

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS, AND ADOPTION)
OF NEW IDAHO RULES OF FAMILY LAW) ORDER
PROCEDURE 604, 814, 815, 816, and)
APPENDIX A)
_____)

The Court, having reviewed a recommendation from the Children and Families in the Courts Committee (CFCC) and the Administrative Conference to amend the Idaho Rules of Family Law Procedure and adopt new rules, and the Court being fully informed;

IT IS ORDERED that the Rules are AMENDED as follows:

Idaho Rules of Family Law Procedure Rule 201. Commencement of Actions.

(a) Commencement of a Family Law Action.

- (1) A family law action is commenced by filing a petition with the clerk of the court.
- (2) **Designation of Parties.** The party filing the initial petition is designated as the petitioner and any party against whom it is filed is designated as the respondent.
- (3) **Name and Date of Birth of Child.** If a child is involved in the family law action, the child's full name and date of birth must be included in the petition and any subsequent order, decree, or judgment.
- (4) **Service.** Unless the parties have filed a stipulation for entry of a decree or judgment prior to service of the petition, a petition must be served on all parties entitled to service along with (1) a summons and (2) any notice, form, or order issued by the court at the time of filing of the petition as set forth in Rule 204.

(b) Commencement of a Civil Protection Order Action or Modification.

- (1) A civil protection order action is commenced by the filing of a sworn petition in the form approved by the Supreme Court with the clerk of the court. Such action may be commenced or defended on behalf of a minor as set forth in Rule 112.
- (2) A civil protection order may be modified, terminated, or renewed by a party filing an application in the form approved by the Supreme Court with the clerk of the court.

(3) **Name and Date of Birth of Child.** If a child is involved in the civil protection order action, the child's full name and date of birth must be included in the petition and any subsequent order.

(4) **Law Enforcement Information Sheet.** A petition will not be filed unless accompanied by information in whatever form required by the court to allow entry of the protection order into the Idaho public safety and security information system (to be transferred by the court to the appropriate law enforcement agency with any signed order). A copy of this information form will not be maintained in the court file.

(c) Commencement of a Family Law Modification Action.

(1) An action to modify child custody, child support, or spousal maintenance is commenced in the original family law action by filing a:

(A) **Petition to Modify.** A petition to modify will be in a form similar to an original petition. All allegations of substantial and material changes in circumstances supporting a petition to modify a term of a prior judgment or decree must be stated with particularity; or

(B) **Stipulation.** The stipulation must expressly authorize the court to enter a modification judgment attached to or specifically identified in the stipulation.

(2) **Designation of Parties.** The parties will remain as designated as the petitioner and respondent as set forth in the original family law action, regardless of whether that party is now the moving party.

(3) **Service.** Unless the parties have filed a stipulation for entry of a judgment, a petition to modify must be served upon all parties entitled to service along with a (1) summons and (2) any notice, form, or order issued by the court at the time of filing of the petition to modify. The method of service will be the same as for an original family law action set forth in Rule 204 and service will be on the responding party rather than on the previous attorney of record for the party.

(4) **Adjudication.** A petition to modify will be adjudicated in the same manner as an original family law action.

[Former Rule 201(d) moved to Rule 814]

(d) ~~Commencement of an Action to Obtain a Money Judgment.~~

(1) ~~A party to a divorce decree, legal separation, or judgment that establishes support for a child of the parties may file a petition for money judgment in a form similar to an original~~

~~petition or stipulation in the original family law action to enforce the term of the decree or judgment by seeking a money judgment for:~~

- ~~(A) contribution for amount paid by one party toward debt assigned to the other party as provided in the decree or judgment;~~
- ~~(B) reimbursement of uncovered medical expenses incurred on behalf of the child;~~
- ~~(C) reimbursement of work-related day care expenses incurred on behalf of the child;~~
- ~~(D) reimbursement of medical insurance premiums for insurance covering the child;~~
- ~~(E) unpaid child support or spousal maintenance or other payments ordered; and~~
- ~~(F) reimbursement of other amounts ordered to be paid or shared by the parties.~~

~~(2) **Designation of Parties.** The parties will remain as designated as the petitioner and respondent as set forth in the original family law action, regardless of whether that party is now the moving party.~~

~~(3) **Service.** Unless the parties have filed a stipulation for entry of a judgment, a petition for money judgment must be served upon all parties entitled to service along with a summons. The method of service will be the same as for an original family law action set forth in Rule 204 and service will be on the responding party rather than on the previous attorney of record for the party. If a petition for money judgment is initiated in a family law action currently pending, the petition for money judgment may be served as provided by Rule 205(c) (e), unless the court orders personal service.~~

~~(4) **Adjudication.** A petition for money judgment will be adjudicated in the same manner as an original family law action or may be expedited as directed by the court.~~

(ed) Family Law Case Information Sheet.

(1) Required to File a Petition or Stipulation. A petition or stipulation in a family law or civil protection order action will not be filed unless and until the moving party furnishes to the clerk a completed family law case information sheet on a form adopted by the Supreme Court and furnished by the clerk. This family law case information sheet will be exempt from disclosure according to I.C.A.R. 32(g).

(2) Required to File an Answer. An answer to a family law action will not be filed unless and until the responding party furnishes to the clerk a completed family law case information sheet on a form adopted by the Supreme Court and furnished by the clerk. This family law case information sheet will be exempt from disclosure according to I.C.A.R. 32(g).

(f) **Filing Fee--Waiver.** The filing fee prescribed by Appendix “A” of the Idaho Rules of Civil Procedure must be paid before the filing of a pleading or motion listed in the filing fee schedule. Any waiver of the filing fee will be made by the court upon verified application of a party which will require no filing fee. Provided, the filing fees will be automatically waived in any case in which a party is represented by an attorney under the Idaho Law Foundation Volunteer Lawyers Program, the University of Idaho Legal Aid Clinic, the Idaho Legal Aid Program, or an attorney under a private attorney contract with Legal Aid.

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

- (a) When a motion is based on facts not appearing of record the court may hear the matter on affidavits or may hear it wholly or partly on oral testimony or on depositions.
- (b) **Hearing on a Motion for Temporary Order.** A motion for temporary order will be heard and decided exclusively on the motion and affidavits unless, at the hearing on the motion for temporary orders, the court determines that the parties should be allowed to present evidence. In such case, the court will schedule an evidentiary hearing within a reasonable time.
- (c) **Hearings on an Order Issued Without Notice Expedited Hearings on a Rule 505 Temporary Order or Rule 506 Temporary Restraining Order or Preliminary Injunction.** ~~For a hearing on an order issued without notice, any party may elect~~ When a temporary order, preliminary injunction, or temporary restraining order is issued without notice pursuant to Rule 505 or 506, the matter will be decided after an expedited hearing based exclusively on the motion, briefing submitted, affidavits, and oral argument unless any party elects to produce testimony and evidence at the hearing or to cross-examine the adverse party or the party’s affiants. To secure a hearing time for the alternative hearing format, the requesting party must first give written notice of at least 24 hours to the court and to the opposing attorney before the hearing. If such notice is timely given it will not be necessary to subpoena the adverse party or the party’s affiants and the adverse party will appear with the party’s designated affiants without further notice unless otherwise ordered by the court. If the adverse party and the adverse party’s affiants designated in the notice are not excused by the court and do not appear as requested, the court may impose such sanctions as it deems appropriate including attorney fees for the requesting party. The hearing, notice, and expiration periods set forth in Rules 505 and 506 and 508 apply to any order issued without notice under this rule.

Idaho Rules of Family Law Procedure Rule 805. Relief from Judgment or Order

(b) **Grounds for Relief from a Final Judgment, Order, or Proceeding.** On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule ~~807(b)~~ 804(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

IT IS FURTHER ORDERED that the Rules 604, 814, 815, 816, and Appendix A-Summons for Petition to Enforce Parenting Time, are ADOPTED as follows:

Idaho Rules of Family Law Procedure Rule 604. Court Ordered Judicial Settlement Conference.

- (a) **In General.** A Judicial Settlement Conference is a voluntary process in which a judge facilitates communication between the parties and assists them in their negotiations as they attempt to resolve their claims pending before the court. The nature, extent, and results of the settlement conference are within the sole control of the parties.
- (b) **Initiation of Judicial Settlement Conference.** Once a family law action commences, and after both parties have voluntarily agreed, in the appropriate case, the court may order a Judicial Settlement Conference on its own initiative, by motion of a party, or by stipulation of the parties. The presiding judge has the discretion to deny a request for a Judicial Settlement Conference even if the parties stipulate to participate.

(c) **Order.** The court will issue an order setting the date for the Judicial Settlement Conference and requiring the parties' attendance. The order may include provisions governing the process used by the judge.

(d) **Participation.**

(1) **Required Participants.** Once the parties voluntarily agree to participate, and it is ordered by the court, all parties and counsel must participate in the Judicial Settlement Conference fully, reasonably, and in good faith. Lead counsel, parties, and persons with full authority to settle the case must attend.

(2) **Optional Participants.** A judge may authorize a mental health professional, an attorney mediator, or the family court service manager to participate in the Judicial Settlement Conference. In addition, the court may authorize other necessary participants.

(A) The mental health professional must have a minimum of a master's in social work or professional counseling and maintain a current license.

(B) The attorney mediator must be on the official list compiled by the Idaho Supreme Court and maintained by the Administrative Director of the Courts.

(e) **Non-Presiding Judge as Judicial Settlement Conference Judge.**

(1) **Report of Settlement Conference.** At the conclusion of the Judicial Settlement Conference, the judge will report to the presiding judge by written notice or on the record whether a settlement was achieved.

(2) **Confidentiality.** None of the matters or information discussed during the settlement conference will be communicated to the presiding judge assigned to the case unless all parties stipulate to said communication.

(f) **Presiding Judge as the Judicial Settlement Conference Judge.**

(1) **Agreement.** The presiding judge may handle the Judicial Settlement Conference only if the parties agree.

(2) **Substantive Discussion.** The presiding judge may have substantive discussions about the case during the Judicial Settlement Conference. If the matter proceeds to trial, only the evidence admitted at trial will be considered in rendering a decision. Any offer made during a Judicial Settlement Conference will be given no weight and will not be considered by the presiding judge in determining any issue in the case. Neither party

may testify or produce any evidence about any offer made during a Judicial Settlement Conference.

(3) **Waiver.** A signed waiver, in a form authorized by the Idaho Supreme Court, must be filed prior to the start of the Judicial Settlement Conference where the parties agree to the following:

- (A) waive any conflict with the presiding judge participating in the conference and if the matter should not resolve, the presiding judge shall still preside over the case and specifically the trial;
- (B) during the Judicial Settlement Conference, the presiding judge may meet with a party outside the presence of the other party; have substantive discussions about the case; review and discuss probable evidence; consider strengths or weaknesses of the case; discuss the applicable law, legal arguments, possible outcomes, and appropriate settlement;
- (C) disregard any statement, opinion, or evaluation expressed by the presiding judge as a commitment by the presiding judge about how the presiding judge will rule on any factual or legal issue, or decide the ultimate outcome of the case; and
- (D) understand that any information, other than a settlement offer, discussed during a Judicial Settlement Conference with the presiding judge may be used for any purpose, including, but not limited to, evidence at trial.

(g) **Resolutions.** Full or partial resolutions must be placed on the record as soon as reasonably possible after the Judicial Settlement Conference with both parties swearing to the contents under oath. The parties must reduce the agreements to a judgment for approval by the court.

Idaho Rules of Family Law Procedure Rule 814. Action to Obtain Money Judgment.

(a) **Commencement of an Action to Obtain a Money Judgment.** A party to a family law action may file a petition for money judgment in a form similar to an original petition or stipulation in the original family law action to enforce the term of the decree or judgment by seeking a money judgment for the following:

- (1) contribution for amount paid by one party toward debt assigned to the other party as provided in the decree or judgment;
- (2) reimbursement of uncovered medical expenses incurred on behalf of the child;
- (3) reimbursement of work-related day care expenses incurred on behalf of the child;

- (4) reimbursement of medical insurance premiums for insurance covering the child;
- (5) unpaid child support or spousal maintenance or other payments ordered; and
- (6) reimbursement of other amounts ordered to be paid or shared by the parties.

The provisions of this Rule are separate and distinct from a contempt proceeding under Rule 812 and other remedies provided by law.

- (b) **Designation of Parties.** The parties will remain as designated as the petitioner and respondent as set forth in the original family law action, regardless of whether that party is now the moving party.
- (c) **Service.** Unless the parties have filed a stipulation for entry of a judgment, a petition for money judgment must be served upon all parties entitled to service along with a summons. The method of service will be the same as for an original family law action set forth in Rule 204 and service will be on the responding party rather than on the previous attorney of record for the party. If a petition for money judgment is initiated in a family law action currently pending, the petition for money judgment may be served as provided by Rule 205(c)-(e), unless the court orders personal service.
- (d) **Adjudication.** A petition for money judgment will be adjudicated in the same manner as an original family law action or may be expedited as directed by the court.

Idaho Rules of Family Law Procedure Rule 815. Enforcement of Terms of Orders, Judgments, or Decrees Other Than Custody.

- (a) **Commencement.** A party seeking enforcement of an order, judgment, or decree in a family law action may file a verified petition to enforce, alleging denial or interference with a court ordered term. The provisions of this rule are separate and distinct from a contempt proceeding under Rule 812, enforcement proceedings under Rules 814 and 816, and other remedies provided by law.
- (b) **Form of Petition to Enforce.** The verified petition to enforce of no more than 20 pages must set forth:
 - (1) the date of the court order, judgment, or decree awarding the moving party the term sought to be enforced;
 - (2) how the responding party or their attorney was served with a copy of the order, judgment, or decree or had knowledge of it;
 - (3) the term of the order, judgment, or decree for which enforcement is sought;

- (4) specific facts constituting a denial or interference with the order, judgment, or decree;
- (5) the efforts the moving party has made to confer with the responding party regarding the relief sought;
- (6) the relief sought;
- (7) and attach a copy of the order, judgment, or decree with the clerk's file stamp showing the date of filing. The attached order, judgment, or decree is excluded from the 20 page limitation.

(c) **Service.** The petition must be served upon all parties entitled to service along with a summons. The method of service will be the same as for an original family law action set forth in Rule 204 and service will be on the responding party rather than on the previous attorney of record for the party. If the petition to enforce is initiated in a family law action currently pending, the petition may be served as provided by Rule 205(c)-(e), unless the court orders personal service.

(d) **Adjudication.** A petition to enforce will be adjudicated in the same manner as an original family law action or may be expedited as directed by the court.

(e) **Available remedies for enforcement of court ordered terms.** After a hearing, if the court finds a party has failed to comply or interfered with the order, judgment, or decree, the court may order one or more of the following:

- (1) costs associated with the denial or interference;
- (2) enter a money judgment upon which interest accrues;
- (3) order compliance with the term by a specific time;
- (4) clarification of the terms to effectuate the order, judgment, or decree;
- (5) award reasonable attorney fees, when available by statute or contract, and costs to the prevailing party; and
- (6) any other appropriate remedy as determined by the court.

Idaho Rules of Family Law Procedure Rule 816. Enforcement of Parenting Time.

- (a) **Commencement.** A party seeking to enforce court ordered parenting time will file a verified petition alleging denial or interference with parenting time. The provisions of this rule are separate and distinct from a contempt proceeding under Rule 812 and other remedies provided by law, including enforcement provisions governed by Idaho Code §§ 32-11-308 to 32-11-317 of the Uniform Child Custody Jurisdiction and Enforcement Act.
- (b) **Form of Petition.** A verified petition to enforce parenting time of no more than 20 pages must set forth:
- (1) the date of the order, judgment, or decree sought to be enforced;
 - (2) how and when the responding party and/or their attorney was served with a copy of the order, judgment, or decree or had knowledge of it;
 - (3) the specific term of the order, judgment, or decree for which enforcement is sought;
 - (4) specific facts constituting a denial or interference with the order, judgment, or decree;
 - (5) the efforts the moving party has made to confer with the responding party regarding the relief sought;
 - (6) the relief sought; and
 - (7) attach a copy of the order, judgment, or decree with the clerk's file stamp showing the date of filing. The attached order, judgment, or decree is excluded from the 20 page limitation.
- (c) **Service.** The petition to enforce parenting time must be served upon all parties entitled to service along with a summons which substantially complies with the form in Appendix A. The method of service will be the same as for an original family law action set forth in Rule 204 and service will be on the responding party rather than on the previous attorney of record for the party. If the petition to enforce parenting time is initiated in a family law action currently pending, the petition may be served as provided by Rule 205(c)-(e), unless the court orders personal service.
- (d) **Timing of Service.** The petition and summons must be filed and served on the responding party at least 14 days before the hearing.
- (e) **Response to Petition.** The responding party may file an affidavit of no more than 20 pages opposing the petition. Responsive affidavits must be filed and served on the moving party at least 7 days before the hearing.

(f) **Reply to Petition.** The moving party may file a reply affidavit of no more than 3 pages. Reply affidavits must be filed and served on the responding party at least 2 days prior to the hearing.

(g) **Hearing.**

- (1) The hearing will be held not more than 28 days after the filing of the petition.
- (2) The petition will be decided exclusively on the petition, affidavits, and oral argument unless, at the hearing, the court determines the parties should be allowed to present evidence. In such case, the court will schedule an evidentiary hearing within a reasonable time.
- (3) The court may grant a request for continuance from either party upon showing of good cause. There is a presumption that final disposition of a petition to enforce parenting time will take place no more than 42 days after the filing of the petition. Upon good cause shown, the timeframe may be extended to allow for discovery or other actions as may be appropriate.
- (4) Any exception to the time limits in this rule may be granted by the court for good cause shown. In time-sensitive matters, the court may grant a motion to extend or shorten time without notice to the other party.

(h) **Available remedies.** After a hearing, if the court finds a party has failed to comply or interfered with a parenting time order, judgment, or decree, the court may order one or more of the following:

- (1) temporary modification of the parenting time order, judgment, or decree if the court finds it is in the best interest of the child including:
 - (A) compensatory (make up) parenting time with the child;
 - (B) modification of transportation and exchange arrangements; and
 - (C) clarification of terms to effectuate the order;
- (2) economic sanctions including the award of monetary compensation for the costs resulting from a parent's failure to appear for scheduled parenting time;
- (3) suspension of a parent's license consistent with applicable law;
- (4) appointment of a parenting coordinator;

(5) award reasonable attorney fees, when available by statute or contract, and costs to the prevailing party; and

(6) any other appropriate remedy as determined by the court.

Appendix A

Rule 816(b)(3). Summons for Petition to Enforce Parenting Time

ATTORNEY'S NAME OR SELF-REPRESENTED PARTY

FIRM NAME

STREET ADDRESS

MAILING ADDRESS

CITY, STATE & ZIP CODE

TELEPHONE NUMBER

EMAIL ADDRESS (IF ANY)

IDAHO STATE BAR NUMBER

Attorney for _____

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF _____

_____) CASE NO. _____
_____)
Petitioner, _____)
vs. _____) SUMMONS FOR PETITION TO ENFORCE
_____) PARENTING TIME
_____)
Respondent. _____)
_____)

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE NAMED _____ (Moving Party).
THE COURT MAY ENTER AN ORDER TO ENFORCE PARENTING TIME AGAINST YOU (Responding
Party) WITHOUT FURTHER NOTICE UNLESS YOU RESPOND AT LEAST 7 DAYS BEFORE THE DATE
SET FOR THE HEARING SET IN THIS MATTER.

A hearing will be held on _____, 20____, at _____ o'clock _ .m. at _____
(location) on the Petition to Enforce Parenting Time which is served with this Summons.

You are hereby notified that pursuant to I.R.F.L.P. 816, the Court will decide the matter exclusively on the Petition to Enforce Parenting Time and affidavits at the hearing. A written responsive affidavit must be filed with the above-designated court and served upon the moving party at least 7 days before the hearing. If you fail to respond the court may enter an Order to Enforce Parenting Time against you as demanded by the moving party in the Petition to Enforce Parenting Time.

If the Court grants the Petition to Enforce Parenting Time, it may also order you to pay costs of this proceeding. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly so that your written response may be filed in time and allow adequate time for preparation for the hearing.

This Summons and the Petition to Enforce Parenting Time must be served upon the responding party not less than 14 days [computed pursuant to I.R.F.L.P. 104] prior to the date of the hearing.

CLERK OF THE DISTRICT COURT

[Mailing address, physical address (if different) and telephone number of the clerk]

DATED: _____

By _____

Deputy Clerk

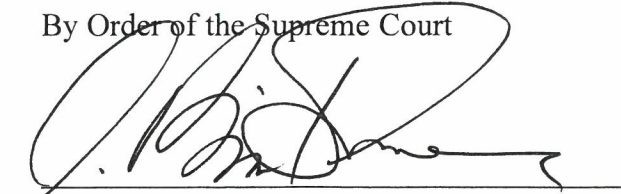
IT IS FURTHER ORDERED that the amendments and new rules shall be effective July 1, 2023.

IT IS FURTHER ORDERED that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Rules of Family Law Procedure.

IT IS FURTHER ORDERED, that notice of this Order shall be published for three consecutive weeks on the Idaho State Bar's website and in its weekly E-Bulletin, and that as soon as practicable, a summary of the amendment(s) effected by this Order shall be published in one issue of *The Advocate*.

DATED this 12th day of June 2023.

By Order of the Supreme Court



G. Richard Bevan
Chief Justice, Idaho Supreme Court

ATTEST:



Melanie Gagnepain, Clerk

I, Melanie Gagnepain, Clerk of the Supreme Court/
Court of Appeals of the State of Idaho, do hereby
Certify that the above is a true and correct copy of the
order entered in the above entitled
cause and now on record in my office. WITNESS my
hand and the Seal of this Court 6-12-23
Melanie Gagnepain, Clerk

By  Deputy