



**U.S. Department of Justice**

*United States Trustee, Region 10  
Central & Southern Districts of Illinois  
Northern & Southern Districts of Indiana*

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**MEMORANDUM**

TO: All Chapter 7 Trustees in the Southern District of Indiana

FROM: Ronald J. Moore, *Ronald J. Moore*  
Assistant United States Trustee, Indianapolis

CC: Nancy J. Gargula, United States Trustee, Region 10  
All Indianapolis Field Office Staff

RE: Conducting Section 341 Meetings, Continuances of the  
Meetings and Uniform Document Production

DATE: April 9, 2018

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***Background***

Many years ago there were numerous complaints from the bankruptcy bar and debtors that each chapter 7 trustee in the District had different documents they wished debtors to produce at, or before, their § 341 meetings of creditors. To alleviate this concern, the Chapter 7 trustees and the bankruptcy bar came to an agreement regarding which documents would be required to be produced in every Chapter 7 case. This led to the creation of the Uniform Document Production list (“UDP”) that remains in use today.

While some trustees send the UDP to counsel in each of their new cases, most do not. Instead most trustees rely on counsel already having the UDP to pass along to their debtor clients. Several years ago, the Clerk began sending the UDP to *pro se* Chapter 7 debtors along with their

§ 341 meeting notices in order to help ease the burden on trustees who would otherwise need to send the UDP to the *pro se* debtors directly.

### ***Non-Compliance with the UDP and its Impact on the § 341 Meeting***

The UDP is not based upon any specific Bankruptcy Code provision or national rule<sup>1</sup>. As noted above, the UDP is a local creation after consensus was reached by members of the bar and trustees and is intended to streamline certain standard document requests. Compliance with the UDP is implied by Local Rule B-4002-1(e) which requires additional document production upon request of the case trustee or the United States Trustee. However, Local Rule B-4002-1(e) does not indicate what remedy, if any, exists if a debtor fails to comply. Bankruptcy Rules 4002(b)(1), (2) and (3) do require the debtor produce at the § 341 meeting: proof of identity; date of filing financial account statements; and, tax returns.

Unfortunately, debtors do not always comply with the UDP and Rule 4002(b) requirements. Trustees currently handle non-compliance in several different ways. It is outside the scope of this memorandum to detail all the permutations and combinations of actions that trustees take to obtain compliance with the UDP and Rule 4002(b). I do wish to address one method however, and that is the continuance of the § 341 meeting.

Some trustees refuse to conduct the § 341 for any debtor who has failed to adhere to the UDP or Rule 4002(b). Instead, trustees simply continue the § 341 to a later date and require the debtors and counsel to appear at that later date. Per the *Handbook for Chapter 7 Trustees*, continuances of § 341 meetings is sometimes, albeit it rarely, appropriate. *Handbook* at 3-4. Going forward all Chapter 7 trustees in the Southern District of Indiana should adhere to the guidelines below:

1. Trustees must continue a § 341 meeting if the debtor fails to supply a government issued picture ID and proof of the debtor's social security number. Because proof of the individual who would be testifying cannot be conclusively proven, no testimony should be taken and the debtor will be required to return on the continued meeting date;

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<sup>1</sup> A collaborative effort by and among leadership of the United States Trustee Program, NABT, NACTT and NACBA resulted in issuance of the Best Practices for Document Production Requests by Trustees, a copy of which is posted to the Program website.

2. Trustees shall not continue a § 341 meeting solely because the debtor did not comply with the UDP. The trustee should take the debtor's testimony as normal. At the end of the § 341 meeting, the trustee and debtor's counsel may agree to a continued meeting date for the purpose of document production and to address any questions arising related to the tardily produced documents. If no agreement is reached, then the trustee should utilize the available provisions under the Code to move for turnover of information or assets or setting a Rule 2004 examination.
3. Trustees may, in their discretion, continue the § 341 due to a debtor's failure to comply with Rule 4002(b)(2) or (3) (bank statements and tax returns).
4. Recognizing that matters not related to Rule 4002 and the UDP arise in some cases that may warrant the continuance of a § 341 meeting, a trustee may still utilize their discretion to continue a § 341 for reasons not stated above. The reason for any continuance of a § 341 meeting must be stated on the record. *Handbook* at 3-4.

### ***Section 341 Meetings in Pro Se or Limited English Proficiency Cases***

In that this memorandum discusses the conduct of § 341 meetings, I want to take this opportunity to remind all trustees of the long standing policy that *pro se* cases and cases in which a debtor utilizes the services of an interpreter must be heard in the order they appear on the calendar. Trustees are not permitted to move these cases to the "back of the line" to be heard after all other cases in the setting.

### ***Disclaimer***

This memorandum is issued for guidance only in the Southern District of Indiana. It may be superseded at any time by policy issued by United States Trustee for Region 10 or the Executive Office for the United States Trustees, in their discretion.