

FILED

June 27, 2024 01:17 PM

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, JAMIL
YOUSUF, AND MANAL MOHMMAD
YOUSEF**

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 in light of the recent filings.²

1. Proposed Pleadings

On June 22, 2024, per the Master’s order, Hisham Hamed (hereinafter “HH”), derivatively on behalf of Sixteen Plus Corporation (hereinafter “SPC”), filed a proposed verified second amended complaint and a proposed verified supplemental complaint against Defendants Fathi Yusuf (hereinafter “FY”), Isam Yousuf (hereinafter “IY”), Jamil Yousef (hereinafter “JY”), Manal Mohammad Yousef (hereinafter “MY”) and Nominal Defendant SPC in this derivative shareholder action. On June 23, 2024, HH filed Exhibit A to the proposed verified supplemental complaint. On June 24, 2024, HH filed Exhibits 1-7 to the proposed verified second 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.

complaint. At this time, the Master will accept the proposed verified second amended complaint as the second amended complaint and the proposed verified supplemental complaint as the supplemental complaint. Pursuant to Rule 15-1(c)(2) of the Virgin Islands Rules of Civil Procedure, and for the sake of completeness and clarity, the Master will order HH to file the second amended complaint with all the exhibits and the supplemental complaint with all the exhibits with the Clerk of the Court. V.I. R. CIV. P. 15-1(c)(2) (“If the court grants leave to file the amended pleading, copies thereof must thereafter be served on all parties as provided in Rule 5, and a copy must be filed with the clerk of court.”).

2. Stipulation Regarding IY and JY’s Requests to Admit

On June 24, 2024, HH’s counsel Carl Joseph Hartmann, Esq. and IY and JY’s counsel Christopher Allen Kroblin, Esq. filed a stipulation agreeing that HH’s response to JY and IY’s September 15, 2022 requests to admit were timely served.³ At this time, the Master will approve the stipulation, deem JY and IY’s October 25, 2022 notice as withdrawn,⁴ and vacate the portions of the June 14, 2024 order (i) stating that HH’s response was not timely and therefore matters

³ On June 14, 2024, the Master entered an order which provided in relevant part:

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.)

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)...

...

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...

(June 14, 2024 Order.)

⁴ See *supra*, footnote 3.

contained in JY and IY's requests to admit were automatically deemed admitted under Rule 36(a)(3) of the Virgin Islands Rules of Civil Procedure and (ii) ordering JY and IY to file a copy of their September 15, 2022 requests to admit.

3. Motion Regarding Extension of Time

On June 26, 2024, HH filed a document titled "STIPULATION FOR EXTENSION OF TIME TO FILE ANSWERS TO SECOND AMENDED COMPLAINT AND SUPPLEMENTAL COMPLAINT" and provided that "[i]t is stipulated and agreed that all defendant [sic] shall have until September 16, 2024, to file their answers and/or other responsive pleadings thereto." However, it included only the signature of HH's counsel. Thus, the Master will treat it as a motion. *See Island Tile & Marble, LLC v. Bertrand*, 57 V.I. 596, 612 (2012) (quoting *Joseph v. Bureau of Corrections*, 54 V.I. 644, 648 n.2 (V.I. 2011)) ("the substance of a motion, and not its caption, shall determine under which rule that motion is construed"). At this time, the Master will grant HH's motion for an extension of time on the defendants' behalf, but peremptorily deny future stipulations or requests for an extension of time except for special circumstances. This matter has been pending for almost 8 years. It is the Master's goal—and certainly in the parties' best interest—to proceed with this litigation in an expeditious manner.

Accordingly, it is hereby:

ORDERED that HH shall **FILE** the second amended complaint with all the exhibits and the supplemental complaint with all the exhibits with the Clerk of the Court. It is further:

ORDERED that the June 24, 2024 stipulation is **APPROVED**. It is further:

ORDERED that JY and IY's October 25, 2022 notice is **DEEMED WITHDRAWN**. It is further:

ORDERED that the following portions of the June 14, 2024 order are **VACATED**:

- (i) the portion stating that HH's response was not timely and therefore matters contained in JY and IY's requests to admit were automatically deemed admitted under Rule 36(a)(3) of the Virgin Islands Rules of Civil Procedure and
- (ii) the portion ordering JY and IY to file a copy of their September 15, 2022 requests to admit.

It is further:

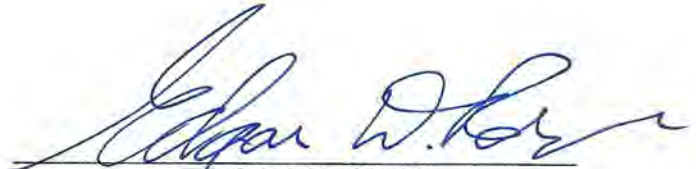
ORDERED that HH's June 26, 2024 motion for an extension of time on behalf of the defendants is **APPROVED**. The defendants shall FILE their responses to the second amended complaint and the supplemental complaint **on or before September 16, 2024**. And it is further:

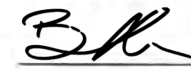
ORDERED that all future stipulations or requests for an extension of time are **PEREMPTORILY DENIED**.

DONE and so ORDERED this 27th day of June, 2024.

ATTEST:

Tamara Charles
Clerk of the Court


EDGAR D. ROSS
Special Master

By: 
Court Clerk ~~Supervisor~~ II
Dated: June 27, 2024

FILED

June 27, 2024 01:20 PM
SX-2016-CV-00650
TAMARA CHARLES
CLERK OF THE COURT

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

Hisham Hamed on Behalf of Sixteen
Plus Corp.,
Plaintiff

Case Number: SX-2016-CV-00650
Action: Damages

v.

Fathi Yusuf et al,
Defendant.

NOTICE of ENTRY
of
Order

To Joel H. Holt, Esq.

Charlotte Kathleen Perrell, Esq.

:

Carl Joseph Hartmann, III., Esq.

Stefan B. Herpel, Esq.

Christopher A. Kroblin, Esq.

Marjorie Beth Whalen, Esq.

Kevin A. Rames, Esq.

Please take notice that on June 27, 2024
a(n) Order of the Special Master
dated June 27, 2024 was/were entered
by the Clerk in the above-titled matter.

Dated June 27, 2024

:

Tamara Charles

Clerk of the Court

By:



Brianna Primus
Court Clerk II