

Dr. Richard Cordero, Esq.

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
DrRCordero@Judicial-Discipline-Reform.org
tel. (718) 827-9521

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Dr. Frederick D. Graves, JD, and
Comnlawnet@aol.com and
AMOJ_MAIN@yahoogroups.com Subscribers

Dear Dr. Graves and Subscribers,

I would appreciate it if you, Dr. Graves, would indicate how you would have made a "winning record" that would have "compelled" any federal judge to apply the law at the risk of facing a sentence to 20 years imprisonment under 18 U.S.C. §1519 (pg. 108 of the attachment) for having covered up his or her support or toleration of the bankruptcy fraud scheme described in the 10-page Statement of Facts (5) in 12 federal cases (15). The summary below should lead to a conclusion and a question of interest to you and the other AMOJ and Comnlawnet [sic] subscribers.

That Statement shows that a 39-year veteran of the banking and financing industries, who is still employed precisely in the bankruptcy department of a mayor bank, filed with his wife for bankruptcy relief in January 2004. (16) In Schedule B they declared that at the time of filing they had only \$535 in cash and on account. (24) But using their Statement of Financial Affairs, their 1040 IRS forms for 2001-03, and the few mortgage documents that they had produced (40, 63, 66), I showed that they had earned \$291,470 in that period; and also received \$382,187 through a string of mortgages. Actually, when in 1975 they bought a home, they took on it a \$26,000 mortgage, their first one (67); yet 30 years later, they declared in Schedule A that they still live in the same home, that it is their only real estate asset, and that they owe on it \$77,084! (23) Moreover, they declared in Schedule F that that they owed \$98,092 on 18 credit card accounts (31), though the services bought with that money remain unaccounted for as do the goods given that the value of household goods declared in Schedule B, accumulated over at least 30 years of work, is \$2,910! (24)...less than 1% of what they earned in the previous 3 years.

The whereabouts of their \$673,657 in earnings and receipts plus \$98,092 in credit card borrowing (62) are still unknown because the bankruptcy, the district, and the circuit judges denied the requests under 11 U.S.C. 704(4) and (7) and §1325(a)(3) (109, 110) for an investigation of the debtors' financial affairs. Then they disallowed or affirmed the disallowance of the claim of the only creditor requesting such investigation, thus removing both him from the case and the risk that he might expose them. Indeed, from these facts, as detailed in the Statement (6§II), one can draw the conclusion, as the creditor did, that there is a bankruptcy fraud scheme. It involves the debtors in concealment of assets to the detriment of creditors and a cover up by the private and the U.S. trustees and the judges for a quid pro quo benefit as yet undetermined.

Therefore, what kind of "winning record" would you, Dr. Graves, or for that matter any of the Subscribers, have produced to "compel" the judges supporting or tolerating such fraud not only to deny the motion to disallow, but also to discharge their duty under 18 U.S.C. §3057 by referring the debtors to the U.S. attorney for investigation? (111) Had they done so, the debtors would have ended up indicted, an ominous event that would have given them an incentive to trade up in a plea bargain by incriminating the judges and the trustees.

According to your statement, a "winning record" is produced by taking the following steps:

- (1) by filing properly drafted pleadings: In a bankruptcy case the equivalent of a pleading is the petition and its Schedules filed by the debtor; they are attached hereto. (16) Besides the statements above showing the implausibility of their declarations, what other analysis would have "compelled" the judges to realize the debtors' fraud and deny their debt

repayment plan providing for the discharge of 78% of their debt? (51)

"(2) using all the discovery tools to get all the evidence into the record **before trial**": How would you have proceeded to obtain that evidence when the judges denied **every single document** that the creditor requested them to order produced by the debtors? (115)

"(3) and supporting all my motions with well-researched memoranda, while opposing all my opponents' motions with well-researched memoranda": How would you have researched and written a better brief (117, cf. 141) that would have "compelled" the district judge to overturn the disallowance order rather than affirm it by disregarding the law and the facts? (203; cf. 207)

By contrast, if you or the other Subscribers believe based on these facts that the judges are supporting or tolerating a bankruptcy fraud scheme, I invite you all to do something to effectively fight the coordinated judicial wrongdoing that makes it possible. The fact is that we can thread e-mail comments forever, but that will not cause the judges to improve their misconduct or put pressure on lawmakers to take the needed action, namely; to repeal the useless statute providing for judges to apply self-discipline upon misconduct complaints filed with them (28 U.S.C. §351 et seq. (212)) and pass the proposed Judicial Discipline and Auditing Commission Act (234).

What can bring us closer to such desired result is uniting our efforts and resources to search for evidence of judges' involvement in criminal activity. Under no interpretation of the doctrine of judicial immunity can such evidence be excluded as relating to judicial acts or as disgruntlement of losing parties. What is more, it would be reported on by the media because it makes good copy, thereby causing public outrage and giving rise to a call on Congress for an investigation of coordinated wrongdoing in the judiciary and proper remedial legislation. (239)

The case described above illustrates the type of case that would allow us to look for both assets concealed by the debtors with the judges' knowledge and those in the judges' possession and in excess of their known income. If we then proved that the justices of the Supreme Court knew of their fellow judges' criminal activity, but looked the other way (235), not to mention if they benefited from it, the public outrage, fueled by the demand for revision of cases by losing parties, would make Congress seriously consider new laws to bring integrity to the judiciary. This outcome is plausible now because the presumptive new Speaker of the House, Rep. Nancy Pelosi, who chastised the outgoing Congress as "dominated by a culture of corruption", pledged that she would take action to make the incoming Congress "the most honest in American history".

Therefore, I respectfully ask of Dr. Graves and the Subscribers whether they are willing to:

1. engage in a Watergate-like *Follow the money!* investigation of the judges' web of financial and personal relationships in search of evidence of criminal activity; (251)
2. spread the word to bloggers, citizens' newspapers, and any other investigative journalists that if they joined the search and uncovered such evidence they could participate in a historic event that could bring down the top judges of the federal judiciary and in the process make a name for themselves either during their 15 minutes of fame or by winning a Pulitzer Prize, in other words, they could become the Carl Bernstein and Bob Woodward of the Internet era by unleashing the power of the new media on corrupt judges (237); and
3. consider the Programmatic Proposal to unite those who complain about judicial corruption in order for all of us to be effective in eliminating it by engaging in specific and realistically manageable activities that would enable all to achieve concrete objectives. (241)

I look forward to receiving your comments on working together to achieve concrete objectives.

Sincerely,

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Statement of Facts

providing evidence showing that a federal judgeship has become a safe haven for wrongdoing due to lack of an effective mechanism of judicial conduct control and calling for the formation of a virtual firm of lawyers and investigative journalists to help prepare pro bono a class action based on a representative case charging that Chief Judge John M. Walker, Jr., and Circuit Judge Dennis Jacobs of the U.S. Court of Appeals for the Second Circuit have engaged in a series of acts of disregard for the law, the rules, and the facts, and of systematic dismissal of judicial misconduct complaints forming a pattern of non-coincidental, intentional, and coordinated wrongdoing that protects peers and other schemers involved in a bankruptcy fraud scheme

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I. Evidence gathered in 12 cases over 5 years supporting Statement & representative case

1. The herein discussed query whether a federal judgeship is a safe haven for wrongdoing and the concrete charges of such wrongdoing arise from evidence collected during the past five years from 11 related cases. (ToEC:1) Such evidence indicates that the wrongdoing is motivated by a most insidious corruptor: money, the enormous amount of money at stake in fraudulent bankruptcies. (findings leading to the [Bankruptcy Abuse Prevention and Consumer Prevention Act \(BAPCPA\)](#) of 2005, Pub.L. 109-8, 119 Stat. 23 and [Pst:1395](#))

¹ The letters preceding the page number # identify the cases and their tables of exhibits. (ToEC:1fn. & 5§IV).
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2. In just one of those cases the judges have refused even to ask for the whereabouts of over \$670,000 (T_oEC:110) earned or received by the ‘bankrupt’ *banker*, as shown by his own documents...and according to PACER.uscourts.gov (Public Access to Court Electronic Records) the trustee in his case had at the time 3,909 *open cases*! The judges’ refusal to take or skip a necessary step to decide a case is only one use of the means enabling money to have its evil effect, to wit, the most powerful corruptor, power itself, here unsupervised, discipline-free, in practice absolute judicial power exercised by federal judges who have in fact become a class of people above the law.
3. The evidence in those 12 cases shows that judges have systematically exercised judicial power through bias and disregard for the rule of law that is intended to prescribe limits to its use. Risk-free abuse of judicial power in a setting awash with money has led certain judges, their staff, and bankruptcy trustees to support a bankruptcy fraud scheme. While their exercise of it is immune from discipline, it is not harmless. It has had injurious consequences for Dr. Richard Cordero, Esq., depriving him of his legal rights in cases to which he is a party pro se and causing him enormous waste of effort, time, and money as well as inflicting upon him tremendous emotional distress.
4. Repeatedly, Dr. Cordero has submitted to Chief Judge John M. Walker, Jr., and Circuit Judge Dennis Jacobs of the Court of Appeals for the Second Circuit (CA2), who have supervisory duties over the integrity of 2nd Circuit courts, substantial evidence of the pattern of support by U.S. judges therein of the bankruptcy fraud scheme and its effect on him. Consistently they have disregarded that evidence, thereby condoning the other judges’ continued support for the scheme and the schemers and allowing their bias and denial of due process to further injure Dr. Cordero.
5. In so doing, Judges Walker and Jacobs have shown their own bias toward their peers and staffs, including their own staff (T_oEC:19§C), to the detriment of Dr. Cordero and have also denied him due process of law in their dealings with him. In addition, by so protecting those officers they have breached their oath of office to apply the law, let alone do so equally “without respect to persons” (28 U.S.C. §453), which gives rise to a duty that inures to the benefit of every third party, such as Dr. Cordero, who comes before them with the reasonable expectation of having their cases decided impartially in accordance with law. Moreover, they have failed to discharge their duty as chief judge and as members of the Judicial Council of the Second Circuit to safeguard the integrity of the courts and their officers in the Circuit, a duty that also runs to the benefit of every person that resorts to the courts for the proper administration of justice.
6. There is ample and *official* evidence of coordinated and systematic disregard by judges of misconduct by their peers. (T_oEC:39>973 & Comment) To establish such disregard and its consequences a representative case can center on C.J. Walker and Judge Jacobs because the evidence against them is as abundant as their disregard of judicial misconduct has been blatant.

II. The pattern of wrongful acts in support of a bankruptcy fraud scheme began with Judge Ninfo’s summary dismissal of Dr. Cordero’s cross-claims against Trustee Kenneth Gordon in *Pfuntner v. Tr. Gordon et al.*

7. Dr. Cordero is currently a resident of New York City. However, in the early 1990’s he resided in Rochester, NY. Before leaving that city in 1993, he entrusted personal and professional property to a moving and storage company. For almost 10 years he paid storage and insurance fees for the safekeeping of such property.
8. At the beginning of 2002, Dr. Cordero contacted by phone Mr. David Palmer, the owner of

Premier Van Lines, Inc., the moving and storage company in Rochester, NY, that was storing his property. He wanted to resolve a billing issue and find out the current name of the insurance carrier. Mr. Palmer assured him that his property was safe at the Jefferson Henrietta Warehouse. Its manager, Mr. David Dworkin, did likewise and even billed Dr. Cordero for the monthly fees. (A:353-1&2) After Mr. Palmer became unreachable, Mr. Dworkin kept assuring Dr. Cordero that his property was safe and that he would find out the name of its insurer. Only much later did Mr. Dworkin reveal to him that Premier had gone bankrupt and was already in liquidation!

9. As it turned out, more than a year earlier, on March 5, 2001, Mr. Palmer had filed a voluntary petition for Premier's bankruptcy under [11 U.S.C. Chapter 11](#) (*In re Premier Van Lines, Inc.*, no. 01-20692, WBNY, docket at [A:565](#); [nywb.uscourts.gov](#); hereinafter *Premier*). His case had landed before Bankruptcy Judge John C. Ninfo, II, WBNY. Soon thereafter Mr. Palmer failed to comply with the obligations of his bankruptcy and even stopped appearing in its proceedings. Hence, on December 28, 2001, Trustee Kenneth Gordon, Esq., the Standing Trustee for liquidations under [Chapter 7](#), was appointed to liquidate Premier. (A:572/63)
10. Trustee Gordon's performance was so negligent and reckless that he failed to find out that Mr. James Pfuntner owned a warehouse in Avon, Rochester, where Premier had stored its clients' property, such as those of Dr. Cordero. To begin with, just as Mr. Palmer failed to inform Dr. Cordero of his filing for bankruptcy protection for Premier, the Trustee did not inform Dr. Cordero of his liquidation of it; consequently, Dr. Cordero was deprived of his right to file a claim as creditor of Premier. By failing thus to inform Dr. Cordero, the Trustee also deprived him of the opportunity to decide what to do with his property. Moreover, Trustee Gordon could have found out the possibility of such property being in Mr. Pfuntner's warehouse by just examining *Premier's* docket (A:567/13, 17, 19, 21, 23; 571/52), not to mention through diligent examination under [11 U.S.C. §704\(4\)](#) of Premier's financial affairs and its business records, to which he had access (A:109 ftnts-5-8; A:45, 46, 352).
11. As a result, Trustee Gordon failed to discover the income-producing storage accounts that belonged to the estate or to act timely (A-575:94; cf. A:46-48; A:575/87, 89). So he closed the case as "No distribution" (A:577/107 & entries for 10/24/2003), although he had not only classified it as an "Asset case" (A:572/70, 573/71; 575/94, 95), but had also applied for authorization to Judge Ninfo and received it to hire an auctioneer, Mr. Roy Teitsworth (A:576/97)...and then what happened? Where is the accountant's report for which \$4,699 was paid? (A:575/90) Nobody would answer, for these were job-threatening questions (28 CFR §58.6(7)) that no outsider was supposed to ask. (A:835§B7) Interestingly enough, a query on PACER of Kenneth Gordon as trustee returned that between April 12, 2000, and November 3, 2003, he was the trustee in 3,092 cases! How many of them did he handle as he did Premier?
12. Likewise, Mr. David Gene DeLano, Assistant Vice President for M&T Bank handled negligently and recklessly the liquidation of the storage containers that Mr. Palmer had bought with a loan from M&T in which the latter had kept a security interest. He assured Dr. Cordero that he had seen the storage containers holding his property at the Jefferson Henrietta Warehouse; that those containers had been sold to Champion Moving & Storage; and that he should contact and from them on deal with Champion concerning his property in those containers. (Tr.149/25-150/6, 101/17-19, 109/3-5, 111/9-24, 141/8-13) Dr. Cordero did so only to find out that Champion had never received such containers. Thus, he had to search for his property. Eventually he found out that the containers had never been at the Jefferson Henrietta Warehouse! Instead, they had been abandoned by Mr. Palmer at Mr. Pfuntner's warehouse in Avon. (A:46; Pst:1285¶70)

13. Dr. Cordero was referred to Trustee Gordon to find out how to retrieve his property. But the Trustee would not give him any information and even enjoined him not to contact his office anymore ([A:353-25, 26](#)), thus violating his duty under [11 U.S.C. §704\(7\)](#) to a party in interest.
14. Dr. Cordero found out that *Premier* was before Judge Ninfo and applied to him for a review of Trustee Gordon's performance and fitness to serve as Premier's trustee. ([A:353-28, 29](#)) The Judge, however, took no action other than to pass that application on to the Trustee's supervisor, namely, Assistant U.S. Trustee Kathleen Dunivin Schmitt. ([A:29](#)) Her office is in the same small federal building as that of Judge Ninfo's Bankruptcy Court, Trustee Gordon's box, the District Court, the U.S. Attorney's Office, and the FBI Bureau; this allows for daily contacts and the development of a web of personal relationships among their officers. By contrast, Dr. Cordero lives hundreds of miles away in NYC and is, thus, a 'diverse citizen'. Not surprisingly, Trustee Schmitt conducted a 'quick contact' with her supervisee, Trustee Gordon, that was as superficial as it was severely flawed. ([A:53, 104](#)) Nor did Judge Ninfo take action upon Dr. Cordero bringing to his attention ([A:32, 38](#)) that Trustee Gordon had filed with him false statements and statements defamatory of Dr. Cordero to persuade the Judge not to take any action on Dr. Cordero's Application to review his performance ([A:19, 41§II](#)).
15. Meantime, Mr. Pfuntner had commenced an adversary proceeding on September 27, 2002, against the Trustee, Dr. Cordero, M&T Bank, and a hockey club to recover administrative and storage fees ([A:22](#)) from them (*Pfuntner v. Trustee Gordon et al.*, no. 02-2230, WBNY; docket at [A:1551](#)). Dr. Cordero cross-claimed against Trustee Gordon and M&T Bank ([A:70, 83, 88](#)) and also brought in as third-party defendants Messrs. Palmer, Dworkin, and DeLano and Jefferson Henrietta Warehouse. ([Add:534/after entry 13; 891/fn.1](#))
16. Trustee Gordon countered with a motion under [Rule 12\(b\)\(6\)](#) of the Federal Rules of Civil Procedure to dismiss only Dr. Cordero's cross-claims against him. ([A:135, 143](#)) It was argued on December 18, 2002. By then almost three months had gone by since the commencement of *Pfuntner*, but the required [Rule 16](#) and [26](#) meeting of the parties and disclosure had not taken place despite Dr. Cordero having disclosed numerous documents as exhibits to his papers. ([A:11-18, 33-36, 45-49, 63-64, 65, 91-94](#))- much less had there been any discovery. Yet, disregarding the record's lack of factual development, Judge Ninfo summarily dismissed the cross-claims notwithstanding the genuine issues of material fact that Dr. Cordero had raised concerning the Trustee's negligence and recklessness in liquidating Premier ([A:148](#)). Similarly, the Judge disregarded the consideration that after discovery and at trial Mr. Pfuntner's claims against the Trustee could lend support to Dr. Cordero's claims against the Trustee.
17. Judge Ninfo even excused the Trustee's defamatory and false statements as merely "part of the Trustee just trying to resolve these issues", ([A:275/10-12](#)) thus condoning his use of falsehood; astonishingly acknowledging in open court his own acceptance of unethical behavior; and showing gross indifference to its injurious effect on Dr. Cordero.
18. That dismissal constituted the first of a long series of similar acts of disregard for the law, the rules, and the facts in which Judge Ninfo as well as other judicial and clerical officers at both the Bankruptcy and the District Court have participated, all consistently to the benefit of those in the web of personal relationships and to Dr. Cordero's detriment. Such acts were initially aimed at preventing Dr. Cordero's appeal, for if the dismissal were reversed and the cross-claims reinstated, discovery could establish how Judge Ninfo had failed to realize or knowingly tolerated Trustee Gordon's negligent and reckless liquidation of Premier. This fact would be followed by a common sense question: What motive did he have to do so?

19. Answering that question would bring up a very incisive one: Had these two officers engaged in similar conduct in any of the other cases on which they had worked together? They had had the opportunity to do so, for a subsequent PACER query showed that between April 12, 2000, and June 26, 2004, Trustee Gordon had been the trustee in [3,383 cases](#), out of which 3,382 had come before Judge Ninfo! ([A:1406§C](#)) Astonishing!, for how could a single trustee take care of examining the debtors' financial affairs and ascertaining the good faith of their petitions and dealing with the creditors and collecting the assets and liquidating them and holding auctions, and reviewing accountants' reports and making distribution and filing reports and attending hearings, and and and of each of such an overwhelming number of cases? ([D:458§V](#)) This would beg the question why had Trustee Schmitt and her supervisor, U.S. Trustee for Region 2 Deirdre Martini allowed one person to take on so many cases in such a short period of time? And how many millions of dollars worth of assets has Trustee Gordon been in charge of liquidating? How many other questions would it take to pierce the web to reveal the motives linked to their personal relationships?

A. C.J. Walker and J. Jacobs have been made aware of the evidence of judges' bias and disregard for the rule of law but have refused to investigate them, thus failing to safeguard judicial integrity and protect Dr. Cordero from their abuse

20. Dr. Cordero made Chief Judge Walker aware of these and similar concerns. Indeed, the Chief Judge was a member of the panel that was drawn –randomly?- to decide his appeal from *Pfuntner* in *Premier Van et al.*, no. 03-5023, CA2. (docket at [A:1285](#)) As such, the Chief was supposed to read Dr. Cordero's brief of July 9, 2003 ([A:1303](#)), which also included appellate arguments concerning the arbitrary, unlawful, and suspicious way in which Judge Ninfo ([A:302, 306](#)) and District Judge David G. Larimer, WDNY, ([A:315, 339, 343, 350](#)) denied Dr. Cordero's application for default judgment against Premier Owner David Palmer ([A:290-95](#)), who had nevertheless been defaulted by Bankruptcy Clerk of Court Paul Warren ([A:303; 304](#)).
21. Moreover, Chief Judge Walker was the officer with whom Dr. Cordero lodged his misconduct complaint against Judge Ninfo of August 8, 2003, ([C:1, 63](#)) under the Judicial Conduct and Disability Act. That statute imposes on the circuit chief judge the duty to "expeditiously review" such complaints. ([28 U.S.C. §352\(a\)](#)) Anyway, the Chief should have investigated a complaint like that which cast doubt on the integrity of a judge and the fairness of justice that he administered.
22. What is more, the Chief Judge was a member of the panel that decided Dr. Cordero's petition of September 12, 2003, for a writ of mandamus, no. 03-3088, CA2, ([A:615](#)) requesting that Judge Ninfo be disqualified for bias and disregard for the rule of law and that *Pfuntner* be transferred outside his web of personal relationships to an impartial court, such as the U.S. District Court in Albany, NDNY. More still, he learned of additional charges through Dr. Cordero's motion of November 3, 2003, to update the evidence of Judge Ninfo's bias. ([A:801](#)) Even more, the Chief had the opportunity to hear about Judge Ninfo's misconduct during Dr. Cordero's oral argument of *Premier Van et al.* on December 11, 2003; and even read the argument's written version that Dr. Cordero handed out to him and the other panel members on the day of argument. ([C:296](#))
23. Nevertheless, CJ Walker did nothing other than deny those requests. ([A:876, 664](#)) Yet, he had the duty to review or "promptly appoint a special committee to investigate" the complaint ([§353\(a\)](#)). Instead, he let *six months* go by without taking any action on it. So on February 2, 2004, Dr. Cordero wrote to him to inquire about the complaint's status ([C:105](#)), pointing out that the duty of promptness was imposed on the Chief not only under the Act, but also under the Circuit's

own rules, that is, Rule 3(a) of the Rules of the Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers under 28 U.S.C. §351 et seq. (C:75) This time the Chief did something else: He had Dr. Cordero's letter returned to the sender! (C:109)

24. More than a month and a half later Chief Judge Walker had still taken no action on the complaint. By contrast, Judge Ninfo went on to engage in even more flagrantly wrongful conduct in another case to which Dr. Cordero was made a party, namely, the voluntary petition for bankruptcy under [11 U.S.C. Chapter 13](#) of M&T Bank Assistant Vice President David DeLano of all people! (*In re DeLano*, no. 04-20280, WBNY; [C:1431](#), [1435](#), [1467](#); docket at [D:496](#)) Consequently, Dr. Cordero filed a judicial misconduct complaint against Chief Judge Walker on March 19, 2004. (C:271) As required by law and Circuit rule, he addressed it to the next judge eligible to become the chief judge, to wit, Circuit Judge Dennis Jacobs.

III. CJ Walker and J. Jacobs are protecting their peers by refusing to *Follow the money!* to find over \$670,000 unaccounted for in just one out of one trustee's more than 3,900 cases, i.e., *In re DeLano*, for following it could lead to the exposure of a bankruptcy fraud scheme and the schemers

25. Dr. Cordero brought to Judge Jacobs' attention not only Chief Judge Walker's failure to take action on the complaint against Judge Ninfo, but also how his inaction had condoned Judge Ninfo's misconduct and allowed him to engage even more flagrantly in bias and disregard for the law, the rules, and the facts in the handling of *DeLano*. A judge mindful of his duty, not only under §351, but also as a member of the Judicial Council, to safeguard the integrity of judicial process and the proper administration of justice would have conducted an investigation, for the *DeLano* petition and its handling by Judge Ninfo and other court officers and trustees are so egregious as to reveal the force that joins them and links the cases: a bankruptcy fraud scheme.
26. Indeed, Mr. David and Mrs. Mary Ann Delano are not average debtors. Mr. David DeLano has worked in financing for 7 years and as an officer at two banks for 32 years: 39 years professionally managing money!...and counting, for he is still working for M&T Bank as a manager in credit administration ([Tr:15/17-16/15](#)). As such, he qualifies as an expert in how to assess creditworthiness and remain solvent to be able to repay bank loans. Thus, Mr. Delano is a member of a class of people who should know how not to go bankrupt.
27. As for Mrs. DeLano, she was a specialist in business Xerox machines. As such, she is a person trained to think methodically so as to ask pointed questions of customers and guide them through a series of systematic steps to solve their technical problems with Xerox machines.
28. Hence, the DeLanos are professionals with expertise in borrowing, dealing with bankruptcies, and learning and applying technical instructions. They should have been held to a high standard of responsibility...but instead they were allowed to conceal assets because they know too much.
29. This means that because of his 39-year long career in finance and banking, Mr. DeLano has learned how borrowers use or abuse the bankruptcy system, and more importantly, how trustees and court officers handle their petitions so that rightfully or wrongfully they are successful in obtaining bankruptcy relief from their debts. Actually, Mr. DeLano works precisely in the area of bankruptcies at M&T Bank, collecting money from delinquent commercial borrowers and even liquidating company assets ([Tr:17.14-19](#)). In fact, he was the M&T officer that liquidated the storage containers in which M&T kept an interest to secure its loan to Mr. Palmer. So he knows how the latter was treated by Judge Ninfo in *Premier*, which gave rise to *Pfuntner*.

30. In preparation for their golden retirement, the DeLanos filed their joint voluntary bankruptcy petition and, of course, it came before Judge Ninfo. Based on what and whom Mr. DeLano knew, they could expect their petition to glide smoothly toward being granted (D:266¶¶37-39) The fact that among their 21 creditors in Schedule F they themselves named Dr. Cordero (C:1448) must have carried no significance at all other than that thereby they would be able to discharge his claim against Mr. DeLano arising in *Pfuntner*. After all, Dr. Cordero was their only non-institutional creditor, lives hundreds of miles away in NYC, and was unsecured to boot.
31. But a most unforeseen event occurred: Dr. Cordero went through the trouble of examining their petition, and more surprisingly yet, he even realized how incongruous the declarations were that the DeLanos had made in its Schedules (C:1437-1454) and Statement of Financial Affairs (C:1455-1461). Most unexpectedly, not only did he put in writing his realization, but he also traveled all the way to Rochester to attend the meeting of their creditors on March 8, 2004 (D:23), the only one to do so! (D:68, 69) While there he filed with Judge Ninfo's clerks his objection to the confirmation (C:291) of their debt repayment plan (C:1467) and even invoked 11 U.S.C. §1302(b) and §704(4) and (7) to request Chapter 13 Trustee George Reiber to investigate their financial affairs and produce documents to show the in- and outflow of their money.
32. Money the DeLanos do have, as Trustee Reiber, Judge Ninfo, Assistant Trustee Schmitt, and Region 2 Trustee Martini knew or could have readily known had they only cast a glance at their implausible petition. (C:1411) Hence, the alarms went off, for these officers were aware that Mr. DeLano could not be allowed to go down on a charge of bankruptcy fraud since he knows about their intentional and coordinated disregard for the law, the rules, and the facts in handling bankruptcy petitions, that is, of their support for the bankruptcy fraud scheme. Therefore, if Mr. DeLano's petition were checked and as a result, he were charged with bankruptcy fraud and he and his wife ended up facing up to 20 years imprisonment and ruinous fines under 18 U.S.C. §§151-158, and 1519 and 3571, he would consider it in his interest to enter into a plea bargain to incriminate top schemers in exchange for leniency. Consequently, the schemers closed ranks to protect Mr. DeLano from being investigated or having to produce incriminating documents.
33. Yet, even a person untrained in bankruptcy could realize the incongruity and implausibility of the DeLanos' declarations in their bankruptcy petition. For instance:
- a. The DeLanos earned \$291,470 in just the 2001-2003 fiscal years preceding their petition of January 27, 2004 (C:1419; 1499);
 - b. but they declared having only \$535 in hand and accounts (C:1439); yet, they and their attorney, Christopher Werner, Esq., knew that they could afford to pay \$16,654 in legal fees (C:1060) for over a year's maneuvering to avoid producing the documents requested by Dr. Cordero, which would incriminate them for concealment of assets; their tough stance was rewarded by Judge Ninfo, who without any written request allowed even higher legal fees, \$18,005! (C:1057) But then Att. Werner is not just any attorney: according to PACER, as of February 28, 2005, he had appeared before Judge Ninfo in 525 cases out of 575! (TOEC:91¶3) Trustee Reiber rewarded Att. Werner too by requesting another \$9,948 for him on December 7, 2005, and lowering the recovery rate from 22¢ to less than 13¢ on the \$ (Pst:1175). Outrageous arrogance of power endowed with immunity!
 - c. The DeLanos amassed a whopping debt of \$98,092 (C:1449), although the average credit card debt of Americans is \$6,000; and spread it over 18 credit cards so that no issuer would have a stake high enough to make litigation cost-effective (C:1401).

- d. Despite all that borrowing, they declared household goods worth only \$2,910 (C:1439) ...that's all they pretend to have accumulated throughout their combined worklives, including Mr. DeLano's 39 years as a bank officer, although they earned over a 100 times that amount, \$291,470, in only the three fiscal years of 2001-03 (C:1499)...Unbelievable!;
- e. They also strung together mortgages since 1975, through which they received \$382,187 (Add:1058) to buy their home; yet in 2005, 30 years later, they lived in the same home but owed \$77,084 and had equity of merely \$21,415 (C:1438). *Mindboggling!* (Add:1058¶54)
34. Although the DeLanos have received over \$670,000, as shown by even the few documents that they reluctantly produced at Dr. Cordero's instigation (ToEC:110), the officers that have a statutory duty to investigate evidence of bankruptcy fraud or report it for investigation not only disregarded such duty (ToEC:111), but also refused to require them to produce (Add:1022) documents as obviously pertinent to any bankruptcy petition as the statements of their bank and debit card accounts...for such documents would show the flow of the DeLanos' receipts and payments and thereby reveal the fraud that they had committed and that the officers had covered up. Judge Jacobs too disregarded the Statement that Dr. Cordero sent him analyzing these incongruous declarations (C:1297§§15-17) and had it returned to the sender (C:1317).
35. What has motivated these officers to spare the DeLanos from having to produce incriminating documents? (D:458§V) All have been informed of the incident on March 8, 2004, that to a reasonable person, and all the more so if charged with the duty to prevent bankruptcy fraud, would have shown that the DeLanos had committed fraud and were receiving protection from exposure: Trustee Reiber unlawfully allowed his attorney, James W. Weidman, Esq., to conduct the meeting of creditors (28 CFR §58.6(10);§341) where the latter unjustifiably asked Dr. Cordero whether and, if so, how much he knew about the DeLanos' having committed fraud, and when he would not reveal what he knew, Att. Weidman, with the Trustee's approval, rather than let him examine them under oath, as §343 requires, while officially being tape recorded, put an end to the meeting after Dr. Cordero had asked only two questions! (D:79§§I-III; Add:889§II)
36. Judge Jacobs too was informed of this incident (C:272). Yet he did not conduct any investigation or ask for any documents, such as the tape of that meeting of creditors or, after the effort to impede the holding of the adjourned meeting failed, the transcript of such meeting, which contains incriminating statements by Attorney Werner of his having destroyed documents of the DeLanos. (C:1299¶¶21-33) Nor did he respect his duty of promptness in handling a misconduct complaint. The one of March 19, 2004, against his colleague, Chief Judge Walker, was in its seventh month when on September 24 Judge Jacobs "dismissed [it] as moot [because] the Complainant's judicial misconduct [against Judge Ninfo] was dismissed by order entered June 9, 2004". (C:392) Yet it took Judge Jacobs another 2½ months to dismiss it!? And still he got wrong the date of that earlier dismissal that he himself had written, and that was entered, on June 8 (C:144, 148), a mistake revealing the lack of care with which he wrote an otherwise perfunctory decision (cf. C:711).
37. As CJ Walker had done, Judge Jacobs condoned with his inaction Judge Ninfo's misconduct, thus encouraging him to engage in more brazen bias and disregard for the rule of law: Dr. Cordero submitted a statement on June 9, 2004, to J. Ninfo showing on the basis of even the few and incomplete documents that the DeLanos had produced (ToEC:62¶¶5-11, D:165-189; C:1415) that they had fraudulently concealed assets, and requesting that they be referred to the FBI and that Trustee Reiber be removed (D:193). J. Ninfo reacted by joining the DeLanos in a process abusive maneuver that used a) a motion to disallow Dr. Cordero's claim (D:218; cf. D:249; ToED:210§II);

b) an order directing Dr. Cordero to take discovery of that claim in *Pfuntner* (D:272; cf. D:440) only for *every single document* that he requested (D:287, 310, 317) to be denied by both the DeLanos (D:313, 325) and J. Ninfo (D:327; cf. ToEA:153§7) and c) a sham evidentiary hearing on March 1, 2005 (Pst:1255§E; cf. C:193§§1-3) that ended as predetermined in disallowing Dr. Cordero's claim and stripping him of standing to participate further in *DeLano* (D:20§IV, ToEC:109).

38. Dr. Cordero made Chief Judge Walker and Judge Jacobs aware of these developments by appealing to the Judicial Council and writing to Judge Jacobs (C:995, 1000, 1025). This time they acted promptly: They reappointed Judge Ninfo to a new 14-year term as bankruptcy judge! (ToEC:§H)
39. Meanwhile, Dr. Cordero appealed Judge Ninfo's disallowance of his claim to the District Court, WDNY, Judge Larimer presiding. This Judge showed again, as he had in *Pfuntner* (ToEC>C:1107-8>Comment), that he supports the bankruptcy fraud scheme. He refused to order the DeLanos to produce *even a single document* that could shed light on the 39-year veteran banker's incongruous and implausible declarations. (ToEC:111; Add:951, 1022, ToEAdd:231§VI) He even attempted to prevent Dr. Cordero from obtaining the transcript of the sham evidentiary hearing (C:1001, 1083; cf. ToEA:135§3), for what happened there incriminates Judge Ninfo as Mr. DeLano's biased Chief Advocate. Such advocacy derives from the fact that Mr. DeLano's attorney in *Pfuntner* is Michael Beyma, Esq., of Underberg & Kessler (A:1552; Pst:1289§f), the law firm of which Judge Ninfo was a partner when he was appointed to the bench (Add:636); so he felt Mr. DeLano to be his client, whereby he forfeited his position as an impartial arbiter who should have no interest in the controversy before him. The transcript also shows that Mr. DeLano's testimony corroborates Dr. Cordero's claim against him. (Pst:1281§d; ToEC:55>Comment>2nd ¶)

IV. Call for a virtual firm of lawyers and investigative journalists to help prepare pro bono a class action centered on a representative case against these judges to expose the systematic dismissal of complaints supporting a bankruptcy fraud scheme and reveal how high and to what extent wrongdoing has reached

40. Congress adopted the Bankruptcy Abuse Prevention Act to "restor[e] personal responsibility and integrity in the bankruptcy system [and] respond to...the absence of effective oversight to eliminate abuse in the system." *HR Rep. 109-31, p.2* For its part, the Administrative Office of the U.S. Courts (AO) has produced the 1997-2005 Reports of Complaints Filed and Action Taken under the Judicial Conduct Act (C:973), which together with its previous annual Reports shows that the judges' systematic dismissal for over a decade of §351 judicial misconduct complaints could not have occurred but for their unlawful coordination to insulate themselves from such complaints. (ToEC>C:973>Comment) The relation between those official findings is what the 12 cases referred to here show, to wit, the abuse has developed into a bankruptcy fraud scheme and judges have mishandled §351 complaints to, among other things, protect it and the schemers.
41. Now there is a need to expose the bankruptcy fraud scheme and the systematic dismissal of judicial misconduct complaints so as to lay bare the motive or benefit driving federal judges to tolerate or engage in such intentional and coordinated wrongdoing. A **first step** to that end is this presentation of the evidence gathered over the past five years in 12 cases and contained in the commented records of exhibits (ToEC:1 et seq.) and the exhibits. The **second step** is the formation, called for herein, of a virtual firm of lawyers and investigative journalists digitally meeting at Judicial-Discipline-Reform.org to pro bono research difficult legal issues and organize the investigation *Follow the money!* from filed bankruptcy petitions, many available through

PACER, to wherever it ended up in preparation for the **third step**: a class action centered on the representative case against C.J. Walker and J. Jacobs, brought on behalf of those similarly injured by the scheme and the systematic dismissal of their complaints, and charging denial of due process and violation of, among others, the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. §1961; C:1291) by judges who may remain in office only “during good Behaviour” (Const. Art. III sec.1; 28 U.S.C §44(b)), but who enjoy no blanket immunity from being subject to “Equal Justice Under Law” (C:1823); their governing bodies (T_oE_C:107) and staffs (T_oE_C:19§C, 28§E & 46§I); private and U.S. bankruptcy trustees (T_oE_C:111); other officers (cf. T_oE_C:§K; C:1552, 1568) in the web of personal relationships (C:1546, 1565, 1566); bankruptcy lawyers and their law firms (cf. D:258); and bankruptcy petitioners (¶33 above; T_oE_A:135§4).

42. The class action will confront the most powerful judges. Indeed, for decades since before the Judicial Conduct Act of 1980, the Supreme Court has known of the lack of an effective judicial impeachment mechanism (T_oE_C:60>Comment, C:1384) and of the break down of the Act’s self-discipline mechanism (T_oE_C:24>Comment, C:573). To know it, Late Chief Justice Rehnquist, who was also the presiding member of the Judicial Conference (28 U.S.C §331¶1), the body of last resort under the Act (id. §354(b)), need not read the AO’s Annual Reports on the Act (id. §604(h)(2)) or the Conference’s reports (C:1771). He knew that in 24 years since the Act the Conference had issued under it only 15 orders! (C:1611) Yet he waited until May 2004 to charge Justice Stephen Breyer with chairing a committee to study it. (C:574-577) The Breyer Committee held no hearings (cf. T_oE_C:66§L) and took over 27 months only to issue a **report** that clears his lower peers of the systematic dismissal of complaints apparent from the official reports.
43. All the Justices are also circuit justices of the circuits to which they have been allotted (28 U.S.C. §42, 45(b); C:149) so they may attend (C:980y-83; cf. 980z-10) their councils’ meetings where misconduct complaints are discussed (C:980y-84, z-76) and can learn the nature and number of orders related thereto, which must be reported to the Administrative Office (id. §332(c-d, g); C:980y-87, z-79). Hence, they know that such complaints are systematically dismissed. Actually, the Justices must be presumed to have realized from the cases that they deal with daily at the Supreme Court that ‘power corrupts and in the absence of any control over its exercise, power becomes absolute and corrupts absolutely’. Did they think that while wielding such power the 2,133 federal judges would remain immune to the type of “Culture of Corruption” that has engulfed the 535 members of Congress?, even bankruptcy judges, whose decisions affect the hand-changing of \$billions? (D:458§V, Add:621§1) Since the Justices cannot have ignored ongoing misconduct of judges abusing their uncontrolled power, why have they tolerated it?
44. Once in a lifetime the opportunity presents itself for a person to take extraordinary action for the common good. When it is long-term, fraught with grave risks, but capable of improving society with reforms that give practical meaning to the notions of integrity in government and fairness in its treatment of its people, the action becomes a noble mission. For he or she who rises to the challenge, there is public honor, gratitude, and remembrance. This is one such opportunity and a momentous one too, for it must reach all the way to the top of the Third Branch of Government to identify the motives of those in charge of the system of administration of justice for having allowed institutionalized wrongdoing by judges. Are you up to the mission to engage in highly skillful and professionally responsible legal research and analysis or investigative journalism of social and financial networks in order to answer the critical question arising from the evidence thus far collected: **Is a federal judgeship a safe heaven for wrongdoing and, if so, how high and to what extent has intentional and coordinated wrongdoing reached?**

Tables of Exhibits*

that provide the evidence gathered in 12 cases over 5 years showing that a federal judgeship has become a safe haven for wrongdoing and justifying an investigation to determine how high and to what extent wrongdoing has reached; and that warrant the call for forming a virtual firm of lawyers and investigative journalists centered on Judicial Discipline Reform.org to help prepare pro bono a class action based on the representative case charging that Chief Judge John M. Walker, Jr., of the Court of Appeals for the Second Circuit (CA2) and CA2 Judge Dennis Jacobs have engaged in a series of acts of disregard of evidence and of systematic dismissal of judicial misconduct complaints forming a pattern of non-coincidental, intentional, and coordinated wrongdoing that supports a bankruptcy fraud scheme and protects the schemers

by
Dr. Richard Cordero, Esq.

I. Cases providing evidence for the investigation & the representative case

	Case name	Filing date	Closing date or status	Docket no.	Court	File:pg.# * of brief docket	
1.	<i>In re Premier Van Lines</i> (Ch. 7 bkr.)	3/5/1	10/24/3	01-20692	WBNY	cf. A:72§1	A:565
2.	<i>Pfuntner v. Trustee Gordon et al.</i> (AdvP)	9/27/2	pending	02-2230	WBNY	A:70	A:1551
3.	<i>Cordero v. Trustee Gordon</i>	1/15/3	3/27/3	03cv6021L	WDNY	A:158	A:458
4.	<i>Cordero v. Palmer</i>	2/4/3	3/27/3	03mbk6001L	WDNY	A:314	A:462, but see ToEA:156>A:462b
5.	<i>In re Premier Van et al.</i>	5/2/3	1/26/5dism'd	03-5023	CA2	C:169	C:422
6.	<i>In re Richard Cordero</i> (mandamus)	9/12/3	denied 10/8/3	03-3088	CA2	A:615	A:665g
7.	<i>Misconduct complaint v. Bkr. J. Ninfo, WBNY</i>	9/2/3	6/8/4 dism'd	03-8547	CA2	C:1, 63; E:1	ToEC§§A,D
8.	<i>Misconduct complaint v. Chief J. Walker, CA2</i>	3/30/4	9/24/4dism'd	04-8510	CA2	C:271	ToEC:§§B,F
9.	<i>Cordero v. Trustee Gordon et al.</i>	1/27/5	cert. denied	04-8371	SCt	A:1601	A:2229
10.	<i>In re David & Mary Ann DeLano</i> (Ch. 13 bkr.)	1/27/4	on appeal	04-20280	WBNY	cf.C:1295§§A-B	D:496
11.	<i>Cordero v. DeLano</i>	4/22/5	on appeal	05cv6190L	WDNY	Pst:1231	Pst:1181
12.	<i>Dr. Richard Cordero v. David & Mary DeLano</i>	10/16/6	pending	06-4780	CA2		CA2_dkt

*This is page 1 of the Tables both of entries describing the exhibits supporting the Statement of Facts & of comments thereon.

Tbl of C:# pages supporting JDR's call of 8/1/6 for class action and virtual firm of lawyers & investigators ToEC:1

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	Date Case Filed(or Converted): January 27, 2004	Soc Sec/Tax Id Nos: 077-32-3894 091-36-0517
AKA:		
Joint: MARY ANN DELANO 1262 SHOECRAFT ROAD WEBSTER, NY 14580		

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, ESC 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. Trustee's 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

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.N13N02 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

AFFA

CERTIFICATE OF MAILING

CASE: 0420280 TRUSTEE: 63
TASK: 02-02-2004.00111358.N13N02

COURT: 146
DATED: 02/03/2004

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. Marton*

RCM - 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														
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>															
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"/>				
\$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"/>													
Estimated Debts																				
<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"/>				
\$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
---	--

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

Signature(s) of Debtor(s) (Individual/Joint)

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.

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

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

 Telephone Number (If not represented by attorney)

January 26, 2004
 Date

Exhibit A

(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)

Exhibit A is attached and made a part of this petition.

Exhibit B

(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.

/s/ Christopher K. Werner, Esq. January 26, 2004
 Signature of Attorney for Debtor(s) Date
 Christopher K. Werner, Esq.

Exhibit C

Does the debtor own or have possession of any property that poses a threat of imminent and identifiable harm to public health or safety?

Yes, and Exhibit C is attached and made a part of this petition.
 No

Signature of Attorney

/s/ Christopher K. Werner, Esq.
 Signature of Attorney for Debtor(s)
Christopher K. Werner, Esq.
 Printed Name of Attorney for Debtor(s)
Boylan, Brown, Code, Vigdor & Wilson, LLP
 Firm Name
2400 Chase Square
Rochester, NY 14604
 Address
585-232-5300
 Telephone Number
January 26, 2004
 Date

Signature of Non-Attorney Petition Preparer

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.

 Printed Name of Bankruptcy Petition Preparer

 Social Security Number (Required by 11 U.S.C. § 110(c).)

 Address

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:

Signature of Debtor (Corporation/Partnership)

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.

 Signature of Authorized Individual

 Printed Name of Authorized Individual

 Title of Authorized Individual

 Date

 Signature of Bankruptcy Petition Preparer

 Date

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.

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

(Report also on Summary of Schedules)

0 continuation sheets attached to the Schedule of Real Property

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
<u>Real Property</u>			
1262 Shoecraft Road, Webster (value per appraisal 11/23/03)	NYCPLR § 5206(a)	20,000.00	98,500.00
<u>Household Goods and Furnishings</u>			
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
<u>Books, Pictures and Other Art Objects; Collectibles</u>			
misc books, misc wall decorations, family photos, family bible	NYCPLR § 5205(a)(2)	100.00	100.00
<u>Wearing Apparel</u>			
misc wearing apparel	NYCPLR § 5205(a)(5)	50.00	50.00
<u>Furs and Jewelry</u>			
wedding rings, wrist watches	NYCPLR § 5205(a)(6)	100.00	100.00
<u>Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans</u>			
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
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u>			
1993 Chevrolet Cavalier 70,000 miles	Debtor & Creditor Law § 282(1)	1,000.00	1,000.00

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
(Report on Summary of Schedules)

87,369.49

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.

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 "Code debtor", include the entity on the appropriate schedule of creditors, and complete Schedule H - Code debtors. 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 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				
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				
Account No. 4262 519 982 211 Bank One Cardmember Services P.O. Box 15153 Wilmington, DE 19886-5153	H		1990 and prior Credit card purchases			9,876.49
Account No. 4388-6413-4765-8994 Capital One P.O. Box 85147 Richmond, VA 23276	H		2001- 8/03 Credit card purchases			449.35
Account No. 4862-3621-5719-3502 Capital One P.O. Box 85147 Richmond, VA 23276	H		2001 - 8/03 Credit card purchases			460.26
Account No. 4102-0082-4002-1537 Chase P.O. Box 1010 Hicksville, NY 11802	W		1990 and prior Credit card purchases			10,909.01
Account No. 5457-1500-2197-7384 Citi Cards P.O. Box 8116 South Hackensack, NJ 07606-8116	W		1990 and prior Credit card purchases			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 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				
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	AMOUNT OF CLAIM
		H W J C				
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.

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

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. GS:37

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
--------	--------

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
---	-----------------	-------------	--------------------

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
--	-----------------	-----------------------------------

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
--	--	-----------------------------------

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
------------------------------	--------------------	-----------------------------------

- 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
-------------------------------	--	---------------	-----------------------------------

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 I.D. 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
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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
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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
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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
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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)
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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
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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
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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
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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
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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

**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

Western District of New York Claims Register

2-04-20280-JCN David G. DeLano and Mary Ann DeLano

Judge John C. Ninfo, II

Debtor Name: DELANO, DAVID G.

Claim No: 1	<i>Creditor Name:</i> Bank of America N.A. PO Box 2278 Norfolk, VA 23501-2278	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> Late: N
<i>Claim Date:</i> 02/09/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$3335.08	
Total	\$3335.08	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 2	<i>Creditor Name:</i> Citi Cards P.O. Box 3671 Urbandale, IA 50323	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> Late: N
<i>Claim Date:</i> 02/17/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$3970.30	
Total	\$3970.30	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 3	<i>Creditor Name:</i> Discover Bank Discover Financial Services PO Box 8003 Hilliard, OH 43026	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> Late: N
<i>Claim Date:</i> 02/19/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed

Unknown	\$5755.97	
Total	\$5755.97	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 4	<i>Creditor Name:</i> Chase Manhattan Bank USA, NA by eCast Settlement Corporation, as agent P.O. Box 35480 Newark, NJ 07193-5480	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 02/27/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$11616.06	
Total	\$11616.06	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 5	<i>Creditor Name:</i> HSBC Bank USA PO Box 4215 Buffalo, NY 14273-4215	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 02/23/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$9447.80	
Total	\$9447.80	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 6	<i>Creditor Name:</i> Wells Fargo Financial New York, Inc. 4137 121st Street Urbandale, IA 50323	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 02/24/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$980.22	

Total	\$980.22	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 7	<i>Creditor Name:</i> MBNA America Bank NA eCast Settlement Corporation PO Box 35480 Newark, NJ 07193-5480	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 03/05/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$6812.31	
Total	\$6812.31	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 8	<i>Creditor Name:</i> Capital One Auto Finance P.O. Box 260848 Plano, TX 75026	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 03/08/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$10753.28	
Total	\$10753.28	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 9	<i>Creditor Name:</i> Genesee Regional Bank f/k/a Lyndon Guaranty Bank 3380 Monroe Avenue Rochester, NY 14618	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 03/12/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$76300.71	
Total	\$76300.71	

<i>Description:</i>
<i>Remarks:</i>

Claim No: 10	<i>Creditor Name:</i> Bank One Delaware, NA fka First USA c/o Weinstein, Treiger & Riley, P.S. 2101 4th Avenue, Suite 900 Seattle, WA 98121	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 03/15/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$10203.24	
Total	\$10203.24	

<i>Description:</i>
<i>Remarks:</i>

Claim No: 11	<i>Creditor Name:</i> MBNA America Bank, N.A. by eCast Settlement Corporation, its agent PO Box 35480 Newark, NJ 07193-5480	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 03/15/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$3931.23	
Total	\$3931.23	

<i>Description:</i>
<i>Remarks:</i>

Claim No: 12	<i>Creditor Name:</i> MBNA America Bank, N.A. by eCast Settlement Corporation, its agent PO Box 35480 Newark, NJ 07193-5480	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 03/15/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$19272.56	
Total	\$19272.56	

<i>Description:</i>

Remarks:

Claim No: 13	<i>Creditor Name:</i> MBNA America Bank, N.A. by eCast Settlement Corporation, its agent PO Box 35480 Newark, NJ 07193-5480	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 03/15/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$5565.16	
Total	\$5565.16	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 14	<i>Creditor Name:</i> Bank One Delaware, NA fka First USA c/o Weinstein, Treiger & Riley, P.S. 2101 4th Avenue, Suite 900 Seattle, WA 98121	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 03/15/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$5317.97	
Total	\$5317.97	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 15	<i>Creditor Name:</i> Fleet Bank (RI) N.A. and its assigns by eCast Settlement Corporation, agent P.O. Box 35480 Newark, NJ 07193-5480	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 03/18/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$2137.64	
Total	\$2137.64	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 16	<i>Creditor Name:</i> Sherman Acquisition LP Resurgent Capital Services PO Box 10587 Greenville, SC 29603-0587	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 04/15/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$4170.45	
Total	\$4170.45	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 17	<i>Creditor Name:</i> Sherman Acquisition LP Resurgent Capital Services PO Box 10587 Greenville, SC 29603-0587	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 04/15/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$1991.00	
Total	\$1991.00	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 18	<i>Creditor Name:</i> eCast Settlement Corporation, assignee of Associates National Bank P.O. Box 35480 Newark, NJ 07193-5480	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 04/16/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$2227.57	
Total	\$2227.57	
<i>Description:</i>		
<i>Remarks:</i>		

Claim No: 19	<i>Creditor Name:</i> Dr. Richard Cordero 59 Crescent Street Brooklyn, NY 11208-1515	<i>Last Date to File Claims:</i> 06/07/2004 <i>Last Date to File (Govt):</i> <i>Filing Status:</i> <i>Docket Status:</i> <i>Late:</i> N
<i>Claim Date:</i> 05/19/2004	<i>Amends Claim No:</i> <i>Amended By Claim No:</i>	<i>Duplicates Claim No:</i> <i>Duplicated By Claim No:</i>
Class	Amount Claimed	Amount Allowed
Unknown	\$14000.00	
Total	\$14000.00	
<i>Description:</i>		
<i>Remarks:</i> incremented by the capitalized fees paid since 1993, plus		

Claims Register Summary

Case Name: David G. DeLano and Mary Ann DeLano

Case Number: 2-2004-20280-JCN

Chapter: 13

Date Filed: 01/27/2004

Total Number Of Claims: 19

	Total Amount Claimed	Total Amount Allowed
Unsecured		
Secured		
Priority		
Unknown	\$197788.55	
Administrative		
Total	\$197788.55	

PACER Service Center			
Transaction Receipt			
06/23/2004 09:45:27			
PACER Login:		Client Code:	
Description:	SearchClaims	Case Number:	2-04-20280-JCN
Billable Pages:	2	Cost:	0.14

Creditors Matrix

1.	AT&T Universal P.O. Box 8217 South Hackensack, NJ 07606-8217	(cr)
2.	Bank Of America P.O. Box 53132 Phoenix, AZ 85072-3132	(cr)
3.	Bank One Cardmember Services P.O. Box 15153 Wilmington, DE 19886-5153	(cr)
4.	Bank One Delaware, NA fka First USA c/o Weinstein, Treiger & Riley, P.S. 2101 4th Avenue, Suite 900 Seattle, WA 98121	(cr)
5.	Bank of America N.A. PO Box 2278 Norfolk, VA 23501-2278	(cr)
6.	Capital One P.O. Box 85147 Richmond, VA 23276	(cr)
7.	Capital One Auto Finance P.O. Box 260848 Plano, TX 75026	(cr)
8.	Capitol One Auto Finance PO Box 93016 Long Beach, CA 90809-3016	(cr)
9.	Chase Card Member Services PO Box 15650 Wilmington, Delaware 19886-5650	(cr)

10.	Chase Manhattan Bank USA, NA by eCast Settlement Corporation, as agent P.O. Box 35480 Newark, NJ 07193-5480	(cr)
11.	Citi Cards P.O. Box 8116 South Hackensack, NJ 07606-8116	(cr)
12.	Citi Cards P.O. Box 8115 South Hackensack, NJ 07606-8115	(cr)
13.	Citi Cards P.O. Box 3671 Urbandale, IA 50323	(cr)
14.	Citibank USA 45 Congress Street Salem, MA 01970	(cr)
15.	Discover Bank Discover Financial Services PO Box 8003 Hilliard, OH 43026	(cr)
16.	Discover Card P.O. Box 15251 Wilmington, DE 19886-5251	(cr)
17.	Dr. Richard Cordero 59 Crescent Street Brooklyn, NY 11208-1515	(cr)
18.	Fleet Bank (RI) N.A. and its assigns by eCast Settlement Corporation, agent P.O. Box 35480 Newark, NJ 07193-5480	(cr)

19.	Fleet Credit Card Service P.O. Box 15368 Wilmington, DE 19886-5368	(cr)
20.	Genesee Regional Bank 3670 Mt Read Blvd Rochester, NY 14616	(cr)
21.	Genesee Regional Bank f/k/a Lyndon Guarant y Bank 3380 Monroe Avenue Rochester, NY 14618	(cr)
22.	HSBC Bank USA PO Box 4215 Buffalo, NY 14273-4215	(cr)
23.	HSBC MasterCard/Visa HSBC Bank USA Suite 0627 Buffalo, NY 14270-0627	(cr)
24.	MBNA America P.O. Box 15102 Wilmington, DE 19886-5102	(cr)
25.	MBNA America P.O. Box 15137 Wilmington, DE 19886-5137	(cr)
26.	MBNA America Bank NA eCast Settlement Corporation PO Box 35480 Newark, NJ 07193-5480	(cr)

27.	MBNA America Bank, N.A. by eCast Settlement Corporation, its agent PO Box 35480 Newark, NJ 07193-5480	(cr)
28.	Sears Card Payment Center P.O. Box 182149 Columbus, OH 43218-2149	(cr)
29.	Sherman Acquisition LP Resurgent Capital Services PO Box 10587 Greenville, SC 29603-0587	(cr)
30.	Wells Fargo Financial P.O. Box 98784 Las Vegas, NV 89193-8784	(cr)
31.	Wells Fargo Financial New York, Inc. 4137 121st Street Urbandale, IA 50323	(cr)
32.	eCast Settlement Corporation, assignee of Associates National Bank P.O. Box 35480 Newark, NJ 07193-5480	(cr)

PACER Service Center			
Transaction Receipt			
06/23/2004 08:49:29			
PACER Login:		Client Code:	
Description:	Creditor List	Case Number:	2-04-20280-JCN
Billable Pages:	1	Cost:	0.07

5.	Clerks of court	C:1304¶¶35 & 45; D:106, 232§§I & II, 397§1, 416§F, 476, 495; Add:832	Their disregard for the rules that they are supposed to apply shows participation in a pattern of non-coincidental, intentional, and coordinated wrongdoing, for if their actions were simply ‘mistakes’ due to incompetence, then it would be reasonable to expect that half of such ‘mistakes’ would redound to Dr. Cordero’s disadvantage and half to his advantage, rather than all of them consistently have a detriment impact on Dr. Cordero’s procedural and substantive rights.
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Table 3. The DeLanos’ \$673,657 in receipts +\$98,092 in credit card borrowing unaccounted for due to the judges’ refusal to require production of documents supporting their declaration in Schedule B (D:31) that at the time of filing their bankruptcy petition they only had in hand and on account \$535! ([hyperlink bank](#))

Mortgages referred to in the incomplete documents produced by the DeLanos to Trustee Reiber (Add:966§B)		Exhibit page #	Amounts of the mortgages
1) took out a mortgage for \$26,000 in 1975;		D:342	\$26,000
2) another for \$7,467 in 1977;		D:343	7,467
3) still another for \$59,000 in 1988;		D:346	59,000
4) owed \$59,000 to M&T in 1988 and		D:176/9	59,000
5) an overdraft from ONONDAGA Bank for \$59,000;		D:176/10	59,000
6) another mortgage for \$29,800 in 1990,		D:348	29,800
7) even another one for \$46,920 in 1993, and		D:349	46,920
8) yet another for \$95,000 in 1999.		D:350-54	95,000
Subtotal			\$382,187
The DeLanos’ earnings in just the three years preceding their voluntary bankruptcy petition of January 27, 2004			
2001	1040 IRS form (D:186)	\$91,229	\$91,229
2002	1040 IRS form (D:187) Statement of Financial Affairs (D:47)	\$91,859	91,655
2003	1040 IRS form (D:188) Statement of Financial Affairs (D:47)	+97,648	+108,586
to this must be added the receipts contained in the \$98,092 owed on 18 credit cards (D:41; C:1415)		\$280,736*	\$291,470
		TOTAL	\$673,657

* Why do these numbers not match?

For the year Jan 1 - Dec 31, 2001, or other tax year beginning _____, 2001, ending _____, 20

Label (See instructions.)
 Your First Name MI Last Name
David G DeLano
 Your Social Security Number
077-32-3894

If a Joint Return, Spouse's First Name MI Last Name
Mary Ann DeLano
 Spouse's Social Security Number
091-36-0517

Home Address (number and street). If You Have a P.O. Box, See Instructions. Apartment No.
1262 Shoecraft Rd
 City, Town or Post Office. If You Have a Foreign Address, See Instructions. State ZIP Code
Webster NY 14580

▲ Important! ▲
 You must enter your social security number(s) above.

Presidential Election Campaign (See instructions.)
 Do you, or your spouse if filing a joint return, want \$3 to go to this fund? ... Yes No Yes No

Filing Status
 1 Single
 2 Married filing joint return (even if only one had income)
 3 Married filing separate return. Enter spouse's SSN above & full name here ...
 4 Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here ...
 5 Qualifying widow(er) with dependent child (year spouse died ...). (See instructions.)

Exemptions
 6a Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a
 6b Spouse

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> if qualifying child for child tax credit (see instrs)	No. of boxes checked on 6a and 6b	No. of your children on 6c who:
					2	<input type="checkbox"/> lived with you <input type="checkbox"/> did not live with you due to divorce or separation (see instrs) Dependents on 6c not entered above Add numbers entered on lines above
d Total number of exemptions claimed					2	

Income
 7 Wages, salaries, tips, etc. Attach Form(s) W-2 ... **7 90,790.**
 8a Taxable interest. Attach Schedule B if required ... **8a 427.**
 b Tax-exempt interest. Do not include on line 8a ... **8b**
 9 Ordinary dividends. Attach Schedule B if required ... **9 12.**
 10 Taxable refunds, credits, or offsets of state and local income taxes (see instructions) ... **10**
 11 Alimony received ... **11**
 12 Business income or (loss). Attach Schedule C or C-EZ ... **12**
 13 Capital gain or (loss). Attach Schedule D if required. If not required, check here ... **13**
 14 Other gains or (losses). Attach Form 4797 ... **14**
 15a Total IRA distributions ... **15a** b Taxable amount (see instrs) ... **15b**
 16a Total pensions & annuities ... **16a 3,257.** b Taxable amount (see instrs) ... **16b 0.**
 17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E ... **17**
 18 Farm income or (loss). Attach Schedule F ... **18**
 19 Unemployment compensation ... **19**
 20a Social security benefits ... **20a** b Taxable amount (see instrs) ... **20b**
 21 Other income ... **21**
 22 Add the amounts in the far right column for lines 7 through 21. This is your total income ... **22 91,229.**

Adjusted Gross Income
 23 IRA deduction (see instructions) ... **23**
 24 Student loan interest deduction (see instructions) ... **24**
 25 Archer MSA deduction. Attach Form 8853 ... **25**
 26 Moving expenses. Attach Form 3903 ... **26**
 27 One-half of self-employment tax. Attach Schedule SE ... **27**
 28 Self-employed health insurance deduction (see instructions) ... **28**
 29 Self-employed SEP, SIMPLE, and qualified plans ... **29**
 30 Penalty on early withdrawal of savings ... **30**
 31a Alimony paid b Recipient's SSN ... **31a**
 32 Add lines 23 through 31a ... **32**
 33 Subtract line 32 from line 22. This is your adjusted gross income ... **33 91,229.**

BAA For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see instructions. Form 1040 (2001)

Label (See instructions.)

Use the IRS label. Otherwise, please print or type.

Presidential Election Campaign (See instructions.)

For the year Jan 1 - Dec 31, 2002, or other tax year beginning , 2002, ending , 20
Your first name MI Last name David G DeLano
If a joint return, spouse's first name MI Last name Mary Ann DeLano
Home address (number and street). If you have a P.O. box, see instructions. 1262 Shoecraft Road
City, town or post office. If you have a foreign address, see instructions. Webster NY 14580

Note: Checking 'Yes' will not change your tax or reduce your refund. Do you, or your spouse if filing a joint return, want \$3 to go to this fund? You [] Yes [X] No Spouse [] Yes [X] No

Filing Status

Check only one box.

1 [] Single
2 [X] Married filing jointly (even if only one had income)
3 [] Married filing separately. Enter spouse's SSN above & full name here
4 [] Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here
5 [] Qualifying widow(er) with dependent child (year spouse died ...). (See instructions.)

Exemptions

If more than five dependents, see instructions.

6a [X] Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a
6b [X] Spouse
c Dependents:
(1) First name Last name (2) Dependent's social security number (3) Dependent's relationship to you (4) [X] if qualifying child for child tax credit (see instrs)
d Total number of exemptions claimed 2

Income

Attach Forms W-2 and W-2G here. Also attach Form(s) 1099-R if tax was withheld.

If you did not get a W-2, see instructions.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7 Wages, salaries, tips, etc. Attach Form(s) W-2 7 91,655
8a Taxable interest. Attach Schedule B if required 8a 204
b Tax-exempt interest. Do not include on line 8a 8b
9 Ordinary dividends. Attach Schedule B if required 9
10 Taxable refunds, credits, or offsets of state and local income taxes (see instructions) 10
11 Alimony received 11
12 Business income or (loss). Attach Schedule C or C-EZ 12
13 Capital gain or (loss). Att Sch D if reqd. If not reqd, ck here 13
14 Other gains or (losses). Attach Form 4797 14
15a IRA distributions 15a b Taxable amount (see instrs) 15b
16a Pensions and annuities 16a b Taxable amount (see instrs) 16b
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E 17
18 Farm income or (loss). Attach Schedule F 18
19 Unemployment compensation 19
20a Social security benefits 20a b Taxable amount (see instrs) 20b
21 Other income 21
22 Add the amounts in the far right column for lines 7 through 21. This is your total income 22 91,859

Adjusted Gross Income

23 Educator expenses (see instructions) 23
24 IRA deduction (see instructions) 24
25 Student loan interest deduction (see instructions) 25
26 Tuition and fees deduction (see instructions) 26
27 Archer MSA deduction. Attach Form 8853 27
28 Moving expenses. Attach Form 3903 28
29 One-half of self-employment tax. Attach Schedule SE 29
30 Self-employed health insurance deduction (see instructions) 30
31 Self-employed SEP, SIMPLE, and qualified plans 31
32 Penalty on early withdrawal of savings 32
33a Alimony paid b Recipient's SSN 33a
34 Add lines 23 through 33a 34
35 Subtract line 34 from line 22. This is your adjusted gross income 35 91,859

Label (See instructions.)

Use the IRS label. Otherwise, please print or type.

Presidential Election Campaign (See instructions.)

For the year Jan 1 - Dec 31, 2003, or other tax year beginning , 2003, ending , 20
Your first name MI Last name David G DeLano
If a joint return, spouse's first name MI Last name Mary Ann DeLano
Home address (number and street). If you have a P.O. box, see instructions. 1262 Shoecraft Road
City, town or post office. If you have a foreign address, see instructions. Webster NY 14580

Note: Checking 'Yes' will not change your tax or reduce your refund. Do you, or your spouse if filing a joint return, want \$3 to go to this fund? You Yes No Spouse Yes No

Filing Status

Check only one box.

1 Single 2 Married filing jointly (even if only one had income) 3 Married filing separately. Enter spouse's SSN above & full name here 4 Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here 5 Qualifying widow(er) with dependent child. (See instructions.)

Exemptions

If more than five dependents, see instructions.

6a Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a
b Spouse
c Dependents: (1) First name Last name (2) Dependent's social security number (3) Dependent's relationship to you (4) if qualifying child for child tax credit (see instrs)
d Total number of exemptions claimed 2

Income

Attach Forms W-2 and W-2G here. Also attach Form(s) 1099-R if tax was withheld.

If you did not get a W-2, see instructions.

ROLLOVER

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7 Wages, salaries, tips, etc. Attach Form(s) W-2 7 96,821.
8a Taxable interest. Attach Schedule B if required 8a 17.
b Tax-exempt interest. Do not include on line 8a 8b
9a Ordinary dividends. Attach Schedule B if required 9a
b Qualified divs (See instrs) 9b
10 Taxable refunds, credits, or offsets of state and local income taxes (see instructions) 10
11 Alimony received 11
12 Business income or (loss). Attach Schedule C or C-EZ 12
13a Capital gain or (loss). Att Sch D if reqd. If not reqd, ck here 13a
b If box on 13a is checked, enter post-May 5 capital gain distributions 13b
14 Other gains or (losses). Attach Form 4797 14
15a IRA distributions 15a b Taxable amount (see instrs) 15b
16a Pensions and annuities 16a 519. b Taxable amount (see instrs) 16b 0.
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E 17
18 Farm income or (loss). Attach Schedule F 18
19 Unemployment compensation 19 810.
20a Social security benefits 20a b Taxable amount (see instrs) 20b
21 Other income 21
22 Add the amounts in the far right column for lines 7 through 21. This is your total income 22 97,648.

Adjusted Gross Income

23 Educator expenses (see instructions) 23
24 IRA deduction (see instructions) 24
25 Student loan interest deduction (see instructions) 25
26 Tuition and fees deduction (see instructions) 26
27 Moving expenses. Attach Form 3903 27
28 One-half of self-employment tax. Attach Schedule SE 28
29 Self-employed health insurance deduction (see instrs) 29
30 Self-employed SEP, SIMPLE, and qualified plans 30
31 Penalty on early withdrawal of savings 31
32a Alimony paid b Recipient's SSN 32a
33 Add lines 23 through 32a 33
34 Subtract line 33 from line 22. This is your adjusted gross income 34 97,648.

BAA For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see instructions.

February 16, 2005

George M. Reiber, Esq.
3136 South Winton Road
Rochester, New York 14623

Re: David G. and Mary Ann DeLano, Case No. 04-20280

Dear Mr. Reiber:

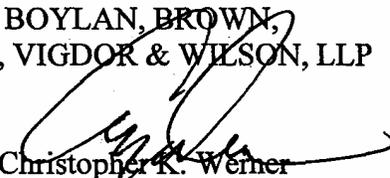
Pursuant to your request at the adjourned 341 Hearing, enclosed please find a copy of the relevant portion of Mr. and Mrs. DeLano's Abstract of Title for the period of the purchase of their home at 1262 Shoecraft Road, Penfield, New York in 1975, through their Lyndon Guaranty refinance of April 23, 1999. We also enclose the HUD-1 Settlement Statement, together with their attorney's Closing Statement.

It appears that the 1999 refinance paid off the existing M&T first mortgage and home equity mortgage and provided cash proceeds of \$18,746.69 to Mr. and Mrs. DeLano. Of this cash, \$11,000.00 was used for the purchase of an automobile, as indicated. Mr. DeLano indicates that the balance of the cash proceeds was used for payment of outstanding debts, debt service and miscellaneous personal expenses. He does not believe that he has any details in this regard, as this transaction occurred almost six (6) years ago.

Please advise what, if anything, further you require.

Very truly yours,

**BOYLAN, BROWN,
CODE, VIGDOR & WILSON, LLP**


Christopher K. Werner

CKW/trm
Enclosures

cc: Richard Cordero (w/ enclosures)

4. Church of the Holy Spirit
of Penfield New York

Warranty Deed

-To-

Dated July 16, 1975
Ack. same day
Rec. same day at 12:18 P.M.

David G. DeLano and
Mary Ann DeLano, his wife
(2nd parties not certified)

Liber ~~4865~~¹²² of Deeds, page ~~188~~

Conveys same as #1 with same interest in and to
Shoecraft Road and subject to same easements, covenants
and restrictions.

Being the same premises conveyed to first party by
Liber 3679 of Deeds, page 489.

This deed executes pursuant to a court order signed
by Hon. Joseph G. Fritsel, Justice of the Supreme Court on
July 15, 1975 and filed in Monroe County Clerk's Office
July 16, 1975.

Contains Lien Fund Clause.

Revenue Stamps for \$35.75 affixed.

Note: Order of the Supreme Court dated July 15,
1975 is recorded herewith.

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5.

David G. DeLano and
Mary Ann DeLano, his wife

Mortgage to secure \$26,000.00
Part Purchase Price

CORRECTLY DISCHARGED OF RECORD
6-13-88 1418 Dis 320

-To-

BY Wtzel

Dated July 16, 1975
Ack. same day
Rec. same day at 12:18 P.M.

Columbia Bank and Loan Association
and Loan Association

PER CAS

Liber ~~4000~~ of Mortgages, page 196

Conveys same as #1 together with same interest
in Shoecraft Road and subject to same easements, covenants
and restrictions.

ma
3/10/88

6.

David G. DeLano

Mortgage to secure \$7,467.18

Mary Ann DeLano

CORRECTLY DISCHARGED OF RECORD

Dated November 30, 1977

-To- 6-14-88 1419 Dis 142

Ack. same day

BY Mtse

Rec. December 1, 1977 at 10:39 AM

Columbia Banking, Saving
and Loan Association
COLONY ABSTRACT CORP

Liber 4488 of Mortgages, page 152

PER CAB

Conveys same premises as No. 1.

Subject to all covenants, easements and restrictions of record, if any, affecting said premises.

Being the same premises conveyed to the first parties by deed recorded in Monroe County Clerk's Office in Liber 4865 of Deeds, page 122.

*ma
3/10/88*

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PUBLIC ABSTRACT CORPORATION

A corporation duly established under the Laws of the State of New York, in consideration of one or more dollars to it paid, hereby Certifies to the record owners of an interest in or specific lien upon the premises hereinafter referred to or described that it has examined the Grantor and Mortgagor Indexes to the Records in the office of the Clerk of the County of Monroe, in the State of New York, for Deeds of Conveyance, Wills, Powers of Attorney and Revocations thereof, Mortgages, Indexes for General Assignments, Affidavits of Foreclosure, assignments of Mortgages, Sheriff's Certificates of Sales, Homestead Exemptions, Lien Book of Welfare Commissioners, Miscellaneous Records, Orders Appointing Receivers, Mortgage Book of Loan Commissioners of the United States Deposit Fund, Leases, Contracts, Notices of Pendency of Action, State Criminal Surety Bond Liens, Individual Surety Bond Lien Docket and Index of Incompetencies, and also the indexes to estates in the office of the Surrogate of said County, against the names of the parties appearing in the foregoing Abstract of Title as owning or having an interest in the premises hereinafter described, during the record period

of such ownership respectively from and including the date October 5, 1965.....
.....
to the date hereof.

And that it finds the items set forth in the foregoing Abstract of Title, and nothing more, and that said items are correctly set forth, and that there is nothing more in said indexes which appears to affect the premises or any part thereof, described in Liber 3679.....
of Deeds....., at page 489..... in said Clerk's Office, set forth in said Abstract of Title in No. 1..... on the margin hereof (except liens or incumbrances correctly discharged of record.)

3..... NUMBERS.

And **PUBLIC ABSTRACT CORPORATION** further Certifies that no judgment appears upon the docket books to have been docketed during the last 10 years, and no Collector's Bond filed and indexed during the last 20 years, and no Financing Statements affixed to Real Property indexed during the last 5 years, and no Federal Tax Lien filed and indexed during the last six years and one month, Lien or Lien Bond filed and indexed during the last year, in said Clerk's Office, against any of the persons who appear from the foregoing Abstract of Title to have held any title to said premises during said periods, which is a lien on said premises, except as correctly set forth in said Abstract of Title; that the items set forth in the foregoing Abstract of Title, including those taken from the records and files of the office of the Surrogate of Monroe County, are correctly abstracted.

and also Certified for
Mechanic's Liens indexed
during the past year.

In Witness Whereof, the Corporation has caused these presents to be signed by an Authorized Officer, this 10th day of June..... 19 75 at 8:59 o'clock A. M.

PUBLIC ABSTRACT CORPORATION

No. 13735.....
By Donald Nastasi Authorized Officer
Abstracted by D. Nastasi.....

Continued by B.J. Fischette..... for premises at
No. 1 with Nos. 4 and 5 added......

and redated July 16,..... 19 75 at 12:18P. M..... and re-issued.

Bernard J. Fischette Authorized Officer

(over)

ABSTRACT OF TITLE

-TO-

PART LOT #45

TOWNSHIP 13, RANGE 4

EAST SIDE SHOECRAFT ROAD

TOWN OF PENFIELD

MAPS:

Hopkins Atlas, Volume 5, Plate 13

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1.

David G. DeLano and Mary Ann DeLano Mortgage to secure \$7,467.18

CORRECTLY DISCHARGED OF RECORD

-To- 6-14-88 1419 Dis 142 Dated November 30, 1977
Ack. same day
Rec. December 1, 1977

BY M. J. Jell
Columbia Banking and Loan Association, Saving and Loan Association
COLONY ABSTRACT CORP Liber 4488 of Mortgages, page 152

Conveys ~~PER 1 that tract or parcel~~ of land situate in the Town of Penfield, County of Monroe and State of New York, being a part of Lot No. 45, Township 13, Range 4, commencing at a point on the east street line of Shoecraft Road a distance of 1085.36 feet northerly from a point where the north street line of State Road intersects the east street line of Shoecraft Road; thence in an easterly direction making an interior angle of 90° with the east street line of Shoecraft Road, a distance of 200 feet; thence in a southerly direction making an interior angle of 90° with the last described course, a distance of 100 feet; thence in a westerly direction making an interior angle of 90° with the last described course a distance of 200 feet to the east line of Shoecraft Road; thence in a northerly direction along the east street line of Shoecraft Road a distance of 100 feet to the point and place of beginning. X

Also hereby intending to mortgage any and all interest that the mortgagor may have in and to the bed of Shoecraft Road.

Subject to all covenants, easements and restrictions of record if any affecting said premises.

Being the same premises conveyed to the mortgagors herein by Deed dated July 16, 1975 and recorded in Monroe County Clerk's Office on July 16, 1975 in Liber 4865, page 122.

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3-30-99*

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David G. DeLano
Mary Ann DeLano, his wife

Mortgage to secure \$59,000.00

to

Dated: March 29, 1988

Ack: same day

Rec: same day @ 4:14 PM

Columbia Banking Federal
Savings and Loan Association

Liber 8682 of Mortgages, page
81

Conveys same premises as #1.

Subject to covenants, easements and restrictions of record.

Being same premises conveyed by deed recorded in Monroe County
Clerk's Office in Liber 4865 of Deeds, page 122.

#33516

ABSTRACT OF TITLE

- TO -

LOT #9

ROMAN CREST SUBDIVISION

1262 SHOECRAFT ROAD

TOWN OF PENFIELD

MAPS: HOPKINS ATLAS, VOLUME 5, PLATE 13

FOUR CORNERS ABSTRACT CORPORATION

1.

David G. DeLano
Mary Ann DeLano,
husband and wife

- TO -

Columbia Banking Federal
Savings and Loan Association

Mortgage
To Secure: \$59,000.00
Dated: March 29, 1988
Ack: Same Date
Rec: March 29, 1988
Liber 8682 of Mortgages, page 81
Mortgage#: CE033444

Covers [^]ALL THAT TRACT OR PARCEL OF LAND, situate in the
Town of Penfield, _vCounty of Monroe, and State of New York, being a part of
Lot No. 45, Township 13, Range 4, commencing at a point on the east street line
of Shoecraft Road a distance of 1085.36 feet northerly from a point where the
north street line of State Road intersects the east street line of Shoecraft Road;
thence in an easterly direction making an interior angle of 90° with the east street
line of Shoecraft Road, a distance of 200 feet; thence in a southerly direction
making an interior angle of 90° with the last described course, a distance of 100
feet; thence in a westerly direction making an interior angle of 90° with the last
described course a distance of 200 feet to the east line of Shoecraft Road; thence
in a northerly direction along the east street line of Shoecraft Road a distance of
100 feet to the point and place of beginning. _x

Subject to all covenants, easements and restrictions of record, if any, affecting said premises.

Being the same premises conveyed to the Mortgagors herein by Deed dated July 16, 1975 and recorded in the Monroe County Clerk's Office in Liber 4865 of Deeds, page 122.

2.

David G. DeLano
Mary Ann DeLano

Mortgage
To Secure: \$29,800.00
Dated: September 13, 1990
Ack: Same Date
Rec: September 14, 1990
Liber 10363 of Mortgages, page 38
Mortgage#: CH016334

- TO -

Central Trust Company
~~BY~~ *dlb*
FOUR CORNERS ABSTRACT
BY *dlb* Covers same as #1.

FOUR CORNERS ABSTRACT CORPORATION

3.

Columbia Banking Federal
Savings and Loan Association

Assignment of Mortgage
Dated: November 26, 1991
Ack: Same Date
Rec: December 27, 1991
Liber 893 of Assignments of Mortgages,
page 402
Mortgage#: N/A

- TO -

Federal Home Loan Mortgage
Corporation

Assigns mortgage at #1.

4.

David G. DeLano
Mary Ann DeLano

- TO -

Manufacturers and Traders Trust
Company

Mortgage
To Secure: \$46,920.60
Dated: December 13, 1993
Ack: Same Date
Rec: December 27, 1993
Liber 12003 of Mortgages, page 507
Mortgage#: CK039604

Covers same as #1.

FOUR CORNERS ABSTRACT CORPORATION

5.

David G. Delano and
Mary Ann Delano

- TO -

Lyndon Guaranty Bank of New
York

Mortgage

To Secure: \$95,000.00

Dated: April 23, 1999

Ack: Same Date

Rec: April 28, 1999 @ 10:31 a.m.

Liber 14410 of Mortgages, page 132

Mortgage#: CQ002917

Covers same as #1.

FOUR CORNERS ABSTRACT CORPORATION

MORTGAGE CLOSING STATEMENT

Date: April 23, 1999

File No: LYN05-0125

Property: 1262 Shoecraft Road, Town of Penfield

Mortgagors: David G. Delano and Mary Ann Delano

Amount of Mortgage: \$95,000.00

Rate: 8.5%

LOAN CLOSING EXPENSES

To: Lyndon Guaranty Bank of New York

Interest for 4/28/99 - 4/30/99	\$ 67.29
Flood Certification Fee	22.50
Tax Service Fee	75.00
Tax and Insurance Escrow	1,527.24

\$1,692.03

To: Monroe County Clerk

Mortgage Tax	\$ 687.50*
Record Mortgage	55.00
Record Discharge of Mortgages (3)	49.50

\$ 792.00

To: Four Corners Abstract

Title Insurance	\$ 485.00
Redate Abstract	75.00

\$ 560.00

To: Gullace & Weld

Attorney fees

\$ 400.00

(2)

To: M&T Bank	
Payoff Home Equity #23764242001	\$20,032.14
To: M&T Mortgage Corp.	
Mortgage Payoff #920182-3	<u>\$52,777.14</u>
	TOTAL
	\$76,253.31

We Acknowledge Receipt of the Proceeds of said Loan and direct that they be disbursed as follows:

<u>As above</u>	\$76,253.31
<u>David G. Delano and Mary Ann Delano</u>	<u>18,746.69</u>
TOTAL	<u><u>\$95,000.00</u></u>

David G. Delano

Mary Ann Delano

***Mortgagee Tax \$237.50**

**U.S. Department of Housing and Urban Development
Optional Form for Transactions without Sellers**

Name & Address of Borrower: DAVID G. DELANO MARY ANN DELANO 1262 SHOECRAFT ROAD WEBSTER, NY 14580	Name & Address of Lender: LYNDON GUARANTY BANK OF NEW YORK 3670 MT. READ BOULEVARD ROCHESTER NY 14616
Property Location: (if different from above) 1262 SHOECRAFT ROAD PENFIELD, NY 14580	Settlement Agent: GULLACE & WELD Place of Settlement: 1800 MAR MDLND PLZ ROCHESTER, NY 14604
Loan Number:	Settlement Date: APRIL 23, 1999

L. Settlement Charges	M. Disbursement to Others
800. Items Payable In Connection with Loan	
801. Loan Origination Fee 0.000 %	1501. M&T BANK - PAYOFF MO 52,777.14
802. Loan Discount 0.000 %	1502. M&T BANK - HOME EQUI 20,032.14
803. Appraisal Fee to \$ (POC)	1503.
804. Credit Report to \$ (POC)	1504.
805. Lender's Inspection Fee to:	1505.
806. Mortgage Insurance Application Fee to:	1506.
807. Assumption Fee	1507.
808. Tax Service Contract to: 75.00	1508.
809. Underwriting Fee	1509.
810. Administration Fee	1510.
811. Application Fee 0.00	1511.
812. Commitment Fee	1512.
813. Warehouse Fee/Interest Differential	1513.
814. Yield Spread Premium \$ (POC)	1514.
815. Service Release Premium \$ 0.00 (POC)	1515.
816. Origination Fee Due Broker 0.00	1520. TOTAL DISBURSED (enter on line 1603) 72,809.28
817. FHA Upfront MIP/VA Funding Fee	
818. FLOOD CERTIFICATION FEE 22.50	
819.	
820.	
821.	
822.	
823.	
824.	
825.	
900. Items Required by Lender to be Paid in Advance	
901. Interest from 4/28/99 to 4/30/99 @ \$ 22.43 per day 67.29	
902. Mortgage Ins. Premium for months to	
903. Hazard Ins. Premium for year(s) to	
904. Flood Ins. Premium for year(s) to	
905.	
1000. Reserves Deposited with Lender	
1001. Hazard Insurance 2 months @ \$ 29.92 per month 59.84	
1002. Mortgage Insurance months @ \$ per month	
1003. City Property Taxes months @ \$ per month	
1004. County Property Taxes 7 months @ \$ 77.88 per month 545.16	
1005. Annual Assessments months @ \$ per month	
1006. Flood Insurance months @ \$ 0.00 per month 0.00	
1007. SCHOOL 10 months @ \$ 138.38 per month 1,383.80	
1008. months @ \$ per month	
1009. Aggregate Analysis Adjustment -461.56	
1100. Title Charges	
1101. Settlement or Closing Fee to	
1102. Abstract or Title Search to FOUR CORNERS ABST 75.00	
1103. Title Examination to	
1104. Title Insurance Binder to	
1105. Document Preparation to	
1106. Notary Fees to	
1107. Attorney's Fees to GULLACE & WELD 400.00	
1108. Title Insurance to FOUR CORNERS ABSTRACT 485.00	
1109. Lender's Coverage \$	
1110. Owner's Coverage \$	
1111.	
1112.	
1200. Government Recording and Transfer Charges	
1201. Recording Fees; Deed \$;Mtg \$ 55.00 ;Rel \$ 49.50 104.50	
1202. City/County Tax/Stamps; Deed \$;Mtg \$	
	N. NET SETTLEMENT

818. FLOOD CERTIFICATION FEE	22.50		
819.		1510.	
820.			
821.		1511.	
822.			
823.		1512.	
824.			
825.		1513.	
900. Items Required by Lender to be Paid in Advance			
901. Interest from 4/28/99 to 4/30/99 @ \$ 22.43 per day	67.29	1514.	
902. Mortgage Ins. Premium for months to			
903. Hazard Ins. Premium for year(s) to		1515.	
904. Flood Ins. Premium for year(s) to			
905.		1520. TOTAL DISBURSED (enter on line 1603)	72,809.28
1000. Reserves Deposited with Lender			
1001. Hazard Insurance 2 months @ \$ 29.92 per month	59.84		
1002. Mortgage Insurance months @ \$ per month			
1003. City Property Taxes months @ \$ per month			
1004. County Property Taxes 7 months @ \$ 77.88 per month	545.16		
1005. Annual Assessments months @ \$ per month			
1006. Flood Insurance months @ \$ 0.00 per month	0.00		
1007. SCHOOL 10 months @ \$ 138.38 per month	1,383.80		
1008. months @ \$ per month			
1009. Aggregate Analysis Adjustment	-461.56		
1100. Title Charges			
1101. Settlement or Closing Fee to			
1102. Abstract or Title Search to FOUR CORNERS ABST	75.00		
1103. Title Examination to			
1104. Title Insurance Binder to			
1105. Document Preparation to			
1106. Notary Fees to			
1107. Attorney's Fees to GULLACE & WELD	400.00		
1108. Title Insurance to FOUR CORNERS ABSTRACT	485.00		
1109. Lender's Coverage \$			
1110. Owner's Coverage \$			
1111.			
1112.			
1200. Government Recording and Transfer Charges			
1201. Recording Fees; Deed \$;Mtg \$ 55.00;Rel\$ 49.50	104.50		
1202. City/County Tax/Stamps: Deed \$;Mtg \$		N. NET SETTLEMENT	
1203. State Tax/Stamps: Deed \$;Mtg \$ 687.50	687.50		
1204.		1600. Loan Amount	95,000.00
1300. Additional Settlement Charges			
1301. Survey to		1601. Plus Cash/Check from Borrower	\$ 0.00
1302. Pest Inspection to			
1303. Architectural/engineering services to		1602. Minus Total Settlement Charges (line 1400)	\$ 3,444.03
1304. Building Permit to			
1305.		1603. Minus Total Disbursements to Others (line 1520)	72,809.28
1306.	0.00		
1307.		1604. Equals Disbursements to Borrower (after expiration of any applicable rescission period required by law)	\$ 18,746.69
1308 WEBSTER	0.00		
1400. Total Settlement Charges (enter on line 1602)	3,444.03		

Borrower(s) Signature(s)
 x *David P. DeLano*

DM

x *May Grudic-Lano*

Form HUD-1A (2/95)
 ref. RESPA

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

February 22, 2005

Mr. George M. Reiber
Chapter 13 Trustee
South Winton Court
3136 S. Winton Road, Suite 206
Rochester, NY 14623

Re: Documents produced by Att. Werner for DeLanos, dkt. no. 04-20280

Dear Trustee Reiber,

I received a copy of the cover letter of 16 instant that Att. Christopher Werner sent you together with some documents. The latter failed to answer the question that was asked at the adjourned 341 meeting on 1 February and that the DeLanos were supposed to answer through document production, namely:

If the DeLanos obtained a mortgage loan of \$32,000 from Monroe Bank in 1976; and another mortgage loan of \$59,000 from M&T Bank in 1988 as well as another mortgage loan of \$59,000 from ONONDAGA Bank in 1988; and yet another mortgage loan for \$95,000 from Genesee Regional Bank, and as stated by them, they made all their installment payments, how is it that they end up 29 years later having a home equity of only \$21,416 and still owe a mortgage debt of \$77,084, as they declared in Schedule A of their petition?

The table below presents the information discussed at the 341 meeting:

The DeLanos' Mortgages

	Source of data	Account holder	Lender	Account no.	Year loan		Amount borrowed
					taken	refinanced	
1.	DeLanos at 341 meeting on 1 Feb 05	D=David D Mary D=M	Monroe Bank	?	1976	1985	\$32,000
2.	Equifax 7/23/4; pg 6	M	M&T Bank	7389 20	03/1988	last activity April 99	\$59,000
3.	Equifax 7/23/4; pg 6	M	ONONDAGA Bank Overdraft:	1958 8200 02	03/1988	last activity Feb 98	\$59,000
4.	Equifax 7/23/4;pg 6	D	Genesee Regional Bank	7732 3892 0006 0002	April 1999	\$70K+ still outstanding	\$95,000

Where did all the money paid go or is?

Far from answering this question, the documents produced only raise many more questions. To begin with, those documents are incomplete, just as were the documents that Att. Werner produced on behalf of the DeLanos on June 14, 2004. In fact, Att. Werner admits their incompleteness when in his cover letter he states that he has produced only "a copy of the *relevant portion* of Mr. DeLano and Mrs. DeLano's Abstract of Title" (emphasis added). Since he is the one making the production and is presumed to know the best evidence rule of Rule 1002 of

the Federal Rules of Evidence, he should know better than to try to prove anything with writings that not only are not the originals, but are also not complete. Consider the following:

1. The first document in the stapled bundle is untitled and begins with “4. Church of the Holy Spirit of Penfield New York”. Thus, it is referred to here as the Church document. It bears the words “Public Abstract Corporation” printed vertically on its left margin. On a second page there is paragraph 6, after which there are no signatures or any other indication that that page is the last one of the document. One can reasonably expect that if the mortgagee wants to enforce this document against the mortgagors, the former would require the latter to sign it somewhere. What this document shows is that somebody wrote the names of the DeLanos on two sheets of paper. This document can hardly be complete. In addition, note that:
 - a) The relation of the Church of the Holy Spirit to the mortgages referred to in paragraphs 5 and 6 is not stated. This is particularly intriguing because paragraph 4 states that “This deed executes pursuant to a court order signed by Hon. Joseph G. Fritsel, Justice of the Supreme Court on July 15, 1975”. Why was a court involved in this transaction and what kind of transaction does this document bear witness to? Where is that court order and what are its terms?
 - b) In paragraph 4 it is printed “Dated July 16, 1975”, but in the left margins of this and the following page it is handwritten “ona 3/10/88”. To add more confusion, in paragraph 6 it is printed “Dated November 30, 1977”. When was this document first and last used and what was it used for?
 - c) Paragraph 5 states “Mortgage to secure \$26,000.00 Part Purchase Price Dated July 16, 1975”, and the other part?, that is, what is the whole of which this is a part? Was there a down payment and, if so, what was its amount and where did the money come from?
 - d) Moreover, paragraph 6 states “Mortgage to secure \$7,467.18 Dated November 30, 1977”. It is quite obvious that paragraphs 5 and 6 refer to two different transactions that took place more than two years apart. Hence, paragraph 5 refers to “Liber 4000 of Mortgages, page 196”, while paragraph 6 refers to “Liber 4488 of Mortgages, page 152”. In addition, how was a mortgage amount arrived at that includes 18¢?
 - e) While at the 341 meeting on February 1, Mr. DeLano stated that it was Monroe Bank that lent the \$32,000 of the mortgage taken in 1976, paragraphs 5 and 6 of this document refers to Columbia Bank, Saving, and Loan Association, yet another party that had never been mentioned previously. So what was the role of Monroe Bank in all these transactions and since when?
2. The document titled “Public Abstract Corporation” –PAC hereinafter- states at the bottom “over” but the back of that page is empty and its continuation is nowhere else. That document is incomplete too.
 - a) PAC refers to “Liber 3679 of Deeds, at page 489”. This is the reference found in paragraph 4 of the Church document, which concerns a “Warranty Deed” and involves the Church of the Holy Spirit. However, there is no express relationship between these two documents.
 - b) This lack of relationship becomes even more pronounced upon noting that PAC was signed on July 16, 1975, while there is written in the margins of the Church document “ona 3/10/88”.

- c) PAC states at the bottom of its single page “for premises at No. 1 with Nos. 4 and 5 added”. What are the premises at No. 1? Where are presumably paragraph “No. 1” and Nos. 2 and 3?
- d) Moreover, since paragraph 6 of the Church document refers to a mortgage “Dated November 30, 1977” and PAC was signed on July 16, 1975, where are paragraph 6 and who knows what other paragraphs of the Church document as it stood all the way to its end on that date of 1975? What kind of mix and match of incomplete documents is this?!
3. There is another document whose first printed line is “U.S. Department of Housing and Urban Development”. It is referred to here as the HUD document and appropriately enough, for how did HUD the institution become involved in any of these mortgages at all? That cannot be fathomed from this document, whose first sequential section is “L. Settlement Charges” and its last is “N. Net Settlement”. This document most likely forms part of something else which was not produced. As a matter of fact, it is titled “Optional Form for Transactions without Sellers”. “Optional” in what kind of standard “Transactions”? Hence, this document is incomplete. It is nonetheless very interesting.
- a) Indeed, the HUD document introduces yet another party that was not mentioned at the 341 meeting, to wit, Lyndon Guaranty Bank of New York, as lender. So when and how did the present holder of the mortgage contract, Genesee Regional Bank, as stated in Schedule D of the DeLanos’ petition, come into the picture? If Genesee was formerly known as Lyndon, where is the document that attests to that change of name so as to exclude that there was a refinancing by Genesee of a mortgage loan originally made by Lyndon?
- b) Something else comes in through the HUD document, for the box “Name & Address of Borrower:” is filled in thus:

David G. DeLano
 Mary Ann DeLano
 1262 Shoecraft Road
 Webster, NY 14580

However, the box “Property Location: (if different from above)” is filled in differently:

David G. DeLano
 Mary Ann DeLano
 1262 Shoecraft Road
Penfield, NY 14580 (emphasis added)

It is reasonable to ask how the DeLanos live in Webster but the property that is the subject of the mortgage is located in Penfield. This brings to mind the Church document, whose first line is “4. Church of the Holy Spirit of Penfield New York”.

- c) The HUD document also shows a quite strange 3.75” square of white space in the middle of the right column. What was that space left empty for? Was it always empty?
- d) The HUD document concerns a loan for \$95,000. Financial institutions, however, rarely make a mortgage loan for 100% of the value of the property that secures it; rather, they make it for less, and depending on the credit rating of the borrower and other debts, even for considerably less. Given the deplorable credit history of the DeLanos as portrayed by each of the credit bureau reports already produced, at what value was this property located in Penfield appraised for this “Settlement” dated “April 23, 1999”?

- e) In this vein, what was being 'settled' by this HUD document?
- f) Neither the HUD document nor the other documents make any reference to the loan of \$59,000 from ONONDAGA Bank.

The above analysis should suffice to show that the documents produced are incomplete. Why their production was made thus needs to be investigated and determined. Obviously, the DeLanos must produce the missing parts; but this time not just as photocopies of what Att. Werner considers "relevant". Rather, the whole **originals** of the documents bearing on mortgages on, and title to, any and all of their real property must be produced and then we make the copies.

The other two documents in the stapled bundle, one by Colony Abstract Corporation consisting of two pages and the other by Four Corners Abstract Corporation with four pages; and the single loose page document titled "Mortgage Closing Statement" raise many more questions. However, the evidence shows that you are neither willing nor able to find the answer to them.

The fact is that for weeks you pretended to be investigating the DeLanos while, as it turned out undisputedly, you were not and first asked for documents by your letter of April 20, 2004, sent at my instigation. You allowed the DeLanos not to produce any documents for months and then conveniently moved to dismiss on June 15, 2004. You have refused to subpoena any documents and have even claimed that you do not know whether you have power to subpoena. When the DeLanos untimely moved to disallow my claim in a transparent attempt to eliminate me from the case, you gave your tacit approval, for handling this case would be so much easier for you too if I were not around requesting that you investigate it, as you are required to do and I am entitled to request that you do under 11 U.S.C. §§704(4) and (7).

When Judge John C. Ninfo, II, suspended every other court proceeding in the case until the DeLanos' motion to disallow is determined and all its appeals are resolved, you pretended to have been thereby forbidden to conduct the adjourned 341 meeting. It took me a lot of effort, time, and money to appeal to all your superiors to get you to agree to hold it; yet you wanted to limit it to one hour, thus disregarding the series of meetings implied by §341. Nor did you object to Judge Ninfo's court proceedings suspension, although it not only lacks any basis in law, but also redounds to the detriment of each and all the other 20 creditors in this case, whose interests you are supposed to represent. Were you true to your duty to them, you would be advocating for me to remain on the case because through my efforts the other creditors stand the chance of being paid 100% of their claims if assets concealed by the DeLanos are found, while without me the creditors will at best get the meager 22¢ on the dollar that the DeLanos propose to pay under their debt repayment plan, with which you are satisfied, for a saving to them of \$144,660 plus all the interest that will not accrue and that they will not have to pay. On whose side are you?

That question is warranted by your attitude at the 341 meeting. There the DeLanos were supposed to be examined by answering the questions of the creditors. Instead, you allowed Att. Werner to force himself to be heard as much as both of the DeLanos, although neither he nor you could provide any basis in law for such conduct, let alone for his micromanaging the meeting under the threat of walking out of it together with the DeLanos if I did not limit myself to shooting questions at the pace he wanted. Nonetheless, you must know, as certainly as Att. Werner does, that a 341 meeting is neither a deposition nor a court proceeding subject to the Federal Rules applicable to an examination in court, nor is it a "341 Hearing", as he mistakenly but revealingly calls it in his February 16 letter.

In fact, creditors are mostly lay people that know little and are not required to know anything about the Federal Rules to attend and participate in such a meeting. They are there just to ask questions as they would in any other setting, except that they are legally entitled to distrust the debtors and treat them as if they had committed fraud. As for you, who are supposed to work “for the benefit of general unsecured creditors whom the trustee represents”, as stated under §704 and its Legislative Report, you were required to adopt that inquisitorial attitude toward the debtors, as is unequivocally provided under §343 in its Statutory Note thus:

The purpose of the examination is to enable creditors and **the trustee** to determine if assets have improperly been disposed of or concealed or if there are grounds for objection to discharge.
(emphasis added)

Far from adopting that legally required attitude, you once more allowed Att. Werner to refuse to produce any documents to account for the scores of thousands of dollars that the DeLanos have charged since “1990 and prior card purchases”, a phrase that they used 15 times in their Schedule F. Incidentally, the word “purchase” is normally used when one buys goods rather than when one pays for services. Since the DeLanos stated that they have not taken a vacation in two years and anyway do not go on expensive vacations or eat out expensively, it is all the more pertinent to ask what goods they bought and where they are. It sounds like a question that stands to reason. They can answer it by producing their credit card statements for the period that they themselves put in play. But you refused my request that they produce them.

Nor is your curiosity as a trustee that must look for ‘improperly disposed of or concealed assets’ any better. It is not piqued by even the fact that for over 15 years the DeLanos have made such credit card purchases without restraint and accumulated a credit card debt of a whopping \$98,092, but at the end of their two worklives, including Mr. DeLano’s 32 years as a bank officer and, as stated in Schedule I, currently as a *loan* officer at M&T Bank, who as such is an expert in managing borrowed money, they claimed in Schedule B that their household goods are worth just \$2,910! That claim defies common sense and should have intrigued you enough to investigate. It is even ludicrous given that the DeLanos earned more than 100 times that amount in just three years, that is, \$291,470 in the 2001-03 fiscal years, according to their petition and the 1040 IRS forms that they produced. Nonetheless, you would not ask them to produce checking and savings account statements of even those recent years to determine their earnings’ whereabouts. You refused my request although today many banks make account statements for the last few years available online and some even accompany them with the images of the cancelled checks, so that it would have been quite easy for the DeLanos to produce and for you to obtain them, not to mention that they have an obligation to keep the statements that they have received.

What is more, you allowed Att. Werner to say repeatedly at the meeting that if I want any such documents, I have to subpoena them myself. However, it is patently obvious that since the DeLanos are petitioning to be permitted to escape having to pay all their debts to the detriment of the creditors, it is their obligation, not the creditors’, to prove that they deserve that permission because their claims in the petition are true and supportive of bankruptcy relief. In addition, it is not my legal responsibility to conduct any investigation of the debtors. It is yours. And how could you have failed to take issue with Att. Werner’s admission that he destroyed documents that the DeLanos provided him for the preparation of their petition? That is a felony so serious that under 18 U.S.C. §1519 it carries a maximum sentence of 20 years in prison! Is it because he destroyed documents that he cannot produce them now?

Likewise, you accepted uncritically the testimony of the DeLanos at the 341 meeting that at present they have only one credit card, namely, the one issued by First Premier Bank that Mr. DeLano uses every three months to pay for his medication, whereas Mrs. DeLano has none at all. However, for more than 15 years they have had scores of credit cards and have used them in a skip and pay pattern so that they have failed to make their minimum payments a staggering 279 times at least. It is highly unlikely that people like them would all of a sudden give up their habit of using credit cards as means of payment, let alone that Mrs. DeLano now pays cash for all her expenses. The implausibility of those statements is corroborated by the facts: The last credit bureau reports requested on July 23 and 26, 2004, show that as of that very month the DeLanos made payments on more than one credit card.

Credit Cards on Which the DeLanos Made Payments Between Just January and July 2004

	Credit reporting agency	Date of report	Person reported on	Credit card issuer	Credit card account no.	Date of last payment & amount if stated in the report
1.	Equifax	July 23, 04	David D.=D	Capital One	4388 6413 4765*	January 2004
2.				Capital One Bank	4862 3621 5719*	February 2004
3.			D	Genesee Regional Bank		June 2004
4.	Equifax	July 23,04	Mary D.=M	Capital One	4862 3622 6671*	February 2004
5.	Experian	July 26, 04	D	Bank of Ohio	4266 8699 5018	May 2004: \$197
6.			D	Bk I TX	4712 0207 0151...	May 2004: \$205
7.			D	Fleet M/C	5487 8900 2018...	May 2004: \$172
8.			D	HSBC Bank USA	5215 3170 0105...	February 04: \$160
9.			D	MBGA/JC Penney	80246...	July 2004: \$57
10.			D	First Premier Bank	4610 0780 0310...	July 2004: \$48
11.	Experian	July 26, 04	M	Fleet M/C	5487 8900 2018...	May 2004: \$172
12.			M	MBGA/JC Penney	80246...	July 2004: \$57
13.	TransUnion	July 26, 04	M	JC Penney/MBGA	1069 9076 5	July 2004

Given that the stay that became effective upon the DeLanos filing their petition in January 2004, barred the credit card issuers from undertaking collection efforts, there would be no reason for the DeLanos to pay old charges. They must have made those payments to their credit cards to keep them current so that they can continue using them.

Now Att. Werner submits these documents, though **1)** incomplete due to his self-serving determination of their relevancy; **2)** incapable of explaining the flow of mortgages over the years and their sediment of equity in the DeLanos' home; and **3)** at odds with information provided by the DeLanos previously. He too should have known better than to submit them, for according to his own statement at the hearing on July 19, 2004, he 'has been in this business for 28 years'. By the same token, he should know that he is subject to the constraints of FRBkrP Rule 9011(b) and to the NY Code of Professional Responsibility: Canons and Disciplinary Rules, in particular DR 7-102, all the time.

So what could possibly have led Att. Werner to think that these documents would pass muster with you, Trustee Reiber? Did he know that you just humored me at the 341 meeting on February 1, but that in the end you would not make on him any requirement other than what could be met with this pretense of a document production? Is he aware that you have a conflict of interests, for on March 8, 2004, you vouched in open court for the good faith of the DeLanos' petition before you ever requested them any supporting document, and now you would incriminate yourself if you were to conduct a proper investigation that demonstrated that the DeLanos have committed fraud, particularly concealment of assets, and that you could have suspected that if only you had read critically their petition, let alone requested of them proof for their implausible and intriguing claims?

If you can assess the character and determination of a person, you must know that, if you do not, I will find evidence for my assertions. It will indict your competency and due diligence, to begin with. This is the moment for you to cut your losses; otherwise, you will dig yourself into a deeper hole from which you will be unable to come out. Therefore, I respectfully request that you:

1. recuse yourself from this case so that an independent trustee, unrelated to the parties, unfamiliar with the case, unhampered by any conflict of interest, and capable of conducting a zealous, competent, and expeditious investigation of the DeLanos be appointed; if you refuse to do so,
2. hire under 11 U.S.C. §327 a highly reputed title search, appraisal, and accounting firm(s) that are unrelated to the parties and with whom neither you nor your attorney, James Weidman, Esq., have ever worked, to investigate the DeLanos' mortgages and real and personal property in order to **a)** establish a chronologically unbroken title to any such property; **b)** determine the value of their equity and outstanding debts; and **c)** *follow the money!*, from the point of its being earned by each of the DeLanos since "1990 and prior credit card purchases" to date;
3. use your power of subpoena, cf. F.R.Bkr.P. Rules 9016 and 2004(a) and (c), and F.R.Civ.P. Rule 45, to subpoena from the respective institutions the following documents:
 - a) current reports from each of the three credit reporting bureaus, namely, Equifax, Experian, and TransUnion; and
 - b) the monthly statements of the DeLano's checking, savings, and debit card accounts, their current balances, and copies of their cancelled checks;
4. request that the DeLanos:
 - a) produce a list of their checking, savings, and debit card accounts since '1990 and prior years' to date, the period that they put in play in Schedule F,
 - b) state the name of the appraiser that appraised their home in November 2003, and his or her address and phone number;
 - c) attend a 341 meeting in the afternoon of Monday, February 28, or the morning of March 1, where they must produce the originals of all the title and mortgage documents that they have and answer questions about those that Att. Werner produced. Please note that the evidentiary hearing on the motion to disallow is scheduled for March 1, at 1:30 p.m.

I would appreciate it if you would call me as soon as possible to discuss this letter and let me know where you stand on the issues raised here and the requests that I have made.

Sincerely,

Dr. Richard Cordero

GEORGE M. REIBER
CHAPTER 13 TRUSTEE
SOUTH WINTON COURT
3136 SOUTH WINTON ROAD
ROCHESTER, NEW YORK 14623

GEORGE M. REIBER
JAMES W. WEIDMAN

February 24, 2005

585-427-7225
FAX 585-427-7804

Christopher K. Werner, Esq.
2400 Chase Square
Rochester, NY 14604

Dear Mr. Werner,

Re: David & Mary Ann Delano BK #04-20280

Thank you for sending me the Abstract information regarding the debtors' property. I note that the 1988 mortgage to Columbia, which later ended up with the government, is not discharged of record or mentioned in any way, shape or form concerning a payoff. What ever happened to that mortgage? According to the Schedules, the only mortgage in existence is the Lyndon mortgage.

Thank you for your cooperation and consideration.

Very truly yours,

GEORGE M. REIBER

GMR/mb
XC: Dr. Richard Cordero (FAX)

March 10, 2005

George M. Reiber, Esq.
3136 South Winton Road
Rochester, New York 14623

Re: David G. and Mary Ann DeLano, Case No. 04-20280

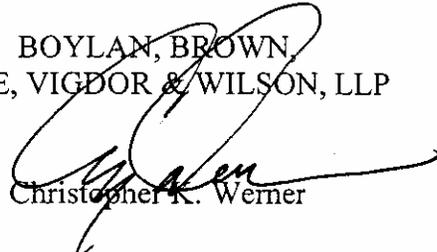
Dear Mr. Reiber:

In response to your letter dated February 24, 2005, we enclose herewith the County Clerk's records of discharge of Columbia Banking mortgages as filed June 13, 1988 and June 14, 1998, together with Discharges of Mortgage by M&T Bank filed April 28, 1999, September 1, 1999 and April 10, 2000, to the extent they may also be relevant.

I have not reviewed the actual documents themselves, but only the electronic records index with the County Clerk. If you think it's necessary, a complete title search will have to be obtained to establish the outstanding liens. Please advise.

Very truly yours,

BOYLAN, BROWN,
CODE, VIGDOR & WILSON, LLP


Christopher K. Werner

CKW/trm
Enclosures

cc: David G. and Mary Ann DeLano
Mr. 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

March 19, 2005

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

Re: David and Mary Ann DeLano, Bkr. dkt. no. 04-20280

Dear Mr. Werner,

I have received a copy of your letter to Trustee George Reiber of 10 instant. However, I did not receive the enclosures. I trust you remember what Trustee Reiber told you in his letter to you of June 16, 2004:

I notice that you did not copy Dr. Cordero in on your correspondence. I will be forwarding him copies of everything you have sent me. In the future, please make sure Dr. Cordero is copied on everything. I do not intend to be a conduit for information being passed between parties in interest.

It is appropriate to note that:

- 1) you refused for months to provide the Trustee and me any documents concerning the DeLanos, so much so that he moved to dismiss "for unreasonable delay";
- 2) subsequently, you failed to produce all the documents requested by Trustee Reiber, as I showed in Table 1 of my letter to you of September 29, 2004;
- 3) you also failed to produce the documents that I requested from you pursuant to his letter to both of us of March 12, 2004; and
- 4) you refused to provide me with even a single document that I requested to defend against your motion to disallow my claim against Mr. DeLano.

Do you think that an objective observer informed of all the facts may find it reasonable to be concerned that you may still be reluctant and even fail to provide me with a copy of all the documents that you or the DeLanos have or that you send to the Trustee?

In this vein, it is appropriate to ask you whether you think that an impartial trier of facts may deem your failure to copy me in on enclosures to the Trustee despite his express instruction for you to do so as evidence that you might not copy your clients on correspondence that I send you.

Therefore, I respectfully request that you send me a list of all the documents that you have sent to Trustee Reiber in connection with his request at the examination of the DeLanos on February 1, including those referred to in the above-mentioned letter to him of March 10, and that you also send me a copy of all such documents themselves.

Sincerely,

Dr. Richard Cordero

March 24, 2005

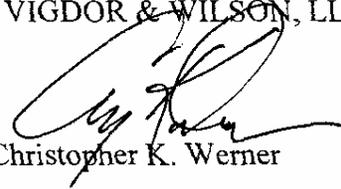
Dr. Richard Cordero
59 Crescent Street
Brooklyn, New York 11208

Re: David G. and Mary Ann DeLano, Case No. 04-20280

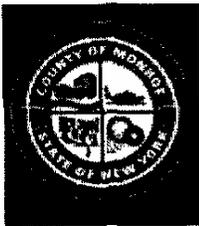
Dear Dr. Cordero:

Enclosed please find copies of the enclosures to our letter to Trustee Reiber of March 10, 2005, which were apparently omitted from your copy of the correspondence. These documents are also a matter of public record and are accessible to the public at the website indicated at the bottom of the documents.

BOYLAN, BROWN,
CODE, VIGDOR & WILSON, LLP


Christopher K. Werner

CKW/trm
cc: David G. and Mary Ann DeLano



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Parties		Property	Notations	Refers To	More Entries	View Image/Purcha	
Name	Party Desc	Party Type	RECORD DT			Reference #1	Reference #2
COLUMBIA BANKING FEDERAL SAVIN	DSCHARGOR	1	19880614	N	N		
Doc Description	Doc Type	Pages	Book/Page	VER?	CHG?		
DSCHG OF MTG	S04	1	S014190142	Y			

DeHano



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Name	Party Desc	Party Type
COLUMBIA BANKING FEDERAL SAVIN	DSCHARGOR	1
DELANO DAVID G	DSCHARGE	2
DELANO MARY ANN	DSCHARGE	2

Click on the Name for Address Information



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Prop Type	Description
4	* L4488 P152



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Parties		Property	Notations	Refers To	More Entries	View Image/Purcha	
Name	Party Desc	Party Type	RECORD DT			Reference #1	Reference #2
COLUMBIA BANKING FEDERAL SAVIN	DSCHARGOR	1	19880613	N	N		
Doc Description	Doc Type	Pages	Book/Page	VER?	CHG?		
DSCHG OF MTG	S04	1	S014180320	Y			



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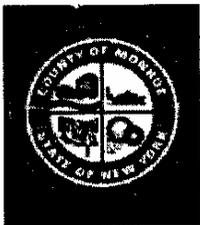
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Party Inquiry Detail Results

Name	Party Desc	Party Type
COLUMBIA BANKING FEDERAL SAVIN	DSCHARGOR	1
DELANO DAVID G	DSCHARGE	2
DELANO MARY ANN	DSCHARGE	2

Click on the Name for Address Information



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Prop Type	Description
4	* L 4000 P 196



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Select one of the options below to Process Information

		Parties	Property	Notations	Refers To	More Entries	View Image/Purcha
Name	Party Desc	Party Type	RECORD DT			Reference #1	Refe #
MANUFACTURERS AND TRADERS TRUS T COMPANY	DSCHARGOR	1	19990428	N	N	M#CH 016334	
Doc Description	Doc Type	Pages	Book/Page	VER?	CHG?		
DSCHG OF MTG	S04	2	S023420479	Y	N		



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Name	Party Desc	Party Type
DELANO DAVID G	DSCHARGE	2
DELANO MARY ANN	DSCHARGE	2
MANUFACTURERS AND TRADERS TRUS T COMPANY	DSCHARGOR	1

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Prop Type	Description
1	00WYC 19990428



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Parties		Property	Notations	Refers To	More Entries	View Image/Purcha	
Name	Party Desc	Party Type	RECORD DT			Reference #1	Refe #
MANUFACTURERS AND TRADERS TRUS T COMPANY	DSCHARGOR	1	20000410	N	N	M#CK 039604	
Doc Description	Doc Type	Pages	Book/Page	VER?	CHG?		
DSCHG OF MTG	S04	2	S024240500	Y	N		



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Name	Party Desc	Party Type
DELANO DAVID G	DSCHARGE	2
DELANO MARY ANN	DSCHARGE	2
MANUFACTURERS AND TRADERS TRUS T COMPANY	DSCHARGOR	1

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Prop Type	Description
1	00LAC 20000410



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		Parties	Property	Notations	Refers To	More Entries	View Image/Purcha		
Name	Party Desc	Party Type	RECORD DT				Reference #1	Refe #	
MANUFACTURERS AND TRADERS TRUS T COMPANY	DSCHARGOR	1	19990901	N	N		M#CE 033444		
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DSCHG OF MTG	S04	2	S023780187	Y	N				



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1	00WYC 19990901

<http://www.clerk.co.monroe.nv.us/CGI-BIN/DB2WWW/NHOME.MBR/DEFAULT?SES...> 2/25/2005

Att. Werner's useless printouts of screenshots of electronic records indexing of Monroe Co. Clerk's office D:491

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

March 29, 2005

Trustee George M. Reiber
South Winton Court
3136 S. Winton Road, Suite 206
Rochester, NY 14623

faxed to 585-427-7804

Re: David and Mary Ann DeLano, Bkr. dkt. no. 04-20280

Dear Trustee Reiber,

I received a copy of the letter that Christopher Werner, Esq., sent you on 10 instant. However, he failed to send me the enclosures. So I wrote to him on March 19 and let him know that by not sending them to me, he had disregarded what you had told him in your letter to him of June 16, 2004:

I notice that you did not copy Dr. Cordero in on your correspondence. I will be forwarding him copies of everything you have sent me. In the future, please make sure Dr. Cordero is copied on everything. I do not intend to be a conduit for information being passed between parties in interest.

Now I have received a letter from him, dated March 24, containing 14 printouts of screenshots of index pages on the website of the Monroe County Clerk's Office, of which I am sending you a copy. I can only assume that they represent a copy of everything in the enclosures that he sent you. But even Att. Werner can realize that they have neither beginning nor ending dates of a transaction, nor transaction amounts, nor property location, nor current status, nor reference to the involvement in the mortgage of the U.S. Department of Housing and Urban Development (HUD), etc. They are useless to prove anything!

Mr. Werner may have realized it, which would explain why he wrote in his letter to you:

I have not reviewed the actual documents themselves, but only the electronic records index with the County Clerk.

That statement does not secure for Att. Werner plausible deniability. What he did send show that those documents are objectively incapable of providing the information that you requested from him. Indeed, in your letter of last February 24 you wrote to him thus:

Thank you for sending me the Abstract information regarding the debtors' property. I note that the 1988 mortgage to Columbia, which later ended up with the government, is not discharged of record or mentioned in any way, shape or form concerning a payoff. What ever happened to that mortgage? According to the Schedules, the only mortgage in existence is the Lyndon mortgage. Thank you for your cooperation and consideration.

In light of your concerns thus expressed, how could Att. Werner think that by not checking the documents and instead sending useless screenshots he was making a reasonably calculated effort to provide the necessary information to put your concerns to rest? Did he expect you to do his homework for him by going to the County Clerk's website to look for "the actual documents themselves" and determine whether they contained the information concerning the mortgage to Columbia and HUD's involvement?

Hence, it is most intriguing that you did not protest to Att. Werner for having sent you those useless screenshots. Did you even look at the documents that he sent you? Did you ever intend to look at them when you expressed your concerns about the DeLanos' mortgages? The foundation for these questions is that 1) only after I faxed to you my letter of February 22 where I pointed out the insufficiency of the documents that Att. Werner had produced with his letter of February 16 did you write to him to express those concerns on February 24; 2) only after I stated my objections of March 4, 2004, to the confirmation of the DeLanos' debt repayment plan and had to keep insisting on the basis of 11 U.S.C. §704(4) and (7) that you obtain supporting documents from them did you ask Att. Werner for any documents whatsoever in your letter of April 20, months after they had filed their petition of January 26, 2004; 3) only after I had to appeal all the way to the Trustees' Office in Washington, D.C; to exercise my right to examine the DeLanos did you give up your refusal to hold such examination; etc. There is a pattern here: Only if I keep pushing you to obtain information do you ask for it. Would it appear to a reasonable person informed of all the circumstances that you rubberstamped the DeLanos' petition and now are asking for documents just to humor me but with no intention to find out what their financial situation is? Are you wasting my effort, time, and money by dragging me through a charade?

These circumstances beg the question whether Att. Werner sent you but not me those documents on March 10 because he expected you not to look at them, let alone notice their uselessness, while he knew that I would. This is supported by the fact that it was I who raised the question about mortgages at the examination of the DeLanos on February 1, 2005, in your office. Then you asked for documents from them and Att. Werner. Mr. DeLano stated that he had those documents at home. You gave them two weeks to produce them. So why do they take two months not to produce them? Why did they send you useless screenshots when they could have sent you copies of the documents that Mr. DeLano admitted he had at home? The answer is that this is part of their pattern of refusal to produce documents and so much so that months after you requested, at my instigation, documents from them and received none, you moved for dismissal on June 15, 2004, for "unreasonable delay".

By now it should be obvious to you too that the delay is not just unreasonable, it is intentional. If the DeLanos were in real financial difficulty so as to justify their filing for bankruptcy and they could establish the good faith of their petition by producing documents that they even admit having at home, it would be irrational for them to be throwing away thousands of dollars in legal fees to have Att. Werner for more than a year withhold those documents and others that you have requested, not to mention all those that I have requested. Their conduct, however, is rational if those documents are so incriminating that out of self-preservation they feel they must conceal them. In so doing, they are only managing to violate time and again the provision at 18 U.S.C §152(8) on 'the concealment or destruction of documents in contemplation of or after filing a bankruptcy petition and relating to the financial affairs of the debtor'.

Just as the DeLanos have chosen to keep compounding their initial fraud in what they chose to state in their petition rather than cut their losses by admitting what they did and bargain for a plea, you, Trustee Reiber, must choose your stance toward the indisputable fact of their concealment of documents. Therefore, I ask once more the same question that I asked at the examination last February:

If the DeLanos obtained a mortgage loan of \$32,000 from Monroe Bank in 1976; and another mortgage loan of \$59,000 from M&T Bank in 1988 as well as another mortgage loan of \$59,000 from ONONDAGA Bank in 1988; and yet another mortgage

loan for \$95,000 from Genesee Regional Bank, and as stated by them, they made all their installment payments, how is it that they end up 29 years later having a home equity of only \$21,416 and still owe a mortgage debt of \$77,084, as they declared in Schedule A of their petition?

The answer is in the documents that they are so intent on not producing. However, the answering documents are not just those relating to mortgages, but also those that show the whereabouts of the money that the DeLanos have earned for so many years, including the \$291,470 in the 2001-03 fiscal years alone, and that today should be reflected in their all but 100% equity in their home at 1262 Shoecraft Road in Webster. If in the 29 years since their 1976 mortgage they have barely managed to acquire ownership of one fifth of their home appraised at \$98,500 in November 2003, what else have they instead managed to acquire?

Therefore, I respectfully request that you:

1. hire under 11 U.S.C. §327 a highly reputed title search, appraisal, and accounting firm(s) that is unrelated to the parties and with whom neither you nor your attorney, James Weidman, Esq., have ever worked, to investigate the DeLanos' mortgages and real and personal property in order to **a)** establish a chronologically unbroken title to **any** such property; **b)** determine the value of their equity and outstanding debts; and **c)** *follow the money!*, from the point of its being earned by each of the DeLanos since "1990 and prior credit card purchases" -the period that they put in play 15 times in Schedule F- to date;
2. request that the DeLanos:
 - a) produce a list of their checking, savings, and debit card accounts since '1990 and prior years' to date; and
 - b) state the name of the appraiser that appraised their home in November 2003, and his or her address and phone number;
3. use your power of subpoena, cf. F.R.Bkr.P. Rules 9016 and 2004(a) and (c), and F.R.Civ.P. Rule 45, to subpoena from the respective institutions the following documents:
 - a) the monthly statements of the DeLano's checking, savings, and debit card accounts, their current balances, and copies of their cancelled checks; and
 - b) current reports from each of the three credit reporting bureaus, namely, Equifax, Experian, and TransUnion;
4. if you are not willing or able not just to ask for, but also obtain the necessary documents, including those already requested but still not produced, recuse yourself from this case so that an independent trustee, unrelated to the parties, unfamiliar with the case, unhampered by any conflict of interest, and capable of conducting a zealous, competent, and expeditious investigation of the DeLanos be appointed; and
5. send me copies of documents that Att. Werner may send you, without prejudice to his obligation to send them directly to me.

I look forward to receiving a written response from you at your earliest convenience.

Sincerely,

Dr. Richard Cordero

<http://uscode.house.gov/download/pls/18C73.txt>

-CITE-

18 USC Sec. 1519

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE

PART I - CRIMES

CHAPTER 73 - OBSTRUCTION OF JUSTICE

-HEAD-

Sec. 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

-STATUTE-

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

-SOURCE-

(Added Pub. L. 107-204, title VIII, Sec. 802(a), July 30, 2002, 116 Stat. 800.)

-End-

-CITE-

11 USC Sec. 704

01/19/04

-EXPCITE-

TITLE 11 - BANKRUPTCY
CHAPTER 7 - LIQUIDATION
SUBCHAPTER I - OFFICERS AND ADMINISTRATION

-HEAD-

Sec. 704. Duties of trustee

-STATUTE-

The trustee shall -

(1) collect and reduce to money the property of the estate for which such trustee serves, and close such estate as expeditiously as is compatible with the best interests of parties in interest;

(2) be accountable for all property received;

(3) ensure that the debtor shall perform his intention as specified in section 521(2)(B) of this title;

(4) investigate the financial affairs of the debtor;

(5) if a purpose would be served, examine proofs of claims and object to the allowance of any claim that is improper;

(6) if advisable, oppose the discharge of the debtor;

(7) unless the court orders otherwise, furnish such information concerning the estate and the estate's administration as is requested by a party in interest;

(8) if the business of the debtor is authorized to be operated, file with the court, with the United States trustee, and with any governmental unit charged with responsibility for collection or determination of any tax arising out of such operation, periodic reports and summaries of the operation of such business, including a statement of receipts and disbursements, and such other information as the United States trustee or the court requires; and

(9) make a final report and file a final account of the administration of the estate with the court and with the United States trustee.

-SOURCE-

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2605; Pub. L. 98-353, title III, Secs. 311(a), 474, July 10, 1984, 98 Stat. 355, 381; Pub. L. 99-554, title II, Sec. 217, Oct. 27, 1986, 100 Stat. 3100.)

1986 - Pub. L. 99-554 struck out "the" after "object to".
1984 - Pub. L. 98-353 struck out "the" before "confirmation of the plan".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 586.

-End-

-CITE-

11 USC Sec. 1325

01/19/04

-EXPCITE-

TITLE 11 - BANKRUPTCY

CHAPTER 13 - ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME

SUBCHAPTER II - THE PLAN

-HEAD-

Sec. 1325. Confirmation of plan

-STATUTE-

(a) Except as provided in subsection (b), the court shall confirm a plan if -

(1) The plan complies with the provisions of this chapter and with the other applicable provisions of this title;

(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;

(3) the plan has been proposed in good faith and not by any means forbidden by law;

(4) the value, as of the effective date of the plan, of property to be distributed under the plan on account of each

<http://uscode.house.gov/download/pls/18C203.txt>

-CITE-

18 USC Sec. 3057

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART II - CRIMINAL PROCEDURE
CHAPTER 203 - ARREST AND COMMITMENT

-HEAD-

Sec. 3057. Bankruptcy investigations

-STATUTE-

(a) Any judge, receiver, or trustee having reasonable grounds for believing that any violation under chapter 9 of this title or other laws of the United States relating to insolvent debtors, receiverships or reorganization plans has been committed, or that an investigation should be had in connection therewith, shall report to the appropriate United States attorney all the facts and circumstances of the case, the names of the witnesses and the offense or offenses believed to have been committed. Where one of such officers has made such report, the others need not do so.

(b) The United States attorney thereupon shall inquire into the facts and report thereon to the judge, and if it appears probable that any such offense has been committed, shall without delay, present the matter to the grand jury, unless upon inquiry and examination he decides that the ends of public justice do not require investigation or prosecution, in which case he shall report the facts to the Attorney General for his direction.

-SOURCE-

(June 25, 1948, ch. 645, 62 Stat. 818; May 24, 1949, ch. 139, Sec. 48, 63 Stat. 96; Pub. L. 95-598, title III, Sec. 314(i), Nov. 6,

1978, 92 Stat. 2677.)

-MISC1-

HISTORICAL AND REVISION NOTES

1948 ACT

Based on section 52(e)(1), (2) of title 11, U.S.C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, Sec. 29e(1), (2), as added by May 27, 1926, ch. 406, Sec. 11, 44 Stat. 665, 666; June 22, 1938, ch. 575, Sec. 1, 52 Stat. 840, 856).

Remaining provisions of section 52 of title 11, U.S.C., 1940 ed., Bankruptcy, constitute sections 151-154, and 3284 of this title.

The words "or laws relating to insolvent debtors, receiverships, or reorganization plans" were inserted to avoid reference to "Title 11".

Minor changes were made in phraseology.

1949 ACT

This section [section 48] clarifies the meaning of section 3057 of title 18, U.S.C., by expressly limiting to laws "of the United States", violations of laws which are to be reported to the United States attorney.

AMENDMENTS

1978 - Subsec. (a). Pub. L. 95-598, Sec. 314(i), substituted "judge" for "referee" and "violation under chapter 9 of this title" for "violations of the bankruptcy laws".

Subsec. (b). Pub. L. 95-598, Sec. 314(i)(1), substituted "judge" for "referee".

1949 - Subsec. (a). Act May 24, 1949, substituted "or other laws of the United States" for "or laws".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by Pub. L. 95-598 not to affect the application of chapter 9 (Sec. 151 et seq.), chapter 96 (Sec. 1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

-TRANS-

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 2 of 1950, Secs. 1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees.

-End-

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DR. RICHARD CORDERO,

Appellant,

DECISION AND ORDER

05-CV-6190L

v.

DAVID DeLANO and MARY ANN DeLANO,

Respondents.

Currently pending with the Court are three motions (Dkts. ##9, 10, and 14) filed by appellant, Richard Cordero ("Cordero"), seeking various relief. The respondents/debtors have responded to the motions by Dkts. ## 12 and 16, as has Mr. Pfuntner (who is not a party to this appeal, but who wished to preserve his rights) by Dkt. #15.

As set forth below, Cordero's motions are denied in their entirety.

By motion filed June 23, 2005 (Dkt. #9), Cordero moves for a stay of an Adversary Proceeding, *Pfuntner v. Gordon et al.*, A.P. No. 02-2230, and to join the parties in *Pfuntner* to this appeal since "their rights and liabilities have already been prejudged." Cordero's motion is denied in all respects. There is no basis in law to support such relief.

By motion filed July 18, 2005 (Dkt. #10), Cordero moves for, *inter alia*, a stay of the confirmation hearing and any subsequent order arising therefrom related to the debt repayment plan

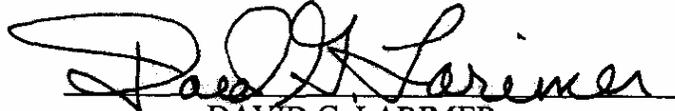
in the underlying Chapter 13 Bankruptcy Case, *In re DeLano*, Case No. 04-20280 (“the DeLano case”). That motion is also denied, as there is no basis to support such relief. In addition, the confirmation hearing has already taken place, and Judge Ninfo has entered an order, dated August 9, 2005, confirming the repayment plan. Moreover, in accordance with Fed. R. Bankr. P. 8005, United States Bankruptcy Judge Ninfo previously denied a stay of the April 4, 2005 Order from which Cordero appeals, because he found that there was little likelihood that Cordero would prevail on the merits of this appeal, there was no public interest involved in the matter, and because the DeLanos and their creditors would be prejudiced by any further delay. The Court sees no reason to disturb Judge Ninfo’s determination.

By Dkt. #10, Cordero also moves for an order withdrawing from the Bankruptcy Court the DeLano case pursuant to 28 U.S.C. § 157(d), an order removing Trustee George Reiber as trustee in the DeLano case pursuant to 11 U.S.C. § 324(a), an order for production of documents, and an order referring the DeLano case to the U.S. Attorney’s Office for investigation pursuant to 18 U.S.C. § 3057(a). These motions are wholly without merit and they are denied in their entirety.

Finally, by motion filed August 31, 2005 (Dkt. #14), Cordero moves to compel the production of documents and for other miscellaneous relief he believes is necessary in order to “safeguard judicial integrity and due process.” That motion, too, is denied in all respects because it completely lacks merit.

Cordero is reminded of this Court's Order entered October 14, 2005, directing him to take the necessary steps to perfect his appeal, and reiterates that the failure to do so could result in dismissal of the appeal.

IT IS SO ORDERED.


DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
October 17, 2005

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

Dr. Richard Cordero

Appellant and creditor

APPELLANT'S BRIEF

v.

05-cv-6190L

David DeLano and Mary Ann DeLano

Respondents and debtors in bankruptcy

Dr. Richard Cordero, appellant and creditor, states under penalty of perjury the following:

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B. Basis of Appellate Jurisdiction

1. This appeal is filed under 28 U.S.C. §158.

C. Issues Presented and Standard of Appellate Review

2. The issues presented herein are all legal and thus, should be reviewed de novo, *In re Bell*, 225 F.3d 203, 209 (2d Cir. 2000).

- a. Whether the judge's bias and disregard for the law, the rules, and the facts so infect the proceedings that due process of law was denied and his orders were unlawful;
- b. Whether the DeLanos' motion to disallow Dr. Cordero's claim was an artifice to prevent him from proving their fraud and was granted to protect a bankruptcy fraud scheme;
- c. Whether District Court Local Rule 5.1(h) on asserting a claim under RICO, 18 U.S.C. §1961 et seq., is void as inconsistent with notice pleading and the enabling provisions of FRCivP;
- d. Whether 28 U.S.C. §158(b) allowing judges, circuits, and parties to choose whether to establish or resort to bankruptcy appellate panels impairs due process, provides for forum shopping, and denies equal protection so that it is unconstitutional.

D. Statement of the Case

1. Nature of the case

3. This is an appeal from the disallowance by U.S. Bankruptcy Judge John C. Ninfo, II, WBNY, of a creditor's claim in the voluntary bankruptcy case filed jointly by Mr. David and Mrs. Mary Ann DeLano (the DeLanos) under 11 U.S.C. Chapter 13 (hereinafter *DeLano*; references to §§ are to Title 11 unless the context requires otherwise).

2. Course of the Proceedings

4. The DeLanos filed their bankruptcy petition on January 27, 2004 (*In re David DeLano and Mary Ann DeLano*, docket no. 04-20280; Designated Items in the Record, pages 27-60=D:27-60). They listed 21 creditors, 19 as unsecured in Schedule F, where they included Dr. Richard Dr. Cordero's brief of 12/21/05 in his appeal to WBNY from Judge Ninfo's decision in *DeLano*

Cordero (references to Schedules (Sch:) and other petition parts are to D:27/...; here D:27/Sch:F). He filed his proof of claim on May 19, 2004 (D:142-146). Up to then they had treated, and for months thereafter continued to treat, him as a creditor. On July 9, 2004, he filed a statement showing on the basis of even the few documents that they had produced at his instigation (D165-188) that they had committed bankruptcy fraud, particularly concealment of assets, and requesting the documents that they had failed to produce (D:196§§IV-V; 207, 208) Only then did they come up with the idea of a motion to disallow his claim as a means to get rid of him before he could prove their fraud. Filed on July 22 (D:218), it was heard on August 25. After manipulating the request for documents (D:234§§II & IV) and disregarding the motion's defects of untimeliness, laches, and bad faith (D:253§§V & VI) and the presumption of validity in favor of the claim (D:256§VII), Judge Ninfo ordered that Dr. Cordero take discovery of Mr. DeLano until December 15, 2004, in the case that gave rise to his claim, namely, *Pfuntner v. Gordon et al.*, docket no. 02-2230, WBNY (*Pfuntner*; Addendum to the Designated Items, page 534/after entry 13, infra=Add:534/after entry 13), and that the parties introduce their evidence at an evidentiary hearing (D:278¶¶3 & 4).

5. It was held on March 1, 2005, when Judge Ninfo abandoned his duty impartially to take in evidence and behaved as Chief Advocate for Mr. DeLano while the latter was the only witness examined and Dr. Cordero the only one to introduce evidence. Although Mr. DeLano made consistent admissions against self-interest, the Judge arbitrarily disregarded them in order to reach at the hearing the predetermined decision of disallowance. His written decision of April 4 (D:3) was followed by this appeal on April 11, 2005 (D:1).

3. Disposition in the Court Below

6. Judge Ninfo held that Dr. Cordero had not proved his claim in *Pfuntner* against Mr. DeLano and had no standing to further participate in *DeLano*; and restated his denial to stay his decision. (D:20)

4. Statement of Facts

7. Mr. David DeLano is not an average debtor: He has worked in financing for 7 years and at two banks as an officer for 32 years: 39 years managing money!...and counting, for he is still working for a large bank, namely, Manufacturers & Traders Trust Bank (M&T), as a manager in credit administration (Transcript page 15, line 17 to page 16, line 15=Tr:15/17-16/15). As such, he qualifies as an expert in how to assess creditworthiness and remain solvent to be able to repay bank loans. What is more, Mr. DeLano works precisely in the area of bankruptcies, collecting money from delinquent commercial borrowers and even liquidating their companies (Tr:17.14-19). Actually, he was in charge of the defaulted loan to Premier Van Lines, a storage company that filed for bankruptcy, *In re Premier Van Lines*, dkt. 01-20692 (*Premier*), and gave rise to *Pfuntner* (Add:891/fn.1); both cases were brought before Judge Ninfo. Thus, Mr. DeLano is a member of a class of people who should know better than to go bankrupt and that, because of their experience with borrowers that use or abuse the bankruptcy system, know bankruptcy officers and how to petition them rightfully or wrongfully but successfully for bankruptcy relief.
8. For her part, Mrs. Mary Ann DeLano was a specialist in business Xerox machines, and as such a person trained to think methodically so as to ask pointed questions of customers and guide them through a series of systematic steps to solve their technical problems with Xerox machines.
9. Hence, the DeLanos are professionals with expertise in borrowing, dealing with bankruptcies, and learning and applying technical instructions. They must be held to a high standard of responsibility. Their bankruptcy petition warranted close scrutiny, particularly since it makes no sense that:
- a. they earned \$291,470 in just the 2001-2003 fiscal years (D:27/Statement of Financial Affairs and D:186-188);
 - b. but they declared having only \$535 in cash or in bank accounts (D:27/Sch:B); yet, they and

their attorney, Christopher Werner, Esq., know they can afford to pay \$18,005 in legal fees for over a year's maneuvering to avoid producing the documents requested by Dr. Cordero to find the whereabouts of their \$291,470 (Add:872-875; 942), not to mention other funds;

- c. indeed, they spread over 18 credit cards a whopping debt of \$98,092 (D:27/Sch:F), although the average credit card debt of Americans is \$6,000;
- d. despite all that borrowing, they declared household goods worth only \$2,910 (D:27/Sch:B...that's all they pretend to have accumulated throughout their combined worklives!, although they earned over a 100 times that amount, \$291,470, in only the three years of 2001-03...unbelievable!;
- e. moreover, they strung mortgages since 1975 to pay for the same home in which they still live:

Mortgages referred to in the incomplete documents produced by the DeLanos to Trustee Reiber	Exhibit page #	Amounts of the mortgages
1) took out a mortgage for \$26,000 in 1975;	D:342	\$26,000
2) another for \$7,467 in 1977;	D:343	7,467
3) still another for \$59,000 in 1988; as well as	D:346	59,000
4) an overdraft from ONONDAGA Bank for \$59,000 and	D:346	59,000
5) owed \$59,000 to M&T in 1988;	D:176	59,000
6) another mortgage for \$29,800 in 1990;	D:348	29,800
7) even another one for \$46,920 in 1993; and	D:349	46,920
8) yet another for \$95,000 in 1999.	D:350-54	95,000
Total		\$382,187.00

10. Yet today, 30 years later, they still owe \$77,084 and have equity of merely \$21,415 (D:27/Sch:A...*Mindboggling!* (Add:1058¶54)

11. Although the DeLanos have received over \$670,000, as shown by even the few documents that they have reluctantly produced at Dr. Cordero's instigation, the officers that have a statutory duty to investigate evidence of bankruptcy fraud or report it for investigation have not only

disregarded such duty, but have also refused even to require them to produce any statements of their bank and debit card accounts, which can show the flow of their receipts and payments.

	Officer's name and title	Statutory duty to investigate	Request for documents	Response...if any
1.	George Reiber, Standing Chpt. 13 Trustee	11 U.S.C. §§1302(b)(1) and. 704(4) & (7)	D:66§IV D:113¶6 D:492, cf. D:477-491 Add:683	D:74, cf. D:83§A D:120, cf. D:124 and 193§§I-III none none
2.	Kathleen Dunivin Schmitt, Assistant U.S. Trustee	28 U.S.C. §586(a)(3)(C) & (F)	D:63§§I & III D:470, cf. D:461 D:471 D:475§c Add:685	D:70, cf. D:84§IV none none none none
3.	Deirdre A. Martini, U.S. Trustee for Region 2	28 U.S.C. §586(b)	D:104, cf. D:90§VII; D:137; Add:682	none D:139 , cf. D:141; D:154-157, cf. D:158; none
4.	Bkr. Judge John C. Ninfo, II	11 U.S.C. §1325 and 18 U.S.C. §3057(a) (Add:630)	D:198§V and D:199¶31; 207-210, 217; D:320§II D:370§C Add:1051§II Add:1133§§I & II	D:220, cf. D:232§§I & V D:327 D:3 Add:1065, cf. Add:1066; 1094 Add:1125
5.	District Judge David G. Larimer	18 U.S.C. §3057(a) (Add:630)	Add:885¶15, 900§§3 & B, Add:908§d, 951, 979§III Add:1098§I	Add:1021 Add:1155

12. What has motivated them to protect the DeLanos by sparing them production of incriminating documents? (D:458§V) This questions is particularly appropriate because all of them have been informed of the incident at the beginning of case that not only to a reasonable person, but all the more so to one charged with the duty to prevent bankruptcy fraud, would have shown that the DeLanos had committed fraud and needed protection from exposure: The meeting of the DeLano's creditors, held pursuant to §341 on March 8, 2004, was attended only by Dr. Cordero. Yet, Trustee Reiber's attorney, James W. Weidman, Esq., unjustifiably asked Dr. Cordero whether and,

if so, how much he knew about the DeLanos' having committed fraud, and when Dr. Cordero would not reveal what he knew, Mr. Weidman, with the Trustee's approval, rather than let the DeLanos be examined under oath, as §343 requires, while officially being recorded on tape, put an end to the meeting after Dr. Cordero had asked only two questions! (D:79§§I-III; Add:889§II)

13. Far from any of those officers investigating this cover up, they attempted or condoned the subsequent attempt to limit Dr. Cordero's examination of the DeLanos at an adjourned meeting of creditors to one hour (D:70), which they knew to be unlawful since §341 provides for a series of meetings for the very broad scope of examination set forth under FRBkrP 2004(b) (D:283). Upon realizing how broadly Dr. Cordero would examine the DeLanos, the officers attempted or condoned the attempt to prevent the examination by not holding the §341 meeting at all! (D:296), 299§II) They also tried to put it off until after the evidentiary hearing (§4 above), when Dr. Cordero's claim would be disallowed and he would be stripped of standing to even call for a meeting. (D:301, 302) They were acting in coordination to evade their duty!
14. An appeal to Trustee Martini was never replied to (D:307). On the contrary, Trustee Reiber reiterated his decision not to hold the meeting. (D:311, 316) Dr. Cordero analyzed the law in a motion for Judge Ninfo to declare that he had not prohibited and could not prohibit its holding. (D:321§III & ¶30.c) The Judge denied it while displaying again his unwillingness and inability to argue the law. (D:328¶4) Another appeal to Trustee Martini went by without response. (D:330)
15. Eventually Trustee Reiber agreed to hold a §341 meeting, but gave no explanation for his reversal in his letter to Dr. Cordero of December 30, 2004 (D:333). However, on December 15, Judge Ninfo had set the date for the evidentiary hearing of the DeLanos' motion to disallow Dr. Cordero's claim (§4 above) for March 1, 2005 (D:332). Now such meeting came in handy.
16. Indeed, the Judge had gone along with that motion without regard for the analysis by Dr. Cordero showing that it was an artifice to get rid of him and his requests for documents that

could prove the DeLanos' fraud. (D:240§IV, 253§V). The Judge required him to take discovery of Mr. DeLano in the case that had given rise to the claim (D:272/2nd¶, 278¶3), which he wrongly identified as Att. Werner had done in his cursory motion as "Adversary Proceeding in Premier Van Lines (01-20692)" (D:218) Had either read Dr. Cordero's proof of claim (D:144), they could have realized that the claim against Mr. DeLano arose in *Pfuntner v. Trustee Gordon et al.*, no. 02-2230, not in *Premier*. They had decided to eliminate him regardless of his proof, which even by the time of the evidentiary hearing they neither had read nor had a copy of! (¶73 below)

17. To facilitate disallowance, both the DeLanos (D:314) and Judge Ninfo (D:327¶1) unlawfully denied *every single document* that Dr. Cordero requested (D:287§§A & C). However, he did not take discovery of any other *Pfuntner* party. So 'they had no clue what he could possibly do at the evidentiary hearing' (Tr:122/16-122/11). Hence, to find out in advance, the so-called meeting of creditors was set for and held on February 1, 2005. It was not intended for Dr. Cordero to examine the DeLanos, but rather for them to depose him! The facts prove it.

18. That is why Trustee Reiber allowed Att. Werner to micromanage the meeting. (D:464/4th & 5th¶¶) He allowed him to refuse to produce documents; even those few that the Trustee got the Attorney to agree to produce, he allowed him to produce them late, only after Dr. Cordero had reminded the Trustee that they were past due (D:341). Even then Att. Werner attempted to avoid production (D:473 & 477); produced incomplete documents (D:342); or only because of Dr. Cordero's insistence, produced objectively useless documents (D:477-491) until the Trustee just stopped answering Dr. Cordero's requests (D:492) and then the Judge disallowed the claim.

19. As for Trustee Schmitt, she attempted to avoid producing copies of the tapes of the February 1 meeting of creditors despite Dr. Cordero's request (D:474), sending instead tapes of a different meeting (D:476). Likewise, although Trustee Reiber wrote that "At the request of Dr. Cordero, I will have court reporter [sic] available as well as having a tape recording made of the meeting" (D:333),

when Dr. Cordero requested him a copy, Trustee Reiber denied it and told him to buy it from the reporter, preposterously alleging that the latter owns the copyright to it. But what the reporter produced is work for hire and Dr. Cordero was the reason why the Trustee hired a reporter.

20. That meeting of creditors was never intended to function as stated in the 1978 Legislative Report for §343: "The purpose of the examination is to enable creditors and the trustee to determine if assets have improperly been disposed of or concealed or if there are grounds for objection to discharge". Rather, it was an opportunity for the DeLanos and the trustees to pump information out of Dr. Cordero. It was another abuse of process, a coordinated charade! (Add:966§B)
21. Judge Larimer supported that charade by protecting Trustees Schmitt and Reiber from having to produce any tapes or transcripts of those meetings of creditors on March 8, 2004, and February 1, 2005. To that end, he dispatched Dr. Cordero's requests that he order their production (Add:885¶15, 907, 980§§a & b), if only "for the proper determination of this appeal", let alone "appellant's right of appeal" (Add:951 1001§III), with a lazy and conclusory "These motions are wholly without merit and they are denied in their entirety" (Add:1022).
22. What is more, Judge Larimer also repeatedly maneuvered to deprive Dr. Cordero of the transcript of the evidentiary hearing on March 1, 2005, where his colleague, Judge Ninfo, disallowed his claim in *DeLano*: He manipulated orders scheduling Dr. Cordero to file his appellant's brief by a date by which the Judge knew the transcript would not be ready for Dr. Cordero to use it in writing his brief or make it part of the record. The Judge did so although he still had no jurisdiction to issue orders in the case because the record consisted then only of Dr. Cordero's notice of appeal and designation of items so that it was incomplete under FRBkrP 8006 and 8007(b), and consequently, its transfer from Judge Ninfo's court to him had been unlawful. (Add:692, cf. 695; 831, cf. 836; 839).
23. When the orders manipulating brief-filing dates failed due to Dr. Cordero's objections to keep

the transcript from him, it was for Bankruptcy Court Reporter Mary Dianetti to refuse to agree to certify that her transcript of her own stenographic recording of the evidentiary hearing would be complete, accurate, and free from tampering influence (Add:867, 869). Although Dr. Cordero complained about the unreliability resulting from such refusal and requested that Reporter Dianetti be referred for investigation to the Judicial Conference of the United States under 28 U.S.C. §753 (Add:911), Judge Larimer just disregarded Dr. Cordero's factual and legal analysis and issued another lazy "The motion is in all respects denied" (Add:991).

24. Dr. Cordero pointed out in a motion for reconsideration how suspicious it was that although Reporter Dianetti could lose her job if referred to the Conference, particularly since this was the second time that she and Judge Larimer had tried to prevent him from obtaining a transcript, which they did in *Pfuntner* (Add:1011§A), she was so sure that the Judge would not refer her that she did not even bother to file an objection to the motion (Add:1001§§III & V, cf. 1034¶¶10-12). Again with no discussion of Dr. Cordero's factual and legal arguments, the Judge simply forced him to request the transcript from Reporter Dianetti and pay for it lest his appeal be dismissed. (Add:1020, cf. 1025, 1027)

25. Even after Dr. Cordero complied (Add:1031) and the transcript was prepared and filed by Reporter Dianetti and transmitted "forthwith" from the Bankruptcy Court to the District Court, the latter failed to file it as required under FRBkrP 8007(b), thus making it necessary for Dr. Cordero to move the Court to comply with its duty to docket it, enter the appeal, and schedule the appellant's brief (Add:1081). Judge Larimer rescheduled the filing date by his order of November 21, where he wrote that "It now appears that the record on appeal is complete, and no further action pursuant to Fed.R.Bankr.P. 8007 is required" (Add:1093). Thereby he unwittingly admitted that the record was incomplete when he issued his order of April 22 (Add:692) -7 *months earlier!* at a time when there was not even an arrangement for the Reporter to begin

preparing her transcript, let alone file it (Add:681, cf. 686-696, 831-845)- requiring Dr. Cordero to file his appellant's brief by May 12. Judge Larimer had willfully violated FRBkrP 8007 to deprive Dr. Cordero of the transcript.

26. By not referring Reporter Dianetti to the Judicial Conference, Judge Larimer was protecting not only her, but also himself from review that would have revealed the quality of their work: In her transcript everybody appears speaking Pidgin English, babbling in broken sentences, uttering barbarisms, and sputtering so much solecistic fragments in each line that to recompose them into the whole of a meaningful statement is toil. As a result, the participants at the hearing, though professionals, come across in the transcript as a bunch of speech impaired illiterates. Her transcript can hardly be representative of the standard of competency to which the Conference holds reporters. Therefore, if the Conference had reviewed such an objectively inferior reproduction of a court proceeding as Reporter Dianetti's transcript is, it would have called into question why nevertheless Judges Larimer and Ninfo customarily, and thus knowingly, accept work of such disturbing quality as the record on which they determine the rights, property claims, and maybe even the liberty of litigants...or do they pay no attention to any transcript?, for their own orders show that they rarely cite and never analyze the law or the rules, and never discuss the motions on which they rule, which points to their not even reading them. (¶36.a below)

E. The Argument

1. The transcript shows how Judge Ninfo, likely expecting it not to be available to Dr. Cordero before he would have to file his brief pursuant to an order from Judge Larimer manipulating its filing date, conducted a blatantly biased, arbitrary, and unlawful proceeding so that the motion to disallow his claim could be granted as needed by them, the DeLanos, and the trustees to eliminate Dr. Cordero before he could expose a bankruptcy fraud scheme

27. If Reporter Dianetti had been referred to the Judicial Conference as requested (Add:911), the

latter would have learned that she works for judges that: 1) overlook the overwhelming defects of such a transcript, compounded by the misalignment of *every* page of its PDF version and the resulting discrepancy of the page numbers of that and the paper version; 2) accept Trustee Reiber's shockingly unprofessional and perfunctory "Report" (§36.d below); 3) find it unobjectionable that a lawyer should come to the evidentiary hearing of his motion to disallow a creditor's claim without having even read the claim or brought a copy of it (§73 below); 4) allow lawyers to suborn perjury by signaling and mouthing answers to their client on the stand (§76 below); 5) are satisfied with lawyers' cursory, back-of-napkin like statements with no discussion of the law or facts or the opposing party's arguments (§36.c below), because they are so closely patterned after 6) the judges' own conclusory, fiat-like orders devoid of legal reasoning (§36.a & b below). From these facts, the Conference would have inferred the judges' anything-goes mentality, tolerant of others' substandard performance and permissive in carrying out their own duties, that naturally leans to self-indulgent disregard for the law, the rules, and the facts while showing contemptuous indifference to legal, material, and emotional injury caused to litigants. Hence, by refusing to refer Reporter Dianetti to the Conference for her refusal to agree to certify that her transcript would not be incomplete, inaccurate, and tampered with, Judge Larimer was protecting himself as much as her and other officers and staff who work in that small federal building so propitious for the formation of a clique and who are willing to go along with what he feels like doing rather than comply with the requirements of their official positions. (§22 above).

28. Such mentality and clique are evidenced by a consistent common pattern of conduct. So Judge Larimer joined Colleague Judge Ninfo (D:234§II, 362§2; Add:1098§§I & II), and the trustees (Add:882§II, 1041§I), in their refusal to request documentary evidence from the DeLanos. Undeniably, if any or all of those officers had obtained from the DeLanos documents as obviously pertinent to the proper disposition of any bankruptcy petition as the statements of the

debtors' bank accounts and debit card accounts, they would be in a far better position to determine whether the DeLanos filed a good or bad faith bankruptcy petition, for those documents could have led them to the whereabouts of the DeLanos' known inflow but unaccounted for sum of over two thirds of a million dollars! (§11 above) Likewise, those documents would have allowed them to acquit themselves of their duty to find the facts in order to rely on them in determining the validity of a creditor's and a litigant's contention, namely, that the DeLanos raised in bad faith their motion to disallow the claim of Dr. Cordero as an artifice both to eliminate him before he could prove their bankruptcy fraud and to strip him of standing so that he could not oppose the confirmation of their plan under §1325 (Add:27/Plan, 941, cf. 1051§II, 1065, 1066, 1094, 1127, 1025) and later on the discharge of their debts under §1328. What is more, those officers could have used such documents to fulfill their broader responsibility to detect and report bankruptcy fraud in order to safeguard the integrity of the bankruptcy system and of judicial process. So why have they repeatedly engaged in a mutually reinforcing denial of documents that obstructs the performance of their duties and of justice?

29. The facts point to the answer: Mr. DeLano has been an insider of the financing and banking industries for 39 years and currently deals with precisely the bankruptcies of clients of M&T Bank, his employer. Thereby he has become familiar with the actors of the bankruptcy system. For instance, he is involved in three bankruptcy cases presided over by Judge Ninfo, handled by standing trustees and their supervisors, and affecting Dr. Cordero, to wit, *Premier*, *Pfuntner*, and *DeLano*. During his career, he has learned it all about systemic abuse of bankruptcy laws and procedure by debtors and officers (cf. Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23). As a result, he cannot be allowed to be dirtied by criminal charges when he comes in calling on the system's debt removal cleaners to help him polish up his retirement golden pot. (D:379§3) If his own fraud were exposed and it led him and his

wife to face a prison term of 20 years and over \$500,000 in fines under, among others, 18 U.S.C. Chapter 9, and §§1519 and 3571, he could consider it in his and his wife's self-interest to enter into a plea bargain in which for exchange of immunity he would disclose all the incriminating knowledge that he has about those officers and others even higher than them. He would create a situation described by an old technical legal term, namely, "*All hell would break loose!*", known today as the exposure of a bankruptcy fraud scheme. (Add:600§D)

30. This explains why, in general, those officers engaged in a series of non-coincidental, intentional, and coordinated acts of disregard of the law, the rules, and the facts in order to keep exposure-threatening documents from Dr. Cordero (Add:966§B) and would neither refer Reporter Dianetti to the Judicial Conference nor abide by their duty to report the DeLanos' fraud to the Attorney General (D:382¶2; Add:975¶9).

31. It also explains why, in particular, Judge Larimer repeatedly manipulated brief-scheduling orders so as to keep from Dr. Cordero the transcript (Add:1031) since the Judge had opportunity to review and realize how damaging its contents were: Reporter Dianetti received Dr. Cordero's request for the transcript on November 2 and on November 4 she filed it, almost 200 pages (Tr:2nd /letter), although she took *more than 2½ months* to prepare the 27 pages of the first transcript (Add:918). Despite not only Dr. Cordero's request that she be referred to the Judicial Conference and the latter appoint another reporter, but also his refusal to pay her (Add:1024-1028), she had had to prepare it for review! Let's examine the evidence that they tried to suppress. (Add:1084§II)

a. Judge Ninfo confronted Dr. Cordero at the evidentiary hearing with a lawyers directory stating that a Richard Cordero worked as an associate at a law firm specializing in litigation; Dr. Cordero stated under oath that he was not that person and had never practiced law; but the Judge assumed that he had lied and, without obtaining more evidence, in his decision on appeal portrayed him as a liar and a perjurer so as to destroy his credibility, whereby the Judge manifested his bias against and libeled Dr. Cordero, who proves here that he told the truth

32. Judge Ninfo alleged in his decision (D:6/fn.2 & Add:509/fn.2) that:

² Although Cordero asserted that he advised the Court that he was an attorney in one of his initial appearances in the Premier Case, neither the Court nor any of the courtroom staff recalls such an admission.

33. The facts belie Judge Ninfo's allegation: Dr. Cordero gave notice on more than 30 occasions (Add:510) to Judge Ninfo and the parties that he was a lawyer, beginning with the very first letter that he ever wrote to him, dated September 27, 2002 (Add:513), of which the Judge acknowledged receipt on October 8, 2002 (Add:514). Dr. Cordero's notice registered not only with the staff, who identified him as "Esq." (Add:533/entry 10), but also the parties acknowledged that piece of information and even shared it with the Judge in their letters to him and filings. (Add:510/fn.1; see samples at Add:780, 782, 784, 809, 816)

34. How many times does Judge Ninfo need to get notice of something before his brain registers it? If that question appears to ridicule the Judge, the alternatives are far more damaging, for they impugn his competency and integrity: Did he read any part of Dr. Cordero's documents other than the Requested Relief, which he would instinctively deny? Did he read anything with the minimal degree of due care that, on the one hand, would have enabled him to perceive Dr. Cordero's legal knowledge and reasoning evinced by his documents and, on the other hand, is required of a lawyer and all the more so of a judge whose decisions affect directly the lives and property of other people? Or did he read them, notice that Dr. Cordero was a lawyer, but now denies that fact in order to pretend to his appellate peers that Dr. Cordero hid his professional identity and is untrustworthy? Let's examine the facts to determine who is unprofessional and untrustworthy.

35. To begin with, an appearance pro se is not reserved for the legal illiterate. Rather, it is mostly a function of whether a person can afford a lawyer (Add:623§2). This is particularly well illustrated in this case, where it would have cost Dr. Cordero hundreds of thousands of dollars to

hire a lawyer to search for his property since January 2002 and from New York City hundreds of miles away, where he resides; to defend against Plaintiff Pfunter and bring counterclaims, cross-claims, third-party claims, and default applications, against 7 parties; communicating by letter and on the phone with those parties, trustees, a host of public officers, and other people; appeal from the Bankruptcy Court, to the District Court, to the Court of Appeals, to the Supreme Court; and in addition defend a claim in *DeLano*. Therefore, it was faulty reasoning for Judge Ninfo to assume that if Dr. Cordero was appearing pro se, he could not be a lawyer.

36. More significantly, it revealed grave deficiency in observation and deduction for Judge Ninfo to receive all those documents that he complains about having received from Dr. Cordero for years (D:8¶2) and still not be able to notice even obvious differences: Dr. Cordero's documents cite the law and rules, discuss their meaning, and apply them to the facts to produce a coherent and structured argument resulting from legal reasoning. The Judge could have contrasted them with:
- a. his own decisions (D:3; 220, 272, 327, 332; Add:719, 725, 729, 731, 741, 749, 1094, 1125);
 - b. those of his Colleague Judge Larimer (Add:692, 831, 839, 991, 1019, 1021, 1092, 1155);
 - c. the statements of Att. Werner, a truly experienced bankruptcy attorney (¶61 below; D:118, 205, 211 & 214-216, 271, 314, 325; Add:936, 988, 1069); or
 - d. the shockingly unprofessional and perfunctory scraps of papers that *über*-experienced Trustee Reiber (Add:891/Tbl.) submitted to Judge Ninfo (Add:937-939, cf. 1041§I) and that he accepted as "the Trustee's Report" (Add:941/2nd ¶, cf. 1055§B, 1022, 1094).
37. Those written things show contemptuous disregard for the law and the rules by not citing them or not discussing them at all. Their lack of legal foundation shows that Lord Ninfo, enfeoffed by Lord Larimer, has carved the Fiefdom of Rochester out of the land of the law of Congress (Add:602¶¶31-33) in order to apply the law of personal relationships (D:361§1) and issue fiats on no other authority than 'I order this because I can'. No wonder he could not notice something

as irrelevant for his “local practice” (D:98§II, 362§2) as Dr. Cordero’s legal and factual analyses. Hence, what does it show for Judge Ninfo not to be able to draw from those analyses that Dr. Cordero had a lawyer’s command of the law, or not to notice the repeated identification of Dr. Cordero as a lawyer provided by himself and others, and instead for the Judge to need hearsay from a clerk for the possibility to dawn upon him that Dr. Cordero was a lawyer?

38. Indeed, Judge Ninfo states that “Cordero had a discussion with a Deputy Clerk about obtaining a CM/ECF password during which he indicated that he was an attorney”. (D:6/fn.2; Add:509/fn.2) That was a conversation with Deputy Clerk of Court Todd Stickle on August 6, 2004, about how to insure that Dr. Cordero’s documents were transmitted to the clerks for docketing rather than withheld from them by Judge Ninfo (D:232§§I & II). Mr. Stickle said that he remembered that Dr. Cordero had a degree from La Sorbonne and asked him whether he was a lawyer. Dr. Cordero said that he was and was admitted to the Second Department. Mr. Stickle said that if Dr. Cordero obtained authorization from a U.S. Bankruptcy Court in NY City to file electronically there, the court in Rochester would recognize such authorization; otherwise, he would have to take in Rochester the three hour-long e-filing course. While inquiring about the non-docketed documents that Dr. Cordero had faxed to Judge Ninfo, Mr. Stickle may have told the Judge and his assistants about that conversation and reminded them that Dr. Cordero was a lawyer. On August 9, Mr. Stickle informed Dr. Cordero of the allegation that his fax had not been received (D:207, 217).

39. However, Judge Ninfo’s “attached New York State Attorney Directory Westlaw Search (the “Search”)” bears the dates “2/28/2005” (Add:516 & 517) and “2/23/2005”(Add:515). Two inferences can be drawn from this considerable time lag. One is that on or about August 9 he was reminded that Dr. Cordero is a lawyer and since then, contrary to his pretense, ‘has seen in that light’ (cf. D:6/fn.2 & Add:509/fn.2) Dr. Cordero’s documents and conduct and dealt accordingly with him at all hearings and when writing his *DeLano* decisions. If so, why did the Judge take more than

six and a half months from this reminder on August 9 until the end of February 2005 to stumble upon the astonishingly novel idea, which others carry into action reflexively, of doing that “Search” to find out whom he was dealing with?

40. The second inference can provide the answer. It is supported by the fact that at the evidentiary hearing on March 1, 2005, and precisely while asking to confirmation or deny his “Search” findings, the Judge criticized Dr. Cordero because “your petition to several - to the United States Supreme Court, although it may be somewhat carefully crafted I think, many times already almost purposely misleading with respect to your status as a pro se litigant” (Tr:4/13; cf. Tr.5/7-19) (cf. “makes much of his *pro se* litigant status”, D:6/fn.2, Add:509/fn.2). The Judge was referring to a brief that he had no reason, of course, to know about, to wit, Dr. Cordero’ petition of January 20, 2005, to the Supreme Court for a writ of certiorari to the Court of Appeals for the Second Circuit (*Richard Cordero v. Kenneth W. Gordon, Trustee, et al.*, dkt. 04-8371, SCt.; Add:557-629). Because of the references therein to *DeLano* (Add:600§D), Dr. Cordero served it also on Att. Werner and Trustee Reiber, but certainly not on Judge Ninfo. These facts allow the inference that in preparation for the March 1 evidentiary hearing, the Judge had an ex parte communication in violation of FRBkrP 9003 with one of those served during which he received and reviewed a copy of that petition and, finding it in his backhand complimentary term “somewhat carefully crafted”, was intrigued by who Dr. Cordero was and thus, conducted the “Search” to find out.¹ This explains why, even though the Judge made clear at the March 1 evidentiary hearing that he would disallow Dr. Cordero’s claim, he did not write his decision until April 4, after the Supreme Court denied the petition on March 28...just in case the Court granted it, which would

¹ It remains to be determined to what extent Judge Ninfo betrayed other ex parte communications when in his August 30 order he wrote: “...the Court...notes that the Office of the United States Trustee, which Cordero has been in frequent contact with...” (D:274). See also the accounts of the ex parte communication between Att. MacKnight, Mr. Pfuntner’s attorney, and Judge Ninfo (D:404§2; 433§D).

have induced him to rethink his decision and whether to issue it at all, for then his appellate peers would be of no help. If so, the Judge is using the statement that Dr. Cordero is a lawyer made by Mr. Stickle eight months earlier as a cover up for the ex parte communication that triggered the Judge's "Search" and led to his effort to portray Dr. Cordero as a liar and a perjurer.

41. Judge Ninfo's failure to read Dr. Cordero's documents or deduct therefrom that he must be a lawyer impugns his competency. His assumption that because Dr. Cordero was a pro se litigant he could not be a lawyer explains why he has disregarded the law, the rules, and facts in dealing with him and trampled on his rights (D:430§B): The Judge expected him not to be able to defend them and to resign himself to accepting such abuse, that is, if he even understood it as such. The Judge's assumption and his acting on them impugn his sense of fairness and judicial integrity.
42. What he next failed to do indicts him: Judge Ninfo looked up the NY State Attorney Directory (Add:515) and saw a Richard Cordero registered; looked up WestLaw (Add:516) and found a Richard Cordero listed as an associate of a law firm; and that was enough for him to jump to the conclusion that they had to be the same person. The elemental idea that in NY City with its 8.5 million people two persons can have the same name never popped up in his mind. The idea that one could have stolen the identity of another at a time when the FBI has stated that identity theft is the fastest growing crime in the United States never crossed the mind of a judge that is bound by law, e.g. §1325(a)(3) and 18 U.S.C. §§151-159, to on a daily basis examine bankruptcy petitioners for fraud. What a mind!
43. There is no intention to mock Judge Ninfo in that exclamation; there is only a set of facts that elicit it. Had he had the intellectual capacity to entertain those ideas, then he had the professional duty to take another step before ever thinking of asserting two pieces of data found online as true and correct and to the detriment of a person: He had to verify them! That was incredibly simple to do: pick up the phone and call the numbers listed on the WestLaw webpage and confirm with

that Richard Cordero the reported data about him, and if confirmed, ask him not only questions whose answers appeared in the public record of *Pfuntner* and *DeLano*, but also those that could be answered only by Dr. Cordero, who had already appeared before Judge Ninfo on the phone 11 times and in person twice. This cannot be too much to expect of a judge who is supposed to have a mind keen enough to spot fraud by persons who, very much unlike Dr. Cordero, do have a motive to lie, cheat, and hide their identity, namely, the powerful financial motive of concealing assets and evading their debts. (cf. ¶9 above)

44. Actually, one does not even have to expect Judge Ninfo to tax his mind at all to come up with that idea. He only had to read the one single page of the NYS Attorney Directory that he had downloaded (Add:515). By so doing, he would have found that it stated thus:

If you need additional information, please contact the NYS Office of Court Administration, Attorney Registration Unit at 212-428-2800.

45. And he did need additional information. He needed it to prove whether the name Richard Cordero appearing on those webpages referred to the same Dr. Richard Cordero that had appeared before him and written so much in the last three years. Had he done so, Judge Ninfo would readily have obtained information from a disinterested official third party that would have alerted him to the fact that something was wrong and required further inquiry.

46. But Judge Ninfo did not do so, not even for the sake of his own professional image. Instead, he thought that he would use the raw data found on the Internet to ambush Dr. Cordero at the evidentiary hearing of the DeLanos' motion to disallow his claim. On that occasion, he asked Dr. Cordero whether he was a registered and licensed attorney (Tr.3/17 et seq.) and Dr. Cordero stated that he was; and the Judge asked whether he was an associate of the NYC law firm of Heller, Jacobs & Kamlet, and Dr. Cordero answered not only no, but also that he had never worked for any law firm and had never been a practicing lawyer (Tr.6/25).

47. Oh! how heady Judge Ninfo must have felt with his treasure trove of Internet data and its denial

by Dr. Cordero! The Judge had got him!, for Dr. Cordero's denial had to be false because... because...never mind any reason. Judge Ninfo just knew that it was false if coming from Dr. Cordero. How else to explain Dr. Cordero's performance as 'an experienced litigator' for hours at that evidentiary hearing that lasted from 1:30 to 7:00 p.m.? The Judge could not think for himself of any other explanation than that suggested by data on a webpage, namely, that Dr. Cordero could only have honed those skills by practicing at "a firm that the Search described as having ninety-eight percent (98%) of its practice devoted to litigation" (D:5; Add:509) So Dr. Cordero must have lied! This was the Judge's opportunity to disparage his character. And he snatched it!

48. Judge Ninfo proved unwilling and unable to ask himself, let alone find out, what conceivable motive Dr. Cordero could possibly have had to lie under oath and on the record...or as an impartial and cautious professional would have put it, motive for him to make statements in apparent conflict with easily accessible public data. Instead of using the more than a month between the evidentiary hearing on March 1 and his opinion on April 4, 2005, to check Dr. Cordero's statement, Judge Ninfo simply sat on his hands or jump on his feet for joy at the expectation of publicly, in a decision posted on the homepage, the very first page, of the court's site on the World Wide Web, www.nywb.uscourts.gov, portraying Dr. Cordero as a liar and a perjurer.

49. By contrast, a prudent person, one capable of performing with due diligence, would have as a matter of course considered that once Dr. Cordero confirmed the data on the NYS Attorney Registration website but denied the additional information on WestLaw, it was necessary to entertain the possibility that his assertion under oath might be true and that some data might be wrong. Such person would have phoned "the Attorney Registration Unit at 212-428-2800", and spoken with Mr. Samuel H. Younger, the Chief Management Analyst (Add:518), who would have indicated that Dr. Cordero was in fact registered and licensed in 1989; is the only attorney registered with the name of Richard Cordero, but has been retired from the practice of law since

1993! What is more, none of his nine registration statements indicates that he ever practiced law at, or was associated with, any law firm whatsoever!

50. Now the intellectually curious and unbiased person would have been intrigued. Having no agenda other than to get the facts straight, he would have opened his mind wider: He would have called the number listed by WestLaw for Heller, Jacobs & Kamlet, that is, (212)682-7000, only to find out that a recording stated that it was not in service and no further information was available. This would have piqued his curiosity and led him to do a Google search on that law firm with "(98%) of its practice devoted to litigation" where, as the Judge put it by jumping to a conclusion, Dr. Cordero had become 'an experienced litigator'. He would have found where that firm was: in bankruptcy!, filed by Geron & Associates, P.C., in NYC, tel. (212)682-7575, in the U.S. Bankruptcy Court, SDNY, docket no. 04-13127, Judge Burton R. Lifland presiding (Add:520).
51. A thorough person, not to mention a conscientious judge determined to exercise his judicial power responsibly, would have called that law firm to ask for the contact information of the former partners. Dr. Cordero did so and obtained affidavits from Mr. Kamlet (Add:526), who now works at the same firm as Mr. Jacobs, as well as from Mr. Heller (Add:519). They stated that the Richard Cordero that worked at their former law firm was a paralegal and was not represented by their firm as being a lawyer, was not Dr. Richard Cordero and was older than him, and that the firm of Heller, Jacobs & Kamlet ceased doing business at the end of 2003. What is more, acting with due diligence, Dr. Cordero contacted Martindale-Hubbell and FindLaw to determine how his name came to be associated with that law firm. Their replies show that it happened through an internal mistake or an indeterminate event, respectively. (Add:553-555)
52. This proves that a competent person could take common sense steps to determine whether two similar but not identical names identified the same or different individuals. A responsible and prudent person would have done so before presenting somebody to others as a liar and a perjurer.

A judge, duty-bound to be impartial and fair to everybody, 28 U.S.C. §453, had an obligation to take such steps before so disparaging anybody in a court decision, an official public document.

53. Judge Ninfo proved not to be that person and failed his duty. Yet, he managed to make it through law school, work for JAG, become a partner at Underberg & Kessler, the firm defending Mr. DeLano and M&T Bank from Dr. Cordero's claims in *Pfuntner*, and was appointed a bankruptcy judge in 1992. That leads one to assume his familiarity with the standards of the legal profession and respect for the oath of office. However, just before the evidentiary hearing on March 1, 2005, he allowed himself access to material not made available to him, but made available to Mr. Werner, the attorney that by then had appeared before him in over 525 cases (¶61 below) and who is defending Mr. DeLano from Dr. Cordero's charges of bankruptcy fraud and his documentary requests. Days before the hearing, the Judge looked up information about Dr. Cordero as a lawyer that he had not looked up in the years since Dr. Cordero first wrote to him on September 27, 2002. Although ever since Dr. Cordero has demonstrated to be cautious in his statements and deliberate in his conduct, at and after the hearing Judge Ninfo arbitrarily dismissed his statements under oath that he had never practiced as a lawyer or worked at a law firm and instead confirmed his prejudgment that 'the DeLanos are honest but unfortunate debtors who filed their petition in good faith' (D:276, Add:941; cf. D:378§2) while disregarding the evidence before him that they were currently engaged in fraud (D:373§1) as well as depriving himself so as to keep from Dr. Cordero every document that could prove the fraud that they had already committed (Tr:189/11-21).

54. This shows that Judge Ninfo was immune to duty and prudence, that he was predisposed against Dr. Cordero and toward Mr. DeLano, and seized on a statement explicitly denied and easily corroborated as wrong as a means to buttress the outcome of the evidentiary hearing that he had prejudged. The attitude motivating such conduct is bias. The consequence of such conduct is to raise a damning indictment against Judge Ninfo's professional competency and trustworthiness.

55. Judge Ninfo's bias led him to make defamatory statements not only negligently, but also with reckless disregard for their truth or falsity. (cf. Add:970§C) Bias is a defect of character incompatible with the office of judgeship, which requires fairness and impartiality in the administration of justice. (D:418§II) His bias becomes all the more real when put in the context of the series of his acts of disregard for the law, the rules, and the facts over the last three years consistently to the detriment of non-local Dr. Cordero and the benefit of the local parties. (D:234§§II-IV; 358§II; 392§I) Bias against non-locals, whether from another state or city, is so real that to combat it diversity jurisdiction was created. His bias requires his disqualification, especially since it is motivated by ill-will toward Dr. Cordero and an agenda not covered by any privilege because outside the scope, and contrary to the duty, of his office, to wit, to protect the locals from being exposed as participants in a bankruptcy fraud scheme (§§28-31 above, D:458§V).

56. Pending Judge Ninfo's disqualification (§106 below), his appellate peers should be aware that the bias and substandard research and analysis that so grossly manifest themselves at the beginning of his decision on appeal also ooze from the rest of it (§88 below). Such defects are substantive and sufficient to require the nullification of this and his other decisions, for they cast a shadow of distrust on all of them. This follows perversely from his own conclusion (D:6/fn.2 & Add:509/fn.2) that:

Many of the pleadings, statements, actions and inactions of Cordero in and in connection with the Premier and DeLano Cases, in which he makes much of his *pro se* litigant status, can be seen in a far different light when one is aware that he is a licensed, experienced, and registered attorney.

57. Now that the facts are known, the logic that Judge Ninfo expressed there requires that 'Dr. Cordero's pleadings, statements, actions and inactions be seen not "in a far different light", but rather in the light that Dr. Cordero cast on them: as the product of a non-practicing lawyer who appears *pro se* because he cannot afford the huge cost of legal representation and who will not stand to be abused as a non-local party (Add:1098§§I & II) by a biased judge supporting a

bankruptcy fraud scheme.

b. Judge Ninfo shows his bias by inconsistently criticizing Dr. Cordero for acting as “a typical pro se” litigant lacking legal representation and for being “an experienced attorney” who was able to confuse Mr. DeLano

58. The bias infecting his decision causes blemishing inconsistencies. So Judge Ninfo states that:

Although, as an experienced attorney, Cordero was successful in confusing DeLano during his testimony and in eliciting from DeLano some most interesting statements as the result of that confusion, and even though DeLano insisted that he was not confused, what is clear from the Trial and DeLano's testimony at the Trial is that: (1) DeLano consistently asserted that: (a) in his interaction with Cordero, he was at all times acting within the scope of his employment as an officer and employee of M&T Bank; and (b) Cordero had no claim against him individually; and (2) there was nothing in DeLano's testimony at the Trial that demonstrated that Cordero had any valid claim or cause of action against him individually for negligence, recklessness or otherwise. (D:16)

59. So Judge Ninfo says in the same breath that because Dr. Cordero is pro se he does not know better than to file “a great number of...typical pro se procedural and tangential motions” (D:8) but because he is “an experienced attorney” he knows how to confuse a witness on the stand (D:16); and even says that Dr. Cordero gained that experience working at a firm “having ninety-eight percent (98%) of its practice devoted to litigation” (D:6), yet criticizes him as a “litigious pro se litigant [who is not] fully analyzing the merits of the request and the actual decision of the Court” (D:8) although at the March 1 evidentiary hearing the Judge remarked that Dr. Cordero had written an impressively fine brief to the Supreme Court (§40 above; Add:557). If you would rather appear pro se than let a lawyer of Judge Ninfo's performance level represent you, would you trust his capacity to dispose of people's rights in a way consistent with the laws, the rules, and the facts?

60. The fact is that Dr. Cordero's examination of Mr. DeLano was the first examination of a witness on the stand that Dr. Cordero conducted *in his whole life*. Judge Ninfo would have realized that had he performed with due diligence like a competent and unbiased lawyer, not to mention a judge, and run a search in WestLaw for all the cases in which Dr. Cordero had appeared as the attorney of record. Since the Judge claimed that Dr. Cordero is ‘an experienced litigator’, he

should have been able to find a long list of cases litigated by Dr. Cordero and in which he gained his experience “to confuse” a witness. But he would have found none.

c. Judge Ninfo misleads his appellate peers by pretending that Dr. Cordero abused his “experience” to “confuse” Mr. DeLano at the evidentiary hearing while the Judge withholds the fact that Mr. DeLano was accompanied by Att. Werner, who ‘has been in this business’ for 28 years and has appeared before him in more than 525 cases

61. Just as Judge Ninfo misleadingly referred to the March 1 evidentiary hearing as a “Trial” (but see D:332), he misleadingly omitted in his whole decision to say that Mr. DeLano appeared, not alone, but rather represented by a seasoned attorney, namely, Att. Christopher Werner (Tr.3/10), a truly experienced attorney who at the hearing on July 19, 2004, volunteered the statement that ‘he has been in this business for 28 years’. For its part, PACER shows that as of February 28, 2005, he had appeared before Judge Ninfo in 525 cases! (Add:891/table; cf. Add:592§A)

62. It would be untenable for Judge Ninfo, after having allowed Att. Werner to appear before him in hundreds of cases, to pretend that the Attorney was all of a sudden incompetent to defend Mr. DeLano from being “confused” by Dr. Cordero...the one who for the first time ever was examining a witness on the stand. Nevertheless, if he deemed Mr. DeLano to be represented by incompetent counsel (Add:551/Canon 6), his duty was either to report Att. Werner to the bar for reassessment of his membership in it or to give Mr. DeLano an opportunity to find competent counsel, but he could certainly not do what he did: Judge Ninfo became Chief Advocate On the Bench for Mr. DeLano, as shown by the transcript (Tr.52/22-53/18, 107/1-24, 115/14-118/20, 119/5-14, 160/2-23, 173/5-17, 178/25-180/4, 182/16-183/8), the one that Judge Larimer repeatedly tried to suppress to protect his Colleague (§22 above). Thereby Judge Ninfo disregarded his duty “to come to the hearing with an open and neutral mind and to render impartial judgment” (Ethical Consideration 7-19 of the ABA Model Code of Professional Responsibility).

d. Judge Ninfo shows his bias toward Mr. DeLano by dismissing as

“confused” and withholding from his appellate peers Mr. DeLano’s “most interesting statements”, which he made against legal interest and which support Dr. Cordero’s claim against him, whereby the Judge misleads his peers with an unbalanced, incomplete account of the evidentiary hearing

63. Judge Ninfo lacks any good faith basis to portray Mr. DeLano as a person easily “confused”...especially by what has turned out to be a non-practicing, first-time examiner, Dr. Cordero. A financing and banking officer for 39 years, Mr. DeLano was at the time of the events in 2002, an Assistant Vice-President at M&T Bank (Add:533/entry 6) and when *Pfuntner* comes to trial, he will be M&T’s representative (Tr.184/2-12; ¶70.m below).

64. Hence, Mr. DeLano is an expert in banking and was testifying about his own actions in that field. Actually, Judge Ninfo concluded from his testimony that “he was at all times acting within the scope of his employment as an officer and employee of M&T Bank” (D:16; ¶58 above). Nevertheless, the Judge is so biased that he dismissed Expert DeLano’s “most interesting statements”, (id.) as “confused” without even considering the possibility that they may constitute admissions against legal interest by a witness who took his oath to tell the whole truth seriously. Thus the Judge, relinquishing his role as a neutral arbiter, tried as Chief Advocate on the Bench to contain the damaging admissions of his client, Mr. DeLano, by impeaching the latter’s capacity to understand and respond to questions about his own actions in his field of expertise. However, the Judge was unable to state at the hearing, while there was an opportunity for clarification, what he thought Mr. DeLano was “confused” about. (Tr.187/5-20) Meantime, Att. Werner was Deferential Lower Chair, for who needs to speak when his boss the judge is doing so for their client (Tr.180/1-21)?...except to flatly contradict him: At the end of the hearing that lasted hours (Tr.185/14-18), Judge Ninfo asked Att. Werner whether he had any questions for Mr. DeLano and this is Att. Werner’s assessment of Mr. DeLano’s testimony:

Tr. 187/ 8. THE COURT: I'm just waiting for you. Are

9 you finished now?
21 DR. CORDERO: Very well, I have completed.
22 THE COURT: Mr. Werner?
23 MR. WERNER: I believe Mr. DeLano has given
24 a fair statement of his position and facts, your Honor,
25 I have no questions.

65. Judge Ninfo pretends to know that “what is clear from the Trial and DeLano’s testimony at the Trial is that: (1) DeLano consistently asserted that...” (D:16) because the Judge is clear-minded and was not confused...but Judge Ninfo admitted that he himself was confused! (Tr.53/24-54/2; ¶67 below) And he still is, for how can he state that “DeLano consistently asserted” anything while pretending that Mr. DeLano was “confused” although the hallmark of being confused is precisely the incapacity to make consistent statements, the state of mind of one who contradicts himself and is incoherent? Is Judge Ninfo saying that Mr. DeLano made some inconsistent statements but also other consistent statements? Then Mr. DeLano was not so “confused” after all! (Tr.183/14-18) His state of mind allowed him to make “some most interesting statements” against his own legal interest. So the one who turns out again to be incapable of making consistent statements in a single sentence is Judge Ninfo. (¶59 above) Do you really want to risk your career and more by supporting this peer?

66. Judge Ninfo is not straightforward either with his appellate peers, for he alleges that “what is clear from the Trial and DeLano’s testimony at the Trial...”, thereby pretending that he has two sources for “what is clear”. However, there was no “Trial” at all; just an evidentiary hearing. (Tr.132/5-8) In addition, at that hearing there was nothing other than Mr. DeLano’s testimony because in pursuit of his agenda to eliminate Dr. Cordero from the case through a two-punch setup, the Judge denied him *every single document* that he had requested. (D:287, 314, 320§II, 325, 327¶1)

67. Nor is Judge Ninfo straightforward when he denies his peers an impartial and complete statement of facts by omitting Mr. DeLano’s “most interesting statements” (D:16; ¶58 above). How can

a judge who admitted at the hearing that he was confused by Dr. Cordero's questions so as to offer Mr. DeLano a cue for him to recant his statements against legal interest (Tr.182/16-183/2), which instead resulted in that "DeLano insisted that he was not confused" (D:16, Tr.183/13-18), keep from his peers those "most interesting statements" that would have given them the opportunity to decide for themselves who was "confused" after all?

68. Judge Ninfo took an oath to 'administer justice fairly and impartially' (28 U.S.C.§453). When he writes a decision, he cannot become the partisan advocate of his own views in order to ensure that his decision is not reversed on appeal. He remains a lawyer and a member of the legal community, bound by the same standard of professional responsibility as any lawyer, for his observance of that standard is intended to achieve the same objective in his relation to any appellate court, that is, "to bring about just and informed decisions" (Add:552/EC7-24; EC 7-24 ABA MCPR).
69. Hence, a judge must present all the facts, whether favorable or unfavorable to his decision, and then argue their relative weight. That duty is patterned after the professional responsibility standard requiring that a lawyer present to the court "legal authority in the controlling jurisdiction directly adverse to the position of his client" (Add:551/EC7-23; ABA MCPR). This is in line with every witness' duty not just to tell the truth, but also "the whole truth" as opposed to only the part supporting his position. As for a judge, his duty to present all the facts, not only those supporting his decision, is equally compelling because while the appellate court can on its own find controlling legal authority that is adverse to the lower judge's decision, it may have no way of finding the facts other than those stated by the lower judge and may give them more credence than to the parties' statements of facts. Justice is as disserved when either the appellate court or the lower judge administers it on the basis of a partial and partisan, self-serving view of the facts. Judge Ninfo rendered such a disservice by withholding from his appellate peers Mr. DeLano's "most interesting statements".

70. Those “statements” bear on Mr. DeLano’s handling of the containers storing Dr. Cordero’s property. They are “most interesting” precisely because they establish his claim against Mr. DeLano:

- a) David Palmer was the owner of Premier Van Lines, the moving and storage company that with a loan from M&T Bank bought containers where to store the property of Premier’s clients, including Dr. Cordero, and warehoused them at a Jefferson-Henrietta warehouse; Premier went bankrupt and Mr. DeLano was in charge of liquidating the containers (Tr.101/10-16, 113/2-7);
- b) Mr. DeLano told Dr. Cordero that he had seen the containers bearing his name and holding his property, but later on admitted that he had seen none (Tr.149/25-150/6, 101/17-19, 109/3-5, 111/9-24, 141/8-13);
- c) Mr. DeLano was under pressure to have the containers moved out of the Jefferson-Henrietta warehouse because the latter was going to put a warehouse lien on the containers to secure unpaid warehousing fees (Tr.111/6-112/3), an action that would have delayed the sale and diminished Mr. DeLano’s net recovery from liquidating M&T Bank’s security interest in the containers;
- d) So Mr. DeLano hired an auctioneer, John Reynolds (Tr.97/13-18), to sell the containers; and the auctioneer sold them in a private auction to the single warehouse that he contacted (Tr.115/4-17, 95/5-17, 96/21-23);
- e) Mr. DeLano did not check and did not know whether the auctioneer checked the capacity of the buying warehouse, whose name he did not remember, to store property safely from damage or loss due to pests, water, humidity, extreme temperature, fire, and theft (Tr.95/18-19, 112/4-113/17, 120/22-17);
- f) Mr. DeLano did not contact the owners of the property stored in those containers to inform them of how he intended to dispose of the containers and find out from them how they

- wanted their property handled, such as by having it inspected before being removed, moving it to a place of their choice, or obtaining in advance from the prospective buying warehouse a statement of its terms and conditions, including storage fees (Tr.109/19-110/8);
- g) Although Mr. DeLano did not think that Dr. Cordero's property was in any of the containers sold at the auction (Tr.105/14-17, 120/13-16), after the sale, Mr. DeLano directed him to the buying warehouse to deal directly with it about his property (Tr:152/1-21);
- h) Dr. Cordero contacted the buying warehouse and its owner told him that Mr. DeLano had sent him an acknowledgment of receipt that included Dr. Cordero's name, but the owner would not sign it because he had not received any containers bearing Dr. Cordero's name among those sold to him by the auctioneer (Tr.104/5-9, 150/16-151/8, 150/20-151/18);
- i) Mr. DeLano admitted that he had sent the owner of the buying warehouse such acknowledgment of receipt but that the owner turned out to be right because the containers with Dr. Cordero's property were not delivered to him given that they had *never* been in the Jefferson-Henrietta warehouse; Mr. DeLano explained that this may have happened because while checking the slips in the business records that Premier had in its office in the Jefferson-Henrietta warehouse, he may have seen a slip with Dr. Cordero's name and erroneously concluded that the containers that the slip referred to were also in that warehouse; (Tr.152/3-21, 153/4-23, 155/1-13);
- j) but in fact Premier's owner, Mr. Palmer, had abandoned Dr. Cordero's containers at Mr. Pfunter's warehouse in Avon and it was Dr. Cordero who had to invest his time and effort to find that out (Tr.154/2-24, 155/14-24, 157/22-158/5), and to travel there to inspect the containers and found his property in part lost or damaged (D:380¶¶72-74);
- k) Mr. DeLano admitted that his mistakes could have caused Dr. Cordero confusion and anxiety and cost him a lot of effort, time, and money trying to find out where his property

could be, and that it was reasonable for Dr. Cordero to claim therefor compensation from him and M&T Bank and for them to compensate him to a degree. (Tr.155/14-156/25, 160/24-161/5, 174/5-175/8, 176/5-10);

l) Upon Mr. DeLano making that frank admission, Dr. Cordero said that such degree of compensation was what had to be determined at the *Pfuntner* trial where all the parties and all the issues could be tried as a whole, as opposed to trying to determine only the claim against Mr. DeLano in isolation in his bankruptcy case. (Tr.177/18-178/9);

m) Mr. DeLano also admitted that since he was the loan officer who handled the defaulted loan to Mr. Palmer and Premier and disposed of the containers in which Dr. Cordero's property was stored, he would be the one to represent M&T at the *Pfuntner* trial and bring any documents. (Tr.184/1-13)

71. No wonder Mr. DeLano's are "most interesting statements" given that they constitute an admission of his having dealt with the containers with the aim only of avoiding a warehouse lien, thus maximizing the liquidation of his Bank's interest in them, and with disregard for the property of other people, such as Dr. Cordero, that they contained. In so doing, Mr. DeLano proceeded negligently, recklessly, or fraudulently, which had direct, adverse consequences on Dr. Cordero, for which Mr. DeLano and M&T could be found liable to him at the *Pfuntner* trial. Likewise, his "statements" are also "most interesting" precisely because they corroborate Dr. Cordero's claims contained in his complaint served on M&T and Mr. DeLano on November 21, 2002 (Add:534/after entry 13, 797§D) concerning their mishandling of his stored property.

72. Moreover, Mr. DeLano admitted that "he had seen one or more storage containers at the [Jefferson-Henrietta] Warehouse which bore Cordero's name" (D:15; Tr.141/8-13). That admission can now be relied upon by Mr. Pfuntner and other parties at the *Pfuntner* trial to escape liability for Dr. Cordero's property not found at Mr. Pfuntner's warehouse during the inspection on May 19,

2003. Judge Ninfo himself required Dr. Cordero to undertake it and accepted his report at the hearing on May 21 on the loss of, or damage to, his property (D:398¶¶35, 50; Add:609¶B; Tr.141/16-19). They can rely on the Judge's **findings** that such containers could have been at the Jefferson-Henrietta warehouse (D:17/items (4)-(5); Tr.160/6-9) to argue that Mr. DeLano is liable for any conversion of those containers while he negligently or recklessly sold them through his agent, Reynolds Auction Co., to the buying warehouse. (Tr.186/9-187/4) Only incapacity to anticipate a legal argument, bias, and his need to protect Mr. DeLano can cause Judge Ninfo to negate that "there is any possibility" (D:21) that Mr. DeLano could be found liable to Dr. Cordero and grant his motion to disallow. Thus, if Mr. DeLano's admission was not sufficient for Dr. Cordero to prove by a preponderance of the evidence the validity of his claim against Mr. DeLano, what would?

e. Neither Mr. DeLano nor Att. Werner bothered to read the complaint or the proof of claim containing the claim that they had moved to disallow and in the middle of the hearing asked Dr. Cordero to lend them a copy!

73. In addition, Mr. DeLano's are "most interesting statements" because he admitted at the evidentiary hearing to not having read fully or at all the documents containing the very claim that he was moving to disallow. (Tr.54/6-55/5) Neither he nor Att. Werner brought a copy of either Dr. Cordero's complaint or proof of claim to the hearing (Tr.64/10-66/18). Judge Ninfo himself did not know key parties in the handling of the storage containers that held Dr. Cordero's property. (Tr.54/6-55/5, 121/18-123/11, 157/2-21)

74. So intensely did they feel the need under Dr. Cordero's questioning to find out right away what that claim was all about that during the first recess Mr. DeLano and Att. Werner walked out of the courtroom with Michael Beyma, Esq., attorney for both M&T Bank and Mr. DeLano in *Pfuntner* (Add:535/entry 24, Add:778). When Att. Werner and Mr. DeLano came back in, the former asked Court Attendant Lorraine Parkhurst whether she had a copy of Dr. Cordero's

complaint against Mr. DeLano! He was told that it had been filed with the court. So he turned around and asked Dr. Cordero whether he had a copy. He said that he had copies and Att. Werner asked him for one! Dr. Cordero declined to lend him any. (Tr.49/13-50/25)

75. When Judge Ninfo came in and the hearing was back on the record, Dr. Cordero related the incident. The Judge found nothing objectionable in such irrefutable proof that neither Att. Werner nor Mr. DeLano had had before or had then any idea of the nature of the claim that they had moved to disallow. (Tr.124/4-20, 137/8-21, 143/17-145/13) This showed that their motion was raised in bad faith as a process-abusive subterfuge to eliminate Dr. Cordero from the case before he could prove the DeLanos' fraud. (Tr.60/19-61/13) Nor did the Judge find reprehensible that during an examination under oath, Att. Werner had attempted to take advantage of a recess to feed Mr. DeLano answers to key questions put to him by Dr. Cordero. The latter moved to dismiss. The Judge denied his motion out of hand although he had to acknowledge that they neither had a copy of Dr. Cordero's complaint nor knew its contents. (Tr.99/13-20)...but the lawyers had their hands and mouths to impermissibly signal answers to their testifying client.

f. Judge Ninfo looked on in complicit silence while Atts. Werner and Beyma signaled answers to Mr. DeLano during his examination under oath

76. At the evidentiary hearing, Dr. Cordero remained at his table. Relative to him, Mr. DeLano was on the witness stand to his right and in front of him; Att. Werner, at his table five feet away to his right; and in the first bench behind the bar and Att. Werner, some nine feet away, Att. Beyma, a partner at Underberg & Kessler, where Judge Ninfo too was a partner when he was appointed judge in 1992. On several occasions, Dr. Cordero saw Mr. DeLano suddenly look away from him and toward his attorneys and as Dr. Cordero looked at them he caught one or the other signaling to Mr. DeLano with the arm! (Tr.28/13-29/4:Beyma, 75/8-76/3:Beyma, 141/20-143/16:Werner)

77. Dr. Cordero protested such utterly censurable conduct to Judge Ninfo. He was sitting some 25

feet in front and between Att. Werner and Dr. Cordero and some 30 feet from Att. Beyma. Yet, Judge Ninfo found nothing more implausible to say than that he had his eyes fixed on Dr. Cordero and had not seen anything. Indeed, from the distance and higher level of his bench he had an unobstructed view of the two attorneys and Dr. Cordero, who were in his central field of vision. So it was impossible for him not to catch the distraction of either of them flailing his arm. Nevertheless, his allegation was belied even more patently by what he did not say: He did not ask either of the attorneys on any of those occasions whether they had signaled an answer to Mr. DeLano. Even if, assuming *arguendo*, he had not seen them signaling, he did not care to find out either. Yet, he had every reason to ask about it precisely because neither protested Dr. Cordero's accusation, which they reflexively and indignantly would have done had it not been true that they had signaled to Mr. DeLano how to answer.

78. Judge Ninfo's toleration of conduct intended to suborn perjury shows his blatant disregard for due process. His disingenuous denials that he had not seen the reprehensible signaling that occurred three times right before his eyes cast an insidious meaning on his emphatic admonition to Mr. DeLano that 'you are not listening to Dr. Cordero's questions and you have to "think about the answer". (Tr.97/17-98/12, 114/9-115/2). Given his tolerance of subornation of perjury in open court by well-known locals (D:358§II), what else would he let them do behind close doors? One cannot imagine that those attorneys would have dare signal to their client on the witness stand had they been before a judge unknown to them at the court in Albany, NDNY. But one can understand their conduct in the context of a pattern of non-coincidental, intention, and coordinated wrongdoing in support of a bankruptcy fraud scheme. (392§I)

g. Judge Ninfo misleads his peers by pretending that there was a "Trial", yet what he ordered and held was just an evidentiary hearing

79. Judge Ninfo misleadingly refers to a "Trial" although it was an evidentiary hearing what he ordered 1) at the hearing on August 25, 2004, of Mr. DeLano's motion to disallow Dr. Cordero's claim; 2)

in his decision of August 30 (D:277/1st whereas, 279); 3) at the hearing on December 15, when he set the evidentiary hearing for March 1, 2005 (Tr.131/20-132/8); 4) in his order of December 21, 2004 (D:332); and what he held 5) on March 1, 2005 (Tr.132/5-8).

80. In Black's Law Dictionary, 8th edition, an evidentiary hearing is defined thus:

evidentiary hearing. 1. A hearing at which evidence is presented, as opposed to a hearing at which only legal argument is presented. 2. ADMINISTRATIVE PROCEEDING.

81. FRBkrP 9014(e) concerning contested matters provides that "The court shall provide procedures that enable parties to ascertain at a reasonable time before any scheduled hearing whether the hearing will be an evidentiary hearing at which witnesses may testify". An evidentiary hearing is a proceeding for examining "witnesses with respect to disputed material factual issues", as FRBkrP 9014(d) provides, not for arguing issues of law. Hence, it is governed by FRCivP 43(a), as stated in the Advisory Committee Notes for the 2002 Amendment. This shows how misleading it is for Judge Ninfo to call an evidentiary hearing a 'trial', let alone to refer to it emphatically as a "Trial".

82. But by such ruse, Judge Ninfo criticizes Dr. Cordero for not having deposed other parties or taken discovery of them (D:14). Had Dr. Cordero done so, he would have walked right into the Judge's trap of trying *Pfuntner*, artificially limited to Dr. Cordero's claim therein against Mr. DeLano, within *DeLano*. In one fell swoop the Judge would have eliminated Dr. Cordero from both cases so as to insulate the local parties from liability to him. But Dr. Cordero had anticipated that ruse and objected to it (D:444§I) because his claim against Mr. DeLano cannot be disposed of in isolation from all the other issues in *Pfuntner* (D:444§I, Tr.186/10-187/20), lest the remaining parties resort to the expedient of off-loading their liability onto the dismissed parties, e.g. Trustee Gordon (D:393§1), and Judge Ninfo accept their ploy. (Tr.177/19-178/9) Thereby Dr. Cordero would be left to suffer the consequences of their negligence, recklessness, and fraud in dealing with his stored property without anybody being found responsible for its

loss or damage (Add:597§B).

83. This is not the first time that Judge Ninfo tries to mislead his appellate peers by pretending that he had moved the case along to a trial (Add:749) although the proceeding that he had held was nothing but a hearing by the terms of his own previous orders (D:430§A; Add:724). His conduct shows him not to be trustworthy.

h. Judge Ninfo shows blatant bias and bad faith in criticizing Dr. Cordero for not filing a “Pretrial Memorandum of Law”, a type of paper not even mentioned in the rules, never required of him, and not filed by Att. Werner, who also filed no memorandum of law to support his motion to disallow

84. By referring to a “Trial”, Judge Ninfo fabricated a pretext for his criticism that “Cordero did not file a Pretrial Memorandum of Law...regarding the merits of the Cordero Claim”. (D:14) However, in connection with the motion to disallow, he only referred to an “evidentiary hearing” (§79 above), which is for taking testimony, not for presenting legal arguments (§81 above). So there was neither notice nor expectation that such paper had to be filed. Indeed, such term, let alone a related filing obligation, is not even contained in 1) the FRCivP, 2) the FRBkrP, 3) the local rules of the Bankruptcy Court, 4) the local rules of the District Court, 5) Moore's Manual--Federal Practice and Procedure, 2004 ed., or 6) Federal Litigation Guide, 2004 ed., by Matthew Bender & Co.

85. It is sheer bias that Judge Ninfo did not request any “Pretrial Memorandum of Law” from Att. Werner, who filed none, yet the Judge did not fault him therefor. Nor did he require Att. Werner to provide, let alone criticize him for not providing, a “Memorandum of Law” to support his motion to disallow. Nevertheless, Att. Werner had an obligation to provide not only such memorandum, but also substantial evidence to overcome the claim’s presumption of validity under FRBkrP 3001(f) (§94 below).

86. By contrast, Dr. Cordero wrote and filed several memoranda of law where he 1) discussed on April 25 the validity of his claim (D:118¶1; 128§I), after which Att. Werner dropped the

challenge to it and did not renew it even though Dr. Cordero filed his proof of claim on May 15 (D:142); 2) argued that Mr. Werner's July 22 challenge was untimely and barred by laches (D:255§VI, 447§A); 3) demonstrated that the motion to disallow his claim was an artifice to eliminate Dr. Cordero from the case (D:253§V, 370§C, D:, 453¶39); 4) contended that the motion could not overcome the presumption of validity attached under FRBkrP 3001(f) to Dr. Cordero's claim (D:256§VII, 446§II); and 5) indicated that there was no justification for estimating the value of his claim because it was not legally necessary to distribute the assets and close the case at that time (D:450§§C-D). Yet Judge Ninfo disregarded the law, the rules, and the facts to dispose with a mere conclusory statement of Dr. Cordero's arguments on untimeliness and laches (D:372¶50) and on the motion as a process-abusive artifice (D:277/2nd¶). Worse still, the Judge betrayed his failure even to read such memoranda in breach of his duty to inform himself of a submission before ruling on it by stating "Cordero did not...make any other written submission regarding the merits of the Cordero Claim" (D:14)...or is he making an intentionally misleading statement to his peers to present Dr. Cordero in a false light?

87. It would have made no difference if Dr. Cordero had submitted a "Pretrial Memorandum of Law" since, as Judge Ninfo put it, "Cordero has filed a great number of motions and made numerous requests for relief" (D:8) in which he argued the law and the rules (D:231, 317, 355, 385, 426, 441; Add:535/entries 22, 75, 78, 93, 111, 157)...to no avail, for the Judge has skipped any discussion of his citations and arguments and jumped into his requested relief to deny it with his this-is-so-because-I-say-so orders, even resorting to sweeping "in all respects denied" fiats (D:327¶1; Add:548/entry 145, 1125). Judge Ninfo's faulting Dr. Cordero, but not Att. Werner, for not having filed a nowhere described and never required "Pretrial Memorandum of Law" was biased and done in bad faith.

i. Judge Ninfo pretends to provide legal authority, without discussing

it, for his decision, which on the contrary shows that with disregard for the law he disallowed the claim

88. Judge Ninfo opened “The Claim Objection Proceeding” section of his decision (D:10 & Add:637) by quoting 11 U.S.C. §502(a) and FRBkrP 3001(f) only to continue with a showing of his disregard for the law due to his unwillingness or inability to analyze it and then apply it to the facts.
89. Indeed, §502(a) provides that once a claim has had its proof filed, it “is deemed allowed” unless a party in interest objects because “the procedure for the allowance of claims for which there are no objections is an administrative proceeding by operation of Rule 3001(f), requiring no judicial participation”, as stated at the top of the same page where appears Judge Ninfo’s citation to Norton Bankr. L & Prac. 2d §41:7 (D:11/fn.5; Add:645). Hence, neither the clerk nor the court is empowered to take the initiative to review the proof substantively to determine whether the claim is valid in light of some unspecified, arbitrary criteria. It is only upon the objection of a party in interest that the court can take action. (*In re G. Marine Diesel Corp.*, 155 B.R. 851 (Bkr. E.D.N.Y. 1993)(because a properly executed and filed claim is deemed allowed in bankruptcy proceeding, the objecting party has the initial burden of producing sufficient evidence to rebut the claimant’s prima facie case.)
90. Consequently, the court’s action is not to review either the claim or its proof, for FRBkrP 3001(f) provides that the filing of a proof of claim “shall constitute prima facie evidence of the validity and amount of the claim”. This means that “the burden is on the objecting party to go forward with evidence establishing the basis of the objection”, as stated by Judge Ninfo’s citation to Norton §41:7 (Add:645) The court can only review the **objection** to determine whether it overcame the presumption of validity already attached to the claim. Judge Ninfo disregarded his duty to review the objection, and instead took it upon himself to review the claim (D:11):

Since Cordero failed to attach to the Cordero Claim those pages of the Cordero Premier Claims that specifically dealt with his alleged claims against DeLano, the Court made this statement only after it had reviewed

in detail the Cordero Claim, DeLano's Objection to the Claim and the Cordero Premier Claims.

91. Judge Ninfo had no authority either to expect or require that any specific pages or documents be attached to Dr. Cordero's proof of claim. Nor could he take the initiative to go fetch any pages to determine whether Dr. Cordero had established a valid claim. By so doing, he impermissibly denied the claim's presumptive validity and took on the role of the objecting party, thereby becoming Mr. DeLano's advocate and forfeiting his position as an impartial judge.
92. The fact is that the motion to disallow (D:218) does not even mention "those pages of the Cordero Premier Claims". So unaware of "those pages" were Mr. DeLano and Att. Werner that they were nor even sure what Dr. Cordero's claim was all about, thus writing "Claimant **apparently** asserts a claim relating to a pending Adversary Proceeding in Premier Van Lines (01-20692) relating to M&T Bank" (emphasis added; id). But Att. Werner did not have a clue of where to find "those pages". His actions at the evidentiary hearing confirm (§73 above) that he did not have Dr. Cordero's complaint containing his claim against Mr. DeLano, had not read them, and did not know even remotely what they "specifically dealt with", whereby he could not refer to them when objecting to the claim (Tr.64/4-67/21). Had he read them, he would have known to refer the court to 'an Adversary Proceeding in *Pfuntner v. Gordon et al (02-2230)*', rather than *Premier*. The latter was a bankruptcy case, had practically ended about a year before the commencement of *Pfuntner* when Mr. Palmer stopped participating in his own case, and in which Mr. DeLano was not a named party. Moreover, that "pending Adversary Proceeding" was not merely "relating to M&T Bank", but instead concerned Mr. DeLano directly as a named third-party defendant. Hence, Judge Ninfo, left to his own devices, mistakenly referred to "a cross-claim that Cordero had asserted against DeLano" (D:3). These people did not know what they were talking about!
93. How thereby Att. Werner doomed the objection is unwittingly confirmed by Judge Ninfo, who pretended to cite authority but disregarded its implications or was unable to apply it to the facts:

The Second Circuit has clearly ruled that once the objecting party introduces substantial evidence in opposition, the burden shifts to the claimant to establish by a preponderance of the evidence that their claims are allowed under the law. (emphasis added; D:11 fn.5)

94. All Att. Werner filed on July 22, 2004, was a *stick-it*-like note in an Objection to Claim form (D:218):

Claimant sets forth no legal basis substantiating any obligation of Debtors. Claimant apparently asserts a claim relating to a pending Adversary Proceeding in Premier Van Lines (01-20692) relating to M & T Bank, for whom David DeLano acted only as employee and has no individual liability. Further, no liability exists as against M & T Bank. No basis for claim against Debtor Mary Ann DeLano, is set forth, whatsoever.

95. If that is “substantial evidence”, what would plain ‘evidence’ be? Black’s Law Dictionary defines it:

evidence, n. Something (including testimony, documents, and tangible objects) that tends to prove or disprove the existence of an alleged fact.

96. What Att. Werner provided was his personal opinion, which under no legal standard constitutes “evidence”, and is not even proper to offer, let alone admissible (EC 7-24, ABA MCPR, Add:552). His opinion does not even reach the level of a legal argument, just barely that of a conclusory assertion (D:251§§II-IV). Since it is not evidence, then as stated in what Judge Ninfo unreflectively copied, it cannot be “sufficient to rebut the presumption of validity, [and no] burden of proof shifts to the claimant” (D:11/fn. 5 & Add:637/fn.5). He would have realized this had he read his own citations: “The party objecting to the claim has the burden of going forward and of introducing evidence sufficient to rebut the presumption of validity.n5a”, 9 Collier on Bankruptcy § 3001.09 [2] (Add:649). “Evidence must be offered by the objecting party to overcome the prima facie case”, Norton Bankr. L & Prac. 2d §41:6 (Add:645). “Substantial evidence” must consist of financial information and factual arguments, not legal rhetoric”, (Norton §41:8, Add:648/fn.93); or as stated in 9C Am. Jur 2d Bankr. §2368, cited by Judge Ninfo in his pretense at legal research (D:11/fn.5 & Add:637/fn.5) but either not read or deliberately ignored: “if the objecting party produces little³⁰ or no evidence, the claimant will prevail³¹ ...mere denial of the claim’s validity or amount will not suffice³⁴ⁿ, (Add:640-641). (*In*

re Michigan-Wisconsin Transp. Co., 161 B.R. 628 (Bkr. W.D. Mich. 1993)(A party objecting to a claim must present affirmative evidence to overcome presumptive validity of a properly filed proof of claim; only after this has been done does the burden of persuasion shift to the creditor) Att. Werner presented no evidence whatsoever; consequently, he could not have rebutted the presumption of validity that attached to Dr. Cordero's proof of claim.

97. It attached when Dr. Cordero filed the official proof of claim form. In ¶8 it states (D:142): "If the documents are voluminous, attach a summary". So he attached key pages of the 31-page third-party complaint in *Pfuntner* containing his claim against Mr. DeLano and wrote in bold characters at the top of the first page: "**Summary of documents supporting Dr. Richard Cordero's proof of claim...**" (D:144) .Those pages were a proper summary since he had served on Mr. DeLano the whole complaint. (Add:785; 534/after entry 13) So aware was Mr. DeLano of the claim therein that he listed it when filing his petition (D:27/Sch.F) and was accompanied by his lawyer for that claim, Att. Beyma, to the meeting of creditors and the evidentiary hearing (Tr.2/9-12).

98. Judge Ninfo then cited *Raleigh v. Illinois Dept. of Revenue*, 530 U.S. 15 (2000). (D:11/fn.5 & Add:637/fn.5) If he had only read it, even he might have realized that it has nothing to do with *DeLano*, but if it does, "Thus, in *Raleigh*...the Supreme Court held that the debtor [cf. Mr. DeLano!] bears the burden of proof in objecting to a proof of claim filed by the United States for federal employment taxes because it is the debtor's burden under substantive state law"...wait a moment!, this is in the Judge's own citation, 9 Collier on Bankruptcy §3001.09 (id.; Add:649) But because the Judge did not read either Collier or *Raleigh*, he did not realize that by citing them he was putting the burden of proof squarely on Mr. DeLano's shoulder! What a self-indictment by Judge Ninfo of his capacity to do legal research and apply the law to the facts at hand!

99. No wonder Judge Ninfo did not bother to cite anything more pertinent than *In re Youroveta* (D:11/fn.5 & Add:637/fn.5; Add:651) and *In re Burrows* (id.; Add:654), for the proposition that

“the ultimate burden to prove a valid and allowable claim rests with the creditor” (D:11 & Add:637), whereas he did not show a hint of awareness that the fact that those cases date back to 1924 and 1946, respectively, deprives them of authority therefor. This is so because in their days there was no official rule, not even clear dictum, giving a proof of claim prima facie validity. Rule 3001(f) was adopted only **decades** later. It formed part of the Federal Rules of Bankruptcy Procedure prescribed by the Supreme Court on April 25, 1983, where it became the current version of Rule 301(b) (411 U.S. 1042) of the former Bankruptcy Rules and Official Forms, which were first prescribed by the Supreme Court on April 24, 1973, pursuant to 28 U.S.C. §2075, (411 U.S. 989; 11 U.S.C.A. Bankruptcy Rules, pg. XXVII) and became effective on July 1, 1975 (Pub. L. 93-593, §3, Jan. 2, 1975, 88 Stat. 1959).

100. A century ago, it was still an open question “whether the sworn proof of claim is prima facie evidence of its allegations in case it is objected to...whether the sworn proof is evidence at all” (Add:652). This was a quote from Holmes, J., in *Whitney v. Dresser*, 200 U.S. 532, 534, 26 S.Ct. 316,317, 50 L.Ed. 584 (1906). *Youroveta* pointed out that “The common statement of the rule in matters like this is that, under *Whitney*...a sworn proof of claim puts the "burden of proof" on the objecting trustee. This is not an accurate statement [of what] Holmes, J., remarked” (id). Yet, *In re Burrows* states that “it is true that the proofs filed established the claims prima facie” (Add:655). This shows the unsettled state in those days of the evidentiary effect to be accorded a proof of claim. Hence, it is imprudent for a lawyer today who has read both cases, let alone one who has not, to cite them in support of a proposition that rests on such an unsettled basic statement.

101. The imprudence is particularly gross since one of those cases, *Youroveta*, applied the statement from Holmes, J., that “It is not a question of the burden of proof in a technical sense, a burden which does not change, whatever the state of the evidence”, which negates the proposition for which Judge Ninfo cited it since the issue of an “ultimate burden” (D:11 & Add:637) could not arise because the

burden did not shift to begin with. Did Judge Ninfo try to take his appellate peers for fools because he knew that they would not bother to check his citations just as he did not bother to read them?

102. Not only does he not read his “authority”, but he also disregards its mandate, which provides:

An objection should state the grounds as to why the claim should be denied by giving facts and citing one of the nine subparagraphs of §502(b). A general objection without specific reference to a proper ground may be an insufficient objection and is subject to a motion to dismiss at, or prior to, a hearing. Norton Bankr. L & Prac. 2d §41:8 (D:11 fn.5, Add:637/fn.5; 648; cf. ¶75 above)

103. Att. Werner failed to provide any such grounds, just as did Judge Ninfo, who had a duty to do so, as stated in 11 U.S.C. §502’s Historical and Statutory Notes, Revision Notes and Legislative Reports, 1978 Acts: “Subsection (b) prescribes the grounds on which a claim may be disallowed. The court will apply these standards if there is an objection to a proof of claim”.

104. Judge Ninfo does not even show awareness that §502(b) contains the grounds for disallowance, let alone that a “claim may be disallowed, not for just any reason, but only for one of the reasons enumerated by Congress; [for a] bankruptcy court has no discretion in this regard and cannot disallow a claim for reasons beyond those stated in statute”, *In re Taylor*, 289 B.R. 379 (Bkr. N.D. Ind. 2003). Disregarding the law and instead engaging in “local practice” (D:98§II), the Judge granted the motion to disallow in order to protect the DeLano Locals (D:370§C) and biasedly injured Non-local Dr. Cordero (D:392§I). Hence, his decision to disallow his claim against them is a nullity because the motion to disallow was the DeLanos’ artifice and the evidentiary hearing Judge Ninfo’s sham to eliminate Dr. Cordero before he could prove a bankruptcy fraud scheme.

j. Judge Ninfo has shown such bias against Dr. Cordero and in favor of the local parties as to require the nullification of his decisions and his disqualification under 28 U.S.C. §455(a), which the Supreme Court has stated calls only for the appearance, not the reality, of bias and prejudice

105. Section 455(a) of 28 U.S.C. provides as follows:

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

106. The Supreme Court recently reaffirmed in *Microsoft Corp. v. United States*, 530 U.S. 1301, 1302

(2000) (REHNQUIST, C. J.) the standard for interpreting and applying this section thus:

As this Court has stated, what matters under §455(a) “is not the reality of bias or prejudice but its appearance.” *Liteky v. United States*, 510 U. S. 540, 548 (1994). This inquiry is an objective one, made from the perspective of a reasonable observer who is informed of all the surrounding facts and circumstances. See *ibid.*; *In re Drexel Burnham Lambert Inc.*, 861 F. 2d 1307, 1309 (CA2 1988).

107. Those surrounding facts and circumstances are to be assessed by “the ‘reasonable person’ standard which [28 U.S.C. §455(a)] embraces”, *Microsoft Corp.* at 1303. (Cf. D:418)

108. The bias that Judge Ninfo has shown toward the DeLanos and the other local parties and against Non-local Dr. Cordero has infected all his decisions in *DeLano* as well as in the case that gave rise to Dr. Cordero’s claim in it, that is, *Pfuntner*. Indeed, the Judge has inextricably linked both cases by stating in the *DeLano* decision on appeal (D:3) his findings of fact and conclusions of law about *Pfuntner* although discovery in the latter under FRBkrP 7026 and FRCivP 26 has not yet begun. Thereby he has prejudged the outcome of *Pfuntner* and done so to Dr. Cordero’s detriment (Add:854§§I and IV). He has even given notice in the *Pfuntner* docket of his *DeLano* decision on appeal here and related it to a 2003 decision in *Pfuntner* (Add:549/after entry 156).

109. In effect, he has consolidated both cases. They now contain compelling evidence of his bias, his blatant failure to provide legal authority for his rulings, and his gross mistakes of fact. His decisions and conduct in those cases as well as the conduct of trustees, court staff, and other local parties show them to have participated in a series of acts of disregard for the law, the rules, and the facts so consistently in favor of the local parties and against Dr. Cordero as to form a pattern of non-coincidental, intentional, and coordinated wrongdoing (D:392§I) in support of a common agenda: a bankruptcy fraud scheme. To protect it, he allowed the DeLanos’ motion to disallow

Dr. Cordero's claim despite the motion's procedural and substantive defects (D:249), ordered Dr. Cordero to take discovery of Mr. DeLano in *Pfundner* only to deny him every single document that he requested from Mr. DeLano, and then conducted a sham of an evidentiary hearing (D:378§2) in which he arbitrarily disregarded Mr. DeLano's admissions against self-interest and disallowed Dr. Cordero's claim. Consequently, Judge Ninfo has denied Dr. Cordero due process of law (cf. Add:613§C; Add:591§III.A). His bias and disregard for legality require his disqualification from both cases; render his decisions in both a nullity; and justify in the interest of justice the removal under 28 U.S.C. §1412 of both cases to an impartial court in another district.

2. Local Rule 5.1(h) suspiciously singles out RICO claims by requiring exceedingly detailed facts just to file them, thus violating notice pleading under FRCivP

110. The General Rules of Pleading of FRCivP 8(a)(2) ask only for "a short and plain statement of the claim showing that the pleader is entitled to relief"; and 8(e) adds that "each averment of a pleading shall be simple, concise, and direct". For its part, FRCivP 83(a)(1) provides that "A local rule shall be consistent with –but not duplicative of- Acts of Congress and rules adopted under 28 U.S.C. §2072 and §2075". As stated in the Advisory Committee Notes, 1985 Amendment to Rule 83, local rules shall "not undermine the basic objective of the Federal Rules", which FRCivP 84 sets forth as "the simplicity and brevity of statement which the rules contemplate". Thereby the national Rules, as indicated in the 1995 Amendments to Rule 83, aim at preventing that a local rule with "the sheer volume of directives may impose an unreasonable barrier". In that vein, the court in *Stern v. U.S. District Court for the District of Massachusetts*, 214 F.3d 4 (s 1st Cir. 2000) stated that "Even if a local rule does not contravene the text of a national rule, the former cannot survive if it subverts the latter's purpose".

111. Yet such barrier is precisely what the District Court, WDNY, erects with its Local Rule 5.1(h)

(Add:633), which requires a party to provide over 40 discrete pieces of factual information to plead a claim under RICO, 18 U.S.C. §1961. This contravenes the statement of the Supreme Court that to provide notice, a claimant need not set out all of the relevant facts in the complaint (*Atchison, Topeka & Santa Fe Ry. v. Buell*, 480 U.S. 557, 568 n.15, 107 S. Ct. 1410, 94 L. Ed. 2d 563 (1987)). On top of this quantitative barrier a qualitative one is erected because the required information is not only about criminal, but also fraudulent conduct. The latter, by its very nature, is concealed or disguised, so that it is all the harder to uncover it before even disclosure, not to mention discovery, has started under FRCivP 26-37 and 45.

112. Even the requirement of FRCivP 9(b) that fraud be pled with particularity is “relaxed in situations where requisite factual information is peculiarly within defendant’s knowledge or control”, *In re Rockefeller Ctr. Props., Inc. Secs. Litig.*, 311 F.3d 198, 216 (3d Cir. 2002). This means that even in fraud cases the purpose of the complaint is to put defendants on notice of the claim, not to allow the court to prevent the filing of the case or enable it to dismiss the claim on the pleadings.

113. Local Rule 5.1(h) refers to FRCivP 11 only to improperly replace its relative and nuanced standard of “to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances”, by the absolute and strict standard of “facts [that the party] shall state in detail and with specificity us[ing] the numbers and letters as set forth below in a separate RICO Case Statement filed contemporaneously with those papers first asserting the party’s RICO claim”. To require “facts...in detail and with specificity” is inconsistent with FRBkrP 9011(b)(3), which allows the pleading of “allegations and other factual contentions...likely to have evidentiary support after a reasonable opportunity for further investigation or discovery”. Hence, the Court in *Devaney v. Chester*, 813 F2d 566, 569 (2d Cir. 1987) stated that “We recognize that the degree of particularity should be determined in light of such circumstances as whether the plaintiff has had an opportunity to take discovery of those who may possess knowledge of the pertinent facts”. By contrast, Local Rule 5.1(h)

provides no opportunity for discovery, but instead requires such “detail and specificity” in the pleadings as to make it easier to spot any “failure” to comply and “result in dismissal”. This is the type of result unacceptable under the 1995 Amendments to FRCivP 83 where “counsel or litigants may be unfairly sanctioned for failing to comply with a directive”.

114. It is suspicious that Local Rule 5.1(h) singles out RICO and blatantly hinders the filing, let alone the prosecution, of a claim under it. It is particularly suspicious that it does so by erecting at the outset an evidentiary barrier that so starkly disregards and defeats the Congressional Statement of Findings and Purpose that “organized crime continues to grow because of defects in the evidence-gathering process of the law inhibiting the development of the legally admissible evidence necessary to bring criminal and other sanctions or remedies to bear the unlawful activities of those engaged in organized crime”. Hence, Pub.L. 91-451 §904 provided that RICO “shall be liberally construed to effectuate its remedial purpose”.

115. Given the bankruptcy fraud scheme supported by people doing business in the same small federal building housing the bankruptcy and district courts and the Offices of the U.S. Trustees, the U.S. Attorneys, and the FBI, why would a Local Rule be adopted that forestalls any RICO claim? It smacks of a pre-emptive strike carried out against any potential RICO claim through the abusive exercise of the local rule issuing power. In so doing, that Rule contravenes its enabling provision and is void. Moreover, it causes injury in fact to Dr. Cordero inasmuch as it erects an insurmountable barrier at the outset to his bringing a RICO count against the schemers, thus depriving him of the protection and vindication of his rights under that federal law.

3. Section 158 of title 28 U.S.C. provides for bankruptcy appellate review by judges of unequal degree of impartiality in violation of the equal protection requirements of the Due Process Clause of the Fifth Amendment of the Constitution and is unconstitutional

116. Section 158(b) of 28 U.S.C. (Add:630) allows different majorities of judges in individual districts or circuits to decide whether they want to set up or keep a bankruptcy appellate panel

(BAP). Likewise, it allows individual litigants to choose whether to let an appeal go to the BAP, if available, or to “elect to have such appeal heard by the district court” rather than the BAP initially chosen by appellant. It also allows judges and some parties to keep the appeal in district court for the time being by refusing to agree to a direct appeal to the court of appeals.

117. Section 158 prohibits any BAP judge to hear any appeal originating in his own district. The degree of independence that this provision is intended to provide is nevertheless defeated by allowing a majority of bankruptcy judges in a district to vote against the creation or retention of a BAP. Thereby they can keep appeals from their decisions in their own district and choose as their reviewer their friendly district judge, whom they may see and talk with every day. (§27 above)

118. There is the reasonable presumption that bankruptcy judges will prefer to have one friend decide those appeals rather than three judges from other districts whom they may not even know. Hence, allowing judges to decide whether to set up a BAP goes against the protection from prejudgment and self-interest that 28 U.S.C. §47. “Disqualification of trial judge to hear appeal” intends to afford by providing that “No judge shall hear or determine an appeal from the decision of a case or issue tried by him.” The presumption of favoritism by district judges toward the judges in the “adjunct” bankruptcy court to which they refer cases under 28 U.S.C. §157(a) and with whom they may be “so connected” finds support, *mutatis mutando*, in the Advisory Committee Notes to FRBkrP 5002, which deals with “Restrictions on Appointments”, as well as FRBkrP 5004, (b) Disqualification of judge from allowing compensation.

119. This presumption also supports a challenge to the appointment of bankruptcy judges by the court of appeals rather than Congress. Indeed, after the appeals court for the circuit appoints a bankruptcy judge under 28 U.S.C. §152(a)(1), that judge becomes their appointee. When a decision by that judge comes on appeal to that court of appeals, one, two, or three circuit judges who may have been among the appointing judges must then decide, not only whether the

bankruptcy judge's decision was legally correct, but also whether they were right in voting for him. The circuit judges are not so much reviewing a case on appeal as they are examining the work of their appointee under attack. Voting to reverse his decision amounts to voting against the wisdom of their own vote to appoint him. How many circuit judges would willingly admit that they made a mistake in making an appointment to office...or for that matter, any mistake?

120. Likewise, §158 allows local litigants, who may have developed a very friendly relation with the bankruptcy judge, to elect the district judge to hear an appeal as oppose to three judges in the available BAP, on the spurious consideration that "the friend of my friend is friend". The cases at hand illustrate how likely it is for local litigants to develop a close relationship, even friendship, with the local judges to the detriment of non-local ones: According to PACER, Att. Werner has appeared before Judge Ninfo in over 525 cases; and Trustee Reiber in more than 3,900! Would local attorneys similarly situated ever think of allowing an appeal from their judicial friends to go to an available BAP where their friendship would not play a role and they would have to engage in legal research and writing and present legal arguments to defend their clients? Hardly. The importance of providing a level field where locals and non-locals argue and decide appeals on legal considerations rather than personal relations grows ever more as does "an increasingly national bar". If in recognition of the latter the Judicial Conference provides for uniformity among judicial districts in connection with setting up standards governing the technological aspects of electronic filing, then providing for equal protection under the law when local and non-local counsel clash on appeal should assume even more importance (see the Advisory Committee Notes relating to the 1996 Amendments to FRBkrP 5005, Filing and Transmittal of Papers).

121. Hence, §158(b) impairs due process and denies equal protection. By Congress not setting up in advance a system for appellate review that is uniform nation-wide and that is generally applicable to all bankruptcy cases, it failed its duty to provide for judicial process on equal terms.

F. Conclusion and Relief Sought

122. Judge Larimer has shown himself willing to disregard the rule of law and the facts as well as unable to analyze and apply the law. Moreover, he has a conflict of interest because if he orders the production of the documents necessary for the proper determination of the issues in *DeLano* and *Pfuntner*, he also risks the finding of the whereabouts of at least two thirds of a million dollars and thereby the exposure of a bankruptcy fraud scheme and of the colleagues and others supporting it. Indeed, he has already given the appearance of partiality and of misusing his judicial power in his and the schemers' interest rather than using it in the interest of justice.

123. Therefore, Dr. Cordero respectfully requests that:

- a) All of Judge Ninfo's decisions in *DeLano* and *Pfuntner* be declared null and void; and ;
- b) Judge Ninfo be disqualified from both cases;
- c) the disallowed claim of Dr. Cordero in *DeLano* be reinstated;
- d) the proposed order attached hereto be issued, which concerns, inter alia, document production; withdrawal from the Bankruptcy Court, WBNY, and transfer to the District Court, NDNY, of *DeLano* and *Pfuntner*; removal of Trustee Reiber and appointment of a successor; production of a report on the DeLanos' financial affairs; referral of Reporter Dianetti for investigation under 28 U.S.C. §753 to the Judicial Conference as requested in Dr. Cordero's motions of July 18 and September 20, 2005, to the District Court in the instant appeal (docket entries 13 and 19 (Add:911) and 993)); and the report under 18 U.S.C. §3057(a) (Add:630) of *DeLano* and *Pfuntner* to U.S. Attorney General Alberto Gonzales;
- e) District Court Local Rule 5.1(h) be stricken down;
- f) 28 U.S.C. §158(b) be held unconstitutional.

Dated: December 21, 2005
59 Crescent Street
Brooklyn, NY 11208



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

DR. RICHARD CORDERO,
Appellant,

v.

ORDER

05-CV-6190L

DAVID DE LANO and MARY ANN DE LANO,
Respondents.

Having considered the briefs submitted in his appeal, the Court orders as follows:

A. Persons and entities concerned by this Order

1. Respondents, David DeLano and Mary Ann DeLano (hereinafter the DeLanos), Debtors in *In re David DeLano and Mary Ann DeLano*, docket no. 04-20280, WBNY, (hereinafter *DeLano*, which shall be understood to include the above-captioned appeal);
2. Chapter 13 Trustee George Reiber, South Winton Court, 3136 S. Winton Road, Rochester, NY 14623, tel. (585) 427-7225, and any and all members of his staff, including but not limited to, James Weidman, Esq., attorney for Trustee Reiber;
3. Christopher K. Werner, Esq., attorney for the DeLanos, Boylan, Brown, Code, Vigdor & Wilson, LLP, 2400 Chase Square, Rochester, NY 14604, tel. (585) 232-5300; and any and all members of his firm, including but not limited to, Devin L. Palmer, Esq.;
4. Mary Dianetti, Bankruptcy Court Reporter, 612 South Lincoln Road, East Rochester, NY 14445, tel. (585) 586-6392;
5. Kathleen Dunivin Schmitt, Esq., Assistant U.S. Trustee for Rochester, Office of the U.S. Trustee, U.S. Courthouse, 100 State Street, Rochester, NY, 14614, tel. (585) 263-5812, and any and all members of her staff, including but not limited to, Ms. Christine Kyler, Ms. Jill

Wood, and Ms. Stephanie Becker;

6. Deirdre A. Martini, United States Trustee for Region 2, Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 10004, tel. (212) 510-0500;

7. g)Manufacturers & Traders Trust Bank (M&T Bank), 255 East Avenue, Rochester, NY, tel. (800) 724-8472;

8. Paul R. Warren, Esq., Clerk of Court, United States Bankruptcy Court, 1400 U.S. Courthouse, 100 State Street, Rochester, NY 14614, tel. (585) 613-4200, and any and all members of his staff; and

9. Any and all persons or entities that are in possession or know the whereabouts of, or control, the documents requested hereinafter.

B. Procedural provisions applicable to all persons and entities concerned by this Order, who shall:

10. Understand a reference to a named person or entity to include any and all members of such person's or entity's staff or firm;

11. Comply with the instructions stated below and complete such compliance within seven days of the issue of this Order unless a different deadline for compliance is stated below;

12. Be held responsible for any non-compliance and subject to the continuing duty to comply with this Order within the day each day after the applicable deadline is missed;

13. Produce of each document within the scope of this Order those parts stating as to each transaction covered by such document:

a. the source or recipient of funds or who made any charge or claim for funds;

b. the time and amount of each such transaction;

c. the description of the goods or service concerned by the transaction;

d. the document closing date;

- e. the payment due date;
 - f. the applicable rates;
 - g. the opening date and the good or delinquent standing of the account, agreement, or contract concerned by the document;
 - h. the beneficiary of any payment;
 - i. the surety, codebtor, or collateral; and
 - j. any other matter relevant to this Order or to the formulation of the terms and conditions of such document;
14. Certify individually as such person, or if an entity, by its representative, in an affidavit or an unsworn declaration subscribed as provided for under 28 U.S.C. §1746 (hereinafter collectively referred to as a certificate), with respect to each document produced that such document has not been the subject of any addition, omission, modification, or correction of any type whatsoever and that it is the whole of the document without regard to the degree of relevance or lack thereof of any part of such document other than any part requiring its production; or certify why such certification cannot be made with respect to any part or the whole of such document and attach such document;
15. Produce any document within the scope of this Order by producing a true and correct copy of such document;
16. Produce a document and/or a certificate concerning it whenever a reasonable person acting in good faith would:
- a. believe that at least one part of such document comes within the scope of this Order;
 - b. be in doubt as to whether any or no part of a document comes within that scope; or
 - c. think that another person with an adversarial interest would want such production or certificate made or find it of interest in the context of ascertaining whether, in particular,

the DeLanos have committed bankruptcy fraud, or, in general, there is a bankruptcy fraud scheme involving the DeLanos and/or any other individual; and

17. File with the Court and serve on Appellant Dr. Richard Cordero at 59 Crescent Street, Brooklyn, NY 11028, (tel. (718) 827-9521), and the trustee succeeding Trustee George Reiber when appointed (hereinafter the successor trustee) any document produced or certificate made pursuant to this Order.

C. Substantive provisions

18. Any person or entity concerned by this Order who with respect to any of the following documents **i)** holds such document (hereinafter holder) shall produce a true and correct copy thereof and a certificate; **ii)** controls or knows the whereabouts or likely whereabouts of any such document (hereinafter identifier) shall certify what document the identifier controls or knows the whereabouts or likely whereabouts of, and state such whereabouts and the name and address of the known or likely holder of such document:
 - a. The audio tape of the meeting of creditors of the DeLanos held on March 8, 2004, at the Office of the U.S. Trustee in Rochester, room 6080, and conducted by Att. Weidman, shall be produced by Trustee Schmitt, who shall within 10 days of this Order arrange for, and produce, its transcription on paper and on a floppy disc or CD; and produce also the video tape shown at the beginning of such meeting and in which Trustee Reiber was seen providing the introduction to it;
 - b. The transcript of the meeting of creditors of the DeLanos held on February 1, 2005, at Trustee Reiber's office, which transcript has already been prepared and is in possession of Trustee Reiber, who shall produce it on paper and on a floppy disc or CD;
 - c. The original stenographic packs and folds on which Reporter Dianetti recorded the evidentiary hearing of the DeLanos' motion to disallow Dr. Cordero's claim, held on

March 1, 2005, in the Bankruptcy Court, shall be kept in the custody of the Bankruptcy Clerk of Court and made available to the Court or the Judicial Conference of the United States upon its request;

- d. The documents that Trustee Reiber obtained from any source prior to the confirmation hearing for the DeLanos' plan on July 25, 2005, in the Bankruptcy Court, whether such documents relate generally to the DeLanos' bankruptcy petition or particularly to the investigation of whether they have committed fraud, regardless of whether such documents point to their joint or several commission of fraud or do not point to such commission but were obtained in the context of such investigation;
- e. The statement reported in *DeLano*, docket entry 134, to have been read by Trustee Reiber into the record at the July 25 confirmation hearing of the DeLanos' plan, of which there shall be produced a copy of the written version, if any, of such statement as well as a transcription of such statement exactly as read;
- f. The financial documents in either or both of the DeLanos' names, or otherwise concerning a financial matter under the total or partial control of either or both of them, regardless of whether either or both exercise such control directly or indirectly through a third person or entity, and whether for their benefit or somebody else's, since January 1, 1975, to date,
 - 1) Such as:
 - (a) the ordinary, whether the interval of issue is a month or a longer or shorter interval, and extraordinary statements of account of each and all checking, savings, investment, retirement, pension, credit card, and debit card accounts at or issued by M&T Bank and/or any other entity in the world;
 - (b) the unbroken series of documents relating to the DeLanos' purchase, sale, or

rental of any property or share thereof or right to its use, wherever in the world such property may have been, is, or may be located, including but not limited to:

(i) real estate, including but not limited to the home and surrounding lot at 1262 Shoecraft Road, Webster (and Penfield, if different), NY; and

(ii) personal property, including any vehicle or mobile home;

(c) mortgage and/or loan documents;

(d) title documents and other documents reviewing title, such as abstracts of title;

(e) prize documents, such as lottery and gambling documents;

(f) service documents, wherever in the world such service was, is being, or may be received or given; and

(g) documents concerning the college expenses of each of the DeLanos' children, including but not limited to tuition, books, transportation, room and board, and any loan extended by a government or a private entity for the purpose of such education, regardless of whose name appears as the borrower on the loan documents;

2) the production of such documents shall be made pursuant to the following timeframes:

(a) within two weeks of the date of this Order, such documents dated since January 1, 1999, to date;

(b) within 30 days from the date of this Order, such documents dated since January 1, 1975, to December 31, 1998.

19. The holder of the original of any of the documents within the scope of this Order shall certify that he or she holds such original and acknowledges the duty under this Order to hold it in a

secure place, ensure its chain of custody, and produce it only upon order of this Court, the court to which *DeLano* may be transferred, a higher court of appeals, or the Judicial Conference of the United States.

20. *DeLano* and *Pfuntner v. Gordon et al.*, docket no. 02-2230, WBNY, (hereinafter *Pfuntner*), are withdrawn from the Bankruptcy Court to this Court pursuant to 28 U.S.C. §157(d).
21. The order of Bankruptcy Judge John C. Ninfo, II, WBNY, of August 9, 2005, confirming the DeLanos' plan is hereby revoked; his order of August 8, 2005, to M&T Bank shall continue in force and the Bank shall continue making payments to Trustee Reiber until the appointment of a trustee to succeed him and from then on to successor trustee, to the custody of whom all funds held by Trustee Reiber in connection with *DeLano* shall be transferred.
22. Trustee George Reiber is removed pursuant to 11 U.S.C. §324(a) as trustee in *DeLano*, but shall continue subject to the jurisdiction of this Court and this Order, and such jurisdiction shall continue after appointment of a successor trustee or transfer of *DeLano* to any other court;
23. The Court recommends that:
 - a. the successor trustee be an experienced trustee from a district other than this district, WDNY, such as a trustee based in Albany, NY, who
 - b. shall certify that he or she is unfamiliar with any aspect of *DeLano*, unrelated and unknown to any party or officer in WDNY and WBNY; will faithfully represent pursuant to law the DeLanos' unsecured creditors; and will:
 - 1) exhaustively investigate the DeLanos' financial affairs on the basis of the documents described herein and similar documents, such as those already produced by the DeLanos to both Trustee Reiber and Dr. Cordero, to determine whether they have committed bankruptcy fraud, particularly concealment of assets, and

- 2) produce a report of the inflow, outflow, and current whereabouts of the DeLanos' assets -whether such assets be earnings, real or personal property, rights, or otherwise, or be held jointly or severally by them directly or indirectly under their control anywhere in the world- since January 1, 1975, to date; and
 - 3) file in the court under whose jurisdiction this case shall be at the time, and serve upon the DeLanos and Dr. Cordero a copy of, such report together with a copy of its related documents, which shall include all documents obtained during the course of such investigation and any previous investigation conducted while the case was in the Bankruptcy Court or this Court.
24. The Court recommends that the successor trustee employ under 11 U.S.C. §327 a reputable, independent, and certified accounting and title firm, such as one based in Albany, to conduct the investigation and produce the report referred to in ¶23 above; and such firm shall produce a certificate equivalent to that required therein.
25. Court Reporter Mary Dianetti, who shall have no part in the transcription of any document within the scope of this Order, is referred to the Judicial Conference of the United States for investigation of her refusal to certify that the transcript of her recording of the evidentiary hearing held in the Bankruptcy Court, WBNY, on March 1, 2005, of the DeLanos' motion to disallow Dr. Cordero's claim would be complete, accurate, and tamper-free; Dr. Cordero's motion of July 18, 2005, for this Court to make such referral under 28 U.S.C. §753 and all its exhibits are referred to the Judicial Conference as his statement on the matter; and the Conference is hereby requested to designate an individual other than Reporter Dianetti to make such transcript and produce it for review and evaluation to the Conference, this Court, and Dr. Cordero.
26. *DeLano* and *Pfuntner* are reported under 18 U.S.C. §3057(a) to U.S. Attorney General

Alberto Gonzales, with the recommendation that they be investigated by U.S. attorneys and FBI agents, such as those from the Department of Justice and FBI offices in Washington, D.C., or Chicago, who are unfamiliar with either of those cases and unacquainted with any of the parties to either of them, or court officers, whether judicial or administrative, or trustees, directly or indirectly involved in, concerned with, or affected by either of those cases or that may be investigated, and that no staff from such offices in either Rochester or Buffalo participate in any way in such investigation.

27. *DeLano* and *Pfuntner* are transferred in the interest of justice and judicial economy under 28 U.S.C. §1412 to the U.S. District Court for the Northern District in Albany for a trial by jury before a judge unfamiliar with either of those cases and unrelated and unacquainted with any of the parties to either of those case, or any court officers, whether judicial or administrative, or trustees, directly or indirectly involved in, concerned with, or affected by either of those cases or that may be investigated in connection therewith.
28. All proceedings concerning this matter shall be recorded by the Court using, in addition to stenographic means, electronic sound recording, and any party shall be allowed to make his own electronic sound recording of any and all such proceedings.

IT IS SO ORDERED.

DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
, 2006.

CERTIFICATE OF SERVICE

I, Dr. Richard Cordero, certify that I served by UPS or U.S.P.S. on the following parties a copy of my appellant's brief in *Cordero v. DeLano*, docket no. 05cv6190L, WDNY:

I. DeLano Parties

Christopher K. Werner, Esq.
Boylan, Brown, Code, Vigdor & Wilson, LLP
2400 Chase Square
Rochester, NY 14604
tel. (585)232-5300;
fax (585)232-3528

Trustee George M. Reiber
South Winton Court
3136 S. Winton Road
Rochester, NY 14623
tel. (585) 427-7225;
fax (585)427-7804

Kathleen Dunivin Schmitt, Esq.
Assistant U.S. Trustee
Office of the United States Trustee
100 State Street, Room 6090
Rochester, NY 14614
tel. (585) 263-5812;
fax (585) 263-5862

Ms. Deirdre A. Martini
U.S. Trustee for Region 2
Office of the United States Trustee
33 Whitehall Street, 21st Floor
New York, NY 10004
tel. (212) 510-0500;
fax (212) 668-2255

Ms. Mary Dianetti
612 South Lincoln Road
East Rochester, NY 14445
tel. (585)586-6392

II. Pfuntner Parties (02-2230, WBNY)

Kenneth W. Gordon, Esq.
Chapter 7 Trustee
Gordon & Schaal, LLP
100 Meridian Centre Blvd., Suite 120
Rochester, NY 14618
tel. (585) 244-1070;
fax (585) 244-1085

David D. MacKnight, Esq., for James Pfuntner
Lacy, Katzen, Ryen & Mittleman, LLP
130 East Main Street
Rochester, NY 14604-1686
tel. (585) 454-5650;
fax (585) 454-6525

Michael J. Beyma, Esq., for M&T Bank and
David DeLano
Underberg & Kessler, LLP
1800 Chase Square
Rochester, NY 14604
tel. (585) 258-2890;
fax (585) 258-2821

Karl S. Essler, Esq., for David Dworkin and
Jefferson Henrietta Associates
Fix Spindelman Brovitz & Goldman, P.C.
295 Woodcliff Drive, Suite 200
Fairport, NY 14450
tel. (585) 641-8000;
fax (585) 641-8080

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RICHARD CORDERO,

Appellant,

DECISION AND ORDER

05-CV-6190L

v.

DAVID DeLANO and
MARY ANN DeLANO,

Appellees.

This is an appeal, *pro se*, by Richard Cordero (“Cordero”) from a Decision and Order of Chief Bankruptcy Judge John C. Ninfo, II, entered on April 4, 2005. Cordero had filed a claim in the Chapter 13 Bankruptcy case relating to David and Mary Ann DeLano (“DeLano case”).

Chief Judge Ninfo determined, after trial and other proceedings, that Cordero had no valid claim to assert against David DeLano and he, therefore, dismissed the claim and ruled that Cordero had no right to participate further in the DeLano case. Cordero appeals from that order.

On appeal from a bankruptcy court, the district court will not set aside the bankruptcy court's findings of fact unless they are clearly erroneous. Fed. R. Bankr. 8013. Conclusions of law are subject to *de novo* review. *In re AroChem Corp.*, 176 F.3d

I have reviewed the relevant documents in this substantial file, generated for the most part by Cordero's submissions, and find no basis to modify or reverse Chief Judge Ninfo's detailed, thorough decision. I, therefore, affirm that decision in all respects.

The preserved, appellate issues, are rather straightforward, although Cordero has expended considerable energy to make it otherwise. The DeLanos, appellees here and debtors in bankruptcy, by their attorneys, set forth whether Chief Judge Ninfo should have recused himself and whether Cordero had a valid claim.

I note, as do appellees, that many of the matters contained in Cordero's brief and prolix record, have no bearing on the issues before Chief Judge Ninfo or this Court. In fact, even a cursory review of the file demonstrates Cordero's penchant for focusing on irrelevant, extraneous matters that have required both appellees, their counsel, and Chief Judge Ninfo to spend much more time dealing with this case than the merits warranted.

Cordero spends considerable time in his brief rambling on about perceived injustices visited on him by Chief Judge Ninfo. In a similar vein, Cordero filed a motion with Chief Judge Ninfo before the trial, seeking Chief Judge Ninfo's recusal. Chief Judge Ninfo denied the motion orally at the start of the trial and indicated his intent to supplement that decision in writing. He has done so in the April 4, 2005 Decision and Order that is the subject of this appeal.

Section 455(a) of Title 28 provides that "[a]ny justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." Adverse rulings by a judge do not in themselves show bias or warrant disqualification. *See Liteky v. United States*, 510 U.S. 540, 555 (1994) ("judicial rulings alone almost never constitute a valid basis for a bias or partiality motion" under Section 455(a)). *See also*

Faulkner v. National Geographic Enterprises Inc., 409 F.3d 26, 42-43 (2d Cir. 2005) (trial judge's denial of class certification in copyright infringement action, did not, without more, evidence bias or hostility warranting disqualification).

There was no basis for Chief Judge Ninfo to recuse himself from the trial and, therefore, there is no basis for this Court to reverse his decision. In this case, there is no evidence of any extra-judicial matters that might require consideration of recusal. At heart, Cordero seeks recusal because Chief Judge Ninfo has ruled against him in earlier court proceedings in this case. Simply because the assigned judge makes rulings, which are not to the litigant's liking, is not a basis for recusal. The system would unworkable if that were the case. Cordero can cite to nothing other than the fact he has not fared well in terms of pretrial orders. That fact, does not warrant recusal and, in fact, when that is the only reason advanced, a court would be remiss in its duties if it granted recusal.

On the merits of this appeal, that is whether Cordero had a valid claim against David DeLano, I can add nothing to what Chief Judge Ninfo has set forth in his detailed decision and order. That decision and the attachments to it, and the rest of the file, indicate clearly that Cordero was given every opportunity to conduct discovery and to present his case, such as it was, at a trial. Chief Judge Ninfo noted in his decision that Cordero completely failed to establish any entitlement to his so-called claim during the day-long trial of the case. In essence, Chief Judge Ninfo found a complete lack of proof that Cordero had any type of claim warranting prosecution in the DeLano bankruptcy matter. On appeal, in the voluminous papers filed and in Cordero's lengthy brief, as appellees note, Cordero has done virtually nothing to point out in what manner Chief Judge Ninfo erred finding no valid claim. Therefore, for the reasons stated in Chief Judge Ninfo's Decision and Order, which I adopt, there is no basis whatsoever to overturn Chief Judge Ninfo's decisions as to

whether there is a valid claim and whether he should have recused himself. In addition, although it was difficult to determine the precise nature of the arguments advanced, I have considered them all and find that none warrant relief and none require vacating or reversing Chief Judge Ninfo's Decision and Order of April 4, 2005.

CONCLUSION

The Decision and Order of United States Chief Bankruptcy Judge John C. Ninfo, II, entered April 4, 2005, is in all respects affirmed.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
August 21, 2006.

issues were tied together by the efforts of the Bankruptcy and District Court to cover up their support or toleration of a bankruptcy fraud scheme involving debtors and trustees;

- c. took for granted the validity of its Bankruptcy Judge Colleague's decision and thereby spared it from any review under even one of the 15 headings containing each a factual or legal point of Appellant's analysis of the events leading up to, and the contents of, that decision, dismissing them in bulk with the conclusory statement that Appellant "has done virtually nothing to point out in what manner Chief Judge Ninfo erred finding no valid claim", for which the District Court, in line with the pattern of its previous perfunctory and lazy decisions, need not even have read Appellant's brief; indeed,
- d. discussed instead the issue of the Bankruptcy Judge's recusal brought up by the Appellee Debtors in their answer to Appellant's brief without even noticing Appellant's points in his reply that as a matter of law the Debtors untimely raised the recusal issue and as a matter of fact they substituted it for Appellant's issues on appeal in order to avoid discussing the evidence of the Debtors' bankruptcy fraud, just as the District Court did;
- e. pretended that Appellant "was given every opportunity to conduct discovery and to present his case", while it concealed the fact that both the Bankruptcy and the District Courts denied him *every single* document that he requested from the Debtors and trustees, including documents such as the Debtors' bank account statements, so obviously adequate to ascertain the good faith of any bankruptcy petition, and all the more so a suspicious one filed by a 39-year veteran banker still employed in the bankruptcy department of a major bank, who claimed in his and his wife's bankruptcy petition that both had only \$535 in cash and on account, yet their 1040 IRS forms for 2001-03 and mortgage documents show that they had earned or received over \$670,000, the whereabouts of which are still unknown because both Courts refused to order the Debtors to account for it as well as other assets so as to prevent Appellant from proving that the Debtors had committed bankruptcy fraud, particularly concealment of assets; in the context of a bankruptcy fraud scheme supported or tolerated by both the Bankruptcy and the District Courts;

the District Court denied Appellant due process of law by turning the appeal into a mockery where without providing any statement of facts or conclusions of law on which the Court of Appeals or the Supreme Court could rely for its review, or even taking cognizance of, not to mention addressing, the issues on appeal, disposed of the appeal in self-interest in a personal

fiat intended to establish the predetermined outcome that whatever its Bankruptcy Colleague had done had to be affirmed in order to avoid any discussion of the evidence of the Bankruptcy and District Court’s support or toleration of a bankruptcy fraud scheme;

2. Whether both Courts’ bias and disregard for the law, the rules, and the facts so infected the proceedings that due process of law was denied and their orders were unlawful;
3. Whether the DeLano Debtors’ motion to disallow Appellant’s claim was an artifice and the Bankruptcy Judge’s evidentiary hearing leading up to its disallowance was a sham to prevent Appellant from proving their fraud and support of a bankruptcy fraud scheme;
4. Whether District Court Local Rule 5.1(h) on asserting a claim under RICO, 18 U.S.C. §1961 et seq., is void as inconsistent with notice pleading and the enabling provisions of FRCivP and is intended to prevent the use of RICO against the supporters of the bankruptcy fraud scheme;
5. Whether 28 U.S.C. §158(b) allowing judges, circuits, and parties to choose whether to establish or resort to bankruptcy appellate panels impairs due process, provides for forum shopping, and denies equal protection so that it is unconstitutional and has been abused to terminate the BAP in the Second Circuit and allow local control of a bankruptcy fraud scheme.

II. Designation of the Record on Appeal

ITEMS	DATE	ITEM AND PAGE NUMBER
1. Decision of District Court David G. Larimer, WDNY, on appeal to CA2	Aug. 21, 2006	4 pages
2. Decision of Bankruptcy Judge John C. Ninfo, II, WBNY, appealed to District Court and his attachments thereto: 3. James Pfunter’s Interpleader Complaint filed on September 27, 2002, in <i>Pfunter v. Trustee Gordon et al</i> , 02-2230, WBNY 4. Judge Ninfo’s Order of July 15, 2003, in <i>Pfunter</i> . 5. Judge Ninfo’s Order of October 16, 2003, Disposing of Causes of Action in <i>Pfunter</i> 6. Judge Ninfo’s Decision and Order of October 16, 2003, in <i>Pfunter</i> 7. Judge Ninfo’s “Cordero Oral Decision” of October 16, 2003, in	April 4, 2005	20 pages

<p><i>Pfuntner</i></p> <p>8. Judge Ninfo's Decision & Order of October 23, 2003, Finding a Waiver of a Trial by Jury, in <i>Pfuntner</i></p> <p>9. Judge Ninfo's Scheduling Order of October 23, 2003, in <i>Pfuntner</i></p>		
<p>10. Appellant Dr. Cordero's Table of Designated Items in his appeal to the District Court</p> <p>11. Designated items on appeal</p>	<p>April 18, 2005 in bound vol. 1</p>	<p>pages D:i-xiv items 1-112, pages D:1-508g</p>
<p>12. Letter of Devin L. Palmer, Esq., DeLano Debtors' attorney, to the Bankruptcy Court, WBNY, designating additional items</p> <p>13. items as in 3-9 above</p>	<p>May 2, 2005</p>	
<p>14. Transcript of the evidentiary hearing held in Bankruptcy Court, WBNY, on March 1, 2005, of Debtors' motion to disallow Appellant's claim, with Court Reporter Mary Dianetti's attachments:</p> <p>15. Statement of cost and proceedings reported</p> <p>16. Letter to Appellant</p> <p>17. Reporter Certificate</p>	<p>Nov. 4, 2005</p>	<p>189 pages at back of volume 2 after page Add:1155</p>
<p>18. Appellant Dr. Cordero's appellate brief</p>	<p>Dec. 21, 2005 bound separately</p>	<p>pages i-xxvi, 1-60</p>
<p>19. Table of Items in Dr. Cordero's Addendum to the Designated Items</p> <p>20. Addendum to the Designated Items in the Record</p>	<p>Dec. 21, 2005 in bound vol. 2</p>	<p>pages Add:xv-xxvii items 113-186, pgs. Add:509-1155</p>
<p>21. Debtors' prefatory material in answer</p> <p>22. answer</p>	<p>Jan. 20, 2006</p>	<p>4 pages 13 pages</p>
<p>23. Appellant Dr. Cordero's reply</p> <p>24. Proposed order</p> <p>25. Table of Items in the Post-Addendum</p> <p>26. Post-Addendum</p>	<p>Feb. 8, 2006 in bound vol. 3</p>	<p>pages i-xi, 1-25 pages 26-35 pages xxviii-xxix items 187-195, pgs. Pst:1171-1380</p>

Dated: October 21, 2006
59 Crescent Street
Brooklyn, NY 11208

Dr. Richard Cordero

Dr. Richard Cordero
Appellant Pro Se; tel. (718) 827-9521

Certificate of Service

I, Dr. Richard Cordero, certify that I sent to the parties listed below a copy both of my notice of appeal of October 13, 2006, to the Court of Appeals for the Second Circuit from the decision entered on August 21, 2006, by District Judge David G. Larimer in *Cordero v. DeLano*, 05cv6190, WDNY, and of my statement of issues to be presented in that appeal and the designation of the items to be included in the record thereof of October 21, 2006.

Christopher K. Werner, Esq.
Boylan, Brown, Code, Vigdor & Wilson, LLP
2400 Chase Square
Rochester, NY 14604
tel. (585)232-5300; fax (585)232-3528

Att.: Appeals Clerk Peggy Ghysel
United States District Court
2120 US Court House
100 State Street
Rochester, NY 14614
tel. (585)613-4000; fax (585)613-4035

Att.: Mr. Todd Stickle
Deputy Clerk of the Bankruptcy Court
United States Bankruptcy Court
1220 US Court House
100 State Street
Rochester, NY 14614
tel. (585)613-4200

Att.: Deputy Clerk Patricia Chin-Allen
Clerk of Court Roseann MacKechnie
U.S. Court of Appeals, 2d Circuit
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007
tel. (212)857-8500

David MacKnight, Esq.
Lacy, Katzen, Ryen & Mittleman, LLP
The Granite Building
130 East Main Street
Rochester, NY 14604-1686
tel. (585)454-5650; (585) 269-3077

Kathleen Dunivin Schmitt, Esq.
Assistant United States Trustee
Office of the United States Trustee
100 State Street, Room 609
Rochester, NY 14614
tel. (585)263-5706

Ms. Diana G. Adams
Acting U.S. Trustee for Region 2
Ms. Deirdre A. Martini
U.S. Trustee for Region 2
Office of the United States Trustee
33 Whitehall Street, 21st Floor
New York, NY 10004
tel. (212) 510-0500; fax (212) 668-2255

Trustee George M. Reiber
South Winton Court
3136 S. Winton Road
Rochester, NY 14623
tel. (585) 427-7225; fax (585)427-7804

Kenneth W. Gordon, Esq.
Chapter 7 Trustee
Gordon & Schaal, LLP
100 Meridian Centre Blvd., Suite 120
Rochester, NY 14618
tel. (585)244-1070

Michael J. Beyma, Esq.
Underberg & Kessler, LLP
300 Bausch & Lomb Place
Rochester, NY 14604
tel. (585)258-2800; fax (585)258-2821

Karl S. Essler, Esq.
Fix Spindelman Brovitz & Goldman, P.C.
295 Woodcliff Drive, Suite 200
Fairport, NY 14450
tel. (585) 641-8000; fax (585)641-8080

Ms. Mary Dianetti
Bankruptcy Court Reporter
612 South Lincoln Road
East Rochester, NY 14445
tel. (585)586-6392

Mr. David Palmer
1829 Middle Road
Rush, NY 14543

Dated: October 21, 2006
59 Crescent Street
Brooklyn, NY 11208



Dr. Richard Cordero
Appellant Pro Se; tel. (718) 827-9521

-End-

-CITE-

28 USC CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND
JUDICIAL DISCIPLINE 01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-MISC1-

Sec.

- 351. Complaints; judge defined.
- 352. Review of complaint by chief judge.
- 353. Special committees.
- 354. Action by judicial council.
- 355. Action by Judicial Conference.
- 356. Subpoena power.
- 357. Review of orders and actions.
- 358. Rules.
- 359. Restrictions.
- 360. Disclosure of information.
- 361. Reimbursement of expenses.
- 362. Other provisions and rules not affected.
- 363. Court of Federal Claims, Court of International Trade,
Court of Appeals for the Federal Circuit.
- 364. Effect of felony conviction.

-SECREP-

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 331, 332, 375, 604 of this title; title 38 section 7253.

-End-

-CITE-

28 USC Sec. 351

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 351. Complaints; judge defined

-STATUTE-

(a) Filing of Complaint by Any Person. - Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

(b) Identifying Complaint by Chief Judge. - In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this chapter and thereby dispense with filing of a written complaint.

(c) Transmittal of Complaint. - Upon receipt of a complaint filed under subsection (a), the clerk shall promptly transmit the

complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this chapter only, included in the term "chief judge"). The clerk shall simultaneously transmit a copy of the complaint to the judge whose conduct is the subject of the complaint. The clerk shall also transmit a copy of any complaint identified under subsection (b) to the judge whose conduct is the subject of the complaint.

(d) Definitions. - In this chapter -

(1) the term "judge" means a circuit judge, district judge, bankruptcy judge, or magistrate judge; and

(2) the term "complainant" means the person filing a complaint under subsection (a) of this section.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1848.)

-MISC1-

SEVERABILITY

Pub. L. 107-273, div. C, title I, Sec. 11044, Nov. 2, 2002, 116 Stat. 1856, provided that: "If any provision of this subtitle [subtitle C (Secs. 11041-11044) of title I of div. C of Pub. L. 107-273, enacting this chapter, amending sections 331, 332, 372, 375, and 604 of this title, and section 7253 of Title 38, Veterans' Benefits, and enacting provisions set out as a note under section 1 of this title], an amendment made by this subtitle, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of such to any person or circumstance shall not be affected thereby."

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 352, 354 of this title.

-End-

-CITE-

28 USC Sec. 352

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 352. Review of complaint by chief judge

-STATUTE-

(a) *Expeditious Review; Limited Inquiry.* - The chief judge shall expeditiously review any complaint received under section 351(a) or identified under section 351(b). In determining what action to take, the chief judge may conduct a limited inquiry for the purpose of determining -

(1) whether appropriate corrective action has been or can be taken without the necessity for a formal investigation; and

(2) whether the facts stated in the complaint are either plainly untrue or are incapable of being established through investigation.

For this purpose, the chief judge may request the judge whose conduct is complained of to file a written response to the complaint. Such response shall not be made available to the complainant unless authorized by the judge filing the response. The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge whose conduct is complained of, and any other person who may have knowledge of the

matter, and may review any transcripts or other relevant documents. The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute.

(b) Action by Chief Judge Following Review. - 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 -

(i) not in conformity with section 351(a);

(ii) directly related to the merits of a decision or procedural ruling; or

(iii) frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred, or containing allegations which are incapable of being established through investigation; or

(B) when a limited inquiry conducted under subsection (a) demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence; or

(2) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events.

The chief judge shall transmit copies of the written order to the complainant and to the judge whose conduct is the subject of the complaint.

(c) Review of Orders of Chief Judge. - A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge's order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

(d) Referral of Petitions for Review to Panels of the Judicial Council. - Each judicial council may, pursuant to rules prescribed

under section 358, refer a petition for review filed under subsection (c) to a panel of no fewer than 5 members of the council, at least 2 of whom shall be district judges.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1849.)

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 353, 357 of this title.

-End-

-CITE-

28 USC Sec. 353

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 353. Special committees

-STATUTE-

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

(1) appoint himself or herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

(2) certify the complaint and any other documents pertaining thereto to each member of such committee; and

(3) provide written notice to the complainant and the judge

whose conduct is the subject of the complaint of the action taken under this subsection.

(b) Change in Status or Death of Judges. - A judge appointed to a special committee under subsection (a) may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45. If a judge appointed to a committee under subsection (a) dies, or retires from office under section 371(a), while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.

(c) Investigation by Special Committee. - Each committee appointed under subsection (a) shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of the circuit.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1850.)

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 332, 354, 356, 359, 360 of this title.

-End-

-CITE-

28 USC Sec. 354

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 354. Action by judicial council

-STATUTE-

(a) Actions Upon Receipt of Report. -

(1) Actions. - The judicial council of a circuit, upon receipt of a report filed under section 353(c) -

(A) may conduct any additional investigation which it considers to be necessary;

(B) may dismiss the complaint; and

(C) if the complaint is not dismissed, shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

(2) Description of possible actions if complaint not dismissed.

-

(A) In general. - Action by the judicial council under paragraph (1)(C) may include -

(i) ordering that, on a temporary basis for a time certain, no further cases be assigned to the judge whose conduct is the subject of a complaint;

(ii) censuring or reprimanding such judge by means of private communication; and

(iii) censuring or reprimanding such judge by means of public announcement.

(B) For article iii judges. - If the conduct of a judge appointed to hold office during good behavior is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include -

(i) certifying disability of the judge pursuant to the

procedures and standards provided under section 372(b); and

(ii) requesting that the judge voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply.

(C) For magistrate judges. - If the conduct of a magistrate judge is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include directing the chief judge of the district of the magistrate judge to take such action as the judicial council considers appropriate.

(3) Limitations on judicial council regarding removals. -

(A) Article iii judges. - Under no circumstances may the judicial council order removal from office of any judge appointed to hold office during good behavior.

(B) Magistrate and bankruptcy judges. - Any removal of a magistrate judge under this subsection shall be in accordance with section 631 and any removal of a bankruptcy judge shall be in accordance with section 152.

(4) Notice of action to judge. - The judicial council shall immediately provide written notice to the complainant and to the judge whose conduct is the subject of the complaint of the action taken under this subsection.

(b) Referral to Judicial Conference. -

(1) In general. - In addition to the authority granted under subsection (a), the judicial council may, in its discretion, refer any complaint under section 351, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

(2) Special circumstances. - In any case in which the judicial council determines, on the basis of a complaint and an investigation under this chapter, or on the basis of information otherwise available to the judicial council, that a judge appointed to hold office during good behavior may have engaged in

conduct -

- (A) which might constitute one or more grounds for impeachment under article II of the Constitution, or
- (B) which, in the interest of justice, is not amenable to resolution by the judicial council,

the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

(3) Notice to complainant and judge. - A judicial council acting under authority of this subsection shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge whose conduct is the subject of the action taken under this subsection.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1850.)

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 355, 357, 360, 361 of this title; title 38 section 7253.

-End-

-CITE-

28 USC Sec. 355

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE

-HEAD-

Sec. 355. Action by Judicial Conference

-STATUTE-

(a) In General. - Upon referral or certification of any matter under section 354(b), the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in section 354(a)(1)(C) and (2), as it considers appropriate.

(b) If Impeachment Warranted. -

(1) In general. - If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary. Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.

(2) In case of felony conviction. - If a judge has been convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under section 354(b), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1852.)

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 360 of this title; title 38 section 7253.

-End-

-CITE-

28 USC Sec. 356

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 356. Subpoena power

-STATUTE-

(a) Judicial Councils and Special Committees. - In conducting any investigation under this chapter, the judicial council, or a special committee appointed under section 353, shall have full subpoena powers as provided in section 332(d).

(b) Judicial Conference and Standing Committees. - In conducting any investigation under this chapter, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331, shall have full subpoena powers as provided in that section.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1852.)

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 7253.

-End-

-CITE-

28 USC Sec. 357

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 357. Review of orders and actions

-STATUTE-

(a) Review of Action of Judicial Council. - A complainant or judge aggrieved by an action of the judicial council under section 354 may petition the Judicial Conference of the United States for review thereof.

(b) Action of Judicial Conference. - The Judicial Conference, or the standing committee established under section 331, may grant a petition filed by a complainant or judge under subsection (a).

(c) No Judicial Review. - Except as expressly provided in this section and section 352(c), all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1853.)

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 7253.

-End-

-CITE-

28 USC Sec. 358

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 358. Rules

-STATUTE-

(a) In General. - Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this chapter, including the processing of petitions for review, as each considers to be appropriate.

(b) Required Provisions. - Rules prescribed under subsection (a) shall contain provisions requiring that -

(1) adequate prior notice of any investigation be given in writing to the judge whose conduct is the subject of a complaint under this chapter;

(2) the judge whose conduct is the subject of a complaint under this chapter be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and

(3) the complainant be afforded an opportunity to appear at

proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

(c) Procedures. - Any rule prescribed under this section shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such rule shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference. No rule promulgated under this section may limit the period of time within which a person may file a complaint under this chapter.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1853.)

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 352, 604 of this title; title 38 section 7253.

-End-

-CITE-

28 USC Sec. 359

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 359. Restrictions

-STATUTE-

(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.

(b) Amicus Curiae. - No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this chapter.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1853.)

-SECRETF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 7253.

-End-

-CITE-

28 USC Sec. 360

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 360. Disclosure of information

-STATUTE-

(a) Confidentiality of Proceedings. - Except as provided in section 355, all papers, documents, and records of proceedings related to investigations conducted under this chapter shall be confidential and shall not be disclosed by any person in any proceeding except to the extent that -

(1) the judicial council of the circuit in its discretion releases a copy of a report of a special committee under section 353(c) to the complainant whose complaint initiated the investigation by that special committee and to the judge whose conduct is the subject of the complaint;

(2) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or

(3) such disclosure is authorized in writing by the judge who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331.

(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.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1854.)

-SECRETF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 604 of this title; title 38 section 7253.

-End-

-CITE-

28 USC Sec. 361

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 361. Reimbursement of expenses

-STATUTE-

Upon the request of a judge whose conduct is the subject of a complaint under this chapter, the judicial council may, if the complaint has been finally dismissed under section 354(a)(1)(B), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys' fees, incurred by that judge during the investigation which would not have been incurred but for the requirements of this chapter.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1854.)

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 7253.

-End-

-CITE-

28 USC Sec. 362

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 362. Other provisions and rules not affected

-STATUTE-

Except as expressly provided in this chapter, nothing in this chapter shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1854.)

-REFTEXT-

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, the Federal Rules of Appellate Procedure, and the Federal Rules of Evidence, referred to in text, are set out in the Appendix to this title.

The Federal Rules of Criminal Procedure, referred to in text, are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

-End-

-CITE-

28 USC Sec. 363

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 363. Court of Federal Claims, Court of International Trade,
Court of Appeals for the Federal Circuit

-STATUTE-

The United States Court of Federal Claims, the Court of International Trade, and the Court of Appeals for the Federal Circuit shall each prescribe rules, consistent with the provisions of this chapter, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under this chapter.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1854.)

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 364 of this title.

-End-

-CITE-

28 USC Sec. 364

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 16 - COMPLAINTS AGAINST JUDGES AND JUDICIAL
DISCIPLINE

-HEAD-

Sec. 364. Effect of felony conviction

-STATUTE-

In the case of any judge or judge of a court referred to in section 363 who is convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the following shall apply:

(1) The judge shall not hear or decide cases unless the judicial council of the circuit (or, in the case of a judge of a court referred to in section 363, that court) determines otherwise.

(2) Any service as such judge or judge of a court referred to in section 363, after the conviction is final and all time for filing appeals thereof has expired, shall not be included for purposes of determining years of service under section 371(c), 377, or 178 of this title or creditable service under subchapter III of chapter 83, or chapter 84, of title 5.

-SOURCE-

(Added Pub. L. 107-273, div. C, title I, Sec. 11042(a), Nov. 2, 2002, 116 Stat. 1855.)

-End-

-CITE-

28 USC CHAPTER 17 - RESIGNATION AND RETIREMENT OF
JUSTICES AND JUDGES 01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 17 - RESIGNATION AND RETIREMENT OF JUSTICES AND
JUDGES

-HEAD-

CHAPTER 17 - RESIGNATION AND RETIREMENT OF JUSTICES
AND JUDGES

-MISC1-

Sec.

- 371. Retirement on salary; retirement in senior status.
- 372. Retirement for disability; substitute judge on failure to retire.
- 373. Judges in Territories and Possessions.(!1)
- 374. Residence of retired judges; official station.
- 375. Recall of certain judges and magistrate judges.
- 376. Annuities for survivors of certain judicial officials of the United States.
- 377. Retirement of bankruptcy judges and magistrate judges.

AMENDMENTS

2002 - Pub. L. 107-273, div. C, title I, Sec. 11043(a)(2), Nov. 2, 2002, 116 Stat. 1855, struck out "; judicial discipline" after "failure to retire" in item 372.

1988 - Pub. L. 100-702, title X, Sec. 1020(a)(9), Nov. 19, 1988, 102 Stat. 4672, substituted "Annuities for survivors of certain judicial officials of the United States" for "Annuities to widows and surviving dependent children of justices and judges of the United States" in item 376.

Pub. L. 100-659, Sec. 2(b), Nov. 15, 1988, 102 Stat. 3916, added item 377.

Overview of the General Provisions of the Proposed Judicial Discipline and Auditing Commission Act

by

Dr. Richard Cordero

DrRCordero@Judicial-Discipline-Reform.org

(first draft)

The proposed Judicial Discipline Commission Act would set up an independent judicial discipline commission constituted by persons unrelated to the judiciary who have been nominated by persons equally unrelated to it, and confirmed by lawmakers alone.

The Commission would be mandated to function with complete independence from the judiciary in the discharge of its duty to receive and act on judicial misconduct complaints. To that end, it would be required to conduct investigations and be endowed with subpoena power to order a judge –a term inclusive of any justice of the Supreme Court- or any other person to appear and be deposed at public hearings; produce documents, and comply with other forms of discovery. It would be enabled to impose any warranted administrative sanctions, including the suspension without pay for up to a year from conducting any judicial or administrative business of the courts; and/or recommend referral to the U.S. attorneys for a determination of, and prosecution for, any violation of a criminal law of the United States; and/or recommend referral of a judge to Congress for impeachment for failure to maintain good behavior.

Grounds for referral for impeachment by the Commission and for impeachment in Congress would be any violation of ethical rules; bias; abuse of power; failure to dispatch the business of the courts promptly or with due regard for the law, the rules, or the facts; display of temperament incompatible with the equanimity required for judicial decision making; conflict of interests; and use of judicial office for the pursuit of a personal or political agenda.

To the conduct the impeachment process, Congress would have power to issue subpoena to appear, testify, produce documents, and comply with other forms of discovery; hold a person in contempt; and make a finding of perjury; to sanction knowing and intentional failure to comply with a subpoena; conduct in contempt of Congress; and perjury with a fine of up to \$1 million and to order restitution of three times any amount of money or the fair market value of any benefit unduly acquired or received by the judge or one time any such amount or value attempted to be acquired or received.

Congress would hold all impeachment proceedings open to the public. Upon Congress finding by a majority of its quorum that the judge failed to maintain good behavior, it would remove such judge from office for life and, as appropriate, declare the judge's ineligibility to hold any other public office for a period of years or for life; and/or refer the case to the U.S. attorney for prosecution under any criminal law that may have been violated.

The Act would provide for judges to be liable for compensatory and punitive damages to those that they have injured through their bias, knowing and intentional disregard of the law, rules, and the facts in judicial decision making; failure to disqualify himself from a case as required by law; and coordinated wrongdoing in violation of ethical rules or any criminal law.

The Commission would also audit the use by the judiciary of public funds, for which it would have subpoena power; make recommendations for improvements in their use; remove any judge or other person from a position of financial responsibility; and refer for prosecution to the U.S. attorney any judge or other person believed to have violated any criminal law, whether financial or otherwise.

as of November 1, 2006

**The Supreme Court Justices and the Chief Judges
Have Semi-annually Received Official Information
About the Self-immunizing Systematic Dismissal
of Judicial Conduct Complaints, But Have Tolerated It
With Disregard for the Consequent Abuse of Power and Corruption**
by
Dr. Richard Cordero, Esq.

For decades since before the Judicial Conduct and Disability Act of 1980 (28 U.S.C. §351 et seq.)¹, the Supreme Court has known of the lack of an effective judicial impeachment mechanism (ToEC:60>Comment, C:1384):² In the 217 years since the U.S. Constitution of 1789, only 7 federal judges³ have been impeached and convicted. Since the Act's passage, they have know also of the break down of its self-discipline mechanism (ToEC:24>Comment, C:573). To know it, Late Chief Justice Rehnquist, who was also the presiding member of the Judicial Conference (28 U.S.C §331¶1), the body of last resort under the Act (id. §354(b)), need not read the Annual Reports on the Act produced by the Administrative Office of the U.S. Courts (id. §604(h)(2)) or the Conference's reports (C:1771). He knew that in the 24 years since the Act the Conference had issued under it only 15 orders! (C:1611) Yet he waited until May 2004 to charge Justice Stephen Breyer with chairing a committee to study it. (C:574-577) The Breyer Committee held no hearings (cf.ToEC:66§L) and took over 27 months only to issue a report that clears his lower peers of the systematic dismissal of complaints apparent from the official reports.

All the justices are also circuit justices of the circuits to which they have been allotted (28 U.S.C. §42, 45(b); C:149) so they may attend (C:980y-83; cf. 980z-10) their councils' meetings where misconduct complaints are discussed (C:980y-84, z-76) and can learn the nature and number of orders related thereto, which must be reported to the Administrative Office (28 U.S.C. §332(c-d, g); C:980y-87, z-79). Hence, they know that such complaints are systematically dismissed. Actually, the justices must be presumed to have realized from the cases that they deal with daily at the Supreme Court that 'power corrupts and in the absence of any control over its exercise, power becomes absolute and corrupts absolutely'. So they could not have reasonably believed that while wielding power over life, liberty, and property the 2,133 federal judges would remain immune to the type of "Culture of Corruption", in the words of House Minority Leader Nancy Pelosi, that has engulfed the 535 members of Congress. Did the justices or the circuit judges of the courts of appeals, who appoint bankruptcy judges to renewable 14-year terms (28 U.S.C. §152(a)(1)) believe for a moment that even in the absence of any supervision and discipline and without the deterrence of impeachment bankruptcy judges would resist the temptation to mishandle the \$billions that are at stake in bankruptcies and whose disposition they

¹ All the references to legal authority are found at:

http://judicial-discipline-reform.org/Authorities%20Cited.htm#VII.A.3._Table_of_Authorities.

² All the references with the format 'letter:#' are found at:

http://judicial-discipline-reform.org/Bank%20of%20Links.htm#Table_of_Exhibits.

³ Judges of the United States, Impeachments of Federal Judges, Federal Judicial Center, <http://www.fjc.gov/history/home/nsf>

determine? (D:458§V, Add:621§1) Since the justices and circuit judges cannot have ignored ongoing misconduct of judges abusing their uncontrolled power, why have they tolerated it?

A reasonable person is assumed to intend the normal consequences of his or her acts, just as they are assumed to engage in rational behavior in furtherance of what they conceive to be their interests. Consequently, it must be assumed that when the justices and circuit judges engaged or acquiesced in the systematic dismissal of misconduct complaints against judges they intended to allow their peers and themselves to wield uncontrol power and engage in its normal consequence of abuse of power and corruption. Since this in turn would normally give rise to complaints leading to prosecution, the dismissal of such complaints became necessary to immunize themselves from such prosecution. The facts do not allow the justices of the Supreme Court to deny that this was their intention.

Indeed, they know how litigious our society is, for the number of filings in the Supreme Court went from 7,924 in the 2001 Term to 8,255 in the 2002 Term⁴...for only the nine justices to take care of! Hence, they could not assume for a nanosecond that it was a natural occurrence that *for years in a row* not a single complaint, all denied by a circuit chief judge or dismissed by any of the 13 circuit councils, made it up as a petition for review to the Judicial Conference. The later is the highest administrative body of the federal judiciary, the Third Branch of Government, that must ensure the proper functioning and integrity of the courts and its judges. (C:1711)

It would be patently untenable to pretend that not even one of all the complainants to the circuit chief judges was so dissatisfied with a chief judge's final order concerning his complaint under 28 U.S.C. §351 as to petition the respective circuit council for review thereof under §352(c). It would be just as untenable to allege that not a single petitioner to any of the 13 councils was "aggrieved" under §357(a) by a council's action so as to be entitled to petition the Conference for review thereof. It would be equally untenable to suggest that of all the complaints filed during the course of years there has not been even one meritorious enough for any of the councils to refer under §354(b) to the Conference.

Consequently, it necessarily follows that the occurrence of "no pending petitions for review of judicial council action on misconduct orders"⁵ is the result of the non-coincidental, intentional, and coordinated determination of the judges of the 13 councils, with the conniving approval of those who are also members of the Conference, and its presiding member, the chief justice, both to prevent complaints, not to mention their own action on them, from being reviewed and to put an end to them at the earliest stage possible. The Supreme Court is responsible for ensuring respect for the rule of law through its application not only by, but also to, judges. Hence, it too is to blame for having allowed the entrenchment of the attitude of flagrant disregard by judges, chief judges, and their councils and Conference, of the legal duty imposed on them under §351 et seq. to handle effectively complaints against them and to discipline themselves as well as for having tolerated its deleterious effect on the integrity of judicial process: abuse of power and corruption. (Cf. A:1662§D; ToEC:>C:973 and Comment thereunder)

⁴ Supreme Court of the United States 2003 Year-end Report on the Federal Judiciary; www.supremecourtus.gov.

⁵ Report of September 23, 2003, of the Proceedings of the Judicial Conference, and Reports of March and September 2003 and March 2004, of the Judicial Conference's Committee to Review Circuit Council Conduct and Disability Orders. (C:569-572)

Synopsis of an Investigative Journalism Proposal

Where the Leads in Evidence Already Gathered in [12 Federal Cases](#)¹

Would be Pursued in a *Follow the money!* Investigation to Answer the Question:

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

by Dr. Richard Cordero, Esq.

This is a poignant question, for it casts doubt on the integrity of the branch of government that should incarnate respect for the law and high ethical values. What makes it a realistic question worth investigating is the fact that since 1980 judges are charged with the duty to discipline themselves; what is more, complaints by anybody against their conduct must be filed with, and handled by, them. But according to the statistics of the [Administrative Office of the U.S. Courts](#)², judges [systematically dismiss](#)³ all complaints. As a result, in the last 26 years only three judges out of some 2,133 federal judges, have been impeached, the last one in 1989. Actually, in the whole 217 years since the U.S. Constitution of 1789, [only 7 judges](#)⁴ have been impeached and convicted...on average one every 31 years!

If that were the time it would take for your CEO to be held accountable by his peers for his conduct toward you and the other people in your office, and in the meantime he could wield power over your life, liberty, and property with no more consequences than the suspension of a decision of his, do you think that he would be tempted to treat you however he wanted? If all complaints of yours ended up in the wastebasket together with those of your colleagues in the office, would you say that they would want to know of your efforts to force your CEO and his peers out of their safe haven in order to require them to treat you and your colleagues with respect or be liable to all of you? If so, you have a U.S. audience of 300 million colleagues waiting to know about your efforts to hold your judicial CEO and his peers accountable for their conduct.

Indeed, by law the chief justice of the Supreme Court and the associate justices review with the chief district and appellate judges [twice a year reports](#)⁵ showing that complaints against judges are dismissed systematically, which points to coordination to disregard a duty placed upon them by law. They have known also that in an area such as bankruptcy, judges wield enormous power over tens of billions of dollars annually. Power and money, the two most insidious and absolute corruptors in the hands of the same judges that have exempted themselves from any discipline. There is evidence that bankruptcy judges have engaged in a [bankruptcy fraud scheme](#)⁶ with the knowledge and support of district judges, and at least the toleration of circuit judges and the justices of the Supreme Court. That evidence and [leads](#)⁷ are hereby being offered for a joint *Follow the money!* investigative journalism project.

The exposure of coordinated wrongdoing involving criminal conduct throughout the federal judiciary is bound to have a farther reaching impact than finding out that the Watergate Burglary was connected to President Richard Nixon. Unlike the president and his White House aides, federal judges hold office for life or renewable 14-year terms and can only be removed through the historically [useless impeachment mechanism](#).⁸ Hence, the investment of investigative resources in this project would not be for a momentary scoop, but rather for the development of a lode of news of intense interest to the public, all members of the Congress dominated by "the [culture of corruption](#)"⁹, and a president who nominated two justices, including the chief. The question 'Were and are federal judges fit to decide cases?' and the investigative results would lock in a vicious circle causing an ever deepening institutional crisis...only to be aggravated by a [class action](#)¹⁰ on behalf of those injured by corrupt and complaint-dismissing judges. In addition, the expertise gained from the investigation of federal judges can be reinvested in that of their state counterparts. Thus, I respectfully request an interview with you to discuss the [details](#) of this synoptic proposal.¹¹

1	http://Judicial-Discipline-Reform.org/docs/Table_of_cases.pdf	IP:3
2	Table S-22. Report of Complaints Filed and Action Taken Under Authority of 28 U.S.C. 351-364 During 12-Month Periods Between October 1, 1996 and September 30, 2005, in the 1997-2005 Annual Reports of the Director of the Administrative Office of the United States Courts; http://Judicial-Discipline-Reform.org/docs/Administrative_Office_statistics.pdf	IP:5
3	The Official Statistics of the Administrative Office of the U.S. Courts Show the Systematic Dismissal of Judicial Conduct Complaints by Federal Judges, Including the Justices of the Supreme Court, by Dr. Richard Cordero, Esq.; http://Judicial-Discipline-Reform.org/docs/Statistics_of_systematic_dismissals.pdf	IP:23
4	Judges of the United States, Impeachments of Federal Judges, Federal Judicial Center, http://www.fjc.gov/history/home/nsf	IP:27
5	The Supreme Court Justices and the Chief Judges Have Semi-annually Received Official Information About the Self-immunizing Systematic Dismissal of Judicial Conduct Complaints, But Have Tolerated It With Disregard for the Consequent Abuse of Power and Corruption, by Dr. Richard Cordero, Esq.; http://Judicial-Discipline-Reform.org/docs/SCt_knows_of_dismissals.pdf	IP:31
6	Statement of Facts providing evidence showing that a federal judgeship has become a safe haven for wrongdoing due to lack of an effective mechanism of judicial conduct control and calling for the formation of a virtual firm of lawyers and investigative journalists to help prepare pro bono a class action based on a representative case charging that Chief Judge John M. Walker, Jr., and Circuit Judge Dennis Jacobs of the U.S. Court of Appeals for the Second Circuit have engaged in a series of acts of disregard for the law, the rules, and the facts, and of systematic dismissal of judicial misconduct complaints forming a pattern of non-coincidental, intentional, and coordinated wrongdoing that protects peers and other schemers involved in a bankruptcy fraud scheme, by Dr. Richard Cordero, Esq., http://judicial-discipline-reform.org/docs/Statement_of_Facts_Table_of_Cases.pdf	IP:33
7	Contact information with detailed index to exhibits, organized by categories listed in the order in which the <i>Follow the money!</i> investigation may proceed, http://Judicial-Discipline-Reform.org/docs/contact_info_by_categories.pdf	IP:43
8	Under 28 U.S.C. §152(a)(1) bankruptcy judges are “appointed by the court of appeals of the United States for the circuit in which such district is located”, that is, the judicial district for which the judge is appointed “for a term of fourteen years”. Under §152(a)(3), if a majority of the judges of such court cannot agree upon such appointment, the chief judge of the court appoints the bankruptcy judge. The latter’s removal during his or her term is provided for under §152(e), which allows it to be executed “only by the judicial council of the circuit in which the judge’s official duty station is located”. Judicial councils are formed under §132(a)(1) “by the chief judge of the [respective] circuit...and an equal number of circuit judges and district judges of the circuit”. This mechanism of removal has proved to be as equally useless as that of impeachment of life-tenured federal judges, for not only do judges protect each other, but they are most reluctant to impugn their own judgment by admitting that the bankruptcy judge that they appointed was unfit to hold office and should be removed.	
9	House Minority Leader Nancy Pelosi has publicly stated that Congress is dominated by “a culture of corruption” and that if her party wins control of the U.S. House of Representatives and she becomes its Speaker, she will work to “drain the swamp of corruption” in Congress.	
10	Federal judges have no grant of immunity from the Constitution: In a system of “Equal Justice Under Law” they must be liable to prosecution as defendants in a class action like anybody else, by Dr. Richard Cordero, Esq.; http://Judicial-Discipline-Reform.org/docs/no_judicial_immunity.pdf	IP:65
11	cf. Programmatic Proposal to Unite Entities and Individuals to Use Their Resources Effectively in Our Common Mission to Ensure Integrity in Our Courts by Engaging in Specific Activities and Achieving Concrete Objectives, by Dr. Richard Cordero, Esq.; http://Judicial-Discipline-Reform.org/Programmatic1.htm	IP:67

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<http://Judicial-Discipline-Reform.org>

by

Dr. Richard Cordero, Esq.

DrRCordero@Judicial-Discipline-Reform.org

The mission of this site is to bring together all the entities and individuals that are separately working toward accomplishing what constitutes in fact their common mission, namely, to ensure integrity in our federal and state courts. By focusing our efforts and combining our resources we can pursue it much more effectively than up to now. To that end, a Programmatic Proposal is put forward for accomplishing that mission by achieving three realistic and progressively attainable objectives through a program of specific, manageable activities.

Programmatic Proposal

to Unite Entities and Individuals to Use Their Resources Effectively
in Our Common Mission to Ensure Integrity in Our Courts
by Engaging in Specific Activities to Achieve Concrete Objectives
(http://Judicial-Discipline-Reform.org/docs/Programmatic_Proposal.pdf)

Summary of Objectives and Activities

(v.2 as of October 30, 2006)

1. Unite entities and individuals across the nation who denounce judges engaged in coordinated wrongdoing, such as bankruptcy fraud schemes, so that with their combined efforts and resources a virtual firm can be formed on the Internet composed of:
 - a) investigative journalists that will search for evidence of such wrongdoing in a Watergate-like *Follow the money!* investigation that will start with filed bankruptcy petitions, follow their leads through the schemers' webs of personal and financial relationships, and end exposing the uncovered evidence in a media campaign on the Internet as well as through local and national newspapers and radio and TV stations; and
 - b) lawyers that will bring a class action on behalf of people injured by judges shown by the journalists' evidence to have participated in coordinated wrongdoing as well as on behalf of people who have exercised the right to file a complaint against a judge only to have their complaints systematically dismissed by judges protecting one another;so that ever more members of the public will be made aware of the extent and damaging consequences for everybody of coordinated wrongdoing by judges. By the same token, other kinds of fraud schemes, such as in probate, tax, or family courts, can be included in the investigation if the leads are likely to result in finding evidence of criminal activity that when made part of the class action will not be liable to exclusion under the judges' pretext that such evidence concerns judicial acts covered by the doctrine of judicial immunity, which certainly does not protect judges from being prosecuted for participating in criminal activity.
2. Thereby, cause an outraged public to force the authorities outside the judiciary, such as the FBI, the Department of Justice, Congress, and their state counterparts, to investigate coordinated wrongdoing in the judiciaries and proceed to the impeachment or prosecution and conviction of judges and other wrongdoers, and bring about the retirement of other unfit judges.
3. Channel the public's demand for integrity among judges to the reform by law of the mechanism of judicial discipline through the creation of an external body -whose members would be unrelated to, nominated, confirmed, and mandated to function independently of, the judiciary- for receiving and acting on complaints about judges' conduct and for inspecting their use of public funds.

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To read on the JDR website the full [Programmatic Proposal](http://Judicial-Discipline-Reform.org/Programmatic1.htm) go to <http://Judicial-Discipline-Reform.org/Programmatic1.htm>. (The PDFs hyperlinked therefrom need Adobe Acrobat Reader 7 to open, which can be downloaded from the JDR homepage or from www.Adobe.com. Comments and inquiries are welcome; send them to DrRCordero@http://Judicial-Discipline-Reform.org.

Programmatic Proposal
to Unite Entities and Individuals to Use Their Resources Effectively
in Our Common Mission to Ensure Integrity in Our Courts
by Engaging in Specific Activities and Achieving Concrete Objectives
(version 1 as of 10/11/6)

by
Dr. Richard Cordero, Esq.

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I. Effectiveness through unity: many entities and individuals complaining separately about wrongdoing judges, who are tightly coordinated in the Judiciary, the 3rd Branch of Government

1. There are many entities and individuals that complain on the Internet, talk shows, and e-mails about our federal and state legal systems. They protest about judges that abuse their judicial power either to advance their own ideological agenda with disregard for the respective constitution and laws that they swore to apply or to gain an unlawful benefit for themselves and others participating in a corrupt scheme. In short, they all complain about wrongdoing judges.
2. In neither case is the source of their complaints acts within the bounds of judicial power that the appeal courts have failed to correct. Rather, in both cases the source is judges that have failed to apply to themselves the statutory mechanism of judicial self-discipline. In the federal jurisdiction, this mechanism is triggered when a judicial conduct complaint against a federal judge is filed by any person with the chief judge of the respective court of appeals, as provided for by the Judicial Conduct and Disability Act of 1980. (28 U.S.C. §351 et seq.)
3. The failure to discharge their self-discipline duty allows judges to do anything they want and get away with it in the knowledge that they will not be asked by their peers to answer for their conduct. That knowledge results from, and gives rise to, coordination to engage in wrongdoing. Evidence of such coordination is found in the official statistics of the [Administrative Office of the U.S. Courts](#). They show that [the judges’ rate of dismissal](#) for over a decade of judicial conduct complaints could not have occurred but for their wrongful coordination to systematically dismiss them in order to insulate themselves from any discipline. (http://Judicial-Discipline-Reform.org/docs/Statistics_of_systematic_dismissals.pdf) Thus exempting themselves from the control of their conduct provided for by the Act constituted abuse of power. It engendered the sense of impunity that encouraged any subsequent abuse of power. Self-exemption from discipline and abuse of power acting as mutually reinforcing cause and effect of each other.
4. Federal judges’ sense of not being answerable for their actions to any disciplinary body is grounded in facts. As stated by the [Late Chief Justice W. Rehnquist](#) and the [Federal Judicial Center](#), since the adoption of the U.S. Constitution in 1789 only 13 judges have been impeached and only 7 convicted...in 217 years of federal judicial history. Since their chances of getting caught are less than a third of those of becoming the 18th chief justice of the Supreme Court, they engage in wrongdoing because they know that as a historical fact they are exempt from prosecution. As a result, federal judges constitute the only group of people in our country that as a matter of fact are above the law. (http://judicial-discipline-reform.org/docs/CJ_Rehnquist_impeachments.pdf)

5. Many entities and individuals have complained repeatedly about, and developed different initiatives against, the many ways in which abusive judges manifest their bias and disregard for the rule of law. Their effectiveness, however, has been limited. For one thing, a) many complaints and initiatives deal with the manifestations of the judges' abusive conduct rather than the circumstance enabling their riskless wrongdoing, to wit, their inapplication to themselves of the mechanism of judicial discipline. In addition, b) the public has not yet been made aware of the extent of the judges' abusive conduct and the fact that it concerns everybody because judges have enormous power to take decisions that affect every person's right to life, freedom, and property as well as every social and economic activity in this country. Moreover, c) the entities and individuals have pursued their complaints and initiatives separately against judges, who, by contrast, are united within a most powerful, well-connected, and moneyed organization, namely, the Judiciary, the Third Branch of Government, which provides the institutional framework for a more insidious and intractable type of wrongdoing: coordinated judicial wrongdoing.

II. A three-pronged proposal to pursue a common mission through a virtual firm, win the public's support, and cause the reform by law of judicial discipline

6. A proposal is made here to overcome these three obstacles to the effectiveness of the entities and individuals' many initiatives against abusive judges that show bias and disregard the rule of law. To begin with, it identifies what constitutes their essential common mission, namely, to restore integrity to our legal system. For its accomplishment, it proposes that they c) unite their efforts and resources to create a virtual firm on the Internet of investigative journalists and lawyers to b) make the public aware of how and why judges abuse their rights by exposing evidence of their wrongdoing through a media campaign and a class action against wrongdoing judges aimed at gaining the public's support to a) force executive and legislative authorities to launch official investigations into coordinated wrongdoing in the judicial branch leading to public demand for, and passage of, reform legislation that creates an external body for administering judicial discipline and inspecting the judges' use of public funds. Through this program of activities the entities and individuals can embark on a common mission to deal effectively with the cause of their complaints: the judges' unlawful, intentional failure to discharge their self-discipline duty, which enables them to eliminate punishment as a deterrent to wrongdoing and to engage in coordinated wrongdoing that leads to abuse and corruption in our legal system.
7. This proposal, by its very nature flexible and open to discussion, is addressed to the entities and individuals as a statement of a concrete way in which they can combine their efforts and resources in order to pursue effectively their common mission. It is also addressed as a recruitment presentation to "the best of the best, most committed, and most informed", those professionals whose quality of work can make the difference between a successful undertaking and a disappointing flop, and who demand to know before coming on board what specific functions they would be performing in a well-run firm. Likewise, it is addressed as a business plan at the pre-quantified stage to financial supporters, those with the cash and business connections and experience necessary to turn a project into a going business, but who want to make sure that an initial general idea has been thought through to a chronological series of precise activities for specific types of workers resulting in a product that people want out there in the real world. Here the business is a lofty mission: to restore integrity to our legal system so that it can produce judicial decisions that are just and fair when measured against the benchmark of "Equal Justice Under Law".

A. The virtual firm's three objectives and its activities to attain them

8. The first step in entities and individuals dealing effectively with their complaints about the legal system is to acknowledge the need for a shared and sharply focused activity on which to concentrate their efforts and resources long-term so as to reap a multiplier effect that increases the chances of success against long odds: a common mission against the well-coordinated Judiciary. The centerpiece of that unity and the key instrument in accomplishing their mission is a virtual firm on the Internet of lawyers and investigative journalists. That firm too needs to be sharply focused. Thus, it will have three realistic and progressively attainable objectives:

i) expose judicial wrongdoing: a *Follow the money!* investigation & a class action

expose judges' coordinated wrongdoing in a bankruptcy fraud scheme or in the systematic dismissal of judicial conduct complaints through investigative journalists that will uncover evidence thereof by engaging in a Watergate-like *Follow the money!* investigation from filed bankruptcy petitions into the schemers' web of personal and financial relations, and through lawyers that will bring a class action on behalf of those injured by wrongdoing judges so that through its two categories of professionals the firm will mount a media campaign to make an ever larger audience aware of the extent and damaging consequences for the public at large of judicial wrongdoing;

ii) cause authorities to investigate and prosecute wrongdoing judges

cause an outraged public to force the authorities, such as the FBI, the Department of Justice, Congress, and their state counterparts, to investigate coordinated wrongdoing in the judiciaries and proceed to the impeachment or prosecution and conviction of judges and other wrongdoers, and bring about the retirement of other unfit judges; and

iii) bring about laws to reform the mechanism of judicial discipline

channel the public's demand for integrity in the legal system to the reform by law of the judicial discipline mechanism through the creation of a body of members unrelated to, nominated and confirmed, and mandated to operate independently of, the judiciary for receiving and acting on complaints about judges' conduct and inspecting their use of public funds.

9. Neither the firm nor the class action can pursue the particular complaints of each of its professionals, supporters, or members. They will know before joining that a shotgun of issues and agendas is confusing, overwhelming, conflict-generating, and ultimately fatal to the certification of the class. Hence, they must shed distinguishing elements from their complaints and divisive statements from their discourse in order to pursue effectively their common mission. Given their unifying commitment to it, they will agree to concentrate their efforts and resources on those three reasonable objectives attainable through a program of specific, manageable activities.

III. Qualifications and tasks of virtual firm's professionals & program of activities

10. The firm will pursue its objectives by following a program of chronologically outlined activities:

A. The investigative journalists' tasks

11. The investigative journalists will conduct a Watergate-like *Follow the money!* investigation

through the web of personal and financial relationships of judges and other people involved in the judicial disposition of money. Consequently, the starting point of their investigation will be the [publicly available bankruptcy petitions](#) filed by bankrupts, such as those relating to the bankruptcy fraud scheme that constitutes a key component of the representative case of the class action. Their investigation will include digital and physical document search, [interviews](#), and inspection of places in search of assets belonging to the bankruptcy fraud schemers. The journalists will also seek to determine what federal judges and any other persons knew and when they knew of the existence of a bankruptcy fraud scheme or of a pattern of other wrongdoing, such as real estate sweet deals, and how judges supported such wrongdoing. (cf. http://judicial-discipline-reform.org/docs/Trustee_Reiber_3909_cases.pdf and http://judicial-discipline-reform.org/docs/DeLano_petition.pdf)

12. The investigative journalists will have the crucial task of convincing the editors and assignment managers of the media with the largest audience to carry their reports and commit their own resources to pushing the investigation ever more deeply and widely, and to cover the firm's own work. They will also work on identifying and vetting individuals of appropriate standing and with relevant skills, knowledge, and financial means that can overtly or anonymously join or support the firm to make a significant contribution to accomplishing its mission.

B. The lawyers' tasks

13. The evidence of coordinated judicial wrongdoing already posted and described in http://judicial-discipline-reform.org/docs/Tables_of_Exhibits.pdf, as well as the evidence produced by the investigative journalists will be reviewed by the virtual firm's lawyers, who will select the most appropriate for restricted circulation or publication and for supporting the class action. They will work on the difficult legal issues, some of them novel, involved in preparing that action. Among them are those dealing with obtaining contact information of potential class members, such as judicial conduct complainants, and selecting them; certifying the class and its representatives; choosing the judges, judicial and administrative bodies, trustees, lawyers, law firms, and other persons to be named as defendants and preparing the charges against all or some of them under laws such as the Racketeer Influenced and Corrupt Organizations Act (RICO); intentional denial of due process and judicial rights; dereliction of duty and third party beneficiaries of the oath of office; conflict of interests in judging peers, disqualification or change of venue; proper venue for claims against a branch of government; subpoenaing judges to be deposed, produce court and financial records, and testify; overcoming claims of judicial immunity, privilege, and confidentiality; conspiracy; standard of proof, and admissibility of corruption evidence against judges; liability and damages; etc. These and other tasks are described on the webpage "[Tasks for Lawyers and Investigative Journalists](http://Judicial-Discipline-Reform.org/Tasks%20for%20L%20%20%20IJ.htm)". (<http://Judicial-Discipline-Reform.org/Tasks%20for%20L%20%20%20IJ.htm>)

C. Organizing and posting evidence

14. The evidence gathered that meets journalistic standards of publication, such as accuracy, credibility, and verifiability, or legal standards of admissibility will be posted on the virtual firm's website with different degrees of accessibility or made available to the media to attain the widest publication possible. The purpose will be to inform the firm's professionals and the public of the on-going state of the investigation in order to avoid duplication and provide leads

for further investigation. Such publication will also intend to encourage other journalists and bloggers aiming to deserve a Pulitzer Prize or in quest for their 15 minutes of meritorious fame to join and expand the search for evidence that will reveal to the public nationwide the nature and extent of coordinated wrongdoing in both the federal and the state judiciaries and the need for official investigations and for legislation to reform the mechanism of judicial discipline.

1. Table of wrongdoing evidence

15. To help the investigation along and facilitate the organization and widest use of the evidence gathered, the firm will devise as its key evidentiary instrument the Table of Judicial Wrongdoing Across the Nation. It will list in a column each of the 50 states, for each of which each of a selected handful of the most promising federal and state cases from a journalistic and legal standpoint will be listed in a row, the cells of which will provide essential docket information and hyperlinks to the most relevant court documents and news articles. One of those cells will provide the case-type identifier that will hyperlink to the case synopsis. This will be the paragraph most important and difficult to craft professionally, the one that will frequently be the only one read by those choosing which case to investigate or looking for an overview of judicial wrongdoing nationwide. The case synopsis will describe in 150 words or less the information that enables the first paragraph of a well-written news article to grab the attention of the reader and make her want to read on for details, the so-called six W's: what, where, when, who, how, and why. This should suffice to state the nature of the legal controversy and issues at stake. The [Table of 11 Cases](http://judicial-discipline-reform.org/docs/Statement_of_Facts_Table_of_Cases.pdf) accompanying the Statement of Facts is a prototype of that Table. (http://judicial-discipline-reform.org/docs/Statement_of_Facts_Table_of_Cases.pdf)

2. Analyzing, integrating, and summarizing information

16. In order for the lawyers and investigative journalists of the virtual firm to be able to write clearly, concisely, and effectively, whether it be the case synopsis or briefs, petitions, and articles for the courts, the authorities, and the media, they will perform several essential information-processing, highly detail-oriented, but imagination-demanding and-creative tasks:

a) springboard analysis of documents

17. analyze documents, such as reports on previous investigations by authorities and civilians into official corruption and influence peddling as well as legislative hearing and debate transcripts and reports on relevant subjects and laws, in order to gain insight into the dynamics of the similar, different, or conflicting interests of the characters and of the forces shaping the events involved; and identify mistakes to be avoided and pick up leads to be followed;

b) boomerang scrutiny

18. capture the spin of orders, decisions, speeches, press releases, and articles of wrongdoing judges to harness their patterns of bias or intrinsic inconsistencies or extrinsic disregard for the law and cause the judges' own words to hit them in their mouths;

c) mosaic integration

19. read a document to gain an understanding of the workings of its statements and discern between its lines its assumptions, implications, and possibilities; mine from it bits and pieces of information of importance to trained and imaginative eyes and in light of their relative shades

and shapes of relevance and credibility place them in the developing mosaic of the bits and pieces of many other documents as their placement sometimes is suggested by the picture that puzzle-like is revealing itself and sometimes is chosen by the picture of meaning that the reader is creatively drawing;

d) broth reduction

20. summarize the essential informational nutrients of scores or even hundreds of documents to a synoptic paragraph, an executive summary, a word limited news article, a table, a chart, or a diagram by submitting those source documents to the boiling down heat of the objectives at hand, the audience being addressed, and the reasonable calculation that in such size and format the piece will get read and its information assimilated;

e) database creation

21. apply standard or devise new structure and search functions of relational databases to manage efficiently and make easily accessible the documents being gathered and the informational elements that they contain so that they will assist in understanding and writing other documents;

f) Report on Judicial Wrongdoing in America

22. produce the text, tables, statistical analyses, charts, and descriptive entries of the bibliography of the virtual firm's publication that will make the influential, reading public aware of how widespread judicial wrongdoing has become and how high it has reached at the federal and state levels and serve as the firm's presentation tool before authorities to cause them to launch official investigations and legislative bodies to enact judicial discipline reform legislation.

3. A firm of "the best of the best, most committed, and most informed"

23. It should be obvious that for the virtual firm to carry out those difficult tasks it will need to be composed of a team of professionals with superior skills, technical knowledge, and ingenuity. They also must have the leadership attributes to guide the supporting entities and individuals and to organize effectively the members of the class action, not to mention to manage their relations with outsiders so as to garner their sympathy and respect while enduring with dignity abuse, disappointment, and stress. These tough demands on the performance and character of the firm's professionals require their selection by application in stages of the rigorous criteria of "the best of the best, most committed, and most informed", unlike the considerations to be used for qualifying other people as either financial supporters of the firm or members of the class action.

D. Enter the media

24. Evidence of widespread coordinated wrongdoing that reaches high in the judiciary clearly and concisely presented through the synoptic paragraphs summarizing cases and the Table of Judicial Wrongdoing Across the Nation laying out docket data and links to supporting documents and articles can generate on the Internet considerable interest as well as outrage. The buzz can reach such pitch as to cause the national newspapers and TV stations to consider it in their commercial interest to pick up the story and further develop it with their vast human, technical, and financial resources for investigative journalism.

1. Examples of the media joining an Internet buzz

25. The following account supports the reasonable expectation that investigative journalists and bloggers will recognize the importance for the man in the street and our elected representatives of uncovering evidence of coordinated wrongdoing in the Third Branch of Government and the opportunity that it offers to merit public recognition for reportage in the common good, and join the search for more evidence: Oprah Winfrey picked up for her book club James Frey's autobiography "A Million Little Pieces" and thereby launched it to the top of the best seller lists. This caught the attention of TheSmokingGun.com blog, which exposed it as embellished pseudo-fiction, after which the major TV stations picked up the story and interviewed TheSmokingGun Editor Bustone. Investigative journalists of *The New York Times* and the *Star Tribune* played a key role in exposing the book as a fabrication around a few little pieces of truth. <http://www.thesmokinggun.com/jamesfrey/0104061jamesfrey1.html>
26. In the same vein, the ever more popular, compassion-inducing drama of Lonely Girl was picked up by *The New York Times* and revealed as the hoax of some website promoters and an actress that was anything but lonely. <http://www.nytimes.com/2006/09/12/technology/12cnd-lonely.html?ex=1315713600&en=abf28fc073b3c6e9&ei=5088&partner=rssnyt&emc=rss>.

E. Filing the class action

27. Once the exposure of coordinated judicial wrongdoing has generated a critical mass of public outrage and clamor for official intervention, the filing by the virtual firm of a class action on behalf of entities and individuals injured by wrongdoing judges will stand a better chance of being reported on by the national media; taken seriously by the presiding judge, whose every decision will come under close scrutiny in the spotlight of the mass media and law journals; and surviving a motion to dismiss, particularly a bogus one intended to nip in the bud any discovery of evidence of wrongdoing coordination.

1. Bankruptcy-fraud members of the class

28. Some members of the class action will have been injured by fraud supported by judges in a bankruptcy case; other members' injuries will have arisen from the elimination of their judicial conduct complaints by the judges' systematic dismissal of such complaints. The element common to all those members is that all of them sustained actionable injury at the hand of a wrongdoing judge or of judges acting in wrongful coordination. The injury, of course, must not be susceptible to being characterized as an adverse consequence of a judicial act, for such characterization would make the theory of judicial immunity for judicial acts available to protect the judge in question from being sued.
29. However, [Article III, section 1 of the Constitution](#) provides for federal judges to remain in office only "during good Behaviour". The disposition of money in controversy by a judge acting fraudulently for his own benefit or a third party's is indisputably not "good Behaviour", but rather an impeachable act of corruption not protected by any theory of judicial immunity, which in any event is not explicitly provided for in the Constitution. Such fraud evidence could not be dismissed by the judge presiding over the class action without revealing glaring partiality by defending his peer's legally indefensible conduct and, thereby rendering himself suspicious.
30. That is why a case involving a bankruptcy fraud scheme is the representative one of the class

action. It allows evidence of fraud to be the anchor that should keep the action from being thrown out of court by the judges' immunity theory bulldozer. By the same token, the bankruptcy fraud members of the class should be able to provide invaluable leads for the investigative journalists' Watergate-like *Follow the money!* investigation of bankruptcy money fraudulently channeled into concealed assets and illegal contributions, political or otherwise.

2. Complaint-dismissal members of the class

31. Evidence of the judges' support or toleration of a bankruptcy fraud scheme would show bias and disregard for the rule of law as well as engagement in a continuing criminal activity and the consequent need to cover it up. Such evidence would lend credence to the claims that the non-bankruptcy class members made both in their judicial misconduct complaints, to wit, that the judges in their respective cases, regardless of their subject matter, showed bias and disregard for the rule of law, and subsequently in the class action, that is, that the judges that received those complaints systematically dismissed them too without any investigation or consideration of their merits so as to prevent any investigation of a judge that could open the way to the exposure of the judges' coordination to do wrong, for example, to participate in a bankruptcy fraud scheme. Hence, all the members have mutually reinforcing claims arising from the same source: judicial wrongdoing made possible by the coordination not to discipline each other.

F. Authorities investigate the judiciary

32. The outrage provoked by the media reporting on coordinated wrongdoing by judges can force the FBI, the Department of Justice, and finally Congress to launch their own investigations. Current events support this expectation. Indeed, Congress held hearings within a month after the revelation that to identify the source of leakage of classified corporate information, the top officers of Hewlett-Packard had orchestrated pretexting –posing as members of the board of directors to obtain private information about directors- and unlawful wiretapping of journalists. Likewise, less than a week after the scandal broke that Representative Mark Foley had sent salacious e-mails to underage Congressional pages and that the House leadership had known for three years that he had sent other improper e-mails to pages, the FBI opened an in-depth investigation into what Congressional leaders knew and when they knew it.

G. Impeachment of judges

33. Official investigations can lead to the impeachment or prosecution and conviction of judges as well as other bankruptcy fraud schemers and to the tactical retirement of other judges in anticipation of being charged. This will cause the removal or exiting from the bench of wrongdoing judges and have a cautionary effect on the conduct of those remaining in office.

H. Drive for judicial reform legislation

34. Once a national public has become outraged by exposure of coordinated judicial wrongdoing at both the federal and state levels, and cries out for the authorities to restore integrity to our legal system, the virtual firm and its supporting entities and individuals will more effectively press Congress and state legislatures to enact legislation providing for effective mechanisms to

discipline judicial conduct and to inspect judges' handling of public funds allocated to the judiciary. By contrast to the insufficient bill currently in Congress for the [Judicial Transparency and Ethics Enhancement Act](#), which would apply only to the federal judiciary, the new mechanism must be operated by an external body whose members will not be recommended, let alone appointed, by the judiciary, and which will receive and investigate judicial conduct complaints against, apply disciplinary measures to, and make recommendations for the impeachment of, any members of the judiciary, including the justices of the Supreme Court.

I. Redress and compensation for class members

35. The members of the class action may receive collective redress for their grievances in the form of appellate review of their cases or new trials, and perhaps even compensation from:
 - a. individual judges found liable for the harm that they inflicted through their wrongdoing;
 - b. judicial governing bodies or entities servicing the judiciary found liable for having assisted judges in their wrongdoing or covered up for them; and/or
 - c. the Federal government since the Federal Judiciary is a branch of the U.S. Government.

IV. How to select persons that want to join the virtual firm

36. Among the preliminary steps that can be taken in the process of selecting the professionals of the virtual firm of lawyers and investigative journalists are the following:
 - a. examine their complaints against the judiciary as stated in their websites, court documents filed by them, and talk shows;
 - b. check the person's name, address, resume, and entries in professional directories;
 - c. require of a person that has expressed interest in joining the firm to submit a written statement indicating, in light of this proposal:
 - 1) the reasons for wanting to join the firm in terms of its mission and objectives;
 - 2) academic and professional qualifications to carry out any of the tasks described above;
 - d. provide samples of his or her work.
37. It should be evident that a person that does not want to bother to read this proposal and provide the requested information is neither committed to the entities and individuals' common mission nor realizes how much work will be required to accomplish it or attain the firm's objectives. Just as easily as he or she would like to join, he or she would quit the firm, leaving everybody else burdened with the work that had been assigned to that person, perhaps when the pressure of an approaching key date was mounting. That is not a promising way of running a firm, particularly since the mission is to enforce discipline and accountability on the tightly-knitted web of bankruptcy fraud schemers and well-coordinated peers of the Third Branch of Government.

Comments on this Programmatic Proposal and inquiries about joining the firm are welcome and may be e-mailed to DrRCordero@Judicial-Discipline-Reform.org.

VII.A.3. Contact information with detailed index to exhibits, organized by categories listed in the order in which the *Follow the money!* investigation may proceed (see also the alphabetically organized table at ToEC:76)

- | | |
|--|---|
| <p>I. The web of personal relationships in WDNY (Stat. of Facts 4¶14 et seq.) and the bkr fraud scheme (C:660)</p> <p>a) The bankrupts</p> <p>b) The trustees</p> <p>c) The judges & their staffs</p> <p> i) Bankruptcy Court, WDNY</p> <p> ii) District Court, WDNY</p> <p>d) Lawyers and law firms</p> <p>e) Bankruptcy professionals</p> <p>f) Warehousers</p> <p>g) Financial Institutions</p> <p>h) U.S. attorneys</p> <p>i) FBI agents</p> | <p>II. Higher courts protecting their judicial peers (Stat. of Facts 5§A et seq.)</p> <p>a) Court of Appeals for the 2nd Circuit</p> <p> i) CA2 Judges</p> <p> ii) Staff of CA2</p> <p>b) Judicial Council of 2nd Circuit</p> <p> i) Circuit Justice</p> <p> ii) Circuit Judges</p> <p> iii) District Judges</p> <p>c) Administrative Office of the U.S. Courts</p> <p>d) Judicial Conference of the U.S.</p> <p> i) Executive Committee</p> <p> ii) Conference Members</p> <p> iii) Committee to Review Circuit Council Conduct and Disability Orders</p> <p>e) Supreme Court of the United States</p> <p> i) Judicial Conduct and Disability Act Study Committee</p> <p>f) U.S. Congress Committees on the Judiciary</p> |
|--|---|

I. The web of personal relationships in WDNY

a) The bankrupts

Palmer, David
Premier Van Lines, Inc.
1829 Middle Road
Rush, NY 14543
Tax id. no. 065-62-2753
(owner of Premier who filed for its bankruptcy under Ch. 11, Reorganization) (A:72¶10 et seq., 78§A, 88§B, 290-295, 351)

Premier Van Lines, Inc.
c/o David Palmer
1829 Middle Road
Rush, NY 14543
Tax id.: 16-1542181 (A:565)
(storage and moving company)

DeLano, David Gene and Mary Ann
1262 Shoecraft Road
Webster, NY 14580
Tax id. Nos. 077-32-3894; 091-36-0517)
(debtors in *In re DeLano* who filed under Ch. 13, Adjustment of debts of individuals with regular income)

- a) who the DeLanos are (C:1296¶¶9-16)
- b) notice of meeting of creditors (C:581)
- c) list of the DeLanos' creditors (C:583 & ToEC:25>583>Comment)
- d) bankruptcy petition (C:585; D:23)
- e) debt repayment plan (C:617; D:59)
- f) documents requested by the DeLanos (D:199, 206, 213)
- g) documents produced (C:1469-1479; D:165-188, 223-230, 280-282)
- h) mortgages and unaccounted-for proceeds (C:1312; 341-354, 472-491; cf C:492)
- i) analyses of documents (C:578)
- j) table comparing claims on the DeLanos (C:1415)

DeLano, David Gene

Assistant Vice President
M&T Bank

255 East Avenue

Rochester, NY 14604

tel. (585) 258-8475, (800) 724-2440

(3rd party defendant in *Pfuntner*
(A:82, 87; Pst:1285¶70);

(bkr. petitioner in *DeLano* (D:23-60)
defendant in *Cordero v. DeLano*)
(Pst:1281§§d-f)

b) The trustees

Executive Office of the U.S. Trustee
(EOUST)

20 Massachusetts Ave., N.W., Room 8000

Washington, D.C. 20530

tel. (202)307-1391; fax (202)307-0672

http://www.usdoj.gov/ust/eo/ust_org/office_locator.htm

Friedman, Lawrence A.

Director

Executive Office of the U.S. Trustees

20 Massachusetts Ave., N.W.

Washington, D.C. 20530

tel. (202)307-1391; fax (202)307-0672

Martini, Deirdre A.

U.S. Trustee for Region 2

Office of the United States Trustee

55 Whitehall Street, 21st Floor

New York, NY 10004

tel. (212) 510-0500; fax (212) 668-2256

<http://www.usdoj.gov/ust/r02/>

(D:90§VII, 137, 139, 141, 158, 307, 330)

Schwartz, Carolyn S.

United States Trustee for Region 2

3 Whitehall Street, Suite 2100

New York, NY 10004

tel. (212)510-0500; fax: (212)668-2256

(A:101, 102)

Schmitt, Kathleen Dunivin, 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

(A:37, 38, 52, 102; D:84§IV; D:160, 307,

470, 471, 474; ToEC:§VII.E Table 4)

Kyler, Christine

Assistant to 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

(D:474, 476, 495)

Gordon, Kenneth W., Esq.

Chapter 7 Trustee

Gordon & Schaal, LLP

100 Meridian Centre Blvd., Suite 120
Rochester, New York 14618
tel. (585) 244-1070; fax (585) 244-1085
(trustee for liquidating Premier)

- a) re his 3,383 cases (C:641 &
ToEC:26>641>Comment; ToEC:91)
- b) letters (A:1, 2, 8, 19, 37, 83§F, 88§C)

Reiber, George M., Esq.
Chapter 13 Trustee
South Winton Court
3136 S. Winton Road, Suite 206
Rochester, NY 14623
tel. (585) 427-7225; fax (585) 427-7804
(trustee in *DeLano*)

- a) re his 3,383 cases (C:641)
- b) events on March 8, 2004 ((D:79§§ I&II,
92§C)
- c) disregard of statutory duty to
investigate the DeLanos
(ToEC:111>row 1)
- d) confirmation of the DeLanos' plan
(C:1052-1054; 1056; Add:1038)
- e) knew the DeLanos have money
(C:1052, 1056, 1060, ToEC:45>1060>
Comment, C:1064 &
ToEC:46>1064>Comment)

Weidman, James, Esq.
South Winton Court
3136 S. Winton Road, Suite 206
Rochester, NY 14623
tel. (585) 427-7225; fax (585) 427-7804
(attorney for Trustee Reiber)
(D:79§§ I&II)

c) The judges & their staffs

Internet links to all federal courts
<http://www.uscourts.gov/courtlinks/>
(C:852)

i) Bankruptcy Court, WBNY

Bankruptcy Court (Buffalo)
U.S. Bankruptcy Court, WBNY
Olympic Towers, 300 Pearl St., Suite 250
Buffalo, NY 14242
tel. (716) 551-4130; fax (716)551-5103
<http://www.nywb.uscourts.gov/>
(Official directory at ToEC:90)

Bankruptcy Court (Rochester)
U.S. Bankruptcy Court, WBNY
1400 U.S. Courthouse
100 State Street
Rochester, NY 14614
tel. (585) 613-4200; fax (585)613-4299
<http://www.nywb.uscourts.gov/>
(Official directory at ToEC:89)

Ninfo, Bkr. Judge John C., II
United States Bankruptcy Court
1400 United States Courthouse
100 State Street
Rochester, NY 14614
tel. (585) 613-4200; fax (585)613-4299
(Official directory at ToEC:89)
(judge in *Premier Van Lines, Pfuntner,*
and DeLano)

- a) misconduct complaint (C:1, 63; E:1-60)
- b) evidence of bias and disregard for
rule of law (C:951, 1313; A:801; D:231;
Pst:1269§§a-d)
- c) motions to recuse (A:674; D:355)
- d) list of hearings and decisions presided
over or written by Judge Ninfo in
Pfuntner and *DeLano*, as of May 10,
2006 (C:1110)
- e) failure to investigate (ToEC:§VII.E
Table 4; Add:1051§II)
- f) Judge Ninfo's decisions at
<http://www.nywb.uscourts.gov/decisions/jcn.php> to be searched for
patterns and inconsistencies

Warren, Paul R.
Bankruptcy Clerk
United States Bankruptcy Court
1400 United States Courthouse
100 State Street
Rochester, NY 14614
tel. (585) 613-4200
(C:1166, A:303; 334, 337, T_oE A:§B.7)

Stickle, Todd
Deputy Clerk of Court
U.S. Bankruptcy Court, WBNY
1400 United States Courthouse
100 State Street
Rochester, NY 14614
tel. (585) 613-4223
(T_oE A:§B.7)

Dianetti, Mary
Bankruptcy Court Reporter
612 South Lincoln Road
East Rochester, NY 14445
tel. (585)586-6392
(C:1081 & 1083; C:1155-1165, 1167;
see Melissa Frieday below)

Frieday, Melissa
Court Reporter Contracting Officer
US. Bankruptcy Court, WBNY
Olympic Towers, 300 Pearl St., Suite 250
Buffalo, NY 14242
tel. (716) 551-4130; fax (716)551-5103
(cf. C:1152; C:1153, 1166)

ii) District Court, WDNY

District Court
U.S. District Court, WDNY
2120 U.S. Courthouse
100 State Street
Rochester, NY 14614-1387
tel. (585)613-4000
<http://www.nywd.uscourts.gov/>

District judges' decisions at
<http://www.nywd.uscourts.gov/decision/decision.php> to be searched
for patterns and inconsistencies

Larimer, District Judge David G.
United States District Court
2120 U.S. Courthouse
100 State Street
Rochester, NY 14614-1387
tel. (585) 263-6263
(judge in appeals from *Pfuntner* and
DeLano)

- a) list of orders (C:1278)
- b) in *Pfuntner* (A:1654§B)
- c) efforts in DeLano to keep transcript
from Dr. Cordero (C:1108 &
T_oE C:>C:1108>Comment; C:1170,
1183, 1303§B, 1313, I)
- d) disregard for statutory duty to
investigate bkr fraud (T_oE C:111 Table
4; T_oE C:>C:1108>Comment)
- e) refusal to post digital record on
PACER (C:1307¶¶46-49 & Pst:1214)

Rand, Paula
Courtroom Deputy for Judge Larimer
United States District Court
2120 U.S. Courthouse
100 State Street
Rochester, NY 14614-1387
tel. (585)613-4040, (585) 263-6263

Early, Rodney C.
Clerk of Court
United States District Court
2120 U.S. Courthouse
100 State Street
Rochester, NY 14614-1387
tel. (585) 263-6263
(A:469, 457, 461, 462, 1370§D)

Ghysel, Margaret (Peggy)
Appeals Clerk
United States District Court
2120 U.S. Courthouse
100 State Street
Rochester, NY 14614-1387
tel. (585) 263-6263
(A:467a, 456, 460, 462, 1370§D)

d) Lawyers and law firms

Beyma, Michael J., Esq.
Underberg & Kessler, LLP
1800 Chase Square
Rochester, NY 14604
tel. (585)-258-2890
(attorney for M&T and David DeLano
in *Pfuntner*)
(Add:531; Pst:1289§f)
law firm's tel. (585) 258-2800; fax (585)
258-282
<http://www.underberg-kessler.com/>

Essler, Karl S., Esq.
Fix Spindelman Brovitz & Goldman, P.C.
295 Woodcliff Drive, Suite 200
Fairport, NY 14450
tel. (585) 641-8000; fax (585) 641-8080
<http://fixspin.com/fsbg.html>
(attorney for David Dworkin and
Jefferson Henrietta Associates)
(A:725, 727)

MacKnight, David, Esq.
Lacy, Katzen, Ryan & Mittleman, LLP
130 East Main Street
Rochester, New York 14604-1686
tel. (585) 454-5650; fax (585) 454-6525
<http://www.lacykatzen.com/>
(attorney for James Pfuntner)
(Add:531; A:495-505, 510)

Stilwell, Raymond C., Esq.
Adair, Kaul, Murphy, Axelrod & Santoro,
LLP
The Law Center at Williamsville
17 Beresford Court
Williamsville, NY 14221
tel. (716) 565-2000
300 Linden Oaks, Suite 220
Rochester, NY 14625
tel. (585)248-3800; fax (585)248-4961
(Attorney for Premier & David
Palmer)
(A: 353-5, 341, 565)

Werner, Christopher K., Esq.
Boylan, Brown, Code
Vigdor & Wilson, LLP
2400 Chase Square
Rochester, NY 14604
tel. (585) 232-5300; fax (585) 232-3528
<http://www.boylanbrown.com/>
(DeLanos' attorney in their
bankruptcy case *In re DeLano*)

- a) motion to disallow Dr. Cordero's claim (D:218, 249)
- b) refusal to produce documents (D:287, 313; 320§II, 325, 327)
- c) violation of FRBkrP 9011(b) (D:259; Pst:1288§§e-f)
- d) knew the DeLanos have money (C:1059, 1060 & T0EC:45>1060> Comment, >1064>Comment)
- e) out of his 575 cases, 525 before Judge Ninfo (T0EC:91¶3)

e) Bankruptcy professionals

Bonadio & Co. LLP
Accountants
Corporate Crossings
171 Sully's Trail Suite 201

Pittsford, NY 14534-4557
tel. (585)381-1000; fax (585)381-3131
<http://www.bonadio.com/>
(accounting firm in *Premier*)
(T_{OE}A:153§7; A:431, 967)

Reynolds, John, Auctioneer
tel. (315)331-8815
(Tr.97/13-20, 98/13-20, 102/2-19,
110/2-8, 110/23-111/4, 113/2-10,
115/4-17, 119/4-14, 121/9-17)

Teitsworth, Roy
Auctioneer
6502 Barber Hill Road
Geneseo, NY 14454
tel. (585)243-1563; fax (585)3311
<http://www.teitsworth.com/>
(hired by Trustee Gordon in *Premier*)
(A:431, 576/97, 967, 986; T_{OE}A:153§7)

f) Warehouseers

Pfuntner, James
2140 Sackett Road
Avon, NY 14414
tel. in NY (585)738-3105; (585)226-2122;
(585)226-8303; in Florida (954)321-6449)
a. Owner of the warehouse in Avon
and Plaintiff in *Pfuntner*
(A:18a, 21, 22, 56, 492, 510)
b. Western Empire Truck Sale, owner
2926 West Main Street
Caledonia, NY 14423
tel. (585)538-2200; fax (585) 538-9858
c. Western Empire Storage, owner
Caledonia, NY 14423
tel. (585)538-6100

Carter, Christopher, Owner
Champion Moving & Storage
795 Beahan Road
Rochester, NY 14624

tel. (585) 235-3500; fax (585) 235-2105
cellular (585) 820-4645
(A:353-9/14; 109fn.8)

Ormand, John
tel. (585)226-8303
(Manager of James Pfuntner's
warehouse in Avon, NY)
(A:500¶2 et seq.; 503; 520¶49 et seq.)

Chris, John Ormand's son)
(A:500¶2 et seq.; 503; 520¶49 et seq.)

Dworkin, David
Manager
Jefferson-Henrietta Warehouse
415 Park Avenue
Rochester, NY
tel. (585) 244-3575; fax 716-647-3555
(3rd party defendant in *Pfuntner*
(A:79, 88; 353-1/2&4)
(manager of Simply Storage
tel. (585) 442-8820;
officer of LLD Enterprises
tel. (585) 244-3575; fax (716)647-3555)

Jefferson Henrietta Associates
415 Park Avenue
Rochester, NY 14607
tel. (585) 244-3575; fax. (585) 473-3555
(3rd party defendant in *Pfuntner*)
(A:81, 88; 353-2; 108fn.5-8)

g) Financial Institutions

Creditors, financial institutions, and others
(C:583, 1354, 1464, 1481, 1488; D:324)

M&T Bank (Manufacturers & Traders
Trust Bank)
255 East Avenue
Rochester, NY 14604

tel. (585) 258-8475, (800) 724-2440, 8472
<http://mtbna.com/>
(defendant and cross-defendant in
Pfuntner & employer of David DeLano)
(A:83, 87§III.A)

Pusateri, Vince
Vice President
Manufacturers & Traders Trust Company
255 East Avenue
Rochester, NY 14604
tel. (585) 258-8472, 800-724-2440
(David DeLano's boss)
(A:353-10-14)

h) U.S. attorneys

Department of Justice
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
main switchboard tel. (202)514-2000
Office of the Att. Gen. tel. (202)353-1555
<http://www.usdoj.gov>

Attorney General Alberto Gonzales
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
main switchboard tel. (202)514-2000
Off. of the Att. Gen.'s tel. (202)353-1555
<http://www.justice.gov/index.html>
http://www.justice.gov/usao/offices/usa_listings2.html#n

Battle, Michael, Esq.
U.S. Attorney for WDNY
U.S. Attorney's Office
138 Delaware Center
Buffalo, NY 14202
tel. (716)843-5700; fax (716)551-3052
<http://www.justice.gov/usao/nyw/>

(C:1551, 1552, 1562-1566, 1568, 1601)

Floming, Mary Pat, Esq.
Assistant U.S. Attorney
U.S. Attorney's Office for WDNY
138 Delaware Center
Buffalo, NY 14202
tel. (716)843-5700, ext. 867;
fax (716)551-3052
(C:1560, 1561)

Bowman, Jennie
Executive Assistant to the US Attorney
U.S. Attorney's Office for WDNY
138 Delaware Center
Buffalo, NY 14202
tel. (716)843-5700; fax (716)551-3051
(C:1559)

Tyler, Bradley E., Esq.
U.S. Attorney in Charge
620 Federal Building
100 State Street
Rochester, NY 14614
tel. (585)263-6760; fax (585)263-6226
(C:1512, 1513, 1546, 1547)

Resnik, Richard, Esq.
Assistant U.S. Attorney
620 Federal Building
100 State Street
Rochester, NY 14614
tel. (585)263-6760; fax (585)263-6226
(C:1545, 1546, 1547)

U.S. Attorney's Office for SDNY
One St. Andrews Plaza
New York, NY 10007
tel. (212)637-2200; fax (212)637-2611
<http://www.justice.gov/usao/nys/>
(see also Kelley, David N., Esq.)
(C:1345, 1391-1395, 1511, 1512;

Kelley, David N., Esq.
U.S. Attorney for SDNY
One St. Andrews Plaza
New York, NY 10007
tel. (212)637-2200; fax (212)637-2611
<http://www.justice.gov/usao/nys/>
(C:1345, 1391-1395, 1511, 1512)

Mauskopf, Roslynn, Esq.
U.S. Attorney for the EDNY
147 Pierrepont Street
Brooklyn, NY 11201
tel. (718)254-7000; fax (718)254-6479
<http://www.justice.gov/usao/nye/>
(C:1346, 1347)

i) FBI agents

Federal Bureau of Investigations
J. Edgar Hoover Building
935 Pennsylvania Avenue, NW
Washington, DC 20535-0001
tel. (202) 324-3000
<http://www.fbi.gov/>

Ahearn, Peter
Special Agent in Charge
FBI Buffalo
7800 One FBI Plaza
Buffalo, NY 14202-2698
tel. (716) 856-7800; fax (716)843-5288
<http://buffalo.fbi.gov/>
(C:1550)

FBI, Rochester Office
Rochester Resident Agent
300 Federal Building
100 State Street
Rochester NY 14614
tel. (585)546-2220; fax (585)546-2329

Damuro, Pasquale J.
Assistant Director in Charge

FBI New York
26 Federal Plaza, 23rd. Floor
New York, NY 10278-0004
tel. (212)384-1000; emergency (212)384-5000]
<http://newyork.fbi.gov/>
(C:1331, 1348, 1391, 1396)

II. Higher courts protecting their judicial peers

a) Court of Appeals, 2nd Circuit (CA2)

Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007
tel. (212) 857-8500
<http://www.ca2.uscourts.gov/>

- a) table of key documents and dates of the judicial misconduct complaints (ToEC:107)
- b) lists of CA2 judges contacted either as members of the Court or of the Judicial Council, and titles of documents sent (C:141, 653, 783, 887, 997, 1000, 1026; see also Judicial Council, 2nd Circuit below)
- c) CA2's invitation to comment on J. Ninfo's reappointment (C:981)
 - 1) comments (C:982, 1001, 1027)
 - 2) letters to judges (C:995 & 997; 1000 & 999; 1025 & 1026)

i) CA2 Judges

- Walker, Chief Judge John M., Jr.**
- a) complaint v. J. Ninfo (C:1; E:1, C:63, 105; cf. C:145)
 - b) complaint v. CJ Walker (C:271, 632)

- c) complaint v. staff (C:441, 465 & 442; C:514 & 540; cf. C:657)
- d) appeal *In re Premier Van et al.* (C:119 & T_oE:C:10>119>Comment; cf. C:169)
 - i) motion re J. Ninfo's bias (C:108)
- e) petition for rehearing (C:122, 394 & T_oE:C:18>394>Comment, C:403)
- f) motions & orders re CJ Walker's recusal (C:303, 337, 359 & 360; C:361 & 389; C:393 & T_oE:C:17>393>Comment)
- g) unavailability of CA2 misconduct orders (530, 533; T_oE:C:22>536>Comment)
- h) order to issue mandate (C:421)

Jacobs, CA2 Judge Dennis
(next eligible chief judge)

- a) complaint v. J. Ninfo (C:111, 145)
- b) complaint v. CJ Walker (C:271 & 279, 391 & T_oE:C:17>391>Comment)
- c) complaint v. staff (C:316; cf. 656)
- d) abrogation of WDNY rules (C:1285, 1317)
- e) request to refer to U.S. Att. Gen. re bkr fraud scheme (C:1285, 1317 & T_oE:C:57>1317>Comment ; cf. T_oE:C:18>405>Comment; C:1317)

Cabranes, Judge Jose A.

Calabresi, Judge Guido

Hall, Judge Peter W.

Jacobs, Judge Dennis (see above)

Katzmann, J. Robert A. &

Oakes, Judge James L.

- a) appeal *In re Premier Van et al.* (C:119 & T_oE:C:10>119>Comment; cf. C:169)
- b) petition for rehearing (C:122, 394 & T_oE:C:18>394>Comment, C:403)
- c) motion re J. Ninfo's bias (C:108)

- d) motions & orders re CJ Walker's recusal (C:303, 337 & 360; C:361 & 389; C:393 & T_oE:C:17>393>Comment)
- e) motion to refer to U.S. Att. Gen. re bkr fraud scheme (C:404; T_oE:C:18>405>Comment)
- f) motion to stay mandate (C:395, 420, 421)
- g) motion to refer to U.S. Att. Gen. re bkr fraud scheme (C:404 & T_oE:C:18>405>Comment)
- h) complaint v. staff (C:441, 442, 514 & 540)

Oakes, Judge James L.

- a) (see J. Katzmann above; C:359)
- b) J. Ninfo's reappointment (C:995)

Parker, Judge Barrington D. (C:1000)

Pooler, Judge Rosemary S. (C:652)

Raggi, Judge Reena (C:1025)

Sack, Judge Robert D. (C:319, 320)

Sotomayor, Judge Sonia

Straub, Judge Chester J. (C:658)

Walker, Chief Judge John M., Jr. (see above)

Wesley, Judge Richard C. (C:359)

Winter, Judge Ralph K. (see also Judicial Conference Committee to Review Circuit Council Conduct and Disability Orders)

ii) Staff of CA2

MacKechnie, Roseann

Clerk of Court

Court of Appeals for the Second Circuit

40 Foley Square, Room 1802

New York, NY 10007

tel. (212) 857-8500

- a) complaint v. J. Ninfo (C:1; E:1; C:63)
 - 1) re letter to judges re complaint v. J. Ninfo (C:142;

ToEC:11>142>Comment

- b) complaint v. CJ Walker (325;
ToEC:16>C:325>Comment
1) re letter to judges re complaint v. CJ Walker (C: 320)
- c) complaint v. staff (C:465 & 442, 491;
ToEC:20>491>Comment; C:492, 510;
cf. C:514)
- d) petition for review re J. Ninfo (C:654, 656)
- e) (see also Allen, Patricia)

Allen, Patricia Chin-
Deputy Clerk
Court of Appeals for the Second Circuit
40 Foley Square, Room 1802
New York, NY 10007
tel. (212)857-8702

- a) complaint v. Judge Ninfo (C:62, 71 &
ToEC:8>71>Comment; C:73, 107, 109,
144)
- b) complaint v. CJ Walker (C:315; cf. 316;
C:326, 390)
- c) complaint v. staff (C:465 & 442, 510)
- d) petition for review re J. Ninfo (C:651,
657, 658, 671)
- e) petition for review re CJ Walker and
denial (C:716; 777-779; 780)

Galindo, Fernando
Chief Deputy Clerk
Court of Appeals for the Second Circuit
40 Foley Square, Room 1802
New York, NY 10007
tel. (212) 857-8500

- a) complaint v. staff (C:509 &
ToEC:21>509>Comment; C:537)
- b) petition for review re J. Ninfo (C:621
& ToEC:25>621>Comment &C:622)

Carr, Lucille
Deputy Clerk
Court of Appeals for the Second Circuit
40 Foley Square
New York, NY 10007
tel. (212)857-8521
(C:121)

Rodriguez, Robert
Deputy Clerk
Court of Appeals for the Second Circuit
40 Foley Square
New York, NY 10007
tel. (212)857-8521
(A:507, 612)

Heller, Art (Arthur), Esq.
Calendar Officer
Calendar Office
Court of Appeals for the Second Circuit
40 Foley Square
New York, NY 10007
tel. (212) 857-8532

- a) motions signed (C:360, 420, 540)
- b) letters (A:1041, 1042, 1181, 1193;
D:285, 297)

b) Judicial Council, 2nd Circuit

Judicial Council of the Second Circuit
Court of Appeals for the Second Circuit
40 Foley Square, Room 1802
New York, NY 10007
tel. (212)857-8700; fax (212)857-8680

- a) official information about the Judicial Council
<http://www.ca2.uscourts.gov/>
(C:775)
- b) table of key documents and dates of the judicial misconduct complaints
(ToEC:107)

- c) letters re complaint v. J. Ninfo (C:110, 112, 141)
- d) petition for review re J. Ninfo and denial (C:551 & 561; 623 & 629; 672 & ToEC:28>672>Comment)
 - 1) letters to judges or clerks (C:652 & 653; 654 & 655; 659 & 660)
 - 2) from clerks (C:656-658; 667-670; 671)
- e) table of CA2 judicial misconduct orders (C:564; cf. C:973, C:980.k; ToEC:980.k>Comment)
- f) petition for review re CJ Walker and denial (C:711, 781)
 - 1) letters (C:716, 717 & 718; 777)
- g) request to report evidence of judicial wrongdoing & bkr fraud scheme to U.S. Att. Gen (C: 782, 783, 785; cf. C:404 & ToEC:18>405>Comments; see also i) abrogatory request below)
 - 1) money driving bkr fraud scheme (C:660)
- h) comments on J. Ninfo's reappointment
 - 1) CA2 invitation to comment (C:981)
 - 2) comments (C:982, 1001, 1027)
 - 3) letters to judges (C:995 & 997; 1000 & 999; 1025 & 1026)
- i) request for abrogatory review of WDNY Local Rule inconsistent with FRCivP (C:1291)
 - 1) letters (C:1285 & 1286; 1317 & ToEC:57>1317>Comment)
 - 2) request for report to Att. Gen (see g) above)
- j) tables of names, addresses, and telephone numbers of the members of the Judicial Council
 - 1) displayed in tabular format for mail merge (C:774)

- 2) displayed as block addresses (C:112, 783)

i) Circuit Justice

Ginsburg, Justice Ruth
 Circuit Justice for the Second Circuit
 The Supreme Court of the United States
 1 First Street, N.E.
 Washington, D.C. 20543
 tel. (202) 479-3000

- a) circuit justice for 2nd circuit (C:149)
- b) complaint re J. Ninfo (C:110, C:653)
- c) petition for review of Judicial Council denials (C:855)

ii) Circuit Judges

(see also Court of Appeals, 2nd Cir. above)

Cabranes, Judge Jose A. (C:141, 668, 778, 811)

Calabresi, Judge Guido (C:142, 670)

Jacobs, Judge Dennis (C:111, 656, 667)

Pooler, Judge Rosemary S. (C:652)

Straub, Judge Chester J. (C:142, 779)

Sack, Judge Robert D. (C:319; C:320)

Walker, Chief Judge John M., Jr. (C:669, 777)

Member of Judicial Council, 2nd Circuit
 Court of Appeals for the Second Circuit
 Thurgood Marshall U.S. Courthouse
 40 Foley Square
 New York, NY 10007
 tel. (212)857-8700; fax (212)857-8680

iii) District Judges

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

Hartford, Ct 06103
tel. (860) 240-3659
(C:139; ToEC:11>139>Comment)

Korman, Chief Judge Edward R.
Member of Judicial Council, 2nd Circuit
U.S. District Court, EDNY
225 Cadman Plaza East
Brooklyn, NY 11201
tel. (718) 330-2188
(C:659, 812)

Mukasey, Chief Judge Michael B.
Member of Judicial Council, 2nd Circuit
U.S. District Court, SDNY
500 Pearl Street, Rm 2240
New York, NY 10007
tel. (212) 805-0136; (212) 805-0234
(C:140 & ToEC:11>140>Comment)

Scullin, Chief Judge Frederick J., Jr.
Member of Judicial Council, 2nd Circuit
U.S. District Court, NDNY
James T. Foley U.S. Courthouse
Albany, NY 12207-2924
tel. (518) 257-1800 or-1661

Arcara, Judge Richard J.
Member of the Judicial Council
U.S. District Court, WDNY
Olympic Towers, Ste. 250
300 Pearl St.
Buffalo, NY 14202-2501
tel. (716)551-4211; fax (716)551-4850
(C:717)

Sessions, Chief Judge William, III
Member of Judicial Council, 2nd Circuit
U.S. District Court for the District of Vermont
P.O. Box 945
Burlington, VT 05402-0945
tel. (802) 951-6395

Milton, Karen Greve
2nd Circuit Executive
Court of Appeals for the Second Circuit
40 Foley Square
New York, NY 10007
tel. (212)857-8700; fax (212)857-8680

- a) complaint v. J. Ninfo (C:143, ToEC:12>143>Comment)
- b) complaint v. staff (C: 466 &442 & 469; 508, 511, 513; ToEC:21>513>Comment)
- c) denial of petition for review re J. Ninfo (C:672 & ToEC:672>Comment)
- d) denial of petition for review re CJ Walker (C:781 & ToEC:781>Comment; C:811)
- e) comments on J. Ninfo's reappointment (cf. C:981; C:982; 998; 1024 & ToEC:44>C:1024>comment, 1066)
- f) request for abrogatory review of WDNY Local Rule inconsistent with FRCivP (cf. C:1285 & 1286; C:1317 & ToEC:57>1317>Comment))

c) Administrative Office of the U.S. Courts

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
<http://www.uscourts.gov/adminoff.html>
(C:685, 1120)

- a) statistics on judicial misconduct complaints (C:973 & ToEC:39>980.k-x and Comment thereunder; see also Judicial Conduct and Disability Act Study Committee)
- b) complaint v. court staff (C:685)

- c) petition for review of Judicial Council's denials re J. Ninfo and CJ Walker (C:859 & ToEC:34>859>Comment; cf. C:865 & 877)
- d) court reporter's refusal to certify her transcript's reliability (C:1120 & ToEC:49>1120>Comment)

Barr, Jeffrey, 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
 (C:681-684)

Burchill, William, Esq.
 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
 statistics on systematic judicial complaint dismissals (cf. C:877, 887, 890, 893, & ToEC:37>893>Comment)

Deyling, Robert
 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
 tel. (202) 502-1100; fax (202) 502-1033
 petition for review of Judicial Council's denials re J. Ninfo and CJ Walker (C:859 & ToEC:34>859>Comment; cf. C:865 & 877)

Rabiej, John K.
 Chief of the Rules Committees Support Office
 Administrative Office of the U.S. Courts
 One Columbus Circle, NE, Suite 7-290
 Washington, DC 20544
 tel. (202)502-1820
 (C:861, 862 & ToEC:35>862>Comment))

PACER (Public Access to Court Electronic Records)
<http://pacer.psc.uscourts.gov/>;
 cf. <https://ecf.nywb.uscourts.gov/cgi-bin/login.pl>
 (Stat. of Facts 2 ¶¶2, 11, 19, 33b)

d) Judicial Conference of the U.S.

- [Executive Committee](#)
- [Conference members](#)
- [Committee to Review Circuit Council Conduct and Disability Orders](#)

Judicial Conference of the United States
 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
<http://www.uscourts.gov/judconfindex.html>

- a) reports (C:567, 568-572)
- b) the 15 misconduct memoranda & orders
 - 1) request for – (C:681-683)
 - 2) table (C:566)
 - 3) text (C:1611)
- c) **petition for review** of Judicial Council's denials re J. Ninfo and CJ Walker (C:823, 899; ToEC:35>862>Comment)

- 1) letters to members (C:851& 822; 855; 865 & 872)
- 2) replies (see the NOTE under Conference Members below)
- d) court reporter's refusal to certify her transcript's reliability
 - 1) petition for investigation and replacement (C:1081, 1083 & ToEC:47>1108>Comment, C:1115)
 - 2) letters re petition to and from members (except chairs of Executive Committee below) (C:1119; 1121, 1122, 1124)
 - 3) Administrative Office (C:1120)
 - 4) supplement to the petition (C:1127, 1151)
 - 5) letters re supplement (C:1125, 1151)
- e) Trustee Reiber and bkr fraud scheme (C:1127, 1151)
- f) how to update the table of Conference members (C:852)

i) Executive Committee

King, Chief Judge Carolyn Dineen
Chair of the Executive Committee of the
 Judicial Conference
 U.S. Court of Appeals for the 5th Circuit
 515 Rusk Street, Room 11020
 Houston, TX 77002
 tel. (713)250-5750; fax (713)250-5050

- 600 Camp Street
 New Orleans, LA 70130
 tel. (504) 310-7700
- a) petition for review of Judicial Council's denials re J. Ninfo and CJ Walker (cf. C:822 & 853)
 - 1) request re Mr. Deyling's letter (C:859 & ToEC:34>859>Comment; 872 & 887; 891, 896 & ToEC:38>896>Comment)

- 2) Conference's jurisdiction to review petition (C:897, 971)
- b) court reporter's refusal to certify her transcript's reliability (C:1117, 1118, 1123; 1152, ToEC:51>1152>Comment & cf. ToEC:52>1166>Comment & cf. Add:1025)

Hogan, Chief Judge Thomas F.
Chair of the Executive Committee of the
 Judicial Conference
 U.S. District Court for the District of Columbia
 333 Constitution Avenue, NW
 Washington, DC 20001
 tel. (202) 354-3000
 court reporter's refusal to certify her transcript's
 reliability (C:1177, 1178, 1179;
 ToEC:55>1271>comment)

ii) Conference Members

NOTE: These were the members as of November 2004. (cf. C:852) The names with hyperlinks indicate that they or their staffs replied to Dr. Cordero's c.2) petition for review (C:822 & 851).

Rehnquist, W., SCT	Flaum, J., 7th Cir.
Ginsburg, R., SCT	Stadtmueller, J.
Boudin, M., 1st Cir.	Loken, J., 8th Cir.
Laffitte, H.,	Rosenbaum, J.
Walker, J, Jr., 2nd Cir.	Schroeder, M., 9th Cir.
Scullin, F., Jr.	Ezra, D.
Scirica, A., 3rd Cir.	Tacha, D., 10th Cir.
Vanaskie, T.	Russell, D.
Wilkins, W., 4th Cir.	Edmondson, J., 11th Cir.
Norton, D.	Forrester, J.
King, C., 5th Cir.	Ginsburg, D., CA DCC
Feldman, M.	Hogan, T.
Boggs, D., 6th Cir.	Mayer, H., CA FC
Zatkoff, L.	Restani, J., Int' Trade

Rehnquist, Chief Justice William
 Member of the Judicial Conference
Supreme Court of the United States
 1 First Street, N.E

Washington, D.C. 20543
tel. (202) 479-3000

- a) petition for review of Judicial Council's denials re J. Ninfo and CJ Walker (C:851, 865, 872)
- b) court reporter's refusal to certify her transcript's reliability (C:1121, 1122)

Ginsburg, Justice Ruth
Circuit Justice for the Second Circuit
Supreme Court of the United States
1 First Street, N.E
Washington, D.C. 20543
tel. (202) 479-3000
(C:855 & 857)

Boudin, Chief Judge Michael
Member of the Judicial Conference
U.S. Court of Appeals, **First** Circuit
John Joseph Moakley U.S. Courthouse
1 Courthouse Way
Boston, Massachusetts 02210
tel. (617) 748-4431; (617) 748-9057

Laffitte, Chief Judge Hector M.
Member of the Judicial Conference
U.S. District Court for the District of
Puerto Rico
150 Carlos Chardon Street
Clemente Ruiz-Nazario U.S. Courthouse
& Federico Degetau Federal Building
150 Carlos Chardon Street
Hato Rey, P.R. 00918
tel. (787) 772-3131

Walker, Chief Judge John M., Jr.
Member of the Judicial Conference
U.S. Court of Appeals, **Second** Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square, Room 1802
New York, NY 10007
tel. (212) 857-8500

Scullin, Chief Judge Frederick J., Jr.
Member of the Judicial Conference
U.S. District Court for the Northern
District of New York
U.S. Courthouse, 445 Broadway
Albany, NY 12207-2924
tel. (518) 257-1800

Scirica, Chief Judge Anthony J.
Member of the Judicial Conference
U.S. Court of Appeals, **Third** Circuit
22614 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106
tel. (215) 597-2995
(C:851, 856 & ToEC:33>856>Comment)

Vanaskie, Chief Judge Thomas I.
Member of the Judicial Conference
U.S. District Court for the Middle District
of Pennsylvania
William J. Nealon Federal Building &
U.S. Courthouse
235 N. Washington Ave., P.O. Box 1148
Scranton, PA 18501
tel. (570) 207-5720

Wilkins, Chief Judge William W.
Member of the Judicial Conference
U.S. Court of Appeals, **Fourth** Circuit
Lewis F. Powell, Jr., U. S. Courthouse Annex
1100 East Main Street, Annex, Suite 501
Richmond, Virginia 23219-3517
tel. (804) 916-2700

Norton, Judge David C.
Member of the Judicial Conference
U.S. District Court for the District of South
Carolina
Post Office Box 835
Charleston, SC 29402
tel. (843) 579-1450

King, Chief Judge Carolyn Dineen
Member of the Judicial Conference
U.S. Court of Appeals, **Fifth** Circuit
600 Camp Street
New Orleans, LA 70130
tel. (504) 310-7700
(see Executive Committee above)

Feldman, Judge Martin L. C.
Member of the Judicial Conference
U.S. District Court for the Eastern District
of Louisiana
500 Poydras Street, Room C555
New Orleans, LA 70130
tel. (504) 589-7550

Boggs, Chief Judge Danny J.
Member of the Judicial Conference
U.S. Court of Appeals, **Sixth** Circuit
Potter Stewart U.S. Courthouse
100 E. Fifth Street
Cincinnati, Ohio 45202-3988
tel. (513) 564-7000

Zatkoff, Chief Judge Lawrence P.
Member of the Judicial Conference
U.S. District Court for the Eastern District
of Michigan
Theodore Levin U.S. Courthouse, Rm. 703
231 W. Lafayette Blvd.
Detroit, MI 48226
tel. (313) 234-5110
(C:851 & 889 &
TOEC:37>889>Comment)

Flaum, Chief Judge Joel M.
Member of the Judicial Conference
U.S. Court of Appeals, **Seventh** Circuit
Dirksen Federal Building, Room 2702
219 S. Dearborn Street
Chicago, IL 60604
tel. (312) 435-5850

Stadtmueller, Judge J. P.
Member of the Judicial Conference
U.S. District Court for the Eastern District
of Wisconsin
United States Courthouse
517 East Wisconsin Avenue
Milwaukee, WI 53202
tel. (414) 297-3372

Loken, Chief Judge James B.
Member of the Judicial Conference
U.S. Court of Appeals, **Eighth** Circuit
Federal Court Building
316 North Robert Street
St. Paul, MN 55101
tel. (651) 848-1300

Rosenbaum, Chief Judge James M.
Member of the Judicial Conference
U.S. District Court for the District of
Minnesota,
15E U.S. Courthouse
300 S. 4th Street
Minneapolis, MN 55415
tel. (612)664-5050

Schroeder, Chief Judge Mary M.
Member of the Judicial Conference
U.S. Court of Appeals, **Ninth** Circuit
Post Office Box 193939
San Francisco, CA 94119-3939
tel. (415) 556-9800

Ezra, Chief Judge David Alan
Member of the Judicial Conference
U.S. District Court for District of Hawaii
300 Ala Moana Boulevard, Rm C338
Honolulu, HI 96850
tel. (808) 541-1301

Tacha, Chief Judge Deanell R.
Member of the Judicial Conference
U.S. Court of Appeals, **Tenth** Circuit

Byron White U.S. Courthouse
1823 Stout Street
Denver, CO 80257
tel. (303) 844-3157

Russell, Judge David L.
Member of the Judicial Conference
U.S. District Court for the Western District
of Oklahoma
U.S. Courthouse, Room 3309
200 NW 4th Street
Oklahoma City, OK 73102
tel. (405) 609-5000; (405) 609-5100

Edmondson, Chief Judge J. L.
Member of the Judicial Conference
U.S. Court of Appeals for the **Eleventh** Circuit
56 Forsyth Street., N.W.
Atlanta, GA 30303
tel. (404) 335-6100

Forrester, Senior Judge J. Owen
Member of the Judicial Conference
U.S. District Court for the Northern
District of Georgia
1921 Richard B. Russell Federal Building
and United States Courthouse
75 Spring Street, S.W.
Atlanta, GA 30303-3309
tel. (404) 215-1310

Ginsburg, Chief Judge Douglas H.
Member of the Judicial Conference
U.S. Court of Appeals for the District of
Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001
tel. (202) 216-7280; (202) 216-7190
a) petition for review of Judicial Council's
denials re J. Ninfo and CJ Walker
(C:876, cf. & TOEC:34>858>Comment)
b) court reporter's refusal to certify her

transcript's reliability (C:1119, 1124)

Hogan, Chief Judge Thomas F.
Member of the Judicial Conference
U.S. District Court for the District of
Columbia
333 Constitution Avenue, NW
Washington, DC 20001
tel. (202) 354-3420
(see Executive Committee above)

Mayer, Chief Judge Haldane Robert
Member of the Judicial Conference
U.S. Court Appeals, **Federal** Circuit
717 Madison Place, N.W.
Washington, D.C. 20439
tel. (202) 312- 5527
(C:865)

Restani, Chief Judge Jane A.
Member of the Judicial Conference
U.S. Court of **International Trade**
One Federal Plaza
New York, NY 10278-0001
tel. (212) 264-2018

a) petition for review of Judicial Council's
denials re J. Ninfo and CJ Walker
(C:858 & TOEC:34>858>Comment;
C:875 & TOEC:35>875>Comment)

iii) Committee to Review Circuit Council Conduct and Disability Orders

Committee to Review Circuit Council
Conduct and Disability Order
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
a) reports to the Judicial Conference

(C:569-572; cf. C:973 & T_oE C:980.k and Comment thereunder; C:1374, 1376-1379)

- 1) table of all 15 memoranda & orders (C:566, 1373)
- 2) text (C:1611)

Winter, Judge Ralph K., Jr.
Chairman

Committee to Review Circuit Council
Conduct and Disability Orders
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

tel. (212)857-8700; fax (212)857-8680
(C:877; cf. C:890, C:893 &
T_oE C:37>893>Comment; 935, 936,
968; cf. C:967)

- a) request to forward petition for review to Conference (C:877; cf. 890; & C:893)
 - 1) statement of facts (881)
- b) request to submit to whole Committee (C:935, 936, 967, 968, 972)

Bowman, Judge Pasco M.

Member of the Committee to Review Cir.
Council Conduct and Disability Orders
U.S. Court of Appeals for the 8th Circuit
111 South 10th Street
St. Louis, MO 63102
tel. (816) 512-5800
(C:967-968; cf. 574)

Dimmick, Judge Carolyn R.

Member of the Committee to Review Cir.
Council Conduct and Disability Orders
U. S. District Court for the Western
District of Washington
700 Stewart Street
Seattle, WA 98101
tel. (206) 370-8400
(cf. C:967-968)

Sanders, Judge Barefoot

Member of the Committee to Review Cir.
Council Conduct and Disability Orders
U. S. District Court, Northern District of Texas
1100 Commerce Street, Room 1504
Dallas, Texas 75242-1003
tel. (214) 753-2375; fax: (214) 753-2382
(cf. C:967-968)

Sloviter, Judge Dolores K.

Member of the Committee to Review Cir.
Council Conduct and Disability Orders
U. S. Court of Appeals for the 3rd Circuit
18614 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106
tel. (215) 597-1588
(cf. C:967-968; C:972 &
T_oE C:39>972>Comment)

Winter, Judge Ralph K., Jr. (see above)

e) Supreme Court of the U.S.

Supreme Court of the United States

1 First Street, N.E.
Washington, D.C. 20543
tel. (202)479-3211
year-end reports (C:573 &
T_oE C:24>573>Comment; C:980.k &
T_oE C:40>980.x>Comment)

Rehnquist, Chief Justice William

Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543
tel. (202)479-3000
(see Judicial Conference)

Ginsburg, Justice Ruth

Circuit Justice for the 2nd Circuit
Supreme Court of the United States

1 First Street, N.E.
Washington, D.C. 20543
tel. (202)479-3000
re misconduct complaints (C:110; 855,
857)

Breyer, Justice Stephen
(see Judicial Conduct and Disability Act
Study Committee)

Suter, William K.
Clerk of the Supreme Court of the U.S.
Office of the Clerk
Washington, D.C. 20543-0001
tel. (202)479-3023
(C:857, 1121)

Blalock, M.
Office of the Clerk of the Supreme Court
of the U.S.
Washington, D.C. 20543-0001
tel. (202)479-3023
(C:857, 1121)

Arbur, Cathy
Public Information Officer
Public Information Office
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543
tel. (202)479-3050. (202)479-3000
(C:573, 980.k;
T_oE_C:>C:980.x>Comment; A:1601)

Turner, Ed
Deputy Public Information Officer
Public Information Office
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543
tel. (212)479-3211

i) Judicial Conduct and Disability Act Study Committee

Breyer, Justice Stephen
Chairman
Judicial Conduct and Disability
Act Study Committee
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

tel. (202) 479-3211
http://www.supremecourtus.gov/publicinfo/press/pr_04-13-04.html

- a) announcement of first meeting (C:574)
- b) systematic complaint dismissal (C:973,
T_oE_C:980.k and Comment thereunder)
- c) no need of Study to know of complaint
dismissal (Stat. of Facts 10¶32)

Barker, Judge Sarah Evans
Member of the Judicial Conduct and
Disability Act Study Committee
U.S. District Court for the Southern
District of Indiana
46 East Ohio Street, Room 210
Indianapolis, IN 46204
tel. (317) 229-3600; fax (317) 229-3607
(C:574)

Bowman, Judge Pasco M.
Member of the Judicial Conduct and
Disability Act Study Committee
U.S. Court of Appeals for the 8th Circuit
111 South 10th Street
St. Louis, MO 63102
tel. (816) 512-5800, (314) 244-2400
(C:574; 967)

Hornby, Judge D. Brock
Member of the Judicial Conduct and
Disability Act Study Committee
U.S. District Court for the District of

Maine
156 Federal Street
Portland, Maine 04101
tel. (207)780-3280; fax (207)780-3152
(C:574)

Rider, Sally M.
Administrative Assistant to the Chief
Justice
Member of the Judicial Conduct and
Disability Act Study Committee
Supreme Court of the United States
1 First Street, N.E
Washington, D.C. 20543
tel. (202)479-3211
(C:574)

Wilkinson, Judge J. Harvie, III
Member of the Judicial Conduct and
Disability Act Study Committee
U.S. Court of Appeals for the 4th Circuit
255 West Main Street
Charlottesville, VA 22902
tel. (434)296-7063
(C:574)

f) U.S. Congress, Committees on the Judiciary

U.S. House of Representatives
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515
tel. (202) 225-3951
<http://judiciary.house.gov/>
www.house.gov/judiciary
(C:1354; T_oE_C>C:1352>Comment)

Sensenbrenner, Chairman F. James Jr.,
U.S. HR Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn, House Office Building

Washington, DC 20515
(cf. C:574; C:576, 1352;
T_oE_C>C:1352>Comment)
www.house.gov/judiciary
U.S. Senate News Advisory, Contact:
Jeff Lungren/Terry Shawn
tel. (202)225-2492
(C:576)

U.S. Senate
Judiciary Committee
224 Dirken Senate Office Building
Washington, D.C. 20510
tel. (202) 224-5225; fax: (202) 224-9102
<http://judiciary.senate.gov/>
(C:1354; T_oE_C>C:1352>Comment)

Hatch, Chairman Orrin G.
U.S. Senate, Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510
tel. (202) 224-5251; fax: (202) 224-6331
(C:1353; T_oE_C>C:1352>Comment)

(from TOEC:89) **VII.A. 2. Official Directory of the Bankruptcy Court in Rochester and Buffalo, NY**

Rochester - Judge John C. Ninfo II - Chambers Staff

Andrea Siderakis	Judicial Assistant	(585) 613-4200
Megan Dorr	Law Clerk	(585) 613-4200

Administrative Section

Paul R. Warren	Clerk of Court	(585) 613-4200
Todd M. Stickle	Deputy-in-Charge	(585) 613-4223

Operations Section

Chapter 7 + 13

BK Case # Range

Torry Hirsch	Supervisor	(585) 613-4200	91-96
Jane Murphy	Data Quality Analyst/Trainer	(585) 613-4200	97-99
Tina Folwell	Case Manager	(585) 613-4200	00-10
Lisa Lawson	Case Manager/Trainer	(585) 613-4200	11-21
Ginny Wheeler	Case Manager	(585) 613-4200	22-32
Amy Andrews	Case Manager	(585) 613-4200	33-43
Carm Capogreco	Case Manager	(585) 613-4200	44-54
Annette Lampley	Case Manager	(585) 613-4200	55-65
Judy Middleton	Case Manager	(585) 613-4200	66-76
Paula Finucane	Case Manager	(585) 613-4200	77-83 + odd numbered A.P. cases
Karen Tacy	Case Manager	(585) 613-4200	84-90 + even numbered A.P. cases
Lorraine Parkhurst	Courtroom/Calendar Deputy	(585) 613-4200	

NOTE: Chapter 11 case assignments are rotated among Tina, Lisa, Ginny, Amy, Carm, Annette and Judy.

Intake/Financial Section

Michele Telesca	Intake Clerk	(585) 613-4200
Maggie Clifford	Intake Clerk	(585) 613-4200

United States District Court Western District of New York

Notice

Effective immediately the telephone numbers for the Rochester division of the United States District Court judicial officers and staff have changed. Please update your directories with these new numbers:

U.S. District Judge David G. Larimer

Main Number (585) 613-4040
FAX Number (585) 613-4045
Paula Rand, Courtroom Deputy (585) 613-4044
David Chapus, Law Clerk (585) 613-4042
Kathryn Lee, Law Clerk (585) 613-4043

U.S. District Judge Charles J. Siragusa

Main Number (585) 613-4050
FAX Number (585) 613-4055

U.S. District Judge Michael A. Telesca

Main Number (585) 613-4060
FAX Number (585) 613-4065
Melissa Schoen, Courtroom Deputy (585) 613-4064
Law Clerks (585) 613-4067

U.S. Magistrate Judge Jonathan W. Feldman

Main Number (585) 613-4070
FAX Number (585) 613-4075

U.S. Magistrate Judge Marian W. Payson

Main Number (585) 613-4080
FAX Number (585) 613-4085
Catherine Marr, Courtroom Deputy (585) 613-4084

Rodney C. Early, Clerk of Court

Main Number (585) 613-4000
FAX Number (585) 613-4035
Jean Marie McCarthy, Operations Supervisor (585) 613-4010
Electronic Case Filing Help Desk (585) 613-4036

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