

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Daniel Patrick Moynihan U.S. Courthouse at 500 Pearl Street, New York, NY 10007; telephone: (212)857-8500

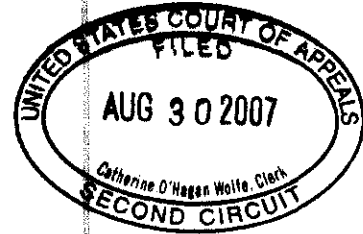
MOTION INFORMATION STATEMENT

Docket Number(s): 06-4780-bk

In Re: Dr. Richard Cordero v.

Motion: for oral argument on the motion of July 18 suggesting en banc consideration of the three denials of the motions for document production to be held before argument is heard on the case in chief

- a) The motion of July 18 suggesting en banc consideration was referred on July 31 to the panel assigned to hear this appeal and set for oral argument on September 25. It was removed from the calendar on August 2 and referred to the motions judge, who referred it back to the panel on August 9. However, no oral argument has been set for that motion or the case in chief.
b) The en banc motion requests an order of production because every single document that Dr. Cordero requested was denied by the bankruptcy court, the district court, and three times by this Court last January 24, February 1, and March 5. Hence, for the Court to proceed under these circumstances is:
1) to intentionally validate the lower courts' and its own violation of Dr. Cordero's right to discovery;
2) to force Dr. Cordero to argue in his briefs and at oral argument on the basis of information known to the Court to be incomplete because the Debtor, the trustees, and the judges withheld from him information to which he, like any other litigant and creditor similarly situated, was entitled; and
3) to intentionally deprive itself of information that will reveal a bankruptcy fraud scheme with the support or toleration of judges, trustees, and other officers, which works a cover up in the interest of self-preservation and constitutes a failure to perform the Court's supervisory duty to safeguard the integrity of judicial process and to afford Dr. Cordero due process of law.
i) Documents requested can explain, inter alia, how Exh.1 the Debtors bought their home in 1975 after taking a \$26,000 mortgage; Exh.2 two months before filing for bankruptcy in 2004, listed it as their sole real property and had it appraised at \$98,500, of which \$77,084 was their outstanding mortgage and only \$21,416 their equity after making mortgage payments for 30 years and receiving \$382,187 in a string of eight mortgages! (D:341-354)...yet only 2 1/2 months after Exh.3 being discharged on February 7, 2007, Exh.4 they sold it on April 23, 2007, for \$135,000, a 37% increase in value in a down real estate market. Pretty savvy, after all, Debtor DeLano was a 39-year veteran banker when he filed, continued working in the bankruptcy department of M&T Bank, and was aided by the trustees and judges to evade accounting for \$673,657 (SApp:1654).
c) Therefore, Dr. Cordero respectfully requests the Court:
1) to issue his proposed document production order since Debtors consented to it by not opposing the en banc motion requesting it;
2) in the alternative, to set the en banc motion for oral argument before hearing argument on the case in chief so that the Court may decide whether to order production of documents and allow rebriefing to take into account the documents produced; and
3) to provide him with all other relief that is just and proper, including the relief requested in his principal and reply briefs.



MOVING PARTY: Dr. Richard Cordero, Creditor-Appellant
59 Crescent Street, Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com
MOVING ATTORNEY: Pro se

OPPOSING PARTY: David and Mary Ann DeLano
OPPOSING ATTORNEY: Devin L. Palmer, Esq.;
Boylan, Brown, Code, Vigdor & Wilson, LLP, 2400 Chase Sq.,
Rochester, NY 14604; tel. (585)232-5300; fax (585)232-3528

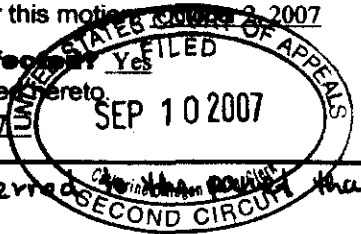
Court-Judge/Agency appealed from: U.S. District Court, WDNY, U.S. District Judge David G. Larimer

Has consent of opposing counsel:
A. been sought? No B. been obtained?

Is oral argument requested? Yes Is its date set? No
Requested return date for this motion: August 2, 2007

Signature of Moving Attorney:
Dr. Richard Cordero

Has service been effected? Yes
Proof of service is attached hereto.
Date: August 29, 2007



ORDER: It is hereby ordered that the motion is GRANTED DENIED. referred to the court that will hear the appeal on the merits.
For the Court: Catherine O'Hagan Wolfe, Clerk of Court, By: Elizabeth Dove Acting Motions Attorney. Date:

## Certificate of Service

*In re Dr. Richard Cordero v. David and Mary Ann DeLano, dkt. no. 06-4780-bk, CA2*

I, Dr. Richard Cordero, certify that I mailed or e-mailed to the parties listed below a copy of my motion of August 29, 2007, for oral argument on the motion of July 18 suggesting en banc consideration of the three denials of the motions for document production, to be held before argument is heard on the case in chief.

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Devin Lawton Palmer, Esq.  
Boylan, Brown, Code, Vigdor & Wilson, LLP  
2400 Chase Square  
Rochester, NY 14604  
tel. (585)232-5300; fax (585)232-3528

Trustee George M. Reiber  
South Winton Court  
3136 S. Winton Road  
Rochester, NY 14623  
tel. (585) 427-7225; fax (585)427-7804

Kathleen Dunivin Schmitt, Esq.  
Assistant United States Trustee  
Office of the United States Trustee  
100 State Street, Room 609  
Rochester, NY 14614  
tel. (585)263-5706

Ms. Diana G. Adams  
Acting U.S. Trustee for Region 2  
Office of the United States Trustee  
33 Whitehall Street, 21st Floor  
New York, NY 10004  
tel. (212) 510-0500; fax (212) 668-2255

Kenneth W. Gordon, Esq.  
Chapter 7 Trustee  
Gordon & Schaal, LLP  
1099 Monroe Ave., Ste 2  
Rochester, NY 14620-1730  
tel. (585)244-1070

Dated: August 29, 2007  
59 Crescent Street  
Brooklyn, NY 11208

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Bankruptcy Court Reporter  
612 South Lincoln Road  
East Rochester, NY 14445  
tel. (585)586-6392

Mr. David Palmer  
1829 Middle Road  
Rush, NY 14543

*Dr. Richard Cordero*

---

Dr. Richard Cordero  
Appellant Pro Se  
tel. (718) 827-9521

4. Church of the Holy Spirit  
of Penfield New York

Warranty Deed

-To-

Dated July 16, 1975  
Ack. same day  
Rec. same day at 12:18 P.M.

David G. DeLano and  
Mary Ann DeLano, his wife  
(2nd parties not certified)

Liber ~~4865~~<sup>122</sup> of Deeds, page ~~182~~

Conveys same as #1 with same interest in and to  
Shoecraft Road and subject to same easements, covenants  
and restrictions.

Being the same premises conveyed to first party by  
Liber 3679 of Deeds, page 489.

This deed executes pursuant to a court order signed  
by Hon. Joseph G. Fritsel, Justice of the Supreme Court on  
July 15, 1975 and filed in Monroe County Clerk's Office  
July 16, 1975.

Contains Lien Fund Clause.

Revenue Stamps for \$35.75 affixed.

Note: Order of the Supreme Court dated July 15,  
1975 is recorded herewith.

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5. David G. DeLano and Mary Ann DeLano, his wife  
Mortgage to secure \$26,000.00  
Part Purchase Price

CORRECTLY DISCHARGED OF RECORD  
6-13-88 1418 DIS 320

-To-

Dated July 16, 1975  
Ack. same day  
Rec. same day at 12:18 P.M.

Columbia Bank and Loan Association  
COLUMBIA BANK AND LOAN ASSOCIATION

PER

BY Wtzel

Liber ~~4000~~ of Mortgages, page 196

Conveys same as #1 together with same interest  
in Shoecraft Road and subject to same easements, covenants  
and restrictions.

ma  
3/10/88

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

### SCHEDULE A. REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property."

Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. (See Schedule D.) If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim."

If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption	Amount of Secured Claim
1262 Shoecraft Road, Webster (value per appraisal 11/23/03)	Fee Simple	J	98,500.00	77,084.49

Sub-Total > 98,500.00 (Total of this page)

Total > 98,500.00

0 continuation sheets attached to the Schedule of Real Property

(Report also on Summary of Schedules)

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK  
IN RE:  
DAVID G. & MARY ANN DELANO**

**CHAPTER 13**

**BK 04-20280**

**ORDER DISCHARGING DEBTOR AFTER COMPLETION OF CHAPTER 13 PLAN**

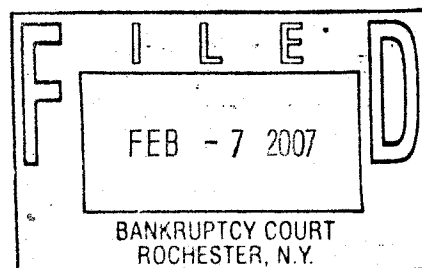
The Court finds that the debtor filed a petition under title 11, United States Code, on January 27, 2004, that the debtor's plan has been confirmed, and that the debtor has fulfilled all requirements under the plan.

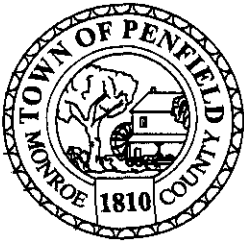
**IT IS ORDERED THAT:**

1. Pursuant to 11 U.S. C. §1328(a), the debtor is discharged from all debts provided for by the plan or disallowed under 11 U.S.C. §502, except any debt:
  - a. provided for under 11 U.S.C. §1322(b)(5) and on which the last payment is due after the date on which the final payment under the plan was due;
  - b. in the nature of alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor in connection with a separation agreement, divorce decree or other order of a court of record, or property settlement agreement, as specified in 11 U.S. C. §523(a)(5);
  - c. for a student loan or educational benefit overpayment as specified in 11 U.S. C. §523 (a)(8) in a case filed on or after November 15, 1990; or
  - d. for a death or personal injury caused by the debtor's unlawful operation of a motor vehicle while intoxicated from using alcohol, a drug, or another substance, as specified in 11 U.S. C. §523(a)(9),
  - e. for restitution included in a sentence on the debtors conviction of a crime, in a case filed on or after November 15, 1990;
  - f. for a fine included in a sentence on the debtor's conviction of a crime, in a case filed on or after October 22, 1994.
2. Pursuant to 11 U.S. C. §1328(d), the debtor is not discharged from any debt based on an allowed claim filed under 11 U.S.C. §1305(a)(2) if prior approval by the trustee of the debtor's incurring such debt was practicable and was not obtained.
3. Notwithstanding the provisions of title 11, United States Code, the debtor is not discharged from any debt made non-dischargeable by 18 U.S. C. §3613(f), by certain provisions of titles 10,37,38,42 and 50 of the United States Code, or by any other applicable provision of law.
4. All creditors are prohibited from attempting to collect any debt that has been discharge in this case.

DATED: 2/7/07  
Rochester, NY

  
**JOHN C. NINPO, II  
BANKRUPTCY JUDGE**





# TOWN OF PENFIELD

## Assessor's Office

1587 Jackson Road, Penfield, NY 14526

August 16, 2007

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

Dear Dr. Cordero:

Pursuant to our telephone conversation, I am sending you the information we have on file for 1262 Shoecraft Road, i.e.:

- the assessed value of the property is \$116,000 as of the 2005 town-wide revaluation
- the property sold April 23, 2007, for \$135,000

In reference to your questions (Nos. 1 through 12) regarding mortgages, we do not carry mortgage filing here. For that you will need to contact the County Clerk's Office:

Cheryl Dinolfo, County Clerk  
101 County Office Building  
39 West Main Street  
Rochester, NY 14614

tel: (585) 753-1600  
fax: (585) 753-1624

If you have any questions, please feel free to contact this office at (585) 340-8610.

Respectfully,

Ann Buck, IAO  
Sole Assessor

AB:ja

cc: Cassie Williams, Town Clerk