

## COMPLAINTS – Rule 12(a)(1)

**12(a)(1)(A)** A defendant served with the **summons and complaint within the Virgin Islands** must serve a **responsive pleading within 21 days** after being served. *[[Count weekends or holidays]]*

**(B)** A defendant personally served with the summons and complaint **outside of the Virgin Islands** pursuant to 5 V.I.C. § 4911 or other applicable law, must serve a responsive pleading **within 30 days** from the date of service, as required in 5 V.I.C. § 112. *[[Count weekends or holidays]]*

**(C)** A defendant served by **order of publication or by mailing** as provided in 5 V.I.C. § 112(c) must serve a responsive pleading **within 30 days** after completion of the period of publication specified in such order, or — in the case of service of the summons and complaint by mail requiring a return receipt — within 30 days from the date the defendant received the process. *[[Count weekends or holidays]]*

**(D)** A party must serve a **responsive pleading to a counterclaim or crossclaim within 21 days** after being served with the pleading that states the counterclaim or crossclaim. *[[Count weekends or holidays]]*

**(E)** A party must serve a **reply to an answer within 21 days** after being served with an order to reply, unless the order specifies a different time. *[[Count weekends or holidays]]*

## MOTIONS:

(2) Except as provided in Rule 56-1, all motions, responses and replies filed with the court shall not exceed the greater of **20 pages or 3,500 words in length** unless leave of court has been obtained in advance for a longer submission. This page or word limit **does not include** any cover page, caption, table of contents, table of authorities, appendices or exhibits, and certificates of service; and

(3) **Every motion, response and reply shall contain — as part of the certificate of service —** a statement that: "*This document complies with the page or word limitation set forth in Rule 6-1(e).*"

## Rule 6-1

(1) **Motions Generally.** ...a party shall file a response within **14 days after service** upon the party of any motion--except a motion filed pursuant to Rule 12 or Rule 56. *[[Do NOT count weekends or holidays]]*

(2) **Rule 12 Motions.** A party shall file a response within **20 days after service** of a motion under Rule 12 upon the party. *[[Count weekends or holidays]]*

(3) **Rule 56 Motions.** A party shall file a response within **30 days after service** of a motion under Rule 56 upon the party. *[[Count weekends or holidays]]*

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(5) **Replies.** A party may file a **reply within 14 days after service** of the response, unless otherwise ordered by the court. *[[Do NOT count weekends or holidays]]*

## AFFIDAVITS:

(2) any supplemental affidavits or other documents in support of the party's position on the motion must be **filed 10 days prior to hearing of the motion**; and (3) if supplemental affidavits or other documents are filed by any party under subpart (d)(2), any other party may submit additional affidavits or documents at least 5 days prior to hearing of the motion. *[[Do NOT count weekends or holidays]]*

## Mailed Documents

**Rule 6(b)** When a party may or must act within a specified time after being served and service is made under Rule 5(b)(2)(C) (**mail**), (D) (leaving with the Virgin Islands Marshal), or (F) (other means consented to), **3 days are added after the period would otherwise expire under Rule 6(a).**

## Rule 6. Computing and Extending Time

### (a) Computing Time.

The following rules apply in computing any time period specified in these rules, in any court order, or in any statute that does not specify a method of computing time.

**(1) Period Stated in Days or a Longer Unit.** When the period is stated in days or a longer unit of time:

(A) exclude the day of the event that triggers the period;

(B) when **the period is 15 days or more**, count every day, including intermediate Saturdays, Sundays, and legal holidays; when the period is **14 days or less**, do not count intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

**(2) Period Stated in Hours.** When the period is stated in hours: (A) begin counting immediately on the occurrence of the event that triggers the period; (B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and (C) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

**(3) Inaccessibility of the Clerk's Office.** Unless otherwise provided in a governing court order, if the clerk's office is inaccessible: (A) on the last day for filing under Rule 6(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or (B) during the last hour for filing under Rule 6(a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

**(4) "Last Day" Defined.** Unless a different time is set by a statute or court order, the last day ends: (A) for electronic filing, at midnight in the court's time zone; and (B) for filing by other means, when the office of the clerk of the Superior Court is scheduled to close.

**(5) "Next Day" Defined.** The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

**(6)"Legal Holiday" Defined.** "Legal holiday" means:

(A) the day set aside by statute for observing

January 1 (New Year's Day)

January 6 (Three King's Day)

Third Monday in January (Martin Luther King, Jr.'s Birthday)

Third Monday in February (Presidents Day)

March 31 (Transfer Day)

Holy Thursday

Good Friday

Easter Monday

Last Monday in May (Memorial Day)

July 3 (V.I. Emancipation Day) – Danish West Indies Emancipation Day

July 4 (Independence Day)

First Monday in September (Labor Day)

Second Monday in October (Columbus Day and Puerto Rico Friendship Day)

November 1 (D. Hamilton Jackson Day)

Election Day as provided in 18 V.I.C. § 3

November 11 (Veterans Day)

Fourth Thursday in November (Thanksgiving Day)

December 25 (Christmas Day)

December 26 (Christmas Second Day)

and

(B) any day declared a holiday by the President or Congress, or by the Governor

and

(C) any day specified in 1 V.I.C. § 171, or otherwise officially designated as a holiday in the U.S. Virgin Islands.

**(b)Extending Time.** (1) In General. When an act is required or allowed to be done by or within a specified period, the court may upon a showing of good cause or excusable neglect, extend the date for doing that act. The court may consider whether the request to extend time is made before or after the required date; the reason for the movant's delay; whether the reason for delay was within the reasonable control of the movant; the danger of prejudice to the parties; the length of the delay; the potential impact of the delay on judicial proceedings; whether the party seeking the extension has acted in good faith, and all other relevant circumstances surrounding the party's failure to meet the originally prescribed deadline. (2)Exceptions. A court may not extend the time to act under Rules 50(b) and (d), 52(b), 59(b), (d), and (e), and 60(b).The court may not enlarge the period within which a motion may be made for a new trial, or for correcting an illegal sentence. (c)[Reserved.] (d)Additional Time After Certain Kinds of Service. When a party may or must act within a specified time after being served and service is made under Rule 5(b)(2)(C) (mail), (D) (leaving with the Virgin Islands Marshal), or (F) (other means consented to), 3 days are added after the period would otherwise expire under Rule 6(a).

## NOTE

*Subpart (a): the Rule requires a different method of accounting depending on whether the deadline for a particular filing or action is 15 days or more. If the deadline is at least 15 days, all calendar days are counted (including Saturdays, Sundays and legal Holidays). However, if the deadline prescribes 14 days or less to accomplish a filing or other litigation step, Saturdays, Sundays and Legal Holidays are not counted in determining the last day to act. As in prior Virgin Islands practice, if the "last day" would fall on a Saturday, Sunday or legal Holiday, the time for completion is automatically extended to the next business day. Subpart (b): This subpart follows existing case law. Fuller v. Browne, 59 V.I. 948 (2013) states: " 'Excusable neglect' and 'good cause' are essentially synonyms, see Beachside Assocs. v. Fishman, 53 V.I. 700, 713 (V.I. 2010), and the determination of excusable neglect is at bottom an equitable one, where the court should take into account all relevant circumstances surrounding [the] omission ... includ[ing] ... the danger of prejudice [to the opposing party], the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith. Brown v. People, 49 V.I. 378, 383 (V.I. 2008)" (quoting Pioneer v. Brunswick Assoc., 507 U.S. 380,395(1993)). Beachside said: "In reviewing the trial court's good cause determination, we are mindful that courts have equated 'good cause' with the concept of 'excusable neglect,' which requires 'a demonstration of good faith on the part of the party seeking an enlargement and some reasonable basis for noncompliance within the time specified in the rules.'" Extension of deadlines for a new trial or under Rules 50(b) and (d), 52(b), 59(b), (d), and (e), and 60(b) are not permitted. Subpart (d): The Rule continues the practice of allowing 3 extra days in computing the response period where the triggering motion or other paper is served by mail or by leaving with the Virgin Islands Marshal. No extended period is provided if papers are served electronically.*