

## Proposed Amendments to Rule 6

Rule 6 is amended as follows:

### **Rule 6. ~~[Time]~~ **Computing and Extending Time; Time for Motion Papers****

~~[(a) Computation. In computing any period of time prescribed or allowed by these rules, by order of the court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a legal holiday,\* or when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.]~~

#### **(a) Computing Time.**

**The following rules apply in computing any time period specified in these rules, any court order, or statute:**

**(1) *Day of the Event Excluded.* Exclude the day of the act, event, or default that begins the period.**

**(2) *Exclusions from Brief Periods.* Exclude intermediate Saturdays, Sundays, and legal holidays when the period is less than 11 days.**

**(3) *Last Day.* Include the last day of the period unless it is a Saturday, Sunday, legal holiday, or – if the act to be done is the filing of a**

paper in court – a day on which weather or other conditions make the clerk’s office inaccessible. When the last day is excluded, the period runs until the end of the next day that is not a Saturday, Sunday, legal holiday, or day when the clerk’s office is inaccessible.

**(4) “Legal Holiday” Defined.** As used in these rules, “legal holiday” means:

**(A) the day set aside by statute for observing New Year’s Day, Martin Luther King Jr.’s Birthday, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans’ Day, Thanksgiving Day, or Christmas Day; and**

**(B) any other day declared a holiday by the President or the Congress of the United States.**

~~[(b) Extension:~~

~~(1) When by these rules or by a notice given thereunder or by order of the court, an act is required or allowed to be done at or within a specified time, the court may upon motion, for good cause shown, order the period extended; but it may not extend the time for taking any action under Rules 50(b) and (c)(2), 52(b), 59(b), (d) and (e), and 60(b), except to the extent and under the conditions stated in them.~~

~~(2) The motion for extension of time must set forth the specific number of additional days requested, the date to which the extension is to run, the extent to which the time for the performance of the particular act has been previously extended, and the reason or reasons upon which the motion is based. The~~

~~motion shall be filed prior to the expiration of the period allowed for the performance of the act to which the motion relates (including any previous extension of time); except, when for good cause shown the delay in filing was the result of excusable neglect or circumstances beyond the control of the party.~~

~~(3) No disposition shall be made until the court acts upon the motion for extension of time.]~~

**(b) Extending Time.**

**(1) *In General:* When an act may or must be done within a specified time, the court may, for good cause, extend the time:**

**(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or**

**(B) on motion made after the time has expired if the party failed to act because of excusable neglect or circumstances beyond the control of the party.**

**(2) *Exceptions:* The court must not extend the time to act under Rules 50(b) and (c)(2), 52(b), 59(b), (d) and (e), and 60(b), except as those rules allow.**

**(c) Motions.**

**(1) *Contents.* The motion for extension of time must set forth:**

**(A) the specific number of additional days requested;**

**(B) the date to which the extension is to run;**

**(C) the extent to which the time for the performance of the particular act has been previously extended; and**

**(D) the reason or reasons on which the motion is based.**

**(2) Effect. No disposition of the underlying matter will be made until the court acts on the motion for extension of time.**

**(f)d) Additional Time after Certain Kinds of Service.**

~~Whenever~~**When** a party ~~must~~**may** or ~~may~~**must** act within a ~~prescribed~~ period~~specified time~~ after service and service is made under Rule 5(b)(2)~~(B);~~ (C), (D) **(E) (F)**, or ~~(E)~~**(G)**, 5 days are added after the~~prescribed~~ period would otherwise expire under **Rule 6 (a)**.~~subdivision (a).~~

~~\* As used in these rules, "legal holiday" includes: New Year's Day, January 1; Martin Luther King, Jr.'s Birthday, third Monday in January; Washington's Birthday, third Monday in February; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Columbus Day, second Monday in October; Veterans Day, November 11; Thanksgiving Day, fourth Thursday in November; Christmas Day, December 25; and any other day designated as a holiday by the President or the Congress of the United States.~~

(As amended, eff. Jan. 1, 1985; June 19, 1985, eff. Oct. 1, 1985; Apr. 28, 1987, eff. June 1, 1987; July 28, 1988, eff. Nov. 1, 1988; Oct. 3, 1990, eff. Jan. 1, 1991; Nov. 29, 2005, eff. Jan. 1, 2006; Nov. 27, 2007, eff. Jan. 1, 2008; \_\_\_\_\_, **2008, eff. \_\_\_\_\_, 2009.**)

### **Advisory Committee Note**

The language of Rule 6 has been amended to conform to the style and terminology of the restyled Fed. R. Civ. P. However, the 5-day extension for responses to documents received by mail has been retained. In addition, the term "of the underlying matter" has been added to Rule 6(c)(2) to clarify the intent of that provision.