

Proposed Amendments

1 **Idaho Court Administrative Rule 27. Attendance of Court Reporters in District Court -**
2 **Electronic Recording of Proceedings - Transcripts. (a) District court reporter,**
3 **attendance required.** A court reporter certified in accordance with Rule 21, I.C.A.R., shall
4 attend all ~~civil trials, hearings on dispositive motions, criminal trials, arraignments, plea~~
5 ~~hearings, evidentiary suppression hearings, and sentence hearings in the district court,~~
6 ~~unless such attendance is waived in open court or by a written stipulation signed by the~~
7 ~~parties, or their counsel of record, and approved by the presiding district judge~~ court
8 proceedings as determined by the administrative district judge or his or her designee. The
9 court reporter shall make a shorthand or machine shorthand verbatim record of all oral
10 communications made during such trials or hearings in the presence of the presiding district
11 judge, including communications by all parties, counsel, witnesses, jurors and the
12 judge, except when not feasible during sidebar conferences.

13 (b) **District court reporter, attendance not required.** ~~At the discretion of the presiding~~
14 ~~district judge, civil or criminal hearings in which a district court reporter is not present that~~
15 ~~are not specified in paragraph (a) of this rule may~~ shall be electronically recorded in lieu of
16 stenographic means. When recording is by electronic means, a deputy clerk of court must be
17 present during the hearing, and must be operating a fully functional electronic recording
18 machine that is electronically recording all oral communications made in the presence of the
19 presiding district judge, including communications of the parties, counsel, witnesses and the
20 judge.

21 (c) **Electronic recording.** An electronic recording shall be made of all courtroom
22 proceedings, regardless of whether a court reporter is also reporting the proceedings by
23 stenographic means. Only if a court reporter is present may the court, for good cause, elect
24 to proceed without an electronic recording. Electronic recordings of district court
25 proceedings are the property of the court and shall be indexed and stored by the clerk of the
26 district court for the period of time specified in rules 37 and 38 of the Idaho Court
27 Administrative Rules.

28 (d) **Official transcripts and court record.** When a court reporter stenographically
29 reports court proceedings, the court reporter's certified transcript shall be the official transcript
30 and court record of the proceedings. If a court reporter has not reported a district court
31 ~~proceeding, a transcript or partial transcript~~ prepared from the electronic recording of the
32 proceeding becomes the official transcript and court record of the proceeding for all purposes
33 if it is prepared by the district court reporter or a transcriber under the control or supervision
34 of the trial court administrator or district court clerk and the transcriber executes a certificate
35 of transcription attesting to its accuracy in the form prescribed by rule 83(g), I.R.C.P.

36 (1) Realtime transcripts. A realtime transcript is not an official transcript or court record
37 as defined under subsection (d) of this rule. Realtime services may be used for interpretive
38 purposes, but cannot be cited to or used in any way as an official transcript or court record.

39 (2) Electronic recording. An electronic recording is ~~not an~~ the official transcript court
40 record as defined under subsection (d) of this rule and but cannot be cited to ~~or used in any~~
41 ~~way as an official transcript~~ unless and until an official transcript is prepared pursuant to
42 subsection (d) of this rule.

43 (e) **Use of official transcripts of district court proceedings.** In all case where a party
44 desires to place in evidence a transcript or partial transcript of a district court proceeding, or

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1 disclose the contents of a transcript during the examination of a witness, the transcript must
2 be an official transcript as provided in subsection (d) of this rule.

3 (f) **Estimate of Reporter's Fees - Filing.** Upon the conclusion of any trial in the district court,
4 or proceeding in an administrative agency, the reporter shall estimate the cost of preparing a
5 transcript of the trial or proceeding and shall certify the amount thereof in writing which shall
6 be delivered to the clerk and filed in the file of the action or proceeding. In the event the
7 reporter fails to so estimate the fees for a transcript within two (2) days from the conclusion
8 of the trial or proceed the estimated fees for preparation of the transcript shall be deemed to
9 be the sum of \$200.00, unless the reporter shall thereafter file the reporter's estimated fees
10 before the filing of a notice of appeal; provided, the reporter's estimated fee may be included
11 in the minute entry of the hearing or proceeding or stamped or endorsed thereon.

12 (g) **Request for official transcript.** A request for an official transcript of a district court
13 proceeding under this rule must be in writing, submitted to the court reporter or clerk of the
14 district court, and provide substantially the following information: date of request; the
15 proceeding, or portion thereof, to be transcribed; whether the requestor desires that the
16 transcript be expedited; and the requested completion date. The transcriber shall notify the
17 person requesting the transcript of the estimated date of its completion and the fee. Unless
18 other arrangements are made with the approval of the district court reporter or district court
19 clerk, the transcriber's fee shall be paid in full before delivery of the transcript to the person
20 requesting it. Compliance with deadlines for the preparation of transcripts of proceedings for
21 an appeal takes precedence over the preparation of transcripts made for any other purpose.

22 (h) **Emergency assistance.**

23 ~~(1) Unanticipated absence of a court reporter. In situations where a court reporter is~~
24 ~~not available due an unanticipated absence such as death, illness, or temporary absence of~~
25 ~~a court reporter, and after a good faith effort a replacement cannot be found, the presiding~~
26 ~~judge may, with or without a stipulation of the parties or their counsel of record, order the~~
27 ~~recording of any proceedings listed in paragraph (a) to be by electronic recording as the~~
28 ~~official court record until such time as the unanticipated absence has passed.~~

29 ~~(2) Anticipated absence of a court reporter. In those situations where a court reporter~~
30 ~~is not available due to an anticipated absence, including a vacancy in a court reporter position~~
31 ~~which has not been staffed pursuant to I.C. Section 1-1101, the Administrative District Judge~~
32 ~~of the affected judicial district by written Administrative Order, may suspend application of~~
33 ~~paragraph (a) and (h)(1) of this rule and order the recording of any or all proceedings listed in~~
34 ~~paragraph (a) to be by an electronic recording in accordance with paragraph (c) as the official~~
35 ~~court record until such time as the court reporter absence or vacancy has passed.~~

36 (i) **Office location and attendance.** District court reporters shall be available during regular
37 office hours. The administrative district judge or designee may authorize a court reporter to
38 work from an alternate location during regular office hours, provided the court reporter is
39 available for court proceedings and may be contacted via a telephone or a call- in
40 system approved by the administrative district judge to report to court.

Proposed Amendments

1 **Idaho Court Administrative Rule 28. Supervision of Court Reporters - Performance of**
2 **Duties.** District judges are responsible for the direct supervision of their court reporters assigned
3 to them, including any reporter assigned to the judge for a particular proceeding, subject to the
4 authority of the administrative district judge to supervise the court reporters in a district and to
5 make such assignments as are necessary under the circumstances existing at any given time.
6 The administrative district judge is also responsible for and ensuring adherence to the time
7 standards adopted by the Supreme Court for the filing of appellate transcripts.

Proposed Amendments

1 **[New Rule]**

2 **Idaho Court Administrative Rules**

3 **Part XI. Use of Videoconferencing.**

4 **Idaho Court Administrative Rule 110. Encouraged Use of Videoconferencing.**

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- 6 (a) Subject to a determination by the administrative district judge pursuant to subsection (c)
- 7 of this rule that the use of videoconferencing technology is inappropriate for a particular
- 8 hearing type, the use of videoconferencing technology is encouraged for the following
- 9 hearing types:
- 10 (1) Jurisdictional review and withheld judgment review hearings;
- 11 (2) Civil pretrial conferences;
- 12 (3) Status conferences and scheduling conferences; and
- 13 (4) Hearings on motions for attorney fees and costs, motions to compel, motions to set
- 14 aside default judgments, motions for work release, motions for reconsideration,
- 15 motions to consolidate, motions to continue, motions for change of venue, motions to
- 16 shorten time, and motions to withdraw as attorney of record.
- 17 (b) "Videoconferencing" means the use of an interactive technology, including a remote
- 18 digital platform, that sends video, voice, and/or data signals over a transmission circuit
- 19 so that two or more individuals or groups can communicate with each other
- 20 simultaneously using video monitors, cameras, audio microphones, and audio speakers.
- 21 It also includes use of a remote video platform through an audio-only option.
- 22 (c) In determining whether the use of videoconferencing technology is appropriate for a
- 23 particular hearing type or case the following factors will be considered:
- 24 (1) The capabilities of the court and the parties to participate in a videoconference;
- 25 (2) Whether a specific articulable prejudice would result;
- 26 (3) The convenience of the parties and the potential to increase access to courts by
- 27 allowing parties and/or their counsel to appear by videoconferencing;
- 28 (4) Whether the court has reason to believe that the participants in the hearing will
- 29 not be able to maintain the dignity, solemnity, and decorum of the court while
- 30 using videoconferencing technology, or that the use of videoconferencing
- 31 technology will undermine the integrity, fairness, or effectiveness of the
- 32 proceeding;
- 33 (5) Whether the court is satisfied that it can sufficiently control the participants in the
- 34 hearing; and
- 35 (6) The ability of the administrative district judge or trial court administrator to
- 36 effectively and efficiently manage the scheduling and organization of court
- 37 calendars across courtrooms within the judicial district.
- 38 (d) The presiding judge in a particular case or hearing may determine whether to allow
- 39 videoconferencing pursuant to subsection (c), subject to the limitations of other court rules
- 40 requiring in-person appearances.
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