

# History & Procedures of the Idaho Supreme Court

## Court of Last Resort

The history of the Supreme Court of Idaho begins with the history of the Idaho Territory. Idaho was made a territory on March 4, 1863 and the first Justices of the Territorial Supreme Court were appointed by President Abraham Lincoln. When Idaho became a state in 1890, the Constitution provided for three Justices. By an amendment in 1919, the number of Justices was fixed at five, composed of a Chief Justice and four Justices. That is the present size of the Court.

The Supreme Court of Idaho is the State's court of last resort. The Court hears appeals from final decisions of the district courts, as well as from orders of the Public Utilities Commission and the Industrial Commission. It has original jurisdiction to hear claims against the state and to issue writs of review, mandamus, prohibition, and habeas corpus, and all writs necessary for complete exercise of its appellate jurisdiction. The Court may also review decisions of the Court of Appeals upon petition of the parties or its own motion.

The Supreme Court is also responsible for the administration and supervision of the trial courts and Court of Appeals, as well as the operations of the Administrative Office of the Courts, the combined Supreme Court and Court of Appeals Clerk's Office and the State Law Library. The State Law Library is located at Idaho Water Center 322 E. Front Street, Ste. 560 Boise, ID; the Justices' offices and courtroom are located in the Supreme Court Building in Boise.

The Justices of the Supreme Court are elected at large, on a non-partisan ballot, for a term of six years with their terms being staggered so continuity on the Court will be maintained. A candidate for Justice must be a qualified elector and a duly qualified attorney-at-law. The Chief Justice is selected by a majority of the members of the court to serve a four-year term, with the responsibility of presiding over the Court activities during this term.

Since the primary judicial work of the Idaho Supreme Court consists of hearing appeals and motions, procedures in the Supreme Court are much different from those in the trial courts. The appellant, usually the losing party in the trial court, attempts to convince the Supreme Court that error was committed in the court below, and that judgment against him or her is erroneous. The respondent, usually the winning party below, argues that the judgment below was correct. No witnesses are heard at a regular session of the Court and there is no jury.

A case on appeal is presented to the Court upon the record of a lower court or administrative agency and upon the briefs and arguments of attorneys for the parties. The briefs are the written explanations of the appellants' and respondents' versions of the case prepared by their attorneys. During the sessions, attorneys for the parties present their arguments and the Justices of the Court may ask questions if they feel that a particular point of law needs clarifying.

## How a Case is Heard

Sessions of the Idaho Supreme Court begin with the Clerk's announcement that the Judges are entering the courtroom and his instruction to those present: "All Rise."

The Chief Justice and the four Associate Justices, robed, file through an opening behind the bench in the order in which they will sit; the Chief Justice in the center and two Justices on

each side in an order determined by seniority in length of service.

While the Chief Justice and Justices are being seated the Clerk opens Court with the traditional chant: "Hear Ye! Hear Ye! Hear Ye! The Supreme Court of the State of Idaho is now in session pursuant to law." After the Chief Justice and Justices are seated, the Chief Justice announces the title of the case and calls by name the attorney who is to be heard first.

The attorneys for the parties then present their arguments to the Court. The attorneys have a definite time limit within which to present their arguments, although this time may be extended when the occasion warrants. The attorney for the appellant, or party bringing the appeal, has the right to open and close debate. The respondent's attorney then presents reasons why he or she feels the judgment below was justified. The Supreme Court may hear oral argument in a case or may decide the case on the briefs and without oral argument, if all parties agree.

When the attorneys in the last case have used their allotted time, the Chief Justice asks the Clerk to adjourn the court, the Justices file out, and another session of the Idaho Supreme Court is at an end.

## **How a Case is Decided**

Much of the real work of the Justices of the Supreme Court begins after the Clerk adjourns the Court, when, in the conference room or in the quiet of their offices, the members of the Court seek to achieve a just decision based upon the prevailing laws.

Before a case is argued, each member of the Court has already read and studied the briefs submitted by both parties to the action. In addition to cases heard with oral argument, the Court acts upon numerous motions, which are submitted on briefs without oral argument. These duties require a voluminous amount of reading.

The questions of law raised in the Supreme Court are as a general rule the unusual and difficult ones, requiring extended research not only into the reported cases of Idaho and other states and federal courts, but into the Idaho statutes and the Federal codes as well. These points of law, as applied to the facts in each case, are thoroughly studied and debated before a final decision is reached. That decision is reached either as a result of conferences in the Justices' conference room, which are attended only by the Justices, or as a result of the outcome of the Justices' votes on a circulated opinion.

The Justices draw lots to determine who will write the opinion or decision on each case. The opinion sets forth the reasons for the finding of the court and discusses the question(s) of law decided and is the law of the case, read in the light of the facts upon which it is predicated. All members of the court may not agree with the opinions. One may agree with the law of the case as expressed, but may not agree entirely with the opinion as written. Another member of the Court may not agree with the law of the case and it is his privilege to write a dissenting opinion, setting forth the reasons why he is unable to agree with the majority of the Court.

In the event all opinions are written, they are included in the official report of the case, but the first opinion represents the authoritative position of the Court on the issue or issues in question.

A majority of the members of the Supreme Court is necessary to constitute a quorum and to pronounce a decision. The opinions of the Supreme Court are published in the Idaho Reports, the official publication of the Court, and also in the Pacific Reporter series together with the opinions of other western states.