

I.R.C.P. 40.e. Change of Venue.

Idaho Rules of Civil Procedure Rule 40(e). Change of Venue.

(1) A judge or magistrate may grant a change of venue or change the place of trial to another county in any civil action as provided by statute only upon motion by either party, and the judge or magistrate must, on motion pursuant to Rule 12(b), change the venue of a trial when it appears by affidavit or other satisfactory proof:

(A) That the county designated in the complaint is not the proper county, which motion must be made no later than fourteen (14) days after the party files a responsive pleading, or

(B) That there is reason to believe that an impartial trial cannot be had therein, or

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

(2) In the event a trial judge grants a change of venue pursuant to this Rule to a court of proper venue within the same judicial district, the trial judge granting the change of venue shall order the case transferred to a specific court of proper venue within the judicial district and shall continue the assignment over the case, unless the administrative district judge shall reassign the case to another judge of the judicial district. In the event a trial judge desires to transfer a case to a court of proper venue outside of the judicial district in which the action is filed and desires to continue the assignment over the case, the trial judge may enter an order granting the change of venue and indicate therein a suggested court of proper venue in another judicial district and the trial judge's desire to preside over the case, and then refer the case to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue in another judicial district and assignment of a specific judge to preside in the proceeding. In the event a trial judge desires to transfer a case to a county outside of the judicial district in which the action is filed upon the grounds that the county designated in the complaint is not the proper county, the trial judge shall enter an order transferring the case to the proper county and a trial judge of the receiving judicial district shall be assigned to preside over the case under the assignment procedures of that judicial district. In the event a trial judge desires to transfer a case to a court of proper venue outside of the judicial district in which the action is filed upon the grounds set forth in sub-paragraphs (1)(B) or (1)(C) of this rule, and the trial judge does not desire to continue the assignment over the case, the

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trial judge shall enter an order granting the change of venue, and then refer the case to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue in another judicial district and assignment of a specific judge to preside in the proceeding.

(3) In the event that 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 shall reassign the case to another judge of the judicial district. In the event that a judge is disqualified from further handling of a proceeding in which a change of venue has been granted from an originating court outside of the judicial district, the administrative district judge of the judicial district to which venue has been removed shall 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 to preside in the proceeding.

(4) In ruling upon a motion for change of venue under subsection (1)(A) above, the court may consider an objection thereto based upon subsections (1)(B) or (1)(C), and the court may deny an otherwise proper motion for change of venue under section (1)(A) if it finds that the convenience of witnesses and the ends of justice would be promoted by retaining jurisdiction in the county where the action is filed.

(5) When a judge or magistrate grants a motion for change of venue, if the court finds that the action was filed in the county of improper venue without good cause, the court may, in its discretion, assess sanctions against the party, or the party's attorney, who filed the action.

(Amended effective January 8, 1976; amended December 27, 1979, effective July 1, 1980; amended April 3, 1981, effective July 1, 1981; amended March 30, 1984, effective July 1, 1984; amended April 22, 2004, effective July 1, 2004; amended April 2, 2014; effective July 1, 2014.)

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