

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
BENCH BAR RETREAT
OCTOBER 30, 2015
HOLIDAY INN INDEPENDENCE**

**CHAPTER 7 BEST PRACTICES
PREPARING FOR THE PERFECT 341 HEARING**

Mary K. Whitmer, Esq.
KOHMAN JACKSON & KRANTZ PLL
1375 E. 9th Street, 29th Floor
One Cleveland Center
Cleveland, Ohio 44114-1793
Direct Dial: (216) 736-7255
Telephone: (216) 696-8700
Telecopier: (216) 621-6536
Email: mkw@kjk.com

Marc P. Gertz, Esq.
GOLDMAN & ROSEN LTD.
11 South Forge Street
Akron Ohio 44304
Direct Dial: (330) 255-0727
Telephone: (330) 376-8336
Telecopier: (330) 376-2522
Email: mpgertz@goldman-rosen.com

Special thanks to Nicole Noll, who shared with us her wonderful script for preparing a debtor for his/her 341 hearing.

Nicole Noll, Esq.
Internal Auditor
Office of the Standing Chapter 13 Trustee, Faye D. English
One Columbus
10 West Broad Street, Suite 900
Columbus, Ohio 43215-3449
Telephone: 614-420-2555
Direct Fax: 614-420-2550

**United States Bankruptcy Court for the Northern District of Ohio
Bench Bar Retreat
October 30, 2015
Holiday Inn Independence**

Table of Contents

Checklist for 341 Meeting of Creditors	3
Nicole Noll's Wonderful Script to Prepare the Debtor(s) for the Perfect 341 Meeting of Creditors	4
Mary Whitmer's 341 Hearing Interview Sheet	8

**United States Bankruptcy Court for the Northern District of Ohio
Bench Bar Retreat
October 30, 2015
Holiday Inn Independence**

Checklist for 341 Meeting of Creditors

For the Attorney

Original and a copy of Petition and Schedules

Copy of Tax Return

Check current address of the debtor – same as in the petition?

Insure that the Debtor has the identification information.

For the Debtor

Date – time – place

- Make sure the debtor knows which address on the 341 notice is the right address – it is not the Trustee's office.
- Give them directions, a map, and identify any parking opportunities that might make it easier for the debtor to get to the 341 hearing on time.

Appearance/dress

Photo ID

Social Security card or equivalent

- Make sure the debtor can articulate what he is bringing, and that he has it in his possession and can, in fact, bring it

Documents to bring:

- Bank statements for the date of filing and for the three months prior to filing.
- Vehicle titles
- If there is a divorce, all of the domestic relations court orders
- If there is life insurance, the policies and any document that shows the beneficiary of the policy
- 401(k) or IRA statements
- If you have received a substantial sum of money, like a tax refund, and spent it, a list of what it was spent on, and receipts for significant expenditures
- If there is an obligation to pay alimony or child support, the name and address of the person to whom the support is paid.
- If there is a business, bank statements for the business for the last three months

341 Orientation

- Give the debtor a brief summary of what to expect
- See Nicole Noll's script.
- MKW Trustee Notes.

**United States Bankruptcy Court for the Northern District of Ohio
Bench Bar Retreat
October 30, 2015
Holiday Inn Independence**

Nicole Noll's Script for the Perfect 341 Meeting of Creditors

Here's my 341 script. I basically tell the debtor everything that a trustee asks in the exam – I just do it in order and show them their answers in the petition/schedules. I review the petition and schedules in the order in which they are filed. I will also tailor my script based on anything that may be asked or said particular to a certain trustee.

I show the debtor his/her/their answers as entered in the petition as per the testimony provided at the signing. When I train new attorneys to do this, they have an aversion to telling the debtor the answers in the petition – fearing they are coaching the debtor how to testify. I then have to explain to the new attorney that I am not coaching the debtor how to answer. Instead, I'm refreshing the debtor's recollection of previously provided testimony that the debtor already submitted to the court when the case was filed.

Before starting my script, I ask my debtor(s) for photo ID, SS card, and most recent bank statements. I should already have any MOTs or other docs at the top of my file ready to provide to the trustee. I also ask my debtor(s) to make certain their cell phone is off.

Basic Intro

Today you are going to have your meeting with your trustee. Your trustee is an attorney appointed by the court to review your case and see if there is any ability to pay creditors. She's going to ask you questions about your bankruptcy papers. All of the questions the trustee will ask you today are under oath, under penalty of perjury. **Most of the questions are yes or no questions. The trustee is looking for a yes or a no answer. If the question is more than a yes or no answer, then you want to make your answer short and to the point. The trustee does three of these hearings every half hour and is not looking for a long explanation.** There is a tape recorder to record all questions and answers. So you want to answer all questions loud and clear. (If there is more than one debtor, I remind them they both must answer each question.)

The trustee will swear you in. She will ask your name and age. She will ask if you reviewed all your paperwork before you signed it. She will ask if you listed everything that you own and everyone that you owe money to.

The trustee will ask if you are personally familiar with the information in the petition that was filed with the court – which you should be since you provided it to our office.

She will ask if you signed your petition in multiple places.

I will show you page three of your petition – she will ask if that is your signature and the date that you signed it.

I will show you the declaration of electronic filing – she will ask if that is your signature and the date you signed it.

She will ask if you received a written contract from my office to represent you in this case. That is the paperwork that you signed the first time you came in when we reviewed the chapter you are filing for and the fees for the case.

The trustee will ask if you paid the attorney for this case and how much.

The trustee will ask if you paid the filing fee of this case.

Schedule A

Trustee will ask if you own any real estate. Do you own a house or is your name on someone else's house.

You own the house on Main Street. You said it was worth \$100,000.00 and you owe \$150,000.00. *I provide them with the grand total of all mortgages and liens.*

Schedule B

The trustee will then ask about the things that you own that are not real estate.

When you filed your case, how much cash did you have that was not in the bank – you said \$5.00.

You have a checking and savings at PNC – you said, when you filed your case, there was \$500.00 in checking and \$500.00 in savings.

Do you have a security deposit with your landlord or do you rent from a friend/family member?

The trustee will ask if you have any:

Life Insurance on your life or anyone else's life?

Any Retirement accounts? You have retirement – a 401(k) with your current employer.

Any stocks or bonds that are not in a retirement account?

Any IRAs or annuities?

Do you own part of business?

Does anyone owe you any money, including any friends or family?

Are you owed any child support or alimony?

Do you have any claims where you are suing anyone for any reason or do you have any claims you can bring against someone else?
Have you settled any claims in the last 2 years?

Do you have a car?

You said you have a 2010 Toyota Corolla, worth about \$10,000.00 and you owe about \$7,000.00

Schedule E

Do you have a domestic support obligation, meaning do you have an order to pay someone else alimony or child support.

Schedule I

Are you leasing any items or property?

Schedule H

Do you have any co-signers or do you co-owe on any of your debts with someone else?

Schedule I

The trustee will ask your marital status and the number of dependents that you have.

The trustee is going to ask where you work, how often you get paid, and how much you bring home in a pay check.

The trustee will ask if you have any other sources of income. *I do review the basic info, but not the exact dollar amount listed for wage/other income. In my opinion, they better know how much they get in income without a refresher.*

SOFA

The trustee will ask if you paid any money to any friends or family in the last year.

The trustee will ask if you paid anyone you owe money to more than a regular monthly payment in the last 4 months.

The trustee will ask if you made any late payments, double payments, or catch-up payments on any of your bills in the 4 months.

Did you have any repossessions or foreclosures in the last year?

Did you make any gift to friends/family or church/charity in the last year?

Did you have any losses from fire, theft, accident, or gambling in the last year?

Have you sold, transferred, or giving anything away in the last 4 years?

Have you closed out or cashed out any accounts in the last year?

Do you have a safe deposit box in your name or anyone else's?

Have you inherited any money or property in the last 2 years?

The trustee will ask if you ever filed for bankruptcy before. The trustee will also ask why did you have to file this bankruptcy. For most people it's loss of job, loss of hours, or medical reasons. Do any of those apply to you?

If yes, what is the biggest reason. If no, then what the trustee wants to know is what happened that caused you to get behind on your bills.

MARY WHITMER'S 341 HEARING INTERVIEW SHEET

Disposition

Tax Return	Support Obligations _____
Held & Concluded	NDR _____ Asset _____
Held & Con't to _____ Documents Required:	Not Held: Con't to _____ Requires Full Examination _____ Debtor///Attorney did not appear No social security card///driver's license No tax returns Other

ASSETS IDENTIFIED FOR ADMINISTRATION:

Examination

Case No.	Debtor
Swear In	I have viewed the [identification] and they match the information on the bankruptcy filing – Return to Debtor.

State your name for the record. Do you still live at the address on the petition?

Single__ Married__ Separated__ Divorced __ Widowed__ Children _____

Who lives with you? Spouse ____ Children ____ Other _____

Do you have any alimony or support obligations? Yes__ No__

Yes	No	Have you read the Bankruptcy Information Sheet provided by the United States Trustee?
Yes	No	Did you sign the petition, schedules, statements and related documents you filed with the court? Did you read these documents before you signed and is the signature your own?
Yes	No	To the best of your knowledge, is the information contained in your bankruptcy filing true and correct?
Yes	No	Was all of the information filled in when you signed the petition?
Yes	No	Are there any errors or omissions to bring to my attention?
Yes	No	Are all of your assets and debts identified on the schedules?
Yes	No	Have you filed previously filed bankruptcy? [Year: ____] Ch:____ Where? _____ [Discharge Obtained? ____].

MARY WHITMER'S 341 HEARING INTERVIEW SHEET

		What is the reason for this bankruptcy?
Debtor 1 Age _____		Debtor 2 Age _____
Occupation: _____		Occupation: _____
Employer _____		Employer _____
Employer Address: _____		Employer Address _____
Pay/Other Income _____/hr		Pay/Other Income _____/hr
Salary: _____		Salary: _____
Yes	No	Other sources of income
Yes	No	Have you ever been in business for yourself? (Nature, location, assets, records, type of entity, closed? Why? Dates of operation, disposition of assets, including receivables).
Yes	No	Have you had an interest in a corporation, LLC, or partnership in the last 4 years?

REAL ESTATE

RESIDENCE – VALUE TO THE ESTATE:

Yes	No	Buy or own real estate now or ever?
Yes	No	Any ownership of real estate through a trust?
RENTERS		
Yes	No	Do you rent from a third party? ____ Yes ____ No
Amount of Rent \$ _____		
Titled		Keep ____ Surrender ____
		Payment current ____ Last Payment _____
Underwater?		Purchase Price _____ Year Purchased _____

PARCEL 2 - VALUE TO THE ESTATE:

Titled		Keep ____ Surrender ____
		Payment current ____ Last Payment _____
Underwater?		Purchase Price _____ Year Purchased _____
Other Disposition		

Seizures/Transfers

Yes	No	Have there been any garnishments, bank attachments, liens or repossessions in the past 4 months?
Yes	No	Have you sold, transferred or given away property in the last 4 years of \$1,000 or more?

MARY WHITMER'S 341 HEARING INTERVIEW SHEET

Yes	No	Have any creditors been paid more than \$600 in the last 4 months, not including regular payments?
Yes	No	Have you given anything to relatives or repaid relatives in the past year
Yes	No	Have you sued anyone in the last 4 years?
Yes	No	Any claims you may have that you may bring against others in the future? Any unsettled claims with insurance companies where they owe you money?
Yes	No	Tax Refund last year? How much?_____ Joint return? _____ DO NOT SPEND YOUR TAX REFUND WITHOUT TRUSTEE APPROVAL
Yes	No	Did you buy or cash in stocks, bonds, mutual funds, certificates of deposit in the last 2 years? Is your name on any stock or bond, even as a matter of convenience?
Yes	No	Did anyone die and leave you an inheritance in the last 2 years?
Yes	No	Any life insurance other than through work?

Automobiles

Yes	No	Any titled automobiles, trucks, boats, trailers, mobile homes, motorcycles?		
VEHICLE 1				
Titled:		Year	Make	Model
Miles		Purch Date: _____ Purch Price _____		
(A)3 Claimed _____		Underwater? _____ Equity		
(A)18 Claimed _____				
VEHICLE 2:				
Titled:		Year	Make	Model
Miles		Purch Date: _____ Purch Price _____		
(A)3 Claimed _____		Underwater? _____ Equity		
(A)18 Claimed _____				

Bank Statements

Yes	No	Any bank accounts, credit union accounts? How many? _____
Yes	No	Is your name on any bank account, such as for your child or parent, even as a matter of convenience?
BANK STATEMENT #		Checking/Savings
Amt/DOF		Review for odd transactions
BANK STATEMENT #2		Checking/Savings
Amt/DOF _____		Review for odd transactions
BANK STATEMENT #3		Checking/Savings
Amt/DOF _____		Review for odd transactions

MARY WHITMER'S 341 HEARING INTERVIEW SHEET

Other

Yes	No	Do you have a safe deposit box or a self-storage unit?
Yes	No	Any antiques, sporting goods, hobby equipment, fishing, camping, tools, guns cameras, jewelry over \$200?
Yes	No	Does anyone owe you money? Do you have any assets of any nature that are not disclosed on your petition?
Yes	No	Have you purchased any single item for more than \$2500 in past year?
Yes	No	Have you sold anything online such as on eBay in the last year?

NOTES: