

**STATE OF VERMONT  
VERMONT SUPREME COURT  
OCTOBER TERM, 2025**

**Order Promulgating Emergency Amendment to Rule 5(d)  
of the 2020 Vermont Rules for Electronic Filing**

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

1. That Rule 5(d) of the 2020 Vermont Rules for Electronic Filing be amended as follows (new matter underlined):

**RULE 5. PROCEDURE FOR ELECTRONIC FILING**

**(d) Court Staff Processing in the Superior Court.**

(1) *Court Staff Review.* Court staff will review all electronic filings for compliance with these rules and Rule 7(a)(1) of the Rules for Public Access to Court Records, in the manner prescribed by Rule 7(a)(3) and (4).

(A) Except as designated in (B), court staff review will occur prior to entry into the electronic case management system.

(B) Initial civil complaints made in commencement of an action pursuant to Vermont Rule of Civil Procedure 3 will be reviewed to ensure the absence of confidential information prior to entry into the case management system, and for compliance with all other rules after entry into the electronic case management system, subject to the corrective and remedial actions of Rule 7(a)(3) and (4) of the Rules for Public Access to Court Records. Electronic filers remain obligated under Rule 5(b) to comply with filing requirements. Complaints initiating the following civil actions will continue to be reviewed prior to entry:

(i) Actions for Orders Against Stalking or Sexual Assault (12 V.S.A. Ch. 178),

(ii) Small Claims Actions (12 V.S.A. Ch. 187), and

(iii) Any civil action that is within the original jurisdiction of the Supreme Court, or within the jurisdiction of criminal division, family division, environmental division, probate division, or the judicial bureau.

(2) *Accepting or Rejecting a Filing.* Court staff will electronically notify the efiler either that the efiled has been accepted or rejected. A rejection will provide the reason for the rejection. Court staff may reject a filing that does not comply with these rules or Rule 7(a)(1) of the Rules for Public Access to Court Records. Court staff may also reject a filing that contains an error that cannot be corrected by court staff. The Court Administrator will delineate the permissible reasons for rejecting a filing and provide the list in a prominent place on the Judiciary website.

(3) *Failed Submission.* A filing that does not comply with the instructions in the e filing system or the formatting requirements in Rule 7 may not be processed by the electronic filing system and may result in a failed submission. A failed submission does not reach the clerk queue and may not be appealed.

(4) *Correcting an eFiling.* An e filer may submit a corrected e filing within 7 days after receiving the notification that a filing resulted in a failed submission or was rejected if the e filer follows the instructions for e filing a correction on the electronic filing system. It is the e filer's responsibility to demonstrate the date of rejection or failed submission. The court may extend the time for correction for good cause. Court staff will accept a corrected e filing if all requirements of those rules and the instructions for correction have been met.

(5) *Filing Date.* When an e filing has been accepted, the date and time of e filing for all purposes under the applicable rules of procedure are the date and time that the initial e filing was submitted if the corrected filing complied with the time limits in (d)(4).

(6) *Assigning Case Number.* The electronic filing system will provide a case number for a new case filing that has been accepted in the acceptance notification. The assigned case number must appear on all subsequent e filings pertaining to the case.

(7) *Appeal of Rejected Filing.* In the event an e filer and court staff are unable to resolve a dispute regarding an electronic filing, the e filer may appeal the basis for a rejected filing to the Court Administrator. The appeal must be filed within 7 days from the date of the rejection. The time period in (d)(4) for correcting an e filing is tolled until the appeal is decided.

### **Reporter's Notes—2025 Emergency Amendment**

Rule 5(d)(1)(B) is amended in response to developments in the litigation between Courthouse News Service and other various news outlets and the Vermont Judiciary. When electronic filing first began in March 2020, the Vermont Rules for Electronic Filing required clerk review before electronically filed documents were publicly accessible to prevent improper disclosure of confidential information. The COVID-19 pandemic struck around the same time that electronic filing began, and prompt processing of complaints was impacted by staffing shortages and equipment challenges. Courthouse News Service filed suit alleging that the delays in accessing complaints violated its First Amendment right of access. The district court issued an injunction barring a delayed release of complaints, and Rule 5(d)(1) was amended in December 2021 to create a press-review queue where civil complaints could be accessed before clerk review.

On appeal, the Court of Appeals for the Second Circuit ruled that the pandemic-impacted delays violated the plaintiffs' First Amendment right of access but observed that the Judiciary's processing of new filings had since improved. Courthouse News Serv. v. Corsones, 131 F.4th 59, 63 (2d Cir. 2025). The Second Circuit vacated the district court injunction as overbroad. On remand, the district court revised the injunction to enjoin only the type of review taking place prior to August 2021. In response to this revised injunction and the Second Circuit ruling, the Judiciary reinstated pre-access review limited to confidential information in civil complaints and with an expedited review process.

Rule 5(d)(1)(B) is revised to reflect this change in practice. The amendment indicates that civil complaints are reviewed to ensure the absence of confidential information prior to entry into the case management system. The rule amendment recognizes that filers have a responsibility to determine whether filings contain information that is not publicly accessible and to either redact it or separate it from publicly accessible information. V.R.P.A.C.R. 7(a)(1). In particular, the Vermont Rules for Public Access to Court Records indicate that some personally identifying information is not publicly accessible, including social security numbers, passport numbers, and financial account numbers. V.R.P.A.C.R. 6(b)(8). Under the revised rule, civil complaints are reviewed to ensure there is no release of this personal information before the complaint is accepted into the case management system.

2. That this 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, to allow for clerk review for compliance with Rule 7(a)(1) of the Vermont Rules for Public Access to Court Records and limit any inadvertent release of confidential information.
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 Electronic Filing. The Advisory Committee is directed to review any comments received and advise the Court whether the amendment should be revised or made permanent.

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

Dated in Chambers at Montpelier, Vermont, this 6<sup>th</sup> day of October, 2025.



Signed by the Vermont Supreme Court

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Paul L. Reiber, Chief Justice

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Harold E. Eaton, Jr., Associate Justice

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William D. Cohen, Associate Justice

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Nancy J. Waples, Associate Justice