

NOTICE OF COMMENT PERIOD

On May 30, 2014, the Technology Committee submitted to the Nebraska Supreme Court proposed rule amendments to various rules governing and facilitating the trial court Electronic Filing, Electronic Service, and Electronic Notice registration process.

The proposed amendments define trial Electronic Notice (E-Notice), which is the electronic transmission of trial court orders, notices, and other court entries from Nebraska trial courts to parties appearing before the trial courts. In addition, the proposed amendments require registration for the trial E-Notice and trial E-Filing systems by Nebraska attorneys who make any filing or appearance in county and district courts. The proposed amendments also add attorney's e-mail addresses to any attorney identification rules.

At this time, the proposed amendments allow only one e-mail address per attorney for registration with the E-Notice and E-Filing systems. If the attorney wishes for duplicate e-mails to other e-mail addresses, it will be the responsibility of the attorney to configure his or her e-mail system to forward or duplicate e-mails from the trial courts or Nebraska.gov.

The Nebraska Supreme Court invites interested persons to comment on the proposed amendments. Anyone desiring to comment on the proposed amendments should do so in writing to the Office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, Nebraska 68509-8910, or via e-mail to jill.machacek@nebraska.gov, no later than August 15, 2014.

The full text of the proposed rule amendments is available below, or a hard copy may be obtained from the Office of the Clerk of the Supreme Court and Court of Appeals upon request.

CHAPTER 2

APPEALS

ARTICLE 1

NEBRASKA COURT RULES OF APPELLATE PRACTICE

§ 2-101. Docketing the case.

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(B) Forwarding to Supreme Court. The clerk of the district court shall within 2 business days of receipt of a notice of appeal send the following items to the Clerk of the Supreme Court:

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(5) A certificate, which shall contain the following information:

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(b) The name, address, city, state, zip code, telephone number, e-mail address, and Nebraska attorney identification number of each principal Nebraska attorney, and the name of the party or parties the attorney represents, or, if a party or parties represent themselves, the above information except for the identification number;

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CHAPTER 3

ATTORNEYS AND THE PRACTICE OF LAW

ARTICLE 8

STATE BAR ASSOCIATION; CREATION; CONTROL; AND REGULATION

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§ 3-803. Membership.

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(C) Registration. All members not already registered with the Administrator of Attorney Services Division shall, within 60 days after being admitted to the practice of law by the Supreme Court of this State, register with the Administrator of Attorney Services Division by setting forth the member's full name, business address, e-mail address, and signature. All members shall promptly notify the Administrator of Attorney Services Division of any change in such address by accessing and updating their personal information in the Court's on-line system.

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CHAPTER 6

TRIAL COURTS

ARTICLE 4

ELECTRONIC FILING AND SERVICE SYSTEM IN TRIAL COURTS

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§ 6-401. Definitions.

(A) Electronic Filing System. Electronic filing system (E-Filing System) approved by the Nebraska Supreme Court for filing of pleadings, motions, and other papers (Documents) via the Internet through the court-authorized service provider.

(B) Electronic Filing. Electronic filing (E-Filing) is the transmission of Documents to the Clerk of the Court, and from the court, via the E-Filing System.

(C) Electronic Service. Electronic service (E-Service) is the transmission of Documents to any party in a case via the E-Filing System. Any party or attorney who has registered to use the E-Filing System thereby agrees to receive service of any Document, other than service of a summons or initial pleading, via the E-Filing System.

(D) Durable Medium. Durable medium shall be any information storage medium that is created by a durable process. A process shall be the combination of hardware, software, storage media, techniques, and procedures used to manage, create, store, retrieve, and delete information belonging to the party required to maintain the record. A process shall be durable if it meets the following criteria:

- (1) The process is capable of creating and storing information for the required records retention period.
- (2) The process can be migrated to a successor process when necessary and will retain all information available in the original process after migration to the successor process.

(3) The process maintains the integrity of information in a readily accessible manner, makes it retrievable, makes it processable through an established usual or routine set of procedures using available hardware and software, and makes it accurately reproducible in a human-readable form.

(4) The process provides for disaster recovery backups, which are periodically, depending on a retention schedule, verified for restorability and readability, and can be stored in a separate geographical location from the original information.

(5) The process is demonstrated to create and maintain information for the retention period as specified, in an accurate, reliable, trustworthy, dependable, and incorruptible manner.

(6) The process allows the removal of information when it reaches the end of its required retention period.

(7) The process is documented so as to demonstrate to a reasonable person compliance with these criteria.

(E) Trial Court Electronic Notice. Trial court electronic notice (trial E-Notice) is the electronic transmission of notices, opinions, court entries, and any other dispositional order or information from the trial court to all Nebraska attorneys who have registered for trial E-Notice with each trial court under § 6-403.

(F) JUSTICE. Judicial User System To Improve Court Efficiency (JUSTICE) is the Nebraska Supreme Court's Case and Financial Management System for Nebraska trial courts.

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§ 6-403. Attorney registration.

~~For purposes of the pilot project,~~ (A) Only attorneys licensed to practice law in Nebraska may register to use the trial E-Filing System. Any attorney so registered may make an entry of appearance through E-Filing. Registration for trial E-Notice is allowed for those persons appearing pro se who have Internet and e-mail capability.

(B) Registration for trial E-Filing and trial E-Service is mandatory for all attorneys making any filing or appearance in a county or district court, regardless if the filing is by paper or electronically. Registration for trial E-Filing and trial E-Service is through Nebraska.gov. Registration allows the user to access trial E-Filing, trial E-Service, appellate E-Filing, and appellate E-Service.

(C) Registration for trial E-Notice is mandatory for all attorneys making any filing or appearance in a county or district court. Registration for trial E-Notice is via JUSTICE and shall be through each county in which the attorney appears.

(1) Registration for trial E-Notice is presumptive by putting a valid e-mail address on any pleading, motion, brief, or other filing with the trial court, even in paper format. If an attorney wishes for a different e-mail address to be used for trial E-Notice, he or she shall provide one to the clerk of each trial court in which the attorney appears. The e-mail address provided by attorneys for trial E-Notice is for the trial E-Notice system only and does not automatically register the attorney for other services under other court rules, including trial E-Filing which is done through Nebraska.gov.

(2) Registration for trial E-Notice allows the court to transmit orders, notices, and other court entries via the E-Notice System as provided in § 6-410.

(D) E-mail addresses.

(1) Registered e-mail addresses cannot exceed 40 characters. Only one e-mail address per attorney will be permitted for each trial E-Notice registration.

(2) Any attorney registered for trial and appellate E-Notice shall receive all correspondence 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.

(3) Any attorney registered for trial and appellate E-Filing and E-Service shall receive all correspondence 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.

(E) If a central e-mail address registry through JUSTICE for the Nebraska Judicial Branch becomes available, then the information contained in such registry controls unless updated by the attorney.

(F) Pro Hac Vice. Attorneys admitted pro hac vice in a particular case pursuant to Neb. Ct. R. § 3-106 may utilize trial E-Filing under these rules through Nebraska counsel with whom the attorney is associated. Attorneys admitted pro hac vice in a particular case pursuant to Neb. Ct. R. § 3-106 shall register for trial E-Notice with the clerk of the court in which he or she is appearing.

(G) Each registered user is responsible for maintaining valid contact information. When a user's contact information changes, the user shall promptly update his or her profile in Nebraska.gov. If an E-Filing user has a pending case before the trial courts, the user shall promptly notify all parties of such information change. Trial E-Service upon an obsolete e-mail address shall constitute valid service where the user has not updated the account profile with the new e-mail address. Mere usage of a new or different e-mail address in a document filed using trial E-Filing does not satisfy the requirements of this subsection for an update to the user's profile in Nebraska.gov.

(H) Failure to Register. Failure by a required attorney to register for trial E-Notice or trial E-Filing 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.

~~Under the pilot project, e~~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. 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. If an attorney who has entered an appearance in a case has not registered for E-Filing, then service of the e-filed pleading upon that attorney shall be made as required by law.

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§ 6-410. Court documents served on registered attorneys.

A court ~~may~~ shall transmit orders, notices, and other court entries via ~~trial E-Notice the E-Filing System~~ to all attorneys and those persons appearing pro se who are registered to use the E-Filing System trial E-Notice unless other law, statute, or court rule requires transmittal by U.S. Mail.

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§ 6-417. Change of attorney; unregistered attorney; reversion to paper file.

~~In the event of a change of attorneys in an E-Filed case from a registered E-filing attorney to an attorney who is not a registered E-Filing attorney, the case will revert to paper. In that circumstance, the clerk will prepare a paper file from the electronic file. [Reserved].~~

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§ 6-419. E-Service.

(A) ~~For cases under the pilot project, E-Service may~~ shall be used for any document to be electronically filed, 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 attorney who has registered to use the E-Filing System 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).

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CHAPTER 6

TRIAL COURTS

ARTICLE 11

NEBRASKA COURT RULES OF PLEADING IN CIVIL CASES

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§ 6-1111. Signing of pleadings.

(a)(1) Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address, ~~and~~ telephone number, and e-mail address, if any. Each paper signed by an attorney shall state the attorney's bar identification number. Except when otherwise specifically provided by statute, pleadings need not be verified or accompanied by an affidavit. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(2) The signature block on any paper may designate a fax number to which papers addressed to the signer may be sent by facsimile. The signature block on any paper may designate an e-mail address to which papers addressed to the signer may be sent electronically.

(3) An electronically filed document which requires an attorney's signature shall be signed in the following manner: "/s/(attorney name)."

(b) 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, e-mail 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.

(c)-(d) [Reserved]

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CHAPTER 6

TRIAL COURTS

ARTICLE 14

UNIFORM COUNTY COURT RULES OF PRACTICE AND PROCEDURE

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§ 6-1411. Identification of attorney.

The name, address, Nebraska attorney identification number, e-mail address, and telephone number of the attorney handling the matter shall be typed on each pleading except for original charging documents in traffic, criminal, and juvenile matters.

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CHAPTER 6

TRIAL COURTS

ARTICLE 4

UNIFORM DISTRICT COURT RULES OF PRACTICE AND PROCEDURE

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§ 6-1503. Pleadings.

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(E) Identification of Attorney: All pleadings shall be signed by an individual attorney, whether for himself or herself or on behalf of a firm; the name, address, telephone number, e-mail address, and bar identification number shall be typed under all signatures of attorneys appearing on each pleading.

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CHAPTER 2

APPEALS

ARTICLE 1

NEBRASKA COURT RULES OF APPELLATE PRACTICE

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IN THE SUPREME COURT/COURT OF APPEALS OF NEBRASKA

_____,)	
)	
Appellee/Appellant,)	CASE NO.
)	
v.)	MOTION
)	
_____,)	
)	
Appellee/Appellant.)	

Comes now the appellant (or appellee) Name , and requests a 30-day extension of brief day from Date to Date .

/s/ _____
Attorney Name (Bar Number)
Firm Name
Street Address/P.O. Box #
City/State/Zip Code
Area Code/Phone Number
E-Mail Address

AFFIDAVIT OF SERVICE

The foregoing Motion was served upon _____
_____, attorney for appellee/appellant by mailing a copy to him/her at

(Address/Zip Code)

/s/ _____
Attorney Name (Bar Number)

(NOTE: In all advanced cases, a showing of exceptional cause must accompany any request for extensions. In nonadvanced cases any extension past the first 30-day extension must be accompanied by a showing of cause. Neither the stipulation of the parties nor the press of other business constitutes good cause. See Neb. Ct. R. App. P. § 2-106(F)(2).)

APPENDIX 1

This form is neither approved nor disapproved by any court or judicial tribunal. Use of this form provides no immunity from error.

IN THE SUPREME COURT/COURT OF APPEALS OF NEBRASKA

_____ ,)	
)	
Appellant.)	CASE NO.
)	
)	STIPULATION
)	
_____ ,)	
)	
Appellee.)	

Comes now the parties and stipulate that appellant's (or appellee's) brief day may be extended from Date to Date .

/s/ _____
Attorney Name (Bar Number)
Firm Name
Street Address/P.O. Box #
City/State/Zip Code
Area Code/Phone Number
E-mail address

/s/ _____
Attorney Name (Bar Number)
Firm Name
Street Address/P.O. Box #
City/State/Zip Code
Area Code/Phone Number
E-mail address

(NOTE: In all advanced cases, a showing of exceptional cause must accompany any request for extensions. In nonadvanced cases any extension past the first 30-day extension must be accompanied by a showing of cause. Neither the stipulation of the parties nor the press of other business constitutes good cause. See Neb. Ct. R. App. P. § 2-106(F)(2).)

APPENDIX 2

This form is neither approved nor disapproved by any court or judicial tribunal. Use of this form provides no immunity from error.

Sample motion and proof of service for dismissal of appeal by appellee.

IN THE SUPREME COURT/COURT OF APPEALS OF NEBRASKA

_____,)	
)	
Appellee/Appellant.)	CASE NO.
)	
v.)	MOTION
)	
_____,)	
)	
Appellee/Appellant.)	

Comes now appellee and moves to dismiss on the ground that (e.g., the appellant accepted the benefits of the judgment of the District Court.)

/s/ _____
 Attorney Name (Bar Number)
 Firm Name
 Street Address/P.O. Box #
 City/State/Zip Code
 Area Code/Phone Number
E-mail Address

AFFIDAVIT OF SERVICE

The foregoing Motion was served upon _____, attorney for appellant, by mailing a copy to him/her at _____.
(Address/Zip Code)

/s/ _____
 Attorney Name (Bar Number)

APPENDIX 3

This form is neither approved nor disapproved by any court or judicial tribunal. Use of this form provides no immunity from error.

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SAMPLE CERTIFICATE - CIVIL CASES

IN THE DISTRICT COURT OF _____ COUNTY, NEBRASKA

In the Matter of the Estate of
Matilda A. Farquar, Deceased.

OR

F.J. Farquar, Plaintiff.

Trial Court No. _____

Tyrone A. Ledbetter, No. 28154
(Address)
(Telephone)
(E-mail Address)

v.

Alfred T. Farquar, Defendant.

Frank X. O'Brien, No. 18766
(Address)
(Telephone)
(E-Mail Address)

I certify that the attached are true and accurate copies of pleadings filed in the above-captioned civil case.

Type of case:

- Law (general)
- Dissolution
- Juvenile
- Paternity
- Adjudication
- Termination
- Criminal

Origin of case:

- County Court
- District Court
- Other _____

Notice of appeal directed to:

- Court of Appeals OR Supreme Court

Statutory authority:

- Constitutionality of statute
- Other (specify statute) _____

Notice of appeal filed on _____.

Statutory docket fee paid on _____; **or**
poverty affidavit filed on _____.

Cost bond in the amount of \$_____ posted on _____.

Cash in lieu of cost bond in the amount of \$_____ posted on _____; **or**
supersedeas bond in the amount of \$_____ posted on _____.

The following motions have been filed:

- Motion for new trial. Date filed: _____ Date disposed of: _____
- Motion to alter or amend judgment. Date filed: _____ Date disposed of: _____
- Motion to set aside verdict or judgment. Date filed: _____ Date disposed of: _____
- None of the above motions have been filed

Date: _____

(SEAL)

Clerk of District Court

By: _____

APPENDIX 5

SAMPLE CERTIFICATE - CRIMINAL CASES

IN THE DISTRICT COURT OF _____ COUNTY, NEBRASKA

STATE OF NEBRASKA,

Plaintiff,

ALFRED T. FARQUAR,

Defendant.

v.

Trial Court No. _____
Tyrone A. Ledbetter, No. 28154
(Address)
(Telephone)
(E-mail Address)

Frank X. O'Brien, No. 18766
(Address)
(Telephone)
(E-Mail Address)

I certify that the attached are true and accurate copies of pleadings filed in the above-captioned criminal case.

Type of plea:

- not guilty (trial held) OR guilty or nolo contendere
- to jury
- to judge

Type of case:

- felony
- misdemeanor
- postconviction
- plea in bar
- other

Origin of case:

- County Court (appeal to District Court)
- District Court
- Other _____

Notice of appeal directed to:

- Court of Appeals OR Supreme Court

Statutory authority:

- Death sentence
- Life imprisonment
- Constitutionality of statute
- Other (specify statute) _____

Notice of appeal filed on _____.

Statutory docket fee paid on _____; **or**

poverty affidavit filed on _____.

Cost bond in the amount of \$ _____ posted on _____.

Cash in lieu of cost bond in the amount of \$ _____ posted on _____; **or**

supersedeas bond in the amount of \$ _____ posted on _____.

All motions for new trial have been disposed of:

- Yes. Date: _____
- No.
- No motions for new trial filed.

Date: _____

(SEAL)

Clerk of District Court

By: _____

APPENDIX 6

CHAPTER 6

TRIAL COURTS

ARTICLE 14

UNIFORM COUNTY COURT RULES OF PRACTICE AND PROCEDURE

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