



IRFLP 301 Entering a Default.

Idaho Rules of Family Law Procedure Rule 301. Entering a Default.

(a) **In General.** When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the court must order entry of the party's default. If a party has appeared in the action, that party must be served with 3 days written notice of the application for entry of default before default may be entered.

(b) **Time Limitation.**

(1) **In General.** Default may not be entered, and proof of default may not be presented, before the expiration of the time allowed by these rules for appearance or defense.

(2) **Shortened Time.** Default may be entered earlier if (1) the party required to make the appearance or defense states in a written waiver under oath that the party waives the permitted time for appearance or defense, refuses to plead further, and consents to the immediate hearing of a default proceeding without further notice, and (2) the court enters an order shortening the time for appearance or defense by such party for good cause shown by the affidavit or testimony of the moving party. Upon compliance with this rule, default may be entered, a default proceeding held, and judgment by default entered without notice to the defaulting party as though the time for an appearance or defense had expired, subject to the limitations of Idaho Code § 32-716.

(a) **Uncontested Trial is Not a Default.** This rule does not prevent a trial of an action if a responsive pleading has been filed even if the responding party does not participate in the trial or oppose the claim. A trial in this circumstance is not a default hearing.

(Adopted March 29, 2021, effective July 1, 2021.)

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