



**Suggest a Change to the Rules**  
scleroplex to: Rules\_Support

01/12/2018 01:13 PM

Dear Sir / Madam,

Federal Civil procedure Rule 55 (a) presently reads:

Rule 55. Default; Default Judgment

(a) Entering a Default. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default.

Going forward Rule 55 (a) must read:

(a) Entering a Default. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the Clerk of the court must enter the party's default. There is no room for judicial discretion on this point and the Clerk must directly enter the party's default when properly asked by motion to do so.

This change is necessary as certain courts, such as the US District Court for Massachusetts, refuse to let the Clerk order the entry of default and insist that just the entry of default is subject to a judge's discretion and whenever the judge gets around to it.

Sincerely,  
Bharani Padmanabhan MD PhD  
Brookline MA