

1 **DEFAULT ORDERS AND JUDGMENTS**

2 **RULE 69**

3 **A In general.**

4 A(1) When a party against whom a judgment for affirmative relief is sought has been  
5 served with summons pursuant to Rule 7 or is otherwise subject to the jurisdiction of the court  
6 and has failed to appear by filing a motion or answer, or otherwise to defend as provided in  
7 these rules or applicable statute, the party seeking affirmative relief may apply for an order of  
8 default and a judgment by default by filing motions and affidavits or declarations in compliance  
9 with this rule.

10 A(2) The provisions of this rule apply whether the party entitled to an order of default  
11 and judgment by default is: a plaintiff[,]; a third party plaintiff[, *or*]; a party who has pleaded a  
12 counterclaim or cross-claim; **or a party who has filed a motion and obtained an order to show**  
13 **cause seeking to set aside, alter, or modify a judgment in a domestic relations proceeding, or**  
14 **a party who has filed a cross-motion to such a motion.**

15 A(3) In all cases a judgment by default is subject to the provisions of Rule 67 B.

16 **B Intent to appear; notice of intent to apply for an order of default.**

17 B(1) For the purposes of avoiding a default, a party may provide written notice of intent  
18 to file an appearance to a plaintiff, counterclaimant, [*or*] cross-claimant, **or movant.**

19 B(2) If the party against whom an order of default is sought has filed an appearance in  
20 the action, or has provided written notice of intent to file an appearance **but has failed to**  
21 **appear by filing a motion or answer or otherwise to defend within the time required by Rule**  
22 **7 C(2) or other applicable rule or statute, [then] the movant must file and serve a** notice of  
23 [*the*] intent to apply for an order of default [*must be filed and served*] at least 10 days, unless  
24 shortened by the court, prior to applying for the order of default. The notice of intent to apply  
25 for an order of default must be in the form prescribed by Uniform Trial Court Rule 2.010 and  
26 must be filed with the court and served on the party against whom an order of default is

1 | sought.

2 | **C Motion for order of default.**

3 | C(1) The party seeking default must file a motion for order of default. That motion must  
4 | be accompanied by an affidavit or declaration to support that default is appropriate and  
5 | contain facts sufficient to establish the following:

6 | C(1)(a) that the party to be defaulted has been served with summons pursuant to Rule  
7 | 7 or is otherwise subject to the jurisdiction of the court;

8 | C(1)(b) that the party against whom the order of default is sought has failed to appear  
9 | by filing a motion or answer, or otherwise to defend as provided by these rules or applicable  
10 | statute;

11 | C(1)(c) whether written notice of intent to appear has been received by the movant  
12 | and, if so, whether written notice of intent to apply for an order of default was filed and served  
13 | at least 10 days, or any shortened period of time ordered by the court, prior to filing the  
14 | motion;

15 | C(1)(d) whether, to the best knowledge and belief of the party seeking an order of  
16 | default, the party against whom judgment is sought is or is not incapacitated as defined in ORS  
17 | 125.005, a minor, a protected person as defined in ORS 125.005, or a respondent as defined in  
18 | ORS 125.005; and

19 | C(1)(e) whether the party against whom the order is sought is or is not a person in the  
20 | military service, or stating that the movant is unable to determine whether or not the party  
21 | against whom the order is sought is in the military service as required by Section 201(b)(1) of  
22 | the Servicemembers Civil Relief Act, 50 App. U.S.C.A. §521, as amended.

23 | C(2) If the party seeking default states in the affidavit or declaration that the party  
24 | against whom the order is sought:

25 | C(2)(a) is incapacitated as defined in ORS 125.005, a minor, a protected person as  
26 | defined in ORS 125.005, or a respondent as defined in ORS 125.005, an order of default may be

1 entered against the party against whom the order is sought only if a guardian ad litem has  
2 been appointed or the party is represented by another person as described in Rule 27;

3 C(2)(b) is a person in the military service, an order of default may be entered against  
4 the party against whom the order is sought only in accordance with the Servicemembers Civil  
5 Relief Act.

6 C(3) The court may grant an order of default if it appears the motion and affidavit or  
7 declaration have been filed in good faith and good cause is shown that entry of such an order is  
8 proper.

9 **D Motion for judgment by default.**

10 D(1) A party seeking a judgment by default must file a motion, supported by affidavit or  
11 declaration. Specifically, the moving party must show:

12 D(1)(a) that an order of default has been granted or is being applied for  
13 contemporaneously;

14 D(1)(b) what relief is sought, including any amounts due as claimed in the pleadings;

15 D(1)(c) whether costs, disbursements, and/or attorney fees are allowable based on a  
16 contract, statute, rule, or other legal provision, in which case a party may include costs,  
17 disbursements, and attorney fees to be awarded pursuant to Rule 68.

18 D(2) The form of judgment submitted shall comply with all applicable rules and  
19 statutes.

20 D(3) The court, acting in its discretion, may conduct a hearing, make an order of  
21 reference, or order that issues be tried by a jury, as it deems necessary and proper, in order to  
22 enable the court to determine the amount of damages or to establish the truth of any  
23 averment by evidence or to make an investigation of any other matter. The court may  
24 determine the truth of any matter upon affidavits or declarations.

25 **E Certain motor vehicle cases.** No order of default shall be entered against a defendant  
26 served with summons pursuant to Rule 7 D(4)(a)(i) unless, in addition to the requirements in

1 Rule 7 D(4)(a)(i), the plaintiff submits an affidavit or a declaration showing:

2 E(1) that the plaintiff has complied with Rule 7 D(4)(a)(i);

3 E(2) whether the identity of the defendant's insurance carrier is known to the plaintiff  
4 or could be determined from any records of the Department of Transportation accessible to  
5 the plaintiff; and

6 E(3) if the identity of the defendant's insurance carrier is known, that the plaintiff not  
7 less than 30 days prior to the application for an order of default mailed a copy of the summons  
8 and the complaint, together with notice of intent to apply for an order of default, to the  
9 insurance carrier by first class mail and by any of the following: certified, registered, or express  
10 mail, return receipt requested; or that the identity of the defendant's insurance carrier is  
11 unknown to the plaintiff.

12 **F Setting aside an order of default or judgment by default.** For good cause shown, the  
13 court may set aside an order of default. If a judgment by default has been entered, the court  
14 may set it aside in accordance with Rule 71 B and C.

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11 and judgment by default is: a plaintiff[,] a third party plaintiff[, or]; a party who has pleaded a  
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13 **cause seeking to set aside, alter, or modify a judgment in a domestic relations proceeding, or**  
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18 to file an appearance to a plaintiff, counterclaimant, [or] cross-claimant, **or movant.**

19 B(2) If the party against whom an order of default is sought has filed an appearance in  
20 the action, or has provided written notice of intent to file an appearance, then notice of the  
21 intent to apply for an order of default must be filed and served at least 10 days, unless  
22 shortened by the court, prior to applying for the order of default. **The notice of intent to apply**  
23 **for an order of default cannot be served before the time required by Rule 7 C(2) or other**  
24 **applicable rule or statute has expired.** The notice of intent to apply for an order of default  
25 must be in the form prescribed by Uniform Trial Court Rule 2.010 and must be filed with the  
26 court and served on the party against whom an order of default is sought.

1           **C Motion for order of default.**

2           C(1) The party seeking default must file a motion for order of default. That motion must  
3 be accompanied by an affidavit or declaration to support that default is appropriate and  
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5           C(1)(a) that the party to be defaulted has been served with summons pursuant to Rule  
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7           C(1)(b) that the party against whom the order of default is sought has failed to appear  
8 by filing a motion or answer, or otherwise to defend as provided by these rules or applicable  
9 statute;

10          C(1)(c) whether written notice of intent to appear has been received by the movant  
11 and, if so, whether written notice of intent to apply for an order of default was filed and served  
12 at least 10 days, or any shortened period of time ordered by the court, prior to filing the  
13 motion;

14          C(1)(d) whether, to the best knowledge and belief of the party seeking an order of  
15 default, the party against whom judgment is sought is or is not incapacitated as defined in ORS  
16 125.005, a minor, a protected person as defined in ORS 125.005, or a respondent as defined in  
17 ORS 125.005; and

18          C(1)(e) whether the party against whom the order is sought is or is not a person in the  
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20 against whom the order is sought is in the military service as required by Section 201(b)(1) of  
21 the Servicemembers Civil Relief Act, 50 App. U.S.C.A. §521, as amended.

22          C(2) If the party seeking default states in the affidavit or declaration that the party  
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24          C(2)(a) is incapacitated as defined in ORS 125.005, a minor, a protected person as  
25 defined in ORS 125.005, or a respondent as defined in ORS 125.005, an order of default may be  
26 entered against the party against whom the order is sought only if a guardian ad litem has

1 | been appointed or the party is represented by another person as described in Rule 27;

2 |       C(2)(b) is a person in the military service, an order of default may be entered against  
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9 |       D(1) A party seeking a judgment by default must file a motion, supported by affidavit or  
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13 |       D(1)(b) what relief is sought, including any amounts due as claimed in the pleadings;

14 |       D(1)(c) whether costs, disbursements, and/or attorney fees are allowable based on a  
15 | contract, statute, rule, or other legal provision, in which case a party may include costs,  
16 | disbursements, and attorney fees to be awarded pursuant to Rule 68.

17 |       D(2) The form of judgment submitted shall comply with all applicable rules and  
18 | statutes.

19 |       D(3) The court, acting in its discretion, may conduct a hearing, make an order of  
20 | reference, or order that issues be tried by a jury, as it deems necessary and proper, in order to  
21 | enable the court to determine the amount of damages or to establish the truth of any  
22 | averment by evidence or to make an investigation of any other matter. The court may  
23 | determine the truth of any matter upon affidavits or declarations.

24 |       **E Certain motor vehicle cases.** No order of default shall be entered against a defendant  
25 | served with summons pursuant to Rule 7 D(4)(a)(i) unless, in addition to the requirements in  
26 | Rule 7 D(4)(a)(i), the plaintiff submits an affidavit or a declaration showing:

1 E(1) that the plaintiff has complied with Rule 7 D(4)(a)(i);

2 E(2) whether the identity of the defendant's insurance carrier is known to the plaintiff  
3 or could be determined from any records of the Department of Transportation accessible to  
4 the plaintiff; and

5 E(3) if the identity of the defendant's insurance carrier is known, that the plaintiff not  
6 less than 30 days prior to the application for an order of default mailed a copy of the summons  
7 and the complaint, together with notice of intent to apply for an order of default, to the  
8 insurance carrier by first class mail and by any of the following: certified, registered, or express  
9 mail, return receipt requested; or that the identity of the defendant's insurance carrier is  
10 unknown to the plaintiff.

11 **F Setting aside an order of default or judgment by default.** For good cause shown, the  
12 court may set aside an order of default. If a judgment by default has been entered, the court  
13 may set it aside in accordance with Rule 71 B and C.



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11 and judgment by default is: a plaintiff[,]; a third party plaintiff[, or]; a party who has pleaded a  
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17 B(1) For the purposes of avoiding a default, a party may provide written notice of intent  
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19 B(2) If the party against whom an order of default is sought has filed an appearance in  
20 the action, or has provided written notice of intent to file an appearance, then notice of the  
21 intent to apply for an order of default must be filed and served at least 10 days, unless  
22 shortened by the court, prior to applying for the order of default. **The notice of intent to apply**  
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8 by filing a motion or answer, or otherwise to defend as provided by these rules or applicable  
9 statute;

10          C(1)(c) whether written notice of intent to appear has been received by the movant  
11 and, if so, whether written notice of intent to apply for an order of default was filed and served  
12 at least 10 days, or any shortened period of time ordered by the court, prior to filing the  
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18          C(1)(e) whether the party against whom the order is sought is or is not a person in the  
19 military service, or stating that the movant is unable to determine whether or not the party  
20 against whom the order is sought is in the military service as required by Section 201(b)(1) of  
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22          C(2) If the party seeking default states in the affidavit or declaration that the party  
23 against whom the order is sought:

24          C(2)(a) is incapacitated as defined in ORS 125.005, a minor, a protected person as  
25 defined in ORS 125.005, or a respondent as defined in ORS 125.005, an order of default may be  
26 entered against the party against whom the order is sought only if a guardian ad litem has

1 | been appointed or the party is represented by another person as described in Rule 27;

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5 |       C(3) The court may grant an order of default if it appears the motion and affidavit or  
6 | declaration have been filed in good faith and good cause is shown that entry of such an order is  
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8 |       **D Motion for judgment by default.**

9 |       D(1) A party seeking a judgment by default must file a motion, supported by affidavit or  
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24 |       **E Certain motor vehicle cases.** No order of default shall be entered against a defendant  
25 | served with summons pursuant to Rule 7 D(4)(a)(i) unless, in addition to the requirements in  
26 | Rule 7 D(4)(a)(i), the plaintiff submits an affidavit or a declaration showing:

1 E(1) that the plaintiff has complied with Rule 7 D(4)(a)(i);

2 E(2) whether the identity of the defendant's insurance carrier is known to the plaintiff  
3 or could be determined from any records of the Department of Transportation accessible to  
4 the plaintiff; and

5 E(3) if the identity of the defendant's insurance carrier is known, that the plaintiff not  
6 less than 30 days prior to the application for an order of default mailed a copy of the summons  
7 and the complaint, together with notice of intent to apply for an order of default, to the  
8 insurance carrier by first class mail and by any of the following: certified, registered, or express  
9 mail, return receipt requested; or that the identity of the defendant's insurance carrier is  
10 unknown to the plaintiff.

11 **F Setting aside an order of default or judgment by default.** For good cause shown, the  
12 court may set aside an order of default. If a judgment by default has been entered, the court  
13 may set it aside in accordance with Rule 71 B and C.

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24 court and served on the party against whom an order of default is sought.

25 **C Motion for order of default.**

26 C(1) The party seeking default must file a motion for order of default. That motion

1 must be accompanied by an affidavit or declaration to support that default is appropriate and  
2 contain facts sufficient to establish the following:

3 C(1)(a) that the party to be defaulted has been served with summons pursuant to Rule  
4 7 or is otherwise subject to the jurisdiction of the court;

5 C(1)(b) that the party against whom the order of default is sought has failed to appear  
6 by filing a motion or answer, or otherwise to defend as provided by these rules or applicable  
7 statute;

8 C(1)(c) whether written notice of intent to appear has been received by the movant  
9 and, if so, whether written notice of intent to apply for an order of default was filed and served  
10 at least 10 days, or any shortened period of time ordered by the court, prior to filing the  
11 motion;

12 C(1)(d) whether, to the best knowledge and belief of the party seeking an order of  
13 default, the party against whom judgment is sought is or is not incapacitated as defined in ORS  
14 125.005, a minor, a protected person as defined in ORS 125.005, or a respondent as defined in  
15 ORS 125.005; and

16 C(1)(e) whether the party against whom the order is sought is or is not a person in the  
17 military service, or stating that the movant is unable to determine whether or not the party  
18 against whom the order is sought is in the military service as required by Section 201(b)(1) of  
19 the Servicemembers Civil Relief Act, 50 App. [U.S.C.A.] U.S.C. §521, as amended.

20 C(2) If the party seeking default states in the affidavit or declaration that the party  
21 against whom the order is sought:

22 C(2)(a) is incapacitated as defined in ORS 125.005, a minor, a protected person as  
23 defined in ORS 125.005, or a respondent as defined in ORS 125.005, an order of default may be  
24 entered against the party against whom the order is sought only if a guardian ad litem has  
25 been appointed or the party is represented by another person as described in Rule 27;

26 C(2)(b) is a person in the military service, an order of default may be entered against

1 | the party against whom the order is sought only in accordance with the Servicemembers Civil  
2 | Relief Act.

3 |       C(3)    The court may grant an order of default if it appears the motion and affidavit or  
4 | declaration have been filed in good faith and good cause is shown that entry of such an order is  
5 | proper.

6 |       **D       Motion for judgment by default.**

7 |       D(1)    A party seeking a judgment by default must file a motion, supported by affidavit  
8 | or declaration. Specifically, the moving party must show:

9 |       D(1)(a)       that an order of default has been granted or is being applied for  
10 | contemporaneously;

11 |       D(1)(b)       what relief is sought, including any amounts due as claimed in the  
12 | pleadings;

13 |       D(1)(c) whether costs, disbursements, and/or attorney fees are allowable based on a  
14 | contract, statute, rule, or other legal provision, in which case a party may include costs,  
15 | disbursements, and attorney fees to be awarded pursuant to Rule 68.

16 |       D(2)    The form of judgment submitted shall comply with all applicable rules and  
17 | statutes.

18 |       D(3)    The court, acting in its discretion, may conduct a hearing, make an order of  
19 | reference, or order that issues be tried by a jury, as it deems necessary and proper, in order to  
20 | enable the court to determine the amount of damages or to establish the truth of any  
21 | averment by evidence or to make an investigation of any other matter. The court may  
22 | determine the truth of any matter upon affidavits or declarations.

23 |       **E       Certain motor vehicle cases.** No order of default shall be entered against a  
24 | defendant served with summons pursuant to Rule 7 D(4)(a)(i) unless, in addition to the  
25 | requirements in Rule 7 D(4)(a)(i), the plaintiff submits an affidavit or a declaration showing:

26 |       E(1)    that the plaintiff has complied with Rule 7 D(4)(a)(i);

1           E(2) whether the identity of the defendant’s insurance carrier is known to the  
2 plaintiff or could be determined from any records of the Department of Transportation  
3 accessible to the plaintiff; and

4           E(3) if the identity of the defendant’s insurance carrier is known, that the plaintiff  
5 not less than 30 days prior to the application for an order of default mailed a copy of the  
6 summons and the complaint, together with notice of intent to apply for an order of default, to  
7 the insurance carrier by first class mail and by any of the following: certified, registered, or  
8 express mail, return receipt requested; or that the identity of the defendant’s insurance carrier  
9 is unknown to the plaintiff.

10           **F       Setting aside an order of default or judgment by default.** For good cause  
11 shown, the court may set aside an order of default. If a judgment by default has been entered,  
12 the court may set it aside in accordance with Rule 71 B and C.

1 **DEFAULT ORDERS AND JUDGMENTS**

2 **RULE 69**

3 **A In general.**

4 A(1) When a party against whom a judgment for affirmative relief is sought has been  
5 served with summons pursuant to Rule 7 or is otherwise subject to the jurisdiction of the court  
6 and has failed to appear by filing a motion or answer, or otherwise to defend as provided in  
7 these rules or applicable statute, the party seeking affirmative relief may apply for an order of  
8 default and a judgment by default by filing motions and affidavits or declarations in compliance  
9 with this rule.

10 A(2) The provisions of this rule apply whether the party entitled to an order of  
11 default and judgment by default is a plaintiff, a third party plaintiff, or a party who has pleaded  
12 a counterclaim or cross-claim.

13 A(3) In all cases a judgment by default is subject to the provisions of Rule 67 B.

14 **B Intent to appear; notice of intent to apply for an order of default.**

15 B(1) For the purposes of avoiding a default, a party may provide written notice of  
16 intent to file an appearance to a plaintiff, counterclaimant, or cross-claimant.

17 B(2) If the party against whom an order of default is sought has filed an appearance  
18 in the action, or has provided written notice of intent to file an appearance, then notice of the  
19 intent to apply for an order of default must be filed and served at least 10 days, unless  
20 shortened by the court, prior to applying for the order of default. **The notice of intent to apply**  
21 **for an order of default cannot be served before the time required by Rule 7 C(2) or other**  
22 **applicable rule or statute has expired.** The notice of intent to apply for an order of default  
23 must be in the form prescribed by Uniform Trial Court Rule 2.010 and must be filed with the  
24 court and served on the party against whom an order of default is sought.

25 **C Motion for order of default.**

26 C(1) The party seeking default must file a motion for order of default. That motion

1 must be accompanied by an affidavit or declaration to support that default is appropriate and  
2 contain facts sufficient to establish the following:

3 C(1)(a) that the party to be defaulted has been served with summons pursuant to Rule  
4 7 or is otherwise subject to the jurisdiction of the court;

5 C(1)(b) that the party against whom the order of default is sought has failed to appear  
6 by filing a motion or answer, or otherwise to defend as provided by these rules or applicable  
7 statute;

8 C(1)(c) whether written notice of intent to appear has been received by the movant  
9 and, if so, whether written notice of intent to apply for an order of default was filed and served  
10 at least 10 days, or any shortened period of time ordered by the court, prior to filing the  
11 motion;

12 C(1)(d) whether, to the best knowledge and belief of the party seeking an order of  
13 default, the party against whom judgment is sought is or is not incapacitated as defined in ORS  
14 125.005, a minor, a protected person as defined in ORS 125.005, or a respondent as defined in  
15 ORS 125.005; and

16 C(1)(e) whether the party against whom the order is sought is or is not a person in the  
17 military service, or stating that the movant is unable to determine whether or not the party  
18 against whom the order is sought is in the military service as required by Section 201(b)(1) of  
19 the Servicemembers Civil Relief Act, 50 App. [U.S.C.A.] U.S.C. §521, as amended.

20 C(2) If the party seeking default states in the affidavit or declaration that the party  
21 against whom the order is sought:

22 C(2)(a) is incapacitated as defined in ORS 125.005, a minor, a protected person as  
23 defined in ORS 125.005, or a respondent as defined in ORS 125.005, an order of default may be  
24 entered against the party against whom the order is sought only if a guardian ad litem has  
25 been appointed or the party is represented by another person as described in Rule 27;

26 C(2)(b) is a person in the military service, an order of default may be entered against

1 | the party against whom the order is sought only in accordance with the Servicemembers Civil  
2 | Relief Act.

3 |       C(3)    The court may grant an order of default if it appears the motion and affidavit or  
4 | declaration have been filed in good faith and good cause is shown that entry of such an order is  
5 | proper.

6 |       **D       Motion for judgment by default.**

7 |       D(1)    A party seeking a judgment by default must file a motion, supported by affidavit  
8 | or declaration. Specifically, the moving party must show:

9 |       D(1)(a)       that an order of default has been granted or is being applied for  
10 | contemporaneously;

11 |       D(1)(b)       what relief is sought, including any amounts due as claimed in the  
12 | pleadings;

13 |       D(1)(c) whether costs, disbursements, and/or attorney fees are allowable based on a  
14 | contract, statute, rule, or other legal provision, in which case a party may include costs,  
15 | disbursements, and attorney fees to be awarded pursuant to Rule 68.

16 |       D(2)    The form of judgment submitted shall comply with all applicable rules and  
17 | statutes.

18 |       D(3)    The court, acting in its discretion, may conduct a hearing, make an order of  
19 | reference, or order that issues be tried by a jury, as it deems necessary and proper, in order to  
20 | enable the court to determine the amount of damages or to establish the truth of any  
21 | averment by evidence or to make an investigation of any other matter. The court may  
22 | determine the truth of any matter upon affidavits or declarations.

23 |       **E       Certain motor vehicle cases.** No order of default shall be entered against a  
24 | defendant served with summons pursuant to Rule 7 D(4)(a)(i) unless, in addition to the  
25 | requirements in Rule 7 D(4)(a)(i), the plaintiff submits an affidavit or a declaration showing:

26 |       E(1)    that the plaintiff has complied with Rule 7 D(4)(a)(i);

1           E(2) whether the identity of the defendant’s insurance carrier is known to the  
2 plaintiff or could be determined from any records of the Department of Transportation  
3 accessible to the plaintiff; and

4           E(3) if the identity of the defendant’s insurance carrier is known, that the plaintiff  
5 not less than 30 days prior to the application for an order of default mailed a copy of the  
6 summons and the complaint, together with notice of intent to apply for an order of default, to  
7 the insurance carrier by first class mail and by any of the following: certified, registered, or  
8 express mail, return receipt requested; or that the identity of the defendant’s insurance carrier  
9 is unknown to the plaintiff.

10           **F       Setting aside an order of default or judgment by default.** For good cause  
11 shown, the court may set aside an order of default. If a judgment by default has been entered,  
12 the court may set it aside in accordance with Rule 71 B and C.