

INSTRUCTIONS FOR FILLING OUT FORMS

PURPOSE. These forms are to be used when you need to sue the defendant(s) for money damages or owed for \$2,000 or less. The small claim can only involve a contract or tort violation. A contract entails a promise to do something for a promise. This would include any money owed for a bad debt or for a bad check. A tort is when a the defendant's actions cause injury or harm to the plaintiff. It would include damage to property or person of \$2,000 or less. For example, money damages caused by negligence in an automobile accident or money damages from an assault.

FORMS INVOLVED. The first form is a **Civil Court Filing Statement-Contact Information** you need to fill out (there are no instructions for this form as it is self-explanatory). The second form is the **Plaintiff's Statement of Small Claims**. 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.

How to Start a Small Claims Action. A small claims action is started when the plaintiff files a Plaintiff's Statement of Small Claims. Use the **Plaintiff's Statement of Small Claims** form to file a small claims action. You must file the Plaintiff's Statement of Small Claims with the civil clerk of courts and pay the necessary filing fee before the claim is officially filed with the court. The clerk will have the court process server serve a copy of the Plaintiff's Statement of Small Claims and a notice of hearing on the defendant. There will be a filing service fee incurred unless waived.

Filing and service fees. The court will require payment of a filing fee unless waived to file your petition with the court. There is also a fee to have your petition served on the defendant. It is required by law that your Statement of Claim 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 petition 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.

Jurisdiction. In order for a particular court to hear your claim that 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(s). Second, the court must have jurisdiction over the subject matter of your claim. In tribal courts, one of the parties should be a tribal member and there must be a connection between your cause of action and the reservation you are filing your action.

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 **Statement of Small Claims**:

- (1) on this line insert your name.
- (2) on this line insert the name of the your spouse you are going to divorce.
- (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 ay tribe pleas 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) on this line explain your small claim against the defendant. You will need to prove these allegations to the court. The claim cannot exceed \$2,000 in damages or debt owed. And the claim can only involve a contract or tort violation. A contract entails a promise to do something for a promise. This would include any money owed for a bad debt or for a bad check. A tort is when a the defendant’s actions cause injury or harm to the plaintiff. It would include damage to property or person of \$2,000 or less. For example, money damages caused by negligence in an automobile accident or money damages from an assault.
- (15) on this line state the specific dollar amount of damages you incurred. You will need to prove the specific dollar amount to the court with testimony and/or documents.
- (16) on this line insert the amount you paid for the filing fee if you want to be awarded that amount if you prevail on your claim. If the filing fee was waived enter 0 or leave it blank.
- (17) on this line insert the amount you paid for the service fee to have the defendant served if you want to be awarded that amount if you prevail on your claim. If the service fee was waived enter 0 or leave it blank.
- (18) on this line insert the day.
- (19) on this line insert the month.
- (20) on this line insert the year.
- (21) on this line insert your name by signing.

_____.

(Attach a separate page if you need to)

4. That the Plaintiff requests a judgment in the amount of (15)\$_____ plus (16)\$_____ for the filing fee and (17)\$_____ for the service fee.

Dated this (18)____ day of (19)____, (20)_____.

(21)_____
Plaintiff

VERIFICATION

Rosebud Indian Reservation)
)SS
Rosebud, South Dakota)

(3)_____, being first duly sworn on oath, state and depose that he/she is the plaintiff in the foregoing Statement of Claim, that he/she has duly executed said Statement of Claim after reading the same, they he/she knows the content thereof to be true to his/ her own knowledge, except those matters stated to be on information and belief, which matters he/she believes to be true.

Dated this (18)____ day of (19)____, (20)_____.

(21)_____
Plaintiff

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

Notary Public
My commission expires:
(SEAL)