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**IN THE SUPREME COURT OF THE STATE OF IDAHO**

<b>SAMUEL and PEGGY EDWARDS,</b>	)	
	)	<b>SUPREME COURT</b>
<b>Complainants-Appellants,</b>	)	<b>DOCKET NO. 51238-2023</b>
	)	
<b>v.</b>	)	<b>IPUC CASE NO.</b>
	)	<b>PAC-E-23-05</b>
<b>IDAHO PUBLIC UTILITIES COMMISSION</b>	)	
<b>and PACIFICORP, dba ROCKY MOUNTAIN</b>	)	<b>RESPONDENT IDAHO</b>
<b>POWER COMPANY,</b>	)	<b>PUBLIC UTILITIES</b>
	)	<b>COMMISSION'S</b>
<b>Respondents.</b>	)	<b>OPPOSITION TO FRITS VAN</b>
	)	<b>MASTRIGT'S MOTION FOR</b>
	)	<b>LEAVE TO FILE AMICUS</b>
	)	<b>CURIAE BRIEF</b>
	)	

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COMES NOW the Respondent, Idaho Public Utilities Commission (“Commission”), and submits this opposition to Frits van Mastrigt’s Motion for Leave to File an Amicus Curiae Brief supporting Appellants, Samuel and Peggy Edwards. The Commission respectfully requests that this Court deny the motion because Idaho Appellate Rule 8 does not permit Mr. van Mastrigt to file an amicus brief without an attorney. Furthermore, Mr. van Mastrigt seeks to raise issues in his amicus brief that, by his own description, the Edwards neither preserved for appeal nor addressed.

RESPONDENT IDAHO PUBLIC UTILITIES COMMISSION’S  
OPPOSITION TO FRITS VAN MASTRIGT’S MOTION FOR  
LEAVE TO FILE AMICUS CURIAE BRIEF

## **PROCEDURAL HISTORY**

On March 13, 2024, Mr. van Mastrigt moved for leave to file an amicus brief in support of Appellants Samuel and Peggy Edwards. According to Mr. van Mastrigt, he seeks to clarify legal and evidentiary matters that the Edwards presented and raise constitutional issues that they did not. Mr. van Mastrigt asserts that he has a compelling interest in doing this to avoid harm to himself and his mother and to “advance . . . principles of law and justice.”

## **ARGUMENT**

This Court should deny Mr. van Mastrigt leave to file an amicus curiae brief because his motion fails to establish that he either is, or is represented by, a licensed attorney authorized to appear as an amicus under I.A.R. 8. Furthermore, acceptance of his proposed amicus brief would inject into this appeal legal issues the Edwards did not preserve or address in their brief.

### **A. Mr. van Mastrigt Cannot Appear as an Amicus without an Attorney**

Idaho Appellate Rule 8 governs appearances by amicus curiae. The Rule provides, in pertinent part, that “[a]n attorney, or person or entity through an attorney, may appear as amicus curiae” by request or leave of the Idaho Supreme Court. I.A.R. 8(a). A plain reading of the text of I.A.R. 8 requires those appearing as amicus curiae to either be an attorney or represented by one. If the intent of I.A.R. 8 was to allow non-attorneys to file amicus briefs pro se, the Rule could have simply stated that any person or represented entity may appear as amicus curiae. But it does not. Moreover, construing I.A.R. 8 as allowing only attorneys to file amicus briefs both avoids rendering the reference to attorneys in I.A.R. 8(a) surplusage and keeps this Court’s practice in line with that of the United States Supreme Court. U.S. Sup. Ct. R. 37.1 (allowing only attorneys admitted to practice before the United States Supreme Court to file amicus briefs).

Mr. van Mastrigt’s filings with this Court fail to establish that he is, or is represented by, an attorney admitted to practice before this Court. Only Mr. van Mastrigt signed his motion and proposed amicus brief as required by I.A.R. 11.2. However, neither his motion nor his proposed amicus brief indicate he has an Idaho Bar License Number, nor does he otherwise assert that he is an attorney licensed to practice before this Court. Accordingly, because Mr. van Mastrigt has failed

to show that he is, or is represented by, an attorney permitted to appear as an amicus under I.A.R. 8, his Motion for Leave to File an Amicus Brief should be denied.

**B. Amicus Briefs Cannot Raise New or Unpreserved Issues**

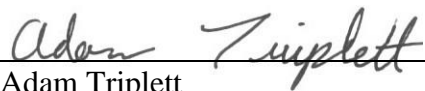
Additionally, amicus briefs are not vehicles for raising issues that were neither preserved for appellate review nor addressed in the briefs of the parties—even if new issues are of constitutional magnitude. *See Bogert v. Kinzer*, 93 Idaho 515, 517, 465 P.2d 639, 641 (1970). Rather, an amicus “must take a case as he finds it without attempting to inject new issues or to tailor the case to suit his needs.” *Id.*

Although Mr. van Mastrigt contends his proposed amicus brief clarifies legal and evidentiary matters the Edwards raised, he also states that he will “introduce matters of great [c]onstitutional concern and relevant to this case” that were not included in the Edwards’ formal complaint before the Commission nor their Notice of Appeal. Because Mr. van Mastrigt seeks to inject new issues into this appeal, his request for leave to file an amicus brief should be denied.

**CONCLUSION**

The Commission respectfully requests that this Court deny Mr. van Mastrigt’s Motion for Leave to File an Amicus Curiae Brief.

Respectfully submitted this 18<sup>th</sup> day of March 2024.

  
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Adam Triplett  
Deputy Attorney General  
Attorney for Respondent on Appeal,  
Idaho Public Utilities Commission

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 18<sup>th</sup> day of March, 2024, served the foregoing *Opposition to Frits van Mastrigt’s Motion for Leave to File Amicus Curiae Brief*, in Supreme Court Docket No. 51238-2023, by forwarding a copy thereof, to the following, via the manner indicated:

**Appellants, *pro se***

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