

PROCEDURES: WHEN AND HOW TO FILE AN APPLICATION AND AFFIDAVIT FOR DEFAULT IN FAMILY COURT CASES WITH OR WITHOUT CHILDREN

WHEN TO FILE THE APPLICATION FOR DEFAULT:

- after the other party has been served with the court papers, AND
- the appropriate response period has passed (see Default Timetable below), AND
- the other party has not filed a response or answer with the court.

STEP 1: COUNT. Look at the **Default Timetable** below to find the method of service you used and the number of calendar days to count before you can apply for a default hearing or order.

- Begin counting the day after the other party was served with the Petition.
- Include weekends and holidays until you reach the number of days listed.
- If the last day for the other party to respond falls on a Saturday, Sunday, or legal holiday, do NOT count that day.

DEFAULT TIMETABLE

<u>SERVICE MADE IN ARIZONA</u>	<u>COUNT</u>	<u>EVENT</u>
Acceptance of Service	20 Days	after the other party signs the “ <i>Acceptance of Service</i> ”
Delivery with Signature Confirmation*	20 Days	after other party signs delivery confirmation*
Process Server	20 Days	after other party receives papers from a process server
Service by Sheriff	20 Days	after other party receives papers from Sheriff
Publication	50 Days	after the 1st publication in newspaper

SERVICE MADE OUT OF STATE

Acceptance of Service out of State	30 Days	after the other party signs the “ <i>Acceptance of Service</i> ”
Process Server out of State	30 Days	after other party receives papers from a process server
Delivery with Signature Confirmation*	30 Days	after other party signs delivery confirmation*
Service by Sheriff	30 Days	after other party receives papers from Sheriff
Certified Mail out of State	30 Days	after other party signs a green return receipt card
Publication	60 Days	after 1st publication in newspaper

** available for Family Court matters only*

- STEP 2:** **WAIT.** Wait until the day after the number of days indicated in the Default Timetable above. If the other party did not file an *Answer/Response* with the Court you may complete, file and mail a copy of the Application and Affidavit for Default as instructed in Steps 3 and 4 below. You must take this action for your case to proceed.
- STEP 3:** **SIGN AND COPY:** Sign and date the “*Application and Affidavit for Default.*” Do NOT sign and date the “*Application and Affidavit for Default*” before the amount of time shown in the Default Timetable has passed.
- Make two copies of your signed and dated “*Application and Affidavit for Default.*”
- STEP 4:** **FILE:** File the original Application and Affidavit for Default with the Clerk of the Court.
- Hand the original & both copies of the “*Application and Affidavit for Default*” to the Clerk at the filing counter. The Clerk will keep the original, date-stamp both sets of copies and return the copies to you. Make sure both copies are stamped.
- STEP 5:** **MAIL:** Mail one of the date-stamped copies of the “*Application and Affidavit for Default*” to the other party on the same day you file the papers with the Clerk of the Court. Keep the other copy for your records. (The “*Application and Affidavit for Default*” must be mailed, hand delivery is not acceptable.)
- STEP 6:** **COUNT 10 COURT BUSINESS DAYS.** Starting from THE DAY AFTER the “*Application and Affidavit for Default*” was filed, count 10 court business days before proceeding to STEP 7.
- STEP 7:** **FILL OUT THE “DEFAULT SCREENING CHECKLIST.”** If the *Default Screening Checklist* indicates you met all requirements, proceed to STEP 8.
- STEP 8:** **SCHEDULE YOUR DEFAULT HEARING BY CALLING THE COURT.** Be sure to have your “*Default Screening Checklist*” with you when you schedule your hearing.
- STEP 9:** **PREPARE THE PAPERWORK YOU ARE REQUIRED TO BRING TO THE COURT HEARING:** A complete list of documents you are required to bring to your default hearing is available on page 2 of the “*Default Screening Checklist.*”
- STEP 10:** **GO TO YOUR HEARING AT THE SCHEDULED DATE AND TIME.**

DEFAULT HEARING: Do's and Don'ts

DO

- ✓Be on Time (if you are late, your hearing will be rescheduled to another day)
- ✓Expect to be in the Courthouse up to four hours or longer (plan accordingly)
- ✓Dress appropriately (no caps or hats in the Courtroom)
- ✓Bring required documents (if you do not bring the required documents, your hearing will be rescheduled to another day)

Don't

- ✓Do **not** bring children (if you bring children, your hearing will be rescheduled to another day)
- ✓Do **not** bring food or drinks in the courtroom
- ✓Do **not** chew gum in the courtroom