

## **INSTRUCTIONS AND NOTICE OF APPEAL**

Use this form and instructions to file your appeal. Filing a notice of appeal is the first step in the appeal process. This gives the Court and other parties notice that you are appealing an issue(s) from the Tribal trial Court to the Tribal Supreme Court. It also gives them notice what issues or errors you are appealing.

There are sensitive time lines you must abide by or you will lose your right to appeal. You must file a Notice of Appeal, a Designation of Record and post an appellate bond with the Clerk of Court of the Tribal Court (Rules 2) within 30 days of notice of entry of judgment in all Civil cases and within 10 days of notice of entry of the final judgment or other appealable order in all Criminal cases. Work days, weekends and holidays are counted as days when computing time. Don't count the first day but count the last day unless the last day falls on a Saturday, Sunday or legal holiday in which case the last day is the end of the following day (Rule 8 (4)).

No extensions of these deadlines will be granted. So failure to file your appeal within these time frames will result in the appeal being rejected or dismissed. Rule 2 of the RST Rules of Appellate Procedure requires that an Appellant (the party bringing the appeal) post an appellate bond when the Appellant files its Notice of Appeal. Filing a Notice of Appeal won't start the appeal until you also file a Designation of Record and you either post the appeal bond or ask for a waiver.

Failure to file a designation of record or post an appellate bond (or ask for a waiver) with your notice of appeal could result in dismissal of your appeal or loss of your right to appeal.

Rule 5 provides the notice of appeal shall contain the following information:

1. The name, address, phone number (if applicable) of the party taking the appeal and their counselor or attorney of record (if represented)
2. The date and title of the Tribal Court Order or Judgment from which the appeal is taken
3. The name, address, phone number (if known) of all other parties to the Tribal Court action and their counselor or attorney of record
4. An itemization of all assignments of error or legal or factual issues desired to be considered in the appeal and a brief statement of issues being appealed. So you will need to itemize the rulings, findings of fact and conclusions of law made by the Court you want reviewed by the Supreme Court. You can appeal a variety of issues. They can include a finding of fact or conclusion of law made by the Tribal Court in its Findings of Fact and Conclusions of Law, any court orders and any rulings made by the Tribal Court. Some examples of legal errors that can be made by the Court include: whether the Tribal Court improperly admitted or excluded evidence, whether there was insufficient evidence to support the verdict, any procedural mistakes made by the Tribal Court (how the jury was selected or how the trial was conducted), whether the Tribal Court applied the wrong rule or legal standard, or your Constitutional rights were violated. An example of the Tribal Court making an error regarding the facts is when the factual findings supporting the verdict are against the weight of the evidence. Give a brief statement for each ground on how the Court erred.
5. A Certificate of Service indicating service of the Notice of Appeal upon all opposing parties

and the date and manner of such service

Use the attached instructions and form to file your timely notice of appeal.

**CAUTION:** Rule 2 requires you to post an appeal bond or ask for a waiver when you file your notice of appeal. Rule 6 requires you to file a designation of record with your notice of appeal. Failure to file a designation of record with your notice of appeal could result in dismissal of your appeal or loss of your appeal.

**INSTRUCTIONS FOR FILLING OUT THE FORM.** To fill out the attached 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.

Instructions for filling out the notice of appeal:

(1) on this line insert the name of the party who was the plaintiff in the case at the trial court level, it will either be you or the other party. Look at a case caption of the trial court pleadings to determine who the plaintiff is.

(2) on this line insert Appellant if the plaintiff is the party that filed the appeal or insert Appellee if the defendant is the party that filed the appeal

(3) on this line insert the name of the party who was the defendant in the case at the trial court level, it will either be you or the other party. Look at a case caption of the trial court pleadings to determine who the defendant is.

(4) on this line insert Appellant if the defendant is the party that filed the appeal or insert Appellee if the plaintiff is the party that filed the appeal

(5) on this line insert your name

(6) on this line insert the date of notice of entry of judgment. This is not the date the judgment is signed but date the notice of entry of order is signed by the clerk. The notice of entry of order should be sent you with the judgment

(7) on this line insert your name and mailing address

(8) on this line insert the names and mailing addresses all other parties to the action and their attorney(s) if any. This would include any co-plaintiffs or co-defendants.

(9) on this line insert the date and title of the judgment or order being appealed. The order or judgment will have a caption on the top left hand of the order or judgment. The date of the judgment or order is the date it is signed by the judge.

(10) itemize your assignments of error. These are the issues, rulings, findings of fact and conclusions of law made by the Court you want reviewed by the Supreme Court. You can appeal a variety of issues. They can include a finding of fact or conclusion of law made by the Tribal Court in its Findings of Fact and Conclusions of Law, any court orders and any rulings made by the Tribal Court. Some examples of legal errors that can be made by the Court include: whether the Tribal Court improperly admitted or excluded evidence, whether there was insufficient evidence to support the verdict, any procedural mistakes made by the Tribal Court (how the jury was selected or how the trial was conducted), whether the Tribal Court applied the wrong rule or legal standard, or your Constitutional rights were violated. An example of the Tribal Court making an error regarding the facts is when the factual findings supporting the verdict are against the weight of the evidence. Give a brief statement for each ground on how the Court erred.

(11) on this line insert the date you sign the notice of appeal

(12) on this line sign the notice of appeal

Note: Your notice of appeal must be signed and dated before the Clerk can accept it for filing and service

(13) on this line insert all the parties to the action (see instruction (8) above) by name and last known address you mailed a copy of the motion to each party.

(14) on this line date the day you mailed a copy of the notice to all opposing parties. You are required to serve a copy of the notice to all opposing parties

(15) on this line sign your name to certify you mailed a copy of the notice on date you inserted on line (14).

**NOTE:** You must file your Notice with the RST Clerk of the Supreme Court and mail a copy to all parties to the action named in the certificate of service.

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

IN TRIBAL COURT

(1) _____ _____, Plaintiff and (2) _____ v. (3) _____ _____, Defendant and (4) _____	SC# _____  NOTICE OF APPEAL
--	-----------------------------------

Notice is hereby given that (5) \_\_\_\_\_ and Appellant appeals to the Rosebud Supreme Court from the judgment of the Rosebud Sioux Tribal Court dated (6) \_\_\_\_\_.

1. That Appellant is unrepresented by counsel and the name and address of the Appellant(s) is:

(7) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

2. The name and address of all parties to this action and their attorneys if any are: (8) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

3. The date and title of the judgment or order being appealed is: (9) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

4. Appellant is appealing the following issues itemized as:

(10) \_\_\_\_\_  
\_\_\_\_\_

(10) \_\_\_\_\_  
\_\_\_\_\_

(10) \_\_\_\_\_  
\_\_\_\_\_

(10) \_\_\_\_\_  
\_\_\_\_\_

(10) \_\_\_\_\_  
\_\_\_\_\_

(10) \_\_\_\_\_  
\_\_\_\_\_

(10) \_\_\_\_\_  
\_\_\_\_\_

(11) \_\_\_\_\_

(12) \_\_\_\_\_  
Appellant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that I mailed a true and correct copy of this notice upon Appellant(s) last known address(es) by first class mail addressed to the following: (13) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

(14) \_\_\_\_\_

(15) \_\_\_\_\_  
Appellant