

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * *

IN THE MATTER OF THE AMENDMENT)
SDCL 15-6-12(b)) RULE 06-11
- - - - -

A hearing was held on February 16, 2006, at Pierre, South Dakota, relating to the amendment of SDCL 15-6-12(b), 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 15-6-12(b) be and it is hereby amended to read in its entirety as follows:

SDCL 15-6-12(b). Manner of presenting defenses and objections.

Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion:

- (1) Lack of jurisdiction over the subject matter;
- (2) Lack of jurisdiction over the person;
- (3) Insufficiency of process;
- (4) Insufficiency of service of process;
- (5) Failure to state a claim upon which relief can be granted;
- (6) Failure to join a party under § 15-6-19.

A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, the party may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (5) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are

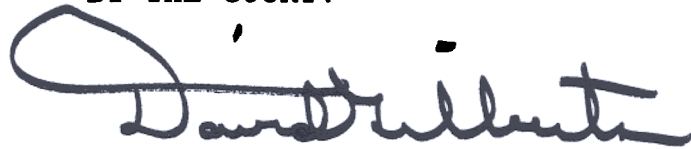
Rule 06-11

presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in § 15-6-56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by § 15-6-56.

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

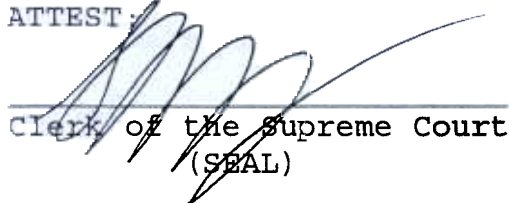
DATED at Pierre, South Dakota, this 17th day of March, 2006

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:


Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

MAR 17 2006


Clerk