



## **IRFLP 901 Costs**

### **Idaho Rules of Family Law Procedure Rule 901. Costs.**

#### **(a) In General; Items Allowed.**

(1) **Parties Entitled to Costs.** Except when otherwise limited by these rules, costs are awarded as a matter of right to the prevailing party or parties, unless otherwise ordered by the court.

(2) **Prevailing Party.** In determining which party to an action is a prevailing party and entitled to costs, the court must, in its sound discretion, consider the final judgment or result of the action in relation to the relief sought by the respective parties. The court may determine that a party to an action prevailed in part and did not prevail in part, and on so finding may apportion the costs between and among the parties in a fair and equitable manner after considering all of the issues and claims involved in the action and the resulting judgment or judgments obtained.

#### **(3) Costs as a Matter of Right.**

(A) **Allowed Costs.** When costs are awarded to a party, that party is entitled to the following costs, actually paid, as a matter of right:

- (i) court filing fees, including any fees incidental to electronic filing;
- (ii) actual fees for service of any pleading or document in the action, whether served by a public officer or other person;
- (iii) witness fees of \$20 per day for each day in which a witness, other than a party or expert, testifies at a deposition or in the trial of an action;
- (iv) travel expenses of witnesses who travel by private transportation, other than a party, who testify in the trial of an action, computed at the rate of \$.30 per mile, one way, from the place of residence, whether it is in or outside the state of Idaho;



(v) travel expenses of witnesses who travel other than by private transportation, other than a party, computed as the actual travel expenses of the witness but not more than \$.30 per mile, one way, from the place of residence of the witness, whether it is in or outside the state of Idaho;g;

(vi) expenses or charges of certified copies of documents admitted as evidence in a hearing or the trial of an action;

(vii) reasonable costs of the preparation of models, maps, pictures, photographs, or other exhibits admitted in evidence as exhibits in a hearing or trial of an action, but not more than \$500 for all of such exhibits of each party;

(viii) cost of all bond premiums;

(ix) reasonable expert witness fees for an expert who testifies at a deposition or at a trial of an action, but not more than \$2,000 for each expert witness for all appearances;

(x) charges for reporting and transcribing of a deposition taken in preparation for trial of an action, whether or not read into evidence in the trial of an action; and

(xi) charges for 1 copy of any deposition taken by any of the parties to the action in preparation for trial of the action.

(B) **Disallowed Costs.** The court may, on objection, disallow any of the above-described costs on a finding that the costs were not reasonably incurred; were incurred for the purpose of harassment; were incurred in bad faith; or were incurred for the purpose of increasing the costs to any other party. The mere fact that a deposition is not used in the trial of an action, either as evidence read into the record or for the purposes of impeachment, does not indicate that the taking of the deposition was not reasonable, or that a copy of a deposition was not reasonably obtained, or that the cost of the deposition should otherwise be disallowed, so long as it's taking was reasonable for trial preparation.

(4) **Discretionary Costs.** Additional items of cost not enumerated in, or in an amount in excess of that listed in subsection (3), may be allowed on a showing that the costs were necessary and exceptional costs, reasonably incurred, and should in the interest of justice be assessed against the adverse party. The court, in ruling on objections to discretionary costs, must make express findings as to why the item of discretionary cost should or should not be allowed. In the absence of any objection to an item of discretionary costs, the court may disallow on its own motion any items and must make express findings



supporting such disallowance.

(5) **Costs Incurred by the Court.** The court may assess and apportion as costs, between and among the parties to the action, all fees and expenses of masters, receivers or expert witnesses appointed by the court in the action.

(6) **Costs and Attorney Fees; Fees on Execution of Judgment; Added to Judgment.** All costs and attorney fees approved by the court and fees for the service of the writ of execution on a judgment are automatically added to the judgment as costs and collected by the sheriff in addition to the amount of the judgment and other allowed costs. In the event the return of the sheriff on a writ of execution indicates that the service costs were not obtained through the service of the writ, the clerk of the court must automatically add the uncollected service fees to the judgment as additional costs.

(b) **Multiple Parties.** In the event judgment is entered in favor of multiple parties or co-parties, costs must be allowed as a matter of course to each of the prevailing parties unless the court otherwise directs.

(c) **Costs on Extension of Time.** In the event any party to an action applies for an enlargement of time or postponement of a hearing or trial, the court may impose costs and expenses caused by the delay against the moving party as a condition to granting the enlargement or postponement.

(d) **Memorandum of Costs.** At any time after a decision of the court, but not later than 14 days after entry of judgment, any party who claims costs may file and serve on adverse parties a memorandum of costs, itemizing each claimed expense. The memorandum must state that to the best of the party's knowledge and belief that the items are correct and that the costs claimed are in compliance with this rule. Failure to timely file a memorandum of costs is a waiver of the right to costs. A memorandum of costs prematurely filed is considered as timely.

(e) **Objections to Costs.** Within 14 days of service of a memorandum of costs, any party may object by filing and serving a motion to disallow part or all of the costs. The motion does not stay execution on the judgment, exclusive of costs, and must be heard and determined by the court as other motions under these rules. Failure to timely object to the items in the memorandum of costs constitutes a waiver of all objections to the costs claimed.

(f) **Settlement of Costs by Order of Court.** After a hearing on an objection to a memorandum of costs, or after the time for filing an objection has passed, the court must, on motion of any party or on the court's own initiative, enter an order settling the dollar amount of costs, if any, awarded to any party to the action.



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