Local Rule 7055-1 Default Judgment (2014)

(a) Default Certificate. A party applying for default judgment under Fed. R. Bankr. P. 7055 must, at or prior to the time of filing the application, file a certificate of default as to the party in default. If the proposed certificate of default is accompanied by an affidavit showing that the party against whom judgment is sought has failed to plead or otherwise defend and if service of the summons and complaint appears to be proper, the clerk shall enter the party's default.

(b) Judgment by Default Entered by Clerk. A proposed judgment by default filed in accordance with Fed. R. Bankr. P. 7055 [1] for signature and entry by the clerk in accordance with that rule and Local Rule 5003-1(a)(1) [2] must be accompanied by a declaration that the person against whom judgment is sought is neither an infant or an incompetent person, nor in the armed forces within the meaning of the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. § 520(1) [3].

(c) Judgment by Default Entered by Court. In all other cases, the party entitled to judgment must apply to the court in accordance with Fed. R. Bankr. P. 7055 [1]. If the party against whom judgment is sought has appeared in the proceeding, the party seeking default judgment shall give notice of the application for default judgment to the attorney for the party as required by Fed. R. Bankr. P. 7055 [1]. If the party entitled to judgment is seeking relief under § 523 or § 727 of the Code, the applicant must schedule a hearing on the application and shall give notice of the hearing to the debtor and the debtor's attorney.

(d) Clerk's Action Reviewable. The actions of the clerk under this rule may be reviewed, suspended, altered or rescinded by the court.

COMMENT (2014)

This rule has been amended to clarify procedures for entry of default and default judgments. If the complaint seeks relief under § 523 or § 727, plaintiff must schedule a hearing on the application for default judgment. Otherwise, no hearing on the application is required but if the party against whom judgment is sought has appeared in the proceeding, the party seeking default judgment shall give notice of the application to the attorney for that party.

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Links
[1] https://www.law.cornell.edu/rules/frbp/rule_7055
[2] https://www.utb.uscourts.gov/local-rules/2014/5003/1
[3] https://www.law.cornell.edu/uscode/html/uscode50a/usc_sup_05_50.html