

CLERK OF THE DISTRICT COURT MANUAL

27.0 TRIAL PROCEDURES AND COURT MINUTES

Revised October 2006

27.1 PURPOSE

The content and detail of court minutes is often dictated by the type of case and the formatting wishes of the judge presiding over the case. Minutes are a summary of the events that occur in court hearing. They provide the Court or any interested party information about the happenings in a case without having to go to the verbatim testimony taken by the court reporter or the electronic recording made by the clerk. Learning the basic requirements of minute-taking for a particular judge is essential to the efficient operation of the court. All minutes should be compiled under the assumption that they may be included in an appeal to the Idaho Supreme Court. They are also essential to court clerks to complete data entry and the preparation of court documents after the court hearing. As a consequence, it is required that clerks keeping court minutes have a basic understanding of court proceedings, possess legible handwriting skills, typing/keyboard skills, demonstrate a command of grammatical and organizational skills.

27.2 FORM AND CONTENT

Clerical Duties:

All minutes have certain basic requirements regardless of the type or length of the hearing or trial. Some courts may utilize pre-printed forms with check off boxes for some of the required information or take their minutes in ISTARs. Some courts also print their minutes on colored paper to quickly locate them in the court file.

The minutes should include:

1. Court and case title "In the District Court of the Third Judicial District, etc." Indicate "Magistrate Division" if that is the case.
2. A list of the officers of the court for that hearing: Judge, Court Reporter, attorneys, plaintiff and defendant, court clerk and the interpreter if present.
3. Case number or numbers.
4. Audio recording information: date, time, and tape counter number. In multiple day trials, the new date should be shown at the beginning of each day's minutes.

The hour and minute is recorded:

- a. At the beginning of each hearing/trial

- b. Each new day of a multiple-day hearing/trial
 - c. All recesses and reconvening of court after each recess
 - d. When a jury retires to start their deliberations
 - e. When a jury returns to the courtroom with their final decision
 - f. At the conclusion of each hearing.
- 5. Type of hearing, i.e.: Arraignment, sentencing, motions hearings, trial, etc.
 - 6. The appearance or non-appearance of all parties.
 - 7. The giving of an oath.
 - 8. Each witness with the name correctly spelled and entered as given by the witness from the stand.
 - 9. Exhibits: In conjunction with the electronic minutes tab in ISTARs there is also an exhibits tab. The exhibits tab is accessible from the minutes tab, and allows the clerk to move back and forth easily to document the hearing minutes and exhibit information.

Note: Exhibit labels with the exhibit identification letter or number, case number and date need to be placed on each exhibit. The clerk is responsible for the safe keeping of all offered and admitted exhibits unless an offered exhibit is returned to a party or council. All offered and admitted exhibits need to be entered into ISTARs under the exhibits tab, along with the status of the exhibit, and location for storage)

- a. Note when each exhibit is marked and indicate the number or letter of the exhibit (It is recommended if an exhibit is marked in pre-trial, or before trial, show that fact in the minutes).

Note: Some courts ask attorneys to mark their exhibits prior to trial. In addition, the clerk may want to prompt the judge to request an exhibit list with the pre-marked exhibits itemized and columns for “offered” - “admitted” - “rejected” - etc.

- b. Identify the exhibit as given by the witness (or from the list of exhibits provided in Discovery).
- c. Note the offering of an exhibit for entry into evidence with notation of any objection.

- d. Identify each exhibit plainly as "Admitted," "Denied," or "Rejected," or "Illustrative Only" in the minutes. If "Not Admitted," enter that fact in the minutes. Admitted, Denied, or Rejected, Ruling Reserved, Illustrative Purposes Only, or Demonstrative Purposes Only are terms used in noting exhibits. If returned to counsel, note that in the minutes as well.
- e. Record ALL objections to exhibits, by whom they were made, and the Court's ruling. Objections are overruled or sustained, however, if the Court does not rule simply record "No ruling."
- f. If a COPY of an exhibit is ordered by the Court to be substituted for the original, so state in the minutes and make the substitution at the direction of the Court.

Examples:

"Plaintiff's Exhibit B was marked by the Clerk, identified by the witness as a picture of the damaged car, and offered for admission by Mr. ___. There was objection by Mr. ___, with argument by Mr. ___. The Court overruled the objection: PLAINTIFF'S EXHIBIT B WAS ADMITTED."

"Plaintiff's Exhibit B was marked by the Clerk, identified by the witness as a group of twelve pictures, offered for admission by Mr. ___, with no objection by Mr. ___. PLAINTIFF'S EXHIBIT B WAS ADMITTED."

"Plaintiff's Exhibit B was marked by the Clerk, identified by the witness as a group of twelve pictures, offered for admission by Mr. ___ with objection by Mr. ___. The Court admitted the exhibits for illustrative purposes only. PLAINTIFF'S EXHIBIT B WAS ADMITTED FOR ILLUSTRATIVE PURPOSES ONLY."

"Plaintiff's Exhibit B was marked by the Clerk, identified by the witness as a group of twelve pictures, offered for admission by Mr. ___ with objection by Mr. ___. Court sustained the objection. PLAINTIFF'S EXHIBIT B WAS DENIED."

Note: The Court should always announce when an exhibit has been marked or admitted into evidence. This is of assistance to the Court Reporter and clerk and is a necessity for electronic recording.

Note: Entering the exhibit information under the exhibits tab in ISTARs the clerk can easily print out a listing of all exhibits and their status for inclusion in the file along with the court minutes.

Testimony and Witnesses:

The usual progression of testimony is as follows:

- a. *DIRECT*--Initial examination by the attorney calling the witness.

- b. *CROSS-EXAMINATION*--Questioning by opposing counsel.
- c. *RE-DIRECT*--Subsequent questioning by calling party's attorney.
- d. *RE-CROSS*--Subsequent questioning by opposing counsel.
- e. *ANY FURTHER QUESTIONING* is simply noted as further questioning or argument, *i.e.* "There was further questioning by Mr. ___, and argument by Mr. ___."

The usual progression for witnesses is: (If a witness is called out-of-order, make special note.)

- a. Plaintiff's witness.
 - b. Defendant's witness.
 - c. Plaintiff's rebuttal witnesses are called to counter testimony of the defendant.
 - d. Defendant's rebuttal witnesses are called to counter rebuttal witnesses, generally.
12. All motions, stipulations, offers of proof, rulings, and orders of the Court.
 13. All objections, by whom they were made, any argument by opposing counsel, and the Court's ruling. If Court does not rule, type "No ruling."
 14. Make a record of opening, closing, and final arguments of respective counsel.
 15. Any other information directed by the Court to be included in the minutes.

27.3 SPECIFIC COURT PROCEEDINGS

Jury trials: The following items need to be entered into the record:

1. Roll call of the prospective jurors, showing how many answered the roll call and the names of those who do not answer. Any directive of the Court regarding those who are absent should be noted.
2. The names of each of the first prospective jurors in the order drawn.
3. Voir Dire examination of the panel or of each prospective juror. Details are not necessary, however, the fact that he/she was examined and by whom, whether

he/she was passed for cause or not, any objections, and the Court's ruling on each matter should be entered.

"David Smith was examined by Mr. __, passed for cause; questioned by Mr. __ with objection by Mr. __. Overruled by the Court. Mr. Smith was passed for cause."

"David Smith was questioned by Mr. __, who asked that Mr. Smith be excused for cause; Mr. __ concurred, and the Court excused Mr. Smith for cause."

4. All challenges for cause, by whom made, and whether or not granted by the Court; the replacement name and voir dire examination of that person.
5. Peremptory challenges: review with the judge the method for recording peremptory challenges as practice may vary.
6. The names of the final jury panel in the order they are seated.
7. The fact that oaths were administered, including the voir dire oath, interpreter oath, oath given to the final jury panel, and the bailiff's oath. See Appendix ____ for the text of the oaths.
8. All admonitions of the Court to the jury, counsel, or witnesses.
9. The time of all recesses and re-convenings.
10. All roll calls or the waiving of the roll calls.
11. The verdict as announced by the court clerk.
12. Any polling of the jury and the answer by each juror to the polling question.

Criminal Arraignment: Be sure to include this information:

1. The charges pending against the defendant.
2. If the defendant appeared in person or failed to appear.
3. If a warrant was issued and the amount of bond.
4. If the bail bond was forfeited.
5. The status of the defendant, i.e.: in-custody, released on own recognizance, or bond, and what kind of bond (cash, surety, property, conditions).

6. Establishment of true name of defendant and any correction by interlineation. (Unless we have defined this elsewhere I suggest that we direct the clerk as to the correct way to do interlineations on the written documents.)
7. Advisement of rights, penalties and enhancements.

Note: The rights given in the Magistrates Division should be provided in written form, which the defendant signs, becoming a part of the defendant's file. If the defendant does not sign a form, the Magistrate will give those rights verbally. Any time they are given verbally without the defendant's signing an Acknowledgment of Rights form, an indication of the advisement needs to be included in the minutes.
8. Reading of Criminal Complaint or Criminal Information or waiver thereof.
9. If the defendant waived counsel, is going to hire private counsel, or the public defender was appointed.
10. In misdemeanor cases, plea of the defendant.
11. If the hearing was continued and why it was continued and any information regarding future court proceedings.
12. Any court ordered reports or evaluations.
13. The custody status at the conclusion of arraignment and if bond was set and the amount of cash or surety.

27.4 ITEMS REQUIRING SPECIAL ATTENTION

1. Minutes ARE NOT meant to be verbatim, however the advisement of rights, findings, and orders need to be documented in the minutes.
2. Bench Warrants- Note issuance of Bench Warrants AND Amount of Bond.
3. Bond Forfeitures- it is critical to note the forfeiture of a bond in the minutes.
4. Remands- note any remands to another Court, Sheriff's Office, Immigration and Naturalization Services, or Department of Correction.
5. Future hearings: it is critical to note dates and times of hearings set in Court; as the minutes may be the only reference there is by which to calendar a case. If a hearing is "Continued" be sure to state the reason.

27.5 SUMMARY

Essentially, minutes for any hearing are the same; the basics apply whether the case is juvenile, probate, civil or criminal, court trial or jury trial. The kinds of hearings are different, the sentencing or adjudication options may be diverse, and the approach may be a trial rather than just a hearing; however, you will always be required to document the same basic information. As you change from one kind of hearing to another, you learn to adapt to the kinds of special information each case needs to have included. When you learn the basics, it is quite a simple matter to include those special items each case needs to be complete.

27.6 ATTESTATION

Other state courts may request that a certificate of attestation be completed to verify a record for a foreign judgment.

Clerical Duties:

1. Complete the attached form.
2. Obtain the appropriate judges signature.
3. Sign the form.
4. Seal with the Court Seal.