

FILED

August 08, 2023 10:39 AM

SX-2016-CV-00065

TAMARA CHARLES
CLERK OF THE COURT

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,

v.

SIXTEEN PLUS CORPORATION,

NOMINAL DEFENDANT.

SIXTEEN PLUS CORPORATION,

PLAINTIFF/COUNTER-DEFENDANT,

v.

MANAL MOHAMMAD YOUSEF,

DEFENDANT/COUNTER-PLAINTIFF.

MANAL MOHAMMAD YOUSEF,

PLAINTIFF/COUNTER-DEFENDANT,

v.

SIXTEEN PLUS CORPORATION,

DEFENDANT/COUNTER-PLAINTIFF.

AND

SIXTEEN PLUS CORPORATION,

THIRD-PARTY PLAINTIFF,

v.

FATHI YUSUF,

THIRD-PARTY DEFENDANT.

Civil 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

ORDER APPOINTING MASTER

THIS MATTER is before the Court on the parties' Joint Notice to the Court Regarding the Parties' Views on Next Steps Per the Court's April 27, 2023 Instructions in Status Conference ("Joint Notice"), filed May 26, 2023.

In the Joint Notice, the parties address their positions as to the deferral of the claims in these three consolidated cases to the Honorable Edgar D. Ross as the special master. Fathi Yusuf and the St. Maarten Yousef/Yousuf parties indicate that they "believe that it would be appropriate to defer these claims to Judge Ross to serve as a Master" and "suggest that for matters of judicial economy as well as to avoid inconsistent rulings, referral to Judge Ross would be appropriate in these circumstances."¹ Joint Notice, 2 (May 26, 2023). The Hamed/Sixteen Plus parties, which consist of Hisham Hamed individually and derivatively for Sixteen Plus Corporation and Sixteen Plus Corporation, indicate that 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 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." *Id.* at 2-3. More specifically, the Hamed/Sixteen Plus parties point out that "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." *Id.* at 3. Thus, the Hamed/Sixteen Plus parties argue that "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." *Id.*

¹ Fathi Yusuf and the St. Maarten Yousef/Yousuf parties point out:

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. Maarten 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 Manal 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. Maarten 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.

Joint Notice at 2.

Rule 53 of the Virgin Islands Rules of Civil Procedure (hereinafter “Rule 53”) governs the appointment of masters. It provides:

(a) Appointment

- (1) Scope. Unless a statute provides otherwise, a court may appoint a master only to:
- (A) perform duties consented by the parties;
 - (B) hold trial proceedings and make or recommend findings of fact on issues to be decided without a jury if appointment is warranted by:
 - (i) some exceptional condition; or
 - (ii) the need to perform an accounting or resolve a difficult computation of damages; or
 - (C) address pretrial and posttrial matters that cannot be effectively and timely addressed by an available judge or magistrate judge.

V.I. R. Civ. P. 53(a)(1)(C).

Upon review of the record, the Court finds that the pretrial matters in these three consolidated matters cannot be effectively and timely addressed by an available judge or magistrate judge. As such, the Court finds it appropriate under Rule 53 to appoint a master to address the pretrial matters herein. In this instance, given Hisham Hamed’s allegations in his complaint in *Hamed v. Yusuf, et al.*, SX-2016-CV-00650, and Sixteen Plus Corporation’s allegations in its counterclaim and third-party complaint in *Yousef v. Sixteen Plus Corp.*, SX-2017-CV-00342, that the funds from the Hamed-Yusuf Partnership were used to purchase a 300 plus acre parcel of land on the south short of St. Croix (hereinafter “Land”)² and that the

² In *Hamed v. Yusuf, et al.*, SX-2016-CV-00650, Hisham Hamed, derivatively on behalf of Sixteen Plus Corporation, alleges:

16. Fathi Yusuf and Mohammad Hamed decided to buy the Land in question by providing the necessary funds to Sixteen Plus using only proceeds from the grocery store they owned which they did as described below.

17. Yusuf acting for the partners then undertook the business arrangements regarding the purchase of the Land.

...

19. All funds used to buy the Land came from the Plaza Extra Supermarkets partnership – and thus from Yusuf and Hamed as the only two partners.”

Verified Complaint, ¶¶ 16-17, 19 (Oct. 31, 2016).

In *Yousef v. Sixteen Plus Corp.*, SX-2017-CV-00342, Sixteen Plus Corporation alleges in its counterclaim and third-party complaint:

9. Fathi Yusuf and Mohammad Hamed decided to buy the Land in question by providing the necessary funds to Sixteen Plus using only proceeds from the grocery store they owned which they did as described below.

10. Yusuf acting for the partners then undertook the business arrangements regarding the purchase of the Land.

...

12. All funds used to buy the Land came from the Plaza Extra Supermarkets partnership – and thus from Yusuf and Hamed as the only two partners.”

Answer to Complaint and Counterclaim, ¶¶ 9-10, 12 (Oct. 12, 2017).

essence of the dispute of these consolidated cases concern the ownership of the Land, the Court finds that it would be advantageous to appoint the Honorable Edgar D. Ross to serve as the special master here.

As Fathi Yusuf and the St. Maarten Yousef/Yousuf parties point out, the Honorable Edgar D. Ross, who is currently serving as the special master in other cases dealing with the Yusuf families and the Hamed families to direct and oversee the winding up of the Hamed/Yusuf Partnership – *Hamed v. Yusuf*, SX-2012-CV-00370; *Hamed v. United Corporation*, SX-2014-CV-00287; *Hamed v. Yusuf*, SX-2014-CV-00278 (hereinafter “370 Cases”) – already has knowledge and familiarity with the intertwined history of the Yusuf and Hamed families in their business endeavors. The Court believes that appointing the Honorable Edgar D. Ross to serve as the special master would help the Court to effectively and timely address the pretrial matters, and also decrease the likelihood of inconsistent findings and rulings, which could potentially cause significant disruptions and delays down the road.

To be clear, this is an appointment of the Honorable Edgar D. Ross to serve as special master to address the pretrial matters in the consolidated cases of *Hamed v. Yusuf, et al.*, SX-2016-CV-00650; *Sixteen Plus Corp. v. Yousef*, SX-2016-CV-00065; and *Yousef v. Sixteen Plus Corp.*, SX-2017-CV-00342, which is separate from and in addition to the prior appointment of the Honorable Edgar D. Ross to serve as special master in the 370 Cases. Thus, in addressing the pretrial matters here, the Honorable Edgar D. Ross would not be relying on his authority as a special master in the previous appointment. As such, the Court finds the Hamed/Sixteen Plus parties’ argument that “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” without merit. Joint Notice at 3. In light of the foregoing, it is hereby:

ORDERED that the Honorable Edgar D. Ross is appointed to serve as the special master in the consolidated cases of *Hamed v. Yusuf, et al.*, SX-2016-CV-00650; *Sixteen Plus Corp. v. Yousef*, SX-2016-CV-00065; and *Yousef v. Sixteen Plus Corp.*, SX-2017-CV-00342, to address all pretrial matters and any other matters agreed upon by the parties. It is further

ORDERED that, **within fifteen (15) days** from the date of entry of this Order, the parties shall file a joint notice as to whether the parties agree for the special master here to be paid from the same funding source as the special master in the 370 Cases. In the absence of an agreement, the Court will order the special master’s invoice here to be paid 50% by Fathi Yusuf

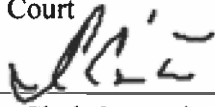
and the St. Maarten Yousef/Yousuf parties and 50% by the Hamed/Sixteen Plus parties. It is further

ORDERED that, **within fifteen (15) days** from the date of entry of this Order, the parties shall file a joint notice as to the proposed compensation for the services of the special master here.

DONE and so ORDERED this 8 day of August, 2023.

ATTEST:

Tamara Charles
Clerk of the Court

By: 
Court Clerk Supervisor

Dated: 8/10/2023



DOUGLAS A. BRADY
Judge of the Superior Court

FILED

August 10, 2023 10:40 AM
SX-2016-CV-00065
TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
District of St. Croix

Sixteen Plus Corporation,
Plaintiff,

Case Number: **SX-2016-CV-00065,**
SX-2016-CV-00650, SX-2017-CV-00342

v.

Manal Mohammed Yousef,
Defendant.

NOTICE of ENTRY
of
Order Appointing Master

To Joel H. Holt, Esq.

James L. Hymes, III, Esq.

:

Carl J. Hartmann, III, Esq.

Charlotte K. Perrell, Esq.

Kevin A. Rames, Esq.

Please take notice that on August 10, 2023
a(n) Order Appointing Master
dated August 08, 2023 was/were entered
by the Clerk in the above-titled matter.

Dated August 10, 2023

Tamara Charles

:

Clerk of the Court

By:



Iris Cintron
Court Clerk Supervisor