

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

APR 4 2000

IN THE MATTER OF
ATTENDANCE AT CREDITORS MEETINGS

Michael N. Milby, Clerk
By Deputy: *Joyce Hutcherson*
GENERAL ORDER 2000-5

**GENERAL ORDER CONCERNING
EXCUSING ATTENDANCE AT § 341 MEETING**

The following procedures are mandated for efficient and expeditious treatment of requests for debtors to be excused from Bankruptcy Code § 341 meetings of creditors ("Creditors' Meetings"):

1. Debtors must attend Creditors' Meetings unless excused by the Court from attendance, Bankruptcy Code § 343. Failure to attend Creditors' Meetings, and failure to take appropriate measures to comply with this order, may be grounds for dismissal of a bankruptcy case, possibly with prejudice.
2. Prior to the date set for the Creditors' Meeting, the Court will **not** entertain motions to excuse the debtor's appearance at such meetings. The Court believes that such motions are premature prior to the scheduled time for the meeting. The Debtor must first attempt alternative methods of attending the meeting (as described below).
3. If attendance at the scheduled Creditors' Meeting is not possible, the Debtor must contact the trustee prior to the scheduled meeting and:
 - a. Request that the meeting be rescheduled; or
 - b. Request that the debtor be permitted to participate in the Creditors' Meeting by telephone in accordance with procedures established by the U.S. Trustee, including:
 - i. Visiting a U.S. Trustee office, showing a picture ID, taking a testimonial oath, and participating in the Creditors' Meeting by telephone, or
 - ii. Arranging with a notary public to appear in the notary's office, showing a picture ID, taking a testimonial oath, and participating in the Creditors' Meeting by telephone.
 - c. A trustee is not required by this order to consent to Debtor's participation in the Creditors' Meeting by telephone. Even if the trustee initially consents to telephonic participation, the trustee may request attendance in person (or such other relief as the trustee may deem appropriate) if the participation by telephone is not satisfactory.

4. If the Debtor cannot attend the meeting in person and cannot arrange alternative methods of attending as provided in the proceeding paragraph, the Debtor may move for the Court to excuse the Debtor's attendance at a Creditors' Meeting. It is not anticipated that this motion would be granted except when it is impossible for the Debtor to attend, such as in case of the Debtor's death or complete physical or mental incapacity. Even when the Debtor is physically or mentally unable to participate in the Creditors' Meeting, a representative of the Debtor must appear and attempt to provide the trustee with all relevant information.
5. If the Debtor is unable to attend, and the Trustee agrees that the Debtor's attendance should be excused, and no creditor objects to excusing the Debtor's attendance:
 - a. The Debtor must file a motion to excuse the Debtor's attendance, containing information in the detail suggested in the attached form; and
 - b. The Chapter 7 trustee must sign the motion indicating:
 - i. That a representative of the Debtor appeared and provided information satisfactory to the trustee,
 - ii. That no creditor appeared at the Creditors' Meeting to question the Debtor, or else that the creditor(s) who did appear had no objection to excusing the Debtor's appearance, and
 - iii. That the trustee has no opposition to the motion.
6. If the Debtor is unable to attend, but the Trustee does not agree that the Debtor's attendance should be excused, or if any creditor objects at the Creditor's Meeting, the Debtor must file a motion to excuse the Debtor's appearance at the Creditors' Meeting. (Alternatively, the Debtor may move to dismiss the case.) The motion must contain the information in the detail suggested in the attached form, except that the motion must state why the Trustee does not agree to the relief requested in the motion. Any party in interest that objects to the motion shall file a response as required generally in contested matters.
7. If the debtor does not attend the Creditors' Meeting in person or by telephone (to the satisfaction of the Trustee), and if the Trustee cannot join in the motion to excuse the Debtor's attendance at the Creditors' Meeting, the U.S. Trustee has instructed Trustees to file a motion to dismiss the case. The Clerk shall give notice of the motion to dismiss. If the Debtor objects to dismissal, the debtor shall file a response as required generally in contested matters.
8. If a Debtor requests to be excused from attending a creditors' meeting, a judge may require substantiation of the Debtor's inability to attend, such as a doctor's certificate or other substantiation.

9. If the Trustee files a motion to dismiss for failure of Debtor to appear at the Creditors' Meeting, the Clerk shall not issue a discharge for the non-appearing Debtor until the motion to dismiss is resolved.

Effective the 4 day of April, 2000.


Honorable Richard Schmidt, Chief Judge


Honorable Letitia Z. Clark


Honorable Karen K. Brown


Honorable Manuel D. Leal


Honorable William Greendyke


Honorable Wesley W. Steen

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

DIVISION

IN RE _____

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CASE #: _____

DEBTOR'S MOTION TO EXCUSE APPEARANCE AT § 341 MEETING

1. The creditors' meeting under § 341 of the Bankruptcy Code in this case was conducted on _____, 200__.
2. _____ (Debtor) did not appear at the creditors' meeting to be examined as required in the Bankruptcy Code. The Debtor did not appear because

_____.
3. It is not possible for Debtor to appear at the offices of the U.S. Trustee in any part of the United States to be sworn and to participate in the creditors' meeting by telephone, and it is not possible for the Debtor to appear at the offices of a notary public to be sworn and to participate in the creditors' meeting by telephone because:

_____.
4. The chapter 7 trustee in this case represents, by signing this motion, either (i) that no creditor appeared at the creditors' meeting to question the debtor, or (ii) that the creditor(s) that appeared at the 341 meeting stated that they do not object to excusing the debtor's appearance at the meeting. Further, by signing this motion, the trustee represents that the trustee is satisfied with the information that was available at the creditors' meeting, and that the trustee has no objection to the Court excusing the requirement that the Debtor appear at the creditors' meeting.

Debtor's Counsel

Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

DIVISION

IN RE _____

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CASE #: _____

ORDER EXCUSING DEBTOR'S APPEARANCE AT § 341 MEETING

Considering (i) the Debtor's motion to excuse appearance at the § 341 meeting and the representations concerning why the Debtor cannot attend a 341 meeting, and (ii) the representations of the trustee in that motion,

IT IS ORDERED THAT THE DEBTOR'S APPEARANCE AT A MEETING OF CREDITORS UNDER § 341 OF THE BANKRUPTCY CODE IS HEREBY EXCUSED.

_____, 200__.

UNITED STATES BANKRUPTCY JUDGE