

## INSTRUCTIONS FOR FILLING OUT FORMS

**PURPOSE.** These forms are to be used when you have been served with a Plaintiff's Statement of Small Claims and you have a setoff or counterclaim in the matter you must file with the court a setoff or counterclaim within 30 days of being served with the Plaintiff's Statement of Small Claims. Failure to do so could result in you not being able to raise a setoff or counterclaim at the trial. A setoff is an admission that you owe the plaintiff money but that the defendant also owes you money you want subtracted from what you owe. A counterclaim is like the plaintiff's statement of small claims in that it sets out defendant's claim for money damages against the plaintiff.

**FORMS INVOLVED.** The form is is the **Defendant's Setoff or Counterclaims**. 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.

Instructions for filling out the **Defendant's Setoff or Counterclaim**:

(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) on this line explain your setoff or counterclaim against the plaintiff. A setoff is an admission that you owe the plaintiff money but that the defendant also owes you money you want subtracted from what you owe. A counterclaim is like the plaintiff's statement of small claims in that it sets out defendant's claim for money damages against the plaintiff. You will need to prove your setoff or counterclaim to the court. The setoff or counterclaim 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.

(5) on this line state the specific dollar amount of your setoff or for the damages you incurred. The setoff or counterclaim cannot exceed \$2,000 in damages or debt owed. You will need to prove the specific dollar amount to the court with testimony and/or documents.

(6) on this line insert the day.

(7) on this line insert the month.

(8) on this line insert the year.

(9) 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 (5)\$\_\_\_\_\_.

Dated this (6)\_\_\_\_\_ day of (7)\_\_\_\_\_, (8)\_\_\_\_\_.

(9)\_\_\_\_\_
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 (6)\_\_\_\_\_ day of (7)\_\_\_\_\_, (8)\_\_\_\_\_.

(9)\_\_\_\_\_
Plaintiff

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires:  
(SEAL)