

Proposed Amendments to Rule 58

Rule 58 is amended as follows:

Rule 58. [~~Entry of]~~ **Entering** Judgment[~~, Decree or Final Order]~~

(a) Judgments. Subject to the provisions of Rule 54(b), a judgment, decree or final order [~~shall~~ **must**] be entered upon every final decision from which an appeal lies.

(b) Separate Document.

[~~—————(1)~~] Every judgment and amended judgment must be set [~~forth on~~] **out in a** separate document, but a separate document is not required for an order disposing of a motion:

(~~[A]~~ **1**) for judgment under Rule 50(b);

(~~[B]~~ **2**) to amend or make additional findings [~~or fact~~] under Rule 52(b);

(~~[C]~~ **3**) for attorney's fees under Rule 54;

(~~[D]~~ **4**) for a new trial, or to alter or amend the judgment, under Rule 59; or

(~~[E]~~ **5**) for relief under Rule 60.

(c) Entering Judgment.

(~~[2]~~ **1**) **Without the Court's Direction**. Subject to Rule 54(b)[~~:]~~ [~~(A)~~] **and** unless the court orders otherwise, the clerk must, without awaiting the court's direction, promptly prepare, sign, and enter the judgment when:

(~~[i]~~ **A**) the jury returns a general verdict;

(~~[ii]~~ **B**) the court awards only costs or a sum certain; or

(~~[iii]~~ **C**) the court denies all relief;

(B) **2 Court's Approval Required. Subject to Rule 54(b)**, the court must promptly approve the form of the judgment, which the clerk must promptly enter, when:

(i) **A** the jury returns a special verdict or a general verdict [accompanied by interrogatories,] **with answers to written questions;** or

(ii) **B** the court grants other relief not described in [Rule 58(a)(2).] **this subdivision (c).**

(c) **d) Time of Entry.** [Judgment is entered for] **For** purposes of these rules, **judgment is entered at the following times:**

[(1) if Rule 58(b)(1) does not require a separate document, when it is entered in the civil docket under Rule 79(a), and]

(1) if a separate document is not required, when the judgment is entered in the civil docket under Rule 79(a); or

(2) if [Rule 58(b)(1) requires] a separate document **is required**, when [it] **the judgment** is entered in the civil docket under Rule 79(a) and [when] the earlier of these events occurs:

(A) [when] it is set [forth on] **out in** a separate document[.]; or

(B) [when] 150 days have run from **the** entry in the civil docket [under Rule 79(a)].

(e) **Request for Entry.** A party may request that judgment be set [forth on] **out in** a separate document as required by Rule 58(b)(1).

(f) **Cost or Fee Awards.** [(1) Entry] **Ordinarily, the entry** of judgment may not be delayed, nor the time for appeal extended, in order to tax costs or award fees. [.] [except as provided in Rule 58(d)(2).] (2) When] **But if** a timely motion for attorney's fees is made

under Rule 54(d)(2), the court may act before a notice of appeal has been filed and [has] become effective to order that the motion have the same effect under Federal Rule of Appellate Procedure 4(a)(4) as a timely motion under Rule 59.

(As amended Oct. 3, 1984, eff. Jan. 1, 1985; Dec. 18, 2001, eff. Apr.1, 2002; Sept. 30, 2003, eff. Jan. 1, 2004; _____, 2008, eff. _____, 2009.)

Advisory Committee Note

CIT Rule 58 has been amended stylistically to conform to the 2007 amendments to the Fed. R. Civ. P. CIT Rule 58(b) contained an error and should read "findings of fact." Since CIT Rule 52(b) appears to speak generally of "finding" and not "findings of fact" the CIT rule has been changed to "amend or make additional findings under Rule 52(b)."

Fed. R. Civ. P. 58(e) states "Ordinarily" the entry of judgment may not be delayed nor the time for appeal extended, while the parallel CIT Rule 58 subdivision (d) mandates that there may not be a delay or extension "except as provided in Rule 58(d)(2)." The language in the CIT rule appears to make the limitation more absolute. Fed. R. Civ. P. 58 was revised to use this more flexible language in the 2007 amendments. Therefore, the CIT rule has been amended to reflect this more flexible language as well.