

## **Rule 55. Default**

(a) Entry. Where a defendant or respondent has failed to plead, or to appear in Court although ordered to do so, the plaintiff or petitioner shall be entitled to an entry of default by the Clerk. To obtain an entry of default, plaintiff or petitioner shall file with the Clerk a statement, made under oath, reciting that (i) proof of service has been filed, (ii) the time for the adverse party to plead or appear in Court has passed; and (iii) there has been compliance with the Soldiers and Sailors Civil Relief Act of 1940. The statement in support of a request for entry of default need not be served on the defendant or respondent. These procedures do not apply to proceedings otherwise covered by statute or rule, including those to determine paternity.

(b) Notice and hearing. Upon the filing of a sufficient statement as provided in paragraph (a) of this Rule, the Clerk shall enter the fact of the default on the docket and assign the case to a judicial officer pursuant to SCR-Dom Rel 40. Unless otherwise directed by the assigned judicial officer, the Clerk shall send written notice to all parties reciting (i) that a default was entered on the docket on the date entered; (ii) the date scheduled for a hearing on the merits; (iii) a warning that the hearing will proceed and a judgment or order may be entered against the defendant or respondent; and (iv) the terms of SCR-Dom Rel 55(c) for setting aside the default. Such notice need not be sent where original service of process in the case was made by publication.

(c) Setting aside default. Upon motion to set aside the default, and for good cause shown, the Court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with SCR-Dom Rel 60(b). Whether or not the default is set aside, the Court may conduct or continue the hearing, require an answer to be filed, and impose such sanctions or limitations on discovery or presentation of evidence as the Court deems appropriate. Upon the filing of a new or additional claim by any party, a party against whom a default has been entered may appear and respond without having the default set aside.

(d) Plaintiffs or counterclaimants. The provisions of this Rule apply whether the party entitled to the judgment by default is a plaintiff, or a party who has pleaded a counterclaim. Except with respect to child support, a judgment by default is subject to the limitations of SCR-Dom Rel 54(c).

## **COMMENT**

The procedures for default contained in this Rule do not apply to proceedings to determine paternity (see D.C. Code § 16-2341 et seq.; SCR-Dom Rel 405). The statement required under paragraph (a) of this Rule may be submitted by use of a court form, if available. Because, unlike Civil actions, Domestic Relations actions often involve issues over which the Court has continuing jurisdiction, paragraph (c) allows a party in default to appear and respond to new or additional claims raised by any party without having the default set aside.