

1 **Rule 55. Default.**

2 **(a) Entry.** When a party against whom a judgment for affirmative relief is sought has failed to plead or
3 otherwise defend as provided by these rules and that fact is made to appear the clerk shall enter the
4 default of that party.

5 **(b) Judgment.** Judgment by default may be entered as follows:

6 **(b)(1) By the clerk.** When the plaintiff's claim against a defendant is for a sum certain, Upon request
7 of the plaintiff the clerk shall enter judgment for the amount claimed and costs against the defendant if:-

8 (b)(1)(A) the default of the defendant is for failure to appear ;

9 (b)(1)(B) the defendant is not an infant or incompetent person;

10 (b)(1)(C) the defendant has been personally served pursuant to Rule 4(d)(1); and

11 (b)(1)(D) ~~the claim against the defendant is for a sum certain or for a sum that can be made~~
12 certain by computation the plaintiff, through a verified complaint or an affidavit submitted in support of the
13 default judgment, sets forth facts necessary to establish the amount of the claim, after deducting all
14 credits to which the defendant is entitled, and verifies the amount is warranted by information in the
15 plaintiff's possession.

16 **(b)(2) By the court.** In all other cases the party entitled to a judgment by default shall apply to the
17 court therefor. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to
18 take an account or to determine the amount of damages or to establish the truth of any averment by
19 evidence or to make an investigation of any other matter, the court may conduct such hearings or order
20 such references as it deems necessary and proper.

21 **(c) Setting aside default.** For good cause shown the court may set aside an entry of default and, if a
22 judgment by default has been entered, may likewise set it aside in accordance with Rule 60(b).

23 **(d) Plaintiffs, counterclaimants, cross-claimants.** The provisions of this rule apply whether the party
24 entitled to the judgment by default is a plaintiff, a third-party plaintiff, or a party who has pleaded a cross-
25 claim or counterclaim. In all cases a judgment by default is subject to the limitations of Rule 54(c).

26 **(e) Judgment against the state or officer or agency thereof.** No judgment by default shall be entered
27 against the state of Utah or against an officer or agency thereof unless the claimant establishes his claim
28 or right to relief by evidence satisfactory to the court.