

CAO CvPi INSTRUCTION 4-4 FILING A REQUEST FOR TRIAL SETTING OR SCHEDULING CONFERENCE

If you are a party in a civil lawsuit and would like to have the case set for trial, these instructions explain the steps and forms you will need to file a Request for Trial Setting.

First, you should read and understand the court rule which describes how cases are set for trial:

Rule 40(b). Request for trial setting.

In any action which is at issue, either party may request the court at any time to set the same for a pre-trial hearing or for trial, or the court on its own initiative may set such action for trial or pre-trial hearing. Such request shall be in such form and contain such information as prescribed by the administrative judge of the judicial district but shall include statements as to the nature of the case, whether a jury trial has been demanded, whether mediation would be beneficial to the resolution of the dispute, and estimate of the time required for the trial, the name of the attorney who will appear at trial, and the dates on which the attorney would not be available for trial of the action. The request shall be served upon all parties to the action. Within five (5) days after service of such request, the attorneys of record of all other parties to a pending action shall file written responses containing all of the information required in the request for trial setting and serve copies thereof upon all other parties to the action. Upon receipt of the request and the responses thereto, or upon a failure to file the response as required by this rule, the court may set the action for pre-trial hearing or trial without waiting for the next calendar call date. (Amended March 24, 1982, effective July 1, 1982; amended June 12, 1996, effective July 1, 1996.)

Under this court rule, a civil case can be set for trial by the judge or at the request of either party. In some cases, the judge may require the parties to come to a scheduling conference, after which the judge may issue a scheduling order setting forth deadlines for filing motions, completing discovery as well as setting a pre-trial conference and trial date. If this has not happened in your case and you want to request a trial date, you must file a Request for Trial Setting with the judge.

Note: Rule 40(b) allows the administrative judge in each judicial district to define the form and what must be included in the Request for Trial Setting. Some judicial districts have forms they require parties to use, and some do not. Check with the judge's clerk to determine if there is a specific form you must use, or information you must provide in your case. If not, you may use the following generic form:

- CAO CvPi 4-10 Request for Trial Setting

This form can be obtained from your local court assistance office, or the Supreme Court's Self-Help Center at <http://www.courtselfhelp.idaho.gov/>.

Step 1. Obtain and Complete the Required Form

Complete the form listed above by typing or neatly and legibly printing in black ink. Fill in your full current name, address, and telephone number on the lines provided at the left-hand corner of page 1 of each form. Fill in the name of the plaintiff and the defendant in the caption as well as the case number as that information appears in other documents in the court file.

Fill in all of the information requested in the form. Date and sign the form.

Note: Although the Request for Trial Setting has a check box to request a jury trial, a jury trial is not allowed in some types of cases. For example, divorce, custody, paternity and similar types of family related claims can be decided only by a judge.

Step 2: Serve and File the Request.

Serve a copy of the Request for Trial Setting on all parties or their attorneys who have appeared in the case. Complete the Certificate of Service at the bottom of the Request for Trial Setting indicating who was served and the manner in which they were served.

File the Request for Trial Setting with the Clerk of the Court.

Step 3: Follow the Pre-trial order or Order Setting Trial. In response to the Request for Trial Setting, the judge (1) may decide to conduct a scheduling conference with all parties before setting a trial date; (2) may issue a pre-trial order setting deadlines for filing motions and completing discovery in addition to setting dates for a pre-trial conference and trial; or (3) may simply issue an order setting the case for trial. Carefully read and follow whatever order you receive from the judge to make sure you are properly prepared for trial.

Scheduling Conference: To request a scheduling conference, follow these same directions but use form CAO CvPi 4-16 Request for Scheduling Conference.