

THE STATE OF NEW HAMPSHIRE
SUPREME COURT OF NEW HAMPSHIRE

ORDER

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.

Supreme Court Rules

(These amendments require self-represented parties and nonlawyer representatives to submit documents through the court's electronic filing system in cases commenced in the supreme court on or after January 1, 2020. The amendments also require all filers to submit case-initiating documents, such as notices of appeal, through the electronic filing system starting with cases commenced on or after January 1, 2020.)

1. Amend the 2018 Supplemental Rules of the Supreme Court of New Hampshire for Electronic Filing, as set forth in Appendix A.
2. Amend Supreme Court Rule 1-A, as set for the in Appendix B.
3. Amend Supreme Court Rule 5, as set for the in Appendix C.
4. Amend Supreme Court Rule 6, as set for the in Appendix D.
5. Amend Supreme Court Rule 7, as set for the in Appendix E.
6. Amend Supreme Court Rule 8, as set for the in Appendix F.
7. Amend Supreme Court Rule 9, as set for the in Appendix G.
8. Amend Supreme Court Rule 10, as set for the in Appendix H.
9. Amend Supreme Court Rule 11, as set for the in Appendix I.
10. Amend Supreme Court Rule 25, as set for the in Appendix J.
11. Amend Supreme Court Rule 32, as set for the in Appendix K.
12. Amend Supreme Court Rule 32-A, as set for the in Appendix L.

Effective Date

These amendments shall take effect on January 1, 2020.

Date: October 24, 2019

ATTEST:



Eileen Fox, Clerk
Supreme Court of New Hampshire

APPENDIX A

Amend the 2018 Supplemental Rules of the Supreme Court of New Hampshire for Electronic Filing as follows (new material is in **[bold and brackets]**; deleted material is in ~~striketrough~~ format):

2018 Supplemental Rules of the Supreme Court of New Hampshire for Electronic Filing

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I. **General Provisions**

Rule 1. ~~Effective Date and Applicability of These Rules~~

These rules, which shall be known as the “2018 Supplemental Rules of the Supreme Court of New Hampshire for Electronic Filing,” govern the filing of documents in supreme court cases commenced on or after **[August 6, 2018.]**~~the date that electronic filing is implemented in the supreme court (the “Effective Date”). The Effective Date shall be determined and set forth in an order issued by the supreme court.~~ These rules also govern the filing of documents in any supreme court case commenced prior to **[August 6, 2018,]** ~~the Effective Date~~ if the supreme court converts the case to an electronic case in accordance with Rule 4(ae) of these rules.

In the interest of expediting a decision, or for other good cause shown, the supreme court or a single justice thereof may suspend the requirements or provisions of any of these rules in any instance on application of a party or on the court’s or a single justice’s motion, and may order proceedings in accordance with that direction.

These rules shall be cited as “Sup. Ct. 2018 Supp. R. ____.”

Rule 2. Relationship to Other Rules

To the extent that these supplemental rules conflict with the existing Rules of the Supreme Court of New Hampshire (“Supreme Court Rules”) as to such matters as the filing, format, or service of a document, these rules supersede the Supreme Court Rules. In all other respects, however, the Supreme Court Rules remain in full force and effect, and these rules shall supplement them.

Rule 3. Definitions

(a) “Confidential” means a case record or portion of a case record, such as a particular document, that shall be available to all case parties and their attorneys **[or nonlawyer representatives]**, but shall not be available for public inspection pursuant to Supreme Court Rule 12(1)(b).

(b) “Conventionally,” with respect to the filing of a document, means the filing of the document with the court in paper or other non-electronic format. With respect to serving a party with a copy of a filed or court-issued document, “conventionally” means providing a copy of the filed or court-issued document to that party personally or by first-class mail in accordance with Supreme Court Rule 26.

(c) “Document” means any written matter issued by or filed with the court, whether filed conventionally or electronically, including, but not limited to, notices of appeal, petitions, appendices, motions, objections, applications, notices, affidavits, briefs, memoranda of law, orders, and opinions.

~~(d) “Effective Date” means the date that electronic filing is implemented in the supreme court, as determined and set forth in an order issued by the supreme court.~~

[(d)]e “Electronic filing” means the process whereby a registered e-filer electronically submits a document to the supreme court in accordance with these rules to initiate a supreme court case or to file a document in an existing supreme court case. With respect to a document submitted electronically for filing, “electronic filing” refers to the document and the associated information that the filer enters in the electronic filing system, both of which are subject to clerk review in accordance with Rules 9 and 11 of these rules.

[(e)]f “Electronic service,” with respect to a document or documents submitted electronically to the court by a party, means the electronic filing system’s transmission of an electronic notification of that submission to the electronic service address of each party who has consented to receive electronic service by registering as an e-filer. The electronic notification will contain a hyperlink or other means for the registered e-filers to access the document or documents that were submitted electronically. “Electronic service,” with respect to a document issued by the court, means the electronic filing system’s transmission of an electronic notification of the court-issued document to the electronic service address of each party who has consented to

receive electronic service by registering as an e-filer. The electronic notification will contain a hyperlink or other means for the registered e-filers to access the court-issued document.

~~(f)~~**g** “Electronic service address” of a party means the electronic mail (e-mail) address at or through which the party shall receive electronic service. ~~Electronic service on a party represented by an attorney shall be made on the attorney through the attorney’s electronic service address.~~

~~(g)~~**h** “Electronic signature” is a signature, other than an inked signature, as authorized by these rules.

~~(h)~~**i** “*Ex parte*” document means a document submitted to the court for filing with the intention that the document shall be neither served on nor available to one or more other case parties, including their attorneys or nonlawyer representatives.

~~(i)~~**j** “Non-electronic signature” is an inked signature.

~~(j)~~**k** “Party” or “parties” has the meaning established by Rules 7(4) and 28 of the Supreme Court Rules and includes an attorney or nonlawyer representative acting on behalf of a party, except where the context clearly indicates a distinction between a party and the party’s attorney or nonlawyer representative.

~~(k)~~**l** “Registered e-filer” means ~~an attorney~~ **[a person, including an attorney, a self-represented party, or a nonlawyer representative under Supreme Court Rule 33(2),]** who has registered with the electronic filing system in order to submit documents for filing with the court, as required by these rules.

~~(l)~~**m** “Supreme Court case” or “case,” in the context of a supreme court proceeding governed by these rules, includes all of the following: an appeal pursuant to Supreme Court Rule 7; an appeal pursuant to Supreme Court Rule 7-B; an interlocutory appeal pursuant to Supreme Court Rule 8; an interlocutory transfer pursuant to Supreme Court Rule 9; an appeal from an administrative agency pursuant to Supreme Court Rule 10; a petition for original jurisdiction pursuant to Supreme Court Rule 11; a certified question of law pursuant to Supreme Court Rule 34; a request for an advisory opinion of the justices pursuant to Part II, Article 74, of the New Hampshire Constitution; an attorney discipline matter pursuant to Supreme Court Rule 37; a judicial discipline matter pursuant to Supreme Court Rule 40; a matter involving administration or supervision of the New Hampshire Bar; and

a matter involving a proposed rule or rule amendment pursuant to Supreme Court Rule 51.

Rule 4. Scope of Electronic Filing: General Provisions

(a) Except as otherwise provided by these rules or by order of the supreme court, documents ~~in cases commenced in the supreme court on or after the Effective Date~~ shall be submitted to the court for filing as follows:

~~1. *By Attorneys.* Attorneys must submit all documents to the supreme court through the court's electronic filing system. This requirement applies both to New Hampshire Bar members and to attorneys admitted *pro hac vice*.~~

~~2. *By Self-Represented Parties and Nonlawyer Representatives.* Self represented parties and nonlawyer representatives must submit all documents to the supreme court conventionally. Until the supreme court orders otherwise, the electronic filing system is not available to self represented parties or nonlawyer representatives.~~

[1. *In Cases Commenced in the Supreme Court prior to August 6, 2018.* Attorneys, self-represented parties, and nonlawyer representatives must submit all documents conventionally in accordance with the Supreme Court Rules. Such cases are not subject to these supplemental rules and are not available for electronic filing, absent a specific court order to the contrary. However, a party may file a written motion with the court to request to convert such a non-electronic case to an electronic-filing case. If the court grants the motion, or decides on its own motion to convert the case to an electronic-filing case, the case will thereafter be governed by these rules. Following the order for conversion of the non-electronic case to an electronic-filing case, the parties must ensure that documents submitted after the conversion date comply with all provisions of these rules.

2. *In Cases Commenced in the Supreme Court on or after August 6, 2018, but prior to January 1, 2020.* Attorneys must submit all documents through the court's electronic filing system. This requirement applies both to New Hampshire Bar members and to attorneys admitted *pro hac vice*. Self-represented parties and nonlawyer representatives must submit all documents conventionally. However, a party may file a written motion with the court to request permission for a self-represented party or a nonlawyer representative to submit documents in the case through

the electronic filing system. If the court grants the motion, or decides on its own motion to require a self-represented party or a nonlawyer representative to submit documents in the case through the electronic filing system, that self-represented party or nonlawyer representative shall thereafter be treated as a registered e-filer in the case for all purposes, including the electronic filing and electronic service of documents.

3. *In Cases Commenced in the Supreme Court on or after January 1, 2020. Attorneys, self-represented parties, and nonlawyer representatives must submit all documents, including notices of appeal or other case-initiating documents, through the court’s electronic filing system.*]

(b) **[When applicable pursuant to paragraph (a),]** For attorneys, the requirement to submit documents through the electronic filing system extends to nonconfidential documents in nonconfidential cases, confidential documents in nonconfidential cases, and documents in confidential cases, with the exception of the document types listed in Rule 6 of these rules.

~~(c) Cases commenced in the supreme court prior to the Effective Date are not subject to these supplemental rules and are not available for electronic filing, absent a specific court order to the contrary. Documents in such cases must be submitted conventionally to the court in accordance with the Supreme Court Rules. However, a party may file a written motion with the court to request to convert such a non-electronic case to an electronic filing case. If the court grants the motion, or decides on its own motion to convert the case to an electronic filing case, the case will thereafter be governed by these rules. Following such an order for conversion of the non-electronic case to an electronic filing case, the parties must ensure that documents submitted after the conversion date comply with all provisions of these rules.~~

[(c)d] Unless the court has specifically ordered otherwise in advance, faxing or e-mailing documents, outside of the electronic filing system, to the court or to a justice or court employee does not constitute “filing” in any supreme court case, regardless of the case’s date of commencement. Notwithstanding the foregoing, in a Supreme Court Rule 7-B appeal, the minor may file documents in accordance with any of the filing methods permitted by Rule 7-B.

Rule 5. Scope of Electronic Filing: Requesting Exemption Based Upon Party's Status or Hardship

A party who is ~~represented by an attorney~~ **[required by these rules to file electronically in a supreme court case]** may be excused from the requirement of electronic filing in the following circumstances:

(a) The supreme court may fully excuse a party from electronic filing in a **[the]** case if the court finds that: (1) a party is protected by law from disclosing certain identifying or contact information, and electronic filing would defeat or undermine that protection; or (2) extraordinary circumstances exist that would render electronic filing such a hardship ~~for the attorney~~ that the party would be denied access to the court. A party requesting to be fully excused from the requirement of electronic filing shall conventionally file a motion with the court setting forth the reasons for the request. The motion should be filed with the party's first filing in the case, and the party's first filing may be conventionally filed subject to the court's ruling on the motion. If the motion is granted, the party who is fully excused from the requirement of electronic filing shall file documents conventionally, shall serve documents conventionally on other parties, and shall be served documents conventionally by other parties and the court.

[(b) A self-represented individual over whom guardianship is sought or ordered, or a self-represented individual for whom involuntary admission or commitment is sought or ordered, is exempt from the requirement of electronic filing and need not file a motion to be excused.]

(c) A self-represented incarcerated party who notifies the court in writing of his or her incarceration is exempt from the requirement of electronic filing until such time as that party is no longer incarcerated. A self-represented incarcerated party need not file a motion to be excused.]

[(d)] In the interest of expediting a decision, or for other good cause shown, the supreme court may permit, on its own motion or the motion of a party, a limited exception to the requirement of electronic filing by allowing a party ~~who is represented by an attorney and~~ who is not otherwise excused pursuant to this rule to initiate a case conventionally or to file a document in an existing case conventionally.

Rule 6. Scope of Electronic Filing: Exceptions Based Upon Case Type or Document Type

(a) A supreme court case concerning a proposed rule or rule amendment pursuant to Supreme Court Rule 51 shall be opened by the supreme court, and not initiated by an interested person through the electronic filing system. However, all filings subsequent to the court's case initiation shall be governed by these rules.

(b) A document that is submitted through the electronic filing system must be in one of the following formats only: .doc; .docx; or .pdf. Accordingly, any material for filing in a case that cannot reasonably be submitted through the electronic filing system as a .doc, .docx, or .pdf document, such as physical exhibits, demonstrative evidence, and video or audio recordings, must be conventionally filed.

(c) A document that is submitted for *in camera* review shall not be submitted through the electronic filing system. The document must be conventionally filed.

(d) An *ex parte* document, as defined in Rule 3 of these rules, shall not be submitted through the electronic filing system. The document must be conventionally filed, and the title of the document must state that the document is filed *ex parte*.

(e) A document submitted in a confidential case by ~~an attorney who is not counsel of record to a party in the case~~ **[a person who is not a party, an attorney of record to a party, or a court-authorized nonlawyer representative of a party]** shall not be submitted through the electronic filing system. The document must be conventionally submitted, following which a determination will be made as to whether to docket the document and to allow the attorney **[person]** to file and receive documents electronically in the case.

~~(f) A Financial Affidavit & Application for Court Appointed Counsel or a Financial Affidavit & Application for Transcripts at State Expense shall not be submitted through the electronic filing system. The document must be conventionally filed.~~

~~(f)g~~ (g) A motion pursuant to Supreme Court Rule 21B to withdraw a criminal appeal shall not be submitted through the electronic filing system. The document must be conventionally filed.

~~(h) An Attorney's Statement of counsel fees and expenses under Supreme Court Rules 47 or 48, or a Guardian ad Litem's Statement of~~

~~fees and expenses under Supreme Court Rule 48-A, shall not be submitted through the electronic filing system. The document must be conventionally filed.~~

~~(g)~~ⁱ The certified copy of the record in a municipal land-use appeal or in an appeal from an administrative agency may be conventionally filed.

~~(h)~~^j A trial court's record or a portion thereof that is ordered to be transmitted pursuant to Supreme Court Rule 14(2) may be conventionally filed.

~~(i)~~^k A Supreme Court Rule 9 interlocutory transfer statement may be conventionally filed by the trial court or administrative agency.

~~(j)~~^l A certified question pursuant to Supreme Court Rule 34 may be conventionally filed by the Supreme Court of the United States, by a court of appeals of the United States, or of the District of Columbia, or by a United States district court.

~~(k)~~^m A mediator's Appellate Mediation Report may be conventionally filed.

Rule 7. Official Court Record and Public Inspection

For a supreme court case governed by these rules, the official court record of docket entries and documents, whether filed electronically or conventionally, shall be the electronic case file maintained by the clerk of court in the supreme court's case management system. Accordingly, the clerk in such a case will scan or otherwise convert a conventionally filed document into an electronic document for entry in the court's electronic case file, unless the nature of the conventionally filed document (such as a physical exhibit) makes it technologically infeasible to do so. The clerk need not maintain or retain any conventionally filed document after the clerk scans or otherwise converts that document into an electronic document for entry in the court's electronic case file. If the nature of a conventionally filed document makes it technologically infeasible to scan or otherwise convert the document into an electronic document for entry in the court's electronic case file, the document as conventionally filed shall be part of the court's official record and shall be maintained in its conventionally filed format.

In accordance with Supreme Court Rule 12(1)(a), the public may inspect nonconfidential cases governed by these rules and nonconfidential documents in an electronic format at the clerk's office during regular business hours, except that a nonconfidential document that is maintained in its conventionally filed format shall be made available for inspection in its conventionally filed format. Following issuance of the mandate or the close of the supreme court case, however, any documents that are part of the trial court or administrative agency record and were conventionally filed by the trial court or administrative agency, including records transmitted pursuant to Supreme Court Rules 10(3) and 14(2), may be returned by the clerk to the trial court or administrative agency.

Rule 8. Registration Requirements

(a) *Registration.* To initiate a supreme court case or to file or receive a document through the court's electronic filing system, ~~an attorney~~ **[a person]** must first become a registered e-filer by completing an online registration and accepting the conditions of electronic filing, including those set forth in the "Responsibilities of Registered E-Filer" section of this rule.

(b) *Responsibilities of Registered E-Filer.*

(1) A registered e-filer is responsible for all documents that are filed via the registered e-filer's username and password. A registered e-filer shall not knowingly cause or permit the registered e-filer's log-in information to be used by any other person; provided, however, that an attorney may permit the attorney's log-in information to be used by attorneys and nonlawyer assistants over whom the attorney exercises supervisory responsibilities in compliance with the New Hampshire Rules of Professional Conduct.

(2) Any electronic filing, or downloading or viewing of an electronic filing, made by use of a username and password shall be deemed to have been made with the authorization of the ~~attorney~~ **[person]** registered to use the log-in information.

(3) If ~~an attorney's~~ **[a person's]** log-in information is misappropriated, misused or compromised in any way, the ~~attorney~~ **[person]** registered to use that log-in information must promptly notify the clerk.

(4) For good cause shown, the court may issue an order prohibiting a registered e-filer from filing electronically in a particular case or in all cases.

(5) A registered e-filer must maintain an electronic service address during the pendency of the case at which the registered e-filer consents to receive and agrees to accept through the electronic filing system copies of electronically submitted documents, as well as notices and orders issued electronically by the court. Whenever notice or service to a registered e-filer is required, notice or service to the electronic service address of record in the electronic filing system shall satisfy the requirement and shall be deemed binding on the registered e-filer and on ~~each~~ **[any]** party that the registered e-filer represents in the case.

(6) A registered e-filer must maintain accurate contact information in the court's electronic filing system. This obligation is separate from, and in addition to, a party's obligation under Supreme Court Rule 26(9) and a New Hampshire Bar member's obligation under Supreme Court Rule 42E to provide accurate and up-to-date contact information.

(7) If a registered e-filer is no longer a participant in any pending supreme court case and does not wish to remain active in the electronic filing system, the registered e-filer may deactivate his or her registration status in the system.

II. Electronic Filing of Documents

Rule 9. Timing and Timeliness of Filings: General Provisions

(a) *Availability of Electronic Filing System.* Electronic submission of a document may be made any day of the week, including weekends and holidays, and at any time of day that the electronic filing system is available. The expansive availability of the electronic filing system shall not affect the provisions for computation and extension of time set forth by statute or by Supreme Court Rule 27.

(b) *Timing of Electronic Filings.* When a document is submitted through the electronic filing system, the electronic filing system shall issue to the filer an electronic notification that confirms the document's submission and shall issue to each other registered e-filer in the case an electronic notification that constitutes service of the submitted document. Following receipt of the submission, the clerk shall review

the submitted document to determine whether the document should be docketed. If the clerk docketed the document, the electronic filing system shall issue an electronic notification to the filer that the submission has been so docketed, and the document shall be deemed to have been filed on the date that it was submitted, unless that date is a Saturday, Sunday, legal holiday, or other day that the clerk's office is closed, in which case the document shall be deemed to have been filed on the next day that the clerk's office is open for business. If the clerk rejects the submitted document for docketing purposes, the clerk shall issue an electronic notification through the electronic filing system advising the filer that the submission has been so rejected, and the document shall be deemed not to have been filed.

(c) *Timing of Conventional Filings.* A document that is filed conventionally in a case subject to these rules shall be governed by Supreme Court Rule 26(1) with respect to the timing of the filing.

(d) *Timeliness of Filings.* A document that is electronically submitted through the court's electronic filing system and docketed by the clerk shall be deemed timely if it is filed, as measured by (b) above, at or before 11:59:59 p.m. on the date that the filing is due. A document that is filed conventionally in a case subject to these rules shall be deemed timely if it is filed, as measured by Supreme Court Rule 26(1), on or before the date that the filing is due.

Rule 10. Timing and Timeliness of Filings: Effect of Technical Failure

(a) Under these rules, a "technical failure" is deemed to have occurred when the electronic filing system cannot receive electronic submissions continuously or intermittently over the course of any period of time greater than one hour after 12:30 p.m. on a given day, excepting such periods resulting from scheduled system maintenance for which public notice was provided. A filer shall immediately report a technical failure by calling the clerk's office at 603-229-3759.

(b) A filer who encounters a technical failure may conventionally submit the document for filing, provided that the document is accompanied by a motion for relief from technical failure that attests to the filer's unsuccessful attempts to timely submit the document through the electronic filing system.

(c) If a filer misses a filing due date as a result of a technical failure, the filer may electronically or conventionally submit the document for

filing on the first day on which the clerk's office is open for business following the missed due date. The document shall be accompanied by a motion for relief from technical failure that attests to the filer's unsuccessful attempts to timely submit the document through the electronic filing system. If the motion is granted, the document shall be deemed to have been submitted on the day that the technical failure prevented the filer's submission.

(d) A technical problem with the filer's computer or systems, including but not limited to a telephone line problem, a problem with the filer's internet service, or a problem with the filer's hardware or software, does not constitute a "technical failure" under these rules and will not excuse an untimely filing, unless the court orders otherwise. In such a circumstance, the filer may submit the document conventionally, along with a motion explaining how the filer's technical problem prevented an electronic submission of the document through the electronic filing system.

Rule 11. Format of Filings

(a) *Selection of Case and Document Types.* So far as possible, a party initiating a case electronically should identify the correct case category, case type, and case subtype from the available selections in the electronic filing system, and a party filing a document electronically should identify the correct filing type and filing subtype from the available selections in the electronic filing system. Upon review, the clerk may, when necessary and appropriate, modify a filer's selections to comply with the court's internal standards for case classification and document classification, but the clerk shall not reject any submission on the sole basis of incorrect selections unless the filer's selection of the incorrect case category prevents the clerk from processing the case in its correct category in the court's case management system.

(b) *Formatting and Page [Word] Limits.* An electronically filed document must comply with the formatting and word-limit requirements for conventionally filed documents as set forth in the Supreme Court Rules, except that colored-cover, binding, and related requirements shall not apply to electronically filed documents.

(c) *Acceptable Formats for Electronically Filed Documents.* A document that is submitted through the electronic filing system must be in one of the following formats only: .doc; .docx; or .pdf. The electronic filing system will not accept documents or other material in

any other format. A document that is submitted in .doc or .docx format will be converted to .pdf text-searchable format by the electronic filing system. So far as possible, the filer shall submit a document that has been converted or is convertible to .pdf text-searchable format. If the filer possesses only a paper copy of the document, a scanned .pdf that is not text searchable may be submitted. A scanned document shall conform with a standard of no less than 200 and no more than 300 dots per inch. A filer shall not electronically submit a document that contains tracking tags, embedded systems commands, password protections, access restrictions or other security features, special tags or dynamic features.

(d) *Size Limits on Documents for Electronic Submission.* No individual document exceeding 25 megabytes, either in converted or scanned .pdf format, shall be submitted through the electronic filing system. Any document exceeding 25 megabytes must be divided into separate documents of less than 25 megabytes, and each separate document should be identified as a part of the overall document.

(e) *Filer's Requirement to Retain Scanned Document.* With the exception of paper documents that were filed in the trial court or administrative agency from which the appeal is taken, any paper document that is converted by the filer to .pdf format through a scanner and then filed using the electronic filing system must be retained by the filer until the issuance of the mandate or the close of the case. Upon request of the court or any party, the filer must make the paper document available for inspection.

(f) *Hyperlinks.* Hyperlinks and other electronic navigational aids may be included – and are encouraged – in an electronically filed document as an aid to the court. Although hyperlinks may be included in a document as an aid to the court, the material referred to by a hyperlink is not considered part of the official record unless it is already part of the record in the case. Each hyperlink must contain a record reference to the target of the link. Hyperlinks to cited authority may not replace standard citation format for constitutional citations, statutes, cases, rules or other similarly cited materials.

(g) *Format of Conventional Filings.* Documents that are conventionally filed in a supreme court case ~~commenced on or after the Effective Date~~ **[governed by these rules]** will be scanned or otherwise converted by the clerk into electronic documents for entry in the court's electronic case file. Accordingly, documents must be printed only on the front side of each page, be logically organized and separate from other documents, and be submitted to the court with no tabs, durable bindings, or difficult-to-remove fasteners that would interfere

with the clerk's ability to scan or otherwise convert the documents into an electronic format. If a timely filed document does not conform to this rule or is not clearly legible, the clerk may require the filer to resubmit the document, but the document shall not thereby be deemed untimely.

Rule 12. Paper Copies Not Required or Allowed

Notwithstanding any provision to the contrary in the Supreme Court Rules, a filer who submits a document electronically or conventionally in a case governed by these rules need not and shall not file any paper copies of the document with the court, unless otherwise ordered to do so.

Rule 13. Signatures on Filings

(a) *Original Electronic Document Deemed Signed.* The electronic submission of a document by a registered e-filer shall be considered a signed original if:

(1) The document is electronically signed by the registered e-filer either with the typed symbol /s/ followed by the typed name of the registered e-filer submitting the document (example: /s/ John Smith), or with a graphic representation of the filer's actual signature; and

(2) Unless the document is a court form, the document including the electronic signature also includes the following information:

(A) name (in addition to name typed as part of electronic signature in section (1));

(B) address;

(C) telephone number (if available);

(D) e-mail address (if available);

(E) law firm (for attorneys only); and

(F) bar identification number (for attorneys only).

(b) *When Multiple Signatures on Electronic Document Are Required.*

(1) When multiple signatures are required on a document that is submitted electronically, each person named as a signer of the document shall either:

(A) sign in one of the ways a filer signs documents described in (a)(1) above; or

(B) authorize the filer to sign the document on his or her behalf. The filer shall represent having obtained approval to sign for another signer named in the document as follows:

Typed symbol /s/ followed by the typed name of the other signer, followed by, "Signed by [filer's name] with permission of [other signer's name.]"

Example: /s/ Jennifer Jones, signed by John Smith with permission of Jennifer Jones.

(2) The electronic signature of each named signer shall be accompanied by the same information required to accompany the filer's electronic signature described above in (a)(2). However, when a document is signed with permission of another named signer, the filer's information shall accompany only the filer's own signature.

(3) Notwithstanding the above, the court, in its discretion, may require a graphic representation of any filer's actual signature.

(c) *Effect of Electronic Signature.* An electronic signature meeting the requirements described above in (a)(1) and (2) shall be considered the functional equivalent to a non-electronic signature produced on paper.

(d) *Challenge to Authenticity of Signature on Electronic Document.* Any party to a case may challenge the authenticity of the signature on an electronically filed document by filing an objection within 10 days after discovery that the signature is not authentic, provided that the objection is filed prior to issuance of the mandate or the close of the supreme court case. After issuance of the mandate or the close of the supreme court case, a party seeking to challenge the authenticity of the signature on an electronically filed document may pursue appropriate relief through any otherwise available procedures.

(e) *Signature on Conventional Filings.* A document that is conventionally filed must contain the original non-electronic signature of each person submitting the document, along with the information described above in (a)(2).

Rule 14. Signatures on Court-Issued Electronic Documents

(a) *Justice's Signature.* If an electronic document requires a justice's signature, the document shall be deemed signed if it bears one of the following:

- (1) the typed symbol /s/ followed by the typed name of the justice (example: /s/ John Smith); or
- (2) a graphic representation of the justice's signature.

(b) *Clerk's Signature.* If an electronic document requires the clerk's signature, the document shall be deemed signed if it bears one of the following:

- (1) the typed symbol /s/ followed by the typed name of the clerk (example /s/ John Smith); or
- (2) a graphic representation of the clerk's signature.

Comment

This rule does not itself create any requirement that orders, opinions or other documents contain a signature of the clerk or a justice.

Rule 15. Notarized Signatures on Electronic Documents (Notarial Acts)

(a) A notarial act associated with an electronically filed document must conform to the requirements of notarial acts and signatures provided in RSA chapter 456-B and RSA chapter 294-E.

(b) The signature of a person who executed an electronically filed document and the signature of a person who performed a notarial act related to such a document must be presented by:

- (1) The typed symbol /s/ followed by the typed name of the signer(s) (example: /s/ John Smith); or
- (2) The graphic representation of each signer's actual signature.

(c) Any party to a case or person with standing may challenge the authenticity of the signature of a person who performed a notarial act on a document filed electronically in that case by filing an objection within 10 days after discovery that the signature is not authentic, provided that the objection is filed prior to issuance of the mandate or the close of the supreme court case. After issuance of the mandate or the close of the supreme court case, a party or person with standing who seeks to challenge the authenticity of the signature of a person who performed a notarial act on a document filed electronically may pursue appropriate relief through any otherwise available procedures.

Comment

For requirements of notarial acts and signatures on electronic documents, *see, especially*, RSA 456-B:7 and RSA 294-E:2, VIII, RSA 294-E:9, and RSA 294-E:11.

Rule 16. Confidential Filings

The electronic filing of a case or document does not affect the confidential status to which the case or document may otherwise be entitled under applicable law, including Supreme Court Rule 12.

(a) *Filing a Document that is Partially Confidential in a Nonconfidential Case.* This provision applies in a nonconfidential case to a party's filing of a document a portion of which contains material that has been determined to be confidential by the trial court, administrative agency, other tribunal, or the supreme court. A party who files a document that is partially confidential must:

(1) notify the court, at the time of filing and in a conspicuous manner, that the document contains confidential material, and identify the specific basis for confidentiality;

(2) file the document with the confidential material;

(3) file a redacted version of the document, from which the confidential material has been removed; and

(4) if a party is submitting the document electronically, the party must:

(A) notify the court of the document's status as confidential by designating the document as confidential in the electronic filing system

and by indicating in the electronic filing system the basis for the document's confidentiality, because doing so will prevent the document from being available for public inspection; and

(B) electronically submit the redacted version of the document without designating it as confidential in the electronic filing system, so that the redacted version is available for public inspection.

(b) *Filing a Confidential Document in a Nonconfidential Case.* This provision applies in a nonconfidential case to a party's filing of a document that has been determined to be confidential in its entirety by the trial court, administrative agency, other tribunal, or the supreme court. A party who files a document that is confidential in its entirety must notify the court, at the time of filing and in a conspicuous manner, that the document is confidential, along with the specific basis for confidentiality. If the party is submitting that document electronically, the party must notify the court of the document's status as confidential by designating the document as confidential in the electronic filing system and indicating in the electronic filing system the basis for the document's confidentiality, because doing so will prevent the document from being available for public inspection.

(c) *Filings in a Confidential Case.* This provision applies to a case that has been determined to be confidential in its entirety by the trial court, administrative agency, other tribunal, or the supreme court. A party who initiates a confidential case must indicate in a conspicuous manner on the notice of appeal form or in the appeal document or other case-initiating document that the entire case is confidential, along with the specific basis for confidentiality. If the case is initiated electronically, the filer shall not designate the case-initiating document as confidential in the electronic filing system because doing so will defeat the ability of parties to view the case-initiating document through the "Case Activity **[View]**" functionality of the electronic filing system. Similarly, a party who electronically submits a subsequent document in a confidential case shall not designate the document as confidential in the electronic filing system because doing so will defeat the ability of parties to view that particular document through the "Case Activity **[View]**" functionality of the electronic filing system. If a document is electronically designated by a party as confidential in contravention of this provision, the clerk may remove the designation, but the clerk's removal of the designation shall not thereby alter the confidential status of the case or document.

(d) *Confidential Filings When There Has Been No Prior Determination of Confidentiality.* As set forth in Supreme Court Rule 12(2)(b), a party or other person with standing who seeks to have the case record or a

portion of the case record, such as a particular document, determined to be confidential by the supreme court must file a motion to seal. In addition to the procedure set forth in Rule 12(2)(b), if the party who seeks a determination of confidentiality is electronically submitting the case or document for which the confidentiality determination is sought, the party must:

(1) file the motion to seal electronically, but not designate the motion itself as confidential in the electronic filing system;

(2) designate each document for which confidentiality is sought as confidential in the electronic filing system; and

(3) indicate in the electronic filing system the basis for confidentiality. The party's designation of a document as confidential in the electronic filing system neither establishes confidentiality nor takes the place of a motion to seal as required by Supreme Court Rule 12(2)(b). Upon filing of the motion to seal, the case record or the portion of the case record which is the subject of the motion shall be kept confidential pending a ruling on the motion. If the motion to seal is denied, the clerk shall remove the confidential designation of the case record or document in the court's case management system.

(e) *Court Action When Confidentiality is Required.* The failure of a party filing electronically to comply with the provisions of this rule, or the failure of a party or other person with standing to request that a case record or a portion of a case record be confidential, shall not preclude the court from determining on its own motion that a statute, administrative or court rule, or other compelling interest requires that a case record or a portion of a case record be kept confidential. However, the responsibility for properly designating and identifying confidential material in accordance with this rule rests solely with the parties and their attorneys. It is not the responsibility of the court or the clerk to review each document to ensure that confidential material has been properly designated and identified as confidential.

(f) *Documents Submitted Ex Parte or for In Camera Review.* The procedures set forth in this Rule 16 do not apply to documents submitted *ex parte* or to documents submitted for *in camera* review. As set forth in Rule 6 of these rules, such documents must be conventionally filed.

III. Service of Documents

Rule 17. Formal Service of Process

A document that requires personal service or other formal service of process on a party to confer jurisdiction over that party as a matter of law shall not be served electronically, unless the court authorizes electronic service in the case. If electronic service is not authorized, the document must be served in the manner required by applicable law.

Rule 18. Electronic Service of Documents to Registered E-Filers

[(a) *Service on Party or Party's Representative.* Service on a self-represented party shall be made on the party. Service on a party represented by an attorney or nonlawyer representative shall be made on the representative. In accordance with Rule 3(j) of these rules, "party" in the context of service includes a party's attorney or nonlawyer representative.]

[(b)a) *Effect of Electronic Service.* Electronic service, as defined in these rules, satisfies the requirement in Supreme Court Rule 26(2) that a filer provide to all other parties a copy of each filing at or before the time of filing. In addition, whenever notice to a party is required, notice to the electronic service address of the party shall be deemed notice to, and binding on, the party.

[(c)b) *Acceptance of Electronic Service by Registered E-Filers; Conventional Service Required to Other Parties.*

(1) Registration as an e-filer in the electronic filing system shall constitute **[a person's]** consent to acceptance of electronic service of court documents and documents electronically submitted by other registered e-filers in the case**[, provided that the requirement of electronic filing applies to the case and to the person as determined by Rule 4(a) and Rule 5 of these rules.]** Except as otherwise provided by these rules or by court order, no other form of delivery to a registered e-filer by a registered e-filer is permitted as valid service. When a registered e-filer submits a document to the court through the electronic filing system, and one or more other parties to the case ~~are represented by another registered e-filer~~ **[or their representatives have registered as e-filers]**, the filing party must cause electronic service through the filing system to be made on each other registered e-filer by so designating at the time of the filing party's

submission. If an e-filer uses the electronic filing system’s “Exclude from eService” or “Not Served” functionality to circumvent this requirement, the clerk may reject the submission.

(2) A party who is not required to file electronically **[in the case]** shall be conventionally served by providing the party, at the time of filing, with a paper copy of each document filed. See Supreme Court Rule 26(2) and (3)(a). A party who is not required to file electronically **[in the case]** shall conventionally serve each of his or her filings by providing, at the time of filing, a paper copy of each filing to the other parties ~~in the case~~. See Supreme Court Rule 26(2) and (3)(a). It is the responsibility of the party submitting a document for filing to provide a copy of the document to other parties in accordance with this provision and (c)(1), above. With respect to a court-issued document, the clerk’s office will conventionally serve the document on each party who is not required to file electronically **[in the case.]**

(3) A party ~~represented by an attorney~~ **[who is presumptively required by these rules to file electronically in the case, but]** who has not yet registered as an e-filer~~[,]~~ must be conventionally served in accordance with (c)(2), above; provided, however, that in a case when all parties are represented by attorneys and a stipulation for e-mail service was filed in the trial court or administrative agency in compliance with applicable rules of that tribunal, *see, e.g.*, Superior Court Rule 3(b); District Division Rule 1.3-A(B), the “appeal document” (as defined by Supreme Court Rule 3) shall be served in accordance with the stipulation, and such service shall be deemed valid conventional service. A party ~~represented by an attorney~~ **[who is presumptively required by these rules to file electronically in the case, but who has not yet registered as an e-filer and]** who has requested an exemption from the requirement of electronic filing, must conventionally serve each of his or her filings to other parties ~~in the case~~ in accordance with (c)(2), above. It is the responsibility of the party submitting a document for filing to provide a copy of the document to other parties in accordance with this provision and (c)(1), above. With respect to a court-issued document, the clerk’s office will conventionally serve the document on each ~~attorney~~ **[party in the case]** who has not yet registered as an e-filer or who has requested an exemption from the requirement of electronic filing.

(d)e *Certificate of Service.* A party submitting a document for filing, whether electronically or conventionally, must include a statement in the document in accordance with Supreme Court Rule 26(7) certifying that a copy of the document is being timely provided to all other parties in the case. Unless the document is a court form, the certification in the document must identify the name of each party

receiving a copy of the document through the electronic filing system's electronic service and the name of each party receiving a paper copy of the document through conventional service.

~~([e]d)~~ *Court-Issued Documents.* The clerk's office will electronically serve any court-issued document to ~~all registered e-filers~~ **[each registered person who is required to file electronically]** in the case. Electronic service by the clerk's office constitutes service or notice of the document. In accordance with ~~([c]b)(2)~~ and ~~([c]b)(3)~~, above, the clerk's office will conventionally serve a court-issued document to each party who is not required to file electronically or who has requested an exemption from the requirement of electronic filing.

~~([f]e)~~ *No-Contact Orders.* Absent a court order to the contrary, a party who is subject to a no-contact order and who **[is, or who]** is represented by~~[,]~~ a registered e-filer may use the electronic filing system's electronic service to provide a copy of an electronically submitted document to the opposing party if the opposing party **[or the opposing party's attorney or nonlawyer representative]** is ~~represented by~~ a registered e-filer.

IV. Miscellaneous Provisions

Rule 19. Electronic Payment of Fees, and Refund of Fees Paid Electronically

A registered e-filer shall make payment of any fees that are due to the court through the electronic filing system's payment processor, unless the registered e-filer has either filed a motion to waive the fee or indicated in the electronic filing system that the fee will be paid at the court. If the amount listed as due for a filing or transaction in the electronic filing system is insufficient to cover the actual amount of the applicable fee or surcharge imposed by RSA 490:26-a, II, the clerk may order the filer to pay the remaining amount.

The clerk shall refund an electronic or other payment when no payment was required, when the payment was duplicative of a previous payment, or when the amount paid exceeds the actual amount owed for the filing or transaction.

Rule 20. Motions for Admission Pro Hac Vice

A motion for the appearance *pro hac vice* of an attorney who is not a member of the Bar of this State (“Nonmember Attorney”) must be electronically filed by a registered e-filer who is an active member in good standing of the Bar of this State (“In-State Attorney”) and who will be associated with the Nonmember Attorney in accordance with Supreme Court Rule 33(1). The nonrefundable application fee must be paid through the electronic filing system’s payment processor, unless the registered e-filer has either filed a motion to waive the fee or indicated in the electronic filing system that the fee will be paid at the court or was previously paid in a consolidated or related matter. See Supreme Court Rule 33(5). Due to technical features of the electronic filing system, the In-State Attorney must file a separate motion for each Nonmember Attorney whose admission *pro hac vice* is sought, and may not request the admission of multiple Nonmember Attorneys in one motion.

Rule 21. Certified or Attested Court Documents

When a statute, court rule or administrative order requires a document to be certified or attested to by means of a supreme court seal or otherwise, such a document shall be considered properly attested to or certified when:

(a) the document, with statutory attestation language and bearing an electronic certification stamp approved by the supreme court as meeting the requirements for attestation, is electronically transmitted directly from the clerk to the registered e-filer or any other person or entity; or

(b) the paper document is issued by the clerk bearing the physical seal of the court or other evidence of attestation.

APPENDIX B

Amend Supreme Court Rule 1-A as follows (new material is in **[bold and brackets]**; deleted material is in ~~strikethrough~~ format):

RULE 1-A Relationship to Other Rules

For cases commenced in the supreme court on or after ~~the date that electronic filing is implemented in the supreme court~~ **[August 6, 2018]**, these rules are supplemented by – and, as to certain matters such as the filing, format or service of a document, may be superseded by – the 2018 Supplemental Rules of the Supreme Court of New Hampshire for Electronic Filing. ~~The effective date of electronic filing shall be determined and set forth in an order issued by the supreme court.~~ **[For cases commenced in this court prior to that date, the supplemental rules do not apply absent a specific court order to the contrary.]** For cases commenced on or after that date, the 2018 supplemental rules alter these rules in the following respects, among others.

Rule 4(a) of the supplemental rules ~~provides that attorneys must submit documents to the court through the electronic filing system and that self-represented parties and nonlawyer representatives must submit documents to the court conventionally (in paper or other non-electronic format)~~ **[establishes the circumstances in which the requirement of electronic filing applies. For cases commenced in this court on or after August 6, 2018, but prior to January 1, 2020, attorneys must submit all documents through the court’s electronic filing system; self-represented parties and nonlawyer representatives must submit documents to the court conventionally (in paper or other non-electronic format). For cases commenced in this court on or after January 1, 2020, attorneys, self-represented parties, and nonlawyer representatives must submit all documents, including notices of appeal or other case-initiating documents, through the court’s electronic filing system.]**

Rule 12 of the supplemental rules provides that a filer who submits a document to the court electronically or conventionally need not and shall not file any paper copies of the document with the court, unless otherwise ordered to do so. Rule 11(b) of the supplemental rules states that the colored-cover, binding, and related requirements of these rules do not apply to a document that is filed electronically. Rule 11(g) of the supplemental rules provides that a document that is filed conventionally must be printed only on the front side of each page, be logically organized and separate from other documents, and be submitted to the

court with no tabs, durable bindings, or difficult-to-remove fasteners that would interfere with the clerk's ability to scan or otherwise convert the document into an electronic document for entry in the court's electronic case file. Rule 18 of the supplemental rules modifies Rule 26 of these rules by requiring attorneys **[persons]** who have registered in the electronic filing system **[, and who are mandatory electronic filers in the case,]** to serve filed documents upon each other through the electronic filing system.

Accordingly, self-represented parties, nonlawyer representatives, and attorneys involved in a case commenced in the supreme court on or after ~~the date that electronic filing is implemented in the court~~ **[August 6, 2018,]** must review both the ~~2018~~ supplemental rules and these rules to ensure that their filings, whether electronic or conventional, comply with all applicable rules.

APPENDIX C

Amend Supreme Court Rule 5 as follows (new material is in **[bold and brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 5. Docketing the Case: Filing the Record.

(1) In an appeal from a trial court decision on the merits pursuant to Rule 7, the party appealing shall pay the entry fee prescribed by the supreme court and, unless differently provided by law, shall simultaneously file ~~the original and 8 copies~~ of the notice of appeal, **[including]** ~~and~~ of the attachments mentioned on the applicable notice of appeal form, in the office of the clerk of this court, 1 copy with each of the parties, and ~~2 (or where appropriate, 3) copies~~ **[1 copy]** with the office of the clerk of the court from which the appeal is taken~~.]~~ ~~(including a register of probate). The clerk of the trial court shall provide a copy to the judge and master.~~

In an interlocutory appeal from a ruling and in an appeal from an administrative agency by petition, the party appealing, and in an interlocutory transfer without ruling and in a petition requesting the supreme court to exercise its original jurisdiction, the plaintiff shall pay the entry fee prescribed by the supreme court and shall simultaneously file ~~the original and 8 copies~~ of the required forms in the office of the clerk of this court, 1 copy with each of the parties, and ~~2 (where appropriate, 3) copies~~ **[1 copy]** with the office of the clerk of the court or agency from which the appeal or transfer is taken ~~(including a register of probate). The clerk of the trial court shall provide a copy to the judge and master.~~

In all criminal appeals and appeals from an administrative agency, the appealing party shall simultaneously file 1 copy of the notice of appeal with the attorney general.

A cross-appeal by another party shall be docketed in the same manner, accompanied by the required entry fee, subject to Rule 7(5) or Rule 10(9).

A motion to extend time to file an appeal document, when not accompanied by the appeal document, shall be docketed upon the filing of ~~an original and 7 copies~~ of the motion, accompanied by the required entry fee. The moving party shall simultaneously file 1 copy with each of the parties, 1 copy with the office of the clerk of the court

or agency from which the appeal or transfer is taken, and (in the case of a criminal appeal or an appeal from an administrative agency) 1 copy with the attorney general. A motion to extend time to file an appeal shall be granted only in exceptional circumstances. See Rule 21(6).

(2) The court may upon motion waive payment of the entry fee in exceptional circumstances. Such motion shall be filed at the same time the notice of appeal or other appeal form is filed.

In any criminal case where the defendant is indigent and wishes to be represented by appointed counsel, a petition for assignment of counsel or for continued assignment of counsel and supporting affidavit **[financial statement]** of indigency shall be filed in this court at the same time the notice of appeal is filed. It is essential that Rule 32 be complied with.

(3) A case may be docketed under the title given to it in the trial court or administrative agency from which the case is transferred, or the supreme court may process and report the case under a new name or names.

(4) If the moving party shall fail to cause timely docketing of the case, in accordance with the requirements of these rules, or transmission of the record or to pay the entry fee, if one is required, the case shall be dismissed.

(5) Any person not complying with Supreme Court procedural rules may be assessed any postage or copying costs incurred by the clerk's office in obtaining compliance with these procedural rules.

APPENDIX D

Amend Supreme Court Rule 6 follows (new material is in **[bold and brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 6. Form of Cases and Appendices.

(1) Filings of cases and appendices ~~by attorneys~~ shall be made through the court's electronic filing system, unless ~~either~~ the case or case-initiating document is exempt or unless the ~~attorney~~ **[person]** filing the case **[is exempt or]** has filed a motion to be excused from the requirement of electronic filing in accordance with the 2018 Supplemental Rules of the Supreme Court of New Hampshire for Electronic Filing. ~~Filings of cases and appendices by self-represented parties and nonlawyers representatives shall not be made through the court's electronic filing system.~~

(2) If the filing of the case and any appendix is not made through the court's electronic filing system, the case-initiating document and any appendix must be submitted to the court conventionally (non-electronically) in accordance with Rule 26 and may be prepared using a printing, duplicating or copying process capable of producing a clear letter quality black image on white paper, but shall not include ordinary carbon copies. Unless submitted through the court's electronic filing system, each filing of a case shall be upon good quality, nonclinging paper 8 ½ by 11 inches in size. If timely filings do not conform to this rule or are not clearly legible, the clerk of the court may require that new copies be substituted, but the filings shall not thereby be deemed untimely.

(3) The front cover of the filing of a case and of the appendix, if the appendix is separately produced, shall contain: (1) The name of this court; (2) The docket number, after one has been assigned; (3) The title of the case; (4) The nature of the proceeding in this court, *e.g.*, appeal by petition; and (5) The names and addresses of counsel for the party filing the case. *See form in appendix to these rules.*

(4) Whenever the pertinent text of constitutions, statutes, ordinances, rules, regulations, insurance policies, contracts or other documents is to be set forth in an appendix, it need not be typewritten, but may be produced by an easily readable duplicating or dry copying process.

(5) Each request for findings of fact and rulings of law set forth in a notice of appeal or appendix shall indicate on the margin whether they

have been "granted," "denied" or "not ruled upon" by the master or the court.

APPENDIX E

Amend Supreme Court Rule 7 as follows (new material is in **and brackets**]; deleted material is in ~~strikethrough~~ format):

Rule 7. Appeal from Trial Court Decision on the Merits.

(1)(A) *Mandatory appeals.*

Unless otherwise provided by law or by these rules, a mandatory appeal, other than an appeal in a parental notification case under RSA 132:34, shall be by notice of appeal in the form of notice of appeal approved by the supreme court for the filing of a mandatory appeal (“Notice of Mandatory Appeal” form). Such an appeal shall be filed by the moving party within 30 days from the date on the clerk’s written notice of the decision on the merits or, in the case of a sentence imposed in a criminal or juvenile delinquency proceeding, within 30 days of the date the sentence is pronounced.

(B) *Other appeals from trial court decisions on the merits.*

The supreme court may, in its discretion, decline to accept an appeal, other than a mandatory appeal, or any question raised therein, from a trial court after a decision on the merits, or may summarily dispose of such an appeal, or any question raised therein, as provided in Rule 25. Unless otherwise provided by law or by these rules, an appeal from a trial court decision on the merits other than a mandatory appeal shall be by notice of appeal in the form of notice of appeal approved by the supreme court for the filing of such an appeal (“Notice of Discretionary Appeal” form). Such an appeal shall be filed by the moving party within 30 days from the date on the clerk’s written notice of the decision on the merits or, in the case of a sentence imposed in a criminal or juvenile delinquency proceeding, within 30 days of the date the sentence is pronounced.

(C) The definition of “decision on the merits” in Rule 3 includes decisions on motions made after an order, verdict, opinion, decree or sentence. A timely filed post-decision motion stays the running of the appeal period for all parties to the case in the trial court including those not filing the motion. If the trial court’s decision on a post-decision motion creates a newly-losing party, and the newly-losing party files a timely motion for reconsideration, such motion will further stay the running of the appeal period for all parties to the case in the trial court including those not filing the motion. Untimely filed post-

decision motions will not stay the running of the appeal period unless the trial court waives the untimeliness within the appeal period. In the absence of an express waiver of the untimeliness made by the trial court within the appeal period, the appeal period is not extended even if the trial court rules on the merits of an untimely filed post-decision motion. Successive post-decision motions filed by a party that is not a newly-losing party will not stay the running of the appeal period. See *Petition of Ellis*, 138 N.H. 159 (1993) ; ~~see also Super. Ct. (Crim.) Rule 59 A; Super. Ct. (Civ.) Rule 12(e).~~

In criminal appeals, the time for filing a notice of appeal shall be within 30 days from the date of sentencing or the date of the clerk's written notice of disposition of post-decision motions, whichever is later, provided, however, that the date of the clerk's written notice of disposition of post-decision motion shall not be used to calculate the time for filing a notice of appeal in criminal cases if the post-decision motion was filed more than 10 days after sentencing.

(2) An appeal shall be deemed filed when ~~the original and all copies of~~ the notice of appeal in proper form, together with the filing fee, ~~are~~ **[is]** received by the clerk of this court within 30 days from the date on the clerk's written notice of the decision or, in the case of a sentence imposed in a criminal or juvenile delinquency proceeding, within 30 days of the date the sentence is pronounced.

(3) An appeal permitted by law on a different form and by a different procedure shall be deemed timely filed when it is received by the clerk of this court on the form and by the procedure prescribed by law.

(4) All parties to the proceedings in the court from whose decision on the merits the appeal is being taken shall be deemed parties in this court, unless the moving party shall notify the clerk of this court in writing of the moving party's belief that one or more of the parties below has no interest in the outcome of the transfer. The moving party shall ~~mail a copy of the letter first class, or give~~ **[deliver]** ~~a copy of,~~ to each party in the proceeding below **[a copy of that written notice]**. A party thus designated as no longer interested may remain a party in this court by notifying the clerk of this court **[in writing]**, with ~~notice mailed first class or given~~ **[a copy delivered]** to the other parties, that the designated party has an interest in the transfer. Parties supporting the position of the moving party shall meet the time schedule provided for that party.

(5) If a timely notice of appeal is filed by a party, any other party may file a notice of cross-appeal within 10 days from the date on which the first notice of appeal was filed and shall pay a filing fee therewith.

(6)(A) The appealing party in a mandatory appeal shall attach **[or appendix]** to the notice of appeal the decision below, the clerk's written notice of the decision below, any order disposing of a timely-filed post-trial motion, and the clerk's written notice of any order disposing of a timely-filed post-trial motion.

(B) The appealing party in an appeal other than a mandatory appeal shall attach **[or appendix]** to the notice of appeal the decision below, the clerk's written notice of the decision below, any order disposing of a timely-filed post-trial motion, and the clerk's written notice of any order disposing of a timely-filed post-trial motion. Any other pleadings and documents that the appealing party believes are necessary for the court to evaluate the specific questions raised on appeal and to determine whether the appeal is timely filed shall be filed as a separate appendix. The appendix shall contain a table of contents referring to numbered pages, ~~and only 8 copies shall be filed.~~ Note: *Also see Rule 26(5).* If a ground for appeal is the legal sufficiency of the evidence, the question in the notice of appeal form raising that ground shall contain a succinct statement of why the evidence is alleged to be insufficient as a matter of law.

APPENDIX F

Amend Supreme Court Rule 8 as follows (new material is in **[bold and brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 8. Interlocutory Appeal From Ruling.

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

(2) The interlocutory appeal statement shall have annexed **[or appended]** to it a copy of the order or ruling from which interlocutory appeal is sought, a copy of any findings of fact and rulings of law relating to the order or ruling, and a copy of the pertinent text of the constitutions, statutes, ordinances, rules, regulations, insurance policies, contracts, or other documents involved in the case. If any documents are annexed **[or appended]** to the interlocutory appeal statement, then the interlocutory appeal statement shall contain a table of contents. If a copy of the pertinent text of the constitutions, statutes and other documents aggregates more than 5 pages, it may instead be filed as a separate appendix, including a table of contents referring to numbered pages, ~~and only 8 copies shall be filed~~. Note: *Also see* Rule 26(5).

(3) The moving party shall file ~~the original and 8 copies of~~ the interlocutory appeal statement, accompanied by the required filing fee, within 10 days from the date on the trial court's written notice to the parties that the trial court has signed the interlocutory appeal statement.

(4) The supreme court's refusal to accept an interlocutory appeal shall be without prejudice to any challenge to the trial court's order or ruling in a subsequent appeal pursuant to Rule 7.

APPENDIX G

Amend Supreme Court Rule 9 as follows (new material is in **[bold and brackets]**; deleted material is in ~~striketrough~~ format):

Rule 9. Interlocutory Transfer without Ruling.

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

(2) The interlocutory transfer statement shall have annexed **[or appended]** to it a copy of the pertinent text of the constitutions, statutes, ordinances, rules, regulations, insurance policies, contracts, or other documents involved in the case. If any documents are annexed **[or appended]** to the interlocutory transfer statement, then the interlocutory transfer statement shall contain a table of contents. If a copy of the pertinent text of the constitutions, statutes and other documents aggregates more than 5 pages, it may instead be filed as a separate appendix, including a table of contents referring to numbered pages, ~~and 8 copies shall be filed.~~

(3) The moving party shall file ~~the original and 8 copies of the~~ interlocutory transfer accompanied by the required entry fee within 10

days from the date on the trial court's or administrative agency's written notice to the parties that the trial court or administrative agency has signed the interlocutory transfer.

APPENDIX H

Amend Supreme Court Rule 10 as follows (new material is in **[bold and brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 10. Appeal from Administrative Agency.

(1) The supreme court may, in its discretion, decline to accept an appeal, or any question raised therein, from an order of an administrative agency, or may summarily dispose of such an appeal, or any question raised therein, as provided in Rule 25. Review of an order of an administrative agency, when authorized by law, shall be obtained by filing ~~the original and 8 copies of~~ (a) an appeal under RSA 541; (b) in the case of an appeal from the department of employment security, an appeal under RSA 282-A:67; or (c) a petition for writ of certiorari if otherwise, accompanied by the required entry fee within the time prescribed by law. No entry fee will be required for an appeal filed by an individual claiming benefits under the unemployment compensation statute in accordance with RSA 282-A:158.

NOTE: To appeal to the supreme court from an administrative agency under RSA 541, the appealing party must have timely filed for a rehearing with the administrative agency. See RSA 541:4 and *Appeal of White Mountains Education Association*, 125 N.H. 771 (1984). The time period for the appeal does not begin to run until the administrative agency has acted upon the motion.

The appeal or petition, including any appeal from the department of employment security filed pursuant to RSA 282-A:67, shall as far as possible and in the order listed below:

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

(b) Contain, or have annexed **[or appended]** to it, a copy of the administrative agency's findings and rulings, a copy of the order sought to be reviewed, a copy of the motion for rehearing and all objections thereto, and a copy of the order on the motion for rehearing. The appeal or petition, and any appendix that may be filed, shall contain a table of contents.

(c) Specify the questions presented for review, expressed in the terms and circumstances of the case, but without unnecessary detail. The statement of a question presented will be deemed to include every subsidiary question fairly comprised therein. Only the questions set forth in the petition or fairly comprised therein will be considered by the court.

(d) Specify the provisions of the constitutions, statutes, ordinances, rules, or regulations involved in the case, setting them out verbatim, and giving their citation. If the provisions to be set out verbatim are lengthy, their citation alone will suffice at that point and their pertinent text shall be annexed **[or appended]** to the petition. If the provisions aggregate more than 5 pages, their text may be filed as a separate appendix, including a table of contents referring to numbered pages, ~~and 8 copies shall be filed.~~

(e) Specify the provisions of insurance policies, contracts, or other documents involved in the case, setting them out verbatim. If the provisions to be set out verbatim are lengthy, their pertinent text shall be annexed **[or appended]** to the petition. If the provisions aggregate more than 5 pages, their text may be filed as a separate appendix, including a table of contents referring to numbered pages, ~~and 8 copies shall be filed.~~

(f) Set forth a concise statement of the case containing the facts material to the consideration of the questions presented, with appropriate references to the transcript, if any.

(g) State the jurisdictional basis for the appeal, citing the relevant statutes or cases.

(h) A direct and concise statement of the reasons why a substantial basis exists for a difference of opinion on the question and why the acceptance of the appeal would protect a party from substantial and irreparable injury, or present the opportunity to decide, modify or clarify an issue of general importance in the administration of justice.

(i) A statement that every issue specifically raised has been presented to the administrative agency and has been properly preserved for appellate review by a contemporaneous objection or, where appropriate, by a properly filed pleading.

(2) The order sought to be reviewed or enforced, the findings and rulings, or the report on which the order is based, and the pleadings, evidence, and proceedings before the agency shall constitute the record on appeal.

NOTE: The moving party in any appeal brought pursuant to RSA chapter 541 is required initially to bear the full, reasonable cost of preparing a transcript for inclusion in the record. *Appeal of City of Manchester*, 149 N.H. 283, 290 (1999). To request that a transcript be prepared and included in the record on appeal, the moving party should consult the administrative agency's regulations and/or RSA 541-A:31. Unless the moving party requests that a transcript be prepared, in compliance with the administrative agency's regulations and/or RSA 541-A:31, no transcript will be prepared for inclusion in the record.

Absent a transcript of the proceedings below, the supreme court generally will assume that the evidence was sufficient to support the result reached by the administrative agency. If the appealing party fails to ensure that a transcript is prepared, the supreme court may not review issues that the appealing party has raised. *Cf. Bean v. Red Oak Prop. Mgmt.*, 151 N.H. 248 (2004).

(3) The administrative agency, complying with the provisions of Rule 6(2) as to form, shall file the record with the clerk of the supreme court as early as possible within 60 days after it has received the supreme court's order of notice. The original papers in the agency proceeding or certified copies may be filed. At the beginning of the record there shall be inserted a table of contents with references to the page of the record at which each item listed in the table of contents begins.

(4) The parties may designate by stipulation filed with the clerk of the supreme court that no part, or that only certain parts, of the record shall be filed with the court.

(5) If anything material to any party is omitted from the record by error or accident or is misstated in the record, the parties by stipulation may provide, or the supreme court on motion or on its own initiative may direct, that the omission or misstatement be corrected and, if necessary, that a supplemental record be prepared and filed.

(6) In lieu of the record as defined in section (2) of this rule, the parties may prepare and sign a statement of the case showing how the questions of law transferred arose and were decided, and setting forth

only so many of the facts as are essential to a decision of the questions presented.

(7) Notice by serving, delivering or mailing a copy of the appeal or petition upon all parties or opponents below as well as the agency involved and the attorney general is the responsibility of the moving party, and a certificate of compliance stating their names and addresses must be filed with the petition.

(8) If a timely appeal or petition is filed by a party appealing from an administrative agency, any other party may file a cross-appeal or cross-petition within 10 days from the date on which the appeal or petition was docketed with this court, and shall pay a filing fee therewith, provided that the party filing the cross-appeal or cross-petition must have timely filed any required motion for rehearing with the administrative agency.

APPENDIX I

Amend Supreme Court Rule 11 as follows (new material is in **bold and brackets**]; deleted material is in ~~strikethrough~~ format):

Rule 11. Petition for Original Jurisdiction.

(1) Petitions requesting this court to exercise its original jurisdiction shall be granted only when there are special and important reasons for doing so. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of the reasons that will be considered: When a trial court or administrative agency has decided a question of substance not theretofore determined by this court; or has decided it in a way probably not in accord with applicable decisions of this court; or has so far departed from the accepted or usual course of judicial or administrative agency proceedings as to call for an exercise of this court's power of supervision.

(2) A petition shall, as far as possible, contain in the order stated:

(a) A copy of the decision sought to be reviewed, if there is such a decision]. **The decision shall be annexed or appended to the petition**];

(b) The questions presented for review, expressed in the terms and circumstances of the case, but without unnecessary detail. The statement of a question presented will be deemed to include every subsidiary question fairly comprised therein. Only the questions set forth in the petition or fairly comprised therein will be considered by the court;

(c) The provisions of the constitutions, statutes, ordinances, rules, or regulations involved in the case, setting them out verbatim, and giving their citation. If the provisions to be set out verbatim are lengthy, their citation alone will suffice at that point, and their pertinent text shall be annexed **[or appended]** to the petition. If any documents are annexed **[or appended]** to the petition, then the petition shall contain a table of contents. If the provisions aggregate more than 5 pages, their text may be filed as a separate appendix, including a table of contents referring to numbered pages, ~~and 8 copies shall be filed~~;

(d) The provisions of insurance policies, contracts, or other documents involved in the case, setting them out verbatim. If the

provisions to be set out verbatim are lengthy, their pertinent text shall be annexed **[or appended]** to the petition. If any documents are annexed **[or appended]** to the petition, then the petition shall contain a table of contents. If the provisions aggregate more than 5 pages, their text may be filed as a separate appendix, including a table of contents referring to numbered pages, ~~and 8 copies shall be filed;~~

(e) A concise statement of the case containing the facts material to the consideration of the questions presented, with appropriate references to the appendix, if any;

(f) A concise statement specifying the stage of the proceedings in the trial court or administrative agency at which the questions sought to be reviewed were raised, the manner in which they were raised, and the way in which they were passed upon by the trial court or administrative agency;

(g) A direct and concise argument amplifying the reasons relied upon for petitioning this court to exercise its original jurisdiction (see section 1 above) and setting forth why the relief sought is not available in any other court or cannot be had through other processes;

(h) The jurisdictional basis for the petition, citing the relevant statutes or cases;

(i) A statement, if applicable, that every issue specifically raised has been presented to the trial court or administrative agency and has been properly preserved for appellate review by a contemporaneous objection or, where appropriate, by a properly filed pleading;

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

(k) A statement as to whether a transcript of any proceedings will be necessary if the petition is accepted for further review by the court. If a transcript will be necessary if the petition is accepted, then the petition shall also contain a Transcript Order Form. (The Transcript Order Form appears as part of the two Notice of Appeal Forms that may be found in the appendix to these rules.)

All argument in support of the petition shall be set forth in the body of the petition. No separate brief in support of the petition shall be filed, and the court shall not consider any supporting brief.

(3) The failure of a petition to present with accuracy, brevity and clearness whatever is essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying the petition.

(4) If several cases involve identical or closely related questions, a single petition covering all the cases shall suffice.

(5) ~~The original and 8 copies of the~~ petition shall be filed with the clerk of this court, accompanied by the filing fee. If the action is against the State, the petition must be served on the attorney general. Notice by serving, delivering or mailing a copy of the petition upon all parties or opponents below as well as the court or agency involved is the responsibility of the moving party, and a certificate of compliance stating their names and addresses must be filed with the petition.

(6) If the supreme court is of the opinion that the petition should not be granted, it shall deny the petition. The supreme court may, in its discretion, accept and schedule for briefing, with or without oral argument, any question presented in the petition.

The supreme court may order that an answer to the petition be filed within the time fixed by the order. Two or more parties may answer jointly. Persons named as parties but having no interest in the outcome of the petition shall notify the clerk of the supreme court in writing that they have no interest in the proceedings and in the outcome.

Amend Supreme Court Rule 25 as follows (new material is in **and brackets**]; deleted material is in ~~format~~):

Rule 25. Summary Disposition.

(1) Except in a mandatory appeal, the supreme court may at any time, on its own motion and without notice or on such notice as it may order, dispose of a case, or any question raised therein, summarily. An order of summary affirmance under this rule may be entered when (a) no substantial question of law is presented and the supreme court does not disagree with the result below, or (b) the case includes the opinion of the trial court, which identifies and discusses the issues presented and with which the supreme court does not disagree, or (c) the case includes the decision of the administrative agency appealed from, and no substantial question of law is presented and the supreme court does not find the decision unjust or unreasonable, or (d) other just cause exists for summary affirmance, in which case the order shall contain a succinct statement of the reason for affirmance. An order of summary dismissal under this rule may be entered when the supreme court has not considered the merits, because the court clearly lacks jurisdiction, or other just cause for summary dismissal exists, in which case the order shall contain a succinct statement of the reason for dismissal. An order of summary reversal may be made by the supreme court under this rule for just cause and the order shall contain a succinct statement of the reason therefor.

(2) Except in a mandatory appeal, a party may move for summary disposition of a docketed case by filing ~~an original and 7 copies of~~ a motion for summary reversal or affirmance within 20 days of the filing of the appeal. The party shall serve a copy of the motion on the opposing party. No motion for summary disposition of a docketed case shall be accepted after 20 days from the filing of the appeal, except if such motion is for the purpose of bringing to the court's attention the effect that an opinion issued since the filing of the docketed case may have on the docketed case. The opposing party has 10 days from the date of filing of any motion for summary disposition within which to file ~~an original and 7 copies of~~ a response to the motion. The supreme court may at any time, on such motion or response or both, or on its own motion, without notice or on such notice as the court may order, dispose of the case summarily.

(3) The motion for summary disposition and the response to it may each be accompanied by ~~an original and 7 copies~~ of a memorandum of law.

(4) The filing of a motion for summary disposition and of a response shall not toll any time limitations established by law, rule, or order.

(5) Cases summarily disposed of under this rule shall not be regarded as establishing precedent or be cited as authority.

(6) In a mandatory appeal, no motions for summary affirmance or summary reversal shall be filed. No such motion shall be considered or acted upon by the court.

(7) In a mandatory appeal, any party may file a motion to dismiss the appeal based upon lack of subject matter jurisdiction, mootness, untimeliness, or other cause unrelated to the merits of the appeal. The court may, without the issuance of any order, defer ruling upon the motion until after briefs are filed and oral argument, if any, is held. Any order or decision by the court disposing of the case on the merits shall be deemed to be a denial of any pending motion to dismiss.

In a mandatory appeal, the supreme court may at any time, on its own motion and without notice or on such notice as it may order, dismiss the appeal based upon lack of subject matter jurisdiction, mootness, untimeliness, or other cause unrelated to the merits of the appeal.

(8) The supreme court may, after briefing, oral argument (if any), and consideration of the record on appeal, decide a case on the merits, or any question therein, without a statement of reasons, except that an order reversing the decision below shall contain a succinct statement of the reason therefor.

APPENDIX K

Amend Supreme Court Rule 32 as follows (new material is in **bold and brackets**]; deleted material is in ~~strikethrough~~ format):

Rule 32. Counsel in Criminal Cases.

(1) Whether retained by the defendant or appointed by a trial court, trial counsel in a criminal case shall be responsible for representing the defendant in the supreme court unless the supreme court relieves counsel from this responsibility for good cause shown.

(2) A motion to withdraw as counsel on appeal in a criminal case must state reasons that would warrant the grant of leave to withdraw. Unless prior approval has been obtained from the court for good cause shown upon exceptional circumstances, the motion must be accompanied by either:

(a) A showing that new counsel has been appointed or retained to represent the defendant; or

(b) The defendant's completed **[Request for a Lawyer form (financial statement)]** "~~Financial Affidavit & Application for Court Appointed Counsel~~" (OCC Form 4) or a showing that a **[Request for a Lawyer form]** "~~Financial Affidavit & Application for Court Appointed Counsel~~" (OCC Form 4) has been filed.

(3) Trial counsel shall continue to participate until and unless the motion to withdraw is approved by the supreme court.

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

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

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

APPENDIX L

Amend Supreme Court Rule 32-A as follows (new material is in **[bold and brackets]**; deleted material is in ~~strikethrough~~ format):

Rule 32-A. Counsel in Guardianship, Involuntary Admission, and Termination of Parental Rights Cases.

(1) Whether retained by the party or appointed by a trial court, trial counsel in a guardianship case commenced by the filing of a petition pursuant to RSA 464-A:4 or RSA 464-A:12, an involuntary admission case commenced by the filing of a petition pursuant to RSA 135-C:36, a civil commitment case filed under RSA 135-E, a termination of parental rights case commenced by the filing of a petition pursuant to RSA 170-C:4, or an involuntary admission case filed under RSA 171-B, shall be responsible for representing the party in the supreme court unless the supreme court relieves counsel from this responsibility for good cause shown. When the party clearly indicates to counsel a desire to appeal, counsel shall be responsible for the filing of a notice of appeal. Provided, however, that if counsel concludes that the appeal is frivolous, counsel must first attempt to persuade the party not to appeal. If, however, the party insists on appealing, counsel shall file the notice of appeal, setting forth therein all arguable issues. If counsel is thereafter ordered to file a brief, counsel shall examine the record and again determine whether any nonfrivolous arguments exist. If counsel concludes that the appeal is frivolous, counsel shall again advise the party to withdraw the appeal. If the party decides not to withdraw the appeal, counsel shall file a brief that argues the party's case as well as possible. In such a case, the assertion of a frivolous issue before the court shall not constitute a violation of New Hampshire Rule of Professional Conduct 3.1. However, in no case shall counsel deceive or mislead the court, or deliberately omit facts or authority that directly contradict counsel's arguments. *Cf. State v. Cigic*, 138 N.H. 313, 318 (1994) (explaining scope of exception to Professional Conduct Rule 3.1 for asserting frivolous issues in criminal appeals).

(2) A motion to withdraw as counsel on appeal in a guardianship case commenced by the filing of a petition pursuant to RSA 464-A:4 or RSA 464-A:12, an involuntary admission case commenced by the filing of a petition pursuant to RSA 135-C:36, a civil commitment case filed under RSA 135-E, a termination of parental rights case commenced by the filing of a petition pursuant to RSA 170-C:4, or an involuntary admission case filed under RSA 171-B, must state reasons that would warrant the grant of leave to withdraw. Absent a showing of

exceptional circumstances, the motion must be accompanied by a showing that new counsel has been appointed by the trial court or retained to represent the party on appeal.

(3) Trial counsel shall continue to participate until and unless the motion to withdraw is approved by the supreme court.

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