PMO-SJC-2

STATE OF MAINE JUDICIAL BRANCH
PANDEMIC MANAGEMENT ORDER
Order Issued March 30, 2020

Pandemic Management Order from the Maine Supreme Judicial Court Consolidating, Ratifying, and Superseding the Previous Orders Concerning

A. The Administration of Oaths at Depositions,
B. The Electronic Filing of Motions Directly Bearing on a Criminal Defendant's Liberty Interests,
C. Unexpired Deadlines in Trial Court Cases,
D. Unexpired Deadlines Relating to Law Court Appeal, and
E. Face-to-Face or In-Person Contacts with Children and Families

Since March 13, 2020, in light of public health concerns arising from the novel coronavirus (COVID-19), Maine's Judicial Branch has issued a number of Emergency Orders in order to adhere to the guidance provided by the Maine and United States Centers for Disease Control and in order to comply with the Governor's Executive Order 19. This Order consolidates some of those Emergency Orders into one document and clarifies, corrects, and ratifies those orders. The earlier orders are no longer in effect but may be found in the "Superseded Rules" section of the Judicial Branch's COVID-19 website.

PMO-SJC-2(A). EMERGENCY ORDER FOR THE ADMINISTERING OF OATHS AT DEPOSITIONS VIA REMOTE AUDIO-VIDEO COMMUNICATION EQUIPMENT

In light of the public health concerns arising from the novel coronavirus (COVID-19), **effective today**, and until further order of the Court, the Supreme Judicial Court, pursuant to its rulemaking authority, issues the following ORDER:

1. By rule, courts have authority to appoint the person before whom a deposition shall be taken. *See* M.R. Civ. P. 28(a). "A person so appointed has power to administer oaths and take testimony." M.R. Civ. P. 28(a).

2. Until further order of this Court, at any deposition taken pursuant to the Maine Rules of Civil Procedure, including, without limitation, M.R. Civ. P. 27, 28(a), 29, 30, 31, 32(d)(3)(B), or pursuant to an order of court, an officer or other person before whom a deposition is to be taken is hereby authorized to administer oaths and take testimony remotely, so long as that officer or other person can both see and hear the deponent via audio-video communication equipment or technology for purposes of positively identifying the deponent.

3. This order is intended to avoid a situation in which the officer or other person before whom the deposition is to be taken is actually or impliedly precluded, by statute, rule, or otherwise, from administering oaths and taking testimony if not in the presence of the deponent. This order does not in any way address or decide whether notaries public are precluded by statute from administering an oath or affirmation if the deponent is not in their presence. *See* 4 M.R.S. § 1013. As a result of this order, however, any officer or other person before whom a deposition may be taken, including any officer or other person who also happens to be a notary, is authorized to administer oaths and take testimony without being in the presence of the deponent. Such authority arises from this order, not from any person's status as a notary.

4. In addition, all parties are reminded that, "[u]nless the court orders otherwise, the parties may by written stipulation (1) provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions, and (2) modify the procedures provided by these rules for other methods of discovery." M.R. Civ. P. 29. If the parties so stipulate to the person before whom the deposition is to be taken, that person has the authority to administer oaths. *See* M.R. Civ. P. 28(a), 29.

PMO-SJC-2(B). EMERGENCY ORDER REGARDING ELECTRONIC FILING OF MOTIONS DIRECTLY BEARING ON A CRIMINAL DEFENDANT'S LIBERTY INTERESTS

In light of public health concerns arising from the novel coronavirus (COVID-19), effective immediately, and until further order of the court, all motions requesting the incarceration or the release of a criminal defendant

will be accepted by email sent to the Clerk and copied to opposing counsel. Paper copies must be sent to the court and opposing counsel. Clerks will provide email addresses to the parties. The email filing of those motions is controlled by PMO-SJC-3.

PMO-SJC-2(C). EMERGENCY ORDER EXTENDING UNEXPIRED DEADLINES

In light of the suspension of certain types of civil and family litigation due to public health concerns arising from the novel coronavirus (COVID-19), immediately, and until further order of the court, IT IS ORDERED that 49 calendar days are added to the final date of any unexpired deadline established by court order or court rules including deadlines that come into existence after the date of the original order (March 17, 2020) and this Order.

This order does not apply to the following case types:

- Unified Criminal Docket matters related to the bail or release of an incarcerated defendant
- Juvenile proceedings
- Protection from Abuse
- Protection from Harassment
- Child Protection
- Involuntary mental health commitment and treatment

This order does not extend any statutory requirements or deadlines, including but not limited to, statutes of limitations and statutory deadlines for appeals of governmental actions and decisions.

PMO-SJC-2(D). EMERGENCY ORDER EXTENDING UNEXPIRED DEADLINES RELATING TO LAW COURT APPEALS

On March 17, 2020, we issued the following Emergency Order Extending Unexpired Deadlines Relating to Law Court Appeals:

> In light of the public health concerns arising from the novel coronavirus (COVID-19), **effective today**, and until further order of the Court, 49 calendar days are added to any unexpired deadline established by court order, court rules, or notices and

schedules issued by the Clerk's Office, related to any Law Court appeals.

This order does not include affect deadlines for notices of appeal or any deadlines set by statute.

SO ORDERED.

This March 17 order is hereby amended to specifically exclude notices of appeal. Consistent with deadlines of notices of appeal governed by statute, which were not extended by the March 17 Order, as of the effective date of this order, the deadline for notices of appeal set by court order, court rules, or notices and schedules issued by the Clerk's Office, related to any Law Court appeal is no longer extended. Accordingly, the Court orders as follows:

In light of the public health concerns arising from the novel coronavirus (COVID-19), **effective today**, and until further order of the Court, 49 calendar days are added to any unexpired deadline established by court order, court rules, or notices and schedules issued by the Clerk's Office, related to any Law Court appeals.

As of March 30, 2020, this order does not affect deadlines for notices of appeal or any deadlines set by statute.

To protect the rights of those whose appeals ripened between March 17 and March 30, a notice of appeal affected by the 49-day extension set forth in the March 17 Order will be deemed timely if filed within the full time period to appeal set as if that period commenced on the effective date of this order. For example, as to appeals governed by Maine Rule of Appellate Procedure 2(b)(1) or Rule 2(c)(1), the due date for which would have, absent entry of the March 17 Order, fallen within the time period between March 21 and the effective date of this order, is now due within 21 days after the effective date of this order. Similarly, as to appeals for which the 21-day time period commenced prior to March 21 but which deadline would not expire until after the effective date of this order, the notice of appeal is also now due within 21 days after the effective date of this order.

PMO-SJC-2(E). EMERGENCY ORDER REGARDING FACE-TO-FACE OR IN-PERSON CONTACTS WITH CHILDREN AND FAMILIES

In light of public health concerns arising from the novel coronavirus (COVID-19), **effective immediately**, and until further order of the court, in any court proceeding or process related to Titles 18-C, 19-A, 22, or any other similar statute, any contact or interviews required or permitted in such proceeding or process shall include contact by video or telephone.

Dated: March 30, 2020

For the Court:

/s/
Leigh I. Saufley
Chief Justice