

Technical rule amendments adopted November 17, 2021, to the rule amendments adopted June 9, 2021, all effective January 1, 2022.

CHAPTER 2: APPEALS

Article 1: Nebraska Court Rules of Appellate Practice.

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§ 2-103. General formatting and service rules.

This rule governs the standard form for all documents filed in the appellate courts and sets forth service requirements for motions and briefs. Form and formatting requirements for bills of exceptions are found in § 2-105.01. Except as otherwise required to comply with the Americans with Disabilities Act (ADA), and except for any Nebraska Supreme Court forms promulgated or last amended prior to the effective date of this rule, the following rules apply:

(A) Motions, petitions, briefs, and other documents, except bills of exceptions. The standard form for all documents, including motions, petitions, and briefs shall be as follows:

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(5) Except as specifically allowed below in (i) through (vi), hyperlinking in appellate court documents is prohibited. Hyperlinking is allowed and encouraged as follows:

(a) The use of internal hyperlinks and bookmarks;

(b) To the official Transcript filed in the appellate court;

(c) To the official Bill of Exceptions of the trial court or lower appellate court;

(d) To the official Nebraska Reports or Nebraska Appellate Reports. The user shall hyperlink to the official Nebraska Judicial Branch website for Nebraska Reports or Nebraska Appellate Reports (<https://www.nebraska.gov/apps-courts-epub/>);

(e) To the official Nebraska Laws, Bills, and legislative history. The user shall hyperlink to the official Nebraska Legislative website for Nebraska Laws, Bills, and legislative history (<https://nebraskalegislature.gov/>);

(f) To the official rules of the Nebraska Supreme Court. The user shall hyperlink to the official Nebraska Judicial Branch website for court rules (<https://supremecourt.nebraska.gov/supreme-court-rules>).

(g) Hyperlinking shall not detract from the content.

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(C) Briefs. The standard form for all briefs shall be as set forth in subsection (A) above with the following additions:

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(4) Certificate. The final page of all briefs shall include a certificate that the brief complies with the word count as required by this rule. The person preparing the certificate may rely on the word count of the word-processing software used to prepare the brief. The certificate must state the name and version of the

word processing software used to prepare the brief, state that the brief complies with the typeface requirements of this rule, and state the total number of words in the brief. The certificate shall not count toward word limits.

(5) Paper filed briefs may only be filed when the self-represented party is not a registered user of the court-authorized service provider. Paper briefs shall be bound by a single paper clip or binder clip in the upper left-hand corner only and shall not be stapled. Paper briefs shall comply with all formatting requirements of § 2-103(A) unless typewritten. If typewritten, paper briefs shall not exceed 50 pages total on original submission, and 15 pages on briefs in support of a motion for rehearing. Typewritten briefs shall be in nothing smaller than 12-point type and lines shall be double spaced, and pages shall be sequentially numbered as provided in § 2-103(C)(2) above. Service and proof of service of paper filed briefs shall be as provided in § 2-103(B)(2).

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§ 2-105. Bill of exceptions; making, preserving, requesting, and delivery of the record of trial or other proceeding.

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(B) Requesting a Bill of Exceptions; Payment.

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(4) Fee for preparation of a bill of exceptions on appeal.

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(c) Failure to Make Deposit. If appellant fails to timely make the required deposit of the estimated cost of preparation, the clerk of the trial court shall transmit a notice thereof to the Clerk and to the court reporting personnel responsible for making the record. Thereafter, unless leave of the appellate court for an extension of time to make the deposit is granted for good cause shown, the appeal shall proceed as if no bill of exceptions had been requested.

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§ 2-105.01. Bill of exceptions; preparation and form of record.

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(E) Format. Each page of the bill of exceptions shall be formatted to accommodate printing on 8 ½ inches by 11 inches of paper and shall have line and page numbers and be portrait orientation. The bill of exceptions shall be in a converted PDF (fully text searchable), rather than a scanned image PDF format. The text shall be in not smaller than 12 point font, double spaced, with not less than 12 points of leading. Preferred fonts shall be Century or Century Schoolbook. Other allowed fonts are Times New Roman, Baskerville Old Face, Book Antigua, or Palatino. The pages shall be numbered consecutively. Each page of the bill of exceptions shall have line numbers in the left-hand margin from 1 to 25, inclusive, and the lines of typing shall be placed to correspond therewith. No margin line shall exceed ½ inch from the righthand edge of the page. The full name of each witness and whether the examination is direct, cross, or further examination shall be stated at the top of each page of the witness' testimony. Each volume of the bill of exceptions shall not exceed ~~499~~ 50 MB in size. The bill of exceptions shall be visually neat.

(F) Certificate. The certificate of the court reporting personnel or ~~privately~~ contracted court transcriber shall ~~immediately follow the index~~ be found as the last page in the verbatim bill of exceptions, or as the last page in the last volume of the bill of exceptions, if there are multiple verbatim volumes. The certificate shall not be found in any exhibits volume, whether documentary or media. The certificate of the official court reporter or ~~private~~ transcriber shall include a statement of the cost of the bill of exceptions and a showing that such amount is one permitted to be charged by § 2-105(B)(4) and Neb. Ct. R. § 1-2198.

(G) Any request for preparation of a bill of exceptions or supplemental bill of exceptions filed after January 1, 2022 shall be governed by these rules regardless if the matter was held, heard, or determined prior to January 1, 2022.

§ 2-105.02. Bill of exceptions; exhibits.

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(C) Documentary Exhibits; Offered at Trial; Electronic Exhibits Volume on Appeal. Documentary exhibits include all exhibits except physical exhibits in their original form and media exhibits.

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(3) The court reporting personnel shall compile all documentary exhibits (including images of physical exhibits converted to PDF) into an electronic exhibits volume(s) and shall organize all exhibits by using bookmarks with the exhibit number identified. Each documentary exhibits volume shall not exceed ~~499~~ 50 MB in size. Each documentary exhibits volume shall be filed in the trial court by court reporting personnel using the Electronic filing system portal for court reporting personnel.

(D) Media Exhibits; File Formats; Physical Volume of Media Exhibits on Appeal. Media exhibits include digital data files not readily convertible to PDF, digital audio files, digital video files, analog audio tapes, and analog video tapes.

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(6) A separate media exhibits volume shall be created by court reporting personnel containing all media exhibits and shall be separate from the documentary exhibits volume. All exhibits in the separate media exhibits volume shall be listed and described in the index required by § 2-105.01(D)(1). The separate media exhibits volume shall be filed in the trial court and transmitted ~~physically~~ to the appellate court immediately upon the filing thereof.

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§ 2-106. Motions generally; specific motions.

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(E) Motions for Extension of Brief Date.

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(4) Motions for extension of brief date shall be submitted immediately and may be granted immediately, subject to reconsideration if a timely response is filed.

See appendices 1, ~~and 2,~~ and 5 for form.

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§ 2-111. Scheduling, argument, and submission.

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(B) Methods of Submission on the Merits.

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(2) Cases which are advanced are scheduled for oral argument as soon as the appellee's brief is due to be filed. The following categories of cases will be advanced without motion:

- (a) Criminal cases;
- (b) Workers' compensation cases;
- (c) Unemployment compensation cases;
- (d) Questions certified by other courts;
- (e) Original actions;
- (f) Appeals involving custody of minor children;
- (g) Appeals within original concurrent jurisdiction of the court;
- ~~(h) Cases where a "case stated" has been prepared and filed by the parties;~~
- ~~(h)~~(h) Appeals from the Tax Equalization and Review Commission;
- ~~(i)~~(i) Appeals from the Department of Natural Resources;
- ~~(j)~~(j) Appeals involving guardianship and/or conservatorship; and
- ~~(k)~~(k) All juvenile cases, including orders granting or denying juvenile transfers.

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