

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

MAR 17 2006

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Shirley A. Johnson Long
Clerk

IN THE MATTER OF THE AMENDMENT)
SDCL 15-6-49(a))

RULE 06-43

A hearing was held on February 16, 2006, at Pierre, South Dakota, relating to the amendment of SDCL 15-6-49(a), and the Court having considered the proposed amendment, the correspondence and oral presentations relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-6-49(a) be and it is hereby amended to read in its entirety as follows:

SDCL 15-6-49(a). Special verdicts.

The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and requiring the written findings thereon as it deems most appropriate. The court shall give to the jury such explanation and instruction concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives his right to a trial by jury of the issue so omitted unless before the jury retires the party demands its submission to the jury. As to an issue omitted without such demand the court may make a finding; or, if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.

IT IS FURTHER ORDERED that this rule shall become effective July 1, 2006.

DATED at Pierre, South Dakota, this 17th day of March, 2006.

BY THE COURT:

David Gilbertson
David Gilbertson, Chief Justice

ATTEST

[Signature]
Clerk of the Supreme Court
(SEAL)