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Default Judgment

Default judgment is passed when the defendant does not contest the case and is an *ex parte* to the case. It is a binding judgment in favor of the plaintiff when the defendant has not responded to a summons or has failed to appear before a court of law.

In a civil trial involving damages, a default judgment will enter the amount of damages pleaded in the original complaint. A defendant can have a default judgment vacated, or set aside, by filing a motion, after the judgment is entered, by showing of a proper excuse.

A default judgment may be entered either by the clerk or by the Court under the federal rules. Under the Federal Rules of Civil Procedure Rule 55, a judgment is a default judgment when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default. If the plaintiff's claim is for a sum certain or a sum that can be made certain by computation, the clerk on the plaintiff's request must enter judgment for that amount against a defendant.

In all other cases, the party must apply to the court for a default judgment. A default judgment may be entered against a minor or incompetent person only if represented by a guardian.

If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 7 days before the hearing. The court may set aside an entry of default for good cause, and it may set aside a default judgment under Rule 60(b).

A default judgment may be entered against the United States, its officers, or its agencies only if the claimant establishes a claim or right to relief by evidence that satisfies the court.

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