

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY  
STATE OF \_\_\_\_\_

_____	)	
	)	
	)	
<b>Petitioner/Plaintiff,</b>	)	
	)	
<b>Vs.</b>	)	<b>NO.</b> _____
	)	
_____	)	
<b>Respondent/Defendant</b>	)	
	)	

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**MOTION TO CONTINUE**

NOW COMES \_\_\_\_\_, Plaintiff, and files this her Motion for Continuance in the trial of this cause set for the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and in support thereof would show as follows, to-wit:

1. This cause is set for trial in this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

2. One of the witnesses for Plaintiff at the trial of this cause will be \_\_\_\_\_, who was a passenger in the vehicle with the Plaintiff at the time of the automobile accident between Plaintiff and Defendant.

3. Plaintiff's witness cannot be located at this time, and it is probable that he will not be available to testify at trial on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

4. \_\_\_\_\_ is a material and necessary witness for the Plaintiff. There are no other witnesses known to the Plaintiff who can testify to the particular facts Plaintiff expects to prove by this absent witness.

5. Plaintiff had no reason to believe this witness would not be available for trial, and in fact, fully expected him to be available at all times to prepare for trial and to testify at trial.

6. Through this absent witness, Plaintiff expects to prove facts showing the cause of the accident and facts concerning Plaintiff's physical condition both before and after the accident.

7. Plaintiff's Affidavit in support of this Motion is attached hereto as Exhibit "A" and is incorporated herein by reference.

8. This Motion is not being made for purposes of delay but so that justice may be done.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays this Court will grant a continuance in the trial of this cause set for the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

RESPECTFULLY SUBMITTED this the \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_  
Plaintiff's Attorney

**NOTICE OF MOTION**

TO: \_\_\_\_\_

PLEASE TAKE NOTICE that Plaintiff's Motion for Continuance will be heard before the Honorable \_\_\_\_\_, Circuit Court Judge, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock a.m./p.m. at the \_\_\_\_\_ County Circuit Courthouse, \_\_\_\_\_, \_\_\_\_\_, or as soon thereafter as counsel may be heard.

RESPECTFULLY SUBMITTED this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_  
Plaintiff's Attorney

**CERTIFICATE OF SERVICE**

I, \_\_\_\_\_, counsel of record for the Plaintiff, do hereby certify that I have this day delivered a true and correct copy of the above and foregoing Motion for Continuance and Notice of Motion to the following counsel of record for the Defendant:

THIS, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

<b>Petitioner/Plaintiff,</b>	)	
	)	
	)	
	)	
<b>Vs.</b>	)	<b>NO.</b> _____
	)	
	)	
<b>Respondent/Defendant</b>	)	
	)	

THIS DAY PERSONALLY APPEARED BEFORE ME, the undersigned legal authority  
in and for the jurisdiction aforesaid, the within named \_\_\_\_\_, who being by me  
first duly sworn, did state on her oath as follows, to-wit:

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\_\_\_\_\_ testimony that the accident was caused by the negligent acts of the Defendant. \_\_\_\_\_'s testimony will also be used to show how Affiant's physical condition was affected by the collision.

6. Affiant had advised \_\_\_\_\_ that the trial of this case would be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and was assured by \_\_\_\_\_ that he would be available for trial. Affiant had no reason to expect this witness not to be available. However, since Plaintiff has not heard from this witness recently, she believes he may not appear in time for trial or in time to prepare adequately for trial.

7. \_\_\_\_\_ is a necessary and material witness, and Affiant cannot proceed to trial without his testimony. Affiant knows of no other witnesses who can testify to the same facts as this witness.

8. This witness is not absent by Affiant's consent, connivance, or procurement.

9. Affiant has used due diligence to procure the presence or \_\_\_\_\_ at trial. \_\_\_\_\_ has lived and worked in the State of \_\_\_\_\_ for some time and during said time has lived at several different addresses. Affiant does not know \_\_\_\_\_'s present address or present whereabouts at this time, but Affiant was advised by the witness that his family's permanent address is \_\_\_\_\_. Affiant has attempted to telephone the witness in \_\_\_\_\_, \_\_\_\_\_, but has discovered that there is no telephone listing for \_\_\_\_\_ and has learned that there are no \_\_\_\_\_ listed on \_\_\_\_\_ in \_\_\_\_\_, \_\_\_\_\_. A letter has been forwarded to the witness' address in \_\_\_\_\_, \_\_\_\_\_, requesting the witness to contact Affiant, but no reply has yet been received.

10. Affiant requests a continuance not for the purpose of delay but so that justice may be done.

And further Affiant saith not.

\_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME, this the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:  
\_\_\_\_\_

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY  
STATE OF \_\_\_\_\_

_____	)	
	)	
	)	
<b>Petitioner/Plaintiff,</b>	)	
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<b>Vs.</b>	)	<b>NO.</b> _____
	)	
_____	)	
<b>Respondent/Defendant</b>	)	
	)	

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**ORDER**

THIS CAUSE this date having come on for hearing in the above styled cause, and the Court, having considered this matter and having heard arguments of counsel, finds that the motion is well taken and should be sustained.

IT IS THEREFORE, ORDERED AND ADJUDGED, that the trial of this cause set for the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, is hereby continued and will be re-set on a date agreeable to the parties and this Court.

ORDERED AND ADJUDGED this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
CIRCUIT JUDGE

PRESENTED BY:

\_\_\_\_\_