

## **INSTRUCTION FOR MOTION TO WAIVE FILING & SERVICE OF PROCESS FEE FORM**

A motion to Waive Filing Fee & Service of Process Fee is a request to the Court asking that it not charge you the filing fee and to direct the Sheriff not to charge you for service of process. The Motion refers to your Financial Affidavit (Form UJS-023) to explain your financial situation to the Judge and help the Judge decide whether to waive the fee 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 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 agree with the statements. If you do NOT agree with statements, do not sign it!
- If you agree with the statement in the Motion, you must sign and date the Motion in the presence of a 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 request. 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.**

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 the Judge did not sign the Order, you have 30 days to pay the filing fee or your case will be dismissed.

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL CIRCUIT

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;"><b>MOTION TO WAIVE FILING &amp; SERVICE OF PROCESS FEE</b></p>
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Comes now the Plaintiff/Defendant (*circle one*) named above, and makes this Motion to the Court to waive the following fees for the following reasons (*check one*):

I am the Plaintiff named above and make this Motion pursuant to SDCL 16-2-29.2 and 16-2-29.3 for the purposes of requesting a waiver of the filing fee and service of process fee for the Summons & Complaint.

I am the Defendant named above and make this Motion pursuant to SDCL 16-2-29.2 and 16-2-29.3 for the purposes of requesting a waiver of the filing fee for the Answer/Response to the Summons & Complaint.

I do solemnly swear that I am unable to pay the above-specified fee(s) for the legal proceedings which I am about to commence; and that I verily believe I am justly entitled to the relief sought by such legal proceedings. My Financial Affidavit, which sets forth my entire financial situation, (Form UJS-023) is filed herein and incorporated herein by reference.

WHEREFORE, based upon the foregoing statements and allegations, I respectfully request that the Court enter its Order to waive payment of the above-specified fee(s) in this matter, pursuant to SDCL 16-2-29.2. If this Request is denied, I understand that I must pay the above-specified fee(s) to proceed with the case. Furthermore, if I am the Plaintiff, I understand that if the filing fee is not paid within 30 days, my case will be dismissed.

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

Sworn/Affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
Notary Public/Clerk of Court

\_\_\_\_\_  
If Notary, my commission expires:  
(SEAL)

\_\_\_\_\_  
Signature of Plaintiff/Defendant (*circle one*)  
(Sign only in front of a Notary or Clerk of Court)

Name (Print): \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone: (\_\_\_\_) \_\_\_\_\_