106th Congress, 1st Session – – – – – – – – – – – – – – House Document 106–54

AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE

COMMUNICATION

FROM

THE CHIEF JUSTICE, THE SUPREME COURT OF THE UNITED STATES

TRANSMITTING

AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE ADOPTED BY THE COURT

APRIL 29, 1999.—Referred to the Committee on the Judiciary and ordered to be printed

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

April 26, 1999

Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

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

Accompanying these rules are excerpts from the report of the Judicial Conference of the United States containing the Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

William H. Rehnquist

SUPREME COURT OF THE UNITED STATES

April 26, 1999

ORDERED:

1. That the Federal Rules of Civil Procedure for the United States District Courts be, and they hereby are, amended by including therein amendments to Civil Rule 6(b) and Form 2.

[See infra., pp. ___ ___ ___.]

2. That the foregoing amendments to the Federal Rules of Civil Procedure shall take effect on December 1, 1999, and shall govern all proceedings in civil cases thereafter commenced and, insofar as just and practicable, all proceedings in civil cases then pending.

3. That THE CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Civil Procedure in accordance with the provisions of Section 2072 of Title 28, United States Code.

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE

Rule 6. Time

* * * * *

(b) Enlargement. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rules 50(b) and (c)(2), 52(b), 59(b), (d) and (e), and 60(b), except to the extent and under the

conditions stated in them.

* * * * *

Form 2. Allegation of Jurisdiction

(a) Jurisdiction founded on diversity of citizenship and amount.

Plaintiff is a [citizen of the State of Connecticut][1] [corporation incorporated under the laws of the State of Connecticut having its principal place of business in the State of Connecticut] and defendant is a corporation incorporated under the laws of the State of New York having its principal place of business in a State other than the State of Connecticut. The matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. § 1332.

* * * * *

[1] [Footnotes and Explanatory Notes omitted]

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

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To: **Honorable Alicemarie H. Stotler, Chair, Committee on Rules of Practice and Procedure**

From: **Paul V. Niemeyer, Chair, Advisory Committee on Civil Rules**

Date: **May 18, 1998**

Re: **Report of the Advisory Committee on Civil Rules**

I Introduction

The Advisory Committee on Civil Rules met at the Duke University School of Law on March 16 and 17, 1998.

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Technical conforming amendments are recommended in Civil Rule 6(b) and Form 2.

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II ACTION ITEMS

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Rules Amendments Proposed for Adoption Without Publication
Civil Rule 6(b)

A conforming amendment of Rule 6(b) is required to reflect the 1997 abrogation of Rule 74(a), one of the former rules that regulated appeals under the abandoned procedure that allowed parties to consent to appeal to the district court from the final judgment of a magistrate judge. The change is simple and technical. The reference to Rule 74(a) should be stricken from the catalogue of time periods that cannot be extended by the district court:

* * * * *

Form 2

Form 2, paragraph (a), describes an allegation of diversity jurisdiction. It must be adjusted to conform to the statutory increase in the required amount in controversy. Rather than court the risk of continued revisions as the statutory amount may be changed in the future, the

Advisory Committee recommends adoption of a dynamic conformity to the statute:

* * * * *

This change also is a technical or conforming amendment that, under paragraph 4(d) of the Procedures for the Conduct of Business, need not be published for comment. The change, to be sure, is not as purely technical as an amendment to substitute $75,000 for $50,000. It does reflect a conclusion that the form need not, for the guidance of the singularly uninformed, attempt to state the amount required by the current diversity statute. Virtually all lawyers should become aware of statutory changes before it is possible to adjust the form. This conclusion, however, does not seem the sort of policy judgment that should require publication and delay of yet another year in adjusting the form to the current statute. The Advisory Committee recommends that the change be transmitted to the Judicial Conference at a suitable time.

* * * * *

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE*

Rule 6. Time

1 * * * * *

2 **(b) Enlargement.** When by these rules or
3 by a notice given thereunder or by order of court an act is
4 required or allowed to be done at or within a specified time,
5 the court for cause shown may at any time in its discretion (1)
6 with or without motion or notice order the period enlarged if
7 request therefor is made before the expiration of the period
8 originally prescribed or as extended by a previous order, or
9 (2) upon motion made after the expiration of the specified
10 period permit the act to be done where the failure to act was
11 the result of excusable neglect; but it may not extend the time
12 for taking any action under Rules 50(b) and (c)(2), 52(b),

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

13 59(b), (d) and (e), and 60(b), ~~and 74(a),~~ except to the extent

14 and under the conditions stated in them.

15 * * * * *

COMMITTEE NOTE

The reference to Rule 74(a) is stricken from the catalogue of time periods that cannot be extended by the district court. The change reflects the 1997 abrogation of Rule 74(a).

Form 2. Allegation of Jurisdiction

(a) Jurisdiction founded on diversity of citizenship and amount.

Plaintiff is a [citizen of the State of Connecticut][1] [corporation incorporated under the laws of the State of Connecticut having its principal place of business in the State of Connecticut] and defendant is a corporation incorporated under the laws of the State of New York having its principal place of business in a State other than the State of Connecticut. The matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. § 1332 ~~of fifty thousand dollars~~.

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[1] [Footnotes and Explanatory Notes omitted]

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