

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO THE)
IDAHO COURT ADMINISTRATIVE)
RULES 37 & 38)
_____)

ORDER

The Court, having received a recommendation to amend the Idaho Court Administrative Rules, and

WHEREAS, Idaho Court Administrative Rules 37 and 38 provide the minimum standards for preservation, destruction, or disposition of trial court records; and

WHEREAS, in recognition of the need for clarity regarding the preservation and destruction of certain court records;

NOW, THEREFORE, IT IS ORDERED that the Idaho Court Administrative Rules as they appear in the volume published by the Idaho Code Commission are amended as follows:

1. That Idaho Court Administrative Rule 37 is amended as follows:

* * *

(b) Preservation and Destruction of Court Records. Courts shall not destroy any record filed conventionally pursuant to Idaho Rules for Electronic Filing and Service 5(a), ~~5(e)~~, ~~5(f)~~, or ~~5(k)~~. The following schedule sets out the minimum time period that must pass before records can be destroyed and the specific records that must be preserved when destroying a file. It is within each court's discretion to exceed the minimum time period before destruction or to preserve additional records:

Case Type/ Type of Record	Minimum Time to Keep Entire Record	When Destroying, Minimum Record to Preserve
* * *	* * *	* * *

Probate	1 year from expiration of the time for appeal or determination of an appeal, or the determination of a proceeding following an appeal, whichever is later, unless otherwise specifically provided <u>EXCEPT ORIGINAL WILLS SHALL NEVER BE DESTROYED</u>	<ul style="list-style-type: none"> • ROA • All court minutes • Proof of Service • Will (<u>never destroy original</u>) • Letters Testamentary • Letter Intestate • Inventory/Appraisal • Finding of Fact & Conclusions of Law • Final Order, Judgment or Decree • Final Accounting • Notice of Intent to Destroy Exhibits
* * *	* * *	* * *
<u>Trial/Hearing Exhibits -offered,</u> admitted or rejected-	Following 10 days notice to the parties after expiration of time for appeal or from the determination of an appeal, or from the determination of a proceeding following an appeal, whichever is later, unless otherwise specifically provided	None
<u>Exhibits/Attachments to pleadings filed conventionally pursuant to the following Idaho Rules for Electronic Filing and Service:</u> <u>5(c) Limits on Exhibits</u> <u>5(f) Federally Restricted Storage</u> <u>5(k) Other Documents that cannot be Filed Electronically</u>	<u>1 year from expiration of the time for an appeal or determination of an appeal, or the determination of a proceeding following an appeal, whichever is later, unless otherwise specifically provided</u>	<u>None</u>

2. That Idaho Court Administrative Rule 38 is amended as follows:

* * *

(d) Preservation and Destruction of Court Records. ~~Courts shall not destroy any record filed conventionally pursuant to Idaho Rules for Electronic Filing and Service 5(a), 5(e), 5(f), or 5(k).~~ The following schedule sets out the minimum time period that must pass before records can be destroyed and the specific records that must be preserved when destroying a file. It is within each court's discretion to exceed the minimum time period before destruction or to preserve additional records:

Case Type/ Type of Record	Minimum Time to Keep Entire Record	When Destroying, Minimum Record to Preserve
* * *	* * *	* * *
<u>Trial/Hearing Exhibits -offered,</u> admitted or rejected-	Following 10 days notice to the parties after expiration of time for appeal **	None
<u>Exhibits/Attachments to pleadings filed</u> <u>conventionally pursuant to the following</u> <u>Idaho Rules for Electronic Filing and</u> <u>Service:</u> <u>5(c) Limits on Exhibits</u> <u>5(f) Federally Restricted Storage</u> <u>5(k) Other Documents that cannot be</u> <u>Filed Electronically</u>	<u>1 year from expiration of the time for an</u> <u>appeal *</u>	<u>None</u>

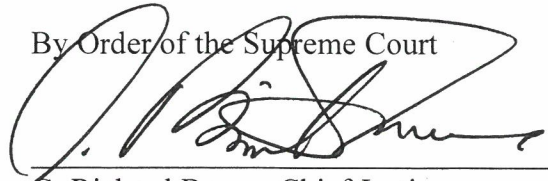
IT IS FURTHER ORDERED, that this order and these amendments shall be effective immediately, and shall remain in effect until further order of this Court.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Court Administrative Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 28th day of July, 2021.

By Order of the Supreme Court


G. Richard Bevan, Chief Justice

ATTEST:

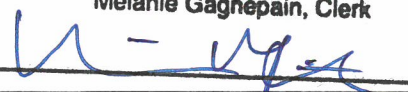
Clerk



I, Melanie Gagnepain, 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 7-30-21
Melanie Gagnepain, Clerk

3

By

 Deputy