

May 14, 2024

Dear Idaho Attorneys:

Now posted on the Idaho Supreme Court website is an order revising several court rules to create more oversight around disqualification of judges without cause and to provide more consequences when that disqualification tool is misused. The amendments will be effective July 1, 2024.

As you may know, the Supreme Court has spent the past year studying disqualification without cause and whether to change Idaho's current rules.

We heard pointedly from attorneys on your use of disqualification without cause to address perceived concerns around fairness. Thank you to all members of the Bar who participated in last year's survey on this topic and who shared your perspectives in other ways.

We have sought to balance your apprehensions with the judiciary's concerns around the efficient administration of justice. In the last year we have had to suspend the use of the disqualification without cause rules in three separate judicial districts for various reasons. The judicial system cannot achieve its mandate of timely resolution of cases when both parties in a criminal case consistently disqualify multiple judges, or when judges are disqualified simply to obtain a judge with a more convenient motion day for the attorney.

Since case management already involves a complex scheduling process, disqualifications can disrupt additional cases and have ripples in courts outside the one involved. Many of our judges believe these rules should go away completely. The Court recognizes there is a reason this concept has survived so long as part of Idaho's rules. We acknowledge the value of a nimble method to address concerns in the moment.

After significant debate, the Court has decided to keep the existing option to disqualify without cause. That said, we are reinforcing our ability to act when specific attorneys or law offices misuse this privilege in ways that affect judicial administration.

The rule amendments that take effect this July specifically recognize those actions that impede the administration of justice as a misuse of the disqualification process. Our goal in those circumstances will be to address problems without punishing others who use disqualification responsibly. Thus, ramifications can range from individual suspension of an attorney's disqualification ability to a full district-wide suspension of the disqualification without cause rules.

*Idaho Attorneys*

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On July 1, this Court also intends to lift the orders staying the disqualification without cause rules in the First, Fifth and Seventh judicial districts. Whether the rules remain in place will depend on the discretion attorneys exercise in their use of the rules.

The independence of our judges is crucial to our rule of law. We recognize attorneys need a simple option to quickly resolve concerns, but we cannot allow the opportunity that these rules afford you to become a larger source of delays in our courts.

Thank you for doing your part to make thoughtful use of these rules.

Yours truly,

IDAHO SUPREME COURT

A handwritten signature in black ink, appearing to read "G. Richard Bevan", is written over the printed name and title.

G. RICHARD BEVAN

Chief Justice

GRB:kc

cc: S. Omundson