IRFLP 444 Failure to Comply With Discovery Order - Sanctions

Idaho Rules of Family Law Procedure Rule 444. Failure to Comply With Discovery Order - Sanctions.

A. Sanctions by court in district where deposition is taken. If a deponent fails to be sworn or affirmed or to answer a question after being directed to do so by the court in the district in which the deposition is being taken, the failure may be considered a contempt of that court.

B. Sanctions by court in which action is pending. If a party or an officer, director, or managing agent of a party or a person designated under Rule 430.G [1] to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under Rule 443 [2] or Rule 441 [3], the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

1. An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

2. An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;

3. An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

4. In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical, mental, or vocational examination;

5. Where a party has failed to comply with an order under Rule 442 [4].A requiring the party to produce another for examination, such orders as are listed in paragraphs 1, 2, and 3 of this subdivision, unless the party failing to comply shows that the party is unable to produce such person for examination.

In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising the party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(Adopted April 2, 2014, effective for early adopters July 1, 2014, effective statewide July 1, 2015.)

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