

1
2 UNITED STATES BANKRUPTCY COURT
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 In re

6 ADOPTION OF INTERIM BANKRUPTCY
7 RULE 1020, NOTICE OF AMENDED
8 OFFICIAL FORMS, ABROGATION OF
9 SECOND AMENDED GENERAL ORDER 37

**THIRD AMENDED GENERAL
ORDER 37**

10 When implemented, SubChapter V of Chapter 11 of the Bankruptcy Code was limited to
11 small business debtors (as defined in Bankruptcy Code section 1182) whose aggregate,
12 noncontingent, liquidated, secured and unsecured debts were not greater than \$2,725,625. The
13 passage of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) in 2020
14 increased this debt ceiling to \$7,500,000, but this debt ceiling increase expired under the terms of
15 the CARES Act on March 27, 2022. The court issued General Order 37 in response to the
16 implementation of SubChapter V, amended General Order 37 in response to the CARES Act debt
17 ceiling increase, and issued a Second Amended General Order 37 in response to the expiration of
18 the increased debt ceiling.

19 On June 21, 2022, the Bankruptcy Threshold Adjustment and Technical Corrections Act
20 (the “BTATC Act”) became effective. The BTATC Act reinstates the \$7,500,000 debt ceiling in
21 SubChapter V cases retroactive to March 27, 2022.¹ This change requires this court to again
22 amend General Order 37.

23 **NOW THEREFORE**, pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of
24 Civil Procedure, and Rule 9029 of the Federal Rules of Bankruptcy Procedure, the court
25 **ORDERS** as follows:

- 26 **1) *Second Amended General Order 37*** is hereby abrogated;

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¹ Unless extended, these BTATC Act changes expire on June 21, 2024.

1 **Interim Rule 1020. Chapter 11 Reorganization Case for**
2 **Small 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 Bankruptcy Threshold Adjustment and Technical Correction Act (the “BTATC Act”), Pub. L. No. 117-151, ___ Stat. _____. The BTATC reinstates the definition of “debtor” for determining eligibility to proceed under subchapter V of chapter 11 that was in effect from March 27, 2020 through March 27, 2022, under the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281, as amended. Subdivision (a) of the rule is amended to reflect that change. This Interim Rule will terminate two years after the date of enactment of the BTATC, unless the Act is extended.