

TINA M. JUDD

v.

DAVID S. JUDD SR.

Argued July 13, 2021  
Decided July 29, 2021

Panel: GORMAN, JABAR, HUMPHREY, HORTON, and CONNORS, JJ.

#### MEMORANDUM OF DECISION

David S. Judd Sr. appeals from a default judgment entered by a family law magistrate (*Martin, M.*) on Tina M. Judd's complaint for divorce after the magistrate ordered David's appearance at a status conference and he failed to appear. David also appeals from a judgment of the District Court (*Lewiston, Archer, J.*) denying his "request to preserve objection to magistrate's final order." Although David contends for the first time on appeal that the magistrate did not have jurisdiction to enter a default judgment, subject matter jurisdiction can be raised at any time. *See Zelman v. Zelman*, 2020 ME 138, ¶ 12, 242 A.3d 1111. Contrary to David's contention, however, the magistrate had authority to enter the default judgment. *See* 4 M.R.S. § 183 (2021); M.R. Civ. P. 109, 117; *see also Conrad v. Swan*, 2008 ME 2, ¶¶ 1, 7-11, 940 A.2d 1070; *Ezell v. Lawless*, 2008 ME 139, ¶¶ 1-33, 955 A.2d 202. David further argues that the District Court erred by not construing his "motion to reconsider, to set aside the default and for relief from judgment" as an objection to the magistrate's final order pursuant to M.R. Civ. P. 118. Because his motion did not meet the requirements of Rule 118, in either form or substance, David waived his right to appeal entry of the default judgment by the magistrate. *See Kline v. Burdin*, 2017 ME 194, ¶¶ 10-15, 170 A.3d 282. Finally, we discern no error or abuse of

discretion in the District Court’s denial of David’s “request to preserve,” in which David “indicate[d] an intent to potentially object in the future.” See *Dietrich v. Dietrich*, 2016 ME 130, ¶¶ 7-13, 146 A.3d 423.

The entry is:

Judgment affirmed.

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Vanessa A. Bartlett, Esq. (orally), Portland, for Appellant David Judd Sr.

Courtney Beer, Esq., Cheryl Saniuk-Heinig, Stud. Atty., and Jacob Demosthenes, Stud. Atty. (orally), Cumberland Legal Aid Clinic, Portland, for appellee Tina M. Judd

Lewiston District Court docket number FM-2019-586  
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