

VERMONT SUPREME COURT
ADVISORY COMMITTEE ON
RULES FOR PUBLIC ACCESS TO COURT RECORDS

Meeting Agenda for May 3, 2024

1. Chair Tomasi: Meeting Opening

Announcements and General Discussion.

2. Approval of Minutes from the December 15, 2023 meeting.

3. Possible Amendments to Rules 7(a)(3) and 7(a)(4)(B)

Following Courthouse News case, civil filings are made public without court review. These Rules address post hoc efforts to correct/redact records that should not have been made publicly accessible. Rule 7(a)(3) seems to require Court Administrator action and the other Rule seems to cabin judicial action to limited circumstances and limited relief. Courthouse News case is on appeal to the Second Circuit and the committee decided at the July 2022 meeting to wait until appeal is decided before making changes. The case was argued in April 2023 – updates?

4. Ex Parte/In Camera Motions

J. Tomasi received a question prior to the May meeting regarding whether ex parte/in camera motions should be visible to the opposing party or others in the electronic filing system. Currently, if someone files an ex parte motion and doesn't serve the other side, it is not visible to the opposing party and would not show up on docket entries. Laura LaRosa stated that a question had arisen about the confidentiality of an ex parte motion filed by a state's attorney in a criminal case to interview a witness in jail—should opposing counsel be able to see the motion, or the fact that one was filed? The Committee decided to keep this item on the agenda for next time so that our media representative has an opportunity to weigh in.

5. Public-Access Status of Inquests, Subpoenas Duces Tecum, and Nontestimonial Orders

At the September 2023 meeting, a subcommittee of J. Tomasi, J. Morrissey, Tracy Shriver, Laura LaRosa and Petra Halsema was formed to discuss the public-access status of inquests and other investigative requests. Update from subcommittee.

6. Public Access Status of Appeals from Denials of Requests for Case Records

CAO is in the process of adopting a new process for handling case record requests by members of the public. Under the proposed procedure, if a request is denied, and the requestor appeals, a new administrative case will be created in Odyssey for the appeal. The Standards Practice Committee has asked this Committee to consider whether these appeal cases should be treated as publicly accessible.

7. Any New Business.

8. Set Next Meeting.