

**STATE OF VERMONT  
VERMONT SUPREME COURT  
MARCH TERM, 2017**

**Order Promulgating Amendments to Rules 4(a) and 80.2 of the Vermont Rules of Probate Procedure**

Pursuant to the Vermont Constitution, Chapter II, Section 37, and 12 V.S.A. § 1, it is hereby ordered:

1. That Rule 4(a) of the Vermont Rules of Probate Procedure be amended to read as follows (deleted matter struck through; new matter underlined):

**RULE 4. NOTICE; PROCESS**

(a) **Form of Notice.** A notice required under these rules shall bear the signature or facsimile signature of the judge or register, or petitioner's attorney; contain the name and address of the court and, as appropriate, the name of the decedent, the child or adult in need of or under guardianship, or the settlor and beneficiaries of a trust; be directed individually to each interested person identified pursuant to Rule 3(a) by name if known; state the name and postal and e-mail addresses and telephone number of the petitioner or of the petitioner's attorney; be accompanied by a copy of the petition and any annexed documents; state the date and place of hearing or reply if either is required; and advise the recipient that the action or order sought may be granted if no interested person appears to object. Where appropriate, the notice shall also state clearly that the recipient must enter an appearance to receive notice of further actions or filings in the proceeding and shall specify how the recipient can enter an appearance. ~~The court may require that a form on which the recipient may enter an appearance be attached to the notice. A notice shall comply with the format provisions of the Vermont Rules for Electronic Filing, if applicable. The petitioner must include with the notice a blank Notice of Appearance form.~~

**Reporter's Notes—2017 Amendment**

Rule 4(a) is amended to adopt language of V.R.C.P. 4(b) and to address a problem that arises with increasing frequency with the increase of self-representation. It is not uncommon for a court to get a letter or answer from an unrepresented party with no return address, email address, or phone number. The court may then have an answer or other pleading but no good address to which to mail hearing notices, and no way to call or email the party if there are last minute continuances of court dates. A notice of appearance form for unrepresented parties is already in use informally in some courts, but it is only available once a party comes to the courthouse. By providing a blank notice of appearance form at the time the complaint is served, unrepresented defendants will be encouraged to provide contact information for the court as well as to comply with V.R.P.P. 79.1(c).

2. That Rule 80.2(a) of the Vermont Rules of Probate Procedure be amended to read as follows (deleted matter struck through; new matter underlined):

**RULE 80.2. ANCILLARY ADMINISTRATION**

(a) **Petition and Attachments.** An ancillary estate shall be opened when the following are filed:

(1) A petition requesting administration of the Vermont estate including:

(i) A request for appointment of an administrator or executor for the Vermont estate with the name of the proposed administrator or executor;

(ii) A description of the real and personal property of the testator in Vermont representation that some or all of the real property is located in the unit in which the proceeding is brought; and

(iii) The names and addresses of all interested persons as defined in Rule 17. ~~;~~ and

~~(iv) The entry fee.~~

(2) An authenticated copy of the will and the probate thereof, or such substitute for the copy as is allowed by law.

The petition shall be signed by the executor or administrator appointed in the state in which the will is probated, or some other interested person.

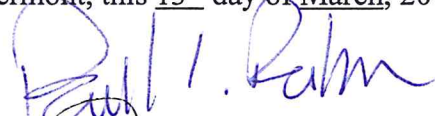
**Reporter's Notes—2017 Amendment**

Rule 80.2 is amended to conform to present practice. The petition will conform to the requirements of Rule 3 to the extent not inconsistent with this rule. The representation as to the location of real property is necessary to establish jurisdiction and venue.

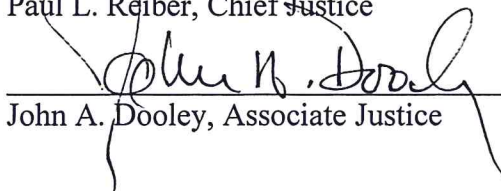
3. That these rules, as added or amended, are prescribed and promulgated effective May 15, 2017. The Reporter's Notes are advisory.

4. That the Chief Justice is authorized to report these amendments to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

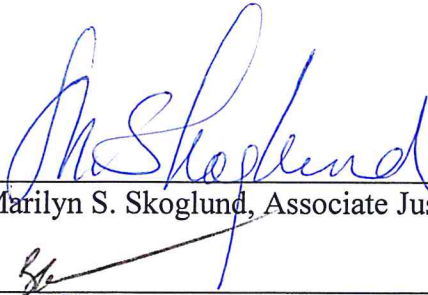
Dated in Chambers at Montpelier, Vermont, this 13<sup>th</sup> day of March, 2017.



Paul L. Reiber, Chief Justice



John A. Dooley, Associate Justice



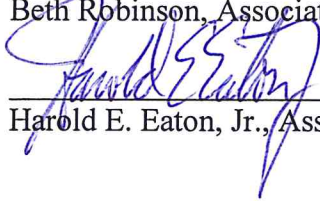
---

Marilyn S. Skoglund, Associate Justice



---

Beth Robinson, Associate Justice



---

Harold E. Eaton, Jr., Associate Justice