



## **I.R.C.P. 65. Injunctions and Restraining Orders**

### **Idaho Rules of Civil Procedure Rule 65. Injunctions and Restraining Orders.**

#### **(a) Preliminary Injunction.**

(1) *Notice.* The court may issue a preliminary injunction only on notice to the adverse party.

(2) *Consolidating the Hearing with the Trial on the Merits.* Before or after beginning the hearing on a motion for a preliminary injunction, the court may advance the trial on the merits and consolidate it with the hearing. Even when consolidation is not ordered, evidence that is received on the motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial. But the court must preserve any party's right to a jury trial.

#### **(b) Temporary Restraining Order.**

(1) *Issuing Without Notice.* The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the movant or the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

(2) *Contents; Expiration.* Every temporary restraining order issued without notice must state the date and hour it was issued; describe the injury and state why it is irreparable; state why the order was issued without notice; and be promptly filed in the clerk's office and entered in the record. The order expires at the time after entry, not to exceed 14 days, that the court sets, unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension must be entered in the record.

(3) *Expediting the Preliminary-Injunction Hearing.* If the order is issued without notice, the motion for a preliminary injunction must be set for hearing at the earliest possible time, taking precedence over all other matters except



hearings on older matters of the same character. At the hearing, the party who obtained the order must proceed with the motion; if the party does not, the court must dissolve the order.

(4) *Motion to Dissolve*. On 2 days' notice to the party who obtained the order without notice, or on shorter notice set by the court, the adverse party may appear and move to dissolve or modify the order. The court must then hear and decide the motion as promptly as justice requires.

**(c) Security.** The court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages, including reasonable attorney's fees, sustained by any party found to have been wrongfully enjoined or restrained. The State of Idaho or any political subdivision, its officers, and its agencies are not required to give security.

**(d) Contents and Scope of Every Injunction and Restraining Order.**

(1) *Contents*. Every order granting an injunction and every restraining order must:

(A) state the reasons why it issued;

(B) state its terms specifically; and

(C) describe in reasonable detail, and not by referring to the complaint or other document, the act or acts restrained or required.

(2) *Persons Bound*. The order binds only the following who receive actual notice of it by personal service or otherwise:

(A) the parties;

(B) the parties' officers, agents, servants, employees, and attorneys; and

(C) other persons who are in active concert or participation with anyone described in Rule 65(d)(2)(A) or (B).



**(e) Grounds for Preliminary Injunction.** A preliminary injunction may be granted in the following cases:

- (1) when it appears by the complaint that the plaintiff is entitled to the relief demanded, and that relief, or any part of it, consists of restraining the commission or continuance of the acts complained of, either for a limited period or perpetually;
- (2) when it appears by the complaint or affidavit that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury to the plaintiff;
- (3) when it appears during the litigation that the defendant is doing, threatening, procuring or allowing to be done, or is about to do, some act in violation of the plaintiff's rights, respecting the subject of the action, and the action may make the requested judgment ineffectual;
- (4) when it appears, by affidavit, that the defendant is about to remove or to dispose of the defendant's property with intent to defraud the plaintiff;
- (5) for the defendant upon filing of a counterclaim praying for affirmative relief upon any of the grounds mentioned above in this section, subject to the same rules and provisions provided for the issuance of injunctions on behalf of the plaintiff;

**(f) Restoring Possession of Real Property.** The district courts may issue a writ of injunction for affirmative relief having the force and effect of a writ of restitution, restoring any person to the possession of any real property from which the person was removed by force, violence, fraud, or stealth, or from which the person is kept out of possession by threats if possession was taken on Sunday, a legal holiday, or in the nighttime, or while the party in possession was temporarily absent. The granting of the writ extends only to the right of possession under the facts of the case, in respect to the manner in which the possession was obtained, and does not resolve the legal rights of the parties on any other issue. This writ may only be issued on 7 days' notice in writing to the adverse party of the time and place of hearing on the application for writ.

**(g) Employer and Employee Actions Exempt.** These rules do not modify any statute of the state of Idaho relating to restraining orders or injunctions in actions affecting employer and employee in labor disputes.

[\(Adopted March 1, 2016, effective July 1, 2016 \[1\].\)](#)



## **I.R.C.P. 65. Injunctions and Restraining Orders**

Published on Supreme Court (<https://isc.idaho.gov>)

---

**Source URL:** <https://isc.idaho.gov/ircp65-new>

### **Links**

[1] <https://isc.idaho.gov/rules/IRCP/03012016-Adoption-Newly-Formatted.pdf>