

Haywood-22R202

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Judicial District 30B
Superior Court Continuance Policy
Effective July 1, 2022

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HAYWOOD CO., C.S.C.

RULE 1: MOTIONS FOR CONTINUANCE – CIVIL CASES

1.1 ~~Appropriate Court Official~~

Prior to the opening of court for the session in which the case is calendared, all applications for continuances shall be made to the Senior Resident Superior Court Judge, or his/her designee. Following the opening of court for the session in which the case is calendared, any application for continuance shall be made to the presiding judge of the court in which the case is calendared.

1.2 Form of Motion

All applications for continuance shall be by written motion made on state form AOC-CV-221, or by written request to the Senior Resident Superior Court Judge.

1.3 Notification of Opposing Counsel/Unrepresented Parties

A copy of the completed form AOC-CV-221, or written request, must be distributed to all counsel of record and/or unrepresented parties prior to presentation of the motion to the appropriate judicial official. Distribution of the motion may be by email, U.S. mail, facsimile transmission, hand delivery, or distribution by means of attorney distribution boxes maintained in the courthouse facility.

1.4 Objections To Motion For Continuance

Opposing counsel and/or unrepresented parties shall have a period of three (3) working days following completion of distribution to communicate, by any means, objections to the motion for continuance to the moving party and the office of the Senior Resident Superior Court Judge or the office of his/her designee. Objections not raised within this time period are deemed waived.

1.5 Evaluation Of Motions For Continuance

Continuance requests are presumptively disfavored. However, when compelling reasons for continuance are presented which would affect the fundamental fairness of the trial process or when a continuance clearly is in the interest of justice, a continuance may be granted in the exercise of judicial discretion to further the best interest of the fair administration of justice.

In addition to other factors, the appropriate judicial official shall consider the following when deciding whether to grant or deny a motion for continuance:

- The age of the case;
- The status of the trial calendar for the week;
- The order in which the case appears on the trial calendar, including whether the case is preemptorily scheduled;

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- The number of previous continuances;
- The extent to which counsel had input into the scheduling of the trial date;
- The due diligence of counsel in promptly filing a motion for continuance as soon as practicable;
- Whether the reason for continuance is a short lived event which could resolve prior to the scheduled trial date;
- The length of the continuance requested, if applicable;
- The position of the opposing counsel;
- Whether the parties themselves consent to the continuance;
- Present or future inconvenience or unavailability of witnesses/parties; and
- Any other matter that promotes the ends of justice.

Reasons that shall not be considered valid bases for allowing a continuance include first time scheduling of the case for trial, potential conflicting scheduling of other trials in other courts, failure to complete discovery, and whether counsel of record has received payment.

When a case is set peremptorily for trial, either at the request of the parties or upon the Court's own motion, a continuance motion should not be allowed, unless upon grounds of some compelling urgent necessity or extreme hardship arising subsequent to the time at which the trial date was fixed. Only the senior resident superior court judge may continue a peremptorily set case.

1.6 Case Rescheduling

Prior to granting a motion for continuance, the appropriate judicial official shall refer the case to the Senior Resident Superior Court Judge or his/her designee, who will reschedule the trial of the case after receiving scheduling input from all counsel.

RULE 2: MOTIONS FOR CONTINUANCE – CRIMINAL CASES

2.1 Appropriate Court Official

Prior to the opening of court for the session in which the case is calendared, all applications for continuances shall be made to the Senior Resident Superior Court Judge or to any presiding judge of the court in which the case is calendared. Following the opening of court for the session in which the case is calendared, any application for continuance shall be made to the presiding judge of the court in which the case is calendared.

2.2 Form Of Motion

All applications for continuance shall be written motion made on state form, AOC-CR-410.

2.3 Notification Of Opposing Counsel/Unrepresented Parties

A copy of the completed form AOC-CR-410 must be distributed to all counsel of record and /or unrepresented parties prior to presentation of the motion to the appropriate judicial official. Distribution of the motion may be by email, U.S. mail, facsimile transmission, hand delivery or distribution by means of attorney distribution boxes maintained in the courthouse facility.

If the motion is filed by defense counsel, the motion must be presented to the District Attorney prior to presentation to the appropriate judicial official.

2.4 Objections To Motion For Continuance

If the District Attorney consents to the continuance and such consent is indicated by signature of the District Attorney on the continuance form, the continuance may be allowed. If no District Attorney's signature appears on the continuance form, the District Attorney's opposition to the motion is presumed.

2.5 Evaluation Of Motions For Continuance

When compelling reasons for continuance are presented which would affect the fundamental fairness of the trial process or when a continuance clearly is in the interest of justice, a continuance may be granted in the exercise of judicial discretion to further the best interest of the fair administration of justice.

In addition to other factors, the appropriate judicial official shall consider the following when deciding to grant or deny a motion for continuance:

- The age of the case;
- The pre-trial detention status of the defendant;
- The status of the trial calendar for the week;
- The order in which the case is designated for trial, including whether the case has a priority designation;
- The number of previous continuances;
- The number of times the cases have been designated for trial and not reached;
- The extent to which counsel had input into the scheduling of the trial date;
- The due diligence of counsel in promptly filing a motion for continuance as soon as practicable;
- Whether the reason for continuance is a short lived event which could resolve prior to the scheduled trial date;
- The length of the continuance requested, if applicable;
- The position of opposing counsel;
- Whether the motion has been considered by another judge or the Senior Resident on the same grounds;
- Whether the parties themselves consent to the continuance;
- Present or future inconvenience or unavailability of witnesses/parties; and
- Any other matter that promotes the ends of justice.

Reasons that shall not be considered valid bases for allowing a continuance motion include first time scheduling of the case for trial, potential conflicting scheduling of other trials in other courts and whether counsel of record has received payment.

2.6 General Rules Of Practice For The Superior And District Courts (Supplemental to the Rules of Civil Procedure)

Parties shall comply with Rule 3 of the General Rules of Practice for the Superior and District Courts.

RULE 3: CONTINUANCES

An application for a continuance shall be made to the presiding judge of the court in which the case is calendared.

When an attorney has conflicting engagements in different courts, priority shall be as follows: Appellate Courts, Superior Courts, District Courts, Magistrate's Court.

At mixed sessions, criminal cases in which the defendant is in jail shall have absolute priority.

This policy is hereby adopted this the 28th day of June, 2022 to be effective July 1, 2022.



Honorable Bradley B. Letts
Senior Resident Superior Court Judge
Judicial District 30B