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IRFLP 502 Evidence on Motions.

Idaho Rules of Family Law Procedure Rule 502. Evidence on Motions.

(a) When a motion is based on facts not appearing of record the court may hear the matter on affidavits or may hear it wholly or partly on oral testimony or on depositions.

(b) **Hearing on a Motion for Temporary Order.** A motion for temporary order will be heard and decided exclusively on the motion and affidavits unless, at the hearing on the motion for temporary orders, the court determines that the parties should be allowed to present evidence. In such case, the court will schedule an evidentiary hearing within a reasonable time.

(c) **Expedited Hearings on a Rule 505 Temporary Order or Rule 506 Temporary Restraining Order or Preliminary Injunction.** When a temporary order, preliminary injunction, or temporary restraining order is issued without notice pursuant to Rule 505 or 506, the matter will be decided after an expedited hearing based exclusively on the motion, briefing submitted, affidavits, and oral argument unless any party elects to produce testimony and evidence at the hearing or to cross-examine the adverse party or the party's affiants. To secure a hearing time for the alternative hearing format, the requesting party must first give written notice of at least 24 hours to the court and to the opposing attorney before the hearing. If such notice is timely given it will not be necessary to subpoena the adverse party or the party's affiants and the adverse party will appear with the party's designated affiants without further notice unless otherwise ordered by the court. If the adverse party and the adverse party's affiants designated in the notice are not excused by the court and do not appear as requested, the court may impose such sanctions as it deems appropriate including attorney fees for the requesting party. The hearing, notice and expiration periods set forth in Rules 505 and 506 apply.

(Adopted March 29, 2021, effective July 1, 2021; amended June 12, 2023, effective July 1, 2023.)

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