

United States trustee to monitor the progress of the case in accordance with 28 U.S.C. § 586(a)(3)(G).

The words “with the clerk” in subdivision (f)(1) are deleted as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Subdivision (g) is added to provide sufficient time for a party to request a stay pending appeal of an order authorizing the use, sale, or lease of property under § 363(b) of the Code before the order is implemented. It does not affect the time for filing a notice of appeal in accordance with Rule 8002.

Rule 6004(g) does not apply to orders regarding the use of cash collateral and does not affect the trustee’s right to use, sell, or lease property without a court order to the extent permitted under § 363 of the Code.

The court may, in its discretion, order that Rule 6004(g) is not applicable so that the property may be used, sold, or leased immediately in accordance with the order entered by the court. Alternatively, the court may order that the stay under Rule 6004(g) is for a fixed period less than 10 days.

GAP Report on Rule 6004. No changes since publication.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended by inserting a new subdivision (g) to implement §§ 332 and 363(b)(1)(B) of the Code, added by the 2005 amendments. This rule governs the proposed transfer of personally identifiable information in a manner inconsistent with any policy covering the transfer of the information. Rule 2002(c)(1) requires the seller to state in the notice of the sale or lease whether the transfer is consistent with and policy governing the transfer of the information.

Under § 332 of the Code, the consumer privacy ombudsman must be appointed at least five days prior to the hearing on a sale or lease of personally identifiable information. In an appropriate case, the consumer privacy ombudsman may seek a continuance of the hearing on the proposed sale to perform the tasks required of the ombudsman by § 332 of the Code.

Former subdivision (g) is redesignated as subdivision (h).

Changes Made After Publication. The Committee Note was amended to highlight the connection between this rule and Rule 2002 with regard to the obligation to provide notice of proposed transactions. It was also amended to recognize the ability of the consumer privacy ombudsman to seek a continuance of a hearing on the proposed sale of personally identifiable information.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 6005. Appraisers and Auctioneers

The order of the court approving the employment of an appraiser or auctioneer shall fix the amount or rate of compensation. No officer or employee of the Judicial Branch of the United States or the United States Department of Justice shall be eligible to act as appraiser or auctioneer. No residence or licensing requirement shall disqualify an appraiser or auctioneer from employment.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 606(c) and implements § 327 of the Code. Pursuant to § 327, the trustee or debtor in possession may employ one or more appraisers or auctioneers, subject to court approval. This rule requires the court order approving such employment to fix the amount or rate of compensation. The second sentence of the former rule is retained to continue to safeguard against imputations of favoritism which detract from public confidence in bankruptcy administration. The final sentence is to guard against imposition of parochial requirements not warranted by any consideration having to do with sound bankruptcy administration.

Reference should also be made to Rule 2013(a) regarding the limitation on employment of appraisers and auctioneers, and Rule 2014(a) regarding the application for appointment of an appraiser or auctioneer.

Rule 6006. Assumption, Rejection or Assignment of an Executory Contract or Unexpired Lease

(a) PROCEEDING TO ASSUME, REJECT, OR ASSIGN. A proceeding to assume, reject, or assign an executory contract or unexpired lease, other than as part of a plan, is governed by Rule 9014.

(b) PROCEEDING TO REQUIRE TRUSTEE TO ACT. A proceeding by a party to an executory contract or unexpired lease in a chapter 9 municipality case, chapter 11 reorganization case, chapter 12 family farmer’s debt adjustment case, or chapter 13 individual’s debt adjustment case, to require the trustee, debtor in possession, or debtor to determine whether to assume or reject the contract or lease is governed by Rule 9014.

(c) NOTICE. Notice of a motion made pursuant to subdivision (a) or (b) of this rule shall be given to the other party to the contract or lease, to other parties in interest as the court may direct, and, except in a chapter 9 municipality case, to the United States trustee.

(d) STAY OF ORDER AUTHORIZING ASSIGNMENT. An order authorizing the trustee to assign an executory contract or unexpired lease under § 365(f) is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise.

(e) LIMITATIONS. The trustee shall not seek authority to assume or assign multiple executory contracts or unexpired leases in one motion unless: (1) all executory contracts or unexpired leases to be assumed or assigned are between the same parties or are to be assigned to the same assignee; (2) the trustee seeks to assume, but not assign to more than one assignee, unexpired leases of real property; or (3) the court otherwise authorizes the motion to be filed. Subject to subdivision (f), the trustee may join requests for authority to reject multiple executory contracts or unexpired leases in one motion.

(f) OMNIBUS MOTIONS. A motion to reject or, if permitted under subdivision (e), a motion to assume or assign multiple executory contracts or unexpired leases that are not between the same parties shall:

(1) state in a conspicuous place that parties receiving the omnibus motion should locate their names and their contracts or leases listed in the motion;

(2) list parties alphabetically and identify the corresponding contract or lease;

(3) specify the terms, including the curing of defaults, for each requested assumption or assignment;

(4) specify the terms, including the identity of each assignee and the adequate assurance of future performance by each assignee, for each requested assignment;

(5) be numbered consecutively with other omnibus motions to assume, assign, or reject executory contracts or unexpired leases; and

(6) be limited to no more than 100 executory contracts or unexpired leases.

(g) FINALITY OF DETERMINATION. The finality of any order respecting an executory contract or unexpired lease included in an omnibus motion shall be determined as though such contract or lease had been the subject of a separate motion.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 30 2007, eff. Dec. 1, 2007; Mar. 26, 2009, eff. Dec. 1, 2009.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Section 365(a) of the Code requires court approval for the assumption or rejection of an executory contract by the trustee or debtor in possession. The trustee or debtor in possession may also assign an executory contract, §365(f)(1), but must first assume the contract, §365(f)(2). Rule 6006 provides a procedure for obtaining court approval. It does not apply to the automatic rejection of contracts which are not assumed in chapter 7 liquidation cases within 60 days after the order for relief, or to the assumption or rejection of contracts in a plan pursuant to §1123(b)(2) or §1322(b)(7).

Subdivision (a) by referring to Rule 9014 requires a motion to be brought for the assumption, rejection, or assignment of an executory contract. Normally, the motion will be brought by the trustee, debtor in possession or debtor in a chapter 9 or chapter 13 case. The authorization to assume a contract and to assign it may be sought in a single motion and determined by a single order.

Subdivision (b) makes applicable the same motion procedure when the other party to the contract seeks to require the chapter officer to take some action. Section 365(d)(2) recognizes that this procedure is available to these contractual parties. This provision of the Code and subdivision of the rule apply only in chapter 9, 11 and 13 cases. A motion is not necessary in chapter 7 cases because in those cases a contract is deemed rejected if the trustee does not timely assume it.

Subdivision (c) provides for the court to set a hearing on a motion made under subdivision (a) or (b). The other party to the contract should be given appropriate notice of the hearing and the court may order that other parties in interest, such as a creditors' committee, also be given notice.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivisions (a) and (b) are amended to conform to the 1984 amendment to §365 of the Code, which governs assumption or rejection of time share interests.

Section 1113, governing collective bargaining agreements, was added to the Code in 1984. It sets out requirements that must be met before a collective bargaining agreement may be rejected. The application to reject a collective bargaining agreement referred to in §1113 shall be made by motion. The motion to reject creates a contested matter under Rule 9014, and service is made pursuant to Rule 7004 on the representative of the employees. The time periods set forth in §1113(d) govern the scheduling of the hearing and disposition of a motion to reject the agreement.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

References to time share interests are deleted as unnecessary. Time share interests are within the scope of

this rule to the extent that they are governed by §365 of the Code.

Subdivision (b) is amended to include chapter 12 cases.

Subdivision (c) is amended to enable the United States trustee to appear and be heard on the issues relating to the assumption or rejection of executory contracts and unexpired leases. See §§307, 365, and 1113 of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

This rule is amended to delete the requirement for an actual hearing when no request for a hearing is made. See Rule 9014.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Subdivision (d) is added to provide sufficient time for a party to request a stay pending appeal of an order authorizing the assignment of an executory contract or unexpired lease under §365(f) of the Code before the assignment is consummated. The stay under subdivision (d) does not affect the time for filing a notice of appeal in accordance with Rule 8002.

The court may, in its discretion, order that Rule 6006(d) is not applicable so that the executory contract or unexpired lease may be assigned immediately in accordance with the order entered by the court. Alternatively, the court may order that the stay under Rule 6006(d) is for a fixed period less than 10 days.

GAP Report on Rule 6006. No changes since publication.

COMMITTEE NOTES ON RULES—2007 AMENDMENT

The rule is amended to authorize the use of omnibus motions to reject multiple executory contracts and unexpired leases. In some cases there may be numerous executory contracts and unexpired leases, and this rule permits the combining of up to one hundred of these contracts and leases in a single motion to initiate the contested matter.

The rule also is amended to authorize the use of a single motion to assume or assign executory contracts and unexpired leases (i) when such contracts and leases are with a single nondebtor party, (ii) when such contracts and leases are being assigned to the same assignee, (iii) when the trustee proposes to assume, but not assign to more than one assignee, real property leases, or (iv) the court authorizes the filing of a joint motion to assume or to assume and assign executory contracts and unexpired leases under other circumstances that are not specifically recognized in the rule.

An omnibus motion to assume, assign, or reject multiple executory contracts and unexpired leases must comply with the procedural requirements set forth in subdivision (f) of the rule, unless the court orders otherwise. These requirements are intended to ensure that the nondebtor parties to the contracts and leases receive effective notice of the motion. Among those requirements is the requirement in subdivision (f)(5) that these motions be consecutively numbered (*e.g.*, Debtor in Possession's First Omnibus Motion for Authority to Assume Executory Contracts and Unexpired Leases, Debtor in Possession's Second Omnibus Motion for Authority to Assume Executory Contracts and Unexpired Leases, etc.). There may be a need for several of these motions in a particular case. Numbering the motions consecutively is essential to keep track of these motions on the court's docket and should avoid confusion that might otherwise result from similar or identically-titled motions.

Subdivision (g) of the rule provides that the finality of any order respecting an executory contract or unexpired lease included in an omnibus motion shall be determined as though such contract or lease had been the subject of a separate motion. A party seeking to appeal any such order is neither required, nor permitted, to await the court's resolution of all other contracts or leases included in the omnibus motion to obtain appellate review of the order. The rule permits the listing of multiple contracts or leases for convenience, and that

convenience should not impede timely review of the court's decision with respect to each contract or lease.

Changes After Publication. Subdivision (e) of the proposed rule was amended as suggested by the NBC to insert a third category of requests that the trustee may make under an omnibus motion. The list of categories was numbered, and the new category is set out in (e)(2).

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 6007. Abandonment or Disposition of Property

(a) NOTICE OF PROPOSED ABANDONMENT OR DISPOSITION; OBJECTIONS; HEARING. Unless otherwise directed by the court, the trustee or debtor in possession shall give notice of a proposed abandonment or disposition of property to the United States trustee, all creditors, indenture trustees, and committees elected pursuant to §705 or appointed pursuant to §1102 of the Code. A party in interest may file and serve an objection within 14 days of the mailing of the notice, or within the time fixed by the court. If a timely objection is made, the court shall set a hearing on notice to the United States trustee and to other entities as the court may direct.

(b) MOTION BY PARTY IN INTEREST. A party in interest may file and serve a motion requiring the trustee or debtor in possession to abandon property of the estate.

[(c) HEARING] (Abrogated Apr. 22, 1993, eff. Aug. 1, 1993)

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Mar. 26, 2009, eff. Dec. 1, 2009.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Sections 554 and 725 of the Code permit and require abandonment and disposition of property of the estate. Pursuant to §554, the trustee may abandon property but only after notice and hearing. This section is applicable in chapter 7, 11 and 13 cases. Section 725 requires the trustee to dispose of property in which someone other than the estate has an interest, prior to final distribution. It applies only in chapter 7 cases. Notice and hearing are also required conditions. Section 102(1) provides that "notice and hearing" is construed to mean appropriate notice and an opportunity for a hearing. Neither §554 nor §725 specify to whom the notices are to be sent. This rule does not apply to §554(c). Pursuant to that subsection, property is deemed abandoned if it is not administered. A hearing is not required by the statute.

Subdivision (a) requires the notices to be sent to all creditors, indenture trustees, and committees elected under §705 or appointed under §1102 of the Code. This may appear burdensome, expensive and inefficient but the subdivision is in keeping with the Code's requirement for notice and the Code's intent to remove the bankruptcy judge from undisputed matters. The burden, expense and inefficiency can be alleviated in large measure by incorporating the notice into or together with the notice of the meeting of creditors so that separate notices would not be required.

Subdivision (b) implements §554(b) which specifies that a party in interest may request an order that the trustee abandon property. The rule specifies that the request be by motion and, pursuant to the Code, lists the parties who should receive notice.

Subdivision (c) requires a hearing when an objection under subdivision (a) is filed or a motion under subdivision (b) is made. Filing of an objection is sufficient to require a hearing; a separate or joined request for a hearing is unnecessary since the objection itself is tantamount to such a request.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to conform to the 1986 amendments to 28 U.S.C. §586(a) and to the Code. The United States trustee monitors the progress of the case and has standing to raise, appear and be heard on the issues relating to the abandonment or other disposition of property. See §§307 and 554 of the Code. Committees of retired employees appointed under §1114 are not entitled to notice under subdivision (a) of this rule.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

This rule is amended to clarify that when a motion is made pursuant to subdivision (b), a hearing is not required if a hearing is not requested or if there is no opposition to the motion. See Rule 9014. Other amendments are stylistic and make no substantive change.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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- 25-day periods become 28-day periods

Rule 6008. Redemption of Property from Lien or Sale

On motion by the debtor, trustee, or debtor in possession and after hearing on notice as the court may direct, the court may authorize the redemption of property from a lien or from a sale to enforce a lien in accordance with applicable law.

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 609. No provision in the Code addresses the trustee's right of redemption. Ordinarily the secured creditor should be given notice of the trustee's motion so that any objection may be raised to the proposed redemption.

The rule applies also to a debtor exercising a right of redemption pursuant to §722. A proceeding under that section is governed by Rule 9014.

Rule 6009. Prosecution and Defense of Proceedings by Trustee or Debtor in Possession

With or without court approval, the trustee or debtor in possession may prosecute or may enter an appearance and defend any pending action or proceeding by or against the debtor, or commence and prosecute any action or proceeding in behalf of the estate before any tribunal.

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 610.