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SX-2016-CV-00650

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/
THIRD-PARTY PLAINTIFF

v.

FATHI YUSUF,
THIRD-PARTY DEFENDANT.

Civil Case No. SX-2016-CV-650

DERIVATIVE SHAREHOLDER SUIT,
ACTION FOR DAMAGES AND CICO
RELIEF

JURY TRIAL DEMANDED

CONSOLIDATED WITH
Civil Case No. SX-2016-CV-065

ACTION FOR DECLARATORY
JUDGMENT, CICO, AND FIDUCIARY
DUTY; COUNTERCLAIM

JURY TRIAL DEMANDED

CONSOLIDATED WITH
Civil Case No. SX-2017-CV-342

ACTION FOR DEBT AND
FORECLOSURE; COUNTERCLAIM
FOR DAMAGES; THIRD PARTY
ACTION

JURY TRIAL DEMANDED

ORDER OF THE SPECIAL MASTER¹

¹ On August 10, 2023, the Court entered an order in the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065, *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650, and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342—whereby the Court appointed the undersigned as

THIS MATTER came before the Special Master (hereinafter “Master”) on the recent filings—in all three cases—in connection with Christopher Allen Kroblin, Esq. and Marjorie Whalen, Esq. of Kellerhals Ferguson Kroblin PLLC’s (hereinafter “Attorney Kroblin” and “Attorney Whalen,” respectively) substitution as counsel of record for Manal Mohammad Yousef’s (hereinafter “MY”), Jamil Yousuf (hereinafter “JY”), and Isam Yousuf (hereinafter “IY”) in his/her respective cases in place of James L. Hymes, III, Esq. of Law Offices of James L. Hymes, III, P.C. (hereinafter “Attorney Hymes”).

BACKGROUND

At the time of the Master’s appointment to the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065 (hereinafter “065 Case”), *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650 (hereinafter “650 Case”), and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342 (hereinafter “342 Case”)—Attorney Hymes was the counsel of record for MY in the 065 Case and the 342 Case and the counsel of record for JY and IY in the 650 Case, and Attorney Hymes has remained as their counsel of record in his/her respective cases to date. But additionally, since the Master granted plaintiff Hisham Hamed’s (hereinafter “HH”) July 26, 2017 and December 19, 2022 motions to amend the first amended complaint to add MY as a defendant in the 650 Case, Attorney Hymes is now also counsel of record for MY in the 650 Case.²

the special master in these consolidated cases to address all pretrial matters and any other matters agreed upon by the parties. (Aug. 10, 2023 Order.)

² On December 23, 2016, HH, individually and derivatively on behalf of Sixteen Plus Corporation, filed a first amended complaint in the 650 Case, and he subsequently filed the July 26, 2017 and December 19, 2022 motions to amend the first amended complaint in the 650 Case.

In an order entered on May 9, 2024, the Master pointed out that Attorney Hymes has voluntarily appeared on behalf of MY in the 650 Case when he filed—on behalf of MY—an opposition to HH’s December 19, 2022 motion to amend the first amended complaint in the 650 Case, and that “[a] voluntary appearance of the defendant shall be equivalent to personal service of the summons upon him.” Title 5 V.I.C. § 115. (May 9, 2024 Order.)

Ever since the Master entered—in all three cases—an order on November 20, 2023 whereby the Master ordered the parties to meet and confer in connection with the outstanding discovery issues and to jointly file a proposed amended scheduling order, Attorney Hymes had repeatedly indicated to the parties and to the Master that he has difficulty communicating directly with MY.³

On March 13, 2024, upon learning from Attorney Hymes' March 8, 2024 notice—filed in all three cases, in response to the February 27, 2024 order directing Attorney Hymes to advise the Master of his attempts to contact MY, Attorney Hymes—that JY is MY's power of attorney with respect to the pending litigation in the Virgin Islands,⁴ the Master entered an order whereby the Master again ordered the parties—in all three cases—to meet and confer in

³ In their respective December 20, 2023 filings—filed in all three cases: Sixteen Plus Corporation in the 065 Case and the 342 Case and Hisham Hamed, individually and derivatively on behalf of Sixteen Plus Corporation, and Fathi Yusuf in the 650 Case—the parties noted that “Attorney Hymes indicated that he could not agree to anything as he has lost contact with his client due to the current conflict in the Middle East.” (Dec. 20, 2023 Proposed Fourth Amended Scheduling Orders.)

In their January 23, 2024 joint motion—filed in all three cases—to extend the deadline to meet and confer, the parties indicated:

2. Attorney Hymes, counsel for Manal Yousef, has advised counsel for the other parties in this matter that his client, who resides in Palestine, has been caught up in the war between Israel and Palestine. Attorney Hymes has indicated that he has been unable to communicate with her for many weeks, and that until he is able to consult with her, he cannot take any positions in a meet and confer that are different from those taken by her in the briefing on these motions. See Exhibit A, Attorney Hymes 1/22/24 Email to counsel.

(Jan. 23, 2024 Parties' Joint Motion.)

In Attorney Hymes' February 22, 2024 notice—filed in all three cases—in response to the January 24, 2024 order directing Attorney Hymes to advise the Master of his contacts with MY, Attorney Hymes advised, *inter alia*, that his “last personal contact with Manal Yousef was on Monday, September 18, 2023 ” that his ‘ contacts with Jamil [Yousuf] to try and find out how Manal was doing were made on October 15, 2023, November 22, 2023, and February 8, 2024, which was my last attempt ” that MY must “stay at home to be safe” which means “she cannot travel to her lawyer's office which is in another city, and her ability to be deposed will depend on whether or not she has utility power and Internet service,” and that Jamil [Yousouf] has been in contact with his aunt [MY] in February, 2024, on the 5th and 8th and has discussed issues which have come up involving the cases with her. (Feb 22, 2024 Hymes' Notice.)

In Attorney Hymes' March 8, 2024 notice—filed in all three cases—in response to the February 27, 2024 order directing Attorney Hymes to advise the Master of his attempts to contact MY, Attorney Hymes advised, *inter alia*, that “[his] only means of communication with Manal Yousef at the present time is through Jamil Yousuf, who has her power of attorney with respect to the pending litigation in the Virgin Islands.” (March 8, 2024 Hymes' Notice.)

⁴ See *supra*, footnote 3.

connection with the outstanding discovery issues and to jointly file a proposed amended scheduling order. In the March 13, 2024 order, the Master pointed out that “Attorney Hymes can consult with JY, MY’s ‘power of attorney with respect to the pending litigation in the Virgin Islands,’ who has the authority to act on MY’s behalf in these cases, such as stipulating to certain deadlines in a proposed scheduling order—with the parties being mindful of MY’s current situation” and that “JY knows how to contact and converse with MY if Attorney Hymes has questions that need to be directly answered by MY.” (March 13, 2024 Order.)

Thereafter, on April 1, 2024, Attorney Hymes filed—in all three cases—a motion to withdraw as counsel for MY, JY, and IY in his/her respective cases, with his statement in lieu of affidavit, dated April 1, 2024, attached thereto. In response, Sixteen Plus Corporation (hereinafter “SPC”) filed a notice of no objection in the 065 Case and the 342 Case, and HH filed a notice of no objection in the 650 Case. On April 16, 2024, Attorney Hymes filed—in all three cases—a supplement to his statement in lieu of affidavit, dated April 16, 2024.

On May 9, 2024, the Master entered an order whereby the Master denied without prejudice Attorney Hymes’s April 1, 2024 motion to withdraw as counsel of record for MY, JY, and IY in his/her respective cases. In the May 9, 2024 order, the Master explained:

Attorney Hymes currently represents MY in the 065 Case and the 342 Case and JY and IY in the 650 Case. Additionally, in an order entered contemporaneously herewith, the Master pointed out that Attorney Hymes has voluntarily appeared on behalf of MY in the 650 Case when he filed—on behalf of MY—an opposition to HH’s December 19, 2022 motion to amend the first amended complaint in the 650 Case,² and ordered Attorney Hymes to accept service—on behalf of MY—of the second amended complaint and the supplemental complaint in the 650 Case.

Pursuant to Rule 211.1.16 of the Virgin Islands Rules of Professional Conduct (hereinafter “Rule 211.1.16”), a lawyer may withdraw from representing the interests of the client if: (1) withdrawal can be accomplished without material adverse effect on the interests of the client...” V.I.S.C.T.R. 211.1.16(b)(1). Furthermore, Rule 211.1.16 directs that “[a] lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation [and] [w]hen ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.” V.I.S.C.T.R. 211.1.16(c). As the moving party,

Attorney Hymes has the burden to show that withdrawal can be accomplished without material adverse effects on the interest of his clients. The Master finds that this burden has not been met. In fact, based on Attorney Hymes's own representations in this instant motion and his recent filings, it is clear that his withdrawal cannot be accomplished without material adverse effect on MY, JY, and IY's interests—to wit, Attorney Hymes indicated that MY is currently enduring various hardships—including but not limited to difficulty in maintaining a steady means of communication with the outside world—due to the war between Israel and Palestine,³ and that JY insisted that Attorney Hymes continue to represent them in these cases.⁴ Attorney Hymes's motion does not identify substitute counsel or otherwise show how MY, JY, and IY will continue in the present proceedings if his motion is granted. Thus, allowing Attorney Hymes to withdraw as counsel for MY, JY, and IY will preclude these parties from further appearances in these proceedings, at least until substitute counsel can be identified, and thereby causing material adverse effects to MY, JY, and IY's interests. Furthermore, in ruling on the instant motion, the Master may also consider the procedural posture of the case. *See Cianci v. Chaput*, 64 V.I. 682, 695 (V.I. 2016) (“We agree with the Superior Court that granting Walker's motion to withdraw so late in the proceedings would have resulted in prejudice to both parties and unnecessarily delayed the conclusion of the matter, contrary to the interests of judicial economy.”). Allowing Attorney Hymes to withdraw as counsel for MY, JY, and IY will certainly result in prejudice to the other parties and impede judicial efficiency by preventing the orderly administration of these proceedings, which commenced more than eight years ago. *Cf.* V.I.S.Ct.R. 211.8.4(d) (“It is professional misconduct for a lawyer to: (d) engage in conduct that is prejudicial to the administration of justice.”). As such, the Master will deny without prejudice Attorney Hymes's motion. Upon the appearance of substitute counsel for MY, JY, and IY, Attorney Hymes may move again to withdraw.

² MY's February 7, 2023 opposition provided:

COMES NOW, MANAL MOHAMMAD YOUSEF, through her undersigned Attorney, James L. Hymes, III, and respectfully opposes the Motion of Hisham Hamed to amend his First Amended Complaint dated December 23, 2016, to join MANAL MOHAMMAD YOUSEF as a name party defendant.

(Feb. 7, 2023 Opp.)

³ *See* Jan. 23, 2024 Joint Motion, Exhibit A; Attorney Hymes's Feb. 22, 2024 Reply; Attorney Hymes's March 8, 2024 Notice; and Attorney Hymes's March 25, 2024 Notice.

⁴ *See* April 1, 2024 Motion.

(May 9, 2024 Order.)

On May 21, 2024, Attorney Hymes and Attorney Kroblin filed a stipulation for substitution of counsel indicating that they had “stipulated and agreed that the law firm Kellerhals Ferguson Kroblin PLLC shall be substituted as the attorneys of record in the above referenced civil cases [the 065 Case, the 650 Case, and the 342 Case] for the Law Offices of

James L. Hymes, III, P.C., and James L. Hymes, III, and that said law firm shall be responsible to the Court and counsel for all matters relating thereto, relieving the Law Offices of James L. Hymes, III, P.C., and James L. Hymes, III, from any duty and/or responsibility as attorney of record for Manal Mohammad Yousef, Jamil Yousuf, and Isam Yousuf in the cases referenced above.” (May 21, 2024 Stip.) (emphasis omitted).

On May 24, 2024, “Defendant and Counter-Plaintiff Manal Mohammad Yousef” filed—in the 065 Case—a notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing as Counsel for Defendant and Counter-Plaintiff in [the 065 Case].” (May 24, 2024 MY Notice); “Plaintiff Manal Mohammad Yousef” filed—in the 342 Case—a notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing as Counsel for Plaintiff and Counter-Defendant in [the 342 Case].” (May 24, 2024 MY Notice); and “Defendants Jamil Yousuf and Isam Yousuf” filed—in the 650 Case—a notice of appearing of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearance as Counsel for Defendants in [the 650 Case].” (May 24, 2024 JY and IY Notice.)

On May 29, 2024, Attorney Kroblin and Attorney Whalen filed—in the 065 Case—an amended notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing as Counsel for Defendant and Counter-Plaintiff Manal Mohammad Yousef in [the 065 Case].” (May 29, 2024 Kroblin and Whalen Notice); Attorney Kroblin and Attorney Whalen filed—in the 342 Case—an amended notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing as Counsel for Plaintiff and Counter-Defendant Manal Mohammad Yousef in [the 342 Case].” (May 29, 2024 Kroblin and Whalen Notice); and Attorney Kroblin and Attorney Whalen filed—in the 650 Case—an amended notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing

as Counsel for Defendants Jamil Yousuf and Isam Yousuf in [the 650 Case].” (May 29, 2024 Kroblin and Whalen Notice.)

DISCUSSION

The Master notes at the outset that the initial notices of appearance filed by MY in the 065 Case and the 342 Case and by JY and IY in the 650 Case were improper—to wit, MY, JY, IY, as parties in his/her respective cases, had already appeared therein, and it was their new counsel of record Attorney Kroblin and Attorney Whalen that need to appear and give notices of appearance therein. Nevertheless, this defect was cured by the amended notices of appearance filed by Attorney Kroblin and Attorney Whalen—on behalf of MY in the 065 Case and the 342 Case and on behalf of JY and IY in the 650 Case.

Now turning to the May 21, 2024 stipulation of Attorney Hymes and Attorney Kroblin. The Master finds that Attorney Hymes has cured the deficiencies of his withdrawal that the Master had previously pointed out in the May 9, 2024 order. More specifically, the Master finds that Attorney Hymes—by identifying the substitute counsel for his clients and filing the stipulation for substitution of counsel in his clients’ respective cases—has met his burden to show that his withdrawal can be accomplished without material adverse effects on the interest of his clients, will not prejudice the other parties, and will not impede judicial efficiency. At this time, upon review of the filings, the Master will approve the May 21, 2024 stipulation of Attorney Hymes and Attorney Kroblin with minor revisions—namely, rather than approving the proposed substitution of the law firm Kellerhals Ferguson Kroblin PLLC generally without specific counsel identified as the counsel of record for MY, JY, and IY, the Master will instead approve the substitution of Attorney Kroblin and Attorney Whalen as the counsel of record for MY, JY, and IY in place of Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. In other words, the duty to fully represent MY, JY, and IY’s interests and the duty to not impede

with the orderly administration of these proceedings rest with Attorney Kroblin and Attorney Whalen, MY, JY, and IY's counsel of record, and not generally on the law firm Kellerhals Ferguson Kroblin PLLC.

CONCLUSION

Based on the foregoing, it is hereby:

ORDERED that the May 21, 2024 stipulation of Attorney Hymes and Attorney Kroblin is **APPROVED** as to the substitution of Attorney Kroblin and Attorney Whalen of Kellerhals Ferguson Kroblin PLLC as MY, JY, and IY's counsel of record—to wit, as the counsel of record for MY in all three cases and as the counsel of record for JY and IY in the 650 Case—in place of Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. and **NOT APPROVED** as to the proposed substitution of the law firm Kellerhals Ferguson Kroblin PLLC generally without specific counsel identified as MY, JY, and IY's counsel of record in place of Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. It is further:

ORDERED that Attorney Kroblin and Attorney Whalen of Kellerhals Ferguson Kroblin PLLC shall file second amended notices of appearance—as the counsel of record for MY in all three cases and as the counsel of record for JY and IY in the 650 Case—consistent with this Order **on or before June 7, 2024**. **And** it is further:

ORDERED that Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. shall **REMAIN** as MY, JY, and IY's counsel of record in his/her respective cases until Attorney Kroblin and Attorney Whalen **TIMELY FILES** their second amended notices of appearance as ordered above. Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. are **RELEIVED OF ANY FURTHER DUTIES** as MY's counsel of record in all three cases and as JY and IY's counsel of record in the 650 Case without any further action from the Master **ONLY UPON** Attorney Kroblin and Attorney Whalen's timely filing of their second

ORDER OF THE SPECIAL MASTER

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amended notices of appearance as ordered above; otherwise, Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. shall **REMAIN** as MY, JY, and IY's counsel of record in his/her respective cases.

DONE and so ORDERED this 4th day of June, 2024.

ATTEST:

Tamara Charles
Clerk of the Court

By: 
Court Clerk ~~Supervisor~~ II

Dated: June 4, 2024


EDGAR D. ROSS
Special Master

FILED

June 06, 2024 09:46 AM

SX-2016-CV-00650

TAMARA CHARLES

CLERK OF THE COURT

Order 2 - 650 - 2 of 4

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.

Civil Case No. SX-2016-CV-650

DERIVATIVE SHAREHOLDER SUIT,
ACTION FOR DAMAGES AND CICO
RELIEF

JURY TRIAL DEMANDED

CONSOLIDATED CASES: Civil Case No. SX-2017-CV-342 Civil Case No. SX-2016-CV-065 Civil Case No. SX-2016-CV-650

ORDER OF THE SPECIAL MASTER¹

THIS MATTER came before the Special Master (hereinafter “Master”) on the recent documents filed by Plaintiff Hisham Hamed’s (hereinafter “HH”), individually and on behalf of Sixteen Plus Corporation (hereinafter “SPC”), in response to the May 9, 2024 order.²

BACKGROUND

On October 31, 2016, HH, derivatively on behalf of SPC, file a verified complaint against Defendants Fathi Yusuf (hereinafter “FY”), Isam Yousuf (hereinafter “IY”), and Jamil Yousef (hereinafter “JY”) and Nominal Defendant SPC in this derivative shareholder action. On December 23, 2016, HH, individually and derivatively on behalf of SPC, filed a first amended

¹ On August 10, 2023, the Court entered an order in the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065 (hereinafter “065 Case”), *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650 (hereinafter “650 Case”), and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342 (hereinafter “342 Case”)—whereby the Court appointed the undersigned as the special master in these consolidated cases to address all pretrial matters and any other matters agreed upon by the parties. (Aug. 10, 2023 Order.)

² As the caption above indicates, this Order is specific to the 650 Case, and thus, unless specified otherwise, all the filings and orders referenced herein pertain only to the 650 Case.

verified complaint (hereinafter “FAC”) against FY, IY, and JY, and Nominal Defendant SPC. In the FAC, HH alleged the following six counts: Count I-Civil Violation of the Criminally Influenced and Corrupt Organizations Act (against all defendants), Count II-Conversion (against all defendants), Count III-Breach of Fiduciary Duties (against FY), Count IV-Usurping of Corporate Opportunity (against FY), Count V-Civil Conspiracy (against all defendants), Count VI-Tort of Outrage (against all defendants). (FAC.) Thereafter, a plethora of motions were filed in connection with the FAC, including HH’s July 26, 2017 motion to amend the FAC, HH’s February 6, 2023 motion for leave to file a supplemental complaint, and HH’s February 28, 2023 motion for leave to file a supplemental complaint. On May 9, 2024, the Master entered an order whereby the Master, *inter alia*, ordered as follows:

ORDERED that HH’s July 26, 2017 motion to amend the FAC and HH’s December 19, 2022 motion to amend the FAC are **GRANTED**, however the proposed second amended complaints attached thereto **ARE NOT ACCEPTED**. It is further:

ORDERED that HH’s February 28, 2023 motion for leave to file a supplemental complaint is **GRANTED**, however the proposed second amended and supplemental complaint attached thereto **IS NOT ACCEPTED**. It is further:

ORDERED that, **ithin thirty 30 days fro the date of entry of this Order**, HH shall **FILE**:

- (i) **A NE PROPOSED SECOND AMEND ED COMPLAINT** to “eliminate[] two counts Count II (Conversion) and Count V (Civil Conspiracy) against each Defendant [and] correct[] the caption to correct the spelling of the name of the Jamil Yousef to Jamil Yousuf” and to add [Manal Mohammad Yousef] as a defendant, with the factual allegations added therein confined to events that occurred **BEFORE** the action was commenced, and
- (ii) **A SEPARATE SUPPLEMENTAL COMPLAINT** with the factual allegations therein confined to events that occurred **AFTER** the action was commenced.

(May 9, 2024 Order.)

In response to the May 9, 2024 order, HH filed the following documents: (i) a clean version of the new proposed second amended complaint titled “REVISED PROPOSED SECOND

AMENDED COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024,” filed on May 11, 2024; (ii) a redline version of the new proposed second amended complaint reflecting changes made to the FAC, filed on May 12, 2024; and (iii) a clean version of the supplemental complaint titled “REVISED FIRST SUPPLEMENTAL COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024,” filed on May 11, 2024.

DISCUSSION

1. The New Proposed Second Amended Complaint Titled REVISED PROPOSED SECOND AMENDED COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024

Upon review of the new proposed second amended complaint titled “REVISED PROPOSED SECOND AMENDED COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024,” the Master will order HH to make the following amendments to cure the defects contained therein and re-file a new proposed second amended complaint. *See* V.I. R. Civ. P. 15-2 (“The court may amend any process or pleading for any omission or defect therein, or for any variance between the complaint and the evidence adduced at the trial.”). First, for the sake of consistency in the three cases,³ amend the caption of this document by replacing “Manal Yousef” with “Manal Mohammad Yousef.” Second, amend the title of this document by replacing “REVISED PROPOSED SECOND AMENDED COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024” with “Second Amended Complaint.”⁴ *See* V.I. R. Civ. P. 15-1(b) (“A proffered amended pleading must note prominently on the first page the numbered amendment it represents; e.g., FIRST AMENDED COMPLAINT, SECOND AMENDED COMPLAINT, FIRST AMENDED ANSWER, etc.). Third, include the correct exhibit cited in paragraph 11 of the document, which states:

³ “Manal Mohammad Yousef” is used in the caption of the 065 Case and the 342 Case.

⁴ HH has already made it very clear in paragraph 1 of the document that it was filed pursuant to the May 9, 2024 order.

11. Fathi Yusuf and Waleed Hamed and their families are in intractable litigation in several other matters. Both have acknowledged this to be the case, and have filed papers in other proceedings before the Superior Court attesting to this. Moreover, the Superior Court (Willocks, J.) has entered an Order stating that the Hamed and Yusuf families could file a derivative action as to another jointly controlled corporation for the same reason. See Exhibit A.

However, “Exhibit A” is not a copy of the Superior Court Order referenced in paragraph 11. Instead, “Exhibit A” is an unsigned copy of Waleed Hamed’s statement in support of HH’s reply to MY’s opposition to HH’s motion to compel Fathi Yusuf as to the Fifth Amendment, dated February 21, 2023. Fourth, include the exhibits cited in paragraphs 76a, 76e, and 77 of the document. While these paragraphs cited “Exhibit 8,” “Exhibit 9,” “Exhibit 10,” and “Exhibit 11,” no such exhibits were attached to the document. Fifth, reproduce all factual allegations if HH—by stating “See Exhibit A with regard to the factual allegations herein” in paragraph 13 of the document—intended to incorporate the factual allegations of “Exhibit A” into the new proposed second amended complaint. The Master finds that it would not be procedurally sound to permit HH to incorporate the factual allegations of “Exhibit A” by reference—especially without any specificity as to the portion of “Exhibit A” that HH intended to incorporate—and thereby allowing HH to circumvent the requirement of Rule 15-1 of the Virgin Islands Rules of Civil Procedure to “reproduce the entire pleading as amended specifically delineating the changes or additions and... not incorporate any prior pleading by reference.”⁵ *See* V.I. R. CIV. P. 15-1(a). Sixth, remove

⁵ Rule 15-1 of the Virgin Islands Rules of Civil Procedure provides in its entirety:

A party moving to amend a pleading shall attach a complete -- and properly signed -- copy of the proposed amended pleading to the motion papers. Except as otherwise ordered by the court, any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, must reproduce the entire pleading as amended specifically delineating the changes or additions and may not incorporate any prior pleading by reference.

V.I. R. CIV. P. 15-1(a).

Notably, “Exhibit A” is not even a prior pleading, but simply Waleed Hamed’s statement and thus it may not be compliant with the form of pleadings. *See* V.I. R. CIV. P. 10(b) (“A party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances. A later pleading may refer by number

“Exhibit A” to the document, which as noted above, is an unsigned copy of Waleed Hamed’s statement in support of HH’s reply to MY’s opposition to HH’s motion to compel Fathi Yusuf as to the Fifth Amendment, dated February 21, 2023. As the Master previously pointed out in the May 9, 2024 order, “the factual allegations ended with the commencement of the action—to wit, the filing of the initial complaint” and “a supplemental pleading is a separate pleading that sets out any events that occurred after the commencement of the action,” and referenced Rule 15(d) of the Virgin Islands Rules of Civil Procedure.⁶ (May 9, 2024 Order.) Thus, it is improper for the new proposed second amended complaint to reference a document that was created after the commencement of this matter—to wit, the initial complaint was filed in 2016 and “Exhibit A” is a document created and filed in 2023. Lastly, the new proposed second amended complaint must be verified. *See* V.I. R. CIV. P. 23.1 (“The complaint [in a derivative action] must be verified...”).

2. The Supplemental Complaint Titled REVISED FIRST SUPPLEMENTAL COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024

Upon review of the supplemental complaint titled “REVISED FIRST SUPPLEMENTAL COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024,” the Master will order HH to make the following amendments to cure the defects contained therein and re-file a new supplemental complaint. *See* V.I. R. CIV. P. 15-2. First, for the same reasons stated above, amend the caption of this document by replacing “Manal Yousef” with “Manal Mohammad Yousef.”

to a paragraph in an earlier pleading. If doing so would promote clarity, each claim founded on a separate transaction or occurrence -- and each defense other than a denial -- must be stated in a separate count or defense.”).

⁶ Rule 15(d) of the Virgin Islands Rules of Civil Procedure provides:

On motion and reasonable notice, the court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented. The court may permit supplementation even though the original pleading is defective in stating a claim or defense. The court may order that the opposing party plead to the supplemental pleading within a specified time.

V.I. R. CIV. P. 15(d).

Second, amend the title of this document by replacing “REVISED FIRST SUPPLEMENTAL COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024” with “Supplemental Complaint.”⁷ *See* V.I. R. CIV. P. 15-1(b). Lastly, the supplemental complaint must be verified. *See* V.I. R. CIV. P. 23.1 (“The complaint [in a derivative action] must be verified...”).

CONCLUSION

Based on the foregoing, the Master will not accept the new proposed second amended complaint titled “REVISED PROPOSED SECOND AMENDED COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024” and the supplemental complaint titled “REVISED FIRST SUPPLEMENTAL COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024,” filed on May 11, 2024, and strike from the record all the documents filed on May 11, 2024 and May 12, 2024 in the interest of preventing an unnecessarily convoluted docket. Accordingly, it is hereby:

ORDERED that the new proposed second amended complaint titled “REVISED PROPOSED SECOND AMENDED COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024” and the supplemental complaint titled “REVISED FIRST SUPPLEMENTAL COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024,” filed on May 11, 2024, **ARE NOT ACCEPTED**. It is further:

ORDERED that all the documents filed on May 11, 2024 and May 12, 2024—to wit, the clean version of the new proposed second amended complaint titled “REVISED PROPOSED SECOND AMENDED COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024,” filed on May 11, 2024; (ii) the redline version of the new proposed second amended complaint reflecting

⁷ This is the only supplemental pleading filed to date—since the Master already rejected the proposed second amended and supplemental complaint previously filed with HH’s February 6, 2023 motion for leave to file a supplemental complaint—and HH has already made it very clear in paragraph 1 of the document that it was filed pursuant to the May 9, 2024 order.

changes made to the FAC, filed on May 12, 2024; and (iii) the clean version of the supplemental complaint titled “REVISED FIRST SUPPLEMENTAL COMPLAINT PER THE COURT’S ORDER OF MAY 9, 2024,” filed on May 11, 2024—are **STRICKEN FROM THE RECORD**.

And it is further:

ORDERED that, on or before **July 12, 2024**, HH shall **FILE**:

- (i) A clean version of the **NEW PROPOSED SECOND AMENDED COMPLAINT** consistent with this Order,
- (ii) A redline version of the **NEW PROPOSED SECOND AMENDED COMPLAINT** specifically delineating the changes or additions; and
- (iii) A **NEW SUPPLEMENTAL COMPLAINT** consistent with this Order.

DONE and so **ORDERED** this 5th day of June, 2024.

ATTEST:

Tamara Charles
Clerk of the Court

By:



Court Clerk ~~Supervisor~~ II

Dated: June 6, 2024



EDGAR D. ROSS
Special Master

FILED

June 06, 2024 02:44 PM

SX-2016-CV-00650

TAMARA CHARLES

CLERK OF THE COURT

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

**MUHAMMAD SHAM 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/
THIRD-PARTY PLAINTIFF

v.

FATHI YUSUF,
THIRD-PARTY DEFENDANT.

Civil Case No. SX-2016-CV-650

DERIVATIVE SHAREHOLDER SUIT,
ACTION FOR DAMAGES AND CICO
RELIEF

JURY TRIAL DEMANDED

CONSOLIDATED WITH
Civil Case No. SX-2016-CV-065

ACTION FOR DECLARATORY
JUDGMENT, CICO, AND FIDUCIARY
DUTY; COUNTERCLAIM

JURY TRIAL DEMANDED

CONSOLIDATED WITH
Civil Case No. SX-2017-CV-342

ACTION FOR DEBT AND
FORECLOSURE; COUNTERCLAIM
FOR DAMAGES; THIRD PARTY
ACTION

JURY TRIAL DEMANDED

ORDER OF THE SPECIAL MASTER¹

¹ On August 10, 2023, the Court entered an order in the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065 (hereinafter “065 Case”), *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650 (hereinafter “650 Case”), and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342 (hereinafter “342 Case”)—whereby the Court appointed the undersigned as the special master in these consolidated cases to address all pretrial matters and any other matters agreed upon by the parties. (Aug. 10, 2023 Order.)

THIS MATTER came before the Special Master (hereinafter “Master”) on the second amended notice of appearance of Christopher Allen Kroblin, Esq. and Marjorie Whalen, Esq. of Kellerhals Ferguson Kroblin PLLC (hereinafter “Attorney Kroblin” and “Attorney Whalen,” respectively) as counsel of record for Defendant and Counter-Plaintiff Manal Mohammad Yousef in the 065 Case, the second amended notice of appearance of Attorney Kroblin and Attorney Whalen as counsel of record for Plaintiff and Counter-Defendant Manal Mohammad Yousef in the 342 Case, and the second amended notice of appearance of Attorney Kroblin and Attorney Whalen as counsel of record for Defendants Jamil Yousuf, Isam Yousuf, and Manal Mohammad Yousef in the 650 Case,² all filed on June 4, 2024.

On March 16, 2024, the Master entered an order whereby the Master ordered, *inter alia*, the parties in all three cases to jointly file, within thirty days, a proposed amended scheduling

² Attorney Kroblin and Attorney Whalen noted in their second amended notice of appearance in the 650 Case that Manal Mohammad Yousef (hereinafter “MY”) “is not a named party in this case.” Counsel are reminded that, on May 9, 2024, the Master entered an order whereby the Master granted, *inter alia*, Hisham Hamed’s (hereinafter “HH”) December 19, 2022 motion to amend the first amended complaint to add MY as a defendant in the 650 Case and pointed out that MY’s former counsel of record—James L. Hymes, III, Esq.—had voluntarily appeared on behalf of MY in the 650 Case when he filed an opposition to HH’s December 19, 2022 motion in the 650 Case. (May 9, 2024 Order.) MY’s opposition provided:

COMES NOW, MANAL MOHAMMAD YOUSEF, through her undersigned Attorney, James L. Hymes, III, and respectfully opposes the Motion of Hisham Hamed to amend his First Amended Complaint dated December 23, 2016, to join MANAL MOHAMMAD YOUSEF as a name party defendant.

(Feb. 7, 2023 Opp.)

Under Title 5, Section 115 of the Virgin Islands Code, “[a] voluntary appearance of the defendant shall be equivalent to personal service of the summons upon him.” Title 5 V.I.C. § 115.

In the same May 9, 2024 order, the Master rejected the proposed second amended complaints and proposed second amended and supplemental complaint previously filed in the 650 Case, and instead, ordered HH to re-file a new proposed second amended complaint and a new supplemental complaint to separately plead facts that occurred before the commencement of the action and facts that occurred after the commence of the action. (May 9, 2024 Order.) The rejection of the previously filed proposed second amended complaints and proposed second amended and supplemental complaint did not affect or negate the Master’s order granting HH’s December 19, 2022 motion to amend the first amended complaint to add MY as a defendant. Thus, when the Master approved the substitution of Attorney Kroblin and Attorney Whalen as MY, Jamil Yousuf (hereinafter “JY”), and Isam Yousuf’s (hereinafter “IY”) counsel of record—to wit, as the counsel of record for MY in all three cases and as the counsel of record for JY and IY in the 650 Case—in place of James L. Hymes, III, Esq. and the Law Offices of James L. Hymes, III, P.C., it was proper for Attorney Kroblin and Attorney Whalen to file the notice of appearance as counsel of record for MY in the 650 Case since the Master had already granted HH’s December 19, 2022 motion to amend the first amended complaint to add MY as a defendant and James L. Hymes, III, Esq. had already voluntarily appeared in the 650 Case.

order in their respective cases. As of the date of this Order, no such proposed amended scheduling orders have been filed. Nevertheless, the noncompliance may be due to MY's former counsel of record's wish to withdraw as counsel for MY.³ At this time, given that Attorney Kroblin and Attorney Whalen have appeared as MY, JY, and IY's counsel of record—to wit, as the counsel of record for MY in all three cases and as the counsel of record for JY and IY in the 650 Case—the Master will extend the deadline previously set in the March 16, 2024 order. Furthermore, it has come to the Master's attention that the parties in all three cases may wish to have one consolidated scheduling order with the same case management deadlines for ease of compliance and efficiency. Thus, the Master will allow the parties in all three cases to jointly file one proposed consolidated scheduling order for all three cases, unless the parties wish otherwise. Accordingly, it is hereby:

ORDERED that, **on or before July 12, 2024**, the parties in all three cases **SHALL JOINTLY FILE** one proposed consolidated amended scheduling (using the caption of all three cases) and the proffered amended scheduling order **MUST NOTE** prominently on the first page: CONSOLIDATED SCHEDULING ORDER. **And** it is further:

ORDERED that, if the parties wish to file a separate proposed scheduling order in their respective cases, then **on or before July 12, 2024**, the parties in the 065 Case **SHALL JOINTLY FILE** a proposed amended scheduling order in the 065 Case (using only the caption for the 065 Case), the parties in the 650 Case **SHALL JOINTLY FILE** a proposed amended scheduling order in the 650 Case (using only the caption for the 650 Case), and the parties in the 342 Case **SHALL JOINTLY FILE** a proposed amended scheduling order in the 342 Case (using only the caption for the 342 Case), and the proffered amended scheduling orders **MUST**

³ On April 1, 2024, MY's former counsel of record filed a motion to withdraw as counsel for MY.

ORDER OF THE SPECIAL MASTER

NOTE prominently on the first page the numbered amendment it represents—e.g., **FIRST AMENDED SCHEDULING ORDER, SECOND AMENDED SCHEDULING ORDER, etc.**

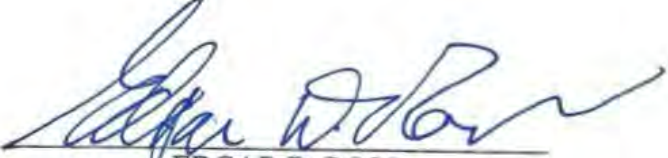
DONE and so ORDERED this 6th day of June, 2024.

ATTEST:

Tamara Charles
Clerk of the Court

By: 
Court Clerk ~~Supervisor~~ II

Dated: June 6, 2024


EDGAR D. ROSS
Special Master

FILED

June 14, 2024 12:18 PM

SX-2016-CV-00650

TAMARA CHARLES

CLERK OF THE COURT

Order 4 - 650 - 4 of 4

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.

Civil Case No. SX-2016-CV-650

DERIVATIVE SHAREHOLDER SUIT,
ACTION FOR DAMAGES AND CICO
RELIEF

JURY TRIAL DEMANDED

**CONSOLIDATED CASES: Civil Case No. SX-2017-CV-342 Civil Case No. SX-2016-CV-065
Civil Case No. SX-2016-CV-650**

ORDER OF THE SPECIAL MASTER¹

THIS MATTER is before the Special Master (hereinafter “Master”) for review *sua sponte*.²

BACKGROUND

On October 31, 2016, HH, derivatively on behalf of Sixten Plus Corporation (hereinafter “SPC”), file a verified complaint against Defendants Fathi Yusuf (hereinafter “FY”), Isam Yousuf (hereinafter “IY”), and Jamil Yousef (hereinafter “JY”) and Nominal Defendant SPC in this derivative shareholder action. On December 23, 2016, HH, individually and derivatively on behalf of SPC, filed a first amended verified complaint (hereinafter “FAC”) against FY, IY, and JY, and Nominal Defendant SPC. On May 9, 2024, the Master entered an order whereby the Master addressed a plethora of motions filed in connection with the FAC and, *inter alia*, (i) granted HH’s July 26, 2017 motion to amend the FAC, HH’s December 19, 2022 motion to amend the FAC, and HH’s February 28, 2023 motion for leave to file a supplemental complaint and (ii) ordered HH to file a new proposed second amended complaint and a separate supplemental complaint. (May 9, 2024 Order.) In response

¹ On August 10, 2023, the Court entered an order in the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065 (hereinafter “065 Case”), *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650 (hereinafter “650 Case”), and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342 (hereinafter “342 Case”)—whereby the Court appointed the undersigned as the special master in these consolidated cases to address all pretrial matters and any other matters agreed upon by the parties. (Aug. 10, 2023 Order.)

² As the caption above indicates, this Order is specific to the 650 Case, and thus, unless specified otherwise, all the filings and orders referenced herein pertain only to the 650 Case.

to the May 9, 2024 order HH filed a new proposed second amended complaint and a supplemental complaint on May 11, 2024, which the Master subsequently struck from the record and ordered HH to re-file a new proposed second amended complaint and a new supplemental complaint. (June 6, 2024 Order.)

DISCUSSION

The Master will address the pending issues in turn.

1. JY and IY s October 25, 2022 Notice to the Court

In their notice, JY and IY indicated: (i) They served their requests to admit on HH on September 15, 2022; (ii) The deadline for HH to timely respond thereto has passed; and (iii) These requests to admit are deemed admitted pursuant to Rule 36(a)(3) of the Virgin Islands Rules of Civil Procedure. (Oct. 25, 2022 Notice.)

Rule 36 of the Virgin Islands Rules of Civil Procedure (hereinafter “Rule 36”) governs requests for admission. Rule 36(a)(1) provides that “[a] party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 26(b)(1) relating to: (A) facts, the application of law to fact, or opinions about either; and (B) the genuineness of any described documents.” V.I. R. CIV. P. 36(a)(1). Rule 36(a)(3) provides that “[a] matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney” and “[a] shorter or longer time for responding may be stipulated to under Rule 29 or be ordered by the court.” V.I. R. CIV. P. 36(a)(3). “A matter admitted under this [Rule 36] is conclusively established unless the court, on motion, permits the admission to be withdrawn or amended,” but “[a]n admission under this rule is not an admission for any other purpose and cannot be used against the party in any other proceeding.” V.I. R. CIV. P. 36(b).

Here, the record reveals: (i) JY and IY served their requests to admit upon HH on September 15, 2022; (ii) HH failed to respond within 30 days; and (iii) HH, JY, and IY did not stipulate to, and the Court did not order, a longer time for responding. Thus, under Rule 36(a)(3), matters contained in JY and IY’s requests to admit were automatically deemed admitted. However, the Master must review the requests for admissions and make a finding as to which request falls within the scope of Rule 36(a)(1). *See atson v. ovt of the ir in slands*, 2017 V.I. LEXIS 43, at 12 (V.I. Super. Ct. March 7, 2017) (“Thus, when the Court granted Plaintiff’s motions to deem facts admitted against Defendant Governor and Defendant GVI, the Court should have specified in its orders, entered on

July 9, 2013 and August 12, 2013, that only those requests that fall within the scope of Rule 36(a)(1) are deemed admitted and made a finding as to which requests fall within the scope of Rule 36(a)(1).”³ “While Rule 36 allows a party to request an admission of ‘the application of law to fact,’ requests for purely legal conclusions are not permitted under Rule 36 and the Court finds such requests to be improper because it could lead to parties stipulating to the law.” *atson*, 2017 V.I. LEXIS 43, at 11 (citing *Matthe v. Herman*, 56 V.I. 674, 682 (V.I. 2012) (“parties cannot stipulate to the law, especially in a situation...where the decision may impact other pending or future cases”); *er eer v. Hess il . . Corp.*, 64 V.I. 107, (V.I. Super. Ct. March 15, 2016) (“the parties cannot stipulate to the law, not explicitly by agreeing on the applicable law, or implicitly by not questioning what law applies”) (internal quotation marks and citations omitted). As such, the Master will order JY and IY to file a copy of the requests to admit served upon HH on September 15, 2022.

2. HH s October 31, 2022 Uncontested Motion for Enlar e ent of Ti e for His Filin of Responses to Re uests to Ad it by Fathi Yusuf

In his motion, HH indicated: (i) “On September 15, 2022, counsel for Fathi Yusuf served requests for admission on undersigned counsel for Hamed,” and that “[t]he response was due October 15, 2022;” (ii) “Due to an emailing error, the responses were not timely served;” (iii) “Once notified of the issue, counsel for Hamed did serve the response on October 26, 2022—eleven days late;” and (iv) “[T]here is no delay or prejudice” and “[o]pposing counsel has agreed to the enlargement.” (Oct. 31, 2022 Motion.) The Master will grant HH’s October 31, 2022 motion and deem HH’s responses as timely.

3. HH s Nove ber 23, 2022 Second Motion to Co pel: as to Ban Account Docu ents in the Control of IY

In his motion, HH moved to compel IY to produce documents requested “to identify his bank accounts and provide his 1990-1997 statements—or, alternatively, to provide a letter allowing opposing counsel to obtain them, and to bear all expenses.”⁴ (Motion.) The “Certificate of Compliance with Rule 37(a)(1) included in HH’s motion stated: “I hereby certify that I made the required efforts

³ The *atson* court was addressing Rule 36 of Federal Rules of Civil Procedure (hereinafter “Federal Rule 36”). Rule 36 of the Virgin Islands Rules of Civil Procedure is modeled after its federal counterpart. Thus, the Master finds the discussion in *atson* applicable in this instance.

⁴ Rule 34 of the Virgin Islands Rules of Civil Procedure permits a party to serve on any other party requests for production of documents or tangible things to inspect and requests for entry. V.I. R. CIV. P. 34(a).

in good faith to confer with counsel for United and Yusuf to obtain the foregoing requested information.”⁵ (Nov. 23, 2022 Motion.)

In response, IY filed two separate opposition to HH’s November 23, 2022 motion: the first opposition was filed on December 22, 2022, and the second opposition was filed—after HH filed his December 26, 2022 reply to IY’s first opposition—on February 3, 2023.

The Master notes at the outset that IY’s second opposition was filed without leave of the Court and thus improper. *See* V.I. R. CIV. P. 6-1(c) (“Only a motion, a response in opposition, and a reply may be served on other parties and filed with the court; further response or reply may be made only by leave of court obtained before filing. Parties may be sanctioned for violation of this limitation.”). As such, the Master will strike from the record IY’s second opposition and only consider IY’s first opposition.

The Master further notes that a review of the motion and the exhibits attached thereto revealed that HH and IY have corresponded by mail and e-mail regarding the discovery issues raised in HH’s motion. There was no indication that HH and IY met and conferred in person, telephonically, or by video conferencing. Rule 37-1 clearly states that “[m]ail or e-mail exchanges are not sufficient” to satisfy the good faith negotiation requirement and mandates that, “[t]o the extent practicable, counsel are encouraged to meet in person at a mutually convenient location” and “[i]f, in the consideration of time and/or resources, counsel agree that meeting in person is not practicable, the conference may take place telephonically or by video conferencing.” V.I. R. CIV. P. 37-1(c)(2). It is “the responsibility of counsel for the requesting party to make any necessary arrangements for a conference.” V.I. R. CIV. P. 37-1(c)(1).

At this juncture, in the interest of conserving judicial resources, the Master will order HH and IY to meet and confer in compliance with Rule 37 and Rule 37-1 as to the discovery issues raised in HH’s November 23, 2022 motion. *See Victor Pere v. Diamondrock Investments, Inc.*, 2018

⁵ Motions related to discovery pursuant to Rules 26 through 37 of the Virgin Islands Rules of Civil Procedure are governed by Rules 37 and 37-1 of the Virgin Islands Rules of Civil Procedure (hereinafter “Rule 37” and “Rule 37-1,” respectively). Rule 37 and Rule 37.1 mandates that the moving party submit a certification with its motion certifying that both parties engaged in substantive, good faith negotiations before filing a discovery motion. V.I. R. CIV. P. 37(a) (“On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.”); V.I. R. CIV. P. 37-1(a) (“Prior to filing any motion relating to discovery pursuant to Rules 26 through 37, other than a motion relating to depositions under Rule 30, counsel for the parties and any self-represented parties shall confer in a good faith effort to eliminate the necessity for the motion -- or to eliminate as many of the disputes as possible.”).

V.I. LEXIS 39, at 9 (V.I. Super. Ct. Apr. 5, 2018) (“Courts in other jurisdictions applying procedural rules similar to those at issue here have been ‘unwilling to decipher letters between counsel to conclude that the [certification] requirement has been met’ on the grounds that the certification prerequisite is not an empty formality because ‘obliging attorneys to certify to the Court that they conferred in good faith results in a large number of cases in resolution of discovery disputes by counsel without intervention of the Court.’”). The Master will also order HH to file a supplemental certification to its November 23, 2022 motion and explicitly state the movant’s compliance with the procedural and substantive aspects of the good faith negotiation requirement of Rule 37 and Rule 37-1 with the following details: (i) whether the parties met and conferred in person, telephonically, or by videoconferencing,” or that the opposing party refused to meet and confer; and (ii) what specific issues were discussed during the conference, how each party believed legal authority applied to the facts before them, and how one or both parties attempted to resolve their impasse on each issue. *See d.* (“Accordingly, in future, the Court requests parties to include in the certification itself what specific issues were discussed during the conference, how each party believed legal authority applied to the facts before them, and how one or both parties attempted to resolve their impasse on each issue. This request is to ensure that both procedural and substantive aspects of the good faith negotiation requirement are met.”). At this time, the Master will reserve ruling on HH’s November 23, 2022 motion pending receipt of the supplemental certification.

4. HH’s December 2, 2022 Third Motion to Compel: as to FY’s Fifth Amendment Assertions in Discovery or, in the Alternative, to Preclude Testimony⁶

In his motion, HH moved to compel FY to provide responses to the interrogatories. The “Certificate of Compliance with Rule 37(a)(1) included in HH’s motion stated: “I hereby certify that I made the required efforts in good faith to confer with opposing counsel to obtain the foregoing requested information and did so confer.”⁷(Dec. 2, 2022 Motion.)

⁶ On December 5, 2022, SPC filed a motion to compel in the 065 Case and the 342 Case—identical to HH’s December 2, 2022 motion—titled “first motion to compel discovery responses from FY as to FY’s ‘Fifth Amendment Assertions,’ or in the alternative, to preclude further testimony,” which was subsequently denied by the Master in an order entered on November 22, 2023. In the November 22, 2023 order, the Master pointed out that SPC was a nonparty in the 650 Case and FY was a nonparty in the 065 Case and the 342 Case at the time SPC filed its motion to compel, and it was improper under Rule 33 of the Virgin Islands Rules of Civil Procedure which restricts the use of interrogatories to parties. *See* V.I. R. CIV. P. 33(a)(1) (“Unless otherwise stipulated or ordered by the court, *a party may serve on any other party* no more than 25 written interrogatories, including all discrete subparts.”) (emphasis added)

⁷ *See supra*, footnote 5.

The Master notes that a review of the motion and the exhibits attached thereto revealed that HH and FY have corresponded by mail and e-mail regarding the discovery issues raised in HH's motion. There was no indication that HH and FY met and conferred in person, telephonically, or by video conferencing. For the same reason stated above regarding HH's November 23, 2022 motion, the Master will order HH and FY to meet and confer in compliance with Rule 37 and Rule 37-1 as to the discovery issues raised in HH's December 2, 2022 motion, order HH to file a supplemental certification to its December 2, 2022 motion with the same instructions stated above, and reserve ruling on HH's December 2, 2022 motion pending receipt of the supplemental certification.

CONCLUSION

Based on the foregoing, it is hereby:

ORDERED that, **on or before July 12, 2024**, JY and IY shall **FILE** a copy of the requests to admit served upon HH on September 15, 2022. It is further:

ORDERED that HH's October 31, 2022 motion for enlargement of time for his filing of responses to FY's September 15, 2022 requests to admit is **GRANTED** and HH's responses are deemed **TIMELY**. It is further:

ORDERED that IY's February 3, 2023 opposition to HH's November 23, 2022 motion shall be **STRICKEN FROM THE RECORD**. It is further:

ORDERED that, **on or before August 1, 2024**, HH and IY shall **MEET AND CONFER** in good faith in compliance with Rule 37 and Rule 37-1 as to the issues raised in HH's November 23, 2022 motion to compel, and HH shall **FILE** a supplemental certification to his November 23, 2022 motion that explicitly states his compliance with the procedural and substantive aspects of the good faith negotiation requirement of Rule 37 and Rule 37-1 of the Virgin Islands Rules of Civil Procedure with the following details: (i) whether the parties met and conferred in person, telephonically, or by videoconferencing," or that the opposing party refused to meet and confer; and (ii) what specific issues were discussed during the conference, how each party believed legal authority applied to the facts before them, and how one or both parties attempted to resolve their impasse on each issue. **And** it is further:

ORDERED that, **on or before August 1, 2024**, HH and FY shall **MEET AND CONFER** in good faith in compliance with Rule 37 and Rule 37-1 as to the issues raised in HH's December 2, 2022 motion to compel, and HH shall **FILE** a supplemental certification to his November 23, 2022 motion that explicitly states his compliance with the procedural and substantive aspects of

the good faith negotiation requirement of Rule 37 and Rule 37-1 of the Virgin Islands Rules of Civil Procedure with the following details: (i) whether the parties met and conferred in person, telephonically, or by videoconferencing,” or that the opposing party refused to meet and confer; and (ii) what specific issues were discussed during the conference, how each party believed legal authority applied to the facts before them, and how one or both parties attempted to resolve their impasse on each issue.

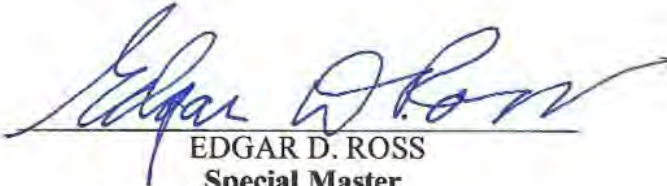
DONE and so ORDERED this 14th day of June, 2024.

ATTEST:

Tamara Charles
Clerk of the Court

By: 
Court Clerk ~~Supervisor~~ II

Dated: June 14, 2024


EDGAR D. ROSS
Special Master

FILED

June 04, 2024 10:47 AM

SX-2016-CV-00065

TAMARA CHARLES

CLERK OF THE COURT

Order 5 - 65 - 1 of 4

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/
THIRD-PARTY PLAINTIFF

v.

FATHI YUSUF,
THIRD-PARTY DEFENDANT.

Civil Case No. SX-2016-CV-650

DERIVATIVE SHAREHOLDER SUIT,
ACTION FOR DAMAGES AND CICO
RELIEF

JURY TRIAL DEMANDED

CONSOLIDATED WITH
Civil Case No. SX-2016-CV-065

ACTION FOR DECLARATORY
JUDGMENT, CICO, AND FIDUCIARY
DUTY; COUNTERCLAIM

JURY TRIAL DEMANDED

CONSOLIDATED WITH
Civil Case No. SX-2017-CV-342

ACTION FOR DEBT AND
FORECLOSURE; COUNTERCLAIM
FOR DAMAGES; THIRD PARTY
ACTION

JURY TRIAL DEMANDED

ORDER OF THE SPECIAL MASTER¹

¹ On August 10, 2023, the Court entered an order in the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065, *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650, and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342—whereby the Court appointed the undersigned as

THIS MATTER came before the Special Master (hereinafter “Master”) on the recent filings—in all three cases—in connection with Christopher Allen Kroblin, Esq. and Marjorie Whalen, Esq. of Kellerhals Ferguson Kroblin PLLC’s (hereinafter “Attorney Kroblin” and “Attorney Whalen,” respectively) substitution as counsel of record for Manal Mohammad Yousef’s (hereinafter “MY”), Jamil Yousuf (hereinafter “JY”), and Isam Yousuf (hereinafter “IY”) in his/her respective cases in place of James L. Hymes, III, Esq. of Law Offices of James L. Hymes, III, P.C. (hereinafter “Attorney Hymes”).

BACKGROUND

At the time of the Master’s appointment to the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065 (hereinafter “065 Case”), *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650 (hereinafter “650 Case”), and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342 (hereinafter “342 Case”)—Attorney Hymes was the counsel of record for MY in the 065 Case and the 342 Case and the counsel of record for JY and IY in the 650 Case, and Attorney Hymes has remained as their counsel of record in his/her respective cases to date. But additionally, since the Master granted plaintiff Hisham Hamed’s (hereinafter “HH”) July 26, 2017 and December 19, 2022 motions to amend the first amended complaint to add MY as a defendant in the 650 Case, Attorney Hymes is now also counsel of record for MY in the 650 Case.²

the special master in these consolidated cases to address all pretrial matters and any other matters agreed upon by the parties. (Aug. 10, 2023 Order.)

² On December 23, 2016, HH, individually and derivatively on behalf of Sixteen Plus Corporation, filed a first amended complaint in the 650 Case, and he subsequently filed the July 26, 2017 and December 19, 2022 motions to amend the first amended complaint in the 650 Case.

In an order entered on May 9, 2024, the Master pointed out that Attorney Hymes has voluntarily appeared on behalf of MY in the 650 Case when he filed—on behalf of MY—an opposition to HH’s December 19, 2022 motion to amend the first amended complaint in the 650 Case, and that “[a] voluntary appearance of the defendant shall be equivalent to personal service of the summons upon him.” Title 5 V.I.C. § 115. (May 9, 2024 Order.)

Ever since the Master entered—in all three cases—an order on November 20, 2023 whereby the Master ordered the parties to meet and confer in connection with the outstanding discovery issues and to jointly file a proposed amended scheduling order, Attorney Hymes had repeatedly indicated to the parties and to the Master that he has difficulty communicating directly with MY.³

On March 13, 2024, upon learning from Attorney Hymes' March 8, 2024 notice—filed in all three cases, in response to the February 27, 2024 order directing Attorney Hymes to advise the Master of his attempts to contact MY, Attorney Hymes—that JY is MY's power of attorney with respect to the pending litigation in the Virgin Islands,⁴ the Master entered an order whereby the Master again ordered the parties—in all three cases—to meet and confer in

³ In their respective December 20, 2023 filings—filed in all three cases: Sixteen Plus Corporation in the 065 Case and the 342 Case and Hisham Hamed, individually and derivatively on behalf of Sixteen Plus Corporation, and Fathi Yusuf in the 650 Case—the parties noted that “Attorney Hymes indicated that he could not agree to anything as he has lost contact with his client due to the current conflict in the Middle East.” (Dec. 20, 2023 Proposed Fourth Amended Scheduling Orders.)

In their January 23, 2024 joint motion—filed in all three cases—to extend the deadline to meet and confer, the parties indicated:

2. Attorney Hymes, counsel for Manal Yousef, has advised counsel for the other parties in this matter that his client, who resides in Palestine, has been caught up in the war between Israel and Palestine. Attorney Hymes has indicated that he has been unable to communicate with her for many weeks, and that until he is able to consult with her, he cannot take any positions in a meet and confer that are different from those taken by her in the briefing on these motions. See Exhibit A, Attorney Hymes 1/22/24 Email to counsel.

(Jan. 23, 2024 Parties' Joint Motion.)

In Attorney Hymes' February 22, 2024 notice—filed in all three cases—in response to the January 24, 2024 order directing Attorney Hymes to advise the Master of his contacts with MY, Attorney Hymes advised, *inter alia*, that his “last personal contact with Manal Yousef was on Monday, September 18, 2023 ” that his ‘ contacts with Jamil [Yousuf] to try and find out how Manal was doing were made on October 15, 2023, November 22, 2023, and February 8, 2024, which was my last attempt ” that MY must “stay at home to be safe” which means “she cannot travel to her lawyer's office which is in another city, and her ability to be deposed will depend on whether or not she has utility power and Internet service,” and that Jamil [Yousouf] has been in contact with his aunt [MY] in February, 2024, on the 5th and 8th and has discussed issues which have come up involving the cases with her. (Feb 22, 2024 Hymes' Notice.)

In Attorney Hymes' March 8, 2024 notice—filed in all three cases—in response to the February 27, 2024 order directing Attorney Hymes to advise the Master of his attempts to contact MY, Attorney Hymes advised, *inter alia*, that “[his] only means of communication with Manal Yousef at the present time is through Jamil Yousuf, who has her power of attorney with respect to the pending litigation in the Virgin Islands.” (March 8, 2024 Hymes' Notice.)

⁴ See *supra*, footnote 3.

connection with the outstanding discovery issues and to jointly file a proposed amended scheduling order. In the March 13, 2024 order, the Master pointed out that “Attorney Hymes can consult with JY, MY’s ‘power of attorney with respect to the pending litigation in the Virgin Islands,’ who has the authority to act on MY’s behalf in these cases, such as stipulating to certain deadlines in a proposed scheduling order—with the parties being mindful of MY’s current situation” and that “JY knows how to contact and converse with MY if Attorney Hymes has questions that need to be directly answered by MY.” (March 13, 2024 Order.)

Thereafter, on April 1, 2024, Attorney Hymes filed—in all three cases—a motion to withdraw as counsel for MY, JY, and IY in his/her respective cases, with his statement in lieu of affidavit, dated April 1, 2024, attached thereto. In response, Sixteen Plus Corporation (hereinafter “SPC”) filed a notice of no objection in the 065 Case and the 342 Case, and HH filed a notice of no objection in the 650 Case. On April 16, 2024, Attorney Hymes filed—in all three cases—a supplement to his statement in lieu of affidavit, dated April 16, 2024.

On May 9, 2024, the Master entered an order whereby the Master denied without prejudice Attorney Hymes’s April 1, 2024 motion to withdraw as counsel of record for MY, JY, and IY in his/her respective cases. In the May 9, 2024 order, the Master explained:

Attorney Hymes currently represents MY in the 065 Case and the 342 Case and JY and IY in the 650 Case. Additionally, in an order entered contemporaneously herewith, the Master pointed out that Attorney Hymes has voluntarily appeared on behalf of MY in the 650 Case when he filed—on behalf of MY—an opposition to HH’s December 19, 2022 motion to amend the first amended complaint in the 650 Case,² and ordered Attorney Hymes to accept service—on behalf of MY—of the second amended complaint and the supplemental complaint in the 650 Case.

Pursuant to Rule 211.1.16 of the Virgin Islands Rules of Professional Conduct (hereinafter “Rule 211.1.16”), a lawyer may withdraw from representing the interests of the client if: (1) withdrawal can be accomplished without material adverse effect on the interests of the client...” V.I.S.C.T.R. 211.1.16(b)(1). Furthermore, Rule 211.1.16 directs that “[a] lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation [and] [w]hen ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.” V.I.S.C.T.R. 211.1.16(c). As the moving party,

Attorney Hymes has the burden to show that withdrawal can be accomplished without material adverse effects on the interest of his clients. The Master finds that this burden has not been met. In fact, based on Attorney Hymes's own representations in this instant motion and his recent filings, it is clear that his withdrawal cannot be accomplished without material adverse effect on MY, JY, and IY's interests—to wit, Attorney Hymes indicated that MY is currently enduring various hardships—including but not limited to difficulty in maintaining a steady means of communication with the outside world—due to the war between Israel and Palestine,³ and that JY insisted that Attorney Hymes continue to represent them in these cases.⁴ Attorney Hymes's motion does not identify substitute counsel or otherwise show how MY, JY, and IY will continue in the present proceedings if his motion is granted. Thus, allowing Attorney Hymes to withdraw as counsel for MY, JY, and IY will preclude these parties from further appearances in these proceedings, at least until substitute counsel can be identified, and thereby causing material adverse effects to MY, JY, and IY's interests. Furthermore, in ruling on the instant motion, the Master may also consider the procedural posture of the case. *See Cianci v. Chaput*, 64 V.I. 682, 695 (V.I. 2016) (“We agree with the Superior Court that granting Walker's motion to withdraw so late in the proceedings would have resulted in prejudice to both parties and unnecessarily delayed the conclusion of the matter, contrary to the interests of judicial economy.”). Allowing Attorney Hymes to withdraw as counsel for MY, JY, and IY will certainly result in prejudice to the other parties and impede judicial efficiency by preventing the orderly administration of these proceedings, which commenced more than eight years ago. *Cf. V.I.S.Ct.R. 211.8.4(d)* (“It is professional misconduct for a lawyer to: (d) engage in conduct that is prejudicial to the administration of justice.”). As such, the Master will deny without prejudice Attorney Hymes's motion. Upon the appearance of substitute counsel for MY, JY, and IY, Attorney Hymes may move again to withdraw.

² MY's February 7, 2023 opposition provided:

COMES NOW, MANAL MOHAMMAD YOUSEF, through her undersigned Attorney, James L. Hymes, III, and respectfully opposes the Motion of Hisham Hamed to amend his First Amended Complaint dated December 23, 2016, to join MANAL MOHAMMAD YOUSEF as a name party defendant.

(Feb. 7, 2023 Opp.)

³ *See* Jan. 23, 2024 Joint Motion, Exhibit A; Attorney Hymes's Feb. 22, 2024 Reply; Attorney Hymes's March 8, 2024 Notice; and Attorney Hymes's March 25, 2024 Notice.

⁴ *See* April 1, 2024 Motion.

(May 9, 2024 Order.)

On May 21, 2024, Attorney Hymes and Attorney Kroblin filed a stipulation for substitution of counsel indicating that they had “stipulated and agreed that the law firm Kellerhals Ferguson Kroblin PLLC shall be substituted as the attorneys of record in the above referenced civil cases [the 065 Case, the 650 Case, and the 342 Case] for the Law Offices of

James L. Hymes, III, P.C., and James L. Hymes, III, and that said law firm shall be responsible to the Court and counsel for all matters relating thereto, relieving the Law Offices of James L. Hymes, III, P.C., and James L. Hymes, III, from any duty and/or responsibility as attorney of record for Manal Mohammad Yousef, Jamil Yousuf, and Isam Yousuf in the cases referenced above.” (May 21, 2024 Stip.) (emphasis omitted).

On May 24, 2024, “Defendant and Counter-Plaintiff Manal Mohammad Yousef” filed—in the 065 Case—a notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing as Counsel for Defendant and Counter-Plaintiff in [the 065 Case].” (May 24, 2024 MY Notice); “Plaintiff Manal Mohammad Yousef” filed—in the 342 Case—a notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing as Counsel for Plaintiff and Counter-Defendant in [the 342 Case].” (May 24, 2024 MY Notice); and “Defendants Jamil Yousuf and Isam Yousuf” filed—in the 650 Case—a notice of appearing of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearance as Counsel for Defendants in [the 650 Case].” (May 24, 2024 JY and IY Notice.)

On May 29, 2024, Attorney Kroblin and Attorney Whalen filed—in the 065 Case—an amended notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing as Counsel for Defendant and Counter-Plaintiff Manal Mohammad Yousef in [the 065 Case].” (May 29, 2024 Kroblin and Whalen Notice); Attorney Kroblin and Attorney Whalen filed—in the 342 Case—an amended notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing as Counsel for Plaintiff and Counter-Defendant Manal Mohammad Yousef in [the 342 Case].” (May 29, 2024 Kroblin and Whalen Notice); and Attorney Kroblin and Attorney Whalen filed—in the 650 Case—an amended notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing

as Counsel for Defendants Jamil Yousuf and Isam Yousuf in [the 650 Case].” (May 29, 2024 Kroblin and Whalen Notice.)

DISCUSSION

The Master notes at the outset that the initial notices of appearance filed by MY in the 065 Case and the 342 Case and by JY and IY in the 650 Case were improper—to wit, MY, JY, IY, as parties in his/her respective cases, had already appeared therein, and it was their new counsel of record Attorney Kroblin and Attorney Whalen that need to appear and give notices of appearance therein. Nevertheless, this defect was cured by the amended notices of appearance filed by Attorney Kroblin and Attorney Whalen—on behalf of MY in the 065 Case and the 342 Case and on behalf of JY and IY in the 650 Case.

Now turning to the May 21, 2024 stipulation of Attorney Hymes and Attorney Kroblin. The Master finds that Attorney Hymes has cured the deficiencies of his withdrawal that the Master had previously pointed out in the May 9, 2024 order. More specifically, the Master finds that Attorney Hymes—by identifying the substitute counsel for his clients and filing the stipulation for substitution of counsel in his clients’ respective cases—has met his burden to show that his withdrawal can be accomplished without material adverse effects on the interest of his clients, will not prejudice the other parties, and will not impede judicial efficiency. At this time, upon review of the filings, the Master will approve the May 21, 2024 stipulation of Attorney Hymes and Attorney Kroblin with minor revisions—namely, rather than approving the proposed substitution of the law firm Kellerhals Ferguson Kroblin PLLC generally without specific counsel identified as the counsel of record for MY, JY, and IY, the Master will instead approve the substitution of Attorney Kroblin and Attorney Whalen as the counsel of record for MY, JY, and IY in place of Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. In other words, the duty to fully represent MY, JY, and IY’s interests and the duty to not impede

with the orderly administration of these proceedings rest with Attorney Kroblin and Attorney Whalen, MY, JY, and IY's counsel of record, and not generally on the law firm Kellerhals Ferguson Kroblin PLLC.

CONCLUSION

Based on the foregoing, it is hereby:

ORDERED that the May 21, 2024 stipulation of Attorney Hymes and Attorney Kroblin is **APPROVED** as to the substitution of Attorney Kroblin and Attorney Whalen of Kellerhals Ferguson Kroblin PLLC as MY, JY, and IY's counsel of record—to wit, as the counsel of record for MY in all three cases and as the counsel of record for JY and IY in the 650 Case—in place of Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. and **NOT APPROVED** as to the proposed substitution of the law firm Kellerhals Ferguson Kroblin PLLC generally without specific counsel identified as MY, JY, and IY's counsel of record in place of Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. It is further:

ORDERED that Attorney Kroblin and Attorney Whalen of Kellerhals Ferguson Kroblin PLLC shall file second amended notices of appearance—as the counsel of record for MY in all three cases and as the counsel of record for JY and IY in the 650 Case—consistent with this Order **on or before June 7, 2024**. **And** it is further:

ORDERED that Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. shall **REMAIN** as MY, JY, and IY's counsel of record in his/her respective cases until Attorney Kroblin and Attorney Whalen **TIMELY FILES** their second amended notices of appearance as ordered above. Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. are **RELEIVED OF ANY FURTHER DUTIES** as MY's counsel of record in all three cases and as JY and IY's counsel of record in the 650 Case without any further action from the Master **ONLY UPON** Attorney Kroblin and Attorney Whalen's timely filing of their second

ORDER OF THE SPECIAL MASTER

Page 9 of 9

amended notices of appearance as ordered above; otherwise, Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. shall **REMAIN** as MY, JY, and IY's counsel of record in his/her respective cases.

DONE and so ORDERED this 4th day of June, 2024.

ATTEST:

Tamara Charles
Clerk of the Court

By:  _____
Court Clerk ~~Supervisor~~ II

Dated: June 4, 2024


EDGAR D. ROSS
Special Master

FILED

June 06, 2024 10:14 AM
SX-2016-CV-00065
TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

SIXTEEN PLUS CORPORATION,
PLAINTIFF/COUNTER-DEFENDANT,
v.
MANAL MOHAMMAD YOUSEF,
DEFENDANT/COUNTER-PLAINTIFF.

Civil Case No. SX-2016-CV-065

ACTION FOR DECLARATORY
JUDGMENT, CICO, AND
FIDUCIARY DUTY;
COUNTERCLAIM

JURY TRIAL DEMANDED

CONSOLIDATED CASES: Civil Case No. SX-2017-CV-342 Civil Case No. SX-2016-CV-065 Civil Case No. SX-2016-CV-650

ORDER OF THE SPECIAL MASTER¹

THIS MATTER came before the Special Master (hereinafter “Master”) on the second amended notice of appearance of Christopher Allen Kroblin, Esq. and Marjorie Whalen, Esq. of Kellerhals Ferguson Kroblin PLLC (hereinafter “Attorney Kroblin” and “Attorney Whalen,” respectively) as counsel of record for Defendant and Counter-Plaintiff Manal Mohammad Yousef (hereinafter “MY”), filed on June 4, 2024.²

On March 16, 2024, the Master entered—in all three cases—an order whereby the Master, *inter alia*, ordered Sixteen Plus Corporation (hereinafter “SPC”) and MY to meet and confer, within sixty days, in good faith in compliance with the procedural and substantive aspects of the good faith negotiation requirement of Rule 26 and Rule 37-1 of the Virgin Islands Rules of Civil Procedure as to the discovery issues raised in MY’s July 11, 2017 motion for protective order and MY to file a supplemental certification to her July 11, 2017 motion thereafter. As of the date of this Order, it is unclear whether SPC and MY met and conferred, and no supplemental certification has been filed. Nevertheless, the noncompliance may be due

¹ On August 10, 2023, the Court entered an order in the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065 (hereinafter “065 Case”), *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650 (hereinafter “650 Case”), and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342 (hereinafter “342 Case”)—whereby the Court appointed the undersigned as the special master in these consolidated cases to address all pretrial matters and any other matters agreed upon by the parties. (Aug. 10, 2023 Order.)

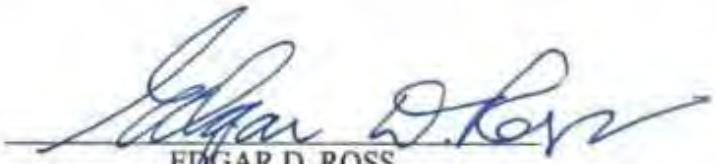
² As the caption above indicates, this Order is specific to the 065 Case, and thus, unless specified otherwise, all the filings and orders referenced herein pertain only to the 065 Case.

to MY's former counsel of record's wish to withdraw as counsel for MY.³ At this time, given that Attorney Kroblin and Attorney Whalen have appeared as counsel of record for MY, the Master will extend the deadline previously set in the March 16, 2024 order. Accordingly, it is hereby:

ORDERED that, **on or before August , 2024**, SPC and MY shall **MEET AND CONFER** in good faith in compliance with Rule 26 and Rule 37-1 as to the issues raised in MY's July 11, 2017 motion for protective order—including but not limited to whether the parties are agreeable to taking MY's deposition by telephone or other remote means, and MY shall **FILE** a supplemental certification to her July 11, 2017 motion that explicitly states her compliance with the procedural and substantive aspects of the good faith negotiation requirement of Rule 26 and Rule 37-1 of the Virgin Islands Rules of Civil Procedure with the following details: (i) whether the parties met and conferred in person, telephonically, or by videoconferencing," or that the opposing party refused to meet and confer; and (ii) whether the parties are agreeable to taking MY's deposition by telephone or other remote means.

DONE and so ORDERED this 6th day of June, 2024.

ATTEST:
Tamara Charles
Clerk of the Court
By: BK
Court Clerk ~~Supervisor~~ II
Dated: June 6, 2024


EDGAR D. ROSS
Special Master

³ On April 1, 2024, MY's former counsel of record filed a motion to withdraw as counsel for MY.

FILED

June 06, 2024 10:35 AM
SX-2016-CV-00065
TAMARA CHARLES
CLERK OF THE COURT

Order 7 - 65 - 3 of 4

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

SIXTEEN PLUS CORPORATION,
PLAINTIFF/COUNTER-DEFENDANT,

v.
MANAL MOHAMMAD YOUSEF,
DEFENDANT/COUNTER-PLAINTIFF.

Civil Case No. SX-2016-CV-065

ACTION FOR DECLARATORY
JUDGMENT, CICO, AND
FIDUCIARY DUTY;
COUNTERCLAIM

JURY TRIAL DEMANDED

MANAL MOHAMMAD YOUSEF,
PLAINTIFF/COUNTER-DEFENDANT,

v.
SIXTEEN PLUS CORPORATION,
DEFENDANT/COUNTER-PLAINTIFF/
THIRD-PARTY PLAINTIFF

Civil Case No. SX-2017-CV-342

ACTION FOR DEBT AND
FORECLOSURE; COUNTERCLAIM
FOR DAMAGES; THIRD PARTY
ACTION

JURY TRIAL DEMANDED

v.
FATHI YUSUF,
THIRD-PARTY DEFENDANT.

CONSOLIDATED CASES: Civil Case No. SX-2017-CV-342 Civil Case No. SX-2016-CV-065 Civil Case No. SX-2016-CV-650

ORDER OF THE SPECIAL MASTER¹

THIS MATTER came before the Special Master (hereinafter “Master”) on the second amended notice of appearance of Christopher Allen Kroblin, Esq. and Marjorie Whalen, Esq. of Kellerhals Ferguson Kroblin PLLC (hereinafter “Attorney Kroblin” and “Attorney Whalen,” respectively) as counsel of record for Defendant and Counter-Plaintiff Manal Mohammad Yousef in the 065 Case and the second amended notice of appearance of Attorney Kroblin and

¹ On August 10, 2023, the Court entered an order in the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065 (hereinafter “065 Case”), *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650 (hereinafter “650 Case”), and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342 (hereinafter “342 Case”)—whereby the Court appointed the undersigned as the special master in these consolidated cases to address all pretrial matters and any other matters agreed upon by the parties. (Aug. 10, 2023 Order.)

Attorney Whalen as counsel of record for Plaintiff and Counter-Defendant Manal Mohammad Yousef in the 342 Case, both filed on June 4, 2024.²

On March 16, 2024, the Master entered—in all three cases—an order whereby the Master, *inter alia*, ordered Sixteen Plus Corporation (hereinafter “SPC”) and Manal Mohammad Yousef (hereinafter “MY”) to meet and confer, within sixty days, in good faith in compliance with the procedural and substantive aspects of the good faith negotiation requirement of Rule 37 and Rule 37-1 of the Virgin Islands Rules of Civil Procedure as to the discovery issues raised in SPC’s January 3, 2023 first motion to compel discovery responses from MY as to address, agent’s information, accounting and tax information and SPC to file a supplemental certification to its January 3, 2023 motion thereafter. As of the date of this Order, it is unclear whether SPC and MY met and conferred, and no supplemental certification has been filed. Nevertheless, the noncompliance may be due to MY’s former counsel of record’s wish to withdraw as counsel for MY.³ At this time, given that Attorney Kroblin and Attorney Whalen have appeared as counsel of record for MY, the Master will extend the deadline previously set in the March 16, 2024 order.

Furthermore, it has come to the Master’s attention that a mediation report was filed on August 15, 2023 indicating that a mediation conference was held on August 11, 2023 and that the matter has been recessed for further mediation with additional cases. No further update has been provided regarding mediation. At this time, the Master will order the parties to jointly file a notice advising whether they intend on jointly mediating these two matters with the third consolidate case—the 650 Case, and if so, the date of the next mediation conference.

Accordingly, it is hereby:

² As the caption above indicates, this Order is specific to the 065 Case and the 342 Case, and thus, unless specified otherwise, all the filings and orders referenced herein pertain only to the 065 Case and the 342 Case.

³ On April 1, 2024, MY’s former counsel of record filed a motion to withdraw as counsel for MY.

ORDERED that, **on or before August 9, 2024**, SPC and MY shall **MEET AND CONFER** in good faith in compliance with the procedural and substantive aspects of the good faith negotiation requirement of Rule 37 and Rule 37-1 of the Virgin Islands Rules of Civil Procedure as to the discovery issues raised in SPC's January 3, 2023 first motion to compel discovery responses from MY as to address, agent's information, accounting and tax information, and thereafter, SPC shall **FILE** a supplemental certification to its January 3, 2023 motion that explicitly state its compliance with the procedural and substantive aspects of the good faith negotiation requirement of Rule 37 and Rule 37-1 with the following details: (i) whether the parties met and conferred in person, telephonically, or by videoconferencing, or that the opposing party refused to meet and confer; and (ii) what specific issues were discussed during the conference, how each party believed legal authority applied to the facts before them, and how one or both parties attempted to resolve their impasse on each issue. **And** it is further:

ORDERED that, **on or before July 12, 2024**, the parties **SHALL JOINTLY FILE** a notice advising whether they intend on jointly mediating these two matters with the third consolidate case—the 650 Case, and if so, the date of the next mediation conference.

DONE and so ORDERED this 6th day of June, 2024.

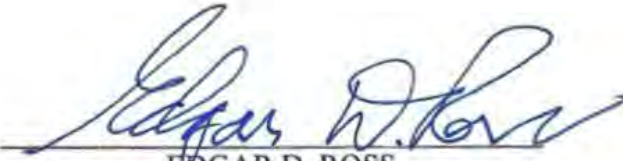
ATTEST:

Tamara Charles
Clerk of the Court

By: 

Court Clerk ~~Supervisor II~~

Dated: June 6, 2024


EDGAR D. ROSS
Special Master

Order 8 - 65 - 4 of 4

FILED

June 06, 2024 02:44 PM
SX-2016-CV-00065
TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

**MUHAMMAD SHAM 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/
THIRD-PARTY PLAINTIFF

v.

FATHI YUSUF,
THIRD-PARTY DEFENDANT.

Civil Case No. SX-2016-CV-650

DERIVATIVE SHAREHOLDER SUIT,
ACTION FOR DAMAGES AND CICO
RELIEF

JURY TRIAL DEMANDED

CONSOLIDATED WITH
Civil Case No. SX-2016-CV-065

ACTION FOR DECLARATORY
JUDGMENT, CICO, AND FIDUCIARY
DUTY; COUNTERCLAIM

JURY TRIAL DEMANDED

CONSOLIDATED WITH
Civil Case No. SX-2017-CV-342

ACTION FOR DEBT AND
FORECLOSURE; COUNTERCLAIM
FOR DAMAGES; THIRD PARTY
ACTION

JURY TRIAL DEMANDED

ORDER OF THE SPECIAL MASTER¹

¹ On August 10, 2023, the Court entered an order in the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065 (hereinafter “065 Case”), *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650 (hereinafter “650 Case”), and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342 (hereinafter “342 Case”)—whereby the Court appointed the undersigned as the special master in these consolidated cases to address all pretrial matters and any other matters agreed upon by the parties. (Aug. 10, 2023 Order.)

THIS MATTER came before the Special Master (hereinafter “Master”) on the second amended notice of appearance of Christopher Allen Kroblin, Esq. and Marjorie Whalen, Esq. of Kellerhals Ferguson Kroblin PLLC (hereinafter “Attorney Kroblin” and “Attorney Whalen,” respectively) as counsel of record for Defendant and Counter-Plaintiff Manal Mohammad Yousef in the 065 Case, the second amended notice of appearance of Attorney Kroblin and Attorney Whalen as counsel of record for Plaintiff and Counter-Defendant Manal Mohammad Yousef in the 342 Case, and the second amended notice of appearance of Attorney Kroblin and Attorney Whalen as counsel of record for Defendants Jamil Yousuf, Isam Yousuf, and Manal Mohammad Yousef in the 650 Case,² all filed on June 4, 2024.

On March 16, 2024, the Master entered an order whereby the Master ordered, *inter alia*, the parties in all three cases to jointly file, within thirty days, a proposed amended scheduling

² Attorney Kroblin and Attorney Whalen noted in their second amended notice of appearance in the 650 Case that Manal Mohammad Yousef (hereinafter “MY”) “is not a named party in this case.” Counsel are reminded that, on May 9, 2024, the Master entered an order whereby the Master granted, *inter alia*, Hisham Hamed’s (hereinafter “HH”) December 19, 2022 motion to amend the first amended complaint to add MY as a defendant in the 650 Case and pointed out that MY’s former counsel of record—James L. Hymes, III, Esq.—had voluntarily appeared on behalf of MY in the 650 Case when he filed an opposition to HH’s December 19, 2022 motion in the 650 Case. (May 9, 2024 Order.) MY’s opposition provided:

COMES NOW, MANAL MOHAMMAD YOUSEF, through her undersigned Attorney, James L. Hymes, III, and respectfully opposes the Motion of Hisham Hamed to amend his First Amended Complaint dated December 23, 2016, to join MANAL MOHAMMAD YOUSEF as a name party defendant.

(Feb. 7, 2023 Opp.)

Under Title 5, Section 115 of the Virgin Islands Code, “[a] voluntary appearance of the defendant shall be equivalent to personal service of the summons upon him.” Title 5 V.I.C. § 115.

In the same May 9, 2024 order, the Master rejected the proposed second amended complaints and proposed second amended and supplemental complaint previously filed in the 650 Case, and instead, ordered HH to re-file a new proposed second amended complaint and a new supplemental complaint to separately plead facts that occurred before the commencement of the action and facts that occurred after the commencement of the action. (May 9, 2024 Order.) The rejection of the previously filed proposed second amended complaints and proposed second amended and supplemental complaint did not affect or negate the Master’s order granting HH’s December 19, 2022 motion to amend the first amended complaint to add MY as a defendant. Thus, when the Master approved the substitution of Attorney Kroblin and Attorney Whalen as MY, Jamil Yousuf (hereinafter “JY”), and Isam Yousuf’s (hereinafter “IY”) counsel of record—to wit, as the counsel of record for MY in all three cases and as the counsel of record for JY and IY in the 650 Case—in place of James L. Hymes, III, Esq. and the Law Offices of James L. Hymes, III, P.C., it was proper for Attorney Kroblin and Attorney Whalen to file the notice of appearance as counsel of record for MY in the 650 Case since the Master had already granted HH’s December 19, 2022 motion to amend the first amended complaint to add MY as a defendant and James L. Hymes, III, Esq. had already voluntarily appeared in the 650 Case.

order in their respective cases. As of the date of this Order, no such proposed amended scheduling orders have been filed. Nevertheless, the noncompliance may be due to MY's former counsel of record's wish to withdraw as counsel for MY.³ At this time, given that Attorney Kroblin and Attorney Whalen have appeared as MY, JY, and IY's counsel of record—to wit, as the counsel of record for MY in all three cases and as the counsel of record for JY and IY in the 650 Case—the Master will extend the deadline previously set in the March 16, 2024 order. Furthermore, it has come to the Master's attention that the parties in all three cases may wish to have one consolidated scheduling order with the same case management deadlines for ease of compliance and efficiency. Thus, the Master will allow the parties in all three cases to jointly file one proposed consolidated scheduling order for all three cases, unless the parties wish otherwise. Accordingly, it is hereby:

ORDERED that, **on or before July 12, 2024**, the parties in all three cases **SHALL JOINTLY FILE** one proposed consolidated amended scheduling (using the caption of all three cases) and the proffered amended scheduling order **MUST NOTE** prominently on the first page: CONSOLIDATED SCHEDULING ORDER. **And** it is further:

ORDERED that, if the parties wish to file a separate proposed scheduling order in their respective cases, then **on or before July 12, 2024**, the parties in the 065 Case **SHALL JOINTLY FILE** a proposed amended scheduling order in the 065 Case (using only the caption for the 065 Case), the parties in the 650 Case **SHALL JOINTLY FILE** a proposed amended scheduling order in the 650 Case (using only the caption for the 650 Case), and the parties in the 342 Case **SHALL JOINTLY FILE** a proposed amended scheduling order in the 342 Case (using only the caption for the 342 Case), and the proffered amended scheduling orders **MUST**

³ On April 1, 2024, MY's former counsel of record filed a motion to withdraw as counsel for MY.

ORDER OF THE SPECIAL MASTER

NOTE prominently on the first page the numbered amendment it represents—e.g., **FIRST AMENDED SCHEDULING ORDER, SECOND AMENDED SCHEDULING ORDER, etc.**

DONE and so ORDERED this 6th day of June, 2024.

ATTEST:

Tamara Charles
Clerk of the Court

By: 
Court Clerk ~~Supervisor~~ II

Dated: June 6, 2024


EDGAR D. ROSS
Special Master

FILED

June 04, 2024 10:47 AM

SX-2017-CV-00342

TAMARA CHARLES

CLERK OF THE COURT

Order 9 - 342 - 1 of 3

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/
THIRD-PARTY PLAINTIFF

v.

FATHI YUSUF,
THIRD-PARTY DEFENDANT.

Civil Case No. SX-2016-CV-650

DERIVATIVE SHAREHOLDER SUIT,
ACTION FOR DAMAGES AND CICO
RELIEF

JURY TRIAL DEMANDED

CONSOLIDATED WITH
Civil Case No. SX-2016-CV-065

ACTION FOR DECLARATORY
JUDGMENT, CICO, AND FIDUCIARY
DUTY; COUNTERCLAIM

JURY TRIAL DEMANDED

CONSOLIDATED WITH
Civil Case No. SX-2017-CV-342

ACTION FOR DEBT AND
FORECLOSURE; COUNTERCLAIM
FOR DAMAGES; THIRD PARTY
ACTION

JURY TRIAL DEMANDED

ORDER OF THE SPECIAL MASTER¹

¹ On August 10, 2023, the Court entered an order in the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065, *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650, and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342—whereby the Court appointed the undersigned as

THIS MATTER came before the Special Master (hereinafter “Master”) on the recent filings—in all three cases—in connection with Christopher Allen Kroblin, Esq. and Marjorie Whalen, Esq. of Kellerhals Ferguson Kroblin PLLC’s (hereinafter “Attorney Kroblin” and “Attorney Whalen,” respectively) substitution as counsel of record for Manal Mohammad Yousef’s (hereinafter “MY”), Jamil Yousuf (hereinafter “JY”), and Isam Yousuf (hereinafter “IY”) in his/her respective cases in place of James L. Hymes, III, Esq. of Law Offices of James L. Hymes, III, P.C. (hereinafter “Attorney Hymes”).

BACKGROUND

At the time of the Master’s appointment to the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065 (hereinafter “065 Case”), *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650 (hereinafter “650 Case”), and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342 (hereinafter “342 Case”)—Attorney Hymes was the counsel of record for MY in the 065 Case and the 342 Case and the counsel of record for JY and IY in the 650 Case, and Attorney Hymes has remained as their counsel of record in his/her respective cases to date. But additionally, since the Master granted plaintiff Hisham Hamed’s (hereinafter “HH”) July 26, 2017 and December 19, 2022 motions to amend the first amended complaint to add MY as a defendant in the 650 Case, Attorney Hymes is now also counsel of record for MY in the 650 Case.²

the special master in these consolidated cases to address all pretrial matters and any other matters agreed upon by the parties. (Aug. 10, 2023 Order.)

² On December 23, 2016, HH, individually and derivatively on behalf of Sixteen Plus Corporation, filed a first amended complaint in the 650 Case, and he subsequently filed the July 26, 2017 and December 19, 2022 motions to amend the first amended complaint in the 650 Case.

In an order entered on May 9, 2024, the Master pointed out that Attorney Hymes has voluntarily appeared on behalf of MY in the 650 Case when he filed—on behalf of MY—an opposition to HH’s December 19, 2022 motion to amend the first amended complaint in the 650 Case, and that “[a] voluntary appearance of the defendant shall be equivalent to personal service of the summons upon him.” Title 5 V.I.C. § 115. (May 9, 2024 Order.)

Ever since the Master entered—in all three cases—an order on November 20, 2023 whereby the Master ordered the parties to meet and confer in connection with the outstanding discovery issues and to jointly file a proposed amended scheduling order, Attorney Hymes had repeatedly indicated to the parties and to the Master that he has difficulty communicating directly with MY.³

On March 13, 2024, upon learning from Attorney Hymes' March 8, 2024 notice—filed in all three cases, in response to the February 27, 2024 order directing Attorney Hymes to advise the Master of his attempts to contact MY, Attorney Hymes—that JY is MY's power of attorney with respect to the pending litigation in the Virgin Islands,⁴ the Master entered an order whereby the Master again ordered the parties—in all three cases—to meet and confer in

³ In their respective December 20, 2023 filings—filed in all three cases: Sixteen Plus Corporation in the 065 Case and the 342 Case and Hisham Hamed, individually and derivatively on behalf of Sixteen Plus Corporation, and Fathi Yusuf in the 650 Case—the parties noted that “Attorney Hymes indicated that he could not agree to anything as he has lost contact with his client due to the current conflict in the Middle East.” (Dec. 20, 2023 Proposed Fourth Amended Scheduling Orders.)

In their January 23, 2024 joint motion—filed in all three cases—to extend the deadline to meet and confer, the parties indicated:

2. Attorney Hymes, counsel for Manal Yousef, has advised counsel for the other parties in this matter that his client, who resides in Palestine, has been caught up in the war between Israel and Palestine. Attorney Hymes has indicated that he has been unable to communicate with her for many weeks, and that until he is able to consult with her, he cannot take any positions in a meet and confer that are different from those taken by her in the briefing on these motions. See Exhibit A, Attorney Hymes 1/22/24 Email to counsel.

(Jan. 23, 2024 Parties' Joint Motion.)

In Attorney Hymes' February 22, 2024 notice—filed in all three cases—in response to the January 24, 2024 order directing Attorney Hymes to advise the Master of his contacts with MY, Attorney Hymes advised, *inter alia*, that his “last personal contact with Manal Yousef was on Monday, September 18, 2023 ” that his ‘ contacts with Jamil [Yousuf] to try and find out how Manal was doing were made on October 15, 2023, November 22, 2023, and February 8, 2024, which was my last attempt ” that MY must “stay at home to be safe” which means “she cannot travel to her lawyer's office which is in another city, and her ability to be deposed will depend on whether or not she has utility power and Internet service,” and that Jamil [Yousouf] has been in contact with his aunt [MY] in February, 2024, on the 5th and 8th and has discussed issues which have come up involving the cases with her. (Feb 22, 2024 Hymes' Notice.)

In Attorney Hymes' March 8, 2024 notice—filed in all three cases—in response to the February 27, 2024 order directing Attorney Hymes to advise the Master of his attempts to contact MY, Attorney Hymes advised, *inter alia*, that “[his] only means of communication with Manal Yousef at the present time is through Jamil Yousuf, who has her power of attorney with respect to the pending litigation in the Virgin Islands.” (March 8, 2024 Hymes' Notice.)

⁴ See *supra*, footnote 3.

connection with the outstanding discovery issues and to jointly file a proposed amended scheduling order. In the March 13, 2024 order, the Master pointed out that “Attorney Hymes can consult with JY, MY’s ‘power of attorney with respect to the pending litigation in the Virgin Islands,’ who has the authority to act on MY’s behalf in these cases, such as stipulating to certain deadlines in a proposed scheduling order—with the parties being mindful of MY’s current situation” and that “JY knows how to contact and converse with MY if Attorney Hymes has questions that need to be directly answered by MY.” (March 13, 2024 Order.)

Thereafter, on April 1, 2024, Attorney Hymes filed—in all three cases—a motion to withdraw as counsel for MY, JY, and IY in his/her respective cases, with his statement in lieu of affidavit, dated April 1, 2024, attached thereto. In response, Sixteen Plus Corporation (hereinafter “SPC”) filed a notice of no objection in the 065 Case and the 342 Case, and HH filed a notice of no objection in the 650 Case. On April 16, 2024, Attorney Hymes filed—in all three cases—a supplement to his statement in lieu of affidavit, dated April 16, 2024.

On May 9, 2024, the Master entered an order whereby the Master denied without prejudice Attorney Hymes’s April 1, 2024 motion to withdraw as counsel of record for MY, JY, and IY in his/her respective cases. In the May 9, 2024 order, the Master explained:

Attorney Hymes currently represents MY in the 065 Case and the 342 Case and JY and IY in the 650 Case. Additionally, in an order entered contemporaneously herewith, the Master pointed out that Attorney Hymes has voluntarily appeared on behalf of MY in the 650 Case when he filed—on behalf of MY—an opposition to HH’s December 19, 2022 motion to amend the first amended complaint in the 650 Case,² and ordered Attorney Hymes to accept service—on behalf of MY—of the second amended complaint and the supplemental complaint in the 650 Case.

Pursuant to Rule 211.1.16 of the Virgin Islands Rules of Professional Conduct (hereinafter “Rule 211.1.16”), a lawyer may withdraw from representing the interests of the client if: (1) withdrawal can be accomplished without material adverse effect on the interests of the client...” V.I.S.C.T.R. 211.1.16(b)(1). Furthermore, Rule 211.1.16 directs that “[a] lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation [and] [w]hen ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.” V.I.S.C.T.R. 211.1.16(c). As the moving party,

Attorney Hymes has the burden to show that withdrawal can be accomplished without material adverse effects on the interest of his clients. The Master finds that this burden has not been met. In fact, based on Attorney Hymes's own representations in this instant motion and his recent filings, it is clear that his withdrawal cannot be accomplished without material adverse effect on MY, JY, and IY's interests—to wit, Attorney Hymes indicated that MY is currently enduring various hardships—including but not limited to difficulty in maintaining a steady means of communication with the outside world—due to the war between Israel and Palestine,³ and that JY insisted that Attorney Hymes continue to represent them in these cases.⁴ Attorney Hymes's motion does not identify substitute counsel or otherwise show how MY, JY, and IY will continue in the present proceedings if his motion is granted. Thus, allowing Attorney Hymes to withdraw as counsel for MY, JY, and IY will preclude these parties from further appearances in these proceedings, at least until substitute counsel can be identified, and thereby causing material adverse effects to MY, JY, and IY's interests. Furthermore, in ruling on the instant motion, the Master may also consider the procedural posture of the case. *See Cianci v. Chaput*, 64 V.I. 682, 695 (V.I. 2016) (“We agree with the Superior Court that granting Walker's motion to withdraw so late in the proceedings would have resulted in prejudice to both parties and unnecessarily delayed the conclusion of the matter, contrary to the interests of judicial economy.”). Allowing Attorney Hymes to withdraw as counsel for MY, JY, and IY will certainly result in prejudice to the other parties and impede judicial efficiency by preventing the orderly administration of these proceedings, which commenced more than eight years ago. *Cf.* V.I.S.Ct.R. 211.8.4(d) (“It is professional misconduct for a lawyer to: (d) engage in conduct that is prejudicial to the administration of justice.”). As such, the Master will deny without prejudice Attorney Hymes's motion. Upon the appearance of substitute counsel for MY, JY, and IY, Attorney Hymes may move again to withdraw.

² MY's February 7, 2023 opposition provided:

COMES NOW, MANAL MOHAMMAD YOUSEF, through her undersigned Attorney, James L. Hymes, III, and respectfully opposes the Motion of Hisham Hamed to amend his First Amended Complaint dated December 23, 2016, to join MANAL MOHAMMAD YOUSEF as a name party defendant.

(Feb. 7, 2023 Opp.)

³ *See* Jan. 23, 2024 Joint Motion, Exhibit A; Attorney Hymes's Feb. 22, 2024 Reply; Attorney Hymes's March 8, 2024 Notice; and Attorney Hymes's March 25, 2024 Notice.

⁴ *See* April 1, 2024 Motion.

(May 9, 2024 Order.)

On May 21, 2024, Attorney Hymes and Attorney Kroblin filed a stipulation for substitution of counsel indicating that they had “stipulated and agreed that the law firm Kellerhals Ferguson Kroblin PLLC shall be substituted as the attorneys of record in the above referenced civil cases [the 065 Case, the 650 Case, and the 342 Case] for the Law Offices of

James L. Hymes, III, P.C., and James L. Hymes, III, and that said law firm shall be responsible to the Court and counsel for all matters relating thereto, relieving the Law Offices of James L. Hymes, III, P.C., and James L. Hymes, III, from any duty and/or responsibility as attorney of record for Manal Mohammad Yousef, Jamil Yousuf, and Isam Yousuf in the cases referenced above.” (May 21, 2024 Stip.) (emphasis omitted).

On May 24, 2024, “Defendant and Counter-Plaintiff Manal Mohammad Yousef” filed—in the 065 Case—a notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing as Counsel for Defendant and Counter-Plaintiff in [the 065 Case].” (May 24, 2024 MY Notice); “Plaintiff Manal Mohammad Yousef” filed—in the 342 Case—a notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing as Counsel for Plaintiff and Counter-Defendant in [the 342 Case].” (May 24, 2024 MY Notice); and “Defendants Jamil Yousuf and Isam Yousuf” filed—in the 650 Case—a notice of appearing of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearance as Counsel for Defendants in [the 650 Case].” (May 24, 2024 JY and IY Notice.)

On May 29, 2024, Attorney Kroblin and Attorney Whalen filed—in the 065 Case—an amended notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing as Counsel for Defendant and Counter-Plaintiff Manal Mohammad Yousef in [the 065 Case].” (May 29, 2024 Kroblin and Whalen Notice); Attorney Kroblin and Attorney Whalen filed—in the 342 Case—an amended notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing as Counsel for Plaintiff and Counter-Defendant Manal Mohammad Yousef in [the 342 Case].” (May 29, 2024 Kroblin and Whalen Notice); and Attorney Kroblin and Attorney Whalen filed—in the 650 Case—an amended notice of appearance of counsel advising that “Kellerhals Ferguson Kroblin PLLC is appearing

as Counsel for Defendants Jamil Yousuf and Isam Yousuf in [the 650 Case].” (May 29, 2024 Kroblin and Whalen Notice.)

DISCUSSION

The Master notes at the outset that the initial notices of appearance filed by MY in the 065 Case and the 342 Case and by JY and IY in the 650 Case were improper—to wit, MY, JY, IY, as parties in his/her respective cases, had already appeared therein, and it was their new counsel of record Attorney Kroblin and Attorney Whalen that need to appear and give notices of appearance therein. Nevertheless, this defect was cured by the amended notices of appearance filed by Attorney Kroblin and Attorney Whalen—on behalf of MY in the 065 Case and the 342 Case and on behalf of JY and IY in the 650 Case.

Now turning to the May 21, 2024 stipulation of Attorney Hymes and Attorney Kroblin. The Master finds that Attorney Hymes has cured the deficiencies of his withdrawal that the Master had previously pointed out in the May 9, 2024 order. More specifically, the Master finds that Attorney Hymes—by identifying the substitute counsel for his clients and filing the stipulation for substitution of counsel in his clients’ respective cases—has met his burden to show that his withdrawal can be accomplished without material adverse effects on the interest of his clients, will not prejudice the other parties, and will not impede judicial efficiency. At this time, upon review of the filings, the Master will approve the May 21, 2024 stipulation of Attorney Hymes and Attorney Kroblin with minor revisions—namely, rather than approving the proposed substitution of the law firm Kellerhals Ferguson Kroblin PLLC generally without specific counsel identified as the counsel of record for MY, JY, and IY, the Master will instead approve the substitution of Attorney Kroblin and Attorney Whalen as the counsel of record for MY, JY, and IY in place of Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. In other words, the duty to fully represent MY, JY, and IY’s interests and the duty to not impede

with the orderly administration of these proceedings rest with Attorney Kroblin and Attorney Whalen, MY, JY, and IY's counsel of record, and not generally on the law firm Kellerhals Ferguson Kroblin PLLC.

CONCLUSION

Based on the foregoing, it is hereby:

ORDERED that the May 21, 2024 stipulation of Attorney Hymes and Attorney Kroblin is **APPROVED** as to the substitution of Attorney Kroblin and Attorney Whalen of Kellerhals Ferguson Kroblin PLLC as MY, JY, and IY's counsel of record—to wit, as the counsel of record for MY in all three cases and as the counsel of record for JY and IY in the 650 Case—in place of Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. and **NOT APPROVED** as to the proposed substitution of the law firm Kellerhals Ferguson Kroblin PLLC generally without specific counsel identified as MY, JY, and IY's counsel of record in place of Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. It is further:

ORDERED that Attorney Kroblin and Attorney Whalen of Kellerhals Ferguson Kroblin PLLC shall file second amended notices of appearance—as the counsel of record for MY in all three cases and as the counsel of record for JY and IY in the 650 Case—consistent with this Order **on or before June 7, 2024**. **And** it is further:

ORDERED that Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. shall **REMAIN** as MY, JY, and IY's counsel of record in his/her respective cases until Attorney Kroblin and Attorney Whalen **TIMELY FILES** their second amended notices of appearance as ordered above. Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. are **RELEIVED OF ANY FURTHER DUTIES** as MY's counsel of record in all three cases and as JY and IY's counsel of record in the 650 Case without any further action from the Master **ONLY UPON** Attorney Kroblin and Attorney Whalen's timely filing of their second

ORDER OF THE SPECIAL MASTER

Page 9 of 9

amended notices of appearance as ordered above; otherwise, Attorney Hymes and the Law Offices of James L. Hymes, III, P.C. shall **REMAIN** as MY, JY, and IY's counsel of record in his/her respective cases.

DONE and so ORDERED this 4th day of June, 2024.

ATTEST:

Tamara Charles
Clerk of the Court

By: 
Court Clerk ~~Supervisor~~ II

Dated: June 4, 2024


EDGAR D. ROSS
Special Master

FILED

June 06, 2024 10:43 AM
SX-2017-CV-00342
TAMARA CHARLES
CLERK OF THE COURT

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SIXTEEN PLUS CORPORATION,
PLAINTIFF/COUNTER-DEFENDANT,

v.

MANAL MOHAMMAD YOUSEF,
DEFENDANT/COUNTER-PLAINTIFF.

Civil Case No. SX-2016-CV-065

ACTION FOR DECLARATORY
JUDGMENT, CICO, AND
FIDUCIARY DUTY;
COUNTERCLAIM

JURY TRIAL DEMANDED

MANAL MOHAMMAD YOUSEF,
PLAINTIFF/COUNTER-DEFENDANT,

v.

SIXTEEN PLUS CORPORATION,
DEFENDANT/COUNTER-PLAINTIFF/
THIRD-PARTY PLAINTIFF

Civil Case No. SX-2017-CV-342

ACTION FOR DEBT AND
FORECLOSURE; COUNTERCLAIM
FOR DAMAGES; THIRD PARTY
ACTION

JURY TRIAL DEMANDED

v.

FATHI YUSUF,
THIRD-PARTY DEFENDANT.

CONSOLIDATED CASES: Civil Case No. SX-2017-CV-342 Civil Case No. SX-2016-CV-065 Civil Case No. SX-2016-CV-650

ORDER OF THE SPECIAL MASTER¹

THIS MATTER came before the Special Master (hereinafter “Master”) on the second amended notice of appearance of Christopher Allen Kroblin, Esq. and Marjorie Whalen, Esq. of Kellerhals Ferguson Kroblin PLLC (hereinafter “Attorney Kroblin” and “Attorney Whalen,” respectively) as counsel of record for Defendant and Counter-Plaintiff Manal Mohammad Yousef in the 065 Case and the second amended notice of appearance of Attorney Kroblin and

¹ On August 10, 2023, the Court entered an order in the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065 (hereinafter “065 Case”), *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650 (hereinafter “650 Case”), and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342 (hereinafter “342 Case”)—whereby the Court appointed the undersigned as the special master in these consolidated cases to address all pretrial matters and any other matters agreed upon by the parties. (Aug. 10, 2023 Order.)

Attorney Whalen as counsel of record for Plaintiff and Counter-Defendant Manal Mohammad Yousef in the 342 Case, both filed on June 4, 2024.²

On March 16, 2024, the Master entered—in all three cases—an order whereby the Master, *inter alia*, ordered Sixteen Plus Corporation (hereinafter “SPC”) and Manal Mohammad Yousef (hereinafter “MY”) to meet and confer, within sixty days, in good faith in compliance with the procedural and substantive aspects of the good faith negotiation requirement of Rule 37 and Rule 37-1 of the Virgin Islands Rules of Civil Procedure as to the discovery issues raised in SPC’s January 3, 2023 first motion to compel discovery responses from MY as to address, agent’s information, accounting and tax information and SPC to file a supplemental certification to its January 3, 2023 motion thereafter. As of the date of this Order, it is unclear whether SPC and MY met and conferred, and no supplemental certification has been filed. Nevertheless, the noncompliance may be due to MY’s former counsel of record’s wish to withdraw as counsel for MY.³ At this time, given that Attorney Kroblin and Attorney Whalen have appeared as counsel of record for MY, the Master will extend the deadline previously set in the March 16, 2024 order.

Furthermore, it has come to the Master’s attention that a mediation report was filed on August 15, 2023 indicating that a mediation conference was held on August 11, 2023 and that the matter has been recessed for further mediation with additional cases. No further update has been provided regarding mediation. At this time, the Master will order the parties to jointly file a notice advising whether they intend on jointly mediating these two matters with the third consolidate case—the 650 Case, and if so, the date of the next mediation conference.

Accordingly, it is hereby:

² As the caption above indicates, this Order is specific to the 065 Case and the 342 Case, and thus, unless specified otherwise, all the filings and orders referenced herein pertain only to the 065 Case and the 342 Case.

³ On April 1, 2024, MY’s former counsel of record filed a motion to withdraw as counsel for MY.

ORDERED that, **on or before August 9, 2024**, SPC and MY shall **MEET AND CONFER** in good faith in compliance with the procedural and substantive aspects of the good faith negotiation requirement of Rule 37 and Rule 37-1 of the Virgin Islands Rules of Civil Procedure as to the discovery issues raised in SPC's January 3, 2023 first motion to compel discovery responses from MY as to address, agent's information, accounting and tax information, and thereafter, SPC shall **FILE** a supplemental certification to its January 3, 2023 motion that explicitly state its compliance with the procedural and substantive aspects of the good faith negotiation requirement of Rule 37 and Rule 37-1 with the following details: (i) whether the parties met and conferred in person, telephonically, or by videoconferencing, or that the opposing party refused to meet and confer; and (ii) what specific issues were discussed during the conference, how each party believed legal authority applied to the facts before them, and how one or both parties attempted to resolve their impasse on each issue. **And** it is further:

ORDERED that, **on or before July 12, 2024**, the parties **SHALL JOINTLY FILE** a notice advising whether they intend on jointly mediating these two matters with the third consolidate case—the 650 Case, and if so, the date of the next mediation conference.

DONE and so **ORDERED** this 6th day of June, 2024.

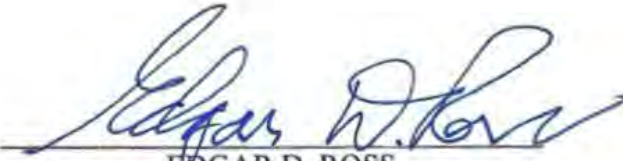
ATTEST:

Tamara Charles
Clerk of the Court

By: 

Court Clerk ~~Supervisor II~~

Dated: June 6, 2024


EDGAR D. ROSS
Special Master

Order 11 - 342 - 1 of 3

FILED

June 06, 2024 02:44 PM
SX-2017-CV-00342
TAMARA CHARLES
CLERK OF THE COURT

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

**MUHAMMAD SHAM 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/
THIRD-PARTY PLAINTIFF

v.

FATHI YUSUF,
THIRD-PARTY DEFENDANT.

Civil Case No. SX-2016-CV-650

DERIVATIVE SHAREHOLDER SUIT,
ACTION FOR DAMAGES AND CICO
RELIEF

JURY TRIAL DEMANDED

CONSOLIDATED WITH
Civil Case No. SX-2016-CV-065

ACTION FOR DECLARATORY
JUDGMENT, CICO, AND FIDUCIARY
DUTY; COUNTERCLAIM

JURY TRIAL DEMANDED

CONSOLIDATED WITH
Civil Case No. SX-2017-CV-342

ACTION FOR DEBT AND
FORECLOSURE; COUNTERCLAIM
FOR DAMAGES; THIRD PARTY
ACTION

JURY TRIAL DEMANDED

ORDER OF THE SPECIAL MASTER¹

¹ On August 10, 2023, the Court entered an order in the three consolidated cases—*Sixteen Plus Corp. v. Yousef*, Civil Case Number SX-2016-CV-065 (hereinafter “065 Case”), *Hamed v. Yusuf, et al.*, Civil Case Number SX-2016-CV-650 (hereinafter “650 Case”), and *Yousef v. Sixteen Plus Corp.*, Civil Case Number SX-2017-CV-342 (hereinafter “342 Case”)—whereby the Court appointed the undersigned as the special master in these consolidated cases to address all pretrial matters and any other matters agreed upon by the parties. (Aug. 10, 2023 Order.)

THIS MATTER came before the Special Master (hereinafter “Master”) on the second amended notice of appearance of Christopher Allen Kroblin, Esq. and Marjorie Whalen, Esq. of Kellerhals Ferguson Kroblin PLLC (hereinafter “Attorney Kroblin” and “Attorney Whalen,” respectively) as counsel of record for Defendant and Counter-Plaintiff Manal Mohammad Yousef in the 065 Case, the second amended notice of appearance of Attorney Kroblin and Attorney Whalen as counsel of record for Plaintiff and Counter-Defendant Manal Mohammad Yousef in the 342 Case, and the second amended notice of appearance of Attorney Kroblin and Attorney Whalen as counsel of record for Defendants Jamil Yousuf, Isam Yousuf, and Manal Mohammad Yousef in the 650 Case,² all filed on June 4, 2024.

On March 16, 2024, the Master entered an order whereby the Master ordered, *inter alia*, the parties in all three cases to jointly file, within thirty days, a proposed amended scheduling

² Attorney Kroblin and Attorney Whalen noted in their second amended notice of appearance in the 650 Case that Manal Mohammad Yousef (hereinafter “MY”) “is not a named party in this case.” Counsel are reminded that, on May 9, 2024, the Master entered an order whereby the Master granted, *inter alia*, Hisham Hamed’s (hereinafter “HH”) December 19, 2022 motion to amend the first amended complaint to add MY as a defendant in the 650 Case and pointed out that MY’s former counsel of record—James L. Hymes, III, Esq.—had voluntarily appeared on behalf of MY in the 650 Case when he filed an opposition to HH’s December 19, 2022 motion in the 650 Case. (May 9, 2024 Order.) MY’s opposition provided:

COMES NOW, MANAL MOHAMMAD YOUSEF, through her undersigned Attorney, James L. Hymes, III, and respectfully opposes the Motion of Hisham Hamed to amend his First Amended Complaint dated December 23, 2016, to join MANAL MOHAMMAD YOUSEF as a name party defendant.

(Feb. 7, 2023 Opp.)

Under Title 5, Section 115 of the Virgin Islands Code, “[a] voluntary appearance of the defendant shall be equivalent to personal service of the summons upon him.” Title 5 V.I.C. § 115.

In the same May 9, 2024 order, the Master rejected the proposed second amended complaints and proposed second amended and supplemental complaint previously filed in the 650 Case, and instead, ordered HH to re-file a new proposed second amended complaint and a new supplemental complaint to separately plead facts that occurred before the commencement of the action and facts that occurred after the commence of the action. (May 9, 2024 Order.) The rejection of the previously filed proposed second amended complaints and proposed second amended and supplemental complaint did not affect or negate the Master’s order granting HH’s December 19, 2022 motion to amend the first amended complaint to add MY as a defendant. Thus, when the Master approved the substitution of Attorney Kroblin and Attorney Whalen as MY, Jamil Yousuf (hereinafter “JY”), and Isam Yousuf’s (hereinafter “IY”) counsel of record—to wit, as the counsel of record for MY in all three cases and as the counsel of record for JY and IY in the 650 Case—in place of James L. Hymes, III, Esq. and the Law Offices of James L. Hymes, III, P.C., it was proper for Attorney Kroblin and Attorney Whalen to file the notice of appearance as counsel of record for MY in the 650 Case since the Master had already granted HH’s December 19, 2022 motion to amend the first amended complaint to add MY as a defendant and James L. Hymes, III, Esq. had already voluntarily appeared in the 650 Case.

order in their respective cases. As of the date of this Order, no such proposed amended scheduling orders have been filed. Nevertheless, the noncompliance may be due to MY's former counsel of record's wish to withdraw as counsel for MY.³ At this time, given that Attorney Kroblin and Attorney Whalen have appeared as MY, JY, and IY's counsel of record—to wit, as the counsel of record for MY in all three cases and as the counsel of record for JY and IY in the 650 Case—the Master will extend the deadline previously set in the March 16, 2024 order. Furthermore, it has come to the Master's attention that the parties in all three cases may wish to have one consolidated scheduling order with the same case management deadlines for ease of compliance and efficiency. Thus, the Master will allow the parties in all three cases to jointly file one proposed consolidated scheduling order for all three cases, unless the parties wish otherwise. Accordingly, it is hereby:

ORDERED that, **on or before July 12, 2024**, the parties in all three cases **SHALL JOINTLY FILE** one proposed consolidated amended scheduling (using the caption of all three cases) and the proffered amended scheduling order **MUST NOTE** prominently on the first page: CONSOLIDATED SCHEDULING ORDER. **And** it is further:

ORDERED that, if the parties wish to file a separate proposed scheduling order in their respective cases, then **on or before July 12, 2024**, the parties in the 065 Case **SHALL JOINTLY FILE** a proposed amended scheduling order in the 065 Case (using only the caption for the 065 Case), the parties in the 650 Case **SHALL JOINTLY FILE** a proposed amended scheduling order in the 650 Case (using only the caption for the 650 Case), and the parties in the 342 Case **SHALL JOINTLY FILE** a proposed amended scheduling order in the 342 Case (using only the caption for the 342 Case), and the proffered amended scheduling orders **MUST**

³ On April 1, 2024, MY's former counsel of record filed a motion to withdraw as counsel for MY.

ORDER OF THE SPECIAL MASTER

NOTE prominently on the first page the numbered amendment it represents—e.g., **FIRST AMENDED SCHEDULING ORDER, SECOND AMENDED SCHEDULING ORDER, etc.**

DONE and so ORDERED this 6th day of June, 2024.

ATTEST:

Tamara Charles
Clerk of the Court

By: 
Court Clerk ~~Supervisor~~ II

Dated: June 6, 2024


EDGAR D. ROSS
Special Master