

THE SECTION 341 MEETING OF CREDITORS

Shortly after your Chapter 7 bankruptcy case is filed, the clerk of the US Bankruptcy Court will send notice of your filing to all parties and creditors listed on your bankruptcy petition. The clerk will also assign a Chapter 7 bankruptcy trustee and set a date for your Section 341 meeting of creditors. There are several reasons for the Section 341 meeting of creditors.

- 1) The meeting is required in the bankruptcy code. A debtor must be examined under oath with regard to the information contained in the schedules to be eligible to receive a discharge.
- 2) It gives creditors an opportunity to ask questions of the debtor with regard to the information listed in his petition and schedules.
- 3) It allows the trustee to take a sworn testimony from the debtor with regard to the information contained in the petition and schedules. A trustee will ask additional questions with regard to the assets, liabilities, income, expenses and statement of financial affairs of the debtor.

HOW LONG WILL THE MEETING TAKE?

The meeting can take five minutes of the meeting can take thirty minutes or longer. The meeting can also be continued over to another date if the trustee requires additional information for the debtor to provide.

The debtor should be prepared prior to the meeting with the types of questions that are going to be asked by the trustee. In some jurisdictions, the trustees are required to ask identical questions of each debtor. In other jurisdictions, the trustees are given greater latitude to ask questions of their choosing. In either case, the questions are typically straightforward. They are more or less fact-finding questions so the trustee can determine whether or not there are any assets that can be administered in your case. The overwhelming majority of Chapter 7 bankruptcy cases do not involve the administration of an asset. An exception to this occurs when the debtor either understates the value of his property or fails to disclose an item that has value beyond what the exemptions can protect.

WHO APPEARS AT THE MEETING OF CREDITORS?

In most cases, the only three people who will be present at your meeting of creditors are you, your attorney and the Chapter 7 bankruptcy trustee. The most common creditors such as credit card issuers, medical providers and unsecured loan companies rarely if ever appear at the meeting of creditors. Every once and a while an uncommon creditor will appear such as a former friend or enemy that is owed money. Most of the time, these people do not realize that there is nothing to gain by attending. They read the notice that they received about your bankruptcy and assume that they need to be present. In reality, they are usually wasting their time since in the majority of cases; there are no assets available for creditors.

In some cases, especially if the amount of debts is excessive, a representative from the US Trustee's office may sit in on the case and monitor the answers given by the debtor. The US Trustee's office has a separate and distinct function, which I will detail later in this writing. For now, let's suffice to say that the US Trustee's office oversees the complete process of filing a bankruptcy case and receiving a discharge in that bankruptcy case.

A secured creditor may appear such as an auto finance company, through one of its representatives. That person may be tendering a reaffirmation agreement for your signature. Your attorney will check the agreement and ask if it is something that you are interested in signing. In smaller jurisdictions, most agreements are mailed to our attorney prior to the meeting of creditors.

WHAT TO BRING TO YOUR MEETING OF CREDITORS

You have to prove that you are who you say you are at your meeting of creditors. You must bring with you a government issued photo I.D. as well as your social security card. Some jurisdictions will allow other items evidencing your social security number to substitute for the actual card. However, it is most advisable to bring your actual card or obtain proof of your social security number from Social Security Administration.

Your Chapter 7 bankruptcy trustee will compare the information on your identification with the information filed on your bankruptcy petition. The purpose of this requirement is to help curtail identity theft and bankruptcy fraud. People have been known to obtain a fake social security number, incurred debt associated with that number and file for bankruptcy relief using that number. At the same time, they keep their actual number and credit history therein immune. The above requirement has highly curtailed this type of practice.

WILL YOU BE HUMILIATED OR EMBARRASSED AT YOUR MEETING?

You will be happy to know that the answer to the above question is no. Although you will see other people waiting to have their case heard, these people are in the same boat that you are. They are seeking a fresh start as well. You will be treated with the same respect as any creditor who appears at the meeting. And importantly, you should take comfort in the fact that your attorney is there at your side deflecting any potential issues. At the conclusion of the meeting you might even state, "Is that it, am I done?"

ON YOUR HEARING DATE

Arrive early to your meeting of creditors. Since you are unfamiliar with the court buildings and security procedures, you want to make sure that you leave enough time to be early. You do not have to be dressed like you're going to be the number one witness in the trial of the century. Simply dress in typical, casual clothes. If you own a truckload of junk jewelry, this would not be the time to wear it.

Try to listen in on cases that are being heard before yours. You can learn ahead of time the typical questions that you are going to be asked. There will usually be an information sheet that you will have to read before your examination. That information sheet contains information regarding the different chapters of bankruptcy and about what it means to file a bankruptcy. For the most part, this should all be information that you have discussed or read previously with your attorney.