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## STATE OF VERMONT

### Legislative Committee on Judicial Rules

Thursday, October 21, 2021

Room 10, State House

This meeting will be live streamed [HERE](#)

#### AGENDA

- 1:00 p.m. Approval of minutes of June 16, 2021, meeting.  
Committee discussion of Administrative Orders and AO 49.
- 1:15 p.m. **Hon. Timothy Tomasi, Superior Judge, Chair, Vermont Rules for Public Access to Court Records, Vermont Supreme Court.**
- 1. Proposed Rules (proposed September 16, 2021; comments due November 15, 2021; not yet reviewed by LCJR).**
- a. **V.R.P.A.C.R. 5(c), (d).** Access to records for attorneys and guardians ad litem.
  - b. **V.R.P.A.C.R. 6(b)(20), (21), and (22).** Exceptions to public access pertaining to motions for ex parte relief, motions for in camera review, and records containing trade secrets or other confidential business information.
  - c. **V.R.P.A.C.R. 9.** Procedures for limiting or granting access to court records; objection, stipulation, hearing, and appeal on motions and orders to seal or redact court records.
- 1:45 p.m. **Hon. John A. Dooley, Associate Justice (Ret.), Vermont Supreme Court, Chair, Special Advisory Committee on Rules for Electronic Filing; Hon. Walter Morris (Ret.), Reporter; Emily Wetherell, Esq., Deputy Clerk, Vermont Supreme Court.**
- 2. Promulgated Rules (proposed June 21, 2019; reviewed by LCJR June 16, 2021; promulgated July 13, 2021; effective August 17, 2021).**

[a. V.R.A.P. 1, 3, 4, 5, 5.1, 6, 9, 10, 11, 12, 13, 14, 21, 24, 25, 26, 27, 28, 30, 30.1, 31, 32, 34, 39, 44, 45, 45.1.](#) Changes to appellate rules in order to accommodate electronic filing and the electronic case management system, which were scheduled to be implemented in the Supreme Court in August 2021.

[b. Vermont Rules for Electronic Filing 1, 3, 5, 6, 7, 10.](#) Makes Rules for Electronic Filing applicable to the Vermont Supreme Court, with limited exceptions for factors unique to Supreme Court practice.

2:00 p.m.

**Hon. Thomas Zonay, Superior Judge, Chair, Advisory Committee on Criminal Rules, Vermont Supreme Court; Hon. Judge Walter Morris (Ret.), Reporter, Advisory Committee on Rules of Criminal Procedure, Vermont Supreme Court.**

**3. Proposed Rule (proposed August 3, 2021; comments due October 4, 2021; not yet reviewed by LCJR).**

**a. V.R.Cr.P. 11(a)(4).** Procedure for preserving a post-conviction relief (PCR) challenge while pleading guilty or no contest if the State has not consented to preservation of the challenge under Rule 11(a)(3).

2:15 p.m.

**Allan Keyes, Esq., Chair, Advisory Committee on Civil Rules, Vermont Supreme Court; Kinvin Wroth, Reporter, Advisory Committees on Civil and Probate Rules, Vermont Supreme Court.**

**4. Promulgated Rules (proposed January 5, 2021; reviewed by LCJR at June 16, 2021, meeting; promulgated June 7, 2021; effective August 9, 2021).**

**a. [V.R.C.P. 7\(b\), 56\(c\), and 78.](#)** Consolidates and modernizes procedures governing filing of motions, including procedures for response time, oral argument, and evidentiary hearings. Eliminates Rule 78, which requires presiding judge of each Superior Court to establish “motion days” at regular intervals.

**5. Proposed Rules (proposed August 3, 2021; comments due October 4, 2021; not yet reviewed by LCJR).**

- a. [V.R.C.P. 16.3\(b\)\(3\).](#)** Remote participation in mediation proceedings.
- b. [V.R.C.P. 3.1, 4, 84.](#)** Substitutes “the applicant’s” for “household” in the rule regarding waiver of court fees and costs for clarity. Abrogating the Appendix of Forms and establishing the “Forms Library” on the Judiciary website as the primary source of forms.
- c. [V.R.C.P. 56.](#)** Clarifying requirements for summary judgment motions and oppositions to summary judgment motions.

**6. Proposed Rules (proposed September 1, 2021; comments due October 1, 2021; not yet reviewed by LCJR).**

- a. **V.R.C.P. 5(a).** Making permanent provisions of A.O. 49 permitting filing and serving certain documents by e-mail.
- b. **V.R.C.P. 11(e).** Making permanent provisions of A.O. 49 permitting use of remote means to obtain attestation of parties.

**7. Proposed Rules (proposed September 16, 2021; comments due November 15, 2021; not yet reviewed by LCJR).**

**a. V.R.C.P. 43(e), 54(d)(2)(C).** Correcting and updating cross-references.

**b. Abrogating V.R.C.P. 6(e) and V.R.A.P. 26(c); amending V.R.A.P. 26(d)(1), 31(a).** Removal of rule that provided an additional three days for filing of certain documents. Modifying time limits for filing briefs and stipulating to extensions of time for filing.

3:00 p.m.

Adjourn

*If you have questions and/or comments, please contact Mike Ferrant at [mferrant@leg.state.vt.us](mailto:mferrant@leg.state.vt.us)*