

INSTRUCTIONS FOR FILLING OUT FORMS

PURPOSE. This form is to be used when you have filed your complaint with the court and the opposing party has been served with the summons and complaint and the opposing party has failed to answer or defend the action in the time period specified by law.

FORMS INVOLVED. The first form is a **Motion for Default Judgment**. The second form is an **Affidavit for Default Judgment** that you need to attach to the Motion. The third form is a **Notice of Intent to Take a Default Judgment**. You will need to fill in the necessary information with help from the instructions below.

How to file a Motion, Affidavit and Notice of Intent to take Default Judgment. You must file your motion, affidavit and notice of intent by filing the original with the court and by mailing a copy to the opposing party if they are not represented by legal counsel or to their attorney if the opposing party is represented. Get a court date and time from clerk setting your case for hearing on your motion for default judgment and file the Notice of Intent to take Default Judgment and mail a copy to the opposing party or to their attorney if the opposing party is represented.

BURDEN OF PROOF. You as the moving party have the burden of showing the following to the court:

1. That the opposing party is in default for failing to answer your summons and complaint in the time required by law. If you filed your summons and complaint in the Rosebud Sioux Tribal Courts, defendant is required to file an Answer to your summons and complaint within 30 days from the date they were served with the summons and complaint or defendant is in default. This is easily done. The court file should contain a return of service by the person who served the defendant with the summons and complaint and the date of such service.
2. If the court finds that the opposing party is in default, the court will grant you a judgment. That is the court will likely give you what you ask for in your complaint. If you are asking for money damages the court may make you prove the money amount at the default hearing.

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out this 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. You can print this page in its entirety or you can scroll down to the Motion form and if you scroll down farther you will find the affidavit. 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 motion:

- (1) on this line insert your name.
- (2) on this line insert the name of the opposing party.
- (3) on this line insert your name.
- (4) on this line insert the day.
- (5) on this line insert the month.

(6) on this line insert the year.

(7) on this line insert your name by signing.

(8) on this line insert the address where you mailed the motion and affidavit for default judgment and notice of intent to take default judgment. It will be either the opposing party if they are not representing by legal counsel or to their attorney if the opposing party is represented.

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

IN CIVIL COURT

(1) _____

DOCKET _____

PLAINTIFF(S)

MOTION FOR DEFAULT
JUDGMENT

VS

(2) _____

DEFENDANT(S)

Comes now (3) _____, plaintiff, and moves this Court to enter a default judgment in this matter. In support of this motion is an attached affidavit incorporated into this motion as if fully set out herein.

That more than 30 days has elapsed since the summons and complaint was served upon defendant and defendant has failed to file an Answer in this matter.

Wherefore, the undersigned prays this court to issue a default judgment in this matter in favor of plaintiff.

Dated this (4) _____ day of (5) _____, (6) _____.

(7) _____
Plaintiff

CERTIFICATE OF SERVICE

The undersigned certifies that I mailed a true and correct copy of this Motion for Default Judgment, Affidavit in Support of Motion for Default Judgment and Notice of Intent to Take Default Judgment upon the opposing party(s) or their attorney by first class mail at (8) _____

Dated this (4) _____ day of (5) _____, (6) _____.

(7) _____
Plaintiff

Instructions for filling out the affidavit:

- (1) on this line insert the name your name.
- (2) on this line insert the name of the opposing party.
- (3) on this line insert your name.
- (4) insert the date you filed your complaint with the court.
- (5) insert the type of action you filed. For example, if you filed for divorce insert “divorce”.
- (6) insert the date that defendant was served with the summons and complaint.
- (7) insert who served defendant with summons and complaint. If it was a process server, insert “Tribal Court Process Server. If it was a law enforcement officer, insert “Tribal Police Officer”.
- (8) on this line insert the day.
- (9) on this line insert the month.
- (10) on this line insert the year.
- (11) on this line insert your name by signing.

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

IN CIVIL COURT

(1) _____

DOCKET _____

PLAINTIFF(S)

AFFIDAVIT IN SUPPORT OF
MOTION FOR DEFAULT
JUDGMENT

VS

(2) _____

DEFENDANT(S)

(3) _____, being first duly sworn and upon oath, states and
deposes as follows:

1. That on (4) _____ I filed my summons and complaint for (5) _____
_____.

2. That on (6) _____ defendant was served with summons and complaint by
(7) _____
_____.

3. That proof of service is contained in the court file herein and incorporated into this motion
and affidavit by reference.

4. That more than 30 days have passed since defendant was served with summons and
complaint, exclusive of the day of service.

5. That defendant has failed to Answer my summons and complaint.

6. That defendant is now in default.

Dated this (8) ____ day of (9) _____, (10) _____.

(11) _____
Plaintiff

Sworn and subscribed to before me this ____ day of _____, _____.

My commission expires:

Notary Public

Instructions for filling out the notice of intent:

(1) on this line insert your name.

(2) on this line insert the name of the person you are seeking a default judgment.

(3) insert the date and time of the hearing. You will need to secure a hearing date and time from the clerk of civil court.

(4) on this line insert the day.

(5) on this line insert the month.

(6) on this line insert the year.

(7) on this line insert your name by signing.

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

IN CIVIL COURT

DOCKET _____

(1) _____

PLAINTIFF(S)

VS

(2) _____

DEFENDANT(S)

NOTICE OF INTENT TO TAKE
A DEFAULT JUDGMENT

TO:(2) _____
_____.

NOTICE IS HEREBY GIVEN that I, (1) _____
have applied to the court for a Default Judgment in this matter and a hearing will be held on
(3) _____ at _____ o'clock __.m. at the Rosebud Sioux Tribal courthouse in
Rosebud, SD.

Dated this (4) _____ day of (5) _____, (6) _____.

(7) _____
Plaintiff