

IRFLP 908 Attorney Fees

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

A. Pursuant to Contract or Statute. In any civil action the court may award reasonable attorney fees, including paralegal fees, to the prevailing party or parties as defined in Rule 901.B, 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.

B. Amount of attorney fees. If the court grants attorney fees to a party or parties in a civil action it must consider the following in determining the amount of such fees:

1. the time and labor required;
2. the novelty and difficulty of the questions;
3. the skill requisite to perform the legal service properly and the experience and ability of the attorney in the particular field of law;
4. the prevailing charges for like work;
5. the time limitations imposed by the client or the circumstances of the case;
6. the amount involved and the results obtained;
7. the undesirability of the case;
8. the nature and length of the professional relationship with the client;
9. awards in similar cases;
10. the reasonable cost of automated legal research (Computer Assisted Legal Research), if the court finds it was reasonably necessary in preparing a party's case;
11. any other factor which the court deems appropriate in the particular case.

C. Pleading - Default Judgments. It is not necessary for any party in a civil action to assert a claim for attorney fees in any pleading when attorney fees are requested pursuant to contract or statute in a judgment by default, the amount of attorney fees in the event of default must be included in the prayer for relief in the complaint and the award must not exceed the amount in the prayer.

D. Attorney Fees as Costs. Attorney fees, when allowable by statute or contract, are costs in an action and processed in the same manner as other costs and included in the memorandum of costs. A claim for attorney fees as costs must be supported by an affidavit of the attorney stating the basis

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and method of computation.

E. Objection to Attorney Fees. Any objection to a claim for attorney fees must 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.

F. 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 must 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 must include in the order its reasoning and the factors it relied 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.

G. Claims to Which Rule Applies. Any claim for attorney fees, including claims pursuant to Idaho Code section 12-121, must be made pursuant to this rule unless an applicable statute or contract provides otherwise.

(Adopted April 2, 2014, effective for early adopters July 1, 2014, effective statewide July 1, 2015, adopted May 10, 2017, Effective July 1, 2017.)

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