

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 Rule Amendments, Odyssey File and Serve and Public Portal Information, Filing of Exhibits & Other Miscellaneous Info

DATE: April 8, 2021

For your information, please find:

- [AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 4-8-21](#)
- [Promulgation Order Adding Rule 11\(a\)\(3\) to the Vermont Rules of Criminal Procedure](#)
- [Promulgation Order Adding Rule 73 to the Vermont Rules of Probate Procedure](#)
- [Proposed Order Amending Rule 7 of the Vermont Rules of Criminal Procedure](#)
- *Odyssey File and Serve and Public Portal Information*
- *Filing of Exhibits*
- *Updated Court Forms*
- *Obligations Under A.O. 41*
- *eCabinet Registration*

## I. PROMULGATED RULE AMENDMENTS

- a. [AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 4-8-21](#)

**This Order was promulgated on April 8, 2021, effective immediately.**

This order further amends A.O. 49, which declared a Judicial Emergency on March 16, 2020, in response to the COVID-19 pandemic.

The April 8 amendment gives courts flexibility during the judicial emergency to move criminal and civil jury trials to venues that can accommodate jury trials consistent with public-health recommendations. The Chief Superior Judge and Court Administrator have authorized several court buildings in the State for jury trials and the Judiciary anticipates that the number of locations approved for jury trials will continue to grow. However, some court buildings will likely not be cleared for jury trials under existing public-health guidelines due to physical space restrictions that prevent compliance with current social-distancing guidelines, considerations relating to their ventilation systems, or both. As a result, under current pandemic conditions, some counties have no courthouses suitable for jury trials. In other counties, although a courthouse may be approved for jury trials, the demand for criminal and civil jury trials is far greater than can be

accommodated in that courthouse. This amendment enables the Chief Superior Judge to ensure that parties in criminal and civil proceedings have access to jury trials in courthouses that can accommodate those proceedings in as timely a way as possible. The Judiciary continues to prioritize jury trials in criminal cases in which the defendant has been detained pretrial, but courts may set civil cases as back-up to scheduled criminal cases where appropriate. Civil litigants are encouraged to agree to six-person civil jury trials in those court buildings that are authorized by the Chief Superior Judge and the Court Administrator for six-person jury trials.

The full Order and other updates regarding the Coronavirus Disease 2019 (COVID-19) and court operations are available at [<https://www.vermontjudiciary.org/about-vermont-judiciary/covid-19-and-court-operations>]

b. [Promulgation Order Adding Rule 11\(a\)\(3\) to the Vermont Rules of Criminal Procedure](#)

**This Order was promulgated on April 5, 2021, effective June 7, 2021.**

Rule 11(a)(3) is added to conform to the Court's direction in In re Benoit, 2020 VT 58, \_\_\_ Vt. \_\_\_, \_\_\_ A.3d \_\_\_. In Benoit, the Court held that with the State's agreement and the trial court's approval, defendants may preserve a post-conviction relief (PCR) challenge to a predicate conviction when pleading guilty to an enhanced charge by stating on the record at the change-of-plea hearing an intent to challenge one or more of the convictions through a PCR petition, specifying the convictions to be challenged, and stating the basis for the challenges. Under the proposed language, if a defendant pleads guilty or nolo contendere while preserving the PCR claim, with the consent of the state and the approval of the court, the plea will be analogous to a conditional plea under V.R.Cr.P. 11(a)(2). The present amendment prescribes the procedure by which a defendant may preserve such a challenge for post-conviction review.

c. [Promulgation Order Adding Rule 73 to the Vermont Rules of Probate Procedure](#)

**This Order was promulgated on April 5, 2021, effective June 7, 2021.**

Rule 73 is added to implement 14 V.S.A § 118, added by Act 195, Acts of 2017 (Adj. Sess.), § 2, providing for referral of a Probate Division matter to the Civil Division, with the consent of the Civil Division.

## II. PROPOSED RULE AMENDMENT

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

[Proposed Order Amending Rule 7 of the Vermont Rules of Criminal Procedure](#)

The proposed 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 proposed 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.

Comments on this proposed amendment should be sent by **June 8, 2021**, to Hon. Thomas A. Zonay, Chair of the Advisory Committee on Rules of Criminal Procedure, at the following address:

Honorable Thomas A. Zonay, Chair  
Advisory Committee on Rules of Criminal Procedure  
[Thomas.Zonay@vermont.gov](mailto:Thomas.Zonay@vermont.gov)

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

As of April 1, 2021, there is a new efilings 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](http://www.vermontjudiciary.org/efiling)

Currently, all trial courts, the Environmental Division, and 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](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.

#### **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](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.

## IV. 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.

## 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).

Please email those changes to [JUD.AttyLicensing@vermont.gov](mailto:JUD.AttyLicensing@vermont.gov) Your cooperation is very much appreciated.

To ensure you continue to receive these emails, please add [JUD.AttyLicensing@vermont.gov](mailto:JUD.AttyLicensing@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. 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 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.

Notification to [JUD.AttyLicensing@vermont.gov](mailto:JUD.AttyLicensing@vermont.gov) or in **eCabinet** of a change to your contact information does not automatically notify the other. It is your responsibility to notify both. If you are a member of the Vermont Bar Association, you will also need to separately notify the VBA.