

Rule 231. Motions for Continuance

(a) Absence of Material Evidence. If either party applies for a continuance of a cause on account of the absence of material evidence, the motion shall be supported by the affidavit of the party so applying or his authorized agent. The affidavit shall show (1) that due diligence has been used to obtain the evidence, or the want of time to obtain it; (2) of what particular fact or facts the evidence consists; (3) if the evidence consists of the testimony of a witness his place of residence, or if his place of residence is not known, that due diligence has been used to ascertain it; and (4) that if further time is given the evidence can be procured.

(b) When Continuance Will Be Denied. If the court is satisfied that the evidence would not be material, or if the other party will admit the affidavit in evidence as proof only of what the absent witness would testify to if present, the continuance shall be denied unless the court, for the furtherance of justice, shall consider a continuance necessary.

(c) Other Causes for Continuance. It is sufficient cause for the continuance of any action: (1) that, in time of war or insurrection, a party whose presence is necessary for the full and fair prosecution or defense of the action is in the military service of the United States or of this State and that his military service materially impairs his ability to prosecute or defend the action; or (2) that the party applying therefor or his attorney is a member of either house of the General Assembly during the time the General Assembly is in session, if the presence of that party is necessary for the full and fair trial of the action, and in the case of the attorney, if the attorney was retained by the party prior to the time the cause was set for trial.

(d) Amendment as Cause. No amendment is cause for continuance unless the party affected thereby, or his agent or attorney, shall make affidavit that, in consequence thereof, he is unprepared to proceed to or with the trial. If the cause thereof is the want of material evidence, a continuance shall be granted only on a further showing as may be required for continuance for that cause.

(e) Court's Own Motion. The court may on its own motion, or with the consent of the adverse party, continue a cause for trial to a later day.

(f) Time for Motion. No motion for the continuance of a cause made after the cause has been reached for trial shall be heard, unless a sufficient excuse is shown for the delay.

(g) Taxing of Costs. When a continuance is granted upon payment of costs, the costs may be taxed summarily by the court, and on being taxed shall be paid on demand of the party, his agent, or his attorney, and, if not so paid, on affidavit of the fact, the continuance may be vacated, or the court may enforce the payment, with the accruing costs, by contempt proceedings.

Amended October 21, 1969, effective January 1, 1970.

Committee Comments
(Revised October 1969)

This rule, as adopted effective January 1, 1967, was former Rule 14 without change in substance.

Paragraph (c) of the rule was amended in 1969 to conform with the 1967 amendment of section 59 of the Civil Practice Act. 1967 Ill. Laws 326.

