

# To Discharge Or Not To Discharge?

As we “celebrate” the one-year anniversary of BAPCPA’s effective date, I am fixated on a problem that faces all bankruptcy practitioners – the §1328(f) mystery. What exactly does §1328(f) mean? Reader, I challenge you to figure it out. §1328(f) states the following:

Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge –

- (1) in a case filed under Chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this Chapter, or
- (2) in a case filed under Chapter 13 of this title during the 2-year period preceding the date of such order.

So when can a debtor receive a discharge? Are we to count from filing date to filing date or from discharge date to filing date? I could make a straight-faced argument that we should count from discharge date to filing date. One could argue that if the discharge was received during the four (or two) year period preceding the subsequent filing, then the debtor is not eligible for another discharge. The event that starts the clock is not the filing of the prior case, but instead, the granting of the discharge. This is just one unanswered question generated by this provision. Notably, the U. S. Trustee Program published their interpretation of §1328(f) on their website under the “Frequently Asked Question” section. The UST’s answer is that filing date to filing date is the relevant time period.

What if the case was converted from a 13 to a 7? Should additional procedures be used to determine discharge eligibility? Since the statute outlines the discharge qualifications, is an adversary proceeding necessary? Although we would like to avoid the mental gymnastics caused by interpreting this sentence, we can no longer ignore the conundrum created by §1328(f).

Fortunately, we have been given some direction from the courts. A recent decision, *In Re: McKittrick*, 2006 WL 2589377, (Bankr.

W.D. Wis. 2006), dealt with the newly amended section 727(a)(8). While this article will focus on §1328(f), I thought this opinion was relevant and worthy of discussion. The United States Trustee for this region, William T. Neary, filed an adversary complaint to determine the debtor’s eligibility for a discharge. The debtor filed a Chapter 7 on October 19, 1998, and she received her discharge on January 27, 1999. She later filed another

Chapter 7 on January 19, 2006. When she filed her first Chapter 7, the time between Chapter 7 discharges was six years.

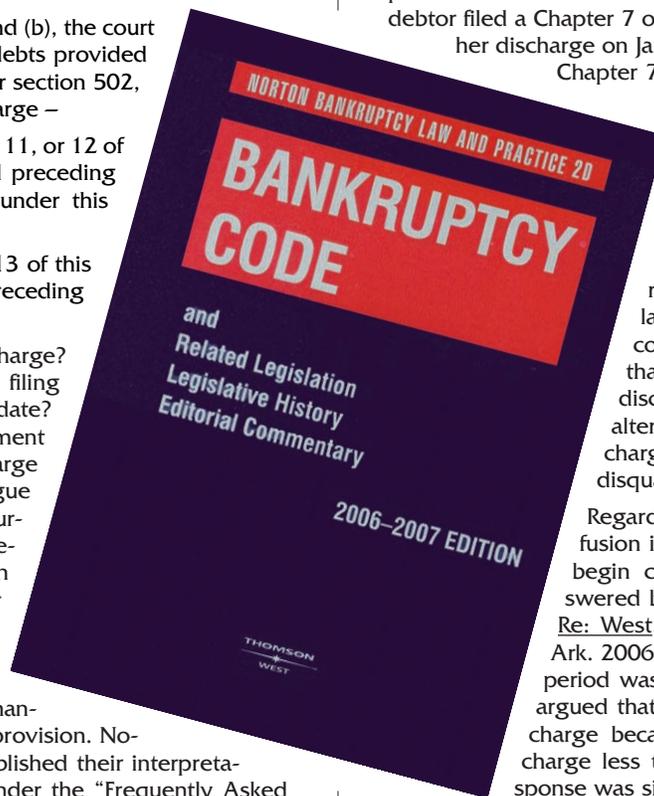
As we all know, BAPCPA extended the time to eight years, and this provision was in effect when the debtor filed her second case. She argued that BAPCPA could not be applied to her retroactively, and to do so would violate her right to file for bankruptcy. The court rejected this argument and found that the debtor does not have a right to a discharge. *Id.* at 4. Congress is free to alter the debtor’s ability to receive a discharge, even if prior conduct is a basis for disqualification.

Regarding §1328(f), my primary point of confusion is determining which event should we begin counting. This concern has been answered by an Arkansas bankruptcy court. In *In Re: West*, 2006 WL 2872275, \*5, (Bankr. E.D. Ark. 2006), the court held that the relevant time period was filing date to filing date. The trustee argued that the debtor was not eligible for a discharge because she received a Chapter 13 discharge less than two years ago. The debtor’s response was simple – the case that resulted in a discharge was filed in 2001, so, therefore, she is entitled

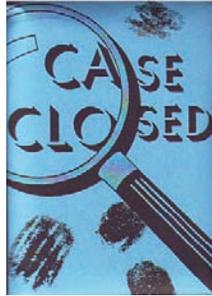
to a discharge. The court agreed with the debtor. The court found that the plain reading of the statute and the legislative history supported the debtor’s interpretation. *Id.*

Another one of my issues was addressed in *In Re: Capers*, 347 B.R. 169, Bankr. D. S. C. 2006). The debtor filed a Chapter 13 less than four years prior to the filing of her current Chapter 13. She later converted her Chapter 13 to a Chapter 7, which resulted in a discharge. The United States Trustee filed a complaint to deny the debtor’s discharge. The trustee asserted that the prior case

(Continued on page 2.)



### Financial Smooth Case Closing Is On The Way



The Marshall's Office is preparing for the Midterm Audit. The Midterm Audit is a process where cases will be audited mid-way through the life of the case. For example, after the post confirmation review audit, if the case was confirmed for 60 months, the Trustee will audit the case at the 28th-30th month. If the case was confirmed for 36 months, the Trustee will audit the case at the 16th-18th month.

Many may say "that office has too many procedures in place before a case closes." The Midterm Audit will allow the cases to close smoothly in the end. If you have read previous Marshall Chronicle articles written by the Financial Department, you have a basic understanding of what kind of problems could occur. Many of the problems that were found at the end of a case will now be found in the middle of a case. This procedure will allow the Trustee to resolve all issues before the completion of payments.

The Midterm Audit is a procedure that will help the Trustee to administer the cases according to the bankruptcy code as amended by BAPCPA. As the Marshall says "there are procedures in place and they must be followed."

Santricia Mack

### To Discharge Or Not To Discharge

(Continued from page 1.)



should be treated as though it had originally been filed as a Chapter 7. Accordingly, the debtor would be ineligible for a discharge because the Chapter 7 was filed less than four years ago. The trustee believed that the policy behind and plain language of §1328(f) supported the denial of the discharge. The debtor disagreed and relied on the "filed under" language in the statute. The court rejected the debtor's interpretation after examining the legislative history and the practical effects of converting cases.

First, the court concluded that the legislative history conflicts with the debtor's argument. *Id.* at 172. In addition, the debtor's interpretation could lead to the filing and subsequent conversion of cases for the purpose of avoiding §1328(f)'s application. Furthermore, the court found that section 348(a) stands for the notion that converted cases "are deemed to be filed under the chapter to which the case is converted." *Id.* at 171. The court also considered the harsh result for a hypothetical debtor who converted from a 7 to a 13. That debtor would have to wait four years before receiving a discharge despite having successfully completed the plan. A debtor in that position should not have to wait two years longer than a debtor who originally filed a Chapter 13. The court found that this was not Congress' intended result and found that the debtor was not eligible for a discharge. *Id.* at 173.

Undoubtedly, these issues soon will surface locally as we all grapple with this new code. Hopefully, the courts in this district will interpret §1328(f) uniformly and the answers will be the same in all courtrooms. Could you imagine what would happen if all of our judges did not agree? I guess that's one more concern spawned by the §1328 mystery.

Keisha Hooks

| THE MARSHALL CHRONICLES   |                     |
|---|---------------------|
| <b>The Editorial Staff:</b><br>Cheryl Jones, Joanne Coshonis, Shanika Thomas, HVB and Dave Latz.  |                     |
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| ✓ dropping your submission or idea in the anonymous newsletter folder located in the mail room, or  |                     |
| ✓ leaving them with Dave Latz   |                     |
| Please remember when making a submission to the newsletter, it must be:   |                     |
| ✓ type-written and  |                     |
| ✓ submitted by the first Wednesday of the month via e-mail, a Word document or an ASCII file.   |                     |
| We also ask that anyone who attends a seminar please be prepared to furnish the committee with a detailed article on its subject.   |                     |
| You may also view this edition of THE MARSHALL CHRONICLES, as well as all the previously published issues, on the Chapter 13 Trustee website at <a href="http://www.chicago13.com/">http://www.chicago13.com/</a> . |                     |

### Inquiring Minds

*If a case has a status of Confirmation Denied, is the creditor still required to honor the automatic stay?*



Yes. The automatic stay is a creature created by the code that lasts until it stops. For a creditor to get "relief" from the stay, they must get a Court Order letting them go forward. Stay relief is found under a specific section of the bankruptcy code. The dismissal of a case also causes the stay protection to stop.

When confirmation of a case is denied, that just means that the plan proposed by the debtor does not meet confirmation guidelines and that the debtor must take some further action to try and get her case confirmed. Confirmation is basically the blessing of the Judge that the debtor is doing her best to repay creditors and has met all the bankruptcy code requirements. Confirmation denial does not in itself affect the stay, but, if the debtor does not take some further action, can lead to the dismissal of the case.

Anthony Olivadoti

**Trustee Matters**  
**State Of The Trusteeship**  
**Year Ending September 30, 2006**



Oh, what a year! Seventeen days after the new fiscal year began the Bankruptcy Abuse Prevention Consumer Protection Act (BAPCPA) was implemented. Although we began preparation in April, 2005, for the implementation of the new reform act, on day one, we discovered that our office had to make adjustments in process and procedures as a result of the new law. We discovered that practice does not always make perfect. I am happy to report that one year later, we are almost there and we are getting the job done.

We started roundtable discussion with the bar on November 17, 2005, and continued the sessions every 4th Thursday of the month until March, 2006. The practical guide "BAPCPA Unraveled," printed to help bankruptcy professionals understand how to make Chapter 13 work under BAPCPA, proved helpful to many. We went from discussing the 20 most common errors discovered in filings to how to fix the three most common errors. For six months, we discussed the new requirements BAPCPA imposed on the Trustee office, the bar, and on the debtor at filings, at the §341 meeting, at confirmation and at discharge. Before the sessions ended, we had covered emerging case law, how to obtain tax returns and sixty days of payment advices, demonstrated how to properly complete Form B22C, how to make sure adequate protection payments were made, questions on whether to defend or not to defend extending the automatic stay, how and who to notify of a Domestic Support Obligation and making sure set payments were checked and an amount placed in E3 of the Model Plan.

We ended FY 06 with 6,750 cases and will begin FY 2007 with the same number. This represents a 9.3% decrease in total caseload from FY 05. New petitions filed totaled 2,715, a 37% decrease from last year's new filings. We received plan payments which totaled \$61,122,138, a 2% increase over last year. We processed \$5,406,852 in debtor refunds, which is a 23% increase from the number of refunds in FY 05. Disbursements to creditors were \$55,931,763, a 2% decrease over last year. Receipts were up, but disbursements were down. Our average plan payment in FY 06 was higher than the average plan payment in FY 05. It appears that receipts were up because more debtors included the current mortgage payment in the plan. Refunds were up because more debtors filed Motions to Sale/Refinance their homes in FY 06.

As of September 30, 2006, there are 27 full-time employees and zero part-time employee employed with the trusteeship. Salary increases were issued on October 11, 2006, based upon merit. Of our 27 full-time employees, 19% received 7.4% increases, 56% received 3.7% increases, 15% received 1.85% and 11% must improve their performance in order to receive an increase. Again, the recommended performance evaluations from Organizational Diagnostics were used for evaluations. Each Manager was required to meet with the Controller to review the dimensions and submit documentation on each employee prior to determining and reviewing the final score with the employee. Since training is an important role in performance evaluations and the ability to

perform the task assigned in an effective and efficient manner is important, we are committed to providing training to our employees so that each are prepared to accept the challenges of the position. In FY 06, 17 employees attended the NACTT Staff Symposium training held in Chicago and four employees accompanied the Trustee in the NACTT annual meeting in Denver. Since training is an integral part of staff development, we have budgeted 20 employees to attend the Staff Symposium training in St. Louis in FY 07. It is my goal to make sure everyone in the office has the opportunity to participate in off-site training. We will continue training staff in-house. The Managers are meeting with their staff the week before the monthly Staff meeting to address training issues and brainstorm on improving procedures. The Systems department will continue to schedule the 2nd Friday of each month as office training. Our Management team has provided the Trustee with their departmental goals and objectives for FY 07 and the Trustee has moved to make sure resources are available and planning is in place to meet the goals for FY 07. The Trustee's goals have not changed and I will continue to keep the staff motivated, challenged and committed to the trusteeship. "Behind every good Trustee is an even better staff."

We appear before Judges Hollis (2,220), Doyle (2,174), Goldgar (1,218) and Squires (1,138). These are some of the published opinions issued by the Bankruptcy Judges during FY 06.

**Summary of Opinions Rendered in FY 06:**

| Judge  | Case Name/No   | Summary of Opinions   |
|--------|--|---|
| Hollis | In Re:<br>Georgia Davis Henry<br>01 B 19852<br>June 12, 2006 | Chapter 13 Trustee moved to dismiss case where debtor would have to continue to make payments beyond 5 years in order to complete her plan. Held: Although the court cannot confirm or modify a plan that would extend beyond 5 years, the fact that payments will be made for more than 5 years does not per se require dismissal under 1307(c). With that in mind, the court considered the particular factual circumstances and determined that cause for dismissal did not exist under 1307(c). Motion to dismiss denied. |
| Doyle  | In Re:<br>Laverne Mangum<br>04 B 41017<br>May 18, 2006       | Debtors can pay off their plans early and do not have to pay unsecured creditors in full. The sale of real property does not have to be addressed in a confirmed plan and any proceeds derived from a sale don't have to be included in the plan.   |

Both of the cases listed above have been appealed to the District Court. Status hearings are pending.

The Trustee held 2,424 creditor meetings. Debtors failed to appear for their meetings of creditors in 513 instances. We filed 2,223 motions to dismiss for material default. Of those, 1,211 resulted in the case being dismissed, 7 were denied, 13 are still pending and 992 were withdrawn by the Trustee. Even with the new filing requirements, we were able to guide 2,018 cases suc-

*(Continued on page 4.)*

**Trustee Matters** *(Continued from page 3.)*

cessfully through the confirmation process. As for the rest, 109 cases are still hung up in the confirmation process, 367 cases never made it to confirmation and in 357 cases confirmation was denied. Based upon information tracked on the B22C form 1,160 debtors were under median income, 514 were above median income, and 392 did not file a B22C so the income status was undetermined.

We set 773 motions to dismiss on cases failing to comply with confirmation requirements. Of those, 414 motions were eventually withdrawn and 359 led to the dismissal of the case. We set 131 motions to dismiss for not filing documents timely. Of those motions set, 62 cases were dismissed, 4 cases dismissed with a 180 day bar, and the remaining 65 motions withdrawn. We dismissed and barred 11 abusive filings. Since BAPCPA, there were 322 motions to extend stay filed. Judge Doyle denied 11 motions and granted 81 motions and 1 was withdrawn. Judge Goldgar denied 18 and granted 53. Judge Hollis denied 21 and granted 85 with 2 withdrawn. Judge Squires denied 13 and granted 35 with 2 withdrawn.

Our civil enforcement efforts this fiscal year included a sanctions award against Bill Foster of Florida for \$500, a recovery of \$2,125 for the victimized debtor and damages totaling \$3,000. We also sanctioned and recovered funds from an abusive repeat filer and were able to pay \$658 in unpaid filing fees, and collected \$6,000 in sanctions. We collected a total of \$10,351 and it went into the Budget as "Other Revenue." The procedures we implemented in FY 03 with Civil Enforcement have proven successful in FY 06. We are able to identify petitions filed by petition preparers on the front-end. Therefore, when we question the debtor at the §341 meeting, we are prepared and know which questions we need to ask the debtor. There is no delay in moving to dismiss these cases if the documents are not filed and the petition preparer was not identified on the petition. We will not change our strategy, but continue to mirror our Civil Enforcement efforts after the UST's office.

Customer service and communication remains a priority. The Office of the Chapter 13 is committed to providing the highest quality of service to our customers. During the year we changed our procedures for requesting payoff requests. We have heard the arguments and discussions of the bar, bench, and other interested parties and have changed our payoff procedure again. We will provide a payoff excluding the mortgage arrears upon request. However, because of the volume of requests, the case will not be audited until the loan is funded and the funds have been posted and distributed to the remaining creditors. My ears are always open to hear what we can do to improve service to the bankruptcy community. We are working to improve some procedures and other processes we discovered are working will not change. I still believe that communication helps to foster better relationships.

The Employee Recognition Committee did not sponsor its summer event this year because we were swamped with changes in the petition and claims entry department. It was all work and no play. Once we master the new process and procedures, we will look forward to an event to relax and reflect on our accomplishments. We will continue to have work-related social activities to promote a wholesome working environment, however, now is just not the time. Hats off again to the Newsletter Committee who worked diligently this year to keep the staff informed and entertained. We changed editors once again, but never underestimate the power of the press; the committee kept rolling. Our commitment to remain active and involved with the U. S. Trustee's office, the Judges liaison committee, the clerk, the debtor and creditor bar and to better serve the debtors will continue.

The trusteeship will move forward, promote and show respect for the law, accept the challenges ahead and strive toward excellence. Each year it gets better. This year was no different. This, too was, a good year. Next year will be even better. The answer to the question remains the same. Am I pleased? "Yes."

**Summary  
End of Fiscal Year 2006**

|   |              |
|---|--------------|
| Receipts.....   | \$61,122,138 |
| Refunds.....  | \$5,406,852  |
| Disbursements.....                                      | \$55,931,763 |
| Number of Cases Beginning of Year.....                  | 7,445        |
| Number of Cases Filed in FY 06.....                     | 2,715        |
| Number of Cases Reopened.....                           | 139          |
| Number of Cases Reopened Because of Transfers.....      | 50           |
| Adjustments During the Fiscal Year:                     |              |
| Conversions To Another Chapter (Pre-Confirmation).....  | 72           |
| Conversions To Another Chapter (Post-Confirmation)..... | 195          |
| Dismissals Pre-Confirmation.....                        | 697          |
| Dismissals Post-Confirmation.....                       | 1,433        |
| Conversions From Another Chapter.....                   | 79           |
| All Other Adjustments.....                              | 7            |
| Number of Cases Completed.....                          | 1,171        |
| Number of Hardship Discharges.....                      | 3            |
| Total Cases at End of Year.....                         | 6,750        |
| Number of Cases Greater Than 60 Months.....             | 40           |
| Number of Full Time Employees.....                      | 27           |
| Operating Expenses.....                                 | \$2,793,922  |
| Trustee Fee at End of Year.....                         | 5%           |

**Summary  
End of Fiscal Year 2005**

|   |              |
|---|--------------|
| Receipts.....   | \$59,704,396 |
| Refunds.....  | \$4,410,069  |
| Disbursements.....                                      | \$57,063,063 |
| Number of Cases Beginning of Year.....                  | 7,768        |
| Number of Cases Filed in FY 05.....                     | 4,310        |
| Number of Cases Reopened.....                           | 84           |
| Number of Cases Reopened Because of Transfers.....      | 40           |
| Adjustments During the Fiscal Year:                     |              |
| Conversions To Another Chapter (Pre-Confirmation).....  | 76           |
| Conversions To Another Chapter (Post-Confirmation)..... | 241          |
| Dismissals Pre-Confirmation.....                        | 1,131        |
| Dismissals Post-Confirmation.....                       | 2,022        |
| Conversions From Another Chapter.....                   | 59           |
| All Other Adjustments.....                              | 11           |
| Number of Cases Completed.....                          | 1,251        |
| Number of Hardship Discharges.....                      | 4            |
| Total Cases at End of Year.....                         | 7,445        |
| Number of Cases Greater Than 60 Months.....             | 39           |
| Number of Full Time Employees.....                      | 30           |
| Operating Expenses.....                                 | \$2,870,298  |
| Trustee Fee at End of Year.....                         | 3%           |

*Marilyn O. Marshall, Standing Trustee*

## Case Confirmation Docketing And Corrective Entries



### What happens if a document is filed in error?

Most errors will be immediately posted through the real time electronic notices, making deletions or correction of entries to the docket and related to the case. CM/ECF allows court personnel to edit errors made in the docket entry. Besides making the appropriate corrections, the court may need to ask participants to submit amended pleadings. Instances that affect calendar entries and noticing will need to be redocketed. The Court clerks are choosing not to edit the docket entry and use a “corrective entry” event, which officially records substantive errors on the docket sheet and will generate a Notice of Electronic Filing. This allows the distribution of the correct information to the participants who originally received the erroneous information.

Example:

**Docket Text:** CORRECTIVE ENTRY INCORRECT EVENT ENTERED, FILER NOTIFIED TO REFILE (RE: [10] Schedules.). (Sims, Mildred)

### Deficiencies and Errors in Filings

It is important that all deficiencies and corrective documents and filings are reported and filed in a timely manner. Many times the deficiencies and incomplete filings or errors are not cured by their assigned due date which results in a second deficiency or incomplete filing being issued, a hearing being set, or a delay in the issuance of a discharge or conversion of a case.

To avoid these problems, please review all documents before filing to make sure:

- ✓ The filing is in the correct case.
- ✓ The correct Motion or event is selected (follow all instructions given at the time of filing).
- ✓ All attachments are present such as Orders.
- ✓ If schedules and/or statement of financial affairs and any other documents that are amended – a signed and dated declaration is included.

Once a corrective entry is filed in a case we will receive the entry from our ECF mail server. I recently had an incident where a Debtor’s attorney filed a Notice to Convert a case and a corrective docket entry posted four days later after I docketed the case converted which caused our auditing department to begin the process of closing the case. When the audit department contacted the clerk’s office, they were informed that the case was not converted. Subsequently, the Debtor’s attorney did call as well and informed our staff attorney of the mistake. The paralegals in our office receive many e-mails every day from court and it is important to review the corrective entries as well as all documents filed. If an order or documents or motion was filed incorrectly, it may affect processing or procedures that have already been initiated before a corrected entry is filed. In order to check these entries, I place all the corrective entries in a separate folder from the e-mails and review them at the end of each week to make sure that errors or corrective/redocketed events were not made in any cases assigned to my specific judge.

Documents filed incorrectly should be reported to the Case Management (CA) Team at the Bankruptcy Court for the Northern District of Illinois.

Case managers are responsible for managing a case from beginning to end. There are five case management teams in the Eastern Division. The work is assigned/distributed to the teams according to the last digit of the bankruptcy case number.

**Team A** - all cases ending in **1** and **2** - (312) 435-5681

**Team B** - all cases ending in **3** and **4** - (312) 435-5597

**Team C** - all cases ending in **5** and **6** - (312) 435-5682

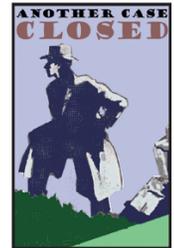
**Team D** - all cases ending in **7** and **8** - (312) 435-6882

**Team E** - all cases ending in **9** and **0** - (312) 435-6866

*Carolyn Donahue*

## Information Services

### Closing In On The Closing Process



Closing Specialist Mark Caffarini acted as a “subject matter expert” in a recent meeting with Managing Attorney Anthony Olivadoti, Controller Dan Lyons and me. We wanted to pick Mark’s brain to get insight into what he’s looking for to get a case ready for closing. As we prepare to close our first case under BAPCPA, we took this opportunity to review the whole process.

The closing jobs involved include the final audit job, the mortgage letter job, the completion report job, the notice of discharge job, and the final report job.

Under the new law, some debtors may not be eligible for a discharge. At the beginning of a case, our office will be setting a new motion “Motion to Deem Ineligible.” As a result of this motion, our staff attorney will indicate the discharge eligibility on the Required Docs tab. We will also be creating a new letter mailed to the debtors at the end of the case outlining the things we still need to complete their case. This letter will include a DSO affidavit that the debtor will sign and return to us to affirm they are current with their domestic support obligations.

The closing department will be reviewing these requirements as well as verifying that all plan payments are complete. They will have two new docket results to notify the clerk’s office that this review is done. They are under the closing docket and are “Notify Clerk payments complete/DSO cert” and “Notified Clerk payment complete-ineligible.” On BAPCPA cases, we will no longer tell the Clerk to discharge the debtor. The Clerk’s office will do this upon receiving our notification and after they have determined that the Debtor Education course has been completed.

*Sandra Pillar*

## Internet Tidbit

Anytime you need to write a paper, memo, report, or letter, there is the chance that you will overuse some jargon or become repetitive or redundant. To help prevent this, visit [Wordcounter.com](http://Wordcounter.com). Here you are able to enter the body of your text and it will analyze it for you. It ranks the most frequently used words in your text, giving you a good idea if you are repeating words too often.

## Legal Where It All Started

Last month I took my first trip to Washington, DC. As an attorney, my livelihood has its roots based in that far-away place where it all started. Well, ok, it didn't really all start there, but DC is still a fun place to visit.

I decided ahead of time, that upon arriving, I was going to be the ultimate tourist. On our first day we took a walk over to see the White House. To me it was the jewel of the area, all lit up and glowing in the dusk sky. We had tickets to tour it later but just seeing it from the outside was quite inspirational.

The next leg of our trip included an elevator ride up into the top of the Washington Monument. The view from the top cannot be beat.

We walked to the World War II Memorial. Though all the memorials are solemn, the WWII memorial had special meaning to me because my father fought in the war and my uncle passed away in service to his country.

Next, we meandered down the mall to the Lincoln Memorial, stopping by the Korean Memorial and the Vietnam Memorial. After lunch we visited the Holocaust Museum.

That night, we did another guided tour of DC at night that included a visit to the Capitol building, the Roosevelt Memorial, the Jefferson Memorial, the Lincoln, Korean and Vietnam Memorials all lit up, and finally the Marine's Memorial in Arlington.

Our days were filled with visits to the Smithsonian and lunch on the river by the Watergate Hotel and the Kennedy Center. We enjoyed our tour of the White House and the Capitol Building.

The weather was perfect the entire time and I was able to walk for miles checking out Embassy Row and DuPont Circle. We also saw where President Lincoln was shot and the room where he died.

The only event we missed was a breakfast with Senators Obama and Durbin. I didn't realize that Senator Obama had just co-sponsored the bill to protect tithing that morning and I would have loved an opportunity to ask him to include in that modification some language indicating that three years means three years, not the equivalent of three years.

My trip was filled with history, reverence and good food. I will definitely return to DC again. A special thanks goes out to Congressman Rahm Emanuel's office for all their hospitality.

Also, if you ever go to DC, the restaurants are fabulous. Be sure to try Oceanaire, Zengo, Rosa Mexicano and TenPenh. TenPenh has the best Gin Rickshaw martinis. Just tell the guys at the bar we sent you, they'll treat you right.

*Anthony Olivadoti*



## 20 Questions For: Catherine Mendoza

*Office Title:* Paralegal II.

*If you could have named yourself, how would your name appear on your birth certificate? Take out the middle name (Guadalupe).*

*If you could build a house anywhere in the U.S., where would it be? Maui, Hawaii.*

*When you were a kid, what profession or job did you want to have when you grew up? I always wanted to be a umpire for baseball. My father discouraged me, saying that only men were umps.*

*If they made a movie about your life, what current actor/actress would play you? Kathy Bates (she can be funny and serious, plus we're about the same size, (HAHAHA!))*

*What is your least favorite household chore? Can't give you any one specific, but washing dishes has to be top of the list.*

*What are your favorite books? Reading mysteries and biographies.*

*If you could bring anything back from your childhood, excluding people, what would it be? My portable record player w/records of course (looks like a suitcase).*

*When you were growing up what was your favorite...*

*Hair style/haircut? Always short (never had the patience to grow it long).*

*Cartoon? Tom and Jerry.*

*Cereal? Cap'n Crunch.*

*Sport? Baseball and football.*

*Subject in school? Biology (I liked dissecting the frog and pig).*

*Author? David Morrell.*

*Singing group? Men at Work, Michael Jackson, Cyndi Lauper, Led Zeppelin, Rolling Stones, The Who, etc.*

*Video game? Centipede.*

*Family outing? Going to Indiana to visit family – thinking I was traveling so far...*

*Movie? Weird Science – “give me the keys, Lisa!”*

*If you wanted to be cool: You needed a Coach wallet or purse.*

*I always wanted: To party (with good friends after school).*

*Now that I'm older I wish: I could still party as hard as I did back then...oh well...*



## November Birthdays, Anniversaries, And Other Notable Events

Happy 8th Anniversary to **Lavone Kizer-Merritt** on November 2nd!

Happy Birthday to **Laura Mendoza** on November 3rd!

Happy 3rd Anniversary to **Dan Lyons** on November 3rd!

**All Staff Meeting** on November 3rd.

Happy Birthday to **Catherine Mendoza** on November 7th!

**General Election Day** on November 7th.



Happy 8th Anniversary to **Mark Caffarini** on November 9th!

**Veterans Day** on November 11th.

**Great American Smokeout** on November 16th.

Happy 6th Anniversary to **Cheryl Jones** on November 20th!

**Thanksgiving Day Holidays** on November 23rd and 24th.



### Does Anybody Really Know What Time It Is?

If you're like me (and I'm not saying you are), you just hate it when you misplace something. That can be so infuriating.

Just as an example, early last April, I lost an hour from my day. I woke up one Sunday morning, and discovered that my day had only 23 hours in it. On top of that, I lost

nearly another hour, looking all over the apartment for the missing one.

Sometimes I absentmindedly set things down where they don't belong, or accidentally put too many things away, like that time I found one of the cats in the refrigerator about an hour after I had fed them. I'm still not sure how that happened. To this day, old Bucky seems a bit cautious around me at feeding time.

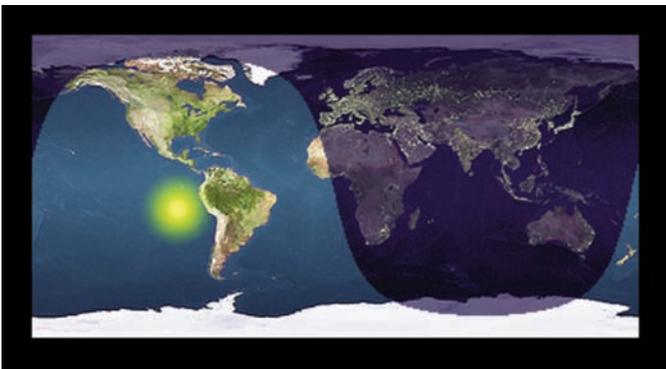
But anyway, back to the story, the missing hour was nowhere to be found that April morning. The funny thing is, though, long after I had given up on it, the darned thing turned up this past weekend. Better late than never, I guess.

Actually, I'm not that big an idiot. I understand the concept of Daylight Saving Time. I'm a kidder. I was pulling your leg. Does it hurt?

No, I'm not that stupid. But I'll tell you what is stupid: Daylight Saving Time. Is anybody fooled by this re-setting of the clocks? If you get an extra hour of light at one end of the day, and an extra hour of darkness at the other, that helps you how, exactly?

To state the obvious: DST saves exactly zero daylight. Twice a year we make a ritual of screwing up our circadian rhythms so we can pretend (in summer) that we are wringing more photons out of the sun than are actually available. If we could actually do that, wouldn't it make more sense to do it in winter?

I have a widget on my computer called Sunlit Earth. At any moment it shows where on the map the sun is directly overhead, and the portions of the planet that are in daylight and nightshade. Between the autumnal equinox and the winter solstice, you can see the gradual change in the distribution of light, as the sun moves south and more of the northern hemisphere falls into shadow. Whenever I start feeling too perky during these dark months, I take a look at the Sunlit Earth, and it flattens my mood right out.



Anyway, my point is that it's the quantity of light, not the hours of delivery that make a difference to me. Your mileage may vary. Apparently a lot of people think fiddling with the clock is worth the inconvenience. From World War I through the energy crises

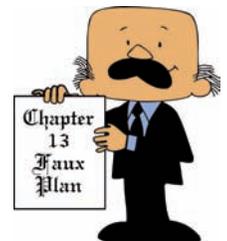
of the 1970s and various other times, the US government has tried to make things better by telling us to change our clocks. In 1973 we went on Daylight Saving Time in January, supposedly to save millions of barrels of oil. I'm not sure that it worked out that way, because that experiment hasn't been repeated. But last year's energy bill, based on a similar rationale, mandates that next year we go on DST on the second Sunday in March instead of the first Sunday in April. We'll revert to standard time the first Sunday of November instead of the last Sunday of October. The big selling point of that last part is it will give the kiddies more daylight in which to trick-or-treat. Just don't complain if the result is more tooth decay.

If I'm right and DST is stupid, let's take a moment to sympathize with our friends in Indiana. Their state must be hopelessly confused. Some Indiana counties observe DST and others don't. Worse, most counties are in the Eastern time zone, but others are in the Central zone. If a train leaves Chicago for Michigan City, Indiana, in the summertime, how many times will the passengers need to change their watches? And if everything's up to date in Kansas City, is everything up to time in Michigan City? And furthermore, why is Michigan City in Indiana instead of Michigan?

So many questions, and so little time.

*Cliff Tarrance*

### Case Administration Faux Plan Processing



Normally when we receive a complete petition from court it comes with a:

- ★ B22C
- ★ Declaration page
- ★ Credit Counseling Certificate
- ★ and a Plan.

If we do not receive all or any one of the above, then we call this a faux plan. Other offices may refer to the same as a "barebones filing."

We currently receive an average of nine cases per day and usually three of the petitions that we receive are considered a faux plan. A case is identified in our system as a faux plan when the plan is not on file with the court. Pro Se debtors file the majority of faux plans, but there are some law offices that will submit a case with just the first three pages of the petition, credit counseling certificate and a declaration page. The routing and attorney review sheets for faux plan cases are stored in a central area and filed by the §341 date.

The systems department modified the court import program that we receive to generate an exception report when we receive documents on a case that has been identified as a faux plan. The routing sheets are then pulled and given to the Post Confirmation Review team for processing and the attorney review sheet is given to our staff attorneys to complete the pre-meeting review. Occasionally, you will see a docket in the case granting the debtor additional time to file the missing documents or you will see a motion set by our office to dismiss the case for failure to file the missing documents. With electronic case filing some attorneys will file the documents a day before or on the day of the meeting. The pre-meeting review process can be lengthy, so we definitely prefer more notice than one day or a few hours. The last minute filing does create havoc on the §341 review process but our attorneys will make time to review the case, so the debtor won't be penalized for something that is not their fault.

*Rosalind Lanier*

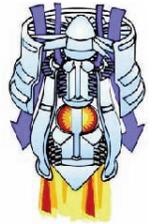
**Trivia Quiz: Aviation**

November is Aviation History Month. Test how much you know about flying machines with this trivia quiz.

1. On December 17, 1903, Orville and Wilbur Wright stayed aloft for 12 seconds in their aircraft. Where did this occur?
2. How many flights did the Wright brothers make on that day?
3. What airplane instrument shows the plane's altitude?
4. What is the name of the scientific principle that explains how an aircraft generates lift?
5. What was the name of the HK-1 plane flown only once by its owner, Howard Hughes?
6. The X-1, nicknamed the Glamorous Glennis, was the first plane to do what?
7. Charles Lindbergh made the first nonstop flight between New York and which city in 1927?



8. What year did the Hindenburg explode?
9. In the early 1930's, Boeing, Lockheed, and Trimotors were the top three aircraft manufacturers. The owner of Trimotors decided to get out of the aviation business. Who was the owner of Trimotors?
10. True or False: Most of today's large commercial jets are powered by turbine engines.



**The Answers:**

|                             |                                |
|-----------------------------|--------------------------------|
| 10. True.                   | 5. The Spruce Goose.           |
| 9. Henry Ford.              | 4. Bernoulli's principle.      |
| 8. 1937.                    | 3. The altimeter.              |
| 7. Paris.                   | 2. Four.                       |
| 6. Break the sound barrier. | 1. Kitty Hawk, North Carolina. |

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**The Secret Of Mickey And Minnie**

It is an age-old question: Are Mickey and Minnie Mouse married? Mickey and Minnie have never been married on screen. But, in 1933, during an interview with Film Pictorial, Walt said, "In private life, Mickey is married to Minnie... What it really amounts to is that Minnie is, for screen purposes, his leading lady. If the story calls for a romantic courtship, then Minnie is the girl; but when the story requires a married couple, then they appear as man and wife. In the studio we have decided that they are married, really." Two years later in 1935, he told Louise Morgan in the News Chronicle, "There's no marriage in the land of make-believe. Mickey and Minnie must live happily ever after."



The discussion of Mickey and Minnie's wedding has been fueled by the 1932 film "Mickey's Nightmare," in which Mickey falls asleep in an armchair instead of meeting Minnie at the local dance. Mickey dreams of being married to Minnie and is surrounded by numerous little Mickey mice. Then in 1935, a cover for the sheet music, "The Wedding Of Mister Mickey Mouse" shows a picture of a beaming Mickey, dressing in a tux, leading Minnie, dressed in a veil, from the church to the happy cheering of Horace Horsecollar and Clarabelle Cow.

In 1997, Russi Taylor, the current voice of Minnie, married Wayne Allwine, the current voice of Mickey, after a five year courtship. Russi has her own theory about Mickey and Minnie's public image. "The characters aren't going to get married, because children relate to Mickey and Minnie at their own levels. They don't know how old Mickey and Minnie are; but if they were to get married, they would become adults, and it would spoil the illusion."