

## Servicemember's Affidavit Instructions

- What?** A *Servicemembers' Affidavit* tells the Court that the Respondent is not currently serving in the military.
- Who?** The Petitioner completes the Servicemembers' Affidavit, and signs it in front of a notary. The Petitioner promises to tell the truth in the statement. If the Petitioner lies in the affidavit, s/he could be held criminally responsible.
- When?** The Petitioner files a Servicemembers' Affidavit or presents one to the Court, if the Petitioner is asking the Court to sign an order, and the Respondent was served with citation, but failed to file an answer or appear in the case. This is called a *Default Judgment*.
- Where?** The Servicemembers' Affidavit may be prepared and filed in the case prior to the hearing, or presented to the judge at the time of the hearing.
- How?** The Petitioner must include facts that support the court's conclusion that the Respondent is either a) not serving in the military, b) is serving in the military, or c) that it can not be determined whether or not the Respondent is serving in the military.
- If you have the Respondent's social security number, you can request a report from the Department of Defense to determine whether or not Respondent is serving in the military.  
Go to <https://www.dmdc.osd.mil/scra/owa/scra.home>
- If the Respondent is not in the military, the Court is authorized to sign the order, and enter a judgment against the Respondent.
- If the Respondent is serving in the military, the Court must appoint a lawyer to represent the Respondent. (Usually, the Petitioner must pay for the lawyer.)
- If it cannot be determined whether or not the Respondent is serving in the military, the Court may order the Petitioner to file a bond. A *bond* is money that would be available to help the Respondent if it turns out that the Respondent is serving in the military, and is actually harmed by a judgment taken against him or her.
- Why?** If the Court signs a judgment against the Respondent (and fails to appoint an attorney to represent Respondent), and it turns out that the Respondent was in the military, the Respondent has 90 days from his or her discharge to have the judgment set aside.