

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

**ORDER PROMULGATING AMENDMENTS TO RULES 80.6 and 80.9
OF THE VERMONT RULES OF CIVIL PROCEDURE**

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

1. That Rules 80.6(c)(3) and (e)(1) of the Vermont Rules of Civil Procedure, as amended September 20, 2017, effective January 1, 2018, and Rule 80.6(f)(3) of the Vermont Rules of Civil Procedure, be amended to read as follows (new matter underlined; deleted matter struck through):

RULE 80.6. JUDICIAL BUREAU PROCEDURES

(c) Summons; Complaint; Answer. An action is commenced by filing with the judicial bureau or serving upon the defendant a complaint against a single defendant. If the action is commenced by filing, the complaint shall be served upon the defendant within 30 days. If the action is commenced by service upon the defendant, the complaint shall be filed within 30 days.

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(3) A defendant shall file with the judicial bureau an answer within ~~21~~ 30 days after service of the summons and complaint upon the defendant.

* * * * *

(e) Default; Execution on Default Judgment.

(1) If a defendant fails to answer a complaint within ~~21~~ 30 days after service, the judicial bureau clerk shall enter a default judgment against the defendant. No motion for default judgment or affidavit of amount due is required.

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(f) Dismissal.

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(3) *Dismissal by the Judicial Bureau Clerk.* The judicial bureau clerk may dismiss the action if service is not completed within ~~40~~ 30 days after filing or the complaint is not filed within 30 days after service.

Reporter’s Notes—2017 Amendment

Rules 80.6(c)(3) and (e)(1), as previously amended September 20, 2017, effective January 1, 2018, are amended to bring the filing deadlines for both parties in line with one another. The amendments simplify the process and relieve the Judicial Bureau staff of some work in having to explain and justify the different deadlines to litigants. No party would be burdened by this change. The amendment to paragraph (f)(3) is intended to align that provision with the time periods of subdivision (c).

2. That Rule 80.9(b)(3) of the Vermont Rules of Civil Procedure, as amended September 20, 2017, effective January 1, 2018, be amended to read as follows (new matter underlined; deleted matter struck through):

RULE 80.9. PROCEDURES IN THE SUPERIOR COURT, CRIMINAL DIVISION, FOR ENFORCEMENT OF MUNICIPAL PARKING VIOLATIONS

(b) Summons; Complaint; Answer.

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(3) The defendant shall file an answer with the Criminal Division and serve it upon the municipality within ~~21~~ 30 days after service of the summons and complaint.

Reporter’s Notes—2017 Amendment

Rule 80.9(b)(3) as previously amended September 20, 2017, effective January 1, 2018, is amended for conformity with the simultaneous amendment of Rule 80.6(c)(3). See Reporter’s Notes to that amendment.

The original Reporter’s Notes to Rule 80.9 state that the rule “is based on Rule 80.6 as amended in 2004 [effective January 1, 2005],” and that “[t]he Reporter’s Notes to that rule and its amendments may provide guidance to the interpretation of comparable provisions of Rule 80.9.” Though proceedings are brought in the Criminal Division, the rule and Reporter’s Notes make clear that they are civil actions. Rule 80.9(c) specifies that the provisions of V.R.C.P. 80.6(d)-(h) apply to proceedings under the rule, with appropriate changes in terminology and practice. Thus, the simultaneous amendments of V.R.C.P. 80.6(e)(1) and (f)(3), changing to 30 days the time after the filing of the complaint for entry of default and for dismissal for failure to complete service after filing the complaint, is now applicable to proceedings under Rule 80.9.

3. That these rules and forms, as added or amended, are prescribed and promulgated effective _____ . 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 ____ day of _____ 2017.

Paul L. Reiber, Chief Justice

Marilyn S. Skoglund, Associate Justice

Beth Robinson, Associate Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

PROPOSED