

RULE 13. Default

(A) A party seeking a default judgment pursuant to Civil Rule 55 shall file a written motion with the Clerk of Courts. If the claim is liquidated, in addition to the motion, the moving party shall file an affidavit containing sufficient information in support of the claim. After filing the motion with the Clerk of Courts, the moving party shall leave a time stamped copy of the motion and the affidavit with the Court of Common Pleas Magistrate along with the proposed judgment entry. If the claim is unliquidated, and/or if the party against whom judgment by default is sought has appeared in the action, a hearing is required before the Court of Common Pleas Magistrate. Counsel shall schedule the hearing on the motion for default with the Assignment Commissioner.

If the party against whom judgment by default is sought has appeared in the action, he/she shall be served with written notice of the application for judgment at least seven days prior to the hearing on such application.

(B) At the hearing on the unliquidated claim, the party requesting the default shall present to the Magistrate evidence to support the award of the default. The Magistrate may require testimony under oath. The Magistrate shall upon the conclusion of the hearing, having been satisfied that service of summons and complaint has been obtained, and that the evidence presented establishes the party's entitlement thereto, cause to be prepared the Magistrate's Decision and file the same with the Clerk of Courts. The Magistrate's decision shall set forth the date service of process was obtained, set forth the nature of the claim and the amount so claimed. Copies of the Magistrate's decision shall be served upon the parties or their attorneys by the Clerk of Courts, such notice to contain language that Objections to the Magistrate's Decision must be filed within 14 days of the filing thereof.

(C) If, at the hearing before the Magistrate, any opposition develops to the granting of the default judgment, the Magistrate shall take no action but shall advise counsel for the moving party to set the matter before the assigned Trial Judge unless the case had previously been referred to the Magistrate.

(D) Following the expiration of 17 days after filing of the Magistrate's Decision, with no Objection being filed, the moving party shall present a Default Judgment Entry to the assigned Trial Judge.

(E) In foreclosure actions the order of reference to the Magistrate shall include pre and post judgment proceedings.

(Amended effective January 1, 2012)