IRFLP 510 Grounds for Preliminary Injunction

Idaho Rules of Family Law Procedure Rule 510. Grounds for Preliminary Injunction.

A preliminary injunction may be granted in the following cases:

A. When it appears by the petition that the petitioner is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of the acts complained of, either for a limited period or perpetually.

B. When it appears by the petition or affidavit that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury to the petitioner.

C. When it appears during the litigation that the respondent is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the petitioner's rights, respecting the subject of the action, and tending to render the judgment ineffectual.

D. When it appears, by affidavit, that the respondent during the pendency of the action, threatens, or is about to remove, or to dispose of the respondent's property with intent to defraud the petitioner, an injunction order may be granted to restrain the removal or disposition.

E. A preliminary injunction may also be granted on the motion of the respondent upon filing a counterclaim, praying for affirmative relief upon any of the grounds mentioned above in this section, subject to the same rules and provisions provided for the issuance of injunctions on behalf of the petitioner.

F. The district courts, in addition to the powers already possessed, shall have power to issue writs of injunction for affirmative relief having the force and effect of a writ of restitution, restoring any person or persons to the possession of any real property from the actual possession of which the person or persons may be ousted by force, or violence, or fraud, or stealth, or any combination thereof, or from which the person or persons are kept out of possession by threats whenever such possession was taken from them by entry of the adverse party on Sunday or a legal holiday, or in the nighttime, or while the party in possession was temporarily absent therefrom. The granting of such writ shall extend only to the right of possession under the facts of the case, in respect to the manner in which the possession was obtained, leaving the parties to their legal rights on all other questions the same as though no such writ had issued: provided, that no such writ shall issue except upon notice in writing to the adverse party of at least seven (7) days of the time and place of making application therefor.

(Adopted April 2, 2014, effective for early adopters July 1, 2014, effective statewide July 1, 2015.)

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