

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

CRIMINAL RULES

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11.2 Change of Plea Hearing Before Magistrate Judge.

(a) Hearing. With the assigned district judge's and the parties' consent, a magistrate judge may hold a change of plea hearing in:

- (1) a felony case; or
- (2) a misdemeanor case requiring consent but in which the parties did not consent to trial, judgment, and sentencing by a magistrate judge.

If the magistrate judge at the hearing finds that the defendant's written or oral consent to proceed with the change of plea before the magistrate judge is knowing and voluntary, the magistrate judge conducts the change of plea hearing. The magistrate judge must inquire about the existence and understanding of the terms of any plea agreement but may not accept or reject a plea agreement.

(b) Findings of Fact and Recommendation. The magistrate judge must state on the record findings concerning the guilty plea's knowing and voluntary nature, the adequacy of the factual basis for the plea, and any other relevant matter, and must recommend to the district judge whether the guilty plea should be accepted. If there is a plea agreement, the magistrate judge must also recommend to the district judge whether the plea agreement should be rejected, accepted, or taken under advisement until sentencing. A transcript of the hearing must be prepared and filed with the clerk.

(c) Objection to Recommendation. Unless the ~~district~~ judge extends or shortens the time, any objection to the magistrate judge's recommendation must (1) be in writing, (2) specify the parts of the findings or recommendation objected to, and (3) be filed and served within 14 days after the filing of the plea transcript. See NECrimR 59.2(a).

(d) District Judge's Review. The district judge must conduct a de novo review of the magistrate judge's recommendation regarding the proposed plea and issue an appropriate order. The district judge may defer acceptance of the plea agreement until sentencing. In conducting this review, the district judge may reconduct or refer back to the magistrate judge all or part of the plea hearing, affirm or set aside any finding by the magistrate judge, and make additional findings.

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12.2 Unopposed Motions. When all attorneys agree that a motion is unopposed, the motion should reflect the agreement. ~~Unless excused by the presiding judge, when filing an unopposed motion the moving party must send a proposed order to the assigned judge's chambers by e-mail or, when necessary or appropriate, in paper form. The proposed order must state that the motion is granted and identify the relief granted.~~

~~(a) **Method of Submission.** A proposed order should generally be e-mailed to the assigned judge at the address listed on that judge's information page located on the court's Web site at <http://www.ned.uscourts.gov/attorney/judges-information>. The order must be in a word processing format; judges do not accept proposed orders in .pdf format. The subject line of the e-mail should identify the case name and number. Proposed orders may not be combined with the electronically filed motion into one document.~~

~~(b) **Filed Before Sending Proposed Order.** The motion must be filed before sending the proposed order to the judge, and the proposed order must refer to the motion's docket entry number.~~

12.3 Forms and Deadlines for Pleadings and Motions.

(a) **Deadlines Set.** At the arraignment, the magistrate judge sets discovery and pretrial motion deadlines. These dates are strictly enforced. Motions for an extension of time to file pretrial motions are only granted for good cause shown, and absent good cause shown they must be filed within the pretrial motion filing deadline. If the defendant is a moving party, a motion for extension of time to file pretrial motions must be accompanied by the defendant's affidavit or declaration, see 28 U.S.C. § 1746, stating that the defendant:

- (1) was advised by the defense attorney of the reasons for seeking an extension;
- (2) understands that the time requested in the extension may be excluded from any calculation of time under the Speedy Trial Act, 18 U.S.C. §§ 3161-3174; and
- (3) with this understanding and knowledge, agrees to the filing of the motion.

(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.** The court may treat a party's failure to simultaneously file a brief as an abandonment of the motion. The brief must (A) concisely state the basis for the motion, (B) cite relevant legal authority, and (C) cite to the pertinent pages of the record, affidavit, discovery material, or other evidence on which the moving party relies. A party's failure to brief an issue raised in a motion may be considered a waiver of that issue.
 - (2) **Evidence.** Unless evidence to be offered in support of a motion will be presented at an evidentiary hearing requested for that motion, when a motion raising a substantial issue of law requires the court to consider factual matters not established by the pleadings or evidence previously filed, the moving party must file additional evidentiary materials on which the party relies. Evidence must be filed under seal upon order of the court or as required under these rules. The evidence must be filed simultaneously with the motion and brief. The method for filing evidence in support of an electronically filed motion is governed by Nebraska Criminal Rule 49.2(a)(2). Evidentiary materials may be attached to the motion or brief if the filing includes a listing of each item of evidence being filed, and the evidence citations within the filing provide hyperlinks to the evidence attached and offered in support of the factual statements. In all other cases, evidentiary materials must not be attached to the brief but rather must be filed separately with an index listing each item of evidence being filed and identifying the motion to which it relates.
 - (3) **Discovery Motions.** A motion seeking discovery or disclosure of evidence must include a statement verifying that (A) the moving party's attorney conferred with the opposing attorney in person or by telephone in a good-faith effort to resolve the issues raised in the motion and (B) the parties were unable to reach an agreement. This showing must also state the date, time, and place of the communications and the names of all participating persons.
 - (4) **Request for Hearing.** If an evidentiary hearing is requested, the motion must state the estimated length of time needed for the hearing, whether an interpreter is needed, and whether any codefendant should be present or participate in the hearing.
- (c) **Responsive Brief.**
- (1) **Timing.** All parties may respond to the motion within 7 days after the motion is filed.
 - (2) **Form and Content.** The response must be in the form of a brief in opposition to the motion. A party's failure to brief an issue raised in

a motion may be considered a waiver of that issue. If the response relies on evidence that has not already been filed, the responding party must comply with Nebraska Criminal Rule 12.3(b)(2) in filing its evidence.

- (3) **Evidentiary Hearing.** If a party requests an evidentiary hearing, the response must state, unless the moving party has already provided the same information, the information required in Nebraska Criminal Rule 12.3(b)(4).

(d) **Court-Ordered Evidentiary Hearing.**

- (1) **Order.** The court determines whether an evidentiary hearing is required on a pretrial motion. Nothing in this rule limits the court's authority to schedule an evidentiary hearing on any issue to assist the court in administering justice or to preserve the parties' right to an evidentiary hearing under the laws or Constitution of the United States.

- (2) **Notice to Court.** If the court orders a hearing sua sponte, the parties must promptly advise the court of the information required in Nebraska Criminal Rule 12.3(b)(4).

12.4 **Proposed Order.** A party may submit a proposed order to the assigned judge's chambers by e-mail sent to the address listed on that judge's information page on the court's Web site. See <http://www.ned.uscourts.gov/attorney/judges-information>. A proposed order may not be filed by a party.

12.45 **Sealed Documents and Objects.**

(a) **Procedure.**

- (i) **Motion to Seal.** A party seeking to file a sealed document or object must electronically file a motion to seal. The motion must state why sealing is required and whether redaction could eliminate or reduce the need for sealing. A motion to seal is not required if the document or object is (1) already subject to a protective order or (2) included within a category of documents or objects considered sealed under a federal statute or federal rule of procedure, local rule, or standing order of this court.

- (ii) **Sealed Document not Attached.** The document to be sealed must not be attached to the motion, but rather filed separately as a provisionally sealed document. This document stays provisionally sealed until the court rules on the motion to seal.

- (iii) **Order.** In ruling on the motion, the assigned judge may also unseal the document, strike it, or order the filing party to electronically file a redacted copy.
- (b) **Notice.** When a sealed document is filed, the System does not provide notice of electronic filing to all parties in the case. The filing party must use alternate forms of service to provide all parties entitled to notice with copies of the sealed document.
- (c) **Docket Sheet Entries.** When a sealed document is filed, an entry appears on the electronic docket sheet only for court users and the filing party. The parties and the public do not have remote access to the sealed document from the docket sheet.
- (d) **Motion to Unseal.** A motion to unseal or view a document or object may be made on any legal grounds.

12.56 **Disclosure of Evidence.** This rule applies to all evidentiary hearings on pretrial motions in criminal cases.

- (a) **Witnesses.** At the time of the hearing, and to the extent reasonably possible, the parties should give the judge and courtroom deputy a written list of all potential witnesses.
- (b) **Exhibits.** At least 24 hours before the hearing, each party should (1) mark the exhibits that party intends to introduce into evidence at the hearing and (2) send copies to all other attorneys and the presiding judge.

12.67 **Numbering Exhibits for Hearing or Trial.** In a criminal case with only one defendant, the defendant numbers exhibits with the next 100 series following the government's last exhibit number (e.g., Ex. 201 where the government's last exhibit was Ex. 154). In cases with multiple defendants with separate attorneys, the first defendant numbers exhibits with the next 100 series following the government's last exhibit number (e.g., Ex. 201 where the government's last exhibit was Ex. 154); each defendant numbers exhibits with a subsequent, separate 100 series (e.g., Ex. 501 for the fourth defendant where the third defendant's final exhibit was Ex. 417).

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24.43 **Disclosure of Juror Identity.** Documents identifying jurors or potential jurors must not appear in the public case file or be given to the public at the courthouse or electronically.

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28.2 Court Interpreters; Attorneys' Responsibilities.

(a) Government Request.

(1) Form. When a government attorney knows that the court will need the services of a court interpreter for the defendant, a defense witness, or a government witness, ~~or to translate documents or recordings to be offered in evidence~~, the government attorney must file a request in CM/ECF using the interpreter request event.

(2) Timing. The government attorney must submit the interpreter request as follows.

(A) An interpreter request for *trial* must be submitted 14 days before trial or as soon as otherwise possible.

(B) An interpreter request for a *hearing* must be submitted 7 days before the hearing or as soon as otherwise possible.

(b) Defense Request. When a defense attorney knows that the court will need a court interpreter's services for a defendant, or a defense witness, ~~or to translate documents or recordings offered in evidence~~, the defense attorney must advise the court of the need for a court interpreter as soon as reasonably possible by filing a request in CM/ECF using the interpreter request event.

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32.0:1 Presentence Reports.

(a) Initiation of the Presentence Investigation.

(1) Government's Information. Within 7 days after receiving the probation officer's written request for information (e.g., investigative reports), the government must respond to the request and may supply other relevant information. The government must serve a defense attorney with a copy of any material given to the probation officer that the defense attorney does not already have.

(2) Interview. On request, a defense attorney is entitled to notice and a reasonable opportunity to attend a probation officer's interview of the defendant during a presentence investigation. A defense attorney must advise the probation office within 2 days after the presentence report is ordered that the attorney wishes to be present at any interview of the defendant.

(b) Sentencing Schedule and Procedure. After a guilty plea is tendered or a verdict of guilty is received, each sentencing judge, or a magistrate judge acting for the sentencing judge, may issue an order setting the sentencing schedule and procedure. If an order is not issued, or if the order does not address one or more of the matters listed below, the following schedules and procedures are followed.

- (1) No later than 7 days after the date a guilty plea is tendered or a guilty verdict is filed, the attorneys must send their respective versions of the offense to the probation officer.
- (2) No later than 21 days after the date set in subparagraph (1), the attorneys must send the probation officer all financial information, restitution proposals, and chemical or mental health information that they wish the probation officer to consider.
- (3) No later than 14 days after the date set in subparagraph (2), the probation officer must distribute to the attorneys the initial version of the presentence report.
- (4) No later than 14 days after the date set in subparagraph (3), the attorneys must send the probation officer any objections to the initial version of the presentence report.
- (5) No later than 7 days after the date set in subparagraph (4), the probation officer must send the sentencing judge and the attorneys the final version of the presentence report including an addendum that addresses any of the parties' objections regarding the initial version of the presentence report.
- (6) No later than 7 days after the date set in subparagraph (5), the attorneys for both parties must file:
 - (A) any proposals for community service, community confinement, intermittent confinement, or home detention;
 - (B) motions by either party for departure, deviation, or variance; and
 - (C) statements of position regarding, or objections addressed to, the final presentence report. Any objections to the presentence report not filed under this subparagraph may be considered waived.

If documentary evidence will be offered in support of or in opposition to a motion, objection, or statement of position, the evidence must

accompany the motion, objection, or statement of position. If oral testimony is desired, a request must also be made. The request for oral testimony must include: (i) the nature of the expected testimony; (ii) an explanation of why oral testimony, instead of documentary evidence, including affidavits, is necessary; (iii) the proposed witness's identity; and (iv) the time length anticipated for presentation of the witness's direct examination. If a request for oral or documentary evidence is made by one party but not by the adverse party, the adverse party may promptly make a responsive request for oral or documentary evidence setting out the details required by this paragraph. It is expected that the court will not consider any sentencing issue first raised after the date set in this subparagraph for filing statements, objections, or motions for departure, deviation, or variance.

- (7) No later than 7 days after the date set in subparagraph (6), the sentencing judge may issue an order notifying the attorneys as to:
- (A) the judge's rulings on the presentence report (including a notice of the judge's intention to depart, deviate, or vary on the judge's own motion) and tentative findings regarding objections or motions for departure, deviation, or variance;
 - (B) whether objections or motions for departure, deviation, or variance will be resolved at sentencing, and, if so, whether oral testimony will be permitted; and
 - (C) when and how objections to the judge's rulings or tentative findings may be made.

If the judge does not issue an order, objections and motions for departure, deviation, or variance submitted by the parties will be decided at sentencing according to procedures as the judge may then specify.

(8) The probation office must submit a sentencing recommendation to the sentencing judge no later than 7 days after the issuance of an order described in subparagraph (7) or, if no order is issued, no later than 14 days after the date set in subparagraph (6).

(89) If the court has not set a date for sentencing within 890 days after the date a guilty plea is tendered or guilty verdict is filed, the government's attorney must promptly file a motion requesting a sentencing date.

32.0:2 Pretrial Services, Presentence, and Probation/Supervised Release Records.

- (a) **Confidentiality.** Information contained in pretrial services, presentence, and probation/supervised release records is confidential and may not be disclosed except as authorized by statute, regulation, or court order.
- (b) **Filing Under Seal.**
- (1) **Records Sealed.** Except as stated in Nebraska Criminal Rule 32.1.1, and unless a judge orders otherwise in a specific case, the clerk files under seal all pretrial services, presentence, and probation/supervised release records that the clerk receives from pretrial services and the probation office.
- (2) **Unsealed for Appeal Purposes.** The clerk unseals presentence reports to copy and send them to the Office of the Clerk of the United States Court of Appeals for the Eighth Circuit.
- (c) **Agency Access.**
- (1) **Agency Use.** Although the information in pretrial services, presentence, and probation/supervised records remains confidential, those records may be accessed by the United States Sentencing Commission, the United States Parole Commission, the United States Attorney, the Bureau of Prisons, the defendant, and the defense attorney unless:
- (A) a statute, regulation, or court order prohibits disclosure;
- (B) a party or the pretrial services or probation officer has an order from the assigned district or magistrate judge prohibiting disclosure; or
- (C) the assigned district or magistrate judge bars disclosure.
- A judge may bar or refuse to bar disclosure for any reason, and the judge may make this decision without notice or a hearing.
- (2) **Obligations of Agency Recipients.** When information in pretrial services, presentence, and probation/supervised release records is disclosed under Nebraska Criminal Rule 32.0.2(c)(1), the recipient of the disclosure must keep the information confidential and use the information only for administering justice. Any writing containing the information must be returned at the court's request.
- (3) **Return of Copy Given to a Party.** All copies of the presentence report given to a pro se defendant must be returned to the United States Probation Office after sentencing. No copies or any

dissemination of the presentence report or information in the report may be made. Unauthorized copying or disclosure is an act in contempt of court and is punished accordingly.

(d) Requests for Disclosure. Each judge may authorize the disclosure of pretrial services, presentence, and probation/supervised release records. Oral or written requests for an order authorizing disclosure should be made to the district or magistrate judge assigned to the case for which disclosure is sought. The judge may make or refuse to make a disclosure for any reason and without notice or a hearing. However, in deciding, the judge should consider:

- (1) any promise of confidentiality made to the source of information;
- (2) the privacy interests of those who provided the information;
- (3) the need to maintain the court's access to the information by providing confidentiality to sources of information;
- (4) the purpose for which the information is requested and the materiality of the information for that purpose;
- (5) the availability of the information from other sources;
- (6) whether the potential harm from the disclosure outweighs the potential benefits of the disclosure; and
- (7) whether the disclosure is consistent with the purposes of the Bail Reform Act of 1984 or the Sentencing Reform Act of 1984.

(e) Subpoenas for Disclosure. If disclosure of probation or pretrial services records or a request for the testimony of a probation or pretrial services officer is sought by subpoena or other judicial process, the probation or pretrial services officer must request the court orally or in writing for authority and instructions before responding to the subpoena or other judicial process.

- (1) Authorized Disclosure.** If the court rules that a probation or pretrial services officer is authorized to testify or to produce records, the authorization is limited to only those matters directly relevant to the demonstrated need. The court's order must identify the records to be produced and the authorized subject matter of the testimony.
- (2) Unauthorized Disclosure.** If the court rules that a probation or pretrial services officer is not authorized to testify or to produce records, then the court must issue an order quashing the subpoena

or other judicial process under the authority of the Supremacy Clause, Article VI of the Constitution of the United States.

32.1.1 Sealing Petitions.

- (a) **Procedures for Sealing and Unsealing.** A “Petition for Warrant,” “Summons for Offender under Supervision,” “Petition for Action on Conditions of Release,” and “Amended Petition” must be sealed and unsealed as stated in this rule.
- (1) **Issuance of a Warrant.** Petitions authorizing the issuance of a warrant are sealed automatically upon filing and unsealed automatically upon the named defendant’s arrest, after which the government must notify the clerk as soon as possible.
- (2) **Issuance of a Summons.** Unless a judge orders otherwise in a specific case, petitions that authorize the issuance of a summons, direct that service not be issued for a named defendant, or authorize the ordering of the named defendant to appear before the court, are not sealed. Any petitions ordered sealed may be unsealed only by court order.
- (b) **Government Attorney and Court Officer Access.** The government and any pretrial services or probation officer for this district may be given a copy of any sealed petition.

32.2.1 Criminal Forfeiture; Referral to Bankruptcy Court. Upon notice to the court that a criminal defendant is a debtor in a bankruptcy case, the district court may refer to the bankruptcy court questions about restitution, the forfeiture of assets that may be property of the bankruptcy estate, or other pecuniary penalties. The bankruptcy judge responds to a referral with a recommendation related to the estate issues.

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49.1 Electronic Case Filing (CM/ECF).

- (a) **Electronic Documents Authorized.** Under Federal Rule of Criminal Procedure 49(d) and Federal Rule of Civil Procedure 5(d), the clerk accepts documents filed, signed, or verified electronically that are consistent with court-ordered technical standards established by the Judicial Conference of the United States. A document filed in compliance with this rule is a written document for purposes of applying the local rules and the Federal Rules of Criminal Procedure.
- (b) **Mandatory Filing.** All documents must be filed electronically.

- (c) **Exceptions.** The following matters or individuals are excepted from mandatory electronic filing:
- (1) pro se parties who are not registered users;
 - (2) cases filed under seal;
 - (3) exhibits, evidence, or attachments the nature of which precludes electronic filing;
 - (4) juvenile criminal cases, even if the court subsequently rules that the juvenile must be tried as an adult;
 - (5) documents excepted from electronic filing requirements by these rules; and
 - (6) situations in which an attorney applies for and receives permission from the assigned judge to file documents nonelectronically.
- (d) **Facsimile and E-mail Filings not Allowed.** A document is not considered filed under the Federal Rules of Criminal Procedure until the filing party receives a System generated NEF after uploading the document to the System. A document faxed or e-mailed to the clerk or assigned judge is not considered filed without a court order.
- (e) **Timely Filing.** A document is considered timely filed if filed before midnight Central Standard Time (or Central Daylight Time, if in effect). However, the assigned judge may order a document filed by a time certain.
- (f) **Official Record.** The clerk does not maintain a paper court file in any case unless required by law or local rule. When a document is filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed.
- (1) **Documents Filed Nonelectronically.** The official record also includes any documents filed nonelectronically under local rule.
 - (2) **Original Documents Scanned and Discarded.** The clerk scans and discards original documents brought to the clerk for filing unless the document's size or nature requires that it be kept in paper format. An attorney who wishes to have an original document returned after the clerk scans and uploads it to the System may, before submitting the document to the clerk, ask the assigned judge for written authorization for the document's return. Authorization is granted on a case-by-case basis. The court does not allow blanket authorizations for the return of all original documents filed by an attorney or office.

- (g) **File Date.** Except for documents first filed with the court nonelectronically and then uploaded to the System, a document filed electronically is considered filed as of the date and time stated on the NEF.

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49.2 Form of Documents.

- (a) **Electronic Filings.** Absent a contrary local rule or assigned judge's order, all documents must be filed electronically using the System. The following provisions apply to all electronically filed documents.
- (1) **Legibility.** The filing party is responsible for the legibility of any scanned document uploaded to the System. If a document cannot be easily read after scanning, the filing party must file it nonelectronically with the clerk.
- (2) **Evidence, Exhibits, and Attachments.**
- (A) ~~Index of Evidence. Evidence~~Listing or Index. Court filings which include hyperlinks to attached evidence, exhibits, and documents must include a listing of each item of evidence being filed. In all other cases, evidence, exhibits, and attachments in support of a motion must be identified on an electronically filed index of evidence, which must identify the related motion.
- (B) **Excerpts Required.** A filer must submit as exhibits or attachments only excerpts of the referenced documents that are directly relevant to the matter under consideration. Excerpted material must be clearly and prominently identified. Persons who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document. Responding parties may timely file additional relevant excerpts or, if relevant, the complete document. The court may require parties to file additional excerpts or the complete document.
- (C) **Paper Documents.** If the court grants a party leave to submit evidentiary materials in paper, the party must also file a paper index of evidence listing each item of evidence being filed and identifying the motion to which it relates. The party must serve copies of nonelectronically filed supporting materials on other parties as if not subject to electronic filing procedures.

- (D) **Additional Information.** Additional information on filing documents in CM/ECF is available on the court's Web site at <http://www.ned.uscourts.gov/attorney/electronic-case-filing>.
- (3) **Content.** A document must plainly show the case caption, a description or designation of its contents, and the party or person/entity on whose behalf it is filed. All documents after the pleading initiating a proceeding must also show the correct docket number.
- (4) **Hyperlinks.** Electronically filed documents allow only two types of hyperlinks: to other parts of the same document; and to an Internet location that contains a source document for a citation. [A hyperlink to evidence attached to a court filing becomes a permissible hyperlink to an internet location upon filing in CM/ECF.](#) These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees.
- (A) **Cited Authority.** Hyperlinks to cited authority may not replace standard citation format. The text of the filed document must include complete citations. Neither a hyperlink, nor any site to which it refers, may be considered part of the record.
- (B) **Responsibility for Hyperlinks.** The court accepts no responsibility for and does not endorse, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for a hyperlink's availability or functionality. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the court's opinion.
- (b) **Nonelectronic Filings.** If a document must be filed nonelectronically, the following provisions apply.
- (1) **Paper Size; Margins.** The paper used must be 8½ "x 11", white, and of standard weight. A 2-inch margin must appear at the top of the first page for the clerk's filing stamp.
- (2) **Presentation.** All documents must be single-sided and legibly typewritten, photocopied, printed, or handwritten if necessary, without materially defacing erasures or interlineations. Exhibits attached to documents must be similarly typewritten, printed, photocopied, or handwritten if necessary, in clear, legible, and permanent form.

- (3) **Additional Materials.** Any materials filed in connection with a motion must be accompanied by an index listing each item attached. If not pre-bound, such as a transcript or book, all attachments to the index printed on 8½" x 11" paper must be bound together by fasteners. All materials not amenable to binding must be submitted in an envelope or other closeable container.
- (4) **Content.** A document filed nonelectronically shall must include the same information as an electronically filed document. See NECrimR 49.2(a)(3).

(c) **Signing Documents.**

- (1) **Electronic Filings.** The user login and password required to file documents on the System serve as the filer's signature on electronically filed documents and for purposes of the local rules and any other signature requirement.

(A) **Attorney's Signature.** An electronically filed document that requires an attorney's signature must be signed as follows: "s/ (attorney name)."

- (i) **Format.** The correct format for an electronic signature follows.

s/ Judith Attorney

Bar Number: 12345

Attorney for (Plaintiff/Defendant)

ABC Law Firm

123 South Street

Omaha, Nebraska 68000

Telephone: (402) 123-4567

Fax: (402)123-4567

E-mail: judith_attorney@law.com

- (ii) **Challenges to Authenticity.** Any party challenging the authenticity of an electronically filed document or an electronic signature must file an objection within 7 days of receiving the NEF.

(B) **Defendant or Nonattorney Signature.** If an original document requires a defendant's or other nonattorney's signature, the filer may (A) scan and upload the signed document to the System or (B) electronically file the document with the nonattorney signature represented by an "s/" and the

name typed in the space where the signature would otherwise appear.

(i) **Maintenance of Original Document.** The filer must maintain the original signed document in paper form until all time periods for appeal expire. At the court's request, the filer must provide the original document for review.

(ii) **Disputes.** A nonfiling signatory or party who disputes i) the authenticity of an electronically filed document with a nonattorney signature or ii) the authenticity of the signature on a document must file an objection to the document within 7 days of receiving the NEF.

(C) Multiple Signatures.

(i) **Filing Methods.** Documents requiring signatures of more than one party must be electronically filed either by: i) submitting a scanned document containing all necessary signatures; ii) representing the other parties' consent on the document; or iii) any other court approved manner.

(ii) **Disputes.** A nonfiling signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures or the authenticity of the signatures must file an objection to the document within 7 days of receiving the NEF.

(2) **Nonelectronic Filings.** The name, address, telephone number, fax number, and a bar number must be typed under each attorney signature.

49.3 Service. When a document is filed electronically under these rules, the System generates a NEF to the filing party, any other party who is a registered user and has requested electronic notice in that case, and the assigned judge if the judge has elected to receive notice.

(a) **Receipt of NEF as Service on Registered Party.** Under Federal Rule of Criminal Procedure 49(b) and as permitted by Federal Rule of Civil Procedure 5(d), receipt of the NEF is considered service of the document on parties who consent to electronic service and waive the right to service by personal service or first class mail.

(b) **Service on Nonregistered Party.**

- (1) A party filing electronically must serve a nonregistered participant of the System with: (A) a paper copy of any electronically filed document as stated in the Federal Rules of Civil and Criminal Procedure and (B) proof of the filing, defined as a copy of either (i) the associated NEF or (ii) the document bearing the header printed by the System.
- (2) Service on a nonregistered party of the document and NEF may be by e-mail.
- (3) If a filer must bring a document to the clerk for scanning and uploading to the System, the filer must serve paper copies on all nonregistered parties. Due to possible delay for uploading and electronic noticing, the filer should consider service by paper or alternate means including e-mail or fax.

49.4 Certificate of Service.

- (a) **Form.** Unless the Federal Rules of Criminal Procedure, a court order, or a statute states otherwise, the certificate of service filed with a document required to be served must include: (1) an attorney's certificate; (2) a written receipt of the opposing attorney; (3) an affidavit of the person making service; (4) a marshal's return; or (5) other proof satisfactory to the court. The certificate of service must (1) show the name and address of each person served and (2) be signed by one attorney of record.
- (b) **Electronic Certificate of Service Required.** A certificate of service on all parties entitled to service or notice is required even when a party files a document electronically. The certificate of service on an electronically filed document must state the manner in which service or notice was accomplished on each party entitled to service.
- (c) **Filing of Certificate.** Failure to file the certificate of service at the same time as the served document does not affect the validity of the service. The clerk, however, may issue a deficiency notice to the filing party for any document that lacks a required certificate of service, and the court may strike the document if the deficiency is not corrected within 14 days of the notice.

End Of Moved Text

49.1.1 Privacy.

- (a) **Mandatory Redaction.** See Federal Rule of Criminal Procedure 49.1 for specific rules regarding mandatory redaction in electronic and nonelectronic filings. The following privacy rules also apply to all documents and exhibits filed in this court.

(b) Discretionary Redaction. The filing party may also redact the following information from all documents and exhibits filed electronically or nonelectronically, unless the assigned judge orders otherwise:

- (1) personal identifying numbers, including driver's license numbers;
- (2) employment history;
- (3) individual financial information;
- (4) proprietary or trade secret information;
- (5) information that may identify a cooperating individual;
- (6) information regarding a crime victim;
- (7) national security information;
- (8) sensitive security information as described in 49 U.S.C. § 114(s);
- (9) education records as defined by 20 U.S.C. § 1232g(a)(4)(A); and
- (10) other data as the court orders.

(c) Restricting Access to Unredacted Documents. With the court's leave, a party may restrict access to a document containing the unredacted personal data identifiers listed in Nebraska Criminal Rule 49.1(b) or in Federal Rule of Criminal Procedure 49.1.

(1) Motion.

(A) Procedure. A party seeking to file an unredacted document must file electronically file a motion to restrict access to the document under the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899 (Dec. 17, 2002) (codified at 5 U.S.C. §§ 3701-3707 and scattered sections) ("E-Government Act"). The motion must 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 must not be attached to the motion, but rather filed separately as a restricted document. The document remains provisionally restricted pending the ruling on the motion to restrict access. If the court denies the motion, it will direct the clerk to lift the restriction on the unredacted document.

- (2) **Order.** In ruling on the motion, the assigned judge may lift the restriction on the document, strike it, or order the filing party to place a redacted copy of the document on the public docket.
- (3) **Docket Sheet Entries.** When access to a document is restricted under the E-Government Act, an entry noting the restricted access appears on the public electronic docket sheet; however, only parties of record and court users may routinely access the document electronically. The public does not have remote access to the restricted document from the docket sheet. The court may grant the public leave for remote access upon motion.
- (d) **Medical, Mental Health, and Drug Rehabilitation Records.** In criminal cases, medical, mental health, and drug rehabilitation records and evaluations, even if offered in support of an unsealed motion, must be filed under seal. See NECrimR 12.45(a). These records may be unsealed only on a court order issued sua sponte or in response to a motion to unseal filed under Nebraska Criminal Rule 12.45(d).