



**U.S. Department of Justice**

Office of the United States Trustee

*Western District of New York*

*New Federal Office Building  
100 State Street, Room 6090  
Rochester, New York 14614*

*(585) 263-5812  
FAX (585) 263-5862*

# NOTICE

## **ADJOURNMENT OF CHAPTER 7 & 13 §341 MEETINGS OF CREDITORS**

Bankruptcy Code §§341 and 343 mandate that "the debtor shall appear and submit to examination under oath at the meeting of creditors." The debtor's attorney is expected by the Bankruptcy Court, the Office of the United States Trustee, and the Chapter 7 and 13 Trustee to be present with the debtor at the meeting. The Federal Rules of Bankruptcy Procedure require the meeting to be held within 40 days of the filing date and 60 days if the Meeting is held in Watkins Glen. The Bankruptcy Court is required to give 20 days notice of the meeting to all creditors, the Office of the United States Trustee, the Chapter 7 or 13 Trustee, the debtor, and the debtor's attorney. The addresses provided by the debtor and the debtor's attorney on the mailing matrix are used by the Court for noticing.

**I. ADJOURNMENTS AFTER THE §341 MEETING NOTICE HAS BEEN SENT BY THE COURT TO ALL CREDITORS AND PARTIES:** To administer the large number of Chapter 7 and 13 cases, the United States Trustee and the Chapter 7 and 13 Trustees permit no adjournments of §341 meetings except in two limited situations, if the Chapter 7 or 13 Trustee consents and the following procedures are complied with:

- a.) If there are more than ten days until the scheduled §341 meeting, the case can be adjourned one time if the debtor's attorney's office obtains the Chapter 7 or 13 Trustee's consent and sends a Notice of Adjourned §341 Meeting of Creditors (see attached sample) to all creditors (use mailing matrix), the Chapter 7 or 13 Trustee, the United States Trustee, and the Bankruptcy Court at least ten days prior to the originally scheduled §341 meeting. An affidavit of mailing must be filed with the United States Trustee and the Bankruptcy Court. The new meeting date can be obtained from the Chapter 7 or 13 Trustee (not the United States Trustee).
  
- b.) If the debtor has a medical emergency that makes him/her unable to appear, the debtor's attorney must notify the Chapter 7 or 13 Trustee before the scheduled §341 meeting. A doctor's note must be provided and the debtor's attorney needs to still appear at the originally scheduled §341 meeting to answer any questions by creditors and/or the Trustee.

A motion to dismiss the case, a motion to hold the Debtor in contempt, and/or a motion for Trustee costs will be brought in other instances when the Debtor fails to appear at the §341 Meeting.

**II. ATTORNEY NON-APPEARANCES:** Attorneys are expected to accompany their clients to the §341 meetings. If it is too late to send out an Adjourned §341 Meeting of Creditor Notice (see above), the attorney must arrange for another attorney to cover the case and to appear with the debtor. Failure of an attorney to appear at the §341 meeting (even if the debtor does not appear) may result in a motion to disgorge fees, a motion for contempt, a motion for sanctions, and/or a motion for trustee costs. If the debtor appears, the Trustee will ask the debtor if he/she wishes to go forward with the meeting without the attorney. If the debtor does not, an adjourned date will be given to the debtor to re-appear (no motion to dismiss the debtor's case will be brought since the debtor has attempted to comply). However, a motion to disgorge fees, contempt, sanctions, and/or trustee costs may still be brought against the non-appearing attorney.

[10/13/05]

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

---

In re

Chapter \_\_\_\_\_

Case No. \_\_\_\_\_

Debtor(s).

---

**NOTICE OF ADJOURNED §341 MEETING OF CREDITORS**

NOTICE IS HEREBY GIVEN that the §341 meeting of creditors in the above referenced case has been adjourned from \_\_\_\_\_ to \_\_\_\_\_ due to the unavailability of the debtor(s) and/or the debtor(s)' attorney. The new date has been confirmed with the Case Trustee.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Debtor's Attorney's Signature

Debtor's Attorney's Name and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TO: All Creditors  
United States Trustee  
U.S. Bankruptcy Court  
Chapter 7 or 13 Trustee, \_\_\_\_\_  
(Type Name)

THIS NOTICE CAN ONLY BE USED BY THE DEBTOR'S ATTORNEY FOR ADJOURNMENTS IF ALL CREDITORS AND PARTIES RECEIVE AT LEAST TEN (10) DAYS NOTICE OF THIS ADJOURNMENT AND THE ADJOURNED §341 MEETING DATE HAS BEEN CONSENTED TO AND CONFIRMED WITH THE TRUSTEE. AN AFFIDAVIT OF MAILING OF THIS NOTICE MUST BE FILED WITH THE UNITED STATES TRUSTEE AND THE U.S. BANKRUPTCY COURT.

[10/13/05]