

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

Waleed Hamed and KAC357, Inc.)	
)	CIVIL NO. SX-16-CV-429
Plaintiff,)	ACTION FOR DAMAGES
vs.)	
)	
Bank of Nova Scotia, d/b/a)	<u>JURY TRIAL DEMANDED</u>
Scotiabank, Fathi Yusuf, Maher Yusuf,)	
Yusuf Yusuf and United Corporation)	
)	
Defendants,)	
)	

**YUSUF DEFENDANTS' NOTICE REGARDING SUBMISSION
OF PROPOSED SCHEDULING ORDERS BY PARTIES**

The parties to this case, through their respective counsel, have conferred by email regarding entry of a proposed scheduling order in this case. Pending before this Court is Defendant Fathi Yusuf, Maher Yusuf, Yusuf Yusuf and United Corporation's (the "Yusuf Defendants") March 9, 2017 Motion to Dismiss First Amended Complaint, Defendant Bank of Nova Scotia's ("Defendant BNS") March 6, 2017 Motion to Dismiss First Amended Complaint as well as Defendant BNS's July 5, 2017 Motion to Stay Discovery Pending a Ruling on its Motion to Dismiss and the Yusuf Defendant's July 14, 2017 Motion for a Stay of Discovery Pending a Ruling on their Motion to Dismiss.

All of the Defendants submit that the Court should enter an order staying discovery pending resolution of their respective Motions to Dismiss. Plaintiff opposes a stay of discovery. In the alternative, the Yusuf Defendants are willing to stipulate to entry of the attached scheduling order that builds in approximately two months before discovery would commence. *See*, the Yusuf Defendants' Proposed Scheduling Order, attached hereto. That two-month period would give the Court additional time to decide motions that, if granted, will obviate the need for discovery and

avoid attorney fees that will otherwise be expended in preparing and responding to discovery requests and in any discovery motion practice.

The Plaintiff's and the Yusuf Defendants' proposed orders are within a few months of each other as to most dates. Counsel for the Yusuf Defendants explained that they desired to hold off on discovery to allow the Court an opportunity to rule on the pending Motions to Dismiss; however, Counsel for Plaintiff was unwilling to delay and agree to later dates.

V.I. R. CIV. P. 26(d)(3)(A) provides that "unless the parties stipulate or the court orders otherwise for the parties and witness's convenience and in the interests of justice . . . methods of discovery may be used in any sequence."¹ The Yusuf Defendants' proposed scheduling order establishes that sequence by creating a Rule 26 initial disclosure deadline of September 29, 2017, having other written discovery (requests to produce, interrogatories and the like) commence on October 16, 2017 and be completed on January 19, 2018, to be followed by deposition discovery, which would be completed by April 27, 2018. This is consistent with the sequence of discovery that is customarily observed by the Superior Court in its scheduling orders.

The Yusuf Defendants reiterate the request in their July 14, 2017 Motion for Stay filed simultaneously herewith that this Honorable Court enter a stay of discovery in this case pending the Court's resolution of the outstanding Motions to Dismiss the First Amended Complaint. If the Court is inclined to enter a scheduling order at this time, then in the alternative, the Yusuf

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¹The convenience of parties and any non-party witnesses and the interests of justice plainly support entry of a scheduling order that builds in additional time for the Court to decide a dispositive motion that could render discovery from those parties and witnesses unnecessary.

Hamed v. Bank of Nova Scotia, et al.
Civil No. SX-16-CV-429
Page 3

Defendants respectfully request entry of the attached scheduling order, rather than the scheduling order proposed by Plaintiff.

Respectfully submitted,

DUDLEY, TOPPER AND FEUERZEIG, LLP

DATED: July 14, 2017

By:



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Hamed v. Bank of Nova Scotia, et al.
Civil No. SX-16-CV-429
Page 4

CERTIFICATE OF SERVICE

It is hereby certified that on the 14th day of July, 2017, the foregoing, **YUSUF DEFENDANTS' NOTICE REGARDING SUBMISSION OF PROPOSED SCHEDULING ORDERS BY PARTIES** and a proposed **SCHEDULING ORDER** were served via e-mail addressed to:

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)	
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SCHEDULING ORDER

Comes now Fathi Yusuf, Maher Yusuf, Yusuf Yusuf and United Corporation (collectively, the “Yusuf Defendants”) and hereby propose that the Court enter the following Scheduling Order:

1

1. DISCOVERY PLAN

- a. The parties will submit their respective Rule 26 Self Disclosures by **September 29, 2017**.
- b. The parties will conduct fact discovery with written discovery to commence on or after **October 16, 2017**, and be completed by **January 19, 2018**. Depositions may commence on or after **January 19, 2018**, and are to be completed by **April 27, 2018**. Any and all discovery demands previously served on either party shall be re-served following court approval of this discovery scheduling plan.

¹The Yusuf Defendants filed a Motion to Stay Discovery in this matter filed simultaneously herewith, pending resolution of their Motion to Dismiss, which Plaintiff has opposed. Defendant Bank of Nova Scotia also has filed a Motion to Dismiss and a Motion to Stay Discovery. The Yusuf Defendants’ primary position is that discovery should be stayed pending resolution of the pending Motions to Dismiss; they agree to entry of this order in the alternative.

- c. Each party will file expert disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2) on any issue in which they have the affirmative burden of proof by **June 29, 2018**. Responsive Expert Reports will be filed by **August 17, 2018**. Expert Depositions will be taken after all reports are received but before **October 31, 2018**.
- d. Limits of ten (10) depositions per side and twenty (20) interrogatories, twenty (20) requests to admit, and twenty (20) document requests per party will apply.
- g. There are no other matters of discovery pertinent at this time.

2. MEDIATION

Mediation shall be completed no later than **November 15, 2018**.

3. MOTIONS

All dispositive motions shall be filed no later than **December 30, 2018**.

4. TRIAL DATE

The earliest date by which this case should be reasonably expected to be ready for trial shall be **March 11, 2019**.

5. LENGTH OF TRIAL

The estimated length of time expected to try the case to verdict is three (3) days.

6. OTHER MATTERS

None anticipated at this time.

SO ORDERED this ____ day of _____, 2017.

Douglas A. Brady
Judge of the Superior Court

Scheduling Order

SX-16-CV-429

Page 3

A T T E S T:

Estrella H. George

Clerk of the Court

By: _____

Deputy Clerk

Dist: Joel H. Holt, Esq.
Stefan B. Herpel, Esq.
Lisa M. K mives, Esq.
Charlotte K. Perrell, Esq.
Charles Lockwood, Esq.

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