

## [9015-2. Jury Trials and Personal Injury and Wrongful Death Claims.](#)

### **(a) Determination of Right.**

In any proceeding in which a demand for jury trial is made, the Bankruptcy Judge shall, upon the motion of one of the parties, or upon the Bankruptcy Judge's own motion, determine whether the demand was timely made and whether the demanding party has a right to a jury trial. The Bankruptcy Judge may, on the Judge's own motion, determine that there is no right to a jury trial in a proceeding even if all of the parties have consented to a jury trial.

### **(b) Motion and Certification to District Court.**

If the Bankruptcy Judge determines that the demand for a jury trial was timely made and the party has a right to a jury trial, and if all parties have not filed written consent to a jury trial before the Bankruptcy Judge, the Bankruptcy Judge shall, after having resolved all pre-trial matters, including dispositive motions, certify to the District Court that the proceeding is to be tried by a jury and that the parties have not consented to a jury trial in the Bankruptcy Court, and shall include in such certification, a report of the status of the proceeding and a recommendation on when the matter would be suitable for withdrawal from the Bankruptcy Court. Upon such certification, the party who has demanded a jury trial shall promptly file a motion in accordance with B.L.R. 5011-2(a) for withdrawal of the reference of the proceeding to be tried to a jury. The motion and the certification shall thereafter be handled in the District Court in accordance with B.L.R. 5011-2(c), (d) and (e).

### **(c) Jury Trial in Bankruptcy Court.**

The Bankruptcy Judges of this District are hereby specially designated to conduct jury trials pursuant to 28 U.S.C. § 157(e). If the Bankruptcy Judge determines that a jury demand was timely made and the demanding party has a right to jury trial, and if all parties expressly consent to a jury trial before the Bankruptcy Judge, the Bankruptcy Judge shall try the proceeding by jury and shall enter judgment at the conclusion of the trial.

### **(d) Personal Injury and Wrongful Death Claims.**

Upon timely motion of a party or upon the Bankruptcy Judge's own motion, the Bankruptcy Judge may determine that a claim is a personal injury tort or wrongful death claim requiring trial by a District Judge. Upon making such a determination, the Bankruptcy Judge shall, after having resolved all pre-trial matters, including dispositive motions, certify to the District Court that the claim is one which requires trial in the District Court under 28 U.S.C. § 157(b)(5) and shall include in such certification, a report of the status of the proceeding and a recommendation on when the matter would be suitable for withdrawal from the Bankruptcy Court. Upon such certification, the party who has demanded a jury trial shall promptly file a motion in accordance with B.L.R. 5011-2(a) for withdrawal of the reference of the proceeding to be tried to a jury. The motion and the certification shall thereafter shall be handled in the District Court in accordance with B.L.R. 5011-2(c), (d) and (e).

### **(e) Procedure.**

In any proceeding within the jurisdiction created by 28 U.S.C. § 1334, FRCivP 38(a)-(d), 39, 47-51, and 81(c) shall govern the demand for and conduct of jury trials.

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### **(f) Remand and Abstention.**

Nothing contained in this rule shall be construed to preclude the entry of any order of remand or abstention.

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