AMENDMENTS

TO ORCP 10

promulgated by

COUNCIL ON COURT PROCEDURES

1980 to 2016

RULE 10

TIME

A. <u>Computation</u>. In computing any period of time prescribed or allowed by these rules, by the local rules of any court, by 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 so computed shall be included, unless it is a Saturday or a legal holiday, including Sunday, in which event the period runs until the end of the next day which is not a Saturday or a legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule, "legal holiday" means legal holiday as defined in ORS 187.010 and 187.020.

B. <u>Unaffected by expiration of term</u>. The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the continued existence or expiration of a term of court. The continued existence or expiration of a term of court in no way affects the power of a court to do any act or take any proceeding in any civil action which is pending before it.

C. <u>Additional time after service by mail</u>. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a

notice or other paper upon such party and the notice or paper

is served by mail, 3 days shall be added to the prescribed

period.

<u>COMMENT</u>

Section 10 A. is based upon Federal Rule 6(a). The only substantial difference from the time computation provided in ORS 174.120 is the next to the last sentence of section 10 A. relating to intermediate Saturdays, Sundays, and holidays for periods of less than 7 days. Section 10 B. was eliminated from the federal rule in 1968 because federal courts no longer have terms. Since Oregon courts do have terms, it was included in this rule. Section 10 C. is based on Federal Rule 6(e).

RULE 11 (RESERVED)

RULE 10

TIME

A. Computation. In computing any period of time pre-
scribed or allowed by these rules, by the local rules of any
court, by 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 so computed shall be included, unless it is
a Saturday or a legal holiday, including Sunday, in which
event the period runs until the end of the next day which is
not a Saturday or a legal holiday. When the period of time
prescribed or allowed is less than 7 days, intermediate Satur-
days, Sundays, and legal holidays shall be excluded in the
computation. As used in this rule, "legal holiday" means legal
holiday as defined in ORS 187.010 and 187.020.

B. Unaffected by expiration of term. The period of
time provided for the doing of any act or the taking of any
proceeding is not affected or limited by the continued exis-
tence or expiration of a term of court. The continued exis-
tence or expiration of a term of court in no way affects the
power of a court to do any act or take any proceeding in any
civil action which is pending before it.

C. Additional time after service by mail. Except for
service of summons, [w]henever a party has the right or is
required to do some act or take some proceedings within a

prescribed period after the service of a notice or other paper

upon such party and the notice or paper is served by mail,

3 days shall be added to the prescribed period.

COMMENT

The Council added the provision to Rule 10 C. to avoid
application of the additional time to service of summons. The
service of summons by mail under ORCP 7 D.(2)(d) (as amended)
has a built-in extension of time of at least 3 days.

TIME
RULE 10

A. Computation. In computing any period of time prescribed
or allowed by these rules, by the local rules of any court, by
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 so
computed shall be included, unless it is a Saturday or a legal
holiday, including Sunday, in which event the period runs until
the end of the next day which is not a Saturday or a legal
holiday. <u>If the period so computed relates to serving a public
officer or filing a document at a public office, and if the last
day falls on a day when that particular office is closed before
the end of or for all of the normal work day, the last day shall
be excluded in computing the period of time within which service
is to be made or the document is to be filed, in which event the
period runs until the close of office hours on the next day the
office is open for business.</u> When the period of time prescribed
or allowed <u>(without regard to section C of this rule)</u> is less
than seven days, intermediate Saturdays[, Sundays,] and legal
holidays<u>, including Sundays,</u> shall be excluded in the
computation. As used in this rule, "legal holiday" means legal
holiday as defined in ORS 187.010 and 187.020.

COMMENT

The new third sentence of ORCP 10 A was added by the Council as a result of a suggestion by the Oregon State Bar Procedure and Practice Committee. The concern expressed was inability to file documents within specified time periods due to closure of the courthouse or clerk's office because of weather conditions or other unusual circumstances. The language used was taken directly from ORS 174.125. While that statute apparently would extend a time period, if a public office was closed during regular working hours, the Council felt it would be better to have all rules for computing time explicitly set out in Rule 10. The statute is also somewhat difficult to find and, on first reading, seems to relate only to serving documents on public officials rather than filing documents in civil cases.

The parenthetical material in the fourth sentence of ORCP 10 A has been added to make it clear that the time period referred to is the time period originally prescribed and not the original time period with three days added because mail service is involved.

1   **TIME**

2   **RULE 10**

3   **A** **Computation.** In computing any period of time prescribed or allowed by these

4 rules, by the local rules of any court**,** or by order of court[**,**] the day of the act, event, or default

5 from which the designated period of time begins to run shall not be included. The last day of

6 the period so computed shall be included, unless it is a Saturday or a legal holiday, including

7 Sunday, in which event the period runs until the end of the next day [*which*] **that** is not a

8 Saturday or a legal holiday. If the period so computed relates to serving a public officer or filing

9 a document at a public office, and if the last day falls on a day when that particular office is

10 closed before the end of or for all of the normal work day, the last day shall be excluded in

11 computing the period of time within which service is to be made or the document is to be filed,

12 in which event the period runs until the close of office hours on the next day the office is open

13 for business. When the period of time prescribed or allowed (without regard to section C of this

14 rule) is less than 7 days, intermediate Saturdays and legal holidays, including Sundays, shall be

15 excluded in the computation. As used in this rule, "legal holiday" means legal holiday as defined

16 in ORS 187.010 and 187.020. This section does not apply to any time limitation governed by

17 ORS 174.120.

18   **B** **Unaffected by expiration of term.** The period of time provided for the doing of

19 any act or the taking of any proceeding is not affected or limited by the continued existence or

20 expiration of a term of court. The continued existence or expiration of a term of court in no way

21 affects the power of a court to do any act or take any proceeding in any civil action [*which*] **that**

22 is pending before it.

23   **C** **Additional time after service by mail, e-mail, facsimile communication, or**

24 **electronic service.** Except for service of summons, whenever a party has the right **to** or is

25 required to do some act [*or take some proceedings*] within a prescribed period after the service

26 of a notice or other [*paper*] **document** upon [*such*] **that** party and the notice or [*paper*]

1   **document** is served by mail**, e-mail, facsimile communication, or electronic service**, 3 days

2   shall be added to the prescribed period.

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