

INSTRUCTIONS FOR FILLING OUT FORM

PURPOSE. This form is to be used when the court has set a matter for hearing or trial and you cannot personally appear because of the great distance you live from the courthouse where the hearing is scheduled, you cannot afford to travel for the hearing, or you cannot get off work for the hearing.

FORMS INVOLVED. The form is a **Motion to Appear by Telephone**. You will need to fill in the necessary information with help from the instructions below and then file the forms with the appropriate court. Remember you need to mail a copy to the opposing party or their legal counsel if they represented and fill out the certificate of service showing that you did mail a copy of the motion to the opposing party or their legal counsel.

BURDEN OF PROOF. You as the moving party have the burden of showing the following to the court:

If for some reason you or a witness cannot personally appear at a scheduled hearing or trial because of the great distance you live from the courthouse where the hearing is scheduled, you cannot afford to travel for the hearing, or you cannot get off work for the hearing and the court will not continue the hearing or trial you can file a Motion to Appear by Telephone well in advance of the hearing date. Do not wait for the day of hearing or even a day before hearing to ask to appear by telephone. The court will grant your request to appear by telephone only for good cause. This would include the great distance you live or work from the courthouse and the financial difficulties it would create for you or your witnesses to personally attend the hearing. The court will normally deny your request for any other reason. The judge will have discretion to grant or deny your motion.

If the court grants your motion to appear by telephone for your hearing, it is responsibility to call in for the hearing at your own telephone expense and to have your witnesses at the courthouse or with you so they can testify by the telephone. Failure to do so could result in your claim being dismissed or the opposing party obtaining the relief they asked for from the court.

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out this 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 plaintiff.
- (2) on this line insert the name of the defendant.
- (3) insert your name
- (4) insert the date of the hearing or trial you want rescheduled.
- (5) insert the reason you or a witness needs to appear by telephone in your hearing or trial. For example the reason for your request is the distance you or your witnesses live or work from the courthouse where the hearing will be held.
- (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.

(10) on this line insert the address where you mailed your motion for telephonic hearing. It will be either the opposing party if they are not representing by legal counsel or to their attorney if the opposing party is represented.

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

IN CIVIL COURT

(1) _____

DOCKET _____

PLAINTIFF(S)

MOTION TO APPEAR
BY TELEPHONE

VS

(2) _____

DEFENDANT(S)

Comes now (3) _____ and moves this Court to allow myself and my witnesses to appear telephonically in the hearing for the following reasons:

1. That a hearing or trial is scheduled for (4) _____.
2. That I move this court to continue the hearing herein.

3. That I move this court to allow me or my witness(es) to appear telephonically in this matter for the following reasons:

(5) _____

_____.

Wherefore, the undersigned prays this court to issue an order:

A. Allow applicant and applicant's witnesses to appear telephonically in the hearings on this matter.

Dated this (6) _____ day of (7) _____, (8) _____.

(9) _____
Plaintiff/Defendant

CERTIFICATE OF SERVICE

The undersigned certifies that I mailed a true and correct copy of this Motion for Telephonic Hearing upon the opposing party(s) or their legal counsel by first class mail at (10) _____
_____.

Dated this (6) _____ day of (7) _____, (8) _____.

(9) _____
Plaintiff/Defendant