

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

SCOTT GRIFFITH
Interim State Court Administrator
Scott.Griffith@vermont.gov



www.vermontjudiciary.org

Mailing Address
Office of the Court Administrator
109 State Street
Montpelier, VT 05609-0701

Telephone (802) 828-3278
FAX: 802 828-3457

TO: Members of the Vermont Bar

FROM: Scott Griffith, Interim State Court Administrator

RE: Promulgated and Proposed Rules, State Court Administrator Administrative Directive SG-1, Odyssey File and Serve and Public Portal Information, Filing of Exhibits & Other Miscellaneous Info

DATE: February 9, 2022

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 2-07-22*](#)
- [*Promulgation Order Amending 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*](#)
- [*Promulgation Order Amending Rules 12.C, 13.B, 14.C\(4\) and 26.D of Administrative Order No. 9, Permanent Rules Governing Establishment and Operation of the Professional Responsibility Program*](#)
- [*Promulgation Order Amending Rules 5\(c\) and \(d\), 6\(b\) and Abrogating and Replacing Rule 9 of the Vermont Rules for Public Access to Court Records*](#)
- [*Proposed Order Abrogating V.R.P.P. 18\(d\)*](#)
- [*Proposed Order Amending V.R.P.A.C.R. 6\(b\)\(14\)*](#)
- [*Court Administrator Administrative Directive SG-1 \(2022 Update to Appendices to Rules 5 and 6 of the Rules for Public Access to Court Records\)*](#)
- *Odyssey File and Serve and Public Portal Information*
- *Filing of Exhibits*
- *Miscellaneous*

I. PROMULGATED RULE AMENDMENTS

- a. [*AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 2-07-22*](#)

This Order was promulgated on **February 7, 2022, effective February 22, 2022.**

Paragraph 2 is amended to extend the effective date of the Administrative Order until May 31, 2022. The Court will continue to respond to the changing situation by amending provisions of

the order as necessary but anticipates that some portions will continue to be necessary due to the ongoing impacts of the pandemic.

Administrative Order 49 ¶ 22(g) provides a procedure for notifying defendants of the availability of federal funds under the Vermont Homeowner Assistance Program (VHAP) to assist borrowers with overdue mortgages in hopes of reducing foreclosures. The requirements of ¶ 22(g) apply in one-to-four-unit residential property foreclosure and replevin actions.

In essence, ¶ 22(g) requires a plaintiff in a covered action to serve notice on the defendant borrower of the availability of VHAP funds. If a defendant who has applied for VHAP funds so requests, any entry of judgment, notice of sale, sale of the property, or issuance of an order of replevin is automatically stayed for 60 days. The stay does not apply to foreclosure mediation unless ordered by the court. The court may terminate the stay if the plaintiff requests on a showing of one or more specific objections. The stay is terminated automatically after 60 days if no VHAP action has been reported and an extension is not sought. If plaintiff learns that defendant has applied to VHAP, plaintiff must report that fact to the court, which may take appropriate action. The court will terminate a stay upon notification by either party that the VHAP application was denied. The provision expires on September 30, 2025, or on the earlier exhaustion of VHAP funds.

Two new forms are adopted. [Appendix E](#) provides a form for plaintiffs to certify compliance with the notice requirement. [Appendix F](#) contains the notice to defendants and a sample request to stay that can be filed by a defendant.

Former ¶ 22(g), requiring the Civil Rules Committee to consider appropriate permanent rules changes to be made after A.O. 49 expires, has been redesignated as ¶ 22(h).

The full text of Administrative Order 49 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. [Promulgation Order Amending 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](#)

This Order was promulgated on **February 7, 2022, effective April 11, 2022.**

The 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 amendment to Rule 9(b)(1) delineates 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 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 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 amendment to Rule 12(a)(2) allows applicants to commence their mentorship prior to admission to the bar. 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 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 amendment to Rule 17 amends the opening sentence of the rule to correct the cross reference to Rule 16.

The 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.

- c. [Promulgation Order Amending Rules 12.C, 13.B, 14.C\(4\) and 26.D of Administrative Order No. 9, Permanent Rules Governing Establishment and Operation of the Professional Responsibility Program](#)

This Order was promulgated on **February 7, 2022, effective April 11, 2022.**

Several amendments are made to provide correct cross references. Rule 12.C is amended to correct a cross reference from Rule 15 to Rule 13. Rule 13.B is amended to correct a cross reference from Rule 15.D to Rule 13.D. Rule 14.C is amended to correct a cross reference in 14.C(4) from Rule 15.D(5) to Rule 15 generally. Rule 26.D is amended to correct a cross reference from Rule 15.E to Rule 13.E.

- d. [Promulgation Order Amending Rules 5\(c\) and \(d\), 6\(b\) and Abrogating and Replacing Rule 9 of the Vermont Rules for Public Access to Court Records](#)

This Order was promulgated on **February 7, 2022, effective April 11, 2022.**

The amendments to Rule 5(c) and (d) clarify that the specific right of access to records for lawyers and guardians ad litem applies unless there is a restriction on access, such as for records containing trade secrets or other confidential information that is sealed from particular parties.

New Rule 6(b)(20) adds an exception to public access for motions for ex parte relief until there is a court decision on the motion. New Rule 6(b)(21) adds an exception to public access for records subject to a motion for in camera review subject to the court’s decision. New Rule 6(b)(22) adds an exception to public access for records containing trade secrets or other confidential business information.

Rule 9 which concerns limiting or granting access to court records, is abrogated and replaced. Under the amended version, a hearing on a motion to seal or redact is not required unless there is a request or an objection to sealing or redacting or the court orders a hearing. The rule deletes

reference to standing and instead provides a practical description of persons who are entitled to notice and an opportunity for hearing. The rule describes the circumstances in which all parties to a case may stipulate to the sealing or redacting of a document or documents, subject to the court's finding of good cause. Rule 9(e) contains a provision specifying that a party can seek permission to appeal ruling on a motion to seal or for access through V.R.A.P. 5.1. Rule 9(f) addresses requests to seal that are made directly to the Supreme Court concerning Supreme Court documents.

II. PROPOSED RULE AMENDMENTS

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

a. [Proposed Order Abrogating V.R.P.P. 18\(d\)](#)

The proposed amendment abrogates Rule 18(d) as obsolete. For proceedings under 14 V.S.A., ch. 111, representation by guardians ad litem and attorneys are now covered by V.R.P.P. 80.9 and 80.10, rather than by V.R.F.P. 6 and 6.1 as formerly indicated in Rule 18(d).

Comments on this proposed amendment should be sent by **April 11, 2022**, to Hon. Jeffrey Kilgore, Chair of the Advisory Committee on the Rules of Probate Procedure, at the following address:

Hon. Jeffrey Kilgore
Jeffrey.Kilgore@vermont.gov

b. [Proposed Order Amending V.R.P.A.C.R. 6\(b\)\(14\)](#)

Rule 6(b)(14) contains a list of exemptions of personally identifying information. Rule 6(b)(14)(v) previously exempted the name “of a child alleged to be a victim” in a criminal case. To alleviate any confusion regarding whether the exemption referred to the alleged victim’s age at the time of the offense or currently, the proposal clarifies that the exemption applies to an alleged victim who was a minor at the time of the offense. The amendment also substitutes the term “minor” for “child” because minor is a legal term already defined by statute. See 1 V.S.A. § 173.

Comments on this proposed amendment should be sent by **April 11, 2022**, to Hon. Timothy B. Tomasi, Chair of the Advisory Committee on the Rules for Public Access to Court Records, at the following address:

Honorable Timothy B. Tomasi, Chair
Timothy.Tomasi@vermont.gov

III. STATE COURT ADMINISTRATOR DIRECTIVE

[Court Administrator Administrative Directive SG-1 \(2022 Update to Appendices to Rules 5 and 6 of the Rules for Public Access to Court Records\)](#)

This Directive was promulgated on February 7, 2022; effective immediately.

Vermont Rules for Public Access to Court Records 5 and 6 have accompanying appendices that list provisions of statutes and court rules granting specific rights of access to otherwise nonpublic information or limit access to judicial branch case records. The Court Administrator is obligated to update the appendices each year. This directive provides amendments to those appendices.

IV. ODYSSEY FILE & SERVE AND PUBLIC PORTAL INFORMATION

As of April 1, 2021, there is a new efileing 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

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.

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 efileing 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 <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 efiling 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 efiling 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.