I.A.R. 28 Preparation of clerk's or agency's record - Content and arrangement

Idaho Appellate Rule 28. Preparation of Clerk's or Agency's Record - Content and Arrangement.

(a) Designation of Record. Parties are responsible for designating the documents which will comprise the clerk's record on appeal. The standard record described in subsection (b) is not designed to include many items i.e., motions for summary judgment, affidavits, jury instructions, etc.) which may be pertinent to the appeal in a specific case. Parties are encouraged to designate a clerk's or agency's record more limited than the standard record.

(b) Content - Standard Record. The clerk's or agency's record shall automatically include the following pleadings and documents, including the following pleadings and documents filed in the magistrates division:

(1) In civil cases and proceedings, unless limited by designation in the notice of appeal or amended notice of appeal:

A. Register of actions.

B. Any order sealing all or any portion of the record.

C. The original and any amended complaint or petition.

D. The original and any amended answer or response to the complaint or petition.

E. The original and any amended counterclaim, third party claim, or cross-claim.

F. The original and any amended answer or response to a counterclaim.

G. The jury verdict rendered in a jury trial.

H. The findings of fact and conclusions of law and any memorandum decision entered by the court.

I. All judgments and decrees.

J. A list of all exhibits offered, whether or not admitted.

K. Notice of appeal and cross-appeal.

L. Any request for additional reporterís transcript or clerkís record.

M. A court reporterís notice of lodging with the district court.

N. Table of contents and index, which shall be placed at the beginning of each volume of the record.

(2) In criminal cases and proceedings.

A. Any order sealing all or any portion of the record.

B. Register of actions.

C. All court minutes.

D. All uniform citations, complaints, information and indictments.

E. All orders of the court.

F. All motions filed by either the state or the defendant.

G. All written plea agreements.

H. The jury verdict.

I. The judgment or order withholding judgment.

J. A list of all exhibits offered, whether admitted or not.

K. Presentence Investigation Reports; however, this report shall be forwarded as a confidential exhibit and shall not be placed in the bound clerk's record.

L. Notice of appeal and any notice of cross-appeal.

M. Any request for additional reporter's transcript or clerk's record.

N. A court reporterís notice of lodging with the district court.

O. In criminal appeals in which the death penalty was imposed, all documents in the trial court file of every nature, kind and description, except that the presentence investigation report shall be forwarded as an exhibit to the record.

(3) In administrative proceedings:

A. Any order sealing all or any portion of the record.

B. Any original or amended complaint, petition, application or other initial pleading.

C. Any answer or response thereto.

D. All documents relating to an application or petition to intervene.

E. Any protest or other oppositions filed by a party.

F. Certificate listing A list of all exhibits offered, whether or not admitted.

G. The findings of fact and conclusions of law, or if none, any memorandum decision entered by the agency.

H. The final decision, order or award.

I. Petitions for rehearing or reconsideration or orders thereon.

J. Notice of appeal and any notice of cross-appeal.

K. Any request for additional reporterís transcript or agencyís record.

L. Table of contents and index.

(c) Additional Documents. The clerk's or agency's record shall also include all additional documents requested by any party in the notice of appeal, notice of cross-appeal and requests for additional documents in the record. Any party may request any written document filed or lodged with the district court or agency to be included in the clerk's or agency's record including, but not limited to, written requested jury instructions, written jury instructions given by the court, depositions, briefs, statements or affidavits considered by the court or administrative agency in the trial of the action or proceeding, or considered on any motion made therein, and memorandum opinions or decisions of a court or administrative agency.

(d) Preparation of Record. The clerk shall prepare the record on paper by making clearly and distinctly legible photocopies or other reproductions of all documents included in the record. The clerk shall type or have typed any document which cannot be reproduced in a distinctly legible form.

(e) Cover of Record. The clerk's or agency's record shall be bound with a cover of 65 pound paper stock or heavier material and shall not have a plastic or acetate cover. The record shall be fastened at the top edge so as to open as flatly as possible.

(f) Arrangement and Numbering. All pleadings, documents, and papers required to be in the clerk's or agency's record shall be inserted chronologically as indicated by the date of filing. Each page of the clerk's or agency's record shall be numbered consecutively at the bottom of the page. The numbering shall include every page included in the record even if it was not a filed document, such as the title page, the table of contents, the index, and the register of actions. Each volume of the clerk's or agency's record shall contain no more than 200 pages unless the record can be completed in 250 pages.

(g) Table of Contents and Index of Record. Each volume of the clerk's or agency's record shall contain a chronological table of contents of the documents included in the entire record and shall have an alphabetical index indicating the volume and page where each pleading, document or paper may be found.

(h) Certificate of Clerk. The clerk of the court or administrative agency shall certify at the end of the record, that the record contains true and correct copies of all pleadings, documents and papers designated to be included in the clerk's or agency's record by Rule 28, the notice of appeal, any notice of cross-appeal, and any designation of additional documents to be included in the clerk's or agency's record. The clerk's or agency's record shall also include the certificate required by Rule 31(d).

(i) Certificate of Service. The clerk shall certify in the record, or in the clerk's certificate, the date of service of the record and the transcript on the parties or their counsel.

(Adopted March 25, 1977, effective July 1, 1977; amended December 27, 1979, effective July 1, 1980; amended March 24, 1982, effective July 1, 1982; amended March 20, 1985, effective July 1, 1985; amended June 15, 1987, effective November 1, 1987; amended March 27, 1989, effective July 1, 1989; amended March 26, 1992, effective July 1, 1992; amended June 19, 1995, effective July 1, 1995;amended March 1, 2000, effective July 1, 2000; amended January 30, 2001, effective July 1, 2001; amended March 22, 2002, effective July 1, 2002; amended March 21, 2007; effective July 1, 2007; amended March 19, 2009, effective July 1, 2009; amended January 4, 2010, effective February 1, 2010; amended February 27, 2013, effective July 1, 2013.)

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