

WRITTEN MOTION FOR SUMMARY REVERSAL AND SANCTIONS FOR APPELLEE'S FAILURE TO FILE BRIEF

If you are the Appellant (meaning the party who filed the initial appeal) and the Appellee (meaning the other party filed the initial appeal) has failed to file a brief by its due date as required by Rule 8 of the Rules of Appellate Procedures and failed to ask for an extension before the due date you should file a motion for summary reversal and/or sanctions for Appellee's failure to file a brief.

The Clerk of the Supreme Court will issue a briefing schedule where the appellant will be required to file its brief by a certain date and where the appellee will be required to file their brief by a certain date.

Rule 8 requires the parties to file a brief. Failure of either party to file briefs in a timely manner as required shall be sanctioned by the Court by summary dismissal unless excused by the Court and failure to ask for an extension prior to the Brief due date will result in summary dismissal of your appeal.

Rule 12 authorizes a party to file a motion for a summary disposition of the appeal by way of summary reversal. This means you are asking the Supreme Court to reverse the Tribal Court's adverse judgment in your favor because the Appellee failed to file a timely brief. You are also asking the Supreme Court to levy sanctions against the Appellee for their failure to file a brief. This could include a fine that would go to the Tribal Court or it could be costs that you incurred.

If the Appellee fails to file its brief by the due date and has failed to move the Supreme Court for an extension use this motion for summary reversal of the judgment and/or sanctions such as fines, costs and attorney's fees being levied against the Appellee

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out the attached form follow these instructions. The numbers to each instruction below is the number on the blank line on the form where the information for that number needs to be inserted on the form.

Instructions for filling out the motion:

- (1) on this line insert the name of the party who was the plaintiff in the case at the trial court level, it will either be you or the other party. Look at a case caption of the trial court pleadings to determine who the plaintiff is.
- (2) on this line insert Appellant if the plaintiff is the party that filed the appeal or insert Appellee if the defendant is the party that filed the appeal
- (3) on this line insert the name of the party who was the defendant in the case at the trial court level, it will either be you or the other party. Look at a case caption of the trial court pleadings to determine who the defendant is.
- (4) on this line insert Appellant if the defendant is the party that filed the appeal or insert Appellee if the plaintiff is the party that filed the appeal
- (5) on this line insert the date the appellant's brief was due according to the briefing schedule
- (6) on this line insert the date you sign the motion

(7) on this line sign the motion

Note: Your motion must be signed and dated before the Clerk can accept it for filing and service

(8) on this line insert all the opposing parties entitled to notice by name and last known address you mailed a copy of the motion to each opposing party.

(9) on this line date the day you mailed a copy of the motion to all opposing parties. You are required to serve a copy of the motion to all opposing parties

(10) on this line sign your name to certify you mailed a copy of the motion on date you inserted on line (9).

NOTE: You must file your motion with the RST Clerk of the Supreme Court and mail a copy to all parties to the action you listed in the certificate of service.

SUPREME COURT
OF THE
ROSEBUD SIOUX TRIBE

<p>(1) _____ _____, Plaintiff and (2) _____</p> <p>v.</p> <p>(3) _____ _____, Defendant and (4) _____</p>	<p>SC# _____</p> <p>MOTION FOR SUMMARY REVERSAL AND SANCTIONS FOR APPELLEE'S FAILURE TO FILE BRIEF</p>
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Comes now the Appellant and moves this Court pursuant to Rule 8 and 12 of the RST Rules of Appellate Procedure to enter a summary reversal of the Tribal Court's decision and/or for sanctions including monetary for the following reasons:

1. The Appellee failed to file a brief as ordered by the Clerk of the Rosebud Supreme Court. The Clerk issued a scheduling order where Appellant was to file his/her brief by (5) _____ and Appellant has not filed a brief or has asked for an extension all in violation of Appellate Procedure Rule 8.

2. Rule 12 authorizes a party to file a motion for a summary disposition of the appeal by way of summary reversal. This remedy is appropriate when the Appellee fails to file a timely brief.

WHEREFORE, Appellee requests this Court to enter a summary reversal of the appeal in Appellant's favor and/or levy sanctions against the Appellee including fines and costs.

(6) _____

(7) _____
Appellant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that I mailed a true and correct copy of this motion upon Appellant(s) last known address(es) by first class mail addressed to the following: (8) _____

(9) _____

(10) _____
Appellee