

**Small Claims Default Checklist**

(Pick option that applies, then must check all boxes under that option)

Option 1 – Defendant **Has Not** Filed an Answer or Otherwise Appeared

* **Answer Deadline Has Passed – End of the 14th day after service (or 42nd day if service by publication)**

**Note**: If the last day is on a weekend, holiday, or day when court closes before 5pm, the deadline is next business day.

* **Petition Contains All Required Information**
* For information on petition requirements, please see pages 17-18 of the Civil Deskbook (4th Edition, September 2023).
* **Proper Service (may hold a hearing to determine this even if a hearing is not otherwise required)**
* For information on proper service, please see pages 23-31 of the Civil Deskbook
* **Last Known Address of Defendant Filed – before or at time of judgment**
* **Military Affidavit Filed – Choose one:**
	+ If not in military – may proceed.
	+ If unable to determine – may require plaintiff to post a bond.
	+ If in the military – default may not be entered until certain procedures are followed – see pages 59-61 of Civil Deskbook.
* **Plaintiff Has Provided Proof of Damages (liability does not have to be proven) – choose one:**
	+ Once answer deadline has passed, judge must render judgment for plaintiff for their amount of damages **without a hearing** (unless need a hearing to determine if service is proper) if:
		- Claim is based on a written document signed by the defendant;
		- A copy of the document has been filed with the court and served on the defendant, **and**
		- The Plaintiff files a sworn statement that it is a true and accurate copy of the document and that the relief sought is owed, and all payments, offsets or credits due to the defendant have been accounted for has been filed with the court and served on defendant (can be done at same time as filing/service of petition or later).

**Note**: Plaintiff’s attorney (if any) may also submit affidavits supporting an award of attorney

 fees.

* + If above option does not apply:
		- Plaintiff **must request** **hearing** (orally or in writing).
		- Plaintiff must appear and provide evidence of its damages (may appear electronically or by phone with court’s permission).
		- If plaintiff proves its damages, judge must render judgment for plaintiff for amount proven.

 **Note**: If plaintiff does not prove its damages, judgment must be rendered for defendant even if they are not present.

Option 2 – Defendant **has** Filed an Answer or Appeared (even if was **after** answer deadline)

* Trial Was Set with 45-Day Notice and Defendant Did Not Appear
* Court Heard Evidence **on Liability and Damages** and Found That Plaintiff Proved Their Case

 **Note**:

* + - If plaintiff does not prove their case, judgment must be rendered in favor of defendant even if they are not present.
		- Court could also choose to postpone case instead of proceeding.
		- If plaintiff fails to appear for trial, judge may either postpone or dismiss the suit.

**Notice to Defendant for Defaults** **(Must check all boxes)**

* **Immediately Mail Written Notice of Judgment to Defendant – Choose one:**
	+ If defendant hasn’t answered – send to the last known address filed by the plaintiff.
	+ If defendant has answered – send to best available address (could be where defendant was served or an address provided in defendant’s answer).
* **Note in Docket That Notice of Judgment Was Sent and Where It Was Sent To**