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AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE

COMMUNICATION

FROM

THE CHIEF JUSTICE, THE SUPREME COURT OF THE UNITED STATES

TRANSMITTING

AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE THAT HAVE BEEN ADOPTED BY THE SUPREME COURT, PURSUANT TO 28 U.S.C. 2072



NOVEMBER 12, 2014.—Referred to the Committee on the Judiciary and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
49–011 WASHINGTON : 2014

SUPREME COURT OF THE UNITED STATES,
Washington, DC, April 25, 2014.

Hon. JOHN A. BOEHNER,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I have the honor to submit to the Congress the amendment to the Federal Rules of Civil Procedure that has been adopted by the Supreme Court of the United States pursuant to Section 2072 of Title 28, United States Code.

Accompanying this rule are excerpts from the Report of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States containing the Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

JOHN G. ROBERTS, Jr.,
Chief Justice,

April 25, 2014

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. That the Federal Rules of Civil Procedure be, and they hereby are, amended by including therein an amendment to Civil Rule 77.

[See infra., pp. __ __ __.]

2. That the foregoing amendment to the Federal Rules of Civil Procedure shall take effect on December 1, 2014, and shall govern in all proceedings in civil cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. That THE CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendment to the Federal Rules of Civil Procedure in accordance with the provisions of Section 2072 of Title 28, United States Code.

PROPOSED AMENDMENT TO THE FEDERAL RULES OF CIVIL PROCEDURE

Rule 77. Conducting Business; Clerk's Authority; Notice of an Order or Judgment

* * * * *

(c) Clerk's Office Hours; Clerk's Orders.

(1) ***Hours.*** The clerk's office — with a clerk or deputy on duty — must be open during business hours every day except Saturdays, Sundays, and legal holidays. But a court may, by local rule or order, require that the office be open for specified hours on Saturday or a particular legal holiday other than one listed in Rule 6(a)(6)(A).

* * * * *

JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

HONORABLE JOHN D. BATES
Secretary

November 6, 2013

MEMORANDUM

To: The Chief Justice of the United States and
Associate Justices of the Supreme Court

From: Judge John D. Bates

RE: TRANSMITTAL OF PROPOSED AMENDMENT TO THE FEDERAL RULES OF CIVIL PROCEDURE

By direction of the Judicial Conference of the United States, pursuant to the authority conferred by 28 U.S.C. § 331, I transmit herewith for consideration of the Court a proposed amendment to Rule 77 of the Federal Rules of Civil Procedure, which was approved by the Judicial Conference at its March 2013 session. The Judicial Conference recommends that the amendment be approved by the Court and transmitted to the Congress pursuant to law.

For your assistance in considering the proposed amendment, I am transmitting: (i) a redline version of the amendment; (ii) an excerpt from the Report of the Committee on Rules of Practice and Procedure to the Judicial Conference; and (iii) an excerpt from the Report of the Advisory Committee on the Federal Rules of Civil Procedure.

Attachments

EXCERPT OF THE
REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES:

* * * * *

FEDERAL RULES OF CIVIL PROCEDURE

Rules Recommended for Approval and Transmission

The Advisory Committee on Civil Rules submitted a proposed amendment to Rule 77(c)(1), with a recommendation that it be approved and transmitted to the Judicial Conference. Because the amendment is technical, prior publication for public comment is unnecessary.

The proposed amendment corrects a cross-reference to Rule 6(a) that should have been changed when Rule 6(a) was amended in 2009. Before those amendments, Rule 6(a)(4)(A) defined "legal holiday" to include 10 days set aside by statute, and Rule 77(c)(1) incorporated this definition by cross-reference.

After enactment of the 2009 amendment, the statute-based definition of legal holidays remained unchanged, but became Rule 6(a)(6)(A). Revising the cross-reference to refer to Rule 6(a)(6)(A) will correct the problem.

The Committee concurred with the advisory committee's recommendations.

Recommendation: That the Judicial Conference approve the proposed amendment to Civil Rule 77(c)(1), and transmit it to the Supreme Court for consideration with a recommendation that it be adopted by the Court and transmitted to Congress in accordance with the law.

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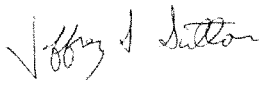
Respectfully submitted,



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OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

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MEMORANDUM

To: Honorable Jeffrey S. Sutton, Chair,
Standing Committee on Rules of Practice and Procedure

From: Honorable David G. Campbell, Chair,
Advisory Committee on Federal Rules of Civil Procedure

Date: December 5, 2012

Re: Report of the Civil Rules Advisory Committee

Introduction

The Civil Rules Advisory Committee met at the Administrative Office of the United States Courts in Washington, D.C., on November 2, 2012. The meeting had been scheduled for November 1 and 2, but in anticipation of travel disruptions following Super Storm Sandy it was rescheduled to enable most participants to attend by video conference, webcast, or other remote means. Several participants gathered at the Administrative Office. Draft Minutes of this meeting are attached. This report has been prepared by Professor Cooper, Committee Reporter, with Professor Marcus, Associate Reporter, and various subcommittee chairs.

* * * * *

Three other items are presented for action. One seeks approval to publish an amendment of Rule 6(d) to correct an inadvertent oversight in conforming former rule text to style conventions. The second seeks approval to publish a modest revision of Rule 55(c) to clarify a latent ambiguity that has caused some confusion. Both of these proposals seek approval for publication when they can be included in a package with more substantial rule proposals. The third seeks a recommendation to adopt without publication an inadvertent failure to correct a cross-reference in Rule 77(c)(1) when Rule 6 was revised in the Time Computation Project.

* * * * *

PART I: ACTION ITEMS

* * * * *

I.D. ACTION TO RECOMMEND PUBLICATION: CROSS-REFERENCE

ACTION ITEM: RULE 77(c)(1)

The Committee recommends adoption without publication of the following technical amendment of Rule 77(c)(1) to correct a cross-reference to Rule 6(a) that should have been amended when Rule 6(a) was amended in the Time Project amendments of 2009:

RULE 77. CONDUCTING BUSINESS; CLERK'S AUTHORITY; NOTICE OF AN ORDER OR JUDGMENT

* * * * *

(c) CLERK'S OFFICE HOURS; CLERK'S ORDERS.

(1) *Hours.* The clerk's office – with a clerk or deputy on duty – must be open during business hours every day except Saturdays, Sundays, and legal holidays. But a court may, by local rule or order, require that the office be open for specified hours on Saturday or a particular legal holiday other than one listed in Rule 6(a)(~~4~~6)(A).

Before the Time Computation Project amendments, Rule 6(a)(4)(A) defined "legal holiday" to include ten days set aside by statute. Rule 77(c)(1) incorporated this definition by cross-reference. The Time Project amended Rule 6(a) in many ways. The definition of statute-designated legal holidays remained unchanged, but became Rule 6(a)(6)(A). Present Rule 6(a)(4)(A) defines the end of the "last day" for computing a time period for electronic filing. The cross-reference in Rule 77(c)(1) no longer makes sense. It is easily corrected by revising it to refer to Rule 6(a)(6)(A).

No arguable issue of policy is involved. This amendment is a clear example of a technical or conforming amendment that can be recommended for adoption without publication. See §440.20.40(d) of the Procedures for the Conduct of Business.

* * * * *

PROPOSED AMENDMENT TO THE FEDERAL RULES OF CIVIL PROCEDURE*

Rule 77. Conducting Business; Clerk's Authority; Notice of an Order or Judgment

* * * * *

(c) Clerk's Office Hours; Clerk's Orders.

(1) ***Hours***. The clerk's office — with a clerk or deputy on duty — must be open during business hours every day except Saturdays, Sundays, and legal holidays. But a court may, by local rule or order, require that the office be open for specified hours on Saturday or a particular legal holiday other than one listed in Rule 6(a)(~~4~~6)(A).

* * * * *

Committee Note

The amendment corrects an inadvertent failure to revise the cross-reference to Rule 6(a) when what was Rule 6(a)(4)(A) became Rule 6(a)(6)(A).

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* New material is underlined; matter to be omitted is lined through.

