



Tina L. Nadeau
Chief Justice

The State of New Hampshire
Superior Court

December 2, 2016

Superior Court Center
45 Chenell Drive, Suite 1
Concord, N.H. 03301
Tel. (603) 271-2030

2016-005

Honorable Robert J. Lynn
Associate Justice NH Supreme Court
One Charles Doe Drive
Concord NH 03301

Dear Justice Lynn,

I am writing to offer the Superior Court position regarding the proposed amendments to Superior Court Rules 1(f) and 4(b) recommended by David Peck. I understand that Attorney Peck suggested these rule changes in light of the Supreme Court opinion in Richard Cassidy v. New Hampshire Department of Health and Human Services.

The Superior Court has no objection to the amendments contained in Rule 1(f) (1) and (2). The Court does object to the amendment contained in section (3) which allows a filer 15 days from the clerk's rejection of a complaint to correct defects in filing, including the failure to file a fee or request a fee waiver.

The unusual circumstances of the Cassidy case should not be used to change a system that works well and provides clear guidelines for attorneys and self-represented litigants alike. Permitting a 15 day window to correct a filing error will create significant administrative burdens, and will make the implementation of eCourt filing more complicated. I strongly urge the committee to seek input from the accounting department at the AOC regarding the effects of this proposed amendment.

I understand that the intention behind the recommendation is to prevent meritorious cases from being dismissed. I do not believe that such dismissals occur, and in fact, the circumstances of the Cassidy case demonstrate that the current rule works as intended. In that case, the petitioner had an attorney, who declined to handle the appeal because he believed the appeal would be frivolous. Cassidy handled the case himself and failed to follow the rules.

I believe the suggested amendment to Rule 4 (b) requiring litigants to file a fee *or a fee waiver* will sufficiently protect the rights of self-represented litigants.

One complaint we hear often from members of the Bar is that the court designs processes and rules to overcompensate for self-represented litigants, and I believe the suggested amendment to Rule 1(f) (3) may create similar concerns for members of the Bar.

Please do not hesitate to contact me if you have any questions about the Superior Court position.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tina L. Nadeau". The signature is fluid and cursive, written in a professional style.

Tina L. Nadeau
Chief Justice

TLN/ha

Cc: Karen Gorham, Superior Court Administrator
Abigail Albee, Clerk
✓Carolyn Koegler