

On March 11, 2020, the Nebraska Supreme Court adopted the following new rule, Neb. Ct. R. § 6-1527, of the Uniform District Court Rules of Practice and Procedure:

CHAPTER 6: TRIAL COURTS

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Article 15: Uniform District Court Rules of Practice and Procedure.

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§ 6-1527. Remand of removed actions.

(A) Record. If a case removed to federal court is remanded to a district court of this State, the defendant(s) must file with the clerk of the district court a record of the federal court case within 14 days after the date the remand order is file stamped by the clerk of the district court.

Before filing the record, the defendant(s) should confer with the plaintiff(s) regarding which documents should be included in the record. The parties should make a good faith effort to agree on which documents should be included.

The record must be consecutively paginated and contain (1) a table of contents that states the title and initial page number of each pleading or document in the record, (2) a copy of each pleading filed in the federal court case, (3) a copy of each protective order and discovery order entered in the federal court case, (4) a copy of any other document filed in the federal court case that may be relevant to the adjudication of the case on remand, and (5) a certification that the contents of the record are accurate copies of the documents in the federal court's electronic records.

The copies must include the federal court header with the federal court case number, document number, filing date, page number, and page identification number. The certification must be made by the attorney(s) for the defendant(s) or, if a defendant(s) is self-represented, by the self-represented defendant(s).

Within 10 days after the record is filed by the defendant(s), the plaintiff(s) may file a supplemental record. The supplemental record should contain a copy of any document filed in the federal court case that in the judgment of the plaintiff(s) should have been included in the record but was not. The supplemental record must be in the same format as the record.

For good cause shown, the district court may extend or shorten the time for filing the record or the supplemental record and may grant a party leave to file an additional supplemental record.

(B) Pleadings and Motions. After remand, repleading is unnecessary unless the district court orders it. Within 20 days of the date on which the remand order was file stamped by the clerk of the district court, a party that was not in default in the federal court case may (1) serve a responsive pleading if the party did not previously serve a responsive pleading or (2) serve a Neb. Ct. R. Pldg. § 6-1112(b), (e), or (f) motion if the party did not previously serve a responsive pleading. Any defenses that were waived pursuant to § 6-1112(h) before the case was removed or that were waived pursuant to Fed. R. Civ. P. 12(h) while the case was pending in federal court may not be revived.

Any motions that were pending in the federal court case as of the date of the remand order are deemed to have been withdrawn without prejudice.

(C) Discovery. Any discovery requests or subpoenas that were pending as of the date of the remand order are deemed to have been withdrawn unless the parties agree otherwise.

If the federal court entered a protective order or a discovery order that is in effect on the date that the remand order is mailed to the district court, the order is deemed to be an order of the district court when the remand order is mailed and the parties are bound by the terms of the order. Either party may file a motion with the district court to vacate or modify the order under the Nebraska Court Rules of Discovery in Civil Cases.

Any discovery obtained in the federal court case, including depositions, may be used in the district court case as though the discovery had been obtained in the district court case.