

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

MAR 17 1997

Alvin Engel
Clerk

* * * *

IN THE MATTER OF THE AMENDMENT OF SDCL)
15-39-73)

RULE 97-21

A hearing having been held on February 21, 1997, at Pierre, South Dakota, relating to the amendment of SDCL 15-39-73, 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 15-39-73 be and it is hereby amended to read in its entirety as follows:

15-39-73. Items allowable as costs -- Costs assessed for delay or vexatious claim or defense -- Judgment and execution for costs. The actual cash disbursements of the prevailing party for entry fee, mailing fees, witness fees and officers' fees shall be allowed as costs. No other costs shall be allowed either party, except by special order of the court. The court shall have power in its discretion to award costs, including attorney fees, in a sum fixed by the court, not exceeding five hundred dollars (exclusive of such cash disbursements, or in addition thereto) against any party, whether the prevailing party or not, who has set up a frivolous or vexatious claim or defense, or has made an unfair, insufficient or misleading answer, or has otherwise sought to hamper a party or the court in securing a speedy determination of the claim upon its merits; and to enter judgment and issue execution therefor, or set off such costs against damages or costs, as justice may require.

IT IS FURTHER ORDERED that this rule shall become effective July 1, 1997.

DATED at Pierre, South Dakota, this 17th day of March, 1997.

BY THE COURT:

ATTEST:

Alvin Engel
Clerk of the Supreme Court
(SEAL)

Robert A. Miller
Robert A. Miller, Chief Justice