



VBA Bankruptcy Section Bench Bar Meeting

February 27, 2024 – Burlington Courthouse
12:30 pm – 1:30 pm

1. Updates from the Judge Judge Cooper
 - Remote Participation in Hearings – Appendix IX
 - Motions Under Default – if order is not issued, hearing will stay on, no docket entry
 - Notice of Motion – Calculating Objection Deadline and Hearing Date
 - Appendix VII and VIII – Noticing Charts
 - Need for Mediators
 - Survey re: Affidavits in Chapter 13 Confirmation Hearings (see attached Survey results)

2. Bankruptcy Section Co-Chairs Ryan Long & Greg Fox
 - Presentation on PPP and SBA issues and how to handle them
 - Discussion of Bankruptcy Holiday CLE venue

3. Updates from U.S. Trustee’s Office Lisa Penpraze

4. U.S. Attorney’s Office Jocelyn Koch
 - Please copy new paralegal when e-mailing Jocelyn: Santiago.Romero@usdoj.gov
 - New Assistant U.S. Attorney Zachary Dayno

5. Trustees’ Update Ray Obuchowski & Jan Sensenich
 - Chapter 13 Trustee Update
 - Chapter 7 Trustee – 341 Meeting Reminders
 - Debtor identification is to be provided to the Trustee at least fourteen (14) days prior to the meeting. See attached United States Trustee Best Practices pamphlet on page 6 for Requirements for Verifying Debtor Identification Documents.
 - Debtor to provide a scanned copy of the original “wet” signature on the petition, schedules and statements.

6. Updates from the Clerk’s Office Jody Kennedy

7. New Business Judge Cooper

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

VIRTUAL PARTICIPATION IN SCHEDULED HEARINGS

All hearings before the Bankruptcy Court for the District of Vermont will be scheduled as in-person hearings. Subject to public health emergencies or other exigent circumstances that may limit in-person attendance, alerts for which would be posted to the Court's website, the Court expects that parties and attorneys will appear in person at hearings. However, in certain, limited circumstances described herein, the Court may provide for virtual appearance by way of Zoom for Government.

Virtual appearances will be limited to the following uncontested matters set for routine calendars unless otherwise ordered by the Court:

1. Any matters that are or will be agreed upon by all parties.
2. Requested continuances agreed upon by movant(s) and respondent(s). The case trustee, if any, must also agree if the continuance has any potential impact on payments, disbursements, or administration of the estate.
3. Court scheduled Status Conferences.
4. Upon Court order granting a motion to participate virtually. If there is good cause to request virtual participation, a motion should be filed at least 48 hours in advance of the hearing. Any such motion should set forth in detail the circumstances giving rise to the request and the justification for remote participation. If granted, the movant will receive the Zoom for Government link as described below.

All parties/interested parties have the option to attend any hearings in person unless otherwise stated by the Court and would not need to send any request if appearing in person.

Virtual Appearance Procedures:

1. For hearings allowing virtual appearances, the Court will utilize Zoom for Government for video. The Zoom for Government link shall be provided to those parties who have submitted a notice of intent to participate in accordance with Paragraph 2 below.
2. Accessing the Hearing. Any individual intending to **virtually** attend a hearing via Zoom for Government must provide notice, either directly or through counsel, to Jody_Kennedy@vtb.uscourts.gov no later than 10:00 a.m. the preceding day to the scheduled hearing. In that notice, individuals also should specify whether they will appear as counsel or in a

pro se capacity. Instructions for accessing the hearing will then be provided, including separate links for each individual who will be attending.

3. Courtroom Formalities. Although conducted using videoconferencing technology, the hearing constitutes a court proceeding. No person shall record the audio or video of the hearing from any location or by any means. The audio recording created and maintained by the Court shall constitute the official record of the hearing. Further, the formalities of a courtroom shall be observed by all virtual attendees. Participants shall dress appropriately, exercise civility, and otherwise conduct themselves in a manner consistent with the dignity of the Court and its proceedings. All persons must have a clear and accurate screen name (first and last name) for ease of identification during hearings.

Nothing in these procedures authorizes non-party members of the public or the media to access the hearing either by audio or video connection unless authorized by the Judicial Conference of the United States and this Court. Unauthorized connections to either audio or video will be disconnected and not permitted to rejoin.

These procedures may be updated from time-to-time and can always be found on the Court's website.

RULE 9013-3. HEARINGS –NOTICES UNDER CONVENTIONAL PROCEDURE.

- (a) **Meaning of Conventional Procedure.** When a movant schedules a hearing on a motion pursuant to Local Rule 9013-2(a), and either the default procedure under these Rules is not available or the party chooses not to use that default procedure, the Court will hold a hearing on the motion under the “conventional procedure.”
- (b) **Form of Hearing Notice.** The following must be in each notice of motion using the conventional procedure:
- (1) **Title of Notice.** The title of the hearing notice must be “Notice of Motion;”
 - (2) **Response Deadline.** The deadline for filing responses to a motion scheduled under the conventional procedure may be no later than three business days before the hearing date, and this 3-day period may be included within the required notice period;
 - (3) **Mandatory Language.** A notice of motion using the conventional procedure must substantially comply with Local Form U-1.

RULE 9013-4. HEARINGS – NOTICES UNDER DEFAULT PROCEDURE.

- (a) **Meaning of Default Procedure.** Certain requests for relief under the Code or the Bankruptcy Rules may be determined without a hearing (at the option of the movant), provided parties entitled to notice of the motion are afforded an opportunity for a hearing. Under the default procedure, if a party files a timely response to the motion, the Court will hold a hearing on the date designated on the notice, unless the Court decides in its discretion, that no hearing is necessary and enters an order prior to the hearing date. If no response is timely filed, the Court may enter an order without a hearing. However, if an order has not been entered before the hearing date, the scheduled hearing will proceed, and the movant must appear. If the Court determines a hearing is necessary, it will hold a hearing even in the absence of a response to the motion. The default procedure is optional.
- (b) **Relief Available Through Use of the Default Procedure.** The default procedure may only be used for applications or motions seeking the following relief:
- (1) abandon property (11 U.S.C § 554(b));
 - (2) allow administrative expenses (other than professional fees) (11 U.S.C.§ 503(b));
 - (3) automatic stay, relief from (11 U.S.C.§ 362(d));
 - (4) automatic stay, relief from co-debtor (11 U.S.C. § 1301);
 - (5) automatic stay, declaration not in effect (11 U.S.C.§ 362(c)(4));
 - (6) claim, objection to (11 U.S.C.§ 502(b));
 - (7) compensation (11 U.S.C. §§ 326, 330, 331);
 - (8) convert a case (11 U.S.C.§§ 706, 1112(b), 1208(a), 1307);

- (9) credit counseling requirement, permanent waiver of (11 U.S.C. § 109(h)(4));
- (10) declare mediation closed, motion to (Local Rule 4001-7(f));
- (11) discharge in a chapter 12 case (11 U.S.C. § 1228(f));
- (12) discharge in a chapter 13 case (11 U.S.C. § 1328(h));
- (13) dismiss case for cause (11 U.S.C. §§ 707, 1112(b), 1208(c), 1307(c));
- (14) enlarge time to assume or reject a nonresidential lease (11 U.S.C. § 365(d)(4));
- (15) enlarge time to file chapter 11 plan or disclosure statement (11 U.S.C. §§ 1121(d), 1189);
- (16) enlarge time to file chapter 12 plan (11 U.S.C. § 1221);
- (17) enlarge time to file complaint objecting to discharge or dischargeability of a debt (11 U.S.C. §§ 523, 727; Bankruptcy Rule 4004(b), 4007(c));
- (18) enlarge time to file motion to dismiss under §707 (11 U.S.C. § 707);
- (19) enlarge time to pay filing fee (Bankruptcy Rule 1006(b));
- (20) examine any person or entity (Bankruptcy Rule 2004);
- (21) exemption, objection to (Bankruptcy Rule 4003(b));
- (22) final decree in chapter 11 case (Bankruptcy Rule 3022);
- (23) forward mail of a corporate debtor to the trustee (11 U.S.C. § 542(e));
- (24) hardship discharge (11 U.S.C. §§ 1228(b), 1328(b));
- (25) lease property (11 U.S.C. § 363(b)(1));
- (26) lease or executory contract, assume or reject (11 U.S.C. § 365);
- (27) lien or mortgage, strip as wholly unsecured or avoid as impairing exemption (11 U.S.C. §§ 506(a), 522(f));
- (28) limit scope of employment and reduce scope of legal services (Local Rule 2016-1(h)(4));
- (29) mortgage mediation, direct parties to attend (Local Rule 4001-7);
- (30) modify chapter 11 subchapter V, 12, or 13 plan post-confirmation (11 U.S.C. §§ 1193, 1229, 1329);
- (31) modify mortgage (Local Rule 6004-1(f));
- (32) obtain credit (11 U.S.C. § 364(b), (c), and (d));
- (33) post-petition payment of mortgage creditor charges in conduit mortgage payment case (Local Rule 3015-6(a)(1));
- (34) redeem property (11 U.S.C. § 722);

- (35) reopen a case (Bankruptcy Rule 5010);
- (36) sell property (11 U.S.C. §§ 363(b)(1) and (f), 1206);
- (37) settlement of an adversary proceeding or contested matter, approve (Bankruptcy Rule 9019);
- (38) substitute counsel (Local Rule 2091-1(b) and (c));
- (39) tax returns, waive requirement to present or file (11 U.S.C. § 521(e)(2)(A)(i));
- (40) transfer adversary proceeding (28 U.S.C. § 1412);
- (41) trustee final report and account, approve report and compensation (11 U.S.C. §§ 704(a)(9), § 1183(b)(1), 1202(b)(1), 1302(b)(1));
- (42) turnover of property to the trustee (11 U.S.C. § 542);
- (43) vacate discharge to allow debtor to seek approval of a reaffirmation agreement (Local Rule 4008-1);
- (44) valuation of collateral and allowance of secured claim (11 U.S.C. § 506(b); Bankruptcy Rule 3012);
- (45) venue, change (28 U.S.C. § 1412); and
- (46) waive requirement to make conduit mortgage payments (Local Rule 3015-6(a)(9), (b)(2)).

(c) Form of Hearing Notice. The following must be included in each notice of motion filed under the default procedure:

- (1) Title of Notice. The title of the notice must be “Notice of Motion under Default Procedure.”
- (2) Response Deadline. The deadline for filing responses to a motion scheduled for a hearing using the default procedure may be no later than seven days before the hearing date; this 7-day period is in addition to the requisite notice period.
- (3) Mandatory Language. A notice of motion using the default procedure must substantially comply with Local Form U-2.



Best Practices for Debtors, Debtors' Attorneys, and Other Parties in Interest for Attending Virtual § 341(a) Meetings of Creditors in Chapter 7, 12, and 13 Cases

INTRODUCTION

Pursuant to its authority under 11 U.S.C. §§ 341(a) and 343, Federal Rule of Bankruptcy Procedure ("FRBP") 2003, and other authorities, the United States Trustee Program ("USTP") adopts these Best Practices for Debtors, Debtors' Attorneys, and Other Parties in Interest for Attending Virtual § 341(a) Meetings of Creditors in Chapter 7, 12, and 13 Cases ("Best Practices"). Upon the effective date¹ and until further notice, the § 341(a) meeting of creditors for chapter 7, 12, and 13 cases² will be held by video conference, which will be conducted through the Zoom platform.

The purpose of these Best Practices is to facilitate access to 341 meetings by all parties in interest while promoting efficiency, reducing travel costs and time commitments for participants, and enhancing fact-finding over telephonic meetings. Debtors generally are expected to appear by video at Zoom 341 meetings. In certain instances, including active military duty, serious illness, disability, incarceration, or other unique circumstances, the trustee may approve alternative arrangements for the debtor to appear at the 341 meeting in accordance with USTP guidance, such as telephonic appearances or interrogatories in extenuating circumstances. Nothing in these Best Practices should be construed to limit the authority or discretion of the United States Trustee ("UST") to require the in-person appearance of any debtor at a 341 meeting, although in-person 341 meetings may only be conducted by the trustee after consultation with and approval by the UST. These Best Practices are subject to change at the discretion of the UST.

This document provides information regarding the conduct of virtual 341 meetings:

- ◆ Attending 341 meetings via Zoom
- ◆ Virtual 341 meeting protocols
- ◆ Requirements for verifying debtor identification documents
- ◆ FBI investigation of bankruptcy crimes
- ◆ Additional questions

ATTENDING 341 MEETINGS VIA ZOOM

Examination of Debtors

Except as modified below, the conduct and scope of the debtor's examination at a Zoom 341 meeting is the same as for an in-person 341 meeting in accordance with the *Handbook for Chapter 7 Trustees*, *Handbook for Chapter 12 Standing Trustees*, and *Handbook for Chapter 13 Standing Trustees* (collectively, referred to as "*Handbooks*"), including

¹Effective dates for each federal judicial district will be posted on their USTP district website "Local Section 341 Meeting Information" page when available. A list of these sites can be found here: <https://www.justice.gov/ust/moc>.

²Hereafter, the § 341(a) meeting of creditors is referred to as the "341 meeting" or "341 meetings".



the trustee administering the oath and asking all required questions. Preparation by the debtor and the debtor's attorney (if the debtor is represented) is important to ensure that 341 meetings are conducted as efficiently as possible.

Debtor Accessibility Services

Language interpreter services are available for debtors at virtual 341 meetings. If the debtor needs the assistance of a language interpreter for the 341 meeting, the debtor should inform the trustee either at the 341 meeting or, preferably, in advance of the 341 meeting. The trustee will contact the language interpreter service, and an interpreter will be provided at no cost to the debtor.

If a debtor has a disability, such as a hearing impairment, the debtor should contact the trustee in advance of the 341 meeting so the trustee can notify the UST that an accommodation may be necessary.³ The UST, in consultation with the debtor and the trustee, will determine the accommodation to be made, if any, such as the use of a sign language interpreter, again at no cost to the debtor.

Contact information for all trustees is available at <https://www.justice.gov/ust/private-trustee-locator>.

Preparing to Participate in the 341 Meeting Via Zoom

The debtor and other participants will need an electronic device (computer, laptop, tablet, or smartphone) with a microphone, camera, and Internet access to participate in the Zoom 341 meeting.⁴ Instructions on how to connect to a Zoom 341 meeting, including how to download the Zoom application, how to test and connect to a Zoom meeting, and troubleshooting tips, can be found at <https://www.justice.gov/ust/moc>. Online tutorials for how to connect to a Zoom meeting are also available by searching "Joining a Zoom Meeting" in Google or other Internet search engines. If possible, the debtor should test their electronic device, Internet connection, and ability to connect to a Zoom meeting prior to attending the virtual 341 meeting.

Additional Information for Debtors

The debtor should follow specific identification procedures at virtual 341 meetings which include submitting copies of a photo identification and proof of social security number, if one exists, to the trustee in advance of the 341 meeting. If the debtor fails to provide these documents in advance, the trustee will likely adjourn and continue the 341 meeting. These procedures and requirements are discussed below under the section Requirements for Verifying Debtor Identification Documents.

³See 28 U.S.C. § 586.

⁴Debtors and participants who do not have access to the Internet or to a smartphone or laptop with a camera, may call into the 341 meeting by telephone. See subsection Audio-Only Connection to 341 Meeting for further instructions. To ensure proper identification and safeguards are in place for the debtor's testimony, the trustee likely will reschedule the 341 meeting if the debtor appears telephonically.



In chapter 7 cases, the trustee will ask individual debtors at the 341 meeting if they have received and read the Bankruptcy Information Sheet, and whether they understand the information contained therein or have any questions about it.⁵ A copy in English or several other languages is available at <http://www.justice.gov/ust/bankruptcy-information-sheet-0>.

VIRTUAL 341 MEETING PROTOCOLS⁶

The trustee will adopt and announce protocols to assist the debtor and other parties in interest in participating in these 341 meetings consistent with these Best Practices.

Joining the Zoom 341 Meeting

To join the 341 meeting by video, the debtor and other participants must go to [Zoom.us/join](https://zoom.us/join) and enter the Meeting ID and Passcode when prompted. The Meeting ID and Passcode are set out in section 7 of the Notice of Bankruptcy Case (Official Forms 309A, B, C, D, G, H, or I) that is mailed to the debtor and creditors after the filing of the bankruptcy case. This information also can be found at <https://www.justice.gov/ust/moc>. When prompted to enter a name, the debtor and other participants should enter their first and last name so each participant may be identified properly during the 341 meeting. More detailed instructions for joining a Zoom 341 meeting can be found at <https://www.justice.gov/ust/moc>.

The debtor and other participants should join the 341 meeting 10 minutes before the scheduled start time.

Setting for the Virtual 341 Meeting

All participants, but specifically the debtor who will be providing testimony, should connect to the 341 meeting from a quiet location, free from background noise, distractions, or disruptions, which is appropriate for their participation in a video meeting that is open to the public. Participants should mute their microphones on Zoom and on their devices until their case is called. Audio-only participants should avoid speaker phones unless two or more persons are appearing together from the same device.

The debtor and the debtor's attorney (if the debtor is represented) should ensure they can both view the video screen and be viewed by the trustee. To replicate an in-person 341 meeting, to provide the proper decorum, and to allow the trustee to perceive the interaction between the debtor and their attorney, the debtor and debtor's attorney should situate themselves so they both may be clearly viewed on the video screen.

Calling of the Case

Multiple 341 meetings may be scheduled for the same time, and the trustee may conduct periodic "roll calls" to confirm the participants (debtors, creditors, attorneys, etc.) who are present. When participants first connect to the Zoom

⁵11 U.S.C. § 341(d).

⁶While these protocols are generally applicable to any virtual 341 meeting, i.e., where the debtor appears by video conference or by telephone using Zoom, certain of the protocols have specific application to Zoom video meetings.



meeting they also may be placed in a virtual “waiting room” until their case is called. When the case is called, the trustee will commence the 341 meeting, and the participants should unmute their microphones on Zoom and their devices, speak clearly, and ensure their cameras are on and working so the trustee can see them. If the debtor and other participants were placed in a virtual waiting room, the trustee will connect them to the 341 meeting.

Conduct During the Virtual 341 Meeting

The 341 meeting is the official forum where the debtor appears to answer under oath questions from the trustee, creditors, and other parties in interest regarding their bankruptcy case and estate, as required by the bankruptcy code. The trustee will administer the oath, and the 341 meeting is recorded. All participants should present themselves in a professional manner and respect the formality and solemnity of the bankruptcy proceedings in the same manner as if the participants were appearing at an in-person 341 meeting.⁷ Meeting participants should be respectful when asking questions of the debtor.

While the debtor is sworn in and testifying: (1) the debtor should be alone unless the debtor is appearing from the same location with their attorney, employees of their attorney, or a co-debtor; (2) the debtor should have readily available a copy of the filed schedules and statement of financial affairs, and any other documents previously requested by and provided to the trustee; (3) the debtor should have their original Identification Documents (*see* the section Requirements for Verifying Debtor Identification Documents); and (4) the debtor should not communicate with any person regarding the subject of their testimony, by electronic means or otherwise.⁸

If the debtor and their attorney seek to communicate with each other regarding the subject of the debtor’s testimony, either should first openly request a recess by the trustee for this purpose. If the trustee grants this recess request, the debtor and their attorney may privately confer off the record as instructed by the trustee. It is the responsibility of the debtor and their attorney to ensure these private communications are offline, not seen or heard by the trustee or by other attending parties, and not part of the audio recording of the 341 meeting, which is available to the public.

If at any time during a 341 meeting, the Internet connection becomes so poor that the trustee cannot view the debtor or hear and properly record their testimony, the trustee will try to resolve the issue with the assistance of the parties, but the meeting will need to be adjourned and continued if the trustee is unable to resolve the issue.

After the trustee determines that the business of the 341 meeting has been completed, the trustee will formally conclude the meeting, and the participants may leave the meeting by disconnecting from the Zoom platform.

Failure to follow the trustee’s virtual 341 meeting protocols may result in the trustee’s adjournment and continuance of the 341 meeting.

⁷The 341 meeting is open to the public and any party may join the meeting if they comply with the Best Practices and obey any other requirements of the USTP or the trustee.

⁸As noted previously, if the debtor requires a language interpreter the trustee will contact the language interpreter service and connect the interpreter to the virtual 341 meeting.



Personally Identifiable Information

Participants should avoid disclosing personally identifiable information (PII) during the 341 meeting. If it becomes necessary to share a document on the video screen during the 341 meeting, they must ensure that the document contains no PII prior to sharing it.

Official Recording of the 341 Meeting

The trustee will make an audio recording of the 341 meeting which will constitute the official recording of the 341 meeting. **All other recordings, including video or audio recordings of the 341 meeting, are prohibited.** No one is permitted to photograph the debtor or any other person attending the virtual 341 meeting.

Zoom Connection Issues

If any party is disconnected before the 341 meeting is concluded, they should reconnect to the Zoom meeting using the same Zoom meeting login information or meeting link to be admitted back into the 341 meeting. If they are unable to reconnect, they should contact the trustee after the meeting.

If the debtor fails to attend the virtual 341 meeting for any reason, including the inability to connect to the Zoom meeting, they should contact the trustee immediately. Failure by the debtor to attend or fully participate in their virtual 341 meeting will be treated in the same manner as a failure to attend an in-person 341 meeting and may result in dismissal of the debtor's case if further immediate action is not taken by the debtor to appear at their 341 meeting.

Audio-Only Connection to 341 Meeting

The debtor and the debtor's attorney (if the debtor is represented) are expected to appear at the virtual 341 meeting by video. However, the trustee may permit a debtor to participate by telephone on a case-by-case basis if the circumstances warrant; for example, the debtor has no technical ability to appear at a Zoom video meeting due to no access to the Internet or to a smartphone or laptop with a camera. In such circumstances, the debtor should call into the meeting using the Zoom phone number that is provided in the notice of the 341 meeting, and they should be prepared to explain to the trustee why they are unable to connect by video.

If the debtor appears telephonically, the trustee likely will reschedule the 341 meeting to ensure proper identification and safeguards are in place for their testimony. This may be called a continued or adjourned meeting. In this circumstance, the trustee will specify the manner in which the debtor should attend the continued 341 meeting.

Non-debtor participants who have no video access or who have trouble connecting by video may join the 341 meeting by audio-only without seeking approval by the trustee.

In order to join the 341 meeting via an audio-only connection, the participant should call the phone number set out in section 7 of the Notice of Bankruptcy Case (Official Forms 309A, B, C, D, G, H, or I) or provided at <https://www.justice.gov/ust/moc>, enter the Meeting Passcode when prompted, and provide their first and last name to the trustee when requested. More detailed instructions for joining a Zoom 341 meeting can be found at <https://www.justice.gov/ust/moc>.



Adjourned or Continued Meetings

The 341 meeting may be adjourned and continued to a future date and time by announcement by the trustee at the 341 meeting. In such instances, the trustee will announce the new date and time of the continued meeting on the record. Participants should use the same connection information that was contained in the original Notice of Bankruptcy Case to connect to the adjourned and continued meeting, unless the trustee indicates otherwise. In addition, the trustee will file a statement with the bankruptcy court specifying the date and time to which the 341 meeting has been adjourned.⁹

REQUIREMENTS FOR VERIFYING DEBTOR IDENTIFICATION DOCUMENTS

Every individual debtor is required to provide proof of their identity at the 341 meeting by providing a photo identification¹⁰ and social security number (“SSN”), if one exists¹¹ (collectively, “ID Documents”).¹² To satisfy this requirement at a virtual 341 meeting, each individual debtor should have the ID Documents available when they appear and comply with the following procedure:

- ◆ At least 14 days prior to the 341 meeting, or within the timeframe requested by the trustee, the debtor should send clear copies of the ID Documents to the trustee in a safe and secure fashion. The trustee may provide more information regarding the preferred method of transmission of the copies of these ID Documents to the trustee.¹³ Copies of the ID Documents should not be sent to the trustee by unprotected email or messaging.
- ◆ If the debtor is represented, the debtor’s attorney should assist the debtor in obtaining and facilitating the debtor’s timely submission of the required ID Documents to the trustee. The debtor’s attorney also is expected to facilitate the participation of their client in the virtual 341 meeting but should not be relied upon to make the debtor’s identification on the record for the trustee when the debtor appears by video.
- ◆ If possible, the trustee will communicate with any unrepresented debtor prior to the scheduled 341 meeting and arrange for the debtor to submit copies of the ID Documents to the trustee prior to the 341 meeting. Unrepresented debtors also may contact their assigned trustee for assistance in submitting copies of their ID Documents in a safe and secure manner.
- ◆ If the debtor fails to provide copies of the ID Documents to the trustee prior to the 341 meeting, the trustee will likely adjourn and continue the 341 meeting.

⁹See FRBP 2003(e).

¹⁰The debtor may provide copies of photo identification such as driver’s license, state identification card, passport, and military identification. A list of acceptable forms of photo identification are specified in the *Handbooks* and can be found at <https://www.justice.gov/ust/moc>.

¹¹Valid forms of SSN documentation may include SSN card, Social Security Administration statement, Individual Taxpayer Identification Number (“ITIN”) card, W-2, recent payroll advice, or medical insurance card (full SSN should be present on document provided). The form of proof must conform with the requirements set out in the *Handbooks*. In addition, if the debtor states that they are not eligible to obtain an SSN, the trustee must comply with existing requirements in the *Handbooks* for obtaining documentation sufficient to verify the debtor’s identity in that circumstance. Debtors are encouraged to contact their assigned trustee if they have any questions or concerns regarding the required documentation.

¹²See 11 U.S.C. § 521(h) and FRBP 4002(b)(1).

¹³Generally, the debtor should provide the ID Documents through the same means as they provide the trustee with their tax returns, evidence of current income such as pay advices, or any other documents requested by the trustee.



- ◆ After receiving copies of the ID Documents, the trustee will ensure that the copies are of sufficient clarity to allow the trustee to identify the debtor and confirm the SSN, if one exists, at the video 341 meeting. If they are not sufficiently clear, the trustee will promptly request new copies, and the debtor should provide them as quickly as possible. After receiving copies of the ID Documents, the trustee will protect them in the same manner as any other record that contains PII or sensitive information.
- ◆ At the beginning of the 341 meeting, the trustee will ask the debtor to identify themselves, and the trustee will ask the debtor to testify that they are the individual whose name and address appears on the voluntary bankruptcy petition as the debtor or responsible party if the debtor is not an individual.¹⁴ The trustee will review the ID Documents and verify the debtor's identity and SSN, if one exists, after obtaining the debtor's testimony.
- ◆ During the 341 meeting, the debtor should not display their ID Documents on the video screen or otherwise disclose the contents of the ID Documents, including any PII or sensitive information, during the virtual 341 meeting.
- ◆ If the trustee is unable to verify the debtor's identity or SSN (where one exists for the debtor), the 341 meeting may be continued, and the case will be referred to the UST.

FBI INVESTIGATION OF BANKRUPTCY CRIMES

All participants in the 341 meeting should be aware that federal law provides severe criminal penalties of up to five years imprisonment, a fine of not more than \$250,000, or both, for bankruptcy crimes, which include bribery, concealment of assets, false statements, false claims, filing under a fictitious name, and perjury.¹⁵ If you suspect a bankruptcy crime, please refer the matter to the local UST office or the USTP hotline email:

USTP.Bankruptcy.Fraud@usdoj.gov.

ADDITIONAL QUESTIONS

These are recommended practices for debtors, debtors' attorneys, and other parties in interest. The USTP is unable to anticipate in advance all matters or issues that may arise regarding the conduct of virtual 341 meetings. If parties have additional questions, they should contact the trustee or the local UST office.

¹⁴These procedures apply to each debtor, including co-debtors. In addition, if the debtor is a business entity, i.e., corporation or partnership, the trustee will ask the responsible party for the debtor to identify themselves and to testify that they are the responsible individual whose name appears on the voluntary petition as the responsible individual for the debtor.

¹⁵See 18 U.S.C. §§ 152 and 3571.

The Use of Affidavits in Chapter 13 Confirmation Hearings

January 2024 Survey Results

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Q1

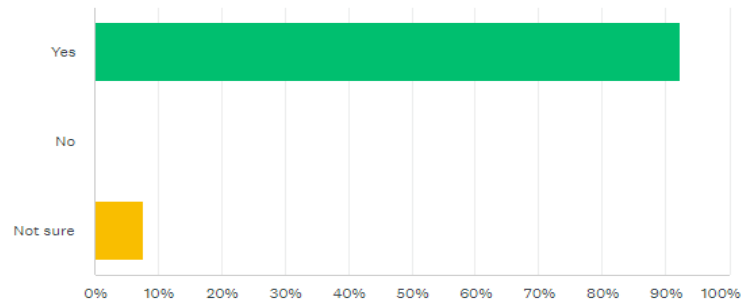


Customize

Save as


Do you find the use of affidavits as debtor's testimony in Chapter 13 confirmation hearings helpful?

Answered: 13 Skipped: 0



ANSWER CHOICES	RESPONSES	
▼ Yes	92.31%	12
▼ No	0.00%	0
▼ Not sure	7.69%	1
TOTAL		13

Q2

 Save as ▾

What challenges have you faced when using affidavits as debtor's testimony in Chapter 13 confirmation hearings?

Answered: 10 Skipped: 3

RESPONSES (10)

 WORD CLOUD

 TAGS (0)

 Sentiments: OFF 

 Filter: by tag ▾

Showing 10 responses

- N/A
1/26/2024 12:16 PM [View respondent's answers](#) [Add tags ▾](#)
- None
1/26/2024 11:59 AM [View respondent's answers](#) [Add tags ▾](#)
- When they aren't updated to reflect changes in the Plan
1/26/2024 11:45 AM [View respondent's answers](#) [Add tags ▾](#)
- Nothing so far.
1/24/2024 11:25 AM [View respondent's answers](#) [Add tags ▾](#)
- None so far
1/23/2024 01:49 PM [View respondent's answers](#) [Add tags ▾](#)
- None
1/23/2024 11:35 AM [View respondent's answers](#) [Add tags ▾](#)
- None.
1/22/2024 05:55 PM [View respondent's answers](#) [Add tags ▾](#)
- When payments change within a week before the confirmation hearing. I try to do any amendments prior to that, but sometimes, if objections are filed on the last date and numbers need to be changed slightly right before the hearing, getting an updated affidavit back in time for the hearing.
1/22/2024 03:56 PM [View respondent's answers](#) [Add tags ▾](#)
- An occasional disconnect between the payment amount in the affidavit and/or the payments per an amended plan or what is available in the budget or Y-8. Counsel needs to make sure these are consistent prior to filing the affidavit.
1/22/2024 03:13 PM [View respondent's answers](#) [Add tags ▾](#)
- None
1/22/2024 03:11 PM [View respondent's answers](#) [Add tags ▾](#)

Q3

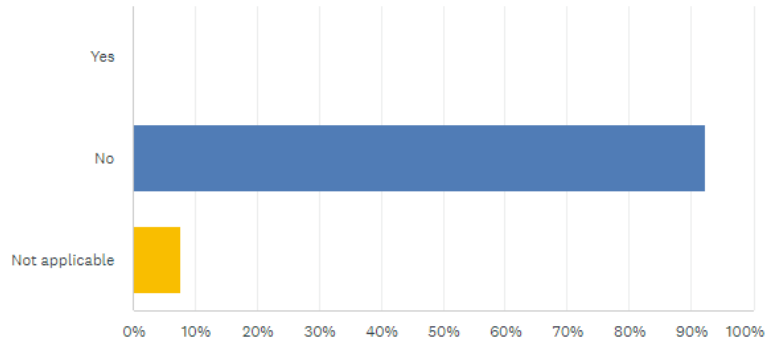


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Have you encountered any issues with the credibility of affidavits in Chapter 13 confirmation hearings?

Answered: 13 Skipped: 0



ANSWER CHOICES	RESPONSES
▼ Yes	0.00% 0
▼ No	92.31% 12
▼ Not applicable	7.69% 1
TOTAL	13

Q4

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How do you think the use of affidavits impacts the efficiency of Chapter 13 confirmation hearings?

Answered: 11 Skipped: 2

RESPONSES (11)

 WORD CLOUD

 TAGS (0)

 Sentiments: OFF 

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Showing 11 responses

The use of affidavits definitely improves efficiency in most cases.

1/26/2024 12:16 PM

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More efficient to not need debtors to take time from work.

1/26/2024 11:59 AM

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more efficient use of court time. The same questions were asked of each debtor and same yes answers for the most part.

1/26/2024 11:49 AM

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It's definitely helpful. I do worry about removing the Debtor entirely from the Court experience.

1/26/2024 11:45 AM

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It makes them much more efficient. Many of the debtors in Southern Vermont are at a significant disadvantage because of the travel and technology requirements of live testimony.

1/24/2024 11:25 AM

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I think it makes things more efficient. It is especially helpful to debtors, whose testimony many if not most times consists of three simple affirmations. If all potential controversies or objections are settled prior to the confirmation hearing, I think the affidavits is a great time saver.

1/23/2024 01:49 PM

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Saves the Debtor travel time.

1/23/2024 11:35 AM

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- I certainly makes the process more efficient. Allowing debtor's counsel to appear remote also improves the efficiency.
 1/22/2024 05:55 PM [View respondent's answers](#) [Add tags](#) ▾
- I think it is wonderful that the debtors do not have to take the time off to come to the confirmation hearings.
 1/22/2024 03:56 PM [View respondent's answers](#) [Add tags](#) ▾
- I think it increases efficiency when used carefully.
 1/22/2024 03:13 PM [View respondent's answers](#) [Add tags](#) ▾
- Makes clients happy - don't have to miss work
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Q5

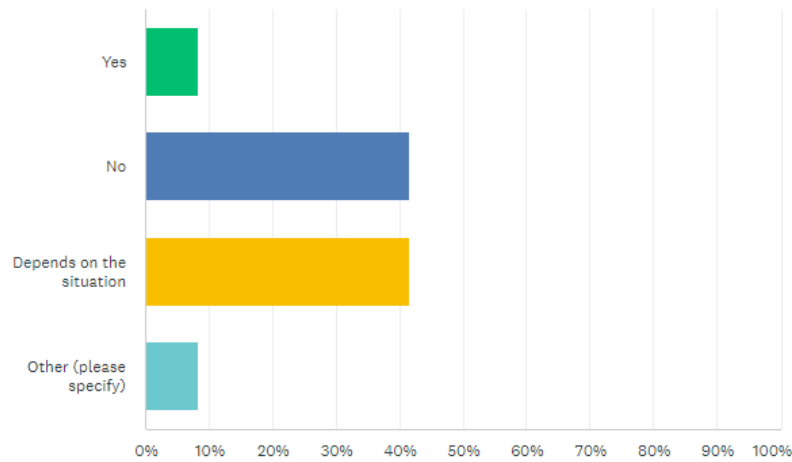


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Would you prefer to have live testimony instead of affidavits in Chapter 13 confirmation hearings?

Answered: 12 Skipped: 1



ANSWER CHOICES	RESPONSES	
▼ Yes	8.33%	1
▼ No	41.67%	5
▼ Depends on the situation	41.67%	5
▼ Other (please specify)	Responses 8.33%	1
TOTAL		12

Q6

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What improvements would you suggest for the use of affidavits as debtor's testimony in Chapter 13 confirmation hearings?

Answered: 7 Skipped: 6

RESPONSES (7)

 WORD CLOUD

 TAGS (0)

 Sentiments: OFF 

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Showing 7 responses

- In NH, if the trustee recommends confirmation and there are no objections, the confirmation orders get entered with no appearance by the debtor or counsel
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- Please continue to use them, no improvements to suggest.
1/24/2024 11:25 AM [View respondent's answers](#) [Add tags ▾](#)
- None I can think of.
1/23/2024 01:49 PM [View respondent's answers](#) [Add tags ▾](#)
- Perhaps the trustee can verify information in the affidavit at the creditor meeting so there is additional assurance that the Debtor understands his or her duties and ability to pay.
1/23/2024 11:35 AM [View respondent's answers](#) [Add tags ▾](#)
- Making remote appearance by debtor's counsel automatic upon filing of an affidavit.
1/22/2024 05:55 PM [View respondent's answers](#) [Add tags ▾](#)
- I don't believe counsel should bother filing them until after the trustee holds the 341 meeting and files his preliminary report and where objections are filed, prior to filing an amended plan to address objections. Doing it too early is a waste of time.
1/22/2024 03:13 PM [View respondent's answers](#) [Add tags ▾](#)
- None - all perfecto
1/22/2024 03:11 PM [View respondent's answers](#) [Add tags ▾](#)