

Memorandum

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INFORMATION



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Subject:

§341 Meeting of Creditors
Attendance of Active Duty Service Members

Date:

April 7, 2003

To:

All Chapter 7 and
Chapter 13 Trustees
Southern and Western Districts of Texas

From:

Richard W. Simmons
United States Trustee
Region 7

A handwritten signature in black ink, appearing to read "Richard W. Simmons", written over the typed name and title.

The United States Trustee previously distributed minimum requirements for handling the non-appearances of a debtor at §341 meetings, and requests for waivers of appearances. The United States Trustee recognizes in times of war, certain additional exceptional circumstances may apply. The Office of the General Counsel, Executive Office of the United States Trustee, concluded "as a matter of Program policy, United States Trustees should excuse unavailable Active Duty Service members from attendance at the 341 meeting in appropriate circumstances." Such **waivers are appropriate, without the need for a court order or Motion**, of the Active Duty service member's attendance at the §341 meeting using the following guidelines:

1. The **Joint** debtor spouse is an Active Duty service member and is unable to appear in person or telephonically because of mobilization or deployment; and
2. The **Joint** debtor spouse attends the §341 meeting and is able to testify competently regarding the Debtors' financial affairs; and
3. No party in interest, including the trustee, objects; and
4. There is no indication of fraud or bad faith; and
5. The Joint debtor's identity, mobilization, deployment and Active Duty service status, and consent to the bankruptcy filing is properly verified.

This Memorandum modifies the United States Trustee's prior policy that only two (2) options were available in exceptional circumstances, either asking the trustee to conduct a telephonic §341 meeting, or filing a motion to waive the appearance of one debtor. This is in recognition of the exigent circumstances created by the current war.

If you have any questions concerning the appropriate guidelines or criteria when waivers are appropriate for Active Duty service members, please contact the Assistant U.S. Trustees in your respective area, listed below.

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cc: All Employees
Region 7