

## **GUIDELINES FOR OBTAINING ENTRY OF DEFAULT AND DEFAULT JUDGMENT**

Revised June 1, 2019

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 two-step process set forth in Fed. R. Civ. P. 55 and complying with the following:

### Entry of Default

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 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 of issuance of the summons;
  - c. date on which service effected;
  - d. method of service;
  - e. deadline for responsive pleading;
  - f. lack of timely response; and
  - g. 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 default.

### Default Judgment

1. Upon entry 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.C;
- 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.

The Court may conduct hearings or order referrals as it deems necessary and proper to enter judgment.