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To: Clerks, United States Bankruptcy Courts

From: Glen K. Palman *Glen K. Palman*

Re: Changes to Federal Rules that Require Amendment of Time Deadlines in
Local Rules and Standing Orders (ACTION)

On March 26, 2009, the Supreme Court approved changes to Bankruptcy Rule 9006, as well as changes to similar appellate, civil, and criminal rules, which address the method in which time is calculated in the federal courts. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-016). The law adjusts the time periods in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the upcoming federal rule changes. Both the statutory and rules changes will take effect on the same day, December 1, 2009.

On May 1, 2009, Judge Lee Rosenthal, chair of the Committee on Rules of Practice and Procedure, sent a memorandum asking courts to review their local rules and standing orders to make adjustments, effective December 1, 2009, consistent with the federal rules changes. If your court has not done so yet, I urge you to take the necessary steps to ensure that your court amends its local rules, effective December 1, 2009.

Under the current federal rules, intermediate weekends and holidays are excluded when calculating time periods fewer than eight days. The amended rules count intermediate weekends and holidays for all time periods. Accordingly, any time deadline fewer than eight days in your local rules should be carefully examined to determine whether it should be extended to offset the effect of the change in the time-computation method.

In addition, all time deadlines in the current rules were reviewed. Deadlines of less than 30 days were changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules:

- 5-day deadlines become 7 days;
- 10- and 15-day deadlines become 14 days;
- 20-day deadlines become 21 days; and
- 25-day deadlines become 28 days.

Courts are encouraged to review all time deadlines in their local rules and consider amending them based on multiples of seven days, to mitigate inconsistency between federal and local rules.

Court forms that include local deadlines should also be addressed, as well as internal and external manuals, websites, pro se instructions, and any other guidance that may be impacted by these changes. Courts should also ensure that the local bar is given adequate notice about the changes in timing in both federal and local rules.

Several official and procedural forms will be updated to address these timing changes. In addition, the instructions for several other forms will also be revised. A complete list of the revised forms and instructions will be posted at <http://www.uscourts.gov/bankform/index.html> in early October. The revised forms and instructions will also be effective December 1, 2009.

Some courts have asked about the effect of Bankruptcy Rule 9006(f), which provides for an additional three days for service by mail when there is a right or requirement to act within a prescribed period after service. This rule will not be changed and will remain in effect. Thus, courts will continue to calculate time under this rule when service is by mail. In some instances, courts may wish to consider amending their local procedures to tie the date beginning a deadline to the date of entry of an order or some other event, as opposed to the date of service.

The deadlines in Rule 4001(d)(2) and (d)(3) were inadvertently omitted from this set of rules amendments. It is anticipated that the Judicial Conference will approve changes to these deadlines, effective December 1, 2010.

While no software changes are required to the CM/ECF source code, some docketing (dictionary) events will need to be revised. To assist court staff with making the dictionary changes, the CM/ECF starter dictionary has been carefully reviewed to

identify those deadline events that will change. An updated dictionary list reflecting these deadline changes will be posted to the [SDSD starter dictionary page](http://www.aotx.ao.dcn/bk) <http://www.aotx.ao.dcn/bk> by early October. Certain deadlines which are not set forth by federal rule or statute have been deleted from the starter dictionary list. However, courts can still establish local deadlines, so long as they do not contravene federal law or the rules.

Detailed information about the changes to the time computation rules can be found at <http://www.uscourts.gov/rules/>. There is also a power point presentation available for bankruptcy and other courts at <http://www.uscourts.gov/rules/presentations.html>.

Should you have any questions regarding application of these rule changes, please contact Scott Myers or Jim Wannamaker of the Bankruptcy Judges Division at 202-502-1900 or Mary Fritsche of the Bankruptcy Court Administration Division at 202-502-1550. For questions regarding the starter dictionary, contact Kate Malin of the Systems Deployment and Support Division at 210-301-6469.

cc: Judge Lee Rosenthal
Judges, United States Bankruptcy Courts