

## Proposed Amendments to the Civil Rules Of Procedure

The Civil Rules Advisory Committee met on March 10, 2017, and recommended the following amendments. Please send comments to Cathy Derden at [cderden@idcourts.net](mailto:cderden@idcourts.net) by Monday, April 17, 2017.

**Rule 3. Commencement of Action.** Currently a case information sheet is required to be filed by the initiating party in certain types of civil cases, such as guardianship and adoption, and the sheet requests information about both the initiating and responding party. With the move to e-filing the Supreme Court has adopted a second civil case information sheet to be filed in all other civil cases. This sheet will be completed and filed by both the initiating and responding parties regarding that party's information. The information will be used to match parties and will be exempt from disclosure. The proposal is to amend Rule 3 to add the requirement of the information sheet as follows:

Rule 3. Commencement of Action.

(d) Case Information Sheet.

(1) Requirement for all parties. With the exception of the case types listed in subsection (2) of this rule, all parties must file a completed Supreme Court approved case information sheet with that party's first appearance in the case. This case information sheet is exempt from disclosure according to Rule 32, Idaho Court Administrative Rules.

(2) Requirement for initiating party only. In the following actions, a completed Supreme Court approved case information sheet must be filed with the complaint or petition by the initiating party:

- (A) Guardianship,
- (B) Conservatorship,
- (C) Adoption,
- (D) Termination of parental rights,
- (E) Involuntary commitment, and
- (F) child protection act proceedings.

This case information sheet is exempt from disclosure according to Rule 32, Idaho Court Administrative Rules

**Rule 15. Amended and Supplemental Pleadings.** Before the 2016 update of the civil rules, this rule effectively read that a party could amend once as a matter of right before a responsive pleading is filed or, if no responsive pleading is required, may amend at any time as a matter of right within 20 days after it is served. This left open that if it is one to which a responsive pleading is required (e.g. complaint) then if a 12(b) motion was filed without a responsive pleading also being filed, the party could still amend once as a matter of right. The net effect of the 2016 amendment is that when a party now files a complaint, if a Rule 12(b) motion to dismiss is filed without a responsive pleading, the party no longer has the right to look at a 12(b) motion and agree that there is a defect and amend to cure that defect without asking the court for permission. The proposal that follows is to amend the rule consistent with the federal rule that gives that right back for 21 days.

Rule 15. Amended and Supplemental Pleadings.

(a) Amendments Before Trial.

(1) Amending as a Matter of Right. ~~Course~~. A party may amend its pleading once as a matter of right ~~course~~ within:

(A) 21 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, ~~before the party is served with the responsive pleading or 21 days after service of~~ a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

**Rule 41(e). Dismissal of Inactive Cases.** The proposed amendment is to reduce the time frame for dismissal of inactive cases to 90 days instead of six months and to provide the case “may” be dismissed for inactivity instead of “must” be dismissed. In addition, the proposal is to delete the reference to the summons not being served so that it is clear that a Rule 41(e) dismissal is for no action in the case after service has taken place. Notice is always given before a dismissal pursuant to Rule 41(e) and the parties have a chance to respond and let the court know the status of the case. The proposal is to amend the rule as follows:

Rule 41(e). Dismissal of inactive cases. Any action, appeal or proceeding, except for guardianships, conservatorships, and probate proceedings, in which no action has been taken ~~or in which the summons has not been issued and served,~~ for a period of ~~6 months~~ 90 days ~~must~~ may be dismissed unless there is a showing of good cause for retention.

(1) Dismissal pursuant to this rule is with prejudice in the case of appeals and without prejudice as to all other matters.

(2) At least 14 days prior to such dismissal, the clerk must give notice of the pending dismissal to all parties or their attorneys of record