

ATTORNEY BEST PRACTICES FOR CHAPTER 13 PRACTITIONERS

ALBERT RUSSO *Standing Chapter 13 Trustee*

- Personally meet your client and introduce them to any staff attorney that may assist with their case.
- Execute a formal retainer with your client; specify what is covered under the “flat fee” or “hourly fee”, and what may be billed separately. See also Local Rule D.N.J. LBR 2016-5.
- Educate your client. Explain what they should expect at various stages of the case.
- Ask for identification: both government issued identification and social security – you know they will need it at the 341 (a) Meeting of Creditors.
- Provide to the Trustee’s Office, debtor(s) email address and phone number for assistance in providing remote 341(a) Meeting of Creditors instructions and scheduling, and assist debtor(s) in registering with the National Data Center (www.NDC.org). QR code for assistance in registration is available on our website: www.russotruster.com.
- Upon receiving remote 341(a) Meeting of Creditor scheduling, test remote procedures with your clients to verify technical capabilities of conducting the hearing remotely. Notify Trustee’s Office of any inability to conduct remote 341(a) Meeting of Creditors.
- Run a credit report to make sure that you have full information on the creditors.
- Run a judgment search to make sure you have full information regarding potential liens.
- Specifically ask about prior cases. Run U.S. PACER Query to confirm the information provided.
- Obtain from client all documents required by the Trustee prior to the 341(a) Meeting and timely submit same to Trustee’s office.
- Obtain proof of insurance for all vehicles and real estate.
- Provide client with a sample of the 341(a) questions that will be asked to ease tension prior to that meeting.
- Include special notice to the taxing authorities on all cases. Internal Revenue Service requires certified mail to Attorney General in Washington, DC, local United States Attorney Office, and local Internal Revenue Service Special Services. The State of New Jersey requires service upon the Attorney General, State of NJ, and the taxing authority. Verify that all tax returns have been filed.

- If the Chapter 13 Plan contains motions, proper service to those affected creditors must be served in accordance with the Rules and a Certification of Service must be filed with the Court.
- Advise client regarding the Certification in Support of Discharge and Completion of Financial Management Course.
- Verify clients pay schedule and properly calculate monthly income based upon payment frequency.
- Advise debtor(s) to make plan payments to the Trustee electronically via TFS (www.TFSbillpay.com), eWage, MoneyGram, or ePay (www.russotruster.com/epay). If debtor(s) are unable to make electronic payment, advise debtors to make plan payments to Trustee's lock box (Albert Russo, Ch 13 Trustee, PO Box 933, Memphis, TN 38101-0933), and to put the Chapter 13 case number and name on payments, and that all payments must be in the form of certified check or money order.
- Advise client to review Trustee's Report of Receipts and Disbursements and Trustee Annual Reports.
- Inform client of the information available on the Trustee's website: www.russotruster.com
- If client owns real estate, make sure you advise your client in writing that the property cannot be sold, refinanced, or mortgage modified, without court approval.
- Advise client of the consequences of not doing certain things. Do not just tell them to pay their mortgage, rather, advise them of what will happen if they fail to pay their mortgage. Suggest that they keep a separate file of all payments to the Trustee as well as post-petition payments to secured creditors.
- Advise client to inform you of any inability to make required payments or substantial changes in financial position.
- Review Court Claims Register immediately upon the expiration of applicable Bar Dates and file a Proof of Claim on behalf of any claimant required to be paid under the plan within the 30 day period provided for the Rules.
- Respond to Trustee's Calendar Disposition list on any objections to confirmation or objections to a motion.