
AMENDMENTS TO
RULES OF CIVIL PROCEDURE
FOR THE
UNITED STATES DISTRICT COURTS

Effective July 1, 1968

The following amendments to the Rules of Civil Procedure for the United States District Courts were prescribed by the Supreme Court of the United States on December 4, 1967, pursuant to 28 U. S. C. §§ 2072 and 2075, and were reported to Congress by THE CHIEF JUSTICE on the same date and resubmitted on January 15, 1968, *ante*, p. 1064.

These amendments became effective July 1, 1968, as provided in paragraph 3 of the Court's order, *ante*, p. 1065. See also paragraph 4 of the Court's order concerning rules which have been abrogated. *Ibid*.

For earlier publications of the Rules of Civil Procedure and the amendments thereto, see 308 U. S. 645, 308 U. S. 642, 329 U. S. 839, 335 U. S. 919, 341 U. S. 959, 368 U. S. 1009, 374 U. S. 861, and 383 U. S. 1029.

Rule 6. Time.

(b) *Enlargement.*—When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rules 50 (b), 52 (b), 59 (b), (d) and (e), and 60 (b), except to the extent and under the conditions stated in them.

Rule 9. Pleading special matters.

(h) *Admiralty and maritime claims.*—A pleading or count setting forth a claim for relief within the admiralty and maritime jurisdiction that is also within the jurisdiction of the district court on some other ground may contain a statement identifying the claim as an admiralty or maritime claim for the purposes of Rules 14 (c), 26 (a), 38 (e), 82 and the Supplemental Rules for Certain Admiralty and Maritime Claims. If the claim is cognizable only in admiralty it is an admiralty or maritime claim for those purposes whether so identified or not. The amendment of a pleading to add or withdraw an identifying statement is governed by the principles of Rule 15. The reference in Title 28, U. S. C. § 1292 (a)(3), to admiralty cases shall be construed to mean admiralty and maritime claims within the meaning of this subdivision (h).

Rule 41. Dismissal of actions.

(a) *Voluntary dismissal: effect thereof.*

(1) *By plaintiff; by stipulation.* Subject to the provisions of Rule 23 (e), of Rule 66, and of any statute

of the United States, an action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim.

Rule 77. District courts and clerks.

(d) *Notice of orders or judgments.*—Immediately upon the entry of an order or judgment the clerk shall serve a notice of the entry by mail in the manner provided for in Rule 5 upon each party who is not in default for failure to appear, and shall make a note in the docket of the mailing. Such mailing is sufficient notice for all purposes for which notice of the entry of an order is required by these rules; but any party may in addition serve a notice of such entry in the manner provided in Rule 5 for the service of papers. Lack of notice of the entry by the clerk does not affect the time to appeal or relieve or authorize the court to relieve a party for failure to appeal within the time allowed, except as permitted in Rule 4 (a) of the Federal Rules of Appellate Procedure.

Rule 81. Applicability in general.

(a) *To what proceedings applicable.*

(1) These rules do not apply to prize proceedings in admiralty governed by Title 10, U. S. C. §§ 7651-81. They do not apply to proceedings in bankruptcy or proceedings in copyright under Title 17, U. S. C., except in so far as they may be made applicable thereto by rules promulgated by the Supreme Court of the United States.

They do not apply to mental health proceedings in the United States District Court for the District of Columbia.

(2) These rules are applicable to proceedings for admission to citizenship, habeas corpus, and quo warranto, to the extent that the practice in such proceedings is not set forth in statutes of the United States and has heretofore conformed to the practice in civil actions.

(3) In proceedings under Title 9, U. S. C., relating to arbitration, or under the Act of May 20, 1926, ch. 347, § 9 (44 Stat. 585), U. S. C., Title 45, § 159, relating to boards of arbitration of railway labor disputes, these rules apply only to the extent that matters of procedure are not provided for in those statutes. These rules apply to proceedings to compel the giving of testimony or production of documents in accordance with a subpoena issued by an officer or agency of the United States under any statute of the United States except as otherwise provided by statute or by rules of the district court or by order of the court in the proceedings.