

GUIDELINES FOR OBTAINING A DEFAULT JUDGMENT

July 10, 2014

Fed. R. Civ. P. 55 applies in adversary proceedings. See Fed. R. Bankr. P. 7055. When a party against whom a judgment for affirmative relief is sought fails to plead or otherwise defend within the allotted time, the party seeking affirmative relief may obtain a default judgment by following the procedures set forth in Fed. R. Civ. P. 55:

1. File a return of service (e.g. Summons Service Executed), see Fed. R. Civ. P. 55(a);
2. File an Application for Entry of Certificate of Default, see Fed. R. Civ. P. 55(a);
3. Attach either an affidavit or a statement under penalty of perjury that states:
 - a. date on which Complaint filed;
 - b. date on which service effected;
 - c. method of service;
 - d. deadline for response to Complaint;
 - e. lack of timely response; and
 - f. party opponent is not a minor, is competent and is not a member of the military on active service. See Fed. R. Civ. P. 55(a).
4. Clerk of Court will enter certificate of default; and
5. Upon entry of certificate of default, applicant for default may file a Motion for Default Judgment with Brief in Support, Notice of Opportunity for Hearing and Certificate of Service that:
 - a. complies with Local Rule 9013-1;
 - b. provides fourteen (14) days' notice of opportunity for hearing, see Local Rules 9013-1.D and G;

- c. includes a brief in support, see Local Rule 9013-1.B;
- d. identifies all monetary awards and is supported by affidavit and relevant evidentiary materials; and
- e. includes a certificate of service demonstrating that non-movant timely received notice of opportunity for hearing, see Local Rule 9007-1.D.