

THE MARSHALL CHRONICLES

MARCH 2011
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A Look At Case Filings In FY 2011

Taking a look at case filings this year, the case 11 B 12337 was filed on March 24, 2011. Looking at last year's figures, case 10 B 12337 was filed on March 22, 2010. Accordingly, it took about two days longer to hit the same number of cases that were filed last year. Does that mean that case filings are finally slowing down? One can remain hopeful, but debtors are not out of the woods yet. The news is filled with speculation of a slowly recovering economy yet that recovery has not directly translated into a readily apparent reduction in total bankruptcy filings.

Breaking those numbers down further, this Trusteeship received 1,081 cases filed between January 1, 2011, and March 24, 2011. Last year, for the same period, we received 1,096 cases, so we are down just slightly. A more disturbing fact on raw numbers, however, is that of those 1,096 cases received in the first three months last year, only 753 remain open and pending and already 343 have been closed. The closed cases represent approximately 32% of the cases filed to date. Sadly, that early failure rate is typical in many Chapter 13 cases. Chapter 13 is an uphill battle for many debtors.

Upon filing, debtors, who by the sheer nature of the process, experience some difficulty or interruption in their financial circumstances, are suddenly thrust into a structured setting where attention to detail should be a must.

Since January 1, 2006, 21,726 cases have passed through this Trustee's doors. Of those cases, only 10,345 remain open and 11,381 have been closed. Closed cases are not in themselves bad, but looking at some of the past years gives us some sense of plan success rate. While success in a Chap-

ter 13 case is not easily defined, we can determine how many cases were successful as in that the debtor tendered to the trustee enough money to effectively fund their plan. This office administered 2,526 cases in calendar year 2006. Of those cases, 516 cases closed after the debtors paid the plan in full or 100% of the creditors were paid. That number represents about a 20% success rate. Another 10% of the cases, or 245 are open and pending. That leaves the remaining 70% of the cases in the "failed" category, again defining failure as not completing all plan payments according to the plan.

Just to get the case moving, debtors are required to list all assets accurately and all creditors owed, as well as income,

expenses and recent financial transactions. Debtors must provide the Trustees with tax returns and pay advices and fill out numerous forms and disclosures. Debtors also have to make some decisions on what assets to give back and where they want to focus their money to keep those assets they want to keep. While the goals in filing Chapter 13 vary greatly, most debtors want that automatic stay for room to breath to reorgan-

ize their debt. On top of all those basic requirements, Chapter 13 debtors then have to start making payments on their plan, payments that many times they could not make before the case filing and, unfortunately, in far too many cases cannot be made even after the case is filed.

In the olden days, Chapter 13 cases were commonly referred to as "wage earner" plans. These cases were thus nicknamed because debtors had to have disposable income to actually

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A Look At Case Filings In FY 2011

(Continued from page 1.)

fund a plan. In more modern times with so many people out of work with the bad economy, we see more and more debtors not earning wages to fund their plans but debtors relying on unemployment income and gift income and unverifiable "side jobs." We even see debtors who depend on public aid and food stamps to fund their Chapter 13 cases. While one can see where an unemployed debtor may file a Chapter 13 case to save some property, unemployment benefits typically do not last the entire three to five years necessary to fund a Chapter 13 plan. The food stamp/SSI/gift income debtors without assets to protect pose a different inquiry as to their existence. None of these sources of income can be subject to garnishment and therefore are not subject to payroll control orders. Since we find that debtors on payroll control have an increased rate of success, the potential failure rate of such Chapter 13 cases have a higher failure rate.



Cases proposing very low plan payments are often suspect. They are suspect not because of the low plan payment itself, but because the current "no-look" attorney fee is \$3,500 and a plan with a \$100 plan payment will take a little more than three years just to pay the attorney. On the Trustee's entire database, there are 1,421 cases where plan payments were \$100 or less per month. Of those cases, 96 pro se debtors were responsible for filing the cases. In the remaining 1,325 cases, 180 different law firms represented the debtors in the cases. This number is not surprising given the wide accessibility debtors have to debtor attorneys. However, of those 180 attorney firms, only 10 have filed more than 15 cases in that total number of cases filed. Looking at law firms responsible for filing over 40 of those total cases, we narrow the field down to four.

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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, all in full color, on the Chapter 13 Trustee website at http://www.chicago13.com/ .	

Legal Assistance of Chicago is responsible for 96 of those cases and is only mentioned by name as they do not receive any attorney fees in Chapter 13 cases. Of the remaining three, firm one is responsible for filing 512 cases, followed by firm two at 96 and firm three at 81. A quick calculation using a \$3,000 average attorney fee shows that filing plans with \$100 or less plan payments can potentially generate fees in excess of \$2,000,000. For debtors with low income and thus low plan payments, this is a substantial burden to bear. One attorney firm alone is responsible for filing 36% of the low paying cases generating over \$987,000 in attorney fee claims collecting against debtors unable to pay more than \$100 a month towards getting themselves out of debt. The failure rate on this set of low paying cases is approximately 36% of the total cases. Not the best bang for these debtors' bucks.

There have been many studies performed on the success rate of Chapter 13 cases and often times these cases are described as unsuccessful. The push to increase the success rate of Chapter 13 cases is a burden that not only should be placed on debtors but on attorneys filing Chapter 13 cases. Debtors are often desperate and look to attorneys to properly counsel and guide them as to financial options. Often Chapter 13 is not in the best interest of debtors entering the system. Unfortunately, if attorneys fees are a motivating factor for filing Chapter 13 cases and the debtors' best interests seemingly a lesser concern, unsuccessful cases will continue to get filed. Chapter 13 is not always in the best interest of debtors who are looking for a way out and perhaps other avenues should be explored and encouraged more often, even at the expense of attorneys' fees.

O. Anthony Olivadoti, Managing Attorney

Trustee Matters

Staff Symposium Training is for Everyone

I attended the NACTT Staff Symposium training held in Atlanta, Georgia, March 16-18. Making the adjustment from Chairperson of the Staff Symposium to a student wasn't easy, but I managed to give it a try. I attended the first session of "Blueprint for Becoming a Value Added Employee" and was really impressed with the presentation and the presenters. Kathy Fink, Mary Lebarge and Drané Beaune(*) were energetic and informative. I had read all the evaluations in the past, so I knew that staff does not like Trustees who come to session and take them over by talking. So, I sat on my hands and did not say a word, which was a learning experience all its own. Since the value added session was so interactive, I decided to attend the Office Managers/Controllers session, which are the sessions I had actually signed up to attend.

Debra Cohen, Karen Corder and Michele Timko(*) had prepared topics of discussion and covered them very well in the Office Managers and Controllers track. I walked in on **Session 2: "Beneficial" Development** which addressed the rising costs and expected healthcare changes along with employee benefits and how benefits are changing. A thorough discussion of the new requirements with Healthcare Reform including grandfathering, COBRA requirements, implementation deadlines and employer requirements were beneficial. Some statistical data on employee benefits, high deductible plans, traditional insurance plans, cafeteria plans, FLEX plans, and short-term and long-term disability options and other employee benefits were discussed. A comparison of what benefits are offered by each trustee was not discussed and should be added to this agenda.

Session 3: Develop Your "Fisc"-ique, which were really the basic fiscal activities in a trusteeship. The group considered various financial aspects of the Trustee's office and discussed alternative payment methods, including the use of Internet payments (a pilot program) and ACH payments. Discussion on audit issues and ways to ensure a successful and smooth audit rounded out the discussions. Looking around, I counted four other trustees in the group.

Session 4: Develop Your Person. Effective management requires a manager to be responsible for his or her own personal development. Managers should keep improving their knowledge and skills on many levels in order to foster per-

sonal development and to be a role model. I surmised that this session was directed more for office managers rather than controllers since the discussion focused on ways a manager can stay fresh and motivated to lead effectively.

Session 3 and 4: Legal Developments - Employment Law Update.

This was a special session offered only in Atlanta. An attorney from Atlanta, specializing in employment law, answered many questions regarding the subject. Her handouts and presentation were excellent. I am not revealing her name purposely. It was a special 3-hour session during which she also discussed additional issues relevant to employee and office management.

Session 5 - Develop Your Policies and Procedures. For every policy, surely there is a procedure. This session focused on how to update employment manuals and internal controls and how to communicate the changes to employees. The laundry list of requirements for segregation of duties among employees and how to accomplish this was exhausted. It was recommended to develop task procedures and checklists to improve processes and accuracy.

Session 6 - Develop Your "Tech"-niques. In this high-tech environment, you see new technology every day. A discussion of "tech" issues and effective and ineffective use of technology in the office was kicked around. One of the presenters reviewed and shared computer policies used in their office. Numerous ways to stay tech savvy, to monitor employees' computer use, and to provide office security was listed. The group examined technical and non-technical ways that bankruptcy software providers can support office technology.

Actually, the highlight of this trip was the evenings after the sessions ended when I was able to spend time with my nephew who attends Morehouse College. It was sunny and 75-80 degrees, so I really enjoyed Atlanta. Since I always "practice what I preach," I had to write an article on the trip from an attendant's point of view. I understand why my employees love to attend the Staff Symposiums, especially when they are not held in Chicago.

* Information on the facilitators can be found on the NACTT website.

Marilyn O. Marshall, Standing Trustee



Money Tip

Many people carry credit insurance coverage on installment or credit card loans, but in reality don't really need it. If you have this type of coverage, which makes your payments in the event of illness, disability, death, or unemployment, take a look at your situation. If you are in a two-income household, you may have enough income to cover these types of bills for a month or two. You may find that your savings could cover these payments sufficiently as well. If so, consider dropping that coverage and applying the payments to the principle on the debt instead.



**Information Services
Incoming!**

One of the greatest features of TNG is the InBox. As soon as you log in, right there on your Home page you will see the Action Items that need your attention.

With TNG's document processing capabilities, the software is highly-integrated with the court's website and will allow us to automatically download court dockets and documents. We will be able to route these incoming documents to specific users in the office based on sophisticated rules tailored to our needs. Ms. Marshall has worked with BSS to set up the system to know which users process petitions, plans, orders and anything else that comes from court.

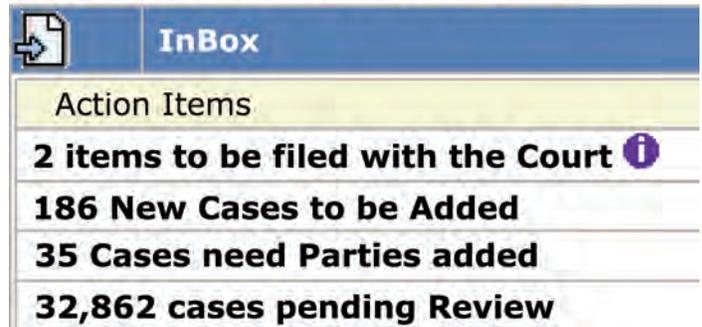
Each night, a script runs that logs into the court's website and downloads the court docket and documents from the previous day and pulls them into TNG where they will be routed to users.

Your inbox will display any items or documents that you need to process. Some are actual documents from court and other items might appear in the "Notifications" area of your inbox.

This is how claims verification and Post-Confirmation Review (PCR) is going to be handled in TNG. Instead of running a report, printing a report, and looking up the cases manually, you will be notified of the cases to be reviewed right from your inbox.

The conversion team is now focusing our attention on the procedures associated with PCR. A new (it's newly-devel-

13Software Home  



InBox

Action Items

- 2 items to be filed with the Court** 
- 186 New Cases to be Added**
- 35 Cases need Parties added**
- 32,862 cases pending Review**

oped even for BSS!) module called "Workflow" is going to help us accomplish this.

Each morning, Ms. Marshall will kick off four different Workflow tasks that will:

1. Assign claims to be processed.
2. Assign claims to be verified.
3. Assign cases to perform Initial PCR.
4. Assign cases to perform Final PCR .

We are working out the kinks of the criteria now and testing our procedures.

Once we get the hang of these workflow tasks and how they operate, we will be able to adapt the logic to other areas of the office. For example, cases can be selected for mid-case and closing audits based on workflow tasks as well.

Sandra Pillar, Director of Office Systems

Big News!

It is my pleasure to announce that Sandra Rasnak has been selected by the Executive Office of United States Trustees as the new nationwide Assistant Director for Criminal Enforcement. Sandra's appointment is a natural fit. She has been a leader in the criminal enforcement area for the Program for many years, and her work as our liaison to the President's Financial Fraud Enforcement Task Force has raised the Program's law enforcement profile considerably. Sandra's home base will be in Chicago, but due to her new Executive Office duties she will no longer be an Assistant U.S Trustee in the Chicago office. While we are saddened by the loss of her leadership here in Chicago, we are happy for the great opportunity that awaits Sandra in her new position, and we encourage you to continue to draw on her considerable talents in helping Region 11 combat fraud and abuse.



Patrick S. Layng, United States Trustee

April's Notable Events

- All Staff Meeting** on April 1st.
- April Fools' Day** on April 1st.
- Happy 11th Anniversary to Laura Mendoza** on April 3rd!
- National Deep Dish Pizza Day** on April 5th.
- Happy 18th Anniversary to Dave Latz** on April 5th!
- Happy Birthday to Rosalind Lanier** on April 6th!
- National Be Kind to Lawyers Day** on April 12th.
- Income Tax Day** on April 15th.
- National Take a Wild Guess Day** on April 15th.
- Palm Sunday** on April 17th.
- National Hanging Out Day** on April 17th.
- Good Friday** on April 22nd.
- Earth Day** on April 22nd.
- Easter Sunday** on April 24th.
- National Arbor Day** on April 29th.
- National Go Birding Day** on April 29th.
- National Honesty Day** on April 30th.



Financial Stop, Look, And Then Look Again

I want to cover cash entry and cash verification. Specifically, the importance of accuracy in these two procedures, and the need to **STOP, LOOK, and LOOK AGAIN** when doing these tasks. It is important to double check what we receive, and what we enter as receipts.

Recently we had two instances where employers furnished us incorrect information. One sent us payments on an employee who did not have a bankruptcy case. The other sent us remittance information that only showed one debtor, and it should have showed two debtors.

Based on these two instances, it is very important to look at the total picture, including all case information, and receipt information. Our Trustee tells our Closing/Audit Specialists to assume information is incorrect when auditing. Cash entry, and cash verification staff should do the same.

To start off, I would like to describe the Cash Entry and Cash Verification processes.

Our bank, SunTrust Bank does our data entry for cash receipts that are received through our Lockbox.

Data entry includes:

1. Case Number.
2. Receipt Date.
3. Type of Payment – employer check, money order, cashier check.
4. Payment Number – check or money order number.
5. Case name.
6. Payment amount.

Our Receipts Specialist, Enrique Orejel, is responsible for retrieving the cash entry file from SunTrust Bank, downloading it into our computer system, and going through each entry to be sure it is correct. A report is printed and each entry is reviewed.



Stop, look, and then look again!

When we receive SunTrust Bank's data entry, some items are shown with an asterisk (*). These are SunTrust edits/verifications of the cash entry data, and when there is an exception, an asterisk is shown next to the receipt amount. The edits are:

1. No prior receipt.
2. Receipt does not agree with case monthly plan payment amount.
3. Receipt does not agree with the last two payments.
4. Receipt is a Suspense Item.

After Enrique reviews, and verifies each batch, our Payroll Specialist, Juliana Dunklin runs a CaseNET verification report which looks at the cash entry data again.

Our verification report verifies the following, and will report exception items if:

1. Receipt does not match the case monthly plan payment amount.
2. Receipt does not match the last three case receipts.
3. Receipt is a Suspense Item.
4. Receipt is for a closed, closed complete or trustee transfer case.
5. Receipt is for a case that already has a final report.
6. Receipt is for a creditor return.

Many of the SunTrust Bank cash entry items marked with an asterisk are listed because the plan payment is different.

Verifiers look to match at least two items of cash entry data to our CaseNET case information, such as:

1. Case name.
2. Case number.
3. Case address.
4. Employer name.
5. Monthly plan payment or payroll order deduction amount.

It is very important for the verifier to **STOP, LOOK, and LOOK AGAIN** if a receipt does not look correct. The verifier may need to think outside the box, not just look for the obvious two items match. The verifier needs to check to see if there is additional information that may indicate that the receipt/payment does not belong to the case if there is not an obvious explanation.

While reviewing our CaseNET case information, some questions need to be asked to determine why the receipt is different:

1. Looking at the total receipt history, are case receipts always different?
2. If so, why?
3. If not, why is this one different?
4. Is this a joint debtor case, and are both employers, or both debtors making payments?
5. Do the total of the monthly receipts match the case monthly payment amount?
6. Is the payment a multiple, or dividend, of the monthly amount based on how the debtor is paid?
7. If there is a large difference in the payment amount from the last payment? If so, you need to determine the reason. You may need to call the remitter for more information. Possible explanations may be that we sent a payment default letter, or there is a Motion to Dismiss pending.
8. Is the CaseNET Receipts Detail "Due to Date" less than Receipts Detail "Received"? If so, can you determine why?

(Continued on page 6.)

Case Administration Individual Tax Identification Number (ITIN)

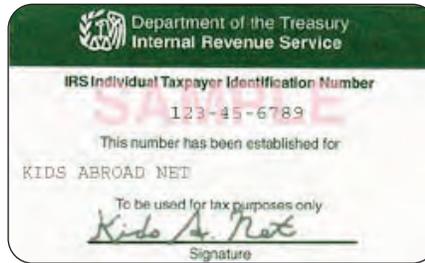
One of the responsibilities of the Chapter 13 Trustee is to conduct §341 hearings, better known as the meeting of creditors. On the day of the hearing the Client Service representative verifies that the debtor has proof of their identity and proof of their social security number. On some occasions the debtor does not have a social security card but an Individual Taxpayer Identification Number (ITIN). As a hearing officer I just wanted some understanding why some people have ITIN instead of social security cards and what the card can be used for, so I checked the IRS website and this is what I found:

What is an ITIN?

The ITIN is a tax processing number, issued by the IRS for certain resident and non-resident aliens, their spouses and dependents. It is a nine digit number beginning with “9” and has a range of numbers from “70” to “88”, i.e. 9XX-7X-XXXX. The IRS started issuing ITIN in 1996 as a means to efficiently process tax returns

What is the purpose of the ITIN?

The ITIN is used to assist those individuals that are not eligible for a social security card to comply with the U.S. tax laws. The ITIN cannot be used as a form of identification outside of the



tax system, authorize work in the U.S. or establish someone’s immigration status. The ITIN is simply used to file tax returns.

How does someone request an ITIN?

An applicant must complete and submit form W-7 along with an original U.S. federal income tax return and attach proof of identity by submitting an original or notarized copy of a birth certificate, passport or national identification card. If you qualify for the card, it will take approximately 6-10 weeks to receive.

Does the ITIN expire?

The ITIN does not expire but becomes invalid once the individual receives a social security card.

In general, the clients we encounter with ITIN are normally self-employed or have cash jobs because an employer cannot hire them without a work permit or other form of authorization. The ITIN should be displayed on the tax return. If the tax return shows a social security number, then we need to question the debtor about this during the §341 hearing.

Rosalind Lanier, Case Analyst

By the Numbers: Taxes

- ★ There are over 145 million individual income tax returns filed each year.
- ★ Over 74 million individual income tax returns that the IRS examined in 2010 resulted in refunds totaling over \$219,368,000.
- ★ In 2010 over 71 million tax returns were filed electronically.
- ★ E-filing can dramatically reduce errors. The error rate for a paper return is 21%, compared with an e-file return error rate of JUST .5%.
- ★ It costs taxpayers 42¢ for each \$100 collected by the IRS.
- ★ There are almost \$28 billion spent on tax preparation services each year.



Source: IRS

Financial Stop, Look, And Then Look Again

(Continued from page 5.)

9. Are there any docket entries regarding receipts, Communication – Employer, Communication – Debtor, that may explain the receipt?
10. Has there been a plan payment change?
11. Is there a social security number, and does it match CaseNET debtor social security number?

If you still cannot find an explanation, some further questions are:

1. Is the receipt from the Debtor’s Attorney? If it is not the standard deduction amount, and there is no explanation, you must contact the debtor attorney for a written explanation.
2. Is the receipt from a creditor? Check if the creditor is listed as one of the creditors. If so, and there is no explanation, you must contact the creditor for a written explanation.

Again, it is very important to double check information if it does not look right. Find the answer to why the amount is different.

If you still cannot determine if the receipt is to be correctly applied to the case, always call the remitter for an explanation.

Also these additional steps can be applied to other entry and verification processes. Always **STOP, LOOK, and LOOK AGAIN to be sure information entered is correct.**

With all of these measures in place, posting a receipt to the wrong case should never happen.

Rita M. Saunders, Financial Manager



Three Ways To Stay In Your Budget

Everyone struggles with staying within the boundaries of a budget, but it can be done. Here are three great strategies to help you meet your goals.



- 1. Resolve to pay in full.** If you can't afford to pay for an item without going into debt, then it is not a good time to make that purchase. This one rule is the most significant in making sure that you are not increasing your debt. This may mean that you need to delay buying something you really want, but it is best for your budget.
- 2. Take it slow.** If you are contemplating making a large purchase, give yourself some time to make sure you are making the right decision. A good rule of thumb is to wait at least 24 hours. This gives you time to ask yourself if you really need the purchase or if you are making an impulse purchase instead. You also will have enough time to figure out whether you can afford it or not.
- 3. Pay with cash.** If you are struggling staying within your budget, then your credit cards should be used for emergencies, if at all. Many people try to rationalize that it is better to use credit cards because of points they accumulate or because they get protection if the product is defective. But if using a credit card just sends you further into debt because you have bought beyond your means, then points mean nothing. Until you have a handle on your budget, cash is king.

Planning For Your Summer Road Trip

While it may seem early, now is a great time to start planning for a summer road trip. Here are some things you can do now to make things smoother on the road and at your destination:



- Do any needed car repairs now. This way you will know that your vehicle is ready for the long haul.
- Research hotels and attractions along the way. Many offer discounts for advance reservations or purchase of tickets.
- Look for deals on your summer gear. Stores are beginning to put out summer merchandise. Watch for sales in the next couple of months to get the best prices on things you will need.
- Line up travel partners. Now is the time to invite people you want to include in your adventure.
- Pick your tunes. Begin loading up your music player with road trip music. You may also want to get a car charger.

Your Pet And The Economy

The tough economy can be hard on pet owners. Most people are looking for ways to cut costs and save money. You can save money on pet care, but it is important to do it in a smart way. Here are some ideas that will help your pocketbook while letting you continue good pet care.



Feed the right amount

Many people believe that giving a little extra to their cat or dog is a good way to show how much they care. But it is important to feed the right amount. Ask your veterinarian how much your pet should eat each day and feed only that amount. This will save you in the long run, as you are only using as much as you really need. If your pet is overweight, now is the time to cut back on some food. Again, consult your vet to find out what is healthy.

Learn to groom your pet yourself

If you have been spending money on grooming, you know that this can be a hit to your budget. Invest in some good tools and take your time grooming your pet yourself. The best way to make this easy is to get into a daily routine. Brush or comb your dog or cat each and every day. You can also cut your pet's nails yourself. Ask at the pet supply store for instructions on how to do this safely.

Take a walk

Getting your dog out for a daily walk is not only good for you, but good for him. The more physically fit your dog is, the less likely he will experience costly health problems. Even cats need good exercise. Play with your cat each day to keep her fit and healthy.

Go to the vet

Wait, doesn't that mean spending more money? Well, it does, but it is money well spent. If you are skipping routine vet visits to save some money, you may find that you end up paying more in the long run. It is better to keep your pet healthy than to try to treat a serious illness

Trivia Quiz: Rain, Rain Go Away



The Answers:

1. In the Indian Ocean.
2. Buenaventura, Colombia.
3. 0.05 inches
4. The Hawaiian Islands.
5. Fly out to sea.
6. Behind you.
7. 10 inches.
8. Near Ross Island in Antarctica.
9. About seven miles per hour.
10. Sphere shaped.

Trivia Quiz: Rain, Rain Go Away

April showers are here. How much do you know about wetter weather? Test your knowledge of everything rainy with this trivia quiz. *(The answers are on page 7.)*

1. The greatest rainfall in a single day was 73.62 inches. Where was this recorded?
2. Where is the wettest place on Earth?
3. Approximately how much rain does it take to wet the ground under a fully-leafed maple tree?
4. When considering all the islands of the world together, the wettest and driest place is in the same island chain. Which chain?



5. Seagulls do many things when it is about to rain, except what?
6. If you see a rainbow in the sky, where must the sun be?
7. In order for an area to be classified as a desert, it must have less than how much rain each year?
8. There is a place on Earth where no rain has fallen for the past two million years at least. Where is this?
9. How fast does an average raindrop fall?
10. Most people believe that raindrops are tear shaped, but this is incorrect. What shape do raindrops take as they fall through the air?



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The Marshall Chronicles is now available in full color,
both in print and on-line at www.chicago13.com

Did You Know: U.S. Coin Trivia

April 17-23 is National Coin Week. Here are a few coin facts:

- The smallest monetary denomination coin ever issued in the U.S. was the half cent, available from 1793 to 1857.
- When the U.S. Mint produced its first circulating coins in 1787, the total produced in the first run was \$111.78 (11,178 copper cents).
- The largest possible amount of money in U.S. coins without being able to make change for a dollar is three quarters, four dimes, and four pennies.



- The Smithsonian Coin Collection has about 450,000 coins and is the largest numismatic collection in North America.
- The test performed to determine the purity of a metal in a coin is called an assay.
- The U.S. Mint in Philadelphia was the first building built for the U.S. Government.
- The life expectancy of a circulating coin is 30 years, while paper money usually only lasts for 18 months.

