

As the Editors' Comment to 7012 makes clear, changes exist between Civil Rule 12 and our 7012. Rule 7012 (a) provides that "the defendant shall serve an answer within 30 days after the issuance of the summons", and the United States or an officer or agency has 35 days from the issuance of the summons. But then 7004 (e) allows a party to hold onto the summons for up to 14 days before it expires, so that a non-governmental defendant, including some big corporate entity far away could have perhaps a maximum of 16 days to respond, and more likely less if the summons and complaint are served by mail. Yet 9006 (f) does not enlarge the time because of service by mail because its additional time provision is triggered by "a right or requirement to act . . . within a prescribed period after service and that service is by mail . . ." Rule 7012 is triggered by the issuance date, not date of service, so defendants of all stripes have had their time to answer shortened, some significantly, especially U.S. government types who used to have 60 days from service. Here, it appears both non-government and governmental entities have lost time, at least potentially, by 7012 triggering answer time by date of issuance, while 7004 allows holding the summons for up to 14 days, and no additional time allowed for service by mail.

I urge the Bankruptcy Rules Advisory Committee to tell me what I've read incorrectly, or to review the matter to determine what, if any, Rule should be revised to be fair to future defendants of all stripes. I suggest a defendant should have at least 30 days from date of service, and perhaps more for governmental entities, rather than allowing date of issuance to trigger a response deadline. I also recommend allowing 9006 (f) to extend response time when the summons and complaint are served by mail. PWB