

Paralegal Focus

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Paralegal Focus is the quarterly
newsletter of Vermont
Paralegal Organization, Inc.

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President's Message

By Laurie S. Noyes

Spring is just around the corner, and it has me longing for warmer days, and more opportunities to be outside in the fresh air with the sun on my face. This past winter has seemed long, and I know many of us are weary and worn, from the resurgence of COVID these past few months and the cold dark days of winter, rising inflation and household costs, and now the outbreak of war and devastating heartbreak that comes with it in places like Ukraine. Even our small corner of the world here in Vermont seems different lately, and it is easy during these days to feel isolated and worn out.

For me, I am making a consistent effort lately to find small ways to help. And as is often advised in these times of crisis, I am looking around and focusing on the other "helpers" - to remind myself that they too continue to see the good that surrounds us all. I find that taking some time to do just a small amount of good can make us feel better about our own circumstances, and it often allows us to see other people who are focused on making a difference. This can bring us strength when we need it. I hope that you all are taking time to do some good, even if it is just fortifying your own resilience, and checking in on a neighbor or two. I would encourage you all to focus on the good that is coming - the warmer weather, the new beginnings of spring, and the opportunities to gather and enjoy the outdoors. I remain optimistic that brighter days are on the forefront, and I continue to believe that people are genuinely good at heart.

The VPO Board continues its diligent work in advancing the paralegal profession. Members of the Board are exploring opportunities with local law firms to bring together a basic training program for paralegals to help bridge the gap due to the lack of paralegal education programs in Vermont. Updates are being made to the VPO's website to share current certification and education information with our membership. The Board is exploring the option of allowing online payment for membership renewals, and our CLE coordinators have begun work on bringing our membership current topical educational opportunities this year.

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We are also endeavoring to circulate agenda information for board meetings to our membership in advance of VPO Board meetings. We want to offer membership the opportunity to submit agenda items, and also remind membership that they are welcome to attend the VPO Board meetings via Zoom. Be on the lookout for board meeting information both on the VPO's Facebook page and through membership email blasts.

Lastly, I want to remind you all again, that the Board welcomes your input and your insights. We want to hear your ideas on how best to serve our membership. We welcome participation and inquiry. Please don't hesitate to reach out us. Wishing you all a happy, healthy, and joyous Spring!

Editor's Message

By Louise Reese

Welcome friends to the first issue of Paralegal Focus for 2022! It is a meaty issue thanks to volunteer submissions. Tina Wiles has provided us with an update on NFPA coordinator/committee positions that are waiting to be filled. If you are interested, please consider submitting an application.

We also have some Real Estate information submitted by Krista Grady, and Katie Caron, has offered some articles from CATIC for our newsletter, the first of which you will see in this issue.

There is also a lot happening with the Courts, so please review the Did You Know section to see what may apply to your practice area(s).

I am very excited to have recent members Jennifer Gagnon of Primmer Piper Eggleston & Cramer and Logan Volpe of Earle & Freeman as our Member Spotlights for this issue. Please take the time to get to know them!

Spring is in our future. We got this!



As of March 2022, we have 55 active members: 45 voting; 9 associate; and 1 sustaining corporate.

If you have any questions about renewing your membership, please contact me, your Membership Chair, Melinda Siel. We currently have 15 members whose renewals are overdue, and 13 who have exceeded their renewal grace period. I would welcome any comments from these members about issues they may have with renewing their memberships.

With warmer weather on the way, and hopefully a break in COVID numbers, we are looking into options for a few Lunch 'n Learns over the summer, and are looking for input from members on what topics they would like to see. If you have any suggestions, please email membership@vtparalegal.org.

Please welcome our newest members: Catie Michael of Dunkiel Saunders Elliott Raubvogel & Hand, PLLC and Gabriela Ferrari, Jacob Metivier, and Sarah Tewksbury of the Attorney General's Office!

	<h1 style="text-align: center;">Q&A</h1> <p style="text-align: center;">Jennifer Gagnon Member Spotlight</p>
<i>How old are you?</i>	37
<i>Describe your family?</i>	I have my parents, my sister, two nieces, one nephew and my partner of 10 years
<i>Town in which you live?</i>	Burlington, Vermont
<i>What is your favorite food?</i>	Tacos. Tacos. Tacos.
<i>Do have any pets? If so, what are they, and what are their names?</i>	I used to have a Shih Tzu named Moo. I miss her dearly and would love another dog.
<i>What kind of hobbies do you have?</i>	Paddleboarding, sailing, and hiking during the summer. I love movies and reading at all times.
<i>How do you unwind at the end of a long work week?</i>	A nice dinner, a good movie, and relaxation.
<i>What is your educational background?</i>	Bachelor's Degree in Religious Studies from UVM, Master's Degree in Bioethics from Clarkson University
<i>Where do you work?</i>	Primmer Piper Eggleston & Cramer PC
<i>When did you first become a paralegal?</i>	2017
<i>What area of law do you work in?</i>	Captive Insurance Law
<i>What do you enjoy about working in that area of law?</i>	The people. I love my team of attorneys, and I could not ask to work with a better group of people.
<i>If you could work in any other area of law, what would it be?</i>	Health Care/Medical/Lobbying. I have a Master's Degree in Bioethics but I don't use it in my current role or specialty.
<i>What is the one thing about being a paralegal you would change if you could?</i>	Things get a little repetitive after doing it for a long time. I wouldn't mind a little more variety.

<i>How or why did you first enter the paralegal field?</i>	I had been working in a medical office for a number of years, and really need a change of scenery and was considering whether law might be a good path. I applied as a legal assistant at Primmer and was lucky enough to be given a chance!
<i>Did you hold other positions, or have a different career, prior to becoming a paralegal, and if so, what was it?</i>	I worked in the restaurant industry for a number of years as a manager, and then in the medical field as a medical assistant prior to getting into law.
<i>What do you love about the paralegal profession?</i>	There isn't one specific thing about the profession. I love who I work for and who I work with.
<i>What things about the profession do you dislike?</i>	It can be repetitive.
<i>How long have you been a member of the VPO?</i>	3 years.
<i>Tell me about the skills or traits you possess that you find most useful in your position?</i>	I'm hyper-organized, very detail-oriented and a bit of a perfectionist.
<i>What character oddities or personality traits do you find at odds with your career?</i>	My need for variety. I work in a job where there is a lot of set processes and procedures, but in my personal life, I like change.
<i>What brief advice or friendly tip would you offer to someone just entering the paralegal field?</i>	Engage in what you do and who you work with. You'll find a lot more joy and value in your job if you're invested and get to know the people you interact with regularly. This is true of a lot of jobs, but especially in law. You only progress if you are determined to do so.



Q&A

Logan Volpe Member Spotlight

<i>How old are you?</i>	28
<i>Describe your family?</i>	I currently live in Barre Town with my boyfriend, our dog, and my two horses. The rest of my family lives in the Mad River Valley.
<i>Town in which you live?</i>	Barre Town.
<i>What is your favorite food?</i>	It's hard to pick a favorite food but I really enjoy pizza and pasta dishes.
<i>Do have any pets? If so, what are they, and what are their names?</i>	All our pets came from rescue situations. Our dog is a golden-colored, mix breed dog named Diamond. The horse I got during my childhood is a chestnut-colored, quarter horse cross gelding named El Monzo that is trained in Eventing and Dressage. Together we went on to win multiple championship titles in both disciplines. The newest family member we believe is a palomino quarter horse whose name is Hubbell.
<i>What kind of hobbies do you have?</i>	I have been an avid equestrian since childhood. When I am not at the barn, I'm enjoy reading books, cooking, and walking in the town forest with my partner Mike and our dog.
<i>How do you unwind at the end of a long work week?</i>	At the ending of a long work week, I can be found unwinding at the barn or in the kitchen.
<i>What is your educational background?</i>	I studied Nursing at Castleton University.
<i>Where do you work?</i>	Earle and Freeman, PLC
<i>When did you first become a paralegal?</i>	2021
<i>What area of law do you work in?</i>	Real Estate, Estate Planning, Probate, Employment law, Civil Litigation, and Business Law.
<i>What do you enjoy about working in that area of law?</i>	I enjoy the day-to-day diversity that comes with being the sole legal assistant in a firm that covers multiple different practice areas.

<i>If you could work in any other area of law, what would it be?</i>	Family Law.
<i>What is the one thing about being a paralegal you would change if you could?</i>	It would be great if we had more educational opportunities geared to paralegals, especially when they are first starting out.
<i>How or why did you first enter the paralegal field?</i>	I entered the paralegal field when I was at a crossroads in my career path. I wanted a career that I could balance with my equestrian lifestyle, but also feel like I made an impact on people’s day-to-day lives.
<i>Did you hold other positions, or have a different career, prior to becoming a paralegal, and if so, what was it?</i>	Previously I was a hybrid underwriter for a life insurance company and a phlebotomist.
<i>What do you love about the paralegal profession?</i>	I love the variety each day and the ability to continue my education.
<i>What things about the profession do you dislike?</i>	I find there to be a lack of consistency in Vermont’s E-Filing system which can cause some confusion when filling a new document for the first time.
<i>How long have you been a member of the VPO?</i>	Since 2021.
<i>Tell me about the skills or traits you possess that you find most useful in your position?</i>	The ability to work both independently and as a team, along with a high level of organization are skills that I use each day.
<i>What character oddities or personality traits do you find at odds with your career?</i>	Due to my equestrian background, I have a desire to make things as close to perfect as possible. It can be difficult for me to accept when a job is just well done instead of perfectly done.
<i>What brief advice or friendly tip would you offer to someone just entering the paralegal field?</i>	Keep an open mind because things constantly change, and you should always be willing to learn.



CLE News

By Louise Reese

Carie and I have discussed our experiences from last year, and although it was great to see people “live” at the CLE conference, we have made the decision to hold only virtual seminars this year. We have heard from attendees who travel far to attend our in-person events that they would like the option of virtual seminars. We listened, and we heard you. The start of the CLE season will still be planned for May, and we have already made contact with potential presenters on topics, including ethics. If you have any topics or speakers in mind, please share them with me at lreese@dinse.com.



NFPA News

By Tina Wiles

NFPA Primary Delegate

As I write this article, the 2022 Olympics are coming to an end, Girl Scout cookie season is in full swing, my child will soon return from a 9-month deployment, we are one step closer to unveiling paralegal education courses in Vermont, and I am preparing for another NFPA convention. It amazes me how quickly time goes by, and yet my to-do list is still a rotating list of things to accomplish. As the VPO Primary Delegate, I have attended the monthly NFPA Board Meetings and regularly communicated with the Region V Director and Region V Associations. There is a lot of activity behind the scenes on the national level: new brand logo solicitations, website updates, and updated webinars and CLE's. There is a lot of information to share included in this quarterly report. I encourage you to reach out to me if you have any questions or interest in any of the opportunities presented.

At the February NFPA Board Meeting, it was announced that Aaron Bath is resigning as Director of Marketing, effective March 1, 2022. As a result, NFPA is currently seeking a highly motivated individual with excellent communication skills and a passion for NFPA. Nominations for the Director of Marketing position took place February 21 to March 7, 2022, and an election will follow.

In addition to the Director of Marketing position, there are many unfilled coordinator and committee positions within the NFPA that need your assistance. Any member of VPO can apply for these positions. I can provide a complete description of the positions upon request.

Certification Ambassador Coordinator - Assists with drafting annual goals, developing guidelines, reviewing reference material and resource documents, etc.

Government Affairs Committee – This committee receives ongoing reports of new case law and legislation for monitoring and reporting, engages in special research projects, and receives requests for government engagement to filter the request to the correct committee or coordinator. There is a need for 3-5 engaged committee members. Time commitment: 5 hours per month.

Advocacy Committee – This committee is building out resources for NFPA member associations to engage in local advocacy, including webinars and a resource bank for the new website. Additionally, the committee's 2022 goal is to put together the initial advocacy plan (which will be a roadmap on how NFPA engages in advocacy). There is a need for 3-5 members, preferably with public policy experience, or a desire to learn public policy advocacy. Time commitment: 3 hours per month

Position Statement Review – This committee is in the process of reviewing the position statements and making recommendations. Committee members are needed from Region V. Time commitment: 4 hours per month until statements are reviewed/updated/sunset.

Access to Justice Committee – This committee is working on an initial position statement right now. Other projects will come up. Time commitment: 2 hours per month

Corporate Partners Program Coordinator - Maintain a database of corporate partners, coordinate renewal of partner agreements, communicate with corporate partners and conduct annual marketing campaigns to promote corporate partners.

Public Relations Coordinator - Maintain calendar for advertising deadlines, propose themes and content for publications, draft press releases for events and announcements and maintain contact list.

Social Media Coordinator - Manage all social media accounts, post on all social media accounts and market membership benefits.

Technology/Webinar Coordinator - Work with and coordinate speakers and topics for webinars, maintain calendar of webinars, facilitate and moderate webinars and maintain a database of presented webinars and topics.

As a reminder, all VPO members are invited to attend the board meetings and events hosted by the NFPA. Those events including the following:

March 15, 2022 NFPA MONTHLY BOARD MEETING is held via Zoom at 8:00 p.m.

April 18, 2022 NFPA MONTHLY BOARD MEETING is held via Zoom at 8:00 p.m.

April 23, 2022 REGION V SPRING MEETING. The location will be determined based on Covid restrictions in place within Region V. A hybrid option may be available.

May 19-21, 2022 JOINT CONFERENCE to be held in-person in Minneapolis, Minnesota with a virtual option. The Joint Conference is a three-part leadership training series that includes Certification training on Thursday, May 19, Regulation training on Friday, May 20, and Leadership training on May 21. Registration information will be circulated once it is released. The virtual option will be \$40 per day per training.

- May 22, 2022** NFPA MONTHLY BOARD MEETING is held via Zoom. Time to be determined.
- June 2022** NFPA NON-ANNUAL POLICY MEETING of the NFPA Board and Delegates. The meeting will be held virtually. The date and time is pending.
- June 2, 2022** DEI WEBINAR on Implicit Bias & Systematic Racism. This will be a virtual webinar. Registration information will be circulated once it is released.
- Sept. 15-18, 2022** NFPA ANNUAL CONVENTION of the NFPA Board and Delegates in Cleveland, Ohio. The meeting at this point is scheduled to be in-person, with a hybrid option for the continuing legal education opportunities to be held on Thursday, Sept. 15. Registration for Convention will be circulated once available.

As another reminder, if you enjoy writing, the National Paralegal Reporter could use some articles for the next edition. If interested, contact the Director of Marketing at marketingdir@paralegals.org.

Regulation of the paralegal profession is taking place across the country. Recently, the NFPA has submitted regulation statements and testimony in California, Oregon, New Hampshire, and Minnesota, in partnership with the respective local NFPA Association. If you would like to read the statements, reach out to me and I will obtain a copy.

If any member has questions or concerns about issues affecting the paralegal profession on a local or national level, please feel free to contact me so that we can discuss how you may get more information or become involved in making a change.

As we leave winter and move into mud season and spring, I hope you all remain healthy.



REAL ESTATE CORNER

Vermont Attorneys Title Corporation has given us permission to reprint the following information from its January 2022 newsletter.

If Wire Fraud is on the Rise, Is it Safer to Use Checks?

Before you think that the way around wire fraud is to only use checks, consider this cautionary tale posted by Mike Kennedy on his recent blog.

Timely Reconciliation Alerts Firm to Trust Account Fraud – Ethical Grounds (wordpress.com)

Two take-aways: (a) reconcile, reconcile, reconcile; (b) checks are very dangerous. This is NOT the first instance of check forgery we have heard about in VT.

The process of transferring money by wiring or check, and the risks attendant thereto, may never go away but consider a 2022 resolution of finding ways to reduce your exposure to wire or check fraud. One simple way is to e-Submit payment for title insurance (after e-Remitting the policy) in a secure ACH environment. No wire, no check – trying to stay ahead of the fraudsters using the most modern technology.

Cities/Towns Retaining Glebe Lands:

To our knowledge, the following Cities/Towns have expressly voted to retain their interests in municipal lease land before 1/1/2020: Burlington; Chester; Concord; Huntington; Leicester; Panton; Starksboro; Stockbridge; Victory; Waterbury; and Westmore. There are likely others so don't assume anything!

CATIC/VATC Introduce Legislation, H512:

In order to create a statewide land records office that would oversee and manage the municipal land records system and bring Vermont into the 21st Century and beyond, CATIC introduced a bill supported by the Vermont Bankers Association, the Vermont Bar Association and others.

Among other things, the office would enact Rules to create (and enforce) uniform indexing and recording standards. The office would also provide support and training opportunities for clerks and municipal officials.

Deepfakes: When Seeing is Not Believing...

As a member of CATIC IT Security, I try to stay on top of the latest cyber trends, threats, etc. Recently, I received a DM (direct message) on a social media platform from an old friend. The message included a picture of her bank account, with a caption saying that I, too, could get rich off a Bitcoin mining investment. Even more troubling, I saw that she posted a video of herself on her page that promoted this bogus venture. In the video she stated, “The money that I received is legitimate, guys. This is not a scam. You should contact my mentor for this great opportunity.” When I saw the video, I was taken aback, as the clip looked familiar to a previous video she had posted a few weeks back. However, when I looked more closely, I noticed her mouth on one side was slightly blurrier than on the other side. After this discovery, I concluded that the bad guy was able to compromise her account and use her audio from a previously legitimate video and craft it into something “believable” to further advertise this scam.

This deepfake scam that I received does not even scratch the surface of what the bad guys can do with this equipment. More specifically, deepfakes use powerful AI technology and machine-learning techniques to cleverly mimic videos, pictures, or voices of actual people. The use of deepfakes first gained traction in 2017 when people started inserting images of one person’s head on another’s body. While it is still only in its infancy, we know that technology is constantly changing, and one would hope that these changes would be acceptable and legitimate. Unfortunately, that is not always the case, and the disinformation you might be viewing is of great and convincing quality. Given that the quality of videos and pictures is getting sharper, richer, and cleaner, deepfakes are going to rise. In 2020 alone, there were more than 85,000 deepfake videos that were deemed “harmful.” While this figure may not be that intimidating to some, keep in mind that the frequency of these videos is doubling every six months. Here are some of the reasons why deepfakes are continuing to grow:

- **Social media:** It was estimated that there were 4.5 billion social media users in 2021. This means there is essentially an endless number of pictures, videos, etc., that can be altered. Additionally, many users have public social media pages, which allow the bad guys to stalk these accounts and take their videos without necessarily alerting the user.
- **“Post-truth” realities:** The 21st century has seen this type of mentality, where less faith is put into the concept of the truth and more emphasis is placed on what an individual may believe to be true. This type of “reality” will allow deepfakes to flourish.
- **COVID-19 pandemic:** Many employees of companies are working remotely, and have become accustomed to seeing their peers on Zoom meetings or talking to management personnel on the phone. Since these types of situations are common nowadays, it becomes easier for a bad guy to modify a recording of one’s CEO, and call the employee, using that recording and requesting a fake wire transfer.

While the above information can be discouraging, there are multiple ways for you and your company to spot a deepfake:

- Analyze the person's facial features.
 - Does the person's face seem robotic? In other words, does the facial movement seem scripted or fake?
 - When speaking, are the person's cheeks and forehead moving with the speech?
 - Are the eyebrows immobile when the person talks?
 - Is the person blinking in between words/sentences?
 - Does the motion of the person's mouth match what is being said?

- Deepfake detection software, such as Microsoft's Video Authenticator, can detect "subtle fading or greyscale elements that might not be detectable by the human eye."

- The bad guy may play on your emotions in order to get you to be less careful, so pay attention when you are receiving a call or video that purports to be from someone you know.

* Statistics were derived from knowbe4.com, techcrunch.com, and statistica.com

Holly Mendez, IT Security Analyst, CATIC

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Did you Know?

Real Estate

When preparing for a title search or conducting other property due diligence, or even when you just need some information about a property, these tools are important to have in your proverbial toolbox:

[Vermont ANR - Natural Resources Atlas HTML5 Viewer](#)

[Parcel Viewer \(vermont.gov\)](#)

[VT Interactive Map Viewer \(HTML5\) \(vermont.gov\)](#)

[Vermont ANR - BioFinder3](#)

I use the first three on a regular basis, but all four are on my bookmarks bar because they accomplish slightly different tasks. For instance, the **Natural Resources Atlas** includes links to wetlands and stormwater discharge permits, while the **Parcel Viewer** includes town tax parcel numbers, while the **Interactive Map Viewer** provides SPANs (tax identification numbers). They all show important features like parcel boundaries (based on town tax maps), building addresses, and landmarks (e.g., roads and water bodies).

There are times that a title search will not disclose everything you need to know about a property, like when a driveway crosses the boundary and there's no easement in the land records. I always learn what I can from the online mapping tools first.

Be careful out there!

Krista Cadieux

MEMO TO THE VERMONT BAR – December 9, 2021

Beginning on Friday, December 10, 2021, initial civil complaints that are submitted using the Odyssey File and Serve code “initial filing” will be automatically entered in the Judiciary’s electronic case management system without prior staff review and acceptance. Previously, all electronic filings, including initial complaints and associated documents in such cases, were reviewed by staff before being entered into the electronic case management system. Some initial civil complaints are excepted from automatic entry, including those in small claims actions, stalking/sexual assault actions, and those within the original jurisdiction of the Supreme Court, or within the jurisdiction of criminal division, family division, environmental division, probate division, or the judicial bureau.

This change means that documents and information designated by the electronic filer as public that are part of the initial filing will be immediately viewable to the public on courthouse public access terminals and on the Public Portal website for users with elevated access roles.

Documents submitted under other filing codes in the same envelope or in other envelopes will continue to be reviewed and manually accepted by staff prior to being entered into the electronic case management system.

Pursuant to Rules 7(a)(3) and (4) of the Vermont Rules for Public Access to Court Records, court staff will review all initial complaints after they are entered into the system for the presence of nonpublic information that should not be publicly viewable. As with all cases under the present rules in which this screening reveals that nonpublic documents or information are part of the initial filing, court staff will take action to protect such information from public view and will send notice to the e-filer to let them know what corrective actions are needed to fix defects on the filing.

PROMULGATED RULE AMENDMENTS

These Orders were promulgated on **December 13, 2021, effective February 14, 2022.**

Rule 56 is amended to delineate the timing and the content of motions for summary judgment, oppositions to summary judgment motions, and motions in reply to opposition. Amended Rule 56(b) is amended to provide in one place the filing times for the three principal procedural steps for which amended Rule 56 provides. Amended Rule 56(c) requires that responses to the movant's statement of undisputed facts are to be provided in numbered paragraphs corresponding to those of the movant's statement, and that statements of additional facts — disputed or undisputed—be submitted in a separate statement, with numbered paragraphs. These provisions respond to prior concerns that nonmoving parties were causing confusion by incorporating additional material in their oppositions to the movant's statement.

Rule 11(e) is added at the suggestion of the Supreme Court to make permanent an emergency provision permitting use in a civil action of remote means to obtain attestations of parties. The Rule applies whenever these rules otherwise require the filing of a statement made under oath, an affidavit, or a notarized document. It is a narrower version of 28 U.S.C. § 1746, which applies to statutory requirements as well.

In a related announcement by the Program Manager for the Vermont Judiciary-Trial Court Operations Division, judiciary form changes, including replacing the notarization requirement with a declaration became effective February 14, 2022.

The following forms have been updated.

CIVIL DIVISION:

- 100-00012 Rent Escrow Order (Odyssey) – payment types
- 100-00253SA, -253SAM, -253SM and -253S Final Orders against Stalking and OBO a minor & against Sexual Assault and OBO (Justusnet PDFs and Odyssey) – a small formatting change was made, "so ordered" was removed and under Order of the Court, "electronic communication" was changed to "form of communication"

FAMILY DIVISION:

- 400-00825 Agreement on Parental Rights & Responsibilities (Stipulation-Parenting Plan) (Public) – misc changes throughout
- 400-00878 Final Stipulation Property, Debt and Spousal Support (Public) – misc changes throughout

- UIFSA Court version Notice of Request to Register (Odyssey) – misc changes throughout
- 400-00813A Financial Affidavit (Public) – page 3 top; removal of "blue first", change of "Food Stamps" to "Food Assistance" and page 9, #51 added " including related child care for employment related education"

Other changes include:

Misc/Public Forms projects:

- Effective 2/14/22, VRCP 11 (e) allows for the Notarization requirement to be replaced by a Declaration where applicable. CAO staff have begun and will continue to identify the forms that are appropriate to be changed and will be making those changes this week to the best of our ability by the effective date until finished. A list of form changes will be provided for reference as they are completed.
- "Docket no." will be changed to "Case No.": This change has begun and every form will be updated over time to mirror ODY forms. As these changes occur just for this one change, I will send a communication to the COMs/S Clerks.
- Adding "Printed Name" under Signature. This change will occur over time.

In a follow up announcement, it was stated that if the form exists with a notary section and the basis for it is statutory, the forms remain unchanged as the rule change allowed for updates where there was only a rule basis. The following additional forms have been replaced:

ALL DIVISIONS:

- Application to Waive Filing Fees & Service Costs 600-00228

CIVIL DIVISION:

- Small Claims Financial Disclosure Affidavit 100-00127
- Motion for Default Judgment and Affidavit (Small Claims) 100-00262
- Employer Disclosure 100-00508

FAMILY DIVISION:

Affidavit as to Military Service 400-00231

- Complaint for Annulment 400-00815
- Application for appointment of counsel (CS contempt) 400-00229
- Motion for Default Judgment 400-00806
- Summons & Complaint for Divorce/Legal Separation/Dissolution no Children 400-00836NoChildren

- Summons & Complaint for Non-Resident Divorce no Children 400-00836NR
- Application for Appointment of Counsel (Child Support Contempt) 400-00229
- (Juvenile) Application for Public Defender 400-00358J

CRIMINAL DIVISION:

- Application for Public Defender 200-00358CR

Rule 16.3(b)(3) is amended, pursuant to the Supreme Court's directive under Administrative Order 49, ¶ 13, that the Civil Rules Advisory Committee "consider whether a permanent change to the rules relating to participation in remote mediation is advisable."

Prior to these amendments, Rule 16.3(b)(3) required parties and counsel to attend a mediation unless they "stipulate otherwise or the court, for good cause, excuses participation or authorizes telephone participation. The present amendments retain the basic structure of Rule 16.3(b) that in-person attendance is the default position, with an option for remote mediation if the parties so stipulate or the court, in its discretion, so orders or excuses a party.

Proposed Rule Amendments

d. *Proposed Order Amending V.R.C.P. 5, 6(a)(4), 29, and 79.1*

Rule 5 is amended at the request of the Supreme Court to make permanent certain provisions of Administrative Order 49 that permit filing and serving documents by email in certain circumstances.

Proposed Rule 5(a) is carried forward and sets forth the service requirement for all documents subsequent to the summons and complaint or for which the rules may provide another mode of service.

Proposed new Rule 5(b)(1) defines the five methods of service—using the e-filing system, email, delivery, mailing, and leaving with the clerk.

Proposed new Rule 5(b)(2) sets forth five required or permitted methods of service. Subparagraph (2)(A) makes clear that service between electronic filers must be made through the electronic filing system, or by another method agreed between the parties, as provided in Rule 11(d) of the 2020 Vermont Rules for Electronic Filing.

Proposed new Rule 5(b)(2)(B) delineates the methods of service for non-electronic filers, which includes self-represented parties or other participants that have not elected or are not required to electronically file. Those individuals may serve or be served by delivery, mailing, or commercial carrier. Email service may be made in three circumstances. First, email service can be used if a self-represented party files a notice of appearance and provides both an email address and consent to be served at the email in accordance with simultaneously amended Rule 79.1(d).

Second, the parties may agree to service by email in a signed writing filed with the court. Last, if a non-efiler does not have a valid physical or postal address, service can be made by email even if consent was not provided in the notice of appearance. The rule formerly allowed for service by leaving with the clerk where no address was known. Leaving with the clerk is now authorized by Rule 5(b)(2)(B)(iii) if no valid physical, postal, or email address is known.

Proposed new Rule 5(b)(2)(C) addressed efilers who have not properly created a service contact on the public list as required by Rule 4(b) of the 2020 Vermont Rules for Electronic Filing. In that instance, other efilers cannot serve by using the electronic filing system. The rule allows service by delivery or mailing, or by email if agreed by the parties in a writing filed with the court.

Proposed new Rule 5(b)(2)(D) pertains to service of discovery documents that are not filed with the court. Under this provision efilers must serve discovery documents by using the electronic filing system. Service by or on non-efilers may be made by mailing or delivery. In either case, the parties can agree on a different method of service. Because service of discovery documents is less formalized, the agreement is not required to be signed or filed with the court, in contrast to agreements for alternate service of documents filed with the court.

The standards for email filing are in new Rule 5(e)(4) and Rule 5(e)(5) specifies the filing date for documents depending on how they are filed.

Rule 5(e)(6) carries forward former Rule 5(e)(4), with a sentence making clear that, if it is available, an inmate may file and serve by email as provided for other litigants.

Rule 5(e)(7) carries forward former Rule 5(e)(5) with the elimination of a reference to the 2010 Vermont Rules for Electronic Filing, which are obsolete.

Rule 5(f) (form of papers and documents) is carried forward with minor amendments and broken into two paragraphs to address non-electronically and electronically filed documents separately.

Rules 5(g) (separation of nonpublic data), and (h) (certificate of service) are carried forward without change.

New Rule 5(h) incorporates several definitions pertaining to filing and service from the 2020 Vermont Rules for Electronic Filing.

The proposed amendment to Rule 6(a)(4) is made in conjunction with Rule 5(e)(5)(B) to specify that the last day for filing by email ends at midnight in the court's time zone.

The proposed amendment to Rule 29 conforms to concurrent changes in Rule 5 regarding service of discovery materials. Under new Rule 5(b)(2)(D), discovery between electronic filers must be made by using the electronic filing system unless the parties consent to service by another method such as through email or file sharing. Discovery on or by non-electronic filers is made by mailing or delivery. Again, email or another method can be used if the parties agree.

The proposed amendment to Rule 79.1 clarifies what is required from a self-represented party. The title of the rule is amended to indicate that it contains provisions related to self-represented parties. The headings of subdivisions (b), (c), and (d) are amended for clarity. Subdivision (b) is amended to make the contact information on a notice of appearance the same as for Rule 11(a).

Rule 79.1(d) requires self-represented parties to file and sign a Notice of Appearance for self-represented party. The form contains contact information to facilitate both service by other parties and notice by the court. Under the proposed rule, self-represented parties can consent to receive service by email. This conforms to a contemporaneous amendment to Rule 5(b)(2)(B)(ii).

Rule 79.1(i), which required attorneys to provide an eCabinet registration number, is deleted as obsolete.

Comments on these proposed amendments should be sent by **February 14, 2022**, to Allan Keyes, Esq., Chair of the Advisory Committee on the Rules of Civil Procedure, at the following address:

Allan Keyes, Esq., Chair

Advisory Committee on the Rules of Civil Procedure

ark@rsclaw.com

a. [Proposed Order Amending V.R.Cr.P. 45\(a\)\(4\)\(A\) and \(e\)](#)

The proposed amendments to Rule 45 are part of a larger project to update rules regarding filing and service across all divisions. [Proposed amendments](#) to V.R.C.P. 5 regarding email filing and service are currently out for comment. The proposal was made in response to the Court's request in Administrative Order 49, ¶ 6. These provisions are generally applicable in the criminal division.

The proposed amendment to Rule 45(a)(4)(A) clarifies that when email filing is permitted email filings are timely when made at any time prior to midnight on the last day specified for required action. This conforms with a proposed change to V.R.C.P. 6(a)(4), which is currently out for comment.

The proposal also deletes V.R.Cr.P. 45(e), which allows three additional days for filing after certain kinds of service. A similar [proposal](#) is out for comment to delete the provision from V.R.C.P. 6(e) and V.R.A.P. 26(c).

As explained in the civil and appellate proposals, deleting this provision is overdue, given the general simplification of counting time that occurred when the "day is a day" method of counting was adopted in 2018, and the move to filing through the electronic filing system or by email. All attorneys (who are required to register and efile), and self-represented parties who elect to be required to use the electronic filing system for service. Under the proposed amendments to V.R.C.P. 5, self-represented parties can use email for service. Service by mail is limited. In these instances, where more time is warranted, courts can respond on a case-by-case basis to allow parties more time to respond.

Comments on this proposed amendment should be sent by **February 14, 2022**, to Hon. John Treadwell, Chair of the Advisory Committee on Rules of Criminal Procedure, at the following address:

Honorable John Treadwell, Chair

Advisory Committee on Rules of Criminal Procedure

John.Treadwell@vermont.gov

b. [Proposed Order Amending V.R.A.P. 25](#)

The proposed amendment to V.R.A.P. 25 is made in conjunction with the [proposed amendments](#) to V.R.C.P. 5 regarding email filing and service. Under the proposal current V.R.A.P. 25(a)(1) and (2), regarding filing of documents, is deleted. Amended 25(a)(1) instead states that filing must be made as provided in V.R.C.P. 5(e) and the 2020 Vermont Rules for Electronic Filing. Incorporating the filing requirements of V.R.C.P. 5(e) will provide consistency across different dockets and predictability. The service requirements of V.R.C.P. 5 are already incorporated into the appellate rule.

The proposal also deletes V.R.A.P. 25(a)(2)(B), which previously provided: “A brief or printed case is timely filed if mailed or delivered to the carrier on or before the last day for filing.” Given the implementation of electronic filing in the Supreme Court and the concurrent proposals to allow filing by email, the provision is outdated. To the extent the purpose of the exception for briefs is to give parties the maximum time to complete their briefs, currently proposed amendments would expand the deadlines for these filings from 30 to 40 days for an appellant’s principal brief, from 21 to 30 days for an appellee’s principal brief, and from 7 days to 14 days for a reply brief. In addition, this special exception to the general rule that filing means filing, not mailing, is a source of confusion for parties and court staff. Removing the provision is consistent with ongoing efforts to simplify and clarify time-counting in the rules that began when the “day is a day” method of counting was adopted in 2018.

Comments on this proposed amendment should be sent by **February 14, 2022**, to Allan Keyes, Esq., Chair of the Advisory Committee on the Rules of Civil Procedure, at the following address:

Allan Keyes, Esq., Chair

Advisory Committee on the Rules of Civil Procedure

ark@rsclaw.com

[We may be too late to comment, but you may find the proposed amendments of interest. If any or all of it is promulgated, I will update the membership.]



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