

In the Supreme Court of the State of Idaho

IN RE: AMENDMENT TO IDAHO RULES OF
EVIDENCE 201 and 410

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ORDER

The Court, having received a recommendation to amend the Idaho Rules of Evidence, and being fully informed as to the recommendation:

NOW, THEREFORE, IT IS ORDERED that Rule 201 of the Idaho Rules of Evidence be amended as follows:

Rule 201. Judicial Notice of Adjudicative Facts.

(c) **Taking Notice.** The court:

(1) may take judicial notice on its own; or

(2) must take judicial notice if a party requests it and the court is supplied with the necessary information.

When a court takes judicial notice of records, exhibits, or transcripts from the court file in the same or a separate case, the court must identify the specific documents or items so noticed. When a party requests judicial notice of records, exhibits, or transcripts from the court file in the same or a separate case, the party must identify the specific items for which judicial notice is requested or offer to the court and serve on all parties copies of those items.

IT IS FURTHER ORDERED that Rule 410 of the Idaho Rules of Evidence be amended as follows:

Rule 410. Pleas, Plea Discussions, and Related Statements.

(a) **Prohibited Uses.** In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or was a participant in the plea discussions:

(1) a guilty plea that was later withdrawn;

(2) a nolo contendere plea;

(3) a statement made during a proceeding on either of those pleas under Idaho Criminal Rule 11 or a comparable federal or state procedure; or

(4) a statement made during plea discussions with an attorney for the prosecuting authority if the discussions did not result in a guilty plea or they resulted in a later-withdrawn guilty plea.

(b) **Exceptions.** The court may admit a statement described in Rule 410(a)(3) or (4):

(1) in any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together; or

(2) in a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present; or

(3) under subsection (a)(3) above, in the same criminal action or proceeding for impeachment purposes.

~~Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.~~

IT IS FURTHER ORDERED, that this order and these amendments shall be effective immediately.

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 Criminal Rules.

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 13 day of January, 2021.

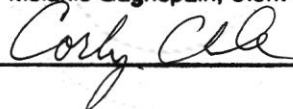
By Order of the Supreme Court


G. Richard Bevan, Chief Justice

ATTEST:


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 Rule of Evidence~~ entered in the above entitled
cause and now on record in my office. WITNESS my
hand and the Seal of this Court January 13, 2021
Melanie Gagnepain, Clerk

By  Deputy