

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

MOHAMMAD HAMED , by his authorized agent WALEED HAMED ,)	
)	
<i>Plaintiff/Counterclaim Defendant</i> ,)	CIVIL NO. SX-12-CV-370
)	
vs.)	ACTION FOR DAMAGES,
)	INJUNCTIVE RELIEF AND
FATHI YUSUF and UNITED CORPORATION ,)	DECLARATORY RELIEF
)	
<i>Defendants/Counterclaimants</i> ,)	
)	
vs.)	JURY TRIAL DEMANDED
)	
WALEED HAMED , WAHEED HAMED , MUFEED HAMED ,)	
HISHAM HAMED ,)	
and PLESSEN ENTERPRISES, INC. ,)	
)	
<i>Counterclaim Defendants.</i>)	
)	

**PLAINTIFF’S MOTION TO STRIKE DEFENDANTS’ NEW DISSOLUTION PLAN
ATTACHED TO ITS RESPONSE MEMORANDUM TO
PLAINTIFF’S SUR-REPLY RE DISSOLUTION PLAN**


In the Defendants’ June 16th response memorandum to Plaintiff’s sur-reply regarding his dissolution plan, the Defendants go well beyond filing a response to Plaintiff’s sur-reply, as they submitted an entirely new proposed dissolution plan, attached to the response. Clearly the Court did not intend to allow such a filing in allowing Defendants leave to **respond** to the sur-reply. Thus, Plaintiff hereby moves to strike these new matters or, alternatively, seeks leave to file a sur-reply.

It is clear that courts disfavor considering matters raised for the first time in a reply memorandum. *Embroidery Worker’s Pension Fund v. Ryan; Beck &Co.*, 869 F. Supp. 278, 281 n.1 (D.N.J. 1994); see also, *McLendon v. Continental Can Co.*, 908

F.2d 1171, 1183 (3rd Cir. 1990). The general policy consideration behind such a rule is fairness. As the reply memorandum is the final written word a party has, it would be unfair to permit the moving party to interject a new issue to which the non-movant could not respond. *McLendon*, 908 F.2d at 1183.

In this regard, Defendants submitted an entirely new dissolution plan their response to Plaintiff's sur-reply. Thus, it is respectfully submitted that this Court should either strike it or allow Plaintiff an opportunity to respond to it.

Dated: June 23, 2014



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CERTIFICATE OF SERVICE

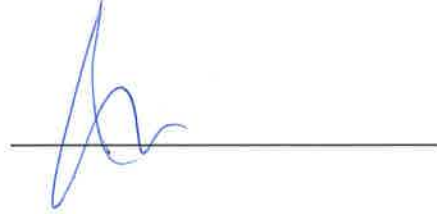
I hereby certify that on this 23rd day of June, 2014, I served a copy of the foregoing by email, as agreed by the parties, on:

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A handwritten signature in blue ink is positioned above a solid horizontal black line. The signature is stylized and appears to be the initials 'J.M.'.