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I.R.E. 612. Writing or Object Used to Refresh Memory.

Idaho Rules of Evidence Rule 612. Writing or Object Used to Refresh a Witness's Memory.

(a) Scope. This rule gives an adverse party certain options when a witnesses uses a writing or object to refresh memory for the purpose of testifying:

(1) while testifying; or

(2) before testifying, if:

(A) the court decides that justice requires the party to have those options and it is practicable to have the writing or object produced, and

(B) the writing or object is not privileged under these rules and not protected from disclosure by Idaho Rule of Civil Procedure 26 or Idaho Criminal Rule 16.

(b) Adverse Party's Options; Deleting Unrelated Matter. An adverse party is entitled to have the writing or object produced at the hearing or deposition in which the witness is testifying, to inspect it, to cross-examine the witness about it, and to introduce in evidence any portion that relates to the witness's testimony.

If production of the writing or object at the hearing or deposition is impracticable, the court may order it made available for inspection.

If the producing party claims that the writing or object includes unrelated matter, the court must examine the writing or object in camera, delete any unrelated portion, and order that the rest be delivered to the adverse party. Any portion deleted over objection must be preserved for the record.

(c) Failure to Produce or Deliver the Writing or Object. If a writing or object is not produced, made available for inspection, or delivered as ordered, the court may issue any appropriate order. But if the prosecution does not comply in a criminal case, the court must strike the witness's testimony or – if justice so requires – declare a mistrial.

(Adopted March 26, 2018, effective July 1, 2018.)



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