

**STATE OF VERMONT
VERMONT SUPREME COURT
DECEMBER TERM, 2021**

Order Adding Rule 11(e) to the Vermont Rules of Civil Procedure

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

1. That Rule 11(e) of the Vermont Rules of Civil Procedure be added to read as follows:

**RULE 11. SIGNING OF PLEADING, MOTIONS, AND OTHER PAPERS;
REPRESENTATIONS TO COURT; SANCTIONS**

(e) Use of Declaration In Place of Notarization.

(1) Except as provided in paragraph (3), whenever these rules require the filing of a statement made under oath, an affidavit, or a notarized document, a party may file a document with the following language inserted above the signature and date:

I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I will be subject to the penalty of perjury, or other sanctions in the discretion of the court.

(2) A document filed pursuant to paragraph (1) shall not require the approval or verification of a notary public.

(3) This subdivision does not apply when an oath, affidavit, or notarization is required by statute.

Reporter's Notes—2022 Amendment

Rule 11(e) is added at the suggestion of the Supreme Court to make permanent an emergency provision permitting use in a civil action of remote means to obtain attestations of parties. The Rule applies whenever these rules otherwise require the filing of a statement made under oath, an affidavit, or a notarized document. It is a narrower version of 28 U.S.C. § 1746, which applies to statutory requirements as well.

A similar provision was originally adopted April 6, 2020, as Administrative Order 49, ¶ 17(a), and after April 30, 2020, continued in more elaborate form as Act of April 28, 2020, 2019 No. 95 (Adj. Sess.), §7. Act 95 expired with the end of the executive emergency in June 2021. The terms of Act 95 were virtually identical to those of 4 V.S.A. § 27b, adopted effective June 19, 2019, applicable to filings by registered electronic filers in

the Judiciary’s electronic filing system and adopted by reference in 2020 V.R.E.F. 9(e)(1)(A).

Rule 11(e) incorporates the language of Act 95 and of 4 V.S.A. § 27b and is intended to make those provisions applicable in all civil proceedings. Paragraph (1) permits a party required to make a statement under oath, or similar sworn statement, 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 (2) expressly provides that notarization of that statement is not required. Paragraph (3) makes clear that Rule 11(e) does not apply to oath, affidavit, or notarization requirements expressly provided by statute. See, e.g., 10 V.S.A § 8005; 12 V.S.A. § 4967; 14 V.S.A. § 1853; 17 V.S.A. § 2982.

2. That these amendments be prescribed and promulgated, effective on February 14, 2022. The Reporter’s Notes are advisory.

3. 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 13th day of December, 2021.



Signed by the Vermont Supreme Court

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice