

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO IDAHO)
RULES OF CIVIL PROCEDURE (I.R.C.P.)) ORDER
_____)

The Court having received a recommendation to amend the Idaho Civil Rules of Procedure, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Rules of Civil Procedure are amended as follows:

1. That the form for a *Summons – Eviction* found in Appendix B and referenced in Rule 4(a)(3)(A) is amended as follows:

TO THE ABOVE NAMED DEFENDANTS(S): YOU HAVE BEEN SUED BY THE ABOVE NAMED PLAINTIFF(S). The court may enter judgment against you without further notice unless you respond before the date set for trial or appear at the trial set in this matter.

A trial will be held on _____, 20____, at _____ o'clock __.m. at _____ (location) to determine if you should be evicted from the premises described in the Complaint which is served with this Summons. If the Court grants the request to evict you, it may also order you to pay costs of this proceeding. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly, to allow adequate time for trial preparation.

This Summons and the Complaint must be served upon the Defendant(s) not less than five (5) days [computed pursuant to IRCP Rule 2.2(a)] prior to the date of the hearing.

CLERK OF THE DISTRICT COURT

[Mailing address, physical address (if different) and telephone number of the clerk]

DATED: _____ By _____
Deputy Clerk

2. That Rule 4(d)(4(C) is amended as follows:

Rule 4. Summons.

(d) Upon whom served.

(4) Serving the state and its agencies and governmental subdivisions.

(A) **State of Idaho.** To serve the State of Idaho or any of its agencies, a party must deliver 2 copies of the summons and complaint to the attorney general or any assistant attorney general.

(B) **Other governmental subdivisions.** To serve any other governmental subdivision, municipal corporation, or quasi-municipal corporation or public board, a party must deliver a copy of the summons and complaint to its chief executive officer, secretary or clerk.

(C) **Additional service required by statute.** In all actions brought under specific statutes requiring service on specific individuals or officials, service must be made pursuant to the statute in addition to service as provided in this subdivision (45).

(5) **Admission of service.** Service may be completed by a written admission, acknowledged by the person to be served, that the person has received service of process. The admission must state the capacity in which service of process was received.

3. That Rule 12(h) is amended as follows:

Rule 12. Defenses and objections: When and how presented; Motion for judgment on the pleadings; Consolidating motions; Waiving defenses; Hearings before trial.

(h) Waiving and preserving certain defenses.

(1) **When Some Are Waived.** A party waives any defense listed in subsection (b)(2), (4) and (5) by failing to ~~make~~ assert it by motion before filing a responsive pleading or filing any other motion, except a motion for an extension of time to answer or otherwise appear or a motion to disqualify a judge under Rule 40(a) or (b).

4. That Rule 40.1 is amended as follows:

Rule 40.1. Change of Venue.

(a) **Motion for Change of Venue.** A judge may change venue only upon motion by any party.

(1) **Discretionary.** A judge may grant a change of venue or change the place of trial to another county as provided by statute or when it appears by affidavit or other satisfactory proof that:

(A) there is reason to believe that an impartial trial cannot be had in the county in which the action is filed, or

(B) the convenience of witnesses and the ends of justice would be promoted by the change.

(2) **Mandatory.** The judge must change the venue of a trial when it appears by affidavit or other satisfactory proof that the county designated in the complaint is not the proper county, which motion must be made no later than 14 days after the party files a responsive pleading.

(3) **Objection to Change of Venue.** Upon a motion for change of venue under subsection (2), the court may consider an objection based upon subsections (1)(A) or (1)(B). The court may deny an otherwise proper motion for change of venue under subsection (2) if it finds that an impartial trial cannot be had in the proper venue or that the convenience of witnesses and the ends of justice would be promoted by retaining jurisdiction in the county where the action is filed.

(4) **Sanctions.** When a judge grants a motion for change of venue pursuant to subsection (2), the court may assess sanctions against the party who filed the action or the party's attorney if the court finds that the action was filed in the improper venue without good cause.

(b) Change of Venue in Same Judicial District. If venue is changed to a court of proper venue within the same judicial district, the judge granting the change of venue must:

(1) order the case transferred to a specific court of proper venue within the judicial district; and

(2) continue the assignment over the case, unless the administrative district judge reassigns the case to another judge of the judicial district.

(c) Change of Venue to a Different Judicial District.

(1) **Venue Changed Pursuant to Subsection ~~(a)(1)~~ or ~~(a)(2)(A)~~.** If change of venue to a different judicial district is granted pursuant to subsection ~~(a)(1)~~ or ~~(a)(2)(A)~~ a new presiding judge is assigned as follows:

(A) if the original judge desires to continue the assignment over the case, the judge may so indicate in the order, suggesting a court of proper venue, and refer to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue and for assignment of a specific judge to preside; or

(B) if the original judge does not desire to continue the assignment over the case, the judge must enter an order transferring the case to a proper county and the receiving judicial district must assign a judge pursuant to the assignment procedures of that district.

(2) **Venue Changed Pursuant to Subsection (a) (1)(A) or (B) ~~(2)(B) or (C)~~.** If change of venue is granted pursuant to subsection (a) (1)(A) or (B) ~~(2)(B) or (C)~~ to a different judicial district is granted, the court must enter an order changing venue and suggesting a court of proper venue and refer the case to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue and for assignment of a specific judge to preside. If the original judge does not desire to continue the assignment over the case, the judge may so indicate in the order.

(d) Disqualification of Judge on Change of Venue.

(1) **Change of Venue within a Judicial District.** If a judge is disqualified from further handling of a proceeding in which a change of venue has been granted to a court of proper venue within the same judicial district, the administrative district judge must reassign the case to another judge of the judicial district.

(2) **Change of Venue to a Different Judicial District.** If a judge is disqualified from further handling of a proceeding in which a change of venue has been granted to a different judicial district, the administrative district judge of the receiving judicial district must refer the case to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue and assignment of a specific judge.

5. That Rule 75(d)(1) is amended as follows:

Rule 75. Contempt.

(d) Nonsummary proceedings; service; time limits.

(1) Respondent a Party to the Pending Action. If the contempt proceedings are initiated in connection with a pending action to which the respondent is a party, the ~~respondent~~ written charge of contempt or motion and affidavit may be served upon the respondent as provided in Rule 5(b), unless the court orders personal service.

IT IS FURTHER ORDERED, that this order and these amendments shall be effective July 1, 2018.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Rules of Civil Procedure.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of The Advocate.

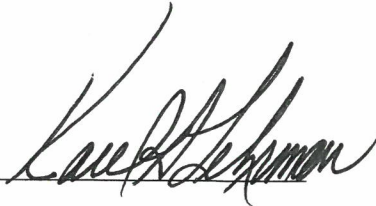
DATED this 25 day of April, 2018.

By Order of the Supreme Court


Roger S. Burdick, Chief Justice

ATTEST:

Clerk



I, Karel A. Lehrman, Clerk of the Supreme Court/
Court of Appeals of the State of Idaho, do hereby
certify that the above is a true and correct copy of the
Order entered in the above entitled
cause and now on record in my office. WITNESS my
hand and the Seal of this Court April 25, 2018

Karel A. Lehrman, Clerk

By  Deputy