

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

Administrative Order No. 2020-3

ADOPTION OF AMENDED INTERIM
BANKRUPTCY RULE 1020 RELATED
TO THE SMALL BUSINESS
REORGANIZATION ACT AND
CORONAVIRUS AID, RELIEF, AND
ECONOMIC SECURITY ACT

On August 23, 2019, the Small Business Reorganization Act of 2019 (the “SBRA”) was enacted into law. The SBRA made many substantive and procedural changes to the Bankruptcy Code and required changes to the Federal Rules of Bankruptcy Procedure to implement those changes. On January 23, 2020, the Court issued Administrative Order 2020-1 adopting a number of interim bankruptcy rules (the “Interim Rules”), including Interim Bankruptcy Rule 1020, related to the SBRA. The SBRA became effective on February 19, 2020.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was signed into law. Section 1113 of the CARES Act made several temporary changes to the Bankruptcy Code. These changes require an amendment to Interim Bankruptcy Rule 1020.

The Advisory Committee on Bankruptcy Rules drafted a proposed amendment to Interim Bankruptcy Rule 1020. The Committee on Rules of Practice and Procedure approved the proposed amendment and recommended adoption locally to facilitate timely and uniform implementation of the changes mandated by the CARES Act.

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure, and Rule 9029 of the Federal Rules of Bankruptcy

Procedure, the attached Interim Bankruptcy Rule 1020 is adopted without change by the judges of this Court to be effective April 21, 2020. For cases and proceedings not governed by the SBRA, the Federal Rules of Bankruptcy Procedure and this Court's Local Bankruptcy Rules, other than the Interim Rules, shall continue to apply.

IT IS FURTHER ORDERED that the Interim Rules, including Interim Bankruptcy Rule 1020, shall remain in effect until further order of the Court.

IT IS FURTHER ORDERED that a copy of this Order shall be served on all CM/ECF Filing Users and posted on the Court's website forthwith.

Dated: April 21, 2020

FOR THE COURT:



Honorable Scott W. Dales
Chief Judge

Rule 1020. Chapter 11 Reorganization Case for Small Business Debtors or Debtors Under Subchapter V

(a) DEBTOR DESIGNATION. In a voluntary chapter 11 case, the debtor shall state in the petition whether the debtor is a small business debtor or a debtor as defined in § 1182(1) of the Code and, if the latter, whether the debtor elects to have subchapter V of chapter 11 apply. In an involuntary chapter 11 case, the debtor shall file within 14 days after entry of the order for relief a statement as to whether the debtor is a small business debtor or a debtor as defined in § 1182(1) of the Code and, if the latter, whether the debtor elects to have subchapter V of chapter 11 apply. The status of the case as a small business case or a case under subchapter V of chapter 11 shall be in accordance with the debtor's statement under this subdivision, unless and until the court enters an order finding that the debtor's statement is incorrect.

(b) OBJECTING TO DESIGNATION. The United States trustee or a party in interest may file an objection to the debtor's statement under subdivision (a) no later than 30 days after the conclusion of the meeting of creditors held under § 341(a) of the Code, or within 30 days after any amendment to the statement, whichever is later.

(c) PROCEDURE FOR OBJECTION OR DETERMINATION. Any objection or request for a determination under this rule shall be governed by Rule 9014 and served on: the debtor; the debtor's attorney; the United States trustee; the trustee; the creditors included on the list filed under Rule 1007(d) or, if a committee has been appointed under § 1102(a)(3), the committee or its authorized agent; and any other entity as the court directs.

Attachment

1 **Rule 1020. Chapter 11 Reorganization Case for Small**
2 **Business Debtors or Debtors Under Subchapter V**

3 (a) ~~SMALL—BUSINESS—DEBTOR~~
4 DESIGNATION. In a voluntary chapter 11 case, the debtor
5 shall state in the petition whether the debtor is a small
6 business debtor or a debtor as defined in § 1182(1) of the
7 Code and, if the latter so, whether the debtor elects to have
8 subchapter V of chapter 11 apply. In an involuntary chapter
9 11 case, the debtor shall file within 14 days after entry of the
10 order for relief a statement as to whether the debtor is a small
11 business debtor or a debtor as defined in § 1182(1) of the
12 Code and, if the latter so, whether the debtor elects to have
13 subchapter V of chapter 11 apply. The status of the case as
14 a small business case or a case under subchapter V of chapter
15 11 shall be in accordance with the debtor's statement under
16 this subdivision, unless and until the court enters an order
17 finding that the debtor's statement is incorrect.

18 (b) OBJECTING TO DESIGNATION. The United
19 States trustee or a party in interest may file an objection to
20 the debtor's statement under subdivision (a) no later than 30
21 days after the conclusion of the meeting of creditors held

22 under § 341(a) of the Code, or within 30 days after any
23 amendment to the statement, whichever is later.

24 (c) PROCEDURE FOR OBJECTION OR
25 DETERMINATION. Any objection or request for a
26 determination under this rule shall be governed by Rule 9014
27 and served on: the debtor; the debtor’s attorney; the United
28 States trustee; the trustee; the creditors included on the list
29 filed under Rule 1007(d) or, if a committee has been
30 appointed under § 1102(a)(3), the committee or its
31 authorized agent; and any other entity as the court directs.

Committee Note

The interim rule is amended in response to the enactment of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), Pub. L. No. 116-136, 134 Stat. 281. That law provides a new definition of “debtor” for determining eligibility to proceed under subchapter V of chapter 11. Subdivision (a) of the rule is amended to reflect that change. This amendment to the Code will terminate one year after the date of enactment of the CARES Act.