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THE MAINE RULES OF CIVIL PROCEDURE

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counsel of record or unrepresented party of the time and place at which oral argument will be heard.

(m) Review by the Law Court. Unless by statute or otherwise the decision of the Superior Court is final, review by the Law Court shall be by appeal or report in accordance with the Maine Rules of Appellate Procedure, and no other method of appellate review shall be permitted. If the Superior Court remands the case for further proceedings, all issues raised on the Superior Court's review of the governmental action shall be preserved in a subsequent appeal taken from a final judgment entered on review of such governmental action.

RULE 80C. REVIEW OF FINAL AGENCY ACTION

(a) Mode of Review. A review of final agency action or the failure or refusal of an agency to act brought in the Superior Court pursuant to 5 M.R.S.A. § 11001 et seq., Maine Administrative Procedure Act, or in the District Court to review disciplinary decisions of occupational licensing boards and commissions under 4 M.R.S.A. § 152 (10) and 10 M.R.S.A. § 8003, shall be governed by these Rules of Civil Procedure as modified by this rule, except to the extent inconsistent with the provisions of a statute. Proceedings for judicial review of final agency action or the failure or refusal of an agency to act shall be commenced by filing a petition as provided by 5 M.R.S.A. § 11002(1) and the contents of the petition shall be as provided by 5 M.R.S.A. § 11002(2). A petition for review shall be served as provided by 5 M.R.S.A. § 11003. No responsive pleading need be filed except as provided by 5 M.R.S.A. § 11005. Leave to amend pleadings shall be freely given when necessary to permit a proceeding erroneously commenced under this rule to be carried on as an ordinary civil action.

(b) Time Limits; Stay. The time within which a review of final agency action or the failure or refusal of an agency to act may be sought shall be as provided by 5 M.R.S.A. § 11002(3). An application for a stay of final agency action shall be as provided by 5 M.R.S.A. § 11004.

(c) Manner and Scope of Review. The manner and scope of review of final agency action or the failure or refusal of an agency to act shall be as provided by 5 M.R.S.A. § 11007(2) through § 11007(4).

(d) Power of Court to Correct or Modify Record. Judicial review shall be confined to the record upon which the agency decision was based, except as

provided by 5 M.R.S.A. § 11006(1). The reviewing court may require or permit subsequent corrections to the record as provided by 5 M.R.S.A. § 11006(2).

(e) Additional Evidence. A party who intends to request that the reviewing court take additional evidence or order the taking of additional evidence before an agency as provided by 5 M.R.S.A. § 11006(1) shall file a motion to that effect within 10 days after the record of the proceedings is filed under subdivision (f), but not before the record of proceedings is filed. The failure of a party to file such a motion shall constitute a waiver of any right to the taking of additional evidence. Upon the filing of a motion for the taking of additional evidence, the time limits contained in this rule shall cease to run pending the issuance of an appropriate order of court specifying the future course of proceedings with that motion. The moving party shall also file with the motion a detailed statement, in the nature of an offer of proof, of the evidence intended to be taken, except as provided below. That statement shall be sufficient to permit the court to make a proper determination as to whether the taking of additional evidence as presented in the motion and offer of proof is appropriate under this rule and if so to what extent. After hearing, the court shall issue an appropriate order specifying the future course of proceedings.

(f) Record. The agency shall file the complete record of the proceedings under review as provided by 5 M.R.S.A. § 11005. If the petitioner believes that the record filed by the agency either is incomplete or over-inclusive, the petitioner shall serve notice upon the agency within 10 days after the record is filed. This notice shall include specific proposals by the petitioner regarding additions to or deletions from the record filed by the agency. The parties shall attempt to agree on the contents of the record. If the parties cannot agree, the petitioner may request that the court modify the contents of the record.

(g) Filing of Briefs. Unless otherwise ordered by the court, all parties to a review of governmental action shall file briefs. The petitioner shall file the petitioner's brief within 40 days after the date when the administrative agency files the record of the proceedings with the court. Any other party shall file that party's brief within 30 days after the service of the petitioner's brief, and the petitioner may file a reply brief 14 days after last service of the brief of any other party. However, no brief shall be filed less than 6 calendar days before the date set for oral argument. On a showing of good cause the court may increase or decrease the time limits prescribed in this subdivision.

(h) Consequence of Failure to File. If the petitioner fails to comply with subdivision (g) of this rule, the court may dismiss the action for want of prosecution. If any other party fails to comply, that party will not be heard at oral argument except by permission of the court.

(i) Joinder With Independent Action. If a claim for review of governmental action under this rule is joined with a claim alleging an independent basis for relief from governmental action, the petition shall contain a separate count for each claim for relief asserted, setting forth the facts relied upon, the legal basis of the claim, and the relief requested. A party in a proceeding governed by this rule asserting such an independent basis for relief shall file a motion no later than 10 days after the petition is filed, requesting the court to specify the future course of proceedings. Upon the filing of such a motion, the time limits contained in this rule shall cease to run pending the issuance of an appropriate order of court. After hearing, the court shall issue an order; provided that such a motion need not be filed in cases where the parties to the proceedings have filed with the court a stipulation as to the future course of proceedings.

(j) Discovery. In a proceeding governed by this rule, discovery shall be allowed as in other civil actions when such discovery is relevant either to the subject matter involved in an evidentiary hearing to which the discovering party may be entitled or to that involved in an independent claim joined with a claim for review of governmental action as provided in subdivision (i) of this rule. No other discovery shall be allowed in proceedings governed by this rule except upon order of court for good cause shown.

(k) Pretrial Procedure. In the absence of a court order, the pretrial procedure of Rule 16 shall not be applicable to a proceeding governed by this Rule.

(l) Scheduling of Oral Argument. Unless the court otherwise directs, all appeals shall be in order for oral argument 20 days after the date on which the responding party's brief is due or is filed, whichever is earlier. The parties may, by agreement, waive hearing and submit the matter for decision on the record and the briefs. The clerk of the court shall schedule oral argument for the first appropriate date after an appeal is in order for hearing, and shall notify each counsel of record or unrepresented party of the time and place at which oral argument will be heard.

(m) Appeal to the Law Court. If the court remands the case for further proceedings, all issues raised on the court's review of the agency action shall be preserved in a subsequent appeal taken from a final judgment entered on review of

such agency action. Appeal to the Law Court of a review proceeding in the court shall be as provided by 5 M.R.S.A. § 11008.

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 bear the signature or facsimile signature of the judge or the clerk, contain the name and address of the court and the names of the parties, be directed to the defendant, state the day when the action is returnable, which shall be not less than 7 days from the date of service of the summons; and shall 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) Complaint. The complaint for forcible entry and detainer shall be filed no later than one day before the date of the hearing.

(d) Defendant's Pleading. If the defendant claims title in defendant's name or in another person under whom the defendant claims the premises, 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.

(e) Time of Hearing.

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

(2) *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