

## SCRA Flow Chart (no appearance by servicemember)

Has the servicemember entered an appearance?

**NO**

**YES**

See “Initial Appearance” checklist for info; 50 USC App 522 applies when there is an appearance

Does the non-servicemember moving party wish to obtain a default judgment?\*

**YES**

**NO**

End of inquiry; no further action needed by court.\*\*

Has the movant filed an affidavit of military service, including “necessary facts to support the affidavit”?

**YES**

**NO**

This is required by the SCRA.

Does affidavit deny that the other party is in the military?

**NO**

**YES**

Court may proceed if affidavit states that other party is NOT in the military, but may also investigate further (see below) and may punish a party who files a false affidavit

Does affidavit state that affiant doesn't know if the other party is in the military?

**NO**

**YES**

Require affiant to ascertain status of other party through DMDC (Defense Manpower Data Center) and file new affidavit. The court may require the movant to file a bond in an amount approved by the court so that, if the other party is later found to be in military service, it is available to indemnify the absent party for any damages he or she suffers due to the default judgment, should the judgment be set aside in part or whole.

Does affidavit state that the other party is in the military?

**YES**

**NO**

STOP - you have contradicted yourself!

Has the court appointed an attorney for the servicemember?

**YES**

**NO**

Appoint one; this is required by the SCRA.

Can the appointed attorney locate the servicemember?

**YES**

**NO**

Actions by the attorney shall not waive any defense the servicemember has or otherwise bind the servicemember. If after due diligence, counsel has been unable to contact the servicemember or otherwise determine if a meritorious defense exists, then the court shall grant a stay for at least 90 days on the request of the servicemember's attorney or on the court's own motion.

Is there a defense for the servicemember and the defense cannot be presented without the presence of the servicemember?

**YES**

**NO**

Court may proceed.

The court shall grant a stay for at least 90 days on the request of the servicemember's attorney or on the court's own motion.

\*The non-servicemember claimant may be either the plaintiff/petitioner or the defendant/respondent. A default judgment means any decree or order granting relief when the other side has not entered an appearance. Whether appearance means a specific appearance in the current proceeding before the court, or the lawsuit itself (irrespective of the stage of proceedings) depends on state law.

\*\* “Court” also means administrative agency.