

## **SUMMARY STATEMENT**

*Martinez v. Carrasco*, Docket No. 44622-2016

The Idaho Supreme Court vacated the judgment of the magistrate court. This is an appeal out of Bingham County from the modification of a judgment by default to require that the parents of a child rotate custody of their three-year-old child every three weeks, where the father is living in Blackfoot and the mother is living in Oceanside, California, a distance of 913 miles away. We hold that the magistrate court abused its discretion in ordering that custody rotation. In addition, the mother had moved to modify the judgment by default, but did not move to set aside the entry of default. We hold that the father waived the default by litigating the motion to modify.