What Is A Judgment?

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Rule 11 of the Idaho Rules of Appellate Procedure sets forth the appealable judgments and orders. In civil cases, an appeal can be taken from "[f]inal judgments, as defined in Rule 54(a) of the Idaho Rules of Civil Procedure, including judgments of the district court granting or denying peremptory writs of mandate and prohibition" and from "[j]udgments made pursuant to a partial judgment certified by the trial court to be final as provided by Rule 54(b), I.R.C.P.." I.A.R. 11(a)(1) & (3). "A judgment is final if either it has been certified as final pursuant to subsection (b)(1) of this rule or judgment has been entered on all claims for relief, except costs and fees, asserted by or against all parties in the action." I.R.C.P. 54(a). A document that purports to be a judgment but does not comply with Rule 54(a) is not appealable.

The Idaho Supreme Court has, in the past, contributed to the confusion of what constitutes a judgment. For example, in *Davis v. Peacock*, 133 Idaho 637, 991 P.2d 362 (1999), the Court held that an order granting the plaintiffs' motion for summary judgment was a final judgment because if an order "ends the suit, adjudicates the subject matter of the controversy, and represents a final determination of the rights of the parties, the instrument constitutes a final judgment." *Id.* at 640-41, 991 P.2d at 365-66. The Court also held that the order granting summary judgment was a final judgment even though the district court never expressly dismissed or ruled upon the defendant's counterclaim because the issues raised in the counterclaim were resolved by the grant of summary judgment to the plaintiffs. *Id.* In *Skaggs v. Mutual of Enumclaw Insurance Co.*, 141 Idaho 114, 106 P.3d 440 (2005), we held that a five-page "Decision and Order" which concluded with the words "It is so ordered" was a final judgment. In those cases, the Court focused upon whether it was clear that the district court's decision resolved all of the issues in dispute rather than whether the document complied with Rule 54(a).

Effective July 1, 2010, the Idaho Supreme Court amended Rule 54(a) to clarify what constitutes a judgment. However, the Court is still dismissing appeals without prejudice because the purported judgment that was entered does not comply with the rule.

For example, there was a district court lawsuit in which there was a complaint and counterclaim, both alleging that the opposing party breached a written contract. On the day of trial, the parties reached a settlement that they orally placed on the record. The settlement consisted of a new contract between them and dismissal of the complaint and counterclaim. The parties later disagreed as to all of the terms of the new contract, and the plaintiffs filed a motion to have the district court determine those terms. After briefing and argument, the district court issued an order setting forth what it found to be the terms of the parties' new contract. It titled the document "Final Order," and it included in the document the statement, "This case is now final and closed, subject to reopening in the event the parties violate the above Order." The defendants appealed, contending that the court had included in the new contract a term upon which they had not agreed. The Supreme Court issued an order stating that there was no final judgment because no order or judgment had been entered resolving claims alleged in either the complaint or the counterclaim and the district court purported to retain jurisdiction to resolve any future claim for breach of contract. The Court ordered that the appeal would be dismissed unless a final judgment was entered within 35 days. The district court did nothing further, and the appeal was dismissed without prejudice. Eventually the district court entered an "Amended Final Order," which was identical to the "Final Order," with two changes: (a) the district court deleted the sentence purporting to retain jurisdiction and (b) the court added a Rule 54(b) certificate. The defendants again appealed. The Supreme Court again issued an order stating that there was still no final judgment because: (a) attaching a Rule 54(b) certificate did not create a judgment; (b) the Amended Final Order did not resolve any of the claims set forth in the pleadings; and (c) the Amended Final Order did not comply with Rule 54(a) because it included a record of prior proceedings and the district court's findings of fact. The Supreme Court ordered that the appeal would be dismissed unless within 28 days a final judgment conforming to Rule 54(a) was entered. The district court responded in writing: "The judgment entered was a stipulated judgment. Neither party proposed a different judgment after your order conditionally dismissing appeal." The district court did nothing further, and the appeal was again dismissed without prejudice. After the appeal was dismissed, the district court entered a "Judgment of Dismissal" which stated, "IT IS HEREBY ORDERED that all of Plaintiffs' claims and Counterclaimants' counterclaims are dismissed with prejudice." The court then attached a Rule 54(b) certificate to that document.

Focusing solely upon whether the trial court had rendered a decision that, when examined, will resolve the issues in the case can lead to confusion as to the time limit for filing motions that must be filed within a specified time after the entry of judgment or for filing an appeal. For example, in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850, 55 P.3d 304 (2002), the district court orally granted the defendant's motion for summary judgment during a hearing held on November 16, 1999. *Id.* at 855, 55 P.3d at 309. Partial judgments had already been entered on all of the other claims for relief in the lawsuit. *Id.* at 867-68, 55 P.3d at 320-21. At the conclusion of the hearing, the court instructed defendant's counsel to prepare the appropriate order and a judgment. *Id.* at 868 n.12, 55 P.3d at 322. Defendant's counsel prepared the order, which was filed on November 24, 1999, and he filed a memorandum of costs on December 8, 1999. *Id.* at 866, 55 P.3d at 320. After an objection that the memorandum did not comply with Rule 54(d)(5), he filed an amended memorandum of costs on December 22, 1999, which the district court held was untimely because it was not filed within fourteen days of the entry of judgment. *Id.* The Supreme Court held on appeal that the memorandum of costs was not untimely because the order granting summary judgment was not a judgment. *Id.* at 868, 55 P.3d at 322.

In *Doe v. Doe*, No. 41387-2013, 2013 WL 6662031 (Idaho December 18, 2013), the magistrate judge entered an order granting a petition to terminate the parental rights of the biological father of a child born out of wedlock and an order granting a petition to adopt that child. *Id.* at *1. When the biological father learned of what had occurred, he filed a motion for relief under Rule 60(b) of the Idaho Rules of Civil Procedure. *Id.* at *3. The magistrate granted the motion and set aside the order, and the petitioner appealed. *Id.* The Supreme Court gave notice that the appeal would be dismissed because the initial order did not comply with Rule 54(a) and was therefore not a judgment. *Id.* Since it was not a judgment, the order setting it aside was not appealable as an order entered after judgment. *Id.* In response, the magistrate entered a document entitled "JUDGMENT," which merely restated that the initial order was set aside. Because a document setting aside an interlocutory order is not a judgment, the purported judgment which merely confirmed the setting aside of the interlocutory order was not a judgment, and the appeal was dismissed. *Id.* After conferring with both counsel, the magistrate entered a judgment denying the petitioner any relief on her petition, and she appealed again. *Id.* On appeal, she did not challenge the dismissal of her petition because she had agreed to that form

of judgment in the hope of being able to challenge the grant of relief under Rule 60(b). The Supreme Court held that the order terminating the biological father's parental rights and granting the petition to adopt was not a final judgment because it did not comply with Rule 54(a); that Rule 60(b) therefore did not apply; that the initial order was merely an interlocutory order; and that the correct standard for setting it aside was an abuse of discretion. *Id.* at *4-5. The final judgment ultimately entered was a denial on the merits of the petition for termination and adoption. *Id.* at *6.

Rule 54(a) of the Idaho Rules of Civil Procedure defines what constitutes a final judgment in civil cases.

> "Judgment" as used in these rules means a separate document entitled "Judgment" or "Decree". A judgment shall state the relief to which a party is entitled on one or more claims for relief in the action. Such relief can include dismissal with or without prejudice. A judgment shall not contain a recital of pleadings, the report of a master, the record of prior proceedings, the court's legal reasoning, findings of fact or conclusions of law. A judgment is final if either it has been certified as final pursuant to subsection (b)(1) of this rule or judgment has been entered on all claims for relief except costs and fees, asserted by or against all parties in the action.

1. "'Judgment' as used in these rules means a separate document . . . ." I.R.C.P. 54(a). A judgment must be a "separate document." "The purpose of this rule is to eliminate confusion about when the clock for an appeal begins to run. The separate document requirement was also designed to eliminate uncertainty over what actions of the district court are intended to be its judgment." *Spokane Structures, Inc. v. Equitable Inv., LLC*, 148 Idaho 616, 619, 226 P.3d 1263, 1266 (2010) (quoting 46 Am. Jur. 2d Judgments § 70 (2006) (footnotes omitted)).

For the judgment to be a separate document, the document must do only one thing—set forth the judgment to be entered. A document that begins with the court's decision granting the Defendant's motion for summary judgment and concludes with the words "Plaintiff's complaint is dismissed with prejudice" is not a judgment because the words dismissing the complaint were not on a separate document. *Hunting v. Clark Cnty. Sch. Dist. No. 161*, 129 Idaho 634, 637, 931 P.2d 628, 631 (1997). A document titled "Amended Judgment of Dismissal with Prejudice" was not a separate document as required by Rule 54(a), and therefore not a judgment, where the document included an order denying the Plaintiffs' motion for reconsideration. *Estate of Holland v. Metro. Prop. and Cas. Ins. Co.*, 153 Idaho 94, 99, 279 P.3d 80, 85 (2012).

2. "'Judgment' as used in these rules [must be titled] 'Judgment' or 'Decree'." I.R.C.P. 54(a). To be a judgment, the document must be titled "Judgment" or "Decree." The purpose of this requirement is to make it clear that the document is a judgment. A document titled "ORDER TERMINATING PARENTAL RIGHTS AND GRANTING ADOPTION OF MINOR CHILD" could not constitute a judgment because it was not titled "Judgment" or "Decree." *Doe v. Doe*, No. 41387-2013, 2013 WL 6662031, at *4 (Idaho December 18, 2013). However, merely titling a document "Judgment" will not make it constitute a judgment if it does not otherwise comply with Rule 54(a). *Harrison v. Certain Underwriters at Lloyd's, London*, 149 Idaho 201, 205, 233 P.3d 132, 136 (2010).

3. "A judgment shall state the relief to which a party is entitled on one or more claims for relief in the action. Such relief can include dismissal with or without prejudice." I.R.C.P. 54(a). Merely entitling a document a "Judgment" or a "Decree" does not make it a judgment. It must also state the relief to which a party is entitled on one or more claims for relief in the action.

The claims for relief are set forth in the pleadings. "The 'relief to which the party . . . is entitled' must be read in connection with other rules. Rule 8(a)(1) provides, 'A pleading which sets forth a claim for relief . . . shall contain . . . (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which he deems himself entitled.'" *Spokane Structures*, 148 Idaho at 619, 226 P.3d at 1266. "The 'demand for judgment for the relief to which he deems himself entitled' obviously refers to the relief that the party seeks in the lawsuit." *Id.* "The relief to which a party is entitled is the specific redress or remedy that the court determines the party should receive in the litigation, or with respect to a claim for relief in the litigation." *Id.*

"The relief to which a party is entitled is not the granting of a motion for summary judgment. The Rule refers to the relief to which the party is ultimately entitled in the lawsuit, or with respect to a claim in the lawsuit. The granting of the motion for summary judgment is simply a procedural step towards the party obtaining that relief." *Id.*

A document titled "Judgment" does not comply with Rule 54(a) where it merely states which party wins. *Harrison*, 149 Idaho at 205, 233 P.3d at 136. Thus, it is not a judgment if the document merely states:

> The Court hereby enters Judgment against [Plaintiffs] in favor of [Defendants]. The Court directs Defendants to file a memorandum of costs and fees in an amount to be proven pursuant to Idaho Code § 7–914.

Id. "Although the document stated that the court 'hereby enters Judgment against [Plaintiffs] in favor of Defendants,' nowhere does it state what relief was either granted the Defendants or denied the [Plaintiffs]." *Id.*

A claim for relief does not include the right of a prevailing party to recover court costs and/or attorney fees. *Id.* at 206 n.1, 233 P.3d at 137. Thus, a separate document titled "Amended Judgment" that simply awarded the Defendants attorney fees totaling $11,245.50 against the Plaintiffs was not a final judgment where there was no judgment resolving any claims for relief in the lawsuit. *Id.* Although the prevailing party's entitlement to an award of court costs and/or attorney fees is not a claim for relief, a judgment can include a provision either awarding a specific sum for court costs and/or attorney fees or denying such an award. *Estate of Holland*, 153 Idaho at 99-100, 279 P.3d at 85-86 (approving a judgment that stated, "IT IS HEREBY ORDERED that the complaint is dismissed with prejudice, each party to bear their own costs."). The document in *Harrison* that simply awarded attorney fees was not a judgment because it did not also state the relief to which a party was entitled on one or more claims for relief in the lawsuit.

4. "A judgment shall not contain a recital of pleadings, the report of a master, the record of prior proceedings, the court's legal reasoning, findings of fact or conclusions of law." I.R.C.P. 54(a). A judgment shall not contain "a recital of pleadings." A document titled "Judgment of Dismissal with Prejudice" was not a judgment because it included a recital of the pleadings ("This action was started on January 26, 2010, with Plaintiffs' filing of a Civil Complaint") and a record of prior proceedings ("a list of the various motions presented to the district court, the dates of the hearings on those motions, and the court's rulings on the motions"). *Estate of Holland*, 153 Idaho at 99, 279 P.3d at 85. After the Supreme Court sent out an order conditionally dismissing the appeal for lack of a final judgment, the district court entered a purported amended judgment, which likewise did not comply with Rule 54(a) because

it also included a record of prior proceedings, including the Supreme Court's order conditionally dismissing the appeal. *Id.*

"[M]erely typing 'It is so ordered' at the end of a memorandum decision does not constitute a judgment. The judgment must be a separate document that does not contain the trial court's legal reasoning or analysis." *Spokane Structures*, 148 Idaho at 620, 226 P.3d at 1267.

A judgment that complies with Rule 54(a) must simply state the specific relief granted to a party with respect to one or more claims for relief in the lawsuit. Examples include:

> IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the complaint is dismissed with prejudice.
>
> or
>
> IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Plaintiff recover from the Defendant the sum of $[amount].
>
> or
>
> IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the complaint is dismissed with prejudice and that the Defendant recover from the Plaintiff the sum of $[amount].
>
> or
>
> IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

We traditionally use the words "ordered, adjudged, and decreed," but do not interpret these examples as requiring the use of those words. They simply mean, "judicially mandated; required by court order." Black's Law Dictionary 1124 (7th ed. 1999). "Adjudge" means "adjudicate, to deem or pronounce to be, to award judicially." *Id.* at 42. "Adjudicate" means "to rule upon judicially." *Id.* A "decree" was traditionally a judicial decision in a court of equity, admiralty, divorce, or probate. *Id.* at 419. It includes any court order, but is usually used as the title of a judgment in a divorce case. *Id.*

NOTE: There is currently a proposed rule change in the pipeline that would mandate that a judgment begin with the words, "JUDGMENT IS ENTERED AS FOLLOWS:". Keep aware of future rule changes.

NOTE: District judges were initially advised that they could use short lead-ins to indicate the basis of the judgment, such as: "Based upon the jury verdict," or "Based upon the order granting summary judgment entered on [date]," or "Based upon the court's memorandum decision entered on [date]." However, many judges could not resist the effort to include a substantial list of orders and decisions which led to the final decision, resulting in what was a record of prior proceedings. The currently proposed rule change that is in the pipeline would include a provision that a judgment cannot include any other words between the caption and the words, "JUDGMENT IS ENTERED AS FOLLOWS."

Rule 54(b) of the Idaho Rules of Civil Procedure. From some of the purported judgments we have seen, it appears that some district judges believe that a Rule 54(b) certificate will cure any problem regarding compliance with Rule 54(a). It will not. Rule 54(b) makes a partial judgment that complies with Rule 54(a) a final judgment. It does not transform a document into a judgment.

Rule 54(b)(1) states:

> When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third party claim, or when multiple parties are involved, the court may direct the entry of a final judgment upon one or more but less than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of the judgment.

The rule permits a trial court to "direct the entry of a final judgment upon one or more but less than all of the claims." In order for Rule 54(b) to apply, there must be a partial judgment that complies with Rule 54(a). *Watson v. Weick*, 141 Idaho 500, 505, 112 P.3d 788, 793 (2005) (Rule 54(b) does not apply to an order granting summary judgment).

In addition, there have been attempts to certify as final documents that resolved part of a claim or an affirmative defense. Rule 54(b) allows the court to "direct the entry of a final judgment upon one or more but less than all of the claims or parties." It does not apply to documents that resolve part of a claim.

Rule 54(b) does not apply to a decision resolving part of a cause of action. *Rife v. Long*, 127 Idaho 841, 844-45, 908 P.2d 143, 146-47 (1995) (some but not all theories of liability regarding one cause of action); *Twin Falls Cnty. v. Knievel*, 98 Idaho 321, 323, 563 P.2d 45, 47

(1977) (liability but not damages); *Glacier Gen. Assur. Co. v. Hisaw*, 103 Idaho 605, 608, 651 P.2d 539, 542 (1982) (insurer's liability under insurance contract, but not damages—insurer's action for declaratory judgment that there is no coverage and insured's counterclaim for damages under the policy were one claim under Rule 54(b)).

Rule 54(b) does not apply to a decision dismissing an affirmative defense. *Idaho Dept. of Labor v. Sunset Marts, Inc.*, 140 Idaho 207, 210, 91 P.3d 1111, 1114 (2004) ("Rule 54(b) does not provide for certifying as final a partial judgment dismissing a defense.").

Rule 54(b) does not apply to an order denying summary judgment. *Merritt v. State*, 113 Idaho 142, 143, 742 P.2d 397, 398 (1986) (denial of the state's motion for summary judgment in an action for inverse condemnation, which implicitly held that a taking had occurred).

Finally, "A district court's determination that there is no just reason for delay in entering a final partial judgment is not binding on [the Supreme] Court when it appears that the district court abused its discretion in so finding." *Watson*, 141 Idaho at 505, 112 P.3d at 793. In *Watson*, the Supreme Court vacated the Rule 54(b) certificate, writing:

> There is nothing in the record indicating any hardship, injustice, or compelling reason why the partial summary judgment granted to the Watsons on their complaint should be final before the Weicks' counterclaims were determined. The district court abused its discretion in determining that there was no just reason for delay and that a final judgment should be entered. We therefore vacate the Rule 54(b) certificate and address the issue of whether the district court erred in dismissing the Weicks' counterclaim for fraud.

Id. at 505-06, 112 P.3d at 793-94.