

**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, List of Approved Financial Institutions, Odyssey File and Serve and Public Portal Information, Filing of Exhibits & Other Miscellaneous Info

DATE: January 11, 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 1-10-22*](#)
- [*Proposed Order Amending V.R.Cr.P. 45\(a\)\(4\)\(A\) and \(e\)*](#)
- [*Proposed Order Amending V.R.A.P. 25*](#)
- [*Proposed Order Amending 2020 V.R.E.F. 11\(c\)*](#)
- *List of Approved Financial Institutions*
- *Odyssey File and Serve and Public Portal Information*
- *Filing of Exhibits*
- *Miscellaneous*

I. PROMULGATED RULE AMENDMENTS

[*AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 1-10-22*](#)

This Order was promulgated on **January 10, 2022, effective immediately.**

The amendment to ¶ 15(f) extends the modification of MCLE requirements for continuing legal education to the 2020-2022 reporting cycle to account for the ongoing limitations on in-person gatherings as a result of the COVID pandemic.

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>]

II. PROPOSED RULE AMENDMENTS

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

a. [*Proposed Order Amending V.R.Cr.P. 45\(a\)\(4\)\(A\) and \(e\)*](#)

The proposed amendments to Rule 45 are part of a larger project to update rules regarding filing and service across all divisions. [Proposed amendments](#) to V.R.C.P. 5 regarding email filing and service are currently out for comment. The proposal was made in response to the Court's request in Administrative Order 49, ¶ 6. These provisions are generally applicable in the criminal division.

The proposed amendment to Rule 45(a)(4)(A) clarifies that when email filing is permitted email filings are timely when made at any time prior to midnight on the last day specified for required action. This conforms with a proposed change to V.R.C.P. 6(a)(4), which is currently out for comment.

The proposal also deletes V.R.Cr.P. 45(e), which allows three additional days for filing after certain kinds of service. A similar [proposal](#) is out for comment to delete the provision from V.R.C.P. 6(e) and V.R.A.P. 26(c).

As explained in the civil and appellate proposals, deleting this provision is overdue, given the general simplification of counting time that occurred when the “day is a day” method of counting was adopted in 2018, and the move to filing through the electronic filing system or by email. All attorneys (who are required to register and efile), and self-represented parties who elect to are required to use the electronic filing system for service. Under the proposed amendments to V.R.C.P. 5, self-represented parties can use email for service. Service by mail is limited. In these instances, where more time is warranted, courts can respond on a case-by-case basis to allow parties more time to respond.

Comments on this proposed amendment should be sent by **February 14, 2022**, to Hon. John Treadwell, Chair of the Advisory Committee on Rules of Criminal Procedure, at the following address:

Honorable John Treadwell, Chair
Advisory Committee on Rules of Criminal Procedure
John.Treadwell@vermont.gov

b. [*Proposed Order Amending V.R.A.P. 25*](#)

The proposed amendment to V.R.A.P. 25 is made in conjunction with the [proposed amendments](#) to V.R.C.P. 5 regarding email filing and service. Under the proposal current V.R.A.P. 25(a)(1) and (2), regarding filing of documents, is deleted. Amended 25(a)(1) instead states that filing must be made as provided in V.R.C.P. 5(e) and the 2020 Vermont Rules for Electronic Filing. Incorporating the filing requirements of V.R.C.P. 5(e) will provide consistency across different dockets and predictability. The service requirements of V.R.C.P. 5 are already incorporated into the appellate rule.

The proposal also deletes V.R.A.P. 25(a)(2)(B), which previously provided: “A brief or printed case is timely filed if mailed or delivered to the carrier on or before the last day for filing.” Given the implementation of electronic filing in the Supreme Court and the concurrent proposals to allow filing by email, the provision is outdated. To the extent the purpose of the exception for briefs is to give parties the maximum time to complete their briefs, currently proposed amendments would expand the deadlines for these filings from 30 to 40 days for an appellant’s principal brief, from 21 to 30 days for an appellee’s principal brief, and from 7 days to 14 days for a reply brief. In addition, this special exception to the general rule that filing means filing, not mailing, is a source of confusion for parties and court staff. Removing the provision is consistent with ongoing efforts to simplify and clarify time-counting in the rules that began when the “day is a day” method of counting was adopted in 2018.

Comments on this proposed amendment should be sent by **February 14, 2022**, to Allan Keyes, Esq., Chair of the Advisory Committee on the Rules of Civil Procedure, at the following address:

Allan Keyes, Esq., Chair
Advisory Committee on the Rules of Civil Procedure
ark@rsclaw.com

c. [Proposed Order Amending 2020 V.R.E.F. 11\(c\)](#)

The proposed amendment to Rule 11(c) would conform the rule to [proposed amendments](#) to V.R.C.P. 5(b)(2)(D), which requires efilers to serve discovery using the electronic filing system, unless the parties agree on an alternative method of service.

Comments on this proposed amendment should be sent by **February 14, 2022**, to Hon. John A. Dooley (Ret.), Chair of the Special Advisory Committee on the Rules for Electronic Filing, at the following address:

Honorable John A. Dooley, (Ret.), Chair
Advisory Committee on the Rules for Electronic Filing
John.Dooley@vermont.gov

III. LIST OF APPROVED FINANCIAL INSTITUTIONS

List of Approved Financial Institutions

Rule 1.15B(a)(1) of the Vermont Rules of Professional Conduct requires lawyers to maintain their trust accounts only in financial institutions approved by the Professional Responsibility Board. Financial institutions which have not been so approved may obtain information as to how to become certified by contacting the Office of Disciplinary Counsel (802) 859-3000. For a complete list of Approved Financial Institutions, please click on the following link and select “Attorney Trust Accounts”:

<https://www.vermontjudiciary.org/about-vermont-judiciary/boards-and-commitees/professional-responsibility>

IV. ODYSSEY FILE & SERVE AND PUBLIC PORTAL INFORMATION

As of April 1, 2021, there is a new efilng 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 efilng 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.

Efilng Training Opportunities

Watch a pre-recorded efilng 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 efilingsite 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.