

IRFLP 711 Subpoenas

Idaho Rules of Family Law Procedure Rule 711. Subpoenas.

A. For attendance of witnesses - issuance. Every subpoena shall be issued by the clerk of the district court under the seal of the court, shall state the name of the court and the title of the action, and shall command each person to whom it is directed to appear to give testimony at trial, or at hearing, or at deposition at a time and place therein specified. A command to produce or to permit inspection and copying of documents, electronically stored information or tangible things, or to permit inspection of premises, may be joined with a command to appear at trial, or at hearing or at deposition, or may be issued separately. The clerk shall issue a subpoena, signed and sealed but otherwise in blank, to a party requesting it, who shall fill it in before service. Provided, an attorney licensed in Idaho as officer of the court may also issue and sign a subpoena.

B. Subpoena for production or inspection of documents, electronically stored information or tangible things, or inspection of premises.

1.A subpoena to attend a deposition, trial or hearing may command the person to whom it is directed to produce or permit inspection and copying of the books, papers, documents, electronically stored information or tangible things designated therein. If the subpoena is for a party to attend a deposition, the scope and procedure shall comply with Rule 416, and the party must be allowed at least 30 days to comply.

2.A subpoena to command a person who is not a party to produce or to permit inspection and copying of documents, electronically stored information, or tangible things, or to permit inspection of premises may be served at any time after commencement of the action. Unless otherwise specified by the court, the party serving the subpoena shall serve a copy of the subpoena on the opposing party at least seven (7) days prior to service on the third party. The party serving the subpoenas shall pay the reasonable cost of producing or copying the documents, electronically stored information or tangible things. Upon the request of any other party and the payment of reasonable costs, the party serving the subpoena shall provide to the requesting party copies of all documents obtained in response to the subpoena.

3.A person commanded to produce or permit inspection and copying of documents, electronically stored information or tangible things or to permit inspection of premises need not appear in person at the place of production or inspection unless also commanded to appear at trial, at hearing or at deposition.

4.A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

C. Form. The subpoena shall be in substantially the following form.

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IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR _____ COUNTY
(MAGISTRATE DIVISION)

Party's name and
designation,

vs.SUBPOENA

Party's name and
designation.

The State of Idaho to: _____:

YOU ARE COMMANDED:

[] to appear in the Court at the place, date and time specified below to testify in the above case.

[] to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

[] to produce or permit inspection and copying of the following documents or objects, including electronically stored information, at the place, date and time specified below. (list documents or objects)

[] to permit inspection of the following premises at the date and time specified below.

PLACE DATE AND TIME:

You are further notified that if you fail to appear at the place and time specified above, or to produce or permit copying or inspection as specified above that you may be held in contempt of court and that the aggrieved party may recover from you the sum of \$100 and all damages which the party may sustain by your failure to comply with this subpoena.

Dated this ____ day of _____, 20__.

By order of the court.

Clerk

(Court Seal)

Deputy

D. Protection against subpoena. The court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable, oppressive, fails to allow time for compliance, requires disclosure of privileged or other protected matter and no exception or waiver applies, or subjects a person to undue burden or (2) condition compliance with the subpoena upon the advancement of the reasonable cost of producing the books, papers, documents, electronically stored information or tangible things by the person in whose behalf the subpoena is issued.

E. Witness fees and expenses. Witness fees and expenses in the district court and the magistrates division thereof shall be in the amounts provided for under [Rule 901](#) [1].

F. Service of subpoena. A subpoena may be served by an officer authorized by law to serve process or by any other person who is not a party and is not less than eighteen (18) years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by giving or offering to the person at the same time, if demanded, the fees for one (1) day's attendance and the mileage allowed by law, except that no prepayment tender of fees and mileage shall be necessary to witnesses subpoenaed by the attorney general or any prosecuting attorney on behalf of the state. Service of a subpoena upon a party to a legal action or proceeding can be made by service on the attorney of record for that party in such legal action or proceeding as provided in Rule 205 for attendance at a hearing or trial with or without the production of documents or other objects. No prepayment tender of fees and mileage shall be necessary to that party, but the court in its discretion may, upon a hearing held thereon at any time after service on that party's attorney, determine under all of the circumstances then existing, the reasonable amount of such fees and mileage to be paid, if any, to that party. When the subpoena is issued on behalf of the state or an officer or agency thereof, fees and mileage need not be tendered. When service is by an officer it must be returned with the officer's certificate of service, and when served by any other person it must be returned with an affidavit of such person of its service.

G. Subpoena for a hearing or trial. At the request of any party subpoenas for attendance at a hearing or trial shall be issued as provided by [Rule 711.A](#) [2], and such subpoenas for a hearing or trial in a district court or magistrates division may be served at any place within the state.

H. Contempt for non-obedience of subpoena. Failure by any person without adequate excuse to obey a subpoena served upon the person may be deemed a contempt of the court from which the subpoena issued, in addition to the penalties provided by law.

(Adopted April 2, 2014, effective for early adopters July 1, 2014, effective statewide July 1, 2015; amended May 20, 2015, effective July 1, 2015.)

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Source URL: <https://isc.idaho.gov/irflp711>

Links:

[1] <https://isc.idaho.gov/irflp901>

[2] <https://isc.idaho.gov/irflp711>