

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

THERESE CORSONES, Esq.
State Court Administrator
Therese.Corsones@vermont.gov



www.vermontjudiciary.org

Mailing Address
Office of the Court Administrator
109 State Street
Montpelier, VT 05609-0701

Telephone (802) 828-3278
FAX: 802 828-3457

TO: Members of the Vermont Bar

FROM: Teri Corsones, Esq., State Court Administrator

RE: Promulgated & Proposed Rules, Odyssey File and Serve and Public Portal Information, Filing of Exhibits & Other Miscellaneous Info

DATE: November 6, 2023

For your information, please find:

- *Promulgation Order Amending 2020 V.R.E.F. 5*
- *Promulgation Order Amending V.R.P.P. 5.1*
- *Promulgation Order Amending V.R.P.P. 12(a)*
- *Promulgation Order Amending V.R.P.P. 40(d)(3)*
- *Promulgation Order Amending V.R.P.P. 47(e)*
- *Proposed Order Amending V.R.E.F. 8*
- *Proposed Order Amending V.R.P.P. 7(d) and (e)*
- *Proposed Order Amending V.R.P.P. 16.1(b) and (d)*

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

I. PROMULGATED RULE AMENDMENTS

The Court recently promulgated amendments to Administrative Order 11, § 9 to adopt regularized effective dates of January 1 and July 1 for most rule amendments. That change is effective January 1, 2024. The promulgated rules in this order are effective January 8, 2024, to provide 60 days before the effective date to submit the amendments to the Legislative Committee on Judicial Rules. See 12 V.S.A. § 3(e).

- a. Promulgation Order Amending 2020 V.R.E.F. 5*
<https://www.vermontjudiciary.org/PROMULGATED-VREF5--STAMPED>

This Order was promulgated on **November 6, 2023; effective January 8, 2024.**

The amendments to Rule 5(d) and (e) clarify the provisions regarding accepting and rejecting filings. The amended language provides that a filing may be accepted or rejected and that a rejection

will provide the reason for the rejection. Rule 5(b) requires efilers to comply with the instructions in the e filing system. Some errors by efilers cannot be corrected by court staff after acceptance and therefore must be rejected. This includes errors such as filing into the wrong case, filing an initial filing as a subsequent filing or vice versa, or filing a criminal case with the wrong date or incorrect charge. The rule indicates that the Court Administrator will provide a list of permissible reasons for rejecting filings and make it available on the Judiciary website. New paragraph 5(d)(3) addresses failed submissions. In limited situations, efilings that do not comply with the e filing instructions or the system's formatting requirements may result in a submission failure.

New paragraph (d)(7) is added to provide a process for appealing a rejected e filing. The new provision indicates that the Court Administrator will provide an administrative process for reviewing the basis for a rejected e filing and delineate that process on the Judiciary website.

Rule 5(e), regarding court staff processing in the Supreme Court, is revised similarly to 5(d).

The amendment to Rule 5(g)(1) deletes former subparagraphs (g)(1)(A) and (B), which allowed motions requesting alternative forms of relief to be filed in a single document but required motions requesting independent forms of relief to be filed separately. This rule has been difficult to implement in practice because the distinction between alternative and independent forms of relief was not easily ascertainable by court staff reviewing filings. To achieve more clarity, new (g)(1)(A) requires that all motions be filed as separate lead documents. Rule 5(g) is amended regarding supporting material for motions. New 5(g)(2)(A) allows a memorandum of law in support of a motion to be filed as part of the motion document itself or as a separate document. One memorandum may be filed in support of multiple motions or responses as long as the memorandum identifies the motions or response to which it relates. Under revised (g)(2) efilers must file supporting material, including affidavits or exhibits, separately from the motion or memorandum.

b. Promulgation Order Amending V.R.P.P. 5.1

<https://www.vermontjudiciary.org/PROMULGATED-VRPP5.1--STAMPED>

This Order was promulgated on **November 6, 2023; effective January 8, 2024.**

The order amends the service and notice requirements for beneficiaries of a decedent's estate or trust even if they have not entered an appearance in the proceeding. The addition of Rule 5.1(b)(1)(iv) and 5.1(b)(4)(vi) make clear that the fiduciary in an estate or guardianship proceeding must provide the beneficiaries of the estate and the stated interested parties of the guardianship with the details of license to sell as set forth in the Report on License. The amendment also replaces language in the rule referring to "ward" with "person under guardianship."

c. Promulgation Order Amending V.R.P.P. 12(a)

[https://www.vermontjudiciary.org/PROMULGATED-VRPP12\(a\)--STAMPED](https://www.vermontjudiciary.org/PROMULGATED-VRPP12(a)--STAMPED)

This Order was promulgated on **November 6, 2023; effective January 8, 2024.**

This is a housekeeping amendment that removes reference to 15 V.S.A. § 432(b), which was repealed in 1995.

d. Promulgation Order Amending V.R.P.P. 40(d)(3)

[https://www.vermontjudiciary.org/PROMULGATED-VRPP40\(d\)\(3\)--STAMPED](https://www.vermontjudiciary.org/PROMULGATED-VRPP40(d)(3)--STAMPED)

This Order was promulgated on **November 6, 2023; effective January 8, 2024.**

The amendments to Rule 40(d)(3) make the procedure for motions to disqualify a probate judge consistent with that in the civil and criminal divisions, which is to refer the matter to the Chief Superior Judge or designee.

e. Promulgation Order Amending V.R.P.P. 47(e)

[https://www.vermontjudiciary.org/PROMULGATED-VRPP47\(e\)--STAMPED](https://www.vermontjudiciary.org/PROMULGATED-VRPP47(e)--STAMPED)

This Order was promulgated on **November 6, 2023; effective January 8, 2024.**

The amendment to Rule 47(e) updates the language regarding production of transcripts for probate proceedings. The amended language conforms to parallel provisions in V.R.C.P. 72(c) and to V.R.A.P. 10(b)(2).

II. PROPOSED RULE AMENDMENTS

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

a. Proposed Order Amending V.R.E.F. 8

<https://www.vermontjudiciary.org/PROPOSED-2020VREF8--FORCOMMENT>

The proposed amendment to Rule 8 adds new subdivision (d), which addresses the manner for filing exhibits into the electronic filing system. This rule relates to exhibits related to an evidentiary hearing and does not address attachments to motions, which are covered by Rule 5(g), or other pleadings. The proposed amended rule requires that each exhibit be submitted as a separate document instead of as one compiled document.

Comments on this proposed amendment should be sent by **January 8, 2024**, to Hon. John A. Dooley (Ret.), Chair of the Advisory Committee on the Rules for Electronic Filing, at the following address:

Honorable John A. Dooley, (Ret.), Chair
John.Dooley@vermont.gov

b. Proposed Order Amending V.R.P.P. 7(d) and (e)

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

The proposal amends Rule 7(d) and adds Rule 7(e) 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.

Comments on this proposed amendment should be sent by **January 8, 2024**, to Hon. Jeffrey Kilgore, Chair of the Advisory Committee on the Rules of Probate Procedure, at the following address:

Hon. Jeffrey Kilgore
Jeffrey.Kilgore@vermont.gov

c. *Proposed Order Amending V.R.P.P. 16.1(b) and (d)*

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

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

Comments on this proposed amendment should be sent by **January 8, 2024**, to Hon. Jeffrey Kilgore, Chair of the Advisory Committee on the Rules of Probate Procedure, at the following address:

Hon. Jeffrey Kilgore
Jeffrey.Kilgore@vermont.gov

III. 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.

IV. 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>

V. 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.