

# In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO IDAHO )  
APPELLATE RULE (I.A.R.) 11, 11.1, )  
17, 30 and 118 )  
\_\_\_\_\_ )

ORDER

The Court having reviewed the Idaho Appellate Rules, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Appellate Rules as they appear in the volume published by the Idaho Code Commission be, and they are hereby, amended as follows:

1. That Rule 11 be, and the same is hereby, amended as follows:

## **Rule 11. Appealable judgments and orders.**

An appeal as a matter of right may be taken to the Supreme Court from the following judgments and orders, a copy of which must be attached to the notice of appeal:

(a) **Civil Actions.** From the following judgments and orders of a district court in a civil action:

(1) Final judgments, as defined in Rule 54(a) of the Idaho Rules of Civil Procedure, including judgments of the district court granting or denying peremptory writs of mandate and prohibition.

(2) Decisions by the district court dismissing, affirming, reversing or remanding an appeal.

(3) Judgments made pursuant to a partial judgment certified by the trial court to be final as provided by Rule 54(b), I.R.C.P.

(4) Any order or judgment of contempt.

(5) An order granting or refusing a new trial, including such orders which contain a conditional grant or denial of a new trial subject to additur and remittitur.

(6) An order granting or denying a motion for judgment notwithstanding the verdict.

(7) Any order made after final judgment including an order denying a motion to set aside a default judgment, but excluding an order granting a motion to set aside a default judgment. A copy of the final judgment must also be attached to the notice of appeal.

(8) Any order appealable under the Uniform Arbitration Act, Title Seven, Chapter 9 of the Idaho Code.

(9) A district court order designating a person a vexatious litigant pursuant to Idaho Court Administrative Rule 59, in which case the notice of appeal may be filed with either the district court clerk or the Clerk of the Supreme Court.

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2. That Rule 11.1 be, and the same is hereby, amended as follows:

**Rule 11.1. Appealable judgments from the magistrate court.**

An appeal as a matter of right may be taken to the Supreme Court from any final judgment, as defined in Rule 54(a) of the Idaho Rules of Civil Procedure, granting or denying a petition for termination of parental rights, or any ~~order~~ judgment granting or denying a petition for adoption. A copy of the judgment shall be attached to the notice of appeal. All time frames for such appeals, including the time for filing a notice of appeal, shall proceed in an expedited manner pursuant to Rule 12.2.

3. That Rule 17 be, and the same is hereby, amended as follows:

**Rule 17. Notice of appeal - Content.**

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**(e) Designation of Appeal.**

(1) **A Designation of the Judgment or Order Appealed From.** The notice of appeal shall designate and have attached to it a copy of the judgment or order appealed from which shall be deemed to include, and present on appeal:

(A) All interlocutory judgments and orders entered prior to the judgment, order or decree appealed from, and

(B) All final judgments and orders entered prior to the judgment or order appealed from for which the time for appeal has not expired, and

(C) All interlocutory or final judgments and orders entered after the judgment or order appealed from except orders relinquishing jurisdiction after a period of retained jurisdiction or orders granting probation following a period of retained jurisdiction.

2) **Premature Filing of Notice of Appeal.** A notice of appeal filed from an appealable judgment or order before formal written entry of such document shall become valid upon the filing and the placing the stamp of the clerk of the court on such appealable judgment or order, without refileing the notice of appeal.

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(o) **Form.** The notice of appeal shall be in substantially the following form:

(Appellant's Attorney's Name)  
Attorney for Appellant  
Post Office Address  
Phone Number  
Email Address (Email Address is required for attorneys)

IN THE DISTRICT COURT OF THE \_\_\_\_\_ JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR \_\_\_\_\_ COUNTY  
(IN THE (PUBLIC UTILITIES COMMISSION) (INDUSTRIAL COMMISSION) OF  
THE STATE OF IDAHO)

(Title of original action or )  
proceeding together with the ) Case No. \_\_\_\_\_  
additional designation of ) NOTICE OF APPEAL  
parties as appellant and )  
respondent )

TO: THE ABOVE NAMED RESPONDENT(S), (Names) AND THE PARTY'S  
ATTORNEYS, (Names and Addresses) AND THE CLERK OF THE ABOVE  
ENTITLED COURT (ADMINISTRATIVE AGENCY).

NOTICE IS HEREBY GIVEN THAT:

1. The above named appellant(s) (name) appeal(s) against the above named  
respondent(s) to the Idaho Supreme Court from (The final judgment) (The order,  
describing it) \_\_\_\_\_, entered in  
the above entitled action (proceeding) on the \_\_\_\_\_ day of \_\_\_\_\_,  
(Honorable Judge \_\_\_\_\_) (Chairman \_\_\_\_\_) presiding. A copy of the  
judgment or order being appealed is attached to this notice, as well as a copy of  
the final judgment if this is an appeal from an order entered after final judgment.

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments  
or orders described in paragraph 1 above are appealable orders under and pursuant  
to Rule \_\_\_\_\_ I.A.R.

This is an EXPEDITED APPEAL pursuant to I.A.R. 12.2.

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4. That Rule 30 be, and the same is hereby, amended as follows:

**Rule 30. Augmentation or deletions from transcript or record.**

(a) Any party may move the Supreme Court to augment or delete from the settled  
reporter's transcript or clerk's or agency's record. Such a motion shall be accompanied by  
a statement setting forth the specific grounds for the request and attaching a copy of any

document sought to be augmented to the original motion and to two copies of the motion which document must have a legible filing stamp of the clerk indicating the date of its filing, or the moving party must establish by citation to the record or transcript that the document was presented to the district court. In order for augmented pages to be easily identified whether the motion is granted entirely or in part, each page of any document attached to the motion must be separately and sequentially numbered in the following format: Aug. p.1. Any request for augmentation with a transcript that has yet to be transcribed must identify the name of the court reporter(s) along with the date and title of the proceeding(s), and an estimated number of pages, and must contain a certificate of service on the names reporter(s). The motion and statement shall be served upon all parties. Any party may within fourteen (14) days after service of the motion, file a brief or memorandum in opposition thereto. Unless otherwise expressly ordered by the Supreme Court such motion shall be determined without oral argument. The reporter's transcript and clerk's or agency's record may also be augmented or portions deleted by stipulation of the parties and order of the Supreme Court. The filing of a motion to augment shall not suspend or stay the appellate process or the briefing schedule.

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5. That Rule 118 be, and the same is hereby, amended as follows:

**Rule 118. Petition for review by the Supreme Court.**

(a) **Petition, Time for Filing, Ruling by Supreme Court.** Any party to a proceeding aggrieved by opinion or order of the Court of Appeals may physically file a petition for review with the Clerk of the Supreme Court within twenty-one (21) days after the announcement of the opinion or order, or after the announcement of an order denying rehearing, or after the announcement of an opinion on rehearing or after an opinion is modified without rehearing in a manner other than to correct a clerical error. It is not necessary to file a petition for rehearing with the Court of Appeals before filing a petition for review under this rule. A brief in support of the petition for review must be filed with the petition or within fourteen (14) days thereafter; however, if the appeal was expedited pursuant to Rule 12.2, the brief in support of the petition shall be filed with the petition or the petition will be summarily dismissed. Such petition shall be processed within the time limits and in the manner prescribed for a petition for rehearing of the Supreme Court opinion as provided by Rule 42. ~~There shall be no response to a petition for review, unless the Supreme Court requests a party to respond to the petition for review before granting or denying the same.~~ The filing of a petition for review under this rule does not preclude the filing of a timely petition for rehearing under Rule 116; and no action will be taken by the Supreme Court on a petition for review until the Court of Appeals has made a final ruling upon and determination of all petitions for rehearing. ~~If a petition for review is granted, the Supreme Court will include in its order the sequence for the filing of briefs by the parties before oral argument. A brief in support of or in opposition to a petition for review need not be bound nor have any colored cover.~~

(b) **Criteria for Granting Petitions for Review by the Supreme Court.** Granting a petition for review from a final decision of the Court of Appeals is discretionary on the

part of the Supreme Court, and will be granted only when there are special and important reasons and a majority of the Justices direct that the petition be granted. The following, while neither controlling nor fully measuring the Supreme Court's discretion, are factors that will be considered in the exercise of the Court's discretion:

(1) Whether the Court of Appeals has decided a question of substance not heretofore determined by the Supreme Court;

(2) Whether the Court of Appeals has decided a question of substance probably not in accord with applicable decisions of the Idaho Supreme Court or of the United States Supreme Court;

(3) Whether the Court of Appeals has rendered a decision in conflict with a previous decision of the Court of Appeals;

(4) Whether the Court of Appeals has so far departed from the accepted and usual course of judicial proceedings or so far sanctioned such procedure by a trial court as to call for the exercise of the Supreme Court's power of supervision;

(5) Whether a majority of the judges of the Court of Appeals, after decision, certifies that the public interest or the interests of justice make desirable a further appellate review.

(c). Briefing.

(1) In support of review. The brief in support of the petition for review must address the criteria for review set out in subsection (b) of this rule, and discussion and argument should be limited to the criteria for review. There is no response to a petition for review unless the Supreme Court requests a party to respond to the petition for review before granting or denying the petition. A brief in support of or in opposition to a petition for review does not need to be bound or have any colored cover.

(2) After review is granted. If a petition for review is granted, the Supreme Court will rely on the original briefs filed by the parties and considered by the Court of Appeals. There will be no additional briefing unless it is ordered by the Supreme Court.

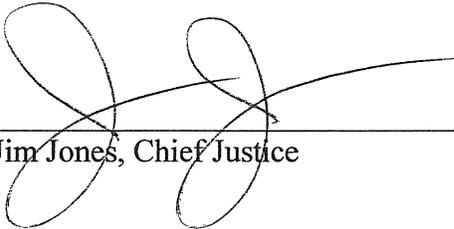
IT IS FURTHER ORDERED, that this order and these amendments shall be effective the 1st day of January, 2016.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Appellate Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 1<sup>st</sup> day of September, 2015.

By Order of the Supreme Court



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Jim Jones, Chief Justice

ATTEST: Stephen Kenyon  
Clerk

I, Stephen W. Kenyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office.

WITNESS my hand and the Seal of this Court 9-1-15

Stephen Kenyon  
Clerk

By: Jim D. Thomas Deputy