

NEW HAMPSHIRE SUPREME COURT  
ADVISORY COMMITTEE ON RULES

Minutes of June 4, 2021 Public Hearing and Meeting

Supreme Court Courtroom  
Frank Rowe Kenison Supreme Court Building  
One Charles Doe Drive  
Concord, NH 03301

The meeting was called to order at 12:35 p.m. by Justice Donovan, Committee Chair. The following Committee members attended the meeting: Abigail Albee, Esq.; Ari Richter; Charles Keefe; Charles Stewart; Hon. R. Laurence Cullen; Hon. N. William Delker; Hon. Michael Garner; Sean Gill, Esq.; Jeanne P. Herrick, Esq.; Derek Lick, Esq.; Susan A. Lowry, Esq.; and Terri Peterson. Lorrie Platt, Esq., Secretary to the Committee, was also present.

1. Public Hearing

Justice Donovan opened the public hearing. Because no members of the public were present when the hearing opened, the Committee agreed to keep the hearing open as it began to consider items on its agenda.

2. Approval of Minutes of March 19, 2021 Meeting

Upon motion made and seconded, the Committee approved the minutes of its March 19, 2020 meeting.

3. Discussion and Vote on Items on Public Hearing Agenda

(a) 2020-010 Supreme Court Rule 12-A(1) - Mediation

Upon motion made and seconded, the Committee voted to refer the proposed amendment to the court with the recommendation that it be adopted.

(b) 2020-008 Superior Court Rule 12(g) – Motions for Summary Judgment

Upon motion made and seconded, the Committee voted to refer the proposed amendment to the court with the recommendation that it be adopted.

(c) 2020-005 Superior and Circuit Court Rules - Dismissal of Actions

Upon motion made and seconded, the Committee voted to refer the proposed amendments to Superior Court Rule 41, District Division Rule 1.27, Probate Division Rule 172 and Family Division Rule 1.32 to the court with the recommendation that they be adopted.

- (d) 2020-006 NH Rule of Criminal Procedure 12 - Discovery of Defendant's Criminal Record

Judge Delker observed that the rule was essentially already in effect under a superior court administrative order. Upon motion made and seconded, the Committee voted to refer the proposed amendment to the Court with the recommendation that it be adopted.

- (e) 2020-009 NH Rule of Criminal Procedure 12 (b)(1)(f) – Notice of State's Intention to Offer at Trial Evidence of Defendant's Prior Crimes/Acts

Judge Delker observed that the rule did not establish specific deadlines for disclosure. The committee discussed whether the rule should require that the actual evidence and the identity of the witnesses who were going to testify be disclosed at the time that notice was provided.

Upon motion made and seconded, the Committee voted to table the proposed amendment and to establish a subcommittee comprised of Attorney Keefe, Judge Delker and Judge Garner to consider these and related issues and to recommend how to apply the concept in the Circuit Court.

#### 4. New Submissions

- (a) 2021-002 Supreme Court Rule 35

Upon motion made and seconded, the Committee voted to send the May 24, 2021 memo from David Peck to the Bar Association's Ethics Committee for review.

#### 5. Adjournment

Upon motion made and seconded, the committee voted to close the public hearing and adjourn the meeting. The next public meeting of the committee is scheduled for Friday, September 10, 2021.