

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

MAR 17 2006

*Shirley A. Johnson Long*  
Clerk

IN THE MATTER OF THE AMENDMENT)

SDCL 15-6-41(b)

)

RULE 06-41

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A hearing was held on February 16, 2006, at Pierre, South Dakota, relating to the amendment of SDCL 15-6-41(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 15-6-41(b) be and it is hereby amended to read in its entirety as follows:

**SDCL 15-6-41(b). Involuntary dismissal- Effect thereof.**

For failure of the plaintiff to prosecute or to comply with this chapter or any order of court, a defendant may move for dismissal of an action or of any claim against the defendant. After the plaintiff, in an action tried by the court without a jury, has completed the presentation of the plaintiff's evidence, the defendant, without waiving the defendant's right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. The court as trier of the facts may then determine them and render judgment against the plaintiff or may decline to render any judgment until the close of all the evidence. If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in § 15-6-52(a). Unless the court in its order for dismissal otherwise specifies, a dismissal under this section and any dismissal not provided for in § 15-6-41, other than a dismissal for lack of jurisdiction, or for failure to join a party under § 15-6-19, operates as an adjudication upon the merits.

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)