In the Supreme Court of the State of Idaho

IN RE: AMENDMENT OF IDAHO APPELLATE RULES (I.A.R.) 12.1(a), 17(o), 23(a), 30(a), 42(a), 49(a), and 118(a)	)))))	**ORDER**

The Court having considered proposals to amend the content and substance of the Idaho Appellate Rules;

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 12.1(a) be, and the same is hereby, amended to read as follows:

> **Rule 12.1. Permissive appeal in custody cases.**
> (a) Whenever the best interest of a child would be served by an immediate appeal, any party or the magistrate hearing a case may petition the Supreme Court to accept a direct permissive appeal of a judgment or order involving the custody of a minor, or a Child Protective Act proceeding, without first appealing to the district court. The filing of a motion for permissive appeal shall stay the time for appealing to the district court until the Supreme Court enters an order granting or denying the appeal. <u>In the event a notice of appeal to the district court is filed prior to the motion for permissive appeal, the magistrate shall retain jurisdiction to rule on the motion and, in the event the motion is granted by the Supreme Court, the appeal to the district court shall be dismissed.</u>

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2. That Rule 17(o) be, and the same is hereby, amended to read as follows:

> **Rule 17. Notice of appeal -- Contents.**

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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 additional designation of parties as appellant and respondent	)))))	Case No. _____ NOTICE OF APPEAL

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.

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.

☐ **<u>This is an EXPEDITED APPEAL pursuant to I.A.R. 12.2.</u>**

3. A preliminary statement of the issues on appeal which the appellant then intends to assert in the appeal; provided, any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal.

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3. That Rule 23(a) be, and the same is hereby, amended to read as follows:

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:

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(11) Petitions for review of a decision of the court of appeals.....$ None
(12) Review of Violent Sexual Predator designation.....$ None

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).

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4. That Rule 30(a) be, and the same is hereby, amended to read 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. 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 proceedings(s), and an estimated number of pages, and must contain a certificate of service on the named 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 42(a) be, and the same is hereby, amended to read as follows:

Rule 42. Petition for rehearing.

(a) **Time for Filing - Filing Fee.** Petitions for rehearing must be physically filed with the Clerk of the Supreme Court, together with the filing fee, within 21 days after the filing date of the Court's opinion, and must be served upon all parties to the appeal or proceeding. If the opinion is modified, other than to correct a clerical error, an aggrieved party may physically file another petition for rehearing within 21 days from the date of the modified opinion and serve all

adverse parties in the appeal or proceeding. No response to any petition for rehearing shall be made except upon direction of the Court.

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6. That Rule 49(a) be, and the same is hereby, amended to read as follows:

Rule 49. Appellate settlement conference.

(a) Submission for Conference. ~~By~~ Upon request, pursuant to a written agreement of all parties, a civil appellate case or an appeal from the Industrial Commission may be submitted for consideration for an appellate settlement conference before a person, ~~appointed by the Supreme Court~~ who shall be known as the Conference Judge, and who shall be selected by the parties from the list of settlement justices and judges maintained by the Administrative Director of the Courts. The parties should direct the request for a settlement conference in writing to the Clerk of the Supreme Court. The Clerk shall then enter an order suspending the appeal for 49 days, after which the appeal process shall resume. The settlement conference shall be held at a place near the court from which the civil case is appealed, at a place near the place of employment in an Industrial Commission case, or at any other place agreed upon by the parties and the Conference Judge. The facility in which the conference is held shall be determined by the Conference Judge. In advance of the settlement conference, all parties shall deliver to the clerk of the Supreme Court, for submission to the Conference Judge, a settlement statement in a form prescribed by the Supreme Court. The parties are responsible for the payment of costs and for scheduling the settlement conference ~~The settlement conference shall be scheduled by the clerk of the Supreme Court~~ at a time convenient to all parties and the Conference Judge. The Conference Judge shall not participate in the determination of the appeal.

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7. That Rule 118(a) be, and the same is hereby, amended to read 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. ~~a modified opinion without rehearing, physically file a petition for review with the Clerk of the Supreme Court~~. 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.

Such petition shall be processed within the time limits and in the manner prescribed for a petition for hearing of a 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.

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IT IS FURTHER ORDERED, that this order and these amendments shall be effective January 1, 2010.

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 9 day of December, 2009.

By Order of the Supreme Court

Daniel T. Eismann,
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 12/10/09

STEPHEN W. KENYON Clerk

By: Kimber Greene Deputy