

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

IN RE: RED DUST CLAIMS) MASTER CASE NO. SX-15-CV-620
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**DEFENDANT ST. CROIX RENAISSANCE GROUP'S
RESPONSE TO PLAINTIFFS' FILING AS TO
USE OF PRIOR DEPOSITIONS AND MATERIALS**

COMES now Defendant, St. Croix Renaissance Group, LLLP ("SCRG"), through undersigned counsel, and responds to the Plaintiffs' filing of February 15, 2019, in regard to the use of prior depositions and discovery materials in the instant cause.

SCRG initially wishes to be clear that it does not automatically oppose such a concept – and even if the use of such materials is determined not to be “of right,” SCRG may agree, by waiver or stipulation, to the use. However, requiring SCRG to respond as to whether to agree at this time is premature for the following reasons:

1. SCRG has not received such materials in response to its several Rule 26 requests to all other parties.¹
2. Based on the Court's February 19, 2019 opinion and order regarding SCRG's motion to consolidate – SCRG is unable to determine *whether*, and as to *which* plaintiffs it is involved in this action. The Court has ordered plaintiffs' counsel to submit an election of actions and remedies that will clarify this within the upcoming several weeks.

¹ SCRG has supplied its *extensive* Rule 26 disclosures, but recognizes that both the plaintiffs and other of the defendants are still negotiating the Rule 26 issues. This is not meant to suggest that plaintiffs, whose counsel has been cooperative in discussing and planning for such discovery matters, is somehow at fault.

A. Effect of Lack of Materials

SCRG cannot agree or disagree as to the use of the subject materials as it has neither reviewed them, nor does it understand the timing, nature and possible uses of the same. Moreover, *all other parties involved in this motion do have those materials*. SCRG would clearly be at a huge disadvantage, and would therefore be unable to form a legal position without being provided these materials first.

Again, despite this fact, and despite the fact that plaintiffs may not have the *right* to use such materials under the applicable rule, as discussed by the Court at hearing and by the plaintiffs in their filing, SCRG may be flexible in the interests of judicial economy and mutual cooperation, but until those materials are provided to SCRG, it should not be required to respond to this motion.

B. Effect of the Court's Requirement that Plaintiffs Elect Case(s) and Parties

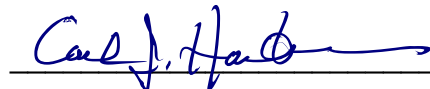
Even more disruptive to any such response is the fact that SCRG does not know which case(s) are proceeding – and does not know which plaintiffs it must defend against. Thus, while SCRG may not wish to ultimately oppose plaintiffs', it asks for an enlargement of time – until after the plaintiffs elect as to how to proceed in response to this Court's February 19th Order and the Court decides the procedural matters based on that response.

SCRG should not be required to respond to the subject filing until after the final decision by plaintiffs to elect cases and parties, and the Court's acceptance of those positions.

CONCLUSION

For the reasons set forth herein, it is respectfully submitted that the Plaintiffs' motion be denied *without prejudice* to be revisited once SCRG has been provided the materials in question -- after the Plaintiff has responded to this Court's February 19th Order.

Dated: February 22, 2019.



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CERTIFICATE OF SERVICE AND RULE 6-1(e) COMPLIANCE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e); and that on this 22nd day of February, 2019, I served a copy of the foregoing by email, as agreed by the parties, on:

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