

RULE 115. NO JUDGMENT WITHOUT HEARING; JUDGMENTS TO BE FINAL

(a) Hearing. Unless otherwise provided by these rules, no final judgment, other than a dismissal for want of prosecution, shall be entered in an original action under these rules except after hearing, which may be ex parte if a party does not appear. With the permission of the court, a party may appear at a hearing by telephone or by video-conference.

(b) Finality. Unless otherwise ordered by the court on its own motion or on request of a party, any order granting a divorce, annulment, judicial separation, disposition of property, or other disposition, award, or division of property incident to a divorce, annulment, judicial separation or any order relating to paternity, parentage, parental rights and responsibilities including child support, emancipation, and visitation rights of grandparents, other than a temporary or interim order under these rules, shall be a final judgment, notwithstanding the pendency of any other claim or counterclaim in the action.

Advisory Note - July 2016

The addition of the word “final” in Rule 115(a) is intended to clarify that the rule applies to final judgments in family matter cases. Note that Rule 117(b) allows the court to enter an order by default without a hearing when only a modification in child support pursuant to 19-A M.R.S. § 2009(6) is requested.

Advisory Notes June 2008

Rule 115 is based on Rule 80(f). Current practice specifically authorized by Rule 80(f) appears more liberal than some of the current provisions of the Family Division rules by allowing appearances and participation by parties who do not file answers and other documents. *See* FAM Div.III.H.1. Hearing rights, without a prior appearance, are addressed in Rule 105(a).

The current practice is to permit parties to appear at hearing by telephone or by video-conference, particularly in uncontested matters. The

court has discretion to determine whether the interests of justice are served by permitting a party to appear and testify by telephone or by video-conference in a contested matter.

The rule is amended to list all the actions that may be brought under this chapter. It specifies that no judgment in an original action may be entered without a hearing. Judgments and orders on post-judgment motions may be entered without a hearing when there is an agreement regarding the post-judgment motion or order.