THE STATE OF NEW HAMPSHIRE
SUPREME COURT
ADVISORY COMMITTEE ON RULES

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Carolyn Koegler, Secretary

April 1, 2016

Eileen Fox
Clerk of Court
New Hampshire Supreme Court
1 Charles Doe Drive
Concord, NH 03301

Dear Ms. Fox:

Pursuant to Supreme Court Rule 51 (amended January 1, 2016), I hereby submit on behalf of the Supreme Court Advisory Committee on Rules ("Committee") the Committee's April 1, 2016 report, which contains the final draft of proposed rules and amendments recommended for adoption by the Committee between September 2015 and April 2016. Not included in this submission are proposals that were previously submitted to the Court during this time period. The Committee held public meetings on September 11, 2015, December 4, 2015 and March 11, 2016. The Committee also held a public hearing on December 4, 2016.

The Committee voted to recommend adoption of the following proposed rules and amendments.

A. Interlocutory Appeals

2013-002. Supreme Court Rule 3 and Rule 46 of the Rules of the Superior Court of the State of New Hampshire Applicable in Civil Actions. The proposed amendment to Superior Court (Civ.) Rule 46 would adopt a rule, similar to Federal Rule of Civil Procedure 54(b), which would allow a court to direct that an order or portion of an order that finally resolves the case as to one or more, but fewer than all, the claims or parties be treated as a final decision on the merits if the court expressly determines that there is no just reason for delay. A related proposed amendment would amend Supreme Court Rule 3 to provide that an appeal from such a decision is a mandatory appeal.

As is reflected in a January 8, 2013 memo, the Court asked the Committee to consider whether a rule amendment should be adopted that provides a mechanism for the trial court to certify (either on its own, or on motion, or both) that an order that would otherwise be interlocutory is final and immediately appealable. At the Committee's meeting in March 2013, attorney Ardinger agreed to chair a subcommittee to address this issue. Following attorney Ardinger's resignation from the Advisory Committee on Rules in December 2014, attorney Joshua Gordon agreed to chair a subcommittee to address the issue.

At the June 2015 meeting, attorney Gordon reported that he had worked with a subcommittee consisting of Judge Delker, attorney Bill Glahn, attorney David Slawsky and Karen Anderson. He submitted a May 15, 2015 memo to the Committee containing a proposal to amend Superior Court Rule 46. There was considerable discussion at the June meeting about whether an order issued pursuant to the proposed rule would be a mandatory or discretionary appeal. At the September 2015 meeting, following further discussion of the issue, the Committee concluded that it believed that appeals from these kinds of order should be mandatory, and a suggestion was made to recommend that the Supreme Court rules also be amended to make clear that these kinds of appeals are mandatory appeals. The Committee then voted to put out for public hearing a proposal to amend Superior Court (Civ.) Rule 46 and Supreme Court Rule 3.

No one appeared at the December public hearing to offer comment. However, two written comments were submitted about the proposal. Attorney David Slawsky submitted a comment by email dated October 7, 2015 expressing concerns about the proposal. Deputy Clerk of the New Hampshire Supreme Court, attorney Tim Gudas, submitted a comment to the Committee by memo dated December 3, 2015.

At the meeting following the public hearing, Committee members discussed attorney Gudas' written comment on the proposal. In the memo, attorney Gudas expressed concern about the language being proposed, and stated that he believed that the language should be amended to make clear that an appeal from a Superior Court Rule 46(b) order should only be treated as a mandatory appeal if a final decision on the merits of that entire case

would be a mandatory appeal. Attorney Gudas also expressed concern "about characterizing every appeal from a Superior Court Rule 46(b) order as a 'mandatory appeal' even as to those cases in which a truly final order (resolving all claims and all parties) would give rise to a mandatory appeal."

Following some discussion of the issue, and upon motion made and seconded, the Committee voted to recommend the proposal for adoption, with the amendments proposed by attorney Gudas to add the language "if a final decision on the merits of the entire case would be a mandatory appeal" to the proposed amendments to Supreme Court Rule 3 and Superior Court Rule 46(b), as set forth in Appendices A and B. The Committee did not specifically address the second concern about the proposal attorney Gudas raised.

B. Circuit Court – Family Division Rule 2.29

2015-007. This proposed amendment to Circuit Court- Family Division Rule 2.29 would clarify when decrees become effective in family division cases.

Attorney Gordon first brought to the Committee's attention concerns he has about the use of the word "final" in family division cases in a March 11, 2015 email. His concerns are more fully explained in a May 30, 2015 memorandum to the Committee. In the memo, he notes that the use of the word "final" in New Hampshire jurisprudence is "highly ambiguous," that the word is used throughout the rules for all courts, and that it can refer to two different concepts, sometimes in the same rule. "Final" can mean both: (1) the earliest date an order becomes *effective*, and (2) the latest date an order is *appealable.* Attorney Gordon notes in his memo that while this problem exists throughout the rules applying in all courts and should probably be comprehensively addressed, it seems to be most problematic in family division cases. On page 5 of his memo, attorney Gordon proposed a simple technical fix – that is, to change the word "final" in Family Division Rule 2.29B to "effective" each time it appears.

At the June 2015 meeting, Committee members expressed a number of concerns about the proposal set forth in the May 30 memo. Attorney Gordon agreed to work on the proposal and to present another proposal to the Committee for consideration at the September 11 meeting.

At the September meeting, the Committee considered a September 10, 2015 memorandum submitted by a "Subcommittee on Finality, comprised of: Judge Susan Carbon, Attorneys Kysa Crusco, Joshua Gordon, Honey Hastings, Pat Ryan, Rebecca Wagner and Circuit Court Clerk Pat Spencer." At the meeting, Attorney Gordon explained that the subcommittee's goal was to propose language to: (1) make the finality rule in domestic relations cases clear and unambiguous; (2) put all of the relevant rules in one place so that they are accessible to all; and (3) create a default rule that puts into effect

orders that ought to be in effect immediately, but also provides judges with discretion to adjust this when it is appropriate to do so. He stated that the subcommittee believes that the language set forth in the draft rule on page 3 of the September 10, 2015 memo accomplishes these goals. Attorney Honey Hastings spoke at the meeting and urged the Committee to recommend the changes.

The Committee also considered at the September meeting a September 3, 2015 submission to the Committee from Justice Lynn. Attorney Hastings stated that she had reviewed the submission and appreciates the effort to simplify the rule, but believes that the detail contained in the subcommittee's proposal is necessary.

There was extensive discussion regarding the proposal set forth in the September 10 memorandum. Attorney Gordon agreed to redraft the language set forth in the proposal to take into consideration the Committee's comments. Upon motion made and seconded, the Committee voted to put the subcommittee's proposal to amend Family Division Rule 2.29, as amended by the Committee at the September meeting, out for public hearing in December. A September 15, 2015 memorandum to the Committee submitted by attorneys Joshua Gordon and Honey Hastings identifies and explains the reasons for the changes the subcommittee made to the proposed rule 2.29 after the September meeting. The language set forth in the September 15, 2015 memorandum is almost identical to the language set forth in the public hearing notice.

Prior to the December hearing, in a memo dated December 2, Justice Lynn raised some concerns about the language set forth in the public hearing notice and proposed some changes. In a December 4 email to the Committee, attorney Gordon responded to Justice Lynn's proposed new language.

There was extensive discussion by the Committee during the December 4 public hearing about Justice Lynn's concerns and attorney Gordon's response to them. There was also discussion about a December 4 email comment submitted by attorney Tim Gudas, Deputy Clerk of the New Hampshire Supreme Court. Attorney Honey Hastings spoke in support of the proposal and offered comment on the concerns raised about it. Attorney Patti Blanchette also addressed the Committee. She spoke at length about a recent divorce case she had in which alimony was linked to property, which caused a great deal of confusion regarding the effective date of the order.

At the meeting following the public hearing, the Committee agreed to make the following amendments to the proposal set forth in the public hearing notice:

- To make both changes to 2.29(B)(1) proposed by Justice Lynn in his December 2 memo;

- To add the phrase to 2.29(B)(1) "either orally or in writing" following "unless the court specifies;"
- To change in 2.29(B)(4) the language "marital or parental status" to "marital status or parentage," to address a concern raised by attorney Gudas;
- To add the language in 2.29(B)(4), "whichever is last," following, "as the supreme court may order;"
- To delete 2.29(D) and add the language proposed by Attorney Gordon in his December 4 memo to the Committee to Family Division Rule 2.3 ("Beginning of a Legal Action") as a new section.

The Committee did not discuss the following concern raised by attorney Gudas in his December 4 email to the Committee:

> in order to remove any possible confusion as to the triggering date for the thirty-day appeal period if the trial court either orally announces a decision several days before issuance of the clerk's notice of decision (see Rule 2.29(B)(1)) or specifies an effective date, for example, in 45 days (see Rule 2.29(B)(2) and (3)), it might make sense to add a new subsection 5 along the following lines: "Nothing in this Rule modifies Family Division Rule 1.31 or Supreme Court Rule 7 as to the time for filing an appeal." (Both of those Rules make clear that the clerk's notice of decision triggers the running of the appeal period.)

Nor did the Committee expressly address a concern raised by attorney Pat Ryan regarding deleting the language from Rule 2.29(D) and adding the language proposed in attorney Gordon's December 4 memo to Family Division Rule 2.3. Attorney Ryan believes that deleting Rule 2.29(D) will interrupt the flow of the rules.

Upon motion made and seconded, the Committee voted to recommend the proposal for adoption, as amended, as set forth in Appendices C and D.

C. Fees for Copied Material – Superior and Circuit Court Rules

2015-013 and 2015-014. Both the Superior Court and the Circuit Court submitted proposals to amend the rules relating to the fees to be charged to people who request copies of court documents. In both courts, the fee currently charged for all copied material is $.50 per page.

In a June 10, 2015 letter to Justice Lynn, Judge Kelly requested that the Committee consider recommending proposed amendments to the District Division Rule 3.3, Probate Division Rule 169 and Family Division Rule 1.3. In the letter, he proposed that language be added to these rules to state that the charge for copies up to ten pages will be $.25 per

page, and copies of more than 10 pages will be $.50 per page when printouts are made from court kiosks and computer screens. He explained that the reason for the proposed amendment is the implementation of electronic filing in Circuit Court. The current fee of $.50 per page is based upon the time it takes to retrieve the case file, find the document, print it and then return the document to its file. With the implementation of e-filing, and the presence of computer kiosks in the courthouse lobbies, a party may obtain a copy of a document simply by pressing print. Staff need only retrieve the document from the printer and hand it to the party requesting it. For this reason, and "since most people using the kiosks do not own their own computer and have no other way to receive and retain a copy of documents they or the responding party file electronically, [the Circuit Court] believe[s] it is a service to the public that . . . must [be] provide[ed] at a lower cost to assure the availability of filed documents to all litigants."

In a June 15, 2015 letter to Justice Lynn, Chief Justice Nadeau requested that the Rules Committee consider recommending an amendment to Superior Court (Civ.) Rule 201, for essentially the same reasons outlined in Justice Kelly's letter. However, she requested that the amendment not be made effective until electronic filing becomes mandatory in civil cases in Superior Court. Although her letter stated that this was to occur during the spring of 2016, Judge Delker informed the rules committee at the March 11, 2016 meeting that this would likely not occur until January 2017.

The Committee first considered this issue at its meeting in September 2015. A Committee member inquired why the fee increases from $.25 per page to $.50 per page when someone copies more than 10 pages. At the meeting in December, Pat Ryan reported that the reason for the increase in the fee for more than ten copies is that the Circuit Court is concerned about the large volume of records that will be printed by professionals doing background checks. Committee members discussed the issue and expressed concern about the fee difference. Another Committee member expressed the view that the fee should not be more than the cost to the State for printing. Justice Lynn proposed that the cost be $.25 per page across the court system, and that there should be no increase when someone copies more than ten pages. Judge Delker reported that the Superior Court would be comfortable with this. Pat Ryan stated that he would speak with Judge Kelly and report back to the Committee.

At the March meeting, Pat Ryan reported that the Circuit Court is comfortable with charging $.25 per page without an increase when someone copies more than ten pages.

After concluding that no public hearing on this issue would be necessary, the Committee voted to recommend that the Court adopt the changes to court rules relating to fees, as set forth in Appendices E, F, G and H.

D. Fees – Circuit Court- Probate Division

2015-014 and 2015-019. These proposed amendments would: (1) delete "Petition for Involuntary Admission" and "Petition Guardian of Incompetent Veteran" from Probate Division Rule 169 so that no fee will be applicable to either filing; and (2) delete "Photocopy of Will - $1.00/page and strike the word "other" from "all other copied material $.50/page" from Probate Division Rule 169.

The proposal to delete "Petition for Involuntary Admission" and "Petition Guardian of Incompetent Veteran" from Probate Division Rule 169(I)(C) was submitted by attorney Pat Ryan by email dated November 3, 2015. The Committee briefly considered the issue at its meeting on December 4, 2015 and concluded that no public hearing on the issue would be necessary. Upon motion made and seconded, the Committee voted to recommend that the Court adopt the proposed amendment, as set forth in Appendix I.

The proposal to delete "Photocopy of Will - $1.00/page and to strike the word "other" from "all other copied material $.50/page" was submitted by Pat Ryan by email dated August 11, 2015. Attorney Ryan explained that the goal of the amendment is to remove the special cost of copying a will which is currently in place. The Committee briefly considered the issue at its meeting on March 11, 2016 and concluded that no public hearing would be necessary. Upon motion made and seconded, the Committee voted to recommend that the Court adopt the proposed amendment, as set forth in Appendix J.

E. Rule of Professional Conduct 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law

2015-012. This proposed amendment to New Hampshire Rule of Professional Conduct 5.5 would clarify that a lawyer who is licensed in another jurisdiction but does not practice New Hampshire law does not need to obtain a license to practice law solely because the lawyer is present in New Hampshire.

New Hampshire Bar Association Ethics Committee member Attorney Rolf Goodwin submitted a proposal to the Committee by email on June 11, 2015 to amend Professional Conduct Rule 5.5 and the accompanying Ethics Committee comment. Attorney Goodwin reported that the proposal had been approved by the Ethics Committee and reviewed by the Board of Governors of the New Hampshire Bar Association. The proposal relates to the multijurisdictional practice of law, and would change the assumption that a lawyer must be licensed in New Hampshire simply because he or she happens to be present in New Hampshire. Upon motion made and seconded, the Committee voted to put the proposal out for public hearing in December.

No comments were submitted on this proposal prior to or at the December public hearing. Following brief discussion, the Committee voted to recommend that the Court adopt the proposed amendment to New Hampshire Rule of Professional Conduct 5.5, as set forth in Appendix K.

The Committee did not vote to recommend that the Supreme Court hold a public hearing on any of the proposed rule or rule amendments included in this submission.

Very Truly Yours,

Carolyn A. Koegler
Secretary

APPENDIX A

Amend Supreme Court Rule 3 ("Mandatory Appeal") (new material is in **[bold and in brackets]**) as follows:

"Mandatory appeal": A mandatory appeal shall be accepted by the supreme court for review on the merits. A mandatory appeal is an appeal filed by the State pursuant to RSA 606:10, or an appeal from a final decision on the merits issued by a superior court, district court, probate court, or family division court, **[including an appeal from an order issued pursuant to superior court rule 46(b) if a final decision on the merits of the entire case would be a mandatory appeal,]** that is in compliance with these rules. Provided, however, that the following appeals are NOT mandatory appeals:

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

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

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

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

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

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

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

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

(9) an appeal from a final decision on the merits, other than the first final order, issued in, or arising out of, a domestic relations matter filed under RSA Title XLIII (RSA chapters 457 to 461-A).

Comment

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

Under paragraph (9), only appeals from first final orders in domestic relations matters filed under RSA Title XLIII are mandatory appeals. The April 4, 2014 amendment to paragraph (9) changes the language of the prior rule which provided that only appeals from final divorce decrees or decrees of legal separation were mandatory appeals. The change addresses the claim, identified in *In the Matter of Miller & Todd*, 161 N.H. 630 (2011), that providing for mandatory review of appeals involving married parents but discretionary review of appeals involving non-married parents raises constitutional concerns.

APPENDIX B

Amend Rule 46 of the Rules of the Superior Court of the State of new Hampshire Applicable in Civil Actions (new material is in **[bold and in brackets],** deleted material is in ~~strikethrough~~ format) as follows:

Rule 46. Appeals and Transfers to Supreme Court

(a) **[*Interlocutory Appeals.*]** Whenever any question of law is to be transferred by interlocutory appeal from a ruling or by interlocutory transfer without ruling, counsel shall seasonably prepare and file with the trial court the interlocutory appeal statement or interlocutory transfer statement pursuant to Supreme Court Rule 8 or Supreme Court Rule 9, and after the court has signed the statement, counsel shall mail the number of copies provided for by the rules of the Supreme Court to the clerk thereof.

[(b) *Judgment on Multiple Claims or Involving Multiple Parties.*

(1) When, in a civil action that presents more than one claim for relief – whether as a claim, counterclaim, cross-claim, or third party claim – or where multiple parties are involved, the court enters an order that finally resolves the case as to one or more, but fewer than all, the claims or parties, the court may direct that its order, or a portion of its order, be treated as a final decision on the merits as to those claims or parties if the court:

(A) explicitly refers to this rule;

(B) identifies the specific order or part thereof that is to be treated as a final decision on the merits;

(C) articulates the reasons and factors warranting such treatment; and

(D) finds that there is an absence of any just reason for delay as to the party or claim that is to be severed from the remainder of the case.

(2) Any appeal from such an order shall be considered a mandatory appeal for purposes of Supreme Court Rule 7 if a final decision on the merits of the entire case would be a mandatory appeal, and shall be taken in accordance with subsection (c).

~~(b)~~ **[(c)]** ***[Final Judgment.]*** In all actions in which a verdict or decree is entered, or in which a motion for a nonsuit or directed verdict is granted, or in which any motion is acted upon after verdict or decree, all appeals relating to the action shall be deemed waived and final judgment shall be entered as follows, unless the court has otherwise ordered, or unless a Notice of Appeal has then been filed with the Supreme Court pursuant to its Rule 7:

(1) Where no motion, or an untimely filed motion, has been filed after verdict or decree, on the 31st day from the date on the court's written notice that the court has made the aforementioned entry, grant or dismissal; or

(2) Where a timely filed motion has been filed after verdict or decree, on the 31st day from the date on the court's written notice that the court has taken action on the motion.

~~(c)~~ **[(d)]** The court shall not grant any requests for extensions of time to file an appeal document in the Supreme Court or requests for late entry of an appeal document in the Supreme Court; such requests shall be filed with the Supreme Court. *See* Supreme Court Rule 21(6).

~~(d)~~ **[(e)]** In civil actions in which a mistrial is declared, appeals from the denial of motions for nonsuit or directed verdict shall not be transferred to the Supreme Court before verdict following further trial unless the court shall approve an interlocutory appeal pursuant to Supreme Court Rule 8.

~~(e)~~ **[(f)]** The procedure for preparation of a transcript for cases appealed or transferred to the Supreme Court is governed by Supreme Court Rule 15.

[Comment

Rule 46(b) alters the rule announced in *Germain v. Germain*, 137 N.H. 83, 85 (1993) that "when a trial court issues an order that does not conclude the proceedings before it, for example, by deciding some but not all issues in the proceedings or by entering judgment with respect to some but not all parties to the action, we consider any appeal from such an order to be interlocutory."]

APPENDIX C

Amend Circuit Court-Family Division Rule 2.29 (new material is in **[bold and in brackets],** deleted material is in ~~strikethrough~~ format) as follows:

2.29 Effective Dates:

A. *Uncontested Matters.* Decrees in uncontested cases where the parties have filed a permanent agreement shall become ~~final~~ **[effective]** on the date signed by the judge pursuant to RSA 490-D:9, unless otherwise specified by the Court.

B. *Contested and Defaulted Matters.* In contested cases or upon the default of either party**[, the following rules apply.**

1. The following orders are effective upon the issuance of the clerk's notice of decision, unless the court specifies, either orally or in writing, another effective date:] ~~where no post-decree motion has been filed, the decree will not become final until the thirty first (31st) day from the date of the Clerk's notice of decision. If a timely appeal is filed, the decree will not become final until the expiration of the appeal period pursuant to Supreme Court Rule 7. If a timely post-decree motion is filed, and there is no appeal taken, the decree becomes final thirty (30) days from the Court's action on the post-decree motion.~~

a. Temporary orders;
b. Parenting plans;
c. Uniform support orders;
d. Orders for alimony or payment of on-going expenses; and
e. Provisions concerning the welfare of a child or the safety of a party, at the discretion of the court.

2. All orders other than those described in subsection 1 are effective on the 31st day from the date of the clerk's notice of decision unless the order specifies another effective date, a party files a timely post-decision motion (see Supreme Court Rule 7(1)(c)), or a party files an appeal.

3. If any party files a timely post-decision motion, but no appeal is filed, all orders other than those described in subsection 1 are effective on the 31st day from the date of the clerk's notice of decision on the motion or another date at the discretion of the court.

4. If any party files an appeal, all orders described in subsection 1 shall continue in effect until the supreme court mandate or the conclusion of such further

proceedings as the supreme court may order, whichever is last. During this period, no orders as to marital status or parentage or as to property division shall take effect.]

C. *Inactive Cases.* All domestic relations cases which have been placed on hold by request of the parties shall be dismissed after six (6) months unless there is a request by a party to reactivate the case, or a request for a further extension for good cause.

~~D. Once a decree becomes final any further request for relief must be by petition, accompanied by a filing fee and a personal data sheet, with notice given to the other party, as set forth in Family Division Rule 2.4. Prior to a decree becoming final no filing fee is required, and notice may be provided by regular US mail.~~

APPENDIX D

Amend Circuit Court-Family Division Rule 2.3 (new material is in **[bold and in brackets]**, as follows:

2.3 Beginning of Legal Action:

A. *Petition*. All domestic relations actions begin with the filing of a petition. A petition may be jointly filed by both parties.

B. *Where to File Petition*. New petitions should be filed in the county in which the petitioner lives. If there are multiple family division locations within a county, the petition is properly filed in the family division location for the town in which the petitioner resides, as outlined in RSA 490-D:4. If both parties reside within the same county, the petition may be filed at the family division location for the town of residence of either the petitioner or respondent.

C. *Petition Caption*. Domestic relations actions shall be entitled "In the matter of …and…", stating the names of the parties. The first name shall be of the petitioner and the second shall be of the respondent.

D. *Petition Type*. The subject matter of the petition, such as petition for divorce, shall be stated in the title of the petition.

E. *Petition Contents*. Petitions filed under these rules shall contain all information required on the petition forms posted on the judicial branch website at www.courts.state.nh.us and available at any family division location.

F. *Proper Filing*. An action under this section is considered properly filed upon the court's receipt of a completed individual or joint petition, a personal data sheet, and the correct filing fee.

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

H. *Adultery/Co-Respondent.* All petitions and cross petitions for divorce or legal separation alleging adultery shall contain the name and address of the person with whom the party is accused of committing adultery, if known, and, if not, a statement to that effect.

[I. *Re-Opening a Case.* When a decree has become final, the case may be re-opened by the filing of a Petition, in the same court and with the same caption as used in the Final Decree. The Petition shall comply with all other sections of this rule.]

APPENDIX E

Amend Superior Court (Civ.) Rule 201(III)(C)(new material is in **[bold and in brackets]**) as follows, on the same date that e-filing becomes mandatory in civil cases filed in Superior Court:

(C) Certificates and Copies

(1) Certificates and Certified Copies	$ 10.00
(2) Divorce Certificate (VSR) only	$ 10.00
(3) Divorce Certificate, Certified Copy of Decree and if applicable, Stipulation, QDRO, USO, and other Decree-related Documents	$ 40.00
(4) All Copied Material	$ .50/page
[Printing from court kiosks and computer Screen printouts	**$. 25/page]**
(5) Certificate of Judgment	$ 10.00
(6) Exemplification of Judgment	$ 40.00

APPENDIX F

Amend Circuit Court – District Division Rule 3.3(1)(C) (new material is in **[bold and in brackets],** deleted material is in ~~strikethrough~~ format) as follows:

(C) Certificates & Copies

Certificate of Judgment	$ 10.00
Exemplification of Judgment	$ 40.00
Certified Copies	$ 10.00
All copied material (except transcripts)	$ .50/page
~~Computer Screen Printout~~	~~$ .50/page~~
[Printing from court kiosks and computer screen printouts	**$ .25/page]**

APPENDIX G

Amend Circuit Court – Probate Division Rule 169(V) [1] (new material is in **[bold and in brackets]**) as follows:

(V) CERTIFICATES & COPIES:

Certificates	$ 10.00
Certification	$ 10.00 plus copy fee
Photocopy of Will	$ 1.00/page
All other copied material	$ .50/page
[Printing from court kiosks and computer screen printouts	**$ .25/page]**
Original writ (form)	$ 1.00
Authenticated Copy of Probate	$ 40.00/each
Certificate of Judgment	$ 10.00
Exemplification of Judgment	$ 40.00

"Certificates & Copies" shall apply to individual requests for the above services, requests for additional certificates beyond those provided with the original entries and requests for additional copies beyond those provided with the original entry fees.

[1] Note that there is an additional proposal to amend this rule set forth in Appendix J.

APPENDIX H

Amend Circuit Court – Family Division Rule 1.3(N) (new material is in **[bold and in brackets],** deleted material is in ~~strikethrough~~ format) as follows:

N. CERTIFICATES & COPIES:

(1) Certificates	$10.00
(2) Certification	$10.00 plus copy fee
[(3)] All other copied material	$. 50/page
[(4) Printing from court kiosks and computer screen printouts	**$. 25/page]**
(3) **[(5)]** Certificate of Judgment	$10.00
(4) **[(6)]** Exemplification of Judgment	$40.00

"Certificates & Copies" shall apply to individual requests for the above services, requests for additional certificates beyond those provided with the original entries and requests for additional copies beyond those provided with the original entry fees.

APPENDIX I

Amend Circuit Court – Probate Division Rule 169(I)(c) (new material is in **[bold and in brackets],** deleted material is in ~~strikethrough~~ format) as follows:

(c) Petition Termination of Parental Rights;
~~Petition Involuntary Admission;~~ Petition Guardian
Minor Estate and Person and Estate (RSA 463)~~; Petition Guardian of Incompetent Veteran (RSA 465)~~ $ 155.00

APPENDIX J

Amend Circuit Court – Probate Division Rule 169(V)[2] (new material is in **[bold and in brackets],** deleted material is in ~~strikethrough~~ format) as follows:

(V) CERTIFICATES & COPIES:

Certificates	$ 10.00
Certification	$ 10.00 plus copy fee
~~Photocopy of Will~~	~~$ 1.00/page~~
All ~~other~~ copied material	$ .50/page
Original writ (form)	$ 1.00
Authenticated Copy of Probate	$ 40.00/each
Certificate of Judgment	$ 10.00
Exemplification of Judgment	$ 40.00

"Certificates & Copies" shall apply to individual requests for the above services, requests for additional certificates beyond those provided with the original entries and requests for additional copies beyond those provided with the original entry fees.

[2] Note that there is an additional proposal to amend this rule set forth in Appendix G.

APPENDIX K

Amend Rule 5.5 of the New Hampshire Rules of Professional Conduct (new material is in **[bold and in brackets],** deleted material is in ~~strikethrough~~ format) as follows:

Rule 5.5: Unauthorized Practice Of Law; Multijurisdictional Practice Of Law

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of **[the]** law **[of this jurisdiction]**; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice **[the]** law **[of]** ~~in~~ this jurisdiction.

(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

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

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

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or

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

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

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

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

(3) relate solely to the law of a jurisdiction in which the lawyer is admitted.]

Ethics Committee Comment

1. New Hampshire has adopted ABA Model Rule 5.5.

2. Lawyers desiring to provide pro bono legal services on a temporary basis in a jurisdiction that has been affected by a major disaster, but in which they are not otherwise authorized to practice law, as well as lawyers from the affected jurisdiction who seek to practice law temporarily in another jurisdiction, but in which they are not otherwise authorized to practice law, should consult Supreme Court Rule 60, which governs the provision of legal services following determination of major disaster.

[3. Prior versions of Rule 5.5 and prior interpretations of the Rule assumed that attorneys practice in fixed physical offices and only deal with legal issues related to the States in which their offices are located. The increased mobility of attorneys, and, in particular, the ability of attorneys to continue to communicate with and represent their clients from anywhere in the world, are circumstances that were never contemplated by the Rule. The adoption of Rules 5.5(b) and (c) in 2008 reflected the State's growing recognition that multi-jurisdictional practice is a modern reality that must be accommodated by the Rules.

The assumption that a lawyer must be licensed in New Hampshire simply because he or she happens to be present in New Hampshire no longer makes sense in all instances. Rather than focusing on where a lawyer is physically located, New Hampshire's modifications of Rule 5.5(b)(1) and (2) and adoption of new Rule 5.5(d)(3) clarify that a lawyer who is licensed in another jurisdiction but does not practice New Hampshire law need not obtain a New Hampshire license to practice law solely because the lawyer is present in New Hampshire.

Notwithstanding the New Hampshire amendments to Rule 5.5(b)(1) and (2) and the adoption of new Rule 5.5(d)(3), Rule 8.5(a) still provides that a lawyer who is admitted in another jurisdiction, but not in New Hampshire, "is also subject to the

disciplinary authority of ... [New Hampshire] if the lawyer provides or offers to provide any legal services in" New Hampshire. In particular, such a lawyer will be subject to the provisions of Rules 7.1 through 7.5 regarding the disclosure of the jurisdictional limitations of the lawyer's practice. In addition, Rule 5.5(b)(2) continues to prohibit such a lawyer from holding out to the public or otherwise representing that the lawyer is admitted to practice New Hampshire law.]