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To: <Rules\_Comments@ao.uscourts.gov>

cc

Subject: Comment on proposed changes to FRAP 26

07-AP-008

07-BK-012

07-CV-009

07-CR-009

I welcome any attempt to make the federal rules on computation of time more consistent and comprehensible

If I understand the Committee correctly, under the proposed new rule a deadline written as "no later than 30 days before X" would be subject to the rule, and, assuming X is set for Monday, December 1, 2008, the putative deadline of November 1, 2008, which is a Saturday, would move forward to Monday, November 3, 2008.

On the other hand, a deadline written as "no later than November 1, 2008" would *not* be subject to the rule, and thus since November 1, 2008, is a Saturday, the actual deadline would move backward to Friday, October 31, 2008.

I foresee continuing confusion. The proposed new language under (a) could still lead one to think that the deadlines in orders giving an actual date are subject to the rule. I would like the rule to state clearly at the outset that it does *not* apply to any deadline for which an actual date has been set, and only applies where the period is stated in hours, days or longer units. This is perhaps implied but only set out clearly in the Committee Note: "The time-computation provisions of subdivision (a) apply only when a time period must be computed. They do not apply when a fixed time to act is set." Such language should be moved into the Rule.

It is good that the new rules will be more consistent in themselves, but as the Committee points out, these rules will also apply to court orders, which are typically ginned out using various date algorithms. Sometimes orders are written in actual date mode, and sometimes in period-of-time mode. It would be a great help to those of us working in the trenches if the way this affects computation of time were made crystal clear. Then perhaps courts would take note and adjust their orders accordingly.

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