Using the National Summary of Domestic Trade Receivables to help defend a preference action.

Although the industry standard does not require a creditor to establish the existence of a uniform set of business terms, it does require evidence of a prevailing practice among similarly situated members of the industry facing the same or similar problems. To establish the industry standard, the creditor must usually rely on evidence that is external to the debtor and creditor.

Utilizing empirical evidence generally in the form of industry payment history data compiled by an independent, authoritative source, such as that supplied by The Credit Research Foundation in the quarterly "National Summary of Domestic Trade Receivables" report, sets forth an index, by industry, based on information assembled from creditors. The data, which indexes six key metrics such as: Collection Effectiveness, Days Sales Outstanding, Best Possible DSO, Average Days Delinquent, Percent of Current AR and Delinquent AR over 91 Days Past Due, provides a valuable tool in establishing the criteria to meet the objective test to the "ordinary course" in a preference defense. The objective test, previously discussed, can be built based on a practical examination of the Best Possible Days Sales Outstanding index. A correlation can be made between BPDSO and terms based on the theory that BPDSO is calculated without the influence of past due receivables. Therefore, since there is no delinquency in the BPDSO figure, hypothetically all customers are paying according to terms. Consequently, examination of the BPDSO for any given industry will show a strong parallel to that industry's aggregated standard business terms.

An analysis of each quarter for the last several decades illustrates that, across all industries, the median Best Possible DSO hovers around 31 - 32 days. Arguably, the most common standard term across all industries is 30 days; *therefore supporting the theory that the BPDSO for any given industry correlates to the standard industry terms*.