

FACT SHEET:

2017 Amendments to the D.C. Superior Court Rules of Civil Procedure

Amendments to the D.C. Superior Court Rules of Civil Procedure became effective in June 2017. Although this fact sheet does not address every amendment or every amendment in full, it highlights the parts of the amended rules that most affect neglect and abuse practice. Rules referenced here are incorporated into the Rules Governing Neglect and Abuse Proceedings by Super. Ct. Neg. R. 1, which you can find [here](#).

Time computation: Rule 6 sets out rules for computing any time period specified in these rules, in any court order, or in any statute that does not specify a method of computing time.

- ❖ In the **prior version** of Rule 6, when the allotted time for filing was less than 11 days, only business days were counted.
- ❖ In the **current version** of the rule, when the time for filing is stated in any number of days or a longer period, Saturdays, Sundays and legal holidays **are included** in the count (calendar days instead of business days). Additionally, when the period for filing is measured after an event and the last day of the period is a Saturday, Sunday, or a legal holiday, the time for filing moves **forward to the next day** that is not a Saturday, Sunday, or a legal holiday. Similarly, when the period is measured before an event and the last day is a Saturday, Sunday, or a legal holiday, the time for filing moves **backward to the next day** that is not a Saturday, Sunday, or a legal holiday.

Example 1: Rule 12-I allows 14 days to file and serve an opposition after service of a motion.

Attorneys served with a motion Monday, May 14, 2018 have until Tuesday May 29, 2018 to file an opposition, because the 14th day is May 28, 2018, Memorial Day (see rule for a list of legal holidays).

Example 2: A judge has ordered all pre-trial motions be filed 5 days before the pretrial hearing on Monday, May 7, 2018. Therefore, the filing deadline is Wednesday, May 2, 2018. If May 2, 2018 were a legal holiday, the filing deadline would move back to Tuesday, May 1, 2018.

New to Rule 6:

- How to compute time stated in hours and definitions for *next day*, *legal holiday*, and *last day* (including instructions regarding the time of day when the *last day* ends).
- Information about deadline extensions when the clerk's office is inaccessible.

Practice tip: Under these amendments, GAL and other attorney reports must be filed **at least 5 calendar days** prior to a hearing, pursuant to Rules 21, 28 and 32 of the Rules Governing Neglect and Abuse Proceedings, unless otherwise directed by the court.

You can find the current version of Rule 6 [here](#).

Motions Practice: Rule 12-I

New to Rule 12-I:

- Petitions to amend birth certificates in order to change applicant's name and petitions to amend death certificates may be presented to a judge in chambers at any time, either ex parte or with opposing counsel.
- The requirement that the caption for every written motion must contain parties' next court date (for example, pretrial or disposition) if one has been set.
- Requirements for proposed orders accompanying motions and oppositions.
- Deadlines pertaining to replies to oppositions and an explanation of the types of replies permitted.
- The requirement that oppositions be filed within 14 calendar days (as opposed to 10 business days). [See Rule 6](#) for guidance around how to compute 14 days.

Practice tip: In many cases, the time for filing will be the same as under the prior version of the rule. Although the current version allows more time overall to file, weekends and holidays are now included in the count (unless otherwise specified by rule, statute or court order).

Example: Under the prior version of the rule, the deadline for filing an opposition to a motion filed on Monday, March 5, 2018 would have been Monday, March 19, 2018.

Under the current version, the deadline is also March 19, 2018.

Practice tip: When calculating the deadline for filing an opposition, **always check the relevant statute, rule or court order**, which might set forth a controlling filing deadline different from the 12-I deadline.

Something that is not new but might have gone unnoticed: The "points and authorities" supporting a motion must be part of the record, labeled and placed on a separate paper or below all other material, including signatures, on the last page of the motion.

You can find the current version of Rule 12-I [here](#).

Subpoena: Rule 45

Something that is not new but a good reminder:

- When a subpoena commands production of documents, electronically stored information, tangible things or inspection, a notice and a copy of a subpoena must be served on each party – **before it is served** on the person to whom it is directed.

You can find the current version of Rule 45 [here](#).

Duty to Disclose; General Provisions Governing Discovery: Rule 26

Remember: Rule 26 (b)(4) statements no longer exist.¹

Here's what happened:

- ❖ 2015 amendments **did away with** the Rule 26 (b)(4) expert witness statement requirement. Instead, Rule 26 (a)(2)(A) required parties to disclose the identity of expert witnesses. Only certain types of witnesses were required to produce a written report.
- ❖ Under the **current version** of Rule 26, parties must disclose the identity of any witness who might provide expert testimony at trial. **It is still the case that only certain types of experts must provide an extensive written report.** The required contents of the report can be found in Rule 26 (a)(2)(B)(i)-(vii).

New to Rule 26:

- Disclosure requirement for witnesses who are not required to provide a written report pursuant to Rule 26 (a)(2)(B).
- Description of the scope of discovery. **Note:** the requirement that discovery should appear reasonably calculated to lead to discovery of admissible evidence **has been removed** from the rule.
- Protection for experts' draft reports or disclosures and for communications between a party's attorney and certain experts. See Rule 26 (b)(4)(B),(C).
- Provisions governing the manner and means by which litigants and the court can control the effects of disclosure of privileged or protected information.

Practice Tip: Do not file a Rule 26 (b)(4) Statement. Rule 26 (b)(4) deals with trial preparation of experts. **Instead,** file a Rule 26 (a)(2)(B) Report **or** a Rule 26 (a)(2)(C) Disclosure. The latter must state (i) the subject matter on which the witness is expected to present evidence and (ii) a summary of the facts and opinions to which the witness is expected to testify.

You can find the current version of Rule 26 [here](#).

Two other notable changes to the discovery rules:

New to Rule 34 (Producing Documents, Electronically Stored Information, and Tangible Things, or Entering onto Land, for Inspection and Other Purposes): An objection must state whether any responsive materials are being withheld on the basis of that objection. You can find the current version of Rule 34 [here](#).

New to Rule 37 (Failure to Cooperate in Discovery; Sanctions): Guidance for securing sanctions when a party failed to preserve electronically stored information. You can find the current version of Rule 37 [here](#).

¹ This is true for neglect, Ta.L, guardianship trials, TPR trials and other proceedings where discovery is governed by the civil rules incorporated by Super. Ct. Neg. R. 1. Discovery in the adoption and custody contexts is governed by the adoption and domestic relations rules, respectively.