

**NEW HAMPSHIRE SUPREME COURT  
ADVISORY COMMITTEE ON RULES**

Minutes of Friday, June 14, 2024, Public Hearing and Meeting  
NH Supreme Court  
Supreme Court Courtroom  
1 Charles Doe Drive  
Concord, NH 03301

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The public hearing was called to order at 12:32 p.m. by Justice Donovan, Committee Chair. The following Committee members were present:

Abigail Albee, Esq., Hon. R. Laurence Cullen, Hon. N. William Delker, Justice Patrick E. Donovan, Sean P. Gill, Esq., Sara Greene, Esq., Charles Keefe, Esq., Derek Lick, Esq., Terri Peterson, Janet Spalding, and Charles Stewart. Sherri Miscio, Secretary to the Committee, and Lisa Merrill, Recording Secretary, were also present.

**1. PUBLIC HEARING**

Members of the public were invited to speak about proposed rule changes in dockets 2023-018 and 2024-002.

**A. 2023-018, New Hampshire Supreme Court Rule 37(20)**

Justice Donovan summarized the proposed rule amendment submitted by Attorney Derek Lick that would change the confidentiality provision governing proceedings in the attorney discipline system. Comments were solicited during a 90-day public comment period. Written comments were received by Ms. Laurie Ortolano and Attorney Gary Braun.

Mr. Andre Bisasor of Attleboro, Massachusetts, attending remotely, spoke in favor of the comments submitted by Attorney Braun and expressed his concern that the proposed rule amendments do not go far enough and infringe on a complainant's free speech rights.

**B. 2024-002, Supreme Court Rule 55(4)**

Attorney Thomas Quarles, Chair of the NH Bar Association Public Protection Fund spoke in favor of the proposed rule change that increases the cap to \$500,000 for claims against an attorney. He explained that the assessment was increased a few years ago, with the goal of maintaining a \$2 Million dollar balance to support the fund. Based upon his knowledge of the fund's annual expenses, Attorney Quarles indicated that the fund should be capable of maintaining that balance in the event the court approves the cap increase.

**2. DISCUSSION AND VOTE ON PUBLIC HEARING ITEMS**

**A. 2023-018, Supreme Court Rule 37(20)**

With no further discussion or comment, on motion by Attorney Lick and seconded by Attorney Greene, the Committee voted unanimously to recommend that the Court adopt the proposed rule amendment.

**B. 2024-002, Supreme Court Rule 55(4)**

With no further discussion or comment, on motion by Attorney Lick and seconded by Mr. Stewart, the Committee voted unanimously to recommend that the Court adopt the proposed rule amendment.

**3. ITEMS STILL PENDING BEFORE THE COMMITTEE**

**A. 2023-015, Supreme Court Rule 53.1(B)(2)**

Justice Donovan referenced the proposed amendment submitted by Attorney Lawrence Vogelmann on behalf of Veterans Legal Justice seeking to include that organization within the court rule to earn CLE credits through pro bono representation.

A public comment period was provided and closed on May 20, 2024, with no comments received.

On motion by Mr. Stewart and seconded by Attorney Albee, the Committee voted unanimously to recommend the Supreme Court adopt the proposed rule change.

**B. 2023-016, Supreme Court Rule 37(5)(a)**

Justice Donovan referred to the proposed amendment submitted by the Attorney Discipline Office to increase the number of lawyer members of the Complaint Screening Committee from 5 to 6 to reduce potential delays in the Committee's consideration of matters before it.

A 90-day public comment period ended on May 20, 2024, with no comments received.

On motion by Attorney Greene and seconded by Attorney Keefe, the Committee voted unanimously to recommend the Supreme Court adopt the rule change.

**C. 2023-017, Supreme Court Rule 50(1)(A)**

On behalf of the Bar Association, Attorney Derek Lick submitted a proposal to amend Supreme Court Rule 50(1)(A) which governs interest-bearing pooled trust accounts.

An invitation for public comment closed on May 20, 2024, with no comments received.

On motion by Attorney Lick and seconded by Ms. Spalding, the Committee voted unanimously to recommend the amendment to the Supreme Court.

**D. 2024-001, Supreme Court Rule 54(4)**

Justice Donovan summarized the proposed amendment that was submitted by Attorney Steven Endres seeking to amend the rule governing the role and responsibilities of the administrative judges and referenced the subcommittee's report submitted on May 20, 2024.

Justice Donovan noted that the Superior Court has undertaken a review of the current process and proposed that the Circuit Court do the same.

On motion by Attorney Keefe and seconded by Ms. Peterson, the Committee voted unanimously to put the proposed amendment out for public comment for a period of 60 days and to place the proposal on the agenda for the September meeting.

**4. NEW BUSINESS**

**A. 2024-003, Supreme Court Rules 47 and 48**

Attorney Jay Buckey submitted a proposal and a supplemental proposal seeking increases to the fees, expenses and compensation rates provided to assigned counsel who accept cases representing indigent clients pursuant to Supreme Court Rules 47 and 48.

Attorney Buckey addressed the Committee to answer questions and explain the bases for the proposals. Justice Donovan inquired about budget implications if rates were increased. Along the same line of questions, Attorney Lick asked what happens when the Judicial Council's expenses exceed its appropriation. Attorney Buckey replied that the legislature governs funding, and it is not uncommon for the Judicial Council to request additional appropriations in that circumstance, but the Supreme Court governs the rules setting compensation.

Attorney Buckey stated that there are currently 175 litigants in need of counsel and 39 of those individuals are incarcerated. Judge Delker inquired about the issues affecting the lack of services. Attorney Buckey replied that both compensation and the number of attorneys who are willing to accept such cases present ongoing issues. Mr. Stewart asked if other New England states are experiencing similar problems and Attorney Buckey replied that Maine and Vermont have similar problems, but on a smaller scale. He also indicated that Massachusetts employs a very different system with respect to indigent representation and the Commonwealth has not experienced the backlog that currently exists in New Hampshire.

On motion by Mr. Stewart and seconded by Attorney Keefe, the Committee voted unanimously to put the proposal out for public comment for a period of 60-days and to add this proposal to the agenda for the September meeting.

**B. 2024-005, Superior Court Rule 20**

The Committee discussed the proposed amendment submitted by Ms. Laurie Ortolano of Nashua, New Hampshire. The amendment seeks to change the rule to allow *pro se* litigants to work with non-lawyer citizens to file pleadings.

On motion by Judge Delker and seconded by Attorney Greene, the Committee voted unanimously to recommend that the Supreme Court deny the request to amend Superior Court Rule 20.

**C. 2024-006, Circuit Court Family Division Rules 2.13(C) and 2.13(D)**

Justice Donovan noted that the proposed amendment was submitted by Margaret Huang at the Office of Mediation and Arbitration. The proposal seeks to allow divorce/parenting mediation to occur virtually if there is a finding of domestic violence.

On motion by Mr. Stewart and seconded by Attorney Greene, the Committee voted unanimously to recommend that the Supreme Court adopt the rule change.

**D. 2024-007, New Hampshire Rules of Criminal Procedure**

The proposed rule change was submitted by Attorney Jay Buckey regarding electronic signatures.

On motion by Mr. Stewart and seconded by Attorney Greene, the Committee voted unanimously to ask Attorney Buckey to suggest where to insert the proposed language and to put the proposal out for a 60-day public

comment period and to add the proposal to the agenda for the September meeting.

**E. 2024-008, Supreme Court Rule 53.2**

The proposed amendment was submitted by Attorney Corey Belobrow, Chair of the NHMCLE Board regarding certification requirements for lawyers.

On motion by Mr. Stewart and seconded by Attorney Albee, the Committee voted unanimously to recommend that the Supreme Court adopt the proposed rule amendment.

**F. 2024-009, Supreme Court Rule 20**

Justice Donovan referred to a memo from Timothy Gudas, Clerk of the Supreme Court, proposing amendments to Supreme Court Rule 20 that sets forth provisions concerning opinions or orders on the merits, including citation form.

On motion by Attorney Lick and seconded by Attorney Greene, the Committee voted unanimously to put the proposal out for 60-day public comment and add the proposal to the agenda for the September meeting.

**5. MATTERS REFERRED BY JUSTICE DONOVAN TO THE COURT PURSUANT TO SUPREME COURT RULE 51(6)**

**A. 2024-004, Supreme Court Rule 53.1**

This item was added to the agenda for informational purposes only. No discussion or action was taken.

**6. REMAINING 2024 MEETING DATES**

Friday, September 13, 2024  
Friday, December 13, 2024

On motion made by Attorney Greene and seconded by Ms. Peterson, the Committee voted to adjourn at 1:31 p.m.