

IN THE DISTRICT COURT FOR THE STATE OF ALASKA AT _____

Plaintiff(s),
vs. _____
Defendant(s).

CASE NO. _____ SC

**DEFAULT AFFIDAVIT AND
REQUEST FOR JUDGMENT**

I do solemnly swear or affirm that the facts set out below are true to the best of my knowledge and belief following diligent inquiry, and I request a default judgment.

1. More than 20 days have elapsed since the summons and complaint were served upon defendant, _____.
2. The defendant is not a minor under age 18 or otherwise incompetent.
3. The defendant is in the active military service of the United States.
 I am unable to determine whether the defendant is in the military service.
 The defendant is not in the active military service of the United States.* This knowledge and belief is based on the following facts:

* You may check for this online at <https://scra.dmdc.osd.mil/>

4. I have personal knowledge of (or business records showing) the truth of every essential element of my claim for relief as stated in my complaint.
 I attached the business records that support my claim.
5. The amount I claimed in my complaint (not including prejudgment interest or costs) is \$ _____. Since filing the complaint, I have received the following payments from the defendant:

| <u>Date</u> | <u>Amount</u> | <u>Date</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

Prejudgment Interest. (See attached instructions.)

- I do not want prejudgment interest.
- I want prejudgment interest. Therefore, I have attached (1) a sheet showing my interest calculations in the form required by the instructions, and (2) any required documentation.

Attorney's Fees (not to exceed \$1,000), based on 10% of judgment or reasonable actual attorney fees, whichever is less, in the amount of: \$ _____

Signature

Print Name and Title (If Applicable)

Subscribed and sworn to or affirmed before me at _____, Alaska
on _____
(date)

(SEAL)

Clerk of Court, Notary Public, or other
person authorized to administer oaths
My commission expires: _____

INSTRUCTIONS FOR CALCULATING PREJUDGMENT INTEREST

If you are claiming prejudgment interest, you must show how the prejudgment interest should be calculated.

Determining Due Date

First, you must determine the date the principal became due. That date will be:

In Tort Cases (that is, cases involving damage to property, personal injury, or death)
AS 09.30.070(b)

1. The date agreed upon by the parties; or
2. If there is no such agreement, the earliest of the following:
 - a. The date process is served on the defendant; or
 - b. The date the defendant received written notification that an injury occurred and that a claim may be brought against the defendant.

In All Other Cases AS 45.45.010

1. The date stated in a written contract or agreement, or
2. If there is no written contract or agreement, the date the principal was due (for example, the date an account or debt became payable or the date the parties agreed the debt would be paid) or the date the debtor refuses to pay. Hoffman v. von Wirth, 907 P.2d 454, 455 and footnote 2 (Alaska 1995).

REQUIRED DOCUMENTATION. In tort cases and in all other cases, you must file written documentation with the court showing the date the principal became due. Examples of such documentation are: a written contract, a payment ledger, an invoice, an affidavit setting out the terms of the parties' oral agreement, a copy of a letter to the defendant giving written notification of the claim, etc.

Interest Rate

Next, you must determine the interest rate. If you have a contract that states what the rate will be, use that rate (and attach a copy of your contract). If there is no contract interest rate, the rate will usually be the rate (set by a statutory formula) for the year the court enters the judgment in your case.** If your judgment will be entered during the year 2016, use 4% as your interest rate unless one of the exceptions described in the footnote below applies.

Calculation of Interest

Next, you must show the court your interest calculations. See page 3 for the calculations you must show if you have received no payments since filing the complaint. See page 4 for the calculations you must show if you have received any payments since filing the complaint.

** AS 09.30.070(a) sets the rate at "three percentage points above the 12th Federal Reserve District discount rate in effect on January 2 of the year in which the judgment or decree is entered." Exceptions: This rate does not apply if: (1) there is a contract that sets a different rate, (2) there is a statute that sets a different rate, or (3) the cause of action accrued before August 7, 1997 (in which case the rate will be 10.5%.) In general, a cause of action "accrues" when a suit may be maintained thereon, that is, when sufficient events have occurred to support a valid lawsuit (for example, when injury or damage occurs or when a contract is breached).

No Payments Received

If you have received no payments since filing the complaint, show the following:

1. The principal amount stated on your complaint and the date it became due.
(This will be the date prejudgment interest begins.)
2. Your calculation of the amount of interest due using the following formula:

$$\begin{array}{ccccccccc} \text{Principal} & \times & \text{Interest} & \div & 365 & \times & \text{No. of} & = & \text{Amount of Interest} \\ \text{Amount} & & \text{Rate} & & & & \text{Days} & & \text{Due for that Period} \end{array}$$

“No. of Days” means the number of days between the date the principal became due and the date you file your Default Affidavit.

3. Add the interest to the original principal and show the new balance due.

EXAMPLE

Sample case: Complaint is filed September 15, 2016 claiming \$1,000. The money has been due since March 16, 2016. Defendant does not answer complaint, so on November 22, 2016, plaintiff files Default Affidavit with the following prejudgment interest calculations attached:

1. Principal amount and date it became due: \$1,000 due March 16, 2016

$$\begin{array}{ccccccccc} 2. & \underline{\$1,000} & \times & \underline{.04} & \div & \underline{365} & \times & \underline{251} & = & \underline{\$27.51} \\ & \text{Principal} & & \text{Annual} & & \text{Days} & & \text{No. of Days} & & \text{Interest Due} \\ & & & \text{Interest} & & \text{In} & & \text{Between} & & \text{For That Period} \\ & & & \text{Rate} & & \text{Year} & & \text{March 16 and} & & \\ & & & & & & & \text{November 22} & & \\ & & & & & & & \text{(date default} & & \\ & & & & & & & \text{affidavit filed)} & & \end{array}$$

3. Principal: \$1,000.00
Prejudgment Interest: + 27.51
New Balance Due: \$1,027.51

YOUR CALCULATIONS

Please show how the interest in your case should be calculated:

Date principal became due: _____ (See page 2 about required documentation.)

$$\begin{array}{ccccccccc} \$ & \underline{\hspace{2cm}} & \times & \underline{\hspace{2cm}} & \div & \underline{365} & \times & \underline{\hspace{2cm}} & = & \underline{\hspace{2cm}} \\ \text{Principal} & & & \text{Annual} & & \text{Days} & & \text{No. of Days} & & \text{Interest Due} \\ & & & \text{Interest Rate} & & \text{In Year} & & & & \text{For That Period} \end{array}$$

If you have received payments since the complaint was filed, see page 4.

Payments Received

If you have received payments since filing the complaint, attach a separate sheet showing the following:

1. The principal amount due (not including any interest) and the date it became due.
2. The date and amount of the defendant's first payment.
3. Your calculation of the amount of interest due between those two dates, using the formula shown in paragraph 2 on page 3. "No. of Days" means the number of days between the date the principal became due and the date of the first payment.
4. Deduct the interest amount calculated in step 3 from the defendant's payment. Then deduct the rest of the payment from the principal owed to you to get the balance still due.
5. If there was a second payment, show the date it was made and amount. Then show your interest calculation for the period between the first and second payments. ("No. of Days" means the number of days between the two payments.) Subtract that amount of interest from the payment, and then apply the rest to reduce the balance due. Repeat if there were more payments.
6. Calculate the amount of interest which has accrued from the date of the last payment to the date you file your Default Affidavit. Add this to the previous balance due and show the final balance due.

EXAMPLE

1. Principal amount and date it became due: \$1,000 due March 16, 2016
2. Defendant's first payment (after complaint filed): \$100 on September 22, 2016
3.
$$\frac{\$1,000}{\text{Principal}} \times \frac{.04}{\text{Annual Interest Rate}} \div \frac{365}{\text{Days In Year}} \times \frac{190}{\text{No. of Days Between March 16 and September 22}} = \frac{\$20.82}{\text{Interest Due For That Period}}$$
4.
$$\frac{\$100.00}{\text{Defendant's Payment}} - \frac{\$20.82}{\text{Interest Due}} = \$79.18 \text{ (amount to be applied to principal)}$$

$$\frac{\$1,000.00}{\text{Principal}} - \frac{\$79.18}{\text{Payment}} = \$920.82 \text{ (balance due as of September 22, 2016)}$$
5. Defendant's second payment: \$200 on October 22, 2016

$$\frac{\$920.82}{\text{Balance Due}} \times \frac{.04}{\text{Interest Rate}} \div \frac{365}{\text{Days}} \times \frac{30}{\text{Days}} = \$3.03 \text{ interest}$$

 \$200 Payment – \$3.03 Interest = \$196.97 to be applied to balance due
 \$920.82 Balance Due – \$196.97 Payment = \$723.85 Balance Due as of October 22
6. Interest accrued from second payment to date of Default Affidavit (November 22, 2016):

$$\$723.85 \text{ Balance} \times .04 \div 365 \times 31 \text{ Days} = \$2.46 \text{ Interest}$$

 Previous Balance Due (10/22/16): \$723.85
 Interest Accrued Since Then: + 2.46
 Current Balance Due (11/22/16): \$726.31