



## **I.R.C.P. 40.1. Change of Venue**

### **Idaho Rules of Civil Procedure Rule 40.1. Change of Venue.**

**(a) Motion for Change of Venue.** A judge may change venue only upon motion by any party.

(1) *Discretionary.* A judge may grant a change of venue or change the place of trial to another county as provided by statute or when it appears by affidavit or other satisfactory proof that:

(A) there is reason to believe that an impartial trial cannot be had in the county in which the action is filed, or

(B) the convenience of witnesses and the ends of justice would be promoted by the change.

(2) *Mandatory.* The judge must change the venue of a trial when it appears by affidavit or other satisfactory proof that the county designated in the complaint is not the proper county, which motion must be made no later than 14 days after the party files a responsive pleading.

(3) *Objection to Change of Venue.* Upon a motion for change of venue under subsection (2), the court may consider an objection based upon subsections (1)(A) or (1)(B). The court may deny an otherwise proper motion for change of venue under subsection (2) if it finds that an impartial trial cannot be had in the proper venue or that the convenience of witnesses and the ends of justice would be promoted by retaining jurisdiction in the county where the action is filed.

(4) *Sanctions.* When a judge grants a motion for change of venue pursuant to subsection (2), the court may assess sanctions against the party who filed the action or the party's attorney if the court finds that the action was filed in the improper venue without good cause.

**(b) Change of Venue in Same Judicial District.** If venue is changed to a court of proper venue within the same judicial district, the judge granting the change of venue must:

(1) order the case transferred to a specific court of proper venue within the judicial district; and

(2) continue the assignment over the case, unless the administrative district judge reassigns the case to another



judge of the judicial district.

**(c) Change of Venue to a Different Judicial District.**

(1) *Venue Changed Pursuant to Subsection (a)(2)*. If change of venue to a different judicial district is granted pursuant to subsection (a)(2) a new presiding judge is assigned as follows:

(A) if the original judge desires to continue the assignment over the case, the judge may so indicate in the order, suggesting a court of proper venue, and refer to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue and for assignment of a specific judge to preside; or

(B) if the original judge does not desire to continue the assignment over the case, the judge must enter an order transferring the case to a proper county and the receiving judicial district must assign a judge pursuant to the assignment procedures of that district.

(2) *Venue Changed Pursuant to Subsection (a)(1)(A) or (B)*. If change of venue is granted pursuant to subsection (a)(1)(A) or (B) to a different judicial district is granted, the court must enter an order changing venue and suggesting a court of proper venue and refer the case to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue and for assignment of a specific judge to preside. If the original judge does not desire to continue the assignment over the case, the judge may so indicate in the order.

**(d) Disqualification of Judge on Change of Venue.**

(1) *Change of Venue Within a Judicial District*. If a judge is disqualified from further handling of a proceeding in which a change of venue has been granted to a court of proper venue within the same judicial district, the administrative district judge must reassign the case to another judge of the judicial district.

(2) *Change of Venue to a Different Judicial District*. If a judge is disqualified from further handling of a proceeding in which a change of venue has been granted to a different judicial district, the administrative district judge of the receiving judicial district must refer the case to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue and assignment of a specific judge.



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