

IRFLP 718 Masters

Idaho Rules of Family Law Procedure Rule 718. Masters.

A. Appointment and disqualification.

1. Appointment and compensation. The court in which any action is pending may appoint a special master therein. Except where these rules are inconsistent with the law, the word "master" includes a referee, a commissioner, an auditor, and an examiner. The compensation to be allowed to a master shall be fixed by the court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action which is in the custody and control of the court as the court may direct. The master shall not retain the report as security for compensation; but when the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the master is entitled to a writ of execution against the delinquent party.

2. Disqualification of master. Any person appointed as a master in a trial of an action shall be disqualified upon the finding of the existence of a relation or a condition of such person which would be grounds for disqualification of a judge for cause as prescribed by statute or these rules.

3. Motion and notice for disqualification. At any time within fourteen (14) days from receipt of notice of the appointment of a master in an action, any party thereto may object to the qualification of such masters by filing a motion to disqualify the master and stating the grounds in support thereof. Such motion may be supported by affidavit and shall be noticed for hearing and determined by the court in the same manner as other motions under these rules. The court, in its discretion, may hear testimony on such motion or may determine the same upon the record including affidavits and counter-affidavits filed by the parties or the master.

B. Reference to a master. A reference to a master shall be the exception and not the rule. A reference shall be made only upon a showing that some exceptional condition requires it.

C. Powers of master. The order of reference to the master may specify or limit the master's powers and may direct the master to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing and to do all acts and take all measures necessary or proper for the efficient performance of duties under the order. The master may require the production of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. The master may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may examine them and may call the parties to the action and examine them upon oath. When a party so requests, the master shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in [Rule 103](#) [1] of the Idaho Rules of Evidence.

D. Procedure.

1. Proceedings - meetings. When a reference is made, the clerk shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within twenty (20) days after the date of the order of reference and shall notify the parties or their attorneys. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master may apply to the court for an order requiring the master to speed the proceedings and to make the report. If a party fails to appear at the time and place appointed, the master may proceed ex parte or, in the master's discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

2. Witnesses. The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in [Rule 711](#) [2]. If without adequate excuse a witness fails to appear or give evidence, the witness may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in [Rules 711](#) [2] and [444](#) [3].

3. Statement of accounts. When matters of accounting are in issue before the master, the master may prescribe the form in which the accounts shall be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as the master directs.

E. Masters report.

1. Contents and filing. The master shall prepare a report upon the matters submitted to the master by the order of reference and, if required to make findings of fact and conclusions of law, the master shall set them forth in the report, separately stated. The master shall file the report with the clerk of the court and in an action to be tried without a jury, unless otherwise directed by the order of reference, shall file with it a transcript of the proceedings and of the evidence and the original exhibits. The clerk shall forthwith mail to all parties notice of the filing.

2. Master's findings. The court shall accept the master's findings of fact unless clearly erroneous. Within fourteen (14) days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in [Rule 501.C](#) [4]. The court after hearing may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

3. Stipulation as to findings of master. The effect of a master's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a master's findings of fact shall be final, only questions of law arising upon the report shall thereafter be considered.

4. Draft report of master. Before filing a report a master may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions.

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