

## **I.C.R. 49. Service and Filing of Papers.**

### **Idaho Criminal Rule 49. Service and Filing of Papers**

**(a) Service, When Required.** Written motions, other than those which may be properly heard ex parte, written notices, and similar papers must be served on each party and filed within the time and in the manner provided by the Idaho Rules of Civil Procedure.

**(b) Service by Electronic Means.** Service may be made on an attorney for a party by transmittal of a copy of the document to the office of the attorney by electronic means, including by email or facsimile. This rule does not require an attorney to have a facsimile machine.

**(c) Notice of Orders.** Immediately on the entry of an appealable order or judgment the clerk of the court must serve a copy of it, with the clerk's filing stamp indicating the date of filing, on the prosecuting attorney and on each defendant or the attorney for the defendant. Service may be by mail or personal delivery, or to an attorney by electronic means. Mailing or personal delivery, or service by electronic means on an attorney, is sufficient notice for all purposes under these rules. Lack of notice of entry of an appealable order or judgment does not affect the time to appeal or to file a post-trial motion within the time allowed, except where there is no showing of mailing or delivery by the clerk in the court records and the party affected thereby had no actual notice.

**(d) Filing.** Documents required to be served must be filed with the court in the manner provided for civil actions in the Idaho Rules of Civil Procedure. Any document, except an information or complaint, a search warrant, a warrant of arrest, or a return on a warrant or service of a search warrant, or any document filed as proof of incarceration of a party to the action, may be transmitted to the court for filing by a facsimile machine process. The clerk must file stamp the facsimile copy as an original and the signatures on the facsimile copy will constitute the required signature of a party or the attorney. Filings may be made only during the normal working hours of the clerk and only if there is a facsimile machine in the offices of the filing clerk of the court. Provided, documents over 10 pages in length may not be filed by facsimile machine. Following the service of a subpoena, the person serving the subpoena may make return of it to the person who requested the subpoena rather than making return with the court.

**(e) Additional Service on Out-of-County Judge.** If the office of a presiding judge is outside the county in which an action is pending, each party to the action must, when reasonably possible, lodge with the presiding judge, at least five days before the trial or hearing, at his or her office, all briefs and copies of motions, notices, orders to show cause, proposed instructions, or any other pleadings or documents that are reasonably necessary to advise the court of the nature of any proceeding or hearing to be held in the action. This requirement is in addition to the lodging or filing of the originals with the court of record and the service of copies on the parties if required by these rules.

(Adopted February 22, 2017, effective July 1, 2017.)

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