

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI

In re

2020 AMENDMENTS TO LOCAL RULES
1002-3, 3016-1, 3016-2, AND 3016-3

GENERAL ORDER NO. 2

For good cause shown and considering the Small Business Reorganization Act of 2019 (the SBRA) becomes effective on February 19, 2020, this Court hereby amends Local Rules 1002 and 3016 as set forth below:

Rule 1002-3. Filings and Other Duties in Certain ~~Small Business~~ Cases.

A. Applicability of Rule. This rule applies in small business cases as defined by § 101(51C) and in cases filed under Subchapter V of Chapter 11.

B. Duties of Debtors in Small Business Cases and Cases Under Subchapter V.

1. Required Filings. In addition to making any other required filings, a debtor in possession or trustee in a small business case or case under Subchapter V must file with the petition the additional documents or statements required by § 1116(1). In order to preserve the confidentiality of the federal income tax return required to be filed, the filer shall use the ECF event *Federal Tax Return*. This is a private entry in the court file and the attached document cannot be viewed by the public.

2. Other Duties. In addition to making any other required filings, or taking any other required actions, a debtor in possession or trustee in such a case shall make the filing and perform the requirements of § 1116(2) through (7). ~~A debtor in possession or trustee and~~ shall cooperate with the United States Trustee in connection with the responsibilities of the United States Trustee under 28 U.S.C. § 586(a)(7).

3. Order on Preliminary Matters. The Court will enter an Order on Preliminary Matters in each small business case and case under Subchapter V. A debtor in possession or trustee in such a case shall perform all duties required by the Court's Order on Preliminary Matters. (See Local Form - MOW 1002-3.1 and Local Form – MOW 1002-3.2 for Cases under Subchapter V)

C. Periodic Reporting. In compliance with the periodic reporting requirements contained in § 308, each ~~small business~~ such debtor shall file on or before the 20th day of each month a [Small Business] Monthly Operating Report utilizing Official Form 425C. The report shall contain information based upon the operations of the business for the month prior to the month in which the report is filed. This report is in lieu of the report required by Local Rule 2015-2C.

Rule 3016-1. Chapter 11 Plan - Not Small Business

Unless otherwise required by the Bankruptcy Code or Court order, a Chapter 11 debtor shall file a plan and disclosure statement within 120 days after filing of the petition. If debtor seeks an extension of time to file a plan or of the exclusive period to file a plan, debtor shall file a motion for extension before expiration of the 120 days, stating the reason a plan has not been filed and a schedule of steps to be taken to file a plan. **This rule is not applicable in cases under Subchapter V of Chapter 11.**

Rule 3016-2. Disclosure Statement - Not Small Business

A. Disclosure Statement. Chapter 11 disclosure statements must include at least three years each of detailed financial operating histories and operating projections, including projected plan payments and tax consequences. Data for longer or shorter periods may be required. **This subparagraph is not applicable in cases under Subchapter V of Chapter 11.**

B. Approval of Disclosure Statement.

1. Conditional Approval. The Court may conditionally approve a disclosure statement. On or before conditional approval of the disclosure statement, the Court shall:

- a. fix a time for filing objections to the disclosure statement;
- b. fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed;
- c. fix a date for the hearing on confirmation; and
- d. fix a time within which the holders of claims and interests may accept or reject the plan.

2. Application of Fed. R. Bankr. P. 3017. If the disclosure statement is conditionally approved, Fed. R. Bankr. P. 3017(a) and (e) do not apply. Conditional approval of the disclosure statement is considered approval of the disclosure statement for the purpose of applying Fed. R. Bankr. P. 3017(d).

3. Objections and Hearing on Final Approval. Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with Fed. R. Bankr. P. 2002 and may be combined with notice of the hearing on confirmation of the plan. Objections to the disclosure statement shall be filed, transmitted to the United States Trustee, and served on the debtor, the trustee, any committee appointed under the Bankruptcy Code, and any other entity designated by the Court at any time before final approval of the disclosure statement or by an earlier date as the Court may fix. If a timely objection to the disclosure statement is filed, the Court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.

Rule 3016-3. Plan and Disclosure Statement in Small Business Cases and Cases Under Subchapter V of Chapter 11

A. Applicability of Rule. This rule applies in small business cases as defined by § 101(51C) and cases under Subchapter V of Chapter 11. Except as specified in this Rule, the provisions of Local Rules 3016-1 and 3016-2 are not applicable in small business cases.

B. Form of Plan and Disclosure Statement. The disclosure statement and plan of reorganization in a small business case or a case under Subchapter V or Chapter 11 shall conform substantially to Official Forms 425A and 425B. Appropriate modifications to those forms are permitted.

C. Conditional Approval of Disclosure Statement. Pursuant to § 1125(f)(3)(A) and (C), upon the filing of a disclosure statement and plan of reorganization in a small business case or a case under Subchapter V of Chapter 11, the court will employ the procedures set forth in subparagraph B of Local Rule 3016-2.

D. Plan of Reorganization as Disclosure Statement. If a debtor in possession or trustee intends, pursuant to § 1125(f)(1), that the plan is to serve as a disclosure statement, the plan shall be designated as such as required by Fed. R. Bankr. P. 3016(b) and filed (Utilize Official Form 425B or Local Form MOW 3016-3.1). A plan so designated shall be treated as a disclosure statement under Fed. R. Bankr. P. 3017.1.

This General Order is effective February 19, 2020, for all pending and new cases and shall remain in effect until further order of the Court.

IT IS SO ORDERED.

Dated: 2/7/2020

/s/ Brian T. Fenimore
Brian T. Fenimore, Chief Bankruptcy Judge

/s/ Dennis R. Dow
Dennis R. Dow, Bankruptcy Judge

/s/ Cynthia A. Norton
Cynthia A. Norton, Bankruptcy Judge