

## **Preparing the Debtor for a 341 Meeting of Creditors**

### **What is the 341 meeting of creditors?**

The 341 meeting of creditors refers to a required meeting that every debtor must attend with the Trustee in order to remain in bankruptcy. Pursuant to 11 U.S.C. §341(a) a 341 meeting of creditors must be held after the Order for relief is entered. The United States Trustee “shall convene and preside at a meeting of creditors.” The responsibility for conducting this meeting is delegated by the United States Trustee to the Trustee or their designee. The time frame for holding a Chapter 13 meeting of creditors is no fewer than 21 days and no more than 50 days after the Order for relief. See, FRBP 2003 (a).

Shortly after the case is filed, the Debtor will receive a Notice of Commencement of Bankruptcy Case from the Court, as will all creditors and parties in interest in the case. This Notice will contain the date for the 341 meeting, as well as certain other deadlines like the proof of claim deadlines, deadlines for the filing of certain motions, and the date and time for the confirmation hearing.

**[Practice tip:** Counsel should carefully calendar these deadlines for each case. If a conflict with another court hearing is identified, a request to continue the 341 meeting of creditors should be sent to the Trustee right away, advising the Trustee of the conflict and asking for a new date and time. **These requests should not be filed with the court.]**

The Debtor and Counsel will also receive a letter, a list of required documents, and forms to be completed from their assigned Trustee. It is critical that the Debtor understands the need to provide all of the documents requested by the Trustee to their Counsel so that the documents can be forwarded and received by the Trustee no later than 7 days prior to the scheduled 341 meeting. See 11 U.S.C. §521 (a) (1) (B)(iv) and (e) (2) (A). The Debtor’s case number should be written on all documents submitted. Check with the assigned Trustee about standard practices for document submission. Some documents may be submitted to the Trustee electronically.

**[Practice tip:** Debtor's Counsel should be familiar with 11 U.S.C. §521 generally in order to effectively counsel the Debtor in his/her responsibilities when filing bankruptcy.]

**[Practice tip:** Counsel should ALWAYS review documents to be provided by the Debtor before they are sent to the Trustee. Potential issues can arise with tax returns (i.e. claiming a business deduction when no business has been disclosed in schedules and statements; improper filing status) or pay advices (i.e. unexplained payroll deductions).]

#### What happens at the meeting?

The Debtor is required to provide proof of his/her identity with a government issued I.D. and original proof of social security number. Trustees do not accept copies of these documents. If the Debtor appears at the 341 meeting of creditors without one or both of these, the meeting must be rescheduled. A government issued I.D. such as a driver's license or state issued I.D. card, passport or military issued I.D. are acceptable forms of identification. An original social security card, W-2 or letter/notice from a government agency such as Social Security Administration, or a tax transcript from the Internal Revenue Service which displays the entire social security number is acceptable.

**[Practice tip:** When meeting with the client for the first time, it is good practice to ask for proof of identity and social security number so that Counsel can perform proper due diligence before you are being retained by the client.]

#### Who will attend?

Any creditor or party in interest and their Counsel may attend the 341 meeting of creditors. Time is restricted due to scheduling cases on a given 341 meeting day. If creditors appear and wish to question the Debtor and time is short, the meeting may have to be continued to a mutually agreeable time to finish the meeting.

#### What questions are asked?

The Trustee is required to ask certain questions. A list is attached to these materials. Counsel should review the required questions with the Debtor ahead of time so s/he is prepared and ready to answer. If the case is filed with joint Debtors, both will be required to answer all questions. In addition, the Trustee may ask additional questions regarding property, lawsuits, prior cases and any other financial issues that are identified during preparation or which may arise during the meeting. If the Debtor has been familiarized with these questions, the meeting will be more productive and the Debtor may be less nervous.

### Special circumstances

If a Debtor is unable to attend the 341 meeting in person due to illness, disability or other incapacitation, Counsel should contact the Trustee as soon as possible before the meeting date to discuss alternative arrangements. If the Debtor is relying on a Power of Attorney, the Trustee will require the original POA for review and may have other requirements. With the assistance of the U S Trustee, the Trustee can make accommodations for the Debtor and Counsel.

As far in advance of the meeting as possible, Counsel should contact the Trustee to advise when a translator will be required. Debtors are not allowed to use their Counsel, friends or relatives to act as interpreters at the meeting.