

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-13-0053
RULE 55(b)(1), RULES OF)
CIVIL PROCEDURE)
) **FILED 09/02/2014**
)
)
)
_____)

**ORDER
AMENDING RULE 55(b)(1), ARIZONA RULES OF CIVIL PROCEDURE**

A petition having been filed proposing to amend Rule 55(b)(1), Arizona Rules of Civil Procedure, and no comments having been received, upon consideration,

IT IS ORDERED that Rule 55(b)(1), Arizona Rules of Civil Procedure be amended in accordance with the attachment hereto, effective January 1, 2015.

IT IS FURTHER ORDERED that the "Comment to 2015 Amendment" shown in the attachment is hereby promulgated and approved for publication with the amendment to the rule.

DATED this 2nd day of September, 2014.

SCOTT BALES
Chief Justice

Arizona Supreme Court No. R-13-0053

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TO:

Rule 28 Distribution

John A Furlong

ATTACHMENT¹

ARIZONA RULES OF CIVIL PROCEDURE

Rule 55. Default.

* * *

Rule 55(b). Judgment by default

Judgment by default may be entered as follows:

1. ***By motion.*** When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, the Court upon motion of the plaintiff and upon affidavit of the amount due, and without a hearing, shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to ~~appear~~ plead or otherwise defend and is not an infant or incompetent person. If the claim states a specific sum of attorneys' fees which will be sought in the event judgment is rendered by default, and if such award is allowed by law and is supported by the affidavit, the judgment may include an award of reasonable attorneys' fees not to exceed the amount of the demand therefor. If the claim requests an award of attorneys' fees, but fails to specify the amount of such fees that will be sought in the event judgment is rendered by default, the judgment may include an award of attorneys' fees, if such an award is allowed by law and the reasonable amount therefor is established by affidavit, where the defendant has not entered an appearance in the action.

* * *

Comment to 2015 Amendment

This amendment clarifies when a defendant has a right to notice and a hearing if the plaintiff's claim is for a sum certain or for a sum that can be made certain by computation. Under the amendment, a defendant who has been defaulted on such a claim under Rule 55(b)(1), but who makes a post-default appearance, is not entitled to notice and a hearing before judgment may be entered.

¹ Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.