

1 [Attorney Name], SBN [ ]  
Firm Name  
2 Firm Address  
City, State Zip  
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6 Attorney for Defendant  
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF [COUNTY]**

10 THE PEOPLE OF THE STATE OF  
11 CALIFORNIA  
12 Plaintiff,  
13 vs.  
14 [DEFENDANT'S NAME]  
15 Defendant  
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**CASE NO. [CASE NUMBER]**  
**MOTION TO CONTINUE TRIAL DATE  
AND DECLARATION OF [Attorney Name],**  
**Date:**  
**Time:**  
**Dept:**  
**Current Trial Date:**  
**Case Filed:**

17 PLEASE TAKE NOTICE that on the above date and time and in the above-designated  
18 department, Defendant Andrew Suh will move this court for an order to continue the trial date.  
19 The motion is on grounds that Defense counsel Patrick Clancy has a conflict on a “no time  
20 waiver” criminal matter currently set for trial on February 3, 2020. Further, the instant case in not  
21 ready for trial due to issues regarding ongoing investigations.

22 This motion is made based on “good cause” which exists justifying a continuance.  
23 *California Penal Code* § 1050(e).

24 Dated: March 16, 2022

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26 Patrick Clancy  
27 Attorney for Defendant  
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**I.**  
**SUPPORTING FACTS**

Attorney Patrick Clancy represents defendant Andrew Suh in the instant matter and is Mr. Suh’s trial counsel. The same is true for several other clients including Steve Maulick, a no time waiver case set for trial February 3, 2020 in this Court (*People v. Maulick*, Case No. F1764184). The trial in Maulick is not expected to be complete before the date set for trial in the instant case (February 10, 2020).

Mr. Clancy is also set for trial on March 9, 2020 in Palo Alto court, Department 84, in the case of *People v. Aguilar* (Case No. B1801128) which has priority because Mr. Aguilar is in custody with multiple victim 288(a) charges.

Additionally, Mr. Clancy would require at least a minimum of some few days of prep time between trials.

The case is also not ready for trial due to issues which were encountered in the conduct of the defense investigation with respect to locating and interviewing approximately twenty witnesses. Those issues have now been resolved but the completion of the investigation was delayed.

**II.**  
**DEFNDANT HAS MET ALL REQUIREMENTS FOR A TRIAL CONTINUANCE**

*California Penal Code* § 1050(e) provides in relevant part, “Continuances shall be granted only upon a showing of good cause ...”

Whether to grant a motion to continue or postpone a hearing or trial rests in the sound discretion of the court. “It is a settled rule of practice that an application for a continuance is addressed to the sound discretion of the trial court, and its ruling will not be reviewed except for the most cogent reasons. The trial court is apprised of all the circumstances of the case and the previous proceedings, and is, therefore, better able to decide upon the propriety of granting the application than an appellate court; and when it exercises a reasonable, and not an arbitrary discretion, its action will not be disturbed.” *People v. Collins* (1925) 195 Cal. 325.

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1 Here, Mr. Clancy is unavailable for the instant trial as he has another trial starting the  
2 week before which is not expected to conclude by this trial's start date. It is well settled that  
3 counsel's unavailability constitutes good cause for continuing a criminal trial. *People v. Sutton*  
4 (2010) 48 Cal. 4th 533, 555, 106 Cal. Rptr. 3d 883, 900, 227 P.3d 437, 451.

5 Moreover, due to issues with its investigator, the defense has not completed its  
6 investigation and therefore cannot determine which witnesses are essential to testify. While those  
7 issues have been resolved, the investigation was delayed. Thus, the case is, in any event, not  
8 ready for trial.

9 Finally, defendant has met the requirement to timely file and serve the instant motion.  
10 *California Penal Code* § 1050(b) (The party seeking the continuance must serve and file the  
11 motion at least two court days prior to the hearing).

12 **III.**

13 **CONCLUSION**

14 It is therefore respectfully requested that the Court order the trial in the instant case  
15 continued a reasonable amount of time to a time when Mr. Clancy will be available, and the  
16 defense investigation concluded.

17 Respectfully submitted,

18 Dated: March 16, 2022

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21 Patrick Clancy  
22 Attorney for Defendant  
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**DECLARATATION OF [Attorney Name],**

I, [Attorney Name], declare:

1. I am an attorney duly licensed to practice law in the State of California. I am a Certified Criminal Law Specialist. I am the attorney for the defendant in this matter. This matter is set for trial on [DATE].

2. I represent and am trial counsel defendant [DEFENDANT] (“Defendant”).

3. I represent several other clients as well including [INSERT CLIENT NAMES/CASE NUMBERS AND TRIAL DATES].

4. Additionally, I would require at least a minimum of some few days of prep time between trials.

5. The instant case is also not ready for trial due to issues which were encountered in the conduct of the defense investigation with respect to locating and interviewing approximately twenty witnesses. Those issues have now been resolved but the completion of the investigation was delayed.

6. A reasonable continuance is requested due the above referenced issues.

I declare the above under penalty of perjury except as to those matters based upon information and belief and as to those matters, I believe them to be true.

Executed in CITY, CA on [DATE].

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[Attorney Name], SBN