



I.R.C.P. 47. Jury Procedure

Idaho Rules of Civil Procedure Rule 47. Jury Procedure.

(a) Use of Juror Questionnaires. Information derived from or answers to juror questionnaires is confidential and must not be disclosed to anyone except pursuant to court order. For the limited purpose of trial preparation, copies of the juror questionnaires and answers may be made available by the clerk to an attorney for a party or to a party appearing pro se. Disclosure is subject to the rule of juror confidentiality stated above and any further limiting order of the administrative or trial judge. A limiting order may include deletion of the name, address, phone number or any other information about a prospective juror that should remain confidential.

(b) Jury Roll Call Procedure. At the beginning of a trial by jury, the court must instruct the clerk to call the roll of the jury panel assigned for trial of that action. The court must take appropriate action with regard to any unexcused absences of prospective jurors, including but not limited to ordering that an absent juror be attached by the sheriff and compelled to attend the trial. The court must then determine the excuses of any jurors not previously determined.

(c) Oath to Panel. The clerk must administer an oath or affirmation to all prospective jurors of the entire jury panel, that each of them will truthfully answer all questions asked about their qualifications to sit as jurors in the action.

(d) Initial Jury Selection. The names of all prospective jurors on the jury panel present for the trial of an action constitutes the initial trial jury panel for that action. Under the direction of the court, the clerk must randomly select sufficient prospective jurors to complete jury selection. In consideration for the privacy of the jurors, the court may have the jurors referred to by name or by number.

(e) Opening Statements. The parties may, with the court's consent, present brief opening statements to the entire jury panel, prior to voir dire. On its own motion, the court may require the parties to do so. Following such statements, if any, the court must conduct a thorough examination of prospective jurors.

(f) Voir Dire.

(1) *Procedure.* Voir dire of the prospective jurors drawn from the jury panel must first be conducted by the court. The plaintiff, and then the defendant, and then each other party to the action must be permitted to question each prospective juror concerning qualifications to sit as a juror in the action.

(2) *Scope of Examination.* The voir dire must be under the supervision of the court and subject to limitations as the court may prescribe in the furtherance of justice and the expeditious disposition of the case. Any question by an



attorney to a prospective juror which is not directly relevant to the qualifications of the juror, or is not reasonably calculated to discover the possible existence of a ground for challenge, or has been previously answered, must be disallowed by the court upon objection or upon the court's own initiative.

(g) Use of Struck Jury. The court may select an initial panel of prospective jurors equal in number to the number of final jurors and alternate jurors needed plus the total number of peremptory challenges of the parties. The prospective jurors must be seated in numerical order with the lower-numbered jurors being the initial panel, followed by the alternate jurors.

(h) Challenges for Cause.

(1) *When Made.* Challenges for cause may be made at any time while questioning a prospective juror, or no later than the conclusion of all questions to an individual prospective juror, or the prospective jury if questioned as a whole, except that a challenge for cause may be permitted by the court at a later time upon a showing of good cause. Challenges for cause, as provided by law, must be tried by the court. The challenged juror, and any other person, may be examined as a witness on the trial of the challenge.

(2) *Grounds for Challenge for Cause.* A challenge for cause may be made because a prospective juror:

(A) lacks any of the qualifications prescribed by the Idaho Code to render a person competent as a juror;

(B) is related by blood or marriage within the fourth degree to any party;

(C) is in the relation of debtor or creditor, guardian and ward, master and servant, employer and clerk, or principal and agent with any party, or is a member of the family of any party, or a partner, or united in business with any party, or surety on any bond or obligation for any party;

(D) has served as a juror or has been a witness or subpoenaed at a previous trial between the same parties for the same cause of action;

(E) has a monetary interest in the outcome of the action or in a main question involved in the action;

(F) has an unqualified opinion or belief as to the merits of the action, or a main question involved, based on knowledge or information of material facts;



(G) has a state of mind showing hostility or bias to or against any party.

(3) *When Granted.* Whenever a juror is excused for cause, the clerk must immediately draw another name from the jury panel to fill the vacancy. There is no limit on the number of challenges for cause a party may make, and it is not necessary for any co-parties to join in making challenges.

(4) *Preservation of the Record.* Unless otherwise stipulated in the record by all parties to the action, the entire voir dire of all prospective jurors and the court's rulings on all challenges must be reported verbatim.

(i) Peremptory Challenges.

(1) *Number.* After the court has ruled on all challenges for cause, each party will have 4 peremptory challenges which must be exercised in accordance with this rule. If there are co-parties, the court must determine the degree of conflict of interest, if any, among the co-parties and may allocate the full number of peremptory challenges authorized by this rule to each of the co-parties, or apportion the authorized peremptory challenges among the co-parties, or allocate an equal or unequal number of peremptory challenges to each of the co-parties.

(2) *Procedure.* Peremptory challenges must be exercised alternately, by the parties; first by the plaintiff, then by the defendant, and then by any other party as prescribed by the court. All peremptory challenges must be exercised as directed by the court so as not to indicate to the panel which party exercised a peremptory challenge. Any juror selected to replace an excused juror must first be examined for challenges for cause before continuing with the peremptory challenges, except when all prospective jurors have been previously passed or challenged for cause. Any party who waives a peremptory challenge waives only that particular peremptory challenge and may subsequently exercise any remaining challenges; provided, if all parties consecutively waive their peremptory challenges, the court must deem the jury accepted by the parties and any remaining peremptory challenges are waived.

(j) Additional Jurors.

(1) *Selection.* A court may direct that one or more jurors in addition to the regular panel be called and impaneled to sit as additional jurors. All jurors must be drawn in the same manner, must have the same qualifications, must be subject to the same examination and challenges, must take the same oath, and have the same functions, powers, facilities, and privileges prior to deliberations. If one or two additional jurors are called, each party is entitled to 1 additional peremptory challenge. If more than 2 additional jurors are called, each party is entitled to 2 additional peremptory challenges. At the conclusion of closing arguments, jurors exceeding the number required of a regular panel must be removed by lot. Those removed may be discharged after the jury retires to consider its verdict, unless the court otherwise directs as indicated below.



(2) *Removal by Lot.* If the court determines that those jurors removed by lot must be available to replace any jurors who may be excused during deliberations due to death, illness or otherwise as determined by the court, the bailiff, sheriff or other person appointed by the court must take custody of them until discharged by the court. In the event a deliberating juror is removed, the court must order the juror discharged and draw the name of an alternate juror who will then take the discharged juror's place in the deliberations. The court must instruct the panel to set aside and disregard all past deliberations and begin anew with the new juror as a member of the panel.

(k) Managing Jurors in Trial.

(1) *Oath of Jurors.* After all peremptory challenges have been exercised or waived, the court must excuse all of the jury panel not selected. The clerk must then administer the jury oath or affirmation to the trial jury and alternates as prescribed by law.

(2) *Sequestration.* Sequestration means keeping the jury apart from others. The court must determine, in its discretion, whether a jury will be sequestered during a trial or during deliberations. The court must instruct the jurors not to talk to or associate in any way with the parties, their attorneys, agents, or witnesses, nor discuss the case with any person during the trial, and not to discuss the case among themselves until it has been submitted to them for deliberation.

(3) *Notes by Jurors.*

(A) *Procedure.* A juror may make written notes during a trial and keep them during deliberation. The court must give the jury appropriate instruction about the use of notes. At the conclusion of the proceedings, the court must take custody of the notes and provide for their destruction.

(B) *Notebooks, When Permitted.* In the discretion of the court, jurors may be provided notebooks containing documents for use by the jurors during trial to aid them in performing their duties. Notebooks may contain, but are not required to have or be limited to:

(i) a copy of all jury instructions;

(ii) juror notes;

(iii) the names of witnesses, including photographs and biographies;



(iv) copies of exhibits, including an index, but excluding depositions, and

(v) definitions of technical terms.

(4) *Questioning of Witnesses.* The court may instruct jurors that they are individually permitted to submit to the court written questions directed to any witness. If questions are submitted, the parties or counsel must be allowed to object to the questions outside the presence of the jury. Upon finding a question permissible, the court must read the question to the witness. The parties may then be allowed to ask follow-up questions as necessary.

(5) *Permitted Documents During Deliberation.* During deliberations, the jury must have with them all written jury instructions and, if practical, admitted exhibits, excluding depositions.

(l) Number of Jurors; Majority Verdict. In civil actions that may be assigned to the magistrate division, whether tried to a district judge or a magistrate judge, the jury must consist of not more than 6. In all other cases the jury may consist of 12 or of any number less than 12 upon which the parties may agree in open court. Three-fourths (3/4) of the jury may render a verdict. The cost of a jury may not be taxed as costs to any party in any civil action.

(m) Polling the Jury after Verdict. When the jurors have agreed on their verdict, they must be brought into court and the verdict delivered to the court by their foreman. The verdict must be in writing and signed by the foreman if all the jurors agree, but if not all jurors agree, the written verdict must be signed by all agreeing jurors. The verdict must be read by the clerk to the jury and the inquiry made whether it is their verdict. If more than one-fourth (1/4) of the jury disagree with the verdict, the court must return the jury for further deliberation. Either party may require the jury to be polled, which is done by the court or clerk asking each juror if it is the juror's verdict. If three-fourths (3/4) of the jury acknowledge the verdict to be their decision, the verdict must be accepted and the jury discharged.

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