



I.A.R. 13.4 Delegation of Jurisdiction to District Court During an Appeal.

Idaho Appellate Rule 13.4. Delegation of Jurisdiction to District Court During an Appeal.

(a) **Permissive Appeal Under Rule 12, I.A.R.** During a permissive appeal under Rule 12, I.A.R., the district court retains jurisdiction to take actions and rule upon matters unaffected by the permissive appeal, which may include jurisdiction to conduct a trial of issues. Provided, however, that the district court may enter an order staying the remainder of the case pending final disposition of the permissive appeal, either on its own motion or on the motion of any party.

(b) **Appeal from a Partial Judgment Certified as Final under Rule 54(b), I.R.C.P.** During an appeal from a partial judgment certified as final under Rule 54(b), I.R.C.P., the district court retains jurisdiction to take actions and rule upon matters unaffected by the Rule 54(b) judgment, which may include jurisdiction to conduct a trial of the issues remaining in the case. Provided, however, that the district court may enter an order staying the remainder of the case pending an appeal of the Rule 54(b) judgment, either on its own motion or on the motion of any party.

(c) **Motion for Stay.**

(1) **Motion to District Court.** A motion for stay under subdivision (a) or (b) of this Rule may be filed with the district court at any time during the pendency of the permissive appeal or appeal of the Rule 54(b) judgment. The motion shall be filed, served, noticed for hearing and processed in the same manner as any other motion, and hearing of the motion shall be expedited. Within fourteen (14) days after the hearing, the district court shall enter an order granting or denying the motion for stay and setting forth the reasoning for its decision.

(2) **Motion to Supreme Court.** If the district court denies the motion for stay, or fails to rule upon the motion within twenty-one (21) days after the filing of the motion, the moving party may apply to the Supreme Court for a stay. If the district court grants a stay, any party may apply to the Supreme Court to modify or vacate the stay. A copy of the district court's order granting or denying the motion to stay must be attached to the motion filed with the Supreme Court. Any order of the Supreme Court shall take precedence over any order entered by the district court.

(Adopted March 27, 1989, effective July 1, 1989; amended March 9, 1999, effective July 1, 1999; amended April 28, 2021, effective July 1, 2021; amended April 28, 2022, effective July 1, 2022.)



I.A.R. 13.4 Delegation of Jurisdiction to District Court During an Appeal.

Published on Supreme Court (<https://isc.idaho.gov>)

Source URL: <https://isc.idaho.gov/iar13-4>