

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, the Supreme Court of New Hampshire adopts the following amendments to court rules.

A. SUPREME COURT RULES

1. Supreme Court Rule 3 re definition of "mandatory appeal." The court amends this rule on a temporary basis as set forth in Appendix A.

2. Supreme Court Rule 21(6-A) re automatic extensions of time. The court adopts this rule on a permanent basis as set forth in Appendix B.

3. Supreme Court Rule 33 re nonmembers of the New Hampshire bar. The court amends this rule as set forth in Appendix C.

4. Supreme Court Rule 37 re attorney discipline system. The court amends this rule as set forth in Appendix D.

5. Supreme Court Rule 37A re rules and procedures of the attorney discipline system. The court amends this rule as set forth in Appendix E.

6. Supreme Court Rule 38, Canon 4F, re service as arbitrator or mediator. The court adopts this rule on a permanent basis as set forth in Appendix F.

7. Supreme Court Rule 38, Application Section B, re application of Code of Judicial Conduct to retired judges. The court adopts this rule on a permanent basis as set forth in Appendix G.

8. Supreme Court Rule 39 re judicial conduct committee. The court adopts this rule on a permanent basis as set forth in Appendix H.

9. Supreme Court Rule 49(I) re fees. The court amends this rule as set forth in Appendix I.

10. Supreme Court Rule 55(5) re public protection fund. The court amends this rule as set forth in Appendix J.

B. SUPERIOR COURT RULES

1. Superior Court Rule 19 re nonmembers of the New Hampshire bar. The court amends this rule as set forth in Appendix K.

2. Superior Court Rule 61-B re late reports by guardians ad litem. The court amends this rule and adopts it, as amended, on a permanent basis as set forth in Appendix L.

3. Superior Court Rule 97-A re joinder and severance. The court adopts this rule as set forth in Appendix M.

4. Superior Court Rule 104 re payment of fines. The court amends this rule as set forth in Appendix N.

5. Superior Court Rule 169(III) re fees. The court amends this rule as set forth in Appendix O.

6. Superior Court Rule 169-A re access to confidential records. The court adopts this rule on a permanent basis as set forth in Appendix P.

7. Superior Court Rule 185 re answers and cross-petitions in domestic relations cases. The court amends this rule as set forth in Appendix Q.

8. Superior Court Rules 201 to 202-E re domestic relations. The court adopts these rules on a permanent basis as set forth in Appendix R.

C. DISTRICT COURT RULES

1. District Court Rule 1.3C re nonmembers of the New Hampshire bar. The court amends this rule as set forth in Appendix S.

2. District Court Rule 1.25 re late reports by guardians ad litem. The court amends this rule and adopts it, as amended, on a permanent basis as set forth in Appendix T.

3. District Court Rule 1.26 re access to confidential court records. The court adopts this rule on a permanent basis as set forth in Appendix U.

4. District Court Rule 2.7 re payment of fines. The court amends this rule as set forth in Appendix V.

5. District Court Rule 2.9-A re joinder and severance. The court adopts this rule as set forth in Appendix W.

6. District Court Rule 3.3(I)(B) re fees. The court amends this rule as set forth in Appendix X.

D. PROBATE COURT RULES

1. Probate Court Rule 19 re nonmembers of the New Hampshire bar. The court amends this rule as set forth in Appendix Y.

2. Probate Court Rule 61-B re late reports by guardians ad litem. The court amends this rule and adopts it, as amended, on a permanent basis as set forth in Appendix Z.

3. Probate Court Rule 169(IV) re fees. The court amends this rule as set forth in Appendix AA.

4. Probate Court Rule 169-A re access to confidential court records. The court adopts this rule on a permanent basis as set forth in Appendix BB.

E. RULES OF EVIDENCE

1. Evidence Rule 609 re impeachment by evidence of conviction of crime. The court amends this rule as set forth in Appendix CC.

F. FAMILY DIVISION RULES

1. Family Division Rule 1.21 re nonmembers of the New Hampshire bar. The court amends this rule as set forth in Appendix DD.

Effective Dates

These amendments shall take effect on January 1, 2008. The temporary amendments in Appendix A shall be referred to the Advisory Committee on Rules for its recommendation as to whether they should be adopted on a permanent basis.

Date: October 9, 2007

ATTEST: _____
Eileen Fox, Clerk
Supreme Court of New Hampshire

APPENDIX A

Amend the definition of "mandatory appeal" in Supreme Court Rule 3 as follows (new material is in **[bold and in brackets]**; deleted material is in ~~striketrough~~ format):

"Mandatory appeal": A mandatory appeal shall be accepted by the supreme court for review on the merits. A mandatory appeal is an appeal filed by the State pursuant to RSA 606:10, or an appeal from a final decision on the merits issued by a superior court, district court, probate court, or family division court, that is in compliance with these rules. Provided, however, that the following appeals are NOT mandatory appeals:

(1) an appeal from a final decision on the merits issued in a post-conviction review proceeding (including petitions for writ of habeas corpus and motions for new trial);

(2) an appeal from a final decision on the merits issued in a collateral challenge to any conviction or sentence;

(3) an appeal from a final decision on the merits issued in a sentence modification or suspension proceeding;

(4) an appeal from a final decision on the merits issued in an imposition of sentence proceeding;

(5) an appeal from a final decision on the merits issued in a parole revocation proceeding;

(6) an appeal from a final decision on the merits issued in a probation revocation proceeding.;

(7) an appeal from a final decision on the merits issued in a landlord/tenant action filed under RSA chapter 540 or in a possessory action filed under RSA chapter 540; ~~and~~

(8) an appeal from an order denying a motion to intervene~~]; and~~

(9) an appeal from a final decision on the merits issued in, or arising out of, a domestic relations matter filed under RSA Title XLIII (RSA chapters 457 to 461-A); provided, however, that an appeal from a final divorce decree or decree of legal separation shall be a mandatory appeal].

Comment

A trial court order denying a motion by a non-party to intervene in a trial court proceeding is treated as a "final decision on the merits" for purposes of appeal. Thus, such an order is immediately appealable to the supreme court. Pursuant to this rule, however, such an appeal is not a mandatory appeal. Therefore, a non-party who wishes to appeal the trial court's denial of the non-party's motion to intervene must file an appeal pursuant to Rule 7(1)(B) within the time allowed for appeal under that rule.

[Under paragraph (9), only appeals from final divorce decrees or decrees of legal separation are mandatory appeals. Any other appeal from a final decision on the merits issued in, or arising out of, a domestic relations matter filed under RSA Title XLIII (RSA chapters 457 to 461-A) is not a mandatory appeal. The amendment to this rule that added paragraph (9) shall apply to any appeal in which the notice of appeal is docketed in the supreme court on or after January 1, 2008.]

APPENDIX B

Adopt Supreme Court Rule 21(6-A) on a permanent basis as follows (no changes are being made to the temporary rule now in effect):

(6-A). *Extensions of time to file briefs.*

(a) Unless the scheduling order states otherwise, any party may obtain an automatic extension of no more than fifteen days within which to file briefs (or memoranda of law) by filing an original and one copy of an assented-to notice of automatic extension of time. The notice shall affirmatively state that all parties assent to the extension, and the notice MUST set forth the new dates upon which all briefs (or memoranda of law) for all parties shall be due, including the date for reply briefs. No such date shall be extended by more than fifteen days. Upon the filing of the notice, the new briefing schedule set forth therein shall become effective without further order of the court.

(b) A maximum of two assented-to notices of automatic extension of time may be filed by the parties collectively. Thereafter, no additional extension of time will be granted by the court absent a showing of extraordinary circumstances.

(c) Extensions of time of more than fifteen days, or extensions when all parties do not consent, may be requested only by motion to the court. Extensions of more than fifteen days are not favored.

APPENDIX C

Amend Supreme Court Rule 33 as follows (new material is in **[bold and in brackets]**; deleted material is in ~~striketrough~~ format):

RULE 33. Nonmember of the New Hampshire Bar.

(1) (a) An attorney, who is not a member of the Bar of this State **[(a “Nonmember Attorney”)]**, shall not be allowed to enter an appearance in any case, except on application to appear *pro hac vice*, which may be granted if a member of the Bar of this State **[(the “In-State Attorney”)]** is associated with him or her and present at oral argument.

(b) ~~An attorney who is not a member of the Bar of this State~~ **[A Nonmember Attorney]** seeking to appear *pro hac vice* shall file a verified application with the court, which shall contain the following information:

(1) the applicant's residence and business address;

(2) the name, address and phone number of each client sought to be represented;

(3) the courts before which the applicant has been admitted to practice and the respective period(s) of admission;

(4) whether the applicant: (i) has been denied admission *pro hac vice* in this State; (ii) had admission *pro hac vice* revoked in this State; or (iii) has otherwise formally been disciplined or sanctioned by any court in this State. If so, the applicant shall specify the nature of the allegations; the name of the authority bringing such proceedings; the caption of the proceedings, the date filed, and what findings were made and what action was taken in connection with those proceedings;

(5) whether any formal, written disciplinary proceeding has ever been brought against the applicant by any disciplinary authority in any other jurisdiction within the last five years and, as to each such proceeding: the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings;

(6) whether the applicant has been formally held in contempt or otherwise sanctioned by any court in a written order in the last five years for

disobedience to its rules or orders, and, if so: the nature of the allegations; the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings (a copy of the written order or transcript of the oral rulings shall be attached to the application);

(7) the name and address of each court or agency and a full identification of each proceeding in which the applicant has filed an application to appear *pro hac vice* in this State within the preceding two years; the date of each application; and the outcome of the application; and

(8) the verified application shall contain the name, address, telephone number and bar number of an active member in good standing of the Bar of this State who will be associated with the applicant and present at oral argument.

(c) The court has discretion as to whether to grant applications for admission *pro hac vice*. An application ordinarily should be granted unless the court finds reason to believe that ~~such admission~~:

(1) **[such admission]** may be detrimental to the prompt, fair and efficient administration of justice;

(2) **[such admission]** may be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent;

(3) one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk; or

(4) the applicant has engaged in such frequent appearances as to constitute common practice in this State.

(2) Without the prior written approval of the court, no person who is not a lawyer may represent a person other than himself or be listed on the notice of appeal or other appeal document, or on the brief, or sit at counsel table in the courtroom or present oral argument. Request for such written approval shall be made in writing at the time of filing the appeal or, if it relates to briefing or oral argument, not later than 15 days before the date scheduled for filing the brief or for oral argument. The request must contain: (a) a power of attorney signed by the party, and witnessed and acknowledged before a justice of the peace or notary public, constituting another person as his or her attorney to appear in the particular action; and (b) an affidavit under oath in which said other person discloses (i) all of said other person's misdemeanor and felony convictions (other than those in which a record of the conviction has been

annulled by statute), (ii) all instances in which said other person has been found by any court to have violated a court order or any provision of the rules of professional conduct applicable to nonlawyer representatives, and (iii) all prior proceedings in which said other person has been permitted to appear, plead, prosecute or defend any action for any party, other than himself or herself, in any court. Any person who is not a lawyer who is permitted to represent any other person before any court of this State must comply with the Rules of Professional Conduct as set forth in Professional Conduct Rule 8.5, and shall be subject to the jurisdiction of the committee on professional conduct.

(3) When an attorney provides limited representation to an otherwise unrepresented party by drafting a document to be filed by such party with the supreme court in a proceeding in which the attorney is not entering any appearance or otherwise appearing in the case in the supreme court, the attorney is not required to disclose the attorney's name on such pleading to be used by that party; any pleading drafted by such limited representation attorney, however, must conspicuously contain the statement "This pleading was prepared with the assistance of a New Hampshire attorney." The unrepresented party must comply with this required disclosure.

[(4) When a Nonmember Attorney appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the In-State Attorney, or in an advisory or consultative role, the In-State Attorney who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the In-State Attorney to advise the client of the In-State Attorney's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the Nonmember Attorney.]

(5) An applicant for permission to appear *pro hac vice* shall pay a non-refundable fee of \$225.00; provided that not more than one application fee may be required per Nonmember Attorney for consolidated or related matters regardless of how many applications are made in the consolidated or related proceedings by the Nonmember Attorney; and further provided that the requirement of an application fee may be waived to permit *pro bono* representation of an indigent client or clients, in the discretion of the court.]

APPENDIX D

Amend Supreme Court Rule 37(3)(c) by adding a new subsection 37(3)(c)(15); and amend Rule 37(19) by amending the title and adding new subsections 37(19)(b), 37(19)(c), 37(19)(d), and 37(19)(e).

1. Adopt new subsection 37(3)(c)(15) as follows:

(15) To issue discretionary monetary sanctions against a disciplined attorney in the form of the assessment of costs and expenses pursuant to Rule 37(19).

2. Amend Rule 37(19) so that as amended it shall state as follows:

(19) ***Monetary Sanctions: Expenses Relating to Discipline Enforcement:***

(a) All expenses incurred by the attorney discipline system in the investigation and enforcement of discipline may, in whole or in part, be assessed to a disciplined attorney to the extent appropriate.

(b) Following any assessment, the professional conduct committee shall send a written statement of the nature and amount of each such expense to the disciplined attorney, together with a formal demand for payment. The assessment shall become final after 30 days unless the disciplined attorney responds in writing, listing each disputed expense and explaining the reasons for disagreement. If the parties are unable to agree on an amount, the professional conduct committee may resolve and enforce the assessment by petition to the superior court in any county in the state.

(c) A final assessment shall have the force and effect of a civil judgment against the disciplined attorney. The professional conduct committee may file a copy of the final assessment with the superior court in any county in the state, where it shall be docketed as a final judgment and shall be subject to all legally-available post-judgment enforcement remedies and procedures.

(d) The superior court may increase the assessment to include any taxable costs or other expenses incurred in the resolution or enforcement of any assessment. Such expenses may include reasonable

attorney's fees payable to counsel retained by the committee to resolve or recover the assessment.

(e) Any monetary assessment made against a disciplined attorney shall be deemed to be monetary sanctions asserted by the professional conduct committee or the applicable court against such attorney.

APPENDIX E

Amend Supreme Court Rule 37A(I)(e)(1) by adding a new subsection 37A(I)(e)(1)(F); and amend Rule 37A(III)(d)(2)(C)(v) by adding a new sentence to the end of the subsection.

1. Adopt new subsection 37A(I)(e)(1)(F) as follows:

(F) Monetary Sanctions Pursuant to Rule 37(19) – by the professional conduct committee or the court.

2. Amend 37A(III)(d)(2)(C)(v) so that as amended it shall state as follows:

(v) assess to a disciplined attorney to the extent appropriate, in whole or in part, expenses incurred by the attorney discipline system in the investigation and enforcement of discipline. An assessment made under this section shall have the same force, effect and characterization and shall be subject to the same procedures for finalization, resolution and enforcement as an assessment under Rule 37(19).

APPENDIX F

Adopt Supreme Court Rule 38, Canon 4F on a permanent basis as follows (no changes are being made to the temporary rule now in effect):

F. Service as Arbitrator or Mediator.

(1) Except as provided in subsection 2 below, a judge shall not provide services as a private arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law.

(2) A judge who is in senior active service pursuant to RSA 493-A:1 or who has reached age 70 but continues to sit as a judicial referee pursuant to RSA 493-A:1-a may serve as a private mediator or arbitrator, and may be privately compensated for such services in accordance with this subsection. To the extent the senior judge or judicial referee provides mediation services pursuant to Superior Court Rule 170 or 170-B, he or she shall comply with the certification requirements of those rules.

(a) A senior judge or judicial referee may be associated with entities that are solely engaged in offering mediation or other alternative dispute resolution services but that are not otherwise engaged in the practice of law. However, such senior judge or judicial referee shall not associate with a law firm, or advertise or solicit business in a manner that identifies his or her position as a senior active judge or judicial referee or prior service as a judge, but he or she may include the fact of prior service as a judge, along with other background and experience, in a resume or curriculum vitae.

(b) A senior judge or judicial referee who serves as a mediator or arbitrator shall disclose to the parties to the mediation or arbitration whether he or she has presided over a case involving any party to the mediation or arbitration within the past three years. A senior judge or judicial referee shall not solicit service as a mediator or arbitrator in any case in which he or she is or has presided or in which he or she has ruled upon any issues other than routine scheduling matters, but he or she may serve as a mediator or arbitrator in such a case if requested to do so by all parties to the case; provided, however, that once a senior judge or judicial referee serves as a mediator or arbitrator in such a case, he or she shall not thereafter preside over any aspect of the case or rule upon any issue in the case in a judicial capacity.

(c) A senior judge or judicial referee shall disclose if he or she is being utilized or has been utilized as a mediator or arbitrator by any party, attorney or law firm involved in the case pending before the senior judge or

judicial referee. Absent express consent from all parties, a senior judge or judicial referee is prohibited from presiding over any case involving any party, attorney or law firm that is utilizing or has utilized the senior judge or judicial referee as a mediator within the previous three years. A senior judge or judicial referee also shall disclose any negotiations or agreements for the provision of mediation or arbitration services between the senior judge or judicial referee and any of the parties or counsel to the case.

(3) The provisions of subsections (2)(b) and (2)(c) above do not apply when a judge, senior judge or judicial referee is performing mediation services for the judicial branch and without private compensation pursuant to Superior Court Rules 170 or 170-B.

APPENDIX G

Adopt Supreme Court Rule 38, Section B of the Application of the Code of Judicial Conduct on a permanent basis as follows (no changes are being made to the temporary rule now in effect):

B. All retired judges who have elected to take senior active status or who wish to serve as judicial referees or temporary justices of the supreme court shall comply with the provisions of this Code governing part-time judges, except that they shall also comply with the provisions of Section 4F if they wish to serve as a private mediator or arbitrator for compensation. A retired judge who does not take senior active status and who does not desire to serve as a judicial referee or a temporary justice of the supreme court is not subject to Section 4F of this Code.

APPENDIX H

Adopt Supreme Court Rule 39 on a permanent basis as follows (no changes are being made to the temporary rule now in effect):

RULE 39. COMMITTEE ON JUDICIAL CONDUCT

(1) Authority

Pursuant to the supreme court's constitutional and statutory authority, and to provide for the orderly and efficient administration of the Code of Judicial Conduct, Rule 38 of the Rules of the Supreme Court, there is hereby established a committee on judicial conduct.

(2) Appointment of Committee

(a) The committee on judicial conduct shall consist of eleven members and eleven alternate members. Alternate members may participate in committee proceedings only as specifically provided in this rule.

(1) One member and one alternate member who shall each be an active or retired justice of the superior court; one member and one alternate member who shall each be an active or retired district court judge; and one member and one alternate member who shall each be an active or retired probate court judge, all of whom shall be appointed by the supreme court.

(2) One member and one alternate member who shall each be a clerk of court and who shall be appointed by the supreme court.

(3) One member and one alternate member who shall each be a New Hampshire Bar Association member and who shall be appointed by the president of the New Hampshire Bar Association.

(4) One public member and one alternate public member, who shall not be a judge, attorney, clerk of court, or elected or appointed public official, shall be appointed by the president of the New Hampshire Bar Association.

(5) One public member and one alternate public member], who shall not be a judge, attorney, clerk of court, or elected or appointed public official, shall be appointed by the supreme court.

(6) Two public members and two alternate public members, who shall not be judges, attorneys, clerks of court, or elected or appointed public officials, shall be appointed by the Governor.

(7) One public member and one alternate public member, who shall not be a judge, clerk of court, or attorney, shall be appointed by the president of the Senate.

(8) One public member and one alternate public member, who shall not be a judge, clerk of court, or attorney, shall be appointed by the speaker of the House.

(b) *Committee Address*

The committee address shall be determined by the committee.

(3) *Terms of Office*

(a) The terms of the current members serving on July 1, 2005, shall continue until, and expire at the end of, the dates set forth below. The appointing authority who shall fill any vacancy for each current member is also set forth below.

<u>Current Member</u>	<u>Expiration Date</u>	<u>Appointing Authority</u>
Alfred Catalfo, III, Esquire	July 1, 2005	Bar President (public member position)
Harland W. Eaton	July 1, 2005	Governor
Elizabeth Lown	July 1, 2005	House Speaker
Jay Rosenfield	July 1, 2005	Senate President
Hon. Raymond A. Cloutier	July 1, 2006	Supreme Court (probate court judge position)
Hon. Douglas S. Hatfield	July 1, 2006	Supreme Court (district court judge position)
Wilfred L. Sanders, Esq.	July 1, 2006	Bar President (attorney member position)
Dr. Robert O. Wilson	July 1, 2006	Governor
Hon. Patricia C. Coffey	July 1, 2007	Supreme Court (superior court justice position)
Lawrence W. O'Connell	July 1, 2007	Supreme Court (public member position)
Dana Zucker	July 1, 2007	Supreme Court (clerk of court position)

Each member serving on July 1, 2005, shall continue to serve as a member until his or her successor is appointed. The initial term of the first eleven members appointed after July 1, 2005, which may include appointments of members who were serving on July 1, 2005, shall be for a three-year term.

The initial term of all alternate members appointed shall be for three years.

(b) All terms after the initial appointments set forth in subparagraph (a) shall be for three years.

(c) A member may serve a maximum of three successive terms, all of which commenced after July 1, 2005. After the expiration of the member's third successive term, the member may not again be appointed to the committee, either as a member or as an alternate member, until three years after the date of the member's last day as a member of the committee. An alternate member may serve an unlimited number of terms as an alternate.

(d) If any appointing authority other than the supreme court fails to appoint a member or an alternate member to fill a vacancy for a period of three months following the date upon which notice is sent to the appointing authority informing the appointing authority of the vacancy, the supreme court may appoint a member or alternate member to fill the vacancy. The person appointed shall have the same qualifications as would have been required had the appointing authority filled the vacancy.

(4) *Vacancy and Disqualification*

(a) A vacancy in the office of the committee shall occur

(1) when the term of a member or alternate member expires; provided, however, that such member or alternate member shall continue to serve until his or her successor is appointed; or

(2) when a judge who is a member or alternate member of the committee ceases to hold the office which he or she held at the time of selection; or

(3) when a lawyer ceases to be in good standing in all jurisdictions where admitted to practice law, or is appointed to a judicial office or as a clerk of court; or

(4) when a public member or alternate public member becomes a lawyer, clerk of court, or a judge; or

(5) when a public member or alternate public member appointed by the Governor or the President of the New Hampshire Bar Association becomes an elected or appointed public official; or

(6) when a member or alternate member ceases to be domiciled in New Hampshire; or

(7) when a clerk of court who is a member or alternate member of the committee ceases to hold the office which he or she held at the time of selection; or

(8) when a member or alternate member is removed from office by the committee as provided in paragraph 10; or

(9) when a member or alternate member ceases to hold office by submitting his or her resignation to the committee or otherwise.

(b) A vacancy shall be filled by selection of a successor with the same qualifications as those required for the selection of his or her predecessor in office. A member or alternate member selected to fill a vacancy shall hold office for the unexpired term of his or her predecessor.

(c) No member shall participate in any proceedings before the committee involving his or her own conduct or the conduct of any other member. No alternate member shall participate in any proceedings before the committee involving his or her own conduct.

(d) No member or alternate member shall participate in any proceeding in which his or her impartiality might reasonably be questioned.

(e) Whenever a member is disqualified from participating in a particular proceeding, or is unable to participate by reason of prolonged absence or physical or mental incapacity, an alternate member may be assigned by the chair to participate in any such proceeding or for the period of any such disability, provided that said alternate member shall have been appointed by the same appointing authority as the member who is being replaced, and shall have the same qualifications as those required for the selection of the member who is being replaced. If, however, due to disqualification or incapacity, there is no alternate member who was appointed by the same appointing authority with the same qualifications who is able to participate, then the chair may assign any other alternate member to participate in the proceeding or for the period of the member's disability.

(5) *Expenses of the Committee and Staff*

(a) The committee's budget shall be a separate PAU within the judicial branch budget. The committee shall prepare its own budget request. The budget request and such additional information as may be requested shall be submitted to the director of the administrative office of the courts for inclusion in the judicial branch budget request in the amounts requested. Expenses approved for payment by the committee shall be paid by the administrative office of the courts from funds appropriated for the judicial conduct committee.

(b) Members and alternate members shall serve without compensation for their services, but shall be reimbursed for necessary expenses incurred in the performance of their duties, subject to the availability of funds.

(c) The committee shall appoint an executive secretary and such other persons as may be necessary to assist the committee in its work. The executive secretary shall perform the duties and responsibilities prescribed by this rule and Supreme Court Rule 40, and such other duties and responsibilities as the committee may determine from time to time. He or she shall notify the appropriate appointing authority whenever a member's or alternate member's term expires or a vacancy in the office of the committee otherwise occurs. He or she shall receive all grievances, information, and inquiries, and process the same under the direction and supervision of the committee. The executive secretary shall maintain the committee's records, maintain statistics concerning the operation of the committee, and prepare an annual report of the committee's activities for presentation to the committee. He or she shall coordinate investigations ordered by the committee, and ensure that they are conducted discreetly and with dispatch. Subject to the direction and control of the committee, and subject to the availability of appropriated funds, the executive secretary shall have charge of the disbursement of expense funds. Generally, the executive secretary shall supervise the work of other personnel employed by the committee, direct the activities of the committee's office, and endeavor to keep members of the committee properly informed about its business.

(d) The committee may employ counsel. The duties of counsel shall be determined by the committee.

(e) The committee may employ such private investigators, experts and other personnel as the committee in its discretion deems necessary for the efficient discharge of its duties.

(f) The committee shall select its own office space, which should not be in the facilities of any branch of government.

(6) *Quorum and Chairperson*

(a) A quorum for the transaction of business by the committee shall be six members; provided, however, that no formal charges shall be instituted or unfavorable action taken against a judge except upon the affirmative vote of at least seven members. Except as otherwise provided in this rule or in Supreme Court Rule 40, no act of the committee shall be valid unless concurred in by six of its members.

Members of the committee may participate in a meeting of the committee by means of a conference telephone or similar communications equipment, provided all persons participating in the meeting can hear each other.

Participation by these means shall constitute presence in person at a meeting. These procedures shall not be used for hearings.

(b) If a quorum of the committee cannot be obtained by reason of the disqualification or absence of members thereof, the chair or the executive secretary may request that one or more alternate members act as a temporary replacement or replacements. Any such temporary replacement shall have been appointed by the same appointing authority and have the same qualifications as the member replaced.

(c) The committee shall designate the chair and vice-chair of the committee. The vice-chair shall act as chair in the absence of the chair. In the absence of both the chair and the vice-chair, the members present may select one among them to act as temporary chair.

(7) Meetings of the Committee

(a) Meetings of the committee shall be held at the call of the chair, the vice-chair, or the executive secretary or at the written request of three members of the committee.

(b) The committee may, by vote, establish regular or stated meeting dates.

(c) The business of the committee may be transacted by telephone, exchange of correspondence, or other informal poll of members, unless one or more members object; provided, however, that no formal charges shall be instituted or unfavorable action taken against a judge except upon deliberation and the affirmative vote of at least seven members who are physically present at a meeting of the committee.

(8) Annual Report

On or before March 1 of each year, the committee shall prepare a report summarizing its activities during the preceding calendar year. Upon approval of the report by the committee, a copy of the report shall be filed with the Governor, the president of the Senate, the speaker of the House, the chief justice of the supreme court, the chairpersons of the House and Senate Judiciary Committees, and shall be made available to the public.

(9) Powers and Duties of the Committee

The committee shall have the power and the duty:

(a) to consider and investigate the conduct of any judge, as that term is defined in Rule 40(2), within the jurisdiction of this court and may initiate an inquiry on its own motion in accordance with Rule 40(6) or undertake an investigation upon grievance or complaint filed by any person;

(b) to retain counsel as may from time to time be required to properly perform the functions prescribed by the committee, subject to the availability of appropriated funds;

(c) to retain such investigative and other personnel as the committee shall deem necessary, and to select its own office space, which should not be in the facilities of any branch of government, both subject to the availability of appropriated funds;

(d) to dismiss a grievance or complaint when the grievant lacks standing, the committee lacks jurisdiction over the grievance or complaint, the grievance or complaint is insufficient or there is insufficient cause to proceed, or the period of limitations set forth in Rule 40(4)(c) has expired;

(e) to dispose of a grievance or complaint by informal resolution or adjustment prior to the filing of formal charges or after a hearing on formal charges;

(f) to prepare and file a statement of formal charges when appropriate;

(g) to hold a public hearing on a statement of formal charges, during which hearing counsel shall have the burden of establishing by clear and convincing evidence a violation of the Code of Judicial Conduct;

(h) to institute disciplinary proceedings in the supreme court when appropriate;

(i) to educate the public on the general functions and procedures of the Committee.

(10) *Attendance at Meetings; Removal of Members*

(a) Committee members shall be expected to attend all meetings of the committee. The chair shall be authorized to excuse the attendance of committee members from any meeting for good cause. The chair is authorized to discuss with members whether continued service on the committee is justified when meetings are frequently missed.

(b) The chair, with the concurrence of a majority of the committee, shall be authorized to remove a member or alternate member for cause, including unexcused or frequent absences or serious violations of the rules governing the committee. Prior to any vote by the committee on removal, the chair shall provide the member or alternate member with a written statement of the reasons for which his or her removal is sought. The member or alternate member shall have the right to file a written response within ten days, copies of which shall be provided to all other members of the committee by the executive secretary. The member or alternate member shall have the right to attend the meeting at which removal is sought, and to speak prior to the committee's vote. The committee may hold such further proceedings as it deems necessary in its sole discretion prior to voting on removal.

APPENDIX I

Amend Supreme Court Rule 49(I) as follows (new language to be added is in **[bold and in brackets]**):

(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
(F) Certificate of Admission	\$ 5.00
(G) Entry of Motion for Admission to Bar Without Examination	\$ 250.00
[(H) Application to Appear <i>Pro Hac Vice</i>	\$225.00]

APPENDIX J

Amend Supreme Court Rule 55(5) as follows (new language to be added is in **[bold and in brackets]**; current language to be deleted is in ~~strikethrough mode~~):

(5) Administration of the Fund. The Public Protection Fund shall be administered by a nine member committee, appointed by the President of the New Hampshire Bar Association with the approval of the association's Board of Governors, which committee shall include at least two public members. Five members shall constitute a quorum. All decisions of the committee shall be made by a majority of the members present and voting. The committee shall have the power to propose regulations to clarify the intent of this rule, which regulations shall become effective after review and approval by the court. Decisions of the committee as to whether or not to pay claims and the amount of payments shall be within the committee's discretion, subject to the annual limits stated above, and will be reviewable only for unsustainable exercise of discretion. **[Review of a decision of the committee shall be filed with the New Hampshire Supreme Court within thirty days of the date of the committee's decision, by filing a written appeal in accordance with Rule 10, unless otherwise ordered by the court. The appeal shall not be a mandatory appeal. In the event that a claimant seeks review of a decision of the committee, the claimant shall mail or hand-deliver a copy of his or her appeal to the New Hampshire Bar Association at the same time as the claimant files the appeal with the supreme court. If the New Hampshire Bar Association wishes to participate in the review of the decision, it shall file an appearance in the matter within thirty (30) days of receipt of the appeal.]** ~~Review of decisions of the committee shall be by a panel of three retired judges, appointed by the New Hampshire Supreme Court, whose~~ **[D]ecisions [of the New Hampshire Supreme Court]** shall be final. Within 120 days after the end of each fund year, the New Hampshire Bar Association shall report to the court about the claims made, approved and paid, assessments received, income earned, and expenses incurred in the preceding fund year. Reasonable expenses incurred by the New Hampshire Bar Association in administering the fund, including overhead, staff time, and professional fees, shall be reimbursed by the fund as a cost of operation, subject to the review and approval of the court.

APPENDIX K

Amend Superior Court Rule 19 as follows (new material is in **bold and in brackets**]; deleted material is in ~~strikethrough~~ format):

19. (a) An attorney, who is not a member of the Bar of this State **[(a "Nonmember Attorney")]**, shall not be allowed to engage in the trial or hearing in any case, except on application to appear *pro hac vice*, which will not ordinarily be granted unless a member of the Bar of this State **[(the "In-State Attorney")]** is associated with him or her and present at the trial or hearing.

(b) ~~An attorney who is not a member of the Bar of this State~~ **[A Nonmember Attorney]** seeking to appear *pro hac vice* shall file a verified application with the court, which shall contain the following information:

- (1) the applicant's residence and business address;
- (2) the name, address and phone number of each client sought to be represented;
- (3) the courts before which the applicant has been admitted to practice and the respective period(s) of admission;
- (4) whether the applicant: (i) has been denied admission *pro hac vice* in this State; (ii) had admission *pro hac vice* revoked in this State; or (iii) has otherwise formally been disciplined or sanctioned by any court in this State. If so, the applicant shall specify the nature of the allegations; the name of the authority bringing such proceedings; the caption of the proceedings, the date filed, and what findings were made and what action was taken in connection with those proceedings;
- (5) whether any formal, written disciplinary proceeding has ever been brought against the applicant by any disciplinary authority in any other jurisdiction within the last five years and, as to each such proceeding: the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings;
- (6) whether the applicant has been formally held in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders, and, if so: the nature of the allegations; the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the

substance of the court's rulings (a copy of the written order or transcript of the oral rulings shall be attached to the application); and

(7) the name and address of each court or agency and a full identification of each proceeding in which the applicant has filed an application to appear *pro hac vice* in this State within the preceding two years; the date of each application; and the outcome of the application.

(8) In addition, unless this requirement is waived by the superior court, the verified application shall contain the name, address, telephone number and bar number of an active member in good standing of the Bar of this State who will be associated with the applicant and present at any trial or hearing.

(c) The court has discretion as to whether to grant applications for admission *pro hac vice*. An application ordinarily should be granted unless the court finds reason to believe that ~~such admission~~:

(1) **[such admission]** may be detrimental to the prompt, fair and efficient administration of justice;

(2) **[such admission]** may be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent;

(3) one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk; or

(4) the applicant has engaged in such frequent appearances as to constitute common practice in this State.

[(d) When a Nonmember Attorney appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the In-State Attorney, or in an advisory or consultative role, the In-State Attorney who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the In-State Attorney to advise the client of the In-State Attorney's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the Nonmember Attorney.]

(e) An applicant for permission to appear *pro hac vice* shall pay a non-refundable fee of \$225.00; provided that not more than one application fee may be required per Nonmember Attorney for consolidated or related matters regardless of how many applications are made in the consolidated or related proceedings by the Nonmember Attorney; and further provided that the requirement of an application fee may be waived to permit pro bono representation of an indigent client or clients, in the discretion of the court.]

APPENDIX L

Amend Superior Court Rule 61-B and adopt it as amended on a permanent basis as follows (new material is in **[bold and in brackets]**; deleted material is in ~~striketrough~~ format):

UNTIMELY-FILED GUARDIAN AD LITEM REPORTS

61-B. (I) A guardian ad litem who, without good cause, fails to file a report required by any court or statute by the date the report is due may be subject to a fine of not less than \$100 and not more than the amount of costs and attorneys fees incurred by the parties to the action for the day of the hearing. The guardian ad litem shall not be subject to the fine under this rule if, at least ten days prior to the date the report is due, he or she files a motion requesting an extension of time to file the report.

(II) The court clerk shall report ~~a guardian ad litem who, without good cause, fails~~ **[to the guardian ad litem board all guardians ad litem who fail]** to file a report by the date the report is due ~~to the guardian ad litem board.~~ **[However, the report shall clearly indicate all such guardians for whom the court has found good cause for the late filing.]** The court clerk shall make such report available to the public.

APPENDIX M

Adopt new Superior Court Rule 97-A as follows:

JOINDER OF OFFENSES

97-A. (I) Joinder of Offenses.

(A) Related Offenses. Two or more offenses are related if they:

(i) are alleged to have occurred during a single criminal episode; or

(ii) constitute parts of a common scheme or plan; or

(iii) are alleged to have occurred during separate criminal episodes, but nonetheless, are logically and factually connected in a manner that does not solely demonstrate that the accused has a propensity to engage in criminal conduct.

(B) Joinder of Related Offenses for Trial. If a defendant is charged with two or more related offenses, either party may move for joinder of such charges. The trial judge shall join the charges for trial unless the trial judge determines that joinder is not in the best interests of justice.

(C) Joinder of Unrelated Offenses. Upon written motion of a defendant, or with the defendant's written consent, the trial judge may join for trial two or more charges of unrelated offenses upon a showing that failure to try the charges together would constitute harassment or unduly consume the time or resources of the parties. The trial judge shall join the charges for trial unless the trial judge determines that joinder is not in the best interest of justice.

(II) Relief from Prejudicial Joinder. If it appears that a joinder of offenses is not in the best interests of justice, the judge may upon his or her own motion or the motion of either party order an election of separate trials or provide whatever other relief justice may require.

APPENDIX N

Amend Superior Court Rule 104 as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

~~COUNSEL FEES—INDIGENT RESPONDENTS~~

[PAYMENT OF FINES]

~~104. Repealed, effective June 1, 1982.~~

[104. Payment of Fines.

(A) In all cases, fines imposed by the Court shall be due and payable on the date imposed. In those cases where a defendant indicates an inability to pay forthwith, the defendant shall be required to complete an affidavit of resources, under oath, prior to leaving the courthouse. The Court may consider such factors as the defendant's employment, good faith attempts to seek employment, spousal, family and partner income, savings, property ownership, credit lines and expenses including child support.

(B) In any case where the Court finds the defendant indigent or the defendant is unable to pay the fine on the date imposed, the Court may defer payment of the fine or order periodic payment. Eligibility for appointed counsel shall not be conclusive on the issue of indigency for purposes of fine payment orders.

(C) In any case where a defendant proves an inability to pay a fine, the Court may allow the defendant to perform community service, pursuant to a plan submitted to and approved by the Court. Every hour of verified community service shall be applied against the fine at the rate of \$10.00 an hour.

(D) Conduct which amounts to willful failure to pay any fine or perform community service as ordered, may be punishable as contempt of court or through the provisions of RSA 618:9.]

APPENDIX O

Amend Superior Court Rule 169(III) as follows (new material is in **[bold and in brackets]**):

(III) (A) Original Entries:

(i) Original Entry of any Action at Law or Equity except a petition for writ of habeas corpus; Original Entry of all Marital Matters, including Order of Notice and Guardian ad Litem Fee; Transfer; the filing of a foreign judgment pursuant to RSA 524-A; or any Special Writ	\$ 150.00
(ii) Original Entry of a petition for writ of habeas corpus	\$ 0 (no fee)
(B) Small Claim Transfer Fee	\$ 115.00
(C) Motion to Bring Forward (post judgment)	\$ 75.00
(D) Petition to Annul Criminal Record	\$ 50.00
(E) Wage Claim Decision	\$ 25.00
(F) Marriage Waiver	\$ 50.00
(G) Motion for Periodic Payments	\$ 15.00
(H) Original Writ (form)	\$ 1.00
(I) (i) Divorce Certificate (VSR) only	\$ 5.00
(ii) Divorce Certificate, Certified Copy of Decree and if applicable, Stipulation, QDRO, USO, and other Decree-related Documents	\$ 15.00
(J) Certificates and Certified Copies	\$ 5.00
(K) All Copied Material	\$.50/page
[(L) Application to Appear <i>Pro Hac Vice</i>	\$ 225.00]

APPENDIX P

Adopt Superior Court Rule 169-A on a permanent basis as follows (no changes are being made to the temporary rule now in effect):

ACCESS TO CONFIDENTIAL RECORDS – FEES AND NOTICE

169-A. Any person or entity not otherwise entitled to access may file a motion or petition to gain access to: (1) a financial affidavit filed pursuant to Superior Court Rule 197 or 198 and kept confidential under RSA 458:15-b, I; or (2) any other sealed or confidential court record. See *Petition of Keene Sentinel*, 136 N.H. 121 (1992).

Filing Fee: There shall be no filing fee for such a motion or petition.

Notice: In open cases, the person filing such a motion shall provide the parties to the proceeding with notice of the motion by first class mail to the last mail addresses on file with the clerk.

In closed cases, the court shall order that the petitioner notify the parties of the petition to grant access by certified mail to the last known address of each party, return receipt requested, restricted delivery, signed by the addressee only, unless the court expressly determines that another method of service is necessary in the circumstances.

APPENDIX Q

Amend Superior Court Rule 185 by deleting said rule and replacing it with the following:

185. ANSWER AND CROSS-PETITION. An answer to a petition or a cross-petition is required in cases where the responding party wishes to seek alimony or other affirmative relief, or to assert an affirmative defense; provided, however, that the court may, as justice may require, allow a responding party to seek alimony or other affirmative relief despite the failure to file a timely answer. In all other cases, an answer may be filed. All answers shall be dated and signed under oath. A cross-petition must follow the format set forth in Rules 173 and 174. An answer to a petition, or a cross-petition, shall be filed within thirty days after the return day. Any answer to a cross-petition shall be filed within ten days after filing of the cross-petition.

APPENDIX R

Adopt Superior Court Rules 201 to 202-E on a permanent basis as follows (no changes are being made to the temporary rules now in effect):

201. FORM FOR DECREES AND STIPULATIONS. Agreed upon or proposed decrees must be filed at all temporary or final divorce, legal separation or parenting hearings. Any temporary decree for divorce or legal separation must follow the format set forth in Superior Court Rule 202-C(I). Any final decree for divorce or legal separation must follow the format set forth in Superior Court Rule 202-C(II). Any temporary or final decree for parenting actions must follow the format set forth in Superior Court Rule 202-D. For all final default hearings, the moving party shall provide a copy of the proposed order to the other party at least thirty days before the hearing date.

202. SIGNING OF STIPULATIONS. All stipulations, agreements, and proposed decrees shall be typewritten and signed by the parties and, if represented by counsel, by attorneys for the parties. The court may accept handwritten stipulations or agreements provided the parties file a typewritten substitute with the court within ten days. A typewritten substitute does not need to contain signatures.

202-A. PARENTING PLANS.

(I) Parenting plans shall be filed in all divorce and legal separation actions where there are minor children, and in all parenting actions. Parents shall work together to agree upon as many provisions of the parenting plan as possible. Exceptions to the requirement that parents work together on parenting plans include cases where there is evidence of domestic violence, child abuse, or neglect, or as otherwise excused by the court.

(II) In any divorce, legal separation, or parenting action in which a temporary parenting order is requested, a temporary parenting plan must be filed at the temporary hearing.

(III) A final parenting plan must be filed at the final hearing in any final divorce or legal separation action where there are minor children, and in all final parenting actions.

(IV) Parenting plans must be filed in all actions to modify final parenting plans or prior final parenting-related orders issued in divorce, legal separation, or custody actions.

(V) Parties may use the parenting plan form provided by the court or may create their own parenting plan. However, parties who create their own parenting plans must adhere to the standard order of lettered paragraphs set forth at Superior Court Rule 202-B, Standard Order of Paragraphs for Parenting Plan.

(VI) All parenting plans required by this rule shall be filed as separate documents, signed by one or more parties.

(VII) For all actions requiring parenting plans, if a complete parenting plan is not agreed upon by the parties which includes every provision of the Standard Order of Paragraphs for Parenting Plan, a partially agreed-upon parenting plan, signed by the parties, and a proposed parenting plan for the remaining provisions must be filed by each party.

202-B. STANDARD ORDER OF PARAGRAPHS FOR PARENTING PLAN.

All parenting plans shall be set forth in the following order of paragraphs. "N/A" may be used to denote paragraphs that do not apply to a particular situation.

- (I) Decision Making Responsibility
 - (1) Major Decisions
 - (2) Day-to-Day Decisions
 - (3) Other
- (II) Residential Responsibility & Parenting Schedule
 - (1) Routine Schedule
 - (2) Holiday and Birthday Planning
 - (3) Three-day weekends
 - (4) Vacation Schedule
 - (5) Supervised Parenting Time
 - (6) Other Parental Responsibilities
- (III) Legal Residence of a Child for School Attendance

- (IV) Transportation and Exchange of the Child(ren)
- (V) Information Sharing and Access, Including Telephone and Electronic Access
 - (1) Parent-Child Telephone Contact
 - (2) Parent-Child Written Communication
- (VI) Relocation of a Residence of a Child
- (VII) Procedure for Review and Adjustment of Parenting Plan
- (VIII) Method(s) for Resolving Disputes
- (IX) Other Parenting Agreements Attached

202-C. STANDARD ORDER OF PARAGRAPHS FOR TEMPORARY AND FINAL DECREES ON DIVORCE AND LEGAL SEPARATION.

(I) Temporary. All temporary agreements and proposed decrees shall be set forth in the following order of paragraphs. "N/A" may be used to denote paragraphs that do not apply to a particular situation.

- (1) Type of Case
- (2) Parenting Plan and Uniform Support Order
- (3) Tax Exemptions for Children
- (4) Guardian ad Litem Fees
- (5) Alimony
- (6) Health Insurance For Spouse
- (7) Life Insurance
- (8) Motor Vehicles
- (9) Furniture and Other Personal Property
- (10) Retirement Plans and Other Tax-Deferred Assets
- (11) Other Financial Assets
- (12) Business Interests of the Parties
- (13) Division of Debt
- (14) Marital Home
- (15) Other Real Property
- (16) Enforceability after Death

- (17) Restraints against the Property
- (18) Restraining Order
- (19) Other Requests

(II) Final. All final agreements and proposed decrees shall be set forth in the following order of paragraphs. "N/A" may be used to denote paragraphs that do not apply to a particular situation.

- (1) Type of Case
- (2) Parenting Plan and Uniform Support Order
- (3) Tax Exemptions for Children
- (4) Guardian ad Litem Fees
- (5) Alimony
- (6) Health Insurance For Spouse
- (7) Life Insurance
- (8) Motor Vehicles
- (9) Furniture and Other Personal Property
- (10) Retirement Plans and Other Tax-Deferred Assets
- (11) Other Financial Assets
- (12) Business Interests of the Parties
- (13) Division of Debt
- (14) Marital Home
- (15) Other Real Property
- (16) Enforceability after Death
- (17) Signing of Documents
- (18) Restraining Order
- (19) Name Change
- (20) Other Requests

202-D. STANDARD ORDER OF PARAGRAPHS FOR DECREE ON PARENTING PETITION.

All agreements and proposed decrees in parenting actions shall be set forth in the following order of paragraphs. "N/A" may be used to denote paragraphs that do not apply to a particular situation.

- (1) Parenting Plan and Uniform Support Order
- (2) Tax Exemptions for Children
- (3) Guardian ad Litem Fees
- (4) Life Insurance
- (5) Enforceability after Death
- (6) Restraining Order
- (7) Other Requests

202-E. PERSONAL DATA SHEET. At the time of filing any initial pleading or pleading that brings an action forward, the filing party shall, and the responding party may, file a completed personal data sheet. Should a party become aware of any change in addresses, telephone numbers, or employment during the pendency of a case or of any outstanding support order, that party shall notify the court of such change. Access to information contained in the personal data sheet shall be restricted to court personnel, the Office of Child Support, the court-appointed mediator, the guardian ad litem, the parties, and counsel unless a party has requested on the data sheet that it not be disclosed to the other party.

APPENDIX S

Amend District Court Rule 1.3C. as follows (new material is in **bold and in brackets**]; deleted material is in ~~striketrough~~ format):

C. (1) An attorney, who is not a member of the Bar of this State **[(a "Nonmember Attorney")]**, shall not be allowed to engage in the trial or hearing in any case, except on application to appear *pro hac vice*, which will not ordinarily be granted unless a member of the Bar of this State **[(the "In-State Attorney")]** is associated with him or her and present at the trial or hearing.

(2) ~~An attorney who is not a member of the Bar of this State~~ **[A Nonmember Attorney]** seeking to appear *pro hac vice* shall file a verified application with the court, which shall contain the following information:

- (a) the applicant's residence and business address;
- (b) the name, address and phone number of each client sought to be represented;
- (c) the courts before which the applicant has been admitted to practice and the respective period(s) of admission;
- (d) whether the applicant: (i) has been denied admission *pro hac vice* in this State; (ii) had admission *pro hac vice* revoked in this State; or (iii) has otherwise formally been disciplined or sanctioned by any court in this State. If so, the applicant shall specify the nature of the allegations; the name of the authority bringing such proceedings; the caption of the proceedings, the date filed, and what findings were made and what action was taken in connection with those proceedings;
- (e) whether any formal, written disciplinary proceeding has ever been brought against the applicant by any disciplinary authority in any other jurisdiction within the last five years and, as to each such proceeding: the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings;
- (f) whether the applicant has been formally held in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders, and, if so: the nature of the allegations; the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings (a copy of the written order or transcript of the oral rulings shall be attached to the application); and

(g) the name and address of each court or agency and a full identification of each proceeding in which the applicant has filed an application to appear *pro hac vice* in this State within the preceding two years; the date of each application; and the outcome of the application.

(h) In addition, unless this requirement is waived by the district court, the verified application shall contain the name, address, telephone number and bar number of an active member in good standing of the Bar of this State who will be associated with the applicant and present at any trial or hearing.

(3) The court has discretion as to whether to grant applications for admission *pro hac vice*. An application ordinarily should be granted unless the court finds reason to believe that ~~such admission~~:

(a) **[such admission]** may be detrimental to the prompt, fair and efficient administration of justice;

(b) **[such admission]** may be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent;

(c) one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk; or

(d) the applicant has engaged in such frequent appearances as to constitute common practice in this State.

[(4) When a Nonmember Attorney appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the In-State Attorney, or in an advisory or consultative role, the In-State Attorney who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the In-State Attorney to advise the client of the In-State Attorney's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the Nonmember Attorney.]

(5) An applicant for permission to appear *pro hac vice* shall pay a non-refundable fee of \$225.00; provided that not more than one application fee may be required per Nonmember Attorney for consolidated or related matters regardless of how many applications are made in the consolidated or related proceedings by the Nonmember Attorney; and further provided that the requirement of an application fee may be waived to permit pro bono representation of an indigent client or clients, in the discretion of the court.]

APPENDIX T

Amend District Court Rule 1.25 and adopt it as amended on a permanent basis as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 1.25. Untimely-filed guardian ad litem reports

(A) A guardian ad litem who, without good cause, fails to file a report required by any court or statute by the date the report is due may be subject to a fine of not less than \$100 and not more than the amount of costs and attorneys fees incurred by the parties to the action for the day of the hearing. The guardian ad litem shall not be subject to the fine under this rule if, at least ten days prior to the date the report is due, he or she files a motion requesting an extension of time to file the report.

(B) The court clerk shall report ~~a guardian ad litem who, without good cause, fails~~ **[to the guardian ad litem board all guardians ad litem who fail]** to file a report by the date the report is due ~~to the guardian ad litem board.~~ **[However, the report shall clearly indicate all such guardians for whom the court has found good cause for the late filing.]** The court clerk shall make such report available to the public.

APPENDIX U

Adopt District Court Rule 1.26 on a permanent basis as follows (no changes are being made to the temporary rule now in effect):

Rule 1.26. Access To Confidential Records – Fees And Notice

Any person or entity not otherwise entitled to access may file a motion or petition to gain access to any sealed or confidential court record. See Petition of Keene Sentinel, 136 N.H. 121 (1992).

Filing Fee: There shall be no filing fee for such a motion or petition.

Notice: In open cases, the person filing such a motion shall provide the parties to the proceeding with notice of the motion by first class mail to the last mail addresses on file with the clerk.

In closed cases, the court shall order that the petitioner notify the parties of the petition to grant access by certified mail to the last known address of each party, return receipt requested, restricted delivery, signed by the addressee only, unless the court expressly determines that another method of service is necessary in the circumstances.

APPENDIX V

Amend District Court Rule 2.7 as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 2.7. ~~Postponements for payment of fine~~ [Payment of fines]

~~The Court may defer payment of a fine or may order periodic payment thereof; but due regard in all cases shall be given to the prompt settlement of fines. In all convictions where a return is required, the return shall be filed with the Motor Vehicle Division forthwith, and an amended return filed when the fine is paid.~~

[(A) In all cases, fines imposed by the Court shall be due and payable on the date imposed. In those cases where a defendant indicates an inability to pay forthwith, the defendant shall be required to complete an affidavit of resources, under oath, prior to leaving the courthouse. The Court may consider such factors as the defendant's employment, good faith attempts to seek employment, spousal, family and partner income, savings, property ownership, credit lines and expenses including child support.

(B) In any case where the Court finds the defendant indigent or the defendant is unable to pay the fine on the date imposed, the Court may defer payment of the fine or order periodic payment. Eligibility for appointed counsel shall not be conclusive on the issue of indigency for purposes of fine payment orders.

(C) In any case where a defendant proves an inability to pay a fine, the Court may allow the defendant to perform community service, pursuant to a plan submitted to and approved by the Court. Every hour of verified community service shall be applied against the fine at the rate of \$10.00 an hour.

(D) Conduct which amounts to willful failure to pay any fine or perform community service as ordered, may be punishable as contempt of court or through the provisions of RSA 618:9.]

APPENDIX W

Adopt new District Court Rule 2.9-A as follows:

Rule 2.9-A. Joinder of offenses

(A) Joinder of Offenses.

(1) Related Offenses. Two or more offenses are related if they:

- (i) are alleged to have occurred during a single criminal episode; or
- (ii) constitute parts of a common scheme or plan; or
- (iii) are alleged to have occurred during separate criminal episodes, but nonetheless, are logically and factually connected in a manner that does not solely demonstrate that the accused has a propensity to engage in criminal conduct.

(2) Joinder of Related Offenses for Trial. If a defendant is charged with two or more related offenses, either party may move for joinder of such charges. The trial judge shall join the charges for trial unless the trial judge determines that joinder is not in the best interests of justice.

(3) Joinder of Unrelated Offenses. Upon written motion of a defendant, or with the defendant's written consent, the trial judge may join for trial two or more charges of unrelated offenses upon a showing that failure to try the charges together would constitute harassment or unduly consume the time or resources of the parties. The trial judge shall join the charges for trial unless the trial judge determines that joinder is not in the best interest of justice.

(B) Relief from Prejudicial Joinder. If it appears that a joinder of offenses is not in the best interests of justice, the judge may upon his or her own motion or the motion of either party order an election of separate trials or provide whatever other relief justice may require.

APPENDIX X

Amend District Court Rule 3.3(I)(B) as follows (new material is in **and in brackets**);

(B) General and Miscellaneous

Motion for Periodic Payments	\$ 15.00
Petition to annul criminal record	\$ 50.00
Original writ	\$ 1.00 each
[Application to Appear <i>Pro Hac Vice</i>	\$ 225.00]

APPENDIX Y

Amend Probate Court Rule 19 as follows (new material is in **brackets**]; deleted material is in ~~strikethrough~~ format):

Rule 19. ATTORNEYS - Appearing *Pro Hac Vice*.

(A) An attorney, who is not a member of the Bar of this State **[(a “Nonmember Attorney”)]**, shall not be allowed to engage in the trial or hearing in any case, except on application to appear *pro hac vice*, which will not ordinarily be granted unless a member of the Bar of this State **[(the “In-State Attorney”)]** is associated with him or her and present at the trial or hearing.

(B) ~~An attorney who is not a member of the Bar of this State~~ **[A Nonmember Attorney]** seeking to appear *pro hac vice* shall file a verified application with the court, which shall contain the following information:

- (1) the applicant's residence and business address;
- (2) the name, address and phone number of each client sought to be represented;
- (3) the courts before which the applicant has been admitted to practice and the respective period(s) of admission;
- (4) whether the applicant: (a) has been denied admission *pro hac vice* in this State; (b) had admission *pro hac vice* revoked in this State; or (c) has otherwise formally been disciplined or sanctioned by any court in this State. If so, the applicant shall specify the nature of the allegations; the name of the authority bringing such proceedings; the caption of the proceedings, the date filed, and what findings were made and what action was taken in connection with those proceedings;
- (5) whether any formal, written disciplinary proceeding has ever been brought against the applicant by any disciplinary authority in any other jurisdiction within the last five years and, as to each such proceeding: the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings;
- (6) whether the applicant has been formally held in contempt or otherwise sanctioned by any court in a written order in the last five years for

disobedience to its rules or orders, and, if so: the nature of the allegations; the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings (a copy of the written order or transcript of the oral rulings shall be attached to the application); and

(7) the name and address of each court or agency and a full identification of each proceeding in which the applicant has filed an application to appear *pro hac vice* in this State within the preceding two years; the date of each application; and the outcome of the application.

(8) In addition, unless this requirement is waived by the probate court, the verified application shall contain the name, address, telephone number and bar number of an active member in good standing of the Bar of this State who will be associated with the applicant and present at any trial or hearing.

(C) The court has discretion as to whether to grant applications for admission *pro hac vice*. An application ordinarily should be granted unless the court finds reason to believe that ~~such admission~~:

(1) **[such admission]** may be detrimental to the prompt, fair and efficient administration of justice;

(2) **[such admission]** may be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent;

(3) one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk; or

(4) the applicant has engaged in such frequent appearances as to constitute common practice in this State.

[(D) When a Nonmember Attorney appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the In-State Attorney, or in an advisory or consultative role, the In-State Attorney who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the In-State Attorney to advise the client of the In-State Attorney's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the Nonmember Attorney.

(E) An applicant for permission to appear *pro hac vice* shall pay a non-refundable fee of \$225.00; provided that not more than one application fee may be required per Nonmember Attorney for consolidated or related matters regardless of how many applications are made in the consolidated or related proceedings by the Nonmember Attorney; and

further provided that the requirement of an application fee may be waived to permit pro bono representation of an indigent client or clients, in the discretion of the court.]

APPENDIX Z

Amend Probate Court Rule 61-B and adopt it as amended on a permanent basis as follows (new material is in **[bold and in brackets]**; deleted material is in ~~striketrough~~ format):

Rule 61-B. **UNTIMELY-FILED GUARDIAN AD LITEM REPORTS**

(a) A guardian ad litem who, without good cause, fails to file a report required by any court or statute by the date the report is due may be subject to a fine of not less than \$100 and not more than the amount of costs and attorneys fees incurred by the parties to the action for the day of the hearing. The guardian ad litem shall not be subject to the fine under this rule if, at least ten days prior to the date the report is due, he or she files a motion requesting an extension of time to file the report.

(b) The register shall report ~~a guardian ad litem who, without good cause, fails~~ **[to the guardian ad litem board all guardians ad litem who fail]** to file a report by the date the report is due ~~to the guardian ad litem board.~~ **[However, the report shall clearly indicate all such guardians for whom the court has found good cause for the late filing.]** The register shall make such report available to the public.

APPENDIX AA

Amend Probate Court Rule 169(IV) as follows (new material is in **[bold and in brackets]**):

(IV) OTHER:

Defaults (RSA 548:5-a)	\$25.00/each occurrence
Citations/show cause (RSA 548:5-a and 550:2)	\$50.00/each occurrence
Duplicate Audio Tape	\$25.00/each tape
[Application to Appear <i>Pro Hac Vice</i>	\$225.00]

APPENDIX BB

Adopt Probate Court Rule 169-A on a permanent basis as follows (no changes are being made to the temporary rule now in effect):

Rule 169-A. ACCESS TO CONFIDENTIAL RECORDS – Fees and Notice

Any person or entity not otherwise entitled to access may file a motion or petition to gain access to any sealed or confidential court record. See *Petition of Keene Sentinel*, 136 N.H. 121 (1992).

Filing Fee: There shall be no filing fee for such a motion or petition.

Notice: In open cases, the person filing such a motion shall provide the parties to the proceeding with notice of the motion by first class mail to the last mail addresses on file with the register.

In closed cases, the court shall order that the petitioner notify the parties of the petition to grant access by certified mail to the last known address of each party, return receipt requested, restricted delivery, signed by the addressee only, unless the court expressly determines that another method of service is necessary in the circumstances.

APPENDIX CC

Amend Rule of Evidence 609 as follows (new material is in **bold and in brackets**]; deleted material is in ~~strikethrough~~ format):

Rule 609. Impeachment by Evidence of Conviction of Crime

(a) *General rule.* For the purpose of attacking the ~~credibility~~ **[character for truthfulness]** of a witness,

[(1)] evidence that **[a witness other than an accused]** ~~the witness~~ has been convicted of a crime shall be admitted **[, subject to Rule 403,]** ~~if elicited from the witness or established by public record during cross examination but only if the crime (1) was punishable by death or imprisonment in excess of one year under the law under which he or she [the witness] was convicted, and [evidence that an accused has been convicted of such a crime shall be admitted if] the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the ~~defendant~~ **[accused; and]** ~~or~~~~

~~(2) involved dishonesty or false statement, regardless of the punishment.~~
[evidence that any witness has been convicted of a crime shall be admitted regardless of the punishment, if it readily can be determined that establishing the elements of the crime required proof or admission of an act of dishonesty or false statement by the witness.]

(b) *Time limit.* Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) *Effect of [pardon,] annulment, or certificate of rehabilitation.* Evidence of a conviction is not admissible under this rule if **[(1)]** the conviction has been the subject of **[a pardon,]** ~~an~~ annulment, certificate or rehabilitation, or other equivalent procedure **[based on a finding of the rehabilitation of the person convicted, and that person has not been convicted of a subsequent crime which was punishable by death or imprisonment in excess of one year, or**

(2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence].

(d) *Juvenile adjudications.* Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(e) *Pendency of appeal.* The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

APPENDIX DD

Amend Family Division Rule 1.21 as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

1.21 *PRO HAC VICE* REPRESENTATION:

A. An attorney who is not a member of the Bar of this State **[(a “Nonmember Attorney”)]** who wishes to participate in any hearing must file an application to appear *pro hac vice*. The application shall contain the following information:

- (1) The applicant's residence and business address;
- (2) The name, address and phone number of each client sought to be represented;
- (3) The courts before which the applicant has been admitted to practice and the respective period(s) of admission;
- (4) Whether the applicant:
 - (a) has been denied admission *pro hac vice* in this State;
 - (b) had admission *pro hac vice* revoked in this State; or
 - (c) has otherwise formally been disciplined or sanctioned by any court in this State. If so, the applicant shall specify the nature of the allegations; the name of the authority bringing such proceedings; the caption of the proceedings; the date filed; and what findings were made and what action was taken in connection with those proceedings;
- (5) Whether any formal, written disciplinary proceeding has ever been brought against the applicant by any disciplinary authority in any other jurisdiction within the last five years and, as to each such proceeding: the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings;
- (6) Whether the applicant has been formally held in contempt or

otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders, and, if so: the nature of the allegations; the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings (a copy of the written order or transcript of the oral rulings shall be attached to the application); and

- (7) The name and address of each court or agency and a full identification of each proceeding in which the applicant has filed an application to appear *pro hac vice* in this State within the preceding two years; the date of each application; and the outcome of the application.
- (8) In addition, unless this requirement is waived by the family division, the verified application shall contain the name, address, telephone number and bar number of an active member in good standing of the Bar of this State **[(the “In-State Attorney”)]** who will be associated with the applicant and present at any hearing. However, presence of New Hampshire Bar member may be waived by the Court.

B. The Court has discretion to grant applications for admission *pro hac vice*. An application ordinarily should be granted unless the Court finds reason to believe that:

- (1) such admission may be detrimental to the prompt, fair and efficient administration of justice;
- (2) such admission may be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent;
- (3) one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk; or
- (4) the applicant has engaged in such frequent appearances as to constitute common practice in this State.

[C. When a Nonmember Attorney appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the In-State Attorney, or in an advisory or consultative

role, the In-State Attorney who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the In-State Attorney to advise the client of the In-State Attorney's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the Nonmember Attorney.

D. An applicant for permission to appear *pro hac vice* shall pay a non-refundable fee of \$225.00; provided that not more than one application fee may be required per Nonmember Attorney for consolidated or related matters regardless of how many applications are made in the consolidated or related proceedings by the Nonmember Attorney; and further provided that the requirement of an application fee may be waived to permit pro bono representation of an indigent client or clients, in the discretion of the court.]