I.R.C.P. 45.i.6. Application to Court.

Idaho Rules of Civil Procedure Rule 45(i)(6). Application to Court.

An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under subdivision 45(i)(3) of this rule must comply with the rules or laws of Idaho and be submitted to the court in the county in which discovery is to be conducted or the deponent resides, is employed or transacts business.

(A) Action to enforce a subpoena. An action to enforce a subpoena under this rule shall be brought in accordance with any applicable rule or law of Idaho.

(B) Action to quash or modify a subpoena. An action to quash or modify a subpoena under this rule shall be instituted by the filing of a petition. The petition shall be made promptly, at or before the time for compliance specified in the subpoena. The court may:

(i) quash or modify the subpoena if it is unreasonable, oppressive, fails to allow time for compliance, requires disclosure of privileged or other protected matter and no exception or waiver applies, or subjects a person to undue burden; or

(ii) condition compliance with the subpoena upon the advancement of the reasonable cost of producing the books, papers, documents, electronically stored information or tangible things by the person in whose behalf the subpoena is issued; and

(iii) impose sanctions.

Comment

The rule requires that any application to the court for a protective order, or to enforce, quash, or modify a subpoena, or for any other dispute relating to discovery under this rule, must comply with the law of Idaho. Those laws include Idahoís procedural, evidentiary, and conflict of laws rules. Idaho has a significant interest in protecting its residents who become non-party witnesses in an action pending in a foreign jurisdiction from any unreasonable or unduly burdensome discovery requests, and this is easily accomplished by requiring that any discovery motions must be decided under the laws of Idaho. This protects the deponent by requiring that all applications to the court that directly affect the deponent must be made in Idaho.

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