

Filing a Civil Complaint

Waiver: These instructions and forms are just information. They are not legal advice.

Legal advice depends on the specific circumstances of each situation. The information contained in this document is not guaranteed to be up to date. The information cannot replace the advice of an attorney licensed to practice law.

What forms will I need to file a civil complaint?

You will need to fill out and file the following forms:

- Summons;
- Complaint;
- Praecipe; and
- Request for Hearing or Request for Default Hearing and Entry of Default

In addition to these forms, you may also need the forms listed below:

- Affidavit of Service;
- Affidavit of Publication

The **Summons** tells the Defendant that you have filed a claim against him or her in Tribal Court. It also tells the Defendant that he or she should file an answer within the time allowed to avoid a default judgment.

The **Complaint** is a short and simple statement of your conflict with the Defendant. It asks the Court to enter a money judgment in your favor or order the Defendant to return property to you.

The **Praecipe** asks the Tribal Police to serve the Defendant with the documents and describes where to locate the Defendant.

The **Request for Scheduling Conference** will be filed only if the Defendant files an Answer. It asks the Court to set a Scheduling Conference where the trial date for your case will be set.

The **Request for Default Hearing and Entry of Default** will only be filed if the Defendant does not file an Answer to your Complaint within the time allowed. It

asks the Court to enter judgment in your favor due to the Defendant's failure to contest or answer your Complaint.

The **Affidavit of Service** will only be needed if you are unable to have the Defendant personally served and you can complete service by registered or certified mail. The Affidavit is a sworn statement to the Court that you tried to locate the Defendant for personal service, were unable to do so, and you then sent your forms to the Defendant by registered or certified mail.

The **Affidavit of Publication** will only be needed if you are unable to have the Defendant personally served and, after trying, cannot locate the Defendant by registered or certified mail. The Affidavit is a sworn statement that must be filed with the Clerk of Tribal Court before you will be allowed to serve the Defendant by publication.

What words do I need to know?

Plaintiff- A Plaintiff is someone who files an action in court. You are the Plaintiff in this case.

Defendant- A Defendant is the person who is filed against in court. The other person or business that you are filing against is the Defendant in this case.

Praecipe- A Praecipe is a request to the Tribal Police that they serve the Summons and Complaint on the Defendant.

What do I do with the forms?

- 1 Fill out the forms.
 - Fill out all the blanks on the Summons, Complaint, and Praecipe.
 - Sign and date your Complaint and Praecipe. Your Complaint must be signed in front of a Notary Public.
 - Fill out the top part of your Summons, but leave the signature line blank for the Clerk of Tribal Court to sign.
- 2 Make copies.
 - Make at least two copies of each of your forms once you have them filled out.
- 3 File forms at the Tribal Court.

- Go to the Clerk of Tribal Court's office. File your original Summons and Complaint with the Clerk.
- If you cannot afford the filing fees, ask the Clerk for a fee waiver application.
- Give your copies to the Clerk and ask her to stamp them as "Filed." Keep the copies in a safe place.

4 Have the Defendant personally served.

- You will need to have someone over the age of 18, who is not involved in your case against the Defendant, personally serve the Defendant with a copy of your Summons and Complaint. If the Defendant does not live in the area, you will need to contact the Sheriff in the county where the Defendant lives and ask them to serve copies of your forms on the Defendant. They may charge a fee for service.

Note: Using the Tribal Police or the Sheriff's office is probably the best way to serve the Defendant. A private process server may also serve the papers on the Defendant. However, the Tribal Police, Sheriffs, and private servers usually charge a fee for service. You may also choose to have a family member or friend over the age of 18 who is not involved in the case serve the Respondent for free.

- If, after searching, you cannot locate the Defendant for personal service and you have the Defendant's current address, you may serve the Defendant by restricted delivery, registered or certified mail. You must ask the post office for a return receipt so you will have proof that the Defendant received the papers. You must also complete, sign, and file an Affidavit of Service with the Tribal Court.
- If, after searching, you still cannot locate the Defendant for personal service or through registered or certified mail, the Court may let you serve the Defendant by publication. You must first fill out, sign, and file an affidavit with the Clerk of Court. The Clerk will then issue a Summons by Publication. The Summons must be published in two consecutive issues of the Tribal newspaper and in at least one other

newspaper within the Flathead Reservation once a week for three weeks in a row. You must file a copy of each publication of service certified by the publisher with the Clerk of Tribal Court.

- File your Proof of Service with the Clerk of Tribal Court.
- Give the Sheriff of the county where the Defendant lives or the Tribal Police a self-addressed stamped envelope so they can notify you when the Defendant has been served.

5 Wait for the Defendant to respond.

- The Defendant has 15 working days from the date of service to answer your Complaint. The Defendant should mail you a copy of the Answer, but you should also check with the Clerk of Tribal Court after 15 working days have passed to see if an answer has been filed. The day of service is not counted. (Currently, Fridays, Saturdays, Sundays and Tribal holidays do not count as working days.)
- If the Defendant files an Answer, you must fill out and file the Request for Scheduling Conference. If the Defendant does not file an Answer, you should fill out and file the Request for Default Hearing and Entry of Default.
- The Court will send you an Order after you have filed your Request for Scheduling Conference or Request for Entry of Default. Be sure to check your mail frequently. Write down and remember the date and time for your hearing.

6 Go to your hearing.

- Bring your stamped copies of the forms you filed with the Court.
- Arrive at Court at least 15 minutes prior to your scheduled hearing and check in with the Clerk. Dress like you were going to an important job interview.
- Be prepared to explain why you filed the Complaint and bring any paperwork supporting your claim to the hearing.
- If the Defendant does not show up, ask the Court to enter a default judgment.

Where can I get more information?

The Laws of the Confederated Salish and Kootenai Tribes contain the law on filing civil cases. The laws concerning civil actions can be found in Title IV. CSKT Laws Codified can be found online at www.cskt.org/gov/court-triballawcode.htm

**IN THE TRIBAL COURT OF THE CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, PABLO, MONTANA**

_____,
Plaintiff,
vs.
_____,
Defendant.

)
) Cause No. _____
)
)
)
) **SUMMONS**
)
)
)
)

**THE CONFEDERATED SALISH AND KOOTENAI TRIBES SEND GREETINGS TO
THE ABOVE NAMED RESPONDENT:**

YOU ARE HEREBY SUMMONED to respond to the Petition in this action which is filed in the office of the Clerk of Tribal Court, a copy of which is now served upon you, and to file your response in the office of the Clerk of Tribal Court and serve a copy thereof upon Petitioner or Petitioner’s attorney within 15 working days after the service of this Summons, exclusive of the day of service, Saturdays, Sundays, and Tribal legal holidays. In case of your failure to answer or appear, judgment will be taken against you by default for the relief sought in the petition.

WITNESS my hand and the seal of said Court this _____ day of _____, 20_____.

CLERK OF THE TRIBAL COURT

By: _____
DEPUTY CLERK OF COURT

**IN THE TRIBAL COURT OF THE CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, PABLO, MONTANA**

_____,
Plaintiff,
vs.
_____,
Defendant.

)
) Cause No. _____
)
)
)
) **CERTIFICATE OF SERVICE**
)
)
)
)

The undersigned hereby certifies that he/she personally served the above-entitled Summons and Complaint upon the Respondent named above as follows:

Date/Time: _____
Location: _____

Signed: _____
Police Officer

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Plaintiff Pro Se

**IN THE TRIBAL COURT OF THE CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, PABLO, MONTANA**

_____)	
)	Cause No. _____
Plaintiff,)	
)	
vs.)	COMPLAINT
_____)	
Defendant.)	
)	

COMES NOW, the Plaintiff and alleges the following against the above-named Defendant:

1. Parties

Plaintiff (*You are the Plaintiff in this action.*)

1. Your Name: _____
2. Date of Birth: _____
3. Address: _____

4. Occupation: _____
5. Tribal Affiliation: _____
6. Enrollment Number: _____
7. Length of Residence on Flathead Indian Reservation: _____ years _____ months.

Defendant (*The other party is the Defendant.*)

1. Name: _____
2. Date of Birth: _____
3. Address: _____

4. Occupation: _____
5. Tribal Affiliation: _____
6. Enrollment Number: _____
7. Length of Residence on Flathead Indian Reservation: _____ years _____ months.

2. Jurisdiction

This Court has jurisdiction over this dispute because:

- The dispute occurred within the exterior boundaries of the Flathead Indian Reservation and both parties are enrolled member of federally recognized tribes.
- The dispute occurred within the exterior boundaries of the Flathead Indian Reservation and the Defendant is an enrolled member of a federally recognized tribe. The Plaintiff stipulates that the Tribal Court has jurisdiction of any counterclaims the Defendant may have against the Plaintiff.
- The dispute occurred within the exterior boundaries of the Flathead Indian Reservation and the Plaintiff is an enrolled member of a federally recognized tribe. The Defendant is subject to the Tribal Court's jurisdiction and was involved in (*Choose at least one*):
 - business transactions on the Reservation.
 - owning or possessing an interest in property located on the Reservation.
 - a contract, or performing part of a contract, on the Reservation.
 - injuring or damaging Tribal property or a Tribal member's property.

3. Dispute

(*In a short statement, describe the dispute.*)

DATED this _____ day of _____, 20_____.

STATE OF MONTANA)

: ss

County of _____)

_____, being first duly sworn on oath, says that he/she is the Plaintiff in the above-entitled proceeding, that he/she has read the foregoing Complaint and knows the contents thereof, and that the facts stated therein are true to the best of his/her knowledge and belief.

Plaintiff

SUBSCRIBED AND SWORN to before me this _____ day of _____,
20_____.

(NOTARY SEAL)

Notary Public for the State of Montana

Printed name: _____

Residing at: _____

My Commission Expires: _____

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Plaintiff Pro Se

**IN THE TRIBAL COURT OF THE CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, PABLO, MONTANA**

_____)	
)	Cause No. _____
Plaintiff,)	
)	
vs.)	PRAECIPE
_____)	
Defendant.)	
)	

To: Civil Process Division, Tribal Police Department, Confederated Salish and Kootenai Tribes

Please serve the attached Summons and Complaint on the following Defendant:

Defendant's Full Name: _____

Defendant's Home Address: _____

Times Defendant is at Home: _____

Defendant's Work Address: _____

Times Defendant is at Work: _____

Describe Defendant's Physical Appearance: _____

Please serve the papers on Defendant as soon as possible. Please return proof of service to me at the address listed above.

Date: _____

Plaintiff Pro Se

Print Your Name

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Plaintiff Pro Se

**IN THE TRIBAL COURT OF THE CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, PABLO, MONTANA**

_____)	
)	Cause No. _____
Plaintiff,)	
)	
vs.)	REQUEST FOR SCHEDULING
_____)	CONFERENCE
Defendant.)	
)	

I would like the Court to set a Scheduling Conference. The Defendant has filed an Answer and we are unable to resolve the dispute outside of court.

Date: _____

Plaintiff Pro Se

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Plaintiff Pro Se

**IN THE TRIBAL COURT OF THE CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, PABLO, MONTANA**

_____,
Plaintiff,

vs.

_____,
Defendant.

)
) Cause No. _____
)

**REQUEST FOR DEFAULT HEARING
AND ENTRY OF DEFAULT
JUDGMENT**

I am asking the Court for an Order Granting Default Judgment against the Defendant in this action granting the relief requested in my Complaint. The Defendant has been properly served with the Summons and Complaint and has failed to respond within the time allowed by law. The Defendant was served on (*date*): _____ as shown by the Certificate of Service on the Summons filed with the Court.

I ask that the Court set a date for a default hearing, enter the Defendant's default, and grant judgment by default against the Defendant for the relief requested in the Complaint.

Date: _____

Plaintiff Pro Se