

TABLE 1: BENCH TRIALS - EXECUTIVE SUMMARY OF MATERIALS

I. Introduction

The following is a non-exhaustive list of cases, statutes, and court rules applicable to bench trials in the New Hampshire state court system. The following does not address pertinent federal statutes, cases, and court rules that may be applicable in the context of bench trial. Given the nature of the below summary, practitioners are encouraged to go directly to statutes, cases, and court rules that may be applicable to their respective proceedings to ensure all applicable rules and laws are followed in the context of such proceedings.

II. Background

To better understand when a practitioner may encounter a bench trial, it helps to understand the alternative—that is, when a party is entitled to a jury trial. Under the New Hampshire Constitution:

In all controversies concerning property, and in all suits between two or more persons except those in which another practice is and has been customary and except those in which the value in controversy does not exceed \$1,500 and no title to real estate is involved, the parties have a right to a trial by jury. This method of procedure shall be held sacred unless, in cases arising on the high seas and in cases relating to mariners' wages, the Legislature shall think it necessary to alter it.

N.H. Const. Part I, Article 20.

As noted in *Wiebusch on New Hampshire Civil Practice and Procedure*, “[t]he supreme court has been called on to interpret this article on a number of occasions. By way of example, it has concluded that the constitution permits the plaintiff, defendant, or any third party to claim a jury trial on any issue of fact that must be established to make an award of damages or to determine the title to any form of property, in declaratory judgment proceedings where the issue being determined would be entitled to trial by jury in an action at common law, in actions for the

assessment of damages by a dog, and in actions to assess damages from a defect in highway.”

Gordon J. MacDonald, *Wiebusch on New Hampshire Civil Practice and Procedure* § 42.01 (4th ed. Matthew Bender & Co.) The right to jury trial may be waived. This can occur either expressly or by the failure to claim the right at the time of filing the complaint, the answer, or an answer to a counterclaim. *See Snow v. American Morgan Horse Ass’n*, 141 N.H. 467 (1996); *Lowell v. United States Sav. Bank of Am.*, 132 N.H. 719 (1990); *Perkins v. Scott*, 57 N.H. 55 (1876).

There are certain cases in which a jury trial does not exist, which include the following:

- (1) Where \$1,500 or less in damages is claimed and title to real estate is not involved, *see Town of Henniker v. Homo*, 136 N.H. 88 (1992);
- (2) Matters requiring the exercise of the court’s equity powers and causes of action arising out of the same, *see, e.g., DiGaetano v. DiGaetano*, 163 N.H. 588 (2012);
- (3) Matters in probate, *see, e.g., DiGaetano v. DiGaetano*, 163 N.H. 588 (2012), *Petition of Atkins*, 126 N.H. 577 (1985);
- (4) Administrative proceedings (unless they involve the assessment of damages on claims that were known to the common law or the determination of title to property), *see, e.g., V.S.H. Realty, Inc. v. City of Manchester*, 123 N.H. 505 (1983);
- (5) Marital case, *Moore v. Moore*, 56 N.H. 512 (1876);
- (6) Proceedings for the assessment of a penalty, *see Phoenix Mut. Life Ins. Co. v. Clark*, 59 N.H. 561 (1880);
- (7) Actions for an account referred to auditors, *see Perkins v. Scott*, 57 N.H. 55 (1876);
- (8) Other “special, statutory or summary proceedings unknown to the common law,” *see McElroy v. Gaffney*, 129 N.H. 382 (1987); *Hallahan v. Riley*, 94 N.H. 338 (1947);
- (9) Proceedings before arbitrators where the parties have agreed to the reference and thereby waived the right, *Hayes v. Bennett*, 2 N.H. 422 (1822);
- (10) Proceedings against the state based on an express or implied contract, *see RSA 491:8*;
- (11) Special, statutory, or summary proceedings known as SLAPP suits, *see Opinion of Justices (SLAPP Suit Procedure)*, 138 N.H. 445 (1994); and

(12) Claims under RSA chapter 358-A, the Consumer Protection Act, *see Hair Excitement, Inc. v. L'Oreal*, 158 N.H. 363 (2009).

Gordon J. MacDonald, *Wiebusch on New Hampshire Civil Practice and Procedure* § 42.01 (4th ed. Matthew Bender & Co.)

III. New Hampshire Superior Court

New Hampshire Superior Court Rules 35, 36 and 37 are pertinent to bench trials before the court. Under Superior Court Rule 35(II), “[t]he court may direct the parties to attend a Trial Management Conference in non-jury cases. Written pretrial statements are not required in non-jury cases unless ordered in accordance with a schedule to be determined by the court. Requests for findings of fact and rulings of law shall be submitted in writing in accordance with a schedule to be determined by the court.”

“In all trials, the plaintiff shall put in his or her whole case before resting and shall not thereafter, except by permission of the court for good cause shown, be permitted to put in any evidence except such as may be strictly rebutting; and the defendant shall, before resting, put in his or her whole defense, and shall not thereafter introduce any evidence except such as may be in reply to the rebutting evidence.” Superior Court Rule 36(g). Importantly, “[a]nyone addressing the court or examining a witness shall stand. The rule may be waived if the person is physically unable to stand or for other good cause. No one should approach the bench to address the court except by leave of the court.” Superior Court Rule 36(a). Opening statements are generally limited to 30 minutes absent leave of the Court. Closing arguments are generally limited to one hour for each party, unless otherwise ordered by the court. Superior Court Rule 36(b).

Prior to the trial, counsel are generally expected to submit and exchange information related to exhibits and witnesses as may be contained within a pretrial statement, consistent with

deadlines imposed by the court. *See* Superior Court Rule 36(c) (“Counsel shall seasonably furnish for the convenience of the court, as it may require, copies of the specifications, contracts, letters or other papers offered in evidence.”).

With respect to the examination of witnesses, only one attorney from each side will be permitted to examine a witness, *see* Superior Court Rule 36(d)(1), and “[a] witness cannot be re-examined by the party calling him or her, after his or her cross-examination, unless by leave of court, except so far as may be necessary to explain his or her answers on his or her cross-examination, and except as to new matter elicited by cross-examination, regarding which the witness has not been examined in chief.” Superior Court Rule 36(d)(2). Once a witness has been excused after testifying, the witness cannot be recalled without court permission. Superior Court Rule 36(d)(3). Additionally, “[n]o person, who has assisted in the preparation of a case, shall act as an interpreter at the trial thereof, if objection is made.” Superior Court Rule 36(d)(4).

The court rules govern attorneys as witnesses. Superior Court Rule 36(d)(5). “No attorney shall be compelled to testify in any cause in which he or she is retained, unless the attorney shall have been notified in writing previous to the commencement of the term of trial that he or she will be summoned as a witness therein, and unless he or she shall have been so summoned previous to the commencement of the trial.” Superior Court Rule 36(d)(5)(i). If an attorney gives testimony at trial or a hearing, the attorney cannot act as an advocate at such trial or hearing “unless the attorney’s testimony relates to an uncontested issue, or relates to the nature and value of legal services rendered in the case, or unless the court determines that disqualification of the attorney would work unreasonable hardship on the attorney’s client.” Superior Court Rule 36(d)(5)(ii).

Formal exceptions to non-evidentiary rulings or orders are deemed unnecessary by the court rules. *See* Superior Court Rule 36(e). Additionally, with respect to objections during the trial, “counsel will state only the basis of the objection (e.g., ‘leading,’ ‘non-responsive,’ or hearsay’), provided, however, that upon counsel’s request, counsel shall be permitted a reasonable opportunity to approach the bench to elaborate and present additional argument or grounds for the objection.” Superior Court Rule 36(f).

Moreover, Superior Court Rule 37 contains standing orders relative to proof, which address topics like bills, criminal records, documents, expert files, life expectancy, speed of motor vehicles, licensing of motor vehicles, and proof of highway waived unless demanded. Depending on the nature of the case at issue, these standing orders may be applicable.

Certain courts also have standing orders relative to trials and civil practice. For example, the Business and Commercial Dispute Docket has standing orders that may be applicable to bench trials. *See* BCDD Standing Order 11 (relating to real time transcripts). Additionally, Hillsborough County Superior Court Northern District has a “Bench Trial Standing Order” that addresses topics such as pre-marking exhibits, submitting proposed orders, submitting requests for findings of fact and rulings of law, and the use of video or audio equipment. This standing order is contained in your materials. Practitioners would be well served to review any applicable standing orders and court rules to ensure compliance.

IV. New Hampshire Circuit Court

A. Probate Division

“Judges of probate to which the constitution refers are now deemed to be ‘any circuit judge assigned to the [circuit court] probate division.’” Gordon J. MacDonald, *Wiebusch on New Hampshire Civil Practice and Procedure* § 1.08 (4th ed. Matthew Bender & Co.); *see* RSA 490-

F:6. The probate division has detailed court rules that govern trials before it. Probate Division Rule 63 contains a number of standing pretrial orders, which provide:

- (a) Copies of all medical reports relating to the litigation, in the possession of the Parties, shall be furnished to opposing counsel on receipt of the same.
- (b) X-rays and hospital records (which are certified as being complete records) if otherwise admissible and competent may be introduced without calling the custodian or technician. Any Party shall have the right to procure from opposing counsel an authorization to examine and obtain copies of hospital records and X-rays involved in litigation.
- (c) All experts, including doctors and law enforcement personnel, who are to testify at trial, shall be advised by counsel to bring their original records and notes to court with them.
- (d) All Fiduciaries shall be prepared to present the originals of all documents or other papers at issue in any hearing.
- (e) The written reports of the New Hampshire Division for Children, Youth and Families or of any guardian ad litem shall be submitted not later than at the commencement of the hearing for which it is submitted.

In all trials, “the Petitioner shall put in the whole case before resting and shall not thereafter, except by permission of the Court for good cause shown, be permitted to put in any evidence except such as may be strictly rebutting; and the Respondent shall, before resting, put in the whole defense, and shall not thereafter introduce any evidence except such as may be in reply to the rebutting evidence.” Probate Division Rule 70. “Opening and closing statements may be allowed within the discretion of the Court. Opening statements shall not be argumentative and shall be no longer than fifteen (15) minutes each, and closing statements shall be limited to thirty (30) minutes each, unless otherwise permitted by the Court.” Probate Division Rule 71.

During trial, a probate judge or probate master may receive evidence by an offer of proof when permitted by the court. Probate Division Rule 63-A. The following procedures apply to offers of proof: (1) an offer of proof will only be received if the witness is present in the courtroom at the time of the offer; (2) any witness whose testimony is presented by an offer may

be cross examined; (3) if a witness's credibility is challenged, or for any other reason within the discretion of the court, the court may question the witness or require that the witness testify; and (4) "[a]n Attorney . . . making an Offer of Proof represent[s] to the Court that the Attorney . . . has examined the witness or document that is the subject of the Offer. Through that examination, the Attorney reasonably believes, taking into account all that the Attorney . . . knows about the case, that the evidence is not false; the evidence is admissible through a witness who can testify under oath to establish the purpose for which it is offered; and the evidence is not offered for a frivolous purpose." Probate Division Rule 63-A. In an ex parte proceeding, an attorney making an offer must represent that the offer is accompanied by a statement under oath of all material facts known to the attorney to enable the court to make an informed decision. Finally, in proceedings where the rules of evidence either do not apply or are relaxed, evidence may be received by an offer without the presence of the witness in court if that same evidence could be received by the court without the necessity of a witness's testimony under oath to introduce the evidence. Probate Division Rule 63-A.

In matters in which the court takes evidence and hears witness testimony, only one attorney shall be allowed to examine a witness. Probate Division Rule 65. A party objecting during a witness's testimony shall state only the basis of the objection provided that if requested, counsel may be permitted to present additional argument or grounds for the objection. Rule 66. Any witnesses that has been dismissed by the court following his or her testimony may not be recalled unless the Court grants the party permission to do so. Probate Division Rule 69; *see also* Probate Division Rule 67 (governing witness re-examination).

The rules specifically call attention to the use of criminal records at trial. "If a Party plans to use or refer to any criminal record, for the purpose of attacking or affecting the credibility of a

witness, the Pro Se Party or Attorney shall first furnish a copy of same to the opposing Party or Attorney, and then obtain a ruling from the Court as to whether the witness may be questioned with regard to any conviction for credibility purposes.” Probate Division Rule 68. Importantly, “[e]vidence of a conviction under this rule shall not be admissible unless there is introduced a certified record of the judgment of conviction indicating that the witness was represented by counsel at the time of the conviction unless counsel was waived.” Probate Division Rule 68 (emphasis added).

With respect to submitting findings of fact and rulings of law and written memoranda, such submissions are due “no later than a time directed by the Court at the structuring conference.” Probate Division Rule 72. In the event no deadline is indicated during the structuring conference, these submissions are due no later than the close of evidence. However, the court has discretion to allow requests and memoranda to be submitted at a later time.

B. Family Division

Like the Probate Division, the Family Division contains comprehensive court rules that govern proceedings before it. Specific to trials in the Family Division, the nature of the proceeding—whether it involves domestic relations, juvenile delinquency and children in need of services, abuse and neglect, guardianship of minors, or the surrender of parental rights—will dictate what particular rules apply. With respect to offers of proof in the Family Division, the text of the rule is largely the same as in the Probate Division. However, the rule states that “[r]equests for restraining orders against any person should not be presented by offers of proof.” Family Division Rule 1.28.

For an uncontested final hearing for divorce or legal separation, “[a] decree of divorce may be issued without conducting a final hearing, and without the presence of the parties, if all

required documents have been filed, both parties have waived, in writing, their attendance at the final hearing, and the Court is satisfied with the clarity of the documents submitted.involving domestic relations.” Family Division Rule 2.22. In contested cases “which were not preceded by a pretrial conference, the parties shall, unless excused by the Court, file and exchange no later than thirty (30) days before the final hearing, the following: (1) list of witnesses; (2) copies of all exhibits to be offered at final hearing; (3) proposed final decrees; and (4) where minor children are involved, an agreed upon parenting plan on those issues to which the parties agree, proposed parenting plans for the issues not agreed upon, child support guidelines worksheets, and proposed uniform support orders.” Family Division Rule 2.24. Any proposed final decree should include the following information: (1) Type of Case; (2) Parenting Plan and Uniform Support Order; (3) Tax Exemptions for Children; (4) Guardian ad Litem Fees; (5) Alimony; (6) Health Insurance for Spouse; (7) Life Insurance;(8) Motor Vehicles; (9) Furniture and Other Personal Property; (10) Retirement Plans and Other Tax-Deferred Assets;(11) Other Financial Assets; (12) Business Interests of the Parties; (13) Division of Debt;(14) Marital Home; (15) Other Real Property; (16) Enforceability after Death; (17) Signing of Documents; (18) Restraining Order; (19) Name Change; (20) Other Requests. Family Division Rule 2.26(B).

Additionally, updated financial affidavits, or affidavits of no financial change if appropriate, should be filed and exchanged seven days before the final hearing. Family Division Rule 2.24(B). “Seven (7) days prior to the final hearing, the parties shall submit jointly prepared agreements and parenting plans on all issues which are not in dispute, and a jointly filed list of personal property, indicating those items which the parties agree each may have, and those items which remain in dispute.” Family Division Rule 2.24(C).

If a party fails to disclose a witness in accordance with the rules, the party may be precluded from offering testimony of that witness at the final hearing. Further, “[f]ailure to list and exchange an exhibit in accordance with these rules may result in the Court’s denying the admission of the exhibit.” Family Division Rule 2.24(D).

Moreover, “[t]he parties are expected to communicate with each other in advance of the final hearing with respect to the sharing and management of the allotted hearing time. The Court reserves the right to participate in this process by conducting a trial management conference.” Family Division Rule 2.24(E) (emphasis added).

C. District Division

a. Criminal

A criminal trial in the district court is similar to a jury-waived trial in the superior court. New Hampshire Rule of Criminal Procedure 24 is particularly applicable to these matters. Under New Hampshire Rule of Criminal Procedure 24(a)(1), “[o]pening statements are not permitted in circuit court – district division trials except with permission of the court for good cause shown. When opening statements are permitted, the prosecution shall make an opening statement prior to presenting evidence. At its option in such a case, the defense may open immediately thereafter or after the prosecution has concluded its case-in-chief and before presenting defense evidence. Opening statements shall not be argumentative, and except by prior leave of the court, shall be no longer than thirty minutes.”

The prosecution begins with its case-in-chief first. During this time, the defense may present evidence through the prosecution’s witnesses. Once the prosecution has rested, the defense may present evidence. New Hampshire Rule of Criminal Procedure 24(a)(2). Only one attorney for each party is permitted to examine or cross-examine each witness. New Hampshire

Rule of Criminal Procedure 24(a)(4). In all proceedings, the testimony of witnesses shall be given, by oath or affirmation, orally in open court, unless otherwise provided by law. New Hampshire Rule of Criminal Procedure 24(a)(7). “Evidence that is strictly rebutting may be permitted at the discretion of the court upon good cause shown.” New Hampshire Rule of Criminal Procedure 24(a)(3).

As in other proceedings, “[w]hen objecting or responding to an objection, counsel shall state the basis for the objection or response. Upon request, the court shall permit counsel to present offers of proof in support of the objection or response. Only the attorney examining or cross-examining a witness may raise objections or respond to objections regarding that witness. New Hampshire Rule of Criminal Procedure 24(a)(5).

With respect to re-examining or re-calling witnesses, “[r]edirect examination shall be limited to topics covered on cross-examination except for good cause shown. Prior to being dismissed, a witness is subject to recall by either party. After being dismissed, a witness may be recalled with the court’s permission.” New Hampshire Rule of Criminal Procedure 24(a)(6).

Closing arguments are governed by New Hampshire Rule of Criminal Procedure 24(a)(8), which provides that only one attorney shall argue for each party, absent leave from the court. The defense shall argue first and the prosecution shall argue last. “In cases in which the defense of insanity has been raised and the case has been bifurcated for trial, the defense shall have the right to argue last on the issue of insanity.” New Hampshire Rule of Criminal Procedure 24(a)(8)(B).

A motion to dismiss or for a mistrial shall be made on the record. New Hampshire Rule of Criminal Procedure 24(a)(9). Additionally, the court maintains discretion to hear a motion

to suppress during trial under New Hampshire Rule of Criminal Procedure 15(2). Finally, a party may reopen evidence, prior to submission of the case to the court, for good cause shown. A party may also reopen evidence after submission of the case but before the return of a verdict, after showing good cause and in the discretion of the court.

If an individual is convicted of a Class B misdemeanor before the court, he or she does not have a right to appeal to the Superior Court for a trial de novo. The right to appeal a misdemeanor to the Superior Court is limited by RSA 599:1 in cases where a person is convicted by the court of a Class A misdemeanor.

b. General Civil

The district division has jurisdiction over civil actions for damages where the claimed damages are \$25,000 or less, title to real estate is not in issue, and either the plaintiff or defendant resides in the district. RSA 502-A:14. The district division's jurisdiction is exclusive in all cases where damages claimed are \$1,500 or less; in other cases, the district division shares subject matter jurisdiction with the superior court.

During a trial before the district division, counsel "shall seasonably furnish for the convenience of the presiding justice, as he may require, copies of specification, contracts, letters or other papers offered in evidence." District Division Civil Rule 3.20(A). Procedurally, "the plaintiff shall put in his whole case before resting, and shall not thereafter, except by permission of the Court for good cause shown, be permitted to put in any evidence except such as may be strictly rebutting; and the defendant shall, before resting, put in his whole defense, and shall not thereafter introduce any evidence except such as may be in reply to the rebutting evidence." District Division Civil Rule 3.20(C). Once a witness has been dismissed from the stand, he cannot be recalled absent permission of the court. District Division Civil Rule 3.20(B).

It should be noted that “[u]nless otherwise ordered by the Court, all requests for findings of fact and rulings of law must be submitted at the commencement of trial; memoranda of law must be submitted at the close of the evidence.” District Division Civil Rule 3.20(D).

c. Landlord and Tenant Actions

RSA 540 vests jurisdiction over landlord and tenant actions with the Circuit Court District Division. Both RSA 540 and the District Division Civil Rules 5.1 through 5.12 govern eviction proceedings. Prior to an action commencing, the landlord must serve in hand or leave at the tenant’s “last and usual place of abode” a notice to quit or a notice for demand for rent. The landlord-tenant writ must set “forth in substance that the plaintiff is entitled to possession of the demanded premises and that the defendant is in possession thereof without right, after notice in writing to quite the same” RSA 540:13. After an action has been initiated, a defendant may file a counterclaim, but the decision of the court is limited to a maximum of \$1,500. If a greater sum is at issue, either party may file a claim in a court of competent jurisdiction.

“Both parties to a landlord and tenant action shall have the right to engage in discovery prior to the hearing on the merits” under certain conditions: “(1) All requests for discovery shall be made within five (5) days of the RETURN DAY. (2) Responses to interrogatories, requests for admissions and production of documents shall be made within fourteen (14) days after receipt of said requests. (3) Depositions shall be taken no less than three (3) days from the date of the notice of deposition and within no less than seven (7) days of the scheduled trial date.” District Division Civil Rule 5.6(A). To the extent necessary, the court has authority to grant a continuance to allow parties to complete discovery. District Division Civil Rule 5.6(B). “Landlord and tenant actions shall be given priority on the Court’s docket and, whenever possible, rescheduled within thirty (30) days.” District Division Civil Rule 5.6(B).

Like other actions in the circuit court, the parties should be prepared with all exhibits and witnesses on the date of the final merits hearing. Parties may proceed by offers of proof, under certain circumstances, or through calling witnesses and presenting evidence. If a tenant fails to file an appearance or fails to appear at the hearing, the court shall mail a notice of default to the address of the tenant at least three days prior to the issuance of the writ of possession. If a landlord prevails on his or her complaint, the court shall not issue a writ of possession until the expiration of the seven day period for filing a Notice of Intent to Appeal as set forth in RSA 540:2.

d. Small Claims Court

Another area where practitioners may encounter a bench trial is in small claims court. RSA 503:2 provides that “there is hereby established a simple, speedy, and informal procedure which a plaintiff or his authorized attorney may pursue an action commenced before a justice of a district or municipal court for the determination of a small claim.” A small claim is defined by statute as “any right of action not involving the title of real estate in which the debt or damages, exclusive of interest and costs, does not exceed \$10,000. RSA 503:1, I. The statute further states that “[a]ny person may file a small claims action as provided in this chapter, unless trial by jury is claimed by the plaintiff when the debt or damages exceed \$1,500 or when the defendant claims trial by jury” as set forth in RSA 503:1, III. RSA 503:1, II; *see* RSA 503:1, III (“When the debt or damages claimed exceed \$1,500, a defendant may claim a trial by jury by filing a written request within 5 business days of the filing of the application and statement of the claim under RSA 503:3 or within such additional time as the municipal or district court may for good cause allow. If such a request is filed, the case shall be transferred at once to the superior court in the

county in which the town or district is located and heard and tried as if originally entered in the superior court. . . .”

Unlike other cases, the small claims court rules state that “[f]ormal discovery, such as interrogatories, depositions, requests to produce documents, requests for admissions and other forms of discovery are not permitted in small claims cases unless ordered at the pre-trial hearing. The Rules of Evidence shall not apply in small claims cases.” District Division Civil Rule 4.5. Moreover, the trial itself is informal. “All parties shall be required to take an oath or affirmation but may be permitted to testify informally. The court may hear the case by offers from each of the parties as to what their evidence would prove if the court were to hear all witnesses and documents submitted.” However, “either party has the right to object to this procedure.” District Division Civil Rule 4.6(a). Parties are expected to bring to trial “all witnesses documents or other evidence upon which they intend to rely to prove or defend their case.” District Division Civil Rule 4.6(b).

The small claims court rules do not contemplate the timing of submitting findings of fact and rulings of law or a trial memorandum. However, District Division Civil Rule 3.20 of the general rules provide that “[u]nless otherwise ordered by the Court, all requests for findings of fact and rulings of law must be submitted at the commencement of trial; memoranda of law must be submitted at the close of the evidence.” District Division Civil Rule 3.20(d).

At the conclusion of the trial, “the court may render its decision immediately. In no event shall the court issue a written decision more than thirty (30) days from the date of the trial.” District Division Civil Rule 4.7(a). “If the court issues judgment for the plaintiff immediately after the presentation of the case during a trial at which both parties are present, the court shall inquire into the defendant's ability to pay the judgment from non-exempt assets and may require

the defendant to complete a Statement of Assets and Liabilities from which the defendant's ability to pay the judgment from non-exempt assets in full or in installment payments may be determined. The court may then issue an order regarding the defendant's ability to pay the judgment, including any payment over time. The Statement of Assets and Liabilities shall be confidential as to non-parties. Access to these documents shall be pursuant to District Division Civil Rule 1.26. The court may, in its discretion upon request of the defendant, continue the hearing to a future date to allow the defendant additional time to complete the Statement of Assets and Liabilities. In this circumstance, the plaintiff shall not be required to file a Motion for Periodic Payments.” District Division Civil Rule 4.7(b). “If the court does not issue its decision immediately and address payment issues as set forth immediately above, and the judgment is for the plaintiff, the plaintiff will be required to file a Motion for Periodic Payments (Rule 4.10) if the plaintiff wishes to have a hearing to determine the defendant's ability to pay the judgment.” District Division Civil Rule 4.7(c). If the defendant confesses judgment at any time, the court shall immediately schedule a payment hearing or the plaintiff may file a Motion for Periodic Payments (Rule 4.10) upon receipt of written notice of the confession of judgment. If the defendant fails to appear at the hearing after notice is given, the court may proceed, and orders may be made in the defendant's absence or an order for arrest may be issued. In all other respects the process outlined in Rule 4.10 below shall be followed. District Division Civil Rule 4.7(d). A plaintiff should be aware that the plaintiff “may be required to file a separate statement referred to as a Statement of Damages/Taxation of Costs.” District Division Civil Rule 4.7(e).

Motions for reconsideration or other post-decision relief are due within ten days of the date on the clerk’s written notice of the order or decision. District Division Civil Rule 4.8(a). If granted, the court will revise its order or take such other appropriate action without re-hearing or

may schedule a further hearing as may be necessary. District Division Civil Rule 4.8(c). Notably, “[t]he filing of a motion for reconsideration or other post-decision relief shall not stay any order of the court unless, upon specific written request, the court has ordered such a stay.” District Division Civil Rule 4.8(d).

“The party against whom a judgment has been issued may appeal the decision to the New Hampshire Supreme Court according to its Rules. The appeal must be filed with the Supreme Court within thirty (30) days of the rendition of judgment or of the clerk's notice of the judgment, whichever is later.” District Division Civil Rule 4.9.
