

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT)
OF SDCL 15-39-66)

RULE 00-7

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A hearing having been held on February 17, 2000, at Pierre, South Dakota, relating to the amendment of SDCL 15-39-66, and the Court having considered the proposed amendment, the correspondence and oral presentations relating thereto, if any, and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-39-66 be and it is hereby amended to read in its entirety as follows:

15-39-66. Setoff or counterclaim stated by defendant - Notice to plaintiff and postponement of hearing - Answer by plaintiff - Request for jury trial or petition for removal on non-compulsory counterclaims - Provisions not compulsory.
The defendant within the time for answer may, in the manner provided in § 15-39-48, claim any setoff or counterclaim within the jurisdiction of the court in civil cases. Upon the making of such claim by the defendant, the clerk shall give a notice to the plaintiff, at the expense of the defendant, similar to that provided by § 15-39-78, and shall postpone the hearing of the original claim until the time set for hearing the defendant's claim, and shall notify the parties accordingly. The defendant's claim shall be answered within the time and in the manner provided by §§ 15-39-64 and 15-39-65, and the penalties upon defendants provided by § 15-39-64 shall apply to plaintiffs in respect to claims by a defendant. The original claim and the claim of setoff or counterclaim shall be deemed one case. The compulsory rule does not apply in small claims court.


Upon the filing of a setoff or counterclaim, plaintiff has the same right of removal as defendant has under § 15-39-57. This request must be made at least five days before the date plaintiff is notified to appear or answer. Unless the action is removed, the plaintiff has no right to appeal a decision reached on any counterclaim or setoff.

Rule 00-7


IT IS FURTHER ORDERED that this rule shall become effective
July 1, 2000.

DATED at Pierre, South Dakota, this 10th day of March, 2000.

BY THE COURT:


Robert A. Miller, Chief Justice

ATTEST:


Clerk of the Supreme Court
(SEAL)

**SUPREME COURT
STATE OF SOUTH DAKOTA
FILED**

MAR 10 2000


Clerk