

Title	Criminal Law: Deadlines for Filing Pretrial Motions (amend Cal. Rules of Court, rule 4.111(a))
Summary	The proposed amendments to rule 4.111(a) of the California Rules of Court replace the word “calendar” with “court” in the deadlines prescribed for filing pretrial motions, replies, and proofs of service to ensure that parties have sufficient time to file during timeframes that include weekends and governmental holidays.
Source	Criminal Law Advisory Committee Hon. Steven Z. Perren, Chair
Staff	Arturo Castro, Attorney, 415-865-7702, arturo.castro@jud.ca.gov
Discussion	<p>Under current rule 4.111(a) of the California Rules of Court, “all pretrial motions, accompanied by a memorandum, must be served and filed at least 10 calendar days, all papers opposing the motion at least 5 calendar days, and all reply papers at least 2 court days before the time appointed for hearing.” In addition, proof of service must be filed no later than 5 “calendar” days before the hearing. (Cal. Rules of Court, rule 4.111(a).)</p> <p>Use of the word “calendar” in the deadlines prescribed to file pretrial motions, opposition papers, and proofs of service severely shortens the number of days parties have to file those papers, particularly during timeframes that include weekends and governmental holidays. Indeed, the current rule can occasionally result in obviously unintended consequences. For example, under the current rule, if a party files a motion to be heard on a Monday following a three-day weekend, the reply to the opposition papers would have to be filed on <i>the same day</i> as the opposition papers.</p> <p>The proposed amendments replace the word “calendar” with the word “court” in the rule’s prescribed filing deadlines for pretrial motions, opposition papers, and proofs of service. The proposed amendments ensure that parties have sufficient time to file during timeframes that include weekends and governmental holidays and eliminate the occasional unintended consequence, as illustrated above.</p>
	Attachment

1 **Rule 4.111. Pretrial motions in criminal cases**

2
3 **(a) Time for filing papers and proof of service**

4
5 Unless otherwise ordered or specifically provided by law, all pretrial
6 motions, accompanied by a memorandum, must be served and filed at least
7 10 ~~calendar~~ **court** days, all papers opposing the motion at least 5 ~~calendar~~
8 **court** days, and all reply papers at least 2 court days before the time
9 appointed for hearing. Proof of service of the moving papers must be filed no
10 later than 5 ~~calendar~~ **court** days before the time appointed for hearing.

11
12 **(b) Failure to serve and file timely points and authorities**

13
14 The court may consider the failure without good cause of the moving party
15 to serve and file a memorandum within the time permitted as an admission
16 that the motion is without merit.
17

Item SPR09-20 Response Form

Title: **Criminal Law: Deadlines for Filing Pretrial Motions** (amend Cal. Rules of Court, rule 4.111(a))

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/>

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 17, 2009

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.