

One of our members has received notice from an attorney that the default judgment was erroneous because the above was not done, even though the tenant is not in the military.

## **AFFIDAVIT FOR MILITARY STATUS OF DEFENDANT**

### **Purpose of the Form**

This is a form that you will likely need to use in any eviction lawsuit in which the defendant does not file an answer. By law, if a defendant does not file an answer in an eviction lawsuit, the judge must appoint an attorney for the defendant unless it can be determined that the defendant (your tenant) is not in the military. The judge will require you to sign an affidavit stating that you know that the defendant is or is not in the military, or that you do not know one way or the other even after making a search. This is one reason that it is so important to obtain information about a tenant's military status.

### **When to Use**

You would use this form whenever you file for an eviction of a tenant and the tenant does not file an answer.

If a tenant files an answer, this is a moot point as the defendant, your tenant, can speak for himself and assert any protections under the Servicemembers Civil Relief Act (SCRA).

If you file for an eviction against the tenant, the tenant will be served with process and the tenant will be given a deadline by which to file an answer to the suit. If he does not file an answer by this deadline, you may get a "default judgment," meaning that normally the judge will award you all of the items you are requesting due to the fact that the tenant never answered the law suit. However, before a judge will enter a default judgment, judges may require you to sign a military affidavit stating that you have conducted a reasonable search and what your findings were with regard to the tenant's military status.

### **Tips for Use**

The best website to verify military status is the Department of Defense Manpower Datacenter Website (DMDC):<https://www.dmdc.osd.mil/appj/scra/scraHome.do>

In order to verify with certainty whether someone is in the military, this site will ask you for first name, last name, middle name, date of birth (including the year), and Social Security number. You can perform the search using solely a name, but the answer to your inquiry will state that the DMDC cannot authoritatively assert that this is the same individual that your query refers to unless you have the Social Security number and date of birth. Lack of a Social Security number and date of birth will in all likelihood not result in a judge refusing to allow you to go forward, but may lead to additional questions from the judge.

This form is available on the Marion County Circuit Court website.