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VERMONT SUPREME COURT
109 State Street
Montpelier VT 05609-0801
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Case No. 25-AP-409

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

AUGUST TERM, 2026

Juliet Stephens v. Shannon Gilmour*

APPEALED FROM:
Superior Court, Washington Unit,
Civil Division
CASE NO. 24-CV-04273
Trial Judges: Timothy B. Tomasi (pretrial motions); Daniel P. Richardson (trial)

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

Tenant, self-represented, appeals following a jury verdict in favor of landlord in this eviction action. We affirm.

I. Background

The record reflects the following. In October 2024, through counsel, landlord filed a complaint for eviction in which she named tenant and "all other occupants" of the subject premises as defendants. The complaint included the following allegations. Landlord lives in a residence she owns in Montpelier. Pursuant to a written lease with a one-year term, tenant rented two rooms in this residence beginning in September 2023 and lived there with her minor child. In October 2024, landlord served tenant with a notice of termination of tenancy; tenant and child did not vacate the residence by the termination date reflected in the notice. On this basis, landlord sought a writ of possession requiring tenant and child to vacate the residence.

Tenant entered a notice of appearance as a self-represented party. She filed counterclaims on behalf of herself and child, alleging: breach of the implied warranty of habitability based on lack of carbon-monoxide and smoke detectors required by law and intentional infliction of emotional distress (IIED) as to landlord's conduct regarding that safety equipment; breach of the implied warranty of habitability arising from mold in a bathroom sink; IIED, abuse of process, and defamation stemming from landlord's service of tenant's twelve-year-old child with the summons and complaint; and retaliatory eviction in response to tenant's assertion of her rights in connection with notice of a rent increase and the carbon-monoxide and smoke detectors.

Landlord moved to dismiss the counterclaims for failure to state a claim on which relief could be granted. In January 2025, the court granted the motion as to tenant's two IIED counterclaims and her defamation counterclaim. In its decision, it noted that although tenant appeared on behalf of child as their parent and next friend, child was not represented by counsel. The court explained that tenant, as a nonattorney, could not act as child's legal representative. It therefore directed tenant to, within thirty days, obtain counsel for child or show cause as to why child's counterclaims should not be dismissed. It warned that failure to do so would result in child's counterclaims being dismissed.

Tenant responded to the show-cause order, raising arguments that went to the merits of child's counterclaims. An attorney then filed a notice of appearance on child's behalf, indicating that the appearance was limited to the filing of a motion to clarify, but that if the court ruled that child remained a party, he would file a second notice to advise the court of the scope of his "subsequent limited appearance." In the motion to clarify, the attorney indicated that it was child's intent to move the court to consider the arguments tenant raised on child's behalf, but that counsel did not endorse or adopt those arguments.

Landlord then moved to voluntarily dismiss her complaint against child. The court granted the motion. In the same order, it addressed the issues regarding child's representation. It observed that neither tenant's response to the show-cause order nor the attorney's limited appearance addressed the issue concerning child's lack of legal representation. The court then explained that it was not satisfied that tenant had effectively obtained counsel for child, and that any further delay was unwarranted and would result in prejudice. It therefore dismissed child's counterclaims without prejudice.

Landlord subsequently filed a renewed motion to dismiss tenant's abuse-of-process counterclaim for failure to state a claim and lack of standing. The court agreed that tenant did not have standing to raise a claim on behalf of child and granted the motion on this basis.

The court held a jury trial over two days in October 2025. Landlord was present with counsel and tenant was self-represented.

After the close of evidence, landlord moved for judgment as a matter of law on tenant's warranty-of-habitability counterclaims.[1] The court granted the motion, concluding that tenant did not present sufficient evidence of her damages to submit these claims to the jury.

Following deliberation, the jury concluded that landlord had proved that she properly terminated tenant's tenancy and that tenant had not shown that landlord's notice of termination

---

[1] Counsel for landlord described the motion as one "for a directed verdict" under Vermont Rule of Civil Procedure 50. Motions under Rule 50 are now titled motions for judgment as a matter of law. See Reporter's Notes—1994 Amendment, V.R.C.P. 50 (amending Rule 50 to refer to motions for judgment as matter of law rather than for direction of verdict and explaining that this change did not alter existing standard and that motion "denominated a motion for directed verdict . . . . should be treated as a motion for judgment as a matter of law in accordance with this rule" (quotation omitted)). The court appropriately analyzed landlord's motion under Rule 50(a), and we hereinafter refer to its ruling as one granting judgment as a matter of law.

was a retaliatory eviction. On this basis, the court issued a writ of possession and entered final judgment for landlord. This appeal followed.

II. Analysis

Tenant raises numerous arguments on appeal. We begin by addressing two preliminary issues regarding our scope of review before turning to those issues properly before us.

First, although tenant appears to challenge several of the court's rulings related to child's representation and child's counterclaims, tenant has not shown that she has standing to raise these issues on appeal. Generally, an appellant "must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties." In re John L. Norris Tr., 143 Vt. 325, 328 (1983) (rejecting appellant's request to remand for consideration of codefendants' interests where codefendants did not appeal and appellant did not show "that either she or her attorney have any authorization or standing to represent their interests"); see Agency of Nat. Res. v. U.S. Fire Ins. Co., 173 Vt. 302, 306 (2001) (explaining that "prudential limitations on standing include the general prohibition on a litigant's raising another person's legal rights" (quotation omitted)). Thus, we have explained that "[t]o establish standing to raise a claim on appeal, 'the rights of the party seeking to appeal must be adversely affected by the judgment.' " PeakCM, LLC v. Mountainview Metal Sys., LLC, 2025 VT 50, ¶ 41 (emphasis added) (quoting In re M.C., 156 Vt. 642, 642-43 (1991) (mem.) (articulating common-law standard governing appellate standing in absence of statutory provision expanding scope of appellate standing)). Because tenant has not demonstrated that she has the right to assert these arguments on behalf of child, we decline to consider them. See id. ¶ 42 (declining to consider appellant's challenge to dismissal of another party's claim where appellant failed to show standing to appeal from that decision).

Second, we note that "[i]t is the burden of the appellant to demonstrate how the lower court erred warranting reversal," and "[w]e will not comb the record searching for error." In re S.B.L., 150 Vt. 294, 297 (1988). Although self-represented litigants "receive some leeway from the courts," they are still bound by the rules of procedure, including the minimum briefing standards of Vermont Rule of Appellate Procedure 28(a)(4). Zorn v. Smith, 2011 VT 10, ¶ 22, 189 Vt. 219; Pcolar v. Casella Waste Sys., Inc., 2012 VT 58, ¶ 19, 192 Vt. 343 (declining to address argument raised by self-represented party because briefing did not satisfy Appellate Rule 28(a)(4)). Appellate Rule 28(a)(4)(A) provides that the argument section of an appellant's principal brief "must contain . . . the issues presented, how they were preserved, and appellant's contentions and the reasons for them—with citations to the authorities, statutes, and parts of the record on which the appellant relies." Tenant's briefing with respect to her contentions that, among other things, the court's rulings unconstitutionally chilled her right to petition the government for redress of grievances, the court erred in failing to address landlord's attorney's alleged violations of the rules of professional responsibility, the court violated the Vermont Constitution by striking a response to an unspecified juror question, and that tenant was prejudiced by an alleged "cascade of institutional failures" and structural and systemic issues do not minimally meet the requirements of Rule 28(a)(4)(A). We do not further address these issues as the briefing is inadequate to support appellate review. Westwardhos LLC v. Anatoly Glass LLC, 2026 VT 19, ¶ 18 (explaining that this Court "will not address arguments," even those raised by self-represented litigants, "that do not minimally meet" requirements of Appellate Rule 28(a)).

With this understanding, we turn to tenant's remaining arguments. We first address her contention that the trial court violated constitutional due-process guarantees by "refus[ing]" to appoint an attorney to represent her at public expense. In general, there is no right to counsel—and thus no right to the appointment of counsel—in civil cases. In re G.G., 2017 VT 10, ¶ 10, 204 Vt. 148. Tenant argues, however, that due process required such an appointment under the circumstances of this case. She has not demonstrated that she preserved this argument for our review by raising it below. See O'Rourke v. Lunde, 2014 VT 88, ¶ 21, 197 Vt. 360 (holding that "[i]n order to rely on an argument on appeal, an appellant must properly preserve it by presenting it to the trial court with specificity and clarity" and declining to address arguments raised for first time on appeal (quotation omitted)); In re Green Mountain Power Corp., 2012 VT 89, ¶ 22, 192 Vt. 429 (recognizing that it is appellant's "burden to show how an issue is preserved"); see also V.R.A.P. 28(a)(4)(A). While tenant asserts that she repeatedly raised the issue below, she has not cited to any portion of the record reflecting that she ever requested appointment of counsel or that the trial court denied that request. Because tenant has not shown that she presented this argument to the trial court, we do not address it on appeal.

Tenant next argues that the court erred in dismissing her IIED counterclaims. We review the grant of a motion to dismiss for failure to state a claim "without deference, applying the same standard as the trial court." Montague v. Hundred Acre Homestead, LLC, 2019 VT 16, ¶ 10, 209 Vt. 514. Under that standard, we assume that the facts pleaded are true and draw all reasonable inferences in favor of the nonmoving party. Id. Dismissal is proper when it is beyond doubt that there exist no facts or circumstances that would entitle the nonmoving party to relief. Id.

To state a claim for IIED, the proponent must allege "outrageous conduct, done intentionally or with reckless disregard of the probability of causing emotional distress, resulting in the suffering of extreme emotional distress, actually or proximately caused by the outrageous conduct." Colby v. Umbrella, Inc., 2008 VT 20, ¶ 10, 184 Vt. 1 (quotation omitted). Establishing a prima facie case of IIED is a "heavy burden." Siliski v. Allstate Ins. Co., 174 Vt. 200, 208 (2002). We have explained that "[t]he conduct must be so outrageous in character and so extreme in degree as to go beyond all possible bounds of decent and tolerable conduct in a civilized community and be regarded as atrocious and utterly intolerable." Dulude v. Fletcher Allen Health Care, Inc., 174 Vt. 74, 83 (2002).

As to the IIED claim related to the absence of smoke and carbon-monoxide detectors, the court explained that landlord's alleged conduct did not rise to the requisite standard. The only challenge tenant appears to raise in connection with this ruling is that the court's dismissal order did not address an exhibit that had been filed several weeks earlier. On a motion to dismiss, however, the court's consideration is limited to the allegations in the pleading and the documents attached to or incorporated by reference therein. Kaplan v. Morgan Stanley & Co., 2009 VT 78, ¶ 10 n.4, 186 Vt. 605 (mem.). The court did not err in not considering a subsequently filed exhibit in its analysis.

The second IIED claim was based on landlord's conduct in arranging for tenant's child to be served with a separate summons and complaint in connection with the eviction action, as well as the alleged conduct of landlord's attorney while acting on her behalf. As noted above, "[t]he standard for establishing 'outrageous' conduct is necessarily a high one." Denton v. Chittenden Bank, 163 Vt. 62, 66 (1994). The trial court concluded that the allegations in the complaint did not satisfy this rigorous standard. Tenant has not shown that this was error under our existing

precedent addressing IIED claims predicated on litigation conduct. See, e.g., Siliski, 174 Vt. at 207-08 (concluding that allegations that defendants filed counterclaim without factual or legal basis for purpose of humiliating, embarrassing, and intimidating plaintiffs and coercing them into dropping their own bona fide claims, taken as true, were "simply not enough to make out a claim for IIED").

Next, we consider tenant's challenge to the court's dismissal of her abuse-of-process counterclaim. Although the majority of tenant's arguments go to the merits of the counterclaim, the court did not reach that issue. Instead, it held that assuming tenant's allegations stated a cause of action for abuse of process, that claim would need to have been brought by child rather than tenant because the principal harm asserted was suffered by child.

On appeal, tenant argues that she had standing to raise the abuse-of-process counterclaim because she suffered a direct constitutional injury in the form of interference with her liberty interest in "the care, custody, and control" of child. Troxel v. Granville, 530 U.S. 57, 65 (2000) (recognizing fundamental right of parents to care, custody, and control of child). Tenant did not, however, raise this contention in opposition to landlord's motion to dismiss the counterclaim. As a result, she has not preserved it for our review on appeal. See State v. Ben-Mont Corp., 163 Vt. 53, 61 (1994) ("To properly preserve an issue for appeal a party must present the issue with specificity and clarity in a manner which gives the trial court a fair opportunity to rule on it.").

Next, tenant argues that the trial court abused its discretion in excluding evidence related to a September 2024 call between tenant and landlord's attorney. In a pretrial ruling addressing, among other things, the parties' motions in limine, the court concluded that pre-suit communications between tenant and the attorney were made in the context of settlement negotiations and therefore inadmissible under Vermont Rule of Evidence 408. As the court noted, that rule provides that evidence of "conduct or statements made in compromise negotiations regarding the claim or any other claim" is inadmissible when offered to, among other things, prove liability for a disputed claim. V.R.E. 408(a)(2).

"A trial court has broad discretion in its pretrial evidentiary rulings," and we will affirm those rulings "absent a showing that the court has withheld or abused its discretion on clearly untenable or unreasonable grounds." Shaffer v. N.E. Kingdom Hum. Servs., Inc., 2025 VT 31, ¶ 13 (quotations omitted). Tenant has not made this showing here. She appears to assert that because the communication gave rise to her retaliatory-eviction counterclaim, there was no disputed claim at the time the communication was made. As noted above, however, the rule applies broadly to "conduct or statements made in compromise negotiations regarding the claim or any other claim"—such as landlord's eviction claim. V.R.E. 408(a)(2) (emphasis added).

Tenant also argues that she was prejudiced by the timing of the court's ruling shortly before trial because she did not have a meaningful opportunity to restructure her case. We do not reach this contention because tenant has not demonstrated that she preserved it below by filing a motion to continue the trial on this basis. See Ben-Mont Corp., 163 Vt. at 61.

Next, tenant challenges the court's ruling, at trial, that she had not pleaded a counterclaim under the Consumer Fraud Act. During tenant's opening argument, she alluded to landlord's attorney's alleged participation in the conduct giving rise to tenant's retaliatory-eviction counterclaim. The court then addressed the parties in a sidebar, where tenant argued that the attorney could be held responsible under the Consumer Fraud Act. The court responded that

there was no consumer-fraud claim in the case, explaining that although tenant "wrote the words 'consumer fraud' on the initial answer," she "did not plead the elements of consumer fraud." The court took up the issue again when the parties discussed the proposed jury instructions on the last day of trial, reiterating its conclusion that tenant had not pleaded a consumer-fraud claim. It explained that tenant's pleadings were not sufficient to put landlord on notice that tenant was raising a consumer-fraud counterclaim, and that tenant never sought to amend those pleadings in order to raise the claim.

Tenant argues that the court failed to make appropriate allowances for her in light of her self-represented status. As the court recognized in addressing this issue, however, self-represented litigants "are still bound by the ordinary rules of civil procedure." Zorn, 2011 VT 10, ¶ 22 (quotation omitted). These include pleading standards set forth in Civil Rule 8. See Reporter's Notes, V.R.C.P. 8 (providing that pleading must be "a statement clear enough to give the defendant fair notice of what the plaintiff's claim is and the grounds on which it rests" (quotation omitted)). Tenant has not demonstrated that the court erred in concluding that she did not plead a counterclaim under the Consumer Fraud Act. See Bloomer v. Gibson, 2006 VT 104, ¶ 14, 180 Vt. 397 ("The court does not abuse its discretion where it enforces the rules of civil procedure equitably, even against a pro se litigant.").

Next, tenant contends that the court erred in granting judgment as a matter of law on her implied-warranty-of-habitability counterclaims. We review a trial court's decision to grant judgment as a matter of law without deference, applying the same standard used below. Driscoll v. Wright Cut & Clean, LLC, 2024 VT 49, ¶ 6, 219 Vt. 623; V.R.C.P. 50(a)(1). In doing so, we consider the evidence in the light most favorable to tenant as the nonmoving party and afford her the benefit of all reasonable inferences. Driscoll, 2024 VT 49, ¶ 6. We will affirm a grant of judgment as a matter of law when "there is no legally sufficient evidentiary basis for a reasonable jury to find for the nonmoving party, such that the facts do not directly support[] the claim and would require the jury to rely on conjecture, surmise or suspicion." Id. ¶ 6 (quotations and citations omitted).

As the trial court recognized, "[i]n residential lease contracts," damages for violation of the implied warranty of habitability "are calculated by determining the difference in value between the agreed-upon rent for [the] unit in habitable condition, and the value of the same unit with habitability defects." Willard v. Parsons Hill P'ship, 2005 VT 69, ¶ 30, 178 Vt. 300. A claim for breach of the implied warranty sounds in contract, id., and "breach-of-contract damages must be proved with reasonable certainty," Madowitz v. Woods at Killington Owners' Ass'n, 2014 VT 21, ¶ 14, 196 Vt. 47 (quotation omitted). The trial court reasoned that because there was no evidence of the value of the unit with the alleged habitability defects, the jury could not find for tenant without resorting to speculation as to her damages, which were an essential element of the counterclaim. On appeal, tenant does not dispute that she did not admit evidence of the value of the unit with the alleged habitability defects. The trial court did not err in concluding that there was no evidentiary basis to find for tenant on habitability claims without relying on conjecture and therefore granting landlord's motion for judgment as a matter of law. Driscoll, 2024 VT 49, ¶ 6.

Finally, tenant argues that the court erred in instructing the jury on the law governing her retaliatory-eviction counterclaim. Tenant did not, however, raise these objections when the court provided the parties with its draft instructions. Civil Rule 51 provides that "[n]o party may

assign as error the giving or the failure to give an instruction unless that party objects thereto either at a charge conference or before the jury retires to consider its verdict, stating distinctly the matter objected to and the grounds of the objection." V.R.C.P. 51(b). Because tenant did not raise her challenges to the instructions below, she has forfeited them on appeal. See Follo v. Florindo, 2009 VT 11, ¶ 14, 185 Vt. 390 (holding that claims of error with respect to jury instructions were forfeited on appeal where not raised as required by Rule 51(b) below).

We have addressed all arguments discernible in tenant's brief and conclude that they are without merit. Tenant has not identified grounds to disturb the judgment below.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Nancy J. Waples, Associate Justice

VERMONT SUPERIOR COURT
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CIVIL DIVISION
Case No. 24-CV-04273

Juliet Stephens v. Shannon Gilmour et al

Opinion and Order on
Ms. Gilmour's Motion for Joinder;
Ms. Stephens' Motion to Dismiss Counterclaims;
Ms. Stephens' Motion for Judgment on the Pleadings; and
Ms. Stephens' Motion to Strike and to Order Sanctions

This is a residential landlord–tenant case in which Plaintiff–Landlord Juliet Stephens is seeking to evict Defendants Shannon Gilmour and her minor daughter, M.G., from the home that Ms. Stephens owns and where all three reside in shared living space. It is apparent that Ms. Stephens and Ms. Gilmour had a falling out after an initial written one-year lease expired, and Defendants have remained in possession notwithstanding a notice to vacate, leading to this case. Ms. Gilmour represents herself in this case and appears on behalf of M.G. as M.G.'s parent/next friend. M.G. is *not* represented by counsel. In response to the complaint, both Ms. Gilmour and M.G. purported to file counterclaims against Ms. Stephens styled as (1) breach of the implied warranty of habitability, (2) breach of the warranty of habitability, (3) retaliatory eviction, (4) & (5) two counts of intentional infliction of emotional distress (IIED), (6) defamation, and (7) abuse of process.

Ms. Gilmour then filed a "motion for joinder" on behalf of herself only. In that filing, she appears to characterize three of her counterclaims as involving litigation conduct of the two attorneys representing Ms. Stephens in this case, Attorneys Claudine

Safar and Miles Stafford, and proposes that the Court declare that their joinder is needed for the just adjudication of this case under Vt. R. Civ. P. 19 (joinder of persons needed for just adjudication).

Ms. Stephens then filed a motion to dismiss Ms. Gilmour's counterclaims for failure to state a claim, a motion for judgment on the pleadings seeking to establish her immediate entitlement to writ of possession, and a Vt. R. Civ. P. 12(f) motion to strike certain materials from the pleadings and a motion.[1]

I. Analysis

A. M.G.'s Unrepresented Status

As a preliminary matter, the Court calls attention to M.G.'s status as a minor without legal counsel. A minor child is an "infant" who lacks capacity to sue or be sued except through a competent representative. Vt. R. Civ. P. 17(b). In this case, Ms. Gilmour is acting as such a representative for M.G., which cures M.G.'s lack of capacity.

However, Ms. Gilmour, acting *pro se*, has also purported to file on M.G.'s behalf an answer and a series of counterclaims. In other words, she is serving not merely as next friend to M.G. but she is litigating for her in a *pro se* capacity. But the non-attorney representative of a party cannot act in a *pro se* capacity for that party—a licensed attorney must be retained; otherwise, the non-attorney is practicing law without a license. *See Est. of Snelgrove v. LeBlanc*, 2023 VT 58, ¶¶ 6–7. As one Court explained:

> "[A] non-attorney parent must be represented by counsel in bringing an action on behalf of his or her child." *Cheung v. Youth Orchestra Found. of Buffalo, Inc.*, 906 F.2d 59, 61 (2d Cir. 1990); *see also McFarlane v. Roberta*, 891 F. Supp. 2d 275, 283 (D. Ct. 2012) (same); *Myers v. Loudoun Cty. Pub. Sch.*, 418 F.3d 395, 401 (4th Cir. 2005) ("We . . . join the vast majority of our sister circuits in holding that non-attorney parents generally may not

[1] Ms. Stephens did not also file a motion to dismiss M.G.'s identical counterclaims.

> litigate the claims of their minor children in federal court."). As the Second Circuit noted, "[i]t goes without saying that it is not in the interests of minors or incompetents that they be represented by non-attorneys. Where they have claims that require adjudication, they are entitled to trained legal assistance so their rights may be fully protected." *Id.* "[A] non-attorney is not allowed to represent another individual . . . without the assistance of counsel. If the representative of the minor or incompetent person is not himself an attorney, he must be represented by an attorney in order to conduct the litigation." *Berrios v. New York City Hous. Auth.*, 564 F.3d 130, 134 (2d Cir. 2009).

Kisonak v. Snyder, No. 835-8-15 Cncv, slip op. at 2 (Vt. Super. Ct. Feb. 2, 2016) (Toor, J.). Ms. Gilmour is not a licensed attorney. *See* https://www.vermontjudiciary.org/sites/default/files/documents/AttorneyGoodStanding_40.pdf. She may not provide legal representation or act *pro se* for M.G. in this case.

Accordingly, Ms. Gilmour shall obtain counsel for M.G. or show cause as to why M.G.'s counterclaims should not be dismissed within 30 days.

Separately, however, the Court lacks clarity as to why M.G. needs to be a formal party to this case at all. While M.G. plainly lives at the residence, it would appear, at first blush, that her claim to the tenancy is derivative of her mother's. If it is determined that Ms. Stephens is entitled to a writ of possession, there appears no obvious risk that M.G. would somehow seek to retain possession as an individual, nevertheless. It is, thus, not plain to the Court that she is necessary to afford complete relief in this case.

While there may be no express legal prohibition against naming all those living at a dwelling in an eviction case, Ms. Stephens cites no authority of any consequence for requiring that M.G. be a party to this case and has identified no clear need for her presence. She cites in support only one Vermont Supreme Court case for this proposition: "Vermont courts have held that children are subject to eviction proceedings." Ms. Stephens' Motion to Dismiss Counterclaims at 12 (filed December 6, 2024) (*citing*

Craddock v. Heffermehl, No. 2018-126, 2018 WL 5785456, at *4 (Vt. Nov. 2, 2018) (unpub. mem.).

Heffermehl, though, is an unpublished entry order and by definition has no precedential value. *See* V.R.A.P. 33.1(d)(1). Additionally, on the one hand, *Heffermehl* merely affirmed the trial court's ruling that Mr. Heffermehl's children had the status of minor occupants in the parent's household and could be evicted with their parent. On the other, it did entertain independent appeals from the children and considered whether they had independent standing to resist the writ of possession.

Heffermehl provides no express basis for requiring that M.G. remain a formal party in this case–even if originally named in good faith as tenant at the residence. It arguably suggests that a minor might be named in such a suit but also indicates they are not typically needed to afford full relief. Accordingly, Ms. Stephens shall show cause as to why her claims against M.G. should not be dismissed within 30 days.[2]

B. Ms. Gilmour's Motion for Joinder

The Court declines to rule that opposing counsel, Attorneys Safar and Stafford, are missing persons needed for the just adjudication of this case on the narrow procedural vehicle provided by Rule 19. Rule 19(a) states: "A person who is subject to service of process shall be joined as a party in the action if (1) in the person's absence complete relief cannot be accorded *among those already parties*, or (2) *the person claims an interest* relating to the subject of the action and is so situated that the disposition of the action in

[2] Alternatively, the parties could simply agree to withdraw all claims asserted by and against M.G. and dismiss her from this case. That would permit all to focus on the viable claims remaining after this ruling.

the person's absence may: (i) as a practical matter impair or impede the person's ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the person's claimed interest." Vt. R. Civ. P. 19(a) (emphasis added).

Attorneys Safar and Stafford are not parties to this case, and they are irrelevant to complete relief "among those already parties." Moreover, they assert no interests of their own that would in any way be prejudiced by a judgment in this case.

This motion is denied.

C. Ms. Stephens' Motion to Dismiss Counterclaims

Ms. Stephens asks the Court to dismiss all counterclaims asserted by Ms. Gilmour for failure to state a claim. As noted, *see supra* n.1 at 2, M.G.'s counterclaims are not now at issue.

A motion to dismiss for failure to state a claim faces a high bar. The Vermont Supreme Court has described the familiar standard for Rule 12(b)(6) motions to dismiss for failure to state a claim as follows:

> "A motion to dismiss . . . is not favored and rarely granted." This is especially true "when the asserted theory of liability is novel or extreme," as such cases "should be explored in the light of facts as developed by the evidence, and, generally, not dismissed before trial because of the mere novelty of the allegations." In reviewing a motion to dismiss, we consider whether, taking all of the nonmoving party's factual allegations as true, "'it appears beyond doubt' that there exist no facts or circumstances that would entitle the plaintiff to relief." We treat all reasonable inferences from the complaint as true, and we assume that the movant's contravening assertions are false.

Alger v. Dep't of Labor & Indus., 2006 VT 115, ¶ 12, 181 Vt. 309, 316–17 (citations omitted); *see also* 5B A. Benjamin Spencer, *et al., Fed. Prac. & Proc. Civ.* § 1357 (4th ed.)

("Ultimately, the burden is on the moving party to prove that no legally cognizable claim for relief exists.").

Ms. Gilmour's retaliatory eviction and breaches of the warranty of habitability claims (Counts 1–3) are sparsely pled, but they are stated sufficiently for Vt. R. Civ. P. 8 purposes.

The two IIED claims (Count 4–5) do not survive the Rule 12(b)(6) standard. To survive dismissal of an IIED claim, a plaintiff must allege: "(1) conduct that is extreme and outrageous; (2) conduct that is intentional or reckless; and (3) conduct that causes severe emotional distress." *Baptie v. Bruno*, 2013 VT 117, ¶ 24, 195 Vt. 308, 318. The third Restatement clarifies that extreme and outrageous are separate issues:

> The adjectives "extreme" and "outrageous" are used together in a fashion that might suggest that each merely emphasizes the other, rather than serving a distinct role. However, some conduct that may be outrageous—for example, marital infidelity—is sufficiently common that it could not be characterized as extreme (although today it may also not be outrageous). Similarly, some extreme conduct—climbing Mt. Everest, for example—is not outrageous. Thus, this double limitation, "extreme and outrageous," requires both that the character of the conduct be outrageous and that the conduct be sufficiently unusual to be extreme.

Restatement (Third) of Torts: Phys. & Emot. Harm § 46 cmt. d. To satisfy the outrageousness element, the defendant's behavior must "surpass the bounds of decency that can be tolerated in a civilized society." *Fromson v. State*, 2004 VT 29, ¶ 15, 176 Vt. 395, 399. A plaintiff must also allege that the defendant's actions caused him to suffer "distress so severe that no reasonable person could be expected to endure it." *Baldwin v. Upper Valley Services, Inc.*, 162 Vt. 51, 57 (1994).

The thrust of the first IIED claim is that at some point Ms. Gilmour realized that the house lacked smoke and carbon monoxide detectors. On Ms. Gilmour's complaint,

Ms. Stephens purchased them but did not install them. Ms. Gilmour realized a long time later that they still had not been installed, complained again, and they were installed. She alleges distress at finding out that she had been living without them.

As a matter of law, and without any exacerbating circumstances, these circumstances are insufficient to support an IIED claim. The temporary lack of detectors probably is not outrageous to an IIED standard but it certainly is not so unusual as to be extreme.

The second IIED claim is that M.G. suffered distress by being served process and otherwise being made a participant to this case. The Court declines to address the potential merit of such a claim, as asserted by M.G., here. Any such claim belongs to M.G., not Ms. Gilmour, and M.G. in fact has asserted that claim against Ms. Stephens.

To the extent that Ms. Gilmour alleges that she experienced distress at her daughter being served and included in this suit, the Court is not persuaded that either can amount to IIED as to Ms. Gilmour. M.G. was a tenant at the location. And children may be sued (through a representative) and served process under Vt. R. Civ. P. 4(d)(1)(i), which appears to be what happened here. The manner of service was up to the process server, not Ms. Stephens. However disquieting or upsetting, filing a civil lawsuit—even an allegedly unnecessary—is not both extreme and outrageous as those terms are defined in the IIED context. They happen with some frequency.

Ms. Gilmour's IIED claims are dismissed.

Ms. Gilmore's defamation claim (Count 6) also is dismissed. That claim asserts that M.G.'s inclusion as a party in this case defames M.G., not Ms. Gilmour. Any such claim belongs to M.G. alone.

Ms. Gilmour's abuse of process claim (Count 7) is not dismissed at this time. "In Vermont, a plaintiff alleging the tort of abuse of process is required to plead and prove: '1) an illegal, improper or unauthorized use of a court process; 2) an ulterior motive or an ulterior purpose; and 3) resulting damage to the plaintiff.'" *Wharton v. Tri-State Drilling & Boring*, 2003 VT 19, ¶ 11, 175 Vt. 494, 496. Ms. Gilmour alleges that Ms. Stephens knew that there is no redress she might legitimately be entitled to by suing M.G. and, instead, did it only to produce distress and force Ms. Gilmour voluntarily to vacate the living space or otherwise compromise the defenses and counterclaims she has asserted here. Those allegations are sufficient to survive dismissal under the *Alger* standard.

D. Ms. Stephens' Motion for Judgment on the Pleadings

Ms. Stephens claims that the pleadings alone show that she is entitled to judgment and an immediate writ of possession.

As the Vermont Supreme Court has explained, the question posed by a Vt. R. Civ. P. 12(c) motion for judgment on the pleadings, "'is whether, once the pleadings are closed, the movant is entitled to judgment as a matter of law on the basis of the pleadings.' 'For the purposes of [a] motion [for judgment on the pleadings] all well pleaded factual allegations in the nonmovant's pleadings and all reasonable inferences that can be drawn therefrom are assumed to be true and all contravening assertions in the movant's pleadings are taken to be false.' 'A defendant may not secure judgment on the pleadings if contained therein are allegations that, if proved, would permit recovery.'" *Island Indus., LLC v. Town of Grand Isle*, 2021 VT 49, ¶ 10, 215 Vt. 162, 169 (citations omitted).

At a minimum, Ms. Gilmour asserts that the parties entered into an oral lease after the written lease expired, that she is in compliance with all terms (including

payment of rent) of that oral lease, and that this case was filed in retaliation for her request for a code inspection. The Court cannot determine such matters based on the pleadings alone. This motion is denied.

E. Ms. Stephens' Motion to Strike and to Order Sanctions

Ms. Stephens requests that the Court strike from the record allegations appearing in certain of Ms. Gilmour's filings revealing Ms. Stephens' alleged mental health history. Ms. Gilmour asserts that she has not included that information for any improper purpose but rather wishes to inform the Court that Ms. Stephens' mental condition or treatment may account for why she has forgotten certain facts or unwittingly misled her own attorneys. She does not otherwise oppose the motion.

It is clear that the offensive allegations are irrelevant to the substance of the filings in which they appear. While Ms. Gilmour may have made those allegations in good faith, they have no apparent function other than to embarrass or anticipatorily attack Ms. Stephens' credibility or capacity notwithstanding that she is represented by counsel. The Court grants the motion to strike, in part, under Vt. R. Civ. P. 12(f) and, to the extent necessary, under Vt. R. Pub. Acc. Ct. Rec. 9.[3]

Accordingly, the Court will seal the filings identified below. Ms. Gilmour shall re-file those documents with the indicated material deleted or redacted. The replacement filings shall otherwise be identical to the originals.

1. Ms. Gilmour's Answer (filed Nov. 18, 2024), omitting the paragraph beginning on page 4 that starts with "I bring to the attention" and ending on page 5 with "her own guardian."

[3] Rule 12(f) applies to the pleadings only. A motion is not a pleading. *See* Vt. R. Civ. P. 7.

2. M.G.'s Answer (filed Nov. 18, 2024), omitting the paragraph on page 5 that starts with "I bring to the attention" and ending with "her own guardian."

3. Ms. Gilmour's Motion to Join (filed Nov. 18, 2024), omitting the two consecutive sentences on page 2 that start with "Rule 1.14 of the ABA" and end with "experienced by Counterdefendant."

4. Ms. Gilmour's Amended Motion to Join (filed Nov. 19, 2024), omitting the two consecutive sentences on page 2 that start with "Rule 1.14 of the ABA" and end with "experienced by Counterdefendant."

The motion to strike otherwise is denied. The Court finds no basis to award sanctions at this time.

Conclusion

For the foregoing reasons:

(a) Ms. Gilmour shall obtain counsel for M.G. or show cause as to why M.G.'s counterclaims should not be dismissed within 30 days. The failure to do so will result in the dismissal of M.G.'s counterclaims.

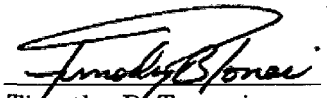
(b) Ms. Stephens shall show cause as to why her claims against M.G. should not be dismissed within 30 days. The failure to do so will result in the dismissal of the claims against M.G.

(c) Ms. Stephens' motion to dismiss counterclaims is granted, in part, and denied, in part. Ms. Gilmour's IIED and defamation counterclaims are dismissed. Her warranty of habitability, retaliatory eviction, and abuse of process claims are not dismissed.

(d) Ms. Stephens' motion for judgment on the pleadings is denied.

(e) Ms. Stephens' motion to strike is granted, in part and denied, in part. The Court will seal the filings identified above. Ms. Gilmour shall re-file those documents with the indicated material deleted or redacted within 45 days. The replacement filings shall otherwise be identical in substance to the originals.

Electronically signed on Monday, January 6, 2025, per V.R.E.F. 9(d).



Timothy B. Tomasi
Superior Court Judge

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CIVIL DIVISION
Case No. 24-CV-04273

Juliet Stephens v. Shannon Gilmour et al

Opinion and Order on
(1) Ms. Stephens' Motion to Dismiss Complaint Against M.G. (filed Feb. 5, 2025);
(2) Ms. Gilmour's "Cause as to Why M.G.'s Counterclaims should not be Dismissed" (filed Feb. 6, 2025);
(3) Ms. Stephens' Motion to Dismiss Counterclaims (of M.G.) (filed Feb. 7, 2025);
(4) Ms. Gilmour's Motion to Set Aside Dismissal (filed Feb. 11, 2025);
(5) Ms. Stephens' Motion for Immediate Hearing (filed Feb. 18, 2025); and
(6) M.G.'s Motion to Clarify (filed Feb. 27, 2025)

This is a residential landlord–tenant case in which Plaintiff–Landlord Juliet Stephens is seeking to evict Defendants Shannon Gilmour and her minor daughter, M.G., from the home that Ms. Stephens owns and where all three reside in shared living space. Ms. Stephens named M.G., 12 years old at the time, as a formal party to this case and had her served with process, in response to which Ms. Gilmour, a nonlawyer, purported to file an answer and counterclaim on M.G.'s behalf. The Court explained in its January 8, 2025, decision, among other things, that Ms. Gilmour, herself appearing in this case pro se, cannot provide legal representation for M.G. The Court also explained that M.G. was not a necessary party to afford relief in this matter. The Court gave Ms. Gilmour 30 days to obtain counsel for M.G. or to show cause why M.G.'s counterclaim should not be dismissed. The parties have filed numerous motions since. The Court determines as follows.

(1) Ms. Stephens' Motion to Dismiss Complaint Against M.G. (filed Feb. 5, 2025)

In response to the Court's January 8 decision, Ms. Stephens—noting her view that there was nothing improper in naming M.G. a defendant in this case—acknowledges that there was no necessity to do so and seeks an order allowing her to dismiss voluntarily the claims against M.G. under Vt. R. Civ. P. 41(a)(3). There is no opposition. This motion is granted.

(2) Ms. Gilmour's "Cause as to Why M.G.'s Counterclaims should not be Dismissed" (filed Feb. 6, 2025)

Just shy of 30 days after the Court's January 8 decision, Ms. Gilmour filed her response to the Court's order to show cause, no lawyer yet having appeared for M.G. In that filing, she describes that has been diligently seeking to obtain pro bono or low bono counsel and had not yet been successful. This portion of her filing can be construed as a request for more time to find counsel. That request is granted: time to obtain counsel is extended to the date of Attorney Andersen's notice of appearance.

The balance of this 68-page filing is argument in support of the substance of M.G.'s counterclaims. This reflects a misunderstanding of the order to show cause. The January 8 decision is clear that Ms. Gilmour cannot provide legal representation to M.G. She was ordered to obtain counsel *or* show cause why M.G.'s claims should not be dismissed. The Court was not directing Ms. Gilmour to provide the legal representation to M.G. that it just explained she could not. The intention was to give Ms. Gilmour a first opportunity, in the event M.G. did not obtain counsel, to explain why M.G. should be able to appear without counsel. Because Ms. Gilmour cannot act as M.G.'s counsel, the Court declines to address the balance of this filing that consists of legal argument in

support of the substance of M.G.'s claims. The balance of the motion, therefore, is denied.

(3) Ms. Stephens' Motion to Dismiss Counterclaims (of M.G.) (filed Feb. 7, 2025)

Ms. Stephens then filed a motion to dismiss counterclaims asserted by M.G. She maintains that they are identical to certain of Ms. Gilmour's claims that the Court earlier dismissed for failure to state a claim. This motion is denied. M.G. currently has no ability to litigate. The matter of her legal representation must be resolved first.

(4) Ms. Gilmour's Motion to Set Aside Dismissal (filed Feb. 11, 2025)

Ms. Gilmour then filed a motion to "set aside dismissal." The Court understands this motion to reflect a misunderstanding that Ms. Gilmour's "Cause" was filed late, and the lateness automatically triggered the dismissal of M.G.'s claims. This motion is denied. By the Court's count, the Cause filing was timely, and there was no dismissal entered to now set aside. Moreover, the Court has construed the "Cause" filing to be a timely request for more time to obtain counsel.

(5) Ms. Stephens' Motion for Immediate Hearing (filed Feb. 18, 2025)

Next, Ms. Stephens filed a motion requesting that the Court set this case for trial as soon as possible. Ms. Gilmour has objected that she needs time for discovery first. This matter has, however, been pending for over 6 months, and Ms. Gilmour has had that period within which to do whatever discovery she thinks may be necessary. She did not explain in her filing what discovery remains to be done and why she has not already had a fair opportunity to seek it. This motion is granted. This case will be set for trial. If Ms. Gilmour needs more discovery, she may complete it prior to trial.

(6) M.G.'s Motion to Clarify (filed Feb. 27, 2025)

Finally, on February 27, Attorney Austin Andersen filed a notice of limited (and, apparently, contingent) appearance on behalf of M.G. and a motion to clarify. The notice of appearance is limited to filing the motion to clarify. The notice provides:

> 1. If this Court maintains M.G.'s party status pursuant to Ms. Gilmour's motion filed on February 18, 2025, a separate Notice of Limited Appearance will be filed by defense counsel to notify the Court of the scope of that subsequent limited appearance.
>
> 2. If the Court dismisses M.G. as a party in this docket pursuant to its Opinion and Order, filed January 8, 2025, and/or Plaintiff's Motion to Dismiss Complaint Against M.G., filed February 5, 2025, defense counsel respectfully requests to withdraw this limited appearance in the above captioned docket pursuant to V.R.C.P. 79.1(h)(3).

In the motion to clarify, counsel requests that the Court rule on the substantive legal arguments that Ms. Gilmour included in her February 18, 2025, opposition to Ms. Stephens' motion to dismiss M.G.'s claims. At same time, counsel says he "is not endorsing nor otherwise adopting any of the arguments made by Ms. Gilmour in the aforementioned February 18th motion, or any other motion filed in this docket." He also asserts that he is "reserving argument on M.G.'s behalf, in support of her continued party status in this matter, on account of the pleadings deadline being closed."

It is entirely unclear what clarification Attorney Andersen is seeking. The Court has made plain that Ms. Gilmour cannot herself be M.G.'s legal representative. Attorney Andersen appears, in his notice of appearance, to be asking the Court to maintain "M.G.'s party status" due to Ms. Gilmour's substantive arguments about those claims whereas the Court has made clear that it will not address arguments made by her in support of M.G.'s claims. And if the Court then presumably determines M.G.'s party status somehow prior to know whether she has counsel, Attorney Andersen proposes to

file a new limited notice of appearance the scope of which would only be explained in the future.

The issue of M.G.'s lack of an attorney is a straightforward matter. She cannot continue in this case without one. The issue of missing legal representation appears to be no more sorted out now than before Attorney Andersen's "appearance."

The Court declines to permit this issue to drag this case out any longer. The parties' living situation is tense; both represent that it is extreme stressful. As the Court explained in its dismissal decision, there was no need for M.G. to be named a formal party in this case. None of the claims that Ms. Gilmour has improperly attempted to assert on M.G.'s behalf would operate as defenses to eviction. M.G.'s presence in this case has accomplished nothing other than delay and unnecessary and expenses for the parties, all in opposition to the fundamental interests in the "just, speedy, and inexpensive determination of every action." Vt. R. Civ. P. 1.

The Court has intrinsic and "discretionary authority to control its docket to preserve judicial resources and ensure efficient disposition of cases." *In re Snowstone, LLC Act 250 Jurisdictional Opinion*, 2021 VT 72A, ¶ 24, 216 Vt. 216, 225. The Court has granted additional time in this matter. The Court is not satisfied that Ms. Gilmour has effectively obtained counsel for M.G. to pursue her claims in this case in response to the Court's January 8 decision, further delay is unwarranted and would be prejudicial. Further, dismissing M.G.'s claims without prejudice permits her to bring them separately in a new action if the determination is made to do so and she can obtain counsel to endorse such claims. For those reasons, M.G.'s claims are dismissed. M.G.'s motion for clarification is denied.

Summary

For the foregoing reasons:

(1) Ms. Stephens' Motion to Dismiss Complaint Against M.G. (filed Feb. 5, 2025) is granted;

(2) Ms. Gilmour's "Cause as to Why M.G.'s Counterclaims should not be Dismissed" (filed Feb. 6, 2025) is granted in part and otherwise denied. The time to obtain counsel is extended to the date of Attorney Andersen's notice of appearance.

(3) Ms. Stephens' Motion to Dismiss Counterclaims (of M.G.) (filed Feb. 7, 2025) is denied;

(4) Ms. Gilmour's Motion to Set Aside Dismissal (filed Feb. 11, 2025) is denied;

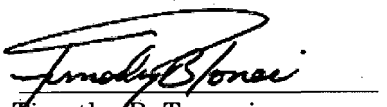
(5) Ms. Stephens' Motion for Immediate Hearing (filed Feb. 18, 2025) is granted;

(6) M.G.'s Motion to Clarify (filed Feb. 27, 2025) is denied.

(7) M.G.'s claims against Ms. Stephens are dismissed without prejudice. All claims asserted by and against M.G. in this case now having been dismissed, M.G. no longer remains a putative party to this case.

(8) This case will be set for a pretrial conference and trial on the remaining claims.

Electronically Signed on April 17, 2025, per V.R.E.F. 9(d)



Timothy B. Tomasi
Superior Court Judge

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CIVIL DIVISION

Case No. 24-CV-04273

Juliet Stephens v. Shannon Gilmour

Opinion and Order on Motion to Dismiss

Plaintiff has moved to dismiss the Defendant's counterclaim alleging abuse of process regarding the use of process in initially bringing this action against the minor, M.G. Defendant has opposed the motion asserting that she has properly pled such a claim. The Court agrees with Plaintiff.

The Vermont Supreme Court disfavors Rule 12(b)(6) motions to dismiss. *Ass'n of Haystack Prop. Owners v. Sprague,* 145 Vt. 443, 446–47 (1985). "Dismissal under Rule 12(b)(6) is proper only when it is beyond doubt that there exist no facts or circumstances consistent with the complaint that would entitle Plaintiff to relief." *Bock v. Gold*, 2008 VT 81, ¶ 4, 184 Vt. 575, 576 (mem.) (citing *Union Mut. Fire Ins. Co. v. Joerg*, 2003 VT 27, ¶ 4, 175 Vt. 196, 198)). In considering a motion to dismiss, the Court "assume[s] that all factual allegations pleaded in the complaint are true, accept[s] as true all reasonable inferences that may be derived from plaintiff's pleadings, and assume[s] that all contravening assertions in defendant's pleadings are false." *Mahoney v. Tara, LLC*, 2011 VT 3, ¶ 7, 189 Vt. 557, 559 (mem.) (internal quotation, brackets, and ellipses omitted).

In this case, charitably read, the abuse-of-process claim concerning naming M.G. contends that Plaintiff sued M.G. when it was not necessary to obtain full relief, and that her goal in doing so was to pressure Defendant to settle the claims at issue in this case.

Plaintiff is correct that bringing even a frivolous action for an improper purpose does not typically suffice to state a claim for abuse of process. *Weinstein v. Leonard*, 2015 VT 136, ¶ 22, 200 Vt. 615, 625–26; 4 Modern Tort Law: Liability and Litigation § 39:30 (2d ed.) ("[T]he mere act of filing suit is not sufficient for an abuse of process action."); 8 *American Law of Torts* § 28:32 ("The initiation of a lawsuit, although accompanied by a malicious ulterior motive, is not an abuse of process."). As the *Weinstein* Court stated: "Even if used to satisfy malicious intentions, the *proper* use of . . . legal process . . . is not actionable . . . . Filing a frivolous lawsuit therefore cannot itself be the predicate for a claim; the tort requires that the

processes of the court have themselves been used improperly." *Weinstein*, 2015 VT 136, ¶ 22, 200 Vt. at 625–26.

Numerous other courts are in agreement with the above pronouncements. *See, e.g., Simon v. Navon*, 71 F.3d 9, 15–16 (1st Cir. 1995) ("Filing of a lawsuit . . . may not on its own fulfill the requirement of an abusive act, even if the decision to sue was influenced by a wrongful motive, purpose or intent."); *Land Baron Inv. v. Bonnie Springs Fam. LP*, 356 P.3d 511, 520 (Nev. 2015) ("[F]iling a complaint does not constitute abuse of process."); *Muro-Light v. Farley*, 95 A.D.3d 846, 847, 944 N.Y.S.2d 571, 573 (2012) ("an improper motive in bringing an action alone does not give rise to a cause of action to recover damages for abuse of process"). Further, the Court notes that the law extends "great caution" as to whether an alleged abuse of a court process may warrant relief in tort. Dan B. Dobbs, Paul T. Hayden and Ellen M. Bublick, *The Law of Torts* § 585 (2d ed.) (emphasis added) § 595.

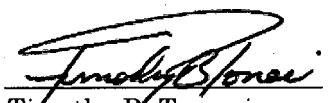
Nonetheless, the case law in this area is not fully developed, and there are some decisions and guidance suggesting that an abuse-of-process claim may arise where a person uses court process "to gain a collateral advantage extraneous to the merits." *Doctor's Assocs., Inc. v. Weible*, 92 F.3d 108, 114 (2d Cir. 1996); *see also Restatement of Torts Second* (1977) § 682 cmt. b. Indeed, the Restatement (Third) of Torts §§ 24, 26 has contended that a separate tort may arise from the wrongful initiation of a lawsuit. *See also Simon*, 71 F.3d 9, 15–16 (discussing similar concerns regarding Maine law).

The Court believes it need not make a final determination as to whether the present allegations may state a cause of action under Vermont law because, even assuming they do, the Court concludes that the claim in this case would need to be brought by M.G. and not Defendant. While Defendant may well have been the target of the alleged improper motive, the "process" was directed solely to M.G., and the principal harm asserted (the anxiety and stress of having to deal with an allegedly frivolous lawsuit) was suffered by M.G., and Ms. Gilmour only indirectly. In the Court's view, if a possible claim exists for abuse of process, the claim belongs to M.G. and may not be asserted by Defendant. *See, e.g., Martel v. City of Newton*, Kan., 6 F. Supp. 2d 1243, 1247 (D. Kan. 1998) ("The tort of abuse of process does not provide or implicate an indiscriminate right of third persons, indirectly affected by a prosecution, to separately advance an abuse of process claim."); *Tomahawk Mfg., Inc. v. Spherical Indus., Inc.*, No. 2:23-CV-01007-APG-NJK, 2025 WL 1413730, at *9–10 (D. Nev. May 15, 2025) (noting in abuse-of-process context that "defendants have no standing to assert harms to non-parties"); *Elwell v. Kellogg*, No. X08FSTCV186047215, 2022 WL 1448855, at *18 (Conn. Super. Ct. Jan. 21, 2022), *aff'd*, 299 A.3d 1166 (Conn. App. 2023) (wife has no standing to assert abuse-of-process claim relating to process used against her husband); *Livingston v. Bean*, No. CIV. 03-495 JH/ACT, 2004 WL 3310469, at *6 (D.N.M. Sept. 30, 2004) (plaintiff

cannot assert abuse-of-process claim where process directed against third parties).

WHEREFORE, Ms. Stephens' motion to dismiss Ms. Gilmour's abuse of process claim is granted.[1]

Electronically signed on Wednesday, July 9, 2025, per V.R.E.F. 9(d).



Timothy B. Tomasi
Superior Court Judge

[1] The complaint against M.G. was voluntarily dismissed. M.G. is no longer a party to this case, and, as noted in its 4/17/25 ruling, any potential claims by M.G. do not fall within the scope of this action.

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CIVIL DIVISION
Case No. 24-CV-04273

Juliet Stephens v. Shannon Gilmour

Opinion and Order on Ms. Gilmour's
Motion for Permission to File Interlocutory Appeal

This case is before the Court on Defendant Ms. Gilmour's Motion for Permission to File Interlocutory Appeal, pursuant to Vt. R. App. P. 5(b)(1). Ms. Gilmour seeks an immediate appeal from the July 11, 2025, ruling granting Plaintiff Ms. Stephens' renewed motion to dismiss Ms. Gilmour's counterclaim for abuse of process. Ms. Stephens opposes the motion. For the following reasons, the Court denies the request for immediate appeal.

Vermont disfavors "piecemeal appeals," and an appeal to the Vermont Supreme Court prior to final judgment is an extraordinary remedy. *See In re Hill*, 149 Vt. 86, 86 (1987). Such an appeal is appropriate only where a proposed appeal: (1) involves a controlling question of law (2) about which there exists substantial ground for difference of opinion, and (3) an immediate appeal may materially advance the termination of the litigation. Vt. R. App. P. 5(b)(1). "The three factors should be viewed together as the statutory language equivalent of a direction to consider the probable gains and losses of immediate appeal." *In re Pyramid*, 141 Vt. 294, 302 (1994) (quoting 16 C. Wright, A. Miller, E. Cooper, & E. Gressman, *Federal Practice and Procedure: Civil* § 3930 (1977)). The decision whether to grant a motion to appeal is committed to the trial court's discretion. *State v. McCann*, 149 Vt. 147, 151 (1987).

Ms. Gilmour's motion is denied initially because it is plainly out of time. She wishes to appeal a decision that was entered on July 11. Her motion was filed on July 28, well outside the 14-day period for such a motion. *See* Vt. R. App. P. 5(b)(5) (The motion requesting interlocutory review "must be filed within 14 days after entry of the order or ruling appealed from."). She asks the Court to overlook her tardiness "due to the constitutional urgency of the issues presented and defendant's pro se status," but nowhere explains why any neglect to file on time is excusable. *See* Vt. R. Civ. P. 6(b)(1)(B) (Court may extend time "on motion made after the time has expired if the party failed to act because of excusable neglect"). Nor is any excusable neglect apparent in the record. See In re von Turkovich, 2018 VT 57, ¶ 6, 207 Vt. 545, 549; In re Town of Killington, 2003 VT 87A, ¶ 17, 176 Vt. 60, 68-69 (both discussing high bar of establishing excusable neglect).[1]

Even had the motion been filed in a timely manner, however, granting permission to appeal in this action would be wholly improvident. As to the "substantial ground for difference of opinion" prong of the analysis, the Court notes that there were two abuse of process claims in this case, one of which was plainly being asserted by Ms. Gilmour's minor daughter *without counsel.* The potential merit of that claim may be unclear, but it was dismissed long ago because she was unrepresented, and it is not currently at issue. The other claim is the one subject to the July 11 decision and Ms. Gilmour's request for interlocutory review. As the Court explained in the dismissal decision, though framed with Ms. Gilmour in the position of plaintiff, the process was filed against her daughter. The claim, if there is to be one, would be properly brought by her daughter, not Ms.

[1] The same analysis applies to Ms. Gilmour's tardy Reply Memorandum. The Court has considered it as well, however, and it does not alter the Court's analysis.

Gilmour. The Court perceives no substantial ground for difference of opinion on that matter, and Ms. Gilmour has come forward with no authority to the contrary.

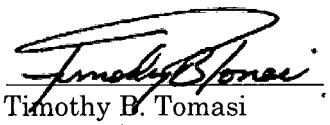
Nor will taking a potentially lengthy sojourn to the Supreme Court just as this matter is about to proceed to trial likely to advance the termination of this case. Ms. Gilmour may appeal the abuse-of-process ruling once final judgment is entered, if she wishes. Otherwise, this is a straightforward landlord–tenant case in which the key question of whether eviction is appropriate on these facts and in the face of Ms. Gilmour's defenses remains unresolved.

Further, Ms. Gilmour lives in shared space with Ms. Stephens in Ms. Stephens' home, and both parties have made abundantly clear that their relationship has become extremely stressed. Even if the Supreme Court were to view the abuse-of-process issue differently than the trial court, an interlocutory reversal on that collateral matter would not materially advance the termination of the core issues in the case. It would promise only more delay. Both parties are entitled to a "just, speedy, and inexpensive" determination of this case. Vt. R. Civ. P. 1. Interlocutory review now would seriously undermine those interests.

As noted at the outset, the overriding policy in this state strongly favors appeals of final judgments rather than interlocutory, piecemeal review. *Beaupre v. Green Mountain Power Corp.*, 168 Vt. 596, 597 (mem.). Untimeliness aside, Ms. Gilmour has offered no convincing reason to depart from that general rule.

WHEREFORE, Ms. Gilmour's Motion for Permission to File Interlocutory Appeal is *denied*.

Electronically signed on Thursday, August 21, 2025, per V.R.E.F. 9(d).



Timothy B. Tomasi
Superior Court Judge

VERMONT SUPERIOR COURT
Washington Unit
65 State Street
Montpelier VT 05602
802-828-2091
www.vermontjudiciary.org

CIVIL DIVISION
Case No. 24-CV-04273

Juliet Stephens v. Shannon Gilmour

FINAL JUDGMENT

The Court having:

☒ found for **Plaintiff** after a court trial

☒ Judgment is entered for Plaintiff(s):

Electronically signed on 3/24/2026 9:17 AM pursuant to V.R.E.F. 9(d)

Daniel Richardson
Superior Court Judge

STATE OF VERMONT

SUPERIOR COURT
WASHINGTON UNIT

CIVIL DIVISION
DOCKET NO. 24-CV-04273

JULIET STEPHENS,
Plaintiff,

v.

SHANNON GILMOUR, &
ALL OTHER OCCUPANTS
Defendant.

WRIT OF POSSESSION

TO THE SHERIFF OF WASHNIGTON COUNTY:

By the authority of the State of Vermont and pursuant to 12 V.S.A. §4854, you are hereby ordered to remove from 15 Phelps St. Montpelier, VT 05602, Defendant Shannon Gilmour and all other occupants and personal property no sooner than fourteen (14) days after you have served this Writ upon them.

Dated at Montpelier, Vermont this 28th day of October, 2025.

Clerk

I accept service of this Writ of Possession and waive all other service.

Shannon Gilmour

Date: Oct. 28, 2025

VT Superior Court
Washington Civil

OCT 28 2025

FILED

VERMONT SUPREME COURT
109 State Street
Montpelier VT 05609-0801
802-828-4774
www.vermontjudiciary.org

Case No. 25-AP-240

ENTRY ORDER

JULY TERM, 2025

Juliet Stephens v. Shannon Gilmour*	} APPEALED FROM:
	} Superior Court, Washington Unit, Civil Division
	} CASE NO. 24-CV-04273

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

Defendant's appeal is dismissed insofar as there is no final judgment and defendant has not requested or received permission to file an interlocutory appeal.

BY THE COURT:

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice

Nancy J. Waples, Associate Justice

VERMONT SUPREME COURT
109 State Street
Montpelier VT 05609-0801
802-828-4774
www.vermontjudiciary.org

Case No. 25-AP-323

ENTRY ORDER

SEPTEMBER TERM, 2025

Juliet Stephens v. Shannon Gilmour*

} APPEALED FROM:
} Superior Court, Washington Unit, Civil
} Division
} CASE NO. 24-CV-04273

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

We deny appellant's request for permission to take an interlocutory appeal under V.R.A.P. 5(b).

BY THE COURT:

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

William D. Cohen, Associate Justice

Nancy J. Waples, Associate Justice

VERMONT SUPREME COURT
109 State Street
Montpelier VT 05609-0801
802-828-4774
www.vermontjudiciary.org

Case No. 25-AP-409

ENTRY ORDER

SEPTEMBER TERM, 2026

Juliet Stephens v. Shannon Gilmour*

APPEALED FROM:
Superior Court, Washington Unit, Civil Division
CASE NO. 24-CV-04273

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

Appellant's motion for reargument fails to identify points of law or fact overlooked or misapprehended by this Court in its August 21, 2026 decision, and is therefore denied. V.R.A.P. 40.

BY THE COURT:

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Nancy J. Waples, Associate Justice

APPENDIX J

CONSTITUTIONAL, STATUTORY, AND RULE PROVISIONS INVOLVED

U.S. Const. amend. XIV, § 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C. § 1257(a)

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

Vermont Rule of Civil Procedure 17(b)

(b) Guardians and Other Representatives. Whenever an infant or incompetent person has a representative, such as a general guardian, conservator, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person. An infant or incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person. In any action in which there are or may be defendants who have been served only by publication and who have not appeared, the court may appoint an agent, guardian ad litem, or next friend to represent them.

Vermont Rule of Civil Procedure 13(a)

(a) Compulsory Counterclaims. A pleading in an action in a superior court shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. But the pleader need not state the claim if (1) at the time the action was commenced the claim was the subject of another pending action, or (2) the opposing party brought suit upon the claim by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim, and the pleader is not stating any counterclaim under this Rule 13.

12 V.S.A. § 4854. Judgment for plaintiff; writ of possession

If the court finds that the plaintiff is entitled to possession of the premises, the plaintiff shall have judgment for possession and rents due, damages, and costs, and when a written rental agreement so provides, the court may award reasonable attorney's fees. A writ of possession shall issue on the date judgment is entered, unless the court for good cause orders a stay. The writ shall direct any sheriff to

serve the writ upon the defendant and, not earlier than 14 days after the writ is served, to put the plaintiff into possession.

Federal Rule of Civil Procedure 17(c)

(c) Minor or Incompetent Person.

(1) With a Representative. The following representatives may sue or defend on behalf of a minor or an incompetent person: (A) a general guardian; (B) a committee; (C) a conservator; or (D) a like fiduciary.

(2) Without a Representative. A minor or an incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem. The court must appoint a guardian ad litem—or issue another appropriate order—to protect a minor or incompetent person who is unrepresented in an action.

Federal Rule of Civil Procedure 5.2(a)

(a) Redacted Filings. Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, or a financial-account number, a party or nonparty making the filing may include only: (1) the last four digits of the social-security number and taxpayer-identification number; (2) the year of the individual's birth; (3) the minor's initials; and (4) the last four digits of the financial-account number.

11 U.S.C. § 112. Prohibition on disclosure of name of minor children

The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.

WASHINGTON COUNTY SHERIFF'S DEPARTMENT
P.O. BOX 678, 10 ELM STREET
Montpelier, Vermont 05601
802-223-3001
Fax: 802-828-3611

Juliet Stephens (Plaintiff) vs *Shannon Gilmour and M. G.* (Defendant)

Docket # *22-CV-04273*

On The 30 day of October, 2024 I [ ] attempted [x] made service of the following documents at 17:19 hrs.

Upon M. G. @ c/o Shannon Gilmour 15 Phelps St, Montpelier, VT

[ ] Affidavit	[ ] Interim Domestic Order	[ ] Request to Produce
[x] Answer Sheet	[ ] Judgment order [ ] Default	[ ] Request for Stay VHAP
[ ] Blank 813 Form (s)	[ ] Judicial Summons	[ ] Subpoena
[ ] Check#	[ ] Jury Demand	[ ] Subpoena duces tecum
[x] Complaint [ ] Amended	[ ] Letter (s)	[x] Summons
[ ] Counterclaim	[ ] List of Exemptions	[ ] Summons to Trustee
[ ] Certificate of Compliance [ ] CARES ACT	[ ] Motion (s)	[ ] Temporary Care Hearing Request
[ ] Certificate of Exemption		[ ] Trustee Process
[ ] Certificate of Service		[ ] Wage Garnishment Order
[ ] Default Child Custody Order	[x] Notice of Appearance	[ ] Webex Information
[ ] Disclosure Exempt Income	[ ] Notice of Hearing	[ ] Writ of Attachment
[ ] Entry Order	[ ] Notice of Trespass	[ ] Writ of Execution
[ ] Eviction Notice [ ] Non-Payment [ ] No Cause	[ ] Notice to Homeowner Mediation	[ ] Writ of Possession
[x] Exhibits 1-2	[ ] Notice to Homeowner VHAP	[ ] Writ of Replevin
[ ] Financial Disclosure Affidavit	[ ] OCS Filing	[ ]
[ ] Financial Disclosure (Trustee)	[ ] Order:	[ ]
[ ] Findings and Order	[ ] Petition	[ ]
[ ] GAL Appointment	[ ] Post Judgment Interrogatories	[ ]
[ ] Information / Instruction Sheet	[ ] Public Defender Application	[ ]

[ ] By delivering in hand [ ] By Tack Order [ ] By Registered Agent for Defendant / Trustee [ ] Unable to deliver

[x] By delivering to *Shannon Gilmour* of suitable age and discretion who is a resident at the usual place of abode of said defendant. Relationship to defendant: *Mother*

[ ] By delivering to _____ an _____ authorized to receive service on behalf of Registered Agent per V.R.C.P. 4(d)(7)

Notes

		Attempts Date	Time	Mileage
Service Fee	$ 75.00	10/30/24	11:43	0
Travel 0 ml @$ 0.670	$ 0.00			0
Postage	$			
Copies @$	$ 0.00			
Clerk Fees	$			
Other	$			
Total	$ 75.00			

Emily Grant — *Deputy Sheriff*

When asked if he/she were on active duty in the U.S Armed Forces they answered. [ ] yes [ ] no

Exhibit D

STATE OF VERMONT

VERMONT SUPERIOR COURT
WASHINGTON UNIT

CIVIL DIVISION
Docket No. 24-CV-04273

JULIET STEPHENS,
Plaintiff

v.

SHANNON GILMOUR,
MOIRA GILMOUR &
ALL OTHER OCCUPANTS
Defendants.

SUMMONS

THIS SUMMONS IS DIRECTED TO: **SHANNON GILMOUR on behalf of minor child, MOIRA GILMOUR**

1. **YOU ARE BEING SUED:** Plaintiffs have started a lawsuit against you. Plaintiff's Complaint is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights.

2. **YOU MUST REPLY WITHIN 21* DAYS TO PROTECT YOUR RIGHTS.** You must give or mail Plaintiff **a written response** called an Answer within 21* days of the date on which you received this Summons. You must send a copy of your Answer to Plaintiff's attorneys:

Claudine C. Safar, Esq.
Monaghan Safar PLLC
27 Main Street
Burlington, VT 05401

You must also give or mail your Answer to the Court located at:

Vermont Superior Court
Washington Civil Division
65 State Street
Montpelier, VT 05602

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

MONAGHAN SAFAR

4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT GIVE YOUR WRITTEN ANSWER TO THE COURT.** If you do not Answer within 21* days and file it with the Court, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award Plaintiff everything asked for in the Complaint.

5. **YOU MUST MAKE ANY CLAIMS AGAINST PLAINTIFFS IN YOUR REPLY.** Your Answer must state any related legal claims you have against Plaintiff. Your claims against Plaintiff are called Counterclaims. If you do not make your Counterclaims in writing in your Answer, you may not be able to bring them up at all. Even if you have insurance and the insurance company will defend you, you must still file any Counterclaims you may have.

6. **LEGAL ASSISTANCE.** You may wish to get help from a lawyer. If you cannot afford a lawyer, you should ask the court clerk for information about places where you can get free legal help. **Even if you cannot get legal help, you must still give the Court a written Answer to protect your rights or you may lose the case.**

7. **NOTICE OF APPEARANCE FORM.** THE COURT NEEDS TO KNOW HOW TO REACH YOU SO THAT YOU WILL BE INFORMED OF ALL MATTERS RELATING TO YOUR CASE. If you have not hired an attorney and are representing yourself, in addition to filing the required Answer it is important that you file the Notice of Appearance form attached to this summons, to give the Court your name, mailing address and phone number (and email address, if you have one). You must also mail or deliver a copy of the form to the lawyer or party who sent you this paperwork so that you will receive copies of anything else they file with the Court.

DATED at Burlington, Vermont this 24th day of October, 2024.

By: _____

Claudine C. Safar, Esq.
Monaghan Safar PLLC
27 Main Street
Burlington, VT 05401
(802) 660-4735
csafar@msvtlaw.com
Attorney for Juliet Stephens

*Served on 10/30/24 By: _____

cc. Client

MONAGHAN SAFAR

FILED: 11/4/2024 3:03 PM
Vermont Superior Court
Washington Unit
24-CV-04273

WASHINGTON COUNTY SHERIFF'S DEPARTMENT
P.O. BOX 678, 10 ELM STREET
Montpelier, Vermont 05601
802-223-3001
Fax: 802-828-3611

Juilet Stephens (Plaintiff) vs *Shannon Gilmour* (Defendant)

Docket # *22-CV-04273*

On The 30 day of October, 2024 I [ ]attempted [✓] made service of the following documents at 17:19 hrs.

Upon Shannon Gilmour @ 15 Phelps St, Montpelier, VT

[ ] Affidavit	[ ] Interim Domestic Order	[ ] Request to Produce
[✓] Answer Sheet	[ ] Judgment order [ ] Default	[ ] Request for Stay VHAP
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[ ] Counterclaim	[ ] List of Exemptions	[ ] Summons to Trustee
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[ ] Certificate of Exemption		[ ] Trustee Process
[ ] Certificate of Service		[ ] Wage Garnishment Order
[ ] Default Child Custody Order _____	[✓] Notice of Appearance	[ ] Webex Information
[ ] Disclosure Exempt Income	[ ] Notice of Hearing	[ ] Writ of Attachment
[ ] Entry Order	[ ] Notice of Trespass	[ ] Writ of Execution
[ ] Eviction Notice [ ] Non-Payment [ ] No Cause	[ ] Notice to Homeowner Mediation	[ ] Writ of Possession
[✓] Exhibits 1-2	[ ] Notice to Homeowner VHAP	[ ] Writ of Replevin
[ ] Financial Disclosure Affidavit	[ ] OCS Filing	[ ] _____
[ ] Financial Disclosure (Trustee)	[ ] Order: _____	[ ] _____
[ ] Findings and Order	[ ] Petition _____	[ ] _____
[ ] GAL Appointment	[ ] Post Judgment Interrogatories	[ ] _____
[ ] Information / Instruction Sheet	[ ] Public Defender Application	[ ] _____

[✓] By delivering in hand [ ] By Tack Order [ ] By Registered Agent for Defendant / Trustee [ ] Unable to deliver

[ ] By delivering to _____ of suitable age and discretion who is a resident at the usual place of abode of said defendant. Relationship to defendant: _____

[ ] By delivering to _____ an _____ authorized to receive service on behalf of Registered Agent per V.R.C.P. 4(d)(7)

Notes

		Attempts		
		Date	Time	Mileage
Service Fee	$ 75.00	10/30/24	11:43	2
Travel 4 ml @$ 0.670	$ 2.68			2
Postage	$ 2.59			
Copies ___ @$ ___	$ 0.00			
Clerk Fees	$			
Other	$			
Total	$ 80.27			

Emily Grant *Deputy Sheriff*

When asked if he/she were on active duty in the U.S Armed Forces they answered. [ ] yes [ ] no

STATE OF VERMONT

VERMONT SUPERIOR COURT
WASHINGTON UNIT

CIVIL DIVISION
Docket No. 24-CV-04273

JULIET STEPHENS,
Plaintiff

v.

SHANNON GILMOUR,
&
ALL OTHER OCCUPANTS
Defendants.

SUMMONS

THIS SUMMONS IS DIRECTED TO: **SHANNON GILMOUR**

1. **YOU ARE BEING SUED:** Plaintiffs have started a lawsuit against you. Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights.

2. **YOU MUST REPLY WITHIN 21* DAYS TO PROTECT YOUR RIGHTS.** You must give or mail Plaintiff **a written response** called an Answer within 21* days of the date on which you received this Summons. You must send a copy of your Answer to Plaintiff's attorneys:

Claudine C. Safar, Esq.
Monaghan Safar PLLC
27 Main Street
Burlington, VT 05401

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Washington Civil Division
65 State Street
Montpelier, VT 05602

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

MONAGHAN SAFAR

4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT GIVE YOUR WRITTEN ANSWER TO THE COURT.** If you do not Answer within 21* days and file it with the Court, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award Plaintiff everything asked for in the Complaint.

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7. **NOTICE OF APPEARANCE FORM.** THE COURT NEEDS TO KNOW HOW TO REACH YOU SO THAT YOU WILL BE INFORMED OF ALL MATTERS RELATING TO YOUR CASE. If you have not hired an attorney and are representing yourself, in addition to filing the required Answer it is important that you file the Notice of Appearance form attached to this summons, to give the Court your name, mailing address and phone number (and email address, if you have one). You must also mail or deliver a copy of the form to the lawyer or party who sent you this paperwork so that you will receive copies of anything else they file with the Court.

DATED at Burlington, Vermont this 24th day of October, 2024.

By: _____

Claudine C. Safar, Esq.
Monaghan Safar PLLC
27 Main Street
Burlington, VT 05401
(802) 660-4735
csafar@msvtlaw.com
Attorney for Juliet Stephens

*Served on 10/30/2024 By: _____

cc. Client

MONAGHAN SAFAR

FILED: 10/24/2024 2:52 PM
Vermont Superior Court
Washington Unit
24-CV-04273

STATE OF VERMONT

VERMONT SUPERIOR COURT
WASHINGTON UNIT

CIVIL DIVISION
Docket No.

JULIET STEPHENS,
Plaintiff

v.

SHANNON GILMOUR,
&
ALL OTHER OCCUPANTS
Defendants.

COMPLAINT

NOW COMES the Plaintiff, Juliet Stephens (hereinafter "Plaintiff"), by and through her attorneys at Monaghan Safar PLLC and complains against the Defendants, Shannon Gilmour and , and all other occupants of 15 Phelps St. Montpelier, Vermont 05602 (also hereinafter collectively and individually "Defendants"), as follows:

1. Plaintiff is the owner of premises at 15 Phelps St. Montpelier, Vermont 05602 ("the Residence") where she also resides.
2. Defendants Shannon and entered into a written Lease Agreement ("the Lease" attached hereto as Exhibit 1 and incorporated herein) with Plaintiff for the rental of two rooms within the Plaintiff's Residence commencing September 1, 2023 and ending August 31, 2024.
3. Defendants have occupied the Residence since September 1, 2023.

[1] MG is a minor and it appears that Shannon Gilmour entered into the lease on behalf of her minor daughter.

4. A *Notice of Termination of Tenancy* was personally served on Defendant Shannon Gilmour on October 3, 2024, for termination pursuant to 9 V.S.A. §4467(h). *Notice* attached hereto as Exhibit 2 and incorporated herein.
5. The Notice instructed Defendants that the termination date for their tenancy was October 22, 2024, and instructed them to vacate the Residence by that date.
6. As of this date, Defendants have not vacated the Residence and still continue to reside at the property in violation of the lease and despite the instructions contained in the Notice.
7. Defendants are occupying the Residence and holding it against the rights of Plaintiff.
8. Pursuant to 9 V.S.A. § 4468, "If the tenant remains in possession after termination of the rental agreement, without express consent of the landlord, the landlord may bring an action for possession, damages, and costs under 12 V.S.A. chapter 169, subchapter 3."

WHEREFORE, Plaintiff hereby request that this Court:

A. Order Defendants to vacate the Residence;
B. Enter an immediate writ of possession in favor of Plaintiff against Defendants requiring that they vacate the Residence;
C. Order such other and further relief as it deems just, including but not limited to any back rent owed.

Dated at Burlington, Vermont this 24th day of October, 2024.

Respectfully submitted,
JULIET STEPHENS

By and through her counsel,



Claudine C. Safar, Esq. (Lead Counsel)
Miles M. Stafford, Esq. (Co-Counsel)
Monaghan Safar PLLC
27 Main Street
Burlington, VT 05401
csafar@msvtlaw.com
mstafford@msvtlaw.com
(802) 660-4735

MONAGHAN SAFAR PLLC

STATE OF VERMONT

VERMONT SUPERIOR COURT
WASHINGTON UNIT

CIVIL DIVISION
DOCKET NO. 24-CV-04273

JULIET STEPHENS,
Plaintiff

v.

M.G.,
Defendant

MOTION TO CLARIFY

NOW COMES Austin D. Andersen, Esq., limited appearance defense counsel for M.G., co-defendant in the above captioned matter, and hereby submits this motion to clarify the current party status of M.G., in light of recent filings with the Court.

1. Defense counsel takes notice of the Court's Opinion and Order, filed January 8, 2025; Plaintiff's Motion to Dismiss Complaint Against M.G., filed February 5, 2025; Ms. Gilmour's Motion to Set Aside Dismissal, filed February 11, 2025; Ms. Gilmour's Opposition to Motion to Dismiss Counterclaims and Informing Court of Legal Representation Status of M.G., filed February 18, 2025; and Plaintiff's Reply to Motion to Set Aside, also filed February 18, 2025.
2. Notwithstanding Plaintiff's arguments in their February 18th motion, M.G. respectfully requests the Court to rule on Ms. Gilmour's February 18th motion (opposing Plaintiff's dismissal of complaint against M.G.), by and through Ms. Gilmour's proffered "next friend" status under V.R.C.P. 17(b).
3. M.G. supports the intent of Ms. Gilmour's motion and intends to remain a co-defendant in this action, and thereby opposes Plaintiff's motion to dismiss the complaint against M.G.

4. Defense counsel recognizes that, in order to rule on Ms. Gilmour's February 18th motion, the Court is required to analyze Ms. Gilmour's February 11th motion pursuant to V.R.C.P. 6(b)(1)(B) and the four-factor balancing test in *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 392, 113 S.Ct. 1489, 123 L.Ed.2d 74 (1993). Such analysis would also likely consider Plaintiff's timely February 5th motion to dismiss the complaint against M.G.
5. Defense counsel cites this procedural history in order to acknowledge M.G.'s intent to move the Court to consider Ms. Gilmour's arguments, on M.G.'s behalf, in both the February 11th and 18th motions, in light of V.R.C.P. 6(b)(1)(B) and *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship* (citation omitted).
6. In order to avoid any potential impropriety that would otherwise suggest a conflict of interest, pursuant to V.R.P.C. 1.7(a)(2), defense counsel reiterates that his limited appearance is solely on behalf of M.G.
7. Furthermore, defense counsel is not endorsing nor otherwise adopting any of the arguments made by Ms. Gilmour in the aforementioned February 18th motion, or any other motion filed in this docket, except to the extent that Ms. Gilmour's arguments referenced above are relevant for the Court to consider in ruling on M.G.'s party status.
8. Defense counsel is reserving argument on M.G.'s behalf, in support of her continued party status in this matter, on account of the pleadings deadline being closed. Defense counsel is willing, with permission of the Court, to file a separate motion opposing Plaintiff's motion to dismiss the complaint against M.G.

WHEREFORE, Defendant hereby respectfully requests that this Court enter an opinion and order addressing the above-referenced motions, specifically as it pertains to M.G.'s party status.

A. If the Court grants Ms. Gilmour's February 18th motion referenced above and rules that M.G. will remain a co-defendant in this action, defense counsel respectfully requests the Court to appoint a Guardian ad Litem, pursuant to 14 V.S.A. §2657, V.R.C.P. 17(b), and V.R.P.C. 1.14, on grounds that it would be in the best interests of the co-defendant child moving forward in this action (specifically, to convey those interests to defense counsel). Furthermore, if the Court grants Ms. Gilmour's motion, defense counsel respectfully requests that the Court grant Plaintiff's motion for a hearing, filed on February 18, 2025, at such a time that is reasonable to allow defense counsel and M.G. sufficient opportunity to meet with the aforementioned appointed Guardian ad Litem and prepare for that hearing.

B. If the Court grants Plaintiff's motion referenced above, dismissing the complaint against M.G., defense counsel respectfully requests to withdraw his limited appearance in this docket pursuant to V.R.C.P. 79.1(h)(3).

Respectfully submitted,

Austin Andersen

Austin D. Andersen, Esq.
ANDERSEN ADVOCACY, PLLC
PO Box 764
South Royalton, Vermont 05068
802-342-5844
AndersenAdvocacy@gmail.com

cc: Claudine C. Safar, Esq., and Miles M. Stafford, Esq., counsel for Plaintiff

SUPERIOR COURT OF VERMONT, COUNTY OF WASHINGTON

Juliet Stephens
Plaintiff

v.

Shannon Gilmour
Defendant

Vermont Superior Court
WASHINGTON UNIT
JUN 11 2025
FILED

CIVIL DIVISION
DOCKET NO. 24-CV-04273

Opposition to Motion to Dismiss Abuse of Process Counterclaim

I am Shannon Gilmour. I am the tenant in this case. I oppose the motion for dismissal of the abuse of process claim I filed as a counterclaim to the eviction served by Juliet Stephens and her attorneys.

Attorneys for Stephens filed a lawsuit and engaged in litigation without sufficient investigation into the facts or law, which caused harm to me and my 12 year old child, who was served a separate eviction notice.

The timing of the termination of tenancy and eviction is within the 90 day period after I contacted a government agency of a code violation, making this a presumed retaliatory eviction under the RRAA. My request in September 2024 for inspection of 15 Phelps St. for fire safety code was in the public record.

In Vermont, a landlord who rents rooms in their own house, can avoid having to upgrade their fire safety equipment if the landlord can convince a renter to leave.

Vermont Superior Court
WASHINGTON UNIT

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No one, besides myself, requested the documents in the public record regarding the request for fire safety inspection of 15 Phelps St, Montpelier, VT (Exhibit AA)

On September 23rd, 2024, building inspector, Michelle Savary, forwarded my request for inspection to Juliet Stephens. (Exhibit Z)

I can testify to the fact that On September 26, 2024, in a phone call, attorney for Stephens, Claudine Safar said to me, "You would be a bad mother if you allowed Juliet Stephens to evict you, because your child would be hurt." I know that much of this statement is false, as I know I am not a bad mother, and that I cannot give permission for my landlord to retaliate, however what is true is that my child would be hurt. This is a statement that potentially shows facts that could be evidence of foreseeability in Safar.

I am a good faith tenant who has always paid my rent and abided by the lease agreement, and I continue to do so up to this day. Stephens and I had an verbal agreement to continue tenancy at the end of the signed lease in Exhibit 1. No notice to not renew lease was given by Stephens; we had a verbal agreement to continue tenancy. Stephens presented me with a new lease to look over in early September 2024. On September 10, 2024, I realized there was only one smoke detector for the whole house, and I requested the house be to the minimum fire safety code. (See Exhibit J) I had not yet signed the new lease, however we had a verbal agreement to continue tenancy, and we were still on a month to month under the RRAA.

(Note: This was not the first time I had requested smoke and carbon monoxide detectors, as I also had requested smoke detectors and carbon monoxide detectors in Winter of 2023, afterwards

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I believed that Stephens had installed them. Exhibit J)

In mid September 2024, after Stephens said that she installed some more detectors, I contacted a government agency to check to make sure the house was to code on September 14, 2024.

Regarding the capacity of M.G. to be a tenant in Vermont: On the Vermont Judiciary website it states "Until minors become adults, at age 18, they are legally incapable of making contracts or taking other legal actions." (Exhibit AB). Minor was not signed on the lease, and the signature area for minor was crossed off. Stephens placed M.G. on the lease in Exhibit 1, however when Gilmour was given the lease in Exhibit 1 (September 2023), Gilmour and Stephens talked about the inclusion of minor on lease and agreed that minors cannot be signed to a financial contract. M.G. never saw the lease in Exhibit 1, and M.G. never signed Exhibit 1. In agreement, Stephens crossed off that area of the lease contract, and only Shannon Gilmour signed.

I believe this is a lawsuit for eviction that was filed without a reasonable basis, just to harass or intimidate me from asserting my rights under the RRAA.

There is no reason that M.G. needed to be listed on the eviction notice.

If someone intentionally or recklessly abuses the legal system for an improper purpose and this leads to emotional distress, the victims may be able to sue for abuse of process and recover damages for that suffering.

Emotional distress can be just as damaging as physical abuse, and potentially lead to

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WASHINGTON UNIT

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psychological counseling or therapy, as well as other financial losses

Regarding my right to raise a counterclaim for abuse of process, in regards to how M.G.s injuries relate to my own, I am the sole legal rights holder to M.G., and I am responsible financially for M.G.'s care both medical and psychological. Regarding damages in personal injury cases involving children, both the child and the parent/guardian can potentially recover damages. The child's claim focuses on their own injuries, while the parent/guardian can seek compensation for expenses related to the child's injury, such as medical bills and lost wages and emotional distress in the parent under the abuse of process claim.

Date June 11, 2025 Shannon Gilmour

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Vermont Supreme Court
Filed: 9/1/2026 9:41 PM

STATE OF VERMONT
SUPREME COURT

Juliet Stephens
v.
Shannon Gilmour

Supreme Court Case No. 25-AP-409 (Appealed from: Superior Court, Washington Unit, Civil Division, No. 24-CV-04273)

MOTION FOR REARGUMENT UNDER V.R.A.P. 40

Appellant Shannon Gilmour, self-represented, respectfully moves for reargument under Vermont Rule of Appellate Procedure 40 of this Court's entry order issued August 21, 2026. This motion states with particularity one point of fact, presented in the briefs, that Appellant believes the Court overlooked, and that would probably affect the result as to one issue.

THE POINT OVERLOOKED

In affirming the dismissal of Appellant's abuse-of-process counterclaim, the entry order states:

> *"Tenant did not, however, raise this contention in opposition to landlord's motion to dismiss the counterclaim. As a result, she has not preserved it for our review on appeal."*

The record contains Appellant's written Opposition to Motion to Dismiss Abuse of Process Counterclaim, filed June 11, 2025, which appears at pages 317–320 of Appeal Volume 2. Its final paragraph states:

> *"Regarding my right to raise a counterclaim for abuse of process, in regards to how M.G.'s injuries relate to my own, I am the sole legal rights holder to M.G., and I am responsible financially for M.G.'s care both medical and psychological. Regarding damages in personal injury cases involving children, both the child and the parent/guardian can potentially recover damages. The child's claim focuses on their own injuries, while the parent/guardian can seek compensation for expenses related to the child's injury, such as medical bills and lost wages and emotional distress in the parent under the abuse of process claim."*

The same filing stated that the lawsuit "caused harm to me and my 12 year old child" and was filed "just to harass or intimidate me from asserting my rights under the RRAA." (Appeal Vol. 2, pp. 317, 319.)

This filing was Appellant's opposition to the motion the entry order references. In it, Appellant asserted — in the plain language available to a self-represented parent — her right to bring the counterclaim based on her own parental relationship to M.G. and her own injuries as M.G.'s parent, distinct from injuries belonging to M.G. That is the contention the entry order addresses: that Appellant "had standing to raise the abuse-of-process counterclaim because she suffered a direct constitutional injury in the form of interference with her liberty interest in the care, custody, and control of child." The constitutional citation appeared for the first time on appeal; the substance of the contention — Appellant's own standing, grounded in her parental relationship and her own injuries — was presented to the trial court in the June 11, 2025 opposition, giving that court a fair opportunity to rule on it. See State v. Ben-Mont Corp., 163 Vt. 53, 61 (1994).

This point was presented in Appellant's brief, which argued Appellant's independent standing as M.G.'s sole legal guardian to raise the abuse-of-process counterclaim based on her own direct injuries. (Appellant's Br., Argument § IV.)

WHY THE POINT WOULD PROBABLY AFFECT THE RESULT

The Court declined to reach Appellant's standing contention solely on the ground that it was not raised in opposition to the motion to dismiss. Because the June 11, 2025 opposition raised it, the stated basis for declining review is contradicted by the record. Correction of this point would require the Court either to address the contention on its merits or to state a different ground for declining to do so. Either outcome changes the disposition of this issue from unpreserved to decided.

RELIEF REQUESTED

Appellant respectfully requests that the Court (1) amend the entry order to correct the statement that the contention was not raised in opposition to the motion to dismiss, and (2) address the contention, or state the ground on which it declines to do so. A copy of the June 11, 2025 opposition (Appeal Vol. 2, pp. 317–320) is attached as Exhibit A.

Appellant makes no other request and does not reargue any other issue.

September 2, 2026

/s/ Shannon Gilmour

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VERMONT SUPERIOR COURT
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CIVIL DIVISION
Case No. 24-CV-04273

Juliet Stephens v. Shannon Gilmour

ENTRY REGARDING MOTION

Title: Motion to Seal AND REDACT RECORDS CONTAINING MINOR CHILD'S IDENTIFYING INFORMATION (Motion: 34)
Filer: Juliet Stephens
Filed Date: April 08, 2026

The motion is GRANTED IN PART and DENIED IN PART.

Defendant Shannon Gilmour has filed a post-judgment motion requesting enforcement of the Court's December 9, 2024 Order relating to the redaction of Ms. Gilmour's minor child's name in the Court's filings.

Brief Background

By way of background, Plaintiff Juliet Stephens filed the present case in October 2024 seeking Ms. Gilmour and her daughter's eviction. In her complaint, Ms. Stephens named both Ms. Gilmour and her minor daughter, M.G. as defendants. Both Ms. Gilmour and M.G. were residing at the property, and both were named in the lease as tenants.

On November 19, 2024, Ms. Gilmour filed a motion to have M.G.'s name redacted to her initials in the filings made to date and redacted in the same manner going forward. On December 9, 2024, the Court granted this motion with a single word order.

On January 6, 2025, the Court, in part addressing issues related to Ms. Gilmour's ability to represent M.G. in the litigation, questioned why Plaintiff needed M.G. as a party to the present eviction, since, as a minor, her residence was largely derivative and dependent on her Mother's tenancy. In response, Plaintiff moved to dismiss her claims against M.G., which the Court granted on April 17, 2025. In the same Order, the Court dismissed M.G.'s counterclaims against Plaintiff, which effectively removed M.G. as a party to the present litigation.

Subsequent to the Court's December 9th Order, the parties have abided by the limitation to only refer to M.G. using her initials in their filings. While the Court did not conduct a

systematic review of the record, it did not find any motions, briefs, or filings where either party used M.G.'s full name. As well, the Court has taken actions to remove M.G. as a party to this action. She is not listed as a party or in the caption within the Court's records.

At the same time, there does appear to be certain documents in the record that have M.G.'s name. In the Court's initial review, they appear to generally fall into one of three categories.

The first are references to M.G. found in pleadings and filings pre-dating the Court's December 9, 2024 Order. While limited in number, these references in both the caption and the body of these filings should be redacted consistent with the Court's December 9th Order.

The second are references to M.G. found in the Court's docketing system, particularly the title of various entries, which are related to filings that M.G. made through her attorney Austin Anderson. These were likely generated by Attorney Anderson, but the Court finds that it would only be reasonable to treat these filings in the same manner, and it will act to redact these electronic tags consistent with the Court's Order.

The third category of documents are documents that reference M.G. by name, and they should be divided into two groups. The first are documents, like the Lease, that contain M.G.'s name. The second are the numerous exhibits and documents, primarily filed by Ms. Gilmour that contain voluminous information about M.G. including sensitive school records. Most of these documents were filed after M.G. was dismissed as a party and her claims dismissed, and they were filed by Ms. Gilmour who was looking to introduce these documents to bolster Ms. Gilmour's claims.

The vast majority of Ms. Gilmour's filings are not available to the public because they were not admitted, and while they are part of the record in this case, they are not generally available.

Some of the documents in this category, particularly copies of the lease, and other official records may have a glancing reference to M.G. This reference to M.G., like in the Lease, is limited and ancillary to the main purpose of the document. They do not, unlike many of the Gilmour exhibit, draw undue attention to M.G. or her personal information.

Legal Analysis

In her motion, Ms. Gilmour makes six requests for action. Two of these requests are reasonable and will be granted. First, the Court will review the docket entries in the file and will

redact or rename any filing to avoid using M.G.'s full name. Second, the Court will review any filings made by either party prior to December 9, 2024 and will create redacted versions reducing any reference to M.G. in the caption or body of the filing to her initials. The originals will be sealed from public view. This relief will include the three filings identified in Ms. Gilmour's motion: (1) the November 4, 2024 docket entry; (2) Plaintiff's December 6, 2024 Exhibit 1; and (3) Plaintiff's December 6, 2024 Exhibit 2.

As to the remainder of Ms. Gilmour's requests, the Court finds that it goes beyond the December 9, 2024 Order and seeks relief that is not due.

First, Ms. Gilmour relies on 33 V.S.A. § 5117 for a general proposition that the Court is under an obligation to scrub the record of any reference to M.G. Section 5117 specifically applies to juvenile proceedings and does not apply to civil proceedings. Minors are often mentioned in public court proceedings and records. Outside of juvenile proceedings, the issue of confidentiality is handled on a case-by-case basis. See, e.g., *McNaughton v. Granite City Auto Sales* 108 Vt. 130 (1936) (allowing a minor to bring an action as plaintiff to void a contract with an auto dealer). There is no rule or statute requiring the redaction of a minor's information in a civil case. In such cases, parties may proceed by stipulation or by establishing a right to a redaction. V.R.P.A.C.R. 9 (laying out the process for redacting or sealing court records). When there is not a statutory right or rule governing redaction, the Court is obligated to strike a balance between the inherent and compelling right of public access with certain types of sensitive information. V.R.P.A.C.R. 6(a) and (b).

Second, while the Court has approved the redaction of M.G.'s name, the ruling did not put the Court in the position of policing and auditing the record. While Ms. Gilmour has pointed to three documents, and the Court has found a few more, it is not incumbent on the Court to comb through the file for every stray reference to M.G.

Third, the Court is of the understanding that the particularly sensitive records filed in this case, which were filed by and large by Ms. Gilmour, are not available to the public. Ms. Gilmour's review appears to confirm this, but the Court will not audit or certify documents filed by parties. If Ms. Gilmour is aware of documents that have fallen outside of the seal, then she is welcome to bring them to the Court, and the Court will act with due diligence on the specific request.

Fourth, the Court will clarify its December 9, 2024 Order to apply primarily to the written filings submitted by the parties and not to stray references to M.G. found in various exhibits, such as the Lease. When Ms. Gilmour filed her initial motion concerning M.G.'s identity, the Motion focused on two factors.

First, there was the undue attention and potential embarrassment that might attach to a minor forced to be part of this case. This issue has largely been resolved by the Court's removal of M.G. from the case and from the redaction of her name from captions and briefs.

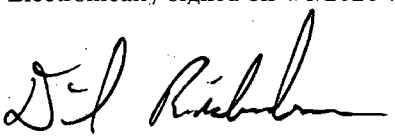
Second, Ms. Gilmour raised a concern that M.G.'s future eligibility for renting could be negatively affected by being a part of an eviction. Again, this concern has been largely cured by M.G.'s dismissal and removal as a party. She is no longer listed as a defendant, and once the redactions discussed above are completed, one will have to dig deep into the file before coming across her name. Neither of these reasons require M.G.'s complete erasure from any document in the record. To the extent that there is a copy of the Lease or another exhibit that references her, there is no harm. As such, there is neither legal obligation, nor compelling reasons to expended limited judicial resources to audit and redact the thousands of pages that the parties, particularly Ms. Gilmour filed in this matter, which may have a passing reference to M.G.

Additionally, the Court will further clarify the December 9th Order to direct that any filing concerning M.G.'s confidential school or health-care records shall be sealed pursuant to Rules 6 and 9. V.P.A.C.R. 6, 9. It is the Court's understanding that these records, again largely filed by Ms. Gilmour, have already been sealed as they were not admitted. This clarification extends this redact to a permanent seal. If Ms. Gilmour is aware of a record that fits into this category that is visible to the public, she is directed to inform the Court of its status, and the Court will take corrective action.

ORDER

Based on the foregoing, Defendant Gilmour's Motion to Redact and Seal is **Granted in Part and Denied in Part.** The Court directs the Court staff to remove any docketing titles or notations with M.G.'s name and otherwise remove her name as a party to this matter, to the extent that this has not already occurred. The Court further directs Court staff that any filings (including briefs, pleadings, motions, or other written responses) filed prior to December 9, 2024 be reviewed and to the extent that M.G.'s name appears in the caption or body of the filing, it shall be redacted and the original sealed. All other relief sought by Defendant is **Denied.**

Electronically signed on 4/8/2026 7:00 PM pursuant to V.R.E.F. 9(d)



Daniel P. Richardson
Superior Court Judge

FILED: 11/25/2025 6:40 PM
Vermont Superior Court
Washington Unit
24-CV-04273

Vermont Supreme Court
109 State Street
Montpelier, VT 05609-0801

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NOTICE OF APPEAL

Vermont Rules of Appellate Procedure (V.R.A.P.) 3 and 4

IN THE SUPREME COURT OF THE STATE OF VERMONT

For Superior Court Appeals:
UNIT: WASHINGTON
DIVISION: CIVIL

For Board or Agency Appeals:
BOARD OR AGENCY NAME:

For All Appeals:
CASE NAME: Juliet Stephens v. Shannon Gilmour

DOCKET NUMBER: **24-CV-04273**

Notice is given that Shannon Gilmour (*name of party appealing*), defendant (*Plaintiff/Defendant*), appeals to the Supreme Court from Final Judgment (10/28/25); Orders dated 10/23/25, 7/9/25, 4/17/25, 1/8/25 - (*describe order being appealed*) entered on the 28th day of October, 20 25.

Signature: /s/Shannon Gilmour Date: November 25, 2025

Name: Shannon Gilmour
Mailing address: 3291 Vermont Route 65, Brookfield, VT 05036

Phone: 720-672-1192
Email address: Shannonleegilmour@gmail.com
Attorney for: Pro Se

NOTE: This form must be filed with the superior court clerk or administrative agency and a copy sent to the Supreme Court docket clerk, counsel of record for each represented party, and any self-represented party. V.R.A.P. 3(b). The form may be used for any appeal to the Supreme Court, whether from the superior court or an administrative agency.

FILED: 11/25/2025 6:40 PM
Vermont Superior Court
Washington Unit
24-CV-04273

ATTACHMENT TO NOTICE OF APPEAL
Juliet Stephens v. Shannon Gilmour
Case No. 24-CV-04273

ORDERS AND JUDGMENT APPEALED FROM:

1. Final Judgment entered October 28, 2025, including jury verdict and all rulings on Defendant's counterclaims

2. Order dated October 23, 2025, granting in part and denying in part parties' pre-trial motions in limine

3. Order dated July 9, 2025, dismissing Defendant's abuse of process counterclaim

4. Order dated April 17, 2025, dismissing M.G. as a party and dismissing M.G.'s counterclaims

5. Order dated January 8, 2025, requiring Defendant to obtain counsel for M.G. pursuant to Estate of Snelgrove v. LeBlanc, 2023 VT 58

Dated: November 25, 2025

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CIVIL DIVISION
Case No. 24-CV-04273

Juliet Stephens v. Shannon Gilmour

ENTRY REGARDING MOTION

Title: Motion; Motion; Motion; Motion in Limine; Motion in Limine; Motion in Limine; Motion to Seal; Motion to Enforce Motion For: to allow Jury to submit questions to witnesses; Motion For: for permission for support person for minor witness; Motion For: for accommodation of child witness; to Exclude Irrelevant and Prejudicial Evidence; to Exclude Evidence re Mental Health History; to Admit Evidence of Plaintiff's Retaliatory Conduct; to File Medical Records Under Seal; Emergency Motion to Enforce Court Order and Redact Minor's Name from Opposing Counsel's Exhibits (Motion: 22; 23; 24; 25; 26; 27; 28; 29)
Filer: Shannon Gilmour; Shannon Gilmour; Shannon Gilmour; Claudine C. Safar; Claudine C. Safar; Shannon Gilmour; Shannon Gilmour; Shannon Gilmour
Filed Date: October 06, 2025; October 06, 2025; October 07, 2025; October 10, 2025; October 10, 2025; October 10, 2025; October 17, 2025; October 22, 2025

The motion is GRANTED IN PART and DENIED IN PART.

Parties have filed eight pre-trial/motions in limine in anticipation of the scheduled jury trial in this matter. The Court will address each motion separately and in turn in this Order, but the Court will begin with a brief review of the procedural history of the present action as there have been over 20 motions made during the course of this litigation that have altered what claims remain before the Court.

Procedural History

The present matter arises from a residential tenancy created between Plaintiff (Landlord) and Defendant (Tenant) regarding the rental of two rooms at Plaintiff's property at 15 Phelps Street in Montpelier, Vermont. In October 2024, Plaintiff sought to terminate Defendant's tenancy pursuant to 9 V.S.A. § 4476(h), which covers the provisions for terminating a tenancy created when landlord and tenant occupy the same dwelling space. When Defendant did not vacate, Plaintiff brought the present case for ejectment on October 24, 2025, pursuant to 9 V.S.A. § 4468. Plaintiff seeks the remedy of ejectment under 12 V.S.A. § 4761.

Plaintiff initially brought this ejectment action against both Defendant and Defendant's minor daughter, M.G., who resides with her mother at 15 Phelps Street. On November 11, 2024,

Court will not rule on how either party should conduct their examinations in advance of trial but will defer any ruling on the scope and nature of the cross-examination until trial begins and the scope of M.G.'s direct examination is established. *State v. Williams*, 2010 VT 77, ¶ 11, 188 Vt. 405.

For these reasons, Defendant's motion for accommodations is **Denied** as to the admission and use of M.G.'s affidavit. It is **Moot** regarding allowing Ms. Stober as a support person and taking breaks as necessary since these practices are already allowed. The issue of M.G.'s cross-examination is **Deferred** until trial.

4. *Plaintiff's Motion in Limine (Motion # 25)*

Plaintiff seeks in her motion in limine to prevent Defendant from having M.G. testify, from having Attorney Safar testify, and from introducing testimony regarding the dismissed abuse of process claims. Defendant objects to this motion on the grounds that a prior ruling by the Court constituted a waiver of any objection to M.G. testifying and that Attorney Safar's testimony is critical to her retaliation claim.

"A motion in limine is a useful device for limiting the issues and evidence prior to trial where that is possible." *State v. Dubois*, 150 Vt. 600, 602 (1988). A motion in limine is necessarily limited and must be used, if at all, as more of a scalpel than a shotgun. *Id.* In other words, a motion in limine is best used to address a specific and discrete issue and not for broader and sweeping rulings that may depend on the state of evidence at the time of trial and when admission is sought. *Id.* "Evidence should be excluded on a motion in limine only when the evidence is clearly inadmissible on all potential grounds." *United States v. Paredes*, 176 F.Supp.2d 179, 181 (S.D.N.Y. 2001).

In this case, the relief sought falls into two categories. First, Defendant's opposition makes plain that she seeks to adduce evidence and testimony from M.G. and Attorney Safar regarding Plaintiff's decision to include Defendant's daughter as a party to the case.

Defendant's argument demonstrates that she has sought to reframe the issue that Plaintiff initially included M.G. as a party as part of her retaliation counterclaim. Notwithstanding, these facts are not relevant to the retaliation claim for two important reasons.

First, Defendant did not include service on her daughter as part of her November 11, 2024, counterclaim for retaliation. As noted above, Defendant listed six bases for her retaliation claim. None of them includes the post-termination decision to serve M.G. Defendant has not put Plaintiff on notice that she intended to include this issue as a part of her retaliation claim, and it would be prejudicial to include it now. *In re Waitsfield-Fayston Telephone Co., Inc.*, 2007 VT 55, ¶ 12, 182 Vt. 79 ("Failure to plead a claim means that the claim is not in the case.").

Second, the nature of a retaliation claim is focused on whether the landlord has either changed the terms of a rental agreement or threatened or brought an action against a tenant who has taken action consistent with one of the three protected categories. 9 V.S.A. § 4465(a); see also *Houle v. Quenneville*, 173 Vt. 80, 87–88 (2001). As the Vermont Supreme Court has noted, "Vermont's retaliatory eviction statute contemplates that the tenant's protected activity will precede the

landlord's retaliatory action." *Houle*, 173 Vt. at 90. Therefore, the service of and inclusion of M.G. as a party is irrelevant to the retaliation claim.

In the alternative, Defendant also seeks to put this evidence forward in support of her Breach of Habitability claim to show that Defendant's failure was willful and intentional. This contention is not logically connected. The breach of warranty claim is premised on the allegations that Plaintiff did not have smoke detectors and carbon monoxide detectors installed at the start of Defendant's tenancy and that Plaintiff did not install them in a timely manner. Whether Plaintiff included M.G. as a party does not make the question of whether she willfully failed to install the detectors more or less true.

Finally, Defendant also contends that this testimony will establish her claim for punitive damages and for attorney liability. Neither of these claims are before the Court, and therefore they cannot provide a basis for admissibility. *In re Waitsfield-Fayston Telephone Co, Inc.*, 2007 VT 55, at ¶ 12. Furthermore, Attorney Safar is not a party, and any claims that Defendant may have against Attorney Safar are also not before the Court in this trial.

For these reasons, the Court **Grants** Plaintiff's motion in limine regarding any testimony about the inclusion of M.G. as a party to this lawsuit and the process of serving her the complaint. Such testimony is not relevant to any surviving claims that are presently before the Court and within the scope of the present trial. Given that this area of testimony is the only testimony sought from Attorney Safar, the motion in limine regarding calling Attorney Safar as a witness is **Granted.** Defendant may not call Attorney Safar as a witness.

As to the second category, M.G.'s general ability to testify, Defendant notes that M.G. lived in the house at 15 Phelps Street at all relevant times and was a witness to the incidents and facts that make up Defendant's remaining counterclaims, regarding retaliation and habitability. This proffer suggests that M.G. has personal knowledge of the facts underlying these claims. For this reason, the Court **Denies** Plaintiff's request to outright bar M.G.'s testimony. At the same time, the Court will note again that M.G. is not a party to this case, and any damages that she claims to have suffered or any opinions that she may have about the process are not relevant to the present claims. Her testimony will be circumscribed by V.R.E. 402 and 602, which require a witness to testify about their personal knowledge of what they witnessed to the extent that such personal observations are relevant to the claims before the Court.

In summary, the Court **Grants** Plaintiff's motion in limine **in Part.** Neither party may offer testimony regarding M.G.'s inclusion as a party in this case or the service of process that she received as it is not relevant to the remaining claims. It is also **Granted** as to the testimony of Attorney Safar, who shall not be called as a witness. It is **Denied in Part** to the issue of M.G.'s testimony as she may testify about her personal observations and knowledge.

This last issue appears to have arisen, in part, because Defendant filed original paper copies with the Court as part of her earlier filings, and the Court, consistent with Vermont Rule of Electronic Filing 12, destroyed the paper copies once they were scanned and entered into the electronic filing system. V.R.E.F. 12(a) and (b), rptr n. (explaining that the electronic file is the official record, that parties should not file originals that they wish to preserve, and that "The paper document may be scanned and destroyed and, thus, become unavailable to the filer in the future."). The Court will note that Rule of Evidence 1003 allows that a duplicate of an original document is admissible to the same extent as the original, subject to the same objections that the original might have as to authenticity or the extent that admission of a duplicate would be unfair. V.R.E. 1003.

For these reasons, Defendant's motion is limine is **Denied at this time** for the reasons stated.

7. *Motion to File Medical Records under Seal (Motion #28)*

Defendant has filed a motion to file medical records for M.G. under seal. This motion was filed after the Court-imposed deadline for pre-trial filings. To date, the Court does not have a response to this motion from Plaintiff.

Given the sensitive and personal nature of the medical records, the Court will **Grant** Defendant's motion in part. The Court will allow these records to be filed under seal. In doing so, the Court makes no ruling on the admissibility of these records as M.G. is not a party to the present case. Her health is not an issue in any of the claims, and any claim for impacts to M.G.'s health are M.G.'s claims to assert, and it is not for Defendant to raise.

Therefore, the Court will address these records with parties as part of the pre-trial conference in this matter on October 27, 2025.

8. *Motion to Enforce (Motion #29)*

Defendant filed a motion seeking sanctions and injunctive action against Plaintiff for filing five exhibits with M.G.'s name. These documents were not new documents but prior exhibits. Defendant claims extensive and ongoing harm from the filing of these documents. Before the Court became aware of this Motion, Plaintiff had filed redacted versions of the offending documents. The Court finds this to be a reasonable resolution as it corrects the prior filings and eliminates any ongoing issues.

The Court will note that the decision on which Defendant relies does not impose sanctions or any retroactive obligations on the parties. It simply grants the motion to proceed with any reference to M.G. being limited to her initials. In reviewing this Order, the Court finds that there is room for confusion. Therefore, the Court cannot find as a matter of law that there was a Court order requiring the extensive redaction that Defendant seeks. Second, the Court also does not find that there is evidence of bad faith or malice in the filing. Both parties have filed multiple documents, and the documents at issue were previously filed in this case and have not been sealed.

Third, the mistake appears to be mutual as Defendant has filed at least two exhibits (BB and AI, page 11) that fail to redact M.G.'s name.

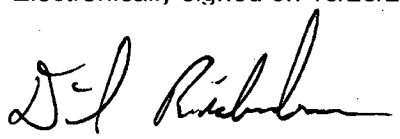
For these reasons, the Court **Denies** Defendant's motion for sanctions as it has largely become moot with the corrective filings. The Court will seal the original unredacted filings.

ORDER

Based on the foregoing, the Court has ruled on the pending motions as follows:

1) The motion to allow jurors to submit questions is **Granted** (Motion #22).
2) The motion to allow a support person for M.G. is **Moot** as the relief sought does not require Court approval (Motion #23).
3) The motion for accommodation for M.G. is **Granted in Part** as to requests 1 and 2 and **Denied** as to requests (3) and (4). Request (5) is **Deferred** until trial. (Motion #24).
4) Plaintiff's first motion in limine is **Granted in part** in regard to Attorney Safar's testimony and any testimony regarding the inclusion of M.G. as a party and service of the complaint on her. It is **Denied in part** in regard to any request to outright bar M.G.'s testimony. (Motion #25).
5) Plaintiff's second motion in limine regarding her mental health history is **Granted.** (Motion # 26).
6) Defendant's motion to allow evidence of retaliatory conduct is **Denied** in regard to Categories (B) and (C) as both are inadmissible under V.R.E. 402 and 602. The Court declines to make any pre-trial ruling as to the admissibility of the facts under Category (A) or the documents in Category (D) without testimony and foundation, but it notes that duplicates are addressed under V.R.E. 1003. (Motion #27).
7) Defendant's motion to file M.G.'s medical records under seal is **Granted in part** as the Court will keep the records under seal, but the Court has concerns about the admissibility and relevance of these records in light of the remaining claims. As such, the parties shall address these exhibits with the Court at the pre-trial conference on October 27th. (Motion #28)
8) Defendant's Motion to Enforce is **Denied as Moot** in light of the redacted exhibits. The Court will put the originals under seal, and Defendant may file redacted versions of Exhibits BB and AI at which time the Court will put the originals under seal.

Electronically signed on 10/23/2025 12:21 PM pursuant to V.R.E.F. 9(d)



Daniel Richardson
Superior Court Judge

REPRINTED RECEIPT

State of Vermont
Judiciary

Payor
Gilmour, Shannon
15 Phelps St
Montpelier, VT 05602

Receipt No.
2024-15889

Transaction Date
11/15/2024

Description	Amount Paid
Gilmour, Shannon	
24-CV-04273	
Juliet Stephens v. Shannon Gilmour et al	
Civil Counter-Claim	90.00
Civil Counter-Claim	90.00
SUBTOTAL	**180.00**
Remaining Balance Due: $0.00	

PAYMENT TOTAL **180.00**

Cash Tendered	180.00
Total Tendered	180.00
Change	0.00

11/15/2024 04:05 PM — Cashier Station WNKS — Audit 1559185

REPRINTED RECEIPT

Vermont Superior Court
WASHINGTON UNIT

NOV 15 2024

FILED

Exhibit BH

Vermont Superior Court
WASHINGTON UNIT

JUL 2 2 2025

FILED

STATE OF VERMONT

SUPREME COURT

Docket No.: [To be assigned]

[Superior Court Case No. 24-CV-04273]

Shannon Gilmour
Appellant

v.

Juliet Stephens
Appellee

MOTION FOR PERMISSION TO FILE INTERLOCUTORY APPEAL

TO THE HONORABLE JUSTICES OF THE VERMONT SUPREME COURT:

Defendant Shannon Gilmour, pro se, respectfully moves this Court for permission to file an interlocutory appeal from the Washington Superior Court's July 9, 2025 dismissal of abuse of process counterclaims. This motion is filed pursuant to V.R.A.P. 5 and requests immediate appellate review of constitutional questions that cannot await final judgment.

I. STATEMENT OF THE CASE

This case arises from attorney-assisted retaliation against a minor child following protected fire safety requests. After defendant requested legally required fire safety, opposing counsel threatened that defendant's 12-year-old child would be hurt if eviction proceedings continued,

STATE OF VERMONT

Washington Unit
Superior Court
Case No. 24-CV-04273

Vermont Superior Court
WASHINGTON UNIT
JUL 28 2025
FILED

Juliet Stephens
Plaintiff

v.

Shannon Gilmour
Defendant

MOTION FOR PERMISSION TO FILE INTERLOCUTORY APPEAL

TO THE HONORABLE JUSTICES OF THE VERMONT SUPERIOR COURT:

Defendant Shannon Gilmour, pro se, respectfully moves this Court for permission to file an interlocutory appeal from the Washington Superior Court's July 9, 2025 dismissal of abuse of process counterclaims. This motion is filed pursuant to V.R.A.P. 5 and requests immediate appellate review of constitutional questions that cannot await final judgment.

Defendant filed a similar motion on July 22, 2025, but addressed it incorrectly to the Vermont Supreme Court. As a pro se litigant, defendant now files this motion properly addressed to the Superior Court for certification.

I. STATEMENT OF THE CASE

This case arises from attorney-assisted retaliation against a minor child following protected fire safety requests. After defendant requested legally required fire safety, opposing counsel

Vermont Supreme Court
Filed: 4/11/2026 1:01 PM

Vermont Supreme Court
109 State Street
Montpelier, VT 05609-0801

802-828-4774
www.vermontjudiciary.org

COVER FOR BRIEF OR PRINTED CASE

Vermont Rule of Appellate Procedure (V.R.A.P.) 32(a)(2)

IN THE SUPREME COURT OF THE STATE OF VERMONT

Juliet Stephens, Appellee

v.

Shannon Gilmour, Appellant

Vermont Supreme Court Case No. 25-AP-409

Brief of Appellant Shannon Gilmour

Appealed From:

Washington Unit

Civil Division

Trial Court Docket No: 24-CV-04273

Shannon Gilmour
3291 Vermont Route 65
Brookfield, VT 05036
720-672-1192
Shannonleegilmour@gmail.com

Pro se Appellant

ISSUES PRESENTED

I. Constitutional Questions of First Impression (Federal & State)

1. Civil Gideon: Whether the 14th Amendment requires state-funded counsel for a minor child (M.G.) named as a defendant in an eviction proceeding who lacks legal capacity to defend themselves.
2. Family Integrity: Whether an eviction judgment against a parent and minor child together, without providing counsel, violates the substantive due process right to family integrity under Troxel v. Granville.
3. Abuse of Process: Whether naming a minor child as a defendant without a lease or legal basis, to coercing a parent, constitutes a federal constitutional violation.
4. Involuntary Defendant Trap — Minor: Whether the 14th Amendment is violated when a child is served separately, denied parental defense, denied appointed counsel, and faced with a default judgment and family separation. 4a. Involuntary Defendant Trap — Adult: Whether Vermont Constitution Chapter I, Article 4 requires appointed counsel for an adult brought involuntarily into civil defensive litigation — who cannot withdraw without losing fundamental interests in housing and family — when facing institutional representation and where the absence of counsel produces systematic denial of discovery, evidence, and meaningful access to the courts.
5. First Amendment Petition Clause: Whether the trial court's rulings

STATEMENT OF PRESERVATION OF FEDERAL CONSTITUTIONAL CLAIMS — Michigan v. Long, 463 U.S. 1032 (1983)

The following federal constitutional claims were raised throughout proceedings below and are preserved for federal review:

- 14th Amendment — Procedural Due Process (involuntary defendant trap): raised in counterclaims, opposition to dismissal, GAL request [PC:91], and at trial.
- 14th Amendment — Substantive Due Process / Family Integrity: raised in abuse of process counterclaim and at trial; dismissed on standing without reaching the substantive question.
- Civil Gideon: raised throughout; preserved as a question of first impression.
- First Amendment — Petition Clause: litigated through trial; evidence excluded without offer of proof.
- Due Process — Meaningful Appellate Review: word limit motion denied [PC:729]; as-applied structural barrier preserved.
- Jury Integrity — Vermont Constitution Article 12: raised at trial [PC:648]; preserved under Chambers v. Mississippi, 410 U.S. 284 (1973).
- 42 U.S.C. § 1983 — Municipal Attorney as State Actor: preserved for federal review. Dennis v. Sparks, 449 U.S. 24 (1980); DuBose v. Kelly,

elimination of the means to do so is not due process — it is its denial. A parent without resources to defend cannot choose inaction — inaction means default judgment against the child and forced family separation through independent eviction of the child.

The court offered Appellant the opportunity to appear as next friend to explain why M.G. should be able to proceed without counsel. [PC:96] Appellant did not merely take that opportunity — she exceeded it. She located Attorney Andersen, who filed a Notice of Limited Appearance, opposed dismissal, and requested appointment of a Guardian ad Litem on M.G.'s behalf. M.G. had done everything the court required. The court dismissed M.G.'s claims anyway — for docket management — over counsel's objection, with a GAL request pending. Under Mathews v. Eldridge, 424 U.S. 319 (1976), courts weigh three factors: the private interest at stake, the risk of erroneous deprivation, and the government's countervailing interest. All three factors favor appointed counsel here.

The private interest is commanding. The Supreme Court has recognized that parental rights and family integrity rank among the most fundamental liberty interests the Constitution protects. Troxel v. Granville, 530 U.S. 57, 65 (2000); Lassiter v. Dept. of Soc. Servs., 452 U.S. 18 (1981). An eviction that names a child as a separate defendant does not merely adjudicate a property dispute. It creates the legal machinery for family separation — a writ of possession against the child independent of the parent.

fundamental liberty interests this Court recognizes. Troxel v. Granville, 530 U.S. 57, 65 (2000); Moore v. East Cleveland, 431 U.S. 494 (1977). State action threatening that interest must survive strict scrutiny: a compelling state interest, pursued through narrowly tailored means. Washington v. Glucksberg, 521 U.S. 702 (1997).

No compelling state interest supports naming a twelve-year-old as an eviction defendant when they hold no lease, signed no agreement, and have no independent legal obligation to the landlord. The trial court itself stated it "lacks clarity as to why M.G. needs to be a formal party to this case at all" — finding it "not plain to the Court that she is necessary to afford complete relief." The record supports one inference: M.G. was named to place a parent's most vulnerable relationship in legal jeopardy and force capitulation. Only after Appellate indicated that an attorney for M.G. was about to be secured, Stephens moved to dismiss - "cites no authority of any consequence for requiring that M.G. be a party" and "has identified no clear need for her presence." [PC:730]

The complaint establishes both elements of abuse of process on its face. Vermont requires: an illegal, improper, or unauthorized use of court process; an ulterior motive or purpose; and resulting damage. Wharton v. Tri-State Drilling & Boring, 2003 VT 19, ¶ 11, 175 Vt. 494, 496. The improper act: Safar named M.G. as a defendant without the statutory prerequisite — M.G. was not separately served with a termination notice, the complaint confirms service on Appellant only [PC:2] — and filed simultaneous proof that M.G. held no

— is a deliberate, escalating campaign of abuse by proxy — weaponizing the legal system against a tenant who cannot afford to use it.

This Court has held that parents have "a legally cognizable interest" in their continued relationships with their children sufficient to support standing in proceedings affecting those relationships. In re L.H., 2017 VT, No. 2017-240, ¶ 9 (Nov. 1, 2017). The cases Tomasi cited — Martel, Tomahawk, Elwell, Livingston — involve strangers to proceedings, parties with no legally protected interest in the matter at all. Appellant is M.G.'s sole legal gaurdian. Tomasi applied the wrong framework. The dismissing court itself acknowledged "the case law in this area is not fully developed." [PC:114]

The trial court ruled the abuse of process claim belonged to M.G. But M.G. had already been dismissed. Neither could bring it. The system ensured no one could name it.

The trial court's dismissal of the abuse of process counterclaim on standing grounds compounded the error. When a child is weaponized against a parent, the parent suffers a direct constitutional injury: interference with Appellant's fundamental right to "the care, custody, and control" of their child. See Troxel, 530 U.S. at 65. Denying a parent standing to challenge this interference creates a zone where the tactical use of children in civil litigation faces no judicial accountability.

Appellant opposed dismissal of M.G.'s counterclaims at every stage. Tomasi found those claims legally viable on the merits in January 2025 — then

ordered Appellant to obtain counsel within thirty days. [PC:730] Attorney Anderson appeared, opposed dismissal, and requested appointment of a Guardian ad Litem. On 4/17/2025, Tomasi dismissed M.G.'s counterclaims sua sponte for docket management — over counsel's objection — despite having found them legally viable and despite M.G. now having counsel who sought to protect them. [PC:96] M.G. did everything the court required. The court dismissed anyway. The circle was closed by the court, not the parties.

This Court has never addressed whether a parent has independent standing for abuse of process when a child is used as the coercive mechanism. The injury — being forced to choose between possessory rights and protecting a child from deliberate harm — is not derivative of the child's injury. It is direct, distinct, cognizable.

Appellee argued below that Appellant lacks standing, citing the third-party standing principle of *Bischoff v. Bletz*, 2008 VT 16, 183 Vt. 235, 949 A.2d 420. The doctrine was misapplied. Third-party standing bars claims where a plaintiff's injury is derivative of harm done to another. It does not bar claims where a defendant used a third party as an instrument to inflict injury directly on the plaintiff.

The distinction is foundational. The 9/26/2024 threat — "your child will be hurt" — was spoken to Appellant. Not to M.G. M.G. was not on the call. Appellant's injury from that threat is Appellant's alone — not derivative of anything M.G. experienced.