

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION**

SUPPLEMENTAL STANDING ORDER

**ADDENDUM No. 1:
DEFAULT AND DEFAULT JUDGMENT**

March 20, 2013

**Judge David B. Atkins
General Chancery Calendar 16
Courtroom 2102, Richard J. Daley Center, Chicago
(312) 603-6039 – telephone / (312) 603-7290 – facsimile**

This Supplemental Standing Order is entered as an addendum to the Standing Order of Calendar 16. This order specifically addresses issues and procedures relevant to this court's findings of default and entry of default judgments.

1. GENERALLY

- 1.1. Grounds.** A default judgment may be entered against a party where he or she fails to appear after being properly served or, having already appeared, fails to file a timely answer to the pleading(s) against him or her. *See* 735 ILCS 5/2-1301(d). Although not discussed in detail herein, default may also be entered by the court as sanction for violation of discovery rules or this court's orders. *See* Ill. S. Ct. R. 219(c).
- 1.2. Two-Step Procedure.** The finding of a party in default and entry of default judgment against that party pursuant to 735 ILCS 5/2-1301 is a two-step procedure requiring both proof of default and prove-up of damages. At the first court date, the movant will present the court with the motion. At this time, the court may choose to continue the motion for hearing or, if circumstances warrant, enter a finding of default upon the proof presented by the movant. Once a finding of default has been made, the court may set the matter to a further date as necessary for prove-up of damages.

2. FINDING OF DEFAULT

- 2.1. Motion.** Any party moving for a finding of default and entry of default judgment against another party must spindle a motion for default for presentment to Judge Atkins during the court's regular motion call. *See* Sections 1. and 3. of this court's Standing Order for details of the court's daily call and procedures for regular motion practice.
- 2.2. Notice.** The movant must provide, or attempt to provide all opposing parties with notice of a motion for default and default judgment. With respect to the party to be defaulted, notice may be accomplished by mailing the notice of motion and the motion to the respondent's last known address by both regular and certified mail.
- 2.3. Required Documentation.** At or prior to the hearing on the motion for default, the following documents must be delivered to the court:

- 2.3.1. A clerk-stamped copy of the notice of motion and motion;
- 2.3.2. A file stamped copy of the Complaint;
- 2.3.3. A copy of summons with the sheriff's return showing service;
- 2.3.4. An attorney's certificate/affidavit, signed by counsel and dated no more than Ten (10) days before the date selected to present the motion, certifying that both the court file and the clerk's computer have been checked for defendant's appearance and answer; and
- 2.3.5. If defaulting an individual, the attorney must present a military affidavit, i.e., an affidavit that certifies defendant is not in military service.

3. DEFAULT JUDGMENT

- 3.1. **Proof of Allegations.** Pursuant to 735 ILCS 5/2-1301(d), the court may require proof of allegations against the defaulted party before default judgment will be entered. If the court finds the allegations in the pleadings fail to state a cause of action, the court may, on its own motion, strike the pleadings with leave to re-file.
- 3.2. **Unliquidated Damages.** The court may set the matter to a further date for prove-up of damages, or it may hear the prove-up of damages at the initial motion for default judgment hearing date. Parties may prove damages by affidavit in accordance with Supreme Court Rule 191.
- 3.3. **Liquidated Damages.** In actions seeking recovery of liquidated damages, the court will enter a default judgment upon presentation of the following documents:
 - 3.3.1. A copy of the verified complaint with exhibits, or an affidavit by the moving party establishing the judgment amount;
 - 3.3.2. An affidavit detailing the costs of the suit; and
 - 3.3.3. An affidavit for attorneys' fees, if applicable.

4. STANDING ORDER CONSIDERATIONS

- 4.1. **Applicability and Inconsistency.** Unless the court orders otherwise (either generally or in a particular circumstance), this Supplemental Standing Order applies in every case. In the event of any inconsistency between this Supplemental Standing Order and any order entered in a case, the order entered in the case controls to the extent of the inconsistency.
- 4.2. **Modification.** The court may modify this Standing Order at any time. Copies of Judge Atkins' most recent Standing Order are available in courtroom 2102 and can be found online at www.cookcountycourt.org/JudgesPages/AtkinsDavidB.aspx.

Judge David B. Atkins

The Court.