

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT
OF SDCL 15-14-1

RULE 98-33

A hearing having been held on October 23, 1998, at Sioux Falls, South Dakota, relating to the amendment of SDCL 15-14-1, and the Court having considered the amendment, the correspondence and oral presentations relating thereto, if any, and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-14-1 be and it is hereby amended to read in its entirety as follows:

15-14-1. Order of proceedings at trial. In civil jury cases, prior to the jury having been selected and sworn, the court may read a written statement of the case agreed upon by the parties to the prospective jurors. The statement may include a summary of the uncontested facts of the case, the claims of the parties and the issues presented. Any such statement of the case shall be submitted to the parties and agreed to by them before being read to the jury panel. The statement of the case read to the prospective jurors shall become a part of the instructions and charge to the jury except to the extent that justice may require any modification thereof after the evidence has been concluded. The jury shall then be selected and sworn, and the trial shall then proceed in the following order, subject to the right of the court, for good cause shown, otherwise to direct the order of statements, proof, and argument:

- (1) The court may give such general and preliminary instructions pursuant to § 15-6-51, as the court, in its discretion, deems advisable;
- (2) The plaintiff or party having the burden of proof shall state the issues and the general nature of the evidence he expects to produce in substantiation of the issues by stating what he claims the issuable facts to be, without argument and without naming or identifying any particular witness or exhibit by which he expects to prove any of such issuable facts;
- (3) The defendant or party not having the burden of proof shall then state the issues and the general nature of the evidence he expects to produce in substantiation of the issues by stating what he claims the issuable facts to be, without argument and without naming or

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- identifying any particular witness or exhibit by which he expects to prove any of such issuable facts;
- (4) The party having the burden of proof shall then produce and offer before the court and jury the evidence on his part;
 - (5) The opposing party shall then produce and offer before the court and jury his evidence in support of his defense;
 - (6) The party having the burden of proof may then offer rebutting evidence only, and the opposing party may also offer rebutting evidence only, unless the court for good reason, in furtherance of justice, permit them to offer evidence upon their original case;
 - (7) When the evidence is concluded the court shall then settle the instructions and charge the jury;
 - (8) After the court shall have charged the jury, the plaintiff or party having burden of proof may commence and may conclude the argument, the opposing party making his argument between the opening and concluding argument of plaintiff.

IT IS FURTHER ORDERED that this rule shall become effective July 1, 1999.

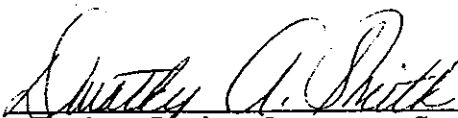
DATED at Pierre, South Dakota, this 25th day of November, 1998.

BY THE COURT:



Robert A. Miller, Chief Justice

ATTEST:


Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

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Clerk