**Debt 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, deadline is next business day.

* **Petition Contains All Required Information**
* This includes the regular petition requirements in TRCP 502.2 **and** the special debt claim petition requirements in TRCP 508.2.
* For information on petition requirements, please see pages 17-20 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 petition requirements, please see pages 17-18 of the Civil Deskbook (4th Edition, September 2023).
* **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 DB Chapter 4, Section (M)(3).
* **Plaintiff Has Provided Proof of Damages (liability does not have to be proven) – choose one:**
	+ Once answer deadline has passed, judge must promptly render judgment for plaintiff upon proof of damages & should do so **without a hearing** (unless need one to determine if service is proper) if:
		- A proper sworn statement with evidence of the damages is attached to the petition and served on defendant or submitted to the court after defendant fails to answer by answer date; and
		- The evidence shows:
			* That the account/loan was issued to the defendant and they are obligated to pay it;
			* That the account was closed or the defendant breached the terms of the agreement;
			* The amount due as of a date certain after all credits/offsets have been applied;
			* That plaintiff owns the account/loan; **and**
			* How plaintiff acquired the account (if applicable).
		- If documentary evidence is included, it must be attached to a sworn statement made by plaintiff, prior holder of debt, original creditor, or representative of any of these, and must swear to the following:
			* Documents were kept in the regular course of business;
			* It was the regular course of business for an employee or representative with knowledge of the act recorded to make the record or to transmit information to be included in such record;
			* The documents were created at or near the time or reasonably soon thereafter; **and**
			* The documents attached are the original or exact duplicates of the original
	+ 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**