

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 13 2023

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JANE ROE, by and through her Guardian Ad
Litem, Latoya Walker, an individual,

Plaintiff-Appellant,

v.

RIALTO UNIFIED SCHOOL DISTRICT, a
local public entity; et al.,

Defendants-Appellees.

No. 22-55180

D.C. No.

5:19-cv-00863-JGB-SP

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Jesus G. Bernal, District Judge, Presiding

Submitted January 11, 2023**
Pasadena, California

Before: WATFORD, FRIEDLAND, and BENNETT, Circuit Judges.

Jane Roe appeals from the district court's order dismissing her Rule 50(b)
and Rule 59 motions as untimely. We reverse and remand.

Federal Rule of Civil Procedure 6(a) dictates that if a filing deadline falls on

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision
without oral argument. See Fed. R. App. P. 34(a)(2).

a Saturday, Sunday, or legal holiday, the period for filing “continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.” Fed. R. Civ. P. 6(a)(1)(C). Rule 6(a)(6), in turn, defines a legal holiday as, among other things, any “day declared a holiday by the state where the district court is located.” Fed. R. Civ. P. 6(a)(6)(C).¹ California Code of Civil Procedure § 135 recognizes the day after Thanksgiving as a judicial holiday. Relying on that provision of state law, we held in *Dwyer v. Duffy*, 426 F.3d 1041, 1044 (9th Cir. 2005), that the day after Thanksgiving is a legal holiday under Federal Rule of Bankruptcy Procedure 9006(a), which, like Rule 6(a)(6)(C), provides that any “day declared a holiday by the state where the district court is located” is a legal holiday. We later extended that interpretation to the nearly identical definition of legal holiday contained in Federal Rule of Appellate Procedure 26(a). *Yepremyan v. Holder*, 614 F.3d 1042, 1044 (9th Cir. 2010). We see no reason why the analysis should differ in interpreting Federal Rule of Civil Procedure 6(a).

Because Roe’s filing deadline originally fell on Thanksgiving, November 25, the period for filing continued to run until the following Monday, November 29. Roe timely filed her motions on that date.

REVERSED and REMANDED.

¹ This definition applies to “periods that are measured after an event.” Fed. R. Civ. P. 6(a)(6)(C). It applies here because Rule 50(b) and Rule 59 motions must be filed within 28 days of the entry of judgment. Fed. R. Civ. P. 50(b), 59(b).