

NOW, THEREFORE, IT IS HEREBY ORDERED:

- (1) That administrative district judges, trial court administrators, and judges presiding over drug courts shall strive to obtain, and shall explore, develop and recommend approaches to insuring, the presence of counsel for all parties at drug court staffings and proceedings.
- (2) That a judge presiding over a drug court may initiate, permit or consider ex parte communications with members of the drug court team at drug court appearances or staffings, but not at arraignments, plea hearings, motions to expel, admit/deny hearings, evidentiary hearings on expulsion motions, expulsions, or sentencing/dispositions. This order shall constitute the authorization by law for ex parte communications as provided in Canon 3B(7)(e) of the Idaho Code of Judicial Conduct.
- (3) That at drug court appearances and staffings, but not at arraignments, plea hearings, motions to expel, admit/deny hearings, evidentiary hearings on expulsion motions, expulsions, or sentencing/dispositions, defense counsel and counsel for the State may communicate ex parte with the court, where the defendant, defense counsel and counsel for the State have consented on the record or in writing to such communications. This order shall constitute the authorization by law or by court order for such communications pursuant to Rule 3.5 of the Idaho Rules of Professional Conduct.
- (4) That the provisions of paragraphs (2) and (3) above shall be in effect for ninety (90) days following the date of this Order, and shall not be in effect past that time except upon further Order of this Court.

The Court will continue to seek the views and recommendations of all interested parties with regard to amendments to Supreme Court rules, amendments or comments to the Idaho Code of Judicial Conduct, and amendments or comments to the Idaho Rules of Professional Conduct that address the issue of ex parte communications with drug court judges and other issues pertaining to problem-solving courts, and that recognize and accommodate the less adversarial nature of proceedings in such courts, while continuing to guarantee the impartial and diligent performance of judicial duties, and while insuring the protection of the rights of all parties.

DATED this 5th day of May, 2008.

By Order of the Supreme Court

_____/s/_____
Daniel T. Eismann
Chief Justice

ATTEST: _____/s/_____
Clerk