah, I'm inclined to do it,  
9 but I haven't really studied any opposition. I'm  
10 not too sure -- I mean, it's Manal who would seem  
11 to be a necessary party by the 650 action, since  
12 she's a signatory; right? Okay.

13 MR. HARTMANN: I guess --

14 THE COURT: I need (overlapping  
15 speakers) ...

16 MR. HARTMANN: I guess the real question  
17 is, do you want us to get together and think and do  
18 these other things before you decide about that, or  
19 would you like us --

20 THE COURT: Is that -- is that a subject  
21 of dispute, the motion to amend to join Manal in  
22 650 and the motion to -- I know everything is  
23 opposed generally, so maybe these are opposed on  
24 paper. I don't know if they're opposed in the  
25 heart of hearts of each of you, but --

1 MR. HARTMANN: Well, once the  
2 consolidation is granted, a lot of them I think  
3 shift to a different level. I think that's what  
4 was really involved here.

5 THE COURT: Okay. Well, the answer to  
6 your question is, yeah, I am inclined to grant the  
7 motion to amend to join Manal and to grant the  
8 motion to supplement the First Amended complaint.  
9 But if I grant the former, then you can -- I guess  
10 you've already (inaudible) presented the -- the  
11 motion to amend to join Manal obviously has the  
12 proposed amended -- second amended complaint  
13 together with it.

14 MR. HARTMANN: Yes.

15 THE COURT: And then supplementing that  
16 in a two-step process, you presented something else  
17 to supplement the proposed second amended  
18 complaint.

19 MR. HARTMANN: It's the -- it's the exact  
20 same complaint, Your Honor.

21 THE COURT: Okay.

22 MR. HARTMANN: There is no amended --  
23 there isn't an amended supplemented complaint, but  
24 it is the amended complaint. The supplementation  
25 was simply added to address the issue of whether

1           there were post complaint facts that were in the  
2           motion to amend.

3                   MR. HERPEL:  Yes.  Excuse me.  Carl, if  
4           Manal -- the claims against Manal are already  
5           asserted in the counterclaims in the foreclosure  
6           case; correct?  I mean, is the addition of Manal to  
7           the derivative case even necessary if they're  
8           duplicative of the counterclaim against Manal in  
9           the foreclosure case?

10                   MR. HARTMANN:  I would simply say that  
11           once they're consolidated, these are all really,  
12           really moot.  I mean, mooted at an accelerated  
13           level, because like I said the thing I think we  
14           really need to do is get together and figure out in  
15           a post-consolidation world, where the motions to  
16           amend and supplement have been granted, we're now  
17           working with a known complaint, that's the amended  
18           supplemented complaint, and now we need to  
19           decide -- as the Judge said, I have to drop the  
20           third party back in the 342 case, and we're going  
21           to have to do some different tailoring, but I think  
22           that it basically allows moves forward.

23                   MR. HERPEL:  I mean, I'm wondering, Your  
24           Honor, if all these motions shouldn't be  
25           reevaluated by the parties in light of your ruling



1           that you will consolidate the three cases. I'm  
2           wondering if we should all -- Carl and Charlotte  
3           and me and Joel, should get together and determine  
4           which of the motions are really motions to amend,  
5           or motions -- motions to dismiss are really still  
6           ripe or alive, I guess I would say.

7                       MR. HARTMANN: I would (overlapping  
8           speakers) ...

9                       MR. HERPEL: (Inaudible.)

10                      MR. HARTMANN: -- that that was true,  
11           except for the three motions to compel discovery,  
12           because those are completely discrete and are going  
13           to be necessary no matter what happens.

14                      MR. HERPEL: Okay. I would agree with  
15           that.

16                      MR. HARTMANN: We could get together on  
17           everything else.

18                      THE COURT REPORTER: Your Honor, could we  
19           take a brief personal break?

20                      THE COURT: Sure. We'll take a three-  
21           minute break. Is that good enough, Randall?

22                      THE COURT REPORTER: Sure.

23                      THE COURT: Okay. All right. We're off  
24           the record now, folks. If you want to keep  
25           talking, we can keep talking.

1 (Recess taken from 10:46 and  
2 reconvened at 10:49 a.m.)

3 THE COURT: All right. I think what I  
4 will do, counsel, is sign off as I said on the  
5 three motions; the enlargement of time, the -- and  
6 as they're presented to me, and the sealing of the  
7 passports. I will also grant the motion to  
8 consolidate 650 with all of the -- with the other  
9 two cases.

10 And rather than address all of the other  
11 matters, as we discussed both on and off the record  
12 a little bit, some of those may have been mooted  
13 out by now. I won't even at this stage address the  
14 motion to amend to join Manal, whether or not that  
15 claim may also be superfluous is something that you  
16 all please review in the first instance, and  
17 then -- in due course, and I'll leave the timing up  
18 to you, you can report back to me and advise as to  
19 what are the outstanding matters that require  
20 attention.

21 Yes, I understand that maybe sooner,  
22 rather than later, the motions to compel would be  
23 something if looking to move discovery along  
24 that -- but I'll leave it to you all to give me the  
25 scope of what needs to be addressed by me.

1                   How long could I expect to here back from  
2                   you on that? Jointly if possible. Is 30 days  
3                   enough?

4                   MS. PERRELL: Yes.

5                   THE COURT: 45 days?

6                   MS. PERRELL: 30 or 45 days (overlapping  
7                   speakers) ...

8                   MR. HERPEL: (Inaudible), or we could  
9                   even do it sooner, I think, but I certainly  
10                  wouldn't -- I would agree that 30's plenty.

11                  THE COURT: Okay. Good.

12                  MR. HARTMANN: I agree, 30's plenty.

13                  THE COURT: Very well.

14                  MR. HARTMANN: (Inaudible) sooner, but --

15                  THE COURT: All right. And because of  
16                  your good working relationship among you all, which  
17                  I do acknowledge and appreciate, please, you know,  
18                  notwithstanding the resistance you might get from  
19                  your clients, to the extent you're able to assist  
20                  your clients and each other and the court in trying  
21                  to streamline things, if there are issues, please  
22                  don't just consider that we've run past the issue  
23                  of the special master and that that's something  
24                  that is necessarily to be set aside.

25                  If creative minds can come up with means

1 by which Judge Ross' expertise and knowledge of the  
2 parties and the history might be able to be  
3 utilized in a way to fold these kind of claims in  
4 or at least -- not necessarily fold them into what  
5 he's working on now, but in some other fashion,  
6 participate in the resolution, I'm all ears. But  
7 other than that, I'll just go ahead on those  
8 motions I mentioned and expect to hear back from  
9 you in 30 days.

10 MR. HARTMANN: Thank you, Your Honor.

11 THE COURT: Okay.

12 MS. PERRELL: Thank you, Your Honor.

13 THE COURT: You're welcome.

14 MR. HERPEL: Thank you, Your Honor.

15 MR. HARTMANN: Everyone have a good day.

16 THE COURT: All right. Attorney Hymes,  
17 anything else from you, sir?

18 MR. HYMES: No, Your Honor. Thank you  
19 very much for your consideration today.

20 THE COURT: All right. All right. Thank  
21 you all very much, and good day all.

22 MR. HERPEL: Thank you, Your Honor.

23 (Proceedings conclude at 10:54 a.m.)

24

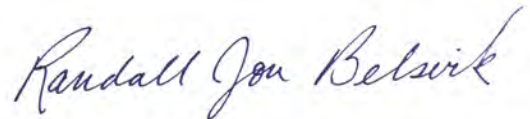
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## CERTIFICATION OF REPORTER

I, Randall Jon Belsvik, Registered Merit Reporter and Federal Certified Realtime Reporter, as an Official Court Reporter for the Superior Court of the Virgin Islands, Division of St. Croix, United States Virgin Islands, do hereby certify that I stenographically reported by machine shorthand equipment, in my official capacity, the **STATUS CONFERENCE** hearing in the matter of Sixteen Plus Corporation versus Manal Yousef, Hashim Hamed on behalf of Sixteen Plus Corporation versus Fathi Yusuf, et al., and Manal Yousef versus Sixteen Plus Corporation, et al., Case Numbers SX-2016-CV-00065, SX-2016-CV-00650, and SX-2017-CV-00342, in said Court, on Thursday, April 27, 2023.

I further certify that the foregoing 44 pages of this certified transcript are a true and accurate computer-aided transcription of my stenographic notes of said proceedings.

I have hereunto subscribed my name this 11th day of May, 2023.



Randall Jon Belsvik, RMR, FCRR  
Official Court Reporter