I.R.C.P. 26.b.4. Trial Preparation - Experts.

Idaho Rules of Civil Procedure Rule 26(b)(4). Trial Preparation - Experts.

(1) A party must disclose to the other parties by interrogatory and/or court order, the identity of any witness it expects will testify at trial to present evidence under I.R.E. 702, 703 and 705.

(i) For individuals retained or specially employed to provide expert testimony in the case or who are employees of the party: a complete statement of all opinions to be expressed and the basis and reasons therefore; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; any qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

(ii) For individuals with knowledge of relevant facts not acquired in preparation for trial and who have not been retained or specially employed to provide expert testimony in the case: a statement of the subject matter on which the witness is expected to present evidence under Idaho Rule of Evidence 702, 703 or 705, and a summary of the facts and opinions to which the witness is expected to testify.

(iii) A party may depose any person who has been disclosed pursuant to this rule.

(iv) Upon motion, the court may order further discovery by other means, subject to such restrictions as to scope and such provisions, pursuant to subdivision (b)(4)(C) of this rule, concerning fees and expenses as the court may deem appropriate.

(v) No party shall contact a disclosed 26(b)(4)(A)(1)(i) expert witness of an opposing party without first obtaining the permission of the opposing party or the court.

(2) Draft Disclosures and Draft Reports. Any draft disclosure or draft report prepared in anticipation of litigation by any witness disclosed under 26(b)(4)(A)(1)(i) is protected from disclosure.

(3) Communications Between a Party’s Attorney and Expert Witness. Communications between the party’s attorney and any witness required to be disclosed under 26(b)(4)(A)(1)(i), regardless of the form of the communications, is protected from disclosure, except to the extent that the communications:

(i) state the amount of compensation for the expert’s services;

(ii) identify the facts or data that the party’s attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party’s attorney provided and that the expert relied on in forming the opinions to be expressed.

(Amended April 19, 1995, effective July 1, 1995; amended February 26, 1997, effective July 1, 1997; amended March 31, 2006, effective July 1, 2006; amended April 2, 2014; effective July 1, 2014.)

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