



## **IRFLP 706 Taking Testimony.**

### **Idaho Rules of Family Law Procedure Rule 706. Taking Testimony.**

(a) **In Open Court.** At trial or an evidentiary hearing, witness testimony must be taken in open court unless a statute, these rules, the Idaho Rules of Evidence, other rules or orders adopted by the Idaho Supreme Court provide otherwise. For good cause shown in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.

(b) **Affirmation Instead of Oath.** When these rules require an oath, a solemn affirmation suffices.

(c) **Interpreter.** If any party, or person the party intends to call as a witness, needs an interpreter as provided in I.C.A.R. 52, the party must notify the court at least 14 days before commencement of the court proceeding, or as soon as practicable in the event of an expedited hearing. If the party fails to do so without a showing of good cause, and as a result the trial or hearing is postponed, the court may require the party to pay costs resulting from failing to give adequate notice.

(d) **Direct and Cross-examination.** The examination of a witness by the party producing the witness is called the direct examination; the examination of the same witness by the adverse party is called the cross-examination. The direct examination must be completed before the cross-examination begins, unless the court otherwise allows.

(e) **Limitation on Examination.** Only one attorney on each side must conduct the examination of a witness until such examination is completed, except when the court grants permission for other attorneys to conduct the examination.

(f) **Calling by Court.** When the court is the trier of fact, the court may call witnesses on its own motion or at the suggestion of a party. All parties are entitled to cross-examine witnesses called.

(g) **Interrogation by Court.** The court may interrogate witnesses, whether called by itself or by a party.

(h) **Objection.** Objections to the interrogation of a witness by the court may be made at the time of



interrogation or at the next available opportunity.

(i) **Reexamination and Recalling of Witnesses.** A witness once examined cannot be reexamined as to the same matter without leave of the court, but the witness may be reexamined as to any new matter on which the witness has been examined by the adverse party. A witness, after being examined by the party producing the witness and adverse party, cannot be recalled by the same party without leave of the court. This rule does not preclude the adverse party from calling such witness as that party's own witness for direct examination.

(j) **View of Premises, Property, or Things.** During a trial, the court may order that the court may view any property, place, item, or circumstance relevant to the action. A viewing by the court must be conducted personally by the court after notice to all parties. Attorneys have the right to be present at any viewing by the court.

(k) **Inspection of Writings.** Whenever a writing is shown to a witness it may be inspected by any other party.

(Adopted March 29, 2021, effective July 1, 2021.)

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