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July 14, 2009

Senator Al Franken
Senate Judiciary Committee
320 Hart Senate Office Building
Washington, DC 20510

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Dear Senator Franken,

Yesterday you stated in your introductory remarks during the hearings on Judge Sotomayor that ‘you may not be a lawyer, but neither are most Americans’. By contrast, what you are is a Harvard man, capable of exercising your own judgment to arrive at your own opinion. You have also been so far a man of your own, who does not toe the line of any party or group.

It is as such a man that I am addressing to you evidence of Judge Sotomayor’s three acts of substantial wrongdoing. That 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 are those of her conduct, through which she has compromised her integrity and impartiality. In brief, the evidence shows that she:

- 1) evaded her duty to disclose “in detail all her assets...and liabilities”;
- 2) withheld the *DeLano* case, 06-4780-bk, from the Committee and her motive therefor; and
- 3) showed partiality toward her peers by participating, as a member of the Judicial Council of the Second Circuit, in the latter’s *100% denial of petitions for review of judicial misconduct complaints during the 1oct96-30sep08 12-year period.*

The evidence is contained in a letter, a table of her known earnings and the only assets and liabilities that she disclosed, and a proposed subpoena for the *Follow the money!* investigation of her financial affairs and of the similarly non-disclosed assets in *DeLano*. See, http://Judicial-Discipline-Reform.org/SCT_nominee/JSotomayor_integrity/11DrCordero-SenJudCom.pdf; as augmented by supporting documents referred to in the statements’ copious notes, see, http://Judicial-Discipline-Reform.org/SCT_nominee/Senate/7DrCordero-SenJudCom_docs.pdf

I trust you recognize the gravity of Judge Sotomayor having represented to the Committee that she had submitted all the requested cases while in fact she omitted *DeLano*. Moreover, that case belies her opening statement yesterday that as a justice ‘she would follow her simple judicial philosophy of applying the law’. *DeLano* proves the egregious way in which she violated discovery rights and denied due process of law in order to cover up the concealment of at least \$673,657 in just one of the 3,907 cases of one trustee before her appointee, the bankruptcy judge. How many other cases involving lots of money and insiders may she have likewise withheld?

Confronted with the evidence, you must now decide whether you will follow the Democrats’ order to confirm her regardless of the facts or whether for the sake of your constituents and all those who seek “Equal Justice Under Law” you will expose her compromised integrity and impartiality. If the latter, you can lead your former media colleagues in a *Follow the money!* investigation into her financial affairs and a judicially run bankruptcy fraud scheme that preys on millions of financially strapped debtors and creditors. That would be a worthy agenda for a serious and ambitious national politician who wants to become as a first step our generation’s Senator Sam Ervin of Watergate fame.

Sincerely, *Dr. Richard Cordero, Esq.*

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Senator Al Franken
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320 Hart Senate Office Building
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Dear Senator Franken,

I hereby bring to your attention, and explain the significance for the assessment of the integrity and impartiality of Justice Nominee Judge Sonia Sotomayor of, a case that she withheld from you and your Committee. Indeed, the latter requested in its Questionnaire for Judicial Nominees that she “13.c. Provide citations to all cases in which you were a panel member, but did not write an opinion” and “13.f. Provide a list of all cases in which certiorari was requested or granted”.¹ Although the Judge referred you to the Appendix² for her answer and stated in her letter to you of June 15 that “In responding to the Committee Questionnaire, I thoroughly reviewed my files to provide all responsive documents in my possession”, she neither included that case in the Appendix nor in either of the supplements with her letters to you of June 15 or 19³ following your requests for more precise answers.

The case that Judge Sotomayor withheld from you is *Dr. Richard Cordero v. David Gene and Mary Ann DeLano*, 06-4780-bk.⁴ She knows that case, for she was the presiding judge on the panel that heard oral argument on January 3, 2008, and received the written statement that I also filed with her on that occasion.⁵ By then she had been made aware of the importance of the case by the motions judge referring to the panel many of the 12 substantive motions that I filed in that case.⁶ She was also the first judge listed on the order dismissing the case the following February 7.⁷ She had to further handle the case because I filed a petition for panel rehearing and hearing en banc on March 14.⁸ Moreover, after she and her colleagues denied both on May 9 by reissuing the order as the mandate (attached hereto), I filed an application with Justice Ginsburg⁹ on June 30, and then with all the Justices for injunctive relief and a stay of the order on August 4.¹⁰ Thereafter I filed a petition for certiorari on October 3.¹¹ What is more, I also filed a petition for rehearing on April 23, 2009, of the denial of certiorari, which was denied last June 1.¹²

All these proceedings were exceedingly sufficient to make the case stand out in Judge Sotomayor’s mind. Nonetheless, she had to deal with it once more after I filed with the Judicial Council of the Second Circuit, of which she is a member, a petition for review of the dismissal by Chief Judge Dennis Jacobs of my judicial misconduct complaint for bias, prejudice, and abuse of judicial power, 02-08-90073-jm.¹³ The complaint’s subject was, not just any judge, but rather her and her colleagues’ appointee to a bankruptcy judgeship, i.e., Bkpt. Judge John C. Ninfo, II, WBNY. This could only have made her all the more aware of the need to submit *DeLano* too to your Committee. However, the risk for her of your reviewing it was too high because what is at stake is a cover-up of a judicially supported bankruptcy fraud scheme involving lots of money.¹⁴

The cover-up aimed to keep concealed from creditors at least \$673,657 in just one of the unmanageable 3,907 *open* cases as of April 2, 2004, according to PACER¹⁵, brought by the same trustee, George Reiber, before Judge Ninfo. To that end, Judge Sotomayor condoned her Appointee’s denial of, and denied me herself, *every single document* that I ever requested to defend my claim from the motion to disallow it and evidentiary hearing concocted by the DeLanos and J. Ninfo.¹⁶ That constituted a blatant denial of the right to discovery under FRBkrP 7026 and 7034 and FRCivP 26 and 34. By so doing, she showed contempt for the most important constitutional guarantee that any judge, let alone a Supreme Court justice, must safeguard: due process of law.

The cover-up began when Judge Ninfo protected the most unlikely of ‘bankrupts’, Mr. DeLano, 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, with \$65 billion in assets at the end of 2008¹⁷, is an important client of the law firm, Underberg & Kessler, in which J. Ninfo was a partner at the time of taking the bench. Both M&T and Mr. DeLano were represented by another partner in that firm, Michel Beyma, Esq., in the case from which *DeLano* arose, i.e., *Pfuntner v. Trustee Kenneth Gordon et al.*, 02-2230, WBNY,^{cf. 30} and in which their liability to me had to be determined. As for Trustee Gordon, he had 3,382 cases before Judge Ninfo out of his 3,383 as of June 26, 2004.¹⁸ So, when it came time for Mr. DeLano to prepare his debt-free retirement to a golden pot, he filed together with his wife a bankruptcy petition in which they listed me as a creditor. Hardly randomly did their case land before Judge Ninfo.

However much the expertise and position of a professional like Mr. DeLano rendered his bankruptcy inherently suspicious, Judge Ninfo did not review his petition for bankruptcy relief at all. Rather, he denied my request for production by the DeLanos of even their bank account statements. So did Judge Sotomayor, impervious to how much common sense, never mind review with due diligence, requires that such statements be produced by anyone claiming lack of money to pay his debts, particularly if still employed and earning an above average salary. She could not in good faith have considered that the DeLanos had no duty whatsoever to produce a single document to support their otherwise self-serving declarations in their petition; or that a creditor facing the loss of his claims on them had no right under any legal or equitable theory to obtain a single document from the self-portrayed bankrupts and was reduced to taking their declarations at face value. It is absolutely impossible to imagine that she, “a wise woman with the richness of her experiences” as a former member of the board of directors of the State of New York Mortgage Agency, financial counselor in her own firm of Sotomayor and Associates, and corporate litigator at Pavia & Harcourt for high-end clients, such as Ferrari, Fendi, and Bulgari, did not suspect that something was wrong and required close scrutiny. She had stronger grounds for suspicion due to the petition’s incongruousness and implausibility, which I pointed out to her.¹⁹

In fact, in their bankruptcy petition²⁰, the DeLanos declared, inter alia, that **1)** they had earned \$291,470 in the preceding three years, were still on their jobs, and had a monthly excess income of \$1,940, yet claimed that they only had \$535 in hand and on account; **2)** their only real property was their home, appraised at \$98,500, yet their mortgage was still \$77,084 and their equity only \$21,416...after making payments on it for 30 years and receiving during that time at least \$382,187 through a string of *eight mortgages!*; and **3)** they owed \$98,092 on credit cards, spread thinly over 18 of them so that no issuer would have a stake high enough to deem litigation cost-effective, yet they valued their household goods at only \$2,810 and described their life style as modest, but they had at last count \$27,953 to pay the legal fees of their bankruptcy attorney, Christopher Werner, Esq., who had 525 cases before Judge Ninfo²¹, to defend against my document production motions.²² They simply could not risk producing them, for those documents would have proved that they had engaged in bankruptcy fraud through concealment of assets.

Judge Sotomayor could not risk ordering them produced either, because the ensuing domino effect incriminations could topple her too. The documents would have made it possible to track at least \$673,657 of the DeLanos’ known salary and mortgage receipts to their hidden stash. After finding the latter, the DeLanos could be indicted for bankruptcy fraud. Facing up to 20 years imprisonment and up to up to \$500k in fines²³, Mr. DeLano would deem it in his interest to plea bargain for leniency for himself and/or his wife in exchange for his incriminating testimony

of what he had learned during his long banking career about the involvement of Judge Ninfo, trustees, lawyers, court staff, and other bankruptcy system insiders like himself in a bankruptcy fraud scheme. Any one of them could in turn incriminate higher ups in the judiciary who, like Judge Sotomayor, at least had reason to suspect the scheme's existence, but rather covered it up and enabled its continued operation. Confronted with a conflict of interests between saving herself and her colleagues through collegial complicity and discharging her duty to ensure due process and denounce bankruptcy fraud²⁴, Judge Sotomayor compromised her integrity. She showed gross partiality toward her colleagues and other insiders by dismissing the appeal without addressing even one of the issues presented or using the term that explicitly linked them all: fraud.⁴

Thus covering for Appointee Ninfo is standard practice for Judge Sotomayor and her Council colleagues. In the 12-year period 1oct96-30sep8, they have *denied 100% of all petitions* for review of dismissed misconduct complaints, as the official statistics show.²⁵ The egregiousness of the complained-about conduct was no bar for her participation in such systematic denial: After having 'heard' it in *DeLano*, Judge Sotomayor 'heard' again in the complaint from the mouth of Judge Ninfo himself, as recorded in the transcript of the evidentiary hearing on March 1, 2005, how he, over my outraged objections, repeatedly allowed Mr. Beyma, the partner in the same firm as his, and Mr. Werner, the frequent insider in his court, to signal answers with their arms to their client, Mr. DeLano, as he was on the stand responding under oath to my examination!²⁶ Will she defend at the hearings his or her conduct, which showed contempt for due process and an Act of Congress²⁷ and no "empathy" for the complainants left at the mercy of complained-against judges? Why does she hold judges unaccountable: Judges Above the Law?

So she holds herself. Just as she let the DeLanos disregard their duty to disclose their financial affairs, Judge Sotomayor has failed to perform her duty under the Questionnaire to "Provide a complete, current financial net worth statement which itemizes in detail all assets [and] all liabilities".²⁸ This results from her own answers to your Committee and publicly available documents. Based thereon, a table²⁹ with links to those sources shows that from January 1988 to May 2009, she earned at least \$3,773,824 plus took out loans worth at least \$381,775. Yet, the total of \$4,155,599 minus taxes and the cost of her reportedly modest living³⁰ cannot by any means be accounted for by assets worth only \$543,903, excluding capital appreciation. Unlike a discussion of her judicial philosophy, which turns on a matter of opinion, her handling of her and her colleagues' money is a matter of fact that concerns two qualifications which all agree are indispensable for confirmation: her integrity and impartiality. Public outrage at the President's nomination of tax evaders Tim Geithner, Tom Daschel, and Nancy Killefer attests to that.

Therefore, I respectfully request that your Committee **1)** ascertain why Judge Sotomayor withheld from you *DeLano* as well as any other requested cases; **2)** conduct a *Follow the money!* investigation of her financial affairs as well as of the DeLanos' concealed assets and of the parties to *Pfuntner*³¹ in order to expose the bankruptcy fraud scheme³²; **3)** investigate the impossible coincidence that on several occasions my four email accounts stopped receiving emails a day after I widely emailed articles with evidence of CA2's scheme cover-up³³; and **4)** invite me to be heard at the hearings on Judge Sotomayor's confirmation so that I may provide a firsthand account of her participation in the cover-up and its reflection on her integrity and impartiality³⁴.

To *Follow the money!* to a judicially run bankruptcy fraud scheme before journalists do and determine how much it aggravates the misery of millions of debtors and creditors are worthy tasks for a principled national politician who wants to become the Sam Ervin of our generation.

Sincerely, *Dr. Richard Cordero, Esq.*

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- 1 **a)** <http://judiciary.senate.gov/nominations/SupremeCourt/Sotomayor/SoniaSotomayor-Questionnaire.cfm> >Committee Questionnaire > p.88§c and 98§f;
- 2 **b)** with added bookmarks useful for navigating the file containing the materials relating to cases and financial affairs submitted by Judge Sotomayor in response to the Questionnaire, also at http://Judicial-Discipline-Reform.org/SCT_nominee/JSotomayor_integrity/2SenJudCom_Questionnaire_JSotomayor.pdf
- 3 <http://judiciary.senate.gov/nominations/SupremeCourt/Sotomayor/SoniaSotomayor-Questionnaire.cfm> > Committee Questionnaire - Appendix; and endnote 1.b) supra.
- 4 <http://judiciary.senate.gov/nominations/SupremeCourt/Sotomayor/SoniaSotomayor-Questionnaire.cfm>; and endnote 1.b) supra >JS:304 and 313.
- 5 http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_06_4780_CA2.pdf
- 6 http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_CA2_oralarg.pdf
- 7 http://Judicial-Discipline-Reform.org/US_writ/1DrCordero-SCT_petition_3oct8.pdf >US:2484. Table: Document requests by Dr. Cordero and denials by CA2.
- 8 Endnotes 4 and 6 supra >CA:2180; attached hereto after reissuance as mandate.
- 9 http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_CA2_rehear.pdf
- 10 http://Judicial-Discipline-Reform.org/SCT_chambers/2injunctive_relief/DrCordero_JGinsburg_injunction_30jun8.pdf
- 11 http://Judicial-Discipline-Reform.org/SCT_chambers/8application_injunction_stay/1DrRCordero-SCTJustices_4aug8.pdf
- 12 Endnote 6 supra.
- 13 http://Judicial-Discipline-Reform.org/US_writ/2DrCordero-SCT_rehear_23apr9.pdf
- 14 http://Judicial-Discipline-Reform.org/JNinfo/21review_petition/2DrCordero_JudCoun_10nov8.pdf; cf. endnote 25 infra.
- 15 http://Judicial-Discipline-Reform.org/Follow_money/How_fraud_scheme_works.pdf
- 16 http://Judicial-Discipline-Reform.org/docs/Trustee_Reiber_3909_cases.pdf
- 17 Endnote 4 supra >CA:1732§2. Cf. endnote 26 infra and corresponding paragraph.
- 18 <https://www.mtb.com/aboutus/Pages/WhoIsMT.aspx>
- 19 http://Judicial-Discipline-Reform.org/docs/TrGordon_3383_as_trustee.pdf
- 20 Endnote 4 supra >CA:1725§III.A. Statement of Facts of *DeLano*.
- 21 http://Judicial-Discipline-Reform.org/Follow_money/DeLano_docs.pdf >§V
- 22 http://Judicial-Discipline-Reform.org/docs/Werner_525_before_Ninfo.pdf
- 23 The Salient Facts of the DeLano Case, http://Judicial-Discipline-Reform.org/Follow-money/DrCordero_journalists.pdf >2.
- 24 18 U.S.C. §§152-157, 1519, 1957 and 3571, concealing assets and money laundering in a bankruptcy setting; http://Judicial-Discipline-Reform.org/docs/18usc_bkrp_crimes.pdf
- 25 18 U.S.C. §3057(a) Any judge, receiver, or trustee having reasonable grounds for *believing* that any violation under chapter 9 of this title [18 U.S.C. §§152-157 on

bankruptcy crimes] or other laws of the United States relating to insolvent debtors, receiverships or reorganization plans [e.g. 18 U.S.C. §1519 on destruction of bankruptcy records; §3284 on concealment of bankrupt's assets] 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: just a belief, not hard evidence, triggers the duty, which was disregarded]

- ²⁵ http://Judicial-Discipline-Reform.org/JNinfo/25Committee/2DrCordero-petition_25feb9.pdf >N:51¶¶1-4 and N:39, which collects on one table the statistical complaint tables of the Administrative Office of the U.S. Courts and provides links thereto. See also N:146, which describes how its Director, James Duff, refused to discharge his “self-explanatory” duty under Rule 22(e) of the Rules for Judicial Conduct and Disability Proceedings to “distribute the petition [for review of the Judicial Council’s mishandling of the complaint against Judge Ninfo] to the members of the Committee [on Judicial Conduct and Disability] for their deliberation”. http://Judicial-Discipline-Reform.org/docs/Rules_complaints.pdf
- ²⁶ http://Judicial-Discipline-Reform.org/docs/transcript_DeLano_1mar5.pdf >Tr.28/13-29/4; 75/8-76/3; and 141/20-143/16. Endnote 13 supra >JC:18¶17.
- ²⁷ Judicial Conduct & Disability Act, <http://Judicial-Discipline-Reform.org/docs/28usc351-364.pdf>
- ²⁸ Ent. 1.a supra >167; and ent. 3 >June 15 letter, Supp., p.2; also at 1.b>JS:167 and 317
- ²⁹ http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_integrity/12table_JSotomayor-financials.pdf
- ³⁰ N.Y. Federal Judge Likely on Shortlist, Keith Richburg, The Washington Post, May 7, 2009; <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/06/AR2009050603762.html>; Friends Provide a Glimpse Into Sotomayor's 'Very Full Life', Keith B. Richburg, Robin Shulman and Nancy Trejos, The Washington Post, May 31, 2009; <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/30/AR2009053002061.html?nav=emailpage>
- ³¹ The conduct in *Pfuntner* of J. Ninfo, District J. David Larimer, WDNY, and other judges who protected Trustee Gordon, ‘bankrupt’ David Palmer, owner of Premier Van Lines Moving & Storage, its lender M&T and Bankruptcy Officer DeLano, and Warehouse Pfuntner is just as outrageous and contemptuous of due process as that in *DeLano*, for it is intended to protect the same bankruptcy fraud scheme. Hence, the two cases must be investigated together. *Pfuntner* was appealed to CA2 sub nom. *In re Premier Van et al.*, 03-5023, http://Judicial-Discipline-Reform.org/docs/DrCordero_v_TrGordon_CA2.pdf; and to the Supreme Court as *Cordero v. Gordon*, 04-8371, http://Judicial-Discipline-Reform.org/docs/DrCordero_v_TrGordon_SCT.pdf.
- ³² Useful for the *Follow the money!* investigation: endnote 20 supra >data: W:1-3 personal, §§VI-VIII financial; §XIII [proposed subpoena](#) for key documents and contact information.
- ³³ Dr.Richard.Cordero.Esq@gmail.com; Dr.Richard.Cordero.Esq@Judicial-Discipline-Reform.org; CorderoRic@yahoo.com; and Cordero.Ric@hotmail.com
- ³⁴ The Choice: Judge Sotomayor’s Ethnicity v. Equal Justice Under Law; http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_v_Equal_Justice.pdf

MANDATE

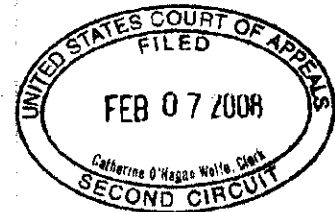
W.D.N.Y.
0: cv-6190
Larimer, J.

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:

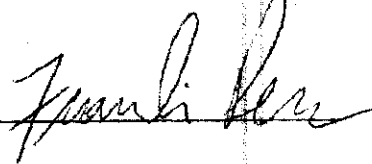
Catherine O'Hagan Wolfe, Clerk

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 & J. Sotomayor's 100% Denial of Petitions for Review of Systematically Dismissed Misconduct Complaints Against Their Peers & 0 Judge Disciplined in the Reported 12 Years

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/judicial_complaints/complaint_tables.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.

http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_integrity/12table_JSotomayor-financials.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 subpoenas⁵. 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, 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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- 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 the addition of useful bookmarks, can be found at http://Judicial-Discipline-Reform.org/docs/5usc_Ethics_Gov_14apr9.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; endnote 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; <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/06/AR2009050603762.html>. (emphasis added)

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 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.

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- 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. Would you trust the impartiality and objectivity of a judge who was a partner in the firm of your opposing counsel? 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>.

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>.

- 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 Staff Writers, The Washington Post, Sunday, May 31, 2009; <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/30/AR2009053002061.html?nav=emailpage>.

“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](http://www.gpoaccess.gov/uscode/search.html).

- 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%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; http://voices.washingtonpost.com/44/2009/05/07/sotomayor_rose_high_with_few_a.html?sid=ST2009050702123. (emphasis added)

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 Staff Writers, The Washington Post, Sunday, May 31, 2009; <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/30/AR2009053002061.html?nav=emailpage>.

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/SoniaSotomayor-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; <http://www.politico.com/news/stories/0509/23045.html>. (emphasis added)

**[Contact Information and Links to Items in The Record
useful for preparing to interview people that can provide documents and
information for the *Follow the money!* investigation to expose
a judicially run and tolerated bankruptcy fraud scheme^{1]}**

http://Judicial-Discipline-Reform.org/SCt_nominee/Senate/6DrCordero-SenJudCom_subpoena.pdf
part of http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_integrity/11DrCordero-SenJudCom.pdf

**UNITED STATES SENATE
JUDICIARY COMMITTEE**

SUBPOENA

(as of 3jul9)

Having considered information submitted to this Committee, we hereby issue this subpoena:

Table of Contents

A. PERSONS CONCERNED BY THIS SUBPOENA AND ITS EXECUTION	1
B. DUTIES OF A CONCERNED PERSON	7
C. DOCUMENTS IN GENERAL, PRODUCTION, AND CERTIFICATION	10
D. PARTICULAR DOCUMENTS TO BE PRODUCED	11

A. Persons concerned by this subpoena and its execution

1. Any person or entity, whether a corporation, company, firm, association, unincorporated group, branch of government or subdivision thereof, is concerned by this subpoena (hereinafter concerned person) who:
 - a. has actual knowledge of it;
 - b. would have knowledge of it by proceeding as a reasonable person would acting in good faith, or with due diligence, or competently, or in the official or fiduciary capacity or with the training or experience that is the same as, or equivalent to, that of such person or entity.
2. Among the concerned persons are those identified in ¶¶3-18 below:
3. David DeLano and Mary Ann DeLano (hereinafter the DeLanos), formerly resident at 1262 Shoecraft Road, Webster, NY 14580, and debtors in *In re David and Mary Ann DeLano*, 04-20280, WBNY; *Cordero v. DeLano*, 05-cv-6190L, WDNY; *Dr. Richard Cordero v. David and Mary Ann DeLano*, 06-4780-bk, CA2, and *Dr. Richard Cordero v. David and Mary Ann DeLano*,

Discipline-Reform.org/docs/DrCordero_v_DeLano_WDNY.pdf >Pst:1289§f]

6. James Pfunter, at the address of his attorney, David MacKnight, Esq., dmacknight@lacykatzen.com, or successor, at Lacy, Katzen, Ryen & Mittlemann, LLP, 130 East Main St., Rochester, NY 14604; tel. (585)454-5650, fax (585)269-3077, plaintiff in *Pfunter v. Trustee Gordon et al.*, 02-2230, WBNY (hereinafter *Pfunter*); <http://www.lacykatzen.com/>; [cf. **(a)** Statement of counterclaims, cross-claims, and 3rd party claims in *Pfunter*, http://Judicial-Discipline-Reform.org/Pfunter_record/A1-260.pdf >A:72§I, 78§A; **(b)** Combined docket from Bankruptcy Court, WBNY, to Supreme Court, http://Judicial-Discipline-Reform.org/dockets/6Pfunter_Bkr-SCt_28mar5.pdf; **(c)** Table of entries in the record of *Pfunter*, http://Judicial-Discipline-Reform.org/Pfunter_record/ToE_A_Pfunter.pdf; **(d)** see ¶3.d supra]
7. Kathleen Dunivin Schmitt, Esq., Assistant U.S. Trustee for Rochester, Office of the U.S. Trustee, U.S. Courthouse, 100 State Street, Rochester, NY, 14614, tel. (585)263-5812, fax (585) 263-5862, and any and all members of her staff, including, but not limited to, Ms. Christine Kyler, Ms. Jill Wood, and Ms. Stephanie Becker; <http://www.usdoj.gov/ust/r02/rochester.htm>; [cf. **(a)** http://Judicial-Discipline-Reform.org/docs/DrCordero-to_parties_30mar5.pdf >D:84§IV; **(b)** http://Judicial-Discipline-Reform.org/Delano_record/files_D-CA/4_D301-424.pdf >309, 330; **(c)** http://Judicial-Discipline-Reform.org/DeLano_record/files_D-CA/5_D425-508q.pdf >D:470 -476, 492-495]
8. Ms. Diana G. Adams, U.S. Trustee for Region 2, and Deirdre A. Martini, former U.S. Trustee for Region 2, Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, NY 10004, tel. (212)510-0500, fax (212) 668-2255; and any and all members of their staff; <http://www.usdoj.gov/ust/r02/>; [cf. **(a)** http://Judicial-Discipline-Reform.org/docs/DrCordero-to_parties_30mar5.pdf >D:90§VI; **(b)** [Contact information and links useful for the *Follow the money!* investigation of a bankruptcy fraud scheme](http://Judicial-Discipline-Reform.org/Delano_record/files_D-</div><div data-bbox=)

CA/2_D103-202.pdf >D:137, 139-141, 154-158, 198§V; **(c)** http://Judicial-Discipline-Reform.org/Delano_record/files_D-CA/4_D301-424.pdf >307, 330; **(d)** http://Judicial-Discipline-Reform.org/DeLano_record/files_D-CA/5_D425-508q.pdf >492-494; **(e)** http://Judicial-Discipline-Reform.org/Delano_record/files_D-CA/6_Add509-710.pdf>682]

9. Chapter 13 Trustee George Reiber, South Winton Court, 3136 S. Winton Road, Rochester, NY 14623, tel. (585)427-7225, fax (585)427-7804, and any and all members of his staff, including, but not limited to, James Weidman, Esq., attorney for Trustee Reiber; trustee13@roch13.com; [cf. **(a)** http://Judicial-Discipline-Reform.org/docs/DrCordero-to_parties_30mar5.pdf >D:79§§I-II; III, V; **(b)** http://Judicial-Discipline-Reform.org/Follow_money/Tr_Reiber_Report.pdf >Add:953§§I-II; **(c)** http://Judicial-Discipline-Reform.org/docs/Trustee_Reiber_3909_cases.pdf]
10. Trustee Kenneth W. Gordon, Gordon & Schall, LLP, 1099 Monroe Ave., Ste. 2, Rochester, NY 14620-1730; tel. (585)244-1070, and any and all members of his staff; [cf. **(a)** http://Judicial-Discipline-Reform.org/Pfuntner_record/A1-260.pdf >A:72§I, 83§F; **(b)** http://Judicial-Discipline-Reform.org/docs/DrCordero_v_TrGordon_S Ct.pdf >A:1637§A]; **(c)** http://Judicial-Discipline-Reform.org/docs/TrGordon_3383_as_trustee.pdf]
11. M&T Bank, 255 East Avenue, Rochester, NY, tel. (800)724-8472, 585-546-0501, fax: 585-546-0550, (585)546-7584; <https://www.mtb.com/personal/Pages/Index.aspx>; [cf. http://Judicial-Discipline-Reform.org/Pfuntner_record/A1-260.pdf>A:72§I, 83§E]
12. David Palmer, 1829 Middle Road, Rush, NY 14543, and his company, Premier Van Lines, debtor in *In re Premier Van Lines*, 01-20692, WBNY (hereinafter Mr. Palmer/Premier and *Premier*); [cf. **(a)** http://Judicial-Discipline-Reform.org/Pfuntner_record/A1-260.pdf >A:72§I, 78§A; **(b)** http://Judicial-Discipline-Reform.org/docs/DrCordero_v_TrGordon_S Ct.pdf >A:1642§B]

13. David M. Dworkin & Jefferson Henrietta Associates, at the address of their attorney, Karl S. Essler, Esq., Fix Spindelman Brovitz & Goldman, P.C., 295 Woodcliff Drive, Suite 200, Fairport, NY 14450, tel. (585) 641-8000; fax (585)641-8080; kessler@fixspin.com; [cf. http://Judicial-Discipline-Reform.org/Pfuntner_record/A1-260.pdf >A:72§I, 79§B-C]
14. Mary Dianetti, Bankruptcy Court Reporter, 612 South Lincoln Road, East Rochester, NY 14445, tel. (585)586-6392; [cf. **(a)** http://Judicial-Discipline-Reform.org/Follow_money/DrCordero_to_JConf_CtReporter_28jul5.pdf; **(b)** http://Judicial-Discipline-Reform.org/DeLano_record/transcript_DeLano_1mar5.pdf]
15. Ms. Melissa L. Frieday, Contracting Officer for court reporters, US. Bankruptcy Court, WDNY, Olympic Towers, 300 Pearl Street, Suite 250, Buffalo, NY 14242, tel. (716) 362-3200, fax (716)551-5103; [cf. http://Judicial-Discipline-Reform.org/docs/DrCordero-Off_Frieday_18oct5.pdf]
16. Bankruptcy Judge John C. Ninfo, II, WBNY, and Paul R. Warren, Esq., Clerk of Court, U.S. Bankruptcy Court, 1220 U.S. Courthouse, 100 State Street, Rochester, NY 14614, tel. (585)613-4200, and any and all members of their staff, including, but not limited to, Andrea Siderakis, Assistant to Judge Ninfo, courtroom tel. (585)613-4281, fax (585)613-4299; Deputy Clerk in Charge Todd M. Stickle, tel. (585)613-4223, fax (585)613-4242; Case Administrators Karen S. Tacy and Paula Finucane; <http://www.nywb.uscourts.gov/>; [cf. **(a)** http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_06_4780_CA2.pdf >CA:1725§A; **(b)** http://Judicial-Discipline-Reform.org/US_writ/2DrCordero-SCT_rehear_23apr9.pdf >US:2518¶18; **(c)** http://Judicial-Discipline-Reform.org/docs/DrCordero-BkrClerk_Stickle_8jan4.pdf]
17. U.S. District Judge David G. Larimer and Rodney C. Early, Clerk of Court, U.S. District Court, 2120 U.S. Courthouse, 100 State Street, Rochester, N.Y. 14614, tel. (585)613-4000, fax (585) 613-4035, and any and all members of their staff; <http://www.nywd.uscourts.gov/mambo/>;

[cf. http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_06_4780_CA2.pdf
>CA:1735§B] and

18. Former Chief Judge John M. Walker, Jr., of the Court of Appeals for the Second Circuit and former Clerk of Court Roseann B. MacKechnie, Daniel Patrick Moynihan U.S. Courthouse, 500 Pearl Street, NY, 1007, tel. (212)857-8500, and any all members of their staff; <http://www.ca2.uscourts.gov/>; [cf. **(a)** petition to the Judicial Conference for review re complaint v. CJ Walker, http://Judicial-Discipline-Reform.org/docs/DrCordero_2complaints_JConf.pdf
>JC1, 11§III, 224, 324, 462 **(b)** http://Judicial-Discipline-Reform.org/docs/complaint_to_Admin_Office_28jul4.pdf]
19. The officer with authority to execute this subpoena is hereinafter referred to as executor.
20. Without prejudice to the duty to comply with this subpoena and lend all assistance to its complete, efficient, and timely execution, as such assistance is requested by any executor, no person shall be an executor who is an investigation-related person, that is, a person who is or was:
 - a. an agent or employee in the offices of the U.S. Department of Justice or the Federal Bureau of Investigation in Rochester or Buffalo, NY; or
 - b. familiar or acquainted with any person of interest.
21. A person of interest is one who is or was:
 - a. a party to either *DeLano* or *Pfuntner* and their progeny;
 - b. a court officer, whether judicial or administrative, a lawyer, a private or U.S. trustee, a bankruptcy professional, or a member of their respective staff, directly or indirectly involved in, concerned with, or affected by either of those cases or the investigation concerning this subpoena; or
 - c. employed by, or otherwise a worker in, any of the U.S. courts in Rochester or Buffalo or

anywhere else where their judges hold or held court; or

- d. investigated or is likely to be investigated in connection with those cases or with this subpoena.

B. Duties of a concerned person

22. A concerned person shall:

- a. understand a reference to a named concerned person to include any and all members of such person's staff or membership;
- b. comply with the instructions stated herein and complete such compliance within seven days of the issue of this subpoena unless a different deadline for compliance is stated in ¶24 below;
- c. be held responsible for any non-compliance and subject to the continuing duty to comply with this subpoena within the day each day after the applicable deadline is missed, under pain of being named the subject of a contempt proceeding.

23. A concerned person shall provide upon request of, and volunteer to, an executor information:

- a. that such person has concerning a document herein identified, including, but not limited to, its author, existence, nature, condition, use, actual or likely whereabouts, person in possession of or who controls it;
- b. without passing judgment on the degree of relevance or lack thereof for the subpoena in recognition of the fact that the relevance of a piece of information may only become apparent in the broader context of information already gathered or to be gathered by an executor; and
- c. in application of the principle "If in doubt, communicate the information to an executor".

24. A concerned person shall with respect to a document herein identified provide information about it, produce it, and issue a certificate, as defined in ¶28 below,

- a. whenever a reasonable person would who is:
 - 1) acting in good faith, or with due diligence, or competently, or in the official or fiduciary capacity or with the training or experience that is the same as, or equivalent to, that of such person or entity, and
 - 2) applying the principle “If in doubt, produce the document to an executer”, and
- b. believes that at least one part of such document is a document herein identified;
- c. has doubts as to whether any or no part of the document is herein identified; or
- d. believes that another person with an adversarial interest would want such information, production, or certificate or find it of interest to the end of ascertaining whether an individual or entity:
 - 1) is a holder or an identifier, as defined in ¶25; or
 - 2) has committed, covered up, or tolerated an offense, including, but not limited to, bankruptcy fraud, concealment of assets, destruction of documents, money laundering, perjury, and bribery.

25. A concerned person who with respect to any document herein identified:

- a. has possession or custody of it (hereinafter holder) shall produce a true and correct copy thereof and a certificate, as defined in ¶28 below;
- b. controls or knows the actual or likely whereabouts of any such document (hereinafter identifier) shall certify what document the identifier controls or knows the actual or likely whereabouts of, and state such whereabouts and the name and address of the known or likely holder of, such document.

26. A holder or identifier shall certify that he or she holds such original and acknowledges the duty under this subpoena to hold it in a secure place, ensure its chain of custody, and produce it upon subpoena of an executer.

27. A concerned person shall produce those parts of each document herein identified that state as to each transaction covered by such document:
- a. The time and amount of each such transaction;
 - b. the rates, including but not limited to normal and delinquent rates, applied to the transaction;
 - c. the opening and closing dates of the transactions reported in the document, such as a statement of account;
 - d. the description of the goods or service concerned by the transaction;
 - e. the source or recipient of funds or who made any charge or claim for funds;
 - f. the opening date of, the payment due date of the amount owing on, and the good or delinquent standing of, the account, agreement, or contract dealt with in the document;
 - g. the beneficiary of any payment;
 - h. the surety, codebtor, or collateral; and
 - i. any other matter concerning the formulation of the terms and conditions of the transaction or relationship dealt with in the document;
28. A concerned person shall certify individually as a person, or if an entity, by its representative, in an affidavit or an unsworn declaration subscribed as provided for under 28 U.S.C. §1746 (hereinafter collectively referred to as a certificate), with respect to each document produced that:
- a. it has not been the subject of any addition, deletion, correction, or modification of any type whatsoever; and
 - b. it is the whole of the document without regard to the degree of relevance or lack thereof of any part of such document other than any part requiring its production; or
 - c. such certification cannot be made with respect to any part or the whole of such document and the reason therefor and attach the whole document to the certificate;

29. A concerned person shall produce documents pursuant to the following timeframes measured from the time the subpoena is served on such person or the latter has actual knowledge or would have knowledge of it, as provided for in ¶1 above, whichever is earlier:
- a. within seven days with respect to documents that a concerned person has possession of at home or other permanent or temporary dwelling, in the office or vehicle, or equivalent place;
 - b. with respect to documents that are kept, stored or archived elsewhere than in a. above;
 - 1) within two weeks with respect to documents dated January 1, 2000, or since, to date;
and
 - 2) within 30 days with respect documents dated since January 1, 1975, to December 31, 1999, including the first and last dates of such period.

C. Documents in general, production, and certification

30. A document identified with particularity or in general in this subpoena (hereinafter document(s)) is to be understood broadly to mean ‘an object that holds information or data in any form’, whether the form be handwritten, print, digital, electronic, or otherwise; and the object be any of the following or similar objects:
- a. paper, including any type of graphic or photographic paper, film, and equivalent;
 - b. a removable storage device, such as a floppy, CD, DVD, Blue Ray disk, external hard disk; memory flash, stick, or card; electronic memory strip, such as found on plastic cards; and audio or video tape;
 - c. fixed storage device, such as an internal hard disk of a computer, server, mainframe, or recorder box;
 - d. an audio or video cassette, such as used in a tape recorder or camcorder;
 - e. a wireless handheld digital device, such as an iPod, Blackberry, or smartphone.
31. A reference herein to a specific type of document includes any other type of document in which the

information referred to or derived therefrom, such as through addition, deletion, modification, correction, transformation from one form to another, or rearrangement for inclusion in a database, is available.

D. Particular documents to be produced

32. A concerned person that has any of the following documents shall produce them to an executor:
33. The financial documents in either or both of the names of:
 - a. the DeLanos,
 - b. Mr. Palmer and/or Premier; and
 - c. third parties but concerning a financial matter under the total or partial control of either or both of them, respectively, whether either or both exercised or still exercise such control directly or indirectly through a third person or entity, and whether for their benefit or somebody else's;
34. The dates of the documents referred to in ¶33 above are:
 - a. in the case of the DeLanos, since January 1, 1975, to date; and
 - b. in the case of Mr. Palmer, since he began to work for, or do business as, or acquired partially or totally, or otherwise controlled, Premier to date.
35. The financial documents referred to in ¶33 above include the following:
 - a. the ordinary, whether the interval of issue is a month or a longer or shorter interval, and extraordinary statements of account of each and all checking, savings, investment, retirement, pension, credit card, and debit card accounts at, or issued by, M&T Bank and any other entity, whether banking, financial, investment, commercial, or otherwise, in the world;
 - b. the unbroken series of documents relating to the purchase, sale, or rental of any property or share thereof or right to its use, wherever in the world such property may have been, is, or

may be located, by either or both of the DeLanos and Mr. Palmer/Premier, respectively, including, but not limited to:

- 1) real estate, including but not limited to the home and surrounding lot at 1262 Shoecraft Road, Webster (and Penfield, if different), NY 14580;
- 2) Premier, any similar moving or storage company, or other business, whether incorporated or not incorporated;
- 3) Premier's warehousing space at the warehouse at 2130 Sackett Road, Avon, NY, 14414, owned by Mr. James Pfuntner;
- 4) moving and storage equipment, including, but not limited to, vehicles, forklifts, crates, padding and packaging material; and
- 5) personal property, including any vehicle, mobile home, or water vessel;

c. mortgage documents;

d. loan documents;

e. title documents and other documents reviewing title, such as abstracts of title;

f. prize documents, such as lottery and gambling documents;

g. service documents, wherever in the world such service was, is being, or may be received or given; and

h. documents concerning the college expenses of each of the DeLanos' children, Jennifer and Michael, including, but not limited to, tuition, books, transportation, room and board, and any loan extended or grant made by a government or a private entity or a parent or relative for the purpose of such education, regardless of whose name appears on the documents as the loan borrower or grant recipient;

36. The minutes, transcript, stenographic packs and folds, audio tape, and any other recording of the status conference and pretrial hearing in *Pfuntner* requested by Trustee Schmitt on December 10,

2002, and held before Judge Ninfo on January 10, 2003.

37. The transcript and stenographic packs and folds of the hearings held before Judge Ninfo:

a. in *Pfuntner* on: http://Judicial-Discipline-Reform.org/dockets/6Pfuntner_Bkr-SCt_28mar5.pdf

- | | | |
|----------------------|-------------------|---------------------|
| a. December 18, 2002 | d. April 23, 2003 | g. July 2, 2003 |
| b. February 12, 2003 | e. May 21, 2003 | h. October 16, 2003 |
| c. March 26, 2003 | f. June 25, 2003 | |

b. in *DeLano* on: http://Judicial-Discipline-Reform.org/dockets/11DeLano_Bkr_SCt.pdf

- | | | |
|--------------------|----------------------|----------------------|
| a. March 8, 2008 | d. August 25, 2004 | g. November 16, 2005 |
| b. July 19, 2004 | e. December 15, 2004 | |
| c. August 23, 2004 | f. July 25, 2005 | |

38. Trustee Schmitt and Trustee Reiber or their respective successors shall within 10 days of this subpoena arrange for, and produce:

- a. The audio tape of the meeting of creditors of the DeLanos held on March 8, 2004, at the Office of the U.S. Trustee in Rochester, room 6080, and conducted by Att. Weidman;
- b. its transcription on paper and as a PDF file on a floppy disc or CD; and
- c. the video tape shown at the beginning of such meeting and in which Trustee Reiber was seen providing the introduction to it.

39. The transcript of the meeting of creditors of the DeLanos held on February 1, 2005, at Trustee Reiber's office and made by Court Reporter Ms. Bonsignor at Alliance Shorthand 183 East Main Street, Suite 1500 Rochester, NY 14604 (585) 546-4920, and is in possession of Trustee Reiber, who shall produce it on paper and as a PDF file on a floppy disc or CD;

40. The original stenographic packs and folds on which Reporter Dianetti recorded the evidentiary hearing of the DeLanos' motion to disallow Dr. Cordero's claim, held on March 1, 2005, in the Bankruptcy Court, shall be kept in the custody of the Bankruptcy Clerk of Court and made

available upon request to an executor;

41. The documents obtained by Trustee Reiber in connection with *DeLano* and by Trustee Gordon in connection with *Pfuntner*, regardless of the source, up to the date of compliance with this subpoena, whether such documents relate generally to the DeLanos' or Mr. Palmer/Premier's bankruptcy petition or particularly to the investigation of whether either or both of them have committed fraud, regardless of whether such documents point to their joint or several commission of fraud or do not point to such commission but were obtained in the context of such investigation;
42. The statement reported in entry 134 of the docket of *DeLano* to have been read by Trustee Reiber into the record at the confirmation hearing on July 25, 2005, of the DeLanos' plan of debt repayment, of which there shall be produced a copy of the written version, if any, of such statement as well as a transcription of such statement exactly as read and the stenographic packs and folds used by the reporter to record it;
43. The Clerk of the Bankruptcy Court shall produce certified copies of all the orders in *DeLano* and *Pfuntner*, including the following:
 - a. in *DeLano*: http://Judicial-Discipline-Reform.org/dockets/11DeLano_Bkr_S Ct.pdf
 - 1) July 26, 2004, for production of some documents by the DeLanos;
 - 2) August 30, 2004, severing Dr. Cordero's claim against Mr. DeLano from *Pfuntner*, and requiring Dr. Cordero to take discovery from Mr. DeLano to prove his claim against him while suspending all other proceedings until the DeLanos' motion to disallow Dr. Cordero's claim was finally determined;
 - 3) November 10, 2004, denying Dr. Cordero all his requests for discovery from Mr. DeLano;
 - 4) December 21, 2004, scheduling *DeLano* for an evidentiary hearing on March 1, 2005;
 - 5) April 4, 2005, holding that Dr. Cordero has no claim against Mr. DeLano and depriving him of standing to participate in any future proceedings in *DeLano*;

- 6) August 8, 2005, ordering M&T Bank to pay part of Mr. DeLano's salary to Trustee Reiber;
 - 7) August 9, 2005, confirming the DeLanos' debt repayment plan after hearing Trustee Reiber's statement and obtaining his "Trustee's Report", that is, his undated "Findings of Fact and Summary of 341 Hearing" and his undated and unsigned sheet titled "I/We filed Chapter 13 for one or more of the following reasons";
 - 8) November 10, 2005, letter denying Dr. Cordero his request to appear by phone to argue his motion of November 5, 2005, to revoke the order of confirmation of the DeLanos' debt repayment plan;
 - 9) November 22, 2005, denying Dr. Cordero's motion to revoke the confirmation of the DeLanos' debt repayment plan;
 - 10) Notice of January 24, 2007, releasing Mr. DeLano's employer, M&T Bank, from making further payments to Trustee Reiber.
 - 11) February 7, 2007, discharging the DeLanos after completion of their plan;
 - 12) June 29, 2007, providing, among other things, for the allowance of the final account and the discharge of Trustee Reiber, the enjoinder of creditors, the closing of the DeLanos' estate, and the release of their employer from the order to pay the Trustee;
- b. in *Pfuntner*: http://Judicial-Discipline-Reform.org/dockets/6Pfuntner_Bkr-SCt_28mar5.pdf
- 1) December 30, 2002, dismissing Dr. Cordero's cross-claims for defamation as well as negligent and reckless performance as trustee against Trustee Gordon;
 - 2) February 4, 2003, transmitting to District Judge David Larimer, WDNY, the record in a non-core proceeding and findings of fact, conclusions of law, and the Recommendation not to grant Dr. Cordero's request for entry of default judgment;
 - 3) Attachment of February 4, 2003, to the Recommendation of the Bankruptcy Court

that the default judgment not be entered by the District Court;

- 4) February 18, 2003, denying Dr. Cordero's motion to extend time to file notice of appeal;
- 5) July 15, 2003, ordering that a "discrete hearing" be held in Rochester on October 23, 2003, followed by further monthly hearings;
- 6) October 16, 2003, Disposing of Causes of Action;
- 7) October 16, 2003, denying Recusal and Removal Motions and Objection of Richard Cordero to Proceeding with Any Hearings and a Trial;
- 8) October 23, 2003, Finding a Waiver by Dr. Cordero of a Trial by Jury;
- 9) October 23, 2003, setting forth a Schedule in Connection with the Remaining Claims of the Plaintiff, James Pfuntner, and the Cross-Claims, Counterclaims and Third-Party Claims of the Third-Party Plaintiff, Richard Cordero;
- 10) October 28, 2003, denying Dr. Cordero's Motion for a More Definitive Statement of the Court's Order and Decision.

44. The Bankruptcy Clerk shall produce certified copies of the following documents referred to in the docket of *Premier*, 01-20692, WBNY, or connected to that case:

Docket: http://Judicial-Discipline-Reform.org/dockets/1Premier_01-20692_27jan5.pdf

a. Documents entered in the docket:

- 1) the monthly reports of operation for March through June 2001, entered as entries no. 34, 35, 36, and 47;
- 2) the reports for the following months until the completion of the liquidation of Premier;
- 3) the court order closing that case, which is the last but one docket entry, but bears no number;
- 4) the court order authorizing the payment of a fee to Trustee Gordon and indicating the amount thereof, which is the last docket entry, but bears no number.

b. Documents that are only mentioned in other documents in *Premier*, 01-20692, WBNY, but not entered themselves anywhere:

- 1) the court order authorizing payment of fees to Trustee Gordon's attorney, William Brueckner, Esq., and stating the amount thereof; cf. docket entry no. 72;
- 2) the court order authorizing payment of fees to Auctioneer Roy Teitsworth and stating the amount thereof; cf. docket entry no. 97;
- 3) the financial statements concerning Premier prepared by Bonadio & Co., for which Bonadio was paid fees; cf. docket entries no. 90, 83, 82, 79, 78, 49, 30, 29, 27, 26, 22, and 16;
- 4) the statement of M&T Bank of the proceeds of its auction of estate assets on which it held a lien as security for its loan to Premier; the application of the proceeds to set off that loan; and the proceeds' remaining balance and disposition; cf. docket entry no. 89;
- 5) the information provided to comply with the order described in entry no. 71 and with the minutes described in entry no. 70;
- 6) the Final report and account referred to in entry no. 67 and ordered filed in entry no. 62.

45. Judge Ninfo's annual financial disclosure reports since 1992, required to be filed under the Ethics in Government Act of 1978, 5 U.S.C. Appendix (identified in ThomsonWest publications as Appendix 4) shall be produced by Judge Ninfo and by the Administrative Office of the U.S. Courts, One Columbus Circle, NE, Washington, D.C. 20544, tel. (202)502-2600.

for the U.S. Senate Judiciary Committee:

Date