

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENT OF
NEVADA RULE OF APPELLATE
PROCEDURE 26.

ADKT 0485

FILED

MAR 18 2013

ORDER REQUESTING PUBLIC COMMENT

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

On February 25, 2013, the Hon. Kristina Pickering, Chief Justice, filed a petition requesting that this court consider amendments to Nevada Rule of Appellate Procedure 26. The petition and proposed amendments are attached.

The Nevada Supreme Court invites written comment from the bench, bar and public regarding the proposed amendments. An original and 8 copies of written comments are to be submitted to: Tracie K. Lindeman, Clerk of the Supreme Court, 201 South Carson Street, Carson City, Nevada 89701 by 5:00 p.m., May 31, 2013. Comments must be submitted in hard-copy format. Be advised that comments submitted electronically will not be docketed.

Comment deadline: May 31, 2013, at 5:00 p.m.
Supreme Court Clerk's Office
201 South Carson Street
Carson City, Nevada 89701

DATED this 18th day of March 2013.

Pickering, C.J.

cc: All District Court Judges
Francis Flaherty, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Administrative Office of the Courts

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENT OF
NEVADA RULE OF APPELLATE
PROCEDURE 26.

ADKT 0485

FILED

FEB 25 2013

PETITION TO AMEND NEVADA RULE OF
APPELLATE PROCEDURE 26(c)

TRADIE K. ZIRDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

Kristina Pickering, Chief Justice of the Nevada Supreme Court, hereby petitions the Nevada Supreme Court to amend Nevada Rules of Appellate Procedure (NRAP) 26(c) regarding additional time after service for the following reasons:

1. NRAP 26(c) currently provides that an additional 3 days will be allowed when a party is required or permitted to act after service of a document;
2. Nevada Electronic Filing and Conversion Rule 9 states that service of a document is complete upon the transmission by an electronic filing system of notice of the filing of that document;
3. The purpose of the 3 day rule in NRAP 26(c) is to allow time for delivery of the document by mail;
4. Because service of the document to users of the electronic filing system is completed immediately upon the transmission of the notice, the 3 day rule should not apply to those users.

Accordingly, I request that the Nevada Supreme Court amend NRAP 26(c) to clarify that the additional 3 days is not allowed for

13-05766

EXHIBIT A

RULE 26. COMPUTING AND EXTENDING TIME

(a) **Computing Time.** The following rules apply in computing any period of time specified in these Rules, a court order, or an applicable statute:

(1) Exclude the day of the act, event, or default that begins the period.

(2) Exclude intermediate Saturdays, Sundays, and nonjudicial days when the period is less than 11 days, unless the period is stated as a specific date.

(3) Include the last day of the period unless it is a Saturday, Sunday, or a nonjudicial day, or—if the act to be done is filing a paper in court—a day on which the weather or other conditions make the clerk's office inaccessible, in which event the period extends until the end of the next day that is not a Saturday, Sunday, or a nonjudicial day.

(b) **Extending Time.**

(1) **By Court Order.**

(A) For good cause, the court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time to file a notice of appeal except as provided in Rule 4(c).

(B) Except as otherwise provided in these Rules, counsel may request by telephone a 5-day extension of time for performing any act except the filing of a notice of appeal. If good cause is shown, the clerk of the Supreme Court may grant such a request by telephone or by written order of the clerk. Subsequent extensions of time shall be granted only upon motion to the Supreme Court under Rule 27 and subsequent extensions of time for filing briefs will be subject to Rule 31.

(2) **By Stipulation.** Except as otherwise provided in these Rules, or when not otherwise controlled by statute, the time prescribed by these Rules to perform any act may be extended by stipulation of the parties. No stipulation extending time is effective unless approved by the court or a justice thereof; and such stipulations must be filed before expiration of the time period that is sought to be extended.

(c) Additional Time After Service. When a party is required or permitted to act within a prescribed period after a paper is served on that party, 3 calendar days are added to the prescribed period unless the paper is delivered on the date of service stated in the proof of service or unless the party being served is a registered user of the electronic filing system. ~~[For purposes of this Rule, a paper that is served electronically is not treated as delivered on the date of service stated in the proof of service.]~~ Specific due dates set by court order or acts required to be taken within a time period set forth in the order are not subject to this additional 3-day allowance.

(d) Shortening Time. Except as otherwise provided in these Rules, or when not otherwise controlled by statute, the time prescribed by these Rules to perform any act may be shortened by stipulation of the parties, or by order of the court or a justice.