

## RULE 13. Default

### **(A) Liquidated Damages and No Appearance by Non-Moving Party**

- (1) A party moving for a default Judgment with liquidated damages shall file an affidavit along with their motion for default Judgment containing sufficient information in support of the damages claim. The moving party must also file a military affidavit if the defaulting party is an individual, setting forth whether or not that party is an active member of the armed service.
- (2) After filing the motion with the Clerk of Courts, the moving party shall leave a time stamped copy of the motion and affidavit(s) with the Court of Common Pleas Magistrate along with the proposed Judgment entry.

### **(B) Unliquidated Damages/Non-Moving Party has Made an Appearance**

- (1) If a damage claim is unliquidated, and/or if the party against whom the 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.
- (2) Prior to the hearing, the moving party must file a military affidavit if the defaulting party is an individual, setting forth whether or not that party is an active member of the armed forces.
- (3) 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.
- (4) At the hearing on unliquidated claim, the party requesting the default shall present to the Magistrate sufficient evidence to support the award of the default. The Magistrate may require testimony under oath.
- (5) If, at the hearing before the magistrate, any opposition develops to the granting of the default Judgment or damages, 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.

(6) Following the docketing of a Magistrate's Decision, at the end of the objection period, the prevailing party shall present a Default Judgment Entry to the assigned Trial Judge.

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

**Effective: (March 1, 2023)**