

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

2024 Me. Rules 01

Effective: February 5, 2024

All of the Justices concurring therein, the following amendment to the Maine Rules of Civil Procedure is adopted to be effective on the date indicated above. The specific amendment is stated below. To aid in the understanding of the amendment, an Advisory Note appears after the text of the 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 80D of the Maine Rules of Civil Procedure is amended to read as follows:

RULE 80D. FORCIBLE ENTRY AND DETAINER

(a) Applicability to Forcible Entry and Detainer. These rules, so far as applicable, shall govern the procedure in forcible entry and detainer actions in the District Court and on appeal to the Superior Court and the Law Court, except as otherwise provided in this rule or by statute.

(b) Summons. The summons in forcible entry and detainer actions shall

(1) bear the signature or facsimile signature of the judge or the clerk;ⁱ

(2) contain the name and address of the court and the names of the parties;ⁱ

(3) be directed to the defendant;ⁱ

(4) state the day when the action is returnable, which shall be not ~~less~~ fewer than ~~7~~ 14 days from the date of service of the summons; and ~~shall~~

(5) notify the defendant that in case of defendant's failure to appear and state a defense on the return day, judgment by default will be rendered against the defendant for possession of the premises. ~~The summons shall also notify the defendant that if the return day is on a holiday, the defendant shall appear and state any defense on the day following the holiday.~~

(c) Judicial Branch Information Sheet and Mediation. In residential forcible entry and detainer actions, the plaintiff must serve the Judicial Branch information sheet and request for mediation form with both the notice of termination of the tenancy, if any, and the forcible entry and detainer summons and complaint. Either party may request mediation, using the form or otherwise.

(ed) Complaint. The complaint for forcible entry and detainer shall be filed no later than ~~one~~ 3 days before the date of the hearing. For good cause shown, the court may hear a case filed after the deadline. When the complaint pertains to a residential tenancy, the following materials must be included with the complaint filed pursuant to this rule:

(1) A copy of any written lease or written rental agreement between the parties; and

(2) A copy of any notice of termination of tenancy delivered to the defendant (and any attachments thereto).

Any failure to provide the required attachments at the time of filing of the initial complaint may be grounds for a continuance but not for dismissal.

(de) Defendant's Pleading. If the defendant claims title in defendant's name or in the name of another person under whom the defendant claims the premises, the defendant shall assert such claim by answer filed on or before the return day, and further proceedings in the actions shall be as provided by law. Otherwise the defendant may appear and defend without filing a responsive pleading.

(ef) ~~Time of~~ Hearing.

(1) Legal Assistance. If the court has been advised that an attorney is available to assist unrepresented tenants in forcible entry and detainer actions on the day of hearings, the presiding judge shall announce the

availability of the attorney(s) at the call of the docket. Failure of the court to do so is not, however, grounds for dismissal of the action or to set aside or appeal any judgment entered against the tenant.

(12) *Hearing Date.* All forcible entry and detainer actions shall be in order for trial on the return day.

(23) *Mediation.* At the time set for hearing, the court may refer the parties to mediation pursuant to the process established by Rule 92(f) of these rules. Every settlement resulting from mediation shall be presented to the court in writing for approval as a court order, and the court shall approve reasonable settlements. An approved settlement shall have the force and effect of a judgment and may not be appealed. If no mediator is available, or if mediation efforts fail or mediation proves inappropriate, the court shall hear the matter without undue delay.

(fg) Appeal.

....

(4) *Same: Genuine Issue of Fact: Further Pretrial Proceedings; Assignment for Trial.* If the court finds that the appellant has shown in light of the affidavits and the whole record, including any transcript or portions thereof ordered to be incorporated as provided in paragraph (3) of this subdivision, 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 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).

....

(gh) *No Joinder of Other Actions.* Forcible entry and detainer actions shall not be joined with any other action, nor shall a defendant in such action file any counterclaim.

(~~hi~~) Venue. An action for forcible entry and detainer shall be brought in the division in which the property is located.

(~~ij~~) Removal. There shall be no removal of forcible entry and detainer actions, except as provided by statute.

(~~jk~~) Issue of Writ of Possession; Stay. A writ of possession shall issue, upon request and payment of the applicable fee, within the time provided by statute after entry of judgment therefore, provided that

(1) If defendant within the time provided by statute makes a timely motion pursuant to any of the rules enumerated in Rule 76D as terminating the running of the time for appeal, the issuance of the writ shall be stayed until five days after entry of an order disposing of the motion;

(2) On motion of defendant filed in the Superior Court within the time provided by statute, or any extension thereof under paragraph (1) of this subdivision, the Superior Court may grant a stay for the full time for appeal, or any extension thereof, allowed under Rule 76D, if the Superior Court finds that defendant's grounds of appeal present a genuine issue of material fact or law;

(3) If defendant files a timely notice of appeal under Rule 76D, issuance of the writ shall be stayed until a stay pending appeal is granted or denied in the Superior Court as provided in paragraph (4) of this subdivision;

(4) When the appeal is docketed in the Superior Court, that court may stay the issuance of the writ pending disposition of the appeal on conditions as provided in 14 M.R.S.A. § 6008.

A copy of ~~the a~~ writ of possession issued pursuant to this subdivision (k) shall ~~after issue~~ be retained by the clerk for examination by any interested person.

(~~kl~~) Stays Upon Appeal to the Law Court. . . .

Advisory Note – February 2024

Subdivision (b) is amended to use subdivision numbers (1) through (5) and to require in subdivision (b)(4) that the day when the action is returnable

be not fewer than 14, rather than 7, days from the date of service of the summons. Subdivision (b) is also amended to eliminate the provision that the summons notify the defendant about how to appear if the return day is a holiday. This is to align the rule with current court practice of scheduling return days and to avoid having defendants appear in court on days other than scheduled return days.

A new subdivision (c) is added in light of statutory requirements of service of the Judicial Branch information sheet and request for mediation form in a residential forcible entry and detainer action. This form must be served with *both* (a) service of any notice of termination of the tenancy and (b) service of the summons and complaint. *See* P.L. 2023, ch. 379, § 1 (to be codified at 14 M.R.S. § 6001(7)); 14 M.R.S. § 6004(2). This subdivision also authorizes either party to request mediation.

Former subdivision (c) is amended to become subdivision (d), and to require that the complaint be filed no later than three days—rather than one day—before the date of the hearing, to include a provision authorizing a court to hear a case filed after the deadline for good cause shown, and to specify the materials that must be included with the complaint when it pertains to a residential tenancy.

Former subdivision (d) is amended to become subdivision (e) and to add necessary language to make the first sentence grammatically correct.

Former subdivision (e) is amended to become subdivision (f), and the heading is amended to apply to more than the “Time of Hearing.” Subdivision (f) incorporates a new subdivision (1) based on the Legislature’s enactment of P.L. 2023, ch. 379, § 2 (to be codified at 14 M.R.S. § 6004(3)) requiring judges to announce the availability of legal services prior to the commencement of proceedings when the court is advised that counsel is available. Former subdivisions (e)(1) and (2) are amended to become subdivisions (f)(2) and (3).

Former subdivisions (f) through (i) are amended to become subdivisions (g) through (j), and subdivision (g) is amended to clarify a cross-reference to M.R. Civ. P. 40.

Former subdivision (j) is amended to become subdivision (k) and to require a request and payment of the applicable fee to obtain a writ of possession. The language in the final paragraph is amended for clarity.

Former subdivision (k) is amended to become subdivision (l).

Dated: January 2, 2024

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

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