



Signed: April 27, 2020

Rebecca B. Connelly

Rebecca B. Connelly
United States Bankruptcy Chief Judge

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

IN RE:)
)
ADOPTION OF AMENDED INTERIM) Standing Order No. 20-5
BANKRUPTCY RULE 1020)
)

ORDER

On August 23, 2019, the Small Business Reorganization Act of 2019 (SBRA) was enacted into law. SBRA made substantive and procedural changes to the Bankruptcy Code and required changes to the Federal Rules of Bankruptcy Procedure (FRBP) to implement those changes. The effective date for SBRA was February 19, 2020, which was before the bankruptcy rules could be amended under the three-year process mandated by the Rules Enabling Act. Accordingly, the Advisory Committee on Bankruptcy Rules drafted, published for comment, and subsequently approved interim bankruptcy rules (Interim Rules) for distribution to the courts. The Committee of Rules of Practice and Procedure approved the Interim Rules, and the Judicial Conference authorized distribution of the Interim Rules to courts for adoption locally to facilitate uniform implementation of the changes mandated by SBRA. Pursuant to Standing Order No.

2020-1, signed on February 7, 2020, this Court adopted the Interim Rules and made them effective on February 19, 2020.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) was signed into law. The CARES Act made several temporary changes to the Bankruptcy Code, and these changes necessitate the amendment of Interim Bankruptcy Rule 1020. The Advisory Committee on Bankruptcy Rules has recommended that the amendment of Interim Bankruptcy Rule 1020 be adopted as a local rule by each judicial district. The Committee of Rules of Practice and Procedure and the Executive Committee, acting on behalf of the Judicial Conference, has approved this recommendation.

NOW THEREFORE, pursuant to 28 U.S.C. §2071 and Rule 9029 of the FRBP, the attached Interim Bankruptcy Rule 1020 is adopted in its entirety without change by the judges of this Court to be effective retroactive to March 27, 2020. In the event of a conflict between the Local Rules of this Court and Interim Bankruptcy Rule 1020, as amended, Interim Bankruptcy Rule 1020 shall control.

The Interim Rules, including the amendment of Interim Bankruptcy Rule 1020, shall remain in effect until further order of this Court.

IT IS SO ORDERED.

**** END OF ORDER ****

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.