Default Judgment Package

**Instructions**

These forms are intended to provide an example of the default and default judgment by process under Local and Federal Rule of Civil Procedure 55. The procedure is a two-step process: (1) entry of default by the Clerk of Court (Fed. R. Civ. P. 55(a)); and (2) entry of default judgment, by the Clerk of Court when the claim is for a sum certain (Fed. R. Civ. P. 55(b)(1)) and by the Court in all other instances (Fed. R. Civ. P. 55(b)(2)).

**Step One – Obtain Clerk’s Entry of Default**

The documents required for obtaining entry of default are:

1. Request for Clerk’s Entry of Default;
2. Affidavit (or Declaration) in Support of Motion for Entry of Default;
3. Proposed form for Clerk’s Entry of Default; and
4. A Certificate of Service indicating that these documents were served upon the defendant.

**Step Two – Obtain Default Judgment**

After the Clerk of Court has entered default, a default judgment may be obtained.

**By the Clerk for Sum Certain**

The documents required for obtaining a default judgment for sum certain are:

1. Request for Entry of Default Judgment for Sum Certain;
2. Affidavit (or Declaration) in Support of Request for Entry of Default Judgment for Sum Certain, showing that the party against whom judgment is sought is not an infant or incompetent person; the party has defaulted in appearance in the action; the amount shown by the statement is justly due and owing and no part thereof has been paid except as therein set forth; and the disbursements sought to be taxed have been made in the action or will necessarily be made or incurred therein;
3. A statement of amount due showing all calculations, not to exceed the amount demanded in the complaint, giving credit for any payments and showing the amounts and dates thereof, a computation of the interest to the day of judgment, and the costs and taxable disbursements claimed (often combined with Affidavit in Support);
4. Proposed form of Default Judgment for Sum Certain containing the last known address of each judgment creditor and judgment debtor (and if unknown, an affidavit by the party seeking default that affiant has no knowledge of the address); and
5. A Certificate of Service indicating that these documents were served upon the defendant.

**By the Court**

An application to the court for the entry of default judgment, pursuant to FRCP 55(b)(2), shall reference and include the docket numbers of the Clerk’s Entry of Default and the pleading to which no response has been made.

**Filing These Documents**

When a pro se party requests the Entry of Default or the Default Judgment for Sum Certain, the original documents must be sent or given to the Clerk of Court for filing, unless they have been given permission to electronically file documents.

E-filers may use the following docketing events to electronically file these documents:

* Request for Clerk’s Entry of Default: use Civil > Other Filings / Other Documents > Request for Clerk’s Entry of Default. Attach all related documents.
* Request or Motion for Entry of Default Judgment for Sum Certain: use Civil > Other Filings / Other Documents > Request for Entry of Default Judgment for Sum Certain. Attach all related documents.
* Affidavits or Declarations: (1) attach the documents to the Request entry; or (2) make separate docket entries using the applicable events located in the Responses and Replies category. Since these documents are in support of the request, they should relate/link to the requests they support.
* Certificates of Service: (1) attach the Certificate of Service an attachment to the Request; or (2) make a separate docket entry using the Certificate of Service event located in the Service of Process category

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

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Click here to enter name of Plaintiff(s),

 Plaintiff(s),

 v. Click to enter case #

Click here to enter name of Defendant(s),

 Defendant(s).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REQUEST FOR ENTRY OF DEFAULT

Plaintiff(s), Click here to enter name, request(s) that the Clerk of Court enter Default against Defendant(s), Click here to enter name, pursuant to Federal Rule of Civil Procedure 55(a). In support of this request Plaintiff relies upon the record in this case and the affidavit submitted herein.

Dated Click here to enter a date.

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 Choose an item.

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Click here to enter name of Plaintiff(s),

 Plaintiff(s),

 v. Click to enter case #

Click here to enter name of Defendant(s),

 Defendant(s).

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AFFIDAVIT IN SUPPORT OF REQUEST FOR ENTRY OF DEFAULT

I, Click here to enter name, being duly sworn, state as follows:

1. I am the Choose an item in the above-entitled action and I am familiar with the file, records and pleadings in this matter.

2. The summons and complaint were filed on Click here to enter a date.

3. Defendant(s) was / were served with a copy of the summons and complaint on Click here to enter a date, as reflected on the docket sheet by the proof of service filed on Click here to enter a date.

4. An answer to the complaint was due on Click here to enter a date.

5. Defendant(s) has / have failed to appear, plead or otherwise defend within the time allowed and, therefore, is / are now in default.

6. Plaintiff requests that the clerk of court enter default against the defendant(s).

Dated Click here to enter a date.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Choose an item

 Sworn to and subscribed before

Me this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_,

20\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public

My Commission Expires: \_\_\_\_\_\_\_\_

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Click here to enter name of Plaintiff(s),

 Plaintiff(s),

 v. Click to enter case #

Click here to enter name of Defendant(s),

 Defendant(s).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ENTRY OF DEFAULT**

 It appearing that Defendant(s)

Click here to enter name of Defendant(s),

are (is) in Default for failure to appear or otherwise defend as required by law, Default is hereby entered as against said defendants on this day of Click here to enter a date.

Mary C. Loewenguth

Clerk of Court

United States District Court

By: Click here to enter text.

Deputy Clerk

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Click here to enter name of Plaintiff(s),

 Plaintiff(s),

 v. Click to enter case #

Click here to enter name of Defendant(s),

 Defendant(s).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CERTIFICATE OF SERVICE**

I, Click here to enter name, hereby certify that I am employed by Click here to enter employer and am of such age and discretion as to be competent to serve papers.

I further certify that on this date I caused a copy of the Request for Entry of Default, Affidavit in Support of Request for Entry of Default and proposed Entry of Default to be placed in a postage-paid envelope addressed to the defendant(s), at the address(es) stated below, which is (are) the last known address(es) of said defendant(s), and deposited said envelope(s) in the United States mail.

Addressee: Click here to enter name(s) and address(es).

Dated Click here to enter a date.

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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

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Click here to enter name of Plaintiff(s),

 Plaintiff(s),

 v. Click to enter case #

Click here to enter name of Defendant(s),

 Defendant(s).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REQUEST FOR ENTRY OF DEFAULT JUDGMENT FOR SUM CERTAIN

Plaintiff(s), Click here to enter name, request(s) that the Clerk of Court enter Judgment by Default against Defendant(s), Click here to enter name, pursuant to Federal Rule of Civil Procedure 55(b)(1) and Local Rule of Civil Procedure 55(a). In support of this request Plaintiff relies upon the record in this case and the statement of amount due and affidavit submitted herein.

Dated Click here to enter a date.

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 Choose an item.

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Click here to enter name of Plaintiff(s),

 Plaintiff(s),

 v. Click to enter case #

Click here to enter name of Defendant(s),

 Defendant(s).

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**AFFIDAVIT IN SUPPORT OF REQUEST FOR DEFAULT JUDGMENT FOR SUM CERTAIN and STATEMENT OF AMOUNT DUE**

I, Click here to enter name, being duly sworn, state as follows:

1. I am the Choose an item in the above-entitled action and I am familiar with the file, records and pleadings in this matter.

2. The amount due in this action is:

Click here to enter calculations showing amout due.

3. This action was filed on or about Enter date case filed. Proof of service documents duly filed in the docket of this case show that defendant was served with the Summons and Complaint in this action more than twenty (20) days ago, that defendant is not in military service, or an infant or incompetent.

4. Defendant did not answer or otherwise appear in the above-entitled action and time to do so has lapsed.

5. Pursuant to Federal Rule 55(a) of the Federal Rules of Civil Procedure, the Clerk of the Court entered a Certificate of the Entry of Default against the defendant(s), Enter name(s) of defendant(s), on Enter a date of Clerk’s Entry of Default.

6. Upon information and belief, the amount of Enter total amount due is justly due and owing and no part thereof has been paid except as herein set forth.

7. The disbursements set forth in this affidavit and sought to be taxed have been made in the action or will necessarily be made or incurred therein.

Dated Click here to enter a date.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Choose an item

Sworn to and subscribed before

Me this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_,

20\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public

My Commission Expires: \_\_\_\_\_\_\_\_

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Click here to enter text.,

 Plaintiff(s),

 v. Click here to enter text.

Click here to enter text.,

 Defendant(s).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JUDGMENT FOR SUM CERTAIN
BY DEFAULT

Defendant(s), Click here to enter defendant, was served with the Summons and Complaint in this action on or about Click here to enter date of service and the time for defendant(s) to appear, answer or move against the Complaint has expired without an appearance by defendant; accordingly, pursuant to Rule 55(b)(1) of the Federal Rules of Civil Procedure and Rule 55 of the Local Rules of Practice of the United States District Court for the Western District of New York, it is hereby

 ADJUDGED that the plaintiff(s), Click here to enter plaintiff, recover from the defendant(s) the sum of $Click here to enter principal amount, the amount claimed plus Click here to enter description of adjustments to the principal amount (interest, costs, etc), amounting in all to $Click here to enter total amount, plus interest on the judgment at the legal rate until the judgment is satisfied, and that the plaintiff have execution therefore.

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Mary C. Loewenguth

Clerk of Court

United States District Court

JUDGMENT ENTERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_\_\_\_\_\_\_\_, 2017.

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Click here to enter name of Plaintiff(s),

 Plaintiff(s),

 v. Click to enter case #

Click here to enter name of Defendant(s),

 Defendant(s).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CERTIFICATE OF SERVICE**

I, Click here to enter name, hereby certify that I am employed by Click here to enter employer and am of such age and discretion as to be competent to serve papers.

I further certify that on this date I caused a copy of the Request for Default Judgment, Affidavit in Support of Request for Default and Statement of Amount Due, and proposed Default Judgment to be placed in a postage-paid envelope addressed to the defendant(s), at the address(es) stated below, which is (are) the last known address(es) of said defendant(s), and deposited said envelope(s) in the United States mail.

Addressee: Click here to enter name(s) and address(es).

Dated Click here to enter a date.

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