

**STATE OF VERMONT  
VERMONT SUPREME COURT  
NOVEMBER TERM, 2023**

**Order Promulgating Amendments to Rule 5.1 of the Vermont Rules of Probate Procedure**

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

1. That Rule 5.1 of the Vermont Rules of Probate Procedure be amended as follows (new matter underlined; deleted matter struck through):

**RULE 5.1. SERVICE AND NOTICE; SPECIFIC ACTIONS**

(a) **Generally.** This rule provides additional service and notice requirements on parties who have not appeared for specific petitions, actions or hearings in the course of the proceeding. If a paper is required to be served or notice is required to be given pursuant to this rule, the service shall be made and the notice given as if the party to be notified or served has appeared in the proceeding.

(b) **Specific requirements.**

(1) The following petitions, papers, notices and motions shall be served on the beneficiaries of a decedent's estate or trust:

- (i) inventories and accounts of the fiduciary;
- (ii) proposed decree;
- (iii) motion for license to sell, convey, mortgage or lease real or personal estate except a motion for license to sell pursuant to a power of sale in a will;
- (iv) the report on license to sell within such time period as is provided in 14 V.S.A. § 1651(9);
- (v) motion to partition real or personal estate;
- (~~v~~ vi) notice of any hearing on a motion or paper filed pursuant to subparagraphs (i) through (~~iv~~ v);
- (~~vi~~ vii) notice of the allowance of a will containing a devise or bequest.

(2) The notice given by masters of the time when they will make a partition shall be served on the beneficiaries to whom the property to be partitioned has been assigned.

(3) The motion to appoint a special administrator, and the notice of hearing on the motion, shall be served on the persons designated by the court.

(4) The following petitions, papers, notices and motions shall be served on the spouse and the parents of the ~~ward~~ person under guardianship:

- (i) accounts of the guardian in an involuntary guardianship case;

- (ii) motion to revoke the voluntary guardianship of an adult granted pursuant to 14 V.S.A. § 2671;
- (iii) motion to terminate or modify an involuntary guardianship;
- (iv) motion to approve the consent to nonemergency surgery or medical procedures or to change the residential placement of a ~~mentally disabled adult ward~~ person under guardianship;
- (v) motion for license to sell, convey, mortgage or lease real or personal estate;
- (vi) report on license to sell within such time period as is provided in 14 V.S.A. § 2885;
- (vii) petition to appoint a temporary guardian for a ~~mentally disabled adult~~ an adult alleged to be a person in need of a guardianship; and
- (~~vii~~ viii) notice of any hearing on a motion or paper filed pursuant to subparagraphs (i) through ~~vii~~ vii).

(c) **Commencement of proceedings.** Any paper or notice described in subdivision (b) of this rule may be served with the petition that commences a proceeding.

(d) **Definitions.** For purposes of this rule:

(1) “Beneficiaries” shall mean: (i) with respect to a decedent’s estate, the surviving spouse of a decedent, and the devisees and legatees of the decedent's estate, and, until a will has been allowed, the heirs-at-law; and (ii) with respect to a trust, a person who has any vested interest, present or future, and includes the owner of an interest by assignment or other transfer, if known. However, such persons shall cease to be deemed “beneficiaries” once they have received all of the devise, legacy or interest to which they are entitled.

(2) “Spouse and parents of the ~~ward~~ person under guardianship” shall mean: (i) the spouse of the ~~ward~~ person under guardianship; (ii) ~~the parents of the ward if the ward is a minor, has no spouse and the court directs the parents if the person is a minor and has no spouse and the court directs~~; and (iii) if the ~~ward~~ person under guardianship is a minor, any person alleged to have had the principal care and custody of the ward during the 30 days preceding the filing of the petition.

### **Reporters Notes—2024 Amendment**

The sale or other transfer of an interest in decedent’s property or the guardian’s property is an action of such nature and importance requiring notice to the persons stated even though they have not entered an appearance in the proceeding. Rule 5.1(b)(1)(iv) and 5.1(b)(4)(vi) are added to make clear that the fiduciary in an estate or guardianship proceeding provides the beneficiaries of the estate and the stated interested parties of the guardianship with the details of the transaction as set forth in the Report on License. Where the term “ward” appears, it has been replaced with the term “person under guardianship.”

2. That this rule is prescribed and promulgated effective January 8, 2024. The Reporter’s Notes are advisory.

3. That the Chief Justice is authorized to report this rule as amended to the General Assembly in accordance with the provisions of 12 V.S.A. § 1.

Dated in Chambers at Montpelier, Vermont, this 6<sup>th</sup> day of November, 2023.



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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Karen R. Carroll, Associate Justice

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William D. Cohen, Associate Justice

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Nancy J. Waples, Associate Justice