

# In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO RULES GOVERNING )  
DISQUALIFICATIONS WITHOUT CAUSE )  
\_\_\_\_\_ )

ORDER

The Court, having determined it is in the interests of justice to amend the Idaho Court Rules governing the disqualification of judges without cause, and being fully informed:

IT IS ORDERED that the Idaho Rules of Civil Procedure, the Idaho Criminal Rules, and the Idaho Rules of Family Law Procedure be amended as follows:

## Idaho Rules of Civil Procedure

### Rule 40. Disqualification.

**(a) Disqualification Without Cause.** In all civil actions and petitions for judicial review, each party has the right to file one motion for disqualification of the judge, which does not require the statement of any grounds, under the following conditions and procedures:

\* \* \*

(9) *Misuse of Disqualification Without Cause.* ~~A mMotions~~ for disqualification without cause ~~must not be made under this Rule~~ must not be made in such a manner as to hinder, delay, or obstruct the administration of justice. If it appears that an attorney or law firm is using motions for disqualifications without cause are being used for such purposes, or are being filed with such frequency as to impede the administration of justice, the Administrative District Judge or the Trial Court Administrator of the judicial district in which the misuse or impediment is occurring must notify the Administrative Director of Courts, requesting a review of the possible misuse of disqualifications without cause. The Administrative Director will review any allegations concerning the possible misuse of this Rule and whether the number of such motions is impeding the administration of justice. may take remedial measures. If the Administrative Director concludes, following review, that there is misuse of the Rule or that the number of disqualifications without cause is impeding the administration of justice, the Administrative Director will before or after taking such remedial measures, may refer the matter to the Chief Justice Supreme Court, who, The Court, upon determining that there has been misuse of disqualifications without cause or that the disqualifications without cause are adversely affecting the administration of justice, may take appropriate action to address the misuse or impediment, which Such action may include: an order providing that the attorney or firm that has engaged in such misuse is prohibited prohibiting specified attorney(s) or law firm(s) from using disqualifications without cause for such period of time as is set forth in the order or until further order of the Chief Justice; an order suspending the use of disqualifications without cause in the affected judicial district or county for such period of time as is set forth in the order or until further order of the Chief Justice; or any other action that the Court deems appropriate.

## Idaho Criminal Rules

### Rule 25. Disqualification of Judge

**(a) Disqualification of Judge Without Cause.** In all felony and misdemeanor criminal actions, except actions before drug courts or mental health courts, the parties each have the right to one disqualification without cause of the judge, except as provided in this rule, under the following conditions and procedures:

\* \* \*

*(12) Misuse of Disqualification Without Cause.* ~~A~~Motions for disqualification without cause under this Rule must not be made in such a manner as to hinder, delay, or obstruct the administration of justice. If it appears that ~~an attorney, law firm, prosecuting attorney's office or public defender's office is using motions for disqualifications without cause; are~~ being used for such purposes, or are being filed with such frequency as to impede the administration of justice, the Administrative District Judge or the Trial Court Administrator of the judicial district in which the misuse or impediment is occurring must notify the Administrative Director of Courts. The Administrative Director will review any allegations concerning possible misuse of this Rule and whether the number of such motions is impeding the administration of justice. If the Administrative Director concludes, following review, that there is misuse of the Rule or that the number of disqualifications without cause is impeding the administration of justice, the Administrative Director will refer the matter to the Supreme Court. The Court, upon determining that there has been misuse of disqualifications without cause or that the disqualifications without cause are adversely affecting the administration of justice, may take appropriate action to address the misuse or impediment. Such action may include: an order prohibiting specified attorney(s), law firm(s), prosecuting attorney's office(s), or public defender's office(s) from using disqualifications without cause for such period of time as is set forth in the order or until further order of the Chief Justice; an order suspending the use of disqualifications without cause in the affected judicial district or county for such period of time as is set forth in the order or until further order of the Chief Justice; or any other action that the Court deems appropriate.

~~(A) with intent to hinder, delay or obstruct the administration of justice or~~

~~(B) with such frequency as to impede the administration of justice, the Trial Court Administrator must notify the Administrative Director of the Courts and request a review of the possible misuse of disqualifications without cause. The Administrative Director must review the possible misuse of this Rule and may take remedial measures. The Administrative Director, before or after taking remedial measures, may refer the matter to the Chief Justice, who, on determining that there has been misuse of disqualifications without cause, may take appropriate action to address the misuse. Appropriate action may include an order providing that the attorney, firm, prosecuting attorney's office or public defender's office that has engaged in misuse is prohibited from using disqualifications without cause for such period of time as is set in the order or until further order of the Chief Justice.~~

## Idaho Rules of Family Law Procedure

### Rule 109. Disqualification.

(a) **Disqualification without Cause.** Each party has the right to file 1 motion for disqualification of the judge without cause, which does not require the statement of any grounds, under the following conditions and procedures:

\* \* \*

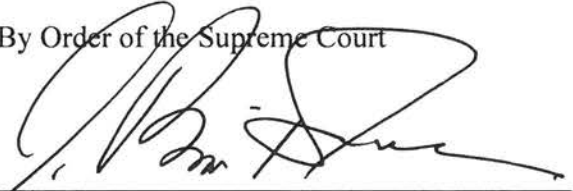
(8) *Misuse of Disqualification without Cause.* ~~A~~Motions for disqualification without cause under this Rule must not be made in such a manner as ~~under this rule~~ to hinder, delay, or obstruct the administration of justice. If it appears that ~~an attorney or law firm is using motions for~~ disqualifications without cause are being used for such purposes, or are being filed with such frequency as to impede the administration of justice, the Administrative District Judge or the tTrial eCourt aAdministrator of the judicial district in which the misuse or impediment is occurring must notify the aAdministrative dDirector of eCourts, ~~requesting a review of the possible misuse of disqualifications without cause.~~ The aAdministrative dDirector will review any allegations concerning the possible misuse of this ~~r~~Rule and whether the number of such motions is impeding the administration of justice. ~~may take remedial measures.~~ If the aAdministrative dDirector concludes, following review, that there is misuse of the Rule or that the number of disqualifications without cause is impeding the administration of justice, the Administrative Director will ~~before or after taking such remedial measures,~~ may refer the matter to the Chief Justice ~~Supreme Court., who,~~ The Court, upon determining that there has been misuse of disqualifications without cause or that the disqualifications without cause are adversely affecting the administration of justice, may take appropriate action to address the misuse or impediment., ~~which~~ Such action may include: an order providing that the attorney or firm that has engaged in such misuse is prohibited ~~prohibiting~~ specified attorney(s) or law firm(s) from using disqualifications without cause for such period of time as is set forth in the order or until further order of the Chief Justice; an order suspending the use of disqualifications without cause in the affected judicial district or county for such period of time as is set forth in the order or until further order of the Chief Justice; or any other action that the Court deems appropriate.

IT IS FURTHER ORDERED that this order and these amendments shall be effective July 1, 2024.

IT IS FURTHER ORDERED that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Rules of Civil Procedure, Idaho Criminal Rules, and Idaho Rules of Family Law Procedure.

IT IS FURTHER ORDERED that notice of this Order shall be published for three consecutive weeks on the Idaho State Bar's website and in its weekly E-Bulletin, and that as soon as practicable, a summary of the amendment(s) effected by this Order shall be published in one issue of *The Advocate*.

DATED this 1<sup>st</sup> day of May, 2024.

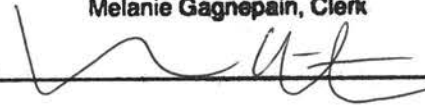
By Order of the Supreme Court  


G. Richard Bevan  
Chief Justice, Idaho Supreme Court

ATTEST:

  
Melanie Gagnepain, Clerk

I, Melanie Gagnepain, Clerk of the Supreme Court/  
Court of Appeals of the State of Idaho, do hereby  
Certify that the above is a true and correct copy of the  
Order entered in the above entitled  
cause and now on record in my office. WITNESS my  
hand and the Seal of this Court 5-7-24  
Melanie Gagnepain, Clerk

By  Deputy