



## **I.R.C.P. 28. Persons Before Whom Depositions May Be Taken**

### **Idaho Rules of Civil Procedure Rule 28. Persons Before Whom Depositions May Be Taken.**

#### **(a) Within the United States.**

(1) *In General.* Within Idaho, before a person authorized by the laws of this state to administer oaths. Outside Idaho, but within the United States or a territory or insular possession subject to United States jurisdiction, a deposition must be taken before:

(A) an officer authorized to administer oaths either by the laws of the state of Idaho, by federal law or by the law in the place of examination; or

(B) a person appointed by the court where the action is pending to administer oaths and take testimony.

(2) *Definition of "Officer."* The term "officer" in Rules 30, 31, and 32 includes a person appointed by the court under this rule or designated by the parties under Rule 29(a).

#### **(b) In a Foreign Country.**

(1) *In General.* A deposition may be taken in a foreign country:

(A) before a secretary of embassy or legation, consul, vice consul, or consular agent of the United States;

(B) before or any officer authorized to administer oaths under the laws of the State of Idaho, or of the United States;  
or

(C) before a person appointed by the court.



(2) *Power of Officer.* A person before whom a deposition may be taken by this rule is empowered to administer oaths and take testimony.

(3) *Commission.* A commission may be issued when necessary and convenient on appropriate terms after an application and notice of it. Officers may be designated in a notices or commissions by name or by descriptive title.

**(c) Of Members of the Armed Forces.**

(1) *In General.* The deposition of a member of the armed forces of the United States or of the State of Idaho or any other person subject to military or naval law, or their children or spouse, may be taken before any officer of any component of any branch of the armed forces of the United States or of Idaho.

(2) *Certificate of Office.* A statement in a certificate of an officer of the armed forces of the United States or of Idaho is prima facie proof that:

(A) the officer holds the office stated in the certificate; and

(B) the deponent is a member of the armed forces or subject to military law or is a spouse or child of such a member.

**(d) Disqualification.** A deposition must not be taken before a person who is any party's relative, employee, or attorney; who is related to or employed by any party's attorney; or who is financially interested in the action.

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

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