

VIRGINIA: IN THE CIRCUIT COURTS OF GLOUCESTER, MATHEWS & MIDDLESEX COUNTIES

In re: LOCAL RULE GOVERNING CONTINUANCES

ORDER

Pursuant to Rule 1:15(a) of the Rules of the Supreme Court of Virginia, the Court prescribes the following local rule governing requests for continuances in the Circuit Courts of Gloucester, Mathews, and Middlesex Counties:

1. Application

The procedures outlined herein apply to both civil and criminal cases.

2. General rule – Seven days prior to trial

A. *Timing*: Excepted as provided in Paragraphs 3 and 4, all requests for a continuance must be filed, and a hearing on the motion scheduled so that the hearing takes place, at least seven (7) days prior to trial.

B. *Form of Motion*: Except as provided in Paragraph 4, all requests for a continuance must be made by written motion stating the grounds for the continuance.

C. *Hearing*: As provided in Paragraph 2.A., the hearing on the motion must take place at least seven (7) days prior to trial.

D. *Defendant's presence (criminal cases only)*: Except for good cause, the defendant must be present for the hearing on the motion.

3. Less than seven days prior to trial

A. *Timing*: When the basis for the continuance does not arise within sufficient time to comply with Paragraph 2, or other unavoidable circumstances prevent a motion and hearing seven days in advance, the request for a continuance must be made as soon as practicable.

B. *Form of Motion*: The request for a continuance in this instance must be made by written motion stating the grounds for the continuance. The motion must also include the reasons why the continuance request is not being made seven days prior to trial. The original motion must be filed with the Clerk, but copies may be faxed to counsel. A copy must be faxed to the judge's chambers at (804) 693-1755.

C. *Hearing*. Every effort must be made to schedule a hearing in open court. However, if such a hearing is impractical, counsel for the moving party must schedule a conference call with the court and opposing counsel. Counsel may contact the judge's chambers at (804) 693-1358.

D. *Defendant's presence (Criminal cases only)*: Except for good cause, or the hearing is by teleconference, the defendant must be present for the hearing on the motion.

4. Day of trial

Requests for a continuance made on the day of trial are discouraged, and will only be granted if required by statute (see, e.g., Va. Code 18.2-472.1 (custodian of records not available); Va. Code 19.2-187.1 (DFS witness unavailable); Va. Code 19.2-231 (amendment of indictment)), or a showing that to proceed with the trial would not be in the best interest of justice.

5. Agreement to continue

The procedures outlined herein apply even if counsel for all parties agree to the continuance.

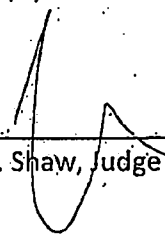
6. Defendant not present at hearing (Criminal cases only)

In the event there is good cause to excuse the defendant's presence at the hearing on the motion and the motion is granted, the parties and counsel must appear at the originally scheduled trial date so the continuance ruling may be put on the record and the defendant notified of the court date. However, pursuant to Va. Code 19.2-266.3, the defendant and counsel may execute form DC-344 MOTION TO WAIVE COURT APPEARANCE in which case no appearance would be required at the originally scheduled trial date.

7: Written Order

In cases where a continuance is granted, counsel for the moving party is responsible for preparing and filing an endorsed proposed Order granting the continuance on or before the originally scheduled trial date.

Entered this 1st day of December, 2014.



Jeffrey W. Shaw, Judge