

STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENTS TO
MAINE RULES OF SMALL CLAIMS PROCEDURE

2024 Me. Rules 08

Effective: November 1, 2024

All of the Justices concurring therein, the following amendments to the Maine Rules of Small Claims Procedure are adopted to be effective on the date indicated above. The specific amendments are stated below. To aid in the understanding of each 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 4 of the Maine Rules of Small Claims Procedure is amended to read as follows:

RULE 4. SERVICE OF STATEMENT OF CLAIM; NOTICE OF HEARING

(a) Service by Plaintiff: Methods of Service. A plaintiff who ~~files has filed or intends to file~~ 3 or more small claims actions in a calendar month shall make service of the statement of claim on each defendant by any of the following methods as provided in this rule. ~~Any of the following methods of service may be used:~~

(1) By mailing a copy of the statement of claim, first class, postage prepaid, to the person to be served, together with two acknowledgment forms provided by the court 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 may be made by another method provided herein. Service by this method is complete when the acknowledgment is signed by the defendant, provided that acknowledgment is returned to the sender.

(2) By mailing a copy of the statement of claim, first class, postage prepaid, registered or certified, restricted delivery, return receipt requested, to

the person to be served. Service by this method is complete when the registered or certified mail is delivered and the receipt is signed by the person to be served, provided that the receipt is returned to the sender.

(3) By service of the statement of claim upon the person to be served by the sheriff or deputy or other person authorized by law or specially appointed by the court to serve process.

(4) By service by alternate means pursuant to M.R. Civ. P. 4(g), only upon motion and a showing that service cannot with due diligence be made by another prescribed method.

(b) Service by Clerk. For up to 2 cases per calendar month, a A plaintiff ~~who has filed or intends to file less than 3 small claims actions in a calendar month~~ shall have the option of either making service of the statement of claim on a the defendant as provided in subdivision (a) of this rule or requesting the clerk to arrange for service as set forth below. A plaintiff who requests that the clerk arrange for service shall

(1) provide the service address for the defendant;

(2) file with the statement of claim an affidavit stating that, including the claim being filed, the plaintiff has filed fewer than 3 not and does not intend to file 3 or more small claims actions statewide in any court in the State during that calendar month; and. A plaintiff who requests the clerk to arrange for service shall

(3) pay to the clerk a fee specified in the Court Fee Schedule for each defendant joined and to be served in the action. Service by the clerk shall be by the method described in subdivision (a)(1). If service cannot be completed by the method described in subdivision (a)(1), the clerk shall return the statement of claim and any related paperwork to the plaintiff, who must complete service by the method described in subdivision (a)(2) or (a)(3), or, with approval of the court, by the method described in subdivision (a)(4) arrange for service by method (a)(3) if authorized by the plaintiff, which shall be at the expense of the plaintiff.

(4) If the court has approved a plaintiff's request to have service costs paid by the court pursuant to M.R. Civ. P. 91(c), the plaintiff can request that the

clerk arrange for service by the method described in subdivision (a)(1) or (3) as provided by the court's order on the plaintiff's fee waiver request.

(c) Service on Individual Defendant. If the defendant is an individual and if service is made by the method described in subdivision (a)(1) or (a)(2), the defendant shall sign the acknowledgment or return receipt. If service is made by the method described in subdivision (a)(3) it shall be upon the defendant in hand or by leaving a copy of the statement of claim at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. If service is made by alternate means, it shall be completed as ordered or as otherwise permitted by the court.

(d) Service on Corporate Defendant. If the defendant is a corporation, service may be made by any of the methods in subdivision (a) upon 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 to any agent or attorney in fact authorized by appointment or by statute to receive or accept service on behalf of the corporation, or in any manner permitted in M.R. Civ. P. 4(d)(~~109~~). The acknowledgment, return receipt or other return of service, or in lieu thereof, an affidavit by the plaintiff, must indicate the capacity of the person served. If service is to be arranged by the clerk, the plaintiff must provide the clerk with the name and address of the person to be served.

(e) Return of Service. If service is arranged by the plaintiff, the plaintiff must file with the clerk the return of service, which shall consist of

(1) the signed acknowledgment if the method described in subdivision (a)(1) is used;

(2) the signed return receipt if the method described in subdivision (a)(2) is used; ~~or~~

(3) the return of service signed by the sheriff, deputy or other authorized server if the method described in subdivision (a)(3) is used; or

(4) an affidavit demonstrating that publication or compliance with the court's order has occurred, in compliance with the requirements of M.R. Civ. P. 4(g)(3) if the method described in subdivision (a)(4) is used.

The return of service must be filed with the court within 20 days of the date of service.

(f) Notice of Hearing. Notice of hearing date and time shall be mailed to the plaintiff and defendant by the clerk at the addresses provided on the statement of claim unless the clerk is notified by the party of a different address.

(g) Time of Notice. The notice of hearing must be mailed to the parties not less than 10 days prior to the date of the hearing.

Advisory Note - November 2024

Rule 4 is amended to employ simpler language, to provide for service by alternate means upon motion and a showing that service cannot with due diligence be made by another prescribed method, to update cross-references, to provide for the clerk to return paperwork when service cannot be completed by acknowledgment under subdivision (a)(1), and to provide a process for requesting that the court pay service costs under M.R. Civ. P. 91(c).

2. Rule 12 of the Maine Rules of Small Claims Procedure is amended to read as follows:

RULE 12. DISCLOSURE

(a) Notice of Disclosure Hearing. If the judgment debt is not paid within 30 days of the date of the entry of the judgment, a judgment creditor may disclose a judgment debtor by payment of the filing fee specified in the Court Fee Schedule and filing with the clerk either

(1) a notice of disclosure hearing with a return of service if service is to be completed by the judgment creditor in accordance with subdivision (b); or

(2) a written request for disclosure hearing if service is to be arranged by the clerk in accordance with subdivision (c) or (2) a notice of disclosure hearing with a return of service.

(b)(1) Service by Judgment Creditor. A judgment creditor who has filed ~~or intends to file~~ 3 or more small claims actions in a calendar month shall make service of the notice of disclosure hearing on the judgment debtor as provided

in Rule 4(a)(1), (2), or (3), and the return of service must be filed as provided in Rule 4(e) except that it must be filed no later than 2 days prior to the hearing. The judgment creditor must obtain a hearing date and time from the clerk, and the notice of disclosure hearing shall contain that date and time.

(c) (2) Service by Clerk. A judgment creditor who has filed ~~or intends to file less fewer~~ than 3 small claims actions in a calendar month shall have the option of making service of the notice of disclosure hearing on the judgment debtor as provided in Rule 4(a)(1), (2), or (3), or of making a written request to the clerk to arrange for service, as set forth below. A judgment creditor who requests that the clerk arrange for service shall

(1) provide the service address for the defendant;

(2) file an affidavit stating that the judgment creditor has ~~not and does not intend to file 3 or more~~ filed fewer than 3 small claims actions statewide in any court in the State during that calendar month; and ~~. A judgment creditor who requests the clerk to arrange for service shall~~

(3) pay to the clerk a fee specified in the Court Fee Schedule. Service by the clerk shall be by the method described in Rule 4(a)(1). If service cannot be completed by that method, the clerk shall deliver the notice of disclosure hearing to the judgment creditor so that the judgment creditor may arrange for service by Rule 4(a)(3) except that such service may be made in hand only. Service by the method in Rule 4(a)(3) shall be at the additional expense of the judgment creditor.

(4) If the court has approved a judgment creditor's request to have service costs paid by the court pursuant to M.R. Civ. P. 91(c), the judgment creditor can request that the clerk arrange for service by the method described in M.R.S.C.P. Rule 4(a)(1) or (a)(3) as provided by the court's order on the judgment creditor's fee waiver request.

(db) Time of Notice. The notice of disclosure hearing must be served upon the judgment debtor not less than 7 days prior to the disclosure hearing.

(ee) Disclosure Proceedings. Disclosure proceedings shall comply with the requirements of 14 M.R.S.A. §§ 3120 et seq., except that the subpoena and

execution requirement of those sections shall be met by the notice of disclosure hearing described above.

(fd) Enforcement of Judgments in Other Actions. Nothing herein shall prohibit or prevent a judgment creditor from obtaining an execution and from proceeding to enforce a judgment in the same manner as in other actions.

Advisory Note – November 2024

The amendment to Rule 12 distinguishes more finely between the method for service by a judgment creditor and the method for service by the clerk. The notice requirements for the two types of service are clarified, and cross-references to Rule 4 are updated. The rule’s language is updated for precision. The rule as amended specifies the process to be employed when the court has approved a judgment creditor’s request to have service costs paid by the court pursuant to M.R. Civ. P. 91(c).

Dated: September 27, 2024

FOR THE COURT,*

_____/s/_____
VALERIE STANFILL
Chief Justice

ANDREW M. MEAD
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.