IN THE COURT OF APPEALS OF MARYLAND

REVISED ADMINISTRATIVE ORDER FOR CONTINUANCES FOR CONFLICTING CASE ASSIGNMENTS OR LEGISLATIVE DUTIES

WHEREAS, in 1972, an informal policy as to conflicts between case assignments in trial courts was published in the *Daily Record* following consideration by the Maryland Judicial Conference and then Conference of Circuit Administrative Judges and consultation with judges of the United States District Court for the District of Maryland; and

WHEREAS, this policy evolved into a uniform Statewide policy formalized by Administrative Orders issued on October 21, 1977, June 2, 1978, October 9, 1980, and December 30, 1980; and

WHEREAS, at a meeting on March 14, 1995, the Executive Committee of the Maryland Judicial Conference resolved that, given the lapse of time since promulgation, the policy should be reviewed, revised to incorporate statutory requirements such as legislative postponements, and reissued to all Maryland Judges, to bar associations for dissemination to their members, and to others as appropriate; and

WHEREAS, it is appropriate to encompass appellate courts as well;

NOW, THEREFORE, I, Robert C. Murphy, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Constitution, do hereby order this 26th day of April, 1995, that the procedures for the resolution of conflicts in case assignment among appellate and trial courts in the State, as adopted by Administrative Orders of June 2, 1978, October 9, 1980, and December 30, 1980, are amended, effective May 15, 1995, to read as follows:

1. PURPOSE OF ADMINISTRATIVE ORDER — CERTAIN CONTINUANCES PROHIBITED.

This Administrative Order establishes policy regarding priorities between cases assigned for argument, hearing, or trial in one or more APPELLATE OR trial courts [of] IN the State on the same date. When there is a conflict in assignment, a continuance, postponement, or change in schedule may be made only in accordance with this Administrative Order.

THIS ADMINISTRATIVE ORDER ALSO STATES POLICY REGARDING CONTINUANCES FOR LEGISLATIVE PERSONNEL AND MEMBERS OF ADMINISTRATIVE AGENCIES.

2. RESPONSIBILITIES OF COUNSEL.

a. When consulted as to the availability of dates for trial, counsel has the responsibility of assuring the absence of conflicting assignments on any date [he] THAT COUNSEL indicates is

available for trial.

b. If counsel accepts employment in a case in which a date or time for argument, hearing, or trial has already been set after [he] COUNSEL has been notified of a conflicting assignment for the same date or time, [he] COUNSEL should not expect to be granted a continuance.

c. If a conflict in assignment dates develops after representation has been accepted, counsel shall make every effort to obtain the presence of a partner or associate to act in one of the cases before a continuance is requested. Obviously, this provision is subject to obligations counsel may have to the client. However, a request for continuance because of conflicting cases should include a statement that it is not practical for a partner or associate to handle one of the conflicting cases.

3. PUBLICLY EMPLOYED LAWYERS.

A lawyer who [hold] HOLDS public office or employment as an attorney (*e.g.*, State's Attorney, Assistant State's Attorney, Public Defender, District Public Defender, County Attorney, OR City Solicitor) and who is [also] permitted to engage ALSO in the private practice of law may not be granted a postponement or continuance of a case in which [he] THE LAWYER appears in [his] A public capacity, if there is an assignment conflict between that case and one in which [he] THE LAWYER appears in [his] A private capacity, except under the most extraordinary circumstances.

4. LEGISLATIVE PERSONNEL.

A CONTINUANCE MUST BE GRANTED TO AN ATTORNEY OF RECORD WHO IS A MEMBER OR DESK OFFICER OF THE GENERAL ASSEMBLY EXERCISING THE PRIVILEGE UNDER COURTS AND JUDICIAL PROCEEDINGS ARTICLE, § 6-402. IN ACCEPTING EMPLOYMENT, HOWEVER, SUCH ATTORNEY SHOULD CONSIDER THE INCONVENIENCE TO THE PUBLIC, BAR AND JUDICIAL SYSTEM PRODUCED BY EXCESSIVE CONTINUANCES.

[4.] 5. RESPONSIBILITY OF THE COURT WHEN A CONTINUANCE IS REQUESTED AND GRANTED BECAUSE OF CONFLICTING CASE ASSIGNMENTS.

a. In a case in which counsel has accepted employment which creates a conflict in assignments, a judge may, in [his] THE JUDGE'S discretion[,] and under extraordinary circumstances, grant a continuance. In the exercise of that discretion, the judge shall first assure that all parties, witnesses, and counsel in the case can be notified of the continuance sufficiently in advance of the trial date to avoid undue inconvenience; that the case has not been continued an unreasonable number of times prior thereto; and that the continuance would not otherwise impede the proper administration of justice.

b. It is the responsibility of the court to fix a new date

for the continued or postponed case when a continuance or postponement is granted.

[5.] 6. PRIORITIES AS BETWEEN TRIAL COURTS.

With respect to conflicting hearings or trial dates between a circuit court for a county[, a court of the Supreme Bench of] OR Baltimore City, EITHER DIVISION OF the United States District Court for the District of Maryland, the United States Bankruptcy Court for the District of Maryland, or the Maryland District Court, priority shall be given to the case in accordance with the earliest date on which assignment for hearing or trial was made, except [that] THAT, regardless of the date the assignment for hearing or trial was [made] MADE, (1) if the provisions of the Federal Speedy Trial Act so require, priority shall be given to a criminal proceeding in the United States District Court; and (2) if the provisions of Maryland Rule [746] 4-271 AND/OR ARTICLE 27, § 591 OF THE CODE so require, priority shall be given to a criminal proceeding in a Maryland court, over a civil proceeding in the United States District Court or the United States Bankruptcy Court for the District of Maryland.

7. PRIORITIES BETWEEN APPELLATE AND TRIAL COURTS.

WITH RESPECT TO CONFLICTING PROCEEDINGS BEFORE THE COURT OF APPEALS, THE COURT OF SPECIAL APPEALS, OR THE 4TH CIRCUIT COURT OF APPEALS AND A TRIAL COURT, THE APPELLATE PROCEEDING SHALL BE GIVEN PRIORITY OVER THE TRIAL COURT PROCEEDING UNLESS OTHERWISE AGREED BY THE APPELLATE AND TRIAL COURTS AS TO PARTICULAR PROCEEDINGS.

[6.] 8. CONFLICTS BETWEEN TRIAL COURTS AND ADMINISTRATIVE AGENCIES.

If counsel is a member of an administrative agency which has scheduled a meeting or hearing conflicting with [a] AN APPELLATE OR trial court proceeding in which the lawyer-member of the agency is also involved, the [trial] court proceeding has priority and the pendency of the administrative hearing is not a basis for granting a continuance.

/s/ Robert C. Murphy
Chief Judge

Filed: April 26, 1995

/s/ Alexander L. Cummings
Clerk
Court of Appeals

4/26/95: ADMINISTRATIVE ORDER - RE: REVISED ADMINISTRATIVE ORDER FOR CONTINUANCES FOR CONFLICTING CASE ASSIGNMENTS OR LEGISLATIVE DUTIES.