

WHO WANTS TO BE A HEARING OFFICER?

The Introduction:

"The meeting of creditors provided for in §341(a) is the official forum where a debtor must appear and answer questions regarding the case under oath from the standing trustee, creditors, and other parties in interest. The standing trustee, as designee of the United States Trustee, is the presiding officer at the §341(a) meeting. The standing trustee may not delegate the duty to preside at the §341(a) meetings. However, upon prior approval, confirmed in writing, the United States Trustee may designate another person to preside. If the United States Trustee designates another to serve as the presiding officer at §341 meetings, the standing trustee is responsible to ensure that the designated substitute presiding officer is qualified and trained to conduct the §341(a) meeting."

The standing trustee has designated others to conduct meetings on her behalf but not without the requisite training. Even the staff attorneys are required to pass the Trustee's test. Everyone designated as a hearing officer realizes and states on the record that he or she is a representative of the Trustee, Marilyn O. Marshall.

The Trainer's View:

The Trustee's office has many responsibilities in the bankruptcy process, but holding §341 hearings is one for which only a few proud and brave individuals are selected to participate. The purpose of the §341 hearing is to allow

creditors to question debtors regarding their treatment in the bankruptcy plan and to allow the hearing officer to examine all of the documents filed and determine their accuracy. It is necessary for the hearing officer to have an overall understanding of the Chapter 13 process. Normally, this means that training does not start until they have been on the job for six months or longer. Some have compared the training to boot camp, only without the yelling, because the average time it takes to complete the training can be six months or longer.



The training does not require the physical stamina it takes to be a soldier, but it does require you to present yourself in a professional manner and possess certain character traits, such as confidence in your ability to address issues during the meeting, objectivity to the information being received, and diplomacy to handle sensitive issues.

You are required to be precise with the information received during the meeting as well as any modified documents requested post-meeting. Still don't understand why the training is so intense and takes so long? Think about the legal ramifications that can result for the Trustee by allowing someone who is not properly trained to conduct a legal proceeding on her behalf.

The training is set up in stages. First, trainees learn about the mission of hearing officers and the purpose of §341 meetings. Trainees also study the petition, schedules, plans, and all other related documents.

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Next, the trainees learn the meeting script while analyzing the attorney review sheet. A staff attorney reviews every petition prior to the §341 meeting. The staff attorney writes comments and questions that are to be conveyed to the debtor and the debtor’s attorney at the meeting.

The §341 meeting is generally the only time when a representative from the Trustee’s office will see a debtor. As a result, it is best to communicate all concerns, requests and opinions at that time. This puts all interested parties on notice of the Trustee’s position, and it aids in the confirmation process. Trainees learn about the liquidation analysis, the disposable income test, the relevance of the “means test,” bad faith indicators and other bankruptcy concepts.

The trainees are also taught to use their impromptu speaking skills. At times, a debtor’s testimony may raise issues

or disclose information that should be probed thoroughly. For example, if a debtor mentions undisclosed assets or additional sources of income, a hearing officer must be astute enough to recognize the issue and get additional information for the staff attorney. Trainees also learn about requesting amendments. During the meeting, the hearing officer routinely discovers differences between the schedules and a debtor’s testimony. Hearing officers must request the amendments so that the record is complete, accurate and truthful.

Many of the Trustee’s concerns center around the debtor’s ability to make the proposed plan payment and ensuring that the debtor is committing all disposable income. As a result, hearing officers verify and re-calculate a debtor’s income at the §341 meeting. During the training process, trainees are given numerous fact patterns and pay advices and must determine whether a sample income schedule is correct. They also must ask relevant questions to determine the necessity of certain deductions, the amount and frequency of irregular income, and the reasonableness of income projections that may be asserted. The trainees also spend hours listening to meeting tapes and observing meetings each afternoon. This allows the trainees to see the lessons they have learned in practice.

In addition to viewing meetings, the trainees also hold mock meetings with several staff members. The goal of mock meetings is to simulate conditions hearing officers experience regularly. Trainees must know the script while being prepared for unexpected occurrences. They must also be comfortable interviewing and relating to debtors.

The next step is to conduct actual hearings under the watchful eye of an experienced hearing officer. The hearing officer makes sure that all questions are asked, all attorney comments are expressed, and supports the trainee when difficult circumstances arise. The hearing officer also offers the trainee constructive criticism and tips on improving their performance. Once the hearing officer believes the trainee is ready to hold meetings alone, the Trustee observes the hearing officer until she is satisfied with the trainee’s approach, appearance and delivery of the material. Once the Trustee gives her approval, the training process is complete, and the trainee is added to the hearing officer schedule.

A Trainee’s Perspective:

Training to become a hearing officer is very intensive and can take many months to get to the point where one can hold a meeting without supervision. Also, while training, the person has to also be able to stay on top of their everyday responsibilities. During the training process, a person learns much about the reasons why the staff attorneys review the petition, schedules and B22C and what they are

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Newsletter Information:	
If you would like to contact us or submit ideas or articles for the newsletter, you can do so by:	
✓ e-mailing us at newsletter@chi13.com,	
✓ dropping your submission or idea in the anonymous newsletter folder located in the mail room, or	
✓ leaving them with Dave Latz.	
Please remember when making a submission to the newsletter, it must be:	
✓ type-written and	
✓ submitted by the third Wednesday of the month via e-mail, a Word document or an ASCII file.	
We also ask that anyone who attends a seminar please be prepared to furnish the committee with a detailed article on its subject.	
You may also view this edition of THE MARSHALL CHRONICLES , as well as all the previously published issues, all in full color, on the Chapter 13 Trustee website at http://www.chicago13.com/ .	

Financial
The Final Audit

The Trustee performs many audits through the life of a bankruptcy case. Each is of equal importance, but the Final Audit is viewed in the Financial Department as the most critical audit the Trustee will perform.

The Final Audit is performed when a case has the following criteria: The case is within one plan payment from having a zero balance, has had a mid-case audit at least one time, or the case has been confirmed for at least 18 months with a zero balance. The purpose of the Final Audit is to attest to the accuracy of the debtor’s and creditors’ financial information and how the Trustee has administered the funds in the case in accordance with the court records.

As auditors, we take the position that nothing can be assumed correct. Therefore, we examine all aspects of the case, which I will explain in detail.

The initial start of the audit is to compare the case number, the debtor’s name, date of filing, overseeing judge, and the name of the debtor’s attorney handling the case. This is done by comparing our case information against the information for the case on the bankruptcy court website. All information must mirror the court records to be correct.

The claims are reviewed by generating a Final Audit report and then checking it against the “Claim Register” which is the official register on the bankruptcy court website. For each claim, we examine the date the claim was filed against the bar date. We look at the case number, debtor name and redacted social security number on each claim to make sure that our records match the court records. The dollar amount of the claim, the account number and the type of classification of the claim must match the court file copy. All attachments must match the debtor name, account number and debt. We look for any amended claims that may not have been received by our office from the court, as well as for duplicate claims or claims that are filed twice and considered copies which we do not want to inadvertently pay twice. Many times, claims are sold and transferred from one creditor to another, so we must make sure all claim transfers are recorded in our system and that we made the change so funds are sent to the proper disbursement address.



The debtor’s case is driven by the confirmed plan, which can be found on the bankruptcy court’s website under the “Docket Register.” Therefore, we review the confirmed plan, all of its sections, and any additional supplemental pages.

The plan will spell out to us how any given claim should be paid by its given position within the plan.

For example, whether it should be a secured mortgage listed in E2 of the plan, a secured set payment with adequate protection listed in E3 of the plan, mortgage arrears claim listed in E5 of the plan or a priority claim such as IRS or child support listed in E6 of the plan, or if we have any special class claims in E7. The dividend to unsecured creditors is listed in E8 and will set the limit to a minimum amount of funds that they can receive.

The plan will also specify if claims should receive interest and, if so, it must be indicated in E9. Section G overrides the normal plan (provided the box is check-marked) with specific instructions such as not to pay a specific creditor, or it may spell out who will pay property taxes, or if the debtor shall turn over to the Trustee their income tax refund, etc. We look for and review all orders during the life of the case. Orders include modifications of the stay, agreed orders, modifications of the plan, orders of dismissal, conversion, any orders that vacate a previous order, and orders that may disallow a claim as filed. Once these are reviewed, we make sure the orders have been recorded and processed correctly.

Any discrepancies that may be found are written up and presented to the Legal or Claims Department for review. Many times we find a claim on the register that did not get loaded, or an order that seems questionable from an accounting perspective but needs to be reviewed by the legal staff to be sure we are paying correctly. Once the review is processed, the legal staff or the claims staff informs us if they concur with our findings and we move forward with the resolution.

Ultimately, upon finishing the final audit, the Trustee can be assured that all financial and legal responsibilities have been followed and the rest of the closing process can move forward.

Mark Caffarini, Closing/Audit Specialist

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looking for in order to recommend the plan for confirmation.



The first thing that you need to understand is all the documents you look at during a meeting. You want to understand the purpose of the plan and schedules, as well as the other associated documents. Once you understand the purpose, you want to know what type of information the staff attorney is looking for. You take that knowledge and apply it to the answers the debtors give you. You need to make sure that the debtor’s testimony answers the staff attorneys’ questions and, if not, follow up with more questions. Some answers can draw a red flag that the staff attorney may not have anticipated during the review. Therefore, a keen understanding of the statements made in the schedules is key to discerning all relevant information. This helps the staff attorneys understand everything they need to know to decide if the case should be recommended for confirmation.

The Trustee’s office is required to ask debtors certain questions, and the §341 meeting script includes all those required questions. It is very important to know the script, but a hearing officer also has to be aware when a debtor’s answer causes more follow up questions that are not always on the script. It is important to stick to the script to make sure that all questions that have to be asked are actually asked. It is equally important to know when unexpected issues are present and more questions must be asked.

Once you understand the documents, learn the script and observe other hearing officers, one begins holding meetings with another hearing officer sitting in the meeting room. The final step is to be observed by the Trustee. The Trustee, and the Trustee alone, decides if someone is prepared enough to represent her. A hearing officer represents the Trustee by more than knowing the materials; they represent her with a high level of professionalism, including their attitude, actions (during and between meetings) and their appearance. Although it was an arduous process, I’m pleased to have the honor of being a hearing officer.

Keisha Hooks, Staff Attorney, Rosalind Lanier, Case Analyst, and Kate Stephany, Paralegal/§341 Hearing Officer

Case Administration Motion To Dismiss For Material Default



In order for a bankruptcy case to be successful, debtors need to make regular monthly payments to our office. To prevent having open cases for which we do not receive timely payments and/or to encourage debtors to make their plan payments on time, every week our case administration team runs a “Motion to Dismiss for Material Default” job. This job selects all the cases in which debtors are currently behind with their Trustee payments. However, before we set a Motion to Dismiss, our office sends a courtesy letter to both the debtor and their attorney to inform them about the default. These letters usually go out when the debtor is at least two months behind in receipts, or if we have received less than a full payment for the past 60 days. At that time, we expect debtors to begin curing the default.

If we get no response to the payment default letter, we follow by setting the Motion to Dismiss for Material Default. The Motion to Dismiss for Material Default are set for open cases for which, in the past 90 days, we have received less than 60% of one regular monthly payment, or when cases are at least three months behind in debtor receipts. Before we set a Motion to Dismiss, we review the docket to see whether there are any pending motions that would change the debtor’s circumstances. We also check whether the debtor communicated with our office to inform us what might have caused the payment default and whether debtor is in the process of sending us money to clear the default. Otherwise, a Motion to Dismiss is set for hearing on the next available court docket. Both the debtor and debtor’s attorney will receive a notice thereof.

We have come to realize that sending both the payment default letters and Motion to Dismiss notices is of great benefit to many of our debtors. There are many occasions in which the debtors call our office to inform us that they did not know they were in default, and after receiving our letter they take the necessary actions to immediately cure their default.

Alma Martinez and Paulina Garga, Case Administrators

Money Tip

When you move or leave a job, be sure to leave your forwarding address with both your bank and your former employer. People often have unclaimed money in accounts that they simply forget about. When a bank has notices and statements returned to them, eventually they will mark the account as “unclaimed” and close it. A former employer may be holding a last paycheck, pension funds, or expenses that were not completely processed. Utility companies may have deposits to return to you. Make sure that you know where all your money is!



Going Bananas

We've all heard the expression "An apple a day keeps the doctor away." The banana has some excellent nutritional facts that will help keep the doctor away as well. Bananas are known for providing potassium for the body and giving us energy to keep fit. But potassium and energy are not the only ways bananas can help us stay healthy. They can also help overcome or prevent substantial number of illnesses and conditions, making it a must to add to our daily diet.



This unique tropical fruit is extremely high in potassium yet low in salt, making it perfect to beat blood pressure and stroke. So much so, that the US Food and Drug Administration has allowed the banana industry to make official claims for the fruit's ability to reduce the risk of blood pressure and stroke.

According to a recent survey undertaken by MIND, amongst people suffering from depression, many felt much better after eating a banana. This is because bananas contain tryptophan, a type of protein that the body converts into serotonin, known to make you relax, improve your mood, make you feel better, and generally increase your brainpower, which makes the brain more alert. Furthermore, bananas can stimulate the production of hemoglobin in the blood; this helps in cases of anemia and morning sickness for expecting mothers. Snacking on a banana between meals helps to keep blood sugar levels up and avoid morning sickness.

Bananas are also high in fiber, which helps restore normal elimination without using laxatives. Bananas have a natural antacid effect in the body; so if you suffer from heartburn, try eating a banana for soothing relief, it neutralizes hyperacidity and reduces irritation by coating the lining of the stomach. In addition, if you have an ulcer, the banana is used as the dietary food against intestinal disorders because of its soft texture and smoothness. This fruit is the only raw fruit that can be eaten without distress in over-chronicler cases.

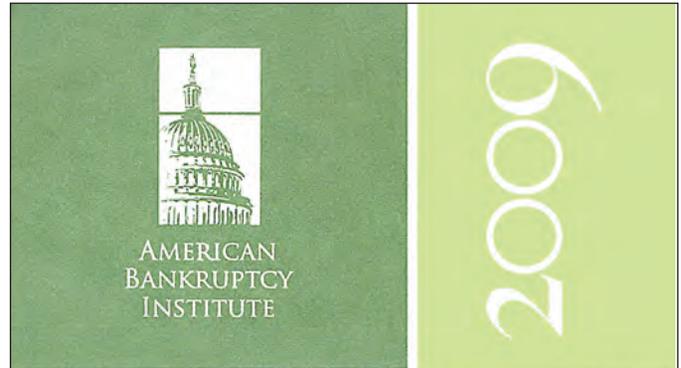
I find eating bananas much more appealing because they also contribute to keeping the doctor away and lowering the physical and emotional temperature of the mind and body.

Sulethé Mason, Paralegal

It's Almost Time!

On Monday, October 12th, 2009, the American Bankruptcy Institute will sponsor its annual Chicago Consumer Bankruptcy Conference. As a speaker and faculty member, I am encouraging you to attend this seminar. CLE credits may be approved, and panelists will discuss a variety of topics including the means test, litigation techniques, and consumers in need of Chapter 11 relief. If you are interested in registering for this program, please visit <http://www.ABIWorld.org>. I hope to see you there!

Keisha Hooks, Staff Attorney



CHICAGO

Consumer Bankruptcy Conference

Monday, October 12, 2009
The Standard Club
Chicago

Develop The Right Health Habits

With so much information about diet and nutrition, it can be hard to sort through it all to find the best ways to improve your health. Several studies show that despite receiving information about healthy living, most people do not focus on the health habits that offer the most benefits.



What are the best things you can do to improve your health? Avoid tobacco, maintain a healthy weight with a body mass index (BMI) of 18.5 to 25.0, eat five or more servings of fruits and vegetables each day, and be physically active 30 or more minutes a day at least five times a week.

Each one of these habits offers significant health benefits, so achieving even just a few is better than none. But, surprisingly, a recent survey showed that 40 percent of those surveyed followed only one of these basic healthful habits, and even more significantly, only three percent carried out all four.

To increase your own health, try to work towards including all of these healthy habits in your daily life. Quit smoking, maintain a healthy weight, eat nutritious food, and get daily exercise. Not only will you cut your chance of experiencing heart disease or cancer, you will increase your energy level and will feel better every day.

Keeping Safe And Sound

October is National Crime Prevention Month. Safety begins with you. Here are some simple steps you can take to guard against crime.



-  Always lock your doors and windows before leaving, even for just a short time.
-  Only open your door to service personnel if you are expecting them. If you are not expecting anyone, check their identification or call to verify the service call.
-  Keep window treatments closed when you are not at home and at night.
-  Always keep your house key in your possession.
-  Call the police before entering your home if you feel it has been illegally entered.

Run, Kate, Run!

I'll be making my marathon debut October 11th in the Chicago Marathon. I started running four years ago and completed my first 5K race on my 27th birthday followed by my first 5 mile race the next summer. I am now skipping over "a few" mile markers and have been training this year for the Chicago Marathon this fall. I hope this will be the first and not the last and am very excited. I'm a slow but steady runner and hope to just get a time between 5:30 and 6 hours Don't forget about the people towards the end if you come out to watch...you may see me!

Kate Stephany, Paralegal



October's Notable Events

- World Vegetarian Day** on October 1st.
- All Staff Meeting** on October 2nd.
- Financial Planning Week** is October 5th – 11th.
- Happy Birthday to **Mark Caffarini** on October 8th!
- Chicago Marathon** on October 11th.
- Columbus Day** on October 12th.
- Happy Birthday to **Dave Latz** on October 13th!
- Happy 23rd Anniversary to **Rita Saunders** on October 14th!
- National Bring Your Teddy Bear to Work Day** on October 14th.
- National Grouch Day** on October 15th.
- Sweetest Day** on October 17th.
- Happy 4th Anniversary to **Monica Gonzalez** on October 24th!
- Make a Difference Day** on October 24th.
- Cranky Coworkers Day** on October 27th.
- Halloween** on October 31st.



Trivia Quiz Answers: Sweet Facts

1. Halloween.	6. 40 percent.
2. 25 pounds.	7. Midwest.
3. Denmark, with over 36	8. They are crossing guards at
pounds per person per	schools, holding up a round
year.	stop sign on a pole.
4. 10 calories.	9. 9 million.
5. Almost 2 billion.	10. Chocolate.

Trivia Quiz: Sweet Facts

Halloween brings lots of treats each year. Test your confectionary knowledge with this trivia quiz. (You can find the answers on page 7.)

1. Which holiday has the largest candy sales: Easter, Valentine’s Day, or Halloween?
2. How much candy does the average American eat in one year?
3. The people from which country eat the most candy?
4. How many calories are in one stick of regular chewing gum?
5. How many candy canes are sold each year in the four weeks before Christmas?



6. American candy manufacturers use what percentage of the almonds produced in the U.S.?
7. Which region of the U.S. has the highest consumption of candy: Midwest, Southwest or South?
8. In England, some people are employed as “lollipop people.” What job do they do?
9. How many Dum Dum pops are made each day?
10. In 1875, Thomas Jefferson wrote to John Adams about a food that he believed was superior to tea or coffee for both health and nourishment. What was he referring to?



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both in print and on-line at www.chicago13.com

Did You Know: Pumpkins

- 🐾 Many people believe that pumpkins are vegetables, but they are really fruits.
- 🐾 About 90 percent of pumpkins sold in the U.S. are used for jack-o-lanterns.
- 🐾 Not all pumpkins are orange. Some unique pumpkins are white, yellow, red, tan, green, and even blue.
- 🐾 The average sized pumpkin has about one cup of seeds.



- 🐾 There is a word for the fear of turning into a pumpkin: apocolocyn-
-posis.
- 🐾 The biggest pumpkin pie on record weighed 2,020 pounds. It used 900 pounds of pumpkin, 62 gallons of evaporated milk, 155 dozen eggs, 300 pounds of sugar, 7 pounds of cinnamon, 2 pounds of pumpkin spice, and was placed in 250 pounds of crust.
- 🐾 Pumpkins are 90 percent water
- 🐾 Illinois grows more pumpkins than any other U.S. state.

