

1 **DEFAULT ORDERS AND JUDGMENTS**

2 **RULE 69**

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5 **B Entry of default judgment.**

6 **B(1) By the court or the clerk.** The court or the clerk upon written application of the  
7 party seeking judgment shall enter judgment when:

8 B(1)(a) The action arises upon contract;

9 B(1)(b) The claim of a party seeking judgment is for the recovery of a sum certain or for  
10 a sum which can by computation be made certain;

11 B(1)(c) The party against whom judgment is sought has been defaulted for failure to  
12 appear;

13 B(1)(d) The party seeking judgment submits an affidavit or a declaration stating that, to  
14 the best knowledge and belief of the party seeking judgment, the party against whom judgment is  
15 sought is not incapacitated as defined in ORS 125.005, a minor, a protected person as defined in  
16 ORS 125.005, or a respondent as defined in ORS 125.005;

17 B(1)(e) The party seeking judgment submits an affidavit or a declaration of the amount  
18 due;

19 B(1)(f) An affidavit or a declaration pursuant to subsection B(3) of this rule has been  
20 submitted; and

21 B(1)(g) Summons was personally served within the State of Oregon upon the party, or an  
22 agent, officer, director, or partner of a party, against whom judgment is sought pursuant to Rule 7

1 D(3)(a)(i), 7 D(3)(b)(i), 7 D(3)(e), or 7 D(3)(f).

2           **B(2) By the court.** In cases other than those cases described in subsection (1) of this  
3 section, the party seeking judgment must apply to the court for judgment by default. The party  
4 seeking judgment must submit the affidavit or declaration required by subsection (1)(d) of this  
5 section if, to the best knowledge and belief of the party seeking judgment, the party against  
6 whom judgment is sought is not incapacitated as defined in ORS 125.005, a minor, a protected  
7 person as defined in ORS 125.005, or a respondent as defined in ORS 125.005. If the party  
8 seeking judgment cannot submit an affidavit or a declaration under this subsection, a default  
9 judgment may be entered against the other party only if a guardian ad litem has been appointed or  
10 the party is represented by another person as described in Rule 27. If, in order to enable the court  
11 to enter judgment or to carry it into effect, it is necessary to take an account or to determine the  
12 amount of damages or to establish the truth of any averment by evidence or to make an  
13 investigation of any other matter, the court may conduct such hearing, or make an order of  
14 reference, or order that issues be tried by a jury, as it deems necessary and proper. The court may  
15 determine the truth of any matter upon affidavits or declarations.

16           **B(3) Amount of judgment.** The judgment entered shall be for the amount due as shown  
17 by the affidavit or declaration, and may include costs and disbursements and attorney fees  
18 entered pursuant to Rule 68.

19           **B(4) Non-military affidavit or declaration required.** No judgment by default shall be  
20 entered until the filing of an affidavit or a declaration on behalf of the plaintiff, showing that *[the*  
21 *affiant or declarant reasonably believes that]* the defendant **is or** is not a person in **the** military  
22 **service, or stating that plaintiff is unable to determine whether or not the defendant is in**

1 **the military service** as [defined] **required** [in Article 1 of the "Soldiers' and Sailors' Civil  
2 Relief Act of 1940,"] **by Section 201(b)(1) of the Servicemembers Civil Relief Act, 50 App.**  
3 **U.S.C.A. § 521**, as amended, except upon order of the court in accordance with that Act.

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1 **DEFAULT ORDERS AND JUDGMENTS**

2 **RULE 69**

3 **A Entry of order of default.**

4 **A(1) In general. When a party against whom a judgment for affirmative relief is sought has**  
5 **been served with summons pursuant to Rule 7 or is otherwise subject to the jurisdiction of**  
6 **the court and has failed to plead or otherwise defend as provided in these rules, the party**  
7 **seeking affirmative relief may apply for an order of default. If the party against whom an**  
8 **order of default is sought has filed an appearance in the action, or has provided written**  
9 **notice of intent to file an appearance to the party seeking an order of default, then the**  
10 **party against whom an order of default is sought shall be served with written notice of the**  
11 **application for an order of default at least 10 days, unless shortened by the court, prior to**  
12 **entry of the order of default. These facts, along with the fact that the party against whom**  
13 **the order of default is sought has failed to plead or otherwise defend as provided in these**  
14 **rules, shall be made to appear by affidavit, declaration or otherwise, and upon such a**  
15 **showing, the clerk or the court shall enter the order of default.**

16 **A(2) Certain motor vehicle cases. Notwithstanding subsection A(1) of this section, no**  
17 **default shall be entered against a defendant served with summons pursuant to**  
18 **subparagraph D(4)(a)(i) of Rule 7 unless the plaintiff submits an affidavit or a declaration**  
19 **showing:**

20 **A(2)(a) that the plaintiff has complied with subparagraph D(4)(a)(i) of Rule 7; and**

21 **A(2)(b) either, if the identity of the defendant's insurance carrier is known to the plaintiff**  
22 **or could be determined from any records of the Department of Transportation accessible to**  
23 **the plaintiff, that the plaintiff not less than 30 days prior to the application for default**  
24 **mailed a copy of the summons and the complaint, together with notice of intent to apply for**  
25 **an order of default, to the insurance carrier by first class mail and by any of the following:**  
26 **certified or registered mail, return receipt requested, or express mail; or that the identity of**

1 the defendant's insurance carrier is unknown to the plaintiff.

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3 **B Entry of default judgment.**

4 **B(1) By the court or the clerk. The court or the clerk upon written application of the party**  
5 **seeking judgment shall enter judgment when:**

6 **B(1)(a) The action arises upon contract;**

7 **B(1)(b) The claim of a party seeking judgment is for the recovery of a sum certain or for a**  
8 **sum which can by computation be made certain;**

9 **B(1)(c) The party against whom judgment is sought has been defaulted for failure to**  
10 **appear;**

11 **B(1)(d) The party seeking judgment submits an affidavit or a declaration stating that, to**  
12 **the best knowledge and belief of the party seeking judgment, the party against whom**  
13 **judgment is sought is not incapacitated as defined in ORS 125.005, a minor, a protected**  
14 **person as defined in ORS 125.005 or a respondent as defined in ORS 125.005;**  
15 **B(1)(e) The party seeking judgment submits an affidavit or a declaration of the amount due;**

16 **B(1)(f) An affidavit or a declaration pursuant to subsection B(3) of this rule has been**  
17 **submitted; and**

18 **B(1)(g) Summons was personally served within the State of Oregon upon the party, or an**  
19 **agent, officer, director, or partner of a party, against whom judgment is sought pursuant to**  
20 **Rule 7 D(3)(a)(i), 7 D(3)(b)(i), 7 D(3)(e) or 7 D(3)(f).**

21 **B(2) By the court. In cases other than those cases described in subsection (1) of this section,**  
22 **the party seeking judgment must apply to the court for judgment by default. The party**  
23 **seeking judgment must submit the affidavit or declaration required by subsection (1)(d) of**  
24 **this section if, to the best knowledge and belief of the party seeking judgment, the party**  
25 **against whom judgment is sought is not incapacitated as defined in ORS 125.005, a minor,**  
26 **a protected person as defined in ORS 125.005 or a respondent as defined in ORS 125.005.**

1 If the party seeking judgment cannot submit an affidavit or a declaration under this  
2 subsection, a default judgment may be entered against the other party only if a guardian ad  
3 litem has been appointed or the party is represented by another person as described in  
4 Rule 27. If, in order to enable the court to enter judgment or to carry it into effect, it is  
5 necessary to take an account or to determine the amount of damages or to establish the  
6 truth of any averment by evidence or to make an investigation of any other matter, the  
7 court may conduct such hearing, or make an order of reference, or order that issues be  
8 tried by a jury, as it deems necessary and proper. The court may determine the truth of  
9 any matter upon affidavits or declarations.

10 B(3) Amount of judgment. The judgment entered shall be for the amount due as shown by  
11 the affidavit or declaration, and may include costs and disbursements and attorney fees  
12 entered pursuant to Rule 68.

13 B(4) Non-military affidavit or declaration required. No judgment by default shall be  
14 entered until the filing of an affidavit or a declaration on behalf of the plaintiff, showing  
15 that the affiant or declarant reasonably believes that the defendant is not a person in  
16 military service as defined in Article 1 of the "Soldiers' and Sailors' Civil Relief Act of  
17 1940," as amended, except upon order of the court in accordance with that Act.

18 C Setting aside default. For good cause shown, the court may set aside an order of default  
19 and, if a judgment by default has been entered, may likewise set it aside in accordance with  
20 Rule 71 B and C.

21 D Plaintiffs, counterclaimants, cross-claimants. The provisions of this rule apply whether  
22 the party entitled to the judgment by default is a plaintiff, a third party plaintiff, or a party  
23 who has pleaded a cross-claim or counterclaim. In all cases a judgment by default is subject  
24 to the provisions of Rule 67 B.

25 E "Clerk" defined. Reference to "clerk" in this rule shall include the clerk of court or any  
26 person performing the duties of that office. [CCP 12/13/80; §B amended by 1981 c.898 §8;

1 amended by CCP 12/13/86; §§A,B(2) amended by CCP 12/10/88 and 1/6/89; §B amended  
2 by CCP 12/15/90; amended by CCP 12/12/92; §B amended by 1995 c.79 §406 and 1995  
3 c.664 §101; §C deleted and §§D,E,F redesignated by CCP 12/10/94; §A amended by CCP  
4 12/14/96; §B amended by 2001 c.418 §1; amended by 2003 c.194 §14]

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RULE 69 DEFAULT ORDERS AND JUDGMENTS

69B(4) Military affidavit or declaration required. No judgment shall be entered until the filing of an affidavit, statement, declaration, verification or certificate on behalf of the plaintiff, showing that the defendant is or is not a person in the military service, or stating that plaintiff is unable to determine whether or not the defendant is in the military service as required by Section 201(b)(1) of the Service Members Civil Relief Act, 50 U.S.C. App. 521, except on order of the court in accordance with the Act.