

Synopsis of an Investigative Journalism Proposal

Where the leads in evidence already gathered in a cluster of *federal cases* would be pursued in a Watergate-like *Follow the money!* investigation to answer the question:

Has a Federal Judgeship Become a Safe Haven for Coordinated Wrongdoing?

with links to *references* at http://Judicial-Discipline-Reform.org/Follow_money/DrCordero-journalists.pdf

This is a poignant question, for it casts doubt on the integrity of the government branch that should incarnate respect for the law and high ethical values. What makes it a realistic question worth investigating is the fact that since the *Judicial Conduct Act* judges are charged with the duty to discipline themselves. Anybody with a complaint against a federal judge must *file* it with the chief circuit judge, whose decision may be reviewed by the circuit council. But according to the *official statistics*, judges systematically dismissed 99.86% of the 7,977 complaints terminated in the 1oct96-30sep07 11-year period with no investigation or private or public discipline. In the last 29 years only three judges –*currently 2,180* are subject to the Act- have been impeached and removed. This shows self-exemption from discipline and coordination to disregard a duty placed by law upon judges. Actually, in the 220 years since the creation of the federal judiciary in 1789, *only seven judges* have been impeached and removed...on average one every 31 years!

Money provides a motive for discipline self-exemption. Indeed, the chief justice of the Supreme Court and the associate justices are allotted as circuit justices to the several circuits. With their chief district and circuit judges they review *twice a year reports* showing that those judges systematically dismiss complaints against their peers. All of them know too that bankruptcy judges dispose of tens of billions of dollars annually and do so however they like: In FY08, *1,043,993 new bankruptcy cases* were filed while only 773 were appealed to the circuit courts. In turn, circuit judges dispose of *75% of appeals by summary orders*, where there is mostly only one operative word, “Affirmed”. Those orders have *no precedential value*, thus leaving judges free to decide future cases however they want. Such freedom for inconsistent and arbitrary decision-making is further ensured by circuit judges *not publishing 83.5% of opinions* and orders terminating cases on the merits. So no matter how bankruptcy judges dispose of money, their rulings are all but assured to stand; otherwise, to be reversed without explanation.

Unaccountable power and lots of money!, the two most insidious corruptors in the hands of discipline self-exempted judges. Risklessness enables and encourages judges to engage in unlawful conduct for profit; coordination allows them to maximize the benefit. A most profitable form of coordinated judicial wrongdoing is a *bankruptcy fraud scheme*. The case described on page 2, *DeLano*, now before the *Supreme Court (08-8382)*, provides evidence of such a scheme. Journalists can use it to conduct a pinpointed Watergate-like *Follow the money!* investigation reminiscent of that led once by Carl Bernstein and Bob Woodward and likely to reach similar results: The exposure of coordinated or tolerated wrongdoing by judges all the way to the judiciary’s top.

If on average it took 31 years to hold accountable people like B. Madoff, who could dispose of tens of billions of dollars, including your money, and who in addition could exercise power over your property, liberty, and even life however they wanted with no more consequences than the reversal of their decisions, do you think that they would be tempted to treat you and everybody else with arrogant disregard? If all your complaints and everybody else’s ended up in the wastebasket, would you expect everybody to want to know of your efforts to force those people out of their safe haven so as to require them to treat everybody according to law or be liable to all of you? If so, you have a U.S. audience of 303 million persons waiting to know about your efforts to hold those Madoff-like judges accountable for their conduct. Hence, I invite you to read on and then contact me to discuss how I can facilitate the proposed *Follow the money!* investigation.

The Salient Facts of The *DeLano* Case

(as of 6sep10)

revealing the involvement of bankruptcy & legal system insiders in a bankruptcy fraud scheme(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 ⁶ Cf. §XII ⁷ §XI ⁸ §I.B ⁹ §II

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Summary of the DeLanos' income of \$291,470

+ mortgage receipts of \$382,187 = \$673,657

and credit card borrowing of \$98,092

unaccounted for and inconsistent with their declaration in Schedule B of their voluntary bankruptcy petition (D:23)¹ that at the time of its filing on January 27, 2004, they had in hand and on account only \$535!

Exhibit page #	Mortgages ² referred to in the incomplete documents produced by the DeLanos ^a to Chapter 13 Trustee George Reiber (cf.Add:966§B)	Mortgages or loans	
		year	amount
D ^b :342	1) from Columbia Banking, S&L Association	16jul75	\$26,000
D:343	2) another from Columbia Banking, S&L Asso.	30nov77	7,467
D:346	3) still another from Columbia Banking, S&L Asso.	29mar88	59,000
D:176/9	4) owed to Manufacturers & Traders Trust=M&T Bank	March 88	59,000
D:176/10	5) took an overdraft from ONONDAGA Bank	March 88	59,000
D:348	6) another mortgage from Central Trust Company	13sep90	29,800
D:349	7) even another one from M&T Bank	13dec93	46,920
D:350-54	8) yet another from Lyndon Guaranty Bank of NY	23dec99	95,000
	9) any other not yet disclosed?	Subtotal	\$382,187
The DeLanos' earnings in just the three years preceding their voluntary bankruptcy petition (04-20280, WBNY; D:23)			
2001	1040 IRS form (D:186)	\$91,229	\$91,229
2002	1040 IRS form (D:187) Statement of Financial Affairs (D:47)	\$91,859	91,655
2003	1040 IRS form (D:188) Statement of Financial Affairs (D:47)	+97,648	+108,586
to this must be added the receipts contained in the \$98,092 owed on 18 credit cards, as declared in Schedule F (D:38) ^c		\$280,736 ^d	\$291,470 ^d
		TOTAL	\$673,657

^a The DeLanos claimed in their petition, filed just three years before traveling light of debt to their golden retirement, that their home was their only real property, appraised at \$98,500 on 23nov3, as to which their mortgage was still \$77,084 and their equity only \$21,416 (D:30/Sch.A) ...after paying it for 30 years! and having received \$382,187 during that period through eight mortgages! *Mind-boggling!* They sold it for \$135K³ on 23apr7, a 37% gain in merely 3½ years.

^b D=Designated items in the record of [Cordero v. DeLano, 05-6190L, WDNY](#), of April 18, 2005.

^c The DeLanos declared that their credit card debt on 18 cards totals \$98,092 (D:38/Sch.F), while they set the value of their household goods at only \$2,810! (D:31/Sch.B) *Implausible!* Couples in the Third World end up with household possessions of greater value after having accumulated them in their homes over their working lives of more than 30 years.

^d Why do these numbers not match?

¹http://Judicial-Discipline-Reform.org/Follow_money/DeLano_docs.pdf>§V. ²Id.>§§VI-VIII. ³Id.>§X.

***Follow the Money!* from a Subpoena for the Financial Statements
of the Weak Link, the DeLanos, to the Top of the Bankruptcy Fraud Scheme**

The weak link is the DeLanos, for if they were shown to have concealed assets, they would face up to 20 years imprisonment and up to \$500,000 in fines each. (18 U.S.C. §§152-157, 1519, and 3571) In that event, Mr. DeLano could use the wealth of inside knowledge of wrongdoing that he gained during the more than 42 years that he spent as a banker as his chip in plea bargaining for leniency. He could trade up to “bigger fish”, such as Bankruptcy John C. Ninfo, II, WBNY, the trustees, and other bankruptcy system insiders, anyone of whom could incriminate him. In turn, the Judge could trade up to “fat cats” in the federal judiciary who have either participated in running, or sharing in the benefits of, the bankruptcy fraud scheme or have knowingly looked the other way for years.

The *Follow the money!* investigation can also search the public registries, such as county clerk’s offices. (<http://www.naco.org>; for Rochester, NY, go to <http://www.monroecounty.gov/>; see also §§VI-VIII, X infra) Then it can cover private and official trustees and other bankruptcy system insiders. The following leads can pinpoint and expedite a cost-effective investigation:

David Gene DeLano, SS # 077-32-3894
DoB: September 1, 1941
Last employer: M&T Bank –Manufacturers & Traders Trust Bank-
255 East Avenue, Rochester, NY 14604
Previous employers: Central Trust, Rochester, NY;
First National Bank, Rochester, NY; employed as Vice President
Voter Identification Number: 13374201

Mary Ann DeLano, SS # 091-36-0517
DoB: September 21, 1944
Last employer: Xerox, Rochester, NY; employed as a product specialist
Last known address: 1262 Shoecraft Road, Webster, NY 14580; tel. (585) 671-8833
Previous address: 35 State Street, Rochester, NY 14814-8954

Their children and **Jennifer DeLano,** born circa 1969
their education: Mercy High School, 1988
Associate Business degree from Monroe Community College, NY

Michael David DeLano, born circa 1971
Aquinas High School, 1989
Associate Business degree from Monroe Community College, NY

Initial judges: Their investigation can begin by matching up **a)** the assets that they declared in their mandatory annual financial disclosure reports publicly filed with the Administrative Office of the U.S. Courts (<http://www.uscourts.gov/>) under the Ethics in Government Act (**5 USC App. 4)** and **b)** assets –homes, cars, boats- registered in their names or their relatives’ or strawmen’s; then on to finding from drivers, barmen, maids, etc. about their conduct at judicial junkets; etc.

1. U.S. Bankruptcy Judge John C. Ninfo, II, WBNY; Rochester, NY; <http://www.nywb.uscourts.gov/>
2. U.S. District Judge David G. Larimer, WDNY; Rochester, NY; <http://www.nywd.uscourts.gov/>
3. Former CA2 Chief Judge John M. Walker, Jr.; NYC; <http://www.ca2.uscourts.gov/>
4. Current CA2 Chief Judge Dennis Jacobs
5. CA2 Judge Peter W. Hall; NYC

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(as of 19nov9)

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 Period

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: Prison Inmates	354
7.					Litigants	303
8.					Attorneys	7
9.					Public Officials	0
10.					Other	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 Allegations⁸:	
19.	Mental Disability	16	408	35	Disability	30
20.	Physical Disability	4	66	5.7		
21.	Demeanor	5	262	23	Hostility Toward Litigant or Attorney	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	<i>Conflict of Interest (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.					<i>Actions Regarding the Complaints [cf. row 52 Left]</i>	
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				<i>Actions by Chief Judge</i>	
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	<i>Frivolous</i>	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>; 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. Moreover, 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 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.)

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

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

2nd Circuit Judicial Council & 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/SCT_nominee/Senate/26evidence/1DrCordero-Senate.pdf

The Dynamics of Institutionalized Corruption in the Courts

How judicial wrongdoing tolerated or supported in one instance gives rise to the mentality of judicial impunity that triggers generalized wrongdoing and weaves relationships among the judges of multilateral interdependency of survival where any subsequent unlawful act is allowed and must be covered up

A judge that engages in wrongdoing once and gets away with it because the other judges will not discipline him or her, will be more likely to do wrong again: The judge realizes that as a matter of practice wrongdoing is an easy or profitable way of handling judicial business and can be engaged in with impunity regardless of the harm caused to third parties. An example is set for fellow judges to follow. In time, everyone knows about the wrongdoing of the others, whether it be bias, abuse of power, or disregard for the law and the facts. Then they must cover for each other, for if one were allowed to be indicted, he or she could tell on another who could tell on another and with domino effect all would fall. This effect would take place even if the incriminated judge were low in the judicial hierarchy, for he or she could trade up in a plea bargain by incriminating those higher up, whether appellate judges or a chief judge, who knew about that one's wrongdoing, or though ignoring it, knew about the wrongdoing of other judges subject to the domino effect, but passively tolerated, or even actively supported them through a cover up or participation, despite their duty to safeguard the integrity of judicial process.¹

In a hierarchy where integrity is of the essence for the court's single business, that is, administering justice in accordance with due process, the incrimination of a chief judge would give rise to a most threatening question, to wit, what else did he or she tolerate or support that impaired or denied due process in any other case or all other cases of the indicted judge and, by the same token, of any other judge and all the other judges of the court. In one single step, the trade up, the whole court would come under scrutiny and with it the validity-determinative due process element of the decision in every one of its cases.

This illustrates the dynamics of multilateral interdependency of survival in a practically closed and stable group of people, such as the federal judiciary, where no member, however low in the hierarchy, is expendable: If one judge falls, all fall, unless that one was the odd man out who went outside the group on a folly of his own and never became privy to the wrongdoing of the other judges. Once those dynamics are allowed to determine the relationships among judges, the mentality of everything goes develops, for another, even a more egregious, act of wrongdoing must be tolerated or supported. Were it not, a complaint that was investigated and led to disciplinary action would set a precedent that other complaints could cite in their support, each one of which could support other complaints, thus triggering a chain reaction and uncovering a pattern of wrongdoing that could lead to the fall of a court or the judiciary.

The everything goes mentality boosts a degenerative trend that leads from individual wrongdoing to institutionalized corruption. In the judiciary, even outsiders to the class of judges, whether it be court staff, parties frequently before the court, e.g. lawyers and bankruptcy trustees, and litigants, are allowed in the corruption in exchange for a material or moral benefit payable or receivable in the case at hand or in IOUs for future cases. By then, the force guiding the judges and their courts is not the law of Congress under the Constitution, but rather their interest in surviving and thriving. The courts become a racketeer influenced and corrupt organization.

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