

**STATE OF VERMONT
VERMONT SUPREME COURT
DECEMBER TERM, 2022**

Order Promulgating Emergency Amendment to Rule 56(b) of 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 56(b) of the Vermont Rules of Civil Procedure be amended to read as follows (new matter underlined; deleted matter struck through):

RULE 56. SUMMARY JUDGMENT

(b) **Time to File and Oppose a Motion.** A party may file a motion for summary judgment at any time until ~~within~~ 30 days after the close of all discovery, unless a different time is set by stipulation or court order. An adverse party may file its opposition to the motion within 30 days after the service of the motion. The moving party may file a reply memorandum within 14 days after service of the opposition. The court may also allow a surreply memorandum.

Reporter’s Notes—2023 Amendment

Rule 56(b) is amended to allow a party to file for summary judgment “at any time until” 30 days after the close of all discovery. This restores language consistent with the federal rule and corrects an error in the 2022 amendment that required the party to file “within” the 30-day period. The amendment clarifies that a party may file a motion for summary judgment before as well as after the close of discovery.

2. That this amendment be prescribed and promulgated, effective on January 1, 2023. The Reporter’s Notes are advisory.
3. That the Court finds the emergency amendment be promulgated without resort to the notice and comment procedures set forth in Administrative Order No. 11, because the amendment is necessary to restore language to Rule 56(b) that was mistakenly changed by the December 12, 2021 Order, effective February 14, 2022, Promulgating Amendments to Rules 3.1, 4, 56, and 84 of the Vermont Rules of Civil Procedure.
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 12th day of December, 2022.



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

Nancy J. Waples, Associate Justice