

Proposed Amendments to Temporary Rule 170

All proposed changes are in italics

- Immunity Provision-Rule 170 Neutrals:

Deleted: 1.

- This provision can be added as a new “Section H” or it can become Section G and the next section can become Section H.

Immunity for Rule 170 Neutral:

A “Neutral” (defined as a Neutral Evaluator, Mediator or Arbitrator) selected to serve and serving under New Hampshire Superior Court Rule 170 or Rule 170-A shall have immunity consistent with RSA 490-E:5.

- Refunds:

Deleted: 2.

-This proposed revision would change Temporary Rule 170 section (B)(2)(c). It could be amended to state:

If the parties choose a neutral from the list of approved volunteer neutrals, the parties shall be subject to a one-time administrative fee of \$50.00 per party, which shall be paid to the Court at the time the Stipulation for ADR is filed with the Court. *This is an administrative fee which will be designated for use by the Office of Mediation and Arbitration and is not refundable.* Parties who are indigent may petition the court for waiver of the \$50.00 administrative fee.

- Contacting the Neutral:

Deleted: (New language in italics).¶

Deleted: 3.

-This proposed revision would change Temporary Rule 170 section (C) (1)(b).

The current language states:

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

Suggested amendment:

The designation of a Rule 170 neutral, to serve in the agreed upon process, or an agreement to accept a neutral chosen by the court from a list provided by the clerk. However, prior to the designation of a Rule 170 neutral to serve in the agreed upon process, the parties or counsel (if the parties are represented) shall contact each other in the first instance and agree upon a neutral and two alternates. They shall appoint one person to contact the neutral, ~~or if need be, the alternates, to determine if the neutral is willing and able to serve and whether it will be on a volunteer or a paid basis.~~

Deleted: and

- At the Structuring Conference

Deleted: 4.

(C) (2) Current language is:

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

Suggested amendment:

*The Court may waive the initial structuring conference if, prior to the structuring conference, the Court has received a completed and signed Rule 170 stipulation and a completed and signed Structuring Conference Order. If the Court has not received either or both of these documents, then at the initial structuring conference, after consultation with counsel, or with the parties if unrepresented, the court shall issue an order stating: (a) the specific ADR procedure to be used; (b) the identify **(sic) should be identity** of, and contact information for, the neutral; (c) the date by which the ADR procedure must be completed; (d) whether the ADR shall be at the courthouse or off-site; and (e) the anticipated time needed for the ADR method chosen. If the court chooses a neutral from the*

volunteer list, the court shall order the parties to pay a one time administrative fee of \$50.00 per party. *The Court has discretion to waive this fee if the parties are indigent. At the request of the parties and for good cause, the Court may also permit an individual \$50.00 fee to apply to multiple plaintiffs or defendants, if under the circumstances of the case, the Court determines that the per party fee would cause undue hardship if it were applied to individual parties, or if one fee for multiple parties on the same side, is deemed equitable by the court.*

If the neutral is chosen at the structuring conference either by the parties and counsel or by the Court, the parties and counsel shall contact the neutral or the alternates, if necessary, and schedule the ADR session with their choice of neutral within 10 days after the date of the structuring conference.

-(d) The Date by which ADR must be completed.

The current provision states:

“The location of the session and a date by which the session shall have occurred.”

Suggested amendment:

“The location of the session and a date by which the session shall have occurred.” *The parties and/or their counsel if represented, may for good cause shown, adjust the date for the ADR to occur beyond 8 months from the structuring conference Order. In that circumstance, the parties or their counsel if represented, shall notify the Court of this agreement to extend and the date certain when the ADR is schedule to occur.*

Deleted: /

Alternative Dispute Proceeding
(D)(1) Current language states:

Upon receipt of the structuring conference order, the parties shall contact the designated neutral and shall schedule the ADR proceeding. The neutral shall advise the parties in writing of the schedule for submission and exchange of summaries. Unless the neutral advises otherwise, each party shall exchange a summary,

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

Suggested amendment:

Upon receipt of the structuring conference order, the parties or their counsel shall confirm the date time and location for the ADR to take place and the neutral shall advise the parties in writing of the schedule for submission and exchange of summaries. Unless the neutral advises otherwise, each party shall exchange a summary, not to exceed five pages, of the significant aspects of their case. The parties may also attach to the summary copies of pertinent documents. Upon receipt of a party's submission, any party may send additional information responding to that submission. Unless the neutral advises otherwise, all submissions shall be exchanged with opposing counsel and shall contain a statement of compliance with the exchange requirement.

Deleted: Upon receipt of the structuring conference order, the parties shall contact the designated neutral and shall schedule the ADR proceeding.

Deleted: T