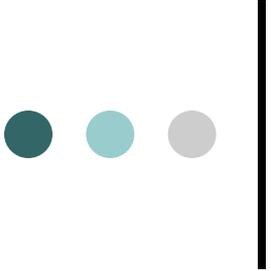




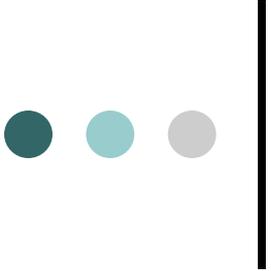
Tips and Traps Regarding Idaho Appellate Processing

Stephen W. Kenyon, Clerk of the Courts
October 30, 2013



Notice of Appeal

- Notices of appeal must be filed within 42 days of the date of the filing stamp on the judgment.
- Exception – termination of parental rights cases, they have to be filed within 14 days.
- If civil appeal and multiple parties with a partial judgment – do you have a Rule 54(b) certificate?



Clerk's certificate

1. Always refer to IAR 23 when completing the clerks certificate.
2. Don't send the certificate too soon
 - a. Wait 14 days to send
3. Use the lower court title not the attorneys' title on their NOA – but point out if it's different.
4. If no service was made on the reporter then let us know that.

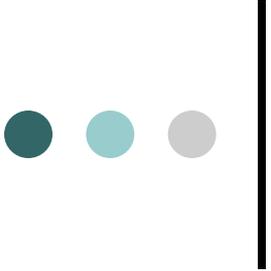
POP QUIZ

1. All notices of appeal must be filed within 42 days of the filing stamp on the judgment.

A. True

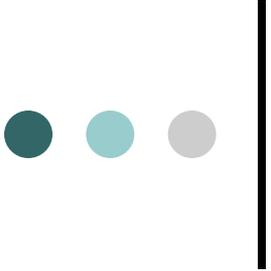
B. False





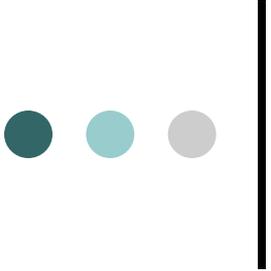
Requesting the Clerk's Record

- Appellant must designate in the notice of appeal the documents to be included in the clerk's or agency record in addition to the standard record specified in IAR 28(b) and IAR 17(i).



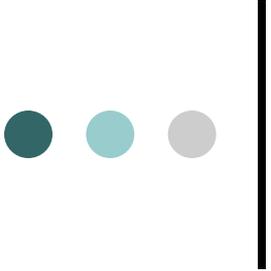
Record and Transcripts

- Only documents reviewed by the district court can go in the clerk's record. IAR 27. Only exhibits, offered or admitted at trial are considered exhibits.
- If exhibit was not offered or admitted at a trial or hearing can be listed as an exhibit.
 - If attorneys fight you on this, please feel free to call us and we'll get involved.



Respondent's turn – 14 days

- Respondent may request additions to the record within 14 days after filing of the notice of appeal IAR 19(a). A form request is included in IAR 19.
- If Appellant requested less than the standard record Respondent (within 14 days) can add anything up to the standard record on Appellant's tab IAR 19(a).
- Anything above standard record must be paid for by the requesting party. IAR 19(d).



Electronic Records

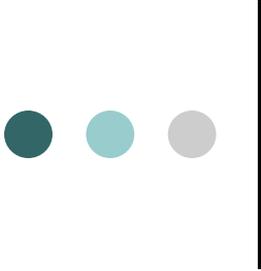
- Electronic Record of entire district court file
- 65 cents per page for the entire record.
 - Or ... \$100.00 flat fee plus 65 cents for selected documents. IAR 27(c)(2).

POP QUIZ

1. Someone comes in on the 42nd day to file a notice of appeal. The check has no signature (civil case) what should you do?

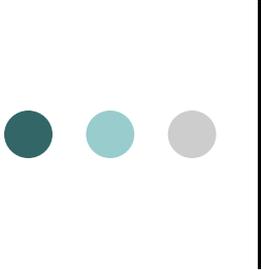
- A. Refuse to file until they have a signed check for the filing fee.
- B. Lodge it.
- C. File it and make a note on the ROA that fees were not paid.
- D. Tell them that they must petition to the Supreme Court to accept their appeal.





Exhibits

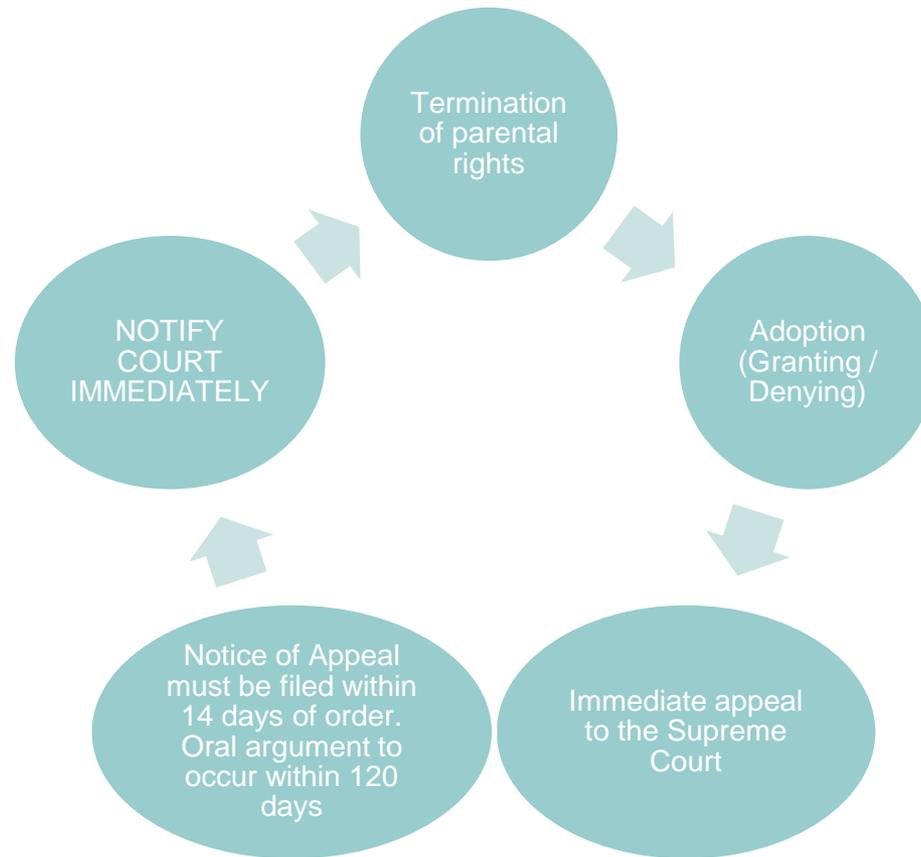
- IAR 31 provides that all documentary trial exhibits, transcripts filed with the district court or agency and all audio or video recordings offered or played during proceedings are sent to the Supreme Court.
- All other exhibits – bloodstained clothing, weapon, defective product, etc. will be sent to the Supreme Court only on the order of the Court.

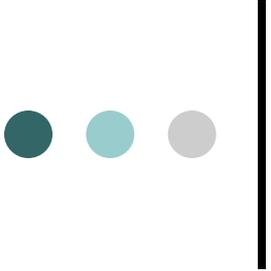


So they missed something, now what?

- They have two ways to correct the error.
- First, within 28 days of the service of the transcript and the clerk's record you can file an objection in district court to the transcript or record. IAR 29(a).
- Second, if record is settled file a motion to augment at the Supreme Court. IAR 30.

Recent Appellate Rule Changes - Rule 12.2





Recent Appellate Rule Changes - 13(b)(15)

- Stay on appeal – what happens to a bond or cash deposit when the award itself is upheld but the case is remanded for a new determination of the amount owed.



Recent Appellate Rule Changes - Rule 17

Parties now required to provide address phone number and email address on pleadings. Attorneys must have an email address to litigate matters at the appellate courts.

Appellant must specify in NOA whether they want electronic copy or hard copy of transcripts.

Civil cases – appellant must specify which exhibits are to be copied and sent to the Supreme Court – before all offered or admitted exhibits were sent to the SCT.

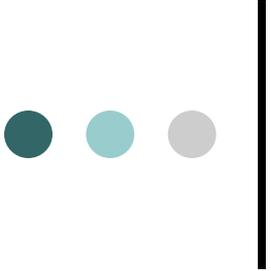
POP QUIZ

1. Counties can make an electronic record in any criminal case when the defendant has been declared indigent.

A. True

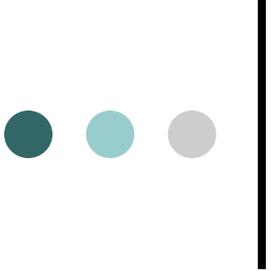
B. False





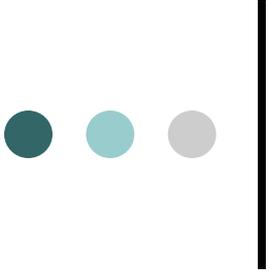
Final judgment cases

- *Spokane Structures v. Equitable Investments*, 148 Idaho 616. A final judgment must not contain the court's reasoning or analysis.
- *TJT v. Mori* 148 Idaho 825. Typing "it is so ordered" at the end of a memorandum decision is not a final order.
- *Camp v. East Fork Ditch Company*, 137 Idaho 850. An order or judgment that adjudicates the subject matter of a controversy must be on a separate piece of paper.
- *Goodman Oil v. Scotty's Duro-built*, 148 Idaho 588. The 42 day period begins to run once an order is entered that resolves all issues and grants relief that prevailing party is entitled and ends lawsuit.



Remand to district court

- If the Supreme Court remands a matter to the district court for action the Clerks should place a tickler on their calendar to watch for action on remand.
- Example : case remanded 05/08/2010 and is forgotten about until 10/10/2010.



Rule 59

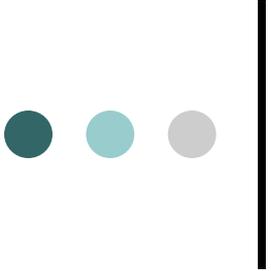
- Vexatious litigation
- ICAR 59
- Currently two people have Rule 59 actions pending.

POP QUIZ

1. A Rule 59 designation filed in Kootenai County would prohibit the person from filing anywhere in the state.

- A. True
 B. False





Death Penalty update

- What to expect
 - When death warrant issued need contact point – knows judge location and status each day
 - Contact person sends any orders directly to supreme court
 - 24- hour shop.