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General Docket

US Court of Appeals for the Second Circuit

Second Circuit Court of
Appeals

INDIV

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Court of Appeals Docket #: 06-4780-bk
Nsuit : 3422 STATUTES-Bkrup Appeals 801

In Re: Dr. Richard Cordero v. Filed 10/16/06

Appeal WDNY (ROCHESTER)
from:

Case type information:

Bankruptcy

District Court

None

Lower court information:

District: 05-cv-6190

Trial Judge: David G. Larimer

MagJudge:

Date Filed: 04/22/05

Date order/judgement: 8/21/2006

Date NOA filed: 10/16/2006

Fee status: Paid

Panel Assignment:

Panel: SS GWC DAL 500 Pearl

Date of decision: 2/7/08

Prior cases: NONE

Current cases NONE

Official Caption 1/

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Docket No. [s] : 06-4780 -bk

In Re: David DeLano and May DeLano, Debtors.

*

Dr. Richard Cordero,

Creditor-Appellant,

v.

David DeLano, Mary Ann DeLano,

Debtors-Appellees.

Authorized Abbreviated Caption 2/

Docket No. [s] : 06-4780 -bk

In Re: Dr. Richard Cordero v.

1/ Fed. R. App. P. Rule 12 [a] and 32 [a].
2/ For use on correspondence and motions only.

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David DeLano	Devin Lawton Palmer Esq.
Debtor-Appellee	[LD ret] Boylan, Brown, Code, Vigdor & Wilson, LLP 2400 Chase Sq. Rochester , NY , 14604 585-232-3528
Mary Ann DeLano	Devin Lawton Palmer Esq. (See above)
Debtor-Appellee	[LD n]
George M. Reiber	George Reiber Esq.

Trustee [LD ret]
 Law office of George M. Reiber,
 Esq. Chptr. 13 Trustee
 3136 South Winton Rd.
 Rochester , NY , 14623

716/427-7225

Richard Cordero Richard Cordero

Creditor-Appellant n/a

59 Crescent St.
 Brooklyn , NY , 11208

corderoric@yahoo.com

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10/16/06 Copy of notice of appeal and district court
 docket entries on behalf of APPELLANT
 Richard Cordero, filed. Fee Paid # 69787.
 [Entry date Oct 27 2006] [LR]

10/16/06 Copy of district court Judgment in a Civil
 case, dated 8/22/06 endorsed by John S.
 Falwell, Deputy Clerk, RECEIVED. [Entry
 date Oct 27 2006] [LR]

10/16/06 Note SEE case number(s): 03-5023, 03-3088.
 [Entry date Dec 20 2006] [LR]

10/23/06 Index in lieu of Record on Appeals
 Electronically Filed (Original documents
 remain in the originating court).
 [Entry date Oct 26 2006] [LR]

10/25/06 Instructional Forms sent to Pro Se litigant
 [Entry date Oct 25 2006] [LR]

10/25/06 Record on appeal filed. (Original papers of
 district court.) Volume(s)1, (Transcripts).
 [Entry date Oct 27 2006] [LR]

10/26/06 Papers In re: David Delano and Mary Ann
 Delano, Statement of Issues to be presented
 and designation of the Record on Appeal,
 from APPELLANT Dr. Richard Cordero,
 received. [Entry date Nov 3 2006] [LR]

- 10/30/06 Record on appeal received in records room from team. (1 volume). [Entry date Oct 30 2006] [DR]
- 11/6/06 Notice of appeal acknowledgment letter from Dr. Richard Cordero received. [Entry date Nov 8 2006] [JR]
- 11/6/06 Notice of appearance form on behalf of Dr. Richard Cordero , filed. (Orig in acco, copy to Calendar and Admissions Dept.). [Entry date Nov 8 2006] [JR]
- 11/21/06 Appellant Dr. Richard Cordero motion file fewer copies (leave to submit the opening brief, appendix, and special appendix in five paper copies and five Cds containing them on Adobe PDFs) filed with proof of service. [Entry date Dec 5 2006] [LR]
- 11/21/06 Appellant Dr. Richard Cordero motion allow (Correction of the docket by removal of a

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case wrongly listed as related to the case to this appeal) filed with proof of service. [Entry date Dec 5 2006] [LR]

- 11/21/06 Appellant Dr. Richard Cordero motion to allow scheduling of the filing of the opening brief by the time certain of January 31, 2007, filed with proof of service. [Entry date Jan 22 2007] [LR]
- 12/4/06 Notice of appeal acknowledgment letter from Devin Palmer received. [Entry date Dec 11 2006] [LR]
- 12/4/06 Letter received from Mr. Palmer stating he will be the attorney of record and he is opposed to the Appellants' motion to serve the brief and other submitted papers by email in PDF format rather than regular mail in hard copy form. [Entry date Dec 11 2006] [LR]
- 12/7/06 Letter received from Dr. Richard Cordero. [Entry date Feb 15 2007] [JC]
- 12/7/06 Appellant Dr. Richard Cordero motion for Appellee's opposition to Appellant's Statement of issues and Designation of items to be disregarded, filed with proof of service. [Entry date Jan 31 2007] [LR]

- 12/7/06 Appellant Dr. Richard Cordero motion allow/
Docketing Papers already and herewith filed
and correction of two errors in the docket,
filed with proof of service. [Entry date
Jan 22 2007] [JM]
- 12/7/06 Appellant Dr. Richard Cordero motion allow/
Appellant to be served by e-mail during the
December 18-January 8 Christmas Holidays,
filed with proof of service. [Entry date
Jan 22 2007] [JM]
- 12/13/06 Order FILED GRANTING motion allow by
Appellant Dr. Richard Cordero, endorsed on
motion dated 11/21/2006. [Entry date Dec
14 2006] [LR]
- 12/13/06 Order FILED GRANTING motion allow by
endorsed on motion dated 11/21/2006.
[Entry date Dec 14 2006] [LR]
- 12/13/06 Order FILED GRANTING motion file fewer
copies by Appellant Dr. Richard Cordero,
endorsed on motion dated 11/21/2006.
[Entry date Dec 14 2006] [LR]
- 12/14/06 Scheduling order #1 filed. Appellants brief
due 1/15/2007. Appellees brief due
2/15/2007. Ready week 4/2/2007. [Entry
date Dec 14 2006] [LR]

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- 12/14/06 Notice to counsel and to pro se lititgant;
re: scheduling order 1. [Entry date Dec 14
2006] [LR]
- 12/18/06 Scheduling order #2 filed. Appellants brief
due 1/31/2007. Appellees brief due
3/3/2007. Ready week 4/16/2007. [Entry
date Dec 18 2006] [LR]
- 12/22/06 Appellant Dr. Richard Cordero motion allow
(Production of documents necessary for the
Court to determine this case and afford due
process of law.) filed with proof of service.
[Entry date Jan 22 2007] [LR]
- 12/29/06 Papers to AA as per CM. [Entry date Jan 18
2007] [LR]
- 1/10/07 Papers to CM, per AA. [Entry date Jan 18
2007] [LR]
- 1/23/07 Appellant Dr. Richard Cordero motion to
extended time or stay on brief filing

deadline if by 1/31/07 pending motion have not been decided, filed with proof of service. [Entry date Jan 24 2007] [LR]

1/24/07 Appellant Dr. Richard Cordero motion expedite appeal filed (Motion for two pending motions to be decided before brief filing deadline and for new scheduling order)with proof of service. expedite motion filed with proof of service. [Entry date Jan 24 2007] [LR]

1/24/07 Order FILED DENYING motion production of documents necessary for the Court to determine this case and afford due process of law by Appellant Dr. Richard Cordero, endorsed on motion dated 1/24/2007 [Entry date Jan 26 2007] [LR]

1/26/07 Notice to counsel and to pro se litigant; re: order dated 1/24/07. [Entry date Jan 26 2007] [LR]

1/26/07 Papers received from AA to forward to CM. [Entry date Jan 26 2007] [LR]

1/26/07 Papers received from AA to CM. [Entry date Jan 31 2007] [LR]

1/30/07 Appellee Mary DeLano, Appellee David DeLano, Affirmation in opposition to motion for opposition to Appellant's statement of issues and designation of items to be

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disregarded, filed with proof of service. [Entry date Jan 31 2007] [LR]

1/30/07 Appellee Mary DeLano, Appellee David DeLano, Affirmation in opposition to motion extended time, stay filed with proof of service. [Entry date Jan 31 2007] [LR]

2/1/07 Order FILED MOOTING motion for Appellant to be served by email during the December 18-January 8 Christmas Holidays by Appellant Dr. Richard Cordero, endorsed on motion dated 1/24/2007. [Entry date Feb 2 2007] [LR]

2/1/07 IT IS HEREBY ORDERED THAT the motion is Granted only to the extent: the dates in the briefing schedule are all extended two weeks. Extended Appellants brief due is 2/21/2007. Extended Appellees brief due is 3/21/2007.

- Extended Ready week is 5/7/2007. [Entry date Feb 2 2007] [LR]
- 2/1/07 IT IS HEREBY ORDERED THAT the motion is sent to the panel that will hear the appeal. [Entry date Feb 2 2007] [LR]
- 2/1/07 IT IS HEREBY ORDERED THAT the motion is GRANTED only to this extent: Motion 1) above has been sent to the panel which will hear the appeal. Motion 2) has been Denied. [Entry date Feb 2 2007] [LR]
- 2/2/07 Scheduling order #2 filed. Appellants brief due 3/5/2007. Appellees brief due 4/3/2007. Ready week 5/15/2007. [Entry date Feb 2 2007] [LR]
- 2/16/07 Appellant Richard Cordero motion reconsider decision filed with proof of service. [Entry date Feb 21 2007] [LY]
- 3/1/07 Letter from petitioner re: the status of his motion filed 02/16/07, received. [Entry date Mar 7 2007] [DB]
- 3/5/07 Order filed stating appellant's extension of time is granted to the extent; appellant shall file a brief on or before 03/19/07; appellee shall file a brief on or before 04/19/07; ready to be heard the week of 06/04/07. [Entry date Mar 5 2007] [DB]
- 3/5/07 Notice to counsel re: order denying motion to reconsider and granting motion for extension of time. [Entry date Mar 5 2007] [DB]
- 3/5/07 Letter from petitioner re: the due date of his brief, received. [Entry date Mar 7 2007] [DB]

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- 3/5/07 Order FILED DENYING motion reconsider decision by Appellant Richard Cordero, endorsed on motion dated 2/16/2007. Before PWH, CJ. Extended Appellants brief due is 3/19/2007. Extended Appellees brief due is 4/19/2007. Extended Ready week is 6/4/2007. [Entry date Mar 5 2007] [DB]
- 3/9/07 Letter from appellees requesting that the case be defaulted for appellant's failure to file briefs, received. [Entry date Mar 13 2007] [DB]

3/26/07 APPELLANT Richard Cordero, defective
filed. Notice sent to
party to correct by 04/09/07. [Entry
date Mar 26 2007] [DB]

3/26/07 Notice to counsel re: defective brief filed.
[Entry date Mar 26 2007] [DB]

3/30/07 Letter from appellant sent to the appellee
in response to the appellee's letter
recieved by the court on 03/09/07, received.
[Entry date Apr 2 2007] [DB]

3/30/07 Appellant Richard Cordero motion to file
appellant's brief and joint appendix as is
filed with proof of service. [Entry date
Apr 2 2007] [DB]

4/12/07 APPELLANT Richard Cordero, defective
document cured. Note: motion granted to
file briefs as is. [Entry date Apr 13
2007] [DB]

4/12/07 APPELLANT Richard Cordero, brief FILED
with proof of service. [Entry date Apr 13
2007] [DB]

4/12/07 APPELLANT Richard Cordero, joint appendix
filed w/pfs. Vol. 1 of 2 [Entry date Apr
13 2007] [DB]

4/12/07 APPELLANT Richard Cordero, joint appendix
filed w/pfs. Vol. 2 of 2 [Entry date Apr
13 2007] [DB]

4/12/07 Order FILED GRANTING motion to file briefs
and appendix as is by Appellant Richard
Cordero, endorsed on motion dated 3/30/2007
[Entry date Apr 13 2007] [DB]

4/13/07 Notice to counsel re: order filed 04/12/07
granting motion to file appellant's brief as
is. [Entry date Apr 13 2007] [DB]

4/18/07 Scheduling order #5 filed. Appellees brief
due 5/18/2007. Ready week 7/23/2007.
Response due plra 6/1/2007. [Entry date

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Apr 18 2007] [DB]

4/18/07 Notice to counsel re: scheduling order filed
04/18/07. [Entry date Apr 18 2007] [DB]

5/2/07 Appellee David DeLano, Appellee Mary DeLano motion file appellee's appendix filed with proof of service. [Entry date May 3 2007] [DB]

5/7/07 APPELLEE David DeLano, Mary DeLano, brief and appendix filed with proof of service. [Entry date May 7 2007] [DB]

5/7/07 Notice to counsel re: Order filed 05/07/07. [Entry date May 7 2007] [DB]

5/7/07 APPELLEE David DeLano, Mary DeLano, brief filed with proof of service. [Entry date Jun 13 2007] [DB]

5/7/07 Order FILED GRANTING motion file appellee's appendix by Appellee David DeLano, Appellee Mary DeLano, endorsed on motion dated 5/2/2007 [Entry date May 7 2007] [DB]

5/9/07 Appellant Richard Cordero motion to compel appellees to produce letter that they filed with the court filed with proof of service. [Entry date May 14 2007] [DB]

5/14/07 Letter from appellee re: the appellant has been sent a copy of the 03/06/07 letter sent to the court, received. [Entry date May 17 2007] [DB]

5/31/07 Notice to counsel re: order filed 05/31/07 mootting motion to compel appellees to serve appellant with the letter dated 03/29/07 and granting the motion for an extension of time to file reply brief. [Entry date May 31 2007] [DB]

5/31/07 Motion to compel the appellees to produce the letter that was filed with the court on 03/29/07 is DENIED as MOOT. It is further ordered that any reply brief shall be filed on or before 06/15/07 by Appellant Richard Cordero, endorsed on motion dated 5/9/2007. [Entry date May 31 2007] [DB]

6/15/07 APPELLANT Richard Cordero, reply brief filed with proof of service. [Entry date Jun 18 2007] [DB]

7/25/07 Appellant Richard Cordero motion suggesting en banc consideration of the 3 denials of the motions for document production; and if denied, for the court to disqualify itself

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due to conflict of interests and refer case to Att. General under 18 U.S.C. 3057(a), filed with proof of service. [Entry date Jul 26 2007] [DB]

7/31/07 Motion for rehearing en banc has been added to the substantive motions calendar for September 25, 2007 A Panel**TO BE ARGUED**; any responsive papers to calendar ASAP. [Entry date Jul 31 2007] [JC]

7/31/07 Opposition papers due by August 9, 2007 [Entry date Jul 31 2007] [JC]

8/2/07 Motion for rehearing en banc has been removed from the calendar. [Entry date Aug 2 2007] [JC]

8/9/07 Notice to counsel re: order filed 09/09/07 referring motion to the panel. [Entry date Aug 9 2007] [DB]

8/9/07 Order FILED REFERRING motion for suggestion en banc consideration of the 3 denials of the motions for document production by Appellant Richard Cordero, endorsed on motion dated 7/25/2007 [Entry date Aug 9 2007] [DB]

8/30/07 Appellant Richard Cordero motion allow oral argument for the motion for en banc consideration filed with proof of service. [Entry date Sep 4 2007] [DB]

9/10/07 Order FILED REFERRING motion allow oral argument on the motion for en banc consideration by Appellant Richard Cordero, endorsed on motion dated 8/30/2007 [Entry date Sep 12 2007] [DB]

9/12/07 Notice to counsel re: order filed 09/10/07 referring motion to allow oral argument on motion. [Entry date Sep 12 2007] [DB]

9/27/07 Argument Requested - Local Rule 34 Acknowledgment Returned by APPELLANT Richard Cordero, (Some parties seek oral argument) [Entry date Nov 7 2007] [KR]

11/1/07 Trustee motion to dismiss the appeal filed with proof of service. [Entry date Nov 2 2007] [DB]

11/2/07 Notice of appearance form on behalf of George Reiber, filed. (Orig in acco, copy to Calendar and Admissions Dept.). [Entry date Nov 6 2007] [DB]

11/14/07 Appellants in response opposition to motion

dismiss the appeal filed with proof of

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service. [Entry date Nov 15 2007] [DB]

11/19/07 George Reiber, motion to dismiss is
corrected [Entry date Nov 26 2007]
[DB]

11/28/07 Appellant's Dr. Richard Cordero response to
motion to dismiss filed with proof of
service. [Entry date Nov 29 2007] [DM]

12/18/07 Notice to counsel re: Motion to Dismiss the
appeal on the substantive motions calendar
for Thursday, January 3, 2008**ON
SUBMISSION**. [Entry date Dec 18 2007]
[AV]

12/27/07 Appellant Richard Cordero opposition to the
motion to dismiss the appeal and motion to
transfer due to the Court's conflict of
interest and denial of equal protection
filed with proof of service. [Entry date
Dec 27 2007] [JR]

12/28/07 Letter received, from Dr. Richard Cordero,
requesting oral argument. [Entry date
Jan 4 2008] [DC]

1/2/08 Notice to counsel re: Request for oral
argument(Cordero)-granted. [Entry date Jan
2 2008] [AV]

1/3/08 Outline of oral argument and proposed order
for document production by APPELLANT Richard
Cordero, received. [Entry date Jan 3 2008
] [JR]

2/7/08 SUA SPONTE COURT ORDER disposing of the
appeal, George M. Reiber, as Bankruptcy
Trustee, moves to dismiss the appeal as moot.
Although Appellant's argument that the
Trustee's motion is deficient may be correct,
any such deficiencies are minor and, in any
event, the appeal is subject to dismissal
under this Court's sua sponte authority.
Upon due consideration, it is hereby ordered
that the appeal is dismissed as equitably
moot. SEE: In re Metromedia Fiber Network,
Inc., 416 F. 3d 136, 144 (2d Cir. 2005); In
re Chateaugay Corp., 988 F. 2d 322, 326 (2d
Cir. 1993) FILED. (SS, DAL, GWC) (FP)
[Entry date Feb 7 2008] [EM]

2/7/08 Notice to all parties of the Three Judge Order filed 2/7/08. [Entry date Feb 7 2008] [EM]

2/7/08 Order FILED MOOTING motion dismiss the appeal by Appellant Richard Cordero, stating that the appeal is dismissed as equitaby moot in light of the Order filed

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2/7/08 filed. (SS, DAL, GWC) (FP) [Entry date Feb 7 2008] [EM]

2/8/08 Notice to all parties of the Orders filed 2/8/08. [Entry date Feb 8 2008] [EM]

2/8/08 Order FILED MOOTING motion allow oral argument by Appellant Richard Cordero, endorsed on motion dated 08/30/07, it is hereby ordered that the motion is denied as moot in light of order dated 2/7/08 filed. (JP) [Entry date Feb 8 2008] [EM]

2/8/08 Order FILED MOOTING motion allow by Appellant Richard Cordero, endorsed on motion dated 7/25/07, it is hereby ordered that the motion suggesting en banc consideration of the 3 denial of the motions for document production; and if denied, for the court to disqualify itself due to conflict of interests and fefer case to Att. General un 18 U.S.C. 3057(a), is denied as moot in light of the order dated 2/7/08 filed. (JP) [Entry date Feb 8 2008] [EM]

2/15/08 Appellant Richard Cordero motion for extended time to file petition for rehearing, filed with proof of service. [Entry date Feb 15 2008] [AB]

2/26/08 Notice to all parties of the Order filed 2/26/08. [Entry date Feb 26 2008] [EM]

2/26/08 Order FILED GRANTING motion extended time by Appellant Richard Cordero, endorsed on motion dated 2/15/2008, it is hereby ordered that pro se Appellant's motion for extension of time to file petition for rehearing to 3/15/08 is granted filed. (JP) [Entry date Feb 26 2008] [EM]

3/17/08 Papers Document titled Order from APPELLANT Richard Cordero, received. [Entry date Mar 24 2008] [EM]

- 3/19/08 Appellant Richard Cordero motion leave to file 10 copies of the petition for panel rehearing en banc filed with proof of service. [Entry date Mar 19 2008] [EM]
- 3/24/08 Notice to all parties of the Order filed 3/24/08. [Entry date Mar 24 2008] [EM]
- 3/24/08 Appellant Richard Cordero motion Petition for rehearing and petition for rehearing en banc filed with proof of service. [Entry date Mar 24 2008] [EM]

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- 3/24/08 Order FILED GRANTING motion leave to file by Appellant Richard Cordero, endorsed on motion dated 3/19/2008, it is hereby ordered that Appellant is Granted leave to file fewer copies of petition for rehearing en banc filed. (SS, DAL, GWC) (JP) [Entry date Mar 24 2008] [EM]
- 5/9/08 Notice to all parties of the order filed 5/9/08. [Entry date May 9 2008] [EM]
- 5/9/08 Order FILED DENYING motion Petition for rehearing stating that the petition for panel reharing and for rehearing en banc, and the panle that determined the appeal hving considered the request for panel rehearing, and the active members of the Court having considered the request for rehearing en banc, it is hereby ordered that the petition is denied filed. (FP) [Entry date May 9 2008] [EM]
- 5/16/08 Certified copy of order dated 02/07/08 disposing of the appeal issued to district court. [Mandate] [Entry date May 16 2008] [EM]
- 5/16/08 Notice to all parties of the Mandate issued. [Entry date May 16 2008] [EM]
- 6/12/08 Notice to all parties of the order filed. [Entry date Jun 12 2008] [EM]
- 6/12/08 Notice to all parties of the order filed 6/12/08. [Entry date Jun 12 2008] [EM]
- 6/12/08 Appellant Richard Cordero motion allow to recall and stay the mandate in DeLanoa nd Pfuntnr filed with proof of service. [Entry date Jun 12 2008] [EM]

6/12/08 Appellant Richard Cordero motion allow to remove and stay Pfuntner or transfer it form WDNY to USDC, Albany NY filed with proof of service. [Entry date Jun 12 2008] [EM]

6/12/08 Order FILED DENYING motion allow by Appellant Richard Cordero, endorsed on motion dated 6/12/2008, it is hereby ordered that Appellant Cordero`s motion to recall and stay the mandate and other relief is denied. (SS, DAL, GWC) (JF) [Entry date Jun 12 2008] [EM]

6/12/08 Order FILED DENYING motion allow by Appellant Richard Cordero, endorsed on motion dated 6/12/2008, it is hereby ordered that Appellant Cordero`s motion to stay

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Pfuntner v. Trustee Gordon in the Bankruptcy Court for WDNY and other relief is Denied filed. (SS, DAL, GWC) (JF) [Entry date Jun 12 2008] [EM]

6/13/08 Papers response in opposition to motion to recall mandate from Appellee's counsel G. M. Reiber received. [Entry date Jun 19 2008] [EM]

7/10/08 Record on appeal RETURNED to lower court. (1 Vol)
Rochester
s.h. [Entry date Jul 10 2008] [FN]

8/5/08 Notice from Supreme Court granting APPELLANT Richard Cordero, informing that an extensio of time within which to file a petition for a writ of certiorari in this case has been presented to Justice Ginsburg, who on 7/30/08 extended the time to and including 10/6/08 received. [Entry date Aug 7 2008] [EM]

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PACER Service Center			
Transaction Receipt			
01/20/2009 08:06:31			
PACER Login:	rc1170	Client Code:	
Description:	dkt report	Case Number:	06-4780

Billable Pages:	14	Cost:	1.12
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