

## **RULE 111. JOINDER, CONSOLIDATION AND INTERVENTION**

### **(a) Joinder.**

(1) *Joinder of Claims and Remedies.* Grandparent visitation and emancipation actions shall not be joined with other Family Division actions. Any other claim, counterclaim or request for relief that could be brought as a separate Family Division action may be joined to an action under these rules.

(2) *Joinder of Persons or Entities.* The only persons who may be joined as parties to an action under these rules are persons or entities specifically authorized to file or participate in a Family Division action by Title 19-A of the Maine Revised Statutes. However, persons who file emancipation or grandparents visitation actions may not be joined.

**(b) Consolidation.** Rule 42 governs consolidation in Family Division matters.

**(c) Intervention.** A person may petition to intervene in a Family Division action only when that intervention is specifically authorized by statute, or when the individual or entity would be authorized to file a complaint or post-judgment motion involving one or more of the same parties and issues that are being addressed in the Family Division action in which the person is seeking to intervene. A person asserting a claim for parentage or de facto parentage may not intervene in a pending divorce or parental rights and responsibilities case, but must file and serve a separate petition for parentage and parental rights and responsibilities. Where intervention is authorized, practice regarding intervention is governed by Rule 24.

### **Advisory Note - July 2016**

The additional language in Rule 111(c) reflects the Maine Parentage Act's requirements for de facto parentage cases. See 19-A M.R.S. § 1891.

## **Advisory Notes June 2008**

Joinder, consolidation and intervention capability for Family Division actions is very different from regular civil practice. In civil practice, joinder of actions involving parties and claims is liberally allowed. In Family Division actions, subdivision (a)(1) prohibits joinder of grandparent visitation and emancipation actions. Subdivision (a)(1) further limits joinder only to other claims or remedies that could be originally brought as a Family Division action. This is derived from Rule 80(b). Thus, for example, an action for assault may not be joined with an action for divorce.

An earlier version of this draft included a sentence similar to 19-A M.R.S. § 953(4) (2007), which provides:

**4. Disposition of marital property.** If both parties to a divorce action also request the court in writing to order disposition of marital property acquired by either or both of the parties to the divorce prior to January 1, 1972, or non marital property owned by the parties to the divorce action, the court shall also order disposition in accordance with subsection 1.

Section 953(4)'s predecessor – 19 M.R.S.A. § 722-A(4) - was enacted in response to the *Young v. Young*, 329 A.2d 386, 390 n. 4 (Me. 1974), which raised, but did not decide, the question of whether the then new equitable distribution statute could be constitutionally applied to property acquired prior to the enactment of the statute. This question was subsequently answered in the affirmative in *Fournier v. Fournier*, 376 A.2d 100, 102 (Me. 1977). In *Bryant v. Bryant*, 411 A.2d 391 (Me. 1980), the Law Court observed that section 953(4)'s predecessor – 19 M.R.S. § 722-A(4) – had become surplusage and the written request it provided for was no longer required. Thus, reference to section 953(4), and the corresponding sentence in the earlier draft of Rule 111(a)(1) is no longer necessary to assist resolution of property division issues.

Subdivision (a)(2) narrowly restricts those persons who may be joined in a Family Division action. The only persons who may be joined to a Family Division action would be individuals or entities (most often the DHHS), who would be authorized to file or participate in a Family Division action involving the same subject matter, except for persons who assert or

defend grandparent visitation and emancipations actions. Thus two mothers could join a child support enforcement action against one father of their children. DHHS could also join the action.

Subdivision (b) of this rule relates to the consolidation of matters for trial. The court's authority and flexibility under current Rule 42 is sufficient to cover issues of consolidation in Family Division actions. Courts should consolidate Family Division actions for trial with protection from abuse actions only when consolidation does not delay any necessary hearings to insure the safety or protection of a party or the minor child or children of a party.

Subdivision (c) indicates that no parties may intervene in an action except where intervention is specifically authorized by statute or where the individual or entity seeking to intervene would be authorized to bring or participate in an action involving the same subject matter under the Family Division rules. In cases where intervention may be authorized, the practice for intervention is governed by Rule 24.