

**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, JAMIL
YOUSUF, and MANAL YOUSEF**,
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

**SIXTEEN PLUS CORPORATION'S
MOTION TO THE SPECIAL MASTER
FOR STATUS CONFERENCE**

I. Procedural Posture¹

In his order dated August 10, 2023, Judge Brady stated:

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

The present status of the proceedings was set forth in the chart which was part of the parties' May 26, 2023, *JOINT NOTICE TO THE COURT REGARDING THE PARTIES' VIEWS ON NEXT STEPS PER THE COURT'S APRIL 27, 2023 INSTRUCTIONS (IN STATUS CONFERENCE)*. (Exhibit A)

There are pending motions to dismiss and a Rule 56(d) motion for additional discovery--which Judge Brady addressed at page 30 of the transcript of the status conference of April 27, 2023 (*Transcript Accessed 8/30/2023 at: [23-04-07.trn federal-litigation.com](https://www.federal-litigation.com)*)).

¹ As the three actions have been consolidated, all filings are filed under the 650 docket.

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

Thus, Hamed requests that a video conference be held to address the status, particularly the three outstanding motions to compel--how and when they will be dealt with by the Special Master:

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

II. Requested Actions

1. Schedule status conference
2. Set timetable as to any necessary hearings² and determinations of the three pending motions to compel (the two 5th amendment motions are mirrors).

² Hamed believes that the matters can be decided on the (extensive) papers—but will obviously cooperate fully in any hearing the Special Master deems necessary.

- Hamed requests that they be addressed in the following order: (Isam's Bank Records, Fathi's 5th Amendment Claims and Manal's Responses.)
3. Proceed with discovery based on those determinations.

Dated: September 1, 2023

Counsel for Hisham Hamed



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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 **September 1, 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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/s/ Carl J. Hartmann

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SIXTEEN PLUS CORPORATION,
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**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 unds 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
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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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Counsel for Plaintiff/Defendant Manal Yousef

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