IRFLP 211 Intervention

Idaho Rules of Family Law Procedure Rule 211. Intervention.

A. Intervention of right. Upon timely application anyone shall be permitted to intervene in an action (1) when a statute of the state of Idaho confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede applicant 's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

B. Permissive intervention. Upon timely application anyone may be permitted to intervene in an action (1) when a statute confers a conditional right to intervene or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

C. Procedure. A person desiring to intervene shall serve a motion to intervene upon all parties affected thereby. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

D. Intervention by Department of Health and Welfare. A motion to intervene brought by the State of Idaho Department of Health and Welfare for the purpose of obtaining, enforcing or modifying a child support order may be granted without hearing, subject to a later hearing upon a motion by an objecting party. Service of the motion and any order allowing intervention may be made by mail to the last known address of each of the parties.

E. Intervention by de facto custodian.

1. A request for de facto custodian status pursuant to Idaho Code Section 32-1704(1)(b) shall be brought by way of a Motion for Permissive Intervention if there is an existing Idaho order of child custody or a pending Idaho proceeding to establish custody with regard to the child or children that are the subject of the request. A child custody proceeding shall not include actions filed pursuant to title 16 of the Idaho Code. The Motion for Permissive Intervention shall be served pursuant to Rule 203 [1] in any pending child custody proceeding. The Motion for Permissive Intervention shall be served pursuant to Rule 204 [2] if the custody proceeding is closed. A Notice of Hearing shall be served along with the motion in accordance with Rule 501.C. [3]

2. If the Motion for Permissive Intervention is granted, a Petition for De facto Custodian Status and Custody may be filed. The petition shall be served and adjudicated in substantially the same manner as an original proceeding. The petition and notice of hearing shall be served upon the parties pursuant to Rule 204 [2] unless otherwise ordered by the court. The Notice of Hearing shall direct

the opposing party to file a written response within 20 days.

(Adopted April 2, 2014, effective for early adopters July 1, 2014, effective statewide July 1, 2015.)

Source URL: http://isc.idaho.gov/irflp211

Links:
[1] http://isc.idaho.gov/irflp203
[2] http://isc.idaho.gov/irflp204
[3] http://isc.idaho.gov/irflp501