

Rule 9 - 10.03. Actions in Rem and Quasi in Rem: General Provisions

(A) Release of Property.

(1) Property seized by the Marshal may be released only upon a Court order.

Unless the parties stipulate in writing to security for release of the property, the release is also contingent upon the Court's approval of a bond submitted by the property owner in accordance with Supplemental Admiralty Rule E(5)(a) or (b), and upon the property owner's payment into Court of the Marshal's accrued costs.

(2) In all cases subject to Local Rule 10.02(B), the amount of the bond for the release of the res or proceeds shall be double the total amount claimed in all complaints on which process has issued, or equal to the appraised value of the property, whichever is smaller.

(3) Every bond shall be executed by a corporate surety on the Clerk's approved list or by two individual sureties approved by the Court.

(4) Every surety shall consent that, if judgment is entered against the property owner, judgment also may be entered against the surety in an amount not exceeding the bond, and execution may issue against the surety's property.

(5) In the place of any bond, the required security may be deposited in cash in the registry of the Court.

(B) Sale of Property.

(1) Before any sale under Supplemental Admiralty Rule E, notice of sale shall be published in a newspaper of general circulation in the division of the seizure for at least four consecutive days in a daily newspaper or four consecutive weeks in a weekly newspaper, between three and thirty-one days before the sale date.

(2) The successful bidder shall make payment to the Marshal by cash, cashier's check, or certified check. Accepted bids of less than \$ 1,000.00 shall be paid to the Marshal on acceptance. For accepted bids of \$ 1,000.00 or more, the higher of ten percent of the bid or \$ 1,000.00 shall be deposited immediately with the Marshal and the balance shall be paid in full within seven (7) days of the sale. If an objection is filed within the seven (7) days, the buyer may defer payment of the balance until the sale is confirmed.

(3) If the buyer does not pay the bid on time, the deposit is forfeited to the registry of the Court, to be added to whatever sums are obtained through a second sale. The Court may accept the second highest bid or order a new sale.

(4) Upon the conclusion of the sale the Marshal shall provide the Court with notice of the fact of the sale, setting forth the name of the buyer, the price brought, the name of the second highest bidder, and the amount bid. This notice shall be filed on the date of the sale or as soon thereafter as practicable.

(C) Objections to Sale.

(1) Objections to a sale must be filed with the Court within seven (7) days after the sale date. A copy of the objections shall be served on the Marshal.

(2) The Marshal's service copy of the objections shall be accompanied by a cost deposit sufficient to cover the estimated expenses of custody for seven days.

(3) If the Court sustains an objection, the Marshal will refund the deposits by the bidder and objector. If the Court overrules an objection, the Marshal will remit to the objector the balance, if any, of the objector's deposit remaining after deduction of the expenses of custody from the day of the objection until the day of the confirmation.

(D) Confirmation of Sale.

(1) If no objection is filed with the Court within seven (7) days after the sale, or the Court overrules all objections, the sale shall be deemed confirmed, except that no sale shall be deemed confirmed until the buyer has performed the terms of the purchase. The buyer shall submit a proposed order of confirmation to the Court no later than fourteen (14) days after the sale.

(2) In the event no objections to the sale are filed, the cost of keeping the property pending confirmation shall be paid out of the proceeds of the sale; except that if the confirmation is delayed by the purchaser's failure to pay any balance which is due on the price, the cost of keeping the property shall be borne by the purchaser after the seven-day objection period expires.

(E) Marshal's Receipts and Charges.

As soon as practicable following a sale of property under Supplemental Admiralty Rule E, the Marshal shall file with the Court an accounting of the Marshal's receipts and charges related to the property, and pay to the Clerk the receipts remaining after deduction of the Marshal's charges.

(F) Wharfage, Storage, and Other Charges.

(1) Wharfage, storage and like charges which accrue while the vessel or other property is in the Marshal's custody shall not be included in the Marshal's accounting except by consent of all interested parties, lienors who have appeared, or their attorneys. If such charges are not consented to in the Marshal's accounting, they may be claimed by petition filed against the proceeds, or against any party claimed to be responsible therefor, not later than fourteen (14) days after the sale of the vessel or other property. The wharfinger or other person entitled to such charges shall be given notice of settlement of the final judgment and order of distribution of proceeds.

(2) All such wharfage, storage and like charges which accrue while the vessel or other property is in the custody of the Marshal or a substitute custodian shall be paid out of any

proceeds of sale of the vessel or other property, prior to payment of any and all other claims against the vessel which may have been filed on behalf of plaintiff or any other party. The Court, in its discretion, may tax such costs against any party or parties to the proceeding as justice may require.

(G) Claims on Proceeds of Sale.

In proceedings in rem, claims upon the proceeds of a sale of property under a final decree (except for seamen's wages) will not be admitted on behalf of lienors who file such claims after the sale, to the prejudice of lienors who filed claims before the sale. Such after-filed claims shall be limited to the surplus.

(Amended July 10, 2006; effective August 28, 2006)

(Amended September 8, 2009; effective December 1, 2009)

(Amended October 9, 2009; effective December 1, 2009)