

## **Instructions for Motion & Order to Waive Filing Fee & Service of Process Fee & Order Form**

A Motion to Waive Filing Fee & Service of Process Fee is a request to the Court asking that it not charge you the fee for filing a divorce and to direct the Sheriff not to charge you for service of process. The Motion refers to your Financial Affidavit (Form UJS-304) to explain your financial situation to the Judge and help the Judge decide whether to waive the fees in your case. Basically, you are telling the Judge that **you cannot afford** to pay the filing fee and the service of process fee.

- **Complete this form in black or blue ink only!**
- Complete the caption at the top of the Motion. **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask the Clerk if you do not know), name of plaintiff, name of defendant and case filing number (ask the Clerk if you do not know). The caption will be the same on every form you fill out.
- Read the entire document and make sure you fully understand it. You do not need to complete anything, but you are signing the document, under oath, that you are in agreement with the statements. *If you do NOT agree with statements, do not sign it!*
- **If you agree with the statements in the Motion, you must sign and date the Motion in the presence of a notary public or clerk of court. Make sure to bring photo 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.**

**WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be prosecuted for not telling the truth.**

- Make a photocopy of the Motion for you own records and file the original Motion and a blank copy of the Order Waiving Filing Fee and Service of Process Fee with the Clerk of Courts.

**GIVE THE COMPLETED AND SIGNED MOTION AND A BLANK COPY OF THE ORDER WAIVING FILING FEE AND SERVICE OF PROCESS FEE TO THE CLERK OF COURTS WHEN YOU FILE YOUR DIVORCE.**

**If you do not hear from the Clerk in 5 business days, you should contact them and inquire whether the Judge signed your Order Waiving Filing Fee and Service of Process Fee. If he did NOT sign the Order, you have 30 days in which to pay the filing fee or your case will be dismissed.**

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

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

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<p>_____,                                                           Plaintiff,                                                            vs.  _____,                                                           Defendant</p>	<p>DIV _____</p> <p style="text-align: center;"><b>MOTION TO WAIVE FILING FEE &amp; SERVICE OF PROCESS FEE</b></p>
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Comes now the Plaintiff named above, and makes this motion to the Court to waive the \$95.00 filing fee in the above-captioned divorce action as well as the service of process fee for the following reasons:

1. I am the Plaintiff named above; and I make this Motion pursuant to and in accordance with SDCL 16-2-29.2 and 16-2-29.3 for the purposes of requesting a waiver of the filing fee and service of process fee in my action for divorce.
2. I do solemnly swear that I am **unable to pay the filing fee and the service of process fee** of the legal proceedings which I am about to commence; and that I verily believe I am justly entitled to the relief sought by such legal proceedings. My Financial Affidavit, which sets forth my entire financial situation, (Form UJS-304) is filed herein and incorporated herein by reference.

**WHEREFORE**, based upon the foregoing statements and allegations, I respectfully request that the Court enter its Order to waive payment of the filing fee and the fees for service of process upon the Defendant in this matter, pursuant to SDCL 16-2-29.2. If this Request is denied by the judge, I understand that I must pay the filing fee in order to proceed with the case. Furthermore, I understand that if the filing fee is not paid within 30 days, my case will be dismissed.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Sworn/affirmed before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Plaintiff  
(Sign only in front of a notary or Clerk of Court)

\_\_\_\_\_  
(Notary Public/Clerk of Court)

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

If notary, my commission expires  
(SEAL)