

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

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**TO:** Members of the Vermont Bar

**FROM:** Teri Corsones, State Court Administrator

**RE:** Important News, Promulgated and Proposed Rules, Odyssey File and Serve and Public Portal Information, Filing of Exhibits & Other Miscellaneous Info

**DATE:** July 14, 2022

For your information, please find:

- *Admission and Licensing Applications*
- [Promulgation Order Amending Administrative Order No. 50](#)
- [Promulgation Order Amending A.O. 9, Rules 7, 8, 20, and 26](#)
- [Promulgation Order Amending A.O. 23](#)
- [Promulgation Order Amending A.O. 41 § 4 and Adding § 18](#)
- [Promulgation Order Amending A.O. 52](#)
- [Promulgation Order Adding A.O. 53](#)
- [Promulgation Order Amending V.R.C.P. 26\(e\)](#)
- [Proposed Order Adding Rules 9.2 and 9.3 to the Vermont Rules of Civil Procedure](#)
- [Proposed Order Amending V.R.S.C.P. 6 and V.R.C.P. 80.6\(n\)](#)
- *Odyssey File and Serve and Public Portal Information*
- *Filing of Exhibits*
- *Miscellaneous*

## **I. IMPORTANT NEWS**

### *Admission and Licensing Applications*

The Office of Attorney Licensing is now accepting most admission and licensing applications, including pro hac vice applications, only through Vermont's eFiling system. Some of the necessary updated application forms (including an updated pro hac vice application) can be found on the [Attorney Licensing](#) section of the Judiciary's website. Updated applications for admission are made available by the NCBE. Instructions on how to file these applications can be found in the [Attorney Licensing eFiling Guide](#).

## II. PROMULGATED RULE AMENDMENTS

### a. [Promulgation Order Amending Administrative Order No. 50](#)

This Order was promulgated on **July 5, 2022, effective July 5, 2022.**

Administrative Order No. 50, originally promulgated in August 2020, created a pilot project to serve defendants more efficiently in cases where the Office of Child Support (OCS) is providing services under federal law. The pilot project began in Windham and Windsor Units, was extended to Caledonia and Orange Units in August 2021, extended to the Orleans Unit in March 2022, and is now extended to the Franklin, Grand Isle, Lamoille, and Essex Units.

### b. [Promulgation Order Amending A.O. 9, Rules 7, 8, 20, and 26](#)

This Order was promulgated on **July 11, 2022, effective September 12, 2022.**

The amendment to Rule 7(B) rescinds the existing limit on the number of terms that an Assistance Panel member may serve. Given the nondisciplinary format and goals of the Bar Assistance Program, the value of experienced members, and the relatively small pool of potential members, there is no reason to limit terms.

The amendment to Rule 7(C) rescinds the requirement that at least one member of an Assistance Panel be a current member of the Board. With only seven volunteer members, this requirement puts an unreasonable expectation on Board members' time. Board members remain eligible to volunteer to serve as members of assistance panels.

The amendments to Rule 8 clarify the scope of the confidentiality of all information, communications, and records received and generated by the Bar Assistance Program. New paragraph (C) is added to clarify that all information, communications, and records related to matters considered by Assistance Panels are confidential. New paragraph (D) is added to clarify the situations in which otherwise confidential information, communications, or records must be disclosed. Old paragraph (C) is relabeled a paragraph (E) and is amended for clarity and to strengthen the confidentiality of information, communications, and records. Old paragraph (D) is relabeled as paragraph (F) and is amended to clarify the situations in which otherwise confidential information, communications, or records may be disclosed. Paragraph (F) loosely tracks V.R.Pr.C. 1.6(c) and is intended to permit Bar Counsel or the Bar Assistance Program to disclose information in situations in which a lawyer would be permitted to do so in a lawyer-client relationship. Old paragraph (E) is relabeled as paragraph (G) and is amended to reflect that, on occasion, the Professional Responsibility Program might contract with an attorney to serve when Bar Counsel has a conflict of interest or is otherwise unable to serve. Old paragraph (F) is relabeled as paragraph (H) and is amended make clear that the confidentiality provisions of Rules 5, 6, and 7 encompass all who might work or volunteer in or for the Bar Assistance Program.

The amendment to Rule 20 reflects the 2021 amendments that created the role of Screening Counsel.

The amendment to Rule 26(D) clarifies that lawyers who are suspended for 6 months or longer must petition for reinstatement to the active practice of law. By contrast, lawyers who are suspended for less than 6 months may resume practicing upon the expiration of the suspension.

c. [Promulgation Order Amending A.O. 23](#)

This Order was promulgated on **July 11, 2022, effective September 12, 2022.**

Administrative Order 23, regarding the Advisory Committee on the Rules of Evidence, is amended to expand the membership of the committee from ten to thirteen. The primary reason for the change is to broaden the membership to ensure a range of experience on the committee, representing the varied practice areas where the evidence rules are used. The amended order requires that the committee include seven attorneys each with a focus and experience in the following practice areas: general civil, criminal prosecution, criminal defense, probate, mental-health, family domestic, and juvenile. The order retains three additional general members that are not tied to a particular practice area.

d. [Promulgation Order Amending A.O. 41 § 4 and Adding § 18](#)

This Order was promulgated on **July 11, 2022, effective September 12, 2022.**

The amendments to Administrative Order 41 add provisions regarding disclosure of insurance coverage for malpractice. A joint committee made of members from the Professional Responsibility Board and the Vermont Bar Association met several times, studied the approaches of several jurisdictions, and heard from a variety of individuals, including attorneys involved in attorney discipline and malpractice cases, and representatives of title and malpractice insurers. The committee proposed that A.O. 41 be amended to require that the annual licensing statement include a section requiring lawyers to disclose their insurance status. New § 4(a)(8) implements that requirement. New § 18 provides details of the required disclosure, exempting government attorneys, in-house counsel, active attorneys not representing clients, and attorneys not on active status. Section 18(d) provides that the information regarding insurance coverage is publicly available, but delays public availability until after a full license renewal period has passed.

e. [Promulgation Order Amending A.O. 52](#)

This Order was promulgated on **July 11, 2022, effectively.**

Administrative Order 52, which established a pilot project for remote civil jury trials, is amended in two ways. First, the pilot is extended to August 31, 2023, to allow more opportunity for the Judiciary and court users to gain experience with this format. Second, the order is amended to underscore that prospective and seated jurors may use devices for remote trials notwithstanding the prohibition in V.R.C.P. 79.2(d)(5).

f. [Promulgation Order Adding A.O. 53](#)

This Order was promulgated on **July 11, 2022, effective September 12, 2022.**

Administrative Order 53 is added to establish a permanent Advisory Committee on the Vermont Rules for Electronic Filing. The Supreme Court established a special advisory committee to develop rules governing procedures for electronic filing in conjunction with the implementation of the Judiciary's electronic case management system. The resulting rules continue to require modification based on experience and a permanent committee will assist the Court in keeping the rules updated.

g. [Promulgation Order Amending V.R.C.P. 26\(e\)](#)

This Order was promulgated on **July 11, 2022, effective September 12, 2022.**

The amendment to Rule 26(e) conforms the Vermont rule to the federal rule in two respects. The first relates to supplementation of expert disclosures and expert depositions. The amended rule requires supplementation of disclosure of information provided about expert witnesses or by expert witnesses when deposed. The second change is a clarification. As originally drafted, the federal and state rules on supplementation referred to supplementing a response that was correct when initially made. The Vermont rule now follows the federal rule by deleting “thereafter acquired” from the first sentence of the rule. This change eliminates any interpretation of the rule that the duty to correct or supplement does not arise if information available to the disclosing party at the time of the initial disclosure rendered the initial disclosure incomplete or inaccurate.

### **III. PROPOSED RULE AMENDMENTS**

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

a. [Proposed Order Adding Rules 9.2 and 9.3 to the Vermont Rules of Civil Procedure](#)

Rules 9.2 and 9.3 are simultaneously proposed pursuant to the Supreme Court’s identical directives in Administrative Order No. 49 (A.O. 49), ¶¶ 21(e) and 22(h), that the Civil Rules Committee “review the current state of state and federal law concerning eviction [and foreclosure] proceedings and propose any necessary changes to the Civil Rules to take effect upon expiration of” that administrative order.

A.O. 49 ¶¶ 21 and 22 were originally added on July 23, 2020, to provide special pleading requirements for eviction and foreclosure proceedings and have been amended several times to reflect the changing financial and regulatory climate—most recently on February 7, 2022.

The two rules contain provisions related to federal appropriations for Vermont Emergency Rental Assistance (VERAP) and Vermont Homeowner Assistance Program (VHAP) funds, which are currently scheduled to expire on September 25, 2025. 15 U.S.C. §§ 9058c(g), 9058d(a). It is expected the Court will terminate all or part of Rules 9.2(b) and 9.3 earlier if funds are exhausted before that date and applications are no longer being accepted.

Comments on these proposed amendments should be sent by **August 29, 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](mailto:ark@rsclaw.com)

b. [Proposed Order Amending V.R.S.C.P. 6 and V.R.C.P. 80.6\(n\)](#)

The proposed amendments to Rule 6 incorporate provisions regarding remote hearings for small claims actions and for judicial bureau proceedings. See V.R.C.P. 80.6(d)(4) (making V.R.S.C.P. 6

applicable to judicial bureau proceedings). In response to health concerns COVID-19 pandemic, the Supreme Court declared an emergency in March 2020 and issued Administrative Order 49 making temporary changes to court rules and operations. Under ¶ 5(a), A.O. 49 authorized remote participation by video or audio in the civil division. Under ¶ 5(c), A.O. 49 authorized the hearing officer in judicial proceedings to preside remotely and ordered other persons to participate by remote audio or video.

Remote hearings were very effective in the judicial bureau and the current amendments allow remote proceedings to continue. Existing 6(a) is divided into four paragraphs. New 6(a)(2)(A) provides that in a nonjury hearing, the court may preside remotely and require other persons to participate remotely by either audio or video. Participants can request an in-person hearing and the court can grant the motion based on its consideration of the relevant factors in V.R.C.P. 43.1. For trial by jury, Rule 6(a)(2)(B) incorporates the procedures in V.R.C.P. 43.1.

The proposed amendment to Rule 80.6(n) adds V.R.C.P. 43.1 to the list of civil rules that do not apply in judicial bureau proceedings.

Comments on these proposed amendments should be sent by **August 29, 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](mailto:ark@rsclaw.com)

#### **IV. ODYSSEY FILE & SERVE AND PUBLIC PORTAL INFORMATION**

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.

##### **Reminders for OFS Users:**

##### **1) PDFs must be “flattened” prior to efileing through Odyssey File & Serve**

With the increased use in electronic signature tools, it is important for OFS filers to remember that all PDFs must be flattened prior to filing in OFS. In order to eFile a form-fillable PDF or a PDF that has been electronically signed, you must first save them as a flat file. Otherwise, the filing will fail and you will need to refile.

Follow the steps below to "flatten" a completed PDF:

1. Open the completed PDF.
2. Right click on document and select Print. NOTE: if document opens in Adobe, Select File and select Print.
3. Select the PDF printer. (The Adobe PDF printer is installed automatically with Adobe Acrobat. Numerous free PDF printer drivers are available for download from the Internet.)
4. Select OK.
5. Specify location to save the printed, "flattened" version of the form.
6. Select Save

- 2) 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 efilings 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 [www.vermontjudiciary.org/efiling](http://www.vermontjudiciary.org/efiling)

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.

## **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 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](mailto:JUD.AttyLicensing@vermont.gov) and [JUD.CAOMemotoBar@vermont.gov](mailto: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](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.

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.

To ensure you continue to receive these emails, please add [JUD.AttyLicensing@vermont.gov](mailto:JUD.AttyLicensing@vermont.gov) and [JUD.CAOMemotoBar@vermont.gov](mailto:JUD.CAOMemotoBar@vermont.gov) to your Safe Senders list.