

Rule 6006-1**EXECUTORY CONTRACTS AND UNEXPIRED LEASES - Amended [December 1, 2009]**

(a) *Motion to Assume, Reject, or Assign Executory Contract or Unexpired Lease.* A motion to assume, reject, or assign an executory contract or unexpired lease shall be served in accordance with the time limits set forth in Local Bankruptcy [Rule 9006-1\(b\)](#), which may be waived or modified upon the written consent of all parties entitled to notice of the motion. In the event that a nonconsensual order is sought on less than 14 days' notice, Local Bankruptcy [Rule 9077-1](#) shall govern and an actual hearing shall be held.

(b) *Motion to Assume Executory Contract or Unexpired Lease in Chapter 7 Case.* Unless the Court orders otherwise, in a chapter 7 case, a trustee moving to assume an executory contract or unexpired lease of residential real property or personal property of the debtor shall seek to obtain a return date for the hearing on the motion that is within 60 days after the order for relief or, if the time to assume has been extended, before the expiration of such extended period. If the trustee files a motion to assume or to extend the time to assume or reject an executory contract or unexpired lease of residential real property or personal property, and the motion is filed not later than 60 days after the order for relief (or, if the time to assume or reject the executory contract or unexpired lease has been extended previously by order of the Court, before the expiration of the extended time) with a return date no later than 14 days from the date of such filing, the time to assume or reject the executory contract or unexpired lease shall be extended automatically and without court order until the entry of the order resolving the motion.

(c) *Motion to Assume Unexpired Lease of Nonresidential Real Property.* Unless the Court orders otherwise, in a case under any chapter, a debtor, debtor in possession, or trustee moving to assume an unexpired lease of nonresidential real property under which the debtor is the lessee shall seek to obtain a return date for the hearing on the motion that is within 120 days after the order for relief or, if the time to assume has been extended, before the expiration of such extended period. If the debtor, debtor in possession, or the trustee files a motion to assume or to extend the time to assume or reject an unexpired lease of nonresidential real property, and the motion is filed not later than 120 days after the order for relief (or, if the time to assume or reject the unexpired lease has been extended previously by order of the Court, before the expiration of the extended time) with a return date no later than 14 days from the date of such filing, the time to assume or reject the unexpired lease will be extended automatically and without court order until the entry of the order resolving the motion, except that the time for the debtor, debtor in possession, or trustee to assume or reject such unexpired lease shall not be extended beyond the date that is 210 days after the entry of the order for relief without the prior written consent of the landlord.

(d) *Aircraft Equipment and Vessels.* Unless the Court orders otherwise, a debtor in possession or trustee moving for approval of an agreement to perform all obligations of the debtor pursuant to § 1110(a)(1)(A) of the Bankruptcy Code shall seek to obtain a return date for the hearing on the motion that is within 60 days after the order for relief or, if the time to assume has been extended by order of the Court, before the expiration of such extended period.

(e) *Rolling Stock Equipment.* Unless the Court orders otherwise, a trustee moving for approval of an agreement to perform all obligations of the debtor pursuant to § 1168(a)(1)(A) of the Bankruptcy Code shall seek to obtain a return date for the hearing on the motion that is within 60 days after the date of commencement of the case or, if the time to assume has been extended by order of the Court, before the expiration of such extended period.

Comment

Subdivision (a) of this rule is derived from former Standing Order [M-118](#).

Subdivisions (b) and (c) of this rule are derived from Former Local Bankruptcy Rule 44(b) and (c). Subdivisions(d) and (e) of this rule, added in 1996, are derived from §§ 1110 and 1168 of the Bankruptcy Code.

Section 365(d)(1) of the Bankruptcy Code contemplates that a hearing on a motion by a chapter 7 trustee to assume an executory contract or unexpired lease of residential real property or personal property of the debtor ordinarily will take place within 60 days from the date of the order for relief. In addition, § 365(d)(4) of the Bankruptcy Code contemplates that a final hearing on a motion by a debtor, debtor in possession, or trustee to assume an unexpired lease of nonresidential real property of the debtor ordinarily will take place within 120 days from the date of the order for relief.

Under § 365(d)(1) of the Bankruptcy Code, in a chapter 7 case, the Court may, for cause, extend the 60-day time period for assuming or rejecting an executory contract or unexpired lease of residential real property or personal property. Similarly, under § 365(d)(4), the Court may, for cause, extend the 120-day time period for assuming or rejecting an unexpired lease of nonresidential real property. In 2004, subdivisions (b) and (c) of this rule were amended to avoid the necessity of obtaining a "bridge order" extending these time periods in the event that a timely motion to assume or a timely motion to extend the time was filed but not resolved by the Court before the expiration of the time to assume or reject the contract or lease. Adequate cause for an extension of time to assume or reject the executory contract or unexpired lease until the Court rules on the motion exists by virtue of the fact that a motion to assume or to extend the time was filed in a timely manner. Any party in interest objecting to the extension of time may request a hearing on an expedited basis. To prevent abuse of the automatic extension, the return date of the motion must be no later than 14 days after the motion is filed.

Subdivision (a) of this rule was amended in 2009 to change the time period from 10 to 14 days. The purpose of the amendment was to conform the time period in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than 30 days were changed so that the number of days is in multiples of seven, thereby reducing the likelihood that time periods will end on a Saturday or Sunday.