

Greetings.

I propose that the committee consider revising Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure to REMOVE the second occurrence of "21 days after service of" and REPLACE it with "before the time to respond to", to read as follows:

Rule 15. Amended and Supplemental Pleadings (effective 1 Dec 2009)

(a) Amendments Before Trial.

(1) Amending as a Matter of Course.

A party may amend its pleading once as a matter of course within:

(A) 21 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or [*21 days after service of*] before the time to respond to a motion under Rule 12(b), (e), or (f), whichever is earlier.

This revision encompasses the situation where the court grants a motion to enlarge time to respond to a Rule 12(b,e,f) motion, but the party had not contemplated a correspondingly request to enlarge the time to amend the pleading. The intent of the Rule remains in tact, to amend a pleading once as a matter of course up until the time to respond to a Rule 12 motion.

Carol Dalenko

Wake County, NC

(919) 632-7700

E-mail: cd2008@bellsouth.net