

---

**E-84-2 Request for extension to answer**

---

**Question**

In an action commenced by an attorney, only one of three defendants answered within the prescribed time period. The two defendants did not retain counsel until the day after the expiration of that period. The opposing counsel requested an extension of the period, but the attorney expressed concern that to grant an extension would not be in the best interest of his/her client. Would it be proper to grant an extension?

**Opinion**

An attorney may legally refuse to grant an extension and move for a default judgment on behalf of his or her client at the expiration of the 20-day period to answer. Wis. Stat. sec. 806.02(3). However, the Wisconsin Code of Professional Responsibility, codified in Chapter 20 of the Wisconsin Supreme Court Rules, states that a lawyer should accede to reasonable requests with regard to court proceedings, settings, continuances and waiver of procedural formalities. SCR 20.34(3)(t). Considering that one defendant answered within the prescribed period, thereby making litigation a definite possibility in this case, opposing counsel's request for an extension does not appear unreasonable. Although opposing counsel's request does not appear unreasonable, the attorney must consult with his or her client before making any decision which may prejudice the rights of the client. SCR 20.34(2)(d). *See also* SCR 20.34(2)(f).

SCR 20.34(3)(t) also states that a lawyer should follow local customs of courtesy and practice. *See also* SCR 20.40(3)(e). If the custom in your locality is to grant extensions under circumstances similar to the above, it may be proper for you to do so. As one may practice in a locality for many years, following local customs of courtesy and practice can only serve to enhance long-term relationships between fellow practitioners.

In all instances, the attorney must consult with his or her client before making such a decision.