

STATE OF VERMONT

SUPERIOR COURT
Orange County

CIVIL DIVISION
Docket No. 20-1-09 Oecv

Tonya Cicio
Plaintiff

v.

Jay Bernasconi
Defendant

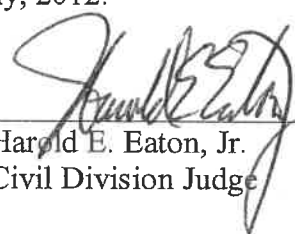
Entry Order

The commissioners should determine first whether the property can be physically divided without great inconvenience to the parties interested, or whether one of the parties will take assignment of the property, or whether the property should be sold. The commissioners are authorized to hold any hearing and to take any evidence as they may deem necessary in the discharge of this duty. The court's mention in the order of reference that the commissioners not perform an "independent investigation" of the facts was meant to refer to the prohibition against *ex parte* explorations of the evidence by *individual* commissioners outside of the context of a properly-noticed and recorded hearing before the duly-constituted panel of commissioners, e.g., *Lindquist v. Adams*, 174 Vt. 179 (2002). Once the commissioners have made this determination, they should file a report with the court stating the recommended course of action and the reasons therefor. 12 V.S.A. § 5172.

If the commissioners recommend a sale, the court will order the commissioners to make the sale. If this happens, the commissioners, and not the parties, will be authorized to take all necessary actions towards completion of the sale. 12 V.S.A. §§ 5175–5177.

If any further questions arise, the intent of this court is to permit the commissioners to exercise their authority to the fullest extent of the statutes. Nothing said in this order or any prior order should be construed as limiting the authority of the commissioners to less than that.

Dated at Chelsea, Vermont this 2nd day of July, 2012.



Harold E. Eaton, Jr.
Civil Division Judge

FILED
VERMONT SUPERIOR COURT
JUL - 3 2012
ORANGE UNIT