

Commencing an Action: Idaho

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Law stated as of 09 Sep 2022

A Q&A guide to commencing an action in Idaho. This Q&A addresses the requirements for drafting and filing initiating papers, serving process, and amending the complaint. Answers to questions can be compared across a number of jurisdictions (see [Commencing an Action: State Q&A Tool](#)).

Following the suspension or modification of nonessential judicial functions in 2020 due to COVID-19, Idaho courts have resumed most operations, but local courts may impose special rules impacting some litigation (such as remote proceedings). Check the Idaho Supreme Court's [State Judicial Emergency Orders](#) for the latest developments in this jurisdiction.

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Overview of Commencing an Action

1. What are the applicable rules for commencing an action?

The Idaho Rules of Civil Procedure govern the procedure in all actions, proceedings, and civil appeals in the Idaho district courts and the district courts magistrate's divisions ([Idaho R. Civ. P. 1\(b\)](#)). Key rules relating to commencing an action include:

- [Idaho R. Civ. P. 3](#): Commencement of Action.

- [Idaho R. Civ. P. 4](#). Summons.
- [Idaho R. Civ. P. 5](#). Serving and Filing Pleadings and Other Papers.
- [Idaho R. Civ. P. 7 to 16](#): pleadings, motions, and scheduling.

The key statutory provisions related to commencing an action are [Idaho Code §§ 5-505 to 5-518](#).

Certain civil trial courts are governed by specific statutes and rules of procedure, including:

- Idaho Rules for Small Claims Actions ([Idaho R.S.C.A. Rule 1 to 15](#)).
- Idaho Rules of Family Law Procedure ([Idaho R.F.L.P. Rule 101](#) to [Idaho R.F.L.P. Rule 121](#)).
- Idaho Juvenile Rules ([Idaho R. Juv. Rule 1 to 60](#)).

The district court of each judicial district may also make rules governing the internal case management and procedure of the district court, including procedures for:

- Setting the time and place for trials.
- Hearing all other proceedings and motions.

([Idaho R. Civ. P. 1\(c\)](#).)

District court rules must be consistent with the Idaho Rules of Civil Procedure and approved by the Idaho Supreme Court ([Idaho R. Civ. P.1\(c\)](#)).

2. Generally, in which trial level court must an action be commenced? Please address:

- Monetary thresholds for trial level courts.
- Territorial limits for trial level courts.

In Idaho, all actions must be filed in the proper district court ([Idaho Code § 1-104](#)). Small claims are filed in the proper district court's magistrate division ([Idaho Code § 1-2301](#)).

Monetary Thresholds

Idaho generally does not impose a monetary threshold for commencing actions in state court. However, in the magistrate division's small claims department the amount of each claim cannot exceed \$5,000 ([Idaho Code § 1-2301](#)).

Territorial Limits

The Idaho district courts have general statewide jurisdiction. However, Idaho is divided into seven judicial districts, each serving specified counties and with many district judges set by statute ([Idaho Code §§ 1-801 to 1-808](#); see [Idaho Supreme Court: Idaho's District Courts](#)).

Actions must generally be tried in the county in which either:

- At least some of the defendants reside at the commencement of the action ([Idaho Code § 5-404](#)).
- The cause or some part of the action arose ([Idaho Code § 5-402](#)).

Actions relating to property must be tried in the county where the subject of the action or some part of it is located ([Idaho Code § 5-401](#)).

Actions against a county may be commenced and tried in that county unless the action is brought by another county, in which case it may be brought in any county ([Idaho Code § 5-403](#)).

3. What documents must be prepared to commence an action? Are there official forms for the initiating papers?

Documents

A party commences a civil action in Idaho by filing a complaint, petition, or application with the court ([Idaho R. Civ. P. 3\(b\)](#)). All parties, with limited exceptions, must also file a case information sheet with the party's first appearance in a case ([Idaho R. Civ. P. 3\(d\)](#)).

Official Forms

Official forms are available on the Idaho Judicial Branch's [website](#), including the [case information sheet](#).

4. Is an action commenced by serving or filing the initiating papers? If an action is commenced by service, by when must the complaint or other pleadings be filed?

In Idaho, an action is commenced by filing the initiating papers with the court ([Idaho R. Civ. P. 3\(b\)](#)).

At the time of filing the complaint, the plaintiff may also present a summons to the court clerk. If properly completed, the clerk must sign, seal, and issue the summons. ([Idaho R. Civ. P. 4\(b\)\(1\)](#); see [Question 6.](#))

5. How are the initiating papers filed? Please address:

- Whether the papers are filed electronically or by hard copy.
- Any fees for filing the initiating papers, and in what form those fees must be paid.

Filing Initiating Papers

In Idaho, electronic filing is available in all district courts for all matters and generally all documents must be filed electronically ([ID Rule on Electronic Filing and Service Rule 4\(a\)](#)).

Self-represented parties who are individuals and not attorneys may elect to file electronically but are not required to do so. If the self-represented party does not file electronically, the party must both:

- Provide the physical address for service.
- Pay designated mail service fees to the court clerk at the time of filing.

([ID Rule on Electronic Filing and Service Rule 4\(b\)](#).)

The Idaho Supreme Court provides a copy of the Idaho Rules of Electronic Filing and Service on its [website](#).

Filing Fees

The filing fee for commencing a civil action not listed separately in the fee schedule found in Idaho R. Civ. P. App. A is:

- \$221 in an Idaho district court.
- \$166.00 in an Idaho magistrate court.

(Idaho R. Civ. P., App. A.)

Unless the filing fee is waived, the plaintiff must pay the fee before filing a complaint (Idaho R. Civ. P. 10.1; ID Rule on Electronic Filing and Service Rule 10). Filing a document electronically triggers electronic payment (ID Rule on Electronic Filing and Service Rule 10(a)).

The Idaho Supreme Court provides a copy of the Appendix A fee schedule for civil filings on its [website](#).

Initiating Papers

6. What are the contents that must be included in the summons?

In Idaho, the summons must include:

- The name of the court.
- The assigned case number.
- The parties' names.
- The county in which the action is being brought.
- The district court clerk's:
 - mailing address;
 - physical address (if different from the mailing address); and
 - phone number.
- The plaintiff's attorney's (or the plaintiff's, if self-represented):
 - name;

- address;
- phone number;
- email address; and
- bar number (if the plaintiff is represented).

The summons also must:

- Be directed to the defendant.
- State the time within which the defendant must appear and defend.
- Notify the defendant that a failure to appear and defend results in a **default judgment** against the defendant for the relief demanded in the complaint.
- Be signed by the court clerk.
- Bear the court's seal.

(Idaho R. Civ. P. 4(a).)

Appendix B of the Idaho Rules of Civil Procedure provides standard form summonses for:

- Eviction proceedings (Idaho R. Civ. P., App. B, 4(a)(3)(A)).
- Other civil proceedings (Idaho R. Civ. P., App. B, 4(a)(3)(B)).
- Summons by publication (Idaho R. Civ. P., App. B, 4(a)(3)(C)).

7. What are the contents that must be included in the complaint?

In Idaho, the complaint must designate it is a complaint (Idaho R. Civ. P. 10(a)). It must also contain:

- A caption stating:
 - a title of the action including the names of all the parties;
 - the title of the court;
 - the case number; and
 - the title of the document.

(Idaho R. Civ. P. 2(a)(2), (11).)

- The signature of the attorney of record, or of the party personally if unrepresented. It must also include the signatory's:
 - address;
 - email address; and
 - phone number.

(Idaho R. Civ. P. 11(a).)

A complaint must contain the following substantive content:

- A short and plain statement of the grounds for the court's jurisdiction unless the court already has jurisdiction and the claim needs no new jurisdictional support.
- A short and plain statement of the claim showing that the pleader is entitled to relief.
- A demand for the relief sought, which may include relief in the alternative or different types of relief.

(Idaho R. Civ. P. 8(a).)

8. Must the plaintiff certify or swear to the complaint?

Idaho does not require the complaint be verified or sworn to unless specifically required by rule or statute (Idaho R. Civ. P. 11(a)). For example, Idaho Code § 7-1111(1) requires that the complaint be verified in paternity cases.

9. What is the applicable pleading standard? Please address any:

- Key distinctions from [Federal Rules of Civil Procedure 8](#).
- Different pleadings requirements for particular claims (for example, fraud).

State Pleading Standard

In Idaho, a complaint must contain a short and plain statement of the claim showing the pleader is entitled to relief ([Idaho R. Civ. P. 8\(a\)\(2\)](#)). As Idaho abandoned the technical rules of pleading to provide court access to every litigant, a complaint is sufficient if it puts the adverse party on notice of the claims against it ([Navo v. Bingham Mem'l Hosp.](#), 160 Idaho 363, 374, 373 P.3d 681, 692 (2016); [Raymond v. Idaho State Police](#), 165 Idaho 682, 689, 451 P.3d 17, 24 (2019)).

Key Federal Distinctions

The federal pleading standard requires more than Idaho. Under the federal pleading standard, a complaint must contain sufficient factual matter to state a claim to relief that is plausible on its face. A claim is plausible when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. ([Ashcroft v. Iqbal](#), 556 U.S. 662, 678 (2009); [Bell Atlantic Corp. v. Twombly](#), 550 U.S. 544, 570 (2007).) Idaho has not adopted the plausibility standard of *Iqbal* and *Twombly*.

Pleading Requirements for Particular Claims

Fraud or Mistake

To allege fraud or mistake a party must state with particularity the circumstances constituting the fraud or mistake ([Idaho R. Civ. P. 9\(b\)](#)).

Particularity requires that the alleging party specify the factual circumstances constituting the fraud or mistake ([Idaho R. Civ. P. 9\(b\)](#); [Brown v. Greenheart](#), 157 Idaho 156, 164, 335 P.3d 1, 9 (2014)).

Violation of Civil or Constitutional Rights

A party alleging a violation of civil or constitutional rights must state with particularity the circumstances constituting the violation of its rights ([Idaho R. Civ. P. 9\(b\)](#); see [Fraud or Mistake](#)).

Conditions of Mind

A party may allege malice, intent, knowledge, and other conditions of a person's mind generally ([Idaho R. Civ. P. 9\(b\)](#)).

Conditions Precedent

A party may allege generally that conditions precedent have occurred or been performed but must deny that a condition precedent has been performed with particularity ([Idaho R. Civ. P. 9\(c\)](#); see [Fraud or Mistake](#)).

Special Damages

A party claiming special damages:

- Must specifically state the damages by category.
- May allege specific dollar amounts.

A party alleging general or **punitive damages**:

- May not state a dollar amount or figure.
- May state that the claimed amount meets a jurisdictional threshold.

([Idaho R. Civ. P. 9\(g\)](#).)

Limitations

A party pleading the **statute of limitations**:

- May state generally that the action is barred.
- Must plead the applicable statute or session law relied on with particularity.

([Idaho R. Civ. P. 9\(h\)](#); see [Fraud or Mistake](#).)

Description of Real Property

In an action for the recovery of real property, the party must describe the property at issue sufficiently to enable an officer to identify it on execution ([Idaho R. Civ. P. 9\(j\)](#)).

10. Please address the circumstances, if any, where a complaint is not part of the initiating papers, including what papers are filed instead of a complaint.

In Idaho, a party may also commence an action by filing a petition or application in certain cases ([Idaho R. Civ. P. 3\(b\)](#)). Examples include:

- Petitions for name changes ([Idaho Code § 7-802\(1\)](#)).
- Actions under the Uniform Interstate Family Support Act ([Idaho Code § 7-1016](#)).
- Judicial confirmations ([Idaho Code § 7-1304](#)).
- Judicial proceedings to suspend licenses ([Idaho Code § 7-1405](#)).

11. Please discuss any prerequisites for filing certain claims (for example, filing a complaint against a government entity).

Tort Claims Against Government Entities

A party must present to and file with the [Idaho secretary of state](#) any claims against Idaho governmental entities under the Idaho Tort Claims Act ([Idaho Code §§ 6-901 to 6-929](#)). The party must do so within 180 days from the later of:

- The date the claim arose.
- The date the claim reasonably should have been discovered.

([Idaho Code § 6-905](#).)

This applies to all claims against:

- The state of Idaho.
- An employee of Idaho for any act or omission within the course or scope of the employee's employment.

- An Idaho political subdivision.

(Idaho Code §§ 6-905 and 6-906.)

Claims for a Construction Defect

Under Idaho's Notice and Opportunity to Repair Act (Idaho Code §§ 6-2501 to 6-2504), before commencing an action against a construction professional for a construction defect, the claimant must serve written notice of claim on the construction professional. The notice must:

- State that the claimant asserts a construction defect claim against the construction professional.
- Describe the claim in reasonable detail sufficient to determine the general nature of the defect.

(Idaho Code § 6-2503.)

Service of Process

12. When must the defendant be served with process? Can the time to serve the defendant be lengthened?

Serving the Defendant with Process

In Idaho, a plaintiff must serve the defendant with process within 182 days after filing a complaint (Idaho R. Civ. P. 4(b)(2)).

Additional Time for Service

The court may extend the time for any act that may or must be done within a specified time for good cause shown, either:

- With or without motion or notice if the court acts or a party makes a request before the original time or extension expires.
- On motion after the time has expired if the failure to act was excusable neglect.

(Idaho R. Civ. P. 2.2(b)(1).)

The parties may also stipulate to extend time by filing a written stipulation before or after the time expires unless the extension is inconvenient to the court ([Idaho R. Civ. P. 2.2\(b\)\(2\)](#)).

13. What documents must be served?

In Idaho, a plaintiff must serve the defendant with a copy of both the summons and complaint ([Idaho R. Civ. P. 4\(c\)\(1\)](#)).

14. Who may serve process? Is a license or other certification required?

In Idaho, the following may serve process:

- An officer authorized by law to serve process.
- Any person over the age of 18 that is not a party to the action.

([Idaho R. Civ. P. 4\(c\)\(2\)](#).)

15. What are the methods for service within the state?

[Idaho Rule of Civil Procedure 4\(d\)](#) governs the methods for service of a complaint, which differ based on the party being served.

Service on an Individual

A process server can serve a competent individual over the age of 14 by one of the following means:

- Delivering a copy of the summons and the complaint to the individual personally.
- Leaving a copy at the individual's home with someone residing at the home that is over the age of 18.
- Delivering a copy to an agent of the individual authorized to receive service.

(Idaho R. Civ. P. 4(d)(1).)

Service on a Minor

A process server may serve a competent person under the age of 14 by both:

- Serving, in the following order of precedence, one of the following:
 - the minor's guardian, if appointed;
 - the minor's parent if no guardian is appointed; or
 - any person having care or custody of the minor if there is no parent.
- Serving the minor unless the court orders otherwise.

(Idaho R. Civ. P. 4(d)(2)(A); see [Service on an Individual.](#))

Service on an Incompetent Person

A process server may serve an incompetent person by both:

- Serving, in the following order of precedence, one of the following:
 - the person's guardian, if appointed;
 - a competent adult family member with which the incompetent person resides; or
 - an officer of the institution where the incompetent person resides.
- Serving the incompetent person unless the court orders otherwise.

(Idaho R. Civ. P. 4(d)(2)(B); see [Service on an Individual.](#))

Service on a Business

A process server generally may serve a domestic or foreign corporation, a partnership, or another unincorporated association subject to suit under a common name by delivering a copy of the summons and complaint to:

- An officer.
- A managing or general agent.
- Any other agent of the business authorized to receive service.
- A statutory agent. Service may be made by registered or certified mail if the statutory agent is a state official.

(Idaho R. Civ. P. 4(d)(3)(A), (B).)

If the agent designated for service for a foreign entity is unavailable, a person may serve process by mailing the summons and complaint by registered or certified mail to both:

- The entity's registered place of business.
- The entity's president or secretary at the addresses on the most current annual statement filed with the [Idaho secretary of state](#).

(Idaho R. Civ. P. 4(d)(3)(C).)

Service on a Government Entity

A process server must serve the state of Idaho or any of its agencies by delivering two copies of the summons and complaint to the [Idaho attorney general](#) or any assistant attorney general (Idaho R. Civ. P. 4(d)(4)(A)).

A process server must serve any other governmental subdivision, municipal corporation, quasi-municipal corporation, or public board by delivering a copy of the summons and complaint to the entity's:

- Chief executive officer.
- Secretary.
- Clerk.

(Idaho R. Civ. P. 4(d)(4)(B).)

16. What are the methods for service outside the state?

If authorized by statute, a plaintiff generally serves a party outside of Idaho the same way as service within the state ([Idaho R. Civ. P. 4\(e\)\(1\)\(A\)](#); see [Question 15](#)). If a statute allows service on someone not a resident of Idaho, the plaintiff must make service under the relevant statute ([Idaho R. Civ. P. 4\(e\)\(1\)\(B\)](#)).

Idaho also allows service by publication ([Idaho R. Civ. P. 4\(e\)\(1\)\(C\)](#) and [Idaho R. Civ. P., App. B, 4\(a\)\(3\)\(C\)](#)).

17. Are there any days on which service of process is restricted (for examples, Sundays or holidays)?

The Idaho Rules of Civil Procedure do not restrict the days on which process may be served.

18. What are the consequences for ineffective service of process?

In Idaho, if the plaintiff does not serve a defendant within 182 days after the complaint is filed, the court must dismiss the action without prejudice, either on its own or on a party's motion after 14 days' notice to the plaintiff ([Idaho R. Civ. P. 4\(b\)](#)).

19. How are any defects in serving process cured?

An Idaho court may allow the plaintiff to amend the summons at any time in the court's discretion and on any terms the court deems just unless it clearly appears that material prejudice results to the substantial rights of the party the summons is issued against ([Idaho R. Civ. P. 4\(a\)\(2\)](#)).

If a party shows good cause for any defects in the serving process, the court must also extend the time for service for an appropriate period ([Idaho R. Civ. P. 4\(b\)\(2\)](#)).

A defendant not asserting an objection in a responsive pleading or other timely motion waives any objection to the timeliness or effectiveness of service ([Idaho R. Civ. P. 12\(b\)\(5\)](#), [\(h\)\(1\)](#)).

20. Must proof of service of process be filed? Please address:

- Any required form of proof of service (for example, affidavit, affirmation, or declaration).
- Any information required in the proof of service.
- When the proof of service must be filed.

Required Form

In Idaho, the form of proof of service of process depends on the individual serving process. A plaintiff proves service by one of the following methods:

- Where an officer serves someone within Idaho, by filing a certificate of the officer stating how the officer made service as required by the Idaho Rules of Civil Procedure.
- Where an individual other than an officer makes service, by filing an affidavit of the server stating that the server:
 - is over the age of 18; and
 - made service as required by the Idaho Rules of Civil Procedure.
- If the process server completed service by mail that does not require proof of receipt, by filing an affidavit stating:
 - that the server is over the age of 18;
 - that the server mailed the process to the defendant; and
 - the date and address to which the process papers were mailed.
- If service is by certified or registered mail, by filing both:

- an affidavit of the person over the age of 18 mailing the process; and
 - postal receipts indicating whether the person received the service of process by mail.
- If service is by publication, by filing both:
- an affidavit by the newspaper's publisher or the publisher's designated agent over the age of 18, stating the dates of publication; and
 - a true copy of the publication.
- By filing the served party's acknowledged written admission that it received service of process, including the capacity in which the party received service ([Idaho R. Civ. P. 4\(d\)\(5\)](#)).

([Idaho R. Civ. P. 4\(g\)](#).)

Required Information

Proof of service of process must:

- Be in writing.
- Identify all documents served.
- Specify the manner of service and the date and place of service.

([Idaho R. Civ. P. 4\(g\)\(1\)](#).)

When Proof Must Be Filed

The plaintiff must file proof of service with the court unless the served party files an appearance ([Idaho R. Civ. P. 4\(g\)\(1\)](#)). The rule does not address a time for filing proof of service.

Amending the Complaint

21. Can the complaint be amended after it has been filed, but before it has been served?

The Idaho Rules of Civil Procedure do not address amendments to the complaint before service.

22. Can the complaint be amended after it has been filed and served? If so:

- When can this be done as of right?
- When must a plaintiff seek a court order to amend the complaint?

In Idaho, a complaint may be amended after it has been filed and served.

Amendment as of Right

Before trial, a plaintiff may amend its complaint once as a matter of right within 21 days after serving the complaint ([Idaho R. Civ. P. 15\(a\)\(1\)](#)).

Court Order for Amending the Complaint

Except in circumstances where the plaintiff can amend its complaint as of right, a plaintiff can amend the complaint before trial only with either:

- The opposing party's written consent.
- The court's leave, which should be freely given when justice requires.

([Idaho R. Civ. P. 15\(a\)\(2\)](#).)

During and after trial, if a party objects that evidence is not in the pleadings, the court may permit the plaintiff to amend its complaint to conform to the proof ([Idaho R. Civ. P. 15\(b\)\(1\)](#)).