

WHAT HAPPENS AT A CHAPTER 7 341 HEARING?

As an attorney, one of the most common questions my potential Chapter 7 bankruptcy clients ask me is “will I have to go to Court?” The answer is – yes and no, generally. Most Chapter 7 Debtors will only attend one 341 hearing before a discharge is entered in their case. A 341 hearing refers to the *First Meeting of Creditors*, a hearing which is required under 11 USC 341. A judge is not present at the hearing. Instead, the hearing is conducted by the Chapter 7 Bankruptcy Trustee assigned to your case. When I first started practicing, many 341 hearings were held in non-court buildings, like City Hall in downtown Flint, Michigan. The only record of the hearing generally was, and still remains, a tape recording of the hearing. I suspect due to security reasons, all 341 hearings I now attend in the Eastern and Western Districts of Michigan are now conducted at a Federal Court House.

You will usually need to show your drivers license to enter the Court building. You will need both your drivers license and social security card for the hearing. If you do not have your social security card, a W-2 or other document containing your social security number is generally accepted, so long as the document was not self generated.

The 341 hearing date is scheduled automatically by the Bankruptcy Court, and occurs 30 to 45 days after your case is filed. Also upon filing, a Chapter 7 Bankruptcy Trustee is randomly assigned to the case. For example, if your case is assigned to the Eastern District of Michigan Federal Court facility in Flint, Michigan, you have a random chance of drawing any of three Chapter 7 Trustees.

What is the purpose of a 341 hearing?

A 341 hearing allows the Chapter 7 Bankruptcy Trustee assigned to the case to ask you questions informally, but under oath, concerning your financial situation. Creditors may also ask you questions regarding your assets and liabilities. However, these are generally factually based questions, such as: how you valued assets, how you disposed of assets, and if you gave anything away before filing bankruptcy. You will not have to defend your right to file bankruptcy.

Generally, the 341 meeting is informal, short, and the only Court appearance you will attend during the bankruptcy process. It is also important to remember that almost everyone present at the 341 meeting is either an attorney or is in the same financial boat as you, so there is no need to be nervous. If your attorney has done a good job preparing your case, the Trustee will have been provided, via e-mail, with your bankruptcy schedules, as well as all the supporting documents, prior to the hearing. The supporting documents, usually include pay stubs for the last 6 months, 3 months bank statements, titles to vehicles, appraisals or comparative market analysis, copies of retirement accounts, deeds, mortgages, tax returns, and other relevant documents. This is generally why your attorney will often keep sending you back for additional documents during the preparation process. He or she is not just being annoying, but trying to get everything they might anticipate the Trustee needs, before the case is filed. How you answer one question, may trigger requests for additional documents.

The Trustee will ask you questions and attempt to confirm the information you have provided in your Bankruptcy Schedules. The Trustee also usually asks if there have been any significant changes since the filing of your Bankruptcy Petition. The entire process takes about 15 minutes. If a Trustee can find an asset you are not permitted to keep under the Bankruptcy Code, then the

Trustee receives a portion of that asset's value for his/her services and the creditors share the remaining value. Otherwise, the Trustee receives something like \$60.00 per case to administer your case.

Will my creditors be at the hearing?

Your creditors were given notice of your 341 hearing, and invited to attend. Practically speaking, they almost never do. Creditors are not required to attend the 341 hearing in order to challenge your discharge in a Chapter 7 Bankruptcy, so they generally do not appear. But, if they do appear, they are granted the opportunity to ask questions. In the Eastern District of Michigan, most all the credit unions have banded together and hired one Law Firm, which routinely appears, asks reasonable questions, and often attempts to work out a Reaffirmation Agreement right after the 341 hearing.

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