

ADVISORY COMMITTEE ON RULES  
December 11, 2002

Supreme Court Conference Room  
Frank Rowe Kenison Supreme Court Building  
Concord, New Hampshire

Honorable Linda S. Dalianis, Chairman, called the meeting to order at 12:25  
p.m.

The following Committee members were present:

Robert L. Chase  
Hon. Linda S. Dalianis  
Hon. Robert L. Cullinane  
Mrs. Alice Guay  
Martin Honigberg, Esquire  
Hon. Richard A. Hampe  
Hon. Philip Mangones  
Jack B. Middleton, Esquire  
Raymond W. Taylor, Esquire

Also present were David S. Peck, Secretary to the Advisory Committee on  
Rules, and Margaret Haskett, staff.

After discussion of the minutes of the previous meeting and on motion of Judge  
Hampe, it was voted to approve the minutes of the September 4, 2002 meeting of the  
Committee as submitted. Attorney Honigberg abstained.

In preparation for the public hearing scheduled for 1:00 p.m., Judge Dalianis  
stated that she would follow the procedure for hearing testimony previously adopted  
by the Committee.

With respect to action taken by the Supreme Court since the Committee's last  
meeting, David Peck reported that the Supreme Court issued orders adopting most of  
the Advisory Committee on Rules' recommendations including 28 technical  
amendments and changes to the rules of evidence relating to self-incrimination in  
civil cases. In addition, the Court, after further amendment, adopted the

Committee's recommendations relating to malpractice insurance disclosure. It did, however, decline to adopt the Committee's recommendation to change the rule dealing with inactive attorneys. It also declined to adopt the Committee's recommendations pertaining to Superior Court Rules 47, 48 and 48A dealing with maximum fees and hourly rates for appointed attorneys, but instead requested that the Committee undertake a review of the rates and maximum fee guidelines set forth in those rules.

The Committee next discussed the status of items still pending before the Committee and the following action was taken:

Relative to administrative orders prepared by administrative judges, this matter was deferred until the next Committee meeting.

Because the Committee might vote to send items still pending before it to the Committee's next public hearing, Judge Dalianis suggested that the Committee next consider David Peck's October 28, 2002 memo pertaining to the Committee's procedures. Following a review of Mr. Peck's memo, and on motion of Attorney Middleton, seconded by Judge Cullinane, the Committee voted to follow the recommendations contained in Mr. Peck's memo.

Relative to Superior Court Administrative Rule 12-9 pertaining to authority of marital masters, following a review of Heidi Boyack's November 4, 2002 memo, and on motion of Judge Dalianis, seconded by Mrs. Guay, the Committee voted to further amend Superior Court Administrative Rule 12-9 and to recommend to the Supreme Court that said rule be adopted on a temporary basis, as contained in Appendix A of these minutes, and further that said rule be sent to the Committee's next public hearing to be considered for adoption on a permanent basis.

Relative to comments to the Rules of Professional Conduct, David Peck will write to the N.H. Bar Ethics Subcommittee inquiring of the status of their review.

Relative to Superior Court Rule 86 and a conflict with RSA 512:3, David Peck reported that following the Committee's vote at its last meeting he further reviewed Superior Court Rule 86 and believes that the Committee should reconsider its previous vote to amend the rule. Following a review of Mr. Peck's recommendations contained in his September 9, 2002 memo to Committee members, and on motion of Judge Dalianis, seconded by Judge Hampe, the Committee voted to recommend to the Supreme Court that Superior Court Rule 86, Probate Court Rule 86 and District and Municipal Court Rule 3.22 be repealed, on a temporary basis, and further that said repeal of these rules be sent to the Committee's next public hearing to be considered for adoption on a permanent basis.

Relative to amendments to Superior Court rules pertaining to entry fees for libels and petitions in libel cases, David Peck will follow up with Chief Justice Murphy.

Relative to a review of the Probate Court rules, following a discussion of the rules changes suggested in Judge Maher's November 8, 2002 letter, and on motion of Judge Hampe, seconded by Attorney Middleton, the Committee voted to recommend to the Supreme Court that the Probate Court rules which were adopted on a temporary basis on May 16, 2001 be further amended and adopted on a permanent basis, as contained in Appendix B of these minutes, and further that they be considered as technical amendments.

The meeting adjourned so members could attend the public hearing scheduled for 1:00 p.m. in the courtroom. During the public hearing, the Committee heard

testimony on proposed court rules changes. The Committee took no action during the public hearing.

Following the public hearing, the Committee then discussed, after hearing comments at the public hearing, what action it wished to take on the proposed rules changes.

Following discussion and on motion of Attorney Middleton, seconded by Judge Cullinane, the Committee voted to recommend to the Supreme Court that Supreme Court Rules 32, 33(2), 37(3), 37(A)(a)(6), 38 subsection C(2), 39(2)(a) and 39(4)(a); Superior Court Rules 21, 64-B and 87(b); District and Municipal Court Rules 1.3-A; and Family Division Pilot Program Rule 8 be adopted as submitted to the public hearing and that Superior Court Administrative Rule 1-6 be adopted as further amended by the Committee. In addition, relative to Superior Court Rule 195-A and Family Division Pilot Program Rule 21-A pertaining to attendance of minors, the Committee requested that David Peck draft an amendment to address the concerns raised by Attorney Douglas Hatfield in his October 10, 2002 letter.

The Committee then continued their discussion on items still pending before it.

Relative to amendments to Supreme Court Rule 50-B pertaining to reporting requirements concerning malpractice insurance coverage, following discussion, the Committee asked David Peck to draft a reporting requirement to be added to Supreme Court Rule 50-A to accompany the new rule on malpractice insurance coverage (Professional Conduct Rule 1.17) for the Committee's review at its next meeting.

Relative to rules pertaining to marital masters including Superior Court Administrative Rule chapters 12 and 13, Superior Court Administrative Rule 12-7

and Supreme Court Rule 38, following discussion and on motion duly made and seconded, the Committee voted to submit the following for public comment at the Committee's next public hearing: that Supreme Court Rule 38 be amended as contained in Appendix C of these minutes; and that Superior Court Administrative Rule chapters 12 and 13 be amended or deleted as set forth in David Peck's November 8, 2002 memo to Committee members and contained in Appendix D of these minutes.

The Committee next turned to new items for the Committee's consideration and the following action was taken:

Relative to Supreme Court Rule 47, 48 and 48-A pertaining to fees paid to appointed counsel in cases involving indigent clients, the Committee discussed forming a subcommittee to undertake the review of the rates and maximum fee guidelines requested by the Supreme Court. Following discussion, Judge Mangones and Attorney Taylor agreed to undertake the task during the upcoming year and to report their findings to the Committee by the end of 2003.

Relative to uniform fine schedule, following a brief discussion, the Committee asked David Peck to undertake further inquiry as to whether the uniform fine schedule needs to be reviewed at this time.

Relative to public access to court records, Judge Dalianis reported that the Supreme Court has asked Judge Smukler's subcommittee to continue developing data and to make recommendations to the Supreme Court relative to public access to court records. The Committee asked Mr. Peck to request a status report from Judge Smukler for the Committee's review at its next meeting.

Relative to Supreme Court Rule 32-A, the Committee discussed concerns raised in Attorney Tony Soltani's October 25, 2002 letter and, following discussion, voted to make no changes to Supreme Court Rule 32-A and to have David Peck inform Attorney Soltani of the Committee's decision.

Relative to Supreme Court Rule 24 pertaining to mandate, following discussion and on motion of Judge Dalianis and duly seconded, the Committee voted to send the amendments to Supreme Court Rule 24, as contained in Appendix E of these minutes, to the Committee's next public hearing to be considered for adoption on a permanent basis.

Relative to Supreme Court Rule 42 pertaining to the Committee on Character and Fitness, following a discussion on the proposed amendment suggested by the Committee on Character and Fitness, the Committee asked Judge Dalianis to inform the Supreme Court that the Committee recommends that Supreme Court Rule 42 be amended to provide that suggested rules changes from the Committee on Character and Fitness be forwarded to the Rules Committee for review before adoption.

Relative to Supreme Court Rules 37 and 37A pertaining to a proposal to restructure the Professional Conduct Committee's disciplinary system, following a brief discussion the Committee requested that Attorney James DeHart, Administrator, Professional Conduct Committee, be invited to do a presentation for the Committee at its next meeting.

The Committee scheduled its next meeting for March 19, 2003, at 12:00 p.m. in the judges' conference room of the N.H. Supreme Court building.

No further business to come before the Committee, on motion duly made and seconded, the meeting adjourned at 2:50 p.m.

## APPENDIX A

Further amend Superior Court Administrative Rule 12-9, on a temporary basis, so that said rule, as amended, shall state as follows:

### **12-9. Authority of Marital Masters.**

(a) Marital Masters serving in the Superior Court are authorized to hear domestic relations cases, except matters involving incarceration, as follows: divorce, child custody and visitation between unwed parties, child support, legal separation, paternity, interstate custody and child support under UIFSA, and domestic violence between wed and unwed parties, **and grandparent visitation.**

If possible, a Marital Master presiding at the first hearing in a case will thereafter be assigned to hear all matters pertaining to that case.

(b) Marital Masters serving in the Family Division are authorized to hear family cases, except matters involving incarceration, as follows: guardianship over minors, abuse and neglect of children, divorce, child custody and visitation between unwed parties, child support, legal separation, paternity, interstate custody and child support under UIFSA, and domestic violence between wed and unwed parties, **and grandparent visitation.**

If possible, a Marital Master presiding at the first hearing in a case will thereafter be assigned to hear all matters pertaining to that case.

APPENDIX B

Further amend the following probate court rules and adopt them on a temporary basis as follows:

Amend Rule 2 to read as follows:

**RULE 2: PETITIONS, APPEARANCES - Addresses**

Petitions shall not be accepted for entry unless the mailing address and actual street address of the party filing the Petition appears thereon, and no Appearance shall be filed unless it contains the mailing address and actual street address of each Party included in said Appearance. For good cause shown, any Petition or Appearance rejected for non-compliance with this rule may, upon Motion and compliance, be admitted for filing.

All changes of either mailing address or actual street address shall be filed with the Register. ***The change of address shall include certification that a copy of it has been forwarded to all Attorneys, Pro Se Parties appearing of record, and to all Persons Beneficially Interested.*** Whenever notice to a Party is required, notice to the last mailing address on file shall be deemed notice to, and binding on, the Party.

Repeal and readopt Rule 20 to read as follows:

**RULE 20: WITHDRAWALS**

A. Parties may withdraw an Appearance in the following manner.

1. **A Pro Se Party, including Pro Se Creditor** shall file a withdrawal with the Register and certify that a copy of the withdrawal has been forwarded to all other Parties.

2. **An Attorney for a Creditor** shall file a withdrawal with the Register and certify that a copy of the withdrawal has been forwarded to the Party for whom the Attorney appears at such Party's last known address and to all other Parties.

3. **An Attorney for any other party and Guardian ad Litem** shall file a motion to withdraw with the Register and certify that a copy of the motion has been forwarded to the Party for whom the Attorney appears at such Party's last known address and to all other Parties. In cases scheduled for a hearing, no motion to withdraw shall be granted except for good cause shown. A factor which may be considered by the Court in determining whether good cause for withdrawal has been shown is the client's failure to meet his or her financial obligations to pay for the Attorney's services. A Withdrawal is not effective until the motion to withdraw is granted by the Court.

4. **An Attorney for Respondent** shall file a motion to withdraw with the Register and certify that a copy of the motion has been forwarded to the Party for whom the Attorney appears at such Party's last known address and to all other Parties.

(a) In cases scheduled for a hearing, no motion to withdraw shall be granted except for good cause shown. A factor which may be considered by the Court in determining whether good cause for withdrawal has been shown is the client's failure to meet his or her financial obligations to pay for the Attorney's services. A Withdrawal is not effective until the motion to withdraw is granted by the Court.

(b) Whenever an Attorney is allowed to withdraw an Appearance, and no other Appearance is contemporaneously entered, the Register shall notify the Party by mail of such withdrawal, and, unless the Party appears pro se or by an Attorney by a date fixed by the Court any contested matter shall proceed as though that Party has defaulted and does not wish to be heard.

B. The Court upon Motion, or on its own Motion, may strike a Party from the record, if the Party no longer has an interest in the matter.

Amend Rule 21 to read as follows:

**RULE 21: PLEADINGS - Copies to all Parties**

~~[Unless excused by the Court for good cause shown,]~~ [a] Any Person filing a ~~[Motion,]~~ Pleading~~[,]~~ or correspondence with the Court shall forthwith furnish copies to all Attorneys, Pro Se Parties appearing of record, and to all Persons Beneficially Interested, **unless excused by the Court for good cause shown**. All such ~~[Motions and]~~ Pleadings shall contain a statement of compliance. **This rule shall not apply to any Pleading for which orders of notice are issued and served upon the parties.**

Amend Rule 89 to read as follows:

**RULE 89: FORMAL PROOF OF HIGHWAY WAIVED UNLESS DEMANDED**

In any case in which a road or a way is alleged to be a **"way" as defined in RSA 259:125 or a** public highway, a Party shall notify the opposing Party or that Party's Attorney at least ten (10) days prior to trial if said **"way" or public** highway must be formally proved; otherwise, the need to formally prove said **"way" or public** highway will be deemed to be waived.

Amend Rule 91 to read as follows:

**RULE 91: ADOPTION OF FOREIGN-BORN CHILD**

A. Unless the court orders otherwise, for purposes of RSA 170-B:6, VI, any one of the following documents, which indicate that the child is a foreign adoptee (IR-3 status) or the subject of a foreign guardianship awarded for the purpose of the child's adoption in the United States (IR-4 status), will be accepted by the court as evidence that the

parental rights of the parents of the proposed adoptee have been voluntarily or involuntarily terminated by the proper authorities in a foreign country:

1. An attested or certified copy of the child's actual Visa (Form OF-230), indicating either IR-3 or IR-4 status, issued by the U.S. Consulate in the proposed adoptee's country of birth.
2. An attested or certified copy of the proposed adoptee's alien registration card indicating either IR-3 or IR-4 status.
3. A certified copy of the proposed adoptee's passport issued in his/her country of birth, with the U.S. Visa stamp affixed indicating either IR-3 or IR-4 status.

***B. Unless the Court orders otherwise, for purposes of RSA 170-B:22 II, any of the documents specified in section A above, except those bearing an IR-4 status, are acceptable documentation and satisfactory evidence to establish the validity of a foreign adoption.***

C. ~~B~~ The attestation or certification of the copies deemed acceptable under the preceding sections shall be by a notary public commissioned under the laws of the jurisdiction where the act occurs and shall be substantially in the following form:

"A true copy attest

Notary Public  
My commission expires:  
Affix Notarial Seal Here"

or, alternatively,

"I hereby certify that I have personally examined and compared this copy against the original instrument and find this copy to be a true copy of the original in every respect save this certification.

Notary Public  
My commission expires:  
Affix Notarial Seal Here"

Amend Rule 106-A to read as follows:

**RULE 106-A: MOTIONS FOR LICENSE TO SELL REAL ESTATE TO PAY DEBTS OR LEGACIES**

Motions for a license to sell real estate for the payment of debts or legacies must include a statement, under oath, showing the assets of the estate, the debts (and

legacies, if any) due from the estate, and the estimated amount of the expenses of administration.

**The Motion shall also contain a description of the real estate sufficiently accurate to make conveyance thereof, and shall likewise contain a reference to the book and page number of the deed or title of the decedent, as recorded in the registry of deeds.**

Amend Rule 107 to read as follows:

**RULE 107: SALES WITHOUT LICENSE**

No license is required in the sale of real estate when all heirs **or devisees** consent or when the sale is directed by the will. After any such sale, the Fiduciary shall notify the Court of the net proceeds of the sale within thirty (30) days following receipt of such proceeds.

The notification shall also contain a description of the real estate sufficiently accurate to make a conveyance thereof, and shall likewise contain a reference to the book and page number of the deed or title of the decedent or ward, as recorded in the Registry of Deeds.

**Notification shall not be required from a fiduciary to whom waiver of administration has been granted.**

Amend Rule 118 to read as follows:

**RULE 118: FORM OF EQUITY PETITIONS - Structure**

Every Equity Petition shall contain the county, title of the Court, names, places of abode, and proper description of all Parties to the proceeding. **The Petition shall include the complete mailing and service addresses for the petitioner(s) and all respondents.** The form in substance shall be as follows:

County of \_\_\_\_\_, PROBATE COURT Month, Year  
A.B.  
v.  
C.D.  
NAME OF PETITION  
A.B. of etc., complains against C.D. of etc., and says, etc. and requests, etc...

The Petition may conclude “and thereupon the Petitioner prays,” setting forth the special relief sought, “and for such other relief as may be just”. If an injunction or other special order pending the suit is desired, it shall be specifically requested.

Amend Rule 169 to read as follows:

**RULE 169: FEES**

**ENTRY FEES:**

Original Entry of any Equity Action \$130.00

Petition File and Record Authenticated Copy of Will, Foreign Wills; Petition Estate Administration; Petition Administration of Person Not Heard From; Petition Guardian, Foreign Guardian or Conservator (RSA 464-A); Motion Prove Will in Common and/or Solemn Form (administration required); Motion to Re-examine Will \$105.00

Petition Termination of Parental Rights; Petition Appoint Trustee; Petition Involuntary Admission; Petition Guardian Minor Estate and Person and Estate (RSA 463); Petition Guardian of Incompetent Veteran (RSA 465) \$80.00

Petition Adoption, includes one certificate (no entry fee when accompanied by a petition for termination); Motion successor Trustee, Administrator, Executor, or Guardian of Estate and Person and Estate (RSA 463)(RSA 464-A); All Fiduciary Accounts; Motion to Reopen (estate administration); **Motion to Bring Forward; Motion for Summary Administration** \$55.00

Administration of Small Estates (Voluntary Administration); Petition Change of Name (includes one certificate); Petition Guardian Minor Person (RSA 463); Marriage Waiver (includes certificate/attested copy); Petition Change of Venue (includes authenticated copy fee); Motion Successor Guardian of Person (RSA 463)(RSA 464-A); Motion Sue on Bond; Motion Remove Fiduciary; Motion Fiduciary to Settle Account \$30.00

**ENTRY FEES INCLUDE:**

Preparation and issuance of Orders of Notice, Notice, Copies of Decrees, mailing costs, [~~citation to newspaper for publication,~~] certificate to discharge surety.

**ENTRY FEES DO NOT INCLUDE:**

Notice by publication: This fee shall be paid by the Party or the Attorney for the Party from whom the notice is required. The cost of publication shall be determined by the Register of each county. The request may require that payment be made directly to the publisher of the notice.

In-hand service: If service by a law enforcement officer is required, the Party or the Attorney for the Party from whom the notice is required shall pay the cost of service appropriate county sheriff's department.

Additional copies: If additional copies of any document, or additional certificates are requested beyond those included in normal processing as indicated above, the Party or the Attorney for the Party requesting the additional copies shall pay the costs in advance as indicate under "Certificates & Copies."

**OTHER:**

Defaults (RSA 548:5-a)	\$25.00/each occurrence
Citations/show cause (RSA 548:5-a and 550:2)	\$50.00/each occurrence
Duplicate Audio Tape	\$25.00/each tape

**CERTIFICATES & COPIES:**

Certificates	\$5.00
Certification	\$5.00 plus copy fee
Photocopy of Will	\$1.00/page
All other copied material	\$ .50/page
Authenticated Copy of Probate	\$25.00/each

**"Certificates & Copies"** shall apply to individual requests for the above services, requests for additional certificates beyond those provided with the original entries and requests for additional copies beyond those provided with the original entry fees.

APPENDIX C

Amend Supreme Court Rule 38, Application of the Code of Judicial Conduct section A, so that section A as amended shall state as follows:

A. Anyone, whether or not a lawyer, who is an officer of a judicial system and who performs judicial functions, including an officer such as a magistrate, court commissioner, marital master, special master or referee, is treated as a judge within the meaning of this Code. All judges shall comply with this Code except as provided below.

Further amend Supreme Court Rule 38, Application of the Code of Judicial Conduct section C, by adding a new subsection (4) that states as follows:

(4) Notwithstanding anything above to the contrary, a part-time marital master shall be governed by all of the canons of the Code of Judicial Conduct as provided in Superior Court Administrative Rule 12-7.

APPENDIX D

1. Repeal Superior Court Administrative Rules 13-1 through 13-14.
2. Repeal Superior Court Administrative Rules 12-11, 12-12, 12-17 and 12-18.
3. Amend the following rules in chapter 12 (additions are in bold; deletions in strike-out):

Rule 12-1.

The Marital Master Program is in effect in all ~~10 Counties.~~ **Superior Court and Family Division court locations.** The number of Marital Masters to be assigned ~~in each County~~ **to each court location** shall be determined by the Chairman of the Masters Committee acting through the Administrative Center of the Superior Court, after consultation with the Clerk.

Rule 12-3.

All applicants for appointment as a Marital Master must meet the following qualifications:

- (a) Five years or more in the general practice of law;
- (b) Experience in the handling of ~~marital~~ **domestic relations** cases, including contested matters.;
- ~~— (c) Willingness to serve at least two days a week;~~
- ~~— (d) Willingness to serve in more than one County.~~

Rule 12-4.

As a condition of appointment, Marital Masters are prohibited from **the practice of law.** ~~engaging as counsel in marital cases anywhere. The Masters Committee is authorized in its discretion to rule whether a lawyer can be appointed a Marital Master to serve in a County other than in the County where his or her firm is located, if his or her partners or associates practice marital law. Representation by Marital Masters in Probate Court in connection with custody, guardianships and visitation rights is prohibited.~~

Rule 12-7.

The Masters Committee may at any time consider and act on any grievance or complaint concerning a Marital Master and take whatever action is appropriate, including recommendation to the full Court that the Marital Master's appointment be terminated. All ~~full-time~~ Marital Masters shall be governed by all of the canons of the Code of Judicial Conduct., ~~and other Marital Masters shall be governed by canons 1, 2 and 3 of the Code of Judicial Conduct (see Supreme Court Rule 40).~~ Notwithstanding any appointment, Marital Masters serve at the pleasure of the Court.

Rule 12-8.

Marital Masters shall participate annually in a **such** continuing legal education program **as may be designated and** ~~which shall be approved or supervised by the Masters Committee.~~

~~Rule 12-13.~~ **12-11.**

All marital cases shall be heard in dignified surroundings, either in chambers or in open court. All Marital Masters shall wear a robe except where an informal conference may be desirable (children, etc.). ~~Smoking is not permitted in any chambers conference.~~

~~Rule 12-14.~~ **12-12.**

In addition to Administrative Rules 7-1 through 7-5, the Court has adopted the following policies and rules:

A. DECREES

1. All decrees, findings, rulings, etc., are to be typed before submission to Clerks for issuance except in exceptional circumstances. ~~Marital Masters are authorized to secure outside secretarial assistance when required and charge same to the county. For rates, the Administrative Assistant to the Chief Justice should be contacted.~~

2. Each decree should read: DIVORCE DECREED, not granted and where the divorce is decreed for the cause of irreconcilable differences, the entire cause is to be set forth (statutory language).

3. Property settlements are not subject to retroactive modification, absent claim of fraud, deceit, perjury, concealment, etc.

4. On all orders for support, a date certain should be made in the order for the beginning of support.

5. The captions on any decree should distinguish the character of the decree (temporary-permanent; rulings and/or orders of motions for discovery, visitation, custody, etc.), and should include, when possible, filing date or dates of pleadings resulting in the opinion, decree, or ruling, preferably in parentheses after the overriding caption.

Cross-referencing is to be utilized and pleadings being ruled upon should reflect, "See decree, ruling, etc., of even date", signed by the Presiding Justice.

#### B. RULE 197 AFFIDAVITS

1. Superior Court Rule No. 197 Affidavits are not to be accepted for filing by the Clerks of Court, the Presiding Justice, or Marital Master, unless the same are typewritten.

The foregoing provision of Rule 197 is to be strictly enforced and may be waived by the Presiding Justice, Clerk, or Marital Master only in cases where a party appears pro se and in cases where there is a showing of exceptional circumstances.

2. Rule 197 Affidavits are to be exchanged by counsel/parties prior to hearing.

3. The Court requires that the parties include current fairmarket value of any real estate in the affidavits as well as the lump sum value of any pension plans, whether or not they are vested, and any other relevant information regarding value of such plans.

#### C. AID FOR DEPENDENT CHILDREN

Rule 197 Affidavits are to reflect whether the party is currently receiving assistance and also whether such assistance has ever been received in the past (by period of time and amount). In addition, inquiries should be made as to the likelihood of a party being a recipient in the future. In all divorce cases where a party is awarded custody of the children and support, which is to be paid directly to the party, there is to be a provision in the decree that if the party procures AFDC or TANF in the future, then payments will automatically become payable through the division of human services.

#### D. DIVISION OF HUMAN SERVICES REFERRALS

No referrals for New Hampshire Division of Human Services investigations are to be automatically approved, even when the parties agree. A show cause hearing is to be required except in extraordinary circumstances, and when referrals are approved, inquiry is to be made to determine if the party or parties are to bear the

costs of reference.

When an order is made for the Probation Department to investigate the question of custody, the parties, if financially able, are to be required to help defray the cost; ordinarily a payment of \$200.00 will be sufficient.

If the Division of Human Services is ordered to investigate the question of support, the parties are to be ordered to report to the Division of Human Services and to file copies of their last income tax returns.

Rule ~~12-15.~~ **12-13.**

Marital Masters not on circuit shall not be entitled to reimbursement for any mileage or meals not associated with an overnight stay on court business. Under this policy meals are reimbursed only if connected with an overnight stay; Marital Masters who have to travel to various courthouses are entitled to have mileage expense reimbursed. The mileage allowance shall be at such rate as the Superior Court shall determine from time to time.

Rule ~~12-16.~~ **12-14.**

Marital Masters shall be **paid salaries** ~~allowed reasonable compensation for their services~~ and expenses at such rate as the Superior Court **Judicial Branch** shall determine from time to time.

~~(a) All bills for services and expenses shall be submitted to the Clerk and shall include reference to the day when the Master sat, and the case or cases heard; bills shall be submitted on a one-half day basis when appropriate.~~

~~(b) For deliberation times, research and decision writing, cases shall be listed by case name and number with the amount of time spent per case.~~

~~(c) Expenses shall be itemized, with the amount shown for travel, tolls, parking and typing.~~

~~(d) If the parties voluntarily are paying for a Master, the Clerk shall obtain the Master through the Administrative Center of the Superior Court. Under no circumstances shall a Master be made aware of the financial arrangement. The Clerk shall pay the Master in the first instance and then submit a bill to counsel for reimbursement.~~

APPENDIX E

Amend Supreme Court Rule 24, on a temporary basis, by deleting the current rule and replacing it, so that said rule, as amended, shall state as follows:

**RULE 24. MANDATE**

(1) Within 7 days after the time to file a motion for rehearing or reconsideration has expired, or within 7 days after issuance of an order denying a timely motion for rehearing or reconsideration, whichever is later, the clerk of the supreme court shall forward to the clerk of the lower court or of the administrative agency a mandate. The court may shorten or extend this period of time.

(2) Unless the court directs that a formal mandate issue, the mandate shall consist of a certified copy of the court's opinion or final order.

(3) The mandate is effective when issued.