

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO THE IDAHO)
APPELLATE RULES) ORDER
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The Court, having reviewed a recommendation from the Appellate Rules Advisory Committee to amend the Idaho Appellate Rules, and the Court being fully informed,

IT IS ORDERED that the Idaho Appellate Rules are amended as follows:

Idaho Appellate Rule 5. Special writs and proceedings.

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(g) **Costs Allowed.** Unless otherwise ordered by the Court, the costs allowed shall include:

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11. Reasonable ~~attorneys~~attorney fees, which may include paralegal fees and the reasonable cost of automated legal research (Computer Assisted Legal Research). The claim for attorney fees as costs shall be supported by a statement of the legal basis for the award and an affidavit of the attorney stating the basis and method of computation of the attorney fees claimed. The allowance of attorney fees by the court under this rule is not to be construed as fixing the fees between attorney and client.

(h) **Objections to Costs.** No later than fourteen (14) days after the date of service of the memorandum of costs, any party may object to the claim for costs of another party by filing and serving on the adverse party an objection to part or all of such costs, stating the reasons in support thereof. An objection to costs shall be deemed filed upon mailing and shall be heard and determined by the Court as an objection to the application for costs.

(i) Judgment on Costs – Enforcement. If the Court enters an order awarding costs in connection with an original proceeding, the order will be accompanied by a judgment, which may be recorded and enforced in the trial courts of this state in the same manner as any other money judgment.

(j) **Petitions for Writ of Habeas Corpus.** Petitions for writs of habeas corpus shall be processed as provided by law.

Idaho Appellate 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:

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(7) Any order made after final judgment including an order denying a motion to set aside or vacate a default-judgment, but excluding an order granting a motion to set aside or vacate a default-judgment. A copy of the final judgment must also be attached to the notice of appeal. If the judgment is a partial judgment that has been certified by the trial court to be final as provided by Rule 54(b), I.R.C.P., the only post-judgment orders that may be appealed under this rule are those that relate to or arise from the Rule 54(b) judgment.

(8) Any order expressly made appealable by statute.

(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. A district court order denying a request by a vexatious litigant to file new pro se litigation is not appealable under this rule.

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(f) **Administrative Proceedings – Judicial Review of Agency Decisions.** ~~From any final decision or order of the district court on judicial review of an agency decision.~~

(1) From a final judgment, as defined in Rule 54(a) of the Idaho Rules of Civil Procedure.

(2) From any order entered after final judgment, excluding an order granting a petition for rehearing. A copy of the final judgment must also be attached to the notice of appeal.

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Idaho Appellate Rule 13. Stay of proceedings upon appeal or certification.

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(b) **Stay upon appeal – Powers of district court – Civil actions.** In civil actions, unless prohibited by order of the Supreme Court, the district court shall have the power and authority to rule upon the following motions and to take the following actions during the pendency of an appeal:

- (1) Settle the transcript on appeal.
- (2) Rule upon any motion for new trial.
- (3) Rule on any motion to amend findings of fact or conclusions of law.
- (4) Rule on any motion to amend the judgment.
- (5) Rule upon any motion for judgment notwithstanding the verdict.
- (6) Rule on any motion under Rule 60(a) or (b), I.R.C.P.
- (7) Rule upon any motion for reconsideration filed pursuant to Rule 11.2(b), I.R.C.P.
- (8) Enter a stay of execution or enforcement of any injunction or mandatory order entered by the court upon such conditions and upon the posting of such security as the court determines in its discretion. The court may enter a stay on its own motion or upon the application of a party who demonstrates a likelihood of success on the merits of the appeal and a likelihood of irreparable harm if a stay is not granted.
- (9) Make any order regarding the taxing of costs or determination of attorneysattorney fees incurred in the trial of the action.
- (10) Make any order regarding the use, preservation or possession of any property which is the subject of the action on appeal.
- (11) Take any action or enter any order deemed advisable in the discretion of the court with regard to the custody or support of children pending any appeal involving the custody or support of such children, and to amend or modify such order from time to time, during the pendency of the appeal, by reason of changes of circumstances of the parties.
- (12) Make any order which the district court deems appropriate in its discretion for the payment or advancement of attorneysattorney fees and/or anticipated costs on appeal by one party to the other, subject to the order of the Supreme Court determining the right to, and amount of, attorneysattorney fees on appeal.
- (13) Take any action or enter any order required for the enforcement of any judgment or order.
- (14) Stay execution or enforcement of any judgment, order or decree appealed from, other than a money judgment, upon the posting of such security and upon such conditions as the district court shall determine. The court may enter a stay on its own motion or upon the application of a party who demonstrates a likelihood of success on the merits of the appeal and a likelihood of irreparable harm if a stay is not granted.
- (15) Stay execution or enforcement of a money judgment upon the posting of a cash deposit or supersedeas bond by a fidelity, surety, guaranty, title or trust company

authorized to do business in the state and to be a surety on undertakings and bonds, either of which must be in the amount of the judgment or order, plus 36% of such amount. Provided, an agreement not to execute on the judgment made pursuant to Rule 16(b) may be filed in lieu of such bond or cash deposit. Any bond filed pursuant to this rule shall state that the company issuing or executing the same agrees to pay on behalf of the appellant all sums found to be due and owing by the appellant by reason of the outcome of the appeal, within 30 days of the filing of the remittitur from the Supreme Court, up to the full amount of the bond or undertaking. A copy of the bond, agreement not to execute, or notification of a cash deposit shall be served upon all parties to the appeal at the time of the application for the stay of execution. Any objection to the sufficiency of a cash deposit or bond posted under this rule shall be waived unless a written objection is made in the form of a motion and filed with the district court within 21 days of the filing of such bond or cash deposit. The district court shall rule upon such objection in the same manner as any other motion under the I.R.C.P. If the district court stays execution or enforcement of a money judgment upon the posting of a cash deposit or supersedeas bond, the court may, upon motion or application, cause or direct any judgment lien filed to be released. If the appellate court has vacated any money judgment and remanded only for a determination of the amount of the judgment, the district court may continue or modify the amount of any cash deposit or supersedeas bond posted in connection with the appeal. Any cash deposit may be applied to the judgment upon filing of the remittitur from the Supreme Court. If a party obtains a judgment for punitive damages, the supersedeas bond or cash deposit requirements shall be waived as to that portion of the punitive damages that exceeds one million dollars (\$1,000,000) if the party or parties found liable seek a stay of enforcement of the judgment during the appeal. In addition, the supersedeas bond or cash deposit requirements may be waived in any action for good cause shown. However, if the judgment creditor proves by a preponderance of the evidence that a party bringing an appeal, for whom the supersedeas bond or cash deposit requirement has been waived, is purposefully dissipating its assets or diverting assets outside the jurisdiction of the United States courts, waiver may be rescinded and the bond or cash deposit requirements may be reinstated for the full amount of the judgment.

~~(16) Any order of the Supreme Court as to whether or not a judgment, order, decree or proceeding shall be stayed shall take precedence over any order entered by the district court.~~

(17) Rule on any motion or application for the issuance of a Rule 54(b) I.R.C.P. certificate making a partial judgment final and appealable.

(17) During a permissive appeal under Rule 12, I.A.R., take any actions and rule upon all matters unaffected by the permissive appeal, including conducting a trial, unless a stay is entered by either the district court or the Supreme Court under Rule 13.4(c), I.A.R.

(1918) During an appeal from a partial judgment certified as final under Rule 54(b), I.R.C.P., take any actions and rule upon any matters unaffected by the Rule 54(b) judgment, including conducting a trial of the issues remaining in the case, unless a stay is entered by either the district court or the Supreme Court under Rule 13.4(c), I.A.R.

(2019) Rule upon any application for court appointed counsel in a civil case, including a petition for habeas corpus or a petition for post-conviction relief.

(2120) Rule upon any motion pertaining to the taking of depositions pursuant to Rule 27(b), I.R.C.P.

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(g) Stay by Supreme Court. The Supreme Court may also, in its discretion, enter an order staying a proposed act, a pending action or proceeding, or the enforcement of any judgment, order or decree, including but not limited to an injunction, writ of mandamus or prohibition, at any time during the pendency of an original application or petition for any extraordinary writ, or during the pendency of any appeal or a motion for certification of appeal. ~~Any order of the Supreme Court shall take precedence over any order entered by the district court or administrative agency.~~ Provided, in any appeal from the district court or an administrative agency, a party desiring to obtain any such stay must first make application to the district court or administrative agency before making application to the Supreme Court. If a district court or administrative agency denies an application for stay, or fails to act upon the application within fourteen (14) days after the filing of the application, any party may apply to the Supreme Court for a stay. If a district court or administrative agency grants a stay, any party may apply to the Supreme Court to modify or vacate the stay.

(1) Criteria for Stay.

(A) A party applying to the Supreme Court for an order staying a proposed act, a pending action or proceeding, or the enforcement of any judgment, other than a money judgment, must demonstrate both that the party is likely to succeed on the merits of the appeal or original proceeding and that the party is likely to suffer irreparable harm if a stay is not granted.

(B) Upon application, the Supreme Court will stay execution or enforcement of a money judgment in the same manner and upon the same conditions provided in subsection (b)(15) of this rule.

(2) Conditions of Stay. The Supreme Court may condition a stay on such terms and upon the posting of such security as the Court considers reasonably necessary to protect the non-moving party.

(3) Effect of Supreme Court Order. Any order of the Supreme Court granting, denying, modifying, or vacating a stay takes precedence over any order entered by a district court or administrative agency.

Idaho Appellate Rule 17. Notice of appeal – Contents.

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(h) **Transcript.** A designation as to whether a transcript is requested, and if requested, whether a standard transcript, a supplemented transcript, or a partial transcript as defined in Rule 25 is requested by the appellant. The notice shall also state whether appellant's copy of the transcript shall be provided in hard copy or electronic format or both. If no election is made within 21 days of filing the notice of appeal, the appellant will receive ~~a hard~~ an electronic copy of the transcript. If a supplemented transcript is requested, the request shall specifically identify each of the items of additional record requested which would otherwise be excluded under Rule 25(c) and (d).

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Idaho Appellate Rule 23. Filing fees and clerk's certificate of appeal - Waiver of appellate filing fee.

(a) **Filing Fees.** The Clerk of the Supreme Court shall charge the following filing fees for appeals and petitions:

Filing Fee

(1) Appeals in civil cases except for habeas corpus and post-conviction relief	\$94.00
(2) Appeals from the Public Utilities Commission	\$94.00
(3) Appeals from the Industrial Commission, with the exception of appeals by individual claimants under the employment security law.....	\$94.00
(4) Any cross-appeals in the appeals set out in (1), (2) and (3)	\$94.00
(5) Applications to intervene.....	\$94.00
(6) Petitions for a special writ under the original jurisdiction of the Supreme Court except for habeas corpus and criminal cases	\$76.00
(7) Petitions for rehearing except in criminal actions, or actions for habeas corpus or post-conviction relief	\$71.00
(8) Appeals in criminal cases	\$ None
(9) Petitions for writ of habeas corpus.....	\$ None
(10) Petitions for Appeals in <u>post-conviction relief cases</u>	\$ None
(11) Petition for review of a decision of the Court of Appeals	\$ None
(12) Review of Violent Sexual Predator designation.....	\$ None
(13) Appeals by individual claimants under the employment security law	\$ None
<u>(14) Appeals of orders designating a person a vexatious litigant under Idaho Court Administrative Rule 59</u>	<u>\$ None</u>

No appellate filing fee is required for agencies of the State of Idaho and Counties of the State of Idaho, including public defenders, pursuant to I.C. § 67-2301 and I.C. § 31-3212(2).

(b) **Collection and Transmittal to the Clerk of the Supreme Court.** The Clerk of the Supreme Court shall charge and collect the appropriate fee for any petitions initially filed with the Supreme Court. Upon the filing of a notice of appeal, or notice of cross-appeal, the clerk of the district court or administrative agency where the document is filed shall charge and collect the appropriate filing fee and the clerk shall forthwith forward an electronic certified copy of the notice of appeal together with the filing fee to the Clerk of the Supreme Court; provided, an administrative agency may forward the filing fee to the Clerk of the Supreme Court with the Certificate of Appeal. The Clerk of the Supreme Court shall forward all such fees to the state treasurer for deposit in the appropriate fund.

(c) **Request for Waiver of Appellate Filing Fee.** Any appellate filing fee set forth under subsection (a) of this rule may be waived pursuant to section 31-3220 or section 31-3220A, Idaho Code, if such waiver is approved by the Supreme Court. Any party desiring waiver of the appellate filing fee in a civil appeal shall ~~first~~ make application to the district court or administrative agency from which the appeal is taken ~~in accordance with the rules of procedure adopted by the judicial district of the district court or the administrative agency from which the appeal is taken.~~ To apply for a waiver, the appellant must file with the notice of appeal a motion for waiver and a declaration or affidavit sworn to by the appellant stating:

- (1) The applicant's name and address.
- (2) A request to waive the appellate filing fee.
- (3) A statement of facts in accordance with section 31-3220(3)(a)-(j) or section 31-3220A(2)(b)(i)-(x), Idaho Code, showing the indigency of the applicant to pay the filing fee.
- (4) A certification that the applicant is unable to pay all court costs at the time of filing and is entitled to waiver of the filing fee.

The district court or administrative agency must enter an order recommending waiver or no waiver of the appellate filing fee.~~The order of the district court or administrative agency recommending waiver or no waiver of the appellate filing fee shall be filed by the appellant with the notice of appeal. The appellant shall also file with the notice of appeal a verified petition, motion or affidavit sworn to by the appellant stating:~~

- ~~(1) The name and address of the applicant.~~
- ~~(2) A request for the waiver of the appellate filing fee.~~
- ~~(3) A statement of the factual basis showing the indigency of the applicant to pay such filing fee.~~
- ~~(4) A certification by the applicant that the applicant believes that the applicant is entitled to waiver of the filing fee.~~

(d) **Supreme Court Review of Request for Waiver.** Upon entry of the order recommending waiver or no waiver of the appellate filing fee, All of said documents filed with the district court

~~or administrative agency with the notice of appeal requesting a waiver of the appellate filing fee, the notice of appeal, and the district court or administrative agency order recommending waiver or no waiver of the appellate filing fee shall be forwarded by the clerk of the district court or administrative agency to the Supreme Court at the same time and with the notice of appeal. The Clerk of the Supreme Court, upon receiving the notice of appeal and the request for the waiver of the appellate filing fee shall mark all documents as "lodged" indicating the date and time received. The Supreme Court will rule upon the request for waiver of the appellate filing fee without further briefs or arguments unless otherwise ordered by the Court. If the Supreme Court grants the waiver of the appellate filing fee the appeal will proceed, it will enter an order to that effect and the Clerk of the Court shall thereupon file the notice of appeal and all other documents relating to the waiver of the appellate filing fee which shall be deemed filed on the date and time they were initially lodged with the Supreme Court. In the event If the Supreme Court enters an order denying the waiver of the appellate filing fee the Appellant will have twenty-one (21) days from entry of the order to pay the filing fee to the district court clerk or administrative agency or the appeal will be dismissed. Clerk shall so notify the appellant and the notice of appeal and all documents relating to the waiver of the appellate filing fee shall be lodged with the Supreme Court but not filed, and no appeal shall be pending with the Supreme Court unless and until the appellate filing fee is paid by the appellant.~~

(e) **Automatic Waiver.** ~~In any appeal in which the appellant or cross-appellant is represented by the Idaho Legal Aid Services, the appellate filing fee shall automatically be waived and the clerk of the district court and the Clerk of the Idaho Supreme Court shall accept the notice of appeal or notice of cross-appeal without the payment of the appellate filing fee. An appellate filing fee set forth under subsection (a) is automatically waived if the appellant or cross-appellant is represented by:~~

- ~~(1) an attorney volunteering through the Idaho Law Foundation Volunteer Lawyers Program;~~
- ~~(2) the University of Idaho Legal Aid Clinic;~~
- ~~(3) the Idaho Legal Aid Program; or~~
- ~~(4) an attorney under a private attorney contract with Legal Aid.~~

(f) **Certificate of Appeal.** ~~Along with the notice of appeal or notice of cross-appeal, the clerk of the district court or the administrative agency shall prepare and send to the Clerk of the Supreme Court a Certificate of Appeal in the form provided by these rules. Provided, if the appeal is from the denial by the trial court of an application for waiver of fees, the clerk shall attach to the Certificate of Appeal copies of the motion or application for waiver of fees, all affidavits and documents presented in support of the motion or application and the order of the trial court denying the same.~~

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Idaho Appellate Rule 24. Reporter's transcript - Format - Estimate of fees - Time for preparation - Waiver of reporter's fee.

(a) **Format and use of transcripts.** Transcripts of separate hearings must be prepared in separate volumes, in compliance with Idaho Appellate Rule 26(a). The reporter shall prepare one copy of each volume of the reporter's transcript in electronic format for the Supreme Court, which shall be lodged with the district court and filed with the Supreme Court following settlement. If requested, the reporter shall also prepare a hard copy of each volume of the transcript for service on the appellant and respondent, as each party may elect whether to receive it in electronic format or in hard copy or both. If there are multiple appellants or respondents, they shall determine by stipulation which appellant or respondent shall be served with the transcript by the clerk and the manner and time and use of the transcript by each appellant or respondent. In the absence of such stipulation the determination shall be made by the trial court or agency upon the application of any party or the clerk. If a reporter's transcript has already been prepared for the appellant and/or respondent in an appeal from an administrative agency, when requested by the Supreme Court the reporter shall furnish one computer-searchable transcript in electronic format to the Court, but additional copies need not be made for the parties.

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(g) **Past due transcripts.** In the event a transcript is 14 days past due, the clerk of the Idaho Supreme Court shall notify the court reporter, trial court administrator, administrative district judge and the district judge responsible for supervising the reporter, and the trial court administrator shall take appropriate action which may ~~include~~include:

- (1) imposing disciplinary action,
- (2) identifying another official reporter in the district who can provide coverage for court proceedings while the transcript is completed,
- (3) implementing a performance improvement plan that requires weekend and evening hours to complete the transcript(s),
- (4) identifying an official or a freelance court reporter who will complete the transcript and be compensated as appropriate, or
- (5) with approval of the Administrative Director of the Courts, removing the court reporter from the courtroom until the transcript is complete and hiring a different court reporter to provide coverage for court proceedings. In the event a transcript is reassigned to a different court reporter, the court reporter must immediately turn over all notes of the particular proceeding to the trial court administrator. The trial court administrator shall notify the clerk of the Supreme Court of the action taken regarding the transcript, including the anticipated date of filing and any reassignment.

(h) **Waiver of reporter's fee.** The payment of the reporter's fee as required by this rule may be waived by the district court applying the same requirements as for a civil case under section 31-3220, Idaho Code, if the appellant is not a prisoner as defined in that statute. If the appellant is a prisoner, payment of the reporter's fee may be waived by the district court applying the same requirements as for a civil case under section 31-3220A, Idaho Code, pursuant to section 31-3220, Idaho Code, in accordance with the local rules of the judicial district of the district court. A request for waiver of the reporter's fee must be filed with the notice of appeal. The request will be processed in the same manner as a request for waiver of the appellate filing fee under Idaho Appellate Rule 23(c) and (d).

Idaho Appellate Rule 26. Preparation and arrangement of reporter's transcripts.

The reporter's transcript of all judicial proceedings shall be prepared in accordance with and as defined by this rule.

(a) Separate Transcript Volumes for Each Proceeding. The transcript for each proceeding requested must be prepared as a separate volume and may not be combined with other proceedings. Each volume of transcript must be in the form required by subsections (b) through (q) of this rule.

(ab) Paper. If a hard copy of the transcript is requested, the transcript shall be clearly and legibly printed on white, unglazed paper 8 ½ x 11 inches in size on at least 20 pound paper.

(bc) Margins. The margins at the top and bottom of each page shall be one inch. The left margin shall be a maximum of 1.5 inches and the right margin shall be a maximum of .5 inches.

(ed) Lines. The lines of each transcript shall be double-spaced with a minimum of 25 lines and a maximum of 30 lines per page. Quotations, citations, and parenthetical notes may be single-spaced. Each line shall be numbered on the left margin.

(de) Font. The transcript shall be printed in courier or equivalent font style.

(ef) Type Size. The type size shall be ten characters to the inch.

(fg) Indentions. All indentions for paragraphs and "Q" and "A" shall be seven spaces with subsequent lines extended to the left margin.

(gh) Parentheticals. Parenthetical material shall be indented no more than 12 spaces from the left margin with no blank spaces before or after the parenthetical. Parentheticals shall be clear and concise and shall avoid the use of legal terms. The following parentheticals shall be used wherever possible and placed on a single line;:

Proceeding adjourned
Clerk complied

Witness complied

Witness excused
Bailiff complied
Exhibit marked
In the absence of the jury
Record read back
Document shown to witness
Proceedings in chamber

Counsel complied
(Name) exhibit admitted
In the presence of the jury
Discussion held off the record
Recess
Document produced by counsel

(hi) **Colloquies.** All colloquies shall begin on the same line as the identification of the speaker, no more than seven spaces from the left margin with subsequent lines extended to the left margin.

(ij) **Page Breaks.** Page breaks shall be used only after a recess or at the beginning of a new day.

(jk) **Index.** Each volume of the reporter's transcript shall contain an index of the contents of the complete reporter's transcript in alphabetical order, describing the proceedings and date, volume number, page and line, together with the name of each witness, form of testimony, (e.g. direct, cross, redirect, etc.) and indicate where each exhibit is marked, offered, admitted, or rejected. The reporter's transcript shall report the trial or proceedings in chronological order. Each index may be separate.

(kl) **Cover Page.** Each volume of the reporter's transcript shall include a cover page, which shall state the title of the Supreme Court and the title of the action in the district court or administrative agency with the names and proper designation of the parties on appeal. The proceedings reported shall be included, together with the title of the district court or administrative agency appealed from, the name of the presiding judge or chair, and the names of the attorneys and the parties for which they appear in the appeal.

(lm) **Binding.** If a hard copy transcript is requested, Each volume of the reporter's transcript shall be bound with a front cover of heavy clear plastic and a back cover of 65 pound paper-stock or heavier material, fastened at the left edge in spiral or plastic-type binding, so as to open as flat as possible. ~~A transcript shall contain no more than 300 pages, unless the transcript can be completed in 350 pages or less.~~

(mn) **Format and Pagination.**

(1) **Electronic Format.** The electronic copy of the reporter's transcript shall be prepared in standard format in the same arrangement as specified in this rule. The standard format shall have no more than one page of regular transcript on one 8 ½ x 11 inch page of the electronic file. Each page shall be numbered consecutively at the bottom center of each page.

(2) **Hard Copy.** If a hard copy of the reporter's transcript is requested, the hard copy may be prepared in a compressed format in the same arrangement as specified in this rule with the following requirements:

A. The cover pages and indexes for each transcript volume shall be printed in standard format for ready identification, which information can also be included in the compressed transcript.

B. The compressed format shall have no more than 12 pages of regular transcript on one page of compressed transcript, using both the front and back of each page and having no more than three columns of text on a page. Each page shall be numbered consecutively at the bottom center of each page. The pagination shall be horizontal as follows:

1 2

3 4

C. The compressed transcript shall contain identification of page and line numbers from the standard transcript and shall be printed in a format that is easily readable.

D. Each volume of a compressed transcript shall contain no more than 200 pages, unless the transcript can be completed in 250 pages or less.

(no) **Certificate of Reporter.** At the end of each volume of the reporter's transcript, the reporter preparing the transcript shall certify that the reporter was the reporter of the trial or proceeding, or that the reporter was designated by the district court, agency, or Supreme Court to transcribe the proceedings, and that the transcript is a true and accurate report of such trial or proceeding to the best of the reporter's ability, and that the transcript contains all of the material designated in the notice of appeal, any notice of cross-appeal, and any request for additional transcripts, which may have been served upon the reporter.

(op) **Filing notice of lodging with the district court.** Upon lodging one or more transcripts with the district court or administrative agency the court reporter shall file a notice of lodging with the district court, a copy of which shall be sent to the Supreme Court by email, fax or letter. The notice shall state that the court reporter has lodged all assigned appellate transcript(s) requested in that appeal and shall list each transcript lodged by date and title of proceeding. If more than one transcript is requested from a court reporter within the same appeal the court reporter shall not file this notice until all transcripts due from that court reporter have been lodged. The notice of lodging shall be file stamped by the district clerk and included in the clerk's record on appeal.

(pq) **Transcripts on Appeal from the Public Utilities Commission.** On appeal from the Public Utilities Commission, the reporter may file transcripts complying with the Public Utility Commission's rules for preparation of transcripts so long as the first page and cover page of all

such transcripts shall state the title of the Supreme Court, the title of the proceedings in the Public Utilities Commission, the names and proper designation of the parties and their counsel.

Idaho Appellate Rule 27. Clerk's or agency's record – Number – Clerk's fees – Payment of estimated fees – Time for preparation – Waiver of clerk's fee.

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(e) **Waiver of Clerk's Fee.** The payment of the clerk's record fee as required by this rule may be waived by the district court applying the same requirements as for a civil case as set forth in section 31-3220, Idaho Code, if the appellant is not a prisoner as defined in that statute. If the appellant is a prisoner, payment of the clerk's record fee as required by this rule may be waived by the district court applying the same requirements as for a civil case as set forth in section 31-3220A, Idaho Code. A request to waive the clerk's record fee must be filed with the notice of appeal. The request will be processed in the same manner as a request for waiver of the appellate filing fee under Idaho Appellate Rule 23(c) and (d).

Idaho Appellate Rule 28. Preparation of clerk's or agency's record and electronic transcript record – Contents and arrangements.

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(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.~~

(fd) **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. The clerk's record must be prepared as one volume, regardless of the number of pages. However, if a party elects to receive a hard copy record, each volume of the clerk's or agency's record shall contain no more than 200 pages unless the hard copy record can be completed in 250 pages.

(ge) **Table of Contents and Index of Record – Electronic Bookmarks.**

(1) **Hard copy 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.

(2) **Electronic copy of record.** An electronic clerk or agency's record shall contain electronic bookmarks that link to each document in the electronic record.

(hf) **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(c)~~31(d).

(g) Preparation of Electronic Transcript Record. Upon the lodging of all transcripts by the assigned court reporter(s), the clerk of the court or administrative agency must compile an electronic transcript record. The transcripts must be arranged in chronological order based on the date the transcribed proceeding occurred. The electronic transcript record must contain electronic bookmarks that link to each transcript contained in the electronic transcript record. The electronic bookmarks must include the date the transcribed proceeding occurred. Each page of the electronic transcript record must be numbered consecutively at the bottom of the page. The numbering must include every page included in the electronic transcript record.

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

Idaho Appellate Rule 34. Briefs on appeal - Number - Length - Time for filing - Extension - Augmentation.

(a) **Number of Copies.** The original of all appellate briefs shall be filed with the Supreme Court and the original shall be signed by the party submitting the brief. No copies are required.

~~(b) **Length of Briefs.** No brief in excess of 50 pages, excluding covers, the caption page, the table of contents, the table of authorities, the certificate of service, and any addendums or exhibits, shall be filed without consent of the Supreme Court. In an appeal on unitary review of a capital criminal and post-conviction case, no brief in excess of 100 pages, excluding covers, the caption page, the table of contents, the table of authorities, the certificate of service, and any addendums or exhibits, shall be filed without consent of the Supreme Court.~~

(b) **Length of Briefs.** All briefs must comply with the word-count and page limits set forth in this rule, unless leave to file an overlength brief is granted. Headings, footnotes, and quoted material count toward word-count and page limits. The front cover, caption page, table of contents, table of authorities, signature block, certificate of service, certificate of compliance, and appendices or exhibits do not count toward the word-count and page limits.

(1) **In General.** The first brief filed by a party may contain no more than 14,000 words and a reply brief may contain no more than 7,000 words, except as provided in paragraphs (2) and (3) of this subsection.

(2) **Capital Cases on Unitary Review.** In an appeal on unitary review of a capital criminal and post-conviction case, the first brief filed by a party may contain no more than 28,000 words and a reply brief may contain no more than 14,000 words.

(3) **Handwritten Briefs Filed by Prisoners.** In the case of a handwritten brief filed by a prisoner incarcerated or detained in a state prison or county jail, the prisoner's first brief must not exceed 50 pages. A reply brief must not exceed 25 pages.

(4) **Certificate of Compliance with Word-Count Limitation.** Except for handwritten briefs filed by prisoners and typewritten briefs filed by unrepresented parties that were not prepared on a word-processing system, all briefs must include a certificate that the brief complies with the word-count limits of this rule. The person preparing the certificate may rely on the word-count feature of the word-processing system used to prepare the brief. The certificate must appear immediately before the submitter's signature and must state the number of words in the document.

(c) **Time for Filing.** Appellant's brief shall be filed with the clerk of the Supreme Court within 35 days of the date that the reporter's transcript and the clerk's or agency's record have been filed with the Supreme Court. The respondent's and cross-appellant's brief, which may be joined in one brief, shall be filed within 28 days after the service of appellant's brief. The cross-respondent's brief, if any, shall be filed within 28 days after the cross-appellant's brief. Any reply brief shall be filed within 21 days after service of any respondent's brief.

....

Idaho Appellate Rule 36. Preparation of briefs.

....

~~(b) **Printing of Briefs.** All briefs shall be printed on unruled and untreated white paper 11 inches long by 8 1/2 inches wide. The original brief filed with the court shall be typed with black ribbon or produced by a computer or word processor type printer of letter quality. The type shall be no smaller than 12 point Times New Roman. All lines must be double spaced, except for quotations which may be indented and single spaced. There shall be a margin of 1 1/2 inches at the top and at the bottom of each page, and 1 inch at each side of each page. The pages shall be numbered at the bottom and may be printed on both the front and back of each page. Prisoners incarcerated or detained in a state prison or county jail may file documents under this rule that are legibly hand-printed in black ink, in whole or in part, that otherwise conform to the requirements of this rule.~~

(b) **Formatting of Briefs.** Except as otherwise provided in this rule, all briefs must comply with the following requirements:

(1) **Size, line spacing, and margins.** Briefs must be prepared so that, if printed, all pages are a uniform size of 8 1/2 x 11 inches. Lines of text must be double spaced, except that headings, footnotes, and block quotations may be single spaced. Margins must be at least one inch on all sides. Page numbers are required and must appear in the bottom margin.

(2) **Typeface.** Briefs must be prepared using proportionally spaced type. The font style must be Times New Roman or Century Schoolbook. The font color must be black. Italics or boldface may be used for emphasis. Case names must be italicized or underlined.

(3) **Type size.** The type size must be 14-point or larger for both text and footnotes.

(c) **Briefs Filed by Unrepresented Parties.** Except as provided in subsection (d) of this rule, an unrepresented party without access to a word-processing system must file a typewritten brief. The brief must be printed on 8 1/2 x 11-inch unruled and untreated white paper and must be typed with black ribbon. The brief may be typed using a standard 12-point typeface, but it must otherwise comply with the requirements contained in subsections (a) and (b) of this rule.

(d) **Handwritten Briefs.** Prisoners incarcerated or detained in a state prison or county jail may file briefs that are legibly hand-printed in black ink that otherwise comply with the requirements contained in subsections (a) and (b) of this rule.

IT IS FURTHER ORDERED that the following new rules of appellate procedure are adopted:

Idaho Appellate Rule 6.1 – Consolidation.

The Supreme Court, on its own motion or on the motion of a party, may consolidate two or more appeals for any or all purposes, including preparation of the Clerk's or Agency's Record and Reporter's Transcript, briefing, oral argument, and issuance of an opinion. A motion for consolidation shall be filed, served, and processed in the same manner as any other motion under Rule 32 of these rules.

Idaho Appellate Rule 11.2. Transfer of appeal taken to wrong court.

(a) **Transfer to District Court.** If a party files a timely notice of appeal to the Supreme Court from a magistrate court judgment or order that is not appealable to the Supreme Court under Idaho Appellate Rule 11.1(a), the Supreme Court may transfer the appeal to the district court.

(b) **Transfer to Supreme Court.** If a party files a timely notice of appeal to the district court from a magistrate court judgment or order that must be appealed to the Supreme Court under Idaho Appellate Rule 11.1(a), the district court clerk must forward the notice of appeal to the Supreme Court. The Supreme Court may, on its own motion or on the motion of a party, order the appeal transferred to the Supreme Court.

(c) **Procedure Upon Transfer.**

(1) Upon entry of an order transferring an appeal under subsection (a) of this rule, the Clerk of the Court must promptly:

A. transmit the notice of appeal and all documents filed in the appeal to the clerk of the district court; and

B. serve the order of transfer on all parties.

The clerk of the district court must docket the appeal in the case number in which the magistrate court proceedings occurred. The appeal shall thereafter proceed as though it were originally taken to the district court.

(2) Upon entry of an order transferring an appeal under subsection (b) of this rule, the Clerk of the Court must promptly serve the order of transfer on all parties. The appeal shall thereafter proceed as though it were originally taken to the Supreme Court.

(d) **Filing Date Preserved.** An appeal transferred under this rule is deemed filed in the receiving court on the date the notice of appeal was originally filed.

(e) **Fees.** No additional filing fee is required upon transfer, except to correct any deficiency in the fee previously paid.

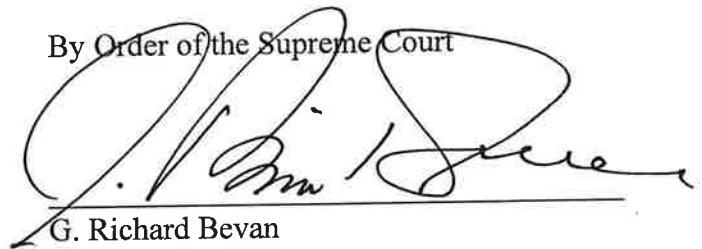
IT IS FURTHER ORDERED that this order and these amendments and new rules shall be effective July 1, 2026.

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 notice of this Order shall be published for three consecutive weeks on the Idaho State Bar's website and in its weekly E-Bulletin, and that as soon as practicable, a summary of the amendment(s) and new rules effected by this Order shall be published in one issue of *The Advocate*.

DATED this 23rd day of April, 2026.

By Order of the Supreme Court



G. Richard Bevan
Chief Justice, Idaho Supreme Court

ATTEST:


Clerk

I, Melanie Gagnepain, Clerk of the Supreme Court/
Court of Appeals 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 APRIL 23, 2026
Melanie Gagnepain, Clerk

By Deborah Purice Deputy