

SUPREME JUDICIAL COURT

Boston, Massachusetts 02108

NOTICE OF APPROVAL

Notice is hereby given that the Supreme Judicial Court has approved and promulgated rules as further indicated below.

RALPH D. GANTS
Chief Justice

-
1. Court Submitting Rules for Approval:

Superior Court

2. Date Rules Submitted for Approval:

May 30, 2018

3. Date Approved & Promulgated by the Supreme Judicial Court:

July 27, 2018

4. Rule or Rules, or Amendments Thereto, Approved and Promulgated:

Amendment to Superior Court Rule 47, as attached hereto.

5. Effective Date:

The amendment to Rule 47, conforming the rule to G. L. c. 106, § 3-309(b), shall be effective as to judgments entered on or after November 1, 2018.

(The original of this notice is to be filed in the office of the Clerk of the Supreme Judicial Court for the Commonwealth, and a copy to be sent by the Clerk to the court which requested approval of the rules.)

DATE RECEIVED:

Rules approved and promulgated: Amendment to Superior Court Rule 47, as attached hereto.

APPROVAL:

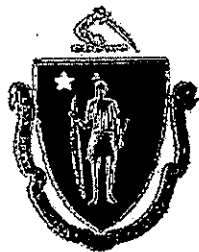
<u>RALPH D. GANTS</u>)	Chief Justice
)	
<u>BARBARA A. LENK</u>)	
)	
)	
<u>FRANK M. GAZIANO</u>)	Justices
)	
)	
<u>DAVID A. LOWY</u>)	
)	
)	
<u>KIMBERLY S. BUDD</u>)	
)	
)	
<u>ELSPETH B. CYPHER</u>)	
)	
)	
<u>SCOTT L. KAFKER</u>)	

COMMENTS: Effective Date - The amendment to Rule 47, conforming the rule to G. L. c. 106, § 3-309(b), shall be effective as to judgments entered on or after November 1, 2018.

DATE:

Please forward completed form and copy to:

Clerk, Supreme Judicial Court for the Commonwealth



COMMONWEALTH OF MASSACHUSETTS
THE SUPERIOR COURT
THREE PEMBERTON SQUARE
BOSTON, MA 02108

JUDITH FABRICANT
CHIEF JUSTICE

TELEPHONE
617-788-7304

May 30, 2018

Hon. Frank M. Gaziano
Chair of the Rules Committee
Supreme Judicial Court
John Adams Courthouse, Suite 2200
One Pemberton Square
Boston, MA 02108

RE: Request for Change to Superior Court Rule 47

Dear Justice Gaziano:

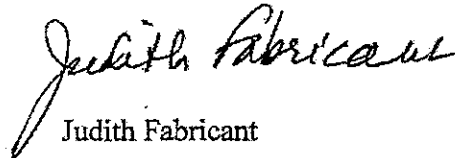
I submit for approval by the Supreme Judicial Court a proposed change to Superior Court Rule 47 (Filing of Papers Upon Judgment).

The justices of the Superior Court gave preliminary approval to the proposed change at the Court's semi-annual business meeting on December 1, 2017. The proposal was posted for comment on the Superior Court's website on December 20, 2017, and notice was sent to Massachusetts Lawyers Weekly on the same day. The Court set a deadline of February 15, 2018, for submitting comments. No comments were received. The Superior Court Rules and Forms Committee circulated the proposed amended rule to all justices of the Superior Court for final approval by email, with a request for response by May 18, 2018. None of the justices objected to submission of the proposal to the SJC for its approval.

The purpose and effect of the proposal is to bring Rule 47 into conformity with G. L. c. 106, § 3-309(b). The proposal adds a new paragraph to Rule 47, addressing the circumstance when a person seeks to enforce a lost or stolen negotiable instrument. The new language requires the claimant to provide proof in writing that the person obligated to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument, as required by that statute.

The Superior Court requests that the SJC approve this proposed rule change **effective September 1, 2018**. I would be happy to discuss any questions you may have, or provide any additional information. Thank you for your consideration.

Very truly yours,

A handwritten signature in cursive script, reading "Judith Fabricant". The signature is written in dark ink and is positioned above the printed name.

Judith Fabricant

cc: Chief Justice Paula M. Carey
Hon. Thomas F. McGuire, Jr., Chair, Superior Court Rules and Forms Committee
Christine Burak, Esq., Secretary of the Rules Committee

Proposed amendment to

Superior Court Rule 47: Filing of Papers upon Judgment

(Applicable to civil actions)

A bill of exchange, promissory note, check, trade acceptance, certificate of deposit or any negotiable instrument, shall be filed with the clerk before judgment thereon shall be entered or execution issued, unless the court otherwise orders.

Such instrument shall not be withdrawn from the files, except upon (1) order of the court, (2) the making by the clerk of a memorandum on such instrument, if practicable, and otherwise on a paper attached thereto, showing the name of the court, the county, the number of the case, the date of judgment, the party or parties against whom judgment was rendered, and the amount thereof, and (3) the filing of a copy of such instrument attested by the clerk.

Any person seeking enforcement of a lost or stolen negotiable instrument must provide sufficient proof in writing that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. No judgment shall enter unless the court makes a finding to that effect pursuant to G. L. c. 106, § 3-309(b).