

# County Court Expedited Civil Actions Act, Rules & Forms

*Prepared by John P. Lenich\**

The County Court Expedited Civil Actions Act is codified at Neb. Rev. Stat. §§ 25-2741 to 25-2749 (Cum. Supp. 2020). The Act does not stand alone. It is complemented by the Rules for County Court Expedited Civil Actions. The Supreme Court promulgated the Rules pursuant to § 25-2748 of the Act. The Rules can be found in Article 22 of the Trial Court Rules as Rules §§ 6-2201 to 6-2209.

There are also five Appendices to the Rules, the first four of which contain the forms that the Supreme Court promulgated pursuant to § 25-2748. The Appendices can be found at the end of this document.

One could read the statutes and rules separately and in sequential order. But I think it is more helpful to read the statutes and rules by subject matter. I have therefore created 11 categories and indicated the statutes and rules that relate to each category. I have also indicated the Appendices, if any, that relate to each category. The 11 categories are:

- I. My Name Is Really Long, But My Friends Call Me “The Act” (p. 2)  
Neb. Rev. Stat. § 25-2741
- II. Application, Purposes & Rules (p. 3)  
Neb. Rev. Stat. §§ 25-2742(1)-(2), 25-2748 & 25-2749; Rule § 6-2201(a)-(b)
- III. Limitations on Recovery (p. 3)  
Neb. Rev. Stat. § 25-2743(3)
- IV. Counterclaims (p. 3)  
Neb. Rev. Stat. § 25-2743(5)
- V. Applicability of Other Statutes & Procedural Rules (p. 4)  
Neb. Rev. Stat. §§ 25- 2743(2); Neb. Rev. Stat. § 25-2745, Rule § 6-2201(a)
- VI. Election to Proceed (p. 4)  
Neb. Rev. Stat. § 25-2743(1) & (4); Rule § 6-2202; Appendix 1
- VII. Discovery (p. 5)  
Neb. Rev. Stat. §§ 25- 2742(3) & 25-2744(1)-(2), (4); Rule § 6-2203; Appendix 5

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- VIII. Discovery About & Testimony By Experts (p. 8)  
Neb. Rev. Stat. §§ 25-2743(3), 25-2744 & 25-2746(6); Rules §§ 6-2204 & 6-2205; Appendix 2
  - IX. Discovery Supplementation and Sanctions (p. 11)  
Rules §§ 6-2206 & 6-2207
  - X. Evidence (p. 11)  
Neb. Rev. Stat. § 25-2746(1)-(5); Rule § 6-2208; Appendices 3 & 4
  - XI. Trial & Case Management (p. 13)  
Neb. Rev. Stat. § 25-2746; Rule § 6-2209
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## **I. MY NAME IS REALLY LONG, BUT MY FRIENDS CALL ME “THE ACT”**

**Neb. Rev. Stat. § 25-2741. Act, how cited.**

Sections 25-2741 to 25-2749 shall be known and may be cited as the County Court Expedited Civil Actions Act.

## **II. APPLICATION, PURPOSES & RULES**

**Neb. Rev. Stat. § 25-2742[(1)-(2)]. Civil actions; applicability of act.**

(1) The County Court Expedited Civil Actions Act applies to civil actions in county court in which the sole relief sought is a money judgment and in which the claim of each plaintiff is less than or equal to the county court jurisdictional amount set forth in subdivision (5) of section 24-517, including damages of any kind, penalties, interest accrued before the filing date, and attorney’s fees, but excluding prejudgment interest accrued after the filing date, postjudgment interest, and costs.

(2) The act does not apply to Small Claims Court actions or domestic relations matters or paternity or custody determinations as defined in section 25-2740.

**Neb. Rev. Stat. § 25-2749. Act; applicability.**

The County Court Expedited Civil Actions Act applies to civil actions filed on or after January 1, 2022.

**Neb. Rev. Stat. § 25-2748. Rules and forms; Supreme Court; powers.**

The Supreme Court may promulgate rules and forms for actions governed by the County Court Expedited Civil Actions Act, and such rules and forms shall not be in conflict with the act.

**Rule § 6-2201. Application and Interpretation of Rules.**

(a) These Rules apply to civil actions brought under the County Court Expedited Civil Actions Act (Neb. Rev. Stat. §§ 25-2741 to 25-2749) (the Act). The Expedited Civil Action forms referenced in these Rules can be found as Appendices to these Rules. . . .

(b) These Rules are designed to further the purpose of the Act, which is to increase access to the Nebraska courts by establishing a streamlined process for handling civil actions in which the only relief sought is a money judgment for a limited amount. The streamlined process is designed for cases that do not involve complex legal or factual issues. These Rules should be interpreted in light of the purpose of the Act.

**III. LIMITATIONS ON RECOVERY**

**Neb. Rev. Stat. § 25-2743(3). . . . [J]urisdictional amount; restriction on judgment . . .**

(3) A party proceeding under the act may not recover a judgment in excess of the county court jurisdictional amount set forth in subdivision (5) of section 24-517, nor may a judgment be entered against a party in excess of such amount, excluding prejudgment interest that accrues after the filing date, postjudgment interest, and costs. The jury, if any, must not be informed of the county court jurisdictional amount. If the jury returns a verdict for damages in excess of the county court jurisdictional amount for or against a party, the court shall not enter judgment on that verdict in excess of such amount, exclusive of the prejudgment interest that accrues after the filing date, postjudgment interest, and costs.

**IV. COUNTERCLAIMS**

**Neb. Rev. Stat. § 25-2743(5). [Counterclaims]**

(5) A party may assert a counterclaim only if the counterclaim arises out of the same transaction or occurrence as the opposing party's claim. Any such

counterclaim is subject to the county court jurisdictional limit on damages under the act, unless the court severs the counterclaim or certifies the action to district court pursuant to section 25-2706 on the grounds that the amount in controversy exceeds the county court jurisdictional limit.

## V. APPLICABILITY OF OTHER STATUTES AND RULES

### **Neb. Rev. Stat § 25-2744[(2). Application] of laws and rules . . . .**

(2) Except as otherwise specifically provided, the Nebraska laws and court rules that are applicable to civil actions are applicable to actions under the act.

### **Neb. Rev. Stat. § 25-2745. Motions.**

(1) Any party may file any motion permitted under rules adopted by the Supreme Court for pre-answer motions.

(2) A motion for summary judgment must be filed no later than ninety days before trial.

### **Rule § 6-2201. Application . . . of Rules.**

(a) . . . These Rules and forms apply to the extent that they are not in conflict with the Act or other applicable statutes. The Nebraska Court Rules of Pleading in Civil Cases, Neb. Ct. R. Pldg. § 6-1101 et seq., and Nebraska Court Rules of Discovery in Civil Cases, Neb. Ct. R. Disc. § 6-301 et seq., apply whenever they address matters that are not addressed by the Act or these Rules.

## VI. ELECTION TO PROCEED

### **Neb. Rev. Stat. § 25-2743[(1), (4)]. Plaintiffs; certification of relief sought; termination of proceedings; conditions . . .**

(1) Eligible plaintiffs may elect to proceed under the County Court Expedited Civil Actions Act by certifying that the relief sought meets the requirements of section 25-2742. The certification must be on a form approved by the Supreme Court, signed by all plaintiffs and their attorneys, if represented, and filed with the complaint. [See Appendix I] The certification is not admissible to prove a plaintiff's damages in any proceeding.

(4) Upon timely application of any party, the county court may terminate

application of the act and enter such orders as are appropriate under the circumstances if:

- (a) The moving party makes a specific showing of substantially changed circumstances sufficient to render the application of the act unfair; or
- (b) A party has in good faith filed a counterclaim that seeks relief other than that allowed under the act.

**Rule § 6-2202. Election to Proceed.**

(a) A plaintiff who is an individual may elect to proceed under the Act regardless of whether the plaintiff is represented by an attorney or is self-represented. A plaintiff suing in a representative capacity (for example, a personal representative or next friend) or as an entity with the capacity to sue may elect to proceed under the Act only if the plaintiff is represented by an attorney.

(b) A plaintiff may elect to proceed by completing Appendix 1 and filing it along with the complaint in the county court. Both the complaint and Appendix 1 must be included when service is made on a defendant. If more than one plaintiff is named in the complaint, a separate on Appendix 1 must be created for each plaintiff.

**VII. DISCOVERY**

**Neb. Rev. Stat. § 25-2742[3]. [Definition of side] . . .**

(3) For the purposes of the act, side means all litigants with generally common interests in the litigation.

**Neb. Rev. Stat. § 25-2744[(1-2, 4)]. Discovery; . . . limitations; motion to modify.**

(1) Except upon agreement of the parties or leave of court granted upon a showing of good cause, all discovery under the County Court Expedited Civil Actions Act must be completed no later than sixty days before trial.

(2) Except upon agreement of the parties or leave of court granted upon a showing of good cause, discovery under the act is subject to the following additional limitations:

- (a) Each side shall serve no more than ten interrogatories on any other side;

(b) Each side shall serve no more than ten requests for production on any other side;

(c) Each side shall serve no more than ten requests for admission on any other side. This limit does not apply to requests for admission of the genuineness of documents that a party intends to offer into evidence at trial;

(d) One deposition of each party may be taken. With regard to corporations, partnerships, voluntary associations, or any other groups or entities named as a party, the entity or one officer, member, or employee of such entity may be deposed; and

(e) Each side may take the deposition of up to two nonparties.

(4) A motion for leave of court to modify the limitations set forth in this section must be in writing and must set forth the proposed additional discovery or expert and the reasons establishing good cause.

#### **Rule § 6-2203. Initial Disclosures.**

(a) Unless the parties stipulate or the court orders otherwise, a party must disclose and provide the following to the other parties without awaiting a discovery request.

(1) Potential Witnesses. The name and, if known, the address, telephone number, and email address of each individual likely to have nonprivileged information that the party may use to support its claims or defenses, unless the use would be solely for impeachment. For each such individual, the party must also provide the subjects of the information that the individual is likely to have.

(2) Statements. Identification of a previous statement about the action or its subject matter that is in the party's possession, custody, or control and was made by any party or by any person not a party to the action. For each such statement, the party must state in its disclosure whether the party asserts that the statement is privileged or protected from disclosure, and if so, the basis for the assertion.

(3) Documents. A copy of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

(4) Damages. A list of each category of damages, economic and noneconomic, claimed by the party. If the category involves economic damages, the party must also provide a computation of the amount of each category of economic damages and a copy of the discoverable documents on which each such computation is based. For noneconomic damages, the party shall only list the category of damages, but is not required to provide an amount of damages claimed.

(i) In actions for the recovery of damages for a physical or mental injury or for injury to or loss of personal property, the term “category of damages” refers to the categories listed in NJI2d Civ. 4.00, which can be found as Appendix 5.

(ii) In actions for the recovery of damages for a physical or mental injury, the party seeking the recovery of damages must (a) state the name and address of each health care provider who treated or examined the party for the injury and (b) provide a signed release that allows the opposing party to obtain from each such provider the party’s medical records.

(iii) The opposing party must give contemporaneous notice to the party who provided the release when the opposing party uses the release to obtain the party’s medical records. The opposing party must also provide to all other parties, including the party who provided the release, a copy of all records obtained pursuant to the release. Any party who requests the opposing party to provide the records in nonelectronic form must pay the costs that the opposing party incurs in providing the records in that form.

(iv) Any party receiving medical records pursuant to this subpart shall keep the records confidential and use them solely for purposes of the litigation. The requirement to keep the records confidential does not preclude the party from using the records at trial or in support of a motion. If necessary, pursuant to Neb. Ct. R. Disc. § 6-326©, the court may enter an order that includes specific requirements for keeping the records confidential, for using them at trial or in support of a motion, and for destroying or deleting them.

(5) Insurance. A defending party must provide a copy of the declarations page contained in any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment. If coverage is or may be contested, the defending party must also provide a copy of the agreement and state the ground(s) on which coverage is or may be contested.

(b) Format. Unless the court orders otherwise, the disclosures must be in writing and signed by the attorney or self-represented party. If a party has previously provided to other parties in writing any of the information that the party is required to include in its initial disclosures, instead of providing the information again, the party may state in its disclosures that the information was previously provided and shall indicate where the other parties can find the information in the previously provided materials.

(c) Time. The disclosures must be served electronically within the following times.

(1) A party serving a pleading that contains a claim for relief must serve its initial disclosures regarding the claim within 14 days after that party is served with the first responsive pleading to the claim. A defending party must serve its initial disclosures regarding a claim for relief within 28 days after that party serves a responsive pleading to the claim.

(2) A party need only serve its initial disclosures on the parties that have appeared in the action. The party must serve a later-appearing party within 14 days of when the later-appearing party serves its first pleading.

(d) Basis for Initial Disclosures; Unacceptable Excuses. A party must make its initial disclosures based on the information reasonably available to it at the time. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

(e) Discovery. Unless the parties stipulate or the court orders otherwise, no discovery requests may be served before the parties have made their initial disclosures.

## VIII. DISCOVERY ABOUT AND TESTIMONY BY EXPERTS

**Neb. Rev. Stat. § 25-2744[(3-4). [Expert]. . .**

(3) Each side is entitled to one expert, except upon agreement of the parties or leave of court granted upon a showing of good cause. A treating health care provider is counted as an expert for purposes of this subsection.

(4) A motion for leave of court to modify the limitations set forth in this section must be in writing and must set forth the proposed additional discovery or expert and the reasons establishing good cause.



**Neb. Rev. Stat. § 25-2746[(6)]. . . . [H]health care provider report; form.**

(6)(a) The report of any treating health care provider concerning the plaintiff may be used in lieu of deposition or in-court testimony of the health care provider, so long as the report offered into evidence is on a form adopted for such purpose by the Supreme Court and is signed by the health care provider making the report.

(b) The Supreme Court shall adopt a form for the purposes of subdivision (6)(a) of this section. [See Appendix 2]

(c) Unless otherwise stipulated or ordered by the court, a copy of any completed health care provider report under subdivision (6)(a) of this section must be served on all parties at least ninety days in advance of trial. Any objections to the health care provider statement, including an objection that the statement is incomplete or does not otherwise comply with this subsection, must be made within thirty days after receipt of the statement. For good cause shown, the court may issue such orders regarding the health care provider report as justice may require, including an order permitting a health care provider to supplement the report.

(d) Any party against whom a health care provider report may be used has the right, at the party's own initial expense, to cross-examine by deposition the health care provider signing the report, and the deposition may be used at trial.

(e) The deposition of the health care provider and the discovery of facts or opinions held by an expert are not counted for purposes of the numerical limits of section 25-2744.

**Rule § 6-2204. Expert Witness Disclosures.**

(a) Unless the parties stipulate or the court orders otherwise, each side must disclose the identity of any expert witness that the side may use at trial and, for each such expert, the side must disclose and provide:

- (1) a complete statement of all opinions the expert will express and the basis and reasons for them;
- (2) the facts or data considered by the expert in forming them;
- (3) any exhibits that will be used to summarize or support them;
- (4) a copy of the expert's resume or curriculum vitae; and
- (5) a statement of the compensation for the expert's work and testimony in

the case, which may be satisfied by the production of a fee schedule.

(b) Unless the court orders otherwise, the expert witness disclosures must be in writing and signed by the attorney or self-represented party. The plaintiff's side must electronically serve its expert witness disclosures on the opposing side no later than 60 days after the first responsive pleading is served in the action and the opposing side must electronically serve its expert witness disclosures no later than 90 days after the first responsive pleading is served.

(c) **Treating Health Care Providers.** If a plaintiff intends to use a treating health care provider as an expert witness at trial, the plaintiff may provide a report using Appendix 2 instead of disclosing the information in subparts (a)(1)-(4).

(d) **Objection to Provider's Report.** The opposing side may file an objection to the health care provider's report on the grounds that the report is untimely, incomplete, or unsigned; the explanations are incomplete or insufficient; the provider failed to attach required records or documents; or the report does not otherwise comply with the Act. The objection must be filed and served no later than 30 days after the date on which the report was electronically served.

#### **Rule § 6-2205. Expert Witness Depositions.**

(a) **Health Care Provider.** If one side identifies a treating health care provider as its expert witness and provides a report from the provider using Appendix 2, any party against whom the report may be used has the right to cross-examine the provider by taking the provider's deposition. The designating side may also examine the provider at the deposition.

(b) **Cost.** The side taking the deposition is responsible for the costs of taking the deposition, including the payment of a reasonable fee to the health care provider for the time spent being deposed. If the side providing the report also examines the provider, the side shall be responsible for a proportionate share of the costs and fees. Unless the parties stipulate or the court orders otherwise, each side's proportionate share shall be the percentage calculated by dividing the number of deposition pages attributable to the side's examination of the provider by the total number of deposition pages. Each side shall pay its percentage share of deposition costs and provider fees.

(c) **Other Experts.** Either side may take the deposition of any other expert witness after service of the disclosures required by § 6-2204. If the side that did not retain the expert takes the deposition, the side must pay the expert a reasonable fee for the time spent being deposed.

(d) **Use at Trial.** The application of the Act constitutes exceptional circumstances that allow the deposition of an expert witness to be used at trial pursuant to § 6-332(a)(3)(E).

## **IX. DISCOVERY SUPPLEMENTATION & SANCTIONS**

### **Rule § 6-2206. Supplementing Disclosures and Responses.**

(a) **In General.** A party that has made a required disclosure or that has responded to an interrogatory, request for production, or request for admission must supplement or correct its disclosure or response:

(1) in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or

(2) as ordered by the court.

(b) **Expert Witnesses.** For an expert witness, the party's duty to supplement extends both to information included in the disclosure or report and, if the expert is deposed, to information given during the expert's deposition.

### **Rule § 6-2207. Consequences of Failure to Disclose or Supplement.**

If a party or side fails to serve a disclosure or provide a release within the time specified by these Rules, any other party or side may file a motion to compel the party to do so. At the discretion of the court, a party may be precluded from using information, documents, or witnesses that the party failed to provide or identify as required by these Rules.

## **X. EVIDENCE**

**Neb. Rev. Stat. § 25-2747 [(1)-(5)]. Evidence; stipulation; document; objections; Nebraska Evidence Rules; applicability . . .**

(1) Parties to an action under the County Court Expedited Civil Actions Act should stipulate to factual and evidentiary matters to the greatest extent possible.

(2) For purposes of the act, the court may overrule objections based on authenticity and hearsay to the admission of a document, notwithstanding the

absence of testimony or certification from a custodian or other qualified witness, if:

(a) The party offering the document gives notice to all other parties of the party's intention to offer the document into evidence at least ninety days in advance of trial. The notice must be given to all parties together with a copy of any document intended to be offered;

(b) The document on its face appears to be what the proponent claims it is;

(c) The document on its face appears not to be hearsay or appears to fall within a hearsay exception set forth in Nebraska law; and

(d) The objecting party has not raised a substantial question as to the authenticity or trustworthiness of the document.

(3) Except as otherwise specifically provided by the act, the Nebraska Evidence Rules are applicable to actions under the act.

(4) Nothing in subsection (2) of this section authorizes admission of a document that contains hearsay within hearsay, unless the court determines from the face of the document that each part of the combined statements conforms with a hearsay exception set forth in Nebraska law.

(5) Any authenticity or hearsay objections to a document as to which notice has been provided under subdivision (2)(a) of this section must be made within thirty days after receipt of the notice.

**Rule § 6-2208. Pretrial Determination of Authenticity and Hearsay Objections to Admissibility of Documents.**

(a) A party seeking to offer one or more documents into evidence without testimony or certification from a custodian or other qualified witness to establish the authenticity of the document or to establish either that the document is not hearsay or satisfies the requirements of an exception to the hearsay rule must file and electronically serve on other parties a Notice of Intent to Offer. Appendix 3 or another document containing the same information must be used.

(b) A party objecting to any document listed in a Notice of Intent to Offer on the basis of authenticity or hearsay must file and electronically serve on all parties an Objection to Intent to Offer within 30 days after service of the Notice of Intent to Offer. Appendix 4 or another document containing the same information must be used.

(c) If an objection is made, the parties must in good faith confer to resolve the matter. In attempting to resolve the matter, the parties must consider the mandate of § 25-2747(1) of the Act: parties “should stipulate to factual and evidentiary matters to the greatest extent possible.” If the parties are unable to resolve the matter, either party may file a motion for a ruling on the objection. In its motion, the party must include a certification that the party conferred or attempted to confer with the other party to resolve the dispute without court action. If the court sustains the objection, a party is not precluded from offering the document at trial with testimony or certification from a custodian or other qualified witness.

## **XI. TRIAL & CASE MANAGEMENT**

### **Neb. Rev. Stat. § 25-2746. Action; time limitations.**

An action under the County Court Expedited Civil Actions Act should ordinarily be submitted to the jury or the court within two business days from the commencement of trial. Unless the court allows additional time for good cause shown, each side shall be allowed no more than six hours to complete jury selection, opening statements, presentation of evidence, examination and cross-examination of witnesses, and closing arguments. Time spent on objections, bench conferences, and challenges for cause to a juror are not included in the time limit.

### **Rule § 6-2209. Case Management and Scheduling.**

(a) **Mediation.** The court may enter an order referring the case to mediation. The referral to mediation will not alter any of the times specified in these Rules, unless the parties stipulate or the court finds that there is good cause for doing so.

(b) **Scheduling and Case Progression.** As soon as the first responsive pleading is filed, the court shall enter an order setting the matter for trial, taking into consideration the Act, these Rules, and the Case Progression Standards for county court civil actions set forth in Neb. Ct. R. § 6-101. The trial date is subject to a later continuance for good cause shown. The court may enter an order that states the dates for completing discovery, filing specified motions, or being prepared for

trial, such dates shall not be in conflict with these Rules or timelines set forth in the Act.

(c) **Witnesses and Exhibits.** The court may enter an order that requires the parties or sides to identify the witnesses and documents that they may use at trial. The order may impose such requirements as the court deems appropriate, including a requirement that the parties or sides serve disclosures at specified times, file a

joint statement of witnesses and exhibits, or participate in a pretrial conference.

## APPENDICES

- Appendix 1 Election and Certification of Eligibility to Proceed Under the Expedited Civil Actions Act
- Appendix 2 Health Care Provider Report in Lieu of Testimony Pursuant to Neb. Rev. Stat. § 25-2747(6)(a)-(b)
- Appendix 3 Notice of Intent to Offer Documents
- Appendix 4 Response to Intent to Offer Documents
- Appendix 5 NJI2d Civ. 4.00 (Economic and Noneconomic Damages)

IN THE COUNTY COURT OF \_\_\_\_\_ COUNTY, NEBRASKA

\_\_\_\_\_, Case No. \_\_\_\_\_  
Plaintiff,  
vs. ELECTION AND  
CERTIFICATION OF  
ELIGIBILITY TO PROCEED  
UNDER THE EXPEDITED  
CIVIL ACTIONS ACT  
\_\_\_\_\_,  
Defendant.

[Insert name of plaintiff] is the plaintiff in this action.  
[Insert name of plaintiff] is:

Represented by counsel: [insert name of attorney]

A business or other entity, or in a representative capacity, and represented by  
counsel: [insert name of attorney]

Proceeding as a self-represented litigant in this matter without an attorney.

Plaintiff certifies the following:

1. Plaintiff elects to proceed under the County Court Expedited Civil  
Actions Act, Neb. Rev. Stat. §§ 25-2741 to 25-2749. If represented by counsel,  
plaintiff has conferred with plaintiff's attorney about the advantages and  
disadvantages of using the Expedited Civil Action procedures. If a business or  
other entity, or in a representative capacity, [insert name]  
is duly authorized to execute this certification.

2. Plaintiff certifies, and if represented, plaintiff's attorney certifies that  
plaintiff is eligible to proceed under the Act because (1) the only relief sought in  
this action is a money judgment and (2) the amount of the claim against the  
defendant(s) does not exceed the county court jurisdictional amount set forth in §  
24-517, which is currently \$57,000.

3. Plaintiff, and if represented, plaintiff's attorney, further certifies that the  
amount of the claim includes all damages, penalties, attorney's fees, and interest  
accrued before the filing date, but excludes prejudgment interest accrued after the  
filing date, postjudgment interest, and costs.

4. Plaintiff understands the Act does not apply to Small Claims Court  
actions, domestic relations matters, or actions to determine paternity or custody as  
defined in Neb. Rev. Stat. § 25-2740.

5. Plaintiff understands plaintiff is waiving the right to recover more than  
\$57,000 in damages, penalties, attorney's fees, and accrued interest unless the  
court later enters an order terminating application of the Act. If the matter is tried  
to a jury as demanded by one of the parties pursuant to Neb. Rev. Stat. § 25-2705



and the jury returns a verdict for that results in a total award in excess of \$57,000--including damages, penalties, attorney's fees, and accrued interest, but excluding costs, postjudgment interest, and prejudgment interest that accrued after the complaint was filed--the court will reduce the total award to \$57,000 and enter judgment for \$57,000.

6. Plaintiff understands plaintiff is required to make the disclosures listed in Neb. Ct. R. §§ 6-2203 and 6-2204 and in the manner and at the times stated in the Rules. Plaintiff must make the disclosures without the court notifying plaintiff or the other parties asking plaintiff to do so. Pursuant to § 6-2205, plaintiff may not be allowed to use witnesses or exhibits at trial if plaintiff fails to disclose information about them or fails to disclose the information in the manner and at the times stated in the Rules.

7. Plaintiff has a duty to supplement disclosures and discovery responses under § 6-2206. If there is new information, if plaintiff omitted information, or if plaintiff provided incorrect information, plaintiff is required to provide the other parties with the new, omitted, or correct information. If the other parties received the new, omitted, or correct information in writing or through the discovery process, such as through interrogatories, requests for production of documents, or depositions, plaintiff does not have to provide the new, omitted, or correct information again.

With this knowledge, plaintiff elects to proceed under the Expedited Civil Actions Act procedures.

\_\_\_\_\_  
Signature Date: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff's Printed Name Street Address/P.O. Box

\_\_\_\_\_  
City/State/ZIP Code

\_\_\_\_\_  
Phone Email Address

\_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Attorney's Printed Name Street Address/P.O. Box

\_\_\_\_\_  
Bar Number and Firm Name (attorneys only) City/State/ZIP Code

\_\_\_\_\_  
Phone Email Address

*[If there is more than one plaintiff, each plaintiff shall separately certify and file Appendix 1 with the Complaint.]*

#### APPENDIX 1

Adopted December 8, 2021, amended December 22, 2021, effective January 1, 2022.

IN THE COUNTY COURT OF \_\_\_\_\_ COUNTY, NEBRASKA

\_\_\_\_\_,  
Plaintiff,  
vs. Case No. \_\_\_\_\_  
HEALTH CARE PROVIDER  
REPORT IN LIEU OF  
TESTIMONY PURSUANT  
TO NEB. REV. STAT.  
§ 25-2747(6)(a)(b)  
\_\_\_\_\_,  
Defendant.

Patient Name:

Type of Incident:

Date of Incident:

Please answer the following questions with information and opinions regarding the named patient.

Check here if you are attaching separate pages for any of your answers to the questions below. Be sure that the question to which your answer relates appears at the top of each additional page. *Number of additional pages:* \_\_\_\_\_

1. What degrees, licenses, and board certifications do you hold, if any, and what year was each of them attained? If the information is included in your curriculum vitae or resume, you may attach it to this report and answer this question by stating "See Attached."
2. What injuries, if any, did the patient sustain in the above-referenced incident?
3. What medical care has the patient received from you that was reasonably needed to treat the injuries the patient sustained in the incident? Include treatment provided by other care providers to the extent you are aware of such. Include medications prescribed, therapy recommended, surgery recommended, and any other treatments needed as a result of this injury.

4. Have there been or are there any restrictions or limitations placed on the patient or the patient's employment due to injuries sustained in the incident?

YES  NO

If YES, please describe them, including the actual or expected duration of the restrictions or limitations.

5. Has the patient reached maximum medical improvement from the injuries sustained in the incident?  YES  NO.

If YES, what is the date of the patient's maximum medical improvement?

If NO, when do you expect the patient will reach maximum medical improvement?

6. If you have given the patient a permanent impairment rating for the injury, please state the rating.

7. Is there any additional care or are there any additional medications that are reasonably certain to be needed by and provided to the patient in the future as a result of the injuries sustained in the incident?  YES  NO

If YES, please describe the expected care or additional medications. Include in your description the expected frequency, duration, and, if known, reasonable cost.

8. To your knowledge, did the patient have any preexisting, symptomatic conditions that were aggravated by the injuries sustained in the incident?

YES  NO

If YES, please describe the preexisting conditions and the extent of their aggravation.

9. To your knowledge, did the patient have any preexisting, nondisabling, nonsymptomatic conditions that became symptomatic as a result of the incident?  YES  NO

If YES, please describe the preexisting conditions and the extent of the symptoms.

10. To your knowledge, is there anything that the patient has done or failed to do that has aggravated the patient's condition or impaired the patient's recovery?  YES  NO

If YES, please explain.

11. Have you reviewed or relied upon any medical records other than those generated by you or other providers in your office in forming your opinions to the answers to the questions above?

YES  NO

If YES, please identify or attach the records that you have reviewed and relied upon in forming your answers.

12. Have you relied upon any other documents or information about the patient or the incident, other than the records indicated above?  YES  NO

If YES, please state what documents or information you relied upon, and the manner by which you received it.

### Oath and Signature

I, [name of health care provider] , certify under penalty of perjury and pursuant to the laws of the State of Nebraska that the contents of this Report are true and correct and the opinions are stated with a reasonable degree of medical certainty.

Signature \_\_\_\_\_ Date: \_\_\_\_\_  
Provider's Printed Name \_\_\_\_\_ Street Address/P.O. Box \_\_\_\_\_  
City/State/ZIP Code \_\_\_\_\_  
Phone \_\_\_\_\_ Email Address \_\_\_\_\_

### APPENDIX 2

Adopted December 8, 2021, effective January 1, 2022.

### Attorney's Disclosure of Communications

List any oral, written, or electronic communications between you or anyone in your office and the above-named treating health care provider or anyone in the provider's office regarding [name of patient]\_\_\_\_\_.

For each such communication, identify the date of the communication and, if the communication was written or electronic, and attach copies of such communications.

### Attorney's Oath and Signature

I, [name of attorney]\_\_\_\_\_, certify under penalty of perjury and pursuant to the laws of Nebraska that the contents of my Disclosure are true and correct.

_____	Date: _____
Signature	
_____	_____
Attorney's Printed Name	Street Address/P.O. Box
_____	_____
Bar Number and Firm Name (attorneys only)	City/State/ZIP Code
_____	_____
Phone	Email Address

#### APPENDIX 2

Adopted December 8, 2021, effective January 1, 2022.

IN THE COUNTY COURT OF \_\_\_\_\_ COUNTY, NEBRASKA

\_\_\_\_\_,  
Plaintiff,

Case No. \_\_\_\_\_

vs.

\_\_\_\_\_,  
Defendant.

**NOTICE OF INTENT TO  
OFFER DOCUMENTS**

This is to notify you that [name of party] \_\_\_\_\_ intends to offer into evidence in this action the documents listed below. A copy of each document is attached to this Notice. If you object to the admission of any of the documents on the grounds of authenticity or hearsay, you must file and electronically serve an Objection to Intent to Offer Documents within 30 days after receipt of this Notice. The Objection must be made using Appendix 4 or otherwise contain the same information.

If you fail to object to the admission of a listed document within the time specified above, you will be deemed to have waived any authenticity or hearsay objection to the admissibility of document.

Document # [insert] \_\_\_\_\_:

*Claim:* This document is [state what the party claims the document to be] \_\_\_\_\_.

*Additional Information:*

[the party may (but is not required to) state additional information, if any, supporting the party's claim that the document is what the party claims it to be-- for example, how the party obtained the document]

*Hearsay:*

[the party may (but is not required to) explain why the document on its face appears not to be hearsay or appears to fall within an exception to the hearsay rule.]

[Repeat for each document]

Signature	Date:
Printed Name	Street Address/P.O. Box
Bar Number and Firm Name (attorneys only)	City/State/ZIP Code
Phone	Email Address

APPENDIX 3

Adopted December 8, 2021, effective January 1, 2022.



IN THE COUNTY COURT OF \_\_\_\_\_ COUNTY, NEBRASKA

\_\_\_\_\_,  
Plaintiff,

Case No. \_\_\_\_\_

vs.

\_\_\_\_\_,  
Defendant.

**RESPONSE TO INTENT TO  
OFFER DOCUMENTS**

The undersigned, [name of party], received a Notice of Intent to Offer Documents from [party] on [date] and responds as follows:

Document # [insert] :

[Party objects / does not object] to the admission of this document on authenticity grounds.

[If there is an objection, explain the basis for the objection -- i.e., explain why the document on its face does not appear to be what the proponent claims it to be or why there is a substantial question about the authenticity of the document.]

[Party objects / does not object] to the admission of this document on hearsay grounds.

[If there is an objection, explain the basis for the objection –i.e., explain why the document on its face appears to be hearsay, why the document on its face does not appear to fall within a hearsay exception, or why there is a substantial question about the trustworthiness of the document.]

[Repeat for each document]

Signature	Date:
Printed Name	Street Address/P.O. Box
Bar Number and Firm Name (attorneys only)	City/State/ZIP Code
Phone	Email Address

APPENDIX 4

Adopted December 8, 2021, effective January 1, 2022.

## NJI2d Civ. 4.00

### General Instruction on Damages in a Tort Action Where Joint and Several Liability *Is* an Issue -- Economic and Noneconomic Damages

In Instruction No. \_\_\_\_\_, I spoke of economic and noneconomic damages.

#### **ECONOMIC DAMAGES**

I am about to give you a list of things you may consider in making your decision regarding economic damages. From this list, you must only consider those things you decide were proximately caused by defendants' negligence.

1. The reasonable value of medical (*, hospital, nursing, and similar*) care and supplies reasonably needed by and actually provided to the plaintiff (*and reasonably certain to be needed and provided in the future*);
2. The (*wages, salary, profits, reasonable value of the working time, business*) the plaintiff has lost because of (*his, her*) (*inability, diminished ability*) to work;
3. The reasonable value of the (*earning capacity, business or employment opportunities*) the plaintiff is reasonably certain to lose in the future;
4. Reasonable funeral costs;
5. The reasonable value of plaintiff's loss of the use of (*his, her*) property;
6. The reasonable value of the cost of repair or replacement (*here describe the thing repaired or replaced*);
7. The reasonable cost of obtaining substitute domestic services.

#### **NONECONOMIC DAMAGES**

I am about to give you a list of things you may consider in making your decision regarding noneconomic damages. From his list, you must only consider those things you decide were proximately caused by defendants' negligence.

1. The reasonable monetary value of the physical pain and mental suffering (*and emotional distress*) the plaintiff has experienced (*and is reasonably certain to experience in the future*);

2. The reasonable monetary value of the inconvenience the plaintiff has experienced (*and is reasonably certain to experience in the future*);

3. The reasonable monetary value of loss of society and companionship suffered by the plaintiff and reasonably certain to be suffered in the future;

4. The reasonable monetary value of any injury to plaintiff's reputation;

5. The reasonable monetary value of any humiliation the plaintiff has experienced (*and is reasonably certain to experience in the future*);

6. The plaintiff's (*husband's, wife's*) loss of consortium. Consortium means those things to which a person is entitled by reason of the marriage relationship. It includes affection, love, companionship, comfort, assistance, moral support, and the enjoyment of (*sexual, conjugal*) relations.

### **ECONOMIC AND NONECONOMIC DAMAGES**

In your determination of economic and noneconomic damages, you must consider the nature and extent of the injury, including whether the injury is temporary or permanent, and whether any resulting disability is partial or total.

#### APPENDIX 5

Adopted December 8, 2021, effective January 1, 2022.