Rule 18. PERSONAL LEAVE CONTINUANCE

(a) Applicability. This rule applies to all case types except:

(1) Orders for protection under Minnesota Statutes, section 518B.01;

(2) Harassment restraining orders under Minnesota Statutes, section 609.748;

(3) Summary eviction cases under Minnesota Statutes, sections 504B.281 to 504B.371, and summary tenant cases under Minnesota Statutes, sections 504B.375 to 504B.471;

(4) Criminal cases governed by Minnesota Rules of Criminal Procedure;

(5) Commitment cases governed by the Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment and Treatment Act;

(6) Juvenile delinquency and extended jurisdiction juvenile cases governed by Minnesota Rules of Juvenile Delinquency Procedure;

(7) Juvenile protection cases governed by the Minnesota Rules of Juvenile Protection Procedure; and

(8) Adoption cases governed by the Minnesota Rules of Adoption Procedure.

Nothing in this part (a) precludes a court from determining in an exempt case that an attorney is otherwise entitled to a continuance based on the factors below.

(b) Generally. A timely application by a party's attorney ("Applicant") for a continuance of a trial, evidentiary hearing, pretrial hearing, or motion hearing is immediately and automatically granted without a hearing in connection with any of the following by an Applicant substantially involved in the party's representation:

(1) A health condition that makes the Applicant temporarily unable to represent the party;

(2) The birth or adoption of a child regardless of the gender of the Applicant;

(3) The Applicant's need to care for or attend to a spouse, household member, dependent, or family member who has a serious health condition; or

(4) The death of an Applicant's family member or household member.

An objection to a personal leave continuance may be brought by motion under part (f) of this rule.

(c) Time for Making Request. An application for a personal leave continuance shall be made within a reasonable time after the Applicant learns of the need for a continuance.

(d) Length. A personal leave continuance may be sought for a period of up to 90 days, as specified in the Continuance Application. An Applicant may seek a continuance of longer than 90 days by motion to the court for good cause shown, under Minnesota General Rules of Practice 115.

(e) Form of Continuance Application. An Applicant applying for a personal leave continuance shall file a declaration 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 part (b)(1) - (4) above;

(3) That the application is timely under part (c);

(4) The length of the continuance requested;

(5) That the Applicant will remain substantially involved in the party's representation following any personal leave continuance;

(6) That the client has given informed consent (as defined in Minnesota Rules of Professional Conduct 1.0(f)) to the continuance; and

(7) That the continuance is sought in good faith and not merely for delay.

(f) Objection to Continuance.

(1) **Motion and Response; Deadlines.** A party objecting to a personal leave continuance shall bring a motion objecting to the leave within 14 days of the filing of the Continuance Application, and the motion is subject to the meet and confer requirement pursuant to Minnesota General Rules of Practice 115.10, regardless of case type. The Applicant shall be permitted a response within 7 days of service of the motion objecting to the leave. The presiding judge may reduce the time periods in this rule in the event of an emergency.

(2) **Burden of Proof; Determination.** A party objecting to a personal leave continuance shall bear the burden of demonstrating substantial prejudice or extraordinary circumstances that should preclude or limit the personal leave continuance. Upon proof of substantial prejudice or extraordinary circumstances, the court may modify or deny the personal leave continuance. The court shall modify or deny a personal leave continuance if it would impact a substantial right in the proceeding and alternative arrangements cannot be made to ensure the party is adequately represented in the Applicant's absence.

(3) **Decision Deadline; No Hearing.** The court shall rule on the motion objecting to leave within 21 days of filing of the motion without hearing.

(4) **Leave Pending Decision; No Retroactive Application of Denial.** Leave shall continue during the pendency of the motion proceedings but no longer than the leave period sought in the Application. A denial of the leave shall not be made retroactive.

(g) 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 be tolled until the conclusion of the personal leave period.

(h) Scheduling Order. If the personal leave continuance substantially affects the scheduling order, the parties shall meet and confer regarding a proposed amended scheduling order prior to the filing of the Application, if possible, or immediately upon the expiration of the personal leave continuance. A personal leave continuance pursuant to this rule resulting in the expiration of any deadline or other scheduled event within a scheduling order is presumptively good cause shown to amend the scheduling order.

(i) Settlement Efforts. This rule is not meant to preclude or discourage the parties from agreeing to a continuance or alternative arrangement. If a continuance agreement is reached, the parties must file the agreement as a stipulation with reference to this rule.

(Added effective September 1, 2024.)

Advisory Committee Comment - 2024 Amendments

Rule 18 is a new rule that provides the option of an automatic continuance when an attorney is faced with one of the circumstances listed in Rule 18(b)(1)-(4). The rule was enacted in response

to a submission by the MSBA raising serious concerns about lawyer well-being and the need to destigmatize seeking leave for personal, health, or family reasons. This personal leave continuance rule applies to all case types except those listed in Rule 18(a). The rule is intended to accommodate certain personal leave continuances without requiring an attorney to disclose private health or other personal information to opposing counsel or the court. The grounds to object to a personal leave continuance under this rule are intentionally narrow and require more than mere inconvenience or expense. Impacts of a personal leave continuance on discovery and the court's scheduling order are discussed in Rules 18(g) and (h), respectively. Nothing in this new rule is meant to preclude or discourage the practice of stipulating to continuances.