

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO IDAHO RULES)
OF FAMILY LAW PROCEDURE 120, 201, 204,)
218, 711, and 719)

ORDER

The Court has reviewed a recommendation from the Children and Families in the Courts Committee (CFCC) to amend the Idaho Rules of Family Law Procedure (I.R.F.L.P.), and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Rules of Family law Procedure as they appear in the volume published by the Idaho Code Commission be, and are hereby, amended as follows:

1. That Rule 120 be amended as follows:

Rule 120. Dismissal of Inactive Cases.

~~In the absence of a showing of good cause for retention, any action, appeal or proceeding, except for guardianships, conservatorships, and probate proceedings, in which no action has been taken or in which the summons has not been issued and served, for a period of six (6) months shall be dismissed. Dismissal pursuant to this rule in the case of appeals shall be with prejudice and as to all other matters such dismissal shall be without prejudice. At least 14 days prior to such dismissal, the clerk shall give notification of the pending dismissal to all attorneys of record, and to any party appearing on that party's own behalf, in the action or proceeding subject to dismissal under this rule. Any action, appeal or proceeding in which no action has been taken for a period of ninety (90) days may be dismissed unless there is a showing of good cause for retention. Dismissal pursuant to this rule is with prejudice in the case of appeals and without prejudice as to all other matters. At least fourteen (14) days prior to such dismissal, the clerk must give notice of the pending dismissal to all parties or their attorneys of record.~~

2. That Rule 201 be amended as follows:

Rule 201. Commencement of Action.

D. Commencement of action to obtain money judgment.

1. Filing of petition or stipulation. A party to a divorce decree, legal separation, or to a judgment that establishes support for a child or children of the parties, may file a petition

or written stipulation in the original action to enforce the terms of the decree or judgment by seeking a judgment for:

~~1a.~~ contribution for amounts paid by one party toward debt(s) assigned to the other party as provided in the decree or judgment;

~~2b.~~ reimbursement of uncovered medical expenses incurred on behalf of the child/ren;

~~3c.~~ reimbursement of work-related day care expenses incurred on behalf of the child/ren; ~~and/or~~

~~4d.~~ reimbursement of medical insurance premiums for insurance covering the child/ren;

e. unpaid child support or spousal maintenance or any other payments ordered; and/or

f. reimbursement of other expenses ordered to be paid by the parties.

2. Service. The petition shall be in a form similar to an original petition and shall be served upon all parties entitled to service along with a summons. The method of service and return shall be the same as for an original action set forth in Rule 204 and service shall be on the opposing party rather than on the previous attorney of record for the party. If a petition to obtain a money judgment is initiated in an action currently pending, the Petition for Money Judgment may be served as provided in Rule 205.C., unless the court orders personal service.

3. Adjudication. The petition shall be adjudicated in the same manner as an original proceeding; or may be expedited as directed by the court. ~~but~~ The filing of a petition to obtain a money judgment under this rule shall not be deemed the commencement of an action under Idaho Code Section 5-404, and ~~There shall be no right for an existing party in the lawsuit to disqualify the judge without cause pursuant to Rule 107 if that judge had previously presided in the lawsuit and had not been disqualified. A stipulation shall expressly authorize the court to enter a judgment attached to or specifically identified in the stipulation. The petition or stipulation shall be resolved by the entry of a judgment as provided in Rule 803.B.~~

3. That Rule 204 be amended as follows:

Rule 204. Service on the Opposing Party or Additional Parties of Initial Pleadings.

B. Time limit for service. If a service of the summons and Petition is not made upon a Respondent within ~~six (6) months~~ 182 days after the filing of the Petition and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that Respondent without prejudice upon the court's own initiative with 14 days notice to such party or upon motion.

4. That Rule 218 be REPEALED and the following NEW Rule 218 be ADOPTED:

Rule 218. Privacy Protection for Filings Made with the Court.

A. Responsibility of filer.

It is the responsibility of the filer to ensure that protected personal data identifiers are omitted or redacted from documents before the documents are filed. This responsibility exists whether the documents are filed electronically or conventionally, and even if the filer did not create the document. The responsibility to redact also applies to documents that are initially exempt from disclosure but later become public pursuant to court rule. The clerk of the court will not review filings to determine whether appropriate omissions or redactions have been made.

B. Personal Data Identifiers to be redacted.

Personal data identifiers should not be included in any document filed with the court unless such inclusion is required by the court, by statute or court rule, or is material to the proceedings. If the identifiers must be included, then the following personal data identifiers must be partially redacted from the document, including exhibits.

1. Social Security numbers. If an individual's social security number must be included in a pleading, only the last four digits of that number are used.

2. Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child are used.

3. Dates of birth. If an individual's date of birth must be included in a pleading, only the year is to be used and the date specified in the following format: XX/XX/1998.

4. Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers are to be used and the number specified in substantially the following format: XXXXX1234.

5. Driver's License Numbers and State-Issued Personal Identification Card Numbers. If an individual's driver's license number or state issued personal identification card number must be referenced, only the last four digits of that

number are to be used and the number specified in substantially the following format: XXXXX350F.

6. Employer or Taxpayer Identification Number. If an employer identification number or business' taxpayer identification number must be included, only the last four (4) digits of that number are used.

C. Exceptions to redaction requirement.

1. The redaction requirement does not apply to the record of a court, tribunal, administrative or agency proceeding if that record was filed before the effective date of this rule.
2. The redaction requirement does not apply to documents that are exempt from disclosure pursuant to Idaho Court Administrative Rule 32.

D. Options when personal data identifiers are necessary.

A party filing a redacted document need not also file an unredacted version of the document; however, where inclusion of the unredacted personal data identifiers is required by the court, by statute or court rule, or is material to the proceedings in a document that is open to the public the party must choose the most appropriate option below:

1. File the redacted document together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list must be clearly identified as a reference list filed pursuant to this rule and may be amended as of right. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information. The reference list is exempt from disclosure pursuant to Idaho Court Administrative Rule 32; however, courts will share the reference list with other government agencies as required or allowed by law without court order or application for purposes of the business of those agencies.
2. File the redacted document together with an unredacted copy of the document. The unredacted copy must be clearly identified as an unredacted copy filed pursuant to this rule. The unredacted copy is exempt from disclosure pursuant to Idaho Court Administrative Rule 32; however, courts will share the unredacted copy with other government agencies as required or allowed by law without court order or application for purposes of the business of those agencies.

E. Unredacted document inadvertently submitted.

If an unredacted document is inadvertently submitted without a reference list or redacted copy, then the filer must submit a redacted copy as soon as possible. The filer must also identify the original unredacted document, the date it was submitted, and request that the original unredacted document be marked as exempt from disclosure.

F. Parties to use caution.

Parties should exercise caution when filing papers that contain private or confidential information, including, but not limited to, the information covered above and listed below:

- (1) Medical records, treatment and diagnosis;
- (2) Employment history;
- (3) Individual financial information;
- (4) Insurance information;
- (5) Proprietary or trade secret information;
- (6) Information regarding an individual's cooperation with the government; and
- (7) Personal information regarding the victim of any criminal activity.

G. Sanctions.

Failure to comply with this rule is grounds for contempt. If a party knowingly publicly files documents that contain or disclose confidential information in violation of these rules, the court may, upon its own motion or that of any other party or affected person, impose sanctions against the filing party.

H. Privacy Protections in Orders, Judgments and Decrees.

1. Protection of unredacted court orders, judgments and decrees. If possible, the court must refrain from including in a court order, judgment or decree, the personal data identifiers set forth in subsection B of this rule. If unredacted personal data identifiers are required by statute or court rule, or are material to the proceedings and must be included in an order, judgment or decree that is open to the public then the unredacted document will be protected from public access. Copies of the unredacted order, judgment or decree must be served on the parties and must be available to the parties and other government agencies without court order for purposes of the business of those agencies. A redacted copy of the order, judgment or decree must be available to the public; however, no redacted copy must be prepared until there is a specific request for the document, in which case the document must be redacted in accordance with this Rule.

2. Exceptions. The court may include unredacted personal data identifiers in documents that are exempt from disclosure pursuant to Idaho Court Administrative Rule 32.

5. That Rule 711 be amended as follows:

Rule 711. Subpoenas.

I. Interstate subpoenas, depositions and discovery. Depositions and discovery conducted in Idaho in connection with a civil lawsuit brought in another state shall be governed by Rule 45(j) of the Idaho Rules of Civil Procedure.

6. That Rule 719.D be amended as follows:

Rule 719. Parenting Time Evaluation.

D. Qualifications of Evaluator.

1. A parenting time evaluator must have at least one of the following minimum qualifications:

- a. licensed physician who is Board certified in psychiatry;
- b. licensed psychologist; or
- c. ~~licensed clinical social worker individual with a minimum of a master's degree~~
in a mental health field that includes formal education and training in the legal, social, familial, and cultural issues involved in custody and access decisions.
- d. ~~licensed social worker in independent practice;~~
- e. licensed clinical professional counselor; or
- f. ~~licensed marriage and family therapist.~~

2. ~~The Court may appoint or the parties may stipulate to the appointment of a parenting time evaluator who does not meet the minimum professional credentials, provided that the evaluator has a license in an area relevant to the scope of appointment and has conducted at least twenty (20) court ordered evaluations in the past five (5) years.~~
Parenting time evaluators must possess the same or similar qualifications, expertise, and trainings as outlined in the Association of Family and Conciliation Courts (AFCC) Model Standards of Practice for Child Custody Evaluations.

3. Family Court Services' staff who do not meet the qualifications set forth above may perform a parenting time evaluation when such evaluation is performed under the direct supervision of another Family Court Services' staff person who does meet the minimum qualifications set forth in this section.

34. An evaluator must be licensed in the State of Idaho or other jurisdiction approved by the court and must perform the parenting evaluation within the scope of their licensure.

4. ~~A person who has the qualifications under 1 or 2 above must also have completed a minimum of five (5) parenting time evaluations under the direct supervision of a qualified parenting time evaluator.~~

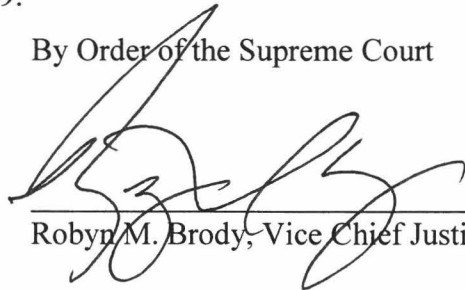
IT IS FURTHER ORDERED, that this order and these amendments shall be effective July 1, 2019.

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, other than the adoption of new rules. The lining through and underlining shall not be considered a part of the permanent Idaho Rules of Family Law Procedure.

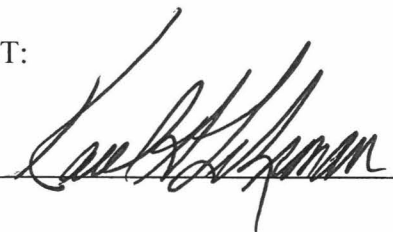
IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 14th day of May, 2019.

By Order of the Supreme Court


Robyn M. Brody, Vice Chief Justice

ATTEST:


Clerk

I, Karel A. Lehrman, 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 5-14-19

KAREL A. LEHRMAN

Clerk

By:  Chief Deputy