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## **IRFLP 804 New Trial; Amendment of Judgment**

### **Idaho Rules of Family Law Procedure Rule 804. New Trial; Amendment of Judgment.**

#### **(a) In General.**

(1) **Grounds for a New Trial.** The court may, on motion, grant a new trial on all or some of the issues, and to any party, for any of the following reasons:

(A) irregularity in the proceedings of the court or adverse party;

(B) any order of the court or abuse of discretion by which either party was prevented from having a fair trial;

(C) accident or surprise, which ordinary prudence could not have guarded against;

(D) newly discovered evidence, material for the party making the application, which the party could not, with reasonable diligence, have discovered and produced at the trial;

(E) insufficiency of the evidence to justify the decision, or that it is against the law; or

(F) error in law, occurring at the trial.

(2) **Support for Motion.** Any motion for a new trial based on any of the grounds set forth in subsections (a)(1)(A)-(D) must be accompanied by an affidavit stating in detail the facts relied on in support of the motion. Any motion based on subsections (a)(1) (E) or (F) must set forth with particularity the factual grounds for the motion.



(3) **Further Action.** On a motion for new trial, the court may open the judgment, if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

(b) **Time to File a Motion for a New Trial.** A motion for a new trial must be filed and served within 14 days after the entry of the judgment.

(c) **Time to Serve Affidavits.** When a motion for a new trial is based on affidavits, they must be filed and served with the motion. The opposing party has 14 days after being served to file and serve opposing affidavits, which period may be extended for up to an additional 21 days by order of the court or written stipulation. The court may permit reply affidavits. All affidavits filed under this rule must meet the requirements of Rule 507.

(d) **New Trial on the Court's Initiative or for Reasons Not in the Motion.**

(1) **On Court's Own Initiative.** No later than 14 days after entry of judgment the court, on its own, may give notice of its intent to order a new trial for any reason for which it might have granted a new trial on motion of a party. A notice of intent pursuant to this subsection is to be treated as a motion for new trial filed by a party for the purpose of these rules and the Idaho Appellate Rules.

(2) **For Grounds Not Stated in Motion.** The court may grant a motion for a new trial, timely served, for a reason not stated in the motion.

(3) **Hearing.** The court must give the parties notice and an opportunity to be heard before entering an order for new trial. The court must specify in the order the grounds for granting a new trial.

(e) **Motion to Alter or Amend a Judgment.** A motion to alter or amend the judgment must be filed and served no later than 14 days after entry of the judgment.

(Adopted March 29, 2021, effective July 1, 2021.)