

REQUIRED LANGUAGE CONCERNING CONSENT
TO ENTRY OF FINAL ORDER OR JUDGMENT BY BANKRUPTCY COURT

Include this language or its equivalent in every complaint, counterclaim, cross-claim or third party complaint; in every initial responsive pleading (answer, motion to dismiss, etc.); and as required in pleadings concerning removal of a matter to the bankruptcy court:

[Name of party] [consent(s)] [do(es) not consent] (select one) to the bankruptcy court's entry of final orders or judgment.

Explanation

Federal Rule of Bankruptcy Procedure 7008 requires that every complaint, counterclaim, cross-claim, or third-party complaint contain a statement that the pleader "does or does not consent to entry of final orders or judgment by the bankruptcy court." (Note: an adversary proceeding is a "complaint.")

Federal Rule of Bankruptcy Procedure 7012 requires that a responsive pleading filed to a complaint, counterclaim, cross-claim or third-party complaint include the same statement. "Responsive pleading" includes an answer, motion to dismiss, motion for more definite statement, etc. – basically the first pleading other than an appearance or motion for extension of time.

A notice of removal filed pursuant to Federal Rule of Bankruptcy Procedure 9027(a) must also include a statement that the filer does or does not consent to the bankruptcy court's entry of final orders or judgment. Subparagraph (e) of that same rule requires every other party to the removed matter to make the same statement.

Even if all parties consent to the bankruptcy court's entry of final orders or judgment, the court itself may conclude that the matter has to be resolved by district court and may send the matter to district court or may enter proposed findings of fact and conclusions of law and send those to the district court for consideration.

Failure to comply with this requirement may have consequences.