

## Instructions for Notice of Intent to Take Default Judgment and Motion for Judgment and Decree of Divorce (Default)

The Notice of Intent to Take Default Judgment is notice to the Defendant that a date has been set for trial in the divorce case and that he/she is in default for not responding to the Summons and Complaint within thirty days after the completed service. Once sixty days have passed after service of the Summons and Complaint, Notice of Intent to Take Default Judgment is filed with a Motion for Judgment & Decree of Divorce (Default).

- Complete the top portion of the Notice of Intent to Take Default Judgment (the “caption”) as it appears on the Summons and Complaint.
- Obtain a trial date from the Court Administrator’s office or the Clerk of Court (depending upon which county your action is filed in). Mark the appropriate box and fill in the blanks.
- Date and sign the Notice of Intent to Take Default Judgment.
- Make two copies of the Notice of Intent to Take Default Judgment, one for you and one to mail to the defendant. The original will be filed with the Clerk of Court.
- Mail a copy of the Notice of Intent to Take Default Judgment and Motion for Judgment and Decree of Divorce (Default) to Defendant by first class mail, properly addressed, with sufficient postage at least seven (7) days prior to the hearing.
- The Affidavit of Service by Mail may only be completed after the Notice and Motion are placed in the United States Mail.
- Complete the top portion of the Affidavit of Service by Mail (the “caption”). This information will be the same as on the other documents, i.e. Summons, Complaint, etc.
- Fill in the blanks as indicated on the Affidavit of Service by Mail.
- Make a photocopy of the Affidavit of Service by Mail for your file. The original will be filed with the Clerk of Court.
- **You must sign and date the Affidavit in the presence of a notary public or clerk of court. Make sure to bring identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**
- File the original Motion for Judgment & Decree of Divorce (Default), Notice of Intent to Take Default Judgment, and Affidavit of Service by Mail with the Clerk of Court.

STATE OF SOUTH DAKOTA )  
 )  
 ) :SS  
COUNTY OF \_\_\_\_\_ )

IN CIRCUIT COURT  
\_\_\_\_\_) JUDICIAL CIRCUIT

<p>_____, Plaintiff,  vs.  _____, Defendant</p>	<p>DIV _____</p> <p><b>NOTICE OF INTENT TO TAKE DEFAULT JUDGMENT</b></p>
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TO: THE DEFENDANT IN THE ABOVE CAPTIONED MATTER:

PLEASE TAKE NOTICE that on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ .m. trial for Decree of Divorce (Default) will be held:

In the courtroom of the Honorable \_\_\_\_\_, Circuit Court Judge of the \_\_\_\_\_ Judicial Circuit, presiding, located at the \_\_\_\_\_ County Courthouse, in \_\_\_\_\_ County, \_\_\_\_\_, South Dakota.

**OR**

At the Court Administrator's office, \_\_\_\_\_ County Courthouse, \_\_\_\_\_, South Dakota.

More than sixty (60) days have elapsed since the service of the Summons and Complaint upon you and you have made no response to the Complaint, therefore you are in default.

Plaintiff is entitled to judgment against you as requested in the Complaint. The judgment will be based on the Complaint of the Plaintiff, and on all records, files and proceedings in this case, along with any additional testimony and evidence produced at trial.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_  
County, South Dakota.

\_\_\_\_\_  
Plaintiff's Signature

Name: (Printed) \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_

STATE OF SOUTH DAKOTA )  
 :SS  
COUNTY OF \_\_\_\_\_ )

IN CIRCUIT COURT  
\_\_\_\_\_ JUDICIAL CIRCUIT

<p>_____, Plaintiff,  vs.  _____, Defendant</p>	<p>DIV _____</p> <p><b>AFFIDAVIT OF SERVICE BY MAIL</b></p>
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I, \_\_\_\_\_, being sworn, state that on  
(Name of person who mailed documents)  
\_\_\_\_\_, 20\_\_\_\_\_, I served the Affidavit of Default and the  
Notice of Intent to Take Default Judgment, by placing true copies of the documents in an  
envelope addressed to: \_\_\_\_\_ at  
(Name of other party)  
\_\_\_\_\_, in the City of \_\_\_\_\_,  
(Other party's address)  
State of \_\_\_\_\_, Zip Code \_\_\_\_\_, and depositing the envelope,  
with sufficient postage, in the United States Mail at \_\_\_\_\_.  
(Place mailed from)

Dated \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of Person Who Mailed Documents  
(Sign only in front of a notary or clerk of courts)

Sworn/affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
\_\_\_\_\_  
(Notary Public/Clerk of Courts)

Name: (Printed) \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Telephone: (\_\_\_\_\_) \_\_\_\_\_

(SEAL)

STATE OF SOUTH DAKOTA )  
:SS  
COUNTY OF \_\_\_\_\_ )

IN CIRCUIT COURT  
\_\_\_\_\_ JUDICIAL CIRCUIT

\_\_\_\_\_,  
Plaintiff,  
  
vs.  
  
\_\_\_\_\_,  
Defendant

DIV \_\_\_\_\_

**MOTION FOR JUDGMENT  
& DECREE OF DIVORCE  
(DEFAULT)**

STATE OF SOUTH DAKOTA )  
:SS  
COUNTY OF \_\_\_\_\_ )

Plaintiff, being first duly sworn on oath, states:

1. That I am the Plaintiff in this action;
2. That the Summons and Complaint were served on the Defendant on \_\_\_\_\_;
3. That more than 60 days have passed since service of the Summons and Complaint;
4. That this motion is supported by Plaintiff's Affidavit of Default and Notice of Intent to Take Default Judgment.
5. Defendant has made no answer, appearance, or pleading and is in default.

I hereby request the court grant a Judgment and Decree of Divorce (Default).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Plaintiff's Signature