

INSTRUCTIONS FOR FILLING OUT FORM

PURPOSE. This form is to be used when you have been physically abused or assaulted or threatened by someone other than a household member, spouse or former spouse. Please use the Petition for Protection Order if you were physically abused by a household member, spouse or former spouse.

FORMS INVOLVED. The first form is a **Civil Court Cover Sheet-Contact Information** you need to fill out (there are no instructions for this form as it is self-explanatory). The second form is a **Summons** which may be required. The third form is the **Complaint**. You will need to fill in the necessary information with the help of the instructions below and file the forms with the clerk of the RST Tribal Court.

What is a Civil Court Cover Sheet-Contact Information? This will allow the Clerk of Courts the ability to contact the parties when needed for scheduling and service of papers by mail. It will also allow the Court Process Server to locate and personally serve the defendant with the Summons and Complaint for divorce.

What is a Summons? A summons is a document that is served with the complaint on the opposing party you are seeking to divorce. A summons notifies the opposing party that an action for divorce in the form of a complaint has been filed against them and that the opposing party must answer in writing to both you and the court that they deny your claims in the complaint. If the opposing party fail to answer your summons and complaint within 30 days after service on them or if they fail to appear you may seek a default judgment.

What is a Complaint? A complaint sets out your cause of action or claim against the opposing party. A complaint puts the court and the opposing party on notice of what a plaintiff's claims are. If you file a summons and complaint you are called the plaintiff. The person you are seeking restraining order against is called the defendant. In this case it is letting the defendant know that the plaintiff has filed for a restraining order and any other claims the plaintiff has against the defendant.

Jurisdiction. In order for Rosebud Sioux Tribal Court to hear your claim the court must have jurisdiction. First, the court must have jurisdiction over the people involved, that means the court must have jurisdiction over you and the opposing party. Second, the court must have jurisdiction over the subject matter of the plaintiff's claim. This means the court has jurisdiction to hear type of claim you filed such as divorce.

In order for Rosebud Sioux Tribal court to have jurisdiction over a divorce the following must exist:

1. The party filing for divorce(plaintiff) must be a resident of the Rosebud Sioux Indian Reservation and;
2. One of the parties to the marriage (either the plaintiff or defendant) must be a member of the Rosebud Sioux Tribe.

Filing and service fees. The court will require payment of a filing fee unless waived to file your summons and complaint with the court. There is also a fee to have your summons and complaint served on the defendant. It is required by law that your summons and complaint be personally served on the defendant. This can be by the Court Process Server which will incur a service fee to have them serve your papers. You can file a motion to waive the filing and service fees if you can show you are indigent or don't have the resources to pay the fees. Use the **Motion to Waive Filing and Service Fees** form to ask the court to waive those costs or for a partial waiver. You can also have a tribal member over the age of 18 and not a party to the action serve the defendant with the summons and complaint and they may do it free. If you go this route, have the person who serves the court papers on the defendant complete the **Affidavit of Service** form and you must file the affidavit with the court as proof the defendant was served.

How to file a summons and complaint. A summons and complaint is filed when you take them to the courthouse and file them along with the filing fee and Civil Cover Sheet-Contact Information with the clerk of courts. When you file your complaint or petition with the clerk, please date and sign the form in front of the clerk so they can notarize your signature.

What happens if the opposing party fails to Answer. If the opposing party fails to answer your summons and complaint within 30 days after being served with the summons and complaint, you can ask the court for a default judgment.

TEMPORARY RESTRAINING ORDER

Upon request the court may issue you an ex parte temporary restraining order if the court feels you are danger before a hearing can be held on your request preliminary and/or permanent restraining order. The court may or may not grant you an ex parte restraining order (an order issued with a hearing or notice to the opposing party) depending on the circumstances. If the court grants you an ex parte restraining order the opposing party can not have any contact or abuse you once the opposing party is served with the order. The court will then hold a hearing on your request for Preliminary Restraining Order, usually within 10 days, where you will have to prove your allegations for your request for Preliminary Restraining Order.

PERMANENT RESTRAINING ORDER

Regardless whether the court grants you a temporary restraining order, you should then have a final hearing on your request for a Permanent Restraining Order.

Please use the Pro Se Restraining Order Guide to help you understand the issues and how to proceed with the restraining order action in court.

CIVIL COURT FILING STATEMENT-CONTACT INFORMATION

PLAINTIFF:

A. Full Name: _____

Mailing Address: _____

Physical Address or Direction to Residence: _____

Contact Numbers:

Cell: _____ Home: _____ Work: _____

Employed? Yes No Place of Employment: _____

DEFENDANT:

A. Full Name: _____

Mailing Address: _____

Physical Address or Direction to Residence: _____

Contact Numbers:

Cell: _____ Home: _____ Work: _____

Employed? Yes No Place of Employment: _____

Age: _____ Height: _____ Weight: _____ Color of Hair: _____ Length: _____

Type/Location/Color/Description of Residence: _____

Make/Model/Color Year of Vehicle: _____

Other Description or Information that can Aid in Serving Papers on the Defendant: _____

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out this form follow these instructions. The number below is the number on the form where the information for that number needs to be inserted. You can print this page in its entirety or you can scroll down to the summons form and then scroll down farther to find the complaint. There will be a blank screen between these instructions and the forms and between the forms so keep scrolling or just copy this page in its entirety.

Instructions for filling out the **Summons**:

- (1) on this line insert your name.
- (2) on this line insert the name of the person you want to divorce.
- (3) on this line insert your name.
- (4) on this line insert your entire mailing address.
- (5) on this line insert the day.
- (6) on this line insert the month.
- (7) on this line insert the year.
- (8) on this line insert your name by signing.

ROSEBUD SIOUX TRIBAL COURT)
ROSEBUD INDIAN RESERVATION)SS
ROSEBUD, SOUTH DAKOTA)

IN CIVIL COURT

(1) _____

DOCKET _____

PLAINTIFF(S)

VS

SUMMONS

(2) _____

DEFENDANT(S)

THE ROSEBUD SIOUX TRIBE TO THE ABOVE NAMED DEFENDANT(S):

You are hereby summoned and required to answer the Complaint of the Plaintiff(s) in the above entitled action, a copy of the Complaint is attached hereto and is hereby served upon you, and to serve a copy of your answer to the Complaint on the Plaintiff, (3) _____, at the address of (4) _____, thirty (30) days after service of the Summons upon you; exclusive of the day of such service; and in the case of your failure to Answer the Plaintiff's Complaint within that time, judgment may be rendered against you as requested in the Complaint.

Dated this (5) _____ day of (6) _____, (7) _____.

(8) _____
Plaintiff

Instructions for filling out the complaint:

- (1) on this line insert your name.
- (2) on this line insert the name of the person you are seeking a restraining order against.
- (3) on this line insert your name.
- (4) if you are an enrolled member of a federally recognized tribe leave this blank. If you are not enrolled in any tribe insert “not”.
- (5) insert the name of your tribe or if you are not enrolled in any tribe please indicate.
- (6) insert “within” if you live on a reservation or insert “outside” if you live outside the reservation where you are filing this complaint.
- (7) insert the name of the reservation you currently reside or leave blank if you do not live on a reservation.
- (8) insert your mailing address.
- (9) if defendant is enrolled in a federally recognized tribe leave this line blank. If defendant is not enrolled in any tribe insert “not”.
- (10) insert the name of the defendant’s tribe or if defendant is not enrolled in any tribe please indicate.
- (11) insert “within” if defendant lives on a reservation or insert “outside” if defendant lives outside the reservation where you are filing this complaint.
- (12) insert the name of the reservation defendant currently resides or leave blank if defendant does not live on a reservation.
- (13) insert defendant’s mailing address if you know what it is otherwise insert “unknown”.
- (14) insert the date defendant committed the illegal or wrongful against you.
- (15) insert the approximate time the illegal or wrongful act occurred.
- (16) explain in detail how defendant committed an illegal or wrongful act against you.
- (17) insert the community in which defendant committed the illegal or wrongful act against you.
- (18) explain any injuries you suffered as a result of the illegal or wrongful act of defendant.
- (19) insert whether this incident was reported to law enforcement, if law enforcement investigated, and whether defendant was arrested. Explain why defendant’s illegal or wrongful act was not reported if that is the case.
- (20) explain why you feel that defendant will continue to commit illegal or wrongful acts against you and why you are in immediate and present danger of further illegal or wrongful acts by defendant.
- (21) explain why notice should not be given defendant until hearing is held. In order to get a temporary restraining order without notice to defendant(s) before the hearing for preliminary or permanent injunction, you must show the court that you will suffer irreparable injury or damage (injury or damage that cannot be repaired) before hearing can be held and notice given to defendant(s). This can be done by pleading that defendant has engaged in assaultive behavior or threatened you with bodily harm or that you fear retaliation against you by defendant(s) for filing this action.
- (22) on this line insert the day.
- (23) on this line insert the month.
- (24) on this line insert the year.
- (25) on this line insert your name by signing.

5. That as a result of defendant's actions the plaintiff suffered injuries that included (18)_____

6. That this incident (20)_____

7. That plaintiff(s) believes that defendant will continue to commit illegal acts upon plaintiff because (21)_____

and that as a result plaintiff feels he/she is in immediate and present danger by defendant.

8. That immediate and irreparable harm will come to plaintiff(s) before defendant(s) can be given notice and be heard and asks the court to issue a temporary restraining order.

9. That notice to defendant(s) should not be required because (22)_____

10. That plaintiff(s) has no other adequate legal remedy to prevent future harm and there is no less restrictive means to prevent such harm to plaintiff(s).

11. That plaintiff(s) has no administrative remedies or has exhausted all administrative remedies.

12. That plaintiff(s) will suffer irreparable harm which cannot be solved by awarding money damages unless defendant(s) is restrained.

13. That greater harm will be done to plaintiff(s) by the refusal of injunctive relief than will be occasioned to defendant(s) by the granting of such relief.

Subscribed and sworn to before me this ____ day of _____, _____.

Notary Public
My commission expires:
(SEAL)