

Rule 7008-1

Right to Judgment by the United States District Court

Statement Regarding Consent in Adversary Proceedings

In any adversary proceeding before the bankruptcy court, the following shall contain a statement that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy court:

- (1) the complaint, counterclaim, cross-claim, or third-party complaint; and*
- (2) any pleading in response to a pleading set forth in paragraph (1).*

(a) — Right Preserved

~~In any adversary proceeding filed in the bankruptcy court, the right to judgment by the district court established by Article III of the Constitution is preserved to the parties.~~

(b) — Demand

~~To demand judgment by the district court on any claim in an adversary proceeding;~~

- ~~(1) a plaintiff, or a defendant filing a counterclaim, must state the demand in the allegation of jurisdiction, required by FRBP 7008 in the initial pleading asserting the claim; and~~
- ~~(2) any answering party must state the demand in the initial answer to the pleading asserting the claim.~~

~~Any pleading that includes a demand for judgment by the district court must note the demand in the caption.~~

(c) — Waiver

~~A party waives judgment by the district court unless a demand is made as specified in paragraph (b). A demand by a plaintiff or defendant filing a counterclaim may be withdrawn only if the other parties consent.~~

(d) — Objection to a Demand

~~Any party may, by motion, object to a demand for judgment by the district court on any claim on the grounds (1) that the claim is not one as to which there is a right to judgment by the district court under Article III of the Constitution, or (2) that the election was not~~

~~made as specified in paragraph (b). The bankruptcy court may also raise an objection independently.~~

~~A motion objecting to a demand for judgment by the district court shall be filed with the clerk of the bankruptcy court no later than 14 days following the demand for judgment made under paragraph (b). Any objection or other response documents shall be filed and served no later than 21 days after service of the motion. Reply documents, if any, shall be filed and served no later than 7 days after service of any response.~~

(e) — Transmittal of Documents to District Court

~~After expiration of the time for filing documents as provided in subsection (d) of this rule, the clerk of the bankruptcy court shall transmit the motion and all related documents to the district court. The transmittal may include comments by the bankruptcy judge, including an analysis of the demand for judgment and the impact of the adversary proceeding upon the underlying bankruptcy case. The motion shall be assigned to a district court judge in the normal course. The moving party shall note the matter for hearing in accordance with LR 7.1(h) of the Local Rules of the United States District Court.~~

~~All further documents related to the motion shall be filed with the clerk of the district court. Unless otherwise ordered by the bankruptcy court or district court, parties shall continue to file with the bankruptcy court all documents relating to other matters in the adversary proceeding with the clerk of the bankruptcy court.~~

Related Provisions

FRBP 7008 General Rules of Pleading

LR 7.1(h) Motion Practice