

**EXCERPT FROM 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:**

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FEDERAL RULES OF CIVIL PROCEDURE

Rules Recommended for Approval and Transmission

The Advisory Committee on Civil Rules submitted proposed amendments to Rules 6, 27, and 45 and proposed amendments to Supplemental Rules B and C with a recommendation that they be approved and transmitted to the Judicial Conference. The amendments were circulated to the bench and bar for comment in August 2003. The scheduled public hearing on the proposed rules amendments was canceled because no one asked to testify.

The proposed amendment to Rule 6(e) clarifies the method of determining the time to respond when the time is extended after service by mail, by leaving with the clerk of court, by electronic means, or by other means consented to by the party served. It was unclear whether the additional three days provided in the rule were to be added before or after the prescribed period. The amendment makes clear that three days are added after the prescribed period otherwise expires. Intermediate Saturdays, Sundays, and legal holidays are included in counting these added three days.

The proposed amendment to Rule 27 corrects outdated references to former Rule 4(d). The amendment makes clear that all methods of service authorized under Rule 4 can be used to serve a petition to perpetuate testimony.

Under the proposed amendment to Rule 45, a deposition subpoena must state the method for recording the testimony. The amendment ensures that a nonparty deponent has notice of the

recording method, providing the deponent an opportunity to raise objections in a timely and efficient manner.

The proposed amendment to Supplemental Rule B fixes the time for determining whether a defendant is “found” in the district at the time when the verified complaint and the accompanying affidavit are filed. The amendment is intended to prevent a defendant from defeating attachment and evading a security device by waiting until a complaint is filed before appointing an agent to receive service of process.

The proposed amendments to Supplemental Rule C are technical in nature and correct an oversight contained in amendments made in 2000.

The Committee concurred with the advisory committee's recommendations.

Recommendation: That the Judicial Conference approve the proposed amendments to Civil Rules 6, 27, and 45, and proposed amendments to Supplemental Rules B and C and transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

The proposed amendments to the Federal Rules of Civil Procedure are in Appendix C with an excerpt from the advisory committee report.

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