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October 5, 2018

Matthew Pollack, Executive Clerk
Maine Supreme Judicial Court
205 Newbury Street Room 139
Portland, Maine 04112

Dear Mr. Pollack:

As the Chair of the Litigation Section of the Maine State Bar Association, I am writing on behalf of the members of the Litigation Section. Having polled the Section members regarding the proposed amendments to the Civil Rules, elicited comments make clear that the membership has concerns about the proposal and wishes to have more time to consider them.

I have seen other submissions to the Court regarding the amendments, from individuals, organizations and firms. The varied comments of our membership are largely similar to those in other submissions. Our membership is concerned about the practical implications of several of the proposed amendments, including, but not limited to: the potential unfeasibility of mediations done a shorter timeline; potential inequities and impracticalities of the automatic initial disclosure rule; limitations on current discovery practices; limitations on summary judgment practices; loss of standard uses of Requests for Admissions; and potentially problematic public disclosures of settlement terms.

We have concerns that the proposed amendments, while in many respects sensible and well-intentioned, may present foreseeable unintended consequences. We are concerned that, in practice, some of these amendments would lead to many more discovery disputes and motions than we currently see, potentially overburdening practitioners, parties and the courts. Our membership would also like to have a better sense about the research and resources that the drafters and the committee relied upon in drafting the amendments. Our membership is interested in knowing how similar amendments have played out in other states.

For these reasons, our membership requests an extension of time to allow for more consideration and analysis of the proposals before they are adopted. We thank you for the Court's efforts to improve on issues of judicial efficiency and access to justice, and we thank you for your consideration of our input.

Very truly yours,



James E. O'Connell
Chair, Litigation Section
Maine State Bar Association