

## **I.R.C.P. 45.i.2. Definitions.**

Idaho Rules of Civil Procedure Rule 45(i)(2). Definitions.

In this Rule:

(A) 'Foreign jurisdiction' means a state other than this state.

(B) 'Foreign subpoena' means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(C) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(D) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

(E) 'Subpoena' means a document, however denominated, issued under authority of a court of record requiring a person to:

(i) attend and give testimony at a deposition;

(ii) produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or

(iii) permit inspection of premises under the control of the person.

### Comment

The Uniform Interstate Depositions and Discovery Act (the Act) has been adopted as Rule 45(i) of the Idaho Rules of Civil Procedure to enable an attorney prosecuting or defending a lawsuit outside the jurisdiction of Idaho to conduct discovery within Idaho. The rule does not apply to discovery arising out of litigation originating in foreign countries.

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The term 'Subpoena' includes a subpoena duces tecum. The description of a subpoena is based on the language of Rule 45 of the FRCP.

The term 'Subpoena' does not include a subpoena for the inspection of a person (subsection 45(i)(2)(E)(iii) is limited to inspection of premises). Medical examinations in a personal injury case, for example, are separately controlled by state discovery rules (the corresponding State rule is Rule 35 of the IRCP).

The term 'Court of Record' was chosen to exclude non-court of record proceedings from the ambit of the rule. A 'Court of Record' includes anyone who is authorized to issue a subpoena under the laws of that state, which may include an attorney of record for a party in the proceeding.

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