

How to File a Notice of Unavailability of Attorney for Debtor or Debtor to attend 341 meeting

Issue Date

July 20, 2010

Policy

Rescheduling of §341 meetings is allowed by the United States trustee only:

- for “good cause”
and
- if the next available meeting date for the same location and trustee falls within the 40- or 60-day range for holding the meeting pursuant to Fed. R. Bankr. P. 2003.

The United States trustee considers “good cause” to be:

1	medical reasons;
2	active military duty assignments;
3	previously scheduled court hearings;
4	unforeseen emergencies (including inclement weather); and
5	attorney’s non-court related absences where substitute counsel cannot be obtained or where due to the complexity of the matter, substitute counsel cannot adequately represent the debtor.

Process

The United States trustee allows the Clerk’s office to reschedule the § 341 meeting of creditors when the cause stated in the notice of unavailability is clearly one of the first four reasons above and the next scheduled meeting for the location and trustee originally assigned falls within the 40- to 60-day ranges.

When the reason for unavailability is one of the first four reasons above and the next scheduled meeting for the location and trustee originally assigned does not fall within the 40- to 60-day range, or when the reason for unavailability is reason five, the matter is referred to the United States trustee for determination.

Procedure

STEP	ACTION
1	Ensure that immediately after opening the case, you have <ul style="list-style-type: none">• uploaded the creditors,• run the judge/trustee assignment module, and• filed all additional case initiation documents.
2	To file the text-only notice, click on Bankruptcy on the blue menu bar. Then, follow these steps: <ul style="list-style-type: none">• select Notices;• select Unavailability of Atty for Debtor/Debtor to attend 341 meeting (Notice);• enter name of unavailable person;• enter dates of unavailability;• enter specific reason for unavailability. <p>Note: Text-only entries do not require a portable document format (PDF) document nor does the docket entry get a document number.</p>
3	No further action is required on your part.

What Happens Next

If the United States trustee's office approves the request, the Electronic Information Specialist will prepare and send a Notice of Change to Meeting of Creditors.

If the United States trustee's office does not approve the request, the Electronic Information Specialist will then make the following text-only entry on the case docket:

"In response to the notice of unavailability (docket number _____), the United States trustee has determined that the 341 meeting of creditors will not be rescheduled."

Whom to Contact for Help

Please contact the Court's Electronic Information Specialists for assistance at 505-348-2500 or toll-free at 866-291-6805 - select option 3. The help desk hours are 8:30 a.m. to 4:30 p.m., Monday through Friday.

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