

## **Rule 6004 - 1**

### **Sale of Estate Property**

#### **(a) Notice and Hearing Required**

A sale pursuant to 11 USC 363(b), including a sale free and clear of any interest of an entity other than the estate, is initiated by notice and hearing and is subject to LBR 2002-1. An action to determine the validity, priority, or extent of any interest of an entity other than the estate shall be brought separately as an adversary proceeding.

#### **(b) Sale Free and Clear of Interests**

- (1) If the property is to be sold free and clear pursuant to 11 USC 363(f) the notice of the motion shall so state and include the following information:
  - (A) the date and time of the hearing on the motion, which may be obtained from the court's website;
  - (B) if no objection is timely filed and served, the moving party may strike the hearing and present ex parte a proposed order;
  - (C) the estimated fair market value of the property without deductions for interest of entities other than the estate;
  - (D) the amount of each lien or encumbrance claimed against the property and the paragraph of 11 USC 363(f) under which the sale is authorized;
  - (E) if the proceeds of the sale appear to be insufficient to pay all liens and encumbrances claimed against the property, the liens and encumbrances which may not be paid from the sale proceeds; and
  - (F) a statement specifying the necessity for the sale.
- (2) All interests in property sold free and clear shall attach to the proceeds of the sale, unless otherwise provided in the notice.

#### **(c) Service**

Service of the notice shall be pursuant to FRBP 6004(c).

#### **(d) Order**

The proposed order shall be filed in accordance with LBR 9013-1(c).

## **Related Provisions**

FRBP 2002(a)(2),(c)(1)	Notices of Sale
FRBP 6004	Use, Sale, or Lease of Property
FRBP 7004	Service
FRBP 9014	Contested Matters
11 USC 363	Use, Sale, or Lease of Property
11 USC 1107	Rights and Duties of Debtor in Possession
11 USC 1206	Sales of Property
11 USC 1303	Rights and Powers of Debtor
28 USC 1746	Unsworn Declaration Under Penalty of Perjury

**LBR 6004 - 1**  
**December 1, 2008**

## **Rule 6006 - 1**

### **Executory Contracts**

#### **(a) Assumption or Rejection**

Except as provided in 11 USC 365(d)(1) or 11 USC 365(d)(4), a trustee or debtor in possession desiring to assume or reject any executory contract or unexpired lease of the debtor shall give twenty (20) days notice to all parties on the Master Mailing List in accordance with LBR 2002 -1. The notice shall include a brief summary of the significant terms of the contract or lease. If assumption is desired and the contract is in default, the notice shall include terms of the cure, compensation for loss, and adequate assurance of future performance.

#### **(b) Assignment**

If the trustee or debtor in possession intends, upon assumption, to assign the executory contract or unexpired lease, the terms of the assignment shall be included in the notice described in paragraph (a) above. If the intent to assign is formed after the notice described in paragraph (a) is given, a separate notice detailing the terms of the assignment shall be given in the manner described in paragraph (a).

#### **(c) Order Requiring the Trustee, Debtor in Possession or Debtor to Act**

- (1) A party to an executory contract or unexpired lease of the debtor requesting an order requiring the trustee, debtor in possession or debtor to assume or reject the contract or to reject a contract previously assumed shall give twenty (20) days notice to all parties on the Master Mailing List in accordance with LBR 2002 - 1. The notice shall include a brief summary of the significant terms of the contract or lease and shall be accompanied by a summary of the proposed order described in subparagraph (2).
- (2) (A) An order requiring the trustee, debtor in possession or debtor to act shall:
  - (i) state a date certain by which the trustee, debtor in possession or debtor must either assume or reject the contract which date shall be no sooner than twenty (20) days after the notice required by subparagraph (c)(1) is given,
  - (ii) state that the contract shall be deemed rejected if the trustee, debtor in possession or debtor does not act before the specified date, and
  - (iii) include provisions for cure, compensation for loss, and adequate assurance of future performance if the contract is assumed.

- (B) The order may include provisions requiring the trustee, debtor in possession or debtor to vacate or surrender possession of property of the estate in the event the contract is rejected, however, such provisions shall comport with the requirements of applicable non-bankruptcy law.

**(d) Request by Debtor for Chapter 13 Trustee to Act**

In a case under Chapter 13, the debtor shall prepare all pleadings and documents for the performance of duties required by the Chapter 13 trustee if the debtor desires to have the trustee assume or reject any executory contract or unexpired lease. The debtor shall approve the pleadings, serve them upon all required entities, and file them with the Court. It shall be the debtor's responsibility to timely obtain the Chapter 13 trustee's signature on the appropriate documents, to set any necessary hearings, and to appear and argue at all hearings.

**Related Provisions**

FRBP 6006	Executory Contracts
11 USC 365	Executory Contracts and Unexpired Leases
11 USC 1303	Power of Debtor
11 USC 1322(c)(7)	Contents of Plan

**LBR 6006 - 1**  
**May 1, 1996**

## **Rule 6007 - 1**

### **Abandonment**

#### **(a) Notice**

A party desiring the trustee or debtor in possession to abandon property of the estate in which the estate may have an interest shall file a motion and give twelve (12) days notice to all parties on the Master Mailing List in accordance with LBR 2002 - 1. The notice shall describe the property or interest involved, including a statement as to its fair market value and any encumbrances thereon.

#### **(b) Proof of Interest**

A party desiring an order requiring the trustee to abandon property of the estate shall provide to the trustee, along with the notice, copies of documents evidencing the interest of the requesting party, and the perfection of that interest, if appropriate.

### **Related Provisions**

FRBP 6007	Abandonment
FRBP 9006(f)	Time
LBR 2002 - 1	Notice to Creditors & Other Interested Parties
11 USC 554	Abandonment
28 USC 1930(b)	Bankruptcy Court Fee Schedule

**LBR 6007 - 1**  
**May 15, 2006**

## **Rule 6008 - 1**

### **Redemption**

A debtor seeking to redeem property pursuant to 11 USC 722 shall file a motion and give fifteen (15) days notice to the trustee and the creditor holding the lien. The property seeking to be redeemed shall be specifically and clearly described along with a statement as to its value in the notice and motion. Service on the lien holder shall be pursuant to FRCP 9014. LBR 2002-1 applies in all other respects.

#### **Related Provisions:**

FRBP 6008	Redemption of Property from Lien or Sale
FRBP 7004	Process
FRBP 9014	Contested Matters
11 USC 722	Redemption

**LBR 6008 - 1**  
**May 15, 2006**