

APPROVED

**VERMONT SUPREME COURT
SPECIAL ADVISORY COMMITTEE ON RULES
GOVERNING AN ELECTRONIC CASE FILE AND ELECTRONIC FILING**

**Minutes of Meeting
February 27, 2015**

The meeting was called to order at 9:15 a.m. in the Supreme Court conference room, Montpelier, by Hon. John Dooley, chair. Present were members Eric Avildsen, Teri Corsones, Hon. Thomas Durkin, Hon. Brian Grearson, Jody Racht, and Susan Steckel. Also present were Sean Thomson, Court Administrator's Office, and Professor L. Kinvin Wroth, Reporter.

Justice Dooley noted that the Committee had not met for over two years, because lack of progress with hardware issues had meant that no rules changes had been necessary. With those issues resolved, the Committee would now meet more regularly, first to deal with initial questions of detail like those on the agenda for this meeting, then to address questions arising from statewide expansion of what would ultimately be a paperless system.

1. Minutes of the meeting of January 30, 2013. On motion duly made and seconded, the minutes of the meeting of January 30, 2013, were approved as previously circulated.

2. E-filing in the Environmental Division. Ms. Corsones, in her capacity as a member of the E-filing Subcommittee of the Technology Oversight Committee, summarized the explanation of the need for expansion of electronic filing to the Environmental Division set out in her e-mail of February 9, 2015. She distributed proposed amendments of V.R.E.F. 1 to implement the proposal. From the beginning e-filing would be mandatory for members of the bar but optional, as under the present Rules, for self-represented litigants. Ms. Corsones noted that the files in new cases are being scanned and the drop-down menu for these cases has been completed in eCabinet. Judge Durkin indicated that the Environmental Division judges and members of the bar practicing in that court would like to see e-filing implemented as soon as possible. In discussion, it was agreed that implementation could occur after an information session at the March 20 Vermont Bar Association meeting, a staff training now scheduled for March 10, testing completed for e-filing, and two subsequent training sessions for the bar.

On motion duly made and seconded, there being no further discussion, it was voted unanimously to propose that the necessary amendments to V.R.E.F. 1 and any other necessary conforming amendments be sent out for comment. Ms. Corsones and Professor Wroth agreed to prepare a draft promulgation order for circulation for comment to the Committee on March 2 or 3 so that it could be presented to the Supreme Court for approval at its March 9 administrative meeting, with the expectation that the 60-day comment period would begin as soon as possible thereafter. The Committee would make its final recommendation in time for the Court to promulgate the amendments at its June administrative meeting with an effective date of September 1, 2015.

3. E-filing for Essex County cases. Ms. Corsones advised the Committee that the need for electronic filing in the Essex Criminal Division described in her February 9 e-mail may no longer be urgent, because there are now monthly hearings in Essex. A properly configured public access terminal will need to be available in the Essex court house before e-filing can be implemented in any event. RIS is reviewing new information regarding public access terminal functionality. It was the sense of the Committee that the necessary amendments to V.R.E.F. 1 and any other necessary conforming amendments should be prepared by Ms. Corsones and Professor Wroth with the effective date to be dependent on availability of the technology and consideration of conforming amendments required to accommodate the steps in commencing a criminal proceeding.

4. E-filing in small claims actions. Ms. Corsones, on behalf of the Services, Security, and Facilities (SS&F) committee of the Judiciary Advisory Council (JAC), described the status of the small claims centralization project. E-filing is the recommended option for the project, and the availability of electronic filing from public access terminals (see 3 above) had led the drafting committee to propose that it be mandatory for all small claims litigants, with an opt-out on a showing of hardship. As a pilot step, preparations were under way to provide that Rutland and Addison claims would be processed in Rutland, and Windsor and Orange in Windsor, with hearings in the filer's county. In discussion, concerns were expressed for requiring electronic filing for self-represented defendants, particularly in rural areas. Ms. Corsones agreed to communicate those concerns to the drafting committee. She and Professor Wroth agreed to begin development of necessary changes in both the E-filing Rules and the filing rules, with the recently adopted New Hampshire small claims e-filing rules as one source of guidance. A final decision on amendments and their effective date would be made after the JAC submits the SS&F Committee's small claims centralization report to the Supreme Court in mid-March. .

5. Video appearance in criminal proceedings. Justice Dooley reported that further development of rules for video appearances in criminal proceedings would be undertaken by the Criminal Rules Committee but noted that that development would raise issues for the use of video in civil proceedings.

6. Other business. It was agreed that consideration of a rule for electronic notice and a uniform statewide rule for e-mailing communications to the court should be on the agenda for the next meeting. Ms. Corsones agreed to obtain recommendations from the clerks on a uniform protocol for electronic communications to the court.

7. Next meeting. It was agreed that the Committee would meet at 9:00 a.m. on Wednesday, May 20, 2015, in Montpelier at the Supreme Court.

There being no further business, the meeting was adjourned at 11:20 a.m.

Respectfully submitted,

L. Kinvin Wroth
Reporter