

# NEBRASKA PRACTICE SERIES™

Volume 5

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## NEBRASKA CIVIL PROCEDURE

2025 EDITION  
Issued in March 2025

By

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Mat #43276768

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*ISBN 978-1-668-79067-0*

# INTRODUCTION TO THE 2025 EDITION

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Nebraska Civil Procedure (Nebraska Practice Series, Volume 5) contains a comprehensive analysis of a wide range of procedural topics that involve the nuts-and-bolts of civil litigation. New content and recent developments in this 2025 Edition include:

- Updates to the chapters to reflect statutes enacted or amended and cases decided through January 31, 2025.
- Updates to the chapters to reflect rules promulgated or amended through January 31, 2025, including the amendments to the Nebraska Court Rules of Pleading and Discovery that took effect on January 1, 2025.
- A new section on protective orders that limit or deny discovery on the ground that the burden or expense of the discovery outweighs its likely benefit.
- New sections on expert witness disclosures, the types of experts who must provide a report, the contents of the report, the supplementation of disclosures and reports, and the scope of the work product protection for communications between attorneys and expert witnesses.
- New sections on what parties and nonparties must do if privileged or protected documents are inadvertently produced and when the inadvertent production of those documents constitutes a waiver of the privilege or protection.
- New sections on the methods for taking and attending depositions and on the imposition of sanctions for impeding the fair examination of the deponent.
- New sections on the requirements for imposing sanctions for the failure to preserve electronically stored information and the types of sanctions that may be imposed.
- The Supreme Court's 2024 decision in *Griffith v. LG Chem, America, Inc.* in which the court held that a defendant's contacts with Nebraska are insufficient to satisfy the relatedness requirement for asserting specific personal jurisdiction in a products liability action if the contacts do not involve serving the market for the product in Nebraska.
- The Supreme Court's 2024 decision in *Northern Natural Gas Company v. Centennial Resource Production, LLC* in which the court held that forum selection clauses and minimum contacts are separate and independent grounds for asserting personal jurisdiction.

- The Supreme Court's 2024 decision in *Syring v. Archdiocese of Omaha* in which the court held that adding unrelated information to an internet posting or later referring to the posting in a conversation is not a republication for purposes of the statute of limitations.
- The Supreme Court's 2024 decision in *Johnson v. Vosberg* in which the court held that § 25-1315 does not apply to appeals from judgments in actions for restitution under the Uniform Residential and Landlord Tenant Act and, as a general rule, to appeals from judgments for restitution under the forcible entry and detainer statutes.
- The Supreme Court's 2024 decision in *132 Ventures, LLC v. Active Spine Physical Therapy, LLC* in which the court held that the grounds for a motion for judgment notwithstanding the verdict are limited to the grounds raised by a motion for a directed verdict made at the close of all the evidence.
- The Court of Appeals' 2024 decision in *Oltman v. Parde* in which the court held that the discovery rule does not apply to the statutes of limitations for conversion and breach of contract actions.

John P. Lenich  
University of Nebraska  
College of Law

# DEDICATION

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*For My Students*

*You Made My Career Worthwhile*



## ABOUT THE AUTHOR

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**John P. Lenich** is the Earl Dunlap Distinguished Professor of Law Emeritus at the University of Nebraska-Lincoln. He taught Civil Procedure at the College of Law for over 35 years before he retired in 2019. He continues to be involved in procedural matters as the Reporter for Civil Procedure for the Nebraska Supreme Court Committee on Practice & Procedure.

Professor Lenich has been an active member of the bar, having served as a member of the House of Delegates of the Nebraska State Bar Association, the Board of Trustees of the Lincoln Bar Association, and the Board of Directors of the Nebraska Lawyers Trust Account Foundation. He has also been a speaker at various education conferences for judges and lawyers and has written multiple articles on appellate and civil procedure.

Professor Lenich grew up on the South Side of Chicago where he spent many a day watching the Chicago White Sox play baseball. He received his B.A. with honors and distinction from the University of Illinois at Chicago in 1977 and received his J.D. *summa cum laude* from Northwestern University School of Law in 1980. He practiced with the Los Angeles law firm of O'Melveny & Myers until 1984 when he joined the faculty of the College of Law. He became a Husker fan shortly thereafter.



# ACKNOWLEDGEMENTS

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Reviewing draft chapters of a book on civil procedure is not fun. It is tedious, hard work. I am fortunate to have friends who were willing to take time out of their busy schedules to do that tedious, hard work for me: Riko Bishop, Jeff Chevront, the late Alan Gless, the late Richard Harnsberger, John Hendry, Roger Kirst, Daniel Klaus, Patricia Knapp, Richard Moberly, Kevin Ruser, and Timothy Thalken. The suggestions they made and the errors they corrected have made this a much better book than it otherwise would have been.

I am also fortunate to have had three capable research assistants. Luke Vavricek was my research assistant for the 2008 edition, Jared Koch was my research assistant for the 2018 edition, and Melissa Ament was my research assistant for the 2019 edition. Luke, Jared, and Melissa are currently making their marks as lawyers and I am fortunate to have had their assistance.

This book is the outgrowth of three articles that I wrote for the *Nebraska Lawyer* in 2002, when Nebraska adopted Notice Pleading and rendered my knowledge of Code Pleading obsolete. I wrote the articles in response to a request from James Bocott, a lawyer practicing in North Platte. There are so many people that James could have asked to write those articles. I am grateful that he decided to ask me.



# PREFACE

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I view this book as a form of service to bar and the bench. In addition to summarizing the relevant legal principles, I have provided analysis, examples, and explanations that I hope will be of use to lawyers and judges alike. As one would expect from a law professor, I have not been bashful in offering suggestions on how procedural holes should be filled, how unclear statutes should be interpreted, and how ambiguous judicial statements should be read. I recognize that people will differ on whether my suggested approaches are the best approaches. I hope that my suggestions will at least contribute to the discussion of how to resolve in practice the issues that I analyze in theory.

If you notice any typographical or substantive errors in this book, please let me know so that I can correct them in the next edition. You can contact me at [jlenich2@unl.edu](mailto:jlenich2@unl.edu). Thanks for your help.

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