



SAN MATEO COUNTY LAW LIBRARY

RESEARCH GUIDE #8

HOW TO RESCHEDULE A CIVIL COURT HEARING OR TRIAL:

MOTION TO CONTINUE

This resource guide only provides guidance, and does not constitute legal advice. If you need legal advice you need to speak with an attorney. To find an attorney to assist you, you may contact the San Mateo County Lawyer Referral Service at (650) 369-4149.

NOTE: For *Family Law*, use form [FL-306](#) or [FL-307](#). Read information on [FL-304-INFO](#).

WHAT IS A MOTION TO CONTINUE?

A Motion to Continue is a request by one or both parties in a legal dispute to the Court to extend or reschedule a hearing or trial date to a specified new date.

WHY MUST I NEED ONE?

If you **have good cause** to delay a hearing or trial, you must file a Motion to Continue and Proposed Order with the Court.

Please note, under the Trial Court Delay Reduction Act, California Government Code section 68600 et seq., courts are required to ensure the prompt disposition of civil cases. Therefore, granting a Motion to Continue **are generally disfavored** by courts.

The following are potentially good cause for a trial continuance:

- Unavailability of an essential witness;
- Unavailability of another party due to death or other excusable circumstance;
- Unavailability of trial counsel because of death, illness, or other excusable circumstance; and/or
- Substitution of trial counsel where there is an “affirmative showing that the substitution is required in the interests of justice.”

To read a more complete list of good cause justifications, please see: [CRC 3.1332 \(b\)](#)

HOW DO I FILE A MOTION TO CONTINUE?

Step 1: Take action ASAP

File your Motion and Proposed Order as soon as possible! The continuance motion must be made "as soon as reasonable practical once the necessity for the continuance is discovered." [[CRC 3.1332 \(b\)](#)]

Step 2: Create the Motion, a Memorandum of Points and Authorities, a Declaration, and a Proposed Order

Given the unique nature of each situation, there is no standardized form. Rather, you must create a [Motion to Continue](#) (sample as Word Document) yourself.

In addition to the motion itself, you must also create [Memorandum of Points and Authorities](#) (sample as Word Document) that is attached to the Motion itself. The Memorandum of Points and Authorities sets forth the background of your case as well as the legal argument of why there is good cause for the Court to grant your Motion.

Create a [Declaration](#) (sample as Word Document) that is attached to the Motion itself and sets forth the facts as to why you must postpone an upcoming hearing or trial.

Finally, create a [Proposed Order](#) (sample as Word Document).

Again, there are no standardized forms. There are, however, many samples and templates that can help you. Here are two sources:

- Chapter 136 of the 'California Forms of Pleading and Practice' discusses Motions to Continue in depth and offers several templates, including a Declaration.
- A [SAMPLE](#) Motion To Continue, Memorandum of Points and Authorities, Declaration, and Proposed Order are attached. It was completed by a hypothetical "Kent Lunar," who is asking to continue his trial so he has the opportunity to find a new attorney. **THIS IS ONLY AN EXAMPLE.** You will need to modify the text extensively so that it makes sense and is relevant to your unique case.

Please note you must print your motion single-sided on 28-line pleading paper; the court will not accept double-sided documents, or documents not on pleading paper.

Step 3: Make Copies

Make a copies of your motion. Make one for yourself, your lawyer, other part(ies), and their lawyer (if they have one), as well as for the Court.

Step 4: Have the Motion served on the other party(ies)

You must serve your motion on the other parties to the action so that they are aware of your effort to delay the hearing or trial. A person over the age of 18 who is not a party to the case must personally deliver or mail a copy of the Motion along with a copy of the unsigned proof of service form on other parties to the action. The unsigned proof of service form can be attached as the last page of the Motion.

The person who is serving your motion must complete Judicial Council Form [POS-040](#): *Proof of Service – Civil*.

The proof of service form should be completely filled out before being filed with the clerk. Make a copy for your own record.

Step 5: File your Motion and Proof of Service with the Court

File your motion and Proof of Service at the San Mateo County Hall of Justice, Room A at 400 County Center, Redwood City, CA. There is a drop box for after hours civil filings located outside of the Clerk's Office Room A on the first floor.