

IN THE HIGH COURT
of the
REPUBLIC OF THE MARSHALL ISLANDS

IN THE MATTER OF THE ADOPTION AND PROMULGATION OF CONTINUANCE POLICY FOR TRIAL COURTS	GENERAL COURT ORDER NO. 2019- 003
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Under the authority of Article VI, Subsection 1(2) of the Constitution and Section 218 of the Judiciary Act of 1983, 27 MIRC Chp. 2, and notwithstanding any existing rule of court to the contrary, the High Court hereby adopts and promulgates the following Continuance Policy for Trial Courts. This order supersedes the August 15, 2014 order promulgating the Republic of the Marshall Islands Continuance Policy for Trial Courts.

CONTINUANCE POLICY FOR TRIAL COURTS

Values

It is the policy of the Judiciary of the Republic of the Marshall Islands (“Judiciary”) to provide justice for court users:

- Without unnecessary delay; and
- Without undue waste of resources of the Judiciary, the litigants, and other participants.

Favor

The Judiciary looks with strong disfavor on motions or requests to continue court events for all of its case types and in all of its courts.

The Judiciary strongly disfavors the continuance of matters scheduled for trial and oral argument.

Method

Motions or requests for a continuance to all trial courts, except a Community Court, must be in writing. The motion or request must be signed by counsel or a party, if unrepresented by

counsel, and state a reason. The motion or request must state the grounds for the continuance.

Generally, requests must be made in scheduled trial matters not later than two weeks prior to the scheduled trial. This will permit the courts to consider ways to schedule other matters.

The granting of a continuance shall be made on the court record. The record will contain information about who made the application and the reasons for granting it.

Grounds

The court will only grant a continuance where good cause is shown.

As a guide to practitioners, the following will generally NOT be considered sufficient cause to grant a continuance:

- Lawyers or the other party agrees;
- The case has not previously been continued;
- The case probably will settle if a continuance is granted;
- Discovery has not been completed;
- A new lawyer has entered an appearance;
- A party wants a new lawyer;
- Unavailability of a witness who has not been subpoenaed;
- The plaintiff has not yet fully recovered from injuries, where there is no competent evidence available as to when the plaintiff will fully recover;
- A party or counsel is unprepared to try the case — even if the party has not maintained contact with their lawyer;
- A police officer or other witness is either in training or on vacation (unless it is done sufficiently in advance to enable another case to be scheduled);
- Overseas counsel is unavailable; and
- Any continuance of a trial beyond a second trial date setting.

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

- A 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 their 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 the miscarriage of justice if the trial is required to proceed as scheduled;
- Unanticipated absence of a material witness who has been subpoenaed; and
- Illness or family emergency of a party or counsel.

Monitoring and Review

The chief or presiding judge of each court shall periodically review the continuance rate of selected categories of cases to ensure the consistent application of this policy. The continuance rate is the average number of times a disposed case was scheduled before the court that required the attendance of at least one party at the court; and whether or not any substantive outcome was actually achieved at any hearing.

Special attention will be given to continuance rates of matters scheduled for trial.

This Court will work with lawyers 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.

Ordered and Entered: November 29, 2019.

A handwritten signature in black ink, appearing to read 'C. Ingram', written over a horizontal line.

Carl B. Ingram
Chief Justice, High Court