

NEW HAMPSHIRE SUPREME COURT
ADVISORY COMMITTEE ON RULES

Minutes of Meeting of April 7, 2010

Supreme Court Conference Room
Frank Rowe Kenison Supreme Court Building
One Charles Doe Drive
Concord, NH 03301

The meeting was called to order at noon by Justice Carol Ann Conboy, Committee Chair. The following committee members were present: Gina B. Apicelli; Hon. R. Laurence Cullen; Alice B. Guay; Jeanne P. Herrick, Esq.; Martin P. Honigberg, Esq.; Hon. Diane Nicolosi; Jennifer L. Parent, Esq.; Raymond W. Taylor, Esq.; and Hon. Carol Ann Conboy. Also present was David S. Peck, Esq., Secretary to the Committee.

The Committee addressed the agenda items as follows:

1. Approval of Minutes

Upon motion made and seconded, it was unanimously voted to approve the minutes of the Committee's September 9, 2009 meeting. It was further noted that the December 2009 meeting was cancelled due to inclement weather, and that the March 2010 meeting lacked a quorum. Thus, there will be no minutes to be approved for either of those scheduled meetings.

2. Status of Pending Items

- (a) 2009-009 Superior Court Rule 57-A pertaining to custody and return of documents and materials filed in camera in trial courts

On motion made by Attorney Honigberg and seconded by Attorney Parent, the Committee voted to place these proposed amendments on the agenda for the June 2010 public hearing.

- (b) 2009-013 Superior Court Rule 214 – Business Court Rules

On motion made by Judge Cullen and seconded by Attorney Taylor, the Committee voted to place these temporary rules on the agenda for the June 2010 public hearing.

- (c) 2009-014 Family Division Rule 1.25A

On motion made by Attorney Honigberg and seconded by Attorney Parent, the Committee voted to place these proposed amendments on the agenda for the June 2010 public hearing.

(d) 2009-015 Mediation & Fees in District & Probate Courts

On motion made by Attorney Parent and seconded by Judge Cullen, the Committee voted to place these temporary rules on the agenda for the June 2010 public hearing.

(e) 2010-001 Proposed Rules Governing Medical Malpractice Screening Panel Hearings

Attorney Honigberg recused himself from consideration of this matter. On motion made by Attorney Taylor and seconded by Judge Cullen, the Committee voted to place these proposed amendments on the agenda for the June 2010 public hearing.

(f) 2010-003 Proposed Criminal Rule Regarding Withdrawal of Counsel

On motion made by Judge Cullen and seconded by Attorney Taylor, the Committee voted to place these proposed amendments to the superior court rules on the agenda for the June 2010 public hearing. In addition, it was voted that David Peck be authorized to include similar proposals on the agenda for the district court rules and/or the family division rules if drafts of said proposals are provided by Judge Kelly in time to be included in the notice of public hearing.

(g) 2010-004 Supreme Court Rules 50 and 50-A – IOLTA Rules

On motion made by Mrs. Guay and seconded by Judge Cullen, the Committee voted to place these proposed amendments on the agenda for the June 2010 public hearing.

(h) 2010-005 Proposed Revisions to Sentence Review Division Rules

On motion made by Attorney Taylor and seconded by Attorney Parent, the Committee voted to place the most recent draft of these proposed amendments on the agenda for the June 2010 public hearing.

(i) Rules of Civil Procedure, Criminal Procedure, and Probate Administration

The Committee considered draft New Hampshire Rules of Criminal Procedure, draft Superior Court Rules, draft District Court Rules, and draft Probate Court Rules. The latter three sets of rules are based in large part upon the draft New Hampshire Rules of Civil Procedure. On motion made by Attorney Honigberg and seconded by Judge Cullen, the Committee voted to recommend that all references in the proposed Rules to “pro se” litigants should be changed to “self-represented” litigants or other similar term. On motion made by Judge Cullen and seconded by Attorney Honigberg, the Committee voted to recommend that the proposed Rules also be amended to make them gender neutral. On motion made by Attorney Apicelli and seconded by Judge Cullen, the Committee voted to include language in the public hearing notice for the June 2010 public hearing setting forth these two recommendations, but not requiring that the actual recommended changes be made to the draft rule proposals that are placed on the June public hearing agenda for public comment.

After discussion of all of the proposals, on motion made by Attorney Honigberg and seconded by Attorney Parent, the Committee voted to place only the proposed Rules of Criminal Procedure and the proposed Superior Court Rules on the agenda for the June 2010 public hearing. Judge Cullen and Judge Hampe will continue to work on the drafts of the proposed District Court Rules and Probate Court Rules. On motion of Attorney Honigberg and seconded by Attorney Parent, the Committee voted to tentatively schedule a public hearing for September 29, 2010, to consider the proposed District Court Rules and Probate Court Rules, if the Committee determines at its June 2010 meeting that they are ready to be put out for public comment.

3. Next Meeting

The next meeting is scheduled for June 9, 2010, at 11:00 a.m., with public hearing scheduled for the same date at 1:00 p.m.

The meeting was thereafter adjourned.