

Family Law Caseflow Management Plan for Idaho's SEVENTH District

Statement of Purpose

This caseflow management plan will be administered consistently with Idaho's Statewide Caseflow Management Plan. It applies to the management of the following types of cases: divorce with children, divorce without children, child custody, legal separation, annulments, paternity, child support, de facto custodian, and modifications of any of the aforementioned case types.

The purposes of this plan are to ensure fair, just, and timely case resolution in the courts of the SEVENTH District by:

1. Preventing unnecessary delay in case processing.¹
2. Ensuring that each case receives individual attention proportional to need in order to ensure a just result in each case.
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 trial court administrators have consistent, meaningful case management information to inform their efforts.

Section 1: Assignment of judges in the SEVENTH District

All magistrate judges are assigned matters specified in Idaho Code 1-2208 and Chapter 23, Title 1, Idaho Code. Additional matters may be assigned by the administrative district judge pursuant to Idaho Code 1-907. In addition, the Idaho Supreme Court may, by rule, specify additional categories to magistrate judges pursuant to Idaho Code 1-2210.

Backup judge coverage may be provided in instances of scheduling conflicts, judicial conferences, vacations, illness, etc., by assignment to both senior and sitting judges, as available.

The administrative district judge in each judicial district is responsible for the overall assignment of judges and caseloads to ensure effective caseflow management. Each administrative district judge considers carefully the number and types of judges available within the district, as well as the availability of senior judges. Other considerations include population density, distribution and mix of caseloads, number of counties, geography and driving distances, the feasibility and desirability of specialization of caseloads, and societal and workload trends. The administrative district judge and trial court administrator continually monitor the assignment of judges and the effective use of existing resources.

Judicial assignments for the hearing of family law cases in the SEVENTH District are set forth in the Idaho State Bar Desk Book and are modified from time to time. [Optional: They are also

¹ 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."

included in local rules, which are available on district court websites or on the Idaho Supreme Court website at <http://www.isc.idaho.gov/district-courts>].

Section 2: Management of Family Law Cases

Section 2.1: Idaho Time Standards for Processing Family Law 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 towards 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.

Judges, clerical staff, and trial court administrators consistently monitor time standard reports each month 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 current time standard for family law cases (new filings only) is 180 days from the filing of the petition to disposition. The revised time standards that have been approved by the Idaho Supreme Court for piloting to begin in 2015 are:

| | |
|---------------|--|
| New Cases | 75% within 120 days 90% within 180 days 98% within 365 days Measured from filing of the petition to disposition (entry of judgment) |
| Modifications | 75% within 120 days 90% within 180 days 98% within 270 days Measured from the filing of the petition to modify to disposition (entry of judgment) |

Section 2.2: Assignment of Cases

The purposes of a case assignment policy are 1) to establish for the district the process by which cases will be assigned (individual case assignment or an alternative calendar system), 2) identifying cases in which continuity of judicial attention is important, 3) to designate the instances in which cases involving the same parties or members of the same family (regardless of case type) will be assigned or consolidated for adjudication by the same judge, and 4) to put in place case assignment

processes that ensure the public that the assignment of cases to judges within the SEVENTH District is not susceptible to control or manipulation by parties or attorneys.

The SEVENTH District employs an INDIVIDUAL JUDGE case assignment process for family law cases:

Family law cases are assigned to individual judges at the date of filing, and unless a disqualification is filed, or a judge retires, the family law case remains with that judge until final disposition and all future modifications.

Cases are assigned to judges using the following procedure:

In Bingham County one judge is assigned all juvenile case filings, criminal domestic violence charges and NCO's, and child protection case filings, and the second Bingham judge is assigned all the divorce filings and civil protection orders (CPO's).

In Bonneville County one judge is assigned all juvenile case filings and child protection case filings; another judge is assigned to hear most of the 14 day and 90 day civil protection orders, all criminal No Contact Orders, and divorces with parties that have CPO's filed (some assigned judges with divorces hear the CPO's); one out of county judge is assigned to hear about 45% of the divorce filings, and the other 55% of divorce filings are evenly divided between the three local judges. Additionally, two out of county judges (Fremont and Teton), preside over reopened divorces previously assigned to the judges they replaced.

Unique to the 7th Judicial District, initiated in 2013 as a **divorce case management pilot program**, an experienced senior divorce judge is assigned all new and reopened divorces in Jefferson and Madison Counties; but both of the local judges retain all juvenile and child protection and civil protection orders case filings.

In the other six counties (Butte, Clark, Custer, Fremont, Lemhi, and Teton Counties), the resident magistrate judges preside over all family law cases.

The SEVENTH District adheres to the provisions of IRFLP 110 in responding to recusals, disqualifications, and the need for additional judges to handle lengthy trials by assigning cases to other sitting judges or senior judges assigned to the district.

Section 2.3: Service, Joinder of Issues and Engagement of Counsel

Delay in, or failure of, service of process, joinder of issues, and engagement of counsel often lead to long delays in the commencement of a family case or to a case's dismissal for failure to take action. Problems with service of process and joinder of issues are particularly likely to arise in cases where the plaintiff is self-represented. It is important for defendants to have an adequate opportunity to consult or retain counsel not only to protect their legal rights but also to facilitate the earliest

resolution of civil cases. However, persistent failure to obtain counsel is also a cause of unnecessary delay.

The SEVENTH District follows these practices in helping self-represented litigants to complete service of process:

All deputy clerks who have divorce/family law scheduling responsibilities, pursuant to an Administrative Order, shall at least monthly review all cases that are 140 to 150 days old without service or an ANSWER filed, send out a “Notice of Pending Dismissal” if no service has been docketed. When a “Notice of Pending Dismissal” is mailed, the local county’s list of process servers may be included in the letter. Upon mailing the Dismissal Notice, the judicial clerk needs to calendar or tickle the case for 20 days for entry of a Judgment of Dismissal. Best practice is to send the dismissal for inactivity before the expiration of 150 days, so the dismissal can be recorded by the 180 days.

The SEVENTH District follows these practices in helping self-represented defendants to complete the preparation and filing of an answer and obtain counsel in a timely manner:

If a self-represented litigant (SRL) appears for any scheduled hearing or other matter, the self represented litigant will be referred to the Court Assistance office or Family Court Services.

The SEVENTH District carefully follows the provisions of IRFLP 120 in dismissing civil cases for failure to take action and in allowing their reinstatement.

Divorce Judges and clerks consistently refer self-represented litigants to the court assistance office for further information and assistance with these processes.

Section 2.4: Proactive Case Management/Early and Continuous Assessment

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 District adopts a proactive case management approach that monitors the progress of all family cases and proactively intervenes in every case that is not progressing satisfactorily. 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.

The court maintains early and continuous control of all cases from initiation through post-disposition proceedings by the use of:

- Assessment of the need for interpretive services;
- Case assessment to determine the most appropriate plan for managing a case, including referral to family court resources and services;
- Scheduling orders and conferences for purposes of achieving date certainty;
- Management of discovery and motion practice in accordance with the Idaho Rules of Family Law Procedure;
- Realistic setting of trial dates and time limits;
- Court control of continuances for purposes of fostering early 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.

Differentiated Case Management (DCM) is an effective case management tool that involves formally screening cases at initiation and assigning them to a predefined “case track” that is proportionate to the needs of that case. Districts have the option of employing a DCM process. If used, judges have the discretion to move a case from its assigned path to one that is more appropriate, given the developments in the case.

The court uses the following criteria when utilizing differential case management or otherwise proactively managing a family case:

- Whether there are pending child protection, juvenile delinquency, guardianship, or other cases involving the same family including criminal histories;
- Number of parties;
- Whether the parties are represented by counsel;
- Whether the issues in the case will be contested;
- Whether the case involves minor children; cases involving younger children may need special attention;
- The length of the marriage or whether the parties were never married;
- Whether a party is in the military and/or out of state;
- A history of, or evidence of the existence of, domestic violence, substance abuse, child abuse, or mental health issues;
- Complexity of factual and legal issues, for example, the amount of and nature of property involved in the case, children’s behavioral issues, children’s special needs, or the level of parental conflict; and
- Likelihood of going to trial/informal custody trial and estimated length of trial.

The SEVENTH District uses the following processes to ensure that family law cases are assessed early and managed proactively and on an ongoing basis:

- **All presiding divorce judges should ordinarily calendar a SCHEDULING CONFERENCE within 40 to 50 days after an ANSWER is filed, or hold a Scheduling Conference at another earlier hearing that may already be scheduled in the case.**
- **New uniform district-wide SCHEDULING CONFERENCE WORKSHEET and ORDER forms will be developed and implemented (Attachment 1 and 2),**

Idaho Courts are committed to resolving family cases through the combined efforts of the courts, the family, and community services—in ways that are least adversarial and intrusive. Therefore, a continuum of services and inter-disciplinary professional collaboration with the court is needed. There are finite resources available to Courts and families for case resolution. Further, one size does not fit all families.

The SEVENTH District uses the following process for assigning cases to Family Court Services or other appropriate services:

- **Upon the filing of all new divorce filings involving children; or modifications, the deputy clerk receiving the documents will generate a computer generated *Order to Attend Focus on Children Class* (Attachments 3 and 4)**
- **When both parties are self-represented, after an ANSWER is filed, a new district wide SCHEDULING ORDER form will direct self-represented litigants to a Family Court Services appointment. Once a SCHEDULING CONFERENCE is concluded, copies of SCHEDULING ORDERS shall be forwarded to Family Court Service.**

Teleconferencing and video conferencing are permitted by IRFLP 118 and are used as a means of reducing delay and expense.

OPTIONAL DCM SECTION:

The SEVENTH District uses the following process for assigning cases to tracks:

For those cases that will be litigated by a trial and do not resolve after mediation, or a brief focused assessment, a priority in the 7th District is to educate the Bar and judges on the availability, viability, and success of INFORMAL CUSTODY TRIALS.

INFORMAL CUSTODY TRIALS have high litigant customer satisfaction, and can be used effectively before any full blown custody trial is scheduled and both sides are represented by attorneys. However, priority should also be given to cases when both parties are self-represented, or when one party has an attorney and the other is self-represented

50/50 resolution should be the exception, and not the rule regarding initial custody/visitation decisions.

Section 2.5: Calendar Setting and Scheduling of Events

Calendar Setting

Most family case hearings are initiated by the court, based on the results of its monitoring the progress of the case. Each judge presiding over an individual calendar controls and sets his or her own calendar

When an attorney or party determines that a hearing is warranted, for judges presiding over an individual calendar, the party or counsel contacts the clerk of the presiding judge to calendar a matter for a time certain.. All calendar settings are made within the applicable time standards; setting outside of an applicable time standard are made only upon showing of good cause and upon order of the presiding judge.

Scheduling complies with the time standards adopted by the Idaho Supreme court.

Family cases are set for trial at the time of the scheduling conference unless otherwise ordered by the court.

The SEVENTH District follows these practices to avoid scheduling conflicts for parties, counsel, interpreters, and court reporters in family cases:

All divorce judges schedule within 40 to 50 days after an ANSWER is filed, a SCHEDULING CONFERENCE using a district wide form. The services provided by Family Court Services will be listed on the SCHEDULING CONFERENCE FORM and can be ordered to ensure “best interest of the child” and timeliness to avoid scheduling delays and conflicts.

The SEVENTH District follows these additional practices to maximize the efficient use of the time of judges, court staff, attorneys, and expert and lay witnesses:

- At the time a divorce filing is made, a district-wide ISTARs form is generated by the deputy clerk– *ORDER REGARDING MOTIONS FOR TEMPORARY ORDERS* (Attachment 5) that instructs both parties that motions will be heard on arguments and affidavits.
- At the time a divorce filing is made, a district-wide ISTARs form is generated by the deputy clerk- *JOINT TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION AND NOTICE REGARDING PARENTS WITH DISABILITIES* (Attachment 6).
- When appropriate, motions are stacked but set for an “hour certain”, and trials are double set.

Scheduling of Events

All scheduled case events are meaningful events, defined as events that (a) move a case towards disposition and (b) prompt the attorneys and parties to take necessary action. Scheduling and conducting events that are not meaningful creates unnecessarily long lapses, having potentially negative impacts on the families. 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 family law cases that will be tracked in the case management system and monitored for informational and case management purposes:

| | |
|---|---------------------------------|
| Service of summons | Mediation completed |
| Completion of co-parent education or waiver | |
| Filing of responsive pleading | Assessment/evaluation ordered |
| Case screening | Assessment/evaluation completed |
| Scheduling order | Discovery cutoff date |
| Motion for temporary order | Filing of dispositive motion |
| Order on motion for temporary order | Pre-trial conference |
| Ordered to mediation | Start of trial |

The following guidelines are used to ensure that case events are meaningful.

- A scheduling conference is set by the court clerk or a scheduling order is issued shortly after an answer is filed [see IRFLP 701].
- A trial date is set at the scheduling conference. Attorneys are responsible for maintaining their availability for the trial date set.
- Attorneys come to the scheduling conference prepared to provide a list of available dates and reasonable estimates of the time necessary to a) prepare for trial and b) actually try the case.
- The judge controls the calendar. Requests for continuances are considered by judges in accordance with Section 2.10 of this plan.
- Scheduling orders and discovery will conform to IRFLP. Mediation is encouraged in every appropriate family case and the deadline for completion of mediation is included in a court order.

The SEVENTH District follows these practices to ensure that all scheduled events in family cases are meaningful:

Specifically, at the time of filing, the judge (by /s/ signature) AND CLERK RECEIVING the divorce filing will initiate the following actions using district-wide ISTARS generated forms:

- **Hand out the standardized computer generated Order to complete the co-parent education Focus on Children class, automatically with the filing of a complaint (Attachment 3 and 4 - Order to Attend Focus on Children Class - New Cases and Modifications) Discussion and a plan needs to be developed to ensure the other 9 counties, besides Bonneville County, has access to the modification class)**

- Hands out an ISTARs generated form – ORDER REGARDING MOTIONS FOR TEMPORARY ORDERS (Attachment 5) that instructs parties regarding the filing of temporary orders automatically with the filing of a complaint
- Hands out an ISTARs generated form – JOINT TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION AND NOTICE REGARDING PARENTS WITH DISABILITIES (Attachment 6)

Before the scheduling conference, the judge will

- Set a scheduling conference 40 to 50 days after an answer is filed

At the time of the scheduling conference, the judges will, at a minimum, take the following actions -

- Set a pre-trial conference and trial date at the time of the scheduling conference
- Requires that parties comply with the mandatory disclosures prior to or at the time of the scheduling conference, unless otherwise ordered
- Sets discovery deadlines
- Sets motion deadlines
- Reviews the resources provided by Family Court Services and orders screening, brief focused assessments, parenting time evaluations, or other services as needed
- Orders mediation and selects a mediator from nominations made by the parties, and sets a deadline for mediation
- Determines whether the parties are going to request a child interview through Family Court Services or an in camera interview by the court
- Determines whether a Guardian ad litem is necessary in the case, appoints one as needed, and provides for payment of the Guardian ad litem
- Determines whether experts, valuations or other third parties are going to be used and sets necessary deadlines for those events
- Asks parties or their attorneys whether an informal custody trial could be utilized

Immediately after the scheduling conference the Court issues a scheduling order reflecting the orders and deadlines set at the scheduling conference.

Section 2.6 Motion Practice

Motion practice conforms with Idaho Rules of Family Law Procedure, Chapter V.

The substance and need for motions varies widely and are most likely to be filed by attorneys rather than self-represented parties. Since 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 conference and 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 by court rule or court order by stipulation without authorization of the court and permit modification only as necessarily and, if possible, without disturbing firm trial dates.

The court should adhere to the following general guidelines when creating scheduling orders:

- Dispositive motions are filed pursuant to IRFLP Chapter V but can and should be set earlier in the case.
- 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.
- 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.
- Courts diligently consider and rule on motions, in compliance with the requirements of the Idaho Constitution, and to prevent unreasonable delay.
- Informal methods should be adopted for consideration and resolution of motions, such as conducting hearings of non-dispositive motions by teleconferencing.

The court should adhere to the following general guidelines and rules when considering motions:

Bonneville County continues to utilize a “discovery motion judge”

All divorce motions should be set within 30 days or less; if a judges calendar does not allow timeliness, a senior judge should requested to ensure motion calendars remain current, or a judge or clerk should be trained how to fit discovery motions into a court calendar

Motions for Custody Evaluations should be considered only when necessary, with special attention to the issues of alienation, mental health of parties or child; child development issues; alcohol/substance abuse issues; domestic violence; and sexual abuse allegations

The SEVENTH District follows these procedures for the filing, hearing, and disposition of motions in family law cases in a timely manner:

Family Law Judges accommodate-

- **Telephonic and/or video hearings for non-evidentiary issues**
- **Motions could be decided without hearings. Particularly TRO’s on affidavits**

Section 2.7: Discovery Practice

Discovery is a significant portion of the litigation time and expense. Therefore, management of discovery is also 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 case

management order manages the time and expense devoted to discovery while promoting just dispositions at the earliest possible time.

- Discovery in civil cases is generally governed by IRFLP Chapter IV.
- Courts have the authority to manage discovery as justified, pursuant to IRFLP 402, and do so in scheduling/trial orders consistent with the guidelines set forth above.
- Discovery deadlines are firmly set in scheduling/trial orders and adhered to by the parties and the Court. However, judges do not allow the deadlines contained in scheduling/trial orders to be used as a basis for failing to timely respond to or supplement properly served discovery, including requests for disclosure of trial witnesses and/or exhibits. Courts do not allow the parties to modify discovery deadlines by stipulation without authorization of the court and permit modification when necessary, preferably without disturbing firm trial dates.
- Motions to compel discovery responses strictly comply with IRFLP 443, requiring parties to make every reasonable effort to resolve discovery disputes without court intervention.
- Court sanctions, pursuant to IRFLP 443-448, are used to curb abuses of the discovery process, including deliberate delay.

The SEVENTH District follows these procedures to facilitate the exchange of discovery materials in family cases:

On a case by case basis, family law attorneys urge judges to use sanctions for unresponsive or dilatory discovery.

Motions to compel should be timely heard pursuant to IRFLP.

Mandatory disclosures are monitored and deadlines enforced at the time of the scheduling conference.

Discovery deadlines are set at the scheduling conference and set forth in the scheduling order.

The SEVENTH District follows these procedures to assist self-represented petitioners and respondents with discovery issues:

In cases with attorneys on one side and a self-represented litigant on the other side, judges in open court need to effectively use the SCHEDULING CONFERENCE to set discovery deadlines, and order the self-represented litigant to a Court Assistance workshop ; and if necessary use sanctions, strike pleadings, charge fees.

Committee has prepared for circulation *Guidelines for Self Represented Litigants for Family Law Discovery*

Section 2.8: Early/appropriate case resolution processes

All structured dispute resolution processes conform to the governing court rule or statute applicable to a specific case. Appropriate dispute resolution in family law cases is governed by IRFLP, Chapter IV. Settlement conferences are governed by IRFLP 701. As early as practical, the court shall in every case consider the appropriateness of all forms of dispute resolution, including education, mediation, or settlement conferences, 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 resolution in all such cases as deemed appropriate.

Mediation is encouraged in every civil case and the deadline for completion of mediation is included in the scheduling order.

IRFLP 603 addresses mediation in civil lawsuits. IRFLP 602 addresses mediation in child custody and visitation disputes. All mediation is conducted in conformance with the *Uniform Mediation Act*, Idaho Code §9-801, *et. seq.*, or as amended and ordered by the authorizing court.

The SEVENTH District has established the following programs to facilitate the earliest possible resolution of family cases:

- Consistent use of scheduling conferences and a scheduling conference worksheet throughout the district.
- Mediation is ordered, mediators selected, and deadlines set at the time of the scheduling conference. Waivers may be granted on a case by case basis as determined by the court.

Section 2.9: Pretrial Case Management

Implementation of standard pretrial management practices for cases that are very likely to proceed to trial, such as holding meaningful pretrial conferences, 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, IRFLP 704, and/or any other issues or concerns unique to each case.

The following guidelines are used for pretrial case management:

- Consider the need for interpretive services.
- Final pretrial conferences and any pretrial submissions ordered by the presiding judge are required at least 14 days before a trial, or more frequently as needed.
- Deadlines are set for dispositive motions and motions in limine. Dispositive motions are filed early enough that they are heard by the court at least 60 days before the pretrial

conference, allowing the court to make a ruling before the final pretrial conference. Motions in limine are filed early enough that they are heard by the court no later than the date of the pretrial conference.

- Scheduling orders reference IRFLP 702 and inform attorneys that they are to be prepared to discuss such matters at the pretrial conference.
- Disclosure of witnesses, pursuant to IRFLP 401, occurs 42 days before trial.
- Participation of children, pursuant to IRFLP 119, including motions to allow child testimony are filed 28 days prior to trial.

The SEVENTH District follows these procedures as part of its management of the pretrial stage of family cases:

- **Mandatory SCHEDULING Conferences as per the rule**
- **Attorneys need to be prepared to address calendaring, deadlines, issues, motions and all other events listed in the scheduling worksheet**
- **List of witnesses and exhibits needs to be delineated in the Pretrial Order**
- **All final stipulations should be put on the record or in writing signed by counsel**

The SEVENTH District follows these procedures to ensure the time allotted for trial is appropriate:

Judges get counsels' agreement as to the necessary time for trial at the scheduling conference. At the time of trial, the Court monitors the time to assure both sides get equal time within the allotted time agreed to by counsel.

Section 2.10: Continuances

Subject to IRFLP 104.F, continuances are requested by a written motion setting forth the basis of the motion. The motion also sets forth all prior continuances requested in the action. If a basis for the continuance is a conflict in a schedule, a copy of the court notice constituting the conflict is attached to the supporting affidavit. Any motion for a continuance of a trial date is signed by the litigant as well as by counsel.

A party objecting to the requested continuance may, but is not required, to file a written objection to the motion.

In accordance with IRFLP 104, a party may request oral argument on a motion for continuance. In its discretion, the court may deny oral argument. A joint or stipulated motion for a continuance is not binding on the court (IRFLP 104.F).

In family law cases, the factors the court considers in determining whether to grant a motion to continue include but are not limited to:

- The reason for the request and when the reason arose;
- Whether the reason for the request was within the control of counsel or was otherwise reasonably foreseeable;
- Whether granting or denying the motion would unfairly prejudice either party;
- The number of continuances previously granted;
- The age of the case;
- The days remaining before the trial date;
- Whether the case can be tried in the time allotted; and
- Whether all of the named parties agree to the continuance.

The judges of the SEVENTH District have adopted the following policy governing continuances in family law case

Stipulations for Continuance prepared by attorneys are required to delineate the specific reasons for the continuance; and if required by the court, should also include the signatures of the litigants showing both sides consent to the continuance.

Section 2.11: Management of Trials

Family law hearings and trials are scheduled to proceed on consecutive days from commencement to conclusion. Trials are conducted so as to make the most effective use of the time of witnesses, interpreters, judges, attorneys, and court staff.

The judges of the SEVENTH District adhere to the following practices to minimize the amount of time and resources required to conduct family trials, and to minimize the inconvenience to parties and witnesses, consistent with constitutional principles of fairness and due process of law:

The SEVENTH District maximizes the certainty that a trial will commence on the date set by:

All trials require a judge to schedule a Pretrial Conference at least 14 days before the trial date to review and rule on any outstanding discovery issues; ensure all third party evaluation have been completed and reviewed by the parties, that stipulations have been made part of the court record, and all alternatives to trial and offered by Family Court Services have been exhausted. Judges must pro-actively manage the attorneys (*from an attorney perspective, expectations and consistency by judges are important, and uniformity between judges helps develop consistent expectations*)

Section 2.12: Preparation and Entry of Judgment

A considerable portion of the time required to resolve a family case occurs after the case has been resolved. This is particularly true in cases in which both parties are self-represented.

The SEVENTH District takes the following steps to ensure timely presentation of a judgment in family law cases involving an attorney or attorneys:

If the case settles before trial, the judge provides a deadline for preparation and submission of the judgement; preferably between 48 hours to two weeks depending on the number of issues.

The judge’s clerk tickles and monitors the submission of judgment, and if the deadline passes, the expectation is the clerk immediately calls the attorneys and/or notices an “inquiry as to status” hearing date on the judge’s calendar.

If the case settles at the courthouse steps or just prior to the trial date; the trial is vacated, but attorneys are always required to put the terms of the settlement on the record before the parties and witnesses are released.

The SEVENTH District takes the following steps to ensure timely presentation of a judgment in family cases in which no attorney is involved:

If the parties are self-represented, the court prepares the final judgment after a trial. If the parties announce a settlement at the courthouse steps, the judge requests the terms of the settlement be put into the court record, and a deadline for final submission is also put into the court record, and deadline date will be put on the judge’s calendar with the requirement the parties shall appear if the judgment is not timely submitted before the deadline.

If one side has an attorney and the other side is pro se, the attorney prepares the judgement.

The SEVENTH District takes the following steps to ensure timely preparation of an order of protection:

In Bonneville County efforts are communicated to all stake holders to have Protection Orders prepared and delivered to law enforcement for service on a routine daily basis between 3:00 and 4:00p.m to ensure entry by law enforcement.

Section 2.13 – Contempt Motions

Rule 822 of the Idaho Rules of Family Law Procedure confirms that contempt motions and proceedings are still governed by Rule 75 of the Idaho Rules of Civil Procedure. Frequently, post judgment proceedings in family law cases involve allegations of contempt of the court’s orders concerning delivery of property, payments of debts, payment of child support, and/or child custody and visitation. Contempt motions may be filed before or during modification proceedings. Courts should consider joint trials of simultaneously pending contempt and modification motions.

The SEVENTH District takes the following steps to ensure timely disposition of contempt proceedings in family cases that also involve a pending motion or petition to modify child custody, visitation, and/or child support:

The court will issue a *Notice of Intent to Dismiss* if the affidavit and contempt motion is non-compliant with Rule 75.

SPECIAL NOTE – the *Joint Preliminary Restraining Order* needs to be implemented district-wide in all ten counties. A number of counties/judges at the present time do not issue the *Joint Preliminary Restraining Order* at the time of filing.

The SEVENTH District takes the following steps to ensure timely disposition of contempt proceedings in family cases that do not also involve a motion or petition to modify child custody, visitation, and/or child support:

Judges should consider joint trials of simultaneously pending contempt and modification motions.

Section 3: Effective and Consistent Monitoring of Case Management Reports

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:

- 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.
- Administrative district judges and trial court administrators 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.
- Court clerks monitor case management reports regularly to ensure that all pending cases are scheduled for meaningful events through disposition.

It is the responsibility of individual courts to ensure that data entry practices are consistent with statewide uniform business practices thus resulting in accurate and reliable case management information.

The SEVENTH District uses these procedures to ensure effective use of data reports for monitoring the progress of family law cases:

1. Implementation of monthly clerk cleanup for all domestic relation cases (at least every 30 days or 12 times a year) Most likely when the new Case Management System is implemented, a clerk cleanup and auditing will be at least weekly and most likely on a daily basis.
2. Family law judges continue to diligently work with their clerk on a monthly basis to review the list of all of their pending family law cases, and personally ensure a next action/hearing date is scheduled by their clerk for each individual case.

Section 4: Checking the Status of Pending Case Matters

Judges understand that decisions are to be issued in a timely way, pursuant to Art. V, Sec. 17 of the Idaho Constitution. Therefore, judges willingly accommodate requests by attorneys and/or parties seeking the status of matters under advisement or other pending case matters, without negative consequence to those seeking that status report. To assist the attorneys and/or parties in this regard, judges follow these practices:

- When additional briefing or materials are necessary before the judge considers the matter under advisement, the judge sets deadlines for submission of the briefing or materials clear to the attorneys and/or parties.
- 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. Districts should consider a local rule implementing this protocol.

Clerks will receive training to fulfill requests for the status of a case, proceeding or pending decision, although their report should necessarily disclose only that the matter is still pending, the scheduled timing of future events, or that the decision has been issued.

Section 4: Special Considerations for District Plans

Language Access Services

Federal and state law require 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.
- Outside agencies, such as social workers, law enforcement or correctional facilities notify the court about a LEP individual's need for auxiliary services for an upcoming event.

The SEVENTH District adheres to the following practices to ensure the most efficient use of available certified and non-certified interpreter resources:

The Court will determine at the time of the scheduling conference if an interpreter is needed.

When interpreter services may be required for a family law hearing or trial that involves live testimony in any of the ten counties, the trail court administrator's administrative assistant should be called to secure the necessary resources, and to assist in securing the services of a certified interpreter, and coordinating the payment of services between the Supreme Court and the 10 counties.

The court assistance officer in the 7th District speaks Spanish, and provides court assistance services to those individuals seeking services. Family court services will access interpreter services when necessary.

Self-Represented Litigants

The Idaho Judiciary is committed to ensuring access to justice for self-represented litigants (SRLs). Consistency and predictability are vital to meeting this goal. Self-represented litigants may lack the expertise to manage their cases effectively. There are key points in a case where SRLs can unintentionally stall the progress of a case. The Judiciary's commitment to ensure fair and timely case resolution requires that these and other SRL concerns be addressed. All solutions will look toward effective practices that will not become obstacles to SRLs but will instead facilitate proper notification and access to information for SRLs so that they can more effectively navigate the court system.

The SEVENTH District adheres to the following practices to accommodate the needs of self-represented litigants in obtaining information about their legal rights, about legal processes, and about court proceedings; in obtaining access to legal forms appropriate to their needs and in completing those forms:

A district wide court assistance office provides SRLs services concerning their legal rights, about legal processes, and about court proceedings; in obtaining access to legal forms appropriate to their needs and in completing those forms.

The SEVENTH District adheres to the following practices to accommodate the needs of self-represented litigants in the courtroom

The new district-wide SCHEDULING CONFERENCE WORKSHEET will list a number of check boxes for judges to check that will consider referrals to CAO, Family Court Services, and other issues that may assist SRL's. When both parties are SRLs they will be referred to Family Court Services as soon as the answer is filed.

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 SEVENTH District, judges follow these standard procedures in dealing with requests for video coverage of family law proceedings:

In 20 years the 7th District media has never made a request to report or observe a family proceeding so there is no need for a standard procedure.

Telephonic/Video and other remote appearances

IRFLP 118 authorizes the use of telephone conferencing to conduct hearings. Allowing parties, witnesses, interpreters, 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

In the SEVENTH District, remote appearances are allowed as follows:

The 7TH District encompasses over 20,000 square miles, 10 counties, and all judges allowing telephonic/video appearances for both attorneys and SRLs to participate in non-evidentiary hearing is both a huge time and cost saver.

Video conferencing is available in the courtrooms of all ten counties, and should be considered the better option over telephonic. Supporting and maintaining the video conferencing systems, and being tech savvy in the courtroom for judicial clerks and deputy clerks, needs to be officially in their revised updated Odyssey job description. On-going training of Deputy Clerks on supporting and troubleshooting video conferencing should be routinely provided.

The procedures for arranging a remote appearance are:

Attorneys and litigants, and sometimes out of county judges will request a telephonic or video hearing. When scheduled, the judge's clerk is responsible to establish the connection and determine who is calling and/or initiating the video connection. If more than a "point to point" connection is necessary; Bonneville IT staff or Bingham IT department will need to help establish multiple, concurrent video locations into the courtroom.

Other circumstances unique to the SEVENTH District:

Bonneville County is 42% of the population, but 58 to 60% of the domestic relation cases are filed in Bonneville County, and the 3 resident Bonneville judges are only 23% of the judge time available in the judicial district (3 divided 13 = 23%). Sometimes for the convenience of a judge presiding in Bonneville County (or perhaps another county), the attorneys will agree to having a family law hearing in a different courthouse than the case was filed. The request to have the hearing in another county by the judge creates an uneven playing field. Attorneys do not want to displease a judge. Judges should always travel to the county the case is filed, period. However, if the attorneys and

litigants, on their own motion and not at the request of the judge, desire to have motions heard out of county where the judge is already scheduled; the judge should accommodate such requests.

Section 5: Implementing and Maintaining the Family Law Caseflow Management Plan for the District

Once the District Caseflow Management Plans are established, implementing the plans and keeping them 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 potential future changes include rule amendments, efforts of the Advancing Justice and Children and Families in the Courts Committee to identify and promote effective practices, and efforts of the Judges Associations to develop uniform forms for all Idaho case types.

The SEVENTH District will utilize the following processes to ensure the Family Law Caseflow Management Plan is implemented as intended:

GOAL – standardize district-wide family law scheduling procedures and forms

Specifically, all family law judges will be expected to adopt the district-wide procedure of scheduling a SCHEDULING CONFERENCE within 40 to 50 days of an answer being filed, and adopt a uniform SCHEDULING CONFERENCE ORDER (see Attachment 1)

The SEVENTH District maintains the case management plan through the following process(es):

Schedule regular bench/bar meetings to address and resolve caseflow management challenges and regular judge meetings to maintain consistency in practices within the District, and include the Family Court Services Director and Court Assistance Officer in the meetings.