UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF CALIFORNIA

In re:

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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.

NOW THEREFORE, pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil 1 2 Procedure, and Bankruptcy Rule 9029, the court **ORDERS** as follows: 3 1. The attached Amended Interim Bankruptcy Rule 1020 is adopted in its entirety without 4 change by the judges of this court, effective as of the date of this order. 5 2. The adoption of Amended Interim Bankruptcy Rule 1020 constitutes the only change to General Order 37 made by this Amended General Order. In all other respects, General Order 6 7 37 shall remain effective. 8 3. Notice is hereby given that the Advisory Committee on Bankruptcy Rules of the Judicial 9 Conference of the United States has approved temporary changes to Official Forms 101, 10 122A-1, 122B, 122C-1, and 201 to conform to CARES Act-related changes to the Bankruptcy Code.² 11 12 13 **SO ORDERED** this 18th day of May 2020. 14 15 Chief Bankruptcy Judge 16 * * *END OF ORDER* * * 17 18 19 20 21 22 23 24 25 26 27 28 forms. The Committee Notes to the Official Forms explain the relevant changes.

² Copies of Official Forms can be found at https://www.uscourts.gov/forms/bankruptcy-

Attachment

1	Rule 1020. Chapter 11 Reorganization Case for Small
2	Business Debtors <u>or Debtors Under Subchapter V</u>
3	(a) <u>SMALL</u> <u>BUSINESS</u> 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
- amendment to the statement, whichever is later.
- 24 (c) PROCEDURE FOR OBJECTION OR
- 25 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
- 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.