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July 8, 2004

Ms. Roseann B. MacKechnie
Clerk of Court of U.S. Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
40 Foley Square, Room 1802
New York, NY 10007

Dear Ms. MacKechnie,

I hereby petition the Judicial Council for review of the Chief Judge’s order of June 8, 2004, dismissing my judicial misconduct complaint, docket no. 03-8547 (hereinafter the Complaint).

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- I. The Chief Judge violated his obligation with respect to this complaint in several substantive aspects so as to warrant the appointment by the Judicial Council of a special committee**
- A. The Chief Judge violated his obligation to act promptly and expeditiously**
1. The obligation to handle judicial misconduct complaints “promptly” and “expeditiously” permeates the provisions adopted by Congress at 28 U.S.C. §351 et seq. and those adopted

thereunder by this Judicial Council in its Rules Governing Complaints Against Judicial Officers (collectively hereinafter the Complaint Provisions). To begin with, one of the grounds for the complaint is that “a judge has engaged in conduct prejudicial to the effective and **expeditious** administration of the business of the courts”; §351(a), (emphasis added); cf. Preface to the Rules.

2. That obligation was violated by the Chief Judge, the Hon. John M. Walker, Jr., before he even received the Complaint. Indeed, he set up or allowed the continued operation of a procedure that bottlenecks all complaints through one single clerk; (page 3, *infra*). This has the reasonable consequence –from which intention can be inferred- of making the clerk, who may be on vacation, sick, or too busy, liable to fail to comply with the obligation under §351(c) that “...the clerk shall promptly transmit the complaint to the chief judge”; cf. Rule 3(a)(1). In fact, the clerk failed so to comply not only in this precise instance, but also in the subsequent complaint of March 19, 2004, about the Chief Judge himself, docket no. 04-8510; (22, *infra*).
3. Once the complaint is transmitted, even its thorough, conscientious review has to be expeditious. This obligation is laid on the chief judge by Congress, which provided thus:

§352(a) Expeditious review; limited inquiry.–The chief judge shall expeditiously review any complaint received under section 351(a)...

4. A complaint can be reviewed “expeditiously” because the law specifically provides that:

§352(a)...The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute. (cf. Rule 4(b))

5. The Complaint was filed on August 11, 2003. No special committee was appointed. Moreover, there are facts from which it can reasonably be deduced that as of March 8, 2004, the Chief Judge had not even contacted the complained-about judge, the Hon. John C. Ninfo, II, Bankruptcy Judge in Rochester, WBNY; (22-24, *infra*). This deduction finds support in the fact that the dismissal order is predicated only on the content of the Complaint itself and in nothing other than “A review of the docket sheet in this case”, such as the one accompanying the Complaint and, thus, readily available. The fact that the Chief Judge refused even to take possession of a letter of February 2, inquiring about the status of the Complaint, (76, *infra*), also allows the explanation that he had made no inquiries even six months after submission and, consequently, had nothing to reply and no better way to avoid admitting to it than to send the letter back immediately on February 4, 2004, (78, *infra*).
6. The Complaint was dismissed on June 8, 2004, in three double-spaced pages and three lines. This means that to perform the “**Expeditious review**” that §352(a) requires of the chief judge, Chief Judge Walker unreasonably took **10 months!** It cannot reasonably be pretended that such a no-inquiry, quick-job, pro-forma dismissal required 10 months.
7. Consequently, Chief Judge Walker’s violation of his promptness obligation casts doubt on his commitment to complying with his other obligations under the Complaint Provisions, such as those laying out the criteria applicable to dismiss or to appoint a special committee.

B. The Chief Judge violated his obligation to dispose of the Complaint and write a reasoned order himself

8. The fact is that Chief Judge Walker did not comply with his obligation under the Complaint Provisions to dispose of the complaint by deciding for one of the only options for action available to him. It was the Hon. Dennis Jacobs, Circuit Judge, who did so. The importance of

this fact lies, on the one hand, in his lack of legal authority to delegate an obligation that the Complaint Provisions unambiguously impose on the chief judge and, on the other hand, the Chief Judge's motive for not complying given the benefit that he derives therefrom.

1. Chief Judge Walker lacked authority to delegate his disposition obligation

9. Section 351 provides that '(a) a complaint is filed with the clerk of the court of appeals, who '(c) promptly transmits it to the chief judge of the circuit.' Only when the chief judge is the one complained about, is the clerk required to transmit it to someone else, namely, the next eligible chief judge. Rule 40c)-(f) requires the chief judge to take the subsequent action, as do:

§352(a)...After expeditiously reviewing a complaint under subsection (a), **the chief judge**, by written order stating **his** or her **reasons**, may-

(1) dismiss the complaint-

(A) if **the chief judge** finds the complaint to be-...

(2) conclude the proceeding if the **chief judge** finds that...

§353. Special committees

(a) Appointment.-If **the chief judge** does not enter an order under section 352(b), **the chief judge** shall promptly-

(1) appoint...a special committee to investigate...(emphasis added)

10. Congress did not provide for the chief judge to designate another person to make a decision and write it down in a reasoned order. By contrast, when Congress did want to authorize the chief judge to proceed by delegation, it clearly provided therefor. So in §352(a) it allowed that "The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge...or any other person who may have knowledge of the matter...".
11. Likewise, Rule 4(b) provides that "In determining what action to take, the chief judge, with such assistance as may be appropriate, may conduct a limited inquiry...". But the Rule makes no provision for the chief judge to receive any other assistance by delegating his disposition obligation. Hence, subsection (c) allows a complaint to be dismissed only "if **the chief judge** concludes" that one of the dismissal criteria is applicable. For its part, subsection (f) lays squarely on the chief judge alone the obligation to take the following step:

Rule 4(f)(1) If the complaint is dismissed...**the chief judge** will prepare a supporting memorandum that sets forth the allegations of the complaint and the reasons for the disposition. (emphasis added)

12. There is no other provision for the chief judge informally, without any order or explanation whatsoever, to have somebody else write the chief judge's reasons, let alone for that other person to dispose of the complaint as he or she sees fit and write his or her own reasons. This is a court of law. Procedural events occur according to law or rule. They do not take the place of legally provided events just because the judges feel like it. Brethren they may be, but pals in a fraternity covering for each other they are not.

2. The Chief Judge had a self-serving motive for not complying with his disposition obligation

13. In any activity that depends on trust in some people for the acceptance of their actions by others,

it is not enough to do the right thing, but one must also be seen doing the right thing. It was Judge Jacobs, as “acting chief judge”, who dismissed the Complaint and wrote the memorandum. Under what circumstances this occurred is important to know. For one thing, it was Chief Judge Walker who has the legal obligation with no delegating authority to decide its disposition and write his reasons therefor. In addition, his obligation was strengthened by a special circumstance, namely, that a second complaint, one about him, was submitted to Judge Jacob by Dr. Cordero on March 19, 2004, docket no. 04-8510 (22, *infra*). Hence, who disposed of the Complaint, the one about Judge Ninfo, has serious implications for future decisions and events concerning the complaint about Chief Judge Walker himself.

14. Indeed, if the Chief Judge came under investigation upon the complaint about him, he would be subject to important restrictions, namely:

§359 Restrictions

(a) **Restriction on individuals who are subject of investigation.**-No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

15. If the Chief Judge were investigated, these restrictions would apply to him for a long time, even years. This is particularly so in light of the Chief Judge’s implied interpretation of his statutory and regulatory obligation to act “promptly” and “expeditiously” as allowing him to take ten months just to dismiss the complaint, without even communicating with anybody, let alone appointing a special committee. By the same token, those with the obligation to act “expeditiously” with regard to the complaint about him could take just as long. Among those with such obligations are these:

- a) the special committee, which has the obligation to “expeditiously file a comprehensive written report”; §353(c);
- b) the judicial council, which has the obligation to “take such action as is appropriate to assure the effective and expeditious administration of the business of the courts”, §354(a)(1)(C); “shall immediately provide written notice to...the judge” complained about; (a)(4); and “shall promptly certify such determination [e.g. of an impeachable offense by the judge complained about]...to the Judicial Conference”; (b)(2)(B); and
- c) the Judicial Conference, which simply acts “as it considers appropriate”, §355(a), and that could take years!, for it has no direct obligation to act with promptness other than that flowing indirectly from §354(a)(1)(C).

16. No doubt, if these bodies acted as ‘promptly’ as Chief Judge Walker did, §359 restrictions could substantially limit him in his official role as chief judge for the remainder of his current term as such. That must safely be assumed to raise the most unwelcome prospect of a constant source of embarrassment, to put it mildly.

17. However, the Chief Judge’s problem in avoiding an investigation is that the Complaint about Judge Ninfo and the complaint about him are related. It is reasonable to supposed that if Judge Ninfo were investigated and the special committee determined that Judge Ninfo had, as charged, engaged with other court officers in a pattern of non-coincidental, intentional, and coordinated disregard of the law, rules, and facts, then it would inevitably be asked why Chief Judge Walker

too disregarded for at least 10 months the law imposing on him the promptness obligation, thereby allowing the continuation of ‘a prejudice “to the administration of the business of the courts”’ so grave as to undermine the integrity of the judicial system in his circuit. That question would raise many others, such as what he should have known, as the foremost judicial officer in this circuit; when he should have known it; and how many of the overwhelming majority of complaints, equally dismissed without any investigation, would have led a prudent and impartial person to investigate them. Questions like these could spin the investigation out of control quite easily.

18. Therefore, if the Complaint about Judge Ninfo could be dismissed, then the related complaint about the Chief Judge could more easily be dismissed, thus eliminating the risk of his being investigated. What is more, if the Complaint could somehow be dismissed by somebody other than him, the inference could be prevented that he had done so out of his own interest in having the complaint about him dismissed too.
19. It so happens that after the obligation to act “promptly” and “expeditiously” was disregarded for 10 months and despite the lack of any delegating authority, that less risky situation has set in through the dismissal by Judge Jacobs of the Complaint. Whether what appears to have happened is what actually happened is a matter to be determined by the Judicial Council through the appointment of a special committee. But that appearance reasonably arises from the totality of circumstances.
20. Moreover, the appearance of a self-serving motive for the action taken is supported by the axiom that neither a person nor the persons in an institution can investigate themselves impartially, objectively, and zealously. Much less can they do so reliably since their loyalties and their short and long term self-interests in the context of office politics will induce or even force them to close ranks against an ‘attack’ from an outsider. Only independent investigators whose careers cannot be affected one way or another by those investigated or their friendly peers can be expected to conduct a reliable investigation.

C. The Chief Judge violated his obligation to make misconduct orders “publicly available”

21. Rule 17(a) provides that:

A docket-sheet record of orders of the chief judge and the judicial council and the texts of any memoranda supporting such orders and any dissenting opinions or separate statements by members of the judicial council will be made available to the public when final...

22. However, Chief Judge Walker violated this provision too. Thus, Dr. Cordero received the order of dismissal on Saturday, June 12, and went to the Courthouse on June 16, to request Rule 17(a) records. But they were not made available to him. Instead, the matter was referred to Mr. Fernando Galindo, Chief Deputy of the Clerk of Court, who referred it to Clerk of Court Roseann MacKechnie, who, according to Mr. Galindo, referred it to Chief Judge Walker. Dr. Cordero wrote a letter to the Chief Judge on June 19 to make him aware that he was invoking his right to access those records; that the Chief Judge had an obligation to make them available; and that time was of the essence because of the deadline of July 9 for submitting this petition for review (28, *infra*). Yet, the letter was never answered. Dr. Cordero called Mr. Galindo and left messages for him. Only on June 29 did Mr. Galindo call back Dr. Cordero to tell him that the orders would be made available to him the next day, June 30, fully two weeks after his initial request.

23. When on the 30th Dr. Cordero requested those records at the Courthouse In-take Room, imagine his bafflement when he was told for the first time that only the orders of 2002, 2003, and 2004 were available! He asked to speak with Chief Deputy Galindo, who then told him that the orders for all the previous years were in the archive. Where!? In the archive, but neither in the basement of the Courthouse, nor in an annex, nor in another building in the City of New York, nor in the State of New York, nor elsewhere in the Second Circuit, no: In the National Archives in Missouri! Moreover, to consult them, Dr. Cordero would have to make a written request, pay \$45, and wait at least 10 days for them to arrive. Dr. Cordero asked for at least the docket sheet of those records, but Mr. Galindo told him that there was none. Neither the records nor the truth about them was made available to him timely or completely.
24. Dr. Cordero felt cheated! How would you have felt? If you had written that day, June 30, to the Chief Judge protesting such piecemeal and substantially incomplete disclosure of what you were entitled to and which was made only because you kept insisting, whereby you were made to waste half the time allowed for you to exercise your right to appeal (29, *infra*), but the letter was never answered, would you trust that the Chief Judge cared about even appearing to comply with his obligations under the Complaint Provisions? Would his non-compliance with his obligation to make those orders available cause you to distrust that he had complied with those Provisions when dismissing your complaint?
25. Consider this. The next day Dr. Cordero checked out a binder of orders from Mrs. Harris, the Head of the In-take Room, and stepped into the adjoining reading room. He sat and read for some time the... ‘There is no sleeping in the reading room’, a clerk told him. It appears that Dr. Cordero was nodding. He went on reading for several hours and taking notes in his... ‘You are sleeping and there is no sleeping in the reading room’. This time it was Mrs. Harris, the Head In-taker. He told her that he had not gone there to sleep, but rather must have fallen asleep. She replied ‘You have already been warned and if you fall asleep again, I will call the marshals.’
26. The marshals!, those security officers in charge of preventing criminals and terrorists from smuggling into the Courthouse guns and bombs to kill and maim federal employees and visitors. Mrs. Harris would call them away from manning the metal detectors in the lobby to catch Dr. Cordero as he threatened everybody in the reading and In-take rooms with nodding! Can you assure yourself, let alone others, that you will not nod again while reading for hours in a noisy room? (33, *infra*) How would you feel if you, a professional and self-respecting person, were taken away in public by the marshals?
27. Was Mrs. Harris acting on her own initiative or as an agent in a Courthouse where... madhouse, the nurse! The infamous head nurse in “One Flew over the Cuckoos’ Nest”! Did she need specific instructions to apply minute rules so insensitively to mentally ill inmates or was she the product of an institution, imitating top managers that had no respect for the obligations of their profession, psychiatry, and disregarded the rights of the inmates -particularly the one faking mental illness- whose requests they repressed with electroshocks to their brains to quash any sense of self-assertion in their minds? Here, in the lawhouse -the law of trickle down unlawfulness (36, *infra*) and of power unchecked is power abused- the Head In-taker will call in the marshals to straitjacket a reader dangerously nodding everybody around, while Chief Warden electrocutes his obligation to keep misconduct orders publicly available and sends the body of those orders to the padded room of archival preservation in Missouri. How dangerous is that body?
28. Very. The table of the few orders left behind in the Courthouse and read by Dr. Cordero shows (57, *infra*) that all complaints were dismissed in reasoned orders written by Chief Judge Walker.

For its part, the Judicial Council, without any supporting memoranda, dismissed all the petitions for review. No wonder that body of orders is considered to be so dangerous as to need to be put far away in an archive, for it kicks and screams loud and clear an indictment, not of the complainants for each of them without exception submitting allegedly meritless or “frivolous” complaints, but rather of the judges for dismissing out of hand with no investigation by any special committee all misconduct complaints and review petitions.

29. Such systematic dismissal explains a most extraordinary phenomenon that defies statistical probabilities: While the 2003 Report of the Administrative Office of the U.S. Courts highlights that another record was set with federal appeals filings that grew 6% to 60,847, and civil filings in the U.S. district courts of 252,962, (66, *infra*), the three consecutive reports of the Judicial Conference for March 2004, and September and March 2003, (60, *infra*), astonishingly indicate that, as the latter put it:

The Committee [to Review Circuit Council Conduct and Disability Orders] has not received any petitions for review of judicial council action taken under 28 U.S.C. §354 (section 372(c)(6) since the Committee’s last report to the Judicial Conference. Nor are there any petitions for review pending from before that time. (65; cf. 59, *infra*)

30. This is incredible! No, no that complainants lose the will to appeal to the Judicial Conference once their complaints have been dismissed by the judicial councils. In a society as litigious as ours that is a cultural impossibility. Rather, what is incredible is that the judicial councils would abuse so blatantly their discretion under §352(c) to deny all petitions for review of chief judges’ orders, thereby barring their way to the Judicial Conference; (cf. Rule 8(f)(2)). One can justifiably imagine how each circuit makes it a point of honor not to disavow their respective chief judge and certainly never refer up their dirty laundry to be washed in the Judicial Conference. It is as if the courts of appeals had the power to prevent each and every case from reaching the Supreme Court and abused it systematically. In that event, instead of reporting 8,255 filings in the 2002 Term –an increase of 4% from the 7,924 in the 2001 Term (66, *infra*)-the Supreme Court would be caused to report 0 filings in a term! Somebody would notice! Sooner or later the Justices too would realize that such appeals system was what the current operation of the judicial misconduct complaints procedure is: a sham!
31. And somebody has noticed: None other than Supreme Court Chief Justice William Rehnquist, who has appointed Justice Stephen Breyer to head the Judicial Conduct and Disability Act Study Committee (67, *infra*). Congress too has taken notice. The Chairman of the House of Representatives Committee on the Judiciary, F. James Sensenbrenner, Jr., welcomed the appointment of Justice Breyer and recognized the need for the study saying that “Since [the 1980s], however, this process has not worked as well, with some complaints being dismissed out of hand by the judicial branch without any investigation.” (69, *infra*)
32. Such perfunctory dismissals have compromised, as Justice Breyer’s Committee put it in its news release after its first meeting last June 10, “The public’s confidence in the integrity of the judicial branch [which] depends not only upon the Constitution’s assurance of judicial independence [but] also depends upon the public’s understanding that effective complaint procedures, and remedies, are available in instances of misconduct or disability”; (67, *infra*). If the Justice and his colleagues put an effective complaint procedure at a par with the judiciary’s constitutionally ensured independence, why then have chief judges and judicial councils treated complaints with so much contempt? Are they dispensing protection to each other in their peer system at the

expense of those for whose benefit they took an oath to dispense justice?

II. The dismissal of the Complaint was so “out of hand” that it did not even recognize the two issues presented or how an unbiased understanding of the adduced circumstantial evidence required it to be considered within the scope of the Complaint Provisions and in need of investigation by a special committee

33. Given that the ‘out of hand dismissal of complaints without any investigation’ has been recognized as a problem that warrants action by officers at the top of the judicial branch, there is little justification for putting any stock on the allegations for dismissing the Complaint. This is all the more so because the Chief Judge has openly and repeatedly violated unambiguous obligations under the Complaint Provisions, including his own circuit’s Rules, and has a personal interest in the related complaint about him not being investigated, which would trigger embarrassing and long lasting restrictions on his official role. From him a reasonable person would not expect strict and impartial application of the criteria for handling the Complaint.
34. The same negative expectation is elicited by Judge Jacobs, who dismissed the Complaint 10 months after it was submitted on August 11, 2003, and has disregarded his obligation to handle “promptly” and “expeditiously” the complaint of March 19, 2004, about his peer, the Chief Judge; (22, *infra*). Hence, how could one dignify his “Disposition” by discussing it at length as if he had even attempted to apply legal reasoning to examine the facts presented? Instead, he repeats the sweeping and conclusory statements found in the other dismissals, such as:
- [a] Complainant has failed to provide evidence of any conduct “prejudicial to the effective and expeditious administration of the business of the courts.”
 - [b] his statements...amount to a challenge to the merits of a decision or a procedural ruling. [This is a particularly inane dismissal cop-out because when complaining about the conduct of judges as such, their misconduct is most likely to be related to and find its way into their decisions. The insightful question to ask is in what way the judge’s misconduct biased his judgment and colored his decision.]
 - [c] his allegations of bias and prejudice are unsupported and therefore rejected as frivolous. [Brilliantly concise legal definition and careful application to the facts of the lazy catch-all term ‘frivolous’!]
 - [d] Finally, to the extent that the complaint relies on the conduct or inaction of the trustee, the court reporter, the Clerk, the Case Administrator, or court officers, it is rejected. The Act applies only to judges...
35. That last statement is much more interesting because it reveals that Judge Jacobs did not even know what the issues presented were, namely (75, *infra*):

Whether Judge Ninfo summarily dismissed Dr. Cordero’s cross-claims against the Trustee and subsequently prevented the adversary proceeding from making any progress to prevent discovery that would have revealed how he failed to oversee the Trustee or tolerated his negligent and reckless liquidation of Premier and the disappearance of Debtor’s Owner Palmer;

Whether Judge Ninfo affirmatively recruited, or created the atmosphere of

disregard of law and fact that led, other court officers to engage in a series of acts forming a pattern of non-coincidental, intentional, and coordinated conduct aimed at achieving an unlawful objective for their benefit and that of third parties and to the detriment of non-local pro se party Dr. Cordero.

36. Judge Jacobs failed to recognize the abstract notion of motive and how it could lead Judge Ninfo to take decisions that only apparently had anything to do with legal merits. What is less, he did not even detect, let alone refer to, the concrete and expressly used term “pattern”. Had he detected it, he could have understood how acts by non-judges, and thus not normally covered by the Complaint Provisions, could form part of unlawful activity coordinated by a judge, which would definitely constitute misconduct, to put it mildly. But he remained at the superficial level of considering each individual act in isolation and dismissing them singly. How can the dots be connected to detect any pattern of conduct supportive of reasonable suspicion of wrongdoing if the dots are not even plotted on a chart so that they can be looked at collectively?
37. Circumstantial evidence is so indisputably admitted in our legal system that cases built on it can cause a person to lose his property, his freedom, and even his life. Such cases look at the totality of circumstances. The Complaint describes those circumstances as a whole. It is supported by a separate volume of documentary evidence consisting of more than 500 pages –referred to as A-#, which were discussed in greater detail in another separate 54 page memorandum that laid out the facts and showed how they formed a pattern of activity. This memorandum is referred to as E-# in the 5-page Complaint, which is only its summary; (71-75, *infra*). Just the heft of such evidence and its carefully intertwined presentation would induce an unbiased person –one with no agenda other than to insure the integrity of the courts and to grant a meaningful hearing to the complainant- to entertain the idea that the Complaint might be a thoughtful piece of work with substance to it. Judge Jacobs not only failed to make reference to that material, but he did not even acknowledge its existence. Is it reasonable to assume that he did not waste time browsing it if he only intended to write a quick job, pro-forma dismissal?
38. The totality of circumstances presented in the Complaint is sufficient to raise reasonable suspicion of wrongdoing. There is no requirement that the complainant, who is a private citizen, not a private investigator, build an airtight criminal case ready for submission by the district attorney to the judge for trial. That is the work that a special committee would begin to do upon its appointment by a chief judge or a judicial council concerned by even the appearance of wrongdoing that undermines public confidence in their circuit’s judicial system. Unlike the complainant, such committee can conduct a deeper and more extensive investigation because it has the necessary subpoena power. An even more effective investigation can be mounted in cooperation with the FBI through a simultaneous referral to it. Indeed, the FBI has in addition the required expert manpower and resources to interview and depose large numbers of persons anywhere they may be and cross-relate their statements; engage in forensic accounting and trace bankruptcy debtors’ assets from where they were to wherever they may have ended up; and flush out and pursue evidence of official corruption. What motives could Chief Judge Walker and Judge Jacobs have had to fail to take these elementary prudent steps given the stakes?
39. Had they appointed a special committee, it would have found at least the following:
 - a) The Chapter 7 trustee referred to Judge Ninfo by Dr. Cordero for a review of his performance and fitness to serve has, according to Pacer¹, 3,383 *cases*! No wonder he had no

¹ Public Access to Court Electronic Records; ecf.nywb.uscourts.gov; or <https://pacer.psc.uscourts.gov>.

time to find out that Dr. Cordero's property was covered by an income producing contract that was an asset of the estate. Did Judge Ninfo know about this but dismissed Dr. Cordero's claims against the trustee to protect the trustee, who is a regular in his court?

- b) What is more, the Chapter 13 trustee has, again according to Pacer, 3,909 *open* cases! He also cannot possibly have the time or the inclination to check the factual accuracy or internal consistency of the content of each bankruptcy petition to ascertain its good faith. So on what basis does he accept petitions and ready them for confirmation of their plans of debt repayment by Judge Ninfo, before whom he regularly appears?
 - c) A petition for bankruptcy, dated January 26, 2004, was filed by David and Mary Ann DeLano; (82 et seq., *infra*). Though internally riddled with red flags as to its good faith (79, *infra*), it was accepted by the trustee without asking for a single external supporting financial document; and was readied for confirmation by the bankruptcy court. This is a test case that will blow up the cover of everything that is wrong in that bankruptcy district.
40. This Complaint too is a test case whether, as expected, this petition is denied by the Judicial Council, and then it goes straight to Justice Breyer's Committee; or the petition is granted and a special committee is belatedly appointed and the good faith and thoroughness of its investigation are checked by comparing its results against those of others underway.

III. Relief Requested

41. Therefore, I, Dr. Cordero, respectfully request of the Judicial Council that:
- a) neither Chief Judge Walker appoint himself nor Judge Dennis Jacobs be appointed to the review panel;
 - b) the review panel refer the petition to the full membership of the Judicial Council;
 - c) the Judicial Council itself take the "appropriate action" under Rule 5 of appointing a special committee to investigate and that neither Chief Judge Walker nor Judge Jacobs be members of such committee, but its members be experienced investigators unrelated to the Court of Appeals and the WDNY Bankruptcy and District Courts and be capable of conducting an independent, objective, and zealous investigation;
 - d) the special committee be charged with investigating any and all judges, administrative staff, debtors as well as both private and U.S. trustees in WDNY and NYC to determine:
 - 1) their involvement in the pattern of non-coincidental, intentional, and coordinated acts of disregard of the law, rules, and facts complained about;
 - 2) the relation between misconduct of judicial personnel and a scheme of bankruptcy fraud involving non-judicial personnel; and
 - 3) whether district and circuit judges have engaged in a systematic effort to suppress misconduct complaints and/or have violated Complaint Provisions;
 - e) this matter be simultaneously referred to the FBI for cooperative investigation; and
 - f) this Complaint together with this petition and the documentary evidence submitted with each be referred to the Judicial Conference of the United States; (cf. Rule 14(a) and (e)(2)).

Sincerely,

Dr. Richard Cordero

Table of Exhibits

accompanying the **petition** of July 8, 2004
to the Judicial Council of the Second Circuit
for **review** of the Chief Judge's **order** of June 8, 2004
dismissing the judicial misconduct **complaint**, docket no. 03-8547
against Judge John C. Ninfo, II, WBNY

by

Dr. Richard Cordero

1. Dr. Richard **Cordero's Motion** of **April 18**, 2004, for Leave to Update the Motion For the Hon. John M. Walker, Jr., **Chief Judge** of the Court of Appeal for the Second Circuit to **Recuse Himself** from *In re Premier Van et al.*, no. 03-5023, CA2, With Recent Evidence of a **Tolerated Pattern of Disregard** for Law and Rules Further Calling Into Question the Chief Judge's Objectivity and Impartiality to Judge Similar Conduct on Appeal.....E-1 [C:327]
2. Dr. **Cordero's Statement of Facts** of **March 19**, 2004, Setting forth a **Complaint** under 28 U.S.C. §351 against Chief Judge Walker **addressed** under Rule 18(e) of the Rules of the Judicial Council of the Second Circuit Governing Complaints against Judicial Officers **to** the Circuit Judge eligible to become the **next chief judge** of the circuitE-22 [C:271]
3. **Acknowledgment** by Patricia Chin **Allen, Clerk**, of **March 30**, 2004, of Dr. Cordero's judicial misconduct **complaint against Chief Judge Walker**.....E-27 [C:326]
4. Dr. **Cordero's letter** of **June 19**, 2004, to **Chief Judge** Walker, stating that the judicial misconduct **orders** have **not** been **made** publicly **available**, as required under the Rules Governing Misconduct Complaints, and requesting that they be made available to him for his use before the deadline of July 9 for submitting his petition for reviewE-28 [C:530]
5. Dr. **Cordero's letter** of **June 30**, 2004, to **Chief Judge** Walker, stating that the Court's **archiving** of all judicial misconduct orders except those for the last three years constitutes a **violation of Rule 17** of the Rules Governing Misconduct ComplaintsE-29 [C:533]
6. Dr. **Cordero's letter** of **July 1**, 2004, to Fernando Galindo, **Chief Deputy** of the Clerk of Court, **concerning** the warning to him by Mrs. Harris, **Head of the In-take Room**, that **if he nodded** a third time in the reading room while reading misconduct orders, she would **call the marshals on him**E-33 [C:537]

7. Dr. **Cordero's** motion of **April 11, 2004**, for declaratory judgment that **officers** of this Court intentionally violated law and rules as part of a **pattern of wrongdoing** to complainant's detriment and for this Court to launch an investigation.....E-36 [C:442]
8. Table of Judicial **Misconduct Orders**, made **available** on July 1, 2004, by the **Court of Appeals** for the Second Circuit **two weeks after requested** by Dr. Richard Cordero and read by him; but **docket-sheet record** not available, though required under Rule 17(a); and **dissenting opinions and separate statements** by CA2 Judicial Council members, if written, **not available**.....E-57 [C:564]
9. Table of All **Memoranda and Orders** of the **Judicial Conference** of the United States Committee to Review Circuit Council Conduct and Disability Orders sent in July 2004 to Dr. Cordero from the General Counsel's Office of the Administrative Office of the U.S. Courts and **showing** how **few** §351 complaints are allowed to **reach the Judicial Conference** as petitions for review of judicial council action.....E-59 [C:566]
10. **Report** of September 23, 2003, of the Proceedings of the **Judicial Conference** of the United States, and Reports of March and September 2003 and March 2004, of the Judicial Conference's **Committee to Review** Circuit Council Conduct and Disability **Orders** stating that there are **no pending petitions** for review of judicial council action on misconduct ordersE-60 [C:567]
11. **Supreme Court** of the United States **2003 Year-end Report** on the Federal Judiciary; www.supremecourtus.gov.....E-66 [C:573]
12. News release of the **Supreme Court** of **June 10, 2004**, on the Organization-al Meeting of the **Judicial Conduct** and Disability Act Study **Committee chaired by Justice Stephen Breyer**; http://www.supremecourtus.gov/publicinfo/press/pr_04-13-04.html.....E-67 [C:574]
13. **Statement** of Mr. James Sensenbrenner, Chairman of the **Committee on the Judiciary** of the House of Representatives, of **May 26, 2004**, regarding the new **Commission on Judicial Misconduct**; <http://judiciary.house.gov>.....E-69 [C:576]
14. Dr. **Cordero's** Statement of facts of **August 11, 2003**, in support of a **complaint** under 28 U.S.C. §351 submitted to the Court of Appeals **against** the Hon. John C. **Ninfo, II**, U.S. Bankruptcy Judge and other court officers at the U.S. Bankruptcy Court and the U.S. District Court for the Western District of New York.....E-71 [C:63]

15. Dr. Cordero’s letter of February 2, 2004, to Chief Judge Walker inquiring about the status of the complaint against Judge Ninfo and updating its supporting evidence	E-76	[C:105]
16. Clerk MacKechnie’s letter by Clerk Allen of February 4, 2004, acknowledging receipt and returning Dr. Cordero’s five copies of his inquiring and updating letter of February 2, 2004, to the Chief Judge because a decision has not yet been made	E-78	[C:109]
17. The DeLano Bankruptcy Petition, A test case that illustrates how a bankruptcy petition riddled with red flags as to its good faith is accepted without review by the trustee and readied for confirmation by the bankruptcy court	E-79	[C:578]
18. Notice of Chapter 13 Bankruptcy Case re David DeLano and Mary Ann DeLano, docket no. 04-20280, Meeting of Creditors, Deadlines, dated January 27, 2004, and filed on February 6, 2004, in the U.S. Bankruptcy Court, WDNY, with Certificate of Mailing, which contains addresses of creditors and other parties	E-82	[C:581]
19. Petition for Bankruptcy under 11 U.S.C. Chapter 13, by David DeLano and Mary Ann DeLano, dated January 26, 2004, with Schedules.....	E-85	[C:585]
20. Chapter 13 Plan of Debt Repayment of David and Mary Ann DeLano, dated January 26, 2004.....	E-116	[C:617]
21. Useful addresses for investigating the judicial misconduct and bankruptcy scheme (see also other addresses at 83-84, infra).....	E-118	[C:619]

Table of Judicial Misconduct Orders

orders made available to Petitioner on July 1, 2004,
by the Court of Appeals, 2nd Cir., to be read in its Reading Room
two weeks after he requested them

to prepare his petition to the Judicial Council for review of the dismissal
of his complaint, no. 03-8547, CA2, against Judge John C. Ninfo, II, WBNY,
but no docket-sheet record was available, though required under
Rule 17(a) of the Rules of the Judicial Council of the Second Circuit
Governing Complaints against Judicial Officers;
and dissenting opinions and separate statements
by Judicial Council members, if written, were not available
(listed in the order in which they were found in the 2003 binder)

by

Dr. Richard Cordero

	Docket no.	Review Petition granted/denied by Jud. Council	Order of the Jud. Council¹ signed by	Disposition of complaint	Memorandum if available, signed by	Special Committee
1.	03-8552	denied	Cir. Exec. Milton	dismissed		
2.	03-8512	denied	Cir. Exec. Milton	dismissed		
3.	03-8515	denied	Cir. Exec. Milton	dismissed		
4.	03-8517, 03-8518, 03-8521	denied	Cir. Exec. Milton	dismissed		
5.	02 -8534	denied	Cir. Exec. Milton	dismissed		
6.	02 -8539	denied	Cir. Exec. Milton	dismissed		
7.	02 -8580	denied	Cir. Exec. Milton	dismissed		
8.	02 -8573, 02 -8574	denied	Cir. Exec. Milton	dismissed		
9.	02 -8550	denied	Cir. Exec. Milton	dismissed		
10.	03-8523	denied	Cir. Exec. Milton	dismissed		
11.	03-8528	denied	Cir. Exec. Milton	dismissed		
12.	03-8522	denied	Cir. Exec. Milton	dismissed		

¹ Upon consideration thereof by the Council it is ORDERED that the petition for review is DENIED for the reasons stated in the order dated _____. [signed] Karen Greve Milton, Circuit Executive, by Direction of the Judicial Council

13.	03-8517, 03-8518			dismissed	Chief Jdg. Walker	not appointed
14.	03-8516	denied		dismissed	Chief Jdg. Walker	not appointed
15.	03-8513, 03-8514, 03-8515	denied		dismissed	Chief Jdg. Walker	not appointed
16.	03-8512			dismissed	Chief Jdg. Walker	not appointed
17.	03-8509	denied		dismissed	Chief Jdg. Walker	not appointed
18.	03-8508	denied		dismissed	Chief Jdg. Walker	not appointed
19.	03-8523	denied		dismissed	Chief Jdg. Walker	not appointed
20.	03-8504, 03-8505, 03-8506	denied		dismissed	Chief Jdg. Walker	not appointed
21.	03-8502	denied		dismissed	Chief Jdg. Walker	not appointed ²
22.	03-8501	denied		dismissed	Chief Jdg. Walker	not appointed ³
23.	02-8575	denied		dismissed	Chief Jdg. Walker	not appointed
24.	02-8577, 02-8578, 02-8579	denied		dismissed	Chief Jdg. Walker	not appointed
25.	02-8580	denied		dismissed	Chief Jdg. Walker	not appointed
26.	02-8581	denied		dismissed	Chief Jdg. Walker	not appointed
27.	02-8582	denied		dismissed	Chief Jdg. Walker	not appointed
28.	02-8562	denied		dismissed	Chief Jdg. Walker	not appointed
29.	02-8565	denied		dismissed	Chief Jdg. Walker	not appointed
30.	02-8571	denied		dismissed	Chief Jdg. Walker	not appointed
31.	02-8570	denied		dismissed	Chief Jdg. Walker	not appointed

² Reference in the memorandum to “An independent review of the District Court docket sheet in that case reveals that...”.

³ Reference in the memorandum to “an independent review of the transcript of the pretrial conference”.

Table of All Memoranda and Orders
of
The Judicial Conference of the United States
Committee to Review Circuit Council Conduct and Disability Orders
sent in July 2004 to Dr. Cordero from the General Counsel's Office of the Administrative Office of
the U.S. Courts and showing how few complaints under 28 U.S.C. §351 et seq. are allowed to reach
the Judicial Conference as petitions for review of judicial council action

	In re Complaint of	Docket no.	Status	Circuit Council	
1.	George Arshal	82-372-001	Incomplete after p.3	Court of Claims	
2.	Gail Spilman	82-372-002		6th	
3.	Thomas C. Murphy	82-372-003		2nd	
4.	Andrew Sulner	82-372-004		2nd	
5.			Missing?		
6.	John A. Course	82-372-006		7th	
7.	Avabelle Baskett, et al.	83-372-001		Court of Claims	
8.	of bankruptcy judge	84-372-001		9th	
9.	Fred W. Phelps, Sr. et al. v. Hon. Patrick F. Kelly	87-372-001		10th	
10.	Petition No. 88-372-001	88-372-001		not stated	
11.	Donald Gene Henthorn v. Judge Vela and Magistrate Judges Mallet and Garza	92-372-001		5th	
12.	In re: Complaints of Judicial Misconduct	93-372-001		10th	
13.	In re: Complaints of Judicial Misconduct	94-372-001		D.C. Ct. of Appeals	
14.	In re: Complaints of Judicial Misconduct	95-372-001		9th	
15.	In re: Complaints of Judicial Misconduct or Disability [Dist. Judge John H. McBryde]	98-372-001		5th	
16.	In re: Complaint of Judicial Misconduct	01-372-001	Incomplete after p.3	D.C. Ct. of Appeals	
17.	Agenda E-17, Conduct and Disability; March 2003: no petitions for review pending; Committee "is monitoring the status of Spargo v. NYS Comms. on Judicial Conduct, 244 F.Supp.2d 72(NDNY 2003)		p. 2 is missing or p. 1 and 3 are mismatched		
18.	Agenda E-17, Conduct and Disability; September 2003: no petitions for review pending; the Committee "has continued to monitor congressional activity in the area of judicial conduct an disability", p.35				
19.	Agenda E-17, Conduct and Disability; March 2004: no petitions for review for received or pending				

**REPORT OF THE PROCEEDINGS
OF THE JUDICIAL CONFERENCE
OF THE UNITED STATES**

***SEPTEMBER 23, 2003
WASHINGTON, D.C.***

***JUDICIAL CONFERENCE OF THE UNITED STATES
CHIEF JUSTICE WILLIAM H. REHNQUIST,
PRESIDING
LEONIDAS RALPH MECHAM, SECRETARY***

ACCELERATED FUNDING

On recommendation of the Committee, the Judicial Conference agreed to designate for accelerated funding in fiscal year 2004 the new full-time magistrate judge positions at Brooklyn, New York; Central Islip, New York; Chattanooga, Tennessee; and Baltimore or Greenbelt, Maryland.

COMMITTEE ACTIVITIES

The Committee on the Administration of the Magistrate Judges System reported that it decided to defer, but not withdraw, its position that service as an arbitrator or mediator by retired magistrate judges and bankruptcy judges should not be considered the practice of law under the Regulations of the Director Implementing the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act. The Committee also discussed possible additional criteria for the creation of new full-time magistrate judge positions and decided that the current Judicial Conference criteria are comprehensive and that the Committee's detailed review of each request ensures that only justified requests are approved. Further, the Committee considered an item on law clerk assistance for Social Security appeals that was also considered by the Court Administration and Case Management and Judicial Resources Committees, and requested that detailed materials be prepared on this subject for these committees' December 2003 meetings.

COMMITTEE TO REVIEW CIRCUIT COUNCIL CONDUCT AND DISABILITY ORDERS

COMMITTEE ACTIVITIES

The Committee to Review Circuit Council Conduct and Disability Orders reported that, in the absence of any petition before it for review of judicial council action under the Judicial Conduct and Disability Act, it has continued to monitor congressional activity in the area of judicial conduct and disability.

**REPORT OF THE JUDICIAL CONFERENCE COMMITTEE TO REVIEW
CIRCUIT COUNCIL CONDUCT AND DISABILITY ORDERS**

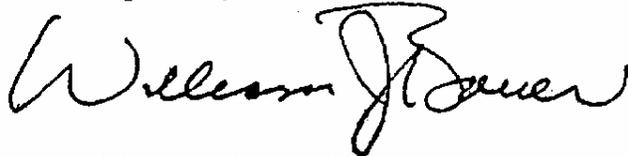
**TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES:**

The Committee to Review Circuit Council Conduct and Disability Orders last met on August 30-31, 2001. Since that meeting the Committee has communicated by mail and telephone.

PETITIONS FOR REVIEW

The Committee has not received any petitions for review of judicial council action taken under 28 U.S.C. § 354 since the Committee's last report to the Judicial Conference. Nor are there any petitions for review pending from before that time.

Respectfully submitted,



William J. Bauer, Chairman
Pasco M. Bowman
Carolyn R. Dimmick
Barefoot Sanders
Stephanie K. Seymour

NOTICE

**NO RECOMMENDATION PRESENTED HEREIN REPRESENTS THE POLICY OF THE JUDICIAL
CONFERENCE UNLESS APPROVED BY THE CONFERENCE ITSELF.**

**REPORT OF THE JUDICIAL CONFERENCE COMMITTEE TO REVIEW
CIRCUIT COUNCIL CONDUCT AND DISABILITY ORDERS**

**TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES:**

The Committee to Review Circuit Council Conduct and Disability Orders last met on August 30-31, 2001. Since that meeting the Committee has communicated by mail and telephone.

AMENDMENTS TO THE JUDICIAL CONDUCT AND DISABILITY ACT

The 21st Century Department of Justice Appropriations Authorization Act, Division C, Title I, Subtitle C, §§ 11041-43 (Pub. L. No. 107-273, 11/2/02), amended the Judicial Conduct and Disability Act, the former 28 U.S.C. § 372(c), in several minor respects. For the most part the provisions of that Act have been preserved verbatim.

The statute makes essentially four changes in the provisions of the Judicial Conduct and Disability Act:

1. As a matter of form, the statute recodifies section 372(c) as sections 351 through 364 of title 28.

NOTICE

**NO RECOMMENDATION PRESENTED HEREIN REPRESENTS THE POLICY OF THE JUDICIAL
CONFERENCE UNLESS APPROVED BY THE CONFERENCE ITSELF.**

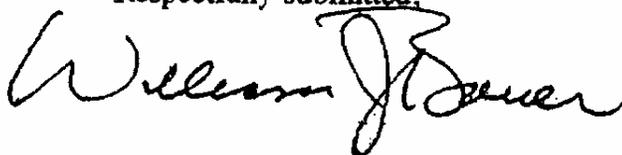
and Disability Act, 28 U.S.C. § 372(c)(6)(B), because of the judge's "intemperate, abusive and intimidating treatment of lawyers, fellow judges, and others." The sanctions consisted of (1) a public reprimand, (2) a one-year suspension from new case assignments, and (3) a three-year suspension from hearing cases in which certain listed attorneys appeared. The court of appeals had affirmed the district court's dismissal of the district judge's challenges to the public reprimand, and had ruled that the district judge's challenges to the one-year and three-year suspensions should have been dismissed as moot.

The denial of certiorari by the Supreme Court would appear to finally put an end to this long-running litigation.

PETITIONS FOR REVIEW

The Committee has not received any petitions for review of judicial council action taken under 28 U.S.C. § 354 (section 372(c)(6)) since the Committee's last report to the Judicial Conference. Nor are there any petitions for review pending from before that time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William J. Bauer". The signature is fluid and cursive, with the first name "William" and last name "Bauer" clearly legible.

William J. Bauer, Chairman
Pasco M. Bowman
Carolyn R. Dimmick
Barefoot Sanders
Stephanie K. Seymour

judges to vote on the selection of chief pretrial services officers, disagreeing with the Criminal Law Committee's recommendation to the Judicial Resources Committee that legislation be sought to amend 18 U.S.C. § 3152(c) to make the selection process for chief pretrial services officers the same as the selection process for chief probation officers under 18 U.S.C. § 3602(c). The Judicial Resources Committee will consider both committees' views at its June 2004 meeting. The Magistrate Judges Committee also agreed to include in all future survey reports that analyze requests for new magistrate judge positions information on the space implications of any new positions, and, if available, the related costs of such requests.

COMMITTEE TO REVIEW CIRCUIT COUNCIL CONDUCT AND DISABILITY ORDERS

COMMITTEE ACTIVITIES

The Committee to Review Circuit Council Conduct and Disability Orders reported that, in the absence of any petition before it for review of judicial council action under the Judicial Conduct and Disability Act, it has continued to monitor congressional activity in the area of judicial conduct and disability.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

COMMITTEE ACTIVITIES

The Committee on Rules of Practice and Procedure reported that it approved for publication proposed amendments to Rules 5005 (Filing and Transmittal of Papers) and 9036 (Notice by Electronic Transmission) of the Federal Rules of Bankruptcy Procedure. The Committee also approved for later publication proposed style amendments to Civil Rules 16-37 and 45. Publication of these rules as well as proposed style amendments to Civil Rules 1-15 approved in September 2003 (JCUS-SEP 03, p. 37) have been deferred until all the civil rules have been revised, which is expected to occur early in 2005. The Advisory Committees on Appellate, Bankruptcy, Civil, and Criminal Rules are reviewing comments from the public submitted on amendments proposed in August 2003 to their respective sets of rules.



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For further information contact
Public Information Office 202-479-3211

EMBARGOED FOR RELEASE
January 1, 2004, 12:01 a.m. E.S.T.

2003 YEAR-END REPORT ON THE FEDERAL JUDICIARY

I. Overview

This Year-End Report on the Federal Judiciary is my 18th.

I am pleased to report that the Senate confirmed 55 District Court judges during 2003, leaving only 27 vacancies out of 680 judgeships. At the same time, 13 Court of Appeals judges were confirmed, but 17 nominations remain pending.

...

III. The Year in Review

The Supreme Court of the United States

This year we broke ground on our long-anticipated building modernization program. It is my hope that we remain on schedule and complete the project under budget.

The total number of case filings in the Supreme Court increased from 7,924 in the 2001 Term to 8,255 in the 2002 Term - an increase of 4 percent. Filings in the Court's *in forma pauperis* docket increased from 6,037 to 6,386 - a 5.8 percent rise. The Court's paid docket decreased by 17 cases, from 1,886 to 1,869 - a 1 percent decline. During the 2002 Term, 84 cases were argued and 79 were disposed of in 71 signed opinions, compared to 88 cases argued and 85 disposed of in 76 signed opinions in the 2001 Term. No cases from the 2002 Term were scheduled for re-argument in the 2003 Term. This year the Court reconvened a month earlier than usual to hear a full day's argument in the Bipartisan Campaign Reform Act cases. Written opinions deciding the cases were handed down in December.

The Federal Courts' Caseload

In Fiscal Year 2003, the federal courts experienced record highs in filings in most program areas, and a decline in only one. Filings in the 12 regional courts of appeals grew 6 percent from 57,555 to 60,847, a record number.³ Criminal case filings increased 5 percent to an all-time high of 70,642, surpassing the previous record reported in 1932, the year before the Prohibition Amendment was repealed.⁴ In contrast, civil filings declined 8 percent to 252,962.⁵ Filings in the U.S. bankruptcy courts increased 7 percent from 1,547,669 to 1,661,996, the second consecutive year filings have set a record.⁶ The number of persons on probation and supervised release went...



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FOR IMMEDIATE RELEASE

June 10, 2004

For Further Information Contact:
Public Information Office
Phone: 202-479-3211

Judicial Conduct and Disability Act Study Committee

Organizational Meeting

June 10, 2004

The Judicial Conduct and Disability Act Study Committee held its initial organizational meeting today at the Supreme Court. The Chief Justice established the Committee, chaired by Justice Stephen Breyer, to evaluate how the federal judicial system has implemented the Judicial Conduct and Disability Act of 1980. (See 28 U.S.C. §§ 351-364.) That Act authorizes "any person" to file a complaint alleging that a federal circuit judge, district judge, bankruptcy judge, or magistrate judge has "engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts," or is physically or mentally unable to perform his or her duties. The Act does not itself prescribe ethical standards; nor does it apply to the Supreme Court.

At today's meeting, the Committee decided that it will initially examine as many non-frivolous Act-related complaints as can be identified, along with a statistical sample of all complaints, filed in the last several years. The Committee will use this information to help shape a further course of examination and analysis, eventually leading to Committee recommendations to the Chief Justice.

"The Committee's task is narrow, but important," Justice Breyer said. "The 1980 Act put a system in place so that action can be taken when judges engage in misconduct or are physically or mentally unable to carry out their duties. We need to see how the system is working. The public's confidence in the integrity of the judicial branch depends not only upon the Constitution's assurance of judicial independence. It also depends upon the public's understanding that effective complaint procedures, and remedies, are available in instances of misconduct or disability."

In addition to Justice Breyer, the Committee members are: Judge J. Harvie Wilkinson (U.S. Court of Appeals for the Fourth Circuit); Judge Pasco M. Bowman (U.S. Court of Appeals for the Eighth Circuit); Judge D. Brock Hornby (U.S. District Court for the District of Maine); Judge Sarah Evans Barker (U.S. District Court for the Southern District of Indiana); and Sally M. Rider (administrative assistant to the Chief Justice).

The Committee will use staff drawn from the Administrative Office of the United States Courts and the Federal Judicial Center. The staff will develop a research plan based both on statistical sampling and interviews, including interviews of judges, administrators, and practicing lawyers, such as prosecutors and defense attorneys. It will examine complaints submitted by members of the public to other institutions, including Congress, and will develop methods for obtaining information from members of the public. Although the Committee will proceed publicly where useful and appropriate, it recognizes the statutory requirement to maintain confidentiality of records and complaints. (See 28 U.S.C. § 360.) It will likely take eighteen months to two years for the Committee to complete its work. The Committee will meet again in the fall.

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Last Updated: June 10, 2004

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**U.S. House of Representatives
Committee on the Judiciary
F. James Sensenbrenner, Jr., Chairman**

www.house.gov/judiciary

News Advisory

For immediate release

Contact: Jeff Lungren/Terry Shawn

May 26, 2004

202-225-2492

**Sensenbrenner Statement Regarding
New Commission on Judicial Misconduct**

WASHINGTON, D.C. - U.S. Supreme Court Chief Justice William Rehnquist yesterday announced the creation of a judicial commission, headed by Supreme Court Justice Stephen Breyer, to look into the implementation of the Judicial Conduct and Disability Act of 1980 concerning judicial misconduct and discipline. House Judiciary Committee Chairman F. James Sensenbrenner, Jr. (R-Wis.) released the following statement:

"I am pleased and encouraged by this announcement. Chief Justice Rehnquist should be commended for his willingness to work with the Congress and address this issue in a serious manner. Chief Justice Rehnquist made a wise choice in asking Justice Breyer to head this commission and I'm grateful Justice Breyer has agreed to serve as head of this panel. Justice Breyer's devotion to the law combined with his exemplary standards of character and integrity will provide this commission with the qualities needed to complete its work."

"The 1980 Act, which was amended during the 107th Congress, is based on a self-governing construct that allows the judicial branch large deference to police itself regarding matters of judicial misconduct and discipline. This system worked quite well during the 1980's. For instance, on three separate occasions, a judicial branch investigation recommended a federal judge be impeached for misconduct. Congress followed these recommendations in each case by impeaching these judges. Since then, however, this process has not worked as well, with some complaints being dismissed out of hand by the judicial branch without any investigation."

Background on Judicial Conduct and Disability Act of 1980

Individuals who believe a U.S. circuit or district court judge has indulged in misconduct may file a complaint against the judge in the relevant circuit. The chief judge of the circuit is empowered

to dismiss frivolous complaints or those that relate to the merits of a decision. More serious complaints are subject to review by an investigatory committee selected by the chief judge of the circuit and further review may be warranted by judicial councils empaneled for that purpose. The councils and the Judicial Conference, the leadership arm of the federal judiciary, are given wide latitude to take any necessary corrective action, including the authority to recommend that a judge be impeached.

The 1980 Act does not apply to Supreme Court justices. The authority to create this process as a way to instill ethical behavior within the lower federal courts is explicit under Article III of the Constitution. Constitutional questions would arise under the separation of powers doctrine to apply the same construct to Supreme Court justices.

####

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The DeLano Bankruptcy Petition of January 27, 2004

A test case that illustrates how a bankruptcy petition riddled with red flags as to its good faith is accepted without review by the trustee and readied for confirmation by the bankruptcy court

by

Dr. Richard Cordero

1. On January 27, 2004, a bankruptcy petition under Chapter 13 of the Bankruptcy Code (Title 11, U.S.C.) was filed in the Bankruptcy Court for the Western District of New York in Rochester by David and Mary Ann DeLano (docket no. 04-20280; 74, *infra*). The figures in its schedules and the surrounding circumstances should have readily alerted the trustee and his attorney to the suspicious nature of the petition. Yet, Chapter 13 Trustee George Reiber and his attorney, James Weidman, Esq., approved the petition and were about to submit its repayment plan on March 8 to the court for confirmation when Dr. Richard Cordero, a creditor, submitted written objections to confirming that plan. Even so, the Trustee and his attorney vouched in open court for the petition's good faith. The U.S. Trustees kept Trustee Reiber on the case despite Dr. Cordero's request for his removal. Judge for yourself from the following salient figures and circumstances whether they all instead had reason to suspect the petition's good faith:
 - a) Mr. DeLano has been *a bank officer for 15 years!*, or rather more precisely, a **loan** bank officer, whose daily work must include ascertaining the creditworthiness of loan applicants and their ability to repay the loan over its life. He is still in good standing with, and employed in that capacity by, a major bank, namely, Manufacturers and Traders Trust Bank (M&T Bank). He had to know better than to do the following together with Mrs. DeLano, who until recently worked for Xerox as a specialist on one of its machines.
 - b) The DeLanos incurred scores of thousands of dollars in credit card debt;
 - c) carried it at the average interest rate of 16% or the delinquent rate of over 23% for over 10 years;
 - d) during which they were late in their monthly payments at least 232 times documented by even incomplete Equifax credit bureau reports of April and May 2004;
 - e) have ended up owing \$98,092 to 18 credit card issuers listed in Schedule F;
 - f) owe also a mortgage of \$77,084;
 - g) have near the end of their work life equity in their house of only \$21,415;
 - h) declared earnings in 2001 of \$91,229, in 2002 of \$91,655, and in 2003 of \$108,586;
 - i) yet claim that after a lifetime of work they have only \$2,910 worth of household goods;
 - j) their cash in hand or on account declared in their petition was only \$535.50;
 - k) the rest of their personal property is just two cars worth \$6,500;
 - l) claim as exempt \$59,000 in a retirement account and \$96,111.07 in a 401-k account;
 - m) make a \$10,000 loan to their son and declare it uncollectible;

- n) but offer to repay only 22 cents on the dollar without interest for just 3 years;
 - o) refused for months to submit any credit card statement covering any length of time ‘because the DeLanos do not maintain credit card statements dating back more than 10 years in their records and doubt that those statements are available from even the credit card companies’;
 - p) however, the DeLanos:
 - (1) must still receive the **monthly** statement from each of the 18 credit card issuers in Schedule F, given that on April 16, their attorney, Christopher Werner, Esq., stated to the court: “Debtors have maintained the minimum payments on those obligations”;
 - (2) must have consulted in January 2004, such statements to provide in Schedule F the numbers of their accounts with those issuers and their addresses; and
 - (3) must know –Loan Officer DeLano must no doubt be presumed to know- that they have an obligation to keep financial documents for a certain number of years;
 - q) despite Dr. Cordero’s requests for financial documents of March 4 and 30, April 23, and May 23, and the Trustee’s of April 20 and May 18, the DeLanos provided only some financial documents on June 14, so late that the Trustee moved on June 15 for dismissal for “unreasonable delay”, and what they did provide is incomplete and incriminatory:
 - (1) only 1 statement of each of only 8 credit card accounts,
 - (2) those statements are missing the section that shows from which provider of goods and services a purchase was made and for what amount, which is indispensable information to establish the timeline of debt accumulation and its nature;
 - (3) the statements are not even the latest ones of May and June 2004, but rather are of between July and October 2003! Why would the DeLanos ever do such thing?!;
 - (4) the credit bureau report submitted for Mr. DeLano and the one for Mrs. DeLano are from only one bureau, namely, Equifax, even though the DeLanos must know that none of the reports of even the other two major bureaus, that is, Trans Union and Experian, is exhaustive by including all accounts or up to date as to each account, but rather their reports are complementary;
 - (5) worse yet, the Equifax reports submitted are missing pages, even pages that must contain information on accounts, such as outstanding balance and payment history;
 - (6) the figures in the three IRS 1040 forms for 2001, 2002, and 2003 do not coincide with the information on earnings in the DeLanos’ bankruptcy petition of January 26, 2004.
2. A comparison between those credit card statements, the Equifax reports, the bankruptcy petition, and the court-developed claims register and creditors matrix calls into question the petition’s good faith by revealing debt underreporting, accounts unreporting, and substantial non-accountability for massive amounts of earned and borrowed money.
 3. Indeed, in Schedule F the DeLanos claimed that their financial difficulties began with “1990 and prior credit card purchases”. Thereby they opened the door for questions covering the period between then and now. Until they provide tax returns that go that far, let’s assume that in 1989 the combined income of him and his wife, a Xerox specialist, was \$50,000. Last year, 15 years later, it was over \$108,000. So let’s assume further that their average annual income was \$75,000. In 15 years they earned \$1,125,000...but they allege to end up with tangible property worth only \$9,945 and home equity of merely \$21,415! This does not take into account what

they owned before 1989, let alone their credit card borrowing. Where did the money go? Where is it? Mr. DeLano is 62 and Mrs. DeLano is 59. What kind of retirement are they planning for?

4. Did Mr. DeLano put his knowledge and experience as a loan officer to good use in living it up with his family and closing his accounts down with 18 credit card issuers by filing for bankruptcy? How could Mr. DeLano, despite his many years in banking during which he must have examined many loan applicants' financial documents, have thought that it would be deemed in good faith to submit such objectively incomplete documents? Did he have any reason to expect Trustee Reiber not to analyze them? Did the Trustee and Attorney Weidman ask themselves that? How did they ascertain the timeline of debt accumulation and its nature if they did not even have those documents before readying the petition for submission to the court?
5. Did the Trustee and his Attorney ever get the hint that the figures in the petition and the surrounding circumstances made no sense or were they too busy with their other cases, which according to Pacer are 3,909, as well as the in-take of new ones to ask any questions and request any supporting documents? How many other cases did they also accept under the motto "don't ask, don't check, just cash in"? Do other debtors and officers with power to approve or disapprove petitions practice the enriching wisdom of that motto? How many creditors, including tax authorities, are being left holding bags of worthless IOUs?
6. Assistant U.S. Trustee Kathleen Schmitt and U.S. Trustee for Region 2 Deirdre Martini have allowed Trustee Reiber to hold on to this case despite Dr. Cordero's reasoned request of March 30 for his replacement. Only because of his repeated assertion of his right to examine financial information about the DeLanos has Trustee Reiber requested documents. Yet, the Trustee's late request of April 20 was insufficient, covering just 8 accounts out of 18 for only three years out of 15. Although Trustee Reiber received only a few on June 14, as of July 6 he had not even realized how incomplete the 8 pages of bank statements and 11 pages of Equifax reports were, let alone analyzed them and detected their grave implications for the petition's good faith. He refuses to subpoena the missing documents. Hence, the U.S. Trustees must take notice of his ineffective and halfhearted effort to "investigate" the DeLanos. They must not disregard any longer his obvious conflict of interest: It is in Trustee Reiber's interest to conclude his "investigation" with the finding that the DeLanos filed their petition in good faith, lest he indict his own agent, Attorney Weidman, and himself for approving such a questionable petition and vouching for its good faith in open court on March 8, thereby casting doubt on his myriad other cases.
7. Indeed, if a case as meritless as the DeLanos' passed muster with them, what about the others? Such doubts could have devastating consequences for all involved. To begin with, they could trigger an examination of Trustee Reiber's other cases, which could lead to his and his agent-attorney's suspension and removal. Were those penalizing measures adopted, they would inevitably lead to questioning the kind of supervision that the Trustee and his attorney have been receiving from U.S. Trustees Schmitt and Martini. The next logical question would be what kind of oversight the bankruptcy and district courts have been exercising over petitions submitted to them, in particular, and the bankruptcy process, in general.
8. What were they all thinking!/? Whatever it was, from their perspective now their best self-protection is not to set in motion an investigative process that can spin out of control and end up crushing them. Will the Judicial Council let them get away with it or will it appoint a special committee –better yet, make a referral to the FBI- to investigate the DeLano test case and the thousands like it that undermine the integrity of the judicial system and the public trust in it?

United States Bankruptcy Court

04-20280

NOTICE OF CHAPTER 13 BANKRUPTCY CASE, MEETING OF CREDITORS, AND DEADLINES

You may be a creditor of the debtor(s). **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below.

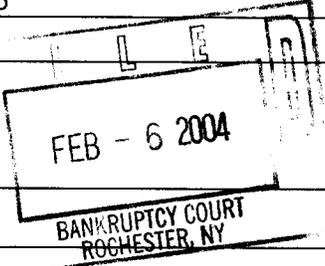
NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

Debtor(s) (name(s) and address): DAVID G DELANO 1262 SHOECRAFT ROAD WEBSTER, NY 14580 AKA: Joint: MARY ANN DELANO 1262 SHOECRAFT ROAD WEBSTER, NY 14580	Date Case Filed(or Converted): January 27, 2004	Soc Sec/Tax Id Nos: XXX-XX-3894 XXX-XX-0517
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Individual debtors must provide picture identification and proof of social security number to the trustee at this meeting of creditors. Failure to do so may result in your case being dismissed.

Attorney for Debtor(s) (name and address): CHRISTOPHER K WERNER, ESQ BOYLAN, BROWN, ET AL 2400 CHASE SQUARE ROCHESTER, NY 14604-0000 Telephone Number: (716) 232-5300	Bankruptcy Trustee (name and address): George M. Reiber 3136 South Winton Road Suite 206 Rochester, NY 14623 Telephone Number: (585) 427-7225
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See Reverse Side For Important Explanations.

Meeting of Creditors:		
DATE: March 08, 2004 TIME: 01:00 PM	Location: U.S. Trustees Office 6080 U.S. Courthouse 100 State Street Rochester, NY 14614	

Deadlines:		
Papers must be received by the bankruptcy clerk's office by the following deadlines.		
Deadline to File a Proof of Claim:		
For all creditors (except a governmental unit):	June 07, 2004	For governmental units: July 26, 2004

Deadline to Object to Exemptions:	
Thirty (30) days after the conclusion of the meeting of creditors.	

Filing of Plan, Hearing on Confirmation of Plan	
The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held:	
DATE: March 08, 2004 TIME: 03:30 PM	Location: U. S. Bankruptcy Court 1400 U.S. Courthouse 100 State Street Rochester, NY 14614

Creditors May Not Take Certain Actions:	
The filing of the bankruptcy case automatically stays certain collection and other actions against the debtor, debtor's property, and certain codebtors. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized.	

The plan proposes payments to the Trustee of \$1,940.00 MO With unsecured claims to be paid 22 cents on the dollar.	
PLEASE TAKE FURTHER NOTICE THAT ALL CLAIMS, INCLUDING THOSE CLAIMS PURPORTING TO BE A LIEN UPON REAL PROPERTY, MAY BE DEEMED TO BE UNSECURED UNLESS PROOF OF THE DEBT, THE PERFECTION OF THE LIEN AND THE VALUE OF THE SECURITY IS FILED WITH THE COURT AT OR BEFORE THE ABOVE MEETING OF CREDITORS.	
A HEARING TO DETERMINE THE VALIDITY AND THE VALUE OF ANY CLAIMED SECURITY INTEREST IN PROPERTY OF THE DEBTOR, AND A HEARING TO DETERMINE VALIDITY OF ANY LIEN OR SECURITY INTEREST CLAIMED AGAINST EXEMPT PROPERTY COVERED BY SEC. 522 F, 11 USC WILL BE HELD AT THE HEARING ON CONFIRMATION.	
WRITTEN OBJECTIONS TO CONFIRMATION MAY BE FILED WITH THE COURT AT ANY TIME PRIOR TO CONFIRMATION.	

Address of the Bankruptcy Clerk's Office: U.S. Bankruptcy Court 100 State St. Rochester, NY 14614	Website: http://www.nywb.uscourts.gov Clerk of the Bankruptcy Court: PAUL R. WARREN DATED: February 03, 2004
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Case filing information and deadline dates can be obtained free of charge by calling our Voice Case Information System: (716) 551-5311 or (800) 776-9578. Hours Open 8:00am to 4:30pm

Filing of Chapter 13 Bankruptcy Case	A bankruptcy case under Chapter 13 of the Bankruptcy Code (Title 11, United States Code) has been filed in this court by the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 13 allows an individual with regular income and debts below a specified amount to adjust debts pursuant to a plan. A plan is not effective unless confirmed by the bankruptcy court. You may object to confirmation of the plan and appear at the confirmation hearing. A copy or summary of the plan [is included with this notice] or [will be sent to you later], and [the confirmation hearing will be held on the date indicated on the front of this notice] or [you will be sent notice of the confirmation hearing]. The debtor will remain in possession of the debtor's property and may continue to operate the debtor's business, if any, unless the court orders otherwise.
Creditors May Not Take Certain Actions	Prohibited collection actions against the debtor and certain codebtors are listed in the Bankruptcy Code §362 and §1301. Common examples of prohibited actions include contacting the debtor by telephone, mail or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. <i>The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date without further notice.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. If you do not file a Proof of Claim by the "Deadline to File a Proof of Claim" listed on the front side, you may not be paid any money on your claim against the debtor in the bankruptcy case. To be paid you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Do not file voluminous attachments to your proof of claim. Include only relevant excerpts which are clearly labeled as such. Full versions of excerpted documents must be made available upon request.
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors; even if the debtor's case is converted to Chapter 7. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side unless otherwise noted. You may inspect all papers filed, including the list of the debtor's property and debts and the list of property claimed as exempt, at the bankruptcy clerk's office.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. You may want to consult an attorney to protect your rights.
Return Mail	The address of the debtor's attorney will be used as the return address for the Notice of Meeting of Creditors. For returned or undeliverable mailings, debtor's must obtain the intended recipient's correct address, resend the notice and file an affidavit of service with the Clerk's office. The Clerk's office will then update its records for future mailings. Failure to serve all parties with a copy of this notice may adversely affect the debtor.
---Refer To Other Side For Important Deadlines and Notices---	

CERTIFICATE OF MAILING

CASE: 0420280 TRUSTEE: 63 COURT: 146
TASK: 02-02-2004.00111358.N13ND2 DATED: 02/03/2004

Court	U.S. Bankruptcy Court	100 State St. Rochester, NY 14614
Trustee	George M. Reiber Suite 206	3136 South Winton Road Rochester, NY 14623
Debtor	DAVID G DELANO	1262 SHOECRAFT ROAD WEBSTER, NY 14580
Joint	MARY ANN DELANO	1262 SHOECRAFT ROAD WEBSTER, NY 14580
799	000001 CHRISTOPHER K WERNER, ESQ 2400 CHASE SQUARE	BOYLAN, BROWN, ET AL ROCHESTER, NY 14604-0000
001	000005 AT & T UNIVERSAL CARD	P O BOX 8217 S HACKENSACK, NJ 07606
014	000016 CITICARDS	P O BOX 8116 S HACKENSACK, NJ 07606
015	000018 CITICARDS	P O BOX 8116 S HACKENSACK, NJ 07606
018	000021 DR RICHARD CORDERO	59 CRESCENT STREET BROOKLYN, NY 11208-1515
011	000014 CHASE	P O BOX 1010 HICKSVILLE, NY 11802-0000
021	000023 HSBC BANK USA	SUITE 0627 BUFFALO, NY 14270-0627
020	000004 GENESEE REGIONAL BANK	3670 MT READ BLVD ROCHESTER, NY 14616
003	000007 BANK ONE	P O BOX 15153 WILMINGTON, DE 19886
004	000009 BANK ONE	P O BOX 15153 WILMINGTON, DE 19886
005	000010 BANK ONE	P O BOX 15153 WILMINGTON, DE 19886
022	000024 MBNA AMERICA	P O BOX 15137 WILMINGTON, DE 19886
023	000025 MBNA AMERICA	P O BOX 15137 WILMINGTON, DE 19886
024	000026 MBNA AMERICA	P O BOX 15102 WILMINGTON, DE 19886-0000
016	000019 DISCOVER CARD	P O BOX 15251 WILMINGTON, DE 19886-5251
019	000022 FLEET CREDIT CARD SERVICES	P O BOX 15368 WILMINGTON, DE 19886-5368
006	000008 BANK ONE/FIRST USA BANK RECOVERY DEPT	PO BOX 517 FREDERICK, MD 21705-0517
007	000011 CAPITAL ONE	P O BOX 85147 RICHMOND, VA 23285
008	000013 CAPITAL ONE	P O BOX 85147 RICHMOND, VA 23285
010	000012 CAPITAL ONE BANK	P O BOX 85167 RICHMOND, VA 23285-0000
017	000020 DISCOVER FINANCIAL SERVICES	P.O. BOX 8003 HILLIARD, OH 43026

CERTIFICATE OF MAILING

CASE: 0420280 TRUSTEE: 63 COURT: 146
 TASK: 02-02-2004.00111358.N13N02 DATED: 02/03/2004

Page 2 of 2

025	000027	SEARS P O BOX 182149	PAYMENT CENTER COLUMBUS, OH 43218
026	000028	SEARS ATTN: BK DEPT	PO BOX 3671 DES MOINES, IA 50322- 000
002	000006	BANK OF AMERICA	P O BOX 531323 PHOENIX, AZ 85072-3132
012	000015	CHASE MANHATTAN BANK USA ATTN: PAYMENT PROCESSING	150 WEST UNIVERSITY DRIVE TEMPE, AZ 85281
013	000017	CITIBANK/CHOICE EXCEPTION PYMT PROCESSING	P O BOX 6305 THE LAKES, NV 88901-6305
027	000029	WELLS FARGO FINANCIAL	P O BOX 98784 LAS VEGAS, NV 89193
009	000003	CAPITAL ONE AUTO FINANCE	P O BOX 93016 LONG BEACH, CA 90809-3016

32 NOTICES

THE ABOVE REFERENCED NOTICE WAS MAILED TO EACH OF THE ABOVE ON 02/03/2004.
 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.
 EXECUTED ON 02/03/2004 BY *T. Marlow*

*CM - Indicates notice served via Certified Mail

FORM B1		United States Bankruptcy Court Western District of New York		Voluntary Petition																
Name of Debtor (if individual, enter Last, First, Middle): DeLano, David G.		Name of Joint Debtor (Spouse) (Last, First, Middle): DeLano, Mary Ann																		
All Other Names used by the Debtor in the last 6 years (include married, maiden, and trade names):		All Other Names used by the Joint Debtor in the last 6 years (include married, maiden, and trade names):																		
Last four digits of Soc. Sec. No. / Complete EIN or other Tax I.D. No. (if more than one, state all): xxx-xx-3894		Last four digits of Soc. Sec. No. / Complete EIN or other Tax I.D. No. (if more than one, state all): xxx-xx-0517																		
Street Address of Debtor (No. & Street, City, State & Zip Code): 1262 Shoecraft Road Webster, NY 14580		Street Address of Joint Debtor (No. & Street, City, State & Zip Code): 1262 Shoecraft Road Webster, NY 14580																		
County of Residence or of the Principal Place of Business: Monroe		County of Residence or of the Principal Place of Business: Monroe																		
Mailing Address of Debtor (if different from street address):		Mailing Address of Joint Debtor (if different from street address):																		
Location of Principal Assets of Business Debtor (if different from street address above):																				
Information Regarding the Debtor (Check the Applicable Boxes)																				
Venue (Check any applicable box) <input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District. <input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.																				
Type of Debtor (Check all boxes that apply) <input checked="" type="checkbox"/> Individual(s) <input type="checkbox"/> Railroad <input type="checkbox"/> Corporation <input type="checkbox"/> Stockbroker <input type="checkbox"/> Partnership <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Other _____ <input type="checkbox"/> Clearing Bank			Chapter or Section of Bankruptcy Code Under Which the Petition is Filed (Check one box) <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 11 <input checked="" type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Sec. 304 - Case ancillary to foreign proceeding																	
Nature of Debts (Check one box) <input checked="" type="checkbox"/> Consumer/Non-Business <input type="checkbox"/> Business			Filing Fee (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only.) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.																	
Chapter 11 Small Business (Check all boxes that apply) <input type="checkbox"/> Debtor is a small business as defined in 11 U.S.C. § 101 <input type="checkbox"/> Debtor is and elects to be considered a small business under 11 U.S.C. § 1121(e) (Optional)																				
Statistical/Administrative Information (Estimates only) <input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.					THIS SPACE IS FOR COURT USE ONLY															
Estimated Number of Creditors																				
<table style="width:100%; border: none;"> <tr> <td style="text-align: center;">1-15</td> <td style="text-align: center;">16-49</td> <td style="text-align: center;">50-99</td> <td style="text-align: center;">100-199</td> <td style="text-align: center;">200-999</td> <td style="text-align: center;">1000-over</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>						1-15	16-49	50-99	100-199	200-999	1000-over	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
1-15	16-49	50-99	100-199	200-999		1000-over														
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Estimated Assets																				
<table style="width:100%; border: none;"> <tr> <td style="text-align: center;">\$0 to \$50,000</td> <td style="text-align: center;">\$50,001 to \$100,000</td> <td style="text-align: center;">\$100,001 to \$500,000</td> <td style="text-align: center;">\$500,001 to \$1 million</td> <td style="text-align: center;">\$1,000,001 to \$10 million</td> <td style="text-align: center;">\$10,000,001 to \$50 million</td> <td style="text-align: center;">\$50,000,001 to \$100 million</td> <td style="text-align: center;">More than \$100 million</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>					\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
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Estimated Debts																				
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\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million													
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>													

Voluntary Petition <i>(This page must be completed and filed in every case)</i>	Name of Debtor(s): FORM B1, Page 2 DeLano, David G. DeLano, Mary Ann
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Prior Bankruptcy Case Filed Within Last 6 Years (If more than one, attach additional sheet)		
Location Where Filed: - None -	Case Number:	Date Filed:

Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)		
Name of Debtor: - None -	Case Number:	Date Filed:
District:	Relationship:	Judge:

Signatures	
<p style="text-align: center;">Signature(s) of Debtor(s) (Individual/Joint)</p> I declare under penalty of perjury that the information provided in this petition is true and correct. [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.	<p style="text-align: center;">Exhibit A</p> (To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11) <input type="checkbox"/> Exhibit A is attached and made a part of this petition.
<p><input checked="" type="checkbox"/> <u>/s/ David G. DeLano</u> Signature of Debtor David G. DeLano</p> <p><input checked="" type="checkbox"/> <u>/s/ Mary Ann DeLano</u> Signature of Joint Debtor Mary Ann DeLano</p> <p>_____ Telephone Number (If not represented by attorney)</p> <p><u>January 26, 2004</u> Date</p>	<p style="text-align: center;">Exhibit B</p> (To be completed if debtor is an individual whose debts are primarily consumer debts) I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. <p><input checked="" type="checkbox"/> <u>/s/ Christopher K. Werner, Esq.</u> <u>January 26, 2004</u> Signature of Attorney for Debtor(s) Date Christopher K. Werner, Esq.</p>
<p style="text-align: center;">Signature of Attorney</p> <p><input checked="" type="checkbox"/> <u>/s/ Christopher K. Werner, Esq.</u> Signature of Attorney for Debtor(s) <u>Christopher K. Werner, Esq.</u> Printed Name of Attorney for Debtor(s) <u>Boylan, Brown, Code, Vigdor & Wilson, LLP</u> Firm Name <u>2400 Chase Square</u> <u>Rochester, NY 14604</u> Address <u>585-232-5300</u> Telephone Number <u>January 26, 2004</u> Date</p>	<p style="text-align: center;">Exhibit C</p> Does the debtor own or have possession of any property that poses a threat of imminent and identifiable harm to public health or safety? <input type="checkbox"/> Yes, and Exhibit C is attached and made a part of this petition. <input checked="" type="checkbox"/> No

<p style="text-align: center;">Signature of Debtor (Corporation/Partnership)</p> I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor. The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.	<p style="text-align: center;">Signature of Non-Attorney Petition Preparer</p> I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.
<p><input checked="" type="checkbox"/> _____ Signature of Authorized Individual</p> <p>_____ Printed Name of Authorized Individual</p> <p>_____ Title of Authorized Individual</p> <p>_____ Date</p>	<p>_____ Printed Name of Bankruptcy Petition Preparer</p> <p>_____ Social Security Number (Required by 11 U.S.C. § 110(c).)</p> <p>_____ Address</p> <p>Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:</p> <p>_____ Signature of Bankruptcy Petition Preparer</p> <p>_____ Date</p> <p>A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.</p>

<p style="text-align: center;">Signature of Debtor (Corporation/Partnership)</p> I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor. The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.	<p>_____ Printed Name of Bankruptcy Petition Preparer</p> <p>_____ Social Security Number (Required by 11 U.S.C. § 110(c).)</p> <p>_____ Address</p> <p>Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:</p> <p>_____ Signature of Bankruptcy Petition Preparer</p> <p>_____ Date</p> <p>A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.</p>
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**United States Bankruptcy Court
Western District of New York**

In re David G. DeLano,
Mary Ann DeLano

Debtors

Case No. _____

Chapter 13

SUMMARY OF SCHEDULES

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts from Schedules D, E, and F to determine the total amount of the debtor's liabilities.

NAME OF SCHEDULE	ATTACHED (YES/NO)	NO. OF SHEETS	AMOUNTS SCHEDULED		
			ASSETS	LIABILITIES	OTHER
A - Real Property	Yes	1	98,500.00		
B - Personal Property	Yes	4	164,956.57		
C - Property Claimed as Exempt	Yes	1			
D - Creditors Holding Secured Claims	Yes	1		87,369.49	
E - Creditors Holding Unsecured Priority Claims	Yes	1		0.00	
F - Creditors Holding Unsecured Nonpriority Claims	Yes	4		98,092.91	
G - Executory Contracts and Unexpired Leases	Yes	1			
H - Codebtors	Yes	1			
I - Current Income of Individual Debtor(s)	Yes	1			4,886.50
J - Current Expenditures of Individual Debtor(s)	Yes	1			2,946.50
Total Number of Sheets of ALL Schedules		16			
Total Assets			263,456.57		
			Total Liabilities	185,462.40	

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE A. REAL PROPERTY

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

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

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

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

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

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

Total > 98,500.00

0 continuation sheets attached to the Schedule of Real Property

(Report also on Summary of Schedules)

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

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

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property."

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
1. Cash on hand		misc cash on hand	J	35.00
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		M & T Checking account	J	300.00
		M & T Savings	W	200.00
		M & T Bank Checking	W	0.50
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		Furniture: sofa, loveseat, 2 chairs, 2 lamps, 2 tv's 2 radios, end tables, basement sofa, kitchen table and chairs, misc kitchen appliances, refrigerator, stove, microwave, place settings; Bedroom furniture - bed, dresser, nightstand, lamps, 2 foutons, 2 lamps, table 4 chairs on porch; desk, misc garden tools, misc hand tools.	J	2,000.00
		computer (2000); washer/dryer, riding mower (5 yrs), dehumidifier, gas grill,	J	350.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.		misc books, misc wall decorations, family photos, family bible	J	100.00
6. Wearing apparel.		misc wearing apparel	J	50.00
7. Furs and jewelry.		wedding rings, wrist watches	J	100.00
		misc costume jewelry, string of pearls	W	200.00

Sub-Total > 3,335.50
(Total of this page)

3 continuation sheets attached to the Schedule of Personal Property

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
8. Firearms and sports, photographic, and other hobby equipment.		camera - 35mm snapshot cameras ((2) purchased for \$19.95 each new	J	10.00
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.	X			
10. Annuities. Itemize and name each issuer.	X			
11. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Itemize.		Xerox 401-K \$38,000; stock options \$4,000; retirement account \$17,000 - all in retirement account	W	59,000.00
		401-k (net of outstanding loan \$9,642.56)	H	96,111.07
12. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
13. Interests in partnerships or joint ventures. Itemize.	X			
14. Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
15. Accounts receivable.		Debt due from son (\$10,000) - uncertain collectibility - unpaid even when employed but now laid off from Heidelberg/Nexpress	J	Unknown
16. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
17. Other liquidated debts owing debtor including tax refunds. Give particulars.		2003 tax liability expected	J	0.00
18. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule of Real Property.	X			

Sub-Total > 155,121.07
(Total of this page)

Sheet 1 of 3 continuation sheets attached
to the Schedule of Personal Property

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
19. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
20. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			
21. Patents, copyrights, and other intellectual property. Give particulars.	X			
22. Licenses, franchises, and other general intangibles. Give particulars.	X			
23. Automobiles, trucks, trailers, and other vehicles and accessories.		1993 Chevrolet Cavalier 70,000 miles	W	1,000.00
		1998 Chevrolet Blazer 56,000 miles (value Kelly Blue Book average of retail and trade-in - good condition)	H	5,500.00
24. Boats, motors, and accessories.	X			
25. Aircraft and accessories.	X			
26. Office equipment, furnishings, and supplies.	X			
27. Machinery, fixtures, equipment, and supplies used in business.	X			
28. Inventory.	X			
29. Animals.	X			
30. Crops - growing or harvested. Give particulars.	X			
31. Farming equipment and implements.	X			
Sub-Total >				6,500.00
(Total of this page)				

Sheet 2 of 3 continuation sheets attached to the Schedule of Personal Property

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
32. Farm supplies, chemicals, and feed.	X			
33. Other personal property of any kind not already listed.	X			

Sub-Total > 0.00
(Total of this page)
Total > 164,956.57

Sheet 3 of 3 continuation sheets attached
to the Schedule of Personal Property

(Report also on Summary of Schedules)

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

[Check one box]

- 11 U.S.C. §522(b)(1): Exemptions provided in 11 U.S.C. §522(d). Note: These exemptions are available only in certain states.
- 11 U.S.C. §522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
Real Property			
1262 Shoecraft Road, Webster (value per appraisal 11/23/03)	NYCPLR § 5206(a)	20,000.00	98,500.00
Household Goods and Furnishings			
Furniture: sofa, loveseat, 2 chairs, 2 lamps, 2 tv's 2 radios, end tables, basement sofa, kitchen table and chairs, misc kitchen appliances, refrigerator, stove, microwave, place settings; Bedroom furniture - bed, dresser, nightstand, lamps, 2 foutons, 2 lamps, table 4 chairs on porch; desk, misc garden tools, misc hand tools.	NYCPLR § 5205(a)(5)	2,000.00	2,000.00
Books, Pictures and Other Art Objects; Collectibles			
misc books, misc wall decorations, family photos, family bible	NYCPLR § 5205(a)(2)	100.00	100.00
Wearing Apparel			
misc wearing apparel	NYCPLR § 5205(a)(5)	50.00	50.00
Furs and Jewelry			
wedding rings, wrist watches	NYCPLR § 5205(a)(6)	100.00	100.00
Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans			
Xerox 401-K \$38,000; stock options \$4,000; retirement account \$17,000 - all in retirement account	Debtor & Creditor Law § 282(2)(e)	59,000.00	59,000.00
401-k (net of outstanding loan \$9,642.56)	Debtor & Creditor Law § 282(2)(e)	96,111.07	96,111.07
Automobiles, Trucks, Trailers, and Other Vehicles			
1993 Chevrolet Cavalier 70,000 miles	Debtor & Creditor Law § 282(1)	1,000.00	1,000.00

0 continuation sheets attached to Schedule of Property Claimed as Exempt

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE D. CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests. List creditors in alphabetical order to the extent practicable. If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor", include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B T O R	Husband, Wife, Joint, or Community		C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION IF ANY
		H W J C	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND MARKET VALUE OF PROPERTY SUBJECT TO LIEN					
Account No. 5687652			2001					
Capitol One Auto Finance PO Box 93016 Long Beach, CA 90809-3016		J	auto lien 1998 Chevrolet Blazer 56,000 miles (value Kelly Blue Book average of retail and trade-in - good condition)				10,285.00	4,785.00
			Value \$ 5,500.00					
Account No.			fist mortgage					
Genesee Regional Bank 3670 Mt Read Blvd Rochester, NY 14616		J	1262 Shoecraft Road, Webster (value per appraisal 11/23/03)				77,084.49	0.00
			Value \$ 98,500.00					
Account No.								
			Value \$					
Account No.								
			Value \$					

0 continuation sheets attached

Subtotal
(Total of this page)

87,369.49

Total

87,369.49

(Report on Summary of Schedules)

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE E. CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name, mailing address, including zip code, and last four digits of the account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor", include the entity on the appropriate schedule of creditors, and complete Schedule H-Codebtors. If a joint petition is filed, state whether husband, wife, both of them or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community".

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotal" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Repeat this total also on the Summary of Schedules.

Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets.)

Extensions of credit in an involuntary case

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(2).

Wages, salaries, and commissions

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$4,650* per person earned within 90 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507 (a)(3).

Contributions to employee benefit plans

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

Certain farmers and fishermen

Claims of certain farmers and fishermen, up to \$4,650* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(5).

Deposits by individuals

Claims of individuals up to \$2,100* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(6).

Alimony, Maintenance, or Support

Claims of a spouse, former spouse, or child of the debtor for alimony, maintenance, or support, to the extent provided in 11 U.S.C. § 507(a)(7).

Taxes and Certain Other Debts Owed to Governmental Units

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C § 507(a)(8).

Commitments to Maintain the Capital of an Insured Depository Institution

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507(a)(9).

*Amounts are subject to adjustment on April 1, 2004, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

0 continuation sheets attached

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor", include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community".

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B T O R	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
		H W J C					DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.
Account No. 5398-8090-0311-9990 AT&T Universal P.O. Box 8217 South Hackensack, NJ 07606-8217		H				1,912.63
Account No. 4024-0807-6136-1712 Bank Of America P.O. Box 53132 Phoenix, AZ 85072-3132		H				3,296.83
Account No. 4266-8699-5018-4134 Bank One Cardmember Services P.O. Box 15153 Wilmington, DE 19886-5153		H				9,846.80
Account No. 4712-0207-0151-3292 Bank One Cardmember Services P.O. Box 15153 Wilmington, DE 19886-5153		H				5,130.80
Subtotal (Total of this page)						20,187.06

3 continuation sheets attached

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions.)	C O D E B T O R	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
		H W J C					DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.
Account No. 4262 519 982 211 Bank One Cardmember Services P.O. Box 15153 Wilmington, DE 19886-5153	H					9,876.49
Account No. 4388-6413-4765-8994 Capital One P.O. Box 85147 Richmond, VA 23276	H					449.35
Account No. 4862-3621-5719-3502 Capital One P.O. Box 85147 Richmond, VA 23276	H					460.26
Account No. 4102-0082-4002-1537 Chase P.O. Box 1010 Hicksville, NY 11802	W					10,909.01
Account No. 5457-1500-2197-7384 Citi Cards P.O. Box 8116 South Hackensack, NJ 07606-8116	W					2,127.08
Sheet no. <u>1</u> of <u>3</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims					Subtotal (Total of this page)	23,822.19

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions.)	C O D E B T O R	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
		H W J C					DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.
Account No. 5466-5360-6017-7176 Citi Cards P.O. Box 8115 South Hackensack, NJ 07606-8115	H		1990 and prior Credit card purchases			4,043.94
Account No. 6011-0020-4000-6645 Discover Card P.O. Box 15251 Wilmington, DE 19886-5251	J		1990 and prior Credit card purchases			5,219.03
Account No. Dr. Richard Cordero 59 Crescent Street Brooklyn, NY 11208-1515	H		2002 Alleged liability re: stored merchandise as employee of M&T Bank - suit pending US BK Ct.	X	X	Unknown
Account No. 5487-8900-2018-8012 Fleet Credit Card Service P.O. Box 15368 Wilmington, DE 19886-5368	W		1990 and prior Credit card purchases			2,126.92
Account No. 5215-3125-0126-4385 HSBC MasterCard/Visa HSBC Bank USA Suite 0627 Buffalo, NY 14270-0627	H		1990 and prior Credit card purchases			9,065.01
Sheet no. <u>2</u> of <u>3</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims					Subtotal (Total of this page)	20,454.90

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions.)	C O D E B T O R	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	A M O U N T O F C L A I M
		H W J C					DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.
Account No. 4313-0228-5801-9530 MBNA America P.O. Box 15137 Wilmington, DE 19886-5137		W	1990 and prior Credit card purchases			6,422.47
Account No. 5329-0315-0992-1928 MBNA America P.O. Box 15137 Wilmington, DE 19886-5137		H	1990 and prior Credit card purchases			18,498.21
Account No. 749 90063 031 903 MBNA America P.O. Box 15102 Wilmington, DE 19886-5102		H	1990 and prior Credit card purchases			3,823.74
Account No. 34 80074 30593 0 Sears Card Payment Center P.O. Box 182149 Columbus, OH 43218-2149		H	1990 - 10/99 Credit card purchases			3,554.34
Account No. 17720544 Wells Fargo Financial P.O. Box 98784 Las Vegas, NV 89193-8784		H	8/03 Credit card purchases			1,330.00
Subtotal (Total of this page)						33,628.76
Total (Report on Summary of Schedules)						98,092.91

Sheet no. 3 of 3 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE G. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Describe all executory contracts of any nature and all unexpired leases of real or personal property. Include any timeshare interests. State nature of debtor's interest in contract, i.e., "Purchaser," "Agent," etc. State whether debtor is the lessor or lessee of a lease. Provide the names and complete mailing addresses of all other parties to each lease or contract described.

NOTE: A party listed on this schedule will not receive notice of the filing of this case unless the party is also scheduled in the appropriate schedule of creditors.

Check this box if debtor has no executory contracts or unexpired leases.

Name and Mailing Address, Including Zip Code,
of Other Parties to Lease or Contract

Description of Contract or Lease and Nature of Debtor's Interest.
State whether lease is for nonresidential real property.
State contract number of any government contract.

0 continuation sheets attached to Schedule of Executory Contracts and Unexpired Leases

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE H. CODEBTORS

Provide the information requested concerning any person or entity, other than a spouse in a joint case, that is also liable on any debts listed by debtor in the schedules of creditors. Include all guarantors and co-signers. In community property states, a married debtor not filing a joint case should report the name and address of the nondebtor spouse on this schedule. Include all names used by the nondebtor spouse during the six years immediately preceding the commencement of this case.

Check this box if debtor has no codebtors.

NAME AND ADDRESS OF CODEBTOR	NAME AND ADDRESS OF CREDITOR
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0 continuation sheets attached to Schedule of Codebtors

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE I. CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by a married debtor in a chapter 12 or 13 case whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

Debtor's Marital Status: Married	DEPENDENTS OF DEBTOR AND SPOUSE	
	RELATIONSHIP None.	AGE
EMPLOYMENT:	DEBTOR	SPOUSE
Occupation	Loan officer	
Name of Employer	M & T Bank	unemployed - Xerox
How long employed		
Address of Employer	PO Box 427 Buffalo, NY 14240	

	DEBTOR	SPOUSE
INCOME: (Estimate of average monthly income)		
Current monthly gross wages, salary, and commissions (pro rate if not paid monthly)	\$ 5,760.00	\$ 1,741.00
Estimated monthly overtime	\$ 0.00	\$ 0.00
SUBTOTAL	\$ 5,760.00	\$ 1,741.00
LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and social security	\$ 1,440.00	\$ 435.25
b. Insurance	\$ 414.95	\$ 0.00
c. Union dues	\$ 0.00	\$ 0.00
d. Other (Specify) Retirement Loan (to 10/05)	\$ 324.30	\$ 0.00
	\$ 0.00	\$ 0.00
SUBTOTAL OF PAYROLL DEDUCTIONS	\$ 2,179.25	\$ 435.25
TOTAL NET MONTHLY TAKE HOME PAY	\$ 3,580.75	\$ 1,305.75
Regular income from operation of business or profession or farm (attach detailed statement)	\$ 0.00	\$ 0.00
Income from real property	\$ 0.00	\$ 0.00
Interest and dividends	\$ 0.00	\$ 0.00
Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above	\$ 0.00	\$ 0.00
Social security or other government assistance (Specify)	\$ 0.00	\$ 0.00
	\$ 0.00	\$ 0.00
Pension or retirement income	\$ 0.00	\$ 0.00
Other monthly income (Specify)	\$ 0.00	\$ 0.00
	\$ 0.00	\$ 0.00
TOTAL MONTHLY INCOME	\$ 3,580.75	\$ 1,305.75
TOTAL COMBINED MONTHLY INCOME	\$ 4,886.50	

(Report also on Summary of Schedules)

Describe any increase or decrease of more than 10% in any of the above categories anticipated to occur within the year following the filing of this document:

Wife currently on unemployment thru 6/04. Age 59 - re-employment not expected. Reduces net income by \$1,129/month.

Retirement Loan was made to son, who was to re-pay @\$200/mon. but has been unable to do so as employed at \$10/hr. Potentially uncollectible - due to recent Kodak acquisition of Heidelberg - Nexpress.

Husband will retire in three years at end of plan (extended beyond age 65 to complete three year plan.)

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE J. CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average monthly expenses of the debtor and the debtor's family. Pro rate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

Rent or home mortgage payment (include lot rented for mobile home)	.....	\$	<u>1,167.00</u>
Are real estate taxes included?	Yes <u>X</u> No _____		
Is property insurance included?	Yes _____ No <u>X</u>		
Utilities: Electricity and heating fuel	.....	\$	<u>168.00</u>
Water and sewer	.....	\$	<u>30.00</u>
Telephone	.....	\$	<u>40.00</u>
Other <u>Cell Phone \$62 (req. for work); cable \$55; Internet \$23.95</u>	.....	\$	<u>140.95</u>
Home maintenance (repairs and upkeep)	.....	\$	<u>50.00</u>
Food	.....	\$	<u>430.00</u>
Clothing	.....	\$	<u>60.00</u>
Laundry and dry cleaning	.....	\$	<u>5.00</u>
Medical and dental expenses	.....	\$	<u>120.00</u>
Transportation (not including car payments)	.....	\$	<u>295.00</u>
Recreation, clubs and entertainment, newspapers, magazines, etc.	.....	\$	<u>107.50</u>
Charitable contributions	.....	\$	<u>50.00</u>
Insurance (not deducted from wages or included in home mortgage payments)			
Homeowner's or renter's	.....	\$	<u>0.00</u>
Life	.....	\$	<u>0.00</u>
Health	.....	\$	<u>0.00</u>
Auto	.....	\$	<u>110.00</u>
Other	.....	\$	<u>0.00</u>
Taxes (not deducted from wages or included in home mortgage payments)			
(Specify) _____	.....	\$	<u>0.00</u>
Installment payments: (In chapter 12 and 13 cases, do not list payments to be included in the plan.)			
Auto	.....	\$	<u>0.00</u>
Other <u>reserve for auto</u>	.....	\$	<u>50.00</u>
Other <u>Parking</u>	.....	\$	<u>58.05</u>
Other _____	.....	\$	<u>0.00</u>
Alimony, maintenance, and support paid to others	.....	\$	<u>0.00</u>
Payments for support of additional dependents not living at your home	.....	\$	<u>0.00</u>
Regular expenses from operation of business, profession, or farm (attach detailed statement)	.....	\$	<u>0.00</u>
Other <u>family gifts - Christmas/Birthdays</u>	.....	\$	<u>20.00</u>
Other <u>Haircuts and personal hygiene</u>	.....	\$	<u>45.00</u>
TOTAL MONTHLY EXPENSES (Report also on Summary of Schedules)	.....	\$	<u>2,946.50</u>

[FOR CHAPTER 12 AND 13 DEBTORSONLY]

Provide the information requested below, including whether plan payments are to be made bi-weekly, monthly, annually, or at some other regular interval.

A. Total projected monthly income	.....	\$	<u>4,886.50</u>
B. Total projected monthly expenses	.....	\$	<u>2,946.50</u>
C. Excess income (A minus B)	.....	\$	<u>1,940.00</u>
D. Total amount to be paid into plan each <u>Monthly</u>	.....	\$	<u>1,940.00</u>

(interval)

**United States Bankruptcy Court
Western District of New York**

In re David G. DeLano
Mary Ann DeLano
Debtor(s)

Case No. _____
Chapter 13

DECLARATION CONCERNING DEBTOR'S SCHEDULES

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of 17 sheets [total shown on summary page plus 1], and that they are true and correct to the best of my knowledge, information, and belief.

Date January 26, 2004

Signature /s/ David G. DeLano
David G. DeLano
Debtor

Date January 26, 2004

Signature /s/ Mary Ann DeLano
Mary Ann DeLano
Joint Debtor

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both.
18 U.S.C. §§ 152 and 3571.

**United States Bankruptcy Court
Western District of New York**

In re David G. DeLano
Mary Ann DeLano
Debtor(s)

Case No. _____
Chapter 13

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs.

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. **If the answer to an applicable question is "None," mark the box labeled "None."** If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within the six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business

None State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the **two years** immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE (if more than one)
\$91,655.00	2002 joint income
\$108,586.00	2003 Income (H) \$67,118; (W) \$41,468

2. Income other than from employment or operation of business

None State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the **two years** immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE
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3. Payments to creditors

- None a. List all payments on loans, installment purchases of goods or services, and other debts, aggregating more than \$600 to any creditor, made within **90 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING
Genesee Regional Bank 3670 Mt Read Blvd Rochester, NY 14616	monthly mortgage \$1,167/mon with taxes and insurance	\$5,000.00	\$77,082.49
Capitol One Auto Finance PO Box 93016 Long Beach, CA 90809-3016	monthly auto payment \$348/mon	\$1,044.00	\$10,000.00

- None b. List all payments made within **one year** immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATE OF PAYMENT	AMOUNT PAID	AMOUNT STILL OWING
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4. Suits and administrative proceedings, executions, garnishments and attachments

- None a. List all suits and administrative proceedings to which the debtor is or was a party within **one year** immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
In re Premier Van Lines, Inc; James Pfuntner / Ken Gordon Trustee v. Richard Cordero, M & T Bank et al v. Palmer, Dworkin, Hefferson Henrietta Assoc and Delano	(As against debtor) damages for inability of Cordero to recover property held in storage	US Bankruptcy Court, Western District of NY	pending

- None b. Describe all property that has been attached, garnished or seized under any legal or equitable process within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON FOR WHOSE BENEFIT PROPERTY WAS SEIZED	DATE OF SEIZURE	DESCRIPTION AND VALUE OF PROPERTY
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5. Repossessions, foreclosures and returns

- None List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR OR SELLER	DATE OF REPOSSESSION, FORECLOSURE SALE, TRANSFER OR RETURN	DESCRIPTION AND VALUE OF PROPERTY
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6. Assignments and receiverships

- None a. Describe any assignment of property for the benefit of creditors made within **120 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF ASSIGNEE	DATE OF ASSIGNMENT	TERMS OF ASSIGNMENT OR SETTLEMENT
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- None b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CUSTODIAN	NAME AND LOCATION OF COURT CASE TITLE & NUMBER	DATE OF ORDER	DESCRIPTION AND VALUE OF PROPERTY
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7. Gifts

- None List all gifts or charitable contributions made within **one year** immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT
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8. Losses

- None List all losses from fire, theft, other casualty or gambling within **one year** immediately preceding the commencement of this case **or since the commencement of this case**. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS
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9. Payments related to debt counseling or bankruptcy

- None List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of the petition in bankruptcy within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
Christopher K. Werner 2400 Chase Square Rochester, NY 14604	Nov - Dec 2003	\$1,350 plus filing fee

10. Other transfers

- None List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFEREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED
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11. Closed financial accounts

- None List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within **one year** immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT, LAST FOUR DIGITS OF ACCOUNT NUMBER, AND AMOUNT OF FINAL BALANCE	AMOUNT AND DATE OF SALE OR CLOSING
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12. Safe deposit boxes

- None List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY
M & T Bank Webster Branch	debtors	Personal papers	

13. Setoffs

- None List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within **90 days** preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATE OF SETOFF	AMOUNT OF SETOFF
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14. Property held for another person

- None List all property owned by another person that the debtor holds or controls.

NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY
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15. Prior address of debtor

- None If the debtor has moved within the **two years** immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY
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16. Spouses and Former Spouses

- None If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within the **six-year period** immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME

17. Environmental Information.

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

- None a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
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- None b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
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- None c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION
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18 . Nature, location and name of business

- None a. If the debtor is an individual, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partnership, sole proprietorship, or was a self-employed professional within the **six years** immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within the **six years** immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within the **six years** immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within the **six years** immediately preceding the commencement of this case.

NAME	TAXPAYER ID. NO. (EIN)	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
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- None b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

NAME	ADDRESS
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The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within the **six years** immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or otherwise self-employed.

*(An individual or joint debtor should complete this portion of the statement **only** if the debtor is or has been in business, as defined above, within the six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)*

19. Books, records and financial statements

None a. List all bookkeepers and accountants who within the **two years** immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS DATES SERVICES RENDERED

None b. List all firms or individuals who within the **two years** immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME ADDRESS DATES SERVICES RENDERED

None c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME ADDRESS

None d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued within the **two years** immediately preceding the commencement of this case by the debtor.

NAME AND ADDRESS DATE ISSUED

20. Inventories

None a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY INVENTORY SUPERVISOR DOLLAR AMOUNT OF INVENTORY
(Specify cost, market or other basis)

None b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY
RECORDS

21 . Current Partners, Officers, Directors and Shareholders

None a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS NATURE OF INTEREST PERCENTAGE OF INTEREST

None b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS TITLE NATURE AND PERCENTAGE
OF STOCK OWNERSHIP

22 . Former partners, officers, directors and shareholders

- None a. If the debtor is a partnership, list each member who withdrew from the partnership within **one year** immediately preceding the commencement of this case.

NAME	ADDRESS	DATE OF WITHDRAWAL
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- None b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS	TITLE	DATE OF TERMINATION
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23 . Withdrawals from a partnership or distributions by a corporation

- None If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during **one year** immediately preceding the commencement of this case.

NAME & ADDRESS OF RECIPIENT, RELATIONSHIP TO DEBTOR	DATE AND PURPOSE OF WITHDRAWAL	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
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24. Tax Consolidation Group.

- None If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within the **six-year period** immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION	TAXPAYER IDENTIFICATION NUMBER
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25. Pension Funds.

- None If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within the **six-year period** immediately preceding the commencement of the case.

NAME OF PENSION FUND	TAXPAYER IDENTIFICATION NUMBER
----------------------	--------------------------------

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date <u>January 26, 2004</u>	Signature <u>/s/ David G. DeLano</u> David G. DeLano Debtor
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Date <u>January 26, 2004</u>	Signature <u>/s/ Mary Ann DeLano</u> Mary Ann DeLano Joint Debtor
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Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571

**United States Bankruptcy Court
Western District of New York**

In re David G. DeLano
Mary Ann DeLano

Debtor(s)

Case No. _____

Chapter 13

DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR(S)

1. Pursuant to 11 U.S.C. § 329(a) and Bankruptcy Rule 2016(b), I certify that I am the attorney for the above-named debtor and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:

For legal services, I have agreed to accept.....	\$	<u>1,350.00</u>
Prior to the filing of this statement I have received.....	\$	<u>1,350.00</u>
Balance Due.....	\$	<u>0.00</u>

2. The source of the compensation paid to me was:

Debtor Other (specify):

3. The source of compensation to be paid to me is:

Debtor Other (specify):

4. I have not agreed to share the above-disclosed compensation with any other person unless they are members and associates of my law firm.

I have agreed to share the above-disclosed compensation with a person or persons who are not members or associates of my law firm. A copy of the agreement, together with a list of the names of the people sharing in the compensation is attached.

5. In return for the above-disclosed fee, I have agreed to render legal service for all aspects of the bankruptcy case, including:

- a. Analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether to file a petition in bankruptcy;
- b. Preparation and filing of any petition, schedules, statement of affairs and plan which may be required;
- c. Representation of the debtor at the meeting of creditors and confirmation hearing, and any adjourned hearings thereof;
- d. [Other provisions as needed]

Negotiations with secured creditors to reduce to market value; exemption planning; preparation and filing of reaffirmation agreements and applications as needed; preparation and filing of motions pursuant to 11 USC 522(f)(2)(A) for avoidance of liens on household goods.

6. By agreement with the debtor(s), the above-disclosed fee does not include the following service:

Representation of the debtors in any dischargeability actions, judicial lien avoidances, relief from stay actions or any other adversary proceeding.

CERTIFICATION

I certify that the foregoing is a complete statement of any agreement or arrangement for payment to me for representation of the debtor(s) in this bankruptcy proceeding.

Dated: January 26, 2004

/s/ Christopher K. Werner, Esq.

Christopher K. Werner, Esq.
Boylan, Brown, Code, Vigdor & Wilson, LLP
2400 Chase Square
Rochester, NY 14604
585-232-5300

**United States Bankruptcy Court
Western District of New York**

In re David G. DeLano
Mary Ann DeLano
Debtor(s)

Case No. _____
Chapter 13

VERIFICATION OF CREDITOR MATRIX

The above-named Debtors hereby verify that the attached list of creditors is true and correct to the best of their knowledge.

Date: January 26, 2004

/s/ David G. DeLano
David G. DeLano
Signature of Debtor

Date: January 26, 2004

/s/ Mary Ann DeLano
Mary Ann DeLano
Signature of Debtor

AT&T Universal
P.O. Box 8217
South Hackensack, NJ 07606-8217

Bank Of America
P.O. Box 53132
Phoenix, AZ 85072-3132

Bank One
Cardmember Services
P.O. Box 15153
Wilmington, DE 19886-5153

Capital One
P.O. Box 85147
Richmond, VA 23276

Capitol One Auto Finance
PO Box 93016
Long Beach, CA 90809-3016

Chase
P.O. Box 1010
Hicksville, NY 11802

Citi Cards
P.O. Box 8116
South Hackensack, NJ 07606-8116

Citi Cards
P.O. Box 8115
South Hackensack, NJ 07606-8115

Citibank USA
45 Congress Street
Salem, MA 01970

Discover Card
P.O. Box 15251
Wilmington, DE 19886-5251

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

Fleet Credit Card Service
P.O. Box 15368
Wilmington, DE 19886-5368

Genesee Regional Bank
3670 Mt Read Blvd
Rochester, NY 14616

HSBC MasterCard/Visa
HSBC Bank USA
Suite 0627
Buffalo, NY 14270-0627

MBNA America
P.O. Box 15137
Wilmington, DE 19886-5137

MBNA America
P.O. Box 15102
Wilmington, DE 19886-5102

Sears Card
Payment Center
P.O. Box 182149
Columbus, OH 43218-2149

Wells Fargo Financial
P.O. Box 98784
Las Vegas, NV 89193-8784

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**United States Bankruptcy Court
Western District of New York**

In re David G. DeLano
Mary Ann DeLano

Debtor(s)

Case No. _____
Chapter 13

CHAPTER 13 PLAN

1. Payments to the Trustee: The future earnings or other future income of the Debtor is submitted to the supervision and control of the trustee. The Debtor (or the Debtor's employer) shall pay to the trustee the sum of \$1,940.00 per month for 5 months, then \$635.00 per month for 25 months, then \$960.00 per month for 6 months.
Total of plan payments: \$31,335.00
2. Plan Length: This plan is estimated to be for 36 months.
3. Allowed claims against the Debtor shall be paid in accordance with the provisions of the Bankruptcy Code and this Plan.
 - a. Secured creditors shall retain their mortgage, lien or security interest in collateral until the amount of their allowed secured claims have been fully paid or until the Debtor has been discharged. Upon payment of the amount allowed by the Court as a secured claim in the Plan, the secured creditors included in the Plan shall be deemed to have their full claims satisfied and shall terminate any mortgage, lien or security interest on the Debtor's property which was in existence at the time of the filing of the Plan, or the Court may order termination of such mortgage, lien or security interest.
 - b. Creditors who have co-signers, co-makers, or guarantors ("Co-Obligors") from whom they are enjoined from collection under 11 U.S.C. § 1301, and which are separately classified and shall file their claims, including all of the contractual interest which is due or will become due during the consummation of the Plan, and payment of the amount specified in the proof of claim to the creditor shall constitute full payment of the debt as to the Debtor and any Co-Obligor.
 - c. All priority creditors under 11 U.S.C. § 507 shall be paid in full in deferred cash payments.
4. From the payments received under the plan, the trustee shall make disbursements as follows:

- a. Administrative Expenses
 - (1) Trustee's Fee: 10.00%
 - (2) Attorney's Fee (unpaid portion): NONE
 - (3) Filing Fee (unpaid portion): NONE
- b. Priority Claims under 11 U.S.C. § 507

Name	Amount of Claim	Interest Rate (If specified)
-NONE-		

- c. Secured Claims
 - (1) Secured Debts Which Will Not Extend Beyond the Length of the Plan

Name	Proposed Amount of Allowed Secured Claim	Monthly Payment (If fixed)	Interest Rate (If specified)
Capitol One Auto Finance	5,500.00	Prorata	6.00%

- (2) Secured Debts Which Will Extend Beyond the Length of the Plan

Name	Amount of Claim	Monthly Payment	Interest Rate (If specified)
-NONE-			

- d. Unsecured Claims
 - (1) Special Nonpriority Unsecured: Debts which are co-signed or are non-dischargeable shall be paid in full (100%).

Name	Amount of Claim	Interest Rate (If specified)
-NONE-		

- (2) General Nonpriority Unsecured: Other unsecured debts shall be paid 22 cents on the dollar and paid pro rata, with no interest if the creditor has no Co-obligors, provided that where the amount or balance of any unsecured claim is less than \$10.00 it may be paid in full.

5. The Debtor proposes to cure defaults to the following creditors by means of monthly payments by the trustee:

Creditor	Amount of Default to be Cured	Interest Rate (If specified)
-NONE-		

6. The Debtor shall make regular payments directly to the following creditors:

Name	Amount of Claim	Monthly Payment	Interest Rate (If specified)
Genesee Regional Bank	77,084.49	0.00	0.00%

7. The employer on whom the Court will be requested to order payment withheld from earnings is:
NONE. Payments to be made directly by debtor without wage deduction.

8. The following executory contracts of the debtor are rejected:

Other Party	Description of Contract or Lease
-NONE-	

9. Property to Be Surrendered to Secured Creditor

Name	Amount of Claim	Description of Property
-NONE-		

10. The following liens shall be avoided pursuant to 11 U.S.C. § 522(f), or other applicable sections of the Bankruptcy Code:

Name	Amount of Claim	Description of Property
-NONE-		

11. Title to the Debtor's property shall revert in debtor on confirmation of a plan.

12. As used herein, the term "Debtor" shall include both debtors in a joint case.

13. Other Provisions:

Date January 26, 2004

Signature /s/ David G. DeLano
David G. DeLano
Debtor

Date January 26, 2004

Signature /s/ Mary Ann DeLano
Mary Ann DeLano
Joint Debtor

**Useful addresses for investigating
the judicial misconduct and bankruptcy fraud scheme revealed by DeLano**
(see also other addresses after the Notice of Meeting of Creditors, above)

1.	George M. Reiber , Esq. Chapter 13 Trustee [in DeLanos' case... South Winton Court [...no. 04-20280] 3136 S. Winton Road, Suite 206 Rochester, NY 14623 tel. (585) 427-7225 fax (585) 427-7804	8.	Kenneth W. Gordon , Esq. Chapter 7 Trustee [in the Premier Van Lines Gordon & Schaal, LLP [...case 01-20692] 100 Meridian Centre Blvd., Suite 120 Rochester, New York 14618 tel. (585) 244-1070 fax (585) 244-1085
2.	David G. and Mary Ann DeLano [Debtors] 1262 Shoecraft Road Webster, NY 14580	9.	Mr. David Palmer [Debtor in Premier Van 1829 Middle Road [Lines case 01-20692] Rush, NY 14543 tel.(585)244-1070 cfA:1005
3.	Christopher K. Werner , Esq. [DeLanos's ... Boylan, Brown, Code, [...attorney] Vigdor & Wilson, LLP 2400 Chase Square Rochester, NY 14604 tel. (585) 232-5300 fax (585) 232-3528	10.	Hon. John M. Walker, Jr. , Chief Judge Hon. Dennis Jacobs [next eligible chief judge] Ms. Roseann MacKechnie Clerk of Court Mr. Fernando Galindo Chief Deputy Clerk Court of Appeals for the Second Circuit Thurgood Marshall United States Courthouse 40 Foley Square, Room 1802 New York, NY 10007 tel. (212) 857-8500
4.	Kathleen Dunivin Schmitt , Esq. Assistant U.S. Trustee Federal Office Building, Room 6090 100 State Street, Room 6090 Rochester, New York 14614 tel. (585) 263-5812 fax (585) 263-5862	11.	Justice Stephen Breyer Ms. Cathy Arbur (202)479-3050 Public Information Office Supreme Court of the United States 1 First Street, N.E. Washington, D.C. 20543 tel. (202)479-3000
5.	Ms. Deirdre A. Martini U.S. Trustee for Region 2 Office of the United States Trustee 55 Whitehall Street, 21 st Floor New York, NY 10004 tel. (212) 510-0500 fax (212) 668-2255	12.	Mr. Leonidas Ralph Mecham Director William Burchill, Esq. General Counsel Jeffrey Barr, Esq. Assistant General Counsel Administrative Office of the U.S. Courts Office of the General Counsel One Columbus Circle, NE, Suite 7-290 Washington, DC 20544 tel. (202) 502-1100 fax (202) 502-1033
6.	Hon. Judge John C. Ninfo, II Bankruptcy Judge United States Bankruptcy Court 1400 United States Courthouse 100 State Street Rochester, NY 14614 tel. (585) 613-4200	13.	Ms. Wendy Janis United States Judicial Conference (202)502-2400
7.	Hon. David Larimer U.S. District Judge United States District Court 2120 U.S. Courthouse 100 State Street Rochester, NY 14614-1387 tel. (585) 263-6263		

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
THURGOOD MARSHALL UNITED STATES COURTHOUSE
40 CENTRE STREET
New York, New York 10007
212-857-8500

JOHN M. WALKER, JR.
CHIEF JUDGE

ROSEANN B. MACKECHNIE
CLERK OF COURT

July 9, 2004

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

Re: *Judicial Conduct Complaint*, 03-8547

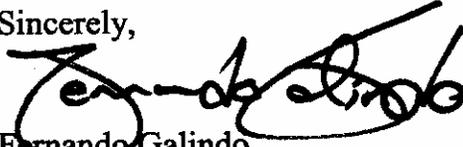
Dear Mr. Cordero:

This letter is to acknowledge receipt of your petition for review.

I am returning your petition for review, unfiled. It is not in the proper form under these rules. Rule 6(b) states the petition for review must be in the form of a letter. Rule 6(e) states "The letter should set forth a brief statement." It has been the long-standing practice of this court to use the authority of Rule 2(b) as a guideline and establish the definition of *brief* as applied to the *statement of grounds for petition* to five pages. "It should not repeat the complaint; the complaint will be available to members of the circuit council considering the petition."

Please resubmit **ONLY** your petition letter, by **no later than July 24, 2004**. If your petition letter is not in compliance, it will be considered untimely filed and returned to you with no action taken. Should that be the case, please note that the Rules do not provide for any further relief in this matter.

Sincerely,



Fernando Galindo
Acting Clerk of Court

Enclosures

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

July 13, 2004

Mr. Fernando Galindo
Acting Clerk of Court of Appeals, 2nd Cir.
40 Foley Square, Room 1802
New York, NY 10007

Dear Mr. Galindo,

Pursuant to your letter of July 9, I am resubmitting a 5-page version of my original 10-page letter of petition for review of the dismissal of my judicial misconduct complaint, docket no. 03-8547. As agreed in our phone conversation on July 12, I am also resubmitting the exhibits as a separate volume. If the exhibits volume were to prevent the filing of the petition letter, please as agreed, consider that volume withdrawn, send it back to me, and file the letter.

However, that separate exhibits volume should be filed just as my original letter bound with the exhibits should have been found in compliance with this Circuit's Rules Governing Misconduct Complaints and filed. The reasons for this are the following, which I respectfully request that you consider.

In the letter of July 9 it is stated thus: "...resubmit ONLY your petition letter...[i]f your petition letter is not in compliance, it will be considered untimely filed and returned to you with no action taken." That letter invokes "the authority of Rule 2(b) as a guideline [to] establish the definition of *brief* as applied to the *statement of grounds for petition* to five pages". But if this Circuit's Judicial Council had wanted to apply a numeric definition to the term "brief" in Rule 6(e) in the context of petition letters, it would have so provided. By not doing so, it indicated that "brief" is an elastic term to be applied under a rule of reason. It was certainly not unreasonable to submit my original 10-page letter, containing a table of contents, headings, and quotations from 28 U.S.C. §351 et seq., the Rules, and statements by persons to support my arguments and facilitate their reading.

Moreover, the July 9 letter is inconsistent in that it applies by analogy to petition letters the Rule 2(b) 5-page limit on complaints but fails to apply also by analogy to the same petitions the authority of Rule 2(d) allowing the submission of documents as evidence supporting a complaint.

It is irrelevant that "It has been the long-standing practice of this court to" limit petition letters to five pages, for the court has failed to give petitioners notice thereof. Yet, this court has had the opportunity to give them notice of its practice in the notification that it is required under Rule 4(f)(1) to give them of the dismissal of their complaints and their right to appeal; and it should have done so in light of the public notice requirement under §358(c). Instead, the court lets petitioners waste their time guessing at the meaning of "brief" and writing for naught a cogent, well-organized, and reasonably long 10-page petition letter. Inconsistency and lack of consideration are defining characteristics of arbitrariness.

Likewise, "Rule 8, Review by the judicial council of a chief judge's order", thus directly applicable here, expressly provides in section 8(e)(2) that the complained-about judge "will be provided with copies of any communications that may be addressed to the members of the judicial council by the complainant". Since the petition letter, though addressed to the Clerk of Court, is intended for the judicial council's members, there is every reason to allow the exhibits to accompany it as one of "any communications" addressed to them by the complainant. Hence, the 10-page letter and its exhibits should have been filed. They should be available to any judicial council member under Rule 8(c). To that end, I am submitting the exhibits as a separate volume.

Sincerely, 

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

July 8, resubmitted on July 13, 2004

Mr. Fernando Galindo
Acting Clerk of the Court of Appeals, Cir. 2
40 Foley Square, Room 1802
New York, NY 10007

Dear Mr. Galindo,

I hereby petition the Judicial Council for review of the Chief Judge's order of June 8, 2004, dismissing my judicial misconduct complaint, docket no. 03-8547 (the Complaint).

The dismissal of the Complaint was so out of hand that it did not even acknowledge the two issues presented or how a pattern of non-coincidental, intentional, and coordinated wrongful acts by judicial and non-judicial officers is within the scope of 28 U.S.C. §351 et seq. and this Circuit's Rules Governing Judicial Misconduct Complaints (collectively referred to as Complaint Provisions) and in need of investigation by a special committee

1. The dismissal of my complaint is an example of why Supreme Court Chief Justice William Rehnquist appointed Justice Stephen Breyer to head the Judicial Conduct and Disability Act Study Committee and why, when welcoming his appointment, James Sensenbrenner, Jr., Chairman of the House of Representatives Committee on the Judiciary, said: "Since [the 1980s], however, this [judicial misconduct complaint] process has not worked as well, with some complaints being dismissed out of hand by the judicial branch without any investigation" (Exhibits-67, 69¹).

¹ The source for this and every other statement made in this letter is contained in a 125-page bound volume of exhibits. When timely submitted on July 8, it was prefaced by my original 10-page petition letter. Nevertheless, both that letter and the exhibits were returned to me with your letter of July 9 emphasizing that I should "resubmit ONLY your petition letter...[i]f your petition letter is not in compliance, it will be considered untimely filed and returned to you with no action taken." Your letter invokes "the authority of Rule 2(b) as a guideline [to] establish the definition of *brief* as applied to the *statement of grounds for petition* to five pages".

However, if this Circuit's Judicial Council had wanted to apply a numeric definition to the term "brief" in Rule 6(e) in the context of petition letters, it would have so provided. By not doing so, it indicated that "brief" is an elastic term to be applied under a rule of reason. It was certainly not unreasonable to submit my original 10-page letter, containing a table of contents, headings, and quotations from §351 et seq., the Rules, and statements by persons to support my arguments and facilitate their reading. Moreover, the July 9 letter is inconsistent in that it applies by analogy to petition letters the Rule 2(b) 5-page limit on complaints but fails to apply also by analogy to the same petitions the authority of Rule 2(d) allowing the submission of documents as evidence supporting a complaint.

It is irrelevant that "It has been the long-standing practice of this court to" limit petition letters to five pages, for the court has failed to give petitioners notice thereof. Yet, this court has had the opportunity to give them notice of its practice in the notification that it is required under Rule 4(f)(1) to give them of the dismissal and their right to appeal; it should have done so in light of the public notice requirement under §358(c). Instead, the court lets petitioners waste their time guessing at the meaning of "brief" and writing for naught a cogent, well-organized, and reasonably long 10-page petition letter. Inconsistency and lack of consideration are defining characteristics of arbitrariness.

2. Given that such systematic dismissal of complaints regardless of merits has been recognized as a problem so grave as to warrant action by the top officers of the judicial branch, there is little justification for considering seriously the stock allegations for dismissing my Complaint. The latter is just another casualty added to a phenomenon that defies statistical probabilities: While the 2003 Report of the Administrative Office of the U.S. Courts highlights that another record was set with federal appeals filings that grew 6% to 60,847, and civil filings in the U.S. district courts of 252,962 (E-66), the three consecutive reports of the Judicial Conference for March 2004, and September and March 2003 (E-60), astonishingly indicate that, as the latter report put it, the Conference “has not received any petitions for review of judicial council action, ...nor are there any petitions for review pending from before that time” (E-59).
3. It is shocking that the judicial councils would abuse so blatantly their discretion under §352(c) to deny all petitions for review of chief judges’ orders, thus barring their way to the Judicial Conference; (E-59; cf. Rule 8(f)(2)). One can justifiably imagine how each circuit makes it a point of honor not to disavow its chief judge and certainly never refer up its dirty laundry to be washed in the Judicial Conference. It is as if the courts of appeals had the power to prevent each and every case from reaching the Supreme Court and abused it systematically. In that event, instead of the Supreme Court reporting 8,255 filings in the 2002 Term –an increase of 4% from the 7,924 in the 2001 Term (E-66)- the Court would be caused to report 0 filings in a term! (E-60-65) Sooner or later the Justices would realize that such appeals system was what the current operation of the judicial misconduct complaints procedure is: a sham!
4. This is so evident here because Chief Judge Walker has repeatedly violated unambiguous obligations even under his own Circuit’s Rules (E-119). To begin with, the Chief Judge violated his obligation under §352(a) to act “promptly” and “expeditiously” (E-76-77), taking instead 10 months to dispose of the Complaint (E-71) despite the circumstantial and documentary evidence that not even a Rule 4(b) “limited inquiry” was conducted (E-22-24). Secondly, Chief Judge Walker lacked authority under the Complaint Provisions to delegate to Judge Dennis Jacobs, who actually disposed of the Complaint, his obligation under §352(b) and Rule 4(f)(1), to handle such complaints and write reasoned orders to dispose of them. Thirdly, the Chief Judge violated his obligation under Rule 17(a) to make misconduct orders “publicly available”, keeping all but those of the last three years, neither in the shelves, nor in a storage room of the Courthouse, nor in an annex, nor in another building in the City of New York, nor in the State of New York, nor elsewhere in the Second Circuit, but rather in the National Archives in Missouri! (E-28, 29, 33)
5. For violating so conspicuously the Complaint Provisions, the Chief Judge has a personal interest: to facilitate the dismissal of the related complaint against him submitted to Judge Jacob by Dr. Cordero on March 19, 2004, dkt. no. 04-8510 (E-22). If under that complaint the Chief Judge were investigated, the severe §359(a) Restrictions on individuals subject of investigation would

Likewise, “Rule 8, Review by the judicial council of a chief judge’s order”, thus directly applicable here, expressly provides in section 8(e)(2) that the complained-about judge “will be provided with copies of any communications that may be addressed to the members of the judicial council by the complainant”. Since the petition letter, though addressed to the Clerk of Court, is intended for the judicial council’s members, there is every reason to allow the exhibits to accompany it as one of “any communications” addressed to the members by the complainant. Hence, the 10-page letter and its exhibits should have been filed. They should be available to any judicial council member under Rule 8(c). To that end, I am submitting the exhibits as a separate volume. But if it were to prevent the filing of the petition letter, consider that volume withdrawn, send it back to me, and file the letter, as we agreed on July 12.

be applicable and weigh him down even for years until the complaint's final disposition.

6. Indeed, if the Complaint, the one about Bankruptcy Judge John C. Ninfo, II, (E-71) were investigated and the special committee determined that Judge Ninfo had, as charged, engaged with other court officers in a pattern of non-coincidental, intentional, and coordinated disregard of the law, rules, and facts, then it would inevitably be asked why Chief Judge Walker too disregarded for 10 months the law imposing on him the promptness obligation, thereby allowing the continuation of 'a prejudice "to the administration of the business of the courts"' so serious as to undermine the integrity of the judicial system in his circuit. That question would raise many others, such as what he should have known, as the foremost judicial officer in this circuit; when he should have known it; and how many of the overwhelming majority of complaints, dismissed too without investigation, would have been investigated by a law-abiding officer not biased toward his peers. Similar questions could spin the investigation out of control quite easily.
7. Therefore, if the Complaint about Judge Ninfo could be dismissed, then the related complaint about the Chief Judge could more easily be dismissed, thus eliminating the risk of his being investigated. What is more, if the Complaint could somehow be dismissed by somebody other than himself, the inference could be prevented that he had done so out of his own interest in having the complaint about him dismissed. The fact is that the Complaint was dismissed by another, that is, Judge Jacobs, who likewise has disregarded his obligation to handle "promptly" and "expeditiously" the complaint of March 19, 2004, about his peer, the Chief Judge (E-22).
8. The appearance of a self-serving motive for dismissing the Complaint arises reasonably from the totality of circumstances. It is also supported by the axiom that neither a person nor the persons in an institution can investigate themselves impartially, objectively, and zealously. Nor can they do so reliably. Their interest in preventing a precedent that one day could be applied to them if they were complained about as well as their loyalties in the context of office politics will induce or even force insiders to close ranks against an 'attack' from an outsider. Only independent investigators whose careers cannot be affected for better or for worse by those investigated or their friendly peers can be expected to conduct a reliable investigation.
9. Instead the constant found in Judge Jacobs' dismissal of the Complaint was the sweeping and conclusory statements found in other dismissals ordered in the last three years (E-57):
 - a) Complainant has failed to provide evidence of any conduct "prejudicial to the effective and expeditious administration of the business of the courts." [Citing a standard and saying that it was not met, without discussing what the requirements for meeting it have been held to be –our legal system is based on precedent, not on 'because I say so'- and how the evidence presented failed to meet it, does not turn a foregone conclusion into a reasoned order.]
 - b) Complainant's statements...amount to a challenge to the merits of a decision or a procedural ruling. [This is a particularly inane dismissal cop-out because when complaining about the conduct of judges as such, their misconduct is most likely to be related to and find its way into their decisions. The insightful question to ask is in what way the judge's misconduct biased his judgment and colored his decision.]
 - c) Complainant's allegations of bias and prejudice are unsupported and therefore rejected as frivolous. [Brilliantly concise legal definition and careful application to the facts of the lazy catch-all term 'frivolous'!]
 - d) Finally, to the extent that the complaint relies on the conduct or inaction of the trustee, the court reporter, the Clerk, the Case Administrator, or court officers, it is rejected. The Act applies only to judges...

10. That last statement is much more revealing because it shows that Judge Jacobs did not even know what the issues presented were, namely 1) whether Judge Ninfo summarily dismissed Dr. Cordero's cross-claims against the Trustee and subsequently prevented the adversary proceeding from making any progress to prevent discovery that would have revealed how he failed to oversee the Trustee or tolerated his negligent and reckless liquidation of Premier and the disappearance of the Debtor's Owner, namely, David Palmer; and 2) whether Judge Ninfo affirmatively recruited, or created the atmosphere of disregard of law and fact that led, other court officers to engage in a series of acts forming a pattern of non-coincidental, intentional, and coordinated conduct aimed at achieving an unlawful objective for their benefit and that of third parties and to the detriment of Dr. Cordero, the only non-local and pro se party.
11. Judge Jacobs failed to recognize the abstract notion of motive and how it could lead Judge Ninfo to take decisions that only apparently had anything to do with legal merits. What is less, he did not even detect, let alone refer to, the concrete and expressly used term "pattern". Had he detected it, he could have understood how acts by non-judges, and thus not normally covered by the Complaint Provisions, could form part of unlawful activity coordinated by a judge, which would definitely constitute misconduct, to put it mildly. But he remained at the superficial level of considering each individual act in isolation and dismissing each singly. How can the dots be connected to detect any pattern of conduct supportive of reasonable suspicion of wrongdoing if the dots are not even plotted on a chart so that they can be looked at collectively?
12. Circumstantial evidence is so indisputably admitted in our legal system that cases built on it can cause a person to lose his property, his freedom, and even his life. Such cases look at the totality of circumstances. The Complaint describes those circumstances as a whole. It is supported by a separate volume of documentary evidence consisting of more than 500 pages—referred to as A-#— which was discussed in greater detail in another separate 54 page memorandum that laid out the facts and showed how they formed a pattern of activity. This memorandum is referred to as E-# in the 5-page Complaint, which is only its summary. Just the heft of such evidence and its carefully intertwined presentation would induce an unbiased person—one with no agenda other than to insure the integrity of the courts and to grant the complainant a meaningful hearing—to entertain the idea that the Complaint might be a thoughtful piece of work with substance to it that should be read carefully. Judge Jacobs not only failed to make reference to that material, but he did not even acknowledge its existence. Is it reasonable to assume that he did not waste time browsing it if he only intended to write a quick job, pro-forma dismissal?
13. The totality of circumstances presented in the Complaint is sufficient to raise reasonable suspicion of wrongdoing. There is no requirement that the complainant, who is a private citizen, not a private investigator, build an airtight criminal case ready for submission by the district attorney to the judge for trial. That is the work that a special committee would begin to do upon its appointment by a chief judge or a judicial council concerned by even the appearance of wrongdoing that undermines public confidence in their circuit's judicial system. Unlike the complainant, such committee can conduct a deeper and more extensive investigation because it has the necessary subpoena power.
14. A more effective investigation can be mounted in cooperation with the FBI through a simultaneous referral to it. Indeed, the FBI has not only subpoena power, but also the required expert manpower and resources to interview and depose large numbers of persons anywhere they may be and cross-relate their statements; engage in forensic accounting and trace bankruptcy debtors' assets from where they were to wherever they may have ended up; and flush out and track down evidence of official corruption, such as bribes. What motives could Chief Judge Walker and Judge Jacobs have had to fail to set in motion either investigation given the stakes?

15. Had they appointed a special committee, it would have found at least the following:
- a) Chapter 7 Trustee K. Gordon was referred to Judge Ninfo for a review of his performance and fitness to serve; then sued for failure to realize that storage contracts were income producing assets of the estate, which would have allowed him to find Dr. Cordero's property lost by the debtor. Disregarding the genuine issues of material fact, the Judge dismissed all claims. Was he protecting a well-known Trustee who had no time to find out anything, for according to Pacer², the Trustee has *3,383 cases!*, all but one before Judge Ninfo? (E-126)
 - b) What is more, Chapter 13 Trustee George Reiber has, again according to Pacer, *3,909 open cases!* He also cannot possibly have the time or the inclination to check the factual accuracy or internal consistency of the content of each bankruptcy petition to ascertain its good faith. So on what basis does he accept petitions and ready them for confirmation of their plans of debt repayment by Judge Ninfo, before whom he appears time and again?
 - c) A petition for bankruptcy, dated January 26, 2004, was filed by David and Mary Ann DeLano; (E-82 et seq.). Though internally riddled with red flags as to its good faith (E-79), it was accepted by Trustee Reiber without asking for a single supporting financial document; and was readied for confirmation by Judge Ninfo (E-22-24). This is a test case that will blow up the cover of everything that is wrong in that bankruptcy district.
16. My Complaint too is a test case whether, as expected, this petition is denied, upon which I will submit it to Justice Breyer's Committee; or it is granted and a special committee is appointed. If the latter happens, it is necessary that its investigation appear to be and actually be independent as much as possible. Thus, I respectfully request that:
- a) Neither the Chief Judge appoint himself nor Judge Jacobs be appointed to the review panel;
 - b) The review panel refer the petition to the full membership of the Judicial Council;
 - c) The Judicial Council itself take the "appropriate action" under Rule 5 of appointing a special committee to investigate and that neither Chief Judge Walker nor Judge Jacobs be members of such committee, but its members be experienced investigators unrelated to the Court of Appeals and the WDNY Bankruptcy and District Courts and be capable of conducting an independent, objective, and zealous investigation;
 - d) The special committee be charged with conducting an investigation to determine:
 - 1) the involvement in a pattern of non-coincidental, intentional, and coordinated acts of disregard of the law, rules, and facts on the part of judges, administrative staff, debtors as well as both private and U.S. trustees in WDNY and NYC;
 - 2) the link between judicial misconduct and a bankruptcy fraud scheme involving the approval for legal and illegal fees of numerous meritless bankruptcy petitions; and
 - 3) the participation of district and circuit judges in a systematic effort to suppress misconduct complaints in violation of §351 et seq. and this Circuit's Complaint Rules;
 - e) This matter be simultaneously referred to the FBI for cooperative investigation; and
 - f) This petition together with the Complaint and the documentary evidence submitted with each be referred to the Judicial Conference of the United States; (cf. Rule 14(a) and (e)(2).

Sincerely, 

² Public Access to Court Electronic Records; ecf.nywb.uscourts.gov; or <https://pacer.psc.uscourts.gov>.

EXHIBITS

in support of

the letter containing
the Statement of Grounds
for a Petition for Review

to

THE JUDICIAL COUNCIL FOR THE SECOND CIRCUIT

submitted

under Rules 5 and 8(e)(2) of this Circuit's
Rules Governing Judicial Misconduct Complaints

to

the Acting Clerk of Court*

on

July 8 and 13, 2004

by

Dr. Richard Cordero

59 Crescent Street
Brooklyn, NY 11208
tel. (718) 827-9521

*If the submission of this volume of Exhibits were to prevent the filing of the separately submitted petition letter, please as agreed on July 12, consider this volume withdrawn, return it to me, and file the letter. Dr. Richard Cordero.

Table of Exhibits

in support of the petition of July 8, as reformatted on July 13, 2004
to the Judicial Council of the Second Circuit
for review of the dismissal
of the judicial misconduct complaint, no. 03-8547, CA2,
against Bankruptcy Judge John C. Ninfo, II, WBNY
by
Dr. Richard Cordero

1. Dr. Richard **Cordero's Motion** of **April 18**, 2004, for Leave to Update the Motion For the Hon. **Chief Judge** John M. Walker, Jr., to **Recuse Himself** from this Case With Recent Evidence of a **Tolerated Pattern of Disregard** for Law and Rules Further Calling Into Question the Chief Judge's Objectivity and Impartiality to Judge Similar Conduct on Appeal.....E-1 [C:337]
2. Dr. **Cordero's Statement of Facts** of **March 19**, 2004, Setting forth a **Complaint** under 28 U.S.C. §351 against Chief Judge Walker **addressed** under Rule 18(e) of the Rules of the Judicial Council of the Second Circuit Governing Complaints against Judicial Officers **to the** Circuit Judge eligible to become the **next chief judge** of the circuit.....E-22 [C:271]
3. **Acknowledgment** by Patricia Chin **Allen, Clerk**, of **March 30**, 2004, of Dr. Cordero's judicial misconduct **complaint about Chief Judge** Walker, docketed under no. 04-8510.....E-27 [C:326]
4. Dr. **Cordero's letter** of **June 19**, 2004, to **Chief Judge** Walker, stating that the judicial misconduct **orders** have **not** been **made** publicly **available**, as required under the Rules Governing Misconduct Complaints, and requesting that they be made available to him for his use before the deadline of July 9 for submitting his petition for reviewE-28 [C:530]
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10. Report of September 23, 2003, of the Proceedings of the Judicial Conference of the United States, and Reports of March and September 2003 and March 2004, of the Judicial Conference’s Committee to Review Circuit Council Conduct and Disability Orders stating that there are no pending petitions for review of judicial council action on misconduct orders.....	E-60	[C:567]
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14. Dr. Cordero’s Statement of facts of August 11 , 2003, in support of a complaint under 28 U.S.C. §351 submitted to the Court of Appeals against the Hon. John C. Ninfo , II, U.S. Bankruptcy Judge and other court officers at the U.S. Bankruptcy Court and the U.S. District Court for the Western District of New York.....	E-71	[C:63]
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22. CA2 Chief Judge John M. Walker, Jr. , violated his obligations under 28 U.S.C. §351 and the Judicial Council implementing rules with respect to the complaint against Judge John C. Ninfo, II , in several substantive aspects so as to raise the reasonable inference that the complaint's dismissal was also decided in violation thereof	E-119	[C:632]
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CA2 Chief Judge John M. Walker, Jr., violated his obligations under 28 U.S.C. §351 and the Judicial Council implementing rules with respect to the complaint against Judge John C. Ninfo, II, in several substantive aspects so as to raise the reasonable inference that the complaint’s dismissal was also decided in violation thereof by
Dr. Richard Cordero

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A. The Chief Judge violated his obligation to act promptly and expeditiously

1. The obligation to handle judicial misconduct complaints “promptly” and “expeditiously” permeates the provisions adopted by Congress at 28 U.S.C. §351 et seq. and those adopted thereunder by this Judicial Council in its Rules Governing Complaints Against Judicial Officers (collectively hereinafter the Complaint Provisions). To begin with, one of the grounds for the complaint is that “a judge has engaged in conduct prejudicial to the effective and **expeditious** administration of the business of the courts”; §351(a), (emphasis added); cf. Preface to the Rules.

2. That obligation was violated by the Chief Judge, the Hon. John M. Walker, Jr., before he even received the Complaint. Indeed, he set up or allowed the continued operation of a procedure that bottlenecks all complaints through one single clerk; (page 3, *infra*). This has the reasonable consequence –from which intention can be inferred- of making the clerk, who may be on vacation, sick, or too busy, liable to fail to comply with the obligation under §351(c) that “...the clerk shall promptly transmit the complaint to the chief judge”; cf. Rule 3(a)(1). In fact, the clerk failed so to comply not only in this precise instance, but also in the subsequent complaint of March 19, 2004, about the Chief Judge himself, docket no. 04-8510; (22, *infra*).
3. Once the complaint is transmitted, even its thorough, conscientious review has to be expeditious. This obligation is laid on the chief judge by Congress, which provided thus:

§352(a) Expeditious review; limited inquiry.-The chief judge shall expeditiously review any complaint received under section 351(a)...

4. A complaint can be reviewed “expeditiously” because the law specifically provides that:

§352(a)...The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute. (cf. Rule 4(b))

5. The Complaint was filed on August 11, 2003. No special committee was appointed. Moreover, there are facts from which it can reasonably be deduced that as of March 8, 2004, the Chief Judge had not even contacted the complained-about judge, the Hon. John C. Ninfo, II, Bankruptcy Judge in Rochester, WBNY; (22-24, *infra*). This deduction finds support in the fact that the dismissal order is predicated only on the content of the Complaint itself and in nothing other than “A review of the docket sheet in this case”, such as the one accompanying the Complaint and, thus, readily available. The fact that the Chief Judge refused even to take possession of a letter of February 2, inquiring about the status of the Complaint, (76, *infra*), also allows the explanation that he had made no inquiries even six months after submission and, consequently, had nothing to reply and no better way to avoid admitting to it than to send the letter back immediately on February 4, 2004, (78, *infra*).
6. The Complaint was dismissed on June 8, 2004, in three double-spaced pages and three lines. This means that to perform the “**Expeditious review**” that §352(a) requires of the chief judge, Chief Judge Walker unreasonably took **10 months!** It cannot reasonably be pretended

that such a no-inquiry, quick-job, pro-forma dismissal required 10 months.

7. Consequently, Chief Judge Walker's violation of his promptness obligation casts doubt on his commitment to complying with his other obligations under the Complaint Provisions, such as those laying out the criteria applicable to dismiss or to appoint a special committee.

B. The Chief Judge violated his obligation to dispose of the Complaint and write a reasoned order himself

8. The fact is that Chief Judge Walker did not comply with his obligation under the Complaint Provisions to dispose of the complaint by deciding for one of the only options for action available to him. It was the Hon. Dennis Jacobs, Circuit Judge, who did so. The importance of this fact lies, on the one hand, in his lack of legal authority to delegate an obligation that the Complaint Provisions unambiguously impose on the chief judge and, on the other hand, the Chief Judge's motive for not complying given the benefit that he derives therefrom.

1. Chief Judge Walker lacked authority to delegate his disposition obligation

9. Section 351 provides that '(a) a complaint is filed with the clerk of the court of appeals, who (c) promptly transmits it to the chief judge of the circuit.' Only when the chief judge is the one complained about, is the clerk required to transmit it to someone else, namely, the next eligible chief judge. Rule 40c)-(f) requires the chief judge to take the subsequent action, as do:

§352(a)...After expeditiously reviewing a complaint under subsection (a), **the chief judge**, by written order stating **his** or her **reasons**, may-

(1) dismiss the complaint-

(A) if **the chief judge** finds the complaint to be-...

(2) conclude the proceeding if the **chief judge** finds that...

§353. Special committees

(a) Appointment.-If **the chief judge** does not enter an order under section 352(b), **the chief judge** shall promptly-

(1) appoint...a special committee to investigate...(emphasis added)

10. Congress did not provide for the chief judge to designate another person to make a decision

and write it down in a reasoned order. By contrast, when Congress did want to authorize the chief judge to proceed by delegation, it clearly provided therefor. So in §352(a) it allowed that “The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge...or any other person who may have knowledge of the matter...”.

11. Likewise, Rule 4(b) provides that “In determining what action to take, the chief judge, with such assistance as may be appropriate, may conduct a limited inquiry...”. But the Rule makes no provision for the chief judge to receive any other assistance by delegating his disposition obligation. Hence, subsection (c) allows a complaint to be dismissed only “if **the chief judge** concludes” that one of the dismissal criteria is applicable. For its part, subsection (f) lays squarely on the chief judge alone the obligation to take the following step:

Rule 4(f)(1) If the complaint is dismissed...**the chief judge** will prepare a supporting memorandum that sets forth the allegations of the complaint and the reasons for the disposition. (emphasis added)

12. There is no other provision for the chief judge informally, without any order or explanation whatsoever, to have somebody else write the chief judge’s reasons, let alone for that other person to dispose of the complaint as he or she sees fit and write his or her own reasons. This is a court of law. Procedural events occur according to law or rule. They do not take the place of legally provided events just because the judges feel like it. Brethren they may be, but pals in a fraternity covering for each other they are not.

2. The Chief Judge had a self-serving motive for not complying with his disposition obligation

13. In any activity that depends on trust in some people for the acceptance of their actions by others, it is not enough to do the right thing, but one must also be seen doing the right thing. It was Judge Jacobs, as “acting chief judge”, who dismissed the Complaint and wrote the memorandum. Under what circumstances this occurred is important to know. For one thing, it was Chief Judge Walker who has the legal obligation with no delegating authority to decide its disposition and write his reasons therefor. In addition, his obligation was strengthened by a special circumstance, namely, that a second complaint, one about him, was submitted to Judge Jacob by Dr. Cordero on March 19, 2004, docket no. 04-8510 (22, infra).

Hence, who disposed of the Complaint, the one about Judge Ninfo, has serious implications for future decisions and events concerning the complaint about Chief Judge Walker himself.

14. Indeed, if the Chief Judge came under investigation upon the complaint about him, he would be subject to important restrictions, namely:

§359 Restrictions

(a) **Restriction on individuals who are subject of investigation.**-No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

15. If the Chief Judge were investigated, these restrictions would apply to him for a long time, even years. This is particularly so in light of the Chief Judge's implied interpretation of his statutory and regulatory obligation to act "promptly" and "expeditiously" as allowing him to take ten months just to dismiss the complaint, without even communicating with anybody, let alone appointing a special committee. By the same token, those with the obligation to act "expeditiously" with regard to the complaint about him could take just as long. Among those with such obligations are these:

- 1) the special committee, which has the obligation to "expeditiously file a comprehensive written report"; §353(c);
- 2) the judicial council, which has the obligation to "take such action as is appropriate to assure the effective and expeditious administration of the business of the courts", §354(a)(1)(C); "shall immediately provide written notice to...the judge" complained about; (a)(4); and "shall promptly certify such determination [e.g. of an impeachable offense by the judge complained about]...to the Judicial Conference"; (b)(2)(B); and
- 3) the Judicial Conference, which simply acts "as it considers appropriate", §355(a), and that could take years!, for it has no direct obligation to act with promptness other than that flowing indirectly from §354(a)(1)(C).

16. No doubt, if these bodies acted as 'promptly' as Chief Judge Walker did, §359 restrictions could substantially limit him in his official role as chief judge for the remainder of his current term as such. That must safely be assumed to raise the most unwelcome prospect of a constant source of embarrassment, to put it mildly.

17. However, the Chief Judge's problem in avoiding an investigation is that the Complaint about

Judge Ninfo and the complaint about him are related. It is reasonable to supposed that if Judge Ninfo were investigated and the special committee determined that Judge Ninfo had, as charged, engaged with other court officers in a pattern of non-coincidental, intentional, and coordinated disregard of the law, rules, and facts, then it would inevitably be asked why Chief Judge Walker too disregarded for at least 10 months the law imposing on him the promptness obligation, thereby allowing the continuation of ‘a prejudice “to the administration of the business of the courts”’ so grave as to undermine the integrity of the judicial system in his circuit. That question would raise many others, such as what he should have known, as the foremost judicial officer in this circuit; when he should have known it; and how many of the overwhelming majority of complaints, equally dismissed without any investigation, would have led a prudent and impartial person to investigate them. Questions like these could spin the investigation out of control quite easily.

18. Therefore, if the Complaint about Judge Ninfo could be dismissed, then the related complaint about the Chief Judge could more easily be dismissed, thus eliminating the risk of his being investigated. What is more, if the Complaint could somehow be dismissed by somebody other than him, the inference could be prevented that he had done so out of his own interest in having the complaint about him dismissed too.
19. It so happens that after the obligation to act “promptly” and “expeditiously” was disregarded for 10 months and despite the lack of any delegating authority, that less risky situation has set in through the dismissal by Judge Jacobs of the Complaint. Whether what appears to have happened is what actually happened is a matter to be determined by the Judicial Council through the appointment of a special committee. But that appearance reasonably arises from the totality of circumstances.
20. Moreover, the appearance of a self-serving motive for the action taken is supported by the axiom that neither a person nor the persons in an institution can investigate themselves impartially, objectively, and zealously. Much less can they do so reliably since their loyalties and their short and long term self-interests in the context of office politics will induce or even force them to close ranks against an ‘attack’ from an outsider. Only independent investigators whose careers cannot be affected one way or another by those investigated or their friendly peers can be expected to conduct a reliable investigation.

C. The Chief Judge violated his obligation to make misconduct orders “publicly available”

21. Rule 17(a) provides that:

A docket-sheet record of orders of the chief judge and the judicial council and the texts of any memoranda supporting such orders and any dissenting opinions or separate statements by members of the judicial council will be made available to the public when final...

22. However, Chief Judge Walker violated this provision too. Thus, Dr. Cordero received the order of dismissal on Saturday, June 12, and went to the Courthouse on June 16, to request Rule 17(a) records. But they were not made available to him. Instead, the matter was referred to Mr. Fernando Galindo, Chief Deputy of the Clerk of Court, who referred it to Clerk of Court Rose-ann MacKechnie, who, according to Mr. Galindo, referred it to Chief Judge Walker. Dr. Cordero wrote a letter to the Chief Judge on June 19 to make him aware that he was invoking his right to access those records; that the Chief Judge had an obligation to make them available; and that time was of the essence because of the deadline of July 9 for submitting this petition for review (28, *infra*). Yet, the letter was never answered. Dr. Cordero called Mr. Galindo and left messages for him. Only on June 29 did Mr. Galindo call back Dr. Cordero to tell him that the orders would be made available to him the next day, June 30, fully two weeks after his initial request.

23. When on the 30th Dr. Cordero requested those records at the Courthouse In-take Room, imagine his bafflement when he was told for the first time that only the orders of 2002, 2003, and 2004 were available! He asked to speak with Chief Deputy Galindo, who then told him that the orders for all the previous years were in the archive. Where!?! In the archive, but neither in the basement of the Courthouse, nor in an annex, nor in another building in the City of New York, nor in the State of New York, nor elsewhere in the Second Circuit, no: In the National Archives in Missouri! Moreover, to consult them, Dr. Cordero would have to make a written request, pay \$45, and wait at least 10 days for them to arrive. Dr. Cordero asked for at least the docket sheet of those records, but Mr. Galindo told him that there was none. Neither the records nor the truth about them was made available to him timely or completely.

24. Dr. Cordero felt cheated! How would you have felt? If you had written that day, June 30, to the Chief Judge protesting such piecemeal and substantially incomplete disclosure of what you were entitled to and which was made only because you kept insisting, whereby you were

made to waste half the time allowed for you to exercise your right to appeal (29, infra), but the letter was never answered, would you trust that the Chief Judge cared about even appearing to comply with his obligations under the Complaint Provisions? Would his non-compliance with his obligation to make those orders available cause you to distrust that he had complied with those Provisions when dismissing your complaint?

25. Consider this. The next day Dr. Cordero checked out a binder of orders from Mrs. Harris, the Head of the In-take Room, and stepped into the adjoining reading room. He sat and read for some time the... 'There is no sleeping in the reading room', a clerk told him. It appears that Dr. Cordero was nodding. He went on reading for several hours and taking notes in his... 'You are sleeping and there is no sleeping in the reading room'. This time it was Mrs. Harris, the Head In-taker. He told her that he had not gone there to sleep, but rather must have fallen asleep. She replied 'You have already been warned and if you fall asleep again, I would call the marshals.'
26. The marshals!, those security officers in charge of preventing criminals and terrorists from smuggling into the Courthouse guns and bombs to kill and maim federal employees and visitors. Mrs. Harris would call them away from manning the metal detectors in the lobby to catch Dr. Cordero as he threatened everybody in the reading and In-take rooms with nodding! Can you assure yourself, let alone others, that you will not nod again while reading for hours in a noisy room? (33, infra) How would you feel if you, a professional and self-respecting person, were taken away in public by the marshals?
27. Was Mrs. Harris acting on her own initiative or as an agent in a Courthouse where... madhouse, the nurse! The infamous head nurse in "One Flew over the Cuckoos' Nest"! Did she need specific instructions to apply minute rules so insensitively to mentally ill inmates or was she the product of an institution, imitating top managers that had no respect for the obligations of their profession, psychiatry, and disregarded the rights of the inmates - particularly the one faking mental illness- whose requests they repressed with electroshocks to their brains to quash any sense of self-assertion in their minds? Here, in the lawhouse -the law of trickle down unlawful-ness (36, infra) and of power unchecked is power abused- the Head In-taker will call in the mar-shals to straitjacket a reader dangerously nodding everybody around, while Chief Warden elec-trocutes his obligation to keep misconduct orders publicly available and sends the body of those orders to the padded room of archival

preservation in Missouri. How dangerous is that body?

28. Very. The table of the few orders left behind in the Courthouse and read by Dr. Cordero shows (57, *infra*) that all complaints were dismissed in reasoned orders written by Chief Judge Walker. For its part, the Judicial Council, without any supporting memoranda, dismissed all the petitions for review. No wonder that body of orders is considered to be so dangerous as to need to be put far away in an archive, for it kicks and screams loud and clear an indictment, not of the complainants for each of them without exception submitting allegedly meritless or “frivolous” complaints, but rather of the judges for dismissing out of hand with no investigation by any special committee all misconduct complaints and review petitions.
29. Such perfunctory dismissals have compromised, as Justice Breyer’s Committee put it in its news release after its first meeting last June 10, “The public’s confidence in the integrity of the judicial branch [which] depends not only upon the Constitution’s assurance of judicial independence [but] also depends upon the public’s understanding that effective complaint procedures, and remedies, are available in instances of misconduct or disability”; (67, *infra*). If the Justice and his colleagues put an effective complaint procedure at a par with the judiciary’s constitutionally ensured independence, why then have chief judges and judicial councils treated complaints with so much contempt? Are they dispensing protection to each other in their peer system at the expense of those for whose benefit they took an oath to dispense justice? From these circumstances it is reasonable to infer that the Complaint was dismissed with disregard for the Complaint Provisions.

July 8, 2004

59 Crescent Street
Brooklyn, NY 11208

Dr. Richard Cordero

Dr. Richard Cordero
tel. (718) 827-9521

A Chapter 7 Trustee with *3,383 cases!*

How he showed that with such workload
he could not and did not pay attention
to the facts and merits of each case;
yet, Judge Ninfo and the U.S. Trustee protected him
from a complaint about his performance and fitness to serve
and even dismissed claims of negligence against the Trustee
without allowing any discovery

by

Dr. Richard Cordero

1. At the beginning of 2002, Dr. Richard Cordero, a New York City resident, was looking for his property in storage with Premier Van Lines, Inc., a moving and storage company located in Rochester, NY. He was given the round-around by its owner, David Palmer, and others who were doing business with Mr. Palmer. After the latter disappeared from court proceedings and stopped answering his phone, the others eventually disclosed to Dr. Cordero that Mr. Palmer had filed a voluntary bankruptcy petition under Chapter 11 on behalf of Premier and that the company was already in Chapter 7 liquidation. They referred Dr. Cordero to the Chapter 7 trustee in the case, Kenneth Gordon, Esq., for information on how to locate and retrieve his property. However, Trustee Gordon refused to provide such information, instead made false and defamatory statements about Dr. Cordero to the bankruptcy court and others, and merely referred him back to the same people that had referred him to Trustee Gordon.
2. Dr. Cordero requested a review of Trustee Gordon's performance and fitness to serve as trustee in a complaint filed with Judge Ninfo, before whom Mr. Palmer's petition was pending. Judge Ninfo did not investigate whether the Trustee had submitted to him false statements, as Dr. Cordero had pointed out, but simply referred the matter to Assistant U.S. Trustee Kathleen Dunivin Schmitt for a "thorough inquiry". However, what she actually conducted was only a quick 'contact': a substandard communication exercise limited in its scope to talking to the trustee and a lawyer for a party and held back in its depth to uncritically accepting at face value

what she was told. Her written supervisory opinion of October 22, 2002, was infirm with mistakes of fact and inadequate coverage of the issues raised.

3. Dr. Cordero appealed Trustee Schmitt's opinion to her superior at the time, Carolyn S. Schwartz, U.S. Trustee for Region 2. He sent her a detailed critical analysis, dated November 25, 2002, of that opinion against the background of facts supported by documentary evidence. It must be among the files now in the hands of her successor, Region 2 Trustee Deirdre A. Martini. It is also available as entry no. 19 in docket no. 02-2230, Pfuntner v. Trustee Gordon et al. (www.nywb.uscourts.gov). But Trustee Schwartz would not investigate the matter.
4. Yet, there was more than enough justification to investigate Trustee Gordon, for he too has *thousands* of cases. The statistics on Pacer as of November 3, 2003, showed that Trustee Gordon was the trustee in 3,092 cases! What is more, as of June 26, 2004, Pacer replied in page <https://ecf.nywb.uscourts.gov/cgi-bin/login.pl> to a query of Trustee Gordon as trustee thus: "This person is a party in 3,383 cases". The latest one is:

2-04-22525-JCN	Thomas E. Smith	filed 06/14/04
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5. This means that in fewer than 8 months and excluding weekends and holidays and without taking into account any vacation, sick days, training, or conference attendance, Trustee Gordon has taken on an additional 291 cases or an average of 2 cases per day! What kind of 'quality time' can he give to the review of the filing data and ascertainment of legal compliance and good faith of two new cases a day while at the same time he monitors all his enormous load of other cases?...and goes to court for hearings, and writes reports for the court, and confers with his supervisor, the assistant U.S. Trustee, and discusses the concerns of creditors...that too?, well, perhaps not too often, for he also prosecutes or defends lawsuits in 142 cases, the latest one being, according to Pacer:

2-04-22720-JCN	Norman G Kraft and Ellen K Kraft	filed 06/23/04
--------------------------------	----------------------------------	----------------

6. To top it off, he is also named a party in 76 cases, the latest of which Pacer identifies as being:

2-04-02014-JCN	Gordon v. Murphy	filed 01/29/04
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7. Now comes a critically important piece of information, or rather three, for Paces shows that in all those 76 cases in which Trustee Gordon is named a party, the judge has been none other than JCN, that is, the Hon. John C. Ninfo, II; that in 138 out of those 142 cases in which Trustee Gordon was named an attorney, the judge has been Judge Ninfo; and that in all but one of the 3,383 cases in which Trustee Gordon was the trustee, Judge Ninfo has been the judge. They have worked together in thousands of cases!, for years, day in and day out, with Trustee Gordon appearing before Judge Ninfo in the same session several times for different cases. It is more than reasonable to assume that they have developed, if not a personal bond, then the working relationship between a grantor of rulings who is not to be challenged and a petitioner of rulings who wants them to be favorable. Such relationship benefits from cooperation and mutual support as well as the avoidance of even the appearance of defiance, not to mention antagonism. It induces its participants to become partners. Outsiders had better abstain from challenging either of them, let alone both of them.

Table 2. Number of Cases of Trustee Kenneth Gordon in the Bankruptcy Court compared with the number of cases of bankruptcy attorneys appearing there as of November 3, 2003, at <https://ecf.nywb.uscourts.gov/cgi-bin/login.pl>

NAME	# OF CASES AND CAPACITY IN WHICH APPEARING SINCE					
	since	trustee	since	attorney	since	party
Trustee Kenneth W. Gordon	04/12/00	3,092	09/25/89	127	12/22/94	75
Trustee Kathleen D.Schmitt	09/30/02	9				
Attorney David D. MacKnight			04/07/82	479	05/20/91	6
Attorney Michael J. Beyma			01/30/91	13	12/27/02	1
Attorney Karl S. Essler			04/08/91	6		
Attorney Raymond C. Stilwell			12/29/88	248		

8. Chapter 7 Trustee Gordon, just as Chapter 13 Trustee Reiber (section II, supra), could not possibly have had the time or the inclination to spend more than the strictly indispensable time on any single case, let alone spend time on a person from whom he could earn no fee. Indeed, in his Memorandum of Law of February 5, 2003, in Opposition to Cordero's Motion to Extend

Time to Appeal, Trustee Gordon unwittingly provided the motive for having handled the liquidation of Premier Van Lines negligently and recklessly: “As the Court is aware, the sum total of compensation to be paid to the Trustee in this case is \$60.00” (docket no. 02-2230, entry 55, pgs. 5-6). Trustee Gordon had no financial incentive to do his job...nor did he have a sense of duty! But why did he ever think that telling the court, that is, Judge Ninfo, how little he would earn from liquidating Premier would in the court’s eyes excuse his misconduct toward Dr. Cordero?

9. The reason is that Judge Ninfo does not apply the laws and rules of Congress, which together with the facts of the case he has consistently disregarded to the detriment of Dr. Cordero (see his misconduct complaints). Nor does he cite the case law of the courts hierarchically above his. Rather, he applies the laws of close personal relationships, those developed by frequency of contact between interdependent people with different degrees of power. Therein the person with greater power is interested in his power not being challenged and those with less power are interested in being in good terms with him so as to receive benefits and avoid retaliation. Frequency of contact is only available to the local parties, such as Trustee Gordon, as oppose to Dr. Cordero, who lives in New York City and is appearing as a party for the first time ever and, as such, in all likelihood the last time too.
10. The importance for the locals, such as Trustee Gordon, to mind the law of relationships over complying with the laws and rules of Congress or being truthful about the facts of their cases becomes obvious upon realizing that in the Bankruptcy Court for the Western District of New York there are only three judges and the Chief Judge is none other than Judge Ninfo. Thus, the locals have a powerful incentive not to ‘rise in objections’, as it were, thereby antagonizing the key judge and the one before whom they appear all the time, even several times in a single day. Indeed, for the single morning of Wednesday, October 15, 2003, Judge Ninfo’s calendar included the entries shown in the table below.
11. When locals must pay such respect to the judge, there develops among them a vassal-lord relationship: The lord distributes among his vassals favorable and unfavorable rulings and decisions to maintain a certain balance among them, who pay homage by accepting what they are given without raising objections, let alone launching appeals. In turn, the lord protects them when non-locals come in asserting against the vassals rights under the laws of Congress. So have the lord and his vassals carved out of the land of Congress’ law the Fiefdom of Rochester. Therein the law of close personal relationships reigns supreme.

**Table 3. Entries on Judge Ninfo's calendar for the morning
of Wednesday, October 15, 2003**

NAME	# of APPEARANCES	NAME	# of APPEARANCES
Kenneth Gordon	1	David MacKnight ¹	3
Kathleen Schmitt	3	Raymond Stilwell ²	2

12. The reality of this social dynamic is so indisputable, the reach of such relationships among local parties so pervasive, and their effect upon non-locals so pernicious, that a very long time ago Congress devised a means to combat them: jurisdiction based on diversity of citizenship. Its potent rationale was and still is that state courts tend to be partial toward state litigants and against out-of-state ones, thus skewing the process and denying justice to all its participants as well as impairing the public's trust in the system of justice. In the matter at hand, that dynamic has materialized in a federal court that favors the locals at the expense of the sole non-local, Dr. Cordero, who dared assert his rights against them under a foreign law, that is, the laws of Congress.
13. Hence, when Trustee Gordon 'made the Court aware that "the sum total of compensation to be paid to the Trustee in this case is \$60.00", he was calling upon the Lord to protect him. The Lord came to his vassal's assistance. Although Trustee Gordon himself in that very same February 5 Memorandum of Law of his (para. 8, supra) stated on page 2 that "On January 29, 2003, Cordero filed the instant motion to extend time for the filing of his Notice of Appeal", thereby admitting its timeliness, Judge Ninfo found that "the motion to extend was not filed with the Bankruptcy Court Clerk' until 1/30/03" (docket no. 02-2230, entry 57), whereby he made the motion untimely and therefore denied it! Dr. Cordero's protest was to no avail.
14. However, while this case started with Dr. Cordero, a non-citizen of the Fiefdom of Rochester, being dragged from New York City as a defendant into that diverse jurisdiction, it did not end when Dr. Cordero, naively thinking that he was in a federal court, had the 'temerity' to challenge the Deferential Counsel to the Court Gordon, and Lord Ninfo had no qualms in

¹ David MacKnight, Esq., is the attorney of Mr. James Pfunter, the owner of a warehouse used by Mr. David Palmer, the owner of Premier Van Lines, the moving and storage company that went bankrupt.

² Raymond Stilwell, Esq., was the attorney representing Mr. David Palmer.

defending his Counsel by disregarding legality and dismissing Dr. Cordero's challenge. Far from it, thereupon Dr. Cordero, still disoriented by a compass pointing to the law of Congress, had the 'boldness' to go on appeal to the district court. Then it was time for Duke of the District David Larimer, who rules from the floor above that of Lord Ninfo in the same federal building, to come to the rescue of his very close colleague. By likewise disregarding the law, the rules, and the facts, the Duke dismissed Dr. Cordero from his jurisdiction.

15. Dr. Cordero came back to New York City to appeal to the judges of the circuit, whom he thought second to none in their respect for the law, their sense of duty, and fair-mindedness. What a foolish idea! Only a man that believes in law and order can be led astray by so misguiding idealism. Tightly knitted and long lasting working conditions give rise to office politics and vested interests that engulf into a morass of compromise and upside down priorities all but the strongest individuals. These are the ones who can stand alone on a limb for what is right. They can even provide a point of anchor to those battered and in danger of being sunk by wave after wave of the misconduct of officers who were supposed to provide a safe haven. In what category of persons do you put yourself through your acts?

July 8, 2004

59 Crescent Street
Brooklyn, NY 11208

Dr. Richard Cordero

Dr. Richard Cordero
tel. (718) 827-9521

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
THURGOOD MARSHALL UNITED STATES COURTHOUSE
40 CENTRE STREET
New York, New York 10007
212-857-8500

JOHN M. WALKER, JR.
CHIEF JUDGE

ROSEANN B. MACKECHNIE
CLERK OF COURT

July 16, 2004

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

Re: *Judicial Conduct Complaint*, 03-8547

Dear Mr. Cordero:

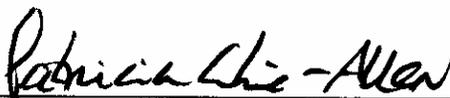
We hereby acknowledge receipt of your revised petition for review, dated February 13, 2004 and received in the Clerk's Office on February 14, 2004.

Your petition for review of the June 8, 2004 Order of the Chief Judge dismissing your judicial conduct complaint in the above-referenced docket number has been filed and processed pursuant to the *Rules of the Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers Under 28 U.S.C. § 351*.

You will be notified by letter once a decision has been made.

Your exhibits volume is returned.

Sincerely,
Roseann B. MacKechnie, Clerk of Court

By: 
Patricia Chin-Allen, Deputy Clerk

Enclosures

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

[Sample of letters to members of the Judicial Council, 2nd Cir.]

July 30, 2004

Hon. Rosemary S. **Pooler**, Circuit Judge
Member of the Judicial Council of the 2nd Circuit
U.S. Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
New York, NY 10007

Re: judicial misconduct complaint, docket no. 03-8547

Dear Judge Pooler,

Last July 8, I submitted and on July 13 resubmitted to the Clerk of Court of the Court of Appeals for the Second Circuit a petition for review of the dismissal on June 8 of my complaint, filed on August 11, 2003. In connection with that petition, this letter is a communication properly addressed to you under Rule 8 of the Rules of the Judicial Council of the Second Circuit Governing Complaints against Judicial Officers under 28 U.S.C. §351 et seq., which provides thus:

RULE 8. REVIEW BY THE JUDICIAL COUNCIL OF A CHIEF JUDGE'S ORDER
(e)(2) The judge or magistrate judge complained about will be provided with copies of any communications that may be addressed to the members of the judicial council by the complainant.

In support of my petition, I submitted bound with it exhibits, which were returned to me unfiled. Upon resubmitting the petition, I submitted the exhibits in a separate bound volume, which was also returned to me unfiled while the petition was accepted. I was not allowed to attach to the petition even the table of exhibits.

There is no provision, whether in the Rules or in §351 et seq., that prohibits the submission of exhibits with a review petition. On the contrary, by analogy to Rule 2(d) allowing the submission of documents as evidence supporting a complaint, they should have been filed. They should also have been accepted in application of the general principle that evidence, such as that contained in exhibits, accompanying a statement of arguments submitted to judges for determination of their legal validity, is not only welcome as a means to lend credence to such arguments, but also required as a way to eliminate a party's unfounded assertions and allow the judges to ascertain on their own the meaning and weight of the arguments' alleged source of support. The exhibits should also have been accepted so that the clerk of court could make them available to any judicial council member under Rule 8(c), which provides that "Upon request, the clerk will make available to any member of the judicial council...any document from the files..." How can the clerk make documents available if she does not even file them?

In any event, what harm could conceivably result from filing exhibits with a petition for review? Why would the clerk take it upon herself in the absence of any legal or practical justification, to deprive a petitioner of his right to do what he is not prohibited from doing, whether expressly or by implication, and in the process deprive the members of the Judicial Council of what could assist them in performing their duty to assess the merits of a petition?

Therefore, I am hereby communicating to you the table of exhibits so that you may request any or all of them from the clerk of court, to whom I am resubmitting them once more, or from me directly. For context and ease of reference, I am also including a copy of the petition.

Sincerely,

Dr. Richard Cordero

List of Members of the Judicial Council of the Second Circuit
to whom were sent the letters of July 30, 2004
protesting the refusal by CA2 clerks of exhibits
whether bound with the petition or in a separate volume supporting
the petition for review of the dismissal of complaint, no. 03-8547, CA2,
against Judge John C. Ninfo, II, WBNY

by
Dr. Richard Cordero

Madam Justice **Ginsburg**
Circuit Justice for the 2nd Circuit
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

Hon. John M. Walker, Jr., Chief Judge
Member of the Judicial Council of the 2nd Circuit
U.S. Court of Appeals, for the 2nd Circuit
Thurgood Marshall United States Courthouse
New York, NY 10007

Hon. Jose A. **Cabranes**, Circuit Judge
Member of the Judicial Council of the 2nd Circuit
U.S. Court of Appeals, for the 2nd Circuit
Thurgood Marshall United States Courthouse
New York, NY 10007

Hon. Guido **Calabresi**, Circuit Judge
Member of the Judicial Council of the 2nd Circuit
U.S. Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
New York, NY 10007

Hon. Dennis **Jacobs**, Circuit Judge
Member of the Judicial Council of the 2nd Circuit
U.S. Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
New York, NY 10007

Hon. Rosemary S. **Pooler**, Circuit Judge
Member of the Judicial Council of the 2nd Circuit
U.S. Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
New York, NY 10007

Hon. Chester J. **Straub**, Circuit Judge
Member of the Judicial Council of the 2nd Circuit
U.S. Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
New York, NY 10007

Hon. Frederick J. **Scullin**, Jr., Chief Judge
Member of the Judicial Council of the 2nd Circuit
U.S. District Court for the NDNY
James T. Foley U.S. Courthouse
Albany, NY 12207-2924

Hon. Edward R. **Korman**, Chief Judge
Member of the Judicial Council of the 2nd Circuit
U.S. District Court for the EDNY
225 Cadman Plaza East
Brooklyn, NY 11201

Hon. Michael B. **Mukasey**, Chief Judge
Member of the Judicial Council of the 2nd Circuit
U.S. District Court for the SDNY
500 Pearl Street, Room 2240
New York, NY 10007-1312

Hon. Robert N. **Chatigny**, Chief Judge
Member of the Judicial Council of the 2nd Circuit
U.S. District Court for the District of Connecticut
450 Main Street
Hartford, Ct 06103

Hon. William **Sessions**, III, Chief Judge
Member of the Judicial Council of the 2nd Circuit
U.S. District Court for the District of Vermont
P.O. Box 945
Burlington, VT 05402-0945

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

July 31, 2004

Ms. Roseann B. MacKechnie
Clerk of Court
United States Court of Appeals for the Second Circuit
40 Foley Square, Room 1802
New York, NY 10007

Re: Petition for review in judicial misconduct complaint 03-8547

Dear Ms. MacKechnie,

Last July 8, I submitted and on July 13 resubmitted to you and Chief Deputy Clerk Fernando Galindo, respectively, a petition for review of the dismissal on June 8 of the above captioned complaint, filed on August 11, 2003. In connection with that petition, I have properly addressed a communication to each and all members of the Judicial Council under Rule 8 of the Rules of the Judicial Council of the Second Circuit Governing Complaints against Judicial Officers under 28 U.S.C. §351 et seq., which provides thus:

RULE 8. REVIEW BY THE JUDICIAL COUNCIL OF A CHIEF JUDGE'S ORDER

(e)(2) The judge or magistrate judge complained about will be provided with copies of any communications that may be addressed to the members of the judicial council by the complainant.

In that communication, I sent to the Judicial Council members a copy of both the table of exhibits that formed part of the separate bound volume of exhibits that accompanied my revised petition of July 13 and a copy of that petition. That volume was returned to me unfiled. I have argued to the members why the exhibits should have been filed. Among the arguments are these:

1. There is no provision, whether in the Rules or in §351 et seq., that prohibits the submission of exhibits with a review petition.
2. On the contrary, by analogy to Rule 2(d) allowing the submission of documents as evidence supporting a complaint, they should have been filed.
3. They should also have been accepted in application of the general principle that evidence, such as that contained in exhibits, accompanying a statement of arguments submitted to judges for determination of their legal validity, is not only welcome as a means to lend credence to such arguments, but also required as a way to eliminate a party's unfounded assertions and allow the judges to ascertain on their own the meaning and weight of the arguments' alleged source of support.
4. It is not for the clerk of court to take it upon herself to deprive the members of the Judicial Council of documents that can assist them in performing their duty to assess the merits of a petition for review.
5. No harm can conceivably result from filing exhibits with a petition for review.

Therefore, I respectfully submit that you should accept the enclosed bound volume of exhibits and its table of contents so that you can make any or all of them available to any judicial council member under Rule 8(c), which provides that "Upon request, the clerk will make available to any member of the judicial council...any document from the files..." It follows that for the clerk to be able to make documents available to the members, she must file them.

Sincerely, *Dr. Richard Cordero*

EXHIBITS

in support of the letter containing
the Statement of Grounds
for a Petition for Review to

THE JUDICIAL COUNCIL OF THE SECOND CIRCUIT

of the dismissal of
judicial misconduct complaint 03-8547

submitted on July 31, 2004

to

Clerk of Court Roseann MacKechnie

under Rule 8(c) pursuant to
a communication to the members of the Judicial Council
under Rule 8(e)(2) of this Circuit's Rules Governing Judicial
Misconduct Complaints under 28 U.S.C. §351 et seq.

by

Dr. Richard Cordero

59 Crescent Street
Brooklyn, NY 11208
tel. (718) 827-9521

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**
Thurgood Marshall United States Courthouse
40 Centre Street
New York, N.Y. 10007

John M. Walker, Jr.
Chief Judge

Roseann B. MacKechnie
Clerk of Court

August 3, 2004

Mr. Richard Cordero, Ph.D.
59 Crescent Street
Brooklyn, NY 11208-1515

Re: Judicial Conduct Complaint, 03-8547

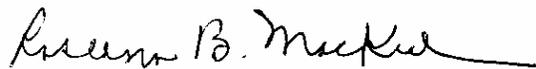
Dear Mr. Cordero:

I write in response to your letter, dated July 30, 2004, addressed to Judge Dennis Jacobs, and your letter of July 31, 2004, addressed to the Clerk of Court.

Your petition for review of the dismissal of your judicial misconduct complaint in the above-referenced matter is pending before the judicial council. Copies of all documents filed in this matter were forwarded to the council members for their review in accordance with the Rules governing this procedure.

You will be notified by letter once a decision has been filed.

Sincerely,



Roseann B. MacKechnie

Enclosures

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

Thurgood Marshall United States Courthouse
40 Centre Street
New York, N.Y. 10007

John M. Walker, Jr.
Chief Judge

Roseann B. MacKechnie
Clerk of Court

August 13, 2004

Mr. Richard Cordero, Ph.D.
59 Crescent Street
Brooklyn, NY 11208-1515

Re: Judicial Conduct Complaint, 03-8547

Dear Mr. Cordero:

Your letter, dated July 30, 2004, addressed to Chief Judge John M. Walker, Jr., has been forwarded to this office for response.

Your petition for review of the dismissal of your judicial misconduct complaint in the above-referenced matter is pending before the judicial council. Copies of the documents filed in this matter were forwarded to the council members for their review in accordance with the Rules governing this procedure.

You will be notified by letter once a decision has been filed.

Sincerely,
Roseann B. MacKechnie, Clerk

By: 
Patricia Chin-Allen, Deputy Clerk

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

~~Thurgood~~ Marshall United States Courthouse
40 Centre Street
New York, N.Y. 10007

John M. Walker, Jr.
Chief Judge

Roseann B. MacKechnie
Clerk of Court

August 18, 2004

Mr. Richard Cordero, Ph.D.
59 Crescent Street
Brooklyn, NY 11208-1515

Re: Judicial Conduct Complaint, 03-8547

Dear Mr. Cordero:

Your letter, dated July 30, 2004, addressed to Judge Chester J. Straub, has been forwarded to this office for response.

Your petition for review of the dismissal of your judicial misconduct complaint in the above-referenced matter is pending before the judicial council. Copies of the documents filed in this matter were forwarded to the council members for their review in accordance with the Rules governing this procedure.

You will be notified by letter once a decision has been filed.

Sincerely,
Roseann B. MacKechnie, Clerk

By: 
Patricia Chin-Allen, Deputy Clerk

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

[Sample of letters to members of the Judicial Council, 2nd Cir.]

August 27, 2004

Chief Judge Edward R. Korman
U.S. District Court, EDNY
225 Cadman Street
Brooklyn, NY 11212

Re: petition for review of misconduct complaint, 03-8547, v. J. Ninfo

Dear Chief Judge Korman,

Last July 16 my petition was filed (Exh. 1, *infra*) for review of the dismissal of the above-captioned complaint, filed on August 11, 2003. This is a permissible communication with you¹ that updates it with recent events that raise the reasonable suspicion of corruption by the complained about Bankruptcy Judge John C. Ninfo, II. The update points to the force driving the complained-about bias and pattern of non-coincidental, intentional, and coordinated acts of disregard for the law, rules, and facts: lots of money generated by fraudulent bankruptcy petitions. The pool of such petitions is huge: according to PACER, 3,907 *open* cases that Trustee George Reiber has before Judge Ninfo and the 3,382 that Trustee Kenneth Gordon likewise has.

This update is compelling because of the strongly suspicious way in which Judge Ninfo has handled the flagrantly bogus petition of David and Mary Ann DeLano, docket no. 04-20280: Mr. DeLano has been for 15 years and still is a bank *loan* officer, that is, he is an insider of the lending industry and an expert in how to assess and maintain his borrowing clients' creditworthiness; yet he owes with his wife more than \$98,000 on 18 credit cards; in the last three years alone they earned \$291,470, yet declared household goods worth only \$2,910, and cash totaling merely \$535. Where is the rest of their earnings during a lifetime of work? (See §I, *infra*.)

Disregarding the law again, Judge Ninfo has refused to require the DeLanos to produce documents to show the whereabouts of hundreds of thousands of dollars unaccounted for (§I ¶2) Although they listed me as a creditor in their petition of January 26, 2004, and their attorney has treated me as such for 6 months, at the latter's instigation Judge Ninfo has now taken steps to remove me as a creditor and has stayed all proceedings in their case (Exh. 2, entry 61), including my request for account statements that could show concealment of assets. To that end, he has required that I prove in this case the claim that I brought against Mr. DeLano in *Pfuntner v. Gordon et al*, docket no. 02-2230, precisely the case that I appealed to and is in the Court of Appeals and that gave rise to this complaint because, among other things, 11 months after its filing he had failed to comply with FRCivP Rule 26, so that no discovery was ever taken of Mr. DeLano and other parties. Yet, Judge Ninfo requires me to try that *Pfuntner* case within this *DeLano* case (§II), thus making a mockery of the Appeals Court and process by forestalling the order that I requested for the removal of the *Pfuntner* case to Albany due to his participation in the pattern of wrongdoing and his bias against me. Why would Judge Ninfo not ask the DeLanos to produce concurrently their financial documents and instead ignores their contempt for his own July 26 order of production? (§III) Did money drive the decision in this and other similar cases?

What else would it take for you to feel that this petition presents evidence of misconduct, let alone, of a threat to the judicial system, that warrants the appointment of a special committee?

Sincerely,

Dr. Richard Cordero

STATEMENT UPDATING THE PETITION FOR REVIEW
to the Judicial Council of the Second Circuit
of the dismissal of the complaint against Judge John C. Ninfo, II
with evidence as of August 27, 2004
of lots of money generated by fraudulent bankruptcy petitions
as the force driving the complained-about bias
and pattern of non-coincidental, intentional, and coordinated acts
of disregard for the law, the rules, and the facts
engaged in by Judge Ninfo and others in WBNY and WDNY
by
Dr. Richard Cordero

1. The Judicial Council is entitled to accept and review this update because it constitutes a communication properly addressed to you and your colleagues under Rule 8 of the Rules of the Judicial Council of the Second Circuit Governing Complaints against Judicial Officers under 28 U.S.C. §351 et seq.:

RULE 8. REVIEW BY THE JUDICIAL COUNCIL OF A CHIEF JUDGE'S ORDER

(e)(2) The judge or magistrate judge complained about will be provided with copies of any communications that may be addressed to the members of the judicial council by the complainant.

- A. Numbers and circumstances of the DeLanos' bankruptcy petition are so incongruous that Judge Ninfo had to realize that it was bogus yet it was approved by Trustee Reiber, who did not want to investigate it just as the DeLanos disobeyed his order for document production, whereupon he had the obligation to safeguard the integrity of the financial system and the duty under 18 U.S.C. §3057(a) to report them to the U.S. Attorney as under suspicion of collusion to commit bankruptcy fraud...but instead he took steps to remove Dr. Cordero as creditor, the only one who requested and analyzed documents and discovered evidence of concealment of assets, debt underreporting, accounts non-reporting, and a voidable preferential transfer to the Debtors' son!**

2. Judge for yourself from the following salient numbers and circumstances whether Judge John C. Ninfo, II, WBNY, had reason to suspect the good faith of the DeLanos' bankruptcy petition:

- a) Mr. DeLano has been *a bank loan officer for 15 years!* His daily work must include ascertaining the creditworthiness of loan applicants and their ability to repay the loan over its life. He is still in good standing with, and employed in that capacity by, a major bank, namely, Manufacturers and Traders Trust Bank (M&T Bank). As an expert in ways to remain solvent, whose conduct must be held up to scrutiny against a higher standard of reasonableness, he had to know better than to do the following together with Mrs. DeLano, who until recently worked for Xerox as a specialist in one of its machines.
- b) The DeLanos incurred scores of thousands of dollars in credit card debt;
- c) carried it at the average rate of 16% or the delinquent rate of over 23% for over 10 years;
- d) during which they were late in their monthly payments at least 232 times documented by even the Equifax credit bureau reports of April and May 2004, submitted incomplete;
- e) have ended up owing \$98,092 to 18 credit card issuers listed in their petition's Schedule F;
- f) owe also a mortgage of \$77,084;
- g) but have at the end of their work life equity in their home worth merely \$21,415;
- h) declared these earnings in their 1040 IRS forms in just the last three years:

2001	2002	2003	total
\$91,229	91,655	108,586	\$291,470.00

- i) yet claim that after a lifetime of work they have only \$2,910 worth of household goods!; why kind of purchases could they possibly have made with all those 18 credit cards?;
- j) their cash in hand or on account declared in their petition was only \$535.50;
- k) the rest of their tangible personal property is just two cars worth a total of \$6,500;
- l) claim as exempt \$59,000 in a retirement account and \$96,111.07 in a 401-k account;
- m) make a \$10,000 loan to their son, declare it uncollectible, and do not provide even its date;

n) and offer to repay only 22 cents on the dollar without interest for just 3 years.

3. In Schedule F the DeLanos claimed that their financial difficulties began with “1990 and prior credit card purchases”. Thereby they opened the door for questions covering the period between then and now. Until they provide tax returns that go that far, let’s assume that in 1989 the combined income of Bank Loan Officer DeLano and his wife, a Xerox specialist, was \$50,000. Last year, 15 years later, it was over \$108,000. So let’s assume further that their average annual income was \$75,000. In 15 years they earned \$1,125,000...but they allege to end up with tangible property worth only \$9,945 and home equity of merely \$21,415! This does not take into account what they owned before 1989, let alone their credit card borrowing and two loans totaling \$118,000. Where did the money go? Where is it now? Mr. DeLano is 62 and Mrs. DeLano is 59. What kind of retirement have they been planning for and where?
4. It is reasonable to assume that Trustee Reiber’s attorney, James Weidman, Esq., knows. The Trustee has the duty to conduct 11 U.S.C. §341 meetings of creditors personally, cf. 28 CFR §58.6. However, in violation thereof he appointed Att. Weidman to conduct the one held in this case last March 8 in Rochester. He became quite nervous when out of the 21 creditors of the DeLanos, Dr. Cordero was the only one to turn up at the meeting and tried to examine them. But Att. Weidman prevented Dr. Cordero from doing so by terminating the meeting after he had asked only two questions of the DeLanos but would not reveal what he knew when Att. Weidman asked him repeatedly –as if Dr. Cordero were under examination!- what evidence he had that the DeLanos had committed fraud. What did he know that he could not afford Dr. Cordero to find out from the DeLanos under oath? That same day Dr. Cordero complained in open court to Judge Ninfo about this violation, but he unquestioningly adopted Att. Weidman’s pretense that he had ran out of time...after just two questions from the only creditor!

B. Indisputable evidence supports the reasonable assumption that other clients of Bank Loan Officer DeLano went bankrupt and were accommodated by the trustees without regard for the Bankruptcy Code and Rules and with Judge Ninfo’s approval, so that Mr. DeLano knew that his meritless petition would be approved without examination by Trustee Reiber and the Judge; but Dr. Cordero analyzed the DeLanos’ documents and put it together, whereupon the DeLanos moved to disallow his

claim in order to remove him from the case with the assistance of Judge Ninfo, who stayed all bankruptcy proceedings and required him to prove his claim by first trying another case that is on appeal to the Court of Appeals and under consideration by the Judicial Council

5. How could Mr. DeLano, despite his many years in banking during which he must have examined many loan applicants' financial documents, have thought that it would be deemed in good faith to submit his palpably meritless petition? Did Mr. DeLano put his knowledge and experience as a bank loan officer to good use in living it up with his family and closing down all collection activity of 18 credit card issuers by filing for bankruptcy? Did he have any reason to expect Trustee Reiber not to analyze his petition but just to rubberstamp it 'approved'?
6. There is evidence for the assumption that Mr. DeLano knew how clients of his at M&T Bank had ended up filing for bankruptcy and being accommodated by the trustees and Judge Ninfo. Indeed, one such client was David Palmer, the owner of the moving and storage company Premier Van Lines. On its behalf, Mr. Palmer filed for voluntary bankruptcy under Chapter 11, docket no. 01-20692, precisely on the day when a judgment was going to be enforced against him, which smacks of abuse of bankruptcy law to avoid a single debt. Nevertheless, Judge Ninfo stayed the enforcement. A few months later, Mr. Palmer disappeared from all further proceedings. Although his home address at 1829 Middle Road, Rush, New York 14543, was known, Judge Ninfo would not bring him back into court to face his obligations. His case was converted to one under Chapter 7 and entrusted to Chapter 7 Trustee Kenneth Gordon, who according to PACER, has other 3,382 case before Judge Ninfo.¹
7. Trustee Gordon was sued by James Pfunter, the owner of the warehouse where Mr. Palmer abandoned his clients' property, including Dr. Cordero's, which was contained in storage containers bought by Mr. Palmer with a loan made to him by M&T Bank Loan Officer DeLano. Warehouse Pfunter also sued others, including Dr. Cordero and M&T Bank. Mr. DeLano handled that matter so negligently and recklessly that Dr. Cordero brought him as a third-party defendant into *Pfunter v. Trustee Gordon et al.*, docket no. 02-2230, by a complaint served on November 21, 2002. Since then Mr. DeLano has known the nature of Dr. Cordero's claim against him, but never contested it except by filing together with M&T Bank a general denial.

¹ As reported by PACER at <https://ecf.nywb.uscourts.gov/cgi-bin/login.pl> on June 26, 2004.

8. That is why Mr. DeLano included Dr. Cordero as a creditor in his petition of January 26, 2004. He treated Dr. Cordero as a creditor for 6 months and tolerated his requests for documents since so few were actually produced to the point that Trustee Reiber moved on June 15 to dis-miss the case for “unreasonable delay”. Even so, Dr. Cordero analyzed those documents and on July 9 filed a statement indicating bankruptcy fraud, particularly concealment of assets. Soon thereafter the DeLanos came up with an idea to eliminate the threat that Dr. Cordero posed.
9. Mr. DeLano, a lending industry insider, knew that by distributing his borrowing among 18 credit cards he would make it cost-ineffective for any issuer to incur the expense of having lawyers object to his repayment plan, let alone travel to the meeting of creditors, or request and analyze documents...but Dr. Cordero, with all his objections, requests, and document analysis, threatened to spoil it all for the DeLanos, his attorney, Trustee Reiber, and Judge Ninfo. So to get rid of him, they moved to disallow his claim. For his part, Judge Ninfo stayed any bankruptcy proceedings to prevent any further discovery of documents, which could have shown their approval of a fraudulent petition and open the door for an investigation that could uncover their judicial misconduct and bankruptcy fraud scheme.

C. A series of inexcusable acts of docket manipulation form part of the pattern of non-coincidental, intentional, and coordinated wrongful acts, which now include the non-docketing and non-issue of letters and the proposed order for document production by the DeLanos that Judge Ninfo requested Dr. Cordero to submit

10. At a hearing last July 19, Judge Ninfo asked Dr. Cordero to convert his July 9 requested order for the DeLanos to produce documents into a proposed order and fax it to him so that he could sign and issue it immediately to the DeLanos. Dr. Cordero did so, but Judge Ninfo neither signed it nor had it docketed. Dr. Cordero’s letter of protest of July 21, though acknowledged by a clerk received and in chambers, weeks later had still not been docketed, and when Dr. Cordero protested, it was claimed never to have been received.
11. Judge Ninfo’s requests on other occasions of documents, whose contents he likewise knew, for Dr. Cordero to prepare and submit only to do nothing upon receiving them show that the Judge never intended to issue that proposed order. Was it just to up the ante with the DeLanos?

12. The fact is that upon Dr. Cordero's protest, Judge Ninfo issued an order on July 26, one inexcusably watered down by comparison with Dr. Cordero's proposed order. Indeed, despite the evidence of concealment of assets by the DeLanos, the Judge's order failed to require them to produce bank or *debit* account statements that could have revealed their earnings' trail and whereabouts; documents concerning their undated "loan" to their son; instruments attesting to any interest of ownership in fixed or movable property, such as the caravan admittedly bought with that "loan"; etc. Why? What motive could possibly justify preventing document production from being used to ascertain the facts and the petition's good faith?
13. However watered down Judge Ninfo's order of July 26 was, the DeLanos did not comply with it and did so with total impunity! Dr. Cordero complained about it at the hearing on August 25² to argue the DeLanos' motion to disallow Dr. Cordero's claim. Judge Ninfo found nothing more revealing to say than that if Dr. Cordero had no claim, he could not ask for documents. Thereby the Judge showed that he accorded priority to the DeLanos' interest in getting rid of Dr. Cordero over his own duty to insure respect for court orders and to protect the benefit that inures to all other creditors as well as to the integrity of the bankruptcy system from Dr. Cordero's work of document analysis and discovery of a bankruptcy fraud scheme.

August 27, 2004

59 Crescent Street
Brooklyn, NY 11208

Dr. Richard Cordero

Dr. Richard Cordero
tel. (718) 827-9521

² The transcript of this hearing as well as of that on August 23 to argue Trustee Reiber's motion to dismiss and Dr. Cordero's motion to remove the Trustee must be read by any investigators of this matter, for they are most revealing of how Judge Ninfo argued from the outset the motions of the DeLanos and the Trustee and became Dr. Cordero's opposing counsel, thus abdicating his role as neutral arbiter. But given the manipulation of the transcript of the hearing on December 18, 2002, already complained about, the accuracy of those transcripts must be checked against the stenographer's tapes themselves.

**U.S. Bankruptcy Court
Western District of New York (Rochester)
Bankruptcy Petition #: 2-04-20280-JCN**

Assigned to: John C. Ninfo II
Chapter 13
Voluntary
Asset

Date Filed: 01/27/2004

David G. DeLano
Mary Ann DeLano
1262 Shoecraft Road
Webster, NY 14580
SSN: xxx-xx-3894
Debtor

represented **Christopher K. Werner**
by Boylan, Brown, Code, Vigdor & Wilson LLP
2400 Chase Square
Rochester, NY 14604
(585) 232-5300
Email: cwerner@boylanbrown.com

08/23/2004	60	Hearing Held (RE: related document(s) <u>42</u> Chapter 13 Trustee's Motion to Dismiss Case) Motion denied without prejudice. The Court will suspend any and all Court proceedings and involvement in this case until the claim objection, scheduled for 8/25/04, is resolved. Dr. Cordero's motion, dated, 8/14/04, is denied in its entirety without prejudice to renew should the Court determine he has an allowable claim in this case. The Court will prepare and enter an order. NOTICE OF ENTRY TO BE ISSUED. Appearances: George Reiber, Trustee. Appearing in opposition: Christopher Werner, Atty. for Debtor; Dr. Richard Cordero, Pro Se.(Parkhurst, L.) (Entered: 08/25/2004)
08/23/2004	61	Confirmation Hearing Held. (RE: related document(s) <u>5</u> The Confirmation Hearing is suspended until the objection to the claim of Dr. Richard Cordero is resolved. Appearances: Christopher Werner, Atty. for Debtors; George Reiber, Trustee. Appearing in opposition: Dr. Richard Cordero, Pro Se (By telephone).(Parkhurst, L.) (Entered: 08/25/2004)

PACER Service Center			
Transaction Receipt			
08/27/2004 09:32:28			
PACER Login:		Client Code:	
Description:	Docket Report	Search Criteria:	2-04-20280-JCN Fil or Ent: Fil Doc From: 0 Doc To: 99999999 Term: y Links: n Format: HTMLfmt
Billable Pages:	4	Cost:	0.28

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**
Thurgood Marshall United States Courthouse
40 Centre Street
New York, N.Y. 10007

John M. Walker, Jr.
Chief Judge

Roseann B. MacKechnie
Clerk of Court

August 31, 2004

Mr. Richard Cordero, Ph.D.
59 Crescent Street
Brooklyn, NY 11208-1515

Re: Judicial Conduct Complaint, 03-8547

Dear Mr. Cordero:

Judge Dennis Jacobs, has forwarded your unopened letter to this office for response.

Your petition for review was received and filed in this office on July 14, 2004. At that time the petition was sent to the review panel, in compliance with the Rules governing this procedure.

You will be notified once a decision is made. Your papers are returned to you without any action taken.

Sincerely,
Roseann B. MacKechnie, Clerk of Court

By: 
Patricia Chin-Allen, Deputy Clerk

Enclosures

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**
Thurgood Marshall United States Courthouse
40 Centre Street
New York, N.Y. 10007

John M. Walker, Jr.
Chief Judge

Roseann B. MacKechnie
Clerk of Court

August 31, 2004

Mr. Richard Cordero, Ph.D.
59 Crescent Street
Brooklyn, NY 11208-1515

Re: Judicial Conduct Complaint, 03-8547

Dear Mr. Cordero:

Judge José Cabranes, has forwarded your unopened letter to this office for response.

Your petition for review was received and filed in this office on July 14, 2004. At that time the petition was sent to the review panel, in compliance with the Rules governing this procedure.

You will be notified once a decision is made. Your papers are returned to you without any action taken.

Sincerely,
Roseann B. MacKechnie, Clerk of Court

By: 
Patricia Chin-Allen, Deputy Clerk

Enclosures

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**
Thurgood Marshall United States Courthouse
40 Centre Street
New York, N.Y. 10007

John M. Walker, Jr.
Chief Judge

Roseann B. MacKechnie
Clerk of Court

August 31, 2004

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

Re: Judicial Conduct Complaint, 03-8547

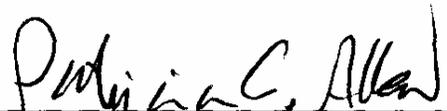
Dear Mr. Cordero:

Your "permissible communication" addressed to Chief Judge John M. Walker, Jr., was forwarded to this office for response.

Your petition for review was received and filed in this office on July 14, 2004. At that time the petition was sent to the review panel, in compliance with the Rules governing this procedure.

You will be notified once a decision is made. Your papers are returned to you without any action taken.

Sincerely,
Roseann B. MacKechnie, Clerk of Court

By: 
Patricia Chin-Allen, Deputy Clerk

Enclosures

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

Thurgood Marshall United States Courthouse
40 Centre Street
New York, N.Y. 10007

John M. Walker, Jr.
Chief Judge

Roseann B. MacKechnie
Clerk of Court

September 3, 2004

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

Re: Judicial Conduct Complaint, 03-8547

Dear Mr. Cordero:

Your "permissible communication" addressed to Judge Guido, has been forwarded to this office for response.

Your petition for review was received and filed in this office on July 14, 2004. At that time the petition was sent to the review panel, in compliance with the Rules governing this procedure.

You will be notified once a decision is made. Your papers are returned to you without any action taken.

Sincerely,
Roseann B. MacKechnie, Clerk of Court

By: 
Patricia Chin-Allen, Deputy Clerk

Enclosures

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**
Thurgood Marshall United States Courthouse
40 Centre Street
New York, N.Y. 10007

John M. Walker, Jr.
Chief Judge

Roseann B. MacKechnie
Clerk of Court

October 6, 2004

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

Re: Judicial Conduct Complaint, 03-8547

Dear Mr. Cordero:

Enclosed please find a copy of the September 30, 2004 Order of the Judicial Council of the Second Circuit denying your petition for review.

Pursuant to the *Rules of the Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers Under 28 U.S.C. § 351*, there is no further review of this decision.

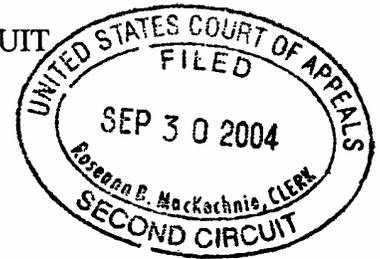
Sincerely,
Roseann B. MacKechnie, Clerk of Court

By: 
Patricia Chin-Allen, Deputy Clerk

Enclosures

ORIGINAL

JUDICIAL COUNCIL OF THE SECOND CIRCUIT



In Re:

CHARGE OF JUDICIAL MISCONDUCT

Docket number: 03-8547

Before the Judicial Council of the Second Circuit:

A complaint having been filed on August 8, 2003, alleging misconduct on the part of a Bankruptcy Judge of this Circuit, and the complaint having been dismissed on June 8, 2004 by the Acting Chief Judge of the Circuit, and a petition for review having been filed timely on July 14, 2004,

Upon consideration thereof by the Council it is

ORDERED that the petition for review is DENIED for the reasons stated in the order dated June 8, 2004.

The clerk is directed to transmit copies of this order to the complainant and to the Bankruptcy Judge whose conduct is the subject of the underlying complaint.

A handwritten signature in black ink, appearing to read "Karen Greve Milton".

Karen Greve Milton
Circuit Executive
By Direction of the
Judicial Council

Dated: September 30, 2004
New York, New York

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ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

DATE: 5/13/04

From the Office of the General Counsel - Jeffrey N. Barr

To: Dr. Richard Cordero

Pursuant to your request, enclosed are the documents of which we discussed.

To: Jeffrey Barr, Esq., Gen. Counsel Off; tel. (202)502-1100, fax (202)502-1033 **June 23, July 2&15, 04**
From: Dr. Richard Cordero, 59 Crescent Street, Brooklyn, NY 11208-1515; tel. (718)827-9521
Re: Request for (1) all memoranda and orders of the Judicial Conference of the U.S. Committee to Review Circuit Council Conduct and Disability Orders, having account of those already sent and their incompleteness as shown in the table below; (2) all other available misconduct orders of the judicial councils, particularly those of the Court of Appeals for the Second Circuit; and (3) the current statistics of cases filed and disposed of in the federal courts.

	In re Complaint of [C:1611]	Docket no.	Status	Circuit Council	
1.	George Arshal	82-372-001	Incomplete after p.3	Court of Claims	
2.	Gail Spilman	82-372-002		6th	
3.	Thomas C. Murphy	82-372-003		2nd	
4.	Andrew Sulner	82-372-004		2nd	
5.			-005 missing?		
6.	John A. Course	82-372-006		7th	
7.	Avabelle Baskett, et al.	83-372-001		Court of Claims	
8.	of bankruptcy judge	84-372-001		9th	
9.	Fred W. Phelps, Sr. et al. v. Hon. Patrick F. Kelly	87-372-001		10th	
10	Petition No. 88-372-001	88-372-001		not stated	
11	Donald Gene Henthorn v. Judge Vela and Magistrate Judges Mallet and Garza	92-372-001		5th	
12	In re: Complaints of Judicial Misconduct	93-372-001		10th	
13	In re: Complaints of Judicial Misconduct	94-372-001		D.C. Ct. of Appeals	
14	In re: Complaints of Judicial Misconduct	95-372-001		9th	
15	In re: Complaints of Judicial Misconduct or Disability [Dist. Judge John H. McBryde]	98-372-001		5th	
16	In re: Complaint of Judicial Misconduct	01-372-001	Incomplete after p.3	D.C. Ct. of Appeals	
17	Agenda E-17, Conduct and Disability; March 2003: no petitions for review pending; Committee "is monitoring the status of Spargo v. NYS Comms. on Judicial Conduct, 244 F.Supp.2d 72(NDNY 2003)		p. 2 is missing or p. 1 and 3 are mismatched		
18	Agenda E-17, Conduct and Disability; September 2003: no petitions for review pending; the Committee "has continued to monitor congressional activity in the area of judicial conduct an disability", p.35				
19	Agenda E-17, Conduct and Disability; March 2004: no petitions for review for received or pending				



LEONIDAS RALPH MECHAM
Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

CLARENCE A. LEE, JR.
Associate Director

WASHINGTON, D.C. 20544

WILLIAM R. BURCHILL, JR.
Associate Director
and General Counsel

July 22, 2004

Dr. Richard Cordero
59 Crescent Street
Brooklyn, New York 11208-1515

Dear Dr. Cordero:

Enclosed, as you requested, are complete copies of the public orders of the Judicial Conference Committee to Review Circuit Council Conduct and Disability Orders in docket nos. 82-372-001 and 01-372-001.

I have checked into the fact that docket no. 82-372-005 was missing from the public orders I previously sent to you. I have verified that there is no docket no. 82-372-005. For some reason, when they did the numbering of no. 82-372-006, they inadvertently skipped over no. 82-372-005.

I hope that you will find this helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey N. Barr".

Jeffrey N. Barr
Assistant General Counsel

A TRADITION OF SERVICE TO THE FEDERAL JUDICIARY

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

July 29, 2004

[(202) 502-1900; fax (202)502-1033]

Mr. Jeffrey N. Barr
Assistant General Counsel
Office of the General Counsel
Administrative Office of the U.S. Courts
One Columbus Circle, NE, Suite 7-290
Washington, DC 20544

Dear Mr. Barr,

Thank you for taking my call last Thursday, July 22.

I also appreciate your sending me the missing pages of decisions of the Judicial Conference. Likewise, I would be grateful if you could send me a copy of the latest version of the following materials, which I cannot find anywhere else:

1. Administrative Office of U.S. Courts, Codes of Conduct for Judges and Judicial Employees, in Guide to Judiciary Policies and Procedures
2. Administrative Office of the United States Courts, Judicial Business of the United States Courts 44 tbl. S-3 (2000)
3. The Judicial Conference Rules for the Processing of Petitions for Review of Conduct Orders of Judicial Councils, the ones based on §351, not on §372

As discussed, I am hereby submitting to the Administrative Office of the United States Courts through you, who under 28 U.S.C. §602(d) perform by delegation functions vested in the Director of the Office, a formal complaint about court administrative and clerical officers of the Court of Appeals for the Second Circuit and their mishandling of judicial misconduct complaints and orders.

The complained-about officers should never have given grounds for complaint, but instead should have been guided by the profound conviction that their work is not simply a job to earn a paycheck, but rather consists in the lofty mission, endowed with public trust and laden with heavy responsibility, to dispense justice to others.

Therefore, despite my deep disappointment in the level of integrity and law-abiding zeal of court officers after dealing with them for years, I hope that the Administrative Office, as well as the entities that supervise it and those to which it reports, has the wholehearted commitment to fairness and the rule of law to do and appear to be doing justice to this complaint.

Hence, I look forward to hearing from you soon.

Sincerely,

Dr. Richard Cordero

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

July 28, 2004

Complaint

to the Administrative Office of the United States Courts
about Court Administrative and Clerical Officers and
their mishandling of judicial misconduct complaints and orders
to the detriment of the public at large as well as of Dr. Richard Cordero

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- IV. Chief Deputy Galindo returned unfiled my review petition and Clerk Allen refused to file its exhibits despite no authority in the Complaint Provisions for them to do so and disregarding the Rules authorizing me to do so.....691
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I. Court administrators violated their obligation to make judicial misconduct orders publicly available by shipping them to Missouri

1. This complaint, in so far as it concerns a matter that affects the public at large, is about the Clerk

of Court of the Court of Appeals for the Second Circuit, Ms. Roseann MacKechnie, her Chief Deputy Clerk, Mr. Fernando Galindo, and in his capacity as the top administrator of that Court, the Hon. John M. Walker, Jr., Chief Judge, for their violation of their legal obligation to make publicly available both the orders issued by chief judges and those issued by the Judicial Council of the Second Circuit to dispose of judicial misconduct complaints filed under 28 U.S.C. §351 et seq. and the Rules of the Judicial Council of the Second Circuit Governing Complaints against Judicial Officers thereunder (page 1, *infra*; collectively hereinafter the Complaint Provisions).

2. The language of the specific provisions that were violated is unequivocal and the obligation that they impose is absolute, for they provide as follows:

§360(b) Public availability of written orders.-Each written order to implement any action under section 354(a)(1)(C), which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331, *shall* be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. *Unless contrary to the interests of justice*, each such order *shall* be accompanied by written reasons therefor. *(emphasis added)*

RULE 17. PUBLIC AVAILABILITY OF DECISIONS

(a) General Rule. *A docket-sheet record of orders of the chief judge and the judicial council and the texts of any memoranda supporting such orders and any dissenting opinions or separate statements by members of the judicial council will be made public when final action on the complaint has been taken and is no longer subject to review. (emphasis added; 11, infra)*

3. It was despite the interest of justice in a legal system based on precedent and because of the irrelevant allegation of 'lack of space' that, in response to my request of last June 16 to access those orders, and after having been made to wait for two weeks, Chief Deputy Galindo finally told me in person on June 30 in the reading room of the In-take Room 1803 of the Court that, with the exception of three binders containing orders for 2001-03, the orders were not available because they were stored -not in the Court's basement, or in an annex to the building, or in another building in the City of New York, or even elsewhere in the State of New York, not even in another state of the circuit, but rather- in the National Archives in the State of Missouri!
4. Chief Deputy Galindo further told me that if I wanted to consult the archived orders, I would

have to file a formal request, pay a search fee of \$45, and wait at least 10 days for those orders to be shipped back from the National Archives in Missouri.

5. For Chief Deputy Galindo, Clerk of Court MacKechnie, and Chief Judge Walker to have failed to keep those orders in the Court building and instead to have sent them some 1,250 miles away is a clear violation of their obligation to keep them publicly available in the Courthouse, as required under the Circuit's Complaint Rules:

Rule 17(b) The records referred to in paragraph (a) will be made public by placing them in a **publicly accessible file** in the office of the clerk of the court of appeals at the **United States Courthouse, Foley Square, New York, New York 10007**. The clerk will send copies of the publicly available materials to the **Administrative Office of the United States Courts, office of the General Counsel, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E. Washington, DC 20544**, where such materials will also be available for public inspection. In cases in which memoranda appear to have precedential value, the chief judge may cause them to be published. (emphasis added; 12, *infra*)

A. The administrators also failed to create and keep up to date the required docket-sheet record of misconduct orders

6. Moreover, in response to my request under Rule 17(a) for “[the] docket-sheet record of [such] orders...”, Chief Deputy Galindo told me on that occasion on June 30 that he could not produce it either because there was none. The non-existence of this list, which cannot possibly be explained away by alleging limited filing space, shows that the conduct of these officers is motivated, not by space management considerations, but rather by their sheer disregard for their legal obligation to make those orders publicly available.
7. Indeed, even the orders for 2001-03 that were said to be physically in the Courthouse were not made publicly available when I requested them in person on June 16 at the In-take Room. After I was referred to Chief Deputy Galindo by the Head In-taker, Ms. Harris, he told me on the phone on June 17 that he had to ask Clerk of Court MacKechnie to determine which ones he could show me since some had the names of the judge complained-about and of the complainant, which might not be disclosable. I had to call him the following day, June 18, only to find out that he and Clerk MacKechnie had decided to refer my request to Chief Judge

Walker for him to decide which orders could be made available to me given the names that they disclosed. My argument that it was not at the time of a request that such an issue was to be looked at, thereby making those orders effectively unavailable, got no better response from Chief Deputy Galindo than to tell me to address my complaint in writing to the Chief Judge. I did so by letter of June 19 (14, *infra*). Till this day it has not been replied to, just as my letters of June 30, July 1 and 13 remain without response (15, 19, and 23, *infra*). No calls that I made to Mr. Galindo were returned until Tuesday, June 29, when he told me that I could see the orders the following day and that it had taken that long to white out the names that were not supposed to be disclosed. But not even at that time did he tell me that the available orders were merely those for 2001-03.

8. This means that I had to keep pressing for two weeks my request for the orders only to be shocked with the revelation by Chief Deputy Galindo that merely the minute fraction of three years worth of orders were available out of the 24 years during which orders have been issued since the enactment of the Judicial Conduct and Disability Act of 1980. Similarly, I was kept waiting only to be astonished by the non-existence of the docket-sheet record, which rendered it impossible for me to check against it the completeness of the set of orders for each year, assuming, of course, that all orders would have been scrupulously entered in that record. Yet, one must assume that the three top administrative officers of the Court knew all along that they had shipped to Missouri either all orders or those for the more recent years and were not keeping any docket-sheet record. It follows that they could have disclosed those facts to me from the very beginning.
9. Why did these top administrative officers fail to live up to the standard of competence and honesty that the public at large is entitled to expect from public servants, especially from those heading an institution whose mission it is to dispense justice and for whose effective performance it depends on earning the public's trust? Or was it that they did not want me in particular to consult those orders; if so, what motive would they have therefor? Consider the following sections of this complaint and determine whether the conduct of the complained-about administrative and clerical officers was motivated by bias against me or was the normal manifestation of their performance of their duties and dealings with the public...then decide which case is be worse.

II. The administrators' violation in the context of my misconduct complaints, including one about Chief Judge Walker, and the Clerks' mishandling of it

10. When on June 16 I first requested access to the misconduct orders and at every opportunity thereafter, I made all Court officers aware of what they had reason to know (13, *infra*), namely, that I wanted to consult those orders to prepare my petition for review to the Judicial Council of the dismissal of my misconduct complaint, docket no. 03-8547 (34, 39 *infra*), and that time was of the essence because pursuant to the Court's letter (13, *infra*) I only had until July 9 to file a review petition.
11. Although I filed that complaint on August 11, 2003, Chief Judge Walker disregarded the explicit obligation imposed under §352 on the chief judge to handle such a complaint "expeditiously" and "promptly" (40, *infra*); he even had my statement pointing this out returned to me unfiled (42, *infra*). The evidence shows that he did not conduct even a §352 and Rule 4(b) "limited inquiry" (4, *infra*) and did not notify the complained-about judge of any judicial misconduct complaint filed against him (43-44, *infra*); nor did he appoint a special committee under §353 and Rule 4(e) (5, *infra*). Yet, it took to do nothing but dismiss that complaint until June 8, 2004, that is 10 months! (13, *infra*)
12. Hence, I filed a judicial misconduct complaint about Chief Judge Walker himself on March 19, 2004, docket no. 04-8510 (43, 50 *infra*). I also raised a motion on April 11, 2004, to complain about Clerk of Court MacKechnie and other administrative and clerical officers for repeatedly placing obstacles to my submission of that second complaint (51, *infra*). No action has been taken so far to dispose of that complaint; but Clerk MacKechnie immediately returned the motion unfiled on April 13, 2004 (73, *infra*; more in section V, below).¹
13. Moreover, it was not even Chief Judge Walker who dismissed my complaint of August 11, 2003, but rather the Hon. Dennis Jacob, Circuit Judge (30, *infra*). This constituted a violation of the non-delegable obligation under §353(b) and Rule 4(f)(1) requiring the chief judge to dispose of misconduct complaints by writing a reasoned order.²
14. Given these violations of the Complaint Provisions and my complaints about the Chief Judge

¹ For a discussion of how the unavailability of these orders in the context of preparing my petition for review of the dismissal of my first misconduct complaint about judicial officers in Rochester, NY, relates to my second misconduct complaint about Chief Judge Walker himself, see 25-26, *infra*.

² *Id.*, for a discussion of Chief Judge Walker's benefit in violating his non-delegation obligation.

and his top officers, which it was easily foreseeable I would not fail to bring up in my petition, as I did, were there independent efforts by individual officers or a coordinated effort by some or all of them to prevent, hinder, or dissuade me from consulting the orders in preparation of my petition? Let's examine the facts to determine whether they provide prima facie evidence to answer this question.

III. The Head In-taker warns me that she will call in the marshals if she finds me nodding again while reading misconduct orders in the reading room

15. On June 30, the first day when the orders were made available to me, I went to the In-take Room and checked out one of the three binders of orders from Mrs. Harris, the Head In-taker, and stepped into the adjoining reading room. I sat and read for some time the... 'There is no sleeping in the reading room', a clerk told me. It appears that I was nodding. I went on reading for several hours and taking notes in my... 'You are sleeping and there is no sleeping in the reading room'. This time it was Head In-taker Harris. I told her that I had not gone there to sleep, but rather must have fallen asleep. She replied 'You have already been warned and if you fall asleep again, I will call the marshals.'
16. The marshals!, those security officers in charge of preventing criminals and terrorists from smuggling into the Courthouse guns and bombs to kill and maim federal employees and visitors. Mrs. Harris would call them away from manning the metal detectors in the lobby to catch me as I threatened everybody in the reading and In-take rooms with nodding!
17. Can you assure yourself, let alone others, that you will not nod while you make an effort for hours to concentrate on reading in a noisy room? And noisy that reading room is and was on that occasion. In that approximately 15' x 15' room, people were dropping coins in the copying machines to the right; air conduits vibrated loudly in a ceiling with a missing tile; people chatted while sat by the row of Court computers on the left, which are set against a partition dividing the reading room from an office where there frequently is and was a radio playing music!; and coming and going behind me were document filers talking with clerks and clerks bantering among themselves. If in that environment your brain short-circuited and you nodded, how would you feel if you, a professional and self-respecting person, were taken away in public by the marshals? I did not risk becoming the subject of Ms. Harris' abuse of power and did not go back. My letter of complaint thereabout to Chief Deputy Galindo of July 1 (19, infra) was not replied to.

18. Was Mrs. Harris indulging in such disproportionate exercise of ‘discipline’ on her own initiative or as an agent in a Courthouse where...madhouse, the nurse! The infamous head nurse in “One Flew over the Cuckoos’ Nest”! Did she need specific instructions to apply minute rules so insensitively to mentally ill inmates or was she the product of an institution, imitating top managers that had no respect for the obligations of their profession, psychiatry, and disregarded the rights of the inmates -particularly the one faking mental illness- whose requests they repressed with electroshocks to their brains to quash any sense of self-assertion in their minds? In this lawhouse, are there in effect the laws of trickle down unlawfulness and of power unchecked is power abused? Evidence thereof is that the Head In-taker will call in the marshals to straitjacket a reader dangerously nodding everybody around, while Chief Warden electrocutes his obligation to keep misconduct orders publicly available and sends the body of those orders to the padded room of archival preservation in Missouri. Is this sound, lawful, and unbiased conduct by top officers at a Court of Appeals of the United States?

IV. Chief Deputy Galindo returned unfiled my review petition and Clerk Allen refused to file its exhibits despite no authority in the Complaint Provisions for them to do so and disregarding the Rules authorizing me to do so

19. On July 8, I filed in the Court’s In-take Room a 10-page petition for review bound together with exhibits supporting my statements, just as I have done here. However, Chief Deputy Galindo returned everything unfiled with his cover letter of July 9 (22, *infra*). Therein he emphasized that I should “resubmit ONLY your petition letter...[i]f your petition letter is not in compliance, it will be considered untimely filed and returned to you with no action taken.” In addition to this heavy-handed warning, his letter invoked “the long-standing practice of this court to use the authority of Rule 2(b) as a guideline and establish the definition of *brief* as applied to the *statement of grounds for petition* to five pages [sic]”. (emphasis in the original)
20. However, if this Circuit’s Judicial Council had wanted to apply a numeric definition to the term “brief” in Rule 6(e) (7, *infra*) in the context of letters of review petition, it would have stated the maximum number of pages allowed. By not doing so, it indicated that “brief” as it qualifies petition letters is an elastic term to be applied under a rule of reason. It was certainly not unreasonable to submit my original 10-page petition letter, containing a table of contents, headings, and quotations from §351 et seq. and the Rules as well as statements by persons in relevant positions to support my arguments and facilitate their reading. Moreover, Mr. Galindo

was inconsistent in that by analogy he applied to petition letters the Rule 2(b) 5-page limit on complaints but failed to apply also by analogy to the same petitions the authority of Rule 2(d) allowing the submission of documents as evidence supporting a complaint (2-3, *infra*).

21. It is irrelevant that “It has been the long-standing practice of this court to” limit petition letters to five pages, for the Court has failed to give petitioners notice thereof. Yet, the Court has had the opportunity to give them notice of its practice when notifying them, as it is required to do under Rule 4(f)(1), of the dismissal and their right to petition for review (5, *infra*). It should have given such notice in light of the public notice requirement under §358(c), not to mention that a Court that is supposed to be familiar with, and even safeguard, the constitutional requirement of notice and fair hearing should have instinctively applied that requirement to its own conduct. Instead, the Court lets petitioners waste their time, and in any event Clerk Patricia Allen, who sent me the petition notice (13, *infra*), let me waste my time and effort guessing at the meaning of “brief” and writing for naught a cogent, well-organized, and reasonably long 10-page petition letter. Inconsistency and lack of consideration are defining characteristics of arbitrariness, which has no place in the administration of justice, for arbitrariness is the antithesis of the rule of law.

22. Similarly, a provision of Rule 8 is directly applicable here:

RULE 8. REVIEW BY THE JUDICIAL COUNCIL OF A CHIEF JUDGE’S ORDER

(e)(2) The judge or magistrate judge complained about will be provided with copies of any communications that may be addressed to the members of the judicial council by the complainant. (10, *infra*)

23. Since the petition letter, though addressed to the Clerk of Court, is intended for the judicial council’s members, there is every reason to allow the exhibits to accompany it as one of “any communications” addressed to the members by the complainant. Hence, the 10-page letter and its exhibits should have been filed so that they could be made available to any judicial council member under Rule 8(c), which provides that “Upon request, the clerk will make available to any member of the judicial council...any document from the files...” (9, *infra*). How can the clerk make documents available if she does not even accept them for filing?

24. What harm could conceivably result from filing exhibits with a petition for review? None, yet, Clerk Allen returned my exhibits a second time even though I resubmitted them on July 13 (23, *infra*) in a *separate bound volume* that she could have kept in file for the event that a council member might ask for any or all the exhibits (cf. 48, *infra*). Why would the clerk take it upon

herself to deprive me of the right to submit to the Judicial Council exhibits that can lend credence to my petition? Was her conduct motivated by the fact that in the petition I complained about Chief Judge Walker? (25-26, *infra*)

V. Clerks Allen, MacKechnie, and Galindo imposed arbitrary requirements for filing my complaint about Chief Judge Walker and refused to file my complaint about them

25. This is by no means the first time that Clerk Allen has engaged in arbitrary conduct without even pretending to have any authority therefor. Among the more recent instances of her arbitrariness are her refusal of February 4 to accept an update to my first complaint (42, *infra*), alleging subsequently that complaints cannot be updated; her refusal of March 24 to accept a whole bound volume of exhibits because it was not titled “Exhibits”, but rather “Evidentiary Documents”! (48, *infra*); and her refusal to accept even a Table of Contents attached to my complaint about Chief Judge Walker (48, *infra*), which would at least have given readers the opportunity to know what documents I had submitted and select those that they wanted to request.
26. The arbitrariness shown by Clerk Allen trickled down onto her from her superior, Clerk of Court MacKechnie. The latter refused the 25 pages of exhibits attached to my complaint of March 19, 2004 about Chief Judge Walker (43, *infra*), alleging in her March 29 letter that they were “duplicates”, but without citing any Complaint Provision prohibiting “duplicates” and instead disregarding the fact that those exhibits were documents created since my first complaint of August 11, 2003 (49, *infra*).
27. Likewise, Clerk of Court MacKechnie refused to accept my motion of April 11, 2004, for declaratory judgment that officers of the Court intentionally violated law and rules as part of a pattern of non-coincidental, intentional, and coordinated wrongdoing (51, *infra*). In her April 13 letter, she alleged without quoting any authority that “the judicial conduct complaint procedure does not allow motion practice” (73, *infra*) and returned my motion. My request of April 18 for her to review her decisions in light of my legal arguments supporting the conclusion that the Complaint Provisions do allow motions and that it should be judges, not a clerk, to decide such an issue of law (74, *infra*), was returned to me unfiled by Chief Deputy Galindo with his April 27 letter (90, *infra*).
28. In that letter, Mr. Galindo just repeated without invoking any authority that:

The Rules governing the judicial conduct procedure (28 U.S.C. §351) does [sic] not allow motion practice. All [sic] supplemental documents submitted in regard to judicial complaints will not be accepted; [does that mean that 'Some' will be accepted?]. You have not been singled out for disparate [sic, meaning discriminatory, not just different] treatment.

29. If the Clerk of Court and the Chief Deputy Clerk of a U.S. Court of Appeals are unable to write and provide legally sound and unambiguous reasons for their statements and actions, rather than just 'because we say so', they should defer to the judges; (but see 32 and cf. 26, *infra*, for an example of perfunctory judicial written reasoning that could have trickled down as a model for other officers).
30. To avoid such arbitrary filing refusals, I submitted a motion on May 15, 2004, under the caption of my case in chief in the Court, that is, my appeal in *In re Premier Van Lines*, docket no. 03-5023. That motion is for judgment declaring that the legal grounds for updating opening and reply appeal briefs and for expanding upon their issues also apply to similar papers under 28 U.S.C. chapter 16, which comprises §§351-364 (91, *infra*). It discusses the circumstances under which federal law, FRAP, the local rules, and this Second Circuit's Complaint Rules allow the submission of letters, motions, and evidentiary documents to the court, and, consequently, empower the court to act on them. The motion has not been decided yet.
31. When it is, Chief Judge Walker will participate in deciding it as a member of the panel. Under what circumstances did he get appointed to the panel deciding my appeal in the first place? One thing is clear: His attachment to his membership in it is quite strong, for despite all the facts and arguments in my two motions of March 22 and April 18, 2004, for him to disqualify himself (107 and 119, *infra*), the Chief Judge refused to do so without giving a single reason, actually, without even signing the "it hereby is DENIED" form (141, *infra*). In the same vein, my motion of May 31, 2004, is still pending, which calls for the Chief Judge either to state his arguments for denying my disqualification motion or disqualify himself, or failing both for the Court to disqualify him.
32. The Chief Judge's refusal to recuse himself without letting a drop of a reason or his signature fall down provides an insight into his attitude toward his power and his use of it: He can disregard his conflict of interests and the obvious appearance of impropriety without having to waste a word. Through his conduct he sets an example that trickles down to other administrative

and clerical officers. The result is a house where the law is not considered the rule of conduct of its members, but rather arbitrary power provides them with the means for them to do what they want because they say so or because they say nothing.

VI. Administrative and clerical officers have participated in a pattern of non-coincidental, intentional, and coordinated acts of disregard for their obligations under the law and Rules

33. It can reasonably be asserted on the basis of the evidence that these administrative and clerical officers of the Court of Appeals have engaged in a pattern of non-coincidental, intentional, and coordinated acts of disregard for their statutory and regulatory obligations under the Misconduct Provisions. That constitutes misconduct on their part and warrants investigation by the Administrative Office under 28 U.S.C. §604(a)(1). There is all the more reason to investigate because the Office also has evidence, independent of this complaint and entitled to full credit, pointing to grave problems in the implementation of those Provisions by the courts.
34. Indeed, Chief Justice William Rehnquist has recognized systemic mishandling by judges of judicial misconduct complaints and, consequently, appointed Justice Stephen Breyer to head the Judicial Conduct and Disability Act Study Committee. Last June 10, Justice Breyer held the Committee's first organizational meeting (163, *infra*). In this vein, when welcoming his appointment, James Sensenbrenner, Jr., Chairman of the House of Representatives Committee on the Judiciary, said: "Since [the 1980s], however, this [judicial misconduct complaint] process has not worked as well, with some complaints being dismissed out of hand by the judicial branch without any investigation". (165, *infra*)
35. The instant complaint shows how top administrators and clerks not only dismissed out of hand the orders from their shelves and banned them to the vaults of an archive half a continent away, but also engaged in a pattern of disregard of other Complaint Provisions that evinces a shared disposition toward unlawfulness and abuse of power. Therefrom follow some pregnant questions; the answers to them can have far reaching implications. Precisely for that reason, such questions should be investigated by those with the legal obligation to supervise the performance of the courts' administrative and clerical personnel, whose conduct at all times should engender public trust and operate toward dispensing justice.

VII. Action requested

36. Therefore, I respectfully request that the Administrative Office of the U.S. Courts:

- a) determine whether Clerk of Court MacKechnie and Chief Deputy Galindo, be it on their own or on the instructions of the Court's top administrator, Chief Judge Walker, violated their obligation to keep the orders publicly available that are issued under the Misconduct Provisions;
- b) determine whether Head In-taker Harris abused her power when she warned a reader that she would call the marshals on him if he nodded again while reading in the reading room checked-out Court materials; and whether she acted on her own or singled me out upon the instructions of her superiors in an effort to deter me from reading judicial misconduct orders;
- c) determine whether Chief Deputy Galindo and Clerk Allen violated their obligation to accept papers for filing and engaged in arbitrary conduct by, among other things:
 - 1) applying to a 10-page petition for review a 5-page limitation neither provided for in the Rules nor notified to me in advance;
 - 2) alleging with no authority whatsoever that judicial misconduct complaints can neither be updated nor be the subject of a motion;
 - 3) refusing to accept exhibits by disregarding the Rules that allow them as a communication to judicial council members in the context of a petition for review; and
 - 4) imposing meaningless and arbitrary requirements devoid of any legal foundation, such as that exhibits must be expressly identified as "Exhibits", not as "Evidentiary Documents";
- d) determine whether these officers have failed to fulfill their administrative duties by their self-interest in preserving their jobs or advancing their careers by assisting judges in their efforts to prevent misconduct complaints from establishing precedents that affect their peers and that one day could be applied against them as subjects of a complaint;
- e) require that the complained-about officers respond in writing to the complaint and forward to me a copy of their response or, in the alternative, hold the equivalent of an administrative hearing where they and I can provide testimony in the presence of each other;
- f) determine under 28 U.S.C. §604(a)(11) with what moneys the expense of shipping the

orders to, and storing them at, the National Archives in Missouri was defrayed and, if so shipped, since when the orders have actually been stored there;

g) submit a copy of this complaint to:

- 1) Congress as a matter relevant to the understanding of the summary that the Director is required to file under 28 U.S.C. §604(h)(2) concerning judicial misconduct complaints;
- 2) both the Chief Justice of the Supreme Court of the United States, who under 28 U.S.C. §601 appoints the Director, and the Judicial Conference, which under 28 U.S.C. §604(a) supervises and gives directions to the Director, as a case illustrating conduct by top court officers that detracts from both the integrity of a court of appeals and the public trust that it must elicit as it performs its mission of dispensing justice; and
- 3) the Judicial Conduct and Disability Act Study Committee headed by Justice Stephen Breyer for it to examine the elements therein that fall within the scope of its Study.

37. Despite my deep disappointment in the level of integrity and law-abiding zeal of court officers after dealing with them for years, I can only hope that the Administrative Office as well as the entities mentioned above have the wholehearted commitment to fairness and the rule of law to do and appear to be doing justice to this complaint about officers who should never have given grounds for complaint, but instead should have been guided by the profound conviction that their work is not simply a job to earn a paycheck, but rather consists in the lofty mission, endowed with public trust and laden with heavy responsibility, to dispense justice to others.

Respectfully submitted on

July 28, 2004

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accompanying the complaint of July 28, 2004
to the Administrative Office of the U.S. Courts
about court administrative and clerical officers and
their mishandling of judicial misconduct complaints and orders
to the detriment of the public at large as well as of Dr. Richard Cordero
by

Dr. Richard Cordero

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