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## Nebraska Court Opinions Move Online Only

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# NEBRASKA COURT OPINIONS MOVE ONLINE ONLY

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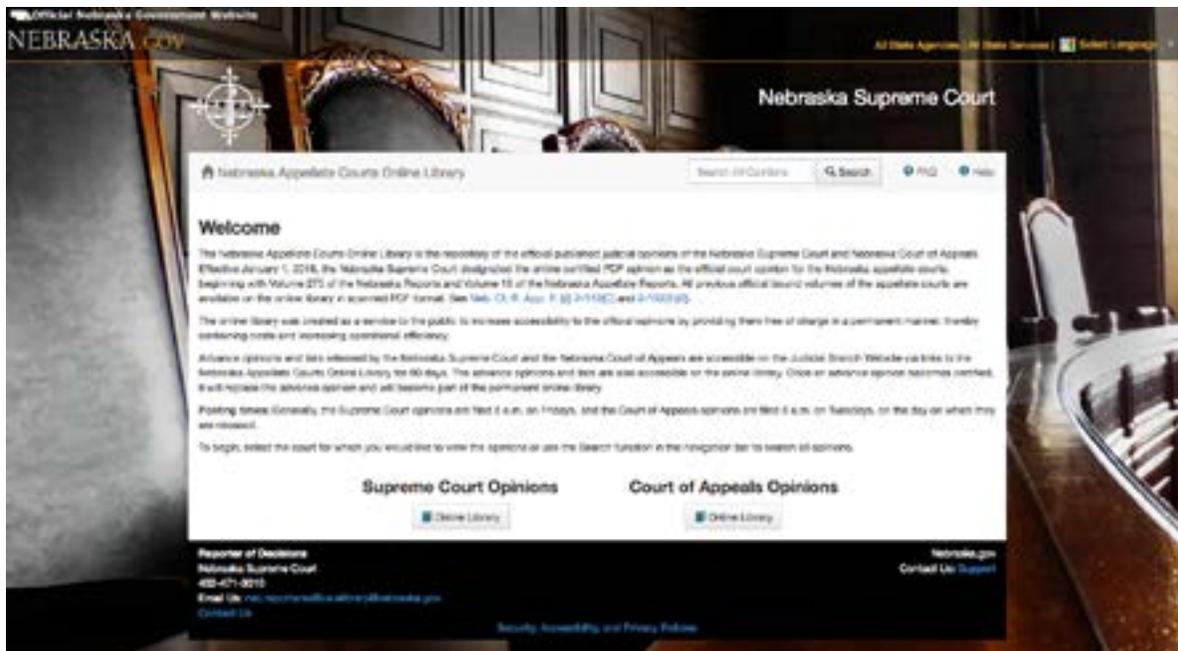
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Change has come to the state of Nebraska in a digital way. Beginning January 1, 2016, the official opinions of the Nebraska Supreme Court and the Nebraska Court of Appeals are available online only, a change which improves users' ability to search these opinions. Now users can search all Nebraska Supreme Court opinions from 1871 through the present day and all Nebraska Court of Appeals opinions since its creation in 1992. Prior to this change, opinions were made available in print and the current opinions were available on the Court's website. Both the public and legal community can access court opinions for free from the Nebraska Appellate Courts Online Library, available at <https://www.nebraska.gov/apps-courts-epub/public/>.

Richard Leiter, Schmid Law Library Director and Professor of Law, served as a consultant on the Nebraska Supreme Court's Electronic Publications Committee and assisted the Court's process as it migrated from print to digital. The committee began work on the digital-only court opinions project in August 2012, finishing in late 2015. I spoke with Rich about the process, and here is a synopsis of our conversation:

Q1: Could you provide a brief summary of why the Nebraska Supreme Court decided to move opinions online?

A1: Chief Justice Michael Heavican was not explicit on why he formed the "ePub Committee." In fact, the charge of the committee in my appointment letter states simply that "[t]he purpose of the Committee is to explore the future of Nebraska appellate court opinion publications." The chair of the committee, Justice William B. Cassell, explained at our



first meeting that the Chief didn't tell him how he wanted our deliberations to turn out. Our charge was to explore what would be the best course of action for publishing the state's opinions and examine the matter from all points of view.

Q2: What was your role in this project?

A2: I was appointed as a "guest consultant" to assist the ePub committee. I offered my perspective as a librarian and legal research educator.

Q3: What surprised you the most about the Court's decision to move to online opinions?

A3: In the end, I was surprised at how simple our approach was. I had always been skeptical of the Uniform Electronic Legal Material Act (UELMA) and AALL's position on why it was/is important. I was as paranoid as the next librarian about how ephemeral and unreliable digital versions of legal materials are, but in the end, and after talking it through with the full committee that included several Supreme Court and Court of Appeals judges and the Reporter of Decisions, it became clear that the opinions are "self-authenticating." The Court itself is the sole source of its opinions for all publishers and distributors; therefore, it would be virtually impossible for any publisher to print a version that was false or incorrect without being called on it. In other words, if an opinion is incorrectly published, there are many ways that the publisher can be corrected. For example, if an attorney were to use an incorrect version of an opinion in a brief or motion, opposing counsel would surely discover the error and point it out. Presumably, too, the judge or his/her clerk would discover the error. If the use of the incorrect version of the case was inadvertent or purely accidental, the attorney would be on the hook for a sound dose of embarrassment and (though unlikely) possibly malpractice. If the case was used with malicious intent, they could suffer more serious legal consequences.

The Nebraska Supreme Court's ultimate solution to the problem of "authentication" was very simple. Each case will now be published officially online at the Court's website. Official versions of the case will go through the same vetting and editing process to which they are now subject for publication in the Nebraska Reports or the Nebraska Appellate Reports. Once an opinion has been fully certified as final and official, it will have the seal of the Reporter of Decisions on the front page and will be released on the Court's website. The seal is dynamically applied to the opinion, so if it is obtained from the Court's website, the user is assured that it is a final, official version.

This method of authentication also avoids the clumsy citation by using paragraph numbers employed by some digital open source publishers. Because all Nebraska digital opinions will be formatted as though they are intended to be published as they always have been in advance sheets and then in bound volumes, the method of citing to Nebraska opinions will not change. The Court has determined that each volume will be comprised of approximately 1000 pages, so each volume will close when that number of pages is reached.

Q4: Is the state of Nebraska a forerunner in online opinions, or was this an "it's about time" decision?

A4: To date, only a few states have gone as far as Nebraska. Arkansas and New Mexico are two other states that come to mind.

Q5: What other Nebraska specific legal/law material do you see moving online this year or next?

A5: UELMA was pitched to the Nebraska Secretary of State, but that individual had no interest in pursuing the digital publication of Nebraska state documents. It's unlikely that it will happen soon to any other legal materials. The Supreme Court has led the way in Nebraska!