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The District of Columbia Bar

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MEMORANDUM

TO: Board of Governors
Section Chairpersons

FROM: Lynne M. Lester
Manager, Sections Office

DATE: November 6, 1986

SUBJECT: Comment on proposed amendment to Rule 6 of the Rules of Civil Procedure of the Superior Court of the District of Columbia

Pursuant to the Section Guidelines No. 13, Sections a and c, the enclosed public statement is being sent to you by the Court Rules Committee, Courts, Lawyers and the Administration of Justice Section

a(iii): "No later than 12:00 noon on the seventh (7th) day before the statement is to be submitted to the legislative or governmental body, the Section will forward (by mail or otherwise) a one-page summary of the comments, (summary forms may be obtained through the Sections Office), the full text of the comments, and the full text of the legislative or governmental proposal to the Manager of Sections. The one-page summary will be sent to the Chairperson(s) of each Section steering committee and any other D.C. Bar committee that appear to have an interest in the subject matter of the comments. A copy of the full text and the one-page summary will be forwarded to the Executive Director of the Bar, the President and President-Elect of the Bar, the Section's Board of Governors liaison, and the Chairperson and Vice-Chairperson of the Council of Sections. Copies of the full text will be provided upon request through the Sections Office. Reproduction and postage expenses will be incurred by whomever requested the full text (i.e., Section, Bar committee or Board of Governors account). The

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Manager for Sections shall help with the distribution, if requested, and shall forward a copy of the one-page summary to each member of the Board of Governors. In addition, the Manager for Sections shall draw up a list of all persons receiving the comment or statement, and he/she shall ascertain that appropriate distribution has been made and will assist in collecting the views of the distributees. If no request is made to the Manager for Sections within the seven-day period by at least three (3) members of the Board of Governors, or by majority vote of any steering committee or committee of the Bar, that the proposed amendment be placed on the agenda of the Board of Governors, the Section may submit its comments to the appropriate federal or state legislative or governmental body at the end of the seven-day period.

c(ii): "The Board of Governors may request, pursuant to sub-section (a)(iv), that the Section comments on proposed court rules change be placed on the Board agenda only if (a) the proposed court rule is so closely and directly related to the administration of justice that a special meeting of the Bar's membership pursuant to Rule VI, Section 2, or a special referendum pursuant to Rule VI, Section 1, should be called or (b) the proposed rule affects the practice of law--generally, the admission of attorneys, their discipline, or the nature of the profession,"

a(v): "Another Section or committee of the Bar may request that the proposed set of comments by a Section be placed on the Board's agenda only if such Section or committee believes that it has greater or coextensive expertise in or jurisdiction over the subject matter, and only if (a) a short explanation of the basis for this belief and (b) an outline filed with both the Manager for Sections and the commenting Section's chairperson. The short explanation and outline or proposed alternate comments will be forwarded by the Manager for Sections to the Board members."

a(vi): Notice of the request that the statement be placed on the board's agenda lodged with the Manager for Sections by any Board member may initially be telephoned to the Manager for Sections (who will then inform the commenting Section), but must be supplemented by a written objection lodged within seven days of the oral objection.,"

c(iii): "If the comments of the Section on a proposed court rules change is placed on the agenda of the Board of Governors, the Board may adopt the comments and the Board's own views, in which case no mandatory disclaimer (see Guideline No. 14) need be placed on the comments. If the Board and the Sections differ on the proposal, each may submit its own views.

Please call me by 5:00 p.m., Thursday, November 13, 1986 if you wish to have this matter placed on the Board of Governors' agenda for Tuesday, December 9, 1986

I may be reached at 331-3883.

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COMMENT OF THE SECTION OF
COURTS, LAWYERS AND THE
ADMINISTRATION OF JUSTICE
OF THE DISTRICT OF COLUMBIA BAR
ON
PROPOSED AMENDMENT TO RULE 6
OF THE RULES OF CIVIL PROCEDURE
OF THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA

John T. Boese, Chair
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Richard B. Hoffman
Thomas C. Papson
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Jay A. Resnick

Section Steering Committee

Randell Hunt Norton, Co-Chair
Thomas C. Papson, Co-Chair
Gregg H. Golden
Joel Bennett

Members of the Section's
Committee on Court Rules
Who Participated in this
Comment

STANDARD DISCLAIMER

"The views expressed herein represent only those
of the Courts, Lawyers, and the Administration of Justice
Section of the D.C. Bar and not those of the D.C. Bar or of
its Board of Governors."

COMMENT OF THE SECTION OF
COURTS, LAWYERS AND THE
ADMINISTRATION OF JUSTICE
OF THE DISTRICT OF COLUMBIA BAR
ON
PROPOSED AMENDMENT TO RULE 6
OF THE RULES OF CIVIL PROCEDURE
OF THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA

The Section of Courts, Lawyers and the Administration of Justice of the District of Columbia Bar and its Court Rules Committee submit this comment to the Court in response to the publication of the proposed amendment to Civil Rule 6 to conform to Rule 6 of the Federal Rules of Civil Procedure. While the Section supports the principle of a conforming amendment, it is concerned that, by altering the method for computing time, the proposed Rule will substantially enlarge the time within which an opposition may be filed to a motion under Civil Rule 12-I(e).

The Section notes that, in its recent revision of its local rules, the United States District Court for the District of Columbia amended its Local Rule 108(b) to provide that an opposition or response to a motion must be filed within 11 days of service of the motion. Prior to that amendment, the District Court Rules provided for 10 days within which to respond to a motion, just as Superior Court Civil Rule 12-I(e) now provides. The apparent purpose of the District Court amendment was to take the response to motions out of the provisions of Rule 6 permitting the inclusion of weekends in computing any period less than 11

days. As a result, in the District Court the response time for motions has been extended by only 1 day rather than 4 days as would occur under the amendment to Rule 6 as applied to the old 10 day response time.

It is the Section's understanding that, with respect to motions practice, the practice in the Superior Court and the practice in the United States District Court have been historically similar. The Section believes that such uniformity in practice is beneficial. Accordingly, and because the Section sees no reason to substantially enlarge the time to respond to motions, the Section recommends that, along with the amendment to Rule 6, the Court should amend its current Civil Rule 12-I(e) to provide for an 11 day response time rather than the present 10 days.