



## **IRFLP 805 Relief from Judgment or Order.**

### **Idaho Rules of Family Law Procedure Rule 805. Relief from Judgment or Order.**

(a) **Relief from Judgment or Order.** The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

(b) **Grounds for Relief from a Final Judgment, Order, or Proceeding.** On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 804(b);

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

(c) **Timing and Effect of the Motion.**



(1) **Timing.** A motion made under subsection (b) must be made within a reasonable time, and for reasons (1), (2), and (3) no more than 6 months after the entry of the judgment or order or the date of the proceeding.

(2) **Effect on Finality.** The motion does not affect the judgment's finality or suspend its operation.

(d) **Other Powers to Grant Relief. g.** This rule does not limit a court's power to:

(1) entertain an independent action to relieve a party from a judgment, order, or proceeding;

(2) set aside, as provided by law, within one year after judgment was entered, a judgment obtained against a party who was not personally served with summons and petition either in the state of Idaho or in any other jurisdiction, and who has failed to appear in the action; or

(3) set aside a judgment for fraud on the court.

(Adopted March 29, 2021, effective July 1, 2021; amended June 12, 2023, effective July 1, 2023.)

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