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TO: Members of the Vermont Bar  
FROM: Lee Suskin, Court Administrator  
RE: Promulgated & Proposed Rule Amendments  
DATE: January 2, 2008

For your information, I enclose the following:

**I. RULE AMENDMENTS RECENTLY PROMULGATED BY THE VERMONT SUPREME COURT**

**a. Order Promulgating amendments to the Vermont Rules of Probate Procedure and Forms**

The amendment to Rule 13, Elections in Estates, provides that the court, rather than the executor or administrator, shall send the notice of elections and rights to the surviving spouse. The amendments to Rule 80.3, Small Estates, provides for changes related to the commencement and allowance of the will. The order adopts a new "Petition to Appoint a Custodial Guardian for a Minor," a new "Petition to Appoint a Financial Guardian for a Minor," and a new "Parent's Consent to Custodial Guardianship."

These amendments promulgated on December 18, 2007, and effective on February 19, 2008, can be found on our website at the following address:  
[http://www.vermontjudiciary.org/rules1/vrpp13\(a\)\\_80.3\\_Forms70\\_70A\\_70Bfinal.PROMULGATED12\\_19\\_07.pdf](http://www.vermontjudiciary.org/rules1/vrpp13(a)_80.3_Forms70_70A_70Bfinal.PROMULGATED12_19_07.pdf)

**b. Order promulgating amendments to the Vermont Rules of Criminal Procedure**

The amendments to Rule 12(d)(2) eliminate the necessity of having to schedule a formal hearing on a defendant's motion to dismiss, when the motion can be disposed of on

pleadings and written submissions. The amendments to Rule 23(d) permit up to thirty days to pass between jury selection and trial of felonies not punishable by life imprisonment, as the rule currently allows for misdemeanors, while preserving the right of further voir dire on the issue of jury contamination only. The amendment to Rule 24(e) allows for a total panel of twenty-four potential jurors during voir dire, by seating twelve, rather than six, replacements, along with the first twelve prospective jurors.

These amendments promulgated on December 18, 2007, and effective on February 19, 2008, can be found on our website at the following address:  
[http://www.vermontjudiciary.org/rules1/vrcrp12\(d\)\(2\)23\(d\)24\(e\).final.PROMULGATED12\\_19\\_07.pdf](http://www.vermontjudiciary.org/rules1/vrcrp12(d)(2)23(d)24(e).final.PROMULGATED12_19_07.pdf)

**II. PROPOSED RULE AMENDMENTS (NOTE: THE FOLLOWING PROPOSED AMENDMENTS ARE PROPOSED BY THE RULES COMMITTEES AND HAVE NOT BEEN REVIEWED BY THE SUPREME COURT.)**

**a. Proposed Order Amending the Vermont Rules of Evidence.**

This proposed amendment to the Vermont Rules of Evidence would strike language to V.R.E. 606(b) to make the rule easier to read and to provide that juror testimony may be utilized to prove that the verdict reported was the result of a mistake in entering the verdict on the verdict form, and would amend V.R.E. 4(a)(1) and (2) related to the admissibility of character evidence to prove conduct.

Comments on these proposed amendments should be sent to the Chair of the Evidence Rules Committee by **March 3, 2008**. The chair can be reached either by U.S. postal or email at the following address(es):

Jerome O'Neill, Esq., Chair  
O'Neill Kellner & Green  
159 Bank Street, Suite 200  
PO Box 5359  
Burlington, VT 05402-5359  
[joneill@okglawyers.com](mailto:joneill@okglawyers.com)

This proposed rule amendment can be found on our website at the following address:  
[http://www.vermontjudiciary.org/rules1/proposedVRE606\(b\)404\(a\).pdf](http://www.vermontjudiciary.org/rules1/proposedVRE606(b)404(a).pdf)

**b. Proposed amendment to the § 7(e)(3) of the Rules of Admission to the Bar of Vermont Supreme Court.**

This proposed amendment reflects a policy decision that the BBE made several years ago relating to the requirements for admission for applicants admitted to the practice of law in another jurisdiction of the U.S. who are applying for Vermont admission: an applicant who takes 15 hours of CLE on Vermont practice and procedure in lieu of the three months clerkship requirement would need to take a minimum of 6 hours of live courses.

Comments on these proposed amendments should be sent to the Chair of the Board of Bar Examiners by **March 3, 2008**. The chair can be reached either by U.S. postal or email at the following address(es):

Margaret O'Donnell, Esq., Chair  
Board of Bar Examiners  
2418 Airport Road, Suite 2  
Barre, VT 05641  
[Meg.odonnell@vtmednet.org](mailto:Meg.odonnell@vtmednet.org)

This proposed rule amendment can be found on our website at the following address:  
[http://www.vermontjudiciary.org/rules1/proposedruleofadmission7\(e\)\(3\).pdf](http://www.vermontjudiciary.org/rules1/proposedruleofadmission7(e)(3).pdf)

**c. Proposed amendments to § 4(a)(1)(2)(3), § 6(a)(b)(c)(e)(i) and § 8(a) of the Rules for Continuing Legal Education and § 3**

The amendments to §§ 4, 6 and 8 would clarify credit available for programs involving electronic media and self study, align the CLE reporting period with the attorney licensing period, and makes amendments to the rule under which inactive attorneys may apply for reinstatement.

The amendment to § 3 would add a requirement that at least two hours of ethics credits should be devoted to education and specifically in the area of professionalism.

Comments on these proposed amendments should be sent to the Chair of the Mandatory Continuing Legal Education Board by **March 3, 2008**. The chair can be reached at the following address:

Hon. Karen R. Carroll, Chair  
Mandatory Continuing Legal Education Board  
2418 Airport Road, Suite 2  
Barre, VT 05641

This proposed rule amendments can be found on our website at the following address:  
[http://www.vermontjudiciary.org/rules1/proposedmclerule4a123\\_6abcei8a.pdf](http://www.vermontjudiciary.org/rules1/proposedmclerule4a123_6abcei8a.pdf)  
<http://www.vermontjudiciary.org/rules1/proposedMCLE3.pdf>

**d. Proposed amendment to Rule 7 of the Vermont Supreme Court Disciplinary Control of Judges**

This proposed amendment would authorize the chair to forward a complaint, considered by the chair to be unfounded, to one lay member and one judge member for consideration; if the three individuals agree that the complaint is unfounded, it will be dismissed.

Comments on this proposed amendment should be sent to the Chair of the Judicial Conduct Board by **March 3, 2008**. The Chair can be reached either by U.S. postal or email at the following address(es):

Robert P. Keiner, Esq., Chair  
70 Court Street  
Middlebury, VT 05753  
[keiner@sover.net](mailto:keiner@sover.net)

This proposed rule amendment can be found on our website at the following address:  
<http://www.vermontjudiciary.org/rules1/proposedDisciplinaryControlofJudgesRule7.pdf>

**e. Proposed amendment to Rule 43(c)(3) of the Vermont Rules of Criminal Procedure**

This proposed amendment would clarify that the defendant's presence is not required at a conference or argument on a question of law. Under the amended rule, the defendant's presence is required only at those proceedings specified in subdivision (a) or otherwise would be ordered by the court.

Comments on this proposed amendment should be sent to the Chair of the Criminal Rules Committee by **March 3, 2008**. The Chair can be reached either by U.S. postal or email at the following address(es):

P. Scott McGee, Esq.  
Hershenson, Carter, Scott & McGee, P.C.  
PO Box 909  
Norwich, VT 05055-0909  
[smcgee@hcsmlaw.com](mailto:smcgee@hcsmlaw.com)

This proposed rule amendment can be found on our website at the following address:  
[http://www.vermontjudiciary.org/rules1/proposedVRCrP43\(c\)\(3\).pdf](http://www.vermontjudiciary.org/rules1/proposedVRCrP43(c)(3).pdf)

**f. Proposed amendment to Rule 1(j) of the Vermont Rules of Family Procedure**

This proposed amendment would be added to provide a procedure governing withdrawal of an admission of delinquency comparable to the provisions of V.R.Cr.P. 32(d) for plea withdrawal in a criminal case.

Comments on this proposed amendment can be sent to the Chair of the Family Rules Committee by **March 3, 2008**. She can be reached either by U.S. Postal or email at the following address(es):

Jody Racht, Esq., Chair  
Vermont Attorney General's Office  
Ladd Hall, 103 South Main Street  
Waterbury, VT 05671-0701  
[jracht@srs.state.vt.us](mailto:jracht@srs.state.vt.us)

This proposed rule amendment can be found on our website at the following address:  
[http://www.vermontjudiciary.org/rules1/proposedVRFp1\(j\).pdf](http://www.vermontjudiciary.org/rules1/proposedVRFp1(j).pdf)

### **III. REMINDER TO REDACT SOCIAL SECURITY NUMBERS**

The Supreme Court is concerned with protecting the privacy of social security numbers of persons involved in court proceedings.

In 2001, the Court promulgated procedural rules requiring attorneys and self-represented litigants to redact the social security number from any paper before filing it with the trial court unless the SSN was specifically requested by the trial court. See V.R.C.P. 5(g); V.R.Cr.P. 49(c).

The Supreme Court has asked the Advisory Committee on the Rules of Civil Procedure to propose a procedural rule that social security numbers be redacted from all papers filed with the Supreme Court prior to filing.

Pending promulgation of such a rule, the Court at this time requests that the social security number be redacted from any paper filed with the Supreme Court, and in particular the Court requests that the SSN be redacted from all papers in the printed case, even if the SSN was requested by the trial court and was included on the paper filed with the trial court.

### **IV. OTHER REMINDERS**

Attorneys are reminded of their obligation under A.O. 41 to keep this office informed of their current mailing and email addresses.

You may send changes to [JUD-AttyLicensing@state.vt.us](mailto:JUD-AttyLicensing@state.vt.us). Your cooperation is very much appreciated.