

**STATE OF VERMONT
VERMONT SUPREME COURT
FEBRUARY TERM, 2006**

**EMERGENCY AMENDMENT TO THE
VERMONT RULES OF CIVIL PROCEDURE**

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

1. That Form 1 in the Appendix of Forms to the Vermont Rules of Civil Procedure and the amendment dated February 6, 2006, be replaced to read as follows: (new matter underlined; deleted matter struck through):

FORM 1. SUMMONS

STATE OF VERMONT _____ SUPERIOR COURT

COUNTY OF _____ Docket No. _____

Plaintiff(s)

v.

SUMMONS

Defendant(s)

THIS SUMMONS IS DIRECTED TO _____

1. **YOU ARE BEING SUED.** The plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this summons. Do not throw these papers away. They are official papers that affect your rights.

2. **YOU MUST REPLY WITHIN 20* DAYS TO PROTECT YOUR RIGHTS.** You must give or mail the Plaintiff a **written response** called an Answer within 20* days of the date on which you received this Summons. You must send a copy of your Answer to the [Plaintiff][Plaintiff's attorney] located at:

_____ ,

You must also give or mail your Answer to the Court located at:

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT GIVE YOUR WRITTEN ANSWER TO THE COURT.** If you do not Answer within 20* days and file it with the Court, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the complaint.

5. **YOU MUST MAKE ANY CLAIMS AGAINST THE PLAINTIFF IN YOUR REPLY.** Your Answer must state any related legal claims you have against the Plaintiff. Your claims against the Plaintiff are called Counterclaims. If you do not make your Counterclaims in writing in your Answer, you may not be able to bring them up at all. Even if you have insurance and the insurance company will defend you, you must still file any Counterclaims you may have.

6. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you cannot afford a lawyer, you should ask the court clerk for information about places where you can get free legal help. **Even if you cannot get legal help, you must still give the Court a written Answer to protect your rights or you may lose the case.**

~~{Plaintiff}~~{Plaintiff's attorney}

Dated

Served on _____
Date

Sheriff

* Use 20 days, except that in the exceptional situations where a different time is allowed by the court in which to answer, the different time should be inserted.

Reporter's Notes—2006 Amendment

Form 1 as originally promulgated and as amended in 1999 and 2001 is entirely replaced by the present amendment. The purpose is to provide a simplified form that will be more understandable to the increasing numbers of pro se litigants. The new form is written in "plain English" to the extent possible. Rule 84 provides that the forms incorporated in the Appendix of Forms "are sufficient under the rules and are intended to indicate the simplicity and brevity of statement which the rules contemplate." While the use of the new Form 1 is thus not required, it is to be hoped that it will be generally adopted and used ~~by both represented and unrepresented plaintiffs.~~

The new form consists of 6 separate paragraphs and has a seventh grade reading level. This is just above the 6th grade level

generally recommended for use in public notices. This compares favorably with the current summons which has a 12.5 grade level and consists of a single, long paragraph. In addition, the focus of the summons has been changed away from the current bold, capitalized language regarding counterclaims involving insurance defense (while maintaining the direction to bring any counterclaims even in the event of insurance coverage). The proposed summons is more directly aimed at nonattorneys, providing clearer direction to those unfamiliar with the judicial process.

~~The form will be filed either by an attorney for the plaintiff or by a pro se plaintiff. The appropriate bracketed designation in paragraph 2 and the signature block should be chosen.~~

2. The Court finds that the public interest requires that this amendment be submitted to the Joint Committee on Judicial Rules twenty days prior to its effective date instead of the normal sixty days in order to amend an error in the Form scheduled to go into effect April 14, 2006.

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

Dated in Chambers at Montpelier, Vermont, this 8th day of March, 2006.

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice

Brian L. Burgess, Associate Justice