

**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 YOUSUF**,
Defendants,

and

SIXTEEN PLUS CORPORATION,
a nominal Defendant.

SIXTEEN PLUS CORPORATION,
Plaintiff,

v.

MANAL MOHAMMAD YOUSEF,
Defendant,

and

MANAL MOHAMMAD YOUSEF,
Counter-Plaintiff,

v.

SIXTEEN PLUS CORPORATION,
Counter-Defendant.

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.

Case No.: SX-2016-CV-00650

DERIVATIVE SHAREHOLDER
SUIT, ACTION FOR DAMAGES
AND CICO RELIEF

JURY TRIAL DEMANDED

CONSOLIDATED WITH

CIVIL NO. SX-2016-CV-00065

ACTION FOR
DECLARATORY JUDGMENT,
CICO and FIDUCIARY DUTY

COUNTERCLAIM

JURY TRIAL DEMANDED

CONSOLIDATED WITH

CIVIL NO.: SX-2017-CV-00342

ACTION FOR DEBT AND
FORECLOSURE

COUNTERCLAIM FOR
DAMAGES

THIRD PARTY ACTION

JURY TRIAL DEMANDED

**JOINT NOTICE TO THE COURT
REGARDING THE PARTIES' VIEWS ON NEXT STEPS
PER THE COURT'S APRIL 27, 2023 INSTRUCTIONS (IN STATUS CONFERENCE)**

In the April 27, 2023 status conference, the Court instructed the parties to (1) consider several issues and (2) report back within thirty days—as to positions and perceived next steps. This NOTICE provides those responses.

I. Potential for Deferral to Judge Ross as Special Master

Fathi Yusuf as well as the St. Maarten Yousef/Yousuf Parties believe that it would be appropriate to defer these claims to Judge Ross to serve as a Master. In essence, the basis of this claim stems from Hamed's contention that Hamed-Yusuf Plaza Extra Partnership funds were the true source of the funds for the purchase of the Diamond Katurah Property and that those Partnership funds were transferred to the St. Martaan Yousefs and then returned in the form of a loan to an entity – Sixteen Plus - created by Hamed and Yusuf and that there was never any intention for the Hamed-Yusuf Plaza Extra Partnership (or the entity they created - Sixteen Plus) to repay the loan they allege was made in the name of Manaal Yousef. Various issues in the current Main Case, which Master Ross oversees, focus on the transfer of Hamed-Yusuf Plaza Extra Partnership accounts, transfers of funds to St. Martaan and ultimately Jordan and other foreign accounts. Master Ross will already be deciding ownership interests and distribution issues as to Hamed-Yusuf Plaza Extra Partnership accounts in St. Maarten and has already issued rulings relating to transfers by the Hameds and Yusuf to such accounts. Master Ross has already gained knowledge of the history and familiarity with the timeline of the transactions. Fathi Yusuf can brief the issue further if the Court would prefer, but suggests that for matters of judicial economy as well as to avoid inconsistent rulings, referral to Judge Ross would be appropriate in these circumstances.

The Hamed/Sixteen Plus Parties¹ demur. They believe that it is not within the scope of a special master's purview, particularly since there is a jury demand requiring a jury trial in an

¹ Hisham Hamed individually and derivatively for Sixteen Plus Corporation, and Sixteen Plus Corporation.

action involving several types of damages—as well as several key Parties here that are not in the 370 (partnership) action, including Manal Yousef, Isam Yousef and Jamil Yousef. Indeed, Isam and Jamil have contested jurisdiction over them, while Manal not only seeks foreclosure of a mortgage and a deficiency judgment, but, critically (as the plaintiff there) she also maintains (as Attorney Perrell made very clear in her response to the Court’s verbal inquiry) the funds are Manal’s **not the Partnership’s**--given to her by her father completely outside of the partnership and 370 action. Thus, a reference would not only be disruptive and dilatory to concluding the ‘370 claims process,’ it is both beyond the Master’s remit substantively and directly contrary to the applicable rule as to when a master can be forced on a party.

II. Order Dismissing Without Prejudice Fathi Yusuf as a Third-Party Defendant

Pursuant to the Court’s suggestion—on the filing of an uncontested motion--on May 8, 2023, the Court issued its Order dismissing without prejudice the Third Party Complaint against Fathi Yusuf.

III. Next Steps

A mutually updated version of the chart referred to in the Status Conference is reproduced below. As the chart demonstrates, the following motions are pending:

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A. As to Procedural Issues:

650	Filed 2/6/2023	<u>SuperSTX-Brady</u>	Hamed	Hamed Rule 15(d) Motion to Supplement FAC to add new information and acts
65/342	Filed 1/1/2023	<u>SuperSTX-Brady</u>	16+	Motion to Amend to Add Sentence re In Pari Delicto
650	Filed 12/18/2022	<u>SuperSTX-Brady</u>	Hamed	Hamed's Motion to Amend the FAC to Join Manal as a Defendant
650	Filed 1/9/2017	<u>SuperiorSTX</u>	Yusuf	Motion to Dismiss the Amended Complaint
650	Filed 6/14/2017	<u>SuperiorSTX</u>	Isam Jamil	Jamil and Isam Yousuf's Motion to Dismiss (with Motion for Extra Pages)

B. As to Discovery Motions:

65/342	Filed 1/3/2023	<u>SuperSTX-Brady</u>	16+	First Motion to Compel to Manal Yousef: For Address, Agent's Information, Accounting and Tax Information
650 & 65/342	Filed 12/2/2022	<u>SuperSTX-Brady</u>	Hamed	Motion to Compel: as to Fathi Yusuf's 'Fifth Amendment' Assertions in Discovery or, in the Alternative to Preclude Testimony
	12/2/2022	<u>SuperSTX-Brady</u>	16+	Sixteen Plus' First Motion to Compel Manal--Crossfiling 650 Hisham Hamed's Third Motion To Compel: As To Fathi Yusuf's 'Fifth Amendment' Assertions In Discovery Or, In The Alternative To Preclude Testimony
650	Filed 11/23/22	<u>SuperSTX-Brady</u>	Hamed	Hamed's Second Motion to Compel--as to Isam's Bank Records

C. As to (Recent) Summary Judgment Motions:

65/342	Filed 4/19/2023	<u>SuperSTX- Ross</u>	Manal	Motion for Summary Judgment (Foreclosure)
65/342	Filed 4/22/2023	<u>SuperSTX</u>	16+	Hamed's Rule 56(d) Motion re Manal's SJ motion

V. Conclusion

As the Court can see, there is little disagreement. Also, all parties have agreed to allow the undersigned to file this Joint Notice.

**Counsel for Hisham Hamed
and Sixteen Plus Corporation**

Dated: May 26, 2023



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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 26 , 2023**, I served a copy of the foregoing by email and the Court's E-File system, as agreed by the parties, to:

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