

AMENDMENTS TO VARIOUS FORMS IN APPENDIX C TO SDCL CHAPTER 15-6

SDCL § 15-6-85.

APPENDIX C FORMS.

INTRODUCTORY STATEMENT

1. The following forms are intended for illustration only. They are limited in number. No attempt is made to furnish a manual of forms. Each form assumes the action to be brought in the Second Judicial Circuit Court in Minnehaha County, South Dakota.

2. Except where otherwise indicated each pleading, motion, and other paper should have a caption similar to that of the summons (Form 1), with the designation of the particular papers substituted for the word "Summons." In the caption of the summons and in the caption of the complaint all parties must be named but in other pleadings and papers, it is sufficient to state the name of the first party on either side, with an appropriate indication of other parties. See §§ 15-6-4(a), 15-6-7(b)(2), and 15-6-10(a).

3. Each pleading, motion, and other paper is to be signed in his individual name by at least one attorney of record (§ 15-6-11). The attorney's name is to be followed by his address as indicated in Form 2. In forms following Form 2 the signature and address are not indicated.

4. If a party is not represented by an attorney, the signature and address of the party are required in place of those of the attorney.

Form 1. Summons

STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT

A.B., Plaintiff
vs. SUMMONS
C.D., Defendant

To the Above-Named Defendant:

You are hereby summoned and required to serve upon _____, plaintiff's attorney, whose address is _____, an answer to the complaint which (is herewith served upon you) **1** ((will be) **2** (was on the _____ day of _____, 20__)
3 filed in the office of the clerk of the Circuit Court of the Second Judicial Circuit at Sioux Falls in and for the County of Minnehaha, State of South Dakota,) within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

(This action involves, affects, or brings in question real property situated in the County of Minnehaha, State of South Dakota, described as follows: **4**

The object of the above entitled action is _____ **5**

(The plaintiff makes no personal claim against you in the action) **6**

(This summons shall be served on (or before) the _____ day of _____, 20__)**7**

_____ Attorney for Plaintiff **8**

This summons, in the language of the first paragraph, with included variations, is issued pursuant to § 15-6-4. For the form of summons in actions DETERMINING ADVERSE CLAIMS TO REAL ESTATE SEE § 21-41-7. Reference should be had in all instances to statutory provisions relating to a particular remedy or proceeding.

Source: SD RCP, Form 1.

1 Use when complaint is served with summons.

2 Use where summons is not served and is to be filed.

3 Use where service by publication requires statement of date and place of filing. (§ 15-9-18)

4 Description of real estate required pursuant to § 21-45-5 where service is by publication in action for PARTITION OF REAL ESTATE. A description of the JUDGMENT is required in a summons to show cause in SUPPLEMENTARY JUDGMENT PROCEEDINGS against joint debtors. (§§ 15-8-1 to 15-8-6, inclusive.)

5 For contents of summons: CONDEMNATION § 21-35-9; ESCHEATS § 21-36-9.

6 For use when no personal claim is asked. See § 15-9-6.

7 Section 15-6-4(c) provides for endorsement fixing time for service.

8 State's attorney commencing civil action on behalf of county note requirement for the endorsement by the judge of the circuit court pursuant to § 7-19-1.

Form 2. Complaint on a promissory note

STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT

A.B., Plaintiff
vs. COMPLAINT
C.D. AND E.F., Defendants

1. Defendant on or about June 1, 1955, executed and delivered to plaintiff a promissory note (in the following words and figures: (here set out the note verbatim)); (a copy of which is hereto annexed as Exhibit A); (whereby defendant promised to pay to plaintiff or order on June 1, 1956 the sum of _____ dollars with interest thereon at the rate of six percent per annum).

2. Defendant owes to plaintiff the amount of said note and interest.

Wherefore plaintiff demands judgment against the defendant for the sum of _____ dollars, interest and costs.

Signed: _____
Attorney for Plaintiff
Address: _____

Note:

The pleader may use the material in one of the three sets of brackets. His choice will depend upon whether he desires to plead the document verbatim, or by exhibit, or according to its legal effect.

Under this chapter free joinder of claims is permitted. See §§ 15-6-8(e) and 15-6-18. Consequently, the claims set forth in each and all of the following forms may be joined with the complaint or with each other. Ordinarily each claim should be stated in a separate division of the complaint, and the divisions should be designated as counts successively numbered. In particular this chapter permits alternative and inconsistent pleading. See Form 11.

Source: SD RCP, Form 2.

Form 3. Complaint on an account

1. Defendant owes plaintiff _____ dollars according to the account hereto annexed as Exhibit A.

Wherefore (etc. as in Form 2).

Source: SD RCP, Form 3.

Form 4. Complaint for goods sold and delivered

1. Defendant owes plaintiff _____ dollars for goods sold and delivered by plaintiff to defendant between June 1, 1956, and December 1, 1956.

Wherefore (etc. as in Form 2).

Note:

This form may be used where the action is for an agreed price or for the reasonable value of the goods.

Source: SD RCP, Form 4.

Form 5. Complaint for money lent

1. Defendant owes plaintiff _____ dollars for money lent by plaintiff to defendant on June 1, 1956.

Wherefore (etc. as in Form 2).

Source: SD RCP, Form 5.

Form 6. Complaint for money paid by mistake

1. Defendant owes plaintiff _____ dollars for money paid by plaintiff to defendant by mistake on June 1, 1956, under the following circumstances: (here state the circumstances with particularity--see § 15-6-9(b)).

Wherefore (etc. as in Form 2).

Source: SD RCP, Form 6.

Form 7. Complaint for money had and received

1. Defendant owes plaintiff _____ dollars for money had and received from one G.H. on June 1, 1956, to be paid by defendant to plaintiff.

Wherefore (etc. as in Form 2).

Source: SD RCP, Form 7.

Form 8. Complaint for negligence

1. On June 1, 1956, in a public highway called Phillips Avenue in Sioux Falls, South Dakota, defendant negligently drove a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

Wherefore plaintiff demands judgment against defendant in an amount to be determined by the trier of fact~~the sum of _____ dollars and costs.~~

Note:

Since contributory negligence is an affirmative defense, the complaint need contain no allegation of due care of plaintiff.

Source: SD RCP, Form 8.

Form 9. Complaint for negligence where plaintiff is unable to determine definitely whether the person responsible is C.D. or E.F. or whether both are responsible ~~and where his evidence may justify a finding of willfulness or of recklessness or of negligence~~

A.B., Plaintiff
vs. COMPLAINT
C.D. and E.F., Defendants

1. On June 1, 1956, in a public highway called Phillips Avenue in Sioux Falls, South Dakota, defendant, C.D. or defendant E.F., or both defendants, C.D. and E.F. ~~willfully or recklessly or~~ negligently drove or caused to be driven a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

Wherefore plaintiff demands judgment against C.D. or against E.F. or against both in the sum of _____ dollars and costs.

Source: SD RCP, Form 9.

Form 10. Complaint for conversion

1. On or about December 1, 1956, defendant converted to his own use ten bonds of the _____ company (here insert brief identification as by number and issue) of the value of _____ dollars, the property of plaintiff.

Wherefore plaintiff demands judgment against defendant in the sum of _____ dollars, interest and costs.

Source: SD RCP, Form 10.

Form 11. Complaint for specific performance of contract to convey land

1. On or about December 1, 1956, plaintiff and defendant entered into an agreement in writing a copy of which is hereto annexed as Exhibit A.

2. In accord with the provisions of said agreement plaintiff tendered to defendant the purchase price and requested a conveyance of the land, but defendant refused to accept the tender and refused to make the conveyance.

3. Plaintiff now offers to pay the purchase price.

Wherefore plaintiff demands (1) that defendant be required specifically to perform said agreement, (2) damages in the sum of one thousand dollars, and (3) that if specific performance is not granted plaintiff have judgment against defendant in the sum of _____ dollars.

Note:

Here, as in Form 2, plaintiff may set forth the contract verbatim in the complaint or plead it, as indicated, by exhibit, or plead it according to its legal effect. Plaintiff may seek legal or equitable relief or both under this chapter.

Source: SD RCP, Form 11.

Form 12. Complaint on claim for debt and to set aside fraudulent conveyance under § 15-6-18(b)

A.B., Plaintiff
vs. COMPLAINT
C.D. and E.F., Defendants

1. Defendant C.D. on or about _____ executed and delivered to plaintiff a promissory note (in the following words and figures: (here set out the note verbatim)); (a copy of which is hereto annexed as Exhibit A); (whereby defendant C.D. promised to pay to plaintiff or order on _____ the sum of five thousand dollars with interest thereon at the rate of _____ percent per annum).

2. Defendant C.D. owes to plaintiff the amount of said note and interest.

3. Defendant C.D. on or about _____ conveyed all of his property, real and personal (or specify and describe) to defendant E.F. for the purpose of defrauding plaintiff and hindering and delaying the collection of the indebtedness evidenced by the note above referred to.

Wherefore plaintiff demands:

(1) That plaintiff have judgment against defendant C.D. for _____ dollars and interest; (2) that the aforesaid conveyance to defendant E.F. be declared void and the judgment herein be declared a lien on said property; (3) that plaintiff have judgment against the defendants for costs.

Source: SD RCP, Form 12.

Form 13. Complaint for interpleader and declaratory relief

1. On or about June 1, 1956, plaintiff issued to G.H. a policy of life insurance whereby plaintiff promised to pay to K.L. as beneficiary the sum of _____ dollars upon the death of G.H. The policy required the payment by G.H. of a stipulated premium on June 1, 1956, and annually thereafter as a condition precedent to its continuance in force.

2. No part of the premium due June 1, 1956, was ever paid and the policy ceased to have any force or effect on July 1, 1956.

3. Thereafter, on September 1, 1956, G.H. and K.L. died as the result of a collision between a locomotive and the automobile in which G.H. and K.L. were riding.

4. Defendant C.D. is the duly appointed and acting personal representative of the will of G.H.; defendant E.F. is the duly appointed and acting personal representative of the will of K.L.; defendant X.Y. claims to have been duly designated as beneficiary of said policy in place of K.L.

5. Each of defendants, C.D., E.F., and X.Y. is claiming that the above-mentioned policy was in full force and effect at the time of the death of G.H.; each of them is claiming to be the only person entitled to receive payment of the amount of the policy and has made demand for payment thereof.

6. By reason of these conflicting claims of the defendants, plaintiff is in great doubt as to which defendant is entitled to be paid the amount of the policy, if it was in force at the death of G.H.

Wherefore plaintiff demands that the court adjudge:

- (1) That none of the defendants is entitled to recover from plaintiff the amount of said policy or any part thereof.
- (2) That each of the defendants be restrained from instituting any action against plaintiff for the recovery of the amount of said policy or any part thereof.
- (3) That, if the court shall determine that said policy was in force at the death of G.H., the defendants be required to interplead and settle between themselves their rights to the money due under said policy, and that plaintiff be discharged from all liability in the premises except

to the person whom the court shall adjudge entitled to the amount of said policy.

(4) That plaintiff recover its costs.

Source: SD RCP, Form 13.

Form 14. Motion to dismiss, presenting defenses of failure to state a claim, of lack of service of process, and of lack of jurisdiction under § 15-6-12(b)

The defendant moves the court as follows:

1. To dismiss the action because the complaint fails to state a claim against defendant upon which relief can be granted.
2. To dismiss the action or in lieu thereof to quash the return of service of summons on the grounds (a) that the defendant is a corporation organized under the laws of Delaware and was not and is not subject to service of process within the state of South Dakota, and (b) that the defendant has not been properly served with process in this action, all of which more clearly appears in the affidavits of M.N. and X.Y. hereto annexed as Exhibit A and Exhibit B respectively.

Signed: _____

Attorney for Defendant

Address: _____

[Notice of Motion](#) |

[\[Alt\]To: _____](#)

[Attorney for Plaintiff](#)

~~Please take notice, that the undersigned will bring the above motion on for hearing before this Court in the courtroom at the Court House in the City of Sioux Falls, South Dakota on the _____ day of _____, 20____, at 10 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard.~~

~~Signed: _____~~

~~Attorney for Defendant~~

~~Address: _____~~

~~Source: SD RCP, Form 14.~~

Form 15. Answer presenting defenses under § 15-6-12(b)

First Defense

The complaint fails to state a claim against defendant upon which relief can be granted.

Second Defense

If defendant is indebted to plaintiff for goods mentioned in the complaint, he is indebted to them jointly with G.H. G.H. is alive; is a citizen of the state of South Dakota, is subject to the jurisdiction of the court and has not been made a party.

Third Defense

Defendant admits the allegation contained in paragraphs 1 and 4 of the complaint; alleges that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint; and denies each and every other allegation contained in the complaint.

Fourth Defense

The right of action set forth in the complaint did not accrue within six years next before the commencement of this action.

Counterclaim

(Here set forth any claim as a counterclaim in the manner in which a claim is pleaded in the complaint.)

Cross-Claim Against Defendant M.N.

(Here set forth the claim constituting a cross-claim against defendant M.N. in the manner in which a claim is pleaded in a complaint.)

Note:

The above form contains examples of certain defenses provided for in § 15-6-12(b). The first defense challenges the legal sufficiency of the complaint. It is a substitute for a general demurrer or a motion to dismiss.

The second defense embodies the old plea in abatement; the decision thereon, however, may well provide under §§ 15-6-19 and 15-6-21 for the citing in of the party rather than an abatement of the action.

The third defense is an answer on the merits.

The fourth defense is one of the affirmative defenses provided for in § 15-6-8(c).

The answer also includes a counterclaim and a cross-claim.

**Form 16. Answer to complaint set forth in Form 7, with
counterclaim for interpleader**

Defense

Defendant admits the allegations stated in paragraph 1 of the complaint; and denies the allegations stated in paragraph 2 to the extent set forth in the counterclaim herein.

Counterclaim for Interpleader

1. Defendant received the sum of _____ dollars as a deposit from E.F.
2. Plaintiff has demanded the payment of such deposit to him by virtue of an assignment of it which he claims to have received from E.F.
3. E.F. has notified the defendant that he claims such deposit, that the purported assignment is not valid, and that he holds the defendant responsible for the deposit.

Wherefore defendant demands:

1. That the court order E.F. to be made a party defendant to respond to the complaint and to this counterclaim.
2. That the court order the plaintiff and E.F. to interplead their respective claims.
3. That the court adjudge whether the plaintiff or E.F. is entitled to the sum of money.
4. That the court discharge defendant from all liability in the premises except to the person it shall adjudge entitled to the sum of money.
5. That the court award to the defendant its costs and attorney's fees.

Form 17. Motion to bring in third-party defendant

Defendant moves for leave to make E.F. a party to this action and that there be served upon him summons and third-party complaint as set forth in Exhibit A hereto attached.

Signed:

Attorney for Defendant C.D.

Address: _____

~~Notice of Motion~~

~~_____ (Contents the same as in Form 14. No notice is necessary if the motion is made before the moving defendant has served his answer).~~

~~Exhibit A~~

~~_____ STATE OF SOUTH DAKOTA IN CIRCUIT COURT~~

~~_____ COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT~~

~~_____ A.B., Plaintiff~~

~~_____ vs.~~

~~_____ C.D., Defendant and Third-Party SUMMONS~~

~~_____ Plaintiff~~

~~_____ vs.~~

~~_____ E.F., Third-Party Defendant~~

~~_____ To the above-named Third-Party Defendant:~~

~~_____ You are hereby summoned and required to serve upon _____, plaintiff's attorney whose address is _____, and upon _____, who is attorney for C.D., defendant and third-party plaintiff, and whose address is _____, an answer to the third-party complaint which is herewith served upon you and an answer to the complaint of the plaintiff, a copy of which is herewith served upon you, within 30 days after the service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the third-party complaint.~~

~~Attorney for C.D.~~

~~Third-Party Plaintiff~~

~~_____ STATE OF SOUTH DAKOTA IN CIRCUIT COURT~~

~~_____ COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT A.B.,~~

~~Plaintiff~~

~~_____ vs. THIRD-PARTY~~

~~_____ C.D., Defendant and Third-Party COMPLAINT~~

~~_____ Plaintiff~~

~~_____ vs.~~

~~_____ E.F., Third-Party Defendant~~

~~_____ 1. Plaintiff A.B. has filed against defendant C.D. a complaint, a copy of which is hereto attached as "Exhibit C."~~

~~_____ 2. (Here state the grounds upon which C.D. is entitled to recover from E.F., all or part of what A.B. may recover from C.D. The statement should be framed as in an original complaint.) Wherefore C.D. demands judgment against third-party defendant E.F. for all sums that may be adjudged against defendant C.D. in favor of plaintiff A.B.~~

~~_____ Signed:~~

~~_____

_____ Attorney for C.D.~~

~~_____ Third-Party Plaintiff~~

~~_____ Address:~~

~~_____

_____ Source: SD RCP, Form 17.~~

Form 18. Summons and complaint against third-party defendant

STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT

A.B., Plaintiff

vs.

C.D., Defendant and Third-Party SUMMONS
Plaintiff

vs.

E.F., Third-Party Defendant

To the above-named Third-Party Defendant:

You are hereby summoned and required to serve upon _____, plaintiff's attorney whose address is _____, and upon _____, who is attorney for C.D., defendant and third-party plaintiff, and whose address is _____, an answer to the third-party complaint which is herewith served upon you within 30 days after the service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the third-party complaint. There is also served upon you herewith a copy of the complaint of the plaintiff which you may but are not required to answer.

Attorney for C.D.

Third-Party Plaintiff

STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT

A.B., Plaintiff

vs. THIRD-PARTY

C.D., Defendant and Third-Party COMPLAINT
Plaintiff

vs.

E.F., Third-Party Defendant

1. Plaintiff A.B. has filed against defendant C.D. a complaint, a copy of which is hereto attached as "Exhibit A."

2. (Here state the grounds upon which C.D. is entitled to recover from E.F., all or part of what A.B. may recover from C.D. The statement should be framed as in an original complaint.)

Wherefore C.D. demands judgment against third-party defendant E.F. for all sums that may be adjudged against defendant C.D. in favor of plaintiff A.B.

Signed: _____

Attorney for C.D.
Third-Party Plaintiff

Address: _____

Note:

Under § 15-6-14(a) a defendant who files a third-party complaint not later than 10 days after serving his original answer need not obtain leave of court to bring in the third-party defendant by service under § 15-6-4. Form 18 is intended for use in these cases.

Under § 15-6-5(a) requiring, with certain exceptions, that papers be served upon all the parties to the action, the third-party defendant, even if he makes no answer to the plaintiff's complaint, is obliged to serve upon the plaintiff a copy of his answer to the third-party complaint. Similarly, the defendant is obliged to serve upon the plaintiff a copy of the summons and complaint against the third-party defendant.

Form 19. Notice of Hearing

To: [adverse party], and to their attorneys, _____ :

Please take notice that [moving party]’s [name of motion] will be brought on for hearing before the Honorable [name of judge], Circuit Court Judge, ~~in chambers~~ in the Pennington County Courthouse, Rapid City, South Dakota, on the _____ day of _____, _____, at _____ .m., or as soon thereafter as counsel can be heard.

~~Form 19. Motion to bring in third-party defendant~~

~~Defendant moves for leave, as third-party plaintiff, to cause to be served upon E.F. a summons and third-party complaint, copies of which are hereto attached to Exhibit X.~~

~~Signed:~~

~~Attorney for Defendant C.D.~~

~~Address:~~

~~Notice of Motion~~

~~(Contents the same as in Form 14. The notice shall be addressed to all parties to the action.)~~

~~Exhibit X~~

~~(Contents the same as in Form 18.)~~

~~Note:~~

~~Form 19 is intended for use when, under § 15-6-14(a), leave of court is required to bring in a third-party defendant.~~

Form 20. Motion to intervene as a defendant under § 15-6-24

STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT

A.B., Plaintiff

vs. MOTION TO INTERVENE

C.D., Defendant AS A DEFENDANT

E.F., Inc., Applicant for

Intervention

E.F., Inc., moves for leave to intervene as a defendant in this action, in order to assert the defenses set forth in its proposed answer, of which a copy is hereto attached, on the ground that it is the manufacturer and vendor to the defendant of the automobile described in plaintiff's complaint, the brakes of which are alleged to have been defectively manufactured; and as such, if the allegations of plaintiff's complaint be true, would be the one ultimately liable to the plaintiff, and as such has a defense to plaintiff's claim presenting both questions of law and of fact which are common to the main action.

Signed: _____

Attorney for E.F., Inc.,
Applicant for Intervention

Address: _____

[Notice of Motion](#)

([Contents the same as in Form 14](#))

STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT

A.B., Plaintiff

vs. INTERVENER'S ANSWER

C.D., Defendant

E.F., Inc., Intervener

First Defense

Intervener admits the allegations stated in paragraphs 1 and 4 of the complaint; denies the allegations in paragraph 3, and denies the allegations in paragraph 2 in so far as they assert that the brakes of the automobile described in plaintiff's complaint were defectively manufactured.

Second Defense

Plaintiff was guilty of contributory negligence which proximately caused or contributed to the accident and to the personal injuries which he sustained therein, if any, in that he drove said automobile at a high rate of speed in a negligent and careless manner after the discovery of the defective condition of the brakes which contributory negligence on the part of the

plaintiff was greatly more than slight in comparison to the negligence, if any, of this intervener.

Signed:

Attorney for E.F., Inc.,

Intervener

Address:

Note:

Under § 15-6-24 the motion to intervene must be served upon all parties as provided in § 15-6-5.

Source: SD RCP, Form 20.

**Form 21. Motion ~~for production of documents etc.~~ to Compel under §
15-6-347.**

[Movant], pursuant to SDCL §15-6-37(a), respectfully moves the Court for
an order compelling [name of responding party] _____ to
_____ [~~what specific relief is sought~~]. The Court should enter the
requested order because

1. The discovery was properly served;
2. _____ has failed to respond to the discovery;
3. Counsel for _____ certifies that he has, in good faith,
conferred or attempted to confer with [name of responding
party]~~the person or party failing to make the discovery in an
effort to secure the information or material without court action;~~

all as set forth in the accompanying Brief in Support of _____'s Motion
to Compel Discovery.

Attach the following certification:

Certification of Good Faith Efforts to Resolve

Counsel for [mMovant] hereby certifies, pursuant to SDCL §-15-6-37(a)(2), that s/he attempted, in good faith, to resolve this discovery dispute without involving the Court.

1. On _____, the undersigned communicated to [counsel for the responding party] that [responding party's] responses to outstanding discovery requests were in-adequate because [explain what you believe you are entitled to.]

2. [list each successive communication, including:

a. who participated,

b. the date, and, if relevant, the time of each communication, and

c. the manner of each communication.]

3. Summarize the outcome of these communications, identifying the substantive dispute that has stalemated the parties discussions, and which the Court must resolve.

Source: *Krueger v. Grinnell Mutual Reinsurance Company*, 2018 S.D. 87,

¶ 24, 921 N.W.2d 689, 696-97.

~~_____ Plaintiff A.B. moves the court for an order requiring defendant C.D.~~

~~_____ (1) To produce and to permit plaintiff to inspect and to copy each of the following documents: (Here list the documents and describe each of them.)~~

~~_____ (2) To produce and permit plaintiff to inspect and to photograph each of the following objects: (Here list the objects and describe each of them.)~~

~~_____ (3) To permit plaintiff to enter (here describe property to be entered) and to inspect and to photograph (here describe the portion of the real property and the objects to be inspected and photographed).~~

~~_____ Defendant C.D. has the possession, custody, or control of each of the foregoing documents and objects and of the above-mentioned real estate.~~

~~Each of them constitutes or contains evidence relevant and material to a matter involved in this action, as is more fully shown in Exhibit A hereto attached.~~

~~_____ Signed:~~

~~_____

_____ Attorney for Plaintiff~~

~~_____ Address:~~

~~_____

_____ Notice of Motion~~

~~_____ (Contents the same as in Form 14)~~

~~_____ Exhibit A State of South Dakota~~

~~_____ County of _____~~

~~_____ A.B., being first duly sworn says:~~

~~_____ (1) (Here set forth all that plaintiff knows which shows that defendant has the papers or objects in his possession or control).~~

~~_____ (2) (Here set forth all that plaintiff knows which shows that each of the above-mentioned items is relevant to some issue in the action).~~

~~_____ Signed: A.B.~~

~~_____ (Jurat)~~

Form 22. Request for admission under § 15-6-36

Plaintiff A.B. requests defendant C.D. within ____ days after service of this request to make the following admissions for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial:

1. That each of the following documents, exhibited with this request, is genuine.

(Here list the documents and describe each document.)

2. That each of the following statements is true.

(Here list the statements.)

Signed:

Attorney for Plaintiff

Address:

Form 23. Allegation of reason for omitting party

When it is necessary, under § 15-6-19(c), for the pleader to set forth in his pleading the names of persons who ought to be made parties, but who are not so made, there should be an allegation such as the one set out below:

John Doe named in this complaint is not made a party to this action (because he is not subject to the jurisdiction of the court); (or for reasons stated).

Form 24. Suggestion of death upon the record under § 15-6-25(a)(1)

A.B. (describe as a party, or as personal representative, or other representative or successor of C.D., the deceased party) suggests upon the record, pursuant to § 15-6-25(a)(1), the death of C.D. (describe as party) during the pendency of this action.

Form 25. Judgment on jury verdict

STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT

A.B., Plaintiff

vs. JUDGMENT

C.D., Defendant

This action came on for trial before the Court and a jury, Honorable John Marshall, Circuit Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict,

It is Ordered and Adjudged

(that the plaintiff A.B. recover of the defendant C.D. the sum of _____, with interest thereon at the rate of _____ percent as provided by law, and his costs of action in the sum of _____.)

(that the plaintiff take nothing, that the action be dismissed on the merits, and that the defendant C.D. recover of the plaintiff A.B. his costs of action in the sum of _____.)

Dated at Sioux Falls, South Dakota, this _____ day of _____, 20__.

BY THE COURT:

Judge

ATTEST:

Clerk of Courts

Note:

1. This form is illustrative of the judgment to be entered upon the general verdict of a jury. It deals with the cases where there is a general jury verdict awarding the plaintiff money damages or finding for the defendant but is adaptable to other situations of jury verdicts. See § 15-6-58.

2. The Rules contemplate a simple judgment promptly entered. See § 15-6-54(a). Every judgment shall be set forth on a separate document. See § 15-6-58.

Form 26. Judgment on decision by the court

STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT

A.B., Plaintiff

vs. JUDGMENT

C.D., Defendant

This action came on for (trial) (hearing) before the Court, Honorable John Marshall, Circuit Judge, presiding, and the issues having been duly (tried) (heard) and a decision having been duly rendered.

It is Ordered and Adjudged

(that the plaintiff A.B. recover of the defendant C.D. the sum of _____, with interest thereon at the rate of _____ percent as provided by law, and his costs of action in the sum of _____.)

(that the plaintiff take nothing, that the action be dismissed on the merits, and that the defendant C.D. recover of the plaintiff A.B. his costs of action in the sum of _____.)

Dated at Sioux Falls, South Dakota, this _____ day of _____, 20__.

BY THE COURT:

Judge

ATTEST:

Clerk of Courts

Note:

1. This form is illustrative of the judgment to be entered upon a decision of the court. It deals with the cases of decisions by the court awarding a party only money damages or costs, but is adaptable to other decisions by the court. See § 15-6-58.

2. See also paragraph 2 of the Note to Form 25.

Form 27. Expedited civil action certification

STATE OF SOUTH DAKOTA) IN CIRCUIT COURT

: SS

COUNTY OF _____) _____ JUDICIAL CIRCUIT

_____, Civ. _____

Plaintiff,

v. EXPEDITED CIVIL ACTION CERTIFICATION

_____,

Defendant.

Plaintiff, _____, together with

Plaintiff's attorney,

Name of Plaintiff

_____, elect to bring this lawsuit

as an Expedited

Name of attorney

Civil Action under article IX of the Rules of Civil Procedure.

Plaintiff certifies that the sole relief sought is a money judgment and that all claims (other than compulsory counterclaims) for all damages by or against any one party total \$75, 000 or less, including damages of any kind, penalties, and attorneys' fees, but excluding prejudgment interest accrued prior to entry of judgment, post judgment interest, and costs.

Plaintiff certifies the following:

1. I am a plaintiff in this action.

2. If I am represented by an attorney, I have conferred with my attorney about using the Expedited Civil Action procedures available to parties in the State of South Dakota.

3. I understand that by electing to proceed under Expedited Civil Action procedures, the total amount of my recovery will not exceed \$75, 000, excluding prejudgment interest accrued prior to entry of judgment, post judgment interest, and court costs. Additionally, no single defendant can be liable for more than \$75,000 to all plaintiffs combined, excluding prejudgment interest accrued prior to entry of judgment, post judgment interest, and court costs.

4. I understand that if a jury were to award more than \$75, 000 as damages to me, or if a jury were to award more than \$75, 000 in total against a single defendant, the trial judge would reduce the amount of the judgment to \$75, 000, plus any applicable interest and court costs to which I may be entitled.

With this knowledge, I agree to proceed under the Expedited Civil Action procedures.

Dated this _____ day of _____, 20 _____.

Plaintiff

Oath and Signatures

I, _____, certify under penalty of perjury and
pursuant to the

Print Plaintiff's Name

laws of the State of South Dakota that the preceding is true and
correct. _____, 20 _____,

Month Day Year

Handwritten signature of Plaintiff Full name of Plaintiff; first, middle,
last

Plaintiff's attorney's name, if applicable

Signature of attorney, if applicable

Law firm, if applicable

Mailing address of attorney (or Plaintiff if unrepresented)

Telephone number of attorney (or Plaintiff if unrepresented)

Email address of attorney (or Plaintiff if unrepresented)

Additional email address, if available

Form 28. Joint motion to proceed as expedited civil action

STATE OF SOUTH DAKOTA) IN CIRCUIT COURT

: SS

COUNTY OF _____) _____ JUDICIAL CIRCUIT

_____, Civ. _____

Plaintiff,

v. JOINT MOTION TO PROCEED AS EXPEDITED CIVIL ACTION

_____,
Defendant.

1. Pursuant to Supreme Court Rule 15-16 (article IX of the Rules of Civil Procedure), the parties hereby move upon stipulation that this action proceed as an Expedited Civil Action.

2. All parties agree to this motion.

3. If the court grants this joint motion, the parties acknowledge and agree that this case will be subject to the Expedited Civil Action rule, except for the limitations on damages as provided in 6-72(6).

Status of Trial Scheduling Order and Discovery Plan: Check one

* The parties have already filed a Trial Scheduling and Discovery Plan. This case has a current trial date of _____. The parties wish to retain that trial date.

* The parties will be filing a Trial Scheduling and Discovery Plan in an Expedited Civil Action case.

I certify that all parties and attorneys to this action have agreed to this Joint Motion and have been served with a copy.

_____, 20 _____,

Month Day Year

Party's or attorney's signature

Plaintiff's attorney's name, if applicable

Signature of attorney, if applicable

Law firm, if applicable

Mailing address of attorney (or Plaintiff if unrepresented)

Telephone number of attorney (or Plaintiff if unrepresented)

Email address of attorney (or Plaintiff if unrepresented)

Additional email address, if available