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| **HISHAM HAMED,** individually**,**  andderivatively on behalf of  **SIXTEEN PLUS CORPORATION,**  *Plaintiff,*  v.  **FATHI YUSUF, ISAM YOUSUF, JAMIL YOUSUF, and MANAL YOUSEF,**  *Defendants,*  and  **SIXTEEN PLUS CORPORATION,**  *a nominal Defendant.* | **Case No.: SX-2016-CV-00650**    DERIVATIVE SHAREHOLDER SUIT, ACTION FOR DAMAGES AND CICO RELIEF  JURY TRIAL DEMANDED  **CONSOLIDATED WITH** |
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| **SIXTEEN PLUS CORPORATION**,  *Plaintiff,*  v.  **MANAL MOHAMMAD YOUSEF,**  *Defendant,*  and  **MANAL MOHAMMAD YOUSEF,**  *Counter-Plaintiff,*  v.  **SIXTEEN PLUS CORPORATION,**  *Counter-Defendant.* | **CIVIL NO. SX-2016-CV-00065**  ACTION FOR  DECLARATORY JUDGMENT,  CICO and FIDUCIARY DUTY  COUNTERCLAIM  JURY TRIAL DEMANDED    **CONSOLIDATED WITH** |
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| **MANAL MOHAMMAD YOUSEF,**  *Plaintiff,*  v.  **SIXTEEN PLUS CORPORATION**,  *Defendant,*  and  **SIXTEEN PLUS CORPORATION**,  *Counter-Plaintiff,*  v.  **MANAL MOHAMMAD YOUSEF,**  *Counter-Defendant*,  and  **SIXTEEN PLUS CORPORATION**,  *Third-Party Plaintiff,*  v.  **FATHI YUSUF,**  *Third-Party Defendant.* | **CIVIL NO.: SX-2017-CV-00342**  ACTION FOR DEBT AND FORECLOSURE  COUNTERCLAIM FOR  DAMAGES  THIRD PARTY ACTION  JURY TRIAL DEMANDED |

**SIXTEEN PLUS CORPORATION’S**

**MOTION TO DISMISS THIRD PARTY COMPLAINT (342)**

**AGAINST FATHI YUSUF WITHOUT PREJUDICE**

In the April 27, 2023 status conference, the Court requested that Sixteen Plus Corporation consider a voluntary withdrawal of the third party-complaint against Fathi Yusuf in the now-consolidated 342 action. .

1. **Procedural Posture**

On August 31, 2017, Manal Yousef filed and served a complaint against Sixteen Plus Corporation in *Manal v. Sixteen Plus Corporation*, SX-2017-CV-342.

On October 12, 2017, Sixteen Plus filed its answer, counterclaim and a third-party complaint against Fathi Yusuf.

On December 15, 2017, Fathi Yusuf filed his motion to dismiss. That motion has been fully briefed by the parties.

On December 12, 2017, Sixteen Plus filed a motion to consolidate 342 into the instant, 650, action.

On May 1, 2023, the Court granted the motion to consolidate, *seemingly* making the third-party action against Fathi Yusuf duplicative.

1. **Requested Action**
2. Sixteen Plus Corporation asks the Court to allow the dismissal of that third-party complaint.
3. It is requested that the dismissal be “without prejudice to re-filing” if it should later be determined that the third-party action was not truly duplicative, and that Sixteen Plus or Hamed are somehow disadvantaged due to the withdrawal.
4. **Conclusion**

A proposed order is attached.

**Counsel for Hisham Hamed**

**and Sixteen Plus Corporation**

**Dated:** May 1, 2023 **A**

**Carl J. Hartmann III, Esq.** (Bar #48)

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#### **CERTIFICATE OF SERVICE**

I hereby certify that, discounting captions, headings, signatures, quotations from authority and recitation of the opposing party’s own text, this document complies with the page and word limitations set forth in Rule 6-1(e) and that on **May 1 , 2023,** I served a copy of the foregoing by email and the Court’s E-File system, as agreed by the parties, to:

**James Hymes III**, **Esq.**

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*Counsel for Plaintiff/Defendant Manal Yousef*

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