



I.R.C.P. 51. Jury Instructions

Idaho Rules of Civil Procedure Rule 51. Jury Instructions.

(a) Pre-trial Conference. No later than 7 days before the commencement of any trial by jury, any party may file written requests that the court instruct the jury on the law as set forth in such request, and such requested instructions must be served upon and received by all parties to the action at least 7 days before the commencement of the trial.

(b) Consequences of Not Filing Requests. The court need not consider any requested instructions not filed and served upon the parties as required by this rule. However, if matters arise during the trial which could not reasonably have been anticipated, or if matters were overlooked in the original requested instructions, the court may permit a party to file and serve written requests for instructions at any time up to and including the close of the evidence.

(c) Instructions Proposed by the Court. The court may also prepare other written instructions to be given of its own motion, and must submit to the parties the instructions that will be given, and provide adequate time and opportunity to all parties to read and consider said instructions, to discuss them with court and counsel off the record, and to make objections to them in the absence of the jury.

(d) How Instructions are Submitted. An original and a copy of all requested instructions must be submitted to the court. The citation of law the party relies in requesting the instruction must be indicated on only the copy. The originals must contain a blank space for numbering and the copies must be numbered by the party submitting them in consecutive numbers at the top of the first page of each requested instruction. The copies must also contain blanks at the bottom identified as "Given," "Refused," "Modified," "Covered," and "Other."

(e) Ruling on Proposed Instructions. The court must rule on the requested instructions at the close of the evidence and must either verbally state its ruling on the record or indorse on the duplicate copy of each requested instruction the court's ruling as to the request in the blanks provided.

(f) Record of Objections. All objections to instructions proposed by the court, and any objections to the giving or the failure to give an instruction, and the court's ruling on the objection, must be made a part of the record.

(g) Use of Idaho Jury Instructions. Whenever the latest edition of Idaho Jury Instructions (IDJI) contains an instruction applicable to a case and the court determines that the jury should be instructed on the subject, the court should use the IDJI instruction unless it finds that a different instruction more adequately, accurately or clearly states the law. Whenever the latest edition of IDJI does not contain an instruction on a subject upon which the court determines that the jury should be instructed, or when an IDJI instruction cannot be modified to submit the issue properly, the instruction given on that subject should be simple, brief, impartial and free from argument. When a party requests a modified IDJI instruction, the party must indicate the modification by use of parentheses or other appropriate



means.

(h) Preliminary Instructions. Prior to the presentation of evidence, the court may instruct the jury on the role of the court, counsel and jury; the elements of all claims in dispute and any known defenses; and any other matter it believes necessary and appropriate to aid in resolution of the issues at hand. The court must hold an instruction conference prior to trial to consider these initial instructions to the jury.

(i) Procedure with the Jury.

(1) *Timing of Instructions.* The court may give instructions to the jury at any time, and at various times, during the trial.

(2) *Instructions Reduced to Writing.* All instructions must be reduced to writing and constitute part of the record. Prior to giving any preliminary or final instructions, the court must furnish copies of them to all parties and allow a reasonable time to examine them and make objections outside the presence of the jury.

(3) *Objections.* No party may assign as error the giving of or failure to give an instruction unless the party objects before the jury deliberates, stating distinctly the instruction to which that party objects and the grounds of the objection.

(4) *Providing Instructions to the Jury.* After the court makes all rulings on requested instructions and objections, and advises the parties of the final instructions to be given, the court must read to the jury the written instructions before the final arguments of the parties are given. The court must give the jury the original and a minimum of two copies of the written instructions for use in deliberation.

(5) *Request for Further Instruction by the Jury.* If the jury request further instructions, the request must be made to the court in writing. The court may further instruct the jury in writing or explain the instructions in open court which explanation must be made part of the record. The parties must be given the opportunity to be present and heard regarding the request, if they are available and can be present within a reasonable period of time.

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