

## MEMORANDUM

To:            Advisory Committee on Rules  
From:          Carolyn Koegler  
Re:            # 2016-004. Supreme Court Rule 51.  
Date:          May 26, 2016

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I respectfully request that the Committee consider whether Supreme Court Rule 51(d)(3) should be amended to require the Secretary of the Advisory Committee on Rules to file reports with the Court on February 1 and August 1 rather than April 1 and November 1 each year.

As you may recall, in its August 1, 2015 report to the Court the Committee recommended that the Court delete and replace Supreme Court Rule 51. Among other things, the new rule aimed to shorten the length of time it takes for a proposal submitted to the Committee to be recommended to the Court by requiring the Committee to report to the Court twice per year. It was hoped that under the new rule, the Court would issue only two rules orders per year (late December/early January for rules effective March 1 and late May/early June for rules effective July 1). Therefore, the Committee recommended reporting dates to follow a few weeks after the March and September meetings. It was thought that under the new rule the Committee might not necessarily hold public hearings on each rule suggestion and/or that the public hearings would not necessarily be scheduled for June and December alone, so it was not necessary for the reporting dates to follow soon after the December and June meetings.

My sense is that the Committee is likely to continue to hold public hearings on many, if not all, of the proposals for rules changes it considers for recommendation to the Court. It also appears that these hearings will continue to be held in June and December. In light of this, it makes sense to amend the rule to require that the reporting occur as soon as possible after the public hearings, because it is during the meetings directly after the public hearings that the Committee votes to recommend changes for adoption. In addition, changing the reporting date from April 1 to February 1 will provide the Court with enough time to request comment on the proposals, consider the proposals and issue an order in the spring, which would allow rule amendments to take effect on July 1. Similarly, changing the reporting date from November 1 to August 1 will provide the Court with enough time request comment on the proposals, consider the proposals and issue an order in the fall, which would allow rule amendments to take effect on January 1.

The proposed amendments to Supreme Court Rule 51(d)(3) are set forth in the attached appendix A.

## APPENDIX A

Amend Supreme Court Rule 51(d)(3) as follows (new material is in **and brackets**]; deleted material is in ~~strikethrough~~ format):

- (3) **February 1** ~~April 1~~ and **August 1** ~~November 1~~ Reports to the Court.
- (A) On or before **February 1** ~~April 1~~ and on or before **August 1** ~~November 1~~ of each year, the Advisory Committee shall submit to the Court a report of any proposed rules or amendments by filing them with the Clerk of the Supreme Court.
- (B) Each report shall include a summary of the Committee's reasons for the proposed rule and rule amendments.
- (C) For each proposed rule or rule amendment, the Committee shall advise the Clerk of the Supreme Court whether it recommends a hearing before the full Court.