

STATE OF VERMONT

SUPERIOR COURT
Washington Unit

CIVIL DIVISION
Docket No. 21-CV-173

REGAN J. CHRISTIE,
Plaintiff,

v.

GREG A. BREER and NORTH COUNTRY
FEDERAL CREDIT UNION,
Defendants.

RULING ON ALL PENDING MOTIONS

During an intimate relationship with Defendant Greg Breer, Plaintiff Regan Christie invested in, becoming a joint owner of, a Marshfield property, 110 Folsom Hill Rd., previously owned solely by Mr. Breer. They apparently both lived there for a time, and Mr. Breer lives there now. The residence also includes two other occupied rental units. This property remains subject to a prior mortgage from Mr. Breer to Defendant North Country Federal Credit Union.¹ The parties also purchased an abutting property, 108 Folsom Hill Rd., at a foreclosure sale and own that jointly as well. In this case, Ms. Christie seeks partition of these two jointly owned properties. She also claims that Mr. Breer owes her substantial sums that she loaned to him. Mr. Breer has not contested Ms. Christie's joint ownership of the 108 and 110 Folsom Hill properties. He does dispute any other liability for "loans." So far, the litigation of this case has been acrimonious, chaotic, and largely unproductive. Many motions addressing the same few issues currently are pending. The court resolves all pending motions now by addressing the issues raised in them, as follows.

Settlement negotiations

Across many motions, Mr. Breer has asked the court to enforce a settlement agreement between the parties, compel Ms. Christie to settle or negotiate towards settlement, or compel her to negotiate the partition dispute separately from the other claimed debts. All such requests are denied.

The record shows that, at some point, Ms. Christie extended an offer to settle that comprehensively addressed all items in dispute. Mr. Breer's response was to segregate the partition items from the rest of the offer and purportedly "accept" only that portion of the offer while rejecting the rest. Doing so, of course, materially changed the nature of the offer and thus amounted to a counteroffer, not an enforceable acceptance. Ms. Christie did not

¹ There is no claim by or against North Country in this case. There is some indication in the record that the mortgage loan is in arrears, but there is no indication that North Country has declared a default or has or imminently may be seeking foreclosure.

accept the counteroffer. The parties thus reached no agreement, and there is nothing to enforce.

Mr. Breer nevertheless repeatedly claims some entitlement to having Ms. Christie negotiate settlement of the partition dispute separately from the loan dispute. He expresses frustration that, in his view, she is unfairly using the loan dispute as leverage in negotiations over the partition dispute. To be clear, the court does not supervise how—or whether—the parties may negotiate settlement (aside from requiring mediation with a neutral third party). While Ms. Christie may choose to settle, or settle part of the dispute only, she has no legal obligation to do either. The parties' private settlement negotiations are between them and may be addressed in mediation. Unless the parties arrive at a binding agreement, their negotiations are not the business of the court.

Mediation

The court has required the parties to participate in mediation with Attorney Michael Marks. As the court understands the parties' representations, Attorney Marks attempted to schedule mediation on November 16 with an alternative date of January 10. Ms. Christie was available on November 16, but Mr. Breer claimed a conflict related to deer hunting with his son. Mr. Breer agreed, however, to the January 10 mediation date. Ms. Christie then filed a motion to compel mediation, seeking to compel the November 16 date and to clarify that the parties will share mediation expenses equally. At this point, the court assumes that the November 16 mediation did not happen. The motion to compel is granted to the following effect: the parties are required to keep and attend the January 10 mediation in good faith. Should Mr. Marks come to have an earlier opening, the parties are required to make good faith efforts to so schedule it. The parties shall share the cost of mediation equally.

Discovery, shared expenses, accounting, receiver

The remaining issues all are interrelated and address non-dispositive issues. Early on in this case, Ms. Christie asked the court for an accounting and to appoint a receiver to ensure that rents were properly being collected, expenses were properly being paid, and that all items of income and expenses were being accounted for cogently. In lieu of a receiver, which would have increased the parties' costs substantially, on May 21, 2021, the court ordered as follows:

Mr. Breer may continue to collect rents from the tenants. He shall promptly place those funds in a separate house account and put Ms. Christie on that account as a joint accountholder so that she can monitor it. He shall pay from that account the monthly mortgage payment, which includes an escrow payment for taxes and insurance. He shall also pay other related expenses which come due for water and sewer, electricity, heat, property maintenance, and such expenses directly necessary to fulfill obligations to the tenant. If there is any excess, it shall remain in the account. He shall provide an accounting every other month to Plaintiff through her attorney as to how he has spent the rents received. His failure to take these steps may require that

a receiver be appointed to take charge of the rents and pay the bills.²

In a July 16, 2021 entry, the court further ordered: “After August 1, for each day Mr. Breer has failed to substantially follow this court’s order of May 21, 2021 and placed rental funds in an account with Plaintiff’s name on it, he shall pay a civil penalty of \$50.”

Ms. Christie represents that things have not gone well. She represents that she has not received all bimonthly accountings, and they have not been reasonably calculated to allow her to understand what rent has come in and from whom, what expenses have come due, and how those expenses have been satisfied. She has sent discovery requests to Mr. Breer in an effort to collect relevant documentation, and she represents that he has largely refused to comply with those requests. Ms. Christie seeks to enforce the court’s May 21 and July 16 orders, to compel discovery, and again she seeks the appointment of a receiver.

For his part, Mr. Breer seeks to compel Ms. Christie to contribute new funds to help pay for certain insurance and maintenance expenses. Ms. Christie refuses to do so without a clear accounting.

These issues, including whether a receiver has become necessary, cannot be resolved effectively on the papers. They will require a hearing.

Though the court ordered the parties to mediate, and mediation is scheduled, it has never issued a more comprehensive Rule 16.2 scheduling order, and this case has not progressed well without one. It is unclear whether the parties have even attempted to engage in discovery, other than Ms. Christie’s requests related to an accounting, to move this case forward both with regard to the partition counts and the other claimed debts.

Accordingly, the court orders as follows:

- (1) The parties are ordered to complete all discovery related to the partition claims by February 28, 2022. These claims will be set for a pre-trial conference in early March.
- (2) Otherwise, the parties are ordered to confer in good faith by no later than December 13 in an effort to resolve the following matters:
 - (a) The parties shall confer about the outstanding discovery requests, reasonable accountings, and any perceived deficiencies in compliance with the court’s May 21 and July 16 orders in an effort at resolving those disputes.
 - (b) The parties shall confer about any issues necessary to avoid waste at the properties, including siding, insurance, the mortgage loan, or any matter that might lower the fair market value of the real properties subject to partition and the post-partition value to the parties.
- (3) A hearing will be scheduled *after* January 10, the date of mediation. If any matters described in section (2) above remain in dispute on December 13, each party shall file with

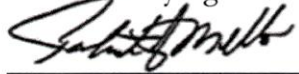
² The May 21 order does not address whether Mr. Breer is required to contribute to the “escrow” account rent in relation to his own occupancy of 110 Folsom Hill Rd. The court assumes that he has not done so.

the court no later than December 20 a clear itemization of each such issue along with an explanation as to that party's position on the matter. Each party may respond to the other party's filing no later than December 27. Any such filings shall address whether a receiver has become necessary.

(4) The court will address any such remaining issues at the hearing.

So ordered.

Electronically signed on 11/17/2021 2:23 PM, pursuant to V.R.E.F. 9(d)



Robert A. Mello
Superior Judge