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APPENDIX A-1

**Vermont Supreme Court Entry Order
James Jerome, Jr. v. Kerry Raheb* and Renee
Houston*
No. 25-AP-383
May Term, 2026
Filed May 8, 2026**

Appealed from: Superior Court, Bennington Unit,
Civil Division
Case No. 22-CV-00175
Trial Judge: David A. Barra

Note: In the case title, an asterisk (*) indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

In the above-entitled cause, the Clerk will enter:

Defendants appeal a civil division order denying their motion for relief from judgment under Vermont Rule of Civil Procedure 60(b)(3) and (b)(6) on the basis of fraud. On appeal, defendants argue that the court abused its discretion, contending that they demonstrated fraud, they were denied due process, and the court acted with bias. We affirm.

The parties are former neighbors, and this case arose following a dispute over the use of an easement for ingress and egress. In January 2022, plaintiff sued defendants, alleging that defendants had blocked access to the driveway for him and his invitees, and asserting claims of nuisance,

intentional interference with prospective business relationships, and intentional infliction of emotional distress.

Defendants filed numerous motions during the pendency of the case, including seeking dismissal, and the recusal of two different judges, opposing counsel, and a mediator. After the parties agreed on a mediator, defendants refused to participate in discovery, which prevented mediation from taking place. In September 2024, the court granted plaintiff's motion for partial summary judgment, concluding defendants were liable on all three counts. The court held a hearing on damages in July 2025. Although defendants were provided notice of the hearing, they did not attend or seek a continuance. Based on the evidence presented at the hearing, the court issued a decision on damages, and subsequently entered final judgment.

In August 2025, defendants moved to vacate the judgment under Rule 60(b)(3) and (b)(6). Defendants made several allegations about plaintiff's behavior—much of it unrelated to the easement dispute—and claimed that the case was filed under fraud. Plaintiff opposed the motion, arguing that defendants were attempting to relitigate the issues decided at the hearing, that defendants did not attend, and that their factual disagreements did not amount to fraud. In response, defendants asserted that their absence at the damages hearing was due to a family member's death in July 2025 and this amounted to excusable neglect.

The civil division denied the motion, carefully addressing defendants' claims. The court explained that defendants' general accusations against plaintiff were not before the court and not relevant to the judgment defendants were seeking to vacate. The court concluded that defendants did not provide the necessary factual support for their assertions that plaintiff fraudulently claimed to have the easement and to operate his business at the property. The court also rejected defendants' claim that they were fraudulently denied a hearing, mediation, or a jury trial, noting that defendants prevented mediation from taking place by refusing to participate in discovery, did not receive a jury trial because plaintiff was entitled to summary judgment based on the undisputed facts, and received notice of the damages hearing and did not attend or request a continuance. Defendants appeal.

On appeal, defendants argue that the court abused its discretion in denying their motion for relief from judgment under Rule 60(b)(3) and (6). "A motion for relief from judgment under [Rule] 60 is addressed to the discretion of the trial court, and is not subject to appellate review unless it clearly and affirmatively appears from the record that such discretion was withheld or otherwise abused." *Pierce v. Vaughan*, 2012 VT 5, ¶ 19, 191 Vt. 607 (mem.) (quotation omitted). To support a claim under Rule 60(b)(3) requires a demonstration of fraud "by clear and convincing evidence." *Gavala v. Claassen*, 2003 VT 16, ¶ 5, 175 Vt. 487 (mem.). To the extent defendants also allege fraud on the court under Rule 60(b)(6), this "has generally been reserved for only the most egregious misconduct

evidencing . . . an unconscionable and calculated design to improperly influence the court." *Godin v. Godin*, 168 Vt. 514, 519 (1998).

Defendants raise several arguments on appeal presented in bullet points without citations to the record, any explanation of how the issues were preserved, or how the authority cited supports their position. See V.R.A.P. 28 (providing requirements for appellate briefs). Plaintiff argues that the case is inadequately briefed and the appeal should be denied on that basis. We decline to decide the case based on inadequate briefing and address the arguments as best as we can discern them.

First, defendants repeat their claims that plaintiff perpetrated fraud, alleging that he did not have an easement over the driveway, engaged in misconduct, and did not operate his business from the property served by the driveway. The civil division acted well within its discretion in concluding that defendants had not presented sufficient evidence of fraud to support this claim. See *Godin*, 168 Vt. at 519 (explaining that finding of fraud "is justified only by the most egregious misconduct" and "must be supported by clear, unequivocal and convincing evidence" (quotation omitted)).

Defendants next argue that their absence from the damages hearing was caused by the death of a family member and lack of counsel, and this amounted to excusable neglect. The civil division noted that defendants were provided with notice of the hearing and did not appear or request a continuance. The court found that their proffered

reasons for missing the hearing and failing to seek a continuance were not supported by clear and convincing evidence. This determination is supported by the record and therefore we do not disturb it on appeal. The hearing was held on July 7, 2025, and defendants did not mention the family member's death until their August 22, 2025 reply memorandum. Defendants do not dispute that they had full notice of the hearing and did not seek to continue the hearing or timely notify the court that they were unavailable.

Defendants also contend that the court erred in concluding that many of the accusations in their Rule 60 motion were waived because they did not present them as defenses or counterclaims. In assessing defendants' Rule 60(b) motion, the court noted that many of defendants' factual assertions did not relate to the subject matter of the case. To the extent that the allegations were connected, the court concluded that defendants were required to raise them as counterclaims, V.R.C.P. 13(a), and having failed to do so, they were waived. The court's decision was based on a proper interpretation of the applicable rules and well within its discretion. A Rule 60(b) motion "may not substitute for a timely appeal or provide relief from an ill-advised tactical decision or from some other free, calculated, and deliberate choice of action." *Riehle v. Tudhope*, 171 Vt. 626, 627 (2000) (mem.). Defendants chose not to bring counterclaims or raise defenses at the trial on damages. They were foreclosed from doing so through a Rule 60(b) motion.

Defendants additionally argue that reversal is necessary because the trial judge was biased against them. The civil division construed defendants' allegations of bias in their reply memo as a motion to recuse and referred the matter to the Chief Superior Judge. See V.R.C.P. 40(e)(3) (providing that judge whose disqualification is sought may refer motion to Administrative Judge, now known as Chief Superior Judge). The Chief Superior Judge concluded that defendants had failed to support their motion with an affidavit or provide a reason for the judge's disqualification, and denied the request. See V.R.C.P. 40(e)(2) (requiring motion for disqualification to be accompanied by affidavit, "stating the reason"). On appeal, defendants argue that the trial judge consistently ruled against them, and this demonstrated bias. Given that adverse rulings are not on their own evidence of bias, defendants have failed to show that the Chief Superior Judge abused his discretion in denying their motion based on failure to follow the procedure of the rule. See *Ainsworth v. Chandler*, 2014 VT 107, ¶ 16, 197 Vt. 541 ("The fact that the trial judge has previously ruled against him does not, in itself, constitute evidence of bias."); *Ball v. Melsur Corp.*, 161 Vt. 35, 40 (1993) (providing that decision on motion to disqualify will be reversed "only if there has been an abuse of discretion"), abrogated on other grounds by *Demag v. Better Power Equip., Inc.*, 2014 VT 78, 197 Vt. 176.

There is no merit to defendants' related argument that the court was biased against them and that they were prejudiced by the fact that the final judgment was sent to an outdated address.

Defendants have not demonstrated how this argument was properly preserved for appeal. See *In re White*, 172 Vt. 335, 343 (2001) (explaining that "party must present the issue with specificity and clarity in a manner which gives the trial court a fair opportunity to rule on it" to properly preserve it for appeal (quotation omitted)). Defendants did not seek an extension of the appeal period below or raise lack of notice in their motion for relief from judgment. Because this was not preserved below, we do not address it on appeal.

Finally, defendants argue that the court erred in granting summary judgment without a trial. Because defendants did not appeal the underlying judgment, this argument is not properly preserved for appeal. See *Aerie Point Holdings, LLC v. Vorsteveld Farm, LLC*, 2024 VT 29, ¶ 11, 219 Vt. 261 (explaining that Rule 60(b) is not a substitute for appeal and "does not allow relitigation of issues that have been resolved by the judgment" (quoting 11 C. Wright et al., *Federal Practice and Procedure* § 2863 (3d ed. 2023))). In any event, a hearing is not required before the court decides summary judgment. V.R.C.P. 56(f); see *Lussier v. Truax*, 161 Vt. 611, 612 (1993) (mem.) (rejecting assertion that court erred in granting summary judgment without hearing because hearing not required).

Affirmed.

BY THE COURT:

Harold E. Eaton, Jr., Associate Justice
Christina E. Nolan, Associate Justice
Michael P. Drescher, Associate Justice

APPENDIX A-2

Vermont Superior Court, Bennington Unit, Civil
Division

James Jerome, Jr. v. Kerry Raheb, et al., No.
22-CV-00175

Decision on Motion — April 5, 2022

Judge John W. Valente

DECISION ON MOTION

This is a civil case, pre-trial. Plaintiff filed a complaint on January 14, 2022. Defendants were served on January 28, 2022. Defendants filed motions to dismiss on February 9, 2022, and February 10, 2022. Defendants filed their motion to extend time to Answer on February 10, 2022. Plaintiff filed a memorandum in opposition to Defendants' motions to dismiss on February 23, 2022. Plaintiff's memorandum also contends that Defendants' motion to extend time to answer is moot.

The Defendant's motion to dismiss is denied and the motion to extend time to answer is moot, by rule, for the reasons set forth below.

Background

This is a civil claim brought by Plaintiff James Colgate Jerome, Jr. against Defendants Renee Houston and Kerry Patrick Raheb. The Plaintiff purports to have an appurtenant easement running across Defendants' property known as "Mansion Drive". Plaintiff contends Defendants obstructed Mansion Drive. Defendants contend that Plaintiff has no easement, or in the

alternative has only a personal easement, not subject to commercial use. Plaintiff seeks compensatory damages and punitive damages for obstruction of Mansion Drive. Plaintiff seeks injunctive relief to enjoin defendants from obstructing Mansion Drive.

At the onset, it must be acknowledged that Defendants are representing themselves. However, V.R.C.P. 79.1(a) provides that a party may represent themselves, but the party shall be subject to the same rules that are or may be provided for attorneys in like cases, so far as the same are applicable. It is not the obligation of the court to offer affirmative help to the pro se litigant. *Adamson v. Dodge*, 2006 VT 89, ¶ 4, 180 Vt. 612 (mem.). Moreover, while self-represented litigants may receive some leeway, "they are still bound by the ordinary rules of civil procedure." *Zorn v. Smith*, 2011 VT 10, ¶ 22, 189 Vt. 219.

"[P]rocedural rules are devices to ensure fairness, uniformity and regularity of treatment to all litigants appearing before the courts, and to be meaningful, they must be enforced." *Krulee v. F.C. Huyck & Sons*, 121 Vt. 299, 302 (1959). It is incumbent upon the court to ensure the pro se litigant is not "taken advantage of by strict application of rules of procedure." *Town of Washington v. Emmons*, 2007 VT 22, ¶ 7, 181 Vt. 586 (mem.). "The court does not abuse its discretion where it enforces the rules of civil procedure equitably, even against a pro se litigant." *Bloomer v. Gibson*, 2006 VT 104, ¶ 14, 180 Vt. 397.

Analysis

Motion to Extend Time to Answer

When a complaint is filed, the Defendant must either serve an answer or file a motion to dismiss within 21 days of being served. V.R.C.P. 12(a)(1)(A). If the Defendant files a motion to dismiss, then the Defendant's time to file an answer is automatically extended to 14 days following the Court's decision on the motion. V.R.C.P. 12(a)(3)(A).

Plaintiff filed a complaint on January 14, 2022. Defendants were served on January 28, 2022. Defendants had until February 18, 2022, to file an answer or motion to dismiss. Defendants filed motions to dismiss on February 9, 2022, and February 10, 2022. Defendants filed their motion to extend time to Answer on February 10, 2022. Defendants' motions to dismiss render Defendants' motion to extend time to answer moot.

Plaintiffs contend that under Rule 8(f) Defendants' February 10, 2022 Motion to Dismiss should be treated as an answer. In Defendants' motion to extend time to answer Defendants express an interest in filing counterclaims against Plaintiff and several other parties.

Rule 13(a) governs compulsory counterclaims, which are claims against the opposing party arising out of the same transaction or occurrence. If compulsory counterclaims are not raised in Defendants' answer they are waived.

Construing the "Affirmative Defenses" in Defendants' February 10 "Motion to Dismiss" as Defendants' answer could work substantial justice. However, it would not work substantial justice to

allow pro se defendants who wish to file counterclaims to unwittingly waive those rights.

Therefore, Defendants have three options. 1) File a new answer within 14 days including any desired counterclaims. 2) Treat their motion to dismiss as a partial answer and file an amendment within 14 days. 3) Do nothing, waive any compulsory counterclaim, and, at Plaintiff's request, have the February 10 motion treated as the answer.

Motion to Dismiss

Vermont is a notice pleading state. This pleading standard is "exceedingly low." *Bock v. Gold*, 2008 VT 81, ¶ 4, 184 Vt. 575. A pleading must only set forth a short and plain statement of the claim and a demand for judgment. V.R.C.P. 8(a). Motions to dismiss for failure to state a claim are disfavored and should rarely be granted.

Matters outside the pleadings are not considered. If they are considered, the court must treat the motion as one for summary judgment. V.R.C.P. 12(b).

Defendants' Affirmative Defenses I, II, III, IV, and VI pertain to disputes of fact and documents outside the pleadings. It is premature to convert this motion into one for summary judgment. Construing the complaint in the light most favorable to Plaintiff, Plaintiff has stated a claim.

Defendants' Affirmative Defenses VII and IX concern easements by necessity. Defendants are correct that the facts alleged do not give rise to an easement by necessity. Plaintiff acknowledges vehicles may exit without traversing Mansion

Drive by a difficult "k-turn." Plaintiff instead alleges an easement enumerated by deed or by implication from nearly 20 years of use of 350 Mount Anthony Road for occasional commercial purposes, including weddings. Taking the facts in the light most favorable to Plaintiff, this may give rise to an easement by implication.

In Affirmative Defense VIII, Defendants dispute the easement and allege mootness from later removal of the obstruction. Plaintiff seeks damages and injunctive relief. Subsequent remedial measures do not eliminate damages already suffered. Defendants acknowledge they obstructed the road.

Defendant Raheb's lack of record title to 1172 Bluestone Road is not a ground for dismissal. All parties acknowledge Defendant Houston has title. The three causes of action do not require that a defendant own the land. Plaintiff alleges Raheb resides at the property and that both Defendants were responsible for the obstruction.

Order

The motion to dismiss is DENIED. The motion for extension of time to answer is MOOT. Pursuant to V.R.C.P. 12(a)(3)(A), Defendant has 14 days to file a new answer or amend. If defendant does not do so, the Court will accept the "motion to dismiss" as an answer. Any compulsory counterclaims not filed within 14 days will be waived.

Electronically Signed April 5, 2022 at 8:12 AM
pursuant to V.R.E.F. 9(d).

John W. Valente Superior Court Judge

APPENDIX A-3

Vermont Superior Court, Bennington Unit, Civil
Division

James Jerome, Jr. v. Kerry Raheb, et al., No.
22-CV-00175

Entry Regarding Motion — Sanctions — May 10,
2024

Judge David A. Barra

ENTRY REGARDING MOTION

Title: Motion for Sanctions (Motion 24) Filer:
Alexander M. Dean Filed Date: March 19, 2024

The matter came before the court to consider plaintiff James Jerome, Jr.'s motion for sanctions for defendants Kerry Raheb and Renee Houston's failure to respond to his discovery requests, including requests to admit, despite the court's ordering them to do so.

Plaintiff James Jerome, Jr. was not present, and was represented by Attorneys Alexander Dean and David Silver. Defendant Kerry Raheb was not present, and was not represented by counsel. Defendant Renee Houston was not present, and was not represented by counsel.

Standard

Plaintiff seeks sanctions because defendants have not responded to his requests to admit, written interrogatories or requests to produce despite two orders of this court directing that they do so.

Under Vermont Rule of Civil Procedure 37, the trial court has discretion to sanction a party in

varying degrees of severity for failure to obey an order to provide or permit discovery. V.R.C.P. 37(b)(2). If warranted by a finding of gross indifference, bad faith, or willfulness, coupled with substantial prejudice to the moving party, the trial court may dismiss the action. *John v. Med. Ctr. Hosp. of Vt., Inc.*, 136 Vt. 517, 519 (1978); *SynEcology Partners, L3C v. Business RunTime, Inc.*, 2016 VT 29, ¶ 18.

Failure to comply with the trial court's discovery orders may be deemed willful when the court's orders have been clear, when the party has understood them, and when the party's non-compliance is not due to factors beyond the party's control. A party's persistent refusal to comply with a discovery order presents sufficient evidence of willfulness, bad faith or fault. *SynEcology*, ¶ 19.

A party is prejudiced if the failure impairs their ability to go to trial or threatens to interfere with the rightful decision of the case. Failure to produce documents as ordered is considered sufficient prejudice. Although the law presumes prejudice from unreasonable delay, the presumption may be rebutted. *SynEcology*, ¶ 20.

Regarding requests to admit, V.R.C.P. 36(a) provides that the matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as a Superior Judge may allow, the party to whom the request is directed serves a written answer or objection.

V.R.C.P. 37(a)(4) provides that when a motion to compel is granted, the judge shall, after

opportunity for hearing, require the party whose conduct necessitated the motion to pay the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the opposition was substantially justified or an award would be unjust. An evasive or incomplete answer is treated as a failure to answer. V.R.C.P. 37(a)(3).

V.R.C.P. 37(b)(2) authorizes orders that designated facts be taken as established; that a party be prohibited from supporting or opposing designated claims; that pleadings be stricken; that a default be entered; and, in addition, an award of reasonable expenses including attorney's fees. V.R.C.P. 37(d).

Facts

This matter was filed on January 14, 2022. Defendants were served on January 28, 2022. Defendants filed motions to dismiss on February 9 and 10, 2022. The matter was set for hearing on plaintiff's motion for preliminary injunction on February 25, 2022. On February 25, 2022, defendants asked to continue because they were "in process of obtaining counsel." The court denied the continuance.

After hearing, the court granted the preliminary injunction on March 4, 2022, compelling Defendants Houston and Raheb to remove the stone barricade placed across Mansion Drive in interference with Plaintiff's duly recorded right-of-way, and enjoining them from placing any vehicle, structure, or other object across Mansion Drive, and from interfering with the use of Mansion Drive by Plaintiff or his invitees.

The court denied the motions to dismiss on April 5, 2022, and directed that defendants file a new answer within 14 days or the motion would serve as their answer. Defendants did not file a new answer. The February 10, 2022 Motion to Dismiss is Defendants' joint answer.

On April 5, 2022, defendants sought a change of venue. On April 11, 2022, the court ruled they had waived their objection to venue upon filing the motion to dismiss. On April 25, 2022, defendants emailed the court regarding a jury trial, out-of-state counsel, and mediation. On April 27, 2022, the court addressed those filings, informed defendants of the proper method for filing, and cautioned that disrespectful language can constitute contempt.

On May 2, 2022, defendant Raheb filed a motion to dismiss on the grounds that he does not own the subject property and that the alleged obstruction had been substantially removed. That motion was voluntarily withdrawn on May 29, 2022 by Attorney P. Scott McGee, who entered his appearance for defendants. Based on that appearance and a discovery stipulation naming Attorney David Cleary as mediator, the June 10, 2022 pretrial conference was cancelled.

On June 23, 2022, Attorney McGee moved to withdraw citing a complete breakdown in the attorney-client relationship. The motion was granted after both defendants entered notices of self-representation.

On June 24, 2022, defendant Raheb moved to recuse Judge Valente. On July 1, 2022, defendant

Houston filed a similar motion. The Chief Superior Judge denied those motions on July 5, 2022, finding no basis to question Judge Valente's impartiality and that the motions failed to comply with Rules 11 and 40.

On July 8, 2022, defendants objected to Attorney Cleary as mediator and repeated their request for a jury trial. On July 14, 2022, defendants moved to disqualify plaintiff's attorneys. On July 25, 2022, defendant Raheb moved to recuse Attorney Cleary. Plaintiff did not insist on Cleary. The parties later agreed to Attorney Michael Marks. By order dated October 5, 2022, the court modified the discovery schedule. Motions to disqualify plaintiff's attorneys and a Rule 11 sanctions request were denied that same day.

On November 1, 2022, plaintiff served requests to admit, interrogatories, and requests for production on each defendant. On March 10, 2023, Plaintiff moved to compel discovery and mediation. On March 31, 2023, the court directed defendants to respond within 14 days. Defendants did not respond. On October 12, 2023, the court granted the motion to compel. Defendants sought reconsideration and permission to appeal. Both were denied on November 14, 2023.

Notice of a February 29, 2024 pretrial conference was sent December 27, 2023. On February 11, 2024, defendants moved to continue "so we can obtain counsel" and moved to dismiss asserting plaintiff had assaulted and harassed them. Those motions were denied February 29, 2024. Defendants did not attend the conference. The court then ordered defendants to respond to the

November 1, 2022 requests within fourteen days and warned of Rule 37 sanctions, including admission of facts, preclusion of evidence, and attorneys' fees.

On March 9, 2024, Defendants filed certain documents and photographs. They have not provided a response to any discovery request in proper form. On March 19, 2024, plaintiff moved for sanctions. Notice of a May 10, 2024 hearing was sent April 17, 2024. On May 9, 2024, defendants moved to continue and change venue. Those motions were denied.

Based on the ledger filed with the motion and the supplemental certification, the court finds by a preponderance of the evidence that plaintiff incurred \$2,162.50 in attorneys' fees related to the motion for sanctions, that these fees are reasonable, and that they were made necessary by defendants' failure to comply.

Conclusions

The applicable rules and the requests themselves contain detailed instructions. The court's October 12, 2023 and February 29, 2024 orders directed defendants to answer. Apart from the March 9, 2024 filing, defendants have not responded. They have not addressed the requests to admit, have raised no objection, and have not answered the interrogatories or requests to produce. The March 9 filing is not an adequate response and is a failure to respond under V.R.C.P. 37(a)(3).

An award of attorney's fees is amply justified. Defendants have repeatedly defied this Court's discovery orders. Their continued failure is without

justification, in bad faith, and in willful disregard of the court's orders. Plaintiff has been prejudiced by the delay. Defendants have provided no rebuttal.

Order

Based on defendants' failure to respond to the requests to admit as provided by V.R.C.P. 36(a), the following facts are hereby deemed admitted for purposes of this matter only:

a. The parties obtained a marriage license in 2022 in the State of Vermont. b. Kerry Patrick Raheb has never been represented by Stephen Narey, Esq. in connection with any matter. c. Kerry Patrick Raheb does not own any real estate in the State of Vermont in his own name, other than real estate solely deeded in someone else's name in which he may have a marital interest (e.g., 1172 Bluestone Road, Bennington, VT 05201). d. As of November 1, 2022, Kerry Patrick Raheb administered the twitter account at handle @RAHEBFORSENATE. e. It is Kerry Patrick Raheb's sincere belief that Plaintiff James Colgate Jerome, Jr. is involved in a cocaine selling or distribution network alongside Vermont Senator Dick Sears and Assistant Superior Court Judge James Colvin. f. Kerry Patrick Raheb was unaware of the wedding event taking place on September 5, 2021 until the event was actually occurring that day. g. On and after September 5, 2021, Kerry Patrick Raheb placed objects (which may have included a vehicle, stones, sticks, and/or other debris) over Mansion Drive to impede access to Mansion Drive or certain parts of Mansion Drive. h. The objects referenced above were placed, in

part, to prevent further events from taking place at 350 Mount Anthony Road. i. It is Kerry Patrick Raheb's intention to prevent further events from taking place at 350 Mount Anthony Road. j. Due to his ongoing dispute with Plaintiff, it is Kerry Patrick Raheb's intention to ensure that Mr. Jerome does not obtain certain contracts in the future in connection with his business. k. On the @RAHEBFORSENATE twitter account, Kerry Patrick Raheb posted several tweets concerning Plaintiff, including statements about "municipal contracts" held by Mr. Jerome. l. Renee Houston elected not to purchase title insurance in connection with the purchase of 1172 Bluestone Road. m. Neither Renee Houston nor Kerry Patrick Raheb had a survey done of 1172 Bluestone Road. n. The deed to 1172 Bluestone Road effective August 30, 2021, recorded at Book 552, Page 184 of the Town of Bennington Land Records, conveys real property "subject to that portion of the personal and nontransferable easement of a way to travel over and across" the road known as "Mansion Drive." o. The deed to 350 Mount Anthony Road, effective December 4, 2002, grants Plaintiff a right, title, and interest with respect to the right-of-way known as "Mansion Drive." p. Other than the two deeds referenced above, there exist no other deeds, to Renee Houston's knowledge, concerning her property or "Mansion Drive." q. The entirety of the parcel for 1172 Bluestone Road lies solely on the western side of Bluestone Road itself, and Bluestone Road does not intersect the property at any point. r. Renee Houston was unaware of the wedding event taking place on September 5, 2021 until the event was

actually occurring that day. s. On and after September 5, 2021, Renee Houston placed objects (which may have included a vehicle, stones, sticks, and/or other debris) over Mansion Drive to impede access to Mansion Drive or certain parts of Mansion Drive. t. Those objects were placed, in part, to prevent further events from taking place at 350 Mount Anthony Road. u. It is Renee Houston's intention to prevent further events from taking place at 350 Mount Anthony Road.

Defendants' joint answer to the complaint, originally filed as a "motion to dismiss" on February 10, 2022, is hereby stricken in its entirety, and Defendants are hereby precluded from filing any answer to the complaint.

Plaintiff is awarded his reasonable attorney's fees in the amount of \$2,162.50 incurred in connection with this motion. Defendants shall remit payment within thirty days of the date of this order.

Signed Electronically on May 10, 2024 pursuant to V.R.E.F. 9(d).

David Barra Superior Court Judge

APPENDIX A-4

Vermont Superior Court, Bennington Unit, Civil
Division

James Jerome, Jr. v. Kerry Raheb, et al., No.
22-CV-00175

Partial Summary Judgment on Liability —
September 10, 2024

Judge David A. Barra

ENTRY REGARDING MOTION

Title: Motion for Default Judgment; Motion to
Dismiss on Liability or, in the alternative, for
Partial Summary Judgment (Motions 28 and 29)
Filer: Kerry Patrick Raheb; Renee Houston;
Alexander M. Dean Filed Date: August 10, 2024;
July 25, 2024

Plaintiff James Colgate Jerome, Jr. seeks default
judgment or partial summary judgment on
liability. Defendants have not opposed the motion.
Defendants Kerry Raheb and Renee Houston seek
to dismiss the complaint.

Defendants' Motion to Dismiss

The motion to dismiss asserts that the defendants
have sold the subject property, and that plaintiff
has suffered no loss. Defendants have been
informed that ownership of the property is not a
prerequisite to liability, and previous motions
asserting that defendant Raheb did not own the
property have been denied.

The June 19, 2024 entry regarding motion recited
the court's earlier ruling: Defendant Raheb's
February 9, 2022 motion sought dismissal because

he does not have title to 1172 Bluestone Road. Plaintiffs acknowledge that. All parties acknowledge Defendant Houston has title. Assuming the facts alleged in the Complaint as true, Plaintiff alleges that Defendants interfered with the use and enjoyment of his property rights, intentionally interfered with prospective business relationships by preventing access to said easement rights, and acted with malice, causing emotional distress and damages. The three causes of action do not require that a defendant own the land at issue. Plaintiff alleges Defendant Raheb resides at 1172 Bluestone Road. Defendants are both alleged to have been responsible for the obstruction of Mansion Road. Plaintiffs are entitled to seek monetary damages from all parties responsible for denial of Plaintiff's lawful right to use an appurtenant easement, and to seek injunctions against any party who might reasonably be suspected to attempt to obstruct Mansion Road in the future. None of plaintiff's causes of action are dependent upon defendant Kerry Raheb's ownership of 1172 Bluestone Road.

Defendants' motion is not supported by affidavit and does not comply with the format required by rule. While it appears to be based on circumstances that arose after the cut-off date of the pretrial discovery order, it does not state grounds supporting dismissal.

Ownership of 1172 Bluestone Road, Bennington, Vermont is not a prerequisite to liability under the complaint. Defendants' unsupported assertion that plaintiff "has no losses whatsoever" does not support dismissal, and even were the motion

considered one for summary judgment, does not meet the standard for granting dismissal or judgment in defendants' favor. Plaintiff has asserted causes of action. Proof of any damages will await a hearing for that purpose.

Defendants' motion to dismiss is DENIED.

Plaintiff's Motion for Default Judgment on Liability, or in the Alternative, For Partial Summary Judgment

On May 10, 2024, the court granted plaintiff's motion for sanctions based on defendants' failures to engage in discovery. As a result of defendants' bad faith, the court ordered certain facts admitted for purposes of this action and struck defendants' February 10, 2022 motion to dismiss that had previously been construed as an answer to the complaint.

In light of the facts deemed admitted, plaintiff is entitled to partial summary judgment on the issue of liability as a matter of law.

Partial summary judgment is permitted by V.R.C.P. 56(a), and should be granted when, construing the facts as alleged by the nonmoving party and resolving reasonable doubts and inferences in favor of the nonmoving party, there are no genuine issues of material fact and judgment is appropriate as a matter of law. *Sheldon v. Ruggiero*, 2018 VT 125, ¶ 14, 209 Vt. 33. The nonmoving party must show that there are material facts in dispute. Evidence which merely makes it possible for the fact in issue to be as alleged, or which raises a mere conjecture, surmise or suspicion, is an insufficient foundation for a

verdict. *Fuller v. City of Rutland*, 122 Vt. 284, 289 (1961).

The facts set forth in plaintiff's Statement of Undisputed Facts are based upon the court's May 10, 2024 order and plaintiff's personal knowledge, as set forth in his attached affidavit. All of the three causes of action in the Complaint are supported by the Statement of Undisputed Facts, which is incorporated by reference as are the facts deemed admitted in the May 10, 2024 order.

There are no genuine, triable issues of material fact regarding liability, and plaintiff is entitled to partial summary judgment on the issue of liability on all three counts.

The motion for default judgment on liability, or in the alternative, for partial summary judgment is GRANTED IN PART.

The matter shall be set for a one-hour remote hearing on damages. If plaintiff wishes more time, and/or that the hearing be in person or hybrid, plaintiff must file a written motion within ten days of notice of the hearing.

Plaintiff also requested that interest accrue on the unpaid attorney's fee award granted by the May 10, 2024 order. The court will defer judgment on this request until the hearing.

Signed Electronically on September 10, 2024 pursuant to V.R.E.F. 9(d).

David Barra Superior Court Judge

APPENDIX A-5

Vermont Superior Court, Bennington Unit, Civil
Division

James Jerome, Jr. v. Kerry Raheb, et al., No.
22-CV-00175

Findings and Order on Damages — July 9, 2025
Judge David A. Barra

FINDINGS AND ORDER

The matter came before the court for a hearing to determine plaintiff James Jerome, Jr.'s damages, partial summary judgment having been granted on September 10, 2024. Plaintiff James Jerome was present and represented by Attorneys Alexander Dean and David Silver. Defendant Renee Houston was not present. Defendant Kerry Raheb was not present.

Facts

Based on a preponderance of the credible, admissible evidence, the court makes the following findings of fact. All three causes of action in the Complaint are supported by the plaintiff's Statement of Undisputed Facts dated July 25, 2024, which is incorporated by reference as are the facts deemed admitted in the May 10, 2024 order.

At all relevant times, plaintiff James Jerome, Jr. ("Jerome"), defendant Renee Houston ("Houston") and defendant Kerry Raheb ("Raheb") were residents of Bennington, Vermont.

In early September 2021, Houston and Raheb resided at 1172 Bluestone Road, Bennington, Vermont (the "Bluestone Lot"). Houston purchased

the Bluestone Lot on August 30, 2021. Both Raheb and Houston were present at the closing during which the easement described below was discussed.

Raheb and Houston married in 2022.

At all relevant times, Jerome owned property adjacent to 1172 Bluestone Road, at 350 Mount Anthony Road, Bennington, Vermont (the "Mansion Lot").

The Mansion Lot is the dominant estate regarding an easement for ingress and egress across the Bluestone Lot, the servient estate. The easement ("Mansion Drive") connects Mount Anthony Road and Bluestone Road while traversing the Bluestone Lot and the Mansion Lot.

Jerome's easement for Mansion Drive across the Bluestone Lot is clearly referenced in Houston's deed. The deed specifically notes that Houston's lot is subject to the Mansion Drive easement in favor of the Mansion Lot and that no rights to her use of any portion of Mansion Drive on the Mansion Lot are included in her deed.

Prior to this time, Jerome had regularly used the Mansion Lot for personal and business purposes. The Mansion Lot was a wedding venue on many occasions. Jerome and his wife Victoria own and operate a business that had used the Mansion Lot as a wedding venue. The business advertised the Mansion Lot as a wedding venue. The Mansion Lot has an outstanding view and is a peaceful, bucolic setting. The Mansion Lot has been in Jerome's family for a substantial period.

Mansion Drive was used frequently and was the preferred access for larger vehicles because of its safer, more convenient entrance.

On September 5, 2021, Raheb and Houston parked a white Jeep across Mansion Drive blocking access to the Mansion Lot from Bluestone Road. They intended to block use of Mansion Drive to access the wedding over the Bluestone Lot.

Jerome was notified of the Jeep's presence by his client, father of the day's bride, and friend Andrew Matthew Anderson, II. Jerome went to speak to Raheb whom he had not previously met. After introducing himself, Jerome informed Raheb, in Houston's presence, that Jerome was hosting a wedding later that day on the Mansion Lot, that Jerome owned an easement across the Bluestone Lot on Mansion Drive which the wedding party needed to use, and asked Raheb to remove the obstructing Jeep.

Raheb and Houston refused to remove the obstruction. Raheb told Jerome that no one would be allowed to use Mansion Drive. Raheb threatened to shoot the tires out of any bus that accessed Mansion Drive. Raheb told Jerome to get off his property, asserting ownership of the Bluestone Lot. Raheb did not deny that Jerome had an easement across the Bluestone Lot. Raheb threatened to ruin the wedding business. Jerome left rather than escalate the situation. The encounter left Jerome feeling disturbed and unsettled.

The wedding party and guests were able to access the Mansion Lot from Mount Anthony Road

because Jerome sought and obtained permission from his neighbors on Mount Anthony Road to allow the use of their driveway to make the turn into the Mansion Lot. Due to these extra efforts, the ceremony was begun. Such efforts would not have been necessary if Mansion Drive were used. If permission had not been granted, the wedding would have been in jeopardy.

During the reading of scripture, Jerome observed Raheb and Houston set off the Jeep's alarm which disrupted the ceremony. Jerome was nearby, observed both Raheb and Houston, heard the alarm, and was embarrassed by it in front of his clients and the other wedding attendees. The alarm was loudly audible to the wedding party and their guests.

At a later encounter that day, Raheb told Jerome that Jerome would never have another wedding at that site. Raheb also spoke to wedding guests and Jerome's client Anderson telling them to get off his property. Raheb spoke aggressively to Anderson when Anderson tried to introduce himself.

Raheb and Houston's actions intentionally interfered with Jerome's business relationship with Anderson. Raheb and Houston intended to interfere with Jerome's conducting any business that involved use of Mansion Drive.

After the wedding, despite knowledge of the existence of Jerome's easement, Raheb and Houston placed traffic cones across Mansion Drive to obstruct access. They later placed other obstructions such as rocks, stones, logs, branches, debris and plywood across Mansion Drive. They

took stones from the Mansion Lot to obstruct Mansion Drive.

These obstructions interfered with Jerome's use and enjoyment of Mansion Drive and the Mansion Lot, both for personal and business purposes. Raheb and Houston intended to harm Jerome's businesses and cause him emotional distress.

Because of Raheb and Houston's actions, Jerome was unable to use the Mansion Lot for a period of 1,069 days as a wedding venue or other business purposes as he had done in the past.

After the wedding, Raheb would challenge Jerome and others using the easement with vulgarities and intimidating language. Jerome's wedding business no longer used the Mansion Lot as a wedding venue because of Raheb's menacing behavior and Raheb and Houston's obstructive actions.

Raheb frequently drove by other property that Jerome owned and used to host wedding receptions. Raheb blew his horn to disrupt ceremonies there.

Jerome also has a B&B whose guests he had told about the Mansion Lot. After the wedding, Raheb interfered with these guests' use of the Mansion Lot. As a result, Jerome stopped telling guests about the Mansion Lot.

Raheb and Houston spray-painted a tree on the Mansion Lot and posted a No Trespassing sign above the spray-painting. They also placed a large homemade Keep Out sign on the Mansion Lot.

Raheb posted negative messages about Jerome and his businesses online. Raheb intended to interfere with Jerome's businesses by making these posts. Raheb's social media behavior upset Jerome, made him anxious and concerned for his safety and the safety of his family.

On September 7, 2021, Raheb filed a complaint for relief from stalking against Jerome, Docket No. 21-ST-00856. Houston filed a similar complaint on October 18, 2021, No. 21-ST-01031. Those matters were consolidated by stipulation and dismissed after hearing. Findings and Order filed January 27, 2022.

On January 14, 2022, Jerome filed this complaint and sought injunctive relief to remove the obstructions from Mansion Drive. The court granted Jerome's motion for preliminary injunction compelling Houston and Raheb to remove the stone barricade, enjoining them from placing any vehicle, structure, or other object across Mansion Drive, and enjoining interference with use of Mansion Drive by Jerome or his invitees. The court also ordered that Jerome provide a surety bond in the amount of \$50,000. Decision on Motion dated March 4, 2022.

Jerome has paid \$2,000 toward the required bond, and has incurred \$2,000 more that he has not yet paid.

After injunctive relief was granted, Raheb and Houston continued to obstruct the road placing speed bumps and digging trenches later in 2022. The digging and placement of speed bumps damaged the road. The cost to repair Mansion

Drive to the condition it was in prior to Raheb and Houston's interference is \$17,600.

In February 2023, Raheb and Houston posted signs against trespassing on the Mansion Lot. Raheb cut Jerome's sugaring lines on the Mansion Lot and posted pictures of the cut lines on social media. Jerome stopped sugaring the Mansion Lot because he felt it was unsafe to do so.

On multiple occasions Jerome heard gun shots fired, more than thirty at a time, on the Bluestone Lot immediately after a conversation with Raheb.

During a storm in early 2023, Jerome's efforts to plow Mansion Drive to allow emergency access for utility trucks were blocked at Raheb's direction.

Throughout the summer of 2023, Raheb confronted Jerome frequently when Jerome accessed the Mansion Lot by Mansion Drive. Raheb has posted messages critical of Jerome and urging readers not to use Jerome's businesses.

On May 10, 2024, the court awarded Jerome \$2,162.50 in attorneys' fees against Raheb and Houston. Raheb and Houston were ordered to pay these fees by June 9, 2024. They have not paid these fees.

Jerome filed a motion for default judgment or in the alternative for partial summary judgment on liability on July 25, 2024. Raheb and Houston, despite notice, failed to appear for a pretrial conference on July 26, 2024.

Houston transferred the Bluestone Lot on August 8, 2024. That deed repeats the description of the Mansion Drive easement. Raheb and Houston

moved away in August 2024. New neighbors now reside at the Bluestone Lot.

Raheb and Houston moved to dismiss on August 10, 2024 asserting the sale of the property and Jerome's lack of damages. By order dated September 10, 2024, the court denied that motion and granted Jerome partial summary judgment on liability on all three counts.

Analysis

In his complaint, Jerome asserted three causes of action: nuisance, interference with prospective business relationships, and intentional infliction of emotional distress.

As to nuisance, the court finds that Raheb and Houston's acts of erecting obstructions to Mansion Drive and refusing to remove them when requested by Jerome and when ordered by the court interfered substantially with Jerome's use and enjoyment of his property; that the interference was unreasonable and substantial in light of Defendants' knowledge of the easement; that the interference is of definite offensiveness, inconvenience, and annoyance to the normal person in the community; that Jerome has suffered damages; and that Raheb and Houston's conduct is outrageously reprehensible, and done in bad faith with malice, warranting punitive damages.

Regarding interference with prospective business relationships, the court finds that Jerome had a valid business relationship on September 5, 2021 with Anderson to conduct a wedding ceremony at the Mansion Lot using Mansion Drive for access; that Jerome has an expectancy of continued

business relationships connected to use of the property and easement; that Raheb and Houston had knowledge of those relationships and expectancy; that by erecting obstructions they intentionally interfered; that Jerome has suffered and will continue to suffer damages; and that the conduct is outrageously reprehensible and done in bad faith with malice, warranting punitive damages.

Jerome lastly claims IIED. To succeed, a plaintiff must demonstrate behavior so extreme and outrageous that it goes beyond all possible bounds of decency, that the defendant acted intentionally or with reckless disregard, and that the plaintiff suffered extreme emotional distress actually or proximately caused by the conduct. *Schwartz v. Frankenhoff*, 169 Vt. 287 (1999); *Davis v. American Legion, Dept. of Vermont*, 2014 VT 134. The distress must be "so severe that no reasonable person could be expected to endure it." *Baldwin v. Upper Valley Servs., Inc.*, 162 Vt. 51, 57 (1994). This standard is higher than that for punitive damages. *Cate v. City of Burlington*, 2013 VT 64.

While Jerome testified credibly to being anxious, unsafe, disturbed, unsettled, embarrassed, alarmed and violated, Jerome did not describe any specific severe or extreme emotional distress that he has suffered as an actual or proximate result of the defendants' conduct. Without proof of such actual suffering, the IIED claim for damages must fail.

Under either the nuisance or tortious interference claim, Jerome is entitled to damages actually caused by defendants' actions.

Jerome asserts the following costs: \$4,000 in bond payments required by the court, and \$2,162.50 in attorneys' fees plus \$278.69 in accrued interest since the award. These damages are the result of defendants' actions and are awarded to Jerome.

Jerome seeks \$17,600 to restore Mansion Drive to its condition prior to defendants' wrongful acts. Defendants caused damage to Mansion Drive that impacts Jerome's use of the easement to which he is legally entitled. Defendants had no valid reason to obstruct Jerome's access or damage the roadway. The amount is reasonable and Jerome is awarded \$17,600.

Jerome claims 1,069 days of the loss of use of Mansion Drive and the Mansion Lot for personal and business reasons. He asserts that the value of these personal and business losses are \$73,175 each, or a total of \$146,350. Damages for loss of use caused by tortious annoyance, interference and/or nuisance may be difficult to compute, but such difficulty does not render an award impossible. *Vermont Electric Supply Co. v. Andrus*, 132 Vt. 195, 200 (1974).

Jerome estimates that the value of the loss of use caused by defendants' actions amounted to \$25,000 per year. Spread over nearly three years that amounts to \$73,175. The evidence established that Jerome had used the Mansion Lot and Mansion Drive frequently for personal use over a long period and that defendants' behavior prevented this use for nearly three years. The estimated value for the loss of his personal use is reasonable.

Similarly, Jerome's businesses were prevented from using the property which they had used frequently in the past resulting in profit to Jerome. The estimated value for that loss is reasonable.

Punitive damages require proof of malice, which can be established through evidence of bad motive or conduct manifesting personal ill will, insult, oppression, or reckless disregard for another's rights. Malice is not proven by wrongful or illegal conduct alone. *Kneebinding, Inc. v. Howell*, 2018 VT 101; *Beaudoin v. Feldman*, 2018 VT 83. An award of punitive damages requires wrongful conduct that is outrageously reprehensible, and malice.

Here, there is ample evidence of both. The court finds that defendants acted in an outrageously reprehensible manner and with malice against Jerome by repeatedly interfering with his use and enjoyment of his property without justification and in spite of a court order to remove obstructions and refrain from interfering with the use of Mansion Drive.

Jerome seeks \$150,000 for punitive damages. This amount is roughly equal to the actual damages awarded above and is supported by the evidence of outrageously reprehensible conduct, malice and bad faith.

Order

In total, Jerome is awarded \$170,391.19 in damages and \$150,000 in punitive damages plus his costs of suit and post-judgment interest. Jerome shall prepare a proposed judgment order consistent with this order.

Signed electronically July 9, 2025 pursuant to
V.R.E.F. 9(d).

David Barra Superior Court Judge

APPENDIX A-6

Vermont Superior Court, Bennington Unit, Civil
Division

James Jerome, Jr. v. Kerry Raheb, et al., No.
22-CV-00175

Denial of Motion to Vacate — October 15, 2025
Judge David A. Barra

ENTRY REGARDING MOTION

Title: Motion to Vacate Judgment Pursuant to
V.R.C.P. 60(b)(3) and (6) (Motion 41) Filer: Kerry
Patrick Raheb; Renee Houston Filed Date: August
11, 2025

Defendants, Kerry Patrick Raheb and Renee
Houston, file this motion pro se, seeking to vacate a
judgment entered against them. They claim this
case was filed fraudulently and should be vacated
under Vermont Rule of Civil Procedure 60(b)(3).

Background

This matter arose from a disagreement between
neighbors over the existence and use of an
easement on the driveway which served Mr. Raheb
and Ms. Houston's former residence on Bluestone
Road in Bennington, Vermont. Plaintiff James
Jerome filed a complaint in January 2022, claiming
actions taken by Mr. Raheb and Ms. Houston to
block access to the driveway running between
Mount Anthony Road and Bluestone Road
constituted nuisance, interference with prospective
business relationships, and intentional infliction of
emotional distress.

Mr. Raheb and Ms. Houston filed multiple motions to dismiss, motions to recuse two different judges, opposing counsel, and a mediator, engaged in a lengthy back and forth over mediation, and refused to participate in discovery. Due to that refusal, and a subsequent order for sanctions issued on May 10, 2024, Mr. Jerome filed a motion for default judgment under V.R.C.P. 54, or alternatively summary judgment on liability under V.R.C.P. 56.

On September 10, 2024, this court granted partial summary judgment, holding Mr. Raheb and Ms. Houston liable on all three counts, based on the record of undisputed facts. The court set out the factual circumstances in its May 10, 2024 Entry Order on Plaintiff's Motion for Sanctions. The Undisputed Facts filed by Mr. Jerome on July 25, 2024 was based on those facts and Mr. Jerome's personal knowledge in a supporting affidavit. The court admitted those facts by reference in its Findings and Order on July 9, 2025.

The court held a hearing for damages on July 7, 2025. Mr. Jerome, represented by counsel, appeared and testified. Neither Mr. Raheb nor Ms. Houston attended. The court entered an order for damages based on Mr. Jerome's credible testimony and evidence.

On August 11, 2025, Mr. Raheb and Ms. Houston filed a motion to vacate the judgment based on fraud under V.R.C.P. 60(b)(3), supported with an affidavit and various exhibits. On August 22, 2025, they filed a reply to Mr. Jerome's Opposition Memorandum and included further exhibits.

Defendants' Arguments

Mr. Raheb and Ms. Houston appear pro se. The court will be cautious that a pro se party is not taken advantage of by strict application of the rules. *Town of Washington v. Emmons*, 2007 VT 22, ¶ 7. However, a pro se party may not use that status as a shield. *Zorn v. Smith*, 2011 VT 10, ¶ 22; V.R.C.P. 79.1(a).

The arguments raised by the Motion to Vacate fall into a few categories. 1. Accusations related to a case in another state. 2. Accusations related to court cases in other dockets that have been resolved. 3. A claim that Mr. Raheb and Ms. Houston were denied a hearing, mediation, and a jury. 4. A generalized claim that the case in this docket was filed fraudulently.

Accusations relating to cases that are not before this court in this docket are not relevant to the judgment they seek to vacate. This is particularly true of actions in out-of-state courts.

The accusations regarding other Vermont proceedings do not appear to be defenses to Mr. Jerome's complaint here. First, they are not strongly supported: one affidavit by a self-interested party, and various photos. Second, the motion does not convincingly connect those accusations with the claims that formed the basis of the complaint and subsequent judgment. If the actions arose from the same occurrences which caused Mr. Jerome to file his complaint, Mr. Raheb and Ms. Houston were required to bring them as compulsory counterclaims when they filed their answer. V.R.C.P. 13(a). To the extent those accusations are compulsory counterclaims, they were waived and do not support vacating the

judgment.

Similar accusations have been raised at various times by inference rather than by proper pleading. A motion to vacate may not be used to afford parties a second, better opportunity to litigate issues already contested and decided. *Pirdair v. Med. Ctr. Hosp. of Vt.*, 173 Vt. 411, 415 (2002).

The exhibits offered to support fraud are Exhibit 1, a copy of the judgment; Exhibit 10, an aerial view of Mr. Jerome's property; Reply Exhibit 7, a memorandum from former counsel about the feasibility of pursuing litigation; and Reply Exhibit 8, an aerial view of Mr. Jerome's property on West Road.

Analysis

Rule 60 governs relief from a judgment or order. *Godin v. Godin*, 168 Vt. 514, 517 (1998). Rule 60(b) specifies grounds including fraud, misrepresentation, or other misconduct of an adverse party, and a catch-all under which a party may bring a claim of fraud on the court. V.R.C.P. 60(b)(3), (6). Relief will only be granted in extraordinary circumstances. *Adamson v. Dodge*, 174 Vt. 311, 327 (2002).

Though Mr. Raheb and Ms. Houston did not specifically raise fraud on the court under Rule 60(b)(6), the court will consider it to give the pro se party the benefit of their full motion.

To succeed on a claim of fraud on the court, the moving party must prove egregious misconduct designed to mislead the court itself, such as by filing false evidence. *Olio v. Olio*, 2012 VT 44, ¶ 19.

Fraud on the court necessarily involves a deliberate effort to subvert the judicial process. In re G.L., 2024 VT 60, ¶ 44.

To succeed on a claim of fraud generally under Rule 60(b)(3), the moving party must prove the adverse party's actions meet the elements of fraud. The evidence supporting a claim of fraud must be clear and convincing. *Godin*, 168 Vt. at 519. The burden is on the party seeking relief to plead facts with sufficient particularity. *Spencer v. Spencer*, 2014 VT 63, ¶ 13.

To vacate the judgment they must prove by clear and convincing evidence that Mr. Jerome perpetrated some fraud in this matter. They claim they were denied a hearing, mediation, and a jury, and that the complaint was filed fraudulently.

The record shows a hearing was scheduled to determine damages. Notice of Hearing (May 14, 2025). Mr. Raheb and Ms. Houston do not contest that they received notice. They did not appear and did not request a continuance. Findings and Order at 1 (July 9, 2025). They have previously filed requests for continuance. They stated their nonappearance was due to a death in the family, but they did not timely seek a continuance or provide clear and convincing evidence that they were unavailable the day of the hearing. They were granted an opportunity for a hearing and did not avail themselves of it.

The record also shows they prevented mediation from taking place by refusing to participate in discovery. Both parties eventually agreed to a mediator. They then refused discovery, preventing

mediation and leading to the motion for summary judgment. No clear and convincing evidence has been presented that anyone other than Mr. Raheb and Ms. Houston chose to obstruct that process.

Finally, both parties requested a jury trial. The court granted the request and told the parties a jury trial would be scheduled after discovery. Entry Order at 2 (Apr. 27, 2022). They did not participate in discovery. A jury trial was not scheduled because Mr. Jerome was granted summary judgment. Rule 60(b) does not protect a party from tactical decisions which in retrospect may seem ill advised. *Rule v. Tobin*, 168 Vt. 166, 174 (1998).

As to the claim that this docket was filed fraudulently, they present a speculative memo from former counsel and aerial views. None of those exhibits are more clear and convincing than Ms. Houston's own deed, which refers to an easement on the driveway, subservient to Mr. Jerome's Mount Anthony Road property. Findings and Order at 1 (July 9, 2025).

They also appear to argue that because Mr. Jerome headquartered a rental business at a different property, the claim of business interference was fraudulent. The location of a headquarters is not synonymous with all locations where business activities take place. *Vermont Institute of Community Involvement, Inc. v. Department of Employment Security*, 140 Vt. 94, 99 (1981). The evidence does not contradict the findings that business took place at the Mount Anthony property on the day in question, and that Mr. Raheb and Ms. Houston's actions disrupted that business. Findings and Order at 2-3 (July 9, 2025).

The court does not find Mr. Raheb and Ms. Houston have presented clear and convincing evidence of fraud under either V.R.C.P. 60(b)(3) or 60(b)(6).

The Motion to Vacate is denied.

Signed electronically October 15, 2025 pursuant to V.R.E.F. 9(d).

David Barra Superior Court Judge