

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

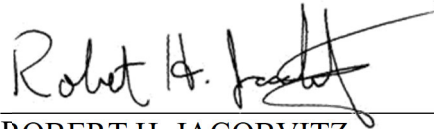
In re: COURT ADMINISTRATIVE MATTERS: No. MP 20-001
Adoption of Interim Bankruptcy Rule 1020
Necessitated by CARES Act, and Notice
of Amended Official Forms

ORDER ADOPTING INTERIM BANKRUPTCY RULE
NECESSITATED BY CARES ACT

On January 14, 2020, this Court entered an Order Adopting Interim Bankruptcy Rules for Small Business Reorganization Act of 2019. On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was signed into law. The CARES Act requires further revision of Interim Bankruptcy Rule 1020. The Judicial Conference has drafted proposed revisions to Interim Bankruptcy Rule 1020 (“Revised Interim Rule 1020”) for adoption by local courts. Unless extended, Revised Interim Rule 1020 and the amendments to the Bankruptcy Code enacted by the CARES Act will terminate on March 27, 2021.

WHEREFORE, 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 Revised Interim Rule 1020¹ is adopted by this Court, effective April 23, 2020. The Court’s prior Order Adopting Interim Bankruptcy Rules remains effective except for Interim Bankruptcy Rule 1020, which has now been replaced by Revised Interim Rule 1020. Absent further order of the Court, Revised Interim Rule 1020 will automatically become ineffective on March 27, 2021.



ROBERT H. JACOBVITZ
Chief United States Bankruptcy Judge



DAVID T. THUMA
United States Bankruptcy Judge

Date entered on docket: April 23, 2020

¹ A redlined copy of Revised Interim Rule 1020 is attached to this Order. A clean version of the Interim Bankruptcy Rules, with Revised Interim Rule 1020 incorporated, is posted to the Court’s website under the tab, Forms and Local Rules.

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.