

**MOTION FOR STAY OF PROCEEDINGS TO ENFORCE CIVIL JUDGMENT  
PENDING APPEAL**

Use the attached form motion to file a motion for stay pending appeal in the Tribal Civil Court. Rule 11 of the RST Rules of Appellate Procedure provides that a motion for stay filed with the Supreme Court will not be considered unless the moving party certifies that a Motion for Stay was denied by the Tribal Court. So you must first move the Tribal Court for a stay of proceedings to enforce a civil judgment and be denied before asking the Supreme Court for a stay. Rule 62 of the RST Rules of Civil Procedure allows for a motion to stay a stay of proceedings to enforce the judgment in the matter at least until the appeal is completed.

**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 motion:

- (1) on this line insert the name of the party who is 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. If you filed the action you are the plaintiff. If the other party filed the action then you are the defendant.
  - (2) 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
  - (3) on this line insert whether you are the plaintiff or the defendant in the civil action
  - (4) on this line insert the date the final judgment was issued by the Tribal Court
  - (5) on this line insert a description of what the Tribal Court ordered in its final judgment
  - (6) on this line insert the date you filed your appeal in this matter
  - (7) on this line explain any circumstances of why the Court should stay the judgment pending your appeal. For a case where the Tribal Court changes custody to a party the child insert that the child would be harmed and it would not be in the best interest of the child to abruptly change custody to a virtual stranger with little or no ties to the child. For a money judgment it could include inability to pay and hardship on your family if collection on the judgment isn't stayed. You can ask for stay of judgment if you have paid a bond sufficient to pay the judgment. There could be a variety of reasons why the judgment should be stayed.
  - (8) on this line insert the date you sign the motion
  - (9) on this line sign the motion
- Note: Your motion must be signed and dated before the Clerk can accept it for filing and service
- (10) on this line insert all the parties to the action by name and last known address you mailed a copy of the motion to each party.
  - (11) 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
  - (12) on this line sign your name to certify you mailed a copy of the notice on date you inserted on line (11).

**NOTE:** You must file your motion with the RST Clerk of Courts and mail a copy to all parties to

the action.

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

IN CIVIL COURT

<p>(1) _____ _____, Plaintiff,  v.  (2) _____ _____, Defendant.</p>	<p>SC# _____</p> <p>MOTION FOR STAY THE PROCEEDINGS TO ENFORCE THE JUDGMENT PENDING APPEAL</p>
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Comes now, the above-named (3) \_\_\_\_\_ who moves this Honorable Court pursuant to Rule 62 of the RST Rules of Civil Procedure for an Order staying the judgment in this matter pending appeal, upon the grounds and for the following reasons:

1. That on (4) \_\_\_\_\_ a final judgment was issued by the Tribal Court to (5) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

A copy of the judgment is attached to this motion.

3. That I timely filed an appeal to the Rosebud Sioux Tribal Supreme Court on (6) \_\_\_\_\_  
\_\_\_\_\_.

4. That this Court should stay the final judgment in this case due to the likely success of my appeal.

5. That this Court should stay the judgment because (7) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
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\_\_\_\_\_  
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\_\_\_\_\_.

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6. Article X Section 1(f) of the RST Constitution and 25 USC Section 1302 (a)(8) of the Indian Civil Rights Act both prohibit the Tribe from denying any person of liberty or property without due process of law.

7. The Appellant would be prejudiced the judgment is not stayed pending the appeal in this matter.

8. Rule 11 of the RST Rules of Appellate Procedure provides that a motion for stay filed with the Supreme Court will not be considered unless the moving party certifies that a Motion for Stay was denied by the Tribal Court.

WHEREFORE, the requests that the Court stay the judgment pending appeal in this matter.

(8) \_\_\_\_\_

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that I mailed a true and correct copy of this notice upon Appellee(s) last known address(es) by first class mail addressed to the following: (10) \_\_\_\_\_

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

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

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