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2007

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MAINE RULES OF CIVIL PROCEDURE

With Advisory Committee notes
 Last reviewed and edited June 21, 2007
 Including amendments effective July 1, 2007

This document contains the Maine Rules of Civil Procedure with amendments through those effective July 1, 2007. Following each rule are relevant advisory committee notes for amendments that have been adopted since 2004. The advisory committee notes provide useful guidance in interpreting and applying the rules. **Complete advisory committee notes for amendments can be found on the court's website: www.courts.state.me.us/rules_forms_fees/rules/index.html.**

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MAINE RULES OF CIVIL PROCEDURE

(Including amendments effective July 1, 2007)

I. SCOPE OF RULES - ONE FORM OF ACTION

RULE 1. SCOPE OF RULES

These rules govern the procedure in the District Court, in the Superior Court, and before a single justice of the Supreme Judicial Court in all suits of a civil nature whether cognizable as cases at law or in equity, including appeals from a governmental agency, with the limitations stated in Rule 81. These rules also govern the procedure in the Supreme Judicial Court when

sitting as the Law Court. They shall be construed to secure the just, speedy and inexpensive determination of every action.

RULE 2. ONE FORM OF ACTION

There shall be one form of action to be known as “civil action.”

II. COMMENCEMENT OF ACTION: SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS

RULE 3. COMMENCEMENT OF ACTION

Except as otherwise provided in these rules, a civil action is commenced (1) by the service of a summons and complaint, or (2) by filing a complaint with the court. 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.

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 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 be rendered against the defendant for the relief demanded in the complaint.

(b) Same: Issuance. The summons may be procured in blank from the clerk and shall be filled out by the plaintiff’s attorney as provided in subdivision (a) of this rule. The plaintiff’s attorney shall deliver to the person who is to make service the original summons upon which to make return of service and a copy of the summons and of the complaint for service upon the defendant.

(c) Service. Service of the summons and complaint may be made as follows:

RULE 4. PROCESS

(a) Summons: Form. The summons shall bear the signature or facsimile signature of the clerk, be under

(1) By mailing a copy of the summons and of the complaint (by first-class mail, postage prepaid) to the person to be served, together with two copies of a

notice and acknowledgment form and a return envelope, postage prepaid, addressed to the sender. If no acknowledgment of service under this paragraph is received by the sender within 20 days after the date of mailing, service of the summons and complaint shall be made under paragraph (2) or (3) of this subdivision.

(2) By a sheriff or a deputy within the sheriff's county, or other person authorized by law, or by some person specially appointed by the court for that purpose. Special appointments to serve process shall be made freely when substantial savings in travel fees will result.

(3) By any other method permitted or required by this rule or by statute.

(d) Summons: Personal Service. The summons and complaint shall be served together. Personal service within the state shall be made as follows:

(1) Upon an individual other than a minor or an incompetent person, by delivering a copy of the summons and of the complaint to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process, provided that if the agent is one designated by statute to receive service, such further notice as the statute requires shall be given. The court, on motion, upon a showing that service as prescribed above cannot be made with due diligence, may order service to be made by leaving a copy of the summons and of the complaint at the defendant's dwelling house or usual place of abode; or to be made by publication pursuant to subdivision (g) of this rule, if the court deems publication to be more effective.

(2) Upon a minor, by delivering a copy of the summons and of the complaint personally (a) to the minor and (b) also to the minor's guardian if the minor has one within the state, known to the plaintiff, and if not, then to the minor's father or mother or other person having the minor's care or control, or with whom the minor resides, or if service cannot be made upon any of them, then as provided by order of the court.

(3) Upon an incompetent person, by delivering a copy of the summons and of the complaint personally (a) to the guardian of the incompetent person or a competent adult member of the incompetent person's family with whom the incompetent person resides, or if the incompetent person is living in an institution, then to the director or chief executive officer of the institution, or if service cannot be made upon any of them, then as provided by order of the court and (b) unless the court otherwise orders, also to the incompetent person.

(4) Upon a county, by delivering a copy of the summons and of the complaint to one of the county commissioners or their clerk or the county treasurer.

(5) Upon a town, by delivering a copy of the summons and of the complaint to the clerk or one of the selectmen or assessors.

(6) Upon a city, by delivering a copy of the summons and of the complaint to the clerk, treasurer, or manager.

(7) Upon the United States, by delivering a copy of the summons and of the complaint to the United States attorney for the district of Maine or to an assistant United States attorney or clerical employee designated by the United States attorney in a writing filed with the clerk of the United States District Court for the district of Maine and by sending a copy of the summons and of the complaint by registered or certified mail to the Attorney General of the United States at Washington, District of Columbia, and in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to such officer or agency provided that any further notice required by statute or regulation shall also be given.

Upon an officer or agency of the United States, by serving the United States and by delivering a copy of the summons and of the complaint to such officer or agency, provided that any further notice required by statute or regulation shall also be given. If the agency is a corporation the copy shall be delivered as provided in paragraph (8) or (9) of this subdivision of this rule.

Upon any other public corporation, by delivering a copy of the summons and of the complaint to any officer, director, or manager thereof and upon any public body, agency or authority by delivering a copy of the summons and the complaint to any member thereof.

(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, 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.

(9) Upon a corporation established under the laws of any other state or country (a) by delivering a copy

APPENDIX OF FORMS

This appendix supplies a selection of Forms as supplied by the Maine Judicial Branch. These forms are intended for reference use only and do not appear in actual page size or format. **A full source of forms may be found on the court's website:** http://www.courts.state.me.us/rules_forms_fees/pub_forms.html#forms. Forms available for download are in PDF format and require Adobe Acrobat Reader to view or print.

Paper forms can be obtained from any District Court or Superior Court clerk's office. Many paper forms are free. There is a \$5.00 charge for some forms, such as a Summons, that require the Clerk's signature and Court seal. For common kinds of cases such as divorce, protection from abuse, and small claims, the District Court clerks have packets of the necessary forms.

Select List of Civil (CV) Forms

- CV001 pg 94 Summary Sheet
- CV030 pg 97 Civil-Summons (**need to submit an original summons form from clerk's office)
- CV035 pg 99 Civil-Witness Supoena
- CV036 pg 101 Civil-Receipt of Summons
- CV037 pg 102 Supoena Motion of Contempt
- CV061 pg 104 Affidavit Request Default & Judgment
- CV067 pg 106 Application Proceed w/o Fee
- CVR162 pg 107 Civil-Notice of Appeal

Select List of Family Matters (FM) Forms

- FM002 pg 108 FM-Summary Sheet
- FM004 pg 109 Divorce Complaint
- FM005 pg 111 Divorce Complaint w/o Children
- FM006 pg 112 Paternity Parental Rights
- FM038 pg 114 Family Matters Summons (**need to submit original summons form from clerk's office)
- FM040 pg 116 Child Support Worksheet
- FM040A pg 118 Supplemental Worksheet
- FM050 pg 119 Child Support Affidavit
- FM052 pg 121 Federal Affidavit
- FM062 pg 122 Motion to Modify
- FM064 pg 125 Petition for Emancipation
- FM065 pg 126 Request for Counsel for Emancipation
- FM068 pg 129 Motion for Contempt

- FM070 pg 130 Motion to Enforce
- FM071 pg 133 Objection to CMO Final Order
- FM125 pg 135 Order for Appointment Guardian Ad Litem
- FM132 pg 136 Child Support Order
- FM133 pg 138 Immediate Withholding Order
- FM136 pg 139 Conditional Withholding to Spouse
- FM137 pg 140 Order Setting Contempt Motion
- FM138 pg 141 Case Management Order
- FM160 pg 145 Waiver of Appeal
- FM171 pg 146 Abstract of Divorce Decree
- FM181 pg 147 Verified Application for Issuance of Warrant

Protection from Abuse (PA) Forms

- PA001 pg 148 Complaint for Protection from Abuse
- PA005 pg 150 Protection Order Service
- PA006 pg 151 Complaint for Protection from Harassment
- PA009 pg 153 Order for Protection from Abuse
- PA010 pg 155 Defendant's Motion
- PA012 pg 157 Plaintiff's Motion to Dismiss
- PA013 pg 158 Motion to Extend Order
- PA015 pg 160 Affidavit Confidential Address
- PC003 pg 161 Child Protection Financial Affidavit

Business Court Forms

- BCD001 pg 163 Application for Transfer to Business and Consumer Docket

APPENDIX OF FORMS

This summary sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the Maine Rules of Court or by law. This form is required for the use of the Clerk of Court for the purpose of initiating or updating the civil docket. (SEE INSTRUCTIONS ON REVERSE)

I. County of Filing or District Court Jurisdiction:		
II. CAUSE OF ACTION (Cite the primary civil statutes under which you are filing, if any.) <i>Pro se</i> plaintiffs: If unsure, leave blank.		
III. NATURE OF FILING		
<input type="checkbox"/> Initial Complaint <input type="checkbox"/> Third-Party Complaint <input type="checkbox"/> Cross-Claim or Counterclaim <input type="checkbox"/> If Reinstated or Reopened case, give original Docket Number _____ (If filing a second or subsequent Money Judgment Disclosure, give docket number of first disclosure)		
IV. <input type="checkbox"/> TITLE TO REAL ESTATE IS INVOLVED		
V. MOST DEFINITIVE NATURE OF ACTION. (Place an X in one box only) <i>Pro se</i> plaintiffs: If unsure, leave blank.		
<u>GENERAL CIVIL (CV)</u>		
Personal Injury Tort <input type="checkbox"/> Property Negligence <input type="checkbox"/> Auto Negligence <input type="checkbox"/> Medical Malpractice <input type="checkbox"/> Product Liability <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Domestic Torts <input type="checkbox"/> Other Negligence <input type="checkbox"/> Other Personal Injury Tort Non-Personal Injury Tort <input type="checkbox"/> Libel/Defamation <input type="checkbox"/> Auto Negligence <input type="checkbox"/> Other Negligence <input type="checkbox"/> Other Non-Personal Injury Tort	Contract <input type="checkbox"/> Contract Declaratory/Equitable Relief <input type="checkbox"/> General Injunctive Relief <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Other Equitable Relief Constitutional/Civil Rights <input type="checkbox"/> Constitutional/Civil Rights Statutory Actions <input type="checkbox"/> Unfair Trade Practices <input type="checkbox"/> Freedom of Access <input type="checkbox"/> Other Statutory Actions Miscellaneous Civil <input type="checkbox"/> Drug Forfeitures	<input type="checkbox"/> Other Forfeitures/Property Libels <input type="checkbox"/> Land Use Enforcement (80K) <input type="checkbox"/> Administrative Warrant <input type="checkbox"/> HIV Testing <input type="checkbox"/> Arbitration Awards <input type="checkbox"/> Appointment of Receiver <input type="checkbox"/> Shareholders' Derivative Actions <input type="checkbox"/> Foreign Deposition <input type="checkbox"/> Pre-action Discovery <input type="checkbox"/> Common Law Habeas Corpus <input type="checkbox"/> Prisoner Transfers <input type="checkbox"/> Foreign Judgments <input type="checkbox"/> Minor Settlements <input type="checkbox"/> Other Civil
<input type="checkbox"/> Non-DHS Protective Custody		
<u>SPECIAL ACTIONS (SA)</u>		
<input type="checkbox"/> Money Judgment <input type="checkbox"/> Money Judgment Request Disclosure		
<u>REAL ESTATE (RE)</u>		
Title Actions <input type="checkbox"/> Quiet Title <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Easements <input type="checkbox"/> Boundaries	Foreclosure <input type="checkbox"/> Foreclosure for Non-pmt (ADR exempt) <input type="checkbox"/> Foreclosure - Other Trespass <input type="checkbox"/> Trespass	Misc. Real Estate <input type="checkbox"/> Equitable Remedies <input type="checkbox"/> Mechanics Lien <input type="checkbox"/> Partition <input type="checkbox"/> Adverse Possession <input type="checkbox"/> Nuisance <input type="checkbox"/> Abandoned Roads <input type="checkbox"/> Other Real Estate
<u>APPEALS (AP) (To be filed in Superior Court) (ADR exempt)</u>		
<input type="checkbox"/> Governmental Body (80B) <input type="checkbox"/> Administrative Agency (80C) <input type="checkbox"/> Other Appeals		
VI. M.R.Civ.P. 16B Alternative Dispute Resolution (ADR):		
<input type="checkbox"/> I certify that pursuant to M.R.Civ.P. 16B(b), this case is exempt from a required ADR process because: <ul style="list-style-type: none"> <input type="checkbox"/> It falls within an exemption listed above (i.e., an appeal or an action for non-payment of a note in a secured transaction). <input type="checkbox"/> The plaintiff or defendant is incarcerated in a local, state or federal facility. <input type="checkbox"/> The parties have participated in a statutory prelitigation screening process with _____ (name of neutral) on _____ (date). <input type="checkbox"/> The parties have participated in a formal ADR process with _____ (name of neutral) on _____ (date). <input type="checkbox"/> This is a Personal Injury action in which the plaintiff's likely damages will not exceed \$30,000, and the plaintiff requests an exemption from ADR. 		

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