

INSTRUCTIONS FOR FILLING OUT FORMS

PURPOSE. These forms are to be used when you want to file a civil suit against another party(s) who committed a civil violation against you such as disputes over contracts, damage to property or injury to your person, for money owed, for negligence such as an automobile accidents or assaults where there are money damages.

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 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 Filing Statement-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 suing is called the defendant. In this case it is giving the defendant notice that the plaintiff has filed suit and what the claims are that the plaintiff has against the defendant such as disputes over contracts, damage to property or injury to your person, for money owed, for wrongs committed such as automobile accidents or assaults where there are money damages.

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. A non-Indian can bring a civil complaint against a tribal member in Tribal Court for a matter that occurred on the Reservation. A tribal member may or may not bring a civil complaint against a non-Indian in Tribal Court. The Tribal Court only has jurisdiction over a non-Indian defendant in civil court if the non-Indian has entered into a consensual relationship with the Tribe or a tribal member (such as a domestic relationship or entered into a contract with the Tribe or tribal member on the Reservation). The Tribal Court may have jurisdiction over a non-Indian defendant in civil court if the non-Indian's conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe (this exception is very rare).

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.

Statute of Limitations. You are required by tribal law to file any civil action within 2 years the cause of action accrued or occurred or you claim may be barred. If you fail to bring your claim within 2 years the defendant will file a motion to dismiss your complaint for violating the Statute of Limitations and the court can dismiss your claim.

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.

CIVIL COURT FILING STATEMENT-CONTACT INFORMATION

PLAINTIFF(S)/PETITIONER(S):

A. Full Name: _____

Mailing Address: _____

Physical Address or Direction to Residence: _____

Contact Numbers:

Cell: _____ Home: _____ Work: _____

Employed? Yes No Place of Employment: _____

B. Full Name: _____

Mailing Address: _____

Physical Address or Direction to Residence: _____

Contact Numbers:

Cell: _____ Home: _____ Work: _____

Employed? Yes No Place of Employment: _____

DEFENDANT(S)/RESPONDENT(S):

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: _____

B. 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 FORMS. To fill out the Summons and Complaint forms 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(s), (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 you 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(s)

Instructions for filling out the **Complaint**:

- (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 write a short and plain statement of each of the claims. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted go to the next numbered claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.
- (15) on this line state briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any damages claimed, the amounts, and the reasons you claim you are entitled to damages. You will have to prove specific damage amounts at the trial. You can do this with witnesses who of knowledge of the claim and with documents such as medical records and bills.
- (16) on this line insert the day.
- (17) on this line insert the month.
- (18) on this line insert the year.
- (19) 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)

COMPLAINT

VS

(2) _____

DEFENDANT(S)

Comes now (3) _____ (“Plaintiff(s)”) and for her/his/there complaint against the Defendant(s), states and alleges as follows:

1. That Plaintiff No. 1 is (4) _____ an enrolled member of (5) _____, and is presently residing (6) _____ the exterior boundaries of the (7) _____. Plaintiff’s address is (8) _____.

1. That Plaintiff No. 2 is (4) _____ an enrolled member of (5) _____, and is presently residing (6) _____ the exterior boundaries of the (7) _____. Plaintiff’s address is (8) _____.

2. That Defendant No. 1 is (9) _____ an enrolled member of the (10) _____, presently residing (11) _____ the exterior boundaries of the (12) _____. Defendant’s address is (13) _____.

2. That Defendant No. 2 is (9) _____ an enrolled member of the (10) _____, presently residing (11) _____ the exterior boundaries of the (12) _____. Defendant’s address is (13) _____.

CLAIMS/CAUSES OF ACTION

Plaintiff(s), for his/her/there claims/causes of action against the above-named defendant(s), hereby states and alleges as follows:

3.(14) _____

4.(14) _____

5.(14) _____

WHEREFORE, Plaintiff prays that this Court order the following relief: (15) _____

_____.

Dated this (16) _____ day of (17) _____, (18) _____.

(19) _____
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 Complaint, that he/she has duly executed said Complaint 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 (16) _____ day of (17) _____, (18) _____.

(19) _____
Plaintiff

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

Notary Public
My commission expires:
(SEAL)