

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-09-0030
PETITION TO AMEND RULE 6,)
ARIZONA RULES OF CIVIL PROCEDURE)
)
) **FILED 09/02/2010**
)
_____)

**ORDER
AMENDING RULE 6, ARIZONA RULES OF CIVIL PROCEDURE**

A petition having been filed proposing to amend Rule 6, Arizona Rules of Civil Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rule 6, Arizona Rules of Civil Procedure, be amended in accordance with the attachment hereto, effective January 1, 2011.

DATED this _____ day of September, 2010.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution
Eleni Apostolakis
John A Furlong
mwa

ATTACHMENT¹

Arizona Rules of Civil Procedure

Rule 6. Time

Rule 6(a). Computation

In computing any period of time ~~prescribed~~ specified or allowed by these rules, by any local rules, by order of 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. When the period of time ~~prescribed~~ specified or allowed, exclusive of any additional time allowed under subdivision (e) of this rule, is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When the period of time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.

Rule 6(b)-6(d) [No change in text.]

Rule 6(e). Additional time after service under Rule 5(c)(2)(C) or (D)

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served by a method authorized by Rule 5(c)(2)(C) or (D), five calendar days are ~~shall be~~ added after ~~to~~ the prescribed period would otherwise expire under Rule 6(a). This rule has no application to the distribution of notice of entry of judgment required by Rule 58(e).

COMMENT TO 2011 AMENDMENT

Rule 6(e) is amended to remove any doubt as to the method for extending the time to respond after service by mail or other means, including electronic means, if consented to in writing by the recipient or ordered by the court. Five days are added after the prescribed period otherwise expires under Rule 6(a). Intermediate Saturdays, Sundays, and legal holidays are included in counting these added five days. If the fifth day is a Saturday, Sunday, or legal holiday, the last day to act is the next day that is not a Saturday, Sunday, or legal holiday. The effect of invoking the day when the prescribed period would otherwise expire under Rule 6(a) can be illustrated by assuming that the thirtieth day of a thirty-day period is a Saturday. Under Rule 6(a) the period expires on the next day that is not a Sunday or legal holiday. If the following Monday is a legal holiday, under Rule 6(a) the period expires on Tuesday. Five calendar days are then added-

¹ Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

Wednesday, Thursday, Friday, Saturday and Sunday. As the fifth and final day falls on a Sunday, by operation of Rule 6(a), the fifth and final day to act is the following Monday. If Monday is a legal holiday, the next day that is not a legal holiday is the fifth and final day to act. If the period prescribed expires on a Wednesday, the five added calendar days are Thursday, Friday, Saturday, Sunday, and Monday, which is the fifth and final day to act unless it is a legal holiday. If Monday is a legal holiday, the next day that is not a legal holiday is the fifth and final day to act.

Application of Rule 6(e) to a period that is less than eleven days can be illustrated by a paper that is served by mailing on a Wednesday. If ten days are allowed to respond, intermediate Saturdays, Sundays, and legal holidays are excluded in determining when the period expires under Rule 6(a). If there is no legal holiday, the period expires on the Wednesday two weeks after the paper was mailed. The five added Rule 6(e) days are Thursday, Friday, Saturday, Sunday, and Monday, which is the fifth and final day to act unless it is a legal holiday. If Monday is a legal holiday, the next day that is not a legal holiday is the final day to act.