

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

**DATE:** April 10, 2023

To ensure you continue to receive emails from the judiciary, please add [JUD.AttyLicensing@vermont.gov](mailto:JUD.AttyLicensing@vermont.gov) [JUD.CAOMemotoBar@vermont.gov](mailto:JUD.CAOMemotoBar@vermont.gov) AND [JUD.AutomatedCourtEmail@vermont.gov](mailto:JUD.AutomatedCourtEmail@vermont.gov) to your Safe Senders list.

For your information, please find:

- *Promulgation Order Amending V.R.P.P. 66*
- *Promulgation Order Amending A.O. 9, Rules 3.A(4), 13.D(3), 16.F(2), 17.C, 20.F, 25, 26.D, and 27.H and I (Permanent Rules Governing Establishment and Operation of the Professional Responsibility Program)*
- *Proposed Order Amending Rule 43.1 of the Vermont Rules of Probate Procedure*
- *Proposed Order Amending Rule 5 of the 2020 Vermont Rules for Electronic Filing*
- *Proposed Order Amending Rules 3(c) and 12 of the 2020 Vermont Rules for Electronic Filing, Amending Rule 5(e) of the Vermont Rules of Probate Procedure, and Adding Rule 78 of the Vermont Rules of Probate Procedure*
- *Proposed Order Amending §§ 4 and 16 of Administrative Order No. 41 (Licensing of Attorneys)*
- *Odyssey File and Serve and Public Portal Information*
- *Filing of Exhibits*
- *Miscellaneous*
- *Receipt of Court Notices and Orders (eCabinet)*

**I. PROMULGATED RULE AMENDMENTS**

- a. *Promulgation Order Amending V.R.P.P. 66*  
<https://www.vermontjudiciary.org/PROMULGATEDVRPP66--STAMPED.pdf>

This Order was promulgated on **April 10, 2023, effective July 3, 2023.**

The amendments to Rule 66 reflect and clarify current practice regarding inventories and accounts.

Rule 66(b) is new. Rule 66(b)(1) contains a general requirement that, unless waived by the court for good cause, an estate inventory must contain a description and value of the decedent's assets. The rule sets forth specific requirements for the content of inventories in the areas of real property, mobile homes, motor vehicles, high value items, and financial institution accounts. Former Rules 66(b) and (c) are redesignated (c) and (d) without change. New Rule 66(e) provides accounting standards consistent with 14 V.S.A. §§ 1055, 1057. Former Rules 66(d)-(f) are redesignated (f)-(h) without change.

Rule 66(i) is new. It spells out a process that enables a judge to deal with an inadequately prepared or presented inventory or account or other failure to comply with the provisions of Rule 66(a)-(h) by providing for their preparation "by a licensed professional with experience in fiduciary accounting."

*b. Promulgation Order Amending A.O. 9, Rules 3.A(4), 13.D(3), 16.F(2), 17.C, 20.F, 25, 26.D, and 27.H and I (Permanent Rules Governing Establishment and Operation of the Professional Responsibility Program)*

[https://www.vermontjudiciary.org/PROMULGATEDAO9-Rules3A\(4\)13D\(3\)16F\(2\)17C20F2526D27H-I--STAMPED.pdf](https://www.vermontjudiciary.org/PROMULGATEDAO9-Rules3A(4)13D(3)16F(2)17C20F2526D27H-I--STAMPED.pdf)

This Order was promulgated on **April 10, 2023, effective July 3, 2023.**

The amendments remove gender-specific pronouns from Administrative Order 9 and are not intended to change the substance of the rules.

## **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 43.1 of the Vermont Rules of Probate Procedure*

<https://www.vermontjudiciary.org/PROPOSED--VRPP43.1--FORCOMMENT.pdf>

The proposed amendments to Rule 43.1 incorporate lessons learned regarding remote and hybrid proceedings based on the experience of the bar, judges, court staff, and the public.

Proposed amendments to Rule 43.1(a) provide a default of remote proceedings with hybrid and in-person proceedings permissible with court permission. Most probate proceedings are conducted with relaxed evidentiary rules. Probate proceedings also often involve self-represented parties and individuals from a wide geographic area, including outside Vermont. The experience during the pandemic demonstrated that remote participation provides a good balance between the cost and convenience for the participants and the overall effectiveness of the proceeding, which is consistent with the scope of the Rules, set out in V.R.P.P. 1.

The proposed amendment to Rule 43.1(b) contains new definitions for hybrid and remote proceedings. Under 43.1(c)(1), the court has discretion to issue standing orders or case-specific orders for hybrid or in-person participation based on a consideration of any relevant factors provided in (g). The parties may also move or stipulate to hybrid or in-person participation under (c)(2). In assessing whether to grant or deny a motion or stipulation, the court is guided by a consideration of the factors in subdivision (g). Because a hybrid or in-person hearing requires the availability of a

courtroom and additional court staff, when a motion is granted, the court may need to reschedule the proceeding. The proposed amendments to Rule 43.1(d) address the judge to preside remotely. The proposed amendments to Rule 43.1(e) addresses the required notice to the parties in advance of the hearing. The notice must specify whether the proceeding is in person, remote, or hybrid and describe the process for requesting an alternate means of participation. Subdivision (f) allows exceptions to the notice and timing requirements of the rule. Rule 43.1(g) incorporates the factors from former (c)(6) and (d)(3) and (4) for the court to consider in evaluating whether to have hybrid or in-person proceedings. New 43.1(h) addresses the conduct of the proceedings and allows the court to impose conditions to ensure the fairness of the proceeding, ensure reliability of the evidence, or to protect public health. Finally, former 43.1(e), regarding technical standards, is relabeled (i).

Comments on this proposed amendment should be sent by **June 12, 2023**, 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](mailto:Jeffrey.Kilgore@vermont.gov)

*b. Proposed Order Amending Rule 5 of the 2020 Vermont Rules for Electronic Filing*  
<https://www.vermontjudiciary.org/PROPOSED--VREF-5--FORCOMMENT.pdf>

The proposed 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 efilings 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. Proposed new paragraph 5(d)(3) addresses failed submissions. In limited situations, efilings that do not comply with the efilings instructions or the system's formatting requirements may result in a submission failure.

Proposed new paragraph (d)(7) is added to provide a process for appealing a rejected efilings. The new provision indicates that the Court Administrator will provide an administrative process for reviewing the basis for a rejected efilings 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 proposed 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 proposed revised (g)(2) efilers must file supporting material, including affidavits or exhibits, separately from the motion or memorandum.

Comments on these proposed amendments should be sent by **June 12, 2023**, to Hon. John A. Dooley (Ret.), Chair of the Special Advisory Committee on the Rules for Electronic Filing, at the following address:

Honorable John A. Dooley, (Ret.), Chair  
[John.Dooley@vermont.gov](mailto:John.Dooley@vermont.gov)

- c. *Proposed Order Amending Rules 3(c) and 12 of the 2020 Vermont Rules for Electronic Filing, Amending Rule 5(e) of the Vermont Rules of Probate Procedure, and Adding Rule 78 of the Vermont Rules of Probate Procedure*  
[https://www.vermontjudiciary.org/PROPOSED--VREF3\(c\)12\\_VRPP5\(e\)\(8\)78--FORCOMMENT.pdf](https://www.vermontjudiciary.org/PROPOSED--VREF3(c)12_VRPP5(e)(8)78--FORCOMMENT.pdf)

These amendments address the need in some probate proceedings for the court to inspect paper documents during consideration of the case. The proposed amendment to 2020 V.R.E.F. 3(c) mandates retention of a paper document by the court when required by statute or other provision of law. The proposed amendment to 2020 V.R.E.F. 12 directs that the court must retain a paper document even after it has been converted to electronic form if otherwise required by law. Contemporaneous amendment of V.R.P.P 5(e) and addition of V.R.P.P 78 delineate testamentary documents and vital records that must be provided on paper subject to retention and ultimate disposition in the Probate Division.

Comments on these proposed amendments should be sent by **June 12, 2023**, 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](mailto:Jeffrey.Kilgore@vermont.gov)

- d. *Proposed Order Amending §§ 4 and 16 of Administrative Order No. 41 (Licensing of Attorneys)*  
<https://www.vermontjudiciary.org/PROPOSED--A.O.41§§4and16--FORCOMMENT.pdf>

The proposed amendment to Administrative Order 41, § 4(a) clarifies that the attorney licensing statement must be submitted in a manner approved by the State Court Administrator. At the moment, relicensing is done through an online portal and not using a paper form. The proposed amendment § 4(c), regarding an attorney's obligation to report any changes to contact information, clarifies that attorneys are responsible for keeping their contact information current and notice sent to the registered email address is sufficient even if not received due to a failure to update the information.

The proposed amendment to Administrative Order 41, § 16 corrects a cross reference to Vermont Rule of Appellate Procedure 45.1 regarding appearance of attorneys not admitted in Vermont.

Comments on these proposed amendments should be sent by **June 12, 2023**, to Andrew Strauss, Licensing Counsel of the Office of Attorney Licensing, at the following address:

Andrew Strauss, Licensing Counsel  
[Andrew.Strauss@vermont.gov](mailto:Andrew.Strauss@vermont.gov)

### III. ODYSSEY FILE & SERVE AND PUBLIC PORTAL INFORMATION

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.

File & Serve Web Bookmarks: Attorneys should update any File & Serve bookmarks if you have not done so already to this URL link: <https://vermont.tylertech.cloud/OfsWeb/Home>. As of April 15th, 2023, old bookmarks will no longer redirect users to the new web address. The site itself remains the same, but the URL changed due to a Tyler Technology server upgrade.

#### Reminders for OFS Users:

##### 1) PDFs must be “flattened” prior to efileing 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 efileing 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.tylerhost.net/ofsw eb>

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](http://www.vermontjudiciary.org/efiling)

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

If you have procedural questions about OFS, please email the judiciary at [JUD.EFileSupport@vermont.gov](mailto: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](mailto: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 the eFiling system.

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](mailto: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.

To ensure you continue to receive these emails, please add [JUD.AttyLicensing@vermont.gov](mailto:JUD.AttyLicensing@vermont.gov) and [JUD.CAOMemotoBar@vermont.gov](mailto:JUD.CAOMemotoBar@vermont.gov) to your Safe Senders list.