

In the Supreme Court of the State of Idaho

IN RE: ORDER AMENDING LOCAL RULES)
OF THE FOURTH JUDICIAL DISTRICT) ORDER

The Administrative Judge of the Fourth Judicial District having submitted to the Court proposed amendments to their rules for approval pursuant to Rule 1(c) of the Idaho Rules of Civil Procedure, and the Court having approved the same;

NOW, THEREFORE, IT IS HEREBY ORDERED, that Appendix A, attached hereto and incorporated herein by this reference, be, and it is hereby, approved and adopted as the local rules of the Fourth Judicial District of the state of Idaho.

IT IS FURTHER ORDERED, that the amended local rules of the Fourth Judicial District shall become effective July 1, 2018.

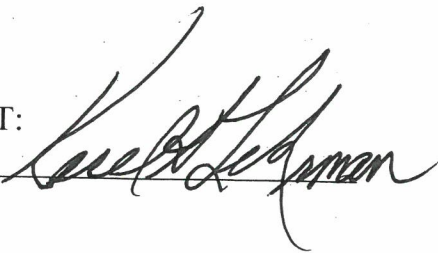
IT IS FURTHER ORDERED, that said amendments to the Local Rules of the Fourth Judicial District of the state of Idaho shall be sent to the trial court administrator of the Fourth Judicial District for publication and dissemination.

IT IS FURTHER ORDERED, that the Fourth Judicial District is hereby authorized to submit the amendments to the editors of *The Advocate* for publication and inclusion in the *Idaho State Bar Desk Book*.

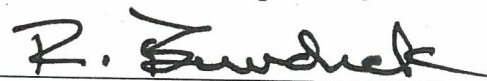
Dated this 13 day of April, 2018.

ATTEST:

Clerk



By Order of the Supreme Court



Roger S. Burdick, Chief Justice

I, Karel A. Lehrman, Clerk of the Supreme Court/
Court of Appeals of the State of Idaho, do hereby
certify that the above is a true and correct copy of the
Order entered in the above entitled
cause and now on record in my office. WITNESS my
hand and the Seal of this Court April 13, 2018

Karel A. Lehrman, Clerk

By  Deputy

**Local Rules of the District Court and Magistrate
Division For the Fourth Judicial District
Effective July 1, 2018**

Rule 1. Authority for the Rules. These local rules are promulgated under the authority of I.R.C.P. 1(c) and I.C.R. 2(c) and govern the procedures of the District Court and Magistrate Division for the Fourth Judicial District. These local rules apply unless (i) otherwise provided for in the I.R.C.P., the I.C.R., or the I.R.F.L.P. or (ii) otherwise ordered by the court.

Rule 2. Calendars and Calendaring Matters. Each judge shall control and set his or her own calendar, subject to the rules of the Idaho Supreme Court and administrative orders.

2.1. Scheduling Court Hearings or Proceedings. To schedule or re-schedule any court hearing or proceeding, the moving party must contact the judge's clerk to arrange a time certain. If a hearing or proceeding is re-scheduled at the request of either party, that party is responsible for providing notice to other parties. The general schedules for each judge may be located on the website for the Fourth Judicial District:

<https://fourthjudicialcourt.idaho.gov/>.

2.2. Civil Matters. Prior to filing notice of hearing upon any motion, the moving party shall contact the judge's clerk who will assign a time for hearing the matter, which shall be used by the moving party in the notice of hearing.

Rule 3. Reserved.

Rule 4. Reserved.

Rule 5. Appearance of Counsel - Contested Motions. In the absence of a stipulation or court order granting a continuance:

5.1. If the moving party or his or her attorney fails to appear to argue a contested motion at the time set, the court may summarily deny the motion for failure to prosecute pursuant to I.R.C.P. 41(b) or I.R.F.L.P. 123 or may deem the motion withdrawn.

5.2. If the moving party or his or her attorney appears to argue the motion at the time set, if the opposing party or his or her attorney does not appear, and if the motion has been properly and timely noticed for hearing with proof of due service, the court may render a decision on the merits of the motion.

5.3. If, within fourteen days of the filing date of a motion, a moving party fails to notice a motion for hearing and fails to request the matter be decided without hearing, the court may consider the motion withdrawn.

Rule 6. Time for Oral Argument. Oral arguments on contested motions shall be limited to fifteen minutes for each side.

Rule 7. Reserved.

Rule 8. Motion Practice.

8.1. Motion. Each motion, other than a routine or uncontested matter, must be accompanied by a separate memorandum or brief, not to exceed 25 pages.

8.2. Opposing Memorandum or Brief. A non-moving party who opposes the motion must submit an opposing memorandum or brief not to exceed 25 pages. A non-moving party who does not oppose the motion must file a notice of non-opposition within the same time frame provided for an opposing memorandum or brief.

8.3. Reply Memorandum or Brief. The moving party may submit a reply brief not to exceed fifteen pages.

8.4. Reliance on Record. Any memorandum or brief, supporting or opposing a motion, shall contain a statement of facts and all of the reasons and points and authorities relied upon by that party. To the extent a party relies on facts in the record, the party must specifically cite to the precise place in the record, affidavits, or documentary evidence.

8.5. Proposed Order. Proposed orders on routine or uncontested matters may be submitted at the time the motion is filed. The court may require the moving party to submit a proposed order on any other motions or matters, together with any other documents necessary to complete a case. Any proposed order must be filed as a separate document.

8.6. Amendments to Pleadings. A party who moves to amend a pleading must attach to the motion (i) the unsigned proposed amended pleading setting forth the entire pleading as amended without incorporating the prior pleading by reference and (ii) a "redline" or comparison version of the proposed amended pleading that shows the changes to the current pleading.

Rule 9. Motions Requesting Public Funds to Pay Defense Costs in Criminal Cases Where the Defendant is Represented by Private Counsel. In any case where a defendant in a criminal action is represented by private counsel and seeks public funds for payment of some or all the costs of defense, the defendant shall comply with I.C.R. 12.2. This Local Rule 9 includes the following additional requirements.

9.1. As additional rules, the movant must set

the matter for hearing. The court must make a finding of indigency in advance of granting any such request and will advise the defendant of the obligation to reimburse the county if found appropriate and ordered by the court.

9.2. The Office of the Public Defender shall be served with a copy of the motion and any other filings and be served notice by the moving party of any hearing whether scheduled by the defense or the prosecution.

9.3. In the sole discretion of the judge, he or she may require the defendant to produce (i) current state and federal tax returns for up to three years prior to the date of the filing of the charges against the defendant, (ii) business records, (iii) payroll and income distribution records, (iv) bank account statements, (v) financial and stock records, (vi) locations of real estate and other assets, (vii) the number and ages of any dependents, (viii) any outstanding financial obligations, and (ix) such other documentation as may be deemed necessary by the court to make the court's indigency determination.

9.4. The court may advise the prosecution that such a request has been made, but may, in its discretion, withhold details of the request or set a hearing with both parties present to review the case prior to making its determination as to whether the request should be granted or denied.

9.5. If the request is granted, the court may order such additional conditions as it feels appropriate to control costs and expenses and shall provide a copy of the order to the Office of the Public Defender. When an order specifies the amount authorized, no additional expenditures should be made without seeking prior approval of the court. Defense counsel must provide the necessary information and documentation to the Office of the Public Defender to process payment for authorized expenses as required by such reasonable guidelines as are or may be established by the county auditor or county commissioners.

9.6. The Office of the Public Defender shall maintain confidentiality as to the requests for services and payment except as required as a condition to obtain payment for allowed costs or compliance with county budgeting requirements and applicable public records laws.

Rule 10. Consolidation of Cases. Motions to consolidate pending actions pursuant to I.R.C.P. 42(a), I.C.R. 8, or I.R.F.L.P. 106 shall be presented to and ruled upon by the judge to whom the lowest-numbered or first-filed case has been assigned among those matters sought to be consolidated, except for domestic relations cases as provided in

I.R.F.L.P. 106.C. If a motion to consolidate is granted, all further action with regard to the consolidated cases shall be heard by the judge who is assigned the lowest-numbered or first-filed case. Notice shall be given to all parties in each action involved and a copy filed in each case involved. In civil and family cases, if the motion is granted, all future filings shall be made only in the lowest-numbered or first-filed case.

Rule 11. Reserved.

Rule 12. Civil Protection Hearings. In any hearing for an order of protection pursuant to the Domestic Violence Crime Prevention Act or an order of protection from malicious harassment, stalking, or telephone harassment under Idaho Code Section 18-7907, the court may allow a friend, relative, or advocate for an unrepresented party to sit at counsel table with a party. The friend, relative, or advocate may not represent the party before the court and may not advise the party on matters of law, but may, in the discretion of the judge, be allowed to speak to the party to assist in understanding the court's ruling and to ask questions of the court for the purpose of clarifying a ruling for the party. The judge may deny or revoke permission for a person to sit at counsel table if, in the judge's discretion, it appears that the person is improperly advocating or practicing law or is disruptive to the orderly disposition of the case or for other cause.

Rule 13. Assignment of Cases to Magistrates. In the interest of judicial efficiency, the Administrative District Judge and the district judges of the Fourth Judicial District hereby establish notice of the assignment of magistrates of the Fourth Judicial District by court rule rather than by annual Administrative Order. A magistrate of the Fourth Judicial District is permitted to be assigned matters enumerated in Idaho Court Administrative Rules 5(b), 5(c), and 5.1. Assignments may be revised by the Administrative District Judge, subject to the rules of the Idaho Supreme Court and the applicable statutes.

Rule 14. Caseflow Management Plans. Pursuant to Idaho Supreme Court Order, caseflow management plans for the Fourth Judicial District are hereby incorporated in these local rules and can be found on the Fourth Judicial District's website. For child protection cases, see https://fourthjudicialcourt.idaho.gov/pdf/caseflow_management_plan-child_protection.pdf and for criminal cases, see https://fourthjudicialcourt.idaho.gov/pdf/caseflow_management_plan-criminal.pdf.