

RECENT RULES CHANGES IN THE FEDERAL COURTS

BY BEAU STERLING, ESQ.,
DISTRICT OF NEVADA LAWYER
REPRESENTATIVE

Effective December 1, 2009, there were significant amendments made to the Federal Rules of Civil Procedure (FRCP), the Federal Rules of Appellate Procedure (FRAP) and the Federal Rules of Bankruptcy Procedure (FRBP). Among the most notable amendments are the changes to the way that days are counted in the district courts, the courts of appeals, and the bankruptcy courts. These are obviously important changes for federal practitioners to be aware of as they directly impact the calculation of deadlines.

Under new FRCP 6(a)(1), FRAP 26(a)(1) and FRBP 9006(a)(1), all deadlines stated in days (no matter the length) are computed in the same way. The day of the event that triggers the deadline is not counted. All other days – including intermediate Saturdays, Sundays and legal holidays – are counted, with only one exception: If the period ends on a Saturday, Sunday or legal holiday, then the deadline falls on the next day that is not a Saturday, Sunday or legal holiday. This is a departure from the previous rules, which generally excluded intermediate Saturdays, Sundays and legal holidays when the period is less than 11 days. In other words, all deadlines are now calculated using calendar days rather than court days, regardless of the period.

These new rules apply in computing any time period specified in the FRCP, FRAP and FRBP, as well as in any local rule or court order, or in any statute that does not specify a method of computing time.

To accommodate the change in the way days are now counted, many of the deadlines set forth in the rules have changed. Most of the 10-day periods set forth in the various rules were adjusted to meet the change in computation method by setting 14 days as the new period. A 14-day period has the advantage in that the final day falls on the same day of the week as the event that triggered the period. This advantage of using week-long periods led to adopting seven-day periods to replace some of the periods set at less than 10 days, 21-day periods to replace 20-day periods, and 28-day periods to replace 25-day periods. Thirty-day and longer periods, however, were generally retained without change.

Because the amendments apply to local rules, our local federal courts, including the U.S. District Court for the District of Nevada, the U.S. Court of Appeals for the Ninth Circuit and the U.S. Bankruptcy Court for the District of Nevada, have responded by amending many of the deadlines in their local rules. These new local rules also became effective on December 1, 2009. Helpfully, each of these courts has posted on their websites redline versions of their respective local rules to assist practitioners with identifying the new deadlines. For more information, please visit: www.nvd.uscourts.gov, www.ca9.uscourts.gov and www.nvb.uscourts.gov.



Please keep in mind that in Nevada state court practice, under Nevada Rules of Civil Procedure Rule 6(a) and under Nevada Rules of Appellate Procedure Rule 26(a), intermediate Saturdays, Sundays and non-judicial days are still excluded when the period is less than 11 days, unless a deadline is given as a specific date.

Bankruptcy Court Local Rules Changes

In addition to the changes noted above, the U.S. Bankruptcy Court for the District of Nevada has substantially revised many of its local rules, effective December 1, 2009. Regular bankruptcy practitioners are likely already familiar with most of these revisions. Those practitioners who appear less regularly in Bankruptcy Court, usually on adversary matters, should take the time to become familiar with these revisions as well, as many of the changes are to generally applicable procedural rules.

Included are changes with regard to consolidated or jointly administered cases (LR 1015, LR 3001 (c) & (d)); obtaining documents by subpoena (LR 2004(c)); reports of financial information (LR 2015.3);

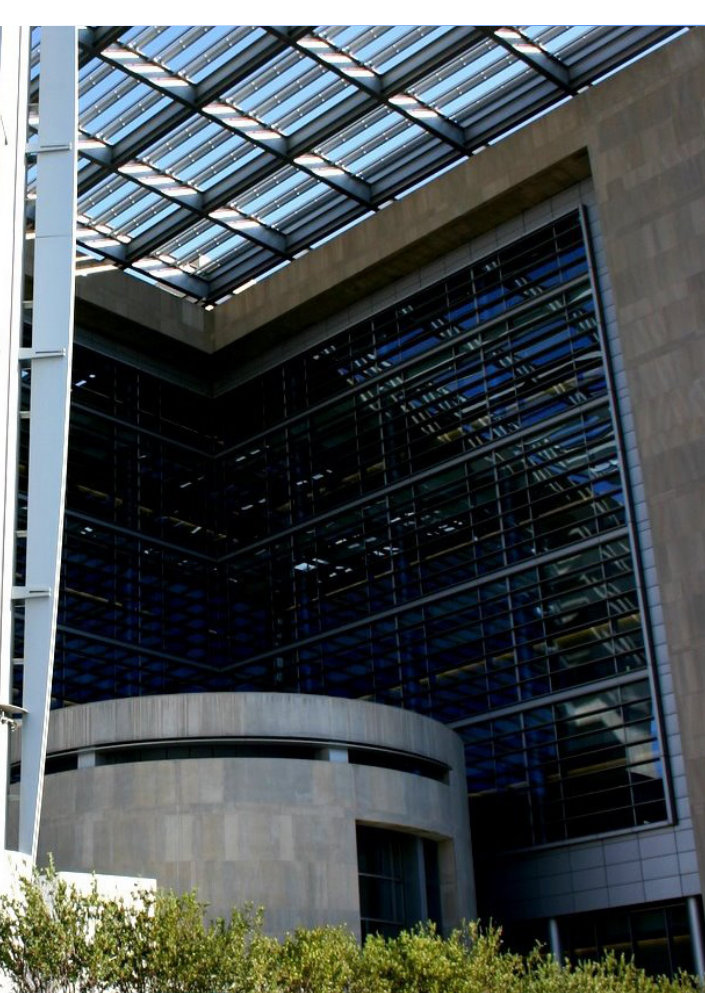


Photo by Beau Sterling

According to the court, this year's conference will start with a discussion on ethics in the law, including the importance of doing the right thing, why and how some attorneys turn away from the right thing, and where to look for guidance. The second session will provide a frank and open discussion between the bench and bar on improving the administration of justice in the District of Nevada. Topics for discussion will include delays, judicial temperament and differences in unofficial policies or procedures among different judges in the district. The plenary session after lunch will be a Supreme Court review conducted by Circuit Judge Jay S. Bybee. The conference will also include State of the Court Addresses by Circuit Judge Carlos T. Bea, Chief Judge Roger L. Hunt of the United States District Court and Chief Judge Mike K. Nakagawa of the United States Bankruptcy Court. The conference will conclude with three breakout sessions targeted to civil, criminal and bankruptcy practitioners.

Additional information and registration forms are available on the court's website or contact the District Court Executive, Lance S. Wilson at, (702) 464-5456 with questions. ■

objections to claims (LR 3007); updating attorney mailing addresses and e-mail addresses (LR 5005(d)); sale and sale procedure motions in chapter 11 cases (LR 6004); corporate ownership statements (LR 7007.1); discovery motions (LR 7037); summary judgment (LR 7056); signatures on documents submitted electronically (LR 9004(c)(1)); opposition and reply deadlines for matters heard on order shortening time (LR 9006(c)); motion practice (LR 9014); proposed orders (LR 9037); and many others. Again, please refer to the redline version of the local rules amendments posted on the court's website (www.nvb.uscourts.gov) for more information.


2010 District Conference

The U.S. District Court's 2010 District Conference will take place in Reno on April 29, 2010. The District Conference provides an excellent opportunity for members of the bar to interact with the federal judiciary. The theme this year is "The Search for the Truth."

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BEAU STERLING is the managing member of Sterling Law LLC, an appellate practice law firm (www.sterlinglaw.com), and a member of the *Nevada Lawyer* editorial board. He is one of eight U.S. District Court Lawyer Representatives for the District of Nevada. For a full listing, please visit the court's website (www.nvd.uscourts.gov).

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