

# SECTION A

## LOCAL RULES

## SECTION A

### LOCAL RULES:

- A04-DW.1            Administrative Order Rescinding Local District Rules and Creating Local Rules for the District Court of the First Judicial District in and for the Counties of Benewah, Bonner, Boundary, Kootenai and Shoshone—Dated July 19, 2004 and signed by Administrative District Judge Hosack and District Judges, Gibler, Mitchell, Luster and Verby.
- AR15-DW.1            Administrative Order Amending Local District Rules A04-DW.1 of the First Judicial District, in and for the Counties of Benewah, Bonner, Boundary, Kootenai and Shoshone Counties—Dated November 19, 2014 and signed by Administrative District Judge Lansing Haynes and District Judges, Mitchell, Gibler, Simpson, Buchanan and Christensen.

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO**

\*\*\*\*\*

**ORDER RESCINDING LOCAL DISTRICT RULES  
AND  
CREATING LOCAL RULES FOR THE DISTRICT COURT OF THE FIRST  
JUDICIAL DISTRICT, IN AND FOR THE COUNTIES OF BENEWAH,  
BONNER, BOUNDARY, KOOTENAI AND SHOSHONE.**

\*\*\*\*\*

**WHEREAS** the Local Rules as they now exist for the First Judicial District in the State of Idaho appear to be in need of amendment: and

**WHEREAS** a review of those Local Rules has been conducted by the District Judges of the First Judicial District, now, therefore,

**IT IS HEREBY ORDERED** that the Local Rules of the First Judicial District as they are hereinafter set forth be and are hereby adopted as the Local Rules of the First Judicial District and that they will replace and supersede all prior Local Rules for the counties of Benewah, Bonner, Boundary, Kootenai and Shoshone and are supplemental to the Idaho Rules of Civil Procedure; the Idaho Rules of Evidence; the Idaho Criminal Rules; the Idaho Misdemeanor Criminal Rules; the Idaho Infraction Rules; the Idaho Juveniles; the Idaho Court Administrative Rules; and the Idaho Appellate Rules.

### **RULE 1: Jurisdiction and Case Assignment**

Cases within the jurisdiction of Magistrates will be as established by the Order of the majority of the District Judges. The allocation of caseload assignments by a division of cases among the Magistrates shall be as directed by the order of the Administrative District Judge. If approved by the Administrative District Judge, where there is more than one resident Magistrate, the method of allocating the caseload of that county between Magistrates may be by consensus among resident Magistrates.

All other cases shall be assigned to the District Judges, with the allocation of caseloads by a division of cases between the District Judges to be as directed by the Administrative District Judge.

Assignments upon disqualification of a judge shall be as directed by the Administrative District Judge.

### **RULE 2: Scheduling**

Each District Judge shall control and set his own schedule for civil and criminal trials and for law and motion matters, subject to the authority of the Administrative District Judge pursuant to §1-907.

Cases assigned to Judges of the Magistrate Division shall be scheduled pursuant to the Magistrate Assignment Schedule of the First Judicial District established by the Trial Court Administrator, as directed by the Administrative District Judge.

A rotation schedule within each county consistent with the Magistrate Assignment Schedule of the First Judicial District may be established by the resident Magistrate (if only one) or by a consensus of the resident Magistrates (if two or more), subject to the approval of the Administrative District Judge.

### **RULE 3: Calendaring**

Judges of the District Court: Each District Judge shall establish and control the calendaring of cases to be heard at times set aside for civil, criminal and special proceedings and for Law and Motion matters.

Judges of the Magistrate Division: Each Judge of the Magistrate Division shall control the calendaring of cases to be heard at times set aside for civil, criminal and special proceedings pursuant to the Magistrate Assignment Schedule of the First Judicial District.

**RULE 4: Minutes**

Minutes of all proceedings in District Court shall consist of the log of electronic recording prepared by the deputy clerk operating the electronic recording device use to record the proceeding. The log shall be in the format prescribed by Idaho Court Administrative Rule 25(c) and shall additionally include the name of any court reporter who is reporting the proceedings. The complete log, which shall be in legible handwriting, shall be placed in the court file.

Minutes of all proceedings in the Magistrate Division of the District Court shall consist of the log of electronic recording prepared by the deputy clerk operating the electronic recording device used to record the proceeding. The log shall be in the format prescribed by Idaho Court Administrative Rule 25(c). The completed log, which shall be in legible handwriting, shall be placed in the court file.

**RULE 5: Transcript of Electronically Recorded Proceedings in the Trial Court**

APPEALS: Transcripts for appeals from the Magistrate Division to the District Court shall be prepared at the discretion of the District Judge assigned to the appeal in accordance with Idaho Civil Rule 83 and Idaho Criminal Rule 54. Appeals from the District Court shall be governed by I.A.R. 24.

OTHER THAN APPEAL PURPOSES -- Transcripts of proceedings for other than appeals purposes shall be prepared only on order of the Judge conducting the proceeding for which a transcript is being requested.

If an order of a transcript is entered, it will be necessary for the party securing such order to present to the Court, with the original, a copy of the Order for service on the transcriber and a check for the estimated fees for the transcript, unless fees have been waived by court order or the matter is a criminal or special proceedings case involving an indigent.

**RULE 6: Notice of Trial Setting**

When a case has been assigned a trial date, the Clerk will forthwith prepare a Notice of Trial Setting, and mail copies of the notice to the attorneys involved, or to the parties if not represented by counsel.

**RULE 7: Prohibition Against Preparation of Complaints or Pleadings by Judges and/or Clerks**

Except as otherwise provided by statute or Supreme Court Rule, judges and/or clerks shall not prepare a criminal, civil or special proceeding complaints or pleadings

**RULE 8: Supplemental Order for Custody, etc.**

Supplemental Order for Custody, etc.

Unless otherwise ordered by the Court, all divorce decrees or temporary orders filed involving child custody, child support or alimony will contain the following paragraph:

"It is Further Ordered, Adjudged and Decreed Appendix A, attached hereto, is by this reference made a part here of as if fully set forth herein."

Upon presentation of the Decree for signature, a copy of Appendix A will be attached to said Decree. The form of Appendix A is as follows:

**RULE 9: Excuse From Jury Service**

Except for emergency excuses considered by the District

Judge or a Magistrate, all requests from jury service or excuse from such services shall initially be referred to the Jury Commissioner for recommendation to the Court.

**RULE 10: Appointment of Counsel in Criminal Cases**

Unless a Public Defender has been appointment by the Board of County Commissioners, or when the Public Defender cannot act, the District Court, including the Magistrate Division, will appoint attorneys to represent needy persons in all cases required by law in such Court. The clerk shall keep a list of attorneys, in alphabetical order, who are residents within the County and such appointments shall be made from such list in rotation, except those that the Court may appoint an attorney out of regular order, or whose name does not appear on such list, if, in the Court's opinion, the circumstances warrant such action.

When a person contends that he is a "needy person" and requests appointment of counsel, the Court or Clerk thereof will require such a person to fill out in detail a Financial Statement and execute the same before the Clerk of this Court. Based upon such statement and further interrogation of such person, by or under the direction of the Court, the Court will then determine if the Defendant is entitled to counsel and if so, the Order Appointing Counsel will be executed by this Court.

If the Court appointed counsel is demanded by any person during the accusatory state of interrogation, or at any time prior to the filing of a criminal complaint and arraignment, under circumstances were such counsel otherwise would be appointed, the Clerk of this Court may temporarily appoint counsel without such Financial Statement, to act until the Magistrate or District Judge is available to consider this question and the Financial Statement prepared.

Withdrawal of attorney's name: If any attorney does not wish to have his name appear on such list, application in writing, stating his reasons, may be made to the Court, when approval by a majority of the District Judges in this Judicial District, such name shall be deleted.

Compensation: Each month, while the case is pending, the attorney shall submit a written statement, under oath, listing separately the time spent in legal research, investigation,

consultation with his client, or in open Court, an itemized statement of out-of-pocket expense, and any other information deemed necessary or helpful by the attorney, together with an original and copy of an Order in the following form:

(Title of the Court and Cause)

IT IS HEREBY ORDERED that in accordance with Idaho Code §19-860, the above named County shall pay to \_\_\_\_\_, a licensed attorney and practicing attorney of the State of Idaho, the sum of \$ \_\_\_\_\_, forthwith, and for attorney fees and expenses in the above entitled action for his representation of the defendant, a needy person.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
District /Magistrate Judge

Such Order and Affidavit shall be filed by the Clerk in the Court file, and the copy of such Order shall be attached to the voucher form, which shall be signed by such attorney where required, and processed for payment.

Disqualification of Public Defender: In any county in which a Public Defender has been appointed, and in the event such defender is disqualified to represent a needy person, counsel will be appointed and compensated in the same manner as heretofore set forth.

Evaluation of Evidence: in the event assigned counsel other than a Public Defender deem it necessary to employ an investigator, other professional specialists, or private facilities for the evaluation of evidence, as authorized by Idaho Code §19-861, for which service a charge will be made to the county, such attorney shall first make a written petition to the Court and secure an order from the Judge authorizing such additional help.

DATED this 19 day of July, 2004.



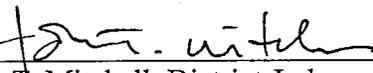
\_\_\_\_\_  
Charles W. Hosack,  
Administrative Judge



\_\_\_\_\_  
Fred M. Gibler, District Judge



\_\_\_\_\_  
John P. Luster, District Judge



\_\_\_\_\_  
John T. Mitchell, District Judge



\_\_\_\_\_  
Steve Verby, District Judge

## APPENDIX "A" SUPPLEMENTAL ORDER FOR PARENTAL AND CHILD SUPPORT RESPONSIBILITIES

**Best Interests of Children:** Divorce is an unfortunate part of modern life and is particularly difficult for children. The jurisdiction of the Court to control custody and child support is intended to allow the Court to make rulings in the best interests of the children and to minimize the negative impact of divorce or separation upon children. You and your former spouse have divorced or separated, that is your right. However, you cannot divorce your children. You both have continuing duties and responsibilities as parents to your children. No matter how carefully the Court crafts custody and child support orders, the success of the order and the well-being of your children will be limited unless both parents make a firm commitment to serve the best interests of their children. Please commit yourself to working with your former spouse to promote the well-being of your children.

**Mediation:** If you are unable to agree upon parenting issues between yourselves, the Court strongly recommends that you consider mediation before resorting to Court intervention. Mediation is a problem-solving process in which you can discuss alternatives and assess options with the assistance of an independent, neutral and qualified mediator.

**On-Duty/Off-Duty Parent:** A parent is "ON-DUTY" when the child(ren) are in his or her care pursuant to agreement of the parents or any court order, including a parenting plan, custody or residential schedule, or visitation schedule. A parent is "OFF-DUTY" when the other parent is "ON-DUTY".

You have the following rights and responsibilities regarding the child(ren) of your marriage UNLESS THE COURT ORDERS OTHERWISE:

1. **AFFIRMATIVE BASIC DUTIES:** When "ON-DUTY" each parent shall provide the child(ren) with (a) regular and nutritious food, (b) clean and appropriate clothing; (c) reasonably private living and sleeping quarters, and (d) appropriate health care.

**BOTH PARENTS SHALL** instruct in and promote (a) ethical and moral principles, (b) respect for the law and the rights of others; (c) conscientious attendance at all regular sessions of school until graduation, unless excused for medical reasons, by the school, by the Court, or by law.

**NEITHER PARENT** will engage in, permit the child(ren) to engage in, or allow the child(ren) to be present during the use of any illegal drug, excessive alcohol use, violence, or disrespect for law and order. If the "ON-DUTY" parent does not prevent the use of illegal drugs, the excessive use of alcohol, violence or disrespect for law and order by other persons in the child(ren)'s presence, then the "ON-DUTY" parent shall remove the child(ren) from the environment where that conduct is occurring.

**EACH PARENT** shall pursue and support the provisions of any Court order including a parenting plan, custody or residential schedule, or visitation schedule. The "ON-DUTY" parent will personally supervise, control, and assume responsibility for the conduct and activities of the child(ren), and will advise the "OFF-DUTY" parent of: (a) the scheduling of routine medical or dental care appointments; (b) medical emergencies as soon as possible after the child(ren) receive appropriate medical care, (c) all school disciplinary or law enforcement contacts as soon as possible so as to allow the "OFF-DUTY" parent an opportunity to become involved in the resolution of such contact.

**EACH PARENT** shall deliver their child(ren)'s clothing, school supplies and other personal belongings at the same time that the children are delivered. All clothing shall be delivered in a clean condition.

2. **TRANSPORTATION:** The receiving parent shall provide transportation and shall arrive on time (no more than 10 minutes early or late).

3. **NEITHER PARENT** shall schedule activities for their child(ren) during the time the other parent is "ON-DUTY" without the prior agreement of the other parent.

4. **ADDRESS AND TELEPHONE INFORMATION:** Each parent shall provide to the other his or her current telephone number, physical and mailing addresses and, if different from parent's, the telephone number, physical and mailing address of where the child(ren) live.

5. **MOVE FROM CURRENT RESIDENCE:** Each parent shall provide the other not less than 60 days prior written notice of a decision to move. A move requiring more than 2 hours automobile travel between the homes of the parents ("two hour travel zone") will require modification of the parenting plan, custody or residential schedule, or visitation schedule. The moving parent shall not move the child(ren) to a location outside the "two hour travel zone" until a new order is in place.

6. **DURING "ON-DUTY" PERIODS** the child support obligor shall remain liable for child support payments unless the decree or child support order specifically provides otherwise. Child support may not be withheld for failure to comply with any Court order including: a parenting plan, custody or residential schedule, visitation schedule, or for any other reason. Parenting time shall not be withheld for nonpayment of child support or other financial obligations.

7. **SUPPORT/METHOD OF PAYMENT** All child support payments shall be paid to the State of Idaho, Child Support Receipting, P.O. Box 70008, Boise, ID 83707. Any amount not paid through the State of Idaho will be considered a gift and will not be credited as child support. The State may report a failure to pay child support to the prosecuting attorney, who may enforce payment. The child support obligee may request forms for entry of a Wage Withholding Order from the Clerk's office.

**PAYMENT DUE DATE:** If the decree or child support order is entered on or before the 15th day of the month, child support payments shall be due on or before the last day of the month in which the decree or child support order is entered and on the 10th day of each and every month following. If the decree or child support order is entered after the 15th day of the month, the child support payment shall be due on the 10th day of each calendar month following the month in which the decree of child support order is entered.

8 NOTICES.

**NOTICE OF AUTOMATIC AND IMMEDIATE  
INCOME WITHHOLDING**

This support order is enforceable by automatic and immediate income withholding as of the effective date of this order under chapter 12, title 32, Idaho code. This automatic and immediate income withholding order shall be issued by the department of health and welfare or other obligee to your employer or other person who pays your income, without additional notice to you.

FAILURE TO COMPLY WITH COURT ORDERS may result in civil contempt proceedings pursuant to Idaho Code §7-601 et seq. and/or license suspensions pursuant to Idaho Code §7-1401 et seq.

EITHER PARENT'S willful failure or refusal to return the children to the other parent in accordance with the court ordered parenting plan, custody or residential schedule or visitation schedule may subject that parent to criminal prosecution for custodial interference.

9 INTERFERENCE Neither parent will intrude on the privacy of the other nor make unkind statements about the other to or in the presence of the children. Neither parent will interfere in any way, or encourage or permit any other person to interfere in any way, with the other parent's rights granted by the decree or other order of the Court.

10 INJUNCTION. This order restrains and enjoins both parents from doing, attempting, or threatening to do harm of any kind to the other parent or to the child(ren), or permitting another to so act on their behalf.

BY ORDER OF THE DISTRICT COURT  
OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO

Revised: 7/97

**IN THE DISTRICT COURTS OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO**

\*\*\*\*\*

**ORDER AMENDING LOCAL DISTRICT RULES A04-DW.1 OF THE  
FIRST JUDICIAL DISTRICT, IN AND FOR THE COUNTIES OF  
BENEWAH, BONNER, BOUNDARY, KOOTENAI AND SHOSHONE  
COUNTIES**

\*\*\*\*\*

WHEREAS the Local Rules as they now exist for the First Judicial District in the State of Idaho appear to be in need of amendment: and

WHEREAS a review of those Local Rules has been conducted by the District Judges of the First Judicial District, now, therefore,

IT IS HEREBY ORDERED that the Local Rules of the First Judicial District be amended to include the Felony Criminal Caseflow Management Plan for Idaho's First Judicial District as set forth be and are hereby adopted as additional Local Rules for the First Judicial District for the counties of Benewah, Bonner, Boundary, Kootenai and Shoshone and are supplemental to the Idaho Rules of Civil Procedure; the Idaho Rules of Evidence; the Idaho Criminal Rules; the Idaho Misdemeanor Criminal Rules; the Idaho Infraction Rules; the Idaho Juvenile Rules; the Idaho Court Administrative Rules; and the Idaho Appellate Rules.

cc: First District Judges  
Karlene Behringer, TCA  
Justice Linda Cople Trout, Interim Administrative Director of the Courts

AR15-DW.1

# **Felony Criminal Caseflow Management Plan for Idaho's First District**

## **Statement of Purpose**

This Felony Criminal Caseflow Management Plan will be administered consistently with Idaho's Statewide Caseflow Management Plan.

The purpose of this plan is to ensure fair, just, and timely case resolution in the courts of the First District by:

1. Preventing unnecessary delay in case processing.<sup>1</sup>
2. Ensuring that each case receives individual attention proportional to need in order to reach a just result.
3. Promoting judicial leadership and instituting continuous court oversight over the progression of cases from filing to disposition.
4. Creating consistency and predictability for users of the court system.
5. Setting reasonable and mutually understood clear expectations for judges, litigants, the Bar, and the public.
6. Ensuring that judges, court clerks, and the trial court administrator have consistent, meaningful case management information to inform their efforts.

## **Section 1: Management of Felony Criminal Cases**

### **Section 1.1: Idaho Time Standards for Processing Felony Criminal Cases**

Idaho Court Administrative Rule 57 establishes time standards for case processing for individual case types. Per the rule, the time standards "are adopted as guidelines for judges, trial court administrators, lawyers, and litigants to assist them in determining the length of time it should take to conclude a case in the trial courts." Time standards establish reasonable, mutual expectations for the courts, attorneys, and the public and can be an effective way of boosting public confidence in the Idaho courts.

When monitored regularly, time standards serve as a tool to assist courts with managing caseloads, preventing backlog, and assessing progress toward case processing goals. In short, they are a tool for ensuring that Idaho Courts are meeting their goal to provide timely case resolution as reflected in the Mission Statement of the Idaho Judiciary and as mandated in the Idaho Constitution. The identification and monitoring of processing times for key interim case events for each case type is an additional tool to assist with case management efforts, allowing for the identification of specific areas of delay in the case process.

---

<sup>1</sup> According to Article I, Section 18 of the Idaho Constitution, "...justice shall be administered without...delay." According to the American Bar Association's Standards Relating to Court Delay Reduction, delay is "any elapsed time other than reasonably required for pleadings, discovery, and court events."

Judges, clerical staff, and the trial court administrator consistently monitor time standard reports and use the information to take action in particular cases and to adjust processes and reallocate resources to meet case processing goals.

Pursuant to ICAR 57, the time standards applicable to felony criminal cases are:

**Felonies:**

Magistrate Division	30 days from first appearance to order holding the defendant to answer in the district court or discharging the defendant
District Court	150 days from first appearance in district court to entry of judgment

The revised time standards that have been approved by the Idaho Supreme Court for piloting to begin in 2015 are:

**Felonies:**

Magistrate Division	50% within 21 days 75% within 45 days 90% within 60 days Measured from filing of complaint to order holding the defendant to answer in the district court or discharging the defendant
District Court	75% within 90 days 90% within 150 days 98% within 365 days Measured from the date of order holding the defendant to answer in district court to entry of judgment

**Section 1.2: Assignment of Cases**

The First District employs the following case assignment process for felony criminal cases:

In Kootenai County, ISTARs randomly assigns the felony criminal cases to five district judges. In Bonner/Boundary County, ISTARs assigns the felony criminal cases to one district judge. In Shoshone/Benewah County, ISTARs assigns the felony criminal cases to one district judge.

Cases involving the same criminal defendant are assigned or reassigned to a single district judge in the following manner:

1. When a commission of a felony offense also constitutes a violation of a felony probation, the new felony case is assigned to the original judge in the case with the pending probation violation. If the original judge is disqualified in the felony, that new case will of course be reassigned; however, the original judge should retain the probation violation case. This procedure is designed to reduce "judge shopping" by use of a disqualification.

A unique practice that the First District Judges utilize is the “buddy judge” system. For example, Judge Simpson and Judge Haynes are “team judges”, as are Judge Mitchell and Judge Christensen. For example, in the event that Judge Haynes has multiple cases to try at the same time, Judge Simpson will help try cases for Judge Haynes. This decreases delay and has become a very efficient tool for jury management.

### **Section 1.3: Proactive Case Management**

All cases and calendars are set in such a way to prevent unnecessary delay in case processing, while balancing the effective use of the time of parties, victims, judges, attorneys, and court personnel.

The Administrative District Judge adopts a scheduling policy that accomplishes this and reduces the likelihood of scheduling conflicts requiring rescheduling of events. The assigned judge maintains early and continuous control of all cases from initiation through post-disposition proceedings by the use of:

1. Appropriate case assessment;
2. Scheduling orders and conferences for purposes of achieving date certainty;
3. Management of discovery and motion practice;
4. Realistic setting of trial dates and time limits;
5. Court control of continuances for purposes of fostering timely and just voluntary resolution of most cases, and achieving trial date certainty for those cases that are resolved by trial.

Ongoing review of cases is necessary to ensure that a future action or review date has been set by the court in every case. Scheduling should comply with the time standards adopted by the Idaho Supreme court.

### **Section 1.4: Early and Continuous Assessment, Scheduling of Events, Calendar Management, and Calendar Setting**

#### Early and Continuous Assessment

Idaho judges continuously assess cases to ensure that every case receives individual attention and to make sure that the amount of individual attention is proportional to need. The amount of court time and resources devoted to a case and the pace at which a case progresses depends on the complexity and individual needs of that case. Some cases can be resolved quickly with little court involvement while other cases require more time, court appearances, and judicial oversight to reach resolution. Through an early and ongoing assessment process, the judge manages the progress of a case in a manner that will result in the most timely and just resolution possible, given the individual circumstances of that case.

When determining the most appropriate plan for a criminal case, the First District considers at least the following:

1. Nature of the charge(s)/number of counts
2. Custody status of defendant(s)
3. Number of co-defendants

4. The potential penalty
5. Anticipated pretrial motions
6. Need for expert witnesses and how financed; need for independent resource judge
7. Consideration of victims' rights
8. Need for forensic testing
9. Complexity of factual and legal issues
10. Likelihood of case going to trial/estimated length of trial
11. Whether the defendant has cases pending in other counties
12. Whether a problem solving court might be an option for the defendant
13. The mental health status of the defendant

Note: not listed in order of importance

The First District follows the above practices in developing case management plans for individual criminal cases.

### Scheduling of Events

All scheduled case events are meaningful events, defined as events that (a) move a case toward disposition and (b) prompt the attorneys and parties to take necessary action. Monitoring the effectiveness and timeliness of interim case events between filing and disposition helps to prevent unnecessary delay.

The following have been identified as key interim case events in criminal cases that will be tracked in the case management system and monitored for informational and case management purposes:

#### District Court

1. Initiating event: order binding case over to District Court
2. Filing of Information
3. Arraignment
4. Pretrial Conference
5. Order for ADR/mediation
6. Entry of plea
7. Start of trial
8. Filing of Presentence Investigation
9. Ending event: entry of judgment

### Calendar Setting

First District Judges preside over an individual calendar. Counsel contacts the clerk of the presiding judge to calendar motion hearings for a time certain. All calendar settings should be made within the applicable time standards. If necessary, senior judges, interpreters and conflict attorneys are contacted immediately.

Felony criminal cases are set for trial at the time of entry of plea unless otherwise ordered by the court, consistent with a defendant's right to a speedy trial.

The First District schedules senior judges and interpreters to maximize the efficient use of the time of judges, court staff, attorneys, victims and witnesses, law enforcement officers, and criminal defendants and their families. The goal is to minimize continuances and delay.

### **Section 1.5: Appointment of Counsel**

Early appointment of counsel is important not only to protect the legal rights of the accused but also to facilitate the earliest resolution of criminal charges.

Appointed counsel is available in Idaho pursuant to I. C. Section 19-851(4), ICR 5 and 10, and should be appointed as described in I. C. 19-852 to 854.

The process for appointing counsel in the First District is as follows:

If the presiding judge finds that a defendant is indigent, counsel and/or conflict counsel are identified and appointed. These appointments typically occur early in the case. Applications for court appointed counsel should be forwarded to the appropriate judge at the earliest possible time.

### **Section 1.6: Motion Practice**

The substance and need for motions varies widely. Motions are generally classified as dispositive or non-dispositive. Because motions can significantly impact the time and expense necessary in any case, management of motions is an essential component of an effective and efficient case management plan. This management is best done in an early scheduling/trial order. Requiring compliance with the motion deadlines eliminates a significant potential for unreasonable delay. Courts do not allow the parties to modify discovery deadlines set forth in the scheduling order by stipulation without authorization of the court. The Court permits modifications of the scheduling order as necessary to advance justice and, if possible, without disturbing firm trial dates.

The First District will adhere to the following general guidelines when creating scheduling orders:

1. Motions which affect the introduction of evidence at trial, i.e., motions in limine, motions to strike witnesses or exhibits, etc., are often filed late in the process. Scheduling orders account for this and require such filings to occur early enough to give the court sufficient time to carefully consider the same without impacting the trial date.
2. Clerks are given careful guidelines in the scheduling of motions. Parties do not control the hearing schedule, and hearings are set so as to allow for meaningful review but timely resolution.
3. Courts diligently consider and rule on motions, in compliance with the requirements of the Idaho Constitution, and to prevent unreasonable delay.
4. Informal methods should be adopted for consideration and resolution of motions, such as conducting hearings of non-dispositive motions by teleconferencing.
5. Motions are generally governed by ICR 12, which sets forth the timing requirements for filing and hearing pretrial motions [see ICR 12(d)]. The First District adheres to these requirements to avoid delay.

6. Because motions to suppress can be dispositive, and have substantial potential for causing delay, courts specifically address such motions in the scheduling/trial order, with the expectation that they will be filed and ruled on in a timely manner, and shall clearly identify the issues on which defendant relies.
7. Special procedures for filing, hearing and disposition of motions in the First District: The First District bind over order states that motions and accompanying briefs must be filed within 42 days of the bind over order.

### **Section 1.7: Discovery Practice**

Management of discovery is an essential component of an effective and efficient case management plan. This management is done in an early scheduling order. Such orders manage the nature and scope of discovery according to the needs of each case, consistent with applicable rules. The scheduling order manages the time and expense devoted to discovery, while promoting just dispositions at the earliest possible time.

The First District follows the procedures set out below:

1. Discovery in criminal cases is generally governed by ICR 16. Appropriate discovery deadlines are firmly set in scheduling/trial orders for automatic disclosures, including I.R.E. 404(b) evidence, required by ICR 16(a). Deadlines are also set for the submission of written discovery requests outlined by ICR 16(b) and (c). The parties and the court adhere to all deadlines. Courts do not allow the parties to modify discovery deadlines by stipulation without authorization of the court. Courts permit modification when necessary and preferably without disturbing firm trial dates.
2. Compliance with the response times set forth in ICR 16(f) is expected and the imposition of sanctions allowed by this rule is used to curb abuses of the discovery process.

### **Section 1.8: Early Case Resolution Processes**

The court and attorneys in the First District adhere to the practices outlined below to obtain the earliest possible resolution of criminal cases.

All structured settlement processes conform to the governing court rule or statute applicable to a specific case. The parties and court review applications for mediation as early as practical in every case to govern the appropriateness of mediation and settlement in order to foster efficiency, early resolution, and effective case management.

IRE 507, as administered by the authorizing court, governs the confidential nature of mediations to foster settlement in all such cases as deemed appropriate.

Early resolution of criminal cases benefits the courts, the parties, victims, witnesses, and the public. It reduces the costs of pretrial confinement. Judges and attorneys use every court appearance as an opportunity to settle criminal cases.

The parties are afforded an opportunity to mediate the case, if timely requested. Idaho Criminal Rule 18.1 allows mediation in criminal cases. The participation of the state and defense in mediation in criminal cases is governed by these rules, subject to the oversight of the authorizing court.

Additionally, the use of senior judges as criminal case mediators has proved to be a valuable tool to obtain early resolutions of criminal cases. Another practice that has aided earlier resolution of criminal cases is including all possible alternate judges on the district judge assignment notice. This practice has reduced judge shopping and disqualification in the First District.

### **Section 1.9: Pretrial Case Management**

Implementation of standard pretrial management practices, such as holding meaningful pretrial conference, is the most effective mechanism for: (a) promptly resolving cases before trial and (b) ensuring that cases going to trial are adjudicated without unnecessary delay. Successful pretrial management of cases requires both the court and counsel to attend the pretrial conference prepared to discuss the matters identified in the court's scheduling order, ICR 18, and/or any other issues or concerns unique to each case.

In felony criminal cases in the First District:

1. Pretrial conferences are set at least 10 days before a trial.
2. All pretrial motions are to be filed in a timely manner, and pretrial motions are heard on or before the date of the pretrial conference. This requirement is subject to constitutional considerations that may require some flexibility.
3. A list of witnesses, exhibits and requested jury instructions are to be filed at least five days before trial.
4. Scheduling orders reference ICR 18 and inform attorneys they are to be prepared to discuss such matters at the pretrial conference. The judge has a checklist of topics ready to discuss with counsel at the pretrial conference.

#### Checking the Status of Pending Case Matters

In the First District, judges understand that decisions are to be issued in a timely way, pursuant to Art. V, Sec. 17 of the Idaho Constitution. To assist the attorneys and/or parties in this regard, First District judges follow these practices:

- When additional briefing or materials are necessary before the judge considers the matter under advisement the judge sets clear deadlines for submission of the briefing or materials.
- If the judge considers the matter under advisement at the conclusion of oral argument, the judge clearly states the same on the record.
- If a matter is under advisement a proper notation of that fact is entered in the court's case management system.
- Every written decision contains a statement as to when the court considered the matter under advisement.

- Attorneys and/or parties are advised that they are free to contact the court's clerk to inquire about the status of any case, proceeding, or pending decision 30 days after the matter is under advisement, without consequence.

### **Section 1.10: Continuances**

A continuance, for the purposes of this section, is when a party requests the postponement of a scheduled hearing or trial date. Courts exercise discretion in determining whether to grant or deny a requested continuance. Courts should remain mindful that some delays are necessary and warranted to effectuate justice or to facilitate effective resolution of cases.

A joint or stipulated motion or a continuance is not binding on the court (see ICR 27).

The factors the First District considers in determining whether to grant a motion to continue include but are not limited to:

1. The reason for the request and when the reason arose.
2. Whether the reason for the request was within the control of counsel or was otherwise reasonably foreseeable.
3. Whether granting or denying the motion would unfairly prejudice either party.
4. The number of continuances previously granted.
5. The age of the case.
6. The days remaining before the trial date.
7. Whether all of the named parties agree to the continuance.
8. The length of the postponement that would be required if the motion were granted.
9. Whether there has been a substitution of counsel.
10. Difficulties associated with obtaining forensic evidence.
11. Whether the defendant has applied for acceptance into a problem-solving court.
12. The defendant's constitutional right to a speedy trial.

Any stipulation or motion to continue a trial requires a conformation.

### **Section 1.11: Management of Trials**

In the First District felony criminal trials are scheduled to proceed on consecutive days from commencement to conclusion, whether the trial will be conducted to a jury or to the bench.

Trials are conducted so as to make the most effective use of the time of jurors, victims, witnesses, interpreters, judges, attorneys, and court staff.

### **Section 1.12: Post Plea or Verdict Case Management**

The First District Judges are aware that a considerable portion of the time required resolving a criminal case occurs after a defendant enters a plea of guilty or is found guilty at trial. Idaho courts work with their justice system partners (particularly the Idaho Department of Corrections) to minimize the delays associated with presentence reports. The court timely prepares the judgment and commitment orders.

Presentence investigations are governed by ICR 32 and I. C. Section 19-2524. Court clerks email PSI orders and face sheets to IDOC District Offices immediately after they are entered, initiating the PSI process. Behavioral Health assessments can be waived if probation is likely and the defendant plans to be supervised in another state.

The First District also takes the following steps to reduce the time between sentencing and the entry of an order of judgment: If a defendant is not in custody, the defendant is ordered to appear at Felony Probation within 24 hours of the plea being taken.

### **Section 1.13: Post-Conviction Proceedings**

Though technically civil cases, post-conviction challenges to a conviction or judgment are in many ways a continuation of the original criminal proceedings.

The First District takes the following steps to ensure the fair and timely resolution of post-conviction proceedings: When a Petition for Post-Conviction Relief is filed, it is deemed a civil matter and usually assigned to a District Judge in the Second Judicial District of Idaho. The assigned judge then hears all matters related to the post-conviction proceedings. The majority of the post-conviction proceedings are handled telephonically. Telephonic hearings are very cost effective for the court, prosecution, defense counsel and the IDOC. The First District believes that this method is the most efficient way to resolve these matters.

### **Section 1.14: Probation Revocation Proceedings<sup>2</sup>**

A substantial part of the history of a felony case is devoted to the filing, processing, and resolution of probation revocation motions. Management of probation sentences both by the IDOC and the courts is an important part of both the punishment and the treatment and rehabilitation of persons convicted of crimes and well as protection of the community from further wrongdoing. Probation revocation may be complicated by concurrent prosecution of the probationer for subsequent criminal conduct which forms in whole or in part the basis of the revocation petition.

The First District takes the following steps to make the most effective use of the resources of the courts, prosecution, defense, and IDOC in resolving probation revocation matters: As soon as the First District IDOC/Felony probation officer believes a probation revocation may be warranted, the assigned probation officer writes and submits a report to the prosecutor, the court, and the defendant or his attorney of record. The prosecutor may then file a Motion to Revoke the defendant's probation. The defendant, his/her attorney, and the probation officer appear in front of the presiding judge who conducts a probation revocation proceeding and determines the resolution of the case.

### **Section 1.15: Effective and Consistent Monitoring of Case Management Reports**

---

<sup>2</sup> Significant policy changes pertaining to felony probation are being implemented per SB1357 and monitored per SB1393 (Justice Reinvestment Initiative), passed by the Idaho Legislature in 2014. Modification to this section of the district felony caseflow management plans will be necessary to accommodate future policy and/or procedural changes.

Caseflow management necessitates the regular production of case management information from an automated system. Case management reports provide a means of identifying and preventing delay in the processing of individual cases and the buildup of a case backlog that can result in an overall delay in the processing of all cases. They also provide information about potential sources of delay.

The production of case management information is not sufficient in and of itself, however, to ensure effective caseflow management. Equally important is the utilization of this information, as follows:

1. The First District Judges consistently and effectively monitor their case management reports and take appropriate action to ensure that meaningful events are set for all cases that case processing goals are being met, and that potential sources of unnecessary delay are identified so that they may be addressed through case management.
2. The First District Administrative District Judge and Trial Court Administrator closely monitor reports for their districts to identify cases that are nearing or exceeding applicable time standards, areas where backlog may be developing, potential sources of systematic delay, and changes in overall caseloads and inequities that may be developing in caseload distributions that may require changes in judicial assignments.

It is the responsibility of individual courts in the First District to ensure that data entry practices are consistent with statewide uniform business practices thus resulting in accurate and reliable case management information. Monthly review of case management reports is a practice that is utilized in the First District.

### **Section 1.16: Special Considerations for District Plans**

#### Language Access Services

Federal and state law requires judges to ensure parties, witnesses, and other interested individuals have meaningful access to the courts. Language access services are provided in all civil and criminal cases pursuant to Idaho Code 9-205. Professional court interpreters are appointed pursuant to ICAR 52. Determining the need for services is done in a number of ways including the following:

- For spoken languages, self-identification by the non-English speaker (or companion). For the deaf or hard of hearing, through an ADA request for accommodation.
- A judge finds there is a need for language access services.
- Court personnel may receive notice directly from the public, attorneys, guardians, probation officers, law enforcement and other participants.

The First District adheres to the following practices to ensure the most efficient use of available certified and non-certified interpreter resources: When the need for interpreter services has been identified by the judge, clerk, attorney, other agencies or participants in a specific case, a request is sent to the Trial Court Administrator's office. The Trial Court Administrator then contacts and retains the appropriate type of interpreter(s) for the case.

### Media Relations

The Idaho courts have a manual for judges on media relations and the handling of notorious cases. These issues are addressed in ICAR 45 and 46. In addition, ICAR 32 addresses public requests for court records, which includes media requests.

Administrative district judges establish effective relations between the court and the media, by scheduling forums or other opportunities for discussion with the media, and by providing general information to the media about the courts, the law, and court procedures and practices, to the extent permitted by the Idaho Code of Judicial Conduct.

In the First District, judges follow ICAR 45, 46 and 32 in dealing with requests for media coverage and public requests for court records. If a member of the media would like to video or take still shots of a specific case, the member of the media sends a formal request for cameras in the court room to the presiding judge. If the judge is unavailable, the request can be forwarded to the Trial Court Administrator.

Judges and the Trial Court Administrator meet with members of the media on a regular basis. The media is invited to various events held at the court house including but not limited to problem solving court graduations, judicial interviews, judicial investitures, National Adoption Day ceremonies.

### Telephonic and Other Remote Appearances

IRCP 8(b)(4) and ICR 43.1 authorize the use of telephone conferencing to conduct hearings. Allowing parties, witnesses, interpreters, probation officers and attorneys to make court appearances without appearing personally in court can result in significant efficiencies and are allowed when they do not compromise the rights of a party. Stipulating to remote appearances by forensic testing personnel can reduce backlog in forensic testing requests.

In the First District, telephonic and video appearances are an acceptable practice. It is used frequently for cases that involve out of district litigants and experts. The procedures for arranging a remote appearance are: The parties contact the judge's clerk. The judge's clerk sets up the equipment in the court room and coordinates the manner in which the parties will be connected with the court. Each court room is equipped with a conference phone that can accommodate telephone communication between multiple parties. If the judge's clerk is unavailable, the Trial Court Administrator or the Bailiff's office will set up the equipment for the parties.

### **Section 1.17: Maintaining the First District Felony Case Management Plan**

Once the Statewide and District felony case management plans are established, keeping the plans relevant will be a priority. Therefore, outreach and collaboration will be ongoing. Both at the State and at the individual judicial district levels, collaborative planning procedures will be maintained to promote regular and ongoing communication, problem solving and adaptation of Caseflow management processes to the ever changing needs of the justice system and the communities it serves.

Major sources of future changes will be the deliberations and conclusions of the Advancing Justice Committee's work group on uniform business processes and the Judges Associations efforts to develop uniform forms for all Idaho case types.

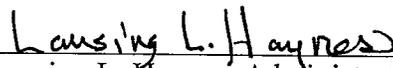
The First District maintains the felony case management plan through the following process: The case management plan will be discussed periodically at bench/bar meetings in the First District. The plan will also be discussed at First District annual judges meetings.

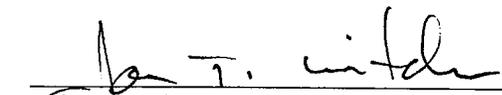
Dated this 19 day of November 2014

Lansing L. Haynes  
Lansing L. Haynes  
Administrative District Judge

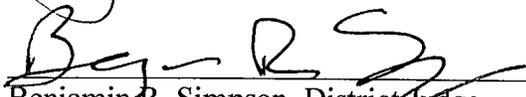
**IT IS SO ORDERED:**

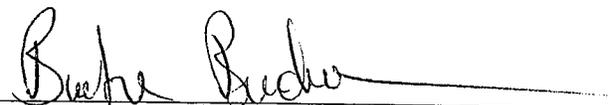
DATED 9 day of January, 2015.

  
Lansing L. Haynes, Administrative District Judge

  
John T. Mitchell, District Judge

  
Fred M. Gibler, District Judge

  
Benjamin R. Simpson, District Judge

  
Barbara A. Buchanan, District Judge

  
Rich Christensen, District Judge

cc: First District Judges  
Karlene Behringer, TCA  
Justice Linda Cople Trout, Interim Administrative Director of the Courts

AR15-DW.1

•