

## INSTRUCTION FOR MOTION TO WAIVE FILING & SERVICE OF PROCESS FEE FORM

This form references specific South Dakota Codified Laws (SDCL) and 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 you with legal advice or assist you in completing this form. For specific questions related to the forms, you can also contact the Legal Form Helpline at 1-855-784-0004 email UJS staff at [ujssrlhelp@uj.s.sd.us](mailto:ujssrlhelp@uj.s.sd.us).

### **Important Notice:**

A Motion to Waive Filing Fee & Service of Process Fee is a request to the Court asking that it not charge you the filing fee and to direct the Sheriff not to charge you for service of process. The Motion refers to your Financial Affidavit (Form UJS-023) to explain your financial situation to the Judge to decide whether to waive the fee in your case.

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

### **To Complete this form, you will need to:**

- Complete the caption of the Motion.
  - County (insert county name).
  - Judicial Circuit (insert circuit number). You may find your judicial circuit number at the following web address.
    - [https://uj.s.sd.gov/Circuit\\_Court/Default.aspx](https://uj.s.sd.gov/Circuit_Court/Default.aspx)
  - Enter Plaintiff and Defendant name.
  - Case Number will be provided to you by the Clerk of Court at the time of filing if you don't already have one.
  
- If you agree with the statement in the Motion, sign and date the Motion in the presence of a notary or Clerk of Court.
  
- File the complete form along with UJS-028 Order Waiving Filing Fee and Service of Process Fee with the Clerk of Court. Remember to retain a copy for your records.

<p>_____</p> <p>Plaintiff</p> <p style="text-align: center;">v.</p> <p>_____</p> <p>Defendant</p>	<p>Case No.: _____</p> <p style="text-align: center;"><b>MOTION TO WAIVE FILING &amp; SERVICE OF PROCESS FEE</b></p>
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Comes now the Plaintiff/Defendant (*circle one*) named above, and makes this Motion to the Court to waive the following fees for the following reasons (*check one*):

I am the Plaintiff name above and make this Motion pursuant to 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 for the Summons and Complaint.

I am the Defendant named above and make this Motion pursuant to SDCL 16-2-29.2 and 16-2-29.3 for the purposes of requesting a waiver of the filing fee for the Answer/Response to the Summons and Complaint.

I do solemnly swear that I am unable to pay the above-specified fee(s) for 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-023) 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 above-specified fee(s) in this matter, pursuant to SDCL 16-2-29.2. If this Request is denied, I understand that I must pay the above-specified fee(s) to proceed with the case. Furthermore, if I am the Plaintiff, I understand that if the filing fee is not paid within thirty days, my case will be dismissed.

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

\_\_\_\_\_  
Plaintiff/Defendant Signature (*circle one*)

\_\_\_\_\_  
Plaintiff/Defendant Name (*circle one*)

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
Notary/Deputy Clerk/Clerk of Court

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

My Commission Expires: \_\_\_\_\_

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