

INTRODUCTION TO THE 2026 EDITION

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 2026 Edition include:

- Updating the chapters to reflect statutes enacted or amended, rules promulgated or amended, and cases decided through January 27, 2026.
- The Supreme Court's 2025 decision in *Nebraska Firearms Owners Association v. City of Lincoln* in which the court analyzed the sufficiency of allegations to establish standing in a declaratory relief action challenging criminal ordinances.
- The Supreme Court's 2025 decision in *Konecne v. Abram, LLC* in which the court held that if a party's agent is put on notice of the fraud while acting in the scope of his or her authority as the party's agent, then the statute of limitations begins to run when the agent discovered or reasonably could have discovered the fraud.
- The Supreme Court's 2025 decision in *Johnson v. Antoniutti* in which the court held that a complaint that names a decedent as the only plaintiff or defendant is a legal nullity and an amendment to such a complaint will not relate back for purposes of the statute of limitations.
- The Supreme Court's 2025 decision in *Khaitov v. Greater Omaha Packing Co., Inc.* in which the court (1) discussed when a statutory exception to a statutory prohibition should be classified as an affirmative defense and (2) held that a trial court that takes a directed verdict motion under advisement cannot rule on the motion after the jury returns a verdict.
- The Supreme Court's 2025 decision in *J.R.M.B. by and through Morgan-Baker v. Alegent Creighton Health Creighton University Medical Center, LLC* in which the court held that a written instruction that incorrectly states the evidence that the jury may consider constitutes plain error even through the incorrect statement was omitted when the judge read the instructions to the jury.
- The Supreme Court's 2025 decision in *Sherrets, Bruno & Vogt LLC v. Montoya* in which court held that if the com-

plaint provides a basis for questioning the existence of personal jurisdiction, a trial court can require the plaintiff to make a prima facie showing that jurisdiction exists before entering a default judgment.

- The Supreme Court's 2025 decision in *Beatty v. Poitier* in which the court indicated that if the action that the plaintiff seeks to voluntarily dismiss without prejudice is frivolous, the trial court should condition the dismissal on the plaintiff paying the defendant's attorney fees pursuant to Neb. Rev. Stat. §§ 25-824 or 25-824.01.
- The Supreme Court's 2025 decision in *Elbert v. Keating, O'Gara, Nedved & Peter, P.C., L.L.O.* in which the court underscored that (1) rendition of judgment is a jurisdictional prerequisite for appeal and does not occur if the court disposes of some claims in one order and the other claims in another order and (2) a party cannot create appellate jurisdiction by voluntarily dismissing its unresolved claims without prejudice.
- The Court of Appeals' 2025 decision in *WRK, LLC v. Wiegert* in which the court held that a party can create appellate jurisdiction by voluntarily dismissing its unresolved claims if the statute of limitations would bar the party from refileing those claims. The Supreme Court subsequently granted a petition for further review of the decision, which was pending as of the date this Introduction was prepared.
- A discussion of how to challenge discovery requests on the grounds that the burden or expense of the discovery outweighs its likely benefit.

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