

SUPREME COURT OF VERMONT
OFFICE OF THE COURT ADMINISTRATOR

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TO: Members of the Vermont Bar

FROM: Patricia Gabel, Esq., State Court Administrator

RE: Promulgated and Proposed Rules, Odyssey File and Serve and Public Portal Information, Filing of Exhibits & Other Miscellaneous Info
Important Notice Regarding Efiling with Odyssey File and Serve

DATE: November 16, 2021

To ensure you continue to receive these emails, please add JUD.AttyLicensing@vermont.gov and JUD.CAOMemotoBar@vermont.gov to your Safe Senders list.

For your information, please find:

- [*AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 11-15-21*](#)
- [*Order Promulgating Amendments to V.R.Cr.P. 7*](#)
- [*Proposed Order Amending Rule 18\(d\)\(2\) of the Vermont Rules for Family Proceedings*](#)
- [*Proposed Order Amending Rules 2\(a\)\(2\) and \(3\), 6\(a\) and \(c\)\(2\)\(3\), 6.1\(a\) and \(c\)\(1\), and 8\(h\) of the Vermont Rules for Family Proceedings*](#)
- [*Proposed Amendments to Rules 8\(b\)\(2\), 9\(b\), 11, 12\(a\), 13\(d\), 17, and 18\(c\) of the Vermont Rules of Admission to the Bar of the Vermont Supreme Court*](#)
- ***Important Notice Regarding Efiling and Odyssey File and Serve***
- *Odyssey File and Serve and Public Portal Information*
- *Filing of Exhibits*
- *Updated Court Forms*
- *Obligations Under A.O. 41*
- *eCabinet Registration*

The Attorneys in Good Standing list is once again available on the Judiciary website, at <https://www.vermontjudiciary.org/attorneys/attorney-licensing>

I. PROMULGATED RULE AMENDMENTS

- a. [*AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 11-15-21*](#)

This Order was promulgated on **November 15, 2021, effective immediately.**

Paragraph 21 regarding pleading requirements in eviction proceedings is amended in several ways. Under existing ¶ 21(a), a plaintiff in a proceeding to evict a tenant in residential housing must file a certification that the filing complies with the federal CARES Act. Amended ¶ 21(b) provides that any complaint filed after December 1, 2021, is subject to dismissal if the certification is not provided. In addition, new ¶ 21(d) provides that any action for eviction of a residential tenant based on nonpayment of rent filed after December 1, 2021, must include a notice concerning the availability of Vermont Emergency Rental Assistance Program (VERAP) funds. The notice must be in the form provided in [Appendix D](#). If the notice is not provided and not corrected within 30 days, the court may dismiss the case and the tenant may request to reschedule the rent escrow hearing. Finally, when there is sufficient evidence that the tenant has applied for VERAP funds, the court has discretion to take appropriate action in fashioning a rent escrow order or a writ of possession.

The full Order and other updates regarding COVID-19 and court operations are available at [<https://www.vermontjudiciary.org/about-vermont-judiciary/covid-19-and-court-operations>]

b. [Order Promulgating Amendments to V.R.Cr.P. 7](#)

This Order was promulgated on November 15, 2021; effective January 18, 2022.

The addition of subdivision (d) addresses amendment of an indictment or information prior to trial, including late-stage amendments when a case has been scheduled for final pre-trial conference, jury selection, and trial. The amendment allows the court on its own or in response to defendant's motion to strike the amended information or indictment if it would cause undue delay or if defendant's substantial rights would be prejudiced.

II. PROPOSED RULE AMENDMENTS

(NOTE: THE FOLLOWING AMENDMENTS HAVE BEEN PROPOSED AND HAVE NOT BEEN APPROVED BY THE SUPREME COURT.)

a. [Proposed Order Amending Rule 18\(d\)\(2\) of the Vermont Rules for Family Proceedings](#)

The proposed amendment to Rule 18(d)(2) clarifies that mediation can take place either in person or using remote technology.

A.O. 49 was initially issued March 16, 2020, in response to the state of emergency resulting from the pandemic. Paragraph 13 of A.O. 49 authorized remote participation in mediation by video or telephone without a stipulation or court order. Further, in anticipation that at some point A.O. 49 would no longer be necessary, the Supreme Court requested that the Advisory Committee on Rules for Family Proceedings consider whether there should be a permanent change to Rule 18 related to remote participation. After considering responses from attorneys who practice family law to a Vermont Bar Association survey and responses from family mediators, the Committee concluded that both in person and remote participation in mediation should be permissible in family proceedings subject to V.R.F.P. 18 at the discretion of the mediator.

Comments on these proposed amendments should be sent by **January 18, 2022**, to Hon. Michael Kainen, Chair of the Advisory Committee on the Rules for Family Proceedings, at the following address:

Hon. Michael Kainen, Chair
Advisory Committee on the Rules for Family Proceedings
Michael.kainen@vermont.gov

b. [Proposed Order Amending Rules 2\(a\)\(2\) and \(3\), 6\(a\) and \(c\)\(2\)\(3\), 6.1\(a\) and \(c\)\(1\), and 8\(h\) of the Vermont Rules for Family Proceedings](#)

Rule 2(a)(2) is amended to eliminate the reference to V.R.C.P. 78(a), (Motion Days) which was abrogated by order of June 7, effective August 9, 2021. Rule 2(a)(3) is amended to replace the reference to V.R.C.P. 78(b) with a reference to V.R.C.P. 7(b)(4) (Memorandum in Opposition), added by that order and embodying the provisions of former V.R.C.P. 78(b)(1) in revised form.

Provisions of Rules 6 and 6.1 are deleted because the probate rules now contain provisions on the appointment of guardians and attorneys in probate proceedings. See V.R.P.P. 80.9 (Representation by Guardians ad Litem of Minors) and V.R.P.P. 80.10 (Representation by Attorneys and Guardians ad Litem of Adults in Specified Proceedings). In addition, the reference to the title of 18 V.S.A. Chapter 206 is amended to be consistent with legislation enacted in 2014. 2013, No. 96 (Adj. Sess.), § 114.

Rule 6.1(c)(1) is amended to replace the reference to V.R.C.P. 78(b) (Disposition of Written Motions With or Without Hearing), which was abrogated by order of June 7, effective August 9, 2021, with a reference to V.R.C.P. 7(b)(6) (Evidentiary Hearings) added by that order and embodying its relevant provisions in revised form.

Rule 8(h) is amended to eliminate the reference to V.R.C.P. 78 (Motion Day), which was abrogated by order of June 7, effective August 9, 2021. All relevant provisions of the former V.R.C.P. 78 are now incorporated in V.R.C.P. 7.

Comments on these proposed amendments should be sent by **January 18, 2022**, to Hon. Michael Kainen, Chair of the Advisory Committee on the Rules for Family Proceedings, at the following address:

Hon. Michael Kainen, Chair
Advisory Committee on the Rules for Family Proceedings
Michael.kainen@vermont.gov

c. [Proposed Amendments to Rules 8\(b\)\(2\), 9\(b\), 11, 12\(a\), 13\(d\), 17, and 18\(c\) of the Vermont Rules of Admission to the Bar of the Vermont Supreme Court](#)

The proposed amendment to Rule 8(b)(2) clarifies what factors the Board of Bar Examiners considers when determining whether to waive the requirement that an applicant who has graduated from a foreign law school also be admitted to the bar in the foreign jurisdiction.

The proposed amendment to Rule 9(b)(1) clarifies what factors the Board of Bar Examiners considers when determining whether to waive the requirement that the bar exam be taken within five years of graduating from law school or completing the LOS Program. The proposed amendment to wording in Rule 9(b)(3) regarding the passing UBE score is also corrected to specify that an Applicant must receive a score of 270 or higher.

The proposed amendment to Rule 11 regarding the MPRE passing score is corrected to clarify that an Applicant must receive a score of 80 or higher.

The proposed amendment to Rule 12(a)(2) allows applicants to commence their mentorship prior to admission to the bar, consistent with the clerkship that was required prior to the adoption of the UBE. Also, references in the Rule to the “the Board of Continuing Legal Education” are changed to “the Board of Mandatory Continuing Legal Education” to accurately reflect the name of the Board.

The proposed amendment to Rule 13(d) clarifies what factors the Board of Bar Examiners considers when determining whether to waive the requirement that the bar exam must be taken within five years of graduating from law school or completing the LOS Program.

The proposed amendment to Rule 17 amends the opening sentence of the rule to correct the cross reference to Rule 16.

The proposed amendment to Rule 18(c) requires an applicant to file a notice of appeal within 30 days of the date of a decision rather than 30 days of date the decision was mailed. This reflects the practice of notifying applicants (via electronic means) of the panel’s decision on the same day the decision issues.

Comments on these proposed amendments should be sent by **January 18, 2022**, to Andrew Strauss, Licensing Counsel of the Office of Attorney Licensing, at the following address:

Andrew Strauss, Licensing Counsel
Andrew.Strauss@vermont.gov

III. IMPORTANT NOTICE REGARDING EFILING WITH ODYSSEY FILE AND SERVE

Attorneys must select the party they represent as the “person responsible for fees” in the Fee section of the filing process. Additionally, when the attorney represents more than one party, attorneys should continue to select the same party as the “person responsible for fees”; otherwise, the attorney will incur an additional efile use fee.

IV. ODYSSEY FILE & SERVE AND PUBLIC PORTAL INFORMATION

As of April 1, 2021, there is a new efile use fee structure for users of Odyssey File & Serve (OFS). The new per case fee is \$14 per filer or firm, payable upon a party’s first filing after April 1, 2021. This replaces the previous \$5.25 fee per envelope model. The Judiciary encourages all practitioners and others interested to learn more at www.vermontjudiciary.org/efiling

Currently, all trial courts, the Environmental Division, and the Judicial Bureau are using Odyssey and accepting electronic filings through Odyssey File & Serve. Please use the following links to access Odyssey electronic filing and portal systems and for more information.

Odyssey File & Serve. Odyssey File & Serve (OFS) is the platform through which you will electronically file with the courts. To access OFS, please visit <https://vermont.tylerhost.net/ofswb> You can access user guides through the “User Guides” link in the “Self Help” window. You can also access docket-specific user guides and a new Frequently

Asked Questions on the judiciary's website at <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing> For technical support regarding Odyssey File & Serve, please contact Tyler Technologies at 800-297-5377 or efiling.support@tylertech.com

If you have procedural questions about OFS, please email the judiciary at JUD.EFileSupport@vermont.gov

Odyssey Public Portal. The Odyssey Public Portal allows you to view your case files. To access the portal, please visit <https://publicportal.courts.vt.gov/Portal/> Before you can view your case files, you must first register in the portal and then request elevated access. The Public Portal User Guide contains instructions on how to register and request elevated access. You can read the user guide on our website at <https://www.vermontjudiciary.org/about-vermont-judiciary/public-portal>

For technical support regarding the Public Portal, please contact the Vermont Judiciary's HelpDesk at Jud.helpdesk@vermont.gov When emailing, please write "**Public Portal**" in the subject line.

Efiling Training Opportunities

Watch a pre-recorded efilings training webinar from the Vermont Judiciary. The judiciary's NG-CMS project team recorded a demonstration of how to use Odyssey File & Serve that you can view here: https://www.youtube.com/watch?v=ke2ouMDK4VQ&feature=emb_title

Practice setting up your firm and submitting filings. For hands on practice, you can create your firm, register users, and begin filing practice cases in the Vermont "**Stage**" environment. Be sure that the web address includes the word "stage" (<https://vermont-stage.tylerhost.net/ofswb>). The Stage environment is available any time. Please note that submissions will only be reviewed periodically, so you may not get a timely response on whether your practice submissions have been accepted. The Stage environment is available now only for familiarity and direct hands-on experience and is not a substitute for registering on the actual efilings site when you are ready.

V. FILING OF EXHIBITS

Per the 2020 Vermont Rules for Electronic Filing, all electronically filed documents (including exhibit lists and exhibits) must be submitted in PDF format. It is recommended that the exhibit list be filed in Odyssey File & Serve (OFS) as a "Lead Document" and that any PDF exhibits be filed as attachments to that exhibit list.

Multimedia files that cannot be converted to PDF format should be submitted by nonelectronic means on a CD, DVD, or USB flash drive (aka thumb drive) and can be mailed or delivered to the court. It is recommended that filers indicate this on the exhibit list being filed in OFS. Please note that while the courts are equipped to view common multimedia formats (such as .mp3, .mp4, .mpeg, .mov, .wmv files), the filer will have to provide compatible player software if an exhibit is in a proprietary multimedia format.

Finally, please remember that regardless of how an exhibit is filed, it is the filer's responsibility during a hearing to present the exhibits. During remote hearings, this means the filer must either assure that all witnesses have been provided with the marked exhibits in advance and have them available to view; or be able to share his or her screen to allow all participants to view the exhibit. If the exhibit is a video or audio file, the litigant must be prepared to play it during the hearing.

VI. MISCELLANEOUS

a. Court Forms

Court forms are constantly being updated. Please refer to the judiciary website for the most up-to-date forms, <https://www.vermontjudiciary.org/court-forms>

Please use the link below to report any form question, concern or issue <http://www.vermontjudiciary.org/website-feedback-form> or you can access our Website Feedback program at the bottom of each web page.

b. Obligation under A.O. 41

Attorneys are reminded that an “attorney must report to the State Court Administrator within thirty days any change of the office mailing or electronic mail address” and that “[n]otice sent to a reported address is sufficient even if not received by the attorney because of failure to report the proper address or failure of delivery not caused by the court.” A.O. 41, § 4(c). To update changes in your contact information, please access your attorney account with the [Attorney Portal](#)

To ensure you continue to receive these emails, please add JUD.AttyLicensing@vermont.gov and JUD.CAOMemotoBar@vermont.gov to your Safe Senders list.

c. eCabinet Registration

Administrative Order No. 44 requires attorneys in active status to register up to three email addresses in **eCabinet** for purposes of receiving notices of hearing and other documents. *You may include staff email addresses in the three email addresses that you specify.*

If you have already registered in **eCabinet**, the email address(es) you provided as part of that process will be used.

If you have not already registered in **eCabinet**, please go to <https://efiling.eservices.crt.state.vt.us/> click **Register Now**, and follow the simple prompts. This website works best with Explorer. Attorneys will need their attorney license numbers to register. Helpful information about the Attorney Email Registration process is also available on the *Electronic Filing* page of the judiciary website at <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing> Please contact jud.helpdesk@vermont.gov or call the Helpdesk at 802-828-4357 with any questions in the meantime.

You are also reminded that you are required to update the email address(es) and other contact information you have registered as soon as there are any changes, including changes to staff email addresses you may have included with your registration. To revise the information, please go to <https://efiling.eservices.crt.state.vt.us/> log into **eCabinet**, click “**Account**,” choose “**My Profile**,” and make the necessary changes to your contact information.

Updating information in the [Attorney Portal](#) or in **eCabinet** does not automatically notify the other. It is your responsibility to update both. If you are a member of the Vermont Bar Association, you will also need to separately notify the VBA.