

# Happy Birthday!

That's right, it's that time of year again. Our favorite Bankruptcy Code amendments have turned three years old. After living with the changes for some time now, I've had the opportunity to read numerous local and national opinions. As a result, I have discovered that there is a fair amount of disagreement about the meaning and application of several provisions introduced by BAPCA. To illustrate my point, I've assembled case summaries of Illinois decisions that have resolved means test conflicts. I encourage you to read the varying opinions and draw your own conclusion.

## I Cases interpreting "projected disposable income" and "applicable commitment period"

*In re Demonica*, 345 B.R. 895 (Bankr. N.D. Ill. 2006)

The Court denied confirmation based on the Trustee's projected disposable income objection. The Court determined that projected disposable income must be based on actual monthly income, not Form 22C's historical figure. According to §1325(b)(2), projected disposable income is relevant to determining what unsecured creditors must receive, but "projected disposable income" is not defined in the Code. The term "disposable income" is defined by using pre-petition income. So in order to give meaning to every word in the statute, the Court concluded that "projected disposable income" is not synonymous with "disposable income." It also decided that the actual income, as disclosed on Schedule I, would be used to determine the debtor's projected disposable income.

The Court also held that reasonably necessary expenses for above the median debtors must be based on the expenses outlined in §707(b)(2)(A) and (B). Although the debtor's car was in his spouse's name, he had the expense of owning a car. Therefore, he was permitted to deduct the IRS standards for owning and operating a vehicle. The Court also noted that the debtor could not deduct an additional housing expense to account for the difference between his actual costs and the IRS allowance.

*In re Greer*, 388 B.R. 889 (Bankr. C.D. Ill. 2008)

The Chapter 13 Trustee objected to the confirmation of the

debtors' plan because their disposable income was not based on the couples' "current monthly income." Instead, the debtors used their actual disposable income, which was lower due to a job loss. The Court sustained the Trustee's objection and found that post-filing changes to income cannot be considered. According to the Bankruptcy Code, the projected disposable income calculation must begin with the debtors' six-month, pre-petition average, not their actual income.

*In re Fuller*, 346 B.R. 472 (Bankr. S.D. Ill. 2006)

The Chapter 13 Trustee opposed the debtors' plan because they were not committing all of their disposable income as calculated by Form 22C. The

debtors, whose current income was lower than the six-month average, argued that Schedules I and J should be used to determine their projected disposable income. The Court articulated its formula for determining projected disposable income, which combined elements of both parties' arguments.

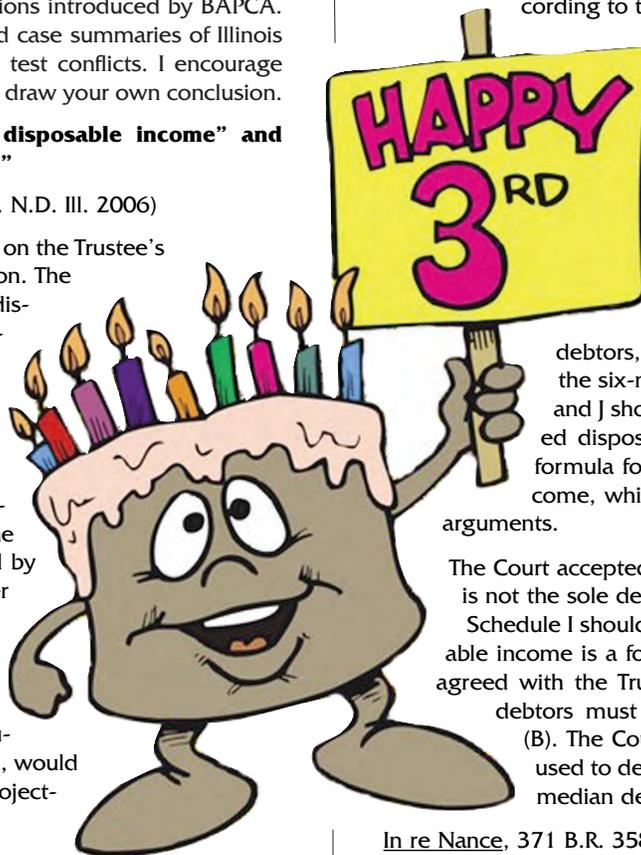
The Court accepted the debtors' argument that Form 22C is not the sole determinor of projected income, and that Schedule I should be considered since projected disposable income is a forward-looking concept. The Court also agreed with the Trustee that expenses for above median debtors must be determined by §707(b)(2)(A) and (B). The Court further noted that Schedule J still is used to determine reasonable expenses for below median debtors.

*In re Nance*, 371 B.R. 358 (Bankr. S.D. Ill. 2007)

The Chapter 13 Trustee objected to five plans proposed by above median debtors. The Trustee argued that the debtors were either not committing all of their disposable income, as defined by Schedules I and J, or the debtors' plans were not lasting for the required five year commitment period.

By finding that projected disposable income must be determined by Form 22C only, the Court adopted a mechanical approach to calculating income. The Court also found that above the median debtors must commit to five-year plan, or pay unsecured creditors

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# Happy Birthday!

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in full, even if their projected disposable income is a negative number. While recognizing the split in authority, the Nance court decided that §1325(b)(4)(b) requires above the median debtors to remain in Chapter 13 for sixty months if creditors are not being paid in full.



In re Mathis, 367 B.R. 629 (Bankr. N.D. Ill. 2007)

The Court confirmed the above the median debtors' 36-month plan over the Trustee's objection. The Court accepted the debtors' argument that the means test determines "projected disposable income," which is the amount of money unsecured creditors must receive. In addition, "applicable commitment period" is not a length of time, but a factor to be multiplied by projected disposable income. Since the debtors had negative projected disposable income, non-priority unsecured creditors were not required to receive any payments. Therefore, the Court reasoned that a 60-month plan was not necessary.

## II Cases interpreting controversial means test deductions

In re Saffrin, 380 B.R. 191 (Bankr. N.D. Ill. 2007)

The Chapter 13 Trustee objected to confirmation on the ground that the debtors were not committing all of their disposable income to unsecured creditors. The above median debtors deducted a \$1,000 monthly expense for their 18-year old daughter's college expenses.

The Court reasoned that the debtors were not permitted to deduct the expenses as educational expenses under section 707(b)(2)(A)(ii)(IV) since the child was over 18, and the expense was for college tuition, not elementary or secondary school. The Court also rejected the debtors' argument that college tuition can be deducted as a necessary expense under section 707(b)(2)(A)(ii)(I) of the Bankruptcy Code. After reviewing the Internal Revenue Manual, the Court concluded that college tuition is not necessary since it is neither a condition for employment nor is it being spent for a child who is mentally or physically challenged. As a result, the Trustee's objection was sustained.

In re Farrar-Johnson, 353 B.R. 224 (Bankr. N.D. Ill. 2006)

The Chapter 13 Trustee objected to the debtors' plan because the couple was not committing all of their disposable income. The Trustee argued that the debtors' reasonably necessary expenses must be based on Schedule J and not §707(b)(2)(A) and (B). In the Trustee's opinion, Schedule J included excessive and unreasonable expenses. Therefore, the plan could not be confirmed unless the budget and plan were amended to pay a higher dividend to unsecured creditors. The Court overruled this objection holding that Schedule J does not apply to above the median debtors since §1325(b)(3) mandates the use of the expenses outlined in §707(b)(2)(A) and (B).

The Trustee also argued that the debtors' \$1,233 housing deduction on Form 22C was improper since they lived on a military base and had no actual housing expense. After analyzing the language in §707(b)(2)(A)(ii)(I), the Court disagreed with the Trustee. The Court recognized that deductions according to the IRS "Local and National Standards," which include housing expenses, only had to be "applicable" while "Other Necessary Expenses" had to be "actual." Therefore, the debtors were entitled to the housing expense that applied to their household size and county of residence.

The Trustee's final argument was that the debtors' disposable income calculation was evidence that they proposed the plan in bad faith. The Court found that good faith is not an element of §1325(b)(2)'s disposable income test. The only standard that expenses must satisfy is whether they are reasonably necessary. Therefore, good faith cannot be considered when scrutinizing disposable income. For above median debtors, expenses that are properly deducted under §707(b)(2)(A) and (B) are considered reasonably necessary as a matter of law. Therefore, the Court had to accept the debtors' disposable income calculation, and the Trustee's objection was overruled.

In re Barrett, 371 B.R. 855 (Bankr. S.D. Ill. 2007)

Unsecured creditor eCast objected to several of the debtor's means test deductions. First, eCast opposed the debtor's deduction for housing and automobile ownership expenses. eCast argued that the debtor is not entitled to deduct the IRS standards because her actual costs were lower than the IRS allowances. In addition, eCast objected to the automobile ownership deduction for her second vehicle, which was an unencumbered motorcycle. Lastly, the creditor argued that the debtor's plan payment should increase when the note on her direct-pay automobile is satisfied.

The Court overruled eCast's objection and found that the IRS standards are permitted irrespective of the debtor's actual expenses. The Court's decision rested on the distinction made in §707(b)(2)(A)(ii)(I)

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<b>THE MARSHALL CHRONICLES</b>
<b>The Editorial Staff:</b> Cheryl Jones, HVB and Dave Latz.
<b>Contents and Contributors:</b> Happy Birthday!, pg. 1 ..... <i>Keisha Hooks</i> Trustee Matters, pg. 3-5..... <i>Marilyn O. Marshall</i> e-Orders Ready For Pilot Program, pg. 6 ..... <i>Sandra Pillar</i> November's Notable Events, pg. 5..... <i>Dave Latz</i> Coming Soon!, pg. 7 ..... <i>Marilyn O. Marshall</i> Staying Active On Thanksgiving, pg. 7 ..... <i>Submitted by Paulina Garga</i> Free Things To Do In Chaicag This Fall, pg. 7 ..... <i>Darlene Odom</i> Internet Tidbit, pg. 7 ..... <i>Staff Submission</i> Trivia Quiz: Where In The World?, pg. 8..... <i>Staff Submission</i> Fruit Flies, pg. 8..... <i>Cheryl Jones</i>
<b>Newsletter Information:</b> If you would like to contact us or submit ideas or articles for the newsletter, you can do so by: ✓ e-mailing us at newsletter@chi13.com, ✓ 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 third 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 <b>THE MARSHALL CHRONICLES</b> , as well as all the previously published issues, all in full color, on the Chapter 13 Trustee website at <a href="http://www.chicago13.com/">http://www.chicago13.com/</a> .

## Trustee Matters

### State Of The Trusteeship – Year Ending September 30, 2008



State of the Union Messages to the Congress are mandated by Article II, Section 3 of the United States Constitution which states, “He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient...” Among the many precedents established by George Washington was clarification of the phrase “from time to time.” Since 1790, State of the Union messages have been delivered regularly at approximately one-year intervals.

Although, there is no such mandate contained in the Handbook for Chapter 13 Trustees, I like the purpose for which it was intended and decided to duplicate the purpose of the State of the Union message and will continue at the end of each fiscal year to use the State of the Trusteeship as a means of providing information, communication and an overview to the staff and other members of the bankruptcy community.

Although each month we feature information in our monthly newsletters from all three of our major departments – legal, financial, and systems – and the Trustee, the yearly experiences are summarized here. All of our monthly newsletters are posted on our website at <http://www.chi13.com/>.

We ended FY 08 with 7,251 cases and will begin FY 2009 with the same number. This represents a 6.0% increase in total caseload from FY 07. New petitions filed totaled 4,234, a 24% increase from last year’s new filings. We received plan payments, which totaled \$51,874,203, a 5.0% decrease from last year. We processed \$2,525,920 in debtor refunds, which is a 46% decrease from the number of refunds in FY 07. We have seen a significant drop in the number of requests for payoffs because of refinancing and the sale of property. We think that this is a direct result of the market and the economic problems facing the country. Disbursements to creditors were \$50,318,917, a 2.9% decrease from last year. Receipts and disbursements were down. Our average plan payment in FY 08 was lower than the average plan payment in FY 07.

As of September 30, 2008, there are 28 full-time employees and no part-time employees employed with the trusteeship. Salary increases were issued on October 10, 2008, based upon merit. Of our 28 full time employees, 21% received a 7.6% increase, 43% received a 3.8% increase, 21% received a 1.9% increase and three employees were not eligible to participate in the merit pool because they were new employees. Again, the recommended performance evaluations from Organizational Diagnostics were used for evaluations. We continued to improve our workflow as cases began to rise to pre-BAPCPA levels. There is no question that greater detail and more scrutiny is needed in the administering of BAPCPA cases. 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 08, six employees attended the NACTT Staff Symposium training held in Phoenix, AZ, and six attended the training in Miami, FL. Five employees attended the NACTT annual meeting in San Francisco, CA. Two employees attended the Regional Controllers and IT Managers Conference in Madison, WI, and one employee attended the 4D Summit Data Processing Training in Long Beach, CA. The Trustee and all four attorneys attended the Chicago Trustee Conference hosted by The UST and his staff for the Chapter 7 and Chapter 13 Trustees. Staff Symposium training will be held in New Orleans, Las Vegas, and Chicago in FY 09. I have budgeted for the majority of the employees to attend the training in Chicago in FY 09. Because things are constantly changing, it is my goal to make sure everyone in the office has the opportunity to participate in off-site training. The managers will continue meeting with their staff the week before the monthly staff meeting to address training issues and brainstorm on improving procedures. The Trustee will meet with the department heads in monthly planning sessions in order to address long-term goals of the trusteeship.

Since the Final Report format will change to data-enable forms effective April, 2009, it is imperative that we are able to mirror the requirements of the EOUST and the courts. We have spent the last months in FY 08 adjusting to the changes and preparing to implement this new process. We will take positive measures to meet the challenges and move forward. We will also continue to move to a “paperless” environment. Already, two of the years in the five-year plan are gone. This will be a year of change, however, the Trustee still remains committed to keep the staff motivated, challenged and committed to excellence.

We appear before Judges Hollis (2,404), Wedoff (2,272), Squires (1,324) and Goldgar (1,258). These are some of the published opinions issued by the Bankruptcy Judges during FY 08. (Some of these opinions were issued in cases assigned to other Trustees.)

#### Summary of Opinions Rendered in FY 08

Judge	Case Name/No.	Summary of Opinions
Hollis	In re Diana Kasco and Dale Kasco 06 B 16620 Issued: November 08, 2007	Prepetition, movant purchased the unpaid real estate taxes due for Debtors’ residence. Debtors filed for relief under Chapter 13 just prior to expiration of the redemption period. Debtors scheduled the tax debt for payment to the county, and confirmed a plan that provided for payment of the tax debt during the term of the plan. Movant sought relief from the stay to proceed in state court after expiration of the redemption period. HELD: Movant is a creditor and the tax debt is a secured claim that can be paid over time through a Chapter 13 plan. No cause to grant relief from stay and motion denied.

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

**Summary of Opinions Rendered in FY 08 (continued)**

Judge	Case Name/No.	Summary of Opinions
Wedoff	In re James Redmon 96 B 03162 Issued: December 20, 2007	This closed Chapter 13 case was before the court on remand after an appeal to the district court. At issue was the debtor's motion to reopen the case, pursuant to §350(b) of the Bankruptcy Code (Title 11, U.S.C.), for the purpose of presenting a motion for sanctions against the debtor's mortgagee, with whom he is involved in a state court foreclosure action. This court originally denied the motion with a brief oral explanation. On appeal, the district court directed full consideration of the factors bearing on a motion to reopen. As discussed below, the motion to reopen is again denied because (1) there is no relief that can be awarded to the debtor in this court, (2) the state court can provide any relief to which the debtor may be entitled, and (3) the motion was untimely.
Squires	In re Ray D. Harrison and Rose M. Harrison 08 B 14865 Issued: October 14, 2008  In re Gage 07 B 06876 Issued: September 17, 2008	The Debtors are therefore allowed to alter the terms of the Contract under the Modified Plan during its term because nothing in §1325(a) trumps or overrides §1322(b)(2). The Debtors have the right to modify the terms of the Contract pursuant to §1322(b)(2) and the interest rate provided by the Debtors is appropriate under <i>Till's</i> formula approach. However, the Debtors remain liable to AmeriCredit for any unpaid balance that remains outstanding at the time they exit bankruptcy absent a discharge under §1328(a) or (b).  For the foregoing reasons, the Court finds that although Schaller received fees over and above the flat fee arrangement he entered into with the Debtor, which were encompassed within that agreement, Schaller has refunded all of the fees and has corrected the erroneous Rule 2016 statement filed in this case (and many others). The evidence does not support a finding of civil contempt because Schaller did not violate any order of the Court, notwithstanding the errors and omissions in the Rule 2016 statement. The Court declines to tax Schaller with the Trustee's fees and costs. The parties shall bear their own respective costs and fees. Further, no proper basis exists upon which to assess any fines against Schaller. Finally, the Court finds that it lacks jurisdiction or authority to enter disciplinary relief against Schaller by way of suspension of practice privileges because such disciplinary matters are within the exclusive jurisdiction and authority of the United States District Court for the Northern District of Illinois, through its Executive Committee, and the Supreme Court of the State of Illinois, through its Attorney Registration and Disciplinary Commission.
Goldgar	In re Theodore Thompson 08 B 02560 Issued: May 23, 2008  In re David S. Saffrin and Joni R. Saffrin 07 B 08536 Issued: December 21, 2007  In re Kenneth Burmeister and Lisa Burmeister 07 B 06868 Issued: November 16, 2007	Adequate protection is a condition that must be met (if a creditor requests) before a debtor can retain and use the creditor's collateral. See 11 U.S.C. §363(e). Adequate protection is relevant to plan confirmation in a Chapter 13 case only under section 1325(a)(5)(B)(iii)(II)...Because Thompson has not provided GMAC adequate protection, he is not entitled to turnover of the car, and judgment will be entered in favor of GMAC and against Thompson on the complaint.  This Chapter 13 case is before the court for ruling on confirmation of the plan proposed by debtors David and Joni Saffrin. Standing Chapter 13 Trustee Glenn Stearns objects to confirmation. He argues that the Saffrins are not devoting all of their projected disposable income to the plan because their calculation of disposable income deducts payments for their daughter's college expenses. The Saffrins argue that the deduction is permissible because the expenses are necessary for the health and welfare of the family. For the reasons that follow, the Trustee's objection will be sustained, and confirmation will be denied.  Standing Chapter 13 Trustee Glenn Stearns objects to confirmation. He argues that the Burmeisters are not devoting all of their projected disposable income to the plan because their calculation of disposable income deducts mortgage payments they have stopped making on a home they intend to surrender. The Trustee adds that the amended plan therefore has not been proposed in good faith. The Burmeisters disagree, claiming they correctly calculated their disposable income. For the reasons that follow, the amended plan will be confirmed over the Trustee's objection.

The Trustee held 3,576 meetings of creditors. Debtors failed to appear for their meetings in 537 instances. We filed 1,777 motions to dismiss for material default. Of those, 1,304 resulted in the case being dismissed, 52 were denied or mooted and the Trustee withdrew 421. For the fiscal year, we were able to successfully confirm 3,004 cases. As for the rest, 90 cases are still being continued and in the confirmation process, hearings were moot in 436 cases, 44 were re-noticed, one is under court advisement, and in 481 cases, confirmation of the plan was denied.

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**Trustee Matters** *(Continued from page 4.)*



Based upon information tracked on the B22C form, 2,518 debtors were under the median income, 1,257 were above the median and in 487 cases the income status was undetermined.

We set 1,090 motions to dismiss cases for failing to comply with confirmation requirements. Of those, 105 are still pending, 378 motions were eventually withdrawn and 565 lead to the dismissal of the case. We set 159 motions to dismiss for missing documents or for not filing documents timely. Of those motions set, 85 cases were dismissed, three are still pending and the rest withdrawn or mooted.

We had two cases dismissed for abuse with a 180-day bar and one case dismissed with a two-year bar to re-filing. In furthering our Civil Enforcement initiatives, we brought Motions for Sanctions against three bankruptcy petition preparers. One was denied as the BPP turned out to be the fiancée of the debtor. In the other two cases we succeeded in levying sanctions totaling \$16,500 and successfully put two offices out of commission. We also were successful in forcing a noncompliant employer to comply with the Court's Payroll Order in a case.

On the cases filed this year, motions to extend/impose a stay due to serial filings were up. We had 506 motions filed. Of those motions set, only 52 were denied, 421 granted to all creditors, nine granted to specific creditors and 24 withdrawn.

Customer service and communication is still a priority. The National Data Center (NDC) has definitely proven to be an asset to the office because both debtors and creditors can obtain passwords from the center or contact the center to obtain information on their cases. This allows us to devote more time to administering cases and implementing new processes. The NDC was established by Chapter 13 Trustees and is the exclusive source for comprehensive Chapter 13 Case and Claims data. It provides on-going details of case and claims information, as recorded and stored within the Trustees' office, which complement traditional Bankruptcy Notification Services. The Office of the Chapter 13 is still committed to providing the highest quality of service to our customers. My ears are always open to hear what we can do to improve service to the bankruptcy community. I still believe that communication helps to foster better relationships.

I am an approved provider of the Financial Management Course for Debtors assigned to Marilyn O. Marshall. Glenn Stearns, Tom Vaughn and Lydia Myers are also approved providers. Some interesting statistics from the Financial Management Course: We have had a total of 680 clients register for the class. 436 clients have completed the Financial Management course and were issued a certificate of completion. Of those, approximately 93.6% (408) have answered Yes to all of the evaluation questions. Of those 408, 164 have written other comments. There remain 40 clients registered and waiting for their class date.

The Employee Recognition Committee sponsored its annual picnic in Grant Park. It was a day for family, friends and other colleagues. Since the number of claims we had to enter in anticipation of the new requirements for the final report kept us swamped, this was definitely a morale builder. We will continue to have work related social activities to promote a wholesome working environment, realizing that activities are a reward and not a right. The Newsletter Committee should be nominated for the Newsletter Award Competition of 2008. Regardless of the workload, the committee works diligently to keep the staff informed and entertained. Our circulation audience has been expanded and more and more people are asking to be included on the mailing list even though all volumes can be found on our website. Dave Latz has provided samples of our newsletter and our procedures for soliciting articles to three other Trustee's Offices.

Our commitment to remain active and involved with the U. S. Trustee's office, the Judges liaison committee, the bankruptcy clerk, and 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. 2008 was a very good year. Next year will be even better as we adapt and move toward change. The answer to the same question ask each year remains the same. Am I pleased? "Yes."

*Marilyn O. Marshall, Standing Trustee*

<b>Summary End of fiscal year 2008</b>	<b>Summary End of Fiscal Year 2007</b>
Receipts.....\$51,874,203	Receipts.....\$54,475,951
Refunds.....\$2,525,920	Refunds.....\$ 3,695,673
Disbursements.....\$50,318,917	Disbursements.....\$51,781,731
Number of Cases Beginning of Year.....6,838	Number of Cases Beginning of Year.....6,750
Number of Cases Filed in FY 07.....4,234	Number of Cases Filed in FY 06.....3,420
Number of Cases Reopened.....62	Number of Cases Reopened.....69
Number of Cases Reopened Because of Transfer.....33	Number of Cases Reopened because of Transfer.....25
Adjustments during the Fiscal Year:	Adjustments during the Fiscal Year:
Conversions to Another Chapter (Pre-Confirmation).....107	Conversion to Another Chapter (Pre-Confirmation).....56
Conversions to Another Chapter (Post-Confirmation).....225	Conversions to Another Chapter (Post Confirmation).....146
Dismissals Pre-Confirmation.....794	Dismissals Pre-Confirmation.....747
Dismissals Post-Confirmation.....1,607	Dismissals Post Confirmation.....1,113
Conversion from Another Chapter.....10	Conversions from Another Chapter.....10
All other Adjustments.....13	All other Adjustments.....3
Number of Cases Completed.....1,136	Number of Cases Completed.....1,326
Number of Hardship Discharges.....4	Number of Hardship Discharges.....1
Total Cases at End of Year.....7,251	Total Cases at End of Year.....6,838
Number of Cases Greater than 65 months.....7	Number of Cases Greater than 65 months.....10
Number of Full Time Employees.....28	Number of Full Time Employees.....28
Operating Expenses.....\$3,088,076	Operating Expenses.....\$2,864,448
Trustee Fee at End of Year.....6.5%	Trustee Fee at End of Year.....5.4%

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between “applicable monthly expenses” and “actual monthly expenses.” The debtor’s actual costs are not relevant when deducting National and Local Standards, i.e. housing and transportation expenses. Despite eCast’s argument, the Court declined to consult the Internal Revenue Manual for guidance since Congress did not include that directive in the statute.

In addition, the Court held that the debtor, who was single and had no dependents, could deduct the ownership expense for both vehicles, even though the second vehicle was not necessary and had no actual ownership cost. The Court also found that an increase in the plan payment was not required when her automobile loan was paid in full. In accordance with the Nance decision, projected disposable income is determined exclusively by Form 22C. A graduated payment would give consideration to the debtor’s actual projected disposable income, which the Court expressly prohibited for above the median debtors. Therefore, the debtor’s plan ultimately was confirmed over eCast’s objection.

In re Burmeister, 378 B.R. 227 (Bankr. N.D. Ill. 2007)

The Chapter 13 Trustee opposed the debtors’ deduction of mortgage payments for real estate they intended to surrender. In the objection to confirmation, the Trustee argued that the debtors should not be permitted to deduct the payment for the surrendered property since the debtors would not have the expense once the plan is confirmed. The Court rejected the Trustee’s argument that the effective date of the plan determined the appropriateness of the deduction. Instead of relying on §1325(b)(1), the Court decided that if the payments were “contractually due” at the time of filing, then §§707(b)(2)(A)(iii)(I) and 1325(b)(3) permit the deduction of the expense.

The Trustee also argued that, by including this mortgage payment, the debtors had not proposed the plan in good faith. The Court responded by holding that a good faith attack cannot be raised when disposable income is at issue. There is no relationship between the two concepts since the disposable income test is found in §1325(b) while the issue of good faith arises under §1325(a)(3). Since §1325(b) defines reasonable and necessary expenses, good faith is not a consideration. As a result, the Trustee’s objection was overruled, and the plan was confirmed.

In re Randle, 358 B.R. 360 (Bankr. N.D. Ill. 2006)

The Court found in favor of the debtor when asked to decide whether a Chapter 7 debtor’s case should be dismissed as abusive. The United States Trustee argued that the debtor should not be permitted to deduct the mortgage payment for real estate she intends to surrender. The Court denied the Trustee’s motion by relying on the language in §707(b)(2)(A)(iii), which in pertinent part, states that the secured debt must be “scheduled as contractually due...in each month of the 60 months following the date of the petition.” The Court found that the inquiry does not extend beyond whether the secured debt was due at the time of filing. Contrary to the United States Trustee’s argument, the provision does not allow for the consideration of the debtor’s schedules or post-filing intentions. The Court asserted that the statute limits its examination to the debtor’s contractual obligations at the time of filing and denied the Trustee’s motion to dismiss.

*Keisha M. Hooks, Esq., Staff Attorney*



## Information Services e-Orders Ready For Pilot Program

Our office has been invited to participate in a pilot program with the court where we create e-Orders for motions up before Judge Hollis and Judge Wedoff.

An e-Order is a fill-able PDF that has been pre-filled with our case data. The fill-able fields allow the judge to “sign” and “date” the PDF order from his or her computer.

Beginning Monday, October 20, 2008, trustee motions on Hollis and Wedoff cases are being filed with an e-Order. Our training session on Friday, October 17<sup>th</sup> introduced the paralegals, PCR and claims teams to the concept of e-Orders.

The CaseNET jobs that are affected are the three Motions to Dismiss jobs (Material Default, Missing Documents and Confirmation Denied). The jobs automatically create a blank, fill-able PDF for the order, named properly according to our office naming convention for images. An “XML” data file for each case is also created. The person creating the orders then uses the latest and greatest version of Adobe Acrobat Pro to merge the data with the fill-able form and save the PDF for each case.

This past week has been a week of getting the kinks out of the process. We are using the CM/ECF machine outside of Anthony’s office as our workstation for creating e-Orders. Each user runs the job from her own workstation. Then they copy the motions and the folder with the blank orders and data to Rama. At the CM/ECF workstation, they then retrieve those files from Rama and create the e-Orders by using the “Manage Form Data” function in Acrobat Pro.

I think everyone who will be responsible for creating e-Orders has had a chance to create e-Orders in the first week. The first date that e-Orders will be used in court is Thursday, October 30. The preparation of the orders is currently a little more time-consuming than the old way, but we will soon see the benefits. It’s exciting to be part of an innovative improvement that will shorten the turnaround time for getting orders signed by the judge.

*Sandra Pillar, Director of Office Systems*



## November’s Notable Events

Happy 10th Anniversary to **Lavone Kizer-Merritt** on November 2nd!

**Daylight Saving Time Ends** on November 2nd.

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

**Election Day** on November 4th. (Don’t forget to vote!)

Happy 5th Anniversary to **Dan Lyons** on November 3rd!

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

**All Staff Meeting** on November 7th.

Happy 10th Anniversary to **Mark Caffarini** on November 9th!

**Veterans Day** on November 11th.

Happy 8th Anniversary to **Cheryl Jones** on November 20th!

**Great American Smokeout** on November 20th.

**Thanksgiving Day** on November 27th.



## November 20th Is Just Around The Corner!

### “Let’s Talk Thirteen”

The Judges Liaison Committee, chaired by Judge Eugene Wedoff, would like to meet with the Debtor and Creditor Bar to talk about issues facing the Chapter 13 practice.

Among the topics to be covered will be a discussion regarding a “No Look Fee” to be paid to Creditors.

**When:** November 20, 2008 at 4:00 P.M.

**Where:** Office of the Chapter 13 Trustee  
Marilyn O. Marshall  
224 South Michigan Avenue  
Suite 800  
Chicago, Illinois 60604-2503

**Who:** All members of the Bankruptcy  
Community are invited to attend

**To RSVP, Contact  
Dave Latz at:**

**Voice – 312-431-5574**

**Fax – 312-431-6522**

**Email – [dlatz@chi13.com](mailto:dlatz@chi13.com)**

## Free Things To Do In Chicago This Fall

Soon the holiday season will be upon us and our children will be out of school, as well many of us will be preparing to take vacation from work. In the midst of our economy’s financial turmoil, many are looking for an inexpensive way to relax and get away or find something to do with our families here at home. Most of us are looking for something that costs very little or nothing at all. As we cut back on spending to lessen the stress of these uncertain financial times, I thought I’d offer some suggestions for FREE! things you can do with your family while enjoying your vacation days this fall and winter in Chicago. I hope you can get out and enjoy some of these fun, free, learning, cultural, and entertaining event opportunities.



**Day at the Adler Planetarium:** Free every Monday and Tuesday during November.

**The Shedd Aquarium:** Free every Monday and Tuesday during November.

**Museum of Science and Industry:** Free every Monday and Tuesday during November.

**Dearborn Observatory:** Gaze at the stars – it’s always free, and on Friday night you can view the heavens with a historic refraction telescope.

**Art Institute of Chicago:** Free every Thursday evening from five to nine.

**Children’s Museum at Navy Pier:** Free every Thursday evening from five to eight. There are other venues at the Pier that offer various seasonal events throughout the year for both children and adults. Don’t forget to check out the Pier for great New Year’s Eve parties.

**The Chicago History Museum:** Free every Monday.

**The Lincoln Park Zoo:** Free all year round.

**The Chicago DuSable Museum of African American History:** Free every Sunday.

**Garfield Park Conservatory:** Free all year round, and it even offers a yoga class with free admission for children under 15.

**Ice Skating at Millennium Park:** Free and open now until March 16th, from 10:00 AM to 10:00 PM. Bring your own skates or rent a pair for seven dollars.

*Darlene Odom, Paralegal*

## Staying Active On Thanksgiving

More food is consumed in the US on Thanksgiving Day than any other day of the year. Skip the gym and work off the feast with the family. Here’s how:

**Turkey and Gravy:** 55 minutes of touch football

**Mashed Potatoes and Gravy:** 4.5 mile walk with family

**Pumpkin Pie with Whipped Cream:** Rake your parents yard for 35 minutes

**Stuffing:** 40 minutes of playing with kids

**Dinner Roll:** 30 minutes of dish washing

**Cranberry Sauce:** 50 minutes of movie watching

*From “Eat This Not That” by David Zinczenko,  
submitted by Paulina Garga, Case Administrator*



## Internet Tidbit

Looking for something new on the Internet? Try out StumbleUpon.com. It is a great way to get a taste of all the Internet has to offer. This website features interesting websites, videos, photos, blogs, and more. You can follow your interests or see what other users are recommending.

Each entry is submitted and rated by the StumbleUpon community. You can choose from different website categories, but even more fun is to simply click on the Stumble button, which will take you to a random, but interesting, website. Think of StumbleUpon as a remote control for the Internet, allowing you to flip through website after website. And, just like using your remote, it can be addictive.



**Trivia Quiz: Where In The World?**

November 16-22 is National Geography Awareness Week. Test your worldly knowledge with this around-the-world trivia quiz.

1. Although French and Spanish are also spoken here, this tiny country, located in the Pyrenees Mountains, has designated Catalan as its official language.
2. Which of the world's nations with a population of over one million has the smallest area?
3. Through how many countries does the equator pass?
4. What is the national language of Kenya?
5. What two countries are separated by the Khyber Pass?
6. Which country exports over half the world's cork?



*The Khyber Pass*

7. In what country is Casablanca located?
8. What is the second-highest mountain on Earth?
9. In which city would you find Copacabana Beach?
10. What is Bombay called today?



**The Answers:**

- |                              |   |
|------------------------------|---|
| 1. Andorra.                  | 6. Portugal.                            |
| 2. Singapore.                | 7. Morocco.                             |
| 3. Fifteen.                  | 8. K2, also known as Mt. Godwin-Austen. |
| 4. Swahili.                  | 9. Rio de Janeiro, Brazil.              |
| 5. Pakistan and Afghanistan. | 10. Mumbai.                             |

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**Fruit Flies**

Tired of batting a swarm of fruit flies in your kitchen, bathroom or workplace? If you're not, I am. These little creatures are annoying. As small as an ant, but as bold as a pit bull. They fly as close to your face as possible, knowing they are about to die, or maybe not. The question is, what causes them and how do you get rid of them?

Fruit flies are wine connoisseurs. Okay, maybe they are not wine snobs, but they have been known to quaff a few drops here or there. They particularly like Chardonnay, or so we hear. Use that knowledge to your advantage: fill up a saucer of some cheap wine and add a little detergent to it. Leave it around for the flies to sip on and die. Sounds pretty mean, huh? If you fill a small dish with cider vinegar near your fruit bowl, it will draw the fruit flies away. A small bit of wine will do the same.

Fruit flies are attracted to garbage. When you're looking for things that are attracting these flying pests, don't forget to look for soiled sponges, dishrags, food, drink spills and check your kitchen drain. They sometimes hang around drains because it provides moisture and food scraps, two things they need to survive and reproduce. Fruit flies not only eat ripe and rotting food, but they also lay their eggs in it.



These annoying creatures can be eliminated by running bleach or baking soda down your kitchen drain. You can also use one of the best home remedies, which is to simply put a pot of basil on a windowsill or table. This will help reduce the number of flies in the area.

*Cheryl Jones, Case Administrator – Confirmation*