

**SUPREME COURT OF VERMONT
OFFICE OF THE COURT ADMINISTRATOR**

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TO: Members of the Vermont Bar

FROM: Teri Corsones, Esq., State Court Administrator

RE: Vermont Digital Evidence Portal (VDEP), Promulgated and Proposed Rules, List of Approved Financial Institutions, Odyssey File and Serve and Public Portal Information, Filing of Exhibits & Other Miscellaneous Info

DATE: February 5, 2024

For your information, please find:

- **Vermont Digital Evidence Portal (VDEP)**

The Vermont Judiciary is expanding the Vermont Digital Evidence Portal (VDEP) to all **Criminal** courts beginning February 12, 2024. VDEP is already being used in the **Criminal** divisions of the Addison, Bennington, Rutland, Windham, and Windsor courts. The purpose of VDEP is to provide an efficient and safe method for court users to electronically file digital evidence. Digital evidence includes audio and video recordings and other non-PDF files. Regular PDF exhibits will continue to be filed through Odyssey File & Serve.

To prepare attorneys and litigants in these courts, the Vermont Judiciary is holding remote training sessions on how to use VDEP. There is a session on Wednesday, February 7th from 1:30PM-2:30PM. For a link to the training, please email the jud.helpdesk@vermont.gov

In addition to the training, you can prepare for the roll out by reviewing the manual and a recorded training on the Judiciary website: <https://www.vermontjudiciary.org/about-vermont-judiciary/vermont-digital-evidence-project>

- *Order Abrogating Rule 9.3 of the Vermont Rules of Civil Procedure*
- *Promulgation Order Amending Rule 9.2 of the Vermont Rules of Civil Procedure*
- *Promulgation Order Amending Rule 7(d), (e) of the Vermont Rules of Probate Procedure*
- *Promulgation Order Amending Rule 16.1(b), (d) of the Vermont Rules of Probate Procedure*
- *Proposed Order Amending Rule 28(g)(1) of the Rules of Supreme Court of Appellate Procedure and Rule 9(b)(2) of the Vermont Rules of Small Claims Procedure*
- *Proposed Order Amending Rules 2 and 10 of the Vermont Rules of Admission to the Bar of the Vermont Supreme Court*
- *List of Approved Financial Institutions*

To ensure that you continue to receive emails from the judiciary, please add JUD.AttysLicensing@vermont.gov, JUD.CAOMemotoBar@vermont.gov and JUD.AutomatedCourtEmail@vermont.gov to your Safe Senders list. Thank you.

I. PROMULGATED RULE AMENDMENTS

a. Order Abrogating Rule 9.3 of the Vermont Rules of Civil Procedure

<https://www.vermontjudiciary.org/PROMULGATED-VRCP9.3Abrogating--STAMPED>

This Order was promulgated on **February 5, 2024, effective immediately.**

Rule 9.3 is abrogated. This rule, entitled “Special Procedures in Certain Home Foreclosures and Mobile Home Replevin Actions” applied in all one-to-four-unit residential property foreclosure actions pursuant to 12 V.S.A. §§ 4941 or 4945 and all residential mobile home replevin actions pursuant to 9A V.S.A. § 9-609. The Rule required notice to certain homeowners who suffered a financial hardship related to the COVID-19 pandemic of possible help available from the Vermont Homeowner Assistance Program (VHAP) and allowed a stay of proceedings while the VHAP processed applications for assistance.

The VHAP closed to new requests for assistance in August 2023, and completed processing of all pending applications as of January 31, 2024. Because the program is closed, Rule 9.3 is abrogated as obsolete.

b. Promulgation Order Amending Rule 9.2 of the Vermont Rules of Civil Procedure

<https://www.vermontjudiciary.org/PROMULGATED-VRCP9.2--STAMPED>

This Order was promulgated on **February 5, 2024, effective July 1, 2024.**

Rule 9.2(c) is deleted. Rule 9.2(c) provided that the court could take appropriate action when there was sufficient evidence that a tenant had applied for funds from the Vermont Emergency Rental Assistance Program (VERAP). VERAP was closed to new applications on October 1, 2022. By January 1, 2024, all pending applications were processed, and available funds exhausted. Therefore, Rule 9.2(c) is deleted as obsolete.

c. Promulgation Order Amending Rule 7(d), (e) of the Vermont Rules of Probate Procedure

[https://www.vermontjudiciary.org/PROMULGATED-VRPP7\(d\)\(e\)--STAMPED](https://www.vermontjudiciary.org/PROMULGATED-VRPP7(d)(e)--STAMPED)

This Order was promulgated on **February 5, 2024, effective July 1, 2024.**

Rule 7(d) is amended, and Rule 7(e) is added to clarify the procedure for hearings on motions. Unlike the other divisions, the probate division has developed the practice of requiring written opposition to many motions in advance of a hearing. If no such objection is received, the probate division has the option of canceling the hearing and deciding the motion without a hearing.

d. Promulgation Order Amending Rule 16.1(b), (d) of the Vermont Rules of Probate Procedure

[https://www.vermontjudiciary.org/PROMULGATED-VRPP16.1\(b\)\(d\)--STAMPED](https://www.vermontjudiciary.org/PROMULGATED-VRPP16.1(b)(d)--STAMPED)

This Order was promulgated on **February 5, 2024, effective July 1, 2024.**

The amendment to Rule 16.1(b) enables the court to limit the participants in a mediation to a subset of parties and interested persons who have an interest in the issue being mediated.

The addition of Rule 16.1(d)(2) provides the court and the participants with the options of in-person, remote, or hybrid participation in a mediation. Former (d)(2)-(8) are renumbered (d)(3)-(9).

II. PROPOSED RULE AMENDMENTS

(NOTE: THE FOLLOWING AMENDMENTS HAVE BEEN PROPOSED AND HAVE NOT BEEN APPROVED BY THE SUPREME COURT.)

- a. *Proposed Order Amending Rule 28(g)(1) of the Rules of Supreme Court of Appellate Procedure and Rule 9(b)(2) of the Vermont Rules of Small Claims Procedure*
[https://www.vermontjudiciary.org//PROPOSED-VRAP28\(g\)VRSCP9--FORCOMMENT](https://www.vermontjudiciary.org//PROPOSED-VRAP28(g)VRSCP9--FORCOMMENT)

The proposed amendment to V.R.C.P. 28(g)(1) updates its cross-reference to the word-count limits in Rule 32 from former Rule 32(a)(7) to (a)(4).

The proposed amendment to V.R.S.C.P. 9(b)(2) updates its outdated reference to Form 34 of the Vermont Rules of Civil Procedure. The list of exemptions that appeared in that form are now in a form approved by the Court Administrator and available on the Judiciary website.

Comments on this proposed amendment should be sent by **March 15, 2024**, to Allan Keyes, Esq., Chair of the Advisory Committee on the Rules of Civil Procedure, at the following address:

Allan Keyes, Esq., Chair
Advisory Committee on the Rules of Civil Procedure
ark@rsclaw.com

- b. *Proposed Order Amending Rules 2 and 10 of the Vermont Rules of Admission to the Bar of the Vermont Supreme Court*
<https://www.vermontjudiciary.org//PROPOSED--OrderAmendingRules2and10VermontRulesofAdmissiontoBar--FORCOMMENT>

At its January 2024 administrative meeting, the Vermont Supreme Court voted to adopt the NextGen bar exam as of the July 2027 exam administration. Pursuant to that decision, initial Rule amendments (to Rules 2 and 10) have been put out for comment. Further Rule amendments will likely be necessary as the July 2027 exam administration approaches.

The most significant changes from the current UBE to the NextGen exam are the adjustments to the subject matter, increased skills testing, integration, and the method of delivery. The current UBE tests fourteen separate subjects. In contrast, the NextGen exam will test just nine “Foundational Concepts & Principles”—Business Associations, Civil Procedure, Constitutional Law, Contract Law, Criminal Law, Evidence, Family Law, Real Property, and Torts—and will also test seven “Foundational Skills”—Legal Research, Legal Writing, Issue Spotting and Analysis, Investigation and Evaluation, Client Counseling and Advising, Negotiation and Dispute Resolution, and Client Relationship and Management. The NextGen exam will consist of three, rather than four, three-hour sessions. Instead of separate MBE, MEE, and MPT sessions, each three-hour session will consist of two integrated question sets, one MPT-style task that will take approximately 60 minutes, and approximately 40 multiple-choice questions, although not necessarily in that order. All nine Foundational Concepts & Principles will appear on each test. Finally, the NextGen exam will be

entirely computer-based. For more information on the NextGen exam, please see <https://nextgenbarexam.ncbex.org/>

The proposed amendments to Rule 2 and 10 are in preparation for the adoption of the NextGen bar exam. The proposed amendments to Rule 2 include deleting former subdivisions (h), (i), and (j), which contain definitions for “Multistate Bar Examination,” “Multistate Essay Examination,” and “Multistate Performance Test,” as those will not be stand-alone sections of the NextGen bar exam. Former (k) through (o) are relabeled (h) to (l). The definition of “Uniform Bar Examination” in proposed subdivision (l) is amended to include the NextGen exam and to clarify that any mention of “bar examination” or similar terms refer to the Uniform Bar Examination.

The proposed amendments remove former subdivision 10(b) because it referenced the Multistate Bar Examination. Subdivisions (c) and (d) are relabeled (b) and (c).

Comments on these proposed amendments should be sent by **March 8, 2024**, to Andrew Strauss, Licensing Counsel of the Office of Attorney Licensing, at the following address:

Andrew Strauss, Licensing Counsel
Andrew.Strauss@vermont.gov

III. LIST OF APPROVED FINANCIAL INSTITUTIONS

Rule 1.15B(a)(1) of the Vermont Rules of Professional Conduct requires lawyers to maintain their trust accounts only in financial institutions approved by the Professional Responsibility Board. Financial institutions which have not been so approved may obtain information as to how to become certified by contacting jud.attylicensing@vermont.gov

For a complete list of Approved Financial Institutions, please click on the following link and select “Attorney Trust Accounts”:

<https://www.vermontjudiciary.org/about-vermont-judiciary/boards-and-committees/professional-responsibility>

IV. ODYSSEY FILE & SERVE AND PUBLIC PORTAL INFORMATION

Odyssey File and Serve has recently provided information for court users who are not receiving email notifications and who question whether their email addresses have mistakenly been placed on a “Suppression List.” Here’s a link to information in that regard [Why was my email placed on the Suppression List? – eFile \(zendesk.com\)](#). Here’s another link for court users who wish to have their email addresses “Safelisted” to ensure proper delivery <https://odysseyfileandserve.zendesk.com/hc/en-us/articles/360046887411> .

All Superior Courts, including the Environmental Division, the Judicial Bureau, and the Supreme Court are using Odyssey and accepting electronic filings through Odyssey File & Serve. Please use the following links to access Odyssey electronic filing and portal systems and for more information.

Reminders for OFS Users:

1) PDFs must be “flattened” prior to efile through Odyssey File & Serve

With the increased use in electronic signature tools, it is important for OFS filers to remember that all PDFs must be flattened prior to filing in OFS. In order to eFile a form-

fillable PDF or a PDF that has been electronically signed, you must first save them as a flat file. Otherwise, the filing will fail and you will need to refile.

Follow the steps below to "flatten" a completed PDF:

1. Open the completed PDF.
 2. Right click on document and select Print. NOTE: if document opens in Adobe, Select File and select Print.
 3. Select the PDF printer. (The Adobe PDF printer is installed automatically with Adobe Acrobat. Numerous free PDF printer drivers are available for download from the Internet.)
 4. Select OK.
 5. Specify location to save the printed, "flattened" version of the form.
 6. Select Save
- 2) Attorneys must select the party they represent as the “person responsible for fees” in the Fee section of the filing process. Additionally, when the attorney represents more than one party, attorneys should continue to select the same party as the “person responsible for fees”; otherwise, the attorney will incur an additional efilings use fee.

Odyssey File & Serve. Odyssey File & Serve (OFS) is the platform through which you electronically file with the courts. To access OFS, please visit <https://vermont.tylertech.cloud/OfsWeb/Home>

You can access user guides through the “User Guides” link in the “Self Help” window. You can also access docket-specific user guides and a new Frequently Asked Questions on the judiciary’s website at www.vermontjudiciary.org/efiling

For technical support regarding Odyssey File & Serve, please contact Tyler Technologies at 800-297-5377 or efiling.support@tylertech.com

If you have procedural questions about OFS, please email the judiciary at JUD.EFileSupport@vermont.gov

Odyssey Public Portal. The Odyssey Public Portal allows you to view your case files. To access the portal, please visit <https://publicportal.courts.vt.gov/Portal/> Before you can view your case files, you must first register in the portal and then request elevated access. The Public Portal User Guide contains instructions on how to register and request elevated access. You can read the user guide on our website at <https://www.vermontjudiciary.org/about-vermont-judiciary/public-portal>

For technical support regarding the Public Portal, please contact the Vermont Judiciary’s HelpDesk at Jud.helpdesk@vermont.gov When emailing, please write “**Public Portal**” in the subject line.

V. FILING OF EXHIBITS FOR EVIDENTIARY HEARING

Per the 2020 Vermont Rules for Electronic Filing, all electronically filed documents (including exhibit lists and exhibits) must be submitted in PDF format. The Vermont Judiciary’s website provides detailed instructions on how to submit exhibits for use at trials and other kinds of evidentiary hearings. <https://www.vermontjudiciary.org/FilersGuidetoExhibitsforHearings>

VI. MISCELLANEOUS

a. Court Forms

Court forms are constantly being updated. Please refer to the judiciary website for the most up-to-date forms, <https://www.vermontjudiciary.org/court-forms>

Please use the link below to report any form question, concern or issue <http://www.vermontjudiciary.org/website-feedback-form> or you can access our Website Feedback program at the bottom of each web page.

b. Obligation under A.O. 41

Attorneys are reminded that an “attorney must report to the State Court Administrator within thirty days any change of the office mailing or electronic mail address” and that “[n]otice sent to a reported address is sufficient even if not received by the attorney because of failure to report the proper address or failure of delivery not caused by the court.” A.O. 41, § 4(c). To update changes in your contact information, please access your attorney account with the [Attorney Portal](#)

c. Receipt of Court Notices and Orders (eCabinet)

The Vermont courts send all court-issued documents (hearing notices, orders, etc.) to attorneys by email using the email addresses registered in a system called eCabinet. Attorneys may register up to three email addresses in the system and are responsible for keeping the information updated. The email address(es) registered in eCabinet are not used for service of documents filed by opposing parties, which is done through service contacts in Odyssey File & Serve.

To create an eCabinet account or update an existing account, attorneys must contact the Judiciary helpdesk through one of the methods listed below. Please include your attorney bar license number in your communication.

- Email JUD.Helpdesk@vermont.gov
- Telephone the Judiciary helpdesk at 802-828-4357
- Use the online form [eCabinet Registration/Update \(cognitofirms.com\)](#)

Updating information in the [Attorney Portal](#) or in **eCabinet** does not automatically notify the other. It is your responsibility to update both. If you are a member of the Vermont Bar Association, you will also need to separately notify the VBA.