

Alabama Rules of Appellate Procedure

Rule 26.

Computation and extension of time.

(a) *Computation of time.* In computing any period of time prescribed by these rules, by an order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period extends until the end of the next day that is not a Saturday, Sunday, or legal holiday or, when the act to be done is the filing of a document in an appellate court, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period runs until the end of the next day that is not one of the aforementioned days. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule "legal holiday" includes New Year's Day, Birthday of Martin Luther King, Jr., Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the governor of the state, by the chief justice, by the legislature, or by the President or the Congress of the United States.

(b) *Enlargement of time.* The court for good cause shown may, upon motion, enlarge the time prescribed by these rules or by its order for doing any act, or may permit an act to be done after the expiration of such time; but the court may not enlarge the time for filing a notice of appeal, or a petition for permission to appeal; and the supreme court may not enlarge the time for filing a petition for certiorari to the courts of appeals; except in death cases.

[Amended 10-14-76, eff. 1-16-77; Amended 5-4-81, eff. 5-18-81; Amended 6-2-81, eff. 7-15-81; Amended eff. 12-18-2008; Amended 9-29-1010, eff. 10-1-2010.]

Committee Comments

The list of holidays contained in Rule 26 differs slightly from that in ARCP Rule 6(a) in that the ARCP makes reference to holidays prescribed by Code of Ala., § 1-3-8, whereas this rule simply permits any day designated as a holiday by the governor of the state or by the legislature. Both rules designate as holidays those designated by the President of the United States or Congress.

Subdivision (b) on enlargement of time should be read in connection with Rule 4 dealing with the time for filing a notice of appeal.

The language of ARCP and FRCP using the term “excusable neglect” is again changed to utilize the term “good cause”. It is not contemplated that good cause will be met by a routine statement that counsel has been busy with other matters. See also Rule 2.

As is the case of ARCP, Saturday is included as a holiday.

A motion made for the extension of time shall be made as provided for in Rule 27, which provides for the service of all motions on opposing parties.

**Committee Comments to Amendment to Rule 26(a)
Effective October 1, 2010**

Rule 26(a) has been amended to include language found in Rule 6(a), Alabama Rules of Civil Procedure, and provides guidelines for filing a document with the appellate court when the clerk’s office is inaccessible as a result of weather conditions, natural catastrophes, or other occurrences.

Note from the reporter of decisions: The order adopting, effective immediately, Rule 5(D), Alabama Rules of Judicial Administration, and Rule 26(a), Alabama Rules of Appellate Procedure, is published in that volume of *Alabama Reporter* that contains Alabama cases from 994 So. 2d.

Note from the reporter of decisions: The order amending, effective October 1, 2010, Rule 11(a)(3), Rule 25, Rule 26(a), Rule 31, and Rule 32(a)(7), rescinding Rule 11(a)(4), and adopting Rule 57, the Committee Comments to Amendment to Rule 11(a) Effective October 1, 2010, the Committee Comments to Amendment to Rule 25 Effective October 1, 2010, the Committee Comments to Amendment to Rule 26(a) Effective October 1, 2010, the Committee Comments to Amendment to Rule 31 Effective October 1, 2010, the Committee Comments to Amendment to Rule 32(a)(7) Effective October 1, 2010, and the Committee Comments to Adoption of Rule 57 Effective October 1, 2010, is published in that volume of *Alabama Reporter* that contains Alabama cases from ___ So. 3d.