

Sherri L. Miscio

Subject: FW: Rule change proposal from Laurie Ortolano re: Superior Court Rule 20

From: Laurie Ortolano <laurieortolano@gmail.com>
Sent: Wednesday, May 1, 2024 4:38 PM
To: RulesComment <RulesComment@courts.state.nh.us>
Subject: Fwd: Request for help in changing a Rule

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LAURIE ORTOLANO
41 BERKELEY STREET
NASHUA, NH 03064
603-930-2853

RE: CITIZENS REQUEST FOR SUPERIOR COURT RULE 20 CHANGE.

Dear Rules Committee Members,

I request assistance changing a rule to permit pro se litigants to work with other citizens to assist in writing their filings and conduct research.

The change would apply to Rule 20:

Rule 20. Non-attorney Representatives

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(a) No person who is not a lawyer will be permitted to appear, ~~plead~~, prosecute or defend any action for any party, other than himself or herself, unless of good character and until there is on file with the court:

(1) a power of attorney signed by the party for whom said person seeks to appear, witnessed and acknowledged before a Justice of the Peace or Notary Public, constituting said person his or her attorney to appear in the particular action;

(2) an affidavit under oath in which said person discloses (i) all of said person’s misdemeanor and felony convictions (other than those in which a record of the conviction has been annulled by statute); (ii) all instances in which said person has been found by any court to have violated a court order or any provision of the rules of professional conduct applicable to nonlawyer representatives; (iii) all prior proceedings in which said person has been permitted to appear, plead, prosecute or defend any action for any party, other than himself or herself, in any court; (iv) all prior proceedings

in which said person has not been permitted to appear, plead, prosecute or defend any action for any party, other than himself or herself, in any court; and (v) all prior proceedings in which said person's permission to appear, plead, prosecute or defend any action for any party, other than himself or herself, in any court has been revoked.

(b) Any person who is not a lawyer who is permitted to represent any other person before any court of this State must comply with the Rules of Professional Conduct as set forth in Professional Conduct Rule 8.5, and shall be subject to the jurisdiction of the committee on professional conduct.

(c) A party who chooses to represent himself or herself shall so state in the Appearance.

I've been an active self-represented litigant since 2021, addressing right-to-know issues in Nashua. I've come to understand that a municipality has a monopoly when it comes to cornering the legal market. Civil issues represented by pro se litigants against a municipality are not weighed equally by the judges in court. There is a strong preference for the City, and citizens do not enter the courtroom with equality.

The most challenging work I've ever done has been trying to address the courts on citizen issues and records. I feel as though I'm entering the Court for a criminal trial where my rights to my freedom and my character are under scrutiny constantly. Yet my cases are simple civil matters involving the public's right to access governmental records. I stepped into this work when the city government was particularly dark. I had no history of being involved with the Court other than once, so I believed it was an honorable institution. I no longer believe it is.

I'm requesting that the Rules Committee consider changing the rules under which citizens can assist each other in filing and writing their pleadings without being accused of operating as an attorney and representing themselves as an attorney. I live in Nashua, and the Court now views me as the ringleader, doing all of the writing and working for other citizens. The courts are making conclusory and inaccurate assumptions. They need to have a better understanding of citizens.

Since 2019, I have failed to find attorneys willing to do this type of work. Anytime I reached out to the Bar Association, including leaving messages and being told George Moore would respond, I never got a call back or a referral. The failure of the New Hampshire Bar Association to respond was unprofessional, but this could also indicate that the state is very resource-limited, and the type of work done by citizens that will yield low payouts to attorneys is not attractive.

In addition, my independent calling around and talking to attorneys was met with a lot of - I want to avoid taking the professional risk of going up against the City. I understand that position now because going up against the City as a pro se litigant has cost me my freedom, liberties, and reputation. It's been very damaging.

What success I have realized has come from a circle of bright, civic-minded, and active citizens who tried to support each other in their various causes. I used a citizen to help me write my Supreme Court brief because I wanted to write it on my own, but my writing quality was poor, and I could not understand the City's brief to follow the format and produce something that I felt needed to be more

professional to bring before the Supreme Court. Two attorneys gave me a price for three claims brought before the Supreme Court by the City for between \$150,000 and \$200,000 dollars. I could not afford that. I had already invested **\$225,000** in a single Right-to-know case, and while I have wealth, I preferred to donate to more purposeful charities. It is ridiculous how expensive information has become.

My pro se work in Nashua would have cost me \$500,000. I just finished a 2 year RTK Trial as a pro se party against a team of 5 City/outside hired Attorneys. The City will have spent almost \$600,000 on this case. Had I had an attorney, I think it would have cost me between \$300,000 and \$400,000 to take the case through Trial. It is an unreasonable process.

For cases that fall under rule 2013-08 and for right-to-know petitions, citizens should be able to freely seek the assistance of other citizens to help them write their petitions. The individual I sought help from on my Supreme Court appeal was not affiliated with the type of work I was doing in Nashua, but I don't think I would have prevailed in the two cases if I didn't have their assistance.

In my type of case, citizens should also be able to write to the Court that we consulted with a lawyer without having to have that lawyer sign into the case or make a limited appearance. I think this is permitted in family court cases.

I'm trying to achieve a way for pro se litigants and citizens to have equal footing in the courtroom, especially when we're going up against teams of five or six well-established attorneys trying to defeat us.

I recognize now that even if a citizen loses when they go to Court, their case could have succeeded if they had assistance as they are not attorneys; the rules are complex, no one provides assistance, office staff are not happy to see us in the Court, and there's really no practical way to seek redress that puts us on equal footing.

I have never wanted to file to represent another citizen in their suit. I don't want to carry that responsibility or burden, and I am a scrappy litigant in my cases. But when a citizen asks me something about right-to-know cases, I want to share my writing or what I know. I have valuable experience and petitions that somebody can copy and use to help them get through court. I don't consider my work copyrighted or protected, but I am willing to share it.

I serve as a member of Right to Know New Hampshire, and I have noticed over the last three years that there's been a significant uptick in citizens from around the state reaching out to us for assistance on records issues. It's a real and growing problem, and I often share my petitions and my advice to them not as a lawyer but as a person who's just dealt with the process.

The state's judicial system needs to be revised. I see it as an operation ruled by powerful white older men. The changes that need to happen will not occur in my lifetime, and I recognize the inertia in the system. I've had many practical experiences in the Court that are valuable for other citizens to use. The justice system should acknowledge that citizens who step into Court need a fair and impartial courtroom and need to be able to stand on equal footing with those in opposition, even when they are well-respected attorneys. I want freely access other citizens and their writing to help me be successful in Court. I don't want to violate rules to obtain equality and impartiality in the courtroom.

One way to achieve this is to eliminate restrictions that prevent us from writing and working together to bring our cases to Court. Right now, I am aware that regular citizens are writing cases for other citizens to help them get into Court because they can't find representation and want a fighting chance to seek redress.to

I had a negative experience before a Judge in Superior Court in the Summer of 2023 where they came down hard on me for impersonating a lawyer claiming that I was counseling a Citizen in the Court. Turns out the Judge made an error and I never spoke with the Plaintiff. They were willing to strike the record. But, the Court footnoted in the Order that they believed that I was writing the pleadings for the Plaintiff and helping with filing. It was true that I was helping the Plaintiff file because the TurboCourt is very difficult and frustrating to work with. I did provide the Plaintiff with my filings to copy and change the words to write. The Judge made it clear that I could be prosecuted by the Attorney General's office on some kind of crime. Here is what was written:

¹ The Court strongly suspects that Laurie Ortolano, a non-party to this action, is drafting the petitioner's filings in this case, including the instant motion as well as the petition. (See Court Doc. 3.) In fact, the Court observed Ms. Ortolano communicating with the petitioner during the hearing in this matter. The Court reminds Ms. Ortolano that she is not an attorney and it is generally unlawful for non-attorneys to engage in the practice of law, which includes drafting legal filings on behalf of others. See RSA 311:7; State v. Settle, 124 N.H. 832, 837 (1984) (interpreting RSA 311:7 to prohibit non-attorneys from preparing and filing documents in the court system on behalf of others).

I do not believe that I was engaging in the Practice of Law, and I have never filed to be a representative for another case. I am not qualified for that work. It just seems unreasonable for the Court to come after citizens like we are criminals when we want to work together, understand how to get in front of the Court and try to have our cases heard fairly. Please openly permit us to work together and if I want to have someone draft a filing for me, please create a rule that permits that. Permit us to note in the file that "I sought the assistance of other lawyers and non-lawyer people."

I am unsure how to change the language above to make this work. Someone would have to assist is this work.

I hope you consider my remarks and thoughts.

Sincerely,

Laurie Ortolano, Nashua NH

603-930-2853