

State of New Hampshire  
Supreme Court

NO. 2005-0313

IN THE MATTER OF  
DONALD L. BAYLY  
and  
JUDITH A. BAYLY

NOTICE OF CROSS APPEAL OF DONALD L. BAYLY  
Pursuant to Supreme Court Rule 7(5)

By: Joshua L. Gordon, Esq.  
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# State of New Hampshire Supreme Court

## NOTICE OF CROSS APPEAL

This form should be used for an appeal from a final decision on the merits issued by a superior court, district court, probate court or family division court except for a decision from: (1) a post-conviction review proceeding; (2) a proceeding involving the collateral challenge to a conviction or sentence; (3) a sentence modification or suspension proceeding; (4) an imposition of sentence proceeding; (5) a parole revocation proceeding; or (6) a probation revocation proceeding.

1. COMPLETE CASE TITLE AND DOCKET NUMBERS IN TRIAL COURT

*In the Matter of Donald L. Bayly & Judith A. Bayly*  
No. 2004-M-0155

2. COURT APPEALED FROM AND NAME OF JUDGE(S) WHO ISSUED DECISION(S)

Salem Family Division  
(*Bruce F. DalPra*, Master) (*John A. Korbey*, J.) (*Lucinda V. Sadler*, J.)

3A. NAME & ADDRESS OF APPEALING PARTY

Donald Bayly  
37 Old Coach Rd.  
Salem, NH 03079

3B. NAME, FIRM, ADDRESS & TELEPHONE  
NUMBER OF APPELLANT'S COUNSEL

Joshua L. Gordon  
Law Office of Joshua Gordon  
26 S. Main St., #175  
Concord, N.H. 03301  
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4A. NAME & ADDRESS OF OPPOSING PARTY

Judith A. Bayly  
125 Hollis Rd.  
Amherst, NH 03031

4B. NAME, FIRM, ADDRESS, & TELEPHONE  
NUMBER OF OPPOSING COUNSEL

Judith A. Klinghoffer  
CrossRoads Family Law Center  
2 Town Farm Rd.  
Wilton, NH 03086  
(603) 654-5115

5. NAMES OF ALL OTHER PARTIES AND COUNSEL IN TRIAL COURT

n/a

6. DATE OF CLERK'S NOTICE OF DECISION  
OR SENTENCING

Decree of divorce, March 10, 2005

DATE OF CLERK'S NOTICE OF DECISION  
ON POST-TRIAL MOTION

Clerk's Notice, Apr. 13, 2005

7. CRIMINAL CASES: DEFENDANT'S  
SENTENCE AND BAIL STATUS

n/a

8. APPELLATE DEFENDER REQUESTED?

No.

9. IS ANY PART OF CASE CONFIDENTIAL? IDENTIFY WHICH PART AND CITE AUTHORITY

There no known basis for confidentiality.

10. IF ANY PARTY IS A CORPORATION, NAMES OF PARENTS, SUBSIDIARIES & AFFILIATES

n/a

11. DO YOU KNOW ANY REASON WHY ONE OR MORE SUPREME COURT JUSTICE WOULD BE DISQUALIFIED FROM THIS CASE?

There is no known basis for recusal.

IF YES, FILE MOTION FOR RECUSAL, SUPREME COURT RULE 21A

12. IS A TRANSCRIPT OF TRIAL COURT PROCEEDINGS NECESSARY?

Yes.

IF YES, COMPLETE TRANSCRIPT ORDER FORM

13. LIST SPECIFIC QUESTIONS TO BE RAISED ON APPEAL, EXPRESSED IN TERMS AND CIRCUMSTANCES OF THE CASE, BUT WITHOUT UNNECESSARY DETAIL. STATE EACH QUESTION IN A SEPARATELY NUMBERED PARAGRAPH.

- I. Did the court err in awarding alimony, health insurance, and other things based on a disability when there was no evidence that Ms. Bayly is disabled, and there was no expert or medical testimony regarding a disability?
- II. Did the court err in assessing attorneys fees against Mr. Bayly when Ms. Bayly's attorney is representing her on a *pro bono* basis?
- III. Did the court err in not awarding Mr. Bayly certain items of personal property when the items were demonstrably his, and when Ms. Bayly has not released to him other items which are the subject of a court order?

14. CERTIFICATIONS

I hereby certify that, upon information and belief, every issue specifically raised has been presented to the court below and has been properly preserved for appellate review by a contemporaneous objection or, where appropriate, by a properly filed pleading.

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Joshua L. Gordon, Esq.

I hereby certify that on or before the date below copies of this notice of appeal were served on all parties to the case and were filed with the clerk of the court from which the appeal is taken in accordance with Rule 26(2).

July 29, 2005

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Joshua L. Gordon, Esq.

**ATTACHMENTS**

(1) DECREE OF DIVORCE (March 7, 2005) . . . . . 6

(2) CLERK’S NOTICE – Decree of Divorce (March 10, 2005) . . . . . 10

(3) CLERK’S NOTICE – Motion for Reconsideration Denied (April 4, 2005) . . . . . 11

(4) CLERK’S NOTICE – Correction (April 13, 2005) . . . . . 12

## TRANSCRIPT ORDER FORM

**INSTRUCTIONS:**

1. If a transcript is necessary for your appeal, you must complete this form.
2. List each portion of the proceedings that must be transcribed for appeal, e.g., entire trial (see Superior Court Administrative Rule 3-1), motion to suppress hearing, jury charge, etc., and provide information requested.
3. Determine the amount of deposit required for each portion of the proceedings and the total deposit required for all portions listed. Do not send the deposit to the Supreme Court. You will receive an order from the Supreme Court notifying you of the deadline for paying the deposit amount to the trial court. Failure to pay the deposit by the deadline may result in the dismissal of your appeal.

<b>LIST EACH PORTION OF CASE PROCEEDINGS TO BE TRANSCRIBED</b>						
Date of Proceeding	Type of Proceeding	Length of Proceeding	Name of Judge(s)	Steno/Recorded	Previously Prepared?*	Deposit
2/5/05	Trial	½ day	<i>DalPra, M.</i>	Unknown	transcript has been ordered by this court	\$450
<b>DO NOT SEND DEPOSIT AT THIS TIME</b>						<b>TOTAL DEPOSIT: \$ 450</b>

SCHEDULE OF DEPOSITS

Length of Proceeding

Deposit Amount

Hearing or trial of one hour or less	\$ 175
Hearing or trial up to ½ day	\$ 450
Hearing or trial of more than ½ day	\$ 900/day
Previously prepared portions	Number of pages x \$.50 per page per copy if additional copies are needed

NOTE: The deposit is an estimate of the transcript cost. After the transcript has been completed, you may be required to pay an additional amount if the final cost of the transcript exceeds the deposit. Any amount paid as a deposit in excess of the final cost will be refunded. The transcript will not be released to the parties until the final cost of the transcript is paid in full.

\* For portions of the transcript that have been previously prepared, indicate number of copies that were prepared.