

**STATE OF VERMONT  
VERMONT SUPREME COURT  
NOVEMBER TERM, 2024**

**Emergency Order Amending Rule 4.2(e) of the Vermont Rules for Family Proceedings**

Pursuant to the Vermont Constitution, Chapter II, § 37, and 12 V.S.A. § 1, it is hereby ordered:

1. That Rule 4.2(e) of the Vermont Rules for Family Proceedings be amended as follows (new matter underlined; deleted matter struck through):

**RULE 4.2 MOTIONS AFTER JUDGMENT**

(e) **Venue**

(1) *Filing and Place of Hearing.* A motion pursuant to this rule must be filed ~~and heard~~ in the county where the most recent final original judgment was rendered entered. ~~if the opposing~~ If either party resides there in that county or if neither party is a resident of the state, venue remains in that county unless the court orders otherwise. ~~Otherwise, the motion may be filed and heard in the county in which either party resides.~~ If the filing party is a resident of Vermont and the filer affirms in writing that neither party resides in that county, the court on its own motion will automatically transfer venue to the county where the filing party resides. ~~If motions by opposing parties are filed and are pending simultaneously in different counties that are both appropriate for hearing, the matter may be heard in either county if the parties agree; if the parties cannot agree on a single county for hearing, the court in which the first motion was filed will determine and order where the motions are to be heard.~~

(2) ~~*Responsibilities of Moving Party for Filing Papers.*~~ When a motion is to be heard in a county other than that where the original judgment was rendered, it is moving party's responsibility to file certified copies of the decree or order sought to be modified or enforced, and of the docket sheet, with the clerk of the county where the motion is to be heard prior to the hearing. ~~When the motion is for modification of child support, the moving party must also file certified copies of the affidavit of income and assets and the financial worksheet from the original proceeding.~~

*Motions Pending in Different Counties.* If motions by opposing parties are filed and are pending simultaneously in different counties, the matter may be heard in either county if the parties agree; if the parties cannot agree on a single county for hearing, the court where the earliest filed motion is pending will determine and order where the motions are to be heard.

**Reporter's Notes—2024 Amendment**

V.R.F.P. 4.2(e) which determines the venue for post-judgment motions is amended to accommodate changes in process due to the advent of electronic filing using eFile and Serve. Under the prior rule, if one or both parties lived in Vermont but neither resided in the county where the most-recent final judgment was entered, the filing party could file a post-judgment motion in the county of current residence, and the court would

move the paper file from the prior county to the county where the motion was filed. Efile and Serve will not accept electronic filings into a county different from that indicated on the case. Therefore, regardless of current residence, a post-judgment motion must initially be filed in the county where the most-recent judgment was entered.

The amendment to paragraph (e)(1) seeks to maintain the simplicity of the paper system. If either party still resides in the county where the most-recent judgment was entered, venue remains in that county regardless of whether the filer continues to reside in that county. If neither party resides in that county and the filer affirms in writing that the filer is still a resident of Vermont, venue shifts to the filer's county of current residence. The filer does not have to file a motion to change venue. The court on its own motion automatically changes the venue for the case to the county where the filer resides. The goal is to eliminate a bottle neck that has resulted in significant delays and confusion with respect to service.

The amended rule essentially preserves the current rule related to simultaneously filed motions filed by opposing parties, but places that provision in a separate paragraph for this rule so that it is easier to find. Current subdivision (e)(2), related to additional documents that need to be filed by the moving party, is deleted because these documents are already part of the court's electronic case record.

2. That this emergency amendment be prescribed and promulgated, effective immediately. The Reporter's Notes are advisory.

3. That the Court finds that this emergency amendment must be promulgated without resort to the notice and comment procedures set forth in Administrative Order No. 11, because the current rule is causing considerable delays in the post-judgment docket.

4. That the Court Administrator is directed to send this rule as amended out for comment pursuant to Administrative Order No. 11, with comments to be made to the Advisory Committee on the Rules for Family Proceedings. The Advisory Committee is directed to review any comments received and advise the Court whether the amendments should be revised or remain permanent.

5. That the Chief Justice is authorized to report this amendment to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

Dated in Chambers at Montpelier, Vermont, this 4<sup>th</sup> day of November, 2024.



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Paul L. Reiber, Chief Justice

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Harold E. Eaton, Jr., Associate Justice

Signed by the Vermont Supreme Court

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Karen R. Carroll, Associate Justice

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William D. Cohen, Associate Justice

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Nancy J. Waples, Associate Justice