

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 A.O. 49 Amendment, Proposed Rules, E-Filing in the Supreme Court and Related Education Session, Odyssey File and Serve and Public Portal Information, Filing of Exhibits & Other Miscellaneous Info

DATE: September 1, 2021

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For your information, please find:

- [*AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 9-01-21*](#)
- [*Proposed Order Amending Rules 5 and 11 of the Vermont Rules of Civil Procedure*](#)
- *E-filing in the Supreme Court and Related Education Session*
- *Odyssey File and Serve and Public Portal Information*
- *Filing of Exhibits*
- *Updated Court Forms*
- *Obligations Under A.O. 41*
- *eCabinet Registration*

I. PROMULGATED RULE AMENDMENTS

[*AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 9-01-21*](#)

This Order was promulgated on September 1, 2021, effective immediately.

This order further amends A.O. 49, which declared a Judicial Emergency on March 16, 2020, in response to the COVID-19 pandemic.

Based on the climbing COVID-19 infection rate and projections of public-health experts concerning the course of the pandemic, ¶ 2 is amended to extend the effective date of Administrative Order 49 until November 1, 2021.

Paragraphs 5 and 7 are amended to address the limited number of courthouses that do not have adequate ventilation systems to accommodate unrestricted in-person hearings. To maintain court operations and respond to evolving ventilation standards, the Court Administrator is authorized to

identify these as limited-entry courthouses. Hearings in limited-entry courthouses must be scheduled for remote participation unless the Court Administrator has identified courtrooms that can accommodate small in-person proceedings consistent with applicable standards. Courts must prioritize high-priority proceedings, including proceedings involving litigants who do not have access to adequate remote technologies to participate remotely. These spaces remain safe for judiciary employees working in-person due to specific mitigation measures for staff workspaces, including portable air filtration units, distancing of workspaces, tracking of employee vaccination status, and/or mask requirements where appropriate. This amendment does not impact the Court Administrator's existing authority to impose restrictions on court operations based on challenges relating to staffing and security. Paragraph 7 is amended to establish the restrictions on public entry to limited-entry courthouses.

Paragraph 6 regarding email filing and service is amended in light of the implementation of electronic filing at the Supreme Court on August 17, 2021. Under revised ¶ 6(a), if the 2020 Vermont Rules for Electronic Filing require a method of filing or service, those rules must be followed. When the Efiling rules do not apply, the existing provisions regarding email filing and service are amended to also include the Supreme Court. Former ¶ 6(d) and (e), which previously described the email filing and service requirements for the Supreme Court, are deleted. Because of this deletion, ¶ 6(f) and (g) are relettered (d) and (e).

Paragraph 8, which suspends strict enforcement of the timelines for responding to requests for court records, is amended to explicitly include administrative as well as case records. The ongoing COVID-19 pandemic impacts the Judiciary's ability to respond to requests for both case and administrative records.

The full Order 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.)

[Proposed Order Amending Rules 5 and 11 of the Vermont Rules of Civil Procedure](#)

The proposed amendments to Rule 5 respond to the Supreme Court's request to make permanent certain provisions of Administrative Order 49 that permit filing and serving certain documents by email. See A.O. 49, ¶ 6. The proposal also reflects the extension of the Odyssey case management system and Odyssey File and Serve for electronic service and filing to all units of the Superior Court and to the Supreme Court.

Rule 5(a) is carried forward and sets forth the service requirements for all papers after the summons and complaint or for which the rules may provide another mode of service. Proposed Rule 5(b)(1) provides five required or permitted methods of service. Subparagraph (1)(A) makes clear that service between registered electronic filers must be made through the electronic filing system, or by another method agreed between the parties. Under subparagraph (1)(B), nonelectronic filings, or filings to be served by or on non-efilers, or on efilers not properly registered, may be served by the three traditional methods—delivery, mailing, or leaving with the clerk—or by email. The five methods are defined in paragraph (2).

Under the proposed rule, unregistered self-represented parties, other participants, and attorneys, who are permitted to do so by the 2020 Vermont Rules for Electronic Filing, may file by delivery, ordinary mail, or email. The email address for each unit of the Superior Court can be found on the vermontjudiciary.org website and may change from time to time. Self-represented parties and lawyers are responsible for checking the email filing guidance on the website before filing by email and following the standards for email filing.

Proposed new Rule 11(e) is added at the suggestion of the Supreme Court to make permanent the provision of Administrative Order 49, ¶ 17, which permits the use of remote means to obtain attestations of parties. Paragraph (1) permits a party required to make a statement under oath to file instead a declaration that the statement is true, subject to the penalty of perjury under 13 V.S.A. § 2904(b), or to judicial sanction. Paragraph (3) makes clear that the provision does not apply to oath or notarization requirements provided by statute. Rule 11(e) is a narrower version of 28 U.S.C. §1746, which applies to federal statutory requirements as well.

Comments on this proposed amendment should be sent by **October 1, 2021**, 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

III. E-FILING IN THE SUPREME COURT AND RELATED EDUCATION SESSION

The Supreme Court is live with the Odyssey case management system and electronic filing through Odyssey File & Serve (OFS). There was a remote education session on e-filing at the Supreme Court on Tuesday, August 31, 2021, from 12:00-1:30 p.m. A recording of the session and a link to the power point presentation used during the presentation is available on the judiciary website <https://www.vermontjudiciary.org/news/e-filing-supreme-court-and-related-education-session>

IV. ODYSSEY FILE & SERVE AND PUBLIC PORTAL INFORMATION

As of April 1, 2021, there is a new e-filing 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 the 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/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 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 efilng 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](#)

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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.