

## **WRITTEN MOTION TO DISMISS APPELLEE'S STATEMENT OF ISSUES FOR FAILURE TO FILE A TIMELY STATEMENT OF ISSUES**

If you are the appellant (meaning you are the party who filed the initial appeal) and the appellee (meaning the other party who did not file the initial appeal) has failed to file a timely Statement of Issues as required by Rule 6 of the Rules of Appellate Procedures you should file a motion to dismiss the appeal for failure to timely file their appeal.

Rule 6 requires that the Appellee file their Statement of Issues and Designation of Record within 15 days of being served with your Designation of Record. Work days, weekends and holidays are counted as days when computing time. Don't count the first day but count the last day unless the last day falls on a Saturday, Sunday or legal holiday in which case the last day is the end of the following day (Rule 8 (4)).

**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 Appellee signed its Statement of Issues.

(6) on this line insert the date that you were served with Appellee's Statement of Issues.

(7) on this line insert the date you sign the motion

(8) on this line sign the motion

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

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

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

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

**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><b>MOTION TO DISMISS APPELLEE'S STATEMENT OF ISSUES FOR FAILURE TO FILE A TIMELY STATEMENT OF ISSUES</b></p>
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Comes now the Appellant and moves this Court to dismiss the Appellee's Statement of Issues for the following reasons:

1. The Appellant failed to file his/her Statement of review within 15 days of being served with Appellant's Designation of Record required by Rule 6 of Rules of Appellate Procedure.
2. The Appellee's Statement of Issues was filed on (5) \_\_\_\_\_ and served with the Statement of issues on (6) \_\_\_\_\_.
3. More than 30 days has elapsed between the date of the judgment and the filing of the Notice of Appeal in violation of Appellate Procedure Rule 2.

WHEREFORE, Appellant requests this Court to dismiss the Appellee's Statement of Issues.

(7) \_\_\_\_\_

(8) \_\_\_\_\_  
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: (9) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(10) \_\_\_\_\_

(11) \_\_\_\_\_  
Appellant