

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW MEXICO

In re: COURT ADMINISTRATIVE MATTERS:

No. MP. 22-001

Re-Adoption of Interim Bankruptcy Rule 1020
Necessitated by Bankruptcy Threshold Adjustment
And Technical Corrections Act (BTATC Act)

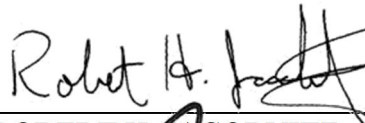
**ORDER ADOPTING INTERIM BANKRUPTCY RULE
1020 NECESSITATED BY BTATC ACT**

The Court adopted Interim Bankruptcy Rule 1020 on February 23, 2020 to accommodate revisions to Interim Bankruptcy Rule 1020 necessitated by the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”).¹ Interim Bankruptcy Rule 1020 automatically became ineffective when the CARES Act expired.

On June 21, 2022, the Bankruptcy Threshold Adjustment and Technical Corrections Act the “BTATC Act”), Pub. L. No. 117-151 (2022) was signed into law. The BTATC Act restores the \$7,500,000 limit for subchapter V cases retroactively for cases commenced on or after March 27, 2020, and sunsets two years after the enactment date. Interim Bankruptcy Rule 1020 was amended as a result of the BTATC Act. The Advisory Committee on Bankruptcy Rules recommends that courts adopt Interim Bankruptcy Rule 1020, as amended, while the subchapter V limit restored by the BTATC Act is in effect.

WHEREFORE, 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 Interim Bankruptcy Rule 1020 is adopted, effective July 20, 2022.² The Court’s prior Order Adopting Interim Bankruptcy Rules For Small Business Reorganization Act of 2019³ remains effective except for Interim Bankruptcy Rule 1020, which has now been replaced in the form attached to this Order. Absent further order of the Court, Interim Bankruptcy Rule 1020 will automatically become ineffective on June 21, 2024, two years after the date of enactment of the BTATC Act.

IT IS SO ORDERED.



ROBERT H. JACOBVITZ
Chief United States Bankruptcy Judge



DAVID T. THUMA
United States Bankruptcy Judge

Date entered on docket: July 26, 2022

¹ See Order Adopting Interim Bankruptcy Rule Necessitated by Cares Act (Doc. 11; MP 20-001).

² A redlined version of the Interim Bankruptcy Rule 1020 is attached to this Order and will be posted to the Court’s website under the tab, Forms and Local Rules.

³ See Order Adopting Interim Bankruptcy Rules for Small Business Reorganization Act of 2019 (Doc. 1; MP 20-001).

1 **Interim Rule 1020. Chapter 11 Reorganization Case for**
2 **Small 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 Bankruptcy Threshold Adjustment and Technical Correction Act (the “BTATC Act”), Pub. L. No. 117-151, ___ Stat. _____. The BTATC reinstates the definition of “debtor” for determining eligibility to proceed under subchapter V of chapter 11 that was in effect from March 27, 2020 through March 27, 2022, under the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281, as amended. Subdivision (a) of the rule is amended to reflect that change. This Interim Rule will terminate two years after the date of enactment of the BTATC, unless the Act is extended.