

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

**2023 Me. Rules 07**

Effective: November 15, 2023

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 the 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 3 of the Maine Rules of Civil Procedure is amended to read as follows:

**RULE 3. COMMENCEMENT OF ACTION**

Except as otherwise provided in these rules, a civil action is commenced in one of two ways:

~~(1) (a) Service. A civil action may be commenced~~ by the service of a summons, complaint, and notice regarding Electronic Service. ~~If so commenced, the complaint must be filed with the court within 20 days after completion of service of the summons, complaint, and notice regarding Electronic Service.~~ ~~or~~

~~(2) (b) Filing. A civil action may be commenced~~ by filing a complaint with the court. ~~If so commenced, When method (1) is used, the complaint must be filed with the court within 20 days after completion of service. When method (2) is used,~~ the return of service shall be filed with the court within 90 days after the filing of the complaint. If the complaint or the return of service is not timely filed, the action may be dismissed on motion and notice, and in such case the court may, in its discretion, if it shall be of the opinion that the action was vexatiously commenced, tax a reasonable attorney

fee as costs in favor of the defendant, to be recovered of the plaintiff or the plaintiff's attorney.

### **Advisory Note – November 2023**

Rule 3 is amended to change formatting for consistency with these rules.

2. Rule 4 of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 4. PROCESS**

(a) Summons: Form. The summons shall bear the signature or facsimile signature of the clerk; be under the seal of the court; contain the name of the court and the names of the parties; be directed to the defendant; state the name and address, including email address, of the plaintiff's attorney and the time within which these rules require the defendant to appear and defend; and shall notify the defendant that in case of failure to do so judgment by default ~~will~~ may be rendered against the defendant for the relief demanded in the complaint.

....

### **Advisory Note – November 2023**

Rule 4 is amended to clarify that judgment by default *may*, but will not necessarily, be entered against a defendant who fails to appear and defend as required.

3. Rule 4A of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 4A. ATTACHMENT**

....

(c) Same: Service. The writ of attachment may be procured in blank from the clerk and shall be filled out by the plaintiff's attorney as provided in subdivision (b) of this rule. The writ of attachment shall be served by a sheriff or a deputy within the sheriff's county. The plaintiff's attorney shall deliver to

the officer making the attachment the original writ of attachment upon which to make return and a copy thereof.

No property may be attached unless such attachment for a specified amount is approved by order of the court. Except as provided in subdivision (g) of this rule, the order of approval may be entered only after notice to the defendant and hearing and upon a finding by the court that it is more likely than not that the plaintiff will recover judgment, including interest and costs, in an amount equal to or greater than the aggregate sum of the attachment and any liability insurance, bond, or other security, and any property or credits attached by other writ of attachment or by trustee process shown by the defendant to be available to satisfy the judgment.

An attachment of property shall be sought by filing, with the complaint or during the pendency of the action, a motion for approval of the attachment. The motion shall be supported by affidavit or affidavits meeting the requirements set forth in subdivision (i) of this rule. Except as provided in subdivision (g) of this rule, the motion and affidavit or affidavits ~~with the notice of hearing thereon~~ shall be served upon the defendant in the manner provided by either Rule 4 or as permitted by Rule 5 at the same time the summons and complaint are served upon that defendant. In the case of an attachment approved ex parte as provided in subdivision (g) of this rule, the defendant shall also be served with a copy of the writ of attachment with the officer's endorsement thereon of the date or dates of execution of the attachment or, if attachment has been perfected by filing under 14 M.R.S.A. § 4154, with a copy of the order of approval with the acknowledgment of the officer receiving the filing endorsed thereon.

A defendant opposing a motion for approval of attachment shall file material in opposition as required by Rule 7(c). If the defendant is deemed to have waived all objection to the motion as provided in Rule 7(c) for failure to file opposition material within the time therein provided or as extended, the court shall, without hearing, upon a finding that the plaintiff is entitled to an attachment under the terms of this subdivision (c), enter an order of approval of attachment in an appropriate amount.

Any attachment shall be made within 30 days after the order approving the writ of attachment. When attachments are made subsequent to service of the summons, ~~and~~ complaint, and notice regarding Electronic Service upon the

defendant, a copy of the writ of attachment with the officer's endorsement thereon of the date or dates of the attachments shall be promptly served upon the defendant in the manner provided by Rule 5. When an attachment made subsequent to the service of the summons, ~~and~~ complaint, and notice regarding Electronic Service has been perfected by filing under 14 M.R.S.A. § 4154, a copy of the order of approval, with the acknowledgment of the officer receiving the filing endorsed thereon, shall be promptly served upon the defendant in the same manner.

....

(g) Ex Parte Hearings on Attachments. An order approving attachment of property for a specific amount may be entered ex parte only ~~in an action commenced by filing the complaint with the court together with a~~ if the court grants an ex parte motion for approval of the attachment as provided in subdivision (c) of this rule. ~~The~~ Upon the filing of the motion, the hearing on the motion shall be held forthwith. Such order shall issue if the court finds that it is more likely than not that the plaintiff will recover judgment in an amount equal to or greater than the aggregate sum of the attachment and any insurance, bond, or other security, and any property or credits attached by other writ of attachment or by trustee process known or reasonably believed to be available to satisfy the judgment, and that either (i) there is a clear danger that the defendant if notified in advance of attachment of the property will remove it from the state or will conceal it or will otherwise make it unavailable to satisfy a judgment, or (ii) there is immediate danger that the defendant will damage or destroy the property to be attached. The motion for such ex parte order shall be accompanied by a certificate by the plaintiff's attorney of the amount of any insurance, bond, or other security, and any other attachment or trustee process which the attorney knows or has reason to believe will be available to satisfy any judgment against the defendant in the action. The motion, in the filing of which the plaintiff's attorney shall be subject to the obligations of Rule 11, shall be supported by affidavit or affidavits meeting the requirements set forth in subdivision (i) of this rule.

### **Advisory Note – November 2023**

In the third paragraph of subdivision (c), a notice of hearing is no longer to be included with service of the motion and affidavit or affidavits because the court now sends the notice of hearing. Language is also modified to clarify that

a motion for attachment may be filed and served either at commencement or during the pendency of the action. The fifth paragraph of subdivision (c) is modified to reference the notice regarding Electronic Service described in Rule 5(b). The subdivision is also amended to update the statutory citations to reference the M.R.S. instead of the M.R.S.A.

Subdivision (g) is amended to clarify that an ex parte motion for attachment may be filed either at commencement or during the pendency of the action.

4. Rule 4B of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 4B. TRUSTEE PROCESS**

....

(c) Same: Service. The trustee summons may be procured in blank from the clerk and shall be filled out by the plaintiff's attorney as provided in subdivision (b) of this rule. The trustee summons shall be served by a sheriff or a deputy within the sheriff's county. The plaintiff's attorney shall deliver to the officer making service the original trustee summons upon which to make return of service and a copy thereof for service upon the trustee. The trustee summons shall be served in like manner and with the same effect as other process.

No trustee summons may be served unless attachment on trustee process for a specified amount has been approved by order of the court. Except as provided in subdivision (i) of this rule, the order of approval may be entered only after notice to the defendant and hearing and upon a finding by the court that it is more likely than not that the plaintiff will recover judgment, including interest and costs, in an aggregate sum equal to or greater than the amount of the trustee process and any insurance, bond, or other security, and any property or credits attached by writ of attachment or by other trustee process shown by the defendant to be available to satisfy the judgment.

Trustee process shall be sought by filing, with the complaint or during the pendency of the action, a motion for approval of attachment on trustee process. The motion shall be supported by affidavit or affidavits meeting the

requirements set forth in Rule 4A(i). Except as provided in subdivision (i) of this rule, the motion and affidavit or affidavits ~~with notice of hearing thereon~~ shall be served upon the defendant in the manner prescribed in either Rule 4 ~~or as permitted by Rule 5 at the same time the summons complaint are served upon the defendant.~~

A defendant opposing a motion for approval of attachment on trustee process shall file material in opposition as required by Rule 7(c). If the defendant is deemed to have waived all objection to the motion as provided in Rule 7(c) for failure to file opposition material within the time therein provided or as extended, the court shall, without hearing, upon a finding that the plaintiff is entitled to an attachment under the terms of this subdivision (c), enter an order of approval of attachment in an appropriate amount.

Any trustee process shall be served within 30 days after the date of the order approving the attachment. Promptly after the service of the trustee summons upon the trustee or trustees, a copy of the trustee summons with the officer's endorsement thereon of the date or dates of service shall be served upon the defendant in the manner provided in either Rule 4 or Rule 5.

....

(e) Disclosure by Trustee; Subsequent Proceedings. A trustee shall serve that trustee's disclosure under oath within 20 days after the service of the trustee summons upon that trustee, unless the court otherwise directs. The proceedings after service of the trustee's disclosure shall be as provided by law. When a trustee reports for examination, notice thereof shall be served upon the attorney for the plaintiff, and upon motion the court shall fix a time for the disclosure to be made. Before the disclosure is presented to the court for adjudication, there shall be noted on the document ~~minuted upon the back thereof~~ the name of the attorney for the plaintiff, the name of the trustee with the date of the service of the summons upon that trustee, and the docket number of the action.

....

(i) Ex Parte Hearings on Trustee Process. An order approving trustee process for a specified amount may be entered ex parte only ~~in an action commenced by filing the complaint with the court together with a~~ if the court

grants an ex parte motion for approval of attachment on trustee process as provided in subdivision (c) of this rule. The Upon the filing of the motion, the hearing on the motion shall be held forthwith. Such order shall issue if the court finds that it is more likely than not that the plaintiff will recover judgment in an amount equal to or greater than the aggregate sum of the trustee process and any insurance, bond or other security, or property or credits attached by writ of attachment or by other trustee process known or reasonably believed to be available to satisfy the judgment and that either (i) there is a clear danger that the defendant if notified in advance of the attachment on trustee process will withdraw the goods and credits from the hands and possession of the trustee and remove them from the state or conceal them, or otherwise make them unavailable to satisfy a judgment, or (ii) there is immediate danger that the defendant will dissipate the credits, or damage or destroy the goods, to be attached on trustee process. A maximum of one hundred dollars of demand bank accounts of the defendant held by any one trustee shall, however, be exempt from trustee process approved by an ex parte order under this subdivision. The motion for an ex parte order under this subdivision shall be accompanied by a certificate by the plaintiff's attorney of the amount of any insurance, bond, or other security, and any other attachment or trustee process which the attorney knows or has reason to believe will be available to satisfy any judgment against the defendant in the action. The motion, in the filing of which the plaintiff's attorney shall be subject to the obligations of Rule 11, shall be supported by affidavit or affidavits meeting the requirements set forth in Rule 4A(i).

### **Advisory Note – November 2023**

In the third paragraph of subdivision (c), a notice of hearing is no longer to be included with service of the motion and affidavit or affidavits because the court now sends the notice of hearing. Language in subdivision (c) is also modified to clarify that a motion for trustee process may be filed and served either at commencement or during the pendency of the action.

Subdivision (e) is amended to update archaic language and comport with the Maine Rules of Electronic Court Systems.

Subdivision (i) is amended to clarify that an ex parte motion for trustee process may be filed either at commencement or during the pendency of the action.

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

**RULE 5. SERVICE, ~~AND~~ FILING, ~~AND~~ FORM OF PLEADINGS AND OTHER DOCUMENTS PAPERS**

(a) Service: When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every ~~document paper~~ relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, notice of change of attorneys, pretrial memorandum, demand, offer of judgment, designation of record and statement of points on appeal, and similar ~~document paper~~ shall be served upon each of the parties no later than the date on which the ~~document paper~~ is filed with the court, but no service need be made on parties in default for failure to appear except that (1) pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4, and (2) when applicable, a copy of a request for default or default judgment must be mailed as set forth in Rule 55(f).

(b) Same: How Made. Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party personally is ordered by the court. When an attorney has filed a limited appearance under Rule 11(b), service upon the attorney is not required. Service upon an attorney who has ceased to represent a party is a sufficient compliance with this subdivision until written notice of change of attorneys has been served upon the other parties. Except as otherwise provided in these rules, service of the documents described in subdivision (a) upon a party who is represented by an attorney or an unrepresented party who has opted in to Electronic Service shall be made

(1) by delivering a copy to the attorney or to the party; or

(2) by Electronic Service to the last known electronic mail address provided to the court or, if no electronic mail address is known, mailing it to the



last known regular mail address, or, if neither is known, by leaving it with the clerk of the court.

If Electronic Service to the last known electronic mail address is returned as undeliverable, or the sender otherwise learns that it was not successfully delivered, service must then be made by regular mail. Service shall be complete upon the attempted Electronic Service for purposes of the sender meeting any time period.

Service of the documents described in subdivision (a) upon an unrepresented party who has not opted in to Electronic Service or service of documents excluded from Electronic Service below shall be made by mailing them to the last known regular mail address of the party, or, if no mail address is known, by leaving them with the clerk of the court.

**“Electronic Service”** means the electronic transmission of a pleading, ~~or~~ document, or information to a party or a party’s attorney through electronic mail (email) under this rule. Unless otherwise approved by the court, pleadings and other documents being transmitted electronically shall be sent or submitted as an attachment in portable document format (PDF), except that documents produced pursuant to rules 33 and 34, any record in support of summary judgment in excess of 50 pages, and the record of proceedings filed pursuant to Rules 80B or 80C are not required to be produced or transmitted in electronic format, and, in addition to being electronically served, original signed answers to interrogatories are required to be produced to the requesting party. Electronic Service shall be complete when transmitted, shall be presumed to have been received by the intended recipient, and shall have the same legal effect as the service of an original paper document.

~~Delivery of a copy~~ **“Delivery of a copy”** within this rule means: handing it to the attorney or to the party; or leaving it at the office of the attorney or of the party with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein, or, if the office is closed or the person to be served has no office, leaving it at the person’s dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by regular mail is complete upon mailing.

(c) Same: Numerous Defendants. In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own

initiative, may order that service of the pleadings of the defendant and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) Filing: No Proof of Service Required. Subject to the provisions of Rule 26(f) regarding discovery, all documents papers after the complaint required to be served upon a party shall be filed with the court either upon before service or within a reasonable time thereafter. Such filing by a party shall constitute a representation by the party, subject to the obligations of Rule 11, that a copy of the document paper has been or will be served upon each of the other parties as required by subdivision (a) of this rule. No further proof of service is required unless an adverse party raises a question of notice or such proof of service is required by Rule 36(G) of the Maine Rules of Electronic Court Systems.

(e) Filing ~~With~~ with the Court Defined. The filing of pleadings and other documents papers with the court as required by these rules shall be made by filing them with ~~the clerk of~~ the court except that a justice or judge may permit ~~the papers paper filings~~ to be filed with that justice or judge, in which event the justice or judge shall note thereon the filing date and forthwith transmit them to the office of the clerk. After hours or other office filings are subject to Rule 5(g).

(f) Filings ~~of Papers~~ Not in Compliance with Rules, Orders, or Statute. Filings that are received but ~~which are~~ not signed, or ~~are~~ not accompanied at the time of filing by a legally required element, ~~including but not limited to, a filing fee, appeal fee, registry recording fee and envelope, or summary sheet, or, if filed by an attorney, do not have the attorney's Maine Bar Registration Number~~, shall be returned rejected by the clerk as incomplete.

(1) Upon rejection, the clerk will send a rejection notice to the filer that identifies the basis for the rejection. If the filing is on paper the clerk shall return it to the filer.

(2) The clerk will not docket the attempted filing but will retain a copy of the attempted filing and the related rejection notice, ~~of return~~ for six months.

(3) The ~~offeror may refile the~~ documents may be refiled when all elements are complete ~~and. The filing~~ will be docketed when the complete filing is received.

(g) After Hours and Other Office Filings in Paper.

(1) Clerks of courts may not, unless authorized by a judge or justice, accept filings for other courts, or accept paper pleadings or other documents filed with or left for the clerk after normal business hours. Unless the party or counsel has filed the paper pleading or document directly with a judge or justice, or the clerk has received explicit instructions from a judge or justice to accept an after-hours filing as filed on the date it is made, the clerk shall date stamp the filing, and docket it as filed, on the next regular business day.

(2) Judges or justices may, for good cause shown, accept paper filings made after regular business hours, accept paper filings for other courts, or may make arrangements with a clerk for the clerk to accept a paper filing after regular business hours. In such a matter, the judge, justice or clerk shall note the judge's authorization on the pleading or document, along with the date and time of actual receipt. The receiving official shall promptly transmit the filing to the proper court, where the filing shall be docketed as filed on the date originally received by the judge, justice, or clerk. Judges or justices may discuss the need for such paper filings with the offering party or counsel, and such discussions are deemed not to be ex parte communications, or to require notice to opposing parties or counsel.

(h) Pleading Summary Sheets.

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

matters must be filed using a Family and Probate Matters Summary Sheet, except as provided in subdivision (3) of this rule.

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

(3) Summary Sheets are not required in ~~Ssmall Cclaims, or in UIFSA, Mmental Hhealth, or DHS Protective Custody or Administrative Paternity Proceedings~~ and are not required in Special Actions (SA) other than Money Judgment requests for disclosure forcible entry and detainer, or personal property recovery actions. Summary Sheets are also not required in the following actions when initiated by the Department of Health and Human Services: Uniform Interstate Family Support Act actions, child protection cases, administrative paternity proceedings, or special actions.

(i) Form of Documents Papers.

(1) *Size and Formatting.* The text of aAll pleadings, motions, and original documents papers, except cover letters and transcripts, shall be typed double-spaced in at least 12-point type, except that footnotes and quotations shall appear single-spaced in 11-point type. The page size must be or printed on 8 1/2 x 11-inches, and paper filings may have with text on only one side of each page. All pages shall be numbered. In addition to meeting the formatting requirements of this rule, documents must satisfy the requirements of Rule 34 of the Maine Rules of Electronic Court Systems if those Rules apply.

(2) *Condensed Transcripts.* Unless otherwise ordered by the court, a party serving or filing a condensed transcript of a deposition or other proceeding shall serve or file a copy of the transcript with four 8 1/2 x 11-inch pages of normal type size reduced so that such pages may be reproduced on a single 8 1/2 x 11-inch page sheet, with text on both sides of the sheet.

(3) *Endorsement for Costs.* In any case where an endorsement for costs is required, the name of an attorney of this State appearing on the complaint filed with the court, shall constitute such an endorsement in absence of any words used in connection therewith showing a different purpose.

....

~~(k) Methods of Filing. Electronic Filing. Filings by electronic transmission of data or by means of a compact disk (CD) or floppy disk or any other method for electronic or internet filing in place of the filing of paper documents required by these rules, is not permitted.~~

~~(1) “Paper filing” means filing a paper document in a clerk’s office. When paper filing is required, no filing by electronic means is permitted without express authorization in an administrative order or other court order.~~

~~(2) The term “electronic filing” means electronic transmission of a document in electronic form to the court through the electronic filing system. When using the court’s electronic filing system, the filing party must comply with the requirements of the Maine Rules of Electronic Court Systems unless the court provides otherwise through an administrative order.~~

### **Advisory Note – November 2023**

The title of Rule 5 is amended to indicate that it governs the form of pleadings and to refer to documents instead of papers in light of the Maine Rules of Electronic Court Systems.

Subdivision (a) is amended to refer to documents instead of papers in light of the Maine Rules of Electronic Court Systems.

Subdivision (b) is amended, in light of the Maine Rules of Electronic Court Systems, to clarify that “Electronic Service” is defined only for purpose of Rule 5. A change in formatting has also been incorporated.

Subdivisions (d) through (g) are amended in light of the Maine Rules of Electronic Court Systems, and to resolve an inconsistency between subdivisions (a) and (d) with regard to the timing of filing and service.

Subdivision (h) is amended to incorporate clarifying language, to indicate that the Summary Sheet is available on the Judicial Branch website, and to specify that family and probate matters cases require the Family and Probate Matters Summary Sheet.

Subdivision (i) is amended to refer to documents instead of papers in light of the Maine Rules of Electronic Court Systems, to incorporate formatting requirements formerly located in Rule 7(f), to add a reference to the Maine Rules of Electronic Court Systems, and to update a two-sided document requirement in light of the Maine Rules of Electronic Court Systems.

The language of subdivision (k) is replaced. It describes the methods of filing. New subdivision (k)(1) defines “paper filing.” It allows for filing by electronic means in courts that ordinarily accept only paper filing if an administrative order or other court order authorizes that method of filing. New subdivision (k)(2) provides that “electronic filing” refers to filing using the court’s electronic filing system, and the filing party must comply with the requirements of the Maine Rules of Electronic Court Systems unless the court provides otherwise through an administrative order.

6. Rule 7 of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 7. PLEADINGS ALLOWED: FORM OF MOTIONS**

...

(e) Reply Memorandum. Within 14 days ~~of~~ after the filing of any memorandum in opposition to a motion, or, if a hearing has been scheduled, not less than 2 days before the hearing, whichever date is earlier, the moving party may file a reply memorandum, which shall be strictly confined to replying to new matter raised in the opposing memorandum.

(f) Form and Length of Memoranda of Law. All memoranda must comport with the specifications set forth in Rule 5(i) above. shall be typed or otherwise printed on one side of the page of 8 1/2 x 11 inch paper. The typed matter must be double spaced in at least 12 point type, except that footnotes and quotations may appear in 11 point type. All pages shall be numbered. Except by prior leave of court, no memorandum of law in support of or in opposition to a nondispositive motion shall exceed 10 pages. Except by prior leave of court, no memorandum of law in support of or in opposition to a motion to dismiss, a motion for judgment on the pleadings, a motion for summary judgment, or a motion for injunctive relief shall exceed 20 pages. No reply memorandum shall exceed 7 pages.

## Advisory Note – November 2023

Subdivision (e) is amended to specify that a reply memorandum must be filed within 14 days after the filing of any memorandum in opposition to a motion, or, if a hearing has been scheduled, not less than 2 days before the hearing, *whichever date is earlier*.

Subdivision (f) is amended to cross-reference Rule 5(i) for font and page specifications.

7. Rule 11 of the Maine Rules of Civil Procedure is amended to read as follows:

### **RULE 11. SIGNING OF PLEADINGS, AND MOTIONS, AND OTHER WRITTEN REQUESTS FOR RELIEF; SANCTIONS**

(a) **Attorney Signature and Contact Information** Required; Sanctions.

**(1) Attorney Information Form.** Attorneys must file the “Attorney Information” form with the Administrative Office of the Courts and must keep that information current.

**(2) Attorney Signature.** Subject to subdivision (b), every pleading, ~~and~~ motion, ~~and other written request for relief of by~~ a party represented by an attorney ~~and filed with the court~~ shall be signed by at least one attorney of record in the attorney’s individual name, ~~together with the attorney’s whose bar number,~~ address, ~~including~~ email address, ~~and telephone number shall be stated.~~ ~~A party who is not represented by an attorney shall sign the party’s pleading or motion and state the party’s address, including email address.~~

**(3) Unrepresented Party Signature.** Every pleading, motion, and other written request for relief filed with the court by a party who is not represented by an attorney shall be signed by the party. Unless a Civil Summary Sheet is required pursuant to Rule 5(h), the party shall complete and submit to the court a current “Unrepresented Party Contact Information” form at the time of the party’s first filing in the case. ~~Whether the party has initially filed a Civil Summary Sheet or an “Unrepresented Party Contact Information” form, if the party’s contact information changes during the pendency of the action, the~~

party must complete and submit to the court a “Contact Information” form providing the updated contact information.

(4) Form of signature. Where a signature is required under this rule, a person may sign the document by using one of the following methods:

(A) Physically signing the document; or

(B) Signing electronically as defined in Maine Rules of Electronic Court Systems Rule 37(a) when filing electronically or, with authorization, filing by email or using ShareFile.

(5) Effect of Signature; Effect of Failure to Sign. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or an unrepresented party constitutes a representation by the signer that the signer has read the pleading, ~~or~~ motion, or other written request for relief; that to the best of the signer’s knowledge, information, and belief there is good ground to support it; and that it is not interposed filed for delay. If a pleading, ~~or~~ motion, or other written request for relief is not signed, it shall not be accepted for filing.

(6) Sanctions. If a pleading, ~~or~~ motion, or other written request for relief is signed with the intent to defeat the purpose of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, upon a ~~represented~~ party, or upon both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, ~~or~~ motion, or other written request for relief, including a reasonable attorney’s fee.

(b) Limited Appearance of Attorneys. To the extent permitted by the Maine Bar Rules, an attorney may file a limited appearance on behalf of an otherwise unrepresented litigant. The appearance shall precisely state ~~precisely~~ the scope of the limited representation. The requirements of subdivision (a) shall apply to every pleading, ~~and~~ motion, and other written request for relief signed by the attorney. An attorney filing a pleading, ~~or~~ motion, or other written request for relief outside the scope of the limited representation shall be deemed to have entered an appearance for the purposes of the filing.



(c) Documents Filed in Federal Court. Any document originally filed in the United States District Court for the District of Maine or any other federal court, and transferred to a court subject to these rules, shall be deemed to be signed if the document is signed or signing of the document is indicated in a manner that is acceptable for filing in the court from which the document is transferred.

### **Advisory Note – November 2023**

Subdivision (a) is reorganized and amended to distinguish the requirements imposed upon attorneys and unrepresented parties regarding the manner in which each must provide contact information to the court in order to comport with the Maine Rules of Electronic Court Systems, which restrict public access to a party’s contact information.

Subdivisions (a) and (b) are amended to require that, in addition to pleadings and motions, “other written request for relief” are brought within the ambit of Rule 11 and must be signed by an attorney of record or by a party who is not represented by an attorney. The broader term “other written request for relief” contemplates that an attorney or self-represented party might file a written request in an alternate form. Although the Rule 11 requirements do not apply to *anything* that might be filed, the requirements do apply to any pleading, motion, or other written request for relief—including supporting documentation such as a legal memorandum—filed in conjunction with the pleading, motion, or other written request for relief under the signature of the attorney or self-represented party. The rule as amended explicitly makes an attorney or self-represented party accountable for Rule 11 requirements as to such documents.

Subdivision (a)(2) is also amended to require that in addition to the name and address of the attorney of record, the pleading, motion, or other written request for relief must also state the attorney’s bar number, email address and telephone number.

Subdivision (a)(3) is also amended to require that, if an unrepresented party’s contact information is not included in a Civil Summary Sheet pursuant to Rule 5(h), the party must complete and submit to the court a current “Unrepresented Party Contact Information” form at the time of the party’s first

filing in the case. If a party’s contact information changes during the pendency of the action, the party must update the court by filing an “Unrepresented Party Contact Information” form that reflects those changes.

Subdivision (a)(4) is added to define acceptable forms of signature and to include a cross-reference to the Maine Rules of Electronic Court Systems for the definition of electronic signing.

8. Rule 12(a) of the Maine Rules of Civil Procedure is amended to read as follows:

**RULE 12. DEFENSES AND OBJECTIONS—WHEN AND HOW PRESENTED BY PLEADING OR MOTION—MOTION FOR JUDGMENT ON PLEADINGS**

(a) When Presented. A defendant shall serve that defendant’s answer within 20 days after the service of the summons, **and** complaint, **and notice regarding Electronic Service** upon that defendant, unless the court directs otherwise when service of process is made pursuant to an order of court under Rule 4(d) or 4(g), and provided that a defendant served pursuant to Rule 4(e), 4(f), or 4(j) outside the Continental United States or Canada may serve the answer at any time within 50 days after such service. A party who is served with a pleading stating a cross-claim against that party shall serve an answer thereto within 20 days after the service upon that party. The plaintiff shall serve a reply to a counterclaim in the answer within 20 days after service of the answer or, if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs. The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court: (1) if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 days after notice of the court’s action; (2) if the court grants a motion for a more definite statement the responsive pleading shall be served within 10 days after the service of the more definite statement.

....

**Advisory Note – November 2023**

Subdivision (a) is amended to add reference to the notice regarding Electronic Service described in Rule 5(b).

9. Rule 24 of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 24. INTERVENTION**

....

(c) Procedure. A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5 or, if the motion is filed through electronic filing as defined in Rule 2 of the Maine Rules of Electronic Court Systems, as provided in Rule 36 of the of the Maine Rules of Electronic Court Systems. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

#### **Advisory Note – November 2023**

Rule 24(c) is amended to include references to the Maine Rules of Electronic Court Systems.

10. Rule 25 of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 25. SUBSTITUTION OF PARTIES**

(a) Death.

(1) If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by any party or by the successors or representatives of the deceased party and, ~~together with the notice of hearing,~~ shall be served on the parties as provided in Rule 5 or, if the motion is filed through electronic filing as defined in Rule 2 of the Maine Rules of Electronic Court Systems, as provided in Rule 36 of the of the Maine Rules of Electronic Court Systems, and upon persons not parties in the manner provided in Rule 4 for the service of a summons. Unless the motion for substitution is made not later than 90 days after the death is suggested upon the record by service of a statement of the fact of the death as provided herein for the service of the motion, the action shall be dismissed as to the deceased party.

### **Advisory Note – November 2023**

Rule 25(a)(1) is amended to remove requirement that the party serve a notice of hearing because the court now provides that notice, and to include references to the Maine Rules of Electronic Court Systems.

11. Rule 30 of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 30. DEPOSITIONS UPON ORAL EXAMINATION**

(a) When Depositions May Be Taken. After commencement of the action, any party may take the testimony of any person, including a party, either within or without the state, by deposition upon oral examination. Leave of court, granted with or without notice, must be obtained only if the plaintiff seeks to take a deposition prior to the expiration of 30 days after service of the summons, **and** complaint, **and notice regarding Electronic Service** upon any defendant, except that leave is not required (1) if a defendant has served a notice of taking deposition or otherwise sought discovery, or (2) if special notice is given as provided in subdivision (b)(2) of this rule. . . .

### **Advisory Note – November 2023**

Subdivision (a) of Rule 30 is amended to include reference to service of notice regarding Electronic Service described in Rule 5(b).

12. Rule 33 of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 33. INTERROGATORIES TO PARTIES**

(a) Availability; Procedures for Use. Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may, without leave of court, be served upon the plaintiff after commencement of the action and upon

any other party with or after service of the summons, ~~and~~ complaint, and notice regarding Electronic Service upon that party. Unless otherwise ordered by the court, more than one set of interrogatories may be served, but not more than a total of 30 interrogatories may be served by a party on any other party. Each distinct subpart in an interrogatory shall be deemed a separate interrogatory for the purposes of this rule.

Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories, except that a defendant may serve answers or objections within 45 days after service of the summons, ~~and~~ complaint, and notice regarding Electronic Service upon that defendant. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under Rule 37(a) with respect to any objection to or other failure to answer an interrogatory. A party in responding to interrogatories shall set forth each interrogatory in full immediately preceding the party's answer or objection thereto.

### **Advisory Note – November 2023**

Subdivision (a) of Rule 33 is amended to include references to the notice regarding Electronic Service described in Rule 5(b).

13. Rule 34 of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 34. PRODUCTION AND INSPECTION OF DOCUMENTS AND THINGS; ~~AND~~ ENTRY UPON LAND FOR INSPECTION AND OTHER PURPOSES**

....

(b) Procedures. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons, ~~and~~ complaint, and notice regarding Electronic Service upon that party. The request shall set forth the items to be inspected

either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. The request may specify the form or forms in which electronically stored information is to be produced.

The party upon whom the request is served shall serve a written response within 30 days after the service of the request, except that a defendant may serve a response within 45 days after service of the summons, ~~and~~ complaint, and notice regarding Electronic Service upon that defendant. The court may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, including an objection to the requested form or forms for producing electronically stored information, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to produce or to permit inspection as requested.

....

### **Advisory Note – November 2023**

The title of Rule 34 is amended to clarify that the rule applies to the inspection of documents or things.

Subdivision (b) is amended to include references to the notice regarding Electronic Service described in Rule 5(b).

14. Rule 36 of the Maine Rules of Civil Procedure is amended to read as follows:

### **RULE 36. REQUESTS FOR ADMISSION**

(a) Request for Admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rule 26(b) set forth in the request that relate to statements or opinions of fact or of the application of law to fact,

including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons, ~~and~~ complaint, and notice regarding Electronic Service upon that party.

Each matter of which an admission is requested shall be separately set forth. Subject to the provisions of subdivision (b) of this rule, the matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party's attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 45 days after service of the summons, ~~and~~ complaint, and notice regarding Electronic Service upon that defendant. If objection is made, the reasons therefor shall be stated. . . .

### **Advisory Note – November 2023**

Subdivision (a) of Rule 36 is amended to include references to the notice regarding Electronic Service described in Rule 5(b).

15. Rule 41 of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 41. DISMISSAL OF ACTIONS**

(a) Voluntary Dismissal: Effect Thereof.

(1) *By Plaintiff; by Stipulation.* Subject to the provisions of Rule 23(e) and of any statute, an action may be dismissed by the plaintiff without order of court (~~1A~~) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (~~1B~~) by filing a stipulation of dismissal signed by all parties ~~who that~~ have appeared in the action; provided, however, that no action wherein a receiver has been appointed shall be dismissed except by order of the court. A dismissal under this paragraph may be as to one or more, but fewer

than all claims, ~~but not as to fewer than all of the~~ plaintiffs, or defendants. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff ~~who~~ that has once dismissed in any court of this state or any other state or the United States an action based on or including the same claim.

(2) *By Order of Court.* Except as provided in paragraph (1) of this subdivision of this rule, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant ~~prior to~~ before the service upon the defendant of the plaintiff's motion to dismiss, the counterclaim shall remain pending for independent adjudication by the court despite the dismissal of the plaintiff's claim. Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice.

....

(d) Costs of Previously-Dismissed Action. If a plaintiff ~~who~~ that has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

### **Advisory Note – November 2023**

Subdivision (a)(1) of Rule 41 is amended to allow for dismissal under this paragraph as to fewer than all plaintiffs or defendants.

The rule is also amended to make numbering consistent and to make stylistic changes not affecting the substance of the rule.

16. Rule 65 of the Maine Rules of Civil Procedure is amended to read as follows:

### **RULE 65. INJUNCTIONS**

(a) Temporary Restraining Order; Notice; Hearing; Duration. A temporary restraining order may be granted without written or oral notice to



the adverse party or that party's attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required. The verification of such affidavit or verified complaint shall be upon the affiant's own knowledge, information or belief; and, so far as upon information and belief, shall state that the affiant believes this information to be true. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith ~~in the clerk's office~~ and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry as the court fixes, unless within the time so fixed the order, for good cause shown, is extended or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record.

....

### **Advisory Note – November 2023**

Rule 65(a) is amended to remove reference to the clerk's "office" given that filing may in some instances be achieved electronically—not in a physical office—pursuant to the Maine Rules of Electronic Court Systems.

17. Rule 67 of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 67. DEPOSIT IN COURT**

In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other thing capable of delivery, a party, upon notice to every other party, and by leave of court, may deposit with the court all or any part of such sum or thing. In the Superior Court, money paid into court under this rule shall be deposited and withdrawn in accordance with the provisions of 4 M.R.S. ~~A.~~ § 556. In the District Court, money paid into court under this rule shall be deposited in such depository as the court having custody shall designate (which designation shall

be ~~noted~~ ~~minuted~~ on the docket) and shall be withdrawn therefrom upon order of the clerk, countersigned by any judge.

### **Advisory Note – November 2023**

Rule 67 is amended to avoid archaic language and to update the statutory citation to reference the M.R.S. instead of the M.R.S.A.

18. Rule 76C of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 76C. REMOVAL TO SUPERIOR COURT**

....

(b) Proceedings for Removal. Upon the filing of the notice of removal and payment of the jury fee required by subdivision (a) of the rule, the clerk shall thereupon ~~file with~~ transfer the record to the Superior Court ~~the record~~ as provided in Rule 76F(a) for appeals, provided that the District Court shall first determine any motions for approval of attachment, trustee process or replevin, pending when the notice of removal was filed. Any order of the District Court entered on such a motion, or any other order of the District Court entered prior to removal, shall remain in force until modified by the Superior Court. If the party giving notice of removal does not comply with the requirements of this rule, the action shall proceed in the District court as if no notice had been filed.

### **Advisory Note – November 2023**

Subdivision (b) is amended in light of the Maine Rules of Electronic Court Systems to require that the District Court clerk *transfer* the record to the Superior Court rather than *filing* it with the Superior Court.

19. Rule 76D of the Maine Rules of Civil Procedure is amended to read as follows:

**RULE 76D. APPEAL TO THE SUPERIOR COURT**

....

Within the time for filing the notice of appeal the appellant shall pay to the clerk of the District Court the entry fee in and the cost of forwarding to the Superior Court the record on appeal specified in Rule 76F. The clerk of the District Court shall then ~~forward~~ transfer the record to the Superior Court. The clerk of the Superior Court shall then promptly enter the appeal. If by accident or mistake the required payment is not made within the time prescribed, the court may, on motion of either party, allow the late payment of the required fees and direct the clerk to enter the appeal in the Superior Court; but attachment or bail shall not thereby be revived or continued.

....

**Advisory Note – November 2023**

The fourth paragraph of Rule 76D is amended in light of the Maine Rules of Electronic Court Systems to require that the District Court clerk *transfer* the record to the Superior Court rather than *forwarding* it to the Superior Court.

20. Rule 76F of the Maine Rules of Civil Procedure is amended to read as follows:

**RULE 76F. RECORD ON APPEAL TO THE SUPERIOR COURT**

(a) Record to Be Filed in Superior Court.

When ~~an appeal is completed a District Court matter has been appealed to the Superior Court as authorized by statute~~, the clerk of the division shall ~~file~~ transfer the record ~~with to~~ the Superior Court. The original papers and exhibits filed in the District Court and a copy of the docket entries prepared by the clerk of the District Court, together with any transcript made pursuant to Rule 76H of these rules, shall constitute the record on appeal in all cases. A party must

make advance arrangements with the clerk for the transportation and receipt of documents or exhibits of unusual bulk or weight.

The record on appeal prepared in accordance with this subdivision shall be filed in the Superior Court not later than 40 days after the filing of the notice of appeal or 10 days after the filing of any transcript of the proceedings requested in accordance with Rule 76H, whichever occurs later. It shall be the appellant's responsibility to ~~insure~~ ensure that these time limits are met and to provide the clerk such assistance as is necessary in preparing and copying the record for filing in the Superior Court. If the appellant fails to comply with the requirements of this rule, the District Court may, on motion of any party or on its own initiative, dismiss the appeal for want of prosecution. Upon showing of good cause, the District Court may increase or decrease the time allowed for filing the record. Upon receipt of the record from the District Court, the clerk of the Superior Court shall send each counsel of record or unrepresented party a written notice of the docketing of the receipt of the record on appeal, the Superior Court docket number, the date upon which the record was received, the date upon which the appellant's brief is due, and a copy of the briefing schedule required by Rule 76G(a).

### **Advisory Note – November 2023**

Subdivision (a) is amended in light of the Maine Rules of Electronic Court Systems to require that the District Court clerk transfer the record to the Superior Court rather than filing it with the Superior Court. Grammatical corrections and clarifying language are also incorporated.

21. Rule 80F of the Maine Rules of Civil Procedure is amended to read as follows:

### **RULE 80F. TRAFFIC INFRACTIONS**

....

(b) Commencement of Proceeding. A proceeding under this rule is commenced by delivery of a copy of a Violation Summons and Complaint completed in the manner prescribed by subdivision (c). Such Violation Summons and Complaint may be:

(1) filled out and delivered to defendant personally by any officer authorized to enforce the motor vehicle laws of this state who has probable cause to believe that a traffic infraction has been committed;

(2) filled out by any officer authorized to enforce the motor vehicle laws of this state who has probable cause to believe that a traffic infraction has been committed and (A) transmitted to any officer authorized to enforce a statute of this state defining a traffic infraction for delivery to the defendant personally, or (B) served on the defendant in any manner permitted under Rule ~~4(e)(4)(f)(4)~~ of the Maine Rules of Unified Criminal Procedure; or

(3) filled out by a prosecutor and delivered to the defendant personally or the defendant's attorney personally if the traffic infraction arises out of the same set of facts which gave rise to another traffic infraction or criminal complaint under the motor vehicle laws of this state. Any Violation Summons and Complaint served as provided in this paragraph (3) may be filed in the Violations Bureau by delivering it to the clerk of the division in which the infraction is alleged to have been committed or in a county in which the criminal complaint is or was pending. The clerk may receive the defendant's answer and shall send the Violation Summons and Complaint and any answer to the Violations Bureau.

....

### **Advisory Note – November 2023**

Rule 80F is amended to update a cross-reference to M.R.U. Crim. P. 4.

22. Rule 80K of the Maine Rules of Civil Procedure is amended to read as follows:

### **RULE 80K. LAND USE VIOLATIONS**

(a) Applicability. Except as otherwise provided in this rule, these rules shall apply to proceedings in the District Court involving alleged violations of land use laws and ordinances, whether administered and enforced primarily at the state or the local level, including but not limited to, those statutes, ordinances, codes, rules and regulations set forth in 4 M.R.S.~~A~~ § 152(6-~~A~~).

....

(h) Authority of Complainant. A person who is not an attorney may represent a municipality under ~~12 M.R.S.A. § 4812-C(2)~~, 30-A M.R.S.A. § 4221(2), ~~or 30-A M.R.S.A. § 4452(1)~~, or 38 M.R.S. § 441(2), or the State under 38 M.R.S.A. § 342(7), if the person files with the court when first appearing a written authorization from the municipal officers or the Commissioner of the Department of Environmental Protection, as appropriate, and a current certificate of familiarity with court procedures awarded under a program established by the Commissioner of Human Services as provided in 30-A M.R.S.A. § 4221(2).

### Advisory Note – November 2023

Rule 80K is amended to update the statutory citations to reference the M.R.S. instead of the M.R.S.A. and to reflect the repeal and replacement of a previously referenced statute.

23. Rule 80L of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 80L. JURY TRIAL DE NOVO IN SMALL CLAIMS APPEALS TO THE SUPERIOR COURT**

...

(b) Scope; Service and Filing of Papers; Time; Motions. Rules 1, 2, 5, 6, 7(b), 11, and 15(b) of these rules apply to jury trials de novo in small claims appeals, so far as applicable. All notices given to the defendant shall be sent by ordinary mail addressed to the post office address of the defendant set forth on the notice of appeal unless delivered electronically pursuant to the Maine Rules of Electronic Court Systems.

(c) Pretrial and Trial Proceedings.

(1) *Determination on Affidavits*. When the record in a small claims appeal in which jury trial de novo has been demanded is received in the Superior Court, the clerk shall immediately notify the parties. The plaintiff may, within 10 days after the mailing or electronic delivery of such notification, file a counter affidavit or affidavits meeting the requirements of Rule 56(e),

together with a brief statement of the grounds of any cross appeal for which a notice was filed under Rule 11(a) of the Maine Rules of Small Claims Procedure. The court shall thereupon review the affidavits of both parties, together with the entire record on appeal, and shall determine whether the defendant's affidavits are adequate and, if so, whether there is a genuine issue of material fact as to which there is a right to trial by jury.

(2) *Genuine Issue of Fact: Further Pretrial Proceedings; Assignment for Trial.* If the court finds that defendant has shown in light of the affidavits and the whole record that there is a genuine issue of material fact as to which there is a right to trial by jury, it shall either direct the clerk immediately to place the action upon a jury trial list maintained in accordance with Rule 40(a) or shall order the parties to file pretrial memoranda containing specified information or to appear for a pretrial conference or to file memoranda and appear for a conference. After review of the pretrial memoranda or at the conclusion of the conference, the court shall direct the clerk to place the action upon a jury trial list. Scheduling of actions for trial shall be at the direction of the court, as provided in Rule 40(a).

### **Advisory Note – November 2023**

Subdivision (b) and (c)(1) are amended to comport with Maine Rules of Electronic Court Systems.

Subdivision (c)(2) is amended to update cross references to Rule 40.

24. Rule 83 of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 83. DEFINITIONS**

Unless specified to the contrary, the following words whenever used in these rules shall have the following meanings:

(1) The word “court” shall include any judge **or magistrate** of the District Court, any justice of the Superior Court and any single justice of the Supreme Judicial Court.

(2) The word “clerk” shall mean the clerk of courts in and for the county or division in which the action is pending.

(3) The term “plaintiff’s attorney” or “defendant’s attorney” or any like term shall include the party appearing without counsel and the word “plaintiff” or “defendant” or any like term shall include the party appearing with counsel.

(4) The term “reporter” shall mean a court reporter or a transcriber of an electronically recorded record.

(5) The term “the docket” means the official list of court events and filings in a case. For purposes of electronic filing, the docket is called the “Registry of Actions.”

### **Advisory Note – November 2023**

Rule 83 is amended to add subdivision (5) defining “the docket.”

25. Rule 93 of the Maine Rules of Civil Procedure is amended to read as follows:

#### **RULE 93. FORECLOSURE DIVERSION PROGRAM**

....

(f) Contents of the Foreclosure Mediation Scheduling Notice.

The mediation scheduling notice shall contain scheduling information, and attached thereto any court forms that the parties are required to file with the court, exchange with each other in advance, or bring to the mediation session(s). The completed Plaintiff’s Foreclosure Mediation Information form must be filed with the court no later than 7 days before the date indicated in the first Scheduling Notice of the first mediation session.

....

### **Advisory Note – November 2023**

Subdivision (f) is amended to provide that the Plaintiff’s Foreclosure Mediation Information form (FDP-02A) must be filed with the court no later



than seven days before the date indicated in the first Scheduling Notice of the first mediation session.

Dated: November 3, 2023

FOR THE COURT,\*

\_\_\_\_\_/s/\_\_\_\_\_  
VALERIE STANFILL  
Chief Justice

ANDREW M. MEAD  
JOSEPH M. JABAR  
ANDREW M. HORTON  
CATHERINE R. CONNORS  
RICK E. LAWRENCE  
WAYNE R. DOUGLAS  
Associate Justices

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\* This Rule Amendment Order was approved after conference of the Court, all Justices concurring therein.