I.R.C.P. 76. Small Lawsuit Resolution Act Procedure

Idaho Rules of Civil Procedure Rule 76. Small Lawsuit Resolution Act Procedure.

(a) Application of Rule. This rule applies only to civil actions in which a party has initiated the provisions of the Small Lawsuit Resolution Act, Idaho Code Section 7-1501 et. seq. This rule is not intended to supersede Idaho Code Section 7-1501 et seq, and is only intended to provide additional rules regarding procedure relative to this resolution process. Unless otherwise precluded by Idaho Code Section 7-1501 et seq. or this rule, the Idaho Rules of Civil Procedure will also apply to this resolution process.

(b) Computation of Amount of Claim. For purposes of computing the amount of the claim as required by Idaho Code Section 7-1503(1), , the dollar limitation is applied separately to each party, regardless of how that party's claim is designated, and excludes requests for costs and attorney's fees. The complaint must contain a statement that the amount of the claim does not exceed the statutory limitation of the Act.

(c) Initiation of the Small Lawsuit Resolution Act Process. Any party to an action may initiate the provisions of the Small Lawsuit Resolution Act by filing notice with the court as required by, and within the time limits established in, Idaho Code Section 7-1503(2). This notice must be entitled, "Notice of Initiation of Proceedings Under the Small Lawsuit Resolution Act." The notice will not be filed unless it is accompanied by the filing of a completed case information sheet on a form adopted by the Supreme Court and furnished by the clerk.

(d) Objection to Use of the Small Lawsuit Resolution Process. If a party objects to the matter proceeding through the Small Lawsuit Resolution process, it must file a written objection within seven (7) days of the filing of the Notice of Initiation of Proceedings Under the Small Lawsuit Resolution Act. If no such objection is timely filed, the opposing party will be deemed to have agreed to the initiation of the Act.

(e) Selection of Evaluator. Unless the parties have agreed in advance to the selection of a particular evaluator, upon notice of initiation of the provisions of the Small Lawsuit Resolution Act, the clerk of the court must provide to each party a list containing the names of five (5) randomly selected evaluators willing to perform evaluations in the county where the lawsuit has been filed from the roster maintained by the Idaho Supreme Court. The clerk of the court must include the rate of hourly compensation, if any, for each evaluator and identify a website where the parties may obtain additional information about each evaluator's qualifications. If there are more than two parties to the litigation, the clerk must provide the names of ten (10) randomly selected evaluators to the parties.

(f) Compensation of Evaluator.

(1) *Compensation of a Private Evaluator*. Unless stipulated by the parties or ordered by the court, the parties must pay equal portions of the private civil litigation evaluator's fee and any actual costs incurred by the evaluator. If any

party fails to pay its share of the evaluator's fee and costs, the court may enter an order for payment upon motion of the evaluator.

(2)   *Compensation of a Senior or Retired Judge Serving as an Evaluator.*

(A)   If the parties select a retired or senior judge to serve as an evaluator from the list of private civil litigation evaluators, the parties must compensate the retired or senior judge pursuant to subsection 1. Such service shall not be considered judicial service subject to compensation by public funds.

(B)   If the Supreme Court or an Administrative District Judge authorizes an appointment of a senior judge to serve as an evaluator, such appointment will be considered judicial service for which the judge will receive no compensation from the parties. A senior judge must be compensated for such service in accordance with Idaho Code Sections 1-2005 or 1-2221 or, if a Plan B senior judge, must receive credit for such service in accordance with the Supreme Court's Plan B rules for judicial retirement.

(g)   Authority of Evaluator. A case proceeding under the Small Lawsuit Resolution Act remains under the jurisdiction of the court. An evaluator has only the authority expressly set forth in the Act. All other issues must be determined by the court.

(h)   Impartiality. An evaluator has a duty to be impartial, and has a continuing duty to advise all parties of any circumstances bearing on possible bias, prejudice or partiality.

(i)   Sanctions. The evaluator is subject to sanctions, including referral for removal from the roster of evaluators, if the evaluator fails to discharge the duties and responsibilities imposed by this rule or the Small Lawsuit Resolution Act.

(j)   Notice of Request for Trial de Novo. Within 21 days after the notice of issuance of the evaluator's decision has been filed with the clerk of the court, any party may file with the clerk a request for a trial de novo in the district court on all issues of law and fact. This request must be entitled, "Request for Trial de Novo under the Small Lawsuit Resolution Act." The request will not be filed unless it is accompanied by the filing of a completed information sheet on a form adopted by the Supreme Court and furnished by the clerk.

(k)   Statistical Information. In order to facilitate the gathering of statistical information pursuant to Idaho Code Section 7-1512, each party must file a completed case information sheet on a form adopted by the Supreme Court and furnished by the clerk whenever a judgment is entered in a case where the Small Lawsuit Resolution Act was initiated. This filing must be in addition to the cover sheet required when the case is initiated and the request for trial de novo made.

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

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