

VERMONT SUPREME COURT
ADVISORY COMMITTEE ON RULES FOR FAMILY PROCEEDINGS
Minutes of Meeting
January 25, 2013

The meeting was called to order at 9:30 a.m. in Room 216, Debevoise Hall, Vermont Law School, by Jody Racht, chair. Present were Committee members Robin Arnell, Hon. Cortland Corsones, Mary Frost, Hon. David Howard, Hon. Christine Hoyt, Peter Lawrence, Hon. Kathleen Manley, Jean Murray, Linda Reis, Robert Sheil, and Christine Speidel.. Also present were Hon. Marilyn Skoglund, Supreme Court Liaison; Michele Olvera, Vermont Network; Scott Woodward, VLS 2011; and Professor L. Kinvin Wroth, Reporter.

1. **Minutes.** The draft minutes of the meeting of November 9, 2012, as previously distributed, were unanimously approved.
2. **Recommended Amendment of V.R.F.P. 7 and Addition of V.R.F.P. 7.1.** Chairwoman Racht reported that as a result of questions raised about the proposals to amend V.R.F.P. 7 and add V.R.F.P. 7.1 by the Legislative Committee on Judicial Rules, the Court had returned the proposed rules to the Committee for further consideration and discussion with the Family Division Oversight Committee. It was agreed that Jean Murray, Peter Lawrence, and Judge Manley would be a subcommittee to meet with members of the Oversight committee.
3. **Proposed Amendments of V.R.F.P. 1(b), 2(b), 4(b)(1)(A), and 8(g).** The Committee reviewed Professor Wroth's January 19 draft of proposed amendments to V.R.F.P. 1(b), 2(b), 4(b)(1)(A), and 8(g). In discussion it was agreed that the proposed amendment of Rule 2(b)(1) should not be sent forward, and that the Reporter's Notes to Rule 1(b)(1) should refer only to the purpose of the amendment to increase data transfer. It was agreed that, with those changes, the proposed order should be sent to the Court for circulation to the bar.
4. **Consideration of *Columbia v. Lawton*.** Committee members noted that in *Columbia v. Lawton*, 2013 VT 2 (1/18/13), the Court had referred to the Committee the question whether V.R.C.P. 60(b) as applied in Family Court should be amended, or another rule should be adopted, to permit a non-party to a parentage case to set aside a parentage judgment. It was agreed to put this matter on the agenda of the Committee's next regular meeting.
5. **Proposed Restyling and Reorganization of V.R.F.P. 4.** The Committee considered Scott Woodward's April 17, 2011, draft of the proposed restyling and reorganization of V.R.F.P. 4 that he had initially prepared for Professor Wroth's Fall 2010 Advanced Civil Procedure Class and that contained responses to comments resulting from the Committee's review of it on March 4, 2011. The Committee also had before it Professor Wroth's January 24 suggested revision of the draft of V.R.F.P. 4.0(a)-(c). In discussion, the following matters were agreed upon:

4.0(a)(1). Delete the last sentence as unnecessary.

4.0(a)(5). Consider deletion of this sentence as possibly substantive.

4.0(b)(1)(A). Revise: “state facts establishing jurisdiction.”
4.0(b)(1)(B). Revise: “state the particular facts of the claim and the relief sought.”
4.0(b)(1)(C). Language of (B) re signing.
4.0(b)(1)(D)-(F). Language of present (C)-E.
4.0(b)(2). Delete “*Service of the Complaint*.”
4.0(b)(2)(A). Language of LKW January 24 draft. Add that name of paramour shall not be set out in a complaint for adultery.
4.0(b)(2)(C). Delete.
4.0(b)(2)(D). Incorporate language of *Samis* amendment if adopted.
4.0(b)(2)(E). Simplify to a cross-reference to V.R.C.P. 3.1(b), leaving in re charge to marital assets.
4.0(c). Revise title: “Proceedings prior to Judgment.”
4.0(c)(2) and(3). Consider whether they should remain separate paragraphs.
4.0(d)(1). Last sentence: “The hearing may proceed even if the defendant does not appear.”
4.0(d)(2). At end, substitute: “. . . by the Uniform Child Custody Jurisdiction and Enforcement Act, 15 V.S.A., chapter 20.”
4.0(e)(1). Consider deletion of “at least one week.”
4.0(e)(1)(C) and (2). Consider combining as a new Rule 4.1(e), with all other parentage issues to go in Rule 4.1
4.0(g). Paragraphs (4), (5), and (9)(A) should go in Rule 4.1. Paragraph (6) should go in Rule 4.2(c).
Rule 4.0(i). Put in Rule 4.1.

Mr. Woodward and Professor Wroth will prepare a revised draft of Rule 4.0 and affected parts of other rules. The discussion of all parts of the restyled draft will be continued at a future meeting to be devoted to Rule 4.

6. **Other Business**. There was no other business.
7. **Next Meetings**. It was agreed that the Committee would meet on March 29 (in place of the previously scheduled March 15 meeting) at Vermont Law School from 1:30 to 4:30 p.m. and on May 3 from 1:30 to 4:30 p.m. at a location to be determined.
8. **Adjournment**. There being no further business, the meeting was adjourned at 4:00 p.m.

Respectfully submitted,

L. Kinvin Wroth, Reporter