VERMONT SUPREME COURT
ADVISORY COMMITTEE ON THE RULES OF CIVIL PROCEDURE
AGENDA FOR MEETING OF May 2, 2025

Approval of draft minutes of March 7, 2025, meeting.	

SPECIAL BUSNESS

1.	**# 23-2.3 Whether to make Rule 9. 2 permanent** The Rule expires September 30, 2025. The Committee has voted to reconsider its recommendation of January 3, 2025. The floor is open whether to recommend the Court abrogate the rule or allow it to expire; or extend, modify or make permanent Rule 9.2. • Subcommittee to report • For discussion and action	

PROPOSED RULES OUT FOR COMMENT

2.	**#24-6. Rule 65 (b)(1) - Application for Preliminary Injunction only by motion.** The proposed amendment to Rule 65(b)(1) deletes the option to apply for a preliminary injunction in the complaint. Under the proposed rule a motion is required. Comments closed April 10, 2025, without comment. • For discussion and action.	
3.	**# 23-16. Rule 4(c) – Special appointments vs. Service by any adult not a party.** (Suggestion of Senator Hasim) Comments on this proposed amendment closed December 9, 2024 The amendments to Rule 4(c) *as proposed* for comment would have expedited and added "good cause" as a reason for special appointment for service of process. As revised by vote January 3, 2025, the proposal would: • Require a "suitable" indifferent person, • Broaden the reasons for special appointment whenever it will be more "economical or efficient than service by an officer," • Require service of the order of appointment. In March the Committee discussed the style of draft recommended rule text and had suggestions for the Reporter's Notes. • Professor Vesilind to report • For discussion and action.	

SUGGESTED AMENDMENTS FOR CONSIDERATION AS PROPOSED RULES

4.	**# 25-2. (new). VRAP 10(b)(8)(A) and VRAP 31(a)(1) cross-references need updating.** Suggested corrective amendments attached as to be ProposedVRAP10 • Chair Keyes to report. • For discussion and action.	
5.	**# 25-1 (new). Rule 79.1 – Automatic withdrawal upon the entry of final judgment and the expiration of the time for appeal. (Suggestion of Judge Hoar/ Civil Division Oversight).** Updated memo 21-1 • Judge Hoar to report. • For discussion	
6.	**# 23-5. & # 24-9. Rule 79.1 – Client contact information with motion to withdraw & Substitution of counsel without notice and motion (Suggestion of Judges Toor, Hoar/ Civil Division Oversight).** At the January meeting the Committee had under consideration draft amendments to 79.1(f) and (g) addressing separate proposals; one addressing the need for client-contact information with motion to withdraw and the other to allow automatic substitution of counsel. See "#24-9. Rule 79.1 Memo # 2" and "Rule 79.1 Memo # 2 AMENDED" The "Current working draft 79.1 (f) &(g)" is a fair copy of the draft amendments based on the January discussion • For any continued discussion of (f) & (g) or suggestions for reporter's notes.	
7.	**# 23-7. Rule 54(e) & Rule 58(b)&(d) – Taxation of costs and preparation of form of judgment by the court, instead of the clerk. (**Suggestion of Judge Hoar) The Committee has voted to shift from clerk to court the burden of both taxing costs and preparing the form of judgment. See "1205 Draft to-be-proposed Rules 54 (e), Rule 58(b) & 58(d) with notes," considered in January. See "Memo updated Rule 58(b)&(d)" for further revisions to Rule 58(b) & 58(d) and draft reporters notes resulting from discussion at the January 3 meeting See 3-6-25 (Dumont) drafts of Rule 54 & 58 discussed in March Questions remain as to the form and effect of the court order under Rule 54 awarding or denying costs. • Including later-taxed costs in an "amended judgment," as proposed in the January draft, creates uncertainty whether the original appeal time is revived. Some other language needs to be developed. • Should the Rule allow the judge to coalesce the judgment, costs and fee order, or any two of them, into a single judgment? How can this be done given that entry of the judgment	

	triggers time limits for motions for attorney's fees, for submitting bill of costs (under the current draft), for post judgment (Rule 52 & 59) motions, and for notice of appeal? • Do we need to amend V.R.C.P. 54(a)(that every money judgment must include all costs allowed the prevailing party) or V.R.C.P. 58(c) (that entry of judgment must not be delayed for taxation for costs?) These issues referred to the Reporter to suggest alternative solutions. • Professor Vesilind to report • For continued discussion and possible action	
8.	**#24-10. Rule 80.1(a) Post-conviction relief** (Proposal of Civil Division Oversight) See draft text new Rule 80.12 ("2024-08-25 Rule 80.12 DRAFT 2") Also "Rule 81(a) with excerpt of original reporter's note." Special (virtual) Meeting scheduled for MAY 16, 2025, 9AM • Chair Keyes to report	

OTHER SUGGESTED AMENDMENTS FOR POSSIBLE FURTHER REVIEW.

9.	**# 23-1. Rule 28(a)(1)&(2) - Deposition oaths.** OPR Notaries Public Administrative Rules (effective 2/26/2025) apparently do not apply when a Vermont notary administers testimonial oaths pursuant to Civil Rules 28 and 30.(Part 5.1c(i) ("the administration of an oath swearing to or affirming the truth of oral testimony following the oath" is not a notarial act regulated under these Rules and is governed by the statutes and rules regarding those acts"). Are any rule changes necessary to account for this? • Ms. Bent to Report	
10.	**# 24-3. Rule 55 – Citation of legal authority for out-of-state service under Rule 4(c).** (Suggestion of Judge Toor to require citation of the out-of-state rule or statute that permits the type of out of state service used.) The Committee has agreed that Rule 55 (attached) would be the proper placement for this requirement, if it is needed. The question is whether to leave the rule as is with judges occasionally asking for more information. It was agreed in November that no rule change is needed, subject to any further comment from judges to be polled by Judge Hoar, who reported in January that most judges prefer a rule. See "#24-3 Updated Memo" with suggested text amending Rule 55(a) if the Committee agrees a citation requirement rule is needed. • For continued discussion and possible action	
11.	**#24-12. Rules 5(a) and 77(d). Rule 55. Service and notification of parties who have not appeared. (Inquiry from Judge Spero)**	

	Under Rules 5(a) and 77(d) a party need not serve - and the clerk need not notify – "any party in default for failure to appear." Under Small Claims Rule 3(e)(1) "The plaintiff must mail a copy of the motion [for default judgment] and affidavit to the defendant's last known address." See "Memo Re #24-12 Inquiry from Judge Spero" and "Supplemental Inquiry from Judge Spero" Is clarification of Rules 5(a) and 77(d) needed? Should Rule 55 require service of default motions on a party who has failed to appear? [See also VRCP 62(b) (requiring service of default judgments, but only when issuing execution and our tabled docket # 20-13 that would require service of default judgments as a matter of course] •	
12.	**#24-14. Rule 5(h) / 2020 V.R.E.F. 11(g). Electronic certificate of service. (Suggestion of Judge Toor to abandon the electronic certificate of service and require an individually created certificate of service with each electronic filing.)** Under VRCP 5(h) every document filed with the court after the complaint and required by this rule to be served upon a party, must be accompanied by a certificate of service -- "except as provided in any applicable provision of the 2020 Vermont Rules for Electronic Filing." The Efiling Committee at its December 2024 meeting denied Judge Toor's request to amend the electronic certificate of service proviso of 2020 V.R.E.F. 11(g) See VREF Minutes. See also attached memo "certificate of service requirements", including Judge Toor's request, and "Letter Keyes" explaining E-filing Committee decision. • Chair Keyes to report. • For any discussion and comment	
	#25-4. V.R.C.P. 15(a) "stylistic amendment" to reword provision that leave to amend a pleading out of time is not required when the adverse party consents. (suggestion of Attorney Dean) See "25-4. Rule 15 (a) suggestion" • For discussion and possible further review.	

TRAILING AGENDA ITEMS

13.	**# 20-13 [Tabled] Service of Default Judgments: Proposed Order Amending Rules 55, 62(b), and 80.1(f). See** PROPOSED-VRCP4(c)(d)(e)(f)_55_62_80.1(f)--FORCOMMENT.pdf Proposed Rule 55, 62(b), and 80.1(f) tabled at March 2024 meeting.	
14.	**# 22-6. AO 39. Mediation Panel update (**Proposal of Civil Division Oversight Committee) Whether AO 39 (Alternative Dispute Resolution Civil Actions) should be updated	

15.	**#25-3 VRCP 4.1(c) & (d**). (Suggestion of Atty. Robbason,) See and "Proposed changes to Rule 4.1" email of March 5, 2025, Suggested simplification of attachment process	
16.	**#24-11. Rule 4 (d)(1)(ii). Service on incompetent persons. (Inquiry of Probate Rules Committee.)** Probate Rules Committee seeks feedback on possible amendments under consideration to V.R.P.P. 4.4 (6) (service on incompetent person), which allows service on a guardian, to possibly be restricted to a "court-appointed" guardian and to add as an alternative "an agent under a power of attorney". Current Civil and Probate rules are now substantially identical. See email from Kate Kennedy ("Inquiry from Probate Committee")	

NEWS

17.	**News from Efiling Committee** • Mr. Rose / Judge Shafritz to report.	
18.	**News from Civil Division Oversight** • Judge Hoar / Ms. Damone to report.	
19**.**	**# 24-2. Special Advisory Committee on Remote Hearings** • Mr. Dumont to report.	

RULES PROMULGATED FOR EFFECT JULY 1, 2025

20.	**# 22-6. Rules 16.2 and 26(f) - Scheduling** Orders Promulgation Order Amending Promulgation Order Amending Rules 16.2 and 26(f) of the Vermont Rules of Civil Procedure. This Order was promulgated on December 16, 2024, effective July 1, 2025.	
21.	**# 23-8 7 Updated Declaration Rule.** **Order Deleting Rule 11(e), Amending Rules 43 and 56 of the Vermont Rules of Civil Procedure** This Order was promulgated on February 3, 2025, effective July 1, 2025.	
22.	**#24-8. #23-17. Order Amending Rule 5(b)(4)(A) and 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** This Order was promulgated on February 3, 2025, effective July 1, 2025.	
23**.**	**#24-15. Order Amending Rule 30(b) and (e) of the Vermont Rules of Appellate Procedure**	

	This Order was promulgated on **April 7, 2025, effective July 1, 2025**. The corrective amendment adds Rule 30(e) to state the filing deadlines for a required printed case and any optional printed case.	

BUSINESS

24.	**Committee Vacancy –** • Discussion of the needs of the Committee.	
25.	Any new business for next agenda?	

NEXT MEETING DATES:

2025: May 16, September 5, November 7.

2026: January 9, March 6.

ADJOURN.