

**UNITED STATES BANKRUPTCY COURT
EASTERN AND WESTERN DISTRICTS OF ARKANSAS**

In re

ADOPTION OF CARES ACT CHANGES TO
INTERIM BANKRUPTCY RULE 1020

General Order No. 41

**GENERAL ORDER ADOPTING ATTACHED AMENDMENT TO
INTERIM BANKRUPTCY RULE 1020**

WHEREAS, on March 27, 2020, the *Coronavirus Aid, Relief, and Economic Security Act* (the “CARES Act”) was enacted into law; and

WHEREAS, the provisions of the CARES Act took effect immediately upon enactment and its bankruptcy provisions are of limited duration; and

WHEREAS, the United States Judicial Conference Advisory Committee on Bankruptcy Rules has prepared a one-year amendment to interim bankruptcy Rule 1020 designed to implement the changes mandated by the CARES Act; and

WHEREAS, the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States also has approved the amendment to interim bankruptcy Rule 1020 and recommends the adoption of the amendment to interim bankruptcy Rule 1020 to maintain national uniformity in the administration of the Bankruptcy Code;

NOW THEREFORE, 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 amendment to interim bankruptcy Rule 1020 is adopted in its entirety without change by the judges of this court to conform with the CARES Act. For cases and proceedings not covered by the CARES Act, the Federal Rules of Bankruptcy Procedure and the Local Rules of this court, other than the amendment to interim bankruptcy Rule 1020, shall apply. This amendment will terminate one year after the date of the enactment of the CARES Act.

Dated this 21st day of April, 2020

FOR THE COURT

Ben Barry

BEN T. BARRY
CHIEF U.S. BANKRUPTCY JUDGE

Richard D. Taylor

RICHARD D. TAYLOR
U.S. BANKRUPTCY JUDGE

Phyllis M. Jones

PHYLLIS M. JONES
U.S. BANKRUPTCY JUDGE

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.