

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 22-2
ORDER ABROGATING INTERIM RULES RESPONSIVE TO
THE SMALL BUSINESS REORGANIZATION ACT OF 2019 AND
THE CORONAVIRUS AID, RELIEF AND ECONOMIC SECURITY ACT**

On August 23, 2019, the Small Business Reorganization Act of 2019, P.L. 116-54 (“SBRA”) was enacted with an effective date of February 19, 2020. In response to the SBRA, the Advisory Committee on Bankruptcy Rules recommended that certain changes to the Federal Rules of Bankruptcy Procedure were necessary to implement the SBRA. Because it can take three years or more to change federal bankruptcy rules under the procedures established by the Rules Enabling Act, 28 U.S.C. §§ 2071-77, there was insufficient time to make the recommended federal rule changes before the effective date of the SBRA. Therefore, the Advisory Committee on Bankruptcy Rules recommended that the Court adopt interim SBRA rules locally until the federal rule process could be completed.

This Court reviewed the interim SBRA rules recommended by the Advisory Committee and found that they should be adopted locally until the Federal Rules of Bankruptcy Procedure were amended. Therefore, the Court issued Standing Order 20-1 effective February 19, 2020.

On March 27, 2020, the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”) was signed into law with an immediate effective date. The CARES Act temporarily amended certain provisions of the Bankruptcy Code, including the definition of “debtor” for purposes of determining eligibility to proceed under subchapter V of chapter 11. The Advisory Committee on Bankruptcy Rules recommended further amendments to Interim Rule 1020 to conform to those changes. On April 25, 2020, this Court adopted those amendments when it issued Standing Order 20-4.

Effective December 1, 2022, amendments were made to Federal Rule of Bankruptcy Procedure 1007(b)(5); Rule 1007(h); Rule 1020; Rule 2009; Rule 2012(a); Rule 2015; Rule 3010(b); Rule 3011; Rule 3014; Rule 3016; Rule 3017.1(a); Rule 3018(a); and Rule 3019; and new Rule 3017.2 was adopted.

The adoption of those national rules eliminates the need for local versions of those rules, with one exception. On June 21, 2022, the Bankruptcy Threshold Adjustment and Technical Corrections Act, Pub. L. 117-151, temporarily increased the debt threshold in subchapter V cases by amending the definition of “debtor” in 11 U.S.C. § 1182(1) for additional two years. Therefore, the temporary amendments adopted in Interim LBR 1020.1 remain necessary.

IT IS THEREFORE ORDERED that effective December 1, 2022, the Court abrogates Standing Order 20-4; 1007(b)(5).1; LBR 1007(h).1; LBR 2009.1; LBR 2012(a).1; LBR 2015.1; LBR 3010(b).1; LBR 3011.1; LBR 3014.1; LBR 3016.1; LBR 3017.1(a).1; LBR 3017.2.1; LBR 3018(a).1; and LBR 3019(c).1.

IT IS FURTHER ORDERED that the Court temporarily extends the effective period of Interim LBR 1020.1, which states:

LBR 1020.1
CHAPTER 11 REORGANIZATION CASE FOR SMALL BUSINESS DEBTORS
OR DEBTORS UNDER SUBCHAPTER V

Federal Rule of Bankruptcy Procedure 1020 applies in the Bankruptcy Court for the District of Kansas but, effective April 25, 2020, is amended on an interim basis to state:

(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.

* * *

As amended 4/25/20 (*see* S.O. 20-4 and S.O. 22-2), 2/19/20 (*see* S.O. 20-1).

IT IS SO ORDERED this 1st day of December, 2022.

s/ Dale L. Somers

DALE L. SOMERS

Chief Judge

s/ Robert D. Berger

ROBERT D. BERGER

Judge

s/ Mitchell L. Herren

MITCHELL L. HERREN

Judge