

IRFLP 908 Attorney Fees

Idaho Rules of Family Law Procedure Rule 908. Attorney Fees.

In any civil action the court may award reasonable attorney fees, which at the discretion of the court may include paralegal fees, to the prevailing party or parties as defined in [Rule 901.B](#) [1], when provided for by any statute or contract. Provided, attorney fees under section 12-121, Idaho Code, may be awarded by the court only when it finds, from the facts presented to it, that the case was brought, pursued or defended frivolously, unreasonably or without foundation; but attorney fees shall not be awarded pursuant to section 12-121, Idaho Code, on a default judgment.

A. Pleading - Default Judgments. It shall not be necessary for any party in a civil action to assert a claim for attorney fees in any pleading; provided, however, attorney fees, when claimed to be allowable by contract or statute other than section 12-121, Idaho Code, shall not be awarded unless the prayer for relief in the complaint states that the party is seeking attorney fees and the dollar amount thereof in case judgment is entered by default. Any award of attorney fees in default judgments shall be subject to the provisions of this Rule, and shall not exceed the amount prayed for in the complaint. Any award of attorney fees pursuant to I.C. Section 12-120, in default judgments in which the defendant has not appeared shall not exceed the amount of the judgment for the claim, exclusive of costs.

B. Attorney Fees as Costs. Attorney fees, when allowable by statute or contract, shall be deemed as costs in an action and processed in the same manner as costs and included in the memorandum of costs; provided, however, the claim for attorney fees as costs shall be supported by an affidavit of the attorney stating the basis and method of computation of the attorney fees claimed.

C. Objection to Attorney Fees. Any objection to the allowance of attorney fees, or to the amount thereof, shall be made in the same manner as an objection to costs as provided by Rule 906. The court may conduct an evidentiary hearing, if it deems it necessary, regarding the award of attorney fees.

D. Settlement of Attorney Fees by Order of Court - Determination Not Binding on Attorney and Client. After a hearing on an objection to a claim for attorney fees, or after the time for filing an objection has passed, the court shall, upon motion of any party or upon the court's own initiative, enter an order settling the dollar amount of attorney fees, if any, awarded to any party to the action. If there was a timely objection to the amount of attorney fees, the court shall include in the order its reasoning and the factors it relied upon in determining the amount of the award. The allowance of attorney fees by the court under this rule is not to be construed as fixing the fees between attorney and client.

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E. Claims to Which Rule Applies. The provisions of this rule shall be applicable to all claims for attorney fees made pursuant to section 12-121, Idaho Code, and to any claim for attorney fees made pursuant to any other statute, or pursuant to any contract, to the extent that the application of these Rules to such a claim for attorney fees would not be inconsistent with such

other statute or contract.

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

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Links:

[1] <https://isc.idaho.gov/irflp901>