

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

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TO: Members of the Vermont Bar

FROM: Teri Corsones, Esq., State Court Administrator

RE: Promulgated & Proposed Rules, TC-2—2023 Update to Appendices to Rules 5 and 6 of the Rules for Public Access to Court Records, Odyssey File and Serve and Public Portal Information, Filing of Exhibits & Other Miscellaneous Info

DATE: March 6, 2023

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For your information, please find:

- *Order Amending Administrative Order No. 18*
- *Proposed Order Amending Rules 26(c) & (d) of the Vermont Rules of Criminal Procedure*
- *Proposed Order Amending Rules 9.2 and 9.3 of the Vermont Rules of Civil Procedure*
- *State Court Administrator Directive TC-2—2023 Update to Appendices to Rules 5 and 6 of the Rules for Public Access to Court Records*
- *Odyssey File and Serve and Public Portal Information*
- *Filing of Exhibits*
- *Miscellaneous*
- *Receipt of Court Notices and Orders (eCabinet)*

I. PROMULGATED RULE AMENDMENTS

Order Amending Administrative Order No. 18
<https://www.vermontjudiciary.org/PROMULGATED-AdministrativeOrder18--STAMPED>

This Order was promulgated on **March 6, 2023, effective immediately.**

The amendments to Administrative Order No. 18 update and clarify the duties of the Chief Superior Judge outlined in § 4.

II. PROPOSED RULE AMENDMENTS

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

- a. *Proposed Order Amending Rules 26(c) and (d) of the Vermont Rules of Criminal Procedure*
[https://www.vermontjudiciary.org/PROPOSED-VRCrP26\(c\)&\(d\)--FORCOMMENT](https://www.vermontjudiciary.org/PROPOSED-VRCrP26(c)&(d)--FORCOMMENT)

The proposed amendment to Rule 26(c) updates the existing rule to conform to the 2020 amendment to Federal Rule of Evidence 404(b), by imposing additional notice requirements on the State in seeking the introduction of other crimes, wrongs, or acts evidence in a criminal case. Under F.R.E. 404(b) the prosecution must: (1) identify the evidence that it intends to offer; (2) articulate the nonpropensity purpose for which the evidence is offered, and (3) state the basis for concluding that the evidence is relevant in light of this purpose. Although the text of Vermont Rule of Criminal Procedure 26(c) itself has not required an articulation of the nonpropensity purpose for which the evidence is being offered, Vermont caselaw requires the proponent seeking to admit evidence under Rule 404(b) to state the purpose of the evidence and the reasoning. The proposed amendment adds these requirements into the rule.

The proposed amendment of Rule 26(d) makes nonsubstantive amendments to terminology to eliminate offensive language, and to comport with similar amendments made in 2020 to Vermont Rule of Evidence 804a (and to the 2023 amendment of V.R.E. 807). The phrase “person with a mental illness, or an intellectual or developmental disability” is substituted for former language, in referring to the individuals whose hearsay statements may be admissible at trial pursuant to V.R.E. 804a. There is no substantive change to the existing provisions of Rule 26(d).

Comments on this proposed amendment should be sent by **May 8, 2023**, 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 Rules 9.2 and 9.3 of the Vermont Rules of Civil Procedure*
<https://www.vermontjudiciary.org/PROPOSED-VRCP9.2-9.3--FORCOMMENT>

Rule 9.2(c) currently provides that the court may take appropriate action when there is sufficient evidence that a tenant has applied for funds from the Vermont Emergency Rental Assistance Program (VERAP). It is expected that applications for this program will be processed and the funds exhausted by early summer. When the program is over and all funds have been disbursed, the rule will be obsolete and thus deleted.

Rule 9.3(b) requires the plaintiff in certain foreclosure and replevin actions to provide notice to homeowners of the availability and purpose of funds from the Vermont Homeowner Assistance Program (VHAP) and to verify service, or declare that notice was not required. It is expected that the VHAP program will close to new applications by early summer. When the program is closed, it is important that the notice requirement of the rule is removed so that homeowners are not misled. The proposed amendment would delete Rule 9.3(b) and renumber the remaining subdivisions (c) through (f) as (b) through (e).

Comments on these proposed amendments should be sent by **May 8, 2023**, 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. STATE COURT ADMINISTRATOR DIRECTIVE

State Court Administrator Directive TC-2—2023 Update to Appendices to Rules 5 and 6 of the Rules for Public Access to Court Records
<https://www.vermontjudiciary.org/AdministrativeDirectiveTC-2>

This Directive was promulgated on February 8, 2023; effective immediately.

Vermont Rules for Public Access to Court Records 5 and 6 have accompanying appendices that list provisions of statutes and court rules granting specific rights of access to otherwise nonpublic information or limit access to judicial branch case records. The Court Administrator is obligated to update the appendices each year. This directive provides amendments to those appendices.

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 efile 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 efile 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/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 www.vermontjudiciary.org/efiling

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.

V. FILING OF EXHIBITS FOR EVIDENTIARY HEARING

Per the 2020 Vermont Rules for Electronic Filing, all electronically filed documents (including exhibit lists and exhibits) must be submitted in PDF format. The Vermont Judiciary’s website provides detailed instructions on how to submit exhibits for use at trials and other kinds of evidentiary hearings. <https://www.vermontjudiciary.org/FilersGuidetoExhibitsforHearings>

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](#)

c. Receipt of Court Notices and Orders (eCabinet)

The Vermont courts send all court-issued documents (hearing notices, orders, etc.) to attorneys by email using the email addresses registered in a system called eCabinet. Attorneys may register up to three email addresses in the system and are responsible for keeping the information updated. The email address(es) registered in eCabinet are not used for service of documents filed by opposing parties, which is done through service contacts in the eFiling system.

To create an eCabinet account or update an existing account, attorneys must contact the Judiciary helpdesk through one of the methods listed below. Please include your attorney bar license number in your communication.

- Email JUD.Helpdesk@vermont.gov
- Telephone the Judiciary helpdesk at 802-828-4357
- Use the online form [eCabinet Registration/Update \(cognitofirms.com\)](http://cognitofirms.com)

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 and JUD.CAOMemotoBar@vermont.gov to your Safe Senders list.