

To: Chapter 7 ED Pa. Panel
From: AUST Baker
Date: 12/23/2019
Re: Wet Signature

There is a concern that some debtors may not be signing the petition, schedules, SOFA, other documents requiring a signature, and any amendments thereto prior to the filing of same. In addition to being a violation of counsel's ethical duties under the Code, the Rules and the RPC, it places debtors in the position of having appeared to have reviewed the information on the documents and sworn to the accuracy of the information when they may have not reviewed the documents at all. This practice may also delay the administration of the case as amendments are often required and false or inaccurate information may lead to unnecessary requests for additional financial information and testimony through continued 341 meetings or 2004 exams.

As part of an effort to educate the bar and change this practice we are requesting that you question debtors at the 341 meeting more thoroughly regarding when they actually reviewed the information on the various documents and when they actually signed the documents. You should not just rely on the electronic signature date on the documents filed with the court. The best practice is to ask to see the wet signatures on the documents at the meeting.

Listed below are three possible scenarios with suggested questions. These questions are illustrative, not mandatory. Other scenarios may arise which should be addressed. You should fully explore any issues regarding the review and signing of the required documents at the meeting, not limiting your examination to the questions listed below.

Scenario #1 – counsel has file with signed docs at 341 meeting.

1. Did you sign the petition, schedules, statements and related documents?
2. Is that your signature on the petition, schedules, statements and related documents?
3. On what date did you sign the petition, schedules, statements and related documents? (Request to see signature page(s)).
4. Before signing the petition, schedules, statements and related documents, did you meet with counsel to discuss the information on these documents and did you personally review the information?
5. When did you meet with counsel to review the petition, schedules, statements and related documents?
6. To the best of your knowledge, was the information on the petition, schedules, statements and related documents true and accurate at the time you signed them?
7. Are there any errors, omissions, corrections, additions or other changes to the petition, schedules, statements and related documents that are necessary, and if so, what are they and why are they necessary?

Scenario #2 – debtor states that petition, schedules, statements and/or related documents were signed on date of 341 meeting.

1. Prior to today did you ever sign the petition, schedules, statements and/or related documents and if so, which documents did you sign and when did you sign them?
2. Before signing the petition, schedules, statements and related documents, did you meet with counsel to discuss the information on these documents and did you personally review the information?
3. When did you meet with counsel to review the petition, schedules, statements and related documents?
4. To the best of your knowledge, was the information on the petition, schedules, statements and related documents true and accurate at the time you signed them?
5. Are there any errors, omissions, corrections, additions or other changes to the petition, schedules, statements and related documents that are necessary, and if so, what are they and why are they necessary?

Scenario #3 – counsel does not have original signatures in file at 341 meeting.

1. To counsel: Why? Where are they?
2. Please produce the original signatures via e-mail to me (Chapter 7 trustee) and copy to the UST within 2 days.
3. To debtor: Did you sign the petition, schedules, statements and related documents before they were filed with the court?
4. Before signing the petition, schedules, statements and related documents, did you meet with counsel to discuss the information on these documents and did you personally review the information?
5. When did you meet with counsel to review the petition, schedules, statements and related documents?
6. To the best of your knowledge, was the information on the petition, schedules, statements and related documents true and accurate at the time you signed them?
7. Are there any errors, omissions, corrections, additions or other changes to the petition, schedules, statements and related documents that are necessary, and if so, what are they and why are they necessary?