

On May 8, 2019, the Nebraska Supreme Court approved the following rule amendments to Workers' Comp. Ct. R. of Proc. 2 and 3:

RULES OF PROCEDURE

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NEBRASKA WORKERS' COMPENSATION COURT

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**RULE 2
FILINGS**

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D. Electronic Filing and Service.

1. Definitions.

- a. Electronic Filing. Electronic filing (E-Filing) is the electronic transmission of pleadings, motions or other documents to the Clerk of the Nebraska Workers' Compensation Court (court clerk) via the Internet through the court-authorized service provider, Nebraska.gov. An E-Filed document is a document that has been filed using E-Filing.
- b. Electronic Service. Electronic service (E-Service) is the electronic transmission of documents to any Nebraska attorney representing a party in a case via E-Filing. Any Nebraska attorney who has registered to use E-Filing thereby agrees to receive E-Service of any document, other than service of initial pleading or summons. ~~E-Service is not currently available via E-Filing. Until such time as E-Service becomes available, an attorney filing a document with the court shall be served upon each party by the initiating party by any of the methods listed in Rule 3,B,1,a through e.~~

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2. E-Filing Registration and E-Service.

- a. E-Filing is authorized for any pleadings or other documents filed in the Nebraska Workers' Compensation Court except exhibits to be offered at a hearing or trial.
- b. E-Service shall be used for any E-Filed document to be electronically filed, except for the initial pleading and summons. Documents that are required to be served pursuant to Rule 3,B and in the manner required by Rule 3,B,1 may be served through E-Service or through a combination of E-Service and any other method permitted by Rule 3,B. A document electronically received by the E-Filing provider ~~court clerk~~ for service by 11:59:59 p.m. local time shall be deemed to have been served on that date.

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7. Use of E-Filing by an attorney shall constitute compliance with the Rule 3,~~G~~ H signature requirement, and the attorney using E-Filing shall be subject to all other requirements of Rule 3,~~G~~

H and Rule 3,H I. Signatures of attorneys, 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].”

8. Possession of printed documents.

- a. Except as provided in Rule 2,D,7 § ,b, no pleading or other document may be filed via E-Filing unless the filing party first has possession of a printed document or documents bearing original signatures, stamps, and seals as applicable. Such printed documents:
 - i. shall be made available by the filing party for inspection by other parties or the court upon request, but shall not be filed with the court; and
 - ii. shall be maintained by the filing party for a period of two years after the final resolution of the action, including the final resolution of all appeals; and
 - iii. may be maintained by the filing party in either paper form or electronic form. Pleadings or other documents maintained in electronic form shall be stored using a durable medium as defined in Rule 2,D,1,e c.
- b. Where an E-Filed pleading or other document is signed by only the filing attorney in accordance with Rule 2,D,6 7 , the attorney shall not be required to have possession of or maintain a printed document or documents bearing an original signature.

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**RULE 3
PLEADINGS**

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- B.** Every pleading subsequent to the petition, every written motion, every document relating to discovery or disclosure, and every written notice, appearance, designation of record on appeal, and similar document shall be served upon each of the parties by the initiating party. Except as provided in Rule 3,E F, such party shall file proof of service with the court. Service and proof of service shall be made as follows:
1. Service upon an attorney or upon a party not represented by an attorney shall be made by:
 - a. delivering the document to the person to be served;
 - b. mailing it to the person to be served by first-class mail at the address designated pursuant to Rule 3,G H, or if none is so designated, to the last-known address of the person;
 - c. leaving it at the person’s office with the person’s clerk or other person in charge thereof; or, if the office is closed or the person to be served has no office, leaving it at the person’s dwelling house or usual place of abode with some person of suitable age and discretion then residing therein;

- d. transmitting it by facsimile to the person, if the person has designated a fax number pursuant to Rule 3,~~G~~ H;
- e. sending it to the person by electronic means if the person being served has designated an e-mail address pursuant to Rule 3,~~G~~ H; or
- f. delivering it by electronic or other means consented to in writing by the party being served.

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D. The following shall apply to any motion or similar filing in which a hearing is required:

1. Except as otherwise provided by law, any motion or similar filing in which a hearing is requested shall be in writing and filed with the court clerk ~~of the court~~ not less than five days prior to hearing except by permission of the trial judge.

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E. Summary Judgment Procedure.

1. Moving Party's Materials in Support of Motion. When a motion for summary judgment or partial summary judgment is filed, the moving party must simultaneously file with the court clerk and serve all parties of record:

- a. an Evidence Index in Support listing all evidence to be offered in support of the motion for summary judgment; and
- b. an Annotated Statement of Undisputed Facts setting forth concise, numbered paragraphs reciting each proposed material fact as to which the moving party contends there is no genuine dispute, annotated by pinpoint citation to the supporting evidence in the Evidence Index in Support.

Failure to submit such a Statement may constitute grounds for denial of the motion.

2. Opposing Party's Materials in Opposition. Each party opposing a motion for summary judgment or partial summary judgment must file with the court clerk and serve on all parties of record:

- a. an Evidence Index in Opposition listing all evidence to be offered in opposition to the motion for summary judgment; and
- b. an Annotated Statement of Disputed Facts setting forth concise, numbered paragraphs reciting each proposed material fact of the moving party as to which the opposing party contends there is a genuine dispute, annotated by pinpoint citation to the supporting evidence in the Evidence Index in Opposition.

Failure to submit such a Statement may constitute grounds for sustaining the motion.

3. For purposes of this rule, where competing motions are filed, a party shall be considered as the moving party regarding a motion or motions asserted by that party and as an opposing party regarding a motion or motions asserted by another party.

4. The assigned judge is expected to schedule deadlines for compliance with this rule and the summary judgment statutes so as to ensure a fair opportunity for all parties to present their evidence. The judge may, in the judge's discretion, extend any deadline for compliance with any requirement under this rule.

E F. Discovery materials that do not require action by the court shall not be filed with the court. All such materials, including notices of deposition, depositions, certificates of filing a deposition, interrogatories, answers and objections to interrogatories, requests for documents or to permit entry upon land and responses or objections to such requests, requests for admissions and responses or objections to such requests, subpoenas for depositions or other discovery and returns of service of subpoenas, and related notices shall be maintained by the parties. Discovery materials shall be filed with the court only when ordered by the court or when required by law.

F G. Copies of all correspondence sent to the court shall be given by the party originating the correspondence to all other parties of record in the case in accordance with Rule 3,B,1.

G H. Any pleading or other document filed with, or correspondence received by, the court shall bear the typed or printed name and the signature of the preparer, the firm name if applicable, the complete address including the zip code, the telephone number, including the area code and the court's docket and page number if one has been assigned to the claim. If the document or correspondence has been prepared by legal counsel, the counsel's Nebraska Bar Association number shall also be listed. The signature block on any document may designate a fax number to which documents addressed to the signer may be sent by facsimile. The signature block on any document submitted for the pending case may designate an e-mail address to which documents addressed to the signer may be sent electronically.

H I. The signature of an attorney or party constitutes the following:

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I J. When a lawyer is not an attorney of record, such lawyer may prepare pleadings, briefs, and other documents to be filed with the court so long as such filings clearly indicate thereon that said filings are "Prepared By" along with the name, business address, and bar number of the lawyer preparing the same, and that preparing such filings shall not be deemed an appearance by the lawyer in the case.

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