

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN

IN THE MATTER OF:

GENERAL ORDER NO. 2020-4

ADOPTION OF INTERIM
BANKRUPTCY RULE

WHEREAS, by General Order No. 1-2020, dated January 22, 2020, this Court adopted Interim Rules (including an Interim Rule 1020) to facilitate uniform implementation of the changes mandated by the Small Business Reorganization Act of 2019;

WHEREAS, on March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was signed into law. Section 1113 of that legislation made several temporary changes to the Bankruptcy Code to provide financial assistance during the coronavirus crisis, including a revision to Interim Rule 1020;

WHEREAS, a copy of the amendment to Interim Rule 1020 showing the CARES Act-related changes is attached hereto;¹

WHEREAS, the amendment to the Code by the CARES Act that has necessitated the amendment of Interim Rule 1020 will terminate one year after the date of enactment of the CARES Act;

¹ The CARES Act modifies the definition of “debtor” in 11 U.S.C. § 1182(1); and modifies the definitions of “current monthly income” in 11 U.S.C. § 101(10A) and of “disposable income” in 11 U.S.C. § 1325(b)(2) to exclude certain payments under the CARES Act. These amendments to the Bankruptcy Code will terminate one year after the date of enactment of the CARES Act.

NOW THEREFORE, 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,

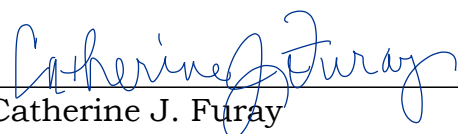
IT IS ORDERED that the attached amended Interim Rule 1020 of the Federal Rules of Bankruptcy Procedure is adopted in its entirety without change by the judges of this Court to be effective April 21, 2020. This General Order No. 2020-4 revises General Order No. 1-2020 only to add the change, effective April 21, 2020, to Interim Rule 1020 necessitated by the CARES Act. In other words, General Order No. 1-2020 remains effective as to filings made before April 21, 2020.

IT IS FURTHER ORDERED that notice is given that the Judicial Conference's Advisory Committee on Bankruptcy Rules has approved conforming one-year technical changes to five bankruptcy forms (Official Forms 101, 122A-1, 122B, 122C-1, and 201) in light of the CARES Act amendments to the Bankruptcy Code. The Official Forms are posted at:

<https://www.uscourts.gov/forms/bankruptcy-forms>

and the Committee Notes to the Official Forms explain the significant changes to these forms.

Dated: April 21, 2020


Catherine J. Furay
Chief U.S. Bankruptcy Judge

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.