

Hamre, John G.

From: -Info-Public Service Commission
Sent: Tuesday, January 14, 2020 2:58 PM
To: Hamre, John G.
Subject: Agri Industries
Attachments: River Rain VS SRD (2).pdf

From: Janet Shaw <jshaw@h2oagri.com>
Sent: Tuesday, December 31, 2019 2:41 PM
To: Schock, Victor F. <vschock@nd.gov>
Cc: Kyle & Summer Ames <smames1@hotmail.com>; River Rain <riverrain@h2oagri.com>; Mike Ames <mike@h2oagri.com>
Subject: Re: Agri Industries

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Hi Victor,

I just wanted to touch base with you, I am working on providing you all of the information regarding the complaint from Seth Dixon with SRD.

Unfortunately the owners of River Rain have been currently out of the state for the holiday season and are not expected back until Jan. 11, 2020.

I would like to respond to part of the complaint regarding that SRD was illegally billed for services. I would like to inform you that there was a case in Williams County Case number 53-2019-SC-00151, River Rain (plaintiff) vs SRD (defendant). SRD was properly notified of the small claims case that was filed in the State of North Dakota, and had the opportunity to respond to the case within 20 days of being served. At that time SRD did not respond to the case number 53-2019-SC-00151. Judicial officer Kristen Sjue entered a monetary award judgment on 12-11-2019 at 10:47 am. in the amount of \$12,282.38 for damages that occurred.

After SRD (Seth Dixon) satisfied the judgement that was set forth by the court and Honorable Kristen Sjue, is when Seth filed the complaint with the ND public Service Commission on 12-17-2019.

REGISTER OF ACTIONS Cust No. 13-2018-SC-00181		
Iver Rain vs. SRD 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 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1218 1219 1220 1221 1222 1223 1224 1225 1226 1227 1228 1229 1230 1231 1232 1233 1234 1235 1236 1237 1238 1239 1240 1241 1242 1243 1244 1245 1246 1247 1248 1249 1250 1251 1252 1253 1254 1255 1256 1257 1258 1259 1260 1261 1262 1263 1264 1265 1266 1267 1268 1269 1270 1271 1272 1273 1274 1275 1276 1277 1278 1279 1280 1281 1282 1283 1284 1285 1286 1287 1288 1289 1290 1291 1292 1293 1294 1295 1296 1297 1298 1299 1300 1301 1302 1303 1304 1305 1306 1307 1308 1309 1310 1311 1312 1313 1314 1315 1316 1317 1318 1319 1320 1321 1322 1323 1324 1325 1326 1327 1328 1329 1330 1331 1332 1333 1334 1335 1336 1337 1338 1339 1340 1341 1342 1343 1344 1345 1346 1347 1348 1349 1350 1351 1352 1353 1354 1355 1356 1357 1358 1359 1360 1361 1362 1363 1364 1365 1366 1367 1368 1369 1370 1371 1372 1373 1374 1375 1376 1377 1378 1379 1380 1381 1382 1383 1384 1385 1386 1387 1388 1389 1390 1391 1392 1393 1394 1395 1396 1397 1398 1399 1400 1401 1402 1403 1404 1405 1406 1407 1408 1409 1410 1411 1412 1413 1414 1415 1416 1417 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2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040 2041 2042 2043 2044 2045 2046 2047 2048 2049 2050 2051 2052 2053 2054 2055 2056 2057 2058 2059 2060 2061 2062 2063 2064 2065 2066 2067 2068 2069 2070 2071 2072 2073 2074 2075 2076 2077 2078 2079 2080 2081 2082 2083 2084 2085 2086 2087 2088 2089 2090 2091 2092 2093 2094 2095 2096 2097 2098 2099 2100 2101 2102 2103 2104 2105 2106 2107 2108 2109 2110 2111 2112 2113 2114 2115 2116 2117 2118 2119 2120 2121 2122 2123 2124 2125 2126 2127 2128 2129 2130 2131 2132 2133 2134 2135 2136 2137 2138 2139 2140 2141 2142 2143 2144 2145 2146 2147 2148 2149 2150 2151 2152 2153 2154 2155 2156 2157 2158 2159 2160 2161 2162 2163 2164 2165 2166 2167 2168 2169 2170 2171 2172 2173 2174 2175 2176 2177 2178 2179 2180 2181 2182 2183 2184 2185 2186 2187 2188 2189 2190 2191 2192 2193 2194 2195 2196 2197 2198 2199 2200 2201 2202 2203 2204 2205 2206 2207 2208 2209 2210 2211 2212 2213 2214 2215 2216 2217 2218 2219 2220 2221 2222 2223 2224 2225 2226 2227 2228 2229 2230 2231 		

If that is correct, then please proceed as if the cover page of the letter was addressed to River Rain. I can have my system corrected to show that name.

Thanks,

Victor Schock

Public Utility Analyst

North Dakota Public Service Commission

600 E Boulevard Ave, Dept 408

Bismarck, ND 58505-0408

(701)328-3397

vschock@nd.gov

From: Janet Shaw <jshaw@h2oagri.com>

Sent: Friday, December 20, 2019 3:26 PM

To: Schock, Victor F. <vschock@nd.gov>

Subject: Agri Industries

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Good Afternoon Victor,

We have received a letter regarding ND One-Call Excavation Notice System: North Dakota Century Code Chapter 49-23.

In this letter it is regarding a situation but it is addressed to Agri Industries, and the party that is mentioned in this letter is River Rain, as these companies are two separate entities.

Please advise.

Thank you,

Janet Shaw

AR Manager

Agri Industries Inc.

PO Box 1166

Williston, ND 58802

701-572-0767 ext 23

jshaw@h2oagri.com

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532019 SC
CASE NO. 00151

Williams COUNTY, NORTH DAKOTA, SMALL CLAIMS COURT

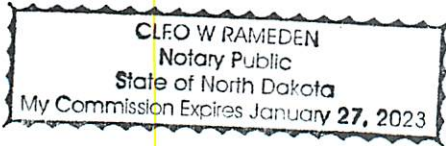
NOTE: When the Judgment Debtor has fully paid the judgment sum, the Judgment Creditor must sign a Satisfaction of Judgment. The Satisfaction of Judgment should then be filed with the court

River Rain, Plaintiff

vs.
SRD, Defendant

SATISFACTION OF JUDGMENT

The judgment, in the above designated case, is hereby satisfied, and I direct the Clerk of Court to enter satisfaction of the judgment in my favor, such judgment having been fully paid and satisfied.



[Signature]
Signature of Judgment Creditor

Subscribed and sworn to before me
on December 16 2019

[Signature]
Clerk or Notary Public

If notary, my commission expires: January 27, 2023

Williams County, North Dakota

CLAIM AFFIDAVIT
(See Instructions on Reverse Side)

Form 2

Williams County, North Dakota

53-2019-8C-
Case No. 0051

Full Name of Person(s) Filing Claim (PLAINTIFF(S)) <u>River Rain</u>			
Address <u>P.O. Box 1166</u>	City <u>Williston</u>	State <u>ND</u>	Zip Code <u>58802</u>
Occupation		Telephone Number <u>701-601-0055</u>	

Full Name of Person(s) You are Suing (DEFENDANT(S)) <u>SRD</u>			
Address <u>13990 W Front St</u>	City <u>Williston</u>	State <u>ND</u>	Zip Code <u>58802</u>
Occupation		Telephone Number <u>701-572-0080</u>	

PLAINTIFF(S) claims the following from the DEFENDANT(S): (Give a SHORT statement of the claim, reasons for the claims, and the amount you are suing for. TOTAL AMOUNT CLAIMED \$ 12,272.38 PLUS COURT COSTS.

SRD hit a water line that was properly marked. This amount is for the repairs and costs for repair water line, plus parts payment for inpieces has not been made as of this date.

(Attach additional sheet if necessary.)

I declare under penalty of perjury that the foregoing is true and correct. Dated this 16 day of October 2019.

Williams County, North Dakota

+ [Signature]
Plaintiff's Signature

**NOTICE TO DEFENDANT: REQUEST FOR HEARING/
REMOVAL TO DISTRICT COURT**

If you, the Defendant, intend to contest this claim and request a hearing in small claims court, or request removal of this case to District Court, you must file your REQUEST FOR HEARING/REMOVAL TO DISTRICT COURT (Form 3) with the Clerk of District Court within 20 days of receipt of this Claim Affidavit.

River Rain Inc.
PO Box 1166
Williston, ND 58802
Phone # 701-609-1689
E-mail: river.rain.agri@gmail.com

Invoice

Date 10/14/2019
Invoice # 33317
Due Date: 10/14/2019

Bill To	
SRD 13990 W. Front St. Williston, ND 58801	
Phone #:	701-572-0080
E-mail:	

Service address (if applicable):

If you would like to receive your statement by e-mail, please send an e-mail to: kellyr@h2oagri.com and note your name and service address.

Description	Qty	Rate	Amount
Administrative filing fee for small claims court filed by Janet Shaw.		500.00	500.00

If any of your contact information is incorrect, please indicate any corrections and mail a copy of the invoice with your payment.

Thank you for your business.

Total:	\$500.00
Payments/Credits:	\$0.00
Balance Due:	\$500.00

River Rain Inc.
 PO Box 1166
 Williston, ND 58802
 Phone # 701-609-1689
 E-mail: river.rain.agri@gmail.com

Invoice

Date 8/7/2019
 Invoice # 33289
 Due Date: 8/31/2019

Bill To	
SRD 13990 W. Front St. Williston, ND 58801	
Phone #:	701-572-0080
E-mail:	

Service address (if applicable):

If you would like to receive your statement by e-mail, please send an e-mail to: kellyr@h2oagri.com and note your name and service address.

Description	Qty	Rate	Amount
SRD hit River Rain's main line on 8/6/19. It occurred at the corner of Broken Horn Trail and Canyon Corral. The line was properly flagged and located.		0.00	0.00
Parts 2" repair coupler	4	53.92	53.92
30" of 2" PVC pipe		1.99	7.96
labor Summer Ames and Kyke Ames	12	125.00	1,500.00

If any of your contact information is incorrect, please indicate any corrections and mail a copy of the invoice with your payment.

Thank you for your business.

Total:	\$1,561.88
Payments/Credits:	\$0.00
Balance Due:	\$1,561.88

River Rain Inc.
 PO Box 1166
 Williston, ND 58802
 Phone # 701-609-1689
 E-mail: river.rain.agri@gmail.com

Invoice

Date 7/5/2019
 Invoice # 33273
 Due Date: 8/23/2019

Bill To	
SRD 13990 W. Front St. Williston, ND 58801	
Phone #:	701-572-0080
E-mail:	

Service address (if applicable):

If you would like to receive your statement by e-mail, please send an e-mail to: kellyr@h2oagri.com and note your name and service address.

Description	Qty	Rate	Amount
SRD hit River Rain's spur line on Country Lane. Occured on July 5th on Country Lane. Labor-Kyle Ames and Summer Ames.		0.00	0.00
Mini excavator w/o operator.	10	125.00	1,250.00
parts brass 1 1/2 splice.	5	120.00	600.00
stainless steel clamps.	1	17.77	17.77
	4	0.60	2.40

If any of your contact information is incorrect, please indicate any corrections and mail a copy of the invoice with your payment.

Thank you for your business.

Total:	\$1,870.17
Payments/Credits:	\$0.00
Balance Due:	\$1,870.17

River Rain Inc.
 PO Box 1166
 Williston, ND 58802
 Phone # 701-609-1689
 E-mail: river.rain.agri@gmail.com

Invoice

Date 6/11/2019
 Invoice # 33272
 Due Date: 8/23/2019

Bill To	
SRD 13990 W. Front St. Williston, ND 58801	
Phone #:	701-572-0080
E-mail:	

Service address (if applicable):

If you would like to receive your statement by e-mail, please send an e-mail to: kellyr@h2oagri.com and note your name and service address.

Description	Qty	Rate	Amount
SRD hit River Rain's spur line on Country Lane on June 11th, 2019.		0.00	0.00
Labor-Kyle Ames and Summer Ames.	5	125.00	625.00
Parts 1 1/2" barbed x female fitting.	2	11.63	23.26
brass 1 1/2" x 10" nipple.	1	39.38	39.38
stainless steel clamps.	4	0.60	2.40

If any of your contact information is incorrect, please indicate any corrections and mail a copy of the invoice with your payment.

Thank you for your business.

Total:	\$690.04
Payments/Credits:	\$0.00
Balance Due:	\$690.04

River Rain Inc.
 PO Box 1166
 Williston, ND 58802
 Phone # 701-609-1689
 E-mail: river.rain.agri@gmail.com

Invoice

Date 6/7/2019
 Invoice # 33271
 Due Date: 8/23/2019

Bill To	
SRD 13990 W. Front St. Williston, ND 58801	
Phone #:	701-572-0080
E-mail:	

Service address (if applicable):

If you would like to receive your statement by e-mail, please send an e-mail to: kellyr@h2oagri.com and note your name and service address.

Description	Qty	Rate	Amount
SRD hit River Rain's mainline with horizontal boring machine. This occurred on Country Lane on June 7th, 2019. Line was properly located and flagged with purple flags. Line was dug up by 2 of River Rain's employees and one of SRD's employees.		0.00	0.00
parts 6" repair coupler.	2	125.97	251.94
10' IPS pipe.	10	3.99	39.90
Labor-Summer Ames and Kyle Ames.	12	125.00	1,500.00

If any of your contact information is incorrect, please indicate any corrections and mail a copy of the invoice with your payment.

Thank you for your business.

Total:	\$1,791.84
Payments/Credits:	\$0.00
Balance Due:	\$1,791.84

River Rain Inc.
 PO Box 1166
 Williston, ND 58802
 Phone # 701-609-1689
 E-mail: river.rain.agri@gmail.com

Invoice

Date 5/15/2019
 Invoice # 33270
 Due Date: 8/23/2019

Bill To	
SRD 13990 W. Front St. Williston, ND 58801	
Phone #:	701-572-0080
E-mail:	

Service address (if applicable):

If you would like to receive your statement by e-mail, please send an e-mail to: kellyr@h2oagri.com and note your name and service address.

Description	Qty	Rate	Amount
SRD hit River Rain's mainline. Line was pierced by horizontal boring machine anchor. This occurred at 4939 Lake View Loop on May 15th. Line was properly located and marked with purple flags.		0.00	0.00
Labor-Kyle Ames, Ben Feisler, Fletcher Ames.	15	125.00	1,875.00
mini excavator w/o operator	6	120.00	720.00
parts 4" repair coupler	1	103.33	103.33

If any of your contact information is incorrect, please indicate any corrections and mail a copy of the invoice with your payment.

Thank you for your business.

Total:	\$2,698.33
Payments/Credits:	\$0.00
Balance Due:	\$2,698.33

River Rain Inc.
 PO Box 1166
 Williston, ND 58802
 Phone # 701-609-1689
 E-mail: river.rain.agri@gmail.com

Invoice

Date 5/13/2019
 Invoice # 33269
 Due Date: 8/23/2019

Bill To	
SRD 13990 W. Front St. Williston, ND 58801	
Phone #:	701-572-0080
E-mail:	

Service address (if applicable):

If you would like to receive your statement by e-mail, please send an e-mail to: kellyr@h2oagri.com and note your name and service address.

Description	Qty	Rate	Amount
SRD hit River Rain's main line on May 13th, 2019 with a shovel. Line was properly located and marked with purple flags. This occurred on Lake View Loop. Repair was done by SRD and parts were provided by River Rain.		0.00	0.00
Parts 4" repair coupler.	1	103.33	103.33
4" slip x 1 1/2 threaded female reducer.	1	6.13	6.13
1 1/2" brass barbed male adapter.	1	10.58	10.58
stainless steel clamps.	2	0.60	1.20

If any of your contact information is incorrect, please indicate any corrections and mail a copy of the invoice with your payment.

Thank you for your business.

Total:	\$121.24
Payments/Credits:	\$0.00
Balance Due:	\$121.24

River Rain Inc.
 PO Box 1166
 Williston, ND 58802
 Phone # 701-609-1689
 E-mail: river.rain.agri@gmail.com

Invoice

Date 5/10/2019
 Invoice # 33268
 Due Date: 8/23/2019

Bill To	
SRD 13990 W. Front St. Williston, ND 58801	
Phone #:	701-572-0080
E-mail:	

Service address (if applicable):

If you would like to receive your statement by e-mail, please send an e-mail to: kellyr@h2oagri.com and note your name and service address.

Description	Qty	Rate	Amount
SRD hit River Rain's mainline while pulling pipe through with horizontal boreing machine on May 10th, 2019. Area was properly flagged. This occurred on 140th Ave. NW and Lakeview Loop.		0.00	0.00
Labor-Kyle Ames	5	125.00	625.00
Parts 4" repair coupler	1	103.33	103.33

If any of your contact information is incorrect, please indicate any corrections and mail a copy of the invoice with your payment.

Thank you for your business.

Total:	\$728.33
Payments/Credits:	\$0.00
Balance Due:	\$728.33

River Rain Inc.
 PO Box 1166
 Williston, ND 58802
 Phone # 701-609-1689
 E-mail: river.rain.agri@gmail.com

Invoice

Date 10/11/2019
 Invoice # 33315
 Due Date: 10/11/2019

Bill To	
SRD 13990 W. Front St. Williston, ND 58801	
Phone #:	701-572-0080
E-mail:	

Service address (if applicable):

If you would like to receive your statement by e-mail, please send an e-mail to: kellyr@h2oagri.com and note your name and service address.

Description	Qty	Rate	Amount
SRD hit our line on Highway 85 and Horizon Drive on August 29th, 2019.		0.00	0.00
Parts-20' of 3" pvc pipe, 3" repair coupler.	1	90.55	90.55
labor-2 people, Kyle and Summer Ames	12	125.00	1,500.00
Rental of machinery-mini excavator.	6	120.00	720.00

If any of your contact information is incorrect, please indicate any corrections and mail a copy of the invoice with your payment.

Thank you for your business.

Total:	\$2,310.55
Payments/Credits:	\$0.00
Balance Due:	\$2,310.55

FORM 2 – INSTRUCTIONS TO THE PERSON WISHING TO FILE A CLAIM

STEP ONE: First complete the "CLAIM AFFIDAVIT" (on the reverse side of this page).

You must have the full name and address of each person you sue. After you have completed your CLAIM AFFIDAVIT you must sign it.

Fill out and sign an "Affidavit of Identification" (FORM 8) for each Defendant in the case.

STEP TWO: Return the Claim Affidavit to the Clerk of District Court. You must file the Claim Affidavit and pay the \$10.00 filing fee BEFORE serving the Defendant.

STEP THREE: You must now SERVE the Defendant with the following forms:

One copy of FORM 1 - Small Claims Court Information.

One copy of FORM 2 - Claim Affidavit.

All copies of FORM 3 - Request for Hearing/Removal to District Court.

All copies of FORM 4 – Defendant's Answer and Counterclaim.

One copy of FORM 5 - Affidavit of Mailing for Counterclaim.

One copy of FORM 7 - North Dakota Small Claims Court Act.

NOTE: If you are filing a claim against more than one Defendant, you must serve each Defendant with the above copies.

The back of FORM 6 has your instructions on how to serve the Defendant.

STEP FOUR: You must next complete the "AFFIDAVIT OF SERVICE" (FORM 6). Fill out the appropriate section of FORM 6 and have the person mailing to or serving the Defendant sign the form. If you mail the forms to the defendant by restricted delivery return receipt mail, YOU MUST file the Affidavit of Service and the signed, return receipt with the Clerk of District Court AS SOON as you receive the receipt from the post office.

If the sheriff serves the papers, the sheriff will provide you with a completed Affidavit of Service and Form 6 may be discarded. You must file the sheriff's affidavit with the Clerk of District Court as soon as you receive it from the sheriff's department.

STEP FIVE: If the defendant requests a hearing in small claims court on this claim, the court will schedule the hearing not less than 10 days nor more than 30 days after receiving the defendant's request. The court will send notice to you of the hearing date. At the time set for the hearing you MUST COME TO COURT. If you fail to appear your claim may be dismissed, and you may be prohibited from bringing it up again.

**DEFENDANT'S REQUEST FOR HEARING/
REMOVAL TO DISTRICT COURT**
(See Instructions on Reverse Side)

_____, Plaintiff(s). CASE NO. _____
_____, Defendant(s). _____ County, North Dakota

REQUEST FOR HEARING

If you, the Defendant, intend to contest this claim and Request a Hearing in small claims court, you must file your request with the Clerk of District Court within 20 days of service of the Claim Affidavit and this form.

I request a hearing in small claims court.

Defendant's Signature

REMOVAL TO DISTRICT COURT

If you, the Defendant, request removal of this action to District Court, you must file your request with the Clerk of District Court within 20 days of service of the Claim Affidavit and this form.

I request removal of this action to District Court.

Defendant's Signature

(THERE IS AN \$80.00 FILING FEE FOR FILING THE REMOVAL TO DISTRICT COURT. THE FILING FEE MAY BE WAIVED BY THE COURT IF YOU ARE UNABLE TO PAY AND SUBMIT THE REQUIRED PROOF OF YOUR FINANCIAL STATUS.)

NOTICE OF HEARING

A request for Hearing having been received from the above named Defendant(s) in this action;

The Plaintiff(s) and Defendant(s) are hereby notified that a small claims hearing has been scheduled in the above entitled case at _____ in the city of _____, North Dakota, on the _____ day of _____, 20____, at _____ o'clock ____m.

Dated _____

Judge/Clerk of Court

I hereby certify that on this _____ day of _____ 20____, I mailed a copy of this NOTICE OF HEARING to: _____

Clerk of District Court

White - Court's Copy

Canary - Plaintiff's Copy

Pink - Defendant's Copy

FORM 3 – INSTRUCTIONS FOR HEARING IN SMALL CLAIMS COURT OR REMOVAL TO DISTRICT COURT

TO THE DEFENDANT:

If you intend to contest the claim filed against you, you must request a hearing in small claims court on the reverse side of this form (Form 3) and file your request with the Clerk of District Court within twenty (20) days of receipt of the Claim Affidavit and this form.

If within twenty (20) days of receipt of the affidavit and forms, the court has not received a request for a hearing, a hearing will not be scheduled and judgment may be entered against you by default.

If you elect to remove the case from Small Claims Court to District Court, you must file the following with the Clerk of District Court within twenty (20) days of receipt of the Claim Affidavit and this form:

1. REMOVAL TO DISTRICT COURT - reverse side of this form (Form 3)
2. A copy of the claim affidavit (Form 2)
3. Your answer to the claim (Form 4)
4. The \$80.000 filing fee, unless waived by the court.

You must also serve the plaintiff with a copy of this Form 3, which will notify the plaintiff of your removal of the matter to district court.

NOTE: If you elect to remove the action to district court, the district court must award attorney's fees to a prevailing plaintiff.

(See the advantages and disadvantages of Small Claims Court on **Form 1.**)

NOTICE OF HEARING:

If the Defendant requests a hearing in small claims court and files the request within twenty (20) days of receipt of the Affidavit and Request Form, the Clerk of District Court will schedule a hearing to be held not less than ten (10) days and not more than thirty (30) days after receipt of the Defendant's request.

Bring all receipts and evidence related to the case and any witnesses that you wish to have testify on your behalf.

IMPORTANT: IF YOU DO NOT REQUEST A HEARING, OR IF YOU REQUEST A HEARING AND DO NOT COME TO COURT AT THE PLACE, TIME, AND DATE SPECIFIED, THE COURT MAY ORDER A JUDGMENT AGAINST YOU.

DEFENDANT'S ANSWER/COUNTER CLAIM
(See Instructions on Reverse Side)

_____, Plaintiff(s) CASE NO. _____

vs.

_____, Defendant(s) _____ County, North Dakota

DEFENDANT'S ANSWER

This form is to be used to notify the Small Claims Court THAT YOU INTEND TO CONTEST the Plaintiff's Claim.
Initial the statement below that applies to you:

- 1. I do not owe the Plaintiff any part of what is claimed, for reasons stated below.
- 2. I owe the Plaintiff only part of what is claimed, as explained below.
- 3. I owe the Plaintiff what is claimed.

(Attach additional sheet if necessary.)

COUNTERCLAIM
(May not exceed \$15,000)

If you think you have a claim of your own against the Plaintiff, you may present your claim as part of this case and have it decided at the same time. If that is the situation, fill in the following:

PLAINTIFF OWES ME (briefly describe your claim and state your reasons): _____

A COUNTERCLAIM must be filed and delivered, or mailed by Restricted Delivery, Return Receipt, to the Plaintiff not later than 48 hours before the hearing.

I declare under penalty of perjury that the foregoing is true and correct. Dated this _____ day of _____ 20_____.

_____ County, North Dakota

Defendant's Signature

RETURN TO CLERK OF DISTRICT COURT FOR FILING
A counterclaim must be filed and served upon the plaintiff not later than 48 hours before the hearing.

FORM 4 – INSTRUCTIONS TO THE PERSON BEING SUED IN SMALL CLAIMS COURT

YOU HAVE THE FOLLOWING FIVE OPTIONS:

1. You may pay this claim by contacting the Plaintiff immediately and making arrangements for payment.
2. You may defend yourself in Small Claims Court by indicating on the Defendant's REQUEST FOR HEARING (FORM 3) that you are requesting a hearing. You must return the form to the Clerk of District Court within 20 days of receipt of the CLAIM AFFIDAVIT. You may appear on the date set for hearing without a written answer.
3. You may have the case moved to District Court.
(See the advantages and disadvantages of Small Claims Court on FORM 1.)

If the claim is not filed in your county of residence, you may have the case moved to the Small Claims Court in your county of residence. **NOTE: The case CANNOT be moved to your county of residence if certain matters are involved. See Form 1 - "Where a claim is filed".**

To move a case to district court, you must file the "Removal to District Court" (FORM 3) and serve a copy of Form 3 on the Plaintiff. You must also file a copy of the "CLAIM AFFIDAVIT" and your answer to the claim (this FORM 4) with the Clerk of Court to which the case is removed, and you must pay an \$80 filing fee unless the fee is waived by the court.

4. You may also defend yourself in Small Claims Court in writing by filing the "DEFENDANT'S ANSWER" (on the reverse side of this form) with the Clerk of the Small Claims Court and serving it on the Plaintiff at least 48 hours before the hearing.

Instructions for serving the Plaintiff are on the back of FORM 5.

5. You may file a COUNTERCLAIM (on the reverse side of this form) against the Plaintiff if you believe he/she owes you money arising out of the same transaction for which you are being sued.

To file a Counterclaim, fill out the appropriate section of this form, file it with the Clerk of the Small Claims Court and serve it on the Plaintiff at least 48 hours before the date set for hearing.

Instructions for serving the Plaintiff are on the back of FORM 5.

NOTE: The Counterclaim may not exceed \$15,000 in Small Claims Court. A Counterclaim for more money must be filed in District Court.

IMPORTANT: IF YOU DO NOT REQUEST A HEARING, OR IF YOU REQUEST A HEARING AND DO NOT COME TO COURT AT THE PLACE, TIME, AND DATE SPECIFIED, THE COURT MAY ORDER A JUDGMENT AGAINST YOU.

AFFIDAVIT OF MAILING/PERSONAL SERVICE - ANSWER/COUNTERCLAIM

(See Instructions on Reverse Side)

AFFIDAVIT OF MAILING OF ANSWER/COUNTERCLAIM TO PLAINTIFF:

Name of Person who Mailed Papers		Time Mailed <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	Date Mailed
Plaintiff(s) To Whom Papers Were Mailed	Where addressed (list each Plaintiff's name and address separately)		
	Restricted Delivery receipt No.:		
Mailed at United States Post Office in City of		In the State of	

I declare under penalty of perjury that I am at least 18 years of age, and that at the time and on the date shown above, I deposited a true copy of the Defendant's Answer/Counterclaim in this case, securely enclosed in an envelope with Restricted Delivery, Return Receipt postage duly prepaid, for each Plaintiff listed, at the above named United States Post Office.

Dated this _____ day of _____ 20____.

Signature of person who mailed papers

_____ County, North Dakota

AFFIDAVIT OF PERSONAL SERVICE OF ANSWER/COUNTERCLAIM ON PLAINTIFF:

NOTE: In cases with more than one Plaintiff, each Plaintiff must be served and a separate Affidavit of Personal Service must be filed with the court on each service.

Name of Person who Served Papers		Time Served <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	Date Served
Plaintiff(s) On Whom Papers Were Served	Address where served		

I declare under penalty of perjury that I am at least 18 years of age, not a party to or interested in the above action, and that on the time and date shown above, I personally served a true copy of the Defendant's Answer/Counterclaim in this case, on the Plaintiff whose name and address are shown above.

Dated this _____ day of _____ 20____.

Signature of person who served papers

_____ County, North Dakota

SMALL CLAIMS COURT _____ COUNTY, North Dakota. CASE NO. _____

PLAINTIFF _____ vs. DEFENDANT _____

INSTRUCTIONS
FOR SERVING PAPERS ON A PLAINTIFF

A copy of the Answer/Counterclaim must be served on each Plaintiff. You must serve the Answer/Counterclaim on the Plaintiff at least 48 hours before the scheduled hearing.

SERVICE MAY BE DONE IN TWO WAYS:

BY MAIL

A. If you elect to serve papers by mail you must:

1. Send to the Plaintiff by Restricted Delivery with Return Receipt a copy of the "Answer/Counterclaim" (Form 4).
2. Complete the "Affidavit of Mailing" section on the reverse side of this form and have the person who mailed the forms sign in the appropriate section.

Take the "Affidavit of Service" and the receipt from the post office with you to court.

Assistance in serving papers by mail will be given to you at the post office.

OR

PERSONAL SERVICE

B. You may serve the Plaintiff personally by:

1. Giving the forms to the sheriff to be served. (The sheriff will charge you a fee, which might be assessed against the Plaintiff if you win.)
2. You may have another person who is of legal age and who is not a party to or interested in the case give the papers to the Plaintiff. If this is done, the person giving the papers to the Plaintiff must fill out the reverse side of this form and sign it.

Take this form with you to court.

AFFIDAVIT OF MAILING/PERSONAL SERVICE - PLAINTIFF'S CLAIM
(See Instructions on Reverse Side)

AFFIDAVIT OF MAILING OF Plaintiff's Claim and Defendant's Forms:

Name of Person who Mailed Papers		Time Mailed <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	Date Mailed
Defendant(s) To Whom Papers Were Mailed	Where addressed (list each Defendant's name and address separately)		
	Restricted Delivery receipt no.:		
Mailed at United States Post Office in City of		In the State of	

I declare under penalty of perjury that I am at least 18 years of age, and that at the time and on the date shown above, I deposited a true copy of the PLAINTIFF'S CLAIM and DEFENDANT'S FORMS in this case, securely enclosed in an envelope with Restricted Delivery, Return Receipt postage duly prepaid, for each Defendant listed, at the above named United States Post Office.

Dated this _____ day of _____ 20____.

Signature of person who mailed papers

_____ County, North Dakota

AFFIDAVIT OF PERSONAL SERVICE OF Plaintiff's Claim and Defendant's Forms:

Name of Person who Served Papers		Time Served <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	Date Served
Defendant(s) on Whom Papers Were Served	Address where served		

I declare under penalty of perjury that I am at least 18 years of age, not a party to or interested in the above action, and that on the time and date shown above, I personally served a true copy of the Plaintiff's Claim and the Defendant's Forms in this case, on the Defendant and at the address shown above.

Dated this _____ day of _____ 20____.

Signature of person who served papers

_____ County, North Dakota

SMALL CLAIMS COURT _____ COUNTY, North Dakota. CASE NO. _____

PLAINTIFF _____ vs. DEFENDANT _____

**INSTRUCTIONS
FOR SERVING PAPERS ON A DEFENDANT**

Copies of the "Claim Affidavit" and the Defendant's Forms must be served on each defendant if there is more than one defendant.

SERVICE MAY BE DONE IN TWO WAYS:

BY MAIL

A. If you elect to serve papers by mail you must:

1. Send to the Defendant by Restricted Delivery with Return Receipt the following:
 - a. One copy of Form 1
 - b. One copy of Form 2
 - c. All the copies of Form 3
 - d. All the copies of Form 4
 - e. One copy of Form 5
 - f. One copy of Form 7
2. Complete the "Affidavit of Mailing" section on the reverse side of this form and have the person who mailed the forms sign in the appropriate section.

You **MUST FILE** the completed "Affidavit of Service" and the signed return receipt with the clerk **AS SOON** as you receive the receipt from the post office.

Assistance in serving papers by mail will be given to you at the post office.

OR

PERSONAL SERVICE

B. You may serve the Defendant personally by:

1. Giving the forms to the sheriff to be served. (The sheriff will charge you a fee, which might be assessed against the Defendant if you win.)
2. You may have another person who is of legal age and who is not a party to or interested in the case give the papers to the Defendant. If this is done, the person giving the papers to the Defendant must fill out the reverse side of this form and sign it.

The Defendant must be served with:

- a. One copy of Form 1
- b. One copy of Form 2
- c. All the copies of Form 3
- d. All the copies of Form 4
- e. One copy of Form 5
- f. One copy of Form 7

After service is completed, you **MUST FILE** the completed "Affidavit of Service" with the clerk **AS SOON** as you receive the affidavit.

(NOTE: All parties to an action in Small Claims Court are urged to read the following law.)

NORTH DAKOTA SMALL CLAIMS COURT ACT N.D. CENTURY CODE 27-08.1-01 through 27-08.1-08

27-08.1-01. Small claims court - Jurisdictional limits - Venue.

1. All judges of the district courts may exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of that jurisdiction must be known and referred to as the "small claims court". The jurisdiction of this court is confined to cases for recovery of money, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, where the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed fifteen thousand dollars.
2. The proceedings in this court must be commenced:
 - a. If the defendant is a corporation, limited liability company, or a partnership, in any county in which the defendant has a place of business or in any county in which the subject matter of the claim occurred.
 - b. If the claim is for collection of a check written without sufficient funds or without an account, in the county where the check was passed, or in the county of the defendant's residence or place of business.
 - c. If the defendant is an individual and the claim is for collection of an open account on which credit has been extended:
 - (1) In the county of the defendant's residence or place of business; or
 - (2) If the amount of the claim is less than one thousand dollars and is not from a telephone or mail order transaction, in the county where the transaction occurred or in the county of the defendant's residence or place of business.
 - d. If the defendant is an individual and the claim is not made under subdivision b or c, in the county of the defendant's residence.
 - e. If the defendant is an individual and the claim arose as the result of the defendant's lease of real property or as the result of a dispute over disposition of earnest money or other money deposit arising from a contract to purchase real property, in the county where the real property is located unless the plaintiff and the defendant consent in writing to a proceeding in a different county.
 - f. If the plaintiff is a political subdivision and the claim is for a public utility debt, in the county in which the political subdivision is located.
3. Except for an action under subdivision c, e, or f of subsection 2, the defendant may elect to remove the action to a small claims court in the defendant's county of residence. A claim may not be filed by an assignee of that claim. A garnishment or attachment may not issue from this court until after judgment is entered.

27-08.1-02. Commencement of action - Claim affidavit. Actions in the small claims court are commenced whenever any person executes and files with the court a claim affidavit, and causes the affidavit to be served by a person of legal age, not a party to or interested in the action, on the defendant or mails it to the defendant by certified mail along with a form upon which the defendant must indicate whether a hearing is requested and whether the defendant elects to remove the action to district court. If, within twenty days of service of the affidavit and form, the court has not received a request for a hearing or an election to remove to district court, or if the defendant indicates that a hearing is not requested, a hearing will not be scheduled and judgment may be entered against the defendant by default. If the defendant requests a hearing in small claims court, the hearing must be not less than ten days and not more than thirty days after receipt of the request. Except for an action under subdivision e of subsection 2 of section 27-08.1-01, the mailing or personal service may be made anywhere within the state. Forms used in small claims court actions must be approved by the state court administrator and obtained from, or at the direction of, the clerk of district court or in electronic form from the supreme court.

27-08.1-03. Informal hearing - Answer and counterclaim - Filing and service fees - Examination of debtor. No formal pleadings other than the claim affidavit and order for appearance may be required, and the hearing and disposition of actions must be informal. A court reporter is not required to be present to take the testimony unless arranged for and paid for by one of the parties to the action. The defendant may file an answer, and file a claim affidavit setting forth any new matter constituting a counterclaim, not to exceed fifteen thousand dollars, which must be served upon the plaintiff by a person of legal age not a party to or interested in the action, or mailed to the plaintiff by certified mail, not later than forty-eight hours before the hearing set for the appearance of the defendant. The compulsory counterclaim rule does not apply to counterclaims in excess of fifteen thousand dollars. At the hearing, the plaintiff and the defendant may appear without counsel. The court will conduct the proceedings and may make its own inquiry before, during, or after the hearing. After the court has found that money is owing by any party to the proceeding, the court may, in the presence of the prevailing party, inquire of the debtor as to plans for payment of the debt. The court may examine the debtor

concerning the property owned by the debtor, at the hearing, as would be made under chapter 28-25. The examination may be made without first having issued an execution against the property of the debtor and without further notice as otherwise provided in chapter 28-25. A trial by jury shall not be allowed in small claims court. A fee as prescribed in subdivision c of subsection 1 of section 27-05.2-03 must be charged for filing the claim affidavit.

27-08.1-04. Election to proceed in small claims court irrevocable. Election by the plaintiff to use the procedures provided for in this chapter is irrevocable. In the event the plaintiff elects to discontinue the proceedings, the court shall enter its order accordingly, and unless otherwise provided in the order the dismissal must be deemed to be with prejudice. By election to proceed in small claims court, the plaintiff waives the right to appeal to any other court from the decision of the small claims court. The defendant waives the right to appeal from the decision of the small claims court upon receiving the order for appearance as required herein, unless the defendant elects to remove the action from the small claims court to district court. If the defendant elects to remove the action to district court, the defendant must serve upon the plaintiff a notice of the removal and file with the clerk of the court to which the action is removed a copy of the claim affidavit and the defendant's answer along with the filing fee, except for an answer fee, required for civil actions. If the defendant elects to remove the action from small claims court to district court, the district court shall award attorney's fees to a prevailing plaintiff.

27-08.1-04.1. Dismissal without prejudice. If the judge determines at any stage of the proceedings that the case may not be fairly disposed of in small claims court, the judge may dismiss the case without prejudice. A determination that a case may not be fairly disposed of in small claims court must be based on complexity of factual or legal issues or a determination that relief other than money damages or cancellation of an agreement is necessary to dispose of the case. If a case is dismissed under this section, the filing fee must be refunded to the plaintiff.

27-08.1-05. Judgment. The court shall enter a written judgment indicating its decision on all cases filed with the court on the basis of the evidence presented. A judgment must be entered even if either party fails to appear at the hearing. The court may award the costs of the action to the prevailing party. For purposes of enforcement and execution, a judgment of the small claims court has the same force, effects, and attributes of a judgment of the district court.

27-08.1-06. Judgment unsatisfied - Docketing - Execution. Repealed by S.L. 1997, ch. 263, § 5.

27-08.1-07. Records and destruction of records. Unless otherwise authorized by rules of the supreme court, records of the small claims court consist of all documents filed in each action and an index for plaintiffs and defendants. Unless otherwise directed by rules of the supreme court, after the judgment is satisfied or becomes ten years old, the court may destroy all papers filed in the case, except the judgment. At the time of destroying the papers, the clerk of court shall make a record upon the judgment identifying the papers destroyed and the dates the papers were filed.

27-08.1-08. Referees of small claims court - Appointment - Term - Method of qualifying - Powers and duties - Compensation. The presiding judge of the judicial district may appoint a referee of the small claims court who shall hold office at the pleasure of the judge. The referee shall qualify in the same manner as other civil officers, except that the referee need not be a qualified elector of the county, and the duties and powers of the referee in the conduct of trials in the small claims court are governed by the provisions of rule 53(c), North Dakota Rules of Civil Procedure, insofar as those provisions are not in conflict with the provisions of this chapter. The referee appointed must be a person versed in the law. The presiding judge shall determine the salary or fee of the referee, within the limits of legislative appropriations.

AFFIDAVIT OF IDENTIFICATION

_____ COUNTY, NORTH DAKOTA, SMALL CLAIMS COURT CASE NO. _____

_____ Plaintiff

vs.

AFFIDAVIT OF IDENTIFICATION

_____ Defendant

I, _____, declare under penalty of perjury that the following information is true and correct; that I am the Affiant, or an authorized representative thereof, in the above entitled action, and that to the best of my knowledge the Defendant is not in the armed forces of the United States of America, and that the name, address, and occupation of the Defendant are as follows (list each Defendant):

Dated this _____ day
of _____ 20_____.

Signature of Affiant

County, North Dakota

_____ COUNTY, NORTH DAKOTA, SMALL CLAIMS COURT CASE NO. _____

NOTE: When the Judgment Debtor has fully paid the judgment sum, the Judgment Creditor must sign a Satisfaction of Judgment. The Satisfaction of Judgment should then be filed with the court

_____, Plaintiff

vs.

_____, Defendant

SATISFACTION OF JUDGMENT

The judgment, in the above designated case, is hereby satisfied, and I direct the Clerk of Court to enter satisfaction of the judgment in my favor, such judgment having been fully paid and satisfied.

Signature of Judgment Creditor

Subscribed and sworn to before me
on _____ 20 _____.

Clerk or Notary Public

If notary, my commission expires: _____.

_____ County, North Dakota