

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

IN RE: RED DUST CLAIMS.

MASTER CASE NO. SX-15-CV-0000620

ACTION FOR:

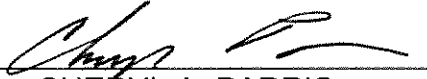
**NOTICE OF ENTRY OF
ORDER**

**TO: LEE J. ROHN, ESQ.
JOEL H. HOLT, ESQ.
ANDREW C. SIMPSON, ESQ.
RICHARD H. HUNTER, ESQ.
ROBERT E. THACKSTON, ESQ.
WILLIE C. ELLIS, JR., ESQ.
JAMES L. HYMES III, ESQ.
CARL J. HARTMANN III, ESQ.
RENE P. TATRO, ESQ.**

PLEASE TAKE NOTICE that on December 7, 2018 a(n) ORDER dated December 7, 2018 was entered by the Clerk in the above-entitled matter.

Dated: December 7, 2018

**Estrella H. George
CLERK OF THE COURT**

By: 
**CHERYL A. PARRIS
COURT CLERK III**

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

IN RE: RED DUST CLAIMS.

) MASTER CASE NO. SX-15-CV-620
)
) COMPLEX LITIGATION DIVISION
)

ORDER

THIS MATTER is before the Court following transfer to the Complex Litigation Division and reassignment to the undersigned judicial officer by the Presiding Judge of the Superior Court. Accordingly, after careful consideration and review, it is hereby

ORDERED that this matter is scheduled for a **Rule 16 Conference on Thursday, January 24, 2019 at 2:00 p.m. in Courtroom No. 203**. Counsel shall come prepared to address all issues concerning discovery including whether a bellwether approach, a *Lone Pine* approach, a combination of the two, or a different approach would be the most fair and efficient way to proceed given that the individual cases involve a mixture of tort, real, and personal property claims. *Compare In re: Alumina Dust Claims*, 67 V.I. 172, 177 n.4 (Super. Ct. 2017) ("*Lone Pine* orders . . . are pre-discovery orders designed to handle the complex issues and potential burdens on defendants and the court in mass tort litigation by requiring plaintiffs to produce some evidence to support a credible claim." (quotation marks and citations omitted)), *with id.* at 177 n.5 ("The term bellwether is derived from the ancient practice of belling a wether (a male sheep) selected to lead his flock. The ultimate success of the wether selected to wear the bell was determined by whether the flock had confidence that the wether would not lead them astray, and so it is in the mass tort context. The notion that the trial of some members of a large group of claimants may provide a basis for enhancing prospects of settlement or for resolving common issues or claims is a sound one that has

achieved general acceptance by both bench and bar.” (quotation marks and citation omitted)). It is further

ORDERED that counsel shall **CONSULT** with their clients prior to the hearing to assess whether their client(s) have an objection to the undersigned judicial officer presiding over these cases given the recusal in *Laurie L.A. Abednego, et al. v. St. Croix Alumina, LLC, et al.*, SX-09-CV-571 on April 29, 2014. *But cf. People v. Hatcher*, 68 V.I. 259, 265 (Super. Ct. 2018) (“Recusal is personal to each judge. Disqualification is mandatory.” (quotation marks and citations omitted)). The undersigned had recused from *Abednego* voluntarily because of a perceived conflict at the time with his prior employment as a law clerk for the Honorable Raymond L. Finch. Upon further reflection, however, recusal may not have been necessary. *Cf. Doe v. Cabrera*, 134 F. Supp. 3d 439, 452-53 (D.D.C. 2015) (“At the risk of stating the obvious, a term law clerk is not a judge. A term law clerk performs tasks as delegated to him or her by a supervising judge.” (quotation marks and citation omitted)). Out of an abundance of caution, the Court will allow the parties to put their positions on the record, which may be done through counsel in open court on January 24, 2019 or in writing by filing a notice (jointly or individually) in this case **prior to** the hearing date.

DONE AND SO ORDERED.

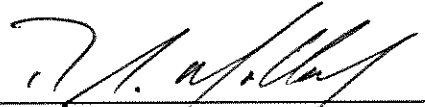
Date: December 7, 2018

ATTEST:

ESTRELLA H. GEORGE
Clerk of the Court

By: 
For Court Clerk Supervisor

Dated: 12/7/2018


ROBERT A. MOLLOY
Judge of the Superior Court