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

**ADMINISTRATIVE ORDER NO. 2018-01**

**IN THE MATTER OF AMENDMENT TO THE RULES OF COURT MANAGEMENT FOR THE SECOND JUDICIAL DISTRICT**

WHEREAS, the Idaho Supreme Court has adopted Rules of Court Management for the Second Judicial District effective November 3, 2016; and

WHEREAS, the Second Judicial District has submitted amendments to the Rules of Court Management for the Second Judicial District:

IT IS HEREBY ORDERED that the Rules of Court Management for the Second Judicial District shall be implemented as modified effective February 16, 2018, or as soon thereafter as approved by the Idaho Supreme Court, as outlined on Attachment A, attached hereto.

IT IS SO ORDERED.

Dated this 16th day of February, 2018.

JAY P. GASKILL
Administrative District Judge

## ATTACHMENT A

## SECOND DISTRICT RULES FOR COURT MANAGEMENT AND JURISDICTION OF MAGISTRATE JUDGES

*Effective Date – 2/16/2018*

**1. Authority.** These Rules are promulgated under the authority of Idaho Rule of Civil Procedure 1(c) and Idaho Criminal Rule 2.

**2. Administrative Assignments.**

A. District Judges. Those duties that are necessary for the efficient trial of cases and the efficient operation of the district court in each county shall be assumed by the resident district judge(s), provided that the district courts in Clearwater and Lewis Counties will be administered by the resident district judge in Idaho County.

B. Magistrate Judges. Those duties that are necessary for the efficient trial of cases and the efficient operation of the magistrates divisions of the district courts in each county shall be assumed by the resident magistrate judge(s) in that county.

C. Presiding Judges. The judge assigned to a proceeding shall have primary responsibility for motions and trials relating to that proceeding.

D. Administrative Judge. The Administrative Judge shall be selected for a three year term by majority vote of the district judges of the District, during the last quarter of the final year of the term. The term of office shall begin the first day of the following year. When a vacancy occurs mid-term, an interim Administrative Judge shall be selected by majority vote of the district judges to serve the remainder of the term. Should an Administrative Judge receive a 'no-confidence' vote of a majority of the district judges of the district, that Administrative Judge shall immediately resign the Administrative Judgeship and a new Administrative Judge shall be selected for the remainder of the term.

**3. Magistrate Jurisdiction.** The Magistrate Judges of the 2nd Judicial District are given jurisdiction over all matters designated in Idaho Code §1-2208 and Idaho Code §1-2210, in Idaho Rules of Civil Procedure 82(c)(1) and IRCP 82(c)(2), in Idaho Criminal Rule 2.2, and as may be now or subsequently authorized by Idaho statutes or Supreme Court rules or orders. District Judges have concurrent jurisdiction over all cases assignable to Magistrate Judges.

**4. Requests for Trial Settings.** The form attached as Exhibit 1 to these rules shall be used for a request for trial setting pursuant to IRCP 40(b).

**5. Continuances.** If it appears that a continuance in a case is necessary, the request for continuance should be promptly directed to the Presiding Judge in that case.

**6. Trial Assistance.** If at any time any District Judge or Magistrate Judge cannot schedule any matter for trial because of prior settings, disqualifications, or any other reason, the judge shall so

notify the Administrative District Judge (or designee) in writing. Such notice shall give the name of the case, the names of the parties and their attorneys, the nature of the action, whether a court or jury trial, and the estimated length of trial. The Administrative District Judge (or designee) shall then assign the case to another judge for trial.

**7. Caseflow Plans.** All cases filed in the 2nd Judicial District will be subject to Caseflow Plans as adopted by the 2nd Judicial District and approved by the Idaho Supreme Court. This includes:

- Felony Criminal Caseflow Management: Effective April 5, 2016.
- Child Protection Caseflow Management: Effective June 27, 2016.
- Misdemeanor Criminal Caseflow Management: Effective date TBA.
- Family Law Caseflow Management: Effective date TBA.
- Juvenile Caseflow Management: Effective date TBA
- Civil Caseflow Management: Effective date TBA

**8. District Court Law and Motion Days**

With the implementation of the Odyssey Case Management System in the Second District, and the mandatory electronic filing requirement of May 9, 2018, the court would highly recommend filings be submitted 48 hours prior to any calendar date to allow for processing and routing to necessary staff.

| | |
|---|---|
| Clearwater County | |
| Law and Motion | |
| **Tuesdays** | CALL CLERK TO SCHEDULE |
| | |
| Idaho County | |
| Civil Matters | |
| **Mondays** | CALL CLERK TO SCHEDULE |
| Criminal Matters | |
| **Wednesdays, Thursdays, Fridays** | |
| | |
| Latah County | |
| **Monday** | CALL CLERK TO SCHEDULE |
| 9:00 a.m. | Civil |
| 1:30 p.m. | Criminal |
| | |
| Lewis County | |
| **Tuesdays** | CALL CLERK TO SCHEDULE |
| 1:30 p.m. | |
| | |
| Nez Perce County | |
| Criminal Matters | CALL CLERK TO SCHEDULE |
| **Thursdays** - 1:30 p.m. | Judge Gaskill |
| **Wednesdays** - 9:00 a.m. | Judge Brudie |

Civil Matters

| | | |
|---|---|---|
| **Tuesdays** | - 9:00 a.m. | Judge Gaskill |
| **Thursdays** | - 10:00 a.m. | Judge Brudie |

**9. Magistrate Division Law and Motion Days**

| | |
|---|---|
| Clearwater County | CALL CLERK TO SCHEDULE<br>Civil matters including probate, estate, default divorces, etc. |
| Idaho County<br>**Wednesdays** | CALL CLERK TO SCHEDULE<br>Probate, Defaults, including Divorces, Orders to Show Cause, etc. |
| Latah County<br>**Mondays** | CALL CLERK TO SCHEDULE |
| 1:30 p.m. | Probates, estates, name changes, default divorce, initial appearance on contempt |
| 2:00 p.m. | Shorter motions, e.g., change of venue, default custody, brief custody issues, exemptions from collection, motion to compel discovery, motion for attorney fees |
| 2:30 p.m. | Uncontested guardianships/conservatorships |
| **1st and 3rd Wednesdays** | CALL CLERK TO SCHEDULE |
| 2:00 p.m. | Judge Olds: Civil matters |
| Lewis County<br>**Tuesdays and Thursdays** | CALL CLERK TO SCHEDULE<br>Civil matters including Probate, Default, including Divorces, Motions, Orders to Show Cause, Reciprocal Support Cases, etc. |
| Nez Perce County<br>**2nd and 4th Mondays** | CALL CLERK TO SCHEDULE |
| 3:00 p.m. | Judge Olds: Civil matters. |
| **Thursdays** | CALL CLERK TO SCHEDULE |
| 9:00 a.m. | Judge Kalbfleisch: Civil matters including probate, estate, unlawful detainers |
| 10:00 a.m. | Judge Evans: Civil matters, including probate, estate, unlawful detainers |
| 11:00 a.m. | Judge Merica: Civil matters, including probate, estate unlawful detainers. |
| 1:00 p.m. | Default Divorces |
| 1:15 p.m. | Name Changes, Adoptions, and Unlawful Detainer Actions |
| 1:30 p.m. | Domestic Violence Protection Order Hearings |

| | |
|---|---|
| **Fridays** | CALL CLERK TO SCHEDULE |
| 9:00 a.m., 1:00 p.m. | Judge Olds: Civil matters. |

**10. Lengthy Hearings.** Any motion or hearing which is expected to require more than 30 minutes must be set for a time certain by application made to the Presiding Judge.

**11. Separate Form of Order.** On a written motion or stipulation, the form of proposed order granting the motion or approving the stipulation shall be submitted as a separate document.

**12. Mandatory Rule 16j Orientation**

(A) Attendance. Within 45 days of service of process upon the respondent in all domestic relations cases involving minor children, the parties shall attend a court-sponsored orientation program intended to assist them in minimizing the negative impact of the divorce on their children, unless specifically exempted by the Court.

(B) Verification. A verification or certification of a party's completion of the program shall be included in the case file.

(C) Exemptions. Exemptions may be granted by the Court only upon proof of

(1) prior attendance at the Court's program, which may be shown by a verification or certificate of completion in the case file.

(2) prior attendance at an equivalent program, which shall be shown by affidavit or sworn testimony; or

(3) substantial hardship, which shall be shown by affidavit or sworn testimony.

(D) Re-attendance. The Court may order the parties to attend or reattend the program if the Court believes it to be in the best interests of the children.

**13. Supplemental Order Regarding Parental Responsibilities.** Unless otherwise ordered by the Court, all divorce decrees or temporary orders involving child custody, visitation, support, or alimony will incorporate by reference the supplemental order attached as Exhibit 2 to these rules. A copy of this supplemental order will be attached to each divorce decree or temporary order when presented to the Court for signing.

**14. Hours of Operation**. District Court offices in each county are open for the conduct of the court's public business Monday through Friday (except as provided in I.C. §1-1607 and §73-108) at the following times:

| | | |
|---|---|---|
| Clearwater County | | 8:30 a.m. to 5:00 p.m. |
| Idaho County | | 8:30 a.m. to 5:00 p.m. |
| Latah County | M W | 8:30 a.m. to 5:00 p.m. |
| | T Th F | 8:00 a.m. to 5:00 p.m. |
| Lewis County | | 9:00 a.m. to 5:00 p.m. |
| Nez Perce County | | 8:00 a.m. to 5:00 p.m. |

**15. Attorney Fee Awards in Default Judgments.** Before a default judgment may be obtained , if any attorney's fees are sought, the attorney shall present an affidavit stating the nature of the services performed, the number of hours spent, the attorney's hourly rate, a statement of the level of experience and expertise of the attorney, and a statement that the number of hours spent and the hourly rate charged are fair and reasonable according to the standards of the local community. Failure to comply with this rule shall result in a denial of attorney's fees.

**16. Effective Date.** The effective date of these rules (following approval and publication by the Supreme Court) shall be February 16, 2018, at which time all prior rules of the District Court of the Second Judicial District are rescinded. A copy of this Order will be published in the Idaho State Bar Desk Book, shall be filed by the Clerk of Court in each County with such other Administrative Orders of the Court, and shall be prominently posted in a public place in each courthouse.

**BY ORDER OF THE DISTRICT JUDGES**
**OF THE SECOND JUDICIAL DISTRICT**

**Exhibit 1**

**Certificate of Readiness for Trial and Request for Trial Setting**

**In the District Court of the Second Judicial District of the State of Idaho,**
**In and for the County of _____**

| | | |
|---|---|---|
| _____ | ) | Case No._____ |
| Plaintiff, | ) | |
| vs. | ) | CERTIFICATE OF READINESS FOR |
| | ) | TRIAL AND REQUEST FOR TRIAL SETTING |
| _____ | ) | |
| Defendant. | ) | |

1. Type of action

2. Court or jury case

3. Jury trial timely demanded according to I.R.C.P. 38(B)

4. Names and addresses of opposing counsel

5. Estimated trial time

6. Trial dates not available to counsel requesting setting

7. Name of member of firm or associate who will try case

8. If jury case, have parties agreed on fewer than 12 jurors?

9. Pretrial Requested

10. Has all discovery been completed by the undersigned?

I certify that this case is at issue as to all parties and that this request was served on opposing counsel on the _____day of _____, 20___, and I ask that this case be set for trial.

Dated: _____

_____
Name of Attorney
Attorney for _____
Address, _____
_____

**Exhibit 2**
**Supplemental Order Regarding Parenting Responsibilities**

**In the District Court of the Second Judicial District of the State of Idaho,**
**In and for the County of _____**

| | | |
|---|---|---|
| _____, | ) | |
| Petitioner | ) | Case No._____ |
| vs. | ) | |
| | ) | **Supplemental Order Regarding** |
| _____, | ) | **Parenting Responsibilities** |
| Respondent | ) | |

## 1. INTRODUCTION

Specific questions as to your rights and duties regarding custody, support, visitation, personal conduct or other matters should always be answered first by looking at the terms of your Divorce Decree and/or Child Custody Order. The following general rules are intended to give you guidance when your decree or custody order is silent, or unclear. Keep in mind that children need as much continuing contact with both parents as is reasonably possible under the circumstances. If either parent tries to improperly deny, diminish or discourage the custody or visitation rights that the court has set up in your decree or custody order (or in these supplemental provisions), it can be taken into consideration by the court at any future hearings.

## 2. GENERAL RULES OF CARE AND SUPERVISION

When you have the care and supervision of your children, you will provide them with a reasonable standard of living, taking into account your resources and financial abilities. When your children are present, or if you are corresponding with them, do not refer to the other parent in a disrespectful or insulting way, nor permit anyone else to do so.

## 3. VISITATION, CORRESPONDENCE, & CUSTODY

**(A) Reasonable Visitation Rights**. If you have been given "reasonable" visitation rights, you may visit the children at such times and places as does not unreasonably interfere with the normal activities of the children *and* the custodial parent. What is "reasonable" may depend upon the age of the children, where you and your ex-spouse live, the mental and physical health of everyone in the family, and other factors of proper concern to you, the other parent, the children, *or the court*. Failure to provide child support does *not* by itself cancel visitation rights.

**(B) Alternative Visiting Sites**. If a custodial parent asks the visiting parent to find a place to hold visits outside of the custodial home, the visiting parent must find a suitable place to do so. If a visiting parent wants to take the children to activities away from the custodial home, the custodian will have the children ready, clothed and equipped for the planned activities. (Such a request should not require the custodial parent to make extraordinary purchases.)

**(C) Schedule Conflicts**. If a child wants to do something which could interfere with a parental visit, the custodial parent must obtain the visiting parent's approval before encouraging or permitting the conflicting activity. The visiting parent, however, should not unreasonably withhold consent to the child's activities. Both parents are to be flexible in working out arrangements, and in the event of conflicts in scheduling, they should not adhere rigidly to the arrangements set forth in the Decree or Custody Order. If the visiting parent is unable to visit at a certain scheduled time or the children cannot be available, then every effort must be made to work out a compromise so that the visiting parent can still spend time with the children to assure the frequent continuing contact anticipated by the custodial arrangement.

**(D) Correspondence**. The noncustodial parent may correspond with the children, and the custodian shall not censor such correspondence.

**(E) Joint Physical Custody**. Where the court has awarded joint *physical* custody it means that the children should spend a significant amount of time living with or under the care and supervision of *each* of the parents.

**(F) Joint Legal Custody**. Where the court has awarded joint *legal* custody, both parents share decision-making rights, responsibilities, and authority for the health, education, and general welfare of their children.

**4. CHILD SUPPORT PAYMENTS**

Payments may be made by check, cashier's check, or money order **payable to the Department of Health and Welfare** and should include the name of the recipient, the county, and the case number in order to assure that proper credit is given and to avoid delays in processing the payment. Child support payments must be sent to: State of Idaho, Child Support Receipting, Post Office Box 70008, Boise, ID 83707

**5. NOTICE OF LIEN & AUTOMATIC IMMEDIATE INCOME WITHHOLDING**

The support order is enforceable by a lien which arises automatically upon a child support delinquency, pursuant to Title 7, Chapter 12 of the Idaho Code and by automatic and immediate income withholding under Title 32, Chapter 12 of the Idaho Code. The automatic and immediate 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.

**6. MEDICAL, DENTAL AND OPTICAL NEEDS OF THE CHILDREN**

Unless otherwise specified in the decree or custody order, both parents are jointly responsible for the medical, dental and optical needs of their child(ren) until each child reaches 18 years of age (or 19 if enrolled full time in high school.) The parent paying child support shall obtain medical insurance for the child(ren), if available at a reasonable cost, which will ordinarily be the case for employment-related group health insurance. The Court may issue a Qualified Medical Child Support Order or other order if necessary. Each parent will pay their share of medical costs over and above what insurance will pay. Any health care expense which would result in an out-of-pocket cost of $500 or more to the parent who did not incur the expense must be approved beforehand in writing by both parents, or by order of the Court, except under

extraordinary circumstances. The Court may subsequently divide this expense in its discretion between the parents. Consent for treatment must not be requested or withheld unreasonably.

**7. NOTICE OF MEDICAL SUPPORT ORDER**

Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214K, Idaho Code, and applicable rules of the department.

**8. INTERFERENCE**

Neither parent will intrude upon the privacy of the other or interfere with the other parent's rights under the decree or any other order of the court. Neither parent is to say or do anything which undermines or questions the other parent's authority and right to discipline the children in a reasonable manner. Neither parent is to make insulting or critical statements about the other parent, or that parent's family and friends, nor are they to imply anything derogatory about the other parent.

**9. DOMESTIC VIOLENCE**

If either parent or the children are victims of domestic violence (that is, physical injury, sexual abuse, or forced imprisonment, or threats thereof) the parent can ask the prosecuting attorney to file a criminal complaint. A parent may also have the right to file a petition in Magistrate Court requesting an order for protection from domestic abuse. The forms needed to obtain that protection order are available from the Clerk of the District Court.

**10. CONTEMPT**

Violation of any of the orders of the court, including the Decree of Divorce, any subsequent orders, or this order, may be considered contempt of court, and is punishable by fines and/or jailing.

**11. ENFORCEMENT**

Either parent having knowledge of a violation of this order, or the Decree, or Custody Order may ask the court, under oath, to hold the other parent in contempt. The parent who makes the claim may need to present evidence of the violation to the court. A parent who makes a frivolous or bad faith claim can be punished. For these reasons, among others, it is preferable that such claims be made through an attorney.

**BY ORDER OF THE DISTRICT COURT**
**OF THE SECOND JUDICIAL DISTRICT**
**OF THE STATE OF IDAHO**