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April 10, 2025

The Honorable Anne Carney
The Honorable Amy Kuhn
Members of the Joint Committee on the Judiciary

Dear Senator Co-Chair Carney, Representative Co-Chair Kuhn and Members of the Committee:

I have specialized in foreclosure defense legal work for over17 years, not only in Maine, but also nationally. As stated in my CV, attached as Exhibit C to this testimony, I have also received numerous awards and national recognition for this legal work. Based on my experience, I offer this testimony in support of LD 1444.

The bill before you is critical to restoration of Maine's protections for homeowners facing the distress of foreclosures. The bill will do this by undoing an unfortunate and unprecedented decision from the Maine Law Court in January 2024 in which the Court decided on a 4-3 vote to overturn decades of Maine law, and where one of the four majority justices, who had a long and deep history of representing banks in foreclosure cases, violated her duties under the Maine Code of Judicial Conduct by failing to recuse herself in that case.

Since the founding of this country, the law in all jurisdictions has been that a party who loses a lawsuit is forever barred from bringing a new lawsuit on that same claim. In legal terms the principle is called "res judicata," which means "a matter judged." Thus, if a person injured in a car accident sues a driver who caused the accident for damages, but fails to prove the driver's negligence, the injured party cannot sue again. Similarly, if buyer of a machine sues the seller claiming that the machine was defective and did not work properly and fails to prove that claim in his court case, that buyer cannot sue again. Foreclosure cases have been treated no differently in Maine. In 2017, two unanimous decisions of the Maine Supreme Court explicitly re-confirmed the application of this long-standing principle of res judicata to Maine foreclosure cases.

This all changed in January 2024, when the Law Court handed down its decision in the case of *U.S. Bank v. Finch*. By a 4 to 3 vote, supported by three new appointees to the Court, it voted to overturn the previous unanimous decisions in 2017 upholding the application of res judicata rules to all foreclosure cases. These new justices held that,

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when a bank loses a foreclosure case due to its failure to comply with Maine law requiring the sending of a 35-day notice to a homeowner that he or she is in default and has the right to cure that default, that bank can nonetheless later bring a new foreclosure action. These justices voted to confer upon banks for the first time a special exception to the long-standing res judicata principle that had for years protected Maine homeowners from careless bank litigation practices.

What is most troublesome here is the fact that the deciding vote in the 4 to 3 decision in the 2024 *Finch* case was cast by Justice Catherine Connors. This Committee confirmed her appointment to the Supreme Judicial Court in January of 2020. She was questioned closely at her confirmation hearing about her many years of previous work in representing banks in foreclosure cases, and she told the committee there would be substantial recusals by her in foreclosure cases. I was here in this Committee room when she gave that testimony. In 2017, she represented Bank of America in the *Pushard* case, where the Maine Law Court unanimously ruled that a bank which loses its foreclosure case due to its failure to send the proper default notice, cannot later bring a new foreclosure case. And in another 2017 case, the *Deschaine* case, then Attorney Conners represented the Maine Bankers Association urging the Law Court to hold that banks should be allowed to sue homeowners again when the banks lose their foreclosure cases, and there also the Law Court rejected that argument in its unanimous decision.

The Maine Code of Judicial Conduct requires any Maine judge or justice to recuse herself from any case where "the judge's impartiality might reasonably be questioned." Given her prior representation of banks in Maine foreclosure cases, and in particular, her representation of Bank of America in 2017 on the very issues being re-decided in the Finch case, Justice Connors should have recused herself from participating in the *Finch* case. Had Justice Connors properly recused herself from *Finch*, the long-standing application of the res judicata principle to Maine foreclosure cases would not have changed.

I filed a complaint with the Maine Committee on Judicial Conduct regarding Justice Connors failure to recuse herself from the *Finch* case. A copy of that complaint (without the exhibits) is attached to my testimony as Exhibit A. The Maine Committee on Judicial Conduct is comprised of eight members—one judge each from the Superior, District and the Probate Courts, two lawyers, and three members of the public. The Amended Report of that committee, dated December 16, 2024, finding that Justice Connors did violate the Maine Code of Judicial Conduct, is attached to my testimony as Exhibit B.

The Committee on Judicial Conduct said: "How could her impartiality not be reasonably questioned given the Law Court in Finch was to decide if the Pushard case [the unanimous 2017 decision], which Attorney Connors had previously lost on appeal, should be reversed?" The Committee reached the legal conclusions that "Justice Connors was required but failed to recuse herself from the Finch ...case[] in violation of Cannon 2 ... which requires recusal when a reasonable person would question her impartiality participating in [that case]."

Never in Maine's history has a justice of the Maine Supreme Judicial Court been charged with and found by the Committee on Judicial Conduct to have so violated the Code of Judicial Conduct. Never in Maine's history has the Maine Law Court issued a 4 to 3 decision, tainted by a participating justice's violation of the Maine Code of Judicial Conduct, and creating a special exception for banks from the res judicata principles when they bring flawed foreclosure actions.

It is only by the enactment of LD 1444 that the unfortunate results of the Law Court decision in the Finch case can be undone. I urge this committee to vote "ought to pass" for LD 1444. Thank you for your consideration of these important issues.

Very truly yours,

Thomas A. Cox

Exhibit A

Complaint Alleging Violation of Canon 2
of the Maine Code of Judicial Conduct
by Maine Supreme Court Justice Catherine Connors

I. Introduction.

Canon 2 of the Maine Code of Judicial Conduct sets forth a standard of impartiality by which judges must conduct themselves. Rule 2.11 (A) of the canon mandates that "[a] judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might be reasonably questioned. . ." Despite this command, Justice Catherine Connors not only joined the recent opinion in *Finch v. U.S. Bank, N.A.* 2024 ME 2, **Exhibit A,** in which her participation was decisive in achieving a 4-3 result in favor of the bank, but she evidently continues to participate in a companion case still pending in the Law Court, *J.P. Morgan Chase Acquisition Corp. v. Camille J. Moulton,* Oxf 21-412 (Me., argued Nov. 1, 2022). For reasons set forth below, Justice Connors' representation of Bank of America in a decision reached in 2017 that has now been overruled in *Finch,* as well as her representation of the Maine Banker's Association in another 2017 case with an outcome now likely to be reversed by *Moulton,* should have compelled her to recuse herself from participation in the Court's deliberations in both *Finch* and *Moulton.*

II. Reconsideration of the Res Judicata Holdings Reached in *Deschaine* and *Pushard.*

The appeals in *Finch* and *Moulton* both arose from mortgage foreclosure litigation. In August, 2022, issues of res judicata raised in these two cases caused the Law Court to invite amicus briefs in *Moulton,* **Exhibit B,** and instructed the parties to file new briefs in *Finch,* **Exhibit C,** on the question whether the Court should reconsider its holdings in two prior mortgage foreclosure cases decided in 2017, *Federal National*

Mortgage Association v. Deschaine, 2017 ME 190, 170 A.3d 230, **Exhibit D,** and *Pushard v. Bank of America, N.A, 2017 ME 230, 175 A.3d 103,* **Exhibit E.**

Deschaine reached two essential holdings. The Law Court held, first, that the principle of res judicata bars a bank from attempting a second foreclosure action when, in a first foreclosure action, judgment on the merits is granted to the homeowner. Second, the Court held that a trial court entering judgment for the homeowner could require the now unenforceable mortgage to be removed as a lien on the mortgaged property.

In calling for amicus briefs in *Deschaine,* the Law Court showed its keen awareness of "the effect of res judicata principles on a second foreclosure action after a mortgagee's first foreclosure action is dismissed with prejudice." **Exhibit F.** The call was issued on March 1, 2107, while a decision was still pending in *Pushard,* the second appeal from a foreclosure judgment in favor of a homeowner. In response, five amicus briefs were filed, including a brief for the Maine Bankers Association and the National Mortgage Bankers Association. [1] That brief was co-authored by then attorney Catherine Connors. **Exhibit G.**

The Law Court decided *Deschaine* by a unanimous decision on September 7, 2017, revised its decision on December 7, 2017, while *Pushard* was still pending, and followed with the unanimous decision in *Pushard* on December 12, 2017. The defense judgment reviewed in *Deschaine* was imposed as a sanction for that plaintiff's failure to follow a court order. The defense judgment reviewed in *Pushard* resulted from the failure of Bank of America to prove that it sent a default letter to the homeowner that complained with the notice of default requirements of 14 M.R.S. § 6111. This distinction is the focus

[1] The brief of the Maine Bankers Association states that the organization includes 31 retail banks operating in Mane, and the National Mortgage Association represents the real estate finance industry nationally.

of the decision reached in *Finch*, in which the Law Court has now overruled *Pushard* and held that a judgment against a mortgagee whose default letter fails to comply with 14 M.R.S. § 6111, is not a judgment on the merits that would preclude re-litigation.

Before her confirmation as a justice of the Maine Supreme Court, Justice Conners participated actively on behalf of clients with a substantial financial interest in the outcomes of *Deschaine* and *Pushard*. She filed the amicus brief for the Maine Bankers Association in *Deschaine*, and she represented and filed the appellate brief for Bank of America in *Pushard*. Since her confirmation, she not only sat on the oral the arguments in *Finch* and *Moulton*, but was the most active justice challenging the positions of the homeowner's counsel in *Finch*, and has now joined in the judgment that reverses *Pushard*. Had she not participated in the 4-3 holding, the trial court's judgment for the homeowner would have been upheld.

III. The Unique Nature of Residential Mortgage Foreclosure Actions

Most appellate decisions affect only the immediate parties. Others may affect a somewhat larger group of future litigants, such as actions based on nuisances or defective products. But a third kind of appellate decision can affect the ongoing practices of entire industries and their counter parties. Of this nature is the recent decision of the United States Supreme Court in *Tyler v. Hennepin County, Minnesota*, 143 S. Ct. 1369 (2023). *Tyler* impacts thousands of county, municipal and state property taxing authorities and perhaps millions of former property owners by holding that the collection practices of tax authorities have violated the Constitution's Taking Clause.[2]

At the state level, the Law Court's decision in *Finch*, which overrules *Pushard*, is of this third category of decisions. Its holding is certain to affect Maine's entire

[2] *See Tyler v. Hennepin County* at 137 Harv. L. Rev. 310 for a discussion of the broad impact of this decision.

mortgage industry. On average, over a thousand foreclosure cases are filed in Maine each year.[3] Each of these requires application of the same statutory provisions (14 M.R.S. Ch. 713); each involves similar forms of promissory notes and mortgages; and each involves the issuance of letters of default that must meet strict guidelines (14 M.R.S. § 6111). Moreover, every foreclosure case requires proof that seven elements are satisfied. *Bank of America, N.A. v. Greenleaf*, 2014 ME 89 ¶ 18, 96 A.3d 700.

In 2017, when the Law Court decided *Pushard*, it affirmed that the principles of res judicata should apply to all foreclosure judgments in which homeowners prevailed because of defective notices of default. The holding had broad impact, both because it required mortgagees to exercise particular care in generating notices of default, and because few homeowners realize defense counsel may be available and need scrupulously accurate notices to apprise them of their rights and obligations. *Finch* will also now have similarly broad impact. Affected will not just be Maine homeowners, should mortgage servicers engage again in faulty notice practices, but also former mortgage owner clients of Justice Connors, with interests in the millions of dollars, including Bank of America, N.A., Federal National Mortgage Association, and some

[3] Judicial Branch statistics show the following volumes of foreclosure filings:
FY 2018 2467
FY 2019 1746
FY 2020 1286
FY 2021 391
FY 2022 796
FY 2023 1,005
The COVID-19 Pandemic led to various foreclosure moratoria which began in early 2020 and which in turn led to the major slowdowns in Maine foreclosure filings in Fiscal Years 2020 - 2022, but volumes are increasing again.

thirty members of the Maine Bankers Association on whose behalf then Attorney Connors filed amicus briefs.

IV. The Disqualification and/or Recusal Standard of the Maine Code of Judicial Conduct.

The recusal requirement of Canon 2, Rule 2.11(A) of the Maine Code of Judicial Conduct is substantially the same as the rule set forth in 28 U.S.C. § 455(a) for federal judges and magistrates. The federal rule states that "[a]ny justice, judge or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

In the 2015 Advisory Notes to Maine Canon 2, Rule 2.11, addressing prior professional relationships of a judge or justice, the Maine Supreme Judicial Court cited *Allphin v. United States*, 758 F.3d 1336, 1343-1344 (Fed. Cir. 2014), which construed 28 U.S.C. § 455, for its holding that the standard for whether a judge's impartiality might be questioned *"is an objective standard that mandates recusal 'when a reasonable person, knowing all of the facts, would question the judge's impartiality.'"* (Emphasis supplied.) The Supreme Judicial Court went on to state that *"subjective beliefs about the judge's impartiality are irrelevant."* (Emphasis added.)

V. Facts Available to a Reasonable Person Considering Whether the Impartiality of Justice Connors May Be Reasonably Questioned.

A. Justice Catherine Connors was confirmed as a Law Court Justice in January 2020.

B. For at least thirty years before her confirmation as a Justice, Attorney Catherine Connors was a member of, and for some period of years a partner in, the law firm of Pierce Atwood.

C. During most, and perhaps all, of Attorney Catherine Connors tenure at Pierce Atwood, the firm had a continuing relationship with the Maine Bankers Association in which it was an "Affiliate Member," **Exhibit H**, entitled to various benefits, **Exhibit I**, a relationship in which Attorney Connors may have been a participant.[4]

D. During her tenure as member of the law firm of Pierce Atwood, Attorney Connors represented mortgage owners and servicers as parties in appeals before the Law Court related to residential foreclosure issues. These included at least the following cases:

(1). In *Federal National Mortgage Association v. Bradbury*, 2011 ME 120, then Attorney Connors co-authored the Law Court brief of Federal National Mortgage Association and GMAC Mortgage, LLC, arguing against the imposition of contempt sanctions against a party faulted by the Law Court for a practice of filing false summary judgment affidavits in foreclosure cases.

(2). In *English v. Bank of America*, MEM-15-33, then Attorney Connors was co-counsel for Bank of America in a declaratory judgment action seeking to quiet title in a residential mortgage matter.

(3). In *Bank of America, N.A. v. Greenleaf*, 2015 ME 127, then Attorney Connors was co-counsel for Bank of America and co-authored its brief.

(4). In *Pushard v. Bank of America*, N.A., 2017 ME 230, the case whose holding has now been reversed, the Attorney Connors represented Bank of America in its foreclosure appeal. A copy of the appellant's brief which she co-authored is attached as **Exhibit J**.

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[4] The Maine Bankers Association website (found at https://www.mainebankers.com/maine-community-banks-affiliates-2/affiliate-program-info/) provides that "Affiliate Membership provides an excellent communications network between our member institutions and related industries, offering firms and individuals invitations to meetings, access to publications and member rates on meeting fees" and which includes receipt of a "management communications package."

(5). In *Wilmington Savings Fund Society v. Needham*, 2019 ME 42, then Attorney Connors represented Wilmington Savings in the Law Court and was the co-author of its brief.

E. During her tenure as a member of the firm of Pierce Atwood, then Attorney Conners filed amicus briefs supporting the positions of a mortgage loan owner and the Maine Bankers Association in the following foreclosure related cases:

(1). In *Bank of America, N.A. v. Cloutier*, 2013 ME 17, then Attorney Catherine Conners co-authored the amicus brief of Federal Home Loan Mortgage Corporation.

(2). In *Federal National Mortgage Association v. Deschaine*, 2017 ME 190, then Attorney Catherine Connors co-authored the amicus brief of the Maine Bankers Association. A copy of that amicus brief is attached as **Exhibit G**.

(3). In *Bank of New York Mellon v. Shone*, 2020 ME 122, then Attorney Connors co-authored the amicus brief of the Maine Bankers Association.

F. Research has revealed no reported decision at the trial or appellate levels in which then Attorney Conners represented a homeowner in a Maine foreclosure case brought by a financial institution.

G. The language and analysis of the majority decision in *Finch "is identical to the one presented to [the Law Court] in Pushard by the trial court,"* (*Finch* dissent at ¶ 62, Emphasis supplied). That is, the language and analysis employed by then Attorney Connors when she wrote as counsel for Bank of America in her appellate brief. The Committee is urged to compare the brief of then Attorney Connors in *Pushard*, Exhibit K, with the majority opinion set forth in *Finch*.

VI. Canon 2, Rule 2.11(A) is to be Applied Using the Reasonable Person Standard.

In applying federal rule 28 U.S.C. § 455(a), which is substantially the same as Maine Canon 2, Rule 2.11(A), the question to be answered is "whether a judge's impartiality might be questioned from the perspective of a reasonable person."[5] A subjective determination by Justice Connors that she believed she could be impartial in deciding *Finch* and *Moulton* would not meet this standard. Instead, she was required to "apply an objective standard" and to consider whether her "perspective might be questioned from the perspective of a reasonable person."[6] Such a person is "an observer who is informed of all of the surrounding facts and circumstances.'"[7] "The reasonable observer is not the judge or even someone familiar with the judicial system, but rather an average member of the public."[8]

VII. A Reasonable Person Not Only Might, but Would, Question the Impartiality of Justice Connors in Sitting on the Appeals in *Finch* and *Moulton*.

A reasonable person, aware of all the facts, would know that, before and after she represented Bank of America in the 2017 *Pushard* case, the case that *Finch* now overturns, then Attorney Connors represented the Maine Bankers Association or mortgage owners in seven other foreclosure appeals before the Law Court. He or she would know as well that there is no record of then Attorney Connors ever representing a homeowner facing foreclosure in any court. A reasonable person would know that, before being confirmed to the Law Court in 2020, then Attorney Connors came from of a firm that for many years had been an affiliate member of the Maine Bankers

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[5] Geyh & Markarian, Judicial Disqualification: An Analysis of Federal Law Under §§ 455 and 144, (3 rd ed.), Federal Law Center, 2020, Section II. B. 1. a. This article is hereafter referred to as "Judicial Qualification."

[6] *Id.*

[7] *Cheney v. Court for Dist. of Columbia*, 541 U.S. 913, 924 (2004)

[8] *Mathis v. Huff & Puff Trucking, Inc.*, 787 F.3d 1297, 1310 (10th Cir. 2015)

Association, an association that had actively opposed homeowner appeals in multiple foreclosure cases. A reasonable person would know that the work of then Attorney Connors, as counsel for Bank of America in the *Pushard* appeal, was of enormous economic importance to that bank and the mortgage banking industry in Maine, because the impact of *Pushard's* holding on the question of res judicata was to bar mortgagees from bringing subsequent foreclosures when trial courts had entered judgments for homeowners. A reasonable person would also know that then Attorney Connors must have understood the economic importance of *Pushard* to the banking industry, in that she was hired by the Maine Bankers Association and the National Mortgage Bankers Association in 2017 to file an amicus brief for them further addressing the res judicata issues in the *Deschaine* appeal, while the *Pushard* decision itself was pending on appeal.

In view of the foregoing, a reasonable person could readily apprehend the impact that *Finch* and *Moulton* could have on the fortunes of lending industry if *Pushard* were reversed. He or she would know as well that Justice Connors understood how the economic consequences of *Pushard's* reversal could benefit her former clients.

When then Attorney Connors testified in her confirmation hearing on January 20, 2020, the Joint Committee on the Judiciary was aware of her prior representation of the banking industry and examined her accordingly. A reasonable person would know that then Attorney Connors professed to the Committee her recognition of the need to avoid impropriety and to "defer on the side of recusal," while assuring the Judiciary Committee that there would be "significant recusals" by her in foreclosure appeals coming before her on the Law Court.

A reasonable person also would know that, when the Law Court issued its August, 2022, call for amicus briefs on res judicata issues raised by the pending appeal in *Moulton*, then Attorney Connors had responded in 2017 to a similar call for amicus briefs on similar issues raised by *Deschaine* , and that the arguments she made in her

amicus brief for the Maine Bankers Association in *Deschaine,* as well as those in her brief for Bank of America in *Pushard,* had been discussed, analyzed, and rejected in the unanimous decisions of the Law Court.

A reasonable person would know that, when Justice Connors should have decided that Canon 2, Rule 2.11(A) required her to recuse herself in *Finch* and *Moulton,* she had already researched and analyzed the issues presented by these cases in *Pushard* and *Deschaine.* Her opinions were already formed and are mirrored now by the language set forth in *Finch.* Moreover, a reasonable person would know that Justice Connor's impartiality was questioned by the Portland Press Herald on the day before the oral argument in *Finch,* when the paper published an article questioning her participation in the case.[9] **Exhibit K.** Nonetheless, she did not recuse herself in *Moulton* or in *Finch.*

A reasonable person aware of the facts and circumstances set forth above, and who considered Justice Connors' participation in *Finch* and *Moulton,* would almost certainly question her impartiality in light of the admonition contained in Canon 2, Rule 11(a) of the Maine Code of Judicial Conduct. Indeed, her impartiality would be likely to be questioned "even if no actual bias or prejudice [were] shown."[10].

VIII. Substantial Precedent Indicates that Justice Connors Should Have Recused Herself in *Moulton* and *Finch.*

Following are interpretations of several federal courts that have construed the recusal standard set forth in 28 U.S.C. § 455(a) the federal equivalent of Canon 2, Rule 2.11(A) of the Maine Code of Judicial Conduct:

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[9] Edward D. Murphy, Maine Supreme Court may reconsider a legal protection against home foreclosure, Portland Press Herald, Oct. 31, 2022 found at https://www.pressherald.com/2022/10/31/maine-supreme-judicial-court-may-reconsider-a-legal-protection-against-home-foreclosure

[10] *Fletcher v. Conco Pipe Line Co.*, 323 F.3d. 661, 664 (8th Cir. 2003)

A. The rule "was designed to promote public confidence in the integrity of the judicial process by replacing the subjective 'in his opinion' standard with an objective test, and by avoiding even the appearance of impropriety whenever possible."[11]

B. Disqualification is required "if a reasonable person who knew the circumstances would question the judge's impartiality, even though no actual bias or prejudice has been shown." [12]

C. Even when the disqualification question is close, the judge "whose impartiality might reasonably be questioned must recuse" from hearing the appeal.[13]

D. The Code of Conduct directs federal judges to avoid both actual impropriety and its appearance. [14]

IX. Conclusion--Justice Conners Violated Rule 2.11(A) of the Maine Code of Judicial Conduct.

"The mandate to avoid even the appearance of impropriety requires judges to engage in a thoughtful inquiry about actual or apparent conflicts arising from their conduct, relationships, financial holdings and personal views..."[15] Senior Judge Michael Posner of the United States District Court for the District of Massachusetts recently wrote an article about judicial ethics in which he said about judges: "[Y]ou don't just stay inside the lines, you stay well inside the lines. This is not a matter of politics or judicial philosophy. It is a matter of ethics in the trenches."[16]

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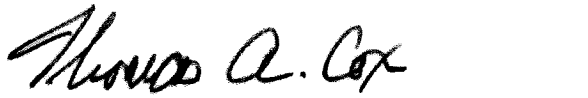
[11] *Liljeberg v. Health Servs. Acq. Corp*, 486 U.S. 847,848 n.7, 865 (1988).
[12] *Fletcher v. Conco Pipe Line Co.*, 323 F.3d 661, 664 (8 th Cir. 2003).
[13] *Roberts v. Bailar*, 625 F.2d 125, 129 (6 th Cir. 1980).
[14] *In re Complaint of Judicial Misconduct*, 816 F.3d 1266, 1267 (9 th Cir. 2016) (citing Cannon 2).
[15] Honorable Margaret McKoewn, *To Judge or Not to Judge: transparency and Recusal in the Federal System*, 30 Rev. Litig. 653, 654 (2011).
[16] Michael Posner, *A Federal Judge Asks: Does the Supreme Court Realize How Bad it Smells?*, NewYork Times, July 14, 2023. Found at https://www.nytimes.com/2023/07/14/opinion/supreme-court-ethics.html

An average member of the public, informed of the surrounding facts and circumstances as they relate to Justice Conners' activities as a private lawyer on behalf of mortgage lending banks would surely and reasonably question her impartiality as a Justice when she nonetheless elected to participate in deciding *Finch* and *Moulton*. The taint in *Finch* is obvious, in that *Pushard* would remain the law but for her vote. Because her "impartiality might reasonably be questioned," Justice Connors violated Rule 2.11(A) of the Maine Code of Judicial Conduct. She continues to violate the rule by failing to recuse herself in *Moulton*.

Even though a decision on this complaint cannot by itself undo the damage resulting from Justice Connors' conduct, a resolution of the issues raised may prevent further damage.[17] As the dissent in *Finch* warns, the majority opinion suggests that res judicata principles may now be insufficient to stop the majority justices from revisiting other foreclosure precedents. For the present, caution is respectfully requested should Justice Connors seek participation in any such decisions.

DATED: January 18, 2024



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[17] Had Justice Connors recused, the outcome in *Finch* would have been a tie vote resulting in the trial court decision in favor of the homeowner.

Exhibit B

STATE OF MAINE

SUPREME JUDICIAL COURT
Docket. No. Jud 24-2

In Re Catherine R. Connors

AMENDED REPORT TO THE SUPREME JUDICIAL COURT RECOMMENDING DISCIPLINARY ACTION

This report is submitted by the Committee on Judicial Conduct to the Supreme Judicial Court in its capacity to supervise and assure the proper performance of the judiciary in Maine. The Committee's Report is submitted pursuant to paragraph 9 of the Court's Order Establishing the Committee and Rule 3 of the Committee's Procedural Rules, which provide that if the Committee decides that a violation of the Code of Judicial Conduct has been established that is of such a serious nature as to warrant formal disciplinary action, it shall report its decision to the Court.

Attorney Cox's Complaint

On January 18, 2024 Attorney Thomas Cox wrote to the Committee on Judicial Conduct alleging that Justice Connors violated Rule 2.11 (A) of the Code of Judicial Conduct by failing to recuse herself in the case of *Finch v. US Bank, N.A.*, 2024 ME 2, and by continuing her involvement in the companion case, *J.P. Morgan Chase Acquisition Corp. v. Camille J. Moulton* which was decided by the Law Court on January 30, 2024.

Attorney Cox alleged that Justice Connor sat on the panel at oral arguments on the *Finch* and *Moulton* cases, that she was the most active judge challenging the positions of the homeowner's counsel in *Finch*, that she joined in the *Finch* decision reversing the *Pushard* decision, and that but for her participation in the 4-3 holding in *Finch*, the trial court's judgment for the homeowner, consistent with *Pushard*, would have been upheld. (Ex. 1, p.3).

Attorney Cox stated that the recusal requirement of Canon 2, Rule 2.11 (A) of The Maine Code of Judicial Conduct essentially tracks the federal rule for judges and magistrates which states that "[a]ny justice, judge or Magistrate Judge of the United States shall disqualify [herself] in any proceeding in which [her] impartiality may be reasonably questioned." (Ex. 1, p.5). He further stated that the Maine Supreme Court, citing the 2015 Advisory Notes to Maine Canon 2, Rule 2.11 has held that the standard for whether a judge's impartiality may be questioned "is an objective standard that mandates recusal 'when a reasonable person, knowing all of the facts would question the judge's impartiality.'" *Id.* He noted that the Maine Supreme Judicial Court also stated that "subjective beliefs about the judge's impartiality are irrelevant." *Id.*

Attorney Cox set forth numerous facts that he asserts could lead to Justice Connors impartiality being reasonably questioned. They include then attorney Connors being an affiliate member of the Maine Bankers Association, her past representation of mortgage owners and servicers before the Law Court on residential foreclosure issues and her involvement in various and specific Law Court cases on behalf of banks including the *Pushard* case. (Ex. 1, pp.6-7 and Ex. 1, Tab J).

Attorney Cox asserted that the *Finch* decision not only affects the parties to that action but will affect numerous future foreclosure cases and litigants given the application of the same statutory provisions, similar forms of promissory notes and mortgages, and proof of essential elements in the future.

Procedural History

Based upon attorney Cox's complaint, the Committee on Judicial Conduct wrote to Justice Connors on February 20, 2024 and asked why she chose not to recuse herself in the *Finch* and *Moulton* appeals. (Ex. 2). She responded by her letter of February 28, 2024 and attached her correspondence to, and the response from, the Judicial Ethics Advisory Committee. (Ex. 3). After reviewing Justice Connor's letter to the Committee on Judicial Conduct with the attachment, the Committee had concerns about, and questions for, Justice Connors which were set forth in the Committee's letter to Justice Connors dated May 28, 2024. (Ex. 4).

Justice Connors responded to that letter with her letter dated June 7, 2024. (Ex. 5). Then, considering all of the information available concerning the matter, the Committee on Judicial Conduct, the Committee determined that Justice Connors violated Canon 2, Rule 2.11 of the Code of Judicial Conduct and that Justice Connors be reported to the Maine Supreme Judicial Court for that violation.

Factual Findings

Having considered the available information, the Committee on Judicial Conduct made findings of fact which are as follows:

1. Before her confirmation as a justice to the Maine Supreme Court, at times, for over 25 years as an attorney, Catherine Connors represented banks and banking interests in Maine. *See e.g., Diversified Foods v. First National Bank of Boston*, 985 F.2d 27 (1st. Cir. 1993).

2. Catherine Connors' representation of banks and/or banking interests included her filing an *amicus* brief to the Maine Supreme Court for the Maine Bankers Association in the case of *Federal National Mortgage Association v. Deschaine*, 2017 ME 190 and representing and filing an appellate brief on behalf of Bank of America and The National Mortgage Bankers Association in *Pushard v. Bank of America, 2017 ME 230* on March 29, 2017. (Exhibit 1, Cox Complaint at Ex. G).

3. At the January 30, 2020 judicial confirmation hearing for her potential appointment to the Maine Supreme Court, Catherine Connors was questioned by various legislators concerning her clients and areas of representation, inevitable conflicts of interest that would occur if she was appointed to the SJC, and the appearance of impropriety that could arise due to her past legal representation of those clients and their interests.

4. Regarding conflicts and/or the appearance of impropriety, questions asked by legislators, answers of judicial candidate Connors or statements made by her included the following:

"If confirmed, I will step away from all affiliations not permitted by the Code of Judicial Conduct, and I will, of course, consistent with those ethical rules,

recuse myself from cases related to my practice." (Confirmation Hearing Transcript, Exhibit 6, pp.21-22).

Q: Give us your thoughts on recusal. You've represented a lot of clients who well may come before the law court, and so give us your understanding of the recusal rules." (Exhibit 6, p.23).

A: "Well, my understanding is, first of all, when it comes to anything that I've heard a privileged communication about that may relate to the case, that's it forever. I never have that case in front of me. Then as to client -- clients of Pierce Atwood, any Pierce Atwood case that comes, I believe it's appropriate to recuse myself for the term, the seven years. Then there's the issue of the -- even the appearance of impropriety, and that's where I think you have to look at the individual circumstances of each -- each case. That's my understanding of what the Code of Judicial Conduct requires, and I'd certainly take the advice from my colleagues and the experts in that field in making those individual determinations period." (Exhibit 6, pp.23-24).

Q: "And you would have no problem recusing yourself from anything that gives the appearance of a conflict?"

A: "Correct. And when there's any doubt, to defer on the side of recusal." (Exhibit 6, p.24).

Q: "... I do want to follow up a little bit on the line of questioning with the recusals. You identified that the ones you'd recuse yourself for life and then seven years, but what is the shelf life of the appearance of a conflict in those cases question I mean has it been in the last one year or five years question I mean –

A: Well, I mean that -- you ask a very good question, and if it's -- if it's someone who's represented by Pierce Atwood, I'm recused, whoever the client may be, whether I've represented them, ever, myself or not. If it's somebody I was -- who was once my client, and then I believe that it's dash it's -- going to be a significant period of time for recusal, no matter what the issue was, is certainly if it was something that I ever worked on, recused forever. If it has to do with something else, it's a tangential relationship, it's been many years, then I think that's where we're talking about where it becomes very important to look at the specifics.

Q: And so in relationship, for exist in instance, to banks and foreclosures –

A: Well –

Q: Have you had a lot of those cases?

A: " I think I've appeared – I've appeared on a number of foreclosure appeals on behalf of banks, not -- and a couple of amici briefs. So I'd probably be recused from –well, certainly from those particular clients, those particular banks. And I'd have to go back and look at the cases, but I think we're talking about significant recusals. (Exhibit 6, pp. 35-36).

5. After her confirmation hearing, Attorney Connors was appointed an Associate Justice on the Maine Supreme Court.

6. On June 6, 2022, Justice Connors participated in the oral argument of the *Finch* appeal. (Ex. 7).

7. More than three months after the *Finch v. U.S. Bank, N.A.* oral argument, on September 30, 2022, she wrote to the Judicial Ethics Advisory Committee asking if she should recuse herself from her participation in the *Finch* and *J.P. Morgan Chase Acquisition Group v. Camille J. Moulton* foreclosure appeals. (Ex. 8).

8. In her inquiry, Justice Connors noted, *inter alia*, that the Maine Bankers Association had filed an amicus brief in *Moulton*. (Ex. 8, p.2).

9. The Maine Judicial Ethics Committee determined that Justice Connors did not need to recuse herself from the *Finch* and *Moulton* appeals stating that, "[t]he two pending cases before the Law Court are totally separate from the *Deschaine* and *Pushard* matters decided five years ago." (Ex. 8, p.3).

10. The Maine Judicial Ethics Committee also stated, that "[t]he sole justifications for recusal would be either that (i) the legal issues raised in these cases are ones in which Justice Connors advocated a position representing a private client; or (ii) she previously represented an *amicus* in the same capacity in one of those earlier cases." *Id.*

11. Nowhere in the decision of the Maine Judicial Ethics Committee was the term or concept of the appearance of a conflict addressed. *Id.*

12. Justice Connors continued to sit on the *Finch* and *Moulton* cases and on January 11, 2024 by a 4-3 vote, with Justice Connors voting for the bank's position, the *Finch* decision overturned the *Pushard* and *Deschaine* decisions which was a victory for the banks and a loss for the homeowners. (Ex. 1, Tab. A).

13. The *Pushard* decision that was overturned was the same case that Justice Connors had lost on appeal when she was an attorney. (Ex 1, Tab. J).

CONCLUSIONS OF LAW

1. Justice Connors' history of legal representation of banking interests and her involvement in the *Pushard* case would cause a reasonable person to question her impartiality by participating in the *Finch* and *Moulton* cases.

2. Despite information that would cause a reasonable person to question her impartiality, Justice Connors chose to actively participate in the *Finch* and *Moulton* appeals before and after seeking guidance from the Maine Judicial Ethics Committee.

3. Justice Connors was required but failed to recuse herself from the *Finch* and *Moulton* cases in violation of Canon 2, Rule 2.11 (A) which requires recusal when a reasonable person would question her impartiality in participating in those two cases

Argument

Justice Connors was required to follow the requirements of Canon, 2, Rule 2.11 (A) to consider whether her impartiality might be questioned from the perspective of a reasonable person. Therefore, it does not matter whether Justice Connors subjectively thought she could be fair or impartial despite participating in foreclosure appeals where she had repeatedly taken strong positions on behalf of banking interests against the interests of homeowners.

How could her impartiality not be reasonably questioned given that the Law Court in *Finch* was to decide if the *Pushard* case, which Attorney Connors had previously lost on appeal, should be reversed? The test to be applied, and that which she should have, but did not, appropriately consider, was whether a reasonable person, might think there was the appearance of impropriety given her past history of involvement in foreclosure cases on behalf of banking interests and actual involvement as an advocate for the banking interests in *Pushard*.

Certainly, the legislators that questioned Attorney Connors at her confirmation hearing were appropriately concerned about the appearance of impropriety given her history of representation in foreclosure cases. Attorney Connors in response to those questions implied that she was sensitive to the issue. Moreover, she unequivocally stated that there would be significant recusals based on her history of representation and that when she was in doubt about whether to recuse that she would err on the side of recusal.[1]

Justice Connors, well before her September 30, 2022 inquiry to the Ethics Committee, knew of her substantial representation of banks and banking interests, she knew that the *Finch* and *Moulton* cases were foreclosure cases, she knew the specific issues to be decided in *Finch* and *Moulton*, she participated in the *Finch* oral argument, she knew that the decisions of the appeals would either overturn or leave intact the *Pushard* case in which she advocated on behalf of banking interests and, perhaps most importantly, she knew that the outcome of the appeals would not only affect the immediate parties to them but likely hundreds, if not, thousands of Maine homeowners facing foreclosure in the future.

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[1] In fact, Jeffrey Evangelos, a former state representative on the Judiciary Committee voted to confirm Justice Connors because she testified that if there was any doubt about her impartiality that she would err on the side of recusal. As quoted in the Portland Press Herald on January 30, 2024 he said, "I voted to confirm her based on those assurances and she has betrayed that trust. These people getting nominated to the Supreme Court of Maine have to tell the committee the truth and have to keep their word. Otherwise, their testimony is meaningless."

Unfortunately, despite overwhelming information that could, and would, cause a reasonable person to question her impartiality, Justice Connors chose to actively participate in the *Finch* and *Moulton* before even seeking any outside guidance. Then, after she was informed that she did not have to recuse she consciously chose not to recuse despite the appearance of impropriety which should have been self-evident. The initial and legitimate concern of legislators who questioned her at her confirmation hearing was echoed after her participation and vote in *Finch* when various members of the legislature and public expressed their surprise and dismay with Justice Connors in the media, criticizing her participation in the appeals given her prior legal representation of banks and her representations concerning recusal at the confirmation hearing.

Home ownership and foreclosure actions are serious matters and of concern to Mainers. Justice Connors' lack of sensitivity to the appearance of impropriety should have been, but apparently was not, self-evident. A member of the public informed of the surrounding facts and circumstances of Justice Connors' representation of banking interests would reasonably question her impartiality before and during the time that she chose to participate in the *Finch* and *Moulton* appeals. Thus, Justice Connors violated Canon 2, Rule 2.11 (A) and the public outcry concerning her participation in the appeals is proof that a reasonable person not only could, but would, question her impartiality under the circumstances.

Sensitivity to the appearance of a conflict and/or the appearance of impropriety is of great importance required of all judges. This is particularly so when it concerns a Justice on the Maine Supreme Judicial Court as the laws established by the Court tend to affect not only the immediate parties to an appeal but other Mainers who must abide by decisions that will stand for decades and effect numerous citizens over time. Justice Connors' failure to be sensitive to the appearance of impropriety and recuse herself in the face of it, not only violates the Judicial Code of Conduct but it undermines public confidence in the judiciary.

Sanction Requested

Given Justice Connors' violation of Canon 2, Rule 2.11(A) the Committee on Judicial Conduct asserts that Justice Connors should receive a public reprimand for her creating and maintaining the appearance of impropriety given her initial involvement, and continued participation, in the *Finch* and *Moulton* cases. The Committee further requests that the reprimand contain language, *inter alia*, stating that judicial candidates are to be candid at confirmation hearings and that representations by them at those hearings are to be honored particularly with respect to actual conflicts, the appearance of conflict and conformity with the Judicial Canon of Ethics in order to preserve the integrity of, and the public's confidence in, the judiciary in Maine.

Jurisdiction and Forum

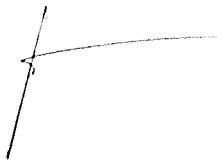
The Committee on Judicial Conduct appreciates the Court's acknowledgment that many other states have adopted alternatives that do not put members of a supreme court in the position of having to adjudicate ethics complaint against a colleague and that it is open to exploration of alternative means to adjudicate this matter. Given that this is the first time that a report of a complaint concerning a Maine Supreme Judicial Court Justice has been filed with the Maine Supreme Judicial Court and the matter involves a finding of the appearance of impropriety, it would be best if present or past members of the Maine Supreme Judicial Court were spared the task of evaluating and potentially sanctioning one of their own. Also, and equally importantly, the Committee respectfully suggests that the best way to maintain public trust in the process of evaluating the complaint against Justice Connors requires that no present or past member of the SJC pass judgment on Justice Connors in this matter.

Other states have different procedures for handling an ethics complaint against a state supreme court justice to avoid a state supreme court justice from judging his or her colleagues. In larger states such a

complaint is referred to a panel at a different state appellate court. In smaller states they can be referred to a panel of Superior Court judges. Given that Maine has a relatively small vertical court structure without another level of State appellate court to handle this matter, this complaint could be referred to a panel of Maine Superior Court Justices. That said, such a panel should not include any judge or justice involved in the prior Maine Judicial Ethics Committee decision concerning Justice Connors to avoid impropriety or, at least, the appearance of it. In the alternative, referral of this matter to a panel of out of state judges would prevent a conflict, the appearance of one and would prevent any Maine judge or justice from having to pass judgment on Justice Connors in this matter.

Dated: December 16, 2024

Respectfully Submitted,



John A. McArdle, III
Counsel to The Committee on
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Exhibit C

Thomas A. Cox, Esq.

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Thomas Cox was formerly in private practice where, for 30 years, a substantial portion of his practice included the representation of lenders in residential and commercial loan transaction and litigation matters. Clients included major regional and national lenders as well as the FDIC.

Since 2008 Cox has been an instrumental participant in Maine Attorneys Saving Homes (MASH) program of the Maine Volunteer Lawyer Project. He was involved in the start-up in 2009 of Maine's foreclosure mediation program, providing training and consultation to lawyers representing homeowners in foreclosure mediation. He has also acted as a consultant to Pine Tree Legal Assistance in managing the litigation strategies of its Foreclosure Prevention Program. In addition, he has acted as a consultant and teacher to lawyers nationally regarding residential foreclosure defense and litigation practices.

Cox is credited with exposing the foreclosure "robo-signing" scandal in 2010 with his litigation that led to the $25 billion national mortgage settlement in 2012. He has helped to shape Maine law regarding foreclosure issues with landmark decisions included among his handling of 25 appeals of foreclosure decisions to the Maine Supreme Court since 2010, and with his active representation of the interests of Maine homeowners in the Maine Legislature. He has been a presenter before Congressional committees in Washington and has been a speaker at numerous conferences including those of the American Bar Association, the Practicing Law Institute, the National Consumer Law Center and various state bar organizations, regarding foreclosure issues and the importance of homeowner protections.

Cox is a recipient of Boston University Law School's 2018 Silver Shingle Award for Community Service, the nationally awarded 2012 Purpose Prize, the 2012 Boston University School of Law Alumni Pro Bono Award, the 2011 Howard Dana Award presented by the Maine Bar Foundation, and an honorary recipient of a 2011 Empire State Counsel Award from the State Bar of New York. Since November 1, 2013 he has been of-counsel to the National Consumer Law Center. He is also a Fellow of the American College of Consumer Financial Services Lawyers. He is a 1966 graduate of Colby College and a 1969 graduate of the Boston University School of Law.

Recent Seminars, Presentations and Testimony & Publications (reverse order)

National Consumer Law Center—Contributing author, *Home Foreclosures* (3rd ed., 2024)

National Consumer Law Center--2023 Consumer Right Litigation Conference, October 27, 2023, panel member:

Strategic and Ethical Considerations in Seeking Sanctions Against Debt Collector Lawyers

Cumberland County Bar Association—*Post COVID-19 Forbearance Foreclosures*, September 7, 2021, panel member.

National Consumer Law Center—2021 Fair Debt Collections Conference, March 9, 2021, panel member:

Litigating FDCPA Claims Against Attorneys in Foreclosure Defense.

National Consumer Law Center--2020 Summer Mortgage Conference, June 17, 2020 panel member:

Litigating Multi-Servicer Mortgage Cases

Cox. *The Final Chapter(s) of the Greenleaf Saga; or The Follies of the Mortgage Servicing Industry in Maine,* Maine Lawyers Review, Vol, 28, No. 2 (Jan. 2020)

National Consumer Law Center—Annual Consumer Rights Litigation Conference, Boston, Massachusetts, November 14-16, 2019--panel member:

Using the Rules of Evidence to Set Up Wins in Foreclosure Trials
Focus on Mortgage Servicing Transfers

National Consumer Law Center—Annual Consumer Rights Litigation Conference, Denver, Colorado, October 25-27, 2018— panel member:

Foreclosure Statutes of Limitations and Other Limits on Acceleration.
ABC's of Debt Defense

National Consumer Law Center—Contributing author, *Foreclosures and Mortgage Servicing* (5th ed., 2014, and Supplements., 2015-2019).

Bankruptcy BootCamp by Max Gardiner—Four-day trainings on Bankruptcy and Foreclosure Work, Shelby, North Carolina, August 25-28, 2017, and February 16-19, 2018, —presenter regarding foreclosure trial evidence and defense tactics

Maine Attorneys Saving Homes, *Nuts and Bolts of Foreclosure Defense in Maine* Maine, November 3, 2017—presenter regarding:

Developing evidence issues in foreclosure cases;
Procedures and practices in quiet title and declaratory judgment actions; and
Impacts of developing case law from the Maine Supreme Court.

Maine Attorneys Saving Homes, *Foreclosure Prevention Strategies for the Future*, Portland, Maine, January 26, 2017—presenter regarding:

Foreclosure strategies;

Representation in Federal Court foreclosure cases; and
Legal fee applications in foreclosure cases.

National Consumer Law Center—Annual Consumer Rights Litigation Conference, Anaheim, California, October 20-22, 2016— panel member:
Latest on the Authority to Foreclose: Transfers of Notes and Mortgages
Recovering Legal Fees Under Consumer Fee Shifting Statutes

Empire Justice Center, Albany New York, August 12, 2016—presentation to New York legal aid attorneys: *They Moved the Robo-Signers Down the Hall---to the Department of Professional Witnesses.*

American Bar Association--Real Property, Trusts & Estates Section Annual Meeting, Boston, May 13, 2016—presenter *The Uniform Home Foreclosure Procedures Act: Reforming the Residential Foreclosure Process.*

National Consumer Law Center—Annual Consumer Rights Litigation Conference, San Antonio, Texas, November 13-14, 2015— presenter *Understanding Standing Issues in Foreclosure Cases.*

Legal Services, NYC—Seminar presenter, *Using the Rules of Evidence in Foreclosure Cases*, New York City, October 8, 2015.

National Consumer Law Center—Summer 2015 Mortgage Litigation Seminar, Washington, D.C., July 9&10, 2015—presenter on panels on *Evidence Issues in Judicial Foreclosures*, and *Litigating Standing Issues Arising Under the UCC.*

Bankruptcy BootCamp by Max Gardiner—Four-day training on Bankruptcy and Foreclosure Work, Chicago, Ill., May 29, 2015—presenter regarding foreclosure trial evidence and defense tactics.

Cox & Gould, *In Defense of Greenleaf: A Response to Standing to Foreclose*, 30 Maine Bar Journal 18 (Winter, 2015).

Uniform Law Commission Drafting Committee on Uniform Home Foreclosures Procedures Act—lead consumer observer advocate at Drafting Committee, 2012-2015

Bankruptcy BootCamp by Max Gardiner—Four-day training on Bankruptcy and Foreclosure Work, Charlotte, N.C., November 2, 2014—presenter regarding foreclosure trial evidence and defense tactics.

Maine Attorneys Saving Homes—*Testing the Meaning of Greenleaf*, Portland, Maine, September 19, 2014—presenter regarding analysis of pivotal Maine Supreme Court decision in *Bank of America v. Greenleaf*

National Association of State Bank Supervisors—Annual Legal Seminar, San Diego, CA, July 31, 2014—Presenter on *Legal Developments in Foreclosure and the Effects on all Stakeholders.*

New York Federal Reserve Bank—Conference on Plan to Establish National Mortgage Loan Registry, New York, NY, March 21, 2014—presenter regarding technical and process issues.

New Hampshire Bar Assn.—Foreclosure Relief Project, Moving Forward seminar, Concord, NH, March 19, 2014—Presenter on *Discovery Strategies in Foreclosure Cases*.

New England School of Law/ Massachusetts Bar Association, Boston Massachusetts, February 27, 2014—UCC Conference titled: "*Federal Oversight in the Foreclosure Industry*" panelist on CFPB enforcement activities.

Maine State Bar Association—Seminar entitled "*Effective and Ethical Pre-trial Discovery*," Freeport, Maine, July 25, 2013—panelist on Handling Discovery Disputes, and New Developments in State and Federal Discovery Rules,

Maine Attorneys Saving Homes—Foreclosure Defense training seminar for Maine legal services and private attorneys, entitled "*Defending Foreclosure Cases at Trial*", June 20, 2013.

National Consumer Law Center/ Massachusetts Bar Assn.—Foreclosure Defense training seminar for Massachusetts legal services lawyers, Presentation on *Rules of Evidence in Foreclosure Trials,* April 9, 2013

Oregon State Bar Association—Seminar entitled "*Overview of Judicial Foreclosure Defense for Oregon Attorneys*", Portland Oregon, February 6, 2013-speaker on all seven sessions providing 7.5 hours of CLE credit for Oregon lawyers

University of Arkansas—Arkansas Law Review Symposium on the Mortgage Foreclosure Crisis, Fayetteville, Arkansas, November 9, 2012—panelist on *Lawyer Ethics Issues in the Foreclosure Crisis*, and *Constitutional Issues Arising Out of Non-Judicial Foreclosures by Fannie Mae and Freddie Mac.*

National Consumer Law Center—Annual Consumer Rights Litigation Conference, Seattle, Washington, October 25-27, 2012— presenter "*Evidentiary and Document Authentication Issues in Foreclosure Trials*" and "*Sanctions Under Rule 56, Rule 11, FDCPA and other State Law Theories*"

18th Annual Bankruptcy Law Seminar—LSU, Baton Rouge, Louisiana, October 12, 2012—presenter "*Litigation Strategies to Achieve Loan Modifications.*"

National Consumer Law Center—Mortgage Foreclosure Defense Seminar, Washington, D.C., July 18, 2012—presenter "*Evidentiary and Document Authentication Issues in Foreclosure Trials*" and "*Sanctions Under Rule 56, Rule 11, FDCPA and other State Law Theories*"

Kansas Bar Association-- 2012 Bankruptcy CLE, Wichita, Kansas, May 4, 2012—presentation "*Crash at the Intersection—the Intersection of the UCC, Mortgages, Foreclosures and Bankruptcy.*"

Practicing Law Institute—Consumer Financial Services Institute (17th Annual), New York, NY, April 9-10, 2012—panelist on *Mortgage Litigation.*

New England School of Law/ Massachusetts Bar Association, Boston Massachusetts, February 16, 2012—UCC Conference titled: "*Is the Code Exploding or Imploding?*" panelist on Articles 3 & 9 presentation

Uniform Law Commission Study Committee on Foreclosures—Stakeholders Conference, Washington, D.C, January 13, 2012—presenter on homeowner interests with respect to proposed uniform foreclosure act.

National Consumer Law Center—Consumer Rights Litigation Conference, Chicago, Illinois, November 3-4, 2011—presentation on "*Summary Judgment Practice in Foreclosures.*"

Max Gardner UCC in Foreclosures Conference, New York City, New York, and November 19-20, 2011—Multiple panel presenter on *UCC Article 3 and Article 9 issues in Foreclosures*.

National Consumer Law Center webinar, August 18, 2011, "*Foreclosures and the Uniform Commercial Code.*"

American Bar Association, Business Law Section -- Annual Meeting, Boston, Massachusetts, April 15, 2011—panelist, "*The Future of Paperless Processing: MERS.*"

National Consumer Law Center—Mortgage Foreclosure Defense Seminar, Boston, Massachusetts, July 15, 2011—panelist, "*Foreclosure, Standing and Documentation Issues*."

Maine Judiciary Committee, Augusta, Maine, March 1, 2011—presenter, hearings on Foreclosure Remediation Legislation

Michigan Foreclosure Prevention Project—Foreclosure Defense Seminar, Ann Arbor Michigan, March 3, 2011—presenter, "*MERS and Standing Issues.*"

Maine Bankers Association, Winter CEO meeting, February 17, 2011—presenter, "*Foreclosure Issues in Maine.*"

New York State Bar-- Annual Meeting, New York City, New York, January 27, 2011-- Empire Justice Awards keynote speaker on volunteer legal work in foreclosures.

U.S. House Judiciary Committee, Washington, D.C., December 2, 2010—panelist on hearing titled "*Foreclosed Justice: Causes and Effects of the Foreclosure Crisis*."

Reported Decisions (reverse chronological order)

Fuller v. WVMF Funding, LLC, 2024 WL 5159141 (D. Me. 2024)

U.S. Bank Trust, N.A. v. Thomas, 2022 WL 4546177 (D. Me. 2022)

Carrington Mortgage Services, LLC. v. Gionest, 2020 WL 1303554 (D. Me. 2020)

WVUE 2015-1 v. Allen, Mem No. 19-115 (Me. Supreme Ct. unpub., 2019)

Deutsche Bank National Trust Co. v Eddins, Mem No. 19-100 (Me. Supreme Ct. unpub., 2019)

Beal Bank USA v. New Century Mortgage Corp., 2019 ME 150, 217 A.3d 731 (amicus brief)

U.S. Bank Trust, N.A. v. Jones, 925 F.3d 534 (1st Cir. 2019)

M&T Bank v. Plaisted, Mem No. 19-70 (Me. Supreme Court unpub., 2019)

Nationstar Mortgage, LLC v. Gillespie, Mem No. 19-41 (Me. Supreme Court unpub., 2019)

U.S. Bank, N.A. v. Aegis Lending Corp., Mem No. 19-37 (Me. Supreme Court unpub., 2019)

M&T Bank v. Plaisted, 2018 ME 121, 192 A.3d 601

Deutsche Bank National Trust Co. v Eddins, 2018 ME 47, 182 A.3d 47

KeyBank National Association v. Quint, 2017 ME 237, 176 A.3d 717

Federal Nat'l Mortgage Ass'n v. Deschaine, 2017 ME 190, 170 A.3d 190 (amicus brief & argued)

Homeward Residential, Inc. v. Gregor, 2017 ME 128, 165 A.3d 357

Deutsche Bank Nat'l Trust Co. v. Pinette, 2016 VT 71, 149 A.3d 479 (amicus brief)

U.S. Bank v. Tannenbaum, 2015 ME 141, 126 A.3d 734

Bank of America, N.A. v. Greenleaf, 2015 ME 127, 124 A.3d 1122

Homeward Residential, Inc. v. Gregor, 2015 ME 108, 122 A.3d 947

U.S. Bank v. Adams, 2014 ME 113, 102 A.3d 774

U.S. Bank, N.A. v. Winne, Mem No. 14-121 (Me. Supreme Court unpub., 2014)

Bank of America, N.A. v. Greenleaf, 2014 ME 89, 96 A.3d 700

U.S. Bank, N.A. v. Sawyer, 2014 ME 81, 95 A.3d 608

Wells Fargo Bank v. Burek, 2013 ME 87, 81 A.3d 330

Bank of America, N.A. v. Cloutier, 2013 ME 17, 61 A.3d 1242

Bradbury v. GMAC Mortgage, LLC, 2012 ME 13, 58 A.3d 1054

Federal National Mortgage Association v. Bradbury, 2011 ME 120, 32 A.3d 1014

HSBC Mortgage Servicing v. Murphy, 2011 ME 59, 19 A.3d 815

James v. U.S Bank Nat'l Assoc., 272 F.R.D. 47, 2011 U.S. Dist. LEXIS 9223 (D. Me.)

Mortgage Electronic Registration Systems, Inc. v. Saunders, 2010 ME 79, 2 A.3d 289

Diversified Credit Extension Corp. v. Cook, 206 F. Supp. 2d 29 (D. Me. 2002)

Key Bank of Maine v. Tablecloth Textile Co., 74 F.3d 349 (1st Cir. 1996)

Adam v. MacDonald Page & Co., 644 A.2d 461, (Me. 1994)

Hibyan v. Federal Deposit Ins. Corp., 812 F. Supp. 271, (D. Me. 1993)

Federal Deposit Ins. Corp. v. Singh, 148 F.R.D. 6, (D. Me. 1993)

Federal Deposit Ins. Corp. v. Barnaby, 839 F. Supp. 935, (D. Me. 1993))

Federal Deposit Ins. Corp. v. Notis, 902 A. 1164, (Me. 1992)

Federal Deposit Ins. Corp. v. Singh, 977 F.2d 18, (1st Cir. 1992)

Federal Deposit Ins. Corp. v. Rusconi, 808 F. Supp. 30, (D. Me. 1992)

Federal Deposit Ins. Co. v. Bandon Assoc., 780 F. Supp. 60 (D. Me. 1991)

New Maine National Bank v. Gendron, 780 F. Supp. 52 (D. Me. 1991)

New Maine National Bank v. Liberty, 778 F. Supp. 86 (D. Me. 1991)

New Maine National Bank v. Reef, 765 F. Supp. 27 and 765 F. Supp. 763 (D. Me. 1991)

New Maine National Bank v. Nemon, 588 A.2d 1191 (Me. 1991)

Godfrey v. Federal Deposit Ins. Corp., 1991 U.S. Dist. LEXIS 20188 (D. Me.)

Durepo v. Fishman, 533 A.2d 264, (Me. 1987)

Continental Can Co. v. Poultry Processing, Inc., 649 F. Supp. 570 (D. Me. 1986)

In re Farina, 9. B.R. 726, 1981 Bankr. LEXIS 4803 (D. Me.)

Hodgdon v. Campbell, 411 A.2d 667, (Me. 1980)

Hossler v. Barry, 403 A.2d 762 (Me. 1979)

Teel v. Young, 389 A. 322, (Me. 1978)

Bramson v. Chester L. Jordan & Co., 379 A.2d 730 (Me. 1977)

R.C. Audette & Sons, Inc. v. LaRochelle, 373 A. 2d 1226, (Me. 1977)

A.F. Briggs v. Starret Corp, 329 A.2d 177, (Me. 1974)

Gunter v. Merchants Warren National Bank, 360 F. Supp. 1085 (D. Me. 1973)

Quinn v. Moore, 292 A. 2d 846, (Me. 1972)