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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

ADOPTION OF INTERIM BANKRUPTCY
RULES AND NOTICE OF AMENDED
OFFICIAL FORMS

AMENDED GENERAL ORDER 37

In General Order 37 (issued January 30, 2020), the court adopted Interim Federal Rules of Bankruptcy Procedure pertaining to the Small Business Reorganization Act of 2019 (the “SBRA”). On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) became effective. The CARES Act temporarily changes the definition of “debtor” set forth in Bankruptcy Code § 1182(1) to include small business debtors with aggregate noncontingent liquidated secured and unsecured debts as of the date of the filing of the petition or the date of the order for relief of not more than \$7,500,000.¹ This change required a conforming temporary amendment to Interim Bankruptcy Rule 1020, as well as temporary amendments to several Official Forms.

A copy of Amended Interim Bankruptcy Rule 1020 is attached to this Amended General Order. The Judicial Conference of the United States has authorized distribution of this material for adoption locally and to facilitate uniform implementation of the SBRA and of the CARES Act.

¹ The CARES Act also amended the definition of “current monthly income” in Bankruptcy Code § 101(10A) and the definition of “disposable income” in Bankruptcy Code § 1325(b)(2) to exclude certain payments made pursuant to the CARES Act. The CARES Act-related amendments to the Bankruptcy Code and the related changes to Official Forms will terminate one year after the enactment of the CARES Act.

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.