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Secretary of the Advisory Committee
Advisory Committee on Rules
New Hampshire Supreme Court
One Charles Dow Drive
Concord, NH 03301

RECEIVED
NEW HAMPSHIRE
SUPREME COURT
2019 SEP -5 P 3:16

Re: Proposed Rule Suggestions for the Family Division Pursuant to
Administrative Rule 51

Dear Mr. Ms. Secretary

Please find two proposals for an addition to, and an amendments to present rules
in the Family Division.

1. **Name of Proponent** Jay Markell, Esquire.
2. **Address of Proponent** Family Legal, P.C., 141 Airport Road, Concord, NH 03301,
3. **Phone number of proponent** 603 225-0127
4. **Email addresses of proponent** jmarkell@familylegalservices.org or jdmarkell@aol.com
5. **Addition to Existing Rule: Family Division Rule 1.25 (A) Discovery General.**
6. **Text of Existing Rule.** Unless specified in another section of these rules, theses discovery rules apply in all family division case types.; The Court, in its discretion, may limit or expand th8e scope of discovery as justice requires.
7. **Add to this text above:** When considering limiting or expanding discovery, the Court may consider the following: 1) whether the discovery is proportional to the needs of the case considering the importance of the issues at stake in the action; the amount in controversy, the parties'

relative access to the information, the parties resources, the importance of the discovery in resolving the issues, and whether the burden or expense outweighs its likely benefit.

8. Benefit to this rule: Provides guidance to courts, practitioners and self represented parties as to what standards to use in propounding and responding to discovery. Also helpful in resolving discovery disputes.
9. Taken from Federal Civil Procedure Rule 26(b)(1) which has been in effect since December, 2015.
- 10. Addition to existing Family Division Rule 1.26 Motions Information Motion: Family Division Rule 1.26 G.**
- 11. Information Motion may be filed in order to advise a court of a condition, status , or event in a case.**
- 12. They are used in the Federal First Circuit, of which New Hampshire is a part. Information motions may deal with various aspects of cases such as informing a court about an action a party will undertake. *Meng Hua Wan, v. Eric H Holder*, (13-1893, 14, 1285) (1st Cir. January 20, 2015). Informative motions can deal with progress in a consent agreement. United States Environmental Protection Agency, Region 2, Petitioner, *In the Matter of InMobiliaria Unibon , Inc.*, Docket Number 02-2008-3457; They can be used to explain error. *Jusino, et. al. v. Zayas*, 87 F.2d 986, (1st Cir. 1989); They can attempt to arrange a meeting. *Cordero – Hernandez v. Hernandez- Ballesteros*, 449 F. 3d 240, 250 (1st Cir. 2006). *U.S. v. Mislá Aldarondo*, 478 F3d 52, 63(1st Cir. 2007). Status of discovery issues and motions to compel can be a subject of an informative motion. *Cordero-Hernandez v. Hernandez- Ballesteros*, 449 F. 3d 240, 250 (1st 2006).**
13. In short, there does not seem to be a limit on their use.
14. Courts can act on them sua sponte or simply note the contents of their pleadings for the record.
15. The proponent believes a hearing on these two proposed rules may be of benefit in the ordinary course of rulemaking,

Respectfully submitted,


Jay Markell, Esquire

c/c: file