



U.S. Department of Justice

Office of the United States Trustee

Region 18: Alaska, Idaho, Montana,
Oregon, and Washington

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REGION 18 UNITED STATES TRUSTEE POLICIES FOR RESCHEDULING MEETINGS OF CREDITORS AND ALLOWING DEBTOR'S APPEARANCE OTHER THAN IN PERSON

I. GENERAL

- A. Meetings of creditors scheduled pursuant to 11 U.S.C. §341(a) and Fed. R. Bankr. P. 2003 will not be rescheduled, nor will the debtor¹ be allowed to appear at the meeting other than in person, except as set forth below.
- B. This policy applies only to requests made prior to the scheduled meeting of creditors. It does not apply to requests made after the debtor has missed the scheduled meeting of creditors.
- C. A request to reschedule the meeting of creditors to a date outside the limits imposed by Fed. R. Bankr. P. 2003(a) will not be approved.
- D. As used herein, "trustee" refers to the case trustee appointed by the United States Trustee in a particular case. "United States Trustee" refers to the United States Trustee for Region 18 or his delegates in the United States Trustee's offices in Region 18.
- E. This policy is subject to applicable bankruptcy court local rules.
- F. There is debate concerning the legal effect of using a power of attorney to place a person in bankruptcy and to take an oath and testify on the absent person's behalf. A debtor's attorney seeking to use a power of attorney for one or both of these activities should consult with the United States Trustee to determine the United States Trustee's position on the use of the power of attorney in light of the particular facts and circumstances of the case.

¹ In a joint case, both debtors must appear at the meeting of creditors.

II. CIRCUMSTANCES THAT MAY JUSTIFY RESCHEDULING THE MEETING OF CREDITORS, OR ALLOWING THE DEBTOR TO APPEAR OTHER THAN IN PERSON. A meeting of creditors in a chapter 11 case may be rescheduled with the consent of the United States Trustee for good cause. A meeting of creditors in a chapter 7, 12, or 13 case will not be rescheduled and a debtor will not be allowed to appear other than in person unless the trustee consents and cause exists based on the following:

- A. The debtor or debtor's attorney has a medical or family emergency, unavoidable medical treatment regarding a critical immediate health threat, or a serious medical condition that prevents the attendance at the meeting;
- B. The death or incapacity of the debtor or debtor's attorney;
- C. A natural disaster emergency;
- D. The debtor's incarceration;
- E. The debtor's absence due to active military service; or
- F. Other compelling circumstances.

III. CIRCUMSTANCES THAT WILL NOT JUSTIFY RESCHEDULING OF A CHAPTER 7, 12, OR 13 MEETING OF CREDITORS. Circumstances that ordinarily will not justify rescheduling a chapter 7, 12, or 13 meeting of creditors include:

- A. The work schedule of the debtor or debtor's attorney, including scheduling conflicts;
- B. Business or personal travel by the debtor or debtor's attorney;
- C. A routine medical appointment for the debtor or debtor's attorney;
- D. The failure of the debtor or debtor's attorney to properly calendar the meeting of creditors; and
- E. Failure to receive the meeting of creditors notice.

IV. PROCEDURES FOR REQUESTING RESCHEDULING MEETING OF CREDITORS OR THE DEBTOR'S APPEARANCE OTHER THAN IN PERSON.

- A. **Form of Request.** A debtor's attorney must send a written request to reschedule a meeting of creditors in advance or to allow the debtor to appear other than in person. The reason for the request must be stated.
- B. **To Whom and How to Make Request.** Requests to reschedule must be made by email, facsimile, or regular mail to the trustee (or the United States Trustee in a chapter 11 case), with a copy to the United States Trustee (in a chapter 7, 12, or 13 case). Requests to appear other than in person must be made by email, facsimile, or regular mail to the United States Trustee, with a copy to the trustee. An email request should state in the subject line "Request to Reschedule" or "Request to Appear Other Than in Person" with the case name, case number, and date of the currently scheduled meeting of creditors. The request should not be filed with the court.
- C. **Timing of Request.** The request must be made at the earliest possible time.
- D. **Supporting Documentation.** The requesting party should attach documentation, if any, that supports the request.
- E. **Approval.** The trustee or the United States Trustee will advise the requesting party if the request is approved within three business days of receipt of the request. If a request for rescheduling is approved, the trustee (or the United States Trustee in a chapter 11 case) will advise the party of the new date, time and location of the rescheduled meeting.

If the request to appear other than in person is approved, the United States Trustee will advise the party of the acceptable manner in which the debtor may appear.
- F. **Notice of New Time, Date, and Location.** The requesting party must give written notice to all creditors and parties in interest of the date, time and location of the rescheduled meeting and file with the court the notice and a certificate of service. If the debtor is approved to appear other than in person, the manner of appearance must be included in the notice.
- G. **Extension of Deadlines.** Upon request of the United States Trustee or the trustee in a chapter 7 case, the debtor must stipulate to an extension of the deadline within which to file a complaint objecting to the debtor's discharge pursuant to 11 U.S.C. § 727 and/or the deadline within which to file a motion to dismiss pursuant to 11 U.S.C. § 707(b)(3) to a date 60 days after the rescheduled meeting of creditors.

V. MANNER IN WHICH THE DEBTOR MAY APPEAR AT THE MEETING OF CREDITORS OTHER THAN IN PERSON

- A. **Manner in Which the Debtor May Appear Other Than in Person.** If the debtor is unable to appear in person at a meeting of creditors, and the reason for the inability to appear in person is not likely to change in the future, the debtor's attorney may request that the United States Trustee approve a manner in which the debtor may appear other than in person. The manner in which a debtor may appear may be by telephone, by video teleconference, or through an authorized fiduciary representative.
- B. **Telephone or Video Teleconference Appearance.**
1. **Arrangement with Trustee or United States Trustee.** In cases in which a telephonic or video conference appearance is approved, the debtor's attorney shall be responsible for making arrangements with the trustee or United States Trustee regarding the telephone call or with the United States Trustee for a video conference.
 2. **Verification of Debtor's Identity by Third Party.** The debtor's attorney must arrange for a third party official to be present to verify the debtor's identity and social security number. The official may be the debtor's attorney, a notary, the debtor's commanding officer, a warden or prison official, or other acceptable official. Alternatively, the debtor may appear at any United States Trustee office and the United States Trustee will verify the debtor's identity and social security number. If this method is used, the local United States Trustee's office will coordinate the verification with the distant office.
- C. **Appearance by an Authorized Representative.** Fed. R. Bankr. P. 1004.1 and Fed. R. Bankr. P. 1016 authorize appearances by a general guardian, conservator, guardian ad litem, or similar fiduciary in some circumstances. If such a representative is authorized by law to appear on the debtor's behalf, the representative must bring to the meeting of creditors (1) a copy of the debtor's photo identification, (2) proof of the debtor's social security number, and (3) a copy of the document authorizing the individual to appear on the debtor's behalf.

VI. ACTIVE MILITARY MEMBERS

- A. **General Rule.** Active duty service members in joint cases will be excused from attendance at the meeting of creditors under the following circumstances:
1. The active duty service member is unable to appear in person or

telephonically because of mobilization or deployment;

2. The joint debtor spouse attends the meeting and is able to testify competently regarding the household's financial affairs;
3. No party in interest, including the United States Trustee or the trustee, objects; and
4. No indicia of fraud, bad faith, or lack of consent are present.

B. Documents to be Produced at Meeting of Creditors. The joint debtor's spouse must bring to the meeting of creditors the following documents: (1) a copy of the active duty service member's photo identification; (2) proof of the service member's social security number, and (3) a copy of the mobilization or deployment order. In addition, the spouse appearing at the meeting of creditors may be required, upon request of the United States Trustee or trustee, to provide a statement signed under penalty of perjury that affirms that the non-attending spouse is aware of and has agreed to the bankruptcy filing.

C. "Advance" Meeting of Creditors. If an active duty service member is available after filing, but is leaving on duty before the scheduled meeting of creditors, the trustee may conduct an "advance" meeting of creditors (at the trustee's office or an earlier calendar) where the debtor is sworn and examined by the trustee and the debtor's testimony is recorded. If no creditors appear when the trustee calls the case at the later regularly scheduled meeting, the trustee may conclude the meeting. The trustee must announce the date and time of the "advance" meeting of creditors at the time of the regularly scheduled meeting and provide the recording of the meeting to the United States Trustee.

DATED: November 2, 2010

/s/ Robert D. Miller Jr.

ROBERT D. MILLER JR.
UNITED STATES TRUSTEE