I.R.C.P. 6.c.2. Order to Show Cause (Other Than Contempt Matters) ñ Affidavits.

Idaho Rules of Civil Procedure Rule 6(c)(2). Order to Show Cause (Other Than Contempt Matters) - Affidavits.

(A) All applications for an order to show cause must be accompanied by an affidavit or supported by a verified complaint setting forth the facts and grounds upon which the application is based. If the court finds that an application makes a prima facie showing for an order commanding a person to do or refrain from doing specific acts or to pay a sum of money, the court shall enter an order to show cause to the opposing party to comply with the request or show cause before the court at a time and place certain why such order should not be entered. An order to show cause must be served upon the party to whom it is directed, or the party's attorney of record in the action, at least five (5) days prior to the date of the show cause hearing in the same manner as a notice for hearing of a motion under these rules. If the party to whom the order to show cause is directed opposes the entry of the order, the court shall hear the show cause proceeding. The order to show cause procedure may not be used to seek a modification of a decree of divorce with respect to child support or custody. Any proceeding for contempt must be brought pursuant to Rule 75.

(B) Any party may elect to produce testimony and evidence at the hearing, or to cross-examine the adverse party and/or the adverse party's affiants, by giving notice to the court and the adverse party at least twenty-four (24) hours before the hearing, such notice shall designate the person(s) sought to be cross-examined. The party against whom relief is sought shall be given written notice of the requirements of this subsection when served with the order to show cause.

(C) If a party timely gives notice of the intent to cross-examine, the adverse party shall have the person(s) designated in the notice present at the hearing, unless otherwise ordered by the court. If the adverse party or such party's affiants are not excused by the court and fail to appear as requested in such notice, the court may impose sanctions as it deems appropriate including awarding attorney fees to the requesting party.

(Amended March 31, 1998, effective July 1, 1998; amended March 24, 2005, effective July 1, 2005; amended March 17, 2006, effective July 1, 2006).

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