

# In the Supreme Court of the State of Idaho

IN RE: ORDER AMENDING LOCAL )  
RULES OF THE FIRST JUDICIAL )  
DISTRICT )  
\_\_\_\_\_ )

The Court having previously approved on May 25, 2017, the Family Law Caseflow Management Plan submitted by the First Judicial District:

NOW, THEREFORE, IT IS HEREBY ORDERED, that the local rules of the First Judicial District be amended to include the approved Family Law Caseflow Management Plan, attached to this order, and the amended local rules are hereby approved and adopted.

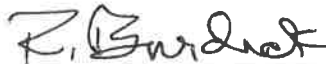
IT IS FURTHER ORDERED, that the amended local rules of the First Judicial District shall become effective immediately.

IT IS FURTHER ORDERED, that said amendments to the Local Rules of the First Judicial District of the State of Idaho shall be sent to the trial court administrator of the First Judicial District for publication and dissemination.

IT IS FURTHER ORDERED, that the First Judicial District is hereby authorized to submit the amendments to the editors of *The Advocate* for publication and inclusion in the *Idaho State Bar Desk Book*.

Dated this 6 day of October, 2018.

By Order of the Supreme Court



Roger S. Burdick, Chief Justice

ATTEST:


  
Clerk

Karel A. Lehrman, Clerk of the Supreme Court/  
Court of Appeals of the State of Idaho, do hereby  
certify that the above is a true and correct copy of  
the Order

entered in the above entitled cause and now on  
record in my office.

WITNESS my hand and the Seal of this Court 10-17-18

KAREL A. LEHRMAN \_\_\_\_\_ Clerk

By:  Chief Deputy

1. The first step in the process of identifying a problem is to define the problem clearly. This involves identifying the symptoms and the underlying causes of the problem. Once the problem is defined, the next step is to gather information about the problem. This involves researching the problem and identifying the resources available to solve it. The third step is to develop a plan of action. This involves identifying the steps that need to be taken to solve the problem and the resources that will be needed to carry out the plan. The fourth step is to implement the plan. This involves carrying out the steps of the plan and monitoring the progress of the solution. The final step is to evaluate the solution. This involves assessing the effectiveness of the solution and identifying any areas for improvement.

2. The second step in the process of identifying a problem is to gather information about the problem. This involves researching the problem and identifying the resources available to solve it. The third step is to develop a plan of action. This involves identifying the steps that need to be taken to solve the problem and the resources that will be needed to carry out the plan. The fourth step is to implement the plan. This involves carrying out the steps of the plan and monitoring the progress of the solution. The final step is to evaluate the solution. This involves assessing the effectiveness of the solution and identifying any areas for improvement.

**IN THE DISTRICT COURTS OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO**

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**ORDER AMENDING LOCAL DISTRICT RULES A16-DW.1 OF THE  
FIRST JUDICIAL DISTRICT, IN AND FOR THE COUNTIES OF  
BENEWAH, BONNER, BOUNDARY, KOOTENAI AND SHOSHONE  
COUNTIES**

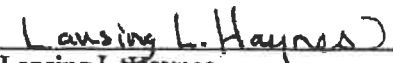
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WHEREAS the Local Rules as they now exist for the First Judicial District in the State of Idaho appear to be in need of amendment: and

WHEREAS a review of those Local Rules has been conducted by the District Judges of the First Judicial District, now, therefore,

IT IS HEREBY ORDERED that the Local Rules of the First Judicial District be amended to include the Family Law Caseflow Management Plan for Idaho's First Judicial District as set forth be and are hereby adopted as additional Local Rules for the First Judicial District for the counties of Benewah, Bonner, Boundary, Kootenai and Shoshone and are supplemental to the Idaho Rules of Civil Procedure; the Idaho Rules of Evidence; the Idaho Criminal Rules; the Idaho Misdemeanor Criminal Rules; the Idaho Infraction Rules; the Idaho Juvenile Rules; the Idaho Administrative Rules; and the Idaho Appellate Rules.

DATED this   6   day of December, 2017.

  
Lansing L. Haynes  
Administrative District Judge

cc: First District Judges  
Karlene Behringer, TCA  
Sara Thomas, Administrative Director of the Courts

AR17-DW.1

# **Family Law Caseflow Management Plan for Idaho's First District**

## **Statement of Purpose**

This caseflow management plan will be administered consistently with Idaho's Statewide Caseflow Management Plan. It applies to the management of the following types of cases: divorce with children, divorce without children, child custody, legal separation, annulments, paternity, child support, de facto custodian, and modifications of any of the aforementioned case types.

The purposes of this plan are to ensure fair, just, and timely case resolution in the courts of the First District by:

1. Preventing unnecessary delay in case processing.<sup>1</sup>
2. Ensuring that each case receives individual attention proportional to need in order to ensure a just result in each case.
3. Promoting judicial leadership and instituting continuous court oversight over the progression of cases from filing to disposition.
4. Creating consistency and predictability for users of the court system.
5. Setting reasonable and mutually understood clear expectations for judges, litigants, the Bar, and the public.
6. Ensuring that judges, court clerks, and trial court administrators have consistent, meaningful case management information to inform their efforts.

## **Section 1: Assignment of judges in the First District**

All magistrate judges are assigned matters specified in Idaho Code 1-2208 and Chapter 23, Title 1, Idaho Code. Additional matters may be assigned by the administrative district judge pursuant to Idaho Code 1-907. In addition, the Idaho Supreme Court may, by rule, specify additional categories to magistrate judges pursuant to Idaho Code 1-2210.

Backup judge coverage may be provided in instances of scheduling conflicts, judicial conferences, vacations, illness, etc., by assignment to both senior and sitting judges, as available.

The administrative district judge in each judicial district is responsible for the overall assignment of judges and caseloads to ensure effective caseflow management. Each administrative district judge considers carefully the number and types of judges available within the district, as well as the availability of senior judges. Other considerations include population density, distribution and mix of caseloads, number of counties, geography and driving distances, the feasibility and desirability of specialization of caseloads, and societal and workload trends. The administrative district judge and trial court administrator continually monitor the assignment of judges and the effective use of existing resources.

Judicial assignments for the hearing of family law cases in the First District are set forth in the Idaho State Bar Desk Book and are modified from time to time. [Optional: They are also included in local

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<sup>1</sup> According to Article I, Section 18 of the Idaho Constitution, "...justice shall be administered without...delay." According to the American Bar Association's *Standards Relating to Court Delay Reduction*, delay is "any elapsed time other than reasonably required for pleadings, discovery, and court events."

rules, which are available on district court websites or on the Idaho Supreme Court website at <http://www.isc.idaho.gov/district-courts>].

## **Section 2: Management of Family Law Cases**

### **Section 2.1: Idaho Time Standards for Processing Family Law Cases**

Idaho Court Administrative Rule 57 establishes time standards for case processing for individual case types. Per the rule, the time standards “are adopted as guidelines for judges, trial court administrators, lawyers, and litigants to assist them in determining the length of time it should take to conclude a case in the trial courts.” Time standards establish reasonable, mutual expectations for the courts, attorneys, and the public and can be an effective way of boosting public confidence in the Idaho courts.

When monitored regularly, time standards serve as a tool to assist courts with managing caseloads, preventing backlog, and assessing progress towards case processing goals. In short, they are a tool for ensuring that Idaho Courts are meeting their goal to provide timely case resolution as reflected in the Mission Statement of the Idaho Judiciary and as mandated in the Idaho Constitution. The identification and monitoring of processing times for key interim case events for each case type is an additional tool to assist with case management efforts, allowing for the identification of specific areas of delay in the case process.

Judges, clerical staff, and trial court administrators consistently monitor time standard reports each month and use the information to take action in particular cases and to adjust processes and reallocate resources to meet case processing goals.

Pursuant to ICAR 57, the current time standard for family law cases (new filings only) is 180 days from the filing of the petition to disposition. The revised time standards that have been approved by the Idaho Supreme Court for piloting to begin in 2015 are:

New Cases	75% within 120 days 90% within 180 days 98% within 365 days Measured from filing of the petition to disposition (entry of judgment)
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Modifications	75% within 120 days 90% within 180 days 98% within 270 days Measured from the filing of the petition to modify to disposition (entry of judgment)
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### **Section 2.2: Assignment of Cases**

The purposes of a case assignment policy are 1) to establish for the district the process by which cases will be assigned (individual case assignment or an alternative calendar system), 2) identifying cases in which continuity of judicial attention is important, 3) to designate the instances in which cases involving the same parties or members of the same family (regardless of case type) will be assigned or consolidated for adjudication by the same judge, and 4) to put in place case assignment processes that

ensure the public that the assignment of cases to judges within the First District is not susceptible to control or manipulation by parties or attorneys.

**The First District employs the following case assignment process for family law cases:**

In Kootenai County, family law cases are assigned randomly to the seven resident Magistrate Judges.

In Bonner County, family law cases are assigned randomly to the two resident Magistrate Judges.

In Benewah, Boundary and Shoshone Counties, family law cases are assigned to the resident Judge of that specific county.

In certain circumstances, senior judges and judges from other districts might be called upon to hear a family law case if the resident Magistrate Judge is unavailable or unable to preside over a specific case.

**Cases are assigned to judges using the following procedure:**

*(Include processes for identifying cases appropriate for assignment to a judge currently handling a related case or a case involving members of the same family as well as the process for the initial assignment of all other cases. Also, include processes for assigning modification cases).*

In the First District, District Court Deputy Clerks and Council for the parties inform the court if there are related cases that involve members of the same family. Companion cases and child support cases are rolled into the Divorce case and assigned to the original judge. Further, if parties request consolidation of specific cases, the cases will be consolidated and remain with the original judge.

The First District adheres to the provisions of IRFLP 110 in responding to recusals, disqualifications, and the need for additional judges to handle lengthy trials by assigning cases to other sitting judges or senior judges assigned to the district.

In order to discourage disqualifications, the Kootenai County Magistrates are immediately reassigned to a family law case and will be available to step right into the shoes of the original judge and hear any pending matters. This immediate reassignment prevents continuances and delays in cases.

**Section 2.3: Service, Joinder of Issues and Engagement of Counsel**

Delay in, or failure of, service of process, joinder of issues, and engagement of counsel often lead to long delays in the commencement of a family case or to a case's dismissal for failure to take action. Problems with service of process and joinder of issues are particularly likely to arise in cases where the petitioner is self-represented. It is important for respondents to have an adequate opportunity to consult or retain counsel not only to protect their legal rights but also to facilitate the earliest resolution of civil cases. However, persistent failure to obtain counsel is also a cause of unnecessary delay.

**The First District follows these practices in helping self-represented litigants to complete service of process:**

Self represented litigants are directed to meet with the Court Assistance Officer. Self represented litigants have the option of attending a Court Assistance workshop or scheduling an individual meeting with the Court Assistance Officer.

**The First District follows these practices in helping self-represented respondents to complete the preparation and filing of an answer and obtain counsel in a timely manner:**

Self represented litigants are directed to meet with the Court Assistance Officer. Self represented litigants have the option of attending a Court Assistance workshop or scheduling an individual meeting with the Court Assistance Officer.

**The First District carefully follows the provisions of IRFLP 120 in dismissing civil cases for failure to take action and in allowing their reinstatement.**

Magistrate Judges and clerks consistently refer self-represented litigants to the court assistance office for further information and assistance with these processes.

#### **Section 2.4: Proactive Case Management/Early and Continuous Assessment**

All cases and calendars are set in such a way to prevent unnecessary delay in case processing, while balancing the effective use of the time of parties, victims, judges, attorneys, and court personnel.

The District adopts a proactive case management approach that monitors the progress of all family cases and proactively intervenes in every case that is not progressing satisfactorily. Idaho judges continuously assess cases to ensure that every case receives individual attention and to make sure that the amount of individual attention is proportional to need. The amount of court time and resources devoted to a case and the pace at which a case progresses depends on the complexity and individual needs of that case. Some cases can be resolved quickly with little court involvement while other cases require more time, court appearances, and judicial oversight to reach resolution. Through an early and ongoing assessment process, the judge manages the progress of a case in a manner that will result in the most timely and just resolution possible, given the individual circumstances of that case.

The court maintains early and continuous control of all cases from initiation through post-disposition proceedings by the use of:

- Assessment of the need for interpretive services;
- Case assessment to determine the most appropriate plan for managing a case, including referral to family court resources and services;
- Scheduling orders and conferences for purposes of achieving date certainty;
- Management of discovery and motion practice in accordance with the Idaho Rules of Family Law Procedure;
- Realistic setting of trial dates and time limits;
- Court control of continuances for purposes of fostering early voluntary resolution of most cases and achieving trial date certainty for those cases that are resolved by trial.

Ongoing review of cases is necessary to ensure that a future action or review date has been set by the court in every case.

Differentiated Case Management (DCM) is an effective case management tool that involves formally screening cases at initiation and assigning them to a predefined "case track" that is proportionate to the needs of that case. Districts have the option of employing a DCM process. If used, judges have the discretion to move a case from its assigned path to one that is more appropriate, given the developments in the case.

The court uses the following criteria when utilizing differential case management or otherwise proactively managing a family case:

- Whether there are pending child protection, juvenile delinquency, guardianship, or other cases involving the same family including criminal histories;
- Number of parties;
- Whether the parties are represented by counsel;
- Whether the issues in the case will be contested;
- Whether the case involves minor children; cases involving younger children may need special attention;
- The length of the marriage or whether the parties were never married;
- Whether a party is in the military and/or out of state;
- A history of, or evidence of the existence of, domestic violence, substance abuse, child abuse, or mental health issues;
- Complexity of factual and legal issues, for example, the amount of and nature of property involved in the case, children's behavioral issues, children's special needs, or the level of parental conflict; and
- Likelihood of going to trial/informal custody trial and estimated length of trial.

**The First District uses the following processes to ensure that family law cases are assessed early and managed proactively and on an ongoing basis:**

Each Magistrate Judge conducts a meaningful conference with the parties. During this conference, each party is given the opportunity to discuss the complexity and needs of the case. Based on the information received from the parties, the Judge then decides which path the case will take. One of the options that is discussed with the parties is the Informal Trial option. In order to proactively manage a family law case and keep the parties on task, the First District Magistrate Judges bring their calendars to their scheduling conferences and set hearing and trial dates with the parties.

Idaho Courts are committed to resolving family cases through the combined efforts of the courts, the family, and community services-in ways that are least adversarial and intrusive. Therefore, a continuum of services and inter-disciplinary professional collaboration with the court is needed. There are finite resources available to Courts and families for case resolution. Further, one size does not fit all families.

**The First District uses the following process for assigning cases to Family Court Services or other appropriate services:**

Before the scheduling conference takes place, the parties are sent to the Focus on Children workshop. During the scheduling conference, the Magistrate Judges discuss the option of mediation. In addition, any appropriate ADR is also identified at the scheduling conference.



Teleconferencing and video conferencing are permitted by IRFLP 118 and are used as a means of reducing delay and expense.

## **Section 2.5: Calendar Setting and Scheduling of Events**

**In the First District, the process used for setting family cases for trial follows:**

### Calendar Setting

In the First District, most family case hearings are initiated by the court, based on the results of its monitoring the progress of the case. Each judge presiding over an individual calendar controls and sets his or her own calendar. For judges sitting on a master calendar docket, the calendar is managed and coordinated between the judges and trial court administrator's office or clerk's office responsible for calendaring.

When an attorney or party determines that a hearing is warranted, for judges presiding over an individual calendar, the party or counsel contacts the clerk of the presiding judge to calendar a matter for a time certain. For judges sitting on a master calendar docket, matters are scheduled for a time certain by the clerk's office or at the direction of the presiding judge, as necessary. All calendar settings are made within the applicable time standards; setting outside of an applicable time standard are made only upon showing of good cause and upon order of the presiding judge.

Scheduling complies with the time standards adopted by the Idaho Supreme court.

Family cases are set for trial at the time of the scheduling conference unless otherwise ordered by the court.

**The First District follows these practices to avoid scheduling conflicts for parties, counsel, interpreters, and court reporters in family cases:**

The Magistrate Judges work closely with the attorneys and the parties to pick a date that works for everyone. In order to ensure that Pro Se litigants remember their next court date, the Kootenai County Bailiffs prepare a written reminder for the Pro Se litigants and give that document to them before they leave the court room. If the Judge requires the services of an interpreter, the Deputy Clerk will contact the TCA's office. An interpreter will be contacted by the TCA's office and be present at every stage of the case.

**The First District follows these additional practices to maximize the efficient use of the time of judges, court staff, attorneys, and expert and lay witnesses:**

If a specific case involves pro se litigants who have a number of conflicts, the court will recommend that the parties seek assistance from the Family Court Manager and/or the Court Assistance Officer.

In addition, the court schedule is updated in ISTARs and the Idaho Repository. As a result, the attorneys, litigants and witnesses have access to an updated court schedule on the Internet.

Further, the Deputy Clerks, the Family Court Manager and Court Assistance Officer ensure that all court forms and notices are up to date.

### Scheduling of Events

All scheduled case events are meaningful events, defined as events that (a) move a case towards disposition and (b) prompt the attorneys and parties to take necessary action. Scheduling and conducting events that are not meaningful creates unnecessarily long lapses, having potentially negative impacts on the families. Monitoring the effectiveness and timeliness of interim case events between filing and disposition helps to prevent unnecessary delay.

The following have been identified as key interim case events in family law cases that will be tracked in the case management system and monitored for informational and case management purposes:

Service of summons	Mediation completed
Completion of co-parent education or waiver	
Filing of responsive pleading	Assessment/evaluation ordered
Case screening	Assessment/evaluation completed
Scheduling order	Discovery cutoff date
Motion for temporary order	Filing of dispositive motion
Order on motion for temporary order	Pre-trial conference
Ordered to mediation	Start of trial

The following guidelines are used to ensure that case events are meaningful.

- A scheduling conference is set by the court clerk or a scheduling order is issued shortly after an answer is filed [see IRFLP 701].
- A trial date is set at the scheduling conference. Attorneys are responsible for maintaining their availability for the trial date set.
- Attorneys come to the scheduling conference prepared to provide a list of available dates and reasonable estimates of the time necessary to a) prepare for trial and b) actually try the case.
- The judge controls the calendar. Requests for continuances are considered by judges in accordance with Section 2.10 of this plan.
- Scheduling orders and discovery will conform to IRFLP. Mediation is encouraged in every appropriate family case and the deadline for completion of mediation is included in a court order.

**The First District follows these practices to ensure that all scheduled events in family cases are meaningful:**

- A scheduling conference is set by the court clerk or a scheduling order is issued shortly after an answer is filed [see IRFLP 701].
- A trial date is set at the scheduling conference. Attorneys are responsible for maintaining their availability for the trial date set.

- Attorneys come to the scheduling conference prepared to provide a list of available dates and reasonable estimates of the time necessary to a) prepare for trial and b) actually try the case.
- The judge controls the calendar. Requests for continuances are considered by judges in accordance with Section 2.10 of this plan.
- Scheduling orders and discovery will conform to IRFLP. Mediation is encouraged in every appropriate family case and the deadline for completion of mediation is included in a court order.

## **Section 2.6 Motion Practice**

Motion practice conforms with Idaho Rules of Family Law Procedure, Chapter V.

The substance and need for motions varies widely and are most likely to be filed by attorneys rather than self-represented parties. Since motions can significantly impact the time and expense necessary in any case, management of motions is an essential component of an effective and efficient case management plan. This management is best done in an early scheduling/trial order. Requiring compliance with the motion deadlines eliminates a significant potential for unreasonable delay.

Courts do not allow the parties to modify discovery deadlines set by court rule or court order by stipulation without authorization of the court and permit modification only as necessarily and, if possible, without disturbing firm trial dates.

The court should adhere to the following general guidelines when creating scheduling orders:

- Dispositive motions are filed pursuant to IRFLP Chapter V but can and should be set earlier in the case.
- Motions which affect the introduction of evidence at trial, i.e., motions in limine, motions to strike witnesses or exhibits, etc., are often filed late in the process. Scheduling orders account for this and require such filings to occur early enough to give the court sufficient time to carefully consider the same without impacting the trial date.
- Clerks are given careful guidelines in the scheduling of motions. Parties do not control the hearing schedule, and hearings are set so as to allow for meaningful review but timely resolution.
- Courts diligently consider and rule on motions, in compliance with the requirements of the Idaho Constitution, and to prevent unreasonable delay.
- Informal methods should be adopted for consideration and resolution of motions, such as conducting hearings of non-dispositive motions by teleconferencing.

The court should adhere to the following general guidelines and rules when considering motions:

- Adhere to time limits. If a party needs more than a half hour to present their motion, the parties will contact the Judge.
- Judges/clerks will schedule motions as soon as possible.
- Judges will rule from the bench.
- Judges will consider hearing Motions to Compel telephonically.

- When parties are appearing in court to present their motions, the Judge will hear the cases that have been settled first. This will give the other litigants and opportunity to meet try to resolve their matters before their cases is called.

**The First District follows these procedures for the filing, hearing, and disposition of motions in family law cases in a timely manner:**

After an attorney or pro se litigant files their motion, the attorney or pro se litigant contacts the Judge/Clerk to schedule a hearing.

The Clerk identifies the amount of time that is required for the hearing and plugs that hearing into the Judge's schedule. The Judges in the First District schedule motions in a timely manner and will consider hearing Motions to Compel telephonically. Before a Motion for a Temporary order is heard, the Judges in the First District require that the parties participate in a joint mandatory meeting.

In order to dispose of motions in family law cases in a timely manner, Judges in the First District may rule from the bench. However, if the case requires further analysis, the Judges in the First District may take the case under advisement. When parties are appearing in court to present their motions, the Judge will hear the cases that have been settled first. This will give the other litigants the opportunity to meet try to resolve their matters before their cases are called.

**Section 2.7: Discovery Practice**

Discovery is a significant portion of the litigation time and expense. Therefore, management of discovery is also an essential component of an effective and efficient case management plan. This management is done in an early scheduling order. Such orders manage the nature and scope of discovery according to the needs of each case, consistent with applicable rules. The case management order manages the time and expense devoted to discovery while promoting just dispositions at the earliest possible time.

- Discovery in civil cases is generally governed by IRFLP Chapter IV.
- Courts have the authority to manage discovery as justified, pursuant to IRFLP 402, and do so in scheduling/trial orders consistent with the guidelines set forth above.
- Discovery deadlines are firmly set in scheduling/trial orders and adhered to by the parties and the Court. However, judges do not allow the deadlines contained in scheduling/trial orders to be used as a basis for failing to timely respond to or supplement properly served discovery, including requests for disclosure of trial witnesses and/or exhibits. Courts do not allow the parties to modify discovery deadlines by stipulation without authorization of the court and permit modification when necessary, preferably without disturbing firm trial dates.
- Motions to compel discovery responses strictly comply with IRFLP 443, requiring parties to make every reasonable effort to resolve discovery disputes without court intervention.
- Court sanctions, pursuant to IRFLP 443-448, are used to curb abuses of the discovery process, including deliberate delay.

**The First District follows these procedures to facilitate the exchange of discovery materials in family cases [Mention standard discovery orders if they are used in the District]:**

There is mandatory disclosure of materials in the First District. Each side is required to disclose everything including but limited to affidavits and parenting plans within 35 days from the filing of the Motion for Discovery. Effective July 1, 2015, sanctions will be imposed if discovery has not been received in a timely fashion.

The Judges will remind Pro Se litigants that they are subject to mandatory disclosure of discovery materials.

**The First District follows these procedures to assist self-represented petitioners and respondents with discovery issues:**

Judges will refer Pro Se litigants to the Court Assistance Officer and the Family Court Manager who will assist with forms and identify services that pro se litigants may need.

The Bailiffs provide pro se litigants with a card that contains the Court Assistance Officer and the Family Court Coordinator's contact information. Pro Se Litigants will also be educated about the Idaho State Bar Lawyer Referral Service and how that program may assist them with their litigation.

#### **Section 2.8: Early/appropriate case resolution processes**

All structured dispute resolution processes conform to the governing court rule or statute applicable to a specific case. Appropriate dispute resolution in family law cases is governed by IRFLP, Chapter IV. Settlement conferences are governed by IRFLP 701. As early as practical, the court shall in every case consider the appropriateness of all forms of dispute resolution, including education, mediation, or settlement conferences, in order to foster efficiency, early resolution, and effective case management.

IRE 507, as administered by the authorizing court, governs the confidential nature of mediations to foster resolution in all such cases as deemed appropriate.

Mediation is encouraged in every civil case and the deadline for completion of mediation is included in the scheduling order.

IRFLP 603 addresses mediation in civil lawsuits. IRFLP 602 addresses mediation in child custody and visitation disputes. All mediation is conducted in conformance with the *Uniform Mediation Act*, Idaho Code §9-801, *et. seq.*, or as amended and ordered by the authorizing court.

**The First District has established the following programs to facilitate the earliest possible resolution of family cases:**

*[Consider methods of enforcing mandatory disclosure pursuant to IRFLP 401].*

The First District has established a Focus on the Children class which was created for parents involved in divorce, custody, modification, or paternity related cases. The workshops include:

- Information and options on how to help children during this transition.
- Hear from a judge regarding options other than litigation for coming to a legal resolution.
- Children's reactions to the separations of parents via video.
- Attachment and Developmental issues of children explained by a mental health professional.
- List of resources that many aid the Pro Se litigant as they move ahead in the process.

The First District also has an established mediation program and provides court services for Pro Se litigants.

If the parties do not comply with mandatory disclosure of discoverable materials, sanctions will be imposed.

### **Section 2.9: Pretrial Case Management**

Implementation of standard pretrial management practices for cases that are very likely to proceed to trial, such as holding meaningful pretrial conferences, is the most effective mechanism for (a) promptly resolving cases before trial and (b) ensuring that cases going to trial are adjudicated without unnecessary delay. Successful pretrial management of cases requires both the court and counsel to attend the pretrial conference prepared to discuss the matters identified in the court's scheduling order, IRFLP 704, and/or any other issues or concerns unique to each case.

The following guidelines are used for pretrial case management:

- Consider the need for interpretive services.
- Final pretrial conferences and any pretrial submissions ordered by the presiding judge are required at least 14 days before a trial.
- In complex cases, an initial pretrial conference is set at least 30 days before trial.
- Deadlines are set for dispositive motions and motions in limine. Dispositive motions are filed early enough that they are heard by the court at least 60 days before the pretrial conference, allowing the court to make a ruling before the final pretrial conference. Motions in limine are filed early enough that they are heard by the court no later than the date of the pretrial conference.
- Scheduling orders reference IRFLP 702 and inform attorneys that they are to be prepared to discuss such matters at the pretrial conference.
- Disclosure of witnesses, pursuant to IRFLP 401, occurs 42 days before trial.
- Participation of children, pursuant to IRFLP 119, including motions to allow child testimony are filed 28 days prior to trial.

**The First District follows these procedures as part of its management of the pretrial stage of family cases:**

In family law cases, if the parties notify the Judge that interpretive services are needed, the Judges of the First District may consider appointing an interpreter to aid in that family law case. Final pretrial

conferences and any pretrial submissions ordered by the presiding judge are required at least 14 days before a trial. In complex cases, an initial pretrial conference is set at least 30 days before trial.

Deadlines are set for dispositive motions and motions in limine. Dispositive motions are filed early enough that they are heard by the court at least 60 days before the pretrial conference, allowing the court to make a ruling before the final pretrial conference. Motions in limine are filed early enough that they are heard by the court no later than the date of the pretrial conference.

Scheduling orders reference IRFLP 702 and inform attorneys that they are to be prepared to discuss such matters at the pretrial conference.

Disclosure of witnesses, pursuant to IRFLP 401, occurs 42 days before trial.

Participation of children, pursuant to IRFLP 119, including motions to allow child testimony are filed 28 days prior to trial.

The attorneys and Pro Se litigants will have all of their information ready for trial and inform the Judge of any crucial information.

**The First District follows these procedures to ensure the time allotted for trial is appropriate:**

At the scheduling conference, the Judge asks the attorneys and Pro Se Litigants how much time is reasonable and how much time does each side need to present their case.

### **Section 2.10: Continuances**

Subject to IRFLP 104.F, continuances are requested by a written motion setting forth the basis of the motion. The motion also sets forth all prior continuances requested in the action. If a basis for the continuance is a conflict in a schedule, a copy of the court notice constituting the conflict is attached to the supporting affidavit. Any motion for a continuance of a trial date is signed by the litigant as well as by counsel.

A party objecting to the requested continuance may, but is not required, to file a written objection to the motion.

In accordance with IRFLP 104, a party may request oral argument on a motion for continuance. In its discretion, the court may deny oral argument. A joint or stipulated motion for a continuance is not binding on the court (IRFLP 104.F).

In family law cases, the factors the court considers in determining whether to grant a motion to continue include but are not limited to:

- The reason for the request and when the reason arose;
- Whether the reason for the request was within the control of counsel or was otherwise reasonably foreseeable;
- Whether granting or denying the motion would unfairly prejudice either party;
- The number of continuances previously granted;
- The age of the case;
- The days remaining before the trial date;

- Whether the case can be tried in the time allotted; and
- Whether all of the named parties agree to the continuance.

**The judges of the First District have adopted the following policy governing continuances in family law case:**

Continuances are not granted on a regular basis. Continuances will be decided on a case by case basis and the best interest of the child will be considered when a request for a continuance is made. If a continuance is granted, the continuance will be as short as possible.

**Section 2.11: Management of Trials**

Family law hearings and trials are scheduled to proceed on consecutive days from commencement to conclusion. Trials are conducted so as to make the most effective use of the time of witnesses, interpreters, judges, attorneys, and court staff.

**The judges of the First District adhere to the following practices to minimize the amount of time and resources required to conduct family trials, and to minimize the inconvenience to parties and witnesses, consistent with constitutional principles of fairness and due process of law:**

Cases involving out of state witnesses and cases that involve child custody will have first priority. Older cases will be heard next. Cases that have been continued are then given preference.

Multiple settings of trials. Trials are set 6 deep. Typically three cases resolve and three cases proceed to trial. If a Magistrate Judge has a number of cases that are ready to go, that Judge will reach out to his fellow magistrates for help in hearing one or more of the cases.

**The First District maximizes the certainty that a trial will commence on the date set by:**

The Judges in the First District do not prioritize cases. The attorneys that appear before the First District Judges know that they must be ready to proceed to trial.

**Section 2.12: Preparation and Entry of Judgment**

A considerable portion of the time required to resolve a family case occurs after the case has been resolved. This is particularly true in cases in which both parties are self-represented.

**The First District takes the following steps to ensure timely presentation of a judgment in family cases involving an attorney or attorneys:**

The attorneys in the First District will present judgments in family cases no later than 14 days after a decision has been rendered by the court. If the judgment is not received, the clerk will contact the parties to find out why the judgment is not ready. If the judgment is not completed, consequences will result.



If the objecting party can't agree on language contained in an order, the objecting party can obtain a transcript and argue for new language. If the objecting party does not accept the new language, court costs will be assessed to the objecting party.

**The First District takes the following steps to ensure timely presentation of a judgment in family cases in which no attorney is involved:**

Pro se litigants are provided forms and parenting plans to complete. Many pro se litigants access the forms, prepare their judgments and submit their judgments to the court. If a pro se litigant is unable to complete the necessary forms, the court will prepare the judgment.

**The First District takes the following steps to ensure timely preparation of an order of protection:**

A judge will hear a civil order of protection case the same day that it was filed with the Clerk's office. Prior to the judge hearing the case, the deputy clerk will pull all of the petitioner's files to assist the judge in making an informed decision.

### **Section 2.13 – Contempt Motions**

Rule 822 of the Idaho Rules of Family Law Procedure confirms that contempt motions and proceedings are still governed by Rule 75 of the Idaho Rules of Civil Procedure. Frequently, post judgment proceedings in family law cases involve allegations of contempt of the court's orders concerning delivery of property, payments of debts, payment of child support, and/or child custody and visitation. Contempt motions may be filed before or during modification proceedings. Courts should consider joint trials of simultaneously pending contempt and modification motions.

**The First District takes the following steps to ensure timely disposition of contempt proceedings in family cases that also involve a pending motion or petition to modify child custody, visitation, and/or child support:**

All of the First District judges will conduct joint trials of simultaneously pending contempt and modification motions.

**The First District takes the following steps to ensure timely disposition of contempt proceedings in family cases that do not also involve a motion or petition to modify child custody, visitation, and/or child support:**

These types of cases are typically presented by the Idaho Department of Health and Welfare. These types of cases follow the same case process as other family law cases.

### **Section 3: Effective and Consistent Monitoring of Case Management Reports**

Caseflow management necessitates the regular production of case management information from an automated system. Case management reports provide a means of identifying and preventing delay in the processing of individual cases and the buildup of a case backlog that can result in an overall delay in the processing of all cases. They also provide information about potential sources of delay.

The production of case management information is not sufficient in and of itself, however, to ensure effective caseload management. Equally important is the utilization of this information, as follows:

- Judges consistently and effectively monitor their case management reports and take appropriate action to ensure that meaningful events are set for all cases that case processing goals are being met, and that potential sources of unnecessary delay are identified so that they may be addressed through case management.
- Administrative district judges and trial court administrators closely monitor reports for their districts to identify cases that are nearing or exceeding applicable time standards, areas where backlog may be developing, potential sources of systematic delay, and changes in overall caseloads and inequities that may be developing in caseload distributions that may require changes in judicial assignments.
- Court clerks monitor case management reports regularly to ensure that all pending cases are scheduled for meaningful events through disposition.

It is the responsibility of individual courts to ensure that data entry practices are consistent with statewide uniform business practices thus resulting in accurate and reliable case management information.

**The First District uses these procedures to ensure effective use of data reports for monitoring the progress of family law cases:**

- The First District Magistrate Judges consistently and effectively monitor their case management reports and take appropriate action to ensure that meaningful events are set for all cases that case processing goals are being met, and that potential sources of unnecessary delay are identified so that they may be addressed through case management.
- The Administrative District Judge and Trial Court Administrator closely monitor reports for their districts to identify cases that are nearing or exceeding applicable time standards, areas where backlog may be developing, potential sources of systematic delay, and changes in overall caseloads and inequities that may be developing in caseload distributions that may require changes in judicial assignments.
- Court clerks monitor case management reports regularly to ensure that all pending cases are scheduled for meaningful events through disposition.

#### **Section 4: Checking the Status of Pending Case Matters**

Judges understand that decisions are to be issued in a timely way, pursuant to Art. V, Sec. 17 of the Idaho Constitution. Therefore, judges willingly accommodate requests by attorneys and/or parties seeking the status of matters under advisement or other pending case matters, without negative consequence to those seeking that status report. To assist the attorneys and/or parties in this regard, judges follow these practices:

- When additional briefing or materials are necessary before the judge considers the matter under advisement, the judge sets deadlines for submission of the briefing or materials clear to the attorneys and/or parties.

- If the judge considers the matter under advisement at the conclusion of oral argument, the judge clearly states the same on the record.
- If a matter is under advisement a proper notation of that fact is entered in the court's case management system.
- Every written decision contains a statement as to when the court considered the matter under advisement.
- Attorneys and/or parties are advised that they are free to contact the court's clerk to inquire about the status of any case, proceeding, or pending decision 30 days after the matter is under advisement, without consequence. Districts should consider a local rule implementing this protocol.

Clerks will receive training to fulfill requests for the status of a case, proceeding or pending decision, although their report should necessarily disclose only that the matter is still pending, the scheduled timing of future events, or that the decision has been issued.

#### **Section 4: Special Considerations for District Plans**

##### **Language Access Services**

Federal and state law require judges to ensure parties, witnesses, and other interested individuals have meaningful access to the courts. Language access services are provided in all civil and criminal cases pursuant to Idaho Code 9-205. Professional court interpreters are appointed pursuant to ICAR

52. Determining the need for services is done in a number of ways, including the following:

- For spoken languages, self-identification by the non-English speaker (or companion). For the deaf or hard of hearing, through an ADA request for accommodation.
- A judge finds there is a need for language access services.
- Court-personnel may receive notice directly from the public, attorneys, guardians, probation officers, law enforcement and other participants.
- Outside agencies, such as social workers, law enforcement or correctional facilities notify the court about a LEP individual's need for auxiliary services for an upcoming event.

**The First District adheres to the following practices to ensure the most efficient use of available certified and non-certified interpreter resources:**

- For spoken languages, self-identification by the non-English speaker (or companion). For the deaf or hard of hearing, through an ADA request for accommodation.
- A judge finds there is a need for language access services.
- Court-personnel may receive notice directly from the public, attorneys, guardians, probation officers, law enforcement and other participants.
- Outside agencies, such as social workers, law enforcement or correctional facilities notify the court about a LEP individual's need for auxiliary services for an upcoming event.

When the need for interpreter services has been identified by the judge, clerk, attorney, other agencies or participants in a specific case, a request is sent to the Trial Court Administrator's office. The Trial Court Administrator or their designee then contacts and retains the appropriate type of interpreter for the case.

##### **Self-Represented Litigants**

The Idaho Judiciary is committed to ensuring access to justice for self-represented litigants (SRLs). Consistency and predictability are vital to meeting this goal. Self-represented litigants may lack the expertise to manage their cases effectively. There are key points in a case where SRLs can unintentionally stall the progress of a case. The Judiciary's commitment to ensure fair and timely case resolution requires that these and other SRL concerns be addressed. All solutions will look toward effective practices that will not become obstacles to SRLs but will instead facilitate proper notification and access to information for SRLs so that they can more effectively navigate the court system.

**The First District adheres to the following practices to accommodate the needs of self-represented litigants in obtaining information about their legal rights, about legal processes, and about court proceedings; in obtaining access to legal forms appropriate to their needs and in completing those forms:**

In the First District, it is very rare that litigants proceed without attorney representation. However, if the parties waive their right to counsel, the judges will ensure that the case proceeds in the most fair and efficient manner possible. A district wide court assistance office provides SRLs services concerning their legal rights and legal processes. The court assistance office also provides access to the appropriate legal forms to the SRLs so they can effectively navigate through the court system.

The First District adheres to the following practices to accommodate the needs of self-represented litigants in the courtroom: *[Consider referrals to CAO, Family Court Services, informal custody trial, relaxed rule of evidence... etc.]*

During a pro se litigant's first appearance in court, the Judge will inform the pro se litigant that they will be held to the same standard as an attorney and the rules of evidence apply. Depending on the issues in the case, the judge may also refer the pro se litigant to the Court Assistance Officer, Family Court Services or Legal Aid. Additionally, in order to accommodate the needs of the self-represented litigant, the Judge may explain the option of the parties proceeding to trial by utilizing the informal court trial process.

### Media relations

The Idaho courts have a manual for judges on media relations and the handling of notorious cases. These issues are addressed in ICAR 45 and 46. In addition, ICAR 32 addresses public requests for court records, which includes media requests.

Administrative district judges establish effective relations between the court and the media, by scheduling forums or other opportunities for discussion with the media, and by providing general information to the media about the courts, the law, and court procedures and practices, to the extent permitted by the Idaho Code of Judicial Conduct.

**In the First District, judges follow these standard procedures in dealing with requests for video coverage of family law proceedings:**

In the First District, judges follow ICAR 45, 46 and 32 in dealing with requests for media coverage and public requests for court records. If a member of the media would like to video or take still shots of a specific case, the member of the media sends a formal request for cameras in the court room to the

presiding judge. If the judge is unavailable, the request can be forwarded to the Trial Court Administrator.

#### Telephonic and other remote appearances

IRFLP 118 authorizes the use of telephone conferencing to conduct hearings. Allowing parties, witnesses, interpreters, and attorneys to make court appearances without appearing personally in court can result in significant efficiencies and are allowed when they do not compromise the rights of a party

#### **In the First District, remote appearances are allowed as follows:**

In the First District, telephonic and video appearances are an acceptable practice. It is used frequently for cases that involve out of district litigants and experts.

The procedures for arranging a remote appearance are:

The parties or the judge contact the judge's clerk. The judge's clerk sets up the equipment in the court room and the parties dial into a specific phone at a specific time. Each court room is equipped with a conference phone that can accommodate telephone communication between multiple parties. If the Judge's clerk is unavailable, the Trial Court Administrator and the Bailiff's office will set up the equipment for the parties.

There are no other circumstances unique to the First District.

#### **Section 5: Implementing and Maintaining the Family Law Caseflow Management Plan for the District**

Once the District Caseflow Management Plans are established, implementing the plans and keeping them relevant will be a priority. Therefore, outreach and collaboration will be ongoing. Both at the state and at the individual judicial district levels, collaborative planning procedures will be maintained to promote regular and ongoing communication, problem solving and adaptation of caseflow management processes to the ever-changing needs of the justice system and the communities it serves.

Major sources of potential future changes include rule amendments, efforts of the Advancing Justice and Children and Families in the Courts Committee to identify and promote effective practices, and efforts of the Judges Associations to develop uniform forms for all Idaho case types.

#### **The First District will utilize the following processes to ensure the Family Law Caseflow Management Plan is implemented as intended:**

Outreach and collaboration will be ongoing. Both at the state and at the individual judicial district levels, collaborative planning procedures will be maintained to promote regular and ongoing communication, problem solving and adaptation of caseflow management processes to the ever-changing needs of the justice system and the communities it serves.

**The First District maintains the case management plan through the following process(es):**

*[Consider regular bench/bar meetings to address and resolve caseflow management challenges and regular judge meetings to maintain consistency in practices within the District.]*

The case management plan will be discussed periodically at bench/bar meetings in the First District. The plan will also be discussed at First District annual judges' meetings. The Court Assistance Officer and the Family Court Manager will be invited to these meetings to assist in resolving any caseflow management challenges.