Vermont Superior Court
Filed 10/01/26
Washington Unit

VERMONT SUPERIOR COURT
Washington Unit
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CIVIL DIVISION
Case No. 26-CV-01489

Estate of Raymond Quimby Sr. v. Houston Pape

ENTRY REGARDING MOTION

Title: Motion to Dismiss; Motion; Motion; Motion to Amend; Motion Counterclaims I-III and VI-VIII; to Reject as Untimely the Service of Discovery Requests; to Reject as Untimely the Opposition to Motion to Dismiss Counterclaims; Answer to Counterclaims; to Set Expedited Trial Dates (Motion: 3; 4; 5; 7; 8)
Filer: Caroline S. Earle; Caroline S. Earle; Caroline S. Earle; Caroline S. Earle; Caroline S. Earle
Filed Date: July 07, 2026; August 10, 2026; August 10, 2026; September 04, 2026; September 04, 2026

The motion is GRANTED IN PART and DENIED IN PART.

This eviction action was brought by Raymond Quimby Jr. (Mr. Quimby), the duly appointed administrator of the Estate of his father Raymond Quimby Sr. (Decedent) to enforce and effectuate the no-cause eviction from Decedent's house—an asset of the Estate for which the probate court has granted a license to sell—Defendant Houston Pape. It is alleged that Mr. Pape began living at the home a couple months before Decedent died, ostensibly under some sort of month-to-month tenancy. Mr. Pape admits in his answer that he never paid Decedent any rent.

In response to the complaint, Mr. Pape filed an 8-count counterclaim. He has withdrawn Count 6. Counts 4–5 (addressing matters related to the tenancy) are not presently at issue. Counts 1–3 and 7–8 all arise out of some collateral dispute about title to and possession of gold or other metal bars.

Pending are Mr. Quimby's motions (#3) to dismiss Counts 1–3 and 7–8; (#4) to quash Mr. Pape's discovery requests as untimely; (#5) to quash Mr. Pape's opposition to partial dismissal of his counterclaim as untimely; (#7) to amend his answer to the counterclaim; and (#8) to set expedited trial dates.

1. *Motion (#3) to dismiss Counts 1–3 and 7–8 of the counterclaim*

This motion is **Granted**. The metal bar counts are predicated on conclusory allegations that Mr. Pape's father once owned valuable gold or other metal bars. Mr. Pape's father died, presumably intestate, when Mr. Pape was a minor. No probate estate was ever opened, and the bars came into Decedent's possession—ostensibly for Mr. Pape's benefit. Mr. Pape believes that he retains some ownership interest in the bars, but he alleges that Mr. Quimby took possession of them following Decedent's death and will not hand them over. Mr. Pape includes a wholly conclusory allegation that Mr. Quimby did so, claiming that the bars are an asset of Decedent's estate. However, probate records clearly reflect that no such bars have been treated as any sort of asset of the estate.

It is at least possible that there is a genuine dispute between Mr. Pape and Mr. Quimby, in his individual capacity, as to legal title to the bars. If Mr. Pape's allegations are true, that dispute is in limbo because legal title to the bars will remain muddled until a probate estate for his deceased father is opened and those assets, if they properly belong in that estate, can be distributed from it. Until then, he presumably could have no more than an equitable interest in title to them.

In any event, as to this case, these claims fail at the outset for the simple reason that Mr. Quimby, in his individual capacity, has never been a party to this case, and the dispute over the bars has nothing whatsoever to do with Mr. Pape's occupation of the subject premises. The case caption reflects that the plaintiff in this case is the estate, but it was brought in fact by Mr. Quimby in his capacity as the administrator of the estate. Mr. Quimby, in that capacity, is the real party in interest for Rule 17 purposes. Mr. Quimby, in his individual capacity, has never been a party to this case. Mr. Pape has not sought to join Mr. Quimby in his individual capacity, and given the lack of clarity concerning ownership and right to claims such gold bars, the Court would be unlikely disposed to either joining additional parties under V.R.C.P. 20 and would likely sever such claims if raised under Rule 18 pursuant to Rule 42(b). As such, the claims cannot be brought against Mr. Quimby individually as he is not a party to this litigation as an individual.

For these reasons, Mr. Pape's claims under counts 1–3 and 7–8 Are dismissed without prejudice pursuant to V.R.C.P. 12(b)(6), and Mr. Quimby's motion to dismiss is **Granted.**

2. *Motion (#4) to quash Mr. Pape's discovery requests*

The Court earlier suggested that discovery should await a ruling on the dismissal motion, which now has been granted. The obvious reason to wait was so that the scope of this case, and what discovery reasonably might be needed, would be clear. Mr. Pape did not wait. Mr. Quimby then filed a motion to quash those discovery requests as "untimely" without first conferring with Mr. Pape under Rule 26(h).

This motion is **Denied** for lack of compliance with Rule 26(h), and the timeliness issue now is moot.

However, the parties are instructed to confer promptly as to the appropriate scope and reasonableness of any promulgated discovery requests in light of this decision and to ensure that this case moves forward efficiently, fairly, and with no undue delay. See *Weide v. Harwood Unified Union School Dist.*, No. 24-CV-02166, 2025 WL 2899950, at *1 (Vt. Super. Ct. Sept. 24, 2025) ("This Court, like many other Vermont courts interprets the word 'confer' to be an in-person or telephone conversation that cannot be satisfied by e-mail or other typed communications or through prior exchanges. In these cases, communication and problem solving is key. Parties should have a candid and practical conversation that sets aside any performative aspects to address what the Court has directed the parties to do." (citations omitted)).

3. *Motion (#5) to quash Mr. Pape's opposition to dismissal*

The dismissal motion having been granted, this motion is **Denied as Moot**.

4. *Motion (#7) to amend the answer to the counterclaim*

The dismissal motion having been granted, this motion is **Denied as Moot**.

5. *Motion (#8) to set expedited trial dates*

This motion is **Granted**. Any need for discovery in this case should be exceedingly minimal. There is no basis for not proceeding to trial expeditiously.

ORDER

For the foregoing reasons:

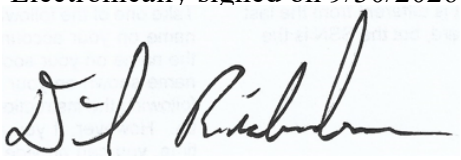
(a) Motions #3 and #8 are **Granted**;

(b) Motion #4 is **Denied**;

(c) Motions #5 and #7 are **Denied as Moot**; and

(d) The parties shall confer forthwith as to the appropriate scope and reasonableness of any pending discovery requests in light of this decision and to ensure that this case moves forward efficiently, fairly, and with no undue delay. The Court will set this matter for a bench trial in November at its earliest available date for a half day bench trial.

Electronically signed on 9/30/2026 4:05 PM pursuant to V.R.E.F. 9(d)



Daniel Richardson
Superior Court Judge