I.A.R. 23. Filing Fees and Clerk's Certificate of Appeal - Waiver of Appellate Filing Fee

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	$ 94.00
(4)	Any cross-appeals in the appeals set out in (1), (2) and (3) above	$ 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	$76.00

	criminal cases.....	
(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 post-conviction relief	$ None
(11)	Petition 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).

(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 a 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) 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, 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. 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 be 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) Request for Waiver. All of said documents filed with the district court with the notice of appeal requesting a waiver of the appellate filing fee shall be forwarded by the clerk of the district court 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, 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 the Supreme Court denies the waiver of the appellate filing fee the 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.

(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.

(g) Form of Certificate of Appeal. The Certificate of Appeal made by the clerk of the district court or administrative agency for filing with the Supreme Court shall be in the following form:
Click here [1] for form.

(Adopted March 25, 1977, effective July 1, 1977; amended April 11, 1979, effective July 1, 1979; amended December 27, 1979, effective July 1, 1980; amended April 3, 1981, effective July 1, 1981; amended March 24, 1982, effective July 1, 1982; amended March 30, 1984, effective July 1, 1984; amended March 20, 1985, effective July 1, 1985; amended June 15, 1987, effective November 1, 1987; amended March 30, 1988, effective July 1, 1988; amended April 5, 1990, effective July 1, 1990; amended April 28, 1983, effective July 1, 1993; April 11, 1994, effective July 1, 1994; amended April 3, 1996, effective July 1, 1996; amended March 1, 2004, effective July 1, 2004; amended March 21, 2007; effective July 1, 2007; amended January 3, 2008, effective March 1, 2008; amended February 4, 2008, effective March 1, 2008; amended January 4, 2010, effective February 1, 2010; amended November 20, 2012, effective January 1, 2013.)

Source URL: http://www.isc.idaho.gov/iar23

Links:
[1] http://www.isc.idaho.gov/../rules/forms/IAR_23_Form.doc