

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

IN RE:

	§	
	§	
	§	BK NO.
	§	
Debtor(s).	§	
	§	
	§	
	§	
Plaintiff(s),	§	
v.	§	AP NO.
	§	
	§	
	§	
Defendant(s).	§	

**APPLICATION TO CLERK FOR ENTRY OF DEFAULT**

The Plaintiff(s) in the above-captioned Adversary Proceeding, pursuant to Rule 55 of the Federal Rules of Civil Procedure and Bankruptcy Rule 7055, hereby makes application to the Clerk for Entry of Default for the Plaintiff(s) against \_\_\_\_\_, Defendant(s), for failure of said Defendant(s) to plead or otherwise defend. Said failure of Defendant(s) to plead or otherwise defend is set forth in the affidavit immediately following this Application.

Plaintiff, by Its/His/Her Attorney

\_\_\_\_\_

**AFFIDAVIT OF FAILURE TO PLEAD OR DEFEND**

The undersigned, being duly sworn, upon oath deposes and says:

- 1) That (s)he is the attorney of record for the Plaintiff(s) and has personal knowledge of the facts set forth in this affidavit;
- 2) That the Plaintiff(s) on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, filed in this action a Complaint against the Defendant(s);

- 3) That the summons was issued in this matter on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, with the Defendant(s) required to submit a motion or answer to the Complaint by the \_\_\_\_ day of \_\_\_\_\_, 20\_\_;
- 4) That the summons issued in this matter on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, was served on the Defendant(s) on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_;
- 5) That evidence of service of the summons on the Defendant(s) was filed with the Court on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_;
- 6) That not less than \_\_\_\_ days have elapsed since service of the Summons and Complaint upon the Defendant(s);
- 7) That examination of the Court files and records in this action shows that the Defendant(s) have failed to plead or otherwise defend as to the Plaintiff's Complaint;
- 8) That this Affidavit is executed by the affiant herein for the purpose of enabling the Plaintiff(s) to obtain an Entry of Default against the Defendant(s) for failure to plead or otherwise defend as to the Plaintiff's Complaint.

\_\_\_\_\_, Affiant

Subscribed and sworn to before me at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

### **AFFIDAVIT AS TO COMPETENCY AND NON-MILITARY SERVICE**

The undersigned, being duly sworn, upon oath deposes and says:

That the Defendant(s) is/are not now, nor at the time of the commencement of this action was/were, in the Military Service of the United States as defined in Article 1 of the "Soldiers' and Sailors' Civil Relief Act of 1940", as amended, nor an infant(s) nor an incompetent(s), and presently reside(s) at \_\_\_\_\_ in the \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_, Affiant

Subscribed and sworn to before me at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public