

# New Hampshire Supreme Court

## Case Acceptance List

Cases Accepted January 01, 2025 thru January 31, 2025

<u>Case Number</u>	<u>Case Title</u>	<u>Acceptance Date</u>	<u>Lower Court/Agency</u>
2024-0611	In re L.M.; In re G.M.	01/23/2025	10th N.H. Circuit Court - Candia Family Division
2024-0655	State of New Hampshire v. Duncan C. McInnes, Jr.	01/16/2025	Strafford County Superior Court
2024-0660	In re Name Change of Zebadiah Kellogg-Roe	01/03/2025	1st N.H. Circuit Court - Lancaster Probate Division
2024-0674	Whittier Communications v. Town of Wakefield	01/02/2025	Hillsborough County Superior Court North
2024-0676	V.C. v. W.C.	01/23/2025	3rd N.H. Circuit Court - Ossipee District Division
2024-0685	The Bank of New York Mellon v. Thomas A. Frangos & a.	01/02/2025	Rockingham County Superior Court
2024-0686	In re K.O.	01/08/2025	6th N.H. Circuit Court - Concord Family Division
2024-0688	State of New Hampshire v. Lester Caron	01/13/2025	5th N.H. Circuit Court - Newport District Division
2024-0695	Margaret Wittenborg v. Fitzwilliam Village Water District	01/03/2025	Cheshire County Superior Court
2024-0698	B.K. v. B.W.	01/07/2025	9th N.H. Circuit Court - Nashua District Division
2024-0700	John R. Griffin, Jr. v. Jackson Lewis, P.C. & a.	01/29/2025	Coos County Superior Court
2024-0701	In the Matter of Anthony Lee and Jade Lee	01/17/2025	3rd N.H. Circuit Court - Ossipee Family Division
2024-0702	In re K.N.	01/17/2025	7th N.H. Circuit Court - Rochester Family Division
2024-0706	Jose D. Marquez v. Miraco, Inc.	01/07/2025	Hillsborough County Superior Court North
2024-0709	In re C.P.; In re M.P.; In re B.N.	01/29/2025	5th N.H. Circuit Court - Claremont Family Division
2024-0712	Appeal of Michael Messina	01/23/2025	New Hampshire Compensation Appeals Board

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2024-0714	In the Matter of Genevieve Pimentel and Rui Pimentel	01/13/2025	10th N.H. Circuit Court - Salem Family Division
2024-0715	In the Matter of Jill Stansfield and Todd Patti	01/13/2025	9th N.H. Circuit Court - Nashua Family Division
2024-0716	Boscawen Congregational Church v. Town of Boscawen	01/13/2025	Merrimack County Superior Court
2024-0717	Appeal of New Hampshire Department of Administrative Services	01/28/2025	New Hampshire Personnel Appeals Board
2024-0721	In re A.M.	01/17/2025	6th N.H. Circuit Court - Concord Family Division
2024-0722	Appeal of Win Win Win, LLC, d/b/a Concord Casino & a.	01/24/2025	New Hampshire Lottery Commission
2024-0723	Appeal of Win Win Win, LLC, d/b/a Concord Casino & a.	01/24/2025	New Hampshire Lottery Commission
2024-0726	In re M.M.	01/28/2025	3rd N.H. Circuit Court - Conway Family Division
2024-0728	State of New Hampshire v. John Conkle	01/21/2025	Merrimack County Superior Court
2025-0002	State of New Hampshire v. Benjamin A. Marcroft	01/17/2025	2nd N.H. Circuit Court - Plymouth District Division
2025-0008	D.M. v. C.A.	01/21/2025	6th N.H. Circuit Court - Concord District Division
2025-0012	Adair Witkus v. George Stone & a.	01/21/2025	Sullivan County Superior Court
2025-0013	New England Glory, LLC v. Cutts Mansion Condominium Association	01/24/2025	Rockingham County Superior Court
2025-0017	L.B. v. P.I.	01/24/2025	9th N.H. Circuit Court - Nashua Family Division
2025-0018	George D. Spears, Jr. v. Industrial Calibration and Service Co., Inc. & a.	01/28/2025	Hillsborough County Superior Court South
2025-0020	R.S. v. S.S.	01/29/2025	9th N.H. Circuit Court - Merrimack Family Division

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2025-0021	Velocity Investments, LLC v. Brodie Kio	01/24/2025	9th N.H. Circuit Court - Manchester District Division
2025-0030	State Line Trailer Sales, LLC v. Randall L. Bennett, Trustee of the April-May Realty Trust	01/31/2025	Rockingham County Superior Court
2025-0032	Daniel Kane & a. v. Town of Plaistow & a.	01/31/2025	Rockingham County Superior Court

## **Addendum to Case Acceptance List – Issues on Appeal**

### **January 1, 2025 through January 31, 2025**

The following summaries of the issues on appeal have been prepared by clerk’s office staff for the convenience of the public. The Supreme Court has neither approved nor reviewed any of the summaries. The parties’ filings and the applicable record — not these summaries — define and establish the issues that the Supreme Court will consider in a case. Please note that, in the interest of brevity, some issues in a listed case may have been combined or not summarized.

In these summaries, “Rule Type” refers to the particular Supreme Court Rule under which the case has been docketed. “Type” and “Subtype” refer to the case type and case subtype, as determined in accordance with the definitions in the *State Court Guide to Statistical Reporting*, a publication of the Court Statistics Project (a joint project of the National Center for State Courts and the Conference of State Court Administrators).

#### **2024-0611, In re L.M.; In re G.M. – Confidential**

Rule Type: Rule 7 Mandatory  
Type: Juvenile  
Subtype: Termination of Parental Rights

Whether the trial court erred in finding that the parent failed to correct the conditions that led to the finding of neglect, that DCYF made reasonable efforts to assist the parent in correcting those conditions, and that termination of parental rights was in the children’s best interests.

#### **2024-0655, State of New Hampshire v. Duncan C. McInnes, Jr.**

Rule Type: Rule 7 Mandatory  
Type: Criminal  
Subtype: Felony

Whether the defendant’s acts giving rise to the stalking conviction are protected by freedom of speech. Whether the trial court erred by allowing the State to introduce uncharged bad acts. Whether the trial court erred by limiting/not allowing defense counsel to elicit testimony and make argument that the charged conduct did not contain threats, as a defense to the elements that the acts caused fear for personal safety.

#### **2024-0660, In re Name Change of Zebadiah Kellogg-Roe**

Rule Type: Rule 7 Mandatory  
Type: Probate  
Subtype: Probate – Other

Whether the trial court erred in determining that the petitioner, who is incarcerated and claims a First Amendment right to change his name for religious reasons, failed to demonstrate the requisite “compelling showing that a name change is necessary” under RSA 547:3-i, II.

**2024-0674, Whittier Communications v. Town of Wakefield**

Rule Type: Rule 7 Mandatory  
Type: Administrative  
Subtype: Municipal Board Decision

Whether the trial court erred in affirming the decisions of the Town of Wakefield planning board and zoning board to approve Vertex's applications to locate two new personal wireless service facilities within a four-mile radius of Whittier's existing tower.

**2024-0676, V.C. v. W.C.**

Rule Type: Rule 7 Mandatory  
Type: Family  
Subtype: Domestic Violence

Whether the defendant's counsel provided ineffective legal assistance, thereby leading the trial court to issue an erroneous decision in favor of the plaintiff.

**2024-0685, The Bank of New York Mellon v. Thomas A. Frangos & a.**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Tort/Contract/Real Property

Whether the trial court erred in granting reformation of the mortgage.

**2024-0686, In re K.O. – Confidential**

Rule Type: Rule 7 Mandatory  
Type: Juvenile  
Subtype: Termination of Parental Rights

Whether the trial court erred in finding that the parents failed to correct the conditions that led to the finding of neglect, that DCYF made reasonable efforts to assist the parents in correcting those conditions, and that termination of parental rights was in the child's best interests.

**2024-0688, State of New Hampshire v. Lester Caron**

Rule Type: Rule 7 Mandatory  
Type: Criminal  
Subtype: Misdemeanor

Whether the trial court erred in taking judicial notice of a bail order in another docket and in denying the defendant's motion to dismiss the RSA 633:3-a, I(c) stalking charge.

**2024-0695, Margaret Wittenborg v. Fitzwilliam Village Water District**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Tort/Contract/Real Property

Whether the trial court erred in ruling that the Fitzwilliam Village Water District (VWD) could continue to trespass upon the plaintiff's property and use her well, after the trial court had ruled that the VWD had no easement rights in that well. Whether the trial court's order granting the VWD a temporary easement to use the well on the plaintiff's property amounted to an unconstitutional taking under Part 1, Article 12 of the New Hampshire Constitution.

**2024-0698, B.K. v. B.W.**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Civil Stalking

Whether the trial court erred in ruling that the defendant engaged in a specific course of conduct targeted at a specific person as defined by RSA 633:3-a, 1, based on its finding that the defendant "recklessly allowed his dogs outside without a leash knowing their propensity to approach the plaintiff in a menacing manner . . ." Whether the evidence presented at the final hearing supported the trial court's findings of fact and decision to issue an order of protection.

**2024-0700, John R. Griffin, Jr. v. Jackson Lewis, P.C. & a.**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Tort/Contract/Real Property

Whether the trial court erred in granting the defendants' motion to dismiss based upon the principles outlined in McGranahan v. Dahar, 119 N.H. 758 (1979).

**2024-0701, In the Matter of Anthony Lee and Jade Lee**

Rule Type: Rule 7 Mandatory  
Type: Family  
Subtype: Divorce Decree

Whether the trial court erroneously relied on the guardian ad litem's report and testimony in granting the respondent's request to relocate to Maryland and in determining the parties' parental rights and responsibilities pursuant to RSA 461-A:6.

**2024-0702, In re K.N. – Confidential**

Rule Type: Rule 7 Mandatory  
Type: Juvenile  
Subtype: Termination of Parental Rights

Whether the trial court erred in finding that the parents failed to correct the conditions that led to the finding of neglect, that DCYF made reasonable efforts to assist the parents in correcting those conditions, and that termination of parental rights was in the child’s best interests. Whether the incarcerated father had corrected the conditions by cooperating with DCYF, completing all available courses, and doing all he could do to develop and maintain a relationship with his child, and had identified a permanency option (placement of the child with his sister) that was in the child’s best interest.

**2024-0706, Jose D. Marquez v. Miraco, Inc.**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Tort/Contract/Real Property

Whether the trial court erred in dismissing the plaintiff’s complaint on res judicata grounds.

**2024-0709, In re C.P.; In re M.P.; In re B.N. – Confidential**

Rule Type: Rule 7 Mandatory  
Type: Juvenile  
Subtype: Abuse/Neglect

Whether the trial court erred in its adjudicatory finding that the mother had neglected the children, when the mother’s finances were the primary reason for the alleged neglect, and further erred in its dispositional order removing the children from the home.

**2024-0712, Appeal of Michael Messina**

Rule Type: Rule 10 Administrative  
Type: Administrative  
Subtype: Worker’s Compensation

Whether the Compensation Appeals Board (CAB) erred in denying the petitioner’s claim for worker’s compensation benefits based on the CAB’s determinations that the petitioner was not a “traveling employee at the time of his injury” and that his injury resulted from a “personal risk.”

**2024-0714, In the Matter of Genevieve Pimentel and Rui Pimentel**

Rule Type: Rule 7 Mandatory  
Type: Family  
Subtype: Divorce Decree

Whether the trial court erred in denying the respondent’s motion to dismiss the divorce proceedings based on the respondent’s comity argument that a Portuguese court had previously divorced the parties. Whether the trial court unsustainably exercised its discretion in valuing and dividing marital real property.

**2024-0715, In the Matter of Jill Stansfield and Todd Patti**

Rule Type: Rule 7 Mandatory  
Type: Family  
Subtype: Parenting Plan - unmarried parents

Whether the trial court erred in determining that it lacked subject matter jurisdiction to issue a support order requiring the father, who resides in Florida, to pay child support to the mother, who resides in New Hampshire, pursuant to the Uniform Interstate Family Support Act (RSA 546-B:31, I).

**2024-0716, Boscawen Congregational Church v. Town of Boscawen**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Tort/Contract/Real Property

Whether the trial court erred in finding that the Town of Boscawen had granted only a revocable license to the Boscawen Congregational Church for the use of Town Hall.

**2024-0717, Appeal of New Hampshire Department of Administrative Services**

Rule Type: Rule 10 Administrative  
Type: Administrative  
Subtype: Agency Other - Rule 10

Whether the statutory provision authorizing the Personnel Appeals Board (PAB) to reinstate an employee in any circumstance where the PAB deems such a resolution “just” is an unconstitutional delegation of power. Whether the PAB erred in ruling that terminating an employee for violation of the sexual harassment policy — by physically touching another employee on two occasions as part of an ongoing pattern of conduct — is unjust and unwarranted.

**2024-0721, In re A.M. - Confidential**

Rule Type: Rule 7 Mandatory  
Type: Juvenile  
Subtype: Termination of Parental Rights

Whether the trial court erred in determining that termination of the incarcerated father's parental rights was in the child's best interests, when the father claims that the paternal grandparents had been active in the child's life until the child's mother (the petitioning party) shut them out.

**2024-0722, Appeal of Win Win Win, LLC, d/b/a Concord Casino & a.**

Rule Type: Rule 10 Administrative  
Type: Administrative  
Subtype: Agency Other - Rule 10

Whether the New Hampshire Lottery Commission (NHLC) hearings officer was powerless to stop NHLC from undermining and defying an order issued in agency proceedings after a contested hearing. Whether, even if the hearings officer was powerless to stop NHLC from defying an order issued in agency proceedings after a contested hearing, the Supreme Court has the power to enter equitable relief to remedy NHLC's defiance.

**2024-0723, Appeal of Win Win Win, LLC, d/b/a Concord Casino & a.**

Rule Type: Rule 10 Administrative  
Type: Administrative  
Subtype: Agency Other - Rule 10

Whether the order of the New Hampshire Lottery Commission (NHLC) blocking the sale of Win Win Win, LLC to a buyer whom NHLC found qualified was unlawful, unjust, unreasonable, illegal in respect to jurisdiction, an abuse of discretion, and/or arbitrary and capricious.

**2024-0726, In re M.M. - Confidential**

Rule Type: Rule 7 Mandatory  
Type: Juvenile  
Subtype: Termination of Parental Rights

Whether the trial court erred in finding that DCYF made reasonable efforts to assist the father in reunifying with the child, given that the father was a “non-petitioned, non-custodial parent” who could not financially comply with the DCYF case plan.

**2024-0728, State of New Hampshire v. John Conkle**

Rule Type: Rule 7 Mandatory  
Type: Criminal  
Subtype: Felony

Whether the trial court erred in limiting evidence concerning the victim’s familiarity and fascination with horror movies and other adult themes, in failing to disclose to the defense all of the records reviewed in camera, in limiting defense counsel’s closing arguments, in ruling that there was sufficient evidence to support the convictions, and in denying the defendant’s motion for a new trial on all charges (two charges of aggravated sexual assault and two charges of endangering the welfare of a child).

**2025-0002, State of New Hampshire v. Benjamin A. Marcroft**

Rule Type: Rule 7 Mandatory  
Type: Criminal  
Subtype: Misdemeanor

Whether the trial court erred in convicting the defendant of motor vehicle related charges, including operating after revocation or suspension, following a bench trial.

**2025-0008, D.M. v. C.A.**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Civil Stalking

Whether the trial court erred as matter of law or engaged in an unsustainable exercise of discretion when it dismissed the stalking petition on the basis that the plaintiff was not the “target of defendant’s course of conduct” because the defendant was monitoring the plaintiff as a means of discovering information about the plaintiff’s husband.

**2025-0012, Adair Witkus v. George Stone & a.**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Tort/Contract/Real Property

Whether the trial court erred in finding for the defendants, following a bench trial, on most of the plaintiff's claims, including title by deed and public highway by layout, that sought injunctive relief and quiet title as to a disputed piece of property.

**2025-0013, New England Glory, LLC v. Cutts Mansion Condominium Association**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Tort/Contract/Real Property

Whether the trial court erred in determining, among other things, that a basement area was submitted pursuant to the condominium statute (RSA chapter 356-B) by ruling that the condominium is defined by a general description in the condominium declaration rather than by the precise detailed description in the site and floor plans of the condominium declaration with such plans being specifically referred to in the condominium declaration as defining the area of the condominium.

**2025-0017, L.B. v. P.I.**

Rule Type: Rule 7 Mandatory  
Type: Family  
Subtype: Domestic Violence

Whether the trial court erred in finding that the defendant had assaulted and stalked the plaintiff, when the defendant claims that the evidence did not support such findings. Whether the trial court erred in amending the parties' Parenting Plan with respect to communications concerning their minor child, when the defendant claims that the trial court's restrictions on communications are not in the child's best interests.

**2025-0018, George D. Spears, Jr. v. Industrial Calibration and Service Co., Inc. & a.**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Tort/Contract/Real Property

Whether the trial court erred in its summary judgment ruling against the plaintiff on his "breach of partnership" claim based on the trial court's determination that the parties deliberately chose the corporate form, when the plaintiff claims that the evidentiary record before the trial court reflected that defendant James Spears formed the business on his own. Whether the trial court erred in its summary judgment ruling that the plaintiff's contract and fraud claims were time barred, when the plaintiff claims that his deposition testimony amended his earlier admissions and created a genuine issue of material fact as to the applicable date for purposes of the discovery rule.

**2025-0020, R.S. v. S.S.**

Rule Type: Rule 7 Mandatory  
Type: Family  
Subtype: Domestic Violence

Whether the trial court erred by hearing claims that were not part of the plaintiff's petition.  
Whether the trial court erred by basing its conclusions on previous unrelated filings and its own interpretation and speculation rather than making the plaintiff satisfy the burden of proof.  
Whether the trial court predetermined the outcome and prevented the defendant from presenting evidence.

**2025-0021, Velocity Investments, LLC v. Brodie Kio**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Small Claim

Whether the trial court erred in denying the defendant's motion to vacate the default judgment based upon the defendant's financial situation, including his receipt of disability benefits.

**2025-0030, State Line Trailer Sales, LLC v. Randall L. Bennett, Trustee of the April-May Realty Trust**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Tort/Contract/Real Property

Whether the trial court erred in granting summary judgment to the plaintiff and ordering specific performance of the purchase and sale contract for real estate.  
Cross-appeal: Whether the trial court erred in ruling that the defendant had not violated RSA chapter 358-A when he signed an agreement for the purchase and sale of a certain parcel of land and then, ultimately, refused to convey that parcel of land to the plaintiff based on additional, extra contractual monetary demands.

**2025-0032, Daniel Kane & a. v. Town of Plaistow & a.**

Rule Type: Rule 7 Mandatory  
Type: Civil  
Subtype: Civil - Other

Whether the trial court erred in ruling that RSA 673:3, III-a governed the manner in which the Town of Plaistow was required to handle the plaintiffs' petitioned zoning amendment, which sought to change the method of selecting members of the Town's zoning board from appointment to election. Whether the trial court erred in ruling that the plaintiffs' petitioned zoning amendment was subject to amendment at the deliberative session of the Town's annual meeting.