

**VERMONT SUPREME COURT
ADVISORY COMMITTEE ON RULES OF CIVIL PROCEDURE
AGENDA FOR MEETING OF MAY 12, 2023**

The Civil Rules Committee will meet virtually at 9:00 a.m., Friday, May 12, 2023, to consider the following agenda:

1. Approval of draft minutes of the meeting of March 3, 2023.

2. Action items.

- A. # 23-2 Rules 9.2 and 9.3 (Special Pleading in eviction and foreclosure). The promulgation order directs “That the Advisory Committee on the Rules of Civil Procedure is directed to review the operation of these rules and to advise the Court when appropriate, but in any event, not later than July 1, 2023, whether these rules should be terminated in whole or in part, extended, revised, or made permanent. In the absence of further order, these rules will be void and of no further effect in any civil action commenced after September 30, 2025.” (emphasis added). Proposed to delete Rule 9.2(c) and Rule 9.3(b). The comment period expires May 8, 2023.

Chair Keyes to report on: VHAP plans to accept no new applications as of June 12; the status of VERAP funds; JCLR comments and public comment(s). To be recommended 9.3 rule change; Keyes memo; VLA comment and proposed amended Notice to Homeowners; follow up correspondence on proposed amendment of 9.3 and form.

3. Suggested amendments for Committee consideration.

- A. #22-6. Update the so-called “Discovery - Alternate Dispute Resolution Stipulation,” Rule 16.2/Rule 26(f) Scheduling Orders/Discovery plan; Rule 16.3 Mediation and/ or and amend AO 39 to conform to current mediation practice. See Proposal of Civil Division Oversight Committee. Ms. Badgewick and Mr. Weimer to report on status of their review.
- B. # 22-8. Regularize effective dates of promulgated rules. Proposal of Lisa Shelkrot. Chair Keyes to report on response of other rules committees.
- C. #23-3 Clean-up of Rule 64, Replevin. Ms. Badgewick to report.
- D. #22-10 [Tabled] Amendment of V.R.A.P. 3(e) to provide that docketing statements are optional for appellees. Chair Keyes to report on Criminal Rules Committee action.
- E. # 23-5 [New] V.R.C.P. 79.1 Provide client contact information with motion to withdraw Proposal of Judge Toor: “A common problem with lawyers’ motions to withdraw is that they do not provide the court with their client’s mailing address, despite the fact that we are required to send the client a notice of the hearing directly. V.R.C.P. 79.1(f). Suggestion rule amended to say that when filing such a motion counsel must provide their client’s mail and email address to the court.”

4. Suggested amendments of possible further review.

- A. # 23-4 Small Claims Date of Service. Suggested by William Towle.

5. Reports, news, and trailing agenda items.

A. Court Staff Review

V.R.C.P. 5(e)(7), “*Denial for Lack of Form Prohibited*. Unless otherwise provided in the 2020 Vermont Rules for Electronic Filing, the clerk shall not refuse to accept for filing any document presented for that purpose solely because it is not presented in proper form as required by these rules.”

Proposed Order Amending Rule 5 of the 2020 Vermont Rules for Electronic Filing (“Court staff may reject a filing that does not comply with these rules or Rule 7(a)(1) of the Rules for Public Access to Court Records. Court staff may also reject a filing that contains an error that cannot be corrected by court staff. The Court Administrator will delineate the permissible reasons for rejecting a filing and provide the list in a prominent place on the Judiciary website.”).

See PROPOSED--VREF-5--FORCOMMENT.pdf. Comments on these proposed amendments should be sent by **June 12, 2023**, to Hon. John A. Dooley (Ret.), Chair.

B. Any other news from Efiling Committee, or from Civil Oversight, Special Committee on Remote Hearings, or Evidence Rules Committees? Ms. Damone; Mr. Koeninger, Mr. Dumont; and/or Ms. McAndrew to report.

C. #23-1 [Tabled] Remote Deposition oaths. 2022 legislation allows remote administration of oaths by specially licensed notaries located in Vermont. OPR Emergency Administrative Rules for Notaries Public and Remote Notarization (Eff. 9/9/2022; **Expires 9/5/2023**) define “Remotely Located Individual” to mean an individual or individuals located in Vermont who is/are not in the physical presence of the notary public who perform(s) a notarial act.” We are awaiting clarification whether OPR will issue permanent rules (September 2023?) allowing notaries in Vermont to administer oaths to individuals located outside the state. See V.R.C.P. 28(a) (persons before whom depositions may be taken).

D. #20-13. Proposed amendments of V.R.C.P. 55, 62, regarding service of default judgments; PROPOSEDVRCPP55 62--FOR COMMENT due February 14, 2022. Proposed amendments to **Rule 4(d), Rule 4(e), Rule 4(f), Rule 55, Rule 62(b), and Rule 80.1(f)** to be sent out for public comment.

5. New business?

6. Date of next meetings. June 2, if needed? **September 8(?)**, November 3, January 5

7. Adjourn.