



I.R.C.P. 16. Pretrial Conferences; Scheduling; Management

Idaho Rules of Civil Procedure Rule 16. Pretrial Conferences; Scheduling; Management.

(a) Scheduling Conferences and Orders.

(1) *Scheduling Conferences; When Held.* Within 30 days after an answer or notice of appearance has been filed, or, within 90 days after a complaint has been filed, if one or more defendants have been served but no appearance has been made, a court must take action, by setting a scheduling conference, requesting available trial dates, or by another method within the discretion of the presiding judge, which results in the filing of a scheduling order as soon as practicable after the action taken by the court.

(2) *Scheduling Order.* The scheduling order must address:

(A) the setting of date(s) for trial and any pre-trial conferences;

(B) the setting of deadlines for joining other parties and amending the pleadings; for filing and hearing dispositive motions; for completing discovery; and, for disclosing expert witnesses;

(C) the advisability of ordering mediation or ADR;

(D) the need for a special master where appropriate; and

(E) any other matter which would aid in the speedy, fair and efficient disposition of the case.

(3) *Modification of Scheduling Order.* The dates set by the court in section (A) above must not be modified except by leave of the court on a showing of good cause. The dates and deadlines in the scheduling order pursuant to subdivision (B) above must not be modified except by leave of the court on a showing of good cause or by stipulation of all the parties and approval of the court.



(b) Request for Trial Setting by a Party.

(1) *In General.* Should the court fail to set the matter for scheduling conference or otherwise to set the matter for trial, after all defendants have appeared, a party may request that the court set the matter for trial and that any other deadlines and pretrial conferences be established.

(2) *Information to be Included.* The request must indicate:

(A) the nature of the case;

(B) whether a jury trial has been demanded;

(C) whether referral to alternative dispute resolution would be beneficial;

(D) an estimate of the time required for trial;

(E) the name of the attorney who will appear at trial; and

(F) the dates upon which the attorney and party would not be available for trial.

(3) *Response to the Request by Other Parties.* A response must be filed and served within 7 days after being served with the request for trial setting. The response must contain the information required in subsection (b)(2) of this rule.

(4) *Action by the Court.* After the time for filing a response to the request has passed, the court must either issue a scheduling order pursuant to subsection (a)(2) of this rule or set the request for hearing.

(c) Final Pretrial Conference and Order.

(1) *Final Pretrial Procedure.* At least 30 days before trial, the court must engage in a pretrial process, which may include a formal pretrial conference, a pretrial memorandum submitted by the parties, pretrial submissions by stipulation of the parties, or other methods within the discretion of the court, by which the parties are required to



confirm that the matter is proceeding to trial in the manner required by the scheduling order. If a formal pretrial conference is held, at least one attorney for each represented party participating in the pretrial conference must have authority to enter into stipulations and to make admissions regarding all matters that may be reasonably anticipated. If a formal pretrial conference is held, it must be on the record.

(2) *Subjects to be Discussed at Pretrial Conference.* At a pretrial conference, the court may consider and resolve the following:

(A) the status of mediation or ADR;

(B) the disposition of any pending motions;

(C) the possibility of obtaining admissions of fact;

(D) stipulations regarding the authenticity of exhibits;

(E) the advisability of any advanced rulings from the court concerning the admissibility of evidence;

(F) the avoidance of unnecessary proof and of cumulative evidence;

(G) the necessity of amendments to the pleadings pursuant to Rule 15(b);

(H) the formulation and simplification of the issues to be presented at trial, including the elimination of abandoned or unsustainable claims and defenses;

(I) the identification of witnesses and exhibits;

(J) the pre-marking of exhibits and procedures for the handling of exhibits, in conformance with Idaho Court Administrative Rule 71;

(K) jury instructions and jury selection issues;



(L) the need for an interpreter for any party or witness;

(M) the need for pre-trial briefing, and filing deadlines, if necessary;

(N) the availability and use of any technology in the courtroom; and

(O) any other matter which would aid in the fair and efficient resolution of the case.

(d) Exhibits and Witnesses. The court may order the parties to file a list of all trial exhibits and names and addresses of witnesses who may testify, except impeachment exhibits and witnesses. Exhibits and witnesses discovered after the date set for disclosure must be supplemented, indicating the date the exhibit or witness was discovered. The court may exclude any untimely disclosed witness or exhibit, except for good cause and to prevent injustice.

(e) Sanctions.

(1) *Grounds.* The court may sanction any party or attorney if a party or attorney:

(A) fails to obey a scheduling or pretrial order;

(B) fails to appear at a scheduling or pretrial conference;

(C) is substantially unprepared to participate in a scheduling or pretrial conference; or

(D) fails to participate in good faith.

(2) *Sanctions Allowed.* The court may make such orders as are just, and may, along with any other sanction, make any of the orders allowed under Rule 37(b)(2)(A). Also, in addition to or in the place of any other sanction, the court must require the party or the party's attorney, or both, pay any expenses incurred because of noncompliance with this rule, including attorney's fees, unless the court finds noncompliance was substantially justified or that circumstance



are such that such an award of expenses would be unjust.

([Adopted March 1, 2016, effective July 1, 2016](#) [1].)

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[1] <https://isc.idaho.gov/rules/IRCP/03012016-Adoption-Newly-Formatted.pdf>