



Dispute Resolution Newsletter

Edition 7
July 2021

Welcome to the seventh edition of our dispute resolution newsletter, looking at what happens when judgement has been entered against you.

Help! - I have just found out a default judgment has been entered against me; what is it and what can I do?

First and foremost **DO NOT DELAY** - you need to act promptly if you discover default judgment has been entered against you.

You may have grounds to set aside or vary the judgment that has been entered against you.

What exactly is a default judgment?

When someone begins legal proceedings, for example they wish to recover an unpaid debt owed to them, they send a claim form to Court. This is sent to the defendant who then has 14 days to respond to this by submitting an "Acknowledgement of Service". Following this, they can then submit a defence and are given a further 14 days to do so, if they wish. If the Court does not receive an acknowledgment, or the defence, within the required timeframe, the Court will automatically issue a default judgement to the defendant.

Once the judgment has been obtained, the Claimant can take enforcement action to recover the judgement sum.

Setting aside a default judgment

A default judgement can be set aside in one of two ways. The first way is under Court Procedure Rules (CPR) 13.2 and CPR 13.3 which state that the Court must allow an application to set aside a default judgment if that judgment has been wrongly entered.

In all other circumstances, the Court has a discretion and may set aside the default judgment under CPR 13.3.



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Setting aside default judgment under CPR 13.2

If a default judgment has been wrongly entered, for example the Defendant did in fact file an Acknowledgment of Service form within the time limit set out in the CPR or a defence was in fact filed on time, then it must be set aside in accordance with CPR 13.2. It does not make any difference if the defence is without merit. Further, any delay in these circumstances is not relevant.

Setting aside default judgment under CPR 13.3

This procedure is not mandatory and the Court has a discretion as to whether to set aside the default judgment and in these circumstances, delay and merits of any defence are relevant. The Court may therefore exercise its discretion to set aside the default judgment if the defendant has a real prospect of defending the claim or there is some other good reason for doing so, but you must act promptly as this is something the Court will take into consideration when exercising that discretion.

We would recommend that legal advice is sought in the event that you consider default judgment has been wrongly entered or where you have failed to file a defence to a claim issued against you in the required timeframe.

To read previous editions of our dispute resolution newsletter, please visit our website at www.allingtonhughes.co.uk/dispute-resolution-newsletter

Our dispute resolution team



L-R: Tracey Powell, John Partington, Stephen Foote, Gwenno Price-Jones

If you need expert legal advice from one of our dispute resolution solicitors, then please do not hesitate to get in touch. We deal with a wide range of issues, which include:

- Property & boundary disputes
- Landlord & tenant disputes
- Consumer/contract disputes
- Debt recovery
- Harassment
- Probate disputes
- Construction disputes
- Negligence claims
- Defamation
- Partnership/shareholder agreements

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