IRFLP 809 Mistake, Inadvertence, Excusable Neglect, Newly Discovered Evidence, Fraud, Grounds for Relief From Judgment or Order

Idaho Rules of Family Law Procedure Rule 809. Mistake, Inadvertence, Excusable Neglect, Newly Discovered Evidence, Fraud, Grounds for Relief From Judgment or Order.

On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

1. mistake, inadvertence, surprise, or excusable neglect;

2. newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 807.B;

3. fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

4. the judgment is void;

5. the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or

6. any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time, and for reasons 1, 2, and 3 not more than six (6) months after the judgment, order, or proceeding was entered or taken. A motion under this rule does not affect the finality of a judgment or suspend its operation. Such motion does not require leave from the Supreme Court, or the district court, as the case may be, as though the judgment has been affirmed or settled upon appeal to that court. This rule does not limit the power of a court to: (i) entertain an independent action to relieve a party from a judgment, order or proceeding, or (ii) to set aside, as provided by law, within one (1) year after judgment was entered, a judgment obtained against a party who was not personally served with summons and petition either in the state of Idaho or in any other jurisdiction, and who has failed to appear in said action, or (iii) to set aside a judgment for fraud upon the court.

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

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