

STATE OF MAINE
Supreme Judicial Court

**EMERGENCY ORDER FOR THE ADMINISTERING OF OATHS AT
DEPOSITIONS VIA REMOTE AUDIO-VIDEO COMMUNICATION EQUIPMENT**

Effective March 25, 2020

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 (2018). 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.

SO ORDERED.

Dated: March 25, 2020

For the Court,

_____/s/_____
Leigh I. Saufley, Chief Justice
Maine Supreme Judicial Court