

2020-008

Biron L. Bedard <sup>1</sup>  
Lucas Burke <sup>2</sup>  
Ronald E. Cook <sup>3</sup>  
Bridget M. Denzer <sup>1</sup>  
Jack D. Hepburn  
Meaghan A. Jepsen  
Paul H. MacDonald <sup>4</sup>  
Thomas N. Masland  
Daniel J. Mullen  
Jeffrey A. Rabinowitz  
John C. Ransmeier  
Nelson A. Raust <sup>2</sup>

**Ransmeier  
& Spellman** P.C.  
ATTORNEYS AT LAW

One Capitol Street • PO Box 600  
Concord, NH 03302-0600  
tel 603.228.0477 • fax 603.224.2780  
toll free 800.367.0477

2 Continental Boulevard  
Rochester, NH 03866  
tel 603.410.4929

*\* Please direct all mail to the Concord address \**

www.ranspell.com

Joseph S. Ransmeier  
1915-2010  
Lawrence E. Spellman  
1924-2001

<sup>1</sup> Also admitted  
in Maine

<sup>2</sup> Also admitted  
in Massachusetts

<sup>3</sup> Also admitted  
in Rhode Island

<sup>4</sup> Also admitted  
in Vermont

December 14, 2020

Via Email

Advisory Committee on Rules  
New Hampshire Supreme Court  
One Charles Doe Drive  
Concord, NH 03301  
rulescomment@courts.state.nh.us

**Re: Rule 12(g) Amendment**

Dear Advisory Committee on Rules:

We write in advance of your December 18, 2020 meeting to provide our thoughts on the changes to Rule 12(g).

Although we understand that significant time and thought went into the amendment to Rule 12(g), which became effective on July 1, 2019, we have found the practical realities of coordinating a single statement of material facts to be overly complicated at times and, perhaps, not quite what the rule was designed to accomplish. In particular, the lack of a page limit for the statement of material facts, and the responses thereto, can create a situation where parties include non-material facts and even some argument into their statement, creating an unnecessarily longer statement that parties must reply to than would customarily be found in a traditional motion for summary judgment. This causes the amount of time spent on summary judgment motions to increase, creating more expenses for clients. We have found the prior version of the rule to be far more convenient and less time consuming.

Additionally, the provision in Rule 12(g)(4) stating the “moving party shall reply to the opposing party’s additional statement of material facts within 20 days of filing” is confusing because it seems to conflict with the requirement of Rule 13A that states “[a]ny party may file a

December 14, 2020

Page 2

reply within ten (10) days of the filing of an objection to a motion” and that a “party who intends to file a reply to an objection shall advise the clerk within three (3) days of the Court’s receipt of the objection.” Presumably a reply to an objection to a motion for summary judgment would be expected to be filed together with the reply to the statement of material facts, but a strict reading of the rules suggests that they actually have different deadlines. Uniformity in this regard would be appreciated.

We respectfully thank you for your time and consideration.

Respectfully submitted,

/s/ Biron L. Bedard  
Biron L. Bedard, Esq.

/s/ Ronald E. Cook  
Ronald E. Cook, Esq.

/s/ Bridget M. Denzer  
Bridget M. Denzer, Esq.

/s/ Jack D. Hepburn  
Jack D. Hepburn, Esq.

/s/ Meaghan A. Jepsen  
Meaghan A. Jepsen, Esq.

/s/ Daniel J. Mullen  
Daniel J. Mullen, Esq.

/s/ Jeffrey A. Rabinowitz  
Jeffrey A. Rabinowitz, Esq.