Rule 7055-1

Default - Failure To Prosecute

(a) Entry

Where a party to an adversary proceeding has appeared but is in default, the Clerk, may enter a default upon ~~ten (10)~~ *fourteen (14)* days written notice to the party in default by the moving party. Any party so served may respond to the pleading or otherwise defend at any time before the presentment.

(b) Judgment

A party entitled to have the Clerk enter judgment pursuant to FRCP 55(b)(1) shall file an affidavit showing the principal amount due, which shall not exceed the amount demanded in the complaint, giving credit for any payments and showing the amounts and dates thereof, a computation of interest to the date of judgment, and costs and taxable disbursements claimed. The affidavit shall further state that:

(1) The party against whom judgment is sought is not an infant or an incompetent person and is not protected by the Soldiers and Sailors Civil Relief Act;

(2) A default has been entered by the Clerk; and

(3) The disbursements sought to be taxed have been made in the action, or will necessarily be made or incurred. The Clerk shall thereupon enter judgment for the principal, interest, and costs pursuant to said rule.

(c) Dismissal For Want of Prosecution

In any adversary proceeding in which no action of record has been taken by the parties for the preceding six (6) months, the Clerk shall note the case for dismissal and shall give thirty (30) days notice to the counsel of record. If no action is taken nor an objection filed, an order of dismissal without prejudice may be entered by the Court.

Related Provisions

FRBP 7001	Adversary Proceedings
FRBP 7055	Default

LBR 7055-1
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