

**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: Proposed Rule Amendments, Important Notice to All Attorneys Licensed in Vermont, Appellate Bench-Bar Meeting, Odyssey File and Serve and Public Portal Information, Filing of Exhibits & Other Miscellaneous Info

DATE: May 24, 2021

For your information, please find:

- [Proposed Order Amending Rules 1, 3, 4, 5, 5.1, 6, 9, 10, 11, 12, 13, 14, 21, 24, 25, 26, 27, 28, 30, 30.1, 31, 32, 34, 39, 44, 45, 45.1 of the Vermont Rules of Appellate Procedure](#)
- [Proposed Order Amending Rules 1, 3, 5, 6, 7, and 10 of the 2020 Vermont Rules for Electronic Filing](#)
- *Appellate Bench Bar Meeting – June 8, 2021 at 3:30 p.m.*
- *Important Notice to All Attorneys Licensed in Vermont*
- *Odyssey File and Serve and Public Portal Information*
- *Filing of Exhibits*
- *Updated Court Forms*
- *Obligations Under A.O. 41*
- *eCabinet Registration*

I. PROPOSED RULE AMENDMENTS

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

- a. [Proposed Order Amending Rules 1, 3, 4, 5, 5.1, 6, 9, 10, 11, 12, 13, 14, 21, 24, 25, 26, 27, 28, 30, 30.1, 31, 32, 34, 39, 44, 45, 45.1 of the Vermont Rules of Appellate Procedure](#)

The Vermont Judiciary is transferring to a new electronic case management system (CMS), entitled Odyssey, and at the same time implementing electronic filing through Odyssey File and Serve (OFS). The new CMS and OFS are now being used in the judicial bureau and all the superior courts. Both the new CMS and OFS will go live for the Supreme Court in August 2021. Many changes to the appellate rules are required to accommodate electronic filing, electronic case files, and electronic case management. The proposed rule amendments were developed through the work of a subcommittee, which included members of the civil, family, and criminal rules committees, as well as a Vermont Bar Association appointee. The proposed rules were reviewed by the Electronic Filing Rules Committee and the Civil Rules Committee, and both committees recommended that the proposal be sent out for comment.

In recognition of the move to electronic filing and electronic records, the proposed rules omit the use of the word “paper” in favor of “document” throughout and remove the requirements to

send paper copies in V.R.A.P. 27, 30, and 31. The rules contain a definition for the Appeal Volume in V.R.A.P. 1, which is a PDF document created by the Supreme Court using the PDF documents that are in the electronic case file from the superior court. As the courts transition to the CMS, some trial court cases have paper as well as electronic files. The appeal volume contains only the PDF documents and does not include media files. The proposed rules also update the printed case rule, V.R.A.P. 30, to specify when one is required and when it is optional. There is a new provision on how to cite to the record in V.R.A.P. 28. The formatting provisions in V.R.A.P. 27 and 32 are updated to reflect that documents will be filed and viewed in electronic form. The proposed changes intend to provide clarity on where to file documents and when the entry fee is due on appeal, especially regarding appeals by permission (V.R.A.P. 5, 5.1, and 6). The proposed changes also seek to provide uniformity by incorporating the requirements for certifying service in the civil and efilings rules in V.R.A.P. 25.

In addition to the changes related to efilings and electronic case management, the proposed amendments include some changes to conform the rules to current practice. The rules related to video-recorded proceedings are deleted because superior court proceedings are now all audio-recorded. The proposal clarifies the rule regarding briefs in a cross-appeal in V.R.A.P. 28, and stipulations to extend the time for briefing in V.R.A.P. 26.

Some proposed amendments provide uniformity with the Rules for Public Access to Court Records. The changes clarify clerk review at the Supreme Court in V.R.A.P. 25, public access for agency files on appeal in V.R.A.P. 13, and public access to oral arguments in V.R.A.P. 34.

Comments on these proposed amendments should be sent by **July 2, 2021**, to the Hon. John A. Dooley, (Ret.), Chair of the Special Advisory Committee on Rules for Electronic Filing, at the following address:

Honorable John A. Dooley, (Ret.), Chair
John.Dooley@vermont.gov

b. [Proposed Order Amending Rules 1, 3, 5, 6, 7, and 10 of the 2020 Vermont Rules for Electronic Filing](#)

The proposed amendments make the efilings rules applicable to the Supreme Court and provide limited exceptions in recognition of different practice at the Supreme Court. New Rule 1(d) establishes the procedure for instituting electronic filing in the Supreme Court and actions needed to instigate efilings. Efilings commence pursuant to these rules when the Court issues an administrative order. The order must be made with enough time for the Court Administrator to give at least 30 days' notice to the Vermont Bar of the Court order and provide instructions on how to efile. As in the trial courts, efilings will be mandatory pursuant to Rule 3(a) unless an exception applies pursuant to Rule 3(b)-(d). Under the proposal, there are some differences in the Supreme Court than the superior courts. For example, self-represented litigants may discontinue efilings under Rule 3 by providing notice to the Court and the parties in the case, and the required format for motions in Rule 5 is not as extensive. Clerk review of filings under Rules 5 and 6 is applicable in the Supreme Court, but filings can be rejected for a limited list of items.

Comments on these proposed amendments should be sent by **July 2, 2021**, to the Hon. John A. Dooley, (Ret.), Chair of the Special Advisory Committee on Rules for Electronic Filing, at the following address:

Honorable John A. Dooley, (Ret.), Chair
John.Dooley@vermont.gov

II. IMPORTANT NOTICE TO ALL ATTORNEYS LICENSED IN VERMONT

Attorney licensing is implementing a new online Attorney Portal that went live on **May 17, 2021**. Once this Portal is live, Vermont attorneys will be able to conduct their licensing business, such as requesting certificates of good standing and submitting a certification of completion of a MCLE makeup plan, through the Portal. **Attorneys renewing this year will be renewing their license through this Portal.** (If you do not recall whether you need to renew your license this year, you can check the [list of attorneys in good standing](#). You should also have recently received a reminder email.) A user guide to the new Portal is available here:

Attorney Portal User Guide:

<https://www.vermontjudiciary.org/sites/default/files/documents/Attorney%20Portal%20User%20Guide.pdf>

III. APPELLATE BENCH BAR MEETING JUNE 8, 2021 AT 3:30 P.M.

The Supreme Court will host an appellate bench-bar meeting on June 8, 2021 at 3:30 p.m. by remote means. Information about how to join the meeting is included below. If you have any questions, please contact Emily Wetherell, Deputy Clerk, at emily.wetherell@vermont.gov

Event address for attendees: <https://vtcourts.webex.com/vtcourts/onstage/g.php?MTID=e5115354a69561e7fe7608cd027f62dab>

Event number: 173 043 1529

Event password: BenchBar2021

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

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/ofsw eb> 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 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

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.

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).

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.*

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.