

**STATE OF VERMONT  
VERMONT SUPREME COURT  
FEBRUARY TERM, 2024**

**Order Promulgating Amendments to Rule 7 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 7 of the Vermont Rules of Probate Procedure be amended as follows (deleted matter struck through; new matter underlined):

**RULE 7. PLEADINGS AND MOTIONS**

(a) **Pleadings.** A proceeding shall be commenced by a petition. No other pleadings shall be required unless the court orders that there shall be an answer to a petition. Any party may file an answer to a petition without court order.

(b) **Motions.**

(1) An application to the court for an order shall be by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the order sought.

(2) The rules applicable to caption, signature, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

(3) Unless a different time is fixed by the court, any party opposing the motion may file a memorandum in opposition within ten days after service of the motion.

(4) Unless a different time is fixed by the court, any party opposing the motion may file a memorandum in opposition within 14 days after service of the motion.

(c) **Failure to Timely File.** Unless the court decides otherwise, a pleading, motion, or memorandum filed less than 7 days before a hearing will not be considered at the hearing.

(d) **Argument Hearing on motions.** Unless otherwise required by these rules, ~~oral argument~~ a hearing on a motion shall be deemed waived will not be held unless requested by an interested party or required by the court. Even if a party requests a hearing, the court has the discretion to decide may dispose of the motion without a hearing argument whether or not the parties have waived oral argument. The court may hear motions at any time and place upon reasonable notice to the parties.

(e) **Opposition to and Cancellation of Hearing.** A notice for a hearing on a motion may provide that, unless a party files a written opposition to the motion at least 7 days prior to the hearing date, the court may cancel the hearing and decide the motion. Parties who do not file a written opposition may not be heard at the hearing. This subdivision does not apply to a hearing on an underlying petition.

**Reporter’s Notes—2024 Amendment**

Rule 7(d) is amended, and Rule 7(e) is added to clarify the procedure for hearings on motions. Unlike the other divisions, the probate division has developed the practice of requiring written opposition to many motions in advance of a hearing. If no such objection is received, the probate division has the option of canceling the hearing and deciding the motion without a hearing. This practice originated with hearings on allowance of accounts. See V.R.P.P. 66(e). There are often multiple parties in probate proceedings who may not object to a particular motion but nevertheless fail to respond. Scheduling a hearing but requiring a written objection is an efficient way of disposing of a motion under such circumstances.

2. That this rule is prescribed and promulgated effective July 1, 2024. The Reporter’s Notes are advisory.

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

Dated in Chambers at Montpelier, Vermont, this 5<sup>th</sup> day of February, 2024.



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