

**NRCP 55 – Proposed
(Adopt fed with edits shown;
but retain second sentence of NRCP 55(d))**

Rule 55. Default; Default Judgment

(a) **Entering a Default.** When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.

(b) **Entering a Default Judgment.**

(1) **By the Clerk.** If the plaintiff’s claim is for a sum certain or a sum that can be made certain by computation, the clerk—on the plaintiff’s request, with an affidavit showing the amount due—must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an ~~incompetent~~ incapacitated person.

(2) **By the Court.** In all other cases, the party must apply to the court for a default judgment. A default judgment may be entered against a minor or incapacitated ~~incompetent~~ person only if represented by a general guardian, conservator, or other like fiduciary who has appeared. If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 7 days before the hearing. The court may conduct hearings or make referrals—preserving any ~~federal~~ statutory right to a jury trial—when, to enter or effectuate judgment, it needs to:

(A) conduct an accounting;

(B) determine the amount of damages;

1 (C) establish the truth of any allegation by evidence; or

2 (D) investigate any other matter.

3 (c) **Setting Aside a Default or a Default Judgment.** The court may set
4 aside an entry of default for good cause, and it may set aside a final default
5 judgment under Rule 60(b).

6 (d) **Default Judgment Damages.** In all cases a judgment by default is
7 subject to the limitations of Rule 54(c).

8 (e) **Judgment against the ~~United~~ States.** A default judgment may be
9 entered against the ~~United~~ States, its officers, or its agencies only if the claimant
10 establishes a claim or right to relief by evidence that satisfies the court.

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12 **Advisory Committee Note—2018 Amendment**

13 NRCP 55 is conformed to the federal rule, but NRCP 55(d) retains the cross-
14 reference to Rule 54(c) in prior state and federal versions of Rule 55.