

2006 AMENDMENTS TO THE LOCAL RULES

General

1.2 General Information

(e) Payment of Fees by Credit Card.

(1) **In General.** Information on the use of credit cards to pay fees, including filing fees, is available from the clerk's office and can also be found on the district court's Web site at www.ned.uscourts.gov/info/index.html > "Fees" and on the bankruptcy court's Web site at www.neb.uscourts.gov > "CM/ECF">"General Information">"Basic Information."

(2) **Refunds of Duplicate or Erroneous Filing Fees Paid Electronically with Credit Cards.** The clerk of the court is authorized to refund duplicate or erroneous filing fees paid online by credit card. This limited approval to issue refunds does not otherwise amend the policy of the Judicial Conference prohibiting refunds of filing fees.

(A) **Motion or Application.** To request a refund of a duplicate or erroneous filing fee paid online with a credit card, the payor must file a motion or application in the case explaining the circumstances leading to the request and stating the amount of the requested refund. The clerk of the court will authorize the refund request, deny it, or refer it to chambers.

(B) **Review of Denials.** If the clerk of the court denies the refund request, the payor has five (5) business days to file a motion asking the chief judge to review the denial.

(C) **Payment of Refunds.** The clerk's office will process authorized refunds through the electronic credit card system, pay.gov. If the payor's credit card is no longer valid, the clerk's office will issue a United States Treasury check to the payor. The clerk's office will not make cash refunds.

(f) **Miscellaneous Fees.** A schedule of miscellaneous fees is available on the district court's Web site at www.ned.uscourts.gov/info/fees.html, or from the clerk's office.

(g) **Court Reporting Fees.** This district has adopted a "court reporting fee schedule," a copy of which is available on the district court's Web site at www.ned.uscourts.gov/fpo/crtplans/index.html > "Court Reporting Fee Schedule," or from the clerk's office.

- (h) **Mediation.** The court has adopted a Mediation Plan which is available from the clerk's office and can also be found on the district court's Web site at www.ned.uscourts.gov/fpo/crtplans/index.html > "In the Matter of Court-Annexed Mediation." Parties settling a case are requested to advise the court if they engaged in mediation, whether successfully or unsuccessfully, and to provide the mediator's name and the dates of the mediation.
- (i) **Federal Practice Fund.** Pursuant to the authority granted the district courts by the Administrative Office of the United States Courts implementing policies of the Judicial Conference of the United States, the provisions of 28 U.S.C. § 1914(b), and the court's inherent authority, the District of Nebraska has established the Federal Practice Fund. The purpose of the Fund, and the provisions for administering, using, and seeking reimbursement from the Fund are set forth in the Amended Plans for Administration of the Federal Practice Fund and the Federal Practice Committee, available on the district court's Web site at www.ned.uscourts.gov/fpo/crtplans/index.html > "Amended Plans for Administration of the Federal Practice Fund and the Federal Practice Committee," or from the clerk's office.

1.3 Case Filings; Appearance and Withdrawal of Counsel; Pro Se Litigants.

(b) Attorney Registration for ECF.

- (1) **District Court.** Before an attorney may electronically file any pleadings, motions, or other papers with the district court, the attorney must complete and sign an attorney registration form. This form is attached to the civil or criminal administrative procedures and is also available on the district court's Web site at www.ned.uscourts.gov/fpo/forms/index.html > "CM/ECF Registration Form," or in the clerk's office. Registration constitutes an attorney's consent to electronic service and waiver of the right to service by personal service or first class mail.

- (2) **Bankruptcy Court.** Before an attorney may electronically file any pleadings, motions, or other papers with the bankruptcy court, the attorney must (a) complete and sign an attorney registration form and (b) attend the required training session. The required form is attached to the administrative procedures and is also available on the bankruptcy court's Web site at www.neb.uscourts.gov > "CM/ECF" > "CM/ECF Forms," or in the clerk's office.

1.6 Public Security and Conduct in Courthouse and Courtroom.

(f)(3) Camera Cell Phones Included in Prohibitions. This subparagraph (f) specifically includes Only federal employees who present agency identification, attorneys who present their bar cards, and jurors who present their summonses will be permitted to bring camera cell phones into the courthouses. Other visitors must leave their camera cell phones in their vehicles or with the court security officers at the security screening stations.

Those cell phones permitted into the courthouses may not be used to photograph, record, televise, or otherwise transmit images or sounds of any person or thing in a courtroom, jury room, corridor of the building on the floor on which a courtroom or jury room is located, or judge's chambers.

1.8 Attorney Discipline.

(d) Violation of Code of Responsibility

- (8) Appointment of Investigating Counsel. Whenever counsel is to be appointed pursuant to these rules to investigate allegations of misconduct, to prosecute disciplinary proceedings, or in conjunction with a reinstatement petition filed by a disciplined attorney, this court shall appoint as counsel the disciplinary agency of the Nebraska Supreme Court, unless such disciplinary agency declines appointment or unless such appointment is clearly inappropriate. If that agency is not appointed, this court shall appoint as counsel one or more members of the bar of this court to investigate allegations of misconduct or to prosecute disciplinary proceedings under these rules; provided, however, that the respondent/attorney may move to disqualify an attorney so appointed who is or has been engaged as an adversary of the respondent/attorney in any matter. Counsel, once appointed, may not resign without the court's leave. Payment of fees and expenses of counsel shall be reimbursed from the Federal Practice Fund.

PROPOSED AMENDMENTS TO THE LOCAL RULES

Civil

4.1 Service of Process.

- (a) **Issuance of Electronic Summons Authorized.** The clerk's office is authorized to sign, seal, and issue summonses electronically. Such electronically-issued summonses may not, however, be served electronically.

5.3 Privacy. To comply with the policy of the Judicial Conference of the United States and the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899 (codified at 5 U.S.C. §§ 3701-3707 and scattered sections) and the policies of this court, the following privacy rules shall apply to all pleadings, documents, and exhibits filed in the district and bankruptcy courts.

(a) Mandatory Redaction of Filed Documents. Filing parties shall omit or, where inclusion is necessary, partially redact the following personal data identifiers from all pleadings, documents, and exhibits, whether filed electronically or on paper, unless the assigned judge orders otherwise.

- (1) Minors' names. Minors' initials shall be used.
- (2) Financial account numbers. The name or type of account and the financial institution where the account is maintained shall be used, but only the last four numbers of the account number shall be stated.
- (3) Social Security numbers. Only the last four numbers shall be used.
- (4) Taxpayer identification number. Only the last four digits shall be used.
- (5) Dates of birth. Only the year shall be used.
- (5) Home addresses. Only the city and state shall be listed.
- (6) Other data as ordered by permitted by order of the court.

(b) Discretionary Redaction of Filed Documents. In addition, the filing party may omit or, where inclusion is necessary, partially redact the following confidential information from all pleadings, documents, and exhibits, whether filed electronically or on paper, unless the assigned judge orders otherwise.

- (1) Personal identifying numbers, such as driver's license numbers.
- (2) Home street addresses.
- (3) Medical or psychological records, evaluations, treatments, and diagnoses.
- (4) Employment history.
- (5) Individual financial information.
- (6) Proprietary or trade secret information.
- (7) Information which may identify an individual cooperating with the government.

- (8) Information regarding the victim of any criminal activity.
- (9) National security information.
- (10) Sensitive security information as described in 49 U.S.C. § 114(s).
- (11) Education records as defined by 20 U.S.C. § 1232g(a)(4)(A).
- (12) Other data as ordered by permitted by order of the court.

(c) **Restricting Access to Unredacted Documents Filed Under Seal.** With leave of the court, a party may file under seal restrict access to a document containing the unredacted personal data identifiers listed above.

(1) **Motion.**

(A) **Procedure.** The party seeking to file an unredacted document shall may, but is not required to, file electronically a motion or application to restrict access to file the document under seal pursuant to the E-Government Act of 2002. The motion or application shall state why filing an unredacted document is necessary and why redaction would not reduce or eliminate the need for restriction.

(B) **Unredacted Document not Attached.** The unredacted document shall not be attached to the motion, but instead filed separately as a restricted document. This document will remain provisionally restricted pending the ruling on the motion to restrict access.

(2) **Order.** In ruling on the motion, the assigned judge also has the discretion to lift the restriction on the pleading or document, strike it, or order the filing party to place a redacted copy of the pleading or document on the public docket.

(3) **Docket Sheet Entries.** When access to a pleading or document is restricted pursuant to the E-Government Act, an entry noting the restricted access will appear on the public electronic docket sheet; however, only parties of record and court users will be able to access the document electronically. The public will not have remote access to the restricted pleading or document from the docket sheet. Such remote access will be granted only with leave of the court.

A motion or application not filed electronically shall be presented in paper format to the chambers of the assigned judge along with a proposed order.

- (2) — **Procedure.** If the assigned judge grants the motion or application, the filing party shall then submit the unredacted paper document to the clerk's office. The paper document must have a cover page or notation on the first page stating the following: "Document filed under seal pursuant to the E-Government Act." The court will retain this paper document as part of the record.
- (3) — **Redacted Copy.** In granting the motion or application to seal, the assigned judge may require the party to file a redacted copy for the public record.

7.1 Motion Practice

(a) **Making a Motion.** A party making a motion shall state the basis for the motion and the specific relief requested.

(1) **Supporting Brief.**

(A) **Substantial Issue of Law.** A motion raising a substantial issue of law must be supported by a paginated brief filed and served contemporaneously with the motion. The brief shall not be attached to or incorporated in the motion or the index of evidence, but shall be a separate filing. The brief shall state concisely the reasons for the motion and cite the authorities relied upon. The brief shall not recite facts unless supported as provided in subparagraph (a)(2) of this rule.

(b) **Opposing a Motion.**

(1) **Opposing Brief.**

(B) **Time for Filing.** A brief opposing a motion to dismiss or for summary judgment must be filed and served no later than twenty (20) calendar days after the motion and supporting brief are filed and served. A brief opposing any other motion must be filed and served no later than ten (10) business days after the motion and supporting brief are filed and served.

(c) **Replying to Opposing Briefs and Evidence.** The moving party may file a reply brief and index of evidence no later than five (5) business days after the non-moving party files and serves the opposing brief. The reply brief may not merely repeat the moving party's initial arguments, but must address factual or legal issues raised in the opposing brief. No further briefs or evidence may be filed without the court's leave. If the moving party has not filed an initial brief, it may not file a reply brief without the court's leave.

7.5 Sealed Pleadings, Documents, and Physical Objects.

(a) Procedure.

- (i) **Motion to Seal.** The party seeking to file a sealed pleading, document, or physical object must first file electronically a motion to seal. The motion shall state why sealing is required and whether redaction may serve to eliminate or reduce the need for sealing. If the pleading, document, or object is already subject to an existing protective order, or included within a category of pleadings, documents, or objects deemed sealed pursuant to a federal statute, Federal Rule of Civil Procedure, local rule, or standing order of this court, no motion to seal is required.
- (ii) **Sealed Pleading or Document not Attached.** The pleading or document to be sealed shall not be attached to the motion, but instead filed separately as a sealed document. This document will remain provisionally sealed pending the ruling on the motion to seal.
- (iii) **Order.** In ruling on the motion, the assigned judge also has the discretion to unseal the pleading or document, strike it, or order the filing party to place a redacted copy of the pleading or document on the public docket.

No pleading, document, or object shall be sealed except by an order of the court which specifically addresses the particular pleading, document, or object to be sealed unless the pleading, document, or object is (1) already subject to an existing protective order, or (2) included within a category of pleadings, documents, or objects deemed sealed pursuant to a federal statute, Federal Rule of Civil Procedure, local rule, or standing order of this court.

(b) ~~Notice. Motion to Seal.~~

When a pleading or document is filed under seal, the System will not provide notice of electronic filing to all parties in the case. The filing party therefore must use alternate forms of service to provide all parties entitled to notice with copies of the sealed pleading or document.

A motion for an order sealing an object or a specific pleading or document may be made on any grounds permitted by law and shall (1) explain why sealing all or a portion of the pleading, document, or object is required, and (2) state whether redaction may serve to eliminate or reduce the need for sealing.

(c) **Accompanying Documents.** A motion to seal must be accompanied by (1) a proposed order granting the motion, and (2) the pleading, document, or object to be sealed. The pleading, document, or object shall be filed provisionally under seal, and will remain provisionally sealed until the court rules on the motion.

(c) **Docket Sheet Entries.** When a pleading or document is filed electronically under seal, the entry will appear on the electronic docket sheet only for court users and the filing party. Neither the parties nor the public will have remote access to the sealed pleading or document from the docket sheet.

Form of Sealed Filing. Any pleading, document, or object filed under seal or provisional seal shall be submitted in an unsealed envelope, bearing the caption of the case, the case number, and the caption of the document or object to be sealed. The clerk shall file stamp and docket the motion to seal. The pleading, document or object to be sealed shall be file stamped and docketed with no identifying information. If ordered by the court, the clerk shall file the document or object under seal.

(d) **Motion to Unseal.** A motion to unseal or view a pleading, document, or object may be made on any grounds permitted by law, and shall be accompanied by a proposed order granting the motion.

(e) **Handling Withdrawing Sealed Physical Objects After Case Closed or Dismissed.** Counsel shall have ninety (90) ten (10) business days from the date a case is closed or dismissed to withdraw any object filed under seal. Counsel shall be responsible for maintaining the object in the manner provided in Nebraska Civil Rule 79.1(f)(1).

, following any time for appellate review, to file a motion to maintain the seal of any sealed pleading, document, or object or to return any sealed document or object. Sealed pleadings, documents, or objects that are not requested to remain sealed or sealed documents or objects that are not requested to be returned to counsel shall be automatically unsealed without notice to counsel.

7.6 Denial of Pending Motions Upon Reference. When a district judge refers a case with pending motions to mediation or to the bankruptcy court, the clerk's office is authorized to enter a text-only order automatically denying all pending motions in the case as of the date of the reference. The order shall state that the denial is made pursuant to this rule and is without prejudice to refiling.

40.1 Trial Calendar.

- (b) **Requests for Place of Trial.** The plaintiff at the time of filing a complaint in a civil action or the removing party at the time of filing a petition for removal shall make written request for trial of the case at Omaha, Lincoln, or North Platte. Each defendant or third-party defendant at the time of filing that defendant's first pleading in a civil action, or the plaintiff in a removed action within ten (10) **business** days after service of the notice of removal, may file a written request for trial at Omaha, Lincoln, or North Platte. If the request is for a place different from that requested by the plaintiff, third-party plaintiff, or removing party, it must be **filed as a motion, accompanied by a supporting affidavit.** Any other party then shall have ten (10) business days to respond.
- (1) **Form of Request.** The request for place of trial may be a separate pleading or may be endorsed upon the complaint or other initial pleading, and shall be served upon each party.
- (2) **Conflicting Requests.** The judge may resolve conflicting requests without oral argument. Except for cases governed by the special rules for the Nebraska docket and for the death penalty, see NEGenR 1.4(a)(5) and (6), the judge shall consider the convenience of the litigants, witnesses, and counsel when deciding the place of trial.
- (3) **Amended Request.** A party may amend an initial or opposing request for place of trial at any time during the pendency of the action if material circumstances bearing on the proper place of trial change.

45.1 Subpoenas to Nonparties.

- (b) **Objections.** After receipt of the notice, the adverse party shall have five (5) business days to serve written objections to the subpoena on the party who gave notice that a subpoena would be issued. The adverse party must specifically identify the grounds for the objections. The objections shall not be filed with the court as a motion. No subpoena shall be issued for documents or premises whose inspection or production is contested under this rule until the court has parties resolve d the objections. Nothing in this rule affects the availability of objections set forth in Federal Rule of Civil Procedure 45(c) and (d).

54.1 Taxation of Costs.

- (a) **Handbook.** Counsel are directed to read the bill of costs handbook that is available on the district court's Web page, www.ned.uscourts.gov/fpo/forms/index.html > "Bill of Costs Form (Handbook)", or from the clerk's office, prior to submitting a bill of costs or filing a response to a bill of costs.
- (b) **Bill of Costs; When Filed; Form.** A party entitled to recover costs shall file within thirty (30) calendar days after entry of judgment a verified bill of costs on forms that are available on the court's Web page, www.ned.uscourts.gov/fpo/forms/index.html > "Bill of Costs Form," or from the clerk's office. Post-trial motions will not extend the time within which a party must file a verified bill of costs as provided by this rule, except on order extending the time.

72.3 Objections to Magistrate Judges' Recommendations in Dispositive Matters.

- (a) **Statement of Objection.** A party may object to a magistrate judge's recommendation in a dispositive matter (*i.e.*, excepted by 28 U.S.C. § 636(b)(1)(A)) by filing a "Statement of Objection to Magistrate Judge's Recommendation" within ten (10) business days after being served with the recommendation, unless the court orders a different time. The statement of objection shall specify those portions of the recommendation to which the party objects and the basis of the objection. The statement of objections should also indicate whether the objecting party is relying on the brief previously filed, or if a new brief has been filed along with the statement of objections. The objecting party shall file contemporaneously with the statement of objection a brief setting forth the party's arguments that the magistrate judge's recommendation should be reviewed de novo and a different disposition made. A party may not merely reference or refile the original brief submitted to the magistrate judge. A party failing to file a brief in support of the objection may be deemed to have abandoned the objection. Unless otherwise ordered, any opposing party may submit file a brief opposing the objection within ten (10) business days of being served with the statement of objection. This brief may also refer to briefs previously filed.
- (b) **Evidence.** If evidentiary materials were filed or received in evidence at the time of the magistrate judge's determination of the matter, the parties need not refile or re-offer the materials and may refer to them in the briefs. The parties may not offer additional evidentiary materials; however, if the magistrate judge held an evidentiary hearing, the objecting party may request a supplemental hearing to consider additional evidence. The district judge may convene the hearing if the party demonstrates good cause why the evidence was not adduced before the magistrate judge.
- (c) **Remand.** If the district judge remands the matter to the magistrate judge, a subsequent recommendation of the magistrate judge shall also be subject to objection in accordance with this rule upon the filing of another objection.
- (d) **Failure to Object.** Counsel and parties are cautioned that the Failure to object to a finding of fact in a magistrate judge's recommendation in a dispositive matter may be construed as a waiver of that party's right to appeal the order of the district judge adopting the recommendation as to the finding of fact.

79.1 Custody of Files and Exhibits.

(f) **Withdrawal or Destruction of Exhibits at Case Conclusion.**

(1) **Withdrawal.** As soon as possible, but not later than **ten (10) fifteen (15) business** days after a verdict is rendered or a judgment is entered, the offering attorney or pro se party must withdraw all exhibits in the clerk's custody and give the clerk a receipt for the exhibits.

(A) **Duty to Retain Exhibits.** An attorney or pro se party must:

- (i) Retain exhibits withdrawn from the clerk's custody for at least **one (1) year sixty (60) days** after the judgment is final and is therefore no longer subject to appellate review;
- (ii) Preserve the retained exhibits in the same state or condition they were in when offered into evidence;
- (iii) If an opposing counsel or pro se party requests the exhibits, make the exhibits available for examination and use at reasonable times and places; and
- (iv) Promptly return the exhibits to the clerk if requested to do so.

(B) **Sanctions.** Failure to abide by the provisions of this rule may subject the attorney or the pro se party to sanctions. Despite entry of judgment, the court retains jurisdiction over the parties and attorneys for purposes of enforcing this rule.

(2) **Destruction.** After the judgment is no longer subject to appellate review, the attorney or pro se party may destroy or otherwise dispose of the exhibits without further authorization. If the attorney or pro se party does not claim and withdraw the exhibits, the clerk may destroy or otherwise dispose of any exhibits not claimed and withdrawn. On the date that the clerk destroys the exhibits, the clerk shall enter a remark on the docket sheet stating that the exhibits were destroyed and the date of destruction.

PROPOSED AMENDMENTS TO THE LOCAL RULES

Criminal

12.1 Motions to Continue Trial.

- (a) **Content of Motion.** Unless excused by the court in individual cases, a motion to continue the trial setting of a criminal case must state facts demonstrating that the ends of justice served by a continuance outweigh the best interest of the public and the defendant in a speedy trial, (see 18 U.S.C. § 3161(h)(8)), or that for some other reason, the continuance will not violate the Speedy Trial Act. Unless excused by the court in individual cases, if the defendant is a moving party the motion shall be accompanied by the defendant's affidavit or declaration (see 28 U.S.C. § 1746) stating that defendant:
- (1) Was advised by counsel of the reasons for seeking a continuance;
 - (2) Understands that the time sought by the extension may be excluded from any calculation of time under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*; and
 - (3) With this understanding and knowledge, agrees to the filing of the motion. ; and
 - (4) Waives the right to a speedy trial.

12.3 Form and Deadlines for Discovery and Pretrial Motions.

(a) **Deadlines Set. Time to Filing.** At the arraignment, the magistrate judge shall set deadlines for requesting discovery and filing pretrial motions. These dates shall be strictly enforced unless the court grants an extension of time. Absent good cause shown, a motion for an extension of time to file pretrial motions must be made within the time set for the filing of pretrial motions. Motions for extensions of time to file pretrial motions will be granted only upon a showing of good cause. If the defendant is a moving party, the motion for extension of time to file pretrial motions shall be accompanied by the defendant's affidavit or declaration (see 28 U.S.C. § 1746) stating that defendant:

- (1) Has been advised by counsel of the reasons for seeking an extension;
- (2) Understands that the time sought by the extension may be excluded from any calculation of time under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*; and
- (3) With this understanding and knowledge, agrees to the filing of the motion. ; and
- (4) — Waives the right to a speedy trial.

(b) **Form of Motion.** Unless the pretrial motion is unopposed, see Nebraska Criminal Rule 12.2, or does not raise a substantial issue of law, the motion must be filed as provided in this rule.

- (1) **Supporting Briefs.** A motion raising a substantial issue of law must be supported by a contemporaneously filed brief. The court may treat a party's failure to file a brief as an abandonment of the motion. The brief must concisely state the reasons for the motion, cite to the relevant legal authorities, and cite to the pertinent page of the record, affidavit, discovery material, or other evidence upon which the moving party relies.

- (3) **Discovery Motions.** In the case of a motion seeking discovery or disclosure of evidence, the motion must include a statement verifying that counsel for the moving party has conferred with opposing counsel in person or by telephone in a good-faith effort to resolve by agreement the issues raised by the motion and that the parties have been unable to reach such an agreement. This showing shall also recite the date, time, and place of such communications and the

names of all persons participating in them. As used in this rule, "counsel" includes parties who are acting pro se.

12.4 Sealed Pleadings, Documents, and Physical Objects.

(a) Procedure.

- (i) **Motion to Seal.** The party seeking to file a sealed pleading, document, or physical object must first file electronically a motion to seal. The motion shall state why sealing is required and whether redaction may serve to eliminate or reduce the need for sealing. If the pleading, document, or object is already subject to an existing protective order, or included within a category of pleadings, documents, or objects deemed sealed pursuant to a federal statute, Federal Rule of Civil Procedure, local rule, or standing order of this court, no motion to seal is required.
- (ii) **Sealed Pleading or Document not Attached.** The pleading or document to be sealed shall not be attached to the motion, but instead filed separately as a sealed document. This document will remain provisionally sealed pending the ruling on the motion to seal.
- (iii) **Order.** In ruling on the motion, the assigned judge also has the discretion to unseal the pleading or document, strike it, or order the filing party to place a redacted copy of the pleading or document on the public docket.

(b) Notice. ~~Motion to Seal.~~

When a pleading or document is filed under seal, the System will not provide notice of electronic filing to all parties in the case. The filing party therefore must use alternate forms of service to provide all parties entitled to notice with copies of the sealed pleading or document.

- (a) **In General.** No pleading, document, or object shall be sealed except by an order of the court which specifically addresses the particular pleading, document, or object to be sealed unless the pleading, document, or object is (1) already subject to an existing protective order, or (2) included within a category of pleadings, documents, or objects deemed sealed pursuant to a federal statute, Federal Rule of Criminal Procedure, local rule, or standing order of this court.

- (b) **Motion to Seal.** A motion for an order sealing an object or a specific pleading or document may be made on any grounds permitted by law and shall (1) explain why sealing all or a portion of the pleading, document, or object is required, and (2) state whether redaction may serve to eliminate or reduce the need for sealing.

- (c) **Accompanying Documents.** A motion to seal must be accompanied by (1) a proposed order granting the motion, and (2) the pleading, document, or object to be sealed. The pleading, document, or object shall be filed provisionally under seal, and will remain provisionally sealed until the court rules on the motion.
- (c) **Docket Sheet Entries.** When a pleading or document is filed electronically under seal, the entry will appear on the electronic docket sheet only for court users and the filing party. Neither the parties nor the public will have remote access to the sealed pleading or document from the docket sheet.
- (d) **Form of Sealed Filing.** Any pleading, document, or object filed under seal or provisional seal shall be submitted in an unsealed envelope, bearing the caption of the case, the case number, and the caption of the document or object to be sealed. The clerk shall file stamp and docket the motion to seal. The pleading, document or object to be sealed shall be file stamped and docketed with no identifying information. If ordered by the court, the clerk shall file the document or object under seal.
- (d) **Motion to Unseal.** A motion to unseal or view a pleading, document, or object may be made on any grounds permitted by law, and shall be accompanied by a proposed order granting the motion.
- (e) **Handling Withdrawing Sealed Physical Objects After Case Closed or Dismissed.** Counsel shall have ninety (90) ten (10) business days from the date a case is closed or dismissed to withdraw any object filed under seal. Counsel shall be responsible for maintaining the object in the manner provided in Nebraska Criminal Rule 55.1(g).
- , following any time for appellate review, to file a motion to maintain the seal of any sealed pleading, document, or object or to return any sealed document or object. Sealed pleadings, documents, or objects that are not requested to remain sealed or sealed documents or objects that are not requested to be returned to counsel shall be automatically unsealed without notice to counsel.

49.3 Privacy.

To comply with the policy of the Judicial Conference of the United States and the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899 (codified at 5 U.S.C. §§ 3701-3707 and scattered sections) and the policies of this court, the following privacy rules shall apply to all pleadings, documents, and exhibits filed in the district court.

(a) **Mandatory Redaction of Filed Documents.** Filing parties shall omit or, where inclusion is necessary, partially redact the following personal data identifiers from all pleadings, documents, and exhibits, whether filed electronically or on paper, unless the assigned judge orders otherwise.

- (1) Minors' names. Minors' initials shall be used.
- (2) Financial account numbers. The name or type of account and the financial institution where the account is maintained shall be used, but only the last four numbers of the account number shall be stated.
- (3) Social Security numbers. Only the last four numbers shall be used.
- (4) Taxpayer identification number. Only the last four digits shall be used.
- (5) Dates of birth. Only the year shall be used.
- (6) Home addresses. Only the city and state shall be listed.
- (6 7) Other data as ordered by order of the court.

(b) **Discretionary Redaction of Filed Documents.** In addition, the filing party may omit or, where inclusion is necessary, partially redact the following confidential information from all pleadings, documents, and exhibits, whether filed electronically or on paper, unless the assigned judge orders otherwise.

- (1) Personal identifying numbers, such as driver's license numbers.
- (2) Employment history.
- (3) Individual financial information.
- (4) Proprietary or trade secret information.
- (5) Information which may serve to identify an individual cooperating with the government.
- (6) Information regarding the victim of any criminal activity.

- (7) National security information.
- (8) Sensitive security information as described in 49 U.S.C. § 114(s).

(911) Education records as defined by 20 U.S.C. § 1232g(a)(4)(A).

(109) Other data as ordered permitted by order of the court.

- (c) **Restricting Access to Unredacted Documents Filed Under Seal.** With leave of the court, a party may file under seal restrict access to a document containing the unredacted personal data identifiers listed above.

(1) **Motion.**

(A) **Procedure.** The party seeking to file an unredacted document shall may, but is not required to, file electronically a motion or application to restrict access to file the document under seal pursuant to the E-Government Act of 2002. The motion or application shall state why filing an unredacted document is necessary and why redaction would not reduce or eliminate the need for restriction.

(B) **Unredacted Document not Attached.** The unredacted document shall not be attached to the motion, but instead filed separately as a restricted document. This document will remain provisionally restricted pending the ruling on the motion to restrict access. If the court denies the motion, it will direct the clerk's office to lift the restriction on the unredacted document.

(2) **Order.** In ruling on the motion, the assigned judge also has the discretion to lift the restriction on the pleading or document, strike it, or order the filing party to place a redacted copy of the pleading or document on the public docket.

(3) **Docket Sheet Entries.** When access to a pleading or document is restricted pursuant to the E-Government Act, an entry noting the restricted access will appear on the public electronic docket sheet; however, only parties of record and court users will be able to access the document electronically. The public will not have remote access to the restricted pleading or document from the docket sheet. Such remote access will be granted only with leave of the court.

A motion or application not filed electronically shall be presented in paper format to the chambers of the assigned judge along with a proposed order.

- (2) — **Procedure.** If the assigned judge grants the motion or application, the filing party shall then submit the unredacted paper document to the clerk’s office. The paper document must have a cover page or notation on the first page stating the following: “Document filed under seal pursuant to the E-Government Act.” The court will retain this paper document as part of the record.
- (3) — **Redacted Copy.** In granting the motion or application to seal to restrict access, the assigned judge may require the moving party to file a redacted copy for the public record.

55.1 Custody of Files and Exhibits.

(e) Trial or Evidentiary Hearing Exhibits.

- (1) **Custody.** Exhibits received into evidence during a hearing or trial must be left in the clerk's custody. Exhibits offered but not received into evidence may be left in clerk's custody at the offeror's request.
- (2) **Special Cases.** In cases involving a large number of exhibits or in cases requiring special provisions for access, safekeeping, or inspection of exhibits, counsel shall confer with the courtroom deputy to establish procedures for handling exhibits during and after the trial. In cases involving a large number of paper documents, counsel should consider preparing trial evidence in an electronic format, and may consult with the court's information technology staff for further information on this may be best accomplished.

(g) Withdrawal or Destruction of Exhibits at the Conclusion of a Case.

- (1) **Withdrawal.** As soon as possible, but not later than ten (10) business days after a verdict is rendered or a judgment is entered, the offering attorney or pro se defendant must withdraw all exhibits in the clerk's custody and give the clerk a receipt for the exhibits.
 - (A) **Duty to Retain Exhibits.** An attorney or pro se defendant must:
 - (i) The attorneys or the pro se defendant must maintain Retain exhibits withdrawn from the clerk's custody, of withdrawn exhibits until the court has authorized their disposal, except that the attorney for the government may deliver the exhibits to the appropriate state or federal agency. In the latter case, the agency shall become subject to this rule. The attorney for the government or the state or federal government agency maintaining custody of the exhibits may store the exhibits at any location within or outside the District of Nebraska;
 - (ii) The attorneys, pro se defendant, or agency retaining the exhibits must Preserve the exhibits in the same state and condition that they were in when they were offered into evidence.

- (iii) If an attorney or the pro se defendant requests the exhibits, the attorney, agency, or pro se defendant retaining the exhibits must make them available for examination and use at reasonable times and places.
- (iv) The attorney, agency, or pro se defendant retaining the exhibits must promptly return them the exhibits to the clerk if requested to do so.

(B) Length of Retention. All withdrawn exhibits must be retained until at least thirty (30) calendar days after the final disposition of the case, including: (i) any appeal; (ii) the denial of or expiration of the time in which to file a petition for writ of certiorari; and (iii) the denial of or expiration of the statutory time (including any reasonably foreseeable tolling of that time) for filing a request for post-conviction relief pursuant to 28 U.S.C. § 2255.

(C) Sanctions. Failure to abide by the provisions of this rule may subject the attorney, agency, or pro se defendant to sanctions. Despite entry of judgment, the court retains jurisdiction over the parties, agencies, and attorneys for purposes of enforcing this rule.

(2) Handling Sealed Objects After Case Closed or Dismissed. Documents. Counsel shall have ninety (90) 10 (ten) business days from the date a case is closed or dismissed to withdraw an object filed under seal. Counsel shall be responsible for maintaining the object in the manner provided in subparagraph (g)(1)(A) of this rule. ~~file a motion for the return of any sealed documents or objects. Unless an attorney or pro se defendant requests their return, sealed documents or objects will be retained by the clerk for five (5) years. Before the clerk sends a criminal file to the Federal Records Center, the clerk will dispose of all presentence investigation reports in that file. The clerk will automatically unseal any remaining sealed documents or objects in the file when the clerk sends the file to the Federal Records Center.~~

(3) Destruction of Exhibits. Thirty (30) calendar days after the final disposition of the case as defined by subparagraph (g)(1)(B) of this rule, the attorney, agency, or pro se defendant maintaining custody of the exhibits must file a motion for an order to may destroy or otherwise dispose of the exhibits without notice. The opposing A party opposing the destruction or disposal of the exhibits must file an objection before this thirty day period expires. The custodian of the exhibits may not destroy or dispose of the exhibits until the court resolves the objection.

has ten (10) days after service to respond to the motion. If the court grants the motion, the moving party must notify the clerk when the exhibits have been destroyed, and the clerk will then enter a remark on the System stating that the exhibits were destroyed and the date of destruction.

57.3 Objections to Magistrate Judges' Recommendations in Dispositive Matters.

- (a) **Statement of Objection.** A party may object to a magistrate judge's recommendation in a dispositive matter (*i.e.*, excepted by 28 U.S.C. § 636(b)(1)(A)) by filing a "Statement of Objection to Magistrate Judge's Recommendation" within ten (10) business days after being served with the recommendation, unless the court orders a different time. The statement of objection shall specify those portions of the recommendation to which the party objects and the basis of the objection. The statement of objections should also indicate whether the objecting party is relying on the brief previously filed, or if a new brief has been filed along with the statement of objections. The objecting party shall file contemporaneously with the statement of objection a brief setting forth the party's arguments that the magistrate judge's recommendation should be reviewed *de novo* and a different disposition made. A party may not merely reference or refile the original brief submitted to the magistrate judge. A party failing to file a brief in support of the objection may be deemed to have abandoned the objection. Unless otherwise ordered, any opposing party may submit file a brief opposing the objection within ten (10) business days of being served with the statement of objection. This brief may also refer to briefs previously filed.
- (b) **Evidence.** If evidentiary materials were filed or received in evidence at the time of the magistrate judge's determination of the matter, the parties need not refile or re-offer the materials and may refer to them in the briefs. The parties may not offer additional evidentiary materials; however, if the magistrate judge held an evidentiary hearing, the objecting party may request a supplemental hearing to consider additional evidence. The district judge may convene the hearing if the party demonstrates good cause why the evidence was not adduced before the magistrate judge.
- (c) **Remand.** If the district judge remands the matter to the magistrate judge, a subsequent recommendation of the magistrate judge shall also be subject to objection in accordance with this rule upon the filing of another objection.
- (d) **Failure to Object.** Counsel and parties are cautioned that the Failure to object to a finding of fact in a magistrate judge's recommendation in a dispositive matter may be construed as a waiver of that party's right to appeal the order of the district judge adopting the recommendation as to the finding of fact.