

Local Civil Rule 55.1. Certificate of Default

- (a) A party seeking entry of default under Fed. R. Civ. P. 55(a) must file:
- (1) a “Request to Enter Default,” in a form prescribed by the clerk;
 - (2) an affidavit or declaration showing: (a) that the requirements of Fed. R. Civ. P. 4 for service or waiver of service have been satisfied; and (b) that the party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend;
 - (3) a proposed “Clerk’s Certificate of Default,” in a form prescribed by the clerk; and
 - (4) a certificate of service showing that the foregoing documents have been personally served on, or mailed to the last known residence (for an individual defendant) or business address (for other defendants) of, the party against whom default is sought.
- If the mailing is returned, a supplemental certificate must be filed setting forth that fact, together with the reason provided for return, if any.
- (b) The court, on its own initiative, may enter default or direct the clerk to enter default.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.

Local Civil Rule 55.2. Default Judgment

- (a) In addition to following the applicable procedures in either (b) or (c) below, any party seeking a default judgment must file:
- (1) an affidavit or declaration showing that:
 - (A) the clerk has entered default under Local Civil Rule 55.1;
 - (B) the party seeking default judgment has complied with the Servicemembers Civil Relief Act, 50a U.S.C. § 521; and
 - (C) the party against whom judgment is sought is not known to be a minor or an incompetent person, or, if seeking default judgment by the court,

the minor or incompetent person is represented by a general guardian, conservator, or other fiduciary who has appeared.

- (2) if proceeding by motion, the papers required by Local Civil Rule 7.1, including a memorandum of law, a proposed order detailing the proposed judgment to be entered; and
- (3) a certificate of service stating that all documents in support of the request for default judgment, including the “Clerk’s Certificate of Default” and any papers required by this rule, have been personally served on, or mailed to the last known residence (for an individual defendant) or business address (for other defendants) of, the party against whom default judgment is sought.

If the mailing is returned, a supplemental certificate of service must be filed setting forth that fact, together with the reason provided for return, if any.

- (b) By the Clerk (available under Fed. R. Civ. P. 55(b)(1)). If the claim to which no response has been made seeks payment only of a sum certain or a sum that can be made certain by computation and does not seek attorney’s fees or other substantive relief, the party seeking default judgment, must file, in addition to the documents listed in (a) above, an affidavit or declaration from someone with personal knowledge showing the principal amount due and owing, not exceeding the amount sought in the claim to which no response has been made, plus interest, if any, computed by the party, with credit for all payments received to date clearly set forth, and costs, if any, under 28 U.S.C. § 1920. Upon confirming that the submission complies with the federal and local rules, the clerk must enter judgment for principal, interest, and costs. The clerk cannot enter judgment against a minor or incompetent person.
- (c) By the Court (available under Fed. R. Civ. P. 55(b)(2)). In addition to the matters required in section (a), above, the party must file a statement of damages, sworn or affirmed to by one or more people with personal knowledge, in support of the request, showing the proposed damages and the basis for each element of damages, including interest, attorney’s fees, and costs.

For relevant historical context for this local rule, consult the Appendix of Committee Notes.