

CHAPTER 6
TRIAL COURTS
ARTICLE 6
FAX FILING

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§ 6-601. Definition.

"Fax" means to transmit and reproduce a facsimile of an original document by electronic means. Every court in the State of Nebraska shall accept for filing a fax transmission of any pleading, motion, or other document, except for briefs, subject to prepayment of statutory filing fees and subject to the following:

Rule 1 amended March 10, 1993; amended September 18, 1996. Renumbered and codified as § 6-601, effective July 18, 2008.

§ 6-602. Equipment.

All fax machines shall use plain paper and shall meet standard minimum CCITT Group III requirements. "CCITT" means Consultative Committee for International Telephone and Telegraph. "Group III" is a standard letter-size document that takes approximately 1 minute for transmission. The fax machine shall place the date and time of receipt on the transmission received.

§ 6-603. Dedicated use.

A fax machine in the judicial system shall be used solely for court business. A court may authorize use of fax equipment by other governmental offices or agencies so long as such use does not interfere with the conduct of court business.

§ 6-604. Cover sheet.

A fax transmission for filing shall be preceded by an attached uniform cover sheet approved by the Supreme Court of Nebraska. The fax cover sheet shall contain the sender's full name, address, telephone number, and fax number, and, if the sender is a lawyer, the lawyer's identification number assigned by the Nebraska State Bar Association. The cover sheet shall specify the number of pages in the transmission. The sender's information supplied on the fax cover sheet shall be typed or printed.

§ 6-605. Original transmission.

A plain-paper original transmission shall constitute a filing. The sender shall retain the original document transmitted by fax for a period not less than the maximum allowable time to complete the appellate process, unless otherwise directed by a court.

§ 6-606. Limit of pages transmitted.

Each transmission shall be limited to 10 pages, excluding the cover sheet. Additional pages may be permitted with prior approval of the clerk at the receiving court. Each transmitted page shall bear its sequential number in the transmission, e.g., "1 of 10," "2 of 10," etc.

§ 6-607. Multiple copies.

If a filing requires an original and multiple copies of the original, and when the aggregate number of pages in the original and multiple copies exceeds the page limit specified in § 6-606, only the original, which does not exceed the specified page limit, shall be filed by fax transmission. The required multiple copies of the original shall be delivered to the clerk of the receiving court within five days after fax transmission of the original. Delivery of multiple copies to the clerk at the receiving court within the five-day period constitutes filing the multiple copies on the date that the original fax-transmitted document was filed in the receiving court.

§ 6-608. Fees and credit card.

In addition to any statutory fee for filing, the following fee shall be paid for fax filings: \$3 for the first page and \$1 for each additional page in the transmission. Pursuant to Neb. Rev. Stat. § 48-187, the Workers' Compensation Court shall be exempt from charging for receipt of fax filings. No fee is charged for the cover sheet. No pleading for which payment of a statutory filing fee is required shall be accepted as a fax transmission unless the filing fee is received at the time of filing. Fees for use of fax filings shall be paid as prescribed by the receiving court, provided that no fee, except a filing fee required by statute, shall be charged to any agency of the State of Nebraska or to any agency of a political subdivision of the State of Nebraska. At the receiving court's option, the fee for a fax transmission may be paid by credit card. Fees for credit card usage shall be at the rate specified in Neb. Rev. Stat. § 33-126.05 and amendments thereto.

Rule 8 amended September 18, 1996. Renumbered and codified as § 6-608, effective July 18, 2008.

§ 6-609. Collected fees.

Fees for fax filings received in district court, separate juvenile court, and county court shall be paid to the general fund of the county where the receiving fax machine is located. Fees paid for credit card usage to district courts and separate juvenile courts shall be remitted to the general fund of the county where the fee has been collected. Fees paid for credit card usage to county courts, the Nebraska Court of Appeals, and the Supreme Court of Nebraska shall be remitted to the general fund of the State of Nebraska. All fees received for fax filings in the Nebraska Court of Appeals and the Supreme Court of Nebraska shall be remitted to the general fund of the State of Nebraska.

§ 6-610. Risk assumed by sender.

The sender bears all risk in a fax transmission. Electronic transmission of a document by means of a fax machine does not constitute filing; filing is complete only after the receiving clerk's acceptance for filing in compliance with applicable statutes and these rules. If a receiving clerk determines that there has been an error in transmission, such as failure to complete the cover sheet for a transmission or an interruption in the sequence of pages transmitted, the clerk shall, as soon as practical, fax to the sender notice specifying the error preventing acceptability for filing. Any fax transmission containing an error that prevents filing may be disregarded by a clerk, but shall be retained for 10 days and thereafter disposed of unless within 10 days of the fax transmission the sender shall have requested judicial review of the rejection for filing. If a clerk rejects a filing in a pending proceeding, the clerk's rejection shall be noted on the docket of the court in which the proceeding is pending. A clerk is not required to acknowledge that a fax transmission has been received or accepted for filing. A clerk receiving a transmission has no duty to serve on a party a copy of the faxed transmission.

§ 6-611. Signature.

A person seeking to file a signed document may fax a copy of the original signed document. Notwithstanding any provision of law to the contrary, a signature reproduced on a fax transmission is an original signature for the purpose of the fax filing only. Anyone who files a signed document by fax represents that the original signed document is physically in his or her possession or control.

§ 6-612. Orders and warrants.

Fax transmission may be used for the issuance of orders or warrants, including, but not limited to:

- (A) an arrest or search warrant;
- (B) release or detention of a defendant in custody for a criminal proceeding;
- (C) an order or warrant for placing a juvenile in custody or for release or detention of a person subject to the Nebraska Juvenile Code;
- (D) a temporary restraining order or protection order; and
- (E) an order in a domestic relations case.

For all procedural and statutory purposes, a faxed document shall have the same force and effect as the original document issued by a court.

§ 6-613. Time of filing.

Filing by fax is allowed during the normal business hours of the receiving court. Unless prior permission is received from the clerk at the receiving court, any fax transmission received after normal business hours shall be deemed to be filed on the next business day. The time at which a document shall be deemed to be received is when the last page of the fax-transmitted document is received by the recipient clerk.

§ 6-614. Consent to service.

A lawyer who is willing to accept service of papers by fax shall so indicate by including his or her fax machine telephone number, designated as a "fax number," as part of the lawyer's name, address, and telephone number on a document filed in an action. A lawyer who files a paper by fax consents to service of papers on him or her by fax in that proceeding.

§ 6-615. Appellate briefs.

Neither the Nebraska Court of Appeals nor the Supreme Court of Nebraska will accept briefs for filing by fax transmission.

Adopted January 13, 1993.

FAX COVER SHEET FOR USE IN NEBRASKA COURTS

USE ONLY FOR DOCUMENTS TO BE FILED IN THE COURT FILE

FILINGS: Filings by electronic transmission of a facsimile are governed by Neb. Ct. R. §§ 6-601 through 6-615.

PAGE LIMIT: No single transmission shall exceed ten (10) pages without special permission from the clerk who will receive the transmission. The FAX COVER SHEET is not counted in the limit on pages for transmission.

FEES: Fees for filing by fax transmission shall be paid in compliance with statutes and Neb. Ct. R. §§ 6-601 through 6-615.

TYPE OR PRINT INFORMATION

1. SENDER'S NAME AND ADDRESS: _____

N.S.B.A. No. _____

2. SENDER'S TELEPHONE NUMBER: _____

SENDER'S FAX NUMBER: _____

3. RECEIVING COURT: _____

COURT'S FAX NUMBER: _____

4. CASE CAPTION: _____
vs. _____

5. CASE NUMBER: _____

6. DOCUMENT TRANSMITTED:

A. Nature of Document: _____

B. Number of Pages in Document: _____

C. Total Pages Transmitted (Excluding Cover Sheet): _____

7. FEES: (No fee for cover page)

1. Statutory filing fee \$ _____

2. First page (\$3.00) _____

3. Additional pages (\$1.00 per page) _____

4. Credit Card Fee (\$3.00) _____

TOTAL FEES: \$ _____

8. CREDIT CARD:

MasterCard _____ Account No.: _____

Visa _____

Other _____ Expiration Date: _____

(Type or print name of cardholder)

(Signature of cardholder)