

December 16, 2016



Pursuant to 28 U.S.C. § 2071(b), comments are invited on proposed revisions to Circuit Rule 3-3(b), Preliminary Injunction Appeals; Circuit Rule 26-1, Filing Deadlines for the Districts of Guam and the Northern Mariana Islands; Circuit Rule 26-2, Three Day Service Allowance; and Circuit Rule 31-2.1, Time for Service and Filing. The proposed changes respond to recent modifications to Federal Rules of Appellate Procedure 26(c) that eliminated the extra three days for electronic service of a document, and to anticipated future changes to Federal Rules of Appellate Procedure to extend the presumptive reply brief deadlines from 14 days to 21 days. The amendments to the circuit rules (1) abrogate as unnecessary the existing extensions to deadlines where electronic service is used and (2) extend the existing presumptive deadlines for reply briefs from 14 to 21 days.

Please direct comments to Molly C. Dwyer, Clerk of Court at Molly_Dwyer@ca9.uscourts.gov, and Susan V. Gelmis, Chief Deputy Clerk at Susan_Gelmis@ca9.uscourts.gov. Comments must be submitted no later than January 30, 2017.

CIRCUIT RULE 3-3. PRELIMINARY INJUNCTION APPEALS

(b) Within 7 days of filing a notice of appeal from an order specified in subparagraph (a), the parties shall arrange for expedited preparation by the district court reporter of all portions of the official transcript of oral proceedings in the district court which the parties desire to be included in the record on appeal. Within 28 days of the docketing in the district court of a notice of appeal from an order specified in subparagraph (a), the appellant shall file an opening brief and excerpts of record. Appellee's brief and any supplemental excerpts of record shall be filed within 28 days of service of appellant's opening brief. Appellant may file a brief in reply to appellee's brief within 2144 days of service of appellee's brief. (*Rev. 12/1/02; 12/1/09; 6/1/17*)

CIRCUIT RULE 26-1. FILING DEADLINES FOR THE DISTRICTS OF GUAM AND THE NORTHERN MARIANA ISLANDS

Except as provided by order of the Court, or by FRAP 26(b) and 31, all deadlines for filing set forth in FRAP or these rules are extended by 7 days in cases arising from the Districts of Guam and the Northern Mariana Islands when the filing party is not registered for electronic filing. (*Rev. 6/1/17*)

CIRCUIT RULE 26-2. THREE DAY SERVICE ALLOWANCE

(New 12/1/09 Abrogated 6/1/17)

~~The 3-day service allowance provided by FRAP 26(e) applies to documents served by the Appellate CM/ECF system pursuant to Circuit Rule 25-5.~~

CIRCUIT RULE 31-2. TIME FOR SERVICE AND FILING

31-2.1. Requirement of Timely Filing

(a) Parties shall observe the briefing schedule set by an order of the Court of Appeals. Specific due dates set by Court order are not subject to the additional 3-day allowance for service of previous papers by mail set forth in FRAP 26(c) ~~or Circuit Rule 26-2~~. The filing of the appellant's brief before the due date shall not advance the due date for the appellee's brief. If the Court does not set specific due dates for the opening and/or answering brief, the presumptive deadlines of FRAP 31(a) shall apply. However, unless otherwise established by Court order in a particular case, the presumptive deadline for filing a reply brief is 21 days from the date of service of the answering brief. (Rev. 12/1/09; 6/1/17)