

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 Rules, Proposed Electronic Filing Rules and Miscellaneous Information

DATE: June 19, 2019

For your information, please find the following information:

- [Order Promulgating Amendments to Rule 24 of the Vermont Rules of Admission to the Bar of the Vermont Supreme Court](#)
- [Order Promulgating Rule 23\(g\) of the Vermont Rules of Civil Procedure](#)
- [Order Adding Rule 39 to the Vermont Rules of Probate Procedure](#)
- [Proposed Order Promulgating the 2019 Vermont Rules for Electronic Filing](#)
- [Proposed Amendments to Rules 3, 5, 5.1, 6, 9, 10, 11, 12, 13, 28, 30 and 45.1 of the Vermont Rules of Appellate Procedure](#)
- [Proposed Amendments to Rules 5 and 79 of the Vermont Rules of Civil Procedure and Rules 5 and 79 of the Vermont Rules of Probate Procedure](#)
- [Proposed Amendments to Rules 3, 4, and 5 of the Vermont Rules for Environmental Court Proceedings, Rules 4, 10, 44.2, 45, 77, and 79.1 of the Vermont Rules of Civil Procedure, Rules 4 and 79.1 of the Vermont Rule of Probate Procedure, and Rule 15 of the Vermont Rules for Family Proceedings](#)
- *Updated Court Forms*
- *Obligations Under A.O. 41*
- *eCabinet Registration*

I. PROMULGATED RULE AMENDMENTS

- a. [Order Promulgating Amendments to Rule 24 of the Vermont Rules of Admission to the Bar of the Vermont Supreme Court](#)

This Order was promulgated on June 13, 2019; effective August 15, 2019.

Amended Rule 24 allows a legal intern, who is admitted in another U.S. jurisdiction, to appear in court without the presence of the supervising attorney and to sign documents in connection with the pending matter without the co-signature of the supervising attorney. This

amendment essentially gives such legal interns the same authority as that given to nonresident attorneys admitted pro hac vice under Administrative Order No. 41, but without the need to submit a pro hac vice application and fee for each case in which the legal intern wishes to appear. In doing so, the amendment aims to reduce administrative, staffing, and financial obstacles that may otherwise prevent qualified legal interns, especially those working for state agencies, from appearing as legal counsel.

b. *Order Promulgating Rule 23(g) of the Vermont Rules of Civil Procedure*

This Order was promulgated on June 13, 2019; effective August 15, 2019.

New Rule 23(g) provides for the disbursement of residual funds that remain after satisfaction of all claims under a class action judgment or settlement.

c. *Order Adding Rule 39 to the Vermont Rules of Probate Procedure*

This Order was promulgated on June 13, 2019; effective August 15, 2019.

New Rule 39 allows expedited proceedings in cases that potentially may be appealed de novo to the civil division. Under the amendment, if both parties have appeared, the judge may make a determination on the merits without swearing-in the parties if the facts as represented by them on the record are undisputed and no party objects.

II. PROPOSED RULE AMENDMENTS

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

a. *Proposed Order Promulgating the 2019 Vermont Rules for Electronic Filing*

The proposed 2019 Vermont Rules for Electronic Filing are designed to conform to the upcoming new Judiciary case management system (CMS). The CMS will have electronic filing and electronic casefiles and be rolled out over time in the superior courts and the judicial bureau. Additions to these rules will be made when the new CMS is rolled out for the Supreme Court and other judiciary entities. The existing 2010 Vermont Rules for Electronic Filing, which were designed for eCabinet, will remain in effect and applicable to dockets where they are currently in use. Once the new CMS is rolled out in all the locations and dockets where eCabinet has been employed, the 2010 rules will be repealed.

Extensive instructions will supplement the proposed rules and will often appear on screens for electronic filing and the viewing of electronic case files. The user must follow these instructions for electronic filing, service after commencement, and viewing of files. In addition to the eFiling system, the public and parties will be able to view electronic case files, either by remote access or on terminals at court houses, through a public portal. To view nonpublic documents a separate registration for that portal and approval of elevated status will be required.

The adoption of these rules is coordinated with the adoption of extensive amendments to the Vermont Rules for Public Access to Court Records to enable, with necessary restrictions, the public and filers to view electronic case files when a filing is accepted. Those rules contain specific directions for filers to comply with requirements making certain records and information inaccessible to the public. Filers should consult the public access rules, as well as these rules, to be sure a filing complies.

b. *Proposed Amendments to Rules 3, 5, 5.1, 6, 9, 10, 11, 12, 13, 28, 30 and 45.1 of the Vermont Rules of Appellate Procedure*

The proposed amendments to the appellate rules update language in anticipation of the new case management system, which will be rolled out in phases throughout the state concurrent with electronic filing and electronic case files. The rollout will initially be in divisions of the superior court, and the Supreme Court will be at the end of the rollout period. The proposed amendments to the appellate rules are made to accommodate appeals from cases that were filed under the new case management system and have electronic case files. When the case management system is implemented in the Supreme Court, the appellate rules will be amended further. The proposal uses “transmit” instead of “mail” to allow electronic or other types of transmission of documents. The term “docket entries” is replaced with the more general term “record of actions.” The proposal amends various rules to clarify when references are to the 2010 Vermont Rules for Electronic Filing.

The proposal amends Rules 28 and 30 to specify how to refer to the record in cases filed under the 2019 Vermont Rules for Electronic Filing and to clarify that no printed case is required when there is an electronic case file under either the 2010 or 2019 Vermont Rules for Electronic Filing. In cases with no electronic case file, a printed case remains a requirement.

c. *Proposed Amendments to Rules 5 and 79 of the Vermont Rules of Civil Procedure and Rules 5 and 79 of the Vermont Rules of Probate Procedure*

The proposed amendments to V.R.C.P. 5 and V.R.P.P. 5 are made to conform the rules to the proposed 2019 Vermont Rules for Electronic Filing. The proposed amendments explain the certificate of service requirements when documents are filed under the new rules. The proposal clarifies when references are to the 2010 Vermont Rules of Electronic Filing. The proposal also cross references the Vermont Rules for Public Access to Court Records.

The proposal removes V.R.C.P. Rule 79(a)(1) and V.R.P.P. Rule 79(c) because the custodian of records is as specified in V.R.P.A.C.R. 3(c), effective July 1, 2019.

d. *Proposed Amendments to Rules 3, 4, and 5 of the Vermont Rules for Environmental Court Proceedings, Rules 4, 10, 44.2, 45, 77, and 79.1 of the Vermont Rules of Civil Procedure, Rules 4 and 79.1 of the Vermont Rule of Probate Procedure, and Rule 15 of the Vermont Rules for Family Proceedings*

The proposed amendments to various rules are designed to conform rules to the new case management system and concurrent 2019 Vermont Rules for Electronic Filing. The new case management will be rolled out across the state in phases. Until the new case management system and electronic filing are fully implemented, different divisions of the superior court will be operating under different electronic filing rules. The Environmental Division has electronic filing under the 2010 Vermont Rules for Electronic Filing and so references are amended to specify that those rules are applicable. After the Court Administrator directs that electronic filing under the 2019 Vermont Rules for Electronic Filing will begin in the Environmental Division, the 2010 Vermont Rules for Electronic Filing will no longer apply, and the Rules for Environmental Court Proceedings will require revision. The proposed amendments clarify when cross references in the environmental, civil, probate, and family rules are to the 2010 Vermont Rules for Electronic Filing.

Comments on all of these proposed amendments related to electronic filing should be sent by **August 19, 2019**, to Hon. Walter M. Morris, Reporter for the Special Advisory Committee on Rules for Electronic Filing, at the following address:

Hon. Walter M. Morris, Jr.
Vermont Supreme Court
109 State Street
Montpelier, VT 05609-0801
walter.morris@vermont.gov.

III. 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); see A.O. 44, § 1.

Please email those changes to JUD.AttyLicensing@vermont.gov. Your cooperation is very much appreciated.

To ensure you continue to receive these emails, please add 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. eCabinet registration is required whether you practice in court or not.*

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 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 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.