

**June 2009**

Vol. 41, Number 6

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## Time Changes Coming to Federal Rules

When is 10 days really 14 days? For the federal courts, when weekends or a holiday intervenes. And are business days and court days the same thing? Sometimes. And yes, that is confusing for litigants, lawyers, court staff, and even judges. But as of December 1, 2009, the confusion will clear because the way in which time is calculated by federal courts is scheduled to change.

In March 2009, the Supreme Court approved amendments to Appellate Rule 26, Bankruptcy Rule 9006, Civil Rule 6, and Criminal Rule 45, to simplify the method of computing time deadlines in the federal rules. Consistent with these amendments, time periods in a total of 91 federal rules and 28 federal laws were also adjusted. Both the federal rules amendments, if Congress takes no action, and the legislation will take effect on December 1. The changes are intended to make calculating time periods simpler, clearer, and consistent.

“The current rules exclude intervening weekends and holidays for some short time periods, resulting in inconsistency and unnecessary complication,” said Judge Lee H. Rosenthal, chair of the Judicial Conference Committee on Rules of Practice and Procedure. “For years, lawyers and litigants have complained that the rules governing how to calculate time periods and deadlines are inconsistent and unnecessarily confusing. The biggest problem came from excluding weekends and legal holidays when figuring out some deadlines but not others.”

The Committee decided to change the method by which the deadlines in the Federal Appellate, Bankruptcy, Civil, and Criminal Rules were computed. “Now, the amended rules are consistent and simple: count intervening weekends and holidays for all time periods,” Rosenthal said.

But including weekends and holidays effectively shortens many existing periods of less than 11 days in appellate, civil, and criminal proceedings, and 8 days in bankruptcy proceedings. In a major undertaking, the Committee looked at every time period in all the rules and made adjustments to take this into account. Most short periods were extended to offset the shift in the time-computation rules and to ensure that each period is reasonable. “Five-day periods became 7-day periods and 10-day periods became 14-day periods, in effect maintaining the status quo,” said Rosenthal.

Periods shorter than 30 days were also revised to be multiples of 7 days, to reduce the likelihood of ending on weekends. Other changes to the federal time-computation rules affect how to tell when the last day of a period ends, how to compute hourly time periods, how to calculate a time period when the clerk’s office is inaccessible, and how to compute backward-counted periods that end on a weekend or holiday. The Committee identified a number of statutes with time periods involving court filings and worked closely with Congress to make them consistent with the amended rules. Legislation was enacted in April 2009.

There is one more necessary step before the task is completed.

“The amended rules will affect some local rules and standing orders, especially those that set short deadlines,” Rosenthal warned. “To maintain consistency with the national rules and to avoid confusion, we ask that courts review the time periods in their local rules and standing orders and make the necessary adjustments.” She stressed the importance that the adjustments take effect on December 1, 2009, the same date as the national rules change.

The time-computation rules amendments are at [www.uscourts.gov/rules](http://www.uscourts.gov/rules). A Power Point presentation explaining the amended rules and their operation in court proceedings is available at [www.uscourts.gov/rules/presentations.html](http://www.uscourts.gov/rules/presentations.html).