

What's new in Chapter 13?

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Topics

- Due Diligence and the Remote Age
- Rules Update on 3002 and 3002.1
- Case Filings
- Student Loans
- Tax Refunds

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Due Diligence and the Remote Age

- Preparing the Debtor to Participate
- Technology Barriers
- Proceeding Smoothly
- The Future of 341 meetings
 - Moving towards National Zoom Platform per UST Guidelines
 - Still in Testing Phase

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Preparing the Debtor to Participate in the 341 Meeting

- Make sure the Debtor has access to the technology needed to attend the meeting well in advance of the meeting. Assist the Debtor in gaining the needed access to technology as needed.
- Email the Debtor 7 days prior to the hearing a reminder. Include a copy of their filed schedules/plan for review, US Trustee bankruptcy information sheet, as well as a copy of the Section 341 (a) Meeting of Creditors Required Statements/Questions. Provide the Court's hearing attendance instructions in advance of hearing (check your Court's website for instructions). Remind them of their payment dates and plan payment amounts as well as any other outstanding matters.
- Call the Debtor the day prior to the hearing to prepare them. Again, review the 341 Required Statements/Questions as well as any questions that you anticipate the Trustee may ask about their situation. Remind the Debtor to MUTE themselves until called upon and keep their answers short and to the point (yes or no if applicable). Remind them to be somewhere quiet with no distractions, and that, although the hearing is being held remote, that this is a formal hearing in federal court.

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Rules Update on 3002 and 3002.1

- Status of the Proposed Amendments to Rule 3002.1
- The Notice of Final Cure becomes a Motion
- A Mid-Case Audit – Will it be required or not?
- Expanding the Applicability of the Rule
 - Reverse Mortgages
 - Statutory Liens

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Post-Filing Mortgage Payment Trap for the Unwary

- Current Rule 3001(c)(2)(C) requires an escrow statement prepared as of the date of the bankruptcy filing. Official Form 410A provides for the escrow shortage to be included on the Projected Escrow Shortage line in Part 3 of the form.
- **Official Form 410A Instructions for Mortgage Proof of Claim Attachment United States Bankruptcy Court:**

“Insert any escrow deficiency for funds advanced. This amount should be the same as the amount of escrow deficiency stated in Part 2. Insert the Projected escrow shortage as of the date the bankruptcy petition was filed. The projected escrow shortage is the amount the claimant asserts should exist in the escrow account as of the petition date, less the amount actually held. The amount actually held should equal the amount of a positive escrow account balance as shown in the last entry in Part 5, Column O. This calculation should result in the amount necessary to cure any prepetition default on the note or mortgage that arises from the failure of the borrower to satisfy the amounts required under the Real Estate Settlement Practices Act (RESPA). The amount necessary to cure should include 1/6 of the anticipated annual charges against the escrow account or 2 months of the monthly pro rata installments due by the borrower as calculated under RESPA guidelines. The amount of the projected escrow shortage should be consistent with the escrow account statement attached to the Proof of Claim, as required by Rule 3001(c)(2)(C).”

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