NEW HAMPSHIRE SUPREME COURT ADVISORY COMMITTEE ON RULES

PUBLIC HEARING NOTICE

The New Hampshire Supreme Court Advisory Committee on Rules will hold a PUBLIC HEARING at 12:30 p.m. on Friday, December 13, 2013, at the Supreme Court Building on Charles Doe Drive in Concord, to receive the views of any member of the public, the bench, or the bar on court rules changes which the Committee is considering for possible recommendation to the Supreme Court.

Comments on any of the court rules proposals which the Committee is considering for possible recommendation to the Supreme Court may be submitted in writing to the secretary of the Committee at any time on or before December 13, 2013, or may be submitted at the hearing on December 13, 2013. Comments may be e-mailed to the Committee on or before December 13, 2013, at:

rulescomment@courts.state.nh.us

Comments may also be mailed or delivered to the Committee at the following address:

N.H. Supreme Court
Advisory Committee on Rules
1 Charles Doe Drive
Concord, NH 03301

Any suggestions for rules changes other than those set forth below may be submitted in writing to the secretary of the Committee for consideration by the Committee in the future.

Copies of the specific changes being considered by the Committee are available on request to the secretary of the Committee at the N.H. Supreme Court Building, 1 Charles Doe Drive, Concord, New Hampshire 03301

(Telephone 271-2646). In addition, the changes being considered are available on the Internet (in the Appendix to Public Hearing Notice) at:

http://www.courts.state.nh.us/committees/adviscommrules/notices.htm

The changes being considered concern the following rules:

I. PAD Rules

(*By Order dated January 9, 2013, the New Hampshire Supreme Court adopted a temporary amendment to expand the PAD Rules statewide, effective March 1, 2013. Shortly thereafter, by Order dated May 22, 2013, the Supreme Court adopted the new Superior Court Rules Applicable in Civil Actions, effective October 1, 2013. Because the temporary PAD Rules were integrated into the new Superior Court Rules Applicable in Civil Actions, the Advisory Committee on Rules is now inviting comment on the PAD Rules, as they appear within the new rules).*

1. The Advisory Committee on Rules invites comment on Rule 4 ("Preliminary Process") of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions, as set forth in Appendix A.

2. The Advisory Committee on Rules invites comment on Rule 5 ("Case Structuring Order") of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions, as set forth in Appendix B.

3. The Advisory Committee on Rules invites comment on Rule 6(a) ("Pleadings Allowed") of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions, as set forth in Appendix C.

4. The Advisory Committee on Rules invites comment on Rule 8(a) ("Complaints and Other Claims for Relief") of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions, as set forth in Appendix D.

5. The Advisory Committee on Rules invites comment on Rule 9 ("Answers; Defenses; Forms of Denials") of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions, as set forth in Appendix E.

6. The Advisory Committee on Rules invites comment on Rule 22 ("Automatic Disclosures") of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions, as set forth in Appendix F.

7. The Advisory Committee on Rules invites comment on Rule 23(b) ("Written Interrogatories") of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions, as set forth in Appendix G.

8. The Advisory Committee on Rules invites comment on Rule 25 ("Discovery of Electronically Stored Information (ESI)") of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions, as set forth in Appendix H.

9. The Advisory Committee on Rules invites comment on Rule 26(a) ("Depositions") of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions, as set forth in Appendix I.

II. IOLTA

(This proposal would amend Supreme Court Rules 50 and 50-A to make title companies owned or operated by attorneys subject to the requirements of the rules.)

1. Amend Supreme Court Rule 50, regarding trust accounts, as set forth in Appendix J.

2. Amend Supreme Court Rule 50-A, regarding certification requirements, as set forth in Appendix K.

III. Withdrawal of Court-Appointed Counsel in Criminal and Juvenile Matters

(This proposal would amend court rules to permit notification of withdrawal in certain instances rather than a request to withdraw requiring court approval. These amendments are designed to expedite the appointment of new counsel in those instances where previously appointed counsel must withdraw due to a conflict of interest as defined in the Rules of Professional Conduct.)

1. Amend Circuit Court - District Division Rule 1.3(H), as set forth in Appendix L.

2. Amend Circuit Court - Family Division Rules 1.20, as set forth in Appendix M.

3. Adopt Circuit Court - Family Division Rule 3.12, as set forth in Appendix N.

4. Amend Rule 15 of the Rules of the Superior Court of the State of New Hampshire Applicable in Criminal Cases Filed in Superior Court and in

Domestic Relations Cases Filed in the Cheshire County Superior Court, as set forth in Appendix O.

IV. Filing Motions Under Seal

(This proposal would amend trial court rules to address how a party may request that the court seal a case record or portion of a case record.)

1. Amend Rule 12 of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions, as set forth in Appendix P.

2. Amend Rule 1.8 of the Rules of the Circuit Court - District Division, as set forth in Appendix Q.

3. Adopt Rule 58-B of the Rules of the Circuit Court - Probate Division, as set forth in Appendix R.

4. Amend Rule 1.26 of the Rules of the Circuit Court - Family Division, as set forth in Appendix S.

V. Continuity of Counsel in Circuit and Superior Court

(This proposal would amend the rules regarding appointment of counsel in Superior Court to provide that once an appointment has been made in Circuit Court, the appointment should continue throughout any appeal to the Superior Court.)

1. Amend Rule 14 of the Rules of the Superior Court of the State of New Hampshire Applicable in Criminal Cases Filed in Superior Court and In Domestic Relations Cases Filed in the Cheshire County Superior Court, as set forth in Appendix T.

VI. Withdrawal of Court-Appointed Counsel in Abuse and Neglect Cases

(This proposal would amend Circuit Court - Family Division Rule 3.11 to provide that the appearance of court-appointed counsel in abuse and neglect cases is deemed withdrawn thirty (30) days after the dispositional hearing, unless the court otherwise orders representation to continue and states the specific duration and purpose of the continued representation.)

1. Amend Circuit Court – Family Division Rule 3.11, as set forth in Appendix U.

VII. Calculation of Mileage Reimbursement and Fee Caps for Attorneys or Guardians Ad Litem

(This proposal would amend Supreme Court Rules 47, 48 and 48-A to clarify that mileage expenses are separate from the fee caps when a lawyer or guardian ad litem seeks reimbursement for his or her efforts on behalf of a criminal defendant or a parent or juvenile in a child protection matter.)

1. Amend Supreme Court Rule 47, as set forth in Appendix V.

2. Amend Supreme Court Rule 48, as set forth in Appendix W.

3. Amend Supreme Court Rule 48-A, as set forth in Appendix X.

VIII. Reimbursement of Attorneys for Work in Child Protection Matters

(This proposal would amend Supreme Court Rule 48 to permit payment of attorneys who work on behalf of parents in child protection matters for attending periodic review hearings held in the normal course of a case in the Family Division.)

1. Amend Supreme Court Rule 48, as set forth in Appendix Y.

IX. Fees

(These proposals would adopt on a permanent basis temporary amendments to court rules increasing the fees charged in the New Hampshire Supreme Court and in the New Hampshire trial courts. The increased fees are intended to provide additional funds to the judicial branch information technology fund for the maintenance of the technology related to the New Hampshire e-Court Project. See N.H. Laws 2013 ch. 88.)

1. Amend on a permanent basis Supreme Court Rule 49, Fees, which was amended on a temporary basis by Supreme Court Order dated June 26, 2013, as set forth in Appendix Z.

2. Amend on a permanent basis Rule 169, fees, of the Rules of the Superior Court of the State of New Hampshire Applicable in Criminal Cases Filed in Superior Court and in Domestic Relations Cases Filed in the Cheshire County Superior Court, which was amended on a temporary basis by Supreme Court Order dated June 26, 2013, as set forth in Appendix AA.

3. Amend on a permanent basis Circuit Court-District Division Rule 3.3, Court Fees, which was amended on a temporary basis by Supreme Court Order dated June 26, 2013, as set forth in Appendix BB.

4. Amend on a permanent basis Circuit Court-Probate Division Rule 169, Fees, which was amended on a temporary basis by Supreme Court Order dated June 26, 2013, as set forth in Appendix CC.

5. Amend on a permanent basis Circuit Court-Family Division Rule 1.3, Fees, which was amended on a temporary basis by Supreme Court Order dated June 26, 2013, as set forth in Appendix DD.

New Hampshire Supreme Court
Advisory Committee on Rules

By: Robert J. Lynn, Chairperson
and Carolyn A. Koegler, Secretary

November 5, 2013

APPENDIX A

The Advisory Committee on Rules invites comment on Rule 4 of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions, which reads as follows:

Rule 4. Preliminary Process

(a) There shall be one form of action to be known as a "civil action."

(b) To initiate a civil action, including an action authorized by law to be initiated by writ or petition, the plaintiff files with the court: (i) the Complaint; (ii) an Appearance (indicating the plaintiff's representative by name, address, telephone number, and New Hampshire Bar Association identification number); and (iii) the filing fee. See Rule 201. For purposes of complying with the statute of limitations, an action shall be deemed commenced on the date the Complaint is filed.

(c) Upon receipt of the Complaint and filing fee, the court will process the action and provide plaintiff with the completed Summons for service. The Summons will identify: (i) the date the Complaint is filed; (ii) the court-ordered deadline for service; and (iii) a hearing date, if appropriate. Plaintiff will cause the Summons together with a copy of the Complaint to be served on defendant no later than the court-ordered deadline for service, service to be made as specified in RSA 510, or as otherwise allowed by law. Proof of service shall be filed with the court within 21 days of the court-ordered deadline for service. If a defendant is not served within the court-ordered deadline for service, the court shall dismiss the action with or without prejudice, as justice may require.

(d) In all cases of notice by publication where the time may be fixed by the court, the order shall be for publication in some newspaper or newspapers named by the court in general or special orders, once a week for 3 successive weeks. The last publication shall not be later than the time fixed by the court.

(e) Appearances and Answers are due within 30 days of the date the defendant is served with the Summons and Complaint.

APPENDIX B

The Advisory Committee on Rules invites comment on Rule 5 of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions (formerly PAD Rule 2), which reads as follows:

Rule 5. Case Structuring Order

(a) Within 20 days of the Answer date counsel, or parties if unrepresented, shall confer to discuss the claims, defenses and counterclaims and to attempt to reach agreement on the following matters: (1) a statement as to whether or not a jury trial, if previously demanded, is waived; (2) a proposed date for trial and the estimated length of trial; (3) dates for the disclosure of expert reports; (4) status of waiver of RSA 516:29-b requirements; (5) deadlines for the parties to propound interrogatories; (6) deadlines for the completion of all depositions; (7) deadlines for the completion of all discovery; (8) deadline for filing all dispositive motions, which shall not be less than 120 days prior to the trial date; (9) deadlines for filing all other pre-trial motions, which shall be filed not later than 14 days prior to trial; (10) the type of alternative dispute resolution (ADR) procedures that shall be utilized and the deadline for completion of ADR; and (11) deadline for filing witness and exhibit lists, which shall not be later than the trial management conference.

(b) If the parties reach agreement as to all information required by Rule 5(a) above, they shall file a completed written stipulation setting forth their agreement on all of the required matters within the said 20 days. Upon review by the court, if those stipulations are deemed acceptable, they shall become the case structuring order of the court.

(c) If the parties are unable to reach agreement as to any of the matters set forth in Rule 5(a), or if the court rejects their proffered stipulations, the matter shall be scheduled for a telephonic case structuring conference between the court and counsel, or parties if unrepresented. The case structuring conference shall be held no later than 75 days after the Answer is filed. The court may order the parties to appear in court for the hearing if the court deems this necessary for the efficient progression of the case. Should counsel, or parties if unrepresented, be unable to reach an acceptable agreement as to any of the required matters, the court shall issue such orders as it deems appropriate. The fact that a structuring conference has not yet been held or a case structuring order has not yet been issued does not preclude any party from pursuing discovery and does not constitute grounds for any party to fail to comply with its discovery obligations.

(d) Following the case structuring conference (if one is necessary), the court will issue a case structuring order.

Comment

This rule is similar to former Superior Court Rule 62, but does contain several provisions to improve former Rule 62. First, like former Superior Court Rule 62 it contains a "meet and confer" requirement that mandates that, within 20 days after the Answer date, the parties must confer and attempt to reach agreement on all important issues regarding scheduling, discovery and the management of the litigation through the time of the trial. However, unlike former Rule 62, Rule 5 provides that if the parties are able to reach agreement and execute a stipulation regarding all such matters, this stipulation shall presumptively become the case structuring conference order, thus eliminating the need for a case structuring conference. This change is designed to remedy the frequently-heard complaint that the practice of routinely holding structuring conferences requiring the personal appearance of counsel, or parties if unrepresented, in every case is expensive and unproductive. In addition, Rule 5 also provides that even where the parties are unable to reach agreement on all issues or where the court finds the agreement unacceptable, the structuring conference will be held telephonically unless the court specifically orders that counsel and/or the parties appear in court for the conference. This aspect of the new rule reverses the practice under which structuring conferences are held at the courthouse unless a party or counsel files a motion requesting that he or she appear telephonically. Again, the purpose of the change is to reduce costs and increase efficiency.

Section (c) of this rule also changes former Rule 62 in two other significant ways. First, it changes the date for holding the structuring conference from 45 days after the return date, as provided in former Rule 62. Under Rule 5, the structuring conference must be held within 75 days after the Answer is filed. Given the automatic disclosure requirements established by Rule 22, 75 days after the Answer will give the parties time to digest the disclosures made pursuant to Rule 22 and to formulate reasoned positions in cases where they have been unable to reach agreement on all pretrial management issues. This time limit also is realistic in light of superior court resource limitations. The second significant change accomplished by section (c) of Rule 5 is the provision stating that discovery can be initiated before the structuring conference is held and before a structuring conference order has been issued and that a responding party is required to comply with its discovery obligations notwithstanding the fact that a structuring order has not yet been issued. This provision is intended to address the complaint often heard from lawyers that court scheduling issues which result in delay in holding a structuring conference are used as an excuse to delay responding to entirely legitimate discovery requests.

APPENDIX C

The Advisory Committee on Rules invites comment on Rule 6(a) of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions (formerly PAD Rule 1(a)), which reads as follows:

Rule 6. Pleadings Allowed

(a) The pleadings are the written statements by the parties of the facts constituting their respective claims and defenses. There shall be allowed a Complaint and an Answer; an Answer to a counterclaim denominated as such; an Answer to a cross-claim, if the Answer contains a cross-claim; a Third-Party Complaint, if a person who was not an original party is summoned to appear in an action; a Third-Party Answer, if a Third-Party Complaint is served; and a Reply, if an affirmative defense is set forth in an Answer and the pleader wishes to allege any matter constituting an avoidance of the defense. No other pleading shall be allowed as of right.

(b) Demurrers, Pleas, and Exceptions for insufficiency of a pleading shall not be used.

Comment

Rule 6(a) is part of the restructuring of the civil rules intended to eliminate the distinction between law and equity.

Pleadings which notify the opposing party and the court of the factual and legal bases of the pleader's claims or defenses better define the issues of fact and law to be adjudicated. This definition should give the opposing party and the court sufficient information to determine whether the claim or defense is sufficient in law to merit continued litigation. Pleadings should assist in setting practical limits on the scope of discovery and trial and should give the court sufficient information to control and supervise the progress of the case.

APPENDIX D

The Advisory Committee on Rules invites comment on Rule 8(a) of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions (formerly PAD Rule 1(b)), which reads as follows:

Rule 8. Complaint

(a) Except as may be more specifically provided by these rules in respect of specific actions, a pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim or third-party claim, shall contain a statement of the material facts known to the pleading party on which the claim is based, showing that the pleader is entitled to relief, and a demand for judgment for the relief to which the pleader claims entitlement; provided, however, that in any personal action a pleading shall not allege the amount of damages claimed, but shall state only that the damages claimed are within the jurisdictional limits of the court. Relief in the alternative or of several different types may be demanded.

(b) A plaintiff entitled to a trial by jury and desiring a trial by jury shall so indicate upon the first page of the Complaint at the time of filing, or, if there is a counterclaim, at the time plaintiff files an Answer to such counterclaim. Failure to request a jury trial in accordance with this rule shall constitute a waiver by the plaintiff thereof.

Comment

Pleadings which notify the opposing party and the court of the factual and legal bases of the pleader's claims or defenses better define the issues of fact and law to be adjudicated. This definition should give the opposing party and the court sufficient information to determine whether the claim or defense is sufficient in law to merit continued litigation. Pleadings should assist in setting practical limits on the scope of discovery and trial and should give the court sufficient information to control and supervise the progress of the case.

The language following the proviso in section (a) of the rule is intended to conform to the requirements of RSA 508:4-c.

APPENDIX E

The Advisory Committee on Rules invites comment on Rule 9 of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions, which reads as follows:

Rule 9. Answers; Defenses; Forms of Denials

(a) An Answer or other responsive pleading shall be filed with the court within 30 days after the person filing said pleading has been served with the pleading to which the Answer or response is made. It shall state in short and plain terms the pleader's defenses to each claim asserted and shall admit or deny the allegations upon which the adverse party relies. If the party is without knowledge or information sufficient to form a belief as to the truth of an allegation, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the allegations denied. A pleader who intends in good faith to deny only a part or a qualification of an allegation shall specify so much of it as is true and material and deny only the remainder. The pleader may not generally deny all the allegations but shall make the denials as specific denials of designated allegations or paragraphs.

In addition, within the same 30 days, the person filing an Answer or other responsive pleading shall also file an appearance in accordance with Rule 17. No attorney, non-attorney representative or self-represented party will be heard until his or her Appearance is so entered.

(b) An Answer shall be filed within 30 days after the person filing said pleading has been served with the pleading to which the Answer or response is required unless defendant files a Motion to Dismiss within that time period. If a Motion to Dismiss is submitted and denied, an Answer must be filed within 30 days after the date on the Notice of the Decision finally denying the motion; provided, however, that if a Motion to Dismiss which challenges the court's personal jurisdiction, the sufficiency of process and/or the sufficiency of service of process is filed, an Answer must be filed within the time specified in section (f) of this rule.

(c) To preserve the right to a jury trial, a defendant entitled to a trial by jury must indicate his or her request for a jury trial upon the first page of the Answer at the time of filing. Failure to request a jury trial in accordance with this rule shall constitute a waiver by the defendant thereof.

(d) The defendant, in answering the allegations in the Complaint shall not do so evasively but shall answer fully and specifically every material allegation in the Complaint and set out his or her defense to each claim asserted by the

Complaint. The Answer of the defendant may state as many defenses as the defendant deems essential to his or her defense. The defendant may allege any new or special matter in his or her Answer with a demand for relief. An Answer, to the effect that an allegation is neither admitted nor denied, will be deemed an admission. All facts well alleged in the Complaint, and not denied or explained in the Answer, will be held to be admitted.

(e) Failure to plead as affirmative defenses or file a Motion to Dismiss based on affirmative defenses, including the statute of limitations, within the time allowed in section (b) of this rule will constitute waiver of such defenses.

(f) A challenge to the court's personal jurisdiction, sufficiency of process, and/or sufficiency of service of process is waived unless raised by a Motion to Dismiss filed within 30 days after the person raising such a challenge is served. If such a motion is denied by the trial court, the party raising the challenge will be deemed to have waived it unless that party seeks review of the denial by the supreme court within 30 days of the clerk's final written notice of the trial court's decision. If no appeal is taken, an Answer must be filed within 30 days of the clerk's final written notice of the trial court's decision. If an appeal is taken, an Answer must be filed within 30 days after the date of the supreme court's final written notice declining the appeal, or, if the supreme court accepts the appeal, within 30 days after the date of the supreme court's final decision rejecting such challenge(s). The supreme court's declining to accept an appeal does not preclude a party who has complied with this section from challenging the trial court's ruling on personal jurisdiction, sufficiency of process and/or sufficiency of service of process in an appeal from a final judgment of the trial court. A party does not waive the right to file a Motion to Dismiss pursuant to this section by filing an Answer or other pleadings or motions that address issues aside from personal jurisdiction, sufficiency of process, and/or sufficiency of service of process.

Comment

Pleadings which notify the opposing party and the court of the factual and legal basis of the pleader's claims or defenses better define the issues of fact and law to be adjudicated. This definition should give the opposing party and the court sufficient information to determine whether the claim or defense is sufficient in law to merit continued litigation. Pleadings should assist in setting practical limits on the scope of discovery and trial and should give the court sufficient information to control and supervise the progress of the case.

Answers are to comply with statutory requirements that pertain to brief statements of defense. See RSA 515:3, 524:2, 565:7, and 547-C:10.

This rule changes current practice in that it requires a defendant to file an Answer within 30 days after the defendant is served with the Complaint. The

practice under prior law whereby, in actions at law, the defendant's entry of an appearance operated as a general denial of all allegations of the plaintiff's writ has been eliminated. Section (b) of the rule extends the time for filing an Answer if the defendant moves to dismiss the Complaint. If a motion to dismiss is filed, the Answer is not due until 30 days after the clerk's notice of the court's decision finally denying the motion. Except for challenges to personal jurisdiction, to the sufficiency of process or to the sufficiency of service of process, any defense that can be raised by motion also can alternatively be raised in an Answer.

Section (e) of the rule makes clear that affirmative defenses are deemed waived if they are not raised in an Answer or a motion to dismiss filed within 30 days after the defendant is served with the Complaint.

Section (f) requires that motions to dismiss based on a challenge to the court's personal jurisdiction, the sufficiency of process, or the sufficiency of service of process must be raised by motion to dismiss filed within 30 days after service of the Complaint. This subsection is intended to modify long standing New Hampshire practice concerning the manner in which a litigant who desires to challenge the court's personal jurisdiction or the adequacy of process or service of process must proceed. Under prior law, a litigant desiring to make such challenges was required to enter a special appearance and to file a motion to dismiss within 30 days after being served. If the litigant failed to follow this course, or if the litigant filed an Answer or pleading that raised any other issues, the litigant would be deemed to have submitted to the court's jurisdiction and thus waived his or her challenge to personal jurisdiction or the adequacy of process or service of process.

Under the new rule, a litigant desiring to challenge personal jurisdiction or the sufficiency of process or the service of process must still do so by filing a motion to dismiss within 30 days after being served. However the litigant is not required to enter a "special appearance," nor will the litigant be deemed to have waived such challenges and submitted to the court's jurisdiction by filing an Answer or other pleadings or motions that raise issues aside from personal jurisdiction, sufficiency of process or sufficiency of service of process. In accordance with *Mosier v. Kinley*, 142 N.H. 415, 423-24 (1997), the new rule preserves the requirement that a litigant whose motion to dismiss on these grounds is denied by the trial court must seek an immediate appeal of the trial court's ruling, or be deemed to have waived these challenges.

APPENDIX F

The Advisory Committee on Rules invites comment on Rule 22 of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions (formerly PAD Rule 3), which reads as follows:

Rule 22. Automatic Disclosures

(a) *Materials that Must Be Disclosed*. Except as may be otherwise ordered by the court for good cause shown, a party must without awaiting a discovery request, provide to the other parties:

(1) the name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support his or her claims or defenses, unless the use would be solely for impeachment, and, unless such information is contained in a document provided pursuant to Rule 22 (a)(2), a summary of the information believed by the disclosing party to be possessed by each such person;

(2) a copy of all documents, electronically stored information, and tangible things that the disclosing party has in his or her possession, custody or control and may use to support his or her claims or defenses, unless the use would be solely for impeachment;

(3) a computation of each category of damages claimed by the disclosing party together with all documents or other evidentiary materials on which each computation is based, including materials bearing on the nature and extent of injuries suffered; and

(4) for inspection and copying, any insurance agreement or policy under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(b) *Time for Disclosure*. Unless the court orders otherwise, the disclosures required by Rule 22(a) shall be made as follows:

(1) by the plaintiff, not later than 30 days after the defendant to whom the disclosure is being made has filed his or her Answer to the Complaint; and

(2) by the defendant, not later than 60 days after the defendant making the disclosure has filed his or her Answer to the Complaint.

(c) *Duty to Supplement*. Each party has a duty to supplement that party's initial disclosures promptly upon becoming aware of the supplemental information.

(d) *Sanctions for Failure to Comply*. A party who fails to timely make the disclosures required by this rule may be sanctioned as provided in Rule 21.

Comment

This rule, formerly PAD Rule 3, accomplishes a major change from prior New Hampshire practice in that it requires both the plaintiff and the defendant to make automatic initial disclosures of certain information without the need for a discovery request from the opposing party. Although there was a similar but not identical requirement in the so-called "fast-track" section of former Superior Court Rule 62(II), the rule was used very little and therefore does not provide a significant base of experience for this rule. Nonetheless, such a base of experience can be found in federal court practice, where an automatic disclosure regimen in some form has been in existence since 1993, and appears to have worked reasonably well. Requiring parties to make prompt and automatic disclosures of information concerning the witnesses and evidence they will use to prove their claims or defenses at trial will help reduce "gamesmanship" in the conduct of litigation, reduce the time spent by lawyers and courts in resolving discovery issues and disputes, and promote the prompt and just resolution of cases.

Section (a) of Rule 22 is taken largely from Rule 26(a)(1) of the Federal Rules of Civil Procedure. It differs from the federal rule, however, in that, unlike the federal rule, this rule does not permit the disclosing party to merely provide "the subjects" of the discoverable information known to individuals likely to have such information, Fed. R. Civ. P. 26(a)(1)(A)(i), and "a description by category and location" of the discoverable materials in the possession, custody or control of the disclosing party, Fed. R. Civ. P. 26(a)(1)(A)(ii). Rather, the rule requires that the disclosing party actually turn over to the opposing party a copy of all such discoverable materials, Rule 22(a)(2), and also requires that the disclosing party provide a summary of the information known to each individual identified under Rule 22(a)(1) unless that information is contained in the materials disclosed under Rule 22(a)(2). This more comprehensive discovery obligation does not impose an undue burden on either plaintiffs or defendants and will help to insure that information and witnesses that will be used by each party to support its case will be disclosed to opposing parties shortly after the issues have been joined.

Subsection (a)(3) of the rule also differs somewhat from the language of comparable Fed. R. Civ. P. 26(a)(1)(A)(iii), in that the rule eliminates reference to "privileged or protected from disclosure" information as being excepted from the disclosure obligation imposed by the subsection. By so doing, the intention

is not to eliminate the ability of a party to object on privilege or other proper grounds to the disclosures relating to the computation of damages or the information on which such computations are based. However, genuine claims of privilege as a basis for avoiding disclosure of information pertinent to the computation of damages will be rare and, to the extent such claims do exist, the ability to assert the privilege is preserved elsewhere in the rules. Therefore, there is no need to make a specific reference to privileged or otherwise protected materials in this rule.

The time limits established in section (b) of the rule are reasonable and will promote the orderly and expeditious progress of litigation. The proposed rule differs from the initial disclosure proposal embodied in the Pilot Project Rules of the American College of Trial Lawyers (ACTL) and the Institute for the Advancement of the American Legal System (IAALS), in that, unlike ACTL/IAALS Rule 5.2, the rule does not require the plaintiff to make its initial disclosures before the time when the defendant is required to file its Answer. The plaintiff should have the benefit of the defendant's Answer before making its initial disclosure since the Answer will in all likelihood inform what facts are in dispute and therefore will need to be proved by the plaintiff.

Section (c) of the rule is taken directly from ACTL/IAALS Pilot Project Rule 5.4 and its substance is generally consistent with Federal Rule 26(e) and Rule 21(g). It should be noted, however, that unlike Rule 21(g), which contains introductory language stating that there is no duty to supplement responses and then sets forth very broad categories of exceptions from this general rule, this rule is worded in positive terms to require supplementation of responses whenever the producing party becomes aware of supplemental information covered by the rule's initial disclosure requirements.

Section (d) of the rule references Rule 21 and permits the court to impose any of the sanctions specified in that rule if a party fails to make the disclosures required of it by this rule in a timely fashion.

APPENDIX G

The Advisory Committee on Rules invites comment on Rule 23(b) of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions (formerly PAD Rule 4(a)), which reads as follows:

(b) A party may propound more than one set of interrogatories to an adverse party, but the total number of interrogatories shall not exceed 25, unless the court otherwise orders for good cause shown after the proposed additional interrogatories have been filed with the court. In determining what constitutes an interrogatory for the purpose of applying this limitation in number, it is intended that each question be counted separately, whether or not it is subsidiary or incidental to or dependent upon or included in another question, and however the questions may be grouped, combined or arranged.

APPENDIX H

The Advisory Committee on Rules invites comment on Rule 25 of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions (formerly PAD Rule 5), which reads as follows:

Rule 25. Discovery of Electronically Stored Information (ESI)

(a) Promptly after litigation is commenced, the parties must meet and confer about preservation of any electronically stored information (ESI). In the absence of an agreement, any party may move for an order governing preservation of ESI. Because the parties require a prompt response, the court must make an order governing preservation of ESI as soon as possible.

(b) The parties have a duty to preserve all potentially relevant ESI once the party is aware that the information may be relevant to a potential claim. Counsel for the parties have a duty to notify their clients to place a "litigation hold" on all potentially relevant ESI.

(c) Requests for ESI shall be made in proportion to the significance of the issues in dispute. If the request for ESI is considered to be out of proportion to the issues in the dispute, at the request of the responding party, the court may determine the responsibility for the reasonable costs of producing such ESI.

(d) A party may serve on another party a request for designated ESI, including documents, email messages and other electronically recorded messages and communications, photographs, sound recordings, drawings, charts, graphs and other data or data compilations, including back-up and archived copies of ESI – stored in any medium from which information could be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form.

(e) The request must describe with reasonable particularity each item or category of items to be produced. The request must also state the form or forms in which ESI is to be produced.

(f) The responding party must respond to each item or category of items or state an objection to the request including the basis of the objection, within 30 days of the receipt of the request.

(g) The responding party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request.

(h) The responding party need not produce the same ESI in more than one form.

(i) The responding party does not waive privileged information by its inadvertent disclosure under this rule.

(j) Inadvertently disclosed privileged ESI is subject to "claw-back" at the request of the responding party. If agreement is not reached by opposing counsel or the litigants concerning any "claw-back" requests, the court may decide any disputes.

(k) A party may also serve on another party a request to permit the requesting party and or its representatives to inspect, copy, test or sample the ESI in the responding party's possession or control.

Comment

This rule codifies electronic discovery in New Hampshire. The discovery of electronically stored information (ESI) stands on equal footing with the discovery of paper documents. It is likely that the growth of ESI and the systems for the creating and storing of such information will continue to be dynamic as technology continues to advance. For that reason, this Rule does not seek to precisely define ESI.

Self-represented persons are also subject to the duty to preserve such ESI.

For a resource to both litigants and judges dealing with the issues of electronically stored information, reference is made to "Navigating the Hazards of E-discovery" published by the Institute of the Advancement of the American Legal System.

This Rule is similar to Fed. R. Civ. P. 34 but with some changes.

APPENDIX I

The Advisory Committee on Rules invites comment on Rule 26(a) of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions (formerly PAD Rule 4(b)), which reads as follows:

(a) A party may take as many depositions as necessary to adequately prepare a case for trial so long as the combined total of deposition hours does not exceed 20 unless otherwise stipulated by counsel or ordered by the court for good cause shown.

APPENDIX J

Amend Supreme Court Rule 50 as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 50. Trust Accounts.

(1) *Interest-Bearing Pooled Trust Accounts.* In addition to any individual client trust accounts, a member of the New Hampshire Bar who is not exempt from this requirement pursuant to Rule 50(1)(F) shall create or maintain a pooled, interest-bearing trust account known as "Interest on Lawyers Trust Accounts program" or "IOLTA" account for clients' funds which are nominal in amount or to be held for a short period of time and must comply with the following provisions:

A. An interest-bearing trust account shall be established with any bank or savings and loan association authorized by federal or State law to do business in New Hampshire and insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or other financial institution with adequate federal insurance covering client funds ("financial institution"). Funds in each interest-bearing trust account shall be subject to withdrawal upon demand.

B. The rate of interest payable on any interest-bearing trust account shall be the same rate of interest paid by the depository institution for all other holders of similar accounts. Interest rates higher than those offered by the institution on regular checking or savings accounts may be obtained by a lawyer or law firm on some or all deposited funds so long as there is no impairment of the right to withdraw or transfer principal immediately.

C. Lawyers, law firms or others acting on their behalf when depositing clients' funds in a pooled, interest-bearing account shall direct the depository institution:

(i) to remit interest or dividends, as the case may be, at least quarterly, to the New Hampshire Bar Foundation; and

(ii) to transmit with each remittance to the Foundation a statement showing the name of the lawyer or law firm for whom the remittance is sent, the account number(s), and rate of interest applied for the reporting period; and

(iii) to transmit to the depositing lawyer or law firm at the same time a report showing the accounts number(s), rate of interest applied for the reporting period, and amount paid to the Foundation.

D. The interest or dividends received by the Foundation shall be used solely by the Foundation for the following purposes:

(i) for the support of civil legal services to the disadvantaged;

(ii) for public education relating to the courts and legal matters;

(iii) for such other programs as may be approved by the supreme court.

Such income shall be applied only to activities permitted to be conducted by organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954, as from time to time amended.

E. Attorneys, either individually or through their firm organizations, shall complete an annual Trust Accounting Compliance Certificate by August 1 of each year which includes a listing of all interest-bearing trust account(s) for clients' funds under paragraph (1). Any pooled non-interest bearing client trust account(s) must be converted to interest-bearing trust account(s) under provisions of Rule 50(1).

F. A lawyer is exempt from the requirement that he or she create or maintainan a pooled, interest-bearing trust account known as “Interest on Lawyers Trust Accounts program” or “IOLTA” account if:

(i) the lawyer is not engaged in the private practice of law;

(ii) the lawyer is a judge, attorney general, public defender, U.S. attorney, district attorney, on duty with the armed services or employed by a local, state or federal government, and is not otherwise engaged in the private practice of law;

(iii) the lawyer is a corporate counsel or teacher of law and is not otherwise engaged in the private practice of law;

(iv) the nature of the lawyer’s practice is such that the lawyer does not hold IOLTA-eligible funds of any client or third person; or

(v) the lawyer does not have an office within the State of New Hampshire, does not have a trust account in a financial institution within the State of New Hampshire, and any trust accounts the lawyer has in a foreign jurisdiction are maintained in compliance with the rules and regulations of that jurisdiction.

[(G. Ownership of, or employment by an entity that collects, holds, and disburses closing funds of clients, customers, or third parties related

to New Hampshire real estate as, or performs other services customarily performed by an attorney, such as determining marketability of title, preparing contracts, deeds, mortgages and other legal instruments, and conducting closings does not exempt the attorney or entity from compliance with this rule and Rule 50-A. Such activities constitute the practice of law.]

~~G.~~ **[H.]** This rule may be subsequently amended to effectuate its purposes or to comply with any amendments to the Internal Revenue Code.

(2) *Attorney's Financial Records:*

A. Every attorney shall maintain records of the handling, maintenance and disposition of all funds or securities of a client at any time in the attorney's possession from the time of receipt to the time of final distribution and shall preserve such records for a period of six (6) years after final distribution of such funds or securities or any portion thereof. Specifically, every attorney or the firm organization shall maintain a trust accounting system that shall include at the minimum, (1) a ledger or system showing all receipts and disbursements from the trust account or accounts with appropriate entries identifying the source of the receipts and the nature of the disbursement, and (2) a separate accounting page or columns for each client for whom property is held, which shall show all receipts and disbursements and carry a running account balance. Any other system that preserves the above-mentioned features and sufficiently accounts for trust funds may also be used. In addition there shall be maintained an index, or equivalent single source for identification of all trust accounts, including pooled interest-bearing trust accounts, probate accounts, custodial accounts and client agency accounts.

B. All cash property of clients received by attorneys shall be deposited in one or more clearly designated trust accounts (separate from the attorney's own funds) in financial institutions. Any attorney depositing client funds into an out-of-state financial institution shall file a written authorization with the Clerk of the Supreme Court authorizing the Court or its agents to examine and copy such out-of-state account records. Under no circumstances may any attorney use out-of-state banks other than those located in Maine, Vermont, Massachusetts, or the state in which the attorney's office is situated, without obtaining prior written approval from the Supreme Court.

C. Only those retainer fees, that are refundable if not earned, and as to which the attorney has so informed the client, shall be deposited in the trust account(s) described above. These shall not be withdrawn from the account of the attorney or firm organization until earned. All other retainer fees may be deposited in the attorney's general operating account.

D. All funds received as proceeds of collections or awards on behalf of a client shall be deposited in gross in the trust account(s) required above, and shall not be charged with a fee until distribution.

E. The practice of law in the form of a partnership or a professional association shall not relieve an attorney from the obligation of compliance with this Supreme Court Rule.

F. Each financial institution account required by Rule 50, except those accounts excluded by Rule 50-A(3), shall be reconciled by the lawyer or law firm on a monthly basis. Such reconciliation shall disclose (a) the balance of the account according to the financial institution's records; (b) the balance of the account according to the lawyer or law firm's records; (c) a detailed listing of all differences between items (a) and (b); (d) a listing of all clients' funds in the accounts as of the reconciliation date; and (e) a detailed listing of all differences between items (b) and (d).

APPENDIX K

Amend Supreme Court Rule 50-A as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 50-A. Certification Requirement

(1) In order to assure compliance with the requirements of Rule 50 and in order to ascertain that the records and accounts described in Rule 50 are properly maintained, all attorneys and foreign legal consultants licensed to practice in the State of New Hampshire, whether in private practice or not, other than those in inactive status, shall individually or through their firm organizations file an annual Trust Accounting Certificate of Compliance on or before August 1st of each year. For purposes of this rule, an attorney shall not be considered to be "in inactive status" if the attorney's New Hampshire Bar Association membership status was active at any time during the one-year period beginning on June 1 of the year preceding the reporting year and ending on May 31 of the reporting year. The Trust Accounting Certificate of Compliance shall certify to one of ~~two~~ **[three]** things:

A. That the attorney or foreign legal consultant does not maintain a trust account and does not possess any assets or funds of clients **[or third persons dealing with clients]**; or

[B. That the attorney is not an owner or employee of an entity that collects, holds and disburses closing funds of clients, customers or third parties related to New Hampshire real estate, or performs other closing or title related services customarily performed by an attorney, such as determining marketability of title, preparing contracts, deeds, mortgages and other legal instruments, and conducting closings]

~~B~~**[C.]** That client funds maintained by the attorney or foreign legal consultant are held in accounts in full compliance with the requirements of Rule 50.

A prescribed Trust Accounting Certificate of Compliance form will be sent to the attorney or foreign legal consultant annually by the New Hampshire Bar Association with the attorney's annual dues and court fees assessments or foreign legal consultant's annual dues and court fees assessments. The self-certification may be completed by the attorney or foreign legal consultant or by a private accountant employed for this purpose by the attorney or foreign legal consultant. The completed Trust Accounting Certificate of Compliance forms shall be filed with the New Hampshire Supreme Court by delivery to the New Hampshire Bar Association by August 1st of each year. The self-certification procedure shall be supplemented by annual compliance checks by an

accountant selected by the Supreme Court. The accountant's purpose in conducting a compliance check will be to determine whether the minimum standards set forth in Rule 50 are being maintained. All information obtained by the accountant shall remain confidential except for purposes of transmitting notice of violations to the Professional Conduct Committee or the Supreme Court. The information derived from such compliance checks shall not be disclosed by anyone in such a way as to violate the attorney-client privilege except by express order from the Supreme Court. The certification requirements of this rule shall not apply to any full-time judge, full-time marital master, or full-time supreme, superior, and district court clerk or deputy clerk, except that the certification requirement shall apply where such judge, marital master, clerk, or deputy clerk was in the active practice of law at any time during the twelve (12) months immediately preceding August 1st of any year.

(2) An attorney or foreign legal consultant who fails to comply with the requirements of Rule 50 with respect to the maintenance, availability, and preservation of accounts and records, who fails to file the required annual Trust Accounting Certificate of Compliance, or who fails to produce trust account records as required shall be deemed to be in violation of Rule 1.15 of the Rules of Professional Conduct and the applicable Supreme Court Rule. Unless upon petition to the Supreme Court an extension has been granted, failure to file the required annual Trust Accounting Certificate of Compliance by August 1st shall, in addition, subject the attorney or foreign legal consultant to one or more of the following penalties and procedures:

A. A fine of $100 for each month or fraction thereof after August 1st in which the Trust Accounting Certificate of Compliance remains unfiled; in addition, an attorney or foreign legal consultant who has been fined $300 or more under this section may be suspended from the practice of law in this State;

B. Audit of the attorney's or foreign legal consultant's trust accounts and other financial records at the expense of the attorney or foreign legal consultant, if the certificate remains unfiled on December 1st; and

C. Based upon results of the audit, initiation of proceedings for further sanctions, including suspension.

Any check, draft or money order received as payment of any fine imposed pursuant to this rule, which is returned to the court as uncollectable, shall be returned to the sender and shall not constitute payment of the fine. Whenever any check, draft or money order issued in payment of any fine imposed pursuant to this rule is returned to the court as uncollectable, the court shall charge a fee of $25, plus all protest and financial institution fees, in addition to the amount of the check, draft or money order to the person

presenting the check, draft or money order to cover the costs of collection. The fine shall not be considered paid until the fine plus all fees have been paid.

Reinstatement following a suspension ordered pursuant to Rule 50-A(2)(A) above shall be only by order of the Supreme Court, upon petition to the court following the filing of the Trust Accounting Certificate of Compliance and payment of the fine. If the petition is filed more than one year after the date of the order suspending the person from the practice of law in this State, then the petition shall be accompanied by evidence of continuing competence and learning in the law, and evidence of continuing moral character and fitness.

If the evidence of continuing competence and learning in the law, and evidence of continuing moral character and fitness, are satisfactory to the court, the court may order reinstatement upon such conditions as it deems appropriate.

If the evidence of continuing competence and learning in the law is not satisfactory to the court, the court shall refer the motion for reinstatement to the Professional Conduct Committee for referral to a panel of the hearings committee. The hearing panel shall promptly schedule a hearing at which the attorney shall have the burden of demonstrating by a preponderance of the evidence that he or she has the competency and learning in law required for reinstatement. At the conclusion of the hearing, the hearing panel shall promptly file a report containing its findings and recommendations and transmit same, together with the record, to the Professional Conduct Committee. The Professional Conduct Committee shall review the report of the hearings committee panel, the record and the hearing transcript and shall file its own recommendations and findings, together with the record, with the court. Following the submission of briefs, if necessary, and oral argument, if any, the court shall enter a final order.

If the evidence of continuing moral character and fitness is not satisfactory to the court, the court shall order the applicant to file with the committee on character and fitness and with the clerk of the supreme court the petition and questionnaire referred to in Supreme Court Rule 42(5)(e). Further proceedings shall be governed by Rule 42.

(3) Except for requirements of Rule 50, subparagraph (2)A, requiring the inclusion of probate accounts in the index of trust accounts, the provisions of Rule 50, paragraph (2), and of this Rule 50-A shall not apply to probate accounts (including estate, testamentary trusts, guardian, and conservator accounts).

(4) The Supreme Court may at any time order an audit of such financial records or trust accounts of an attorney or foreign legal consultant, and take such other action as it deems necessary to protect the public.

APPENDIX L

Amend Circuit Court – District Division Rule 1.3(H) and (I) as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

H. In a criminal case, whenever the Court approves the withdrawal of appointed defense counsel, the Court shall appoint substitute counsel forthwith and notify the defendant of said appointment by mail. **[Notwithstanding I (below), if appointed counsel in a criminal matter must withdraw due to a conflict of interest as defined by Rules 1.7, 1.9 and/or 1.10 of the New Hampshire Rules of Professional Conduct, counsel shall forward a Notice of Withdrawal to the court and substitute counsel shall be appointed forthwith. Court approval of a withdrawal shall not be required in this circumstance.]**

I. (1) Other than limited representation by attorneys as allowed by Rule 1.3.D.(2), and Professional Conduct Rule 1.2(f)) **[and except as provided in Rule 1.3(H)]**, no attorney shall be permitted to withdraw that attorney's appearance in a case after the case has been scheduled for trial or hearing, except upon motion to permit such withdrawal granted by the Court for good cause shown, and on such terms as the Court may order. Any motion to withdraw filed by counsel shall clearly set forth the reason therefor and contain a certification that copies have been sent to all other counsel or opposing parties, if appearing pro se, and to counsel's client at the client's last known address, which shall be fully set forth within the body of the motion. A factor which may be considered by the Court in determining whether good cause for withdrawal has been shown is the client's failure to meet his or her financial obligations to pay for the attorney's services.

Upon receipt of a motion to withdraw, the Clerk shall schedule a hearing before the Court. Notice by mail shall be sent to all counsel of record, or parties if unrepresented by counsel, and to the client of withdrawing counsel, at the client's last known address as set forth in the motion.

If withdrawing counsel's client fails to appear at said hearing, the Court may, in its discretion, and without further notice to said client, order the trial date continued or make such other order as justice may require.

APPENDIX M

Amend Circuit Court – Family Division Rule 1.20 as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

1.20 Withdrawal and New Representation:

A. Subject to limited representation under Family Division Rule 1.19**[, Rule 3.12 relating to the withdrawal of appointed counsel in Juvenile Delinquency matters]** and subject to Professional Conduct Rule 1.2(f), an attorney may withdraw at any time unless a hearing or trial is scheduled within 60 days. If a hearing or trial is scheduled within 60 days, an attorney must file a motion to withdraw.

B. Any motion to withdraw filed by counsel shall clearly set forth the reason for the request and contain a certification that copies have been sent to all other counsel or opposing parties, if appearing pro se, and to counsel's client at the client's last known address, which shall be fully set forth within the body of the motion. A factor which may be considered by the Court in determining whether good cause for withdrawal has been shown is the client's failure to meet the financial obligations to pay for the attorney's services. Notice by mail shall be sent to all counsel of record, or parties if unrepresented by counsel, and to the client of withdrawing counsel, at the client's last known address.

C. Upon receipt of a motion to withdraw and any related objections, the court will give the motion and any objections expedited consideration, rule upon the motion to withdraw, or schedule a hearing as promptly as the docket allows. If withdrawing counsel's client fails to appear at said hearing, the Court may, in its discretion, and without further notice to said client, grant the withdrawal, order the hearing date continued, or make such other orders as justice may require.

APPENDIX N

Adopt Circuit Court – Family Division Rule 3.12 as follows:

3.12. **Withdrawal of Appointed Counsel:** In Juvenile Delinquency matters brought pursuant to RSA 169-B, if appointed counsel must withdraw due to a conflict of interest as defined by Rules 1.7, 1.9 and/or 1.10 of the New Hampshire Rules of Professional Conduct, counsel shall forward a Notice of Withdrawal to the court and substitute counsel shall be appointed forthwith. Court approval of a withdrawal shall not be required in this circumstance.

APPENDIX O

Amend Rule 15 of the Rules of the Superior Court of the State of New Hampshire Applicable in Criminal Cases and Domestic Relations Cases Filed in the Cheshire County Superior Court as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

15. (a) All pleadings and the appearance and withdrawal of counsel shall be signed by the attorney of record or his associate or by a pro se party. Names, addresses, New Hampshire Bar identification numbers and telephone numbers shall be typed or stamped beneath all signatures on papers to be filed or served. No attorney or pro se party will be heard until his appearance is so entered.

(b) The signature of an attorney to a pleading constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information and belief there is a good ground to support it; and that it is not interposed for delay.

(c) If a pleading is not signed, or is signed with an intent to defeat the purpose of this rule, it may be stricken and the action may proceed as though the pleading had not been filed.

(d) Other than limited representation by attorneys as allowed by Rule 14(d) and Professional Conduct Rule 1.2(f)) **[and subject to (g) below]**, no attorney shall be permitted to withdraw that attorney's appearance in a case after the case has been assigned for trial or hearing, except upon motion to permit such withdrawal granted by the Court for good cause shown, and on such terms as the Court may order. Any motion to withdraw filed by counsel shall set forth the reason therefor but shall be effective only upon approval by the Court. A factor which may be considered by the Court in determining whether good cause for withdrawal has been shown is the client's failure to meet his or her financial obligations to pay for the attorney's services.

(e) *Automatic Termination of Limited Representation.* Any limited representation appearance filed by an attorney, as authorized under Professional Conduct Rule 1.2(f)) and Rule 14(d) of this Court, shall automatically terminate upon completion of the agreed representation, without the necessity of leave of Court, provided that the attorney shall provide the Court a "withdrawal of limited appearance" form giving notice to the Court and all parties of the completion of the limited representation and termination of the limited appearance. Any attorney having filed a limited appearance who

seeks to withdraw prior to the completion of the limited representation stated in the limited appearance, however, must comply with Rule 15(d).

(f) *Pleading Prepared for Unrepresented Party*. When an attorney provides limited representation to an otherwise unrepresented party, by drafting a document to be filed by such party with the Court in a proceeding in which (1) the attorney is not entering any appearance, or (2) the attorney has entered a limited appearance which does not include representation regarding such document, the attorney is not required to disclose the attorney's name on such pleading to be used by that party; any pleading drafted by such limited representation attorney, however, must conspicuously contain the statement **"This pleading was prepared with the assistance of a New Hampshire attorney."** The unrepresented party must comply with this required disclosure. Notwithstanding that the identity of the drafting attorney need not be required to be disclosed under this rule, by drafting a pleading to be used in court by an otherwise unrepresented party, the limited representation attorney shall be deemed to have made those same certifications as set forth in Rule 15(b) despite the fact the pleading need not be signed by the attorney.

[(g) Withdrawal of Appointed Counsel: If appointed counsel in a criminal matter must withdraw due to conflict of interest as defined by Rules 1.7, 1.9 and/or 1.10 of the New Hampshire Rules of Professional Conduct, counsel shall forward a Notice of Withdrawal to the court and substitute counsel shall be appointed forthwith. Court approval of a withdrawal shall not be required in this circumstance.]

APPENDIX P

Amend Rule 12 of the Superior Court of the State of New Hampshire Applicable in Civil Actions as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 12. Motions – Specific

(a) *Motions to Amend.*

(1) No plaintiff shall have leave to amend a pleading, unless in matters of form, after a default until the defendant has been provided with notice and an opportunity to be heard, to show cause why the amendment should not be allowed.

(2) Amendments in matters of form will be allowed or ordered, as of course, on motion; but, if the defect or want of form be shown by the adverse party, the order to amend will be made on such terms as justice may require.

(3) Amendments in matters of substance may be made on such terms as justice may require.

(4) Amendments may be made to the Complaint or Answer upon the order of the court, at any time and on such terms as may be imposed.

(b) *Motions to Consolidate.* Whenever a Motion is filed in any county requesting the transfer of an action there pending to another county for trial with an action there pending, arising out of the same transaction or event or involving common issues of law, and/or fact, the court may, after notice to all parties in all such pending actions and hearing, make such order for consolidation in any one of such counties in which such actions are pending, as justice and convenience require.

(c) *Motions to Continue.*

(1) Continuances may be granted upon such terms as the court shall order.

(2) All motions for continuance or postponement shall be signed and dated by the attorney, non-attorney representative, or self-represented party filing such motion. Any other party wishing to join in any such motion shall also do so in writing. Each such motion shall contain a certification by the attorney, non-attorney representative, or self-represented party filing such

motion that the party so filing the motion has been notified of the reasons for the continuance or postponement, has assented thereto either orally or in writing, and has been forwarded a copy of the motion.

(3) Where a trial has been scheduled in one case prior to the scheduling of another matter in another court, or elsewhere, where an attorney, non-attorney representative or self-represented party has a conflict in date and time, the case first scheduled shall not be subject to a continuance because of the subsequently scheduled matter which is in conflict as to time and date except as follows:

(a) A subsequently scheduled case involving trial by jury in a Superior, or Federal District Court, or argument before the Supreme Court.

(b) Unusual circumstances causing the respective courts to agree that an order of precedence other than the above shall take place.

(d) *Motions to Dismiss.* Upon request of a party, hearings on motions to dismiss shall be scheduled as soon as practicable, but no later than 30 days prior to the date set for trial on the merits, unless the court shall otherwise order in the exercise of discretion. All parties shall be prepared, at any such hearing, to present all necessary arguments.

(e) *Motions to Reconsider.* A Motion for Reconsideration or other post-decision relief shall be filed within 10 days of the date on the written Notice of the order or decision, which shall be mailed by the clerk on the date of the Notice. The Motion shall state, with particular clarity, points of law or fact that the court has overlooked or misapprehended and shall contain such argument in support of the Motion as the movant desires to present; but the motion shall not exceed 10 pages. A hearing on the motion shall not be permitted except by order of the court.

(1) No Answer or Objection to a Motion for Reconsideration or other post-decision relief shall be required unless ordered by the court.

(2) If a Motion for Reconsideration or other post-decision relief is granted, the court may revise its order or take other appropriate action without rehearing or may schedule a further hearing.

(3) The filing of a motion for reconsideration or other post-decision relief shall not stay any order of the court unless, upon specific written request, the court has ordered such a stay.

(f) *Motions to Recuse.* All grounds for recusal that are known or should reasonably be known prior to trial or hearing shall be incorporated in a written motion for recusal and filed promptly with the court. Grounds for recusal that

first become apparent at the time of or during the hearing shall be immediately brought to the attention of the court. Failure to raise a ground for recusal shall constitute a waiver as specified herein of the right to request recusal on such ground. If a record of the proceedings is not available, the court shall make a record of the request, the court's findings, and its order. The court's ruling on the motion shall issue promptly. If the motion is denied, the court's ruling shall be supported by findings of fact with respect to the allegations contained in the motion.

(g) *Motions for Summary Judgment.*

(1) Motions for summary judgment shall be filed, defended and disposed of in accordance with the provisions of RSA 491:8-a as amended. Such motions and responses thereto shall provide specific page, paragraph, and line references to any pleadings, exhibits, answers to interrogatories, depositions, admissions, and affidavits filed with the court in support of or in opposition to the Motion for Summary Judgment. Only such materials as are essential and specifically cited and referenced in the Motion for Summary Judgment, responses, and supporting memoranda shall be filed with the court. In addition, except by permission of the court received in advance, no such motion, response, or supporting memorandum of law shall exceed 20 double-spaced pages. The purpose of this rule is to avoid unnecessary and duplicative filing of materials with the court. Excerpts of documents and discovery materials shall be used whenever possible.

(2) The non-moving party shall have 30 days to respond to a motion for summary judgment, unless another deadline is established by agreement of the parties or order of the court.

(3) Where a plaintiff successfully moves for summary judgment on the issue of liability or a defendant concedes liability and the case proceeds to trial by jury, the parties must provide the trial judge with a statement of agreed facts sufficient to explain the case to the jury and place it in a proper context so that the jurors might more readily understand what they will be hearing in the remaining portion of the trial. The court shall present the jury with the agreed statement of facts. Absent such an agreement on facts, the court shall provide such a statement.

[(h) *Motions to Seal.*

The following procedure shall be followed when a party or other person with standing seeks to have the case record or a portion of the case record determined to be confidential by the superior court:

(1) Any party or other person with standing who seeks a determination that a case record or a portion of a case record is confidential shall file a

motion to seal the case record or the portion of the case record in question. The motion shall state the authority for confidentiality, i.e., the statute, administrative or court rule providing for confidentiality, or the privacy interest or circumstance that requires confidentiality. Upon filing of the motion to seal, the case record or the portion of the case record which is the subject of the motion shall be kept confidential pending a ruling on the motion.

(2) Within 30 days of filing, the court shall review the motion to seal and determine whether the case record or the portion of the case record that is the subject of the motion shall be confidential.

(3) An order will be issued setting forth the ruling on the motion to seal.]

APPENDIX Q

Amend Rule 1.8 of the Rules of the Circuit Court of the State of New Hampshire-District Division as follows (additions are in **[bold and in brackets]**):

Rule 1.8. Motions.

A. Any request for action by the Court shall be by motion. All motions, other than those made during trial or hearing, shall be made in writing unless otherwise provided by these rules. They shall state with particularity the grounds upon which they are made and shall set forth the relief or order sought.

B. The Court will not hear any motion grounded upon facts unless they are verified by affidavit, or are apparent from the record or from the papers on file in the case, or are agreed to and stated in writing signed by the parties or their attorneys; and the same rule will be applied as to all facts relied on in opposing any motion.

C. Any party filing a motion shall certify to the Court that a good faith attempt to obtain concurrence in the relief sought has been made, except in the case of dispositive motions, motions for contempt or sanctions, or comparable motions where it can be reasonably assumed that the party or counsel will be unable to obtain concurrence.

D. Unless the opposing party requests a hearing upon any motion and sets forth the grounds of the objection by a pleading and, if required, an affidavit within ten days after the filing of the motion, that party shall be deemed to have waived a hearing and the court may act thereon.

E. Any motion which is capable of determination without the trial of the general issue shall be raised before trial, but may, in the discretion of the Court, be heard during trial.

F. The Court may assess reasonable costs, including reasonable counsel fees, against any party whose frivolous or unreasonable conduct makes necessary the filing of or hearing on any motion.

G. Motions to dismiss will not be heard prior to the trial on the merits, unless counsel shall request a prior hearing, stating the grounds therefor; all counsel shall be prepared, at any such hearing, to present all necessary

[(H) Motions to Seal. The following procedure shall be followed when a party or other person with standing seeks to have the case record or a portion of the case record determined to be confidential by the circuit court-district division:

(1) Any party or other person with standing who seeks a determination that a case record or a portion of a case record is confidential shall file a motion to seal the case record or the portion of the case record in question. The motion shall state the authority for confidentiality, i.e., the statute, administrative or court rule providing for confidentiality, or the privacy interest or circumstance that requires confidentiality. Upon filing of the motion to seal, the case record or the portion of the case record which is the subject of the motion shall be kept confidential pending a ruling on the motion.

(2) Within 30 days of filing, the court shall review the motion to seal and determine whether the case record or the portion of the case record that is the subject of the motion shall be confidential.

(3) An order will be issued setting forth the ruling on the motion to seal.]

APPENDIX R

Adopt Rule 58-B of the Rules of the Circuit Court of the State of New Hampshire-Probate Division as follows:

58-B. MOTIONS TO SEAL

The following procedure shall be followed when a party or other person with standing seeks to have the case record or a portion of the case record determined to be confidential by the circuit court-probate division:

(1) Any party or other person with standing who seeks a determination that a case record or a portion of a case record is confidential shall file a motion to seal the case record or the portion of the case record in question. The motion shall state the authority for confidentiality, i.e., the statute, administrative or court rule providing for confidentiality, or the privacy interest or circumstance that requires confidentiality. Upon filing of the motion to seal, the case record or the portion of the case record which is the subject of the motion shall be kept confidential pending a ruling on the motion.

(2) Within 30 days of filing, the court shall review the motion to seal and determine whether the case record or the portion of the case record that is the subject of the motion shall be confidential.

(3) An order will be issued setting forth the ruling on the motion to seal.

APPENDIX S

Amend Rule 1.26 of the Rules of the Circuit Court of the State of New Hampshire-Family Division as follows:

1.26 Motions:

A. Parties may not address written communications directly to the judge. All requests shall be by properly filed motion with certification of delivery of a copy of the motion to the other party, unless jointly filed. No exhibits shall be attached to motions unless necessary to support an affidavit.

B. The court will not hear any motion based upon facts unless the facts are verified by affidavit, or are already contained in the court record. No exhibits shall be attached to motions unless necessary to support an affidavit. The same rule will be applied as to all facts relied upon in objections to any motions.

C. Any party filing a motion shall certify to the court that a good faith attempt has been made to obtain concurrence in the relief sought, except in the case of dispositive motions, motions for contempt or sanctions, or comparable motions where it can be reasonably assumed that the party or counsel will be unable to obtain concurrence.

D. Motions to which all parties assent or concur will be ruled upon as court time permits.

E. Motions that are not assented to will be held for 10 days from the filing date of the motion to allow other parties time to respond, unless justice requires an earlier Court ruling.

F. *Motions to Reconsider:* A motion for reconsideration or other post-decision relief shall be filed within ten (10) days of the date on the Clerk's written notice of the order or decision, which shall be mailed by the Clerk on the date of the notice. The motion shall state, with particular clarity, points of law or fact that the Court has overlooked or misapprehended and shall contain such argument in support of the motion as the movant desires to present; but the motion shall not exceed ten (10) pages. A hearing on the motion shall not be permitted except by order of the Court.

No answer to a motion for reconsideration or other post-decision relief shall be required unless ordered by the Court, but any answer or objection must be filed within ten (10) days of notification of the motion.

If a motion for reconsideration or other post-decision relief is granted, the court may schedule a further hearing.

The filing of a motion for reconsideration or other post-decision relief shall not stay any order of the Court unless, upon specific written request, the Court has ordered such a stay.

[G. *Motions to Seal.* The following procedure shall be followed when a party or other person with standing seeks to have the case record or a portion of the case record determined to be confidential by the circuit court-family division:

(1) Any party or other person with standing who seeks a determination that a case record or a portion of a case record is confidential shall file a motion to seal the case record or the portion of the case record in question. The motion shall state the authority for confidentiality, i.e., the statute, administrative or court rule providing for confidentiality, or the privacy interest or circumstance that requires confidentiality. Upon filing of the motion to seal, the case record or the portion of the case record which is the subject of the motion shall be kept confidential pending a ruling on the motion.

(2) Within 30 days of filing, the court shall review the motion to seal and determine whether the case record or the portion of the case record that is the subject of the motion shall be confidential.

(3) An order will be issued setting forth the ruling on the motion to seal.]

APPENDIX T

Amend Rule 14 of the Superior Court of the State of New Hampshire Applicable in Criminal Cases Filed in Superior Court and in Domestic Relations Cases Filed in the Cheshire County Superior Court as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

14. (a) The names of the attorneys or parties, who conduct each cause, shall be entered upon the docket; and if the defendant shall neglect to enter an appearance within seven days after the return day of the writ, he shall be defaulted, and judgment shall be rendered accordingly; and no such default shall be stricken off, except by agreement, or by order of the Court upon such terms as justice may require, upon motion and affidavit of defense, specifically setting forth the defense and the facts on which the defense is based.

(b) Special appearances shall be deemed general thirty days after the return day of the action, unless a special plea or motion to dismiss is filed within that time.

(c) No person who is not a lawyer will be permitted to appear, plead, prosecute or defend any action for any party, other than himself or herself, unless of good character and until there is on file with the Clerk: (1) a power of attorney signed by the party for whom he or she seeks to appear and witnessed and acknowledged before a Justice of the Peace or Notary Public, constituting said person his or her attorney to appear in the particular action; and (2) an affidavit under oath in which said person discloses (a) all of said person's misdemeanor and felony convictions (other than those in which a record of the conviction has been annulled by statute), (b) all instances in which said person has been found by any court to have violated a court order or any provision of the rules of professional conduct applicable to nonlawyer representatives, (c) all prior proceedings in which said person has been permitted to appear, plead, prosecute or defend any action for any party, other than himself or herself, in any court, (d) all prior proceedings in which said person has not been permitted to appear, plead, prosecute or defend any action for any party, other than himself or herself, in any court, and (e) all prior proceedings in which said person's permission to appear, plead, prosecute or defend any action for any party, other than himself or herself, in any court has been revoked. Any person who is not a lawyer who is permitted to represent any other person before any court of this State must comply with the Rules of Professional Conduct as set forth in Professional Conduct Rule 8.5, and shall be subject to the jurisdiction of the committee on professional conduct.

(d) *Limited Appearance of Attorneys.* To the extent permitted by Rule 1.2 of the New Hampshire Rules of Professional Conduct, an attorney providing limited representation to an otherwise unrepresented litigant may file a limited appearance in a non-criminal case on behalf of such unrepresented party. The limited appearance shall state precisely the scope of the limited representation, and the attorney's involvement in the matter shall be limited only to what is specifically stated. The requirements of Superior Court Rule 15(a), (b) and (c) shall apply to every pleading and motion signed by the limited representation attorney. An attorney who has filed a limited appearance, and who later files a pleading or motion outside the scope of the limited representation, shall be deemed to have amended the limited appearance to extend to such filing. An attorney who signs a writ, petition, counterclaim, cross-claim or any amendment thereto which is filed with the court, will be considered to have filed a general appearance and, for the remainder of that attorney's involvement in the case, shall not be considered as a limited representation attorney under these rules; provided, however, if such attorney properly withdraws from the case and the withdrawal is allowed by the Court, the attorney could later file a limited appearance in the same matter.

(e) *Automatic Withdrawal of Court-Appointed Counsel in Criminal Cases.* In all criminal cases, the appearance of counsel for the defendant shall be deemed to be withdrawn thirty (30) days after sentence is imposed unless the sentence imposed was a deferred sentence or unless a post-sentencing motion is filed within said thirty (30) day period. Where a deferred sentence is imposed, the appearance of counsel for the defendant shall be deemed to be withdrawn thirty (30) days after the deferred sentence is brought forward or suspended. Where a post-sentencing motion is filed within thirty (30) days after imposition of sentence, the appearance of counsel for the defendant shall be deemed to be withdrawn thirty (30) days after the court rules on said motion. Provided, however, that in any criminal case in which an appeal to the supreme court is filed, trial counsel shall remain responsible for representing the defendant in the supreme court pursuant to Supreme Court Rule 32.

[(f) *Continuity of Counsel in Circuit and Superior Courts.* Where a defendant in a criminal case has filed a financial affidavit and has been determined to be eligible for court-appointed counsel in the circuit court, the defendant shall not be required to file a new financial affidavit upon the appeal or transfer of the same case to the superior court unless facts are brought to the court's attention indicating that there has been a substantial change in the defendant's financial circumstances. Notwithstanding subsection (e) of this rule, when counsel appears for a defendant in a criminal case in the circuit court, said appearance shall be deemed to continue upon any appeal or transfer of the same case to the superior court and until the case is finally disposed of in the trial courts.]

APPENDIX U

Amend Rule 3.11 of the Rules of the Circuit Court of the State of New Hampshire-Family Division as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

3.11. **Automatic Withdrawal of Court-Appointed Counsel:** In all Juvenile Delinquency**[, Abuse and Neglect]** and Children in Need of Services matters brought pursuant to RSA 169-B**[, RSA 169-C]** and RSA 169-D respectively, the appearance of counsel for the child **[and/or parent (in cases brought pursuant to RSA 169-C)]** shall be deemed to be withdrawn thirty (30) days after the date of the Clerk's notice of the dispositional order unless a post-dispositional motion is filed within that thirty (30) day period or the court otherwise orders representation to continue. Where a post-dispositional motion is filed within thirty (30) days, the appearance of counsel for the juvenile shall be deemed to be withdrawn thirty (30) days after the court rules on said motion. Where the court otherwise orders representation to continue, the order shall state the specific duration and purpose of the continued representation. Counsel for the juvenile shall be deemed to be withdrawn immediately at the end of the ordered duration.

APPENDIX V

Amend Supreme Court Rule 47 as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 47. Counsel Fees And Expenses-Indigent Criminal Cases.

The provisions of this rule shall apply only to preparation for and proceedings in all courts in which assigned counsel is appointed to represent indigent criminal defendants.

(1) *Itemization of Bills.* All bills related to fees and expenses must be itemized as to the time spent and expenses incurred on each case, and there shall be no separate charge for overhead. A copy of the Notice of Appointment of Counsel order on appointment or other supporting document must be attached to the bill with each submission.

(2) *Fees.* Maximum compensation is limited as follows:

(a) Time properly chargeable to case: $60 per hour. The paralegal hourly rate shall not exceed $35.00 and shall be included with fees of counsel for the purposes of determining the maximum fee on any case. Travel time to and from meetings with an incarcerated defendant shall be compensable; otherwise, travel time is not a compensable event unless expressly authorized by the court in advance for exceptional circumstances.

(b) Maximum fee for misdemeanors: $1,400.

(c) Maximum fee for felonies: $4,100.

(d) Maximum fee (per co-counsel) for homicides under RSA 630:1-2: $20,000.

(e) Maximum fee for Supreme Court appeal: $2,000.

Only upon an express, written finding of good cause and exceptional circumstances by the court will the maximum fees be exceeded or will additional fees be authorized. All petitions to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded; provided, however, that the court may waive the requirement for prior approval when justice so requires.

When counsel represents more than one client on any particular day, the hours spent shall be allocated accordingly. Representation of more than one

client on the same day and in the same court shall be noted on the bills submitted. All bills shall be reviewed by the judge who presided over the case, if practicable.

When assigned counsel is appointed in district court, that counsel shall continue as counsel of record for all purposes (such as motions to reduce bail, waiver of indictments, etc.) until and unless new counsel is appointed by superior court. The appointment of counsel shall occur in accordance with RSA 604-A:2, II. The public defender shall be appointed if that office is available. In the event that the public defender program is not available, the appointment of a contract attorney shall occur, if such an attorney is available. Lastly, in the event that neither the public defender nor a contract attorney is available, the appointment of a qualified attorney under RSA 604-A:2, I, shall occur.

The adequacy of the rates prescribed by this rule may, upon request of the supreme court, be reviewed periodically by the advisory committee on rules.

(3) *Expenses - Reimbursable.* **[In addition to the fees and fee caps listed in Section (2), above,]** ~~I~~**[i]**nvestigative, expert, or other necessary services may be compensated only upon a finding of necessity and reasonableness by a justice of the appropriate court in accordance with RSA 604-A:6, made prior to said expense being incurred.

(a) Except for those services for which rates are established by the supreme court, the presiding justice may consider, but shall not be bound by, the prevailing rates or any rates established by a licensing agency or professional association in approving fees for services specified above.

(b) Rates for stenographers and deposition services shall be established by the supreme court. The cost of copies of depositions and transcripts shall be fifty cents (.50) per page.

(c) Rates for the services of interpreters for all parties and the court shall be established by the supreme court.

(d) No cost for investigative, expert, or other necessary services as initially approved may be exceeded prior to a subsequent finding of necessity by a justice of the appropriate court.

(e) All bills for investigative, expert, or other necessary services shall be reviewed by the judge who presided over the case, if practicable.

(f) Attorneys shall be reimbursed for the mileage expenses incurred in representing their client at the standard mileage reimbursement rate currently

allowed by the Internal Revenue Service. Requests for reimbursement of mileage expenses shall specify the actual number of miles traveled.

(g) The expense of telephone calls shall not be reimbursed.

(h) In cases appealed to the supreme court, attorneys shall be reimbursed for the actual reasonable costs (not including labor) of reproducing and binding the notice of appeal or other appeal document, any appendix and briefs, whether done in-house or by an outside printer.

(i) No reimbursement will be paid for overhead expenses including photocopies (other than as provided in subdivision (3)(h) of this rule), postage, fax and secretarial services.

(4) *Deadline for Filing Bills with Court.* All bills related to fees and expenses must be submitted no later than sixty days after the close of the case. The court may allow late filing for good cause shown, when justice so requires.

NOTE: Appointed counsel for witnesses is covered under Rule 48 of the Supreme Court Rules.

APPENDIX W

Amend Supreme Court Rule 48 as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 48. Counsel Fees and Expenses -- Other Indigent Cases and Parental Notification Cases

The provisions of this rule shall apply only to preparation for and proceedings in all courts in which counsel is appointed to represent indigent persons, other than criminal defendants, and indigent witnesses in appropriate circumstances, and minors (whether or not indigent) in parental notification cases under RSA 132:34. This rule refers to, but is not limited to, juvenile cases in the district court, guardianships under RSA chapter 464-A, termination of parental rights (TPR) under RSA chapter 170-C, and involuntary admissions under RSA chapter 135-C in the probate court and district court.

(1) *Itemization of Bills.* All bills related to fees and expenses must be itemized as to the time spent and expenses incurred on each case, and there shall be no separate charge for overhead. A copy of the Notice of Appointment of Counsel order on appointment or other supporting document must be attached to the bill with each submission.

(2) *Fees.* Maximum compensation is limited as follows:

(a) Time properly chargeable to case: $60 per hour. The paralegal hourly rate shall not exceed $35.00 and shall be included with fees of counsel for the purposes of determining the maximum fee on any case. Travel time is not a compensable event unless expressly authorized by the court in advance for exceptional circumstances.

(b) Maximum fee for all juvenile cases pursuant to RSA chapters 169-B, C, and D: $1,700.

(c) De novo appeal of juvenile cases pursuant to RSA chapter 169-C: $1,400.

(d) Maximum fee for guardianships under RSA chapters 463 or 464-A:

(i) RSA chapter 463: $1,200;

(ii) RSA chapter 464-A: $900.

(e) Maximum fee for annual review hearings for guardianships: $300.

(f) Maximum fee for TPR cases pursuant to RSA chapter 170-C: $1,700.

(g) Maximum fee for involuntary admissions under RSA chapter 135-C: $600.

(h) Appeals to the supreme court, other than parental notification cases, in all juvenile cases and any matters within the subject matter jurisdiction of the probate court: $2,000.

(i) Maximum fee for court review hearings of juvenile cases pursuant to RSA 169-B and D: $300.

(j) Maximum fee for parental notification cases pursuant to RSA 132:34, excluding any appeal to the supreme court: $1,000.

(k) Maximum fee for appeals to the supreme court in parental notification cases pursuant to RSA 132:34: $500.

Only upon express, written finding for good cause and exceptional circumstances by the court will the maximum fees be exceeded or will additional fees be authorized.

In any case filed before July 12, 2011, any petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded; provided, however, that the court may waive the requirement for prior approval when justice so requires.

In any case filed on or after July 12, 2011, any petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded. In any such case, fees in excess of the maximum compensation in this rule will be paid only if the administrative judge of the circuit court or the chief justice of the superior court, as the case may be, certifies the good cause and exceptional circumstances justifying the excess fees.

When counsel represents more than one client on any particular day, the hours spent shall be allocated accordingly. Representation of more than one client on the same day and in the same court shall be noted on the bills submitted. All bills shall be reviewed by the judge who presided over the case, if practicable.

The adequacy of the rates prescribed by this rule may, upon request of the supreme court, be reviewed periodically by the advisory committee on rules.

(3) *Expenses - Reimbursable.* **[In addition to the fees and fee caps listed in Section (2) above,]** ~~I~~**[i]**nvestigative, expert, or other necessary services may be

compensated only upon a finding of necessity and reasonableness by a justice of the appropriate court, made prior to said expense being incurred.

(a) Except for those services for which rates are established by the supreme court, the presiding justice may consider, but shall not be bound by, the prevailing rates or any rates established by a licensing agency or professional association in approving fees for services specified above.

(b) Rates for stenographers and deposition services shall be established by the supreme court. The cost of copies of depositions and transcripts shall be fifty cents (.50) per page.

(c) Rates for the services of interpreters for all parties and the court shall be established by the supreme court.

(d) No cost for investigative, expert, or other necessary services as initially approved may be exceeded prior to a subsequent finding of necessity by a justice of the appropriate court.

(e) All bills for investigative, expert, or other necessary services shall be reviewed by the judge who presided over the case, if practicable.

(f) Attorneys shall be reimbursed for the mileage expenses incurred in representing their client at the standard mileage reimbursement rate currently allowed by the Internal Revenue Service. Requests for reimbursement of mileage expenses shall specify the actual number of miles traveled.

(g) The expense of telephone calls shall not be reimbursed.

(h) In cases appealed to the supreme court, attorneys shall be reimbursed for the actual reasonable costs (not including labor) of reproducing and binding the notice of appeal or other appeal document, any appendix and briefs, whether done in-house or by an outside printer.

(i) No reimbursement will be paid for overhead expenses including photocopies (other than as provided in subdivision (3)(h) of this rule), postage, fax and secretarial services.

(4) *Deadline for Filing Bills with Court.* All bills related to fees and expenses must be submitted no later than sixty days after the close of the case. The court may allow late filing for good cause shown, when justice so requires.

APPENDIX X

Amend Supreme Court Rule 48-A as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 48-A. Guardians Ad Litem Fees -- Indigent Cases and Parental Notification Cases

(1) *Itemization of Bills.* All bills related to fees and expenses must be itemized as to the time spent and expenses incurred on each case, and there shall be no separate charge for overhead. A copy of the Notice of Appointment order on appointment or other supporting document must be attached to the bill with each submission.

(2) *Fees.* The provisions of this rule shall only apply to proceedings within the original jurisdiction of the district and probate courts, in which guardians ad litem are appointed, and the party responsible for payment is indigent, and parental notification cases under RSA 132:34.

Maximum guardian ad litem compensation as authorized by the administrative justice shall be limited as follows:

(a) Time properly chargeable to case: $60 per hour. Travel time is not a compensable event unless expressly authorized by the court in advance for exceptional circumstances.

(b) Maximum fee for abuse and neglect cases through conclusion of dispositional hearing pursuant to RSA 169-C:19: $1,400.

(c) Maximum fee for CHINS cases (169-D) or delinquency cases (169-B) through conclusion: $900.

(d) Maximum fee for court review hearings in guardianship of minor or adult cases or abuse and neglect case: $300.

(e) Maximum fee for TPR case (170-C): $1,400.

(f) Maximum fee for appeals to the superior court: $900.

(g) Maximum fee for guardianship cases pursuant to RSA chapters 463 or 464-A: $1,400.

(h) Maximum fee for parental notification cases pursuant to RSA 132:34, excluding any appeal to the supreme court: $1,000.

(i) Maximum fee for appeals to the supreme court in parental notification cases pursuant to RSA 132:34: $500.

Only upon express, written finding for good cause and exceptional circumstances by the court will the maximum fees be exceeded or will additional fees be authorized.

In any case filed before July 12, 2011, any petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded; provided, however, that the court may waive the requirement for prior approval when justice so requires.

In any case filed on or after July 12, 2011, any petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded. In any such case, fees in excess of the maximum compensation in this rule will be paid only if the administrative judge of the circuit court or the chief justice of the superior court, as the case may be, certifies the good cause and exceptional circumstances justifying the excess fees.

When a guardian ad litem represents more than one client on any particular day, the hours spent shall be allocated accordingly. Representation of more than one client on the same day and in the same court shall be noted on the bills submitted. All bills shall be reviewed by the judge who presided over the case, if practicable.

The adequacy of the rates prescribed by this rule may, upon request of the supreme court, be reviewed periodically by the advisory committee on rules.

(3) *Expenses - Reimbursable.* **[In addition to the fees and fee caps listed in Section (2), above,]** ~~I~~**[i]**nvestigative, expert, or other necessary services may be compensated only upon a finding of necessity and reasonableness by a justice of the appropriate court, made prior to said expense being incurred.

(a) Except for those services for which rates are established by the supreme court, the presiding justice may consider, but shall not be bound by, the prevailing rates or any rates established by a licensing agency or professional association in approving fees for services specified above.

(b) Rates for the services of interpreters for all parties and the court shall be established by the supreme court.

(c) No cost for investigative, expert, or other necessary services as initially approved may be exceeded prior to a subsequent finding of necessity by a justice of the appropriate court.

(d) All bills for investigative, expert, or other necessary services shall be reviewed by the judge who presided over the case, if practicable.

(e) Guardians ad litem shall be reimbursed for the mileage expenses incurred in representing their client at the standard mileage reimbursement rate currently allowed by the Internal Revenue Service. Requests for reimbursement of mileage expenses shall specify the actual number of miles traveled.

(f) The expense of telephone calls shall not be reimbursed.

(4) *Deadline for Filing Bills with Court.* All bills related to fees and expenses must be submitted no later than sixty days after the close of the case. The court may allow late filing for good cause shown, when justice so requires.

APPENDIX Y

Amend Supreme Court Rule 48 as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 48. Counsel Fees and Expenses -- Other Indigent Cases and Parental Notification Cases

The provisions of this rule shall apply only to preparation for and proceedings in all courts in which counsel is appointed to represent indigent persons, other than criminal defendants, and indigent witnesses in appropriate circumstances, and minors (whether or not indigent) in parental notification cases under RSA 132:34. This rule refers to, but is not limited to, juvenile cases in the district court, guardianships under RSA chapter 464-A, termination of parental rights (TPR) under RSA chapter 170-C, and involuntary admissions under RSA chapter 135-C in the probate court and district court.

(1) *Itemization of Bills.* All bills related to fees and expenses must be itemized as to the time spent and expenses incurred on each case, and there shall be no separate charge for overhead. A copy of the Notice of Appointment of Counsel order on appointment or other supporting document must be attached to the bill with each submission.

(2) *Fees.* Maximum compensation is limited as follows:

(a) Time properly chargeable to case: $60 per hour. The paralegal hourly rate shall not exceed $35.00 and shall be included with fees of counsel for the purposes of determining the maximum fee on any case. Travel time is not a compensable event unless expressly authorized by the court in advance for exceptional circumstances.

(b) Maximum fee for all juvenile cases pursuant to RSA chapters 169-B, C, and D: $1,700.

(c) De novo appeal of juvenile cases pursuant to RSA chapter 169-C: $1,400.

(d) Maximum fee for guardianships under RSA chapters 463 or 464-A:

(i) RSA chapter 463: $1,200;

(ii) RSA chapter 464-A: $900.

(e) Maximum fee for annual review hearings for guardianships: $300.

(f) Maximum fee for TPR cases pursuant to RSA chapter 170-C: $1,700.

(g) Maximum fee for involuntary admissions under RSA chapter 135-C: $600.

(h) Appeals to the supreme court, other than parental notification cases, in all juvenile cases and any matters within the subject matter jurisdiction of the probate court: $2,000.

(i) Maximum fee for court review hearings of juvenile cases pursuant to RSA 169-B**[, C]** and D: $300.

(j) Maximum fee for parental notification cases pursuant to RSA 132:34, excluding any appeal to the supreme court: $1,000.

(k) Maximum fee for appeals to the supreme court in parental notification cases pursuant to RSA 132:34: $500.

Only upon express, written finding for good cause and exceptional circumstances by the court will the maximum fees be exceeded or will additional fees be authorized.

In any case filed before July 12, 2011, any petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded; provided, however, that the court may waive the requirement for prior approval when justice so requires.

In any case filed on or after July 12, 2011, any petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded. In any such case, fees in excess of the maximum compensation in this rule will be paid only if the administrative judge of the circuit court or the chief justice of the superior court, as the case may be, certifies the good cause and exceptional circumstances justifying the excess fees.

When counsel represents more than one client on any particular day, the hours spent shall be allocated accordingly. Representation of more than one client on the same day and in the same court shall be noted on the bills submitted. All bills shall be reviewed by the judge who presided over the case, if practicable.

The adequacy of the rates prescribed by this rule may, upon request of the supreme court, be reviewed periodically by the advisory committee on rules.

(3) *Expenses - Reimbursable.* Investigative, expert, or other necessary services may be compensated only upon a finding of necessity and reasonableness by a justice of the appropriate court, made prior to said expense being incurred.

(a) Except for those services for which rates are established by the supreme court, the presiding justice may consider, but shall not be bound by, the prevailing rates or any rates established by a licensing agency or professional association in approving fees for services specified above.

(b) Rates for stenographers and deposition services shall be established by the supreme court. The cost of copies of depositions and transcripts shall be fifty cents (.50) per page.

(c) Rates for the services of interpreters for all parties and the court shall be established by the supreme court.

(d) No cost for investigative, expert, or other necessary services as initially approved may be exceeded prior to a subsequent finding of necessity by a justice of the appropriate court.

(e) All bills for investigative, expert, or other necessary services shall be reviewed by the judge who presided over the case, if practicable.

(f) Attorneys shall be reimbursed for the mileage expenses incurred in representing their client at the standard mileage reimbursement rate currently allowed by the Internal Revenue Service. Requests for reimbursement of mileage expenses shall specify the actual number of miles traveled.

(g) The expense of telephone calls shall not be reimbursed.

(h) In cases appealed to the supreme court, attorneys shall be reimbursed for the actual reasonable costs (not including labor) of reproducing and binding the notice of appeal or other appeal document, any appendix and briefs, whether done in-house or by an outside printer.

(i) No reimbursement will be paid for overhead expenses including photocopies (other than as provided in subdivision (3)(h) of this rule), postage, fax and secretarial services.

(4) *Deadline for Filing Bills with Court.* All bills related to fees and expenses must be submitted no later than sixty days after the close of the case. The court may allow late filing for good cause shown, when justice so requires.

APPENDIX Z

Adopt on a permanent basis Supreme Court Rule 49, which was amended on a temporary basis by Supreme Court order dated June 26, 2013, as follows (no changes are being proposed to the temporary rule now in effect):

Rule 49. Fees In Supreme Court.

(I) **Fees**

(A) Entry of Appeal or Cross-Appeal	$225.00
(B) Petition for Original Jurisdiction	
(1) Original petition for writ of habeas corpus	$ 0 (No fee)
(2) All other petitions for original jurisdiction	$225.00
(C) (1) Certification of Record to Federal Courts	$100.00
(2) Other Certifications and Certified Copies	$10.00 plus $.50/page
(D) Certificate of Admission	$10.00
(E) Application to Appear *Pro Hac Vice*	$250.00

(II) **Surcharge**

Pursuant to RSA 490:26-a, II, the sum of $25.00 shall be added to each civil filing fee set forth in paragraphs (I)(A) and (I)(B)(2) above, except for the following types of cases which pursuant to RSA 490:26-a, II(b) are exempt from the surcharge:

(A) Actions relating to children under RSA 169-B, RSA 169-C, and RSA 169-D.

(B) Domestic violence actions under RSA 173-B.

(C) Small claims actions under RSA 503.

(D) Landlord/tenant actions under RSA 540, RSA 540-A, RSA 540-B, and RSA 540-C.

(E) Stalking actions under RSA 633:3-a.

APPENDIX AA

Adopt on a permanent basis Rule 169 of the Superior Court of the State of New Hampshire Applicable in Criminal Cases Filed in Superior Court and in Domestic Relations Cases Filed in the Cheshire County Superior Court, which was amended on a temporary basis by Supreme Court order dated June 26, 2013, as follows (no changes are being proposed to the temporary rule now in effect):

169. Fees.

(I) The appropriate fee must accompany all filings. All fees shall be consolidated into a single payment, when possible.

(II) 18.22% of the entry fee paid in each petition and cross-petition in marital cases ($41.00) shall be deposited into the mediation and arbitration fund to be used to pay for mediation where both parties are indigent.

(III) Fees

(A) Original Entries:

(1) Original Entry of any Action at Law or Equity except a petition for writ of habeas corpus; Original Entry of all Marital Matters, including Order of Notice and Guardian ad Litem Fee; Transfer; the filing of a foreign judgment pursuant to RSA 524-A; or any Special Writ	$ 225.00
(2) Original Entry of a petition for writ of habeas corpus	$ 0 (no fee)
(3) Counterclaim on Civil or Equity Matter (including set-off, recoupment, cross-claims and third-party claims)	$ 225.00
(4) Cross-Petition for Divorce	$ 225.00
(5) Motion to Bring Forward Civil/Equity (post judgment)	$ 125.00

(6) Motion to Bring Forward a Domestic matter with stipulation	$ 100.00
(7) Motion to Bring Forward a Domestic matter without stipulation	$ 225.00
(8) Wage Claim Decision	$ 65.00
(9) Marriage Waiver	$ 75.00
(B) General and Miscellaneous	
(1) Motion for Periodic Payments	$ 25.00
(2) Petition to Annul Criminal Record	$ 125.00
(3) Original Writ (form)	$ 1.00
(4) Writ of Execution	$ 40.00
(5) Petition for Ex Parte Attachment, Ex Parte Petition for Writ of Trustee Process	$ 40.00
(6) Reissued Orders of Notice	$ 25.00
(7) Application to Appear *Pro Hac Vice*	$ 250.00
(C) Certificates and Copies	
(1) Certificates and Certified Copies	$ 10.00
(2) Divorce Certificate (VSR) only	$ 10.00
(3) Divorce Certificate, Certified Copy of Decree and if applicable, Stipulation, QDRO, USO, and other Decree-related Documents	$ 40.00
(4) All Copied Material	$ .50/page
(5) Certificate of Judgment	$ 10.00
(6) Exemplification of Judgment	$ 40.00
(IV) Surcharges and Additional Fees	

(A) On the commencement of any proceeding involving the determination of parental rights and responsibilities for which a fee is required, including petitions and cross-petitions for divorce with minor children, an additional fee of $2.00 shall be paid by the petitioner or cross-petitioner.

(B) Pursuant to RSA 490:26-a, II, the sum of $25.00 shall be added to each civil filing fee set forth in paragraphs (III)(A)(1), (III)(A)(3),(III)(A)(4), (III)(A)(5), (III)(A)(6), (III)(A)(7), (III)(A)(8), and (III)(A)(9) above, except for the following types of cases which pursuant to RSA 490:26-a, II(b) are exempt from the surcharge:

(1) Actions relating to children under RSA 169-B, RSA 169-C, and RSA 169-D.

(2) Domestic violence actions under RSA 173-B.

(3) Small claims actions under RSA 503.

(4) Landlord/tenant actions under RSA 540, RSA 540-A, RSA 540-B, and RSA 540-C.

(5) Stalking actions under RSA 633:3-a.

(V) Records Research Fees:

(A) Record information must be requested in writing and include the individual's full name and, if available, the individual's date of birth. A fee of $20 per name will be assessed for up to 5 names. Additional names will be assessed $5 per name.

(B) The Clerk may waive the records research fee when a request for record information is made by a member of the media consistent with the public's right to access court records under the New Hampshire Constitution.

APPENDIX BB

Adopt on a permanent basis Circuit Court-District Division Rule 3.3, Court Fees, which was amended on a temporary basis by Supreme Court order dated June 26, 2013, as follows (no changes are being proposed to the temporary rule now in effect):

Rule 3.3. Court fees

(I) **Fees**

(A) **Original Entries:**

Civil Writ of Summons or Counterclaim (including set-off, recoupment, cross-claims and third-party claims)	$ 150.00
Replevin	$ 150.00
Landlord/Tenant entry	$ 125.00
Registration of Foreign Judgment	$ 175.00
Small Claims Entry and Counterclaim, $5000 or less (including set-off, recoupment, cross-claims and third-party claims)	$ 80.00
Small Claims Transfer Fee	$ 145.00
Small Claims Entry and Counterclaim, $5001 to $7500 (including set-off, recoupment, cross-claims and third-party claims)	$ 135.00

(B) **General and Miscellaneous**

Motion for Periodic Payments	$ 25.00
Petition to annul criminal record	$ 125.00
Original writ	$ 1.00
Writ of Execution	$ 40.00
Petition for Ex Parte Attachment, or Writ of Trustee Process	$ 40.00
Reissued Orders of Notice	$ 25.00
Application to Appear *Pro Hac Vice*	$ 250.00

(C) **Certificates & Copies**

Certificate of Judgment	$ 10.00
Exemplification of Judgment	$ 40.00

Certified Copies	$ 10.00
All copied material (except transcripts)	$ .50/page
Computer Screen Printout	$ .50/page

(II) **Surcharge**

Pursuant to RSA 490:26-a, II, the sum of $25.00 shall be added to each civil filing fee set forth in paragraph (I)(A) above, except for the following types of cases which pursuant to RSA 490:26-a, II(b) are exempt from the surcharge:

(A) Actions relating to children under RSA 169-B, RSA 169-C, and RSA 169-D.

(B) Domestic violence actions under RSA 173-B.

(C) Small claims actions under RSA 503.

(D) Landlord/tenant actions under RSA 540, RSA 540-A, RSA 540-B, and RSA 540-C.

(E) Stalking actions under RSA 633:3-a.

(III) **Records Research Fees**

(A) Records Research Fees. Record information must be requested in writing and include the individual's full name and, if available, the individual's date of birth. A fee of $20 per name will be assessed per name for up to 5 names. Additional names will be assessed $5 per name. Record information must be requested in writing and include the individual's full name and, if available, the individual's date of birth.

(B) The Clerk may waive the records research fee when a request for record information is made by a member of the media consistent with the public's right to access court records under the New Hampshire Constitution.

APPENDIX CC

Adopt on a permanent basis Circuit Court-Probate Division Rule 169, Fees, which was amended on a temporary basis by Supreme Court order dated June 26, 2013, as follows (no changes are being proposed to the temporary rule now in effect):

Rule 169. FEES.

(I) ENTRY FEES:

(a) Original Entry of any Equity Action or Counterclaim (including set-off, recoupment, cross-claims and third-party claims)	$ 225.00
(b) Petition File and Record Authenticated Copy of Will, Foreign Wills; Petition Estate Administration for estates with a gross value greater than $25,000; Petition Administration of Person Not Heard From; Petition Guardian, Foreign Guardian or Conservator (RSA 464-A)	$ 195.00
(c) Petition Termination of Parental Rights; Petition Involuntary Admission; Petition Guardian Minor Estate and Person and Estate (RSA 463); Petition Guardian of Incompetent Veteran (RSA 465)	$ 155.00
(d) Petition Adoption, includes one certificate (no entry fee when accompanied by a Petition for termination); Motion to Reopen (estate administration); Motion to Bring Forward	$ 125.00
(e) Petition Estate Administration for estates having a gross value of $25,000 or less; Petition Change of Name (includes one certificate); Petition Guardian Minor Person (RSA 463)	$ 85.00
(f) Marriage Waiver	$ 75.00
(g) Motion Prove Will in Common and/or Solemn Form (administration required); Motion to Re-examine Will	$ 155.00
(h) Petition Appoint Trustee	$ 155.00

(i) Motion Successor Trustee, Administrator, Executor, or Guardian of Estate and Person and Estate (RSA 463) (RSA 464-A); All Executor/Administrator Accounting for estates with a gross value greater than $25,000; Trustees Accounting; Guardian/Conservator Accounting; Motion for Summary Administration $ 85.00

(j) Petition Change of Venue (includes authenticated copy fee); Motion Successor Guardian of Person (RSA 463) (RSA 464-A); Motion Sue on Bond; Motion Remove Fiduciary; Motion Fiduciary to Settle Account $ 50.00

(k) Landlord Tenant Entry pursuant to ancillary jurisdiction under RSA 547:3-*l* $ 125.00

(l) Small Claim Entry and Counterclaim, $5000 or less (including set-off, recoupment, cross-claims and third-party claims) pursuant to ancillary jurisdiction under RSA 547:3-*l* $ 80.00

(m) Small Claim Transfer Fee pursuant to ancillary jurisdiction under RSA 547:3-*l* $ 145.00

(n) Civil Writs of Summons and Counterclaims (including set-off, recoupment, cross-claims and third-party claims) pursuant to ancillary jurisdiction under RSA 547:3-*l* $ 150.00

(o) Replevin pursuant to ancillary jurisdiction under RSA 547:3-*l* $ 150.00

(p) Small Claim Entry and Counterclaim, $5001 to $7500 (including set-off, recoupment, cross-claims and third-party claims) pursuant to ancillary jurisdiction under RSA 547:3-*l* $ 135.00

(q) Pursuant to RSA 490:26-a, II, the sum of $25.00 shall be added to each civil filing fee set forth in subsections (a), (b), (c), (d), (e), (f), (h), (n), and (o) above.

(II) ENTRY FEES INCLUDE:

Preparation and issuance of Original Orders of Notice, Notice, Copies of Decrees, mailing costs, certificate to discharge surety.

(III) ENTRY FEES DO NOT INCLUDE:

Notice by publication. The Party or the Attorney for the Party from whom the notice is required shall pay this fee. The clerk of each county shall determine the cost of publication. The request may require that payment be made directly to the publisher of the notice.

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

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

(IV) OTHER:

Defaults (RSA 548:5-a)	$ 25.00/each occurrence
Citations/show cause (RSA 548:5-a and 550:2)	$ 50.00/each occurrence
Duplicate Audio	$ 25.00/each CD or download
Application to Appear *Pro Hac Vice*	$ 250.00
Ex Parte Petition for Attachment, Ex Parte Petition for Writ of Trustee Process	$ 40.00
Motion for Periodic Payments	$ 25.00
Reissued Orders of Notice	$ 25.00
Writ of Execution	$ 40.00

(V) CERTIFICATES & COPIES:

Certificates	$ 10.00
Certification	$ 10.00 plus copy fee
Photocopy of Will	$ 1.00/page
All other copied material	$ .50/page
Original writ (form)	$ 1.00
Authenticated Copy of Probate	$ 40.00/each
Certificate of Judgment	$ 10.00
Exemplification of Judgment	$ 40.00

"**Certificates & Copies**" shall apply to individual requests for the above services, requests for additional certificates beyond those provided with the

original entries and requests for additional copies beyond those provided with the original entry fees.

(VI) RECORDS RESEARCH FEES:

Records Research Fees. Record information must be requested in writing and include the individual's full name and, if available, the individual's date of birth. A fee of $20 per name will be assessed for up to 5 names. Additional names will be assessed $5 per name.

The clerk may waive the records research fee when a request for record information is made by a member of the media consistent with the public's right to access court records under the New Hampshire Constitution.

APPENDIX DD

Adopt on a permanent basis Circuit Court-Family Division Rule 1.3, Fees, which was amended on a temporary basis by Supreme Court order dated June 26, 2013, as follows (no changes are being proposed to the temporary rule now in effect):

1.3 Fees:

A. The appropriate fee must accompany all filings. All fees shall be consolidated into a single payment, when possible.

B. 18.22% of the entry fee paid in each petition and cross-petition in marital cases ($41.00) shall be deposited into the mediation and arbitration fund to be used to pay for mediation where both parties are indigent.

C. (1) Original Entry of all Marital Matters, Parenting Petitions (including Order of Notice and Guardian ad Litem Fee) and Foreign Decrees $225.00

(2) Cross Petition in all original entry Marital Matters and Parenting Petitions $225.00

(3) Petition to Change Court Order in all Marital Matters and Parenting Petitions

(a) With full agreement $100.00

(b) Without full agreement $225.00

D. (1) Divorce Certificate (VSR) only $10.00

(2) Divorce Certificate, Certified Copy of Decree and if applicable, Agreement, QDRO, USO, and other Decree-related documents $40.00

E. Petition for Ex Parte Attachment; Ex Parte Petition for Writ of Trustee Process $40.00

F. Reissued Orders of Notice $25.00

G. Writ of Execution $40.00

H. Petition for Termination of Parental Rights $155.00

I. Petition for Guardian Minor Person; Petition Change of Name (includes one certificate) $85.00

J. Petition for Adoption, includes one certificate (no entry fee when accompanied by a Petition for termination) $125.00

K. Motion for Successor Guardian of Person $50.00

L. Surcharges and Additional Fees

(1) Pursuant to RSA 490:26-a, II, the sum of $25.00 shall be added to each civil filing fee set forth in paragraphs (C)(1), (C)(2), (C)(3), (H), (I), and (J) above, except for the following types of cases which pursuant to RSA 490:26-a, II(b) are exempt from the surcharge:

(a) Actions relating to children under RSA 169-B, RSA 169-C, and RSA 169-D.

(b) Domestic violence actions under RSA 173-B.

(2) On the commencement of any proceeding involving the determination of parental rights and responsibilities for which a fee is required, including petitions and cross-petitions for divorce with minor children, an additional fee of $2.00 shall be paid by the petitioner or cross-petitioner.

M. OTHER FEES:

(1) Defaults in Minor Guardianship Actions $25.00/each occurrence

(2) Citations in Minor Guardianship Actions $50.00/each occurrence

(3) Duplicate Audio $25.00/each CD or download

(4) Application to Appear *Pro Hac Vice* $250.00

N. CERTIFICATES & COPIES:

(1) Certificates $10.00

(2) Certification $10.00 plus copy fee

All other copied material $.50/page

(3) Certificate of Judgment $10.00

(4) Exemplification of Judgment $40.00

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

O. The family division may waive any fee for good cause shown.

P. Records Research Fees:

(1) Record information must be requested in writing and include the individual's full name and, if available, the individual's date of birth. A fee of $20 per name will be assessed for up to 5 names. Additional names will be assessed $5 per name.

(2) The Clerk may waive the records research fee when a request for record information is made by a member of the media consistent with the public's right to access court records under the New Hampshire Constitution.