

In the Supreme Court of the State of Idaho

IN RE: AMENDMENT OF THE IDAHO)
COURT ADMINISTRATIVE RULES) ORDER
_____)

The Court, having considered a recommendation from the Civil Rules Update Committee that certain rules found in the Idaho Rules of Civil Procedure be moved to the Idaho Court Administrative Rules, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Court Administrative Rules as they appear in the volume published by the Idaho Code Commission be, and they are hereby, amended by adding the following new rules:

1. New Rule 5. Jurisdiction of Magistrates; Assignment of Cases.

(a) Jurisdiction; Assignment by Order. Jurisdiction of magistrates is the same as that of district judges but assignment of cases to magistrates must be approved by order of a majority of the district judges in the district. The order of the district judges stating the assignment of cases to magistrates must be posted in a conspicuous place in the clerk's office in each county in the district and published in the Idaho State Bar Desk Book.

(b) Assignment Pursuant to Idaho Code Section 1-2208. Assignment of cases to magistrates may be granted pursuant to Idaho Code Section 1-2208, as follows:

1. All of the matters and actions designated in section 1-2208, Idaho Code, including any proceeding under title 66, chapter 3, Idaho Code relating to the hospitalization of the mentally ill or title 66, chapter 4, Idaho Code, relating to the care of the developmentally disabled;
2. Proceedings under the Child Protective Act, title 16, chapter 16, Idaho Code (in sections 16-1628 through 16-1634);
3. Proceedings under the Youth Rehabilitation Act, title 16, chapter 18, Idaho Code (in sections 16-1807 through 16-1812);
4. Proceedings under the Termination of Parent-Child Relationship Act, title 16, chapter 20, Idaho Code (in sections 16-2007 and 16-2008);
5. All proceedings under Idaho Code section 18-8002(4) to determine whether a person refused to take an evidentiary test for concentration of alcohol, drugs or other intoxicating substances when properly requested by a police officer.

(c) Assignment Pursuant to Idaho Code Section 1-2210. Additional cases may be assigned to magistrates pursuant to Idaho Code Section 1-2210 when approved by the administrative district judge of a judicial district. The additional cases assigned to magistrates may include:

1. Civil actions regardless of the nature of the action, where the amount of damages or value of the property claimed does not exceed \$10,000;
2. All proceedings involving the custody of minors incidental to divorce proceedings, all adoption proceedings pursuant to chapter 15, title 16, Idaho Code, all termination of parent-child relationship pursuant to chapter 20, title 16, Idaho Code, all paternity proceedings, and all actions for change of name;
3. All proceedings for divorce, separate maintenance or annulment, including orders to show cause, hearings and issuance of restraining orders; and including all proceedings pursuant to the revised Uniform Reciprocal Enforcement of Support Act and Idaho Code, section 32-710A; and
4. All habeas corpus proceedings regardless of the nature or origin, including all habeas corpus proceedings involved in a criminal proceeding or conviction.

(d) Assignment of Additional Criminal Cases. The administrative district judge of a judicial district may by order enlarge categories of criminal cases assignable under Rule 2.2(c), Idaho Criminal Rules, as to the magistrates of the judicial district or of a county within the district, or as to specified magistrates.

2. New Rule 6. Special Assignment to Magistrates.

On application of the administrative district judge of a judicial district, the Supreme Court may by order appoint a specific magistrate to hear and try one or more specific actions which are otherwise triable only by a district judge. The clerk of the district court shall cause an order of the assignment to be served upon all parties to that action.

3. New Rule 7. Enlargement of Dollar Amount of Cases Assignable.

On application of the administrative district judge of a judicial district, the Supreme Court may by order enlarge the categories of cases assignable under Rule 5(c) as to the magistrates of the judicial district or of a county within the district, or as to specified magistrates.

4. New Rule 8. Transfer.

In an action brought in the magistrate division of the district court, in the event the claim, counterclaim, cross-claim or third-party claim tendered for filing is in excess of the jurisdictional amount or otherwise beyond the jurisdiction of the court, upon the payment of any fees required by statute, or rule, the action shall be transferred to the district court of the county in which pending to be there considered and tried as if the same had been there originally filed.

5. New Rule 33. Withdrawal of Files.

No paper, record or file in any action or proceeding shall be removed from the custody of the clerk except that such papers, records and files may be withdrawn for the use of the court.

6. New Rule 41.1. Clerk's Office and Orders by Clerk.

The office of the clerk of the district court with the clerk or a deputy in attendance shall be open for the transaction of business on such days and during such hours as the administrative district judge of the judicial district in which the county is located may

prescribe. All motions and applications in the clerk's office for issuing process, for entering defaults or judgments by default, and for other proceedings which do not require allowance or order of the court are grantable of course by the clerk; but his action may be suspended or altered or rescinded by the court upon cause shown.

7. Under Part VI. Jury Service and Jury Trial Procedures, New Rule 60. Selection of Master Jury List and Master Jury Wheel.

All juries shall be selected as prescribed by the Uniform Jury Selection and Service Act of Idaho. Pursuant to section 2-206, Idaho Code, and in order to foster the policy and protect the rights secured by the Uniform Jury Selection and Service Act, the jury commission of each county shall compile and maintain a master list consisting of:

- (a) All voter registration lists of the county.
- (b) The following additional lists, when available: driver's license lists; and such other lists as the administrative judge for the judicial district shall designate. The jury commission shall not be required to eliminate duplication of names on the master list before selection of names for the master jury wheel, unless so directed by the administrative judge. In selecting names from the master list for the master jury wheel, as prescribed in section 2-207, Idaho Code, all duplication of names drawn from the master list shall be eliminated.

8. New Rule 60.1. Selection of Jury Panel.

When any action is called for trial by jury, after the number of qualified jurors on a panel has been determined and the jurors selected in accordance with section 2-210, Idaho Code, the selection of the final trial jury for the trial of the action shall be in accordance with these rules. The entire panel may be divided into two (2) or more panels and thereafter redivided or combined for jury trials in such manner as prescribed by the administrative district judge for trial of individual actions.

9. After Rule 72, New subdivision entitled PART VIII. Qualifications for Court Approved Rosters.

10. New Rule 73. Qualifications of Civil Mediators

Each trial court administrator shall maintain a list of mediators who meet the qualifications of subsection A, and rosters from dispute resolution organizations that meet the criteria set forth in subsection B below.

(a) Mediation Registration -- Qualifications of Court-Appointed Mediators

1. The Administrative Director of the Courts shall compile and distribute at least annually a list of mediators. For that purpose, the Administrative Director of the Courts shall gather from all applicants an application demonstrating that the applicant:

- (i) is a member of the Idaho State Bar;
- (ii) has been admitted to practice law for not less than five (5) years; and
- (iii) has attended a minimum of forty (40) hours of mediation training.

2. In order for a person to remain on the list of mediators maintained by the Administrative Director of the Courts, the mediator must submit proof that the mediator has completed a minimum of five (5) hours of additional training or education during the preceding three (3) calendar years on one of the following topics: mediation, conflict

management, negotiation, interpersonal communication, conciliation, dispute resolution or facilitation. This training shall be acquired by completing a program approved by an accredited college or university or by one of the following organizations: Idaho State Bar, or its equivalent from another state; Idaho Mediation Association, or its equivalent from another state; or Society of Professionals in Dispute Resolutions; American College of Civil Trial Mediators; Northwest Institute for Dispute Resolution; Institute for Conflict Management; the National Academy of Distinguished Neutrals or any mediation training provided by the federal courts. Any program that does not meet this criteria may be submitted for approval either prior to or after completion. The requirement that continuing education for mediators include at least five (5) hours of training in mediation takes effect for renewals due on or after July 1, 2013.

(b) Mediation Registration -- Sponsors of Additional Rosters of Mediators

1. A public or private dispute resolution organization may make its roster of mediators available to the Administrative Director of the Courts for distribution to the trial court administrators if it documents that it has:

- (i) an established selection and evaluation process for neutrals;
- (ii) a mechanism for addressing complaints brought against neutrals; and
- (iii) a published code of ethics that the neutrals must follow. A compilation of the organization's selection, evaluation, published code of ethics, and complaint processes that can be distributed to the parties shall be provided.

(c) A list and roster(s) of mediators distributed by the Administrative Director of the Courts, pursuant to subsections (a) and (b), above, must contain the following information about each mediator:

- (i) name, address, telephone and FAX number(s);
- (ii) professional affiliation(s);
- (iii) education;
- (iv) legal and/or mediation training and experience; and
- (v) fees and expenses.

11. New Rule 74. Registration of Private Civil Litigation Evaluators.

(a) Application for Registration as a Private Civil Litigation Evaluator. The Administrative Director of the Courts will compile a roster of private civil litigation evaluators. Persons interested in being placed on this list must submit an application to the Administrative Director of the Courts on a form prescribed by the Supreme Court. Applicants shall furnish, in addition to information relating to the applicant, proof that the applicant possesses the qualifications for registration on the Supreme Court's list of private civil case evaluators as set forth in this rule. An applicant shall also be required to identify his or her area(s) of legal expertise and experience.

(b) Qualifications of Private Civil Litigation Evaluators. In order for a person to be placed on the Supreme Court's roster of private civil litigation evaluators, a person must certify by application that he or she is an active member of the Idaho State Bar in good standing and has held such membership for a minimum period of seven (7) years; or is a justice or judge who has retired from the Idaho judiciary or who has been designated a senior judge by the Idaho Supreme Court pursuant to sections 1-2005 or 1-2221, Idaho Code. In addition, an applicant must be familiar with the Small Lawsuit Resolution Act (section 7-1501 et seq., Idaho Code) and the rules, practice and procedures of the Idaho

Supreme Court governing proceedings in the district courts of the State of Idaho; and have the background experience and training to fairly, impartially and competently evaluate a civil case pursuant to the provisions of the Small Lawsuit Resolution Act.

(c) Roster of Civil Litigation Evaluators. The roster maintained by the Administrative Director of the Courts shall indicate, in addition to other information, the county or counties in which evaluators will accept appointments. The Administrative Director shall publish a copy of the roster, including information relating to the evaluator, on the Idaho Supreme Court's website.

(d) Oath of Evaluator. In each case, prior to undertaking an evaluation, a private civil litigation evaluator must sign a written oath that he or she will faithfully and impartially discharge the obligations and duties of an evaluator in a timely manner as prescribed by law, and to represent that he or she does not have a conflict of interest regarding the parties or the subject matter of the dispute that would prevent him or her from rendering a fair and impartial opinion in the dispute. The oath of the evaluator shall be filed with the clerk of the court and shall be substantially in the following form:

I, _____, hereby accept appointment as evaluator in the above-captioned case.

I certify that I meet the qualifications of an evaluator, and shall timely and impartially discharge my obligations and duties as an evaluator. I have been informed of the identities of the parties to the case and the subject matter of the dispute and I have no conflict of interest or any bias that would prevent me from rendering a fair and impartial opinion in the dispute.

Signature

SUBSCRIBED AND SWORN to before me this day of _____, 20__.

Signature

12. That Rule 25 be amended as follows:

Rule 25. Reporting of Proceedings in the Magistrates Division.

(a) Verbatim Record. The court in the magistrate's division shall make a verbatim record or recording of all proceedings held before a magistrate.

(a b) Qualification of Reporters, Filing Reporter Notes or Tapes. ***

(b c) Logs of Tapes, or Recordings. ***

(e d) Form of Log Sheet. **

(d e) Recording Medium.***

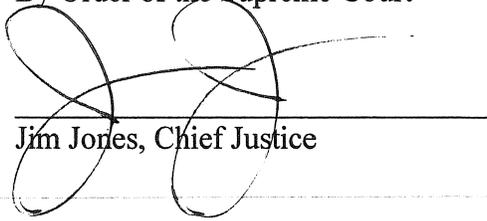
(e f) Storage of Tapes or Other Recording Media***.

(f g) Transcripts.***

IT IS FURTHER ORDERED, that this order and these amendments shall be effective the first day of July, 2016.

DATED this 2nd day of December, 2015.

By Order of the Supreme Court



Jim Jones, Chief Justice

ATTEST: Stephen Kenyon
Clerk

I, Stephen W. Kenyon, Clerk of the Supreme Court 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 12.4.15

Stephen Kenyon Clerk

By: Dore D. Shonaker Deputy