ADVOCATE–WITNESS REVIEW: A NARROW MAINE FRAMEWORK

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What the record raises

A written implementation record states that opposing counsel and the represented parent would review compliance evidence. That creates a screening question—not an automatic finding of misconduct or automatic disqualification. Most facts can be proved through documents, the parties, providers, school records, contact logs, and metadata.

The proper sequence

1. Identify the exact disputed fact counsel allegedly knows firsthand.
2. Ask whether the fact is relevant, material, nonprivileged, and unavailable from another source.
3. Use admitted documents, stipulations, and other witnesses first.
4. Preclude unsworn personal-knowledge assertions under the trial-advocacy rules.
5. Use a short advance evidentiary determination if an attorney-only fact remains.
6. Use substitute hearing counsel or conditional disqualification only if counsel is truly a necessary witness and no exception applies.

What this does not establish

- It does not establish that counsel violated a rule.
- It does not establish that a compliance review occurred or that any conclusion was correct.
- It does not establish the source of the child's reported belief concerning the August 3 medical visit.
- It does not make grievance submissions or prior motions into adjudicated findings.
- It does not justify publishing confidential Board packets or child-identifying material.

Why advance review matters

At a short bench hearing, an unresolved counsel-witness dispute can consume the time assigned to the merits and blur the line between evidence and advocacy. A written proffer, a no-personal-knowledge boundary, and a least-disruptive decision tree protect both sides and the integrity of the record.

Primary sources

Maine Rules of Professional Conduct, Rules 3.7, 3.4(e), and where implicated 1.7: https://www.courts.maine.gov/rules/index.html

Maine Rules of Evidence, Rules 104, 403, 602, 611, and 901: https://www.courts.maine.gov/rules/index.html

Maine Rules of Civil Procedure, Rules 7 and 43; August 14 procedural order controls the case-specific lane: https://www.courts.maine.gov/rules/index.html

Morin v. Dubois, 1998 ME 160, 713 A.2d 956: https://scholar.google.com/scholar?q=%221998+ME+160%22+%22Morin+v.+Dubois%22

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