

60-240. Scheduling cases for trial; continuances. (a) *Scheduling cases for trial.* Each district court must provide by rule for scheduling trials. The court must give priority to actions entitled to priority by law.

(b) *Continuances.* For good cause, the court may continue an action at any stage of the proceedings on just terms. When a continuance is granted due to the absence of evidence, it must be at the cost of the party requesting the continuance, unless the court orders otherwise.

(c) *Motion for continuance based on absence of material witness, document, thing or other evidence; affidavit or declaration.* (1) *Affidavit or declaration in support of motions.* The court need not entertain a motion for a continuance based on the absence of a material witness, document, thing or other evidence unless supported by an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto.

(A) An affidavit or declaration in support of a motion for a continuance based on the absence of a material witness must state:

- (i) The name of the witness, and, if known, the witness' residence;
- (ii) the substance of the witness' expected testimony and the basis for the expectation;
- (iii) that the affiant or declarant believes the statements in the affidavit or declaration to be true; and
- (iv) the efforts that have been made to procure the witness' attendance or deposition.

(B) An affidavit or declaration in support of a motion for a continuance based on the absence of a material document, thing or other evidence must contain similar statements, with appropriate modifications.

(2) *Objections.* A party objecting to a continuance may not contradict the statement of the substance of the absent witness' expected testimony or the substance of the absent document, thing or other evidence, but may contradict any other statement in the affidavit or declaration.

(3) *Granting or denying the motion.* The court may deny the motion if the adverse party admits that the absent witness would, if present, testify as stated in the affidavit or declaration, and agrees that the affidavit or declaration be received as evidence at the trial and considered as though the witness were present and so testified. The granting or denial of a continuance is discretionary in all cases, regardless of compliance with the provisions of this subsection.

History: L. 1963, ch. 303, 60-240; L. 2010, ch. 135, § 109; July 1.