I.A.R. 43. Special Writs

Idaho Appellate Rule 43. Special Writs.

(a) Special Writs. The Supreme Court shall process petitions for such special writs as are established by law in the manner herein provided.

(b) Petitions for Writs ñ Filing Fee ñ Briefs ñ Number. Special writs shall issue only upon petitions verified by the party beneficially interested therein and upon briefs in support thereof filed with the Clerk of the Supreme Court with payment of the appropriate filing fee. No filing fee shall be required with a petition for writ of habeas corpus which is filed in connection with a criminal case or post-conviction relief proceeding. Petitioner shall file an original and six copies of the petition and brief with the Clerk of the Supreme Court.

(c) Procedure for Issuance of Writs. Special writs, except writs of habeas corpus, shall issue as herein provided. The Supreme Court acting through three (3) or more members, or by two (2) or more members when the Court is in vacation, may issue a writ directing the respondent to act in accordance with the writ, or to appear or respond at the time fixed in the writ to show cause why the relief requested in the petition should not be granted. The court may enter an order providing for briefing and oral argument prior to issuance of a writ or an order to show cause. If such an order is entered, briefing shall be conducted in the manner outlined in the order as supplemented by these rules. The briefs shall be in the form prescribed by Rule 32(e). A majority of the entire Court may also direct the respondent to so act, or to refrain from acting, as directed in the writ, pending hearing and upon such conditions as the Court may impose. Upon its issuance, a copy of the petition, brief and writ shall immediately be served upon all affected parties including the real party in interest as concerns the requested relief, which real party must be named in the petition and writ. Service shall be made in the manner and within the time limit set by the Court. Appearance in response to the writ by any interested party shall be by verified answer and by brief. If no appearance is made, the Court may grant any requested relief justified by the petition. If appearance is made, the Court may schedule the matter for oral argument or decide the matter on the record. Issues of fact, if any, shall be determined in the manner ordered by the Court.

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

(Adopted March 25, 1977, effective July 1, 1977; amended March 20, 1991, effective July 1, 1991.)

Source URL: http://www.isc.idaho.gov/iar43