

**VERMONT SUPREME COURT**  
**ADVISORY COMMITTEE ON RULES OF PROBATE PROCEDURE**  
**Minutes of Meeting**  
**July 13, 2012**

The meeting was called to order at 1:30 p.m. in Room 216, Debevoise Hall, Vermont Law School, South Royalton, by Hon. Joanne M. Ertel, Chair. Present were Committee members Molly Bucci, Christopher G. Chapman, Judith Joly, Mark Langan, Hon. James Mahoney (by telephone), John Newman, David Otterman. Also present was Professor L. Kinvin Wroth, Reporter. (Hon. John Monette was prevented from attending by telephone due to incomplete call-in information.)

**1. Approval of Minutes of the Meeting of April 27, 2012.** The draft minutes of the meeting of April 27, 2012, were unanimously approved as previously distributed.

**2. Status of Proposed and Recommended Amendments.** Professor Wroth reported that the proposed amendments to V.R.P.P. 79.1 and V.R.C.P. 72 had been promulgated on July 10, effective September 10, 2012; the recommended amendments to V.R.P.P. 4(e) and 17(a) had been promulgated on July 10, effective immediately; and that the proposed amendments to V.R.C.P. 77(d), V.R.E.F. 3(b) and (c) and A.O.41, and new A.O. 44 and 45, had been promulgated May 30, effective July 30, 2012.

The Committee considered Professor Wroth's 7/5/12 revised draft of proposed amendments to V.R.P.P. 80.3 based on previous Committee discussion of the proposal. The proposed amendments had been sent out for comment on June 27, 2011. No comments were received from the bar, the public, or the Legislative Committee on Judicial Rules. After discussion, it was voted unanimously to recommend the revised draft to the Supreme Court for promulgation, with "personal bond" replacing "bond, with or without sureties."

**3. Review and Revision of the Rules of Probate Procedure Necessitated by the Inclusion of the Probate Division in the Electronic Case Filing and Case Management System.** Mr. Newman and Professor Wroth reported that the roll-out of electronic filing in the Civil Division, and thereafter to the Probate Division, continued to be delayed by difficulties with the vendor and other problems.

**4. Addition of V.R.P.P. 72 to Clarify Sanctions for Defaulting Fiduciary.** The Committee reviewed Professor Wroth's 7/5/12 revised draft of the Reporter's Notes to the draft of a new V.R.P.P. 72 providing a contempt procedure for the probate division. After discussion, it was voted unanimously to recommend to the Supreme Court that the draft rule and revised Reporter's Notes be sent out for comment.

**5. Development of Rules for Handling Original Wills Submitted to the Register for Safe-keeping.** After discussion of the fact that the issue was being considered by the Probate Division Oversight Committee, it was voted unanimously to withdraw this item from the Committee's agenda.

**6. Expanded Provisions for Motions and Contested Cases.** The subcommittee, consisting of Mr. Newman, Ms. Pallmerine, and Judge Mahoney, to consider proposed V.R.P.P. 2.1 providing procedural rules for contested cases, will report at the next meeting.

**7. Uniform Principal and Income Act.** Mr. Chapman reported that the 2008 version of the Uniform Principal and Income Act, replacing the 1932 version adopted in 1957 as 14 V.S.A. §§3301-3314, has been enacted as Act No. 114 of 2011 (adj. sess.) and will take effect July 1, 2012, as 14 V.S.A. ch. 118.

**8. Proposed Amendments of V.R.F.P. 7-7.1.** Professor Wroth reported that the Family Rules Committee would consider comments on these proposed amendments at a meeting scheduled for July 27. It was agreed to defer discussion pending action of that committee.

**9. Review of Draft of Newly Revised Estate Forms.** The Committee reviewed the draft estate forms distributed with Judge Davenport's memorandum of June 11, 2012. It was the sense of the Committee that the new forms were a significant improvement. Members made comments on specific issues. It was agreed that all comments should be sent to Judge Ertel, who would consolidate them and submit them to Judge Davenport.

**10. Proposed Amendment of V.R.P.P. 64 Concerning Publication of Notice to Creditors in Light of Statutory Amendments to V.R.P.P. 4(e).** After discussion, it was voted unanimously to propose an amendment of V.R.P.P. 64(a) that would make it consistent with amended V.R.P.P. 4(e).

**11. Legislative Efforts to Develop New Remedies for Thefts from Estates.** It was agreed that the Committee should follow the legislative development of new remedies for thefts from estates in order to be able to develop necessary supplemental rules provisions.

**12. Next Meeting.** Professor Wroth agreed to survey the Committee regarding October dates for the next meeting.

There being no further business, the meeting was adjourned at 4:00 p.m.

Respectfully submitted,

L. Kinvin Wroth, Reporter