

STATE OF MAINE  
SUPREME JUDICIAL COURT  
AMENDMENTS TO THE  
MAINE RULES OF APPELLATE PROCEDURE

**2018 Me. Rules 03**

Effective: May 1, 2018

All of the Justices concurring therein, the following amendments to the restyled Maine Rules of Appellate Procedure are adopted to be effective on the date indicated above. The specific amendments are stated below. To aid in the understanding of the amendments, an Advisory Note appears after the text of each 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 Rule 2A(d) of the restyled Maine Rules of Appellate Procedure is repealed and replaced with the following:

**(d) Transcript Order.** If an appellant intends to include any portions of the transcript in the record on appeal, that appellant must order those portions either by using the online transcript order form found on the Judicial Branch website, [www.courts.maine.gov/maine\\_courts/transcription/online.html](http://www.courts.maine.gov/maine_courts/transcription/online.html), or by using the official Judicial Branch paper order form.

**(1)** To use the online transcript order form on the Judicial Branch website, the appellant must

**(A)** complete all information required on the online form, including the dates of the proceedings that the appellant wishes to have transcribed;

**(B)** print the confirmation sheet from the online form;

**(C)** file the printed confirmation sheet with the notice of appeal; and

**(D)** serve a copy of the printed confirmation sheet on the other parties.

(2) To use the official Judicial Branch paper transcript order form, the appellant must

(A) complete all required information on the form, including the dates of the proceedings that the appellant wishes to have transcribed;

(B) sign the form;

(C) file the original form with the notice of appeal; and

(D) serve a copy of the form on the other parties.

### **Advisory Note – May 2018**

The amendment permits, but does not require, an appellant with access to the internet to use the Judicial Branch’s online transcript order form to order any transcript. Currently, the online form can be used to order transcripts for reference but not for appeals. The online form will allow the appellant to print a document that confirms the order and contains all details of the order. The appellant must then file that confirmation form with the notice of appeal and serve a copy on the other parties.

The Judicial Branch prefers that parties use the online form. Using the online form will ensure that the appellant has provided all necessary information for the transcript order and will make the process of ordering and producing the transcript more efficient.

2. Rule 5(b) of the restyled Maine Rules of Appellate Procedure is amended as follows:

#### **(b) Transcripts.**

##### **(1) Criminal Cases.**

**(A) Order of Transcript.** The appellant is responsible for ordering the transcript by using one of the methods prescribed by Rule 2A(d). Except as otherwise designated, the standard transcript in a criminal appeal shall include the testimony of the witnesses at trial; any bench conferences; and, in a jury trial, the closing arguments and the court’s charge to the jury. The standard

transcript shall also include any hearing on a motion to suppress or a motion in limine, if a ruling on such a motion is at issue on appeal, and the sentencing hearing, if sentencing is at issue on appeal.

Appellant's counsel may add portions to this standard transcript by utilizing the requisite Judicial Branch form. Appellant's counsel shall delete from the standard transcript any portion not necessary for purposes of the appeal.

Within 7 days after receipt of appellant's transcript order, appellee's counsel may order additional portions of the transcript by utilizing the requisite Judicial Branch form.

A copy of any transcript order not filed as part of, or contemporaneously with, the notice of appeal shall be filed with the Clerk of the Law Court and served on each other party, or if a party is represented, counsel for a represented party.

**(B) Payment for Transcript.** A non-indigent appellant shall make satisfactory financial arrangements with the court reporter or Office of Transcript Operations within 14 days after filing the notice of appeal, or the transcript order shall be cancelled, in which case the appeal shall proceed without a transcript.

In the case of an indigent appellant, the cost of the transcript shall be paid for by the Maine Commission on Indigent Legal Services. An indigent appellant is an appellant who has been determined indigent (i) by the trial court before verdict pursuant to M.R.U. Crim. P. 44(b), (ii) by the trial court after verdict pursuant to M.R.U. Crim. P. 44A(b), or (iii) by a Justice of the Supreme Judicial Court pursuant to M.R.U. Crim. P. 44A(c).

## **(2) Civil Cases.**

**(A) Order of Transcript.** An appellant shall order the transcript or portions of the transcript deemed necessary for appeal by ~~filing the transcript order form with the notice of appeal~~ using one of the methods prescribed by Rule 2A(d).

If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion.

If any appellee deems a transcript of other parts of the proceedings to be necessary, the appellee shall, within 7 days after the service of the appellant's transcript order form, file with the Clerk of the Law Court and serve on the appellant a designation of additional parts of the transcript to be included. Unless within 7 days after service of such designation the appellant has ordered such parts, and has so notified the appellee, the appellee may within the following 7 days either order the parts or move in the Law Court for an order requiring the appellant to do so.

**(B) Payment for Transcript.**

**(i)** Within 14 days after filing the notice of appeal and transcript order form, a party must make satisfactory arrangements with the reporter or other person from whom the transcript is ordered for payment of the cost of the transcript. In every instance in which a reporter or the Office of Transcript Operations requests a deposit prior to beginning production of a transcript, that deposit shall be paid within 7 days after the date on which the attorney, litigant, or other interested person was notified of the amount of the deposit. In the event that the deposit has not been paid within the required time, the reporter or the Office of Transcript Operations shall consider the order canceled and shall so inform the Clerk of the Law Court, the party ordering the transcript, and the court in which the transcript was to be filed. The appeal or other matter shall then proceed without the transcript.

**(ii)** In the case of an indigent parent who is an appellant in a child protection case brought by the State, the cost of the transcript shall be paid for by the Maine Commission on Indigent Legal Services. An indigent parent-appellant is one who has been determined indigent (a) by the trial court before entry of the judgment or order appealed from, (b) by the trial court after entry of the judgment or order appealed from, or (c) by a Justice of the Supreme Judicial Court.

**(iii)** An electronic recording or statement of the evidence in lieu of a transcript may be filed to support an appeal only when the proceeding was

recorded by the court or by an official court reporter, but, pursuant to Rule 91(f)(2) of the Maine Rules of Civil Procedure, the trial court (a) has determined that the appellant is indigent and (b) has approved the use an electronic recording or statement of the evidence in lieu of a transcript.

### **Advisory Note – May 2018**

The amendments to Rule 5(b) make clear that the appellant must order any portions of the transcript that the appellant wishes to include in the record on appeal by using one of the methods permitted by Rule 2A(d), which is simultaneously amended to permit the use of either the online form or the official paper form.

3. Rule 23(b)(1)(B) of the restyled Maine Rules of Appellate Procedure is amended as follows:

**(B)** The petition for appellate review and any response shall be typed in at least 14-point font with double spacing between each line of type except for block quotations. The petition and any response filed by any other party shall be in a single document not exceeding ~~10~~ 12 pages.

### **Advisory Note – May 2018**

The restyled Maine Rules of Appellate Procedure changed the font size required by Rule 23(b)(1)(B) from 12-point to 14-point for petitions for appellate review. The change to a 12-page limit allows petitions for appellate review to have approximately the same amount of text as was allowed prior to the change in the font size requirement.

Dated: April 18, 2018

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

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