

## GETTING A TRIAL DATE IN TRIBAL COURT

This page explains how to get a trial date from the court once all pleadings and discovery have been made and your case is ready for trial. Please review Civil Procedures in Title 4, Rule 40(b) of the Rosebud Sioux Tribe Law and Order Code.

**PURPOSE.** The forms are to be used when your case is ready for trial or hearing or you are contesting or challenging that the case is ready for trial. This means that all pleadings and discovery have been done. If you are the plaintiff and the opposing party has failed to Answer your Summons and Complaint do not use this form, but use the Motion for Default Judgment form.

**FORMS INVOLVED.** The first form is a **Certificate of Readiness for Trial**. You will need to fill in the necessary information with help from the instructions below and then file the form with the court and mail a copy to the opposing party or their attorney. Once you file your Certificate of Readiness for Trial, the opposing party can object that they are not ready for trial. If the opposing party does not object or respond within 10 days, the clerk will set your case for hearing or trial and will send notices to you and the opposing party for such hearing. Before any trial is scheduled, the judge may schedule a pretrial hearing.

The second form is an **Objection to Certificate of Readiness for Trial** to be used if you are served with a Certificate of Readiness for Trial and you do not feel the case is ready for trial.

**BURDEN OF PROOF.** The party moving for a trial date has the burden of proving the following to the court:

1. The issues are joined and the case is ready for trial in all respects;
2. All necessary discovery has been completed;
3. All pretrial motions have been disposed of or have been waived;
4. Sufficient time has elapsed to afford all parties reasonable opportunity to be ready for trial;
5. This case is ready for trial by the Court;
6. Settlement of this case has or has not been discussed;
7. A pretrial conference is or is not requested.

## OBJECTION TO READINESS FOR TRIAL

If you are not ready for trial because one of the seven elements listed above have not been done you must respond and object to the certificate of readiness for trial. You must object within 10 days.

**How to file your Objection.** File the original Objection with the court and mail a copy to the opposing party. Remember you do not have to file an objection. You can appear at the hearing and object.