I.A.R. 35. Content and Arrangement of Briefs

Idaho Appellate Rule 35. Content and Arrangement of Briefs.

(a) Appellant's Brief. The brief of the appellant shall contain the following divisions under appropriate headings:

(1) Table of Contents. A table of contents, with page references, which shall include an outline of the Argument section of the brief.

(2) Table of Cases and Authorities. A table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where they are cited.

(3) Statement of the Case. (i) A statement of the case indicating briefly the nature of the case. (ii) The course of the proceedings in the trial or the hearing below and its disposition. (iii) A concise statement of the facts.

(4) Issues Presented on Appeal. A list of the issues presented on appeal, expressed in the terms and circumstances of the case but without unnecessary detail. The statement of the issues should be short and concise, and should not be repetitious. The issues shall fairly state the issues presented for review. The statement of issues presented will be deemed to include every subsidiary issue fairly comprised therein.

(5) Attorney Fees on Appeal. If the appellant is claiming attorney fees on appeal the appellant must so indicate in the division of issues on appeal that appellant is claiming attorney fees and state the basis for the claim.

(6) Argument. The argument shall contain the contentions of the appellant with respect to the issues presented on appeal, the reasons therefor, with citations to the authorities, statutes and parts of the transcript and record relied upon.

(7) Conclusion. A short conclusion stating the precise relief sought.

(b) Respondent's Brief. The brief of the respondent shall contain the following divisions under appropriate headings:

(1) Table of Contents. A table of contents, with page references, which shall include an outline of the argument section of the brief.

(2) Table of Cases and Authorities. A table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where there are cited.

(3) Statement of the Case. A statement of the case to the extent that the respondent disagrees with the statement of the case set forth in appellant's brief.

(4) Additional Issues presented on Appeal. In the event the respondent contends that the issues presented on appeal listed in appellant's brief are insufficient, incomplete, or raise additional issues for review, the respondent may list additional issues presented on appeal in the same form as prescribed in Rule 35(a)(4) above.

(5) Attorney Fees on Appeal. If the respondent is claiming attorney fees on appeal the respondent must so indicate in the division of additional issues on appeal that respondent is claiming attorney fees and state the basis for the claim.

(6) Argument. The argument shall contain the contentions of the respondent with respect to the issues presented on appeal, the reasons therefor, with citations to the authorities, statutes and parts of the transcript and record relied upon.

(7) Conclusion. A short conclusion stating the precise relief sought.

(c) Other Briefs. The appellant or cross-appellant may file a brief in reply to the brief of the respondent or cross-respondent within the time limit specified by Rule 34(c) which may contain additional argument in rebuttal to the contentions of the respondent. An amicus curiae brief permitted by order of the Court may contain a statement of the case, points and authorities, and additional argument on any issue raised by the parties in the appeal or as allowed by order of the Supreme Court. If the respondent has filed a cross-appeal, the appellant shall file a cross-respondent's brief which shall contain all of the requirements of Rule 35(b), above, and, unless otherwise ordered by the court, it shall be combined with appellant's reply brief.

(d) References in Briefs to Parties. Counsel will be expected in their briefs and oral arguments to keep to a minimum reference to parties by such designations as "appellant," "respondent," and "cross-appellant." To promote clarity and simplicity in the presentation of written and oral contentions of the parties to the Supreme Court, the counsel shall use the designations used in the trial court or other proceedings under review, or the actual names of the parties, or descriptive terms such as the "employee," the "employer," the "landlord," etc.; provided, all references to a minor shall be by the use of initials or a designation other than the minors actual name.

(e) References in Briefs to the Reporter's Transcript and Clerk's or Agency's Record. References to the reporter's transcript on appeal shall be made by the designation "Tr" followed by the volume,

page and line number abbreviated "Vol. I, p. 14, L. 16". References to the clerk's or agency's record on appeal shall be made by the designation "R" followed by the volume, page and line number abbreviated "Vol. I, p. 14, L. 16".

(f) Reproduction of Statutes, Rules, Regulations, Decisions, Etc. If determination of the issues presented on appeal requires the study of statutes, rules, regulations, recent court decisions not yet published, or relevant parts thereof, they may be reproduced in the brief or in an addendum at the end of the brief.

(g) Real Property Disputes. In cases involving easements, boundary disputes, or other types of real property disputes, the brief shall include a map, diagram, illustrative drawing, or other document depicting (i) the lay of the land, (ii) the location of the parcels or pieces of property in dispute, and (iii) the location of any features of or on the land that are pertinent to identify the matters in dispute, including but not limited to easements, roads, trails, boundaries, markers, fences, and structures. The parcels, pieces and features depicted shall be labeled so as to adequately identify them. The document shall be based upon testimony or evidence in the record with citations to such supporting evidence.

(h) Briefs in Cases Involving Multiple Parties. In cases involving more than one appellant or respondent, including cases consolidated for purposes of appeal, any number of parties to the appeal may join in a single brief, and any party may adopt by reference any part of the brief of another party.

(i) Briefs in Criminal Appeals Involving Only Challenges to the Revocationof Probation or the Severity of Sentence. In criminal appeals involving only claims regarding the revocation of probation, the severity of thesentence, or a motion brought under Idaho Criminal Rule 35, the brief of the appellant and respondent need not be bound or have colored covers, and need not contain a table of contents, table of cases and authorities, or citations to authorities.

(Adopted March 25, 1977, effective July 1, 1977; amended March 31, 1978, effective July 1, 1978; amended March 20, 1985, effective July 1, 1985; amended June 15, 1987, effective November 1, 1987; amended March 27, 1989, effective July 1, 1989; amended April 3, 1996, effective July 1, 1996; amended March 9, 1999, effective July 1, 1999; amended March 1, 2000, effective July 1, 2000; amended January 30, 2001, effective July 1, 2001; amended October 17, 2003; amended April 2009, effective July 1, 2009; amended March 28, 2014; effective July 1, 2014.)

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