

# In the Supreme Court of the State of Idaho

**IN RE: ORDER AMENDING LOCAL RULES )  
OF THE FOURTH JUDICIAL DISTRICT )**

**ORDER**

The Administrative Judge of the Fourth Judicial District, having submitted a proposal to amend the local rules pursuant to Rule 1(c) of the Idaho Rules of Civil Procedure and Rule 2(c) of the Idaho Criminal Rules, and the Court having approved that proposal:

NOW, THEREFORE, IT IS HEREBY ORDERED, that the local rules of the Fourth Judicial District be amended, and that the amended local rules attached to this order are hereby approved and adopted.

IT IS FURTHER ORDERED, that the amended local rules of the Fourth Judicial District shall become effective immediately.

IT IS FURTHER ORDERED, that the amendments to the Local Rules of the Fourth Judicial District of the State of Idaho shall be sent to the trial court administrator of the Fourth Judicial District for publication and dissemination.

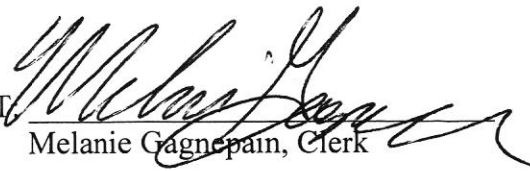
IT IS FURTHER ORDERED, that the Fourth Judicial District is hereby authorized to submit the amendments to the editors of *The Advocate* for publication and inclusion in the *Idaho State Bar Desk Book*.

DATED this 17 day of March, 2021.

By Order of the Supreme Court

  
G. Richard Bevan, Chief Justice

ATTEST

  
Melanie Gagnepain, 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 Amending Rules entered in the above entitled  
cause and now on record in my office. WITNESS my  
hand and the Seal of this Court March 17, 2021  
Melanie Gagnepain, Clerk

By  Deputy

**Local Rules of the District Court and Magistrate  
Division For the Fourth Judicial District  
Effective April 2021**

**Rule 1. Authority for the Rules.** These local rules are promulgated under the authority of I.R.C.P. 1(c) and I.C.R. 2(c) and govern the procedures of the District Court and Magistrate Division for the Fourth Judicial District. These local rules apply unless (i) otherwise provided for in the I.R.C.P., the I.C.R., or the I.R.F.L.P. or (ii) otherwise ordered by the court.

**Rule 2. Calendars and Calendaring Matters.** In general, each court controls and sets its own calendar, subject to the rules of the Idaho Supreme Court and administrative orders.

**2.1. Scheduling Court Hearings or Proceedings.** To schedule or re-schedule any court hearing or proceeding, the movant must contact the court's clerk to arrange a time certain. If a hearing or proceeding is re-scheduled at the request of either party, that party is responsible for providing notice to other parties. A party must not vacate a hearing without the consent of the other parties, except as ordered by the court. A party may file notice of withdrawal of a motion which will also result in the hearing on that motion being vacated, unless the court orders otherwise.

The general schedules for each judge may be located on the website for the Fourth Judicial District: <https://fourthjudicialcourt.idaho.gov/>.

**Rule 3. Reserved.**

**Rule 4. Reserved.**

**Rule 5. Appearance of Counsel - Contested Motions.** In the absence of a stipulation or court order granting a continuance:

**5.1. Failure to Appear for Hearing-Movant.** If the movant or his or her attorney fails to appear to argue a contested motion at the time set, the court may summarily deny the motion for failure to prosecute pursuant to I.R.C.P. 41(b) or I.R.F.L.P. 123 or may deem the motion withdrawn.

**5.2. Failure to Appear for Hearing-Opposing Party.** If the opposing party or his or her attorney does not appear, and if the motion has been properly and timely noticed for hearing with proof of due service, the court may render a decision on the merits of the motion.

**5.3. Failure to Notice for Hearing.** If, within fourteen days of the filing date of a motion, a movant fails to notice the motion for hearing and fails to request the matter be decided without hearing, the court may consider the motion withdrawn.

**Rule 6. Time for Oral Argument.** Oral arguments on contested motions must be limited to fifteen minutes for each side, except for summary judgment motions, which must be limited to 30 minutes per side, subject to the court's discretion to shorten or lengthen the amount of time allotted for argument on any motion.

**Rule 7. Reserved.**

**Rule 8. Motion Practice.**

**8.1. Motion.** Each motion, other than a routine or uncontested matter, must be accompanied by a separate memorandum or brief that must not exceed 15 pages. For summary judgment and other dispositive motions, the supporting memorandum or brief must not exceed 25 pages.

**8.2. Opposing Memorandum or Brief.** A party opposing the motion must submit a responding memorandum or brief that must not exceed 15 pages. For summary judgment and other dispositive motions, the opposing memorandum or brief must not exceed 25 pages.

Any other party who does not oppose the motion must file a notice of non-opposition within the same time frame provided for an opposing memorandum or brief.

**8.3. Reply Memorandum or Brief.** The movant party may submit a reply brief that must not exceed 10 pages. For summary judgment and other dispositive motions, the reply memorandum or brief must not exceed 15 pages.

Page limitations in excess of those set forth in Rules 8.1-8.3, requires prior leave of court.

**8.4. Reliance on Record.** Any memorandum or brief, supporting or opposing a motion, must contain a statement of facts and all of the reasons and points and authorities relied upon by that party. To the extent a party relies on facts in the record, the party must specifically cite to the precise place in the record, affidavits, or documentary evidence.

**8.5. Proposed Order.** Proposed orders on routine or uncontested matters may be submitted at the time the motion is filed. The court may require the movant to submit a proposed order on any other motions or matters, together with any other documents necessary to complete a case. Any proposed order must be filed as a separate document.

**8.6. Amendments to Pleadings.** A party who moves to amend a pleading must attach to the motion (i) the unsigned proposed amended pleading setting forth the entire pleading as amended without incorporating the prior pleading by reference and (ii) a "redline" or comparison version of the proposed

amended pleading that shows the changes to the current pleading.

**8.7. Motions to Seal.** Whenever a party files a motion or proposed order requesting to have a document (or other materials) filed under seal, the clerk must file the motion but the document will be lodged. The lodged document will be treated as sealed, until the court rules upon the motion. If the court grants the motion, the document will be filed and sealed. If the court denies the motion, the lodged document will not be filed but it will be retained (and treated as sealed) for purposes of appeal, unless the movant requests its deletion from the electronic record. If, after the order of denial, the movant wishes to have the document filed as an unsealed document, the party must file it as such. If the party files the document as an unsealed document, the lodged document will be deleted from the electronic record.

**Rule 9. Motions Requesting Public Funds to Pay Defense Costs in Criminal Cases Where the Defendant is Represented by Private Counsel.** In any case where a defendant in a criminal action is represented by private counsel and seeks public funds for payment of some or all the costs of defense, the defendant must comply with I.C.R. 12.2. and the following additional requirements:

**9.1. Hearing.** As additional rules, the movant must set the matter for hearing. The court must make a finding of indigence in advance of granting any such request and advise the defendant of the obligation to reimburse the county if found appropriate and ordered by the court.

**9.2. Notice-Public Defender.** The Office of the Public Defender must be served with a copy of the motion and any other filings and be served notice by the movant of any hearing whether scheduled by the defense or the prosecution.

**9.3. Supporting Information.** In the sole discretion of the court, it may require the defendant to produce (i) current state and federal tax returns for up to three years prior to the date of the filing of the charges against the defendant, (ii) business records, (iii) payroll and income distribution records, (iv) bank account statements, (v) financial and stock records, (vi) locations of real estate and other assets, (vii) the number and ages of any dependents, (viii) any outstanding financial obligations, and (ix) such other documentation as may be deemed necessary by the court to make the court's indigency determination.

**9.4. Notice-Prosecutor.** The court must advise the prosecution that such a request has been made, but may, in its discretion, withhold details of the request or set a hearing with both parties

present to review the case prior to making its determination as to whether the request should be granted or denied.

**9.5. Additional Conditions.** If the request is granted, the court may order such additional conditions to control costs and expenses and shall provide a copy of the order to the Office of the Public Defender. When an order specifies the amount authorized, additional expenditures must not be made without seeking prior approval of the court. Defense counsel must provide the necessary information and documentation to the Office of the Public Defender to process payment for authorized expenses as required by such reasonable guidelines as are or may be established by the county auditor or county commissioners.

**9.6. Confidentiality.** The Office of the Public Defender shall maintain confidentiality as to the requests for services and payment except as required as a condition to obtain payment for allowed costs or compliance with county budgeting requirements and applicable public records laws.

**Rule 10. Consolidation of Cases.**

**10.1.** Motions to consolidate pending actions pursuant to I.R.C.P. 42(a), I.C.R. 8, or I.R.F.L.P. 106 must be presented to and ruled upon by the court to which the lowest-numbered or first-filed case has been assigned among those matters sought to be consolidated, except in domestic relations cases as provided in I.R.F.L.P. 106.C. If a motion to consolidate is granted, other than where an exception as provided for in 10.2 is applicable, all further action with regard to the consolidated cases must be heard by the court assigned the lowest-numbered or first-filed case.

**10.2.** In criminal proceedings, two or more cases may be consolidated for sentencing and/or disposition after the entry of a guilty plea and/or admissions to probation violations in each case.

Further, in criminal proceedings only, the court in each respective case may agree to a different case consolidation arrangement whereby a court other than the court in the lower numbered case presides over the consolidated cases.

**10.3.** Notice shall be given to all parties in each action involved and a copy filed in each case involved. In civil and family law cases, unless an exception is applicable (I.R.F.L.P. 106.C.), all future filings must be made only in the lowest-numbered or first-filed case

**Rule 11. Reserved.**

**Rule 12. Civil Protection Order Hearings.** In any hearing for an order of protection pursuant to the

Domestic Violence Crime Prevention Act or an order of protection from malicious harassment, stalking, or telephone harassment, under Idaho Code § 18-7907, the court may allow a friend, relative, or advocate for an unrepresented party to sit at counsel table with a party. The friend, relative, or advocate may not represent the party before the court and may not advise the party on matters of law, but may, in the discretion of the court, be allowed to speak to the party to assist in understanding the court's ruling and to ask questions of the court for the purpose of clarifying a ruling for the party. The court may deny or revoke permission for a person to sit at counsel table if it appears that the person is improperly advocating or practicing law or is disruptive to the orderly disposition of the case or for other cause.

**Rule 13. Assignment of Cases to Magistrates.** In the interest of judicial efficiency, the Administrative District Judge and the district judges of the Fourth Judicial District hereby establish notice of the assignment of magistrates of the Fourth Judicial District by court rule rather than by annual Administrative Order. A magistrate of the Fourth Judicial District is permitted to be assigned matters enumerated in Idaho Court Administrative Rules 5(b), 5(c), and 5.1. Assignments may be revised by the Administrative District Judge, subject to the rules of the Idaho Supreme Court and the applicable statutes.

**Rule 13.1. Magistrates may Arraign Defendants on Felony Charge.** For the purpose of complying with Idaho Criminal Rule 10, the magistrates of the Fourth Judicial District are authorized to arraign a defendant on the pending felony charge(s), at the time the case is bound over to the district court. This Rule 13.1 will sunset and expire on October 1, 2021. Further, the Administrative District Judge will, by Administrative Order, earlier discontinue the practice outlined in this Rule if prior to October 1, 2020, the Idaho Supreme Court revokes its October 8, 2020 Order re: Emergency Reduction in Court Services and felony arraignments are again held in person.

**Rule 14. Case-flow Management Plans.** Pursuant to Idaho Supreme Court Order, case-flow management plans for the Fourth Judicial District are hereby incorporated in these local rules and may be found on the Fourth Judicial District's website, see: <https://fourthjudicialcourt.idaho.gov/>.