SECTION 341(a) MEETING OF CREDITORS

(a) **Debtor's Request to Continue the 11 U.S.C. § 341(a) Meeting.**

(1) A request to continue a § 341(a) meeting shall be submitted in writing to the corresponding Chapter 7, 12, or 13 trustee or, in Chapter 11 cases, to the U.S. Trustee, as soon as possible and, absent unforeseeable circumstances, not later than 14 days before the scheduled meeting. A written request to continue a § 341(a) meeting shall identify the circumstances rendering the debtor or the debtor's counsel unable to appear. The request is not filed with the Court.

(2) When a written request could not have been made before the § 341(a) meeting, the debtor or debtor's counsel may request, at the time of the § 341(a) meeting, that the presiding officer grant a continuance.

(3) In the event a debtor fails to appear at the § 341(a) meeting and a request for a continuance could not have been made at or before the meeting, the debtor or debtor's attorney may submit to the U.S. Trustee a written request that the debtor be permitted to appear at a continued §341(a) meeting. The request must demonstrate that unavoidable circumstances caused the failure to appear. The request must be submitted to the U.S. Trustee not later than 7 days after the scheduled meeting.

(b) **Notice and service**.

If a debtor's request to continue the § 341(a) meeting is granted, the debtor or debtor's attorney must serve notice of the continuance on all creditors as soon as possible and not later than 7 days before the originally scheduled § 341(a) meeting or, if the continuance was granted at, or after the § 341(a) meeting, as soon as possible and not later than 7 days before the date of the continued § 341(a) meeting. The notice must include the date, time, and location of the continued § 341(a) meeting, and, if the case is a chapter 13, the notice must also include the date, time and location of the confirmation hearing. Proof of service of the notice of continuance must be filed with the clerk and must list each party served and their mailing address.

(c) **Waiver of meeting**.

A request pursuant to § 341(e) that the § 341(a) meeting of creditors and/or equity security holders not be convened, shall be made to the court at the time of filing the petition for relief. If not timely filed, the right to seek such relief shall be deemed waived.

(d) **Dismissal**.

If the debtor fails to appear at the §341(a) meeting the U.S. Trustee or other party in interest may move for an order of dismissal. The motion may be filed pursuant to the negative notice procedures provided in these Local Bankruptcy Rules.

(e) **Notice to other courts**.

The debtor's attorney (or the debtor if *pro se*) shall provide a notice of the commencement of the bankruptcy case to all courts in which the debtor is known to be a party. Such notice shall reasonably identify to such court(s) the case or action affected by the debtor's bankruptcy.

RELATED AUTHORITY

11 U.S.C. §§ 341, 343
Fed. R. Bankr. P. 2003, 2004, 4002

Advisory Committee Notes:

This reflects the responsibilities of the U.S. Trustee in conducting § 341(a) meetings. The U.S. Trustee's policies regarding § 341(a) meetings, such as continuing meetings or arranging meetings for active duty military service members, can be found at http://www.justice.gov/ust/r18/boise/ These policies apply to cases under Chapters 7, 11, 12 and 13.

Under subdivision (d) of the rule, the U.S. Trustee may request that the case be dismissed. However, the U.S. Trustee or case trustee may elect to have the case remain open, for example, to administer assets or oppose entry of the debtor's discharge based on the failure to appear. *See* 11 U.S.C. §§ 704, 727. Note also that dismissal on this ground may fall within the scope of the prohibition of § 109 (g)(1) on filing a subsequent petition for relief.

For purposes of planning and avoiding potential conflicts, note that the court's calendar for § 341(a) meeting dates is set one year in advance. Copies of this calendar are available, without charge, from the office of U.S. Trustee or at www.id.uscourts.gov.