

STATE OF MAINE  
SUPREME JUDICIAL COURT

AMENDMENTS TO THE  
MAINE RULES OF CIVIL PROCEDURE  
[FORECLOSURE DIVERSION PROGRAM]

**2009 Me. Rules 19**

Effective: October 1, 2009

All of the Justices concurring therein, the following amendment to the Advisory Notes to the Maine Rules of Civil Procedure is hereby adopted to be effective on the date indicated above. The Advisory Note states the reason for recommending a rule amendment, but the Advisory Note is not part of the rule amendment adopted by the Court.

1. The Advisory Note to the amendment to Rule 55(a) of the Maine Rules of Civil Procedure, adopted by 2009 Me. Rules 18, dated August 10, 2009, is amended to read as follows:

**(a) Entry.** When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default.

(1) *Foreclosure Actions.* No default or default judgment shall be entered in a foreclosure action filed pursuant to Title 14, Chapter 713 of the Maine Revised Statutes except after review by the court and determination that (i) the service and notice requirements of 14 M.R.S. § 6111 and these rules have been strictly performed, and (ii) the plaintiff has properly certified proof of ownership of the mortgage note and produced evidence of the mortgage note, the mortgage, and all assignments and endorsements of the mortgage note and the mortgage.

**Advisory Note**

This amendment to Rule 55 is designed to assure that, prior to entry of any default in a foreclosure action, the trial court reviews the record and determines that, as required by law, the notice and service requirements of law have been complied with. Because court review of the record in foreclosure actions is

required prior to entry of a default, defaults and default judgments in such actions must be entered by the court and not by a clerk.

2. This amendment to the Advisory Note shall be effective October 1, 2009.

Dated: October 5, 2009

FOR THE COURT<sup>1</sup>

/s/

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LEIGH I. SAUFLEY  
Chief Justice

DONALD G. ALEXANDER  
JON D. LEVY  
WARREN M. SILVER  
ANDREW M. MEAD  
ELLEN A. GORMAN  
JOSEPH M. JABAR  
Associate Justices

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<sup>1</sup> This Rules Amendment Order is approved after conference of the Court, all Justices concurring therein.