

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.

I. Rules Governing the Attorney Discipline System

1. Amendments to Supreme Court Rule 37(1)(e) on a temporary basis, regarding the attorney discipline system, as set forth in Appendix A.
2. Amendments to Supreme Court Rule 37(2)(c), 37(2)(f) and 37(2)(k) on a temporary basis, regarding the attorney discipline system, as set forth in Appendix B.
3. Amendments to Supreme Court Rule 37(5)(b) on a temporary basis, regarding the attorney discipline system, as set forth in Appendix C.
4. Amendments to Supreme Court Rule 37(6)(c) on a temporary basis, regarding the attorney discipline system, as set forth in Appendix D.
5. Amendments to Supreme Court Rule 37(20)(b)(1), 37(20)(j), 37(20)(k), and 37(20)(l) on a temporary basis, regarding the attorney discipline system, as set forth in Appendix E.
6. Amendments to Supreme Court Rule 37A(I)(c) on a temporary basis, regarding the rules and procedures of the attorney discipline system, as set forth in Appendix F.
7. Amendments to Supreme Court Rule 37A(I)(e)(2) and 37A(I)(e)(3) on a temporary basis, regarding the rules and procedures of the attorney discipline system, as set forth in Appendix G.
8. Amendments to Supreme Court Rule 37A(I)(g)(3) to 37A(I)(g)(8) on a temporary basis, regarding the rules and procedures of the attorney discipline system, as set forth in Appendix H.

9. Amendments to Supreme Court Rule 37A(II)(a)(6) and 37A(II)(a)(7) on a temporary basis, regarding the rules and procedures of the attorney discipline system, as set forth in Appendix I.

10. Amendments to Supreme Court Rule 37A(II)(b)(1)(B)(iii) on a temporary basis, regarding the rules and procedures of the attorney discipline system, as set forth in Appendix J.

11. Amendments to Supreme Court Rule 37A(III)(b)(1) on a temporary basis, regarding the rules and procedures of the attorney discipline system, as set forth in Appendix K.

12. Amendments to Supreme Court Rule 37A(VI) on a temporary basis, regarding the rules and procedures of the attorney discipline system, as set forth in Appendix L.

II. Code of Judicial Conduct Amendments

13. Adoption on a permanent basis of amendments to Supreme Court Rule 38, Canon 4 (H) and (I), which were adopted on a temporary basis by supreme court order dated January 17, 2006, regarding the judicial conduct code, as set forth in Appendix M.

14. Adoption on a temporary basis of amendments to Supreme Court Rule 38, Canon 4 (F), regarding the judicial conduct code relating to service as arbitrator or mediator, as set forth in Appendix N.

15. Adoption on a temporary basis of amendments to Supreme Court Rule 38, Section B of the Application of the Code of Judicial Conduct, regarding application of the judicial conduct code to retired judges, as set forth in Appendix O.

III. Rule Governing Admission to the Bar (Foreign Law Schools)

16. Amendments to Supreme Court Rules 42(4), 42(10)(a)(ii), and 42(12)(c), regarding the rules and procedures for admission to the bar, as set forth in Appendix P.

IV. Rules Governing Fees for Court-Appointed Counsel and GALs

17. Amendments to Supreme Court Rule 48(2)(e), regarding counsel fees and expenses in indigent cases, as set forth in Appendix Q.

18. Amendments to Supreme Court Rule 48-A(2)(h), regarding guardian ad litem fees in indigent cases, as set forth in Appendix R.

V. Rules Relating to Untimely-filed Reports by GALs

19. Adoption on a temporary basis of new Superior Court Rule 61-B, regarding late reports by GALs, as set forth in Appendix S.

20. Adoption on a temporary basis of new Probate Court Rule 61-B, regarding late reports by GALs, as set forth in Appendix T.

21. Adoption on a temporary basis of new District Court Rule 1.25, regarding late reports by GALs, as set forth in Appendix U.

22. Adoption on a temporary basis of new Family Division (General) Rule 12, regarding late reports by GALs, as set forth in Appendix V.

VI. Rules Relating to Access to Confidential Court Records

23. Adoption on a temporary basis of new Superior Court Rule 169-A, regarding access to confidential court records, as set forth in Appendix W.

24. Adoption on a temporary basis of new Probate Court Rule 169-A, regarding access to confidential court records, as set forth in Appendix X.

25. Adoption on a temporary basis of new District Court Rule 1.26, regarding access to confidential court records, as set forth in Appendix Y.

26. Adoption on a temporary basis of new Family Division (General) Rule 13, regarding access to confidential court records, as set forth in Appendix Z.

VII. New Hampshire Lawyers Assistance Program

27. Adoption of new Supreme Court Rule 58 (including Rules 58.1 through 58.10), regarding the Lawyers Assistance Program, as set forth in Appendix AA.

VIII. Rules Governing Temporary Practice by Foreign Lawyers

28. Adoption of new Supreme Court Rule 42C, regarding temporary practice by foreign lawyers, as set forth in Appendix BB.

IX. Miscellaneous Supreme Court Rules

29. Amendments to Supreme Court Rule 28(1), regarding parties' designations, as set forth in Appendix CC.

X. Miscellaneous Superior Court Rules

30. Amendments to Superior Court Rule 35(b)(1) and adoption of Superior Court Rule 35(g), regarding scope of discovery and discovery abuse sanctions, as set forth in Appendix DD.

31. Amendments to Superior Court Rule 62, regarding structuring conferences, fast track discovery, and pretrial statements, as set forth in Appendix EE.

32. Amendments to Superior Court Rule 94, regarding motions to suppress evidence, as set forth in Appendix FF.

33. Amendments to Superior Court Rule 96-A, regarding criminal case scheduling orders, as set forth in Appendix GG.

34. Amendments to Superior Court Rule 98 F., regarding other pretrial motions, as set forth in Appendix HH.

35. Adoption on a permanent basis of Superior Court Rule 170-B, which was adopted on a temporary basis by supreme court order dated December 22, 2005, regarding judge-conducted intensive mediation, as set forth in Appendix II.

XI. Rules Governing Court Stenographers

36. Repeal of Superior Court Administrative Rules 1-1, 1-2, and 3-2 to 3-16, as set forth in Appendix JJ.

37. Amendment of Superior Court Administrative Rule 3-1, regarding stenographers' notes, as set forth in Appendix KK.

XII. Miscellaneous Superior Court Administrative Rule

38. Adoption on a permanent basis of Superior Court Administrative Rule 1-6(IV), which was adopted on a temporary basis by supreme court order dated October 12, 2005, regarding authority of superior court clerks, as set forth in Appendix LL.

XIII. Miscellaneous District Court Rules

39. Adoption of District Court Rule 2.17 D., regarding terms and conditions of release in juvenile cases, as set forth in Appendix MM.

40. Adoption on a permanent basis of District Court Rule 3.3(III), which was adopted on a temporary basis by supreme court order dated October 12, 2005, regarding records research fees, as set forth in Appendix NN.

41. Adoption on a permanent basis of District Court Rule 4.29, which was adopted on a temporary basis by supreme court order dated July 13, 2005, as amended, regarding small claims mediation policy, as set forth in Appendix OO.

XIV. Miscellaneous Family Division Rules

42. Adoption on a permanent basis of Family Division (Domestic Relations) Rule 16, which was adopted on a temporary basis by supreme court order dated November 15, 2005, regarding agreed upon or proposed decrees, as set forth in Appendix PP.

43. Adoption on a permanent basis of Family Division (Domestic Relations) Rule 26, which was adopted on a temporary basis by supreme court order dated November 15, 2005, regarding parenting plans, as set forth in Appendix QQ

44. Adoption on a permanent basis of Family Division (Domestic Relations) Rule 27, which was adopted on a temporary basis by supreme court order dated November 15, 2005, regarding standard order of paragraphs for parenting plan, as set forth in Appendix RR.

45. Adoption on a permanent basis of Family Division (Domestic Relations) Rule 28, which was adopted on a temporary basis by supreme court order dated November 15, 2005, regarding standard order of paragraphs for temporary and final decrees on divorce and legal separation, as set forth in Appendix SS.

46. Adoption on a permanent basis of Family Division (Domestic Relations) Rule 29, which was adopted on a temporary basis by supreme court order dated November 15, 2005, regarding standard order of paragraphs for decree on parenting petition, as set forth in Appendix TT.

47. Adoption on a permanent basis of Family Division (Domestic Relations) Rule 30, which was adopted on a temporary basis by supreme court

order dated November 15, 2005, regarding personal data sheet, as set forth in Appendix UU.

XV. Miscellaneous Professional Conduct Rules

48. Amendments to New Hampshire Rule of Professional Conduct 5.5, regarding unauthorized practice of law and multijurisdictional practice of law, as set forth in Appendix VV.

49. Amendments to New Hampshire Rule of Professional Conduct 8.3(c), regarding reporting professional misconduct, as set forth in Appendix WW.

XVI. Miscellaneous Technical Amendments

50. Technical amendments to New Hampshire Rule of Evidence 902(11)(A), regarding self-authentication, as set forth in Appendix XX.

51. Technical amendments to District Court Form N as set forth in Appendix YY.

Effective Dates

The amendments in Appendices A, S, T, U, V, W, X, Y, Z, AA, WW, XX, and YY shall take effect immediately. The remaining amendments shall take effect on March 1, 2007. The temporary amendments in Appendices A, B, C, D, E, F, G, H, I, J, K, L, S, T, U, V, W, X, Y, and Z shall be referred to the Advisory Committee on Rules for its recommendation as to whether they should be adopted on a permanent basis.

Date: January 18, 2007

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

APPENDIX A

Amend Supreme Court Rule 37(1)(e) on a temporary basis by deleting said rule and replacing it with the following (new material is in **[bold and in brackets]**; deleted material is in ~~striketrough~~ format):

(e) *Professional Continuity Committee* **[and New Hampshire Lawyers Assistance Program]** *Exemption:* For the purposes of Rule 8.3 of the rules of professional conduct, information received by members of the New Hampshire Bar Association during the course of their work on behalf of the professional continuity committee **[or the New Hampshire Lawyers Assistance Program]** which is indicative of a violation of the rules of professional conduct shall be deemed privileged to the same extent allowed by the attorney-client privilege.

APPENDIX B

Amend Supreme Court Rule 37(2)(c), 37(2)(f) and 37(2)(k) on a temporary basis by deleting said subsections and replacing them with the following (new material is in **[bold and in brackets]**; deleted material is in ~~strike through~~ format):

[Rule 37(2)(c)]

(c) *Complaint*: "Complaint" means a grievance that, after initial review, has been determined by the attorney discipline office to be within the jurisdiction of the attorney discipline system and to meet the requirements for docketing as a complaint as set forth in Supreme Court Rule 37A, and that is docketed by the attorney discipline office, or a complaint that is drafted and docketed by the attorney discipline office after an inquiry by that office. If after docketing, the **[attorney discipline office or the]** complaint screening committee determines that a complaint is not within the jurisdiction of the attorney discipline system and/or does not meet the requirements for docketing, it shall be removed from the docket and it shall thereafter be treated for all purposes as a grievance that has not been docketed as a complaint.

[Rule 37(2)(f)]

(f) *Grievance*: "Grievance" means a written submission filed with the attorney discipline office to call to its attention conduct that the grievant believes may constitute misconduct by an attorney. A grievance that is determined, after initial screening, not to be within the jurisdiction of the attorney discipline system and/or not to meet the requirements for docketing as a complaint shall not be docketed and shall continue to be referred to as a grievance. A grievance that is determined, after initial screening, to be within the jurisdiction of the attorney discipline system and to meet the requirements for docketing as a complaint shall be docketed as a complaint and shall be referred to thereafter as a complaint; provided, however, that if the **[attorney discipline office or the]** complaint screening committee later determines that the docketed complaint is not within the jurisdiction of the attorney discipline system and/or does not meet the requirements for docketing, it shall be removed from the docket and it shall thereafter be treated for all purposes as a grievance that has not been docketed as a complaint.

[Rule 37(2)(k)]

(k) *Warning*: "Warning" means non-disciplinary action taken by the **[general counsel, the]** complaint screening committee or the professional conduct committee when it is determined that an attorney acted in a manner which involved behavior requiring attention although not constituting clear violations of the rules of professional conduct warranting disciplinary action.

APPENDIX C

Amend Supreme Court Rule 37(5)(b) on a temporary basis by deleting said subsection and replacing it with the following (new material is in **[bold and in brackets]**; deleted material is in ~~striketrough~~ format):

(b) The complaint screening committee shall have the power and duty:

(1) To consider and act on requests for reconsideration filed by grievants following a decision by general counsel not to docket a matter[, **to divert attorneys out of the system, or to dismiss a complaint after investigation**].

(2) To consider and act on reports by staff members of the attorney discipline office with respect to docketed complaints.

(3) To remove complaints from the docket if it determines that a complaint is not within the jurisdiction of the attorney discipline system and/or does not meet the requirements for docketing.

(4) To dismiss complaints with a finding of no professional misconduct, with or without a warning.

(5) To dismiss complaints for any other reason, with or without a warning. **[If the committee determines that there is no reasonable likelihood that a complaint can be proven by clear and convincing evidence, the complaint should be dismissed.]**

(6) To divert attorneys out of the attorney discipline system when appropriate and subject to the attorney complying with the terms of diversion. All diversion would be public unless the complaint screening committee determined that a given matter should remain non-public based on one or more of the following issues: health, finances, family considerations or highly personal matters. If a respondent declines to accept diversion or violates the

terms of a written diversion agreement, the complaint in such cases shall be acted upon as if diversion did not exist.

(7) To refer complaints to disciplinary counsel for the scheduling of a hearing **[only where there is a reasonable likelihood that professional misconduct could be proven by clear and convincing evidence]**.

(8) To consider and act upon requests for reconsideration of its own decisions, subject to the further right of disciplinary counsel or respondents to request that the professional conduct committee review a decision to refer a complaint to disciplinary counsel for the scheduling of a hearing.

APPENDIX D

Amend Supreme Court Rule 37(6)(c) on a temporary basis by deleting said subsection and replacing it with the following (new material is in **[bold and in brackets]**; deleted material is in ~~striketrough~~ format):

(c) General counsel shall perform a variety of legal services and functions and shall have the power and duty:

(1) To receive, evaluate, docket and investigate professional conduct complaints.

(2) **[To remove complaints from the docket if it determines that a complaint is not within the jurisdiction of the attorney discipline system and/or does not meet the requirements for docketing.]**

(3) To dismiss complaints with a finding of no professional misconduct, with or without a warning.

(4) To dismiss complaints for other good cause, with or without a warning. If the general counsel determines that there is no reasonable likelihood that a complaint can be proven by clear and convincing evidence, the complaint should be dismissed.

(5) To divert attorneys out of the attorney discipline system when appropriate and subject to the attorney complying with the terms of diversion. All diversion would be public unless the general counsel determined that a given matter should remain non-public based on one or more of the following issues: health, finances, family considerations or highly personal matters. If a respondent declines to accept diversion or violates the terms of a written diversion agreement, the complaint in such cases shall be acted upon as if diversion did not exist.]

~~(2)~~ **[6]** To present complaints to the complaint screening committee with recommendations for

diversion, dismissal for any reason (with or without a warning) or referral to disciplinary counsel for a hearing.

~~(3)~~ **[7]** To assist disciplinary counsel in performing the duties of disciplinary counsel as needed.

~~(4)~~ **[8]** To perform legal services as required for the committees of the attorney discipline system.

~~(5)~~ **[9]** To oversee and/or perform administrative functions for the attorney discipline system including but not limited to maintaining permanent records of the operation of the system, preparation of the annual budget, and preparation of an annual report summarizing the activities of the attorney discipline system during the preceding year.

APPENDIX E

Amend Supreme Court Rule 37(20)(b)(1), 37(20)(j), 37(20)(k), and 37(20)(l) on a temporary basis by deleting said subsections and replacing them with the following (new material is in **[bold and in brackets]**; deleted material is in ~~strike through~~ format):

[Rule 37(20)(b)(1)]

(b) *Grievance Docketed as Complaint*: All records and proceedings relating to a complaint docketed by the attorney discipline system shall be available for public inspection (other than work product, internal memoranda, and deliberations) in accordance with Supreme Court Rule 37A upon the earliest of the following:

(1) When the **[Attorney Discipline Office general counsel, the]** complaint screening committee or the professional conduct committee finally disposes of a complaint;

[Rule 37(20)(j), 37(20)(k), and 37(20)(l)]

[(j) *Disclosure to Lawyers Assistance Program*: The Attorney Discipline Office shall have the power to disclose otherwise confidential information to the New Hampshire Lawyers Assistance Program whenever the Attorney Discipline Office determines that such disclosure would be in the public interest.]

~~[(k)]~~ **[(k)]** *Duty of Participants*: All participants in the proceedings shall conduct themselves so as to maintain the confidentiality mandated by this rule.

Nothing in this section prevents a grievant from disclosing publicly the conduct of an attorney which he or she believes violates the rules of professional conduct or is otherwise inappropriate. The immunity from civil liability provided by section (7) does not apply to such disclosures.

This section does prohibit a grievant, however, from disclosing publicly the fact that a grievance or complaint against the attorney about the conduct had been filed with the attorney discipline system pending the grievance or complaint becoming public in accordance with the provisions of this section.

~~(k)~~ **[(l)]** *Violation of Duty of Confidentiality:* Any violation of the duty of confidentiality imposed by section (20) may result in action of the professional conduct committee at the request of the non-violating party or on its own motion. That action may consist of opening the file and the proceedings earlier than would have been the case under section (20), terminating the proceedings with or without public comment, or such other action as the professional conduct committee deems appropriate in the circumstances.

APPENDIX F

Amend Supreme Court Rule 37A(I)(c) on a temporary basis by deleting said rule and replacing it with the following (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

(c) *Definitions*: Subject to additional definitions contained in subsequent provisions of this rule which are applicable to specific questions, or other provisions of this rule, the following words and phrases, when used in this rule, shall have, unless the context clearly indicates otherwise, the meaning given to them in this section:

Answer: The response filed by, or on behalf of, the respondent to a complaint or a notice of charges.

Attorney: Unless otherwise indicated, "Attorney," for purposes of this rule, means any attorney admitted to practice in this State, any attorney specially admitted to practice by a court of this State, any attorney not admitted or specially admitted in this State who provides or offers to provide legal services in this State or any non-lawyer representative permitted to represent other persons before the courts of this State pursuant to RSA 311:1.

Complaint: A grievance that, after initial review, has been determined by the attorney discipline office to be within the jurisdiction of the attorney discipline system and to meet the requirements for docketing as a complaint as set forth in section (II)(a)(3)(B) of this rule, and that is docketed by the attorney discipline office, or a complaint that is drafted and docketed by the attorney discipline office after an inquiry by that office. If after docketing, the **[attorney discipline office general counsel or the]**complaint screening committee determines that a complaint is not within the jurisdiction of the attorney discipline system and/or does not meet the requirements for docketing, it shall be removed from the docket and it shall thereafter be treated for all purposes as a grievance that has not been docketed as a complaint.

Court: The New Hampshire Supreme Court.

Disbarment: The termination of a New Hampshire licensed attorney's right to practice law in this State and automatic expulsion

from membership in the bar of this State. A disbarred attorney may only apply for readmission to the bar of this State upon petition to the court, after having complied with the terms and conditions set forth in the disbarment order promulgated by the court which shall include all requirements applicable to applications for admission to the bar, including passing the bar examination and a favorable report by the professional conduct committee and the character and fitness committee.

Disciplinary Counsel: The attorney responsible for the prosecution of disciplinary proceedings before any hearings committee panel, the professional conduct committee and the supreme court. Disciplinary counsel shall include a full-time attorney so designated, such deputy and assistants as may from time to time be deemed necessary, such part-time attorney or attorneys as may from time to time be deemed necessary, and such other attorneys of the attorney discipline office as may from time to time be designated to assist disciplinary counsel.

Disciplinary Rule: Any provision of the rules of the court governing the conduct of attorneys or any rule of professional conduct.

Discipline: Any disciplinary action authorized by Rule 37(3)(c), in those cases in which misconduct in violation of a disciplinary rule is found warranting disciplinary action.

Diversion: Either a condition attached to discipline imposed by the professional conduct committee; or a referral, voluntary in nature, when conduct does not violate the rules of professional conduct; or non-disciplinary treatment by **[the attorney discipline office general counsel,]** the complaint screening committee or the professional conduct committee as an alternative to discipline for minor misconduct.

Formal Proceedings: Proceedings subject to section (III) of this rule.

General Counsel: The attorney responsible for (a) receiving, evaluating, docketing and investigating grievances filed with the attorney discipline office; (b) **[dismissing or diverting complaints on the grounds set forth in Rule 37(6)(c) or]** presenting complaints to the complaint screening committee with recommendations for diversion, dismissal for any reason with or without a warning or referral to disciplinary counsel for a hearing; (c) assisting disciplinary counsel in the performance of the duties of disciplinary counsel as needed; (d) performing general legal services as required for the committees of the attorney discipline system; and (e) overseeing and performing administrative functions for the attorney discipline system. General counsel shall include a full-time attorney so designated, such deputy and assistants as may from time to time be deemed necessary, and such

part-time attorney or attorneys as may from time to time be deemed necessary.

Grievance: "Grievance" means a written submission filed with the attorney discipline office to call to its attention conduct that the grievant believes may constitute misconduct by an attorney. A grievance that is determined, after initial screening, not to be within the jurisdiction of the attorney discipline system and/or not to meet the requirements for docketing as a complaint shall not be docketed and shall continue to be referred to as a grievance. A grievance that is determined, after initial screening, to be within the jurisdiction of the attorney discipline system and to meet the requirements for docketing as a complaint shall be docketed as a complaint and shall be referred to thereafter as a complaint; provided, however, that if the **[attorney discipline office general counsel or]** complaint screening committee later determines that the docketed complaint is not within the jurisdiction of the attorney discipline system and/or does not meet the requirements for docketing, it shall be removed from the docket and it shall thereafter be treated for all purposes as a grievance that has not been docketed as a complaint.

Hearing Panel: A hearing panel comprised of members of the hearings committee.

Inquiry: A preliminary investigation of a matter begun by the attorney discipline office on its own initiative to determine whether a complaint should be docketed.

Investigation: Fact gathering by the attorney discipline office with respect to alleged misconduct.

Minor Misconduct: Conduct, which if proved, violates the rules of professional conduct but would not warrant discipline greater than a reprimand. Minor misconduct (1) does not involve the misappropriation of client funds or property; (2) does not, nor is likely to, result in actual loss to a client or other person of money, legal rights or valuable property rights; (3) is not committed within five (5) years of a diversion, reprimand, censure, suspension or disbarment of the attorney for prior misconduct of the same nature; (4) does not involve fraud, dishonesty, deceit or misrepresentation; (5) does not constitute the commission of a serious crime as defined in Rule 37(9)(b); and (6) is not part of a pattern of similar misconduct.

Notice of Charges: A formal pleading served under section (III)(b)(2) of this rule by disciplinary counsel.

Public Censure: The publication by the court or the professional conduct committee, in appropriate New Hampshire publications, including a newspaper of general statewide circulation, and one with general circulation in the area of respondent's primary office, as well as the *New Hampshire Bar News*, of a summary of its findings and conclusions relating to the discipline of an attorney, as defined in this section.

Referral: A grievance received by the attorney discipline office from any New Hampshire state court judge or from any member of the bar of New Hampshire, in which the judge or attorney indicates that he or she does not wish to be treated as a grievant.

Reprimand: Discipline administered by the professional conduct committee after notice of charges and after a hearing before a hearings committee panel and the right to request oral argument to the professional conduct committee in those cases in which misconduct in violation of the rules of professional conduct is found. A reprimand is administered by letter issued by the chair of the professional conduct committee, subject to an attorney's right to appeal such discipline to the court.

Suspension: 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 (II)(d)(2) regarding reinstatement.

Warning: Non-disciplinary action taken by the **[attorney discipline office general counsel, the]** complaint screening committee or the professional conduct committee when it is believed that an attorney acted in a manner which involved behavior requiring attention although not constituting clear violations of the rules of professional conduct warranting disciplinary action.

APPENDIX G

Amend Supreme Court Rule 37A(I)(e)(2) and 37A(I)(e)(3) on a temporary basis by deleting said subsections and replacing them with the following (new material is in **[bold and in brackets]**; deleted material is in ~~strike through~~ format):

(2) The **[attorney discipline office general counsel, the]**complaint screening committee or the professional conduct committee may issue a warning to an attorney when it is deemed to be appropriate. The issuance of a warning does not constitute discipline.

(3) The **[attorney discipline office general counsel, the]** complaint screening committee or the professional conduct committee may divert a matter involving minor discipline, in lieu of discipline, subject to compliance with the terms of a written agreement. The professional conduct committee may require an attorney to participate in a diversion program as a condition of discipline. Any component of the attorney discipline system may refer to a diversion program, on a voluntary basis, an attorney who engages in conduct that does not violate the rules of professional conduct but which should be addressed as a corrective matter.

APPENDIX H

Amend Supreme Court Rule 37A(I)(g)(3) to 37A(I)(g)(8) on a temporary basis by deleting said subsections and replacing them with the following (new material is in **[bold and in brackets]**; deleted material is in ~~strike through~~ format):

(3) Discretionary diversion as an alternative to a formal sanction for minor misconduct may occur if:

(A) The misconduct appears to the **[attorney discipline office general counsel, the]** complaint screening committee or the professional conduct committee to be the result of poor office management, chemical dependency, behavioral or health-related conditions, negligence or lack of training or education; and

(B) There appears to the **[attorney discipline office general counsel, the]** complaint screening committee or the professional conduct committee to be a reasonable likelihood that the successful completion of a remedial program will prevent the recurrence of conduct by the attorney similar to that which gave rise to the diversion.

(C) If the **[attorney discipline office general counsel, the]** complaint screening committee or the professional conduct committee offers a written diversion agreement to an attorney, the attorney shall have thirty (30) days to accept and execute the diversion agreement.

(D) An attorney may decline to accept and execute a diversion agreement in which case the pending complaint shall be processed by the attorney discipline system in the same manner as any other matter.

(4) Diversion agreements shall be in writing and shall require the attorney to participate, at his or her own expense, in a remedial program acceptable to the **[attorney discipline office general counsel, the]** complaint screening committee or the professional conduct committee which will address the apparent cause of the misconduct. Remedial programs may include but are not limited to: law office assistance; chemical dependency treatment; counseling; voluntary

limitation of areas of practice for the period of the diversion agreement; or a prescribed course of legal education including attendance at legal education seminars. A diversion agreement shall require the attorney to admit the facts of the complaint being diverted and to agree that, in the event the attorney fails to comply with the terms of the diversion agreement, the facts shall be deemed true in any subsequent disciplinary proceedings.

(5) The fact that a diversion has occurred shall be public in all matters. Written diversion agreements shall also be public unless the **[attorney discipline office general counsel, the]** complaint screening committee or the professional conduct committee votes to make it non-public based on one or more of the following: health, personal finances, family considerations or other highly personal matters.

(6) If an attorney fails to comply with the terms of a written diversion agreement, the agreement shall be terminated and the complaint shall be processed by the attorney discipline system in the same manner as any other matter.

(7) If an attorney fulfills the terms of a written diversion agreement, the complaint shall be dismissed and written notice shall be sent to both the attorney and the complainant.

(8) The attorney discipline office shall a) prepare diversion agreements setting forth the terms determined by **[the attorney discipline office general counsel, the]** the complaint screening committee or the professional conduct committee; b) monitor the progress of the attorney participating in the diversion program to insure compliance; and c) notify the complaint screening committee or the professional conduct committee whenever there is a voluntary or involuntary termination of the written diversion agreement or upon successful completion of the diversion program.

APPENDIX I

Amend Supreme Court Rule 37A(II)(a)(6) and 37A(II)(a)(7) on a temporary basis by deleting said subsections and replacing them with the following (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

(6) *Investigation.*

Either prior to or following receipt of the respondent's answer, general counsel and his or her deputies and assistants shall conduct such investigation as may be appropriate.

Upon completion of the investigation, general counsel **[may (1) dismiss or divert a complaint on the grounds set forth in Rule 37(6)(c); or (2)]** shall present **[the]** complaints to the complaint screening committee with recommendations for diversion as provided in section (I)(g), dismissal for any reason (with or without a warning) or referral to disciplinary counsel for a hearing.

[At any time while general counsel is investigating a docketed complaint, the respondent may notify general counsel that the respondent waives the right to have the matter considered by the complaint screening committee and consents to the matter being referred to disciplinary counsel for a hearing. Agreement by the respondent to referral for a hearing shall not be considered an admission of misconduct or a waiver of any defenses to the complaint.]

Meetings of the complaint screening committee shall be in the nature of deliberations and shall not be open to the public, respondents, respondents' counsel, disciplinary counsel or the complainant. Records and reports of recommendations made shall in all respects be treated as work product and shall not be made public or be discoverable. However, the decision of the complaint screening committee shall be public.

(7) *Action By the [Attorney Discipline Office General Counsel or the] Complaint Screening Committee.*

(A) *Diversion.* In any matter in which the **[attorney discipline office general counsel or the]** complaint screening committee determines that diversion is appropriate, it shall be structured consistent with the provisions of section (I)(g).

(B) *Dismissal For Any Reason.* In any matter in which the **[Attorney Discipline Office General Counsel or the]** complaint screening committee determines that a complaint should be dismissed, either on grounds of no professional misconduct or any other reason, **[general counsel or]** the committee shall dismiss the complaint and it shall notify the complainant and the respondent in writing and the attorney discipline office shall close its file on the matter.

(C) *Dismissal With A Warning.* If the **[Attorney Discipline Office General Counsel or the]** complaint screening committee determines that the complaint should be dismissed and that a warning should issue, ~~it~~ **[general counsel or the committee]** shall notify the complainant and the respondent of such disposition in writing and shall notify the respondent of his or her rights, if any, pursuant to section (II)(b)(1)(B) of this rule.

(D) *Formal Proceedings.* If the **[respondent agrees with the recommendation of the Attorney Discipline Office General Counsel to refer a complaint to disciplinary counsel, or the]** complaint screening committee determines that formal proceedings **[should]** be held, ~~it shall~~ **[the complaint shall be] referred** ~~the matter~~ to disciplinary counsel for the issuance of notice of charges and the scheduling of a hearing on the merits before a panel of the hearings committee.

APPENDIX J

Amend Supreme Court Rule 37A(II)(b)(1)(B)(iii) on a temporary basis by deleting said subsection and replacing it with the following (new material is in **[bold and in brackets]**; deleted material is in ~~striketrough~~ format):

(iii) the fact that the record of such warning may be considered (a) by the **[Attorney Discipline Office General Counsel or the]** complaint screening committee to determine whether diversion may be appropriate in the event charges of minor misconduct are subsequently brought against the respondent; or (b) by the professional conduct committee in the event findings of misconduct are subsequently found against the respondent.

APPENDIX K

Amend Supreme Court Rule 37A(III)(b)(1) on a temporary basis by deleting said subsection and replacing it with the following (new material is in **[bold and in brackets]**; deleted material is in ~~striketrough~~ format):

(1) *General.*

Upon receipt of a file referred by **[the attorney discipline office general counsel or]** the complaint screening committee, disciplinary counsel may engage in such additional preparation to allow counsel to formalize allegations into a notice of charges. The notice of charges shall be served on the respondent by certified mail, return receipt requested, unless some other type of service is authorized upon application to the chair of the professional conduct committee. Throughout the proceedings, disciplinary counsel shall exercise independent professional judgment. Nevertheless, disciplinary counsel shall keep the complainant apprised of developments in the matter and consider input from the complainant.

APPENDIX L

Amend Supreme Court Rule 37A(VI) on a temporary basis by deleting said section and replacing it with the following (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

(VI) ***Request for Reconsideration***

(a) *Request.* A request for reconsideration shall be filed with the committee that issued the decision within ten (10) days of the date on that committee chair's written confirmation of any decision of the committee[; **provided, however, that a request for reconsideration of a decision of the attorney discipline office general counsel shall be filed with the complaint screening committee within ten (10) days of the date on the decision**]. The request shall state, with particular clarity, points of law or fact that ~~the committee has~~ **[have been]** overlooked or misapprehended and shall contain such argument in support of the request as the party making such request desires to present.

(b) *Answer.* No answer to a request for reconsideration shall be required unless specifically ordered by the committee considering the matter, but any answer or response must be filed within ten (10) days of the date on the notification of the request.

(c) *Committee Action.* If a request for reconsideration is granted, the committee considering the request, may reverse ~~its~~ **[the]** decision or take other appropriate action, with or without a hearing.

(d) *Effect of Request.* The filing of an initial request for reconsideration of a sanction issued by the professional conduct committee shall stay the thirty (30) day period for filing an appeal pursuant to Supreme Court Rule 37(3)(c).

APPENDIX M

Adopt on a permanent basis amendments to Supreme Court Rule 38, Canon 4 (H) and (I), which were adopted on a temporary basis by supreme court order dated January 17, 2006. No changes are being made to the temporary rules now in effect.

H. Compensation, Reimbursement and Reporting

(1) Compensation and Reimbursement. A judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety.

(a) Compensation shall not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

(b) Expense reimbursement shall be limited to the actual cost of travel, food and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or guest. Any payment in excess of such an amount is compensation.

(2) Public Reports.

(a) For each calendar year up to and including calendar year 2006, a judge shall report on or before April 15 of each year, with respect to the preceding calendar year, whether or not the judge has received any compensation other than judicial salary, and, if so, the nature of the activity for which the compensation was received, the name of the payor and the amount of the compensation so received. The report shall be filed as a public document in the office of the clerk of the New Hampshire Supreme Court.

(b) For calendar year 2007 and each calendar year thereafter, a judge shall file a fully-completed New Hampshire Judicial Branch Financial Disclosure Statement on or before April 15 of each year, with respect to the preceding calendar year. The New Hampshire Judicial Branch Financial Disclosure Statement shall be filed as a

public document in the office of the clerk of the New Hampshire Supreme Court.

The form of the New Hampshire Judicial Branch Financial Disclosure Statement shall be approved, by order, by the New Hampshire Supreme Court, and shall require, at a minimum, that a judge report whether or not the judge has received any compensation other than judicial salary, and, if so, the nature of the activity for which the compensation was received, the name of the payor and the amount of the compensation so received. Blank forms may be obtained by request from the clerk of the New Hampshire Supreme Court, and shall also be available on the New Hampshire Judicial Branch website.

Commentary:

See Section 4D(5) regarding reporting of gifts, bequests and loans.

The Code does not prohibit a judge from accepting honoraria or speaking fees provided that the compensation is reasonable and commensurate with the task performed. A judge should ensure, however, that no conflicts are created by the arrangement. A judge must not appear to trade on the judicial position for personal advantage. Nor should a judge spend significant time away from court duties to meet speaking or writing commitments for compensation. In addition, the source of the payment must not raise any question of undue influence or the judge's ability or willingness to be impartial.

Financial disclosure forms, as public documents, should be filed and publicly available in a central location.

I. Disclosure of a judge's income, debts, investments or other assets is required only to the extent provided in this Canon and in Sections 3E and 3F, or as otherwise required by law.

Commentary:

Section 3E requires a judge to disqualify himself or herself in any proceeding in which the judge has an economic interest. See "economic interest" as explained in the Terminology Section. Section 4D requires a judge to refrain from engaging in business and from financial activities that might interfere with the impartial performance of judicial duties; Section 4H requires a judge to report all compensation the judge received for activities outside judicial office. A judge has the rights of any other citizen, including the right to privacy of the judge's financial affairs, except to the extent that limitations established by law and by these Canons are required to safeguard the proper performance of the judge's duties and to avoid the appearance of impropriety.

APPENDIX N

Amend Supreme Court Rule 38, Canon 4(F) on a temporary basis as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

F. Service as Arbitrator or Mediator.

[(1) Except as provided in subsection 2 below,] A [a] judge shall not act as an [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 O

Amend Supreme Court Rule 38, Section B of Application of the Code of Judicial Conduct, on a temporary basis to read as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

B. All retired judges ~~eligible for recall to judicial service~~ **[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 P

Amend Supreme Court Rules 42(4), 42(10)(a)(ii), and 42(12)(c) as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

[Rule 42(4)]

(4) (a) Every such applicant must furnish satisfactory proof that before beginning the study of law the applicant successfully completed at least three (3) years of work required for a bachelor's degree in an accredited college.

(b) Every such applicant must have graduated from a law school approved by the American Bar Association having a three (3) year course and requiring students to devote substantially all their working time to study, called a full-time law school, or from a law school approved by the American Bar Association having a course of not less than four (4) school years equivalent in the number of working hours to a three (3) year course in a full-time law school and in which students devote only part of their working time to their studies, called a part-time law school.

~~Notwithstanding the foregoing sentence, a person who has graduated from a law school in an English speaking, common law country and who has pursued a course of study substantially equivalent to that of a law school approved by the American Bar Association shall be eligible to apply for examination provided that such person is (a) a member in good standing of the bar of that country, or (b) the holder of a master's degree from a law school approved by the American Bar Association or (c) a member of the bar of one of the States of the United States who was admitted after examination and is in good standing.~~ A combination of study in full-time and part-time law schools will be accepted only if such law schools meet the above requirements, and the applicant shall have graduated from one or the other. Study in any law school which conducts its courses by correspondence or does not require attendance of its students at its lectures or classes shall not constitute compliance with the rule.

[(c) Notwithstanding the foregoing paragraph, a person who has graduated from a law school in an English-speaking, common law country and who has pursued a course of study substantially equivalent to that of a law school approved by the American Bar Association shall be eligible to apply for examination provided that such person is (a) a member in good standing of the bar of that country, or (b) the holder of a master's degree from a law school approved by the American Bar Association, or (c) a member of the bar of one of the States of the United States who was admitted after examination and is in good standing. Any person who seeks admission to practice law in the State of New Hampshire who is a graduate of a law school in a foreign country shall have the burden of proving that the requirements of this paragraph have been met. In addition to filing the petition and questionnaire for admission, any foreign law school graduate seeking admission must file an affidavit, signed under oath, attesting that the requirements of this paragraph have been met and submitting information sufficient for the court to determine that the requirements have been met.]

[Rule 42(10)(a)(ii)]

(ii) Have graduated from[:

(A)] a law school approved by the American Bar Association having a three (3) year course and requiring students to devote substantially all their working time to study, called a full-time law school; from a law school approved by the American Bar Association having a course of not less than four (4) school years equivalent in the number of working hours to a three (3) year course in a full-time law school and in which students devote only part of their working time to their studies, called a part-time law school; ~~or from a law school in an English-speaking, common law country having pursued a course of study substantially equivalent to that of a law school approved by the American Bar Association.~~ A combination of study in full-time and part-time law schools will be accepted only if such law schools meet the above requirements, and the applicant shall have graduated from one or the other. Study in any law school which conducts its courses by correspondence or does not require attendance of its students at its lectures or classes shall not constitute compliance with the rule; **[or**

(B) a law school in an English-speaking, common law country and shall have pursued a course of study substantially equivalent to that of a law school approved by the American Bar Association. Any person who seeks admission to practice law in the State of New Hampshire who is a graduate of a law school in a foreign country: (1) shall have the burden of proving that the requirements of this subparagraph (B) have been met; and (2) must file an affidavit, signed under oath, attesting that the requirements of this subparagraph (B) have been met and submitting information sufficient for the court to determine that said requirements have been met;]

[Rule 42(12)(c)]

(c) Have graduated from[:

(A)] a law school approved by the American Bar Association having a three (3) year course and requiring students to devote substantially all their working time to study, called a full-time law school; from a law school approved by the American Bar Association having a course of not less than four (4) school years equivalent in the number of working hours to a three (3) year course in a full-time law school and in which students devote only part of their working time to their studies, called a part-time law school; ~~or from a law school in an English-speaking, common law country having pursued a course of study substantially equivalent to that of a law school approved by the American Bar Association.~~ A combination of study in full-time and part-time law schools will be accepted only if such law schools meet the above requirements, and the applicant shall have graduated from one or the other. Study in any law school which conducts its courses by correspondence or does not require attendance of its students at its lectures or classes shall not constitute compliance with the rule; **[or**

(B) a law school in an English-speaking, common law country and shall have pursued a course of study substantially equivalent to that of a law school approved by the American Bar Association. Any person who seeks admission to practice law in the State of New Hampshire who is a graduate of a law school in a foreign country: (1) shall have the burden of proving that the requirements of this subparagraph (B) have

been met; and (2) must file an affidavit, signed under oath, attesting that the requirements of this subparagraph (B) have been met and submitting information sufficient for the court to determine that said requirements have been met;]

APPENDIX Q

Amend Supreme Court Rule 48(2)(e) by deleting said subsection and replacing it with the following (new material is in **bold and in brackets**; deleted material is in ~~striketrough~~ format):

(e) Maximum fee for guardianships under RSA chapter[s **463 or** 464-A: \$600.

APPENDIX R

Amend Supreme Court Rule 48-A(2)(h) by deleting said subsection and replacing it with the following (new material is in **bold and in brackets**; deleted material is in ~~striethrough~~ format):

(h) Maximum fee for guardianship of ~~minor~~ cases pursuant to RSA **chapters** 463 **or 464-A**: \$1,000.

APPENDIX S

Adopt new Superior Court Rule 61-B on a temporary basis as follows:

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 file a report by the date the report is due to the guardian ad litem board. The court clerk shall make such report available to the public.

APPENDIX T

Adopt new Probate Court Rule 61-B on a temporary basis as follows:

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 file a report by the date the report is due to the guardian ad litem board. The register shall make such report available to the public.

APPENDIX U

Adopt new District Court Rule 1.25 on a temporary basis as follows:

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 file a report by the date the report is due to the guardian ad litem board. The court clerk shall make such report available to the public.

APPENDIX V

Adopt new Family Division (General) Rule 12 on a temporary basis as follows:

12. 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 file a report by the date the report is due to the guardian ad litem board. The court clerk shall make such report available to the public.

APPENDIX W

Adopt new Superior Court Rule 169-A on a temporary basis as follows:

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 X

Adopt new Probate Court Rule 169-A on a temporary basis as follows:

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 Y

Adopt new District Court Rule 1.26 on a temporary basis as follows:

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 Z

Adopt new Family Division (General) Rule 13 on a temporary basis as follows:

13. **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: (1) a financial affidavit filed pursuant to Family Division (Domestic Relations) Rule 13 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 AA

Adopt new Supreme Court Rule 58 (including Rules 58.1 through 58.10) as follows:

RULE 58. NEW HAMPSHIRE LAWYERS ASSISTANCE PROGRAM

PREAMBLE

The Supreme Court recognizes that a wide range of influences can detrimentally affect the performance of a lawyer or judge. Prominent among such influences are the effects of chemical dependence or mental conditions that result from disease, disorder, trauma or other infirmity that impair the ability of a lawyer or judge to practice or serve. Lawyer or judge impairment is detrimental to the interests of clients, litigants, our legal system, and the general public. The vast majority of States have responded to the issue of lawyer impairment by creating funded lawyer assistance programs as contemplated by this Rule, acknowledging the principle that every member of the bar has an obligation to the public to participate in an appropriate response to lawyer or judge impairment. The Supreme Court finds that the New Hampshire Lawyers Assistance Program is an appropriate method for addressing the issue of lawyer or judge impairment and that the program will promote the integrity of the legal profession and will thereby directly benefit the people of New Hampshire.

RULE 58.1. ESTABLISHMENT OF THE NEW HAMPSHIRE LAWYERS ASSISTANCE PROGRAM (LAP)

(A) Establishment: The New Hampshire Supreme Court hereby establishes a state-wide lawyer assistance program to be known as the New Hampshire Lawyers Assistance Program (LAP), which shall provide immediate and continuing help to members of the legal profession, including, without limitation, active or prospective lawyers and judges, regardless of their status, and law students (members of the legal profession) who are affected by any physical or mental health condition that affects their ability to practice their profession, quality of life, or study of law.

(B) Purpose: LAP has four primary purposes:

(1) To protect the interests of clients and the general public from harm caused by impaired members of the legal profession;

(2) To assist impaired members of the legal profession to begin and continue recovery,

(3) To educate the bench, the bar, and the public to the causes of and remedies for impairments affecting members of the legal profession; and

(4) To develop programs that emphasize prevention of conditions that might negatively affect members of the legal profession.

(C) Funding and Administration:

(1) [Reserved.]

(2) LAP shall seek to establish additional private and public sources of funding.

(3) Funding for LAP may also include gifts or bequests from any source and earnings on investments of the LAP fund.

(4) The fiscal year of LAP shall run from July 1 to June 30.

(5) LAP may retain and invest its funds which may be carried over to future fiscal years.

RULE 58.2. LAP COMMISSION

(A) Members: The Supreme Court shall appoint commission members to administer and provide advice regarding the management of the LAP. Officers of the commission shall consist of a chair, vice-chair and secretary/treasurer. The chair and vice-chair shall be appointed by the Supreme Court. Each of the other officers shall be elected by the members of the commission annually.

(B) Composition: The commission shall consist of eight (8) members, and shall include two persons who are not members of the legal profession. The members shall have diverse experience,

knowledge and demonstrated competence in the problems of chemical dependency or mental conditions that affect members of the legal profession.

(C) Terms: The Court shall appoint commission members for initial terms as follows:

- (1) One lawyer for one year;
- (2) One health care provider (active or retired) for two years;
- (3) One lawyer for two years;
- (4) One judge (active or retired) for two years;
- (5) One health care provider (active or retired) for three years;
- (6) One judge (active or retired) for three years; and
- (7) Two lawyers for three years.

Subsequent appointments shall be for a term of three years. No member may serve more than two successive three-year terms.

(D) Duties of the Commission: The members of the governing body should have the following powers and duties:

- (1) Establishing LAP's policies and procedures and providing ongoing advice regarding the same. Such policies and procedures shall be established after reasonable notice to the New Hampshire bench and bar and opportunity for comment.
- (2) General administrative and management responsibility to operate the program to achieve its purpose and goals.
- (3) Responsibility to hire and fire the LAP director.
- (4) To review the budget prepared by the LAP staff and present the budget to the Supreme Court.
- (5) To make reports to the Supreme Court annually or as otherwise required.
- (6) To ensure that the duties listed under Rule 58.3 are carried out in the absence of a director of the program.

(E) Meetings: The commission shall meet quarterly, upon call of the chair or upon the request of three (3) or more members. A quorum for any meeting shall be four (4) members.

RULE 58.3. DIRECTOR OF THE PROGRAM

(A) Appointment/Hire: The commission shall recruit, hire, retain, supervise and may terminate the LAP director.

(B) Qualifications: The director shall have sufficient experience and training to identify and assist members of the legal profession affected by the conditions described in Rule 58.1(A) above, as well as sufficient administrative expertise to competently manage a human services organization. A lawyer is preferred.

(C) Duties and Responsibilities: The director's duties and responsibilities shall include but not be limited to the following:

(1) To work with the commission to develop a vision and plan to ensure that the LAP becomes a vital and credible resource for the New Hampshire legal community;

(2) To act as the initial contact point for all referrals to the LAP, whether voluntary or involuntary. The director should always remain accessible to current members or to any attorney seeking help, and should never be insulated from the telephone or from personal contact. The position will require that the director be ready, either alone or together with a program volunteer, to travel within the State to meet with an attorney in need of the LAP;

(3) To help members of the legal profession and their families to secure counseling and treatment for chemical dependency and mental conditions, by maintaining current information on available treatment services, both those that are available without charge as well as paid services. In this regard the director will be responsible for evaluating referral resources such as individual health care providers (physicians, counselors, therapists, etc.) and treatment programs, and developing a resource listing that is available for members or prospective members needing evaluation, treatment, or aftercare;

(4) To establish and maintain regular contact with the New Hampshire Bar Association, the Professional Conduct Committee, the Complaint Screening Committee, the Committee on Judicial Conduct and their staff, and other agencies or committees that serve either as sources of referral or resources in providing help;

(5) To help lawyers, judges, law firms, courts and others to identify and intervene with impaired members of the legal profession;

(6) To establish and oversee monitoring services with respect to recovery of members of the legal profession for whom monitoring is appropriate under Rule 58.7 and 58.5(E). In furtherance of this duty, the director should work with the organizations listed in Rule 58.3(C)(4) above, as well as the commission, to create and maintain a working relationship that respects an appropriate balance between the goals of the LAP and those of the disciplinary committees and the New Hampshire Bar Association;

(7) To recruit, select, train and coordinate the activities of volunteer lawyers and judges who will provide assistance, and provide for their identities and addresses to be generally known to the courts, bar and other appropriate referral entities. In furtherance of this duty the director should assist in coordinating volunteer support meetings and attend the meetings on a periodic basis to address questions or concerns of the volunteers;

(8) To work to establish and maintain a confidentiality policy that ensures confidentiality as an essential component of the LAP. Included in this duty will be the establishment of rules or policies relating to maintaining the confidentiality of those seeking assistance (whether voluntary or involuntary), as well as the confidentiality of LAP volunteers. Also included is the development of rules or policies necessary to implement the immunity protections granted under Supreme Court Rule 37(1)(e);

(9) To plan and deliver educational programs to inform the public, the judiciary, state and local bar associations, law firms, and civic organizations of the advocacy of early intervention and prevention and the assistance that is available to those in need;

(10) With the cooperation of Franklin Pierce Law School, to plan and deliver educational programs and materials bringing to their curriculum a substance abuse component informing students of the nature and effect of substance

abuse, its risks to those in the legal profession, and the resources available through LAP;

(11) To be responsible for the day-to-day administration of the LAP, including the development of job descriptions for LAP staff personnel, and the hiring, training, and assessing of such individuals, including clinicians, assistants, and office personnel, as budgetary considerations allow. The director will also be responsible, with the oversight of the commission, for the LAP's annual budget and oversee its fiscal management;

(12) In appropriate situations, *i.e.*, where no issue of confidentiality exists or has been waived in accordance with state law, to appear at bar disciplinary, court, or bar admission proceedings to provide testimony regarding a legal professional's progress or lack of progress in meeting the purposes for which the LAP was established;

(13) To act as the liaison with the ABA Commission on Lawyers Assistance Programs and with lawyer assistance programs throughout the country;

(14) To establish private and public sources of funding for LAP; and

(15) Such other duties and responsibilities established by the commission.

RULE 58.4. VOLUNTEER LAWYERS, JUDGES, AND LAW STUDENTS

The program shall enlist volunteer lawyers, judges, and law students whose responsibilities may include:

(A) Assisting in interventions planned by LAP;

(B) Serving as twelve-step program sponsors and/or recovery mentors;

(C) Acting as local contact for members of the legal profession seeking help from the LAP;

(D) Acting as a contact between LAP and the courts, the Professional Conduct Committee, the Committee on Judicial Conduct, bar organizations, local committees, and law schools;

(E) Providing compliance monitoring when appropriate; and

(F) Performing any other function deemed appropriate and necessary by the commission to fulfill its purposes.

RULE 58.5. SERVICES

LAP may provide the following services as the commission determines feasible based upon the available financial, volunteer, and other resources:

(A) Immediate and continuing assistance to members of the legal profession who suffer from the effects of chemical dependency or mental conditions that result from disease, disorder, trauma or other infirmity and that affects their ability to practice their profession, quality of life, or study of law;

(B) Planning and presentation of educational programs to increase the awareness and understanding of members of the legal profession to recognize problems in themselves and in their colleagues; to identify the problems correctly; to reduce stigma; and, to convey an understanding of appropriate ways of interacting with affected individuals;

(C) Investigation, planning and participation in interventions with members of the legal profession in need of assistance;

(D) Sponsoring and maintaining substance abuse and/or mental health support meetings for members of the legal profession;

(E) Aftercare services upon request, by order, or under contract that may include but are not limited to, the following: assistance in structuring aftercare and discharge planning; assistance for entry into appropriate aftercare and professional peer support meetings; and assistance in obtaining a primary care physician or local peer counselor; and

(F) Monitoring services under Rule 58.7 or under contract that may include but are not limited to, the following: alcohol and/or drug screening programs, tracking aftercare, peer support and twelve-step meeting attendance; providing documentation of compliance; and providing such reports concerning compliance by those participating in a monitoring program as may be required by the terms of that program.

RULE 58.6. REFERRALS

(A) Self-referral: Any lawyer, judge, or law student may voluntarily call the LAP seeking assistance for him or herself.

(B) Referrals from Third Parties: LAP shall receive referrals concerning any member of the legal profession from family members, colleagues, friends, law school faculty, law firms or any other source.

(C) Disciplinary Authority Referrals: LAP shall receive referrals from the New Hampshire Supreme Court, the Professional Conduct Committee, the Complaint Screening Committee, the Committee on Judicial Conduct, General Counsel, Disciplinary Counsel, and the Committee on Character and Fitness (Disciplinary Authority) of the name of any lawyer whom the Disciplinary Authority determines or believes should be contacted by LAP. This provision shall not be construed to prevent the Disciplinary Authority from notifying the LAP of the name of any lawyer whom the Disciplinary Counsel determines should be contacted concerning the LAP. Once a referral is made by the Disciplinary Authority the referred lawyer has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made by the referred lawyer to any LAP personnel while seeking or receiving peer assistance or substance abuse treatment through the LAP.

RULE 58.7. REFERRALS FROM THE PROFESSIONAL CONDUCT COMMITTEE, COMMITTEE ON JUDICIAL CONDUCT, COMMITTEE ON CHARACTER AND FITNESS, AND THE JUDICIARY

(A) Referrals: LAP may accept referrals regarding lawyers under diversion, or under conditional, provisional, or probational status from the Court, Professional Conduct Committee or the Complaint Screening Committee, and referrals of judges from the Court or the Committee on Judicial Conduct and referrals regarding prospective lawyers from the Committee on Character and Fitness.

(B) Progress Reports: When LAP accepts a referral under Rule 58.7(A), LAP may provide progress reports or reports of non-compliance by lawyers, judges, or prospective lawyers who are voluntarily receiving monitoring by LAP, or who are subject to monitoring by LAP pursuant to a court order. Notwithstanding Rule 58.8, these reports may be used as evidence in any

complaint, investigation, proceeding or appeal relating to such referral from the Court, the Professional Conduct Committee, the Committee on Judicial Conduct, and the Committee on Character and Fitness.

RULE 58.8. CONFIDENTIALITY

(A) Any information revealed by a lawyer, judge, or law student who seeks or receives assistance through the LAP program shall be confidential and may be disclosed only upon court order.

(B) Commission members, employees, and agents including volunteer lawyers, judges, and law students recruited under Rule 58.4 shall be deemed to be "LAP personnel" for the purposes of the confidentiality provisions of this Rule.

RULE 58.9. DUTIES AND RESPONSIBILITIES

(A) The duties and responsibilities of commission members, employees and agents of LAP, including volunteers serving under Rule 58.4, are duties and responsibilities owed to the Court. Nothing in these rules shall be construed as creating a civil cause of action or right of suit.

(B) Except as otherwise required by law, or to prevent the commission of a crime, commission members, employees and agents of LAP including volunteers are relieved of the duty of disclosure of information to authorities required by N.H. Rules of Professional Conduct 8.3.

RULE 58.10. FACILITY

Any LAP office shall be so located as to be consistent with the privacy and confidentiality requirements of this Rule.

APPENDIX BB

Adopt new Supreme Court Rule 42C as follows:

Rule 42C. Temporary Practice by Foreign Lawyers

(a) A lawyer who is admitted only in a non-United States jurisdiction shall not, except as authorized by this Rule or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law, or hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. Such a lawyer does not engage in the unauthorized practice of law in this jurisdiction when on a temporary basis the lawyer performs services in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal held or to be held in a jurisdiction outside the United States if the lawyer, or a person the lawyer is assisting, is authorized by law or by order of the tribunal to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation or other alternative dispute resolution proceeding held or to be held in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice;

(4) are not within paragraphs (2) or (3) and

(i) are performed for a client who resides or has an office in a jurisdiction in which the lawyer is authorized to practice to the extent of that authorization; or

(ii) arise out of or are reasonably related to a matter that has a substantial connection to a jurisdiction in which the lawyer is authorized to practice to the extent of that authorization; or

(5) are governed primarily by international law or the law of a non-United States jurisdiction.

(b) For purposes of this grant of authority, the lawyer must be a member in good standing of a recognized legal profession in a foreign

jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and subject to effective regulation and discipline by a duly constituted professional body or a public authority.

APPENDIX CC

Amend Supreme Court Rule 28(1) so that said section (1) shall state as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

(1) (a) In a case entered by a petition requesting the supreme court to exercise its original jurisdiction, the party filing the petition shall be designated as the plaintiff **[petitioner]**, even though the party may have filed the petition in the supreme court by reason of proceedings pending in a trial court or in an administrative agency in which the party is the defendant. In all other types of cases entered, the parties shall retain their trial court or administrative agency designations as plaintiffs and defendants.

(b) When a statute or a rule of court requires that the name of a party be kept confidential, ~~a descriptive term followed by the docket number of the case shall be substituted for the name of said party,~~ **[the forename and first letter of the surname of that party shall be listed only,]** unless another form of listing the party's name is preferable in the circumstances of the case. ~~When more than one such party is involved in the case and the same descriptive term applies to them, then an identifying letter shall be added to the docket number. For example, in a confidential case involving two children that has been assigned docket number 2001-233, the children should be designated as "Juvenile 01-233-A" and "Juvenile 01-233-B." In any pleading filed prior to the assignment of a docket number, the descriptive term shall be used followed by a blank line in place of the docket number, followed, if necessary, by an identifying letter. In the previous example, the notice of appeal should refer to the two children as "Juvenile _____ A" and "Juvenile _____ B."~~

APPENDIX DD

Amend Superior Court Rule 35(b)(1) and adopt new subsection 35(g) as follows (new material is in **[bold and in brackets]**):

[Rule 35(b)(1)]

b. Scope of Discovery. Unless otherwise limited by order of the Court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

[When a party withholds materials or information otherwise discoverable under this rule by claiming that the same is privileged, the party shall promptly and expressly notify the opposing party of the privilege claim and, without revealing the contents or substance of the materials or information at issue, shall describe its general character with sufficient specificity as to enable other parties to assess the applicability of the privilege claim. Failure to comply with this requirement shall be deemed a waiver of any and all privileges.]

[Rule 35(g)]

[g. Discovery abuse; sanctions.

(1) The court may impose appropriate sanctions against a party or counsel for engaging in discovery abuse. Upon a finding that discovery abuse has occurred, the court should normally impose sanctions unless the offending party or counsel can demonstrate substantial justification for the conduct at issue or other circumstances that would make the imposition of sanctions

unfair. Discovery abuse includes, but is not limited to, the following:

(a) employing a discovery method in a manner or to an extent that causes unwarranted annoyance, embarrassment, or undue burden or expense;

(b) employing discovery methods otherwise available which result in legal expense disproportionate to the matters at issue;

(c) making, without substantial good faith justification, an unmeritorious objection to discovery;

(d) responding to discovery in a manner which the responding party knew or should have known was misleading or evasive;

(e) producing documents or other materials in a disorganized manner or in a manner other than the form in which they are regularly kept;

(f) failing to confer with an opposing party or attorney in a good faith effort to resolve informally a dispute concerning discovery.

(2) The sanctions which may be imposed for discovery abuse include, but are not limited to, the following:

(a) a monetary sanction in an amount equal to the unnecessary expenses incurred, including reasonable attorney's fees, as the result of the abusive conduct;

(b) an issue sanction that orders that designated facts be taken as established by the party who has been adversely affected by the abuse;

(c) an evidence sanction that prohibits the offending party from introducing certain matters into evidence;

(d) a terminating sanction that strikes all or part of the claims or defenses, enters full or partial judgment in favor of the plaintiff or defendant, or stays the proceeding until ordered discovery has been provided.]

APPENDIX EE

Amend Superior Court Rule 62 by deleting said rule in its entirety and replacing it with the following:

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) 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. 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.

(II) **Fast Track Discovery**

In those cases selected for fast track discovery, the parties shall file disclosure statements with the court within ninety (90) days of the date of such selection. The disclosure statements shall contain the following:

- (a) the factual bases of the claim or defense;
- (b) the legal theories upon which the claim or defense is based;
- (c) identification of witnesses and other persons known to have information relevant to the action and a brief summary of their expected testimony or information;
- (d) copies of any written or recorded statements made by those persons listed in response to subparagraph (c) above;
- (e) the names and addresses of experts, which shall be limited to one expert per side, together with the disclosures required by RSA 516:29-b;
- (f) a list of all exhibits intended to be used at trial; and
- (g) a list of all documents and things known by a party to exist and which the party believes may be relevant to the case, whether or not such documents or things are in the party's possession or are intended to be offered in evidence at trial.

Interrogatories shall be limited to thirty (30) per side and each sub-part of an interrogatory shall be counted as an interrogatory.

Requests for admissions shall be limited to twenty-five (25) per side.

Requests for production of documents shall be limited to ten (10) per side.

Depositions shall be limited to the parties and their experts and no such deposition shall exceed four (4) hours.

The court may vary the requirements governing fast track discovery for good cause shown.

(III) **Pretrial Statements**

If a pretrial statement is ordered it shall include, by numbered paragraphs, a detailed, comprehensive, and good faith statement, setting forth, if applicable:

1. Uncontested issues of fact.
2. Contested issues of fact.
3. Applicable law.
4. Disputed issues of law.
5. Specific claims of liability by the party making the claim.
6. Defendant's specific defenses.
7. Itemized special damages.
8. Specification of injuries with a statement as to which, if any, are claimed to be permanent.
9. The status of settlement negotiations.
10. A list of all exhibits to be offered in the direct case of each party. The parties, or their counsel, shall bring exhibits, or exact copies of

them, to the clerk's office on the day of the trial management conference for examination by opposing parties or their counsel.

11. A list of all depositions to be read into evidence.

12. A waiver of claims or defenses, if any.

13. A list of the names and addresses of all witnesses who may be called.

14. Whether there will be a request for a view and, if so, who shall pay the cost in the first instance.

15. The names and addresses of the trial attorneys.

Except for good cause shown, only witnesses listed in the pretrial statement will be allowed to testify and only exhibits, so listed, will be received in evidence.

(IV) Trial Management Conference

In every case scheduled for trial the clerk shall schedule a trial management conference at which counsel shall have their clients present or available for contact by telephone and shall be prepared to discuss and effectuate settlement and, if necessary, conduct of the trial.

In jury cases requests for instructions shall be submitted in writing at the trial management conference provided such requests pertain to unusual or complex questions of law and are not the ordinary and usual instructions given by the court. Such requests shall include an extra copy for the court. Requests shall not be submitted after the commencement of the trial except for good cause shown.

In non-jury cases, unless otherwise ordered for good cause shown, all requests for findings of fact and rulings of law shall be submitted in writing to the presiding justice at trial no later than the close of the evidence.

Failure to comply with this rule shall constitute grounds for sanctions, including entry of nonsuit, default or such other order as justice may require.

APPENDIX FF

Amend Superior Court Rule 94 by amending the last paragraph of the rule as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

Every motion to suppress evidence 1) shall be filed in accordance with the schedule provided pursuant to Rule ~~96A~~ **[96-A]** and 2) shall be in writing and specifically set forth all the facts and grounds in separate numbered paragraphs upon which the motion is based and 3) shall be signed by the defendant or his or her counsel and verified by a separate affidavit of the defendant or such other person having knowledge of the facts upon which the affidavit is based. Such motions shall be filed not later than ~~ten days after a plea of not guilty has been entered~~ **[forty-five (45) calendar days prior to the scheduled jury selection date]**, or within such ~~further~~ **[other]** time in advance of trial as the Court may order for good cause shown **[or may provide for in a pretrial scheduling order]**. The Court, in its discretion, may entertain such motions prior to, or during, trial.

APPENDIX GG

Amend Superior Court Rule 96-A as follows (new material is in **[bold and in brackets]**):

96-A. Criminal case scheduling orders shall be established in each county as follows:

1. A pretrial deadline date by which time any plea negotiation must be completed.

2. Discovery deadline date.

3. Structuring/scheduling (call of the list) hearings date to conform with plea negotiations deadline date, and filing of Intent to Enter a Guilty Plea(s).

4. A. Motions deadline date. **[Motions to suppress shall be filed not later than forty-five (45) calendar days prior to the scheduled jury selection date, or within such other time in advance of trial as the Court may order for good cause shown or may provide for in a pretrial scheduling order.]**

B. Special assignment date(s) for any motions sounding in suppression or other motions that may be dispositive (motions to quash, dismiss, etc.) a reasonable time in advance of the plea negotiations deadline date.

5. Overall time frame from arraignment or filing of Rule 97 waiver to the date the case(s) is scheduled for trial on the merits.

6. Provision for waiver of deadlines upon filing of written motion setting forth good cause for the requested waiver.

7. Uniform sanctions for failure to comply with court order governing overall procedures.

APPENDIX HH

Amend Superior Court Rule 98 F. as follows (new material is in **[bold and in brackets]**):

F. *Other Pretrial Motions.*

The parties shall file all pretrial motions other than discovery related motions, including but not limited to motions to dismiss, motions to suppress and motions to sever charges or defendants, not less than forty-five (45) calendar days prior to the scheduled jury selection date **[or within such other time in advance of trial as the Court may order for good cause shown or may provide for in a pretrial scheduling order]**.

APPENDIX II

Adopt on a permanent basis Superior Court Rule 170-B, which was adopted on a temporary basis by supreme court order dated December 22, 2005. No changes are being made to the temporary rule now in effect.

JUDGE-CONDUCTED INTENSIVE MEDIATION

170-B. *Judge-Conducted Intensive Mediation of Certain Cases.*

(A) For purposes of this rule only, the term “complex case” shall mean: (1) with respect to any case in which the relief sought is monetary damages, a case wherein there is a realistic possibility the damages awarded could exceed \$250,000.00; and (2) with respect to any case in which relief other than monetary damage is sought, a case wherein the trial can reasonably be expected to last more than five trial days.

(B) Upon agreement of the parties, the presiding justice may assign a complex case for intensive mediation. Such assignment may be made at or at any time after the initial Rule 62 conference but shall not be made later than 90 days before the trial date except for good cause shown. Assignment of a case to intensive mediation shall not stay, alter, suspend, or delay pretrial discovery, motions, hearings, conferences or trial unless the presiding justice so orders.

(C) The mediator for intensive mediation conducted under this rule shall be an active, senior active or retired superior court justice other than the justice to whom the case has been assigned for trial or who has presided over any pretrial hearings or ruled upon any pretrial motions. The justice who serves as mediator and all persons who participate in the mediation shall have no communication with the justice to whom the case is assigned for trial concerning the mediation or any matter pertaining to the merits of the case. All justices who serve as mediators pursuant to this rule shall have completed an approved mediation training program. The provisions of Rule 170(D)(2), 170(E) and 170(J) shall apply to all superior court justices who serve as mediators under this rule.

(D) The parties shall be provided at least 30 days advance notice of the date, time and location of the mediation session and of the name of the justice who will be serving as the mediator. Any party claiming grounds to recuse the justice assigned as mediator, shall file a motion for such relief within 10 days after the date of the notice scheduling the mediation. Any such motion shall be referred for ruling to the justice assigned as the mediator and said justice's ruling on the motion shall be final and not subject to further review. In the event the justice assigned as mediator grants the motion to recuse, the case shall be reassigned to another justice for mediation. Mediation sessions shall be held at a court facility but, subject to the availability of facilities, normally shall be held in a location other than the court wherein the case will be tried.

(E) Mediation under this rule shall be conducted in accordance with the procedures specified in Rule 170(G)(1), 170(H) and 170(I), except that (1) the summaries submitted by the parties may be up to 10 pages in length and (2) in addition to the materials listed in Rule 170(G)(1)(a), the parties at the same time also shall provide the mediator with an estimate of the time needed to properly mediate the case. Normally cases assigned under this rule shall be allotted one full day for mediation, but the mediator has the discretion to reduce or increase the time as s/he deems appropriate. The mediator also may schedule a pre-mediation conference if, in his or her discretion, such a conference will facilitate the speedy and efficient conduct of the mediation or resolution of the case.

APPENDIX JJ

Repeal Superior Court Administrative Rules 1-1, 1-2, and 3-2 through 3-16 in their entirety.

APPENDIX KK

Amend Superior Court Administrative Rule 3-1 by deleting said rule in its entirety and replacing it with the following:

Stenographers' Notes

3-1. Stenographers' Notes.

(a) Ownership. Any and all stenographers' notes and transcripts of the same shall be the sole property of the Superior Court. This rule does not infringe upon the rights of stenographers to be paid for transcripts they produce.

(b) Preservation of Records.

(1) Civil and Equity Cases. All stenographic notes in civil and equity cases may be destroyed six years following the date the notes were recorded.

(2) Criminal Cases. All stenographic notes in criminal cases may be destroyed ten years following the date the notes were recorded.

(3) Subsections (1) and (2) notwithstanding, stenographic notes in any civil, equity or criminal case may be destroyed three years after a complete transcription of the notes has been made and filed.

APPENDIX LL

Adopt on a permanent basis Superior Court Administrative Rule 1-6 (IV), which was adopted on a temporary basis by supreme court order dated October 12, 2005. No changes are being made to the temporary rule now in effect.

IV. To perform the following acts and issue such orders as provided for in the superior court rules, in addition to those rules where the clerk's authority is already specifically delineated:

(a) To enter default and continue for judgment pursuant to Rule 14.

(b) Upon withdrawal of counsel to set a date for the filing of a new appearance pursuant to Rule 20.

(c) To discontinue cases pursuant to Rule 52.

(d) To allow the withdrawal of court documents pursuant to Rule 56.

(e) To enter final judgment pursuant to Rule 74.

(f) In conjunction with the presiding justice, to enter scheduling orders pursuant to Rule 96-A.

(g) To enter orders regarding service by publication pursuant to Rule 128 and Rule 180.

(h) To enter default pursuant to Rule 131 and Rule 139.

(i) To dismiss marital cases which have been pending for two years pursuant to Rule 210.

(j) To waive the waiting period in marital cases pursuant to Rule 207.

(k) To non-suit or dismiss non-jury cases which have been pending for three years pursuant to Rule 168.

(l) To waive the records research fee in Rule 169 when a request for record information is made by a member of the media consistent with the public's right to access court records under the New Hampshire Constitution.

The signature of the clerk or the attorney deputy clerk taking any action enumerated in paragraph IV shall appear on the appropriate document involved along with the statement "Acting pursuant to Superior Court Administrative Rule 1-6." In the event that a motion to reconsider or an objection is filed concerning the action taken, the matter shall be scheduled for a hearing before a justice.

APPENDIX MM

Amend District Court Rule 2.17 by adopting a new section D.,
which shall state as follows:

D. In juvenile cases, the Court may place a juvenile on conditional release under the supervision of a Juvenile Probation and Parole Officer (JPPO). The terms and conditions of release, unless otherwise prescribed by the Court, shall be as follows:

- (a) You shall comply with all orders of the Court.
- (b) You shall be of good behavior and remain arrest free, obey all laws and cooperate with your parent(s) or custodian at all times.
- (c) You shall, if under 16 years of age, attend school full-time and follow all school rules.
- (d) You shall, if 16 years of age or older, either be lawfully employed or actively engaged in an employment plan approved by your JPPO or attend school full-time and follow all school rules. If attending school only part-time, you shall also be lawfully employed or actively engaged in an employment plan approved by your JPPO.
- (e) You shall not consume or possess alcoholic beverages or controlled drugs or any substance or thing determined to be contraband by your JPPO.
- (f) You shall submit to random drug testing as ordered by the Court.
- (g) You shall attend, and meaningfully participate in, all treatment and counseling as ordered by the Court.
- (h) You shall not possess, transport, control or receive any weapon, explosive device, or firearm.
- (i) You shall report to your JPPO at such times and places as directed by your JPPO.
- (j) You shall immediately notify your JPPO of any arrest, summons, or questioning by a law enforcement officer.

(k) You shall report any change of address, telephone number, school status, or employment to your JPPO within 24 hours.

(l) You shall submit to reasonable searches as requested by your JPPO of your person, property, possessions, vehicle(s), school locker(s), bags, containers, or any other items under your custody, care, or control.

(m) You shall submit to visits by your JPPO to your residence and to examinations and searches of your room in the enforcement of your conditions of release.

(n) You shall regularly report your earnings to your JPPO and be in compliance with your specified budget as approved by your JPPO.

(o) You shall not associate with any person or be at any place in violation of Court orders or the directives of your JPPO.

(p) You shall not leave the State of New Hampshire for longer than 24 hours without advance written permission from your parent(s) or guardian or those having legal custody of you. You shall provide your JPPO with said written permission within 24 hours of receipt of said written permission.

(q) You shall also obtain a Travel Permit when required by the Interstate Compact on Juveniles and AJCA Rules regarding out-of-state travel.

(r) You shall agree to return to the State of New Hampshire from any State in the United States or any other place voluntarily and without formality as directed by the Court or your JPPO.

(s) You shall comply with designated curfew/home restriction provisions.

(t) The Court may impose all or part of the above conditions as well as other terms and conditions.

APPENDIX NN

Adopt on a permanent basis District Court Rule 3.3 (III), which was adopted on a temporary basis by supreme court order dated October 12, 2005. No changes are being made to the temporary rule now in effect.

(III) Records Research Fees

(A) Record information must be requested in writing and include the individual's full name and, if available, the individual's date of birth.

(B) A fee of \$10.00 per request will be assessed for electronic (computer) searches of less than ten names.

(C) A fee of \$25.00 per request will be assessed for electronic (computer) searches of ten or more names.

(D) Extensive electronic (computer) searches requiring more than one hour will be assessed \$25.00 per additional hour or portion thereof.

(E) A fee of \$25.00 per hour or portion thereof will be assessed for manual searches. The fee is based on this hourly rate and not the number of names per request.

(F) Charges for requests requiring a combination of manual and electronic searches on the same party will be assessed according to the fee schedule for both categories.

EXAMPLE: One request for electronic search with seven names = \$10.00. Additional requirement that one or more of those seven names be manually researched as well = \$25.00 per hour or portion thereof. Assuming the manual research is completed in less than one hour, then the total fee = \$35.00.

(G) The Clerk may waive the records research fee when a request for record information is made by a member of the media consistent with the public's right to access court records under the New Hampshire Constitution.

APPENDIX OO

Amend District Court Rule 4.29, which was adopted on a temporary basis by supreme court order dated July 13, 2005, as set forth below and adopt said rule, as amended, on a permanent basis (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 4.29. District Court Small Claims Mediation Policy

(A) Purpose. The District Court establishes these small claims mediation rules to increase access to justice; to increase parties' satisfaction with the outcome; to reduce future litigation by the same parties; to make more efficient use of judicial resources; and to expand dispute resolution resources available to the parties.

(B) Definitions. For the purpose of this rule, the following definitions apply.

(1) Mediation. Mediation is a process in which a mediator facilitates settlement discussions between parties.

- a. The mediator has no authority to make a decision or impose a settlement upon the parties.
- b. The mediator attempts to focus the attention of the parties upon their needs and interests rather than upon their rights and positions.
- c. Any settlement is entirely voluntary.
- d. In the absence of settlement, the parties lose none of their rights to a resolution of their dispute through litigation.

Mediation is based upon principles of communication, negotiation, facilitation and problem solving that emphasizes:

- a. The needs and interest of the parties
- b. Fairness
- c. Procedural flexibility
- d. Privacy and confidentiality
- e. Full disclosure
- f. Self determination

(2) Mediator. An impartial person who facilitates discussions between the parties to a mediation. The role of the mediator includes but is not limited to assisting the parties in identifying issues, reducing obstacles to communication, and providing the parties an opportunity for each to be heard in a dignified and thoughtful manner. The mediator's focus will be on encouraging and supporting the parties' presentations to and reception from one another allowing them to find a resolution that is appropriate.

(3) Party. Any person whose name is designated on the record as plaintiff or defendant and their attorney or any other person who has filed an appearance.

(C) Mediator Qualifications. Mediators shall satisfy the qualifications and criteria specified by the Supreme Court. Minimum qualifications include: completion of a 20-hour mediation process training; two years experience as a mediator or equivalent experience, and an understanding of civil and landlord/tenant law is helpful.

All mediators serving as small claims mediators shall contract with the Administrative Office of the Courts for a term of one year.

(D) Referral of cases to mediation. Small Claims cases may be referred to mediation where requested by any party and all remaining parties indicate that they desire to proceed with mediation.

(E) Mediator Assignment. The Administrative Judge of the District Court shall determine the mediation needs for each District Court. Assignment of mediators shall be based on the mediator needs of each court.

Each District Court shall schedule small claims cases and allocate mediator(s) in a manner that accommodates the small claims case load in their court.

(F) Payment of mediator fees. Small Claims mediators shall be paid on a per case fee set by the Supreme Court. Payments shall be made out of the Mediator Fund established by the court. No additional fees or reimbursements shall be made.

(G) Disclosure of Conflict. Upon receipt of a notice of appointment in a case, the mediator shall disclose any circumstances likely to create a conflict of interest, the appearance of conflict of interest, a reasonable inference ~~or~~ **[of]** bias or other matter that may prevent the process from proceeding as scheduled.

(1) If the mediator withdraws, has a conflict of interest or is otherwise unavailable, another mediator shall be appointed by the court.

(2) The burden of disclosure rests on the mediator. After appropriate disclosure, the mediator may serve if both parties so desire. If the mediator believes or perceives that there is a clear conflict of interest, he or she should withdraw, irrespective of the expressed desires of the parties.

(H) Impartiality. Impartiality shall be defined as freedom from favoritism or bias in word, action and appearance.

(1) Impartiality implies a commitment to aid all parties, as opposed to an individual party, when moving toward an agreement. A mediator shall be impartial and shall advise all parties of any circumstances bearing on possible bias, prejudice or impartiality.

(2) A mediator shall maintain impartiality while raising questions for the parties to consider as to the reality, fairness, equity, and feasibility of the proposed options for settlement.

(3) A mediator shall withdraw from mediation if the mediator believes the mediator can no longer be impartial.

(4) A mediator shall not give or accept a gift, request, favor, loan, or any other item of value to or from a party, attorney or any other person involved and arising from the mediation process.

(I) Prohibitions. A mediator shall not provide counseling or therapy to any party during the mediation process nor shall a mediator who is an attorney represent either party, or give legal advice during or after the mediation.

The mediator shall not use the mediation process to solicit or encourage future professional services with either party.

(J) Self determination. A mediator shall assist the parties in reaching an informed and voluntary settlement. Decisions are to be made voluntarily by the parties.

(1) A mediator shall not coerce or unfairly influence a party into a settlement agreement and shall not make a substantive decision for any party to a mediation process.

(2) A mediator shall not intentionally or knowingly misrepresent material facts or circumstances in the course of conducting a mediation.

(3) A mediator shall promote consideration of the interest of persons affected by actual or potential agreements who are not present during a mediation.

(4) The mediator shall promote mutual respect amongst the parties throughout the process.

(K) Professional Advice. A mediator shall only provide information the mediator is qualified by training or experience to provide.

(1) When a mediator believes a non-represented party does not understand or appreciate how an agreement may adversely effect legal rights or obligations, the mediator shall advise the participants to seek independent legal counsel.

(2) While a mediator may point out a possible outcome of the case, under no circumstances may a mediator offer a personal or professional opinion as to how the court in which the case is filed will resolve the dispute.

(L) Confidentiality. A mediator shall preserve and maintain the confidentiality of all mediation proceedings. Any communications made during the mediation which relates to the controversy mediated, whether made to the mediator or a party, or to any other person present at the mediation is confidential.

(1) A mediator shall keep confidential from the other parties any information obtained in an individual caucus unless the party to the caucus permits disclosure.

(2) All memoranda, work products and other materials contained in the case file of a mediator are confidential. The mediator shall render anonymous all identifying information when materials are used for research, training or statistical compilations.

(3) Confidential materials and communications are not subject to disclosure in any judicial or administrative proceedings except for any of the following:

- a. Where the parties to the mediation agree in writing to waive the confidentiality.

- b. When a subsequent action between the mediator and a party to the mediation for damages arises out of the mediation.
- c. Where there are threats of imminent violence to self or others.
- d. Where reporting is required by state law.

(M) Inadmissibility of Mediation Proceeding. Mediation proceedings under this rule are non-binding and shall not impair the right of the litigants to demand a trial. Any settlement reached at mediation shall be binding on the parties and entered as a judgment. Information, evidence or the admission of any party shall not be disclosed or used in any subsequent proceeding.

(1) Statements made and documents prepared by a party, attorney, or other participant in the aid of such proceedings shall be privileged and shall not be disclosed to any court or construed for any purpose as an admission against interest.

(2) All mediation proceedings are deemed settlement conferences as prescribed by court rule and the Rules of Evidence. In addition, the parties shall not introduce into evidence in any subsequent proceeding the fact that there has been a mediation proceeding.

(3) Evidence that would otherwise be admissible at trial shall not be rendered inadmissible as a result of its use in a mediation proceeding under this rule.

(4) A mediator shall not be called as a witness in any subsequent proceeding relating to the parties' negotiation and participation except as set forth in Section N of this rule.

(N) Concluding Mediation. If an agreement is reached during the mediation process, the parties shall reduce their agreement to a written memoranda on the points on which agreement has been reached, and the memoranda shall be reviewed and signed by all parties before the mediation ends.

If an agreement is not reached during the mediation process, the mediator shall notify the court that the mediation failed to resolve the issue in conflict.

(O) Immunity. ~~No mediator shall be held liable for civil damages for any action, statement, admission or decision made in the course of mediation unless that statement, action, admission, or decision is grossly negligent and made with malice or is in willful disregard for the safety or~~

rights of any party to the mediation. **[The parties must recognize that the mediator will not be acting as legal advisor or legal representative. They must further recognize that, because the mediator is performing quasi-judicial functions and is performing under the auspices of the District Court, each such mediator has immunity from suit, and shall not be called as a witness in any subsequent proceeding relating to the parties' negotiations and participation except as set forth in Section N of this rule.]**

(P) Implementation. The Administrative Judge of the District Court shall be responsible for designating an implementation schedule for the small claims mediation program. Initially, each county shall have at least one District Court designated to provide small claims mediation. The program shall be implemented in the remaining courts on a schedule developed by the Administrative Judge for the District Court.

(Q) Removal from list of small claims mediators. Certification to mediate Small Claims Cases in the District Court confers no vested rights to the mediator, but is a conditional privilege that is revocable.

(1) At any time during the period of certification, upon notice and opportunity to be heard, a small claims mediator who is found to have engaged in conduct that reflects adversely on his/her impartiality or in the performance of his/her duties as a mediator, or is found to have persistently failed to carry out the duties of a mediator, or is found to have engaged in conduct prejudicial to the proper administration of justice, shall be removed from the list of certified small claims mediators.

(2) All complaints regarding a mediator's performance shall be forwarded to the NH Judicial Branch Alternative Dispute Resolution Administrator ~~who will investigate the complaint. The Administrator will give notice and opportunity for all parties to be heard and make all final decisions regarding what action, if any, will be taken.~~

(3) All Small Claims mediators must inform the Judicial Branch Alternative Dispute Resolution Administrator and Administrative Justice **[Judge]** of the District Court within 30 days of a change in circumstances such as a conviction of a felony or loss of professional license. Small Claims mediators who are convicted of a felony or misdemeanor involving moral turpitude, or who have a professional license revoked, shall be denied certification.

APPENDIX PP

Adopt on a permanent basis Family Division (Domestic Relations) Rule 16, which was adopted on a temporary basis by supreme court order dated November 15, 2005. No changes are being made to the temporary rule now in effect.

16. Agreed Upon or Proposed Decrees:

A. 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 Family Division Domestic Relations Rule 28A. Any final decree for divorce or legal separation must follow the format set forth in Family Division Domestic Relations Rule 28B. Any temporary or final decree for parenting actions must follow the format set forth in Family Division Domestic Relations Rule 29.

B. 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.

APPENDIX QQ

Adopt on a permanent basis Family Division (Domestic Relations) Rule 26, which was adopted on a temporary basis by supreme court order dated November 15, 2005. No changes are being made to the temporary rule now in effect.

26. **Parenting Plans:**

A. 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.

B. 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.

C. 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.

D. 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.

E. 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 Family Division Domestic Relations Rule 27, Standard Order of Paragraphs for Parenting Plan.

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

G. 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.

APPENDIX RR

Adopt on a permanent basis Family Division (Domestic Relations) Rule 27, which was adopted on a temporary basis by supreme court order dated November 15, 2005. No changes are being made to the temporary rule now in effect.

27. 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.

A. Decision Making Responsibility

1. Major Decisions
2. Day-to-Day Decisions
3. Other

B. 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

C. Legal Residence of a Child for School Attendance

D. Transportation and Exchange of the Child(ren)

E. Information Sharing and Access, Including Telephone and Electronic Access

1. Parent-Child Telephone Contact
2. Parent-Child Written Communication

F. Relocation of a Residence of a Child

G. Procedure for Review and Adjustment of Parenting Plan

H. Method(s) for Resolving Disputes

I. Other Parenting Agreements Attached

APPENDIX SS

Adopt on a permanent basis Family Division (Domestic Relations) Rule 28, which was adopted on a temporary basis by supreme court order dated November 15, 2005. No changes are being made to the temporary rule now in effect.

28. Standard Order of Paragraphs for Temporary and Final Decrees on Divorce and Legal Separation:

A. **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.

B. **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.

APPENDIX TT

Adopt on a permanent basis Family Division (Domestic Relations) Rule 29, which was adopted on a temporary basis by supreme court order dated November 15, 2005. No changes are being made to the temporary rule now in effect.

29. 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.

APPENDIX UU

Adopt on a permanent basis Family Division (Domestic Relations) Rule 30, which was adopted on a temporary basis by supreme court order dated November 15, 2005. No changes are being made to the temporary rule now in effect.

30. 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 VV

Amend Rules of Professional Conduct, Rule 5.5 by deleting it and replacing it with the following:

Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law

- (a) A lawyer shall not practice law in a United States jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.
- (b) A lawyer who is not admitted to practice in this State shall not:
 - (1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this State for the practice of law; or
 - (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this State.
- (c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this State that:
 - (1) are undertaken in association with a lawyer who is admitted to practice in this State and who actively participates in the matter;
 - (2) are in or reasonably related to a pending or potential proceeding before a tribunal in this State or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;
 - (3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this

State or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires *pro hac vice* admission; or

(4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice.

(d) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this State that:

(1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires *pro hac vice* admission; or

(2) are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

(e) A lawyer admitted in another United States jurisdiction who acts in this State pursuant to subparagraphs (c) or (d) shall:

(1) be subject to the New Hampshire Rules of Professional Conduct and the disciplinary authority of the supreme court; and

(2) not hold himself or herself out as being admitted to practice in this State and shall not solicit clients in New Hampshire.

APPENDIX WW

Amend Rules of Professional Conduct, Rule 8.3(c) as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

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

APPENDIX XX

Adopt a technical amendment to Rule of Evidence 902(11)(A) to correct the placement of the first comma in the subsection, so that as amended the subsection shall state as follows:

(A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;

APPENDIX YY

Adopt a technical amendment to District Court Form N, so that the text of Form N consists entirely of uppercase letters, consistent with the requirements of District Court Rule 1.10(G); Form N as amended shall state as follows:

NOTICE ON INTERROGATORIES

THESE INTERROGATORIES ARE PROPOUNDED IN ACCORDANCE WITH DISTRICT COURT RULE 1.10. YOU MUST ANSWER EACH QUESTION SEPARATELY AND FULLY IN WRITING AND UNDER OATH. YOU MUST RETURN THE ORIGINAL AND ONE COPY OF YOUR ANSWERS WITHIN THIRTY (30) DAYS OF THE DATE YOU RECEIVED THEM TO THE PARTY OR COUNSEL WHO SERVED THEM UPON YOU. IF YOU OBJECT TO ANY QUESTION, YOU MUST NOTE YOUR OBJECTION AND STATE THE REASON THEREFOR. IF YOU FAIL TO RETURN YOUR ANSWERS WITHIN THIRTY (30) DAYS, THE PARTY WHO SERVED THEM UPON YOU MAY INFORM THE COURT, AND THE COURT SHALL MAKE SUCH ORDERS AS JUSTICE REQUIRES, INCLUDING THE ENTRY OF A CONDITIONAL DEFAULT AGAINST YOU.