

# UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF NEW YORK

## ECF NEWSLETTER



*Our mission is to provide an opportunity for debtors to receive a fresh economic start and for creditors to be paid in accordance with the law, and to promote public confidence in the judiciary, by serving the public and all of our constituencies in the fair and just resolution of cases within our jurisdiction.*

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NEW BANKRUPTCY LAWS, FORMS,  
CM/ECF NEW EVENTS AND SCREEN  
CHANGES, AND CARES ACT UPDATES

### BANKRUPTCY LAWS ENACTED AUGUST 23, 2019

Four laws enacted on August 23, 2019 impacted bankruptcy practice. They are:

- **Family Farmers Relief Act of 2019 – Effective 8-23-2019**
- **Honoring American Veterans in Extreme Need Act of 2019 (HAVEN Act) - Effective 8-23-2019**
- **National Guard and Reservists Debt Relief Extension Act of 2019 - Effective 8-23-2019**
- **Small Business Reorganization Act of 2019 (SBRA) Effective 2-19-2020**

The Judicial Conference of the United States Advisory Committee on Bankruptcy Rules and the Committee on Rules of Practice and Procedure approved [Interim Rules](#), and related forms pertaining to the Small Business Reorganization Act of 2019 (SBRA).

Unlike the other three laws that were effective on August 23, 2019, SBRA is effective February 19, 2020 along with its interim rules and related official bankruptcy forms. The Judicial Conference of the United States authorized distribution of the Interim Rules to courts for adoption locally to facilitate uniform implementation of SBRA. These Interim Rules have been adopted by this [Court's Administrative Order #686 dated January 14, 2020](#).

While the focus of this issue is on SBRA, all provisions made by these laws are beyond the scope of this newsletter article and should not be used as reference to bankruptcy practice. Readers are directed to the official [Interim Rules](#), [Official Bankruptcy Forms](#) and the [Administrative Order #686 of the United States Bankruptcy Court, EDNY](#).

**New Bankruptcy Law**  
**Small Business Reorganization Act of 2019 (SBRA)**  
**and**  
**Interim Rules**  
**Effective February 19, 2020**

This law establishes a new subchapter V within chapter 11 of the Bankruptcy Code. This new subchapter V will allow small business debtors to elect to reorganize in Chapter 11 using a simplified and expedited process. To implement procedural and substantive changes to the Bankruptcy Code made by the SBRA, Interim Rules were created and approved by authority. Below is a brief description of the Interim Rules, for SBRA. Interim Rules 1007, 1020, 2009, 2012, 2015, 3010, 3011, 3014, 3016, 3017.1, **3017.2 (new)** 3018, 3019.

Rule 1007

**Lists, Schedules, Statements, and Other Documents; Time Limits** - As amended, subdivision (b)(5) of the rule includes an exception for subchapter V cases and clarifies that because §1129(a)(15) is inapplicable to subchapter V cases, there is no need for an individual debtor in a subchapter V case to file a statement of current monthly income. This rule is also amended to clarify when the duty to file a supplemental schedule is terminated. The Committee Note provides, “Subdivision (h) is amended to provide that the duty to file a supplemental schedule under the rule terminates upon confirmation of the plan in a subchapter V case, unless the plan is confirmed under § 1191(b), in which case it terminates upon discharge as provided in § 1192.”

Rule 1020

**Chapter 11 Reorganization Case for Small Business Debtors** - This rule, which addresses small business chapter 11 reorganizations, is substantially amended to include the new option for a small business debtor to elect to be a debtor under subchapter V of chapter 11. Subdivision (a) is amended to require a small business debtor to state in its voluntary petition, or in a statement filed within 14 days after the order for relief is entered whether it elects to proceed under subchapter V. The rule does not address when or under what conditions a debtor can elect to proceed under subchapter V after the specified time. Subdivision (c) of this rule is removed as a creditor’s committee is no longer a requirement for small business debtor status. Subdivision (d) of this rule is re-designated, and the list of entities to be served is revised to reflect that in most small business and subchapter V cases there will not be a committee of creditors.

Rule 2009

**Trustees for Estates When Joint Administration Ordered** - This rule, addressing trustees for estates when joint administration is ordered, is amended to reflect the new subchapter V of chapter 11. In cases under subchapter V, the new law requires the United States Trustee to appoint a trustee. Thus, this rule is amended to reflect this option.

Rule 2012

**Substitution of Trustee or Successor Trustee; Accounting** - This rule, addressing substitution of a trustee and successor trustee, is amended to conform to the SBRA.

**New Bankruptcy Law  
Small Business Reorganization Act of 2019 (SBRA)  
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Interim Rules  
Effective February 19, 2020**

Rule 2015	<b>Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status</b> - This rule addresses the trustee or debtor-in-possession’s duty to keep certain records. This amendment adds a new subdivision (b) detailing the duties of the debtor-in-possession, trustee and debtor in a subchapter V case. These changes are necessary to reflect that in subchapter V cases, there will typically be a trustee and a debtor in possession. The other sections in this rule are re-designated.
Rule 3010	<b>Small Dividends and Payments in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12 and Chapter 13</b> - This rule, which addresses small dividends and payments in cases under chapters 7, 12, and 13, would be amended to add language to subsection (b) to include cases filed under subchapter V of chapter 11. This change would clarify that no payment in an amount less than \$15 shall be distributed in these cases.
Rule 3011	<b>Unclaimed Funds in Cases Under Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13</b> - This rule addresses unclaimed funds in chapters 7, 12, and 13. This rule is amended so that it will also apply to subchapter V of chapter 11.
Rule 3014	<b>Election Under §1111 (b) by Secured Creditor in Chapter 9 Municipality or Chapter 11 Reorganization Case</b> - This rule is amended to provide that the Court may set a deadline for making an election under § 1111 (b) in a case under subchapter V of chapter 11.
Rule 3016	<b>Filing of Plan and Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case</b> - This rule is amended to reflect that a disclosure statement is not required in subchapter V case unless the court for cause orders otherwise.
Rule 3017.1	<b>Court Consideration of Disclosure Statement in a Small Business Case or in a Case Under Subchapter V of Chapter 11</b> - This rule is amended to reflect in the title and subdivision (a) of the rule that it applies to cases under subchapter V when the court orders that § 1125 of the Bankruptcy Code applies.
<b><i>New Rule 3017.2</i></b>	<b>Fixing of Dates by the Court in Subchapter V Cases in Which There Is No Disclosure Statement</b> – This rule is new and is added because there generally will not be a disclosure statement in a subchapter V case, see § 1181(b) of the Bankruptcy Code, thus this rule authorizes the court in a subchapter V case to act at a time other than when a disclosure statement is approved to set certain times and dates.

**New Bankruptcy Law**  
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Rule 3018

**Acceptance or Rejection of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case** - This rule is amended to address the amendment to Rule 3017.1 and the new 3017.2.

Rule 3019

**Modification of Accepted Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case** - This rule is amended to add a new subdivision (c) to address requests to modify a plan after confirmation in such cases under § 1193(b) or (c) of the Bankruptcy Code.

**New Bankruptcy Law  
Small Business Reorganization Act of 2019 (SBRA)  
and  
Official Bankruptcy and Director’s Forms  
Effective February 19, 2020**

The Committee of Rules of Practice and Procedures recommended changes to several Official Bankruptcy Forms as well as the creation of two new Official Bankruptcy Forms and the update of one Director’s Form. The following forms numbers are listed below with a brief description of the changes.

Form 101	<b>Voluntary Petition for Individuals Filing for Bankruptcy</b> - Part 3, line 13 seeks information to determine if the debtor is a small business debtor. Line 13 is amended to provide space for a debtor that claims small-business status to indicate whether it elects to proceed under subchapter V of chapter 11.
Form 201	<b>Voluntary Petition for Non-Individuals Filing for Bankruptcy</b> - Line 8 is amended to provide space for a debtor that claims small-business status to indicate whether it elects to proceed under subchapter V of chapter 11.
Form 309E1	<b>Notice of Chapter 11 Bankruptcy Case - For Individuals or Joint Debtors</b> - Official Forms 309E has been renumbered 309E1. This form will continue to be used in chapter 11 cases other than subchapter V.
Form 309F1	<b>Notice of Chapter 11 Bankruptcy Case - For Corporations and Partnerships</b> - Official Forms 309F has been renumbered 309F1. This form will continue to be used in chapter 11 cases other than subchapter V.
Form 314	<b>Ballot for Accepting or Rejecting Plan of Reorganization</b> - This form is amended to include language (in brackets) regarding references to the disclosure statement that would not typically be included in the ballot for a subchapter V case.
Form 315	<b>Order Confirming Plan</b> - This form is amended to include conforming citations.
Form 425A	<b>Plan of Reorganization for Small Business Under Chapter 11</b> - This form is amended to include additional provisions if the plan is for a case under subchapter V.

**New Bankruptcy Law  
Small Business Reorganization Act of 2019 (SBRA)  
and  
Official Bankruptcy and Director's Forms  
Effective February 19, 2020**

***Form 309E2***

**Notice of Chapter 11 Bankruptcy Case For Individual or Joint Debtor filing as a Small Business under Subchapter V of Chapter 11** - This is a *new form* that is created to address a notice for a filing under subchapter V for a small business debtor who is an individual or a joint debtor. Because a trustee is always appointed in a subchapter V case, this form requires the name and contact information of the trustee to be provided.

***Form 309F2***

**Notice of Chapter 11 Bankruptcy Case For Small Businesses Corporation or Partnership Debtor under Subchapter V of Chapter 11** - This is a *new form* that is created to address a notice for a filing under subchapter V for a small business that is a corporation or partnership. Because a trustee is always appointed in a subchapter V case, this form requires the name and contact information of the trustee to be provided.

**Form B2000**

**Director's Form** - This form is updated to reflect that an individual debtor filing under subchapter V of chapter 11 does not need to complete or file Official Form 122B.

**UPDATES  
Small Business Reorganization Act of 2019  
and the  
Coronavirus Aid, Relief, and Economic Security Act (CARES Act)  
Effective April 2020**

Changes in the Bankruptcy Forms Resulting from the CARES Act. [Read more.](#)

**Read United States Bankruptcy Judge Robert E. Grossman's**

[MEMORANDUM DECISION OVERRULING OBJECTIONS TO THE DEBTOR'S ELECTION AS A SUBCHAPTER V DEBTOR](#)

**New Bankruptcy Law  
Small Business Reorganization Act of 2019 (SBRA)  
and  
New and Revised CM/ECF Events  
Effective February 19, 2020**

These events can be found under Bankruptcy > Bankruptcy Events > Trustee/US Trustee

- Chapter 11 Subchapter V Standing Trustee's Report of No Distribution A—case dismissed or converted, no plan, fee award received
- Chapter 11 Subchapter V Case Trustee's Report of No Distribution B—case dismissed or converted, fee award received
- Chapter 11 Subchapter V Trustee's Report of No Distribution C—case dismissed or converted, fee award not received
- Chapter 11 Subchapter V Trustee's Report of No Distribution D—consensual plan consummated, fee award received
- Chapter 11 Subchapter V Trustee's Report of No Distribution E—consensual plan consummated, fee award only
- Chapter 11 Subchapter V Trustee's Report of No Distribution F—non-consensual plan consummated, fees awarded
- Chapter 11 Subchapter V Trustee's Final Report and Account

These events can be found under Bankruptcy > Bankruptcy Events > Plan

- Chapter 11 Plan Small Business Subchapter V
- Amended Chapter 11 Plan Small Business Subchapter V

These events can be found under Bankruptcy > Bankruptcy Events > Other

- Balance /Sheet
- Cash Flow Statement
- Statement of Operation for Small Business

**New Bankruptcy Law**  
**Small Business Reorganization Act of 2019 (SBRA)**  
**and**  
**New and Revised CM/ECF Events**  
**Effective February 19, 2020**

- Small Business Tax Documents
- Chapter 11 Subchapter V Pre-Status Report

When docketing any of the first four events listed above, you will be prompted to answer the question, “Is this case a Small Business Subchapter V?”

**Miscellaneous:**

1-20-40014-nhl Michael E Jones



**Is this case a Small Business Subchapter V**

Next

Clear



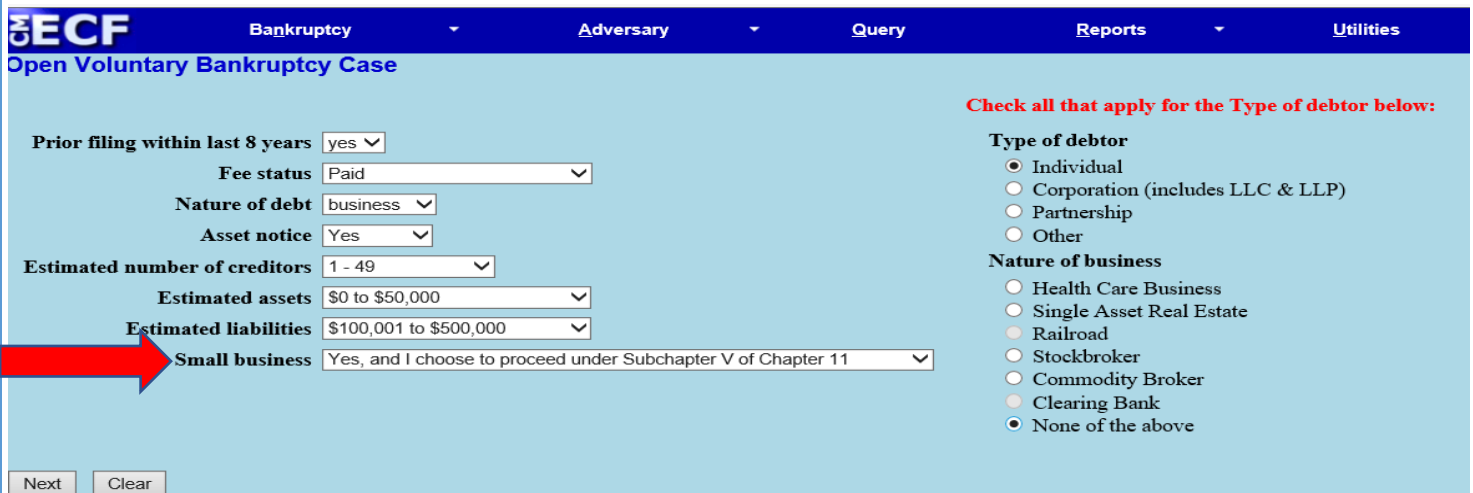
**New Bankruptcy Law**  
**Small Business Reorganization Act of 2019 (SBRA)**  
**and**  
**New and Revised CM/ECF Events**  
**Effective February 19, 2020**

When the attorney opens a new Small Business Reorganization Subchapter V of a Chapter 11 case in CM/ECF at the 2nd SARD screen for *Open Voluntary Bankruptcy Case* you will be prompted to elect from the dropdown box one of the following:

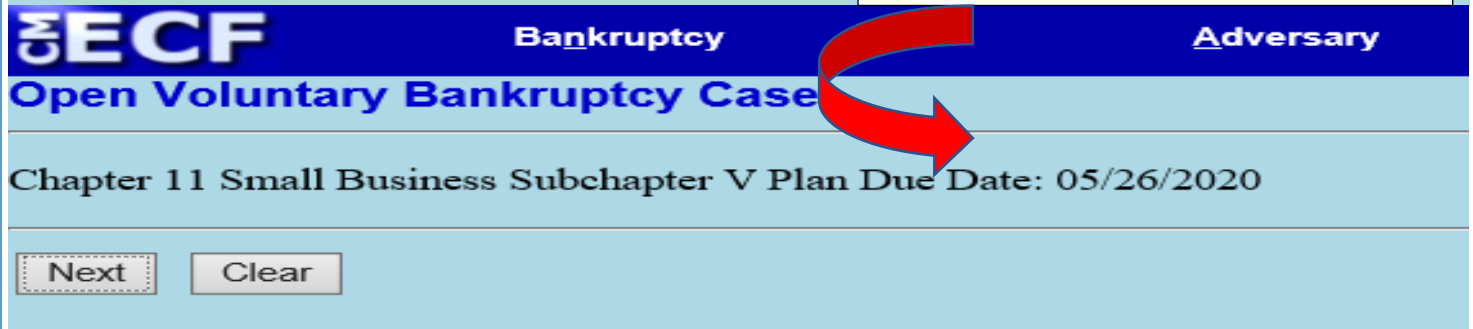
No, I am not a small business debtor

Yes, and I do not choose to proceed under Subchapter V of Chapter 11

 Yes, and I choose to proceed under Subchapter V of Chapter 11



The screen on the next page gives the deadline date for the filing of the Subchapter V Plan by Debtor



**New Bankruptcy Law  
Small Business Reorganization Act of 2019 (SBRA)  
and  
Modifications in CM/ECF  
Effective February 19, 2020**

**THE FINAL DOCKET TEXT**

Chapter 11 Voluntary Petition for Small Business Individual **Subchapter V**. Fee Amount \$1717. Filed by Margaret Clarke on behalf of Apples and Oranges Company. Chapter 11 Small Business **Subchapter V** Plan Due by 05/26/2020. (Clarke, Margaret)

**FLAGS**

New flags found at the top right-hand corner on the face of the docket report

- SubChapter VChapter 11 Small Business Subchapter V
- SmBsChVPlnDue - Chapter 11 Small Business Plan Due

**ORDER**

Scheduling Initial Case Management Conference (ch. 11 all judges) – Modified to schedule 14-day deadline for Pre-Status Report

**New Bankruptcy Law**  
**Honoring American Veterans in Extreme Need Act of 2019 (HAVEN Act)**  
**Effective August 23, 2019**  
**and**  
**Amended Bankruptcy Forms**  
**Effective October 1, 2019**

This law makes changes to the definition of current monthly income under 11U.S.C. § 101(10A) by excluding from the definition, certain benefits paid by the Department of Veterans Affairs and the Department of Defense. There were no changes to the Federal Rules of Bankruptcy Procedure. However, there were changes made to three Official Bankruptcy Forms. They are: Form 122A-1, Form 122B, and Form 122C-1. These forms are effective as of October 1, 2019.

Form 122A-1	Chapter 7 Statement of Your Current Monthly Income - Lines 9 & 10 of this form is modified to expressly exclude certain amounts payable “in connection with disability, combat-related injury or disability or death of a member of the uniformed services.”
Form 122B	Chapter 11 Statement of Your Currently Monthly Income - Lines 9 & 10 of this form is modified to expressly exclude certain amounts payable “in connection with disability, combat-related injury or disability or death of a member of the uniformed services.”
Form 122C-1	Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period - Lines 9 & 10 of this form is modified to expressly exclude certain amounts payable “in connection with disability, combat-related injury or disability or death of a member of the uniformed services.”
<i>Updates</i>	Official Forms 122A-1, 122B, and 122C-1 are amended in response to the enactment of the Coronavirus Aid, Relief, and Economic Security Act (“ <a href="#">the CARES Act</a> ”), Pub. L. No. 116-136, 134 Stat.281.

**New Bankruptcy Law**  
**Family Farmers Relief Act of 2019**  
**Effective August 23, 2019**

This law increases the debt limit used to determine whether a family farmer is eligible for relief under chapter 12 of the Bankruptcy Code from \$4,411,400 to \$10,000,000. There were no changes to the Federal Rule of Bankruptcy Procedures and no changes to any Official Bankruptcy Forms.

**New Bankruptcy Law**  
**National Guard and Reservists Debt Relief Extension Act of 2019**  
**Effective August 23, 2019**

This law extends the temporary exclusion of certain qualifying National Guard and Reserve members from the Bankruptcy Code's means test for four additional years. The change to the Federal Rules of Bankruptcy Procedures for Interim 1007-I is the footnote which reflects Pub. L. No. 116.53.

CONTACT INFORMATION

United States Bankruptcy Court  
Eastern District of New York  
Conrad B. Duberstein United States Bankruptcy Courthouse  
271-C Cadman Plaza East, Suite 1595  
Brooklyn, NY 11201-1800  
(347) 394-1700  
Help Desk: (347) 394-1700, press 6

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United States Bankruptcy Court  
Eastern District of New York  
Alfonse M. D'Amato United States Bankruptcy Courthouse  
290 Federal Plaza  
Central Islip, NY 11722  
(631) 712-6200  
Help Desk: (631) 712-6200, press 6

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- The Voice Case Information System (VCIS) - 866-222-8029
- The Court's website address is: <https://www.nyeb.uscourts.gov/>
- Email your non-emergency procedural questions to: [ECF\\_Helpdesk@nyeb.uscourts.gov](mailto:ECF_Helpdesk@nyeb.uscourts.gov)
- [Click here](#) to visit the ECF Newsletter Archive to access previous editions of the ECF newsletter.
- In order to cut down on the number of error emails sent to filers each year, we would like to hear from you as to how we can best assist in making docket entries consistent with the requirements of this Court. Send me an email at [Margaret\\_Clarke@nyeb.uscourts.gov](mailto:Margaret_Clarke@nyeb.uscourts.gov) letting me know how we can help.
- Contact [Margaret\\_Clarke@nyeb.uscourts.gov](mailto:Margaret_Clarke@nyeb.uscourts.gov) with your suggestions, articles, and topics for the newsletter.