

Using This Revisable PDF Form

1. Copies
 - a. If affidavit only, original – to court.
 - b. If used to appoint counsel, a copy should be provided to the attorney and the servicemember, if possible.
2. Affidavit prepared by plaintiff. Appointment of counsel and/or stay of proceedings section(s) prepared by clerk or judge and signed by judge.
3. Possible Attachments – Any document initiating a civil proceeding.
4. Preparation details
 - a. This form is for use in complying with the requirements of the Servicemembers Civil Relief Act. It should be completed by the plaintiff in every civil proceeding before a court in the Commonwealth of Virginia.
 - b. This form may used by the court to appoint counsel for the service member.
 - c. While this form may also be used to stay the proceedings if a stay is required under federal law, 50 U.S.C. §§ 3931 or 3932, please use form DC-417, ORDER FOR STAY – SERVICEMEMBERS CIVIL RELIEF ACT, for more detailed judicial findings.

**AFFIDAVIT – DEFAULT JUDGMENT
SERVICEMEMBERS CIVIL RELIEF ACT**

Commonwealth of Virginia VA. CODE § 8.01-15.2

Case No. 1

2

RETURN DATE AND TIME

Circuit Court General District Court
 Juvenile and Domestic Relations District Court

3

CITY OR COUNTY

4

v./In re:

5

PRINT NAME

I, _____, the undersigned affiant, states the following under oath:

6 The defendant/respondent is in military service. is not in military service.

The following facts support the statement above:

7

8

9 The affiant is unable to determine whether or not the defendant/respondent is in military service. Pursuant to 50 U.S.C. § 3931, if the court is unable to determine whether the defendant/respondent is in military service based upon the affiant's statement, the court, before entering judgment, may require the plaintiff/petitioner to file a bond in an amount approved by the court.

10

DATE

11

AFFIANT'S SIGNATURE

The above-named affiant personally appeared this day before the undersigned, and upon duly being sworn, made oath that the facts stated in this affidavit are true to the best of his or her knowledge, information and belief.

12

DATE

13

CLERK DEPUTY CLERK MAGISTRATE JUDGE INTAKE OFFICER

FOR NOTARY PUBLIC'S USE ONLY: 14

State of _____ City County of _____

Acknowledged, subscribed and sworn to before me this _____ day of _____, 20 _____.

NOTARY REGISTRATION NUMBER

NOTARY PUBLIC

(My commission expires: _____)

NOTICE REGARDING APPOINTMENT OF COUNSEL TO REPRESENT ABSENT SERVICEMEMBER:

Where appointment of counsel is required pursuant to 50 U.S.C. § 3931 or § 3932 or another section of the Servicemembers Civil Relief Act, the court may assess reasonable attorney fees and costs against any party as the court deems appropriate, including a party aggrieved by a violation of the Act, and shall direct in its order which of the parties to the case shall pay such fees and costs, except the Commonwealth unless it is the party that obtains the judgment. Further, counsel appointed pursuant to the Servicemembers Civil Relief Act shall not be selected by the plaintiff or have any affiliation with the plaintiff.

FOR COURT USE ONLY:

15 **ORDER OF APPOINTMENT OF COUNSEL**

I find that appointment of counsel is required pursuant to 50 U.S.C. § 3931 or § 3932 or another section of the Servicemembers Civil Relief Act and therefore, I appoint the lawyer indicated below to represent the absent servicemember named as defendant/respondent above.

15

NAME, ADDRESS OF COURT APPOINTED LAWYER

16

NEXT HEARING DATE AND TIME

17

DATE

18

JUDGE

STAY OF PROCEEDINGS

19 I find that a stay of proceedings is required pursuant to 50 U.S.C. § 3931 and, therefore, such a stay, for a minimum period of 90 days, is ordered until _____

NEXT HEARING DATE AND TIME

20

DATE

21

JUDGE

Data Elements

1. Case number.
2. Return date and time.
3. Court name. Check the box for the type of court.
4. Case Name.
5. Name of plaintiff in civil case/person completing the affidavit.
6. Check the box if affiant was able to determine if the defendant is in military service.
7. Check applicable box.
8. Provide information that supports the information provided in the Data Element no. 7.
9. Check if the affiant was not able to determine if the defendant was in military service.
10. Date of signature
11. Signature of affiant.
12. Date of taking oath.
13. Signature of person acknowledging affidavit. Check the appropriate title box.
14. If acknowledged by a notary public, all enclosed fields must be completed including notary's registration number and date of commission expiration.
15. Check if attorney appointed to represent servicemember. Name and address of court appointed lawyer, if applicable.
16. Insert date and time of next hearing.
17. Insert date of judge's signature.
18. Signature of judge making appointment.
19. Check this box if order for stay of proceedings is entered. Include next hearing date.
20. Insert date of order for stay of proceedings.
21. Insert judge's signature.