

## 👉 NOTICE: How to use these forms 👈

You have selected forms used to request the entry of default in a civil case. Each form will open a pop-up window and you will be asked to select one of the following options:

**Open:** Selecting this option allows you to view the form and print a copy without saving the form on your computer.

**Save:** Selecting this option allows you to save a copy of the form on your computer for later use.

**Cancel:** Selecting this option will close the form without saving it to your computer and allow you to proceed to the next form in the packet.

Select the forms you need by choosing “Open” or “Save”. If there are forms you do not need, select “Cancel” for those forms.

Each of the forms has a different purpose. Below is a list of the forms you will see and a brief description of the purpose of the form. If the form you select has instructions, please read the instructions carefully before completing the forms. Instructions may not be available for every individual form. You may be able to obtain additional information about the use of the form from you local court assistance office or the court clerk’s office at your county courthouse.

These forms are based on Rule 55(a)(1) of the Idaho Rules of Civil Procedure which states:

### **Rule 55(a)(1). Default-Entry.**

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 court must order entry of the party’s default. If a party has appeared in the action, that party must be served with 3 days’ written notice of the application for entry of default before default may be entered.

CAO Cv 7-1 Motion and Affidavit for Entry of Default : If you are the plaintiff in a civil case and the defendant/respondent has failed to file a responsive pleading to your complaint or petition with 21 days of the service of the complaint or petition, this form may be used to request the entry of an order of default. Read the form carefully to ensure all of the statements in the Motion and Affidavit are true. Check the boxes which apply, and insert the required information. Swear to the true of the contents of the document before a Notary Public. File the Motion along with a completed proposed Order for Default, form CAO Cv 7-4. You may submit a proposed default judgment with the Motion and Affidavit for Entry of Default, or submit that application at a later time. The judge may or may not require a hearing on the default judgment depending on the nature of the relief you are seeking. Before completing this form, you should determine whether you will also need to use form CAO Cv 7-5x Notice of Intent to Default, which is described below.

CAO Cv 7-4 Entry of Default: Complete this proposed order for the judge's signature and submit it with the Motion and Affidavit for Entry of Default.

CAO Cv 7-3 Motion and Affidavit for Entry of Default on Counterclaim: If you are the defendant and have filed a counterclaim asking for affirmative relief, and the plaintiff has not filed an answer to the counterclaim within 21 days of service, you may use this form to request the Entry of Default on the Counterclaim. Follow the same instructions outlined above for the Plaintiff's Motion and Affidavit for Entry of Default. Before completing this form, you should determine whether you will also need to use form CAO Cv 7-5x Notice of Intent to Default, which is described below.

CAO Cv 7-5x Notice of Intent to Default: If the party against whom you are seeking entry of default has appeared in the proceeding without filing a written answer or responsive pleading (such as personally appearing in court or filing a written "Notice of Appearance"), you must give that party three days written notice of your application for entry of default. You can use this form to give that notice. Check the applicable boxes if you are the plaintiff or defendant seeking the default. Complete the certificate of service showing the manner you served this notice on the other party. Please note that three additional days' notice were added for service by mail. After the time period has passed, if an answer or responsive pleading still has not been filed, you may submit this form along with the Motion for Entry of Default and proposed Entry of Default as outlined above.