



## U.S. Department of Justice

*United States Trustee, Region 10  
Central & Southern Districts of Illinois  
Northern & Southern Districts of Indiana*

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### **MEMORANDUM**

TO: Region 10 Chapter 7 Trustees

FROM: Nancy J. Gargula *njg*  
United States Trustee

CC: Region 10 Staff

RE: Section 341 Meeting Reminders

The purpose of this email is to provide some important reminders regarding the §341 meetings that you conduct on my behalf through the delegation of my statutory duty set forth in 11 U.S.C. §341 to you as part of your appointment to the Chapter 7 Trustee Panels in the four Districts in Region 10. As a reminder, the Code specifically states, “Within a reasonable time after the order for relief in a case under this title, the United States trustee shall convene and preside at a meeting of creditors.” In your Appointment, it states, “You are designated to be the presiding officer at section 341 meetings of creditors and have the authority to examine debtors under oath (Fed. R. Bankr. P. 2003(b)).” Fed R. Bankr. P. 2003(c) requires any examination under oath at a meeting of creditors held pursuant to §341 be recorded verbatim by the United States trustee using electronic sound recording equipment or other means of recording, and also requires such record to be preserved by the United States trustee. Therefore, it is important that you carry out this duty in a manner that assures the §341 meetings are recorded and that we receive the recordings from you to fulfill the United States Trustee’s duty to preserve those recordings. The following are some practice tips and procedures for all trustees to follow:

**1. Please test the digital recorder and assure that it is picking up the voices of you, the debtors and any creditors before you start the §341 meetings.**

Although it does not happen too frequently, we have had a number of cases in the past 12 months where we need to provide a copy of the §341 meeting in a case, listen to a §341 meeting in case, or we are simply processing your returned flash card, only to learn that the flash card is blank. Testing the digital recorder is especially important if you take a break during your docket and you then “go back on the record” to complete the remaining §341 meetings set for that docket.

**2. Please exercise care with the return of the flash card containing your §341 meeting recordings and Docket to our offices using only a padded envelope to mail them.**

We have received torn open and empty envelopes from trustees that contained the §341 meeting flash cards and Dockets, but the flash cards and/or the Dockets have been lost somewhere along the way. Several trustees have had to provide credit monitoring to debtors when PII was noted on the Docket or where a referral was also in the envelope when mailed but empty when it arrived at our office. Please only use a padded envelope when you mail your flash cards back to our offices.

**3. Please ask all of the Mandatory Questions in Appendix A of every debtor in every case.**

The Mandatory §341 Meeting Questions were implemented in March 2006 – 11 ½ years ago. This year, we had a number of trustees who received a Performance Review and when we listened to the §341 meetings conducted by those trustees, we learned that all Mandatory Questions were not being asked of every debtor in every case. Upon implementation, we said it was not necessary to read the Mandatory Questions during your §341 meetings as long as the essence of each and every question was asked. It is recommended that you keep the Mandatory Questions with you at each setting and that you review the questions before you conclude the meeting to assure that each question is asked of every debtor. As an alternative, you may want to have anyone who accompanies you to your §341 meetings keep track and alert you if you have missed a question before you conclude each meeting. These questions are very important so thank you for assuring that you comply with this critical aspect of conducting the §341 meetings in your assigned cases.

**4. If someone other than Debtor's Attorney of record appears at the §341 meeting to represent the Debtor, please make a note of that on your Docket AND make a record of who is there as counsel for the Debtor as you begin the §341 meeting.**

Some debtor's counsel routinely call upon an attorney from the location where the §341 meeting is being held to attend the §341 meetings set for their clients, especially in Divisions that are remote from where the attorney practices. Others simply have court and other conflicts arise necessitating that another attorney accompany the client to the §341 meeting. If you do not reflect on the Docket who is there as the attorney for the debtor and you don't make a record as the §341 meeting begins, we only hear a voice on the recording with no idea who the attorney representing the debtor is.

**5. Remember to refer any attorney who fails to accompany his or her client to their §341 meeting or who sends an attorney who is unfamiliar with the case to "represent" the debtor at the §341 meeting to the Office of U.S. Trustee.**

As you may recall from last year's training, an area of focus for the United States Trustee Program and each of the Region 10 Offices is the protection of consumers against the deficient and harmful practices of underperforming consumer attorneys. Attorneys may have an emergency arise that necessitates that another attorney cover the §341 meeting with no time to prepare. You do not need to refer these situations to our offices. On the other hand, we have identified attorneys who routinely leave the debtors to testify at their §341 meetings without having counsel present or with counsel present who are unfamiliar with the case rendering their "advice" ineffective. It is the latter situation which you should refer to the U.S. Trustee. Even though you may only see this in one case assigned to you, please let us know about it. Other trustees may have a similar but single case

experience. Only when all trustees make us aware of their experience will we be able to identify a practice and pattern that needs to be addressed.

Thank you for your assistance with this very important delegated U.S. Trustee duty and for your service in Region 10.