

STATE OF MINNESOTA

IN TAX COURT

ADM2023-001

**ADMINISTRATIVE ORDER CONCERNING PERSONAL
LEAVE CONTINUANCES**

The Minnesota Tax Court, with this Administrative Order, recognizes the importance of promoting attorney well-being. The conflict between an attorney’s professional and personal life becomes profound when starting a family. Law firms and corporations have made significant steps towards addressing this issue by offering increasingly generous paid-leave policies for attorneys. But even with these parental leave policies in place, the negative stigma associated with taking parental leave persists. A 2018 report prepared for the American Bar Association’s Commission on Women in the Profession and the Minority Corporate Counsel Association, entitled “You Can’t Change What You Can’t See: Interrupting Racial and Gender Bias in the Legal Profession” reported that 47% of men of color, 50% of women of color, 57% of white women, and 42% of white men say taking family leave would have a negative impact on their career. Simply put, the fear of potential fallout from taking advantage of parental leave exists across races and genders.

Additionally, in 2017, the National Task Force on Lawyer Well-Being issued a report that included staggering and rather dismal statistics regarding the status of lawyer well-being. The report noted a myriad of issues impacting lawyer well-being including depression, anxiety, stress, and problem-drinking. Among the “parade of difficulties” impacting attorneys’ well-being was a consistent complaint of “work-life conflict.” Discussions around “work-life conflict” are not new. Fortunately, these discussions have gained a renewed focus following the Lawyer Well-Being Report.

The Tax Court recognizes it plays a role in promoting attorney well-being, including providing for continuances where appropriate.

Accordingly, IT IS HEREBY ORDERED THAT:

Attorneys qualifying for a Personal Leave Continuance, as described below, may follow the steps outlined in this Administrative Order to obtain a continuance.

Dated: February 14, 2023

Jane N. Bowman, Chief Judge
Minnesota Tax Court

Personal Leave Continuance

(a) **Generally.** Subject to an exclusion under paragraph (g) or an objection under paragraph (e), a party's timely application for a continuance of a trial, evidentiary hearing, pretrial, or motion hearing is immediately and automatically granted 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;
- (3) The need to care for a spouse, household member, dependent, or family member who has a serious health condition; or
- (4) The death of a family or household member

(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 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 paragraph (a)(1) – (4) 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. Upon proof of substantial prejudice or extraordinary circumstances, the court may deny or modify the application for a personal leave continuance. 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. Except in the case of an emergency, a challenge to a personal leave continuance shall be brought by motion within 14 days and shall be subject to the meet and confer requirement. The applicant shall be permitted a reply within 7 days of the service of objection. The court shall rule on the objection within 21 days of filing of the objection.

(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.

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