

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
MOTION INFORMATION STATEMENT**

Caption [use short title]

Docket Number(s): 03-5023

In re: Premier Van Lines

Motion for: Leave to introduce an updating supplement on the issue of the (WDNY) Bankruptcy Court's bias against Petitioner Dr. Richard Cordero evidenced in its order of October 23, 2003, denying Dr. Cordero's request for a jury trial, which Dr. Cordero submitted to and is under consideration by this Court of Appeals

Statement of relief sought:

That this Court:

- 1) admit into evidence that court's October 23 decision as an extension of the same nucleus of operative facts evidencing bias against Appellant Dr. Cordero and which were submitted on appeal to this Court together with the substantive issues to which those facts give rise;
- 2) review that decision together with that court's July 15 decision already submitted and decide whether the court's vested interest in not allowing a jury to consider its participation in a pattern of non-coincidental, intentional, and coordinated wrongful activity makes it a party with an interest in the outcome of Dr. Cordero's request for a jury trial and disqualifies it from being impartial in its denial of the request; and
- 3) grant any other proper and just relief.

MOVING PARTY: Dr. Richard Cordero
Petitioner Pro Se
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OPPOSSING PARTY: Hon. John C. Ninfo, II
US Court House
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Court-Judge/Agency appealed from: Hon. John C. Ninfo, II

Has consent of opposing counsel:
A. been sought? No respondent known

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL

Is oral argument requested? Yes

Has argument date of appeal been set? No

Signature of Moving Petitioner Pro Se:

Has service been effected? Yes; proof is attached

Dr. Richard Cordero

Date: October 31, 2003

ORDER

IT IS HEREBY ORDERED that the motion is GRANTED DENIED.

FOR THE COURT:
ROSEANN B. MacKECHNIE, Clerk of Court

Date: _____

By: _____

**United States Court of Appeals
for the Second Circuit**

In re: Premier Van Lines

Case no.: 03-5023

**MOTION FOR LEAVE TO FILE
UPDATING SUPPLEMENT
OF EVIDENCE OF BIAS**

In re PREMIER VAN LINES, INC., Debtor	Bankruptcy case W. Bankruptcy N.Y. Case no: 01-20692, Ninfo
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JAMES PFUNTER, Plaintiff	Adversary Proceeding W. Bankruptcy N.Y. Case no: 02-2230, Ninfo
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v.

KENNETH W. GORDON, as Trustee in Bankruptcy
for Premier Van Lines, Inc., RICHARD CORDERO,
ROCHESTER AMERICANS HOCKEY CLUB, INC.,
and M&T BANK,
Defendants

RICHARD CORDERO
Third party plaintiff

v.

DAVID PALMER, DAVID DWORKIN, DAVID DELANO,
JEFFERSON HENRIETTA ASSOCIATES,
Third party defendants

RICHARD CORDERO Cross-plaintiff	Appeal W. District N.Y. Case no. 03-CV-6021, Larimer
------------------------------------	--

v.

KENNETH W. GORDON, Trustee
Cross-defendant

RICHARD CORDERO Third party-plaintiff	Appeal W. District N.Y. Case no. 03-MBK-6001, Larimer
--	---

v.

DAVID PALMER
Third party defendant

-
1. On October 23, 2003, the U.S. Bankruptcy Court for the Western District of New York, the Hon. John C. Ninfo, II, presiding, (hereinafter the bankruptcy court or the court) issued its Decision & Order Finding a Waiver of a Trial by Jury together with a Scheduling Order in Connection with the Remaining Claims of the Plaintiff, James Pfuntner, and the Cross-Claims, Counterclaims and Third-Party Claims of the Third-Party Plaintiff, Richard

Cordero (below-22 et seq.) Therein it denied Dr. Cordero’s request to hold a trial by jury, after denying at the October 16 hearing his motion of August 8, 2003, to recuse itself due to bias and prejudice and remove the case to the U.S. District Court for the Northern District in Albany for a jury trial (Mandamus Brief=MandBr-38).

2. Dr. Cordero already requested in his Opening Brief (OpBr) of July 9, 2003, and in his Reply Brief (ReBr) of August 25, 2003, to this Court the disqualification of the court due to bias and prejudice against him, a pro se litigant and the only non-local party, and the removal of the entire case to the District Court in Albany for a jury trial. Consequently, the court’s October 23 decision denying Dr. Cordero’s request for a jury trial and the evidence contained therein of the court’s bias against Dr. Cordero pertain to the nucleus of operative facts and substantive issues already submitted for review to this Court. Thus, the request for its introduction and review in the appeal should be considered proper and granted.

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I. The court’s bias in denying the request for a jury trial springs from its self-interest in preventing that a jury consider issues now on appeal that will color all further proceedings below, and all the more so if the appeal is successful and the issues are remanded

- 3. The court has a vested interest in not letting a jury be influenced by:
 - a) whether the court has engaged, and affirmatively recruited other court officers, or created the atmosphere of disrespect for duty and other people’s rights that has led such officers, to participate, in a series of acts of disregard of law, rules, and fact so numerous, precisely targeted on, and detrimental to, Dr. Cordero as to reveal a pattern of non-coincidental, intentional, and coordinated wrongdoing (OpBr-9 et seq.;54 et seq.; cf. MandBr-25,paras.56-58);
 - b) whether the court’s motive in dismissing Dr. Cordero’s cross-claims against Trustee Kenneth Gordon was to prevent discovery of evidence that would reveal its failure to detect or its knowing tolerance of, the Trustee’s negligent and reckless liquidation of Debtor Premier (OpBr-6 et seq.;38 et seq.); and
 - c) whether the court has been motivated by bias and self-interest in denying twice Dr. Cordero’s application for default judgment against Mr. David Palmer, the owner of Debtor Premier Van Lines and as such under the court’s jurisdiction, and in even taking up the defense of Mr. Palmer sua sponte despite his continued absence from the adversary proceedings (OpBr-8; 48 et seq.):

- 1) the first time, in its Recommendation of February 4, 2003 (A-306), by disregarding the fact that the Clerk of Court Paul Warren had entered default against Mr. Palmer (A-303) and that the application was for a sum certain (A-294), thus fulfilling the requirements of Rule 55 F.R.Civ.P.; and
- 2) the second time, in its decision of July 15, 2003 (MandBr-35), although the court itself had requested Dr. Cordero to resubmit the application, only to refuse to grant it on the ground of improper service of Mr. Palmer, thereby disregarding its own Order to Transmit Record to the District Court of February 4, 2003 (A-304), where in its own Findings it stated that it had reviewed not only Dr. Cordero's Complaint against Mr. Palmer, but also his Affidavit of Service on Mr. Palmer and concluded that Dr. Cordero "has duly and timely requested entry of judgment by default".

II. The blatant bias of the court, which makes any argument so long as it is to Dr. Cordero's detriment, and its sheer inconsistency, which shows its incapacity to keep track of its own previous decisions, are demonstrated once more in its October 23 decision and July 15 order.

4. The court's bias and inconsistency render its pronouncements on the substantive issue of the request for a jury trial suspect. This is particularly so because it has allowed self-interest to determine its exercise of the ample margin of discretion that it has to grant a jury trial under Rule 39(b) F.R.Civ.P. –made applicable by Rule 9015(a) F.R.Bkr.P.-, which provides thus:

...notwithstanding the failure of a party to demand a jury in an action in which such a demand might have been made of right, the court in its discretion upon motion may order a trial by a jury of any or all issues.

5. The court's bias and inconsistency and its self-interest in denying the jury trial request warrant this Court's review de novo of the October 23 decision as well as the July 15 order, referred to therein by the court itself and already submitted to this Court (MandBr-32). The review should encompass not only their text, but also their context, for the totality of circumstances will enable this Court to check the statements in those decisions against the facts and convince itself of the court's disqualifying flaws. In turn, their ascertainment will provide further indication of the prejudicial and erratic way in which the court would proceed if this Court were to allow it to continue with this adversary proceeding, let alone if it were to let its denial of the jury trial

request to stand.

A. The court's contrary-to-fact and misleading statement that trial begun

6. The October 23 decision opens with a misleading statement that is contrary to the facts. It states that:

WHEREAS, on October 16, 2003 the Court began the trial and related hearings in the Adversary Proceeding, as set forth in its July 15, 2003 Order, supplemented by an August 14, 2003 letter (the "October 16 Hearings"); and

7. The fact is that neither the court's July 15 order nor its August 14 letter (MandBr-32,79) have any reference whatsoever to a trial or a date to begin a trial, let alone that the trial would begin on October 16. The July 15 order only makes reference to 'discrete discrete hearings' that not only would begin on October 16 and could be extended into October 17, but that could also be continued on November 14 (MandBr-37). However, Rule 7016 of the WDNY Local Bankruptcy Rules makes the distinction between pre-trial motions and discovery and "(6) the time when the case will be ready for trial", and requires that "an order will be entered by the Bankruptcy Court setting the time within which all pre-trial motions and discovery are to be completed". The July 15 order does not set such time. On the contrary, it acknowledges that even discovery is still to be commenced.
8. Hence, the court's pretense that "trial" begun on October 16 should not deter this Court from removing this case to the U.S. District Court in Albany, as requested by Dr. Cordero. Far from wasting any judicial resources by so doing, this Court would be saving them by removing the case from a court with a vested interest in dragging it out until wearing down Dr. Cordero -the only non-local party, whom the July 15 order requires to travel from New York City to Rochester for every hearing- to an impartial court competent enough to provide adequate case management in compliance with its obligation under Rule 1001 F.R.Bkr.P. and Rule 1 F.R.Civ.P. to ensure 'just, speedy, and inexpensive' resolution of every action.

B. The court's implicit acknowledgment that it has proceeded without regard to the Rules of Procedure

9. The court's disregard for the law, rules, and facts is a constant in its conduct and provides one of the principal grounds for Dr. Cordero to challenge on appeal its decisions. Now the October 23 decision acknowledges unwittingly such disregard, for there the court writes (below-24):

WHEREAS, Cordero has insisted that in connection with the remaining matters in this Adversary Proceeding the parties comply with the provisions of Rule 26(f) of the Rules of Civil Procedure (“Rule 26”), requiring that the parties have a conference and issue a report to the Court, so that the Court can then issue a scheduling order in accordance with Rule 16(b) of the Federal Rules of Civil Procedure (“Rule 16”).

10. UNBELIVABLE! The court complies with the Rules of Procedure only because Dr. Cordero insists on it; otherwise, it would just handle “matters” its own home-grown way. Yet, what Rules 16 and 26 provide is not an optional, alternative way of going about discovery. Far from it, their provisions states what the court and the parties “shall” do as well as the periods and deadlines within which they must proceed. But the court ignores that, which explains why it could state at the October 16 hearing that it did not know what it was supposed to do under those rules and then asked Dr. Cordero to explain them to the court! No wonder it has mismanaged this case for fourteen months, so that it has:

- 1) failed to require even initial disclosure under Rule 26(a);
- 2) failed to order the parties to hold a Rule 26(f) conference;
- 3) failed to demand a Rule 26(f) report;
- 4) failed to hold a Rule 16(b) scheduling conference;
- 5) failed to issue a Rule 16(b) scheduling order.

C. Instead of the Rules of Procedure and the law, the court applies the law of close personal relationships with the local parties, which leads it to be biased against the only non-local party, Dr. Cordero

11. If this Court remanded this case to the court, the latter would not apply anymore than it has up to now the laws and rules of Congress or the case law of the courts hierarchically above it. Rather, it would apply the laws of close personal relationships, those developed by frequency of contact between interdependent people with different degrees of power, whereby the person with greater power is interested in his power not being challenged and those with less power are interested in being in good terms with him so as to receive benefits and/or avoid retaliation.
12. Frequency of contact is only available to the local parties; the court’s website – www.nywb.uscourts.gov- shows its extent. It offers access to court’s records through Pacer, which in turns allows queries under a person’s name and the capacity of the person’s appearance. This is what a series of queries shows:

**Table 1. Number of Cases of the Local Parties
Before the 3-Judge Bankruptcy Court**

NAME	# OF CASES AND CAPACITY IN WHICH APPEARING SINCE					
	since	trustee	since	attorney	since	party
Kenneth W. Gordon	04/12/00	3,092	09/25/89	127	12/22/94	75
Kathleen D.Schmitt	09/30/02	9				
David D. MacKnight			04/07/82	479	05/20/91	6
Michael J. Beyma			01/30/91	13	12/27/02	1
Karl S. Essler			04/08/91	6		
Raymond C. Stilwell			12/29/88	248		

13. These numbers are impressive and all the more so when one realizes that there are only three judges in the Bankruptcy Court for the Western District of NY. The importance for these locals to mind the law of relationships over the laws and rules of Congress or the facts of their cases becomes obvious upon realizing that the court’s Chief Judge is none other than the Hon. John C. Ninfo, II. Thus, the locals have a most powerful incentive not to ‘rock the boat’ by antagonizing the key judge and the one before whom they have to appear all the time. Indeed, for the single morning of Wednesday, October 15, 2003, Judge Ninfo’s calendar includes the following entries:

**Table 2. Entries on Judge Ninfo’s calendar for the
morning of Wednesday, October 15, 2003**

NAME	# of APPEARANCES	NAME	# of APPEARANCES
Kenneth Gordon	1	David MacKnight	3
Kathleen Schmitt	3	Raymond Stilwell	2

14. It is not only these locals who appear before Judge Ninfo or the other two judges, but also all the other members of their law firms or offices. There are ways for the court to know of such membership other than by the attorneys stating their appearance for the record. Thus, the court’s website states about Judge Ninfo that “At the time of his appointment to the bench in 1992 he was a partner in the law firm of Underberg and Kessler in Rochester, New York.” Underberg and Kessler is precisely the firm in which is also a partner Michael Beyma,

Esq., attorney for cross-defendant M&T Bank and third-party defendant David Delano, one of the Bank's officers in charge of Debtor Premier's account.

D. The court's and locals' disregard for the prohibition on ex-parte contacts to the detriment of non-local Dr. Cordero

15. So frequently do these people appear before Judge Ninfo that acquaintanceship, if not friendship, develops among them. Among people who disregard the law, rules, and facts, that relationship is likely to trump the express injunction of Rule 9003(a) F.R.Bkr.P.:

Except as otherwise permitted by applicable law, any examiner, any party in interest, and any attorney, accountant, or employee of a party in interest shall refrain from ex parte meetings and communications with the court concerning matters affecting a particular case or proceeding.

16. But do people who have known each other for years, if not decades, and deal with each other all the time really have to respect that rule of Congress, oh! so far away in Washington, D.C., rather than the law of their close personal relationship? The facts can answer this question: At the October 16 hearing, Judge Ninfo, after hearing Dr. Cordero present his motion for recusal and removal (MandBr-38), asked the parties if they thought that he was biased against Dr. Cordero. The three opposing attorneys present, namely, Attorneys Beyma, Essler, and MacKnight, stated, of course, that he was nothing but fair and impartial. Att. MacKnight, however, went further by stating that 'as I told you yesterday, I believe that you have been fair.' The day before the hearing, that was an ex-parte contact!

17. Who initiated it? Was it Att. MacKnight to reassure the judge that he was satisfied with how things were going? Or was it the court to assure itself of the answer before asking in open court the question about its impartiality? Either way, the court should not have allowed a contact expressly prohibited by the Rules of Procedure. Yet, it has engaged in, and thereby encouraged, them.

18. Thus, on March 25 or 26, 2003, Att. MacKnight contacted the court ex-parte because Mr. Pfunter wanted to get the inspection at his warehouse over with. Reportedly the court stated that it would not be available for the inspection and that setting it up was a matter for Dr. Cordero and Mr. Pfunter to agree mutually (A-372) The facts show that the court indeed thereby reversed its own oral order issued at the pre-trial conference of January 10, 2003, whereby Dr. Cordero would submit dates for his trip to Rochester and inspection -which he did by letter of January 29 (A-365)- and within two days of its receipt the court would deter-mine

the most suitable date for all the parties and inform thereof Dr. Cordero. But neither the court nor Att. MacKnight or Mr. Pfuntner ever replied to the letter.

19. In light of this precedent, Dr. Cordero would have objected to the court reversing itself had it not done so in an ex-parte contact because what did not happen when the court was supposed to play the key role in setting up the date of the inspection, would not happen when the court was not to play any role at all. That proved true, as shown below (para. 22 et seq.).

E. The court has carved a fiefdom out of the territory of the circuit, wherein it enforces its law of relationship by distributing to its local vassals unfavorable and unfavorable decisions, which they accept in fearful silence together with protection from the attacks of the non-local

20. The court and the locals also applied the law of close relationships at the June 25 hearing. On that occasion, it announced that it was going to hold hearings in October and November and then monthly hearings for the following seven to eight months. Yet, none of the locals protested such an unheard-of dragging out of an already 9-month old case that had so failed to make any progress that the first hearing would begin by examining the Plaintiff's complaint (MandBr-37).
21. Such counter-expectation passivity gives rise to the reasonable inference that the locals know very well that if they challenge the court on a decision that does not go their way on a case now, when they appear on another case 15 or 40 minutes later, or tomorrow or next week, the court can take decisions that could be much worse for them. So the locals abide by, not the rule of vigorously advocating the interests of their clients within the full scope of the law, but rather the rule of submissive dependency in the knowledge that if they take unfavorable decisions without objecting, the lord of the fiefdom will reward them next time with a favorable decision and thus even out their fortunes in court. Thereby everybody can take it easy and nobody has to rake their brains or waste time doing legal research or writing briefs at a professional level, if at all, whereby all enjoy peace of mind in their relative positions without upsetting relationships with appeals.
22. The facts warrant this analysis: At the May 21 hearing, Dr. Cordero reported on the May 19 inspection and asked for sanctions against and compensation from Mr. Pfuntner and Att. MacKnight. The court told Dr. Cordero that to that end he should write a separate motion and

that in asking him to do so the court was trying to help him. Dr. Cordero relied on the court's word and wrote his motion of June 6 (A-510). To prove therein compensable work and its value, he included an itemized list more than two pages long by way of a bill as well as a statement of rates and what is more, he provided more than 125 pages of documents to support the bill. All in all the motion had more than 150 pages in which Dr. Cordero also argued why sanctions too were warranted.

23. Yet, local MacKnight did not even bother to write an answer to it. Nor did he care to answer Dr. Cordero's July 21 motion for sanctions for having submitted false representations to the court (A-500). What is more, at the June 23 hearing to argue the June 6 motion, Att. MacKnight did not even have to open his mouth whether to protest it or deny any of the claims! He dutifully relied on his relation-ship with the court. The latter took up his defense from the beginning and not only refused to order any compensation, but did not impose on Att. MacKnight or Mr. Pfuntner any non-economic sanction either, if only for the sake of letting them know that they could not disobey two of its orders with impunity.
24. Was it through another ex-parte contact with the court that Att. MacKnight became so assured that he had nothing to be afraid of or even to do? Could anybody reasonably imagine that he would proceed with such hands-down assuredness if he had to face a judge that he did not know in the District Court in Albany who was going to decide whether to sanction him and his client and order compensation from both of them?
25. But even if he tried to file an answer, Att. MacKnight would likely fail simply because of lack of practice due to his habit-forming numerous appearances in a court where relationships push vigorous advocacy and legal research and writing to the bottom. This assumption finds painfully solid support in *Trustee Gordon*. In his answer in this case, the Trustee could do nothing of a higher professional caliber than to submit to a U.S. Court of Appeals an argument that runs to fewer than two pages and two lines, wherein he relied improperly on cases which he did not vet for any continued precedential value in light of the subsequent and controlling *Pioneer Investment Services Co. v. Brunswick Associates Ltd. Partnership*, 13 S.Ct. 1489, 509 U.S. 380, 123 L.Ed.2d 74 (1993), whose existence the Trustee did not even acknowledge despite its having been discussed in Dr. Cordero's Opening Brief (25,30,35), just as the Trustee did not cite a single case of this Court, but merely recycled 6 cases between 10 and 20 years old, 5 from bankruptcy courts and one from the 5th Circuit. The shortness of the Trustee's

answer is also due to his omission of what his duty of candor toward this Court required him to state to avoid submitting a misleading argument. Cobbling together such argument also reflects the habit of practicing in a court that tolerates the submission by locals of false and defamatory statements against non-locals.

F. A biased court that distorts the fact by blaming Dr. Cordero of causing inordinate expense and not settling reveals how it would deal with him if trying the case, let alone doing so without a jury

26. One of the most outrageously biased statements in the October 23 decision is this:

ii. Cordero has already caused: (a) the other parties to this Adversary Proceeding to expend an inordinate amount of time and expense [sic] in connection with these non-core issues; and (b) the Court and the Clerk's Office to expend an inordinate amount of time, while he has made not attempt to negotiate a settlement of these issues; (below-32)

27. In this statement, the court intentionally disregards basic facts which it must by now know. To begin with, there would have been no need to file any Adversary Proceeding at the end of September 2002, if Mr. Pfuntner and Att. MacKnight had replied to Dr. Cordero's letter of August 26, 2002, asking for access to Mr. Pfuntner's warehouse to remove his property therefrom (A-15); or if Mr. Pfuntner had agreed thereto when Dr. Cordero took the initiative to call him and spoke with him on the phone twice on September 16, 2002, but Mr. Pfuntner would not even give him information about his property. Nor did either of these locals reply to Dr. Cordero's letters of October 7 and 17 (A-34,68), or in 2003 to those of January 29 (A-365); April 2 (A-374); and April 30 (A-426). To top it off, neither of them attended the May 19 inspection while Dr. Cordero did travel from New York City to Rochester at his expense of time, money, and effort.

28. Nor would there have been any need for a lawsuit if Mr. Palmer, Mr. Delano, and warehouse manager/owner David Dworkin had not lied and misled Dr. Cordero since January 2002, as to his property's whereabouts; or if Trustee Gordon had done his job of finding Debtor Premier's income-producing assets, such as the storage contract under which Dr. Cordero was paying monthly fees, and informed Dr. Cordero thereabout or had provided him with such information when Dr. Cordero phoned him on May 16, 2002. Far from it, the Trustee refused to provide that information when Dr. Cordero phoned him again on September 19, 2002, and even enjoined him not to call his office again in his letter of September 23, 2002 (A-1). Based on the

facts, who has been unwilling to settle?

29. Moreover, it was the court that by letter of April 7 (A-386) and August 14, 2003 (MandBr-79), deemed it perfectly reasonable to require Dr. Cordero to travel from NYC and be in the Rochester courtroom at 9:30 a.m. just so he could argue a motion for some 20 minutes; and then to make the same trip to be in court for the hearings on October 16 and 17, November 14, and then monthly thereafter for seven to eight months. It is the court who has put and has been willing to put non-local Dr. Cordero, with the silent assent of the locals, to inordinate expense!
30. Neither the court nor the locals deemed these requirements unfair to Dr. Cordero, yet the court, ever protective of its relationship with its locals, states further that:
- iii. it would be unfair to the other parties to burden them with the additional time and costs associated with litigating these issues in a trial by jury where: (a) the issues are not complex... (below-32)
31. If the issues were not complex, why did the court need monthly hearings for nine to ten months, and justified them upon their announcement at the June 25 hearing by alleging that there were numerous and complex issues involved, or as it put it in its letter of April 7 (A-386) "the complexity of the legal issues that you have now raised", or in its July 15 order (MandBr-36) to "ensure that the Court can effectively manage the numerous issues that have been raised". So when the court wants to justify wearing Dr. Cordero down economically and emotionally the issues are complex, but to deny him a jury trial, the issues are not complex. How inconsistent and biased! No doubt, the court will say anything so long as it is to Dr. Cordero's detriment.

III. To remand to a court so blatantly biased and inconsistent would deny Dr. Cordero due process as would upholding the court's denial of his constitutional right to a jury trial

32. The right to a jury trial is so essential that the Seventh Amendment to the Constitution assures its availability whenever the minimal threshold of \$20.00 in controversy is exceeded; *GTFM, LLC v. TKN Sales, Inc.*, 257 F.3d 235, 239-40 (2d Cir. 2001). In fact, the Supreme Court considers that it "is of such importance and occupies so firm a place in our history and jurisprudence that any seeming curtailment of the right to a jury trial should be scrutinized with the utmost care." *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 501 (1959) (internal quotation and citation omitted). Consequently, there is a strong policy in favor

jury trials; *id.* at 500, so that casual waivers of the constitutionally protected right to a jury trial are not to be presumed, *Garcia-Ayala v. Lederle Parenterals, Inc.*, 212 F.3d 638, 645 (1st Cir. 2000). On the contrary, because it is so fundamental, courts will presume against waiver of the right to a jury trial, *Indiana Lubermens Mutual Ins. Co. v. Timberland Pallet and Lumber Co., Inc.*, 195 F.3d 368, 374 (8th Cir 1999) This is all the more pertinent in the case of a pro se litigant, so that it has been held that even participation in a bench trial by a pro se party is not a waiver, *Jennings v. McCormick*, 154 F.3d 542, 545 (5th Cir 1998).

33. That standard is particularly applicable in the instant case, where Dr. Cordero is a pro se defendant. As such, when dragged into this case, he implicitly trusted the court to conduct fair and impartial proceedings only to be utterly baffled and bitterly disappointed by the cumulative evidence of the court's bias against him and toward the locals. That betrayed trust cannot be said –least of all by that court- to amount to a waiver of his right to jury trial. Under those circumstances, it is not because of the absence of strong and compelling reasons to the contrary that a jury trial may be denied, but it is for the presence of such reasons that the request to exercise this fundamental constitutional right should be granted, *Green Construction Co. v. Kansas Power & Light Co.*, 1 F.3d 1005 (10th Cir. 1993).
34. There are also practical reasons for granting it. Thus, the trial has not only not begun, but also not even a date has been set for it. Far from it, the court's October 23 decision has suspended proceedings until all appeals to this Court and the Supreme Court have been completed (below-24). The court has imposed the obligation on Dr. Cordero that within 95 days thereafter he be the one to initiate a Rule 26(f) conference and then prepare and submit an order to begin discovery! There is no trial in sight. This belies the court pretext that the parties, meaning the locals, would be burdened by its granting a jury trial. The only burden to the locals and the court would come from losing control of the proceedings to a fair and impartial jury, not to mention the burden of having to justify their conduct before another court that did show due regard for the law, rules, and facts.

IV. Relief sought

35. Dr. Cordero respectfully reiterates the relief requested in the Motion Information Statement and in harmony therewith requests that this Court:
- a) review the court's decisions of October 23 and July 15, 2003;

- b) hold the court's denial of Dr. Cordero's jury trial request to be null and void as inopportune since the request is under consideration in the appeal to this Court and because it is tainted by the court's bias and self-interest;
- c) disqualify the court for bias and remove the case to a court unrelated to it and the parties, unfamiliar with the case, and capable of adjudicating it fairly and impartially in a jury trial, such as the District Court in Albany (NDNY);
- d) investigate whether the relationship between the court and the locals has impaired the administration of justice and wronged Dr. Cordero;
- e) grant Dr. Cordero any other relief that is just and proper.

Respectfully submitted on

November 3, 2003

59 Crescent Street
Brooklyn, NY 11208; tel.
(718) 827-9521

Dr. Richard Cordero

Dr. Richard Cordero
Petitioner Pro Se

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
MOTION INFORMATION STATEMENT**

Docket Number(s): 03-5023 **In re:** Premier Van Lines

Motion: to quash the Order of August 30, 2004, of WBNY J. John C. Ninfo, II, to sever claim from this case

Statement of relief sought:

1. Judge Ninfo stated at the hearing on August 25 that no motion or paper submitted by Dr. Cordero would be acted upon, so that for Dr. Cordero to request that he stay his Order would be futile; hence, it is requested that the Order be stayed until this motion has been decided and that the period to comply with it, should the Order be upheld, be correspondingly extended; otherwise, that this motion be treated on an emergency basis since the period to comply has started and ends on December 15, 2004;
2. the Order, attached as Exhibit E-149, infra, be quashed;
3. the Premier, the Pfuntner v. Gordon et al., and the DeLano (WBNY dkt. no. 04-20280) cases be referred under 18 U.S.C. §3057(a) to the U.S. Attorney General and the FBI Director so that they may appoint officers unacquainted with those in Rochester that they would investigate for bankruptcy fraud;
4. Judge Ninfo be disqualified from the Premier, Pfuntner, and DeLano cases and, in the interest of justice, order under 28 U.S.C. §1412 the removal of those cases to an impartial court unrelated to the parties, unfamiliar with the officers in the WDNY U.S. Bankruptcy and District Courts, and roughly equidistant from all parties, such as the U.S. District Court in Albany;
5. Dr. Cordero be granted any other relief that is just and fair.

MOVING PARTY: Dr. Richard Cordero
Petitioner Pro Se
59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521

OPPOSSING PARTY: See next

Court-Judge/Agency appealed from: Bankruptcy Judge John C. Ninfo, II, of the Western District of N.Y.

Has consent of opposing counsel been sought? Not applicable

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL

See 1. above

Is oral argument requested? Yes

Argument date of appeal: December 11, 2003

Signature of Moving Petitioner Pro Se:

Has service been effected? Yes; proof is attached

Dr. Richard Cordero

Date: September 9, 2004

ORDER

IT IS HEREBY ORDERED that the motion is **GRANTED** **DENIED.**

FOR THE COURT:

ROSEANN B. MacKECHNIE, Clerk of Court

Date: _____

By: _____

**United States Court of Appeals
for the Second Circuit**

MOTION TO QUASH
a bankruptcy court's order
to sever a claim from
the case on appeal in this Court
to try it in another bankruptcy case

In re PREMIER VAN LINES, INC.,
Debtor

Case no. 03-5023

JAMES PFUNTER,

Plaintiff

Adversary Proceeding

Case no. 02-2230

-v-

KENNETH W. GORDON, as Trustee in Bankruptcy
for Premier Van Lines, Inc., RICHARD CORDERO,
ROCHESTER AMERICANS HOCKEY CLUB, INC.,
and M&T BANK,

Defendants

RICHARD CORDERO

Third party plaintiff

-v-

DAVID PALMER, DAVID DWORKIN, DAVID DELANO,
JEFFERSON HENRIETTA ASSOCIATES,

Third party defendants

Dr. Richard Cordero, appellant pro se, states under penalty of perjury as follows:

1. This motion has been rendered necessary by another blatant manifestation by WBNY Bankruptcy Judge John C. Ninfo, II, of his disregard for the law, rules, and facts, and his participation with others in the already complained-about pattern of non-coincidental, intentional, and coordinated acts of wrongdoing, which now involves another powerful element: money, lots of it.
2. Requested to be quashed is the Order that Judge Ninfo issued on August 30, 2004, directing Dr. Cordero to undertake discovery of Mr. David DeLano, a party to the Premier case pending before this Court, which stems from Pfunter v. Gordon et al, dkt. no. 02-2230, an Adversary

Proceeding that Judge Ninfo himself suspended 11 months ago until all appeals to and from this Court had been taken. Now Judge Ninfo, without invoking any provision of law or rule, reopens the case under suspicious circumstances and thereby forestalls the decision that this Court may take, including the removal of the case from him; wears down Dr. Cordero, a pro se litigant, thus rendering an eventual decision by this Court to retry the claim against Mr. DeLano, not to mention the whole Pfuntner case, moot; and makes a mockery of the appellate process.

3. Indeed, Judge Ninfo is reopening now Pfuntner v. Gordon et al. to sever from it Dr. Cordero's claim against Mr. DeLano and have Dr. Cordero try it in another case, that is, Mr. and Mrs. DeLano's bankruptcy case, dkt. no. 04-20280. The foregone conclusion is that the Judge will grant the DeLanos' motion to disallow that claim, which arose from the Pfuntner case, and thus eliminate Dr. Cordero from the bankruptcy case. Judge Ninfo and the DeLanos want to do this now, after treating Dr. Cordero as a creditor for six months, because he is the only creditor that analyzed the DeLanos' January 26 petition and other documents and showed in his July 9 statement evidence of fraud. Consider these few elements, cf. longer list at Exhibit E-page 88 §IV:

a) Mr. DeLano has been for 15 years and still is a bank *loan* officer and his wife, a Xerox machines specialist, yet they cannot account for \$291,470 earned in just the last three years!...but declared in their petition only \$535 in hand and on account; and household goods worth merely \$2,910 at the end of two lifetimes of work!, while they owe \$98,092 on 18 credit cards, but made a \$10,000 loan to their son, undated and described as "uncollectible". Does one need to be a lending industry insider, like Mr. DeLano, to recognize that these numbers do not make sense or rather to know how and with whom to pull it off?

4. Evidence that the Order's purpose is to eliminate Dr. Cordero and protect the DeLanos is that Judge Ninfo suspended all proceedings in the DeLano case until the motion to disallow Dr.

Cordero's claim has been finally determined at an evidentiary hearing in 2005, or beyond in case of appeals! (E-155¶2) If the Judge did not suspend the DeLano case, **1)** Dr. Cordero would move for Judge Ninfo to force the DeLanos to comply with his pro-forma July 26 order of document production, which he issued at Dr. Cordero's instigation but they disobeyed with impunity (E-95, 105, 107,109); **2)** move to force the DeLanos to comply with his discovery requests, such as production of bank and debit card account statements that can lead to the whereabouts of the concealed assets and thus prove bankruptcy fraud by the DeLanos and others, requests that the DeLanos are likely to respect even less than they did the Judge's order; and **3)** move again for examination of the DeLanos and others under FRBkrP Rule 2004. To ensure that no such action by Dr. Cordero is effective, Judge Ninfo stated at the August 25 hearing that no paper submitted by him will be acted upon, thus denying him judicial assistance in conducting the ordered discovery of his claim against Mr. DeLano. Judge Ninfo is setting Dr. Cordero up to fail!

5. By not allowing the DeLano case from moving forward concurrently with the motion to disallow, Judge Ninfo excuses the Trustee from resubmitting for confirmation the DeLanos' debt repayment plan so that Dr. Cordero cannot oppose it by introducing any additional evidence of the DeLanos' bankruptcy fraud that he may discover. By so preventing concurrent progress of the case, Judge Ninfo harms all the 21 creditors, who have an interest in repayment beginning immediately, as well as the public at large, who necessarily bears the cost of fraud and wants it uncovered. Hence, Judge Ninfo has issued his Order with disregard for the law and appellate process, in bad faith, and contrary to the interest of the creditors and the public.

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I. Judge Ninfo’s order to detach one party and one claim from multiple parties in different roles distorts the process of establishing their respective liabilities and makes a mockery of the appellate process

6. The case on appeal in this Court originates in the Adversary Proceeding Pfuntner v. Gordon et al., all of whose parties were affected by the bankruptcy of Premier Van Lines. A moving and storage company, Premier was owned by David Palmer. His voluntary bankruptcy petition under Chapter 11 set in motion a series of events that affected, among others, his warehousemen, James Pfuntner, David Dworkin, and Jefferson Henrietta Associates; the lender to his operation, Manufacturers & Traders Trust Bank (M&T Bank) and Bank Loan Officer David DeLano; his clients, including Dr. Cordero; and the Chapter 7 Trustee Kenneth Gordon, who took over Premier to liquidate it after Owner Palmer failed to comply with his bankruptcy obligations -with

impunity from Judge Ninfo (E-117¶19b)- and the case was converted to one under Chapter 7.

7. In the presence of so many parties in different roles connected to the same nucleus of operative facts, it follows that they share in common questions of law and fact. They should be tried in a single proceeding for reasons of efficiency and judicial economy; and to arrive at just and consistent results. Hence, Judge Ninfo is not acting in the interest of justice when he orders the severance of Dr. Cordero's claim against Mr. DeLano from the case on appeal before this Court in order to try it in isolation. This is shown by even the grounds invoked by the DeLanos' attorney, Christopher Werner, Esq., for objecting to Dr. Cordero's claim (E-101):

Claimant apparently asserts a claim relating to a pending Adversary Proceeding in Premier Van Lines (01-20692) relating to M & T Bank, for whom David DeLano acted only as employee and has no individual liability. Further, no liability exists as against M & T Bank.

8. It is quite obvious that M&T Bank cannot be presumed to take responsibility for whatever Mr. DeLano did or failed to do. Likewise, M&T Bank may claim that no liability attaches to it, but rather attaches to the other parties, including Mr. DeLano in his personal capacity. In turn, the other parties could try to unload some of their liability onto Mr. DeLano since he was the M&T Bank officer in charge of the loan to Premier. If after Judge Ninfo finds Mr. DeLano not liable to Dr. Cordero the trial before another judge or jury of the remaining parties upon remand by this Court finds that considering the totality of circumstances Mr. DeLano was liable, Dr. Cordero could hardly use that finding to reassert his claim against Mr. DeLano, who would invoke collateral estoppel or try to deflect any liability onto the other parties. When would it all end!?
9. The situation would not be better at all if Dr. Cordero were found in the severed proceedings to have a claim against Mr. DeLano in the Pfuntner case on appeal here. When the Court remanded the case for trial, the other parties would try to escape liability by pointing to that finding. Either way, whatever justice could have been achieved through the appellate process

would have been intentionally thwarted in anticipation by distorting through piecemeal litigation the dynamics among multiple parties and claims within the same series of transactions.

II. Judge Ninfo has no legal basis for severing Dr. Cordero’s claim against Mr. DeLano from the case before this Court because after Dr. Cordero filed proof of claim, a presumption of validity attached to his claim

10. This is how the Bankruptcy Code, at 11 U.S.C., defines a “creditor”:

§101. Definitions

(10) "creditor" means (A) entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;...

(15) “entity” includes person...

11. In turn, it defines “claim” thus:

(5) "claim" means (A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or (B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured;¹

12. These definitions easily encompass Dr. Cordero’s claim against Mr. DeLano. Moreover,

FRBkrP Rule 3001(a) provides thus:

(a) Proof of Claim

A proof of claim is a written statement setting forth a creditor’s claim. A proof of claim shall conform substantially to the appropriate Official Form.

13. Dr. Cordero’s proof of claim of May 15 was so formally correct that it was filed by the clerk of court on May 19 (E-75) and entered in the register of claims. As a result, his claim enjoys the benefit provided under FRBkrP Rule 3001(f):

(f) Evidentiary effect

A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.

¹ This definition of a claim was adopted in *United States v. Connery*, 867 F.2d 929, 934 (*reh'g denied*)(6th Cir. 1989), *appeal after remand* 911 F.2d 734 (1990).

14. Dr. Cordero's claim is now legally entitled to the presumption of validity. Hence, it is legally stronger than when the DeLanos and Att. Werner took the initiative to include it in their January 26 petition (E-3 Schedule F). It follows that to overcome that presumption they had to invoke legal grounds on which to mount a challenge to its validity. However, just as Judge Ninfo disregards law and rules so much that he did not cite any to support his Order, so Att. Werner.

A. Mr. DeLano knew since November 21, 2002 the nature of Dr. Cordero's claim against him and was barred by laches when he filed his untimely objection on July 19, 2004

15. This is all Att. Werner could come up with in his July 19 Objection to a Claim (E-101):

Claimant sets forth no legal basis substantiating any obligation of Debtors. Claimant apparently asserts a claim relating to a pending Adversary Proceeding in Premier Van Lines (01-20692) relating to M & T Bank, for whom David DeLano acted only as employee and has no individual liability. Further, no liability exists as against M & T Bank. No basis for claim against Debtor Mary Ann DeLano, is set forth, whatsoever.

16. To avoid confusion, it should be noted that neither M&T Bank, nor Mr. DeLano, nor Dr. Cordero is a party to "Premier Van Lines (01-20692)". They are parties to the Adversary Proceeding. Thus, its docket no. 02-2230, is the one relevant because that is the case pending before this Court under docket no. 03-5023. But Att. Werner's citation works as an unintended reminder to this Court that it has jurisdiction to decide this motion because the Proceeding on appeal is being disrupted by arbitrary severance of a claim in it to be dragged into the DeLano case.

17. Contrary to the implication of the quoted paragraph, Mr. DeLano does know –and his knowledge is imputed to his attorney- what the legal basis is for Dr. Cordero's claim against him, namely, the third party claim of Mr. DeLano's negligent and reckless dealings with Dr. Cordero in connection with Mr. DeLano's M&T loan to Mr. David Palmer; his handling of the security interest held in the storage containers bought with the loan proceeds; and the property of Mr. Palmer's clients held in such containers, such as Dr. Cordero's, which ended up lost or

damaged. This claim was contained in the complaint that Dr. Cordero served on Mr. DeLano through his attorney, Michael Beyma, Esq., on November 21, 2002. Consisting of 31 pages with exhibits, the complaint more than enough complied with the notice pleading requirements of FRCivP Rule 8(a) to give “a short and plain statement of the claim”. So much so that Att. Beyma deemed it sufficient to answer with just a two-page general denial.

18. When Mr. DeLano and his bankruptcy lawyer, Att. Werner, prepared the bankruptcy petition, they knew the nature of Dr. Cordero’s claim, describing it as “2002 Alleged liability re: stored merchandise as employee of M&T Bank –suit pending US BK Ct.”. In addition, Att. Beyma accompanied Mr. DeLano and Att. Werner to the meeting of creditors on March 8, 2004. Yet, Mr. DeLano and Att. Werner continued for months thereafter to treat Dr. Cordero as a creditor.

19. It was only after Dr. Cordero’s July 9 statement presented evidence of fraud, particularly concealment of assets (E-88§IV), that the DeLanos and Att. Werner conjured up the above-quoted language and wrote it down in the July 19 motion to disallow his claim (E-101). However, other than the realization that they had to get rid of him, on July 19 they had the same knowledge about the nature of his claim as when they filed the petition on January 27. It was upon filing it that they should have filed that motion for the sake of judicial economy and to establish their good faith belief in the merits of their objection (E-127). They should also have filed it then out of fairness to Dr. Cordero so as not to treat him as a creditor for six months, thereby putting him to an enormous amount of expense of effort, time, and money filing, responding to, and requesting papers in their case only to end up with his claim disallowed (E-137).

20. Hence, their motion is barred by laches (E-133§VI). It was also untimely. Untimeliness is a grave fault under the Code, which provides under §1307(c)(1) that “unreasonable delay by the debtor that is prejudicial to creditors” is grounds for a party in interest, who need not even be a

creditor, to request the dismissal of the case or even the liquidation of the estate. Att. Werner, who claims 'to have been in this business for 28 years', must be very aware of the gravity of untimeliness. Actually, Trustee Reiber found it so applicable to the DeLanos that he invoked it on June 15 to move to dismiss their case (E-84).

21. If their motion to disallow were nevertheless granted, then the DeLanos and Att. Werner should be required to compensate Dr. Cordero for all the unnecessary expense and aggravation to which they have put him due to their unreasonable delay in objecting to his claim (E-139§II).

B. The opinion of Mr. DeLano's attorney that his client is not liable to Dr. Cordero cannot overcome the presumption of validity of his claim

22. The motion to disallow was also a desperate reaction of the DeLanos and Att. Werner to the detailed list of documents that Dr. Cordero requested Judge Ninfo on July 9 to order them to produce (E-91¶31). Those documents could have put Dr. Cordero and investigators on the trail of 1) the \$291,470 declared by DeLanos in their 1040 IRS forms for 2001-03 but unaccounted for; 2) titles to ownership interests in real estate and vehicular property; and 3) their undated loan to their son, which may be a voidable preferential transfer, cf. 11 USC §547(b)(4)(B). But that order was not issued (E-109§I) and the DeLanos did not comply with even the watered down order that at Dr. Cordero's insistence the Judge issued on July 26 (E-107, 103).

23. In their desperation, Att. Werner denied Mr. DeLano's liability to Dr. Cordero and even that of his employer, M&T Bank, which is not even a creditor in the DeLano case and is not represented by Att. Werner or his law firm (E-130§III). However, an attorney's opinion on his client's lack of liability does not constitute evidence of anything and rebuts no legal presumption, and all the more so a lay man-like opinion unsupported by any legal authority (E-138§I).

24. Then Att. Werner spuriously alleged that Dr. Cordero did not set forth any claim against Mrs. DeLano. Yet he filled out Schedule F (E-3), which requires the debtor to mark each claim thus:

If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an “H”, “W”, “J”, or “C” in the column labeled “Husband, Wife, Joint, or Community”.

25. A bankruptcy claim is perfectly sufficient if only against one of the joint debtors! Att. Werner must have known that. Hence, this allegation was spurious and made in bad faith (E-131§IV).
26. With a denial of knowledge belied by the facts, an irrelevant opinion on non-liability, and a spurious allegation Att. Werner cannot do what the claim objection form in capital letters required him to do (E-101):

DETAILED BASIS OF OBJECTION INCLUDING GROUNDS FOR
OVERCOMING ANY PRESUMPTION UNDER RULE 3001(f)

27. Case law has interpreted this requirement thus:

The party objecting to the claim has the burden of going forward and of introducing evidence sufficient to rebut the presumption of validity. *In re Babcock & Wilcox Co.*, 2002 U.S. Dist. LEXIS 15742, at 6 (E.D.La. 2002).

28. The objector’s evidence must be sufficient to demonstrate a true dispute and must have probative force equal to the contents of the claim. *In re Wells*, 51 B.R. 563 (D.Colo. 1985); *Matter of Unimet Corp.*, 74 B.R. 156 (Bankr. N.D. Ohio 1987). See also Collier on Bankruptcy, 15 ed. revd., vol. 9, ¶3001.09[2]. Denial of liability as an employee is not evidence or proof of anything.

C. Judge Ninfo had no legal basis to demand that Dr. Cordero’s proof of claim provide more than notice of the claim’s existence and amount

29. Dr. Cordero stated a legally sufficient claim against Mr. DeLano in a complaint that satisfied the notice pleading requirements of the FRCivP. The claim also satisfied the Bankruptcy Code, for it requires only that notice essentially of the claim’s existence and amount be given. In fact, the Proof of Claim Form B10 provides in 9. Supporting Documents “...If the documents are voluminous, attach a summary.” That is precisely what Dr. Cordero did when he mailed his claim against Mr. DeLano on May 15 with three pages out of the 31 pages of the complaint, including the caption page, which was labeled (E-77):

Summary of document supporting Dr. Richard Cordero's proof of claim against the DeLanos in case 04-20280 in this court

30. That only notice of the claim must be given follows from the fact that even the debtor, the trustee, a codebtor, or a surety can file the claim if the creditor fails to do so timely. None of them have to give notice of how the claim arose and what its legal basis is. Even a contingent and disputed claim is a valid claim under 11 U.S.C. §101(5); (¶11, supra). Judge Ninfo had no justification to pierce, as it were, the presumption of validity of Dr. Cordero's claim against Mr. DeLano in the case on appeal here and drag the claim out and into the DeLano case so that, as Att. Werner put it (¶15), Dr. Cordero 'substantiate an obligation of Debtors' to him. By doing so the Judge showed again his bias against Dr. Cordero and toward the local parties (E-118§IV).

D. The only legal circumstance for estimating a contingent claim is unavailable because the DeLano case is nowhere its closing

31. Section 502(b) of Title 11 provides that if a claim is objected to, the judge:

...shall determine the amount of such claim...and shall allow such claim in such amount...

32. The obligation that the Code thus puts on the judge is to allow the claim, rather than disallow it. This is in harmony with the presumption of validity under Rule 3001(f) of a filed claim, whose proof "shall constitute prima facie evidence of the validity and amount of the claim". This makes sense because filing for bankruptcy is not a device for a debtor to cause the automatic impairment of the merits of the claims against him. On the contrary, filing for bankruptcy raises the reasonable inference that the debtor has a motive for casting doubt on those claims for a reason unrelated to their merits, namely, that he is in desperate financial difficulties, in other words, drowning in debt. It is his challenge that is suspect.

33. Accordingly, section 502(b)(1) enjoins the judge not to limit the amount of the claim "because such claim is contingent or unmatured". It is obvious that a contingent claim is uncertain as to

whether it will become due and payable, and if so, in what amount. Since the section provides that a claim's contingency is no grounds for limiting its amount, it follows that it is no grounds for disallowing it altogether. A claim in a lawsuit is by definition contingent, for it depends on who wins the lawsuit. The fact that there are arguments against the claim does not authorize a judge to disallow every contingent claim or even question its validity.

34. If the judge cannot determine the claim's amount due to its contingency, he must allow time for such contingency to resolve itself. The debtor must go on carrying the claim on his books as he did before filing for bankruptcy. This construction of §502(b)(1) results from §502(c)(1):

(c)(1) any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case...shall be estimated.

35. Such estimation of a contingent claim comes into play only when the fixing of its dollar value "would unduly delay the administration of the case". The Revision Notes and Legislative Reports on the 1978 Acts put it starkly by stating that subsection (c) applies to estimate a contingent claim's value when liquidating the claim "would unduly delay the closing of the estate".

36. But the DeLano case is nowhere near its closing; so Judge Ninfo lacks authority to estimate any contingent claim value. Indeed, **1)** the case has not even settled the threshold question whether the debtors filed their petition in good faith, as required under §1325(a)(3); **2)** the adjourned meeting of creditors has not been held yet; **3)** its debt repayment plan has not been confirmed and may never be because **4)** even Trustee Reiber moved on June 15 to dismiss "for unreasonable delay" by the DeLanos in complying with his requests (E-73, 82) for documents, which they have still failed to produce; and **5)** closing the case or even avoiding undue delay in its administration cannot be but a pretense for estimating Dr. Cordero's claim because Judge Ninfo suspended all proceedings in the DeLano case until the final disposition of the motion to disallow (E-155¶2) rather than use that time to move the case forward concurrently! *What!?*

37. There is no justification for Judge Ninfo so to disregard his obligation under 11 U.S.C. §105(d)(2) “to ensure that the case is handled expeditiously and economically” and under §1325(a)(3), to ascertain whether the DeLanos’ ‘plan of debt repayment was not proposed in good faith or was proposed by any means forbidden by law’. These are non-discretionary obligations that **1)** take precedence over an optional motion to disallow; **2)** work in the public’s interest in bankruptcies free of fraud, which trumps a debtor’s private interest in avoiding a claim; and **3)** can and must be complied with concurrently with the motion to disallow, which is defeated the moment the plan turns out to be fraudulent, and thereby filed in bad faith.

38. Judge Ninfo must know that he cannot transfer his obligation to ascertain the petition’s good faith filing to the trustee. This is particularly so here, where Trustee Reiber **1)** approved the DeLanos’ petition for confirmation; **2)** vouched for its good faith in court on March 8; **3)** was unwilling (E-69,80,83a) and unable (E-90§V) to obtain documents from them; **4)** even denied Dr. Cordero’s request that the Trustee subpoena them (E-87§III); and **5)** moved to dismiss. Hence, the Trustee has a conflict of interests (E-52§III): If he investigates, as duty-bound and requested (E-44§IV), and finds fraud by the DeLanos, he indicts his competency (E-88§IV) and lays himself open to an investigation of how many of his 3,909² *open* cases he approved that were meritless or fraudulent. Moreover, if Trustee Reiber were removed from the DeLano case, he would be removed from all other cases pursuant to 11 U.S.C. §324(b). What could motivate Judge Ninfo to dismiss this as “an alleged conflict of interest” (E-151¶1) and pretend that the Trustee can conduct “a thorough investigation of the DeLano Case” (E-155)? (Cf. E-47§IV)

39. Intent can be inferred from a person’s conduct. From that of Judge Ninfo in court on March 8, July 19, and August 23 and 25, and his orders of July 26 and August 30 (E-107, 149) it can be

² As reported by PACER at https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L_916_0-1 on 4/2/04.

inferred that he is protecting the DeLanos by not investigating their suspected fraud while they get rid of Dr. Cordero through the subterfuge of the motion to disallow, which will be granted; meantime, the DeLanos will take care of their assets. Judge Ninfo's severance of Dr. Cordero's claim from the case before this Court to try it in his is a sham!

III. Judge Ninfo stated at the August 25 hearing that until the motion to disallow is decided, no motion or other paper filed by Dr. Cordero will be acted upon, thereby denying him access to judicial process and requiring this Court to step in

40. At the same time that Judge Ninfo made that announcement, he imposed on Dr. Cordero the obligation to take discovery of Mr. DeLano to determine at a hearing to be held on December 15, 2004, whether to dismiss Dr. Cordero's claim or set a date in 2005 for an evidential hearing on the motion to disallow (cf. E-156). This means that the Judge has refused in advance any assistance to Dr. Cordero if Mr. DeLano or any other party in the Pfuntner v. Gordon et al. case on appeal before this Court fails to comply with any discovery request made by Dr. Cordero.

41. Yet, Judge Ninfo knows that the DeLanos are all but certain to fail to produce documents to Dr. Cordero because they already failed to do so pursuant to the Judge's own order of July 26, a failure complained about by Dr. Cordero at the August 25 hearing without being contradicted by Att. Werner. Likewise, the DeLanos so much failed to produce documents at the requests (E-73,82) of Trustee Reiber that on June 15 he moved to dismiss. Moreover, the DeLanos already ignored Dr. Cordero's direct requests for documents of March 30 and May 23 (E-64¶80b, 83). Through denial of judicial assistance, the mission to conduct discovery on the claim against Mr. DeLano is made an impossible one: Judge Ninfo has set up Dr. Cordero to fail!

IV. Judge Ninfo's August 30 order shows his prejudgment of issues and his bias toward the DeLanos and against Dr. Cordero

42. Contrary to Judge Ninfo's statements, the issues that Dr. Cordero pursues in the DeLano case

are not “collateral and tangential” (E-153): **1)** If the DeLanos have their debt repayment plan confirmed so that they may pay just 22¢ on the dollar (E-35¶4d(2)), any damages that Dr. Cordero may be awarded on his claim will be substantially reduced in value; **2)** if the DeLanos are proved to have concealed at least the \$291,470 earned between 2001-03 but unaccounted for, their petition would be denied and if such assets are recovered, more funds would be available to satisfy an award; **3)** if Mr. DeLano has committed fraud, he becomes more vulnerable to the questions **(a)** whether he behaved negligently and recklessly toward Dr. Cordero to protect his client, David Palmer, who also went bankrupt while storing Dr. Cordero’s property; **(b)** whether he traded on inside information as a bank loan officer and who else is involved in the bankruptcy scheme; and **(c)** why the attorney for Trustee Reiber, James Weidman, Esq., insisted at the §341 meeting of creditors on March 8 that Dr. Cordero disclose how much he knew about the DeLanos having committed fraud and when Dr. Cordero would not do so, unlawfully terminated the meeting after Dr. Cordero, the only creditor present out of 21, had asked only two questions, thus depriving him of his right to examine the DeLanos under oath (E-49§§I-II;¶80e).

43. If Judge Ninfo ‘is not aware of any evidence demonstrating that Mr. DeLano is liable for any loss or damage to the Cordero Property’ (E-150) it is because **1)** the *Pfuntner v. Gordon et al.* case before this Court, though filed in September 2002, is barely past the notice pleading stage given that the Judge disregarded his duty under FRCP Rules 16 and 26 to schedule discovery, to the point that he held a hearing on October 16, as he put it on page 6 of his July 15, 2003 order:

...[to] address the matters chronologically as they have appeared in connection with this Adversary Proceeding, beginning with *Pfuntner’s* Complaint and proceeding forward....

44. Over a year after its filing, Judge Ninfo had not moved the case beyond its complaint!

45. By contrast, Judge Ninfo does have evidence to make him aware of “loss or damage to the Cordero Property” because the *Pfuntner* complaint of September 27, 2002, stated on page 3 that:

In August 2002, the Trustee, upon information and belief, caused his auctioneer to remove one of the trailers without notice to Plaintiff and during the nighttime for the purpose of selling the trailer at an auction...

46. Since Mr. Pfuntner's warehouse had been closed down and remained out of business for about a year and nobody was there paying to control temperature, humidity, pests, or thieves, Dr. Cordero's property could also have been stolen or damaged.
47. What is more, pursuant to Judge Ninfo's order of April 23, Dr. Cordero inspected his property at that warehouse on May 19 and reported to him at a hearing on May 21, 2003, that it had to be concluded that some property was damaged and other had been lost. This finding was not contradicted by Mr. Pfuntner's attorney at the hearing, David MacKnight, Esq.
48. While Judge Ninfo blames Dr. Cordero for 'not taking possession and securing his property' (E-153), he conveniently forgets that at the hearing on October 16, 2003, Att. MacKnight, in the presence of Mr. Pfuntner, agreed to keep Dr. Cordero's property in the warehouse upon Dr. Cordero's remark that removing the property from there would break the chain of custody before it had been ascertained the respective liabilities of the parties, thus complicating and protracting the resolution of the case enormously.
49. Judge Ninfo's bias against Dr. Cordero and towards the DeLanos is palpable in his order:

Cordero has elected to be an active participant in the DeLano Case, even though he has never taken the necessary and reasonable steps to have the Court determine, either in the Premier AP or the DeLano Case, that he has a Claim against DeLano...(E-151)
50. Neither the Bankruptcy Code nor the Rules require a creditor to have the court determine the validity of his claim before he can take an active part in the case in question. More to the point, it was the DeLanos who listed Dr. Cordero as a creditor in their January petition and treated him as such for six months until they conjured up the idea to eliminate him with their July 19 motion to disallow, which was returnable on August 25. Before then the DeLanos did not even give Dr.

Cordero either notice that he had to prove the validity of his claim or opportunity to do so.

51. By contrast, Judge Ninfo put stock on the fact that “DeLano, through his attorney, has adamantly denied: (1) any knowledge...and (2) any...liability if there has been any loss or damage” to Dr. Cordero’s property (E-150¶2). Did Dr. Cordero have to assert “adamantly” the evidence of such loss or damage for the Judge not to cast doubt on it with his formulation “if there in fact has been any loss or damage”?; id.

52. While Dr. Cordero’s are “collateral and tangential issues” (E-153), the Judge considers that:

whether the Debtors are honest but unfortunate debtors who are entitled to a bankruptcy discharge, because they have filed a good faith Chapter 13 case, is to the Court much more important to finally determine than is the Premier AP, which is fundamentally only about personal property which Cordero himself has indicated has a maximum value of \$15,000.00...(E-153-154)

53. Is this the way an impartial arbiter talks before having the benefit of the discovery that he is ordering Dr. Cordero to begin to undertake and who has allowed the DeLanos to conceal information by disobeying his July 26 document production order? Why does Judge Ninfo deem it “much more important” to make 21 creditors bear the loss of 4/5 of the \$185,462 in liabilities of Mr. DeLano (E-3 Summary of Schedules) than to hold him, a bank loan officer for 15 years, to a higher standard of financial responsibility because of his superior knowledge? Why does Judge Ninfo deny Dr. Cordero the protection to which he is entitled under the Code? Indeed, §1325(b)(1) entitles a single holder of an allowed unsecured claim to block the confirmation of the debtor’s repayment plan; and §1330(a) entitles any party in interest, even one who is not a creditor, to have the confirmation of the plan revoked if procured by fraud. What motive does Judge Ninfo have to disregard bankruptcy law in order to protect the DeLanos?

54. Moreover, Judge Ninfo has already prejudged a key issue in controversy:

...the Court determined that:...(2) the purpose of filing the Claim Objection was not to remove Cordero from the DeLano Case, but rather it

was to have the Court determine that an individual, who the Debtors honestly believe is not a creditor, did or did not have an allowable claim in their Chapter 13 case; (E-154-155)

- 55.** How does Judge Ninfo know that the Debtors believe anything “honestly” since they have never taken the stand? What he knows is that **1)** they disobeyed his July 26 order of document production; **2)** Trustee Reiber moved to dismiss the case “for unreasonable delay” in producing documents; **3)** they had something so incriminating that Att. Weidman would not allow them to speak under oath at the meeting of creditors; and **4)** the Judge suspended all proceedings so that they do not have to take the stand at a confirmation hearing. Since Judge Ninfo knows in some extra-judicial way that the DeLanos are honest, why not skip the charade of the December hearing or the Evidentiary Hearing in 2005 and just disallow Dr. Cordero’s claim now?
- 56.** Indeed, how open-minded would you expect the Judge to be when examining the evidence introduced by Dr. Cordero after discovery? If he reversed himself to find that the DeLanos were not honest but instead committed fraud, it would follow that, contrary to his biased statement, they had a motive to remove Dr. Cordero through the subterfuge of the motion to disallow.
- 57.** Do Judge Ninfo’s statements comport with even the appearance of impartiality? If you, Reader, were in Dr. Cordero’s position, would you after reading his August 30 Order (E-149) like your odds of getting a fair hearing? If you do not, it would be a travesty of justice to allow the DeLano case to proceed before Judge Ninfo, not to mention to let him disrupt the appellate process by severing the claim against Mr. DeLano from the case before this Court.

V. A mechanism for many bankruptcy cases to generate money, lots of it

- 58.** The incentive to approve a case is provided by money: A standing trustee appointed under 28 U.S.C. §586(e) for cases under Chapter 13 is paid ‘a percentage fee of the payments made under the plan of each debtor’. Thus, the confirmation of a plan generates a stream of payments from

which the trustee takes his fee. Any investigation conducted by the trustee into the veracity of the statements made in the petition would only be compensated -if at all, for there is no specific provision therefor- to the extent of “the actual, necessary expenses incurred”, §586(e)(2)(B)(ii). If the plan is not confirmed, the trustee must return all payments, less certain deductions, to the debtor that has made them, which he must commence to make within 30 days after filing his plan and the trustee must retain those payments while plan confirmation is being decided, 11 U.S.C. §1326(b). This provides the trustee with an incentive to get the plan confirmed because no confirmation means no stream of payments. To insure such stream, he might as well rubberstamp every petition and do what it takes to get it confirmed. Cf. 11 U.S.C. §326(b)

59. Any investigation of a debtor that allows the trustee to require him to pay his creditors another \$1,000 will generate a percentage fee for the trustee of \$100 (in most cases). Such a system creates the incentive for the debtor to make the trustee skip any investigation in exchange for an unlawful fee of, let’s say, \$300, which nets him three times as much as if he had to sweat over petitions and supporting documents. For his part, the debtor saves \$700. Even if the debtor has to pay \$600 to make available money to get other officers to go along with his plan, he still comes ahead \$400. To avoid a criminal investigation for bankruptcy fraud, a fraudulent debtor may well pay more than \$1,000. After all, it is not as if he were bankrupt and had no money.

60. Dr. Cordero does not know of anybody paying or receiving an unlawful fee in this case and does not accuse anybody thereof. But he does affirm what he knows: Trustee George Reiber, Esq., **1)** had 3,909 *open* cases on April 2, 2004 according to PACER; **2)** approved the DeLanos’ petition without ever requesting a single supporting document; **3)** chose to dismiss the case rather than subpoena the documents; and **4)** has refused to trace the earnings of the DeLanos’.

61. There is something fundamentally suspicious when a bankruptcy judge **1)** protects bankruptcy petitioners from having to account for \$291,470; **2)** allows them to disobey his document pro-

duction order with impunity; 3) prejudices in their favor that they are not trying to eliminate the only creditor that threatens to expose bankruptcy fraud; 4) yet shields them from further process.

VI. Relief requested

62. Therefore, Dr. Cordero respectfully requests that this Court:

- a) Quash Judge Ninfo's Order of August 30 (E-149); meantime stay it; if upheld, extend it;
- b) Refer the Premier, the Pfunter v. Gordon et al., and the DeLano cases under 18 U.S.C. §3057(a) to U.S. Attorney General and the FBI Director so that they may appoint officers unacquainted with those in Rochester that they would investigate (cf. E-157), such as:
 1. Judge Ninfo for his participation in a pattern of non-coincidental, intentional, and coordinated acts of wrongdoing, including the new evidence of protecting from discovery debtors under suspicion of having committed bankruptcy fraud; and
 2. Trustee Reiber and Att. Weidman for their suspicious approval of a meritless bankruptcy petition, unlawful conduct, and failure to investigate the case;
 3. David and Mary Ann DeLano, and others under suspected participation in a bankruptcy fraud scheme;
- c) Disqualify Judge Ninfo from the Premier, Pfunter, and DeLano cases and, in the interest of justice, order under 28 U.S.C. §1412 the removal of those cases to an impartial court unrelated to the parties, unfamiliar with the officers in the WDNY U.S. Bankruptcy and District Courts, and equidistant from all parties, such as the U.S. District Court in Albany.
- d) grant Dr. Cordero any other relief that is just and fair.

Respectfully submitted on,

September 9, 2004

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February 22, 2005

Mr. George M. Reiber
Chapter 13 Trustee
South Winton Court
3136 S. Winton Road, Suite 206
Rochester, NY 14623

Re: Documents produced by Att. Werner for DeLanos, dkt. no. 04-20280

Dear Trustee Reiber,

I received a copy of the cover letter of 16 instant that Att. Christopher Werner sent you together with some documents. The latter failed to answer the question that was asked at the adjourned 341 meeting on 1 February and that the DeLanos were supposed to answer through document production, namely:

If the DeLanos obtained a mortgage loan of \$32,000 from Monroe Bank in 1976; and another mortgage loan of \$59,000 from M&T Bank in 1988 as well as another mortgage loan of \$59,000 from ONONDAGA Bank in 1988; and yet another mortgage loan for \$95,000 from Genesee Regional Bank, and as stated by them, they made all their installment payments, how is it that they end up 29 years later having a home equity of only \$21,416 and still owe a mortgage debt of \$77,084, as they declared in Schedule A of their petition?

The table below presents the information discussed at the 341 meeting:

The DeLanos' Mortgages

	Source of data	Account holder	Lender	Account no.	Year loan		Amount borrowed
					taken	refinanced	
1.	DeLanos at 341 meeting on 1 Feb 05	D=David D Mary D=M	Monroe Bank	?	1976	1985	\$32,000
2.	Equifax 7/23/4; pg 6	M	M&T Bank	7389 20	03/1988	last activity April 99	\$59,000
3.	Equifax 7/23/4; pg 6	M	ONONDAGA Bank Overdraft:	1958 8200 02	03/1988	last activity Feb 98	\$59,000
4.	Equifax 7/23/4;pg 6	D	Genesee Regional Bank	7732 3892 0006 0002	April 1999	\$70K+ still outstanding	\$95,000

Where did all the money paid go or is?

Far from answering this question, the documents produced only raise many more questions. To begin with, those documents are incomplete, just as were the documents that Att. Werner produced on behalf of the DeLanos on June 14, 2004. In fact, Att. Werner admits their incompleteness when in his cover letter he states that he has produced only "a copy of the *relevant portion* of Mr. DeLano and Mrs. DeLano's Abstract of Title" (emphasis added). Since he is the one making the production and is presumed to know the best evidence rule of Rule 1002 of

the Federal Rules of Evidence, he should know better than to try to prove anything with writings that not only are not the originals, but are also not complete. Consider the following:

1. The first document in the stapled bundle is untitled and begins with “4. Church of the Holy Spirit of Penfield New York”. Thus, it is referred to here as the Church document. It bears the words “Public Abstract Corporation” printed vertically on its left margin. On a second page there is paragraph 6, after which there are no signatures or any other indication that that page is the last one of the document. One can reasonably expect that if the mortgagee wants to enforce this document against the mortgagors, the former would require the latter to sign it somewhere. What this document shows is that somebody wrote the names of the DeLanos on two sheets of paper. This document can hardly be complete. In addition, note that:
 - a) The relation of the Church of the Holy Spirit to the mortgages referred to in paragraphs 5 and 6 is not stated. This is particularly intriguing because paragraph 4 states that “This deed executes pursuant to a court order signed by Hon. Joseph G. Fritsel, Justice of the Supreme Court on July 15, 1975”. Why was a court involved in this transaction and what kind of transaction does this document bear witness to? Where is that court order and what are its terms?
 - b) In paragraph 4 it is printed “Dated July 16, 1975”, but in the left margins of this and the following page it is handwritten “ona 3/10/88”. To add more confusion, in paragraph 6 it is printed “Dated November 30, 1977”. When was this document first and last used and what was it used for?
 - c) Paragraph 5 states “Mortgage to secure \$26,000.00 Part Purchase Price Dated July 16, 1975”, and the other part?, that is, what is the whole of which this is a part? Was there a down payment and, if so, what was its amount and where did the money come from?
 - d) Moreover, paragraph 6 states “Mortgage to secure \$7,467.18 Dated November 30, 1977”. It is quite obvious that paragraphs 5 and 6 refer to two different transactions that took place more than two years apart. Hence, paragraph 5 refers to “Liber 4000 of Mortgages, page 196”, while paragraph 6 refers to “Liber 4488 of Mortgages, page 152”. In addition, how was a mortgage amount arrived at that includes 18¢?
 - e) While at the 341 meeting on February 1, Mr. DeLano stated that it was Monroe Bank that lent the \$32,000 of the mortgage taken in 1976, paragraphs 5 and 6 of this document refers to Columbia Bank, Saving, and Loan Association, yet another party that had never been mentioned previously. So what was the role of Monroe Bank in all these transactions and since when?
2. The document titled “Public Abstract Corporation” –PAC hereinafter- states at the bottom “over” but the back of that page is empty and its continuation is nowhere else. That document is incomplete too.
 - a) PAC refers to “Liber 3679 of Deeds, at page 489”. This is the reference found in paragraph 4 of the Church document, which concerns a “Warranty Deed” and involves the Church of the Holy Spirit. However, there is no express relationship between these two documents.
 - b) This lack of relationship becomes even more pronounced upon noting that PAC was signed on July 16, 1975, while there is written in the margins of the Church document “ona 3/10/88”.

- c) PAC states at the bottom of its single page “for premises at No. 1 with Nos. 4 and 5 added”. What are the premises at No. 1? Where are presumably paragraph “No. 1” and Nos. 2 and 3?
- d) Moreover, since paragraph 6 of the Church document refers to a mortgage “Dated November 30, 1977” and PAC was signed on July 16, 1975, where are paragraph 6 and who knows what other paragraphs of the Church document as it stood all the way to its end on that date of 1975? What kind of mix and match of incomplete documents is this?!
3. There is another document whose first printed line is “U.S. Department of Housing and Urban Development”. It is referred to here as the HUD document and appropriately enough, for how did HUD the institution become involved in any of these mortgages at all? That cannot be fathomed from this document, whose first sequential section is “L. Settlement Charges” and its last is “N. Net Settlement”. This document most likely forms part of something else which was not produced. As a matter of fact, it is titled “Optional Form for Transactions without Sellers”. “Optional” in what kind of standard “Transactions”? Hence, this document is incomplete. It is nonetheless very interesting.
- a) Indeed, the HUD document introduces yet another party that was not mentioned at the 341 meeting, to wit, Lyndon Guaranty Bank of New York, as lender. So when and how did the present holder of the mortgage contract, Genesee Regional Bank, as stated in Schedule D of the DeLanos’ petition, come into the picture? If Genesee was formerly known as Lyndon, where is the document that attests to that change of name so as to exclude that there was a refinancing by Genesee of a mortgage loan originally made by Lyndon?
- b) Something else comes in through the HUD document, for the box “Name & Address of Borrower:” is filled in thus:

David G. DeLano
 Mary Ann DeLano
 1262 Shoecraft Road
 Webster, NY 14580

However, the box “Property Location: (if different from above)” is filled in differently:

David G. DeLano
 Mary Ann DeLano
 1262 Shoecraft Road
Penfield, NY 14580 (emphasis added)

It is reasonable to ask how the DeLanos live in Webster but the property that is the subject of the mortgage is located in Penfield. This brings to mind the Church document, whose first line is “4. Church of the Holy Spirit of Penfield New York”.

- c) The HUD document also shows a quite strange 3.75” square of white space in the middle of the right column. What was that space left empty for? Was it always empty?
- d) The HUD document concerns a loan for \$95,000. Financial institutions, however, rarely make a mortgage loan for 100% of the value of the property that secures it; rather, they make it for less, and depending on the credit rating of the borrower and other debts, even for considerably less. Given the deplorable credit history of the DeLanos as portrayed by each of the credit bureau reports already produced, at what value was this property located in Penfield appraised for this “Settlement” dated “April 23, 1999”?

- e) In this vein, what was being 'settled' by this HUD document?
- f) Neither the HUD document nor the other documents make any reference to the loan of \$59,000 from ONONDAGA Bank.

The above analysis should suffice to show that the documents produced are incomplete. Why their production was made thus needs to be investigated and determined. Obviously, the DeLanos must produce the missing parts; but this time not just as photocopies of what Att. Werner considers "relevant". Rather, the whole **originals** of the documents bearing on mortgages on, and title to, any and all of their real property must be produced and then we make the copies.

The other two documents in the stapled bundle, one by Colony Abstract Corporation consisting of two pages and the other by Four Corners Abstract Corporation with four pages; and the single loose page document titled "Mortgage Closing Statement" raise many more questions. However, the evidence shows that you are neither willing nor able to find the answer to them.

The fact is that for weeks you pretended to be investigating the DeLanos while, as it turned out undisputedly, you were not and first asked for documents by your letter of April 20, 2004, sent at my instigation. You allowed the DeLanos not to produce any documents for months and then conveniently moved to dismiss on June 15, 2004. You have refused to subpoena any documents and have even claimed that you do not know whether you have power to subpoena. When the DeLanos untimely moved to disallow my claim in a transparent attempt to eliminate me from the case, you gave your tacit approval, for handling this case would be so much easier for you too if I were not around requesting that you investigate it, as you are required to do and I am entitled to request that you do under 11 U.S.C. §§704(4) and (7).

When Judge John C. Ninfo, II, suspended every other court proceeding in the case until the DeLanos' motion to disallow is determined and all its appeals are resolved, you pretended to have been thereby forbidden to conduct the adjourned 341 meeting. It took me a lot of effort, time, and money to appeal to all your superiors to get you to agree to hold it; yet you wanted to limit it to one hour, thus disregarding the series of meetings implied by §341. Nor did you object to Judge Ninfo's court proceedings suspension, although it not only lacks any basis in law, but also redounds to the detriment of each and all the other 20 creditors in this case, whose interests you are supposed to represent. Were you true to your duty to them, you would be advocating for me to remain on the case because through my efforts the other creditors stand the chance of being paid 100% of their claims if assets concealed by the DeLanos are found, while without me the creditors will at best get the meager 22¢ on the dollar that the DeLanos propose to pay under their debt repayment plan, with which you are satisfied, for a saving to them of \$144,660 plus all the interest that will not accrue and that they will not have to pay. On whose side are you?

That question is warranted by your attitude at the 341 meeting. There the DeLanos were supposed to be examined by answering the questions of the creditors. Instead, you allowed Att. Werner to force himself to be heard as much as both of the DeLanos, although neither he nor you could provide any basis in law for such conduct, let alone for his micromanaging the meeting under the threat of walking out of it together with the DeLanos if I did not limit myself to shooting questions at the pace he wanted. Nonetheless, you must know, as certainly as Att. Werner does, that a 341 meeting is neither a deposition nor a court proceeding subject to the Federal Rules applicable to an examination in court, nor is it a "341 Hearing", as he mistakenly but revealingly calls it in his February 16 letter.

In fact, creditors are mostly lay people that know little and are not required to know anything about the Federal Rules to attend and participate in such a meeting. They are there just to ask questions as they would in any other setting, except that they are legally entitled to distrust the debtors and treat them as if they had committed fraud. As for you, who are supposed to work “for the benefit of general unsecured creditors whom the trustee represents”, as stated under §704 and its Legislative Report, you were required to adopt that inquisitorial attitude toward the debtors, as is unequivocally provided under §343 in its Statutory Note thus:

The purpose of the examination is to enable creditors and **the trustee** to determine if assets have improperly been disposed of or concealed or if there are grounds for objection to discharge.
(emphasis added)

Far from adopting that legally required attitude, you once more allowed Att. Werner to refuse to produce any documents to account for the scores of thousands of dollars that the DeLanos have charged since “1990 and prior card purchases”, a phrase that they used 15 times in their Schedule F. Incidentally, the word “purchase” is normally used when one buys goods rather than when one pays for services. Since the DeLanos stated that they have not taken a vacation in two years and anyway do not go on expensive vacations or eat out expensively, it is all the more pertinent to ask what goods they bought and where they are. It sounds like a question that stands to reason. They can answer it by producing their credit card statements for the period that they themselves put in play. But you refused my request that they produce them.

Nor is your curiosity as a trustee that must look for ‘improperly disposed of or concealed assets’ any better. It is not piqued by even the fact that for over 15 years the DeLanos have made such credit card purchases without restraint and accumulated a credit card debt of a whopping \$98,092, but at the end of their two worklives, including Mr. DeLano’s 32 years as a bank officer and, as stated in Schedule I, currently as a *loan* officer at M&T Bank, who as such is an expert in managing borrowed money, they claimed in Schedule B that their household goods are worth just \$2,910! That claim defies common sense and should have intrigued you enough to investigate. It is even ludicrous given that the DeLanos earned more than 100 times that amount in just three years, that is, \$291,470 in the 2001-03 fiscal years, according to their petition and the 1040 IRS forms that they produced. Nonetheless, you would not ask them to produce checking and savings account statements of even those recent years to determine their earnings’ whereabouts. You refused my request although today many banks make account statements for the last few years available online and some even accompany them with the images of the cancelled checks, so that it would have been quite easy for the DeLanos to produce and for you to obtain them, not to mention that they have an obligation to keep the statements that they have received.

What is more, you allowed Att. Werner to say repeatedly at the meeting that if I want any such documents, I have to subpoena them myself. However, it is patently obvious that since the DeLanos are petitioning to be permitted to escape having to pay all their debts to the detriment of the creditors, it is their obligation, not the creditors’, to prove that they deserve that permission because their claims in the petition are true and supportive of bankruptcy relief. In addition, it is not my legal responsibility to conduct any investigation of the debtors. It is yours. And how could you have failed to take issue with Att. Werner’s admission that he destroyed documents that the DeLanos provided him for the preparation of their petition? That is a felony so serious that under 18 U.S.C. §1519 it carries a maximum sentence of 20 years in prison! Is it because he destroyed documents that he cannot produce them now?

Likewise, you accepted uncritically the testimony of the DeLanos at the 341 meeting that at present they have only one credit card, namely, the one issued by First Premier Bank that Mr. DeLano uses every three months to pay for his medication, whereas Mrs. DeLano has none at all. However, for more than 15 years they have had scores of credit cards and have used them in a skip and pay pattern so that they have failed to make their minimum payments a staggering 279 times at least. It is highly unlikely that people like them would all of a sudden give up their habit of using credit cards as means of payment, let alone that Mrs. DeLano now pays cash for all her expenses. The implausibility of those statements is corroborated by the facts: The last credit bureau reports requested on July 23 and 26, 2004, show that as of that very month the DeLanos made payments on more than one credit card.

Credit Cards on Which the DeLanos Made Payments Between Just January and July 2004

	Credit reporting agency	Date of report	Person reported on	Credit card issuer	Credit card account no.	Date of last payment & amount if stated in the report
1.	Equifax	July 23, 04	David D.=D	Capital One	4388 6413 4765*	January 2004
2.				Capital One Bank	4862 3621 5719*	February 2004
3.			D	Genesee Regional Bank		June 2004
4.	Equifax	July 23,04	Mary D.=M	Capital One	4862 3622 6671*	February 2004
5.	Experian	July 26, 04	D	Bank of Ohio	4266 8699 5018	May 2004: \$197
6.			D	Bk I TX	4712 0207 0151...	May 2004: \$205
7.			D	Fleet M/C	5487 8900 2018...	May 2004: \$172
8.			D	HSBC Bank USA	5215 3170 0105...	February 04: \$160
9.			D	MBGA/JC Penney	80246...	July 2004: \$57
10.			D	First Premier Bank	4610 0780 0310...	July 2004: \$48
11.	Experian	July 26, 04	M	Fleet M/C	5487 8900 2018...	May 2004: \$172
12.			M	MBGA/JC Penney	80246...	July 2004: \$57
13.	TransUnion	July 26, 04	M	JC Penney/MBGA	1069 9076 5	July 2004

Given that the stay that became effective upon the DeLanos filing their petition in January 2004, barred the credit card issuers from undertaking collection efforts, there would be no reason for the DeLanos to pay old charges. They must have made those payments to their credit cards to keep them current so that they can continue using them.

Now Att. Werner submits these documents, though **1)** incomplete due to his self-serving determination of their relevancy; **2)** incapable of explaining the flow of mortgages over the years and their sediment of equity in the DeLanos' home; and **3)** at odds with information provided by the DeLanos previously. He too should have known better than to submit them, for according to his own statement at the hearing on July 19, 2004, he 'has been in this business for 28 years'. By the same token, he should know that he is subject to the constraints of FRBkrP Rule 9011(b) and to the NY Code of Professional Responsibility: Canons and Disciplinary Rules, in particular DR 7-102, all the time.

So what could possibly have led Att. Werner to think that these documents would pass muster with you, Trustee Reiber? Did he know that you just humored me at the 341 meeting on February 1, but that in the end you would not make on him any requirement other than what could be met with this pretense of a document production? Is he aware that you have a conflict of interests, for on March 8, 2004, you vouched in open court for the good faith of the DeLanos' petition before you ever requested them any supporting document, and now you would incriminate yourself if you were to conduct a proper investigation that demonstrated that the DeLanos have committed fraud, particularly concealment of assets, and that you could have suspected that if only you had read critically their petition, let alone requested of them proof for their implausible and intriguing claims?

If you can assess the character and determination of a person, you must know that, if you do not, I will find evidence for my assertions. It will indict your competency and due diligence, to begin with. This is the moment for you to cut your losses; otherwise, you will dig yourself into a deeper hole from which you will be unable to come out. Therefore, I respectfully request that you:

1. recuse yourself from this case so that an independent trustee, unrelated to the parties, unfamiliar with the case, unhampered by any conflict of interest, and capable of conducting a zealous, competent, and expeditious investigation of the DeLanos be appointed; if you refuse to do so,
2. hire under 11 U.S.C. §327 a highly reputed title search, appraisal, and accounting firm(s) that are unrelated to the parties and with whom neither you nor your attorney, James Weidman, Esq., have ever worked, to investigate the DeLanos' mortgages and real and personal property in order to **a)** establish a chronologically unbroken title to any such property; **b)** determine the value of their equity and outstanding debts; and **c)** *follow the money!*, from the point of its being earned by each of the DeLanos since "1990 and prior credit card purchases" to date;
3. use your power of subpoena, cf. F.R.Bkr.P. Rules 9016 and 2004(a) and (c), and F.R.Civ.P. Rule 45, to subpoena from the respective institutions the following documents:
 - a) current reports from each of the three credit reporting bureaus, namely, Equifax, Experian, and TransUnion; and
 - b) the monthly statements of the DeLano's checking, savings, and debit card accounts, their current balances, and copies of their cancelled checks;
4. request that the DeLanos:
 - a) produce a list of their checking, savings, and debit card accounts since '1990 and prior years' to date, the period that they put in play in Schedule F,
 - b) state the name of the appraiser that appraised their home in November 2003, and his or her address and phone number;
 - c) attend a 341 meeting in the afternoon of Monday, February 28, or the morning of March 1, where they must produce the originals of all the title and mortgage documents that they have and answer questions about those that Att. Werner produced. Please note that the evidentiary hearing on the motion to disallow is scheduled for March 1, at 1:30 p.m.

I would appreciate it if you would call me as soon as possible to discuss this letter and let me know where you stand on the issues raised here and the requests that I have made.

Sincerely,

Dr. Richard Cordero

Fix Spindelman Brovitz & Goldman

A PROFESSIONAL CORPORATION ATTORNEYS AT LAW

Please Reply to
Fairport Office:
Karl S. Essler
295 Woodcliff Drive
Suite 200
Fairport, New York 14450
Telephone: (585) 641-8000
Fax: (585) 641-8080
E-mail: kessler@fixspin.com

Syracuse Office:
441 South Salina Street
Suite 604
Syracuse, New York 13202
Telephone: (315) 701-0706
Fax: (315) 701-0711

Web Address: www.fixspin.com

February 22, 2005

Honorable John C. Ninfo, II
U.S. Bankruptcy Court Judge
100 State Street, Room 1400
Rochester, New York 14614

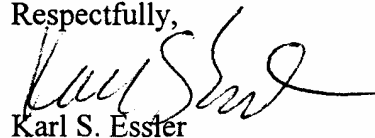
Re: Premier Van Lines, Inc., Debtor (Cordero v. Palmer, et al) AP Case No.: 02-2230;
In re: David G. DeLano and Mary Ann DeLano, Case No. 04-20280

Dear Judge Ninfo:

I am in receipt of Dr. Cordero's motion requesting that you recuse yourself from the above matters and move them to the Bankruptcy Court in another District. I represent David Dworkin and Jefferson Henrietta Associates, Defendants in the first-named adversary proceeding above. I do not intend to appear for Oral Argument of Dr. Cordero's motion, but wanted to clearly state my belief that the Court has done nothing which would warrant the relief requested. Indeed, it appears to me that Dr. Cordero is simply plowing old ground, and is requesting relief that has previously been requested and denied.

Thank you very much for your consideration.

Respectfully,



Karl S. Essler

KSE/mlh

cc: See attached service list

GEORGE M. REIBER

CHAPTER 13 TRUSTEE
SOUTH WINTON COURT
3136 SOUTH WINTON ROAD
ROCHESTER, NEW YORK 14623

GEORGE M. REIBER
JAMES W. WEIDMAN

February 24, 2005

585-427-7225
FAX 585-427-7804

Christopher K. Werner, Esq.
2400 Chase Square
Rochester, NY 14604

Dear Mr. Werner,

Re: David & Mary Ann Delano BK #04-20280

Thank you for sending me the Abstract information regarding the debtors' property. I note that the 1988 mortgage to Columbia, which later ended up with the government, is not discharged of record or mentioned in any way, shape or form concerning a payoff. What ever happened to that mortgage? According to the Schedules, the only mortgage in existence is the Lyndon mortgage.

Thank you for your cooperation and consideration.

Very truly yours,

GEORGE M. REIBER

GMR/mb
XC: Dr. Richard Cordero (FAX)

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

March 1, 2005

Kathleen Dunivin Schmitt, Esq.
Assistant U.S. Trustee
Federal Office Building
100 State Street, Room 6090
Rochester, NY 14614

Re: §341 examination of the DeLanos, dkt. no. 04-20280

Dear Ms. Schmitt,

Please find attached hereto a copy of my letter to Trustee George Reiber of 22 February concerning the §341 examination of the DeLanos held in his office on February 1, as to which I make observations on his conduct of it; and on the mortgage documents produced by their attorney, Christopher Werner, Esq., on February 16, which are reproduced below. In my letter, I also request that Trustee Reiber take certain actions.

I respectfully ask that you take a position on my letter and the need to grant those requests and that you inform me thereof in writing.

Sincerely,

Dr. Richard Cordero

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

March 10, 2005

Kathleen Dunivin Schmitt, Esq.
Assistant U.S. Trustee
Federal Office Building
100 State Street, Room 6090
Rochester, NY 14614

Re: §341 examination of the DeLanos, dkt. no. 04-20280

Dear Ms. Schmitt,

Please find herewith the two blank audio tapes required for your Office to fill my request for an official copy of the recording of the §341 examination of the DeLanos held in the office of Trustee George Reiber last February 1.

When I was there last March 1 and requested such a copy from your assistant, Ms. Jill, she checked with another person in your Office and then told me that I had to put my request in writing, which I did. Thus, when I asked and she replied that I did not have to supply blank tapes, I reasonably relied on her having found out all the instructions for this rather small transaction. If subsequently it turned out that she was mistaken because I did have to supply blank tapes, your Office should have assumed the responsibility for her mistake and send me the copy of the recording instead of Ms. Kyler putting me to the trouble, cost, and delay of packaging, labeling, and mailing them after refusing my offer that I send money instead of the tapes and not agreeing to send me right away a recording made on your tapes without first receiving the replacement tapes that I agreed to mail you. Whatever happened with assuming institutional responsibility for the acts of the employees, or exercising flexibility, or showing trust in a person who has done everything possible to show himself to be trustworthy?

I look forward to receiving your reply to my fax of March 1.

Sincerely,

Dr. Richard Cordero

March 10, 2005

George M. Reiber, Esq.
3136 South Winton Road
Rochester, New York 14623

Re: David G. and Mary Ann DeLano, Case No. 04-20280

Dear Mr. Reiber:

In response to your letter dated February 24, 2005, we enclose herewith the County Clerk's records of discharge of Columbia Banking mortgages as filed June 13, 1988 and June 14, 1998, together with Discharges of Mortgage by M&T Bank filed April 28, 1999, September 1, 1999 and April 10, 2000, to the extent they may also be relevant.

I have not reviewed the actual documents themselves, but only the electronic records index with the County Clerk. If you think it's necessary, a complete title search will have to be obtained to establish the outstanding liens. Please advise.

Very truly yours,

BOYLAN, BROWN,
CODE, VIGDOR & WILSON, LLP


Christopher K. Werner

CKW/trm
Enclosures

cc: David G. and Mary Ann DeLano
Mr. Richard Cordero

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

March 19, 2005

Christopher K. Werner, Esq.
Boylan, Brown, Code, Vigdor & Wilson, LLP
2400 Chase Square
Rochester, NY 14604

Re: David and Mary Ann DeLano, Bkr. dkt. no. 04-20280

Dear Mr. Werner,

I have received a copy of your letter to Trustee George Reiber of 10 instant. However, I did not receive the enclosures. I trust you remember what Trustee Reiber told you in his letter to you of June 16, 2004:

I notice that you did not copy Dr. Cordero in on your correspondence. I will be forwarding him copies of everything you have sent me. In the future, please make sure Dr. Cordero is copied on everything. I do not intend to be a conduit for information being passed between parties in interest.

It is appropriate to note that:

- 1) you refused for months to provide the Trustee and me any documents concerning the DeLanos, so much so that he moved to dismiss "for unreasonable delay";
- 2) subsequently, you failed to produce all the documents requested by Trustee Reiber, as I showed in Table 1 of my letter to you of September 29, 2004;
- 3) you also failed to produce the documents that I requested from you pursuant to his letter to both of us of March 12, 2004; and
- 4) you refused to provide me with even a single document that I requested to defend against your motion to disallow my claim against Mr. DeLano.

Do you think that an objective observer informed of all the facts may find it reasonable to be concerned that you may still be reluctant and even fail to provide me with a copy of all the documents that you or the DeLanos have or that you send to the Trustee?

In this vein, it is appropriate to ask you whether you think that an impartial trier of facts may deem your failure to copy me in on enclosures to the Trustee despite his express instruction for you to do so as evidence that you might not copy your clients on correspondence that I send you.

Therefore, I respectfully request that you send me a list of all the documents that you have sent to Trustee Reiber in connection with his request at the examination of the DeLanos on February 1, including those referred to in the above-mentioned letter to him of March 10, and that you also send me a copy of all such documents themselves.

Sincerely,

Dr. Richard Cordero

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

March 21, 2005

Kathleen Dunivin Schmitt, Esq.
Assistant U.S. Trustee
Federal Office Building
100 State Street, Room 6090
Rochester, NY 14614

Re: §341 examination of the DeLanos, dkt. no. 04-20280

Dear Ms. Schmitt,

Last Saturday, I received both the bubble envelope and the two audio cassettes that I sent you on 10 instant to comply with your requirement that I provide the tapes for the copy that I requested of the §341 examination of the DeLanos held in the office of Trustee George Reiber last February 1. One cassette is still unopened in its plastic wrap and the other was opened and bears a label on which it was written "March 8, 2004-341". However, the first sentence of the letter dated March 10, 2005, that I addressed to you and mailed together with the cassette was this:

Please find herewith the two blank audio tapes required for your Office to fill my request for an official copy of the recording of the §341 examination of the DeLanos held in the office of Trustee George Reiber last February 1.

I have written to you numerous times for a whole year to complain that the meeting of the DeLanos was conducted by James Weidman, Esq., the attorney for Trustee Reiber, instead of the latter himself, which is a violation of C.F.R. §58.6(a)(10); and that the meeting took place in the afternoon, as the official Notice of Meeting of creditors indicates that it would. Yet, the tape that you just sent me took place in the morning, was conducted by Trustee Reiber, and the DeLanos do not even appear on it! Those who appear in that recording are the following debtors:

1. Barbara Lindstrom
2. David and Brenda Newnham
3. Lonnie and Annette Robinson
4. Stanley Phillips
5. Kenneth and Kimberly Pruner
6. June Eaton
7. Jeffrey and Brenda Dorsey
8. Nicole Danizio

Moreover, when I went to your office on March 1, 2005, to ask for a copy of the official tapes of that examination on February 1, your assistant Ms. Jill requested that I state my request in writing. I did so and gave her the written request. What is more, when I spoke on March 2 on the phone with your other assistant, Ms. Christine Kyler, I also stated to her that I wanted a copy of the audio recording of the examination of the DeLanos last February 1.

Nevertheless, you not only failed to send me a copy of the recording of a specific meeting that I repeatedly requested, twice orally and twice in writing from two members of your staff, but you also sent me a recording that concerns neither the DeLanos, Att. Weidman, nor me.

Please take into account that when I was in your office on March 1, I asked of Ms. Jill and after she inquired of the rest of your staff she told me that I did not have to provide blank cassettes. That turned out to be incorrect. As a result, your requirement that I mail blank cassettes to you has delayed by weeks the process of requesting and receiving a copy of the recording.

Now this. Does your handling of this request reflect the degree of care of your performance or the intention of your actions?

Likewise, I draw your attention once more to my fax to you of March 1. Therein I served on you a copy of my letter to Trustee George Reiber of 22 February concerning the same February 1 examination of the DeLanos in his office. In that letter, I made observations on the way he conducted that examination and on the mortgage documents produced by the DeLanos' attorney, Christopher Werner, Esq., on February 16, of which I included a copy in my fax to you. In the letter to Trustee Reiber I requested that he take certain actions, which in our phone conversation on February 23 he summarily declined to do. Note that although in that conversation, he did agree to my request that he ask the DeLanos to state the name of the appraiser who in November 2003 appraised their home, and his or her address and phone number, so far I have no evidence that he made such request and I have not received the information requested.

Therefore, I respectfully request that you:

- a) Explain why you failed to send me the recording of the examination of DeLanos on February 1, 2005, and instead sent me a copy of a recording on March 8, 2004, that has nothing to do with the DeLanos;
- b) Send me a copy of the whole recording and on your own cassettes to avoid any further delay, of:
 - i. the examination of the DeLanos on **February 1, 2005**, in Trustee Reiber's office;
 - and ii. the meeting of creditors on **March 8, 2004**, that took place at the U.S. Trustees Office, 6080 U.S. Courthouse –hence, not in the courtroom- beginning at 1:00 p.m. and thus, including the introduction by Trustee George Reiber, and the examinations conducted by Att. Weidman, among which is that of the DeLanos, until Att. Weidman concluded the meeting and all examinations;
- c) as already requested in my letters to you of March 1 and 10, take a position on my February 22 letter to Trustee Reiber and the need to grant the requests that I made in it to him, and that you inform me in writing of such position.

Sincerely,

Dr. Richard Cordero

ROUTING AND TRANSMITTAL SLIP

Date 3/23/05

To: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Dr. Cordero		
2.		
3. Re: Delano		
4. BK 04-20280		
5.		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

Enclosed are the copies of the adj. 341 hearing tapes for February 1, 2005. I apologize for my error in sending you the 3/8/04 341 tape, and the inconvenience it caused.

For your information, Tapes A + B are both side 1 + 2 + Tape C, is just side 1.

Thank you for your patience.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

Jill Wood

Phone No.

263-5822

5047-102

OPTIONAL FORM 41 (Rev. 7-76)
 Prescribed by GSA
 FPMR (41 CFR) 101-11.206

U.S. GPO: 1980 - 890-080

March 24, 2005

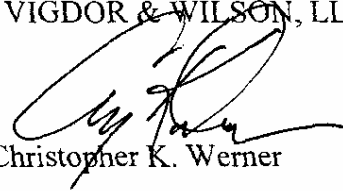
Dr. Richard Cordero
59 Crescent Street
Brooklyn, New York 11208

Re: David G. and Mary Ann DeLano, Case No. 04-20280

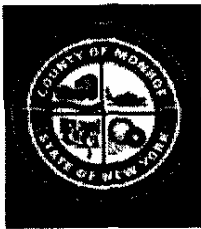
Dear Dr. Cordero:

Enclosed please find copies of the enclosures to our letter to Trustee Reiber of March 10, 2005, which were apparently omitted from your copy of the correspondence. These documents are also a matter of public record and are accessible to the public at the website indicated at the bottom of the documents.

BOYLAN, BROWN,
CODE, VIGDOR & WILSON, LLP


Christopher K. Werner

CKW/trm
cc: David G. and Mary Ann DeLano



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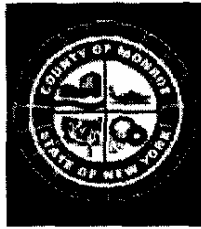
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Parties		Property	Notations	Refers To	More Entries	View Image/Purcha	
Name	Party Desc	Party Type	RECORD DT			Reference #1	Reference #2
COLUMBIA BANKING FEDERAL SAVIN	DSCHARGOR	1	19880614	N	N		
Doc Description	Doc Type	Pages	Book/Page	VER?	CHG?		
DSCHG OF MTG	S04	1	S014190142	Y			

DeHano



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Name	Party Desc	Party Type
COLUMBIA BANKING FEDERAL SAVIN	DSCHARGOR	1
DELANO DAVID G	DSCHARGE	2
DELANO MARY ANN	DSCHARGE	2

Click on the Name for Address Information



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4	* L4488 P152



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Name	Party Desc	Party Type	RECORD DT			Reference #1	Reference #2
COLUMBIA BANKING FEDERAL SAVIN	DSCHARGOR	1	19880613	N	N		
Doc Description	Doc Type	Pages	Book/Page	VER?	CHG?		
DSCHG OF MTG	S04	1	S014180320	Y			



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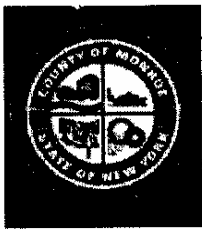
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Name	Party Desc	Party Type
COLUMBIA BANKING FEDERAL SAVIN	DSCHARGOR	1
DELANO DAVID G	DSCHARGE	2
DELANO MARY ANN	DSCHARGE	2

Click on the Name for Address Information



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Prop Type	Description
4	* L 4000 P 196



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Name	Party Desc	Party Type	RECORD DT			Reference #1	Refe #
MANUFACTURERS AND TRADERS TRUS T COMPANY	DSCHARGOR	1	19990428	N	N	M#CH 016334	
Doc Description	Doc Type	Pages	Book/Page	VER?	CHG?		
DSCHG OF MTG	S04	2	S023420479	Y	N		



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Name	Party Desc	Party Type
DELANO DAVID G	DSCHARGE	2
DELANO MARY ANN	DSCHARGE	2
MANUFACTURERS AND TRADERS TRUS T COMPANY	DSCHARGOR	1

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Property Information Results

Prop Type	Description
1	00WYC 19990428



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Name	Party Desc	Party Type	RECORD DT			Reference #1	Refe #
MANUFACTURERS AND TRADERS TRUS T COMPANY	DSCHARGOR	1	20000410	N	N	M#CK 039604	
Doc Description	Doc Type	Pages	Book/Page	VER?	CHG?		
DSCHG OF MTG	S04	2	S024240500	Y	N		



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DELANO DAVID G	DSCHARGE	2
DELANO MARY ANN	DSCHARGE	2
MANUFACTURERS AND TRADERS TRUS T COMPANY	DSCHARGOR	1

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Property Information Results

Prop Type	Description
1	00LAC 20000410



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Parties		Property	Notations	Refers To	More Entries	View Image/Purcha		
Name	Party Desc	Party Type	RECORD DT			Reference #1	Refe #	
MANUFACTURERS AND TRADERS TRUS T COMPANY	DSCHARGOR	1	19990901	N	N	M#CE 033444		
Doc Description	Doc Type	Pages	Book/Page	VER?	CHG?			
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1	00WYC 19990901

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

March 29, 2005

Trustee George M. Reiber [copied to Trustees Martini & Schmitt]

South Winton Court

3136 S. Winton Road, Suite 206

Rochester, NY 14623

faxed to 585-427-7804

Re: David and Mary Ann DeLano, Bkr. dkt. no. 04-20280

Dear Trustee Reiber,

I received a copy of the letter that Christopher Werner, Esq., sent you on 10 instant. However, he failed to send me the enclosures. So I wrote to him on March 19 and let him know that by not sending them to me, he had disregarded what you had told him in your letter to him of June 16, 2004:

I notice that you did not copy Dr. Cordero in on your correspondence. I will be forwarding him copies of everything you have sent me. In the future, please make sure Dr. Cordero is copied on everything. I do not intend to be a conduit for information being passed between parties in interest.

Now I have received a letter from him, dated March 24, containing 14 printouts of screenshots of index pages on the website of the Monroe County Clerk's Office, of which I am sending you a copy. I can only assume that they represent a copy of everything in the enclosures that he sent you. But even Att. Werner can realize that they have neither beginning nor ending dates of a transaction, nor transaction amounts, nor property location, nor current status, nor reference to the involvement in the mortgage of the U.S. Department of Housing and Urban Development (HUD), etc. They are useless to prove anything!

Mr. Werner may have realized it, which would explain why he wrote in his letter to you:

I have not reviewed the actual documents themselves, but only the electronic records index with the County Clerk.

That statement does not secure for Att. Werner plausible deniability. What he did send show that those documents are objectively incapable of providing the information that you requested from him. Indeed, in your letter of last February 24 you wrote to him thus:

Thank you for sending me the Abstract information regarding the debtors' property. I note that the 1988 mortgage to Columbia, which later ended up with the government, is not discharged of record or mentioned in any way, shape or form concerning a payoff. What ever happened to that mortgage? According to the Schedules, the only mortgage in existence is the Lyndon mortgage. Thank you for your cooperation and consideration.

In light of your concerns thus expressed, how could Att. Werner think that by not checking the documents and instead sending useless screenshots he was making a reasonably calculated effort to provide the necessary information to put your concerns to rest? Did he expect you to do his homework for him by going to the County Clerk's website to look for "the actual documents themselves" and determine whether they contained the information concerning the mortgage to Columbia and HUD's involvement?

Hence, it is most intriguing that you did not protest to Att. Werner for having sent you those useless screenshots. Did you even look at the documents that he sent you? Did you ever intend to look at them when you expressed your concerns about the DeLanos' mortgages? The foundation for these questions is that 1) only after I faxed to you my letter of February 22 where I pointed out the insufficiency of the documents that Att. Werner had produced with his letter of February 16 did you write to him to express those concerns on February 24; 2) only after I stated my objections of March 4, 2004, to the confirmation of the DeLanos' debt repayment plan and had to keep insisting on the basis of 11 U.S.C. §704(4) and (7) that you obtain supporting documents from them did you ask Att. Werner for any documents whatsoever in your letter of April 20, months after they had filed their petition of January 26, 2004; 3) only after I had to appeal all the way to the Trustees' Office in Washington, D.C; to exercise my right to examine the DeLanos did you give up your refusal to hold such examination; etc. There is a pattern here: Only if I keep pushing you to obtain information do you ask for it. Would it appear to a reasonable person informed of all the circumstances that you rubberstamped the DeLanos' petition and now are asking for documents just to humor me but with no intention to find out what their financial situation is? Are you wasting my effort, time, and money by dragging me through a charade?

These circumstances beg the question whether Att. Werner sent you but not me those documents on March 10 because he expected you not to look at them, let alone notice their uselessness, while he knew that I would. This is supported by the fact that it was I who raised the question about mortgages at the examination of the DeLanos on February 1, 2005, in your office. Then you asked for documents from them and Att. Werner. Mr. DeLano stated that he had those documents at home. You gave them two weeks to produce them. So why do they take two months not to produce them? Why did they send you useless screenshots when they could have sent you copies of the documents that Mr. DeLano admitted he had at home? The answer is that this is part of their pattern of refusal to produce documents and so much so that months after you requested, at my instigation, documents from them and received none, you moved for dismissal on June 15, 2004, for "unreasonable delay".

By now it should be obvious to you too that the delay is not just unreasonable, it is intentional. If the DeLanos were in real financial difficulty so as to justify their filing for bankruptcy and they could establish the good faith of their petition by producing documents that they even admit having at home, it would be irrational for them to be throwing away thousands of dollars in legal fees to have Att. Werner for more than a year withhold those documents and others that you have requested, not to mention all those that I have requested. Their conduct, however, is rational if those documents are so incriminating that out of self-preservation they feel they must conceal them. In so doing, they are only managing to violate time and again the provision at 18 U.S.C §152(8) on 'the concealment or destruction of documents in contemplation of or after filing a bankruptcy petition and relating to the financial affairs of the debtor'.

Just as the DeLanos have chosen to keep compounding their initial fraud in what they chose to state in their petition rather than cut their losses by admitting what they did and bargain for a plea, you, Trustee Reiber, must choose your stance toward the indisputable fact of their concealment of documents. Therefore, I ask once more the same question that I asked at the examination last February:

If the DeLanos obtained a mortgage loan of \$32,000 from Monroe Bank in 1976; and another mortgage loan of \$59,000 from M&T Bank in 1988 as well as another mortgage loan of \$59,000 from ONONDAGA Bank in 1988; and yet another mortgage

loan for \$95,000 from Genesee Regional Bank, and as stated by them, they made all their installment payments, how is it that they end up 29 years later having a home equity of only \$21,416 and still owe a mortgage debt of \$77,084, as they declared in Schedule A of their petition?

The answer is in the documents that they are so intent on not producing. However, the answering documents are not just those relating to mortgages, but also those that show the whereabouts of the money that the DeLanos have earned for so many years, including the \$291,470 in the 2001-03 fiscal years alone, and that today should be reflected in their all but 100% equity in their home at 1262 Shoecraft Road in Webster. If in the 29 years since their 1976 mortgage they have barely managed to acquire ownership of one fifth of their home appraised at \$98,500 in November 2003, what else have they instead managed to acquire?

Therefore, I respectfully request that you:

1. hire under 11 U.S.C. §327 a highly reputed title search, appraisal, and accounting firm(s) that is unrelated to the parties and with whom neither you nor your attorney, James Weidman, Esq., have ever worked, to investigate the DeLanos' mortgages and real and personal property in order to **a)** establish a chronologically unbroken title to **any** such property; **b)** determine the value of their equity and outstanding debts; and **c)** *follow the money!*, from the point of its being earned by each of the DeLanos since "1990 and prior credit card purchases" -the period that they put in play 15 times in Schedule F- to date;
2. request that the DeLanos:
 - a) produce a list of their checking, savings, and debit card accounts since '1990 and prior years' to date; and
 - b) state the name of the appraiser that appraised their home in November 2003, and his or her address and phone number;
3. use your power of subpoena, cf. F.R.Bkr.P. Rules 9016 and 2004(a) and (c), and F.R.Civ.P. Rule 45, to subpoena from the respective institutions the following documents:
 - a) the monthly statements of the DeLano's checking, savings, and debit card accounts, their current balances, and copies of their cancelled checks; and
 - b) current reports from each of the three credit reporting bureaus, namely, Equifax, Experian, and TransUnion;
4. if you are not willing or able not just to ask for, but also obtain the necessary documents, including those already requested but still not produced, recuse yourself from this case so that an independent trustee, unrelated to the parties, unfamiliar with the case, unhampered by any conflict of interest, and capable of conducting a zealous, competent, and expeditious investigation of the DeLanos be appointed; and
5. send me copies of documents that Att. Werner may send you, without prejudice to his obligation to send them directly to me.

I look forward to receiving a written response from you at your earliest convenience.

Sincerely,

Dr. Richard Cordero



U.S. Department of Justice

Office of the United States Trustee

Western District of New York

New Federal Office Building
100 State Street, Room 6090
Rochester, New York 14614

(585) 263-5812
FAX (585) 263-5862

April 6, 2005

Dr. Richard Cordero
59 Crescent Street
Brooklyn, NY 11208-1515

Re: David G. DeLano and Mary Ann DeLano
BK 04-20280

Dear Dr. Cordero:

Pursuant to your request, I enclose the 341 hearing tapes for March 8, 2004. Please note that the Delano hearing begins on side 2 of tape A (towards the end, and I have fast forwarded it to where it starts) and it continues on side 1 of tape B.

I misinformed you with regard to the introduction. Only Chapter 7 Trustees are required to record their hearing introduction on the audio tapes. The Chapter 13 Trustee conducts his introduction by video tape only, and it is not recorded on the hearing tape. I apologize for my error.

If you need any further assistance, please do not hesitate to contact me.

Thank you.

Sincerely yours,

Jill Wood
Legal Clerk

Enclosures

I. NTCAPR, REALPROP, ObjPlan, APPEAL

**U.S. Bankruptcy Court
Western District of New York (Rochester)
Bankruptcy Petition #: 2-04-20280-JCN**

Assigned to: John C. Ninfo II
Chapter 13
Voluntary
Asset

Date Filed: 01/27/2004

David G. DeLano
1262 Shoecraft Road
Webster, NY 14580
SSN: xxx-xx-3894
Debtor

represented **Christopher K. Werner**
by Boylan, Brown, Code, Vigdor & Wilson LLP
2400 Chase Square
Rochester, NY 14604
(585) 232-5300
Email: cwerner@boylanbrown.com

Mary Ann DeLano
1262 Shoecraft Road
Webster, NY 14580
SSN: xxx-xx-0517
Joint Debtor

represented **Christopher K. Werner**
by (See above for address)

George M. Reiber
3136 S. Winton Road, Suite 206
Rochester, NY 14623
(585) 427-7225
Trustee

represented **George M. Reiber1**
by 3136 Winton Rd. S.
Rochester, NY 14623
(585)427-7225
Email: trustee13@roch13.com

U.S. Trustee's Office
100 State St. Room 6090
Rochester, NY 14614
(585) 263-5812
TERMINATED: 09/30/2004
U.S. Trustee

Filing Date	#	Docket Text
01/27/2004	<u>1</u>	Chapter 13 Voluntary Petition, Schedules A-J & Statement of Financial Affairs filed by Christopher K. Werner on behalf of David G. DeLano , Mary Ann DeLano . (Werner, Christopher) (Entered: 01/27/2004)

01/27/2004	2	Chapter 13 Plan Filed by on behalf of David G. DeLano , Mary Ann DeLano (Werner, Christopher) (Entered: 01/27/2004)
01/27/2004	3	Receipt of Chapter 13 Voluntary Petition, All Schedules & Statements (fee)- Case Upload(2-04-20280) [caseupld,1305u] (194.00) filing fee. Receipt number 0209B348339, amount \$ 194.00. (U.S. Treasury) (Entered: 01/27/2004)
01/27/2004		Real Estate Scheduled. (Clifford, M) (Entered: 01/28/2004)
02/06/2004	5	Meeting of Creditors 341(a) meeting to be held on 3/8/2004 at 01:00 PM at Rochester UST 341. Proofs of Claims due by 6/7/2004. Confirmation hearing to be held on 3/8/2004 at 03:30 PM at Rochester Courtroom. (Finucane, P.) (Entered: 02/06/2004)
02/06/2004	6	Notice of Appearance and Request for Notice Filed by Creditor Captial One Auto Finance Department . (Finucane, P.) (Entered: 02/09/2004)
02/09/2004	7	Order to Pay Trustee Signed on 2/9/2004. (Finucane, P.) (Entered: 02/09/2004)
02/11/2004	8	Certificate of Service Filed by atty for debtor (RE: related document(s) 5 Meeting of Creditors Chapter 13). (Finucane, P.) (Entered: 02/11/2004)
02/11/2004	9	BNC Certificate of Mailing. Service Date 02/11/2004. (Related Doc # 7) (Admin.) (Entered: 02/12/2004)
02/26/2004	11	Notice of Appearance and Request for Notice Filed by Creditor MBNA America Bank NA by eCast Settlement Corporation . (Finucane, P.) (Entered: 03/03/2004)
02/26/2004	12	Notice of Appearance and Request for Notice Filed by Creditor as its agent Chase Manhattan Bank USA, NA by eCast Settlement Corp . (Finucane, P.) (Entered: 03/03/2004)
03/01/2004	10	Notice of Appearance and Request for Notice Filed by Creditor MBNA America Bank NA by eCast Settlement Corporation . (Finucane, P.) (Entered: 03/02/2004)
03/08/2004	13	Objection to Confirmation of Plan Filed by Interested Party Dr. Richard Cordero (RE: related document(s) 2 Chapter 13 Plan Filed by on behalf of David G. DeLano , Mary Ann DeLano (Werner,

		Christopher)). (Capogreco, C.) (Entered: 03/08/2004)
03/08/2004	14	Meeting of Creditors Continued 341(a) meeting to be held on 4/26/2004 at 01:00 PM at Rochester UST 341. (Finucane, P.) Appearance by Creditor: Dr. Richard Cordero. (Entered: 03/09/2004)
03/08/2004	15	Confirmation Hearing Continued (RE: related document(s) 5) Confirmation hearing to be held on 4/26/2004 at 03:30 PM at Rochester Courtroom. Appearances: Christopher Werner, Atty. for Debtors; James Weidman of counsel to George Reiber, Trustee. Appearing in opposition: Dr. Richard Cordero (Parkhurst, L.) (Entered: 03/09/2004)
03/09/2004		Declaration of Electronic Filing submitted.. (Finucane, P.) (Entered: 03/09/2004)
03/10/2004	16	Notice of Appearance and Request for Notice Filed by Creditor Fleet Bank (RI) N.A. and its assigns by . (Finucane, P.) (Entered: 03/10/2004)
03/12/2004	17	Notice of Appearance and Request for Notice Filed by Creditor Genesee Regional Bank fka Lyndon Guaranty Bank . (Finucane, P.) (Entered: 03/12/2004)
03/12/2004	18	Letter to conduct an adjourned 341 hearing Filed by Trustee George M. Reiber. (Reiber1, George) (Entered: 03/12/2004)
04/07/2004	24	Notice of Motion for a Declaration of the Mode of Computing the Timeliness of an Objection to a Claim of Exemptions and for a Written Statement on and of Local Practice. Filed by Interested Party Richard Cordero . (Finucane, P.) (Entered: 04/16/2004)
04/07/2004	25	Memorandum of March 30, 2004, Re: The Facts, implications and requests concerning the DeLano Chapter 13 bankruptcy petition, docket No. 04-20280 WDNY Filed by Interested Party Richard Cordero . (Finucane, P.) (Entered: 04/16/2004)
04/07/2004	27	Objection to a Claim of Exemptions Filed by Interested Party Richard Cordero . (Finucane, P.) (Entered: 04/16/2004)
04/08/2004	19	Objection to A Claim of Exemptions. Filed by Interested Party Richard Cordero . (Attachments: # 1 Appendix)(Tacy, K.)CORRECTIVE ENTRY: THIS ENTRY WILL INCLUDE SEPARATE DOCKET

		ENTRIES TO CLARIFY THE SEPARATION OF DOCUMENTS THAT WERE FILED. Modified on 4/16/2004 (Finucane, P.). (Entered: 04/08/2004)
04/09/2004	20	Deficiency Notice (RE: related document(s) 19 Objection to Confirmation of the Plan and Notice of Motion for a declaration of the mode of Computing the timeliness of an objection to a claim of exemptions and for a written statement on and of Local Practice, filed by Interested Party Richard Cordero) (Finucane, P.) Modified on 4/16/2004 (Finucane, P.). (Entered: 04/09/2004)
04/11/2004	21	BNC Certificate of Mailing. Service Date 04/11/2004. (Related Doc # 20) (Admin.) (Entered: 04/12/2004)
04/13/2004	22	Letter <i>Letter to Mr. Cordero requesting dates for an extended 341 examination.</i> Filed by Trustee George M. Reiber. (Reiber4, George) (Entered: 04/13/2004)
04/15/2004	23	Notice of Appearance and Request for Notice by Barbara Hamilton Filed by Notice of Appearance Creditor eCast Settlement Corporation, assignee of Associates National Bank . (Folwell, T.) (Entered: 04/15/2004)
04/16/2004	26	Opposition to Cordero Objection to Claim of Exemptions Filed by Christopher Werner, Esq. atty for Debtor David G. DeLano , Joint Debtor Mary Ann DeLano (RE: related document(s) 19 Objection to Confirmation of the Plan). (Finucane, P.) (Entered: 04/16/2004)
04/16/2004	28	Letter to Dr. Cordero from the Court regarding deficiency notice related document(s) 20 Deficiency Notice - no DDL,). (Finucane, P.) (Entered: 04/19/2004)
04/16/2004	30	Letter dated 4/13/04 Filed by Interested Party Richard Cordero . (Attachments: # 1 Certificate of Service # 2 Letter to Mr. Stickle # 3 Letter to Dr. Cordero) (Finucane, P.) (Entered: 04/22/2004)
04/19/2004	29	Copy of Letter dated 4/15/04 Filed by Interested Party Richard Cordero to George Reiber, Esq. (RE: related document(s) 22 Letter). (Finucane, P.) (Entered: 04/19/2004)
04/22/2004	31	Letter <i>re:adjourn 341 hearing to a later date (to be announced)</i> Filed by Trustee George M. Reiber. (Reiber1, George) (Entered: 04/22/2004)

04/26/2004	32	Confirmation Hearing Continued (RE: related document(s) 5 Confirmation hearing to be held on 6/21/2004 at 03:30 PM at Rochester Courtroom. Appearances: Christopher Werner, Atty. for Debtors; George Reiber, Trustee.(Parkhurst, L.) (Entered: 04/27/2004)
04/26/2004	33	Meeting of Creditors Continued 341(a) meeting to be held on 6/21/2004 at 01:00 PM at Rochester Courtroom. (Finucane, P.) (Entered: 04/28/2004)
04/28/2004	34	Reply to Debtors' Statement in Opposition to Dr. Cordero's Objection to a Claim of Exemptions. Filed by Interested Party Richard Cordero . (Finucane, P.) (Entered: 04/28/2004)
04/28/2004	35	Letter dated 4/23/04 to George Reiber, Esq. from Dr. Richard Cordero. Filed by Interested Party Richard Cordero . (Finucane, P.) (Entered: 04/28/2004)
05/18/2004	36	Letter Filed by Trustee George M. Reiber. (Reiber1, George) (Entered: 05/18/2004)
05/18/2004	37	Letter Filed by Trustee George M. Reiber. (Reiber1, George) (Entered: 05/18/2004)
05/19/2004	38	Copy of Letter dated 5/16/04 to George Reiber, Esq. from Dr. Richard Cordero . (Finucane, P.) (Entered: 05/19/2004)
05/26/2004	39	Letter dated 5/23/04 Filed by Dr. Richard Cordero to Ms. Deirdre Martini, UST for the Region 2. (Finucane, P.) (Entered: 05/26/2004)
05/26/2004	40	Letter dated 5/23/04 to Christopher K. Werner, Esq. Filed by Dr. Richard Cordero . (Finucane, P.) (Entered: 05/26/2004)
06/14/2004	41	Copy of Letter dated 6/8/04 Filed by Dr. Richard Cordero to George Reiber, Esq. (Finucane, P.) (Entered: 06/15/2004)
06/15/2004	42	Chapter 13 Trustee's Motion to Dismiss Case <i>FOR UNREASONABLE DELAY</i> . (Reiber, George) (Entered: 06/15/2004)
06/15/2004	43	Letter Filed by Trustee George M. Reiber. (Reiber1, George) (Entered: 06/15/2004)
06/16/2004	44	Hearing Set (RE: related document(s) 42 Chapter 13 Trustee's Motion to Dismiss Case) Hearing to be held on 7/19/2004 at 03:30 PM

		Rochester Courtroom for unreasonable delay. 42 , (Finucane, P.) (Entered: 06/16/2004)
06/21/2004	45	Confirmation Hearing Continued (RE: related document(s) 5 Confirmation hearing to be held on 8/23/2004 at 03:30 PM at Rochester Courtroom. Appearances: George Reiber, Trustee. (Parkhurst, L.) (Entered: 06/21/2004)
06/23/2004	46	341 Meeting of Creditors Continued. 341(a) meeting to be held on 8/23/2004 at 01:00 PM at Rochester UST 341. (Reiber, George) (Entered: 06/23/2004)
07/12/2004	47	Statement in Opposition to Trustee's Motion to Dismiss the Delano Petition (related document(s): 42 Chapter 13 Trustee's Motion to Dismiss Case <i>FOR UNREASONABLE DELAY</i>) Filed by Dr. Richard Cordero (Finucane, P.) (Entered: 07/13/2004)
07/13/2004	48	Objection to (Trustees Motion to Dimiss. related document(s): 42 Chapter 13 Trustee's Motion to Dismiss Case <i>FOR UNREASONABLE DELAY</i>) Filed by Christopher Werner, atty for Debtor David G. DeLano , Joint Debtor Mary Ann DeLano (Finucane, P.) (Entered: 07/13/2004)
07/19/2004	49	Hearing Continued (RE: related document(s) 42 Chapter 13 Trustee's Motion to Dismiss Case) Hearing to be held on 8/23/2004 at 03:30 PM Rochester Courtroom for 42 , The debtors are to produce any documents in their possession, regarding their credit card accounts, and provide copies to the Trustee and Dr. Cordero by the close of business on 8/11/04. The debtors are to give Mr. Werner any pages of the Equifax report that they have and that he does not have. By the close of business on 7/21/04, Mr. Werner is to send complete copies of the Equifax report to the Trustee and Dr. Cordero. By 8/11/04, the Debtors are to have ordered their credit reports from Equifax, Trans Union and Experian. Within two days of their receipt, copies are to be provided to the Trustee and Dr. Cordero. The Court will adj. Dr. Cordero's request to remove Mr. Reiber as Trustee to 8/23/04. Order to be submitted by Dr. Cordero. NOTICE OF ENTRY TO BE ISSUED. Appearances: George Reiber, Trustee. Appearing in opposition: Christopher Werner, Atty. for Debtors; Dr. Richard Cordero (By phone). (Parkhurst, L.) (Entered: 07/20/2004)
07/20/2004	53	Letter dated 7/19/04 Filed by Dr. Richard Cordero regarding Proposed Order . (Finucane, P.) (Entered: 07/26/2004)

07/21/2004	50	Letter dated 7/20/04 Filed by Christopher Werner, Esq. atty for Debtor David G. DeLano , Joint Debtor Mary Ann DeLano to the Court regarding proposed Order that was submitted by Dr. Cordero . (Finucane, P.) Additional attachment(s) added on 7/21/2004 (Finucane, P.). (Entered: 07/21/2004)
07/22/2004	51	Motion Objecting to Claim No.(s) 19 for claimant: Richard Cordero, Filed by Christopher Werner, atty for Debtor David G. DeLano , Joint Debtor Mary Ann DeLano (Attachments: # 1 Proposed Order # 2 Certificate of Service) (Finucane, P.) (Entered: 07/23/2004)
07/23/2004	52	Hearing Set Pending Opposition. Hearing Set for 11:30 a.m. 8/25/04 at Rochester Courtroom (RE: related document(s) 51 Motion to Object to Claim(s) filed by Christopher Werner atty for Debtor David G. DeLano, Joint Debtor Mary Ann DeLano) (Finucane, P.) (Entered: 07/23/2004)
07/26/2004	54	Order Regarding Trustee's Motion To Dismiss Case (Related Doc # 42) Signed on 7/26/2004. (Attachments: # 1 Copy of Letter & Proposed Order from Dr. Richard Cordero# 2 Copy of letter and Proposed Order from Christopher Werner, Esq.) (Finucane, P.)Copy of Order sent to Dr. Cordero by U.S. mail and by Bankruptcy Noticing Center. (Entered: 07/27/2004)
07/29/2004	55	BNC Certificate of Mailing. (RE: related document(s) 54 Order on Trustee's Motion to Dismiss Case,) Service Date 07/29/2004. (Admin.) (Entered: 07/30/2004)
07/29/2004	56	BNC Certificate of Mailing. (RE: related document(s) 54 Order on Trustee's Motion to Dismiss Case,) Service Date 07/29/2004. (Admin.) (Entered: 07/30/2004)
08/16/2004	57	Notice of Motion and Supporting Brief For Docketing and Issue, Removal, Referral, Examination, and Other Relief. Filed by Interested Party Richard Cordero (Attachments: # 1 Certificate of Service # 2 Exhibit Letter# 3 Proposed Order # 4 Exhibit Verizon-Online Activity Statement) (Tacy, K.) Modified on 8/16/2004 to add specific text, re: type of Motion(Tacy, K.). (Entered: 08/16/2004)
08/19/2004	58	Reply in Opposition to Debtors' Objection to claim and Motion to Disallow it (related document(s): 51 Motion Objecting to Claim No.(s) 19 filed by Debtor David G. DeLano, Joint Debtor Mary Ann DeLano) Filed by Dr. Richard Cordero (Finucane, P.) (Entered: 08/19/2004)
08/20/2004	59	Response to Cordero Reply to Objection to Claim (related

		document(s): 58 Objection, filed by Dr. Richard Cordero) Filed by Christopher Werner, Esq. atty for Debtor David G. DeLano , Joint Debtor Mary Ann DeLano (Finucane, P.) (Entered: 08/20/2004)
08/23/2004	60	Hearing Held (RE: related document(s) 42 Chapter 13 Trustee's Motion to Dismiss Case) Motion denied without prejudice. The Court will suspend any and all Court proceedings and involvement in this case until the claim objection, scheduled for 8/25/04, is resolved. Dr. Cordero's motion, dated, 8/14/04, is denied in its entirety without prejudice to renew should the Court determine he has an allowable claim in this case. The Court will prepare and enter an order. NOTICE OF ENTRY TO BE ISSUED. Appearances: George Reiber, Trustee. Appearing in opposition: Christopher Werner, Atty. for Debtor; Dr. Richard Cordero, Pro Se.(Parkhurst, L.) (Entered: 08/25/2004)
08/23/2004	61	Confirmation Hearing Held. (RE: related document(s) 5 The Confirmation Hearing is suspended until the objection to the claim of Dr. Richard Cordero is resolved. Appearances: Christopher Werner, Atty. for Debtors; George Reiber, Trustee. Appearing in opposition: Dr. Richard Cordero, Pro Se (By telephone).(Parkhurst, L.) (Entered: 08/25/2004)
08/25/2004	65	Hearing Continued (RE: related document(s) 51 Motion to Object to Claim(s) filed by Debtor David G. DeLano, Joint Debtor Mary Ann DeLano) Adjourned to the Evidentiary Hearing Calendar to be held on 12/15/2004 at 09:00 AM Rochester Courtroom for 51 , Discovery is to be completed by 12/15/04. The Court will issue an order. NOTICE OF ENTRY TO BE ISSUED. Appearances: Christopher Werner, Atty. for Debtors; George Reiber, Trustee. Appearing in opposition: Dr. Richard Cordero, Pro Se (By telephone).(Parkhurst, L.) (Entered: 08/31/2004)
08/30/2004	62	Interlocutory Order Denying Trustee's Motion To Dismiss Case; The Court's involvement in the DeLano case is in all respects suspended, except for determining the Claim Objection, until the Court has made its final determination in the Claim Objection Proceeding and any and all appeals of its final determination are finalized; The Debtors and Cordero shall have until 12/15/04 to complete any and all discovery that they may wish to conduct in connection with the Claim Objection Proceeding; and The Claim Objection Proceeding shall be called on the Court's 12/15/04 Evidentiary Hearing Calendar at 9:00 a.m. so that an evidentiary hearing could be scheduled on that day with a day certain in January, February or March of 2005, depending upon the Court's schedule and its availability. (Related Doc # 42) Signed on 8/30/2004.

		(Attachments: # 1 Proof of Claim filed 5/19/04# 2 Scheduling Order in connection with the remaining claims of the plaintiff, James Pfuntner, & the Cross-Claims, Counterclaims & Third Party Claims of the Third-Party Plaintiff, Richard Cordero# 3 Order dated 7/26/04 and attachments# 4 Objection to Claim Filed 7/22/04) (Finucane, P.) (Entered: 08/30/2004)
08/30/2004	63	Transfer of Claim. (Jackson, R.) (Entered: 08/30/2004)
08/30/2004	64	Transfer of Claim. (Jackson, R.) (Entered: 08/30/2004)
09/01/2004	66	BNC Certificate of Mailing. (RE: related document(s) 62 Order on Trustee's Motion to Dismiss Case, , , ,) Service Date 09/01/2004. (Admin.) (Entered: 09/02/2004)
09/01/2004	67	BNC Certificate of Mailing. (RE: related document(s) 62 Order on Trustee's Motion to Dismiss Case, , , ,) Service Date 09/01/2004. (Admin.) (Entered: 09/02/2004)
10/05/2004	68	Letter dated 10/1/04 Filed by Trustee George M. Reiber . (Finucane, P.) (Entered: 10/05/2004)
10/06/2004	69	Letter dated 9/29/04 to Christopher K. Werner, Esq. Filed by Dr. Richard Cordero . (Finucane, P.) (Entered: 10/08/2004)
10/06/2004	70	Letter dated 9/22/04 to George M. Reiber, Esq. Filed by Dr. Richard Cordero . (Finucane, P.) (Entered: 10/08/2004)
10/20/2004	71	Letter dated 10/12/04 Filed by Dr. Richard Cordero to George M. Reiber, Esq. (Finucane, P.) (Entered: 10/20/2004)
10/25/2004	72	Letter dated 10/21/04 to Kathleen Dunivin Schmitt, Esq.(UST) Filed by Dr Richard Cordero . (Finucane, P.) (Entered: 10/26/2004)
10/25/2004	73	Letter dated 10/20/04 to George M. Reiber, Esq. Filed by Dr. Richard Cordero . (Finucane, P.) (Entered: 10/26/2004)
10/28/2004	74	Letter Filed by Debtor David G. DeLano. (Attachments: # 1 Exhibit Discovery Response) (Werner, Christopher) (Entered: 10/28/2004)
11/05/2004	75	Letter dated 10/27/04 to Christopher Werner, Esq. filed by Dr. Richard Cordero (Attachments: # 1 certificate of service) (Finucane, P.) (Entered: 11/05/2004)

11/05/2004	76	Letter dated 10/28/04 to George Reiber, Esq. Filed by Dr.Richard Cordero . (Finucane, P.) (Entered: 11/05/2004)
11/08/2004	77	Notice of Motion to Enforce Judge Ninfo's Order of 8/30/04 for Discovery from David DeLano and to Obtain a Declaration that it does not exempt the Trustee from his obligations under B.C. Sec. 341. Filed by Dr. Richard Cordero (Finucane, P.) (Entered: 11/08/2004)
11/10/2004	78	INTERLOCUTORY Order Denying Notice of Motion to Enforce Judge Ninfo's Order of August 30, 2004, For Discovery from David Delano and to Obtain a Declaration that it does not exempt the Trustee from his Obligations Under B.C. section 341. (Related Doc # 77) Signed on 11/10/2004. (Attachments: # 1 Interlocutory Order dated 8/30/04)(Tacy, K.) (Entered: 11/10/2004)
11/10/2004	79	Response to (related document(s): 78 Order on Generic Motion,) Filed by Debtor David G. DeLano (Werner, Christopher) (Entered: 11/10/2004)
11/12/2004	80	BNC Certificate of Mailing. (RE: related document(s) 78 Order on Generic Motion,) Service Date 11/12/2004. (Admin.) (Entered: 11/13/2004)
12/21/2004	81	Scheduling Order Signed on 12/21/2004 (RE: related document(s) 51 Motion to Object to Claim(s) filed by atty for Debtor David G. DeLano, Joint Debtor Mary Ann DeLano). Hearing to be held on 3/1/2005 at 01:30 PM Rochester Courtroom for Evidentiary Hearing 51 , (Finucane, P.) (Entered: 12/22/2004)
12/24/2004	82	BNC Certificate of Mailing. (RE: related document(s) 81 Scheduling Order,) Service Date 12/24/2004. (Admin.) (Entered: 12/25/2004)
01/03/2005	83	Letter dated 12/30/04 from George Reiber, Esq. to Dr. Richard Cordero and Christopher Werner, Esq. Filed by Trustee George M. Reiber . (Finucane, P.) (Entered: 01/04/2005)
02/03/2005	84	341 Meeting of Creditors Continued. Filed by Trustee (Reiber, George) (Entered: 02/03/2005)
02/10/2005	85	Joint Transfer of Claim from Chase Manhattan Bank USA, NA to eCAST Settlement Corporation. Filed by Creditor eCAST Settlement Corporation. (Beckett, Alane) (Entered: 02/10/2005)

02/10/2005	86	Joint Transfer of Claim from Fleet Bank (RI) N.A. and its assigns to eCAST Settlement Corporation. Filed by Creditor eCAST Settlement Corporation. (Beckett, Alane) (Entered: 02/10/2005)
02/14/2005	87	Joint Transfer of Claim from MBNA America Bank, N.A. to eCAST Settlement Corporation. Filed by Creditor eCAST Settlement Corporation. (Beckett, Alane) (Entered: 02/14/2005)
02/14/2005	88	Joint Transfer of Claim from MBNA America Bank, N.A. to eCAST Settlement Corporation. Filed by Creditor eCAST Settlement Corporation. (Beckett, Alane) (Entered: 02/14/2005)
02/14/2005	89	Joint Transfer of Claim from MBNA America Bank, N.A. to eCAST Settlement Corporation. Filed by Creditor eCAST Settlement Corporation. (Beckett, Alane) (Entered: 02/14/2005)
02/22/2005	90	Motion to Recuse Judge John C. Ninfo II Filed by Dr. Richard Cordero Hearing to be held on 3/1/2005 at 01:30 PM at Rochester Courtroom. (Finucane, P.) (Entered: 02/22/2005)
02/23/2005	91	Hearing Set (TEXT ONLY EVENT) (RE: related document(s) 90 Motion to Recuse Judge Ninfo filed by Interested Party Richard Cordero) Hearing to be held on 3/1/2005 at 01:30 PM Rochester Courtroom for motion to Recuse 90 , (Finucane, P.) (Entered: 02/23/2005)
02/24/2005	92	Letter dated 2/22/05 from Karl S. Esster, Esq. advising of his opinion regarding the Motion for Rucusal . (Finucane, P.) (Entered: 02/24/2005)
03/01/2005	93	Letter dated 2/22/05 to Mr. George M. Reiber, Trustee. Filed by Dr. Richard Cordero regarding documents produced by Atty. Werner for Delanos. (Finucane, P.) (Entered: 03/02/2005)
03/01/2005		Hearing Held (TEXT ONLY EVENT) (RE: related document(s) 90 Motion to Recuse Judge filed by Interested Party Richard Cordero) Motion denied. The Court will issue a written decision. NOTICE OF ENTRY TO BE ISSUED. Appearances: Dr. Richard Cordero, Pro Se. Appearing in opposition: Christopher Werner, Atty. for Debtors. (Parkhurst, L.) (Entered: 03/03/2005)
03/01/2005		Hearing Held (TEXT ONLY EVENT) (RE: related document(s) 51 Motion to Object to Claim(s) filed by Debtor David G. DeLano, Joint Debtor Mary Ann DeLano) RESERVE. The Court denied Dr. Cordero's

		oral motion for the production of documents. The Court will issue a written decision. NOTICE OF ENTRY TO BE ISSUED. Appearances: Christopher Werner, Atty. for Debtors; Michael Beyma, Atty. for M & T Bank. Appearing in opposition: Dr. Richard Cordero, Pro Se. Witnesses: David DeLano, Debtor. (Parkhurst, L.) (Entered: 03/03/2005)
04/04/2005	94	Decision and Order Signed on 4/4/2005. Cordero's Motion to Recuse is denied. The Court also finds that Cordero: (1) has no valid claim against DeLano individually which can be allowed in the DeLano Case; (2) has no standing to participate in any further Court proceedings in the DeLano Case; and (3) is denied any stay of the provisions of this Decision & Order pending any appeal. (RE: related document(s) 51 Motion to Object to Claim(s) filed by Debtor David G. DeLano, Joint Debtor Mary Ann DeLano, 90 Motion to Recuse Judge filed by Interested Party Richard Cordero). (Attachments: # 1 Attachment #1# 2 Attachment #2# 3 Attachment #3# 4 Attachment #4) (Capogreco, C.) (Entered: 04/04/2005)
04/06/2005	95	Letter dated 3/29/05 Filed by Dr. Richard Cordero . (Finucane, P.) (Entered: 04/06/2005)
04/06/2005	96	Letter dated 3/1/05 to Kathleen Schmitt, Esq. Filed Dr. Party Richard Cordero . (Finucane, P.) (Entered: 04/06/2005)
04/06/2005	97	Letter dated 3/10/05 to Kathleen Schmitt, Esq. Filed by Dr. Richard Cordero . (Finucane, P.) (Entered: 04/06/2005)
04/06/2005	98	Letter dated 3/19/05 to Christopher K. Werner, Esq. Filed by Dr. Richard Cordero . (Finucane, P.) (Entered: 04/06/2005)
04/06/2005	99	Letter dated 3/21/05 to Kathleen Dunivin Schmitt, Esq. Filed by Richard Cordero . (Finucane, P.) (Entered: 04/06/2005)
04/06/2005	100	BNC Certificate of Mailing. (RE: related document(s) 94 Decision and Order, ,) Service Date 04/06/2005. (Admin.) (Entered: 04/07/2005)
04/06/2005	101	BNC Certificate of Mailing. (RE: related document(s) 94 Decision and Order, ,) Service Date 04/06/2005. (Admin.) (Entered: 04/07/2005)
04/11/2005	102	Motion re: to Proceed In Forma Pauperis and Supporting Affirmation Filed by Richard Cordero. Clerk's Note: This motion has been made to District Court. See docket for transmittal of such Motion. (Tacy, K.)

		(Entered: 04/11/2005)
04/11/2005	103	Notice of Appeal . , Fee Amount Due: \$255 Filed by Richard Cordero, Pro Se Appellant (RE: related document(s) 94 Decision and Order, Clerk's Note: A Motion to Proceed In Forma Pauperis and Supporting Affirmation, was filed in the U.S. Bankruptcy Court, to be heard in the U.S. District Court. See Docket for transmittal of Motion.. . (Tacy, K.) (Entered: 04/11/2005)
04/11/2005	104	Notice to Appellant of Deadlines & Responsibilities (Tacy, K.) (Entered: 04/11/2005)
04/11/2005	105	Transmittal to District Court of Motion to Proceed Informa Pauperis including supporting documentation. Notice of Appeal will be transmitted to District Court pursuant to 8006 Notice sent to Appellant on 4/11/05. (RE: related document(s) 102 Motion to Proceed Informa Pauperis Richard Cordero) (Attachments: # 1 Motion to Proceed Informa Pauperis and Supporting Affirmation# 2 Decision and Order dated 4/4/05# 3 Notice of Appeal)(Tacy, K.) Modified on 4/11/2005 (Tacy, K.).CLERK'S NOTE: COPY OF TRANSMITTAL LETTER SENT TO DR. RICHARD CORDERO VIA REGULAR MAIL(WITHOUT ATTACHMENTS). (Entered: 04/11/2005)
04/13/2005	106	BNC Certificate of Mailing. (RE: related document(s) 104 Notice to Appellant of Deadlines & Responsibilities) Service Date 04/13/2005. (Admin.) (Entered: 04/14/2005)
04/13/2005	107	BNC Certificate of Mailing. (RE: related document(s) 103 Notice of Appeal, filed by Interested Party Richard Cordero) Service Date 04/13/2005. (Admin.) (Entered: 04/14/2005)

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04/21/2005	108	Appellant Designation of Contents For Inclusion in Record On Appeal Filed by Richard Cordero, Pro Se Appellant (RE: related document(s) 103 Notice of Appeal,). Appellee designation due by 5/2/2005. Transmission of Designation Due by 5/23/2005. (Tacy, K.) Modified on 4/22/2005. CLERK'S NOTE: on 4/22/05 the appellant designation was transmitted to district court, such document may be viewed at the U.S. DISTRICT COURT CLERK'S OFFICE.(Tacy, K.). (Entered: 04/21/2005)
04/21/2005	109	Transmittal of Record on Appeal to U.S. District Court (RE: related document(s) 103 Notice of Appeal, filed by Richard Cordero, Pro Se Appellant.) (Tacy, K.) (Entered: 04/21/2005)
04/22/2005	110	Document: Copy of Decision and Order of Hon. David G. Larimer, United States District Court Judge, denying motion to proceed in forma pauperis on appeal. (RE: related document(s) 102 (Tacy, K.) (Entered: 04/22/2005)
04/22/2005	111	Clerk's Notice of Fees Due. Fee Amount due \$255.00 (RE: related document(s) 103 Notice of Appeal, filed by Richard Cordero, Pro Se Appellant.) Deficiency corrections due by 5/2/2005.(Tacy, K.) (Entered: 04/22/2005)
04/22/2005	112	Transmittal to District Court: transmitting paper copy of the Designation of Items, and a copy of the Notice of Fees Due of \$255.00. (RE: related document(s) 103 Notice of Appeal, filed by Richard Cordero) (Tacy, K.) (Entered: 04/22/2005)
04/22/2005		Clerk's Note: District Court Civil Case Number: 05-cv-6190L(f)
		(TEXT ONLY EVENT) (RE: related document(s) 103 Notice of Appeal, filed by Richard Cordero) (Tacy, K.) (Entered: 04/22/2005)
04/22/2005	113	Letter with enclosures to Richard Cordero, Pro se Appellant (RE: related document(s) 103 Notice of Appeal,). (Tacy, K.) (Entered: 04/22/2005)
04/24/2005	114	BNC Certificate of Mailing. (RE: related document(s) 111 Clerk's Notice of Fees Due) Service Date 04/24/2005. (Admin.) (Entered: 04/25/2005)
04/24/2005	115	BNC Certificate of Mailing. (RE: related document(s) 113 Letter filed by Interested Party Richard Cordero) Service Date 04/24/2005.

		(Admin.) (Entered: 04/25/2005)
05/02/2005	116	Appellee Designation of Contents for Inclusion in Record of Appeal Filed by Debtor David G. DeLano (RE: related document(s) 108 Appellant Designation,, 103 Notice of Appeal,). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit) (Palmer, Devin) (Entered: 05/02/2005)
05/03/2005	117	Transmittal of Record on Appeal to U.S. District Court re: Appellee's Designation. (RE: related document(s) 103 Notice of Appeal, filed by Interested Party Richard Cordero) (Tacy, K.) (Entered: 05/03/2005)
05/04/2005	118	Copy of Order by David G. Larimer, United States District Judge re: the matters of Appellant's in forma pauperis and scheduling order. (Tacy, K.) (Entered: 05/04/2005)
05/06/2005	119	Civil Cover Sheet Filed by Appellant,Party Richard Cordero (RE: related document(s) 103 Notice of Appeal, filed by Appellant, Richard Cordero) (Tacy, K.) Modified on 5/9/2005 (Tacy, K. (Entered: 05/09/2005)
05/09/2005	120	Transmittal of Civil Cover Sheet to U.S. District Court (RE: related document(s) 103 Notice of Appeal, filed by Interested Party Richard Cordero) (Tacy, K.) (Entered: 05/09/2005)
05/12/2005	121	Letter Filed by Richard Cordero re: court transcript. (RE: related document(s) 103 Notice of Appeal,). (Tacy, K.) (Entered: 05/12/2005)
05/19/2005	122	Copy of Letter from Ms. Dianetti, Bankruptcy Court Reporter, to Dr. Richard Cordero, re: transcript request. (RE: related document(s) 103 Notice of Appeal, (Tacy, K.) (Entered: 05/19/2005)
05/21/2005	123	BNC Certificate of Mailing. (RE: related document(s) 122 Letter) Service Date 05/21/2005. (Admin.) (Entered: 05/22/2005)
05/31/2005	124	Letter dated 5/26/05 to Mary Dianetti. Filed by Dr. Richard Cordero . (Finucane, P.) (Entered: 05/31/2005)
05/31/2005	125	Letter dated 5/31/05 from the Court to Dr. Richard Cordero. (Finucane, P.) (Entered: 05/31/2005)
06/08/2005	126	Letter to U.S. District Court re: non-payment of the rquired Appeal filing fee (RE: related document(s) 103 Notice of Appeal,). (Tacy, K.)

		(Entered: 06/08/2005)
06/10/2005	127	BNC Certificate of Mailing. (RE: related document(s) 126 Letter) Service Date 06/10/2005. (Admin.) (Entered: 06/11/2005)
06/13/2005	129	Letter dated 6/13/05 from Mary Dianetti, Bankruptcy Court Reporter to Dr. Richard Cordero regarding estimated cost of transcript. (RE: related document(s) 124 Letter). (Finucane, P.) (Entered: 06/15/2005)
06/14/2005		Receipt Number 958, Fee Amount \$255.00 (TEXT ONLY EVENT) (RE: related document(s) 103 Notice of Appeal, filed by Appellant, Richard Cordero) (Tacy, K.) Modified on 6/14/2005 (Tacy, K.). Clerk's Note: U.S. District Court notified of this payment. (Entered: 06/14/2005)
06/14/2005	128	Letter to Dr. Richard Cordero, Appellant, acknowledging payment in full of the \$255.00. (RE: related document(s) 103 Notice of Appeal,). (Tacy, K.) Modified on 6/14/2005 (Tacy, K.). This letter mailed via the BNC and via regular U.S. Mail. Modified on 6/14/2005 (Tacy, K.).Clerk's Note: enclosures are not included with this entry. (Entered: 06/14/2005)
06/16/2005	130	BNC Certificate of Mailing. (RE: related document(s) 128 Letter,) Service Date 06/16/2005. (Admin.) (Entered: 06/17/2005)
06/23/2005		Clerk's Note: (TEXT ONLY EVENT) (RE: related document(s) 5 CONFIRMATION HEARING At the request of the Chapter 13 Trustee, the Confirmation Hearing in this case is being restored to the 7/25/05 Calendar at 3:30 p.m. (Parkhurst, L.) (Entered: 06/23/2005)
07/06/2005	131	Copy of letter from Mary Dianetti, Bankruptcy Court Reporter to Dr. Richard Cordero,. (Attachments: # 1 Copy of letter of 6/25/05 from Dr. Richard Cordero) (Tacy, K.) (Entered: 07/06/2005)
07/08/2005	132	Letter dated 7/7/05 Filed by Christopher K. Werner, atty for Debtor David G. DeLano , Joint Debtor Mary Ann DeLano regarding application for payment of attorneys fees. (Finucane, P.) (Entered: 07/12/2005)
07/14/2005	133	BNC Certificate of Mailing. (RE: related document(s) 132 Letter filed by Debtor David G. DeLano, Joint Debtor Mary Ann DeLano) Service Date 07/14/2005. (Admin.) (Entered: 07/15/2005)

07/25/2005	134	Confirmation Hearing Held - Plan confirmed. The Court found that the Plan was proposed in good faith, it meets the best interest test, it is feasible and it meets the requirements of Sec. 1325. The Trustee completed his investigation of allegations of bankruptcy fraud and found there to be none. The Trustee read a statement into the record regarding his investigation. The plan payment were reduced to \$635.00 per month in July 2004 and will increase to \$960.00 per month when a pension loan is paid for an approximate dividend of five percent. The Trustee will confirm the date the loan will be paid off. The amount of \$6,700.00 from the sale of the trailer will be turned over to the Plan. All of the Trustee's objections were resolved and he has no objections to Mr. Werner's attorney fees. Mr. Werner is to attach time sheets to the confirmation order. Appearances: Debtors, Christopher Werner, attorney for debtors, George Reiber, Trustee. (Lamley, A.) (Entered: 08/03/2005)
08/08/2005	135	Order to Pay Trustee Signed on 8/8/2005. (Finucane, P.) (Entered: 08/08/2005)
08/09/2005	136	Order Confirming Chapter 13 Plan Signed on 8/9/2005 (RE: related document(s) 2 Chapter 13 Plan- case upload). (Finucane, P.) (Entered: 08/10/2005)
08/10/2005	137	BNC Certificate of Mailing. (RE: related document(s) 135 Order To Pay Wages) Service Date 08/10/2005. (Admin.) (Entered: 08/11/2005)
08/12/2005	138	BNC Certificate of Mailing. (RE: related document(s) 136 Order Confirming Chapter 13 Plan) Service Date 08/12/2005. (Admin.) (Entered: 08/13/2005)
10/20/2005	139	Copy of letter to Ms. Melissa L. Frieday, Contracting Officer. Filed by Dr. Richard Cordero, Creditor . (Attachments: # 1 Exhibit) (Tacy, K.) (Entered: 10/20/2005)
10/20/2005	140	Letter from Paul R. Warren, Clerk of the U.S. Bankruptcy Court, to Honorable David G. Larimer, United States District Court Judge. Copy of this letter mailed to Richard Cordero and a copy of this letter also provided to Chief Judge Ninfo. (RE: related document(s) 139 Letter). (Tacy, K.) Modified on 10/20/2005 (Tacy, K.). (Entered: 10/20/2005)
10/22/2005	141	BNC Certificate of Mailing. (RE: related document(s) 140 Letter,) Service Date 10/22/2005. (Admin.) (Entered: 10/23/2005)

10/27/2005	142	Notice of Compliance with the Order to request the Transcript from and make payments to Reporter Mary Dianetti. Filed by Dr. Richard Cordero (RE: related document(s) 103 Notice of Appeal,). (Finucane, P.) (Entered: 10/27/2005)
11/04/2005	143	Copy of Letter from Mary Dianetti, Bankruptcy Court Reporter, to Dr. Richard Cordero re: the transcript of the evidentiary hearing of 3/1/05 . (Attachments: # 1 Exhibit)-copy of letter from Dr. Richard Cordero to Mary Dianetti, Court Reporter. (Tacy, K.) (Entered: 11/04/2005)
11/04/2005	144	Transcript of the 3/1/05 Proceedings, before the Honorable John C. Ninfo, II, United States Bankruptcy Court Judge, Re: Appeal Filed by Dr. Richard Cordero, Appellant. (RE: related document(s) 103 Notice of Appeal,). (Tacy, K.) Modified on 11/7/2005 (Tacy, K.).Clerk's Note: the voluminous paper copy of the Transcript herein was transmitted to District Court on 11/4/05, and as such may be viewed at the U.S. District Court during regular business hours. (Entered: 11/04/2005)
11/04/2005	145	Transmittal to U.S. District Court of Transcript of proceedings held in U.S. Bankruptcy Court on 3/1/05, transmittal of the Transcript on CD-Rom, and copy of the letter dated 11/4/05 from Mary Dianetti, Bankruptcy Court Reporter, to Dr. Richard Cordero. (RE: related document(s) 103 Notice of Appeal, filed by Interested Party Richard Cordero) (Tacy, K.) (Entered: 11/04/2005)
11/10/2005	146	Motion re: Notice of Motion and Motion to Revoke the Order of Confirmation of Debtors' Debt Repayment Plan Hearing to be held on 11/16/2005 at 11:00 AM at Rochester Courtroom. (Attachments: # 1 continuation# 2 continuation# 3 Continuation# 4 continuation) Filed by Dr. Richard Cordero (Finucane, P.) (Entered: 11/10/2005)
11/10/2005	147	Letter from the Court to Dr. Richard Cordero (RE: related document(s) 146 Notice of Motion and Motion to Revoke the Order of Confirmation of Debtors' Debt Repayment Plan). (Finucane, P.) (Entered: 11/10/2005)
11/11/2005	148	Response to <i>Cordero Motion to Revoke</i> (related document(s): 146 Motion re: Notice of Motion and Motion to Revoke the Order of Confirmation of Debtors' Debt Repayment Plan filed by Interested Party Richard Cordero) Filed by Debtor David G. DeLano, Joint Debtor Mary Ann DeLano (Attachments: # 1 Certificate of Service) (Werner, Christopher) (Entered: 11/11/2005)

11/12/2005	149	BNC Certificate of Mailing. (RE: related document(s) 147 Letter) Service Date 11/12/2005. (Admin.) (Entered: 11/13/2005)
11/14/2005	150	Request for a statement of reasons: Filed by Dr. Richard Cordero (RE: related document(s) 146 Notice of Motion and Motion to Revoke the Order of Confirmaiton of Debtors' Debt Repayment). (Tacy, K.) (Entered: 11/14/2005)
11/16/2005		Hearing Held - (TEXT ONLY EVENT) (RE: related document(s) 146 Motion to revoke order of confirmation,filed by Interested Party Richard Cordero) Motion denied. Dr. Cordero has no standing, no valid claim and is not otherwise a party in interest. Dr. Cordero had no standing in connection with the confirmation hearing and has no standing to revoke the confirmation. The rest of the relief requested has been previously addressed and ruled on and is denied for the same reasons contained in prior Orders of this Court. Pursuant to Bankruptcy Rule 7001, a proceeding to revoke an order of confirmation of a chapter 13 plan is properly initiated by an adversary proceeding, not by motion, which is further grounds for denial. Order to be submitted by the Trustee. NOTICE OF ENTRY TO BE ISSUED. Appearing in opposition: George Reiber, Trustee. Papers in opposition filed by Christopher Werner, Atty. for Debtors. (Parkhurst, L.) (Entered: 11/17/2005)
11/22/2005	151	Order Denying Motion re: Notice of Motion and Motion to Revoke the Order of Confirmation of Debtors' Debt Repayment Plan (Related Doc # 146) Signed on 11/22/2005. (Finucane, P.) (Entered: 11/22/2005)
11/24/2005	152	BNC Certificate of Mailing. (RE: related document(s) 151 Order on Generic Motion) Service Date 11/24/2005. (Admin.) (Entered: 11/25/2005)
11/24/2005	153	BNC Certificate of Mailing. (RE: related document(s) 151 Order on Generic Motion) Service Date 11/24/2005. (Admin.) (Entered: 11/25/2005)
12/09/2005	154	Notice of Motion and Motion to Quash the Order Denying the Motion to Revoke Due to Fraud the Order of Confirmation of the Delano's Plan, Revoke the Confirmation, and Remand the Case. Filed by Dr.Richard Cordero (Finucane, P.) (Entered: 12/09/2005)
12/09/2005	155	Order Denying Notice of Motion and Motion to Quash the Order Denying the Motion to Revoke Due to Fraud the Order of

		Confirmation of Delano's Plan, Revoke the Confirmation and Remand the Case (Related Doc # 154) Signed on 12/9/2005. (Finucane, P.) (Entered: 12/09/2005)
12/11/2005	156	BNC Certificate of Mailing. (RE: related document(s) 155 Order on Motion To Quash,) Service Date 12/11/2005. (Admin.) (Entered: 12/12/2005)
12/11/2005	157	BNC Certificate of Mailing. (RE: related document(s) 155 Order on Motion To Quash,) Service Date 12/11/2005. (Admin.) (Entered: 12/12/2005)
01/23/2006	158	Chapter 13 Trustee's Notice allowing Claims. (Reiber2, George) (Entered: 01/23/2006)

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