

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

**HISHAM HAMED, on behalf of himself
and derivatively, on behalf of SIXTEEN
PLUS CORPORATION,**

Plaintiffs,

v.

**FATHI YUSUF, ISAM YOUSUF,
JAMIL YOUSUF, and
MANAL MOHAMMAD YOUSEF,**

Defendants,

and

SIXTEEN PLUS CORPORATION,

a nominal defendant.

Case No.: 2016-SX-CV-650

**DERIVATIVE SHAREHOLDER
SUIT, ACTION FOR DAMAGES,
CICO RELIEF, EQUITABLE
RELIEF AND INJUNCTION**

JURY TRIAL DEMANDED

CONSOLIDATED CASES: Civil Case No. SX-2016-CV-650; Civil Case No. SX-2016-CV 00065; Civil Case No. SX-2017-CV-342

**DECLARATION IN SUPPORT OF
MOTION TO WITHDRAW AS COUNSEL (650)
BY CARL J. HARTMANN
TO BE EFFECTIVE OCTOBER 1, 2024**

COMES NOW, co-counsel in this action, Carl J. Hartmann III, and, out of an abundance of caution, declares the following to be true and accurate--in support of my motion to withdraw.

1. It is my understanding that generally and by custom, in this Court, motions by co-counsel for withdrawal need not be supported with proof to a burden imposed by rule or statute in civil cases where there is a highly competent lead counsel continuing representation of all clients.
2. However, in the Special Master's extensive decision regarding Attorney Hymes in this action he raises issues as to a general burden which may apply to any movant for withdrawal. See order dated May 9, 2024. More particularly see the discussion at pages 2-3:

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)(I). Furthermore, Rule 211.1.16 directs that "[a] lawyer must comply with applicable law requiring notice to or permission of a tribunal when te1minating a representation [and] [w]hen ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for te1minating 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. Furthe1more, 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) (*Emphasis added.*)

3. Movant affirmatively shows that withdrawal can be accomplished without material adverse effects on the interest of his clients by stating that Joel H. Holt, who has been extraordinarily competent and successful lead counsel throughout this action (and the related matters) has affirmed that he will continue as counsel, and has expressly informed movant that movant's withdrawal can be accomplished without material adverse effects on the interest of the clients
4. The clients have been fully informed in the premises of the motion and were provided a draft motion as well. On due consideration, they gave their permission for withdrawal without any reservation that withdrawal could be accomplished without material adverse effects on their interests.
5. The main portion of this action, the 370 action, has largely been litigated—the Diamond Keturah Cases (65/342/650) do not pose a burden on the clients or remaining counsel; and the clients have far more than sufficient resources to hire as many extra attorneys as Attorney Holt might believe necessary to replace movant.
6. Finally, movant has made arrangements with remaining counsel and the clients to not “leave them in the lurch” with regard to database, document and other access to information for an extended period.

Further the Declarant sayeth not.

Dated: July 11, 2024

/s/ Carl J. Hartmann III

Carl J. Hartmann III, Esq.

Co-Counsel for Plaintiff
2940 Brookwind Dr,
Holland, MI 49424
Email: carl@carlhartmann.com
Phone: (616) 416-0956

Joel H. Holt, Esq. (Bar # 6)

Counsel for Plaintiff
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Phone: (340) 773-8709
Fax: (340) 773-8677

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of July 2024, I served a copy of the foregoing--by the Court's E-File System and email, as agreed by the parties, on:

Charlotte Perrell

Stephen Herpel

Counsel for Defendant Fathi Yusuf

Christopher Allen Kroblin

Marjorie Whalen

Counsel for Defendants

Manal Mohammad Yousef

Jamil Yousuf

Isam Yousuf

/s/ Carl J. Hartmann III