

**Proposed amendment to Bankruptcy Rule 6007**

A Benjamin Goldgar to: rules\_support

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I am writing to suggest that Bankruptcy Rule 6007 be amended to eliminate subpart (b) and provide a single procedure for all abandonment requests.

As currently structured, Rule 6007(a) governs efforts by a trustee or debtor in possession to abandon estate property. Subpart (a) requires a fourteen-day notice and specifies that notice must be given to certain parties in interest, including "all creditors." Rule 6007(b), on the other hand, governs efforts by a party in interest to compel abandonment. Subpart (b) does not require any notice to anyone and says only that a party in interest "may file and serve a motion."

Rule 6007 implements section 554 of the Code. Sections 554(a) and (b) respectively concern abandonment at the trustee's instance and on request of a party in interest. Both subsections permit abandonment only "after notice and a hearing." The difference is that subsection (a) permits the trustee simply to give notice, whereas subsection (b) requires a party to file a motion with the court.

Rule 6007 would be improved if it provided a single notice and hearing requirement for abandonment requests. Abandonment can be controversial, and it is not that unusual for creditors to object. It would be better if all abandonment requests required a 14-day notice and if that notice had to be given, at a minimum, to all creditors. There is no basis I can see for distinguishing between abandonment requests based on who makes the request, so that a 14-day notice to all creditors is necessary when a trustee wants to abandon property but no particular notice is required if some other party is seeking to compel abandonment. Under current Rule 6007(b), in fact, the procedure for motions to compel abandonment will vary with local practice. That practice may or may not involve a 14-day notice and may or may not require notice to all or even any creditors. In all likelihood, notice of these motions under local practice is minimal.

In the interest of simplicity, uniformity of practice, and fairness to potential objecting creditors, I suggest that Rule 6007 be amended to (1) eliminate subpart (b); and (2) change part (a) to require a 14-day notice of any proposed abandonment, whether a trustee is seeking abandonment of property or a party in interest is seeking to compel the trustee to abandon property, with notice to be given to all parties currently mentioned in part (a). Those parties are "the United States trustee, all creditors, indenture trustees, and committees elected pursuant to § 705 or appointed pursuant to § 1102 of the Code."

An alternative amendment, one that accomplishes the same end, would retain both subparts (a) and (b) but modify subpart (b) to add the notice requirements of (a). Retaining the existing (a)-and-(b) structure has the virtue of mirroring the structure of section 554.

Ben Goldgar

A. Benjamin Goldgar  
U.S. Bankruptcy Judge  
U.S. Bankruptcy Court,  
Northern District of Illinois  
219 S. Dearborn Street, Suite 638

Chicago, IL 60604  
Tel. (312) 435-5642