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Sen. Alison Clarkson, Chair  
Sen. Randy Brock  
Sen. Richard Sears Jr.  
Sen. Tanya Vyhovsky

Rep. Barbara Rachelson, Vice Chair  
Rep. Thomas Burditt  
Rep. Martin LaLonde  
Rep. Tristan Roberts

## STATE OF VERMONT

### Legislative Committee on Judicial Rules

JUDICIAL RULES

MINUTES

April 12, 2023

The Legislative Committee on Judicial Rules met on Wednesday, April 12, 2023, beginning at 12:00 noon in Room 30 of the State House. The meeting was also held virtually through Zoom and streamed on YouTube.

The following members were present:

Rep. Barbara Rachelson  
Rep. Thomas Burditt  
Rep. Martin LaLonde  
Rep. Tristan Roberts

Sen. Alison Clarkson  
Sen. Randy Brock  
Sen. Richard Sears  
Sen. Tanya Vyhovsky

Staff present:

Erik FitzPatrick  
Mike Ferrant

Legislative Counsel  
Committee Assistant

The Committee convened and elected Senator Alison Clarkson and Representative Barbara Rachelson to serve as Chair and Vice Chair, respectively, for the 2023–2024 legislative biennium. The Committee then discussed its constitutional and statutory authority and charge with Legislative Counsel Erik FitzPatrick.

### **Allan Keyes, Esq., Chair, Advisory Committee on Civil Rules, Vermont Supreme Court**

V.R.C.P. 9.2, 9.3 (proposed March 6, 2023; comments due May 8, 2023; not yet reviewed by LCJR).

Mr. Keyes explained that the two rules involved the rental assistance and mortgage foreclosure abeyance programs that were put in place during the COVID-19 pandemic. The programs are winding down now that the pandemic has passed. The rental assistance program under Rule 9.2 was closed to new applications on October 1, 2022, and all pending applications have been processed as well. Since the program is closed, the proposal is to delete the program rules. Mr.

Keyes noted, however, that some funds still remain for the program from the federal allocation and that it is possible that prior applications could be recertified and receive funding if it were available. So, it is not as clear that the funding piece of the program would cease operating entirely. Given this uncertainty, Mr. Keyes asked the Committee if it preferred to delete the rule now or wait for more time to pass in order to be certain the program had ended all operations.

Representative LaLonde asked if there was any harm in waiting until the Committee is sure that the program is completely finished. Mr. Keyes responded that there would be no harm in that approach. Senator Vyhovsky and Senator Clarkson expressed the view that it would be better to wait until there was certainty, and the other members of the Committee agreed. Mr. Keyes responded that the Advisory Committee would wait until at least January 2024 to repeal the rule.

Mr. Keyes explained that Rule 9.3 similarly concerned the mortgage foreclosure assistance program that was established during COVID-19 but will be closing to new applications on June 10, 2023. The rule required anyone foreclosing on a mortgage to notify the property owner about the program. However, after the program closes to new applications, it would be misleading to notify people that they can apply. The proposal, therefore, is to repeal the notice provisions of the rule on June 11, the day after it stops accepting new applications.

Senator Clarkson agreed that this made sense; the Committee agreed as well and there were otherwise no comments on the proposal.

**Hon. Thomas Carlson, Superior Judge, Chair, Advisory Committee on Family Rules, Vermont Supreme Court**

V.R.F.P. 4.3 (a) (proposed November 7, 2022; promulgated February 5, 2023; effective June 5, 2023; not yet reviewed by LCJR).

The rule concerns consolidation of relief-from-abuse (RFA) cases, which are heard quickly on an emergency basis, with other domestic cases involving the same parties, which are heard on the ordinary court schedule. The proposal expands the existing rule to include consolidation of the RFA case with divorce and annulment, legal separation, dissolution of a civil union, parentage, and nonsupport cases. In addition, if there is a pending case and the RFA case is filed afterward, the proposal is that consolidation would generally occur automatically; under the current rule, consolidation must be by motion.

Senator Clarkson commented that the proposed process appeared to make sense.

Representative Rachelson asked if consolidation meant putting all the information and files from the cases together in one place so that all relevant information would be available. Judge Carlson replied that this was exactly right, so that all prior related cases could be seen.

The Committee otherwise had no comments or objections to the rule.

The Committee adjourned at approximately 12:45 p.m.

Respectfully submitted,  
Erik FitzPatrick, Legislative Counsel

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