UNITED STATES DISTRICT & BANKRUPTCY COURT
DISTRICT OF IDAHO

ELIZABETH A. SMITH
CLERK OF COURT
208.334.1976

KIRSTEN WILKINSON
CHIEF DEPUTY OF OPERATIONS
208.334.9464

JOHN E. TRIPLETT
CHIEF DEPUTY OF ADMINISTRATION
208.334.9205

November 16, 2015

NOTICE FOR PUBLIC COMMENT

The United States District Court's Local Rules Committee invites the public to review and provide comment on the amendments to the District Court's Local Rules 4.1, 7.1, 16.1, 16.4, 26.2, 33.1, 37.1, 38.1, 39.1, 40.1, 41.1, 47.1, 54.1, 58.1, 58.2, 62.2, 72.1, 77.1, 77.3, 77.4, 79.1, 83.4, and 83.5. Copies of the amended rules are attached to this notice.

You can obtain a copy of the local rules by going to the following URL: http://www.id.uscourts.gov/district/forms_fees_rules/Civil_Rules.cfm. There will also be a paper copy provided for reference at the United States Courthouses in Boise, Coeur d'Alene, and Pocatello. If you are unable to access the website, or not able to travel to a courthouse location, please call Kirsten Wilkinson, Chief Deputy of Operations at (208)334-9464.

All public comments are due by Friday, December 11th at 5:00 p.m. (MST). Please send your comments by email to local_rulesDC@id.uscourts.gov, or by mail at the following address:

United States District Court, District of Idaho
Attn: Kirsten Wilkinson, Chief Deputy of Operations
550 West Fort Street
Boise, ID 83724

If you have any question, you can send your question to local_rulesDC@id.uscourts.gov, or please call (208)334-9464. Thank you.

CIVIL RULE 4.1
STATUS REPORT ON SERVICE OF PROCESS

Within thirty (30) days of the filing of the complaint, the plaintiff must file with the Court a status report regarding whether or not service of the summons and complaint has been effectuated or waived by each defendant and, if so, the date(s) on which each such service or waiver of service occurred. Filing such a status report does not fulfill the plaintiff's obligations to comply with the requirements of Federal Rule of Civil Procedure 4(*l*). If the plaintiff files a proof of service in accordance with Federal Rule of Civil Procedure 4(*l*) within thirty (30) days of the filing of the complaint, the plaintiff need not file the status report otherwise required under this local rule.

RELATED AUTHORITY

Fed. R. Civ. P. 4(*l*), 16(b)(2)

Advisory Committee Notes

Under Federal Rule of Civil Procedure 16(b)(2), "[t]he judge must issue the scheduling order as soon as practicable, but unless the Court finds good cause for delay, the judge must issue it within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared." Federal Rule of Civil Procedure 4(*l*) does not require the plaintiff to file a proof of service within a specific timeframe. Thus, for purposes of determining under Federal Rule of Civil Procedure 16(b)(2) the date "90 days after any defendant has been served with the complaint," the Court may not in every instance know if and when the plaintiff has served any defendant. The status report requirement set forth in this local rule seeks to address this issue.

CIVIL RULE 7.1
MOTION PRACTICE

(a) **General Requirements.**

(1) The moving and responding parties are not required to submit an additional copy of any motion, memorandum of points and authorities, and supporting materials, including affidavits and/or declarations, unless required by the judge assigned to the matter.

(2) No memorandum of points and authorities in support of or in opposition to a motion shall exceed twenty (20) pages in length, nor shall a reply brief exceed ten (10) pages in length, without express leave of the Court which will only be granted under unusual circumstances. The use of small fonts and/or minimal spacing to comply with the page limitation is not acceptable.

(3) Documents being submitted in response to, in support of, or in opposition to other documents shall be clearly labeled with the docket number of the motion ~~or response~~ in the caption.

(4) Parties shall submit proposed orders concerning routine or uncontested matters only via e-mail in accordance with ECF Procedures.

(5) Any party, either proposing or opposing a motion or other application, who does not intend to urge or oppose the same must immediately notify opposing counsel and the Clerk of Court by filing a pleading titled "Non-Opposition to Motion."

(6) The time periods specified herein and automatically generated by CM/ECF for service do not supersede, alter or amend any otherwise applicable Federal or Local Rule specifying a different time period for service or method of computing time.

(b) **Requirements for Submission--Moving Party.**

(1) Each motion, other than a routine or uncontested matter, must be accompanied by a separate brief, not to exceed twenty (20) pages, containing all of the reasons and points and authorities relied upon by the moving party. In motions for summary judgment under Federal Rule of Civil Procedure 56, in addition to the requirements contained in Federal Rule of Civil Procedure 56(c)(1), the moving party shall file a separate statement of all material facts, not to exceed ten (10) pages, which the moving party contends are not in dispute.

(2) The moving party shall serve and file with the motion affidavits required or permitted by Federal Rule of Civil Procedure 6(c), declarations submitted in accordance with 28 U.S.C. § 1746, copies of all photographs, documentary evidence and other supporting materials on which the moving party intends to rely.

(3) The moving party may submit a reply brief, not to exceed ten (10) pages, within fourteen (14) days after service upon the moving party of the responding party's memorandum of points and authorities. The reply brief, should be clearly identified as a "Reply in Support of Motion to _____ [Dkt. ___]."

(4) If relief is sought under any of the Federal Rules of Civil Procedure dealing with discovery practices, the party seeking or opposing such relief shall comply with the specific practices and procedures governing discovery motions found in Local Rules 37.1 and 37.2 .

(c) **Requirements for Submission--Responding Party.**

(1) The responding party shall serve and file a response brief, not to exceed twenty (20) pages, within twenty-one (21) days after service upon the party of the memorandum of points and authorities of the moving party. The responding party shall serve and file with the response brief any affidavits, declarations submitted in accordance with 28 U.S.C. § 1746, copies of all photographs, documentary evidence, and other supporting materials on which the responding party intends to rely.

(2) In responding to a motion for summary judgment under Federal Rule of Civil Procedure 56, in addition to the requirements contained in Federal Rule of Civil Procedure 56(c)(1), the responding party shall also file a separate statement, not to exceed ten (10) pages, of all material facts which the responding party contends are in dispute.

(3) The response brief, should be clearly identified as a "Response to the Motion to _____ [Dkt. ___] ~~filed on~~ _____" and must contain all of the reasons and points and authorities relied upon by the responding party.

(d) **Determination of Motions by the Court and Scheduling for Oral Argument, if Appropriate**.

(1) Hearings.

(A) If the presiding judge determines that oral argument on the motion is appropriate, then the courtroom deputy, after considering appropriate time frames to respond to the motion, will promptly advise the attorney for the moving party of a hearing date for oral argument on the motion. The courtroom deputy will then prepare and file a notice of hearing.

The attorney for the moving party is required to resolve any conflicts regarding the hearing date with opposing counsel and then contact the courtroom deputy for a new hearing date if conflicts develop over an initial hearing date. The courtroom deputy will then serve a notice of the new hearing date within five (5) days.

(B) If the presiding judge determines that oral argument will not be necessary, then the courtroom deputy will notify counsel for the moving party, who will then be responsible for notifying the other parties that the matter will be decided on the briefs.

If the presiding judge later determines that oral argument would be of assistance, then the moving party will be so notified by the courtroom deputy.

(2) Attorneys are encouraged to communicate with the courtroom deputies regarding the status of any motion.

(3) The parties may request that the hearing be conducted telephonically or by video conference by contacting the courtroom deputy. Video conferencing is available in Boise, Pocatello, Moscow and Coeur d'Alene.

(e) **Effects of Failure to Comply with the Rules of Motion Practice.**

(1) Failure by the moving party to file any documents required to be filed under this rule in a timely manner may be deemed a waiver by the moving party of the pleading or motion. Except as provided in subpart (2) below, if an adverse party fails to timely file any response documents required to be filed under this rule, such failure may be deemed to constitute a consent to the sustaining of said pleading or the granting of said motion or other application. In addition, the Court, upon motion or its own initiative, may impose sanctions in the form of reasonable expenses incurred, including attorney fees, upon the adverse party and/or counsel for failure to comply with this rule.

(2) In motions brought under Federal Rule of Civil Procedure 56, if the non-moving party fails to timely file any response documents required to be filed, such failure shall not be deemed a consent to the granting of said motion by the Court. However, if a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Federal Rule of Civil Procedure 56(c) or Local Rule 7.1(b)(1) or (c)(2), the Court nonetheless may consider the uncontested material facts as undisputed for purposes of consideration of the motion, and the Court may grant summary judgment if the motion and supporting materials - including the facts considered undisputed - show that the moving party is entitled to the granting of the motion.

(f) Requests to Extend Motion Briefing Period or to Vacate or Reschedule **Motion Hearing Dates. (*See* Dist. Idaho Loc. Civ. R. 6.1.)**

RELATED AUTHORITY

Fed. R. Civ. P. 5(a), 6(b) & (d), 56, 78

CIVIL RULE 16.1

SCHEDULING CONFERENCE, LITIGATION PLAN, VOLUNTARY CASE MANAGEMENT CONFERENCE (VCMC) AND ELECTRONICALLY STORED INFORMATION ~~LITIGATION PLANS~~

(a) Scheduling Conference and Litigation Plan.

As a general rule, scheduling conferences will not be held in the following type of cases, unless otherwise ordered by the Court:

(1) A petition for habeas corpus or other proceeding to challenge a criminal conviction or sentence.

(2) An action to enforce or quash an administrative summons or subpoena.

(3) An action by the United States to recover a benefit payment.

(4) An action by the United States to collect on a student loan.

(5) A proceeding ancillary to proceedings in other courts.

(6) Petition to review a decision denying social security benefits.

(7) Farm Service ~~Administration~~ Agency Foreclosure Actions.

(8) Civil cases in which a prisoner or self-represented litigant is a party.

In all other civil cases, unless otherwise ordered by the Court, a scheduling conference will be conducted ~~within ninety (90) days after the complaint has been filed~~. The Court, in its discretion, may use telephonic/video conferencing with the parties for this purpose. The Court will notify all parties of the date and time of the scheduling conference.

When the Clerk provides notice to the parties of the time and date of the scheduling conference, counsel will also be provided with a ~~scheduling conference/~~litigation plan form used by the trial judge who has been assigned the case. This form also contains requests for discovery information that counsel will discuss at their Federal Rule of Civil Procedure 26(f) conference~~s~~. Each judge's litigation plan form is available on the Court's website.

At least twenty-one (21) days before the time and date set for the scheduling conference, counsel must confer and discuss each of the following items contained on the ~~scheduling conference/~~litigation plan form. These include, but are not necessarily limited, to the following:

(1) Discuss the requirement to make initial disclosures within fourteen (14) days of the Federal Rule of Civil Procedure 26(f) conference.

(2) Expert witness reports/testimony cutoff dates.

(3) Number and length of depositions.

~~(3)~~(4) Electronically stored information (Dist. Idaho Loc. Civ. R. 16.1(c)).

~~(4)~~(5) Discovery cutoff dates.

~~(5)~~(6) Joinder of parties and amendment of pleadings cutoff date.

~~(6)~~(7) Dispositive motions filing cutoff date.

~~(7)~~(8) Availability of Voluntary Case Management Conference (VCMC) (Dist. Idaho Loc. Civ. R. 16.1(b)).

~~(8)~~(9) Alternative Dispute Resolution: (Dist. Idaho Loc. Civ. R. 16.4)

(A) Settlement Conferences

(B) Arbitration

(C) Mediation

~~(9)~~(10) Status conference date, if counsel believes one will be necessary.

~~(10)~~(11) Pretrial conference date (to be entered by the Court).

~~(11)~~(12) Estimated length of trial.

~~(12)~~(13) Trial date (to be entered by the Court).

After counsel have conferred on the litigation plan form, counsel must forward to the Court the litigation plan which they have jointly stipulated to or, in the event counsel are unable to agree, their respective proposed litigation plans, within the time period prescribed by the judge conducting the scheduling conference.

After the scheduling conference, the Court will prepare and enter a scheduling order which will provide time frames and dates for the items contained on the litigation plan form. The Court will issue the scheduling order as soon as practicable, but unless the Court finds good cause for delay, the Court will issue it within the earlier of ninety (90) days after any defendant has been served with the complaint or sixty (60) days after any defendant has appeared.

~~(a)~~(b) **Voluntary Case Management Conference.**

(1) **Definition**. Voluntary Case Management Conference (VCMC) is a tool whereby a Magistrate Judge hosts an informal meeting with counsel in civil cases to identify areas of agreement, clarify and focus the issues, and encourage the parties to enter procedural and substantive stipulations. The VCMC conference is not a settlement conference; it is an effort to: (1) assist in the reduction of expense and delay; and (2) enhance direct communication between the parties about their claims.

(2) **Timing**. During the Scheduling Conference, the trial judge will discuss with the parties whether the case would benefit from a VCMC conference before a designated

Magistrate Judge. If the trial judge and the parties agree that a VCMC conference is warranted, the parties will be ordered to appear at a VCMC conference within 45 days after the Scheduling Conference.

(A) Counsel for any party may request an earlier VCMC conference by contacting the court's ADR Coordinator. The ADR Coordinator will discuss the request with the assigned trial judge, who will determine whether it is appropriate to refer the action to an earlier VCMC conference.

(B) The Magistrate Judge conducting the VCMC conference may order the VCMC conference be conducted by telephone upon request by counsel for any party.

(3) **Process**. At the VCMC conference, the Magistrate Judge will discuss the parties' claims and defenses in order to suggest stipulations and pretrial procedures that may reduce the expense and delay in the case. The Magistrate Judge assigned to the VCMC conference will generally be the same Magistrate Judge assigned to conduct a judicially supervised settlement conference in the case, although he or she will not be the trial judge assigned to the case or designated for referrals by a District Judge in the same case.

(A) All communications during the VCMC conference shall be privileged and confidential.

(B) If necessary, the Magistrate Judge conducting the VCMC conference may, after consultation with the trial judge, modify the scheduling order based on agreements reached at the VCMC conference.

~~Fourteen (14) days after counsel have conferred on the scheduling conference / litigation plan form, counsel must make their initial disclosures as required by Federal Rule of Civil Procedure 26(a)(1).~~

~~After counsel have conferred on the scheduling conference and litigation plan form, counsel must forward to the Court the scheduling conference and litigation plan form which they have jointly stipulated to or, in the event counsel are unable to agree, their proposed plan, within the time period prescribed by the judge conducting the scheduling conference.~~

~~After the scheduling conference, the Court will prepare and enter an order which will provide time frames and dates for the items contained on the scheduling/litigation plan form. Upon the Court's determination, certain cases can be exempted from these requirements and the parties will be so notified.~~

~~(b)~~(c) Electronically Stored Information.

The parties shall discuss the parameters of their anticipated e-discovery at the Federal Rule of Civil Procedure 26(f) conference, as well as at the ~~Rule 16~~ scheduling conference. More specifically, during the Federal Rule of Civil Procedure 26(f) conference, the parties shall exchange the following information and discuss the following e-discovery issues:

(1) The names of the most likely custodians of relevant electronically stored information, as well as a brief description of each person's title and responsibilities;

(2) A list of each relevant electronic device or system that has been in place at all relevant times and a general description of each device or system including, but not limited to, the nature, scope, character, organization, and formats employed in each device or system. The parties should also discuss whether their electronically stored information is reasonably accessible. Electronically stored information that is not reasonably accessible may include information created or used by electronic media no longer in use, maintained in redundant electronic storage media, or for which retrieval otherwise involves undue burden or substantial cost;

(3) A brief description of the steps each party has taken to segregate and preserve all potentially relevant electronically stored information;

(4) The potential for conducting discovery of electronically stored information in phases as a method for reducing costs and burden;

(5) The methodology the parties shall employ to conduct an electronic search for relevant electronically stored information and any restrictions as to the scope and method of the search;

(6) The format for production (e.g., text searchable image files such as pdf or tiff) of electronically stored information,

(7) The potential for entering into an agreement under Federal Rule of Evidence 502(e) regarding the disclosure of a communication or information covered by the attorney-client privilege or work-product protection, as well as the potential for moving the Court to enter an order that incorporates any such agreement under Federal Rule of Evidence 502(d), and

(8) Any problems reasonably anticipated to arise in connection with e-discovery (e.g., email duplication).

If the parties fail to reach agreement on any of the e-discovery issues addressed in subparts (4) through (8) above prior to the ~~Rule 16~~ scheduling conference the parties shall bring this fact to the Court's attention at the ~~Rule 16~~ scheduling conference and discuss whether the Court's intervention on those topics is necessary.

RELATED AUTHORITY

Fed. R. Civ. P. 16, 16(f)

Dist. Idaho Loc. Civ. R. 16.4, 16.5

CIVIL RULE 16.4

ALTERNATIVE DISPUTE RESOLUTION

a) Purpose and Scope.

1) Purpose. Pursuant to the findings and directives of Congress in 28 U.S.C. § 651 et seq., the primary purpose of this local rule is to provide parties to civil cases and proceedings in bankruptcy in this district with an opportunity to use alternative dispute resolution (ADR) procedures. This rule is intended to improve parties' access to the dispute resolution process that best serves their needs and fits their circumstances, to reduce the financial and emotional burdens of litigation, and to enhance the court's ability to timely provide traditional litigation services. Through this rule, the court authorizes and regulates the use of mediation and arbitration.

2) Scope.

A) Cases Pending Before a District Judge or Magistrate Judge. This local rule applies to all civil cases pending before any district judge or magistrate judge in this district.

B) Proceedings Pending Before a Bankruptcy Judge. Under 28 U.S.C. § 651 et seq., and the court's inherent authority, proceedings pending before any bankruptcy judge in this district also may be afforded an opportunity to participate in mediation and arbitration.

b) ADR Procedures and Rules.

1) Judicial Settlement Conference

A) Definition. A Judicial Settlement Conference is a process in which a Magistrate Judge (Settlement Conference Judge) is made available in order to facilitate communication between the parties and assist them in their negotiations, e.g., by clarifying underlying interests, as they attempt to reach an agreed settlement of their dispute. Whether a settlement results from a Judicial Settlement Conference and the nature and extent of the settlement are within the sole control of the parties.

B) Initiation of a Judicial Settlement Conference. At any time after an action or proceeding is commenced, any party may request, or the assigned judge on his or her own initiative may order, a Judicial Settlement Conference. As a general rule, the judge assigned to the matter will not conduct the Judicial Settlement Conference. None of the matters or information discussed during the conference will be communicated to any judge assigned to matter, unless all parties expressly stipulate to such communications.

C) Procedure for Judicial Settlement Conference. After the initiation of the Judicial Settlement Conference process, the Settlement Conference Judge will issue an order governing the process and procedure utilized by that Judge for the Judicial Settlement Conference.

D) Report of Settlement Conference Judge. At the conclusion of a Judicial Settlement Conference, a docket entry order with the court will reflect whether settlement was or was not achieved.

2) Mediation.

A) Definition. Mediation is a process in which a private, impartial third party (the "Mediator") is hired or retained by the parties to facilitate communication between them to assist in their negotiations, e.g., by clarifying underlying interests, as they attempt to reach an agreed settlement of their dispute. Whether a settlement results from a Mediation and the nature and extent of the settlement are within the sole control of the parties.

B) Initiation of a Mediation. At any time after an action or proceeding is at issue, any party may request, or the assigned judge on his or her own initiative may order, a Mediation. None of the matters or information discussed during the conference will be communicated to any judge assigned to matter.

C) Selection of a Mediator. The parties may either select from the list of approved Mediators found on the Court's website or select someone not on the Court's list through mutual agreement. The parties may contact the Court's ADR Coordinator for facilitation of selection of a mediator from the Court's list.

D) Report of Mediator. Within five days of the conclusion of a Mediation, the Mediator shall file a report with the Court's ADR Coordinator indicating when mediation occurred and merely whether settlement was or was not achieved.

3) Arbitration.

A) Definition. Arbitration is a process whereby an impartial third party (the "Arbitrator") is hired or retained by the parties to hear and consider the evidence and testimony of the disputants and others with relevant knowledge and issues a decision on the merits of the dispute. The Arbitrator makes an *award* on the issue(s) presented for decision. The Arbitrator's award is binding or non-binding as the parties may agree in writing.

B) Cases Eligible for ADR Arbitration. No civil action, or proceeding in bankruptcy, shall be referred to Arbitration as the parties' ADR method, except upon written consent of all parties. Additionally, no matter will be referred to arbitration if the court finds that:

(i) The action is based upon an alleged violation of a right secured by the Constitution of the United States;

(ii) Jurisdiction is based in whole or in part on 28 U.S.C. § 1343;

(iii) The relief sought includes money damages in an amount greater than $150,000.00; or

(iv) The objectives of arbitration would not be realized for any other reason.

C) Initiation of an Arbitration. At any time after an action or

proceeding is at issue, any party may request an Arbitration. Both parties must, consent in a writing, signed by all parties and their counsel, before an Arbitration will be ordered by the judge assigned to the matter.

D) Selection of an Arbitrator. The parties may select from the list of approved Arbitrators found on the Court's website. The parties, for good cause, may select an Arbitrator not on the Court's approved Panel of Arbitrators only with the approval of the judge assigned to the case.

E) Procedure for Arbitration. After the initiation of Arbitration, the Arbitrator will issue to the parties a document setting forth the process and procedure utilized and to be followed.

F) Award. At the conclusion of an Arbitration, the Arbitrator shall issue to the parties a written Award.

c) Selection of ADR Procedure.

1) Mandated Early ADR Selection Process.

A) The Parties' Duty to Consider ADR, Confer and Report. In accordance with Dist. Idaho Loc. Civ. R. 16.1(a)~~No later than five (5) days prior to the Rule 16 scheduling conference~~, unless otherwise ordered, in every case to which this rule applies, the parties must meet and confer about (i) whether they might benefit from participating in some ADR process; (ii) which type of ADR process is best suited to the specific circumstances in their case; and (iii) when the most appropriate time would be for the ADR session to be held. In their litigation plan or proposed scheduling order, the parties must report their shared or separate views about the utility of ADR, which ADR procedure would be most appropriate, and when the ADR session should occur.

B) Designation of Process. After considering the parties' submissions, the court may order the parties, on appropriate terms and in conformity with this rule, to participate in ADR. The court may refer the case to Judicial Settlement Conference, Mediation or, with written consent of all parties, to an ADR procedure which, by stipulation of all parties, has been tailored to meet the specific needs of the parties and the case.

2) Referral to ADR during Pretrial Period. Notwithstanding the provisions of paragraph (c)(1) above regarding the early selection process, at any time before entry of final judgment, the court may, on its own motion or at the request of any party, order the parties to participate in a Judicial Settlement Conference or Mediation or, with the written consent of all parties, Arbitration.

3) Protection Against Unfair Financial Burdens. Assigned judges shall take appropriate steps to assure that no referral to ADR results in an imposition on any party of an unfair or unreasonable economic burden.

4) Right to Secure ADR Services Outside the Programs Sponsored by the Court. Nothing in this rule precludes the parties from agreeing to seek ADR services outside the court's program. Parties remain free to use any form of ADR and any neutral they choose. To the extent resources permit, court staff may assist mediators outside of the court's ADR program.

d) Process Administration.

1) ADR Coordinator. The ADR Coordinator is responsible for implementing, administering, overseeing and evaluating, along with the Board of Judges, the ADR program and procedures covered by this local rule. The ADR Administrator may be contacted through the court's website: www.id.uscourts.gov or as follows:

U.S. District Court
ADR Administrator
550 W Fort St
Boise ID 83724
(208) 334-9067 (telephone)
(208) 334-9202 (facsimile)

2) ADR Resources. The ADR Administrator maintains the requirements for, and roster of, available neutrals and information regarding the ADR process and procedures set forth in this rule.

RELATED AUTHORITY

28 U.S.C. § 651 through 658; 207

CIVIL RULE 26.2
DISCLOSURES

There is a duty to supplement all disclosures. These disclosures will be served upon the respective parties and not filed with the Court.

For good cause shown, the Court can excuse parties from compliance with the disclosure requirements.

(a) **Initial Disclosures.** Parties are required to complete initial disclosures as set forth in Federal Rule of Civil Procedure 26(a)(1). Unless otherwise agreed to between the parties or ordered by the Court, a party may not seek discovery from any source before the parties have met and conferred as required by Federal Rule of Civil Procedure 26(d) and (f), subject to the exception for early document requests set forth in Federal Rule of Civil Procedure 26(d)(2). ~~However, by stipulation or order from the Court, the parties may proceed with discovery prior to the meet-and-confer conference.~~

(b) **Disclosure of Expert Testimony.** The disclosure of expert testimony must be in conformance with Federal Rules of Civil Procedure 26(a)(2)(B) in the form of a written report prepared and signed by any witness retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony.

As a general rule, the Court will set the time for the disclosure of expert testimony during the Rule 16.1 scheduling conference.

Except for good cause shown, the scope of subsequent testimony by an expert witness must be limited to those subject areas identified in the disclosure report or through other discovery such as a deposition.

RELATED AUTHORITY

Fed. R. Civ. P. 26(a)(1)-(3)
28 U.S.C. § 473

CIVIL RULE 33.1
LIMITS ON INTERROGATORIES

No party may serve upon any other single party to an action more than twenty-five (25) interrogatories, including discrete subparts (which will be counted as separate interrogatories), without first obtaining a stipulation of such party to additional interrogatories or, in the event the parties are unable to agree, obtaining an order of the Court upon showing of good cause granting leave to serve a specific number of additional interrogatories.

RELATED AUTHORITY

Fed. R. Civ. P. 33
28 U.S.C. § 473

CIVIL RULE 37.1
DEFINITION OF CONFER

To confer means to speak directly with opposing counsel or a self-represented litigant in person or by telephone, to identify and discuss disputed issues and to make a reasonable effort to resolve the disputed issues. The sending of an electronic or voice-mail communication does not satisfy the requirement to "confer."

In cases involving pro se prisoners, written communication satisfies the confer requirement.

RELATED AUTHORITY

Fed. R. Civ. P. 26(f), 37(a)(1)

Advisory Committee Notes

This rule does not prevent or prohibit the use of written communication to resolve disputes. However, if disputes are not resolved via written communication, counsel or self-represented litigants (except pro se prisoners) must attempt to confer in person or by telephone prior to a motion to compel being filed.

Counsel or self-represented litigants have a duty to respond within ~~on~~ a reasonable amount of time to a request to confer and to be reasonably available to confer.

CIVIL RULE 38.1
NOTATION OF "JURY DEMAND" IN THE PLEADING

If a party ~~demands~~ elects to demand a jury trial by endorsing it on a pleading, as permitted by Federal Rule of Civil Procedure 38(b)(1), a notation must be placed on the front page of the pleading, immediately following the title of the pleading, stating "Demand For Jury Trial" or an equivalent statement. This notation will serve as a sufficient demand under Federal Rule of Civil Procedure~~Rule~~ 38(b). Failure to use this manner of noting the demand will not result in a waiver under Federal Rule of Civil Procedure~~Rule~~ 38(d).

RELATED AUTHORITY

Fed. R. Civ. P. 38(b)

CIVIL RULE 39.1
OPENING STATEMENTS, CLOSING ARGUMENTS,
AND EXAMINATION OF WITNESSES

(a) **Opening Statements.** Prior to offering any evidence, counsel for the plaintiff must make a statement of the facts which counsel intends to establish in support of plaintiff's claim, unless such statement is waived with permission of the Court. Such waiver or statement must be made as a matter of record. Following the statement of plaintiff or at the opening of defendant's case, at the election of counsel for the defendant, the defendant's counsel must make a statement of facts which defendant's counsel intends to establish, unless such statement is waived with permission of the Court. Such waiver or statement must be made as a matter of record.

(b) **Arguments.** Only one attorney for each party will open and one attorney for each party will close, except with the permission of the Court; provided that if the opening attorney does not intend to close, the opening attorney must so inform the Court so that the Court may appropriately apportion the arguments between counsel.

(c) **Examination of Witnesses.** Only one attorney for each party will examine or cross-examine a witness except with the permission of the Court.

RELATED AUTHORITY

None

CIVIL RULE 40.1
ASSIGNMENT OF CASES

Civil and criminal cases will be assigned by the Clerk to the respective judges of the Court by lot. If it appears to the Court that a case has been improperly assigned to a division of the Court for any reason, the Court may, in its discretion, reassign the case to ~~another calendar area~~ the correct division without prior notice.

Death penalty and pro se cases are assigned on a rotating basis founded upon workload and relative assignment of a companion case.

RELATED AUTHORITY

28 U.S.C. § 137
Fed R. Civ. P. 40

See also dist. Idaho L. Rule 3.1 (Venue)

CIVIL RULE 41.1
DISMISSAL OF ACTIONS

Any civil case in which no action of record has been taken by the parties for a period of six (6) months ~~will~~may, after sufficient notice~~,~~ as determined by the Court, be dismissed by the Court for lack of prosecution.

RELATED AUTHORITY

Fed. R. Civ. P. 4(m)

Fed. R. Civ. P. 41(b)

CIVIL RULE 47.1
VOIR DIRE OF JURORS

(a) The jury box must be filled before examination on voir dire. The Court will examine the jurors as to their qualifications and, if permitted, will direct the order and manner of examination by counsel. Not less than seven (7) days before trial, attorneys may submit written requests for voir dire questions.

(b) The Court, after reviewing the complexity and possible length of the case, will determine the number of trial jurors necessary. This number of jurors, not less than six nor more than twelve, plus a number of jurors equal to the total number of peremptory challenges which are allowed by law, must be called in the first instance. These jurors constitute the initial panel. As the initial panel is called, the Clerk must assign numbers to the jurors in the order in which they are called. If any juror in the initial panel is excused for cause, an additional juror must be immediately called to fill out the initial panel. A juror called to replace a juror excused must take the number of the juror who has been excused. When the initial panel is qualified, the parties must exercise their peremptory challenges secretly and alternately, with plaintiff exercising the first challenge. When peremptory challenges have all been exercised or waived, the Court must call the names of the selected jurors having the lowest assigned numbers. These jurors must constitute the trial jury.

~~(b)~~(c) All jurors selected will deliberate on the verdict.

RELATED AUTHORITY

Fed. R. Civ. P. 47
28 U.S.C. § 1870

CIVIL RULE 54.1
TAXATION OF COSTS

(a) Costs (Other than Attorney Fees):

(1) Within fourteen (14) days after entry of a judgment, under which costs may be claimed, the prevailing party must serve and file a cost bill in the local form prescribed by the Court. Generally, the prevailing party is the one who successfully prosecutes the action or successfully defends against it, prevails on the merits of the main issue, and the one in whose favor the decision or verdict is rendered and judgment entered.

(A) Costs must be taxed in conformity with the provisions of 28 U.S.C. §§ 1821 and 1920-1924 and such other provisions of law as may be applicable and such directives as the Court may from time to time issue.

(B) The cost bill must itemize the costs claimed and be supported by a certificate of counsel pursuant to 28 U.S.C. § 1924 that the costs are correctly stated.

(2) Within fourteen (14) days after service by any party of its cost bill, any other party may serve and file specific objections to any items setting forth the grounds therefor. ~~The cost bill must itemize the costs claimed and be supported by a certificate of counsel that the costs are correctly stated, were necessarily incurred, and are allowable by law.~~ The burden is on the opposing party to establish that a claim is incorrectly stated, unnecessary or unreasonable.

(b) Order Taxing Costs:

(1) ~~Not less than twenty-eight (28) days after receipt of a party's cost bill, and objections if any, t~~The Clerk will tax costs and serve copies of the cost bill upon all parties of record. The cost bill should reflect the Clerk's action as to each item contained therein.

(c) Judicial Review:

(1) Pursuant to Federal Rules of Civil Procedure 54(d), a review of the Clerk's taxation of costs may be obtained from the Court on any party's motion to retax, served and filed with the Clerk not later than seven (7) days after the costs have been taxed by the Clerk.

(2) The motion to retax must specify with particularity each item of the Clerk's taxation of costs to which objection is taken, and no others will be considered by the Court.

(3) The motion will be considered and decided by the Court upon the same papers and evidence used by the Clerk and upon such memorandum of points and authorities as the Court may require. A hearing may be scheduled as the discretion of the trial judge.

~~(2)~~(4) The certificate of counsel required by 28 U.S.C. § 1924 and the District of Idaho Local Civil and Criminal Rules of Practice will be prima facie evidence of the facts recited therein.

(3) Costs must be taxed in conformity with the provisions of 28 U.S.C. §§ 1920-1923 and such other provisions of law as may be applicable and such directives as the Court may from time to time issue. Taxable items include:

1) Clerk's Fees and Service Fees. Clerk's fees (see 28 U.S.C. § 1920) and service fees are allowable by statute. Fees required to remove a case from the state court to federal court are allowed as follows: fees paid to clerk of state court; fees for service of process in state court; costs of documents attached as exhibits to documents necessarily filed in state court, and fees for witnesses attending depositions before removal.

2) Trial Transcripts. The cost of the originals of a trial transcript, a daily transcript and a transcript of matters prior or subsequent to trial, furnished to the Court is taxable at the rate authorized by the Judicial Conference of the United States when either requested by the Court, or prepared pursuant to stipulation. Mere acceptance by the Court does not constitute a request. Copies of transcripts for counsel's own use are not taxable unless approved in advance by the Court.

3) Deposition Costs. The prevailing party may recover the following costs relative to depositions used for any purpose in connection with the case: i) the cost of the original deposition plus one copy (where the prevailing party was the noticing party); ii) the cost of a copy of a deposition (where the prevailing party was not the noticing party); and iii) the cost of video taped depositions. The prevailing party who noticed the deposition may also recover the reasonable expenses incurred for reporter fees, notary fees, and the reporter's/notary's travel and subsistence expenses. In addition, witness fees, whether or not the witness was subpoenaed, are taxable at the same rate as for attendance at trial. The reasonable fee for a necessary interpreter to attend a deposition is also taxable on behalf of the prevailing party. Attorney's fees and expenses incurred in arranging for or taking a deposition are not taxable.

4) Witness Fees, Mileage and Subsistence. The rate for witness fees, mileage and subsistence are fixed by statute (*see* 28 U.S.C. § 1821). Such fees are taxable even though the witness does not take the stand, provided the witness necessarily attends the Court. Such fees are taxable even though the witness attends voluntarily upon request and is not under subpoena. The mileage taxation is that which is traveled based on the most direct route. Mileage fees for travel outside the District must not exceed 100 miles each way without prior Court approval. Witness fees and subsistence are taxable only for the reasonable period during which the witness is within the District. No party will receive witness fees for testifying in his or her own behalf except where a party is subpoenaed to attend Court by the opposing party. Witness fees for officers of a corporation are taxable if the officers are not defendants and recovery is not sought against the officers individually. Fees for expert witnesses are not taxable in a greater amount than that statutorily allowable for ordinary witnesses. Allowance of fees for a witness on deposition must not depend on whether or not the deposition is admitted in evidence.

5) Copies of Papers and Exhibits. The cost of an exhibit necessarily attached to a document (or made part of a deposition transcript) required to be filed and served is taxable. The cost of reproducing the required number of copies of the Clerk's record on appeal is allowable.

The cost of copies submitted in lieu of originals because of the convenience of offering counsel or his or her client are not taxable. The cost of reproducing copies of motions, pleadings, notices and other routine case papers is not taxable.

6) Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries. The reasonable cost of maps, diagrams, visual aids and charts is taxable if they are admitted into evidence. The cost of photographs is taxable if admitted into evidence or attached to documents required to be filed and served on opposing counsel. Enlargements greater than 8" by 10" are not taxable except by order of the Court. The cost of models is not taxable except by order of the Court. The cost of compiling summaries, computations and statistical comparisons is not taxable.

7) Interpreter and Translator Fees. The reasonable fee of a competent interpreter is taxable if the fee of the witness involved is taxable. The reasonable fee of a competent translator is taxable if the document translated is necessarily filed or admitted in evidence.

8) Other Items. Other items may be taxed with prior Court approval.

9) Certificate of Counsel. The certificate of counsel required by 28 U.S.C. § 1924 and the District of Idaho Local Civil and Criminal Rules of Practice must be prima facie evidence of the facts recited therein. The burden is on the opposing party to establish that a claim is incorrectly stated, unnecessary or unreasonable.

A review of the decision of the Clerk in the taxation of costs may be taken to the Court on a motion to retax by any party, pursuant to Federal Rule of Civil Procedure 54(d), upon written notice thereof, served and filed with the Clerk within seven (7) days after the costs have been taxed in the Clerk's office, but not afterwards. The motion to retax must particularly specify the ruling of the Clerk excepted to, and no others will be considered. The motion will be considered and determined upon the same papers and evidence used by the Clerk and upon such memorandum of points and authorities as the Court may require. A hearing may be scheduled at the discretion of the trial judge.

RELATED AUTHORITY

Fed. R. Civ. P. 54(d)
28 U.S.C. §§ 1821, 1920-1924

CIVIL RULE 58.1
ENTRY OF JUDGMENT

In every action or proceeding terminating in a judgment, there must be filed, separate from any findings of fact, conclusions of law, memorandum, opinion, or order, a judgment which must state in simple and direct terms the judgment of the Court, must be signed by the judge or the Clerk as allowed by ~~Dist. Idaho Loc. Civ. R. 77.2~~ Federal Rule of Civil Procedure 77(c)(2)(C) and must comply in other respects with Federal Rule of Civil Procedure 58.

RELATED AUTHORITY

Fed. R. Civ. P. 58

CIVIL RULE 58.2
SATISFACTION OF JUDGMENT

Whenever the amount directed to be paid by any judgment or order, together with interest (if interest accrues) and the Clerk's statutory charges, must be paid into Court by payment to the Clerk, and such amount is paid, the Clerk must enter satisfaction of said judgment or order. The Court must enter satisfaction of any judgment or order on behalf of the United States upon the filing of a written acknowledgment of satisfaction thereof by the United States Attorney, and in other cases, upon the filing of a written acknowledgment of satisfaction made by the judgment-creditor and the judgment-creditor's attorney, and by the legal representatives or assigns of the judgment-creditor with evidence of their authority, within two (2) years after the date of entry of the judgment or order, and thereafter upon written acknowledgment by the judgment-creditor or by the judgment-creditor's legal representatives or assigns with evidence of their authority.

RELATED AUTHORITY

Fed. R. Civ. P. 54, 58, 79(a)(b)

CIVIL RULE 62.~~2~~1
SUPERSEDEAS BONDS

(a) **Approval, Filing, and Service.** If eligible under Dist. Idaho Loc. Civ. R. 67.1, the bond may be approved and filed by the Clerk. A copy of the bond plus notice of filing must be served on all affected parties promptly.

(b) **Objections.** The Court will determine objections to the form of the bond or sufficiency of the surety.

(c) **Execution.** Except where otherwise provided by Federal Rule of Civil Procedure 62, or order of the Court, execution may issue after fourteen (14) days from the entry of a judgment unless a supersedeas bond has been approved by the judge or the Clerk.

RELATED AUTHORITY

~~None~~ Fed. R. Civ. P. 62

CIVIL RULE 72.1
MAGISTRATE JUDGE RULES

a) **Authority of United States Magistrate Judges.**

1) Authorized Magistrate Judge Duties. All United States magistrate judges of this Court are authorized to perform the duties prescribed by 28 U.S.C. § 636(a), (b), (c), and (g).

2) Prisoner Cases Under 28 U.S.C. § 2254. Upon referral by a district judge a magistrate judge may perform any or all of the duties imposed upon a district judge by the rules governing proceedings in the United States District Courts under § 2254 of Title 28, United States Code. In so doing, the magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and must submit to a district judge a report containing proposed findings of fact and recommendations for disposition of the petition by the district judge except in cases where the death penalty has been imposed; in which case, the district judge will conduct any evidentiary hearing or other appropriate proceeding. Any order disposing of the motion may only be made by a district judge.

3) Prisoner Cases Under 42 U.S.C. § 1983. Upon referral by a district judge a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and must submit to a district judge a report containing proposed findings of fact and recommendations for the disposition of petitions or complaints filed by prisoners challenging the conditions of their confinement.

4) Other Authorized Duties. A magistrate judge is also authorized to:

A) Conduct any pretrial matters, such as pretrial conferences, settlement conferences, omnibus hearings, and related proceedings in civil cases upon the referral by a district judge;

B) Conduct voir dire and select petit juries in civil cases assigned to a district judge, with the consent of the parties; and

C) Accept petit jury verdicts in civil cases at the request of a district judge.

b) **Objections to Magistrate Judge's Orders, Reports, and Recommendations.**

1) Nondispositive Matters - 28 U.S.C. § 636(b)(1)(A). Pursuant to Fed. R. Civ. P. 72(a), a party may serve and file any objections, not to exceed twenty (20) pages, to a magistrate judge's order within fourteen (14) days after being served with a copy of the order, unless the magistrate judge or district judge sets a different time period. A party may serve and file a response, not to exceed twenty (20) pages, to another party's objections within fourteen (14) days after being served with a copy thereof. The district judge may also consider sua sponte any order by a magistrate judge found to be clearly erroneous or contrary to law.

2) Dispositive Matters - 28 U.S.C. § 636(b)(1)(B). When a pretrial matter

dispositive of a claim or defense of a party, a post-trial motion for attorney fees, or a prisoner petition is referred to a magistrate judge without consent of the parties pursuant to 28 U.S.C. § 636(b)(1)(B), the magistrate judge will conduct such proceedings as required. The magistrate judge will enter a report and recommendation for disposition of the matter, including proposed findings of fact when appropriate. Pursuant to Fed. R. Civ. P. 72(b), a party objecting to the recommended disposition of the matter must serve and file specific, written objections, not to exceed twenty (20) pages, to the proposed findings and recommendations within fourteen (14) days after being served with a copy of the magistrate judge's report and recommendation, unless the magistrate or district judge sets a different time period. A party may serve and file a response, not to exceed twenty (20) pages, to another party's objections within fourteen (14) days after being served with a copy thereof. The district judge to whom the case is assigned will make a de novo determination of any portion of the magistrate judge's recommended disposition to which specific objection has been made. The district judge may also consider sua sponte any portion of the proposed disposition. The district judge may accept, reject, or modify the recommended disposition, receive further evidence, or return ~~recommit~~ the matter to the magistrate judge with instructions ~~directions~~.

~~Pursuant to Fed. R. Civ. P. 72(a), a party objecting to the recommended disposition of the matter must serve and file specific, written objections, not to exceed twenty (20) pages, to the proposed findings and recommendations within fourteen (14) days after being served with a copy of the magistrate judge's report and recommendation, unless the magistrate or district judge sets a different time period. A party may serve and file a response, not to exceed twenty (20) pages, to another party's objections within fourteen (14) days after being served with a copy thereof. The district judge to whom the case is assigned will make a de novo determination of any portion of the magistrate judge's recommended disposition to which specific objection has been made. The district judge may also consider sua sponte any portion of the proposed disposition. The district judge may accept, reject, or modify the recommended disposition, receive further evidence, or recommit the matter to the magistrate judge with directions.~~

RELATED AUTHORITY

Fed. R. Civ. P. 72

CIVIL RULE 77.1

HOURS OF THE COURT

~~a)~~ **~~Location and Hours.~~** ~~The office of the Clerk of Court is located at the Federal Building and United States Courthouse, 550 West Fort Street, Room 400, Boise, Idaho 83724.~~ The ~~regular~~standard business hours for the intake counters of the office of the clerk of court are from 9 a.m. to 4 p.m. local time ~~each~~ every day except Saturdays, Sundays, ~~and~~ legal ~~holidays~~ holidays and ~~or~~ other days so ordered by the Court. ~~Divisional offices are located at: 220 E. 5th Street, Room 304, Moscow, Idaho 83843; 801 E. Sherman St., Room 119, Pocatello, Idaho 83201; and 6450 N. Mineral Dr., Room 148 Coeur d'Alene, Idaho 83815.~~

~~b) Filings may be made electronically before and after regular office hours or on Saturdays, Sundays, and legal holidays. An electronic document is considered timely filed if received by the Court before midnight, Mountain Time, on the date set as a deadline, unless the judge sets a specific time of day otherwise.~~

RELATED AUTHORITY

Fed. R. Civ. P. 77(c), Dist. Idaho Loc. Civ. R. 5.1 (g)

Advisory Committee Note

Clerk's office staff is available for telephone assistance between the hours of 8:00 a.m. and 5:00 p.m., local time, and to handle any emergency matters as needed.

CIVIL RULE 77.3
UNITED STATES COURT LIBRARY

The Ninth Circuit law library is located on the sixth floor of the Federal Building and United States Courthouse in Boise, Idaho. The library is for the primary use of judges and personnel of the federal Court~~; however, attorneys admitted to practice in this Court may use the library when circumstances require~~.

~~In addition, with the permission of a judge, attorneys may use library materials that are not available at the Idaho Supreme Court law library. Requests for library access should be made in writing to the Chief United States Magistrate Judge for the District of Idaho.~~

The library is operated in accordance with such rules, ~~and~~ regulations, and policies as the Court may from time to time adopt. The Public Access Policy for the library is available ~~on the Court's website and may be viewed~~ at the library.

RELATED AUTHORITY

United States Court Library, Boise, Idaho
Public Access Policy

CIVIL RULE 77.4
EX PARTE COMMUNICATION WITH JUDGES

Unless the opposing counsel or party in pro se is present, ~~A~~attorneys or parties to any action or proceeding should refrain from writing letters to the judge, or otherwise communicating with the judge, concerning the action or proceeding~~unless opposing counsel is present~~. All matters to be called to a judge's attention concerning any action or proceeding should be formally submitted as hereinafter provided.

RELATED AUTHORITY

None

CIVIL RULE 79.1
CUSTODY OF FILES AND EXHIBITS

(a) After being admitted into evidence, exhibits of a documentary nature in any case pending or tried in this Court, including any such electronically stored information, shall be placed in the custody of the Clerk unless otherwise ordered by the Court. All other exhibits, models and material offered or admitted in evidence shall be retained in the custody of the attorney or party producing the same at trial unless otherwise ordered by the Court.

(1) At the conclusion of the trial or hearing, every exhibit marked for identification or introduced in evidence, all depositions and transcripts, shall be returned to the party who produced them.

(2) On request, a party or their attorney who has custody of any exhibits, has the responsibility to produce any and all such exhibits to this Court or the Court of Appeals; and shall grant the reasonable request of any party to examine or reproduce such for use in the proceeding.

(b) All exhibits received in evidence in a criminal case that are in the nature of narcotic drugs, legal or counterfeit money, firearms or contraband of any kind, shall be retained by the United States Attorney or his or her designee pending disposition of the case and for any appeal period thereafter.

RELATED AUTHORITY

None

CIVIL RULE 83.4
BAR ADMISSION

(a) **Admission to the Bar of this Court.** Admission to and continuing membership in the bar of this Court is limited to attorneys of good moral character who are active members in good standing of the Idaho State Bar. Each applicant for admission must present to the Clerk a written petition for admission stating the applicant's residence and office addresses and by what courts he or she has been admitted to practice and the respective dates of admission to those courts. Upon qualification, the applicant may be admitted upon written or oral motion as determined by the Court. Before any certificate of admission shall issue, the applicant must sign the prescribed oath.

(b) **Practice in this Court.** Except as herein otherwise provided, only members of the bar of this Court may practice in this Court. Only a member of the bar of this Court may appear for a party, sign stipulations, or receive payment or enter satisfactions of judgment, decree, or order.

(c) **Attorneys for the United States and Federal Defender Organizations.** An attorney for the United States or for a Federal Defender Organization, who is a member in good standing of and eligible to practice before the bar of any United States Court or of the highest court of any state or of any territory or of any insular possession of the United States, and who is of good moral character, may practice in this Court in any matter in which the attorney is employed or retained by the United States or its agencies and is representing the United States or any of its officers or agencies or in which the attorney is part of a federal defender organization and is appointed by the Court to represent a criminal defendant. (Dist. Idaho Loc. Crim. R. 44.1). Attorneys so permitted to practice in this Court are subject to the jurisdiction of the Court with respect to their conduct to the same extent as members of the bar of this Court.

(d) **Appearance by Entities Other Than an Individual.** Whenever an entity other than an individual desires or is required to make an appearance in this Court, the appearance shall be made only by an attorney of the bar of this Court or an attorney permitted to practice under these rules.

(e) **Pro Hac Vice/Local Counsel.** An attorney not eligible for admission under Dist. Idaho Loc. Civ. R. 83.4(a) hereof, but who is a member in good standing of and eligible to practice before the bar of any United States Court or of the highest court of any state or of any territory or insular possession of the United States, who is of good moral character, and who has been retained to appear in this Court, may, upon written application and in the discretion of the Court, be permitted to appear and participate in a particular case, and no certificate of admission must be issued by the Clerk.

The attorney requesting to appear pro hac vice must first (1) designate an active member of the bar of this Court as Local Counsel with the authority to act as attorney of record for all purposes, and with whom the Court and opposing counsel may readily communicate regarding the conduct of the case, and (2) file with such designation the address, telephone number, and written consent of such designee. Designated local counsel shall be responsible both for filing the pro hac vice application through ECF and for payment of the prescribed fee. The pro hac vice

application must be presented to the Clerk and must state under penalty of perjury (1) the attorney's residence and office addresses, (2) by what court(s) the attorney has been admitted to practice and the date(s) of admission, (3) that the attorney is in good standing and eligible to practice in said court(s), and (4) that the attorney is not currently suspended or disbarred in any other court(s). Upon the electronic filing of the pro hac vice application and payment of fees by designated local counsel, and granting of the application by the Court, out-of-state counsel shall immediately register for ECF.

Absent Court approval, an attorney who has been admitted pro hac vice for a particular case and received an ECF login and password, may not use these in a subsequent, unrelated case.

All pleadings filed with the Clerk of Court must contain the names and addresses ~~and original signatures~~ of the attorney appearing pro hac vice and associated local counsel.

The designated local counsel must personally appear with the attorney on all matters heard and tried before this Court unless such presence is excused by the Court.

(f) Non-Appropriated Fund.

(1) Attorneys admitted to the bar of this Court under the conditions prescribed in Dist. Idaho Loc. Civ. R. 83.4 must be required to pay to the Clerk of Court an admission fee in accordance with the General Orders of this Court.

(2) Attorneys not admitted to the bar of this Court who, upon the filing of a verified petition for permission to practice in an individual case, are appearing under the conditions prescribed in Dist. Idaho Loc. Civ. R. 83.4(e), must be required to pay a fee in accordance with the General Orders of this Court.

(3) Monies deposited into the Non-Appropriated Fund must be used for purposes which inure to the benefit of ~~members of~~ the bench and the bar of this Court in the administration of justice in the District of Idaho.

(4) Attorneys for the United States, and Federal Public Defender, need not pay the admission fees specified above.

(g) **Legal Interns.** At the discretion of the presiding judge, a legal intern who posses a limited license issued by the Idaho State Bar, may appear before the District Court in the presence of a supervising attorney, who shall be an attorney licensed to practice before this court.

(h) **Notice of Change of Status.** An attorney who is a member of the bar of this Court or who has been permitted to practice in this Court under Dist. Idaho Loc. Civ. R. 83.4 hereof must promptly notify the Court of any change in his or her status in another jurisdiction which would make him or her ineligible for membership in the bar of this Court under Local Rule 83.4. In the event the attorney is no longer eligible to practice in another jurisdiction by reason of his or her suspension for nonpayment of fees or enrollment as an inactive member, he or she will forthwith be suspended from practice before this Court without any order of Court and until he or she becomes eligible to practice in such other jurisdiction.

RELATED AUTHORITY

General Order No. 161

CIVIL RULE 83.5
ATTORNEY DISCIPLINE

(a) **Standard of Professional Conduct.** All members of the bar of the District Court and the Bankruptcy Court for the District of Idaho (hereafter the "Court") and all attorneys permitted to practice in this Court must familiarize themselves with and comply with the Idaho Rules of Professional Conduct of the Idaho State Bar and decisions of any court interpreting such rules. These provisions are adopted as the standards of professional conduct for this Court but must not be interpreted to be exhaustive of the standards of professional conduct. No attorney permitted to practice before this court will engage in any conduct which degrades or impugns the integrity of the Court or in any manner interferes with the administration of justice therein.

(b) **Discipline.**

(1) **General authority of the Court, and conduct subject to discipline.**

This Court may impose discipline on any attorney practicing before this Court, whether or not a member of the bar of this Court, who engages in conduct violating the Idaho Rules of Professional Conduct, or who fails to comply with rules or orders of this Court. The discipline may consist of disbarment from practice before this Court, suspension, reprimand, or any other action that the Court deems appropriate and just. In the event any attorney engages in conduct which may warrant discipline or other sanctions, the Court may, in addition to initiating proceedings for contempt under Title 18, United States Code, and Federal Rule of Criminal Procedure 42, or imposing other appropriate sanctions pursuant to the Court's inherent powers and/or the Federal Rules of Civil, Bankruptcy or Criminal Procedure, initiate a disciplinary process under section (b)(2) - (4) of this rule, and/or refer the matter under section (b)(8) of this rule.

(2) **Conviction of felony or serious crime.** Any attorney admitted to practice in this Court who is convicted of a felony or other "serious crime" as defined in Idaho Bar Commission Rule 501(s), in any court of the United States, of the District of Columbia, or of any state, territory, commonwealth, or possession of the United States, has the duty and obligation to report such conviction to this Court within fourteen (14) days of its entry. Upon receiving notice of an attorney's conviction of a felony or other serious crime, whether received from the attorney, another court or its clerk, or otherwise, such attorney will be immediately suspended from practice before this Court, whether the conviction resulted from a plea of guilty or nolo contendere, or from a verdict after trial, or otherwise.

(A) **Pending appeal.** The Court will issue an order to show cause at the time of suspension directing the suspended attorney to demonstrate within thirty (30) days from the date of such order why the attorney should be reinstated to practice before the Court during the pendency of any appeal.

(B) **Finality of conviction, and disbarment.** Upon the conviction becoming final and the Court being informed thereof, the Court will issue an order to show cause directing the suspended attorney to demonstrate within thirty (30) days from the date of such

order why the suspension under section (b)(2) of this rule shall not be made permanent and why the Court should not enter an order of disbarment.

(3) **Reciprocal discipline (disbarment, suspension or other discipline by any other court).** Upon the receipt by this Court of a certified copy of a judgment or order showing that any attorney admitted to practice before this Court has been suspended, disbarred or otherwise disciplined by any other court of the United States or the District of Columbia, or of any state, territory, commonwealth or possession of the United States (hereafter the "supervising court"), or has resigned in lieu of discipline, this Court will review the judgment and order and determine whether similar discipline should be imposed by this Court.

(A) **Order imposing discipline and allowing response.** If the Court decides that similar discipline is warranted, an order of discipline and conjoined order to show cause will issue advising the disciplined attorney that (1) he or she is immediately subject to the same discipline as imposed by the supervising court and, if such discipline includes suspension or disbarment, may only be reinstated to practice before this Court as hereinafter provided, and (2) if the disciplined attorney contends that meritorious reasons exist why the disciplined attorney should not be subject to the same discipline by this Court as imposed by the supervising court, the disciplined attorney must file within thirty (30) days of this Court's order, a petition to set aside the discipline and/or be reinstated to practice in this Court. The petition must clearly demonstrate or this Court otherwise find: (i) the procedure in the supervising court was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; (ii) there was such an absence of proof establishing misconduct that this Court would not accept as final the conclusions reached by the supervising court; (iii) the imposition of the disciplinary action stated in the order of the supervising court would otherwise result in a grave injustice; or (iv) the misconduct warrants discipline substantially different from that stated in the order of the supervising court.

(B) **Wind-up.** Unless otherwise ordered, the disciplined attorney will have fourteen (14) days after the date of the Order described in this section to wind-up and complete on behalf of any client, all matters pending on the date of the entry of such order.

(4) **Original (non-reciprocal) disciplinary proceedings.**

(A) **Initiation of proceedings.** Whenever a district, magistrate or bankruptcy judge of this district believes that conduct of an attorney may warrant disbarment, suspension, reprimand or other discipline by this Court, other than those matters addressed in sections (b)(1), (2) and (3) of this rule, such judge may issue a written report and recommendation for the initiation of disciplinary proceedings (the "recommendation"). The chief district judge, or another district judge if the chief district judge is the judge recommending such action (hereafter the "reviewing judge"), shall review the recommendation to determine if reasonable grounds exist for the initiation of disciplinary proceedings. If the reviewing judge determines that disciplinary proceedings should be initiated, the reviewing judge shall issue an order to show cause under this rule that identifies the basis for and nature of possible discipline.

(B) **Response.** An attorney against whom an order to show cause is issued under this section shall have thirty (30) days from the date of the order in which to file a

response. The attorney may include in the response (i) a request to submit the matter on the recommendation, affidavits, briefs, and the record, or (ii) for a hearing, whether in-person, telephonic, or by video. The failure to include a request for a hearing will be deemed a waiver of any right to a hearing. The failure to file a timely response may result in the imposition of discipline by the Court without further notice.

(C) **Hearing on disciplinary charges.** If requested by the attorney, a hearing ~~shall be conducted~~ on the disciplinary charges will be conducted by the reviewing judge. If a hearing is not requested, the matter shall be determined by the reviewing judge on the record submitted to him or her. At any hearing under this rule, the attorney may be represented by counsel who shall file a notice of appearance with the reviewing judge and with any attorney appointed by the Court to prosecute the matter under section (b)(4)(d) of this rule.

(D) **Appointment of counsel to prosecute charges.** In appropriate cases, the reviewing judge may appoint an attorney to prosecute charges of misconduct and shall provide notice of that appointment to the attorney and his counsel, if any. The Court may solicit recommendations from the Lawyer Representatives of the District of Idaho as to an appropriate appointment. Actual out-of-pocket costs incurred by the attorney prosecuting the charges will be reimbursed from the ~~non~~Non-~~appropriated~~ Appropriated ~~fund~~ Fund after review and approval by the Board of Judges.

(E) **Determination, and entry of order.** Upon the completion of hearing, if any, and its review of the record, the reviewing judge shall prepare a proposed determination which shall be served on the attorney, and his or her counsel if any. The attorney shall have ten (10) days from the service of the proposed determination within which to file a reply. If the attorney files a reply, the proposed determination, reply and any record developed shall be presented to a randomly drawn three judge panel of the district, magistrate and bankruptcy judges of this Court, other than the initially complaining judge and the reviewing judge. In its discretion, the panel may call for further submissions or hearing. The final order in a disciplinary proceeding where such a reply has been filed by the attorney, shall be by the panel. In the absence of a reply, the proposed determination shall be entered as the final order.

(5) **Reinstatement.** To be readmitted, a suspended or disbarred attorney must file a petition for reinstatement with the clerk of this Court. The petition shall contain a concise statement of the circumstances of the disciplinary proceedings, the discipline imposed by the Court, and the grounds that justify reinstatement of the attorney. If this Court has imposed reciprocal discipline under section (b)(3) of this rule, and if the attorney has been readmitted by the supervising court or the discipline imposed by that supervising court has been modified or satisfied, the petition shall explain the situation with specificity, including description of any restrictions or conditions imposed on readmission by that supervising court. The petition shall be referred to the chief district judge, or another district judge at the chief district judge's discretion, who will file a proposed determination. The provisions of section (b)(4)(e) of this rule will govern determination and entry of decision on the petition for reinstatement.

(6) **Confidentiality.** All proceedings under this rule shall be public, except upon an order entered upon a showing of good cause that sealing all or part of the record is appropriate. The Court may make such determination and enter such an order *sua sponte*.

(7) **Non-limiting effect of rule.** Nothing in this rule shall limit the power of an individual judge to impose sanctions as authorized under applicable law including the Federal Rules of Civil, Bankruptcy or Criminal Procedure. Nothing in this rule is intended to limit the inherent authority of any judge of this court to suspend an attorney from practicing before that judge on a case by case basis, after appropriate notice and an opportunity to be heard.

(8) **Referral to other courts and entities.** This rule does not restrict the Court or any judge thereof from referring an attorney or a matter to any other court or to any bar association for investigation and/or disciplinary action.

Related Authority and Notes

Idaho Bar Commission Rule 512(b) requires notification of conviction as is provided in section (b)(2) of this rule.

Idaho Bar Commission Rule 517(d) provides a period similar to that set forth in section (b)(3)(B) of this rule.