

**FILED**

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ASSISTANT CLERK OF COURTS  
REPUBLIC OF THE MARSHALL ISLANDS

**IN THE HIGH COURT  
of the  
REPUBLIC OF THE MARSHALL ISLANDS**

<b>COMINA LIMITED,</b>  <b>Plaintiff,</b>  v.  <b>ABORNES INTERNATIONAL INC.,</b>  <b>Defendant.</b>	<b>CASE NO. 2024-00526</b> <b>HCT/CIV/MAJ</b>  <b>ORDER GRANTING IN PART AND</b> <b>DENYING IN PART MOTION TO</b> <b>DISMISS</b>
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Counsel:

Philip A. Okney, counsel for plaintiff Comina Ltd.

Arsima A. Muller, counsel for defendant Abornes Int. Inc.

**I. INTRODUCTION**

Plaintiff Comina Limited (“Comina”), in its Complaint for Declaratory Judgment filed on April 16, 2024 (“Complaint” or “Compl.”), seeks a declaratory judgment as to its legal relations and rights relative to defendant Abornes International Inc. (“Abornes”), as follows:

1. A determination of:
  - a. whether Abornes was in timely compliance with the requirements of 52 MIRC §80 relevant to its original bearer shares;
  - b. whether the original bearer shares were invalidated by action of 52 MIRC §80;
  - c. whether any Abornes shares validly exist; and
  - d. whether beneficial ownership of Abornes currently lies in an equitable

claim for the estate or successors in interest of Mirabror Usmanov. *See* Compl. p. 8; and

2. A declaratory judgment that the purported transfer of 1,625 shares from Rumilya Usmanova (“Rumilya”) to Dinara Usmanova (“Dinara”) is not valid and that Dinara does not own 1,625 shares of Abornes. *Id.*

In response to the Complaint, defendant Abornes, in Defendant Abornes International, Inc.’s Motion to Dismiss filed on June 17, 2024 (“Motion to Dismiss”), moved to dismiss the Complaint on the following grounds:

1. Comina’s first claim for declaratory judgment fails to state a cognizable claim; and

2. Comina’s second claim for declaratory fails for lack of standing and for the failure to join an indispensable party.

## **II: FINDINGS OF FACT**

The Court has considered its file in the case, including the following: (i) the Complaint; (ii) the Motion to Dismiss; (iii) the Plaintiff’s Findings of Fact, Conclusions of Law, and Order Relating to Motion to Dismiss, filed on October 18, 2024 (“Plt’s FFCL”); and (iv) the Defendant’s Submission of Proposed Findings of Fact, Conclusions of Law, and Order Relating to Defendant’s Motion to Dismiss, filed on October 18, 2024 (“Dft’s FFCL”). Based upon the parties’ filings and argument, the Court finds the facts are as follows:

1. Abornes is a corporation incorporated under the laws of the Republic of the Marshall Islands. Compl., ¶ 4.

2. Abornes was formed pursuant to the instruction of Mirabror Usmanov (“Mirabror”) on November 3, 2015. Compl., ¶ 5.

3. Under its original Articles of Incorporation, Abornes was authorized to issue 500 bearer shares. *Id.*; *see also* Ex. P01 to First Amended Complaint filed on December 30, 2022 (the “2022 FAC”), in High Court Civil Action 2022-00941 (the “2022 Action”).<sup>1</sup>

4. All 500 of Abornes’ original bearer shares were certificated under bearer share certificate number one (1). *Comp.* ¶ 6.

5. Mirabror, a national and resident of Uzbekistan, was the sole holder and beneficial owner of share certificate number one (1). *Id.* at ¶ 7.

6. In 2017, the Association Law (Amendment) Modernization and Improvement Act, 2017, amended the Business Corporations Act, 52 MIRC Chapter 2 (“BCA”) to require additional record keeping requirements for bearer shares. *See Compl.*, Exs. A and B.

7. Attached as Exhibit A to the Complaint is a form “Declaration of Holders and Beneficial Owners of Bearer Shares Under Section 80 of the Business Corporations Act” (the “Share Declaration”). Exhibit A is a form document, and not addressed specifically to Abornes.

8. Attached as Exhibit B to the Complaint is a form “Declaration of Transfer of Bearer Shares Under Section 80 of the Business Corporations Act” (the “Transfer Declaration”). Exhibit B is a form document, and not addressed specifically to Abornes.

9. Mirabror died on March 15, 2019. *Compl.*, ¶ 7.

10. Jahangir Usmanov, Mirabror’s son (“Jahangir”), claims to be the successor in

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<sup>1</sup>Pursuant to Rule 201 of the Evidence Act, 28 MIRC Chapter 1, the Court may take judicial notice of a fact “not subject to reasonable dispute,” provided that the fact is “generally known within the territorial jurisdiction” of the court or “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” 28 MIRC §201; *see also Asignacion v. Rickmers Genoa Schiffahrtgesellschaft MBH & CIE KG*, H. Ct. Civ. No. 2016-026, Order Granting Defendant’s Motion to Dismiss (Nov. 10, 2016) at 9 (a court “may look to matters of public record in deciding a Rule 12(b)(6) motion”) (citations omitted). The filings in High Court Civil Action 2022-00941 are public records.

interest to Mirabror and the sole heir specified in Mirabror's written will and testament. *Id.* at ¶ 8. However, neither Comina nor Abornes has not provided the Court with a copy of Mirabror's will and testament or the results of a probate action.

11. On August 13, 2019, Abornes filed a Share Declaration with the Registrar. *See* Declaration of Counsel attached to Dft's FFCL ("Muller Decl."), Ex. 2 at 21 to 26.<sup>2</sup> The Share Declaration states that, as of that date, the following held shares in Abornes: 312 bearer shares were held by Mirabror's surviving spouse, Rumilya (via certificate number 2); 63 bearer shares were held by Jahangir (via certificate number 3); 63 bearer shares were held by Nargiza Usmanova ("Nargiza")<sup>3</sup> (via certificate number 4); 31 bearer shares were held by Dinara Usmanova<sup>4</sup> (via certificate number 5); and 31 bearer shares were held by Sanjar Usmanov ("Sanjar")<sup>5</sup> (via certificate number 6). *See id.*; *see also* Plt's FFCL p. 2, ¶ 6. However, again neither Abornes or Comina has not provided the Court with documentary evidence authorizing this distribution of Mirabror's shares.

12. On August 21, 2019, Abornes filed Articles of Amendment to its Articles of Incorporation, which authorized 2,000 registered shares without par value. *See id.* at 27-32; *see also* Plt's FFCL p. 3, ¶ 8.

13. After the Articles of Incorporation were amended, new shares were issued as

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<sup>2</sup>While the information provided by the Registrar subsequent to oral arguments are non-public information, the Court deems it proper to take judicial notice of the information pursuant to Rule 201 of the Rules of Evidence as the Registrar of Corporations is a source whose accuracy cannot reasonably be questioned.

<sup>3</sup>Nargiza is identified in as Mirabror's daughter in 2022 FAC at 6.

<sup>4</sup>Dinara is identified in as Mirabror's granddaughter in 2022 FAC at 6.

<sup>5</sup>Sanjar is identified in as Mirabror's grandson in 2022 FAC at 6.

follows: 1,250 registered shares to Rumilya (via certificate number 7); 250 registered shares to Jahangir (via certificate number 8); 250 registered shares to Nargiza (via certificate number 9); 125 registered shares to Dinara (via certificate number 10); and 125 registered shares to Sanjar (via certificate number 11). *See* 2022 FAC, Ex. P05.

14. Jahangir assigned his ownership in Abornes to Comina. *See* Compl., ¶ 9. While the Complaint does not specify how many shares were transferred from Jahangir to Comina, the Shareholder Register shows that certificate number 12 for 250 registered shares was issued to Comina. *See* 2022 FAC, Ex. P05. A copy of Comina’s share certificate was not attached to the Complaint.

15. On October 31, 2019, Sanjar assigned his ownership in Abornes to Oriental Star LLC, and certificate number 13 for 250 registered shares was issued to Oriental Star LLC. *See* 2022 FAC, Ex. P05.

16. By a Share Purchase Agreement, dated November 5, 2020, Dinara transferred her 125 shares to Rumilya. Compl., ¶ 13; 2022 FAC, Ex. P05.

17. By a Share Transfer and Reassignment Agreement dated April 1, 2022 (“Share Transfer Agreement”), Rumilya, transferred 1,625 shares to Dinara. Compl., ¶ 14; 2022 FAC, Ex. P08.

18. On April 25, 2022, Dinara filed a Complaint for Declaratory Judgment in the 2022 Action, in which Dinara sought a declaration that the resolutions of a shareholders’ meeting dated July 6, 2021, were valid.

19. On May 19, 2022, Comina filed a Motion to Dismiss in the 2022 Action, purportedly on behalf of Abornes. Comina claimed to file its Motion to Dismiss as a “derivative

action” as a shareholder.

20. On June 15, 2022, the Court denied Comina’s Motion to Dismiss in the 2022 Action and granted Comina leave to file a motion to intervene instead.

21. On August 12, 2022, Comina filed a Motion to Intervene in the 2022 Action, which was granted by the Court.

22. On January 3, 2023, Abornes filed the First Amended Complaint for Declaratory Judgment in the 2022 Action. The First Amended Complaint again sought a declaration confirming the validity of shareholders’ resolutions adopted at the July 6, 2021 meeting.

23. On January 13, 2023, Comina filed an Answer to the First Amended Complaint in the 2022 Action. However, Comina did not file any counter-claims or crossclaims.

24. On March 23, 2023, the High Court entered a Discovery Plan providing for the parties to complete fact discovery in the 2022 Action by January 31, 2024.

25. On March 4, 2024, Dinara and Abornes entered into a Consent for Entry of Final Judgment. In the Consent, Dinara and Abornes noted that no documents or information were produced to refute the factual allegations in the First Amended Complaint, and thus Abornes had no reason to refute or doubt the truth of such allegations.

26. On March 27, 2024, Comina filed an Objection and Opposition to Plaintiff’s Stipulation.

27. On April 10, 2024, the Court heard oral arguments on the Consent for Entry of Final Judgment and Comina’s Objection.

28. On the same day, the Court issued an Order Entering Final Judgment in the 2022 Action. The Court explained the basis for final judgment as follows:

The Court has carefully considered the parties' submissions and arguments and finds that there is no reasons to continue this matter. There is no remaining dispute between plaintiff and defendant. Intervenor-Defendant Comina Limited has failed to file a counter-claim or crossclaim and has failed to articulate the basis for a claim. If Comina can later articulate a claim, it can file a new case.

Order Entering Final Judgment filed April 10, 2024 in H.Ct. Civ. No. 2022-00941 at 1.

29. Six days later, on April 16, 2024, Comina filed its Complaint in the present case, and on June 17, 2024, Abornes filed its Motion to Dismiss.

30. In response to Abornes' Motion to Dismiss, on July 8, 2024, Comina filed the Plaintiff's Opposition to Defendant Abornes International Inc.'s Motion to Dismiss. On July 15, 2024, Abornes filed Defendant Abornes International Inc.'s Reply Memorandum in Support of Motion to Dismiss.

31. The Court heard oral argument on the Motion to Dismiss on August 25, 2024. After argument, the Court, on the same day, issued an Order requesting proposed findings of fact and conclusions of law. In its Order, the Court also requested that the parties file and serve a current certificate of good standing for Abornes and evidence of any action the Registrar had taken regarding Abornes' existence or its shares.

32. On September 26, 2024, the Registrar issued a Certificate of Good Standing for Abornes, confirming that it is in good standing and has legal existence as of that date. *See* Muller Decl., Ex. A.

33. The Complaint does not allege that the Registrar ever took any action relating to Abornes' status or its shares. By letter to Abornes' counsel dated October 17, 2024, the Registrar confirmed that it "has taken no action to revoke the Company's existence." Muller Decl., Ex. B at 1. The Registrar also noted that, while the BCA §80(3) requires records of shareholders and

beneficial owners of bearer shares, this requirement is not supervised by the Registrar. *See id.* It is the Registrar's position that this requirement is enforced automatically by operation of law.

*See id.*

### III. LEGAL STANDARDS

Marshall Islands Rules of Civil Procedure ("MIRCP"), Rules 12(b)(1), 12(b)(6), and 19(b), mirror their respective United States Federal Rules of Civil Procedure counterparts, and the RMI courts look to United States cases for interpretation of such rules. *Kabua v. M/V Mell Springwood, et al.*, H. Ct. Civ. No. 2015-200, Order (Jun. 20, 2016) ("*Springwood Order*"), at p 12.

#### A. Dismissal under MIRC, Rule 12(b)(1), Subject Matter Jurisdiction

"Dismissal of a case under Rule 12(b)(1) is proper when the court lacks the statutory or constitutional power to adjudicate it." *Neroni v. Cocomma*, 591 F. App'x 28, 29 (2d Cir. 2015) (internal quotations and citation omitted).

A motion to dismiss for lack of standing brought under Rule 12(b)(1) implicates the court's subject matter jurisdiction. *Springwood Order* at 12 (dismissing plaintiffs' claims for lack of standing where plaintiffs had no interest in the property at issue).

It is the plaintiff's burden to prove jurisdiction in the face of a motion to dismiss for lack of subject matter jurisdiction. *Highland Floating Rate Opportunities Fund et al. v. Dryships Inc., et al.*, S.Ct. No. 2018-010 at 9 (2019) (citations omitted). As explained by the Marshall Islands Supreme Court:

In a facial attack on standing, courts draw all facts-which we assume to be true unless contradicted by more specific allegations or documentary evidence-from the complaint and from the exhibits attached thereto. In a factual challenge, on



the other hand, a court may look beyond the complaint to determine whether subject matter jurisdiction exists.

*Id.* (internal quotations and citations omitted).

**B. Dismissal under MIRC, Rule 12(b)(6), Failure to State a Claim**

On a Rule 12(b)(6) motion, “[a] complaint may be dismissed as a matter of law for two reasons: (1) lack of a cognizable legal theory or (2) insufficient facts under a cognizable legal theory.” *Springwood* Order at 19 (quoting *Kahawaiolaa v. Norton*, 222 F. Supp. 2d 1213, 1216 (D. Haw. 2002), *aff’d*, 386 F.3d 1271 (9<sup>th</sup> Cir. 2004)). To survive a Rule 12(b)(6) motion, the complaint must plead “enough facts to state a claim to relief that is plausible on its face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007), and “allow [ ] the court to draw the reasonable inference that the defendant is liable for the misconduct alleged,” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

Generally when deciding a motion to dismiss pursuant to MIRC 12(b)(6), the court must determine whether, after accepting the material allegations as true and giving the plaintiff the benefit of every reasonable inference that logically flows from the particularized facts alleged, the complaint sets forth sufficient facts to support a cognizable claim. *See e.g., Rosenquist v. Economou*, 3 MILR 144, 151 (2011); *Springwood* Order at 19. However, “conclusory allegations are not considered as expressly pleaded facts or factual inferences.” *Rosenquist*, 3 MILR at 151 (citation omitted). Likewise, “inferences that are not objectively reasonable cannot be drawn in the plaintiff’s favor.” *Id.* (citation omitted).

In assessing the sufficiency of a plaintiff’s allegations, the court may consider the factual allegations in the complaint, documents attached to the complaint as an exhibit or incorporated in

it by reference, matters of which judicial notice may be taken, or documents either in plaintiff's possession or of which plaintiff had knowledge and relied in bringing suit. *See Brass v. Am. Film Techs., Inc.*, 987 F.2d 142, 150 (2d Cir. 1993); *see also In re Lipitor Antitrust Litigation*, 868 F.3d 231, 249 (3d Cir. 2017) (“we may consider documents ‘integral to or explicitly referred to in the complaint’ without turning a motion dismiss into a motion for summary judgment”). A court “may look to matters of public record in deciding a Rule 12(b)(6) motion.” *Asignacion v. Rickmers Genoa Schiffahrtgesellschaft MBH & CIE KG*, H. Ct. Civ. No. 2016-026, Order Granting Defendant’s Motion to Dismiss (Nov. 10, 2016) (“*Asignacion Order*”) at 9 (citations omitted).

**C. Dismissal under MIRC, Rule 19, Required Joinder of Parties**

The legal standard for a motion to dismiss for failure to join a necessary party under MIRC, Rule 19, involves a three-step inquiry:

1. Determine if the absent party is necessary: A party is considered necessary if either of the following conditions is met:
  - a. In the party’s absence, the court cannot accord complete relief among existing parties. MIRC 19(a)(1)(A); *Tinoco v. San Diego Gas & Electric Co.*, 327 F.R.D. 651, 656 (2018); *Sivil v. Country Mutual Insurance Company*, 658 F.Supp.3d 894, 896 (2023).
  - b. The party claims an interest relating to the subject of the action, and disposing of the action in their absence may either impair or impede their ability to protect that interest or leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations. MIRC 19(a)(1)(B); *Sivil* at 896;

*Dine Citizens Against Ruining Our Environment v. Bureau of Indian Affairs*, 932 F.3d 843, 852 (2019).

See also *Kabua v. Kabua*, 1 MILR (Rev.) 96, 105-06 (1988).

2. Determine if joinder is feasible: If the party is necessary, the court must then determine whether it is feasible to order that the absent party be joined. Feasibility generally depends on whether the party is subject to service of process and whether their joinder would deprive the court of subject-matter jurisdiction. *Camacho v. Major League Baseball*, 297 F.R.D. 457, 460-463 (2013).

3. Determine if the case can proceed without the absent party: If joinder is not feasible, the court must decide whether, in equity and good conscience, the action should proceed among the existing parties or be dismissed. MIRCP 19(b); *Kabua*, at 106. This involves considering several factors, including:

- a. The extent to which a judgment rendered in the person's absence might prejudice that person or the existing parties.
- b. The extent to which any prejudice could be lessened or avoided.
- c. Whether a judgment rendered in the person's absence would be adequate.
- d. Whether the plaintiff would have an adequate remedy if the action were dismissed for nonjoinder. MIRCP 19(b); *Behrens v. Donnelly*, 236 F.R.D. 509, 512 (2006).

Further, the party requesting dismissal for failure to join a necessary party bears the burden of proof and may make the motion at any stage in the proceeding. *Kabua*, at 106, 107; *Sivil*, at 896. The inquiry is fact-specific and practical, and it may be necessary to review evidence beyond the

pleadings. *Lennar Mare Island, LLC v. Steadfast Insurance Company*, 139 F.Supp.3d 1141, 1150 (2015).

#### **IV. DISCUSSION**

##### **A. Comina's First Claim for Declaratory Judgment**

Comina's first claim for declaratory judgment is based on BCA §80. Section 80(3)(c) of the BCA states:

In order to maintain the validity of any such bearer shares, including any and all rights and privileges of a holder of such shares, the records required under paragraph (a) and this paragraph (c) for the issuance and any subsequent transfer of such bearer shares must be recorded with the registered agent for non-resident domestic entities.

Comina's claims that prior to his death on March 15, 2019, Mirabror failed to comply with Section 80(3)(c), hence his original 500 bearer shares purportedly transferred to his successors, Rumilya, Jahangir, Nargiza, Dinara, and Sanjar, and the subsequent registered shares are void. If this is true, the shares Comina obtained from Jahangir also are void.

Jahangir claims to be the successor in interest to Mirabror and the sole heir specified in Mirabror written will and testament. However, as noted above, Comina has not produced the will or the results of the will's probate, if any. If the will exists, the survivors' rights to Abornes should have been determined in a probate action with notice to the survivors. Similarly, Abornes has not explained how Mirabror's rights in Abornes, and its share, were transferred to Mirabror's successors. From the record before the Court, it appears that Rumilya, Jahangir, Nargiza, Dinara, and Sanjar may all have a claim on Abornes shares. Absent evidence as to how the Mirabror's successors obtained rights in Abornes and its shares, it is appropriate for the Court to defer ruling on the Abornes's Rule 12(b)(6) motion with respect to Comina's first claim until trial. MIRCP

12(i).

**B. Comina’s Second Claim Fails for Lack of Standing**

In its second claim for relief, Comina seeks a declaratory judgment that “the purported transfer of 1,625 shares from Rumilya to Dinara is not valid and that Dinara does not own 1,625 shares of Abornes.” As Comina reports, Dinara contends that she reacquired her initial 125 shares, plus an additional 1,500 shares, from Rumilya, pursuant to the terms of the Share Transfer Agreement, dated April 1, 2022. Compl., ¶ 14. However, Comina is not a party to or a third-party beneficiary of the Share Transfer Agreement.

Under contract law, a person who is not a party to a contract does not have standing to assert rights under the contract. *See e.g., Evans v. Union Mortgage Co.*, 114 B.R. 434, 437 (Bankr.E.D.Pa.1990) (finding that a debtor that was not a party to a contract had no standing to enforce rights under it); *Serefex Corp. v. Hickman Holdings, LP*, 695 F.Supp.2d 1331, 1344 (M.D.Fla. 2010) (dismissing with prejudice claim to invalidate contract where plaintiff, a non-party to the agreement, lacked standing); *see also Kramer and PII v. Are and Are*, 3 MILR 56, 66 (2008) (“The general rule is that a non-party to a lease lacks standing to challenge noncompliance with a lawful lease.”)

Because Comina is neither a party nor a third-party beneficiary to the Share Transfer Agreement, the Court finds that Comina lacks standing to challenge its validity. That this case was styled as an action seeking declaratory judgment and not a contract case does not change this Court’s analysis. “Parties who lack standing to enforce an agreement also lack standing to seek a declaration of rights under the contract.” *Eaton Vance Management v. ForstmannLeff Associates, LLC*, 2006 WL 2331009, \*6 (S.D.N.Y.2006) (citing cases; finding no standing for

plaintiffs who sought a declaration that a restrictive covenant entered into between two other parties was unenforceable). “Since it is the underlying cause of action ... that is actually litigated in a declaratory judgment action, a party bringing a declaratory judgment action must have been a proper party had the defendant brought suit on the underlying cause of action.” *Id.* (citing *Collin County v. Homeowners Assoc. for Values Essential to Neighborhoods*, 915 F.2d 167, 171 (5<sup>th</sup> Cir.1990)).

For the above reasons, dismissal of Comina’s second claim is proper pursuant to Rule 12(b)(1).

**C. Comina’s Second Claim Fails for the Failure to Join a Necessary Party**

Similarly, as Rumilya and Dinara are the parties to the Share Transfer Agreement, disposing of Comina’s claim to declare the agreement invalid may, in their absence, impair and impede their ability to protect their interests. Accordingly, the Court finds that Rumilya and Dinara are necessary parties for purposes of MIRC Rule 19(a)(1)(B)(i) and must be joined in an action against the Share Transfer Agreement.

However, based upon the facts before the Court, these Rumilya and Dinara are not subject to service of process in the Marshall Islands. They do not reside in the Marshall Islands nor are they subject to the Court’s jurisdiction under the Marshall Islands “long-arm statute,” Section 251 of the Judiciary Act 1983, 27 MIRC Ch. 2. Even though Dinara was a plaintiff in the 2022 Action, Comina has not established that Dinara is subject to the Court’s jurisdiction in the present action.

Had Comina filed its second claim against Dinara in the 2022 Action, this Court would have had jurisdiction over Dinara regarding the Comina’s second claim. However, Comina

failed to file a cross-claim or counterclaim in the 2022 Action. Comina has not set forth facts that would support this Court concluding that Rumilya or Dinara has had sufficient “minium contacts” with the Marshall Islands to support the Court’s jurisdiction over them in the current action. *Samsung Heavy Ind’s Co., Ltd. v. Focus Invest’s, Ltd., and Karamehmet*, 4 MILR 134, 144-5 (Sep 6, 2018).

As Rumilya and Dinara are necessary parties with respect to Comina’s second claim and Comina has not established that they are subject to service of process, the Court concludes that their joinder is not feasible. Therefore, the Court must decide whether, in equity and good conscience, the action should proceed among the existing parties or be dismissed. *Kabua*, at 106.

Given the facts presented, the Court concludes that determining the validity of the Share Transfer Agreement in the absence of the parties to the agreement, Rumilya and Dinara, might be prejudicial to them and their contract rights and that such prejudice cannot be mitigated in any manner. Accordingly, it is proper for the Court to conclude that in equity and good conscience dismissal of Comina’s second claim is proper pursuant to Rule 19(b) for the failure to join indispensable parties, Rumilya and Dinara. *Dawavendewa v. Salt River Project Agr. Imp. & Power Dist.*, 276 F.3d 1150, 1157 (9<sup>th</sup> Cir. 2002)(“[A] party to a contract is necessary, and if not susceptible to joinder, indispensable to litigation seeking to decimate that contract.”); MIRCPC 12(b)(7).

## V. **DECISION AND ORDER**

For the above reasons, it is **ORDERED** as follows:

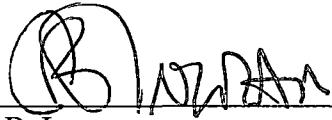
1. Defendant Abornes’s Motion to Dismiss with respect to plaintiff Comina’s first claim for declaratory judgment regarding the validity of Abornes’s shares is deferred until trial.

2. Defendant Abornes's Motion to Dismiss with respect to plaintiff Comina's second claim for declaratory judgment regarding the Share Transfer Agreement is granted for lack of standing and for the failure to join indispensable parties.

3. Each party is to bear its own costs and expenses.

4. The parties are to appear for a scheduling conference on December 12, 2024, at 9:00 a.m.

So ordered and entered.

A handwritten signature in black ink, appearing to read 'C. B. INGRAM', written over a horizontal line.

Carl B. Ingram  
Chief Justice, High Court  
Date: November 20, 2024



IN THE HIGH COURT  
OF THE  
REPUBLIC OF THE MARSHALL ISLANDS

COMINA LIMITED, ) Civil Case No. 2024-00526  
Plaintiff )  
v. )  
ABORNES INTERNATIONAL INC., )  
Defendant )

**CERTIFICATE OF SERVICE**


I, Kristen Kaminaga, Asst. Clerk of the Courts, hereby certify that on 11/20/2024

I served the Order Granting In Part and Denying In Part Motion to Dismiss

filed 11/20/2024 in the above captioned matter on:

1. Phil Okney by  Email  Fax  Personal Hand Delivery
2. Arsima Muller by  Email  Fax  Personal Hand Delivery
3. \_\_\_\_\_ by  Email  Fax  Personal Hand Delivery
4. \_\_\_\_\_ by  Email  Fax  Personal Hand Delivery


Attached is a copy of my  Sent Email /  Fax Confirmation.

  
\_\_\_\_\_  
Kristen Kaminaga  
Asst. Clerk of the Courts  
Marshall Islands Judiciary

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REPUBLIC OF THE MARSHALL ISLANDS



Marshall Islands Judiciary <marshall.islands.judiciary@gmail.com>

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**2024-00526 HCT/CIV/MAJ**

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Wed, Nov 20, 2024 at 3:53 PM

To: Philip Okney <pokney@pacificlawyers.law>, Arsima Muller <amuller@carlsmith.com>

Iakwe Counsels,

Please find attached ***Order Granting In Part and Denying In Part Motion To Dismiss*** and kindly confirm receipt of this email.

Kommol tata,  
Kristen

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Republic of the Marshall Islands Judiciary  
P.O. Box B  
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