



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

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MEMORANDUM

TO: Magistrates and Municipal Judges

FROM: Robert L. McCurdy, Assistant Director

RE: Conflict in Hearing Dates between Summary Courts

DATE: March 22, 2011

Rule 601, SCACR, Conflicts in Hearing Dates, sets forth the priority among state courts when a party or attorney is called to serve in more than one tribunal at the same time. While summary courts are included in Rule 601, the Rule provides no guidance when a party or attorney is called to serve in two summary courts at the same time. In that regard, we provide below a priority of hearings list to be used when faced with a conflict between two summary courts. We have also provided an additional list of considerations which may be helpful when resolving these issues. Cooperation between courts will be imperative when faced with this type of conflict. We ask that you be civil and communicative when resolving these issues. Finally, Rule 601 provides that an attorney who cannot make a scheduled appearance because of a conflict in hearing dates shall notify the affected tribunals as soon as the conflict becomes apparent. Therefore, attorneys and prosecuting law enforcement officers should be held to that same notice requirement in regards to this document.

CONFLICTS IN HEARING DATES AMONG SUMMARY COURTS

1. Criminal jury trial (DUI/DUAC)
 - Older case
 - Newer case
2. Criminal jury trial (other)
 - Older case
 - Newer case

3. Civil jury trial
Older case
Newer case
4. Criminal bench trial (DUI/DUAC)
Older case
Newer case
5. Criminal bench trial (other)
Older case
Newer case
6. Civil bench trial
Older case
Newer case

CONSIDERATIONS

1. Criminal case takes precedence over civil case if all else is equal.
2. Jury trial takes precedence over bench trial.
3. Older cases take precedence over newer ones if all else is equal.
4. Cases involving legislator as attorney take precedence on Mondays and Fridays when Legislature is in session, and at all times when Legislature is out of session.¹
5. Trials on the merits take precedence over motions, prelims, pretrials, mediation, etc.
6. Cases involving an attorney prosecutor take precedence over cases which do not.
7. Trials with attorney representation take precedence over trials without attorney representation when all else is equal.
8. Cases in which witnesses have been subpoenaed take precedence over cases in which only the parties are involved.
9. Reminder that only court hearings – not depositions or other meetings – are appropriate for continuances.
10. Fact that prosecuting officer is not “on duty” or at training does not mandate a continuance, but additional information may be considered.

RLM/mhb

¹ See Order of the Chief Justice dated April 21, 2010, regarding protection of attorney/legislators during the legislative session.