

On December 8, 2021, the Supreme Court adopted the new Rules for County Court Expedited Civil Actions, Neb. Ct. R. § 6-2201 et seq., along with the new Appendices 1 through 5, all with a delayed effective date of January 1, 2022. On December 22, 2021, the Supreme Court adopted the following rule amendments to these previously adopted rules and Appendix 1. The amended rules and appendix are also effective January 1, 2022:

CHAPTER 6: TRIAL COURTS

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Article 22: Rules for County Court Expedited Civil Actions.

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§ 6-2202. Election to Proceed.

(a) A plaintiff who is an individual may elect to proceed under the Act regardless of whether the plaintiff is represented by an attorney or is self-represented. A plaintiff suing in a representative capacity (for example, a personal representative or next friend) or as an entity with the capacity to sue may elect to proceed under the Act only if the plaintiff is represented by an attorney.

(b) A plaintiff may elect to proceed by completing Appendix 1 and filing it along with the complaint in the county court. Both the complaint and Appendix 1 must be included when service is made on a defendant. If more than one plaintiff is named in the complaint, a separate ~~section~~ Appendix 1 must be created for each plaintiff.

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§ 6-2208. Pretrial Determination of Authenticity and Hearsay Objections to Admissibility of Documents.

(a) A party seeking to offer one or more documents into evidence without testimony or certification from a custodian or other qualified witness to establish the authenticity of the document or to establish either that the document is not hearsay or satisfies the requirements of an exception to the hearsay rule must file and electronically serve on other parties a Notice of Intent to Offer. Appendix 3 or another document containing the same information must be used.

~~(b) Unless the court orders otherwise, a Notice of Intent to Offer must be filed and electronically served no later than 90 days after the first responsive pleading is served in the action.~~

~~(b)~~ (b) A party objecting to any document listed in a Notice of Intent to Offer on the basis of authenticity or hearsay must file and electronically serve on all parties an Objection to Intent to Offer within 30 days after service of the Notice of Intent to Offer. Appendix 4 or another document containing the same information must be used.

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§ 6-2209. Case Management and Scheduling.

(a) Mediation. The court may enter an order referring the case to mediation. The referral to mediation will not alter any of the times specified in these Rules, unless the parties stipulate or the court finds that there is good cause for doing so.

(b) Scheduling and Case Progression. As soon as the first responsive pleading is filed, the court shall enter an order setting the matter for trial, taking into consideration the Act, these Rules, and the Case Progression Standards for county court civil actions set forth in Neb. Ct. R. § 6-101. ~~The trial date shall be no more than 180 days from the date the initial complaint was filed.~~ The trial date is subject to a later continuance for good cause shown. The court may enter an order that states the dates for completing discovery, filing specified motions, or being prepared for trial, such dates shall not be in conflict with these Rules or timelines set forth in the Act.

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Appendix 1 (Election and Certification Form)

IN THE COUNTY COURT OF [Insert] COUNTY, NEBRASKA

[insert case title of proceeding]) No. _____
)
) ELECTION AND CERTIFICATION
) OF ELIGIBILITY TO PROCEED
) UNDER THE EXPEDITED CIVIL
) ACTIONS ACT
)

[Insert name of plaintiff] is the plaintiff in this action. [Insert name of plaintiff] is:

___ Represented by counsel: [insert name of attorney].

___ A business or other entity, or in a representative capacity, and represented by counsel: [insert name of attorney].

___ Proceeding as a self-represented litigant in this matter without an attorney.

Plaintiff certifies the following:

1. Plaintiff elects to proceed under the County Court Expedited Civil Actions Act, Neb. Rev. Stat. §§ 25-2741 to 25-2749. If represented by counsel, plaintiff has conferred with plaintiff's attorney about the advantages and disadvantages of using the Expedited Civil Action procedures. If a business or other entity, or in a representative capacity, [insert name] is duly authorized to execute this certification.

2. Plaintiff certifies, and if represented, plaintiff's attorney certifies that plaintiff is eligible to proceed under the Act because (1) the only relief sought in this action is a money judgment and (2) the amount of the claim against the defendant(s) does not exceed the county court jurisdictional amount set forth in § 24-517, which is currently \$57,000.

3. Plaintiff, and if represented, plaintiff's attorney, further certifies that the amount of the claim includes all damages, penalties, attorney's fees, and interest accrued before the filing date, but excludes prejudgment interest accrued after the filing date, postjudgment interest, and costs.

4. Plaintiff ~~certifies this is not an action that can be filed in~~ understands the Act does not apply to Small Claims Court actions, is not a domestic relations matters, and is not an or actions to determine paternity or custody as defined in Neb. Rev. Stat. § 25-2740.

5. Plaintiff understands plaintiff is waiving the right to recover more than \$57,000 in damages, penalties, attorney's fees, and accrued interest unless the court later enters an order terminating application of the Act. If the matter is tried to a jury as demanded by one of the parties pursuant to Neb. Rev. Stat. § 25-2705 and the jury returns a verdict for that results in a total award in excess of \$57,000--including damages, penalties, attorney's fees, and accrued interest, but excluding costs, postjudgment interest, and prejudgment interest that accrued after the complaint was filed--the court will reduce the total award to \$57,000 and enter judgment for \$57,000.

6. Plaintiff understands plaintiff is required to make the disclosures listed in Neb. Ct. R. §§ 6-2203 and 6-2204 and in the manner and at the times stated in the Rules. Plaintiff must make the disclosures without the court notifying plaintiff or the other parties asking plaintiff to do so. Pursuant to § 6-2205, plaintiff may not be allowed to use witnesses or exhibits at trial if plaintiff fails to disclose information about them or fails to disclose the information in the manner and at the times stated in the Rules.

7. Plaintiff has a duty to supplement disclosures and discovery responses under § 6-2206. If there is new information, if plaintiff omitted information, or if plaintiff provided incorrect information, plaintiff is required to provide the other parties with the new, omitted, or correct information. If the other parties received the new, omitted, or correct information in writing or through the discovery process, such as through interrogatories, requests for production of documents, or depositions, plaintiff does not have to provide the new, omitted, or correct information again.

With this knowledge, plaintiff elects to proceed under the Expedited Civil Actions Act procedures.

Date: _____

[Plaintiff's Name, Address, Phone, and Email]

Date: _____

[Attorney's Name, Address, Phone, and Email]

[If there is more than one plaintiff, each plaintiff shall separately certify and file Appendix I with the Complaint.]