

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PROPOSED	)	NOTICE OF RULES HEARING
AMENDMENT OF SDCL 15-6-5(d)	)	
IN THE MATTER OF THE PROPOSED	)	NO. 134
AMENDMENT OF SDCL 15-6-5(g)	)	
IN THE MATTER OF THE PROPOSED	)	
AMENDMENT OF SDCL 15-26A-47	)	
IN THE MATTER OF THE PROPOSED	)	
AMENDMENT OF SDCL 15-26A-53	)	
IN THE MATTER OF THE PROPOSED	)	
AMENDMENT OF SDCL 16-19-36	)	
IN THE MATTER OF THE PROPOSED	)	
AMENDMENT OF SDCL 16-19-37	)	

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Petition for the amendment of existing sections of the  
South Dakota Codified Laws having been filed with the Court, and  
the Court having determined that the proposed amendments should be  
noticed for hearing, now therefore,

**NOTICE IS HEREBY GIVEN THAT ON January 10, 2017, at 11:00  
A.M., C.S.T.,** at the Courtroom of the Supreme Court in the Capitol  
Building, Pierre, South Dakota, the Court will consider the following:

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**1. Proposed Amendment of SDCL 15-6-5(d). Filing of Papers--**  
**Originals--Copies.** The original of all papers, ~~excluding briefs or~~  
~~memorandums of law thereof,~~ served upon a party or presented to any  
court or judge in support of any application or motion and including  
the summons, all pleadings, notices, demands, offers, stipulations,  
affidavits, written motions, briefs, memorandums of law, and orders  
shall, if not filed before service, be filed with the court, together  
with proof of such service, forthwith upon such service. The foregoing  
requirement of filing applies to the notice of filing of an order and  
the notice of entry of a judgment together with proof of service  
thereof, both of which shall be filed forthwith; if not filed within  
ten days after service thereof, the time of service shall be deemed to

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be the date of filing of the notice and proof of service. If papers are not to be served, they must be filed with the court at the time of their presentation to the court for any action or consideration.

Any electronic version of any paper or document shall have the same force and effect as the original. A certified copy of an original made by electronic transmission shall have the same force and effect as a certified copy of an original.

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**2. Proposed Amendment of SDCL 15-6-5(g). Documents not to be filed-Depositions.** No depositions (except notices to take depositions), interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall be filed with the clerk of the court except as provided in this section.

Any discovery materials necessary for the disposition of any motion filed with the court or referenced in any filing with the court shall be attached as an exhibit and filed with the party's motion in its entirety. Financial account information filed with the court as an exhibit under this section shall be confidential pursuant to §§ 15-15A-8 and 15-15A-9, and shall remain confidential unless and until access is granted by the court under § 15-15A-10.

If any party designated any or all of any deposition as evidence to be offered in the trial of any case, such deposition shall be filed in its entirety with the clerk of the court at the same time as that party's designation.

Depositions used by a party only for the purpose of contradicting or impeaching the testimony of deponent as a witness, pursuant to subdivision 15-6-32(a)(1), shall not be filed unless otherwise ordered by the judge presiding at the hearing or trial.

All depositions which have been read or offered into evidence by agreement of parties, or at the trial or submission of the case to the court, shall become a permanent part of the file.

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~~After the ultimate conclusion of the case, depositions not offered or received into evidence may be withdrawn by the parties taking the deposition. All unclaimed depositions may be disposed of by the clerk after giving thirty days notice to the attorneys of record of the clerk's intention to do so.~~

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**3. Proposed Amendment of SDCL 15-26A-47. Composition of the record on appeal.** The original pleadings, papers, offered exhibits, and the transcript of the proceedings, if any, shall constitute the record on appeal in all cases. ~~Pursuant to § 15-6-5(d), trial briefs shall constitute a part of the record only when the Supreme Court shall direct counsel to provide copies thereof.~~

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**4. Proposed Amendment of SDCL 15-26A-53. Duty of clerk of trial court to assemble and certify the record--Time and manner--Transmittal of index in lieu of entire record.** Within five days after the filing of the notice of appeal, it shall be the duty of the clerk of the trial court to assemble and consecutively number the pages of all pleadings, documents, papers, and exhibits filed in said action, including any opinion which the trial court may have filed or authorized for filing, except the parties may stipulate as to the contents of the record. The clerk shall then prepare and attach an alphabetical index to the record and shall promptly serve a copy on all counsel of record and the clerk of the Supreme Court. The clerk's certified record, together with the transcript, shall constitute the record on appeal.

~~Trial briefs shall constitute a part of the record only when the Supreme Court shall direct counsel to provide copies thereof.~~

The Supreme Court may provide by rule or order that a certified copy of the alphabetical index shall be transmitted in lieu of the entire record, subject to the right of any party to request at any

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time during the pendency of the appeal that designated parts of the record be transmitted.

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5. **Proposed Amendment of SDCL 16-19-36. Attorney's conviction of serious crime to be reported to Supreme Court Disciplinary Board--Definition of serious crime.** Any attorney and the clerk of any court in this state in which an attorney is convicted of a serious crime, except those misdemeanor traffic offenses or traffic ordinance violations not involving the use of alcohol or drugs, shall within ten days of said conviction transmit a certificate thereof to the Supreme Court. ~~The term "serious crime" includes any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime, involves improper conduct as an attorney, interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a serious crime.~~ If such certificate is for conviction of a serious crime as defined in § 16-19-37, the board shall promptly transmit the same to the Supreme Court.

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6. **Proposed Amendment of SDCL 16-19-37. Suspension from practice on conviction of serious crime--Setting aside order.** If any attorney has been convicted of a serious crime ~~as defined in § 16-19-36~~, the Supreme Court may enter an order immediately suspending the attorney from engaging in the practice of law, pending final disposition of a disciplinary proceeding to be commenced upon such conviction. The term "serious crime" includes any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime, involves improper conduct as an attorney, interference with the administration of

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justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a serious crime. Upon good cause shown, the Supreme Court may set aside such order suspending the attorney from engaging in the practice of law when it appears in the interest of justice so to do. An order suspending an attorney from the practice of law pursuant to this section is a suspension of the attorney for the purpose of §§ 16-19-74 to 16-19-82, inclusive, unless the Supreme Court shall otherwise order.

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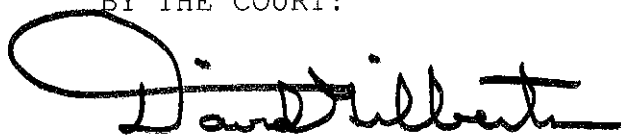
Any person interested may appear at the hearing and be heard, provided that all objections or proposed amendments shall be reduced to writing and the original and two copies thereof filed with the clerk of the Supreme Court no later than December 27, 2016.

Subsequent to the hearing, the Court may reject or adopt the proposed rules or any rule germane to the subject thereof.

Notice of this hearing shall be made to the members of the State Bar by publication of this notice in the December 2016, State Bar Newsletter and at [http://uj.s.sd.gov/Supreme\\_Court/ruleshearing.aspx](http://uj.s.sd.gov/Supreme_Court/ruleshearing.aspx) and <http://www.statebarofsouthdakota.com/p/do/si/topic=193>.

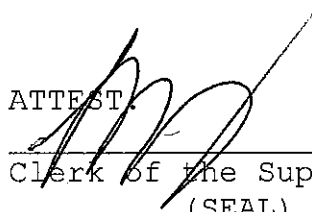
DATED at Pierre, South Dakota this 28th day of November, 2016.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST.



Clerk of the Supreme Court  
(SEAL)

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

NOV 28 2016



Clerk