



  
Frank W. Volk  
United States District Judge

**Dated: February 18th, 2020**  
**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF WEST VIRGINIA**

|                           |                      |
|---------------------------|----------------------|
| IN RE:                    | GENERAL ORDER 20- 01 |
| ADOPTION OF INTERIM RULES | JUDGE FRANK W. VOLK  |

**ORDER ADOPTING INTERIM RULES ADDRESSING**  
**THE SMALL BUSINESS REORGANIZATION ACT OF 2019**

On August 23, 2019, the Small Business Reorganization Act of 2019 (the SBRA) was enacted into law. The SBRA makes many substantive and procedural changes to the Bankruptcy Code and requires changes to the Federal Rules of Bankruptcy Procedure to implement those changes. However, the February 19, 2020 effective date of the SBRA occurs long before the Bankruptcy Rules can be amended under the three-year process required by the Rules Enabling Act. Accordingly, the Advisory Committee on Bankruptcy Rules (the Advisory Committee) drafted, published for comment, and subsequently approved interim bankruptcy rules (the Interim Rules) for distribution to the courts. The Committee on Rules of Practice and Procedure approved the Interim Rules, and the Judicial Conference authorized distribution of the Interim Rules to courts for adoption locally to facilitate uniform implementation of the changes mandated by the SBRA.

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 Interim Rules are adopted in their entirety without change by this Court to be effective February 19, 2020. For cases and proceedings not governed by the SBRA, the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, other than the Interim Rules, shall apply.

The Interim Rules shall remain in effect until further order of the Court.

**IT IS SO ORDERED.**

**INTERIM AMENDMENTS TO THE FEDERAL  
RULES OF BANKRUPTCY PROCEDURE<sup>1</sup>**

1 **Rule 1007. Lists, Schedules, Statements, and Other**

2 **Documents; Time Limits**

3 \* \* \* \* \*

4 (b) SCHEDULES, STATEMENTS, AND OTHER  
5 DOCUMENTS REQUIRED.

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7 (5) An individual debtor in a chapter 11 case  
8 (unless under subchapter V) shall file a statement of  
9 current monthly income, prepared as prescribed by  
10 the appropriate Official Form.

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<sup>1</sup> These interim bankruptcy rules (the Interim Rules) have been prepared by the Advisory Committee on Bankruptcy Rules and approved by the Judicial Conference of the United States to be adopted as local rules by the Bankruptcy Courts to implement the procedural and substantive changes to the Bankruptcy Code made by the Small Business Reorganization Act of 2019. The Interim Rules will be withdrawn after similar amendments can be made to the Rules of Bankruptcy Procedure under the normal Rules Enabling Act process.

12 (h) INTERESTS ACQUIRED OR ARISING  
13 AFTER PETITION. If, as provided by § 541(a)(5) of the  
14 Code, the debtor acquires or becomes entitled to acquire any  
15 interest in property, the debtor shall within 14 days after the  
16 information comes to the debtor's knowledge or within such  
17 further time the court may allow, file a supplemental  
18 schedule in the chapter 7 liquidation case, chapter 11  
19 reorganization case, chapter 12 family farmer's debt  
20 adjustment case, or chapter 13 individual debt adjustment  
21 case. If any of the property required to be reported under  
22 this subdivision is claimed by the debtor as exempt, the  
23 debtor shall claim the exemptions in the supplemental  
24 schedule. This duty to file a supplemental schedule  
25 continues even after the case is closed, except for property  
26 acquired after an order is entered:

27 (1) confirming a chapter 11 plan (other than one  
28 confirmed under § 1191(b)); or

29 (2) discharging the debtor in a chapter 12 case, a  
30 chapter 13 case, or a case under subchapter V of  
31 chapter 11 in which the plan is confirmed under  
32 § 1191(b).

33 \* \* \* \* \*

1 **Rule 1020. Chapter 11 Reorganization Case for Small**  
2 **Business Debtors**

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 and, if so, whether the debtor elects to have  
7 subchapter V of chapter 11 apply. In an involuntary chapter  
8 11 case, the debtor shall file within 14 days after entry of the  
9 order for relief a statement as to whether the debtor is a small  
10 business debtor and, if so, whether the debtor elects to have  
11 subchapter V of chapter 11 apply. The status of the case as  
12 a small business case or a case under subchapter V of chapter  
13 11 shall be in accordance with the debtor's statement under  
14 this subdivision, unless and until the court enters an order  
15 finding that the debtor's statement is incorrect.

16 (b) OBJECTING TO DESIGNATION. The United  
17 States trustee or a party in interest may file an objection to  
18 the debtor's statement under subdivision (a) no later than 30

19 days after the conclusion of the meeting of creditors held  
20 under § 341(a) of the Code, or within 30 days after any  
21 amendment to the statement, whichever is later.

22 (c) PROCEDURE FOR OBJECTION OR  
23 DETERMINATION. Any objection or request for a  
24 determination under this rule shall be governed by Rule 9014  
25 and served on: the debtor; the debtor's attorney; the United  
26 States trustee; the trustee; the creditors included on the list  
27 filed under Rule 1007(d) or, if a committee has been  
28 appointed under § 1102(a)(3), the committee or its  
29 authorized agent and any other entity as the court directs.

1 **Rule 2009. Trustees for Estates When Joint**  
2 **Administration Ordered**

3 (a) ELECTION OF SINGLE TRUSTEE FOR  
4 ESTATES BEING JOINTLY ADMINISTERED. If the  
5 court orders a joint administration of two or more estates  
6 under Rule 1015(b), creditors may elect a single trustee for  
7 the estates being jointly administered, unless the case is  
8 under subchapter V of chapter 7 or subchapter V of chapter  
9 11 of the Code.

10 (b) RIGHT OF CREDITORS TO ELECT  
11 SEPARATE TRUSTEE. Notwithstanding entry of an order  
12 for joint administration under Rule 1015(b), the creditors of  
13 any debtor may elect a separate trustee for the estate of the  
14 debtor as provided in § 702 of the Code, unless the case is  
15 under subchapter V of chapter 7 or subchapter V of chapter  
16 11.

17 (c) APPOINTMENT OF TRUSTEES FOR  
18 ESTATES BEING JOINTLY ADMINISTERED.

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\* \* \* \* \*

(2) *Chapter 11 Reorganization Cases.* If the appointment of a trustee is ordered or is required by the Code, the United States trustee may appoint one or more trustees for estates being jointly administered in chapter 11 cases.

\* \* \* \* \*



1 **Rule 2012. Substitution of Trustee or Successor**

2 **Trustee; Accounting**

3 (a) TRUSTEE. If a trustee is appointed in a chapter  
4 11 case (other than under subchapter V), or the debtor is  
5 removed as debtor in possession in a chapter 12 case or in a  
6 case under subchapter V of chapter 11, the trustee is  
7 substituted automatically for the debtor in possession as a  
8 party in any pending action, proceeding, or matter.

9 \* \* \* \* \*

1 **Rule 2015. Duty to Keep Records, Make Reports, and**  
2 **Give Notice of Case or Change of Status**

3 (a) TRUSTEE OR DEBTOR IN POSSESSION. A  
4 trustee or debtor in possession shall:

5 (1) in a chapter 7 liquidation case and, if the  
6 court directs, in a chapter 11 reorganization case  
7 (other than under subchapter V), file and transmit to  
8 the United States trustee a complete inventory of the  
9 property of the debtor within 30 days after qualifying  
10 as a trustee or debtor in possession, unless such an  
11 inventory has already been filed;

12 (2) keep a record of receipts and the  
13 disposition of money and property received;

14 (3) file the reports and summaries required by  
15 § 704(a)(8) of the Code, which shall include a  
16 statement, if payments are made to employees, of the  
17 amounts of deductions for all taxes required to be

18 withheld or paid for and in behalf of employees and  
19 the place where these amounts are deposited;

20 (4) as soon as possible after the  
21 commencement of the case, give notice of the case to  
22 every entity known to be holding money or property  
23 subject to withdrawal or order of the debtor,  
24 including every bank, savings or building and loan  
25 association, public utility company, and landlord  
26 with whom the debtor has a deposit, and to every  
27 insurance company which has issued a policy having  
28 a cash surrender value payable to the debtor, except  
29 that notice need not be given to any entity who has  
30 knowledge or has previously been notified of the  
31 case;

32 (5) in a chapter 11 reorganization case (other  
33 than under subchapter V), on or before the last day  
34 of the month after each calendar quarter during  
35 which there is a duty to pay fees under 28 U.S.C.

36 § 1930(a)(6), file and transmit to the United States  
37 trustee a statement of any disbursements made  
38 during that quarter and of any fees payable under 28  
39 U.S.C. § 1930(a)(6) for that quarter; and

40 (6) in a chapter 11 small business case, unless  
41 the court, for cause, sets another reporting interval,  
42 file and transmit to the United States trustee for each  
43 calendar month after the order for relief, on the  
44 appropriate Official Form, the report required by  
45 § 308. If the order for relief is within the first 15 days  
46 of a calendar month, a report shall be filed for the  
47 portion of the month that follows the order for relief.  
48 If the order for relief is after the 15th day of a  
49 calendar month, the period for the remainder of the  
50 month shall be included in the report for the next  
51 calendar month. Each report shall be filed no later  
52 than 21 days after the last day of the calendar month  
53 following the month covered by the report. The

54 obligation to file reports under this subparagraph  
55 terminates on the effective date of the plan, or  
56 conversion or dismissal of the case.

57 (b) TRUSTEE, DEBTOR IN POSSESSION, AND  
58 DEBTOR IN A CASE UNDER SUBCHAPTER V OF  
59 CHAPTER 11. In a case under subchapter V of chapter 11,  
60 the debtor in possession shall perform the duties prescribed  
61 in (a)(2)–(4) and, if the court directs, shall file and transmit  
62 to the United States trustee a complete inventory of the  
63 debtor’s property within the time fixed by the court. If the  
64 debtor is removed as debtor in possession, the trustee shall  
65 perform the duties of the debtor in possession prescribed in  
66 this subdivision (b). The debtor shall perform the duties  
67 prescribed in (a)(6).

68 (c) CHAPTER 12 TRUSTEE AND DEBTOR IN  
69 POSSESSION. In a chapter 12 family farmer’s debt  
70 adjustment case, the debtor in possession shall perform the  
71 duties prescribed in clauses (2)–(4) of subdivision (a) of this

72 rule and, if the court directs, shall file and transmit to the  
73 United States trustee a complete inventory of the property of  
74 the debtor within the time fixed by the court. If the debtor is  
75 removed as debtor in possession, the trustee shall perform  
76 the duties of the debtor in possession prescribed in this  
77 subdivision (c).

78 (d) CHAPTER 13 TRUSTEE AND  
79 DEBTOR.

80 (1) *Business Cases*. In a chapter 13  
81 individual's debt adjustment case, when the debtor is  
82 engaged in business, the debtor shall perform the  
83 duties prescribed by clauses (2)–(4) of subdivision  
84 (a) of this rule and, if the court directs, shall file and  
85 transmit to the United States trustee a complete  
86 inventory of the property of the debtor within the  
87 time fixed by the court.

88 (2) *Nonbusiness Cases*. In a chapter 13  
89 individual's debt adjustment case, when the debtor is

90 not engaged in business, the trustee shall perform the  
91 duties prescribed by clause (2) of subdivision (a) of  
92 this rule.

93 (e) FOREIGN REPRESENTATIVE. In a case in  
94 which the court has granted recognition of a foreign  
95 proceeding under chapter 15, the foreign representative shall  
96 file any notice required under § 1518 of the Code within 14  
97 days after the date when the representative becomes aware  
98 of the subsequent information.

99 (f) TRANSMISSION OF REPORTS. In a chapter  
100 11 case the court may direct that copies or summaries of  
101 annual reports and copies or summaries of other reports shall  
102 be mailed to the creditors, equity security holders, and  
103 indenture trustees. The court may also direct the publication  
104 of summaries of any such reports. A copy of every report or  
105 summary mailed or published pursuant to this subdivision  
106 shall be transmitted to the United States trustee.

1 **Rule 3010. Small Dividends and Payments in Cases**  
2 **Under Chapter 7, Subchapter V of Chapter 11, Chapter**  
3 **12, and Chapter 13**

4 \* \* \* \* \*

5 (b) CASES UNDER SUBCHAPTER V OF  
6 CHAPTER 11, CHAPTER 12, AND CHAPTER 13. In a  
7 case under subchapter V of chapter 11, chapter 12, or chapter  
8 13, no payment in an amount less than \$15 shall be  
9 distributed by the trustee to any creditor unless authorized  
10 by local rule or order of the court. Funds not distributed  
11 because of this subdivision shall accumulate and shall be  
12 paid whenever the accumulation aggregates \$15. Any funds  
13 remaining shall be distributed with the final payment.



1 **Rule 3011. Unclaimed Funds in Cases Under Chapter 7,**  
2 **Subchapter V of Chapter 11, Chapter 12, and Chapter**  
3 **13**

4           The trustee shall file a list of all known names and  
5 addresses of the entities and the amounts which they are  
6 entitled to be paid from remaining property of the estate that  
7 is paid into court pursuant to § 347(a) of the Code.

1 **Rule 3014. Election Under § 1111(b) by Secured**  
2 **Creditor in Chapter 9 Municipality or Chapter 11**  
3 **Reorganization Case**

4 An election of application of § 1111(b)(2) of the  
5 Code by a class of secured creditors in a chapter 9 or 11 case  
6 may be made at any time prior to the conclusion of the  
7 hearing on the disclosure statement or within such later time  
8 as the court may fix. If the disclosure statement is  
9 conditionally approved pursuant to Rule 3017.1, and a final  
10 hearing on the disclosure statement is not held, the election  
11 of application of § 1111(b)(2) may be made not later than the  
12 date fixed pursuant to Rule 3017.1(a)(2) or another date the  
13 court may fix. In a case under subchapter V of chapter 11 in  
14 which § 1125 of the Code does not apply, the election may  
15 be made not later than a date the court may fix. The election  
16 shall be in writing and signed unless made at the hearing on  
17 the disclosure statement. The election, if made by the

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- 18 majorities required by § 1111(b)(1)(A)(i), shall be binding  
19 on all members of the class with respect to the plan.

1 **Rule 3016. Filing of Plan and Disclosure Statement in a**  
2 **Chapter 9 Municipality or Chapter 11 Reorganization**  
3 **Case**

4 (a) IDENTIFICATION OF PLAN. Every proposed  
5 plan and any modification thereof shall be dated and, in a  
6 chapter 11 case, identified with the name of the entity or  
7 entities submitting or filing it.

8 (b) DISCLOSURE STATEMENT. In a chapter 9 or  
9 11 case, a disclosure statement, if required under § 1125 of  
10 the Code, or evidence showing compliance with § 1126(b)  
11 shall be filed with the plan or within a time fixed by the  
12 court, unless the plan is intended to provide adequate  
13 information under § 1125(f)(1). If the plan is intended to  
14 provide adequate information under § 1125(f)(1), it shall be  
15 so designated, and Rule 3017.1 shall apply as if the plan is a  
16 disclosure statement.

17 \* \* \* \* \*

18 (d) STANDARD FORM SMALL BUSINESS  
19 DISCLOSURE STATEMENT AND PLAN. In a small  
20 business case or a case under subchapter V of chapter 11, the  
21 court may approve a disclosure statement and may confirm  
22 a plan that conform substantially to the appropriate Official  
23 Forms or other standard forms approved by the court.

1 **Rule 3017.1. Court Consideration of Disclosure**  
2 **Statement in a Small Business Case or in a Case Under**  
3 **Subchapter V of Chapter 11**

4 (a) **CONDITIONAL APPROVAL OF**  
5 **DISCLOSURE STATEMENT.** In a small business case or  
6 in a case under subchapter V of chapter 11 in which the court  
7 has ordered that § 1125 applies, the court may, on  
8 application of the plan proponent or on its own initiative,  
9 conditionally approve a disclosure statement filed in  
10 accordance with Rule 3016. On or before conditional  
11 approval of the disclosure statement, the court shall:

- 12 (1) fix a time within which the holders of claims and  
13 interests may accept or reject the plan;  
14 (2) fix a time for filing objections to the disclosure  
15 statement;  
16 (3) fix a date for the hearing on final approval of the  
17 disclosure statement to be held if a timely objection  
18 is filed; and

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19 (4) fix a date for the hearing on confirmation.

20 \* \* \* \* \*

1 **Rule 3017.2. Fixing of Dates by the Court in Subchapter**  
2 **V Cases in Which There Is No Disclosure Statement**

3 In a case under subchapter V of chapter 11 in which  
4 § 1125 does not apply, the court shall:

5 (a) fix a time within which the holders of claims  
6 and interests may accept or reject the plan;

7 (b) fix a date on which an equity security holder  
8 or creditor whose claim is based on a security must  
9 be the holder of record of the security in order to be  
10 eligible to accept or reject the plan;

11 (c) fix a date for the hearing on confirmation; and

12 (d) fix a date for transmission of the plan, notice  
13 of the time within which the holders of claims and  
14 interests may accept or reject the plan, and notice of  
15 the date for the hearing on confirmation.



1 **Rule 3018. Acceptance or Rejection of Plan in a Chapter**  
2 **9 Municipality or a Chapter 11 Reorganization Case**

3 (a) ENTITIES ENTITLED TO ACCEPT OR  
4 REJECT PLAN; TIME FOR ACCEPTANCE OR  
5 REJECTION. A plan may be accepted or rejected in  
6 accordance with § 1126 of the Code within the time fixed by  
7 the court pursuant to Rule 3017, 3017.1, or 3017.2. Subject  
8 to subdivision (b) of this rule, an equity security holder or  
9 creditor whose claim is based on a security of record shall  
10 not be entitled to accept or reject a plan unless the equity  
11 security holder or creditor is the holder of record of the  
12 security on the date the order approving the disclosure  
13 statement is entered or on another date fixed by the court  
14 under Rule 3017.2, or fixed for cause after notice and a  
15 hearing. For cause shown, the court after notice and hearing  
16 may permit a creditor or equity security holder to change or  
17 withdraw an acceptance or rejection. Notwithstanding  
18 objection to a claim or interest, the court after notice and

19 hearing may temporarily allow the claim or interest in an  
20 amount which the court deems proper for the purpose of  
21 accepting or rejecting a plan.

22 \* \* \* \* \*

1 **Rule 3019. Modification of Accepted Plan in a Chapter**  
2 **9 Municipality or a Chapter 11 Reorganization Case**

3 \* \* \* \* \*

4 (b) MODIFICATION OF PLAN AFTER  
5 CONFIRMATION IN INDIVIDUAL DEBTOR CASE. If  
6 the debtor is an individual, a request to modify the plan under  
7 § 1127(e) of the Code is governed by Rule 9014. The request  
8 shall identify the proponent and shall be filed together with  
9 the proposed modification. The clerk, or some other person  
10 as the court may direct, shall give the debtor, the trustee, and  
11 all creditors not less than 21 days' notice by mail of the time  
12 fixed to file objections and, if an objection is filed, the  
13 hearing to consider the proposed modification, unless the  
14 court orders otherwise with respect to creditors who are not  
15 affected by the proposed modification. A copy of the notice  
16 shall be transmitted to the United States trustee, together  
17 with a copy of the proposed modification. Any objection to  
18 the proposed modification shall be filed and served on the

19 debtor, the proponent of the modification, the trustee, and  
20 any other entity designated by the court, and shall be  
21 transmitted to the United States trustee.

22 (c) MODIFICATION OF PLAN AFTER  
23 CONFIRMATION IN A SUBCHAPTER V CASE. In a  
24 case under subchapter V of chapter 11, a request to modify  
25 the plan under § 1193(b) or (c) of the Code is governed by  
26 Rule 9014, and the provisions of this Rule 3019(b) apply.