

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, November 12, 2025 3:00 p.m.
Courtroom 17 – Hon. Jane Gaskell
3035 Cleveland Avenue, Santa Rosa**

PLEASE NOTE: In accordance with the Order of the Presiding Judge, a party or representative of a party may appear in Department 17 in person or remotely by Zoom, a web conferencing platform.

CourtCall is not permitted for this calendar.

If the tentative ruling is accepted, no appearance is necessary via Zoom unless otherwise indicated.

TO JOIN D17 ZOOM ONLINE:

Meeting ID: 161 126 4123

Passcode: 062178

<https://sonomacourt-org.zoomgov.com/j/1611264123>

TO JOIN ZOOM BY PHONE:

By Phone (same meeting ID and password as listed for each calendar):

+1 669 254 5252

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, **YOU MUST NOTIFY** Judge Gaskell's Judicial Assistant by telephone at **(707) 521-6723 6725**, and all other opposing parties of your intent to appear, and **whether that appearance is in person or via Zoom**, by **4:00 p.m. the court day immediately preceding the day of the hearing.**

1. 23CV01297, Mackinnon Family Holding Co. LLC v. Fleming

Judgment Creditors/Plaintiffs Elizabeth M. Haak, Oliver P. MacKinnon, III, MacKinnon Family Holding Co. LLC and Ohana Beverage Company, LLC's ("Creditors") two unopposed motions to compel Judgment Debtor/Defendant Matthew Fleming ("Debtor") to respond to post-judgment Special Interrogatories and Demand for Production of Documents served February 11, 2025, are **GRANTED**. Sanctions are awarded for the reduced amount of **\$800.00**.

A party who served a demand for production or interrogatories may move to compel a response when the responding party failed to serve any timely response. (C.C.P. §§ 2030.290(b), 2031.300(b).) A court shall impose monetary sanctions on a party that unsuccessfully makes or opposes a motion to compel responses, unless that party acted with substantial justification, or other circumstances make sanctions unjust. (C.C.P. §§ 2030.290(c), 2031.300(c).) The court may award sanctions in favor of a party who files a motion to compel discovery, even though no opposition to the motion was filed. (C.R.C., Rule 3.1348(a).)

Here, Debtor failed to serve any responses to Creditors' post-judgment discovery requests, so Creditors now move to compel his responses and request sanctions of \$2,055.00 for both of the motions. (Notice of Motion re: Special Interrogatories, 2:7-11; Notice of Motion re: Demand for Production, 2:7-12.) Debtor failed to oppose either motion, though these were properly served on him via mail and email on July 31,

2025. (See Proof of Services dated July 31, 2025.) Creditors' counsel states that he anticipates a total of six hours of work in connection with the two motions at a rate of \$685.00 per hour. (Wallin Decl. re: Special Interrogatories, ¶ 7; Wallin Decl. re: Demand for Production, ¶ 7.)

Both of the motions are warranted and the Court will award sanctions under C.C.P. sections 2030.290(c) and 2031.300(c) and C.R.C. Rule 3.1348(a), for Debtor's failure to timely respond and failure to oppose to offer any substantial justification for his lack of response. However, the Court finds that the sanctions requested by Creditors are excessive in both the amount requested and the time anticipated by counsel for work on the motions. Both motions are brief and substantially identical. Furthermore, Debtor filed no opposition that Creditors need to analyze or reply to before the hearing. In the Court's discretion, sanctions will be awarded for the reduced amount of **\$800.00** at the local rate of \$400.00 per hour for two hours on Creditors' counsel's work on the motions.

Creditors shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

2. 24CV03151, Zabala v. Task Mortgage and Investment Inc.

Defendant Task Mortgage and Investment Inc.'s ("Defendant") unopposed discovery motion is **GRANTED in part** as follows:

1. An Order to Show Cause shall be set **Thursday, November 20, 2025, at 3:30 P.M.** in Department 17, at which hearing Plaintiff shall show cause as to why the Court should not hold Plaintiff in contempt for failure to comply with the Court's Order entered March 25, 2025, ("March Order");
2. Plaintiff shall otherwise comply with the March Order and also serve objection-free further responses to Defendant's Form Interrogatories and Requests for Production of Documents as well as producing all responsive documents; and
3. Sanctions are awarded for **\$5,500.00** against both Plaintiff and Plaintiff's counsel.

PROCEDURAL HISTORY

Plaintiff Zabala alleges breach of fiduciary duty, negligent misrepresentation, and elder abuse against Defendant and other individuals in this action. (Memorandum of Points and Authorities ["MPA"], 2:1-20.) To investigate Plaintiff's claims, Defendant served Form Interrogatories and Requests for Production by mail and sent courtesy copies to Plaintiff's counsel by email on November 22, 2024. (*Id.* at 2:26-28; Makdisi Decl., ¶ 2, Ex. A-B.)

Plaintiff failed to serve timely responses or produce responsive documents, so Defendant filed a motion to compel the responses. (MPA, 2:28, 3:1-2.) On February 28, 2025, Plaintiff's counsel served late responses to discovery requests with objections three court days prior to the March 5, 2025, hearing date. (Makdisi Decl., ¶ 5, Ex. C-D.) Defendant filed a meet-and-confer declaration on March 3, 2025, to notify the Court of the deficient and late responses received. (*Id.* at ¶ 6.) Defendant did not file any opposition or request oral argument, so the Court granted the unopposed motion to compel requiring Plaintiff to serve objection-free responses to the discovery and pay sanctions of \$3,435.00. (MPA, 3:5-8.) The Court signed the Order on the motion on March 25, 2025, and Defendant served it on Plaintiff on the same date. (*Ibid.*)

Plaintiff did not comply with the March Order within 20 days as required, but at the case management conference, the Court did allow Plaintiff additional time until May 31, 2025, to comply with the March

Order. (MPA, 3:8-10.) Up until June 24, 2025, Defendant's counsel repeatedly met and conferred in an effort to obtain Plaintiff's compliance with the March Order as well as Plaintiff's further responses and responsive documents. (*Id.* at 3:11-28, 4:1-5.) Ultimately, Plaintiff failed to serve further responses or to comply with the March Order. (*Ibid.*)

Now Defendant moves to compel Plaintiff's further responses and production of documents, and requests sanctions for Plaintiff and her counsel's continued failure to engage in the discovery process and to comply with the March Order. (Notice of Motion, 2:2-28.) Plaintiff has not opposed, though Defendant timely and properly served the moving papers on Plaintiff via counsel on July 15 and 28, 2025. Defendant submitted a Reply to the non-opposition.

ANALYSIS

Legal Standard

Further Responses to Form Interrogatories

A propounding party may move to compel a further response to an interrogatory if: "(1) an answer to a particular interrogatory is evasive or incomplete; (2) an exercise of the option to produce documents under Section 2030.230 is unwarranted or the required specification of those documents is inadequate; or (3) an objection to an interrogatory is without merit or too general." (C.C.P. § 2030.300(a).) The motion to compel must be accompanied by a meet and confer declaration showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. (C.C.P. §§ 2016.040, 2030.300(b)(1).)

The court shall impose a monetary sanction against any party who unsuccessfully makes or opposes a motion to compel a further response to interrogatories, unless the court finds that the sanctionable party acted with substantial justification or that other circumstances make it unjust to impose sanctions. (C.C.P. § 2030.300(d).)

Further Responses to Demand for Production

A party to whom a document demand is directed must respond to each item in the demand with an agreement to comply, a representation of inability to comply, or an objection. (C.C.P. §2031.210(a).) If a responding party is not able to comply with a particular request, or part thereof, that party "shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." (C.C.P. § 2031.230.) The response shall also specify "whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party" and also must set forth the "name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item." (*Ibid.*) Otherwise, if a responding party is objecting to a demand only, then the responding party must identify the demanded document, tangible thing, land, or electronically stored information to which an objection is being made, set forth the grounds for objection, and if privileged, provide a privilege log for the demanded items that are privileged. (C.C.P. § 2031.240.)

A propounding party may move for an order compelling further response to a demand for production if that party deems that: (1) a statement of compliance with the demand is incomplete; (2) a representation of inability to comply is inadequate, incomplete, or evasive; or (3) an objection in the response is without merit or too general. (C.C.P. § 2031.310(a).) The court shall impose a monetary sanction against a party who unsuccessfully makes or opposes a motion to compel further responses to a demand for production,

unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. (C.C.P. § 2031.310(h).)

Sanctions on Motion to Compel Further Responses

The Court shall impose monetary sanctions on a party that unsuccessfully makes or opposes a motion to compel further responses, unless that party acted with substantial justification, or other circumstances make sanctions unjust. (C.C.P. §§ 2030.300(d), 2031.310(h), 2033.290(d).) Courts may otherwise impose monetary sanctions for fees and costs upon a party engaging in the misuse of the discovery process (C.C.P. § 2023.030.) Misuses include, but are not limited to, failing to respond or to submit to an authorized method of discovery and making an evasive response to discovery. (C.C.P. § 2023.010.) Per section 2023.030(a), the Court may order the attorney, the party, or both to pay reasonable expenses including attorney's fees that were incurred as a result of conduct misusing the discovery process.

In *Masimo Corp. v. The Vanderpool Law Firm, Inc.* (2024) 101 Cal.App.5th 902, the Court of Appeal affirmed the trial court's decision to award discovery sanctions against a firm for engaging in the misuse of the discovery process and lack of civility. The sanctionable conduct included the firm advising their client to stonewall discovery efforts multiple times, the firm promising to provide substantive answers but later failing to do so, for providing boilerplate objections that lacked merit, for failing to meet and confer in good faith about the motion to compel, and also for sending condescending emails. (*Masimo Corp. v. The Vanderpool Law Firm, Inc.* (2024) 101 Cal.App.5th 902, 911.)

The court may award sanctions in favor of a party who files a motion to compel discovery, even though no opposition to the motion was filed, or opposition to the motion was withdrawn, or the requested discovery was provided to the moving party after the motion was filed. (California Rules of Court, Rule 3.1348(a).) At the same time, "the failure to file a written opposition or to appear at a hearing or the voluntary provision of discovery shall not be deemed an admission that the motion was proper or that sanctions should be awarded." (C.R.C., Rule 3.1348(b).)

Defendant's Motion to Compel Further Responses

Defendant moves to compel Plaintiff's further responses to Form Interrogatories Nos. 2.1, 2.3, 2.6, 6.2, 6.3, 8.2-8.6, 12.1, and 50.2, on the basis that Plaintiff's responses are incomplete, evasive, and contain objections to relevance that are not allowed per the March Order due to Plaintiff's failure to serve timely responses. (MPA, 4:13-28, 5:1-8; Separate Statement, pp. 2-8.)

Defendant also moves to compel Plaintiff's further responses to Requests for Production Nos. 1-4, 6-9, 11, 14, and 16-24. (Separate Statement, pp. 8-27.) Plaintiff's responses to these requests stated that she had no documents or was travelling and did not have access to the documents, but failed to affirm Plaintiff made a diligent search and reasonable inquiry as to the requests, failed to identify the reason for her inability to comply, and failed to identify who may have the requested documents as required under C.C.P. section 2031.230. (MPA, 5:20-26.)

Defendant notes that Plaintiff provided 18 emails attaching various documents between May 23 and June 6, 2025, but these items were neither sorted nor labelled to correctly indicate the request to which they responded as required under C.C.P. section 2031.280(a). (MPA, 6:10-22.) Moreover, the format of some items produced were unreadable and unusable. (*Id.* at 6:22-26.)

Finally, Defendant requests evidentiary sanctions as to some of Plaintiff's claims and sanctions on this motion in the amount of \$5,550.00, including 12.2 hours of time preparing the moving papers at a rate of \$450.00 per hour and \$60.00 in filing fees. (Makdisi Decl., ¶ 26.)

Plaintiff did not oppose the motion. Defendants submitted a Reply to and Notice of No Opposition.

Application

The Court finds that Plaintiff's discovery responses are insufficient because they are incomplete, evasive, not code-compliant, or contain objections to relevance that the Court has previously not allowed per the March Order. Plaintiff and Plaintiff's counsel have failed to adequately engage in the discovery process despite Defendant's counsel's repeated efforts to obtain relevant discovery needed to evaluate Plaintiff's claims. Furthermore, Plaintiff failed to file any opposition to offer any justification for these actions.

As such, the Court finds that the unopposed motion is warranted and will grant it in part. The Court will order further responses to both the Form Interrogatories and Requests for Production of Documents, and also order that Plaintiff produce responsive documents in a format that is readable and usable for Defendant and which identify to which requests each of those documents are responsive.

The Court will award sanctions in the amount of \$5,550.00 as requested and also set an Order to Show Cause hearing regarding Plaintiff's failure to comply with the March Order. However, the Court finds the request for evidentiary sanctions against Plaintiff's claims to be premature and will not grant it at this time.

CONCLUSION

Based on the above, Defendant's unopposed motion is **GRANTED in part** as follows:

1. An Order to Show Cause shall be set **Thursday, November 20, 2025, at 3:30 P.M.** in Department 17, at which hearing Plaintiff shall show cause as to why the Court should not hold Plaintiff in contempt for failure to comply with the March Order;
2. Plaintiff shall otherwise comply with the March Order and also serve objection-free further responses to Defendant's Form Interrogatories and Requests for Production of Documents as well as producing all responsive documents; and
3. Sanctions are awarded to Defendant in the amount of **\$5,500.00** for this motion against Plaintiff and Plaintiff's counsel.

Defendant shall submit a written order to the Court consistent with this tentative ruling regarding the four discovery motions and in compliance with Rule of Court 3.1312(a) and (b).

3. 24CV07560, Lopez v. American Honda Motor Co., Inc.

Plaintiff Victoria Lopez's motion to compel Defendant America Honda Motor Co.'s ("Honda") further responses to Plaintiff's Request for Production of Documents, Set One, is **GRANTED in part** as to Request Nos. 8, 30, and 31. The motion is **DENIED in part** as to Request Nos. 16, 23, 24, 25, 26, 27, and 28, and as to Plaintiff's request to strike Defendant's objections. However, Honda shall provide a privilege log for all responsive items withheld based on confidentiality or privilege to all of the above requests.

Honda's further responses and any responsive documents to Request Nos. 8, 30, and 31 shall be served within 30 days of service of notice of this Court's order.

PROCEDURAL HISTORY

Plaintiff commenced this action against Honda alleging violations of the Song-Beverly Consumer Warranty Act regarding a 2022 Honda HR-V that Plaintiff purchased. Subsequently she experienced issues with the vehicle while driving. (Motion, 2:13-16.)

On March 10, 2025, Plaintiff propounded Request for Production of Documents, Set One, on Honda. (Motion, 2:17-18.) Honda responded with objection-only responses and did not produce all of the responsive documents requested. (*Id.* at 2:18-21.)

Finding these responses deficient, Plaintiff's counsel met and conferred via correspondence and telephone with Honda's counsel on the issue, but ultimately Honda did not provide further responses. (*Id.* at 2:22-26.) As a result, Plaintiff filed this motion, which Honda has opposed. Plaintiff filed a Reply.

ANALYSIS

Legal Standard

A party to whom a document demand is directed must respond to each item in the demand with an agreement to comply, a representation of inability to comply, or an objection. (C.C.P. §2031.210(a).) If a responding party is not able to comply with a particular request, or part thereof, that party "shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." (C.C.P. § 2031.230.) The response shall also specify "whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party" and also must set forth the "name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item." (*Ibid.*) Otherwise, if a responding party is objecting to a demand only, then the responding party must identify the demanded document, tangible thing, land, or electronically stored information to which an objection is being made, set forth the grounds for objection, and if privileged, provide a privilege log for the demanded items that are privileged. (C.C.P. § 2031.240.)

A propounding party may move for an order compelling further response to a demand for production if that party deems that: (1) a statement of compliance with the demand is incomplete; (2) a representation of inability to comply is inadequate, incomplete, or evasive; or (3) an objection in the response is without merit or too general. (C.C.P. § 2031.310(a).) The court shall impose a monetary sanction against a party who unsuccessfully makes or opposes a motion to compel further responses to a demand for production, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. (C.C.P. § 2031.310(h).)

Plaintiff's Motion to Compel Further Responses to Set One of RFPDs

Plaintiff requests the Court to compel Honda's complete further responses and production of documents responsive to Set One of RFPDs, Request Nos. 8, 16, 23-28, and 30-31. Honda responded to these requests with either objection-only responses, or with boilerplate objections before agreeing to produce limited documents, or with boilerplate objections and the claim that no such document ever existed or Honda does not otherwise have it. (See generally, Separate Statement.) Plaintiff complains that these responses lack good faith and are obstructionist tactics and that the objections are without merit. (Motion, 7:7-28, 8:1-4.) Plaintiff argues that the requests seek discoverable information directly relevant to Plaintiff's claims. (*Id.* at pp. 8-14.) Plaintiff requests that the Court order Honda to provide code-

compliant responses and all responsive documents to Request Nos. 8, 16, 23-28, and 30-31 within 10 days of entry of the Court's order, and to also strike all of Honda's objections. (*Id.* at 14:16-19.)

Plaintiff does not seek sanctions for the motion.

Honda's Opposition

Honda argues that its objections are appropriate given Plaintiff's requests and its responses are code-compliant to each request. (Opposition, pp. 2-6.) Even if Plaintiff's overbroad requests are narrowed, Honda's position is that Plaintiff is not entitled to the requested information because nothing in the law requires Plaintiff to look into other consumer vehicles and claims to prove Plaintiff's case. (*Id.* at pp. 6-8.) Finally, Honda also argues that the use of this information to establish Honda's knowledge or willfulness in regard to defects is unfounded because in a Song-Beverly case a plaintiff does not need to look beyond their own service history and personal experience with their own vehicle repairs. (*Id.* at pp. 8-10.)

Plaintiff's Reply to Opposition

In the Reply, Plaintiff reaffirms the arguments made in the motion to emphasize that they have sufficiently shown good cause for the discovery requested.

Application

The Court finds that the motion is warranted as to Request Nos. 8, 30, and 31 because these requests seek information that is directly relevant to the subject matter of this action. Through other discovery methods, Plaintiff discovered Honda may have in its possession the responsive documents noted in Plaintiff's Separate Statement. Honda is required to provide any responsive documents that are available and in its possession subject to these requests, or otherwise identify the individual or entity which would have them in its possession. However, the Court finds that Honda sufficiently responded to Request Nos. 16 and 23-28 by identifying and producing the documents it found were responsive.

Plaintiff did not seek sanctions for the motion, but even so, the Court does find substantial justification on Honda's part in opposing the motion. So, sanctions are not warranted.

Based on the above, the Court will grant the motion in part and deny it in part. While the Court will not strike Honda's objections to the requests, Honda is required to produce a privilege log for all of the privileged or confidential documents withheld in response to Request Nos. 8, 16, 23-28, and 30-31.

CONCLUSION

Plaintiff's motion to compel Honda's further responses to Plaintiff's Request for Production of Documents, Set One, is **GRANTED in part** as to Request Nos. 8, 30, and 31, and is **DENIED in part** as to Request Nos. 16, 23, 24, 25, 26, 27, and 28, and as to Plaintiff's request to strike all of Defendant's objections.

Honda's further responses and any responsive documents to Request Nos. 8, 30, and 31 shall be served within 30 days of service of notice of this Court's order. Honda shall provide a privilege log for all items withheld based on confidentiality or privilege that are otherwise responsive to the above requests.

Plaintiff shall submit a written order to the Court consistent with this tentative ruling regarding the four discovery motions and in compliance with Rule of Court 3.1312(a) and (b).

4. 25CV01789, Taurian v. Taurian

Plaintiff Kevin S. Taurian's motion to appoint a partition referee pursuant to Code of Civil Procedure ("C.C.P.") section 873.010(a) is **GRANTED**.

PROCEDURAL HISTORY

Plaintiff's Complaint concerns real property located at 2980 Parnell Road, Fulton, California (APN 059-100-003-000)(the "Property"), which the parties in this action jointly own per a final distribution order entered by the Probate Court on September 3, 2021, in *In re Estate of Elso J. Taurian* (Case No. SPR-095068). (Memorandum of Points and Authorities ["MPA"], 2:22-28, 3:1-2; Complaint, Exhibit A.) Pursuant to the order of distribution, which was recorded on October 7, 2021, Plaintiff received half of the interest in the Property and Defendant Dominic J. Taurian received the other half. (MPA, 3:3-7.)

On August 31, 2022, Defendant Dominic J. Taurian transferred his half-interest to the Dominic J. and Cathie D. Taurian Revocable Trust through a trust transfer deed, recorded September 8, 2022. (MPA, 3:7-9; Complaint, Exhibit B.)

Thus far, the parties have not been able to agree on the disposition of the Property, so Plaintiff commenced this action and has been meeting and conferring through counsel with the other parties on a potential mediation or a joint stipulation to appoint Amy Harrington as a partition referee. (MPA, 3:13-18; Kelly Decl., Exhibit A.)

The parties have not reached any agreement regarding the appointment of a partition referee, so Plaintiff now moves for the Court to appoint one per C.C.P. section 873.010. Defendants oppose the motion arguing an appraisal is required instead. Plaintiff submitted a reply to the opposition.

ANALYSIS

Legal Standard

C.C.P. section 872.710(b) holds that a plaintiff has a right to partition as to concurrent interests in property unless barred by a valid waiver. This right to partition is absolute absent a valid waiver. (*LEG Invs. v. Boxler* (2010) 183 Cal.App.4th 484, 493.) A valid waiver can be done by contract, either express or implied. (*Ibid.*) Courts determine at trial whether plaintiff does have this right. (C.C.P. § 872.710(a).) A partition action may be commenced by "an owner of an estate of inheritance, an estate for life, or an estate for years in real property where such property or estate therein is owned by several persons concurrently or in successive estates." (C.C.P. § 872.210(a).)

Per C.C.P. section 873.010(a), "the court shall appoint a referee to divide or sell the property as ordered by the court." The court may: (1) determine whether a referee's bond is necessary and fix the amount of the bond; (2) give the referee instructions; (3) fix the reasonable compensation for the services of the referee and provide for payment of the referee's reasonable expenses; (4) provide for the date of commencement of the lien of the referee allowed by law; (5) require the filing of interim or final accounts of the referee, settle the accounts of the referee, and discharge the referee; (6) remove the referee; and (7) appoint a new referee. (C.C.P. § 873.010(b).)

Plaintiff's Motion to Appoint Referee

Plaintiff requests the Court to appoint a referee because the parties continue to dispute how to manage the Property. (MPA, 4:15-16.) Plaintiff argues that Defendants are in complete possession of the Property

and, without Plaintiff's involvement or authorization, are actively using it to operate two businesses owned by Defendants son and have an ongoing occupation by a tenant living in a trailer. (*Id.* at 4:16-19.) As the Property has vineyards and structures on it, physical division of the Property is barred by statute or restrictions by the Sonoma County Code or Sonoma County General Plan. (*Id.* at 4:20-23.) Furthermore, a physical partition of the Property would reduce the Property's value to a materially less amount than a share of proceeds from a sale of the Property. (*Id.* at 23-27.)

Plaintiff seeks to have Amy Harrington appointed as partition referee to market and sell the Property and partition the interests of the parties through the sale of the physical and personal property. (MPA, 4:28, 5:1-5.)

Defendants' Opposition

Defendants neither dispute the facts recited in the Motion, nor dispute Plaintiff's right to seek a partition of the Property by sale, as Defendants are also seeking to buy Plaintiff's interest in the Property. (Opposition, 1:23-28, 2:1-9.) Defendants dispute the appointment of a partition referee and request instead that the Court order an appraisal of the Property pursuant to the Real Property Partition Act. (*Id.* at 2:10-11.) They further request that the appraisal be conducted by a licensed appraiser familiar with vineyard properties and include a home inspection. (*Id.* at 2:27-28, 3:1-9.)

Plaintiff's Reply

Plaintiff points out that two prior appraisals have already been performed by licensed appraisers. (Reply 2:13-16.) On March 11, 2024, Plaintiff employed Adams Appraisals, which gave a valuation of \$1,840,000.00. (*Id.* at Exhibit A.) On July 16, 2024, Defendant employed GVS Appraisal, which gave a valuation of \$1,600,000.00. (*Id.* at Exhibit B.) Between those two dates, Plaintiff states that Defendants made substantial changes to the Property including tearing out the bathrooms of the house, halting all maintenance of the vineyard, allowing Defendant's son Mario to operate businesses on the Property, as well as allowing an unknown tenant to move onto the Property and also park a camper in which the unknown tenant is presently residing. (*Id.* at 2:17-24.) Otherwise, Plaintiff argues that, though the parties cannot agree on a price, there is no dispute that Plaintiff has a right to seek a partition of the Property by sale. (*Id.* at 3:7-11.)

Application

Finding that both parties agree that Plaintiff is entitled to partition, that there has been no valid waiver as to partition, and that both parties agree to a partition by sale, the Court will grant the motion and appoint a partition referee. Two recent appraisals have already been conducted in 2024 by two separate licensed appraisers, so the Court does not see cause for requiring an additional appraisal before a partition referee can be appointed.

CONCLUSION

Based on the foregoing, Plaintiff's Motion is granted and Amy Harrington is hereby appointed as the partition referee to assist in the parties' dispute. Plaintiff shall submit a written order on the motion consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a)-(b).