

MODEL CONTINUANCE POLICY*

* This model policy was originally developed by David C. Steelman, Principal Court Management Consultant, National Center for State Courts, at the request of the Presiding Judge of the Yamhill County Circuit Court in McMinnville, OR, in 2006, as part of a caseload management technical assistance program with the Oregon Judicial Department. It has been revised in 2009 as part of a technical assistance project with the Alaska Judicial Department and the Alaska Superior Court for Anchorage, incorporating examples of grounds on which continuances would generally be granted or not granted in substantial reliance on the continuance policy published by the Circuit Court of Petersburg, VA (11th Judicial Circuit)(© Supreme Court of Virginia 2009) (see <http://www.courts.state.va.us/courts/circuit/Petersburg/continuance.html>, as downloaded on June 23, 2009).

CONTINUANCE POLICY OF THE _____ COURT

It is the policy of this Court to provide justice for citizens without unnecessary delay and without undue waste of the time and other resources of the Court, the litigants, and other case participants. For all of its case types and dockets, and in all of its courtrooms, the Court looks with strong disfavor on motions or requests to continue court events. To protect the credibility of scheduled trial dates, trial-date continuances are especially disfavored.

Except in unusual circumstances, any continuance motion or request must be in writing and filed not later than [48 hours] before the court event for which rescheduling is requested. Each continuance motion or request must state reasons and be signed by both the attorney and the party making the request.

The Court will grant a continuance only for good cause shown. On a case-by-case basis, the Court will evaluate whether sufficient cause justifies a continuance. As a guide to practitioners, the following will generally not be considered sufficient cause to grant a continuance:

- Counsel or the parties agree to a continuance;
- The case has not previously been continued;
- The case probably will settle if a continuance is granted;
- Discovery has not been completed;
- New counsel has entered an appearance in the case or a party wants to retain new counsel;
- Unavailability of a witness who has not been subpoenaed;
- Plaintiff has not yet fully recovered from injuries when there is no competent evidence available as to when plaintiff will be fully recovered;
- A party or counsel is unprepared to try the case for reasons including, but not limited to, the party's failure to maintain necessary contact with counsel;
- The failure to schedule the hearing on a suppression motion on a timely basis unless the prosecution failed to comply with a discovery order;
- A police officer or other witness is either in training or is scheduled to be on vacation, unless the Court is advised of the conflict soon after the case is scheduled and sufficiently in advance of the trial date;
- Any continuance of trial beyond a second trial date setting.

The following will generally be considered sufficient cause to grant a continuance:

- Sudden medical emergency (not elective medical care) or death of a party, counsel, or material witness who has been subpoenaed;
- A party did not receive notice of the setting of the trial date through no fault of that party or that party's counsel;
- Facts or circumstances arising or becoming apparent too late in the proceedings to be fully corrected and which, in the view of the Court, would likely cause undue hardship or possibly miscarriage of justice if the trial is required to proceed as scheduled;
- Unanticipated absence of a material witness for either party;
- Illness or family emergency of counsel.

CONTINUANCE POLICY OF THE _____ COURT

Any grant of a continuance motion or request by the Court shall be made on the record, with an indication of who requested it and the reasons for granting it. Whenever possible, the Court shall hold the rescheduled court event not later than [7 days] after the date from which it was continued.

Information about the source of each continuance motion or request in a case and the reason for any continuance granted by the Court shall be entered for that case in the Court's computerized case management information system. At least once a quarter, the chief judge and other judges of the Court shall promote the consistent application of this continuance policy by reviewing and discussing a computer report by major case type on the number of continuances requested and granted during the previous period, especially as they relate to the incidence and duration of trial-date continuances. As necessary, the Court shall work with bar representatives and court-related agencies to seek resolution of any organizational or systemic problems that cause cases to be rescheduled, but which go beyond the unique circumstances of individual cases.