

BENCH WARRANTS

When appropriate, the Court will issue a Bench Warrant directed to the United States Marshal Service (USMS) directing it to bring a party who has failed to comply with a court order (hereafter “non-respondent”) before the Court to show cause why the Court should not find the non-respondent in contempt. Bench Warrants are usually only granted after the non-respondent has had significant notice of the existence of the order requiring action.

Processing Bench Warrants takes valuable time from other important USMS business. The Court is aware that during execution of a Bench Warrant the non-respondent will sometimes claim that the non-respondent has, in fact, complied, or that additional time is needed to comply. **It is beyond the scope of the USMS’s role to evaluate such claims, and the Court directs the USMS to proceed to execute the Bench Warrant, leaving the task of determining whether compliance has occurred to the Court.** This should be communicated to non-respondents by their counsel.

Bench Warrant Process

The Court, the Clerk’s Office, and the USMS will in most cases follow the following process:

1. Bench Warrants are usually approved by the Court at a hearing. The party requesting the Bench Warrant (trustee/counsel) is responsible for preparing and submitting the proposed Bench Warrant Order to the Court.
2. The Clerk’s Office will provide USMS with a copy of the signed Bench Warrant Order.
3. The non-respondent will be detained by USMS pending an appearance before the Bankruptcy Judge.
4. If a non-respondent is apprehended by the USMS for purpose of forcing non-respondent to appear at a show-cause hearing: the USMS is not responsible for providing return transportation to the non-respondent; the Court may award costs to the USMS for its time and expenses incurred in processing the warrant; costs awarded against a non-respondent debtor will normally need to be paid by the debtor in order to receive or retain debtor’s discharge.