

STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENT TO
MAINE RULES OF CIVIL PROCEDURE

2017 Me. Rules 10

Effective: October 18, 2017

All of the Justices concurring therein, the following amendment to the Maine Rules of Civil Procedure is adopted to be effective on the date indicated above. The specific amendment is stated below. To aid in the understanding of the amendment, an Advisory Note appears after the text of the Rule amendment. The Advisory Note states the reason for the amendment but the Advisory Note is not part of the amendment adopted by the Court.

1. Rule 80F of the Maine Rules of Appellate Procedure is amended to read as follows:

RULE 80F. TRAFFIC INFRACTIONS

....

(c) Content of Violation Summons and Complaint. The Violation Summons and Complaint shall contain the name of the defendant; the time and place of the alleged infraction; a brief description of the infraction; the number of days within which the defendant ~~is to~~ must file an answer in writing with the Violations Bureau or the specific date by which the written answer must be filed; and ~~the~~ an original or electronic signature of the officer issuing the ticket and complaint. No other summons, complaint or pleading shall be required of the state, but motions for appropriate amendment of the complaint shall be freely granted.

(d) Pleadings of Defendant.

(1) *Answer.* An answer shall be filed with the Violations Bureau within 20 days ~~of~~ after the date of service of the Violation Summons and Complaint. The answer shall state that the violation is either contested or not contested

and the answer shall be made in writing by the defendant or by defendant's attorney.

(2) *No Joinder.* Proceedings pursuant to this rule shall not be joined with any actions other than another proceeding pursuant to this rule, nor shall a defendant file a counterclaim.

(3) *Not Contested.* An answer that a violation is not contested shall not be admissible as an admission in any civil or criminal proceeding arising out of the same set of facts.

(4) *Judgment on Acceptance of Answer of "Not Contested."* The Violations Bureau clerk may accept an answer of "not contested" to any traffic infraction and assess the fine as set in accordance with a schedule of fines established by the Chief Judge for various categories of traffic infractions.

....

(f) Filed Cases. When the attorney for the State files a traffic infraction complaint, with or without conditions, such filing shall be for a period of 180 days. Filed cases shall be dismissed by the Clerk of the Violations Bureau or the Clerk's designee at the conclusion of the 180-day period unless the attorney for the State notifies the Bureau within that time period that the case should be set for trial.

When the attorney for the State files a traffic infraction complaint, with the condition of payment of costs, the costs must be paid to the Violations Bureau within 30 days ~~of~~ after the date of the filing. If the costs are not paid within 30 days, the Violations Bureau shall set the case for trial.

(g) Venue; Trial. A traffic infraction proceeding shall be filed in the Violations Bureau and, upon the filing of an answer of "contested," the Violations Bureau shall transfer the case to the appropriate division of the District Court for trial. Unless otherwise ordered by the court, the trial of a traffic infraction shall be held in the division in which the infraction is alleged to have been committed. If the defendant is adjudicated to have committed the traffic infraction and a fine is imposed by the court, the court shall inform the defendant that ~~immediate payment of the fine in full is required~~ the fine must be paid within 30 days after the imposition date on which the judge imposed

the fine unless the court orders a different payment date. If the fine is not paid in full within 30 days or within the period of time ordered by the court, whichever is longer, the defendant's right to operate a motor vehicle in Maine is suspended immediately without further notice and the Secretary of State shall be notified of the suspension. Immediately upon disposition, the case shall be returned to the Violations Bureau.

....

(k) Default.

(1) *Entry of Default.* If the defendant fails to respond within 20 days ~~of~~ after the date of service of the Violation Summons and Complaint, or if the defendant fails to appear at trial, the Clerk of the Violations Bureau or the Clerk's designee shall enter a default judgment and adjudicate that the defendant has committed the traffic infraction alleged. In each case, after entry of default, the Clerk or the Clerk's designee shall impose the fine from the schedule of fines established by the Chief Judge.

(2) *Setting Aside the Default.* For good cause shown the court may set aside the default and adjudication under M.R. Civ. P. 55 (c) and 60 (b), as applicable. If it is determined that due to the operation of the ~~Soldiers' and Sailors' Civil Relief Act of 1940~~ Servicemembers Civil Relief Act of 2003, as amended, a default should not have been entered, all costs shall be stricken, the adjudication vacated, the default stricken, and the defendant permitted an opportunity to answer.

(l) Extension of Time to Pay Fines.

(1) *Failure to Answer or Answer of "No Contest."* If a defendant in a traffic infraction proceeding fails to answer within 20 days ~~of~~ after the date of service of the Violation Summons and Complaint or answers "no contest" but does not pay the fine or pays only part of the fine, the Violations Bureau shall send a notice to the defendant, at his/her last known address, that if the fine is not paid in full within 30 days, the defendant's right to operate a motor vehicle in Maine will be suspended without further notice. If the fine is not paid in full within the 30-day period, the suspension is effective and the Secretary of State shall be notified of the suspension.

(2) *Contested Infractions*. If the traffic infraction case is referred to court because the defendant contested the case and if the defendant changes the answer to “no contest” or if a fine is imposed by the court, the fine must be paid within 30 days ~~of~~ after imposition unless the court orders a different payment date. If the fine is not paid in full within 30 days or within the period of time ordered by the court, whichever is longer, the defendant’s right to operate a motor vehicle in Maine is suspended immediately without further notice and the Secretary of State shall be notified of the suspension.

Other than the above, there shall be no extensions of time for payment of a traffic infraction fine.

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Advisory Note – October 2017

The Department of Public Safety, the Violations Bureau and the Judicial Branch are undertaking a pilot project to permit the electronic filing of a Violation Summons and Complaint in traffic infraction cases filed in the Violations Bureau. To accomplish the purposes of the project the following sections of Rule 80F are amended.

Rule 80F(c) is amended to require a defendant to file a written answer to the Violation Summons and Complaint either within a specified number of days or by a specified date, and to permit the use of an original or electronic signature of the officer issuing the Summons and Complaint.

Rule 80F(g) is amended to eliminate the requirement of “immediate payment in full” of any fine that is imposed and, in its place, require that the fine must be paid within 30 days after imposition unless the court orders a different payment date. If the fine is not paid in full within the longer of 30 days or the period of time ordered by the court, the defendant’s right to operate a motor vehicle in Maine is suspended immediately without further notice and the Secretary of State will be notified of the suspension.

Rule 80F(k)(2) is amended to reflect that the former Soldiers’ and Sailors’ Civil Relief Act of 1940 has been replaced by the Servicemember’s Civil Relief Act of 2003.

Finally, throughout Rule 80F, in any phrase establishing a deadline for some act to occur, the word “of” has been replaced with the word “after.”

Dated: October 18, 2017

FOR THE COURT,*

_____/s/_____
LEIGH I. SAUFLEY
Chief Justice

DONALD G. ALEXANDER
ANDREW M. MEAD
ELLEN A. GORMAN
JOSEPH M. JABAR
JEFFREY L. HJELM
THOMAS E. HUMPHREY
Associate Justices

* This Rule Amendment Order was approved after conference of the Court, all Justices concurring therein.