

Chapter 13 vs Chapter 7

42nd Annual Jay L. Westbrook
Bankruptcy Conference
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**Death, Crypto,
Exemption,
Redemption and
3002.1 in between**

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ZOOM 341 MEETINGS

Zoom initiative first piloted in Region 19 (Utah, Wyoming, and Colorado) with great success and minimal impact on court operations.

Expanded to Region 9 (Ohio and Michigan) and Region 15 (S.D. California, Hawaii, Guam and Northern Mariana Islands).

On its way to a region near you.

Best Practices for Debtors, Debtors' Attorneys, and Other Parties in Interest available on USTP website: <https://www.justice.gov/usdoj-media/ust/media/1304696/dl?inline>



DEATH



DEATH



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Rule 1016. Death or Incompetency of Debtor

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Death or incompetency of the debtor shall not abate a liquidation case under chapter 7 of the Code. In such event the estate shall be administered, and the case concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. [11 U.S.C. 1016].

If an individual's debt adjustment case is pending under **chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties,** the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred.

DEATH – Chapter 7



Death before 341 Meeting

Court may need to excuse appearance. Caselaw points to PR of decedent's estate appearing (*see In re Lucio*, 251 B.R. 705 W.D. Tex. 2000).



Death before Financial Management Course

May need court to excuse deceased debtor from completion.



Death before Discharge

Courts are not consistent. Possible where debtor appeared at 341 and filed financial management course certificate prior to death.

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Title search: Chapter 13 v. Chapter 7: Death, Crypto, Exemption, Redemption, and 3002.1 In Between

Also available as part of the eCourse

[2023 Hot Topics in Consumer Bankruptcy: Chapter 13 v. 7; Tax Liabilities; Student Loan Litigation; and Deceased Debtors or Clients with Diminished Capacity](#)

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