

**IOWA DISTRICT COURT, FIFTH JUDICIAL DISTRICT**

**IN THE MATTER OF DEFAULT  
JUDGMENTS IN POLK COUNTY**

**ADMINISTRATIVE ORDER #2005-35**

Due to understaffing of the office of the Polk County Clerk of Court, the Clerk has not been performing ordinary ministerial duties regarding the entry of default judgments in civil law and small claims cases. Staffing levels have improved to the point that the Clerk should perform these duties:

**NOW THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

1. In small claims actions for money judgment, the Polk County Clerk of Court shall enter judgments by default without order of the court when authorized by Iowa Code Section 631.5(6) if a defendant fails to appear after proper notice and the relief is readily ascertainable. Relief is readily ascertainable when the Clerk determines the claim is for a sum certain or a sum that by computation can be made certain. The Clerk shall make this determination by review of the filing by the plaintiff with the small claims original notice of a verified account or an instrument in writing for the payment of money with an affidavit that the same is genuine. Relief is not readily ascertainable if the amount requested merely represents the opinion of the plaintiff as to the amount, or the amount is unclear or unliquidated. If the relief is not readily ascertainable, the Clerk shall assign the claim to a judicial magistrate for determination. The magistrate may require such additional verifications of account or affidavits as necessary to determine the amount. The magistrate may set the matter for hearing if necessary. Upon determination of the amount due, the magistrate shall enter judgment. Small claims not determined within ninety days following the expiration of any period of continuance or following the last entry placed on the record for that action shall be dismissed by the Clerk without prejudice in accordance with Iowa Code Section 631.8(1).

2. In civil actions, the Polk County Clerk of Court shall enter judgments by default without order of the court when authorized by Iowa Rule of Civil Procedure 1.973(1) where, upon affidavit that the amount is due, the claim is for a sum certain or a

sum that by computation can be made certain. Otherwise, the Clerk shall refer the application for default judgment to the assigned general trial judge for further action in accordance with Iowa Rule of Court Procedure 1.973(2). The Clerk shall perform such other ministerial functions as required by Division IX(c) of the Iowa Rules of Civil Procedure governing Defaults and Judgments thereon.

3. This Administrative Order shall be effective on the 1st day of November, 2005. Court Administration shall immediately post this order on the Iowa Judicial Branch website and disseminate it to the Iowa State Bar Association and the Polk County Bar Association to inform the bar and the public of this procedure for the entry of Default judgments in Polk County.

So ordered this 30th day of September, 2005.

*/s/ARTHUR E. GAMBLE, Chief Judge*  
Fifth Judicial District of Iowa

COPIES TO:  
District Court/District Associate Court Judges – 5<sup>th</sup> District  
Senior Judges/Magistrates – 5<sup>th</sup> District  
Clerks of Court/County Attorneys – 5<sup>th</sup> District  
Court Reporters/Judicial Assistants/Court Attendants – 5<sup>th</sup> District  
Fifth District Liaison Justice – Marsha Ternus  
State Court Administrator – David Boyd  
Director – Department of Correctional Services  
District/Assistance District Court Administrators  
Court Administration Staff  
Boards of Supervisors – 5<sup>th</sup> District  
State Bar Association  
Iowa Bar Association