IRFLP 439 Use of Despositions

Idaho Rules of Family Law Procedure Rule 439. Use of Depositions.

At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

A. Use to contradict, impeach or for other purpose. Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness, or for any other purpose permitted by the Idaho Rules of Evidence [1].

B. Use by an adverse party for any purpose. The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Rule 430.G [2] to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.

C. Use in particular circumstances. The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds:

1. that the witness is dead; or

2. that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of the state of Idaho, unless it appears that the absence of the witness was procured by the party offering the deposition; or

3. that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or

4. that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or

5. upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

D. Introducing additional parts when part is offered. If only part of a deposition is offered in evidence by a party, an adverse party may require the party to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

E. Use of depositions taken in dismissed actions. When an action in any court of the United States or of any state has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken in the former action may be used in the latter as if originally taken therefor. A deposition previously taken also may be used as permitted by the Idaho Rules of Evidence.

(Adopted April 2, 2014, effective for early adopters July 1, 2014, effective statewide July 1, 2015.)

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Links:
[1] http://www.isc.idaho.gov/ire
[2] http://www.isc.idaho.gov/irflp430