

# In the Supreme Court of the State of Idaho

**IN RE: AMENDMENTS TO IDAHO RULES            )**  
**OF CIVIL PROCEDURE 2.6 and 4(b)(2)            )**

**ORDER**

The Court, having received a recommendation to amend the Idaho Rules of Civil Procedure, and being fully informed as to the recommendation:

NOW, THEREFORE, IT IS ORDERED that the Idaho Rules of Civil Procedure are amended as follows:

1. That Rule 2.6 be REPEALED and the following NEW Rule 2.6 be ADOPTED:

**Rule 2.6 Privacy Protection for Filings Made with the Court.**

**(a) Responsibility of Filer.** It is the responsibility of the filer to ensure that protected personal data identifiers are omitted or redacted from documents before the documents are filed. This responsibility exists whether the documents are filed electronically or conventionally, and even if the filer did not create the document. The responsibility to redact also applies to documents that are initially exempt from disclosure but later become public pursuant to court rule. The clerk of the court will not review filings to determine whether appropriate omissions or redactions have been made.

**(b) Personal Data Identifiers to be Redacted.** Personal data identifiers should not be included in any document filed with the court unless such inclusion is required by the court, by statute or court rule, or is material to the proceedings. If the identifiers must be included, then the following personal data identifiers must be partially redacted from the document, including exhibits:

(1) Social Security Numbers. If an individual's social security number must be included, only the last four (4) digits of that number are used.

(2) Names of Minor Children. If the involvement of a minor child must be mentioned, only the initials of that child are used.

(3) Dates of Birth. If an individual's date of birth must be included, only the year is to be used, and the date specified in the following format: XX/XX/1998.

(4) Financial Account Numbers. If financial account numbers are relevant, only the last four digits of these numbers are to be used, and the number specified in substantially the following format: XXXXX1234.

(5) Driver's License Numbers and State-Issued Personal Identification Card Numbers. If an individual's driver's license number or state issued personal identification card number must be referenced, only the last four digits of that number are to be used and the number specified in substantially the following format: XXXXX350F.

(6) Employer or Taxpayer Identification Number. If an employer identification number of business' taxpayer identification number must be included, only the last four (4) digits of that number are used.

**(c) Exceptions to Redaction Requirement.**

(1) The redaction requirement does not apply to the record of a court, tribunal, administrative or agency proceeding if that record was filed before the effective date of this rule.

(2) The redaction requirement does not apply to documents that are exempt from disclosure pursuant to Idaho Court Administrative Rule 32.

(3) The redaction requirement of a minor's full name does not apply to documents related to a name change for the minor.

**(d) Options When Personal Data Identifiers are Necessary.** A party filing a redacted document need not also file an unredacted version of the document; however, where inclusion of the unredacted personal data identifiers is required by the court, by statute or court rule, or is material to the proceedings in a document that is open to the public the party must choose the most appropriate option below:

(1) File the redacted document together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list must be clearly identified as a reference list filed pursuant to this rule and may be amended as of right. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information. The reference list is exempt from disclosure pursuant to Idaho Court Administrative Rule 32; however, courts will share the reference list with other government agencies as required or allowed by law without court order or application for purposes of the business of those agencies.

(2) File the redacted document together with an unredacted copy of the document. The unredacted copy must be clearly identified as an unredacted copy filed pursuant to this rule. The unredacted copy is exempt from disclosure pursuant to Idaho Court Administrative Rule 32; however, courts will share the unredacted copy with other government agencies as required or allowed by law without court order or application for purposes of the business of those agencies.

**(e) Unredacted document inadvertently submitted.** If an unredacted document is inadvertently submitted without a reference list or redacted copy, then the filer must submit a redacted

copy as soon as possible. The filer must also identify the original unredacted document, the date it was submitted, and request that the original unredacted document be marked as exempt from disclosure.

**(f) Parties to Use Caution.** Parties should exercise caution when filing papers that contain private or confidential information, including, but not limited to, the information covered above and listed below:

- (1) Medical records, treatment and diagnosis;
- (2) Employment history;
- (3) Individual financial information;
- (4) Insurance information;
- (5) Proprietary or trade secret information;
- (6) Information regarding an individual's cooperation with the government; and
- (7) Personal information regarding the victim of any criminal activity

**(g) Sanctions.** Failure to comply with this rule is grounds for contempt. If a party knowingly publicly files documents that contain or disclose confidential information in violation of these rules, the court may, upon its own motion or that of any other party or affected person, impose sanctions against the filing party

**(h) Privacy Protections in Orders, Judgments, and Decrees.**

(1) If possible, the court must refrain from including in a court order, judgment, or decree the personal data identifiers set forth in subsection (b) of this rule. If unredacted personal data identifiers are required by statute or court rule, or are material to the proceedings and must be included in an order, judgment, or decree that is open to the public then the unredacted document will be protected from public access. Copies of the unredacted document must be served on the parties and must be available to the parties and other government agencies without court order for purposes of the business of those agencies. A redacted copy of the order, judgment or decree must be available to the public; however, no redacted copy of any order or judgment must be prepared until there is a specific request for the document, in which case the document must be redacted in the manner specified in subsection (b) of this rule.

(2) Exceptions. The court may include unredacted personal data identifiers in documents that are exempt from disclosure pursuant to Idaho Court Administrative Rule 32.

2. That Rule 4(b)(2) be amended as follows:

**Rule 4. Summons.**

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b) Issuance; Time for Service.

(1) Issuance. On or after filing the complaint, the plaintiff may present a summons to the clerk for signature and seal. If the summons is properly completed, the clerk must sign, seal, and issue it to the plaintiff for service on the defendant. A summons, or a

copy of a summons that is addressed to multiple defendants, must be issued for each defendant to be served.

(2) Time Limit for Service. If a defendant is not served within ~~6 months~~ 182 days after the complaint is filed, the court, on motion or on its own after 14 days' notice to the plaintiff, must dismiss the action without prejudice against that defendant. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

IT IS FURTHER ORDERED, that this order and these amendments shall be effective July 1, 2019.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED, other than the addition of a new rule. The lining through and underlining shall not be considered a part of the permanent Idaho Rules of Civil Procedure.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 14<sup>th</sup> day of May, 2019.

By Order of the Supreme Court

  
Robyn M. Brody, Vice Chief Justice

ATTEST:

  
Clerk

I, Karel A. Lehrman, Clerk of the Supreme Court/  
Court of Appeals of the State of Idaho, do hereby  
certify that the above is a true and correct copy of  
the Order  
entered in the above entitled cause and now on  
record in my office.

WITNESS my hand and the Seal of this Court 5-14-19

KAREL A. LEHRMAN

Clerk

By: 

Chief Deputy