

THE STATE OF NEW HAMPSHIRE
SUPREME COURT OF NEW HAMPSHIRE

O R D E R

Pursuant to Part II, Article 73-a of the New Hampshire Constitution and Supreme Court Rule 51(A)(7), the Supreme Court of New Hampshire adopts the following amendments to court rules and forms.

Supreme Court Rules and Forms – NH Bar Identification Numbers

The following amendments require attorneys to include their New Hampshire Bar Identification numbers on filings with the supreme court, and update the supreme court outline of petition form to reflect past amendments to Supreme Court Rule 11.

1. Amend Supreme Court Rule 8(1), regarding interlocutory appeals from ruling, on a temporary basis, as set forth in Appendix A.
2. Amend Supreme Court Rule 9(1), regarding interlocutory transfers without ruling, on a temporary basis, as set forth in Appendix B.
3. Amend Supreme Court Rule 10(1)(a), regarding appeals from administrative agencies, on a temporary basis, as set forth in Appendix C.
4. Amend Supreme Court Rule 11(2)(j), regarding petitions for original jurisdiction, on a temporary basis, as set forth in Appendix D.
5. Amend Supreme Court Rule 16(2), regarding briefs, on a temporary basis, as set forth in Appendix E.
6. Amend Supreme Court Rule 26, regarding filing and service, on a temporary basis, as set forth in Appendix F.
7. Amend Supreme Court Rule 7 Notice of Discretionary Appeal form as set forth in Appendix G.
8. Amend Supreme Court Rule 7 Notice of Mandatory Appeal form as set forth in Appendix H.
9. Amend Outside Front Cover of Cases and Briefs Filed in Supreme Court form as set forth in Appendix I.
10. Amend Outline of Petition form as set forth in Appendix J.

Rules Governing Transcripts

The following amendments affect the process by which transcripts are ordered and prepared, and provide for an electronic version of the transcript, in most instances, to be deemed the official transcript.

1. Amend Supreme Court Rule 15, regarding transcripts, on a temporary basis, as set forth in Appendix K.
2. Adopt Supreme Court Rule 59, regarding preparation of transcripts of court proceedings, designation of transcriber, and approval of transcript fees, on a temporary basis, as set forth in Appendix L.
3. Amend the Transcript Order Form, which appears as the fourth page of both the Supreme Court Rule 7 Notice of Discretionary Appeal form and the Supreme Court Rule 7 Notice of Mandatory Appeal form, on a temporary basis, as set forth in Appendix M.
4. Amend Superior Court Rule 71, regarding reading excerpts of transcripts to the jury, on a temporary basis, as set forth in Appendix N.
5. Amend Superior Court Rule 80, regarding preparation of transcripts, on a temporary basis, as set forth in Appendix O.
6. Repeal District Court Rule 1.18, regarding stenographers, as set forth in Appendix P.
7. Amend District Court Rule 1.19, regarding sound recordings of proceedings, on a temporary basis, as set forth in Appendix Q.
8. Amend District Court Rule 4.27, regarding appeals and records requirements in small claim actions, on a temporary basis, as set forth in Appendix R.
9. Amend Probate Court Rule 78-A, regarding transcripts, on a temporary basis, as set forth in Appendix S.
10. Amend Probate Court Rule 80, regarding transcripts, on a temporary basis, as set forth in Appendix T.

Rule Governing Disciplinary Procedure For Attorneys Convicted of Serious Crimes

The following amendments amend the disciplinary process that applies to an attorney who has been convicted of a serious crime.

1. Amend Supreme Court Rule 37(9)(d), regarding disciplinary procedures for attorneys convicted of serious crimes, on a temporary basis, as set forth in Appendix U.

Rules Governing Bar Exam Applications and Applications for Readmission

The following amendments permit bar exam applicants to defer sitting for the exam until the immediately subsequent exam upon payment of an administrative fee, and clarify the process for seeking readmission to the bar by attorneys who were disbarred or who resigned from the bar.

1. Amend Supreme Court Rule 42(2), regarding applications for admission to the bar, on a temporary basis, as set forth in Appendix V.
2. Amend Supreme Court Rule 42(5)(e), regarding admission and readmission to the bar, on a temporary basis, as set forth in Appendix W.
3. Amend Supreme Court Rule 49(I), regarding the fee to postpone taking the bar examination, on a temporary basis, as set forth in Appendix X.

Family Division Rules – Nomination and Appointment of Marital Masters

The following amendments conform the Family Division Rules to recently-adopted statutory amendments (Laws 2008, chapter 128).

1. Amend Family Division Rules 11.1 and 11.2, regarding nomination and reappointment of marital masters, on a temporary basis, as set forth in Appendix Y.

Miscellaneous Technical Amendments

The following amendments correct minor errors, clarify, or update various rules and forms.

1. Amend the title of Supreme Court Rule 21, regarding extensions of time, as set forth in Appendix Z.
2. Amend Supreme Court Rule 32(4) & (5), regarding applications for appointed counsel and maximum counsel fees in criminal appeals, to clarify the application process and harmonize the fee cap with recent amendments to Supreme Court Rule 47(2)(e), as set forth in Appendix AA.
3. Amend Supreme Court Rule 32-A(4), regarding applications for appointed counsel in certain civil proceedings, to clarify the application process, as set forth in Appendix BB.
4. Amend the New Hampshire Supreme Court Annual Trust Accounting Compliance Certificate, which appears in the Appendix to Supreme Court Rule 50-A, to update said form, as set forth in Appendix CC.
5. Amend Superior Court Administrative Rule 11-10, regarding petitions related to committed patients, to correct a minor error, as set forth in Appendix DD.
6. Amend Superior Court Administrative Rule 11-13, regarding transportation of committed patients, to correct a minor error, as set forth in Appendix EE.

7. Amend Statement of Purpose of the Rules of Professional Conduct, to reflect the redesignation of the "New Hampshire Comments" as "Ethics Committee Comments", as set forth in Appendix FF.

8. Amend Rule 8.3(c) of the Rules of Professional Conduct, to reflect the replacement of the Lawyers Assistance Committee by the New Hampshire Lawyers Assistance Program, as set forth in Appendix GG.

Comments to Rules of Professional Conduct

The court hereby gives notice that the New Hampshire Comments appended to the New Hampshire Rules of Professional Conduct are redesignated as the Ethics Committee Comments, and that the Ethics Committee Comment to Rule 8.3 is amended as set forth in Appendix HH.

Note: To assist the reader in identifying the changes that are being made to existing rules, the appendices generally contains two versions of amended rules. The first version, entitled "Unofficial Annotated Version," highlights the amendments to the rules by placing new material both in **[brackets and in bold-face type]**, and by ~~striking out~~ material that has been deleted from the rules. The second version, entitled "Official Version," sets forth the official version of the newly amended rules without annotations.

Effective Date

These amendments shall take effect on July 1, 2008, and those amendments that are being adopted on a temporary basis shall be referred to the Advisory Committee on Rules for its recommendation as to whether they should be adopted on a permanent basis.

Date: June 6, 2008

ATTEST: _____
Michelle Caraway, Deputy Clerk of Court
Supreme Court of New Hampshire

APPENDIX A

Amend Supreme Court Rule 8(1), on a temporary basis, as follows:

Unofficial Annotated Version

(1) The supreme court may, in its discretion, decline to accept an interlocutory appeal, or any question raised therein, from a trial court order or ruling. The interlocutory appeal statement shall contain (a) a list of all parties of record and their counsel, ~~and~~ the addresses of all parties and counsel], **and the New Hampshire Bar identification numbers of counsel**]; (b) a statement of the facts necessary to an understanding of the controlling question of law as determined by the order or ruling of the trial court, and a statement as to whether any transcript will be necessary to decide the question if the interlocutory appeal is accepted by the court; (c) a statement of the question itself; (d) a statement of the reasons why a substantial basis exists for a difference of opinion on the question and why an interlocutory appeal may materially advance the termination or clarify further proceedings of the litigation, protect a party from substantial and irreparable injury, or present the opportunity to decide, modify or clarify an issue of general importance in the administration of justice; and (e) the signature of the trial court transferring the question. In addition, if a transcript will be necessary to decide the question if the interlocutory appeal is accepted by the court, then the interlocutory appeal statement shall also contain a Transcript Order Form. (The Transcript Order Form appears as part of the two Notice of Appeal Forms that may be found in the appendix to these rules.)

Official Version

(1) The supreme court may, in its discretion, decline to accept an interlocutory appeal, or any question raised therein, from a trial court order or ruling. The interlocutory appeal statement shall contain (a) a list of all parties of record and their counsel, the addresses of all parties and counsel, and the New Hampshire Bar identification numbers of counsel; (b) a statement of the facts necessary to an understanding of the controlling question of law as determined by the order or ruling of the trial court, and a statement as to whether any transcript will be necessary to decide the question if the interlocutory appeal is accepted by the court; (c) a statement of the question itself; (d) a statement of the reasons why a substantial basis exists for a difference of opinion on the question and why an interlocutory appeal may materially advance the termination or clarify further proceedings of the litigation, protect a party from substantial and irreparable injury, or present the opportunity to decide, modify or clarify an issue of general importance in the administration of justice; and (e) the signature of the trial court transferring the question. In addition, if a transcript will be necessary to decide the question if the interlocutory appeal is accepted by the court, then the interlocutory appeal statement shall also contain a Transcript Order Form. (The Transcript Order Form appears as part of the two Notice of Appeal Forms that may be found in the appendix to these rules.)

APPENDIX B

Amend Supreme Court Rule 9(1) on a temporary basis as follows:

Unofficial Annotated Version

(1) The supreme court may, in its discretion, decline to accept an interlocutory transfer of a question of law without ruling by a trial court or by an administrative agency. The interlocutory transfer statement shall contain (a) a list of all parties of record and their counsel, ~~and~~ the addresses of all parties and counsel, **and the New Hampshire Bar identification numbers of counsel**; (b) a statement of the facts necessary to an understanding of the controlling question of law as determined by the transferring trial court or administrative agency, and a statement as to whether any transcript will be necessary to decide the question if the interlocutory transfer is accepted by the court; (c) a statement of the question itself; (d) a statement of the reasons why a substantial basis exists for a difference of opinion on the question and why an interlocutory transfer may materially advance the termination or clarify further proceedings of the litigation, protect a party from substantial and irreparable injury, or present the opportunity to decide, modify or clarify an issue of general importance in the administration of justice; and (e) the signature of the trial court or of the administrative agency transferring the question. In addition, if a transcript will be necessary to decide the question if the interlocutory transfer is accepted by the court, then the interlocutory transfer statement shall also contain a Transcript Order Form. (The Transcript Order Form appears as part of the two Notice of Appeal Forms that may be found in the appendix to these rules.)

Official Version

(1) The supreme court may, in its discretion, decline to accept an interlocutory transfer of a question of law without ruling by a trial court or by an administrative agency. The interlocutory transfer statement shall contain (a) a list of all parties of record and their counsel, the addresses of all parties and counsel, and the New Hampshire Bar identification numbers of counsel; (b) a statement of the facts necessary to an understanding of the controlling question of law as determined by the transferring trial court or administrative agency, and a statement as to whether any transcript will be necessary to decide the question if the interlocutory transfer is accepted by the court; (c) a statement of the question itself; (d) a statement of the reasons why a substantial basis exists for a difference of opinion on the question and why an interlocutory transfer may materially advance the termination or clarify further proceedings of the litigation, protect a party from substantial and irreparable injury, or present the opportunity to decide, modify or clarify an issue of general importance in the administration of justice; and (e) the signature of the trial court or of the administrative agency transferring the question. In addition, if a transcript will be necessary to decide the question if the interlocutory transfer is accepted by the court, then the interlocutory transfer statement shall also contain a Transcript Order Form. (The Transcript Order Form appears as part of the two Notice of Appeal Forms that may be found in the appendix to these rules.)

APPENDIX C

Amend Supreme Court Rule 10(1)(a) , on a temporary basis, as follows:

Unofficial Annotated Version

(a) Specify the names of the parties seeking review of the order, the names of all other parties of record, the names of all counsel, ~~and~~ the addresses of all parties and counsel], **and the New Hampshire Bar identification numbers of counsel for the parties seeking review of the order].**

Official Version

(a) Specify the names of the parties seeking review of the order, the names of all other parties of record, the names of all counsel, the addresses of all parties and counsel, and the New Hampshire Bar identification numbers of counsel for the parties seeking review of the order.

APPENDIX D

Amend Supreme Court Rule 11(2)(j) , on a temporary basis, as follows:

Unofficial Annotated Version

(j) A list of all parties of record and their counsel, ~~and~~ the addresses of all parties and counsel[, **and the New Hampshire Bar identification numbers of counsel for the moving party**];

Official Version

(j) A list of all parties of record and their counsel, the addresses of all parties and counsel, and the New Hampshire Bar identification numbers of counsel for the moving party;

APPENDIX E

Amend Supreme Court Rule 16(2) , on a temporary basis, as follows:

Unofficial Annotated Version

(2) The front covers of the briefs and of appendices, if the appendices are separately produced, shall contain: (a) the name of this court and the docket number of the case; (b) the title of the case; (c) the nature of the proceeding in this court, *e.g.*, appeal by petition pursuant to RSA 541:6, and the name of the court or agency below; (d) the title of the document, *e.g.*, brief for plaintiff; (e) the names[,] ~~and~~ addresses [**and New Hampshire Bar identification numbers**] of counsel representing the party on whose behalf the document is filed; and (f) the name of counsel who is to argue the case. See form in appendix.

Official Version

(2) The front covers of the briefs and of appendices, if the appendices are separately produced, shall contain: (a) the name of this court and the docket number of the case; (b) the title of the case; (c) the nature of the proceeding in this court, *e.g.*, appeal by petition pursuant to RSA 541:6, and the name of the court or agency below; (d) the title of the document, *e.g.*, brief for plaintiff; (e) the names, addresses and New Hampshire Bar identification numbers of counsel representing the party on whose behalf the document is filed; and (f) the name of counsel who is to argue the case. See form in appendix.

APPENDIX F

Amend Supreme Court Rule 26, on a temporary basis, by adding a new paragraph (10), which shall state as follows:

(10) Any pleading filed by counsel who is a member of the New Hampshire Bar shall include counsel's New Hampshire Bar identification number.

APPENDIX G

Amend box 3B on the first page of the New Hampshire Supreme Court Rule 7 Notice of Discretionary Appeal form as follows:

Unofficial Annotated Version

3B. NAME, FIRM NAME, ADDRESS[,
NH BAR IDENTIFICATION NUMBER]
AND TELEPHONE NUMBER OF APPEALING
PARTY'S COUNSEL

Official Version

3B. NAME, FIRM NAME, ADDRESS,
NH BAR IDENTIFICATION NUMBER
AND TELEPHONE NUMBER OF APPEALING
PARTY'S COUNSEL

APPENDIX H

Amend box 3B on the first page of the New Hampshire Supreme Court Rule 7 Notice of Mandatory Appeal form as follows:

Unofficial Annotated Version

3B. NAME, FIRM NAME, ADDRESS[,
NH BAR IDENTIFICATION NUMBER]
AND TELEPHONE NUMBER OF APPEALING
PARTY'S COUNSEL

Official Version

3B. NAME, FIRM NAME, ADDRESS,
NH BAR IDENTIFICATION NUMBER
AND TELEPHONE NUMBER OF APPEALING
PARTY'S COUNSEL

APPENDIX I

Amend the Outside Front Cover of Cases and Briefs Filed in Supreme Court form in the Supreme Court Rules as follows:

Unofficial Annotated Version

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

No. 2004-1234

A B C

v.

D E F

(Identify document: *e.g.*, plaintiff's brief; appeal by petition pursuant to RSA 541:6; petition for writ of prohibition.)

(Counsel's name ~~and address~~ [, **address and New Hampshire Bar identification number**]. If counsel is a firm, identify member of firm handling the case.)

John Doe, Esq.
[NH Bar ID No. 1111]
123 Central Street
Concord, N.H. 03301

Official Version

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

No. 2004-1234

A B C

v.

D E F

(Identify document: *e.g.*, plaintiff's brief; appeal by petition pursuant to RSA 541:6; petition for writ of prohibition.)

(Counsel's name, address and New Hampshire Bar identification number. If counsel is a firm, identify member of firm handling the case.)

John Doe, Esq.
NH Bar ID No. 1111
123 Central Street
Concord, N.H. 03301

APPENDIX J

Amend the Outline of Petition form in the Supreme Court Rules as follows:

Unofficial Annotated Version

OUTLINE OF PETITION FORM

Petition for Writ of Certiorari to (Name of Court or Administrative Agency).

The plaintiff ABC petitions that a writ of certiorari issue to the (name of court or administrative agency) concerning proceedings in that (court or administrative agency) on April 1, 1978 **[2008]**.

DECISION BELOW

QUESTIONS PRESENTED

CONSTITUTIONAL PROVISIONS[, **STATUTES, RULES**] IN ISSUE

(If verbatim text is lengthy, give citations only and annex text to petition or set it forth in an appendix, if any.)

~~STATUTORY AND OTHER PROVISIONS IN ISSUE~~

[PROVISIONS OF INSURANCE POLICIES, CONTRACTS, OTHER DOCUMENTS INVOLVED]

(If ~~verbatim text is lengthy, give citations only and~~ **[provisions are lengthy,]** annex text to petition or set it forth in an appendix, if any.)

STATEMENT OF THE CASE

STATE OF PROCEEDINGS IN LOWER **[TRIAL]** COURT OR ADMINISTRATIVE AGENCY

~~REASONS RELIEF UNAVAILABLE IN ANOTHER COURT OR THROUGH OTHER PROCESSES~~

REASONS FOR GRANTING THE WRIT:

1. (Statement of reason, followed by discussion.)
2. (Statement of reason, followed by discussion.)

[REASONS RELIEF UNAVAILABLE IN ANOTHER COURT OR THROUGH OTHER PROCESSES

JURISDICTIONAL BASIS FOR PETITION, CITING RELEVANT STATUTES OR CASES

STATEMENT, IF APPLICABLE, THAT EVERY ISSUE RAISED HAS BEEN PROPERLY PRESERVED FOR APPELLATE REVIEW

LIST OF ALL PARTIES AND THEIR COUNSEL, AND THEIR ADDRESSES

STATEMENT AS TO WHETHER TRANSCRIPTS WILL BE NECESSARY

(If transcripts will be necessary, then the petition must contain a Transcript Order Form.)]

CONCLUSION

~~RULE 26(4) CERTIFICATION~~ **[CERTIFICATE OF COMPLIANCE WITH SERVICE REQUIREMENTS]**

ABC, by

(Counsel's name ~~and address~~ **[, address and New Hampshire Bar identification number]**. If counsel is a law firm, identify member of firm handling the case.)

John Doe, Esq.
[NH Bar ID No. 1111]
Doe and Roe
123 Central Street
Concord, N.H. 03301

Official Version

OUTLINE OF PETITION FORM

Petition for Writ of Certiorari to (Name of Court or Administrative Agency).

The plaintiff ABC petitions that a writ of certiorari issue to the (name of court or administrative agency) concerning proceedings in that (court or administrative agency) on April 1, 2008.

DECISION BELOW

QUESTIONS PRESENTED

CONSTITUTIONAL PROVISIONS, STATUTES, RULES IN ISSUE

(If verbatim text is lengthy, give citations only and annex text to petition or set it forth in an appendix, if any.)

PROVISIONS OF INSURANCE POLICIES, CONTRACTS, OTHER DOCUMENTS INVOLVED

(If provisions are lengthy, annex text to petition or set forth in an appendix, if any.)

STATEMENT OF THE CASE

STATE OF PROCEEDINGS IN TRIAL COURT OR ADMINISTRATIVE AGENCY

REASONS FOR GRANTING THE WRIT:

1. (Statement of reason, followed by discussion.)
2. (Statement of reason, followed by discussion.)

REASONS RELIEF UNAVAILABLE IN ANOTHER COURT OR THROUGH OTHER PROCESSES

JURISDICTIONAL BASIS FOR PETITION, CITING RELEVANT STATUTES OR CASES

STATEMENT, IF APPLICABLE, THAT EVERY ISSUE RAISED HAS BEEN PROPERLY PRESERVED FOR APPELLATE REVIEW

LIST OF ALL PARTIES AND THEIR COUNSEL, AND THEIR ADDRESSES

STATEMENT AS TO WHETHER TRANSCRIPTS WILL BE NECESSARY

(If transcripts will be necessary, then the petition must contain a Transcript Order Form.)

CONCLUSION

CERTIFICATE OF COMPLIANCE WITH SERVICE REQUIREMENTS

ABC, by

(Counsel's name, address and New Hampshire Bar identification number. If counsel is a law firm, identify member of firm handling the case.)

John Doe, Esq.
NH Bar ID No. 1111
Doe and Roe
123 Central Street
Concord, N.H. 03301

APPENDIX K

Amend Supreme Court Rule 15, on a temporary basis, as follows:

Unofficial Annotated Version

RULE 15. Transcripts

(1) The parties shall attempt to enter into stipulations, such as an agreed statement of facts, that will reduce the size of transcripts or avoid them completely. If such a stipulation is entered into, an original and 8 copies thereof must be filed with the clerk's office if it is not included in the notice of appeal.

(2) (a) *Mandatory appeals.* The moving party shall have completed the notice of appeal form which includes the transcript information, including the date of the proceedings to be transcribed, the length of the proceedings, ~~the name(s) of any court reporters,~~ and the deposit required. A transcript of the parts of the proceedings necessary for appeal and not already on file in the trial court ~~from which the questions of law have been transferred~~ shall be prepared. The supreme court clerk's office shall issue a scheduling order notifying the moving party ~~to pay the deposit for the transcript the clerk of the trial court [that]~~ within 15 days from the date on the written notice **[the moving party must pay the deposit to the transcriber designated by the court to prepare the transcript or to the transcriber's agent. If payment is not received by the date specified,]** ~~or have the~~ appeal **[may be]** deemed waived ~~or have~~ **[and]** the case dismissed. Upon timely receiving the required deposit, the ~~trial court clerk~~ **[transcriber]** shall ~~immediately notify the court reporter to proceed with the transcription and shall notify the clerk of the supreme court that the court reporter has been so notified~~ **[deposit was received and that the transcriber will begin preparation of the transcript].** If the ~~trial court clerk does not~~ ~~timely receive the required deposit~~ **[is not timely received]**, the ~~clerk~~ **[transcriber]** shall immediately so notify the clerk of the supreme court. For the purposes of initial assessment of transcription costs pursuant to this rule, any party filing an appeal may be considered a moving party, and in cases of multiple appeals, the court, within its discretion, may assess transcription costs as justice requires.

(b) *Other appeals from trial court decisions on the merits.* The moving party shall have completed the notice of appeal form which includes the transcript information, including the date of the proceedings to be transcribed, the length of the proceedings, ~~the name(s) of any court reporters,~~ and the deposit required. If the appeal is accepted by the court for briefing, the supreme court clerk's office shall issue a scheduling order notifying the moving party ~~to pay the deposit for the transcript to the clerk of the trial court [that]~~ within 15 days from the date on the written notice **[the moving party must pay the deposit to the transcriber designated by the court to prepare the transcript or to the transcriber's agent. If payment is not received by the transcriber by the date specified,]** ~~or have the~~ appeal **[may be]** deemed waived ~~or have~~ **[and]** the case dismissed. Upon timely receiving the required deposit, the ~~trial court clerk~~ **[transcriber]** shall ~~immediately notify the court reporter to proceed with the transcription and shall notify the clerk of the supreme court that the court reporter has been so notified~~ **[deposit was received and that the transcriber will begin preparation of the transcript].** If the ~~trial court clerk does not~~ ~~timely receive the required deposit~~ **[is not timely received]**, the ~~clerk~~ **[transcriber]** shall

immediately so notify the clerk of the supreme court. For the purposes of initial assessment of transcription costs pursuant to this rule, any party filing an appeal may be considered a moving party, and in cases of multiple appeals, the court, within its discretion, may assess transcription costs as justice requires.

(3) If the moving party intends to argue in the supreme court that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, he shall include in the record a transcript of all evidence relevant to such finding or conclusion. Unless otherwise ordered by the supreme court, the transcript shall contain all the oral proceedings except opening statements, medical testimony, arguments, and charge.

(4) Unless the parties agree, or the court otherwise orders, the ~~trial court reporter~~ **[transcriber]** shall produce a **[n electronic version of the transcript for the court, which shall be deemed the official transcript, as well as a paper copy of the transcript. The transcriber shall also produce]** ~~completed original and 2 copies~~ **[an electronic copy]** of a **[the]** transcript **[for each party to the case requiring a transcript. The transcript shall be completed]** as early as possible within 45 days after ~~the reporter is notified by~~ **[receiving the recording of the proceedings from]** the trial court clerk to ~~proceed with the transcription.~~ Requests for extensions of time in which to prepare a transcript shall not be favored, but a ~~trial court reporter~~ **[the transcriber]** may request that the supreme court grant an extension of time. Such a request shall give the reasons for the need for an extension. ~~The trial court reporter shall send a copy of the letter to the chief justice of the superior court.~~

(5) The supreme court may order that the preparation of a transcript in a case be given immediate attention.

(6) The ~~original~~ **[official electronic]** transcript **[and the paper copy of the transcript]** shall be transmitted to the supreme court as part of the record on appeal, and the **[electronic]** copies shall be transmitted to the parties.

~~(7) The trial court reporter shall bind the transcript in a volume or volumes, with the pages consecutively numbered throughout all volumes. The transcript shall be indexed. The index in the first volume shall refer to the number of each volume and the page, and shall be cumulative for all volumes; the index in each other volume shall cover the subject matter in that volume. The index shall list each witness alphabetically, and under the name of the witness, shall refer to the page number where the direct and each other examination of the witness begins. There shall be a list of exhibits by number or letter, with a brief indication of the nature of the contents, and a list of the pages of the transcript where each exhibit has been identified, offered, received, or rejected. There shall be a list of other important parts of the trial that may have been transcribed, such as opening statements, arguments to the jury, and instructions, with a reference to the page where each begins.~~

~~(8) The court may order the State or the appealing party in every case in which the State is not a party to file with the clerk of the supreme court a copy of the transcript immediately after oral argument or immediately after the case is submitted for decision on the briefs and without oral argument.~~

Comment

It is a long-standing rule that parties may not have judicial review of matters not raised in the forum of trial. Absent a transcript of the proceedings below, the supreme court will generally assume that the evidence was sufficient to support the result reached by the trial court. It is the burden of the appealing party to provide the supreme court with a record sufficient to decide the issues on appeal, as well as to demonstrate that those issues were properly raised before the trial court. In deciding whether a transcript of the trial court's proceedings is necessary, the appealing party should keep in mind that the appealing party is responsible for providing the supreme court with a sufficient record to decide the issues on appeal. If the appealing party fails to provide a sufficient record, the appeal may be dismissed or the supreme court may not review an issue that the appealing party has raised. *See Bean v. Red Oak Prop. Mgmt.*, 151 N.H. 248 (2004).

Official Version

RULE 15. Transcripts

(1) The parties shall attempt to enter into stipulations, such as an agreed statement of facts, that will reduce the size of transcripts or avoid them completely. If such a stipulation is entered into, an original and 8 copies thereof must be filed with the clerk's office if it is not included in the notice of appeal.

(2) (a) *Mandatory appeals.* The moving party shall have completed the notice of appeal form which includes the transcript information, including the date of the proceedings to be transcribed, the length of the proceedings, and the deposit required. A transcript of the parts of the proceedings necessary for appeal and not already on file in the trial court shall be prepared. The supreme court clerk's office shall issue a scheduling order notifying the moving party that within 15 days from the date on the written notice, the moving party must pay the deposit to the transcriber designated by the court to prepare the transcript or to the transcriber's agent. If payment is not received by the date specified, the appeal may be deemed waived and the case dismissed. Upon timely receiving the required deposit, the transcriber shall proceed with the transcription and shall notify the clerk of the supreme court that the deposit was received and that the transcriber will begin preparation of the transcript. If the required deposit is not timely received, the transcriber shall immediately so notify the clerk of the supreme court. For the purposes of initial assessment of transcription costs pursuant to this rule, any party filing an appeal may be considered a moving party, and in cases of multiple appeals, the court, within its discretion, may assess transcription costs as justice requires.

(b) *Other appeals from trial court decisions on the merits.* The moving party shall have completed the notice of appeal form which includes the transcript information, including the date of the proceedings to be transcribed, the length of the proceedings, and the deposit required. If the appeal is accepted by the court for briefing, the supreme court clerk's office shall issue a scheduling order notifying the moving party that within 15 days from the date on the written notice, the moving party must pay the deposit to the transcriber designated by the court to prepare the transcript or to the transcriber's agent. If payment is not received by the transcriber by the date specified, the appeal may be deemed waived and the case dismissed. Upon timely receiving the required deposit, the transcriber shall proceed with the transcription and shall notify the clerk of the supreme court that the deposit was received and that the transcriber will begin preparation of the transcript. If the required deposit is not timely received, the transcriber shall immediately so notify the clerk of the supreme court. For the purposes of initial assessment of transcription costs pursuant to this rule, any party filing an appeal may be considered a moving party, and in cases of

multiple appeals, the court, within its discretion, may assess transcription costs as justice requires.

(3) If the moving party intends to argue in the supreme court that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, he shall include in the record a transcript of all evidence relevant to such finding or conclusion. Unless otherwise ordered by the supreme court, the transcript shall contain all the oral proceedings except opening statements, medical testimony, arguments, and charge.

(4) Unless the parties agree, or the court otherwise orders, the transcriber shall produce an electronic version of the transcript for the court, which shall be deemed the official transcript, as well as a paper copy of the transcript. The transcriber shall also produce an electronic copy of the transcript for each party to the case requiring a transcript. The transcript shall be completed as early as possible within 45 days after receiving the recording of the proceedings from the trial court clerk. Requests for extensions of time in which to prepare a transcript shall not be favored, but the transcriber may request that the supreme court grant an extension of time. Such a request shall give the reasons for the need for an extension.

(5) The supreme court may order that the preparation of a transcript in a case be given immediate attention.

(6) The official electronic transcript and the paper copy of the transcript shall be transmitted to the supreme court as part of the record on appeal, and the electronic copies shall be transmitted to the parties.

Comment

It is a long-standing rule that parties may not have judicial review of matters not raised in the forum of trial. Absent a transcript of the proceedings below, the supreme court will generally assume that the evidence was sufficient to support the result reached by the trial court. It is the burden of the appealing party to provide the supreme court with a record sufficient to decide the issues on appeal, as well as to demonstrate that those issues were properly raised before the trial court. In deciding whether a transcript of the trial court's proceedings is necessary, the appealing party should keep in mind that the appealing party is responsible for providing the supreme court with a sufficient record to decide the issues on appeal. If the appealing party fails to provide a sufficient record, the appeal may be dismissed or the supreme court may not review an issue that the appealing party has raised. *See Bean v. Red Oak Prop. Mgmt.*, 151 N.H. 248 (2004).

APPENDIX L

Adopt new Supreme Court Rule 59, on a temporary basis, as follows:

RULE 59. Preparation Of Transcripts Of Court Proceedings; Designation Of Transcriber And Approval Of Transcript Fees

(1) Preparation of A Transcript Other Than for An Appeal

(a) Any person may request that a transcript be prepared of a recorded court proceeding except when the case or proceeding is confidential by statute or court rule or order. In a confidential case or proceeding, a request for a transcript made by a person who is not a party ordinarily will be denied.

A transcript will be prepared from the recording of the proceeding by the transcriber designated by the court in accordance with paragraph 3 of this rule.

(b) A person requesting the preparation of a transcript (requesting party) will be required to pay the cost of preparing the transcript in accordance with the fee schedule approved by the Supreme Court pursuant to paragraph 3 of this rule. Requests to have a transcript prepared at the expense of the State or other governmental entity are governed by paragraph (j) below. Preparation of transcripts at the request of a court are governed by paragraph (k) below.

(c) The requesting party will be required to pay the transcriber a deposit for preparation of the transcript before the transcriber begins work. The deposit is an estimate of the cost of preparing the transcript. The cost of the transcript will be determined by the fee schedule approved by the Supreme Court. If the deposit amount is insufficient to cover the cost of the transcript, the requesting party may be required to pay the balance of the transcript cost before receiving the transcript. If the deposit exceeds the cost of the transcript, the excess deposit will be refunded.

(d) The requesting party shall complete the Transcript Request Form and specify the portion or portions of a court proceeding to be transcribed. An excerpt of a proceeding may be requested, provided that if any portion of the testimony of a witness is requested, the entire testimony of that witness must be transcribed. The requesting party shall submit the Transcript Request Form to the transcriber with the required deposit.

(e) Upon receipt of the Transcript Request Form and required deposit, the transcriber shall send a copy of the Transcript Request Form to the trial court clerk. Immediately upon receipt of the Transcript Request Form from the transcriber, the trial court clerk shall send the transcriber the recording of the court proceeding(s) to be transcribed, along with pertinent case information.

(f) The transcriber shall proceed to transcribe the court proceeding upon receipt of the recording and pertinent case information. The transcriber shall complete the transcript within the time requested on the Transcript Request Form. If the transcriber cannot prepare the transcript within the time requested, the transcriber shall notify the requesting

party. The time allowed the transcriber for completion of the transcript shall be calculated from the date that the transcriber receives the recording of the proceeding from the trial court.

(g) The transcriber shall certify that the completed transcript is an accurate transcription of the court proceeding. The certification shall be in the following form:

To the best of my professional ability, skill, and knowledge, I certify that this transcript is a true and accurate record of the recording.

Name:

Date:

(h) The transcriber shall provide the trial court clerk with the certified transcript, which shall be digitally signed, in PDF format on CD. The transcriber shall provide the requesting party with a certified, digitally-signed copy of the transcript in PDF format on CD.

(i) Requests for transcripts previously requested or prepared:

(A) If the subsequent request is made prior to the completion of a transcript, the transcriber shall notify the trial court, which shall allocate the cost of the transcript among the requesting parties, and shall determine whether an additional deposit is required.

(B) If the subsequent request is made within 90 days of completion of a transcript, the transcriber shall advise the subsequent requesting party to submit the request directly to the trial court. The trial court may order the subsequent requesting party to reimburse the original requesting party for a portion of the cost of preparing the transcript.

(C) If the subsequent request is made more than 90 days after completion of the transcript, the transcriber shall advise the requesting party to submit the request directly to the trial court. The trial court shall provide a copy of the transcript on CD for a fee of \$25.00. The trial court will not provide a paper copy of the transcript.

(j) Requests for transcripts in cases in which the requesting party is entitled to preparation of a transcript at the expense of the State or other governmental entity:

(A) Any person requesting that a transcript of a proceeding be prepared at the expense of the State or other governmental entity must file a motion for authorization to obtain services other than counsel in the trial court. If the motion is granted, counsel shall complete the Transcript Request Form and submit it to the trial court. The trial court clerk shall submit the Transcript Request Form and the recording of the court proceeding and pertinent case information to the transcriber. No deposit shall be required for preparation of the transcript in such cases.

(B) Upon completion of the transcript, the transcriber shall send an itemized invoice to the trial court clerk with the completed transcript and a Services for Other than Counsel form for approval by the trial court.

(C) Upon the trial court's receipt of the transcript and itemized invoice, and after verification that the transcript is correct, payment of the transcriber's invoice shall be approved and sent to the authority responsible for payment along with the necessary paperwork.

(D) In all other respects, the procedures set forth in paragraphs (a)-(i) will govern the preparation of a transcript prepared in such cases.

(k) Preparation of transcript for the trial court:

(A) When the trial court orders a transcript for the court's use, it shall issue an order requiring that the transcript be prepared at the expense of the judicial branch. The trial court clerk shall complete the Transcript Request Form and shall submit it with the recording of the court proceeding and pertinent case information to the transcriber. No deposit shall be required for preparation of a transcript for use by the trial court.

(B) Upon completion of the transcript, the transcriber shall send an itemized invoice to the trial court clerk with the completed transcript.

(C) Upon the trial court's receipt of the transcript and itemized invoice, and after verification that the transcript is correct, payment of the transcriber's invoice shall be approved and sent to the Administrative Office of the Courts for payment along with the order approving payment.

(D) In all other respects, the procedures set forth in paragraphs (a)-(i) will govern the preparation of a transcript prepared in such cases.

(2) *Preparation of Transcripts for Appeal*

The preparation of a transcript for appeal is governed by Supreme Court Rule 15.

(3) *Designation of Transcriber and Approval of Fees*

(a) The Supreme Court shall designate a person or entity which shall be responsible for transcribing all trial court proceedings.

(b) The Supreme Court shall approve a fee schedule for the preparation of transcripts.

(c) After a transcript of court proceedings has been prepared by the transcriber and provided to the trial court clerk, the transcript shall become the property of the judicial branch, and the judicial branch shall have the right to make copies of the transcript for its own use and to provide copies to others with or without charge. The transcriber shall not be entitled to payment of any additional fees for copies made by the judicial branch.

(4) *Official Record*

(a) When a transcript of a court proceeding is prepared by the transcriber designated by the Supreme Court, the certified, digitally-signed transcript provided to the trial court or the Supreme Court in the case of an appeal shall be considered the official record of the trial court proceeding.

(b) Any person may request a copy of the audio recording of a hearing except when a case or proceeding is confidential by statute or court rule or order. The recording will be provided on CD or audiotape for a fee of \$25.00 per case, except that when a request is made that the recording be provided on a daily basis, the fee will be \$25.00 for each

recording requested. A copy of the recording of a court proceeding shall not be deemed to be the official record of the proceeding.

APPENDIX M

Amend the Transcript Order Form, which appears as the fourth page of both the New Hampshire Supreme Court Rule 7 Notice of Discretionary Appeal form and the New Hampshire Supreme Court Rule 7 Notice of Mandatory Appeal form, on a temporary basis, as follows:

TRANSCRIPT ORDER FORM

INSTRUCTIONS:

1. If a transcript is necessary for your appeal, you must complete this form.
2. List each portion of the proceedings that must be transcribed for appeal, e.g., entire trial (see Supreme Court Rule 15(3)), motion to suppress hearing, jury charge, etc., and provide information requested.
3. Determine the amount of deposit required for each portion of the proceedings and the total deposit required for all portions listed. Do not send the deposit to the Supreme Court. You will receive an order from the Supreme Court notifying you of the deadline for paying the deposit amount to the court transcriber. Failure to pay the deposit by the deadline may result in the dismissal of your appeal.
4. The transcriber will produce a digitally-signed electronic version of the transcript for the Supreme Court, which will be the official record of the transcribed proceedings. A paper copy of the transcript will be prepared for the court. Parties will be provided with an electronic copy of the transcript in PDF format.

DATE OF PROCEEDING	TYPE OF PROCEEDING	LENGTH OF PROCEEDING	NAME OF JUDGE(S)	PORTIONS PREVIOUSLY PREPARED	DEPOSIT (SEE SCHEDULE BELOW)
					\$
					\$
					\$
					\$
					\$
DO NOT SEND DEPOSIT AT THIS TIME.					TOTAL DEPOSIT: \$

SCHEDULE OF DEPOSITS

<u>Length of Proceeding</u>	<u>Deposit Amount</u>
Hearing or trial of one hour or less	\$ 175
Hearing or trial up to ½ day	\$ 450
Hearing or trial of more than ½ day	\$ 900/day

NOTE: The deposit is an estimate of the transcript cost. After the transcript has been completed, you may be required to pay an additional amount if the final cost of the transcript exceeds the deposit. Any amount paid as a deposit in excess of the final cost will be refunded. The transcript will not be released to the parties until the final cost of the transcript is paid in full.

APPENDIX N

Amend Superior Court Rule 71, on a temporary basis, as follows:

Unofficial Annotated Version

71. Opening statements shall not be argumentative and shall not be longer than 30 minutes unless the Court otherwise directs. Closing arguments shall be limited to one hour each, unless otherwise ordered by the Court in advance. Before any **[person]** attorneys shall read to the jury any excerpt of testimony **[from a transcript]** prepared by the ~~Court stenographer~~ **[designated court transcriber]**, he **[or she]** shall furnish **[the]** opposing **[party]** counsel with a copy thereof prepared by said stenographer.

Official Version

71. Opening statements shall not be argumentative and shall not be longer than 30 minutes unless the Court otherwise directs. Closing arguments shall be limited to one hour each, unless otherwise ordered by the Court in advance. Before any person shall read to the jury any excerpt of testimony from a transcript prepared by the designated court transcriber, he or she shall furnish the opposing party with a copy thereof.

APPENDIX O

Amend Superior Court Rule 80, on a temporary basis, as follows:

Unofficial Annotated Version

80. **[The procedure for preparation of a transcript for cases appealed or transferred to the Supreme Court is governed by Supreme Court Rule 15.]** ~~When the Supreme Court orders that a transcript be prepared, if a question of law is transferred by appeal, the appealing party shall advance the estimated cost of the transfer, and the expense of such transfer shall be taxed in his bill of costs if he shall prevail; but if transferred by virtue of an agreement signed by the parties or otherwise without ruling, such expense shall be advanced as the court, within its discretion, may rule that justice requires.~~

~~—The stenographer shall transcribe the original and two copies of all the oral proceedings except opening statements, medical testimony, arguments, and charge, unless otherwise ordered by the Supreme Court.~~

~~—After determination of what is to be transcribed as provided by these rules and the Supreme Court rules, the Clerk of the Supreme Court shall notify the party liable therefor of the estimated cost to him at the prevailing per page rate for the original and each copy thereof, and shall notify him to pay the estimated cost to the Clerk of the Superior Court within fifteen days from the date of the notice; otherwise his appeal shall be deemed waived; or if it is an agreed case or if otherwise transferred without ruling, the action shall be dismissed unless the other party will advance such expense within fifteen days after notice, in which event he may tax it as costs if he prevails. Upon receipt of the required advance payment, the Clerk shall notify the stenographer to proceed with the transcription.~~

~~—In cases tried by the Court without jury or by a master or referee, the oral proceedings of the trial shall not be transcribed by the stenographer in advance of verdict or decree unless the Court rules that justice so requires, and then portions thereof may be omitted as may be expressly ordered. In the event that such prior transcription is ordered, the stenographer shall prepare not less than the typewritten original and two copies thereof and the Court shall determine the apportionment of the cost thereof.~~

Official Version

80. The procedure for preparation of a transcript for cases appealed or transferred to the Supreme Court is governed by Supreme Court Rule 15.

APPENDIX P

Repeal District Court Rule 1.18 in its entirety.

APPENDIX Q

Amend District Court Rule 1.19, on a temporary basis, as follows:

Unofficial Annotated Version

Rule 1.19. Sound Recordings of Proceedings

[The procedure for preparation of a transcript for cases appealed or transferred to the Supreme Court is governed by Supreme Court Rule 15.] ~~Whenever a party desires to use a sound recording of District Court proceedings on appeal, a written transcript of the sound recording will be required.~~

Official Version

Rule 1.19. Sound Recordings of Proceedings

The procedure for preparation of a transcript for cases appealed or transferred to the Supreme Court is governed by Supreme Court Rule 15.

APPENDIX R

Amend District Court Rule 4.27, on a temporary basis, as follows:

Unofficial Annotated Version

Rule 4.27. Appeals — ~~Records Requirement~~

~~I. Any person who is a party to a small claim action may, at least 5 days prior to trial, request the district court that a tape recording be kept of all proceedings in the trial. If such a request is made, the person making the request for the recording shall be responsible for the cost of the tape recording and any associated transcription costs.~~

H. Any party to a small claim judgment may, at the time judgment is declared or within 30 days of the notice of judgment date, appeal therefrom to the supreme court. ~~On any such appeal, the district court shall provide the tape recording requested under paragraph I. to the supreme court.~~ The district court shall not grant any requests for extensions of time to file an appeal document in the supreme court or requests for late entry of an appeal document in the supreme court; such requests shall be filed with the supreme court. See Supreme Court Rule 21(6).

Official Version

Rule 4.27. Appeals

Any party to a small claim judgment may, at the time judgment is declared or within 30 days of the notice of judgment date, appeal therefrom to the supreme court. The district court shall not grant any requests for extensions of time to file an appeal document in the supreme court or requests for late entry of an appeal document in the supreme court; such requests shall be filed with the supreme court. See Supreme Court Rule 21(6).

APPENDIX S

Amend Probate Court Rule 78-A, on a temporary basis, as follows:

Unofficial Annotated Version

Rule 78-A. TRANSCRIPTS.

(a) **Request that Proceedings be Recorded.** A Party may request that any probate proceedings be recorded. Such request shall be made in writing to the Court no later than ten (10) days prior to the proceeding. Any denial of a request for recording shall include the reason(s) supporting the denial. A request for recording, not timely filed, may be granted within the discretion of the Court.

(b) **Official Record.** ~~[When a transcript of a probate court proceeding is prepared by the transcriber designated by the Supreme Court, the certified, digitally-signed transcript provided to the probate court or the Supreme Court in the case of an appeal shall be considered the official record of the proceeding.]~~ For all purposes, including Supreme Court Rules 13-15, the official record of a recorded probate court proceeding shall be the printed transcript of the proceeding as prepared by an approved transcriber or stenographer at the request of the Register.

(c) **Transcripts for Appeal.** ~~[The procedure for preparation of a transcript for cases appealed or transferred to the Supreme Court is governed by Supreme Court Rule 15.]~~ The Party or Parties shall advance the estimated cost of the transcript as ordered by the Court. Upon receipt of the required advance payment, the Register shall direct the transcriber or stenographer to proceed with the transcription.

(d) **Request for Excerpts.** During the course of a trial, either party may request to have parts of the evidence transcribed for use during the trial. ~~[The procedure for preparation of a transcript other than for appeal is governed by Supreme Court Rule 59(1).]~~ The furnishing of a transcript or excerpts from the evidence is to be done under the direction of the probate judge or probate master.

(e) **Transcripts Required for Other Than Appeal.** ~~[The procedure for preparation of a transcript other than for appeal is governed by Supreme Court Rule 59(1).]~~ ~~In the event there is a Motion for a transcript of a proceeding, either partial or complete, by a Party to the proceeding or other interested Persons, for purposes other than appeal, that purpose shall be stated in the Motion.~~

~~When a Motion for transcript is granted, any other Party desiring a copy shall notify the Court within ten (10) days of the Register's notice. After the ten-day period has elapsed, the Register shall proceed in the usual manner to compute the estimated cost of the transcript and require the Party or Parties to advance this amount. Upon receipt of the required advance payment, the Register shall direct the transcriber or stenographer to proceed with the transcription.~~

~~When completed, if the transcriber or stenographer's bill exceeds the estimated payment, the Register shall collect the additional cost before releasing the transcript(s). The original shall be retained by the Register.~~

~~(f) **Transcript Order by Court, Master or Referee.** If a complete or partial transcript of any proceeding is ordered by a probate judge or probate master, the transcriber or stenographer shall prepare an original and such copies as ordered. The Register's office shall provide the probate judge or probate master with a copy and retain the original and any other copies. Neither, the original or any copy shall be defaced in any way so that they may be used in the event of subsequent appeal.~~

~~(g) **Special Circumstances.** Any and all of the outlined procedures for preparation of transcripts may be amended at the discretion of the Court in special circumstances; e.g., when there is a limited time available for processing an appeal, etc.~~

Official Version

Rule 78-A. TRANSCRIPTS.

(a) **Request that Proceedings be Recorded.** A Party may request that any probate proceedings be recorded. Such request shall be made in writing to the Court no later than ten (10) days prior to the proceeding. Any denial of a request for recording shall include the reason(s) supporting the denial. A request for recording, not timely filed, may be granted within the discretion of the Court.

(b) **Official Record.** When a transcript of a probate court proceeding is prepared by the transcriber designated by the Supreme Court, the certified, digitally-signed transcript provided to the probate court or the Supreme Court in the case of an appeal shall be considered the official record of the proceeding.

(c) **Transcripts for Appeal.** The procedure for preparation of a transcript for cases appealed or transferred to the Supreme Court is governed by Supreme Court Rule 15.

(d) **Request for Excerpts.** During the course of a trial, either party may request to have parts of the evidence transcribed for use during the trial. The procedure for preparation of a transcript other than for appeal is governed by Supreme Court Rule 59(1).

(e) **Transcripts Required for Other Than Appeal.** The procedure for preparation of a transcript other than for appeal is governed by Supreme Court Rule 59(1).

APPENDIX T

Amend Probate Court Rule 80, on a temporary basis, as follows:

Unofficial Annotated Version

Rule 80. INTERLOCUTORY TRANSFERS AND APPEALS TO THE SUPREME COURT -- *Transcripts*

~~[The procedure for preparation of a transcript for cases appealed or transferred to the Supreme Court is governed by Supreme Court Rule 15.] When the Supreme Court orders that a transcript be prepared, if a question of law is transferred by appeal, the appealing Party shall advance the estimated cost of the transfer, and the expense of such transfer shall be taxed in the appealing Party's bill of costs if the appealing Party shall prevail; but if transferred by virtue of an agreement signed by the Parties or otherwise without ruling, such expense shall be advanced as the Court, within its discretion, may rule that justice requires.~~

~~The transcriber or stenographer shall transcribe the original and two copies of all the oral proceedings except opening statements and arguments, unless otherwise ordered by the Supreme Court.~~

~~After determination of what is to be transcribed as provided by these rules and the Supreme Court rules, the Clerk of the Supreme Court shall notify the Party liable therefor of the estimated cost to that Party at the prevailing per page rate for the original and each copy thereof, and shall notify that Party to pay the estimated cost to the Register within fifteen (15) days from the date of the notice; otherwise, that Party's appeal shall be deemed waived; or if it is an agreed case or if otherwise transferred without ruling, the action shall be dismissed unless the other Party will advance such expense within fifteen (15) days after notice, in which event the other Party may tax it as costs if the other Party prevails. Upon receipt of the required advance payment, the Register shall notify the transcriber or stenographer to proceed with the transcription.~~

~~The oral proceedings of the trial shall not be transcribed by the transcriber or stenographer in advance of decree unless the Court rules that justice so requires. In the event that such prior transcription is ordered, the transcriber or stenographer shall prepare not less than the typewritten original and two copies thereof and the Court shall determine the apportionment of the cost thereof.~~

Official Version

Rule 80. INTERLOCUTORY TRANSFERS AND APPEALS TO THE SUPREME COURT -- *Transcripts*

The procedure for preparation of a transcript for cases appealed or transferred to the Supreme Court is governed by Supreme Court Rule 15.

APPENDIX U

Amend Supreme Court Rule 37(9)(d) , on a temporary basis, as follows:

Unofficial Annotated Version

(d) Upon the receipt of a certificate of conviction of an attorney for a "serious crime," the court may, and shall if suspension has been ordered pursuant to subsection (a) above, institute a formal disciplinary proceeding **[by issuing an order to the attorney to show cause why the attorney should not be disbarred as a result of the conviction. If the court determines that no such good cause has been shown, the court shall issue an order of disbarment, or such other discipline as the court shall deem appropriate. If the court determines that the attorney has shown cause why disbarment may not be appropriate, the court shall]** and refer the matter to the professional conduct committee, in which the sole issue to be determined shall be the extent of the final discipline to be imposed, ~~provided that a disciplinary proceeding so instituted will not be brought to a hearing~~ **[. Provided, however, that final discipline will not be imposed]** until all appeals from the conviction are concluded.

Official Version

(d) Upon the receipt of a certificate of conviction of an attorney for a "serious crime," the court may, and shall if suspension has been ordered pursuant to subsection (a) above, institute a formal disciplinary proceeding by issuing an order to the attorney to show cause why the attorney should not be disbarred as a result of the conviction. If the court determines that no such good cause has been shown, the court shall issue an order of disbarment, or such other discipline as the court shall deem appropriate. If the court determines that the attorney has shown cause why disbarment may not be appropriate, the court shall refer the matter to the professional conduct committee, in which the sole issue to be determined shall be the extent of the final discipline to be imposed. Provided, however, that final discipline will not be imposed until all appeals from the conviction are concluded.

APPENDIX V

Amend Supreme Court Rule 42(2), on a temporary basis, as follows:

Unofficial Annotated Version

(2) There shall be two (2) complete examinations annually to be given at the Supreme Court Building in Concord or such other place as may be determined by the court. The examinations shall be in such form and length, and shall cover such subjects as the board of bar examiners may determine. One examination shall be held on the last Wednesday of February and the preceding day; and the second examination shall be held on the last Wednesday of July and the preceding day.

[Persons seeking admission to the practice of law by examination shall, not later than May 1 of the year in which they intend to take a July examination and not later than December 1 next preceding the year in which they intend to take a February examination, file an application to take the New Hampshire bar examination and the petition and questionnaire form with the clerk of the supreme court and with the committee on character and fitness as set forth in paragraph (5)(e). The foregoing requirements as to the time of filing may be waived by the court for good cause shown. The application and petition and questionnaire must be accompanied by the fee for taking the bar examination, which shall be paid to the clerk of the supreme court, and the fee for the character and fitness investigation which shall be paid to the New Hampshire Supreme Court Character and Fitness Committee. The fees shall be in such amount as the supreme court shall from time to time determine. Both fees shall be nonrefundable.]

If an applicant to take the bar examination notifies the clerk of the supreme court at least thirty days before the date of the bar examination that the applicant will not take the bar examination for which the applicant applied, and wishes to take the immediately subsequent administration of the bar examination, the applicant shall be required to pay an administrative fee in an amount set by the court, but shall not be required to pay an additional fee for the bar examination or for the character and fitness investigation. The applicant is also required to advise the clerk and the committee on character and fitness in writing on or before the application deadline for the subsequent examination of any changes to the applicant's petition or questionnaire.]

Official Version

(2) There shall be two (2) complete examinations annually to be given at the Supreme Court Building in Concord or such other place as may be determined by the court. The examinations shall be in such form and length, and shall cover such subjects as the board of bar examiners may determine. One examination shall be held on the last Wednesday of February and the preceding day; and the second examination shall be held on the last Wednesday of July and the preceding day.

Persons seeking admission to the practice of law by examination shall, not later than May 1 of the year in which they intend to take a July examination and not later than

December 1 next preceding the year in which they intend to take a February examination, file an application to take the New Hampshire bar examination and the petition and questionnaire form with the clerk of the supreme court and with the committee on character and fitness as set forth in paragraph (5)(e). The foregoing requirements as to the time of filing may be waived by the court for good cause shown. The application and petition and questionnaire must be accompanied by the fee for taking the bar examination, which shall be paid to the clerk of the supreme court, and the fee for the character and fitness investigation which shall be paid to the New Hampshire Supreme Court Character and Fitness Committee. The fees shall be in such amount as the supreme court shall from time to time determine. Both fees shall be nonrefundable.

If an applicant to take the bar examination notifies the clerk of the supreme court at least thirty days before the date of the bar examination that the applicant will not take the bar examination for which the applicant applied, and wishes to take the immediately subsequent administration of the bar examination, the applicant shall be required to pay an administrative fee in an amount set by the court, but shall not be required to pay an additional fee for the bar examination or for the character and fitness investigation. The applicant is also required to advise the clerk and the committee on character and fitness in writing on or before the application deadline for the subsequent examination of any changes to the applicant's petition or questionnaire.

APPENDIX W

Amend Supreme Court Rule 42(5)(e) , on a temporary basis, as follows:

Unofficial Annotated Version

(e) Persons **[All persons]** seeking admission to the practice of law: ~~(i) by examination shall, not later than May 1 of the year in which they intend to take a July examination and not later than December 1 next preceding the year in which they intend to take a February examination, and (ii) by motion shall, not later than the date upon which the motion for admission is filed with the supreme court,~~ **[shall]** file with the committee on character and fitness and with the clerk of the supreme court the petition and questionnaire on a form to be furnished by the clerk. The questionnaire shall also contain a certificate signed by two (2) persons certifying the applicant's good moral character. The questionnaire shall be executed by the applicant under oath. ~~The foregoing requirements as to the time of filing may be waived by the committee for good cause shown. If the applicant is applying for readmission, the administrator shall cause a notice to be published in a newspaper with general circulation, as well as in the New Hampshire Bar News, that the applicant has applied for readmission. The notice shall invite anyone to comment on the application by submitting said comments in writing to the administrator within twenty (20) days. All comments shall be made available to the applicant. Where feasible, the administrator shall give notice to the original complainant.~~

[The application process for persons seeking readmission to the bar is governed by Rule 37(14) in the case of an attorney who was disbarred by the court or who resigned while under disciplinary investigation, and by Rule 37(15) in the case of an attorney who resigned from the bar and who was not the subject of disciplinary investigation at the time of resignation.]

Official Version

(e) All persons seeking admission to the practice of law shall file with the committee on character and fitness and with the clerk of the supreme court the petition and questionnaire on a form to be furnished by the clerk. The questionnaire shall also contain a certificate signed by two (2) persons certifying the applicant's good moral character. The questionnaire shall be executed by the applicant under oath.

The application process for persons seeking readmission to the bar is governed by Rule 37(14) in the case of an attorney who was disbarred by the court or who resigned while under disciplinary investigation, and by Rule 37(15) in the case of an attorney who resigned from the bar and who was not the subject of disciplinary investigation at the time of resignation.

APPENDIX X

Amend Supreme Court Rule 49(I), on a temporary basis, as follows:

Unofficial Annotated Version

(I) Fees

(A) Entry of Appeal	\$150.00
(B) Petition for Original Jurisdiction	
(1) Original petition for writ of habeas corpus	\$ 0 (No fee)
(2) All other petitions for original jurisdiction	\$150.00
(C) (1) Certification of Record to Federal Courts	\$75.00
(2) Other Certifications and Certified Copies	\$5.00 plus \$.50/page
(D) Bar Examination Fee	\$250.00
(E) Character and Fitness Investigation Fee	
(1) For Admission By Examination	\$ 125.00
(2) For Admission Without Examination	\$ 500.00
(3) For Admission After Completion of Daniel Webster Scholar Honors Program	\$125.00
(F) Certificate of Admission	\$ 5.00
(G) Entry of Motion for Admission to Bar Without Examination	\$ 250.00
(H) Application for Admission of Daniel Webster Scholar Honors Program Graduates	\$125.00
(I) Application to Appear <i>Pro Hac Vice</i>	\$225.00
[(J) Fee to Postpone Bar Examination	\$100.00]

Official Version

(I) Fees

(A) Entry of Appeal	\$150.00
(B) Petition for Original Jurisdiction	
(1) Original petition for writ of habeas corpus	\$ 0 (No fee)
(2) All other petitions for original jurisdiction	\$150.00
(C) (1) Certification of Record to Federal Courts	\$75.00
(2) Other Certifications and Certified Copies	\$5.00 plus \$.50/page
(D) Bar Examination Fee	\$250.00
(E) Character and Fitness Investigation Fee	
(1) For Admission By Examination	\$ 125.00
(2) For Admission Without Examination	\$ 500.00
(3) For Admission After Completion of Daniel Webster Scholar Honors Program	\$125.00
(F) Certificate of Admission	\$ 5.00
(G) Entry of Motion for Admission to Bar Without Examination	\$ 250.00
(H) Application for Admission of Daniel Webster Scholar Honors Program Graduates	\$125.00
(I) Application to Appear <i>Pro Hac Vice</i>	\$225.00
(J) Fee to Postpone Bar Examination	\$100.00

APPENDIX Y

Amend Family Division Rules 1.11 and 1.12, on a temporary basis, as follows:

Unofficial Annotated Version

11.1 ORIGINAL NOMINATIONS:

- (a) When a marital master position is to be filled, the Administrative Judge shall form a committee to evaluate each applicant in the manner it deems appropriate and which shall make a recommendation to the Administrative Judge of the Judicial Branch Family Division who shall determine **[, with the concurrence of the supreme court,]** the candidate(s) to be submitted to the Governor and Council for appointment.
- (b) TERM OF APPOINTMENT AND CONDITIONS: The original term of appointment by Governor and Council shall be three years pursuant to RSA 490-B:7, III. Thereafter, the term of office shall be five years. The Administrative Judge of the Family Division may, at any time, consider and act on any grievance or complaint concerning a marital master and take whatever action is appropriate, including termination. Marital masters shall be bound by the Canons of the Code of Judicial Conduct and serve at the pleasure of the Administrative Judge of the Family Division.

11.2 REAPPOINTMENT:

- (a) A marital master desiring to be reappointed at the expiration of the master's original term, must file a request with the Administrative Judge of the Judicial Branch Family Division, no later than ninety (90) days prior to the expiration of the term.
- (b) In making the decision to reappoint, the Administrative Judge shall review all performance evaluations conducted during the master's term of office, conduct a personal interview with the master as deemed necessary, and consider any other relevant information received from any person concerning the master's performance during the master's term of office.
- (c) Reappointment shall be at the discretion of the Administrative Judge of the Judicial Branch Family Division, **[with the concurrence of the supreme court,]** subject to such conditions as may be appropriate.

Official Version

11.1 ORIGINAL NOMINATIONS:

- (a) When a marital master position is to be filled, the Administrative Judge shall form a committee to evaluate each applicant in the manner it deems appropriate and which shall make a recommendation to the Administrative Judge of the Judicial Branch Family Division who shall determine, with the concurrence of the supreme court, the candidate(s) to be submitted to the Governor and Council for appointment.

- (b) TERM OF APPOINTMENT AND CONDITIONS: The original term of appointment by Governor and Council shall be three years pursuant to RSA 490-B:7, III. Thereafter, the term of office shall be five years. The Administrative Judge of the Family Division may, at any time, consider and act on any grievance or complaint concerning a marital master and take whatever action is appropriate, including termination. Marital masters shall be bound by the Canons of the Code of Judicial Conduct and serve at the pleasure of the Administrative Judge of the Family Division.

11.2 REAPPOINTMENT:

- (a) A marital master desiring to be reappointed at the expiration of the master's original term, must file a request with the Administrative Judge of the Judicial Branch Family Division, no later than ninety (90) days prior to the expiration of the term.

- (b) In making the decision to reappoint, the Administrative Judge shall review all performance evaluations conducted during the master's term of office, conduct a personal interview with the master as deemed necessary, and consider any other relevant information received from any person concerning the master's performance during the master's term of office.

- (c) Reappointment shall be at the discretion of the Administrative Judge of the Judicial Branch Family Division, with the concurrence of the supreme court, subject to such conditions as may be appropriate.

APPENDIX Z

Amend the title of Supreme Court Rule 21 as follows:

Unofficial Annotated Version

RULE 21. Motions, Brief Memoranda, and Extensions of Time to ~~File Briefs~~

Official Version

RULE 21. Motions, Brief Memoranda, and Extensions of Time

APPENDIX AA

Amend Supreme Court Rule 32(4) and (5) as follows:

Unofficial Annotated Version

(4) ~~Indigent defense cases appealed to the supreme court must be accompanied by a current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4).~~
[Any indigent defendant who wishes to be represented in the supreme court by court-appointed counsel, including indigent defendants who were represented in the trial court by court-appointed counsel, must file a current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) with the supreme court. If the indigent defendant is the appellant, the current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) shall accompany the appeal document. Otherwise, the current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) shall be filed within thirty days after the date that the appeal document is filed.]

Except in exceptional circumstances, the clerk's office will process the "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) within 30 days of the receipt of ~~the notice of appeal and~~ said affidavit.

(5) Maximum counsel fee for appeals to the supreme court in assigned counsel cases shall be \$ ~~1,500.00~~ **[2,000.00]**.

Official Version

(4) Any indigent defendant who wishes to be represented in the supreme court by court-appointed counsel, including indigent defendants who were represented in the trial court by court-appointed counsel, must file a current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) with the supreme court. If the indigent defendant is the appellant, the current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) shall accompany the appeal document. Otherwise, the current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) shall be filed within thirty days after the date that the appeal document is filed.

Except in exceptional circumstances, the clerk's office will process the "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) within 30 days of the receipt of said affidavit.

(5) Maximum counsel fee for appeals to the supreme court in assigned counsel cases shall be \$2,000.00.

APPENDIX BB

Amend Supreme Court Rule 32-A(4) as follows:

Unofficial Annotated Version

(4) ~~Indigent cases appealed to the supreme court must be accompanied by a current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4).~~ **[Any indigent party who wishes to be represented in the supreme court by court-appointed counsel, including indigent parties who were represented in the trial court by court-appointed counsel, must file a current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) with the supreme court. If the indigent party is the appellant, the current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) shall accompany the appeal document. Otherwise, the current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) shall be filed within thirty days after the date that the appeal document is filed.]**

Official Version

(4) Any indigent party who wishes to be represented in the supreme court by court-appointed counsel, including indigent parties who were represented in the trial court by court-appointed counsel, must file a current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) with the supreme court. If the indigent party is the appellant, the current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) shall accompany the appeal document. Otherwise, the current "Financial Affidavit & Application for Court Appointed Counsel" (OCC Form 4) shall be filed within thirty days after the date that the appeal document is filed.

APPENDIX CC

Amend the New Hampshire Supreme Court Annual Trust Accounting Compliance Certificate, which appears in the Appendix to Supreme Court Rule 50-A, as follows:

NEW HAMPSHIRE SUPREME COURT
ANNUAL TRUST ACCOUNTING COMPLIANCE FORM FOR _____
 (To be filed on or before August 1, ____)

Instructions: Each member of the New Hampshire Bar is required to complete the information below as well as either Section I, Section II or Section III. Return the completed form with your Bar dues and Court Fees payment, or under separate cover to: Trust Account Compliance, New Hampshire Bar Association, 2 Pillsbury Street, Suite 300, Concord, New Hampshire 03301-3502.

 Print Name of Lawyer or Law Firm Filing Certificate or Attach Business Card

 Print Address

For Law Firms

Please list all the members of the Bar of the Supreme Court of the State of New Hampshire covered by this certification below listed alphabetically with Bar ID or attach a separate list:

ID#	ID#
ID#	ID#
ID#	ID#
ID#	ID#
ID#	ID#

I. For members of the New Hampshire Bar who are not engaged in private practice in New Hampshire or elsewhere:

I do hereby certify that I am not in the private practice of law and do not have in my possession, or under my control, any funds or other property belonging to clients.

 (Date)

 (Attorney's Signature and Bar ID #)

II. For members of the New Hampshire Bar practicing in New Hampshire or practicing in a foreign jurisdiction and maintaining a trust account in New Hampshire:

1. Do you maintain a New Hampshire client trust account? _____
(yes or no)

2. If the answer to 1. above is "yes" list the name of the account, name of bank and the account number.

3. Have you been out of trust at any time during the reporting period? _____
If yes, explain: (yes or no)

4. Do you perform monthly reconciliations for each client who has funds in your trust account, pursuant to New Hampshire Supreme Court Rule 50(2)F?

(yes or no)

I do hereby certify that I have read Rule 1.15 of the Rules of Professional Conduct and New Hampshire Supreme Court Rule 50, Section 2 and that based upon my own personal knowledge, client funds maintained by me [or my firm] in New Hampshire are held in accounts in full compliance with the foregoing rules. To the extent that I have any trust accounts in a foreign jurisdiction, said accounts are maintained in compliance with the rules and regulations of that state or province.

Date

Attorney or Law Firm

Authorized Partner and Bar ID#

III. For members of the New Hampshire Bar practicing outside New Hampshire and not maintaining a New Hampshire trust account or holding funds of New Hampshire clients:

I do hereby certify that I am in private practice as a duly licensed attorney in the foreign jurisdiction listed below. I have no New Hampshire trust accounts. As such, all of my client trust accounts, if any, are maintained in compliance with the rules and requirements of that state or province.

Jurisdiction of Primary Practice: _____

Date

Attorney's Signature and NH Bar ID#

APPENDIX DD

Amend Superior Court Administrative Rule 11-10 as follows:

Unofficial Annotated Version

The Merrimack County Clerk of Court, when he receives any petition covered by this Rule, shall inquire of the Justice, who last committed, recommitted, or ~~granted~~ **[granted]** privileges to the patient, to determine if that Justice wishes to retain jurisdiction of the case. That Justice is not required to retain jurisdiction but may do so in his or her discretion. If jurisdiction is not so retained, the Justices of the Superior Court shall conduct all hearings covered by this rule on a rotating schedule to be established by the Chief Justice.

Official Version

The Merrimack County Clerk of Court, when he receives any petition covered by this Rule, shall inquire of the Justice, who last committed, recommitted, or granted privileges to the patient, to determine if that Justice wishes to retain jurisdiction of the case. That Justice is not required to retain jurisdiction but may do so in his or her discretion. If jurisdiction is not so retained, the Justices of the Superior Court shall conduct all hearings covered by this rule on a rotating schedule to be established by the Chief Justice.

APPENDIX EE

Amend Superior Court Administrative Rule 11-13 as follows:

Unofficial Annotated Version

Transportation of the ~~petitioner~~ **[patient]** shall be ordered by the Court wherein the petition is filed. The Clerk of Court shall prepare an order, leaving the date blank, ordering the Sheriff of Merrimack County to transfer the patient from the place of detention to the hearing and his return.

Official Version

Transportation of the patient shall be ordered by the Court wherein the petition is filed. The Clerk of Court shall prepare an order, leaving the date blank, ordering the Sheriff of Merrimack County to transfer the patient from the place of detention to the hearing and his return.

APPENDIX FF

Amend the fourth paragraph of the Statement of Purpose of the Rules of Professional Conduct Rule as follows:

Unofficial Annotated Version

The Rules of Professional Conduct are promulgated and amended by the Supreme Court of the State of New Hampshire with due input from members of the New Hampshire Bar and interested members of the public. Each Rule is published together with the applicable ABA Comment, as adopted by the American Bar Association in conjunction with its Model Rules of Professional Conduct. Preceding the ABA Comment may be found a ~~New Hampshire~~ **[an Ethics Committee]** Comment, which may describe distinctions between the Rule as adopted in New Hampshire and the respective ABA Model Rule. The ABA and ~~New Hampshire~~ **[Ethics Committee]** Comments are intended to be interpretive, not mandatory. The ~~New Hampshire~~ **[Ethics Committee]** Comments are provided by the Ethics Committee of the New Hampshire Bar Association.

Official Version

The Rules of Professional Conduct are promulgated and amended by the Supreme Court of the State of New Hampshire with due input from members of the New Hampshire Bar and interested members of the public. Each Rule is published together with the applicable ABA Comment, as adopted by the American Bar Association in conjunction with its Model Rules of Professional Conduct. Preceding the ABA Comment may be found an Ethics Committee Comment, which may describe distinctions between the Rule as adopted in New Hampshire and the respective ABA Model Rule. The ABA and Ethics Committee Comments are intended to be interpretive, not mandatory. The Ethics Committee Comments are provided by the Ethics Committee of the New Hampshire Bar Association.

APPENDIX GG

Amend Rule 8.3(c) of the Rules of Professional Conduct as follows:

Unofficial Annotated Version

(c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or information received by lawyers during the course of their work on behalf of the New Hampshire Bar Association Ethics ~~or Lawyers Assistance Committees~~ **[Committee]** or the New Hampshire Lawyers Assistance Program.

Official Version

(c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or information received by lawyers during the course of their work on behalf of the New Hampshire Bar Association Ethics Committee or the New Hampshire Lawyers Assistance Program.

APPENDIX HH

Amend all New Hampshire Comments to the Rules of Professional Conduct by renaming each such comment as "Ethics Committee Comment". In addition, amend the Ethics Committee Comment to Rule 8.3 of the Rules of Professional Conduct so that said comment shall state, as amended, as follows:

Ethics Committee Comment

Subsection (c) has been changed to permit members of the New Hampshire Lawyers Assistance Program and the New Hampshire Bar Association Ethics Committee to refrain from disclosing information received by them during the course of their work. Lawyers are encouraged to seek assistance from these bodies.