

## **Consent Agreement (MAG 11-02)**

Purpose of form:

The Magistrate judge signs this document to enter making the "consent agreement" of the parties the legal decision in a civil case. The main legal distinction between a consent agreement and a consent judgment involves the finality of the case. A consent judgment is a final decision whereas, unless the case is dismissed, a consent agreement is not a final decision, it is a court order.

The advantages of a consent agreement, in appropriate circumstances include: (1) a "judgment" is not entered in the case against the judgment debtor. The entry of a civil judgment oftentimes has a negative impact upon one's credit rating; (2) through a consent agreement the parties are granted a reasonable amount of time to complete certain acts, such as a repayment plan, repairs or the completion of certain work. These issues, alone, can provide compelling incentives to fulfill the terms of the consent agreement.

The disadvantages of a consent agreement include: (1) same as #1 above, there is no judgment entered which brings finality to the case; (2) the parties may need to appear in court for an additional trial of the case if the terms of the consent agreement are not fulfilled.

Typically, a consent agreement will involve a dismissal of the claim, counterclaim, a repayment plan or the performance of certain acts. The performance of certain acts oftentimes involves completing certain repairs or finishing work, such as on a construction project. Bear in mind that a court ordinarily cannot, and will not; order completion of work or repairs, but the parties may through their own agreement do so. A court issues a money judgment in lieu of ordering completion of work or completion of repairs. Therefore, the parties may well prefer a consent agreement to a court money judgment.

When the parties agree to extend time for a repayment plan, complete repairs or finish certain work, the court will reset the case for another trial date to insure compliance with the consent agreement.

If the consent agreement is fulfilled, the parties should file a dismissal of the claim or counterclaim. If the consent agreement is not fulfilled, the case will proceed on with a trial to determine the outstanding money damages to be awarded, if any.