

**SUPREME COURT OF VERMONT
OFFICE OF THE COURT ADMINISTRATOR**

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TO: Members of the Vermont Bar

FROM: Teri Corsones, Esq., State Court Administrator

RE: Promulgated and Proposed Rules, Odyssey File and Serve and Public Portal Information, Filing of Exhibits & Other Miscellaneous Info

DATE: October 8, 2024

For your information, please find:

- *Promulgation Order Making Permanent the Emergency Amendments to Rules 17(b) and 20(e)(3) of the Vermont Rules of Admission to the Bar of the Vermont Supreme*
- *Promulgation Order Amending Rule 80.1(b)(3) of the Vermont Rules of Civil Procedure*
- *Proposed Order Amending Rule 502 of the Vermont Rules of Evidence*
- *Proposed Order Amending Rule 5(b)(4)(A) of the Vermont Rules for Environmental Court Proceedings*
- *Proposed Order Amending Rules 3, 4(a)(2), (d)(6)(A), and (e)(5), 5(a)(2), (b)(1), (c), (f), (h)(1)(A) and (k)(1) of the Vermont Rules for Environmental Court Proceedings*
- *Proposed Order Amending Rule 4(c) of the Vermont Rules of Civil Procedure*
- *Proposed Order to Make Permanent Amendments to Rule 9.2 of the Vermont Rules of Civil Procedure*
- *Proposed Order Deleting Rule 11(e), Amending Rules 43 and 56 of the Vermont Rules of Civil Procedure*

I. PROMULGATED RULE AMENDMENTS

- a. Promulgation Order Making Permanent the Emergency Amendments to Rules 17(b) and 20(e)(3) of the Vermont Rules of Admission to the Bar of the Vermont Supreme Court*
[https://www.vermontjudiciary.org/PROMULGATEDEMERGENCYMADEPERMANENT-RulesofAdmission17\(b\)20\(e\)\(3\)--STAMPED](https://www.vermontjudiciary.org/PROMULGATEDEMERGENCYMADEPERMANENT-RulesofAdmission17(b)20(e)(3)--STAMPED)

This Order promulgated on **October 8, 2024, effective immediately**, permanently adopts the amendments promulgated by emergency order on September 13, 2022, effective October 1, 2022.

On an emergency basis in 2022, Rule 17(b) was amended to allow a hearing panel to preside remotely or to allow or require remote participation and Rule 20(e)(3) was added to permit the oath of admission to be administered remotely in real time by video.

These emergency amendments are now made permanent.

- b. *Promulgation Order Amending Rule 80.1(b)(3) of the Vermont Rules of Civil Procedure*
[https://www.vermontjudiciary.org/PROMULGATED--VRCP80.1\(b\)\(3\)--STAMPED](https://www.vermontjudiciary.org/PROMULGATED--VRCP80.1(b)(3)--STAMPED)

This Order was promulgated on **October 8, 2024, effective January 1, 2025.**

Rule 80.1(b)(3) is amended to require service of a blank Verified Answer - Foreclosure Case form and a blank Notice of Appearance for Self-Represented Litigant form. Rule 4(b) already requires service of blank answer and notice of appearance forms. Rule 80.1(c) requires that the answer in a foreclosure case be verified to avoid default. The amendment specifies that the answer form served be a verified answer form conforming substantially to the form approved by the Court Administrator for use in a foreclosure case.

II. PROPOSED RULE AMENDMENTS

(NOTE: THE FOLLOWING AMENDMENTS HAVE BEEN PROPOSED AND HAVE NOT BEEN APPROVED BY THE SUPREME COURT.)

- a. *Proposed Order Amending Rule 502 of the Vermont Rules of Evidence*
<https://www.vermontjudiciary.org/PROPOSED--VRE502--FORCOMMENT>

This proposed amendment to Rule 502 extends an evidentiary privilege to communications between a client and a lawyer referral and information service made for the purpose of seeking professional legal services. Nothing about the proposed amendment is intended to affect the rules of professional conduct or otherwise define what constitutes an attorney-client relationship.

Comments on this proposed amendment should be sent by **December 9, 2024**, to the Hon. Dickson Corbett, Esq., Chair of the Advisory Committee on Rules of Evidence, at the following address:

Hon. Dickson Corbett
Dickson.Corbett@vtcourts.gov

- b. *Proposed Order Amending Rule 5(b)(4)(A) of the Vermont Rules for Environmental Court Proceedings*
[https://www.vermontjudiciary.org/PROPOSED--VRECP5\(b\)\(4\)\(A\)--FORCOMMENT](https://www.vermontjudiciary.org/PROPOSED--VRECP5(b)(4)(A)--FORCOMMENT)

The proposed amendment to Rule 5(b)(4)(A) requires service of the notice of appeal on the applicant immediately after the appellant files the notice of appeal and mails a copy to the municipal panel. The purpose of this proposed amendment is to provide sufficient notice to applicants and mitigate delay while appellants are in the process of identifying other interested persons to notify.

Comments on this proposed amendment should be sent by **December 9, 2024**, to Allan Keyes, Esq., Chair of the Advisory Committee on the Rules of Civil Procedure, at the following address:

Allan Keyes, Esq., Chair
Advisory Committee on the Rules of Civil Procedure
ark@rsclaw.com

- c. *Proposed Order Amending Rules 3, 4(a)(2), (d)(6)(A), and (e)(5), 5(a)(2), (b)(1), (c), (f), (h)(1)(A) and (k)(1) of the Vermont Rules for Environmental Court Proceedings*
[https://www.vermontjudiciary.org/PROPOSED--VRECP3,4\(a\)\(2\),4\(d\)\(6\)\(A\),4\(e\)\(5\),5\(a\)\(2\),\(b\)\(1\),\(c\),\(f\),\(h\)\(1\)\(A\)and\(k\)\(1\)--FORCOMMENT](https://www.vermontjudiciary.org/PROPOSED--VRECP3,4(a)(2),4(d)(6)(A),4(e)(5),5(a)(2),(b)(1),(c),(f),(h)(1)(A)and(k)(1)--FORCOMMENT)

The proposed amendments delete references to the now-abrogated 2010 Vermont Rules for Electronic Filing, which were replaced with the 2020 Vermont Rules for Electronic Filing.

Comments on these proposed amendments should be sent by **December 9, 2024**, to Allan Keyes, Esq., Chair of the Advisory Committee on the Rules of Civil Procedure, at the following address:

Allan Keyes, Esq., Chair
Advisory Committee on the Rules of Civil Procedure
ark@rsclaw.com

- d. *Proposed Order Amending Rule 4(c) of the Vermont Rules of Civil Procedure*
[https://www.vermontjudiciary.org/PROPOSED--VRCP4\(c\)--FORCOMMENT](https://www.vermontjudiciary.org/PROPOSED--VRCP4(c)--FORCOMMENT)

The proposed amendments to Rule 4(c) emphasize the existing option to seek court approval for service by an “indifferent person.” The proposed added language adds “good cause” as a reason for using alternative service and may include the fact that service is often delayed in that county; or that in a particular case, time is of the essence.

Comments on this proposed amendment should be sent by **December 9, 2024**, to Allan Keyes, Esq., Chair of the Advisory Committee on the Rules of Civil Procedure, at the following address:

Allan Keyes, Esq., Chair
Advisory Committee on the Rules of Civil Procedure
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- e. *Proposed Order to Make Permanent Amendments to Rule 9.2 of the Vermont Rules of Civil Procedure*
<https://www.vermontjudiciary.org/PROPOSED-VRCP9.2MakingPermanent--FORCOMMENT>

Rule 9.2 was adopted September 13, 2022, effective October 1, 2022, to effectuate requirements of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law No. 116-136, 15 U.S.C. § 9058(c)(1). The promulgation order indicated that the rule would expire on September 30, 2025, absent further Court order. Because the CARES Act is now permanent, the proposed rule recommends the rule also be permanently adopted.

Comments on this proposed amendment should be sent by **December 9, 2024**, to Allan Keyes, Esq., Chair of the Advisory Committee on the Rules of Civil Procedure, at the following address:

Allan Keyes, Esq., Chair
Advisory Committee on the Rules of Civil Procedure
ark@rsclaw.com

f. *Proposed Order Deleting Rule 11(e) and Amending Rules 43 and 56 of the Vermont Rules of Civil Procedure*

[https://www.vermontjudiciary.org/PROPOSED--VRCP-Deleting11\(e\)Amending43\(d\)\(h\)56\(c\)\(1\),\(2\),\(6\),\(d\)\(h\)--FORCOMMENT](https://www.vermontjudiciary.org/PROPOSED--VRCP-Deleting11(e)Amending43(d)(h)56(c)(1),(2),(6),(d)(h)--FORCOMMENT)

The proposed amendments involve the use of a declaration in place of an affidavit or notarized statement. The proposal deletes Rule 11(e), which authorized use of a declaration in lieu of a statement made under oath, an affidavit, or a notarized document. Rule 11(e) did not apply when an oath, affidavit, or notarization was required by statute. Amendments to 4 V.S.A. § 27b by 2023, No. 46, § 4, permit a broadening of the declaration rule. The proposed changes simultaneously adopt Rule 43(h) and authorize use of a declaration without exception whenever the rules or a court order require filing or service of an affidavit or a statement signed under oath. The proposal also amends Rule 56 to refer to a “declaration,” an unsworn document signed subject to the penalties of perjury under these rules or applicable law. Under proposed Rule 56(b)(6), a declaration used to support or oppose a summary judgment motion must be based on personal knowledge.

Comments on these proposed amendments should be sent by **December 9, 2024**, to Allan Keyes, Esq., Chair of the Advisory Committee on the Rules of Civil Procedure, at the following address:

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Advisory Committee on the Rules of Civil Procedure
ark@rsclaw.com

III. ODYSSEY FILE & SERVE AND PUBLIC PORTAL INFORMATION

Odyssey File and Serve has recently provided information for court users who are not receiving email notifications and who question whether their email addresses have mistakenly been placed on a “Suppression List.” Here’s a link to information in that regard [Why was my email placed on the Suppression List? – eFile \(zendesk.com\)](#). Here’s another link for court users who wish to have their email addresses “Safelisted” to ensure proper delivery <https://odysseyfileandserve.zendesk.com/hc/en-us/articles/360046887411> .

All Superior Courts, including the Environmental Division, the Judicial Bureau, and the Supreme Court use Odyssey File & Serve (OFS). Please use the following links to access the electronic filing and portal systems and for more information.

Reminders for OFS Users:

1) PDFs must be “flattened” prior to efile through Odyssey File & Serve

With the increased use in electronic signature tools, it is important for OFS filers to remember that all PDFs must be flattened prior to filing in OFS. In order to eFile a form-fillable PDF or a PDF that has been electronically signed, you must first save them as a flat file. Otherwise, the filing will fail and you will need to refile.

Follow the steps below to "flatten" a completed PDF:

1. Open the completed PDF.
2. Right click on document and select Print. NOTE: if document opens in Adobe, Select File and select Print.

3. Select the PDF printer. (The Adobe PDF printer is installed automatically with Adobe Acrobat. Numerous free PDF printer drivers are available for download from the Internet.)
4. Select OK.
5. Specify location to save the printed, "flattened" version of the form.
6. Select Save

- 2) Attorneys must select the party they represent as the "person responsible for fees" in the Fee section of the filing process. Additionally, when the attorney represents more than one party, attorneys should continue to select the same party as the "person responsible for fees"; otherwise, the attorney will incur an additional efilng use fee.

Odyssey File & Serve. Odyssey File & Serve (OFS) is the platform through which you electronically file with the courts. To access OFS, please visit <https://vermont.tylertech.cloud/OfsWeb/Home>

You can access user guides through the "User Guides" link in the "Self Help" window. You can also access docket-specific user guides and a new Frequently Asked Questions on the judiciary's website at www.vermontjudiciary.org/efiling

For technical support regarding Odyssey File & Serve, please contact Tyler Technologies at 800-297-5377 or efiling.support@tylertech.com

If you have procedural questions about OFS, please email the judiciary at EFileSupport@vtcourts.gov

Odyssey Public Portal. The Odyssey Public Portal allows you to view your case files. To access the portal, please visit <https://portal.vtcourts.gov/Portal>. Before you can view your case files, you must first register in the portal and then request elevated access. The Public Portal User Guide contains instructions on how to register and request elevated access. You can read the user guide on our website at <https://www.vermontjudiciary.org/about-vermont-judiciary/public-portal>

For technical support regarding the Public Portal, please contact the Vermont Judiciary's HelpDesk at itsupport@vtcourts.gov. When emailing, please write "Public Portal" in the subject line.

IV. FILING OF EXHIBITS FOR EVIDENTIARY HEARING

Per the 2020 Vermont Rules for Electronic Filing, all electronically filed documents (including exhibit lists and exhibits) must be submitted in PDF format. The Vermont Judiciary's website provides detailed instructions on how to submit exhibits for use at trials and other kinds of evidentiary hearings. <https://www.vermontjudiciary.org/FilersGuidetoExhibitsforHearings>

V. MISCELLANEOUS

a. Court Forms

Court forms are constantly being updated. Please refer to the judiciary website for the most up-to-date forms, <https://www.vermontjudiciary.org/court-forms>

Please use the link below to report any form question, concern or issue <http://www.vermontjudiciary.org/website-feedback-form> or you can access our Website Feedback program at the bottom of each web page.

b. Obligation under A.O. 41

Attorneys are reminded that an “attorney must report to the State Court Administrator within thirty days any change of the office mailing or electronic mail address” and that “[n]otice sent to a reported address is sufficient even if not received by the attorney because of failure to report the proper address or failure of delivery not caused by the court.” A.O. 41, § 4(c). To update changes in your contact information, please access your attorney account with the [Attorney Portal](#)

c. Receipt of Court Notices and Orders (eCabinet)

The Vermont courts send all court-issued documents (hearing notices, orders, etc.) to attorneys by email using the email addresses registered in a system called eCabinet. Attorneys may register up to three email addresses in the system and are responsible for keeping the information updated. The email address(es) registered in eCabinet are not used for service of documents filed by opposing parties, which is done through service contacts in Odyssey File & Serve.

To create an eCabinet account or update an existing account, attorneys must contact the Judiciary helpdesk through one of the methods listed below. Please include your attorney bar license number in your communication.

- Email itsupport@vtcourts.gov
- Telephone the Judiciary helpdesk at 802-828-4357
- Use the online form [eCabinet Registration/Update \(cognitofirms.com\)](http://cognitofirms.com)

Updating information in the [Attorney Portal](#) or in **eCabinet** does not automatically notify the other. It is your responsibility to update both. If you are a member of the Vermont Bar Association, you will also need to separately notify the VBA.