

## **Rule 4.2.X Adjudication On Non-Appearing or Non-Defending Respondent**

- (a) **Entry.** When a respondent has failed to appear or has failed to defend in a dependency or neglect action, the court may enter adjudication upon evidence submitted pursuant to this rule. A respondent fails to appear in the action if, after being duly served with process, he or she does not appear before the court, in person or through counsel, at the date and time stated in the summons. A respondent fails to defend in the action if, after being duly served with process, he or she fails or refuses to admit or deny the allegations contained in the petition at the date and time set forth in the summons or as ordered by the court. A party seeking an adjudication for a non-appearing or non-defending respondent may request adjudication be entered either upon written or verbal motion to the court, with supporting evidence in accordance with this rule.
- (b) **Supporting Documentation.** If the motion is requested in writing, the motion may include an affidavit stating facts sufficient to support at least one of the allegations contained in the petition. Affidavits may be executed by the attorney for the petitioner on the basis of reasonable inquiry. Affidavits may be combined or submitted separately. If no affidavits are submitted or further documentation, proof, or hearing is required, the court shall notify the parties.
- (c) **Testimony.** If the motion is requested verbally or a hearing is conducted on a written motion, the moving party shall present witness testimony or other appropriate evidence stating facts sufficient to support at least one of the allegations contained in the petition. Testimony may be presented through a proffer of testimony by the attorney, which is then adopted under oath as the sworn testimony of the witness. If such process is used, the testimony may be relied upon as if the witness directly testified.
- (d) **Proceedings.** A court may conduct such hearing or hearings as it deems necessary and proper to determine a motion for adjudication for a non-appearing or non-defending respondent. A court is not required to conduct a hearing if all necessary prerequisites for adjudication are shown by the motion and supporting documentation.
- (e) **Adjudication.** Before adjudication for a non-appearing or non-defending respondent is entered the court shall be satisfied that it has jurisdiction over the parties and the subject matter of the action, and venue of the action is proper.
- (f) **Alternative Service.** Service of process by publication, mail, personal service out of the state, or any other means authorized by C.R.S. 19-3-503 shall not preclude adjudication on a non-appearing or non-defending Respondent.