

RULE 4B. TRUSTEE PROCESS

(a) Availability of Trustee Process. In any personal action under these rules except actions only for specific recovery of goods and chattels, for malicious prosecution, for slander by writing or speaking, or for assault and battery, trustee process may be used, in the manner and to the extent provided by law, but subject to the requirements of this rule, for the purpose of securing satisfaction of the judgment for damages and costs which the plaintiff may recover, provided, however, that no person shall be adjudged trustee for any amount due from that person to the defendant for earnings. The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commissions, bonuses or otherwise, and includes periodic payments pursuant to a pension or retirement program. Trustee process under this rule shall not be available before judgment in any action against a consumer for a debt arising from a consumer credit transaction as defined by Maine Consumer Credit Code.

(b) Summons to Trustee: Form. The summons to a trustee shall bear the signature or facsimile signature of the clerk, be under the seal of the court and contain the name of the court and the names of the parties, be directed to the trustee, state the name and address of the plaintiff's attorney, a specified amount for which the goods or credits of the defendant are attached on trustee process or specific goods or credits designated by the court for attachment, and the time within which these rule require the trustee to make disclosure, and shall notify the trustee that in case of failure to do so the trustee will be defaulted and adjudged trustee as alleged. The trustee summons shall also state the name of the justice or judge who entered the order approving attachment on trustee process and the date thereof.

(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 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 Rule 4 at the same time the summons and 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.

(d) Approval of Limited Attachment on Trustee Process or Substituted Security.

(1) *Attachment of Specific Property.* In the order approving an attachment on trustee process, the court shall specify that the attachment is to issue solely against particular goods or credits upon a showing by the defendant (A) that the goods or credits specified are available for attachment

on trustee process and would, if applied to satisfy any judgment obtained in the action, yield to the plaintiff an amount at least equal to the amount for which attachment on trustee process is approved in accordance with the criteria of subdivision (c), and (B) that the absence of such a limitation will result in hardship to the defendant.

(2) *Alternative Security for a Single Defendant.* At the hearing on a motion for approval of an attachment on trustee process against the goods or credits of a single defendant, the defendant may tender cash or bond at least equal to the amount of any attachment to be approved in accordance with the criteria of subdivision (c). If the court finds that the defendant has tendered cash in sufficient amount, it shall order that amount to be deposited with the court as provided in Rule 67 to be held as security for any judgment that the plaintiff may recover. If the court finds that the defendant has tendered a bond of sufficient amount and duration and with sufficient sureties, the court shall order the bond to be filed with the court. A surety upon a bond filed under this rule is subject to the terms and conditions of Rule 65(c). Upon such deposit or filing, the court shall further order that any prior attachment on trustee process against the defendant to satisfy a judgment on the claim for which security has been tendered shall be dissolved. Thereafter, no further attachment on trustee process shall issue against the defendant except on motion of the plaintiff and a showing that the cash deposited or bond filed has become inadequate or unavailable to satisfy the judgment.

(3) *Single Security for Multiple Defendants.* At the hearing for approval of attachment on trustee process against the goods or credits of two or more defendants alleged to be jointly and severally liable to the plaintiff, one or more of the defendants may tender cash or bond sufficient, in the aggregate, to satisfy the total amount the plaintiff would be entitled to recover upon execution against all such defendants. Upon the findings required by paragraph (2) of this subdivision for a single defendant, the court may order the cash to be deposited or the bond filed with the court on the same conditions and with the same effect provided in that paragraph.

(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 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.

(f) Adjudication and Judgment. The proceedings for adjudication on the disclosure of the trustee and for the rendition and execution of judgment and the imposition of costs shall be as provided by law.

(g) Trustee Process on Counterclaim, Cross-Claim or Third-Party Complaint. Trustee process may be used by a party bringing a counterclaim, a cross-claim, or a third-party complaint in the same manner as upon an original claim, provided that the trustee resides or, if a corporation, maintains a usual place of business, in the county where the action is pending. If the counterclaim is compulsory under Rule 13(a), the party stating it may use trustee process, even though the trustee does not reside or maintain a usual place of business in the county where the action is pending.

(h) Subsequent or Additional Trustee Process. If no trustee process has issued, or if the time period prescribed in subdivision (c) of this rule for serving trustee process has expired, the court on motion may issue an order of approval for an additional attachment on trustee process. The provisions of subdivisions (c), (d), and (i) of this rule apply to the motion and any trustee process ordered thereunder, except that notice if appropriate shall be served upon the defendant in the manner provided in Rule 5.

(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 motion for approval of attachment on trustee process as provided in subdivision (c) of this rule. 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).

(j) Dissolution or Modification of Trustee Process. On 2 days' notice to the plaintiff or on such shorter notice as the court may prescribe, any person having an interest in goods or credits that have been attached on trustee process pursuant to an ex parte order under subdivision (h) of this rule may appear, without thereby submitting to the personal jurisdiction of the court, and move the dissolution or modification of the trustee process, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require. At such hearing the plaintiff shall have the burden of justifying any finding in the ex parte order that the moving party has challenged by affidavit.

Upon motion and notice and a showing by any defendant that specific property or sufficient cash or bond is available to satisfy a judgment as provided in subdivision (d) of this rule, the court may modify an order of attachment on trustee process, whether issued ex parte or after hearing, to limit the attachment to particular goods or credits or to order cash or bond to be held by the court as security for the judgment, and to dissolve the prior attachment as to all other goods or credits of the defendant. If a prior attachment on trustee process has been perfected as to goods or credits specified in the modified order, the modified order shall relate back to the original attachment.

Nothing herein shall be construed to abolish or limit any means for obtaining dissolution, modification or discharge of trustee process that is otherwise available by law.

Author's Note

The Advisory Committee's Notes to amend Rule 4B generally refer to the nearly identical provisions of Rule 4A. The Rule 4A notes thus should be referenced to aid in interpretation of Rule 4B.

Advisory Committee's Notes May 1, 2000

The specific statutory citation in subdivision (a) is replaced by the general reference to the Maine Consumer Credit Code so that the Rules are not impacted by statutory changes.

The term "attachment" taken from Rule 4A, is replaced by the proper reference to "trustee process."

Advisory Committee's Note February 1, 1983

Rule 4B(i) is amended to make this rule consistent with the language contained in Rule 4A(g). The change will permit *any* person claiming an interest in goods or credits attached on trustee process to bring a motion to dissolve or modify the trustee process. The right to bring such a motion is not limited to a party to the action.

Advisory Committee's Note September 1, 1980

This amendment is necessary to conform to statutory requirements. See Advisory Committee's Note to simultaneous amendment of Rule 4A(a).

Advisory Committee's Note
April 15, 1975

The background and purpose of these amendments is explained in the Advisory Committee's Note to the simultaneous amendment of Rule 4A.

Rule 4B(a) is amended to eliminate the limitation of trustee process to the commencement of the action.

Amended Rule 4B(c), like amended Rule 4A(c), provides that an attachment on trustee process will not be approved unless plaintiff is likely to recover more than the aggregate amount of available liability insurance or other attachments obtained simultaneously or previously under this rule or Rule 4A. *See* Advisory Committee's Note to amendment of Rule 4A.

Rule 4B(g), like Rule 4A(e), is amended to provide for either "subsequent" or "additional" trustee process. *See* Advisory Committee's Note to amendment of Rule 4A.

Rule 4B(h) is amended for consistency with the amendment of Rule 4B(c). At the same time subdivision (h) is amended for the same reasons as the simultaneous amendment of Rule 4A(f). *See* Advisory Committee's Note to Rule 4A.

Advisory Committee's Note
January 1, 1973

The amendments made to this rule parallel the amendments being simultaneously made to Rule 4A relating to attachment of property other than real estate. Reference is made to the Advisory Committee's Note on the amendments to Rule 4A for an explanation of the purpose of these amendments as well as a discussion of the procedure to be followed in making either form of attachment.

There are minor changes made in Rule 4B in addition to those which are parallel to the amendments of Rule 4A. In Rule 4B(c) the language "the person who is to make service" is changed to read "the officer making service." Under Rule 4(c) service of process, as distinguished from execution of a writ of attachment, may be made by a person other than an officer. However, it seems

desirable, since trustee process is now available only after a court order, that the trustee summons be served only by an officer experienced in service procedures and informed of the requirements for the court order.

Subdivision (g) relating to subsequent trustee process is also amended to eliminate the language from the present rule reading "against the same or an additional trustee." That former language in the context of the newly required adversary hearing on whether the order approving the additional attachment should be granted would imply that the plaintiff must reveal the identity of the additional trustees. Such identification is not relevant at the due process hearing on the issue of "reasonable likelihood." Whether the plaintiff will find it necessary to identify the trustee in order to show cause for the late trustee process will depend upon the facts of each individual case.

Reference is made to the Advisory Committee's Note on Rules 4A(f) and (g), for an explanation of ex parte orders approving personal property attachments and of the provision for expeditious motions and hearings for dissolution or modification of those ex parte attachments, This explanation is equally applicable to the parallel provisions for Rules 4B(h) and (i) relating to attachments on trustee process. A special provision is, however, added to Rule 4B(h), in order to give added protection to the defendant whose demand bank account is trustee under an ex parte order. Such a defendant may well be relying upon his bank account to take care of his current living expenses in much the same way that the wage-earner whose wages were garnished in *Sniadach v. Family Finance Corp. of Bay View*, 395 U.S. 337, 89 S.Ct. 1820, 23 L.Ed.2d 349 (1969), relied on wages for living expenses. The \$100 exemption applied against all demand bank accounts of the defendant held by any one bank means that the defendant will have the use of that sum in the brief period prior to an expeditious hearing on his motion under Rule 4B(i) to dissolve or modify the trustee process. It is true that a defendant with multiple bank accounts will get the benefit of multiple exemptions, but the complexities necessary to prevent this result make an attempt to do so impracticable.

The affidavit filed in support of a motion for ex parte trustee process must set forth specific facts sufficient to warrant the court's finding of one of the factual bases (either (i) or (ii) or (iii) in subdivision (h)) justifying service of trustee process prior to notice and hearing. Under the rule the court should insist on a showing of something more than the mere possibility, present in

every case, that a defendant forewarned of the trustee process will withdraw a bank account or other credit and put the proceeds out of reach of process.

Furthermore, clause (iii) in speaking of "immediate danger that the defendant will *dissipate* the credits" refers to something more than normal withdrawals that the defendant would make in the ordinary course irrespective of an impending trustee process. For example, the fact that a business concern will write many payroll checks on its bank account for its weekly payday does not by itself justify an ex parte order for immediate trustee process.

Advisory Committee's Note September 23, 1971

Amendments to Rule 4B(a), (c), and (g), and the abrogation of Rule 4B(h), are made necessary by the enactment of 1971 Laws, ch. 408, which makes major changes in the procedure for obtaining satisfaction of a money judgment. The Act adds a new Chapter 502 to Title 14 M.R.S.A., replacing the present disclosure proceedings of Title 14 with a hearing before a judge of the District Court. Under new 14 M.R.S.A. §§ 3127-3130, the judge is empowered to order a judgment debtor to make installment payments to his creditor in an amount proportionate to his earnings, up to limits similar to those incorporated in former Rule 4B(h)(2). New 14 M.R.S.A. § 3137 permits the court to order such payments to be made directly by the employer in the event of default by the employee. Consistent with these provisions, section 2 of the Act amends 14 M.R.S.A. § 2602(6), the trustee process exemption provision, to prohibit use of trustee process against wages at any time.

The present amendments to Rule 4B eliminate provisions of the rule intended to implement state and federal statutory limitations upon the use of trustee process against earnings. See Advisory Committee's Notes to amendments of December 31, 1967, and July 1, 1970. Rule 4B(a) continues to prohibit trustee process against earnings and carries forward the broad definition of earnings contained in new 14 M.R.S.A. § 3121(1), which is substantially that of former Rule 4B(h)(3)(i). These provisions are necessary to make clear that disclosure proceedings under new Chapter 502 are the creditor's exclusive remedy against earnings as thus defined. This is clearly the intent of the Act, although literally it exempts only the narrower "wages" under the amendment to 14 M.R.S.A. § 2602(6).

M.R.C.P. Form 2C and Alternate Form 2C, summons to trustee for earnings, as well as the parallel forms for use in the District Court, have been abrogated.

Advisory Committee's Note
July 1, 1970

The amendments to Rule 4B are made principally for two purposes: (1) To eliminate the restriction to 30 days after judgment for the service of trustee process against earnings; and (2) to write into the rule for the convenience of practicing lawyers the present practical effect of the monetary limitations imposed upon trustee process against earnings by a federal statute that goes into effect in this regard on July 1, 1970; namely, the Consumer Credit Protection Act. Also, the word "earnings" as used in the federal Act has been substituted for the phrase "wages or salary" used previously in Rule 4B.

The Committee considered but rejected as unnecessary an amendment in the last sentence of Rule 4B(c) to make clear that the thirty-day limitation upon service of trustee process used in connection with the commencement of the action against types of goods and credits other than earnings may be extended by court order under Rule 6(b). That time period, like the thirty-day period for attachments under Rule 4A(c) and all other time periods under the rules may be enlarged except as restricted under Rule 6(b) itself.

The thirty-day restriction on post-judgment trustee process against earnings is eliminated as a result of a widely held belief that the restriction served no useful purpose and often resulted in real hardship to the judgment debtor. It was reported to the Committee that in light of the thirty-day restriction collection attorneys armed with a judgment often feel compelled to demand immediate payment in full or to serve several trustee summonses against earnings in rapid succession, without leaving time to work out an accommodation. No time restriction upon use of trustee process against earnings after judgment appears in either the 1965 Maine Act which made judgment a prerequisite for such trustee process, or the federal Consumer Credit Protection Act.

Rule 4B(h)* is now divided for convenience into three paragraphs. The first paragraph incorporates the substance of the prior Rule 4B(h), substituting the phrase "at any time" for the prior phrase "during a period of thirty days", and adding to the last sentence an express requirement, that certainly was implicit previously, that the judgment plaintiff using trustee process against earnings must serve upon the judgment debtor a copy of the trustee summons with the officer's endorsement thereon of the date of service upon the trustee.

The new paragraphs (2) and (3) of Rule 4B(h) incorporate the principal provisions of title III of the federal Consumer Credit Protection Act, P.L. 90-321, 15 U.S.C.A. §§ 1671-77, which imposes certain maximum limits upon the amount of "earnings" as defined in the Act that may be garnished to satisfy a debt and forbids any state or federal court to "make, execute or enforce any order or process in violation of" the Act. Under Section 303 of the Act, 15 U.S.C.A. § 1673, the maximum amount which may be garnished is the lesser of (1) 25% of defendant's weekly disposable earnings or (2) the amount by which those earnings exceed 30 times the federal minimum hourly wage. For pay periods other than a week, the Secretary of Labor is to provide by regulation a means for computing the equivalent of the latter sum. The amended rule expresses the requirements of the Act in terms of their practical effect. A sum equal to 30 times the federal minimum wage, which would presently be \$48, is exempt from attachment in any case. If earnings are between \$48 and \$64 a week, the excess over \$48 will be less than 25% of the total, so only that excess may be attached. When earnings are more than \$64 a week, 25% will be the lesser amount and hence subject to attachment.

Subparagraph (iii) of the rule simply incorporates the Secretary's regulations for pay periods other than a week. Currently, the Secretary proposes merely to multiply the weekly figure by the number of full weeks and fractions of a week in the pay period. For example, the figure for a monthly pay period would be 4 1/3 times \$48 or \$208. See Proposed Regulations, 29 C.F.R. Ch. V, 34 Fed.Reg. 19296-97 (Dec. 5, 1969). Present Maine law would not satisfy the standards of the federal Act. Under 14 M.R.S.A. § 2602(6) earnings at the rate of \$40 per week are exempt, presumably for whatever period of time they are owed at the time of

* Rule 4B(h) was abrogated September 23, 1971.

attachment. See 1 Field, McKusick & Wroth, *Maine Civil Practice*, 140-42 (2d ed. 1970). Under the Maine statute, if defendant had total disposable earnings of \$64 for one week, \$24 would be subject to attachment, while the federal Act would limit attachment to \$16. While, as previously noted, the rule will supersede the statute, it will be desirable to repeal 14 M.R.S.A. § 2602(6) as obsolete and potentially confusing. Under Section 305 of the federal Act, 15 U.S.C.A. § 1675, the Secretary may "exempt" from the statute's preemptive bar state laws with restrictions "substantially similar" to the federal provisions. While regulations governing such exemptions are not yet final (see Proposed Regulations, 29 C.F.R. Ch. V, 34 Fed.Reg. 19296-97 [Dec. 5, 1969]) one of the Consultants to the Committee has been assured by the Regional Solicitor of the Department of Labor that the proposed rule satisfies the federal requirements.

Note that Section 304 of the federal Act, 15 U.S.C.A. § 1674, forbids discharge of any employee for garnishment where only one debt is involved and imposes criminal penalties for willful violation. No rule seems appropriate or necessary to implement this provision, which is self-operating regardless of state law.

Rule 4(h)(3) incorporates verbatim the definitions of "earnings" and "disposable earnings" found in Section 302 of the federal Act, 15 U.S.C.A. § 1672. The definition of "earnings" makes clear that the entire rule applies to all forms of compensation, including payments under pension or retirement plans, thus eliminating a possible inequity. The definition of "disposable earnings" solves the otherwise difficult problem of what deductions from wages are to be included in the attachment. Those deductions "required by law to be withheld", such as income and social security taxes, are excluded, while others, such as health insurance premiums for insurance not imposed by law, are included.

The amendments of Rule 4B made to conform with and to declare the practical effect of the federal Act are derived from a Vermont rule which went into effect on May 1, 1970.

Advisory Committee's Note
December 31, 1967

The change in subdivision (a) and the addition of subdivision (h) are intended to bring the rule into conformity with the 1965 amendment of 14 M.R.S.A. § 2602(6), which prevents the use of trustee process against the wages or salary of the principal defendant for personal labor until after judgment has been obtained. Under the statute and the existing rule the plaintiff was put to the expense and trouble of an action on the judgment, and the employer served with a trustee process in the second action had no way of knowing whether or not a prior judgment had been obtained or for how much or even that it was an action on a judgment. *See* Field and McKusick, *Maine Civil Practice*, § 4B.3 (Supp.1967).

Subdivision (h) allows the use of trustee process as a part of the principal action, but permits it to be served only during a period of 30 days after the entry of judgment therein. The proviso added to 4B(a) simply incorporates the 1965 amendment.

To accompany these changes, Form 2C and Alternate Form 2C, entitled "Summons to Trustee for Wages", are added. The forms advise the trustee of the date and amount of the judgment upon which the trustee process is based.

The provision in 4B(c) for service of trustee process upon a partnership has been rendered unnecessary in view of the addition of Rule 4(d) (10) providing for a simplified service of all process upon partnerships.

Explanation of Amendment
February 1, 1960

This amendment was promulgated at the same time and for the same reason as the amendment to Rule 4A(c) discussed above. Again the purpose is to make the task of the officer making the service less burdensome and to lessen the possibility for error.

Reporter's Notes December 1, 1959

The purpose of this rule is to preserve existing practice with respect to trustee process. Subdivision (a) states the actions in which trustee process may be used, as set forth in R.S.1954, Chap. 114, Sec. 1 (amended in 1959) [now 14 M.R.S.A. § 2601], and incorporates existing law by reference.

Subdivision (b) prescribes the form of the summons to the trustee, which will have the effect of the present trustee writ and summons. See Form 2A and Alternate Form 2A in the Appendix of Forms.

The amount for which the defendant's goods or credits are attached should not exceed the amount named in the demand for judgment together with a reasonable allowance for interest and costs. The object is to limit the amount caught by trustee process to a value sufficient to cover the plaintiff's prospective judgment including interest and costs. The plaintiff's attorney will fill in the summons to show the total amount attached.

Subdivision (c) calls for service upon a trustee in the manner provided for service generally, but with the proviso, taken from R.S.1954, Chap. 114, Sec. 4 [now 14 M.R.S.A. § 2603], that service upon a single partner is sufficient attachment of the defendant's property in the possession of the firm.* When the summons and complaint are served upon the defendant, he is also to be served with a copy of the trustee summons and the return of service thereof.** As with other process, the serving officer makes proof of service upon the trustee summons and returns it to the plaintiff's attorney. Practice under this rule differs from present practice in that it substitutes a summons to the trustee and a separate summons and complaint to the principal defendant for the trustee writ in which the declaration is inserted, but its practical effect is unchanged.

* [According to Field, McKusick & Wroth, "This provision was eliminated as superfluous, effective Dec. 31, 1967. See Rule 4(d) (10)." 1 Field, McKusick & Wroth, *Maine Civil Practice* at 131 (2d ed. 1970)].

** [According to Field, McKusick & Wroth, "by virtue of the February 1, 1960, amendment of Rule 4B(c), the officer's endorsement on the trustee summons of the date of execution is sufficient." 1 Field, McKusick & Wroth, *Maine Civil Practice* at 131 (2d ed. 1970)].

As in the case of attachment, this rule prescribes a uniform time limit of 30 days from the date of the complaint for the service of a trustee process, but this time is subject to enlargement under Rule 6 (b). Under present law this limit is a variable one, depending upon the relationship between the date of commencement of the action and the return term.

Subdivision (d) requires the trustee to serve his disclosure under oath within 20 days after service upon him. The form of the disclosure is very similar to that now in use. See Form 21A in the Appendix of Forms. Existing law as to subsequent proceedings is incorporated by reference. The last two sentences of this subdivision are taken from Revised Rules of Court 12.

Subdivision (e) similarly incorporates by reference existing law as to adjudication and judgment.

Subdivision (f) provides for the use of trustee process by a party bringing a counterclaim, cross-claim or third-party complaint if the venue is proper as to the trustee. If the counterclaim is compulsory, trustee process may be used irrespective of where the trustee resides. The latter provision is a practical necessity in order not to force upon the counterclaiming party the disadvantage of losing his chance to get security by trustee process for any judgment he might recover. This adds to the burden of a trustee by compelling him to appear outside his own county, but he is already required to do so in cases where the action is brought in a different county in which another trustee resides. *See* R.S.1954, Chap. 114, Sec. 5 (amended in 1959) [now 14 M.R.S.A. § 2604].

Subdivision (g) provides means of obtaining a court order for an additional attachment on trustee process after service on the principal defendant. Wages or salary of the defendant cannot, however, be reached by such subsequent trustee process. Successive trustee services for this purpose will therefore be limited to the 30-day period between the commencement of the action and service upon the defendant.*** It is believed that any further extension would place an unwarranted burden upon the wage-earner.

*** [According to Field, McKusick & Wroth, "The sentence in the text should have read, 'Successive trustee services for this purpose will therefore be limited to the 30-day period after the date of the complaint. Rule 4B(c).' In any event, trustee process against wages is now limited under Rule 4B(h) to the 30-day period after entry of judgment. *See* Advisory

Committee's Note and § 4B.3a below.” 1 Field, McKusick & Wroth, *Maine Civil Practice* at 132 (2d ed. 1970)].