

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.

1. Supreme Court Rule 37(2)(j) re definition of "suspension" in attorney discipline system. The court amends this rule as set forth in Appendix A.

2. Supreme Court Rule 42(13) re admission to bar of Daniel Webster Scholar Honors Program candidates. The court amends this rule on a temporary basis as set forth in Appendix B.

3. Supreme Court Rule 48-C re mileage reimbursement. The court adopts this rule on a permanent basis as set forth in Appendix C.

4. Supreme Court Rule 49(I) re fees. The court amends this rule, effective immediately, as set forth in Appendix D.

5. Supreme Court Rule 49(I) re fees. The court amends this rule, effective January 1, 2008, as set forth in Appendix E. This amendment supersedes the amendment scheduled to take effect on January 1, 2008, that is set forth in supreme court order dated October 9, 2007.

6. Superior Court Rule 62(I) re pretrial procedures and pretrial settlement conferences. The court amends this rule on a temporary basis as set forth in Appendix F.

7. Superior Court Rule 170 re alternative dispute resolution. The court amends this rule on a temporary basis as set forth in Appendix G.

8. Superior Court Administrative Rule 1-5 re mileage reimbursement. The court adopts this rule on a permanent basis as set forth in Appendix H.

9. Superior Court Administrative Rule 12-15 re mileage reimbursement. The court adopts this rule on a permanent basis as set forth in Appendix I.

10. Rules of Professional Conduct, Rule 1.5(a) re fees. The court amends this rule as set forth in Appendix J.

11. Rules of Professional Conduct, Rule 8.3(c), re reporting professional misconduct. The court amends this rule as set forth in Appendix K.

In addition, the court hereby gives notice that the New Hampshire Comment to Rules of Professional Conduct, Rule 5.4 is amended as set forth in Appendix L.

**Effective Dates**

The amendments to court rules in Appendices E, F, G, J, and K shall take effect on January 1, 2008. The amendment to the New Hampshire Comment in Appendix L shall apply beginning January 1, 2008. The amendments to court rules in Appendices A, B, C, D, H, and I, shall take effect immediately. The amendments in Appendices B, F, and G shall be referred to the Advisory Committee on Rules for its recommendation as to whether they should be adopted on a permanent basis.

Date: November 16, 2007

ATTEST: \_\_\_\_\_  
Eileen Fox, Clerk  
Supreme Court of New Hampshire

## APPENDIX A

Amend the definition of "suspension" in Supreme Court Rule 37(2)(j) as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strike~~through format):

(j) *Suspension*: "Suspension" means the suspension of an attorney's right to practice law in this State, for a period of time specified by the court or by the professional conduct committee. Suspension by the professional conduct committee may not exceed six (6) months. The suspended attorney shall have the right to resume the practice of law, after the expiration of the suspension period, upon compliance with the terms and conditions set forth in the suspension order promulgated by the court or the professional conduct committee and pursuant to the procedure set forth in section ~~15~~ **[14]** regarding reinstatement.

## APPENDIX B

Amend Supreme Court Rule 42(13) on a temporary basis as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

(13) An applicant who is domiciled in the United States, is of the age of 18 years, and meets the following requirements may, ~~upon motion,~~ be admitted to the practice of law after taking and passing a variant of the New Hampshire bar examination to consist of rigorous, repeated and comprehensive evaluation of legal skills and abilities, the criteria for which will be established by the supreme court, and which will amount to more than the twelve hours of testing required for the conventional bar examination. The applicant shall:

(a) Have, prior to admission, and within one year of the date upon which the ~~motion~~ **[application for admission]** is filed, successfully completed, to the satisfaction of the board of bar examiners, the Daniel Webster Scholar Honors Program offered at the Franklin Pierce Law Center in Concord, New Hampshire, and been certified by the board of bar examiners as satisfying this requirement;

(b) Prior to admission, produce evidence that the Multistate Professional Responsibility Examination has been satisfactorily completed;

(c) Establish that the applicant is currently a member in good standing in all jurisdictions where admitted, if any;

(d) Establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

(e) Establish that the applicant possesses the character and fitness to practice law in New Hampshire; and

(f) Designate the clerk of the supreme court for service of process.

**[An applicant seeking admission to the practice of law in accordance with this provision shall, not later than January 15 of the year in which the applicant intends to request admission, file with the clerk of the supreme court an application for admission pursuant to New Hampshire Supreme Court Rule 42(13), and two**

**copies of the petition and questionnaire for admission to the bar. The questionnaire shall contain a certificate signed by two (2) persons certifying the applicant's good moral character, and shall be executed under oath. The foregoing requirement as to the time of filing may be waived by the court for good cause shown. The application and petition shall be accompanied by the application fee payable to the State of New Hampshire, and the fee for character and fitness investigation, payable to the New Hampshire Supreme Court Character and Fitness Committee. Both fees shall be nonrefundable.]**

## **APPENDIX C**

Adopt Supreme Court Rule 48-C on a permanent basis as follows (no changes are being made to the temporary rule now in effect):

### **RULE 48-C. MILEAGE REIMBURSEMENT**

Notwithstanding anything in any rule, administrative order, letter, and memorandum to the contrary, whenever any judge, master, or employee of the judicial branch is entitled to reimbursement for mileage, the reimbursement shall be at the rate set by the supreme court by administrative order.

## APPENDIX D

Amend Supreme Court Rule 49(I) as follows (new material is in **in brackets**]; deleted material is in ~~strikethrough~~ format) (this amendment shall take effect immediately):

### **Rule 49. Fees In Supreme Court**

#### **(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
<b>[(3) For Admission After Completion of     Daniel Webster Scholar Honors Program</b>	<b>\$125.00]</b>
(F) Certificate of Admission	\$ 5.00
(G) Entry of Motion for Admission to Bar Without Examination	\$ 250.00
<b>[(H) Application for Admission of Daniel     Webster Scholar Honors Program Graduates</b>	<b>\$125.00]</b>

## APPENDIX E

Amend Supreme Court Rule 49(I) as follows (new material is in **in brackets**]; deleted material is in ~~strikethrough~~ format) (this amendment shall take effect on January 1, 2008; it supersedes the amendment scheduled to take effect on January 1, 2008, that is set forth in supreme court order dated October 9, 2007):

### **Rule 49. Fees In Supreme Court**

#### **(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
<b>[(I) Application to Appear <i>Pro Hac Vice</i></b>	<b>\$225.00]</b>

## APPENDIX F

Amend Superior Court Rule 62(I) on a temporary basis as follows (new material is in **[bold and in brackets]**; deleted material is in ~~striketrough~~ format):

### 62. (I) **Initial Structuring Conference**

(A) The Clerk shall schedule a Structuring Conference for each case entered on the civil and equity dockets unless otherwise ordered by the court. The Structuring Conference shall be held within forty-five (45) days after the return date or at such other time as the court may order.

(B) (1) Participation in Structuring Conference. Unless otherwise ordered by the court, structuring conferences shall be held at the courthouse and shall require the personal attendance of counsel, or parties if unrepresented. However, any counsel, or party if unrepresented, desiring to participate in the structuring conference telephonically may file a motion to do so at least fifteen (15) days prior to the structuring conference, indicating in said motion whether or not a record is requested. Although such motions should generally be granted, the court may consider the following factors, among others, in ruling on a request for telephonic participation: the complexity of the case; whether there has been an objection to the request for telephonic participation; whether the parties have reached agreement on all matters specified in section (I)(C) of this rule and have filed the comprehensive stipulation described in section (I)(D) of this rule; whether any party is unrepresented; the distance counsel, or parties if unrepresented, must travel to attend the conference in person; and the potential for successful resolution or settlement of the case at the initial screening conference.

(2) Counsel, or parties if unrepresented, shall participate in the Structuring Conference and shall be prepared and authorized to discuss the issues and set schedules for discovery and other case preparation, including additional conferences with the court, Alternative Dispute Resolution, Summary Jury Trial, and settlement or trial.

(3) The record, if any, for any telephonic conference will be taken by electronic recording device or such other method as may be approved by the court.

(C) No later than twenty days prior to the Structuring Conference counsel for all parties, or parties if unrepresented, shall either meet and confer personally or by telephone to discuss the claims, defenses and

counterclaims and to attempt to reach agreement on the following matters: (1) a proposed date for trial and an estimate of the length of the trial; (2) an election to proceed either under standard discovery or fast track discovery; (3) a discovery schedule, including dates for the disclosure of each party's experts and experts' reports, and deadlines for the filing of pretrial motions of various kinds; (4) the scope of discovery, including particularly with respect to information stored electronically or in any other medium, the extent to which such information is reasonably accessible, the likely costs of obtaining access to such information and who shall bear said costs, the form in which such information is to be produced, the need for and the extent of any holds or other mechanisms that have been or should be put in place to prevent the destruction of such information, and the manner in which the parties propose to guard against the waiver of privilege claims with respect to such information; and (5) **[if the case is subject to ADR under Rule 170, a proposed agreement relating to Alternative Dispute Resolution (ADR), including an agreement upon the ADR process, the neutral to be used, and the schedule for mediation.]** ~~a proposed date by which the parties will be ready for Alternative Dispute Resolution (ADR), the form of ADR to be used, and an estimate of the time required for ADR.~~

(D) Ten days prior to the Structuring Conference the parties shall file a comprehensive written stipulation, signed by all counsel, or by parties if unrepresented, addressing all of the foregoing matters on which agreement was reached. If the parties have been unable to reach agreement on one or more issues, each party shall submit a proposed order on those matters as to which agreement has not been reached **[with the exception of ADR. If the parties are unable to reach an agreement on ADR, the specifics of the ADR process shall be determined in accordance with Rule 170(B)].** At the same time, all parties shall file summary statements necessary to support their respective claims, defenses or counterclaims. This summary statement shall be comprehensive and made in good faith, but shall not be admissible at trial. The purpose of the summary statement is to apprise the court of the nature of the claims, defenses, and legal issues likely to arise.

(E) At the initial structuring conference, after consultation with counsel, or with parties if unrepresented, the court shall order that the case proceed under one of the following discovery options: (1) fast track; or (2) standard. In determining which discovery option shall be employed, the Court shall consider the following:

- (a) the likely amounts in dispute;
- (b) the nature and complexity of the issues presented;
- (c) the resource equality of the parties; and
- (d) the importance to a just adjudication of permitting discovery beyond that generally permitted under the fast track option.

Cases selected for standard discovery shall be governed by the Superior Court Rules other than Rule 62(II) below. Cases selected for fast track discovery shall be governed by the Superior Court Rules including Rule 62(II).

At or immediately after the initial structuring conference the court shall, and with the approval of the presiding justice the clerk may, issue a STRUCTURING CONFERENCE ORDER. Said order may approve the stipulation(s) reached by the parties, may adopt the proposals made by one or more of the parties, or may establish such other trial and pretrial dates and schedules as the court deems appropriate.

## APPENDIX G

Amend Superior Court Rule 170 on a temporary basis by deleting said rule and replacing it with the following:

### 170. ALTERNATIVE DISPUTE RESOLUTION (ADR)

#### (A) *Cases for Alternative Dispute Resolution.*

(1) All writs of summons, transfers of actions from the district court, and such equity cases as the court may deem or the parties may agree are suitable, shall be assigned to ADR, with the exception of those exempted in paragraph (2).

(2) The following categories of civil and equity actions are exempt from the requirements of this rule.

(a) Actions by or against or appeals taken from decisions of the state, counties, or municipalities (including their subdivisions, departments, agencies, boards, and agents), except where the action contains a claim for personal injury or monetary damages, unless the parties agree to ADR and the court approves.

(b) Actions where the parties represent by joint motion that they have engaged in formal ADR before a neutral third party prior to suit being filed.

(c) Actions exempted by the court on motion and for good cause, but only when said motion is filed within 180 days of the return date.

#### (B) *Election of Specific Alternative Dispute Resolution Procedure and Selection of a Neutral.*

(1) Promptly after the filing of an answer or appearance in the superior court or upon removal from the district court, the parties shall confer and select an ADR process (that is, mediation, neutral evaluation, or arbitration) and a neutral third party to conduct the process. If the parties cannot agree on the ADR process, they will be required to submit to mediation.

(2) The parties shall select a neutral third party to conduct the dispute resolution process from the court lists of approved neutrals. Prior to making such a selection, the parties shall determine whether they wish to select a neutral from the list of approved volunteer neutrals, or from the list of approved paid neutrals.

(a) If the parties choose a neutral from the list of approved paid neutrals, the parties shall notify the neutral and request that the neutral provide the parties with a schedule of fees and expenses.

(b) Unless the court orders or the parties otherwise agree, the neutral's fees and expenses shall be apportioned and paid in equal shares by each party, and shall be due and payable according to fee arrangements agreed to directly by the parties and the neutral. Fees and expenses paid to the neutral shall be allowed and taxed as costs in accordance with Superior Court Rule 87(a).

(c) If the parties choose a neutral from the list of approved volunteer neutrals, the parties shall be subject to a one-time administrative fee of \$50.00 per party, which shall be paid to the court at the time the Stipulation for ADR is filed with the court. This fee will be designated for use by the Office of Mediation and Arbitration. Parties who are indigent may petition the court for waiver of the \$50.00 administrative fee.

(d) Parties may select a neutral who is not on the court's lists of approved neutrals if the parties agree on the choice of the neutral.

(3) If the parties cannot agree on the selection of a neutral, they shall so indicate in their Stipulation. The court shall designate a neutral at the structuring conference. If the parties have not selected an ADR method and neutrals by the time the structuring conference occurs, the court shall, at the structuring conference, set a date certain by which ADR shall have occurred.

*(C) Stipulation and Court Order for Alternative Dispute Resolution.*

(1) No later than ten days prior to the initial structuring conference provided for in Rule 62(I), the parties must file with the court a comprehensive written stipulation, signed by all counsel, or by parties if unrepresented, containing:

(a) An agreement to seek resolution of the issues involved in the action by designating one or more of the following alternative dispute resolution methods to be carried out as provided in this rule:

- i. Mediation;
- ii. Neutral Evaluation;
- iii. Binding Arbitration; or

iv. Any other method of dispute resolution agreed upon by the parties.

(b) The designation of a Rule 170 neutral, to serve in the agreed-upon process, or an agreement to accept a neutral chosen by the court from a list provided by the clerk;

(c) A schedule for the completion of the agreed-upon ADR process including the filing of case statements and the completion of any necessary discovery, or including the agreement to accept the assistance of the neutral designated under subparagraph (C)(1)(b) in setting a schedule for completion of the process. The schedule must provide for completion of the process within the shortest possible time after filing of the Stipulation, consistent with completion of the minimum amount of discovery necessary to make the process meaningful, but in any event not more than eight months after the date of the Stipulation.

(d) The time, date and location of the session.

(2) At the initial structuring conference, after consultation with counsel, or with parties if unrepresented, the court shall issue an order stating: (a) the specific ADR procedure to be used; (b) the identify of, and contact information for, the neutral; (c) the date by which the ADR procedure must be completed; (d) whether the ADR shall be at the courthouse or off-site; and (e) the anticipated time needed for the ADR method chosen. If the court chooses a neutral from the volunteer list, the court shall order the parties to pay a one-time administrative fee of \$50.00 per party.

Except for the date by which the ADR procedure must be completed, the structuring conference order regarding ADR may thereafter be amended by agreement of the parties by filing an amended Stipulation with the court. The court may permit an extension of the date by which the ADR procedure must be completed on the motion of either party for good cause shown.

(3) Upon receipt of notice of appointment in a case, the neutral shall disclose any circumstances likely to create a conflict of interest, the appearance of a conflict of interest, a reasonable inference of bias, or prevent the process from proceeding as scheduled. If the neutral withdraws, has a conflict of interest, or is otherwise unavailable, another shall be agreed to by the parties or appointed by the court.

*(D) Alternative Dispute Resolution Proceeding.*

(1) Upon receipt of the structuring conference order, the parties shall contact the designated neutral and shall schedule the ADR proceeding. The neutral shall advise the parties in writing of the schedule for submission and

exchange of summaries. Unless the neutral advises otherwise, each party shall exchange a summary, not to exceed five pages, of the significant aspects of their case. The parties may also attach to the summary copies of pertinent documents. Upon receipt of a party's submission, any party may send additional information responding to that submission. Unless the neutral advises otherwise, all submissions shall be exchanged with opposing counsel and shall contain a statement of compliance with the exchange requirement.

(2) Thirty days before the date of the first scheduled ADR session, each party must certify to the neutral that party's readiness to proceed on the scheduled date or request that the neutral reschedule the ADR session. At any time, upon written request of a party for good cause shown, the neutral may reschedule the ADR session for a date prior to the date set forth in the structuring conference order for completion of the ADR proceeding.

(3) All parties and their counsel must attend a scheduled ADR session, unless the court, for good cause, excuses an individual from participation or authorizes an individual to participate by speaker telephone. A corporation, partnership, or other entity that is a party, and a liability insurer that is defending the action, must each be represented by a person, other than outside counsel, who has settlement authority and authority to enter into stipulations. With the agreement of all parties and the neutral, any person having an interest that may be materially affected by the outcome of the proceeding may be invited to attend the session in person or by counsel.

(4) Within 15 days after the conclusion of an ADR proceeding, other than binding arbitration, the neutral must report the results of the process to the court in writing. The report may not disclose the neutral's assessment of any aspect of the case or substantive matters discussed during the session or sessions except as is required to report the information required by this paragraph. The report must contain the following items:

(a) The date on which the session or sessions were held including the starting and finishing times;

(b) The names and addresses of all persons attending, showing their role in the session and specifically identifying the representative of each party who had decision-making authority;

(c) A summary of any substitute arrangement made regarding attendance at the session;

(d) The results of the session, stating whether full or partial settlement was reached and appending any agreement of the parties;

(5) In any action in which ADR does not result in a settlement, the action will proceed in accordance with any agreement reached in the ADR process, or in the absence of an agreement, as ordered by the court.

(6) ADR proceedings shall not stay, alter, suspend, or delay pretrial discovery, motions, hearings, or conferences nor the requirements and time deadlines of New Hampshire Superior Court Rules 62 and 63.

*(E) Inadmissibility of Alternative Dispute Resolution Proceedings.*

(1) ADR proceedings and information relating to those proceedings shall be confidential. Information, evidence, or the admission of any party or the valuation placed on the case by any neutral shall not be disclosed or used in any subsequent proceeding. Statements made and documents prepared by a party, attorney, or other participant in aid of such proceeding shall be privileged and shall not be disclosed to any court or arbitrator or construed for any purpose as an admission against interest. All non-binding ADR proceedings are deemed settlement conferences consistent with the Superior Court Rules and Rules of Evidence. In addition, the parties shall not introduce into evidence in any subsequent proceeding, the fact that there was an ADR proceeding or any other matter concerning the conduct of the ADR proceedings except as required by the Rules of Professional Conduct or the Mediator Standards of Conduct.

(2) Evidence that would otherwise be admissible at trial shall not be rendered inadmissible as a result of its use in an ADR proceeding.

*(F) Sanctions.*

If a party or a party's counsel fails without good cause to appear at an ADR session scheduled pursuant to this rule, or fails to comply with any order made hereunder, the court may, on its own or upon motion of a party, impose any sanction that is just under the circumstances.

*(G) Qualifications of and Approval Process for Neutrals*

(1) Qualifications of Neutrals

(a) Good standing. All neutrals (neutral evaluators, mediators, arbitrators) must be attorneys admitted to practice in New Hampshire who are in good standing.

(b) Moral character. Neutrals must be of good moral character and adhere to any standards of practice for mediators acting pursuant to these Rules adopted by the Supreme Court.

(c) Disclosures. Applicants must disclose criminal convictions or findings of professional misconduct, which have not been annulled. The Administrative Council may refuse to approve an applicant who has been convicted of a criminal offense or has been found to have committed professional misconduct. Failure to disclose complete and accurate information may constitute grounds for decertification.

(d) Specific Requirements.

(i) Mediators -- All Rule 170 mediators must have at least 20 hours of training in civil mediation. The 20-hour training shall consist of at least 14 hours of course material, either sponsored by, or approved by, the Office of Mediation and Arbitration, along with at least 6 hours of mentoring time in mediating case(s) with an approved Rule 170 mediator/mentor. The 20-hour training requirement may be satisfied by way of training provided by the Office of Mediation and Arbitration for a fee, or the mediator may provide to the Office of Mediation and Arbitration documentation of equivalent training, subject to its approval. A mediator/mentor must be approved as a mediator/mentor by the Administrative Council before serving as a mentor.

New Rule 170 mediators shall be subject to the 20-hour training requirement. All mediators who were on the court's approved list of Rule 170 mediators prior to January 1, 2008, will not be subject to the 20-hour training requirement; they will, however, be subject to a biennial 8-hour refresher-training requirement. The 8-hour refresher training must be completed by January 1, 2009. The refresher training requirement may be satisfied by way of court-sponsored training, which shall be provided without charge to mediators, or a mediator may provide to the Office of Mediation and Arbitration documentation of equivalent training, subject to its approval.

(ii) Neutral Evaluators -- Neutral evaluators must be attorneys who have a minimum of 10 years experience in litigation in the subject matter areas to which they may be assigned as neutral evaluators. All neutral evaluators must have at least 20 hours of training in ADR and an additional 4 hours of training in neutral evaluation. The 20-hour training shall consist of at least 14 hours of course material, either sponsored by, or approved by, the Office of Mediation and Arbitration, along with at least 6 hours of mentoring time in neutral evaluation of case(s) with an approved Rule 170 neutral evaluator/mentor. The neutral evaluator/mentor must be approved by the Administrative Council before serving as a neutral evaluator/mentor.

(iii) Arbitrators -- Arbitrators must be attorneys who have a minimum of 10 years of experience in litigation in the subject matter areas which they may be assigned as arbitrators. All arbitrators must have a minimum of 20 hours of training in ADR and an additional 8 hours of training

in arbitration under this rule. The 20-hour training shall consist of at least 14 hours of course material, either sponsored by, or approved by, the Office of Mediation and Arbitration, along with at least 6 hours of mentoring time in actual arbitration of case(s) with an approved Rule 170 arbitrator/mentor. The arbitrator/mentor must be approved by the Administrative Council before serving as an arbitrator/mentor. Arbitrators shall adhere to all codes of conduct generally applicable to both commercial and private arbitrations.

## (2) Application and Approval Process

(a) In order to serve as a neutral, an attorney must apply and be approved by the Administrative Council. In approving neutrals, the Administrative Council may consider the applicant's alternative dispute resolution experience or other relevant factors, such as length of practice or trial experience.

(b) Neutrals may choose to be listed on the volunteer list, the paid list, or both. Neutrals shall pay an annual rostering fee pursuant to a fee schedule established by supreme court order. The amount of the fee may vary depending upon which list the neutral chooses to be included. The fee will be used to support the Office of Mediation and Arbitration. The neutral may provide biographical information for inclusion on the list, as well a description of those areas of the law in which the neutral has enhanced knowledge. All neutrals, regardless of whether they are on the paid or volunteer list, shall agree to act as a volunteer neutral for a minimum of at least two days but not more than four days annually. Neutrals in these volunteer cases must also agree to travel to the courthouse in which the case is located if the parties and counsel have chosen to have the ADR proceeding there.

(c) Neutrals shall apply for inclusion on the court's lists by submitting an application, the applicable rostering fee, and three letters of reference as set forth in this rule to the Office of Mediation/Arbitration. Inclusion on the court's list of approved neutrals remains valid for a one year period from July 1 through June 30 of each year. To request continued inclusion on the court's list or lists, a neutral, prior to June 1 of each year, shall:

(i) File a statement that there have been no material changes in his or her initial application for inclusion, or if there have been material changes, list and explain them.

(ii) File documentation that the neutral has completed required refresher training in the field of alternative dispute resolution in accordance with section (G)(1)(c).

(iii) Pay the rostering fee set for inclusion on the court's list of approved neutrals.

(d) All neutrals agree that as a condition of inclusion on the Court's list of approved neutrals, they may be required to provide at least two days but no more than four days of volunteer ADR sessions each year.

## **APPENDIX H**

Adopt Superior Court Administrative Rule 1-5 on a permanent basis as follows (no changes are being made to the temporary rule now in effect):

**1-5.** Clerks of Court shall be reimbursed for mileage at the rate set by the supreme court by administrative order, and shall also be reimbursed for actual expenses.

## **APPENDIX I**

Adopt Superior Court Administrative Rule 12-15 on a permanent basis as follows (no changes are being made to the temporary rule now in effect):

**12-15.** Marital Masters not on circuit shall not be entitled to reimbursement for any mileage or meals not associated with an overnight stay on court business. Under this policy meals are reimbursed only if connected with an overnight stay; Marital Masters who have to travel to various courthouses are entitled to have mileage expense reimbursed. The mileage allowance shall be at the rate set by the supreme court by administrative order.

## APPENDIX J

Amend Professional Conduct Rule 1.5(a) as follows (new material is in **[bold and in brackets]**; deleted material is in ~~striketrough~~ format):

(a) A lawyer shall not enter into an agreement for, charge, or collect an illegal or unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee or expenses include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly-**;**

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer-**;**

(3) the fee customarily charged in the locality for similar legal services-**;**

(4) the amount involved and the results obtained-**;**

(5) the time limitations imposed by the client or by the circumstances-**;**

(6) the nature and length of the professional relationship with the client-**;**

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services-**;** **and**

(8) whether the fee is fixed or contingent-~~and~~**;**

## APPENDIX K

Amend Professional Conduct Rule 8.3(c) as follows (new material is in

**[bold and in brackets]**):

(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 **[or the New Hampshire Lawyers Assistance Program]**.

## APPENDIX L

The New Hampshire Comment to Rule 5.4 of the New Hampshire Rules of Professional Conduct is amended as follows (only the text of the rule itself has been adopted by the supreme court; the New Hampshire Comment is not being adopted as part of the rule) (new material is in **[bold and in brackets]**):

### New Hampshire Comment

New Hampshire permits a lawyer to share legal fees, whether or not court-awarded, with a nonprofit entity pursuant to Rule 5.4(a)(4). **[Nonprofit organizations, though, should be mindful that concepts beyond fee-splitting, such as the limitation on corporate practice, must be considered when accepting fees that are not court-awarded. See *In Re N.H. Disability Rights Center*, 130 N.H. 328 (1988); ABA Formal Op. 93-374 (1993).]**