



## **I.R.C.P. 55. Default; Default Judgment**

### **Idaho Rules of Civil Procedure Rule 55. Default; Default Judgment.**

#### **(a) Entering a Default.**

(1) *In General.* When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the court must order entry of the party's default. If a party has appeared in the action, that party must be served with 3 days' written notice of the application for entry of default before default may be entered.

#### (2) *Time Limitation.*

(A) *In General.* Default may not be entered, and proof of default may not be presented, before the expiration of the time allowed by these rules for appearance or defense.

(B) *Shortened Time.* Default may be entered earlier if (1) the party required to make the appearance or defense states in a written waiver under oath that the party waives the permitted time for appearance or defense, refuses to plead further, and consents to the immediate hearing of a default proceeding without further notice, and (2) the court enters an order shortening the time for appearance or defense by such party for good cause shown by the affidavit or testimony of the moving party. Upon compliance with this rule, default may be entered, a default proceeding held and judgment by default entered without notice to the defaulting party as though the time for an appearance or defense had expired.

(3) *Uncontested Trial is Not a Default.* This rule does not prevent trial of an action if a responsive pleading has been filed even if the defendant does not participate in the trial or oppose the claim. A trial in this circumstance is not a default hearing.

#### **(b) Entering a Default Judgment.**

(1) *For Sum Certain.* If a claim is for a sum certain or a sum that can be made certain by computation, the court, on the claimant's request, with an affidavit showing the amount due, must order judgment for that amount and costs against the party who has been defaulted for not appearing and who is neither a minor nor an incompetent person and has been personally served, other than by publication or personal service outside of this state. The affidavit must show



the method of computation, together with any original instrument evidencing the claim unless otherwise permitted by the court. An application for a default judgment must also contain written certification of the name of the party against whom judgment is requested and the address most likely to give the defendant notice of the default judgment. The clerk must use this address in giving the party notice of judgment.

(2) *Other Cases.* In all other cases, the party must apply to the court for a default judgment. A default judgment may be entered against a minor or incompetent person only if represented by a general guardian, conservator, or other like fiduciary who has appeared. If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 3 days before the hearing. The court may conduct hearings or make referrals when, to enter or effectuate judgment, it needs to:

- (A) conduct an accounting;
- (B) determine the amount of damages;
- (C) establish the truth of any allegation by evidence; or
- (D) investigate any other matter.

(3) *Name and Address of Defaulting Party.* Any application for a default judgment must contain written certification of the name of the party against whom the judgment is requested and the address most likely to give the party notice of default judgment. The clerk must use the address provided in giving the party notice of judgment.

**(c) Setting Aside Default or Default Judgment.** The court may set aside an entry of default for good cause, and it may set aside a default judgment under Rule 60(b).

**(d) Default Judgment Against the State.** A default judgment may be entered against the State of Idaho, its officers, its agencies, or its political subdivisions only if the claimant establishes a claim or right to relief by evidence that satisfies the court.

[\(Adopted March 1, 2016, effective July 1, 2016 \[1\]; amended September 9, 2016, effective September 9, 2016 \[2\].\)](#)



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**Links**

- [1] <https://isc.idaho.gov/./rules/IRCP/03012016-Adoption-Newly-Formatted.pdf>
- [2] <https://isc.idaho.gov/./rules/IRCP/09092016-Amendments.pdf>