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# ENTRY ORDER

2026 VT 50

SUPREME COURT CASE NO. 26-AP-358

OCTOBER TERM, 2026

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| Stephen Maynus | } | APPEALED FROM: |
| | } | |
| v. | } | Superior Court, Washington Unit, Civil Division |
| | } | |
| State of Vermont et al. | } | CASE NO. 25-CV-02602 |

In the above-entitled cause, the Clerk will enter:

¶ 1. Appellant Stephen Maynus moves to vacate this Court's October 27, 2026 order denying his motion for the Court to reconsider its dismissal of the above-captioned appeal. Appellant argues that the Court ruled prematurely because appellees did not have an opportunity to respond to his motion to reconsider. Appellant's motion is denied because appellees had a reasonable opportunity to present their position in the previous motion practice in this appeal, and appellant has not demonstrated how appellees were prejudiced by resolution of the motion in their favor. Furthermore, this Court has discretion to act on a motion for a procedural order without a response from other parties. V.R.A.P. 27(b). Because the October 27, 2026 order decided questions of law, the text of that order is reproduced below and issued as a published order.

¶ 2. Plaintiff moves for reconsideration of this Court's October 13, 2026 order dismissing the above-captioned appeal as untimely. For the following reasons, we decline to alter our prior order dismissing the appeal.

¶ 3. In June 2025, plaintiff filed a complaint which included five counts against defendants. One count was previously dismissed, and on March 25, 2026, the civil division granted defendants' motion to dismiss all of plaintiff's remaining claims. Plaintiff moved for reconsideration, which was ultimately denied. In May 2026, plaintiff filed a notice of appeal of the dismissal of "[c]lounts 2-4 only." That appeal, numbered 26-AP-214, remains pending before this Court. On September 24, 2026, plaintiff filed a notice of appeal from "[o]rder denying count 1 (not set out on a seperate [sic] document) 25 March 2026." Defendants moved to dismiss the appeal as untimely because it was filed more than thirty days after the judgment. See V.R.A.P. 4(a)(1) ("[T]he notice of appeal required by Rule 3 must be filed with the superior court clerk within 30 days after entry of the judgment or order appealed from.") Casella Constr. Inc v. Dep't of Taxes, 2005 VT 18, ¶ 3, 178 Vt. 61, 869 A.2d 157 ("The timely filing of a notice of appeal is a

jurisdictional requirement."). Plaintiff argued that the appeal was timely because judgment was not entered on a separate document as required by Vermont Rule of Civil Procedure 58(a), and the appeal period therefore did not begin to run until 150 days after the dismissal order was entered, or August 24, 2026. See V.R.C.P. 58(a)-(b) (stating that "[e]very judgment . . . shall be set forth on a separate document" and judgment is only effective when set forth on separate document or when "150 days have run from the entry of judgment as provided in Rule 79(a)"). This Court held that even if the 150-day period applied, plaintiff's notice of appeal was still filed more than thirty days after the end of that period and was therefore untimely.

¶ 4. In his motion for reconsideration, plaintiff argues that his August 31, 2026 motion under Vermont Rule of Civil Procedure 60(b) tolled the running of the time to appeal from the civil division's March 25, 2026 final order. He asserts that because the civil division failed to enter judgment on a separate document as required by Rule 58(a), judgment therefore was not "entered" until 150 days later, on August 24, 2026. He claims that his Rule 60(b) motion seeking reconsideration with regard to Count 1 was therefore filed within twenty-eight days of "entry of judgment" for purposes of the tolling rule in Vermont Rule of Appellate Procedure 4(b), and the appeal period did not start running until the civil division denied that motion on September 10, 2026. Thus, he asserts, his September 24, 2026 notice of appeal was timely as to the March 25, 2026 order.

¶ 5. Even if plaintiff is correct regarding the application of the 150-day rule set forth in Vermont Rule of Civil Procedure 58(b) and Vermont Rule of Appellate Procedure 4(e) to the circumstances here, we conclude that he waived his reliance on Civil Rule 58(b) by filing his earlier notice of appeal as to Counts 2-4 on May 27, 2026. The "sole purpose" of Rule 58's separate-document requirement is to clarify when the appeal period begins to run. Bankers Tr. Co. v. Mallis, 435 U.S. 381, 384 (1978). Parties can waive the protection of that rule by filing a notice of appeal before the 150-day period has expired. Id. at 386 ("The need for certainty as to the timeliness of an appeal, however, should not prevent the parties from waiving the separate-judgment requirement where one has accidentally not been entered."); see Orr v. Plumb, 884 F.3d 923, 931 (9th Cir. 2018) (holding that by filing first notice of appeal before clerk entered judgment in separate document, defendant waived reliance on separate-document rule, and therefore subsequent notice of appeal was untimely); Watson v. Vill. at Northshore I Ass'n, 2018 VT 8, ¶ 80, 207 Vt. 154, 184 A.3d 1133 (relying on federal case law interpreting federal rules to construe similar Vermont rules of civil procedure); Reporter's Notes, V.R.C.P. 1 ("The rules are based on the Federal Rules of Civil Procedure. Federal cases interpreting the Federal Rules are an authoritative source for the interpretation of identical provisions of the Vermont Rules.").

¶ 6. Moreover, "a party must ordinarily raise all claims of error in a single appeal following final judgment on the merits." Firestone Tire & Rubber Co. v. Risjord, 449 U.S. 368, 374 (1981); see also Hosp. Inns v. S. Burlington R.I., 149 Vt. 653, 656-57, 547 A.2d 1355, 1357-58 (1988) (explaining that this Court is guided by federal final-judgment rule in applying Vermont's finality requirement). Plaintiff expressly seeks to challenge a different aspect of the same order that he appealed earlier this year. Such an additional appeal is prohibited by the final-judgment rule. See United States v. Arlt, 567 F.2d 1295, 1297 (5th Cir. 1978) (stating that "[a]ppellant is not entitled to two appeals" from same judgment). Accordingly, we conclude that

there is no merit to plaintiff's motion for reconsideration and decline to revise our prior order dismissing this appeal as untimely filed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Nancy J. Waples, Associate Justice

Christina E. Nolan, Associate Justice

Michael P. Drescher, Associate Justice