

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA

IN THE MATTER OF:)
)
LOCAL RULES OF PRACTICE)
)

**ORDER ADOPTING INTERIM BANKRUPTCY RULES
AND AMENDING LOCAL BANKRUPTCY RULES**

On August 23, 2019, the Small Business Reorganization Act of 2019 (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. 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 drafted, published for comment, and subsequently approved interim bankruptcy rules (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. Changes to the court's local bankruptcy rules are also needed to better implement the provisions of the SBRA and the general effective date of the Act does not provide sufficient time to promulgate these local rules after appropriate public notice and an opportunity for comment.

NOW THEREFORE, pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure, Rule 9029 of the Federal Rules of Bankruptcy Procedure, and L.R. 200.1(h) of the Local Rules of the United States District Court for the Northern District of Indiana:

A. The Interim Rules are adopted in their entirety without change by the judges of this court to be effective February 19, 2020, and, until further order of the court, shall apply to all cases filed on or after that date.

B. The introductory phrase of paragraph (a) of Local Bankruptcy Rule B-3017.1-1 is amended to read:

(a) Except in cases under subchapter V of Chapter 11, if the proponent of a plan in a small business case would like the court to:

C. The third sentence of paragraph (b) of Local Bankruptcy Rule B-3018-1 is amended to read:

The report shall also identify any material change from the disclosure statement or, in a case under subchapter V, the plan's representations concerning the requirements for confirmation established by 11 U.S.C. § 1129(a) and shall indicate whether there are sufficient funds available with which to make the payments due upon the effective date of the plan.

D. The first sentence of paragraph (a) of Local Bankruptcy Rule B-3020-1 is amended to read:

(a) In a case under Chapter 11, other than a case under subchapter V, if all the requirements for confirmation of 11 U.S.C. § 1129(a) are met other than those contained in paragraph (8) (acceptance or deemed acceptance of the plan by all classes), should the proponent intend to seek confirmation over the rejection of any class pursuant to the requirements of 11 U.S.C. § 1129(b), the proponent shall file and serve a request to do so no later than fourteen (14) days before the date set for the confirmation hearing.

E. Paragraph (b) of Local Bankruptcy Rule B-3020-1 is renumbered as paragraph (c) and a new paragraph (b) is added and reads:

(b) In a case under subchapter V of Chapter 11, if all classes do not vote to accept the proposed plan and, pursuant to 11 U.S.C. § 1191(b), the debtor intends to seek confirmation over the rejection of any class, debtor shall file and serve a motion to do so no later than fourteen (14) days before the date set for the confirmation hearing. The request shall identify the class or classes which have rejected the plan as to which the debtor contends the requirements of 11 U.S.C. § 1191(b) are fulfilled and shall state how those

requirements have been fulfilled as to each such class, so that the plan may be confirmed notwithstanding the rejection of such class or classes. The motion shall be served upon each entity which cast a ballot in any such rejecting class and upon the entities entitled to receive copies of the ballot report. At the initial confirmation hearing, the court may determine that the proposed plan does not discriminate unfairly and is fair and equitable as to a rejecting class, based upon the information contained in the debtor's motion, without further proof, unless at least one rejecting member of such class appears at the confirmation hearing.

F. The commentary to Local Bankruptcy Rule B-3020-1 is amended to delete:

Paragraph (b) is existing rule B-223(d).

G. Paragraph (a) of Local Bankruptcy Rule B-3022-1 is amended to read:

(a) Except for a case pending under subchapter V of Chapter 11, unless the confirmed plan or the order of confirmation otherwise provides, an estate under Chapter 11 may be deemed to be fully administered when:

(1) at least one hundred eighty (180) days have passed after the date of the entry of the order of confirmation;

(2) all adversary proceedings, contested matters and other disputes, including appeals, have been resolved by a final, nonappealable order or dismissed; and

(3) no paper has been filed in the case for at least sixty (60) days.

H. Paragraphs (b) and (c) of Local Bankruptcy Rule B-3022-1 are renumbered as paragraphs

(c) and (d) and a new paragraph (b) is added and reads:

(b) In a case pending under subchapter V of Chapter 11, the estate may be deemed to be fully administered when:

(1) the services of the trustee have terminated;

(2) all adversary proceedings, contested matters and other disputes, including appeals, have been resolved by a final, nonappealable order or dismissed; and

(3) no paper has been filed in the case for at least sixty (60) days.

I. The second sentence of paragraph (c) of Local Bankruptcy Rule B-4004-3 is amended to read:

The motion shall state how the debtor has satisfied the requirements for the entry of discharge, *see*, 11 U.S.C. § 1141(d)(5), if applicable, by alleging, with particularity:

J. Paragraph (d) of Local Bankruptcy Rule B-4004-3 is amended to read:

(d) Except for cases under subchapter V of Chapter 11, in addition to satisfying the requirements of paragraph (b) or (c), any motion for discharge, whether filed before or after confirmation, must also state that there is no proceeding pending in which the debtor might be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A), or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B), and there is no reason to believe that 11 U.S.C. § 522(q)(1) might apply to the debtor (11 U.S.C. §1141(d)(5)(c)).

K. Paragraph (e) of Local Bankruptcy Rule B-4004-3 is deleted.

SO ORDERED.

Dated: February 14, 2020

/s/

Robert E. Grant, Chief Judge
United States Bankruptcy Court

/s/

Harry C. Dees, Jr., Judge
United States Bankruptcy Court

/s/

James R. Ahler, Judge
United States Bankruptcy Court

/s/

Kent Lindquist, Judge
United States Bankruptcy Court