

Motions to Sell (including free and clear of liens), Motions to Lease Property, and Reports/Notices to Sell

Docketing Event

- Bankruptcy> Trustee/U.S. Trustee Events> Report and Notice of Intention to Sell
 - Bankruptcy> Motions/Applications/Objections> Motion to Sell (including free and clear of lien)
 - Bankruptcy> Motions/Applications/Objections> Motion to Lease Property
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Negative Notice: If the document is a report and notice to sell, negative notice procedures apply. If the document is a motion to sell in a Chapter 7, 12, or 13 case, negative notice procedures apply. Motions to sell in Chapter 11 cases **may not** be filed by negative notice. Motions to sell free and clear of liens **may not** be filed by negative notice in any chapter.

Accompanying Orders: N/A

Code and Rule References:

[11 U.S.C. § 363\(b\)](#)

[Fed. R. Bankr. P. 6004](#)

[Local Rule 6004-1](#)

Fee: \$181 for motions to sell free and clear of liens.

Applicable Chapters: 7, 11, 12, 13

Implemented: 10/26/2017

Last Revision: 1/23/2018 9:35:18 AM

Description

Property is often sold or leased in a bankruptcy case. There are many processes related to selling or seeking approval to lease property. This procedure includes information and processing steps for each process.

Report and notice of intention to sell: Federal Rule of Bankruptcy Procedure 6004 and Local Rule 6004-1 provide a Chapter 7 trustee may sell property of the estate (other than free and clear of liens) under 11 U.S.C. § 363(b) without court order provided the trustee complies with sections (b) and (c) of Local Rule 6004-1. These subsections of Local Rule 6004-1 require the trustee file a report and notice of intention to sell that contains specific criteria. The report and notice is served on all creditors.

Motions to sell are often filed by debtors and trustees. These motions seek permission to sell property of the estate.

Motions to lease property are filed generally by trustees or debtors in Chapter 11 cases and request approval of a lease under Federal Rule of Bankruptcy Procedure 6004.

Filing Checklist:

Review the report and notice of intention to sell to determine if it:

- Is signed;

- Has the trustee's or attorney's name and address complete and consistent with the filing trustee's or attorney's name and address in CM/ECF;
- Is properly served and includes a proper certificate of service;
- Contains negative notice that provides the correct language located on the first page;
 - ❖ **Note:** Response period is 21 days (plus an additional three days if any party was served by U.S. Mail).
- Contains sufficient property description;
 - ❖ **Note:** for real property, the report and notice must contain the legal description of the real property.
 - ❖ **Note:** for a vehicle, the property description must include the VIN number.
 - ❖ **Note:** for other property, a clear description of the property must be included (for example, "household goods" is acceptable).

Review the motion to sell (**not** free and clear of liens) or the motion to lease property to determine if it:

- Is signed;
- Has the trustee's or attorney's name and address complete and consistent with the filing trustee's or attorney's name and address in CM/ECF;
- Is properly served and includes a proper certificate of service;
- Contains negative notice that provides the correct language located on the first page;
 - ❖ **Note:** Response period is 21 days (plus an additional three days if any party was served by U.S. Mail).
- Contains sufficient property description;
 - ❖ **Note:** for real property, the report and notice must contain the legal description of the real property.
 - ❖ **Note:** for a vehicle, the property description must include the VIN number.
 - ❖ **Note:** for other property, a clear description of the property must be included (for example, "household goods" is acceptable).

Review the motion to sell free and clear of liens under to determine if it:

- Is signed;
- Has the trustee's or attorney's name and address complete and consistent with the filing trustee's or attorney's name and address in CM/ECF;
- Is properly served and includes a proper certificate of service;
- Contains sufficient property description;
 - ❖ **Note:** for real property, the report and notice must contain the legal description of the real property.
 - ❖ **Note:** for a vehicle, the property description must include the VIN number.
 - ❖ **Note:** for other property, a clear description of the property must be included (for example, "household goods" is acceptable).
 - ❖ **Note:** Ensure the filing fee is paid.