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January 6, 2011

Dean and Professor of Law,
Business, and Journalism
Schools of Law, Business, and Journalism

Dear Dean and Professor,

I am a lawyer and legal researcher-writer and would like to propose teaching The *DeLano* Case, a hands-on, role-playing, fraud investigative and expository course.(8-10) I developed it based on cases that I have prosecuted from U.S. bankruptcy court all the way to the Supreme Court on petitions for certiorari.(6^{2&3}) They reveal the harmful effect on judicial process of the two most corruptive forces: lots of money and unaccountable power to dispose of it. I have also researched the law and Federal Judiciary publications(12) to determine what makes such unaccountability possible and what it naturally leads to. I have found systemic facts concerning the Federal Judiciary that lay the basis for a second proposal, namely, to conduct under the auspices of your institution The Disinfecting Sunshine on the Federal Judiciary Project, a multidisciplinary academic research and business venture centered on the Judiciary, whose ethical conduct is structurally impaired by the lack of the foundation of all ethical systems: accountability.(1)

Indeed, of all the federal judges that have served in the 221 years since the establishment of the Federal Judiciary in 1789 -2,153 were on the bench as of 30sep8(15¹⁶)- only 7 have been removed(15¹⁷). Relying on such de facto unimpeachability, judges have abused the system of judicial self-discipline(15¹⁴) by dismissing 99.82% of the 9,466 complaints filed against them in the reported 1oct96-30sep08 12-year period(22-27); get rid of 9 out of 10 cases through no-reasons summary orders or unpublished decisions(12¶2); review fewer than .08% of bankruptcy cases although they concern \$100's of billions(xi¶1); deny review en banc of each other's decisions(14⁷;21); and hold their policy-making meetings behind closed doors(6³³). These are means used to avoid adverse consequences when cases give them opportunity to disregard due process(43§A), show bias(19¶3), and pursue self-interest(45§B). The most corruptive motive prompts the abuse: in effect absolute power over lots of money(15¹⁸), which is risklessly exercised through self-immunization(28) and reciprocal cover-ups(6^{29a}) and with disregard for financial disclosure duties(31). They have naturally led to coordinated judicial wrongdoing. An egregious form of it appears in all the *DeLano* courts: a judicially run or tolerated bankruptcy fraud scheme.(7)

The course's significance is revealed by the fact that I argued *DeLano* before Then-CA2 Judge Sotomayor.(20;43) She found it so incriminating(xi¶2) that she withheld it from the Senate Judiciary Committee.(16-19) Extending this into a pattern, the *Caperton* standard of probability of bias as ground for recusal was disregarded(47) as was even the new Code of Conduct for U.S. Judges(36¹³). Similar official and case documents(6⁷) constitute the teaching materials(54§§G,H; II). The Project consists of advanced legal, IT, statistical, and journalistic work(52) to find out the reach(3§B) of coordinated wrongdoing(6⁵) as the Judiciary's institutionalized modus operandi. It and the course end with a public presentation of their results and recommendations for judicial accountability(4§C). Its target audience will be millions(xi¶3) who are limited to meaningless access to justice. Thus, the presentation can start a self-funding movement(5§D) to force judges to be effectively subject to law(6^{29b}). It will contribute to exposing how they engage in wrongdoing also in coordination with lawyers(6²). Hence, I urge you to consider, in the public's and the profession's interest, my proposals, my offer to present them(11), and my request for a teaching or fellowship interview.

Sincerely, *Dr. Richard Cordero, Esq.*

(4jan11)

SYNOPSIS

ACADEMIC AND BUSINESS VENTURE PROPOSAL

To Law, Journalism, and Business Schools, Think Tanks, and Research Institutes

The Disinfecting Sunshine on the Federal Judiciary Project

To conduct this academic and business venture that:

- a) aims to expose how its judges“ ■self-crafted for liability evasion judicial immunity doctrine, ■administration of their self-policing system to self-exempt from discipline, ■de facto unimpeachability, ■life tenure that leads to self-interest and away from service to “We the People”, ■exercise of judicial power through arbitrary nonprecedential ●no-reason summary judgments and ●unpublished decisions, ■non-review of most bankruptcy decisions, which involve easy prey pro ses and \$100s of bl. annually, ■self-processing of disclosed pro-forma financial reports, ■discount of pro se appeals to 1/3 of a case, ■systematic denial of en banc hearing petitions, ■behind closed doors policy-making judicial conferences and ■no press conferences have resulted in ●self-assured risklessness, the conscience-inhibiting incentive to engage in ●unethical conduct, ●expedient denial of due process, and ●coordinated wrongdoing that have become ► the Federal Judiciary’s institutionalized corrupt modus operandi; and
- b) consists of ■●technology-based research on, and ●Watergate-like *Follow the money!* investigation of the most unresponsive and secretive branch of government; and ■ fee-based provision of ●research training to students and ●investigative findings to clients.

The DeLano Case Course

To teach this hands-on, role-playing, fraud investigative course that ■studies fraud that under the cloak of judicial immunity has given rise to a judicially run bankruptcy fraud scheme, ■provides for teams of classmates competing with each other in written and oral exposition in a „business“ setting and ■organizes and holds a public presentation of its lessons and findings about ●the circumstances enabling the scheme, ●its impact on litigants and the public, ●measures to dismantle it, and ●reforms of the Judiciary to subject judges to accountability and discipline.

Both venture components share a common:

- a) foundation on multidisciplinary application of ■legal and business research, ■computer and linguistic forensics, ■information technology, ■data correlation and statistics, ■fraud & forensic accounting & auditing, ■dynamic sociogramming and ■social networks to ■legal analysis and ■investigative journalism that make them appropriate for students and experts in those areas;
- b) potential for ■teaching innovation, ■fundraising, ■job finding, and ■reputational enhancement as leader in the new field of judicial accountability and discipline studies; and
- c) capacity to ■expose coordinated judicial wrongdoing that causes an outraged public to demand official investigations of the Judiciary, whose findings force judicial discipline reform; ■turn into a watchdog entity for studying judges“ ethical conduct and duty to ensure due process; ■advocate establishment of a citizens board of judicial accountability and discipline authorized to publicly ●receive complaints against judges, ●hold hearings with subpoena power, and ●impose disciplinary and compensatory sanctions; and ■attract defenders and seekers of Equal Justice Under Law so as to become a national Champion of Justice.

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http://Judicial-Discipline-Reform.org/DeLano_course/17Law/DrRCordero_course&project.pdf

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 - a) to propose:
 - (i) teaching **The DeLano Case Course**; and
 - (ii) conducting **The Disinfecting Sunshine on the Federal Judiciary Project**;
 - b) state their basis in federal practice and research;
 - c) point to their key features, methodology, and the syllabus containing their week-by-week classroom plan; and
 - d) offer to make a presentation of the proposal on its own or in the context of a teaching or fellowship interview; 6jan11
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 - b) ..conducting **The Disinfecting Sunshine on the Federal Judiciary Project**, an academic and business venture consisting of multidisciplinary research and investigation to expose the inner workings of the most secretive branch of government and its riskless disregard for ethics and the law
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- 17.....Summarizing Statement filed with the U.S. Senate of verifiable evidence of material information that Judge Sotomayor withheld from the Senate Judiciary Committee and the public that indicts her claim to “fidelity to the law” and ‘non-empathetic’ impartiality; and Request that publicly the Senate post the evidence and pursue it in a *Follow the money!* investigation; 3aug9
- 17.....1. Evaded her duty to disclose her financial affairs

- 18.....2. Withheld from the Committee *DeLano* to cover up a bankruptcy fraud scheme
- 19.....3. Was partial to her peers by denying all petitions to review complaints against them
- 19.....4. Requested action: Public pursuit of the evidence and a *Follow the money!* investigation
- 20.....Summary order in *DeLano*, 06-4780-bk-CA2, that Judge Sotomayor withheld from the Senate Judiciary Committee and the public; 7feb8
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- 21.....Second Circuit Judicial Council's and Judge Sotomayor's denials of 100% of petitions to review systematically dismissed complaints against their peers; 1oct96-30sep08
- 22.....Federal judges' continued systematic dismissal without investigation of complaints against them under the new processing rules; 11may-30sep08
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- 43.....Excerpt from Dr. Cordero's petition to the Supreme Court for a writ of certiorari to CA2 in *DeLano*, 08-8382, SCT; 3oct8
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45.....B. CA2's characterization of Trustee Reiber's arrogantly perfunctory motion to dismiss as containing only "minor deficiencies" reveals its disingenuous disregard for the law and the facts

47....Excerpt from a motion for transfer and recusal in the Bankruptcy Court, WBNY; 23dec9

47.....II. The Supreme Court has confirmed in *Caperton* that what controls recusal is "the probability of bias" that denies the due process right to a fair trial in an impartial tribunal

52. Complementary multidisciplinary skills that law, journalism, and business school students will contribute to enriching the hands-on experience and the roles that they will play in attaining the investigative and expository objectives of The *DeLano* Case and the research and writing courses

53....Title page of the Syllabus of The *DeLano* Case course, setting forth the work for the Classroom and the Organization of the Public Presentation for each of a semester's 15 weeks

54.....I. Materials in the university course The *DeLano* Case

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55..... A. Blurbs of scripts and novels

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57..... B. Sample of synopses

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59..... 2) Sophie and the Children of the Wand (script and novel)

62.....C. Proposal for Developing and Marketing Areas of Academic Excellence,
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http://Judicial-Discipline-Reform.org/Creative_writings/DrCordero_blurbs_synopses.pdf

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Dr. Richard Cordero, Esq.

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BAR MEMBERSHIP AND SPECIAL SKILLS: • U.S. citizen admitted to the NY State Bar and specialized in field and library research and writing of legal briefs and business and high technology articles;

- can gather seemingly unconnected pieces of information, select those relevant to the objective pursued, and imaginatively integrate them into a coherent new structure, expressed clearly and concisely, that renders them meaningful and useful, like a mosaic that depicts a realistic and decorative scene of the ancient Romans, yet originates in insignificant stone fragments expertly sifted from dirt and artfully set together.

ADVANCED KNOWLEDGE OF: • computers and their use for word processing, graphics composition and presentation, e-mailing; Internet research, desktop publishing, and office efficiency improvement.

LANGUAGES: • speak fluently English, Spanish, and French; converse in German and Italian.

RELEVANT EXPERIENCE

ORGANIZER OF JUDICIAL-DISCIPLINE-REFORM.ORG New York City, NY

- A non-partisan and non-denominational website that advocates the study of the judiciary and the adoption of legislation to replace the inherently biased and ineffective judges-judging-judges system of judicial self-discipline with a system based on an independent board of citizens unrelated to the judges.

RESEARCHER AND WRITER, 1995-to date New York City, NY

- Developed the Euro Project, a 3-prong business proposal consisting of the Euro Conference, the Euro Consulting Services, and the Euro Newsletter, and aimed at enabling firms to capitalize on their expertise in the euro by providing services for the adaptation of business practices and information technology systems to the European Union's new common currency that replaced its national currencies.

WAYNE COUNTY EXECUTIVE OFFICE, 1994 Detroit, MI

- Developed economic and marketing features of the master plan for the intermodal transportation and industrial complex of Willow Run Tradeport in Detroit.
- Drafted and implemented proposals for increasing office productivity using IT and equipment.

LAWYERS COOPERATIVE PUBLISHING, 1991-1993 Rochester, NY

- Member of the editorial staff of LCP, the foremost publisher of analytical legal commentaries.
- Researched and wrote articles on securities regulations, antitrust, and banking under American law.

COMMISSION OF THE EUROPEAN COMMUNITIES, 1984-1985 Brussels, Belgium

- Devised proposals for harmonizing supervisory regulations on mortgage credit and on reporting large loan exposures by one and all members of a banking system to individual and related borrowers.
- My proposals were adopted by the EEC Banking Division and negotiated with the national experts in the supervision of financial institutions of the Member States.
- Drafted replies to financial questions put by the European Parliament to the Commission.

EDUCATION

THE UNIVERSITY OF CAMBRIDGE Cambridge, England

Ph.D. of the Faculty of Law, 1988

- My doctoral dissertation analyzed the existing European legal and political environment and proposed a new system for harmonizing the regulation and supervision of financial institutions.

THE UNIVERSITY OF MICHIGAN Ann Arbor, Michigan

Master of Business Administration (MBA) of the Business School, 1995

- Emphasis on corporate strategies to maximize a company's competitiveness through the optimal use of computer-based expert systems, information technology, and telecommunications networks.

LA SORBONNE Paris, France

French law degree of the Faculty of Law and Economics, 1982

- Was awarded a French Government scholarship

http://Judicial-Discipline-Reform.org/Bio/Dr_Richard_Cordero_Esq_resume.pdf

- Concentrated on the operation of a currency basket to achieve monetary stability and on the application of harmonized commercial regulations & antitrust competition rules on companies with dominant positions.

WRITINGS & PUBLICATIONS

- ◆ The *DeLano* Course, the hands-on, role-playing, fraud investigative and expository course; 20nov10; http://Judicial-Discipline-Reform.org/DeLano_course/17Law/DrRCordero_course&project.pdf
- ◆ Proposal for a Multidisciplinary Research and Business Venture Project to Study the Federal Judiciary and Use The Findings To Produce Scholarly Writings and Offer Consulting and Representative Services to Clients; http://Judicial-Discipline-Reform.org/DeLano_course/17Law/DrRCordero_aca&biz_venture.pdf
- ◆ Availability of an Implied Right of Action under the Tender Offer Provisions of §14d-f of the Securities Exchange Act of 1934 (15 USCS §78n(d)-(f)), added to the Exchange Act by the Williams Act of 1968, and Rules Promulgated thereunder by the SEC, 120 ALR Federal 145.
- ◆ Venue Provisions of the National Bank Act (12 USCS §94) As Affected By Other Federal Venue Provisions and Doctrines, 111 ALR Federal 235.
- ◆ Construction and Application of the Right to Financial Privacy Act of 1978 (12 USCS §§ 3401-3422), 112 ALR Federal 295.
- ◆ Exemption or Immunity From Federal Antitrust Liability Under the McCarran-Ferguson Act (15 USCS §§1011-1013) and the State Action and Noerr-Pennington Doctrines for the Business of Insurance and Persons Engaged in It, 116 ALR Federal 163.
- ◆ Who May Maintain an Action Under §11(a) of the Securities Act of 1933 (15 USCS §77k (a)), in Connection With False or Misleading Registration Statements, 111 ALR Fed. 83.
- ◆ Brief in the Supreme Court, http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_ScT_3oct8.pdf
- ◆ Judicial Conference's Reforms Will Not Fix the Problem of Abusive Judges Who Go Undisciplined, Letter to the Editor, National Law Journal, March 3, 2008, <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1204212424055>
- ◆ The Creation of a European Banking System: A study of its legal and technical aspects, Peter Lang, Inc., New York, XXXVI, 390 pp., 1990; this book earned a grant from the Commission of the European Communities and was reviewed very favorably in *32 Harvard International Law Journal* 603 (1991) and *24 New York University Journal of International Law and Politics* 1019 (1992).
- ◆ Competition Strategies Must Adapt to the Euro, 17 Amicus Curiae of the Institute of Advanced Legal Studies, London, 27 (May 1999)
- ◆ Why Business Executives in Third Countries and Non-participating Member States Should Pay Attention to the Euro, European Financial Services Law 140 (March 1999).
- ◆ Some Practical Consequences for Financial Management Brought About by the Euro, 5 European Financial Services Law 187 (1998).
- ◆ Impending Conversion to the Euro Prompts New Guidelines from the IRS, New York Law Journal, pg. 1, Friday, October 2, 1998.
- ◆ A Strict but Liberalizing Interpretation of EEC Treaty Articles 67(1) and 68(1) on Capital Movements, 2 Legal Issues of European Integration 39 (1989); article proposing a novel interpretation and application of European Communities provisions on capital movements.
- ◆ The Development of Video Dialtone Networks by Large Phone and Cable Companies and its Impact on their Small Counterparts, 1 Personal Technologies no. 2, 60 (Springer -Verlag London Ltd., 1997).
- ◆ Video Dialtone: Its Potential for Social Change, 15 Journal of Business Forecasting 16 (1996).
- ◆ Video Dialtone Network Architectures, by Richard Cordero and Jeffery Joles, 15 Journal of Business Forecasting 16 (Summer 1996)
- ◆ Comments on the Revised Rules of the Committee on Judicial Conduct and Disability of the Judicial Conference of the U.S., http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_revised_rules.pdf

Updating Endnotes

1. In FY09 -1oct8-30sep9-, federal bankruptcy judges dealt with the staggering \$325.6 billion in liabilities self-reported by individual debtors in cases with predominantly consumer debt; to this figure must be added the \$10s of billions in debt of predominantly business debtors. They discharged the net amount of \$310,329,885,000. Even a tiny percentage of this amount and of the non-discharged difference of \$15,270,115,000 is a colossal amount of money, particularly because it is concentrated in the hands of only a few insiders of the bankruptcy and judicial systems. What makes all the difference is that because judges abuse their power to self-exempt from investigation and discipline and immunize insiders by finding in their favor if they are sued, they all can grab that money risklessly. http://www.uscourts.gov/News/TheThirdBranch/10-07-01/BAPCPA_Report_Looks_at_Filers_in_Non-business_Bankruptcies.aspx; tables collected at http://Judicial-Discipline-Reform.org/statistics&tables/bkr_stats/bkr_dollar_value.pdf >dv:1
2. Newspaper articles on Justice Nominee CA2 Judge Sonia Sotomayor's suspicious financial disclosures; http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_integrity/6articles_JSotomayor_financials.pdf

Federal judges earn judicial salaries, http://Judicial-Discipline-Reform.org/docs/Schedule7_Judicial_Salaries.pdf, that put them in the top 2% of income earners in our country; http://www.census.gov/compendia/statab/cats/income_expenditures_poverty_wealth/income_for_persons.html; and http://Judicial-Discipline-Reform.org/docs/US_Census_Income_2010.pdf >Table 689. Money Income of People--Number by Income Level and by Sex, Race, and Hispanic Origin: 2007: 4,777,000 people earned \$150,000 and above out of 238,148,000 representing 2.01% of the total. Those judges cannot end up with the few assets that they disclose year after year unless they squander their money or conceal it; http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_integrity/12table_JSotomayor-financials.pdf

That Then-CA2 Judge Sotomayor could have concealed assets is possible, for she was nominated by President Obama, who also nominated known tax cheats Tim Geithner, Tom Daschle, and Nancy Killefer; http://Judicial-Discipline-Reform.org/docs/Geithner_tax_evasion_jan9.pdf; http://Judicial-Discipline-Reform.org/docs/Tom_Daschle_tax_evasion_feb9.pdf; and http://Judicial-Discipline-Reform.org/docs/Nancy_Killefer_3feb9.pdf.

President Obama, who vetted J. Sotomayor, and the Senators, who reviewed the financial documents that she submitted to the Senate Judiciary Committee and who posted them on its website, http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_integrity/2SenJudCom_Questionnaire_JSotomayor.pdf, had evidence that she had failed to account for \$3,611,696 in earnings minus taxes and the cost of her 'modest living', but in self-interest of garnering favor with Latino voters nominated and confirmed her.

3. In the year to 30jun10, 1,572,597 cases were filed in the U.S. Bankruptcy Courts,

a 20.4% increase over the 1,306,315 filed in the year to 30jun9, which continued the upward trend since 2006; <http://www.uscourts.gov/Statistics/BankruptcyStatistics.aspx> >12-month period ending June >2009-2010 Calendar Year comparison; and http://Judicial-Discipline-Reform.org/statistics&tables/bkr_stats/latest_bkr_filings.pdf.

These figures do not include the latest ones of cases filed in CY09 elsewhere:

1. 43,776 civil cases (=57,138 -13,362) filed in the 12 regional U.S. Courts of Appeals (Table B-1.—Appeals Commenced);
2. 1,337 filed in the Court of Appeals for the Federal Circuit (Table B-8.—Appeals Filed); nor
3. 278,884 civil cases filed in the U.S. District Courts.

Administrative Office of the United States Courts, *Statistical Tables for the Federal Judiciary*: December 31, 2009; Washington, D.C., 2010; <http://www.uscourts.gov/Statistics/StatisticalTablesForTheFederalJudiciary/December2009.aspx>; and http://Judicial-Discipline-Reform.org/statistics&tables/caseload/1judicial_caseload.pdf

In all these 1,896,594 (=1,572,597 + 323,997 [=43,776 + 1,337 + 278,884]) civil cases, money could have been at stake and unaccountable federal judges could abusive-ly wield power in self-interest to decide who kept it or had to pay it out to somebody.

December 28, 2010

EXECUTIVE SUMMARY

ACADEMIC AND BUSINESS VENTURE PROPOSAL

For the Study of Evidence of a Judicially Condoned Bankruptcy Fraud Scheme and Multidisciplinary Research on, and Investigation of, the Federal Judiciary that Apply Ethics to Determine an Honest Person's Duty vis-à-vis Wrongdoing and Generate the Findings To Produce Scholarly Writings and Offer Educational, Consulting, and Representative Services to Clients as Part of Advocating Judicial Accountability and Discipline Reform

The DeLano Case

a hands-on, role-playing, fraud investigative and expository course that studies real cases revealing the legal and practical conditions giving rise to a bankruptcy fraud scheme and trains law, journalism, and business school students in understanding complex interpersonal systems by piercing explanatory façades with perceptive posing and searching for, and processing of, evidence through the application of dynamic analysis of conflicting and harmonious interests

The Disinfecting Sunshine on the Federal Judiciary Project

an academic and business venture consisting of multidisciplinary research and investigation to expose the workings of the most secretive branch of government, its abuse of its self-policing system to self-exempt from discipline, and the thus induced participation by judges in riskless coordinated wrongdoing; and advocating official investigations of the Judiciary and legislation transferring the policing of judges' conduct to an independent citizens board for judicial accountability and discipline

A. The *DeLano Case* Course

1. The *DeLano Case* is a hands-on, role-playing course for law, journalism, and business school students dealing with the study and investigation of wrongdoing coordinated among federal judges and between them and other insiders of the legal and bankruptcy systems and their running of a bankruptcy fraud scheme; and consisting of:
 - a. classwork that provides for
 - 1) advanced legal and accounting analysis of official publications and case documents, and journalistic investigation that takes its leads from them; and
 - 2) written and oral exposition in class of persuasive arguments that integrate the identified relevant facts into a cogent theory that explains the workings, in general, of complex interpersonal systems, and, in particular, of coordinated wrongdoing as the Judiciary's institutionalized modus operandi; and

- b. a public presentation of investigative and analytical results concerning the bankruptcy fraud scheme and the Federal Judiciary; their ethical implications for action by an honest person; and recommendations for effective judicial accountability and discipline reform.
2. A detailed description of the course's key features and methodology, and the syllabus setting forth its week-by-week classwork and presentation organization are found in and through the file at http://Judicial-Discipline-Reform.org/DeLano_course/17Law/DrRCordero_course&project.pdf.

B. The Disinfecting Sunshine on the Judiciary Project

- 3. (**kind of activity**) a multidisciplinary academic and business venture **a)** guided by ethical, public service, and financial considerations and **b)** consisting of **(i)** wide-angle technology-based desk research and **(ii)** a test-case-focused *Follow the money!* field investigation for
- 4. (**participants**) students earning a higher education degree, in general, and those at law, business, and journalism schools, in particular, and/or a team of experts in their own right to
- 5. (**end goal**) bring about **a)** legislation enabling **b)** the establishment of a government independent citizens board for judicial accountability and discipline composed of party unaffiliated members entrusted with subpoena power and charged with publicly holding judges' accountable, subject to discipline, and liable for damages so as to ensure that "justice is administered without respect to persons and according to the Constitution and the laws"¹; by taking concrete steps to
- 6. (**means**) expose **a)** the Judiciary's and judges' modus operandi in disregard of ethical standards and due process requirements; **b)** their abuse of power to dispose of cases and make procedural rules in self-interest; **c)** their wrongdoing in coordination among themselves and with other insiders of the legal and bankruptcy systems; **d)** the benefits they grant to themselves and the insiders; **e)** the harm that they inflict upon outsiders and the public at large; **f)** judges' and insiders' concealed assets, money laundering, and other unethical or illegal activity; through
- 7. (**publication**) the students and/or the team of experts making **a)** a multimedia public presentation at the university auditorium simultaneously **b)** broadcast from **(i)** the radio and TV station and website of the university's journalism and mass communication program, **(ii)** traditional media entities, and **(iii)** citizens journalism websites and **c)** a subsequent tour of presentations and press conferences, **d)** at all of which a brochure and CD are distributed; **e)** a documentary; **f)** a series of Émile Zola's *I Accuse!*-like articles; and **g)** a free e-newsletter; which are apt to
- 8. (**strategy**) **a)** outrage the public and **b)** set off a rash of similar media investigations until the critical mass of the clamor provoked by the exposed wrongdoing **c)** compels law enforcement authorities and Congress to conduct their own official investigations, resulting in **d)** confirmatory and revelatory findings that **e)** embarrass, shame, and deprive of moral standing judges who are thus caused to resign, as Justice Abe Fortas had to in 1969; and **f)** heighten the demand for, and force, **g)** the passage of effective judicial accountability and discipline legislation; thereby **h)** taking judicial accountability and discipline **(i)** from the hands of judges handling in self-interest judicial misconduct complaints by exempting their colleagues from any investigation and discipline and **(ii)** out of their turf, the courts, where judges are held not suable at all² or

¹ 28 U.S.C. §453; http://Judicial-Discipline-Reform.org/docs/28usc453_judges_oath.pdf

² http://Judicial-Discipline-Reform.org/DeLano_course/17Law/DrRCordero_course&project.pdf

only before peers partial to them, and **i**) putting it in the hands of a citizens board for judicial accountability and discipline; a by-popular-demand process triggered by the discovery of

9. (**types of information**) information covering the spectrum from **a**) the appearance of ethical improprieties revealing unfitness of character for judicial office; through **b**) unfairness and partiality pointing to dereliction of the fundamental judicial duty of affording due process of law; to **c**) criminal activity engaged in individually or coordinated with others, whether as a principal or a passively enabling accessory, within an institution amounting to a corrupt enterprise, that warrants impeachment and removal from office; and is gathered from
10. (**information sources**) **a**) judges' publicly filed financial³, seminar attendance⁴, honoraria and gifts⁵ disclosure reports; **b**) written opinions⁶, articles⁷, newsletters⁸, speeches⁹, and official news of the Judiciary¹⁰; **c**) court calendars¹¹, case dockets and records¹², annual reports¹³, and statistics¹⁴; **d**) archived records¹⁵; **e**) property registries¹⁶ and other public records¹⁷; **f**) biographies¹⁸ of, and interviews with, judges¹⁹, their clerks²⁰, and bankruptcy²¹ and legal

>Dn:1¶¶1-2

³ <http://www.judicialwatch.org/judicial-financial-disclosure>

⁴ <http://www.uscourts.gov/RulesAndPolicies/PrivateSeminarDisclosure/PrivateSeminarDisclosureOverview.aspx>

⁵ Earned income from outside employment and honoraria and the acceptance of gifts must be reported in compliance with the provisions of 5 U.S.C. App. §501 et. seq., 5 U.S.C. §7353 and Judicial Conference regulations. <http://www.uscourts.gov/RulesAndPolicies/CodesOfConduct/JudicialConferenceRegulationsGifts.aspx>; and http://Judicial-Discipline-Reform.org/docs/gifts_jud_officers.pdf

⁶ Public Access to Court Electronic Records; <http://www.pacer.gov/>

⁷ Federal Courts Law Review, <http://www.fclr.org/>; FindLaw for Legal Professionals, <http://library.findlaw.com/>

⁸ <http://www.uscourts.gov/News/TheThirdBranch.aspx>

⁹ <http://www.supremecourt.gov/publicinfo/speeches/speeches.aspx>

¹⁰ <http://www.uscourts.gov/News/InsideTheJudiciary.aspx>

¹¹ <http://www.nywb.uscourts.gov/calendars.html>

¹² <https://ecf.nywd.uscourts.gov/cgi-bin/login.pl>

¹³ Annual Reports of the Administrative Office of the U.S. Courts, <http://www.uscourts.gov/Statistics/JudicialBusiness.aspx>; Chief Justice's Year-End Reports on the Federal Judiciary, <http://www.supremecourt.gov/publicinfo/year-end/year-endreports.aspx>; Annual Reports of the Court of Appeals for the Second Circuit, <http://www.ca2.uscourts.gov/annualreports.htm>

¹⁴ <http://www.uscourts.gov/Statistics.aspx>

¹⁵ <http://www.archives.gov/research/court-records/>; <http://www.archives.gov/research/court-records/bankruptcy.html>;

¹⁶ National Association of Counties, <http://www.naco.org/Pages/default.aspx>

¹⁷ National Association of County Recorders; <http://www.nacrc.org/>

¹⁸ Federal Judicial Center, Biographical Directory of Federal Judges, <http://www.fjc.gov/history/home.nsf/page/judges.html>; U.S. District Court for the District of Maryland, <http://www.mdd.uscourts.gov/publications/DisplayJudgesBio.asp>

systems insiders²²; **g**) newsmedia reports²³ and law websites²⁴ and blogs²⁵; **h**) accounts of dealings with judges and insiders submitted by the public; by applying

11. **(techniques)** **a**) legal, economic, corporate, and news data and social networks research and analysis; **b**) computer forensics; **c**) database correlation; **d**) literary forensics; **e**) fraud & forensic accounting and auditing; **f**) statistics; **g**) investigative journalism's techniques for interviewing and developing sources; **h**) private investigators' personal and technical surveillance techniques; **i**) nonviolent civic action means; **j**) mass communications techniques for designing a public message and deploying a public relations campaign; **k**) multimedia and marketing techniques for the life presentation, packaged distribution, and sale of research products and services, such as
12. **(products)** **a**) oral and textual descriptions of the sociogram of the interpersonal relations of the judicial "guild"; **b**) patterns in judicial writings and events evincing bias toward and against parties and ideologies; **c**) lists, tables, and graphs of unlawful practices and trends or suspicious deviations from standards; **d**) reports on the quantitative and qualitative impact of judicial wrongdoing on the administration of justice and the public's legal and economic welfare; **e**) summaries in a standardized format of verified accounts of judicial abuse of power and coordinated wrongdoing submitted by the public; **f**) biographies and ratings of judges; **g**) multimedia products and serial publications, including **h**) a website, **i**) scholarly and investigative journalism articles, **j**) documentaries and **k**) a journal of judicial power and unaccountability studies; **l**) seminars; **m**) conferences; **n**) research, consulting, and litigation services; all of which contains added-value expertise that generates market demand and develops
13. **(institutional effort)** visibility, reputation for professionalism, and recognition for work in the public interest that support for the formation of **a**) an independent, party and church neutral, research, investigative, and teaching entity for the study of the most secretive and unaccountable branch of government, the Federal Judiciary, that attains the highest standards of scholarship; **b**) a fair and courageous watchdog of judges' ethics and respect for due process; **c**) a firm of court litigators of test cases; and **d**) a center for the advocacy among the public and in Congress of the establishment of a citizens board for judicial accountability and discipline; which are
14. **(income sources)** financially supported through **a**) the sale of its products and services; **b**) bookings of its presentations; **c**) clients seeking expert advice, research, representation or publicity for cases exhibiting egregious wrongdoing and denial of due process; **d**) students following a course of study for academic degree; **e**) participants in seminars and conferences; **f**) donations from the public and sponsors that understand the importance for our democratic form of government of the administration of Equal Justice Under Law.

¹⁹ Federal Judges Associations, <http://www.federaljudgesassoc.org/>; Federal Magistrate Judges Association, <http://www.fedjudge.org/>

²⁰ Federal Court Clerks Association, <http://www.fcca.ws/>

²¹ <http://www.justice.gov/ust/>

²² Federal Bar Council, <http://www.federalbarcouncil.org/>; American Bar Association, <http://new.abanet.org/members/default.aspx>

²³ http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_integrity/6articles_JSotomayor_financials.pdf

²⁴ <http://www.law.com/jsp/law/sitemap.jsp>

²⁵ Supreme Court of the United States Blog; <http://www.scotusblog.com/>

PROPOSAL FOR

The DeLano Case

a hands-on, role-playing, fraud investigative and expository course
for law, journalism, and business school students

and **The Disinfecting Sunshine on the Federal Judiciary Project**
multidisciplinary research and investigation to expose the inner workings of the most
secretive branch of government and its riskless disregard for ethics and the law

1. The *DeLano* Case is based on cases that started in a U.S. bankruptcy court and were appealed to the District Court, the Court of Appeals for the Second Circuit (CA2), and on to the Supreme Court(6^{2&3}). Throughout this long journey along the full length of the hierarchy of federal courts they revealed the harmful effect on the judicial process of the two most corruptive forces: lots of money and unaccountable power to dispose of it. So, although thousands of federal judges and magistrates have served since the Federal Judiciary was created in 1789 — 2,153 were in office in 2008-, in the last 221 years only 7 have been removed.(15¹⁷) Likewise, of the 9,466 judicial misconduct complaints filed in the reported 1oct96-30sep08 12-year period (22), 99.82% were dismissed with no investigation and no private or public discipline(27). Judges have also granted themselves absolute immunity from liability for deprivation of civil rights. (*Pierson v. Ray*, 386 U.S. 547 (1967), but see J. Douglas’ dissent) The CAs get rid of about 75% of the appeals by a rubberstamped no-reasons summary order and about 15% by opinions so perfunctory(14⁷) and arbitrary that they mark them “not for publication” and “non-precedential”(12⁹ for CA2). They have been assured that “A judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority”. (*Stump v. Sparkman*, 435 U.S. 349 (1978)) A life-tenured person that can do anything without fear of consequences or even having to explain themselves, develops a sense of entitlement to do everything. Together with others similarly situated, they will protect their privilege. So is human nature.

2. Thus, federal judges are de facto unimpeachable and have made themselves unaccountable. Without accountability, the basis of any ethical system, they need not apply judicial ethics. Individually and as a class, they can fail in their duty to ensure due process and instead pursue self-interest by coordinating wrongdoing among themselves and with others. They have the means to secure riskless benefit. Judges that unaccountably disregard legality while ruling annually on \$10’s of bls. exercise absolute power, which corrupts absolutely(15¹⁸). So they have placed themselves where neither the President, a member of Congress, nor any person among “We the People” is allowed to be: Judges Above the Law(30^{11b}). Unrestrained by law or rules, their administration of justice is dominated by relativism where anything goes(43). The mere capacity of judges so to behave, let alone their actual behavior, mocks every professor’s scholarship on, and teaching of, the rule of law. Students should be made aware of this situation; otherwise, once they are out there in the real world and confront it for the first time, they will feel misled and become, not just ethics skeptics, but also amoral cynics who feel justified in doing wrong as judges do.

3. The *DeLano* Case course(9) aims to teach students outcome-determinative facts about judicial conduct and the first steps toward holding judges accountable and liable to discipline. It illustrates the clash between the theory of how the legal system is supposed to work as bound by law and judicial ethics and evidence obtained during the prosecution of the cases of how in reality it is made to work by judges as free agents who cannot be fired, whose “Compensation... shall not be diminished during their Continuance in Office”(Const. Art. III, §1), and whose “good [or bad] Behaviour”(id.) cannot authorize their colleagues, from the chief justice down, either to

promote or demote them. The key documents in the record(6⁷) of the cases(15²⁰) and official publications provide the core teaching materials(53§§G,H). They are used to develop the students' independent and critical thinking. So teams of students are taught to apply ever-greater perceptiveness, inquisitiveness, and discernment as they compete with each other(8) to pierce apparently lawful acts and authoritative statements in order to find the facts behind them and realize their generating force(6⁵): a bankruptcy fraud scheme run by insiders of the bankruptcy and legal systems that in practice enjoy immunity(7). The students also learn in clinic-like fashion to cooperate to organize a public presentation to expose how unaccountable judges run or cover up such a scheme while depriving litigants and the public of economic and welfare rights. Its audience will be in the university auditorium and that reached by its broadcast on TV, radio, and interactive web, its brochure and documentary(4), and the PR campaign(5). This exercise will sharpen their research and writing skills(4§C) as well as their ability to draw up and advocate public policy and legislation to ensure that judges run the system according to due process requirements. The Syllabus sets forth in detail the work for the classroom and the organization of the public presentation for each of a semester's 15 weeks(53§K).

4. The presentation is intended to have the effect that Justice Lewis Brandeis believed could be attained through open and transparent government activity that informs the public when he said, "Sunshine is the best disinfectant". That light will shine most brightly and be most salutary when intensified during the project. The latter is broader in scope than the course and requires specialized knowledge as opposed to providing for role-playing. Though hands-on too insofar as learning is achieved by doing, the project uses the wealth of documents in The *DeLano* Case, not as the basis for teaching, but rather as an advanced station for further discovery. Whether conducted by students earning a higher education degree or a team of experts in their own right, the project consists of multidisciplinary legal research, investigative journalism, and fraud & forensic accounting(52). Its means are computer-based literary forensics and database correlation –dockets, judges' calendars, court reports, etc.- to find statistically significant patterns in judicial writings and events; legal analysis to determine their consonance with the rule of law or bias; and field research to interview people for inside information and find evidence of unethical or illegal activity and hidden assets.(11¶2) Its overriding query is "To what extent does the Judiciary perform its duty to administer "Equal Justice Under Law" or has it become a safe haven for coordinated wrongdoing?" Its query for a pinpointed Watergate-like investigation is "How far up, widespread, and wrongful is the participation in, or toleration of, the bankruptcy fraud scheme revealed by the *DeLano* cases?"(4¶3) Its objective is to ensure through disinfecting exposure the integrity of our legal system for the common good. So its nature is work in the public interest.

5. The public presentation by students and experts is the short term objective of the course and the project. It has significant fundraising potential because it will explain to lawyers, their clients, and the public why in 9 of 10 federal cases they end up with a meaningless summary order form or decision.(12¶2) To redeem themselves and continue their quest for justice, they will vie to have their most outrageous case studied as *DeLano* has been.(7) For the students, it will be a job fair where to exhibit their skills live.(8) It will enhance their institution's reputation for providing imaginatively novel and challenging education and expert work that meets the highest standards. It will instill in students and experts a sense of professional honesty and civic duty as they take action in behalf of millions(14¹⁰) who are denied a fair and impartial forum.¹ Hence, it will be the first step in the long term objective of establishing a watchdog center for the study of the Judiciary that sheds a constant light on it and exposes judges' unethical conduct. This fundraising, job finding, and reputational potential and the prospect of leading a public call for judicial accountability and discipline warrant careful review of this course and project proposal.(11¶1)

**The *DeLano* Case Course Taught To Produce a Multimedia Brandeis Brief
Using multidisciplinary knowledge, skills, and means so that
lawyers, journalists, and accountants trigger history rather than just first-draft it¹**

Before Louis Brandeis became a justice of the Supreme Court in 1916, he was an effective litigator advocating progressive causes. He won his cases, not only by arguing the law, but also by writing briefs where he presented socio-economic data and treated it with as much rigor as if it were legal evidence. His briefs were so persuasive that they gave rise to a new type: the Brandeis brief. They contributed to ushering in a more just society and thus, to make history.

A. *DeLano* and the empowerment of the people through information and knowledge

1. *DeLano*(7) is a case that was filed in a U.S. bankruptcy court¹ and appealed to the district and circuit courts and the Supreme Court². It is the representative case of a cluster that followed the same path along the Federal Judiciary courts.³ They show judges engaging in a series of acts, such as withholding of material information, concealment of assets, and partiality, so consistently in favor of other judges and insiders of the bankruptcy and legal systems to the detriment of outsiders and so blatantly in disregard of the facts and due process of law as to be non-coincidental and intentional. That series of acts constitutes pattern evidence⁴ from which a reasonable person can infer a judicially supported bankruptcy fraud scheme⁵. The latter is only one manifestation of the two most insidious corruptors: unaccountable power and lots of money, i.e., the \$10s of bls. that federal judges rule on annually and their way above average salaries.⁶

2. The law, journalism, and business students(48) taking The *DeLano* Case and/or its research & writing course will study key documents in the 2,500+ page *DeLano* record⁷. They will learn the findings of, and conduct research on Judiciary publications, e.g., reports⁸, statistics⁹, and news¹⁰, that reveal what has allowed the Judiciary to institutionalize coordinated wrongdoing as its modus operandi: the unaccountability of life tenured, de facto unimpeachable judges(30¹¹), who abuse their self-discipline system¹¹ by systematically dismissing complaints against them (21-27); assured of impunity¹², they disregard due process(12) and do wrong(31) while exercising their vast judicial power¹³. The students will apply convergently their multidisciplinary skills and means to find evidence thereof, put it into multimedia across-platforms reports, and deliver them in class and at a public presentation. They will thus perform a fundamental function of lawyers sworn to uphold the Constitution and of journalists in a democratic society: to inform the citizenry so that it may maintain or regain control¹⁴ of ‘the government of and for the people’.

B. Student evaluation of *DeLano* & the stages of the *Follow the money!* investigation

3. The students will learn the structure of the Judiciary, the principles of legal research, and the requirements for handling legal evidence. That way they can become knowledgeable legal reporters and forensic accountants, in particular, and competent lawyers, journalists, and financial analysts in general. They will develop a healthy ‘paranoid’ concern for reporting information with accuracy and for presenting evidence or citing precedent for every legal principle: ‘There are people out there trying to get me!, be it the opposing counsel, the professor, the fact-checker, the editor, or the audience, including competitors, and their own sense of professional responsibility.

4. The students will apply independent and critical judgment to distinguish between factual and fraudulent statements of parties and even judges so as to detect judicial wrongdoing. To assess its

¹ Excerpt from http://Judicial-Discipline-Reform.org/DeLano_course/17Law/DrRCordero_course&project.pdf

scope, they will execute any of the stages of the *Follow the money!* journalistic investigation/discovery, as allowed by their knowledge, experience, and funding, and required by due diligence:

5. Computer research. This includes research on PACER (Public Access to Court Electronic Records) and the websites of the Administrative Office of the U.S. Courts (AO) and the courts¹⁵; legislators¹⁶; and pundits on the judiciary and consumers of judicial services¹⁷. By so doing, the students can research further **1)** the case handling policies that the courts have developed on their own and their compliance with Constitutional and statutory requirements¹⁸; **2)(a)** the statistics on the nature, handling, and disposition of cases and **(b)** public opinion on the services of, and trust in, each of the government branches¹⁹; **3)** the judges' publicly filed annual financial disclosure reports and how they compare with the assets and liabilities of non-judicial earners of similar salaries²⁰; **4)** repositories of public records to track online judges' and their surrogates' assets²¹; etc.

6. Local field research. Students can conduct field interviews with current and former staff and law clerks of the local federal court; litigants; lawyers; bankruptcy debtors, creditors, and service providers²², e.g. trustees, appraisers, accountants, auctioneers, and deposition reporters; etc.

7. Advanced, Watergate-like *Follow the money!* investigation. The Judiciary's coordinated wrong-doing can be investigated through *DeLano* as representative of close to 1.5 million bankruptcy cases filed annually(14¹⁰) and the one involving a former circuit judge who is now Justice Sotomayor(20). Students will travel wherever necessary to **1)** interview **(a)** those involved in *DeLano*²³; **(b)** if possible, active, senior, and retired judges; **(c)** law clerks and staff, if need be with their identity hidden to protect their Deep Throat status; **(d)** legislators, who under the pretext of separation of powers have allowed the Judiciary to become an undemocratic power center²⁴; **(e)** law enforcement officers²⁵, who investigate more legislators than they do members of the larger Judiciary²⁶; **2)** attend court proceedings; and **3)** track down assets from county clerks' offices to their current and former owners, sellers, neighbors²⁷; etc. The investigation –which can be the final project for an academic degree- can enable students to show that even the justices tolerate or cover up²⁸ the same wrongdoing that they engaged in when they were judges, lest they end up incriminated²⁹. Their *DeLano* storytelling(vi>55) can have Watergate-like consequences.³⁰

C. The students' across-platforms short & long-term telling of the *DeLano* story

8. The public presentation. The *DeLano* course includes a presentation by the students in their auditorium of its lessons and their research findings, opinions, and editorials.(8) They will broadcast it on campus/internship TV and radio, and interactive web. Their audience will be university members and other opinion-shapers and decision-makers, e.g., political party and law enforcement officers; legislators; judges and Judiciary staff; journalism, fraud & forensic accounting, and law professors, practitioners, and associations; litigants represented pro se and by small, medium, and large law firms; public interest advocates; bloggers; talk show hosts; book publishers; etc. Their presentation can crown the course or launch a campaign for a higher objective(§D); either way it can enhance the schools' reputation for academic excellence and civic leadership(11).

9. Presentation invitations and advertising materials. These call for copywriters, designers, and producers to cooperate to devise a story theme and compose a message that catch the attention of the target of the presentation advertisement, and do so on time and within budget. They will be mailed to invitees, posted on campus and the web, released at a press conference, broadcast, etc.

10. The brochure. The students will tell their *DeLano* story in a special-issue-magazine-like package integrating main text and sidebars; statistical time series tables(21); trend-depicting

graphs³¹; hierarchical relations charts; clip art representations of people in systems; and realism-providing photos. They will post its digital version on their website³², give away the print one at the presentation, and burn it on CDs for low cost promotional distribution and possible sale. Their brochure can be updated as the *Follow the money!* investigation of *DeLano* and similar cases(i) is pursued in subsequent courses. So it can become the first investigative law/journalism periodical dedicated to the in-depth exposure of the Judiciary, the most secretive of the three branches of government, the only one to hold all its meetings behind closed doors³³, whose close-knit members appear at no press conference, account to nobody, yet wield power the longest directly on parties and through case law over “We the People”’s property, liberty, and even lives.

11. TV, radio, and web documentary. Shot during the *Follow the money!* investigation and aimed to attract advocates and donors to its judicial reform campaign, it can be shown at the presentation; meetings of, and schools for, mass communicators, accountants, and lawyers; on TV, radio, and the web; entered in intercollegiate competitions and film festivals; and played at high schools and universities as a recruiting tool for the participating schools, clinics, and internships by illustrating the sophisticated craft that their students learn and the weighty subjects that they treat.

D. The students’ PR campaign and strategy for judicial accountability and discipline

12. The students can pursue that legitimate journalistic and public policy objective as civic service to inform about, and end, the Judiciary’s institutionalized self-exemption from discipline, bankruptcy fraud scheming, and disregard for due process. This requires planning a PR campaign based on a cogent strategy³⁴: They must persuade their audience to disseminate their findings to the public at large. The latter should become outraged at learning how those who took an oath to “administer justice without respect to persons”³⁵, have instead turned the Judiciary into a safe haven for coordinated wrongdoing for their own and other insiders’ benefit. Their outrage should force the Department of Justice and Congress to investigate *DeLano*, in particular, and the Judiciary, in general. The findings of such investigation should force Congress to give up its historic refusal to take on the judges³⁶ and adopt laws effectively holding them accountable and subject to discipline.

13. A key element to understand that refusal is found in Speaker Nancy Pelosi’s candid statement that “Congress is dominated by the culture of corruption”. It follows that if its members tried to hold judges accountable for their abuse of judicial power only to be brought on corruption charges²⁶ before those same judges, the latter could take the opportunity to retaliate against their nemeses. Hence, the campaign should be not only informative to the public, but also transformative of Congress’ self-preserving hands-off-the-Judiciary attitude. This requires on the students’ part insightful reporting, editorials, and advocacy to cause the public to demand concrete reforms.³⁷ They must analyze the reactions and circumstances of members of Congress so as to cultivate the interest of those that can instead reap a benefit from seizing the occasion to become the Senator Sam Ervin of this generation. The equivalent of that chairman of the Watergate Committee^{38a} can attain similar national recognition -perhaps in preparation for announcing a presidential bid³⁹- by updating his famous question to sound thus: What did the justices and judges know about coordinated judicial wrongdoing and to what extent did they tolerate, or participate in, it?

14. The students can design their PR campaign so that their Brandeis-brief reporting on the corruptive effect of unaccountable power and lots of money on the Judiciary leads to dynamic analysis of the interests at stake(8) and their imaginative channeling toward solutions. Thereby they will not just witness historic events, but also influence them so as to trigger history. If they show the courage to expose^{38b} and the capacity to propose, they can become the statesmanship version of Woodward/Bernstein and their deans and faculty the Graham/Bradlee of the 21st century.

- 1 *In re DeLano*, 04-20280, WBNY; http://Judicial-Discipline-Reform.org/Follow_money/DeLano_docs.pdf >§V
- 2 http://Judicial-Discipline-Reform.org/US_writ/1DrCordero-SCt_petition_3oct8.pdf >§IX Statement of Facts
- 3 *James Pfuntner v Trustee Kenneth Gordon et al.*, 02-2230, WBNY; http://Judicial-Discipline-Reform.org/docs/DrCordero_v_TrGordon_SCt.pdf
- 4 http://Judicial-Discipline-Reform.org/docs/18usc1961_RICO.pdf >7¶(5) "pattern of racketeering activity"
- 5 http://Judicial-Discipline-Reform.org/Follow_money/How_fraud_scheme_works.pdf
- 6 http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_integrity/12table_JSotomayor-financials.pdf
- 7 http://Judicial-Discipline-Reform.org/DeLano_record/DrCordero_DeLano-ToC.pdf
- 8 <http://www.uscourts.gov/library/annualreports.htm>; and <http://www.ca2.uscourts.gov/annualreports.htm>
- 9 http://Judicial-Discipline-Reform.org/docs/Statistics_of_systematic_dismissals.pdf
- 10 <http://www.uscourts.gov/news.cfm> and <http://www.uscourts.gov/ttb/2009-01/index.cfm>
- 11 http://Judicial-Discipline-Reform.org/docs/28usc351_Conduct_complaints.pdf
- 12 http://Judicial-Discipline-Reform.org/JNinfo/25Committee/2DrCordero-petition_25feb9.pdf
- 13 http://Judicial-Discipline-Reform.org/Follow_money/why_j_violate_due_pro.pdf
- 14 http://Judicial-Discipline-Reform.org/dosc/ineffective_oversight.pdf
- 15 <http://www.pacer.uscourts.gov/index.html>; AO: <http://www.uscourts.gov/>; and <http://www.uscourts.gov/courtlinks/>
- 16 http://www.senate.gov/general/contact_information/senators_cfm.cfm ; <https://writerep.house.gov/writerep/welcome.shtml>
- 17 <http://victimsoflaw.net/>; <http://www.wellsofjustice.com/>; <http://www.scotusblog.com/wp/>; <http://thecaucus.blogs.nytimes.com/>
- 18 http://Judicial-Discipline-Reform.org/docs/CA2_summary_orders_19dec6.pdf
- 19 <http://www.uscourts.gov/library/statisticalreports.html> and <http://www.harrispollonline.com/>
- 20 http://Judicial-Discipline-Reform.org/docs/5usc_Ethics_Gov_14apr9.pdf and <http://www.census.gov/>
- 21 E.g., National Association of Counties: <http://www.naco.org> >clerks' offices; and endnote 1 supra >§X
- 22 http://Judicial-Discipline-Reform.org/docs/11usc_Bkr-Code_06.pdf >§327
- 23 Endnote 1 supra >§XIII
- 24 Cf. http://Judicial-Discipline-Reform.org/docs/Sen_Specter_on_SCt.pdf
- 25 http://Judicial-Discipline-Reform.org/DoJ-FBI/4DrRCordero-DoJ_30mar9.pdf
- 26 In 2008, 2,153 federal judges and magistrates were in office, but there were only 535 members of Congress. Yet, the Dept. of Justice has recently investigated and/or prosecuted Rep. William Jefferson (D- La.); Sen. Ted Stevens (R-Alas.); Lobbyist Jack Abramoff and members that he influenced; Rep. Duke Cunningham (R-Cal.); Rep. Bob Ney (R-Ohio); Rep. Tom Delay (R-Tex.), Rep. John T. Doolittle (R-Cal.); Rep. Mark Foley (R-Fl.), Rep. Rick Renzi (R-Ariz.); etc.; but only U.S. Judge Samuel Kent (SDTx-5th Cir.). Cf. <http://www.crewsmostcorrupt.org/>; http://Judicial-Discipline-Reform.org/docs/Judicial_Watch_Corrupt_Politicians_09.pdf.
- 27 En.1 sup. >§II; http://Judicial-Discipline-Reform.org/docs/18usc_bkrp_related.pdf >§§1956-1957: money laundering
- 28 http://Judicial-Discipline-Reform.org/docs/SCt_knows_of_dismissals.pdf
- 29 ^a http://Judicial-Discipline-Reform.org/Follow_money/Dynamics_of_corruption.pdf & ^b...[money/Unaccountable_judges.pdf](http://Judicial-Discipline-Reform.org/Follow_money/Unaccountable_judges.pdf)
- 30 http://Judicial-Discipline-Reform.org/Follow_money/proposal_to_journalists.pdf
- 31 http://Judicial-Discipline-Reform.org/statistics&tables/judicial_misconduct.pdf
- 32 http://Judicial-Discipline-Reform.org/docs/Programmatic_Proposal.pdf >5§C
- 33 http://Judicial-Discipline-Reform.org/Follow_money/unaccount_jud_nonjud_acts.pdf
- 34 http://Judicial-Discipline-Reform.org/Follow_money/JudReform_from_outside.pdf and ...[money/Motive_Strategy.pdf](http://Judicial-Discipline-Reform.org/Follow_money/Motive_Strategy.pdf)
- 35 http://Judicial-Discipline-Reform.org/docs/28usc453_judges_oath.pdf
- 36 http://Judicial-Discipline-Reform.org/docs/bill_to_amend_judicial_discipline.pdf, never reported out.
- 37 http://Judicial-Discipline-Reform.org/docs/Jud_Discipline_Audit_Comm_Act.pdf
- 38 ^a http://Judicial-Discipline-Reform.org/docs/WP_The_Watergate_Story.pdf >p7 & ^b...[money/Emile_Zola_I_Accuse.pdf](http://Judicial-Discipline-Reform.org/Follow_money/Emile_Zola_I_Accuse.pdf)
- 39 http://Judicial-Discipline-Reform.org/Follow_money/Champion_for_Justice.pdf

The Salient Facts of The *DeLano* Case**Will the students find them on their own and interpret them the same way?**

(*D*:# & footnote references are to Judicial-Discipline-Reform.org/Follow_money/DeLano_docs.pdf; these are *bookmarks* on the left)

DeLano is a federal bankruptcy case. Part of a case cluster, it reveals fraud that is so egregious as to betray overconfidence born of a long standing practice¹: Coordinated wrongdoing evolved into a bankruptcy fraud scheme.² It was commenced by the DeLano couple filing a bankruptcy petition with Schedules A-J and a Statement of Financial Affairs on January 27, 2004. (04-20280, WBNY³) Mr. DeLano, however, was a most unlikely bankruptcy candidate. At filing time he was a 39-year veteran of the banking and financing industry and continued to be employed by M&T Bank precisely as a bankruptcy officer. He and his wife, a Xerox technician, were not even insolvent, for they declared \$263,456 in assets v. \$185,462 in liabilities (*D*:29); and also:

1. that they had in cash and on account only \$535 (*D*:31), although they also declared that their monthly excess income was \$1,940 (*D*:45); and in the FA Statement (*D*:47) and their 1040 IRS forms (*D*:186) that they had earned \$291,470 in just the three years prior to their filing;
2. that their only real property was their home (*D*:30), bought in 1975 (*D*:342) and appraised in November 2003 at \$98,500⁴, as to which their mortgage was still \$77,084 and their equity only \$21,416 (*D*:30)...after making mortgage payments for 30 years! and receiving during that period at least \$382,187 through a string of eight mortgages⁵. (*D*:341) Mind-boggling!
3. that they owed \$98,092 –spread thinly over 18 credit cards (*D*:38)- while they valued their household goods at only \$2,810 (*D*:31), less than 1% of their earnings in the previous three years. Even couples in urban ghettos end up with goods in their homes of greater value after having accumulated them over their working lives of more than 30 years.
4. Theirs is one of the trustee's 3,907 *open* cases and their lawyer's 525 before the same judge.

These facts show that this was a scheming bankruptcy system insider offloading 78% of his and his wife's debts (*D*:59) in preparation for traveling light into a golden retirement. They felt confident that they could make such incongruous, implausible, and suspicious declarations in the petition and that neither the co-schemers would discharge their duty nor the creditors exercise their right to require that bankrupts prove their petition's good faith by providing supporting documents. Moreover, they had spread their debts thinly enough among their 20 institutional creditors (*D*:38) to ensure that the latter would find a write-off more cost-effective than litigation to challenge their petition. So they assumed that the sole individual creditor, who in addition lives hundreds of miles from the court, would not be able to afford to challenge their good faith either. But he did after analyzing their petition, filed by them under penalty of perjury, and showing that the DeLano 'bankrupts' had committed bankruptcy fraud through concealment of assets.

The Creditor requested that the DeLanos produce documents⁶ as reasonably required from any bankrupt as their bank account statements. Yet the trustee, whose role is to protect the creditors, tried to prevent the Creditor from even meeting with the DeLanos. After the latter denied *every single document* requested by the Creditor, he moved for production orders. Despite his discovery rights and their duty to determine whether bankrupts have concealed assets, the *bankruptcy* and *district judges* denied him *every single document*. So did the *circuit judges*, even *then CA2 Judge Sotomayor*, the presiding judge, who also needed the documents to find the facts to which to apply the law. They denied him and themselves due process of law. To eliminate him, *they* disallowed his claim in a *sham evidentiary hearing*. Revealing how incriminating the documents are, to oppose their production the DeLanos, with the trustee's recommendation and the bankruptcy judge's approval, were allowed to pay their lawyers \$27,953 in legal fees⁷...though they had declared that they had only \$535. To date \$673,657⁸ is still unaccounted for. Where did it go⁹? How many of the trustee's 3,907 cases have unaccounted for assets? For whose benefit?²

¹§XIII ²§III ³§V. ⁴§X ⁵§§I.B & VIII ⁶Cf. §XII ⁷§XI ⁸§I.B ⁹§II

Course Description

The *DeLano* Case

A hands-on, role-playing, fraud investigative and expository course for law, journalism, and business school students

DeLano is a case that went from a U.S. bankruptcy court to the Supreme Court(15²⁰) and dealt with an issue that affects close to 1.5 million new bankruptcy cases a year(14¹⁰): fraud. Part of a cluster of cases that originated in 2001, it has produced a wealth of documents(6⁷).

In this course, you analyze some of those documents to answer the questions asked by the managing partner, who assigned *DeLano* to you: Has fraud been committed?; if so, how does it operate and who is involved? Thus the course is structured as a role-playing exercise where you join a small law and consulting team that is pitted against other teams. All of you must get your work approved by the toughest of partners: your classmates. The latter will evaluate your team's presentation in oral and written fact-findings reports, legal and audit opinions, and editorials, all expressed in proper English; showing fairness, accuracy, and insight; with multimedia display of sources, data, and charts; complying with time and space limitations; and likely to achieve your goal: to hook your audience on your serial reportage and persuade it to act on your legal advice.

The presentations also aim to develop your ability to perform dynamic analysis of interests and skeptical text analysis. The former requires you to identify what debtors, creditors, trustees, judges, and lawyers want and do not want and how each party may or may not satisfy its interests in the context of the other parties' interests. So you must be skeptical of their written or transcribed statements because the story that they tell may be a cover for hiding the real interests that they want to advance. Hence you must read *DeLano* documents critically to ascertain where the parties' statements lie along the true-false continuum, for you will not be reading the textbook of an expert, reasonably assumed to be knowledgeable and truthful. You need to engage in mosaic building: Use your common sense, general knowledge, and logic to identify scattered and seemingly unimportant bits of information as potentially relevant; determine their suspiciousness, plausibility, internal consistency, and external congruity; and integrate them into a coherent narrative that explains events at the parallel planes of stories told and hidden. Thereby you develop the capacity to pierce any party's surface of credibility by asking analytical questions; exercise independent judgment to evaluate answers with critical thinking; and use your imagination to recognize pebbles of data and craft a mosaic depicting a reason-appealing scene of meaning.

A demanding course¹, it also teaches you to work to high professional standards in a large corporate environment. Using digital means of communication, you must coordinate and perform activities by tight deadlines with all the accounting departments, law, and public communications, as your law and consulting firm produces an extraordinary event. Fun in itself and apt to enrich your life with valuable personal experiences and professional practice, it is the presentation of The *DeLano* Case lessons and your research findings and views in your school auditorium. You will enlighten your audience about how bankruptcy fraud works, how to detect judicial wrongdoing, and what measures to adopt to combat both. A presentation in the public interest and yours too!, for you will address students and faculty in your university as well as representatives of accounting and law firms, media outlets, PR agencies, and government officers that you and your classmates invited and would like to turn into your employers and clients...a job interview the size of a job fair where you will 'enact your brief' of multidisciplinary knowledge and skills(3) and stand out as the best candidate thanks to having taken this course.

E. Instructions for the Instructor¹

for teaching The *DeLano* Case course

Table of Contents

1. Class structure of teams competing with, and evaluating, each other and its rationale
2. Students' permanent, course role
3. Students form collaborating reporting teams and consulting firms to provide legal, investigative journalism, and fraud & forensic accounting (FFA) reports and services to their classmate as managing partners, editors, and clients
4. Educational objectives and types of materials
 - a. A publicly filed federal bankruptcy petition
 - b. Briefs, motions, letters, and court orders and decisions in the record of *DeLano* in federal bankruptcy, district, and circuit courts, and the Supreme Court
 - c. Public records filed in county clerks' offices and other depositories of information
 - d. Excerpts from legal documents such as:
 - 1) The Bankruptcy Code, 11 U.S.C.
 - 2) The Judicial Code, 28 U.S.C.
 - 3) The Federal Rules of Bankruptcy and of Civil Procedure, 28 U.S.C.
 - 4) The Criminal Code, 18 U.S.C.
 - 5) Code of Federal Regulations
 - 6) Ethics in Government Act, 5 U.S.C., Appendix [no. 4 in Thomson West]
 - e. Publications of the:
 - 1) Administrative Office of the U.S. Courts
 - 2) Federal Judicial Center
 - 3) Judicial Conference of the U.S.
 - f. Articles on Fraud and Forensic Accounting
 - g. Standards of ethical and investigative journalism
 - h. Articles written for the course on:
 - 1) the structure of the Federal Judiciary
 - 2) the operation of the bankruptcy system
 - 3) critical reading for understanding between the lines and outside the paper
 - 4) methodical thinking based on the scientific method
 - 5) good writing that is grammatically correct and achieves stylistic elegance through unambiguous, accurate, concise, and meaningful expression
5. Educational technique: Dynamic analysis of conflicting and harmonious interests
 - a. Students' performance of the analysis

¹ http://Judicial-Discipline-Reform.org/DeLano_course/14Law/5DrCordero_syllabus.pdf >§E

- b. Example of the analysis
6. Students' transient, class roles
7. The bankruptcy petition as the first and key document to analyze
 - a. Method and objective of analyzing the bankruptcy petition
 - b. The petition's importance for the course's academic objectives
8. Reading to find the hidden reality behind the declared reality: two parallel planes of interests
 - a. Skeptical text analysis
 - b. 'Plutonic thinking' or the postulation of what should exist
 - c. From skepticism to a 3-D presentation of information: connecting the parallel planes
 - d. Divide and integrate to understand a complex, constantly reconfiguring system
 - e. Mosaic building: from bits of information to a theory explaining the planes of interests
9. The Bankruptcy Code: a system and its disruption by the scheme of coordinated wrongdoers
10. Progressive release of documents
11. Rewarding necessary, insightful, and timely questions of facts
12. The Statements of Facts as scripts for the instructor
13. Analytical documents as chapters in the manual for the instructor
 - a. Table of materials for the instructor and for the students
14. The importance of the writing exercises
 - a. Exercises to produce letters, reports, and multimedia data displays
 - b. Format and contents of written communications and multimedia data displays
15. Types of analyses
 - a. Springboard analysis of documents
 - b. Boomerang scrutiny
 - c. Broth reduction
 - d. Database creation
16. Criteria to evaluate written reports and oral presentations
 - a. the Payment Evaluation Form and its Checklist for clients to assess the value of services
 - b. Applying the evaluating criteria to oral presentations and written communications
 - c. Evaluation by students of peer performance using the checklist and the payment form
17. Digital means for efficient transmission and proper presentation of written communications
18. Business attire at presentations
19. Final presentation to members of the university, government officers, and business people
20. Use of the course materials and Table of Contents of Materials Reserved for the Instructor
21. Suggestion for a follow up course

The Presentation of The *DeLano* Case Course

by the author to the faculty and the students

1. Objectives of the oral presentation. It aims to demonstrate that law, journalism, and business students, separately or in a joint class(52), can benefit academically and professionally from the course¹. It will show how *DeLano*, a federal case, sheds light on a subject that affects millions of people: greed, power, and fraud. It will describe how judges from the bankruptcy, district, and appeals courts to the Supreme Court **1)** disregard due process and abuse no-reasons summary orders(12); **2)** systematically dismiss misconduct complaints against them to exempt each other from discipline(27); and **3)** rule on \$10's of bls. in close to 1.5 million bankruptcy cases filed annually(14¹⁰), of which fewer than 0.08% reach the appeals courts(13). So judges exercise power unaccountably and participate risklessly in a bankruptcy fraud scheme.(1) Such coordinated wrongdoing cannot be stopped through regular litigation before other judges, who fearing incrimination for at least having tolerated it(31) dismiss any proceedings(21). Hence, it is for trained outsiders to investigate and expose it and cause such public outrage as to force official investigations and legislation effectively holding judges accountable and subject to discipline.(5)

2. Concepts & proposals. The *DeLano* Case will be described as a course to teach the observing, analytical, synthesizing, and applying skills of an inquisitive, critical, and inventive mind: It skeptically **reads** parties' and judges' documents to identify between lines conflicting and harmonious interests(8); **separates** their interests, means, and opportunities using facts, common sense, and group dynamics(6²⁹); **composes** a reconfigurable mosaic of close-knit bankruptcy and legal system insiders interacting with different kinds of outsiders; and **makes** boomerang use of statements to impeach their authors or hold them to their words and their implications(6³²). Such methodical way of thinking will give students a competitive advantage once they are in practice and must handle similar documents and dynamic situations. So a proposal will be made for **1)** multidisciplinary legal research, investigative journalism, and statistical analysis to correlate summary orders and reasoned opinions with types of parties, issues, investments, connections, etc.; **2)** a Watergate-like *Follow the Money!* investigation of *DeLano* to trace concealed assets (6²⁷) and its cover-up by then circuit judge(20) and now Justice Sotomayor(18); and **3)** jointly taught practicums of investigative journalism, fraud & forensic accounting, and public policy advocacy.

3. Faculty leadership and student presentation. The presentation will illustrate how deans and faculty can test those proposals in an activity that will enhance their reputation for innovative teaching that affords the students a unique professional experience and fosters their civic commitment: the students' production of a broadcast multimedia presentation of *DeLano* in their auditorium to members of the university, government, and the business world. The presentation can constitute the course's final exam or be undertaken as a faculty-guided, school-wide project that allows students to integrate the knowledge and skills that they have gained and are then acquiring in all disciplines(3). So their 'public interest firm'(8) will mount a PR convention to launch and market their informational products and program: **1)** the lessons of their study of *DeLano* and the findings of their *Follow the money!* investigation of it(4); **2)** their plan to expose the judges' coordinated wrongdoing and advocate legislation to subject them to democratic control; and **3)** their call for an institute to act as **(a)** clearinghouse of complaints about judicial misconduct and due process denials(22); **(b)** prototype of a citizens commission for judicial accountability and discipline(6³⁷); **(c)** public investigator/defender of the integrity of the legal system; and **(d)** for-profit provider of seminars and publications(5) to professionals seeking to become Champions of Justice.

¹http://Judicial-Discipline-Reform.org/DeLano_course/14Law/5DrCordero_syllabus.pdf

The Choice: Judge Sotomayor's Ethnicity v. Equal Justice Under Law¹

In a recent email concerning Judge Sonia Sotomayor of the U.S. Court of Appeals for the Second Circuit (CA2) and her nomination as Supreme Court Justice, the emailer asked, "Are we looking for symbolism or substance?, because I will only support her if it is the latter." Let's consider a summary¹ of some issues that are appropriate to answer that question and ask where the Judge stands on them. Their appropriateness rests on the fact that they concern the essence of the fair administration of "Equal Justice Under Law" and judicial integrity affecting all cases. Hence, there is no reason for a nominee not to address them by claiming that to do so would prejudice the outcome of future cases before her. As you read the summarized issues below, ask yourself whether any adverse effect that they may have on your professional success does not 'count' because the judge belongs to your ethnic group or is from your state.

1. **Pro-forma justice through summary orders and unpublishable opinions.**² Your client pays his CA the appeal filing fee of \$455 as one of the "fees to be charged for services provided by the courts of appeals".³ The main service is to have it provide a dispositive answer to the "Issues presented for review". (FRAP 28(a)(5))⁴ A contract for services arises therefrom. However, CA2 implements its policy of caseload clearing through expediency "to utilize judicial time effectively" (FRAP CA2 Local Rule 32.1)⁵ The result is that "Approximately 75% of all cases are decided by summary order [, which] have no precedential authority."⁶ As such, those orders do not bind any judge in the circuit. Necessarily so since in the overwhelming majority of cases their only operative word is "AFFIRMED" or "DISMISSED" because they do not address, let alone answer, the questions presented. A reversal would require CA2 to state the reversible error and its legal grounds, how to avoid it on remand, what issues to retry, what evidence to include or exclude, etc....time-consuming details that defeat the expediency objective.⁷ Now tell your client that neither the order is a mockery of justice and a breach of contract nor you are a bad lawyer, because the judge shares your ethnicity.
2. **Non-publication of orders and opinions protects their cursorness.** In the 12 regional circuit courts the overwhelming majority of all "Opinion[s] or Order[s] Filed In Cases Terminated on the Merits After Oral Hearing or Submission on Briefs" is unpublished: 81.8%, but in CA2 it is 86.7%.⁸ They are practically unavailable and unknowable and meant to become secret since they are neither to be sought nor worth seeking given their non-precedential character. Even when they are "reasoned" and signed, CA2 judges themselves deemed them of such poor quality that they leave 86.5% of them unpublished. This allows for arbitrary, unprincipled, and capricious decision-making. They are not vehicles 'to do justice that must be seen done in public'; they are expedients of justice ashamed. They result from denial of equal protection. The 11% of litigants that got their day in court with a reasoned, signed, and published opinion paid the same \$455 filing fee as the 89% who only got to read on the court's closed door a rubberstamped summary order form or the notice of unpublishable "reasons". Did the ethnic judge help you build your reputation by her giving you 8 in 9 chances of your being dispatched with a cursory fiat, which increases its unreviewability?
3. **T-1080 Motion Information Statement to avoid reading by circling DENIED or GRANTED.**⁹ CA2 Local Rule 27 requires this form to accompany each motion as its top page. The movant must "Set forth below precise, complete statement of relief sought" ...because the judges cannot bother to flip to the last page to read it there. That assumes that a judge will read it. The form itself reads "FOR THE COURT: CATHERINE O'HAGAN WOLFE, Clerk of Court, By: _____" This means that disposition of the motion is not even by the Clerk of Court, but rather by a subordinate clerk, who need not be a staff lawyer. So why would the judges ever bother to read your researched "memorandum...with legal arguments" required under Local Rule 27 –or your brief– when a

clerk can circle “DENIED” or “GRANTED” and get rid of it? In fact, CA2 judges have adopted “§ 0.18. Entry of Orders by the Clerk” providing that “The clerk shall prepare, sign and enter the following without submission to the court or a judge unless otherwise directed”. By the same token, judges can craft, whether in an unpublished writing or through practice, ‘Directions for Issuance by the Expediency Clerk’ of any motion-disposing or summary order concerning appeals that, for example, fall below a CA2-fixed amount in controversy; involve a pro se; pit a small party against a big one able to appeal to the Supreme Court and embarrass CA2 due to its cursory opinion; or lead to...

4. **Incrimination in tolerating or running a bankruptcy fraud scheme.** In FY08, new bankruptcy cases totaled 1,043,993.¹⁰ This represented a 30% increase over the 801,269 in FY07. Yet the number of such cases filed in the 12 regional CAs decreased 9% from 845 to 773.¹¹ So bankruptcy judges, who rule on \$10s of bls. annually, were sure that whatever they decided would stand since fewer than 0.08% of their decisions would be appealed to the CAs or only 1 in every 1,351. Yet, 61,104 appeals were filed there. Moreover, since bankruptcy judges are appointed by circuit judges¹², the former are assured that the latter will hardly overturn their rulings on appeal, which would cast doubt on their capacity to appoint competent bankruptcy judges and their collegial complicity. Judges that decide however they like with no adverse consequences who gets such colossal amount of money have the most powerful incentive to engage in wrongdoing¹³: riskless enormous profit. Must you ethically disclose this to your client before taking his money?
5. **Systematic self-exemption from judicial discipline.** Circuit judges benefit from that risklessness, for they ensure it. In the system of self-discipline set up in the Judicial Conduct and Disability Act¹⁴, they dispose of complaints against federal judges filed by any person. The 1oct96-30sep8 posted reports show that they abused that power by dismissing with no investigation 99.82% of the 9,466 complaints filed.¹⁵(27) Of the thousands of judges that served during those 12 years – 2,153 in 2008 alone¹⁶- only 7 were censured.(22) They held themselves unaccountable, thus protecting their effective unimpeachability: In the 220 years since 1789 only 7 judges have been removed¹⁷. Yet, they exercised power over people’s property, liberty, and lives. Hence, they wielded absolute power, which corrupts absolutely.¹⁸ Judge Sotomayor is a member of the 2nd Cir. Judicial Council, which during those 12 years denied 100% of petitions to review complaint dismissals.¹⁹(21) She would not protect you from a corrupt judge, no matter your ethnicity.
6. **Judge Sotomayor’s participation in a bankruptcy fraud scheme cover-up.** With that attitude, Judge Sotomayor and other colleagues of her decided *DeLano*(20), which was appealed to the Supreme Court²⁰. They ruled in favor of their appointed bankruptcy judge’s non-disclosure of the whereabouts of at least \$673,657 of the most unlikely of ‘bankrupts’: a 39-year veteran banker who at the time of filing for bankruptcy was an M&T Bank bankruptcy officer!(6²) To protect such concealment of assets by a bankruptcy system insider preparing his debt-free golden retirement, they denied *every single document* in all creditor-requests intended to expose where the banker had stashed his salary and other receipts during his working life.(7) Such denials were blatant violations of discovery rights. But when the top judges do wrong²¹(31), those below them do whatever they want. Due process is nobody’s doing, not even Judge Sotomayor’s.

You can use the process of confirming a Justice nominee to expose through a Watergate-like *Follow the Money!* investigation(30¹³) the institutionalized wrongdoing of Judge Sotomayor²² and her colleagues, thus contributing to Equal Justice Under Law regardless of ethnicity. This is your opportunity to become our generation’s Woodward/Bernstein or their editor, B. Bradlee.(6³⁸) Use it to establish your professional reputation and render meritorious service to millions of litigants and the public who receive or are denied justice at the mercy of judges that administer it without having to worry about being held accountable and subject to discipline.²³ To that end, I offer to make a presentation to your colleagues of the evidence and the investigation.²⁴(11)

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- ¹ Petition to the U.S. Supreme Court for certiorari to the Court of Appeals for the Second Circuit, *Richard Cordero v. David DeLano et ux.*, docket 08-8382; http://Judicial-Discipline-Reform.org/US_writ/DrCordero-SCt_petition_3oct8.pdf >US:2467§XIII.A-B.
- ² Comments on the proposed permanent adoption of interim Local Rule § 0.23 on Summary Order without any opinion or appended explanatory statement; http://Judicial-Discipline-Reform.org/docs/CA2_summary_orders_19dec6.pdf.
- ³ Judicial Conference Schedules of Fees Court of Appeals Miscellaneous Fee Schedule (Issued in accordance with 28 U.S.C. §1913. Effective 01/01/2007); Federal Civil Judicial Procedure and Rules, 2008 Ed., Thomson West, p. 1014.
- ⁴ Federal Rules of Appellate Procedure and Local Rules of the Second Circuit; http://Judicial-Discipline-Reform.org/docs/CA2_rules.pdf; <http://www.ca2.uscourts.gov/rules.htm>.
- ⁵ Id.
- ⁶ <http://www.ca2.uscourts.gov/clerk.htm> >2nd Circuit Handbook, pg.17; http://Judicial-Discipline-Reform.org/docs/CA2_Handbook_9sep8.pdf >17.
- ⁷ See how Judge Sotomayor and her panel colleagues decided *Ricci v. DeStefano*, aff'd per curiam, 530 F.3d 87 (2dCir., 9 June 2008), 264 Fed.Appx. 106, 2008 WL 410436, involving white and black firefighters and raising substantial racial discrimination issues under the equal protection clause of the Constitution. Their decision was harshly criticized by one of their own CA2 colleagues, Circuit Judge Jose Cabranes, who wrote in dissent:
- “The questions raised in this appeal...are indisputably complex and far from well-settled....Presented with an opportunity to address en banc questions of such "exceptional importance," Fed. R. App. P. 35(a)(2), a majority of this Court voted to avoid doing so.... the panel withdrew its summary order and published a per curiam opinion that contained the same operative text as the summary order...This per curiam opinion adopted in loco the reasoning of the District Court, without further elaboration or substantive comment, and thereby converted a lengthy, unpublished district court opinion, grappling with significant constitutional and statutory claims of first impression, into the law of this Circuit. It did so, moreover, in an opinion that lacks a clear statement of either the claims raised by the plaintiffs or the issues on appeal. Indeed, the opinion contains no reference whatsoever to the constitutional claims at the core of this case...**This perfunctory disposition** rests uneasily with the weighty issues presented by this appeal.” (emphasis added)
- Nevertheless, the majority of the court voted not to hear the case en banc, thereby upholding the summary/per curiam order. As a result, CA2 Chief Judge Dennis Jacobs criticized “a Circuit "tradition" of deference to panel adjudication. In effect, this has become a Circuit tradition of hearing virtually no cases in banc....But to rely on tradition to deny rehearing in banc starts to look very much like abuse of discretion.” http://Judicial-Discipline-Reform.org/docs/Ricci_v_DeStefano.pdf. On petition for certiorari, the Supreme Court announced on June 29, 2009, that it had overturned the decision; <http://www.supremecourtus.gov/opinions/08slipopinion.html>.
- ⁸ Unpublished opinions; Table S-3; U.S. Courts of Appeals—Types of Opinions or Orders Filed in Cases Terminated on the Merits After Oral Hearings or Submission on Briefs During the 12-Month Period Ending September 30, 2008; Judicial Business of the U.S. Courts, 2008 Annual Report of the Director of the Administrative Office of the U.S. Courts (AO), James C. Duff; <http://www.uscourts.gov/judbus2008/JudicialBusinesspdfversion.pdf> >p.44.
- ⁹ <http://www.ca2.uscourts.gov/forms.htm> >T-1080 (Motion Information Statement).
- ¹⁰ “November 25, 2009—Bankruptcy cases filed in federal courts for fiscal year 2009 totaled 1,402,816, up 34.5 percent over the 1,042,993 filings reported for the 12-month period ending September 30,

2008, according to statistics released today by the Administrative Office of the U.S. Courts.” Bankruptcy Filings Up 34 Percent over Last Fiscal Year, News Release of the Administrative Office of the U.S. Courts; http://www.uscourts.gov/Press_Releases/2009/BankruptcyFilingsSep2009.cfm; also at http://Judicial-Discipline-Reform.org/statistics&tables/bkr_stats/latest_bkr_filings.pdf.

- ¹¹ http://www.uscourts.gov/ttb/2009-01/article02.cfm?WT.cg_n=TTB_Jan09_article02_teaserTitle; also at http://Judicial-Discipline-Reform.org/statistics&tables/caseload_SCT_report_08.pdf.
- ¹² 28 U.S.C. §152. Appointment of bankruptcy judges; http://Judicial-Discipline-Reform.org/docs/28usc151-159_bkr_judges.pdf.
- ¹³ “Republican Suggests a Judicial Inspector General”, David Kirkpatrick, *NYTimes*, May 10, 2005; <http://www.nytimes.com/2005/05/10/politics/10watchdog.html>. “Specter Speaks on the Senate Floor Regarding the Televising of Supreme Court Proceedings”, Sen. Arlen Specter, News Room, January 29, 2007; http://Judicial-Discipline-Reform.org/docs/Sen_Specter_on_SCT.pdf
- ¹⁴ 28 U.S.C. §§351-364. Judicial Conduct and Disability Act of 1980; http://Judicial-Discipline-Reform.org/docs/28usc351_Conduct_complaints.pdf.
- ¹⁵ Table S-22 [previously S-23 & S-24] Report of Complaints Filed and Action Taken Under Authority of 28 U.S.C. §§351-364, produced by the Administrative Office of the U.S. Courts pursuant to 28 U.S.C. §604(h)(2); <http://www.uscourts.gov/judbususc/judbus.html>; see also 28 U.S.C. §332(g); collected at http://Judicial-Discipline-Reform.org/statistics&tables/judicial_complaints.pdf.
- ¹⁶ http://Judicial-Discipline-Reform.org/statistics&tables/num_jud_officers/jud_officers_08.pdf.
- ¹⁷ <http://www.fjc.gov/history/home.nsf> >Judges of the U.S. Courts>Impeachments. Judicial Act of 1789, ch. 20, 1 Stat. 73-93; http://Judicial-Discipline-Reform.org/docs/Judiciary_Act_1789.pdf
- ¹⁸ Here are applicable the aphorisms of Lord Acton, Letter to Bishop Mandell Creighton, April 3, 1887: “Power corrupts, and absolute power corrupts absolutely”, and 1 Timothy 6:10: ‘Money is a root of all evil and those pursuing it have stabbed many with all sorts of pains’: When unaccountable power, the key element of absolute power, strengthens the growth and is in turn fed by the root of all evil, money, the result is that both corrupt inevitably. http://Judicial-Discipline-Reform.org/Follow_money/Dynamics_of_corruption.pdf
- ¹⁹ Ent. 13 supra. See also http://Judicial-Discipline-Reform.org/JNinfo/25Committee/2DrCordero-petition_25feb9.pdf >N:51¶¶1-4; N:39 and 47.
- ²⁰ Ent. 1 supra, *Petition for certiorari*, 08-8382, SCT, at US:2456§X. See also http://Judicial-Discipline-Reform.org/US_writ/2DrCordero-SCT_rehear_23apr9.pdf. The decision in *In re DeLano*, 06-4780, CA2, by the CA2 panel of which Judge Sotomayor was a member is an exhibit in both of those briefs at CA:2180. See also the appeal brief in CA2; http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_06_4780_CA2.pdf >CA:1746§IX; and the petition for panel rehearing and hearing en banc at http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_CA2_rehear.pdf.
- ²¹ http://Judicial-Discipline-Reform.org/SCT_nominee/JSotomayor_integrity/12table_JSotomayor-financials.pdf
- ²² “Sotomayor Rose High, with Few Assets”, Joe Stephens, *The Washington Post*, May 7, 2009; http://voices.washingtonpost.com/44/2009/05/07/sotomayor_rose_high_with_few_a.html?sid=ST2009050702123; “N.Y. Federal Judge Likely on Shortlist”, Keith B. Richburg, *id.*, May 7, 2009; <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/06/AR2009050603762.html>; and “For a justice, Sonia Sotomayor is low on dough”, Josh Gerstein, *Politico*, May 28, 2009; <http://www.politico.com/news/stories/0509/23045.html>; collected at http://Judicial-Discipline-Reform.org/SCT_nominee/JSotomayor_integrity/13onJSotomayor.pdf.
- ²³ http://Judicial-Discipline-Reform.org/Follow_money/why_j_violate_due_pro.pdf
- ²⁴ http://Judicial-Discipline-Reform.org/DeLano_course/14Law/1DrCordero-Dean.pdf >11

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August 3, 2009

Senator Harry Reid
Senate Majority Leader
522 Hart Senate Office Building
Washington, D.C. 20510

Senator Mitch McConnell
Senate Minority Leader
361A Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Reid and Senator McConnell,

At the hearings, Judge Sotomayor stated that “Many senators have asked me about my judicial philosophy. It is simple: fidelity to the law.” However, you and the Senate have verifiable evidence that such statement is not factually correct. It consists of her answers to the Judiciary Committee’s Questionnaire and supplementary questions, the U.S. Code, court documents, and official judicial statistics. If your vote on her confirmation will be based on the evidence in the record rather than in disregard of it, then it behooves you to consider the evidence summarized herein and the linked documents with the references to the sources available to you. The evidence indicts her claim of fidelity to the law and ‘non-empathetic’, impartial application of it, for it shows that Judge Sotomayor withheld from the Committee and the public:

- a) material information about her finances, though the Committee required that she “itemize in detail all assets and all liabilities”, which if she had done would have exposed her failure to account for at least \$3,611,696 due to her repeated failure to comply with her duty under the Ethics in Government Act of 1978 to file a “full and complete” annual financial disclosure report; http://Judicial-Discipline-Reform.org/SCT_nominee/JSotomayor_integrity/12table_JSotomayor-financials.pdf
- b) the *DeLano* case, 06-4780-bk-CA2, where she was the presiding judge and covered up a similar concealment of assets to protect her fellow judges below involved in a bankruptcy fraud scheme due to “the absence of effective oversight” –Bankruptcy Abuse Prevention Act finding - by upholding their denial of, and denying in turn in 12 creditor-requests, *every single document*, thus denying all discovery rights and denying herself the facts to which to apply the law, whereby she denied due process of law and enabled the continued running of the scheme; and http://Judicial-Discipline-Reform.org/SCT_nominee/JSotomayor_integrity/11DrCordero-SenJudCom.pdf; infra 5
- c) her partiality toward all her fellow judges by participating, as a member of the 2nd Circuit Judicial Council, in exonerating 100% of complained-against judges from misconduct charges. http://Judicial-Discipline-Reform.org/JNinfo/25Committee/2DrCordero-petition_25feb9.pdf >N:51¶¶1-4; infra 6

In each of these patterns of conduct Judge Sotomayor showed ‘infidelity to the law’ and dispensed, not blind justice, but rather wide-eyed empathy for her peers and indifference to their victimized debtors, creditors, complainants, and the public, who bears their losses. At the hearings, though sworn to tell the whole truth, she allowed the misrepresentation to persist that she had elicited in her answers by writing that she had provided “all” information and cases requested. As for the Committee, it failed to post the evidence and confront her with it, although on July 3 I began filing it with each of its members by email, fax, and mail with many follow-up phone calls.

Hence, I respectfully request that you **1)** have the evidence posted and Judge Sotomayor address it publicly, assuming you believe that you and the public are entitled to pro and con evidence to assess her claim of fidelity to the law and impartiality before confirming her to public office for life with no oversight; and **2)** cause the Senate to launch a *Follow the money!* investigation, which can allow you to become a national Champion of Justice, like Senator Sam Ervin, chairman of the Senate Watergate Committee, by asking: What assets did the Judge and her *DeLano* peers conceal and why did they conceal them? I look forward to hearing from you.

Sincerely, *Dr. Richard Cordero, Esq.*

August 3, 2009

**Summarizing Statement Filed With The Senate of Verifiable Evidence
of Material Information That Judge Sotomayor Withheld From
The Judiciary Committee and The Public That Indicts Her Claim to “Fidelity to the Law”
and ‘Non-empathetic’ Impartiality; and Request That Publicly
The Senate Post the Evidence and Pursue It in a *Follow the money!* Investigation¹**

I hereby bring to the Senate’s attention evidence of three patterns of wrongful conduct of Justice Nominee Judge Sonia Sotomayor. This evidence is all the more compelling because it has to do with objective matters based on facts; as such, they rely on neither her judicial philosophy and its subjective appreciation, nor her gender nor ethnicity. The facts of her conduct indict her claim at the hearings to “fidelity to the law” and ‘non-empathetic’ impartiality.

This statement summarizes detailed ones that refer to their sources, to wit, the answers that Judge Sotomayor submitted to the Committee’s Questionnaire and supplementary questions; the U.S. Code; court documents and statistics; and articles of reputable newspapers, such as *The Washington Post*. The detailed statements can be retrieved through the links below. In brief, those statements show that Judge Sotomayor:

1. earned \$3,773,824 since 1988 + received \$381,775 in loans = \$4,155,599 + her 1976-1987 earnings, yet disclosed assets worth only \$543,903, thus leaving unaccounted for in her answers to the Senate Judiciary Committee \$3,611,696 - taxes + the cost of her reportedly modest living; http://Judicial-Discipline-Reform.org/Sct_nominee/JSotomayor_integrity/12table_JSotomayor-financials.pdf
2. withheld from the Committee the *DeLano* Case, which reveals her cover-up of similar concealment of assets to protect her peers below involved in a bankruptcy fraud scheme; and http://Judicial-Discipline-Reform.org/Sct_nominee/JSotomayor_integrity/11DrCordero-SenJudCom.pdf
3. showed similar partiality toward all her peers by condoning the systematic dismissal of complaints against them and participating in the *denial of 100% of petitions* to review such dismissals. http://Judicial-Discipline-Reform.org/JNinfo/25Committee/2DrCordero-petition_25feb9.pdf >N:51¶¶1-4 & N:39

1. EVADED HER DUTY TO DISCLOSE HER FINANCIAL AFFAIRS

The Senate Judiciary Committee required Judge Sotomayor to “Provide a complete, current financial net worth statement which itemizes in detail all assets [and] all liabilities”. She was also under an independent duty imposed by the Ethics in Government Act of 1978 (5 U.S.C. App. [6²⁰]) to file publicly “full and complete” annual financial disclosure reports. Whether the Judge discharged such obligations reflects her respect or lack thereof for the law applicable to her. By the same token, such respect determines how she applies the law to others and the quality of blind or wide-eyed justice that she dispenses to them. Thus, examining her handling of such obligations is warranted by the need to ascertain her “fidelity to the law” in personal and judicial matters as an indispensable qualification for being confirmed as a justice...and for remaining a judge.

A table of her financial affairs (link at ¶1 supra [31]) where every figure is accompanied by a reference to its source in its 48 endnotes has been drawn up. In summary, it shows that:

- a) a financially savvy “wise woman with the richness of her experiences” as a
 - i) former member of the board of directors of the State of New York Mortgage Agency;
 - ii) financial counselor in her own firm of Sotomayor and Associates; and

¹Cf. http://Judicial-Discipline-Reform.org/US_writ/1DrCordero-Sct_petition_3oct8.pdf >2456§X and 2453§F

- iii) corporate litigator at the boutique law firm of Pavia & Harcourt for high-end international clients, such as Ferrari, Fendi, and Bulgari;
- b) who studied on scholarships, thus avoiding otherwise necessary student loans;
- c) has no children;
- d) has had no catastrophic illness or disaster, either affecting herself or her family;
- e) reportedly lives a modest life;
- f) is reimbursed for all travel and boarding expenses relating to her professional trips;
- g) is given food for free at other local events;
- h) earned \$3,773,824 since 1988 + received \$381,775 in loans = \$4,155,599 (Why would she ever need a loan, particularly one said to be for home improvements?);
- i) whose average effective tax rate was well below the 1988-08 average top individual marginal tax rate of 36%;
- j) plus had earnings as a professional between 1976-1987:
 - i) part-time while a law student at an elite law school, i.e., Yale, between 1976-1979;
 - ii) during a summer at a top Manhattan law firm;
 - iii) full time as an Assistant D.A. at the NY County D.A.'s Office between 1979-1984;
 - iv) as an associate from 1984-1987 and a partner from 1988-1992 at Pavia & Harcourt,
- k) who disclosed assets worth only \$543,903, excluding capital appreciation;
- l) is likely not to have 'provided a full and complete statement' of her remaining \$3,611,696.

Money does not disappear. Earnings are spent, donated, or saved. Given the Judge's conspicuous public life and her inconspicuous spending, she must have saved them as assets, e.g., securities or real estate investments, but disregarded her duty to disclose them. She was nominated by the President, who also nominated tax evaders Tim Geithner, Tom Daschle, and Nancy Killefer.

2. WITHHELD FROM THE COMMITTEE *DELANO* TO COVER UP A BANKRUPTCY FRAUD SCHEME

The likelihood that Judge Sotomayor unlawfully did not disclose her assets is heightened by the fact that she withheld production to the Senate Judiciary Committee of one of her cases on the three principal and supplementary productions of cases through which she represented having discharged her duty to produce all of them. *DeLano*, 06-4780-bk, is the case that she withheld. [20] She was the presiding judge on the panel of the Court of Appeals, 2nd Circuit (CA2) that heard my oral argument on it and disposed of it through the summary order of February 7, 2008. (p.5 infra) http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_06_4780_CA2.pdf

DeLano deals similarly with concealment of assets despite a duty to disclose. Her order protected, not the rule of law, but rather those who evaded such duty: **i)** her peer and CA2 appointee Bankruptcy Judge John C. Ninfo, II, WBNY; **ii)** the district judge; and **iii)** the one for whom they had covered up the concealment of at least \$673,657, Mr. DeLano, the most unlikely of 'bankrupts', a 39-year veteran banker who at the time of filing for bankruptcy was and remained employed by a major bank, M&T Bank, as a bankruptcy officer! M&T and Mr. DeLano are clients of the law firm, Underberg & Kessler, in which Judge Ninfo was a partner at the time of taking the bench.[36⁹] According to PACER, the *DeLano* case was one of the **3,907 open cases** that trustee George Reiber had before Judge Ninfo, before whom Mr. DeLano's attorney had **525 cases**. These are bankruptcy system insiders running a bankruptcy fraud scheme. http://Judicial-Discipline-Reform.org/Follow_money/How_fraud_scheme_works.pdf

The finding of the concealed assets would have led to the indictment of Mr. DeLano for bankruptcy fraud, who in exchange for leniency could have incriminated other insiders, including Judge Ninfo, who could have given ‘bigger fish’. To forestall this domino effect, Judge Sotomayor condoned the denial below of, and denied in turn, *every single document* in all creditor requests: She violated discovery rights, denied herself the facts that she needed to find in order to apply the law to them, and denied due process of law in self and her peers’ interest. Her conduct in *DeLano* so incriminates her “fidelity to the law” that she withheld it from the Committee. She thus prevented its investigation, which would have exposed her cover-up of a scheme that involves lots of money and injures millions of debtors, creditors, and the public that sustains their pass-through losses. Cf. http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_v_Equal_Justice.pdf [13]

3. WAS PARTIAL TO HER PEERS BY DENYING ALL PETITIONS TO REVIEW COMPLAINTS AGAINST THEM

Judge Sotomayor’s partiality toward those judges is part of her pattern of conduct. She has condoned the systematic dismissal by her peers, the successive CA2 chief judges, of complaints against fellow judges and participated, as member of the 2nd Cir. Judicial Council, in the latter’s 1oct96-30sep08 12-year period *denial of 100% of petitions* for review of such dismissals. [21]

Those complaints and the petitions for review were filed under the Judicial Conduct and Disability Act of 1980 (28 U.S.C. §§351-364) by anybody trying to protect himself or the integrity of the legal system itself. Yet, Judge Sotomayor denied review regardless of the gravity of the judge’s alleged misconduct and disability, which included, according to CA2’s own classification, bias, prejudice, bribery, corruption, conflict of interests, abuse of power, incompetence, mental or physical disability preventing the discharge of official duties, etc.[22]

By so doing, she abrogated in effect that Act of Congress. She also showed no “empathy” for all those complainants and litigants whom she left with no redress for the personal or systemic injury already sustained. On the contrary, she exposed them to the vindictiveness of judges who were sure that no matter how they mistreated anybody, she too would protect them from any adverse consequences of a subsequent complaint. Self-immunity from discipline and unaccountable power over lots of money explain their participation in a bankruptcy fraud scheme.

4. REQUESTED ACTION: PUBLIC PURSUIT OF THE EVIDENCE AND A *FOLLOW THE MONEY!* INVESTIGATION

Therefore, I respectfully request that the Senate:

- 1) require Judge Sotomayor to comment publicly on the evidence of her patterns of infidelity to the law and judicial class partiality by evading her financial disclosure duties, withholding *DeLano* to protect a similar concealment of assets by her peers, and exonerating 100% of complained-against peers; http://Judicial-Discipline-Reform.org/Follow_money/DeLano_docs.pdf
- 2) conduct a *Follow the money!* investigation of her financial affairs, *DeLano* as part of a bankruptcy fraud scheme, and her moral or material gain from exonerating 100% of her peers; to that end, hold public hearings and allow me to present the evidence thereon; and cf. http://Judicial-Discipline-Reform.org/SCt_nominee/Senate/6DrCordero-SenJudCom_subpoena.pdf;
- 3) investigate the impossible coincidence that on several occasions my four email accounts stopped receiving emails a day after I widely emailed evidence of CA2’s scheme cover-up.

To *Follow the money!* to ascertain what assets Judge Sotomayor and her peers have concealed and why they have concealed them can turn a principled and ambitious senator into the Senator Sam Ervin^[6³⁸] of our generation and the national champion of those to whom they have denied Equal Justice Under Law.

August 3, 2009

Dr. Richard Cordero, Esq.

MANDATE

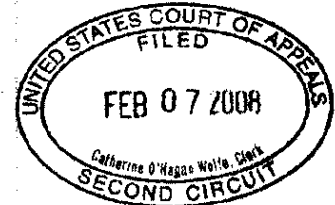
W.D.N.Y.
03 cv-6190
Larimer, J.

United States Court of Appeals FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 7th day of February, two thousand eight.

Present:

Hon. Sonia Sotomayor,
Hon. Debra Ann Livingston,
Circuit Judges,
Hon. Gregory W. Carman,
Judge, U.S. Court of International Trade.



Dr. Richard Cordero,

Creditor-Appellant,

v.

06-4780-bk

David DeLano, Mary Ann DeLano,

Debtors-Appellees.

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).

FOR THE COURT:

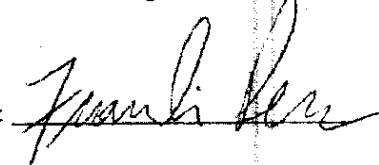
Catherine O'Hagan Wolfe, Clerk

A TRUE COPY
Catherine O'Hagan Wolfe, Clerk

by


DEPUTY CLERK

By:



The Honorable Gregory W. Carman, of the United States Court of International Trade,
sitting by designation.

SAO-LB

ISSUED AS MANDATE: 5/16/08

2nd Circuit Judicial Council's & J. Sotomayor's Denial of 100% of Petitions for Review of Systematically Dismissed Misconduct Complaints Against Their Peers & 0 Judge Disciplined in the Reported 12 Years¹

Table S-22 [previously S-23 & S-24]. Report of Complaints Filed and Action Taken Under 28 U.S.C. §351 for the 12-mth. Period Ended 30sep97-07 & 10may8
<http://www.uscourts.gov/judbususc/judbus.html>; collected at http://Judicial-Discipline-Reform.org/statistics&tables/judicial_misconduct.pdf

Data of Judicial Council 2nd Cir. for AO; 28 U.S.C. §332(g)	96-97	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-5/8	96-5/8	avg.
Complaints Pending on each September 30 of 1996-2008*	5	10	23	65	33	60	29	34	57	31	28	13	388	32
Complaints Filed	40	73	99	59	102	62	69	23	36	14	22	4	603	50
Complaint Type														
Written by Complainant	40	73	99	59	102	62	69	23	36	0	22	4	589	49
On Order of Chief Judges	0	0	0	0	0	0	0	0	0	14	0	0	14	1.8
Officials Complained About**														
Judges														
Circuit	3	14	23	9	31	10	8	4	7	0	6	1	116	9.7
District	27	56	63	41	52	41	49	15	23	10	12	3	392	33
National Courts	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Bankruptcy Judges	2	1	2	2	2	1	1	1	0	0	0	0	12	1
Magistrate Judges	8	8	11	7	17	10	11	3	6	4	4	0	89	7.5
Nature of Allegations**														
Mental Disability	1	9	26	2	5	4	6	3	3	1	1	1	62	5.2
Physical Disability	0	1	2	1	0	0	1	2	0	0	0	1	8	.7
Demeanor	2	2	2	3	14	3	4	6	0	0	0	0	36	3
Abuse of Judicial Power	25	30	7	29	28	57	20	6	3	0	1	1	207	17
Prejudice/Bias	32	36	34	28	24	40	20	35	43	28	30	5	355	30
Conflict of Interest	0	0	5	11	10	18	3	4	5	1	1	0	58	4.8
Bribery/Corruption	0	0	10	21	2	15	4	5	2	2	1	1	63	5.2
Undue Decisional Delay	0	4	0	11	6	15	9	5	8	2	3	3	66	5.5
Incompetence/Neglect	4	1	3	1	5	2	3	3	4	0	3	2	31	2.6
Other	0	11	3	5	0	0	4	33	80	38	47	14	235	20
Complaints Concluded	33	56	57	80	75	93	42	51	91	45	50	17	690	57
Action By Chief Judges														
Complaint Dismissed														
Not in Conformity With Statute	3	4	0	0	4	1	1	6	5	8	1	2	35	2.9
Directly Related to Decision or Procedural Ruling	12	19	19	29	17	23	14	18	46	15	10	9	231	19
Frivolous	0	1	19	0	13	9	7	3	1	3	2	1	59	4.9
Appropriate Action Already Taken	0	0	0	0	0	0	0	1	0	1	0	0	2	0.2
Action No Longer Needed Due to of Intervening Events	0	0	3	1	0	2	0	0	0	1	0	0	7	0.6
Complaint Withdrawn	0	0	0	0	0	2	0	1	2	0	0	0	5	0.4
Subtotal	15	24	41	30	34	37	22	29	54	28	13	12	339	28
Action by Judicial Councils														
Directed Chief Dis. J. to Take Action (Magistrates only)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Certified Disability	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Requested Voluntary Retirement	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Ordered Temporary Suspension of Case Assignments	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Privately Censured	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Publicly Censured	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Ordered Other Appropriate Action	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dismissed the Complaint	18	32	16	50	40	56	20	22	37	17	37	6	351	29
Withdrawn	n/a	n/a	0	0	1	0	0	0	0	0	0	0	1	.08
Referred Complaint to Judicial Conference	0	0	0	0	0	0	n/a	0	0	n/a	0	0	0	0
Subtotal	18	32	16	50	41	56	20	22	37	17	37	6	352	29
Special Investigating Committees Appointed	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	1	1	0	2	.17
Complaints Pending on each 30sep of 1997-2008	12	27	65	44	60	29	56	6	2	0	0	0	301	25

*Revised. **Each complaint may involve multiple allegations against numerous judicial officers. Nature of allegations is counted when a complaint is concluded.

¹ Cf. http://Judicial-Discipline-Reform.org/JNinfo/25Committee/2DrCordero-petition_25feb9.pdf

(as of 21nov10)

**Federal Judges' Systematic Dismissal Without Investigation of 99.82% of Complaints¹ Filed Against Them
 in the 13 Circuits and 2 National Courts² During the 1oct96-30sep08 12-Year Period¹⁸**

based on Table S-22 [previously S-23 & S-24] Report of Complaints Filed and Action Taken Under
 28 U.S.C. §§351-364³ of the Administrative Office of the U.S. Courts⁴; and
 comparing the categories and treatment applied to the complaints filed from **1oct96-30sep07** and
1oct07-10may08 with those from **11may-30sep08** (8,794+672=9,466) after the entry in effect of
 the amended Rules for Judicial Conduct and Disability Proceedings⁵ adopted by the Judicial Conference on March 11, 2008

	Complaints Pending* ⁶	on 30sep07	30sep97-07	n/11 average	Complaints Pending [Cf. row 75 Left.]	on 30sep08
1.		333	333	230		465
2.	Entries in 1oct07-10may08 Report	1oct07- 10may08	1oct96- 10may08	n/11.6 average	Entries in 11may-30sep08 Report	11may- 30sep08
3.	Complaints Filed	491	8794	758	Complaints Filed	672
4.	Complaint Type: Written by Complainant	491	8701	750	Complaint Type: Written by Complainant	670
5.	On Order of Chief Judges	0	93	8	On Order of Chief Judges	2
6.					Complainants⁷: <i>Prison Inmates</i>	354
7.					<i>Litigants</i>	303
8.					<i>Attorneys</i>	7
9.					<i>Public Officials</i>	0
10.					<i>Other</i>	13
11.	Officials Complained About**				Judges Complained About	
12.	Judges				Circuit Judges	165
13.	Circuit	112	2995	258	District Judges	382
14.	District	344	6841	589	Court of International Trade Judges	0
15.	National Court	0	19	1.6	Courts of Federal Claims Judges	2
16.	Bankruptcy Judges	24	406	35	Bankruptcy Judges	16
17.	Magistrate Judges	105	2014	174	Magistrate Judges	107
18.	Nature of Allegations**				Nature of Allegations^a:⁸	
19.	Mental Disability	16	408	35	<i>Disability</i>	30
20.	Physical Disability	4	66	5.7		
21.	Demeanor	5	262	23	<i>Hostility Toward Litigant or Attorney</i>	69
22.	Abuse of Judicial Power	242	3176	274		

2.	Entries in 1oct07-10may08 Report	1oct07-10may08	1oct96-10may08	n/11.6 average	Entries in 11may-30sep08 Report	11may-30sep08
23.	Prejudice/Bias	232	3734	322	<i>Racial, Religious, or Ethnic Bias</i>	93
24.					<i>Personal Bias Against Litigant or Attorney</i>	116
25.	Conflict of Interest	25	577	50	Conflict of Interest <i>(Including Refusal to Recuse)</i>	46
26.	Bribery/Corruption	51	894	77	<i>Acceptance of Bribe</i>	21
27.	Undue Decisional Delay	45	779	67	<i>Delayed Decision</i>	104
28.	Incompetence/Neglect	46	740	64	<i>Erroneous Decision</i>	338
29.					<i>Failure to Give Reasons for Decision</i>	18
30.	Other	225	2486	214	<i>Other Misconduct</i>	262
31.					<i>Improper Discussion with Party or Counsel</i>	29
32.					<i>Failure to Meet Financial Disclosure Requirements</i>	0
33.					<i>Improper Outside Income</i>	0
34.					<i>Partisan Political Activity or Statement</i>	3
35.					<i>Effort to Obtain Favor for Friend or Relative</i>	0
36.					<i>Solicitation of Funds for Organization</i>	1
37.					<i>Violation of Other Standards</i>	55
38.					Actions Regarding the Complaints [cf. row 52 Left]	
39.	Complaints Concluded	552	8529	735	<i>Concluded by Complainant of Subject Judge</i>	4
40.					<i>Complaint Withdrawn With Consent of Chief Judge</i>	4
41.					<i>Withdrawal of Petition for Review</i>	0
42.	Action By Chief Judges				Actions by Chief Judge	
43.					<i>Matters Returned from Judicial Council</i>	0
44.	Complaint Dismissed				<i>Complaint Dismissed in Whole or in Part</i>	199
45.	Not in Conformity With Statute	13	311	27	<i>Not Misconduct or Disability</i>	23
46.	Directly Related to Decision or Procedural Ruling	236	3476	300	<i>Merits Related</i>	167
47.	Frivolous	23	879	76	Frivolous	39
48.	<i>Lacked Factual Foundation⁷</i>	4			<i>Allegations Lack Sufficient Evidence</i>	56
49.					<i>Allegations Incapable of Being Established</i>	0
50.	Appropriate Action Already Taken	3	40	3.4	[Cf. rows 56-58 Right.]	
51.	Action No Longer Needed Due to of Intervening Events	4	70	6		
52.	Complaint Withdrawn	5	60	5		
53.	Subtotal	288	4840	417	<i>Filed in the Wrong Circuit</i>	6

2.	Entries in 1oct07-10may08 Report	1oct07-10may08	1oct96-10may08	n/11.6 average	Entries in 11may-30sep08 Report	11may-30sep08
54.					<i>Otherwise Not Appropriate</i>	4
55.					<i>Complaint Concluded in Whole or on Part</i>	3
56.					<i>Informal Resolution Before Complaint Filed</i>	2
57.					<i>Voluntary Corrective Action Taken</i>	0
58.					<i>Intervening Events</i>	1
59.					<i>Complaint Referred to Special Committee</i>	2
60.					Actions by Special Committees	
61.					<i>Matter Returned From Judicial Council</i>	0
62.					<i>New Matter Referred to Chief Judge</i>	0
63.	Action by Judicial Councils				Judicial Council Proceedings	
64.	Directed Chief District Judge to Take Action (Magistrate Judges only)	0	1	.09	<i>Matter Returned from Judicial Conference</i>	0
65.	Certified Disability	0	0	0	<i>Complaint Transferred to/from Another Circuit</i>	0
66.	Requested Voluntary Retirement	0	0	0	<i>Special Committee Reports Submitted to Judicial Council</i>	0
67.	Ordered Temporary Suspension of Case Assignment	0	1	.09	<i>Received Petition for Review</i>	22
68.	Privately Censured	0	1	.09	<i>Action on Petition for Review Petition Denied</i>	77
69.	Publicly Censured	1	6	.05	<i>Matter Returned to Chief Judge</i>	0
70.	Ordered Other Appropriate Action	0	3	0.26	<i>Matter Returned to Chief Judge for Appointment of Special Committee</i>	0
71.	Dismissed the Complaint	263	3670	316	<i>Other</i>	0
72.	Withdrawn	0	7	0.6	<i>Received Special Committee Report</i>	0 ⁹
73.	Referred Complaint to Judicial Conference	0	0	0		
74.	Subtotal	264	3689	318		
75.	Complaints Pending on September 30, 2008	272 ¹⁰			Complaints Pending on September 30, 2008¹¹	465 ¹²
76.	Complaints Pending on September 30, 1997-2008		2988	249		
77.	Special Investigating Committee Appointed	2	14	1.2	<i>Complaint Referred to Special Committee¹³</i>	2 ¹⁴
78.					Action on Special Committee Report	0 ¹⁵
79.					<i>Complaint Dismissed</i>	16
80.					<i>Not Misconduct or Disability</i>	0
81.					<i>Merits Related</i>	0
82.					<i>Allegations Lack Sufficient Evidence</i>	0
83.					<i>Otherwise not Appropriate</i>	0

2.	Entries in 1oct07-10may08 Report	1oct07-10may08	1oct96-10may08	n/11.6 average	Entries in 11may-30sep08 Report	11may-30sep08
84.					<i>Corrective Action Taken or Intervening Events</i>	0
85.					<i>Referred Complaint to Judicial Conference</i>	0
86.					<i>Remedial Action Taken</i>	0
87.					<i>Censure or Reprimand</i>	0
88.					<i>Suspension of Assignments</i>	0
89.					Action Against Magistrate Judge	0
90.					<i>Removal of Bankruptc Judge</i>	0
91.					<i>Requesting of Voluntary Retirement</i>	0
92.					<i>Certifying Disability of Circuit or District Judge</i>	0
93.					<i>Additional Investigation Warranted</i>	0
94.					<i>Returned to Special Committee</i>	0
95.					<i>Retained by Judicial Council</i>	0
96.					Action by Chief Justice	
97.					<i>Transferred to Judicial Council</i>	1
98.					<i>Received From Judicial Council</i>	1

[Notes of the Administrative Office: * and ** in the 1oct07-10may08 report; ^a in the one for 11may-30sep08; ‡in both.

*Revised. **Each complaint may involve multiple allegations against numerous judicial officers. Nature of allegations is counted when a complaint is concluded.

^a Each complaint may involve multiple allegations. Nature of allegations is counted when a complaint is concluded.

‡ Note: Excludes complaints not accepted by the circuits because they duplicated previous filings or were otherwise invalid filings.¹⁷

¹ The figure of 99.82% of complaints dismissed without investigation has been calculated based on the official statistics referred to in endnote 4 infra: 16 special investigative committees appointed relative to 9,008 complaints concluded in 1oct96-30sep08: (14 + 2, row77) of ((8,529 complaints concluded in 1oct96-10may08, r39Left, + 272 assumed pending on 10may8, r75L (see endnote 9), + 672 filed in 11may-30sep08, r1R) - 465 pending on 30sep08, r75R). To the 9,008 complaints concluded must be added the unpublished number of all those concluded ab initio in defiance of the Act –endnote5- and thus arbitrarily, that according to the official note -endnote 17 and the corresponding text- were “not accepted by the circuits because they duplicated previous filings or were otherwise invalid filings”.

Therefore, however much refinement can be brought to bear on the calculation of the number of complaints dismissed without any investigation, for example, by eliminating the number of complaints withdrawn by complainants -5 in 1oct07-10may08, r52L, and 4 in 11may-sep08, r39R-, the figure of 99.82% of complaints so dismissed by the “circuits” -13 of them and most likely also the two national courts subject to the judicial misconduct act, see endnote 3- could only be higher.

² The 13 circuits comprise the 11 numbered circuits, the U.S. Circuit for the District of Columbia, and the Federal Circuit. The two national

courts are the U.S. Court of Federal Claims and the U.S. Court of International Trade.

³ Judicial Conduct and Disability Act of 1980; http://Judicial-Discipline-Reform.org/docs/28usc351_Conduct_complaints.pdf.

⁴ [Http://www.uscourts.gov/judbususc/judbus.html](http://www.uscourts.gov/judbususc/judbus.html); collected at http://Judicial-Discipline-Reform.org/statistics&tables/judicial_misconduct.pdf

⁵ Rules for Processing Judicial Conduct and Disability Proceedings, http://www.uscourts.gov/library/judicialmisconduct/jud_conduct_and_disability_308_app_B_rev.pdf; with useful bookmarks at http://Judicial-Discipline-Reform.org/docs/Rules_complaints.pdf

⁶ Bold emphasis added to headings.

⁷ Text in italics appears for the first time in the 1oct07-10may08 or 11may-30sep08 reports.

⁸ Some entries under this heading have been moved for ease of comparison with entries on the left.

⁹ Although under 28 U.S.C. §353(c), a special committee “shall expeditiously file a comprehensive written report...with the judicial council”, none did; r77,72R

¹⁰ So in the original. Most likely it means that there were pending 272 complaints on May 10, 2008, and 465 the following September 30, which is how the 2008 Annual Report of the Director of the Administrative Office of the U.S. Courts refers to these figures; <http://www.uscourts.gov/judbus2008/JudicialBusinesspdfversion.pdf> >36.

¹¹ Entry from r1R repeated for ease of comparison with the one on the left.

¹² See endnote 10 supra.

¹³ Entry moved or repeated for ease of comparison with the one on the left.

¹⁴ See endnote 9 supra.

¹⁵ So in original. Most likely there should be no value next to the heading and the zero should qualify the “Complaint Dismissed” entry.

¹⁶ Id.

¹⁷ Neither the clerk of circuit court, nor the chief judge, nor the “circuits” are authorized to refuse filing a complaint or hold a filing “invalid” a priori. Under 28 U.S.C. §351(a), “any person...may file with the clerk of the court...a written complaint containing a brief statement of the facts constituting such [mis]conduct”.

Moreover, §351(c) provides that “[u]pon receipt of a complaint filed under subsection (a), the clerk **shall promptly** transmit the complaint to the chief judge of the circuit...The clerk **shall** simultaneously transmit a copy of the complaint to the judge whose conduct is the subject of the complaint.” Similarly, under §352(a), “The chief judge **shall expeditiously** review any complaint...In determining what action to take, the chief judge may conduct a limited inquiry...”. The “circuits” as such are given no role under the Act. Their judicial councils are entitled under §352(c) et seq. only to adjudicate petitions for review of a final order of the chief judge; they have no role in the filing of complaints.

In addition, Rule 8(c) –endnote 5 supra- only authorizes the clerk not to accept “a complaint about a person not holding a [covered judicial] office”. Neither the Act nor the Rules allow him to determine that a complaint is both a “duplicate” and as such unfileable because

http://Judicial-Discipline-Reform.org/statistics&tables/judicial_misconduct_complaints.pdf

it contains no new element of fact or law. Is the clerk supposed to read every new complaint and compare it with all others filed that month, that year, or ever to ensure that it is not a duplicate? Does he defeat the promptness requirement and the purpose of Rule 6(e) by opening the “unmarked envelope” and, if he sees the name of a judge that is the subject of another complaint, assume that the complaint is the same in every respect and thus, a duplicate? (Emphasis added.)

¹⁸ The statistics for 1oct8-30sep9 FY09 have since become available; <http://www.uscourts.gov/Statistics/JudicialBusiness/JudicialBusiness2009.aspx> > Table S-22A Report of Action Taken on Complaints Filed Before May 11, 2008 and Table S-22B Report of Action Taken on Complaints Filed on or After May 11, 2008; infra, Cg:44-47

These statistics do not show any change whatsoever in the way judges use those complaints to monitor or control the conduct or disability of their complained-against peers.

- a) There were 1,543 complaints filed under the new rules for processing such complaints, <http://www.uscourts.gov/RulesAndPolicies/ConductAndDisability/JudicialConductDisability.aspx> and http://Judicial-Discipline-Reform.org/docs/Rules_complaints.pdf. The chief circuit judges, with whom complaints are filed and who process them initially under 28 U.S.C. §§351-352, http://Judicial-Discipline-Reform.org/docs/28usc351_Conduct_complaints.pdf, dismissed 1,164.
- b) Of the 479 petitions to judicial councils for review of such dismissals, id. §354, 465 were denied, and not a single one was referred back to the chief circuit judge for any action. This made a decision by a chief judge, who presides over his or her respective council, final in effect and an appeal to a council pointless.
- c) Such dismissals and denials were made without any investigation, for only 6 investigative committees were appointed and only 1 report was filed.
- d) What is more, not a single judge was censured, or reprimanded, or removed, or suspended from assignment of cases, or requested to retire, or certified disable, and no additional investigation was deemed warranted.
- e) Consequently, filing a complaint under the Act against a judge is an exercise in futility for the complainant and an opportunity for judges to show undisguised “guild favoritism” toward their friends and colleagues:

[A] system that relies for investigation solely upon judges themselves risks a kind of undue “guild favoritism” through inappropriate sympathy with the judge’s point of view or de-emphasis of the misconduct problem. Breyer Report. p.1; <http://www.uscourts.gov/RulesAndPolicies/ConductAndDisability/JudicialConductDisability.aspx> >Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice; and http://Judicial-Discipline-Reform.org/judicial_complaints/Breyer_Report.pdf

- f) This show that the adoption of the new Rules for processing misconduct complaints introduced no change whatsoever in the way judges exempt themselves from all accountability and discipline; http://Judicial-Discipline-Reform.org/judicial_complaints/new_rules_no_change.pdf. They left intact the problem of judges judging judges that the Breyer Report had recognized:
- g) Thus guaranteed a cover-up regardless of the nature and gravity of the alleged misconduct or disability, judges feel free to abuse their enormous power over people’s property, liberty, and even lives however they want and to dispense with due process whenever it suits them; http://Judicial-Discipline-Reform.org/Follow_money/why_j_violate_due_pro.pdf.

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Judges' Systematic Dismissal Without Investigation of 99.82% of Complaints Against Them

Table S-22 [previously S-23 & S-24]. Report of Complaints Filed and Action Taken Under 28 U.S.C. §351 for the 12-mth. Period Ended 30sep97-07 & 10may08.
<http://www.uscourts.gov/judbususc/judbus.html>; collected at http://Judicial-Discipline-Reform.org/statistics&tables/judicial_misconduct.pdf¹

Complaints filed in the 13 Cir. and 2 Nat. Courts	'96-97	'97-98	'98-99	'99-00	'00-01	'01-02	'02-03	'03-04	'04-05	'05-06	'06-07	'07-5/8	'96-5/8	n/11.6
Complaints Pending on each Sep. 30 of 1996-2008*	109	214	228	181	150	262	141	249	212	210	241	333	2530	218
Complaints Filed	679	1,051	781	696	766	657	835	712	642	643	841	491	8794	758
Complaint Type														
Written by Complainant	678	1,049	781	695	766	656	835	712	642	555	841	491	8701	750
On Order of Chief Judges	1	2	0	1	0	1	0	0	0	88	0	0	93	8
Officials Complained About**														
Judges														
Circuit	461	443	174	191	273	353	204	240	177	141	226	112	2995	258
District	497	758	598	522	563	548	719	539	456	505	792	344	6841	589
National Courts	0	1	1	1	3	5	1	0	0	3	4	0	19	1.6
Bankruptcy Judges	31	28	30	26	34	57	38	28	31	33	46	24	406	35
Magistrate Judges	138	215	229	135	143	152	257	149	135	159	197	105	2014	174
Nature of Allegations**														
Mental Disability	11	92	69	26	29	33	26	34	22	30	20	16	408	35
Physical Disability	4	7	6	12	1	6	7	6	9	3	1	4	66	5.7
Demeanor	11	19	34	13	31	17	21	34	20	35	22	5	262	23
Abuse of Judicial Power	179	511	254	272	200	327	239	251	206	234	261	242	3176	274
Prejudice/Bias	193	647	360	257	266	314	263	334	275	295	298	232	3734	322
Conflict of Interest	12	141	29	48	38	46	33	67	49	43	46	25	577	50
Bribery/Corruption	28	166	104	83	61	63	87	93	51	40	67	51	894	77
Undue Decisional Delay	44	50	80	75	60	75	81	70	65	53	81	45	779	67
Incompetence/Neglect	30	99	108	61	50	45	47	106	52	37	59	46	740	64
Other	161	193	288	188	186	129	131	224	260	200	301	225	2486	214
Complaints Concluded	482	1,002	826	715	668	780	682	784	667	619	752	552	8529	735
Action By Chief Judges														
Complaint Dismissed														
Not in Conformity With Statute	29	43	27	29	13	27	39	27	21	25	18	13	311	27
Directly Related to Decision or Procedural Ruling	215	532	300	264	235	249	230	295	319	283	318	236	3476	300
Frivolous	19	159	66	50	103	110	77	112	41	63	56	23	879	76
Appropriate Action Already Taken	2	2	1	6	4	3	3	3	5	5	3	3	40	3.4
Action No Longer Needed Due to Intervening Events	0	1	10	7	5	6	8	9	8	6	6	4	70	6
Complaint Withdrawn	5	5	2	3	3	8	8	3	6	9	3	5	60	5
Subtotal	270	742	406	359	363	403	365	449	400	391	404	288	4840	417
Action by Judicial Councils														
Directed Chief Dis. J. to Take Action (Magistrates only)	0	0	0	0	0	0	0	0	0	1	0	0	1	.09
Certified Disability	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Requested Voluntary Retirement	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Ordered Temporary Suspension of Case Assignments	0	1	0	0	0	0	0	0	0	0	0	0	1	.09
Privately Censured	0	0	0	0	1	0	0	0	0	0	0	0	1	.09
Publicly Censured	0	1	0	2	0	2	0	0	0	0	0	1	6	0.5
Ordered Other Appropriate Action	0	0	0	0	0	0	1	0	0	0	2	0	3	0.26
Dismissed the Complaint	212	258	416	354	303	375	316	335	267	227	344	263	3670	316
Withdrawn	n/a	n/a	4	0	1	0	0	0	0	0	2	0	7	0.6
Referred Complaint to Judicial Conference	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal	212	260	420	356	305	377	317	335	267	228	348	264	3689	318
Special Investigating Committees Appointed	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	7	5	2	14	1.2
Complaints Pending on each September 30 of 1997-08	306	263	183	162	248	139	294	177	187	234	330	272	2795	241

*Revised. **Each complaint may involve multiple allegations against numerous judicial officers. Nature of allegations is counted when a complaint is concluded.

¹With statistics from 11may-30sep08; cf. http://Judicial-Discipline-Reform.org/JNinfo/25Committee/2DrCordero-petition_25feb9.pdf Dn:27

**The Rules For Processing Misconduct and Disability Complaints
Against Any Federal Judge Adopted By The Judicial Conference of the U.S.
On March 11, 2008, Will Continue To Allow The Judges
To Self-Exempt From Any Accountability and Discipline Through
The Systematic Dismissal of Complaints Without Investigation**

On March 11, the Judicial Conference of the United States adopted the revised rules for processing misconduct and disability complaints against federal judges.¹ The Conference is the highest policy-making all-judge body of the federal judiciary, presided over by the chief justice of the Supreme Court. In addition to representative district judges, its other members are the chief judges of the 13 federal circuits and the two national courts.

I. In 10 years 7,462 complaints, but only 7 investigated and 9 judges disciplined

The chief judges are precisely the ones that adopted the current rules back in 1986. The official statistics on the application of the current rules show that between 1oct96 and 30sep06 there were filed 7,462 such complaints, yet the number of judges disciplined was 9!² Nevertheless, those complaints concerned grave allegations, for the judges classify them under categories such as conflict of interests, bribery, corruption, abuse of judicial power, prejudice, bias, incompetence, and mental or physical disability preventing the discharge of official duties.

Even so, the judges had only 7 complaints investigated by their appointed special committees. Hence, despite the seriousness of these complaints, they systematically and without any investigation dismissed 99.88% of them. Thereby they self-exempted from any discipline for their misconduct and disability and in practice arrogated the power to abrogate in their own interest an Act of Congress³ and to deprive the people of a right conferred upon them under it. In the land of the rule of law they carved for themselves a privileged fiefdom above law.

Such systematic dismissal of complaints is what the judges will continue to do. Indeed, Rule 2(b) provides that the rules are mandatory unless there is a finding of "exceptional circumstances," which is an easy finding to make since no two cases are ever identical. Through that pretext, "a chief judge, a special committee, a judicial council, the Committee on Judicial Conduct and Disability, or the Judicial Conference", that is, any judge or judicial body that handles complaints can suspend the application of any rule. In practice, the rules will be optional. The "mandatory" nature of the rules is illusory.

II. Same key elements of the old & new rules will allow self-exemption to continue

The judges will be able to apply the adopted rules as capriciously and inconsistently as they have the current rules because in order to preserve their abusive self-exemption from discipline they also saw to it that nothing changed in the system of judicial self-discipline. Thus, the adopted rules:⁴

1. Do not change the procedure or participants in the judicial complaint system.
2. Do not change the judge-protective secrecy that turns a complaint into a non-public document

and prohibits even the judge's name to be written on the envelope of the complaint, Rule 6(e), as well as the disclosure of the complaint's existence. Rules 23(a); 18(b); 19(d).⁵

3. Do not change the scope of discretion to dismiss complaints without investigation. R11.
4. Do not change the lack of a requirement for the complained-against judge to respond to the complaint, so she does not even have to bother reading it; but if she does and comments on it to the chief judge, her comments are not made available to the complainant.⁶ Rule 11(f), Commentary on Rule 16, page 24, line 19-28 = R16, p24:L19-28-; R19(a).
5. Do not change the inaccessibility to special investigative committee reports to even the complainant, let alone the public. Rule 16(a) and (e); Commentary p24:L5-7. Even though Rule 17 provides that the "The committee must file with the judicial council a comprehensive report", the fact is that committees are allowed not to file anything. Thereby the appointment of a committee can be a mere show that leaves no trace that it ever investigated the judge at all.
6. Do not change the review-seeking discretion of circuit councils, which the councils have abused by not submitting their decisions to the Judicial Conference Committee on Judicial Conduct and Disability, so that in the 28 years since the passage of the Judicial Conduct and Disability Act of 1980, the Committee has issued only 18 decisions⁷.
7. Do not change the indifference of the Judicial Conference, which includes the chief judges that dismiss complaints systematically and is the last appellate body under Rule 21(a). In the Act's 28-year history it has neither reviewed a decision of a judicial council or the Committee, nor issued any opinion, if only to resolve a dispute about the scope of its own jurisdiction⁸.
8. Do not change the unlawful practice of preventing complainants from appealing to the Judicial Conference despite the Act's clear provision allowing "A complainant or judge aggrieved by an action of [a] judicial council" to do so. Rule 21(a); 28 U.S.C. §357(a)⁹.

Since the substance of the adopted Rules is the same as that of the replaced ones, their revised wording will make no difference in their application. Judges that can handle the Tax and Bankruptcy Codes, and shareholders' derivative suits did not fail to apply correctly the current rules because they were overwhelmed by their "self-explanatory" language. Commentaries on Rules 6, p10:L8; R8, p11:L34; R17, p24:L4024; R19, p27:L27; R21, p32:L17; R22, p33:L31.

Rather, they realize that they can benefit from lifelong exercise of their vast power over people's property, liberty, and even life subject to no control and causing no harm to them for its abuse if only they cover for each other. Indeed, although thousands of judges have served in the 219 years since the creation of the Federal Judiciary in 1789 -2,189 were in office in 2007¹⁰ - the number of those who have been impeached and removed is 7.¹¹ It is simply inconceivable that ordinary men and women became incorruptible because they were nominated and confirmed to a judgeship precisely through a political process. If the DoJ Bureau of Justice Statistics' ratio of 1 in every 31 adults in the U.S. population is either in prison or jail or on probation or parole¹² were applied to those 2,189 federal judges, 71 of them should be correctional supervisees. But none is.

The Rules will not change the judges' need for abusive self-exemption from discipline to cover up their coordinated wrongdoing.¹³ Judges judging judges will continue to protect each other through what they know the adopted rules are: a pretense intended to give the impression to Congress that the Judiciary can apply the statutory judicial self-discipline system so that there is no need for the adoption of bills S.2678 and H.R.5219 "Judicial Transparency and Ethics Enhancement Act of 2006" creating an inspector general for the Judiciary.¹⁴ By scuttling the bill they preserve their privileged status in our country: Judges Above the Law. Is that ethical?

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- ¹ Rules for Processing Judicial Conduct and Disability Proceedings, http://www.uscourts.gov/library/judicialmisconduct/jud_conduct_and_disability_308_app_B_rev.pdf; with useful bookmarks at http://Judicial-Discipline-Reform.org/docs/Rules_complaints.pdf
- ² The graphs of the official statistics showing the judges' systematic dismissal of complaints is at http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_CJRoberts_8feb8.pdf.
- ³ Judicial Conduct and Disability Act of 1980; http://Judicial-Discipline-Reform.org/docs/28usc351_Conduct_complaints.pdf
- ⁴ Detailed analysis of the rules is available at http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_revised_rules.pdf.
- ⁵ As a result, a subsequent complainant cannot research the judge to determine whether she has engaged in a pattern of misconduct or disability; and the public is limited in its ability to determine whether it is receiving the honest service from a public servant to which it is entitled and, if so, whether to exercise its First Amendment right to "petition the Government for a redress of grievances". Such secrecy is anathema to a democracy founded on a citizenry that is well informed so as to be able to give itself the government that it wants and pass judgment on those that govern it, including the officers of the Third Branch of Government. Cf. point 5 above.
- ⁶ By contrast, a copy of the complaint is transmitted to the complained-against judge by the clerk of court upon receiving it and simultaneously with his transmittal to the chief judge. Rule 8(b). This means that the judge can make any contrary-to-fact allegations in her defense without the complainant knowing about them and having the opportunity to refute them. While the chief judge may never have heard of the complainant, he may have known the judge for 5, 10, 15, 20 years. He is also aware that if the complained-against judge is a district or circuit judge, the chief judge is stuck with her for the rest of his career; and if she is a bankruptcy judge, then the chief judge participated in her appointment for a renewable 14-year term. 28 U.S.C. §152. This means that the chief judge is most likely to trust implicitly the undisputable word of his friend over that of the complainant and is most unlikely not to accept her defensive allegations at face value, thereby giving rise to the complained-against judge and her friends bearing a grudge against him for life. There can be no doubt that this one-way disclosure of the two sides of the story to a non-neutral chief judge with a vested interest in disbelieving the complainant offends against the due process of law notion of fairness and its fundamental tenet of "Equal Justice Under Law".
- ⁷ [Http://Judicial-Discipline-Reform.org/judicial_complaints/1Comm_JCond_decisions.pdf](http://Judicial-Discipline-Reform.org/judicial_complaints/1Comm_JCond_decisions.pdf) and http://Judicial-Discipline-Reform.org/judicial_complaints/2Comm_JCond_decisions.pdf
- ⁸ [Http://Judicial-Discipline-Reform.org/docs/DrCordero_to_Jud_Conference_18nov4.pdf](http://Judicial-Discipline-Reform.org/docs/DrCordero_to_Jud_Conference_18nov4.pdf)
- ⁹ [Http://Judicial-Discipline-Reform.org/JNinfo/25Committee/2DrCordero-petition_25feb9.pdf](http://Judicial-Discipline-Reform.org/JNinfo/25Committee/2DrCordero-petition_25feb9.pdf) >N: 117 et seq.
- ¹⁰ [Http://www.uscourts.gov/judicialfactsfigures/2006/Table101.pdf](http://www.uscourts.gov/judicialfactsfigures/2006/Table101.pdf); also at http://Judicial-Discipline-Reform.org/statistics&tables/number_jud_officers.pdf
- ¹¹ a. [Http://www.fjc.gov/history/home.nsf](http://www.fjc.gov/history/home.nsf) >Judges of the U.S. Courts>Impeachments of Federal Judges; b. http://Judicial-Discipline-Reform.org/Follow_money/Unimpeachable_above_law.pdf
- ¹² [Http://www.ojp.usdoj.gov/bjs/pub/pdf/ppus06.pdf](http://www.ojp.usdoj.gov/bjs/pub/pdf/ppus06.pdf) in box on p.2
- ¹³ [Http://Judicial-Discipline-Reform.org/Follow_money/DrCordero-journalists.pdf](http://Judicial-Discipline-Reform.org/Follow_money/DrCordero-journalists.pdf)
- ¹⁴ [Http://Judicial-Discipline-Reform.org/Follow_money/S2678_HR5219.pdf](http://Judicial-Discipline-Reform.org/Follow_money/S2678_HR5219.pdf) and http://Judicial-Discipline-Reform.org/docs/Sensenbrenner_Judicial_IG.pdf

Judge Sotomayor

**earned \$3,773,824 since 1988 + received \$381,775 in loans = \$4,155,599
+ her 1976-1987 earnings, yet disclosed assets worth only \$543,903
thus leaving unaccounted for in her answers to the Senate Judiciary
Committee \$3,611,696 - taxes and the cost of her reportedly modest living
The similarity to the *DeLano* Case that she withheld from the Committee**

The Senate Judiciary Committee required Justice Nominee Judge Sonia Sotomayor to "Provide a complete, current financial net worth statement which itemizes in detail all assets [and] all liabilities".¹ Judge Sotomayor was also under an independent duty under the Ethics in Government Act to file "full and complete" annual financial disclosure reports.² Her discharge of such obligations or failure to do so reflects her respect or lack thereof for the law applicable to her and thus, the law that she applies to others and the quality of justice that she dispenses to them. Hence, examining her handling of such obligations is warranted by the need to ascertain her personal and judicial integrity.

The following table and its endnotes show that Judge Sotomayor failed to disclose the whereabouts of her earnings, as summarized in the title above. Money does not simply disappear.³ It is either spent, donated, or saved.⁴ To some extent, how a person spends money can be determined from her appearance and public conduct. How she saves it, e.g., by investing it, requires mostly disclosure or subpoenas.⁵ Failure to disclose financial information when under a duty to do so is a violation of the law. Nondisclosure by a bankruptcy petitioner constitutes concealment of assets and perjury. It is a crime punishable by up to 20 years imprisonment and a fine of up to \$500,000.

In the *DeLano* case, 06-4780-bk, Judge Sotomayor, presiding(20), and her colleagues on a panel of the Court of Appeals, 2nd Circuit (CA2), issued a summary order⁶ to protect, not the rule of law, but rather their appointee to a bankruptcy judgeship⁷, Bkrp. Judge John C. Ninfo, II, WBNY. He had covered up the concealment of at least \$673,657 by the most unlikely of „bankrupts“: a 39-year veteran banker who at the time of filing for bankruptcy was and remained employed by a major bank, M&T Bank, precisely as a bankruptcy officer!⁸ Both M&T and Mr. DeLano are clients of the law firm, Underberg & Kessler, in which Judge Ninfo was a partner at the time of taking the bench.⁹ To protect such concealment of assets by a bankruptcy system insider and her bankruptcy appointee, Judge Sotomayor violated discovery rights¹⁰ by denying *every single document* in all creditor-requests,¹¹ which would have exposed a judicially run bankruptcy fraud scheme.¹²

Worse yet, by so doing, Judge Sotomayor failed to protect the most important Constitutional guarantee that a judge, let alone a Supreme Court justice, is required to safeguard: due process of law.¹³ Her gross partiality toward her own and blatant denial of due process to the creditor so indict her integrity that she withheld *DeLano* despite the Committee's request for her to submit all her cases. Her conduct in, and handling of, that case has been brought to the Committee's attention.¹⁴

The table aims to have Judge Sotomayor and *DeLano* investigated by the Committee, which is authorized to do so¹⁵, and journalists¹⁶. Their *Follow the Money!* investigation should determine whether she has been complying with her financial disclosure obligations and, if not, whether she reckoned that she too was protected by her peers, who are also above the law.¹⁷ The investigation should also expose her and other judges¹⁸ involvement in a bankruptcy fraud scheme that aggravates the misery of millions and the extent to which withholding *DeLano* was part of the cover-up. The ensuing public outrage should force Congress to adopt effective judicial accountability and discipline legislation that brings our legal system closer to the noble ideal of "Equal Justice Under Law".

INCOME¹⁹

	Year	Federal, Outside, and Rental Income					Salary
1.	1976	The Equitable Life Assurance Society of the U.S. jun-aug1976					
		\$					
2.	1977	Office of the General Counsel, Yale U. jun-sep 77					
		\$					
3.	1977		The Graduate-Professional Center sep77-may78				
			\$				
4.	1978		\$	Paul, Weiss, Rifkind, Wharton & Garrison jun-aug78	Yale Law School Mimeo Room sep78-may79		
				\$	\$		
5.	1979	Assist. D.A. in NY County (Manhattan) D.A.'s Office sep79-mar84			\$		
		\$					
6.	1980	\$	Puerto Rican Legal Defense & Education Fund (now LatinoJustice PRLDEF) 1980-oct92				
			\$				
7.	1981	\$	\$				
8.	1982	\$	\$				
9.	1983	\$	\$	Sotomayor & Associates 1983-86			
				\$			
10.	1984	\$	\$	\$	Pavia & Harcourt: associate apr84-dec87		
					\$		
11.	1985		\$	\$	\$	Maternity Center Association 85-86	
						\$	
12.	1986		\$	\$	\$	\$	

13.	1987		\$		\$	State of New York Mortgage Agency 1987-oct92	
						\$	
14.	1988		\$	NY City Campaign Finance Board 88-oct92	partner 1jan88-30sep92 ²⁰	\$	
				\$	\$141,951 ²¹		141,951
15.	1989		\$	\$	\$145,920	\$	145,920
16.	1990		\$	\$	\$150,000	\$	150,000
17.	1991		\$	\$	\$154,080	\$	154,080
18.	1992	U.S. District Judge, SDNY 2oct92-12oct98	\$	\$	\$118,703 \$25,000 ²²	\$	215,469
		\$32,198 ²³					
19.	1993	133,600 ²⁴				Rental income from Brooklyn co- op apartment ²⁵	133,600
						\$1,100/month =\$13,200	
20.	1994	133,600 ²⁶				\$13,200	146,800
21.	1995	133,600 ²⁷				\$13,200	146,800
22.	1996	133,600 ²⁸				\$13,200	146,800
23.	1997	133,600 ²⁹				\$13,200	146,800
24.	1998	1Jan-12oct98				\$13,200	119,938
		106,738 ³⁰					
25.	1998	U.S. Circuit Judge, 2 nd Circuit 13oct-to date			Adjunct professor, NYU School of Law 1997-2007 ³¹		41,781
		31,781 ³²			\$10,000 ³³		
26.	1999	145,000 ³⁴	Lecturer-in-Law, Columbia University 1999-2009 ³⁵		\$10,000	\$13,200	168,200
			\$?				
27.	2000	149,900 ³⁶	\$10,000		\$12,000	\$13,200	185,100
28.	2001	153,900 ³⁷	\$10,000		\$10,000	\$13,200	187,100
29.	2002	159,100 ³⁸	\$10,000		\$13,500	\$13,200	195,800
30.	2003	164,000 ³⁹	\$10,000		\$14,600	\$13,200	201,800
31.	2004	167,600 ⁴⁰	\$10,000		\$13,205	\$13,200	204,005
32.	2005	171,800 ⁴¹	\$10,000		\$14,315	\$13,200	209,315
33.	2006	175,100 ⁴²	\$10,000		\$14,780	\$13,200	213,080
34.	2007	175,100 ⁴³	\$10,000	Trustee, Princeton University 2007-to date	\$14,780	\$13,200	213,080
				\$			
35.	2008	179,500 ⁴⁴	\$25,830	\$		\$13,200	218,530

36.	Jan-May 09	76,875 ⁴⁵	\$	\$		\$13,200 x 5/12= \$5,500	87,875
37.						Total earnings over time	\$3,773,824

ASSETS			LIABILITIES	
38.	31,985	Cash on hand and in banks ⁴⁶	Real estate mortgages payable ⁴⁷	381,775
39.	360,000	purchase price of Greenwich Village condo bought in 1998 ⁴⁸	Accounts and bills due	5,752
			Credit card bills	15,823
40.	43,000	interest in condominium	Dentist bill (estimate)	15,000
41.	108,918	Autos and other personal property		
42.	\$543,903	Total	Total	\$418,350

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Note: Click a link or copy & paste it into your browser’s address box, cut any blank space between characters, and go there.

- 1 a) U.S. Senate Committee on the Judiciary, Associate Justice of the U.S. Supreme Court – Sonia Sotomayor – Questionnaire; <http://judiciary.senate.gov/nominations/SupremeCourt/Sotomayor/SoniaSotomayor-Questionnaire.cfm> >Committee Questionnaire, United States Senate Committee on the Judiciary, Questionnaire for Judicial Nominees, Public, pp. 167 -168; and
 - b) <http://judiciary.senate.gov/nominations/SupremeCourt/Sotomayor/SoniaSotomayor-Questionnaire.cfm> >June 15, 2009 - Questionnaire Supplement, pp. 2-3;
 - c) also at http://Judicial-Discipline-Reform.org/SCT_nominee/JSotomayor_integrity/2SenJudCom_Questionnaire_JSotomayor.pdf >JS:167-168 and 317-318; this file collects the above two and several others in the Questionnaire and adds to them bookmarks useful for navigating through them.
- 2 The Ethics in Government Act of 1978 (5 U.S.C. Appendix (Appendix IV in West)) is one of the pieces of legislation adopted by Congress in the wake of the Watergate Scandal. It is made applicable to federal judges at §§101(f)(11) and 109(10), mandating that they file an annual financial disclosure report. Section 102(a) requires that they make “a full and complete statement with respect to...income,...gifts,...interest in property,... liabilities, ...purchase, sale or exchange...in real property...or...securities,...all positions held [in an entity],...any...future employment,...total cash value of any interest...in a qualified blind trust,...information...respecting the spouse or dependent child”. So it calls for very specific and detailed financial information. Judges must file their reports with the Administrative Office of the U.S. Courts (AO), where they are publicly available. For AO’s address, see <http://www.uscourts.gov/comment.html>. The Act, with added useful bookmarks, is at http://Judicial-Discipline-Reform.org/docs/5usc_Ethics_Gov_14apr9.pdf. See http://Judicial-Discipline-Reform.org/SCT_nominee/JSotomayor_03-07_reports.pdf.

³ “Sotomayor, an avid Yankees fan, **lives modestly**, reporting virtually no assets despite her \$179,500 yearly salary. [Since January 1, 2009, her annual salary is \$184,500; ent. 45 infra.] On her financial disclosure report for 2007, she said her only financial holdings were a Citibank checking and savings account, worth \$50,000 to \$115,000 combined. During the previous four years, the money in the accounts at some points was listed as low as \$30,000. When asked recently how she managed to file such streamlined reports, Sotomayor, according to a source, replied, “When you don't have money, it's easy. There isn't anything there to report.” N.Y. Federal Judge Likely on Shortlist, Keith Richburg, *The Washington Post*, May 7, 2009; (emphasis added <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/06/AR2009050603762.html>); also at http://Judicial-Discipline-Reform.org/SCT_nominee/JSotomayor_integrity/13onJSotomayor.pdf.

Judge Sotomayor's statement quoted above is contradicted by the evidence. Her own answers to the Questionnaire show that she is reimbursed for her numerous travel to, and lodging and meals at, judicial conferences and other events at which she speaks; endnote 1a) and c) supra >11. Membership, p.15.c.; 165(c-f); and 1c) JS:307, entry for 6/16/95. If she spent her earnings minus taxes and the cost of living modestly neither to participate in such events nor acquire assets other than those listed on the table, which exclude capital appreciation, how did she spend, or in what else did she invest, them?

⁴ There are basically three ways of spending money: on goods, on services, or in charitable contributions.

1. It is unlikely that a public figure could have spent millions of dollars on services, such as eating at expensive restaurants or going on extravagantly luxurious vacations, without attracting attention.
2. It is likely that if a person gave away to charitable entities almost every penny that she earned, she or the entities would bring it to public attention, if only to persuade others to contribute to her cherished charitable causes.
3. If the money went to the purchase of goods, the latter are somewhere, that is, either in:
 - a) household goods, and she would have had to buy lots of, and have space for, them;
 - b) personal goods, such as designer clothes and sparkling jewels that everybody would have noticed; or
 - c) (i) investment goods, such as real property, which must be recorded in somebody's name in the county clerk's office, or
(ii) certificates of deposit, stock and bonds, and similar financial instruments, all of which have to be reported in the annual judicial financial disclosure reports required under the Ethics in Government Act of 1978. Endnote 2.

⁵ http://Judicial-Discipline-Reform.org/SCT_nominee/Senate/6DrCordero-SenJudCom_subpoena.pdf

⁶ The summary order, scanty as such orders are just to get rid of the case, appears at CA:2180 in http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_06_4780_CA2.pdf; see there CA:1725§VII. Statement of Facts.

⁷ Bankruptcy judges are appointed by their respective circuit courts; 28 U.S.C. §152;

http://Judicial-Discipline-Reform.org/docs/28usc151-159_bkr_judges.pdf.

- ⁸ The Salient Facts of the *DeLano* Case; http://Judicial-Discipline-Reform.org/Follow_money/DrCordero-journalists.pdf >2.
- ⁹ http://www.nywb.uscourts.gov/about_judge_ninfo_46.php. Do you trust the impartiality and objectivity of a judge who was a partner in your opposing counsel's firm?; <http://www.underbergkessler.com/>. Judge for yourself; http://Judicial-Discipline-Reform.org/docs/transcript_DeLano_1mar5.pdf >Tr.28/13-29/4; 75/8-76/3; and 141/20-143/16; and http://Judicial-Discipline-Reform.org/docs/DrCordero_DeLano_WDNY_21dec5.pdf >Pst:1255§E.
- ¹⁰ Federal Rules of Civil Procedure 26 and 34, <http://www.uscourts.gov/rules/index.html>, are applied in bankruptcies by reference in Federal Rules of Bankruptcy Procedure 7026 and 7034, <http://www.uscourts.gov/redirects/cornellLaw.html> ><http://www.law.cornell.edu/rules/frbp/>.
- ¹¹ Table of Documents Requested by Dr. Cordero and Denied by CA2, at US:2484, in the appeal of *DeLano* to the Supreme Court on petition for certiorari to CA2, *Richard Cordero v. David DeLano et ux.*, docket 08-8382; http://Judicial-Discipline-Reform.org/US_writ/DrCordero-SCt_petition_3oct8.pdf. See there also US:2442§IX. Statement of Facts; and US:2456§X. Analysis of CA2's Order of Dismissal.
- ¹² http://Judicial-Discipline-Reform.org/Follow_money/How_fraud_scheme_works.pdf
The petition for panel rehearing and hearing en banc shows how the order was a perfunctory job intended to cover up the bankruptcy fraud scheme by disregarding the facts of the case, referring to cases unrelated with the law or the facts of the case, and evading the issues on appeal, id. CA:1719§V, and even the term explicitly made its key issue: fraud; http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_CA2_rehear.pdf
- ¹³ See the discussion of how Judge Sotomayor's and her colleagues' conduct gave "the appearance of impropriety" and constituted "improprieties" under the Code of Conduct for U.S. Judges; http://Judicial-Discipline-Reform.org/US_writ/2DrCordero-SCt_rehear_23apr9.pdf.
- ¹⁴ http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_integrity/11DrCordero-SenJudCom.pdf
- ¹⁵ Endnote 2 supra: Ethics in Government Act §101(a)...Nothing in this Act shall prevent any Congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.
- ¹⁶ Synopsis of an Investigative Journalism Proposal: Has a Federal Judgeship Become a Safe Haven for Coordinated Wrongdoing?; endnote 8 supra >1.
- ¹⁷ The Choice: Judge Sotomayor's Ethnicity v. Equal Justice Under Law; http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_v_Equal_Justice.pdf > para. 4 and 5.
- ¹⁸ See the role of District Judge Larimer, WDNY, and Former CA2 Chief Judge Walker in the scheme in *Pfuntner v. Trustee Gordon et al.*, 02-2230, WBNY; http://Judicial-Discipline-Reform.org/JNinfo/25Committee/2DrCordero-petition_25feb9.pdf >N:66§IV and http://Judicial-Discipline-Reform.org/docs/DrCordero_v_TrGordon_SCt.pdf >A:1642§B.

- 19 Endnote 1a) and c) supra >question 6. Employment Record.
- 20 “She reported making about \$150,000 in 1990, her last full year as a private lawyer in New York.” For a justice, Sonia Sotomayor is low on dough, Josh Gerstein, Politico, May 28, 2009; <http://www.politico.com/news/stories/0509/23045.html>; see “also at...” ent. 3 supra. In her answer to 6. Employment Record, she stated: “Pavia & Harcourt, *Partner* 1/1/88 – 9/30/92”; endnote 1a) and c) supra >2. It can reasonably be assumed that she earned at least as much for the subsequent full year and pro rata for part of her last year there. To estimate her earnings as a partner for those years as well as for the preceding ones, i.e., 1988-1989, the average Cost of Living Adjustment for judicial salaries for the available years, namely, 1992-2009, has been used. The justification for this is that COLA intends to reflect the pace of earning increases that judges would have received if they had remained in private practice. The Late Chief Justice Rehnquist had this to say on the subject: “[Judges] are only asking that the pay that was set some years ago be adjusted for increases in the cost-of-living since that time -- a benefit that many working people in the private sector, and almost all employees of the federal government, regularly expect and receive”. Supreme Court Year-End Report, 1996; <http://www.uscourts.gov/ttb/jan96ttb/1yearend.html>.

Average of the Percentage Increases in Judicial Salaries Between 1992 and 2009						
1992	129,500 dis. judge			2001	153,900	2.67
1993	133,600	3.17		2002	159,100	3.38
1994	133,600	0		2003	164,000	3.08
1995	133,600	0		2004	167,600	2.20
1996	133,600	0		2005	171,800	2.51
1997	133,600	0		2006	175,100	1.92
1998	136,700	2.32		2007	175,100	0
1999	145,000 cir. judge	0		2008	179,500	2.51
2000	149,900	3.38		2009	184,500	2.79
					Average	2.72

1990 earnings of \$150,000 – 2.72% = 1989 earnings of \$145,920

1989 earnings of \$145,920 - 2.72% = 1988 earnings of \$141,951

1990 earnings of \$150,000 + 2.72% = 1991 earnings of \$154,080

1991 earnings of \$154,080 + 2.72% = 1992 earnings of \$158,271/ ¾ of a year (1/1-9/1/92)= \$118,703

Whatever excess income may have been thus estimated for these years is vastly compensated by the fact that no income at all has been estimated for the years 1979-1987.

- 21 Values in *italics* are estimated.
- 22 “She said she was due about \$25,000 for her partnership interest in a small firm, Pavia & Harcourt. By contrast, when Chief Justice John Roberts left a major Washington law firm, Hogan & Hartson, in May 2003 to take a seat on the D.C. Circuit Court, he was paid more than \$1 million in salary and compensation for his partnership interest.” For

a justice, Sonia Sotomayor is low on dough, Josh Gerstein, Politico, May 28, 2009; <http://www.politico.com/news/stories/0509/23045.html>; see “also at ...” ent. 3 supra.

²³ **1992:** 5 U.S.C. §5332 The General Schedule, Schedule 7, Judicial Salaries; http://bulk.resource.org/courts.gov/juris/j0110_03.sgml. Salary as U.S. district judge from 2oct-31dec92= \$129,500/366 days= \$353.83 x 91 days= \$32,198.

²⁴ **1993:** http://bulk.resource.org/courts.gov/juris/j0113_03.sgml.

²⁵ “Kinzer and Cardi became Sotomayor's friends in the 1980s when Cardi was working as a legal aid lawyer and Sotomayor was a prosecutor in the Manhattan district attorney's office. Cardi persuaded Sotomayor to move to their neighborhood, Carroll Gardens in Brooklyn, when there was a vacant apartment next door. Sotomayor later bought her own condo down the block.... Sotomayor only reluctantly left the neighborhood when she became a judge in Manhattan, because rules stipulate that judges must live in the district to which they are assigned.” Friends Provide a Glimpse Into Sotomayor's 'Very Full Life', Keith B. Richburg, Robin Shulman and Nancy Trejos, *The Washington Post*, Sunday, May 31, 2009; <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/30/AR2009053002061.html?nav=emailpage>; see “also at...” ent. 3 supra.

“Papers submitted in connection with her nomination to the 2nd Circuit Court of Appeals in 1997 say she was earning \$1,100 a month in rent on a co-op apartment that she owned in Brooklyn. As recently as 2004, she reported less than \$30,000 in her two bank accounts. A source told *The Washington Post* earlier this month that Sotomayor once said that filling out her financial reports was a breeze. “When you don't have money, it's easy. There isn't anything there to report”, she was quoted as saying. Sotomayor is divorced and has no children.” For a justice, Sonia Sotomayor is low on dough, Josh Gerstein, Politico, May 28, 2009; <http://www.politico.com/news/stories/0509/23045.html>. The implication is obvious: What else did she spend her money on or where did she place it? The question is particularly pertinent since it is reported that she “lives modestly”; endnote 3 supra.

It is assumed that she still owns her rental property in Brooklyn and earns rent therefrom; otherwise, the proceeds of its sale are unaccounted for. To be conservative, the rent is stated at the same level for the past 11 years. By comparison, controlled rents increase in NY City on average 3.5% for a one-year lease and 7% for a two-year lease.

²⁶ **1994:** No Schedule 7 was found for the period beginning on or after January 1, 1994. However, since Schedule 7 for the preceding and the following years indicate that the salary for district judges was \$133,600, then it is absolutely certain that such was the salary also for 1994 given that Const., Art. III, Sec. 1, provides that “The Judges...shall...receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office”. http://Judicial-Discipline-Reform.org/docs/US_Constitution.pdf.

²⁷ **1995:** <http://www.gpoaccess.gov/uscode/search.html> >United States Coder (1994) >Search: 5usc5332> <http://frwebgate.access.gpo.gov/cgi-bin/multidb.cgi> > 5USC Sec. 5332. The General Schedule > Text: <http://frwebgate6.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=510554514834+0+1+0&WAISaction=retrieve>.

²⁸ **1996:** <http://www.gpoaccess.gov/uscode/search.html> >United States Coder (1994 suppl.

- 1) >Search: 5usc5332 > <http://frwebgate.access.gpo.gov/cgi-bin/multidb.cgi> > 5USC Sec. 5332. The General Schedule > Text: <http://frwebgate5.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=511085272174+0+1+0&WAISaction=retrieve>.
- ²⁹ **1997**: Photocopy of 5usc5332 in USC, v. 1994, suppl. 2. Cf. <http://www.gpoaccess.gov/uscode/search.html> >United States Code (1994 suppl. 2) >Search: 5usc5332> <http://frwebgate.access.gpo.gov/cgi-bin/multidb.cgi> > 5 USC Sec. 5332. The General Schedule > Text: <http://frwebgate5.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=610555377786+0+0+0&WAISaction=retrieve>.
- ³⁰ **1998**: 5 U.S.C. §5332; <http://www.gpoaccess.gov/uscode/search.html> >United States Code (1994 suppl. 3) Search: 5usc5332 ><http://frwebgate.access.gpo.gov/cgi-bin/multidb.cgi> >Text, <http://frwebgate6.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=60606640734+0+1+0&WAISaction=retrieve>. Judge Sotomayor's salary as district judge from 1jan-12oct98 at \$136,700/365 days= \$374.52 x 285 days= \$106,738.
- ³¹ United States Senate Committee on the Judiciary, Questionnaire for Judiciary Nominees, Public, <http://judiciary.senate.gov/nominations/SupremeCourt/Sotomayor/SoniaSotomayor-Questionnaire.cfm> >Committee Questionnaire >Question 19. Teaching, p. 164.
- ³² Endnote 30 supra. Judge Sotomayor's salary as U.S. circuit judge from 13oct-31dec98 = \$145,000/365 days= \$397.26 x 80 days= \$31,781.
- ³³ Note that there are limitations on the amount of earned income that federal judges can add to their federal salaries under the Ethics in Government Act, endnote 2 supra, (Titles I to V of Pub. L. 95-521) Title V. Government-wide Limitation on Outside Earned Income and Employment, §501. (1) [A judicial] officer... may not in any calendar year have outside earned income attributable to such calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5 U.S.C., as of January 1 of such calendar year; <http://uscode.house.gov/pdf/2007/>.
To see 5 U.S.C. §5313 go to <http://www.gpoaccess.gov/> >2006 U.S. Code >Search: 5usc5313 ><http://frwebgate.access.gpo.gov/cgi-bin/multidb.cgi> >5USC Sec. 5313. Positions at level II: PDF
- ³⁴ **1999**: 5 U.S.C. §5332; <http://www.gpoaccess.gov/uscode/search.html> >United States Code (1994 suppl. 4) Search: 5usc5332 ><http://frwebgate.access.gpo.gov/cgi-bin/multidb.cgi> >Text, <http://frwebgate4.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=512498187600+0+1+0&WAISaction=retrieve>.
- ³⁵ Endnote 31 supra >165.
- ³⁶**2000**: 5 U.S.C. §5332; <http://wyomcases.courts.state.wy.us/applications/oscn/DeliverDocument.asp?CiteID=185097>
- ³⁷ **2001**: 5 U.S.C. §5332; <http://www.gpoaccess.gov/uscode/search.html> >United States Code (2000) >Search: 5usc5332 > Text: <http://frwebgate4.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=509036228003+0+1+0&WAISaction=retrieve>.

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- 38 **2002**: 5 U.S.C. §5332; <http://www.gpoaccess.gov/uscode/search.html> >United States Code (2000 suppl. 1) >Search: 5usc5332 > Text: <http://frwebgate1.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=507570115300+0+1+0&WAISaction=retrieve>.
- 39 **2003**: 5 U.S.C. §5332; <http://uscode.house.gov/download/downloadPDF.shtml> >107th Congress, 2d Session (2002) (2000 Edition and Supplement II) >Friday, April 09, 2004 4:28 PM 4494151 2002usc05.pdf
- 40 **2004**: 5 U.S.C. §5332; <http://uscode.house.gov/download/downloadPDF.shtml> > [108th Congress, 1st Session](#) (2003) (2000 Edition and Supplement III) >Thursday, July 07, 2005 3:56 PM 4576090 2003usc05.pdf.
- 41 **2005**: 5 U.S.C. §5332; <http://uscode.house.gov/download/downloadPDF.shtml> >108th Congress, 2d Session (2004) (2000 Edition and Supplement IV) > Thursday, April 06, 2006 3:21 PM 4753695 2004usc05.pdf.
- 42 **2006**: 5 U.S.C. §5332; <http://uscode.house.gov/download/downloadPDF.shtml> >109th Congress, 1st Session (2005) (2000 Edition and Supplement V) > Tuesday, April 17, 2007 12:55 PM 5269282 2005usc05.pdf.
- 43 **2007**: 5 U.S.C. §5332; <http://www.gpoaccess.gov/> >2006 U.S. Code >5usc5332, <http://www.gpoaccess.gov/uscode/index.html>, Search: 5usc5332 <http://frwebgate.access.gpo.gov/cgi-bin/multidb.cgi>, 5USC Sec. 5332 The General Schedule >PDF.
- 44 **2008**: 5 U.S.C. §5332; <http://uscode.house.gov/download/downloadPDF.shtml> >110th Congress, 1st Session (2007) (2006 Edition and Supplement I) > Tuesday, April 14, 2009 5:02 PM 5343812 2007usc05.pdf.
Also at <http://uscode.house.gov/> > Search, <http://uscode.house.gov/search/criteria.shtml> >Title: 5, Section: 5332, <http://uscode.house.gov/uscode-cgi/fastweb.exe?search> >5 USC Sec. 5332 > <http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t05t08+468+0+++%28%29%20%20AND%20%28%285%29%20ADJ%20USC%29%3ACITE%20AND%20%28USC%20w%2F10%20%285332%29%29%3ACITE%20%20%20%20%20%20%20%20%20>.
- 45 **2009**: The salary of circuit judges increased to $\$184,500/12=\$15,375 \times 5=\$76,875$. COLA for Federal Judges in 2009, The Third Branch, Newsletter of the Federal Courts, Mar 2009, vol. 41, num. 3; http://www.uscourts.gov/ttb/2009-03/article03.cfm?WT.cg_n=TTB&WT.cg_s=Mar09_article03_tableOfContents.
- 46 The Financial Statement Net Worth table of the Questionnaire, endnote 1a) and c) supra >186, requires that Judge Sotomayor “Provide a **complete, current** financial net worth statement which **itemizes in detail all assets** (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) **all liabilities** (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.” (emphasis added)
- 47 “The judge's reportable net worth has hardly changed at all since she was appointed to the bench in 1992, according to a source in a position to know. The modest increase in her

net worth in 2007 may be attributable to a home equity loan she took out to do some renovations, the source said. Disclosed assets may not tell the whole financial picture, as federal rules do not require judges to disclose the value of their personal residences. **Sotomayor has listed no outstanding loans or other liabilities in recent years, except for four credit cards.** Sotomayor brought in some extra income in 2007 by working as an adjunct professor at New York Law School and lecturing at Columbia Law School. Those jobs paid her nearly \$25,000 that year. She also has traveled frequently to conferences. In 2007, she reported being reimbursed for expenses related to six trips, such as a stint teaching at the University of Puerto Rico and a trip to a judicial clerkship institute at Pepperdine University.” Sotomayor Rose High, with Few Assets, Joe Stephens, *The Washington Post*, May 7, 2009; (emphasis added); http://voices.washingtonpost.com/44/2009/05/07/sotomayor_rose_high_with_few_a.html?sid=ST2009050702123; see “also at...” ent. 3 supra.

But see endnote 46 supra. See also, endnote 48 infra, where it is reported that “city records indicate two outstanding mortgages totaling \$450,000.” This inconsistency needs to be resolved.

It should also be found out the rate of interest of those mortgages and their closing costs. It is not apparent at all why a person would need to take those mortgages and incur those costs although the whereabouts of her earnings of \$3,577,024 plus those for 1976-1987 cannot be accounted for. A person with expertise in financial matters, let alone in real estate, who understands the basic concept of interest rate spreads, would not keep earnings in a savings account, where she would earn a low rate, only to take a mortgage and pay a high rate. However, those mortgages can represent the leveraging of undisclosed investments earning a higher rate or with a high potential for capital appreciation that would more than offset the mortgage rate.

Judge Sotomayor has real estate expertise and connections. To question “16. Legal Career ...a.ii. whether you practiced alone, and if so, the addresses and dates”, her answer was:

Yes, with Sotomayor & Associates, 10 3rd Street, Brooklyn, New York 11231, from 1983 to 1986, but this work was as a consultant to family and friends in their real estate, business, and estate planning decisions. If their circumstances required more substantial legal representation, I referred the matter to my firm, Pavia & Harcourt, or to others with appropriate expertise.” Endnote 1 supra >1a) & c) 143-144.

...

“From April 1984 as an associate, and from January 1988 until October 1992 as a partner [in Pavia & Harcourt], I was a general civil litigator involved in all facets of commercial work including, but not limited to, real estate, employment, banking, contract, distribution and agency law.” Id, p.145

...

[At] Pavia & Harcourt[, m]y typical clients were significant European companies doing business in the United States. My practice at that firm focused on commercial litigation...My work also involved advising clients on a wide variety of legal issues, including, but not limited to...banking, real estate, patents, employment, partnership, joint venture and shareholder laws...and franchising and licensing matters. Moreover, I conducted over fifteen arbitration hearings...involving banking, partnership, tire and fashion industry disputes.

She was a member of the board of directors of the State of New York Mortgage Agency from 1987 to October 1992.

“She was engaged in the 1990s to Peter White, who worked in construction and real estate, but they later broke up.” Friends Provide a Glimpse Into Sotomayor's 'Very Full Life', Keith B. Richburg, Robin Shulman and Nancy Trejos, *The Washington Post*, Sunday, May 31, 2009; <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/30/AR2009053002061.html?nav=emailpage>; see “also at...” ent. 3 supra.

Judge Sotomayor said this in her speech at her induction to the Court of Appeals:

“Before Peter, Marguerite and Tom moved me out of and settled me into every home I have ever had since I moved into the city. You don't know how hard that is.” p.39. “At Pavia [& Harcourt], I also met Alessandro and Fe Saracino of the Fendi family, who along with their parents have introduced me to the beauty of the international world. Every day for five years I spoke to Marta Fontanesi, Fendi's legal representative. We formed a bond that is so special that she has come from Italy to be here today. Her husband Daniel Valebrega and his parents, who could not be here, have not only given us friendship but they gave Peter and me the opportunity to buy our current home in the Village.” p.41 “Peter, it was you who convinced me to say yes when the President [Clinton] called about my nomination, and it was you who lifted my spirits each time I came close to giving up during this process. Four years ago, we committed to a life together. It is a commitment for life and it is the best thing that has ever happened to me. Thank you for all that you do for me, large and small, for all that we do together.” pp. 55-56;

http://judiciary.senate.gov/nominations/SupremeCourt/Sotomayor/Sonia_Sotomayor-Questionnaire.cfm >November 6, 1998 - United States Court of Appeals for the Second Circuit, [Induction Speech](#).

- ⁴⁸ “Her personal financial disclosure form filed last year puts her sum total of investments at the end 2007 from \$50,001 to \$115,000. She reported only two assets: a checking account and a savings account — both at Citibank. The form does not require disclosure of the value of a judge’s personal residence. **But New York City records show that Sotomayor owns a Greenwich Village condo that she bought in 1998 for \$360,000.** It's now worth about \$1.4 million, according to Zillow.com. And **city records indicate two outstanding mortgages totaling \$450,000.** Papers submitted in connection with her nomination to the 2nd Circuit Court of Appeals **in 1997 say she was earning \$1,100 a month in rent on a co-op apartment that she owned in Brooklyn.** As recently as 2004, she reported less than \$30,000 in her two bank accounts. A source told *The Washington Post* earlier this month that Sotomayor once said that filling out her financial reports was a breeze. “When you don’t have money, it’s easy. There isn’t anything there to report”, she was quoted as saying. Sotomayor is divorced and has no children. In 2007, Sotomayor supplemented her federal judicial salary with nearly \$25,000 from teaching at the Columbia and New York University law schools. She has missed out on the escalation in salaries and profits at major law firms in the past two decades.” For a justice, Sonia Sotomayor is low on dough, Josh Gerstein, Politico, May 28, 2009; (emphasis added); <http://www.politico.com/news/stories/0509/23045.html>; see “also at...” ent. 3 supra. Cf. http://Judicial-Discipline-Reform.org/Follow_money/unaccount_jud_nonjud_acts.pdf

[Excerpt from]
Case no. 08-8382, SCt

[\[http://Judicial-Discipline-Reform.org/US_writ/1DrCordero-SCt_petition_3oct8.pdf\]](http://Judicial-Discipline-Reform.org/US_writ/1DrCordero-SCt_petition_3oct8.pdf)

IN THE
SUPREME COURT OF THE UNITED STATES

...

On Petition for a Writ of Certiorari to

The United States Court of Appeals for the Second Circuit

Dr. Richard Cordero, Petitioner, v. David and Mary Ann DeLano, Respondents...
docket no. 06-4780-bk, CA2¹

...

**X. CA2'S ORDER OF DISMISSAL RESTS ON THE WRONG LAW
AND THE DISREGARD OF THE FACTS OF *DELANO***

A. CA2's dismissal order [Dn:20 *supra*] fetched without discussing a doctrine and strung together two cases objectively inapplicable to *DeLano* both on the facts and the law, for it was a mere pretext to get rid of an appeal that could expose its support and toleration of a bankruptcy fraud scheme

47. CA2 pretended that it was dismissing *DeLano* on “equitable mootness” grounds and cited two cases, *In re Metromedia Fiber Network, Inc.*, 416 F.3d 136, 144 (2d Cir. 2005), and *In re Chateaugay*, 988 F.2d 322, 326 (2d Cir. 1993), in support of its order (CA:2180). However, neither of those cases even insinuated that the doctrine of equitable mootness is available to cure bankruptcy fraud, much less a bankruptcy fraud scheme. In fact, neither deals with fraud at all.
48. Nor do they deal, as *DeLano* does, with bankruptcies under 11 U.S.C. Ch. 13 and its simple “adjustment of debts of an individual with regular income” to creditors under a repayment plan providing merely for the claims of the same class to be treated equally (§1322(a)(3) and (b)(1)), e.g. by paying the same number of cents on the dollar and, if the discharge is revoked due to fraud (§1330(a)), for the continued payment of what the debtor still owes the creditors (§1330(b)).
49. Rather, *Metromedia* and *Chateaugay* dealt with Chapter 11 bankruptcies and the complex reorganization of bankrupt companies. Actually, they are even more complex, for they involved

¹ http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_CA2.pdf

arrangements, not only between the bankrupt companies and their creditor companies, but also third companies and individuals that were not even parties to the bankruptcy cases. Indeed, those cases dealt with the release of debt owed by non-party companies to the reorganizing debtor company in exchange for a substantial contribution to its reorganization plan and a challenge after the completion of the arrangement by a creditor, to whom giving relief would have required “unraveling the Plan”. *Metromedia* §III. To avoid the dire consequences of such “unraveling”, the doctrine of equitable mootness was applied, which provides as follows:

Equitable mootness is a prudential doctrine that is invoked to avoid disturbing a reorganization plan once implemented. [E]quitable mootness is a pragmatic principle, grounded in the notion that, with the passage of time after a judgment in equity and implementation of that judgment, effective relief on appeal becomes impractical, imprudent, and therefore inequitable. The doctrine [is] merely an application of the age-old principle that in formulating equitable relief a court must consider the effects of the relief on innocent third parties. *Metromedia*, §III, internal quotations omitted.

50. Ordering production of the requested documents, identifying thanks to them the concealed assets of the DeLano Debtors, and finding that they committed bankruptcy fraud would not disturb their completed debt repayment plan in any way whatsoever. Once they were shown to have filed a fraudulent petition to begin with and gotten it approved through the fraud of the trustees, Judge Ninfo, and other co-scheming insiders, there would be nothing “impractical, imprudent, and therefore inequitable” in asking them to continue paying to their creditors what they owe them. This would only mean that, instead of getting away with evading their debts by paying even fewer than the initially proposed 22¢ on the dollar (D:59: Pst:1174; CA:1933), the DeLanos would have to reduce their fraudulently-gotten enjoyment of their golden retirement and use their concealed assets to pay in full the principal of their debts and the interest on it. Ordering them to do so would absolutely not entail any “recoupment of these funds ‘already paid from non-parties, and the continued payment to creditors would neither be impracticable nor’ “impose an unfair hardship on faultless beneficiaries who are not parties to this appeal”, *Chateaugay*, §II. There would only be completion of repayment to the only innocent parties here: those who in good faith became the DeLanos’ creditors and to whom it would be inequitable to deprive of what is owed them in order to let the DeLanos benefit from the scheme or protect other schemers.
51. Additionally, the companies in *Metromedia* and *Chateaugay* that challenged those complex debt-release arrangements failed to do so until after their completion. In this respect, the court in *In re*

Chateaugay Corp., 94 F.3d 772, 776 (2d Cir.1996), “presume[d] that it will [not] be inequitable or impractical to grant relief after substantial consummation, [if], among other things, the entity seeking relief has diligently pursued a stay of execution of the plan throughout the proceedings”. This is precisely what Dr. Cordero did: He “diligently pursued a stay of execution of the [DeLanos’] plan” of debt repayment and was denied his motions by Judge Ninfo (D:21) and Judge Larimer (Add:881, 974¶7, 1021; Pst:1182 entry 10; CA:2199¶¶13, 20). He even pursued the revocation of the confirmation order in Bankruptcy Court (Add:1038, 1066, 1094, 1095, 1125) and in District Court (Add:1064, 1070, 1121¶61, 1126, 1155; Pst:1306¶123, 1313¶21).

52. The pretense of “equitable mootness” as the grounds for dismissing *DeLano* is objectively inapplicable to *Pfuntner*, which is pending before Judge Ninfo and was revived by the dismissal of *DeLano*. In *Pfuntner*, discovery has not even begun! Hence, it cannot be applied to prevent the disturbance of debt-release arrangements where there are no arrangements to disturb to begin with. Moreover, there are parties to *Pfuntner* that were not parties to *DeLano* and whose rights and liabilities as a matter of law cannot have been disposed of through CA2’s dismissal of *DeLano* or the Bankruptcy Court’s disallowance of Dr. Cordero’s claim. As a matter of fact, neither those parties nor their rights were even hinted at in the CA2’s three-liner summary order.
53. This shows that CA2 proceeded to dismiss the appeal without any justification in law and with disregard for the facts of *DeLano*. It simply fetched the term “equitable mootness”, strung together two citations, and slapped them on a summary order form without ascertaining whether either the doctrine or the cases logically or analogically related to the appeal. It never considered whether equity favored such dismissal, let alone required it. In so doing, CA2 committed an inequity by depriving Dr. Cordero, an innocent party, of his claim against the DeLanos, the fraudsters. It also denied him due process by dispensing with the rule of law in order to protect Reappointee Ninfo, Peer Larimer, and itself.

B. CA2's characterization of Trustee Reiber's arrogantly perfunc-tory motion to dismiss as containing only "minor deficiencies" reveals its disingenuous disregard for the law and the facts

54. CA2 confirmed its disregard for the facts and the law by the way it handled Trustee Reiber’s motion of October 30, 2007, to dismiss the appeal as moot (CA:2102) and his amendment to correct a gross mistake (CA:2130, 2124¶¶39-42). In his opposition, Dr. Cordero pointed out (CA:

2111, 2135) that the Trustee, who in his motions' first sentence insisted he was a lawyer, had:

- a. failed to cite any authority for the proposition that failure to object timely to a trustee's final report...or perhaps it was to the judge's order approving it –the Trustee could not make up his mind (CA:2103¶¶15-16)- the appeal had been rendered moot and dismissible;
- b. failed to identify what class of people of whom Dr. Cordero was supposedly representative had an obligation to object to whatever it was that he was supposed to object;
- c. failed to note that Dr. Cordero's objections to **i)** the DeLanos' fraudulent bankruptcy petition (D:63), **ii)** Judge Ninfo's confirmation of their debt repayment plan (Add:1038, 1066, 1095, 1097), **iii)** the Trustee's failure to perform his duty, and **iv)** Judge Larimer's affirmance in the appeal filed over 2½ years earlier (D:1; SApp:1507) constituted clear evidence that Dr. Cordero objected to every other act flowing therefrom because if his objections were sustained on appeal, the Trustee's report and Judge Ninfo's approval of it would have become null and void as deriving from fraud-tainted acts and thus, nullities;
- d. failed to notice that Judge Ninfo had deprived Dr. Cordero of standing in *DeLano* (D:22), leaving him only the right to appeal, so that the Judge neither would serve, let alone do so timely, his report-approving order on Dr. Cordero nor could expect the latter to object to it;
- e.; failed to assert that the alleged service on Dr. Cordero of "a summary of the account" (CA: 2103¶14) -whatever relation that bore to the Trustee's report or the Judge's order- was timely;
- f. failed to explain how service of such "summary" would impose any duty on the recipient to object to something else not served.

55. The inadmissible substandard quality of Trustee Reiber's motions should have prompted CA2 to determine whether the Trustee had been allowed to amass 3,907 *open* cases before Judge Ninfo because of his competence as a lawyer/trustee or his willingness to participate in the bankruptcy fraud scheme. Instead, CA2 characterized these as "minor deficiencies". (CA2180) For it to do so was not only disingenuous; it was also dishonest. It was also evidence that due to its self-interest in not exposing the scheme and thereby risking that the exposed schemers in turn incriminated CA2 for having supported or tolerated it, CA2 disregarded the facts and the law so as to dismiss the appeal to Dr. Cordero's detriment and protect itself and the schemers. Will this Court condone such evidence suppression and abuse of process inimical to judicial integrity?

[Excerpt]

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

1220 U.S. Courthouse, 100 State Street
Rochester, NY 14614; tel. (585)613-4200

In re PREMIER VAN LINES, INC., Debtor, case no: 01-20692; and

JAMES PFUNTER, Plaintiff, v. Trustee KENNETH W. GORDON, et al.

Adversary proceeding no. 02-2230

MOTION TO TRANSFER AND RECUSE

By Dr. Richard Cordero, Esq.

[http://Judicial-Discipline-Reform.org/Pfuntner_record/10mtn_recuse_JNinfo_23dec9]

...

- I. **Affidavit: Documented facts of Judge Ninfo's denial of due process through bias, arbitrariness, and abuse of power; and his vested interest in preventing discovery to protect himself and the local parties who are insiders 2306**

...

- II. **The Supreme Court has confirmed in *Caperton* that what controls recusal is "the probability of bias" that denies the due process right to a fair trial in an impartial tribunal**

15. Recusal is provided for under 28 U.S.C. §§144 and 455. The latter provides as follows:

§455(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

- (1) Where he has a personal bias or prejudice concerning a party...;
- (4) He knows that he, individually or as a fiduciary,..., has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

16. The Supreme Court has stated that "[a] fair trial in a fair tribunal is a basic requirement of due process" and that even in the absence of actual bias, disqualification of a judge is required because "justice must satisfy the appearance of justice" *In re Murchison*, 349 U. S. 133, 136 (1955).

17. It has indicated that recusal does not require proof of actual bias, but rather a showing of circumstances "in which experience teaches that the **probability** of actual bias on the part of the

judge or decisionmaker is too high to be constitutionally tolerable.” *Withrow v. Larkin*, 421 U.S. 35, 47 (1975). (emphasis added) Thereby it recognized that probable, rather than certain, bias is sufficient for recusal.

18. The Court has also recognized the continued validity of the common law prohibition on a judge’s direct pecuniary interest in a matter before him. However, it has also made clear that “the [judge’s] financial stake need not be...direct or positive”, because a pecuniary interest of “sufficient substance” is enough to require recusal. *Gibson v. Berryhill*, 411 U. S. 564, 579 (1973)
19. In the case at bar, there is “sufficient substance” in, among other things, **a)** the \$673,657 that Judge Ninfo allowed the DeLanos not to account for after filing for “bankruptcy”; **b)** the liability and default judgment that Mr. Palmer was allowed to evade; and **c)** the assets and claims in the other thousands of cases that Trustees Gordon and Reiber have brought before him and that may have been handled unlawfully in the context of the bankruptcy fraud scheme. Conversely, if Judge Ninfo proceeded in such unlawful way only in the cases involving Dr. Cordero and to his detriment, then the Judge’s bias against him would be established. Judge Ninfo cannot have it both ways.
20. The way the Court has stated the applicable principle of recusal is all the clearer because it applies even when the judge acts to benefit the performance of his duties in another official capacity, as when a mayor might face “possible temptation” to disregard due process and do wrong because his “executive responsibilities for village finances may make him partisan to maintain the high level of contribution [to those finances] from the mayor’s court” through the imposition of fines. *Ward v. Monroeville*, 409 U. S. 57 (1972) A fortiori, the principle applies when the judge acts in his personal interest.
21. Judge Ninfo did have such personal interest. Given that he took the bench in 1992, his first 14-year term was coming to an end in 1996. (28 U.S.C. §152(a)(1)) Had he upheld the discovery provisions of FRCP 26(b)(1), made applicable under FRBP 7026, he would have had to order discovery of “relevant information [that] need not be admissible at the trial [let alone at the evidentiary hearing that he had ordered (D:272) and held on March 1, 2005 (Tr:1)] if the discovery appears reasonably calculated to lead to the discovery of admissible evidence”. The relevance of the bank account statements of any bankrupt is obvious; this is all the more so of those of a “bankrupt” under 11 U.S.C. Chapter 13, such as Mr. DeLano, with regular income as

bankruptcy officer even after filing for bankruptcy, who together with Wife Mary Ann claimed that they only had \$535 in hand and on account, but that in the preceding three years had earned \$291,470, which was unaccounted for.

22. Instead, Judge Ninfo denied *every single document* requested by Dr. Cordero, because they would have proved Mr. DeLano's bankruptcy fraud through concealment of assets and Trustee Reiber's toleration of it. Their exposure would have cast doubt on his fitness to be appointed to a second term. What is more, if the circuit judges of the Court of Appeals for the Second Circuit, who had appointed him, had been interested, not in covering up for their appointee, but rather in abiding by the law, as set forth at 18 U.S.C. §3057(a), they would have ordered production of those documents, including the DeLanos' bank account statements, for they had a specific duty to take under those circumstances.

18 U.S.C. §3057(a) "Any judge, receiver, or trustee having **reasonable grounds for believing** [no need for solid evidence] that any violation under chapter 9 of this title [18 U.S.C. on bankruptcy crimes] or other laws of the United States relating to insolvent debtors, receiverships or reorganization plans has been committed, **or that an investigation should be had** in connection therewith, **shall** report to the appropriate United States attorney all the facts and circumstances of the case, the names of the witnesses and the offense or offenses believed to have been committed." (emphasis added)

23. Obviously, Judge Ninfo's reappointment would have been held up if he were under investigation for tolerating bankruptcy fraud, not to mention for participating in a bankruptcy fraud scheme. The timing of the bias is important, for "The temporal relationship between the campaign contributions [as well as of the reappointment process], the justice's election [or the judge's reappointment], and the pendency of the case is also critical." (*Caperton*, 15, ¶25 *infra*)

24. These considerations are warranted by the Supreme Court's concern with a more general concept of interests that tempt adjudicators to disregard neutrality. It stated that "Every procedure which would offer **a possible temptation** to the average man as a judge to forget the burden of proof required to [rule against a party], or which might lead him not to hold the balance nice, clear and true between [two parties], denies the [losing one] due process of law." *Tumey v. Ohio*, 273 U. S. 510, 532 (1927) (emphasis added)

25. The Court recently reiterated these principles in *Caperton v. Massey*, slip opinion, 556 U. S. ___ (2009); www.supremecourtus.gov/opinions/08pdf/08-22.pdf. It "stressed that it was not required to decide whether in fact [the judge] was influenced. The proper constitutional inquiry is

whether sitting on the case then before [him] would offer a possible temptation to the average judge to lead him not to hold the balance nice, clear and true. The Court underscored that what degree or kind of interest is sufficient to disqualify a judge from sitting cannot be defined with precision.” (internal quotations omitted; *Caperton*, pages 8-9) “Circumstances and relationships must be considered.” (id., 10)

26. However, the Court provided an objective standard to test for bias and protect the parties’ basic right to a fair trial in a fair tribunal. “The inquiry is an objective one. The Court asks not whether the judge is actually, subjectively biased, but whether the average judge in his position is “likely” to be neutral, or whether there is an unconstitutional “potential for bias”.” (*Caperton*, 11)
27. Judge Ninfo’s “potential for bias” is only exacerbated by the two judicial misconduct complaints that Dr. Cordero filed against him under 28 U.S.C. §§351-364. (in *Pfuntner* on August 27, 2003, no. 03-8547; and in *DeLano* on June 6, 2008, no. 02-08-90073-jm) In the Court’s view, “No one so...embroiled in a running, bitter controversy...is likely to maintain that calm detachment necessary for fair adjudication.” *Mayberry v. Pennsylvania*, 400 U. S. 455, 465 (1971). The animosity shown by the Judge toward Dr. Cordero coupled with his arbitrariness and abuse of power in disregard of due process to Dr. Cordero’s detriment during the hearings in both *Pfuntner* and *DeLano* attest to the fact that the Judge has actualized that “potential for bias”.
28. Whether Judge Ninfo feels subjectively that he is biased against Dr. Cordero and in favor of the other insiders of the bankruptcy and legal systems is not determinative at all. Due process “may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties.” *Murchison*, 349 U. S., at 136. This is so because “the Due Process Clause has been implemented by objective standards that do not require proof of actual bias. In defining these standards the Court has asked whether, under a realistic appraisal of **psychological tendencies and human weakness**, the [judge’s] interest “poses such a risk of actual bias or prejudgment that the practice must be forbidden if the guarantee of due process is to be adequately implemented.” (internal quotations omitted; emphasis added; *Caperton*, p13) What controls the bias inquiry is the knowledge of what makes people tic in general, not how the judge in question assesses his own motives and attitude.¹

¹ This view from the outside and focus on circumstances conditioning the capacity to be

29. These principles provide the foundation for the Court’s lapidary conclusion that “objective standards may also require recusal whether or not actual bias exists or can be proved...[for what matters is whether the] “facts created an unconstitutional probability of bias [even though it] cannot be defined with precision”. (internal quotations omitted; *Caperton*, 16, 17). This conclusion requires recusal in this case, for so much in *Pfuntner* as in *DeLano*, the probability of bias has manifested itself in a pattern of undeniable, objective actual impropriety that irradiates the appearance of even more shocking impropriety: the participation of Judge Ninfo in a bankruptcy fraud scheme. This means that from the outset of the case, its discovery stage, Judge’s bias toward his own survival and that of the insiders that can incriminate him therein will make it unconstitutionally probable that he will determine the outcome of every motion, objection, and proceeding adversely to outsider Dr. Cordero. Due process renders this probability intolerable and mandates Judge Ninfo’s recusal.

III. Relief sought

30. Therefore, Dr. Cordero respectfully requests that the Court:
- a. transfer this case to the U.S. District Court in Albany, which is approximately equidistant from all parties, so that it be the one to move this case along from discovery to a trial by jury;
 - b. recuse or disqualify Judge Ninfo from this case;
 - c. grant Dr. Cordero all other relief that is just and proper.

15. _____

impartial, rather than on evidence proving conduct due to partiality, are expressed by the ABA Model Code’s test for appearance of impropriety thus: “whether the conduct would create in reasonable minds a **perception** that the judge’s **ability** to carry out judicial responsibilities with integrity, impartiality and competence is impaired.” Canon 2A, Commentary. (emphasis added)

The *DeLano* Case

**Complementary multidisciplinary skills that
law, journalism, and business school students
will contribute to enriching the hands-on experience and
the roles that they will play in attaining
the investigative and expository objectives of the course**

The law students will **a)** find and analyze the evidence contained in the court record of *DeLano* (6⁷) that shows federal judges concealing assets(17§1), withholding material information (18§2), and showing peer partiality(19§3) by disregarding due process(7) and systematically dismissing complaints against them(27); **b)** research the Judiciary's statistics(6¹⁹), reports, and news(6¹⁰), which reveal coordinated wrongdoing and self-immunization against its adverse consequences as its institutionalized modus operandi(6²⁹); and **c)** draw therefrom pertinent implications for the integrity of our legal system and the basic tenet of its process: Equal Justice Under Law(6¹³).

The journalism students can **a)** conduct a *Follow the money!* journalistic investigation(3) of judges and other insiders of the legal and bankruptcy systems that conceal assets and cover up the concealment as part of a bankruptcy fraud scheme(6⁵); **b)** apply their mass communication skills to the multi-platform advertising of the public presentation by the class(11) to be held in its auditorium to report the lessons that it drew from its study of *DeLano* and the findings of its library and field research; **c)** layout and help write the brochure and CD to be distributed at the presentation(4); and **d)** design and implement(5) **i** a PR campaign to market class 'editorials' on how to render judges accountable and subject to discipline based on **ii** the strategy of •the media investigating the Judiciary through a case –such as *DeLano*(7)- that reveals judges from U.S. bankruptcy court to the Supreme Court(15²⁰) participating in, or tolerating, coordinated wrongdoing (6²⁸); •an outraged public demanding that Congress and the FBI investigate and their findings be followed up with •legislation eliminating the judges' abusive discipline self-exemption(28) and de facto unimpeachability(30¹¹) through which they have become Judges Above the Law(31).

The business students will apply their fraud & forensic accounting (FFA) skills to **a)** identify the means used **i** by insiders to inflate creditors' proofs of claims and conceal debtors' assets in bankruptcy petitions' schedules and financial affairs statements(6¹) and hide their bank and credit card statements(14^{1>¶¶20,72}); and **ii** by judges not to disclose in their annual financial reports(6²⁰) as many assets as held by earners of similar salaries(31); **b)** detect money and asset laundering by insiders(6²⁷); and **c)** track assets from points of origin -e.g., salary, fee, and commission payments, loan receipts, and lottery wins- through property registries -such as county clerks' offices(6²¹)-, DMV records, credit bureau reports, SEC filings, auction records, etc., to wherever assets have been concealed under the insiders' names, their relatives', and strawmen's.

A RESEARCH AND WRITING course using *DeLano* materials(54§G,H) will benefit **a)** law students, who will learn how judges work in practice as opposed to in theory; **b)** journalism students, who need to research the law to report on legal issues more knowledgeably, and **c)** business students, who must find the legal requirements applicable to their specialized FFA field. It can be taught to provide experiential learning -as a housing law clinic and an internship in a media outlet or an auditing firm do- by having the joint class write, design, publish, and distribute(4) an exposé(6³⁸) of the corruptive effect on the legal system of unaccountable judges(22) ruling on \$10s of bls. annually(13,15¹⁸). Both the *DeLano* and the R&W courses(9) will teach all students the essential skills in today's business world needed for a multidisciplinary team of professionals and their clients to draft, comment on, and produce a collaborative multimedia piece of writing(8).

The *DeLano* Case

a hands-on, role-playing,
fraud investigative and expository course
for law, journalism, and business
school students

WITH
A SYLLABUS

setting forth
the work for the Classroom and
the Organization of the Public Presentation
for each of a semester's 15 weeks

http://Judicial-Discipline-Reform.org/DeLano_course/14Law/5DrCordero_syllabus.pdf

by

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II. Appendix of Excerpts from Course Documents

cf. http://Judicial-Discipline-Reform.org/Follow_money/DeLano_docs.pdf

Blurbs of Works of Fiction

SOPHIE AND THE CHILDREN OF THE WAND: (script and novel) A young teacher, Sophie, resorts to her extraordinary artistic talents to interest her 8 year old students, particularly the deeply withdrawn Nico, in classwork, and thereby gives meaning to their lives. She takes them to a bookstore, digitizes their photos, and makes them appear as if they were interacting with their TV heroes, who say that they learn to defeat evil guys by reading 'heroes books'. The children love it! She takes them to one of her plays in which she plays a Fairy Mother that outwits the Evil Spirits: Hopelessness, Ignorance, and Laziness. She brings her camera and teaches them what the Mathematicians, Physicists, and Technicians must know to photograph their heroes and print their pictures in popular magazines. By now all the children in the school have the idea that if they get her a wand, all can become Sophie's children. The endearing bonding between Sophie, Nico, and her other children induces the kind of audience identification that supports the expectation of profitable merchandising if their popular appeal is developed like that of Disney's heroes and heroines.

THE VOICE OF THE FOUNTAIN: (script) Father Allgard recruits orphan Stacey to spy for him in his struggle against the conversion of a dilapidated seminary and church into a posh retirement resort. Through the ups and downs of their alliance, she makes him realize that his motivation is not religious fervor, but only selfish desire to preserve the stage for his sublime music and his outstanding choir. He unwittingly teaches her to temper faith in others with self-reliance. Teenagers can identify with the street smart Stacey and her search for parental love, while adults can relive Father Allgard's conflict between the pursuit of his lifelong emotional commitment to his vocation and the need for integrity and responsibility for his acts. All viewers can enjoy their witty dialogue and engaging alternation of unexpected funny scenes and the personality clashes between two characters in desperate search for a voice of solace for their troubled souls.

FAMILY BY CHOICE: (script) Three 17-year-old friends with little education and from broken families resign themselves to taking jobs as cleaning trainees, rather than as the uniformed front-desk clerks that they had imagined for themselves, in the Resort, a luxury retirement residence and country club. There they meet its director and three wealthy retirees. Coming from vastly different backgrounds and having unrealistic expectations as well as real conscious and unconscious needs, they clash and form alliances as their lives intertwine and they help each other to distinguish between what they wish they were and what they are and to achieve what they can still become. These are intense people with energizing dreams and paralyzing nightmares that end up realizing that they can only obtain relief from their emotional pain and have their demands on each other met if they show mutual respect and care for each other as family. The potential for dramatic situations and conflict among themselves and with other residents, club members, and friends and family is so vast that the script can be used for a movie and as the pilot of a TV series.

THE BLOODIED MATTRESS: (script & treatment for a novel) A jaded NY detective and his optimistic female trainee are called to a cemetery where a mattress was found with a bloodstain so large that an adult would not survive the corresponding blood loss. A lead takes them to the sublime world of art. They trace the mattress back to a posh hotel where an exhibition was held of a childish 26-year-old painter with the skill and sensibility of a master. In his room, only one single speck of DNA-matching blood is found. They cannot figure out how a mattress, and probably an already dead person, could have been spirited out of the hotel. They suspect the exhibition organizers, the caterers, and the painting transporters. After the body is found, their accounts check: There was only an accidental self-stabbing, the knowing or unbeknown concealment and transportation of the body in a painting materials trunk and the mattress in a crate, and a burial under a flowerbed to allow her soul to live on in the beauty of flowers. The detectives are shocked, but realize that although every day they are confronted with evil in the hearts and acts of people, there is also a positive, redeeming side to the human spirit and work that finds its purest expression in works of art.

BIG MONEY FOR LITTLE ONES: (script) An NYC Assistant D.A. and a Hispanic detective cannot avoid jointly investigating a burglary-homicide at a consulate with a strong-willed female Assist. U.S. Attorney and a suave Black FBI agent. The streetwise detective suspects the Feds of thwarting his investigative efforts at every step. But his credibility is doubtful due to his bully tactics and animosity toward the FBI. Moreover, the Feds reasonably explain their conduct. When he convinces the strict A.D.A., they realize that the Feds had broken into the consulate while investigating a smuggling operation in diplomatic baggage, lost an agent, whose government-issued equipment was pillaged and used by an attaché to blackmail the Feds into scuttling the NYC investigation or be exposed as violators of diplomatic immunity. The officers join forces to avoid defeat and discover the smuggling of orphans for illegal adoption by wealthy residents. Yet, they are torn by moral and professional conflicts, for those involved are neither saints nor demons, but people caught in dilemmatic situations and struggling to do right with imperfect knowledge and inadequate means.

DEAD BUT ON THE RUN: (script) NY City police detectives and prosecutors search for both a male criminal's corpse and the wealthy female patient who died after presumably having been transplanted illegally with his stolen and diseased liver. His body is not found in his grave because undertakers sold it to a pathology school. Only a DNA test can connect them were it not for cover-up operations that incinerate his corpse and cremate hers and for the non-cooperation of the life-insurer, who blackmails its defrauder. The investigators find out that police officers monitor police communications, kill 'disposable' criminals, and ship them to a clinic that harvests their organs and sends their 'carcasses' to the undertaker. The suspects have plausible explanations supported by doctored documents. Facing defeat, the investigators rein in their strong personalities and reconcile their divisive conceptions of law enforcement and the value of human life. Their cooperation enables them to apply their superior evidence analysis skills, knowledge of forensic science, and incisive logic to crack crafty methods of operation and expose the ring of conspirators.

PETALS OF THE HEART: (script) Roseleen, a Wall Street stockbroker, is robbed by muggers, but saved from a worse fate by a passerby, Grant, a Columbia University doctoral candidate in literature. When they go to the police station, she sees a secretary wearing her stolen bracelet, but the D.A. refuses to look into a possible police fencing operation for lack of evidence. Roseleen is determined to recover her bracelet, the symbol of her career success, and presses Grant into her service with keen observations on his character barbed with coercive comments about his moral duty. He helps while chastising her for her abrasive assertiveness and overbearing attitude. Thus begins the scrutiny of each other, which triggers a process of self-examination and discovery. Their investigation finds a fencing operation, but turns them into the fences' death targets. They narrowly save their lives thanks to his computer skills and her capacity for psychological analysis, while forcing each other to acknowledge and deal with character flaws that mar the decency and high principles that are the petals of their hearts and that so impair their social relations.

THE FOUNTAIN OF YOUTH: (script and novel) Ponce de León is a soldier that accompanies Columbus on his discovery of Puerto Rico in 1493. To secure the natives' friendship, he is forced by Iquena, the chief's daughter, to promise to protect them from the scourge of the Caribs, cannibals who deem themselves superior and raid islands for women and slaves. He keeps his promise, but brings with his soldiers and settlers the scourge of diseases that kill many natives, whom he too treats as savage weaklings. To find a cure, she convinces him to search for the Fountain of Youth. Ponce de León thinks of it as a source of medicinal water, whose discovery can earn him what he so craves: acceptance as a ruling class Castilian, rather than just a man of León. He discovers Florida in 1513. After a Pyrrhic victory over fierce Indians, he finds out that he and his men almost died for what had the appearance of the Fountain but was only storm rain temporarily welling up from an underground swollen river and enlivening its surroundings. She makes him realize that personal worth is assessed on one's conduct, not birthplace or superior knowledge; and that a civilized man's or a savage's treatment of others as inferior is equally hurtful so that respect for others that avoids deadly confrontation and allows reaching old age is the true Fountain of Youth.

THE FOUNTAIN OF YOUTH

Synopsis of a novel and a movie script

At dawn, somebody sneaks into a house through a window. On his way upstairs, he takes a knife from a wall. Quietly he opens a door to a woman's bedroom to... "Little Juan! Come in!" The boy, 9, runs into her bed and tells his mother that Don Pedro, the nobleman to whom she entrusted him as a page, was invited: "We are going, but I wanted to see you again." She tells him never to forget who he is when he is among those people: A Castilian, like them. "I won't!", he promises. He leaves, for Don Pedro is headed for the wedding of Ysabela of Castile and Fernando of Aragón at a castle in northern Spain. It is 1469.

At the castle, pages Nicolás, Carlos, and Diego are friendly toward Juan until finding out that he was not born in Castile, but in León, for he is Juan Ponce de León. At the wedding, he manages to give Ysabela the knife, 'so you can defend yourself from the treacherous Moors', their century-old enemies and cause of anything negative, whether drought or flood.

It is 1493 when the former pages meet again as officers in the second voyage of Admiral of the Ocean Sea Christopher Columbus. The three friends resent having to take orders from the Foreigner, Columbus, born Italian, and 'the Page of León'. When Puerto Rico is discovered, its chief, Agüeybaná, asks these 'gods of the sea' to protect his people from the Caribs, cannibals from South America's northern coast who in dugouts raid the Caribbean basin for women, slaves, and loot. Captain Ponce de León promises to protect them. Yet, Iquena, 17, Agüeybaná's daughter, defiantly shows that she is not impressed by a promise and a trinket.

The discoverers go on to La Hispaniola -the island of Haiti and Dominican Republic-, where they find the 39 men left there in the first voyage massacred. Over the objections of Nicolás, the soldiers' commander, Columbus charges Ponce de León to find and punish the culprits. He does and becomes provincial governor of the eastern region. There lands native Mayagüez, who carries a message from Agüeybaná: 'The Caribs have invaded us! Come to our rescue and you will be rewarded in gold.' Ponce de León asks Nicolás to lend him the Crown's ship for the mission. Only too happy to send the Page of León off on a very risky mission, he agrees.

To avoid detection, Mayagüez takes Ponce de León and his reconnoiters to land in Puerto Rico through a bat-infested tunnel. They rail at having to follow the lead of an 'ignorant savage'. Mayagüez concludes that Agüeybaná and Iquena have been captured by the Caribs, who will soon hold an areito. This is a rite of passage where the Carib chief's son, Nincanaqui, will choose for abduction nubile women to serve as producers of children for his future army as well as the strongest men to produce the necessary food; and Agüeybaná's best soldiers will be eaten as a lesson for his people, forced to attend the areito, not to resist the Caribs in their future raids.

After a risky reconnoitering of the village where Agüeybaná and Iquena are being held, Ponce de León realizes that 'my 50 wheat biscuit-eating soldiers are so outnumbered by over 500 cannibals' that he must walk away from a sure defeat. Mayagüez outwits him and makes his soldiers land. "Traacherous Moor!", yells Ponce de León. He retorts, "You promised to protect us. Are the gods of the sea treacherous too?" Thus morally constrained, Ponce de León decides to attempt a rescue just as he wonders how a savage could outwit him...that's it!: Pit the superior intelligence of civilized men against the inferior intelligence of savage Caribs.

The night of the areito, Ponce de León hurls bats with wings stretched out by sticks toward the hut where Iquena is being held; the bats flap convulsively and scare away the guards. He gives her a brass whistle for her to blow when the abduction candidates have arrived at the areito plaza and thereby signal to him that his rescue attempt can begin. The areito is a danced poem about the triumph of Carib life over the birth-mating-death cycle. It is accompanied by music played on primitive instruments. Iquena defiantly forces Nincanaqui to dance to her steps. In the light of torches and a bonfire, the whistle around her neck sparkles, so Nincanaqui takes it from her and put it on himself. When Agüeybaná's best soldiers have been brought to be sacrificed, Iquena daringly warns Nincanaqui that if he disrespectfully breathes into her amulet and disturbs her ancestors' souls, who live inside it, they will kill him. "Me afraid!," he shouts, "your amulet is but a shack for scared rats to hide in", and he blows it. Ponce de León hears the whistle and his ingenious attack begins: Crossbowmen shoot darts with gunpowder wrapped around their heads into the torches and bonfire, thus causing explosions and preying on Carib's ignorance and prejudices. Defeated, the cannibals are expelled from the island to a likely death at sea.

Ponce de León receives his golden reward and the invitation to stay on the island. He brings about economic development, but also diseases that decimate the natives. Searching for a cure, Iquena finds an old man that escaped the Caribs' enslavement after learning firsthand about the Fountain of Youth. Ponce de León listens to his story and deduces where the Fountain must be located. He decides to search for it because it may have, not a magical effect, but medicinal mineral water, whose discovery can earn him what he craves most: acceptance as a Castilian. He fits ships with the help of 'savages', natives whom he deems to be just tagging along. At the farewell party, Iquena chastises him, for while he and his soldiers do not eat her people's flesh, they prey on their labor and disrespect their persons. He replied, "We are Castilians, civilized and superior: Only we are persons."

After being mistaken for a Carib ghost, Iquena is discovered as a stowaway in a coconut powder sac. 'I want to prove that we can do anything the Castilians do', she says. She makes Ponce de León tell her why he is not accepted as a Castilian. The natives mistake a hurricane for the vengeance of the Caribs who died at sea and infect the Spaniards with their fear. Where the ships land is arid and has no mountains from which the Fountain could spring as fountains do in Puerto Rico. But Ponce de León finds a depression embroidered with flowers. He names the land Florida. To steer away from the hurricane, he coasts south, but finds no mountains.

To persuade him to land again, Iquena argues that in dry riverbeds gold is easier to find. So he takes his men ashore. Under a scorching sun they are disheartened at finding no gold, just another depression in...boom! A water jet shoots up from the ground! They frolic like kids...as they are watched. They bring their water barreling materials to the beach to...horrible screams! A surprise attack by Calusa Indians forces the men to run into the sea. Many are saved by Iquena ordering that coconuts, which float, be roped and swung to the water so that the men can pull themselves or be pulled to the ship. At night, the Calusa use that invention to reach and attack the ships. Iquena, as a coconut powder ghost, scares them away, but their chief is caught.

During a summary trial, Ponce de León realizes that hurricane rain flowed underground building pressure until it welled up through the depression's thin topsoil layer. 'There's no Fountain of Youth!' Iquena pleads for the Indian chief's life, asking Ponce de León whether he is a civilized person just because of the accident of his birthplace or a good person who can understand why others defend their land just as Spaniards did against the Moors. He releases the chief and leaves Florida in love with Iquena to search for the true Fountain of Youth: empathetic respect for others based on the commonality of needs and aspirations and prevents deadly enmity.

SOPHIE AND THE CHILDREN OF THE WAND

Synopsis of a script and a novel

An austere woman in her late 40s is ironing the business suit that she bought for her daughter Sophie, 24, to wear on her first day at work. She brings it to Sophie's room. Its extraordinarily original decoration reflects on Sophie's superior artistic imagination and skills. Ignoring that suit, Sophie wears the colorful and stylish 2-piece pantsuit that she designed and sewed.

Sophie walks in a rundown multi-ethnic working class, violence-ridden ghetto known as the Block, for there is no way out of it. In a dilapidated building she receives her assignment: the list of her third graders...She is an elementary schoolteacher! Yet everybody had higher expectations of her. Soon she realizes that the kids are not interested in academic work at all, but from a state of intellectual coma they explode into boisterous activity at playtime, except one, Nico.

She learns that Nico was born to minors, so that his mother abandoned him the year before and his school-dropout father blames him therefor. Neglected by him, Nico is so unkempt and smelly that the kids call him "the Fish" and avoid him, causing him to be withdrawn. Yet, this is what attracts Sophie to him because as a child she was rejected by her peers, though for being too gifted, which she flaunted to get back at them, thus triggering a vicious cycle. She feels that her mother neglected her while becoming a renowned engineer. The memories of her suffering are stoked when she goes with him to his apartment: There is little food and no toys, except a dirty white bathrobe that his mother left and that he hides behind a sofa as his only source of solace.

By contrast, Sophie's father, a literature professor, comforted her with his storytelling that took her to more accepting worlds of the imagination where she was free to be as she was, thus fostering her creativity. Now the artist in her is suffocating in her students' indifference to her teaching the curriculum. Desperate, she would quit, were she not loath to admit that her mother was right in criticizing her career decisions. She confides her agony to Herbert, her mentor and director of the arts academy where she developed her artistic skills and now teaches a computer art class. He advises her: "Don't try to lead them into your learned world; instead, find out what excites them and use its energy". Sophie is at a loss, for no learning, only playing, excites them.

She keeps bringing Nico food and eating with him in his corner of the playground from where he longingly watches the children play. Although he does not talk, she relieves her stress through soliloquies in which she tells stories about her parents and her adoring toys, her younger sister and brother, who... "What program?" Nico asked a question! She realizes that she mentioned having watched a TV program. Thus she discovers that he identifies with his TV heroes. Nico is alive inside! Sophie finds out that the other children are also passionate about their TV heroes. Their TV world is what excites them! From that day on, she ignores the curriculum and has them read about their heroes in *TV Guide* and similar popular magazines. She invents all sorts of games to have them both enact what they read and play people they admire. They love it!

Yet, their abysmal reading skills are even less capable of coping with adult magazines

already too difficult for any eight-year old kid. Hence, Sophie takes them to the school library to help them find children's books "like those our heroes read to learn what to do". But the donated books there are moldy, for adults, and in the custody of "the Cop", a disagreeable librarian. So Sophie suggests taking them to a bookstore, but not any: Imagineland, where they will meet their heroes and see how they use books to learn how to develop their superpowers and defeat their evil enemies. The children are excited by learning! With Herbert's support, she prepares a virtual reality show at Barnes & Noble. But the parents beg off coming along. To take 26 kids alone, Sophie makes them believe that theirs is a dangerous mission requiring their heroes' discipline.

Nico does not show up, for he is afraid of being among the children. On the subway platform, many have the impression that the train is leaving with Sophie but without them. In Block fashion, they break into the car kicking, biting, and pummeling anybody in their way. After they settle into a state of impending aggression under the horrified eyes of surviving straphangers, Sophie persuades the train driver to depart. However, she is shaken by the incident.

The children make it to B&N in 'heroes' discipline formation'. Unbeknown to them, Sophie's students at Herbert's academy take digital photos of them as they enter the show room and manipulate them so that the kids see themselves interacting with their TV heroes while on a virtual trip. It ends in a magnificent library where the heroes congratulate the kids for their decision to study and go to college to become all they can be. Believing that they actually interacted with their heroes, the children come out dazed with wonderment and a free 'book of heroes'. As they are leaving, Sophie sees Nico: He followed them! They go to McDonald's, where in a chain of freak accidents they throw the other diners into an all-out food war that wrecks the place.

After the trip, they cannot stop talking about it to their parents, who are perplexed by their enthusiasm over a schoolteacher, and their schoolmates, who envy them because they have the only exciting teacher in the school. But the Principal reproves Sophie for taking 26 students out to the streets alone and without her authorization. From then on Sophie spends all her free time with her children and avoids her colleagues, who in her view lack imagination to inspire the kids.

She convinces Nico that she can 'make him read', although he feels he is dumb. She realizes that his fear of the other kids causes him to feel inferior and lack self-confidence. An idea hits her: To bring them together to an activity that she can orchestrate so as to bridge their chasm. The inauguration of the auditorium of her siblings' school offers the occasion. Herbert puts his academy resources at her disposal and she infuses her students there with her creative spirit.

The Principal refuses her authorization for a school trip on a Saturday evening, but agrees to the parents taking their kids on it by themselves. But they do not have transportation. At the last minute, Sophie finds a bus and only with the help of Nico do the children learn that it will pick them up. He is confused by his ability to help Sophie since at his father's instigation he deems himself "no good for not'ing". He hides this time too, but she finds and gets him on the bus, where she introduces him as the Announcer and Copilot. The kids wonder who Nico really is.

At the inauguration, they are treated to amazing special effects of sound and light shows, including fierce beasts that morph into swans and then caring mothers. All this makes them believe that they have entered the wondrous Imagineland. Nico panics when Sophie asks him to go with the other children; so she lets him stick with her. He is enthralled when before the play he sees her dressed in white as the Fairy Mother and asks her, "Do you have children?" Sophie is baffled until he adds, "I can be your child. Can you be my mother?" Sophie embraces him as she wishes her mother had done her. She takes him to a seat to watch the play from behind the stage.

During the play, when the Evil Spirits –Hopelessness, Ignorance, and Laziness- come to harm his Fairy *Mother*, Nico rushes hysterically onto the stage to warn her. He is dragged out and scolded by a stagehand. Distraught by the certainty that Sophie has abandoned him for being bad again, Nico hides and cannot be found at departure time. After an anguishing search, Sophie remembers his confidence that when he feels lonely he holds his mother’s ‘dress’. She finds him in the dressing room wrapped in her Fairy Mother dress. Back on the bus, the kids unexpectedly hail him as ‘the Child Prince’ of the play because he ‘saved’ the Fairy Mother and became a TV hero. Nico is overwhelmed and confused, for how could Sophie make him be applauded?

Though the Principal hears admiring comments from parents, she still reprimands Sophie for turning her activity into a school one neither unauthorized nor covered by the insurance. As the children tell their schoolmates ever more aggrandized details, they realize why Sophie is so wonderful: She is Fairy Mother, theirs! She needs a wand so that all of them can become her children and travel with her to Imagineland. A group go to a hazardous closed-down fish market to find a stick that can become her wand. Their now effervescent imagination transforms the ‘horrific’ incidents there into the story of Red Hot, a fish that eats Wand rescuers.

Nico resents that again nobody pays attention to him. Sophie tells him that since he is the Child Prince, he should go and tell them that he wants to be and play with them. “I ain’t no Child Prince, just Nico”. Sophie plans how to drain the Water Box where Red Hot lives to enable her children to find her wand and then see Nico do ‘magic’ with science by distilling some of its polluted water. She only tells him that she will make him work magic on Red Hot’s ‘poison soup’ if he repeats the magic words, ‘I’m the Child Prince;’ otherwise, Red Hot will eat him!

But before she can organize her science event, the children stage an escapade to retrieve the Wand. Nico follows them because of his fear that Sophie will abandon him if he does not join the search for her wand. Upon failing, they realize that the Evil Spirits are out to capture Sophie. If they do, Nico will be left without his Mother! Repeating as if in a trance “I’m the Child, the Child Prince”, he enters Red Hot’s Water Box and retrieves the Wand. The kids bring him back triumphally. But The Principal chastises Sophie for having infected their minds with ‘stories.’ Nico is demoralized because if Red Hot was only a ‘story,’ he is ‘just Nico’. But Sophie tells him that although everybody was afraid, he was the only one to defy Red Hot. Nico accepts his new identity. Sophie buys him new clothes and gets him a haircut. The next day he looks like the Child Prince and is treated as such. After a surprise party, he takes ill and lands in hospital. His father takes the opportunity to abandon him. Sophie manages to bring him home as a foster child.

That is a school policy violation, as is not teaching the curriculum. The Principal suspends Sophie, who learns that what sickened Nico was harmful bacteria in the Water Box. She is shocked, for she is excluded from her children and may be their real, dangerous Evil Spirit. The nasty librarian substitutes for Sophie, but she cannot handle the kids, who keep comparing her with Sophie and complaining that “With Sophie and her magic we can be anything”. The librarian loses her temper. When the children see her, the Principal, and other staff morph into the fierce beasts of the sound and light show, they attack them. Kids and staff get hurt. Sophie is in crisis!

Herbert makes Sophie realize that she became a teacher at the Block to spite her mother and emulate her building prowess, not out of love for kids that could only remind her of those who rejected her. The Principal calls a PTA meeting. Nico, imbued with the sense of the Child Prince, brings the other children to it. Sophie is there, in the business suit that her mother bought her. The meeting backfires because the parents praise Sophie and then chant “We want Sophie!”

Proposal for Developing and Marketing Areas of Academic Excellence In the Form of a Short Story

“Did you bring it?”

“Yes, I did.”

“How do you know? Not good enough. Go on, check it!”

“I had Hannah make us so many copies of it that Customs officers will think we are bringing merchandise for a store.”

“We? Have you...”

“Of course I have. There are copies of it in each of your suitcases and...”

“But what if they get lost?! That’s not good enough! You should have...”

“I did! I put copies of it in each of your handbags and mine. Relax, will you?! You are going to get there so stressed out you won’t be able to appear in command of yourself, let alone of the project.”

“You know how much is riding on it. If we don’t make a very good first impression, we will never get a second chance to attract their attention. Those who have made an investment by also travelling to New York to attend this event will feel disappointed and be lost forever.”

“If we lose them it won’t be because we didn’t bring it since it is impossible not to...”

“Wait a moment! What are you saying there?! That other things can go wrong too? Is...”

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