

INSTRUCTIONS FOR FILLING OUT FORM

PURPOSE. This form is to be used when you have filed your complaint with the court and the opposing party has been served with the summons and complaint and the opposing party has failed to answer or defend the action in the time period specified by law.

FORMS INVOLVED. The first form is a **Motion for Default Judgment**. The second form is an **affidavit** that you need to attach to the Motion. The third form is a **Notice of Intent to Take a Default Judgment**. You will need to fill in the necessary information with help from the instructions below and then file the forms with the appropriate court and then file the original with the appropriate court and mail a copy to the opposing party or their attorney. Once the judge reads your **Motion, Affidavit and Notice of Intent**, the clerk will set your case for hearing on your motion for default judgment and will send out notices to you and the opposing party for such hearing.

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

1. That the opposing party is in default for failing to answer your summons and complaint in the time required by law. . If you filed your summons and complaint in the Cheyenne River, Sisseton-Wahpeton or the Standing Rock Sioux Tribal Courts the defendant is required to answer your complaint within 20 days, if not defendant is in default. If you filed your summons and complaint in the Oglala, Flandreau Santee, Crow Creek, Yankton, Lower Brule or Rosebud Sioux Tribal Courts defendant is required to file an Answer to your summons and complaint within 30 days or defendant is in default. This is easily done. The court file should contain a return of service by the person who served the defendant with the summons and complaint and the date of such service.
2. If the court finds that the opposing party is in default, the court will grant you a judgment. That is the court will likely give you what you ask for in your complaint. If you are asking for money damages the court may make you prove the money amount at the default hearing.

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. You can print this page in its entirety or you can scroll down to the Motion form and if you scroll down farther you will find the affidavit. 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 motion:

- (1) on this line insert the name of the tribal court. For example, if you are filing this claim on the Rosebud reservation you would insert Rosebud Sioux on this line.
- (2) on this line insert the name of the reservation where the court is located.
- (3) on this line insert the community where the court is located in which you are filing these

forms.

(4) on this line insert the name of the plaintiff from the court order.

(5) on this line insert the name of the defendant from the court order.

(6) on this line insert your name.

(7) If you are filed your summons and complaint in the Cheyenne River, Sisseton-Wahpeton or the Standing Rock Sioux Tribal Courts insert "20". If you filed your summons and complaint in the Oglala, Flandreau Santee, Crow Creek, Yankton, Lower Brule or Rosebud Sioux Tribal Courts insert "30".

(8) on this line insert the day.

(9) on this line insert the month.

(10) on this line insert the year.

(11) on this line insert your name by signing.

(12) insert the defendant's address you mailed the motion and affidavit to.

(1) _____ TRIBAL COURT)
(2) _____ RESERVATION)SS
(3) _____, SOUTH DAKOTA)

IN CIVIL COURT

(4) _____

DOCKET _____

PLAINTIFF(S)

MOTION FOR DEFAULT
JUDGMENT

VS

(5) _____

DEFENDANT(S)

Comes now (6) _____, plaintiff, and moves this Court to enter a default judgment in this matter. In support of this motion is an attached affidavit incorporated into this motion as if fully set out herein.

That more than (7) _____ days has elapsed since defendant was served with the summons and complaint was served upon defendant and defendant has failed to file an Answer in this matter.

Wherefore, the undersigned prays this court to issue a default judgment in this matter in favor of plaintiff.

Dated this (8) _____ day of (9) _____, (10) _____.

(11) _____
Plaintiff

CERTIFICATE OF SERVICE

I, _____ am the undersigned and certify that I mailed a true and correct copy of this Motion for Default Judgment upon plaintiff/defendant by first class mail at (12) _____.

Dated this (8) _____ day of (9) _____, (10) _____.

(11) _____
Plaintiff

Instructions for filling out the affidavit:

- (1) on this line insert the name of the tribal court. For example, if you are filing this claim on the Rosebud reservation you would insert Rosebud Sioux on this line.
- (2) on this line insert the name of the reservation where the court is located.
- (3) on this line insert the community where the court is located in which you are filing these forms.
- (4) on this line insert the name of the plaintiff from the court order.
- (5) on this line insert the name of the defendant from the court order.
- (6) on this line insert your name.
- (7) insert the date you filed your complaint with the court.
- (8) insert the type of action you filed. For example, if you filed for divorce insert "divorce".
- (9) insert the date that defendant was served with the summons and complaint.
- (10) insert who served defendant with summons and complaint. If it was a process server, insert "Tribal Court Process Server. If it was a law enforcement officer, insert "Tribal Police Officer".
- (11) If you are filed your summons and complaint in the Cheyenne River, Sisseton-Wahpeton or the Standing Rock Sioux Tribal Courts insert "20". If you filed your summons and complaint in the Oglala, Flandreau Santee, Crow Creek, Yankton, Lower Brule or Rosebud Sioux Tribal Courts insert "30".
- (12) on this line insert the day.
- (13) on this line insert the month.
- (14) on this line insert the year.
- (15) on this line insert your name by signing.

(1) _____ TRIBAL COURT)
(2) _____ RESERVATION)SS
(3) _____, SOUTH DAKOTA)

IN CIVIL COURT

(4) _____

DOCKET _____

PLAINTIFF(S)

AFFIDAVIT IN SUPPORT OF
MOTION FOR DEFAULT
JUDGMENT

VS

(5) _____

DEFENDANT(S)

(6) _____, being first duly sworn and upon oath, states and
deposes as follows:

1. That on (7) _____ I filed my summons and complaint for (8) _____
_____.

2. That on (9) _____ defendant was served with summons and complaint by
(10) _____
_____.

3. That proof of service is contained in the court file herein and incorporated into this motion
and affidavit by reference.

4. That more than (11) _____ days have passed since defendant was served with
summons and complaint, exclusive of the day of service.

5. That defendant has failed to Answer my summons and complaint.

6. That defendant is now in default.

Dated this (12) _____ day of (13) _____, (14) _____.

(15) _____
Plaintiff

Sworn and subscribed to before me this _____ day of _____, _____.

My commission expires:

Notary Public

Instructions for filling out the notice of intent:

(1) on this line insert the name of the tribal court. For example, if you are filing this claim on the Rosebud reservation you would insert Rosebud Sioux on this line.

(2) on this line insert the name of the reservation where the court is located.

(3) on this line insert the community where the court is located in which you are filing these forms.

(4) on this line insert your name.

(5) on this line insert the name of the person you are seeking a default judgment.

(6) insert the date and time of the hearing for default judgment.

(7) on this line insert the day.

(8) on this line insert the month.

(9) on this line insert the year.

(10) on this line insert your name by signing.

(1) _____ TRIBAL COURT)
(2) _____ RESERVATION)SS
(3) _____, SOUTH DAKOTA)

IN CIVIL COURT

DOCKET _____

(4) _____

PLAINTIFF(S)

NOTICE OF INTENT TO TAKE
A DEFAULT JUDGMENT

VS

(5) _____

DEFENDANT(S)

TO:(5) _____
_____.

NOTICE IS HEREBY GIVEN that I, (4) _____
have applied to the court for a Default Judgment in this matter and a hearing will be held on
(6) _____ at _____ o'clock __.m. at the courthouse in (3) _____
_____.

Dated this (7) _____ day of (8) _____, (9) _____.

(10) _____
Plaintiff