

On October 20, 2021, the Nebraska Supreme Court adopted the following rule amendments to Neb. Ct. R. § 6-401 et seq., with a delayed effective date of January 1, 2022:

CHAPTER 6: TRIAL COURTS

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Article 4: Electronic Filing and Service System in Trial Courts.

§ 6-401. Applicability.

Rules governing electronic filing, service, and notice for Nebraska trial courts are found at Neb. Ct. R. § 2-201 et seq. Rules governing specific practice are found at Neb. Ct. R. § 6-1401 et seq., Uniform County Court Rules of Practice and Procedure; Neb. Ct. R. § 6-1501 et seq., Uniform District Court Rules of Practice and Procedure; and Neb. Ct. R. § 6-1701 et seq., Uniform Separate Juvenile Court Rules of Practice and Procedure.

COMMENT

As of January 1, 2022, the former rules found at § 6-401 et seq. have been incorporated into the rules cited above.

~~§ 6-402. [Reserved].~~

~~§ 6-403. E Filing Registration, E Service, and E Notice e-mails.~~

~~(A) Attorneys licensed to practice law in Nebraska may register to use E Filing. Any attorney so registered may make an entry of appearance through E Filing.~~

~~(B) Registration for E Filing is mandatory for all Nebraska attorneys making any filing or appearance in a county or district court, regardless if the filing is by paper or electronically. Registration for E Filing requires an account with the court authorized service provider Nebraska.gov and requires a separate annual maintenance fee as determined by the court authorized service provider.~~

~~(C) Other Users. Other users who are not Nebraska attorneys may only use electronic services as provided in this Rule. Non-attorney users may only file documents that do not require an attorney signature. These users include:~~

~~(1) Pro Hac Vice. Attorneys admitted pro hac vice in a particular case pursuant to Neb. Ct. R. § 3-122 may utilize E Filing through Nebraska counsel with whom the attorney is associated.~~

~~(2) Agencies. Agencies approved by the Nebraska Supreme Court may utilize E Filing with proper registration.~~

~~(3) Process Servers. Those ordered by statute or by court order to serve process may utilize E Filing for filing returns of processes served.~~

~~(4) Judicial Branch Officers. Probation officers and associate public guardians not licensed to practice law may utilize E Filing for documents that do not otherwise require an attorney signature.~~

~~(5) Indian Child Welfare Act tribal representatives. For cases under the Indian Child Welfare Act, tribal representatives may utilize E Filing with proper registration.~~

~~(D) E-mail addresses:~~

~~(1) E-mail addresses for all electronic services as defined in § 6-401 offered by the court or its authorized service provider Nebraska.gov cannot exceed 50 characters. Only one e-mail address per user will be permitted for E-Notice.~~

~~(2) E-Notice correspondence shall be sent electronically from the following e-mail address: nsc.justicebas@nebraska.gov. User e-mail accounts should be set up to receive all e-mails from that e-mail address. Do not reply to the above e-mail address. No user may transmit documents to nsc.justicebas@nebraska.gov.~~

~~(3) E-Service correspondence shall be sent electronically from the following e-mail address: ne-support@egov.com. User e-mail accounts should be set up to receive all e-mails from that e-mail address. Do not reply to the above e-mail address. No user may transmit documents to ne-support@egov.com.~~

~~(4) Until such time as a Nebraska attorney registers for E Filing as required in section (B), documents delivered via E-Notice will be sent to the initial e-mail address provided to the Nebraska Supreme Court Attorney Services Division pursuant to Neb. Ct. R. § 3-803(C). After registration with Nebraska.gov, all e-mail addresses for E-Notice and E-Service shall be maintained through the attorney's Nebraska.gov E-Filing account.~~

~~(E) Self-represented litigant E-Notice. Self-represented litigants who have Internet and e-mail capability may register for E-Notice in a particular case by submitting a written request to the clerk of the court where the case is filed. E-mail addresses shall be in compliance with § 6-403(D). Any change to e-mail addresses or discontinuation of E-Notice must be made in writing to the clerk of the court where the case is filed.~~

~~(F) Pro Hac Vice E-Notice. Attorneys admitted pro hac vice in a particular case pursuant to Neb. Ct. R. § 3-122 may register for trial E-Notice with the clerk of the court in which he or she is appearing. E-mail addresses shall be in compliance with § 6-403(D). Any change to e-mail addresses or discontinuation of E-Notice must be made in writing to the clerk of the court where the case is filed.~~

~~(G) Contact Information. Users are responsible for maintaining valid and up-to-date contact information. When a user's e-mail address changes, the user shall promptly update all e-mail addresses provided for all electronic services as defined in § 6-401 offered by the court or its service providers. E-Service or E-Notice upon an obsolete e-mail address shall constitute valid service where the user has not updated his or her e-mail address. Mere usage of a new or different e-mail address in a document filed using E Filing or in paper format does not satisfy the requirements of this subsection for an update to the user's e-mail. No court staff may update contact information upon user request except as otherwise provided in these Rules.~~

~~(H) Failure to Register or maintain contact information. Failure by a required attorney to register for E-Filing or to maintain valid and up to date contact information as provided for in section (G) may be enforced by any appropriate sanction or order of the trial court or appellate court, or by appropriate disciplinary procedure.~~

~~§ 6-404. Initial pleading and summons; copy costs.~~

~~Cases may be commenced under Neb. Rev. Stat. § 25-501 through an E-Filing; however, service of the initial pleading and the summons shall not be made by E-Service. The electronic filing of a complaint or other initial pleading from which printed copies can be made shall be deemed compliant with the requirement of Neb. Rev. Stat. § 25-504.01 to supply copies of a complaint. Unless paper copies have been provided by the attorney filing the complaint or by a party, the court clerk shall print sufficient copies for service with the summons. The party filing such complaint or pleading electronically shall be deemed to have consented to pay the reasonable expense of printing such copies. The summons and any required attachments to the summons shall be provided in printed form by the court clerk and shall be served in accordance with Neb. Rev. Stat. § 25-505.01 et seq., unless service is waived or otherwise excused by law.~~

~~§ 6-405. Pleadings allowed by E-Filing.~~

~~Documents which are required by Neb. Ct. R. Pldg. § 6-1105 to be filed in the office of the court clerk may be filed through E-Filing.~~

~~§ 6-406. Time of filing.~~

~~All Documents electronically received by the court clerk by 11:59:59 p.m. local time shall be deemed to have been filed on that date.~~

~~§ 6-407. Maintaining copies.~~

~~(A) Except as provided in subsection (B) of this section, a copy of an E-Filed Document with original signatures shall be maintained either in paper form or in electronic form. A copy maintained in electronic form shall be stored using a durable medium as defined in § 6-401. The copy shall be maintained by the filing party and made available for inspection by other parties or the court upon request, but shall not be filed with the court. Where these rules require a party to maintain a Document, the filer is required to maintain the Document for a period of 2 years after the final resolution of the action, including the final resolution of all appeals.~~

~~(B) Where an E-Filed Document is signed by only the attorney using E-Filing, the attorney shall not be required to maintain a copy of the E-Filed Document.~~

~~§ 6-408. Documents filed under seal; motion and order.~~

~~A motion for leave to file Documents under seal may be E-Filed. Documents to be filed under seal pursuant to an order of the court shall not be E-Filed.~~

§ 6-409. Signature requirements.

Use of E Filing by an attorney shall constitute compliance with the Neb. Ct. R. Pldg. § 6-1111 signature requirement and the attorney using E Filing shall be subject to all other requirements of Neb. Ct. R. Pldg. § 6-1111 and Neb. Rev. Stat. § 25-824 et seq. Signatures of parties, witnesses, and notaries and notary stamps may be typed using the signature format "/s/ [typed name]" and using the stamp format "seal, notary public, State of [state name]," and commission expiration date to satisfy signature and certification requirements on E Filed documents. If the notarial commission of the particular notary public whose seal is being depicted is limited by county, the filing party shall use the stamp format "seal, notary public, State of [state name], County of [county name]." Other seals or stamps, such as those of courts, public bodies, agencies, or officials, or corporations, may be typed using the stamp format "seal, [alphanumeric content of seal]." Signatures of parties, witnesses, and notaries, and notary stamps or other seals, shall not be typed or otherwise depicted on E Filed Documents unless the filing party has possession of the original document or documents bearing such signatures and stamps.

§ 6-410. Court documents served on registered attorneys and self-represented litigants.

A court shall transmit orders, notices, and other court entries via E Notice to all attorneys and self-represented litigants who are registered to use E Notice unless other law, statute, or court rule requires transmittal by U.S. Mail.

§ 6-411. Form of E Filed pleadings.

Neb. Ct. R. Pldg. § 6-1110 shall apply to E Filed Documents. An E Filed Document shall not be transmitted to the District Court Clerk/County Court Clerk Magistrate by any other means unless the court at any later time requests a printed copy bearing original signatures.

§ 6-412. Signatures indicated by typing.

A document that requires the signatures of opposing parties or counsel (such as a stipulation) may be electronically filed by typing the names of each signing party or counsel, but the filer is required to first obtain the original signatures of all opposing parties or counsel on a printed document.

§ 6-413. Return envelopes unnecessary.

Attorneys using E Filing shall not submit paper, self-addressed, stamped envelopes for the purpose of receiving a signed order or file stamped copies of pleadings back from the court in active cases. Local courts shall use E Notice to distribute such court orders or file stamped copies of pleadings.

§ 6-414. Transmission technical problems; corrective order.

Upon satisfactory proof that E Filing or E Service of a Document is not completed because of (1) an error in the transmission of the Document which was unknown to the sending party or (2) a failure to process the electronic filing when received by the court clerk, the court may enter an order permitting the Document to be filed as of the date it was first attempted to be sent electronically. Notwithstanding the foregoing, no order may be entered under this rule which expands the statutory time period for commencing an action or perfecting an appeal unless there is an affirmative showing that the failure to

~~make a timely filing was due solely to an internal transmission error or a processing error by the court clerk.~~

~~§ 6-415. Good faith compliance; waiver of certain defects.~~

~~Upon a showing of substantial good faith compliance, the court may waive nonjurisdictional defects in an E Filing or E Service if it finds that no harm has occurred to any party as a result of the defective E Filing or E Service.~~

~~§ 6-416. [Reserved].~~

~~§ 6-417. Change of attorney.~~

~~Motion to Withdraw. A motion to withdraw may be filed through E Filing. Where E Filing is used to file a motion to withdraw, service shall be made and proved through E Service. Upon motion for withdrawal and notice to all counsel and the client involved, an attorney who has appeared of record in a case may be given leave to withdraw for good cause shown after filing with the clerk the motion, notice of hearing, and proof of service upon counsel and the client involved.~~

~~§ 6-418. [Reserved].~~

~~§ 6-419. E-Service.~~

~~(A) E Service shall be used for any E Filed document, except for the initial pleading and summons. Documents which are required to be served pursuant to Neb. Ct. R. Pldg. § 6-1105 and in the manner required by § 6-1105(b)(2) may be served through E Service or through a combination of E Service and any other method permitted by § 6-1105. A Document electronically received by the E Filing provider for service by 11:59:59 p.m. local time shall be deemed to have been served on that date.~~

~~(B) For purposes of Neb. Ct. R. Pldg. § 6-1105(b), service by E Service to any party or Nebraska attorney who has registered to use E Filing shall constitute service pursuant to § 6-1105(b)(2)(F). For purposes of computing a prescribed period pursuant to Neb. Ct. R. Pldg. § 6-1106(e), service by E Service shall constitute service pursuant to § 6-1105(b)(2)(F).~~

COMMENT

~~The court authorized service provider is Nebraska.gov and the State of Nebraska Office of the Chief Information Officer. (Effective April 1, 2008.)~~

~~At present, the system is not set up to allow E Filing by self-represented litigants or attorneys not licensed to practice law in Nebraska. The Supreme Court contemplates that E Filing participants may be expanded in the future.~~