

**SUPREME COURT OF VERMONT  
OFFICE OF THE COURT ADMINISTRATOR**

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**TO:** Members of the Vermont Bar

**FROM:** Teri Corsones, Esq., State Court Administrator

**RE:** Promulgated and Proposed Rules, Odyssey File and Serve and Public Portal Information, Filing of Exhibits & Other Miscellaneous Info

**DATE:** November 7, 2022

For your information, please find:

- *Promulgation Order Amending Rule 807 of the Vermont Rules of Evidence*
- *Proposed Order Amending Rules 9(b)(1), 11, and 13(e) of the Vermont Rules of Admission to the Bar of the Vermont Supreme Court*
- *Proposed Order Amending Rule 4.3(a) of the Vermont Rules for Family Proceedings*
- *Odyssey File and Serve and Public Portal Information*
- *Filing of Exhibits*
- *Miscellaneous*

**I. PROMULGATED RULE AMENDMENTS**

*Promulgation Order Amending Rule 807 of the Vermont Rules of Evidence*  
<https://www.vermontjudiciary.org/PromulgationOrderAmendingRule807oftheVermontRulesofEvidence--STAMPED>

This Order was promulgated on **November 7, 2022, effective January 9, 2023.**

Rule 807 is amended to correct the constitutional deficiencies described by the Vermont Supreme Court in State v. Bergquist, 2019 VT 17, 210 Vt. 102, 211 A.3d 946, regarding when a witness can testify out of sight and hearing of a defendant. Subdivisions (c) and (f) are amended to ensure the Rule comports with the minimum constitutional standard set in Maryland v. Craig, 497 U.S. 836 (1990), as interpreted in Bergquist. To make the showing of necessity needed to justify testimony outside of a defendant's presence, the State must show that the witness would be traumatized not by the courtroom or other aspects of providing testimony, but by the presence of the defendant (or by defendant's image when subdivision (e) applies). The State must also show that the witness would suffer a level of emotional trauma that is more than mere nervousness, excitement, or some reluctance to testify.

Subdivision (a) is amended to correct an unintended effect of an amendment made in 2015. The purpose of that amendment was to make the rule consistent with the Legislature’s efforts to eliminate offensive language from the Vermont Statutes. See 2013, No. 96 (Adj. Sess.) (eff. July 1, 2014), An Act Relating to Respectful Language in the Vermont Statutes Annotated. The amendment adopted the terms used in the statute to describe individuals with mental or intellectual disabilities and referred to the newly enacted statute for the definitions of those terms. However, the term “psychiatric disability” provided by 1 V.S.A. § 147 encompasses a wider arc of impairments than the original term used by the Rule, which was “mental illness,” as still defined in 18 V.S.A. § 7101(14). Thus, the language is amended to again refer to “mental illness” to prevent the expansion of a rule that was originally intended to be applied narrowly, given its impact on the right of confrontation.

## II. PROPOSED RULE AMENDMENTS

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

- a. *Proposed Order Amending Rules 9(b)(1), 11, and 13(e) of the Vermont Rules of Admission to the Bar of the Vermont Supreme Court*

[https://www.vermontjudiciary.org/PROPOSEDOrderAmendingRules9\(b\)\(1\),11and13\(e\)oftheVermontRulesofAdmissiontoBar--FORCOMMENT](https://www.vermontjudiciary.org/PROPOSEDOrderAmendingRules9(b)(1),11and13(e)oftheVermontRulesofAdmissiontoBar--FORCOMMENT)

The proposed amendment to Rule 9(b)(1) clarifies that an applicant must be on active status in the other U.S. jurisdiction to qualify for the exemption from the five-years-from-graduation requirement.

In conjunction with a similar proposed amendment to Rule 13(e), the proposed amendment to Rule 11 clarifies what good cause means in the context of the Board of Bar Examiners’ determination of whether to extend the time within which the Board will accept an MPRE score.

Comments on these proposed amendments should be sent by **January 9, 2023**, to Andrew Strauss, Licensing Counsel of the Office of Attorney Licensing, at the following address:

Andrew Strauss, Licensing Counsel  
[Andrew.Strauss@vermont.gov](mailto:Andrew.Strauss@vermont.gov)

- b. *Proposed Order Amending Rule 4.3(a) of the Vermont Rules for Family Proceedings*

[https://www.vermontjudiciary.org/PROPOSEDOrderAmendingRule4.3\(a\)oftheVermontRulesforFamilyProceedings--FORCOMMENT](https://www.vermontjudiciary.org/PROPOSEDOrderAmendingRule4.3(a)oftheVermontRulesforFamilyProceedings--FORCOMMENT)

The proposed amendment to Rule 4.3(a) makes clear that the provisions related to consolidation of relief-from-abuse cases to domestic cases apply to all actions subject to Rule 4.0 where a relief from abuse action is filed either prior to or following the filing of the action subject to Rule 4.0. The actions subject to Rule 4.0 are set forth in Rule 4.0(a)(1). In addition to divorce and annulment actions, they include legal separation, dissolution of a civil union, parentage, desertion, and nonsupport. The proposed amendment to Rule 4.3(a)(3) provides for automatic consolidation in cases where a relief from abuse action is filed after the Rule 4.0 action and a temporary order is issued or, in the case of a denial, a request for hearing is filed, when one of the following three circumstances exists: (1) the complaint in that action is still pending; (2) there are pending post-judgment motions; or (3) the requests for relief in the abuse-prevention action conflict with an outstanding order in the action subject to Rule 4.0.

Comments on this proposed amendment should be sent by **January 9, 2023**, to Hon. Thomas Carlson, Chair of the Advisory Committee on the Rules for Family Proceedings, at the following address:

Hon. Thomas Carlson, Chair  
[Thomas.Carlson@vermont.gov](mailto:Thomas.Carlson@vermont.gov)

### **III. ODYSSEY FILE & SERVE AND PUBLIC PORTAL INFORMATION**

All Superior Courts, including the Environmental Division, the Judicial Bureau, and the Supreme Court 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.

#### **Reminders for OFS Users:**

**1) PDFs must be “flattened” prior to efile through Odyssey File & Serve**

With the increased use in electronic signature tools, it is important for OFS filers to remember that all PDFs must be flattened prior to filing in OFS. In order to eFile a form-fillable PDF or a PDF that has been electronically signed, you must first save them as a flat file. Otherwise, the filing will fail and you will need to refile.

Follow the steps below to "flatten" a completed PDF:

1. Open the completed PDF.
  2. Right click on document and select Print. NOTE: if document opens in Adobe, Select File and select Print.
  3. Select the PDF printer. (The Adobe PDF printer is installed automatically with Adobe Acrobat. Numerous free PDF printer drivers are available for download from the Internet.)
  4. Select OK.
  5. Specify location to save the printed, "flattened" version of the form.
  6. Select Save
- 2) 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.**

**Odyssey File & Serve.** Odyssey File & Serve (OFS) is the platform through which you 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 [www.vermontjudiciary.org/efiling](http://www.vermontjudiciary.org/efiling)

For technical support regarding Odyssey File & Serve, please contact Tyler Technologies at 800-297-5377 or [efiling.support@tylertech.com](mailto:efiling.support@tylertech.com)

If you have procedural questions about OFS, please email the judiciary at [JUD.EFileSupport@vermont.gov](mailto: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](mailto:Jud.helpdesk@vermont.gov) When emailing, please write "**Public Portal**" in the subject line.

#### **IV. FILING OF EXHIBITS FOR EVIDENTIARY HEARING**

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 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.

#### **V. 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](mailto:JUD.AttyLicensing@vermont.gov) and [JUD.CAOMemotoBar@vermont.gov](mailto: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 only works with Internet 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](mailto:jud.helpdesk@vermont.gov) or call the Helpdesk at 802-828-4357 if you have difficulty accessing eCabinet or 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.

To ensure you continue to receive these emails, please add [JUD.AttyLicensing@vermont.gov](mailto:JUD.AttyLicensing@vermont.gov) and [JUD.CAOMemotoBar@vermont.gov](mailto:JUD.CAOMemotoBar@vermont.gov) to your Safe Senders list.