

The form of calendar control you use in your office is not as important as the ultimate result -- is it effective and does it serve the purpose for all concerned?

Calculating the Due Date After Service of a Document CCP §§ 12 and 12a; and CRC 1.11

The Codes and Rules of Court provide specific time periods within which certain pleadings, documents and actions must be filed, served and complied with. When calculating the due date on a document served by mail, you would look at the proof of service and use the date that the document was served. The person signing the proof of service does so under penalty of perjury, and it is this date that is used, not the actual date the document was received by your office. If a document is served by personal service, there is no additional time to respond other than that time period provided for by Code or Rules of Court. In most instances, if a document is served by mail, the Code provides that an additional five days be given in order to respond; e.g., if interrogatories are served on your office by mail, and the proof of service states they were mailed February 1, you would start counting from February 2, and count off 30 days plus five days because they were served by mail. The response time is then 35 days. If they were served by personal service, the response time would be 30 days. You don't count the day the proof of service indicates, but always start counting with the next calendar day.

When a judicial holiday specified by CCP § 135 falls on a Sunday, the courts must observe the holiday on the following Monday. When a judicial holiday specified by CCP § 135 falls on a Saturday, the courts must observe the holiday on the preceding Friday. If a document or pleading is due to be filed with the court, and that due date is a court holiday or a weekend, the due date would be the next business day that the court is open.

If pleadings or documents are to be filed court days instead of calendar days, you would count only those days the court is open. It makes a difference if you are counting calendar days or court days. When counting calendar days, you count each and every day, and if the due date is on a holiday or weekend, the due date is the next business day that the court is open. If counting court days, you do not count weekends or holidays, and count only those days that the court is actually open transacting business.

Counting Backward from Hearing Date CCP § 12c

- (a) Where any law requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, excluding the day of the hearing as provided by Section 12.
- (b) Any additional days added to the specified number of days because of a particular method of service shall be computed by counting backward from the day determined in accordance with subdivision (a).

Time for Actions

CRC 1.10

In computing time, the time in which any act provided by these rules is to be performed is computed by excluding the first day, and including the last, unless the last day is a Saturday, Sunday or other legal holiday, and then it is also excluded.

Unless otherwise provided by law, if the last day for the performance of any act that is required by these rules to be performed within a specific period of time falls on Saturday, Sunday or other legal holiday, the period is extended to and includes the next day that is not a holiday.

Unless otherwise provided by law, the court may extend or shorten the time within which a party must perform any act under the rules.

Service

CRC 1.21

(a) Service on a Party or Attorney

Whenever a document is required to be served on a party, the service must be made on the party's attorney if the party is represented.

(b) Serve and File

As used in these rules, unless a statute or rule provides for a different method for filing or service, a requirement to "serve and file" a document means that a copy of the document must be served on the attorney for each party separately represented, and each self-represented party, and on any other person or entity when required by statute, rule, or court order and that the document and a proof of service of the document must be filed with the court.

(c) Proof of Service

As used in these rules, "proof of service" means a declaration stating that service has been made as provided in (a) and (b). If the proof of service names attorneys for separately represented parties, it must also state which party or parties each of the attorneys served is representing.

Manner and Completion of Service by Mail, Express Mail, or Facsimile Transmission

CCP § 1013

If service by mail, the documents being served must be deposited in a post office or other facility maintained by the United States Postal Service, in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, at the office address as last given by that person on any document filed in the cause and served on the party making service by mail; otherwise at that