

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

In re:

Order Regarding Interim Bankruptcy
Rule 1020 Related to the Coronavirus Aid,
Relief, and Economic Security Act

Administrative Order
No. 2020-07

**ORDER ADOPTING INTERIM
BANKRUPTCY RULE 1020 RELATED TO
THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT**

On March 27, 2020, the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”) was signed into law. The CARES Act makes several temporary changes to the Bankruptcy Code. Because of those changes, the Advisory Committee on Bankruptcy Rules has made amendments to Interim Bankruptcy Rule 1020, which was recently adopted by the Court on February 3, 2020 by Administrative Order 2020-01. The Committee on Rules of Practice and Procedure has recommended that bankruptcy courts adopt those amendments. Accordingly, to promote national uniformity in the administration of the Bankruptcy Code,

IT IS HEREBY ORDERED that, 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, the attached amended Interim Bankruptcy Rule 1020 is adopted by the Court in its entirety without change effective immediately.



/s/ Daniel S. Opperman

Daniel S. Opperman

Chief Judge

United States Bankruptcy Court

For the Eastern District of Michigan

Signed on May 6, 2020

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.