I.R.C.P. 83.j. Method of Appeal - Transcript of Proceedings - Listening to Recording Tapes - Trial De Novo.

Idaho Rules of Civil Procedure Rule 83(j). Method of Appeal - Transcript of Proceedings - Listening to Recording Tapes - Trial De Novo.

(1) Transcript Required. Unless otherwise ordered by the district judge, a transcript shall be prepared as provided in Rule 83(k) and the appeal shall be heard as an appellate proceeding.

(2) Alternate Methods of Hearing Appeal. The district judge assigned the appeal may, on the court's own motion or motion of a party, order an alternate method of hearing the appeal by ordering:

(A) That the appeal involves a question of law only so that no transcript is required and the appeal will be decided on the clerk's record, the briefs of the parties and oral argument; or

(B) That the appeal should be heard as an appellate proceeding by listening to the recording tapes without a transcript; or

(C) That the appeal shall be heard as a trial de novo because there is not an adequate record of the proceedings in the magistrate's division.

(Amended April 22, 2004, effective July 1, 2004.)

(3) Hearing on Question of Law. If the district judge determines that the appeal can be heard as a question of law alone, without the necessity of a transcript or a trial de novo, he shall enter an order to that effect stating the issue of law to be determined on appeal and set a day certain for the filing of the appellant's opening brief based upon the clerk's file and the order of the court.

(4) Listening to or Viewing Tapes. If the district judge determines that the appeal should be heard by listening to or viewing the tapes of the trial or proceedings of the trial court, it shall enter an order to that effect and direct a time within which the parties shall review, or view, or listen to the recording

tapes and set a date certain for the filing of appellant's opening appellate brief.

(5) Special Transcript. If the district judge does not require the preparation of a transcript on appeal, the district judge shall nevertheless, upon motion of any party to the appeal, order the preparation of a transcript of the proceedings at the cost of the moving party which shall require the moving party to pay the estimated transcript fees within fourteen (14) days of entry of such order and the clerk of the court shall serve a copy of such order upon the transcriber of the trial or proceedings of the trial court.

(Adopted June 15, 1987, effective November 1, 1987; amended April 19, 1995, effective July 1, 1995.)

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