

AMENDED
ADVISORY COMMITTEE ON RULES
June 21, 2006

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

The meeting was called to order at 12:29 p.m.

The following Committee members were present:

Hon. Linda S. Dalianis
Mr. Robert Chase
Hon. R. Laurence Cullen
Alice Guay
Hon. Richard Hampe
Martin Honigberg, Esquire
Mr. Robert G. Lown
Jennifer L. Parent, Esquire
Hon. Philip Mangones
Hon. Robert H. Rowe
Raymond W. Taylor, Esquire

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

On motion of Judge Cullen, seconded by Attorney Taylor, the Committee approved the minutes of the March 22, 2006 meeting.

With respect to action taken by the Supreme Court since the Committee's last meeting, David Peck reported that during April and May the Supreme Court adopted miscellaneous court rules including the MCLE rules and the appellate court procedure rules.

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

Relative to the Rules of Civil Procedure, Attorney Honigberg discussed the Civil Rules Subcommittee's proposal outlining the work being done to make the civil rules more accessible and understandable.

Relative to the Professional Conduct rules, following discussion, and on motion of Judge Dalianis, seconded by Mr. Chase, the Committee voted to solicit preliminary public comments on the revisions submitted by the Bar's Ethics Committee on the Rules of the Professional Conduct and on the comments to said rules, and on the revisions to Professional Conduct Rule 6.1 submitted by the Bar's Pro Bono Referral Program. Following receipt of public comment, the Committee will then consider whether to send said amendments to its next public hearing for consideration.

The Committee adjourned so that 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. In addition, it received written comments from several individuals on various proposed rules changes. Judge Hampe joined the meeting at the start of the public hearing. The Committee took no action during the public hearing. Mr. Lown left the meeting after the public hearing.

When the meeting reconvened, the Committee continued its discussion relative to joinder and severance rules for criminal cases, and on motion of Judge Dalianis, seconded by Judge Mangones, the Committee voted to send the proposed joinder and severance rules for the superior and district courts, as contained in Appendices A and B of these minutes, to the next public hearing.

The Committee turned its discussion to considering what action it wished to take on the proposed rules changes discussed during the public hearing.

The Committee agreed that the following rules, upon which no comments were received, should be recommended to the Supreme Court for adoption: Supreme Court Rules 42(4), 42(10)(a)(ii), and 42(12)(c); Superior Court Rules 35(b)(1), 35(g), 94, 96-A, 98 F. and 170-B; Superior Court Administrative Rule 3-1; District Court Rule 2.17; Family Division Rules 16, 26, 28, 29 and 30; and repeal of Superior Court Administrative Rules 1-1, 1-2, and 3-2 to 3-16.

Relative to proposed rules pertaining to the Lawyers Assistance Program, the Committee discussed at length the concerns raised during the public hearing including how the program should be funded. Judge Dalianis agreed that she or Chief Justice Broderick would discuss possible ways to address the funding issue with the Bar's incoming president, including the possibility of a loan from the Public Protection Fund or a special assessment of Bar members. Following discussion, and on motion of Judge Mangones, seconded by Judge Hampe, the Committee voted to recommend to the Supreme Court that Supreme Court Rules 37(1)(e), 37(20)(j) and 57; and Professional Conduct Rules 1.6(c) and 8.3(c) pertaining to the Lawyers Assistance Program be adopted as further amended by the Committee following the public hearing, with the understanding that the funding issue would be addressed by the Court.

Relative to amendments to District Court Rule 2.7 and Superior Court Rule 104 pertaining to the payment of fines, following discussion, Judge Mangones, Judge Cullen and Attorney Taylor agreed to review the concerns raised during the public hearing and report back to the Committee at its next meeting.

Relative to the system-wide Guardian ad Litem Guidelines, Judge Hampe will meet with Linda Griebisch, Public Policy Director of the NH Coalition Against Domestic and Sexual Violence, to discuss the guidelines and report back to the Committee at its next meeting.

Relative to an amendment to Supreme Court Rule 38, Canon 4 pertaining to judicial financial reporting, following a discussion of the concerns raised during the public hearing, and on motion of Attorney Taylor, seconded by Mr. Chase, the Committee voted to recommend that the Supreme Court review the financial reporting form requirements pertaining to judges' spouses and to recommend to the Supreme Court that Supreme Court Rule 38, Canon 4 be adopted.

Relative to Family Division Rule 27 pertaining to standard order of paragraphs for parenting plan, following discussion, and on motion of Judge Mangones, seconded by Attorney Parent, the Committee voted to recommend to the Supreme Court that said rule be adopted as submitted to the public hearing.

Relative to an amendment to Superior Court Rule 62 pertaining to structuring conferences, drafts of which were considered during the December 7, 2005 and June 21, 2006 public hearings, following a brief discussion, and on motion of Judge Dalianis, seconded by Judge Cullen, the Committee voted to recommend to the Supreme Court that Superior Court Rule 62 be adopted as submitted to the June 21, 2006 public hearing.

The Committee then continued its discussion on items still pending before it:

Relative to Superior Court Rule 97-A, recommended for adoption following the Committee's December 7, 2005 public hearing, but brought forward for reconsideration when Mr. Edwards filed written comments on the rule, Judge Cullen

reported on his discussion with Mr. Edwards. On motion of Judge Dalianis, seconded by Mr. Chase, the Committee reconsidered its prior vote and voted to take no further action on this rule change.

Relative to pro hac vice rules, in Attorney Ardinger's absence, this item was deferred until the Committee's September meeting.

Relative to proposed rules pertaining to Public Access to Court Records, following discussion, and on motion duly made and seconded, the Committee asked David Peck to integrate the rules suggested by the Supreme Court's Task Force on Public Access to Court Records into court rules for inclusion on the Committee's next public hearing agenda.

The Committee turned its attention to the new items before it and the following action was taken:

Relative to an amendment to Supreme Court Rule 39 pertaining to the Judicial Conduct Committee, following discussion and on motion of Judge Hampe, seconded by Judge Cullen, the Committee voted to send the proposed amendment to Supreme Court Rule 39, as contained in Appendix C of these minutes, to the Committee's next public hearing to see whether it should be adopted on a permanent basis.

Attorney Honigberg left the meeting.

Relative to an amendment to Supreme Court Rule 3 pertaining to the definition of "mandatory appeal," following discussion, and on motion of Judge Hampe, seconded by Judge Cullen, the Committee asked that if a new proposal to amend Rule 3 is drafted as a result of discussions with the Bar's Family Law Section, it should be placed on the agenda for the Committee's next meeting.

Relative to an amendment to Supreme Court Rule 38 pertaining to references to court stenographers, following discussion, Attorney Taylor agreed to ask the Judicial Conduct Committee to review the proposed amendment and to suggest any recommendations for changes so that he can report back to the Committee at its next meeting.

Relative to an amendment to Supreme Court Rule 55(5) pertaining to the Public Protection Fund, following discussion, and on motion of Judge Dalianis, seconded by Attorney Taylor, the Committee voted to amend Supreme Court Rule 55(5), as contained in Appendix D of these minutes, and to send said amendment to the Committee's next public hearing.

Relative to amendments to Superior Court Rules 201-202-E pertaining to domestic relations cases, following discussion, and on motion of Judge Dalianis, seconded by Attorney Parent, the Committee voted to send the amendments to Superior Court Rules 201-202-E, as contained in Appendices E-G of these minutes, to the Committee's next public hearing to see whether they should be adopted on a permanent basis.

Relative to amendments to Supreme Court Rules 37 and 37A, following discussion, and on motion duly made and seconded, the Committee voted to send the proposed amendments to Supreme Court Rules 37 and 37A, as contained in Appendices H and I of these minutes, to the Committee's next public hearing.

The next meeting of the Commission is scheduled for September 20, 2006 at 12:00 p.m.

No further business to come before the Committee, the meeting adjourned at 4:15 p.m.

APPENDIX A

Amend the superior court rules by adding the following new rule:

Rule _____. Joinder of Offenses

(A) Joinder of Offenses.

(1) Related Offenses. Two or more offenses are related if they:

(i) are alleged to have occurred during a single criminal episode; or

(ii) constitute parts of a common scheme or plan; or

(iii) are alleged to have occurred during separate criminal episodes, but nonetheless, are logically and factually connected in a manner that does not solely demonstrate that the accused has a propensity to engage in criminal conduct.

(2) Joinder of Related Offenses for Trial. If a defendant is charged with two or more related offenses, either party may move for joinder of such charges. The trial judge shall join the charges for trial unless the trial judge determines that joinder is not in the best interests of justice.

(3) Joinder of Unrelated Offenses. Upon written motion of a defendant, or with the defendant's written consent, the trial judge may join for trial two or more charges of unrelated offenses upon a showing that failure to try the charges together would constitute harassment or unduly consume the time or resources of the parties. The trial judge shall join the charges for trial unless the trial judge determines that joinder is not in the best interest of justice.

(B) Relief from Prejudicial Joinder. If it appears that a joinder of offenses is not in the best interests of justice, the judge may upon his or her own motion or the motion of either party order an election of separate trials or provide whatever other relief justice may require.

APPENDIX B

Amend the District Court rules by adding the following new rule:

Rule ____ Joinder of Offenses

(A) Joinder of Offenses.

(1) Related Offenses. Two or more offenses are related if they:

(i) are alleged to have occurred during a single criminal episode; or

(ii) constitute parts of a common scheme or plan; or

(iii) are alleged to have occurred during separate criminal episodes, but nonetheless, are logically and factually connected in a manner that does not solely demonstrate that the accused has a propensity to engage in criminal conduct.

(2) Joinder of Related Offenses for Trial. If a defendant is charged with two or more related offenses, either party may move for joinder of such charges. The trial judge shall join the charges for trial unless the trial judge determines that joinder is not in the best interests of justice.

(3) Joinder of Unrelated Offenses. Upon written motion of a defendant, or with the defendant's written consent, the trial judge may join for trial two or more charges of unrelated offenses upon a showing that failure to try the charges together would constitute harassment or unduly consume the time or resources of the parties. The trial judge shall join the charges for trial unless the trial judge determines that joinder is not in the best interest of justice.

(B) Relief from Prejudicial Joinder. If it appears that a joinder of offenses is not in the best interests of justice, the judge may upon his or her own motion or the motion of either party order an election of separate trials or provide whatever other relief justice may require.

APPENDIX C

Amend Supreme Court Rule 39 by deleting said rule and replacing it with the following:

(1) *Authority*

Pursuant to the supreme court's constitutional and statutory authority, and to provide for the orderly and efficient administration of the Code of Judicial Conduct, Rule 38 of the Rules of the Supreme Court, there is hereby established a committee on judicial conduct.

(2) *Appointment of Committee*

(a) The committee on judicial conduct shall consist of eleven members and eleven alternate members. Alternate members may participate in committee proceedings only as specifically provided in this rule.

(1) One member and one alternate member who shall each be an active or retired justice of the superior court; one member and one alternate member who shall each be an active or retired district court judge; and one member and one alternate member who shall each be an active or retired probate court judge, all of whom shall be appointed by the supreme court.

(2) One member and one alternate member who shall each be a clerk of court and who shall be appointed by the supreme court.

(3) One member and one alternate member who shall each be a New Hampshire Bar Association member and who shall be appointed by the president of the New Hampshire Bar Association.

(4) One public member and one alternate public member, who shall not be a judge, attorney, clerk of court, or elected or appointed public official, shall be appointed by the president of the New Hampshire Bar Association.

(5) One public member and one alternate public member], who shall not be a judge, attorney, clerk of court, or elected or appointed public official, shall be appointed by the supreme court.

(6) Two public members and two alternate public members, who shall not be judges, attorneys, clerks of court, or elected or appointed public officials, shall be appointed by the Governor.

(7) One public member and one alternate public member, who shall not be a judge, clerk of court, or attorney, shall be appointed by the president of the Senate.

(8) One public member and one alternate public member, who shall not be a judge, clerk of court, or attorney, shall be appointed by the speaker of the House.

(b) *Committee Address*

The committee address shall be determined by the committee.

(3) *Terms of Office*

(a) The terms of the current members serving on July 1, 2005, shall continue until, and expire at the end of, the dates set forth below. The appointing authority who shall fill any vacancy for each current member is also set forth below.

<u>Current Member</u>	<u>Expiration Date</u>	<u>Appointing Authority</u>
Alfred Catalfo, III, Esquire	July 1, 2005	Bar President (public member position)
Harland W. Eaton	July 1, 2005	Governor
Elizabeth Lown	July 1, 2005	House Speaker
Jay Rosenfield	July 1, 2005	Senate President
Hon. Raymond A. Cloutier	July 1, 2006	Supreme Court (probate court judge position)
Hon. Douglas S. Hatfield	July 1, 2006	Supreme Court (district court judge position)
Wilfred L. Sanders, Esq.	July 1, 2006	Bar President (attorney member position)
Dr. Robert O. Wilson	July 1, 2006	Governor
Hon. Patricia C. Coffey	July 1, 2007	Supreme Court (superior court justice position)
Lawrence W. O'Connell	July 1, 2007	Supreme Court (public member position)
Dana Zucker	July 1, 2007	Supreme Court (clerk of court position)

Each member serving on July 1, 2005, shall continue to serve as a member until his or her successor is appointed. The initial term of the first eleven members appointed after July 1, 2005, which may include appointments of members who were serving on July 1, 2005, shall be for a three-year term.

The initial term of all alternate members appointed shall be for three years.

(b) All terms after the initial appointments set forth in subparagraph (a) shall be for three years.

(c) A member may serve a maximum of three successive terms, all of which commenced after July 1, 2005. After the expiration of the member's third successive term, the member may not again be appointed to the committee, either as a member or as an alternate member, until three years after the date of the member's last day as a member of the committee. An alternate member may serve an unlimited number of terms as an alternate.

(d) If any appointing authority other than the supreme court fails to appoint a member or an alternate member to fill a vacancy for a period of three months following the date upon which notice is sent to the appointing authority informing the appointing authority of the vacancy, the supreme court may appoint a member or alternate member to fill the vacancy. The person appointed shall have the same qualifications as would have been required had the appointing authority filled the vacancy.

(4) Vacancy and Disqualification

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

(1) when the term of a member or alternate member expires; provided, however, that such member or alternate member shall continue to serve until his or her successor is appointed; or

(2) when a judge who is a member or alternate 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 in good standing in all jurisdictions where admitted to practice law, or is appointed to a judicial office or as a clerk of court; or

(4) when a public member or alternate public member becomes a lawyer, clerk of court, or a judge; or

(5) when a public member or alternate public member appointed by the Governor or the President of the New Hampshire Bar Association becomes an elected or appointed public official; or

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

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

(8) when a member or alternate member is removed from office by the committee as provided in paragraph 10; or

(9) when a member or alternate member ceases to hold office by submitting his or her resignation to the committee or otherwise.

(b) A vacancy shall be filled by selection of a successor with the same qualifications as those required for the selection of his or her predecessor in office. A member or alternate member selected to fill a vacancy shall hold office for the unexpired term of his or her predecessor.

(c) No member shall participate in any proceedings before the committee involving his or her own conduct or the conduct of any other member. No alternate member shall participate in any proceedings before the committee involving his or her own conduct.

(d) No member or alternate member shall participate in any proceeding in which his or her impartiality might reasonably be questioned.

(e) Whenever a member is disqualified from participating in a particular proceeding, or is unable to participate by reason of prolonged absence or physical or mental incapacity, an alternate member may be assigned by the chair to participate in any such proceeding or for the period of any such disability, provided that said alternate member shall have been appointed by the same appointing authority as the member who is being replaced, and shall have the same qualifications as those required for the selection of the member who is being replaced. If, however, due to disqualification or incapacity, there is no alternate member who was appointed by the same appointing authority with the same qualifications who is able to participate, then the chair may assign any other alternate member to participate in the proceeding or for the period of the member's disability.

(5) *Expenses of the Committee and Staff*

(a) The committee's budget shall be a separate PAU within the judicial branch budget. The committee shall prepare its own budget request. The budget request and such additional information as may be requested shall be submitted to the director of the administrative office of the courts for inclusion in the judicial branch budget request in the amounts requested. Expenses approved for payment by the committee shall be paid by the administrative office of the courts from funds appropriated for the judicial conduct committee.

(b) Members and alternate members shall serve without compensation for their services, but shall be reimbursed for necessary expenses incurred in the performance of their duties, subject to the availability of funds.

(c) The committee shall appoint an executive secretary and such other persons as may be necessary to assist the committee in its work. The executive secretary shall perform the duties and responsibilities prescribed by this rule and Supreme Court Rule 40, and such other duties and responsibilities as the committee may determine from time to time. He or she shall notify the appropriate appointing authority whenever a member's or alternate member's term expires or a vacancy in the office of the committee

otherwise occurs. He or she shall receive all grievances, information, and inquiries, and process the same under the direction and supervision of the committee. The executive secretary shall maintain the committee's records, maintain statistics concerning the operation of the committee, and prepare an annual report of the committee's activities for presentation to the committee. He or she shall coordinate investigations ordered by the committee, and ensure that they are conducted discreetly and with dispatch. Subject to the direction and control of the committee, and subject to the availability of appropriated funds, the executive secretary shall have charge of the disbursement of expense funds. Generally, the executive secretary shall supervise the work of other personnel employed by the committee, direct the activities of the committee's office, and endeavor to keep members of the committee properly informed about its business.

(d) The committee may employ counsel. The duties of counsel shall be determined by the committee.

(e) The committee may employ such private investigators, experts and other personnel as the committee in its discretion deems necessary for the efficient discharge of its duties.

(f) The committee shall select its own office space, which should not be in the facilities of any branch of government.

(6) *Quorum and Chairperson*

(a) A quorum for the transaction of business by the committee shall be six members; provided, however, that no formal charges shall be instituted or unfavorable action taken against a judge except upon the affirmative vote of at least seven members. Except as otherwise provided in this rule or in Supreme Court Rule 40, no act of the committee shall be valid unless concurred in by six of its members.

Members of the committee may participate in a meeting of the committee by means of a conference telephone or similar communications equipment, provided all persons participating in the meeting can hear each other. Participation by these means shall constitute presence in person at a meeting. These procedures shall not be used for hearings.

(b) If a quorum of the committee cannot be obtained by reason of the disqualification or absence of members thereof, the chair or the executive secretary may request that one or more alternate members act as a temporary replacement or replacements. Any such temporary replacement shall have been appointed by the same appointing authority and have the same qualifications as the member replaced.

(c) The committee shall designate the chair and vice-chair of the committee. The vice-chair shall act as chair in the absence of the chair. In

the absence of both the chair and the vice-chair, the members present may select one among them to act as temporary chair.

(7) Meetings of the Committee

(a) Meetings of the committee shall be held at the call of the chair, the vice-chair, or the executive secretary or at the written request of three members of the committee.

(b) The committee may, by vote, establish regular or stated meeting dates.

(c) The business of the committee may be transacted by telephone, exchange of correspondence, or other informal poll of members, unless one or more members object; provided, however, that no formal charges shall be instituted or unfavorable action taken against a judge except upon deliberation and the affirmative vote of at least seven members who are physically present at a meeting of the committee.

(8) Annual Report

On or before March 1 of each year, the committee shall prepare a report summarizing its activities during the preceding calendar year. Upon approval of the report by the committee, a copy of the report shall be filed with the Governor, the president of the Senate, the speaker of the House, the chief justice of the supreme court, the chairpersons of the House and Senate Judiciary Committees, and shall be made available to the public.

(9) Powers and Duties of the Committee

The committee shall have the power and the duty:

(a) to consider and investigate the conduct of any judge, as that term is defined in Rule 40(2), within the jurisdiction of this court and may initiate an inquiry on its own motion in accordance with Rule 40(6) or undertake an investigation upon grievance or complaint filed by any person;

(b) to retain counsel as may from time to time be required to properly perform the functions prescribed by the committee, subject to the availability of appropriated funds;

(c) to retain such investigative and other personnel as the committee shall deem necessary, and to select its own office space, which should not be in the facilities of any branch of government, both subject to the availability of appropriated funds;

(d) to dismiss a grievance or complaint when the grievant lacks standing, the committee lacks jurisdiction over the grievance or complaint,

the grievance or complaint is insufficient or there is insufficient cause to proceed, or the period of limitations set forth in Rule 40(4)(c) has expired;

(e) to dispose of a grievance or complaint by informal resolution or adjustment prior to the filing of formal charges or after a hearing on formal charges;

(f) to prepare and file a statement of formal charges when appropriate;

(g) to hold a public hearing on a statement of formal charges, during which hearing counsel shall have the burden of establishing by clear and convincing evidence a violation of the Code of Judicial Conduct;

(h) to institute disciplinary proceedings in the supreme court when appropriate;

(i) to educate the public on the general functions and procedures of the Committee.

(10) *Attendance at Meetings; Removal of Members*

(a) Committee members shall be expected to attend all meetings of the committee. The chair shall be authorized to excuse the attendance of committee members from any meeting for good cause. The chair is authorized to discuss with members whether continued service on the committee is justified when meetings are frequently missed.

(b) The chair, with the concurrence of a majority of the committee, shall be authorized to remove a member or alternate member for cause, including unexcused or frequent absences or serious violations of the rules governing the committee. Prior to any vote by the committee on removal, the chair shall provide the member or alternate member with a written statement of the reasons for which his or her removal is sought. The member or alternate member shall have the right to file a written response within ten days, copies of which shall be provided to all other members of the committee by the executive secretary. The member or alternate member shall have the right to attend the meeting at which removal is sought, and to speak prior to the committee's vote. The committee may hold such further proceedings as it deems necessary in its sole discretion prior to voting on removal.

APPENDIX D

Amend Supreme Court Rule 55(5) by deleting said section and replacing it with the following:

(5) Administration of the Fund. The Public Protection Fund shall be administered by a nine member committee, appointed by the President of the New Hampshire Bar Association with the approval of the association's Board of Governors, which committee shall include at least two public members. Five members shall constitute a quorum. All decisions of the committee shall be made by a majority of the members present and voting. The committee shall have the power to propose regulations to clarify the intent of this rule, which regulations shall become effective after review and approval by the court. Decisions of the committee as to whether or not to pay claims and the amount of payments shall be within the committee's discretion, subject to the annual limits stated above, and will be reviewable only for unsustainable exercise of discretion. **Any request for review of a decision of the committee shall be filed in writing with the New Hampshire Supreme Court within thirty days of the date of the committee's decision. In the event that a claimant seeks a review of a decision of the committee, the claimant shall mail or hand-deliver a copy of his or her request to the New Hampshire Bar Association at the same time as the claimant files the request with the supreme court. If the New Hampshire Bar Association wishes to participate in the review of the decision, it shall file an appearance in the matter within thirty (30) days of receipt of the request.** ~~Review of decisions of the committee shall be by a panel of three retired judges, appointed by the New Hampshire Supreme Court, whose d~~ **Decisions of the New Hampshire Supreme Court** shall be final. Within 120 days after the end of each fund year, the New Hampshire Bar Association shall report to the court about the claims made, approved and paid, assessments received, income earned, and expenses incurred in the preceding fund year. Reasonable expenses incurred by the New Hampshire Bar Association in administering the fund, including overhead, staff time, and professional fees, shall be reimbursed by the fund as a cost of operation, subject to the review and approval of the court.

APPENDIX E

Amend Superior Court Rule 201 by deleting said rule and replacing it with the following:

201. FORM FOR DECREES AND STIPULATIONS. Agreed upon or proposed decrees must be filed at all temporary or final divorce, legal separation or parenting hearings. Any temporary decree for divorce or legal separation must follow the format set forth in Superior Court Rule 202-C(I). Any final decree for divorce or legal separation must follow the format set forth in Superior Court Rule 202-C(II). Any temporary or final decree for parenting actions must follow the format set forth in Superior Court Rule 202-D. For all final default hearings, the moving party shall provide a copy of the proposed order to the other party at least thirty days before the hearing date.

APPENDIX F

Amend Superior Court Rule 202 by deleting said rule and replacing it with the following:

202. SIGNING OF STIPULATIONS. All stipulations, agreements, and proposed decrees shall be typewritten and signed by the parties and, if represented by counsel, by attorneys for the parties. The court may accept handwritten stipulations or agreements provided the parties file a typewritten substitute with the court within ten days. A typewritten substitute does not need to contain signatures.

APPENDIX G

Adopt new Superior Court Rules 202-A – 202-E as follows:

202-A. PARENTING PLANS.

(I) Parenting plans shall be filed in all divorce and legal separation actions where there are minor children, and in all parenting actions. Parents shall work together to agree upon as many provisions of the parenting plan as possible. Exceptions to the requirement that parents work together on parenting plans include cases where there is evidence of domestic violence, child abuse, or neglect, or as otherwise excused by the court.

(II) In any divorce, legal separation, or parenting action in which a temporary parenting order is requested, a temporary parenting plan must be filed at the temporary hearing.

(III) A final parenting plan must be filed at the final hearing in any final divorce or legal separation action where there are minor children, and in all final parenting actions.

(IV) Parenting plans must be filed in all actions to modify final parenting plans or prior final parenting-related orders issued in divorce, legal separation, or custody actions.

(V) Parties may use the parenting plan form provided by the court or may create their own parenting plan. However, parties who create their own parenting plans must adhere to the standard order of lettered paragraphs set forth at Superior Court Rule 202-B, Standard Order of Paragraphs for Parenting Plan.

(VI) All parenting plans required by this rule shall be filed as separate documents, signed by one or more parties.

(VII) For all actions requiring parenting plans, if a complete parenting plan is not agreed upon by the parties which includes every provision of the Standard Order of Paragraphs for Parenting Plan, a partially agreed-upon parenting plan, signed by the parties, and a proposed parenting plan for the remaining provisions must be filed by each party.

202-B. STANDARD ORDER OF PARAGRAPHS FOR PARENTING PLAN.

All parenting plans shall be set forth in the following order of paragraphs. "N/A" may be used to denote paragraphs that do not apply to a particular situation.

- (I) Decision Making Responsibility
 - (1) Major Decisions
 - (2) Day-to-Day Decisions
 - (3) Other
- (II) Residential Responsibility & Parenting Schedule
 - (1) Routine Schedule
 - (2) Holiday and Birthday Planning
 - (3) Three-day weekends
 - (4) Vacation Schedule
 - (5) Supervised Parenting Time
 - (6) Other Parental Responsibilities
- (III) Legal Residence of a Child for School Attendance
- (IV) Transportation and Exchange of the Child(ren)
- (V) Information Sharing and Access, Including Telephone and Electronic Access
 - (1) Parent-Child Telephone Contact
 - (2) Parent-Child Written Communication
- (VI) Relocation of a Residence of a Child
- (VII) Procedure for Review and Adjustment of Parenting Plan
- (VIII) Method(s) for Resolving Disputes
- (IX) Other Parenting Agreements Attached

202-C. STANDARD ORDER OF PARAGRAPHS FOR TEMPORARY AND FINAL DECREES ON DIVORCE AND LEGAL SEPARATION.

(I) Temporary. All temporary agreements and proposed decrees shall be set forth in the following order of paragraphs. "N/A" may be used to denote paragraphs that do not apply to a particular situation.

- (1) Type of Case
- (2) Parenting Plan and Uniform Support Order

- (3) Tax Exemptions for Children
- (4) Guardian ad Litem Fees
- (5) Alimony
- (6) Health Insurance For Spouse
- (7) Life Insurance
- (8) Motor Vehicles
- (9) Furniture and Other Personal Property
- (10) Retirement Plans and Other Tax-Deferred Assets
- (11) Other Financial Assets
- (12) Business Interests of the Parties
- (13) Division of Debt
- (14) Marital Home
- (15) Other Real Property
- (16) Enforceability after Death
- (17) Restraints against the Property
- (18) Restraining Order
- (19) Other Requests

(II) Final. All final agreements and proposed decrees shall be set forth in the following order of paragraphs. "N/A" may be used to denote paragraphs that do not apply to a particular situation.

- (1) Type of Case
- (2) Parenting Plan and Uniform Support Order
- (3) Tax Exemptions for Children
- (4) Guardian ad Litem Fees
- (5) Alimony
- (6) Health Insurance For Spouse
- (7) Life Insurance
- (8) Motor Vehicles
- (9) Furniture and Other Personal Property
- (10) Retirement Plans and Other Tax-Deferred Assets
- (11) Other Financial Assets
- (12) Business Interests of the Parties
- (13) Division of Debt

- (14) Marital Home
- (15) Other Real Property
- (16) Enforceability after Death
- (17) Signing of Documents
- (18) Restraining Order
- (19) Name Change
- (20) Other Requests

202-D. STANDARD ORDER OF PARAGRAPHS FOR DECREE ON PARENTING PETITION.

All agreements and proposed decrees in parenting actions shall be set forth in the following order of paragraphs. "N/A" may be used to denote paragraphs that do not apply to a particular situation.

- (1) Parenting Plan and Uniform Support Order
- (2) Tax Exemptions for Children
- (3) Guardian ad Litem Fees
- (4) Life Insurance
- (5) Enforceability after Death
- (6) Restraining Order
- (7) Other Requests

202-E. PERSONAL DATA SHEET.

At the time of filing any initial pleading or pleading that brings an action forward, the filing party shall, and the responding party may, file a completed personal data sheet. Should a party become aware of any change in addresses, telephone numbers, or employment during the pendency of a case or of any outstanding support order, that party shall notify the court of such change. Access to information contained in the personal data sheet shall be restricted to court personnel, the Office of Child Support, the court-appointed mediator, the guardian ad litem, the parties, and counsel unless a party has requested on the data sheet that it not be disclosed to the other party.

APPENDIX H

Amend Supreme Court Rule 37 by adding the following paragraph to section (3)(c):

(15) To issue discretionary monetary sanctions against a disciplined attorney in the form of the assessment of costs and expenses pursuant to Rule 37(19).

Further amend Supreme Court Rule 37(19) by deleting said section and replacing it with the following:

(19) Monetary Sanctions: Expenses Relating to Discipline and Enforcement:

(a) All expenses incurred by the attorney discipline system in the investigation and enforcement of discipline may, in whole or in part, be assessed to a disciplined attorney to the extent appropriate.

(b) Following any assessment, the professional conduct committee shall send a written statement of the nature and amount of each such expense to the disciplined attorney, together with a formal demand for payment. The assessment shall become final after 30 days unless the disciplined attorney responds in writing, listing each disputed expense and explaining the reasons for disagreement. If the parties are unable to agree on an amount, the professional conduct committee may resolve and enforce the assessment by petition to the superior court in any county in the state.

(c) A final assessment shall have the force and effect of a civil judgment against the disciplined attorney. The professional conduct committee may file a copy of the final assessment with the superior court in any county in the state, where it shall be docketed as a final judgment and shall be subject to all legally-available post-judgment enforcement remedies and procedures.

(d) The superior court may increase the assessment to include any taxable costs or other expenses incurred in the resolution or enforcement of any assessment. Such expenses may include reasonable attorneys fees payable to counsel retained by the committee to resolve or recover the assessment.

(e) Any monetary assessment made against a disciplined attorney shall be deemed to be monetary sanctions asserted by the professional conduct committee or the applicable court against such attorney.

APPENDIX I

Amend Supreme Court Rule 37A by deleting section (I)(e) and replacing it with the following:

(e) Types of Discipline and Other Possible Action.

(1) Misconduct under supreme court Rule 37(1)(c), the disciplinary rules or decisional law shall be grounds for any of the following:

- (a) Disbarment – by the court.
- (b) Suspension for more than six months – by the court.
- (c) Suspension for six months or less – by the professional conduct committee or the court.
- (d) Public Censure – by the professional conduct committee or the court.
- (e) Reprimand – by the professional conduct committee.
- (f) Monetary sanctions pursuant to Rule 37(19) – by the professional conduct committee or the court.

Further amend Supreme Court Rule 37A by deleting section (III)(d)(2)(C)(v) and replacing it with the following:

(v) assess to a disciplined attorney to the extent appropriate, in whole or in part, expenses incurred by the attorney discipline system in the investigation and enforcement of discipline. An assessment made under this section shall have the same force, effect and characterization and shall be subject to the same procedures for finalization, resolution and enforcement as an assessment under Rule 37(19).