



Comment on proposed rule changes ("Civil Justice Reform")

'Marshall Tinkle' via Law Court Clerk < lawcourt.clerk@courts.maine.gov >

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Reply-To: Marshall Tinkle < mtinkle@thomport.com >

To: Clerk of the Law Court < lawcourt.clerk@courts.maine.gov >

Good afternoon,

I respectfully offer the following brief comments on the proposed rule changes. These comments are not offered on behalf of any organization.

First, I'm disturbed by the proposed virtual elimination of requests for admission. Such requests generally are far easier to respond to than interrogatories or production requests. They have long proved to be a very useful discovery device when used judiciously.

Second, I don't understand the policy objective of prohibiting such requests in debt buyer collection actions. Why is one small class of plaintiffs being singled out in this fashion?

Third, Rule 40 as redrafted seems to create a presumption against continuances. Heretofore, requests for continuances have been left to the sound discretion of the trial court. That has worked well.

Fourth, the new proposed Rule 80N, which together with Rule 1 of the small claims rules appears to carve an exception to the availability of small claims procedures, seems to be at odds with the stated purpose of the Civil Justice Reform amendments to reduce disproportionate costs and delay – at least where credit card and student loan creditors are concerned. There's no reason to treat such claims that are less than \$6000 differently from other small claims (except to the extent the Legislature has specifically added certain pleading requirements). The Legislature has provided a cost-effective process to pursue small claims across the board. I would respectfully submit that if a particular class of creditors is now to be deprived of that remedy, the change should be implemented by statute rather than by court rule.

Thank you,

Marshall

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