

IN THE SUPREME COURT

OF THE

STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT)

SDCL 15-6-37(d)

)

RULE 06-36

A hearing was held on February 16, 2006, at Pierre, South Dakota, relating to the amendment of SDCL 15-6-37(d), 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 15-6-37(d) be and it is hereby amended to read in its entirety as follows:

36. AMENDMENT OF SDCL 15-6-37(d). Failure of party to attend at own deposition or serve answers to interrogatories or respond to request for inspection.

If a party or an officer, director, or managing agent of a party or a person designated under subdivision 15-6-30(b)(6) or § 15-6-31(a) to testify on behalf of a party fails (1) to appear before the officer who is to take the deposition, after being served with a proper notice, or (2) to serve answers or objections to interrogatories submitted under § 15-6-33, after proper service of the interrogatories, or (3) to serve a written response to a request for inspection submitted under § 15-6-34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under subdivisions 15-6-37(b)(2)(A), (2)(B), and (2)(C). In lieu of any order or in addition thereto, the court shall require the party failing to act or the attorney advising him or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

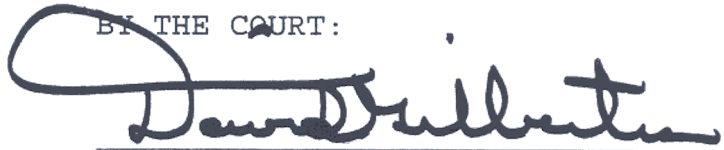
The failure to act described in this subdivision may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by § 15-6-26(c).

Rule 06-36

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

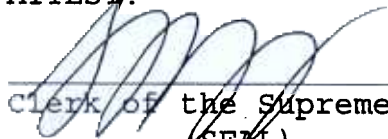
DATED at Pierre, South Dakota, this 17th day of March,
2006.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:



Clerk of the Supreme Court
(SEKL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

MAR 17 2006


Clerk