

COLLIN COUNTY COURT AT LAW NO. 5
MOTIONS FOR CONTINUANCE

Motions for continuance in civil and criminal cases must be in writing and must state specific facts showing sufficient cause to support the motion.

The facts stated in the motion must be verified or supported by affidavit made by a person having personal knowledge of the facts relied on for the continuance. (TEX. CIV. PRAC. & REM. CODE §132.001 allows for use of an unsworn declaration instead of a verification or affidavit.)

Continuances may only be for as long as is necessary.

See e.g., TEX. R. CIV. PROC. 251; TEX. R. CRIM. PROC. 29.03 & 29.08.

A continuance based on “consent of the parties” in a criminal case should be supported by a showing of good cause. TEX. R. CRIM. PROC. 29.02.

The Court may respect written agreements for postponement and continuance in civil cases if filed in the case when or before it is called for trial unless the delay would interfere with other business of the court or poses a risk of harm to one of the parties. *Cf.* TEX. R. CIV. PROC. 330(d).

Agreement of counsel does not mandate a continuance. The trial court’s ruling on most motions for continuance is a matter of discretion.

A party requesting additional time for discovery in a civil case, whether to obtain evidence or testimony, must fulfill the requirements of TEX. R. CIV. PROC. 252 under oath.

A continuance of a criminal case for the want or absence of a witness must fulfill the requirements of TEX. R. CRIM. PROC. 29.04 & 29.05 if requested by the state or TEX. R. CRIM. PROC. 29.06 & 29.09 if requested by the defendant.

Motions for continuance should include a certificate of conference, as well as a certificate of service.

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