



I.C.A.R. 4. Pro Tempore Trial Judges By Agreement.

Idaho Court Administrative Rule 4. Pro Tempore Trial Judge By Agreement.

(a) **Judge tempore requirements.** A civil action between private parties in the district court, or magistrates division of the district court, may be tried to a judge pro tempore. The authority for a judge tempore is at Idaho Const. art. 5, § 12. A judge pro tempore must:

- (1) be a member of the Idaho State Bar in good standing;
- (2) meet the other constitutional and statutory qualifications for a district judge or magistrate judge; and
- (3) be agreed to in writing by the parties or their attorneys of record.

(b) **Administrative District Judge discretion.** The administrative district judge (ADJ) of a judicial district has the discretion to approve a judge pro tempore. The agreement to retain a judge pro tempore must be presented to the ADJ for approval.

(1) If the ADJ agrees to the appointment, they will appoint the person designated in the agreement to become a judge pro tempore to hear and determine all contested matters in the case as a trial judge. The appointment is effective on the execution and filing of the oath required under Idaho Code § 59-401. The agreement, order, and oath must be filed in the action.

(2) If the ADJ declines to approve the agreement, they must enter an order stating the reasons for their decision.

(c) **Authority of Judge Pro Tempore.** A judge pro tempore has the powers and duties of a judge while presiding over an action as a trial judge. But a judge pro tempore does not have the authority to hear appeals or to exercise the inherent powers of the court. This includes the power to sanction for contempt and mandamus. Matters involving the inherent powers of the court must be referred to the ADJ.



(d) Hearings and Trials.

(1) **Conduct.** The judge pro tempore must conduct hearings and trials as required by the statutes and rules governing court proceedings.

(2) **Location.** A hearing or trial may be conducted at a place other than a regular court room on written agreement of the parties and approval of the judge pro tempore. The place of hearing or trial shall be provided by the parties and at their expense.

(e) **Records and Files.** The judge pro tempore must maintain the case file and records in the same manner as in the district court. The judge pro tempore must file all papers as required by Idaho Rules of Civil Procedure 5(e). At the conclusion of the action the judge pro tempore must deposit all records and files in the action with the court clerk. If an action is appealed, the judge pro tempore must settle the record.

(f) **Record of Proceedings.** If the parties agree in writing and the judge pro tempore approves, they may waive the reporting or recording of any part of the proceedings or testimony as permitted under Idaho Code § 1-1103. If the parties desire a record they must arrange and pay for it.

(g) **Reassignment of Case.** A judge pro tempore may be removed by the ADJ for the same cause that a district judge or magistrate judge may be removed. The ADJ must reassign the action to a district judge or magistrate judge:

(1) on written request of the parties;

(2) on written request of the judge tempore; or

(3) on the death or disability of the judge pro tempore.

(h) **Compensation.** The parties and judge pro tempore must enter into a written agreement which provides for the compensation to be paid to the judge pro tempore. The agreement must provide:

(1) the judge pro tempore's compensation;



(2) that the parties will pay the judge pro tempore; or

(3) that the judge pro tempore is an independent contractor and not a court agent or employee.

(i) **Effect of Orders and Judgments.** Orders and judgments entered by the judge pro tempore, or under the judge pro tempore's findings of fact and conclusions of law, have the same binding effect as a decision or judgment of a district judge or magistrate judge. Orders and judgments of the judge pro tempore are subject to enforcement and appeal as is an order or judgment of a district judge or magistrate judge.

(Adopted April 14, 1993, effective July 1, 1993; Amended June 30, 2025, effective July 1, 2025.)

Source URL: <https://isc.idaho.gov/icar4>