

**VERMONT SUPREME COURT  
ADVISORY COMMITTEE ON RULES OF CIVIL PROCEDURE  
AGENDA FOR MEETING OF JANUARY 20, 2023**

The Civil Rules Committee will meet virtually at 9:00 a.m., Friday, January 20, 2023, to consider the following agenda:

**1. Approval of draft minutes of the meeting of November 18, 2022:**

**2. Action items.**

- A. # 22-1 Proposed Order Amending Rule 43.1 of the Vermont Rules of Civil Procedure/Special Committee on Remote Hearings.
- B. #20-13. Proposed amendments of V.R.C.P. 55, 62, regarding service of default judgments.

**3. Suggested amendments for Committee consideration.**

- A. #22-6. Update the so-called “Discovery - Alternate Dispute Resolution Stipulation”, Rule 16.2. Rule 26(f) Scheduling Orders, Rule 16.3 Mediation and/ or and Amend AO 39 to conform to current mediation practice
- B. # 22-8. Regularize effective dates of promulgated rules. Proposal of Lisa Shelkrot. Committee to give feedback on
  - 1. The suggested “Protocols and guidelines of the Chair, Advisory Committee on Rules of Civil Procedure”
  - 2. Proposed language to recommend to the other committees for an amendment to Administrative Order 11 covering all divisions, formalizing January and July effective dates for all rules.

**4. Promulgated Rules**

- A. RULE 56 Promulgation of correction to V.R.C.P. 56(b) **effective January 1, 2023**. Rule 56(b) is amended without notice and comment to restore language consistent with the federal rule allowing a party to file for summary judgment “at any time until” 30 days after the close of all discovery that was changed in the 2022 amendment to require a party to file “within” the 30-day period. The amendment clarifies that a party may file a motion for summary judgment before as well as after the close of discovery.  
[PROMULGATED - Emergency Order Amending VRCP56\(b\)](#)
- B. RULE 79.2. Possession and Use of Recording and Transmitting Devices in the courtroom and courthouse, made permanent. Order Permanently Adopting Amendments to Rule 79.2 of the Vermont Rules of Civil Procedure, Rule 53 of the Vermont Rules of Criminal Procedure, Rule 79.2 of the Vermont Rules of Probate Procedure, Rule 35 of the Vermont Rules of Appellate Procedure and Administrative Order 46. These rules contained a sunset provision and a requirement that the advisory rules committees report back to the Court on whether the amendments should be made permanent. The rules committees have not reported

any objection to the current state of the rules or proposed any further revision. Therefore, the 2019 amendments are now made permanent.

[PROMULGATEDExtendingVRCP79.2VRCrP53VRPP79.2AO46--STAMPED.pdf](#)

## 5. Reports, news, and trailing agenda items

- A. # 23-2 Rules 9.1 and 9.2 (Special Pleading in eviction and foreclosure) The promulgation order directs “That the Advisory Committee on the Rules of Civil Procedure is directed to review the operation of these rules and to advise the Court when appropriate, but in any event, not later than July 1, 2023, whether these rules should be terminated in whole or in part, extended, revised, or made permanent. In the absence of further order, these rules will be void and of no further effect in any civil action commenced after September 30, 2025.” (Emphasis added)
- B. Any news from Civil Oversight, Electronic Filing Rules or Evidence Rules Committees?
- C. “Update from the Rules Committee” to be presented at April VBA meeting? Ms. Spero to report
- D. #23-1 [Tabled] Remote Deposition oaths. 2022 legislation allows remote administration of oaths by specially licensed notaries located in Vermont. OPR Emergency Administrative Rules for Notaries Public and Remote Notarization (Eff. 9/9/2022; Expires 3/9/2023) define “Remotely Located Individual” to mean an individual or individuals located in Vermont who is/are not in the physical presence of the notary public who perform(s) a notarial act.” We are awaiting clarification whether OPR will issue new rules allowing notaries in Vermont to administer oaths to individuals located outside the state. See V.R.C.P 28(a) (persons before whom depositions may be taken)
- E. 22-?. Electronic transmission of jury questionnaires. Civil Rule 47(a)(2) and Criminal Rule 24(a)(2) Chair Keyes to report.

## 6. Status of recommended amendments.

- A. RULE 79.1(e) etc. amended **effective February 13, 2023**, to make clear that admission pro hac vice is a matter of course on motion supported by the pro hac vice licensing card issued by the Court Administrator pursuant to A.O. 41, § 16. This amendment is made with contemporaneous amendment of parallel provisions of V.R.Cr.P. 44.2(b), V.R.P.P. 79.1(d) and V.R.F.P. 15(a).  
[PROMULGATED - Order Amending VRCP79.1\(e\), VRCrP44.2\(b\), VRPP79.1\(d\), VRFP15\(a\)](#)

## 7. New business?

## 8. Date of next meetings. March 3; May 5; June 1. September 3, November 3.

## 9. Adjourn