(Rev. 2/20/15)

Agenda E-19 (Summary)
Rules
March 2015

SUMMARY OF THE

REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

The Committee on Rules of Practice and Procedure recommends that the Judicial Conference:

Approve modifications to the committee notes accompanying proposed amendments to Civil Rules 4(m) and 84 approved by the Conference on September 16, 2014 . . . . . .Addendum pp. 1-2

The remainder of the report is submitted for the record and includes the following items for the information of the Conference:

Agenda E-19
Rules
March 2015

REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES:

The Committee on Rules of Practice and Procedure met on January 8-9, 2015. All members attended except Deputy Attorney General James M. Cole and Larry D. Thompson.

Representing the advisory rules committees were Judge Steven M. Colloton, Chair, and Professor Catherine T. Struve (by telephone), Reporter, of the Advisory Committee on Appellate Rules; Judge Sandra Segal Ikuta, Chair, Professor S. Elizabeth Gibson, Reporter, and Professor Troy A. McKenzie, Associate Reporter, of the Advisory Committee on Bankruptcy Rules; Judge David G. Campbell, Chair, Professor Edward H. Cooper, Reporter, and Professor Richard L. Marcus, Associate Reporter, of the Advisory Committee on Civil Rules; Judge Reena Raggi, Chair, and Professor Sara Sun Beale (by telephone), Reporter, of the Advisory Committee on Criminal Rules; Judge William K. Sessions III, Chair, and Professor Daniel J. Capra, Reporter, of the Advisory Committee on Evidence Rules.

Also participating in the meeting were Professor Daniel R. Coquillette, the Committee's Reporter; Judge Michael A. Chagares, Chair of the Committee's CM/ECF subcommittee and member of the Advisory Committee on Appellate Rules; Professor Geoffrey C. Hazard, Jr., and Professor R. Joseph Kimble, consultants to the Committee; Jonathan C. Rose, the Committee's Secretary and Chief of the Administrative Office's Rules Committee Support Staff; Julie Wilson,

Scott Myers, and Bridget M. Healy (by telephone), Attorneys of the Rules Committee Support Staff; Andrea L. Kuperman, Chief Counsel to the Rules Committee; Michael Shih, Law Clerk to Judge Jeffrey S. Sutton; and Judge Jeremy D. Fogel, Director of the Federal Judicial Center. Elizabeth J. Shapiro attended on behalf of the Department of Justice. Sandra Day O'Connor, Associate Justice (Retired), U.S. Supreme Court, also attended as an observer.

In addition, the following individuals participated in a panel discussion on the creation of pilot projects in conjunction with the Federal Judicial Center to facilitate civil discovery reform: Judge Jeremy D. Fogel; and three former rules committee chairs, Circuit Judge Anthony J. Scirica, District Judge Sidney A. Fitzwater, and Bankruptcy Judge Eugene R. Wedoff.

FEDERAL RULES OF APPELLATE PROCEDURE

The Advisory Committee on Appellate Rules presented no action items.

Informational Items

On August 15, 2014, proposed amendments to Appellate Rules 4, 5, 21, 25, 26, 27, 28.1, 29, 32, 35, and 40, and Forms 1, 5, and 6, as well as a proposed new Form 7, were published for public comment. The comment period closes February 17, 2015.

As previously reported, the proposed amendments to Rules 4(c)(1) and 25(a)(2)(C), and Forms 1 and 5, and the proposed new Form 7 are designed to clarify and improve the inmate-filing rules. The proposed amendment to Rule 4(a)(4) addresses a circuit split concerning whether a motion filed within a purported extension of a non-extendable deadline under Civil Rules 50, 52, or 59 counts as timely under Appellate Rule 4(a)(4). The proposed amendments to Rules 5, 21, 27, 28.1, 32, 35, and 40, and Form 6 seek to specify the length of computer-prepared documents in terms of the number of words or lines of text ("type-volume" limits), as opposed to the number of pages. The proposed amendment to Rule 32 would also adopt a reduced word

count for briefs that approximates the page limit that prevailed prior to the 1998 amendments. The proposed amendment to Rule 26(c) would exclude electronic service from the "3-day rule."[1] Finally, the proposed new Rule 29(b) would set default rules for the treatment of amicus filings in connection with petitions for rehearing. A public hearing on the proposed amendments is scheduled to be held in Washington, D.C., on February 17, 2015.

At its fall 2014 meeting, the advisory committee discussed at length four proposals on its agenda and decided to continue its consideration of three of those proposals. First, the advisory committee is considering whether to propose amending the Appellate Rules to require disclosures in addition to those currently required by Appellate Rules 26.1 and 29(c).[2] A number of circuits have local provisions that require such additional disclosures. The advisory committee is considering disclosures in bankruptcy matters, disclosures concerning victims in criminal cases, disclosures by intervenors and amici, and disclosures by nongovernmental, nonhuman entities other than corporations. The advisory committee is working in close coordination with the Committee on Codes of Conduct and will likely seek additional guidance from that committee as the project progresses.

Second, the advisory committee is considering the possibility of amending Rule 41 to address whether a court of appeals has authority to stay its mandate following a denial of certiorari, and whether such a stay requires an order or can result from the court's inaction.

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[1]The 3-day rule adds three days to a period of time if that period is measured after service and service is accomplished by certain methods. Now that electronic service is well-established, the consensus among the rules committees is that it no longer makes sense to include that method of service among the types of service that trigger application of the 3-day rule. The proposed amendment to Rule 26(c) parallels proposed amendments to Civil Rule 6(d), Criminal Rule 45(c), and Bankruptcy Rule 9006(f).

[2]Appellate Rule 26.1 requires any nongovernmental corporate party to a proceeding in a court of appeals to file a corporate disclosure statement. Appellate Rule 29(c) addresses the disclosures required of amici curiae.

The Supreme Court has twice reserved judgment as to whether Rule 41(d)(2)(D) requires a court of appeals to issue its mandate immediately after the Supreme Court denies a petition for certiorari, or whether Rule 41(b) allows a court of appeals to "extend the time" for issuing a mandate even after certiorari is denied. The Court also has noted an open question as to whether Rule 41(b) allows a court of appeals to "extend the time" for issuing its mandate by mere inaction, or whether an order is required.

Finally, along with the other advisory committees, the advisory committee continues to consider possible amendments that take into account the shift to electronic filing and service. Under consideration is the adoption of part of the template rule prepared by the CM/ECF subcommittee for consideration by the advisory committees. The relevant part of the template rule would define "information in written form" to include electronically stored information. Another matter under consideration is whether to mandate electronic filing and authorize electronic service in most cases. The advisory committee also is considering whether to amend Appellate Rule 25(d) so that it would no longer require a separate proof of service in instances when service was effected by means of the notice of docket activity generated by CM/ECF.

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rules Approved for Publication and Comment

The Advisory Committee on Bankruptcy Rules submitted a proposed amendment to Bankruptcy Rule 1001 with a request that it be published for comment at a suitable time. The Committee approved the advisory committee's recommendation.

Rule 1001 is the bankruptcy counterpart to Civil Rule 1 and generally tracks the language of that rule. Presently pending before the Supreme Court is a proposed amendment to Civil Rule 1 that would provide that the Civil Rules "be construed, administered, *and employed by the court*

and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding" (emphasis on amendment added). The proposed amendment to Civil Rule 1 is intended to make clear that parties, as well as courts, have a responsibility to achieve the just, speedy, and inexpensive resolution of every action.

The advisory committee concluded that, for purposes of consistency, it should propose revision of Bankruptcy Rule 1001 to track the proposed amended language of Civil Rule 1. The amendment to Civil Rule 1 is part of the package of proposals that emerged from the May 2010 Conference on Civil Litigation held at Duke University School of Law ("Duke Rules Package"). If adopted by the Supreme Court and no action is taken by Congress, the other rule amendments in that package will automatically become part of the Bankruptcy Rules on December 1, 2015 because those rules apply in adversary proceedings. Moreover, deviation from the language of Civil Rule 1 could give rise to a negative inference that Rule 1001 differs in the extent to which it encourages cooperation.

In its consideration of whether to amend Rule 1001 to include the pending amendment to Civil Rule 1, the advisory committee noted that Rule 1001 was never amended to reflect the 1993 amendment to Rule 1. The advisory committee therefore concluded that the language of the 1993 amendment should also be included in Rule 1001 so that the admonition of the two rules will be the same.

Informational Items

On August 15, 2014, proposed amendments to Bankruptcy Rules 1010, 1011, 2002, 3002, 3002.1, 3007, 3012, 3015, 4003, 5009, 7001, 9006(f), 9009, a proposed new Rule 1012, proposed amendments to Official Forms 106J, 201, 202, 204, 205, 206Sum, 206A/B, 206D, 206E/F, 206G, 206H, 207, 309A, 309B, 309C, 309D, 309E, 309F, 309G, 309H, 309I, 312, 313,

314, 315, 401, 410, 410A, 410S1, 410S2, 416A, 416B, 416D, 424, and Instructions, proposed new Official Forms 106J-2 and 113, and a proposed abrogation of Official Forms 11A and 11B, were published for public comment. The comment period closes February 17, 2015.

As previously reported, the advisory committee is in the process of creating a national chapter 13 plan form. The proposed national chapter 13 plan form (new Official Form 113) and the related amendments to Rules 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, and 9009 have generated the most comments, and a public hearing was held in Washington, D.C. on January 23, 2015. The multi-year effort to create a national chapter 13 plan form has two goals: to bring more uniformity to chapter 13 practice and to simplify the review of chapter 13 plans by debtors, courts, trustees, and creditors. The proposed rule and form amendments require use of the plan form and establish the authority needed to implement some of the form's provisions. The plan form and rule amendments were first published in August 2013 and generated a large number of comments. Based on those comments, the advisory committee made significant changes to the plan form and received approval to republish both the plan form and the rule amendments. The advisory committee also received approval to ask for public comment on the question of whether the rule amendments should be adopted even if the plan form is not adopted.

The advisory committee is approaching the conclusion of the forms modernization project, a multi-year endeavor to revise many of the Official Bankruptcy Forms. As previously reported, the advisory committee decided to implement the modernized forms in stages in order to facilitate a smoother transition. The first group of forms went into effect on December 1, 2013. The second group of forms—the appellate forms and the means-test forms—went into effect on December 1, 2014. The third group of forms, including the ones for non-individual debtor cases, are included in the forms that were published for public comment in August 2014.

There remains one small group of modernized forms (Official Forms 25A, 25B, 25C, and 26) that has not yet been published. The advisory committee intends to recommend publication of this last group to the Committee at its May 2015 meeting.

Finally, the advisory committee, in conjunction with the other advisory committees and the CM/ECF subcommittee, continues to consider possible rules amendments regarding electronic filing and service. The advisory committee referred for consideration to its subcommittee on technology and cross-border insolvency the template rule developed by the CM/ECF subcommittee that would expand the definition of various terms to include electronically stored information and electronic transmission.

FEDERAL RULES OF CIVIL PROCEDURE

The Advisory Committee on Civil Rules presented no action items.

Informational Items

On August 15, 2014, proposed amendments to Civil Rules 4(m), 6(d), and 82 were published for public comment. The comment period closes February 17, 2015.

The proposed amendment to Rule 4(m) would make clear that service abroad on a corporation is excluded from the time for service set by Rule 4(m). The proposed amendment to Rule 6(d) would eliminate electronic service from the 3-day rule. The proposed amendment to Rule 82, the rule that addresses venue for admiralty and maritime claims, arises from legislation that added a new § 1390 (district courts; scope of venue) to the venue statutes in Title 28 and repealed former § 1392 (local actions). The proposed amendment would delete the reference to § 1392 and add a reference to new § 1390.

At its fall 2014 meeting, the advisory committee considered numerous suggestions and proposals. After careful consideration of each, the advisory committee declined to pursue most

of them, but decided to continue considering various proposals to amend Rule 68 (Offer of Judgment). The advisory committee plans to first study analogous rules in the state courts before deciding whether or how to amend Rule 68.

The advisory committee's Rule 23 (Class Actions) subcommittee is currently refining the specific issues it will study and is seeking input on the subjects that warrant ongoing consideration. In its effort to seek input from a cross-section of interested parties, all members of the subcommittee appeared for a panel at the ABA National Class Action Institute in Chicago, and there are plans to hold a mini-conference on Rule 23 issues sometime in 2015. Discussions thus far have included a multitude of issues including the criteria for certifying a settlement class, whether criteria for reviewing whether a settlement is "fair, reasonable, and adequate" should be added to the rule, cy pres awards, objector issues, and notice requirements.

Two other subcommittees are also at work. The advisory committee has formed a joint subcommittee with the Advisory Committee on Appellate Rules to address two sets of issues: manufactured finality and Rule 62 matters relating to stays and bonds pending appeal. The discovery subcommittee will examine "requester pays" proposals submitted to the advisory committee by various groups.

The advisory committee continues to consider rules amendments addressing the reality of electronic filing and service. The advisory committee has determined that the national rules should mandate electronic filing, subject to an exception for good cause, and provide for electronic service of the papers described in Rule 5(a), deleting the requirement in Rule 5(b)(2)(E) that consent be obtained from the person served. It has also determined that Rule 5(d)(1) should be amended to provide that a Notice of Electronic Filing generated by CM/ECF serves as a certificate of service. The advisory committee will continue reviewing these issues.

The advisory committee is considering possible pilot programs to make civil litigation more efficient and less expensive. The advisory committee also is considering ways to publicize and promote the Duke Rules Package if those proposals become effective on December 1, 2015.

FEDERAL RULES OF CRIMINAL PROCEDURE

The Advisory Committee on Criminal Rules presented no action items.

Informational Items

On August 15, 2014, proposed amendments to Criminal Rules 4, 41, and 45 were published for public comment. The comment period closes February 17, 2015. The proposed amendments to Rule 4 (Arrest Warrant or Summons on a Complaint) address service of summonses on organizational defendants. The proposed amendment to Rule 45 would eliminate the 3-day extension of time for electronic service.

The proposed amendments to the territorial venue provisions of Rule 41 (Search and Seizure)—which generally limit searches to locations within a district—would allow a magistrate judge to issue a warrant to use remote access to search electronic storage media and seize or copy electronically stored information outside the magistrate judge's district in two situations: (1) when a suspect has used technology to conceal the location of the media to be searched; and (2) in an investigation into a violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(5), when the media to be searched are damaged computers located in five or more districts. As expected, the proposed amendments to Rule 41 have generated significant interest. A public hearing was held in Washington, D.C., on November 5, 2014. At the hearing, the advisory committee heard eight witnesses, most of whom also provided written comments.

At its fall 2014 meeting, the advisory committee carefully considered and declined to pursue suggested amendments to Criminal Rules 11 and 52, and Rule 5 of the Rules Governing

Section 2254 Cases in the United States District Courts. Shortly before its meeting, the advisory committee received a defense bar proposal to amend Rule 35 (Correcting or Reducing a Sentence) to afford judges additional discretion to reduce sentences after they become final. The proposal would allow a district judge, upon defense motion, to reduce the sentence of a defendant who has served two-thirds of a term of imprisonment in three circumstances: (1) newly discovered scientific evidence casting doubt on the validity of the conviction; (2) substantial rehabilitation of the defendant; or (3) deterioration of defendant's medical condition (providing an alternative to compassionate release). A subcommittee was formed to consider the proposed amendment and will report its recommendations at the next advisory committee meeting.

A second subcommittee was formed to consider suggestions made by the CM/ECF subcommittee. The subcommittee will also consider issues raised by the decision of the Advisory Committee on Civil Rules to pursue a national rule requiring electronic filing in civil cases. That decision, discussed *supra*, requires reconsideration of Criminal Rule 49 (Serving and Filing Papers) because Rule 49(b) presently provides that service "must be made in the manner provided for a civil action," and subdivision (e) provides that a local rule may require electronic filing only if reasonable exceptions are allowed. The subcommittee will consider whether the criminal rules should also mandate electronic filing and, if so, what exceptions should be made.

FEDERAL RULES OF EVIDENCE

The Advisory Committee on Evidence Rules presented no action items.

Informational Items

In conjunction with its spring 2014 meeting, the advisory committee held a symposium to consider the intersection of the Evidence Rules and emerging technologies. The discussion was

productive and helped define the agenda of the advisory committee's fall 2014 meeting. The proceedings from the symposium were published in the *Fordham Law Review*.

Among the proposals developed at the symposium was a suggestion to add two new hearsay exceptions intended to address the phenomenon of electronic communication—one to Rule 804(b), which is the category for hearsay exceptions applicable only when the declarant is unavailable to testify, and the other to Rule 801(d)(1), which is the category for hearsay statements made by testifying witnesses. The proposal is a modified version of the previously proposed hearsay exception for recent perceptions.

Upon consideration, the advisory committee determined that an amendment to Rule 801(d)(1) was not warranted for several reasons, most importantly because it would be problematic to integrate with the other Rule 801(d)(1) exceptions. The advisory committee therefore determined that any future change to Rule 801(d)(1) should be made pursuant to a systematic review of the entire category of prior statements of testifying witnesses. That review should specifically consider whether prior statements of testifying witnesses should even be defined as hearsay and, if so, what exceptions are appropriate. The advisory committee will begin that systematic review at its next meeting.

With regard to the proposal to amend Rule 804, the advisory committee determined that a recent perceptions exception in that rule would lead to the admission of unreliable hearsay because some electronic communications might be difficult to interpret without the benefit of context for that communication. In addition, it was the consensus of the advisory committee that the existing hearsay exceptions appeared to be working adequately to allow the admission of reliable electronic communications. However, the advisory committee directed its reporter and consultant to monitor the state and federal case law on how personal electronic communications

are being treated in the courts. If it appears that reliable statements are being excluded, or that they are being admitted but only through misinterpretation of existing exceptions, the addition of a hearsay exception for recent perceptions conditioned on the unavailability of the declarant may be warranted.

At its fall 2014 meeting, the advisory committee considered a proposal to amend Rules 901 and 902 to add specific provisions detailing how to authenticate certain forms of electronic evidence. For several reasons, the advisory committee declined to pursue the proposal to amend Rules 901 and 902, but decided to develop a best-practices manual that would assist courts and litigants in negotiating the difficulties of authenticating electronic evidence. The advisory committee will continue working on this issue.

Finally, the advisory committee considered a proposal to amend Rule 902, the provision on self-authentication, to add two provisions. The first would allow self-authentication of machine-generated information (such as a web page) upon a submission of a certificate prepared by a qualified person. The second would provide a similar certification procedure for a copy of an electronic device, media, or file that would be authenticated by a digital process for identification. These proposals are analogous to Rule 902(11), which permits a foundation witness to establish the authenticity and admissibility of business records by way of certification. The goal of the proposals is to make authentication easier for certain kinds of electronic evidence that, under current law, would likely be authenticated under Rule 901 but only by calling a witness to testify to authenticity. The advisory committee unanimously agreed that it would be useful to promote rules that would make the process of proving authenticity for electronic evidence simpler, cheaper, and more efficient. Accordingly, the advisory committee unanimously decided to consider, at its next meeting, formal amendments to add new subsections

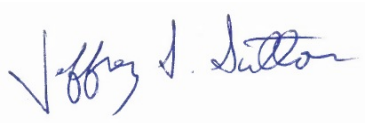
to Rule 902—subsection 13 for machine-generated evidence and subsection 14 for copies of devices, storage media, and the like.

OTHER MATTERS

At its meeting, the Committee reviewed the planning timetable for the 2015 update of the *Strategic Plan for the Federal Judiciary*. The rules committees are currently involved in several efforts to achieve the strategic initiatives identified by the Committee in June 2012. For example, through the work of the CM/ECF subcommittee, all of the advisory committees are assessing the impact of electronic filing and evaluating ways to take advantage of technological advances. The Committee is also involved in several efforts to implement the Duke Rules Package. Such efforts include working with the Federal Judicial Center on judicial education efforts and pilot projects.

The Committee also reviewed the work of the CM/ECF subcommittee and its proposals for changes to the national rules to accommodate electronic case filing. The Committee determined that the subcommittee had fulfilled its purpose and could be disbanded.

Respectfully submitted,



Jeffrey S. Sutton, Chair

James M. Cole
Dean C. Colson
Brent E. Dickson
Roy T. Englert, Jr.
Gregory G. Garre
Neil M. Gorsuch
Susan P. Graber
David F. Levi
Patrick J. Schiltz
Amy J. St. Eve
Larry D. Thompson
Richard C. Wesley
Jack Zouhary

Agenda E-19 (Addendum)
Rules
March 2015

ADDENDUM TO THE REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES:

FEDERAL RULES OF CIVIL PROCEDURE

Rules Recommended for Approval and Transmission

The Committee on Rules of Practice and Procedure asks the Judicial Conference to approve modifications to two committee notes that were approved by the Conference on September 16, 2014, specifically the amendments to Civil Rules 4(m) and 84.

The proposed amendment to Rule 4(m)—the rule addressing time limits for service of process—reduces the time for service from 120 to 90 days. The proposed amendment to Rule 84 abrogates Rule 84 and the Appendix of Forms that appears at the end of the civil rules. These amendments were transmitted to the Supreme Court in September 2014 as part of a larger rules package. By letter dated February 11, 2015, the Court recommended modest changes to the committee notes to Rules 4(m) and 84.

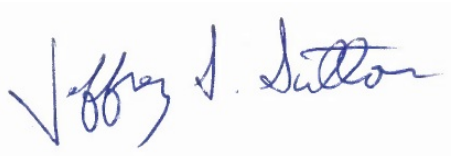
The first suggested change would delete the words "for good cause" from the end of the first sentence in the second paragraph of the committee note for Rule 4(m). The revised sentence would read: "Shortening the presumptive time for service will increase the frequency of occasions to extend the time." This change is consistent with the intent of the advisory and standing committees.

The second suggestion is to revise the committee note for the Rule 84 abrogation in two respects: to clarify that the abrogation does not alter existing pleading standards and to identify other sources for civil procedure forms. Consistent with this suggestion, the advisory committee recommends two changes to the committee note. First, the advisory committee added a sentence to the end of the note stating: "The abrogation of Rule 84 does not alter existing pleading standards or otherwise change the requirements of Civil Rule 8." Second, the advisory committee revised the current final sentence of the note to say: "Accordingly, recognizing that there are many alternative sources for forms, including the website of the Administrative Office of the United States Courts, the websites of many district courts, and local law libraries that contain many commercially published forms, Rule 84 and the Appendix of Forms are no longer necessary and have been abrogated." These changes are also consistent with the intent of the advisory and standing committees.

It is recommended that the Judicial Conference approve these changes to the Rule 4(m) and 84 committee notes. A copy of the committee notes with the changes highlighted is attached as an appendix.

Recommendation: That the Judicial Conference approve modifications to the committee notes accompanying proposed amendments to Civil Rules 4(m) and 84 approved by the Conference on September 16, 2014.

Respectfully submitted,



Jeffrey S. Sutton, Chair

Appendix – Proposed Amendments to the Federal Rules of Civil Procedure

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE*

Rule 4. Summons

* * * * *

(m) Time Limit for Service. If a defendant is not served within ~~120~~90 days after the complaint is filed, the court — on motion or on its own after notice to the plaintiff — must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1) or to service of a notice under Rule 71.1(d)(3)(A).

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* New material is underlined; matter to be omitted is lined through.

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Committee Note

Subdivision (m). The presumptive time for serving a defendant is reduced from 120 days to 90 days. This change, together with the shortened times for issuing a scheduling order set by amended Rule 16(b)(2), will reduce delay at the beginning of litigation.

Shortening the presumptive time for service will increase the frequency of occasions to extend the time ~~for good cause~~. More time may be needed, for example, when a request to waive service fails, a defendant is difficult to serve, or a marshal is to make service in an in forma pauperis action.

The final sentence is amended to make it clear that the reference to Rule 4 in Rule 71.1(d)(3)(A) does not include Rule 4(m). Dismissal under Rule 4(m) for failure to make timely service would be inconsistent with the limits on dismissal established by Rule 71.1(i)(1)(C).

Shortening the time to serve under Rule 4(m) means that the time of the notice required by Rule 15(c)(1)(C) for relation back is also shortened.

Rule 84. Forms

[Abrogated (Apr. __, 2015, eff. Dec. 1, 2015).]

~~The forms in the Appendix suffice under these rules and illustrate the simplicity and brevity that these rules contemplate.~~

Committee Note

Rule 84 was adopted when the Civil Rules were established in 1938 "to indicate, subject to the provisions of these rules, the simplicity and brevity of statement which the rules contemplate." The purpose of providing illustrations for the rules, although useful when the rules were adopted, has been fulfilled. Accordingly, recognizing that there are many ~~excellent~~ alternative sources for forms, including the website of the Administrative Office of the United States Courts, the websites of many district courts, and local law libraries that contain many commercially published forms, Rule 84 and the Appendix of Forms are no longer necessary and have been abrogated. The abrogation of Rule 84 does not alter existing pleading standards or otherwise change the requirements of Civil Rule 8.

APPENDIX OF FORMS

[Abrogated (Apr. __, 2015, eff. Dec. 1, 2015).]