

[Proposed New] Minnesota Rule of General Practice 17 – Personal Leave Continuance

- (a) **Generally.** The court shall grant a party's timely application for a continuance of a trial, evidentiary hearing, pretrial, or motion hearing in connection with any of the following by an attorney substantially involved in the party's representation:
- (1) A health condition which makes the attorney temporarily unable to represent the party;
 - (2) The birth or adoption of a child regardless of the gender of the attorney; or
 - (3) The need to care for a spouse, dependent, or parent who has a serious health condition.
- (b) **Time for Making Request.** An application for a personal leave continuance shall be made within a reasonable period of time after the attorney on whose circumstances the request is based learns of the need for a continuance.
- (c) **Presumptive length.** A personal leave continuance shall be for a presumptive length of 90 days absent a showing of good cause that a different time is appropriate.
- (d) **Form of Continuance Application.** A personal leave continuance may be granted without hearing upon application by an attorney for any party. An attorney applying for a personal leave continuance shall file an affidavit with the court setting forth the following:
- (1) Affirming the applicant is an attorney substantially involved in the party's representation;
 - (2) That personal leave is required for one of the reasons set forth in paragraph (a)(1) – (3) above;
 - (3) That the application is timely under paragraph (b);
 - (4) The length of the continuance requested, if different from the presumptive length in paragraph (c);
 - (5) That the applicant will remain substantially involved in the party's representation following any personal leave continuance;
 - (6) That the client consents to the continuance; and
 - (7) That the continuance is sought in good faith and not merely for delay.
- (e) **Challenge to Continuance Request.** A party challenging an application for a personal leave continuance shall bear the burden of demonstrating substantial prejudice or extraordinary circumstances which should preclude or limit the continuance. A challenge to a personal leave continuance shall be brought by motion and shall be subject to the meet and confer requirement. Upon proof of substantial prejudice or extraordinary

circumstances, the court may deny or modify the application for a personal leave continuance.

- (f) **Effect on Discovery.** Unless otherwise ordered by the court for good cause shown, all discovery, shall be suspended for the duration of any personal leave continuance, and deadlines for discovery served during any period of personal leave shall not begin to run until the conclusion of the leave period.
- ~~(g)~~ **Exclusions.** The court shall not grant an application for a personal leave continuance if it would impact a substantial right in the proceeding, and alternative arrangements can be made to ensure the party is represented in the attorney's absence.

[Proposed Amendments to] Minnesota Rule of Appellate Procedure 126.02 - Extension or Limitation of Time

- (a) The appellate court for good cause shown may by order extend or limit the time prescribed by these rules or by its order for doing any act, and may permit an act to be done after the expiration of that time if the failure to act was excusable under the circumstances.
- (b) The appellate court shall extend the deadline for filing a party's brief for a period of up to 90 days based on the any of the following circumstances impacting a party's attorney during the pendency of an appeal:
- a. A health condition which makes the attorney temporarily unable to represent the party;
 - b. The birth or adoption of a child regardless of the gender of the attorney; or
 - c. The need to care for a spouse, dependent, or parent who has a serious health condition;
- (c) The appellate court may not extend or limit the time for filing the notice of appeal or the time prescribed by law for securing review of a decision or an order of a court or an administrative agency, board, commission or officer, except as specifically authorized by law.

[Proposed Amendments to] Minnesota Rule of Appellate Procedure 134.02 - Notice of Hearing; Postponement

When filing the party's initial brief, counsel must provide written notice of any conflicts which limit counsel's availability for argument. Counsel are required to file written notice of updated conflict information as soon as that information is reasonably available to counsel and until the case is scheduled for argument. The clerk of the appellate courts shall notify all parties of the time and place of oral argument. A request for postponement of the hearing must be made by motion filed immediately upon receipt of the notice of the date of hearing, with the motion

identifying the specific circumstances that support the requested postponement. A postponement shall be granted for a presumptive period of up to 90 days if the request is based on any of the following circumstances impacting a party's attorney:

- a. A health condition which makes the attorney temporarily unable to represent the party;
- b. The birth or adoption of a child regardless of the gender of the attorney; or
- c. The need to care for a spouse, dependent, or parent who has a serious health condition;

[Proposed Amendments to] Minnesota Rule of Civil Procedure 26.04 - Timing and Sequence of Discovery

(d) Suspension of Discovery for Personal Leave.

- (1) **In General.** Unless otherwise limited by order of the court, discovery shall be suspended during a period of personal leave designated by a party's attorney. During such suspension, neither party may seek discovery from any source, and deadlines for discovery served during any period of personal leave shall not begin to run until the conclusion of the leave period
- (2) **Triggering Events.** A period of personal leave shall be allowed following any of the following events impacting a party's attorney:
 - A. A health condition which makes the attorney temporarily unable to represent the party; or
 - B. The birth or adoption of a child regardless of the gender of the attorney;
 - C. The need to care for a spouse, dependent, or parent who has a serious health condition
- (3) **Length.** Unless otherwise agreed by the parties or ordered by the court for good cause shown, a period of personal leave shall extend for 90 days after any event in Rule 26.04(2)(A)–(C) unless a shorter time period is designated by the attorney.
- (4) **How Designated.** A period of personal leave shall be designated by serving notice on all parties within a reasonable period of time after the attorney learns of the circumstances necessitating the leave. The notice shall include the date upon which the personal leave shall begin, a brief statement explaining the basis of the personal leave, and the length of leave designated if less than 90 days.
- (5) **Disputes.** Upon motion by a party demonstrating substantial prejudice or extraordinary circumstances, the court may modify or deny a period of personal leave.