

§ 3.3 Entry of Default

The first step is to enter the defendant's default on the court record. This is done with a form entitled "Request for Entry of Default." (The form has another purpose as well – it allows the plaintiff (or cross-complainant) to request the clerk to enter a default judgment or request the court either to enter a default judgment or a set a hearing to do so.)

NOTES RE FILING REQUEST FOR ENTRY OF DEFAULT:

- UNTIL THE REQUEST FOR ENTRY OF DEFAULT FORM IS FILED, A RESPONSIVE PLEADING MAY BE FILED EVEN THOUGH THE DUE DATE IS PASSED.
- IF THE PLAINTIFF DOES NOT FILE THE REQUEST FOR ENTRY OF DEFAULT WITHIN TEN DAYS AFTER THE DEFENDANT'S RESPONSE TO THE COMPLAINT WAS DUE, THE COURT MAY FILE AN ORDER TO SHOW CAUSE WHY SANCTIONS SHOULDN'T BE IMPOSED AGAINST THE PLAINTIFF. (C.R.C., RULE 3.110(g))

Excerpts from *Litigation by the Numbers*® -*Fourth Edition* and *California Civil Litigation and Discovery* are protected by copyright!
Please go to www.litigationbythenumbers.com to purchase your own copies.

“Request for Entry of Default” (Mandatory Judicial Council Form CIV-100)

- 1' Complete the top portion of the form as on the Civil Case Cover Sheet, but add the attorney’s email address, if available, in the top box, and the case number to the right of the title of the form.
- 2' Check the box before “Entry of Default” in the title. A decision about whether to choose the “Clerk’s Judgment” box or “Court Judgment” box depends on which of C.C.P. § 585(a) or (b) applies to your case, and whether default judgment is being sought at this juncture at all.
- 3' Enter the date the Complaint was filed. (Check the conformed copy of the Complaint in your file.)
- 4' Enter the name of the plaintiff in all caps.
- 5' Check the box and enter, in all caps, the name(s) of the defendant(s) who failed to respond to the Complaint.
- 6' The next step depends on whether you are seeking entry of a court judgment or a clerk’s judgment.
 - If you chose the “Court Judgment” box in the title, then check #1d, and enter, in all caps, the name(s) of the defendant(s) against whom a court judgment is sought.
 - If you chose the “Clerk’s Judgment” box in the title, then check #1e and (2).
- 7' #2a-g: Fill this part in to conform to your particular case, entering the amount claimed, any amounts paid by the defendant, and the balance due.
- 8' Enter the date the Request will be signed.
- 9' Enter the preparing attorney’s name in all caps.

Excerpts from ***Litigation by the Numbers*® -Fourth Edition** and ***California Civil Litigation and Discovery*** are protected by copyright!
Please go to www.litigationbythenumbers.com to purchase your own copies.

