In the Supreme Court of the State of Idaho

IN RE: ADOPTION OF REVISED IDAHO COURT ADMINISTRATIVE RULES RELATED TO JURY SERVICE AND JURY TRIAL PROCEDURES	)	**ORDER**

The Court has reviewed proposed changes to Part VI of the Idaho Court Administrative Rules related to jury service and jury trial procedures to simplify, clarify, and modernize the language consistent with 2019 legislative amendments to jury statutes and to assist in the implementation of new jury software.

NOW, THEREFORE, IT IS ORDERED that the existing Idaho Court Administrative Rules Part VI, Rules 60 through 66 be, and hereby are, rescinded, and the attached Idaho Court Administrative Rules 60 through 68 are hereby adopted.

IT IS FURTHER ORDERED, that this order and these amendments shall be effective January 1, 2022.

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 17th day of November, 2021.

By Order of the Supreme Court

G. Richard Bevan
Chief Justice, Idaho Supreme Court

ATTEST:

Melanie Gagnepain, Clerk

I, Melanie Gagnepain, 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 Nov. 17, 2021

Melanie Gagnepain, Clerk

By _____ Deputy

Idaho Court Administrative Rules

Part VI. Jury Service and Jury Trial Procedures

Rule 60. Policy Regarding Jury Selection.

In order to foster the jury policy of the state of Idaho all persons selected for jury service shall be selected at random from a fair cross section of the population of the county served by the court, and all qualified citizens shall have the opportunity to be considered for jury service.

Rule 60.1 Definitions.

As used in these rules, the following are defined as:

(i) "Statewide Master Jury List" means a statewide master jury list compiled and maintained by the Supreme Court using the Supreme Court's jury platform.

(ii) "County Master Jury List" means a master jury list by county, whether created by an individual county or divided from the statewide master jury list.

(iii) "Term of Service Panel" means a list of unduplicated names or identifying numbers of prospective jurors drawn at random by the jury commissioner from the county master jury list to potentially serve as a trial or grand juror in a specific county for a specified term of service.

The Administrative District Judge shall determine the term of service for a term of service panel for each county.

(iv) "Qualified prospective juror" means a person drawn from a term of service panel who was not subsequently disqualified following the juror qualification process.

(v) "Qualified Jury Panel" means a list of names or identifying numbers of all qualified prospective jurors (grand jurors or trial jurors) for a designated term of service.

(vi) "Trial/Grand Jury Panel" is the list of names or identifying numbers of prospective jurors drawn at random from the qualified jury panel when a grand jury has been ordered and/or any action is called for trial by jury, from which panel(s) of jurors are selected.

The entire panel may be divided into two (2) or more panels and thereafter re-divided or combined for jury trials or a grand jury in such manner as prescribed by the Administrative District Judge for the trial of individual cases or a grand jury. The term of service for grand jury panels and trial jury panels may be different.

(vii) "One step method" means qualifying and summoning prospective jurors by serving the juror qualification questionnaire to prospective jurors together with a summons or summons letter for jury service.

(viii) "Two step method" means qualifying prospective jurors by first serving the juror qualification

form to prospective jurors, and then separately summoning prospective jurors by serving a summons or summons letter for jury service.

Rule 60.2 Random Selection Procedures.

(a) Following creation of the statewide or a county master jury list, random selection procedures shall be used throughout the juror selection process except as hereinafter provided. Any method may be used, manual or automated, that provides each eligible and available prospective juror with an equal probability of selection.

(b) Random selection procedures shall be employed in:

(i) Selecting persons to create a term of service panel from a master jury list,

(ii) Selecting persons from a term of service panel to be sent juror questionnaire forms or to be summoned for jury service,

(iii) Assigning prospective jurors to jury panels, except prospective jurors whose service was postponed and specifically assigned to a subsequent panel,

(iv) Drawing names of jurors to establish priority for voir dire, and

(v) Determining the identity of any alternate juror(s) immediately before jury deliberations begin.

(c) Random selection procedures shall not be used:

(i) to exclude persons ineligible for jury service,

(ii) to excuse or postpone prospective jurors for jury service, or

(iii) to temporarily remove prospective jurors challenged for cause or peremptorily during jury selection.

Rule 61. Source Lists for Master Jury Lists.

At a minimum, a master jury list shall consist of the combined de-duplicated names from the voter registration lists of the most recent general election, and lists of persons issued a state of Idaho driver's license or identification card. The names of the deceased shall be permanently removed from master jury lists.

Rule 61.1 County Master Jury List Created by a County Jury Commission– Elimination of Duplicate Names; Updating Lists.

(a) Unless using a county master jury list provided by the Supreme Court derived from the statewide master jury list, the jury commission of each county shall compile and maintain a county master jury list from the source lists as provided in Rule 61 above.

(b) The jury commission shall eliminate duplication of names on the county master jury list before selection of names for the term of service panel. Any duplicates subsequently discovered, including during the qualification process, shall be removed from the list when discovered.

(c) The county master jury list shall be updated from time to time as determined by the jury commissioner, but not less frequently than December of each odd-numbered year. The manner of updating shall include any changes, deletions, and additions of names from the source lists, emptying and refilling anew from the source lists, or using both such methods.

Rule 61.2 Supreme Court Master Jury List Divided into County Master Jury Lists – Elimination of Duplicate Names.

(a) The Supreme Court shall compile and maintain a statewide master jury list from the statewide source lists provided in Rule 61 above. Each prospective juror will be assigned and retain a unique juror identification number or code generated by the Supreme Court's jury platform.

(b) The Supreme Court's jury platform shall initially eliminate duplicate names from the statewide master jury list.

(c) The statewide master jury list so compiled and maintained shall also be divided into county master jury lists for use by the jury commissions in each county authorized to use the Supreme Court's jury platform.

(d) Subsequently discovered duplicates, or other improperly included names, shall be removed from both statewide and county master jury lists when discovered.

(e) The Supreme Court master jury list shall be updated, by changes, deletions, and additions, or by emptying and refilling from the source lists, or by a combination of these methods, not less frequently than December of each odd-numbered year.

Rule 61.3. Master Jury Lists Available for Public Inspection.

Statewide and county master jury lists shall be open to the public for inspection upon written request to the county jury commission and Administrative District Judge, or the Administrative Director of the Courts as applicable.

Rule 62. Qualification of Prospective Jurors and Summons Process.

(a) All summonses and summons letters for jury service must be mailed to or personally served upon the prospective juror. A summons or a summons letter shall direct the prospective juror how and when to respond, which in addition to personally appearing may include contacting the jury commissioner for instructions on when and where to appear.

(b) If a prospective juror fails to report for jury service as directed, the juror may be required to appear

and show cause for the failure to appear. A juror may also be held in contempt for failure to appear.

(c) The questions contained in the qualification questionnaire must be limited to those which elicit answers that may disqualify a person from jury service. The qualification questionnaire shall be in a form prescribed by the Supreme Court which form is attached hereto as Appendix A. The elected clerk or designated deputy clerk, or jury commissioner may provide an opportunity to prospective jurors to complete and return the qualification questionnaire form through email or other electronic means in lieu of mailing.

(d) A supplemental juror questionnaire addressing questions which are developed for the purpose of voir dire may be used if approved by the judge assigned to the case.

(e) Responses to all juror questionnaires, including supplemental questionnaires, are confidential in accordance with IRCP 47(a) and ICR 23.1.

(f) If the one step method is used, service of the qualification questionnaire may be included in the mailing of the summons issued by the clerk or the jury commissioner; or the qualification questionnaire may be sent electronically or provided on-line at the same time as the summons or summons letter is mailed to the prospective juror.

(g) If the two step method is used, qualification questionnaires may be sent or provided, and completed and returned by mail, email or other reliable means of communication.

(h) The determination of disqualification of a prospective juror as well as the term of the disqualification shall be in accordance with Rule 62.1 below. A person who is disqualified shall be removed from the statewide master jury list or county master jury list, or both as appropriate.

(i) A prospective juror who fails to complete and return a juror qualification questionnaire within ten (10) days of the mailing thereof shall be directed by the jury commissioner or clerk to appear forthwith before the clerk or the jury commissioner to complete the qualification questionnaire. A prospective juror who fails to appear and complete the qualification questionnaire shall be ordered by the court to appear and show cause for failure to appear and complete the qualification questionnaire as directed. Contempt proceedings may also be initiated and the prospective juror's service may be postponed to a new prospective jury panel as set by the presiding judge.

(j) If a prospective juror is unable to complete the qualification questionnaire, another person may do so on behalf of the prospective juror and shall indicate that such person completed the qualification questionnaire and the reason therefore.

(k) If it appears there is an omission, ambiguity, or error in a returned qualification questionnaire, the clerk or the jury commissioner shall again send the qualification questionnaire with instructions and require the qualification questionnaire to be completed and returned within ten (10) days after the second mailing.

(l) All prospective jurors who are not disqualified following review of the qualification questionnaires shall be eligible for jury selection.

Rule 62.1 Eligibility for Jury Service.

(1) A prospective juror is disqualified to serve on a jury if the prospective juror:

(a) Is not a citizen of the United States and a resident of the county,

(b) Is not a least eighteen (18) years old,

(c) Is incapable, by reason of physical or mental disability and with reasonable accommodation, of rendering satisfactory jury service; but a prospective juror claiming this disqualification may be required to submit a physician's certificate as to the disability, and the certifying physician is subject to inquiry by the court at its discretion; or

(d) Has a felony conviction as provided by section 3, article VI of the constitution of the state of Idaho, and who has not been restored to the rights of citizenship under applicable law.

(2) The length of such disqualification shall be two (2) years, unless a judge has extended the period of disqualification for prospective jurors under 1(c) above, which period may be permanent.

(3) A directive to disqualify a prospective juror for greater than two (2) years shall be based upon a judicial finding as to the nature and duration of the disability, based upon the information provided in the qualification questionnaire form, an interview with the prospective juror, or other competent evidence.

Rule 62.2 Selection of Assigned Trial/Grand Jury Panel from Term of Service Panel.

(a) When any action is called for trial by jury or a grand jury has been ordered, the jury commissioner shall create an assigned trial/grand jury panel from the term of service panel by drawing at random, by use of a manual, mechanical, or automated system, the specified number of names or identifying numbers of qualified prospective jurors.

(b) The entire panel may be divided and subsequently combined to accommodate separate panels for grand and trial juries, as prescribed by the Administrative District Judge.

(c) The selection of a trial jury for the trial of an individual case shall be in accordance with the applicable criminal or civil rule of procedure.

(d) The selection of a grand jury shall be in accordance with the applicable rule of criminal procedure.

Rule 63. Exemption, Excuse, and Postponements from Jury Service.

(a) There shall be no automatic exemptions or excuses from jury service;

(b) Postponements of jury service are preferred over excuses;

(c) Any postponement of jury service shall be for the shortest period of time reasonable, and shall be to a date certain at which time the juror's name or identifying number shall be placed in the next available jury panel; and

(d) The jury commissioner shall make the court aware in writing of multiple requests for postponement made by any prospective juror.

(e) Qualified prospective jurors who are summoned may have their jury service postponed or excused if:

(i) the person is seventy (70) years of age or older and requests to be excused which may be a permanent if requested.

(ii) the person's ability to receive and evaluate information is so impaired that they are unable to satisfactorily perform the duties of a juror.

(iii) the person requests to postpone jury service and undue hardship, extreme inconvenience, or public necessity is shown.

(iv) the person is a mother breastfeeding her child.

(f) The person requesting a postponement may be required to provide a written statement setting forth the reason for the request and the amount of time needed.

(g) The court or jury commissioner may require a person requesting postponement for any medical reason to provide a statement from a medical provider supporting such request.

(h) A postponement shall be for a period of time as the presiding judge or the jury commissioner deems necessary, at the conclusion of which the person shall reappear for jury service in accordance with the directive of the presiding judge or jury commissioner.

Rule 64. Credit for Jury Service.

Credit shall be given in the following manner:

(a) If a prospective juror attends court, that is, if the juror actually comes to the courtroom or to the jury assembly area pursuant to call, for prospective service, he or she must receive credit against the ten (10) day statutory limitation, regardless of whether or not the juror is called to serve or is excused

from the jury by challenge for cause or peremptory challenge.

(b) A juror shall be given credit for service in the same proportion as compensation is statutorily determined, for one-half day or full day credit.

Rule 64.1. Limitation on Required Jury Service.

In any two (2) year period, a person shall not be required:

(a) To serve or attend court for prospective service as a trial juror more than ten (10) court days, except if necessary to complete service in a particular case;

(b) To be available for jury service for a term exceeding six (6) months; provided however the Administrative District Judge may order a shorter term of required availability for jury service;

(c) To serve on more than one (1) grand jury; or

(d) To serve as both a grand and trial juror.

Rule 65. Orientation of Trial Jurors.

The court shall provide an orientation to persons called for jury service substantially as follows:

(a) At the time of serving the juror qualification questionnaire, a juror orientation pamphlet shall also be included which is provided by the Administrative Office of the Courts outlining how a jury is chosen, trial procedure, people involved in the trial, and jury fees; and

(b) Upon first appearance at the courthouse, or earlier as ordered by the Administrative District Judge, persons called to jury service shall receive a jury orientation consisting of the uniform juror orientation video produced by the Administrative Office of the Courts, together with any introductory jury instructions provided by the presiding judge.

Rule 66. Trial Interruptions - Jury Deliberations.

(a) The conduct of a jury trial takes precedence over all other proceedings except those of a more urgent nature.

(b) Jury deliberations should normally take place during courthouse hours and should not normally take place after 5:00 p.m. or on Saturday, Sunday or any legal holiday. Exceptions may be made to this rule for one-day trials, deliberations continued with the consent of the jury, or other unique circumstances. However, court calendar considerations shall not be a basis to exceed normal hours of jury service.

Rule 67. Retention Periods for Jury Papers and Records.

All records and papers compiled and maintained by the jury commissioner or the clerk in connection with selection and service of jurors shall be preserved by the clerk for a minimum period of four (4) years or any longer period order by the court.

Rule 68. Reimbursement for Lengthy Trial Jury Compensation.

(a) Any county seeking to obtain reimbursement for Lengthy Trial Juror Compensation pursuant to section 2-222, Idaho Code must submit a written application to the Administrative Director of the Courts. Any such application for reimbursement must be received by the Administrative Director of the Courts on or between September 30th and November 30th, be substantially in the form found in Appendix B, and contain the following information:

(1) The case name, case number, and name of the presiding judge for each matter in the preceding county fiscal year which required juror attendance at court that exceeded five (5) days for one (1) trial, and for each such case,

(2) The number of jurors required to attend court more than five (5) days for one (1) trial, and all dates of attendance at court by the jurors,

(3) A representation that the county compensated the jurors fifty dollars ($50) for each day's required attendance at court that exceeded five (5) days for one (1) trial as required by section 2-215(3), Idaho Code, and

(4) A calculation of the total compensation paid to jurors pursuant to section 2-215(3), Idaho Code.

(5) A calculation of the total net reimbursement requested pursuant to section 2-222, Idaho Code, for jurors paid pursuant to section 2-215(3), Idaho Code.

(b) The Board of County Commissioners shall certify the truth and accuracy of the information contained in any application for reimbursement submitted pursuant to this rule.

(c) To the extent moneys are appropriated by the Legislature, and in accord with the calculations required by section 2-222(2), Idaho Code, the Supreme Court will issue appropriate reimbursements for all applications approved by the Administrative Director of the Courts, if any, no later than January 31st following the submission of any such application for reimbursement.

Appendix A to Rule 62(c)

JUROR QUALIFCATION QUESTIONNAIRE

County of _____

Juror number _____

Term of Service_____

YOU MUST COMPLETE, SIGN, AND RETURN THIS QUESTIONNAIRE WITHIN 10 DAYS FROM THE DATE THIS FORM WAS MAILED. PLEASE RETURN THIS FORM IN THE ENVELOPE PROVIDED, OR SUBMIT IT ELECTRONICALLY (THE JURY COMMISSIONER'S EMAIL ADDRESS IS _____). YOU MAY BE REQUIRED TO COMPLETE OTHER JURY QUESTIONNAIRES IN THE FUTURE.

A REQUEST TO BE EXCUSED FROM JURY SERVICE CAN BE MADE ON PAGE 2 OF THIS QUESTIONNAIRE.

In accordance with Idaho Law, you have been randomly selected for jury duty in _____ County. Your participation is vital and your contribution to this important process is appreciated.

Note: Idaho law provides that any prospective juror who fails to return this completed qualification questionnaire form as instructed shall be directed to appear before the clerk or the jury commissioner to complete the qualification questionnaire form. A prospective juror who fails to appear as directed shall be ordered by the Court to appear and show cause for his failure to appear as directed, and you may also be held in contempt of Court.

Any person who willfully misrepresents a material fact on this qualification questionnaire for the purpose of avoiding or securing service as a juror is guilty of a misdemeanor.

Name: _____

Age: _____

Address of residence: _____

Email: _____

Phone: Home _____ Work _____ Cell _____

DISQUALIFICATION from Jury Service. Please check all that apply to you.

____ I am NOT a citizen of the United States of America.

____ I am NOT a resident of _____County.

____ I am incapable by reason of a physical or mental disability, and with reasonable accommodation, of rendering satisfactory jury service. [Anyone claiming this disqualification is required to submit a physician's written certificate establishing such disability.]

____ I have been convicted of a felony and I am presently on probation/parole:

County where conviction occurred: _____ State_____

( ) or I have not been restored to the rights of citizenship pursuant to Idaho Code §18-310.

EXEMPTIONS FROM JURY SERVICE: There are NO automatic exemptions from jury service.

REQUEST TO BE EXCUSED FROM CURRENT JURY SERVICE: Please check all that apply to your request.

____ I am 70 years of age or older and wish to be excused.

( ) I also wish this excusal based upon my age to be permanent.

____ I am a mother breastfeeding her child.

____ Within the past 24 months, I have served on a jury or answered a roll call for jury service in

_____County, Idaho. I served _____ days.

____ Within the past 24 months I have served on a grand jury.

REQUEST FOR POSTPONEMENT OF CURRENT JURY SERVICE: Please check all that apply to your request.

Please note that whether to grant such a request is discretionary with the jury commissioner and/or the judge.

Only one request for postponement may be granted for the shortest period of time reasonable under the circumstances, and the postponement must be to a time certain in the future at which time your name and juror number will be placed in the next available jury panel at which time you will receive a new notice.

____ I have a temporary medical condition for which I ask to have my jury service postponed. My physician's written statement certifying this condition and the expected duration of the medical condition is attached.

____I request postponement of current jury service based upon an undue hardship, extreme inconvenience, or public necessity. I am providing a written statement setting forth the reason for this request and the amount of time needed.

DECLARATION OF PROSPECTIVE JUROR:

I certify that the responses on this questionnaire form are true to the best of my knowledge and I understand that a willful misrepresentation of a material fact may be punished as a misdemeanor.

Dated: _____

Signed: _____

Signed on behalf of the prospective juror by: _____

Reason therefore: _____

_____

Appendix B to Rule 68

Application for Lengthy Trial Juror Compensation Reimbursement

1. The Board of Commissioners for the County of_____hereby requests reimbursement pursuant to section 2-222, Idaho Code, and Idaho Court Administrative Rule 66, for lengthy trial juror compensation paid pursuant to section 2-215(3), Idaho Code.

2. This application seeks reimbursement for lengthy trial juror compensation paid during the county fiscal year of October 1, 20___through September 30, 20____.

3. During the aforementioned county fiscal year, our county had_____cases for which the county compensated jurors pursuant to section 2-215(3), Idaho Code, and the total amount of all lengthy trial juror compensation the county paid pursuant to section 2-215(3), Idaho Code, was $_____.

4. This application requests total net reimbursement pursuant to section 2-222, Idaho Code, of $ _____. The specific information regarding each case for which our county paid lengthy trial juror compensation, per section 2-215(3), Idaho Code, during this time period, is as follows:

Case name:

Case number:

Presiding Judge:

Number of jurors required to attend court more than five (5) days for this trial:

All dates of attendance at court by the jurors (if any juror(s) attended court fewer days than the other jurors, please explain):

The county compensated the above-referenced jurors fifty dollars ($50) for each day's required attendance at court that exceeded five (5) days for one (1) trial, as required by section 2-215(3), Idaho Code, and the total compensation paid to jurors, pursuant to section 2-215(3), Idaho Code, for this case, was: $_____.

The county requests $_____in net reimbursement pursuant to section 2-222, Idaho Code, for compensation paid to jurors pursuant to 2-215(3), Idaho Code, for this case.

Case name:

Case number:

Presiding Judge:

Number of jurors required to attend court more than five (5) days for this trial:

All dates of attendance at court by the jurors (if any juror(s) attended court fewer days than the other

jurors, please explain):

The county compensated the above-referenced jurors fifty dollars ($50) for each day's required attendance at court that exceeded five (5) days for one (1) trial, as required by section 2-215(3), Idaho Code, and the total compensation paid to jurors, pursuant to section 2-215(3), Idaho Code, for this case, was: $_____.

The county requests $_____in net reimbursement pursuant to section 2-222, Idaho Code, for compensation paid to jurors pursuant to 2-215(3), Idaho Code, for this case.

Case name:

Case number:

Presiding Judge:

Number of jurors required to attend court more than five (5) days for this trial:

All dates of attendance at court by the jurors (if any juror(s) attended court fewer days than the other jurors, please explain):

The county compensated the above-referenced jurors fifty dollars ($50) for each day's required attendance at court that exceeded five (5) days for one (1) trial, as required by section 2-215(3), Idaho Code, and the total compensation paid to jurors, pursuant to section 2-215(3), Idaho Code, for this case, was: $_____.

The county requests $_____in net reimbursement pursuant to section 2-222, Idaho Code, for compensation paid to jurors pursuant to 2-215(3), Idaho Code, for this case.

*Include the necessary information for any additional cases for which you are requesting reimbursement on a separate sheet and attach it to this Application. On this_____day of _____, 20____, the Board of Commissioners of_____County, hereby certify the truth and accuracy of all information contained in this Application for Lengthy Trial Juror Compensation Reimbursement:

Presiding Commissioner _____

Commissioner _____

Commissioner_____