IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

JEFFREY EPSTEIN and L.S.J., LLC,	)	
	)	
Plaintiffs,	)	CASE NO. ST-10-CV-443
	)	
-vs-	)	ACTION FOR DAMAGES
	)	
FANCELLI PANELING, INC.,	)	JURY TRIAL DEMANDED
	)	
Defendant.	)	

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR RECONSIDERATION OF ORDER ENTERED MAY 24, 2011

Plaintiffs Jeffrey Epstein and L.S.J., LLC (collectively "Plaintiffs") submit this memorandum in support of their motion for reconsideration of this Court's Order entered on May 24, 2011 requiring Plaintiffs to add J. P. Molyneux Studio, Ltd. as a party on the grounds of clear error, and because such a forced joinder will create manifest injustice. For the reasons set forth below, Plaintiffs' motion for reconsideration should be granted.

I. STATEMENT OF RELEVANT FACTS AND PROCEDURAL HISTORY.

In 2005, Plaintiffs contracted with non-parties Juan Pablo Molyneux ("JP"), a resident of the State of New York, and his company, J.P. Molyneux Studio, Ltd. ("Molyneux"), a New York corporation, to design a residential project (the "Project") on Little St. James Island in St. Thomas, United States Virgin Islands. As part of the Project, Plaintiffs contracted with JP and Molyneux to design the interior and exterior of a separate building on Little Saint James Island known as the Office Pavilion (the "Office Pavilion"). Molyneux contracted with Fancelli Paneling, Inc. ("Fancelli" or "Defendant"), a New York corporation, to custom make the cabinetry, bookshelves, columns, and wood paneling for the Library in the Office Pavilion (the

"Library Cabinetry"). As third party beneficiaries of that contract with Fancelli, Plaintiffs filed suit against Fancelli for breach of contract and negligence because the Library Cabinetry is defective and its installation was improper and incomplete.

Fancelli was served with the Summons and First Amended Complaint on December 3, 2010.

On December 30, 2010, Plaintiffs and JP and Molyneux entered into a confidential settlement agreement and release ("Confidential Agreement") which, among other things, prohibits Plaintiffs from disclosing any facts about the Confidential Agreement or its terms without first giving five (5) business days advance written notice to JP and Molyneux of Plaintiffs' intention to do so.

Defendant filed a motion to dismiss on January 13, 2011, challenging the sufficiency of service of process, challenging this Court's personal jurisdiction over Defendant, challenging Plaintiffs' alleged failure to state a claim upon which relief can be granted, challenging venue as improper and challenging the failure to join Molyneux as an allegedly indispensable party. By Order entered on May 24, 2011, this Court denied Defendant's motion to dismiss but did order Plaintiffs to file a Second Amended Complaint to include Molyneux as a party.

II. LOCAL RULE OF CIVIL PROCEDURE 7.3(3) PERMITS THE FILING OF PLAINTIFFS' MOTION FOR RECONSIDERATION TO CORRECT CLEAR ERROR OR TO PREVENT MANIFEST INJUSTICE.

Local Rule of Civil Procedure 7.3(3) states, in pertinent part, that: "[a] party may file a motion asking the Court to reconsider its order or decision. [...] A motion to reconsider shall be based on: [...] 3. the need to correct clear error or prevent manifest injustice." The Court's discretion under Local Rule of Civil Procedure 7.3 is not narrowly limited, and Local Rule of Civil Procedure 7.3 does not require an unequivocal finding of manifest injustice before the Court may alter or amend a prior order. See *Bostic v. AT&T of the Virgin Islands*, 45 V.I. 553, 312 F.Supp.2d 731 (D.C.V.I. 2004). "...[R]econsideration is the appropriate means of bringing to the court's attention manifest errors of fact or law." *Max's Seafood Café by Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 648 (3d Cir. 1999). The purpose of such motions is to allow the Court to correct errors, sparing parties and appellate courts the burden of unnecessary proceedings. *Charles v. Daley,* 799 F.2d 343, 348 (7th Cir. 1986).

III. IT WAS CLEAR ERROR TO FORCE PLAINTIFFS TO JOIN MOLYNUEX AS A PARTY BECAUSE COMPLETE RELIEF CAN BE ACCORDED TO THE PARTIES IN THE INSTANT ACTION IN THE ABSENCE OF MOLYNEUX.

In finding that Molyneux was a necessary party that must be joined, this Court reasoned it "....would be hard pressed to accord complete relief among Plaintiffs and Fancelli and that "[w]ithout Molyneux in the case, it will be difficult for the trier of fact to resolve the evidentiary issues that will arise."

Finding that the Plaintiffs have stated a claim for breach of a third party beneficiary contract does not require that Molyneux be joined as a party. A joinder issue often arises in

actions in which there are third-party beneficiaries to the disputed contract. Wright, Miller & Kane, Federal Practice & Procedure: Civil §1613 (3d ed.). In cases in which the beneficiary is a party, the courts uniformly reject the argument that all of the original parties to the contract must be joined. *Id., Schulman v. J.P. Morgan Investment Management, Inc.*, 35 F.3d 799, 807 n. 13, (C.A. 3d, 1994), and *Gomer v. Phillip Morris, Inc.* 106 F. Supp, 2d 1262, 1266 (D.C. Ala. 2000).

In *Sandobal v. Armour & Company*, 429 F.2d 249 (8th Cir. 1970), employee sought monetary damages for an alleged wrongful discharge in an action against his employer for breach of a collective-bargaining agreement between the employee's union and the company. The Eighth Circuit, in reversing the district court's entry of summary judgment against the employee, held that the union was not an indispensable party to the action. The court in *Sandobal* considered the two essential tests of an indispensible party: (1) can relief be afforded to the plaintiff without the presence of the other party and (2) can the case be decided on the merits without prejudicing the rights of the party. In finding that the Union was not indispensible party it reasoned that the plaintiff sought only monetary damages from the Company for his alleged wrongful discharge, and that this relief can be granted without the presence of the Union.

A third party beneficiary claimant in a breach of contract case does not have to join all parties to the contract, merely the party from whom the third party beneficiary seeks relief. *See Walker v. Inter-Americas Ins. Corp., Inc.*, No. 7:03-CV-222-R, 2004 WL 1620790, at *4 (N.D.Tex. July 19, 2004). The third party beneficiary need only join the other party to the

contract (ie. the "middleman") if it seeks recovery from the middleman, which is not the case in this matter.

Further, a defendant's right to claim contribution or indemnification against a non litigant contracting party would give the defendant reason to implead the non litigant contracting party pursuant to Federal Rule of Civil Procedure 14, but it does not require compulsory joinder. See *Temple University Hosp., Inc. v. Group Health, Inc.*, 413 F.Supp.2d 420, 429 (E.D. Pa. 2005). If Fancelli thought it had a claim against Molyneux, then it had the right and option to attempt to implead Molyneux into the case. from an absent non-diverse party such as Molyneux does not render that absentee indispensable pursuant to Rule 19. *See Janney Montgomery Scott, Inc. v. Shepard Niles*, 11 F.3d 399, 412 (3d Cir. 1993).

As discussed in more detail below, the Plaintiffs have settled with Molyneux and do not seek enforcement of the contract as to Molyneux. Moreover, the Plaintiffs should not be required to join Molyneux because:

> [g]enerally, there is no general requirement that all parties to a contract be joined in an action brought by a third-party beneficiary. See *Wright, Miller & Kane, Federal Practice & Procedure: Civil* §1613 (1986). To the extent the Plaintiffs have valid claims of misrepresentation or breach of duty of good faith and fair dealing against the Defendants, Rule 19 does not require the joinder of joint tortfeasors. *Nottingham v. General American Communications Corp.*, 811 F.2d 873, 880 (5th Cir. 1987), cert. denied, 484 U.S.854, 108 S. Ct. 158, 98 L. Ed.2d 113 (1987). Nor does Rule 19 require the joinder of principal and agent or parties against whom a defendant may have a claim for contribution.

Hargrove v. Underwriters at Lloyd's, London, 937 F. Supp. 607 n. 9 (S.D. Tex 1996).

Fed. R. Civ. P. 19(a) does require that a person be joined as a party in the action if (1) in the person's absence, the court cannot accord complete relief among existing parties. However, Molyneux is not a necessary or indispensable party because the term "complete relief" refers only "to relief as between the persons already parties, and not as between a party and the absent person whose joinder is sought." *Arkwright-Boston Mfrs. Mut. Ins. Co. v. City of New York*, 762 F.2d 205, 209 (2d Cir. 1985). "As one district court explained, '[c]ourts are most likely to rule that complete relief may not be accorded among the parties present in circumstances where the absent party plays a significant role in the provision of some form of injunctive relief.' *Rose v. Simms*, No. 95 Civ. 1466, 1995 WL 702307, at *3 (S.D.N.Y. Nov. 29, 1995) (finding that claim for money damages could be adjudicated without presence of nonparty)." *Trustees of the 1199 National Benefit Fund for Health and Human Service Employees v. United Presbyterian Home at Syosset, Inc.*, No. 01 CIV. 10910(LMM), 2002 WL 1492133, at *5 (S.D.N.Y. July 11, 2002). However, injunctive relief is not at issue in this case. Second, the Court must determine if the non-party has sought to intervene. *Id.* Here, Molyneux has not sought to intervene. Fancelli has filed in this matter as an exhibit[1] a copy of the lawsuit filed by Molyneux in the District Court of the Virgin Islands. As discussed below in more detail, that case was settled and Plaintiffs are contractually prohibited from suing or initiating, prosecuting, participating in or otherwise pursuing a suit against Molyneux.

[1] A copy of First Amended Complaint filed in *J.P. Molynex Studio, Ltd. and Juan Pablo Molyneux v. Jeffrey Epstein and L.S.J., LLC* filed in the District Court of the Virgin Islands, Division of St. Thomas and St. John and docketed as Case No. 3:10-cv-00034 was attached as Exhibit C to the Defendant's Reply to Opposition to Motion to Dismiss the Complaint with Point and Authorities dated March 10, 2011.

Here Plaintiffs do not seek specific performance of the breached contract. Plaintiffs limit their cause of action to monetary damages. This Court can grant Plaintiffs the relief sought from Fancelli without adding Molyneux as a defendant. Molyneux has not sought to intervene. Plaintiffs do not seek recovery from Molyneux, and, consequently, ordering Plaintiffs to add Molyneux as a party is not proper. This Court can fashion any relief awarded to Plaintiff to avoid any double recovery or inadequate remedy.

IV. THE POSSIBILITY THAT MOLYNEUX MAY BE CALLED UPON TO PROVIDE EVIDENCE DOES NOT MAKE IT AN INDISPENSIBLE PARTY.

The second issue raised by the Court as grounds for the forced joinder of Molyneux is that this Court lacks jurisdiction to compel the production of documents or deposition outside the Territory, requiring subpoenas to be localized in other jurisdictions, making it more difficult to obtain necessary discovery from Molyneux if it were not a party to the action. However, the need for evidence from a non-party is not sufficient to make the non-party an indispensable party. In considering discovery issues, other courts have not required joinder in such situations under Fed. R. Civ. P. 19(a)(1)(A):

> [T]he fact that Rosario "may be called upon to provide evidence is not sufficient to make [him a] necessary part[y]" under Rule 19(a)(1)(A). *Gibbs Wire & Steel Co. v. Johnson*, 255 F.R.D. 326, 330 (D. Conn. 2009); see *Johnson v. Smithsonian Inst.*, 189 F.3d 180, 188-89 (2d Cir. 1999) ("Rule 19 does not list the need to obtain evidence from an entity or individual as a factor bearing upon whether or not a party is necessary or indispensable to a just adjudication." (citations and alterations omitted)).

Reit v. Post Properties, Inc., No. 09 Civ. 5455, 2010 WL 743533, at *3 (S.D.N.Y. Feb 24, 2010). "Rule 19(a)(1) ordinarily does not compel joinder of a party solely because that party is an important source of evidence or because the dispute would be more completely resolved were the absent party joined." *Baltica-Skandinavia Ins. Co. Ltd. v. Booth, Porter, Sea l & Co.*, Civ. A. No. 86-1967, 1986 WL 10114, at *2 (E.D.Pa. Sept 15, 1986).

Fancelli offered no evidence (because it could not) that localizing any discovery request in the event of non-compliance by Molyneux will somehow prevent it from acquiring necessary documents or depositions. Defendant must prove that it lacks evidence or access to it, that the

courts cannot afford complete relief as to its defense without the presence of the non-party. *Pettiford v. City of Greensboro*, 556 F.Supp.2d 512, 520 (M.D.N.C. 2008). As a practical matter, Molyneux and Fancelli both have offices in New York City and are incorporated in New York and effecting discovery from Molyneux from a practical standpoint will not be unduly burdensome in New York. New York has adopted a uniform interstate depositions and discovery statute which also provides a simple process for a subpoena in the instant case to be submitted to the county clerk in which discovery is sought to be conducted. N.Y.C.P.L.R. Sec. 3119(b)(2)[2] outlines the following steps: "When a party submits an out-of-state subpoena to the

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[2] § 3119. Uniform interstate depositions and discovery. (a) Definitions. For purposes of this section:
(1) "Out-of-state subpoena" means a subpoena issued under authority of a court of record of a state other than this state.
(2) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.
(3) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
(4) "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:
(i) attend and give testimony at a deposition;
(ii) produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody or control of the person; or
(iii) permit inspection of premises under the control of the person.
(b) Issuance of subpoena. (1) To request issuance of a subpoena under this section, a party must submit an out-of-state subpoena to the county clerk in the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under this section does not constitute an appearance in the courts of this state.
(2) When a party submits an out-of-state subpoena to the county clerk, the clerk, in accordance with that court's procedure and subject to the provisions of article twenty-three of this chapter, shall promptly issue a subpoena for service upon the person to which the out-of-state

county clerk, the clerk, in accordance with that court's procedure and subject to the provisions of article twenty three of this chapter, shall promptly issue a subpoena for service upon the person to which the out-of-state subpoena is directed."

Accordingly, New York State law provides a way to serve subpoenas to compel production of documents and testimony of witnesses such as Molyneux who live in the State of New York.

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subpoena is directed.
(3) A subpoena under paragraph two of this subdivision must:
(i) incorporate the terms used in the out-of-state subpoena; and
(ii) contain or be accompanied by the names, addresses and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.
(4) Notwithstanding paragraph one of this subdivision, if a party to an out-of-state proceeding retains an attorney licensed to practice in this state, and that attorney receives the original or a true copy of an out-of-state subpoena, the attorney may issue a subpoena under this section.
(c) Service of subpoena. A subpoena issued under this section must be served in compliance with sections two thousand three hundred two and two thousand three hundred three of this chapter.
(d) Deposition, production and inspection. Sections two thousand three hundred three, two thousand three hundred five, two thousand three hundred six, two thousand three hundred seven, two thousand three hundred eight and this article apply to subpoenas issued under subdivision (b) of this section.
(e) Application to court. An application to the court for a protective order or to enforce, quash, or modify a subpoena issued under this section must comply with the rules or statutes of this state and be submitted to the court in the county in which discovery is to be conducted.
(f) Uniformity of application and construction. In applying and constructing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

V. MOLYNEUX IS NOT A NECESSARY OR INDISPENSIBLE PARTY BECAUSE AS THIRD PARTY BENEFICIARIES, PLAINTIFFS STAND IN PLACE OF THE CONTRACTING PARTY.

The third reason given by the Court is that courts interpreting contracts generally require that all parties to the contract join the action. Plaintiffs have two claims against Defendant: a breach of contract claim and a negligence claim. As to the tort claim, "it is not necessary for all joint tortfeasors to be named as defendants in a single lawsuit." *Temple v. Synthes Corp., Ltd.*, 498 U.S. 5, 7, 111 S.Ct. 315, 112 L.Ed.2d 263 (1990). As to the breach of contract claim Molyneux has no interest where its contract with Defendant created a third party beneficiary interest in Plaintiffs, particularly here where Molyneux relinquished any interest it may have had in its settlement with Plaintiffs. Without an interest in the third party beneficiary status there is no designation as a necessary party. *Stanley Elec. Co., Inc. v. Crawford Equipment and Engineering Co.*, 249 F.R.D. 267, 275 -76 (S.D. Ohio 2008). As third party beneficiaries, Plaintiffs can stand in place of the contracting party, Molyneux, to enforce their rights under the contract. *Restatement (Second) of Contracts § 304*; *KMART Corp. v. Balfour Beatty, Inc.*, 994 F.Supp. 634, 637 (D.V.I. 1998). Molyneux is not a necessary party because Plaintiffs stand in Molyneux's place and by reason of the Confidential Settlement Agreement, Plaintiffs are not pursuing any claims against Molyneux. Therefore, the general preference to litigate all claims arising out of a contract in one suit does not exist here, particularly where, since Plaintiffs now stand in the shoes of Molyneux, Fancelli can also raise any defenses it may claim as to Molyneux against Plaintiffs in the instant action.

VI. MANIFEST INJUSTICE WILL RESULT IF PLAINTIFFS ARE FORCED TO JOIN MOLYNEUX AS A PARTY TO THE ABOVE-CAPTIONED ACTION.

A. Plaintiffs and Molyneux Have Entered Into a Confidential Settlement Agreement in Which Plaintiffs Agreed Not to File Suit Against Molyneux.

There is an inherent manifest injustice if this Court were to maintain its position and force Plaintiffs to join Molyneux as a party to this case. On December 30, 2010, Plaintiffs and JP and Molyneux entered into the Confidential Agreement, which, among other things, prohibits Plaintiffs from disclosing certain facts about the Confidential Agreement or its terms without first giving five (5) business days advance written notice to JP and Molyneux of Plaintiffs' intent to make such disclosure. See attached Affidavit of counsel at ¶ 3. Sufficient notice has now been given to JP and Molyneux, and Plaintiffs are providing in this Memorandum and the accompanying Affidavit of counsel the disclosures necessary to support their Motion.

The terms of the Confidential Agreement further prohibit both Plaintiffs and Molyneux from filing the Confidential Agreement in any court except in proceedings to enforce its terms. Aff. at ¶ 7. Consequently, disclosure of the necessary provisions of the Confidential Agreement in this Motion has been limited to disclosure made in an Affidavit by Plaintiffs' counsel in the form of certain descriptions of and by quoting necessary excerpts from the Confidential Agreement.

The Confidential Agreement settled all disputes between JP, Molyneux and Plaintiffs that had arisen relating to the design and related services provided by JP and Molyneux for Plaintiffs with respect to Little Saint James Island, and it settled the lawsuit captioned *J. P. Molyneux*

Studio, Ltd. and Juan Pablo Molyneux v. Jeffrey Epstein and L.S.J, LLC filed in the District Court of the Virgin Islands, Division of St. Thomas and St. John as Case No. 3:10-cv-00034 (the "District Court lawsuit"). See Aff. at ¶5.

Pursuant to the terms of the Confidential Agreement, the parties provided each other with mutual general releases, which, among other things, included any claim or cause of action against Molyneux relating to the design and related services provided by Molyneux for Plaintiffs with respect to Little St. James Island and the District Court Lawsuit, but which specifically and expressly excluded Fancelli and its affiliates from any releases whatsoever provided therein. In addition, Fancelli is not a party to the Confidential Agreement in which Plaintiffs provided releases only in favor of JP and Molyneux, and their successors, assigns, principals, heirs, executors and administrators, and not in favor of any subcontractors or suppliers hired by Molyneux to furnish services, goods or materials for Little Saint James Island. See Aff. at ¶¶5 and 6.

Pursuant to the terms of the Confidential Agreement, Plaintiffs expressly agreed not to sue, initiate, prosecute, participate in or otherwise pursue any claim or cause of action against Molyneux arising out of or relating to any action as to which a release had been given under the Confidential Agreement. As stated above, this includes any action relating to the design and related services provided by Molyneux for Plaintiffs with respect to Little Saint James Island and relating to the District Court lawsuit.

Thus, should the Plaintiffs be ordered to join Molyneux as a party to this action and serve Molyneux with a summons and complaint, the Court would be ordering Plaintiffs to breach the Confidential Agreement and expose Plaintiffs to a counterclaim by and liability to Molyneux.

B. Plaintiffs' Settlement with Molyneux Prevents Joinder of Molyneux as a Defendant.

This Court can grant Plaintiffs the relief sought from Fancelli without adding Molyneux as a defendant. Molyneux has not sought to intervene. Entering into a settlement agreement with Plaintiffs shows that the non-party does not want to intervene in a suit. *Trustees of the 1199 National Benefit Fund for Health and Human Service Employees v. United Presbyterian Home at Syosset, Inc.*, No. 01 CIV. 10910 (LMM), 2002 WL 1492133, at *5 (S.D.N.Y. July 11, 2002). Plaintiffs do not seek recovery from Molyneux, and, consequently, ordering Plaintiffs to add Molyneux as a party is not proper.

If a non-litigant, such as Molyneux, because of a prior settlement with a plaintiff, cannot affect that plaintiff's potential recovery, then the non-litigant is not a necessary party. *Hawthorne Land Co. v. Occidental Chemical Corp.*, 431 F.3d 221, 226 (5th Cir. 2005).

> We do not believe that a court should inquire into the propriety of a partial settlement merely upon a showing of factual injury to a non-settling party. Some disadvantage to the remaining defendants is bound to occur and may, in fact, be the motivation behind the settlement. But just as a court has no justification for interfering in the plaintiff's initial choice of the parties it will sue-absent considerations of necessary parties-the court should not intercede in the plaintiff's decision to settle with certain parties, unless a remaining party can demonstrate plain legal prejudice.

Quad/Graphics Inc. v. Fass, 724 F.2d 1230, 1233 (7th Cir. 1983). Here, Plaintiffs' settlement with Molyneux prevents joinder of Molyneux as a defendant, and Fancelli did not and cannot demonstrate plain legal prejudice.

In ordering the joinder of Molyneux, this Court identified potential difficulties for the trier of fact to resolve evidentiary issues as one of the reasons. Although the Court did not explain what evidentiary issues it contemplated having difficulty resolving in Molyneux's absence, claims that a settlement will make it factually more difficult for a non-settling defendant to litigate, i.e. incur additional expense, expend additional effort, or suffer a tactical disadvantage, do not rise to the level of cognizable prejudice to a legal relationship. *Georgine v. Amchem Products, Inc.*, 157 F.R.D. 246, 323 (E.D.Pa. 1994). Courts accept that a settlement with less then all defendants will make litigation more difficult. However, given the nature of the contract between Molyneux and Fancelli, Plaintiffs do not anticipate Molyneux's absence to substantially increase the difficulty of litigation.

In the interest of full disclosure, Plaintiffs attempted to settle with both Fancelli and Molyneux in order to avoid litigation. Plaintiffs succeeded in settling their claims against Molyneux, including those relating to the Library Cabinetry, but were unable to do so with Fancelli and, as a result, filed suit against the non-settling party, Fancelli. In Defendant's Motion to Dismiss filed on January 13, 2011, Defendant stated in conclusory fashion that both Plaintiffs and Defendant could not get full relief without inclusion of Molyneux. Because of the Confidential Agreement, Plaintiffs are not pursuing any claims against Molyneux. Plaintiffs

should not be required to add Molyneux as a party in order to protect Fancelli's claimed right to relief (if any such right exists) against Molyneux.

A forced joiner of Molyneux will essentially put Plaintiffs in the position of violating the Confidential Agreement, a manifestly unjust result. Moreover, inasmuch as Plaintiffs, as third party beneficiaries of the contract, stand in Molyneux's shoes, this Court can fashion appropriate remedies and allocate liability between Fancelli and Molyneux without making Molyneux a party. Finally, Fancelli has the right and means to join Molyneux itself by filing a third party complaint against Molyneux, if it believes that Molyneux's presence in this case is so important.

VII. CONCLUSION

Based on the foregoing, Plaintiffs respectfully request that this Court grant their motion for reconsideration, and revise or amend the Order entered on May 24, 2011 to remove the requirement forcing Plaintiffs to join J. P. Molyneux Studio, Ltd. as a party to the above-captioned action.

Dated: 6/21/2011

Respectfully submitted,
HODGE AND FRANCOIS

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT that I caused a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR RECONSIDERATION OF THIS COURT'S ORDER ENTERED ON MAY 24, 2011, to be served upon Treston E. Moore, Esquire, MOORE DODSON & RUSSELL, P. O. Box 310, St. Thomas, VI 00804 by first class U. S. Mail, postage prepaid on this 21st day of June, 2011.

Anoushka Anna McCoy