

## **INSTRUCTIONS AND FORMS FOR STATEMENT OF DEFAULT, APPLICATION FOR JUDGMENT AND DECREE OF DIVORCE (DEFAULT), NOTICE OF HEARING AND STATEMENT OF MAILING**

These forms are related to specific South Dakota Codified Laws (SDCL) concerning divorce matters. You can find these laws on the South Dakota Legislature website. If you have any legal questions, it is highly recommended that you consult with an attorney. Court staff are unable to provide legal advice or assist with form completion. For specific questions related to the forms, you can also contact the Legal Form Help Line at 1-855-784-0004 or email UJS staff at [ujssrlhelp@ujs.state.sd.us](mailto:ujssrlhelp@ujs.state.sd.us).

### **IMPORTANT NOTICES:**

- These forms can only be completed by the Plaintiff and only if all the following are true:
  - The Defendant was served with copies of the Summons and Complaint with Minor Children and Proof of Service was filed with the Clerk of Court.
  - The Defendant has failed to file an Answer to the Summons and Complaint with Minor Children within thirty days of being served.
  - The Defendant is not in the military on active duty.
- A Default Judgment for Divorce can only be granted if it has been at least sixty days since the Defendant was served with the Summons and Complaint.

### **To complete these forms, you will need to:**

- Complete the Statement of Default (UJS-323A) by completing the caption, date the Defendant was served with the Summons and Complaint with Minor Children, date, and sign.
- Complete the Application for Judgment and Decree of Divorce - Default (UJS-323B) and sign and date.
- Complete the Statement of Mailing (UJS-323D) and sign and date.
- File the originals of the Statement of Default (UJS-323A), Application for Judgment and Decree of Divorce – Default (UJS-323B), Statement of Mailing (UJS-323D), and Statement of Defendant's Military Status (UJS-306) with the Clerk of Court.

\*A hearing may be required on your application for Default Judgment. You will need to contact the Clerk of Court for this information. If a hearing is required continue with the steps below.

- Request a hearing date and time from the Clerk of Court or Court Administration depending on your county. Complete the Notice of Hearing (UJS-323C), sign and file the original with the Clerk of Court. The Notice of Hearing would then be mailed along with the other forms listed above.

Plaintiff  v.  Defendant	Case No.: _____
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**STATEMENT OF DEFAULT**

Plaintiff, being first duly sworn on oath states:

1. That I am the Plaintiff in the above-captioned action.
2. That the Summons and Complaint (with Minor Children) were served together upon the Defendant on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.
3. That the proof of service has been filed (i.e., Admission of Service or Sheriff's Return)
4. That more than sixty days have passed since service of the Summons and Complaint (with Minor Children) and the Defendant has not filed an Answer, made an appearance, or filed any other responsive pleading and is in default.
5. It is my belief that the Defendant is not in the military service on active duty.

*I declare under perjury under the law of South Dakota that the foregoing is true and correct. Signed on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_.*  
(City or other location, and State)

\_\_\_\_\_  
Plaintiff Signature

\_\_\_\_\_  
Plaintiff Printed Name

\_\_\_\_\_  
Plaintiff Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Phone Number

COUNTY OF \_\_\_\_\_

JUDICIAL CIRCUIT

Plaintiff  v.  Defendant	Case No.: _____  <b>APPLICATION FOR JUDGMENT AND DECREE DEFAULT</b>
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COMES NOW, the above-named Plaintiff and respectfully submits this Application for Judgment and Decree of Divorce by Default pursuant to SDCL § 15-6-55(b), hereby requesting the Court to enter a Judgment and Decree of Divorce by default against the Defendant in favor of the Plaintiff in the above-entitled action. The Plaintiff's Statement of Default is incorporated herein.

*I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct. Signed on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_.*  
(City or other location, and State)

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Plaintiff Signature

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Plaintiff Name

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Plaintiff Address

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City, State, Zip Code

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Phone Number

COUNTY OF \_\_\_\_\_

JUDICIAL CIRCUIT

Plaintiff

v.

Defendant

Case No.: \_\_\_\_\_

**NOTICE OF HEARING****TO: THE DEFENDANT IN THE ABOVE-CAPTIONED MATTER:**

**PLEASE TAKE NOTICE** that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_: \_\_\_\_\_ am/pm a hearing on Plaintiff's Statement of Default and Application for Judgment and Decree of Divorce (Default) will be held in the courtroom of Honorable \_\_\_\_\_, Circuit Court Judge of the \_\_\_\_\_ Judicial Circuit, presiding, located at the \_\_\_\_\_ County Courthouse, in \_\_\_\_\_, South Dakota.

The Plaintiff will seek judgment for the relief demanded in the Complaint with Minor Children in the above-entitled action.

*I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct. Signed on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_.*  
(City or other location, and State)

Plaintiff Signature

Plaintiff Name

Plaintiff Address

City, State, Zip Code

Phone Number

COUNTY OF \_\_\_\_\_

JUDICIAL CIRCUIT

Plaintiff  v.  Defendant	Case No.: _____
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**STATEMENT OF MAILING**

I, \_\_\_\_\_, being sworn, state that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, I mailed the (**check all that apply**)  
 Statement of Default,  Application for Judgment and Decree of Divorce – Default  
 Notice of Hearing, by placing true and correct copies in an envelope addressed to:

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(Name of Defendant)

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(Street Address)

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(City, State, Zip)

And depositing the envelope, with sufficient postage, in the United States Mail in:

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(City and State where you mailed forms from)

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct. Signed on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_.  
(Date) (Month) (Year)

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(City or other location, and State)

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Plaintiff Signature

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Plaintiff Name

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Plaintiff Address

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City, State, Zip Code

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Phone Number