

April 24, 2023

Honorable Kevin McCarthy  
Speaker, United States House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

I have the honor to submit to the Congress amendments to the Federal Rules of Appellate Procedure that have been adopted by the Supreme Court of the United States pursuant to Section 2072 of Title 28, United States Code.

Accompanying the amended rules are the following materials that were submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code: a transmittal letter to the Court dated October 19, 2022; a blackline version of the rules with committee notes; an excerpt from the September 2022 report of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States; and excerpts from the May 2022 reports of the Advisory Committee on Appellate Rules.

Sincerely,

/s/ John G. Roberts, Jr.

April 24, 2023

Honorable Kamala D. Harris  
President, United States Senate  
Washington, DC 20510

Dear Madam President:

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Sincerely,

/s/ John G. Roberts, Jr.

April 24, 2023

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. The Federal Rules of Appellate Procedure are amended to include amendments to Rules 2, 4, 26, and 45.

[*See infra* pp. \_\_ \_\_ \_\_.]

2. The foregoing amendments to the Federal Rules of Appellate Procedure shall take effect on December 1, 2023, and shall govern in all proceedings in appellate cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. THE CHIEF JUSTICE is authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Appellate Procedure in accordance with the provisions of Section 2074 of Title 28, United States Code.

**PROPOSED AMENDMENTS TO THE  
FEDERAL RULES OF APPELLATE PROCEDURE**

**Rule 2. Suspension of Rules**

(a) **In a Particular Case.** On its own or a party's motion, a court of appeals may—to expedite its decision or for other good cause—suspend any provision of these rules in a particular case and order proceedings as it directs, except as otherwise provided in Rule 26(b).

(b) **In an Appellate Rules Emergency.**

(1) **Conditions for an Emergency.** The Judicial Conference of the United States may declare an Appellate Rules emergency if it determines that extraordinary circumstances relating to public health or safety, or affecting physical or electronic access to a court, substantially impair the court's ability to perform its functions in compliance with these rules.

- (2) **Content.** The declaration must:
  - (A) designate the circuit or circuits affected; and
  - (B) be limited to a stated period of no more than 90 days.
- (3) **Early Termination.** The Judicial Conference may terminate a declaration for one or more circuits before the termination date.
- (4) **Additional Declarations.** The Judicial Conference may issue additional declarations under this rule.
- (5) **Proceedings in a Rules Emergency.** When a rules emergency is declared, the court may:
  - (A) suspend in all or part of that circuit any provision of these rules, other than time limits imposed by statute

and described in Rule 26(b)(1)-(2);

and

(B) order proceedings as it directs.

**Rule 4. Appeal as of Right—When Taken****(a) Appeal in a Civil Case.****(1) Time for Filing a Notice of Appeal.**

(A) In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c), the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the judgment or order appealed from.

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**(4) Effect of a Motion on a Notice of Appeal.**

(A) If a party files in the district court any of the following motions under the Federal Rules of Civil Procedure—and does so within the time allowed by those rules—the time to file an appeal runs for all parties from the

entry of the order disposing of the last such remaining motion:

- (i) for judgment under Rule 50(b);
  - (ii) to amend or make additional factual findings under Rule 52(b), whether or not granting the motion would alter the judgment;
  - (iii) for attorney's fees under Rule 54 if the district court extends the time to appeal under Rule 58;
  - (iv) to alter or amend the judgment under Rule 59;
  - (v) for a new trial under Rule 59;
- or



- (vi) for relief under Rule 60 if the motion is filed within the time allowed for filing a motion under Rule 59.

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**Rule 26. Computing and Extending Time**

(a) **Computing Time.** The following rules apply in computing any time period specified in these rules, in any local rule or court order, or in any statute that does not specify a method of computing time.

\* \* \* \* \*

(6) **“Legal Holiday” Defined.** “Legal holiday”

means:

- (A) the day set aside by statute for observing New Year’s Day, Martin Luther King Jr.’s Birthday, Washington’s Birthday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans’ Day, Thanksgiving Day, or Christmas Day;

\* \* \* \* \*

**Rule 45. Clerk's Duties****(a) General Provisions.**

(1) **Qualifications.** The circuit clerk must take the oath and post any bond required by law. Neither the clerk nor any deputy clerk may practice as an attorney or counselor in any court while in office.

(2) **When Court Is Open.** The court of appeals is always open for filing any paper, issuing and returning process, making a motion, and entering an order. The clerk's office with the clerk or a deputy in attendance must be open during business hours on all days except Saturdays, Sundays, and legal holidays. A court may provide by local rule or by order that the clerk's office be open for specified hours on Saturdays or on legal holidays other than New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

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