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RULE 50. JUDGMENT AS A MATTER OF LAW

(a) Judgment as a Matter of Law in an Action Tried by Jury. In an action tried to a jury, a motion for judgment as a matter of law on any claim may be made at any time before submission of the case to the jury. The motion shall specify the claim or claims as to which judgment is sought and the issue or issues as to which it is contended that the law and the facts entitle the moving party to judgment. Before considering the motion, the court shall ascertain that the party opposing the motion has been fully heard with respect to the issue or issues raised. The court may grant the motion as to any claim if the court determines that, viewing the evidence and all reasonable inferences therefrom most favorably to the party opposing the motion, a jury could not reasonably find for that party on an issue that under the substantive law is an essential element of the claim.

(b) Renewal of Motion for Judgment as a Matter of Law After Trial. Whenever a motion for judgment as a matter of law made at the close of all the evidence is denied or for any reason is not granted, the court is deemed to have submitted the action to the jury subject to a later determination of the legal questions raised by the motion. Such a motion may be renewed in open court or by service and filing not later than 14 days after entry of judgment. If a verdict was returned the court may allow the judgment to stand or may reopen the judgment and either order a new trial or direct the entry of judgment as a matter of law. If no verdict was returned the court may direct the entry of judgment as a matter of law or may order a new trial.

(c) Disposition of Appeal From Grant or Denial of Motion After Trial. If on appeal the Law Court finds that the court has erroneously entered a judgment as a matter of law after trial, it may reinstate any verdict and direct the entry of judgment thereon. If on appeal the Law Court finds that the court has erroneously denied the motion for judgment as a matter of law after trial, it may itself direct the entry of such judgment or order a new trial.

(d) Motion for Judgment as a Matter of Law in Nonjury Case. In an action tried by the court without a jury, a motion may be made at any time for judgment as a matter of law on any claim. The motion shall specify the claim or claims as to which judgment is sought and the issue or issues as to which it is contended that

the law and the facts entitle the moving party to judgment. Before considering the motion, the court shall ascertain that the party opposing the motion has been fully heard with respect to the issue or issues raised. If the court finds against the party opposing the motion on any issue that under the substantive law is an essential element of any claim, the court may enter judgment as a matter of law against that party on that claim. Alternatively, the court may decline to render any judgment until the close of all the evidence.

Advisory Note – June 2014

See Advisory Note – June 2014 to M.R. Civ. P. 52. The change to Rule 50(d) is made simply to eliminate the redundancy with Rule 52.

Advisory Committee's Notes
1993

Rule 50 is amended to adapt a 1991 amendment of Federal Rule 50 for Maine. The general purpose of the amendment is to render the terminology and procedure of the rule more accurate and reflective of practice. As the federal Advisory Committee Note said:

The revision abandons the familiar terminology of *direction of verdict* for several reasons. The term is misleading as a description of the relationship between judge and jury. It is also freighted with anachronisms . . . . The term "judgment as a matter of law" is an almost equally familiar term and appears in the text of Rule 56; its use in Rule 50 calls attention to the relationship between the two rules. Finally, the change enables the rule to refer to pre-verdict and post-verdict motions with a terminology that does not conceal the common identity of two motions made at different times in the proceeding.

Amended Rule 50(a) incorporates the new terminology and makes clear that the motion for judgment as a matter of law in a jury trial may be made at any time before the case goes to the jury, thus retaining the right to offer evidence and renew the motion before or after verdict if it is not initially granted. The amended rule also makes clear that the motion may be made as to one or more claims and must specify not only the claims but the specific issues involved. The amended rule is designed to assure that each party has a full opportunity to present all relevant evidence. Thus, the court is not to act on a motion under the rule without ascertaining that the opposing party has been fully heard.

The final sentence of the amendment sets forth in functional terms the standard for direction of a verdict or grant of judgment notwithstanding the verdict found in many Maine cases. The court is to view the evidence and all reasonable inferences from it in the light most favorable to the party against whom judgment is sought. The motion for judgment will be granted on any claim (which may be part or all of the party's case) if the court concludes that the jury could not reasonably find for the party opposing the motion on an issue that as a matter of the controlling substantive law is essential to the claim. *See*, *e.g., Bates v. Anderson*, No. 6315, slip op. at 3 (Me. Oct. 5, 1992); *Kraul v. Maine Bonding & Cas. Co.*, 600 A.2d 389, 390 (Me. 1991); *Baker v. Mid Maine Med. Ctr.*, 499 A.2d 464, 466-67 (Me. 1985).

Rules 50(b) and (c) are amended to conform to the changes of terminology made in subdivision (a). The amendment of subdivision (b) makes clear that, as under present practice, the motion for judgment may be renewed orally in open court, as well as in writing.

Rule 50(d) is amended to make provision for cases tried without a jury comparable to those of amended Rule 50(a) for jury cases. The equivalent federal provisions are found in F.R.Civ.P. 52(c), added by amendment in 1991.

Advisory Committee's Notes
1983

Rule 50(d) is added to clarify a situation that has been a continuing source of confusion. The Rules as promulgated and subsequently amended follow Federal Rule 41(b)(2), in providing for a defendant's motion for involuntary dismissal at the close of the plaintiff's case in a nonjury case. This motion, like the common law motion for nonsuit, in effect seeks a judgment for the defendant on the merits. It is the functional equivalent of a motion for directed verdict under Rule 50(a) in a jury case. The judge, however, does not merely decide the legal sufficiency of the plaintiff's evidence but may decide the factual issues and render judgment against the plaintiff, making findings of fact and conclusions of law under Rule 52(a). *See* 1 Field, McKusick, and Wroth, *Maine Civil Practice* § 41.7 (2d ed. 1970).

Confusion has arisen under Rule 41(b)(2), because what is in fact a motion for judgment is misleadingly entitled a motion for involuntary dismissal. Lawyers frequently move for directed verdicts in nonjury cases. While the court can and should treat such an improperly labeled motion as one for involuntary dismissal, there is no reason to continue the confusion. Moreover, technically the judgment is

one of dismissal, only operating as an adjudication on the merits by virtue of Rule 41(b)(3). The court's order, like the judgment entered after grant of a directed verdict in a jury case, should be a judgment on the merits of its own force.

To clarify this situation, the last three sentences of Rule 41(b)(2), which outline the procedure, have been eliminated from that rule by simultaneous amendment and are by this amendment incorporated virtually verbatim in new Rule 50(d). The only change is the significant verbal one that the motion is now one for "judgment" instead of "dismissal."

Explanation of Amendments
November 1, 1966

The amendments to this rule were taken from the 1963 amendments to F.R. 50. The amendments, minor in nature, preserve the Maine pattern which departed sharply from F.R. 50(b). See the Reporter's Notes to Rule 50. First, the captions to the rule and its subdivisions are altered for the sake of clarity. Second, a sentence is added to negate the idea that action by the jury is required in the mechanics of directing a verdict. Occasionally jurors have resisted signing a verdict form as ordered by the court. Third, the time within which a motion for judgment notwithstanding the verdict may be made will run from the entry of judgment on the verdict, not from the reception of the verdict. This makes the time provision consistent with that prescribed in Rule 59(b) for moving for a new trial. This difference is not consequential, since Rule 58 directs the clerk to enter judgment on a jury verdict "forthwith."

Reporter's Notes
December 1, 1959

This rule is based upon Federal Rule 50, but with significant variations. Rule 50(a) is substantially the same as Federal Rule 50(a). The second sentence provides that a party may move for a directed verdict without resting. See the discussion of involuntary dismissal in the Note to Rule 41. The third sentence is declaratory of Maine law. *Gilman v. F. O. Bailey Carriage Co.*, 125 Me. 108, 131 A. 138 (1925).

Rule 50(b) and (c) are adapted from Federal Rule 50(b) and the practice in the federal appellate courts. They work a drastic change in Maine practice. It has always been the law of Maine that if the trial judge erroneously fails to direct a verdict, the only relief that can be given by either the trial judge or the Law Court

is a new trial. It is not possible to order a final judgment for the aggrieved party, although that is what he would have had if the trial judge had made the correct ruling in the first instance. Under the rule the trial judge on motion after verdict can reconsider the sufficiency of the evidence and enter judgment notwithstanding the verdict if he believes that a directed verdict would have been proper. He may, however, decline to do so and grant a new trial to the party whose verdict he is taking away if it appears that the party ought to have a chance to fill the holes in his proof. If he believes that a directed verdict would have been improper, he will naturally let the verdict stand.

On appeal the Law Court will review the action of the trial judge with the following results:

1. If it finds that the trial court erroneously granted a judgment notwithstanding the verdict, it will reinstate the verdict and order judgment thereon.

2. If it finds that the trial court erroneously denied a judgment notwithstanding the verdict, it will itself order the entry of such judgment, or if it believes that justice requires the party whose verdict is taken away to have another chance, it will grant a new trial.

3. If it finds that the trial court was correct in either granting or denying a judgment notwithstanding the verdict, it will obviously affirm.

In practice the trial judge will ordinarily resolve all doubts by submitting the case to the jury and then enter the judgment that he thinks proper after the verdict. This will save many new trials which would otherwise be unavoidable. For instance, a plaintiff who today has a verdict directed against him has to try his case all over again if the Law Court rules that the direction of a verdict was error. Under Rule 50(c) if the trial judge lets the case go to the jury and the plaintiff gets a verdict, that verdict will be reinstated by the Law Court if it finds that the trial judge was in error in ordering judgment notwithstanding the verdict. On the other hand, it is true that a plaintiff who today is at least assured of a new trial if the Law Court rules that a verdict should have been directed against him will no longer have that right. Unless he can produce better evidence, however, the new trial will do him no good; and if he shows that in fact he can so improve his case as to make an issue for the jury, he can ask for the discretionary grant of a new trial.

Federal Rule 50(b), from which this rule is taken, was designed to do away with the result in *Slocum v. New York Life Ins. Co.*, 228 U.S. 364, 33 S.Ct. 523

(1913), where a bare majority of the court held that the entry of a judgment contrary to the verdict was a violation of the constitutional right to jury trial guaranteed by the Seventh Amendment. A later case, *Baltimore & Carolina Line v. Redman*, 295 U.S. 654, 55 S.Ct. 890 (1935), found an escape from Slocum through the device of having the trial judge expressly reserve decision on the motion for directed verdict before submitting the case to the jury. If this was done the court could dispose of the case after verdict just as it might have done by granting the directed verdict motion. Federal Rule 50(b) made this express reservation of the point unnecessary by writing into the rule that the judge was "deemed" to have reserved the point. By this fiction the reservation was made automatic, and any constitutional difficulty such as that raised in the *Slocum* case is avoided. Our Rule 50(b) uses the same device of the "deemed" reservation of the point, although the *Slocum* case is not controlling upon a state court in interpreting its state constitution, and several states have rejected its reasoning and upheld a judgment notwithstanding a contrary verdict. *See, e. g., Bothwell v. Boston Elevated Ry.,* 215 Mass. 467, 102 N.E. 665 (1913).

Rules 50(b) and (c) have departed from the Federal rule in some respects because of the difference between the standard for the direction of a verdict in Maine and the accepted standard in the Federal courts and the majority of state courts. In Maine the rule is that a verdict should be directed whenever a contrary verdict could not be permitted to stand. *Ward v. Cumberland County Power & Light Co.*, 134 Me. 430, 187 A. 527 (1936). And exceptions to the refusal to direct a verdict raise the same question as a motion for a new trial. *Blacker v. Oxford Paper Co.*, 127 Me. 228, 142 A. 776 (1928); *Mills v. Richardson,* 126 Me. 244, 137 A. 689 (1927). This means that there is no such thing as a case where a directed verdict would be improper and the grant of a new trial on the law and evidence would be proper. In the Federal courts, the contrary is true. A verdict may be set aside as contrary to the weight of the evidence and a new trial granted in many cases where a directed verdict would be impossible. *See* 5 Moore [*Moore's Federal Practice*] § 50.03, 2 B & H [*Barron & Holtzoff*] § 1080.

There is no intention to change the present test for the direction of a verdict. That being so, the elaborate procedure in Federal Rule 50(b), as explained in *Montgomery Ward & Co. v. Duncan*, 311 U.S. 243, 61 S.Ct. 189 (1940), for filing motions in the alternative for a judgment notwithstanding the verdict and for a new trial on the law and evidence and requiring the trial judge to pass on both motions simultaneously would have no place in Maine practice, since the decision on both motions would have to be the same.