



I.R.C.P. 53. Masters

Idaho Rules of Civil Procedure Rule 53. Masters.

(a) Appointment. The court in which any action is pending may appoint a master. Except where these rules are inconsistent with the law, the word "master" includes a referee, a commissioner, an auditor, and an examiner.

(b) Appointment is an Exception. In a jury trial, a master must not be appointed unless the issues are complicated. In actions to be tried without a jury a master must not be appointed except to perform an accounting or on a showing that some exceptional condition requires it.

(c) Compensation. The compensation for a master must be set by the court and the court may direct payment by the parties or from a fund or subject matter of the action that is in the control of the court. The master must not retain the report as security for compensation; but when a 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 party.

(d) Disqualification of a Master.

(1) *In General.* Any person appointed as a master must be disqualified on the finding of a relation or a condition that would be grounds for disqualification of a judge for cause as specified in statute or these rules.

(2) *Motion Practice.* At any time within 14 days after receipt of notice of the appointment of a master, any party may object to the qualification of the master by filing a motion to disqualify the master, stating grounds for disqualification. The motion may be supported by affidavit and must be heard and determined by the court in the same manner as other motions. The court may hear testimony on the motion or may determine it on the record, including affidavits filed by the parties or the master.

(e) Authority and Duties of a Master. The order appointing a master may:

(1) define the authority of the master;

(2) direct the master to report only on particular issues, to do or perform particular acts, or to receive and report evidence only; and



- (3) fix the time and place for beginning and closing the hearings and for the filing of the master's report.

Unless the appointing order directs otherwise, a master may:

- (1) regulate all proceedings;
- (2) take all appropriate measures to perform the assigned duties fairly and efficiently;
- (3) if conducting an evidentiary hearing, exercise the appointing court's power to compel, take, and record evidence;
- (4) rule on the admissibility of evidence; and
- (5) put witnesses on oath and may examine them and may call the parties to the action and examine them on oath.

On request of a party, the master must make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 103 of the Idaho Rules of Evidence.

(f) Meetings of Master. When a master is appointed, the clerk must give the master a copy of the order of appointment. Unless the order provides otherwise, the master must set a time and place for the first meeting of the parties or their attorneys, which must be held within 21 days after the date of the order, and must notify the parties or their attorneys. The master must act promptly and diligently. Either party, on notice to the parties and master may apply 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 without the party or, in the master's discretion, postpone the proceedings to a certain date, giving notice to the parties.

(g) Witnesses. The parties may subpoena witnesses for proceedings before a master as provided in Rule 45. If, without adequate excuse, a witness fails to appear or give evidence, the witness may be sanctioned and is subject to the consequences, penalties, and remedies provided in Rules 37 and 45.

(h) Statement of Accounts. When accounting issues are before the master, the master may direct the form of statement of account to be submitted and may require the testimony of a certified public accountant. On objection of a party or if the master finds that the form of a statement is insufficient, the master may require a different form of



statement, or the accounts or specific items to be proved by oral testimony or written interrogatories.

(i) Master's Report. The master must prepare and file a report of the matters submitted by the court and, if required to make findings of fact and conclusions of law, the master must separately state them in the report. In an action to be tried without a jury, unless otherwise directed by the order of appointment, the master must file with the report a transcript of the proceedings and the original exhibits. The clerk must promptly notify the parties of the filing.

(j) Master's Findings in Actions Without a Jury. In an action to be tried without a jury the court must accept the master's findings of fact unless clearly erroneous. Within 14 days after being served with notice of the filing of the report any party may file and serve on the other parties written objections to the report. Any party may file a motion for action on the report. The court, after hearing, may adopt, modify or reject the report in whole or in part, may receive further evidence, or may resubmit the matter to the master with instructions.

(k) Master's Finding in Jury Actions. In an action to be tried by a jury the master must not be required to report the testimony or evidence relied on. The master's findings on the issues submitted are admissible as evidence of the matters found and may be read to the jury, subject to the court's ruling on any legal objections to the report.

(l) Stipulations as to Findings of Master. The effect of a master's report is the same whether or not the parties have consented to the appointment; but, when the parties stipulate that a master's findings of fact will be final, only objections about conclusions of law will be considered.

(m) Draft Report. Before filing a report a master may submit a draft to the parties for review and comment.

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