

TITLE 5
PROCEEDINGS IN CIVIL ACTIONS IN COURTS OF RECORD

CHAPTER 4
PLACE OF TRIAL OF CIVIL ACTIONS

5-401. ACTIONS RELATING TO REAL PROPERTY. Actions for the following causes must be tried in the county in which the subject of the action or some part thereof is situated, subject to the power of the court to change the place of trial, as provided in this code:

1. For the recovery of real property, or of an estate or interest therein, or for the determination in any form of such right or interest and for injuries to real property.

2. For the partition of real property.

3. For the foreclosure of a mortgage of real property. Where the real property is situated partly in one county and partly in another, the plaintiff may select either of the counties, and the county so selected is the proper county for the trial of such action.

[(5-401) C.C.P. 1881, sec. 205; R.S., R.C., & C.L., sec. 4120; C.S., sec. 6661; I.C.A., sec. 5-401.]

5-402. ACTIONS FOR PENALTIES AND AGAINST OFFICERS. Actions for the following causes must be tried in the county where the cause, or some part thereof, arose, subject to the like power of the court to change the place of trial:

1. For the recovery of a penalty or forfeiture imposed by statute, except, that when it is imposed for an offense committed on a lake, river or other stream of water, situated in two (2) or more counties, the action may be brought in any county bordering on such lake, river or stream, and opposite to the place where the offense was committed.

2. Against a public officer, or person specially appointed to execute his duties, for any act done by him in virtue of his office; or against a person who, by his command or in his aid, does anything touching the duties of such officer.

[(5-402) C.C.P. 1881, sec. 206; R.S., R.C., & C.L., sec. 4121; C.S., sec. 6662; I.C.A., sec. 5-402.]

5-403. ACTIONS AGAINST COUNTIES. An action against a county may be commenced and tried in such county unless such action is brought by a county, in which case it may be commenced and tried in any county, not a party thereto.

[(5-403) C.C.P. 1881, sec. 207; R.S., R.C., & C.L., sec. 4122; C.S., sec. 6663; I.C.A., sec. 5-403.]

5-404. OTHER ACTIONS -- VENUE DETERMINED BY RESIDENCE -- EXCEPTIONS. In all other cases the action must be tried in the county in which the defendants, or some of them, reside, at the commencement of the action; or, if none of the defendants reside in the state, or, if residing in this state, the county in which they reside is unknown to the plaintiff, the same may be tried in any county which the plaintiff may designate in his complaint; and if the defendant is about to depart from the state, such action may be tried in any county where either of the parties reside, or service is had, subject, how-

ever, to the power of the court to change the place of trial, as provided in this code; provided, that all actions against life or fire insurance companies, suit or action may be commenced and tried in the county where the death occurred or the loss was sustained; and provided, further, that in all actions against any corporation organized under the laws of the state of Idaho, suit or action shall be commenced and tried in any county of this state where the defendant has its principal place of business or in the county in which the cause of action arose.

[(5-404) C.C.P. 1881, sec. 208; R.S., sec. 4123; am. 1897, p. 9, sec. 1; reen. 1899, p. 292, sec. 1; reen. R.C. & C.L., sec. 4123; C.S., sec. 6664; am. 1923, ch. 79, sec. 1, p. 91; I.C.A., sec. 5-404.]

5-408. TRANSMISSION OF PAPERS -- COSTS OF FILING PAPERS ANEW -- JURISDICTION IN NEW VENUE -- PAYMENT OF COUNTY EXPENSES. (1) When an order is made transferring an action or proceeding for trial, the clerk of the court must transmit the pleadings and papers therein to the clerk of the court to which it is transferred. Any fee therefor as provided by law shall be paid by the party at whose instance the order was made. The court to which an action or proceeding is transferred has and exercises over the same like jurisdiction as if it had been originally commenced therein.

(2) When an action is transferred from a county because there is reason to believe that an impartial trial cannot be had therein, or that the convenience of witnesses and the ends of justice would be promoted by the transfer, the costs and expenses accruing upon such removal and trial are a charge against the county from which the action was removed. The clerk of the court in the county to which the action is removed must certify the amount of said expenses to the auditor of the proper county, which must be allowed and paid as other county charges.

[(5-408) C.C.P. 1881, sec. 212; R.S., R.C., & C.L., sec. 4127; C.S., sec. 6668; am. 1925, ch. 125, sec. 1, p. 171; I.C.A., sec. 5-408; am. 1969, ch. 114, sec. 2, p. 371; am. 1993, ch. 83, sec. 1, p. 213.]

5-409. ACTIONS AFFECTING REAL ESTATE -- PROCEEDINGS AFTER JUDGMENT. When an action or proceeding affecting the title to or possession of real estate has been brought in or transferred to any court of a county other than the county in which the real estate, or some portion of it, is situated, the clerk of such court must, after final judgment therein, certify, under his seal of office, and transmit to the corresponding court of the county in which the real estate affected by the action is situated, a copy of the judgment. The clerk receiving such copy must file, docket and record the judgment in the records of the court, briefly designating it as a judgment transferred from court (naming the proper court).

[(5-409) C.C.P. 1881, sec. 213; R.S., R.C., & C.L., sec. 4128; C.S., sec. 6669; I.C.A., sec. 5-409.]