

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 UJS Legal Form Help Line at 1-855-784-0004 or email Legal Research at UJSSRLHelp@uj.s.state.sd.us.

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
State Bar of South Dakota
222 E Capitol Ave #3
Pierre, SD 57501

Phone: 1-855-287-3510 Or Visit: www.statebarofsouthdakota.com/page/access-to-justice

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

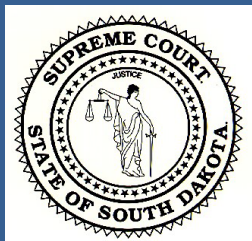
Phone: (605) 773-4400
Toll Free: 1-800-300-1986 (in state only)
Or Visit: <http://atg.sd.gov/Consumers.aspx>

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 website at <http://ujts.sd.gov>.



The South Dakota
Unified Judicial System
(605) 773-3474
Rev. 02/2022

GENERAL DEFINITIONS (WITHOUT MINOR CHILDREN)

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 is 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; 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 the job skills they need to make a living; purpose is to put the former spouse in a position to upgrade their economic marketability.
- **Restitutive** – 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 reason 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 someone other than the person they are married to. *See also SDCL 25-4-3.*
2. **Extreme Cruelty** – the infliction of grievous bodily injury or grievous mental suffering upon one party to the marriage by the other. *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 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 one spouse or the other. In the 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 Waiving Filing Fee and Service of Process Fee:

This document is a court order signed by a judge ordering that either the filing fee or sheriff's service fees (or both) are not be charged to the plaintiff. To receive this Order, a Motion and Affidavit to Waive Fees must be filed to prove to the court the plaintiff is unable to pay the fees.

**INSTRUCTIONS AND CHECKLIST FOR 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 when filling out all forms!

COMMENCING THE CASE

The Plaintiff must:

- _____ Complete Case Filing Statement (UJS-232) available in this packet.
- _____ Complete the Summons (Without Minor Children) (UJS-309).
- _____ Complete the Complaint (Without Minor Children) (UJS-310).
- _____ Complete the Financial Affidavit (UJS-023). You will complete one and your spouse will complete one.
- _____ Make at least two photocopies of all documents, one set for you and one to serve on the defendant.
- _____ 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 them you are filing for divorce.
- _____ Pay the \$95.00 filing fee; **OR** If you cannot afford the filing fee, you must complete the Motion to Waive Filing Fee & Service of Process Fee (UJS-022), Financial Affidavit (UJS-023), and caption (only) on the Order Waiving Filing Fee and Service of Process Fee (UJS-028). **Visit our website at <https://ujslawhelp.sd.gov/onlineforms.aspx> and follow the “Waiver of Fees” link to find these forms.** If the Motion is granted (or granted in part), you will not be charged the filing fee, and/or the Sheriff will not charge you for service of process. If the Motion is denied, you must pay the filing fee and service of process fee to proceed with your 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 explained in the Instructions for Service of Summons Without Minor Children and 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:

- _____ a copy of the Financial Affidavit (UJS-023) you completed;
- _____ **blank** copies of the Motion to Waive Filing Fee & Service of Process Fee (UJS-028) to allow the defendant to seek a waiver of the Answer filing fee;
- _____ a **blank** copy of the Financial Affidavit (UJS-023) for the defendant's completion;
- _____ a **blank** copy of the Instructions & Forms For Answer (UJS-316); and
- _____ a copy of the Instructions and Checklist for Divorce Without Children (**this** 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 the 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 30 days in which the Answer must be filed and the 60-Day waiting period required before the divorce can be finalized. Proof of Service documents include:

- _____ Signed Admission of Service of Summons and Complaint (UJS-317A), if they were hand-delivered;
- _____ Completed Affidavit of Mailing (UJS-315A), if you mailed them to the defendant; **or**
- _____ Document from the sheriff or process server providing the date they delivered them to the Defendant.

DEFENDANT ACKNOWLEDGING THE COMPLAINT

Forms are provided on the <https://ujslawhelp.sd.gov> website or at the Clerk of Courts office, for a copy fee).

- _____ Complete the Admission of Service of Summons and Complaint (Without Minor Children) (UJS-317A).
- _____ Complete the Financial Affidavit (UJS-023).
- _____ Make at least two photocopies of all documents, one set for you and one to serve on the plaintiff.
- _____ Serve the Admission of Service of Summons and Complaint (UJS-317A) on the plaintiff. The different ways to serve a party are explained in the Instructions for Service of Summons and Complaint Without Minor Children (Form UJS-314).
- _____ Take the original completed Admission of Service of Summons and Complaint Without Minor Children (UJS-314) and Financial Affidavit (UJS-023) to the Clerk of Court and tell them you are responding to the divorce complaint.

Note: Failure to answer or respond to the Plaintiff's complaint could result in the judge granting a Default Judgment of Decree and Divorce!

DEFENDANT RESPONDING TO COMPLAINT BY FILING AN ANSWER

If the defendant chooses to file an Answer, they must file it and service it on the plaintiff within 30 days after being served the Summon and Complaint and must:

_____ Complete the Case Filing Statement (UJS-232) available in this packet.

_____ Complete the Answer and Affidavit of Mailing (UJS-316).

_____ Make at least two photocopies of all documents, one set for you and one to serve on the Plaintiff.

_____ **Within 30 days after service of the Summons and Complaint**, take the original completed Case Filing Statement (UJS-232) and Answer and Affidavit of Mailing (UJS-316) to the Clerk of Court and tell them you are answering a divorce complaint.

_____ Pay the \$25 Answer/Response Fee; **OR**

_____ If you cannot afford the \$25 Answer/Response Fee, you must Complete the Motion to Waive Filing Fee and Service of Process Fee (UJS-022) and the caption (only) on the order Waiving Filing Fee and Service of Process Fee (UJS-028). Visit our website at <https://ujslawhelp.sd.gov/onlineforms.aspx> and follow the “Waiver of Fees” link to find these forms. If the Motion is granted, you will not be charged the answer/response fee. If the motion is denied, you must pay the answer/response fee to have your Answer filed.

Note: The Case Filing Statement and Answer & Affidavit forms can also be found with the other Divorce Without Minor Children forms at <https://ujslawhelp.sd.gov/onlineforms.aspx>.

STIPULATED DIVORCE (Both parties agree on all terms & conditions of the divorce.)

Parties may reach an agreement regarding the terms and conditions of their divorce instead of making the Judge determine define them. If an agreement is reached, the parties must complete and file the following forms:

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

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

_____ **After 60 days have passed since the Summons & Complaint were properly served on the defendant (and Proof of Service was filed with the Clerk of Court), the parties are responsible for presenting the Judgment and Decree of Divorce (Stipulation and Agreement) Without Minor Children (UJS-326A) to the Judge for consideration.**

_____ If the parties cannot reach an agreement, the Court may order mediation. A court-approved mediator can often help the parties come to an agreement on various terms and conditions of the divorce. Mediation is not binding, and the issues discussed are confidential. A list of court-approved mediators is provided on the www.ujl.sd.gov website.

_____ If the Judge approves the stipulation and signs the Judgment and Decree of Divorce, the Clerk of Court will complete the Notice of Entry of Judgment and Decree of Divorce and will mail a copy to both parties along with certified copies of the Judgment and Decree of Divorce (Stipulation and Agreement) Without Minor 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.

THESE DOCUMENTS ARE NECESSARY TO FINALIZE YOUR DIVORCE. Do not assume you are divorced if there isn't a Judgment & Decree of Divorce signed by the Judge and filed with the Clerk of Court. If you do not have a signed, file-date stamped, certified copy from the court, follow-up with the Clerk of Court!

DEFAULT DIVORCE (Only used when defendant does not file Answer timely.)

In the event the defendant does not file an Answer or any responsive pleading and within 30 days of being served the Summons & Complaint and does not cooperate by signing a Stipulation and Settlement Agreement, the **plaintiff** must, upon the expiration of the 60-day waiting period:

_____ Complete the Affidavit of Default, Application For Judgment & Decree of Divorce (Default) & Notice of Hearing, and Affidavit of Mailing (UJS-321A).

_____ Complete the Affidavit of Military Status (UJS-306);

_____ Make at least two photocopies of all these documents, one set for you and one to serve on the defendant.

_____ Send a copy of the Affidavit of Default, Application for Judgment & Decree of Divorce (Default) & Notice of Hearing (UJS-321A) to the defendant by certified mail with return receipt requested.

_____ File the original documents with the Clerk of Court along with a completed Affidavit of Mailing (UJS-321A); and

_____ Complete the caption on the Judgment and Decree of Divorce (Default) (UJS-322A) and take it with you to the hearing for consideration by the Judge if a hearing is required.

_____ If the Judge signs the Judgment and Decree of Divorce, the Clerk of Courts will send a copy of it and a Notice of Entry of Judgment to both parties. **You must provide 2 self-addressed, stamped envelopes to the Clerk of Court for the mailing of these documents. Make sure there is adequate postage on them.**

THESE DOCUMENTS ARE NECESSARY TO FINALIZE YOUR DIVORCE. Do not assume you are divorced if there isn't a Judgment & Decree of Divorce signed by the Judge and filed with the Clerk of Court. If you do not have a signed, file-date stamped, certified copy from the court, follow-up with the Clerk of Court!

FINALIZING A DEFAULT OR STIPULATED DIVORCE:

Prior to finalizing a divorce, the judge may require a hearing. The judge determines whether stipulation or default forms must be filed prior to the hearing. Ask the Clerk of Court if such a hearing is required and if the Judgment & Decree of Divorce form (**with only the caption completed**) must be provided prior to the hearing. The hearing allows an opportunity for the judge to ask the parties questions and allows the parties the opportunity to submit one of the Judgment & Decree of Divorce forms listed below for the judge's signature (if required and not already signed):

Judgment & Decree of Divorce – Default (Without Children) (UJS-322A); or
Judgment & Decree of Divorce – Stipulation & Agreement (Without Children) (UJS-326A)

CONTESTED DIVORCE (Both parties do not agree on all terms & conditions of the divorce.)

Forms are **not** available for contesting a divorce; contesting a divorce requires a hearing or trial.

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

_____ The Judge can order mediation. A court-approved mediator can often help the parties come to an agreement on various terms and conditions of the divorce. Mediation is not binding and the issues discussed are confidential. A list of court-approved mediators is provided on the www.uj.s.d.gov website.

_____ Contact the Clerk of Court or Court Administrator to obtain a hearing/trial date.

_____ Complete the Notice of Hearing (UJS-336) available in the General Motions link on the <https://ujslawhelp.sd.gov/onlineforms.aspx> website and make two copies. File the original with the Clerk of Court, send one copy to the other party, and keep one copy for your records.

_____ Complete the Affidavit of Mailing (UJS-340) also available on the link listed directly above. File the original with the Clerk of Court and keep a copy for your records.

Following the hearing, the judge will decide how the issues the parties are unable to resolve will be addressed.

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 may complete and file the:

_____ Stipulation and Order for Dismissal (UJS-328), only if both parties agree about dismissing the divorce action; **or**

_____ Motion and Order for Dismissal (UJS-329), if one party wishes to dismiss the action and is Unable to obtain the signature of the other on the Stipulation and Order for Dismissal form mentioned above.

CASE FILING STATEMENT – Information Only; Not Retained in Case Records

Provide the Case File No. for the record you are filing into or the Case Type if initiating a new action: _____

*A list of case types and party roles can be found here: <https://ujc.sd.gov/Attorneys/FormsDocumentation.aspx>

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. Business entities must provide the EIN number in lieu of SSN or DL#.

INFORMATION FOR PLAINTIFF/PETITIONER/APPLICANT:

_____ Last/Business Name	_____ First Name	_____ Middle	_____ Suffix	
_____ Physical Address <input type="checkbox"/> Check if Same as Mailing	_____ City	_____ State	_____ Zip	
_____ Mailing Address	_____ City	_____ State	_____ Zip	
_____ Home	_____ Work	_____ Cell		
_____ Social Security No.	_____ Date of Birth	_____ Driver's License No.	_____ State	_____ Employer ID (Business)
Attorney:				
_____ Last Name	_____ First Name	_____ State Bar ID No.		
_____ Mailing Address	_____ City	_____ State	_____ Zip	
_____ Phone				

INFORMATION FOR DEFENDANT/RESPONDENT/MINOR/DECEDENT/PERSON IN NEED OF PROTECTION:

_____ Last/Business Name	_____ First Name	_____ Middle	_____ Suffix		
_____ Physical Address <input type="checkbox"/> Check if Same as Mailing	_____ City	_____ State	_____ Zip		
_____ Mailing Address	_____ City	_____ State	_____ Zip		
_____ Home	_____ Work	_____ Cell			
_____ Social Security No.	_____ Date of Birth	_____ Date of Death	_____ Driver's License No.	_____ State	_____ Employer ID (Business)
Attorney:					
_____ Last Name	_____ First Name	_____ State Bar ID No.			
_____ Mailing Address	_____ City	_____ State	_____ Zip		
_____ Phone					

INSTRUCTIONS FOR SUMMONS (WITHOUT MINOR CHILDREN) & FORM

- **Complete this form in black ink only!**
- 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 the clerk of court if you don’t know), name of Plaintiff, name of Defendant, and case file number (also ask the clerk of court if you don’t know). The caption is the same on every form. **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 the defendant live.
 - Fill in the name of the Judicial Circuit (First, Second, Third, etc.) in which you are filing for divorce (ask the clerk of court if you don’t know or find it on our website at 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 file number that you will insert in the space provided. This file number must 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 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 the defendant along with a copy of the Complaint. The original must be filed with the clerk of court.
- 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 IT. VIOLATION OF ANY OF THESE TERMS COULD SUBJECT YOU TO PENALTIES AND DELAY YOUR DIVORCE. READ IT CAREFULLY.**

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">SUMMONS (WITHOUT MINOR CHILDREN)</p>
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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), exclusive of 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 of 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 other way dissipating or disposing of any material 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 its 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

Printed Name

Address

City/State/Zip

Phone No.

- **Forms and additional instructions are available at <https://ujs.sd.gov> or the Clerk of Court Office.**

INSTRUCTIONS & FORM FOR COMPLAINT (WITHOUT CHILDREN)

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 the clerk of court if you don’t know), name of Plaintiff, name of Defendant, and case file number (ask the 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: Self-Explanatory.
- Paragraph 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 of something other than irreconcilable differences is likely to result in a contested divorce which is both costly and complex. In those circumstances, you are strongly encouraged 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 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” (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 their 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 their former name restored. Circle which party wants their former name restored. Enter the first, middle, and last name (former name) of that party. Insert the 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 you bring photo identification to show them. 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 the clerk of court. Make sure to bring photo identification to show them. A notary public can usually be found at the bank, and sometimes 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 of 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 (Without Minor Children); one for you and one to be served on your spouse. The original copy must be filed with the clerk of court.

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">COMPLAINT (WITHOUT MINOR CHILDREN)</p>
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1. Plaintiff's full legal name is _____, and their date of birth is _____.
2. Plaintiff is a resident of _____ County, State of _____.
3. Defendant's full legal name is _____, and their date of birth is _____.
4. Defendant is a resident of _____ County, State of _____.
5. Plaintiff and Defendant were married on _____ (date), in _____ (city & state). If the parties are living apart, the date upon which they began to do 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 (if the parties don't agree to the grounds selected below, a hearing will be required, and you will need to provide proof to support the grounds claimed):

- (1) Adultery: _____
- (2) Extreme cruelty: _____
- (3) Willful desertion: _____
- (4) Willful neglect: _____
- (5) Habitual intemperance: _____
- (6) Conviction of felony: _____
- (7) Irreconcilable differences _____

8. No children have been born to or adopted by the parties. Neither spouse is currently pregnant.

9. The parties have accumulated property and/or debts during 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 the Plaintiff/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 No.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

VERIFICATION

Plaintiff, being first duly sworn, deposes and states that they verify the fact expressed within the Complaint (Without Minor Children) are true.

Dated this _____ day of _____, 20_____.

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

Signature (Sign in front of Notary Public or Clerk)

Notary Public/Clerk of Court
If Notary, my commission expires:

(SEAL)

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 your case. The values used should be as of the day the party completes the Financial Affidavit.

- **Complete this form in black or blue ink only!**
- 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 you **know for certain** that you don't have or receive the item listed, then enter a zero (0).
- 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.

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">FINANCIAL AFFIDAVIT</p>
---	---

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

- (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: \$ _____.
- (14) Contributions to an IRS qualified retirement plan not exceeding 10% of gross income:
\$ _____.
- (15) Unreimbursed employee business expenses (Attach IRS form 2106):
\$ _____.
- (16) Payments made on other support orders OTHER THAN FOR CHILDREN IN THIS PROCEEDING (Attach court order and evidence of payments.):
\$ _____.

(17) Payments made for spousal support: \$ _____.
TOTAL DEDUCTIONS (Add 12-18): \$ _____
NET MONTHLY INCOME (SUBTRACT TOTAL DEDUCTIONS FROM GROSS MONTHLY INCOME): \$ _____

(18) My total gross income before deductions for the previous year was:
\$ _____.

(19) My total gross income before deductions for two years ago was \$ _____.

(20) Including myself, I have the following number of dependents: _____.

(21) Do you have health insurance available for dependents through your employer?
_____.

(22) If you provide medical or dental insurance for your child(ren), 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 child(ren):

\$ _____.

Persons covered under the policy of insurance:

_____.

(23) Do you incur child care costs as result of employment, job search or training or education necessary to obtain a job or enhance earning potential?
_____.

If so, please complete the following:

Name and address of child care provider:
_____.

The name(s) of the child(ren) for whom child care is provided:

_____.

How many hours per week is child care being provided?
_____.

Cost of Child Care: Monthly: \$ _____ Weekly: \$ _____ Hourly:
\$ _____.

List the costs, per month, of the child care expenses incurred for the past six months:

_____.

Do you receive any state assistance for child care? _____ If so, how much?
_____.

Do you claim the Federal Child Care Tax Credit? _____.

(24) Enter the amount of Social Security or Veteran's Benefits provided to a child(ren) of the parties due to your retirement, disability or other eligibility: \$ _____
Which parent receives the payment for the child? _____

(25) The following amounts accurately represent my assets and liability:

1. ASSETS (things you 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 you 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 in front of Notary Public or Clerk)

Sworn/affirmed before me this

_____ day of _____, _____.

Notary Public\Clerk of Courts

If notary, My Commission Expires _____

(SEAL)

IF THIS IS A DIVORCE WITH MINOR CHILDREN

- You must complete the child support calculation. The DSS calculator is found at <https://apps.sd.gov/SS17pc02cal/Calculator.aspx>; and
- **Attach your calculation of child support.**

INSTRUCTIONS FOR SERVICE OF SUMMONS (WITHOUT MINOR CHILDREN) AND COMPLAINT (WITHOUT MINOR CHILDREN)

To start the divorce, the Defendant must be served with copies the following documents (the originals are filed with the clerk of court:

1. Summons (Without Minor Children), UJS-309; and
2. Complaint (Without Minor Children), UJS-310.

Note: The General Instructions & Checklist for Divorce (Without Minor Children), Form UJS-307A, should be served with these documents as well.

The most common ways to serve the Defendant are:

1. In divorces where the parties are agreeable to the terms, the Defendant will often 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 may sign the **Admission of Service of Summons and Complaint (Without Minor Children)**, UJS-317A. 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 may also mail copies of the above itemized documents and self-addressed, stamped envelope to the Defendant along with 2 copies of the **Notice and Admission of Service of Summons 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** 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 (Without Minor Children)**, UJS-309, and **Complaint (Without Minor Children)**, UJS-310, 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 service fee and mileage reimbursement are prepaid. After service, the sheriff or process server has their own form that they use 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.**

If you HAND-DELIVER the documents to the Defendant:

Complete the **Admission of Service of Summons and Complaint (Without Minor Children)**, 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 the clerk of court if you don’t know. The caption is the same on every form.
- The Defendant must fill in their full legal name in the body of the text.
- The Defendant must fill in the town, county and state of the place where they received the documents.
- The Defendant must fill in the date with the month, day and year they received the documents.
- The Defendant must complete the signature block with their signature, printed name, mailing address and telephone number.
- The Defendant should make a copy of the completed **Admission** for their own records and return the original document to the Plaintiff.
- Plaintiff should also make a copy for their own records and then file the original **Admission of Service of Summons and Complaint (Without Minor Children)**, UJS-317A, 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 were served (not count the day of service).**

If you MAIL the documents to the Defendant:

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

- **Complete the form in black ink only!**
- Complete the “caption” on both pages of the UJS-315A. This information will be the same as on the Summons and Complaint (Without Minor Children).
- As the Plaintiff, sign and date the **Notice and Admission of Admission of Service of Summons and Complaint (Without Minor Children)**, UJS315A, including your address and telephone number.
- On the **Affidavit of Mailing**, fill in the date the **Summons (Without Minor Children)**, UJS-309 and **Complaint (Without Minor Children)**, UJS-310 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 (Without Minor Children)**, UJS-317A, 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 must sign and date the **Admission**, including their mailing address and telephone number.
- The Defendant should make a copy of the completed **Notice and Admission** forms for their 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 **Notice and Admission** forms with the clerk of court.
- **The divorce may not be finalized until at least sixty (60) days have elapsed from the date the summons and complaint are served. (The day of service is not counted).**

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">ADMISSION OF SERVICE OF SUMMONS AND COMPLAINT (WITHOUT MINOR CHILDREN) (BY HAND DELIVERY)</p>
---	--

I, _____, the above-named Defendant, admit receiving copies of the Summons (Without Minor Children) and the Complaint (Without Minor Children) in the above-captioned matter at:

_____ (City)
 _____ (County)
 _____ (State).

This Admission merely acknowledges receipt of the papers; I do not admit or deny any of the statements contained in those papers:

Dated this _____ day of _____, 20_____.

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

 Notary Public/Clerk of Court
 If Notary, my commission expires:

(SEAL)

 Defendant's Signature
(Date and sign in front of Notary Public/Clerk.)

Name (Print): _____
 Address: _____
 City/State/Zip: _____
 Phone Number: (____) _____

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>_____</p> <p style="text-align: right;">Plaintiff</p> <p>vs</p> <p>_____</p> <p style="text-align: right;">Defendant</p>	<p>FILE NO: _____</p> <p>NOTICE AND ADMISSION OF SERVICE OF SUMMONS AND COMPLAINT (WITHOUT MINOR CHILDREN)</p>
---	---

TO THE ABOVE-NAMED DEFENDANT: The enclosed Summons 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 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 you to pay the costs of personal service. SDCL 15-6-4(i).

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

Dated this _____ day of _____, 20_____.

 Plaintiff's Signature
(Date and sign in front of Notary Public/Clerk)

 Print Plaintiff's Name

 Mailing Address

 City/State/Zip

 Phone No.

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 and Complaint (Without Minor Children);
- 1 copy of the Summons (Without Minor Children); &
- 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 _____
(city and state mailed from)

Dated this _____ day of _____, 20_____.

Plaintiff’s Signature
(Date and sign in front of Notary Public/Clerk)

Print Plaintiff’s Name

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

Mailing Address

Notary Public/Clerk of Court
If Notary, my commission expires:

City/State/Zip

(SEAL)

Phone No.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>_____</p> <p style="text-align: right;">Plaintiff</p> <p>vs</p> <p>_____</p> <p style="text-align: right;">Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">ADMISSION OF SERVICE OF SUMMONS AND COMPLAINT (WITHOUT MINOR CHILDREN)</p>
---	--

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

Dated this _____ day of _____, 20_____.

 Defendant's Signature
(Date and sign in front of Notary Public/Clerk)

 Print Defendant's Name

 Mailing Address

 City/State/Zip

 Phone No.

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

 Notary Public/Clerk of Court
 If Notary, my commission expires:

(SEAL)

INSTRUCTIONS & FORMS FOR ANSWER

An Answer is a written response to the Complaint (Without Minor Children) to be completed by the Defendant to protect their rights. If the Defendant chooses to file an Answer, they must file it with the Clerk of Courts and serve it on the Plaintiff within 30 days after Defendant is served with the Summons and Complaint. There is a \$25 filing fee to file this responsive pleading. **If an Answer is not filed, the court may grant the Plaintiff everything requested in the Complaint and the Judge may enter a Default Judgement & Decree of Divorce.**

- **Complete this form in black ink only!**
- 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 the clerk of court if you don’t know), name of Plaintiff, name of Defendant and case file number (ask the 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 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 and complete the **Verification** portion. **But, do not sign the document in either spot until you are in the presence of a notary public or the 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 copies 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, along with the filing fee.

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 Answer, which is a sworn statement, under oath, that the Defendant 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.
- Complete the top portion of the Answer (the “caption”) just as it appears in the Summons and

Complaint (Without Minor Children).

- Fill in the blanks as indicated on the Affidavit.
- Make a photocopy of the Affidavit for your file. The original must be filed with the clerk of court.
NOTE: 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 any bank and, sometimes, at the courthouse.

<p style="text-align: center;">_____ Plaintiff</p> <p style="text-align: center;">vs</p> <p style="text-align: center;">_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">ANSWER</p>
---	--

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. _____

2.

3.

4.

Dated this _____ day of _____, 20_____.

Defendant's Signature

Name (Print): _____

Address: _____

City/State/Zip: _____

Phone Number: (____) _____

VERIFICATION

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

Defendant, being first duly sworn, deposes and states that he or she verifies the facts expressed within the Answer are true.

Dated this _____ day of _____, 20_____.

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

Notary Public/Clerk of Court

If Notary, my commission expires:

(SEAL)

Defendant's Signature

(Date and sign in front of Notary Public/Clerk.)

Name (Print): _____

Address: _____

City/State/Zip: _____

Phone Number: (____) _____

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">AFFIDAVIT OF MAILING ANSWER</p>
---	---

I, _____, being sworn, state that on
(Full legal name of Defendant)

_____, 20____, I served the Answer on the Plaintiff by
placing a true and correct copy of the document in an envelope addressed to:

_____ at _____
(Full legal name of Plaintiff) (Plaintiff'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 mailed from)

Dated this _____ day of _____, 20_____.

Defendant's Signature
(Date and sign in front of Notary Public/Clerk.)

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

Name (Print): _____

Address: _____

Notary Public/Clerk of Court

City/State/Zip: _____

If Notary, may commission expires:

Phone Number: (____) _____

(SEAL)

*** 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!**

***The Affidavit of Mailing may be attached to the Notice of Summons & Complaint or may be filed separately. Ask the Clerk of Court which method they prefer.**

**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 is the contract between both spouses relating to all matters in their divorce. The affidavit is required for the court to grant the divorce without either of you appearing in court.

- Complete the top portion or “caption” of the Stipulation and Settlement Agreement and the Affidavit as to Jurisdiction and Grounds for Divorce 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 agrees 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 or the Clerk of Court.

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">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, Spouse(s), or Party(ies).

WHEREAS, the parties were married in _____ (city), State of _____, on the ___ day of _____, 20_____, and ever since that time have been and are now are spouses, 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 and 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), _____ (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

Plaintiff’s Initials

Defendant’s Initials

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 their marriage or relationship. The spouses are / are not (*circle one*) pregnant at the time of this action. If pregnant, spouse 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 regarding 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 marriage / relationship within 90 days of execution of this Agreement. Any expenses incurred in this process shall be mutually agreed upon and split equally

Plaintiff's Initials

Defendant's Initials

between the parties.

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

(provide year, make and model and VIN#), subject to any debts against the asset(s). Plaintiff 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. Defendant's Vehicle(s) / Boats / Motorcycles / ATV's / Mobile Home / etc.: Defendant shall exclusively receive, as his/her sole and separate property, the following vehicle(s): _____

(provide year, make and model and VIN#), subject to any debts against the asset(s). Defendant 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

Plaintiff's Initials

Defendant's Initials

Plaintiff shall, within 30 days of execution of this Agreement, give to Defendant the following personal property items: _____

and Defendant shall, within 30 days of execution of this Agreement, give to Plaintiff 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 parties: credit cards, bank loans, personal loans, vehicle loans, outstanding monthly bills, student loans, medical bills, etc.*):

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

Plaintiff's Initials

Defendant's Initials

_____;

B. Defendant 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 started 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 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 Plaintiff / Defendant (*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

Plaintiff's Initials

Defendant's Initials

party individually, and each shall immediately apply for formal transfer or assumption of the 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*):

Regarding the property, the parties agree:

Plaintiff / Defendant (*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 property has consulted a lender and received pre-approval to refinance. The party not receiving the real

Plaintiff's Initials

Defendant's Initials

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, Plaintiff / Defendant / Not Applicable (*Circle One*) shall have exclusive possession of the marital home if he/she does not commit waste thereto. Commencing _____, 20____, the parties agree that Plaintiff / Defendant / 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 Plaintiff receiving _____% and Defendant receiving _____%. Additionally, any monies refunded to the parties from any escrow account shall be divided between the parties with Plaintiff receiving _____% and Defendant receiving _____%. The parties agree, if they are not able to file a joint return, Plaintiff / Defendant (*circle one*) shall claim the real estate taxes on his/her 20____ income tax return and Plaintiff / Defendant (*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 such 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 future. It is the intent and purpose of the parties hereto by this provision to waive any entitlement to

Plaintiff's Initials

Defendant's Initials

the 401K, IRA, stock options, pension, retirement, and/or annuity benefits of the other party, including both present and future benefits; **OR**

Effective the date this Stipulation is signed by both parties, the Plaintiff shall receive the following investments and retirement accounts (list the current value of each):

Effective the date this Stipulation is signed by both parties, the Defendant shall receive the following investments and retirement accounts (list the current value of each):

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:

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

Plaintiff's Initials

Defendant's Initials

Defendant 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

Plaintiff / Defendant (*circle one or both, if applicable*) was a member of the military (includes the National Guard and Reserves) during 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 and, if necessary, an Order requiring Survivors Benefit Protection (SBP).

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):*

Plaintiff / Defendant (*circle one*) shall receive alimony in the sum of \$ _____

each month for the following duration:

- a period of _____ months;
- until remarriage of the person receiving alimony or death of either party.

OR

- No permanent, general, rehabilitative or restitutional alimony shall be granted to either party. Both parties waive any right they 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 Plaintiff and

Plaintiff's Initials

Defendant's Initials

_____ % to Defendant; **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 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**
- Plaintiff / Defendant (*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 their own attorney fees, costs and expenses incurred in this proceeding;

OR

- Plaintiff / Defendant (*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.

Plaintiff’s Initials

Defendant’s Initials

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 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 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 if one party determines modifications are necessary without consent of the other party, each shall be free to petition the Court to have this Agreement modified/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 after the date of this Agreement.

20. **Modification and Waiver.** Any modification/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 shall not be construed as waiver of any subsequent default of the same or similar nature.

Plaintiff's Initials

Defendant's Initials

21. **Partial Invalidity.** If any of the provisions of this Agreement are held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect.
22. **Titles.** The paragraph captions contained herein are inserted for convenience and descriptive 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.** Plaintiff confirms they are not 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.

Defendant confirms they are not 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

Plaintiff's Initials

Defendant's Initials

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 the consideration of this Agreement.

Plaintiff's Initials

Defendant's Initials

Dated this ____ day of _____, 20 ____.

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

Plaintiff's Signature
(Date and sign in front of Notary Public/Clerk.)

Notary Public/Clerk of Court
If Notary, my commission expires:

(SEAL)

Name (Print): _____
Address: _____
City/State/Zip: _____
Phone Number: (____) _____

Dated this ____ day of _____, 20 ____.

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

Defendant's Signature
(Date and sign in front of Notary Public/Clerk.)

Notary Public/Clerk of Court
If Notary, my commission expires:

(SEAL)

Name (Print): _____
Address: _____
City/State/Zip: _____
Phone Number: (____) _____

INSTRUCTIONS FOR AFFIDAVIT OF PLAINTIFF AND DEFENDANT AS TO JURISDICTION AND REASON 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!**
- Complete the “caption.” This information will be the same as on the Summons and Complaint (Without Minor Children). The Caption is the same on every form.
- Fill in the full legal name 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 they sign 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 them. 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 they sign 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 them. 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 their 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.

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p>AFFIDAVIT OF PLAINTIFF & DEFENDANT AS TO JURISDICTION AND REASON FOR DIVORCE</p>
---	--

_____, Plaintiff and _____,
Defendant, being first duly sworn upon their oath, depose and state as follows:

1. That they are the Plaintiff and the Defendant in the above-entitled divorce action.
2. This affidavit is made pursuant to the provisions of SDCL 25-4-17.3 so that the divorce may be granted without requiring the personal appearance in Court by either party.
3. Pursuant to SDCL 25-4-30, the Plaintiff, at the time of the commencement of this divorce action was a bona fide resident of _____ of the State of South Dakota (or stationed in the State of South Dakota while a member of the armed services).
4. Plaintiff and Defendant agree by signing this Affidavit that there are irreconcilable differences between the parties which the parties cannot repair to save the marriage. Both parties consent to the Court's entry of a Decree of Divorce to both parties on the grounds of irreconcilable differences.
5. A written Stipulation and Settlement Agreement (Without Minor Children) has been entered into between the Plaintiff and Defendant setting forth the terms and conditions of the division of property and other matters, which Agreement is presented to the Court with this Affidavit.
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 Judgement 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____.

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

Notary Public/Clerk of Court
If Notary, my commission expires:

(SEAL)

Plaintiff's Signature
(Date and sign in front of Notary Public/Clerk.)

Name (Print): _____

Address: _____

City/State/Zip: _____

Phone Number: (____) _____

Dated this ____ day of _____, 20____.

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

Notary Public/Clerk of Court
If Notary, my commission expires:

(SEAL)

Defendant's Signature
(Date and sign in front of Notary Public/Clerk.)

Name (Print): _____

Address: _____

City/State/Zip: _____

Phone Number: (____) _____

**INSTRUCTIONS & FORM FOR JUDGMENT AND DECREE OF
DIVORCE (STIPULATION AND AGREEMENT WITHOUT MINOR CHILDREN)**

*** 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!**
- Complete the top portion **only** on the Judgment and Decree of Divorce (the “caption”). You will need to know the name of your county, judicial circuit (ask the clerk of court if you don’t know), name of Plaintiff, name of Defendant, and case filing number (ask the clerk of court if you don’t know).
- **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), FORM 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 filing this Judgment & Decree of Divorce at the Clerk of Court office; you MUST file it, or you will NOT be divorced!**

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p>JUDGMENT AND DECREE OF DIVORCE (STIPULATION AND AGREEMENT WITHOUT MINOR CHILDREN)</p>
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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) in _____ (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 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 _____, 20____.

BY THE COURT:

ATTEST:

Circuit Court Judge

Clerk of Court

BY: _____

Deputy Clerk

(SEAL)

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 Minor 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 Minor 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!**
- 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 the clerk of court if you don’t know), name of Plaintiff, name of Defendant and case file number (ask the 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 and the Complaint (Without Minor Children). This is the date that the Defendant either signed the Admission of Service or the date 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 statement 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 them. 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” of the Application for Judgment and Decree of Divorce (Default) and Notice of Hearing as it appears on the Summons and Complaint (Without Minor Children).

- 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 trial date from the Court Administrator's office or 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 of 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 must 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" of the Affidavit of Mailing, just as they have been completed on the other documents.
- Fill in the blanks as indicated of 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.**

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p>AFFIDAVIT OF DEFAULT</p>
---	--

Plaintiff, being first duly sworn on oath, states:

1. That I am the Plaintiff in the above-captioned action.
2. That the Summons 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 Minor 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.

Dated this ____ day of _____, 20____.

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

Notary Public/Clerk of Court

If Notary, my commission expires: _____

(SEAL)

Plaintiff's Signature
(Date and sign in front of Notary Public/Clerk.)

Name (Print): _____

Address: _____

City/State/Zip: _____

Phone Number: (____) _____

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p>APPLICATION FOR JUDGMENT & DECREE OF DIVORCE (DEFAULT) & NOTICE OF HEARING</p>
---	--

Comes now, the above-named Plaintiff, _____, and respectfully submits this Application for Judgment & Decree of Divorce by Default pursuant to SDCL 15-6-55(b), hereby requesting the Court to enter Judgment and Decree of Divorce by default against the Defendant in favor of the Plaintiff in the above entitled action. The Plaintiff's Affidavit off Default is by reference incorporated herein as though fully set forth.

Dated this _____ day of _____, 20_____.

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

(Notary Public/Clerk of Court)

If notary, my commission expires
(SEAL)

Plaintiff's Signature
(Date and sign in front of Notary Public/Clerk.)

Name (Print): _____

Address: _____

City/State/Zip: _____

Phone Number: (____) _____

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">NOTICE OF HEARING</p>
---	---

TO: THE DEFENDANT IN THE ABOVE CAPTIONED MATTER:

PLEASE TAKE NOTICE that on the ____ day of _____, 20____, at ____ : ____ am/pm (circle one) 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 _____ Count, _____, 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.

Plaintiff’s Signature

Name (Print): _____

Address: _____

City/State/Zip: _____

Phone Number: (____) _____

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">AFFIDAVIT OF MAILING</p>
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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 document in an envelope addresses to:

_____, the above-named Defendant, at _____, in the City of _____, 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_____.

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

(Notary Public/Clerk of Court)

If notary, my commission expires
(SEAL)

Plaintiff's Signature
(Date and sign in front of Notary Public/Clerk.)

Name (Print): _____

Address: _____

City/State/Zip: _____

Phone Number: (____) _____

***The Affidavit of Mailing may be attached to the Notice of Summons & Complaint or may be filed separately. Ask the clerk of court which method they prefer.**

INSTRUCTIONS FOR AFFIDAVIT OF DEFENDANT'S 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 <https://scra.dmdc.osd.mil/scra/#/login>. 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 military status of a Defendant may also be determined by the Plaintiff, or his or her agent, 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 Non-Military Status in front of a Notary Public or Clerk of Court.
- You must 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.

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">AFFIDAVIT OF DEFENDANT'S MILITARY STATUS</p>
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I, the undersigned litigant, being first duly sworn on my oath, depose and state:

1. I am over the age of eighteen years and am competent to make this Affidavit.
2. I am the plaintiff in the above-entitled matter.
3. That I have either made a personal investigation or personally reviewed the business records of the defendant.
4. As a result of the investigation or review:
 - It is my belief that the above-named defendant is not in the military services on active duty;
 - It is my belief that the above-named defendant is in the military service on active duty;
 - I have been unable to determine whether the defendant is in the military service on active duty.

My information and belief are based on the following and I have attached the necessary documentation as set forth in the instructions: _____

I understand that any false statements in this document are made under perjury, and that making a false statement is a violation of Federal Law and is subject to both fine and imprisonment.

Dated this _____ day of _____, 20_____.

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

Signature
(Date and sign in front of Notary Public/Clerk.)

Notary Public/Clerk of Court
If Notary, my commission expires:

Name (Print): _____
Address: _____
City/State/Zip: _____
Phone Number: (____) _____

(SEAL)

**INSTRUCTIONS FOR JUDGMENT AND DECREE OF DIVORCE
(DEFAULT – WITHOUT MINOR 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 ink only!**
2. 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.

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.

<p>_____</p> <p style="text-align: right;">Plaintiff</p> <p>vs</p> <p>_____</p> <p style="text-align: right;">Defendant</p>	<p>FILE NO: _____</p> <p>JUDGMENT & DECREE OF DIVORCE - DEFAULT (WITHOUT MINOR CHILDREN)</p>
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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 and Complaint on the _____ day of _____, 20____. 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; Finding 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 and restored to the status of single persons.
2. The parties shall retain as their separate property all the vehicles, personal clothing and effects, all household goods, appliance and such other items and personal property as are currently in their respective possessions, free and clear of any claim from the other.

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 or maiden 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 many be required 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 _____, 20_____.

ATTEST:

Circuit Court Judge

By _____
Clerk of Court

(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 the 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 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 Courts 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 two (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

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">STIPULATION AND ORDER FOR DISMISSAL</p>
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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_____.

ATTEST:

Circuit Court Judge

Clerk of Court

(SEAL)

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

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

Dated this ____ day of _____, 20____.

Plaintiff Signature

Witness Signature

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 Court

BY: _____
Deputy Clerk

(SEAL)

STATE OF SOUTH DAKOTA
COUNTY OF _____

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p>AFFIDAVIT OF MAILING</p>
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I, _____, being sworn, state that on _____, 20____, I sent the following document:

I 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 form)

Dated this _____ day of _____, 20_____.

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

Signature
(Date and sign in front of Notary Public/Clerk.)

Notary Public/Clerk of Court
If Notary, my commission expires:

Name (Print): _____
Address: _____
City/State/Zip: _____
Phone Number: (____) _____

(SEAL)

***The Affidavit of Mailing may be attached to the Notice of Summons & Complaint or may be filed separately. Ask the Clerk of Court which method they prefer.**