

## INSTRUCTIONS AND FORM FOR PLAINTIFF'S MOTION AND ORDER FOR DISMISSAL

Please note that court staff cannot provide you with legal advice or assist you in completing these forms. The use of these forms does not guarantee you will be successful in court. It is highly encouraged that you speak with an attorney if you are needing assistance. For specific questions on the forms, you may contact the legal form helpline at 1-855-784-0004 or email UJS staff at [ujssrlhelp@ujs.state.sd.us](mailto:ujssrlhelp@ujs.state.sd.us). Additionally, for more information on South Dakota laws, you can also visit the South Dakota Legislature website.

### **IMPORTANT NOTICE:**

This form can only be filed if the Defendant has not yet filed an Answer or Motion for Summary Judgment.

### **To complete this form, you will need to:**

- Complete the caption by filling in the name of the county you are filing in, the judicial circuit number, Plaintiff and Defendant's names.
  - Leave the order section of the form blank for the Judge to complete.
- Date and sign in front of a notary or Clerk of Court.
- File the original with the Clerk of Court.
- If your Motion to Dismiss is granted by the Judge, two certified copies will be provided to you. One copy of the Motion and Order will need to be mailed to the Defendant.
- Once you have mailed a copy, you will need to complete the Affidavit of Mailing section and file with the Clerk of Court.

STATE OF SOUTH DAKOTA  
COUNTY OF \_\_\_\_\_

IN CIRCUIT COURT  
\_\_\_\_\_ JUDICIAL CIRCUIT

<p>_____</p> <p>Plaintiff</p> <p>v.</p> <p>_____</p> <p>Defendant</p>	<p>Case No.: _____</p> <p><b>MOTION AND ORDER FOR DISMISSAL</b></p>
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The Plaintiff hereby requests to dismiss the above-entitled matter, pursuant to SDCL 15-6- 41(a). The Defendant has not filed an Answer or Motion for Summary Judgment. Thus, I respectfully move the Court for an Order dismissing this case, without prejudice.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Plaintiff Signature

\_\_\_\_\_  
Plaintiff Name

Sworn/affirmed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Plaintiff Address

\_\_\_\_\_  
Notary/Deputy Clerk/Clerk of Court

\_\_\_\_\_  
City, State, Zip Code

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Phone Number

**ORDER**

Pursuant to SDCL 15-6-41 (a), this action is hereby DISMISSED without prejudice.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BY THE COURT:

\_\_\_\_\_  
Circuit Court Judge

ATTEST:

\_\_\_\_\_  
Clerk of Court

\_\_\_\_\_  
Deputy Clerk  
(SEAL)

<p>_____</p> <p>Plaintiff</p> <p>v.</p> <p>_____</p> <p>Defendant</p>	<p>Case. No.: _____</p> <p style="text-align: center;"><b>AFFIDAVIT OF MAILING</b></p>
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I, \_\_\_\_\_, the above-named Plaintiff being sworn, state that on \_\_\_\_\_, 20\_\_\_\_\_, I sent a certified copy of the Motion and Order for Dismissal by placing true and correct copies in an envelope addressed to the Defendant at:

\_\_\_\_\_

*(Name of Defendant)*

\_\_\_\_\_

*(Street Address)*

\_\_\_\_\_

*(City, State, Zip)*

And depositing the envelope, with sufficient postage, in the United States Mail in:

\_\_\_\_\_

*(City and State you mailed from)*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

Plaintiff Signature

\_\_\_\_\_

Plaintiff Name

\_\_\_\_\_

Plaintiff Address

\_\_\_\_\_

City, State, Zip Code

\_\_\_\_\_

Phone Number

Sworn/affirmed before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

Notary/Deputy Clerk/Clerk of Court

My Commission Expires: \_\_\_\_\_