

Going Solo: Representing Yourself in the South Dakota Courts



A Guide to Understanding



This information was provided by the South Dakota Unified Judicial System.

Introduction

Some day you may find you need to go to court – to settle a dispute with a business or a neighbor, to get a divorce, or collect child support. Many people hire a lawyer to take their case to court. It’s a good idea. A lawyer has training and experience – and knows how the system works. Even if you end up representing yourself in court, it’s good to start by talking to a lawyer about your problem. Find out if your case is a simple matter or one that could get complicated. Ask what it would cost to hire a lawyer to handle it for you.

Of course, not everyone can afford a lawyer. And others may decide to take their chances and go at it alone. Going solo in the courthouse can be very scary. Especially if everything you know about the law is from watching television. Going to court isn’t as simple as they make it seem on TV. That’s why the South Dakota Unified Judicial System has published this brochure for you.

In this booklet you will learn how the South Dakota court system works. You will learn the process – step by step. Take it home and read it. It could save you time and headaches later.

Keep in mind that this guide is meant to give you helpful information, not legal advice. Additional helpful information about the court system and its processes is available on the South Dakota Unified Judicial System’s website at <http://uj.s.sd.gov> and at the Frequently Asked Questions sections available at each Circuit’s webpage which can also be accessed through a link from the UJS homepage.



The South Dakota
Unified Judicial System

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MAKING THE DECISION

Can I go to court without a lawyer?



Yes. You have the right to represent yourself in state courts. In fact, many people in South Dakota go to court without a **lawyer**. Some people can't afford to hire a lawyer. Others decide that they would rather handle their legal problem on their own.

Should I go to court without a lawyer?

That is your decision to make. This guide was developed by the South Dakota Unified Judicial System to help you make that decision. Some cases are fairly simple and can be handled without a lawyer. Others involve complicated procedures and legal issues that require the experience and training of a lawyer. It is a good idea to talk to a lawyer about your case if possible. Whether you decide to hire a lawyer or go to court on your own, it helps to know how the court system works.

Can I get help with my case if I need it?

Yes. There is a list of services on pages 10 and 11 of this guide that may help you. You might want to take a moment now, before you begin your case, to find out where you can get information or advice.

What if I need extra help because of a disability or language barrier?

Everyone has a right to come to court and participate in the legal system. This includes people who are disabled, people who are hearing or vision impaired, and people who don't speak English. If you or anyone participating in your case needs special arrangements, first contact the Clerk of Court or Circuit Administrator where you filed the case. They should be able to make proper arrangements for a courtroom that is accessible, a sign language interpreter, or a translator. It is important to contact the Clerk of Court or Circuit Administrator just as soon as possible, so they have time to make the arrangements.

“Can I get help with my case if I need it?”

Is there a way to solve my problems without going to court?

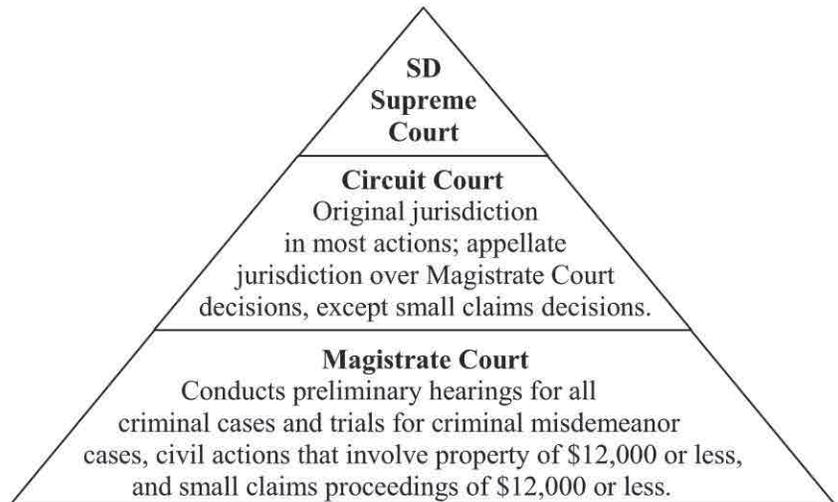


It's possible. You may be able to resolve your dispute through **mediation** without filing a lawsuit. Mediation gives people a chance to sit down with a mediator in an informal setting to try and work out their conflicts. The mediator is a trained problem-solver who can help the parties come to an **agreement**. There is a list of court approved mediators on the UJS website at <http://ujs.sd.gov>.

SOUTH DAKOTA JUDICIAL SYSTEM

How is the court system set up in South Dakota?

The court system is like a pyramid. At the bottom of the pyramid are the **Magistrate Courts**, where misdemeanor criminal cases and small claims court cases are heard. Next in the pyramid are the trial courts called **Circuit Courts**. The highest court in the state is the **South Dakota Supreme Court**. If someone loses a case in the circuit court, they can appeal to the South Dakota Supreme Court.



There are two kinds of legal cases: criminal and civil. A **criminal case** is when the state charges a person with a crime. A **civil case** is when someone sues an individual or a business. There are many kinds of civil cases. Some examples of a civil problem that could end up in court are: a divorce, a dispute with a landlord, a boundary disagreement with a neighbor, or a problem with a store that sold you a faulty product. **This guide covers only civil cases.**



Do I file my case where I live?

It depends. You must decide which county or state is right for your case. This is called finding the right **venue**. The case is usually filed where you live or where the action took place, but not always. Where

you file your case could affect the outcome especially in divorce and child custody cases. See SDCL ch. 15-5 for statutes on venue of actions.

How do I know which kind of court to go to?

That will depend on the type of case and the amount of money involved. If it is a family law matter, like divorce, child support, or custody, your case belongs in Circuit Court. If it is another kind of civil case, you may go to Magistrate Court if the amount of the money involved does not exceed \$12,000. If it is more than \$12,000, then you need to go to Circuit Court.

BASIC STEPS IN A LAWSUIT



1. **File the Summons and Complaint.** The person starting the case is called the **Petitioner** or **Plaintiff**. That person files a written statement, called the **Complaint**, telling the court what the case is about. Then they arrange to have the **Summons and Complaint** delivered to the other side. This is called “service of process.”
2. **File the Answer.** The person being sued is either called the **Defendant** or the **Respondent**. That person files a written response telling their side of the story and delivers a copy to the plaintiff. This is called an **Answer**.
3. **Prepare the case.** Both sides have time to gather evidence to prove their case. **Evidence** could include documents, photographs or the testimony of witnesses.
4. **The judge holds a hearing.** This is when both sides appear before the judge to present their evidence to prove their case.
5. **The judge makes a decision.**

FILING THE SUMMONS AND COMPLAINT

Is there a Summons and Complaint form I can use? You may purchase a packet of divorce forms from the Clerk of Court Office for \$10 or you may download the forms for free from the SD UJS's webpage at <http://uj.s.sd.gov/>. Forms for service by mail are available at SDCL 15-6-4(j).



Does it cost to file a lawsuit?

Yes. The court will charge a fee to file your case. *See* SDCL 16-2-29, 16-2-45. There are additional fees for copying and/or certifying copies, or issuing subpoenas. There is also a \$10.00 charge for a divorce forms packet if obtained from the Clerk of Court office, or you may download divorce forms from the UJS website for free and print them yourself.

How do I make sure I've done everything right?

Take it one step at a time and don't be afraid to ask for help. The courthouse staff cannot give you legal advice about your specific case, but they will answer your questions about court procedure. If you decide that there is too much at stake or your case is too difficult to handle on your own, you can contact a lawyer at any time during the court process.

The following are two examples of common actions that may come before the court:

- **Angela** wanted to get a divorce because her husband left her. She went to the Clerk of Court Office to get a “Divorce Packet” which contains most of the forms she needs to fill out to file for divorce. There is a \$10 charge for the divorce packet. The Clerk explained that she needed to read the instructions carefully before starting to fill out the forms. She suggested she practice in pencil before making final copies.
- **Bob** was sued by his landlord. The landlord filed a **Summons and Complaint** stating that Bob had not paid his rent. The landlord asked the court to force Bob to move out. Bob received a copy of the **Complaint** and a **Summons** telling how long he had to respond. Bob went to the Clerk of Court Office and was told that he needed to file an **Answer**. If Bob did not file an answer by the deadline, his landlord could have asked the court to rule against him right away. This is called a **default judgment**. Bob filed an answer stating “A pipe broke in my basement. The landlord told my wife that we should get a plumber to fix it, pay him and deduct it from the rent, so we did. The plumber cost more than the rent so that's why the landlord didn't get a check from us last month.” When the pipe broke in Bob's basement, it also damaged a rug. So, Bob filed a counterclaim to ask the court to order his landlord to pay him for it.

.... is there someone who can help me with the forms?

If I have trouble reading, is there someone who can help me with the forms?

Yes, you can ask someone in the Clerk's office to help you or contact your local library. You may also contact the South Dakota Literacy Council at 1-800-484-6690 Code 8585 or (605) 224-8212. You have to tell the person helping you what to write. The person helping you can only write down what **you** say. You can also take the forms home and ask a friend to help you.

How do I notify the other person that I have filed a Summons and Complaint against them? Whenever you file a lawsuit, including a divorce, you have to arrange to have the Summons and Complaint delivered to the other side and provide the court with proof of how, when and where the papers were received. This is called **service of process**. There are several ways that you can legally serve someone. The most common methods are listed below and are addressed in SDCL 15-6-4(a) – (j) and SDCL 15-6-5(a) – (i). *See also* SDCL ch. 15-39 for small claims procedures.

Personal Service: The papers are hand delivered to the defendant or respondent. This is often done by the sheriff's office or, in some larger communities, a private process server. Personal service can also be done by any credible person over the age of eighteen who is not involved in the case. An **Affidavit of Service** form proving that the person received the papers must be filled out and filed at the Clerk's office. See SDCL 15-6-4(g) for proof of service requirements.

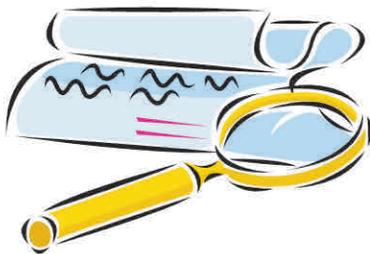
Acceptance of Service: If the other side is willing to accept the papers, you can give them a copy, have them sign an Admission of Service form saying that he received them, and file that form with the Clerk.

Service by Publication: This method is used only if the person you're suing lives out of state or you don't know how to locate them. Putting an ad in the newspaper usually does it but it can be a little tricky. Service by publication is explained in greater detail in SDCL 15-9-7 – 15-9-22. A court order is needed before you may serve someone by publication. Proof of such service is described in SDCL 15-6-4(g)(4).

Do I serve the papers the same way when filing an Answer?

You can serve an Answer by mailing it to the person who sued you. You will still need to file an **Affidavit of Mailing Service** with the court showing when and where you sent the papers.

PREPARING FOR THE HEARING



My papers have been filed and served. What do I do to get ready for the hearing? Now is the time to prepare your case. You need to gather the evidence that will help prove your case to the judge. The evidence could be papers, like receipts or bills that you bring to court with you. You could also use witnesses to tell the court what they know about your case. Let's look at how Angela and Bob prepared for their hearing.



Angela received a Divorce Packet from the Clerk of Court. There are specific things that Angela needs to do before the hearing. These are spelled out in the divorce packet and include:

- Filling out a **Financial Affidavit** to help the judge make decisions about dividing property and providing child support and setting alimony. The Court will need copies of financial records, like income tax returns, pay check stubs, monthly bills, deeds to property, bank account statements, and retirement or pension plan statements.
- Filling out a **Stipulation and Settlement Agreement**. This spells out plans to separate assets and debts and the parties' plan to care for the children. It is completed if both parents agree to the terms of the divorce.
- Attending **Parent Education Class**, where required.

Bob needs to figure out what evidence he needs to prove his case. The kinds of things he should consider are:

- The receipt from the plumber or a copy of his cancelled check. The plumber's **testimony** might also be helpful. He could testify that he did the repair and identify the bill.
- **Testimony** from Bob's wife. She can testify that the landlord told her to hire a plumber and deduct the cost from their rent.
- A receipt showing what Bob paid for the rug. If Bob uses receipts or checks as evidence, he should make sure that he has three sets: the original for the court, one copy for the landlord, and one copy to keep for his own records.

If his wife or the plumber is going to testify, Bob needs to write out his questions and go over them with each witness before the hearing. If the plumber does not want to come to court, Bob can get a **subpoena** forcing him to come to court. The Clerk's office can provide Bob with a subpoena form that includes instructions for service. But he should be careful - a witness who doesn't want to testify may hurt his case more than he helps it.



Can I find out what the other side is going to say and bring to the hearing?

It is possible to find out what evidence the other side is going to present through a process called **discovery**. In civil cases, you have the right to get information about witnesses and copies of documents before the hearing. There are complicated rules about what you can get through discovery and strict time limits apply. In South Dakota, discovery rules are generally located at SDCL 15-6-26 through 15-6-37. If you need to use discovery, you may want to talk to a lawyer.

Can I try to settle my case before the hearing?

Absolutely. Many cases settle out of court without a hearing. For example: Bob's case might be just a simple misunderstanding and could be settled with a phone call to his landlord or the landlord's lawyer. He might also want to use a mediator to help Bob and his landlord reach a **settlement** or an **agreement**.

In Angela's case, it will be better for everyone if they can agree on the parenting plan before the hearing. If the parents can't agree on how the children will be cared for, what arrangements will be made for custody and visitation, the Circuit Court Judge may appoint a mediator. See SDCL 25-4-56 through 25-4-62. The mediator will sit down with both parents in an informal setting and try to help them resolve some or all of their differences in caring for the children. A list of court approved mediators can be found on the UJS website at <http://uj.s.sd.gov> or you may ask a circuit court administrator for a list in that circuit. These mediators do charge a fee for their services and the parties can agree on how to pay for this service.



THE HEARING

How do I get a hearing? Will the court just schedule one?

Ask the clerk of the court where your case was filed whether you need to request a hearing or whether the court will schedule one on its own. In most Magistrate and small claims court cases, the court will send both sides a **notice of hearing** telling them when and where the hearing will take place. In Circuit Court cases, the hearing will be scheduled only upon request. In that case, it's up to you to contact the Clerk of Court's office to request that a hearing be scheduled. Then, you must send out a notice to the other side telling them the time and date of the hearing.

I've never been to court. What should I expect?

Each court is a little different. Some courts use formal rooms like the ones you see on television. But some hearings may be held in a small room or the judge's office, called the judge's chambers. In general, this is what you can expect to see at your hearing.



Magistrate Court	Circuit Court
<ul style="list-style-type: none">• Magistrate Judge or Clerk• May be less formal setting• Court reporter and/or taped recording of proceeding• Clerk of Court, who keeps track of official court file	<ul style="list-style-type: none">• Judge in robe on bench• More formal• Court reporter and/or taped recording of proceeding• Clerk of Court, who keeps track of official court file

What will happen at the hearing?

That will also depend on the kind of court and the judge. The chart below describes what you can usually expect to happen in each of these kinds of courtrooms.

Magistrate Court: The judge will probably start off by asking you to tell the court what your case is about. It will also be up to you to question your witnesses and present your evidence. The judge will probably ask questions and each side has the right to question the other's witnesses.

Circuit Court: There are strict rules for presenting evidence and questioning witnesses in Circuit Court. You will be expected to know what those rules are and follow them. The other side may be represented by a lawyer. In cases tried without a jury, the judge decides the case. In cases tried before a jury, the judge rules on what evidence may be considered by jurors in reaching their verdict. The judge also instructs the jury on points of law pertaining to the case.

When will the judge decide my case?

The judge may make a decision at the hearing. But often judges will take additional time to consider the evidence and the law before deciding.

7 Tips

when representing yourself in court

- 1. Make a good impression.** If you dress nicely, it tells the judge that you respect the courtroom and care about your case.
- 2. Be respectful.** Be respectful to everyone in court, including the other side – and don't argue with the judge. Try to stay calm.
- 3. Know what to ask.** You can ask court officials for information about the process and what type of information to put on the forms. But remember, court employees cannot tell you what to write on the forms or what to say at the hearing.
- 4. Arrive early.** Arrive early. Most judges like to start on time. But some cases take longer than expected, so be prepared to wait.
- 5. Tell your story.** Tell the judge in a few brief sentences what your case is about and how you plan to prove the facts of your case. Lawyers call this an **opening statement**.
- 6. Come prepared.** Bring the original document and at least **two copies** of any evidence you plan to present. Write out the questions you plan to ask and go over them with your witnesses before the hearing.
- 7. Use a lawyer if you need help.** Most important of all, you can use a lawyer if you need help. You may start this case on your own, but later realize that you need the help of an attorney. You can hire an attorney at any time during the court process.

MAKE AN INFORMED CHOICE



The South Dakota Unified Judicial System hopes this guide gives you a better idea of how the court system works. If you ever decide to go to court, you'll know the basic steps. You can decide whether to hire a lawyer or do it on your own. You also understand the risks you are taking if you go to court without a lawyer. Some cases go well with a "do-it-yourself" approach. Some don't. Keep in mind some cases are better left to a trained professional – if you can possibly afford it. Just be smart. Decide what is best for you.

Legal Terms

Affidavit of Indigency – a sworn statement used to determine if someone meets the income guidelines so that they are not required to pay court fees

Agreement – an oral or written promise to do something

Answer – The defendant’s written response to allegations in the case

Certificate of Service – Form filed with the Clerk’s office stating that the opposing party in a lawsuit received the papers filed in the case

Circuit Court – Original jurisdiction in most actions, appellate jurisdiction over Magistrate Court decisions, except small claims decisions. South Dakota’s 66 counties are divided into 7 circuits

Civil Case – an action brought by a person, company, or other entity to protect some right or to help recover money or property from another person or company

Complaint – (civil) written statements by the plaintiff setting forth the claims against the defendant

Counterclaim – a claim filed by the Defendant or Respondent in a legal action

Criminal Case - a criminal lawsuit filed by the State of South Dakota against a defendant for violation of a criminal law

Default – failure to act, appear or perform an act or obligation that is legally required

Default Judgment – when a party who has been sued fails to answer, either the Clerk or the court may enter a judgment by default against that party

Defendant – the person against whom a civil lawsuit is brought. In divorce cases, the person against whom the divorce is being filed

Discovery – a pretrial proceeding where a party to an action may be informed of the facts known by other parties or witnesses

Divorce Packet - a packet of forms and instructions developed by the South Dakota Unified Judicial System to assist persons filing for divorce

Evidence – any presented proof, which may be established by witnesses, testimony, records, documents, etc.

Interrogatory – a written question or set of questions submitted (with the court’s permission) by one party to a civil suit to the opposing party on any matter relevant to the case

Lawyer – a person licensed and authorized to practice law, conduct lawsuits, or give legal advice

Magistrate Court – may hear small claims and uncontested civil cases and minor misdemeanor criminal cases

Mediation – a method of solving problems without going to court

Notice of Hearing – an official notice telling the parties when and where a hearing is scheduled

Opening Statement – summary of the case and the evidence that will be presented given at the beginning of the trial

Petitioner – in a civil case, the person or other entity who files a claim against another person; may be called Plaintiff depending on type of action (see Plaintiff)

Plaintiff – in a civil case, the person or other entity who files a claim against another person. In divorces, this is the person who files or starts the divorce

Respondent – the person against whom a civil lawsuit is being brought; may be called Defendant depending on type of action (see Defendant)

Restitution – a payment made by a defendant to a victim for monetary losses suffered by the victim as a result of the defendant’s conduct

SDCL - South Dakota Codified Laws - these are the laws of South Dakota. Copies can be found in public libraries or on the web at <http://legis.sd.gov/statutes>

Service of Process – legal methods of delivering the papers to the other side in a lawsuit and proving to the court (by filing an affidavit of service or a certificate of service) that they were received

Settlement – an oral or written promise to resolve a problem, usually entered into before going to court

Subpoena – a written legal notice requiring a person to appear in court and give testimony or produce documentary evidence

Summons – a writ notifying the person named that an action has been filed against the person

Testimony – a solemn statement made under oath

Venue – The specific county, city or geographical area in which a court has jurisdiction

South Dakota Supreme Court – South Dakota’s highest court where five Supreme Court Justices hear appeals of circuit court decisions and interpret the laws and constitutions of South Dakota and the United States

RESOURCES AVAILABLE

For Mediation Services:

A list of court-approved mediators is maintained on the UJS website at <http://uj.s.sd.gov>.

For Parenting Coordinator Services:

A list of approved parenting coordinators is maintained on the UJS website at <http://uj.s.sd.gov>.

For Assistance with UJS-Approved Legal Forms found at <http://uj.s.sd.gov>:

Contact the USD School of Law Legal Form Help Line Toll Free at 1-855-784-0004.

Legal Aid Services of South Dakota:

Residents who meet financial eligibility guidelines can get free legal aid services in SD. To determine if you are eligible, contact one of the following:

Dakota Plains Legal Services, Inc.

160 Second St.
P.O. Box 727
Mission, SD 57555

Phone: (605) 856-4444
Toll Free: 1-800-658-2297

Dakota Plains Legal Services

528 Kansas City St.
P.O. Box 1500
Rapid City, SD 57708

Phone: (605) 342-7171

East River Legal Services

335 North Main Ave., Suite 300
Sioux Falls, SD 57102

Phone: (605) 336-9230
Toll Free: 1-800-952-3015

Access to Justice, Inc.

This is a statewide program designed to supplement the legal aid programs in SD. Residents must be income eligible to qualify for legal services at a reduced rate or at no cost to you. Clients are responsible for paying case costs. Access To Justice Inc. also offers clinics periodically to assist self-represented litigants in filling out UJS approved legal forms.

Access to Justice, Inc.
816 6th St.
PO Box 495
Rapid City, SD 57709

Phone: (605) 791-4147
Or Visit: www.helpsouthdakota.com

RESOURCES AVAILABLE

(Continued)

For Assistance with Complaints Regarding Businesses:

Office of the Attorney General
Division of Consumer Protection
1302 E. Hwy 14, Suite 3
Pierre, SD 57501

Phone: (605) 773-4400
Toll Free: 1-800-300-1986 (in state only)
Or Visit: <http://atg.sd.gov/Consumers.aspx>

For Assistance in Finding a Lawyer:

The State Bar of South Dakota offers a listing of lawyers and firms in South Dakota and can be found at the following: <http://www.sdbar.org/new/public/resources.html>. These are private practitioners who will charge for their services.

State Bar of South Dakota
Toll Free: 1-800-952-2333

For further information regarding the court system in South Dakota or to obtain legal forms, please visit the South Dakota Unified Judicial System's website at <http://ujis.sd.gov>.



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General Definitions

Affidavit:

An affidavit is a written document signed under oath and made without prior notice to the opposing party. SDCL 19-3-2

Alimony (also known as spousal support):

SDCL 25-4-41. Allowance for support when divorce granted. Where a divorce is granted, the court may compel one party to make such suitable allowance to the other party for support during the life of that other party or for a shorter period, as the court may deem just, having regard to the circumstances of the parties represented; and the court may from time to time modify its orders in these respects.

- There are different types of alimony, including:
 - General – an allowance for support and maintenance; the sole object is the provision of food, clothing, habitation and other necessities for support of the spouse.
 - Rehabilitative – awarded to enable a former spouse to refresh or enhance his/her job skills he/she needs to make a living; purpose is to put the former spouse in a position to upgrade his/her economic marketability
 - Restitutional –awarded to reimburse one spouse’s contributions during marriage to the advanced training or education of the other spouse.

There are different factors considered when evaluating each type of alimony. You should consult an attorney when determining whether you qualify for alimony.

Grounds for divorce:

“Grounds for divorce” means the reasons you are seeking a divorce. The reasons that are legally acceptable are set forth in SDCL 25-4-2 as follows:

- 1) Adultery – the voluntary sexual intercourse of a married person with one of the opposite sex to whom he or she is not married. *See also* SDCL 25-4-3.
- 2) Extreme Cruelty – the infliction of grievous bodily injury or grievous mental suffering upon the other, by one party to the marriage. *See also* SDCL 25-4-4.
- 3) Willful Desertion – the voluntary separation of one of the married parties from the other with intent to desert. SDCL 25-4-5. *See also* SDCL 25-4-8 to 25-4-14, -17 for special conditions or circumstances applicable to willful desertion.
- 4) Willful Neglect – the neglect of a person to provide the common necessities of life for his or her spouse, when having the ability to do so; or it is the failure to do so by reason of idleness, profligacy or dissipation. *See also* SDCL 25-4-15, -17.
- 5) Habitual Intemperance – that degree of intemperance from the use of intoxicating drinks which disqualifies the person a great portion of the time from properly attending to business, or which

would reasonably inflict a course of great mental anguish upon the innocent party. *See also* SDCL 25-4-16, -17.

- 6) Your spouse has been convicted of felony.
- 7) Irreconcilable Differences – this is the “no fault” reason for divorce. Irreconcilable Differences is where the parties agree that there are substantial reasons for not continuing the marriage and the marriage should be dissolved. SDCL 25-4-17.7. Generally, both parties must agree to use irreconcilable differences as the reason for the divorce. SDCL 25-4-17.2

Property:

SDCL 25-4-45.1: Fault is not considered in awarding property.

SDCL 25-4-44: When a divorce is granted, the courts may make an equitable division of the property belonging to either or both, whether the title to such property is in the name of the Husband or the Wife. In making such division of the property, the court shall have regard for equity and the circumstances of the parties.

When determining whether property is marital or non-marital, there are specific factors utilized by the court. You should consult an attorney if you have questions about property.

Order Regarding Filing Fee and Service of Process Fee:

This document is a court order signed by a Judge ordering that either the filing fees or sheriff's service fees (or both) not be charged to the plaintiff. In order to get this Order, a Motion and Affidavit to Waive Fees must be filed first.

Checklist for Self-Represented Divorce Without Minor Children

PLEASE READ ALL INSTRUCTIONS BEFORE BEGINNING TO FILL OUT ANY DOCUMENTS. IT IS IMPORTANT TO FOLLOW ALL INSTRUCTIONS CAREFULLY.

Please use black ink only when filling out all forms!

COMMENCING THE CASE:

- _____ Complete Case Filing Statement (UJS-232) available in this packet.
- _____ Complete the Summons (Without Minor Children) (UJS-309).
- _____ Complete the Complaint (Without Minor Children) Form (UJS-310).
- _____ Complete the Financial Affidavit (UJS-304A).
- _____ Make at least two photocopies of all documents, one for you and one to serve on your spouse.
- _____ Take the original completed Case Filing Statement, Summons (Without Minor Children), Complaint (Without Minor Children), and Financial Affidavit to the Clerk of Court and tell the Clerk you are filing for divorce.
- _____ Pay the \$95.00 filing fee; **OR**
- _____ If you cannot afford the filing fee, you must complete the Motion & Order to Waive Filing Fee & Service of Process Fee (Form UJS-305). The Clerk will present the Motion and your Financial Affidavit to the Judge and you will be notified if the fee has been waived or if you must pay. If the Motion is granted, you will not be charged the filing fee and/or the Sheriff will not charge you for service of process. If your Motion is denied by the judge, you must pay the filing fee and service of process fee in order to proceed with the case. If the filing fee isn't paid within 30 days, your case will be dismissed.
- _____ Arrange for service on the defendant. The different ways to serve the defendant are set forth in the "Instructions for Service of Summons (Without Minor Children) & Complaint (Without Minor Children)" (Form UJS-314).

_____ Copies of the following documents **MUST** be served on the defendant:
_____ Summons (Without Minor Children); and
_____ Complaint (Without Minor Children).

Copies of the following documents should be provided to the defendant to make the case flow smoothly:

_____ copy of the Financial Affidavit you completed;
_____ blank copy of the Financial Affidavit form for the defendant's completion;
_____ blank copy of the Instructions & Answer (UJS-316); and
_____ copy of the Checklist for Self-Represented Divorce (UJS-307A).

_____ Upon receipt of the proof of service (either the date the Admission of Service is signed or the date the Summons and Complaint are delivered to the Defendant by the Sheriff or process server), make a copy of proof of service for you and file the original proof of service with the Clerk of Court. Service of the Summons and Complaint starts the lawsuit and starts the 30 days in which the Answer must be filed and the 60 day waiting period before the divorce can be finalized.

_____ An Answer (Form UJS-316) must be filed by the defendant within 30 days after service of the Summons (Without Minor Children), and Complaint (Without Minor Children).

STIPULATED DIVORCE (the parties agree on all the terms of the divorce):

_____ Parties may reach an agreement regarding the terms and conditions of their divorce instead of a Judge determining everything for them. If an agreement can be reached, the parties need to complete and file the following documents:

_____ Stipulation and Settlement Agreement Without Minor Children (UJS-324); and

_____ Affidavit of Plaintiff and Defendant as to Jurisdiction and Grounds for Divorce (UJS-319A).

_____ **After 60 days from the date of service (either the date the Admission of Service is signed or the date the Summons and Complaint are delivered to the Defendant by the Sheriff or process server), the parties are responsible for presenting the Judgment and Decree of Divorce (UJS-326) to the Judge for consideration.**

_____ If the parties cannot reach an agreement, the Court can order them both to mediation. A court-approved mediator will help the parties mutually agree on the various issues in your divorce. Mediation is not binding and the issues discussed in mediation are confidential. A list of court-approved mediators can be found at www.ujs.sd.gov.

_____ If the Judge signs the Judgment and Decree of Divorce, the Clerk of Court will complete the Notice of Entry of Judgment and Decree of Divorce (UJS-327A) and send both parties a copy of it along with certified copies of the Judgment and Decree of Divorce and the Stipulation and Settlement Agreement Without Children.

_____ Provide self-addressed, stamped envelopes for the Plaintiff and Defendant to the Clerk of Court for the mailing of these documents to each party. Make sure there is enough postage for all three documents.

- If you do not receive these documents, it is your responsibility to call the Clerk of Courts office and inquire as to the status. **These documents are important for finalization of your divorce.**
- **DO NOT ASSUME YOU ARE DIVORCED! Unless you see the Judgment & Decree of Divorce signed by the Judge & filed, you should follow up with the Clerk of Court!**

CONTESTED DIVORCE (parties cannot agree on some or all of the terms):

_____ If the parties cannot agree on the terms and conditions of the divorce, one party will have to request that a hearing, or trial, be scheduled.

_____ If the parties cannot reach an agreement, the Court can order them both to mediation. A court-approved mediator will help the parties mutually agree on the various issues in your divorce. Mediation is not binding and the issues discussed in mediation are confidential.

Forms are not provided in this packet for contested issues / divorces!

_____ Contact the Clerk of Court or Court Administrator to obtain a court date.

_____ Complete a Notice of Hearing and make two copies. File the original. Send one copy to the other party and keep a copy for yourself.

_____ Complete the Affidavit of Mailing. Make one copy for yourself and file the original.

DEFAULT DIVORCE:

_____ In the event the defendant does not file an Answer or any responsive pleading and within 30 days of service and does not cooperate in signing a Stipulation and Settlement Agreement, complete the following forms upon the expiration of the 60 day waiting period:

- _____ Affidavit of Default (UJS-321A);
- _____ Application for Judgment & Decree of Divorce (Default) & Notice of Hearing (UJS-321A);
- _____ Affidavit of Mailing (UJS-321A); and
- _____ Affidavit of Military Status (UJS-306);

_____ Make at least two photocopies of each document, one for you and one to be sent to the defendant. File the original documents with the Clerk of Court. Send a copy of to the defendant via certified mail, return receipt requested.

_____ Take the Judgment and Decree of Divorce (Default) Form (UJS-322) to the hearing with you for consideration by the Judge or Circuit Court Administrator.

_____ If the Judge signs the Judgment and Decree of Divorce, the Clerk of Courts will complete the Notice of Entry and send you the following documents:

- _____ a copy of the Notice of Entry; and
- _____ a certified copy of the Judgment and Decree of Divorce (Default).

_____ Provide self-addressed, stamped envelopes for the Plaintiff and Defendant to the Clerk of Court for the mailing of these documents to each party. Make sure there is adequate postage for these documents.

- If you do not receive these documents, it is your responsibility to call the Clerk of Courts office and inquire as to the status. **Both of these documents are important for finalization of your divorce.**

DISMISSING THE DIVORCE:

If at any time prior to the Judge granting the divorce the parties reconcile their differences and wish to dismiss the divorce action, they must complete and file the Stipulation and Order for Dismissal Form (UJS-328).

If one party would like to dismiss the action but cannot get the signature of the other party, he/she can file the Motion and Order for Dismissal. (Form UJS-329).

_____ Provide self-addressed, stamped envelopes for the Plaintiff and Defendant to the Clerk of Court for the mailing of these documents to each party. Make sure there is enough postage for the document.

SOUTH DAKOTA UNIFIED JUDICIAL SYSTEM
Guide to Filing Fees and Court Costs - *Civil Filings Only*

Effective January 26, 2014

		FILING FEE	COURT AUTOMATION SURCHARGE	LAW LIBRARY FEE	TOTAL COURT COSTS
Probate					
	Estate	\$75.00	\$40.00	\$5.00	\$120.00
	Summary Disposition	\$25.00	\$40.00	\$5.00	\$70.00
	Termination	\$25.00	\$40.00	\$5.00	\$70.00
	Special Administration	\$25.00	\$40.00	\$5.00	\$70.00
	Determination of Inheritance Tax	\$25.00	\$40.00	\$5.00	\$70.00
	Guardianships (includes all subsequent papers)	\$25.00	\$40.00	\$5.00	\$70.00
	Safekeeping and Filing of Wills	\$2.00	\$0.00	\$0.00	\$2.00
Civil					
	Divorce	\$50.00	\$40.00	\$5.00	\$95.00
	Child Support Modification	\$50.00	\$0.00	\$0.00	\$50.00
	Civil cases filed for jury or court trial	\$25.00	\$40.00	\$5.00	\$70.00
	Default Judgment	\$25.00	\$40.00	\$5.00	\$70.00
	Default with Garnishment	\$25.00	\$40.00	\$5.00	\$70.00
	Dissolution of Corporation	\$25.00	\$40.00	\$5.00	\$70.00
	Foreclosure	\$25.00	\$40.00	\$5.00	\$70.00
	Quiet Title	\$25.00	\$40.00	\$5.00	\$70.00
	Appeals from an Administrative Agency	\$25.00	\$40.00	\$5.00	\$70.00
	Adoptions	\$25.00	\$40.00	\$5.00	\$70.00
	Name Change	\$25.00	\$40.00	\$5.00	\$70.00
	Issuing the following:				
	Transcript of Judgment	\$5.00	\$0.00	\$0.00	\$5.00
	Execution	\$5.00	\$0.00	\$0.00	\$5.00
	Special Execution	\$5.00	\$0.00	\$0.00	\$5.00
	Writ or Commission	\$5.00	\$0.00	\$0.00	\$5.00
	Filing and/or Docketing a Transcript of Judgment	\$5.00	\$0.00	\$0.00	\$5.00
	Renewing a Judgment	\$5.00	\$0.00	\$0.00	\$5.00
Miscellaneous					
	Record Searches (each name)	\$20.00	\$0.00	\$0.00	\$20.00
	Subpoenas (civil)	\$2.00	\$0.00	\$0.00	\$2.00
	Authenticated Copies	\$2.00	\$0.00	\$0.00	\$2.00
	Certified Copies	\$2.00	\$0.00	\$0.00	\$2.00
Small Claims					
	Where the amount in controversy is:				
	\$100 or less	\$10.98	\$12.00	\$2.00	\$24.98
	\$100.01 to \$1,000.00	\$16.98	\$12.00	\$2.00	\$30.98
	\$1,000.01 to \$3,999.99	\$26.98	\$12.00	\$2.00	\$40.98
	\$4,000.00 to \$12,000.00	\$26.98	\$16.00	\$2.00	\$44.98
	* each additional defendant add:	\$6.57			
Supreme Court Appeals					
	To Clerk of Circuit Court	\$50.00	\$0.00	\$0.00	\$50.00
	To Clerk of Supreme Court	\$50.00	\$50.00	\$0.00	\$100.00

*No court cost may be collected in any civil action or proceeding for judicial remedy commenced by the state, a county, a municipality, or a school district.

Instructions for Financial Affidavit & Form

The Financial Affidavit is a sworn statement about the financial situation of the party completing the form. It is meant to give the judge and the parties accurate information about the property and debts involved in the divorce. The values used should be as of the day the party completes the Financial Affidavit.

Both parties need to complete a separate Financial Affidavit Form and submit the same to the Court.

- **Complete this form in black ink only!**
- This is a 3 page form. Complete the caption (the top portion of the form). **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask the Clerk if you do not know), name of plaintiff, name of defendant and case filing number (ask the Clerk if you do not know). The caption will be the same on every form you fill out.
- Fill in the personal information in paragraphs (1)-(25). Use the information from your last two tax returns and your most current pay check stub, if you have them, to help you. **If you do not know an answer then place a question mark (“?”) in the blank. If the question does not apply to you, then mark “N/A” in the blank.** If you **know for certain** that you don’t have or receive the item listed then enter a zero (0).
- Fill in the form completely. Each blank should have a response whether it is an answer, a “?” or “N/A.” Failure to completely fill out the form may result in the Motion being denied.
- Fill in the blanks for sections I, II, and III. Values should be an actual amount (if known) or an estimate of what the property is worth. If you do not have or receive the item listed, enter a zero (0).
- **You must sign and date the Affidavit in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**

WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be charged with a crime for not telling the truth.

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF _____)

IN CIRCUIT COURT

_____ JUDICIAL CIRCUIT

_____, Plaintiff, vs. _____, Defendant.	DIV _____ FINANCIAL AFFIDAVIT
-------------------------------------------------------------	---------------------------------------------

• **Complete this entire form. Do not leave a blank empty – either provide the answer or insert “?” to indicate that you are unsure or “N/A” to indicate that the question does not apply to you.**

I, _____, hereby swear under oath and under penalty of law that the following is true.
(Name of party filling out this affidavit)

- (1) My mailing address is _____
- (2) My telephone number is () _____
- (3) I am (check one) _____ EMPLOYED _____ UNEMPLOYED _____ SELF-EMPLOYED
- (4) If employed, my **monthly** gross pay is: \$ _____.
- (5) Monthly gain or profit from a business or profession (self-employment): \$ _____.
- (6) Pension, retirement, disability, veterans, social security or insurance payments received regularly:
\$ _____ per _____.
- (7) Interest, dividends, rentals, royalties or other gains: \$ _____ per _____.
- (8) Gain from sale, trade or conversion of capital assets: \$ _____.
- (9) Unemployment insurance and workers compensation benefits: \$ _____ per _____.
- (10) Benefit in lieu of compensation including but not limited to military pay allowances: _____ per _____.
- (11) Other income (including spousal support received). Explain: _____.
\$ _____ per _____.

TOTAL GROSS MONTHLY INCOME (Add 4-11): \$ _____

- (12) Income tax based on one withholding allowance for a single taxpayer (not actual number of dependents):
\$ _____.
- (13) Social Security and Medicare taxes withheld from wages or salary: \$ _____.
- (15) Contributions to an IRS qualified retirement plan not exceeding 10% of gross income: \$ _____.
- (16) Unreimbursed employee business expenses (Attach IRS form 2106): \$ _____.
- (17) Payments made on child support orders: \$ _____.
(Attach court order and evidence of payments).
- (18) Payments made on spousal support orders: \$ _____.
(Attach court order and evidence of payments).

TOTAL DEDUCTIONS (Add 12-18): \$ _____

NET MONTHLY INCOME (SUBTRACT TOTAL DEDUCTIONS FROM GROSS MONTHLY INCOME): \$ _____

- (19) My total gross income before deductions for the previous year was \$ _____.
- (20) My total gross income before deductions for two years ago was \$ _____.
- (21) Including myself, I have the following number of dependents: _____.

- (22) Do you have health insurance available for your spouse through your employer? _____
- (23) If you provide medical or dental insurance for your spouse, please complete the following:
 Name of the Health and/or Dental Insurance Company _____
 Total monthly cost for the employee only: \$ _____
 Total monthly cost for the employee and spouse: \$ _____
 Persons covered under the policy of insurance: _____.
- (24) The following amounts accurately represent my assets and liability:

1. ASSETS (things we own or are buying)

a. CASH (on hand or in banks)	\$ _____
b. ACCOUNTS and NOTES RECEIVABLE (IOU's and other money payable to me).....	\$ _____
c. INVESTMENTS(stocks, bonds, savings bond, CD's, money market, stock options, etc.).....	\$ _____
d. RETIREMENT ACCOUNT (account balance).....	\$ _____
e. REAL ESTATE (house, land, tribal lease land, rental property, etc.).....	\$ _____
f. AUTOMOBILE(S) make, model, year:	
_____	\$ _____
_____	\$ _____
g. RECREATIONAL VEHICLES (boats, campers, ATV's, etc.).....	\$ _____
h. HOUSEHOLD GOODS (furniture, appliances, TV, stereo, etc.).....	\$ _____
i. SPORTING EQUIPMENT (hunting/fishing, camping, boating, etc.).....	\$ _____
j. JEWELRY.....	\$ _____
k. TOOLS, SHOP EQUIPMENT.....	\$ _____
l. VALUE OF BUSINESS	\$ _____
m. OTHER PERSONAL PROPERTY (tools, sports equipment, etc.).....	\$ _____
n. ANY OTHER ASSETS (anything else I could sell or borrow money on).....	\$ _____
TOTAL VALUE OF ASSETS.....	\$ _____

2. LIABILITIES (money that we owe)

a. Our regular monthly expenses are: (housing, utilities, food, insurance, etc.).....	\$ _____
b. DEBTS (vehicle loans, mortgages, credit cards, student loans, medical bills, personal loans, etc.):	
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____

TOTAL LIABILITIES\$ _____

3. **ANTICIPATED INCOME (money or property you are expecting)**

a. Total monies or income from sale of house or land, gifts, inheritance, allotments,
trust funds, lease money, etc.....\$ _____
When is the money/income expected? _____

Dated: _____

Signature of Person Filling out this Affidavit
(Sign only in front of notary public or clerk of courts.)

Sworn/affirmed before me this
_____ day of _____.

Notary Public \ Clerk of Courts

If notary, My Commission Expires _____

(SEAL)

Instructions for Motion & Order to Waive Filing Fee & Service of Process Fee & Order Form

A Motion to Waive Filing Fee & Service of Process Fee is a request to the Court asking that it not charge you the fee for filing a divorce and to direct the Sheriff not to charge you for service of process. The Motion refers to your Financial Affidavit (Form UJS-304) to explain your financial situation to the Judge and help the Judge decide whether to waive the fees in your case. Basically, you are telling the Judge that **you cannot afford** to pay the filing fee and the service of process fee.

- **Complete this form in black or blue ink only!**
- Complete the caption at the top of the Motion. **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask the Clerk if you do not know), name of plaintiff, name of defendant and case filing number (ask the Clerk if you do not know). The caption will be the same on every form you fill out.
- Read the entire document and make sure you fully understand it. You do not need to complete anything, but you are signing the document, under oath, that you are in agreement with the statements. *If you do NOT agree with statements, do not sign it!*
- **If you agree with the statements in the Motion, you must sign and date the Motion in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**

WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be prosecuted for not telling the truth.

- Make a photocopy of the Motion for you own records and file the original Motion and a blank copy of the Order Waiving Filing Fee and Service of Process Fee with the Clerk of Courts.

GIVE THE COMPLETED AND SIGNED MOTION AND A BLANK COPY OF THE ORDER WAIVING FILING FEE AND SERVICE OF PROCESS FEE TO THE CLERK OF COURTS WHEN YOU FILE YOUR DIVORCE.

If you do not hear from the Clerk in 5 business days, you should contact them and inquire whether the Judge signed your Order Waiving Filing Fee and Service of Process Fee. If he did NOT sign the Order, you have 30 days in which to pay the filing fee or your case will be dismissed.

STATE OF SOUTH DAKOTA)
:SS
COUNTY OF _____)

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

<p>_____, Plaintiff, vs. _____, Defendant</p>	<p>DIV _____</p> <p>ORDER WAIVING FILING FEE</p>
-------------------------------------------------------------------------	---------------------------------------------------------

The Plaintiff named above having moved the Court to enter its order to waive payment of the filing fee and service of process fee in the above-entitled action; the Court having reviewed and considered said motion and the Plaintiff's supporting Financial Affidavit filed herein; based upon the evidence presented, the Court determines that it is hereby

ORDERED that payment of the filing fee by the Plaintiff in the action herein is

_____ Waived

_____ Not Waived

and it is further

ORDERED that the Sheriff's fee for service of the Summons and Verified Complaint filed herein is

_____ Waived

_____ Not Waived.

Dated this _____ day of _____, 20__.

BY THE COURT:

CIRCUIT COURT JUDGE

ATTEST:

CLERK OF COURTS

DEPUTY

(SEAL)

CASE FILING STATEMENT
(Needed for **Each** Participant)

Informational only/not retained in case files

Documents for the following case types may **not** be eFiled (submitted through File & Serve):

- | | | |
|---------------------------------------------------|--------------------|------------------------------------------|
| ▪ Abuse & Neglect | ▪ Adoption | ▪ Informal Probate – initial only |
| ▪ Mental Illness | ▪ Small Claims | Subsequent Inf. Probate |
| ▪ Involuntary Commitments
(Drug/Alcohol Abuse) | ▪ Juvenile Records | Filings <u>may</u> be eFiled |

Please check the case type you are filing:

CIVIL

- Litigation
- Administrative Appeal
- Claim and Deliver Action
- Expungement
- Federal Transcript
- Forcible Entry and Detainer
- Foreclosure

- Foreign Judgment
- Habeas Corpus
- Paternity
- Small Claim
- Other Writ
- Other

PROBATE

- Administration of Small Estates
- Conservatorship
- Determination of Inheritance Tax
- Formal Probate
- Guardian Ad Litem
- Guardian/Conservatorship
- Guardianship
- Informal Probate
- Safekeeping of a Will
- Special Administration
- Summary Administration
- Termination of Joint Tenancy
- Termination of Life Estate
- Trust
- Will-Filing Only

FAMILY

- Adoption
- Annulment
- Divorce
- Reciprocal
- Separate Maintenance

MENTAL HEALTH

- Involuntary Commitment
- Mental Illness

Please check the participant role that applies:

CIVIL

- Plaintiff/Petitioner
- Defendant/Respondent
- Other _____

FAMILY

- Plaintiff/Petitioner
- Defendant/Respondent
- Adoptive Infant/Child
- Adoptive parent
- Birth Mother
- Birth Father

PROBATE

- Minor
- Person alleged to need protection
- Guardian Ad Litem
- Trustee
- Trustor
- Name of Trust
- Deceased
- Personal Representative
- Other _____

MENTAL HEALTH

- Petitioner
- Alleged Mentally Ill Person
- Alleged Alcoholic/Drug Abuser
- Other _____

Social Security Numbers (not Driver's License Numbers) must be provided for divorce, child support, & paternity cases, 42 USC 666(a)(13)(B). All filers are **required** to provide the SSN **or** DL# for each of **their** participants regardless of the case type.

_____ Last/Business Name	_____ First Name	_____ Middle	_____ Suffix
_____ Physical Address	_____ City	_____ State	_____ Zip
<input type="checkbox"/> Check if Same as Physical	_____ City	_____ State	_____ Zip
Date of Birth: ____/____/____ (mo /day/ yr)			
(____) ____ - ____ Phone No.	____ - ____ - ____ Social Security No.	____ - ____ Driver's License No. State	_____ Employer ID (if plf is a business)
Attorney: _____ Last Name First Phone No. State Bar ID #			
_____ Mailing Address	_____ City	_____ State	_____ Zip

Instructions for Summons (Without Minor Children) & Form

- **Complete this form in black ink only!**
- This is a 2 page form. Complete the top portion of the Summons (Without Minor Children). (NOTE: The top portion of each form is called the “caption” and the information will be the same on every form you fill out.) **If you are using the Spanish version, the form must be completed in English. The Clerk will reject any forms completed in a language other than English.**
 - Fill in the name of the county in which you are filing for divorce. This must be the county in which either you or your spouse live.
 - Fill in the name of the Judicial Circuit (1-7) that the county in which you are filing for divorce is located. (ex. First, Second, Third, etc.) If you do not know, contact the Clerk of Courts in your county. This information can also be found on our website – www.ujs.sd.gov.
 - Fill in your full legal name where it says “Plaintiff” and your spouse’s full legal name where it says “Defendant.”
 - When you file your papers, the Clerk of Court will assign a case number which you will insert in the space following “DIV.” For example, if your case number is 011234, your form should show DIV.: 01-1234. This case number should appear on all papers that you file with the Clerk.
- You must read and fully understand the entire form. If you have questions, you can call the Legal Form Help Line at 1-855-784-0004.
- You must date and sign the Summons (Without Minor Children) at the bottom. You must also print your name and include your mailing address and telephone number in the spaces below the signature line.
- Make at least 2 photocopies of the signed Summons (Without Minor Children); one for you and one to be served on your spouse along with a copy of the Complaint. The original must be filed with the Clerk of Courts office.
- Refer to the Checklist for Self-Represented Divorces Without Minor Children (UJS-307A) to ensure you have all the documents collected for service.
- **It is very important that you read and follow the Temporary Restraining Order that becomes automatic when you file for divorce. Both parties are required to obey the Temporary Restraining Order. Violation of any of these terms could subject you to penalties and delay your divorce. Read it carefully.**

STATE OF SOUTH DAKOTA)
)
) :SS
)
COUNTY OF _____)

IN CIRCUIT COURT

_____ JUDICIAL CIRCUIT

<p>_____, Plaintiff, vs. _____, Defendant</p>	<p>DIV _____</p> <p>SUMMONS (WITHOUT MINOR CHILDREN)</p>
-------------------------------------------------------------------------	---------------------------------------------------------------------

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED and required to answer the Complaint (Without Minor Children) of the Plaintiff, a copy of which is herewith served upon you, and to serve the Plaintiff with a copy of your Answer or other proper response within thirty (30) days from the date of the service of the Summons upon you, exclusive of the day of service.

IF YOU FAIL TO DO SO, judgment by default may be taken against you for the relief demanded in the Complaint sixty (60) days from the date of the service of this Summons and Complaint (Without Minor Children), not counting the day of service.

NOTICE

South Dakota law provides that upon the filing and service of the Summons and Complaint (Without Minor Children) on the Defendant, a Temporary Restraining Order shall be in effect against both parties until the final decree is entered, the Complaint (Without Minor Children) is dismissed or until further order of the court. Either party may apply to the Court for further temporary orders or modification or revocation of this Order.

TEMPORARY RESTRAINING ORDER

PER SDCL 25-4-33.1, BY ORDER OF COURT, YOU AND YOUR SPOUSE ARE:

- (1) Restrained from transferring, encumbering, concealing or in any way dissipating or disposing of any marital assets, without the written consent of the other party or an order of the Court, except as may be necessary in the usual course of business or for the necessities of life. You are to notify the other party of any proposed extraordinary expenditures and to account to the Court for all extraordinary expenditures made after the Temporary Restraining Order is in effect;
- (2) Restrained from molesting or disturbing the peace of the other party;
- (3) Restrained from making any changes to any insurance coverage for the parties or any child of the parties without the written consent of the other party or an order of the court unless the change under the applicable insurance coverage increases the benefits, adds additional property, persons, or perils to be covered, or is required by the insurer.

IF EITHER SPOUSE VIOLATES ANY OF THESE PROVISIONS, THAT SPOUSE MAY BE FOUND TO BE IN CONTEMPT OF COURT AND MAY BE ORDERED TO PAY COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO THE ATTORNEY FEES OF THE OTHER SPOUSE.

Dated this _____ day of _____, 20_____.

Plaintiff's Signature

Print Plaintiff's Name

Mailing Address

City, State, Zip

Telephone Number

- **The instructions & forms for self-represented litigants can be found at Clerk of Court's office or at <http://www.ujs.sd.gov>**

Instructions for Complaint (Without Minor Children) & Form

A Complaint is required to begin a divorce action. It tells your spouse (and the court) what you are asking for and why. This is merely the start of your divorce action. Please note that you are not divorced until a Judgment and Decree of Divorce has been signed by the Judge and filed with the Clerk of Court.

- **Complete this form in black ink only!**
- This is a 3 page form. Complete “the Caption.” **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form.
- Answer or complete the paragraphs within the Complaint.
- Paragraphs 1 – 6 are self-explanatory.
- Paragraph No. 7: The primary reason for a divorce, in uncontested situations, is irreconcilable differences (no fault by either party). However, you may want to select an alternative reason in addition to irreconcilable differences. You are not, however, required to do so.
 - **Please understand that seeking a divorce primarily on the grounds other than irreconcilable differences is likely to result in a contested divorce which is both costly and complex. In those circumstances, you are strongly advised to meet with and hire an attorney to fully protect your interests.**
- Paragraph 9: Check “yes” if you have marital property and debts that need to be divided between of you. Check “no” if you did not acquire any marital property or debt during your marriage.
- Paragraph 10: Check whether you are seeking alimony.

In the “Prayer for Relief” (the Section starting with “Wherefore”):

Review the paragraphs in this section. This is the section where you are telling the Court what you want. You do not need to do anything unless one of the parties is seeking to have a former name restored, which is in Paragraph 3.

Paragraph 1: You do not need to write anything. This paragraph tells the court that you are asking for a divorce from your spouse.

Paragraph 2: You do not need to write anything. This paragraph tells the court that you are asking the court to equitably divide your property and debts.

Paragraph 3: Indicate if either party wishes to have his/her former last name restored. Circle which party wants their former name restored. Enter the first, middle and last name (former name) of that party. Insert that party's date of birth.

Paragraph 4-5: You do not need to write anything. These paragraphs tell the court that you are requesting the additional relief requested in your Complaint as well as any other relief that is equitable and just.

- **You must sign and date the Complaint in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**

Verification Section:

- **Although this section needs to be completed, do not fill out the verification until you are in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**

WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be charged with a crime for not telling the truth.

- Make at least two photocopies of the signed Complaint with Minor Children; one for you and one to be served on your spouse. The original copy must be filed with the Clerk of Courts.

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF _____)

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

<p>_____, Plaintiff,</p> <p>vs.</p> <p>_____, Defendant</p>	<p>DIV _____</p> <p>COMPLAINT (WITHOUT MINOR CHILDREN)</p>
---------------------------------------------------------------------	-----------------------------------------------------------------------

1. Plaintiff's full legal name is _____ and his/her date of birth is _____.
2. Plaintiff is a resident of _____ County, State of _____.
3. Defendant's full legal name is _____ and his/her date of birth is _____.
4. Defendant is a resident of _____ County, State of _____.
5. Plaintiff and Defendant were married on _____ (date) in _____ (city and state). If the parties are living apart, the date upon which they began to do so is _____.
6. Is Plaintiff an active duty member of the armed forces? Yes _____
No _____

Is Defendant an active duty member of the armed forces? Yes _____
No _____
7. Irreconcilable differences have arisen between the Plaintiff and Defendant which necessitates the dissolution of the marriage. Alternatively further grounds for dissolution of marriage exist under SDCL 25-4-2, subsection:
 - ___ (1) Adultery;
 - ___ (2) Extreme cruelty;
 - ___ (3) Willful desertion;
 - ___ (4) Willful neglect;
 - ___ (5) Habitual intemperance; or
 - ___ (6) Conviction of felony.

8. We do not have any children which have been born to or adopted by the parties. The Wife is not pregnant.
9. The parties have accumulated property and/or debts during the course of the marriage which must be equitably divided. Yes _____ No _____
10. Plaintiff seeks spousal support (alimony). Yes _____ No _____

WHEREFORE, Plaintiff prays for Judgment as follows:

1. For a Judgment and Decree of Divorce dissolving the marriage of the parties;
2. For an equitable division of the marital property and debts;
3. That Plaintiff's / Defendant's (*circle one*) last name be restored to:
_____. Date of birth:_____;
4. For alimony, if requested above; and
5. For such other and further relief as may be equitable and just.

Dated this _____ day of _____, 20____.

Plaintiff's Signature

Print Plaintiff's name

Mailing Address

City/State/Zip

Phone Number

VERIFICATION

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF _____)

Plaintiff, being first duly sworn, deposes and states that he or she verifies the facts expressed within the Complaint (Without Minor Children) are true.

Dated _____, 20_____.

Plaintiff's Signature

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public/Clerk of Courts
If Notary, my commission expires:_____

(SEAL)

Instructions for Service of Summons (Without Minor Children) and Complaint (Without Minor Children)

In order to start the divorce, the Defendant must be served with copies the following documents (the originals are filed with the Clerk of Court Office):

1. Summons (Without Minor Children); and
2. Complaint (Without Minor Children).

The most common ways to serve the Defendant are:

1. In divorces where the parties are agreeable to the terms, the Defendant will often times agree to accept service, avoiding the need to have a Sheriff or private process server serve him/her. This means that as the Plaintiff, you may hand-deliver copies of the above itemized documents to the Defendant and the Defendant signs the **Admission of Service of Summons (Without Minor Children) and Complaint (Without Minor Children)** (UJS-317). The Defendant neither admits nor denies the contents of the documents; he/she merely admits that they received the documents on the specified date.
2. The Plaintiff can also mail copies of the above itemized documents and a self-addressed, stamped envelope to the Defendant along with 2 copies of the **Notice and Admission of Service of Summons (Without Minor Children), and Complaint (Without Minor Children)** (UJS-315A). The Defendant then has 20 days in which to sign the Admission of Service and return it to the Plaintiff. Failure to do so may result in the Defendant having to reimburse you for the cost of service by the Sheriff or private process server.

Per SDCL 15-6-4(g)(5), the Plaintiff will also need to complete an **Affidavit of Mailing** (UJS-315A) when mailing copies to the Defendant. Keep a copy of the document for your file and file the original with the Clerk of Court.

3. Finally, the Plaintiff can request that the Sheriff's Office or private process server serve the Defendant. Under this scenario, the Plaintiff delivers one full copy of the Summons and Complaint (Without Minor Children) to the Sheriff's Office along with the Defendant's current physical address, telephone number, place of employment and any other relevant information. Typically the cost of service (the service fee and mileage reimbursement) is pre-paid. After service, the Sheriff or process server has his own form that he/she uses to prove service and that form is usually mailed to you. Make sure you make a copy of this form for yourself and file the original with the Clerk of Court's office.

If you HAND-DELIVER the documents to the Defendant:

Complete the Admission of Service of Summons (Without Minor Children) and Complaint (Without Minor Children) (Form UJS-317A):

- **Complete the form in black ink only!**

- Complete the “caption.” **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form.
- The Defendant must fill in his full legal name in the body of the text.
- The Defendant must fill in the town, county and state of the place where he/she received the documents.
- The Defendant must fill in the date with the month, day and year he/she received the documents.
- The Defendant must complete the signature block with his/her signature, printed name, mailing address and telephone number.
- The Defendant should make a copy of the completed Admission for his/her own records and return the original document to the Plaintiff.
- Plaintiff should also make a copy for his/her own records and then file the original Admission of Service of Summons (Without Minor Children) and Complaint (Without Minor Children) with the Clerk of Court.
- **The divorce may not be finalized until at least sixty days have elapsed from the date the summons and complaint are served. (The day of service is not counted).**

If you MAIL the documents to the Defendant:

Complete the Notice and Admission of Service of Summons (Without Minor Children) and Complaint (Without Minor Children) (Form UJS-315A):

- **Complete the form in black ink only!**
- Complete the “caption” on both forms of Form UJS-315A. **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form.
- As the Plaintiff, sign and date the Notice and Admission of Admission of Service of Summons and Complaint (Without Minor Children) (By Mail), including your address and telephone number.
- On the Affidavit of Mailing, fill in the date the Summons (Without Minor Children) and Complaint (Without Minor Children) were sent to the Defendant.
- Fill in the address of the Defendant where the copies of the documents were sent to the Defendant.

- Upon receipt, the Defendant must fill in their name on the Admission of Service of Summons and Complaint as well as the town, county and state of the place where he/she received the documents.
- The Defendant shall enter the date the copies of the Summons (Without Minor Children) and Complaint (Without Minor Children) were received and sign and date the Admission, including his/her mailing address and telephone number.
- The Defendant should make a copy of the completed Notice and Admission forms for his/her own records and return the original document to the Plaintiff in the self-addressed, stamped envelope.
- Upon receipt, Plaintiff should also make a copy of the document for his/her own records and then file the original forms - Notice and Admission of Service of Summons (Without Minor Children) and Complaint (Without Minor Children) - with the Clerk of Courts Office.
- **The divorce may not be finalized until at least sixty days have elapsed from the date the summons and complaint are served. (The day of service is not counted).**

STATE OF SOUTH DAKOTA)
)
) :SS
COUNTY OF _____)

IN CIRCUIT COURT
_____) JUDICIAL CIRCUIT

<p>_____, Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>_____, Defendant</p>	<p style="text-align: center;">DIV _____</p> <p style="text-align: center;">NOTICE AND ADMISSION OF SERVICE OF SUMMONS (WITHOUT CHILDREN) AND COMPLAINT (WITHOUT MINOR CHILDREN)</p>
-------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

TO THE ABOVE NAMED DEFENDANT:

The enclosed Summons (Without Minor Children) and Complaint (Without Minor Children) are sent to you pursuant to SDCL § 15-6-4(i), as well as two (2) copies of this Notice and Admission of Service of Summons (Without Minor Children) and Complaint (Without Minor Children), and a return envelope, postage prepaid, addressed to the Plaintiff.

You must complete the Admission of Service portion of this form and return the original to the sender within 20 days. In completing the form, you must fill in the town and state where you received the papers and sign and date the document. Failure to sign and return the original Admission of Service within 20 days after the date of mailing without good cause will result in the Court ordering the person so served to pay the costs of personal service. SDCL 15-6-4(i).

After you complete and return this form, you must then answer (respond to) the complaint within 30 more days. If you fail to answer in time, judgment may be entered against you by default as requested in the complaint.

I hereby certify that this Notice and Admission of Service was mailed, postage prepaid, on this _____ day of _____, 20_____ to the above-named Defendant, _____, at the following mailing address:

from _____ (city where documents were mailed from),
_____ County, _____
(state where documents were mailed from).

Dated this _____ day of _____, 20_____.

Plaintiff's Signature

Printed or typed name

Mailing Address

City, State and Zip Code

Telephone Number

**ADMISSION OF SERVICE OF SUMMONS (WITHOUT MINOR CHILDREN)
AND COMPLAINT WITHOUT MINOR CHILDREN**

I, _____, admit receiving a copy of the Summons (Without Minor Children) and Complaint (Without Minor Children) in the above-captioned matter at _____ (city), _____ (county), _____ (state). This Admission merely acknowledges receipt of the papers; it does not admit or deny any of the statements contained in those papers.

Dated this _____ day of _____, 20_____.

Signature of Defendant

Typed or Printed Name

Mailing Address

City, State and Zip Code

Telephone Number

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF _____)

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

_____ Plaintiff, vs. _____ Defendant	DIV _____ AFFIDAVIT OF MAILING
----------------------------------------------------------	----------------------------------------------

I, _____, being sworn, state that on
(Full legal name of Plaintiff)
_____, 20____, I sent the following documents:
2 copies of the Notice & Admission of Service of Summons (Without Minor Children) and
Complaint without Minor Children; 1 copy of the Summons (Without Minor Children) and 1
copy of the Complaint (Without Minor Children)
by placing true and correct copies in an envelope addressed to:

_____ at _____
(Full legal name of Defendant) *(Defendant's mailing address)*

in the City of _____, State of _____,
Zip Code _____ and depositing the envelope, with sufficient postage, in the
United States Mail at _____.

Dated this _____ day of _____, 20____.
(city and state mailed from)

Signature of Plaintiff
(Sign only in front of a notary or Clerk of Court)

Sworn/affirmed before me this
_____ day of _____, 20____.

Name: (Printed)_____

(Notary Public/Clerk of Court)

Address:_____

City/State/Zip:_____

If notary, my commission expires
(SEAL)

Telephone: (____)_____

Instructions for Answer & Forms

An Answer is a written response to the Complaint (Without Minor Children) to be completed by the Defendant to protect the Defendant's rights. If the Defendant chooses to file an Answer, he/she must file the Answer with the Clerk of Courts and serve it on the Plaintiff within 30 days after Defendant is served with the Summons and Complaint. **If an Answer is not filed, the court may grant the Plaintiff everything requested in the Complaint and the judge may enter a Default Judgment & Decree of Divorce.**

- **Complete this form in black ink only!**
- This is a 3 page form. Complete the top portion of the Answer (the "caption") just as it appears in the Summons and Complaint (Without Minor Children). **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don't know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don't know). The caption is the same on every form.
- Answer or complete paragraphs 1-4. **You must respond to each and every paragraph of the Complaint (Without Minor Children). (You must Admit, Deny, Partially Admit or Deny, or state "I do not have enough information to respond to Paragraph number _____ of the Complaint.")**
- You must date and sign the Answer and provide your address and telephone number.
- You must date and sign the Answer and provide your address and telephone number and complete the **Verification** portion. **But, do not sign the documents in either spot until you are in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**
- Make 2 photocopies of the Answer; one for your file and another to be served on the Plaintiff. The original must be filed with the Clerk of Court.

WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be prosecuted for not telling the truth.

Affidavit of Mailing

You must prove to the Court that you mailed the Answer to the Plaintiff. This is done by completing the Affidavit of Mailing (UJS-316), which is a sworn statement that the Defendant actually mailed the Answer to the Plaintiff on the date indicated at the correct address with the correct postage. The Affidavit is located immediately after the Answer in this form.

- The Affidavit of Service by Mail may only be completed after the papers/documents listed are placed in the United States Mail.
- This is a one page form. Complete the top portion of the Answer (the “caption”) just as it appears in the Summons and Complaint with Minor Children. **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form.
- Fill in the blanks as indicated on the Affidavit using **black ink only**.
- Make a photocopy of the Affidavit for your file. The original must be filed with the Clerk of Courts.
- **You must sign and date the Affidavit in the presence of a notary public or clerk of court. Make sure to bring identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**

Service of Answer by Hand-Delivery

If you hand deliver this form to the Plaintiff, please complete the Admission of Service of Answer (By Hand-Delivery) (Form UJS-351). However, if the Plaintiff will not sign the Admission of Service of Answer, you will still need to mail the document to him/her and complete the Affidavit of Mailing, as set forth above.

- **Complete the form in black ink only!**
- This is a one page form. Complete the top portion of the Answer (the “caption”) just as it appears in the Summons and Complaint with Minor Children. **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form.
- The Plaintiff must fill in his full legal name in the body of the text as well as the town, county and state of the place where he/she received the documents.
- The Plaintiff must fill in the date with the month, day and year he/she received the documents as well as complete the signature block with his/her signature, printed name, mailing address and telephone number.
- The Plaintiff should make a copy of the completed Admission for his/her own records and return the original document to the Defendant.
- Defendant should also make a copy for his/her own records and then file the original Admission of Service of Answer with the Clerk of Court.

STATE OF SOUTH DAKOTA)
)
:SS
COUNTY OF _____)

IN CIRCUIT COURT

JUDICIAL CIRCUIT

_____, Plaintiff, vs. _____, Defendant	DIV _____ ANSWER
------------------------------------------------------------	--------------------------------

Defendant answers the Complaint as follows:

1. I **AGREE** with the following paragraphs of the Complaint (Without Minor Children):

2. I **DISAGREE** with the following paragraphs of the Complaint (Without Minor Children):

3. I either **PARTIALLY Agree or Disagree** with the following paragraphs of the Complaint (Without Minor Children): _____

4. I **DO NOT HAVE ENOUGH INFORMATION** to either agree or disagree with the following paragraphs of the Complaint (Without Minor Children): _____

If you wish to explain your answers to the previous statements please use the space below. If you do not wish to explain your answers further, leave these spaces blank and sign the document; however make sure you sign before a notary.

1.

Instructions for Financial Affidavit & Form

The Financial Affidavit is a sworn statement about the financial situation of the party completing the form. It is meant to give the judge and the parties accurate information about the property and debts involved in the divorce. The values used should be as of the day the party completes the Financial Affidavit.

Both parties need to complete a separate Financial Affidavit Form and submit the same to the Court.

- **Complete this form in black ink only!**
- This is a 3 page form. Complete the caption (the top portion of the form). **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask the Clerk if you do not know), name of plaintiff, name of defendant and case filing number (ask the Clerk if you do not know). The caption will be the same on every form you fill out.
- Fill in the personal information in paragraphs (1)-(25). Use the information from your last two tax returns and your most current pay check stub, if you have them, to help you. **If you do not know an answer then place a question mark (“?”) in the blank. If the question does not apply to you, then mark “N/A” in the blank.** If you **know for certain** that you don’t have or receive the item listed then enter a zero (0).
- Fill in the form completely. Each blank should have a response whether it is an answer, a “?” or “N/A.” Failure to completely fill out the form may result in the Motion being denied.
- Fill in the blanks for sections I, II, and III. Values should be an actual amount (if known) or an estimate of what the property is worth. If you do not have or receive the item listed, enter a zero (0).
- **You must sign and date the Affidavit in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**

WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be charged with a crime for not telling the truth.

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF _____)

IN CIRCUIT COURT

_____ JUDICIAL CIRCUIT

_____, Plaintiff, vs. _____, Defendant.	DIV _____ FINANCIAL AFFIDAVIT
-------------------------------------------------------------	---------------------------------------------

• **Complete this entire form. Do not leave a blank empty – either provide the answer or insert “?” to indicate that you are unsure or “N/A” to indicate that the question does not apply to you.**

I, _____, hereby swear under oath and under penalty of law that the following is true.
(Name of party filling out this affidavit)

- (1) My mailing address is _____
- (2) My telephone number is () _____
- (3) I am (check one) _____ EMPLOYED _____ UNEMPLOYED _____ SELF-EMPLOYED
- (4) If employed, my **monthly** gross pay is: \$ _____.
- (5) Monthly gain or profit from a business or profession (self-employment): \$ _____.
- (6) Pension, retirement, disability, veterans, social security or insurance payments received regularly:
\$ _____ per _____.
- (7) Interest, dividends, rentals, royalties or other gains: \$ _____ per _____.
- (8) Gain from sale, trade or conversion of capital assets: \$ _____.
- (9) Unemployment insurance and workers compensation benefits: \$ _____ per _____.
- (10) Benefit in lieu of compensation including but not limited to military pay allowances: _____ per _____.
- (11) Other income (including spousal support received). Explain: _____.
\$ _____ per _____.

TOTAL GROSS MONTHLY INCOME (Add 4-11): \$ _____

- (12) Income tax based on one withholding allowance for a single taxpayer (not actual number of dependents):
\$ _____.
- (13) Social Security and Medicare taxes withheld from wages or salary: \$ _____.
- (15) Contributions to an IRS qualified retirement plan not exceeding 10% of gross income: \$ _____.
- (16) Unreimbursed employee business expenses (Attach IRS form 2106): \$ _____.
- (17) Payments made on child support orders: \$ _____.
(Attach court order and evidence of payments).
- (18) Payments made on spousal support orders: \$ _____.
(Attach court order and evidence of payments).

TOTAL DEDUCTIONS (Add 12-18): \$ _____

NET MONTHLY INCOME (SUBTRACT TOTAL DEDUCTIONS FROM GROSS MONTHLY INCOME): \$ _____

- (19) My total gross income before deductions for the previous year was \$ _____.
- (20) My total gross income before deductions for two years ago was \$ _____.
- (21) Including myself, I have the following number of dependents: _____.

- (22) Do you have health insurance available for your spouse through your employer? _____
- (23) If you provide medical or dental insurance for your spouse, please complete the following:
 Name of the Health and/or Dental Insurance Company _____
 Total monthly cost for the employee only: \$ _____
 Total monthly cost for the employee and spouse: \$ _____
 Persons covered under the policy of insurance: _____.
- (24) The following amounts accurately represent my assets and liability:

1. ASSETS (things we own or are buying)

a. CASH (on hand or in banks)	\$ _____
b. ACCOUNTS and NOTES RECEIVABLE (IOU's and other money payable to me).....	\$ _____
c. INVESTMENTS(stocks, bonds, savings bond, CD's, money market, stock options, etc.).....	\$ _____
d. RETIREMENT ACCOUNT (account balance).....	\$ _____
e. REAL ESTATE (house, land, tribal lease land, rental property, etc.).....	\$ _____
f. AUTOMOBILE(S) make, model, year:	
_____	\$ _____
_____	\$ _____
g. RECREATIONAL VEHICLES (boats, campers, ATV's, etc.).....	\$ _____
h. HOUSEHOLD GOODS (furniture, appliances, TV, stereo, etc.).....	\$ _____
i. SPORTING EQUIPMENT (hunting/fishing, camping, boating, etc.).....	\$ _____
j. JEWELRY.....	\$ _____
k. TOOLS, SHOP EQUIPMENT.....	\$ _____
l. VALUE OF BUSINESS	\$ _____
m. OTHER PERSONAL PROPERTY (tools, sports equipment, etc.).....	\$ _____
n. ANY OTHER ASSETS (anything else I could sell or borrow money on).....	\$ _____
TOTAL VALUE OF ASSETS.....	\$ _____

2. LIABILITIES (money that we owe)

a. Our regular monthly expenses are: (housing, utilities, food, insurance, etc.).....	\$ _____
b. DEBTS (vehicle loans, mortgages, credit cards, student loans, medical bills, personal loans, etc.):	
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____
I owe _____ this amount.....	\$ _____

TOTAL LIABILITIES\$ _____

3. **ANTICIPATED INCOME (money or property you are expecting)**

a. Total monies or income from sale of house or land, gifts, inheritance, allotments,
trust funds, lease money, etc.....\$ _____
When is the money/income expected? _____

Dated: _____

Signature of Person Filling out this Affidavit
(Sign only in front of notary public or clerk of courts.)

Sworn/affirmed before me this
_____ day of _____.

Notary Public \ Clerk of Courts

If notary, My Commission Expires _____

(SEAL)

Instructions for Stipulation and Settlement Agreement and Affidavit of Plaintiff and Defendant as to Jurisdiction and Grounds for Divorce

* * * These forms must be reviewed and signed by both
the Plaintiff and the Defendant in the divorce action * * *

The Stipulation and Settlement Agreement is the contract between the husband and wife relating to all matters in their divorce. There are two forms - one with children and one without children. You will need to select the proper Agreement depending upon whether or not you have children with the spouse whom you are divorcing. The Affidavit is required for the court to grant the divorce without either of you appearing in court.

- Complete the top portion of the Stipulation and Settlement Agreement and the Affidavit as to Jurisdiction and Grounds for Divorce (the Caption) just as it appears in the Summons and Complaint.
- Divide all property. A property settlement is final.
- Allocate all debt. If debt is joint, the creditor can seek payment from either party even if you or your spouse agree to pay the debt. A debt division is final.
- If you or your spouse are dividing retirement plans, it is highly recommended that you consult with an attorney as there are specific legal documents that need to be completed to divide retirement plans.
- You must initial every page of the Stipulation verifying that you have read and agree to what is contained on the page.
- The Stipulation and Affidavit must be signed by both parties in the presence of a Notary Public.

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF _____)

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

<p>_____, Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>_____, Defendant</p>	<p>DIV _____</p> <p>STIPULATION AND SETTLEMENT AGREEMENT (WITHOUT MINOR CHILDREN)</p>
-------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------

THIS STIPULATION AND SETTLEMENT AGREEMENT (WITHOUT MINOR CHILDREN), made and entered into this _____ day of _____, 20_____, by and between _____ (insert Plaintiff's name) and _____ (insert Defendant's name). Within this document we understand that we may be referred to individually as Plaintiff, Defendant, Mother, Father, Husband, Wife, Parent(s) or Party(ies).

WITNESSETH:

WHEREAS, the parties were married in _____, State of _____, on the day of _____, _____, and ever since that time have been and now are husband and wife, and

WHEREAS, irreconcilable differences and disputes have arisen between the parties and they separated with the intent to live apart, and

WHEREAS, Defendant was served with a true and correct copy of the Summons (Without Children), and the Complaint (Without Minor Children) on the _____ day of _____, 20_____, as reflected by the Proof of Service filed with the Court, and

WHEREAS, Plaintiff resided at _____, (city) _____, County, _____ (state), at the time of the commencement of this divorce action and presently resides at _____, (city) _____ County, _____ (state). Defendant resided at _____, (city) _____ County,

Plaintiff's Initials

Defendant's Initials

_____ (state), at the time of the commencement of this divorce action and presently resides at _____, (city) _____ County, _____ (state). Both parties agree that venue and jurisdiction in this Court is appropriate and consent to such jurisdiction and venue, and

WHEREAS, the parties agree that they currently have no minor children that were born to or adopted by the parties during the course of their marriage or relationship. Wife is / is not (*circle one*) pregnant at the time of this action. If pregnant, Wife is due on the _____ day of _____, 20_____, and

WHEREAS, the parties hereto now desire to enter into an Agreement settling all claims, property division and all other matters between the parties with regard to the divorce action,

NOW THEREFORE, in consideration of the promises and mutual covenants hereinafter contained, it is agreed and understood by and between the parties as follows:

1. **Release.** Except as herein specified, each of the parties is hereby released and absolved from any and all obligations and liabilities for the future acts and duties of the other, and each of the parties releases the other from any and all liabilities, debts and/or obligations of any kind or character incurred by the other from and after the date of this Agreement and from any and all claims and demands, it being expressly understood and agreed this Agreement is intended to settle the rights of the parties in all respects, except as hereinafter provided.

2. **After-Acquired Property.** Any and all property, whether real or personal, acquired by either party from and after the date hereto from and after the date hereof shall be the sole and separate property of the one so acquiring the same, and each of said parties hereby respectfully grants to the other all such other and further acquisitions of property as the sole property of the one so acquiring the same.

3. **Property Division:** The parties agree that the following marital property shall be divided as follows and such division is equitable:

A. **Clothing, Personal Effects, Personal Property:** Each of the parties shall receive his/her own clothing, personal effects, and all personal property in his/her possession, free and clear of any claim from the other, unless otherwise specified herein.

B. **Photographs, Memorabilia:** The parties agree to equally split the photographs and any special memorabilia acquired during the course of the marriage / relationship within 90 days of

Plaintiff's Initials

Defendant's Initials

execution of this Agreement. Any expenses incurred in this process shall be mutually agreed upon and split equally between the parties.

C. Wife's Vehicle(s) / Boats / Motorcycles / ATV's / Mobile Home / etc.: Wife shall exclusively receive, as her sole and separate property, the following vehicle(s): _____

(provide year, make and model), subject to any debts against the asset(s). Wife shall be solely responsible for the debt associated with these vehicles as well as the insurance and maintenance on these asset(s) commencing with the date this Agreement is executed.

D. Husband's Vehicle(s) / Boats / Motorcycles / ATV's / Mobile Home / etc.: Husband shall exclusively receive, as his sole and separate property, the following vehicle(s): _____

(provide year, make and model), subject to any debts against the asset(s). Husband shall be solely responsible for the debt associated with these vehicles as well as the insurance and maintenance on these asset(s) commencing with the date this Agreement is executed.

E. As set forth above, the party receiving the assets listed above in 5(C) and 5(D) shall assume the debt associated with them and remove the other party's name therefrom within _____ days from entry of the Judgment and Decree of Divorce. The other party shall cooperate in transferring the titles to the party receiving the assets once his/her name is removed from the debt.

F. Property in Possession of the Other: If either party has property to be given to the other, then Wife shall, within 30 days of execution of this Agreement, give to Husband the following

Plaintiff's Initials

Defendant's Initials

personal property items:

and Husband shall, within 30 days of execution of this Agreement, give to Wife the following personal property items: _____

G. Checking and Savings Accounts: The parties represent that they have separated their bank accounts including checking and/or savings, and each shall keep the cash balance in any bank accounts in his/her name, free and clear of any claim by the other. The parties shall immediately close any remaining joint accounts with the proceeds to be divided equally.

H. Tax Consequences: The parties agree that the foregoing transfers of property between them are tax-free under the Internal Revenue Code § 1041, and both agree not to take any inconsistent position on his or her tax returns filed after this Agreement is signed.

4. Debt Division: In addition to the allocation of the debts associated with the property distributed herein, the remaining marital debt of the parties shall be divided as follows (*list all debts incurred by one or both of the parties: credit cards, bank loans, personal loans, vehicle loans, outstanding monthly bills, student loans, medical bills, etc.*):

A. Wife shall be solely responsible for and take over the following debts:

Plaintiff's Initials

Defendant's Initials

B. Husband shall be solely responsible for and take over the following debts:

C. Unless otherwise provided for herein, each of the parties shall be solely responsible for any debts he/she has incurred since (*mark one*) date of separation on _____ (*fill in date you starting living apart*); or date of execution of this Agreement. Each of the parties agrees not to contract any debt, charge or liability whatsoever for which the other or his or her property or estate shall or may become liable or answerable in the future.

Except as otherwise expressly provided, it is further agreed that any and all unpaid debts not otherwise addressed in this document, incurred by the parties during the course of their marriage shall be the responsibility of the person who incurred it. Each party shall indemnify and hold harmless the other therefrom.

D. In respect to equalizing the property distribution, the parties agree (*check one*):

That Wife / Husband (*circle one*) shall pay to the other the amount of \$ _____ to equalize the property / debt distribution within _____ days of entry of the Judgment and Decree of Divorce;

OR

That the allocation of personal property and debt is equitable and no amount is necessary to equalize the distribution.

E. Unless otherwise provided herein, each of the parties promises at all times to keep the other party free, harmless and indemnified of and from any and all debts, charges or liabilities previously contracted or incurred by said party individually, and to be hereafter contracted or incurred by said party individually, and each shall immediately apply for formal transfer or assumption of the

Plaintiff's Initials

Defendant's Initials

debts each assumes under this Agreement with the creditors involved so the non-responsible party is released from liability by the creditors. However, neither party can guarantee that the creditors involved will approve a release from liability. If a creditor denies a release presently, the parties agree to renew their applications for formal transfer or assumption in the future at reasonable intervals.

5. Real Property (house, land or buildings):

- The parties have no real property (*check if applicable and then proceed to #8*).
- The parties have an interest in the following real property:

Physical Address:

Legal description (*obtained from a document such as a Warranty Deed, Mortgage or Title Insurance*):

In regards to the property, the parties agree:

Wife / Husband (*circle one*) will receive the house / land and all the fixtures therein and/or the improvements thereon. The parties agree that the amount of equity in the real estate is \$_____ (*Value – Debt(s)*). The party receiving the real estate shall pay \$_____ to the other to equalize this division within _____ days of entry of the Judgment and Decree of Divorce. If there is a mortgage(s) or other joint debt encumbering the real estate, the person receiving the property shall remove the other party's name from the mortgage(s) within _____ days of entry of the Judgment and Decree of Divorce. The person receiving the

Plaintiff's Initials

Defendant's Initials

property has consulted a lender and received pre-approval to refinance. The party not receiving the real property shall cooperate in the release or refinancing and sign a quit claim deed releasing all interest in the property to the other party.

OR

The parties agree that the house / land and all the fixtures therein and/or the improvements thereon shall be listed for sale by _____, 20____ with a realtor, on an active multiple listing service, for fair market value. The parties shall mutually agree upon a realtor and both shall cooperate with signing the appropriate documents. Unless the parties otherwise agree, the parties shall accept a minimum offer for fair market value. During the pendency of sale of the home, Husband / Wife / Not Applicable (*Circle One*) shall have exclusive possession of the marital home as long as he/she does not commit waste thereto. Commencing _____, 20____, the parties agree that Husband / Wife / Not Applicable (*Circle One*) shall be responsible for the mortgage payments, which payments include taxes and insurance, normal maintenance, as well as payment of utility bills associated with the marital home. The parties further agree that the net proceeds of the sale of the home shall be divided with Wife receiving _____% and Husband receiving _____%. Additionally, any monies refunded to the parties from any escrow account shall be divided between the parties with Wife receiving _____% and Husband receiving _____%. The parties agree, if they are not able to file a joint return, Husband / Wife (*circle one*) shall claim the real estate taxes on his/her 20____ income tax return and Husband / Wife (*circle one*) shall claim the mortgage interest on his/her 20____ income tax return.

6. Investments and Retirement Funds and Pension Plans: Retirement and investments may be considered marital property and must be considered when dividing the marital assets between the parties. There are additional legal documents necessary to accomplish a transfer of certain retirements and investments and you are strongly advised to consult an attorney if you are dividing this type of property.

The parties agree (*check the appropriate box*):

Each party specifically waives any and all claims, if any, to the other's 401 K, IRA, stock options, retirement, pension, and profit sharing accounts and benefits, whether such claim is known or unknown, contingent or vested, or now owing or to become owing to the other party in the

Plaintiff's Initials

Defendant's Initials

future. It is the intent and purpose of the parties hereto by this provision to waive any entitlement to the 401K, IRA, stock options, pension, retirement, and/or annuity benefits of the other party, including both present and future benefits; **OR**

Wife shall receive the following investments and retirement accounts:

and

Husband shall receive the following investments and retirement accounts:

The parties recognize that, unless otherwise provided herein, they have been advised to change any designation of their spouse as the beneficiary of any policy governed by ERISA, to include life insurance policies or employee benefit plans.

7. Life Insurance. Life insurance policies, particularly the cash value of some policies, may be considered marital property and should be considered when dividing the marital assets. Thus, the parties agree (*check the appropriate box*):

The parties do not have any life insurance policies to distribute;

OR

The parties agree to the allocation of the life insurance policies as follows:

Wife shall receive the following (term/whole life) life insurance policy(ies) and shall be responsible for any premium:

Plaintiff's Initials

Defendant's Initials

Husband shall receive the following (term/whole life) life insurance policy(ies) and shall be responsible for any premium:

8. Military Benefits (If one of the parties is a military member).

Neither party was or currently is a member of the military. (*Mark if applicable and then move to section 11*).

OR

Husband / Wife (*circle one or both, if applicable*) was a member of the military (includes the National Guard and Reserves) during a time period of the marriage. Accordingly, the other party may be entitled to, as a former spouse of a service member, specific benefits depending on the length of the marriage and the amount of time the service member spouse spent in the military during the marriage. Benefits may include, if you qualify, retirement pay, military health care, commissary privileges and base facility benefits. There are state and federal laws that come into play; i.e. the Uniformed Services Former Spouses' Protection Act, the Survivor Benefit Plan. There are numerous and complicated laws and it is advised that you seek legal advice and/or assistance from the Defense Finance and Accounting Center to understand and protect all benefits you may be entitled to.

When receiving retirement pay, you need to consult legal counsel regarding the "disposable retired pay" and the importance of disability pay in lieu of retired pay. Also, an Order dividing benefits must be timely received by the Defense Finance and Accounting Center.

If the Plaintiff or Defendant or both are members of the military service, past or present, please list branch of service, rank at the time of retirement, the specific years that he/she were in service (ex. 1992 – 2004) and the specific years of service during marriage (ex. 1994-2004):

Plaintiff's Initials

Defendant's Initials

In respect to military benefits of the service member, the parties agree as follows:

9. Alimony (Spousal Support). Please check the appropriate box and fill in the appropriate blanks. (*You are strongly encouraged to consult with an attorney before completing this section*):

Wife / Husband (*circle one*) shall receive alimony in the sum of \$_____ each month for a period of _____ months, or until remarriage of the recipient or death of either party. Alimony is tax-deductible to the spouse paying it and taxable income to the spouse receiving it.

OR

No permanent, general, rehabilitative or restitutional alimony shall be granted to either party. Both parties waive any right he / she may have to alimony and accepts this Stipulation and Settlement Agreement (Without Minor Children) in full and final satisfaction of all marital claims.

10. Income Tax Returns. The parties agree to share historical accounting and tax information, documents and records with the other as may be necessary for each to prepare a complete an accurate income tax return for subsequent tax years. The parties further agree:

File a joint tax return if possible for the _____ tax year, if allowed by law, and share the expenses and tax liability or refund as follows: _____% to Husband and _____% to Wife;

OR

File as single persons for the _____ tax year.

Commencing with the tax year that the Judgment and Decree of Divorce is signed, the parties shall file

Plaintiff's Initials

Defendant's Initials

as single persons on their IRS returns and every year thereafter.

11. Former Name. If one party would like his/her maiden name or former name restored to them, complete this section:

Not applicable (*check if neither party wants their maiden or former name restored*);

OR

Wife / Husband (*circle one*), presently known as _____

DOB _____, will be restored to her / his former or maiden name of

“ _____ ” in any Judgment and

Decree of Divorce issued herein and will be known hereafter as

_____.

12. Other Agreements Not Covered Above. _____

_____.

13. Attorney’s Fees. (*Check the appropriate box and fill in where necessary*):

Each party shall be solely responsible for his/her own attorney fees, costs and expenses incurred in this proceeding;

OR

Husband / Wife (*circle one*) will pay the sum of \$_____ towards the attorney fees, costs and expenses of his / her spouse within _____ days of entry of the Judgment and Decree of Divorce.

14. Address. Until all provisions herein are satisfied, the parties agree that each will promptly notify the other of any change of address and/or telephone number.

15. Other Documents. The parties shall, at any and all times upon request by the other party or his or her legal representative, make, execute, and deliver any and all such other and further instruments as may be necessary or desirable for the purpose of giving full force and effect to the provisions of this

Plaintiff’s Initials

Defendant’s Initials

Agreement, without charge therefor.

16. Grounds. The parties mutually understand that a divorce shall be granted to both parties on the grounds of irreconcilable differences, per SDCL 25-4-17.3. The parties have executed an Affidavit of Plaintiff and Defendant as to Jurisdiction and Grounds for Divorce and understand the Court may grant the divorce without requiring personal appearances of the parties. If the Court decides to grant a Judgment and Decree of Divorce, the parties agree that this Agreement shall be presented to the court without further notice. In the event the Court does not accept and approve all terms and provisions of this Agreement, then the same shall be null and void and no Judgment and Decree of Divorce may be entered by default in favor of either party without prior notice to either party.

17. Interference. The parties hereafter shall live separate and apart. Each party shall be free from interference, authority or control, direct or indirect, of the other party. The parties agree not to molest, annoy, harass, stalk, or interfere with each other in any aspect of their personal or professional lives.

18. Enforcement. The parties agree that this Agreement shall be binding upon them until otherwise mutually agreed or otherwise ordered by the Court. Upon any violation of the terms of this Agreement, or in the event that one party determines that modifications are necessary which are not consented to by the other party, each shall be free to petition the Court to have this Agreement modified or enforced in accordance with the law.

19. Release of Inheritance Rights. Unless otherwise specified herein, each party releases all right to share in the estate of the other or to share in the estate of the parents of the other, or to serve as personal representative or administrator of the estate of the other, except only as specified by will or codicil to will executed subsequent to the date of this Agreement.

20. Modification and Waiver. Any modification or waiver of any provisions of this Agreement shall be effective only if made in writing and executed with the same formality as this Agreement, and approved by the Court. The failure of either party to insist upon strict performance of any of the provisions of this Agreement shall not be construed as waiver of any subsequent default of the same or similar nature.

21. Partial Invalidity. If any of the provisions of this Agreement are held to be invalid or unenforceable, all other provisions of this Agreement shall nevertheless continue in full force and effect.

22. Titles. The paragraph captions contained herein are inserted for convenience and descriptive

Plaintiff's Initials

Defendant's Initials

purposes only and do not constitute a part of this Agreement.

23. Conflict of Laws. This Agreement shall be construed in accordance with the substantive laws of the State of South Dakota.

24. Waiver and Incorporation. The parties waive notice of trial, notice of hearing, findings of fact and conclusions of law and consent to the entry of a Judgment and Decree of Divorce without further notice, upon the Court's determination that there is a just cause for divorce.

It is further stipulated and agreed by and between the parties that all provisions of this Agreement shall be incorporated by reference into any Judgment and Decree of Divorce which may be issued herein.

25. Military Service. Husband confirms that he is / is not (*circle one*) currently a member of the military service of the United States of America as defined by the Soldier and Service Member's Civil Relief Act of 1940.

Wife confirms that she is / is not (*circle one*) currently a member of the military service of the United States of America as defined by the Soldier and Service Member's Civil Relief Act.

26. Written Memorandum. This Agreement contains the entire understanding of the parties who hereby acknowledge there have been and are no representations, warranties, covenants or understandings other than those expressly set forth herein.

27. Ratification.

A. This Agreement was made and entered into with the full knowledge of both parties, and they have read the entire document and have signed the same of their own free will and accord.

B. The parties represent to the court that each acknowledges the importance of consulting separate, independent legal counsel as well as a tax expert prior to the execution of this Agreement. The parties acknowledge that it is a legal document and binding upon them.

C. Each party covenants and warrants to the other: (a) he or she has fully disclosed the existence of and value of all assets and debts in which he or she has any interest whatsoever; and, (b) the assets and debt set forth and identified herein constitutes all the property of the parties, whether owned jointly or by either of them individually, or in conjunction with a third party; and, (c) the full and frank disclosure of all assets and liabilities by both parties is an essential and material element of

Plaintiff's Initials

Defendant's Initials

STATE OF SOUTH DAKOTA)
)
:SS
COUNTY OF _____)

IN CIRCUIT COURT

JUDICIAL CIRCUIT

<p>_____, Plaintiff, vs. _____, Defendant</p>	<p>File No. _____</p> <p style="text-align: center;">MOTION (Self-Represented Litigants)</p>
-------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------

Comes now, _____ (insert name), and respectfully moves this Court for an Order awarding _____

_____.

A hearing is requested as soon as practicable to hear the parties and present evidence regarding the above-stated issue. The Affidavit in Support of Motion is / is not (*circle one*) attached hereto and incorporated herein by reference.

Dated this _____ day of _____, 20_____.

Self-Represented Litigant's Signature

Name: (Printed) _____
Address: _____
City/State/Zip: _____
Telephone: (_____)_____

- As the opposing party to this Motion, if you do not agree with this Affidavit or the request(s) contained therein, please complete the "Responding Affidavit," UJS Form-339. File the original "Responding Affidavit" and the "Affidavit of Service." Make 2 copies and send one copy with to the other party. The Responding Affidavit must be filed a minimum of 5 days prior to the hearing date.

STATE OF SOUTH DAKOTA)
:SS
COUNTY OF _____)

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

<p>_____, Plaintiff, vs. _____, Defendant.</p>	<p>File No. _____</p> <p>AFFIDAVIT IN SUPPORT OF MOTION</p>
--------------------------------------------------------------------------	------------------------------------------------------------------------

I, _____, (*insert legal name*) hereby swear under oath and under penalty of law that the following is true:

1. I am the above-named Plaintiff / Defendant (*circle one*) in the above-entitled action.
2. I submit this Affidavit in Support of my Motion, dated _____.
3. The facts that support my Motion are as follows: _____

4. I am requesting that the Court _____

Dated this _____ day of _____, 20_____.

Sworn/affirmed before me this
_____ day of _____, _____.

(Notary Public/Clerk of Courts)

Self-Represented Litigant's Signature
(**Sign only in front of a notary or clerk of courts**)
Name:(Printed)_____
Address: _____
City/State/Zip: _____
Telephone: (_____)_____

(SEAL)

If notary, my commission expires: _____

STATE OF SOUTH DAKOTA)
)
:SS
COUNTY OF _____)

IN CIRCUIT COURT

JUDICIAL CIRCUIT

<p>_____, Plaintiff, vs. _____, Defendant</p>	<p>File No. _____</p> <p style="text-align: center;">AFFIDAVIT OF MAILING</p>
-------------------------------------------------------------------------	--------------------------------------------------------------------------------------

I, _____, the above-named Plaintiff / Defendant (*circle one*), being duly sworn, state that on _____, 20____, I served the following documents (*check the documents sent to the other party*):

- Motion
- Affidavit in Support of Motion

by placing true and correct copies of the documents in an envelope addressed to: _____, the above-named Plaintiff / Defendant (*circle one*), at _____ (*insert the other party's mailing address*), in the City of _____, State of _____, Zip Code _____, and depositing the envelope, with sufficient postage, in the United States Mail at _____ (*insert the city and state where you deposited the mail*).

Dated this _____ day of _____, 20_____.

Self-Represented Litigant's Signature
(**Sign only in front of a notary or clerk of courts**)

Sworn/affirmed before me this _____ day of _____, _____.

(Notary Public/Clerk of Courts)

Name: (Printed) _____
Address: _____
City/State/Zip: _____
Telephone: (_____) _____

(SEAL)

If notary, my commission expires: _____

STATE OF SOUTH DAKOTA)
)
) :SS
)
COUNTY OF _____)

IN CIRCUIT COURT

_____ JUDICIAL CIRCUIT

<p>_____, Plaintiff, vs. _____, Defendant</p>	<p>File No. _____</p> <p>RESPONDING AFFIDAVIT (Self-Represented Litigants)</p>
-------------------------------------------------------------------------	-------------------------------------------------------------------------------------------

I, _____, (*insert legal name*) hereby swear under oath and under penalty of law that the following is true:

1. I am the above-named Plaintiff / Defendant (*circle one*) in the above-entitled action.
2. I have received the Plaintiff's / Defendant's (*circle one*) Motion and Affidavit, dated _____ (insert the date they were signed).
3. I submit this Responding Affidavit in response to that Motion & Affidavit.
4. I agree with the following allegations made by the other party and for the following reasons:

_____.

5. I disagree with the following allegations made by the other party for the following reasons:

_____.

6. I request that the Court: _____

_____.

I request that a hearing be held to hear the parties and present evidence regarding these issues.

Dated this _____ day of _____, 20_____.

Sworn/affirmed before me this
_____ day of _____, _____.

(Notary Public/Clerk of Courts)

(SEAL)

Self-Representing Litigant's Signature

(Sign only in front of a notary or clerk of courts)

Name:(Printed)_____

Address: _____

City/State/Zip: _____

Telephone: (_____)_____

If notary, my commission expires:_____

STATE OF SOUTH DAKOTA)
)
:SS
COUNTY OF _____)

IN CIRCUIT COURT

_____ JUDICIAL CIRCUIT

_____,
Plaintiff,

vs.

_____,
Defendant

File No. _____

AFFIDAVIT OF MAILING

I, _____, the above-named Plaintiff /
Defendant (*circle one*), being duly sworn, state that on _____,
20____, I served the following document, Responding Affidavit, by placing true and correct
copies of the documents in an envelope addressed to: _____
_____, the above-named Plaintiff /
Defendant (*circle one*), at _____ (*insert the other
party's mailing address*), in the City of _____, State of
_____, Zip Code _____, and depositing the envelope, with
sufficient postage, in the United States Mail at _____
(*insert the city and state where you deposited the mail*).

Dated this _____ day of _____, 20_____.

Self-Represented Litigant's Signature
(Sign only in front of a notary or clerk of courts)

Sworn/affirmed before me this
_____ day of _____, _____.

(Notary Public/Clerk of Courts)

Name: (Printed) _____
Address: _____
City/State/Zip: _____
Telephone: (_____) _____

(SEAL)

If notary, my commission expires: _____

Instructions for Affidavit of Plaintiff and Defendant as to Jurisdiction and Reasons for Divorce & Form

In South Dakota, both parties must typically agree to use irreconcilable differences as the reasons for divorce. Additionally, the Plaintiff must be a resident of the State of South Dakota when the divorce is started. This Affidavit confirms those facts for the Court. **If the parties sign the Stipulation and Settlement Agreement (Without Minor Children) document, they must also sign this document.**

- **Complete this form in black ink only!**
- This is a 2-page form. Complete the “caption.” This information will be the same as on the Summons (Without Minor Children) and Complaint (Without Minor Children). The caption is the same on every form.
- Fill in the full legal names of the Plaintiff and Defendant.
- In Paragraph 3, insert the name of the city where the Plaintiff resided when the divorce action was started.
- The Plaintiff must fill in the date with the day, month and year that he/she signs the Affidavit.
- **The Plaintiff must sign the document in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**
- The Defendant must fill in the date with the day, month and year that he/she signs the Affidavit.
- **The Defendant must sign the document in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**
- **If the Defendant refuses to sign the form, the Plaintiff should still file the Affidavit with his/her single signature.**
- **Make a copy for each of you and file the original with the Clerk of Court.**

WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be prosecuted for not telling the truth.

6.

Both parties authorize the immediate presentation of the Stipulation and Settlement Agreement (Without Minor Children) and of this Affidavit to Jurisdiction and Grounds for Divorce and of the proposed Judgment and Decree of Divorce to the Court and respectfully request the Court to consider the same without need for any noticed hearing or trial. The parties further waive the entry of formal Findings of Fact and Conclusions of Law.

Dated this _____ day of _____, 20_____.

Signature of Plaintiff
(Sign only in front of a Notary or Clerk of Courts)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20_____.

(SEAL)
If notary, my commission expires:

Notary Public/Clerk of Court

Dated this _____ day of _____, 20_____.

Signature of Defendant
(Sign only in front of a Notary or Clerk of Courts)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20_____.

(SEAL)
If notary, my commission expires:

Notary Public/Clerk of Court

Instructions for Judgment and Decree of Divorce (Stipulation and Agreement (Without Minor Children)) & Form

*** Use this form only if you and the Defendant have signed a Stipulation and Settlement Agreement (Without Minor Children) and you want the court to incorporate that Agreement in your Judgment and Decree of Divorce.

The Judgment and Decree of Divorce is signed by the Judge. You must wait at least sixty (60) days after serving the Defendant before submitting your Judgment and Decree of Divorce to the Judge.

- **Complete this form in black ink only!**

- This is a 2 page form. Complete the top portion of the Judgment and Decree of Divorce (the “caption”) the same as on the other documents you have filed in this divorce.
NOTE: The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form.

- **YOU DO NOT COMPLETE THE JUDGMENT AND DECREE OF DIVORCE – THIS IS DONE BY THE JUDGE.**

- Submit the Judgment and Decree of Divorce to the court along with the signed & notarized Stipulation and Settlement Agreement (Without Minor Children) (UJS-324).

- If your or your spouse’s mailing or physical address has changed since this divorce was started, please provide that address to the Judge.

- If **no hearing** is required and the Judge signs the Judgment and Decree of Divorce, the Clerk of Courts will complete the Notice of Entry and send both parties a certified copy of the signed Judgment and Decree of Divorce along with a copy of the Notice of Entry. Make sure the Clerk has current addresses for both parties.

- If a **hearing** was required and the Judge signed the Judgment and Decree of Divorce, the Clerk of Courts will complete the Notice of Entry and provide a certified copy of the Judgment and Decree of Divorce along with a copy of the Notice of Entry to each party either by mail or hand-delivery.

- If you are responsible for delivering this Judgment & Decree of Divorce to the Clerk of Courts office, you **MUST** file it or you will **NOT** be divorced!!

STATE OF SOUTH DAKOTA)
)
:SS
COUNTY OF _____)

IN CIRCUIT COURT

JUDICIAL CIRCUIT

<p>_____, Plaintiff, vs. _____, Defendant</p>	<p>DIV _____</p> <p>JUDGMENT AND DECREE OF DIVORCE (STIPULATION AND AGREEMENT (WITHOUT MINOR CHILDREN))</p>
-------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------

The above-entitled matter came before this Court on the _____ day of _____, 20_____. It satisfactorily appearing to the Court from the records and files herein that the Defendant was duly served with the Summons and Complaint (Without Minor Children) on the _____ day of _____, 20_____, and that the parties thereafter entered into the Stipulation and Agreement (Without Minor Children) on file herein. Parties were married on _____ (*date*) at _____ (*city and state*). After due consideration of the same and on the matters of record herein the Court finds and concludes that it has jurisdiction over the parties and the subject matter herein, and that the parties having expressly waived entering of Findings of Fact and Conclusions of Law. Now therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The parties are both granted a Judgment and Decree of Divorce on the grounds of irreconcilable differences and the parties hereto are restored to the status of single persons.
2. That the Stipulation and Agreement (Without Minor Children) on file between the parties is hereby approved and by this reference made a part hereof merged and incorporated herein.
3. Plaintiff / Defendant (*circle one*), currently known as _____, born _____ shall be restored to their former name of _____; therefore, they shall be known hereafter as _____.

4. All of the other terms and conditions specifically set forth in the Stipulation and Agreement (Without Minor Children) are hereby approved and incorporated herein by reference as though fully set forth in extenso.

Dated this _____ day of _____, _____.

BY THE COURT:

ATTEST:

CIRCUIT COURT JUDGE

Clerk of Courts

By _____

Deputy Clerk

(SEAL)

INSTRUCTIONS FOR AFFIDAVIT OF MILITARY STATUS

Before a default judgment may be entered by the court, the plaintiff is required to file an Affidavit stating whether the defendant is in the military service and show necessary facts to support the affidavit.

- Complete this form in black ink only!
- Complete “the Caption.” **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form.
- Verify that Paragraphs 1-3 are correct.
- In completing paragraph 4, the military status of a defendant may be determined by conducting an on-line search through the Department of Defense Manpower Data Center (DMDC) search engine at <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. A plaintiff using the DMDC must attach a printed copy of the certificate generated by the search.

The military status of a defendant may be determined by contacting each branch of the military. A plaintiff using this method must attach a response from each branch.

The plaintiff, or his or her agent, may also determine a defendant’s military status by personally asking the defendant or another individual that has sufficient reason to know the defendant’s military status.

The plaintiff is not limited to the options discussed above, and may have other reason to know the defendant’s military status. Any additional reasons should be explained for review by the court.

- You must date and sign the Affidavit of Military Status in front of a Notary Public or Clerk of Courts.
- Make a copy for yourself and file the original with the Clerk of Court.

WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be prosecuted for not telling the truth.

Instructions for Affidavit of Default, Application for Judgment & Decree of Divorce (Default), Notice of Hearing and Affidavit of Mailing & Forms

- **Only the Plaintiff fills out these Default forms if the parties have not completed a Stipulation and Settlement Agreement!**

An Affidavit of Default is a sworn statement telling the court that you served the Summons (Without Children) and Complaint (Without Minor Children) on the Defendant and that he/she has not responded within thirty days after the completed service.

The Application for Judgment and Decree of Divorce (Default) and Notice of Hearing serve as notice to the Defendant that a date has been set for a hearing in the divorce case and that he/she is in default for not responding to the Summons (Without Minor Children) and Complaint (Without Minor Children) within 30 days after the completed service. Once 60 days have passed after service of the Summons (Without Children) and the Complaint (Without Minor Children) (excluding the date of service), the Affidavit of Default, Application for Judgment and Decree of Divorce (Default), Notice of Hearing and Affidavit of Mailing along with the Affidavit of Military Status (UJS-306) are completed and filed.

Affidavit of Default

- Complete this form in black ink only!
- This is a 4 page form. Complete “the Caption.” **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form.
- Complete paragraph 2 by inserting the date that Defendant was served with the Summons (Without Children), and the Complaint (Without Minor Children). This is the date that the Defendant either signed the Admission of Service or the date the papers were delivered to the Defendant by the Sheriff or process server.
- Read the other paragraphs carefully as you are signing this document under oath and the statements made in all the paragraphs **MUST BE TRUE.**
- **You must sign and date the Affidavit in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**

Application for Judgment & Decree of Divorce (Default)

- Complete “the Caption.” **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form.

- As the Plaintiff, fill in your full legal name in the first blank of the body of the Application.
- Date and sign the Application and complete the signature block.
- Obtain a hearing date from the Court Administrator's office or the Clerk of Court (depending upon which county your action is filed in). You will then use the date given to you to fill in the "Notice of Hearing" section.
- In the Notice of Hearing section, fill in the blanks to indicate day, month, year and time (including am or pm) of the hearing date you got from the Clerk of Court or Court Administrator. Mark the appropriate box indicating where the hearing will be held and fill in the blanks.
- Date and sign the Notice of Hearing and complete the signature block.
- File the original Affidavit of Default, Application for Judgment & Decree of Divorce (Default) and Notice of Hearing with the Clerk of Court. Make two copies of each document. One for yourself and one to mail to the Defendant.
- Mail a copy of the Affidavit of Default, Application for Judgment & Decree of Divorce (Default) and Notice of Hearing to Defendant by first class mail, properly addressed, with sufficient postage at least seven (7) days prior to the hearing. The Defendant has to receive written notice of the Application of Judgment at least three business days prior to the hearing.

Affidavit of Mailing

- The Affidavit of Mailing may only be completed after the Application for Judgment and Decree of Divorce (Default) and Notice of Hearing are placed in the United States Mail.
- Complete "the Caption." **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don't know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don't know). The caption is the same on every form.
- Fill in the blanks as indicated on the Affidavit of Mailing.
- File the original Affidavit of Mailing with the Clerk of Court. Make a photocopy of it for your file.
- **You must sign and date the Affidavit of Mailing in the presence of a notary public or clerk of court. Make sure to bring identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**

STATE OF SOUTH DAKOTA)
)
:SS
COUNTY OF _____)

IN CIRCUIT COURT

JUDICIAL CIRCUIT

<p>_____, Plaintiff, vs. _____, Defendant</p>	<p>DIV _____</p> <p>AFFIDAVIT OF DEFAULT</p>
-------------------------------------------------------------------------	-----------------------------------------------------

STATE OF SOUTH DAKOTA)
)
:SS
COUNTY OF _____)

Plaintiff, being first duly sworn on oath, states:

1. That I am the Plaintiff in the above-captioned action.
2. That the Summons (Without Children) and Complaint (Without Minor Children) were served together on the Defendant on _____, 20_____.
3. That the proof of service has been filed (i.e. Admission of Service or Sheriff's Return).
4. That more than 60 days have passed since service of the Summons (Without Children) and Complaint (Without Minor Children). Defendant has made no answer, appearance or any other responsive pleading and is in default.
5. It is my belief that the Defendant is not in the military service on active duty.

Sworn/affirmed before me this
_____ day of _____, 20__.

(Notary Public/Clerk of Court)

If notary, my commission expires

(SEAL)

Signature of Plaintiff
(Sign only in front of a notary or Clerk of Court)
Name of Plaintiff (Printed): _____
Address: _____
City/State/Zip: _____
Telephone: (____) _____

NOTICE OF HEARING

TO: THE DEFENDANT IN THE ABOVE CAPTIONED MATTER:

PLEASE TAKE NOTICE that on the _____ day of _____, _____, at _____ .m. a hearing on the Application for Judgment & Decree of Divorce (Default) will be held:

In the courtroom of the Honorable _____, Circuit Court Judge of the _____ Judicial Circuit, presiding, located at the _____ County Courthouse, in _____ County, _____, South Dakota.

OR

At the Court Administrator's office, _____ County Courthouse, _____, South Dakota.

The Plaintiff will seek judgment for the relief demanded in the Complaint (Without Minor Children) filed in the above-entitled action.

Plaintiff's Application for Judgment & Decree of Divorce (Default) and Notice of Hearing and Plaintiff's Affidavit of Default are by reference incorporated herein as though fully set forth.

Dated this _____ day of _____, _____, at _____ County, South Dakota.

Plaintiff's Signature

Name of Plaintiff: (Printed) _____

Address: _____

City/State/Zip: _____

Telephone: (_____) _____

STATE OF SOUTH DAKOTA)
)
:SS
COUNTY OF _____)

IN CIRCUIT COURT

JUDICIAL CIRCUIT

<p>_____, Plaintiff, vs. _____, Defendant</p>	<p>DIV _____ AFFIDAVIT OF MAILING</p>
-------------------------------------------------------------------------	-------------------------------------------------------

I, _____, the above-named Plaintiff,
being duly sworn, state that on _____, 20____, I served the
Affidavit of Default and the Application for Judgment & Decree of Divorce (Default) and Notice
of Hearing, by placing true and correct copies of the documents in an envelope addressed to:
_____, the above-named Defendant, at
_____, in the City of _____,
(Defendant's mailing address)
State of _____, Zip Code _____, and depositing the envelope,
with sufficient postage, in the United States Mail at _____.
(City & State mailed from)

Dated this _____ day of _____, 20_____.

Plaintiff's Signature
(Sign only in front of a notary or clerk of courts)

Sworn/affirmed before me this
_____ day of _____, _____.

(Notary Public/Clerk of Courts)

Name of Plaintiff: (Printed) _____
Address: _____
City/State/Zip: _____
Telephone: (_____) _____

(SEAL)

Instructions for Judgment and Decree of Divorce (Default – Without Children) & Form

- **This form is used only if both parties have not completed a Stipulation and Settlement Agreement!**

You must wait at least sixty (60) days **after** serving the Defendant before requesting that the Judge sign the Judgment and Decree of Divorce (Default).

1. Complete this form in black or blue ink only!
2. This is a 2 page form. Complete “the Caption.” **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form.

YOU DO NOT COMPLETE THE REMAINDER OF THIS FORM NOR DO YOU SIGN THIS FORM – THE JUDGE WILL COMPLETE THE REMAINDER OF THE DOCUMENT AND SIGN THE JUDGMENT AND DECREE OF DIVORCE.

- At the time of your trial on the Application for Judgment and Decree of Divorce (Default), submit the Judgment and Decree of Divorce (Default) to the court.
- If the judge signs the Judgment and Decree of Divorce (Default), the Clerk of Courts will complete the Notice of Entry (Form UJS-327) and send a certified copy to each party.

STATE OF SOUTH DAKOTA)
)
:SS
COUNTY OF _____)

IN CIRCUIT COURT

JUDICIAL CIRCUIT

<p>_____, Plaintiff, vs. _____, Defendant</p>	<p>DIV _____ JUDGMENT AND DECREE OF DIVORCE (DEFAULT) (WITHOUT MINOR CHILDREN)</p>
-------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

The above-entitled matter came before this Court on the _____ day of _____, 20____ on Plaintiff's Application for Judgment and Decree of Divorce (Default). It satisfactorily appearing to the Court from the records and files herein that the Defendant was duly served with the Summons (with Children), Parenting Time Guidelines and Complaint with Minor Children on the _____ day of _____, _____. The parties were married on _____ (*date*) and at _____ (*city and state*).

It further appearing to the Court by virtue of the Affidavit of Default signed by Plaintiff and filed herein that said Defendant has failed to plead, to otherwise defend, or make any appearance in this action and that said Defendant is in default; Findings of Fact and Conclusions of Law having been waived by virtue of Defendant's failure to appear in this action; the Court having jurisdiction over the parties and the subject matter herein, Now Therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Plaintiff is granted a Judgment and Decree of Divorce on the grounds of irreconcilable differences and the parties hereto are restored to the status of single persons.
2. The parties shall retain as their separate property all of the vehicles, personal clothing and effects, all household goods, appliances and such other items and personal property as are currently in their respective possessions.

In addition the Plaintiff shall be awarded the following property: _____

_____;
and

The Defendant shall be awarded the following property: _____

_____.

3. Retirement / Investment accounts shall be divided as follows: _____

_____.

4. Any encumbrances or debts relating to or accompanying an item of personal property shall be the sole responsibility of the party retaining such property.

The following debts shall be assumed by Plaintiff: _____

_____;

and

The following debts shall be assumed by Defendant: _____

_____.

All other debts shall be paid by the party incurring such debt.

5. Regarding alimony, the Court orders:

Neither party shall be awarded alimony or spousal support; or

_____.

6. Plaintiff / Defendant (*circle one*), currently known as _____,
born _____ shall be restored to their former name of
_____; therefore, they shall be known
hereafter as _____.

7. Each party shall, at the request of the other, execute and deliver any such instruments as may be required in order to carry out the intentions and provisions of this Judgment and Decree of Divorce. In the event either party shall fail to execute deeds, titles, or other documents of transfer as required by this Judgment and Decree of Divorce, this Judgment and Decree shall operate as an effective transfer of that party's interest in said property as set forth herein.

8. Additional order(s):

Dated this _____ day of _____, _____.

BY THE COURT:

ATTEST:

CIRCUIT COURT JUDGE

Clerk of Courts

By _____

(SEAL)

Instructions for Stipulation and Order for Dismissal & Form

Use this form only if both parties have reached a mutual agreement to dismiss the divorce action.

In the event the parties resolve their differences prior to entry of the Judgment and Decree of Divorce and want to stop the divorce proceeding, they may file the Stipulation and Order for Dismissal to ask the Court for an Order dismissing the divorce action, without prejudice.

- **Complete this form in black or blue ink only!**
- Complete the “caption. This information will be the same as on the Summons (without Minor Children) and Complaint without Minor Children. **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form.
- Both parties, as well as a witness for each party, must sign the stipulation. The date of the signatures must also be included.
- **Do NOT fill out anything below the Order section.** The Judge will date and sign the Order.
- You will be provided 2 certified copies of the Stipulation and Order for Dismissal. One is for you and the other is for your spouse.

STATE OF SOUTH DAKOTA)
)
) :SS
)
COUNTY OF _____)

IN CIRCUIT COURT

_____ JUDICIAL CIRCUIT

<p>_____, Plaintiff,</p> <p>vs.</p> <p>_____, Defendant</p>	<p>File No. DIV _____</p> <p>STIPULATION AND ORDER FOR DISMISSAL</p>
---------------------------------------------------------------------	---------------------------------------------------------------------------------

It is hereby agreed to by the parties that this action be dismissed. We respectfully ask the Court for an Order dismissing it without prejudice.

_____ Plaintiff	_____ Defendant
_____ Witness	_____ Witness
_____ Date	_____ Date

ORDER

Pursuant to the stipulation of the parties, this action is hereby DISMISSED without prejudice.

Dated this _____ day of _____, 20__.

BY THE COURT:

Circuit Court Judge

ATTEST:

Clerk of Courts

BY: _____
Deputy Clerk

(SEAL)

STATE OF SOUTH DAKOTA)
)
) :SS
)
COUNTY OF _____)

IN CIRCUIT COURT

_____ JUDICIAL CIRCUIT

<p>_____, Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>_____, Defendant</p>	<p>File No. DIV _____</p> <p style="text-align: center;">MOTION AND ORDER FOR DISMISSAL</p>
-------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------

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 _____, 2013.

Plaintiff

Witness

ORDER

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

Dated this _____ day of _____, 20____.

BY THE COURT:

ATTEST:

Circuit Court Judge

Clerk of Courts

BY: _____
Deputy Clerk

(SEAL)

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF _____)

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

_____,
Plaintiff,
vs.
_____,
Defendant

DIV _____

AFFIDAVIT OF MAILING

I, _____, being sworn, state that on
(Full legal name of Plaintiff)
_____, 20____, I sent the following document:

1 certified copy of the Motion and Order for Dismissal

by placing true and correct copies in an envelope addressed to:

_____ at _____
(Full legal name of Defendant) (Defendant's mailing address)

in the City of _____, State of _____,

Zip Code _____ and depositing the envelope, with sufficient postage, in the United States Mail

at _____.
(City and state where mailed from)

Dated this _____ day of _____, 20_____.

Signature of Plaintiff
(Sign only in front of a notary or Clerk of Court)

Sworn/affirmed before me this
_____ day of _____, 20_____.

Name: (Printed) _____

(Notary Public/Clerk of Court)

Address: _____

City/State/Zip: _____

If notary, my commission expires
(SEAL)

Telephone: (____) _____

Instructions for Order to Show Cause Forms

READ ALL THE INSTRUCTIONS AND REVIEW THE FORMS BEFORE BEGINNING

YOU CAN USE THESE FORMS IF...

- You have a divorce decree, temporary order, or other civil order from a Court in South Dakota, or have registered your court order from another jurisdiction with a South Dakota Court.

AND

- The other party is **aware of and has willfully disobeyed** the decree, temporary order, or other order issued by the Court;

IMPORTANT NOTICES

- The person requesting that the court issue an order is the **Petitioner**. The person being filed against is the **Respondent**, however, the caption of this case must appear exactly the same as it is on the original court order you are requesting be enforced.
- An **Order to Show Cause** is a directive issued by the Court at a Petitioner's request requiring a Respondent to appear and show cause as to why they have not complied with an order of the Court. The **Motion and Affidavit for Order to Show Cause** is the Petitioner's sworn statement requesting the Court to issue the Order. If the Judge finds that there is not sufficient cause presented in the **Motion and Affidavit for Order to Show Cause**, the **Motion** and **Order** will be denied and no further action will be taken.
- These forms can only be used if there is an existing court order that the Respondent is aware of and has **willfully** refused to comply with. **These forms cannot be used to modify an existing order or request the Court issue a new one.**
- If you do not already have one you will need to get a **certified copy** of the final **Judgment and Decree of Divorce**, or other civil order that you are trying to enforce, and attach it to these forms. You would get a certified copy from the Clerk of Courts office in the county your case is filed in.
- Court employees **cannot** help you fill out forms or give you legal advice. If you have questions please **consult an attorney** or call the Legal Form Help Line. Type or print using dark ink.
- The Court expects every person who appears in court without an attorney to know and follow the law. The Judge will not be able to give you any help in court.

FOLLOW THESE INSTRUCTIONS TO FILE FOR AN ORDER TO SHOW CAUSE.

1. Fill out the caption (top part of the form) and Section 1 of the **Motion and Affidavit for Order to Show Cause (UJS-)**. The information to fill in the caption - case name and number, County, and Circuit - is at the top of your current Order. Be sure to copy the information **exactly** as it is on your court order. Stop when you get to Section 2.
2. **DO NOT** fill in Section 2 until you are **in the presence** of a Notary Public or a Clerk of Court. By signing your name you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, or if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court can impose penalties upon **you**.

3. Attach a certified copy of your current court order to the *Motion and Affidavit for Order to Show Cause*.
4. Fill out **only** the top portion (caption) of the *Order to Show Cause (UJS-*) exactly like on your other orders. The Judge will complete and sign the *Order to Show Cause* if they order a hearing.
5. Make copies of all paper work to keep for your files. You can also pay the clerk for copies.
6. File the **original** *Motion and Affidavit for Order to Show Cause* with the certified copy of your court order attached, and the proposed *Order to Show Cause* with the Clerk of Court. The Clerk will file stamp your documents and give them to the judge to review. This may take a few days.
7. Based upon the information within the *Motion and Affidavit for Order to Show Cause* and the prior court order you attached, the Judge may sign the proposed *Order to Show Cause* and set a hearing date. If the Judge signs the order, the clerk will notify you that a date for a hearing has been set. The clerk will also notify you if the Judge denies your motion. You must be sure to include your phone number on the *Motion and Affidavit for Order to Show Cause* so the clerk will be able to contact you. If you have not heard from the clerk in 5 business days you should call their office back and inquire as to the status of your case.
8. As soon as a hearing date has been set, you will need to come back to the Clerk's office and get certified copies of all the paperwork filed for service on the other party. You will need \$4 to pay for the certified copies.
9. The respondent must be served with all the documents filed in the case at least 10 days before the hearing date, and you **must** provide proof to the Court that they were served. To do this you will take your certified paperwork to your local Sheriff's office and pay the Sheriff to serve the other party. Once they have served the other party the Sheriff will give you a *Proof of Service* that you must file immediately with the Clerk of Courts office. If you cannot afford to pay for the service fee to the Sheriff you can ask the Clerk for a waiver form and the court may waive the fee.
10. **Failure to file proof of service will most likely result in the dismissal of your petition.**
11. You must go to court on the date and time set for the hearing. Bring copies of all your documents with you to the hearing. Bring any proof you have or witnesses who can verify your claims to the hearing. If you need a subpoena for a witness the clerk will issue one for you. Fees apply. Subpoenas should be issued as soon as you have filed the completed proof of service to ensure adequate notice. Court hearings are formal. **Do not** bring children to the hearing. You should be polite to everyone in the courtroom and address the Judge as "your honor." Speak to the Judge only when directed. Do not talk or argue with the other party during the hearing. If you and the respondent have resolved the issue before the hearing, call the Clerk and cancel the hearing.

STATE OF SOUTH DAKOTA

)
)SS.

IN CIRCUIT COURT

COUNTY OF _____

)

_____ JUDICIAL CIRCUIT

)

)

CASE NO: _____

)

Plaintiff,

)

**MOTION AND AFFIDAVIT
FOR ORDER TO SHOW CAUSE**

)

v.

)

)

Defendant.

)

)

SECTION 1

COMES NOW, _____, the Petitioner (*person filing this matter*) in this matter and after first being duly sworn on oath states and alleges as follows:

1. The Respondent (*person you are filing against*) has willfully disobeyed certain orders of the Court set forth in this **Motion and Affidavit for Order to Show Cause** and any attached Affidavits. (*Explain what the Respondent has not complied with*); _____

2. A certified copy of the order which is the subject of this action is attached.

3. The Respondent had knowledge of the order in that (*check all that apply*);

- a. _____ Respondent was present in court at the time the **Order** was made;
- b. _____ Respondent was served with a copy of the **Order**;
- c. _____ Respondent signed a **Stipulation** upon which the **Order** was based;
- d. _____ Other: _____

4. The Respondent has the ability to comply with the **Order** but refuses to do so. (*Explain briefly*):

STATE OF SOUTH DAKOTA

)

IN CIRCUIT COURT

)SS.

COUNTY OF _____

)

_____ JUDICIAL CIRCUIT

)

)

CASE NO: _____

)

Plaintiff,

)

)

v.

)

ORDER TO SHOW CAUSE

)

)

Defendant.

)

)

Upon reviewing the Motion and Affidavit filed by Petitioner _____ attached hereto, and for good cause shown;

IT IS HEREBY ORDERED that the Respondent _____, appear in Courtroom____ of this Court located in _____, South Dakota, on the _____ day of _____, 20____, at _____ o'clock __m. and show cause, if there be any, why they should not be held in contempt of Court for failure to comply with the Court Order dated _____. If the Respondent has reason as to why they were unable comply with the Courts order/s sited above they should bring to the hearing those documents or witnesses necessary to prove their claims. Failure of Respondent to appear at this hearing may result in a warrant for their arrest being issued;

IT IS FURTHER ORDERED that the Petitioner must serve a copy of this Order to Show Cause, together with the Motion and Affidavit and all attachments upon the Respondent, _____, at least 10 (ten) days prior to the hearing set above.

Dated this _____ day of _____, 20____.

BY THE COURT:

Circuit Court Judge

ATTEST:

(SEAL)

Clerk of Court