

341 MEETING DOs and DON'Ts

DO:

Send the Trustee no later than seven (7) days prior to the 341 meeting the following documents:

1. copies of all pay advices received within sixty (60) days prior to the petition date. Make sure they are the pay advices received within the sixty (60) days before the Petition Date. A printout of payments is only acceptable if it shows the gross, deductions, and net amounts for the required period.
2. copy of most recently filed tax return.
3. evidence of value for all real estate, even if the real estate is being surrendered and/or sold.
4. copy of recorded homestead and deed.
5. evidence of income from any and all sources the Debtor receives income including family contributions, rental income, social security, etc.
6. evidence of insurance for all real estate. Check expiration date and make sure coverage is presently in effect.
7. for self employed business debtors, make sure you review Chapter 13 Rule 13-2 in Appendix 1 of the Massachusetts Local Bankruptcy Rules. Self employed debtors must provide a year to date profit and loss statement up to the Petition Date, evidence of business insurance and evidence that a debtor-in-possession checking account (or verified separate business account) was opened at the time of the filing of the petition.

Make sure your client brings a picture I.D. and proof of social security number.

Make sure your client brings certified funds for the first plan payment if not already mailed to the Trustee.

Inform your client that the Trustee does not accept cash, personal checks, third party checks, or on-line payments.

Review with your client any differences in income as reported on the B22C, Schedule I and the Statement of Financial Affairs. The Trustee will ask for an explanation for variances. In addition, if there has been a change in income since the Petition Date, make sure you bring evidence of the new income.

Review the plan and check the plan calculations prior to the meeting to make sure the cost of the plan and payment amount is correct. If you use a bankruptcy software program, don't assume that the program is always right. Use your calculator.

Check PACER and make sure that the schedules, petition, and plan that you have in your file matches what is actually filed with the Court. Software programs frequently generate draft and final versions of documents, and you are responsible for making sure the final versions are what is uploaded and filed with the Court.

Review your exemptions on Schedule C. If you are claiming federal exemptions, check the amounts claimed under §522(d)(1) and (d)(5). If you use a bankruptcy software program do not assume that the amounts listed by the program are correct.

If the case was converted from Chapter 7, make sure that amended schedules and a Chapter 13 B22C Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income has been filed with the Court.

Have the Certification and Affidavit regarding domestic support obligations and filed tax returns prepared and ready to hand to the Trustee at the beginning of the meeting. If you do not have the form already incorporated into your personal forms or software program, make sure you get to the meeting early enough to fill out the form and have your client sign the form prior to the meeting.

Make a determination prior to the meeting whether your client has filed all of their required tax returns for the last four years. If there are any unfiled returns for the four year prior to the filing date, request that the meeting be held open under 11 U.S.C. §1308.

If the meeting is held open under §1308 for unfiled returns, do not send the returns to the Trustee. The returns must be filed with the tax authorities. At the initial meeting, you will receive a notice of the continued date, and an updated Affidavit form. Once all returns have been filed, the Affidavit is sent to the Trustee.

If an instant Motion to Dismiss is prepared at the meeting, file a response/answer with the Court within twenty (20) days regardless of whether you provided the requested documents, payments, amendments, etc. It is never acceptable to not file a response/answer unless the Trustee has filed a Notice of Withdrawal of the Motion to Dismiss with the Court before the twenty days has expired.

DON'T:

Send documents to the Trustee the evening prior to, or the morning of, the meeting.

Use tax return as evidence of social security number. Proof of social security must be from an independent source, and not self-generated.

Ask for a continuance of the 341 meeting unless the Debtor has made first payment.

Request the Trustee to go forward with a meeting if the case has been dismissed and there is a pending motion to reinstate. Until the Court reinstates the case, the Trustee cannot take any action in a chapter 13 case.

Ask the Trustee to accept an affidavit of the Debtor as evidence of income. The schedules are sworn to under oath, and an affidavit supporting the schedules does nothing but confirm what the Debtor already stated. The Trustee needs documentation of any and all income listed on Schedule I.