

INTERIM RULE FOR ELECTRONIC FILING AND
SERVICE SYSTEM (PILOT PROJECT)

1. Definitions.

(a) Electronic Filing System. Electronic filing system (E-Filing System) approved by the Nebraska Supreme Court for filing and service 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 has agreed to receive service, other than service of a summons or initial pleading, via the E-Filing System.

2. E-Filing and E-Service are authorized on a pilot project basis for certain cases filed in specified district and county courts in Nebraska, as set forth in a schedule by the Administrative Office of the Court, as revised from time to time. At the discretion of the Chief Justice, in consultation with the presiding judge of the particular court, E-Filing and E-Service may be suspended in certain courts that are experiencing technical difficulties.

3. For purposes of the pilot project, only attorneys licensed to practice law in Nebraska may register to use the E-Filing System. Any attorney so registered may make an entry of appearance through E-Filing.

4. Under the pilot project, cases may be commenced under Neb. Rev. Stat. § 25-501 through an E-Filing; however, service of the initial pleading and the summons may 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. E-Service is for service of pleadings and other documents after service of summons as otherwise required. If an attorney who has entered an appearance in a case has not registered for E-Filing and E-Service, then service of the e-filed pleading upon that attorney shall be made as otherwise required by law.

Rule 4 amended December 20, 2006.

5. For cases under the pilot project, Documents which are required by Neb. Ct. R. of Pldg. in Civ. Actions 5 to be filed in the office of the court clerk may be filed through an E-Filing.

6. All Documents electronically received by the court clerk by 11:59:59 p.m. central time shall be deemed to have been filed on that date.

7. For cases under the pilot project, subsequent to the initial pleading and summons, Documents which are required to be served pursuant to Neb. Ct. R. of Pldg. in Civ. Actions 5 and in the manner required by Neb. Rev. Stat. § 25-534 may be served through E-Service or through a combination of E-Service and

other authorized means of service. A Document electronically received by the E-Filing provider for service by 11:59:59 p.m. central time shall be deemed to have been served on that date.

8. A printed copy of an E-Filed or E-Served Document with original signatures shall be maintained by the filing party and made available for inspection by other parties or the court upon request, but shall not be filed with the court. Where these rules require a party to maintain a Document, the filer is required to maintain the Document for a period of 2 years after the final resolution of the action, including the final resolution of all appeals.

9. A motion for leave to file Documents under seal may be E-Filed. Documents to be filed under seal pursuant to an order of the court shall not be E-Filed.

10. Use of the E-Filing System by an attorney shall constitute compliance with the Neb. Ct. R. of Pldg. in Civ. Actions 11 signature requirement and the attorney using the E-Filing System shall be subject to all other requirements of Neb. Ct. R. of Pldg. in Civ. Actions 11 and Neb. Rev. Stat. § 25-824 et seq. Signatures of parties, witnesses, and notaries and notary stamps may be typed using the signature format “/s/ [typed name]” and using the stamp format “seal” and commission expiration date and E-filed to satisfy signature and certification requirements, once the filing party has possession of the original signatures and stamps.

11. A court may transmit orders, notices, and other court entries via the E-Filing System to attorneys registered to use the E-Filing System.

12. Neb. Ct. R. of Pldg. in Civ. Actions 10 shall apply to E-Filed Documents. An E-Filed Document shall not be transmitted to the District Court Clerk/County Court Clerk Magistrate by any other means unless the court at any later time requests a printed copy bearing original signatures.

13. E-Service shall not constitute service by mail for purposes of computing a prescribed period pursuant to Neb. Rev. Stat. § 25-534; however, as noted above in rule 1(c), by registering to use to the E-Filing System, a party or attorney agrees that E-Service shall be the equivalent of service by delivery under that statute.

14. A document that requires the signatures of opposing parties or counsel (such as a stipulation) may be electronically filed by typing the names of each signing party or counsel, but the filer is required to first obtain the original signatures of all opposing parties or counsel on a printed document.

15. Attorneys who E-File shall not submit paper, self-addressed, stamped envelopes for the purpose of receiving a signed order or file-stamped copies of pleadings back from the court in active cases. Local courts shall use E-Filing to distribute such court orders or file-stamped copies of pleadings.

16. Upon satisfactory proof that E-Filing or E-Service of a Document is not completed because of (1) an error in the transmission of the Document to the E-File System service provider which was unknown to the sending party or (2) a failure to process the electronic filing when received by the court clerk, the court may enter an order permitting the Document to be filed as of the date it was first attempted to be sent electronically. Notwithstanding the foregoing, no order may be entered under this rule which expands the statutory time period for commencing an action or perfecting an appeal unless there is an affirmative showing that the failure to make a timely filing was due solely to an E-Filing System internal transmission error or a processing error by the court clerk.

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17. Upon a showing of substantial good faith compliance with the E-Filing System interim rule, the court may waive nonjurisdictional defects in an E-Filing or E-Service if it finds that no harm has occurred to any party as a result of the defective E-Filing or E-Service.

18. If an E-Filing court case is appealed, the clerk of the E-Filing court shall prepare a paper file from the electronic files of the case to submit to the appellate court.

19. 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.

20. If the clerk of the court ceases to maintain an electronic file, the clerk will prepare a complete and certified copy of the electronic file in paper form.

21. Only cases filed after January 1, 2005, shall be eligible to participate.

Rule 21 amended December 20, 2006.

COMMENT

The court-authorized service provider for the pilot project is Nebraska.gov and the State of Nebraska Office of the Chief Information Officer. (Effective April 1, 2008.)

At present, the system is not set up to allow E-Filing or E-Service by pro se litigants or attorneys not licensed to practice law in Nebraska. The Supreme Court contemplates that E-Filing and E-Service participants may be expanded in the future.

The references to central time are used in this interim rule because the pilot court locations are all located in the U.S. central time zone.

Adopted September 27, 2006.