

## Procedures: When and how to file an Application and Affidavit for Default in civil cases

When to file the application and affidavit for default:

- After the defendant was served with the Summons and Complaint papers, and
- Time: The appropriate response time period has passed (see Default Timetable below), and
- No Response: The defendant has failed to defend, or file an Answer or response with the court.

If more than one Defendant in your case has not filed an Answer after being served with the Summons and Complaint, you will need to file an Application and Affidavit for default for each Defendant.

- Step 1: Count. Look at the Default Timetable below to see the method of service you used and the number of calendar days to count before you can apply for default.
- Begin counting on a calendar starting from the day after the other party was served the Complaint.
  - Include weekends and holidays when counting, until you reach the number of days listed.
  - If the last day for the other party to respond falls on a Saturday, Sunday, or legal holiday, do not count that day.
  - Ex. Plaintiff served Defendant by Process Server in the State of Arizona on October 1. Defendant has until October 22 to file an Answer, since October 21 is a Sunday. If Defendant hasn't filed an Answer by end of the day on October 22, Plaintiff can file an Application and Affidavit for Default on October 23.

### Default Timetable

<u>Service Made in Arizona</u>	<u>Count</u>	<u>Event</u>
Acceptance of Service	20 Days	after the other party signs the "Acceptance of Service"
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
Waiver of Service	60 Days	after the date the request for waiver was sent to Defendant
Publication	50 Days	after the date of the 1 <sup>st</sup> publication
 <u>Service Made Out of State</u>		
Acceptance of Service out of State	30 Days	after the other party signs the "Acceptance of Service"
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
Waiver of Service	60 Days	after the date the request for waiver was sent to Defendant
Publication out of State	60 Days	after the date of the 1 <sup>st</sup> publication

Step 2: Wait. Wait until the day after the number of days shown in the Default Timetable above. If the other party did not file an *Answer/Response* or did not appear in Court to defend this case, you may complete the Application and Affidavit for Default and follow the Steps below. Do not sign and date the “Application and Affidavit for Default” before the amount of time shown in the Default Timetable has passed.

Step 3: Complete the “*Application and Affidavit for Default.*”  
Mark the boxes, and write in the spaces to provide the required information.  
Note that the “*Affidavit*” is on the last page of the “*Application.*”  
Wait to sign it in until you are in front of the clerk or a notary.

Step 4: Make two copies of: (1) Your original signed and dated “*Application and Affidavit for Default;*” and (2) your proof of service establishing the date and manner in which you served the party claimed to be in default.

Step 5: File with Clerk of Superior Court: Take your originals and 2 copies (3 Total) of both the “*Application and Affidavit for Default*” and your proof of service to the Clerk of Superior Court for filing. The Clerk of Superior Court is located at the following addresses:

- Central Court Building, 201 West Jefferson Street, Phoenix, AZ 85003 (1<sup>st</sup> Floor);
- Northwest Court Facility, 14264 West Tierra Buena Lane, Surprise, AZ. 85374\*\*;
- Southeast Court Facility, 222 East Javelina Avenue, Mesa AZ 85210; OR
- Northeast Court Facility, 18380 North 40<sup>th</sup> Street, Phoenix, AZ 85032.

\*\* You can file documents at the Northwest Court Facility but hearings will not be held at this location.

Hand the original & both copies of the “*Application and Affidavit for Default*” to the Clerk at the filing counter. The Clerk will keep the original, date-stamp both sets of copies and return the 2 copies to you. Make sure both copies are stamped.

Step 6: Mail: Mail one of the date-stamped copies of the “*Application and Affidavit for Default*” to the Defendant or the Defendant’s attorney on the same day you file the papers with the Clerk of Superior Court. Keep the other copy for your records.

Step 7: Count 10 court business days. Starting from the day after you filed and mailed your “*Application and Affidavit for Default,*” count 10 court business days (not including weekends or court holidays).

When 10 court business days have passed, you can ask the Court to enter a Default Judgment against the Defendant. Please note, the Law Library Resource Center does not currently have a “Default Judgment” packet. However, there are template forms available at the Law Library Resource Center for you to use to create your own forms.