

STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENTS TO
THE MAINE RULES OF CIVIL PROCEDURE

2012 Me. Rules 01

Effective: January 1, 2012

All of the Justices concurring therein, the following amendments to the Maine Rules of Civil Procedure are adopted to be effective on the date indicated above. The specific amendments are stated below. To aid in understanding of the amendments, an Advisory Note appears after the text of each amendment. The Advisory Note states the reason for recommending the amendment, but the Advisory Note is not part of the amendment adopted by the Court.

1. Rule 4(d)(8) of the Maine Rules of Civil Procedure is amended to read as follows:

(8) Upon a domestic private corporation (a) by delivering a copy of the summons and of the complaint to any officer, director or general agent; or, if no such officer or agent be found, to any person in the actual employment of the corporation; or, if no such person be found, ~~to the Secretary of State, then pursuant to subdivision (g) of this Rule,~~ provided that the plaintiff's attorney shall also send a copy of the summons and of the complaint to the corporation by registered or certified mail, addressed to the corporation's principal office as reported on its latest annual return; or (b) by delivering a copy of the summons and of the complaint to any agent or attorney in fact authorized by appointment or by statute to receive or accept service on behalf of the corporation, provided that any further notice required by the statute shall also be given.

Advisory Note – November 2011

Service of process amendments adopted as part of the Model Registered Agents Act have removed any obligation of the Secretary of State to act as default agent for service of process. *See* 5 M.R.S. § 113. This amendment to Rule 4(d)(8) recognizes that change. It also adds a reference to Rule 4(g) as the default service choice to seek approval for an alternative means of service if service cannot be accomplished pursuant to subdivision (d)(8).

2. Rule 5(h) of the Maine Rules of Civil Procedure is amended to read as follows:

(h) Pleading Summary Sheets.

(1) Any pleading which sets forth a claim for relief, except those specified in subdivision (3) below, shall be accompanied by a properly completed and executed Summary Sheet which is available in blank form at the clerk's office. Docket numbers of original Disclosure proceedings must be indicated on Summary Sheets initiating a second or subsequent request for disclosure.

(2) Summary Sheets are required to be filed with Post-Judgment Motions in proceedings under Rule ~~80(k)~~ 120.

(3) Summary Sheets are not required in Small Claims, UIFSA, Mental Health Actions or DHS Protective Custody or Administrative Paternity Proceedings and are not required in Special Actions (SA) other than Money Judgment requests for disclosure.

Advisory Note – November 2011

This is a technical amendment to Rule 5(h) to replace the reference to former Rule 80(k) addressing post judgment motions in family matters with the reference to Rule 120, the current rule addressing such post judgment motions.

3. Rule 56(d) of the Maine Rules of Civil Procedure is amended to read as follows:

(d) Case Not Fully Adjudicated on Motion. If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be

conducted accordingly. In the event that a moving party's motion for summary judgment is denied in whole or in part, facts admitted by the parties solely for the purpose of the summary judgment motion shall have no preclusive effect at trial ~~upon any third party who did not participate in the summary judgment proceeding.~~

Advisory Note – November 2011

The amendment to Rule 56(d) establishes that a fact admitted or not opposed by any party solely for purposes of summary judgment is not deemed admitted for any other purpose if the motion for summary judgment is denied. The purpose of the amendment is to make it unnecessary to controvert facts for purposes of summary judgment solely because of concern about the possible preclusive effect of any admission of fact at trial or in other subsequent proceedings. The rule amendment does not preclude the issuance of a partial summary judgment order.

4. These amendments shall be effective January 1, 2012.

Dated: December 13, 2011

FOR THE COURT¹

/S/

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

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

