



## **I.R.C.P. 54. Judgments; Costs**

### **Idaho Rules of Civil Procedure Rule 54. Judgments; Costs.**

#### **(a) Definition – Form – Amendments.**

(1) *Definition and Form of Judgment.* "Judgment" as used in these rules means a separate document entitled "Judgment" or "Decree". A judgment must state the relief to which a party is entitled on one or more claims for relief in the action, which may include dismissal with or without prejudice. A judgment must not contain a recital of pleadings, the report of a master, the record of prior proceedings, the court's legal reasoning, findings of fact, or conclusions of law. A judgment is final if either it is a partial judgment that has been certified as final pursuant to subsection (b)(1) of this rule or judgment has been entered on all claims for relief, except costs and fees, asserted by or against all parties in the action. A judgment or partial judgment must begin with the words "JUDGMENT IS ENTERED AS FOLLOWS: . . .," and it must not contain any other wording between those words and the caption. A judgment may include any findings of fact or conclusions of law expressly required by statute, rule, or regulation.

(2) *Amended Judgments.* If the court orders an amendment to a judgment, the amendment will be effective only after the court enters an amended judgment setting forth all of the terms of the new judgment, including those terms of the prior judgment that remain in effect.

#### **(b) Partial Judgment Upon Multiple Claims or Involving Multiple Parties.**

(1) *Certificate of Partial Judgment as Final.* When an action presents more than one claim for relief, whether as a claim, counterclaim, crossclaim, or third-party claim, or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any judgment, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities. In the event the trial court determines that a partial judgment should be certified as final under this Rule 54(b), the court must execute a certificate which must immediately follow the court's signature on the partial judgment and be in substantially the form found in Appendix B.

(2) *Jurisdiction if Appealed After Rule 54(b) Certificate.* If a Rule 54(b) Certificate is issued on a partial judgment and an appeal is filed, the trial court retains jurisdiction to take any actions and rule upon any matters unaffected by the Rule 54(b) judgment, including conducting a trial of the issues remaining in the case, except as provided in Rules 13 and 13.4 of the Idaho Appellate Rules.

(3) *Offsetting Judgments.* If any parties to an action are entitled to judgments against each other such as on a claim



and counterclaim, or upon cross-claims, the judgments must be offset against each other and a single judgment for the difference between the entitlements must be entered in favor of the party entitled to the larger judgment.

**(c) Demand for Judgment; Relief to be Granted.** A default judgment must not differ in kind from, or exceed in amount, what is demanded in the pleadings. Every other final judgment should grant the relief to which each party is entitled, even if the party has not demanded that relief in its pleadings.

**(d) Costs.**

*(1) In General; Items Allowed.*

(A) Parties Entitled to Costs. Except when otherwise limited by these rules, costs are allowed as a matter of right to the prevailing party or parties, unless otherwise ordered by the court.

(B) Prevailing Party. In determining which party to an action is a prevailing party and entitled to costs, the trial court must, in its sound discretion, consider the final judgment or result of the action in relation to the relief sought by the respective parties. The trial court may determine that a party to an action prevailed in part and did not prevail in part, and on so finding may apportion the costs between and among the parties in a fair and equitable manner after considering all of the issues and claims involved in the action and the resulting judgment or judgments obtained.

(C) Costs as a Matter of Right. When costs are awarded to a party, that party is entitled to the following costs, actually paid, as a matter of right:

(i) court filing fees, including any fees incidental to electronic filing;

(ii) actual fees for service of any pleading or document in the action, whether served by a public officer or other person;

(iii) witness fees of \$20.00 per day for each day that a witness, other than a party or expert, testifies at a deposition or in the trial of an action;

(iv) travel expenses of witnesses who travel by private transportation, other than a party, who testify in the trial of an action, computed at the rate of \$.30 per mile, one way, from the place of residence, whether it is in or outside the state of Idaho;



(v) travel expenses of witnesses who travel other than by private transportation, other than a party, computed as the actual travel expenses of the witness, but not more than \$.30 per mile, one way, from the place of residence of the witness, whether it is in or outside the state of Idaho;

(vi) expenses or charges of certified copies of documents admitted as evidence in a hearing or the trial of an action;

(vii) reasonable costs of the preparation of models, maps, pictures, photographs, or other exhibits admitted in evidence as exhibits in a hearing or trial of an action, but not more than \$500 for all of such exhibits of each party;

(viii) cost of all bond premiums;

(ix) reasonable expert witness fees for an expert who testifies at a deposition or at a trial of an action, but not more than \$2,000 for each expert witness for all appearances;

(x) charges for reporting and transcribing of a deposition taken in preparation for trial of an action, whether or not read into evidence in the trial of an action; and

(xi) charges for one (1) copy of any deposition taken by any of the parties to the action in preparation for trial of the action;

The trial court may, on objection, disallow any of the above-described costs on a finding that the costs were not reasonably incurred; were incurred for the purpose of harassment; were incurred in bad faith; or were incurred for the purpose of increasing the costs to any other party. The mere fact that a deposition is not used in the trial of an action, either as evidence read into the record or for the purposes of impeachment, does not indicate that the taking of the deposition was not reasonable, or that a copy of a deposition was not reasonably obtained, or that the cost of the deposition should otherwise be disallowed, so long as its taking was reasonable for trial preparation.

(D) Discretionary Costs. Additional items of cost not enumerated in, or in an amount in excess of that listed in subpart (C), may be allowed on a showing that the costs were necessary and exceptional costs, reasonably incurred, and should in the interest of justice be assessed against the adverse party. The trial court, in ruling on objections to discretionary costs, must make express findings as to why the item of discretionary cost should or should not be allowed. In the absence of any objection to an item of discretionary costs, the court may disallow on its own motion any items and must make express findings supporting such disallowance.

(E) Costs Incurred by the Court. The Court may assess and apportion as costs, between and among the parties to the



action, all fees and expenses of masters, receivers or expert witnesses appointed by the court in the action.

(F) **Costs and Attorney Fees - Fees on Execution of Judgment - Added to Judgment.** All costs and attorney fees approved by the court and fees for the service of the writ of execution upon a judgment are automatically added to the judgment as costs and collected by the sheriff in addition to the amount of the judgment and other allowed costs. In the event the return of the sheriff on a writ of execution indicates that the service costs were not obtained through the service of the writ, the clerk of the court must automatically add the uncollected service fees to the judgment as additional costs.

(2) **Multiple Parties.** In the event judgment is entered in favor of multiple parties or coparties, costs must be allowed as a matter of course to each of the prevailing parties unless the court otherwise directs.

(3) **Costs on Extension of Time.** In the event any party to an action applies for an enlargement of time or postponement of a hearing or trial, the court may impose and tax costs and expenses caused by the delay against the moving party as a condition to granting the enlargement or postponement.

(4) **Memorandum of Costs.** At any time after the verdict of a jury or a decision of the court, but not later than 14 days after entry of judgment, any party who claims costs may file and serve on adverse parties a memorandum of costs, itemizing each claimed expense. The memorandum must state that to the best of the party's knowledge and belief the items are correct and that the costs claimed are in compliance with this rule. Failure to timely file a memorandum of costs is a waiver of the right to costs. A memorandum of costs prematurely filed is considered as timely.

(5) **Objections to Costs.** Within 14 days of service of a memorandum of costs, any party may object by filing and serving a motion to disallow part or all of the costs. The motion does not stay execution on the judgment, exclusive of costs, and must be heard and determined by the court as other motions under these rules. Failure to timely object to the items in the memorandum of costs constitutes a waiver of all objections to the costs claimed.

(6) **Settlement of Costs by Order of Court.** After a hearing on a motion to disallow costs, or after the time for filing the motion has passed, the court must enter an order settling the dollar amount of costs, if any, awarded to any party to the action.

**(e) Attorney Fees.**

(1) **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 54(d)(1)(B), when provided for by any statute or contract.



(2) *Pursuant to Idaho Code Section 12-121.* Pursuant to the statutory amendment effective March 1, 2017, attorney fees under Idaho Code section 12-121 may be awarded by the court only when it finds that the case was brought, pursued or defended frivolously, unreasonably or without foundation, which finding must be in writing and include the basis and reasons for the award. No attorney fees may be awarded pursuant to Idaho Code section 12-121 on a default judgment.

(3) *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:

(A) the time and labor required;

(B) the novelty and difficulty of the questions;

(C) the skill requisite to perform the legal service properly and the experience and ability of the attorney in the particular field of law;

(D) the prevailing charges for like work;

(E) whether the fee is fixed or contingent;

(F) the time limitations imposed by the client or the circumstances of the case;

(G) the amount involved and the results obtained;

(H) the undesirability of the case;

(I) the nature and length of the professional relationship with the client;

(J) awards in similar cases;

(K) 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;

(L) any other factor which the court deems appropriate in the particular case.

**(4) *Pleading; Default Judgments.***

(A) In General. It is not necessary for any party in a civil action to assert a claim for attorney fees in any pleading.

(B) In Default Judgment. When attorney fees are requested pursuant to contract or a statute other than Idaho Code section 12-121 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. An award of attorney fees under Idaho Code section 12-120 in default judgments where the defendant has not appeared must not exceed the amount of the judgment for the claim, exclusive of costs.

(5) *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 and method of computation.

(6) *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 54(d)(5). The court may conduct an evidentiary hearing, if it deems it necessary, regarding the award of attorney fees.

(7) *Settlement of Attorney Fees by Order of Court; Determination Not Binding on Attorney and Client.* After a hearing on an objection to 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 on 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.

(8) *Claims to Which Rule Applies.* Any claim for attorney fees, including claims pursuant to Idaho Code section 12-121, must be made pursuant to Rule 54(e) unless an applicable statute or contract provides otherwise.



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