

**17.0 PASSING AND DELAY OF CASES**

**(A) Continuances.** The continuance of a schedule trial or hearing is a matter within the sound discretion of the trial Court for good cause shown.

- (1) Motion to Continue.** No party shall be granted a continuance of a trial or hearing without a written motion from the party or counsel stating the reason for the continuance, endorsed in writing by the party as well as counsel; however, the trial judge may waive this requirement upon a showing of good cause. Such motion shall be filed with the Clerk of Courts and received by the Court not later than seven (7) days before the date set for trial or hearing. If the motion is not approved by the trial judge, the case shall proceed as originally scheduled. No continuance shall be granted without first setting a definite date for the trial or hearing.
- (2) Witness Unavailable.** When a continuance is requested due to unavailability of a witness at the time scheduled for trial or hearing, the Court shall consider the feasibility of recording that testimony permitted by Civil Rule 30(B), and authorized for use by Civil Rule 32(A)(3).
- (3) Military or Bankruptcy Stays.** Cases stayed by reason of a party being on active duty in the military service or by order of Bankruptcy or other Court shall not be deemed included within the operation of this rule.

**(B) Conflict of Trial Assignment Dates.**

- (1)** When a continuance of trial or hearing is requested for the reason that counsel of record is scheduled to appear in another case or assigned for trial on the same date in the same or another trial court of this state, the case which was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial. The court should not consider any motion under this Rule unless a copy of the conflicting assignment is attached to the motion and the motion is filed not less than thirty (30) days prior to the scheduled trial.
- (2)** A continuance shall be granted upon request when a party, counsel or witness under subpoena is scheduled to appear on the same date at a hearing before the Board of Commissioners on Grievances and Discipline of the Supreme Court as a member of the Board, as a party, as counsel for a party, or as a witness under subpoena for such hearing.

*Effective 12/01/1997.*