

IRFLP 501 Motion Practice

Idaho Rules of Family Law Procedure Rule 501. Motion Practice.

A. Motions and other papers. An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor including the number of the Rule of Family Law Procedure or Idaho Rule of Civil Procedure, if any, under which it is filed, and shall set forth the relief or order sought. A proposed form of order, if included, shall be a separate document. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

B. Captions, signing and form of motions. The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

C. Time limits for filing and serving motions, affidavits and briefs. Unless otherwise ordered by the court, which order may for cause shown be made on ex parte application, or specified elsewhere in these rules:

1. A written motion, other than one which may be heard ex parte, and notice of the hearing thereon shall be filed with the court, and served so that it is received by the parties no later than fourteen (14) days before the time specified for the hearing.

2. When a motion is supported by affidavit(s), the affidavit(s) shall be served with the motion, and any opposing affidavit(s) shall be filed with the court and served so that it is received by the parties no later than seven (7) days before the hearing.

3. It shall not be necessary to file a brief or memorandum of law in support of a motion, but the moving party must indicate upon the face of the motion whether the party desires to present oral argument or file a brief within fourteen (14) days with the court in support of the motion.

4. If the moving party does not request oral argument upon the motion, and does not file a brief within fourteen (14) days, the court may deny such motion without notice if the court deems the motion has no merit. If argument has been requested on any motion, the court may, in its discretion, deny oral argument by counsel by written or oral notice to all counsel before the day of the hearing, and the court may limit oral argument at any time.

5. Any brief submitted in support of a motion shall be filed with the court and served so that it is received by the parties at least fourteen (14) days prior to the hearing. Any responsive brief shall be filed with the court and served so that it is received by the parties at least seven (7) days prior to the hearing. Any reply brief shall be filed with the court, and served so that it is received by the parties, at least two (2) days prior to the hearing.

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6. If the office of the presiding judge or magistrate in any action is outside of the county in which an action is pending, the party serving any motion, affidavit, or brief shall simultaneously send a copy to the presiding judge or magistrate, which shall be in addition to the filing of the originals with the court of record.

D. Hearings by telephone conference or video teleconference. The court may hold a telephone conference or video hearing on, (1) any motion, other than motions for summary judgment unless the parties stipulate or (2) any pretrial matter.

(Adopted April 2, 2014, effective for early adopters July 1, 2014, effective statewide July 1, 2015.)

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