

Published Appellate Opinions Go Digital: Permanent and Free Public Access

by Justice William B. Cassel and Peggy Polacek

A New Method of Publication

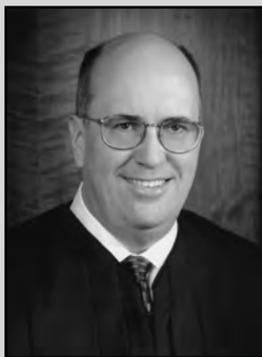
The Nebraska Supreme Court has changed the way it will be publishing the judicial opinions of Nebraska's appellate courts. Going forward, the opinions of both the Supreme Court and the Nebraska Court of Appeals will be published only online.

When an opinion is first released, it will be labeled as "advance." Just as the opinions printed in the advance sheets were subject to final corrections, advance opinions online will be reviewed and, as necessary, corrected. When the final review process is completed, the opinion label will be changed to "certified." Once an opinion is "certified," it will constitute the court's official published opinion, just as if it had been published in a hard-bound volume.

"The Court and the legal community truly owe a debt of gratitude to the Electronic Publications Committee. Their dedication to producing a high-quality online product has been unparalleled, and we are very pleased to unveil the results of their efforts."
- Chief Justice Michael G. Heavican

Pursuant to this change, hard-bound volumes will not be printed after volume 274 of the Nebraska Reports and volume 15 of the Nebraska Appellate Reports. The advance sheets will not be printed after the 2015-16 subscription year ends on June 30, 2016. The weekly releases of opinions will be accessible on the Supreme Court's Judicial Branch Website, in much the same way as they have been for several years. But there is now a centralized library for the courts' published opinions at a new website through Nebraska.gov.

Justice William B. Cassel



Justice William B. Cassel was appointed to the Nebraska Supreme Court in 2012, representing the Third Judicial District, which includes 21 counties in northeast Nebraska. Prior to that, he served as a Judge in the Nebraska Court of Appeals, Third Judicial District, beginning in 2004. Judge Cassel began his judicial service in 1992 as a District Court Judge in what is now the Eighth Judicial District. Prior to joining the bench, he was in practice in Ainsworth. Judge Cassel graduated from the University of Nebraska College of Law (J.D. with distinction) in 1979.

Peggy Polacek



Peggy Polacek serves as the Reporter of Decisions for the Nebraska Supreme Court and Court of Appeals. Polacek is an attorney who started her career with the Supreme Court in 1989 as the Assistant Reporter of Decisions, after which she was promoted in 1992 to the Reporter of Decisions for both appellate courts. She is a former journalist who worked as a copy editor and reporter at daily Nebraska newspapers. Polacek graduated from the University of Nebraska College of Law in 1988.

How to Find the Opinions

The official published opinions are available to the public free of charge through the Nebraska Appellate Courts Online Library website. To access the online library homepage, go to ne.gov/go/opinions. Or, for direct access to the Supreme Court library, go to ne.gov/go/nsc. For direct access to the Court of Appeals library, go to ne.gov/go/nca.

The online library is designed for form and function. It has search functions, a help link, a Frequently Asked Questions page, links to other relevant websites and all appellate court opinions designated for permanent publication—past, pending, and future—are available there.

Library Home	ne.gov/go/opinions
Supreme Court	ne.gov/go/nsc
Court of Appeals.....	ne.gov/go/nca

Content of Previous Bound Volumes

Past opinions from the bound volumes have been scanned and formatted as they were originally printed. They are available in searchable electronic volumes. The search function is very basic. It is not intended to replace or replicate more sophisticated search platforms or legal research services. Because these opinions were previously published, the bound volumes remain the official versions. Because volumes 1 through 274 of the Nebraska Reports and volumes 1 through 15 of the Nebraska Appellate Reports have been created from scanning official bound volumes, the content of the scanned versions should be identical to the content of the printed hardcover books. Unless some error is discovered, the scanned volumes may be relied upon as identical to the official published books. Of course, any scanning errors that are identified will be corrected.

Advance Sheets Not Yet Published in Bound Volumes

Most of the pending opinions (those available in hard-copy advance sheets and unofficial electronic format, but not published in a hard-bound volume) are labeled as “advance” in their current format. As workflow permits, individual opinions will be labeled as “certified,” and when all of the opinions in a volume have been certified, they will be available in complete electronic volumes as well. Volumes 275 and 276 of the Nebraska Reports and volume 16 of the Nebraska Appellate Reports have already completed the certification process and are finalized online. Thus, each opinion in those volumes online is now labeled as “certified” and complete volume images are available for those volumes.

Changes in Electronic Opinion Publishing

Format changes for future opinions began with volume 291 of the Nebraska Reports and volume 23 of the Nebraska Appellate Reports. Perceptive readers will have observed that the header information is now the same on each page of an opinion, and each opinion begins at the top of a page. In the “advance” version, a space has been left for a certification image. When a new opinion is filed, the advance copy of that opinion is available in the online library in Portable Document Format (PDF). It is also accessible on the Judicial Branch Website for 90 days via a link to the online library. After final review is completed, a certified opinion replaces the advance copy in the online library. A court seal and certification notice at the start of the opinion designates it as certified. Like hard-bound opinions, future opinions will be grouped into paginated volumes. Once an entire volume is complete, it will also be available as a PDF in the online library.

The online library also contains cumulative lists of minute entries from both appellate courts. They are included in the complete volumes and in separate cumulative lists updated weekly. The content of memorandum opinions of both courts, including any such opinions designated for posting on the court’s Web site, are not included in the online library. Rather, they are available through Nebraska.gov access to SCCALES, the appellate courts’ case management computer system.

SCCALES

Memorandum opinions, which are not designated for publication and are not precedential, are available through SCCALES, the appellate courts’ internal case management computer system.

Access to SCCALES is through a paid subscription via Nebraska.gov.

Developing This Change

Previously, official published opinions were distributed in hard-bound printed volumes. As judicial opinions have become more widely disseminated electronically, the number of subscriptions has decreased and the publication costs have increased. As a result, publication of hard-copy advance sheets and hard-bound printed volumes is no longer feasible.

The Supreme Court recognized the need for a change, but wished to maintain the quality and control inherent in the publication of paper advance sheets and hard-bound volumes. To ensure quality and control, the Supreme Court’s Electronic Publications Committee applied the principles found in the Uniform Electronic Legal Material Act. Although

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the UELMA has not been adopted in Nebraska, its principles are widely recognized as essential to the success of an online publishing project. Those principles are public access of legal materials in official electronic records, preservation, and authentication.

The change would not have been possible without action by the Legislature and approval by the Governor. Prior statutes required printed opinions. L.B. 301 authorized the Supreme Court to use print format only, electronic format only, or both formats. Senator Ernie Chambers sponsored the bill, which was advanced by the Judiciary Committee chaired by Senator Les Seiler, enacted by the Legislature, and signed into law by Governor Pete Ricketts.

Professor Richard Leiter of the University of Nebraska College of Law served as a guest consultant for the Court's Electronic Publications Committee. The committee greatly appreciates Professor Leiter's contributions. The committee consisted of Justices Kenneth C. Stephan (until his retirement) and William B. Cassel of the Supreme Court; Judge Everett O. Inbody of the Court of Appeals; Peggy Polacek, the courts' Reporter of Decisions; Barb Bratt of the Reporter's office; State Court Administrator Corey Steel; Deputy Court Administrator Jennifer Rasmussen; Director of Finance Ralene Cheng; Jill Machacek, as designee of the Clerk of the Supreme Court and Court of Appeals; and Terri Brown, in her capacity as staff attorney for the Supreme Court. Janice Walker and Lanet Asmussen also served on the committee until they retired, respectively, as State Court Administrator and Clerk of the Supreme Court and Court of Appeals.

To effectuate the principles of public access, preservation, and authentication, the Supreme Court has adopted certain procedures. To provide free public access to legal materials, the electronically published judicial opinions are permanently available free of charge in the online library.

To ensure preservation, certified opinions are saved in a PDF/A-1a format, the highest archival PDF/A format avail-

able for long-term preservation of page-oriented documents. Furthermore, the PDF images of the opinion files are stored on Supreme Court systems that have a proper disaster recovery process in place. They are also backed up daily.

To provide authentication, a time stamp overlay is applied to the PDFs each time a user accesses a PDF file through the online library. The red stamp indicates that the opinion is from the official online library. It also shows the date and time when the file was accessed. In this way, any document that is saved from, or printed from, the library has a record of when it was accessed. Any documents without the stamp are not authenticated versions retrieved from the online library. Internal authentication procedures and technologies are also utilized.

Permanent and Free Public Access to Appellate Opinions

Both of the appellate courts recognize that their work product belongs to the public. The technology of the Internet makes it possible to publish the courts' opinions with almost no cost. And this technology, which is free to the public, permits worldwide simultaneous access.

The formats used are friendly to mobile devices. Viewing opinions on a tablet is virtually the same as reading an opinion published in a bound paper volume. The images are also usable on smart phones. And, of course, the opinions can be read on an Internet browser on virtually any type of computer now available.

The Supreme Court and the Court of Appeals are also partnering with libraries to make the opinions freely available. Law libraries have a long history of providing access to court opinions. That will continue. But general public libraries, available in many communities all across Nebraska, will now have complete and permanent access to all of the published opinions of both the Nebraska Supreme Court and the Nebraska Court of Appeals.