

Supreme Court of Vermont
Office of State Court Administrator

PATRICIA GABEL, ESQ., State Court Administrator
patricia.gabel@vermont.gov
Mailing Address:
Office of Court Administrator
109 State Street
Montpelier, VT 05609-0701
Telephone: (802) 828-3278
FAX: (802) 828-3457



GREGG MOUSLEY, Chief, Finance & Administration
gregg.mousley@vermont.gov
JEFFERY LOEWER, Chief Information Officer
jeffery.loewer@vermont.gov
TARI SCOTT, Chief, Trial Court Operations
theresa.scott@vermont.gov
SCOTT GRIFFITH, Chief, Planning and Court Services
scott.griffith@vermont.gov

www.vermontjudiciary.org

September 18, 2020

Senator Joe Benning, Chair
Representative Sandy Haas, Vice Chair
Legislative Committee on Judicial Rules
State of Vermont
115 State Street
Montpelier, VT 05633

(sent via email to jbenning@leg.state.vt.us and shaas@leg.state.vt.us)

re: Response to Addendum to Aug 28 letter from LCJR to Chief Justice and State Court Administrator

Dear Senator Benning and Representative Haas,

The Vermont Judiciary's Next-Generation Case Management System (NG-CMS) implementation is a multi-year effort that replaces our obsolete legacy system and enables the transformation of the Judiciary's case management process from a paper-driven to an electronic-focused business model. With this change comes increased access to justice for our citizens, strengthened inter-agency communication, and more efficient court operations through improved court case initiation, more accurate electronic case files, and improved document availability and accessibility.

Your August 28, 2020, letter speaks of both operational and training challenges regarding the e-filing functionality that is part of the NG-CMS. When the Judiciary worked with the Legislature to obtain funding for this system, the funding committee sought assurances from the Judiciary before it appropriated the funds that the Judiciary would seek a vendor that would provide a "commercial off-the-shelf" (COTS) solution that was proven in other jurisdictions. In fact, the solution we chose, Tyler Technologies' Odyssey system, which includes Case Manager, File and Serve (OFS), and the public portal, is widely used across the country, including implementations in fourteen state court

systems. It is not meant to be a custom-developed system specifically designed for Vermont, but a supportable and sustainable COTS solution that is configured for our needs.

Since the foundation of our case management solution (Odyssey Case Manager) was implemented in March in Windham, Orange, and Windsor counties (WOW), followed by our e-filing (OFS) implementation in those same counties in April, we have constantly worked with both Tyler Technologies and with the Judiciary's extended project team, including judicial officers and court staff members in the Division of Trial Court Operations, to refine our internal processes and system configuration as we receive valuable feedback from people who are actually using the system. This interaction between actual users of the system and the Judiciary team "on the ground" engages our trouble-shooting, problem-solving, and continuous improvement process. This interaction between users of the system and those working on rollout and troubleshooting is a familiar process for the implementation of complex technology transformations. Overall, our implementation has been successful by any measure, with no major flaws reported and thousands of successful filings completed.

Of the approximately fifty issues described in the Addendum to your August 28 letter, our analysis determined that approximately half of these were related to operational challenges and half related to training. Three were related to e-filing fees, the topic of which will be addressed in a report due on October 30, 2020, pursuant to Act 120, while three more were simply comments with no connected questions.

Of the operational challenges

- The reported internet connection issue is addressed through VREF Rule 3(b), which allows non-electronic filing when "exceptional circumstances make electronic filing not feasible". (Note: no special equipment is required to use the e-filing system; only equipment that would be typically assumed to be in use by attorneys, including high-speed internet, a computer with web access, and a scanner.)
- The issue related to filing documents at the courthouse was described as a rules issue in the addendum, and is not related to the e-filing system itself. It was addressed in the Emergency Order Amending Rules 3(b) and 4 of the 2020 Vermont Rules for Electronic Filing, promulgated on July 15, 2020 and immediately effective.
- The letter described a challenge with the court not communicating Odyssey Case Management system errors to e-filing stakeholders (i.e., the bar). Except for dire circumstances, the Court has not historically reported Vermont Automated Docketing System (VTADS) or other software defects to external stakeholders; instead, the Judiciary identifies and repairs the issue.
- Several items in the letter were related to the timely acceptance (or rejection, with appropriate reasoning) of filings by court personnel. We have addressed these concerns through continuing training with the clerks and standardizing practices across units.
- Two of the issues related to a single pleading applied to multiple dockets. Not all judges and court managers agree that this process should be followed going forward. The opportunity for error when a lawyer does not tie a specific motion to a specific case is high, and this was an area

of lack of standardization under the previous system. The Division of Trial Court Operations will be reviewing standard policy in this area.

- Notification of court orders, Certificates of Service, and notices of expungement were described as items of concern. We continue to address this through additional clerk training.
- One of the issues related to document labelling for notices. The Court has previously identified this as an issue and has included it on a list of future enhancements. In the meantime, the e-Notices received do clearly state the name/type of the document in the body of the message just below the attachment.
- A few of the issues describe increased labor intensity - specifically for some states attorneys (“SAs”) filing using the temporary criminal e-filing process. The Court has met with the SAs on several occasions and looks forward to a time in the near future when the SAs have implemented a formal statewide data exchange between their electronic prosecution system and Odyssey Case Manager. This should alleviate any labor increase some may experience during the temporary e-filing process and achieve greater business process efficiencies across counties through increased standardization. We also understand that a business analyst from the Agency of Digital Services (ADS) is now working with law enforcement and the SAs to seek a more efficient way for information to flow from law enforcement to the SAs. Although this is not a Judiciary issue, we believe a successful outcome of this effort will improve the experience of some of the SAs.
- Similarly, there was mention of increased effort required by law enforcement. We have increased training for law enforcement officers, and we urge law enforcement officers with specific issues to contact their respective Judiciary Trial Court Operations representatives directly so we can address any of them.
- The services contact issue, as described in the addendum, was addressed by the Court before receiving this letter.
- The letter described a discrepancy in court hearing dates/times. The Court addressed this specific instance prior to receiving this letter, and there is no indication that it is a systemic issue.

Based on the feedback we received concerning the training offered to attorneys in WOW, we have updated our trainings for our upcoming rollouts. We have paid special attention to the training challenges caused by the current COVID crisis, which eliminated the ability for large-group in-person training sessions and required the court to pivot to a remote training model. If anything, however, this crisis has demonstrated the need for the NG-CMS, and the urgency to migrate away from paper-based records as quickly as possible.

Of the training challenges:

- The letter described a lack of understanding regarding about how to use the public portal to access court records. The portal can be accessed using a personal computer. At a time when the Judicial Emergency does not restrict access to courthouse lobbies, access will also be available on the newly-installed public access terminals - which are located in the lobby of all WOW courts [Windham, Windsor, and Orange] and BRACE courts [Bennington, Rutland, Addison,

and Chittenden units and the Environmental Division.]. The portals and terminals can also be used to view receipt of notices and include rich search capabilities, enabling users to search for cases, documents, notices and other publicly-available documentation. Training regarding the use of the portal can be found [here](#). Should users wish to access complete court calendars, they can be found [here](#) on the Judiciary's website. The Court Operations Managers in each court serve as additional resources for assistance in use of these new tools.

- The letter described confusion about how dispatchers may gain the same level of access in the portal as law enforcement officers. Dispatchers work for law enforcement agencies so they are entitled to the same role as officers and can obtain it in the same way, by registering on the portal and requesting elevated access to the appropriate role. General information about how to do this can be found [here](#) in the Public Portal User Guide. Again, the Court Operations Managers in each court serve as additional resources for assistance in use of these new tools.
- The letter described scenarios in which attorneys were unable to file unless a case has been previously created. In circumstances where an attorney or other filer believes it is necessary to submit a document before a case has been filed, the attorney can file a motion to permit an exception to e-filing pursuant to E-Filing Rule 3(b)(5). If the court grants permission, the document would be held by the court pending case initiation. After the case has been initiated, the document would be filed.
- The letter requested additional training for SA offices. This issue is being addressed with BRACE by providing additional SA-specific training sessions and offering remedial assistance after training is complete to ensure that the SAs fully understand the process of filing electronically.
- The letter described confusion on when to select "e-file and serve" vs. the default "e-file". Training on this topic can be found [here](#).
- Some issues were related to the newness of the system and the fact that Court staff are still acclimating to it. Because of the relative newness of the system, the court provides continual training to clerks using one-on-one training methods, as well as regular communications to all clerks from the Chief of Trial Court Operations.
- The letter compares the use of e-filing to e-Cabinet. We have communicated to e-Cabinet users that e-Cabinet was intended to be a short-term solution until a more robust e-filing system was implemented. E-Cabinet never populated an electronic file.
- The letter indicated that the Judicial Bureau (JB) is not permitting defense attorneys to e-file a signed notice of dismissal on behalf of law enforcement. The Judicial Bureau procedure has not changed with the introduction of e-filing. Defense attorneys should contact their court with questions about this process.
- The letter described some general concerns that training for e-filing users (in addition to SAs) was insufficient. We welcome this feedback and continue to develop our e-filing training offerings in this area.

Several of the questions or issues require more detail to address. These have been forwarded to the Judiciary's Division of Trial Court Operations for further investigation. These include questions about DOB inclusion on the Summary Sheet, accurate conditions of release, communications, and e-filing waivers.

Stakeholder engagement has been a key component of our initiative from its inception. External stakeholders are members of relevant Judiciary committees, including the Special Advisory Committee on Rules for Electronic Filing. We have met weekly with the Department of State's Attorneys and Sheriffs office for many months. More recently, Judge John Treadwell generously accepted my invitation to be a direct contact for states attorneys who wish to work with the Judiciary to improve the e-filing experience for states attorneys. In collaboration with the Division of Trial Court Operations, Judge Treadwell has begun conversations in both the WOW region and the BRACE region to facilitate the transition of states attorneys to the use of the e-filing system. Vermont Legal Aid and the Office of the Vermont Attorney General have already successfully collaborated with the court to identify and resolve e-filing challenges that they have encountered during their transition to use of the e-filing system. The court encourages all stakeholders to follow this proven model of direct interaction with the court system as we continually improve the e-filing experience.

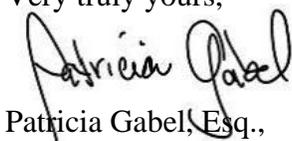
In addition, per Sec. A.20. of Act of 120 of 2020, the Judiciary is meeting with court users to gather information about their experience with the Odyssey File and Serve system as it has been used in the WOW region, where we already have over 20,000 successful e-filings. This work is underway, and we will deliver an initial report by October 30. The outcome of this work will be used to inform the refinement and advancement of the e-filing experience and associated fee structures.

Continuous improvement is a critical success factor to any system implementation and organization transformation. We feel confident that, working with our partner, Tyler Technologies, we will be able to continue to respond to the operational and training challenges we meet throughout our statewide implementation of the NG-CMS and truly deliver the benefits promised to the people of Vermont.

We truly appreciate the feedback we have gotten from system users and urge system users to contact us if they encounter additional problems. For most issues, the Court Operations Manager in a particular court is the best starting point for questions and concerns. In the meantime, we continue to work to improve users' experience through configuration and business process adjustments and by improving the resources and training we make available to system users and court staff. At this juncture, we see no impediment to implementing e-filing in the BRACE region on October 19, as scheduled. I will be sending the requisite notice to the Bar shortly to confirm this plan.

Thank you for your continuing collaboration regarding these issues.

Very truly yours,

A handwritten signature in black ink that reads "Patricia Gabel". The signature is written in a cursive, flowing style.

Patricia Gabel, Esq.,
State Court Administrator

cc. Sen. Becca Balint
Sen. Alison Clarkson
Sen. Dick Sears, Jr.
Rep. Thomas Burditt
Rep. Martin LaLonde
Rep. Linda Joy Sullivan