VERMONT SUPREME COURT
MARCH TERM, 2021

Order Amending Rules 2(a)(2) and 4.0(b)(3)(B) of the Vermont Rules for Family Proceedings

Pursuant to the Vermont Constitution, Chapter II, § 37, and 12 V.S.A. § 1, it is hereby ordered:

1. That Rule 2(a)(2) of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

RULE 2. CHILDREN IN NEED OF CARE AND SUPERVISION

(a) Applicability of Rules to Juvenile Proceedings.

(2) *Rules Not Applicable*. The following Vermont Rules of Civil Procedure shall not apply in proceedings under this rule: Rules 2 (One Form of Action), 3 (Commencement), 3.1 (~~In Forma Pauperis~~ Waiver of Filing Fee and Service Costs), 4.1 (Attachment), 4.2 (Trustee Process), 4.3 (Arrest), 7(a) and (c) (Pleadings and Demurrers), 8 (Rules of Pleading), 9 (Pleading Special Matters), 10(b) and (c) (Form of Pleadings), 12(a) and (h) (When Defenses Presented; Waiver), 13 (Counterclaim and Cross-Claim), 14 (Third-Party Practice), 16.1 (Complex Actions), 17 (Parties), 19 (Joinder of Persons), 20 (Permissive Joinder), 21 (Misjoinder and Nonjoinder), 22 (Interpleader), 23 (Class Actions), 23.1 (Shareholder Derivative Actions), 23.2 (Unincorporated Associations), 25 (Substitution of Parties), 31 (Depositions Upon Written Questions), 38 and 39 (Trial by Jury), 40(a) and (b) (Calendar), 41(b)(1), (c) and (d) (Involuntary Dismissal on Court's Motion; Dismissal of Counterclaim; Costs), 45 (Subpoenas), 47, 48, 49 and 51 (Jurors; Jury Trials), 50 (Judgment As a Matter of Law in Actions Tried by a Jury; Alternative Motions for New Trial; Conditional Rulings), 53 (Masters), 54 (Judgment; Costs), 55 (Default), 56 (Summary Judgment), 57 (Declaratory Judgments), 62 (Stays), 64 (Replevin), 65 (Injunctions), 65.1 (Security), 66 (Receivers), 67 (Deposit In Court), 68 (Offer of Judgment), 69 (Execution), 70 (Judgment for Specific Acts), 72 (Probate Appeals), 73 (Small Claims Appeals), 74 and 75 (Appeals from Governmental Agencies), 78(a) (Motion Days), 79(b) (Judgment Book), 79.1 (Appearance and Withdrawal of Attorneys), 79.2 (Recording Court Proceedings), 80.1 (Mortgage Foreclosure), 80.2 (Naturalization), 80.4 (Habeas Corpus), 80.5 (Civil License Suspensions and DWI Penalties), 80.6 (Judicial Bureau Procedures), 80.7 (Immobilization or Forfeiture Procedures), 80.8 (Transfer from District Court), 80.9 (Municipal Parking Violations), and 80.10 (Stalking or Sexual Assault Orders), 81(a)-(c) (Applicability of Rules to Specified Actions; Terminology), 85 (Title), 86 (Effective Date).

Reporter's Notes—2021 Amendment

Rule 2(a)(2) is amended for consistency with the recent amendment of V.R.C.P. 3.1 eliminating all reference to "in forma pauperis" and replacing it with "waiver of filing fee and service costs."

2. That Rule 4.0(b)(3)(B) of the Vermont Rules for Family Proceedings be amended to read as follows (deleted matter struck through; new matter underlined):

RULE 4.0 DIVORCE AND OTHER FAMILY PROCEEDINGS

(b) **Complaint; Commencing an Action; Service; Parties.**

(3) *Parties.*

(B) When any party to an action to which this rule applies has been ~~authorized to proceed in forma pauperis~~ permitted to waive the filing fee and service costs under V.R.C.P. 3.1(b)(1)-(2), and during the course of the proceeding and prior to a final judgment, the court determines that the applicant has the ability to pay all or a part of the waived fee, the court may order either party to reimburse the state for the fees waived or costs paid. If the applicant fails to pay the fee within a reasonable time, the court may dismiss the proceeding. The court may assess the waived fees and costs as a charge against the marital assets if the court finds that the marital assets are sufficient for the support of the parties and any dependent children. If such reimbursement is not made voluntarily upon demand, the clerks are authorized to proceed by execution or action to recover all fees or costs that any party becomes liable to reimburse under this subparagraph.

Reporter's Notes—2021 Amendment

Rule 4.0(b)(3)(B) is amended for consistency with the recent amendment of V.R.C.P. 3.1 eliminating all reference to "in forma pauperis" and replacing it with "waiver of filing fee and service costs."

3. That these rules as amended are prescribed and promulgated, effective on May 12, 2021. The Reporter's Notes are advisory.

4. That the Chief Justice is authorized to report these amendments to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

Dated in Chambers at Montpelier, Vermont, this 8th day of March, 2021.

Signed by the Vermont Supreme Court

Paul L. Reiber, Chief Justice

Beth Robinson, Associate Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

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William D. Cohen, Associate Justice