

BASICS OF FILING FOR ADVERSARY PROCEEDINGS

1-Filing of Complaint

- a. filing fee of \$250 must be paid unless filed by debtor or fee deferred.
note - effective 11/1/11 the fee for filing an adversary proceeding will increase to \$293.00
- b.complaint:
 - refer to correct bankruptcy case
 - plaintiff and defendant and attorneys added properly
 - statistical information verified

2-Summons

- a. check division
- b. name of parties and clerk spelled correctly

3-Service of Summons

- a. check service of complaint and summons within fourteen days of issuance

4-Answer Filed

- a. review for motion to dismiss filed within answer. If filed, twenty-one day deadline set for response to motion to dismiss. (Exception to this is Rule 12b motions)
- b. upon motion to dismiss not requested, shall proceed with preliminary pretrial conference.

5-Summons Deadline Expired and Answer Not Filed Within Thirty Days

- a. check for summons service perfected, date summons served, summons served properly
- b. upon all proper, send order directing plaintiff to proceed with entry of default and default judgment. (Note to attorneys: please do not wait for the court to enter the 'order directing plaintiff to proceed', you should proceed with default as soon as answer time has expired).

6-Affidavit or Motion For Entry of Default

- a. affidavit should contain
 - statement that answer not filed
 - statement that defendant is not in the military service, an infant or an incompetent
- b. check proper service of summons and complaint
- c. upon all proper, entry of default will be reviewed and Entry of Default Entered (Please note that you no longer have to provide the entry of default to the court, it can be electronically generated by the court)

7-Motion for Default Judgment

- a. date and service of summons and complaint
- b. date of filing of the affidavit of service
- c. statement of no answer filed
- d. statement that defendant is not in the military service, an infant or an incompetent
- e. order reviewed for proper division, language consistent with request in motion for default judgment
- f. Judge shall review and upon all proper, Default Judgment shall be entered