



I.R.C.P. 43. Taking Testimony

Idaho Rules of Civil Procedure Rule 43. Taking Testimony.

(a) In Open Court. At trial, the witnesses' testimony must be taken in open court unless a statute, these rules, the Idaho Rules of Evidence or other rules adopted by the Idaho Supreme Court provide otherwise. For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.

(b) Affirmation Instead of an Oath. When these rules require an oath, a solemn affirmation suffices.

(c) Interpreter. If any party, or person the party intends to call as a witness, needs an interpreter as provided in Idaho Court Administrative Rule 52, the party must notify the court at least 14 days before commencement of the court proceeding, or as soon as practicable in the event of an expedited hearing. If the party fails to do so without good cause and as a result the trial or hearing is postponed, the court may require the party to pay costs resulting from failing to give adequate notice.

(d) Direct and Cross-Examination. The examination of a witness by the party producing the witness is the direct examination; the examination of the same witness, by the adverse party is the cross-examination. The direct examination must be completed before the cross-examination begins, unless the court otherwise directs.

(e) Reexamination and Recalling of Witnesses. A witness once examined cannot be reexamined as to the same matter without leave of the court, but the witness may be reexamined as to any new matter upon which the witness has been examined by the adverse party. A witness, after being examined by the party producing the witness and the adverse party, cannot be recalled by the same party without leave of the court. This rule does not preclude the adverse party from calling the witness as that party's own witness for direct examination.

(f) View of Premises, Property or Things. During a trial, the court may order that the court or jury may view any property, place, item or circumstance relevant to the action.

(1) Jury Trials. The jury must be transported as a group, under the charge of an officer appointed by the court, to the place where the view is to be shown to them. No person may speak with the jurors on any subject connected with the trial of the action during the view, except as authorized by the court, and only the appointed officer may communicate with them in conducting the view pursuant to order of the court.

(2) Court Trials. A view by the court must be conducted personally by the court after notice to all parties. Counsel



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have the right to be present at any view by the court or jury.

(g) Inspection of Writings. Whenever a writing is shown to a witness it may be inspected by any other party.

(Adopted March 1, 2016, effective July 1, 2016.)

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