

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 800 - MISCELLANEOUS COURT ADMINISTRATION MATTERS

Rule 16-804. CONTINUANCES OR POSTPONEMENTS FOR CONFLICTING CASE ASSIGNMENTS OR LEGISLATIVE DUTIES

(a) Responsibilities of Attorneys

(1) Generally

(A) Duty of Attorney

When consulted as to the availability of dates for a trial or hearing, an attorney is responsible for assuring that the attorney has no conflicting assignments on any date that the attorney indicates is acceptable.

(B) Violation of Duty

If an attorney accepts employment in a case in which a date or time for hearing or trial has already been set with knowledge that the attorney has a conflicting assignment for the same date or time, the attorney should not expect to be granted a continuance or postponement in either matter. The court may grant a continuance or postponement upon findings that (i) all parties, witnesses, and attorneys can be notified of the continuance or postponement sufficiently in advance of the hearing or trial to avoid undue inconvenience, (ii) the proceeding has not been continued or postponed an unreasonable number of times previously, and (iii) the continuance or postponement would not otherwise impede the proper administration

of justice or prejudice any party.

(2) Where Conflict Develops After Representation Accepted

If a conflict in assignment dates or times develops after representation has been accepted, the attorney shall (A) notify the court having a lesser priority under section (b) of this Rule immediately upon becoming aware of the conflict, (B) make a prompt and good faith effort to resolve the conflict by obtaining another qualified attorney acceptable to the client to act in one of the cases before a continuance or postponement is requested, subject to any specific obligation that the attorney has to the client, and (C) if a change in an existing scheduling order is required, immediately file a motion for such a change. A request for a continuance or postponement shall include a statement that it is not practical for another qualified attorney acceptable to the client to handle one of the conflicting assignments.

(b) Priorities Where Conflicting Assignments Exist

(1) Publicly-Employed Attorneys

Except in an extraordinary circumstance, an attorney who (A) holds public office or employment as an attorney, (B) is permitted to engage also in the private practice of law, and (C) faces an assignment conflict between an action in which the attorney appears in a public capacity and an action in which the attorney appears in a private capacity, the attorney may not be granted a continuance or postponement in the action in which the attorney appears in a public capacity.

(2) Conflicts in Trial Court Assignments

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In the event of a conflict in a hearing or trial date or time between a Maryland circuit court, the United States District Court for the District of Maryland, the United States Bankruptcy Court for the District of Maryland, or the District Court of Maryland, priority shall be given in accordance with the earliest date on which an assignment for hearing or trial was made, except that:

(A) if the Federal Speedy Trial Act so requires, first priority shall be given to a criminal proceeding in the United State District Court; and

(B) subject to subsection (b) (2) (A) of this Rule, if the provisions of Rule 4-271 so require, first priority shall be given to a criminal proceeding in a Maryland circuit court.

(3) Conflicts Between Appellate and Trial Court Proceedings

In the event of a conflict in a hearing or trial date or time between an action or proceeding pending in (A) the Court of Appeals of Maryland, the Court of Special Appeals, or the United States Court of Appeals for the Fourth Circuit, and (B) a Federal or State trial court, the appellate proceeding shall be given priority over the trial court proceeding unless otherwise agreed by the respective appellate and trial courts.

(4) Conflicts Between Judicial and Administrative Proceedings

In the event of a conflict between a judicial proceeding and an administrative proceeding, even where the attorney in the judicial proceeding is a member of the administrative agency, the judicial proceeding has priority, and the pendency of the

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administrative proceeding is not a basis for a continuance or postponement of the judicial proceeding.

(c) Attorneys Who are Members or Desk Officers of the General Assembly

A proceeding shall be continued or postponed in conformance with Code, Courts Article, §6-402 upon request by an attorney of record in the action who is a member or desk officer of the General Assembly. In accepting employment in the action, however, the attorney should consider the inconvenience to the public, the bar, and the judicial system produced by excessive continuances or postponements.

(d) Resolution of Conflict by Courts

Nothing in this Rule precludes the affected courts, when apprised of a conflict, from attempting to resolve the conflict informally in a manner other than in accordance with the priorities established in section (b) of this Rule.

Source: This Rule is new.