

ADVISORY COMMITTEE ON RULES
June 26, 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 12:16
p.m.

The following Committee members were present:

Robert L. Chase
Hon. Robert L. Cullinane
Hon. Linda S. Dalianis
Mrs. Alice B. Guay
Senator Ned Gordon
Martin Honigberg, Esquire
Mrs. Amanda Merrill
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
Attorney Middleton, seconded by Judge Cullinane, it was voted to approve the
minutes of the March 20, 2002 meeting of the Committee as amended.

As a result of the vote taken at the last meeting, beginning with the minutes of
the March 20, 2002 meeting, the Committee agreed to make a copy of the minutes
available to the public following the Committee's approval of them and to post the
minutes on the Judicial Branch web page.

In preparation for the public hearing scheduled for 1:00 p.m., written
comments were distributed to Committee members. Judge Dalianis stated that she

would follow the procedure for hearing testimony that was adopted by the Committee for the June 2001 public hearing.

David Peck reported on action taken by the Supreme Court since the Committee's last meeting. The Court has put out for public comment various rules changes recommended by this Committee. Any member wishing to comment can do so before the August 1, 2002 deadline. In addition, the Court recently adopted several technical amendments.

Mrs. Guay arrived to the meeting.

The Committee next reviewed the status of items still pending, and the following action was taken:

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

Relative to Superior Court Administrative Rule 1-6 pertaining to the authority of clerks, following a discussion of the suggestions contained in Attorney Taylor's June 26, 2002 memo, and on motion of Attorney Middleton, seconded by Mrs. Merrill, the Committee voted to send Attorney Taylor's amendments, contained in Appendix A of these minutes, to the Committee's next public hearing.

Relative to a conflict between Supreme Court Rule 7(1) and Superior Court Rule 105, following a review of Anne Zinkin's May 22, 2002 memo, the Committee voted to recommend no changes to either rule at this time.

Relative to Superior Court Administrative Rule 12-9 pertaining to authority of marital masters, Judge Dalianis reported that the subcommittee will convene within the next couple of weeks to review a proposal received from Heidi Boyack.

The meeting then 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 continued its discussion on the status of items still pending.

Relative to the Supreme Court's order requiring the Advisory Committee on Rules to undertake a review of the operation and effect of Superior Court Rule 64B pertaining to questions by jurors, following discussion, the Committee voted to ask David Peck to write a letter to the Supreme Court requesting an extension of time in which to file the report due June 30, 2002.

Relative to whether the Committee's meetings should be public, following discussion, and on motion of Judge Dalianis, seconded by Mrs. Merrill, to hold the meetings in public, the Committee voted six to four not to hold its meetings in public.

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

Relative to Supreme Court Rule 3 pertaining to the definition of "Clerk", on motion of Attorney Middleton, seconded by Judge Mangones, it was voted to recommend to the Supreme Court that the proposed rules changes to Supreme Court Rule 3 be adopted as submitted to the public hearing.

Relative to Supreme Court Rule 12-D pertaining to summary procedures on appeal, following discussion and on motion of Judge Cullinane, seconded by Attorney Middleton, it was voted to amend Supreme Court Rule 12-D, as contained in Appendix B of these minutes, and to recommend to the Supreme Court that the

amended rule remain in effect on a temporary basis for another six months, at which time the Committee will make a recommendation to the Supreme Court as to whether the rule should be adopted on a permanent basis.

Relative to Supreme Court Rule 21 pertaining to authority of clerks and single justices to rule upon motions, on motion of Attorney Middleton, seconded by Mrs. Merrill, it was voted to recommend to the Supreme Court that the proposed rules changes to Supreme Court Rule 21 be adopted as submitted to the public hearing.

Relative to Supreme Court Rule 48 pertaining to maximum fees for appointed counsel in non-criminal cases, on motion of Attorney Honigberg, seconded by Mrs. Merrill, it was voted to recommend to the Supreme Court that the proposed rules changes to Supreme Court Rule 48 be adopted as submitted to the public hearing.

Relative to Supreme Court Rule 49 pertaining to fees in supreme court, on motion of Attorney Honigberg, seconded by Senator Gordon, it was voted to recommend to the Supreme Court that the proposed rules changes to Supreme Court Rule 49 be adopted as submitted to the public hearing.

Relative to Supreme Court Rule 50-A(1) pertaining to filing of trust account certificates by inactive attorneys, on motion of Attorney Middleton, seconded by Judge Mangones, it was voted to recommend to the Supreme Court that the proposed rules changes to Supreme Court Rule 50-A(1) be adopted as submitted to the public hearing.

Relative to Superior Court Rule 100 pertaining to notice of alibi, on motion of Attorney Taylor, seconded by Mrs. Guay, it was voted to recommend to the Supreme Court that the proposed rules changes to Superior Court Rule 100 be adopted as submitted to the public hearing.

Relative to Superior Court Rule 101 pertaining to notice of criminal defense, on motion of Attorney Taylor, seconded by Judge Mangones, it was voted to recommend to the Supreme Court that the proposed rules changes to Superior Court Rule 101 be adopted as submitted to the public hearing.

Relative to Superior Court Rule 169 pertaining to fees, following discussion and on motion of Attorney Taylor, seconded by Attorney Middleton, it was voted to recommend to the Supreme Court that the proposed rules changes to Superior Court Rule 169 be adopted as submitted to the public hearing. It was also recommended that the Supreme Court ask Chief Justice Murphy to alert superior court judges of the change in this rule.

Relative to Supreme Court Rule 42 pertaining to admission to the State bar, the Committee discussed the suggestions made during the public hearing as well as whether the rule should be changed to broaden the reciprocity requirement to allow a lawyer admitted in a state without reciprocity to qualify for admission if he or she has been actively practicing five of the last seven years in a state with reciprocity. Following discussion, the Committee asked David Peck to draft an amendment to the rule to address concerns raised during the public hearing and the Committee's discussion, and to forward said changes to the Committee. The Committee voted, subject to a telephone poll to be done after members review the proposed amendment, to recommend to the Supreme Court that Supreme Court Rule 42 be adopted as amended by the Committee and contained in Appendix C of these minutes.

Relative to Superior Court Rule 170 pertaining to alternative dispute resolution, following a brief discussion, the Committee deferred action on this rule

until its next meeting so that members have the opportunity to review the redlined version of the rule.

Relative to Superior Court Administrative Rule 3-1(d) pertaining to transcripts, on motion of Attorney Middleton, seconded by Judge Cullinane, it was voted to recommend to the Supreme Court that the proposed rules changes to Superior Court Administrative Rule 3-1(d) be adopted as submitted to the public hearing.

Relative to Rules of Professional Conduct Rule 1.17 pertaining to disclosure of information to clients regarding professional liability insurance coverage, following a brief discussion on whether there should be a limit on the amount of any deductible or a minimum amount of malpractice insurance coverage required, the Committee asked David Peck to draft an amendment to the rule to address concerns raised by Committee members and to forward said changes to the Committee. The Committee voted, subject to a telephone poll to be done after members review the proposed amendment, to recommend to the Supreme Court that Rules of Professional Conduct Rule 1.17 be adopted as amended by the Committee.

Relative to Rules of Professional Conduct Rule 7.4(c) pertaining to communications of fields of practice, on motion of Senator Gordon, seconded by Attorney Middleton, it was voted to recommend to the Supreme Court that proposed rules changes to Rules of Professional Conduct Rule 7.4(c) be adopted as submitted to the public hearing.

Relative to Rules of Evidence Rule 512 pertaining to comments upon or inferences from claims of privilege, on motion of Attorney Middleton, seconded by Judge Cullinane, it was voted to recommend to the Supreme Court that proposed

rules changes to Rules of Evidence Rule 512 be adopted as submitted to the public hearing.

The Committee continued its discussion on items still pending before it and the following action was taken:

Relative to Supreme Court Rules 7 and 10 and the Notice of Appeal form which were discussed at the December 12, 2001 public hearing, on motion of Judge Cullinane, seconded by Attorney Middleton, the Committee voted to send Supreme Court Rules 7 and 10 and the Notice of Appeal form, as contained in Appendices D, E and F of these minutes, to the Supreme Court for its consideration.

Relative to comments to the Rules of Professional Conduct, David Peck stated that the N.H. Bar's Ethics Subcommittee is still reviewing the New Hampshire comments to the Rules of Professional Conduct and hopes to have a recommendation for the Committee by its September meeting.

Mrs. Merrill left the meeting.

The Committee next discussed new items before it and the following action was taken:

Relative to amendments to Supreme Court Rule 37A pertaining to the proceedings of the Professional Conduct Committee, following a brief discussion of Attorney Stephen Borofsky's suggestion, and on motion of Attorney Middleton, seconded by Mr. Chase, it was voted to recommend to the Supreme Court that Supreme Court Rules 37A be amended, as contained in Appendix G of these minutes, and that it be considered as a technical amendment.

Relative to an amendment to the "Petition for the Destruction of Controlled Drugs" form, on motion duly made and seconded, the Committee voted to

recommend to the Supreme Court that the “Petition for the Destruction of Controlled Drugs” form be amended, as contained in Appendix H of these minutes, and that it be considered as a technical amendment.

Senator Gordon left the meeting.

Relative to the suggestions to amend miscellaneous rules contained in David Peck’s January 24, 2002 memo to the Committee, on motion of Judge Cullinane, seconded by Attorney Middleton, the Committee voted to recommend to the Supreme Court that the proposed rules changes to Superior Court Administrative Rules 12-5 and 13-5, Superior Court Administrative Rule 3-1(c), Supreme Court Rule 16(9), and Supreme Court Rule 16(12) be adopted, as contained in Appendices I, J, K, and L respectively of these minutes, and with reference to Superior Court Administrative Rule 12-7, the Committee voted to ask the Supreme Court for advice on whether to proceed on considering recommendations for amendments of the rule.

Relative to an amendment to the superior court and family division rules relating to participation by children in court proceedings, following discussion, and on motion of Attorney Taylor, seconded by Judge Mangones, the Committee voted to send the rule suggested in Attorney Jonathan Ross’ March 27, 2002 letter to Chief Justice Murphy to the Committee’s next public hearing.

Relative to the rule dealing with sealing of contingent fee agreements, David Peck agreed to check to see whether the relevant statute had been repealed.

Relative to inconsistencies between superior court and family division rules and orders issued in domestic violence or stalking petitions, following discussion, Attorney Taylor agreed to review the suggestions made by Attorney Theodore Parent

in his October 29, 2001 letter to Chief Justice Murphy and to report back to the Committee at its next meeting.

Relative to amendments to Supreme Court Rules 39(2)(a) and 39(4)(a) pertaining to appointment of members to the Judicial Conduct Committee, on motion of Judge Dalianis, seconded by Attorney Middleton, the Committee voted to send the amendments to Supreme Court Rules 39(2)(a) and Rule 39(4)(a), as contained in Appendix M of these minutes, to the Committee's next public hearing.

Relative to an amendment to Supreme Court Rule 53.2, B, 3 pertaining to continuing legal education requirements, following discussion of Attorney Paul Bernard's June 3, 2002 letter, the Committee requested that David Peck write to Attorney Bernard asking whether he is aware of any continuing legal education requirements for fulltime administrative law judges, hearings examiners and hearing officers.

The remaining items on the agenda were deferred until the next meeting.

The Committee scheduled its next meeting for September 4, 2002 at 12:00 p.m.

No further business to come before the Committee, the meeting adjourned at 4:00 p.m.

APPENDIX A

Amend Superior Court Administrative Rule 1-6 by deleting it and replacing it with the following:

1-6 Authority of Clerks.

In addition to the inherent authority of the clerk of superior court, and all deputy clerks appointed pursuant to RSA 499:13, to perform such duties and acts as may be necessary to effectuate and provide for the orderly and efficient operation of the court and clerk's offices, and to exercise such other powers and responsibilities conferred upon them by statute, court rule or administrative rule, the clerk of superior court for each county and deputy clerks of court who are attorneys licensed to practice in the State of New Hampshire shall have the following authority:

I. To perform administrative acts including but not limited to:

(a) Scheduling of all hearings and issuing notices to appear and transport orders.

(b) Issuing orders of notice or orders setting or amending return days.

(c) Issuing orders relative to service of process.

(d) Effectuating all court orders including the issuance of commitment orders, arrest orders, or summons to appear for contempt proceedings.

(e) Disbursing funds held by the court upon appropriate order by a justice.

(f) Selecting counsel when appointment of counsel is ordered by the court and appointing and selecting counsel to serve as guardian ad litem in domestic and equity matters.

(g) Performing such duties relative to jurors as may be performed by a clerk under RSA 500-A.

The additional authority of deputy clerks who are not attorneys licensed to practice law in the State of New Hampshire shall be limited to Sections I(a), (b), (d), (e) and (g).

II. To be available for appointment by a presiding justice of the superior court as a master pursuant to RSA 519:9 to hear uncontested divorces, applications for temporary orders or ex parte restraining orders in marital cases, petitions for ex parte attachments, and to conduct pretrial conferences in all non-criminal matters, and to make recommendations to the court relative thereto, when a justice or marital master is not present or is otherwise unavailable. Said appointment shall be made by a presiding justice of the superior court and shall not extend for more than 90 days, provided that said appointment can be renewed for additional 90-day periods.

III. After personal review, with the consent of a presiding justice of the superior court

(a) to act on non-criminal motions (including petitions to attach with notice) to which no objection has been filed or to which opposing counsel has indicated there is no objection, provided that the authority is limited to non-dispositive motions in cases where all parties are represented by counsel;

(b) to approve stipulations where all parties have indicated in writing that they agree with the relief requested and are represented by counsel; and

(c) to approve preliminary pretrial stipulations in cases where all parties are represented by counsel.

The signature of the clerk or the attorney deputy clerk taking such action shall appear on the appropriate document involved along with the statement "Acting pursuant to Superior Court Administrative Rule 1-6." In the event that a motion to reconsider or an objection is filed concerning the action taken, the matter shall be scheduled for a hearing before a justice.

IV. To perform the following acts and issue such orders as provided for in the superior court rules, in addition to those rules where the clerk's authority is already specifically delineated:

(a) To enter default and continue for judgment pursuant to Rule 14.

(b) Upon withdrawal of counsel to set a date for the filing of a new appearance pursuant to Rule 20.

(c) To discontinue cases pursuant to Rule 52.

(d) To allow the withdrawal of court documents pursuant to Rule 56.

(e) To enter final judgment pursuant to Rule 74.

(f) In conjunction with the presiding justice, to enter scheduling orders pursuant to Rule 96-A.

(g) To enter orders regarding service by publication pursuant to Rule 128 and Rule 146.

(h) To enter default pursuant to Rule 131 and Rule 139.

(i) To dismiss marital cases which have been pending for two years pursuant to Rule 151.

(j) To waive the waiting period in marital cases pursuant to Rule 152.

(k) To non-suit or dismiss non-jury cases which have been pending for three years pursuant to Rule 168.

The signature of the clerk or the attorney deputy clerk taking any action enumerated in paragraph IV shall appear on the appropriate document involved along with the statement "Acting pursuant to Superior Court Administrative Rule 1-6." In the event that a motion to reconsider or an objection is filed concerning the action taken, the matter shall be scheduled for a hearing before a justice.

Adopt on a temporary basis amendments to Supreme Court Rule 12-D(3) and (6)(b), so that Rule 12-D as amended shall state as follows:

RULE 12-D. SUMMARY PROCEDURES ON APPEAL

(1) Selection of Cases.

(a) By order of the court, consistent with the criteria set out at paragraph (5) below, any case may be set for oral argument before a panel of three justices (3JX panel).

(b) Any party may request or consent that a case be set for oral argument before a 3JX panel. The court will consider and act upon such request, based upon criteria set out at paragraph (5) below.

(c) If all parties of record are represented by counsel, the court may direct that the matter be submitted on briefs, without oral argument. See Rule 18(5).

(d) Except as noted in this rule, the procedure for cases assigned to a 3JX panel shall be the same as otherwise provided in these rules. Any motions made in a case assigned to a 3JX panel shall be acted upon by the panel. The panel may, in its discretion, refer any such motion to the full court for resolution.

(2) Disposition after Argument Before Three Justices; Additional Briefing, etc. Any case which has been heard by a 3JX panel shall be decided by unanimous order of the three justices. If the panel cannot reach a unanimous decision, it shall direct that the case be reargued before the full court. The panel may order that a case be reargued before the full court in such other circumstances as it deems appropriate. The panel may, prior to determining that a unanimous decision cannot be reached, require additional briefing. If argument before the full court is ordered, the court may issue an additional order setting forth matters to be reargued or rebriefed.

(3) Nonprecedential Status of Orders. An order issued by a 3JX panel shall have no precedential value; provided, however, that such order shall be controlling with respect to issues of claim preclusion, law of the case and similar issues involving the parties or facts of the case in which the order was issued. No order issued by a 3JX panel shall be cited in any pleading without specifically disclosing in the pleading that the order was issued by a 3JX panel.

(4) Opinions. With the consent of all the parties, a 3JX panel may recommend to the full court that a published opinion be issued in the case. If the court accepts the referral, the two justices not on the panel may participate in the opinion by reading the briefs and reviewing oral arguments. Without the consent of the parties, a 3JX panel which believes a published opinion should be issued in the case may order the case be reargued before the full court.

(5) Criteria for Selection of Cases for 3JX Panel. Cases suitable for oral argument before a 3JX panel include, but are not limited to:

(a) appeals involving claims of error in the application of settled law;

(b) appeals claiming an unsustainable exercise of discretion where the law governing that discretion is settled;

(c) appeals claiming insufficient evidence or a result against the weight of the evidence.

(6) Briefing, Argument, etc.

(a) In all cases selected for oral argument before a 3JX panel, briefs shall be limited to 20 pages, exclusive of the table of contents, tables of citations and any addendum containing pertinent texts of constitutions, statutes, rules, regulations and other such matters. Reply briefs shall be limited to 10 pages.

(b) Oral argument will be limited to five minutes per side. In the event of multiple parties on the same side, the court may determine, either upon the court's own motion or upon motion of a party, an appropriate amount of time for oral argument.

(7) Motion for Rehearing or Reconsideration. Motions for rehearing or reconsideration of any order assigning a case to a three-justice panel or of any order issued by a three-justice panel shall be governed by Rule 22.

Amend Supreme Court Rule 42 by deleting said rule in its entirety, and replacing it with the following:

Rule 42. ADMISSION TO THE BAR; COMMITTEE ON CHARACTER AND FITNESS

(1) Unless otherwise provided in these rules, all admissions to the bar shall be by examination only. A board of bar examiners consisting of thirteen (13) or more members of the bar of the State will be appointed to examine persons desiring to be admitted to the bar. Appointments to the Board of Bar Examiners shall be for terms of three (3) years.

(2) There shall be two (2) complete examinations annually to be given at the Supreme Court Building in Concord or such other place as may be determined by the court. The examinations shall be in such form and length, and shall cover such subjects as the board of bar examiners may determine. One examination shall be held on the last Wednesday of February and the day following; and the second examination shall be held on the last Wednesday of July and the day following.

(3) (a) Any person domiciled in the United States of the age of 18 years shall be eligible to apply for examination provided he or she is possessed of the qualifications hereinafter provided.

(b) An applicant whose disability requires testing accommodations shall submit a written request to the clerk of the supreme court at the time that the applicant files the petition and questionnaire as provided in Rule 42(5)(e). A copy of the request shall be submitted at the same time to the chair of the board of bar examiners. The written request shall be submitted pursuant to the testing accommodations policy approved by the supreme court and shall describe:

- (i) The type of accommodation requested; and
- (ii) The reasons for the requested accommodation, including medical documentation in a format set forth in the policy referenced above.

(c) The request shall be ruled upon in the first instance by the chair of the board of bar examiners, and the applicant shall be notified of the decision. A denial or modification of a request for testing accommodations by the chair may be appealed to the board of bar examiners in accordance with the procedures set

forth in the testing accommodations policy. The decision on appeal constitutes a final decision of the board. Review of the board's decision may be requested from the supreme court.

(4)(a) Every such applicant must furnish satisfactory proof that before beginning the study of law he successfully completed at least three (3) years of work required for a bachelor's degree in an accredited college.

(b) Every such applicant must have graduated from a law school approved by the American Bar Association having a three (3) year course and requiring students to devote substantially all their working time to study, called a full-time law school, or from a law school approved by the American Bar Association having a course of not less than four (4) school years equivalent in the number of working hours to a three (3) year course in a full-time law school and in which students devote only part of their working time to their studies, called a part-time law school. Notwithstanding the foregoing sentence, a person who has graduated from a foreign law school in an English-speaking, common law country and who has pursued a course of study substantially equivalent to that of a law school approved by the American Bar Association shall be eligible to apply for examination provided that such person is (a) a member in good standing of the bar of that country, or (b) the holder of a master's degree from a law school approved by the American Bar Association or (c) a member of the bar of one of the States of the United States who was admitted after examination and is in good standing. A combination of study in full-time and part-time law schools will be accepted only if such law schools meet the above requirements, and the applicant shall have graduated from one or the other. Study in any law school which conducts its courses by correspondence or does not require attendance of its students at its lectures or classes shall not constitute compliance with the rule.

(5)(a) All persons who desire to be admitted to practice law shall be required to establish their moral character and fitness to the satisfaction of the Standing Committee on Character and Fitness of the Supreme Court of New Hampshire in advance of such admission.

(b) The standing committee on character and fitness shall be appointed by the Supreme Court of New Hampshire. Its members shall be seven (7) in number and shall include (i) six (6) members of the New Hampshire Bar Association as follows: (a) one (1) member of the board of bar examiners; (b) one (1) member of the committee on professional conduct; (c) the attorney general of New Hampshire or his deputy; (d) the clerk of the supreme court or his deputy; and (e) two (2) other members of the New Hampshire Bar Association, one of whom shall be designated chairman of the committee; and (ii) one (1) layperson.

(c) The terms of the attorney general and of the clerk of the supreme court as members of the standing committee on character and fitness shall be coterminous with their terms of office; and, in the absence of either the attorney general or the clerk of the supreme court, his deputy is authorized to act as an

alternate, exercising all the powers of an appointed member of the committee. Each other member of the standing committee shall be appointed for a term of three (3) years and shall be eligible for reappointment. Members of the committee shall receive no compensation for their services, but their reasonable expenses shall be funded from the fee (hereinafter outlined) paid by those persons seeking admission to practice law in the State of New Hampshire.

(d) Each person shall be immune from civil liability for all of his statements made in good faith to the committee, the office of the attorney general or to this court or given in any investigation or proceedings pertaining to the application. The protection of this immunity does not exist as to statements made to others. The committee, its staff, counsel, investigators and any members of any hearing panels, shall be immune from civil liability for any conduct arising out of the performance of their duties.

(e) Persons seeking admission to the practice of law: (i) by examination shall, not later than May 1 of the year in which they intend to take a July examination and not later than December 1 next preceding the year in which they intend to take a February examination, and (ii) by motion shall, not later than the date upon which the motion for admission is filed with the supreme court, file with the committee on character and fitness and with the clerk of the supreme court the petition and questionnaire on a form to be furnished by the clerk. The questionnaire shall also contain a certificate signed by two (2) persons certifying the applicant's good moral character. The questionnaire shall be executed by the applicant under oath. The foregoing requirements as to the time of filing may be waived by the committee for good cause shown. If the applicant is applying for readmission, the administrator shall cause a notice to be published in a newspaper with general circulation, as well as in the New Hampshire Bar News, that the applicant has applied for readmission. The notice shall invite anyone to comment on the application by submitting said comments in writing to the administrator within twenty (20) days. All comments shall be made available to the applicant. Where feasible, the administrator shall give notice to the original complainant.

(f) Any person who seeks admission to practice law in the State of New Hampshire shall at all times have the burden of proving his good moral character before the committee on character and fitness, and the Supreme Court of New Hampshire. The failure of an applicant to answer any question on the petition and questionnaire or any question propounded by any member of the committee on character and fitness of the supreme court, or to supply any documentary material requested by them or any of them, shall justify a finding that the applicant has not met the burden of proving his good moral character.

(g) Any person who seeks admission to practice law in the State of New Hampshire shall agree to waive all rights of privacy with reference to any and all documentary material filed or secured in connection with his application. The applicant shall also agree that any such documentary material, including the

character questionnaire, may be offered into evidence, without objection, by the committee on character and fitness in any proceeding in regard to the applicant's admission to the practice of law.

(h) All matters referred to the committee for investigation shall be confidential. No member of the committee at any time, either while a member of the committee or thereafter, shall disclose any matter in any file, except at the request of the committee, or the supreme court or unless legally required to do so. All minutes or records circulated to members of the committee shall be kept confidential. All records relating to matters referred to the Committee shall be retained in the committee's permanent files.

(i) Upon receiving the petition and questionnaire, the committee on character and fitness shall promptly (a) verify such facts stated in the questionnaire, communicate with such references given therein, and make such further investigation as it may deem desirable or necessary; (b) if it deems necessary, arrange for a personal interview with the applicant; (c) consider the character and fitness of the applicant to be admitted to the practice of law; and (d) transmit to the supreme court a report of its investigation and its recommendation in regard to the character and fitness of the applicant for admission to the practice of law.

(j) If the recommendation of the committee on character and fitness is against admission, the report of the committee shall set forth the facts upon which the adverse recommendation is based and its reasons for rendering an adverse recommendation. The committee shall promptly notify the applicant about the adverse recommendation and shall give the applicant an opportunity to appear before it and to be fully informed of the matters reported to the court by the committee, and to answer or explain such matters.

(k) If, following such appearance, the committee is still of the opinion that an adverse report should be made on the application, it shall first give the applicant the privilege of withdrawing the application. If the applicant elects not to withdraw the application, and the second report and recommendation of the committee to the court is against approval of the application, the court, upon receipt of the report with the adverse recommendation by the committee, may grant the application or shall require the applicant to show cause why his application should not be denied.

(l) The fee for the character and fitness investigation shall be in such amount as the supreme court shall from time to time determine. This sum shall be paid to the treasurer of the New Hampshire Bar Association in addition to the fee paid to the clerk of the supreme court for the taking of the examination for admission to practice or for the filing of the motion for admission to practice without examination. Both fees shall be nonrefundable.

(6) A person who fails twice in an examination for admission to the bar will not be permitted to take another examination until the court, upon special consideration of the case, shall make an order to that effect. Upon filing a motion requesting such permission and representing that a recognized bar review course will be taken prior to the next examination, a person who has failed the examination twice or three times will be granted permission to take it a third or fourth time, as the case may be. Such permission shall be conditional on the applicant's filing with the court, prior to sitting for the examination, an affidavit that the course has been successfully completed. A person who has failed four times will not be permitted to retake the examination. Provided, however, that any person who has failed four times prior to [insert effective date of this amendment] may be permitted to retake the examination one time after said date upon compliance with the requirements set forth above for a person who has failed twice. A person who has failed four times prior to said date and failed once after said date will not be permitted to retake the examination.

(7)(a) Each person seeking to practice law in New Hampshire is required to attend a practical skills course to be presented annually by the New Hampshire Bar Association. The course will assist new admittees in developing basic lawyering skills and in gaining practical knowledge of New Hampshire practice and procedures. Attendance is required and each new admittee will be required to execute an affidavit stating that he or she has attended each session of the course unless otherwise excused by the supreme court. A special committee of the New Hampshire Bar Association Continuing Legal Education Committee will administer the practical skills course but no test will be required. Each new admittee will be licensed to practice law subject to the condition that he or she complete the practical skills course within two years of the date of admission to the bar (unless the admittee satisfies the requirements of paragraph (b) or, in exceptional instances, a longer period is approved in writing by the Court) or his or her license to practice shall be revoked.

(b) A new admittee's license to practice shall not be so revoked if, within two years after being admitted to the bar and before completing the practical skills course, he or she leaves New Hampshire on a military or other government service assignment for more than a brief period, intending later to satisfy the requirements of the rule, and promptly so notifies the Court in writing; provided, however, he or she attends a practical skills course given within three years of the date of departure, and further provided that, if he or she shall have completed the assignment and returned to New Hampshire within the three-year period, the course taken shall be the first available course given after his or her return. The admittee shall notify the Court promptly of his or her return within the three-year period. Upon written request in exceptional instances, the Court may extend the three-year period following the date of departure within which the admittee must attend a practical skills course.

(c) Attendance at the practical skills course means, for all new admittees, personal attendance at all sessions of the course.

(d) Exemptions from the practical skills course requirements, or any portion thereof, shall be granted only upon written application filed with the Court, setting forth the exceptional circumstances believed to justify the requested exemption.

(e) The practical skills course requirement shall apply to all persons admitted to practice after March 5, 1980, and the provisions of paragraphs (b), (c) and (d) here of are expressly made applicable to all persons subject to such requirement.

(f) In addition to the other requirements of this Rule, all persons who desire to be admitted to practice law shall produce evidence of satisfactory completion of the Multistate Professional Responsibility Examination. The Board of Bar Examiners shall determine the minimum score level which will establish satisfactory completion of the Multistate Professional Responsibility Examination, wherever such satisfactory completion may be required by these Rules.

(8) Except upon approval of the supreme court for good cause shown, the oath of admission required by RSA 311:6 must be administered within two years from the time the applicant has been notified of the successful passing of the bar examination or within two years of the date upon which the motion for admission without examination has been granted. If the oath of admission is not so administered, the examination must be taken again and passed or the applicant must file a new motion for admission without examination.

(9) All persons admitted to practice law shall notify the New Hampshire Bar Association immediately in writing of all changes of residence address and address of principal office.

(10) (a) An applicant who is domiciled in the United States, is of the age of 18 years, and meets the following requirements may, upon motion, be admitted to the practice of law without taking and passing the New Hampshire bar examination. The applicant shall:

(i) Have been admitted by bar examination to practice law in another state, territory, or the District of Columbia;

(ii) Have graduated from a law school approved by the American Bar Association having a three (3) year course and requiring students to devote substantially all their working time to study, called a full-time law school; from a law school approved by the American Bar Association having a course of not less than four (4) school years equivalent in the number of working hours to a three (3) year course in a full-time law school and in which students devote only part of their working time to their studies, called a part-time law school; or from a foreign law school in an English-speaking, common law country having pursued a course of study substantially equivalent to that of a law school approved by the American Bar Association. A combination of study in full-time and part-time law schools

will be accepted only if such law schools meet the above requirements, and the applicant shall have graduated from one or the other. Study in any law school which conducts its courses by correspondence or does not require attendance of its students at its lectures or classes shall not constitute compliance with the rule;

(iii) Have been primarily engaged in the active practice of law in one or more states, territories, or the District of Columbia for five of the seven years immediately preceding the date upon which the motion is filed;

(iv) Have either:

(A) taken and passed the bar examination in another state, territory, or the District of Columbia that allows admission without examination of persons admitted to practice law in New Hampshire under circumstances comparable to those set forth in this rule; or

(B) been primarily engaged in the active practice of law in a state, territory, or the District of Columbia for five of the seven years immediately preceding the date upon which the motion is filed that allows admission without examination of persons admitted to practice law in New Hampshire under circumstances comparable to those set forth in this rule;

(v) Produce evidence of satisfactory completion of the Multistate Professional Responsibility Examination;

(vi) Establish that the applicant is currently a member in good standing in all jurisdictions where admitted;

(vii) Establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

(viii) Establish that the applicant possesses the character and fitness to practice law in New Hampshire; and

(ix) Designate the clerk of the supreme court for service of process.

(b) For the purposes of Rule 42, the "active practice of law" shall include the following activities:

(i) Representation of one or more clients in the private practice of law;

(ii) Service as a lawyer with a local, state, or federal agency, including military service;

(iii) Teaching law at a law school approved by the American Bar Association;

(iv) Service as a judge in a federal, state, or local court of record;

(v) Service as a judicial law clerk; or

(vi) Service as corporate counsel.

(c) For the purposes of Rule 42, the "active practice of law" shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located.

(11) An applicant who is domiciled in the United States, is of the age of 18 years, and meets the following requirements may, upon motion, be admitted to the practice of law without taking and passing the New Hampshire bar examination, provided that the State of Vermont allows admission without examination of persons admitted to practice law in New Hampshire under circumstances comparable to those set forth in this rule. The applicant shall:

(a) Be licensed to practice law in the State of Vermont and be an active member of the Vermont bar;

(b) Have been actively engaged in the practice of law in Vermont for no less than three years immediately preceding the date upon which the motion is filed;

(c) Establish that the applicant is currently a member in good standing in all jurisdictions where admitted;

(d) Establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

(e) Establish that the applicant possesses the character and fitness to practice law in New Hampshire; and

(f) Have completed at least fifteen hours of continuing legal education on New Hampshire practice and procedure in courses approved by the NHCLE Board within one year immediately preceding the date upon which the motion is filed and be certified by the NHCLE Board as satisfying this requirement.

(12) An applicant who has failed the New Hampshire bar examination within five years of the date of filing a motion for admission without examination shall not be eligible for admission on motion. An applicant who is not permitted to retake the New Hampshire bar examination pursuant to Rule 42(6) shall not be eligible for admission on motion. An applicant who has resigned from the New Hampshire bar shall not be eligible for admission on motion, but may be eligible for readmission upon compliance with the requirements of Rule 37(12-a).

(13) In addition to anything required above, the supreme court may require any applicant under this rule to complete such applications or submit such information as it deems relevant.

Amend Supreme Court Rule 7 by deleting it and replacing it with the following:

RULE 7. APPEAL FROM LOWER COURT DECISION ON THE MERITS

(1) The supreme court may, in its discretion, decline to accept an appeal, or any question raised therein, from a lower court after a decision on the merits, or may summarily dispose of such an appeal, or any question raised therein, as provided in rule 25. Unless otherwise provided by law, such an appeal shall be by notice of appeal in the form of notice of appeal approved by the supreme court and appearing in the appendix to these rules, filed by the moving party within 30 days from the date on the clerk's written notice of the decision on the merits.

NOTE: The definition of "decision on the merits" in rule 3 includes decisions on motions made after an order, verdict, opinion, decree or sentence. A timely filed post-trial motion stays the running of the appeal period for all parties to the case in the lower court including those not filing the motion. Untimely filed post-trial motions will not stay the running of the appeal period unless the lower court waives the untimeliness within the appeal period. Successive post-trial motions will not stay the running of the appeal period. See *Petition of Ellis*, 138 N.H. 159 (1993).

In criminal appeals, the time for filing a notice of appeal shall be within 30 days from the date of sentencing or the date of the clerk's written notice of disposition of post-trial motions, whichever is later, provided, however, that the date of the clerk's written notice of disposition of post-trial motion shall not be used to calculate the time for filing a notice of appeal in criminal cases if the post-trial motion was filed more than 10 days after sentencing.

(2) An appeal shall be deemed filed when the original and 12 copies of the notice of appeal in proper form, together with the filing fee, are received by the clerk of this court within 30 days from the date on the clerk's written notice of the decision.

(3) An appeal permitted by law on a different form and by a different procedure shall be deemed timely filed when it is received by the clerk of this court on the form and by the procedure prescribed by law.

(4) All parties to the proceedings in the court from whose decision on the merits the appeal is being taken shall be deemed parties in this court, unless the moving party shall notify the clerk of this court in writing of his belief that one or more of the parties below has no interest in the outcome of the transfer. The moving party shall mail a copy of the letter first class, or give a copy, to each party in the proceeding below. A party thus designated as no longer interested may remain a party in this court by notifying the clerk of this court, with notice mailed first class or given to the other parties, that he has an interest in the transfer. Parties supporting the position of the moving party shall meet the time schedule provided for that party.

(5) If a timely notice of appeal is filed by a party, any other party may file a notice of cross-appeal within 10 days from the date on which the first notice of appeal was filed and shall pay a filing fee therewith.

(6) The appealing party shall attach to the notice of appeal the following documents in order: (a) a copy of the trial court decision or order from which the appealing party is appealing; (b) the clerk's notice of the decision or order below; (c) any court order deciding a timely post-trial motion; and (d) the clerk's notice of any order deciding a timely post-trial motion. The notice of appeal shall contain a table of contents. Other documents and pleadings that the appealing party believes the court needs to evaluate the issues raised on appeal or to determine whether the appeal is timely filed may be included in a separately bound Appendix, which must have a table of contents on the cover and sequentially numbered pages. Only 8 copies of any Appendix need be filed. Note: Also see Rule 26.

(7) If an issue on appeal is the legal sufficiency of the evidence, the statement of that issue in the appealing party's response to section 11 of the notice of appeal form shall contain a succinct statement of why the evidence is alleged to be insufficient as a matter of law.

Amend Supreme Court Rule 10 by deleting it and replacing it with the following:

RULE 10. APPEAL FROM ADMINISTRATIVE AGENCY UNDER RSA 541

(1) The supreme court may, in its discretion, decline to accept an appeal, or any question raised therein, from an order of an administrative agency, or may summarily dispose of such an appeal, or any question raised therein, as provided in rule 25. Review of an order of an administrative agency, when authorized by law, shall be obtained by filing the original and 12 copies of an appeal under RSA 541 on the form of notice of appeal approved by the supreme court and appearing in the appendix to these rules, accompanied by the required entry fee within the time prescribed by law.

NOTE: To appeal to the supreme court from an administrative agency under RSA 541, the appealing party must have timely filed for a rehearing with the administrative agency. See RSA 541:4 and Appeal of White Mountains Education Association, 125 N.H. 771 (1984). The time period for the appeal does not begin to run until the administrative agency has acted upon the motion.

The appealing party shall attach to the notice of appeal the following documents in order: (a) a copy of the agency decision or order from which the appealing party is appealing; (b) the appealing party's motion for rehearing or reconsideration filed with the agency; and (c) the agency order deciding the motion for rehearing or reconsideration. The notice of appeal shall contain a table of contents. Other documents and pleadings that the appealing party believes the court needs to evaluate the issues raised on appeal or to determine whether the appeal is timely filed may be included in a separately bound Appendix, which must have a table of contents on the cover and sequentially numbered pages. Only 8 copies of any Appendix need be filed. Note: Also see Rule 26.

(2) The order sought to be reviewed or enforced, the findings and rulings, or the report on which the order is based, and the pleadings, evidence, and proceedings before the agency shall constitute the record on appeal.

(3) The administrative agency, complying with the provisions of rule 6(2) as to form, shall file the record with the clerk of the

supreme court as early as possible within 60 days after it has received the supreme court's order of notice. The original papers in the agency proceeding or certified copies may be filed.

(4) The parties may designate by stipulation filed with the clerk of the supreme court that no part, or that only certain parts, of the record shall be filed with the court.

(5) If anything material to any party is omitted from the record by error or accident or is misstated in the record, the parties by stipulation may provide, or the supreme court on motion or on its own initiative may direct, that the omission or misstatement be corrected and, if necessary, that a supplemental record be prepared and filed.

(6) The entire record of the agency proceeding, whether filed with the supreme court or not, shall be a part of the record on appeal.

(7) In lieu of the record as defined in section (2) of this rule, the parties may prepare and sign a statement of the case showing how the questions of law transferred arose and were decided, and setting forth only so many of the facts as are essential to a decision of the questions presented.

(8) Notice by serving, delivering or mailing a copy of the appeal upon all parties or opponents below as well as the agency involved and the attorney general is the responsibility of the moving party.

(9) If a timely appeal is filed by a party appealing from an administrative agency under RSA 541, any other party may file a cross-appeal within 10 days from the date on which the appeal was docketed with this court, and shall pay a filing fee therewith, provided that the party filing the cross-appeal must have timely filed any required motion for rehearing with the administrative agency.

APPENDIX F

Amend the Supreme Court Forms by: (1) deleting the "Outline of Petition Form"; and (2) by deleting the "Notice of Appeal" form and replacing it with the following

NEW HAMPSHIRE SUPREME COURT

NOTICE OF APPEAL

1. COMPLETE CASE TITLE IN TRIAL COURT OR AGENCY

2. COURT OR AGENCY APPEALING FROM INCLUDING NAME OF JUDGES AND DOCKET NUMBERS

3. NAME AND ADDRESS OF APPEALING PARTY

3A. NAME, ADDRESS AND TELEPHONE NUMBER OF COUNSEL

4. NAME AND ADDRESS OF OPPOSING PARTY

4A. NAME, ADDRESS AND TELEPHONE NUMBER OF COUNSEL

5. DATE OF CLERK'S NOTICE OF DECISION OR SENTENCING

6. CRIMINAL CASES: DEFENDANT'S SENTENCE AND BAIL STATUS

7. NAMES OF ALL OTHER PARTIES AND COUNSEL IN TRIAL COURT OR AGENCY

8. IS ANY PART OF CASE CONFIDENTIAL? IF SO, CITE AUTHORITY

9. IF ANY PARTY IS A CORPORATION, ATTACH A LIST OF THE NAMES OF PARENT, SUBSIDIARIES AND AFFILIATES

10. NATURE OF CASE AND RESULT (limit two pages double-spaced):

11. ISSUES ON APPEAL (limit eight pages double spaced):

The New Hampshire Supreme Court reviews each notice of appeal and decides, in its discretion, whether to accept the case, or some issues in the case, for full appellate review. The following acceptance criteria, while neither controlling nor fully describing the court's discretion, indicate the character of the reasons that will be considered.

1. The case raises a question of first impression, a novel question of law, an issue of broad public interest, an important state or federal constitutional matter, or an issue on which there are conflicting decisions in New Hampshire courts.
2. The decision below conflicts with a statute or with prior decisions of this court.
3. The decision below is erroneous, illegal, unreasonable or was an abuse of discretion.

Separately number each issue you are appealing and for each issue: (a) state the issue; and (b) explain why the acceptance criteria listed above support acceptance of that issue.

Attach to this notice of appeal the following documents in order: (1) a copy of the trial court or agency decision or order from which you are appealing; (2) the clerk's notice of the decision below; (3) any court or agency order deciding a timely post-trial motion (in agency appeals also attach your motion for rehearing); (4) the clerk's notice of any order deciding a timely post-trial motion.

Do not attach any other documents to this notice of appeal. Other documents may be included in a separately bound Appendix, which must have a table of contents on the cover and consecutively numbered pages.

12. CERTIFICATIONS

I hereby certify that every issue specifically raised has been presented to the court/agency below and has been properly preserved for appellate review by a contemporaneous objection or, where appropriate, by a properly filed pleading.

Appealing Party or Counsel

I hereby certify that on or before the date below copies of this notice of appeal have been served on all parties to the case and have been filed with the clerk of the court/agency from which the appeal is taken in accordance with Rule 26(2).

Date

Appealing Party or Counsel

APPENDIX G

Amend Supreme Court Rule 37A(2)(a)(2)(A) by deleting it and replacing it with a new subsection; amend Rule 37A(2)(a)(5)(C) by deleting it and replacing it with a new subsection; and amend Rule 37A by adding a new subsection 37A(7), all as follows:

[Rule 37A(2)(a)(2)(A)]

(2) *Initiation of Investigation Process.*

(A) *Grievance.*

(1) Any person may file a grievance with the committee to call to its attention the conduct of an attorney that he or she believes constitutes misconduct which should be investigated by the committee. If necessary, the administrator of the committee will assist the grievant in reducing the grievance to writing. The grievant shall serve a copy of the grievance upon each of the attorney(s) who is the subject of the grievance in accordance with section (7) of this rule.

(2) In accordance with a judge's obligation under Canon 3 of the Code of Judicial Conduct to report unprofessional conduct of an attorney of which the judge is aware, a judge of the supreme, superior, district or probate courts of New Hampshire, may refer any matter to the committee which he or she believes may constitute misconduct by an attorney that should be investigated by the committee. In accordance with an attorney's obligation under Rule 8.3 of the Rules of Professional Conduct to report unprofessional conduct of an attorney of which he or she has knowledge, a member of the Bar of New Hampshire, may refer any matter to the committee which he or she believes may constitute misconduct by an attorney that should be investigated by the committee. Except as otherwise provided, a referral from a court or attorney shall be treated as a grievance. Upon receipt of a referral, the committee shall determine whether the referring judge or attorney wishes to be treated as a grievant. If the referring judge or attorney does not wish to be treated as a grievant, and, if it is determined after initial screening that the grievance is within the jurisdiction of the committee and meets the requirements for docketing as a complaint as set forth in section (2)(a)(3)(B), the committee shall process the grievance as a committee-generated complaint.

[Rule 37A(2)(a)(5)(C)]

(C) *Request for Answer to Complaint.* After a complaint is docketed, the administrator shall promptly forward to the respondent a copy of the complaint and a request for an answer thereto or to any portion thereof specified by the committee. Unless a shorter time is fixed by the committee chair and specified in such notice, the respondent shall have 30 days from the date of such notice within which to file his or her answer with the committee. The respondent shall serve a copy of the answer in accordance with section (7) of this rule. If an answer is not received within the specified period, or any granted extension, absent good cause demonstrated by the respondent, the committee shall prepare a notice of charges requiring the respondent to appear before the committee or a hearing panel and to show cause why he or she should not be determined to be in violation of Rules 8.1(b) and 8.4(a) of the Rules of Professional Conduct for failing to respond to the committee's request for an answer to the complaint.

[Rule 37A(7)]

(7) *Service of Copies.*

(a) Copies of all pleadings filed and communications addressed to the committee by the grievant or complainant shall be furnished forthwith to each attorney who is the subject of the grievance or complaint. All such pleadings and communications shall contain a statement of compliance herewith.

(b) Copies of all pleadings filed and communications addressed to the committee by the attorney who is the subject of the grievance or complaint shall be furnished forthwith to the grievant or complainant and to any other attorney who is the subject of the grievance or complaint. All such pleadings and communications shall contain a statement of compliance herewith.

(c) Service on a person who is represented by counsel shall be made on counsel. Service may be personal or by first class mail.

(d) In the interest of furthering any investigation, or for other good cause, the committee may waive the requirements of this section (7) on its own motion or the motion of another.

APPENDIX H

Amend Superior Court Form entitled "Petition for Destruction of Controlled Drugs" by repealing it and replacing it with the following:

The State of New Hampshire

Superior Court

_____ **County**

PETITION FOR DESTRUCTION OF CONTROLLED DRUGS

NOW COMES the State of New Hampshire, by the subscribing law enforcement agency, and respectfully states as follows:

1. The controlled drugs listed on the attached schedule were seized by the _____ under the authority of RSA 318-B. *(law enforcement agency)*

2. These drugs were seized either pursuant to valid search warrants, on probable cause without a warrant, or by search consented to by the custodian of the drugs.

3. The attached schedule lists the places where the drugs were seized, the kind and quantities of drugs seized, and (if applicable) the defendants' names, the court(s) in which prosecutions were instituted, along with case number(s) and notes of the case(s).

4. Lawful possession of the listed drugs has not been established by any person, nor can title to the drugs be ascertained.

WHEREFORE, the State of New Hampshire respectfully requests that this Honorable Court grant the following relief:

A. Pursuant to RSA 318-B:17, I, Order that the drugs be forfeited and destroyed by the subscribing law enforcement agency; and

B. Grant such other relief as may be just.

Date

Law Enforcement Officer

The State of New Hampshire

_____ County

The above petition was subscribed and sworn to, before me, this ___ day of _____, 20__.

Justice of the Peace/Notary Public

Amend Superior Court Form entitled "Order relative to destruction of drugs [includes return of order]" by repealing it and replacing it with the following:

The State of New Hampshire

Superior Court

_____ **County**

Case No. _____

ORDER RELATIVE TO PETITION FOR DESTRUCTION OF CONTROLLED DRUGS

A petition for the destruction of the drugs was filed in this Court on
_____ by the _____.
(law enforcement agency)

It is found, based on the allegations contained in the petition, which petition was made under oath, that the lawful title to or possession of the drugs has not been established or cannot be ascertained.

It is therefore **Ordered** that the drugs listed in the petition be forfeited and destroyed pursuant to the provisions of RSA 318-B:17, I, with the exception of those listed below.

Drugs listed in the petition which are not to be destroyed:

_____.

Date

Presiding Justice

The State of New Hampshire

Superior Court

_____ **County**

Case No. _____

Return

I received the attached Order and have executed it as follows:

On _____, 20____, at _____ a.m./p.m., I destroyed the drugs described in the Order in the following manner:

_____.

The drugs were destroyed in the presence of:

_____.

I swear that this Return is a true and detailed account of the destruction of the drugs ordered destroyed in the attached Order.

Date

Law Enforcement Officer

The State of New Hampshire

_____ County

Subscribed and sworn to and returned, before me this ___ day of _____, 20____.

Justice of the Peace
Notary Public

APPENDIX I

Amend Superior Court Administrative Rules 12-5 and 13-5 to correct the address of the Administrative Center of the Superior Court, so that said rules as amended shall state as follows:

12-5. Applications to serve as a Marital Master shall be on forms supplied by the Masters Committee and shall be filed with the Administrative Center of the Superior Court, 17 Chenell Drive, Suite 1, Concord, New Hampshire 03301. All applications shall be referred to the New Hampshire Bar Association Board of Governors for recommendations as to whether the applicant is qualified or not qualified to serve as a Marital Master. Upon receipt of the Board of Governors' recommendations, each applicant shall be interviewed and evaluated by the Masters Committee, which shall make its recommendations to the full Court.

13-5. Applications to serve as a Regular or Special Master shall be on forms supplied by the Masters Committee and shall be filed with the Administrative Center of the Superior Court, 17 Chenell Drive, Suite 1, Concord, New Hampshire 03301. All applications shall be referred to the New Hampshire Bar Association Board of Governors for recommendations as to whether the applicant is qualified or not qualified to serve as a Regular or Special Master. Upon receipt of the Board of Governors' recommendations, each applicant shall be interviewed and evaluated by the Masters Committee, which shall make its recommendations to the full Court.

Amend Superior Court Administrative Rule 3-1(c) by inserting the word "be" in subsection (2), so that said rule as amended shall state as follows:

c. **Requests by Party.** Requests by the parties, or other interested persons, for transcripts of cases which have been brought to a conclusion, or where there has been an interim hearing, should be made by them in writing to the Clerk. The person requesting the transcript shall state in the written request to the Clerk: (1) whether the transcript is for purposes of appeal; and (2) whether the transcript is to be used in connection with litigation pending before the New Hampshire Superior Court. If the request is for purposes other than appeal and the transcript is not for use in connection with litigation pending before the New Hampshire Superior Court, the person requesting the transcript may, but need not, state the purpose for which the transcript is requested. If the purpose is stated, it may be used in assigning priorities pursuant to Superior Court Administrative Rule 3-2.

APPENDIX K

Amend Supreme Court Rule 16(9) by deleting the third paragraph of said subsection and replacing it as follows, so that subsection (9) in its entirety shall state as follows:

(9) All references in a brief to the appendix or to the record must be accompanied by the appropriate page number.

Citations to Supreme Court of the United States cases that cannot be made to the official *United States Reports* or to the *Supreme Court Reporter* shall include the month, day, and year of decision or a reference to *United States Law Week*. Citations to other federal decisions not presently reported shall identify the court, docket number, and date.

Citations to the decisions of this court may be to the *New Hampshire Reports* only. Citations to other State court decisions may either be: (a) to the official report and to the West Reporter system, with the year of decision; or (b) to the West Reporter only, in which case the citation should identify the State court by name or level, and should mention the year of decision.

APPENDIX L

Amend Supreme Court Rule 16(12) by deleting it and replacing it with the following:

(12) Failure of the appealing party to file a brief shall constitute a waiver of the appeal and the case shall be dismissed.

Amend Supreme Court rule 39 by deleting subparagraph 2(a) in its entirety and replacing it with the following:

(2) *Appointment of Committee*

(a) The committee on judicial conduct shall consist of eleven members appointed by the supreme court. One member shall be an active or retired justice of the superior court; one a district court judge; one a probate court judge; one a clerk of court; two New Hampshire Bar Association members; and five citizens not of the bar or bench.

Amend Supreme Court Rule 39 by deleting subparagraph 4(a) in its entirety and replacing it with the following:

(4) *Vacancy and Disqualification*

(a) A vacancy in the office of the committee shall occur

(1) when a member ceases to be a member of the committee; or

(2) when a judge who is a member of the committee ceases to hold the office which he or she held at the time of selection; or

(3) when a lawyer ceases to be admitted to practice in the courts of this State, becomes an inactive member of the bar, or is appointed to a judicial office or as a clerk of court; or

(4) when a citizen appointee becomes a lawyer, clerk of court, or a judge; or

(5) when a member ceases to be domiciled in New Hampshire; or

(6) when a clerk of court who is a member of the committee ceases to hold the office which he or she held at the time of selection.