

## Instructions: How to complete the Application and Affidavit for Entry of Default in family cases

### 1. About the Application and Affidavit for Entry of Default

Your application:

- a. Informs the Court that the other party:
  - has been served with the court papers, and
  - has not responded or answered the court papers within the proper time.
- b. Asks the court to “default” the other party.
- c. The Affidavit (part of the application)
  - Attests that all the information in your application and attachments is true to the best of your belief.

Note: you must attach the following papers to complete your application:

- a. a copy of the proof or acceptance of service. If you do not have copies of the documents that establish that service of process was completed, you may fill in section three of your Application. This establishes the date and manner of service on the party in default; and
- b. the Default Information for Spousal Maintenance form, if you are asking for spousal maintenance, and will proceed by motion without a hearing. (You may NOT seek an award of spousal maintenance in an Annulment action.)

### 2. When to file the Application and Affidavit for Entry of Default

- after the other party has been served with the court papers, and
- the time to respond has passed (see Default Timetable below), and
- the other party has not filed a response or answer with the court.

### 3. How to determine when to apply and file for default

Step 1: Count. Look at the Default Timetable below to find the type of service you used and the number of calendar days to count before you can apply for a default hearing or default order.

- Begin counting the day after the other party was served with the Summons and Petition (Amended Petition, if applicable).
- Include weekends and Court holidays until you reach the number of days listed.
- If the last day for the other party to respond falls on a Saturday, Sunday, or Court holiday, do not count that day.

Step 2: Wait. Wait until the day after the number of days listed in the Default Timetable below.

- If the other party did not file an Answer/Response within the number of days listed in the table, you may complete an Application and Affidavit for Entry of Default as instructed below and then file it with the Clerk of Superior Court.
- You must take this action for your case to proceed.

#### DEFAULT TIMETABLE

<u>Service Made in Arizona</u>	<u>Count</u>	<u>Event</u>
Acceptance of Service	20 Days	after you file Acceptance of Service with the court
Delivery with Signature Confirmation	20 Days	after other party signs delivery confirmation
Process Server	20 Days	after other party receives papers from a process server
Service by Sheriff	20 Days	after other party receives papers from Sheriff
Publication	50 Days	after the 1 <sup>st</sup> publication in newspaper
<u>Service Made Out of State</u>		
Acceptance of Service out of State	30 Days	after you file Acceptance of Service with the court
Process Server out of State	30 Days	after other party receives papers from a process server
Delivery with Signature Confirmation	30 Days	after other party signs delivery confirmation
Service by Sheriff	30 Days	after other party receives papers from Sheriff
Certified Mail out of State	30 Days	after other party signs a green return receipt card
Publication	60 Days	after 1 <sup>st</sup> publication in newspaper

#### 4. How to complete the Application and Affidavit for Entry of Default

Step 1: Gather the papers. You will need the following papers to complete the application:

- Application and Affidavit of Entry of Default
- A copy of your proof or acceptance of service which establishes the date and type of service on the other party.
- Default Information for Spousal Maintenance form, if you are seeking spousal maintenance, and choose to proceed by motion without a hearing. (Optional).

Step 2: Complete the Application and Affidavit for Entry of Default. Use black ink.

- Answer every question/section on the form. Do not leave any question blank.
- If you are attaching a copy of your proof or acceptance of service, place it at the end of the Application and Affidavit for Entry of Default.
- If your proof or acceptance of service is in the court record and you are not attaching it to the Application and Affidavit for Entry of Default, state how and when the Party in default was served.

- Certificate of mailing: write in the last known address of the other party – even if you think the party no longer lives there. Sign the Application and Affidavit for Entry of Default in front of a Notary or Clerk of Superior Court when filing.

Step 3: Make copies.

- Stack into one set - the original Application and Affidavit for Entry of Default, copy of proof or acceptance of service (and if applicable), and the original Default Information for Spousal Maintenance form (if applicable).
- Make two (2) copies of the set of papers. Note: If the defaulting party has an attorney, make one more copy, since you must mail an entire set to both the party and the attorney.

Now you are ready to file your application packet. Read the “Procedures” in this packet.