

**VERMONT SUPREME COURT
ADVISORY COMMITTEE ON THE RULES OF EVIDENCE**

Minutes of October 3, 2025 Meeting

This meeting of the Advisory Committee on the Rules of Evidence commenced at approximately 2:05 p.m. via videoconference. Present were Committee Chair Hon. H. Dickson Corbett and Committee members Hon. Pamela A. Marsh, Ian C. Sullivan, John F. Evers, Mimi Brill, Claudine Safar, Elizabeth H. Miller, Marshall Pahl, Benjamin Chater, Michelle Donnelly, and Cristina Mansfield. Committee member Hon. Elizabeth Novotny was unable to attend.

Also present (nonvoting) were Hon. Harold E. Eaton, Jr., Vermont Supreme Court Liaison, and Aliza Harrigan, Reporter.

1. Meeting Opening

The meeting was called to order by Judge Corbett once a quorum was present. Judge Corbett introduced the new Reporter.

2. Approval of Minutes of the May 2025 Committee Meeting

Judge Corbett moved to approve the minutes of the May 16, 2025 meeting as circulated. The minutes were unanimously approved.

3. Membership

Judge Corbett indicated that the Committee circulated notice of the vacant position created by Karen McAndrew's retirement to multiple attorney organizations, including the Vermont Bar Association, the Vermont Trial Lawyers Association, and the Inns of Court. The Committee received three applications to fill the vacancy.

The Committee prefaced its discussion of these candidates by noting that the value of practice-area diversity favored applicants with general-practice or civil-litigation experience. Judge Corbett noted that the Committee might also wish to discuss, in the future, whether it would be beneficial to have a member with experience in administrative law.

Upon motion by Judge Marsh, seconded by Elizabeth Miller, the Committee agreed to forward all three applicants to the Vermont Supreme Court for consideration with no expression of preference. Judge Corbett indicated that he would draft a letter to the Court and enclose each candidate's letter of interest and qualifications.

4. Ongoing Matters

a. Amendments to V.R.E. 502, Lawyer Referral Privilege

Judge Corbett explained that the amendments to V.R.E. 502 were reviewed by the Legislative Committee on Judicial Rules (LCJR) a few months ago. LCJR offered no substantive comment on

the amendments. The amendments have now been promulgated and will take effect on January 1, 2026. No further action is required on the part of the Committee.

b. Amendments to V.R.E. 106, Rule of Completeness

Judge Corbett noted that the amendments to V.R.E. 106 were posted and received no public comment. He also indicated that LCJR offered no substantive comment on the amendments. The Committee unanimously voted to submit the amendments to V.R.E. 106 to the Court for promulgation.

c. Amendments to V.R.E. 615, Exclusion of Witnesses

The Committee began its discussion by reviewing feedback provided by the Advisory Committee on the Vermont Rules of Civil Procedure. This Committee requested this input because while Federal Rule of Civil Procedure 30(c)(1) provides that Federal Rule of Evidence 615 does not apply during civil depositions, Vermont Rule of Civil Procedure 30(c) does not include such an exception. One Civil Rules Committee member prepared a memo explaining that there is no indication this language was purposely excluded from Vermont’s Civil Rule 30(c). Another Civil Rules Committee member submitted a comment indicating that she would oppose adding the word “trial” to V.R.E. 615 as a modifier of “testimony” because it is underinclusive of situations where sequestration is appropriate. Judge Corbett explained that much of this Committee’s earlier discussion of the amendment had centered on whether to include the word “trial” as in the amended federal rule. Various alternative language was discussed during previous meetings, but each option carried its own potential complications.

The Committee then discussed whether to continue working on the amendments, seek feedback from additional rules committees, or submit the amendments to the Court with the understanding that public comment may generate additional areas of discussion. Upon motion by Judge Marsh, seconded by Elizabeth Miller, the Committee agreed to forward the proposed amendments to the Court for consideration as to whether they should be published for public comment.

5. New Matters

Judge Marsh queried whether the Committee may wish to discuss whether there should be rules of evidence addressing the use of AI exhibits at a future meeting. Elizabeth Miller indicated that she was a delegate to the study committee that discussed this issue a year ago. She will recirculate the report generated by the study committee in advance of the next meeting. She explained that the report did not recommend any changes to the Rules of Evidence but noted that this is a rapidly evolving area and reconsideration may be warranted. Judge Marsh indicated that she will inquire of the VBA as to whether they are taking any action regarding AI and report back at the next meeting. This topic will be placed on the agenda for the next Committee meeting.

6. Public Comment

There were no public comments for review.

7. Next Meeting Date

The next Committee meeting will be held remotely on Friday, January 23, at 2 p.m.

The meeting was adjourned at 2:45 p.m.

Respectfully submitted,

/s/ Aliza Harrigan

Aliza Harrigan, Reporter