



MEMORANDUM

To: Bankruptcy Bar, Middle District of Georgia
From: Kyle George, Clerk of Court
Subject: Language in Default Judgment Affidavits

January 28, 2016

Recently, the issue of language in Default Judgment Affidavits being in accordance with FRCP 55, FRBP 7055 (which incorporates the civil rule in its entirety), and the Servicemember's Civil Relief Act (SCRA) was considered by the judges of this court. This memorandum addresses the issue and provides recommended language for use in Default Judgment Affidavits.

As you know, FRCP 55 says that a “default judgment may be entered against a minor or incompetent person only if represented by a general guardian, conservator, or other like fiduciary who has appeared.” The Default Judgment Affidavit which many of you file contains language such as “the defendant is not a minor or an incompetent person.” Some attorneys use the term “infant” instead of “minor.” While the term “infant” is used in other contexts within the rules, in order to standardize the language, the judges ask that you use the term “minor” because of its use in FRCP 55.

Additionally, the SCRA provides for the protection of servicemembers against default judgments, and Default Judgment Affidavits must also contain language indicating the servicemember’s status.

Accordingly, we request that when submitting Default Judgment Affidavits in Adversary Proceedings in the Middle District of Georgia, attorneys use language similar to the following, “The defendant is not a minor, an incompetent person, or a military servicemember,” assuming all three elements are true and correct.

Finally, we will update our Clerk’s Instructions manual to reflect the recommended language.

We appreciate your assistance in this matter.