I.C.R. 49. Service and Filing of Papers.

Idaho Criminal Rule 49. Service and Filing of Papers.

(a) Service, when required. Written motions, other than those which may be properly heard ex parte, written notices, and similar papers shall be served upon each party and filed within the time and in the manner provided by the civil rules. Service may be made upon an attorney for a party by transmittal of a copy of the document to the office of the attorney by a facsimile machine process. This rule shall not require a facsimile machine to be maintained in the office of an attorney.

(b) Notice of orders. Immediately upon the entry of an appealable order or judgment the clerk of the district court, or magistrate's division, shall serve a copy thereof, with the clerk's filing stamp thereon indicating the date of filing, by mail on the prosecuting attorney and on each defendant or the attorney for the defendant; or said appealable judgment or order may be delivered directly to said parties or their attorney. Service may be made upon an attorney for a party by transmittal of a copy of the document to the office of the attorney by a facsimile machine process. The clerk shall make a note in the court records of such mailing or delivery. Such mailing or delivery is sufficient notice for all purposes under these rules. Lack of notice of entry of an appealable order or judgment does not affect the time to appeal or to file a post-trial motion within the time allowed, except where there is no showing of mailing or delivery by the clerk in the court records and the party affected thereby had no actual notice. This rule shall not require a facsimile machine to be maintained in the office of an attorney.

(c) Filing. Documents required to be served shall be filed with the court. Documents shall be filed in the manner provided in civil actions. Any document, except an information or complaint, a search warrant, a warrant of arrest, or a return on a warrant or service of a search warrant, or any document filed as proof of incarceration of a party to the action, may be transmitted to the court for filing by a facsimile machine process. The clerk shall file stamp the facsimile copy as an original and the signatures on the facsimile copy shall constitute the required signature of a party or the attorney. Filings may be made only during the normal working hours of the clerk and only if there is a facsimile machine in the offices of the filing clerk of the court. Provided, documents over ten (10) pages in length cannot be filed by the facsimile machine process. Following the service of a subpoena, the person serving the subpoena may make return thereof to the person who requested the subpoena rather than making return with the court.

(Adopted December 27, 1979, effective July 1, 1980; amended March 20, 1985, effective July 1, 1985; amended November 15, 1989, effective January 1, 1990; amended March 18, 1998, effective July 1, 1998; amended April 22, 2004, effective July 1, 2004.)

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