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August 5, 2008

Att.: Mr. Chris Dasel, Supervisor
Mr. William K. Suter
Clerk of the Court
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

Dear Sir,

Kindly find herewith 10 copies of my application, dated 4 instant, for injunctive relief and a stay order together with 10 copies of the appendix. I am addressing them to you pursuant to Rules 22.4 and 23.3 of the Supreme Court Rules and respectfully request that you direct the application to Chief Justice John Roberts, Jr.

My similar application, dated June 30, to Circuit Justice Ruth Ginsburg, lingered in the office of Staff Attorney Danny Bickell for over two weeks until I repeatedly called him to ask that it be transmitted to the Justice, who denied it without prejudice on July 24. It should be a self-defining and enforced principle that 9-to-5 employees may indulge in conduct that Workers of Justice must not allow themselves or be allowed to participate in.

Thus, I trust that this time you will see to it that 'this application is transmitted promptly to the Justice concerned', as provided for under SCTr 22.1. In this vein, I would be indebted to you if you would let me know at your earliest convenience that such transmission has taken place.

Please note that this application is in preparation for my filing a petition for a writ of certiorari to CA2 in *DeLano*, 06-4780-bk, CA2. In that context, last July 30, thanks to Case Analyst Melissa Blalock's prompt and efficient dispatch of business, Justice Ginsburg granted my application for an extension of time for that filing. It explains why each of the 10 copies of the appendix that I am submitting herewith carries a statement on its cover indicating that it is intended to be used also in support of that petition when it is filed. Thus reusing the appendix is warranted by the fact that the cases to which it relates are the same; the cost in terms of effort, money, and time of producing and mailing those copies is very substantial; and duplicating them would be in itself and environmentally wasteful.

I thank you in advance and, looking forward to hearing from you soon, remain,

sincerely yours,

Dr. Richard Cordero, Esq.

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IN THE
SUPREME COURT OF THE UNITED STATES

IN-CHAMBERS APPLICATION

to the Justices

for injunctive relief and a stay

in

DR. RICHARD CORDERO, Petitioner

v.

DAVID AND MARY ANN DELANO, Respondents

docket no. 06-4780-bk in

**the United States Court of Appeals
for the Second Circuit**

and

JAMES PFUNTNER

v.

TRUSTEE KENNETH GORDON ET AL.

docket no. 02-2230 in

**the United States Bankruptcy Court
Western Bankruptcy New York**

by

Dr. Richard Cordero, Esq.

59 Crescent Street
Brooklyn, NY 11208
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August 4, 2008

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Petitioner has been prosecuting this matter for over six years against insiders of the bankruptcy system carrying on a fraud scheme. He has been denied justice, for they have so much to gain if they deny it and too much to lose if they do it. What follows has sustained Petitioner in his pursuit of justice. Will you join those who deny justice or Him who does justice?

1 Then he went on to tell them an illustration with regard to the need for them always to pray and not give up, 2 saying: "In a certain city there was a certain judge that had no fear of God and had no respect for man. 3 But there was a widow in that city and she kept going to him, saying, 'See that I get justice from my adversary at law.' 4 Well, for a while he was unwilling, but afterward he said to himself, 'Although I do not fear God or respect a man, 5 at any rate, because of this widow's continually making me trouble, I will see that she gets justice, so that she will not keep coming and pummeling me to a finish.'" 6 Then the Lord said: "HEAR what the judge, although unrighteous, said! 7 Certainly, then, shall not God cause justice to be done for his chosen ones who cry out to him day and night...? Luke 18:1-7

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III. REASONABLE ASSUMPTION THAT THE JUSTICES WILL INTERVENE

1. This case presents evidence that the Court of Appeals for the Second Circuit (CA2) and the District and the Bankruptcy Courts, WD&BNY,

“so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court’s supervisory power” (Rule 10.a of the Rules of the Supreme Court of the U.S.; hereinafter SCtR #)

when they denied due process of law both to themselves in aid of their jurisdiction and to Petitioner in the exercise of his right to discovery and to the presentation of evidence supporting his contentions by each court denying him *every single document* that he requested to defend against a motion to disallow his claim on a debtor, a 39-year veteran banker who at the time of filing his bankruptcy petition was and continued to be precisely a bankruptcy officer.

2. The filing of *In re DeLano*, 04-20280, WBNY, by an expert insider of the bankruptcy system in good standing with his bank rendered his petition inherently suspicious. It should have induced the trustee and the judge to do what they were supposed to do with any petition: ask for supporting documents. All the more so here because even a cursory intrinsic analysis revealed the petition to be riddled with self-serving, implausible, and incongruous statements about the financial affairs of the banker and his Xerox technician wife. Their petition blatantly pointed to concealment of assets and evasion of debts. When Petitioner tried to confront it with supporting documents, the banker spent at last count \$27,953 in legal fees to oppose his requests for documents since they would have proved his and his wife’s concealment of at least \$673,657, still unaccounted for. They and the insiders would have been exposed as participating in a bankruptcy fraud scheme.
3. So the bankruptcy judge scheduled sua sponte the motion to disallow Petitioner’s claim for an evidentiary hearing. Therein he acted as the Banker’s chief advocate and his lawyer’s former law firm partner, as shown by the transcript (see Appendix) that the judge’s district judge colleague

tried to prevent Petitioner from filing in *Cordero v. DeLano*, 05-6190-bk, WDNY. The judge disallowed the claim and deprived Petitioner of standing to participate further in the Banker's bankruptcy. Thereby he sought to stop him from making further discovery requests.

4. On appeal in *Dr. Cordero v. David and Mary Ann DeLano*, 06-4780-bk, CA2 should have ordered the documents produced to afford Petitioner due process and enforce his right to discovery. Likewise, CA2 needed the documents to discharge its own due process duty to apply the law to ascertained facts. Moreover, it needed them to exercise its supervisory power over the integrity of the judges in its circuit. Instead, CA2 denied Petitioner *every single document* that he requested, for the documents would have shown the existence of the bankruptcy fraud scheme and the use by its twice-appointed bankruptcy judge of the artifice of the motion to disallow and the evidentiary hearing sham to run it. So CA2 hid the facts to protect its appointee, its district peer, and itself since their indictment risked their exposing its support or toleration of the scheme. This was a disqualifying conflict of interests. Hence, only this Court can provide the relief sought.
5. The evidence that CA2 and the Bankruptcy and District judges have participated in a bankruptcy fraud scheme and covered it up should offend this Court and each of its members. The fact that they have in self-interest inflicted upon Petitioner the legal detriment of the disallowance of his claim and the enormous waste of effort, time, money as well as the tremendous distress of litigation for years calls upon the Justices to end such abuse. Thousands of other people and institutions fall prey to the schemers: The trustee in *DeLano* had 3,907 *open* cases before that bankruptcy judge just as the trustee in the case where Petitioner's claim against the Banker arose, i.e., *Pfuntner v. Trustee Gordon et al.*, 02-2230, WBNY, had 3,382 before him. Indisputably, the public at large is also a victim of fraud, for it always bears its externalities, such as higher prices to compensate for fraudulent losses and for the means to fight fraud. As for judges, those who are allowed by their peers and supervisors to engage in bankruptcy fraud with impunity are thereby

encouraged to do wrong alone and in coordination with them in every other aspect of their office. The judiciary itself loses public esteem when its judicial public servants serve themselves and betray public trust. This should drive home the point that this “case is of such imperative public importance as to justify”, SCtR 11, “an exercise of this Court’s supervisory power” SCtR 10(a).

6. Effective supervision requires that the Justices examine how judges, whether they be their peers, colleagues, or friends, have allowed judicial power and money to become the driving forces of the antithesis of justice through due process of law, namely, fraud on and by the court. The Justices should examine all of them impartially and thoroughly because they too took an oath of office “to administer justice without respect to persons, and do equal right to the poor [in influence pro se litigant] and to the rich [in incriminating stories peers]”. (28 U.S.C. §453) They must not allow fraud to fester among judges and corrupt the Constitutional guarantee that is the prerequisite for the protection of all other guarantees, namely, due process of law.
7. If the Justices and the Court reduce themselves to the role of traffic cops that decide which circuit has the right of way to the construction of a legal instrument, they would substantially impair their moral standing in our society as the entity entrusted with the lofty mission of safeguarding and dispensing Justice. If they were to refuse to intervene in a case so rife with judicially supported fraud, they would give not just the appearance of partiality, but also proof that fraud by their peers is tolerable because “Equal Justice Under Law” is a naïve notion not applicable to those that can abuse their power to put themselves in an immune position above the law.
8. Thus, one must assume that the whole Court will intervene now and grant eventually the petition for a writ of certiorari. To that end, the Justices can issue the proposed document production order and stay *DeLano* and *Pfuntner*, which is pending before the same bankruptcy judge and other insiders. If this relief is denied, they will feel that the Court too condones their scheme and from the start, i.e., discovery, inflict on Petitioner even more blatantly irreparable prejudicial harm.

IV. STATEMENT OF FACTS

A. The DeLanos, inherently suspicious debtors in bankruptcy, and other scheming insiders of the bankruptcy system

9. The DeLanos are exceptional bankrupts, for Mr. DeLano was at the time of filing the bankruptcy petition on January 27, 2004, a 39-year career financial and banking officer (Transcript, page 15 Line 17 to pg 16 L15=Tr:15/17-16/15) and Mrs. DeLano was a Xerox technician, a person experienced in thinking methodically along a series of technical steps. Both knew exactly what moves to make to prepare for a debt-free asset-loaded golden retirement by filing a voluntary petition although their assets of \$263,456 far exceeded their liabilities of \$185,462. (D:29) Indeed, when they filed their petition, Mr. DeLano was and continued to be employed as an officer in precisely the bankruptcy department of a major bank, M&T Bank, with \$65 billion in assets at the end of 2007. Hence, they filed their petition in the U.S. Bankruptcy Court, WBNY, under 11 U.S.C. Chapter 13 “Adjustment of debts of an individual with regular income”, thus avoiding liquidation under Chapter 7. Together with the petition they filed a plan for debt repayment to their creditors for the minimum of 3 years, at the end of which Mr. DeLano, 62, would be 65 and could collect a 100% of his social security pension. Timing matters.
10. An insider of the bankruptcy system, Mr. DeLano had learned during his 39-year long career how to keep people afloat with financial advice and how to sink them with stories of their wrongdoing with one of the two most insidious corruptors: *Money!* Mr. DeLano’s petition came as a farewell wish list before Bankruptcy Judge John C. Ninfo, II, WBNY (D:317, 325, 327).
11. Judge Ninfo too was exceptional, “At the time of his appointment to the bench in 1992 he was a partner in the law firm of Underberg and Kessler in Rochester [where] from 1970 until 1992 he engaged in private law practice”. (http://www.nywb.uscourts.gov/about_judge_ninfo_46.php, Add:636) That firm represents M&T Bank and Banker DeLano in *Pfuntner* (Add:531), which is

pending before the Judge. Mr. DeLano mishandled the bankruptcy concerned in that case, thus harming Dr. Cordero, a defendant in *Pfuntner*, who impleaded him as a third party defendant (Add:785); so arose the claim there that later became at stake in *DeLano*. Judge Ninfo handled the other most insidious corruptor: *Power!* Judicial power over people's property, liberty, and even life that is in practice unaccountable becomes absolute power...and corrupts absolutely.

12. The DeLanos listed Dr. Cordero among their unsecured creditors in their voluntary bankruptcy petition. (D:40) They submitted it and their debt repayment plan for evaluation to the chapter 13 trustee, who is supposed to represent unsecured creditors. (Revision Notes and Legislative Report on 11 U.S.C. §704, 1978 Acts, 2nd para.; D:882§II) That Trustee was George Reiber, Esq.
13. Trustee Reiber too is especial: According to PACER, he had 3,907 *open* cases before Judge Ninfo out of his 3,909 *open* cases. After his evaluations, he depends on Judge Ninfo to have his recommendations for bankrupts' plans approved so that he may keep his 10% fee of every payment made through him under the plan to the creditors. (28 U.S.C. §586(e)(1)(B)(ii)(I)) His frequent appearances before the Judge and his financial interest in the Judge's goodwill toward him have developed a modus operandi between them that has led the Trustee's loyalties to run to the Judge, not to one-time creditors, much less to non-local ones who live hundreds of miles away from Rochester, NY, such as Dr. Cordero, a resident of NY City. When the Trustee and the Judge rubberstamp petitions smoothly, so flows the enormous amount of money that they control ...in just this one case the whereabouts of \$673,657 of the DeLanos' are still unknown. (CA:1654)
14. It was Assistant U.S. Trustee Kathleen Dunivin Schmitt, Trustee Reiber's supervisor, who allowed him to amass such an unmanageable number of cases. So much so that since he could not be at the same time in all places where he was needed, she let him conduct the meeting of creditors (11 U.S.C. §341: D:23) of the DeLanos on March 8, 2004, not only in a room connected to her office, but also unlawfully by his attorney, James Weidman, Esq. For a trustee not to conduct a

meeting of creditors personally is such a serious violation of his duty that it is listed in 28 CFR §58.6(10) among the causes for removal. (SApp:1689) On that occasion, Trustee Reiber was taking care of business, of all places, downstairs in Judge Ninfo's courtroom. In a well coordinated scheme everybody has to pitch in. Trustee Schmitt's friendly next door neighbor is the local office of the U.S. Department of Justice in the cozily small federal building in Rochester.

15. Accompanying the DeLanos to the meeting were their one of a kind attorneys (D:79¶3): Christopher Werner, Esq., had brought 525 cases before Judge Ninfo, according to PACER, and at the time had spent 28 years in the business. (D:217) Michael J. Beyma, Esq., is also a partner in Underberg & Kessler, the same law firm in which Judge Ninfo was a partner at the time of his appointment by CA2 under 28 U.S.C. §152 to his first 14-year term as bankruptcy judge. He represents both Mr. DeLano and his employer, M&T Bank. (Add:531, 532, 778, 784, 811). Mr. Beyma "was a founding partner of Boylan, Brown LLP in 1974", the law firm in which Mr. Werner is a partner. (<http://www.underberg-kessler.com/Attorneys/Detail/?ID=30>) It is better when everything remains in the family. (law firm addresses at US:2361 below)

B. The meeting of creditors of the DeLanos confirms that the insiders knew that they had committed bankruptcy fraud

16. Att. Weidman knew perfectly well what was going on with the DeLanos and the other co-schemers. At that meeting of creditors, he examined the DeLanos under oath while being officially recorded on an audio-tape. After examining the DeLanos, Mr. Weidman asked whether any of their creditors were in the audience. Dr. Cordero was the only one present. He identified himself and stated his desire to examine them. Mr. Weidman asked him to fill out an appearance form (D:68) and to state what he objected to. Dr. Cordero submitted to him and Mr. Werner copies of his Objection to Confirmation of the DeLanos' Plan of Debt Repayment (D:63). No sooner had he asked Mr. DeLano to state his occupation –he answered 'a bank loan officer'- and

then how long he had worked in that capacity -he said 15 years, but see Tr:15/17-16/15- than Mr. Weidman unjustifiably asked Dr. Cordero whether and, if so, how much he knew about the DeLanos' having committed fraud. When Dr. Cordero would not reveal what he knew, Att. Weidman put an end to the meeting even though Dr. Cordero had asked only two questions! (D:79§§I-III; Add:889§II)

17. Later that afternoon at the confirmation hearing before Judge Ninfo in the presence of Trustee Reiber and Att. Weidman and without being contradicted, Dr. Cordero brought to the Judge's attention how that Attorney had prevented him from examining the Debtors. Rather than uphold the law and Dr. Cordero's right thereunder, Judge Ninfo faulted Dr. Cordero for applying the Bankruptcy Code too strictly and thereby missing "the local practice". He stated that Dr. Cordero should have phoned to find out what that practice was and, if he had done so, he would have learned that the trustee would not allow a creditor to go on asking questions. (D:99§C) Thereby the Judge protected the co-scheming "locals" from the law of the land of Congress, which provides for not one, but rather a series of meetings where creditors can engage in a very wide-scope examination of the debtors. (§341; FRBkrP 2004(b); D:283¶¶a-b, 98§II; SApp:1659 4th para. et seq.; D:362§2; Add:891§III)
18. For months thereafter, the DeLanos continued to treat Dr. Cordero as a creditor, pretending to be obtaining the documents that he had requested through Trustee Reiber. (D:63, 151, 73, 74, 103, 111, 116, 117, 120, 122, 123, 128, 138, 149, 153, 159, 160, 162, 165, 189, 203) They also pretended to be available for an adjourned meeting of creditors where those documents would be used to examine them under oath. (CA:1731¶25) But the documents only trickled in. Worse yet, the documents that they produced during the dragged-on period were incomplete, even missing pages! (D:194§II) Would Mr. DeLano have lasted 39 years in banking if his performance in producing his own documents had been a reflection of his competency to obtain the documents

necessary for his employer, M&T Bank, to decide on its clients' financial applications?

19. The DeLanos' production of documents was so objectionable that Trustee Reiber himself moved to dismiss the petition "for unreasonable delay which is prejudicial to creditors, or to convert to a Chapter 7 proceeding", that is, liquidation. (D:164) This was only for show, or for other purpose, given that the Trustee never asked the DeLanos, despite Dr. Cordero's requests, to produce documents as obviously pertinent to determine the good faith of any petition (11 U.S.C. §1325(a)(3)) as their bank account statements, which they have not produced to date. Neither Trustee Schmitt nor her superior, U.S. Trustee for Region 2, Deirdre A. Martini, required Trustee Reiber or the DeLanos to produce those documents. Yet, it was the trustees' duty to obtain that type of documents of each bankrupt to determine their compliance with the Bankruptcy Code and to meet the request of a party in interest. (11 U.S.C. §§1302(b)(1), 704(a)(4) and (7)) Those trustees had especial reasons to do so in the case of the DeLanos: Their petition contained a statement of financial affairs so intrinsically incongruous and implausible as to give rise to probable cause to suspect that it was a vehicle of concealment of assets and evasion of debts.

C. The DeLanos' intrinsically incongruous and implausible statement of financial affairs

20. The DeLanos stated in Schedules A-J, the Statement of Financial Affairs, the Plan for Debt Repayment, and various Declarations accompanying the petition (all referred to herein as the petition):
 - a. that their total assets were \$263,456 while their total liabilities were only \$185,462, yet they proposed to repay only 22¢ on the dollar (D:29, 23);
 - b. that they had in cash and on account only \$535 (D:31), although they declared that their excess income after subtracting from their monthly income their monthly living expenses was \$1,940 (D:45), and that in just the three fiscal years preceding their bankruptcy filing

they had earned \$291,470 (D:47; 2001-03 1040 IRS forms at D:186-188);

- c. that they owed \$98,092 on 18 credit cards (D:38), while they valued their household goods at only \$2,810 (D:31), less than their \$3,880 excess income in only two months and less than even 1% of the \$291,470 that they had earned in the previous three years! Even couples in urban ghettos end up with goods in their homes of greater value after having accumulated them over their worklives of more than 30 years;
- d. that their only real property was their home, appraised two months before their filing at \$98,500, as to which their mortgage was still \$77,084 and their equity only \$21,416 (D:30)...after making mortgage payments for 30 years! and having received during that period at least \$382,187 through a string of eight known mortgages! (D:341-354) *Mind-boggling!* For each of those mortgages they had to pay closing costs. For example, just for the last known mortgage they had to pay \$3,444. (D:351, 354 lines 1400 and 1602) None of the trustees or any of the judges that had the duty to review the facts could have either competently or honestly believed that Career Banker DeLano would waste on closing costs for eight mortgages more money than the equity he ended up with in his home. They had to ask: “What did you do with all that money received from eight mortgages?”

- 21. None did despite their power to do so (11 U.S.C. §521(a)(4)) and Dr. Cordero’s request that they do it. (D:77, 492) Far from it, Trustee Reiber was ready to recommend after that meeting of creditors the confirmation by Judge Ninfo of the DeLanos’ debt repayment plan without either having checked it against any supporting documents. Only Dr. Cordero’s Objection (D:63) stopped their rubberstamping the plan; otherwise, they would have given the DeLanos a retirement gift at the expense of the creditors and gotten insurance for themselves by avoiding that the denial of the petition as fraudulent and the indictment of the DeLanos could have led Mr. DeLano to plea bargain by trading up his stories about the officers’ role in the fraud scheme against leniency for the couple.

D. To stop Dr. Cordero from proving a bankruptcy fraud scheme, the DeLanos used the artifice of a motion to disallow his claim as creditor and Judge Ninfo staged a sham evidentiary hearing, for which both denied him *every single document* that he requested and at which the Judge disregarded Mr. DeLano's testimony and disallowed Dr. Cordero's claim for failure to introduce documents

22. Dr. Cordero continued analyzing the petition intrinsically and extrinsically for its consistency with the few documents produced. (D:63, 165-188) In a written statement submitted to Judge Ninfo (D:193), he showed that the DeLanos had concealed assets, a violation of 18 U.S.C. §152(1), and thereby committed bankruptcy fraud. That crime is punishable by up to 20 years in prison and a fine of up to \$500,000 under 18 U.S.C. §§152-157, 1519, and 3571 (D:46).
23. Only thereafter, in July 2004, after the DeLanos had treated Dr. Cordero as creditor for six months, did they come up with the idea of a motion to disallow his claim. (D:218) They did not cite any authority at all for challenging the presumption of validity of a creditor's claim. (D:256§VII) Moreover, their challenge had become barred by waiver and laches. (D:255§VI) Indeed, they themselves had listed in Schedule F (D:40) Dr. Cordero's claim against them in *Pfuntner* precisely because Mr. DeLano had been aware for more than a year and a half that in November 2002, he had been brought into *Pfuntner* as a third party defendant by Dr. Cordero (Add:785). In addition, months before his motion, in May 2004, he had been reminded thereof by Dr. Cordero filing his proof of claim (D:142) with relevant excerpts of his third party complaint in *Pfuntner* (D:250§I). What is more, in April 2004 the DeLanos had raised the objection, already untimely after treating Dr. Cordero as their creditor for months, that he "is not a proper creditor in this matter". (D:118) Less than 10 days later, Dr. Cordero countered their objection. (D:128) Then they dropped the issue...for months. Their conduct shows that their motion to disallow was a desperate attempt to get rid of Dr. Cordero and his overt charge of their commission of bankruptcy fraud as part of the bankruptcy fraud scheme. (D:253§V)

24. Judge Ninfo came through to assist Co-schemer DeLano with his disallowance motion artifice. Sua sponte, he called in his order of August 30, 2004, for an evidentiary hearing to determine the motion. (D:272) He required that thereat Dr. Cordero introduce evidence to establish his claim against Mr. DeLano in *Pfuntner*, that is, in isolation from all the other parties, their claims and defenses, and issues. Dr. Cordero realized that he was being set up to try piecemeal in *DeLano* one claim severed from *Pfuntner*. So he moved in CA2 to quash the Judge's order. (D:441) CA2 merely "Denied" with no explanation the motion to disallow. (D:312) Thereby it covered up for his use of a process-abusive motion and encouraged him to engage in even more abuse.
25. Judge Ninfo got the message and resorted to even more egregious abuse, knowing that he would soon be rewarded with his reappointment to a second 14-year term bankruptcy judgeship, as he was in 2006, and that for Dr. Cordero to complain about him to CA2 would prove useless, as it already had before (D:425; SApp:1655, 1657; CA:1721, 1859 fn.5). So he required that discovery for the evidentiary hearing be completed by December 15, 2004, when he would set its date. (D:278¶3) On the strength of that order, Dr. Cordero requested documents from the DeLanos, including those to which he was entitled not only as a creditor, but also as a mere party in interest and as a party to *Pfuntner*. (D:287) But the DeLanos and Mr. Werner, the attorney who had brought 525 cases before Judge Ninfo, denied him *every single document*, self-servingly characterizing all as irrelevant. (D:313, 314) Dr. Cordero moved Judge Ninfo to order the DeLanos to comply with the discovery provisions of his order and respect his right to discovery under FRBkrP 7026-7037 and FRCivP 26-37. (D:320§II) Disregarding his own order and showing contempt for the rules, Judge Ninfo aided and abetted the DeLanos' blatant violation of the right to discovery (D:325) and denied him *every single document!* (D:327) In December, he scheduled the evidentiary hearing for March 1, 2005. (D:332)
26. Having no documents to introduce, Dr. Cordero examined Mr. DeLano at the evidentiary

hearing. Judge Ninfo acted as Mr. DeLano's Chief Advocate, as if he still were a partner in the law firm of his other attorney, Mr. Beyma, who was there and had entered his appearance. (Tr:2) The Judge objected on behalf of Mr. DeLano to Dr. Cordero's questions, warned him about how to answer them, and engaged Dr. Cordero in an adversarial discussion. (Pst:1266§E)

27. Although Judge Ninfo reduced Atts. Beyma and Werner to deferential second chairs, they were not inactive at all. Far from it. So confident did they feel in the presence of Mr. Beyma's old buddy John and Mr. Werner's frequent trier of 525 cases that they signaled answers to Mr. DeLano while he was on the stand being examined under oath by Dr. Cordero. When the latter protested in each of several occasions, Judge Ninfo ludicrously pretended that he had not seen them do so even though the attorneys were only a few feet in front of him and near Dr. Cordero's table in the well. (Beyma Tr.28/13-29/4, 75/8-76/3; Werner: 141/20-143/16; Pst:1289§f). No doubt, their experience with the Judge had assured them that they could suborn perjury right in front of his eyes with no adverse consequences for themselves or Career Banker-Insider DeLano.
28. Indeed, Mr. Werner felt so confident that the Judge would grant his motion to disallow Dr. Cordero's claim against Mr. DeLano that neither of them had read the complaint containing it (Add:785) or the proof of claim (D:142) or even brought a copy of either to the hearing. So in the middle of it, Mr. Werner asked Dr. Cordero to lend them his copy! (Tr.49/13-50/25; Pst:1288§e)
29. What prompted Atts. Werner and Beyma's effort to suborn perjury was that the testimony that Mr. DeLano was giving confirmed Dr. Cordero's claim against him in *Pfuntner*. (Pst:1285¶70) So Judge Ninfo explicitly disregarded Mr. DeLano's testimony against self-interest as "confused", although it concerned his own handling of the bankruptcy at stake in *Pfuntner*, and found that Dr. Cordero had not introduced any documents to prove his claim, the very same ones that they had taken care to deny him during discovery. Then he entered the predetermined disallowance of Dr. Cordero's claim and deprived him of standing to participate in *DeLano*

anymore. (Pst:1281.d) Judge Ninfo can be “heard” as the partisan, leading voice of the schemers in the transcript. (Pst:1255§E). Dr. Cordero had in fact been set up.

30. Does the use of a disallowance motion as an artifice to conceal incriminating documents and of a sham evidentiary hearing to eliminate a troublesome party that could blow the cover of a bankruptcy fraud scheme seem to you to have anything to do with due process, the rule of law, fairness, or equity? Or are they means of coordinated wrongdoing used by bankruptcy system insiders to escape detection? Will you too condone their fraud scheme without qualms because it involves peers and friends or condemn it with outrage because it offends justice and the conscience?

E. District Judge Larimer in coordination with court clerks tried to keep Dr. Cordero from obtaining incriminating transcripts and denied him *every single document* that he requested

31. On appeal from the disallowance of the claim against the DeLanos, District Judge David G. Larimer, WDNY, covered up for Judge Ninfo, his peer downstairs, by denying *every single document* that Dr. Cordero requested (Add:951, 1021; Pst:1307), including the transcripts of the initial and the adjourned meetings of creditors (D:333; Pst:1262¶¶13-21). He even maneuvered together with Bankruptcy Court clerks, trustees, and Court Reporter Mary Dianetti to prevent the incriminating transcript of the evidentiary hearing from being incorporated into the record on appeal. (Add:870, 911, 991, 993, 1019; Pst:1264 ¶22 et seq.) It cost Dr. Cordero seven month’s worth of effort and money to thwart their maneuver and have that transcript produced so that he could use it to write and support his appellate briefs to the District Court and eventually to CA2 and this Court. (Add:1027, 1031; CA1735§1)
32. Despite the transcript, Judge Larimer affirmed the disallowance in a conclusory order (SApp:1501) that did not make even one reference to it or to Dr. Cordero’s brief. What is more, he did not use once the term ‘fraud’ even though it and ‘a bankruptcy fraud scheme’ were the

express key notions of the four questions presented on appeal (Pst:1257§C; CA:1749§2) and permeated the brief. Actually, Judge Larimer did not address even one of those questions. On the contrary, he committed the gross mistake of stating that the “preserved, appellate issues” had been “set forth” by the DeLanos’ attorneys’. (SApp:1502 2nd para.) However, those attorneys never filed a cross appeal and thereby could not present any issues on appeal at all. (CA:1746§1) The issues that Judge Larimer went on to name were those “set forth” by those attorneys in their response to Dr. Cordero’s brief. (Pst:1365) Yet, he did not engage in any legal analysis of even those issues. (CA:1756§4) In fact, to write his order Judge Larimer need not have read Dr. Cordero’s brief at all; he only needed to skim over the DeLanos’. (Pst:1361, 1398§§II-III, 1409§V)

33. Judge Larimer showed blatant partiality. (CA:1752§3) He refused to take notice of the controversy that was put to him by Appellant Dr. Cordero, thus denying him opportunity to be heard while confirming Judge Ninfo’s taking of his property right for the benefit of the schemers. Consequently, Judge Larimer denied Dr. Cordero due process of law and did so intentionally as part of coordinated wrongdoing aimed at covering up and running a bankruptcy fraud scheme.

F. CA2 denied *every single document not only that Dr. Cordero requested, but also that it needed to discharge its duty to know the facts to which to apply the law and to safeguard the integrity of judicial process in the circuit from its corruption by judges participating in a bankruptcy fraud scheme*

34. CA2 docketed the appeal in *DeLano* (06-4780-bk) on October 25, 2006 (Sapp:1571), and the following day entered Dr. Cordero’s Statement of Issues (SApp:1508). It dismissed the appeal on February 7, 2008 (CA:2180), and denied his petition for panel rehearing and hearing en banc (CA:2191) last May 9 (CA:2209). On June 16, he was notified of its denial of his motions to recall and stay the mandate (CA:2211) and to remove and stay *Pfuntner* (CA:2222; ¶58 below).
35. On 12 occasions (on page 2363¶15 below) during the appeal, Dr. Cordero requested that CA2 order

the production of the documents listed in his proposed order of production. But CA2 denied him *every single document*, doing so summarily, with no explanation, only an expedient “Denied”.

36. Instead of ordering those documents produced and examining them for their incriminating statements concealed by the lower courts, CA2 showed in its three-liner order of dismissal (CA:2180) not to have examined even Dr. Cordero’s appellate brief. It too omitted using the terms expressly unifying the four issues presented and did not address any, which dealt with fraud and the effect and means of running a bankruptcy fraud scheme. (CA:1719§V)
37. CA2, just as any other court, is not an independent entity above the people with its own source of power. Rather, it is only part of the government set up by the people for public servants to render them certain services, i.e., judicial services necessary for the orderly and consistent resolution of the controversies that arise in society due to its members’ multiplicity of views and competing interests. Dr. Cordero paid CA2 the filing fee of \$455 for it to render a service, i.e., that of adjudicating according to law the four issues that he presented to it -and only he did since again the DeLanos filed no cross-appeal and, thus, stated no additional issue-. But CA2 disregarded its contractual obligations by not adjudicating any of those issues, thus failing to render the service due in exchange for the fee received.
38. Instead, it chose to serve its own by protecting Peer Larimer, Reappointee Ninfo, and its interest in not giving them occasion to incriminate it, for instance, by in turn trading up in a plea bargain where they would agree to testify to CA2’s support or toleration of their bankruptcy fraud scheme. (CA:1965¶¶39-40; ¶21 above) Faced with a disqualifying conflict of interests between its duty to apply the law to decide controversies impartially and its interest in preserving its good name and ensuring its very survival (CA:1963§III), CA2 compromised its integrity. By choosing its interest it disqualified itself as an impartial adjudicator. In so doing, CA2 perverted justice, for it also disregarded its legal and moral duties to uphold the law and do what is equitable.

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

A. Without discussion, CA2 fetched a doctrine and strung together two cases that are objectively inapplicable to *DeLano*

39. CA2 pretended that it was dismissing *DeLano* on “equitable mootness” grounds and cited two cases, *In re Metromedia Fiber Network, Inc.*, 416 F.3d 136, 144 (2d Cir. 2005) and *In re Chateaugay*, 988 F.2d 322, 326 (2d Cir. 1993) in support of its order (CA:2180). However, neither of those cases even insinuated that the doctrine of equitable mootness is available to cure bankruptcy fraud, much less a bankruptcy fraud scheme. In fact, neither deals with fraud at all.
40. Nor do they deal, as *DeLano* does, with bankruptcies under 11 U.S.C. Ch. 13 and its simple “adjustment of debts of an individual with regular income” to creditors under a repayment plan providing merely for the claims of the same class to be treated equally (§1322(a)(3) and (b)(1)), e.g. by paying the same number of cents on the dollar and, if the discharge is revoked due to fraud (§1330(a)), for the continued payment of what the debtor still owes the creditors (§1330(b)).
41. Rather, *Metromedia* and *Chateaugay* dealt with Chapter 11 bankruptcies and the complex reorganization of bankrupt companies. Actually, they are even more complex, for they involved arrangements, not only between the bankrupt companies and their creditor companies, but also third companies and individuals that were not even parties to the bankruptcy cases. Indeed, those cases dealt with the release of debt owed by non-party companies to the reorganizing debtor company in exchange for a substantial contribution to its reorganization plan and a challenge after the completion of the arrangement by a creditor, to whom giving relief would have required “unraveling the Plan”. *Metromedia* §III To avoid the dire consequences of such “unraveling”, the doctrine of equitable mootness was applied, which provides as follows:

Equitable mootness is a prudential doctrine that is invoked to avoid disturbing a reorganization plan once implemented. [E]quitable mootness is a pragmatic

principle, grounded in the notion that, with the passage of time after a judgment in equity and implementation of that judgment, effective relief on appeal becomes impractical, imprudent, and therefore inequitable. The doctrine [is] merely an application of the age-old principle that in formulating equitable relief a court must consider the effects of the relief on innocent third parties. *Metromedia*, §III, internal quotations omitted.

42. Ordering production of the requested documents, identifying thanks to them the concealed assets of the DeLano Debtors, and finding that they committed bankruptcy fraud would not disturb their completed debt repayment plan in any way whatsoever. There would be nothing “impractical, imprudent, and therefore inequitable” in asking the DeLanos, once shown to have filed a fraudulent petition to begin with and gotten it approved through the fraud of the trustees, Judge Ninfo, and other co-scheming insiders, to continue paying to their creditors what they owe them. This would only mean that, instead of getting away with evading their debts by paying even fewer than the initially proposed 22¢ on the dollar (D:59: Pst:1174; CA:1933), the DeLanos would have to reduce their fraudulently-gotten enjoyment of their golden retirement and use their concealed assets to pay in full the principal of their debts and the interest on it. Ordering the DeLanos to do so would absolutely not entail any “recoupment of these funds ‘already paid from non-parties, and the continued payment to creditors would neither be impracticable nor’ “impose an unfair hardship on faultless beneficiaries who are not parties to this appeal”, *Chateaugay*, §II. There would only be completion of repayment to the only innocent parties here, those who in good faith became the DeLanos’ creditors and to whom it would be inequitable to deprive of what is owed them in order to let the DeLanos benefit from the scheme or protect other schemers.
43. Additionally, the companies in *Metromedia* and *Chateaugay* that challenged those complex debt-release arrangements failed to do so until after their completion. In this respect, the court in *In re Chateaugay Corp.*, 94 F.3d 772, 776 (2d Cir.1996), “presume[d] that it will [not] be inequitable or impractical to grant relief after substantial consummation, [if], among other things, the entity

seeking relief has diligently pursued a stay of execution of the plan throughout the proceedings”. This is precisely what Dr. Cordero did: He “diligently pursued a stay of execution of the [DeLanos’] plan” of debt repayment and was denied his motions by Judge Ninfo (D:21) and Judge Larimer (Add:881, 974¶7, 1021; Pst:1182 entry 10; CA:2199¶¶13, 20). He even pursued the revocation of the confirmation order in Bankruptcy Court (Add:1038, 1066, 1094, 1095, 1125) and in District Court (Add:1064, 1070, 1121¶61, 1126, 1155; Pst:1306¶123, 1313¶21).

44. The pretense of “equitable mootness” as the grounds for dismissing *DeLano* is objectively inapplicable to *Pfuntner*, which is pending before Judge Ninfo and revived by the dismissal of *DeLano*. (¶58 below) In *Pfuntner*, discovery has not even begun! Hence, it cannot be applied to prevent the disturbance of debt-release arrangements where there are no arrangements to disturb to begin with. Moreover, there are parties to *Pfuntner* that were not parties to *DeLano* and whose rights and liabilities as a matter of law cannot have been disposed of through CA2’s dismissal of *DeLano* or the Bankruptcy Court’s disallowance of Dr. Cordero’s claim. As a matter of fact, neither those parties nor their rights were even hinted at in the CA2’s three-liner summary order.
45. This shows that CA2 proceeded to dismiss the appeal without any justification in law and with disregard for the facts of *DeLano*. It simply fetched the term “equitable mootness”, strung together two citations, and slapped them on a summary order form without ascertaining whether either the doctrine or the cases logically or analogically related to the appeal. It never considered whether equity favored such dismissal, let alone required it. In so doing, CA2 committed an inequity by depriving Dr. Cordero, an innocent party, of his claim against the DeLanos, the fraudsters. It also denied him due process by dispensing with the rule of law in order to protect Reappointee Ninfo, Peer Larimer, and itself. CA2 proceeded as a Worker of Injustice.
46. This Court must not join CA2 in corrupting justice. It must condone neither its denial of due process to a litigant nor the abandonment of its duty of impartiality nor tarnish its own by

affirming CA2's unresponsive and irresponsible summary order in defense of its unlawful individual and judicial class interests. Thus, it is reasonable to expect that the Court, as the Ultimate Dispenser of Justice, will grant certiorari and thereafter set aside CA2's dismissal of the appeal in *DeLano* and order that the case be tried in an impartial court to a jury.

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

47. CA2 confirmed its disregard for the facts and the law by the way it handled Trustee Reiber's motion of October 30, 2007, to dismiss the appeal as moot (CA:2102) and his amendment to correct a gross mistake (CA:2130, 2124¶¶39-42). In his opposition, Dr. Cordero pointed out (CA: 2111, 2135) that the Trustee, who in his motions' first sentence insisted he was a lawyer, had:
- a. failed to cite any authority for the proposition that failure to object timely to a trustee's final report...or perhaps it was to the judge's order approving it –the Trustee could not make up his mind (CA:2103¶¶15-16)- the appeal had been rendered moot and dismissible;
 - b. failed to identify what class of people of whom Dr. Cordero was supposedly representative had an obligation to object to whatever it was that he was supposed to object;
 - c. failed to note that Dr. Cordero's objections to **i)** the DeLanos' fraudulent bankruptcy petition (D:63), **ii)** Judge Ninfo's confirmation of their debt repayment plan (Add:1038, 1066, 1095, 1097), **iii)** the Trustee's failure to perform his duty (¶62q.1)(b) below), and **iv)** Judge Larimer's affirmance in the appeal filed over 2½ years earlier (D:1; SApp:1507) constituted clear evidence that Dr. Cordero objected to every other act flowing therefrom because if his objections were sustained on appeal, the Trustee's report and Judge Ninfo's approval of it would have become null and void as deriving from nullities;
 - d. failed to notice that Judge Ninfo had deprived Dr. Cordero of standing in *DeLano* (D:22),

leaving him only the right to appeal, so that the Judge neither would serve, let alone do so timely, his report-approving order on Dr. Cordero nor could expect the latter to object to it; e.; failed to assert that the alleged service on Dr. Cordero of “a summary of the account” (CA: 2103¶14) -whatever relation that bore to the Trustee’s report or the Judge’s order- was timely; f. failed to explain how service of such “summary” would impose any duty on the recipient to object to something else not served.

48. The motions’ quality should have alerted CA2 to the need to determine whether the Trustee had been allowed to amass 3,907 *open* cases before Judge Ninfo because of his competence or his participation in the scheme. Instead, CA2 characterized these as “minor deficiencies”. (CA2180) For it to do so was not only disingenuous; it was also dishonest. It was also evidence that due to its self-interest (¶4 above), CA2 disregarded the facts and the law so as to dismiss the appeal to Dr. Cordero’s detriment and protect itself and the schemers. Will this Court condone such conduct?

VI. APPLICATION FOR INJUNCTIVE RELIEF

A. Applicable principle of law

28 U.S.C.A. §1651

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

This section serves as legislatively approved source of procedural instruments designed to achieve rational ends of law and may be relied on by courts in issuing orders appropriate to assist them in conducting factual inquiries. *Harris v. Nelson*, U.S.Cal.1969, 89 S.Ct. 1082, 394 U.S. 286, 22 L.Ed.2d 281, rehearing denied 89 S.Ct. 1623, 394 U.S. 1025, 23 L.Ed.2d 50.

A Supreme Court justice may grant a party's application for injunctive relief, where there is significant possibility that the Court would note probable jurisdiction of the appeal of the underlying suit and reverse, and there is likelihood that irreparable injury would otherwise result. (Per Justice Blackmun,

as Circuit Justice.) *American Trucking Associations, Inc. v. Gray*, 108 S.Ct. 2, U.S. Ark., 1987, U.S.Sup.Ct.Rule 44, 28 U.S.C.A

Circuit justice's issuance of original writ of injunction, pursuant to the All-Writs Act and Supreme Court Rule, does not simply suspend judicial alteration of the status quo but also grants judicial intervention that has been withheld by lower courts and, thus, demands significantly higher justification than that required for stays of final judgments or decrees of any court to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. (Per Justice Scalia, Circuit Justice). *Ohio Citizens for Responsible Energy, Inc. v. Nuclear Regulatory Com'n*, 107 S.Ct. 682, U.S., 1986.

B. The denial in violation of discovery rights and due process of every single document requested for the evidentiary hearing will substantially and likely irreparably prejudice both Dr. Cordero in litigating *DeLano* and *Pfuntner* and this Court in safeguarding the integrity of judicial process

- 1. Dr. Cordero will be prejudiced in reinstating his disallowed claim against the DeLanos; in restoring in the pending *Pfuntner* proceedings before the schemers his claims against Mr. DeLano and Trustee Gordon; and in having his petition for a writ of certiorari granted**

49. Mr. Justice Rehnquist, as Circuit Justice, stated in *Barthuli v. Board of Trustees of Jefferson Elementary School Dist.*, 98 S.Ct. 21 U.S.Cal.,1977:

“It is only where rights, in themselves appropriate subjects of judicial cognizance, are being, or about to be, affected prejudicially that the Supreme Court or members thereof can take judicial action.”

50. The documents sought by Petitioner Dr. Cordero from the DeLano Debtors alone –other documents were requested from other parties, such as the trustees (CA:1777)- would have allowed him to show, inter alia, the following:

- a. Contrary to the DeLanos’ statement in Schedule B of their petition that they had in hand and on account only \$535 (D:31), their bank account statements would have shown that they actually had a much larger amount both of the \$291,470 that they had earned in just the three years preceding their filing (D:47; 2001-03 1040 IRS forms at D:186-188) and of

their declared monthly excess income of \$1,940 (D:45) after subtracting their monthly living expenses from their monthly income.

- b. Their mortgage and property documents would have shown that **i)** the proceeds of their eight known mortgages through which they received at least \$382,187 (CA:1654) and **ii)** their equity built through their payment of monthly mortgage installments for at least 30 years far exceeded the mere \$21,416 that they claimed to have in the sole real property that they declared in Schedule A, that is, their home, on which they declared an outstanding mortgage of \$77,084 (D:30)...after 30 years?!
- c. Their monthly credit card statements indicating their “1990 and prior Credit card purchases”, a phrase that the DeLanos used 18 times in Schedule F (D:38), would belie their statement in Schedule B (D:31) that their household belongings were worth only \$2,810 despite their declared credit card debt of \$98,092 on 18 credit cards (D:38).
- d. Those documents would have shown the source of \$27,953 that the DeLanos, with the Trustee’s recommendation (937-938; Pst:1175) and Judge Ninfo’s approval (Add:942), were allowed to pay in legal fees (Add:871-875) for their attorneys to oppose Dr. Cordero’s requests for documents from them.
- e. The documents would have revealed the source of the belief of Christopher Werner, Esq., and his colleague, Devin Palmer, Esq., that they could keep providing the DeLanos with legal services and racking up such high legal fees because in fact the DeLanos had money to pay them, despite their “declar[ation] under penalty of perjury that the information provided in this petition is true and correct” (D:28), which Mr. Werner signed off on, including their statement that they only had \$535 in hand and on account. (D:31; CA:1924§V)

51. As a result, those incriminating documents would have allowed Dr. Cordero to prove that:

- a. the DeLanos committed bankruptcy fraud in the form of concealment of assets and evasion

- of debts by means of the false statement of their financial affairs as part of a fraud scheme;
- b. their motion to disallow Dr. Cordero's claim was an artifice to lead to the evidentiary hearing sham where to disallow it so as to strip him of standing to request those documents;
 - c. their petition (D:23) and Judge Ninfo's order of February 7, 2007, discharging their debts (D:508.o) were tendered or procured through fraud that rendered them nullities;
 - d. as such, neither supports Judge Ninfo's order (D:22) disallowing Dr. Cordero's claim against the DeLanos (D:142) or affects his claim against Mr. DeLano in *Pfuntner* (Add:802§A);
 - e. the orders entered in *Pfuntner*, e.g. Judge Ninfo's order (Add:536 entry 30) of December 23, 2002, dismissing Dr. Cordero's cross-claims against Trustee Gordon (Add:803§C; ¶58.h below) were also intended to protect co-schemers and further the same bankruptcy fraud scheme so that they are nullities that must be vacated and the cross-claims must be reinstated;
 - f. *Pfuntner*, revived by the dismissal of *DeLano* (¶58 below) and including Mr. DeLano as a party subject to liability to Dr. Cordero, must be started anew after its transfer to a court not under the control of the schemers and it must be tried to a jury.

52. Moreover, those and other documents requested (see the proposed order at the back here) would have shown that Trustees Reiber, Schmitt, and Martini as well as Judges Ninfo, Larimer, and CA2:
- a. knew or should have known had they discharged their duty to ascertain the DeLanos' petition and Creditor Dr. Cordero's contentions, that the DeLanos had committed fraud;
 - b. breached their duty by denying Dr. Cordero the documents that he requested; and
 - c. protected the DeLanos from exposure as fraudsters in order to protect themselves from being incriminated in turn by Insider Mr. DeLano in having during many of his 39 years as a financing or banking officer supported or tolerated a bankruptcy fraud scheme.

53. It follows that this Court's denial of the petition for injunctive relief in the form of the proposed document production order will substantially and likely irreparably prejudice Dr. Cordero in

asserting his claims against the DeLanos, Mr. DeLano, and Trustee Gordon among others; in participating in the pending proceedings in *Pfuntner*; and in writing his brief in support of his petition for a writ of certiorari and, if granted, in writing the merits brief.

2. The lack of the requested documents will prejudice the Court in deciding the petition for a writ of certiorari and, if granted, the case in chief, in safeguarding judicial process from corruption and adjudicating issues affecting the public but ignored by the courts below

54. Likewise, the lack of those documents will prejudice this Court because they are “necessary [and] appropriate in aid of...its jurisdiction”, as provided under the All Writs Act. (US:2340 above). The Court needs them both to administer justice in accordance with due process of law to Petitioner Dr. Cordero and other litigants before it and to exercise its own “supervisory power” (SCtR 10.a, ¶1 above) over the integrity of judicial process conducted by the courts subject to its review. Those documents will enable it to ascertain by itself or through briefs the facts indispensable to carrying out these two key institutional functions. In deciding whether to issue the order, the Court should consider that neither CA2 nor District Judge Larimer challenged Dr. Cordero’s assertion of the existence of a bankruptcy fraud scheme or protested his statement of their support or toleration of it. If the Court does not order production of those documents, it will be lending its support both to the cover-up mounted by them and other co-schemers to avoid incrimination in, and to their continued running of, the fraud scheme.
55. Moreover, neither CA2 nor Judge Larimer showed even an awareness that the issues presented to them include two concerning the lawfulness of a district court rule and the constitutionality of a law. Those issues could not have been disposed of by the disposition of the controversy between the parties to this case. They continue to affect every litigant and non-litigant in that district and the Second Circuit as well as in the nation, respectively. Those two issues are the following:

c) Whether WDNY Local Rule of Civil Procedure 5.1(h) (Add:633), which requires for filing a claim under RICO, 18 U.S.C. §1961 et seq., such detailed evidence before discovery has even started as to make such filing impossible in practice, is thereby void as inconsistent with the notice pleading and enabling provisions of the FRCivP, as a deprivation of a right of action granted by an act of Congress, and as a subterfuge crafted in self-interest through the abuse of judicial power to prevent the exposure of judicial involvement in a bankruptcy fraud scheme. (CA:1720; Pst:1257¶2c)

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 of law, provides for forum shopping, and denies 5th Amendment Equal Protection under law so that it is unconstitutional and has been abused to terminate the BAP in the Second Circuit and allow local operation of a bankruptcy fraud scheme. (CA:1720; Pst:1257¶2d)

56. Neither of those issues became moot by any order entered below. In addition, it can reasonably be assumed that to protect themselves from incrimination in the bankruptcy fraud scheme and keep running it, the courts below have dealt and will deal with any case pregnant with those issues by misapplying to them the term moot or similar ones intended to abort consideration of them before the case ever reached or reaches this Court for adjudication. By so doing, they in practice act in coordination and self-interest to deprive the Court of jurisdiction over those issues to the detriment of both the litigants in those cases and the public as well as the integrity of judicial process. Just as those documents will prove the existence of the scheme and the outcome-determinative influence that it exerted on the courts' disposition of *DeLano* and *Pfuntner*, they will strengthen the contention that the drafting of Local Rule 5.1(h) by Judge Larimer's WDNY Court and the application of 28 U.S.C. §158(b) by CA2 and other judges in the circuit have been determined by their intentional misuse as fraud scheme instruments. These issues afford the Court the opportunity to strike down those provisions and hold that local rulemaking power cannot be used to invalidate the FRCivP or shield judicial wrongdoing; and that the national patchwork of arrangements for bankruptcy appeals to go either to a local district judge or a panel of 3 non-local judges provides such divergent standards of review and impartiality as to deny equal protection under the 5th Amendment.

VII. APPLICATION FOR A STAY

A. Applicable principle of law

28 U.S.C. §2101

(f) In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. The stay may be granted by...a justice of the Supreme Court,...

Rule 23 of the Rules of the Supreme Court of the United States:

1. A stay may be granted by a Justice as permitted by law.
2. A party to a judgment sought to be reviewed may present to a Justice an application to stay the enforcement of that judgment. See 28 U.S.C. §2101(f).

B. CA2 denied the application to stay *DeLano* and *Pfuntner*

57. CA2 dismissed *DeLano* on February 7, 2008 (CA:2180), and denied the petition of Dr. Cordero for panel rehearing and hearing en banc (CA:2191) last May 9 (CA:2209). On May 23, he moved CA2 to recall the mandate and stay *DeLano* (CA:2211) and on May 24 to prevent further denial of due process and avoid waste of litigants' and the court's resources by removing and staying the pending proceedings in *Pfuntner* in the Bankruptcy and District Courts, WB&DNY, or by transferring that case to the U.S. District Court in Albany, NY (CA:2222). He received notice on June 16 of CA2's denial of both motions (CA:2232, 2233). On June 30, he made an in-chambers application for this relief, which was denied on July 24.

C. Both the CA2 order that dismissed *DeLano* and the pending proceedings in *Pfuntner* that it revived should be stayed because to allow those proceedings to be conducted before judges that have shown such bias and disregard for the facts and the law would be to condone their denial of due process and encourage them to stage another travesty of justice

1. The parties common to *DeLano* and *Pfuntner* are local and insiders of the bankruptcy system, except for Dr. Cordero

58. CA2's dismissal of *DeLano* revived *James Pfuntner v. Trustee Kenneth Gordon et al.*, 02-2230, WBNY, where Dr. Cordero's claim against Mr. DeLano arose and which is pending before Judge Ninfo. The Judge himself linked it to *DeLano* when he disallowed the claim on April 4, 2005 (D:3; Add:853), as did the DeLanos' appellate attorney, Devin L. Palmer, Esq., (Add:711-752). Among the parties to *Pfuntner* are the following:

- a. Judge Ninfo (§11 above);
- b. Mr. DeLano (§9-10 above; Add:797);
- c. M&T Bank, Mr. DeLano's employer (Add:712);
- d. Michael J. Beyma, Esq. (§16 above);
- e. Dr. Cordero, who impleaded Mr. DeLano as a third party defendant (Add:785), who in turn together with his wife named him a creditor in their voluntary bankruptcy petition (D:40);
- f. David Palmer (D:793§A, 803§B), who borrowed money from M&T for his company,
- g. Premier Van Lines, the moving and storage company of Mr. Palmer, who collected fees from Dr. Cordero to store his property even after abandoning it at Mr. Pfuntner's warehouse and going into bankruptcy (*In re Premier Van Lines, Inc.*, 01-20692, WBNY), which was handled by Mr. DeLano. Dr. Cordero also impleaded Mr. Palmer, who never answered the summons or appeared in court. Yet Judge Ninfo (Add:397§B, 597§B) and Judge Larimer (Add:401§C) protected him by refusing to grant Dr. Cordero's application for default judgment despite the unambiguous provision of FRBkrP 7055 and FRCivP 55 and this indisputably obvious warning in bold capital letters across the page of the summons:

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE THIRD-PARTY COMPLAINT.

- h. Chapter 7 Trustee Kenneth W. Gordon, who according to PACER, had 3,382 cases out of 3,383 before Judge Ninfo as of June 26, 2004 (Add:891§III). No wonder Judge Ninfo granted his motion (D:534/15) and summarily dismissed (D:535/27) Dr. Cordero's cross-claims against him for defamation and reckless and negligent performance (Add:798§f, 803§C) despite the genuine issues of material facts that they raised (Add:593¶11; CA:2026§2=Dr. Cordero's brief in *Premier Van et al.*, 03-5023, CA2, 10§2=*Premier* 10§2).
 - i. Assistant U.S. Trustee Schmitt, who allowed Trustee Gordon to accumulate such an unmanageable number of liquidations, as did her supervisor, the former U.S. Trustee for Region 2 Carolyn S. Schwartz (D:85§A; Add:534/19; 570¶19), whose successor, U.S. Trustee Deirdre A. Martini (D:90§VII, 104), did likewise with regard to the 3,909 cases that Trustee Reiber amassed, of which 3,907 were before Judge Ninfo;
 - j. Bankruptcy Court Reporter Mary Dianetti, who was a party in *Pfuntner* and *DeLano* to a coordinated wrongful effort with bankruptcy clerks (CA:2028§4, 2070§D=*Premier* 12§4, 54§D) and Judges Ninfo and Larimer to deprive Dr. Cordero of the transcript of the hearing (D:540/71) on Trustee Gordon's motion to dismiss (D:534/15) Dr. Cordero's cross-claims against him (D:395§4; Add:918§II); and the transcript of the evidentiary hearing (Tr:i-190) on the DeLanos' motion to disallow (D:218) in *DeLano* Dr. Cordero's claim against Mr. DeLano in *Pfuntner* (Pst:1266§1; CA:1735§B), as arbitrarily ordered by Judge Ninfo (D:441).
 - k. Judge Larimer, who disposed of *Cordero v. Gordon*, 03-cv-6021L, and *Cordero v. Palmer*, 03-mbk-6001L, in the same professionally irresponsible and conclusory fashion (CA:2054 §B, 2064§C=*Premier* 38§B, 48§C) as he did *DeLano* (¶¶31-33 above).
59. This list shows that the parties common to *DeLano* and *Pfuntner* are bankruptcy system insiders, except for Dr. Cordero. Led by Judges Ninfo and Larimer, they have engaged in a series of acts (¶62) so arbitrary and in disregard of the facts and the law and so consistently biased against Dr.

Cordero, the sole non-local party, who resides in NY City, and who is also the sole pro se party, and in favor of the insiders, who are local parties resident in Rochester, NY, as to form a pattern of non-coincidental, intentional, and coordinated wrongdoing (CA:1846§II, 2070§D) in furtherance of a bankruptcy fraud scheme. (D:458§V; CA:2025§C=*Premier* 9§C) That scheme forms the common core of operative facts to which *DeLano* and *Pfuntner* belong.

2. The prejudice that the co-scheming insiders already caused Dr. Cordero forebodes the prejudice that they will inflict on him in the absence of a stay because their motive is the same: to avoid incrimination in, and keep running, the bankruptcy fraud scheme

60. Judge Ninfo and Judge Larimer’s conduct shows blatant bias that has persistently denied due process to Dr. Cordero. *Liteky v. United States*, 510 U.S. 540, 551, 127 L. Ed. 2d 474, 114 S. Ct. 1147 (1994) (defining bias as a favorable or unfavorable predisposition so extreme as to display clear inability to render fair judgment). Their conduct supports the reasonable assumption that in the revived *Pfuntner* proceedings they will conduct themselves in coordination with the other co-schemers and insiders the same way because their motives are the same: to escape the penalties and enjoy the benefits of operating the scheme. Consequently, they will run the proceedings in accordance with their own brand of “local practice” (D:98§II, 358§A) and heap upon Dr. Cordero yet more of their bias, arbitrariness (D:355, 385, 454§IV), and contempt for the law of the land of Congress and the facts of the case at hand. Not to do so would be very risky for them.
61. For instance, if instead of denying *every single document* that Dr. Cordero requested, as they did in *DeLano* (US:2330§§D-F above), the schemers allowed discovery in *Pfuntner* as required under FRBkrP 7026-7037 and FRCivP 26-37, they would be exposed as having participated in bankruptcy fraud (§§50-52 above), which also explains why they had to protect Mr. Palmer (§58.f above.) In addition to being found liable to Dr. Cordero, they could be criminally prosecuted for

participation in a racketeering enterprise under RICO, 18 U.S.C. §1961(1)(D), which covers “any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title”, and for bankruptcy fraud under 18 U.S.C. §§152-157, 1519, and 3571, which carries a sentence of up to 20 years in prison and devastating fines of up to \$500,000. (D:46)

62. To avoid such dire consequences, the judges and the schemers can reasonably be expected:
- a. to deny Dr. Cordero even a constitutional right, as Judge Ninfo did by denying his application for a trial by jury (D:425; Add:741);
 - b. to prevent discovery, as Judge Ninfo did in *Pfuntner* by dragging it along for months on end so that it must yet be started (D: 379§3, 409§E; CA;2037§9);
 - c. to prejudge the stakes and any potential recovery, as Judge Ninfo did in *DeLano* by grossly discounting the amount of Dr. Cordero’s claim and doing so **i)** without providing any justification whatsoever, **ii)** in the absence of any opposing party’s request therefor, and **iii)** before discovery had even commenced (D:414§5);
 - d. to try to wear him down by causing him enormous waste of effort, time, and money as well as emotional distress by raising false hopes, as Judge Ninfo did by asking Dr. Cordero to reapply for default judgment in *Pfuntner* (CA:2029§§5-7=Premier 13§§5-7) and reformat his request for documents in *DeLano* (D:207, 217) only to deny them after even more arbitrariness (D:238§III, 364§B, 407§§6-7; Add:592§A; CA:2064§C= Premier 48§C) and announcing a series of monthly hearings for 7 or 8 months to be held in Rochester and to be attended in person, not by phone, by Dr. Cordero, the only non-local party (D:409§E);
 - e. to disregard a dispositive procedural rule, such as the requirement to answer a summons and its penalty as unambiguous and non-discretionary as entry of default judgment (2039§C=Premier 23§C);
 - f. to impose on Dr. Cordero unlawful burdens without citing any authority at all, such as

Judge Ninfo (D:464§I-II) and Judge Larimer (D:394§2, 401§C) did by requiring the conduct of an “inquest” before deciding Dr. Cordero’s application for default judgment against David Palmer under FRBkrP 7055 and FRCivP 55 and requiring him to travel to Avon, Rochester, to inspect his property (Add:597§B, 609§B) rather than order Mr. Palmer, a local resident, to appear in court to answer why default judgment should not be entered against him;

- g. to protect the locals after they have disobeyed the judges’ own orders, as Judge Ninfo did to protect Mr. Pfuntner and his attorney, David MacKnight, Esq., after they ignored for months Judge Ninfo’s discovery order and even failed to show up at the inspection of Dr. Cordero’s property at Mr. Pfuntner’s warehouse in Avon, Rochester, on May 19, 2003 (D:404§D; CA:2034§8=Premier 18§8);
- h. to disregard the purpose of ‘these rules [which is] to make the determination of every case and proceeding inexpensive’ (FRBkrP 1001 and FRCivP 1), as Judge Ninfo did by arbitrarily denying Dr. Cordero applications to appear by phone at hearings so as to make him travel from NY City to Rochester on short notice for a hearing that on average would last 15 minutes (D:412§3, 415§6; Add:1062¶66e, 1065, 1066);
- i. to disregard evidentiary rules and unlawfully heighten the standard of proof, as Judge Ninfo already did by requiring Dr. Cordero to introduce evidence to prove his motions beyond a reasonable doubt (D:411§2);
- j. to change the date of filing of any of Dr. Cordero’s papers, as Judge Ninfo already did to pretend that he had dismissed as untimely filed his motion to extend time to file notice of appeal, despite Trustee Gordon’s admission against legal interest that the motion had been timely filed (CA:2027§3= Premier 11§3);
- k. to disregard procedural rules in order to impede the introduction in the record of incrimi-

nating evidence, as the bankruptcy clerks did to conceal evidence of biased, arbitrary, and abusive conduct during hearings, by transmitting indisputably incomplete records under FRBkrP 8006 and 8007 (Add:1082§I) to Judge Larimer and the latter accepting them and scheduling Dr. Cordero's brief (Add:692, 695, 831, 836, 839) before the court reporter had even had time to reply to his request for the incriminating transcripts, (in *Pfuntner* Add:1011§A, 1086¶16; CA:1737¶38; in *DeLano* Add:1007§V; 1084§II; CA:1735§B);

- l. to fail to discharge the basic clerical duty of filing papers, as the bankruptcy clerks did by keeping the application for default judgment in non-filed limbo for more than a month and filing it only after Dr. Cordero inquired about it of Judge Ninfo (CA:2031§6, 2040§D), or not filing at all papers submitted to the Judge for filing (FRBkrP 5005(a)(1); D:234§II);
- m. to fail to transmit papers from one court to another to cause a dismissal of the case, as the district court clerks did by failing to transmit to CA2 Dr. Cordero's Redesignation of Items in the Record and Statement of Issues on Appeal (FRAP 6(b)(2)(C)(i); D:416§F);
- n. to allow a court reporter **i)** to refuse to certify that her transcript would be complete, accurate, or free from tampering influence (Add:867, 869); **ii)** to disregard the time limit set under FRBkrP 8007(a) for its production; **iii)** to submit it, not to Dr. Cordero who had requested it, but rather to Judge Ninfo for him to manipulate when to transmit it to Dr. Cordero (Add:1739¶42-43); and **iv)** to accept transcripts even though of such substandard quality that Judge Ninfo, Mr. DeLano, his attorneys, and Dr. Cordero, despite all being professionals, come across as babbling in Pidgin English, as Court Reporter Mary Dianetti was allowed to do by Judges Ninfo and Larimer (Add:911, 991, 993, 1019);
- o. to allow a trustee to submit a shockingly unprofessional and perfunctory report **i)** with gross mistakes, from its title on and its reference to a non-existent "341 Hearing", **ii)** without dates, **iii)** with lots of nonsensical scribblings (Add:937-938, 953§I), **iv)** no signature of the

parties supposedly providing its underlying information (Add:939, 956§A), **v**) no content whatsoever evidencing any investigation of the contention that the DeLanos had committed bankruptcy fraud. Yet, Judge Ninfo referred to such “Report” as evidence that Trustee Reiber had investigated such contention and found no fraud (Add:941, 970§C). Dr. Cordero criticized both officers as he analyzed the “Report”, but Judge Larimer disregarded the criticism and analysis and let the “Report” stand unquestioningly (Add:951, 1022);

- p. to allow the DeLanos’ attorney, Mr. Werner, to respond to a question concerning their mortgages raised at the meeting of creditors on February 1, 2005, by submitting printouts of screenshots of electronic records indexing of the Monroe County Clerk’s office that are totally useless because they have **i**) neither beginning nor ending dates of a transaction, **ii**) nor transaction amounts, **iii**) nor property location, **iv**) nor current status, **v**) nor reference to the involvement in the mortgage of the U.S. Department of Housing and Urban Development (HUD), etc. (D:477, 492). Trustees Reiber, Schmitt, and Martini covered up Mr. Werner’s blatant pretense at a response that concealed the incriminating facts of those mortgages (SApp:1654, D:341-357) and did not answer Dr. Cordero’s letter to them;
- q. 1) to provide the insiders with such reassurance that no harm is going to come to them regardless of their misconduct or deficient performance as to encourage them to engage further in the same conduct. So Dr. Cordero:
- (a) filed a motion in District Court to have Court Reporter Dianetti referred to the Judicial Conference for investigation (Add:911) of her refusal to certify the reliability of her transcript (Add:867, 869) and requested repeatedly her replacement (Add:929¶48.b, 73¶¶60.1.c, 3, 993);
 - (b) repeatedly requested U.S. Trustees Martini and Schmitt under 28 CFR §58.6(a), and Judge Larimer and Judge Ninfo under 11 U.S.C. 324(a) to remove Trustee

Reiber for his failure to discharge his statutory duty under 11 U.S.C. §§1302(b)(1), 704(a)(4) and (7) to investigate the financial affairs of the DeLano Debtors (D:94¶80.c, 137, 307, 682, 685; D:201¶32, 243¶34.d, 460¶62.b; Add:882§II & 885¶15.c, 973¶¶60.1.d-e, 4; 1062¶66.b), 1096¶61.d, 1121¶61.e; Pst:1306¶123.d, 1419¶62.b); CA:1773.f);

(c) moved in Bankruptcy Court against Att. Werner and his law firm for sanctions and compensation for violation of FRBkrP Rule 9011(b) (D:258), as he did against Mr. Pfuntner and Att. MacKnight (CA:2034§8=Premier 18§8;

(d) filed 12 motions requesting that CA2 issue his proposed document production order. (Table at US:2364¶15 below)

- 2) Yet, neither Reporter Dianetti, Trustee Reiber, Mr. Werner, the DeLanos nor anybody else felt the need to file even a yellow stick-it to object to those motions even though the grant of their requested relief would have spelled the end of their professional careers just as the production of the requested documents would have incriminated them in a bankruptcy fraud scheme. (CA:1738§2) Rather, they simply let their judges take care of such requests by dismissing them out of hand, as did Judge Larimer (Add:993, 1019, 1155) and CA2 (Table at US:2364¶15 below). Hence, they showed no concern that as a matter of fact and law the Judge and CA2 could and should have granted by default the relief requested, including the order of document production.
- 3) Would these parties have proceeded with such indifference and reliance had they been before a non-local, non-insider, non-scheming, non-CA2-appointed senior judge from a circuit other than the Second Circuit appointed by this Court under 28 U.S.C. §294(d), whom they did not know and who sat in another district, such as the U.S. District Court in Albany, NY, as repeatedly requested by Dr. Cordero and ignored by

CA2? (cf. D:422§III & 423¶123.2), 439¶(c), D:460¶62.c); CA:1772¶110.b, 1928¶e, 2076¶151.2); CA:1976¶d, 2126¶f.iii), 2140¶i.iii), 2205¶25.d, 2227¶b.2)).

63. The reality of these facts surpass the appearance conditions necessary to meet this Court's standard for interpreting and applying the notion of bias or prejudice in 28 U.S.C. §455(a), reaffirmed in *Microsoft Corp. v. United States*, 530 U. S. 1301, 1302 (2000) (Rehnquist, C. J.):

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).

64. A reasonable person informed of the facts of *DeLano* and *Pfuntner* can conclude that Judge Ninfo, Judge Larimer, and CA2 together with the other co-schemers and insiders have shown, not just 'reasonably questionable impartiality', but also manifest bias and prejudice against Dr. Cordero. They will do so again to ensure their scheme's and their own survival. In so doing, they will cause Dr. Cordero irreparable prejudice.

VIII. THE BALANCE OF EQUITIES FAVORS ISSUING THE STAY AND THE ORDER FOR DOCUMENT PRODUCTION

65. If the stay of the dismissal of *DeLano* and the revived proceedings in *Pfuntner* is not granted, another series of similar acts of manifest bias and prejudice by law-contemptuous Judge Ninfo, Judge Larimer, the trustees, court clerks, and other bankruptcy system insiders and local parties will cause irreparable prejudice to outsider Dr. Cordero by making him spend additional years in wasteful litigation: Premier Van Lines went bankrupt in March 2001, *Pfuntner* was commenced in September 2002, followed by the filing of *DeLano* in January 2004. The co-schemers will use such litigation to wear down Dr. Cordero by costing him an additional enormous amount of effort, time, and money, whose effect upon him will be exacerbated by the additional tremendous

emotional distress that they, as people in practice above the law, will risklessly and intentionally inflict upon him through their arrogant and insensitive denial of his rights and imposition of unlawful burdens. (D:231§§I-III) They will ensure that the litigation, however protracted, is an exercise in futility due to its predetermined outcome: The pending proceedings in *Pfuntner* will only lead to more unresponsive and irresponsible summary orders holding that Dr. Cordero has no valid claim against the locals and insiders, who will go on running their bankruptcy fraud scheme and spreading it into any other areas of judicial process or economic activity from which they may extract a benefit. Do they count on your friendship, self-interest, or indifference to do this?

66. Indeed, Judge Ninfo and Judge Larimer scarcely ever cite any authority and never engage in legal analysis in their orders. (Judge Ninfo: D:3, cf. Pst:1293.i; D:220, cf. 231, 272, 327, 332, 508.o; Add: 719, 725, 729, 731, 741, 749, 940, 941, 1065, 1094, 1125, 1933; Judge Larimer: Add:692, 831, 839, 991, 1019, 1021, 1092, 1155, 1214, 1501, 1506) Yet, Judge Ninfo had no qualms about requiring Dr. Cordero to engage in more legal research (cf. Pst:1292§h) even after having disregarded all that which Dr. Cordero had presented to him; just as Judge Larimer dismissed with a conclusory “It has no merits” all the painstaking legal research and writing that Dr. Cordero had conducted and submitted to him. (Add:584) After all, their goal was not to do justice.
67. In their disregard for the law, these judges can find comfort in the example set by CA2: It denied all of Dr. Cordero’s substantive motions with an expedient “Denied” (CA:1623, 1632, 1633, 1634, 1678, 1679, 1802, 1880, 1185, 2079, 2143, 2186, 2189, 2209, 2210, 232, 2233) and dismissed *DeLano* with a summary invocation of “equitable mootness” (CA:2180)...as if it had been concerned with equity at all rather than by the need to protect Peer Larimer, Reappointee Ninfo, and itself. (US:2336§A above) Circling the option “Denied” on Motion Information Sheets does not show that CA2 even read the motions; by contrast, dismissing the appeal by citing two objectively inapplicable cases as its pretended authority does show that CA2 did not

read Dr. Cordero's brief. Doing so was inequitable both to Dr. Cordero and the public.

68. Dr. Cordero paid the \$455 filing fee of a contract of adhesion for appellate review services on October 16, 2006, just as he paid \$255 to the District Court on April 11, 2005. He was entitled to see evidence that CA2 had in fact addressed the issues that he had raised on appeal and that it had actually ascertained the relative rights and liabilities of the parties in the context of their factual allegations and legal arguments. However, the only thing to be seen was that CA2 did not hold its end of the bargain, failing to render any such service in exchange for the filing fee. The CA2-internal clerical tasks of filing and keeping the docket were not those that induced the payment of the fee. CA2 is not merely a registry of cases; it is a court of justice. So it was not only contractually at fault by not providing the counterpart of the filing fee. CA2 committed an inequity by not caring to be seen not doing justice.
69. As for the public, it is entitled to see its public servants in the judiciary, whose salaries it pays, safeguarding the public good of just and fair judicial process and determine whether such process has been impaired by fraud on and by the courts below. Far from it, all the public can see is a CA2 that will not even 'aid its own jurisdiction' by ordering the production of documents to ascertain whether courts in its circuit are part of a bankruptcy fraud scheme or any other type of corruption. It is inequitable for CA2 to get away with taking from the public the trust of a judgeship and its salary without giving back even the appearance of justice.
70. Justice will not emerge from the pending *Pfuntner* proceedings by Dr. Cordero citing even more Supreme Court cases and constitutional provisions, and arguing more statutes and rules, for those to whom he would submit his citations and arguments will not even read them, just as they failed to do before. More law will make no difference to those judges whose sole worry is to ensure that they are not caught and can continue running their scheme. This negates any equitable considerations in denying the stay on behalf of the schemers given that the stay provides them

precisely with what they want: to avoid litigation that can expose their coordinated wrongdoing.

71. Moreover, neither the DeLanos nor the other schemers have any more right to avoid producing documents than can incriminate them in a bankruptcy fraud scheme than they have to produce other documents, such as a bankruptcy petition, in order to commit fraud. By contrast, Dr. Cordero had and still has a right to discovery of the documents that were denied him as well as a due process right to them. They will allow him to defend against the disallowance of his claim against the DeLanos and to assert his right to a fair trial in *DeLano* and *Pfuntner* by proving that the orders already entered are nullities as vehicles of fraud on and by the courts.
72. The stay and the document production orders also work in the reputational interest of this Court and each Justice. They are harmed institutionally and individually by being seen as the complicit protectors of their peers, aiding and abetting their effort to obstruct their exposure as bankruptcy fraud schemers. They are also harmed by allowing *Pfuntner* to proceed to the predetermined outcome of suppressing incriminating documents, abusing Dr. Cordero with more bias and contempt for the law and disregard for the facts, and finally stripping him of any rights.
73. Far from it, the Court and its members should want to appear as impartial administrators of a system of justice governed by the rule of law. They should show their determination to apply the law to all relevant facts that can be established through a liberal construction of the rules of discovery and evidence aimed at furnishing ample information to decision-makers so that they can reach just and fair decisions. By adopting this attitude they would endorse J. Brandeis' dictum, "Sunshine is the best disinfectant". It is most effective when the largest number of documents and other sources of evidence cast the brightest light on the case at hand so that its facts of lawful and unlawful conduct can be seen distinctly and told apart. To discern the presence in *DeLano* and *Pfuntner* of the infectious corruptor of fraud, this Court and its Justices should apply the principle 'When in doubt, disclose'. The stay will prevent fraud from contaminating the

pending proceedings in *Pfuntner*; the production order will make it possible to diagnose the gravity of the infection by fraud. Both will help cure *DeLano* of the fraud that already vitiated it.

74. None of the Justices has the authority to pardon his or her judicial buddies; the Court itself is not entitled to abuse its power to exonerate them from the consequences of their participation in a bankruptcy fraud scheme or, for that matter, in any other form of individual or coordinated wrongdoing. Friendship with a judge or a lower court provides no basis in law or equity to issue either of them with a license to breach the public trust attached to a judgeship. If the Court still asserts that nobody is above the law, it should be seen giving effect to that principle by meeting out to its own colleagues and friends “Equal Justice Under Law”.

IX. RELIEF REQUESTED

75. Therefore, Dr. Cordero respectfully requests that the Justices and the Court:
- a. stay CA2’s order dismissing *DeLano* (CA:2180);
 - b. stay all proceedings in *Pfuntner* in Bankruptcy and District Courts, WB&DNY, revived by the dismissal of *DeLano*;
 - c. issue the proposed document production order (in bound and loose forms at the back of this volume);
 - d. stay the filing of the petition for a writ of certiorari, due next October 6, until 60 days after the order of production of documents has been complied with and Dr. Cordero has received a copy of all the documents produced so that he may use them to write the petition;
 - e. 1) in consideration of:
 - (a) the enormous cost of litigating *DeLano* and *Pfuntner* already incurred by Dr. Cordero;
 - (b) the acceptance of 8½ x 11” paper for printing an application such as this as well

as other papers, such as briefs, applications, and motions under SCtR 19.1, 21.2.c, 26.4(b), 37.5, 39.3 & 5, 40.1 & 2;

- (c) the goal expressed in FRBkrP 1001 and FRCivP 1 that procedural rules “should be construed and administered to secure the...inexpensive determination of every action and proceeding” having been heralded by this Court as one of “the touchstones of federal procedure”, *Brown Show Co. v. United States*, 370 U.S. 294, 306, 82 S.Ct. 1502, 1513, 8 L.Ed. 2d 510 (1962);
- (d) those “simple” Rules serving as reminders that form should not be exalted over substance, *Hall v. Sullivan*, 229 F.R.D. 501, 504 (D.Md. 2005);
- (e) the privacy concerns protecting the information required for filing *in forma pauperis*;
- (f) the record in *DeLano* running to more than 2,300 pages;
- 2) cause leave to be granted to print the petition for a writ of certiorari and, if granted, the merits brief, on 8½ x 11” paper and CDs in 10 copies;
- 3) accept the accompanying Appendix volume as part of the certiorari petition when made;
- f. refer *DeLano* and *Pfuntner* under 18 U.S.C. §3057(a) to the U.S. Attorney General with the recommendation that they be investigated by U.S. attorneys and FBI agents that are not and have never before been related in any way to the staff of the U.S Department of Justice or FBI offices in either Rochester or Buffalo, NY, and that are unfamiliar with the cases and unacquainted with any of the parties or officers that may be interviewed or investigated;
- g. in light of the facts surrounding and the arguments supporting this application for injunctive relief and a stay, grant Dr. Cordero any other relief that is proper and just.

Dated: August 4, 2008
59 Crescent Street
Brooklyn, NY 11208

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

Certificate of Service

In re Dr. Richard Cordero v. David and Mary Ann DeLano, dkt. no. 06-4780-bk, CA2
and *Pfuntner v. Trustee Gordon et al.*, dkt. no. 02-2230, WBNY

I, Dr. Richard Cordero, Esq., certify that I mailed or e-mailed to the parties listed below a copy of my in-chambers application to the Justices of the U.S. Supreme Court for injunctive relief and a stay concerning the above captioned cases.

Please note that the part of the Table of Contents of the Appendix whose entries bear the references D:#, Add:#, Pst:#, and SApp:# and the transcript were served on all the parties named below with my principal brief in CA2 of March 17, 2007. Hence, pages US:2365-2398 are not served again. I also served the documents that I have produced and that have been collected in the Appendix. The proposed document production order was served with my June 30 application.

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X. APPENDIX

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| a. Incomplete Equifax report no. 4117002205 of April 26, 2004, for David DeLano , which begins on page 3 of 14 and continues with pages 5, 7, 9, 11, 13 | D:167 |
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| c. A single statement of account of each of eight credit card accounts out of the 36 monthly statements of each account of the DeLanos covered by the Trustee's request for statements for the previous three years; and dated as of between July and October 2003, rather than the most current statement for May or June 2004 | D:178 |
| d. IRS 1040 forms for the DeLanos' tax returns for each of the 2001-03 fiscal years..... | D:186* |
| 49. Trustee Reiber's letter of June 16, 2004, to Att. Werner stating that he will maintain his motion to dismiss, suggesting that he move under Rule 2004 FRBkrP to compel the credit card companies to appear and produce the requested documents, and noting that Att. Werner did not copy Dr. Cordero in on the correspondence and that in future he must do that but that on this occasion the Trustee will make a copy and send it to Dr. Cordero | D:189 |

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| 51. Trustee Reiber's adjournment on June 21, 2004, of the DeLanos' §341 meeting of creditors to August 23, 2004..... | D:192 |
| 52. Dr. Cordero's Statement of July 9, 2004, in opposition to Trustee Reiber's motion to dismiss the DeLano petition and containing in the relief the text of a requested order | D:193* |
| 53. Att. Werner's letter of July 12, 2004, to Trustee Reiber concerning his efforts to obtain production of statements of credit card accounts and suggesting that the Trustee issue subpoenas to credit card companies Chase Manhattan and Bank One of Delaware to obtain the credit card statements that they have not produced, and his attempt to leave a message on Discover's subpoena mailbox..... | D:203 |
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| 58. Dr. Cordero's letter of July 21, 2004, faxed to Judge Ninfo , requesting that he issue the proposed order as agreed at the hearing on July 19, 2004 | D:217* |

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| 59. Att. Werner's notice of hearing and order objecting to Dr. Cordero's claim and moving to disallow it, dated July 19, 2004 , but filed on July 22, 2004 | D:218* |
| 60. Judge Ninfo's order of July 26, 2004 , providing for the production of only some documents but not issuing Dr. Cordero's proposed order because "to [it] 249, Attorney Werner expressed concerns in a July 20, 2004 letter" | D:220* |
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| 71. Att. Werner’s letter of September 9, 2004, to Trustee Reiber accompanying statements of accounts from Chase Manhattan Bank..... | D:281 |
| 72. Dr. Cordero’s letter of September 22, 2004, to Trustee Reiber proposing dates to examine the DeLanos under §341 and describing the broad scope of the examination as provided under FRBkrP Rule 2004(b)..... | D:283 |
| 73. Dr. Cordero’s letter of September 27, 2004, to Arthur Heller, clerk at the U.S. Court of Appeals for the Second Circuit, concerning his motion to quash Judge Ninfo’s order of August 30, 2004, which severs a claim from the Premier case on Appeal in that Court to try it in the DeLano case before Judge Ninfo..... | D:285 |
| 74. Att. Werner’s letter of September 28, 2004, to Trustee Reiber informing him that he will not submit dates for the examination of the DeLanos in response to Dr. Cordero’s September 22 letter until the Trustee instructs him to do so | D:286 |
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| 87. Trustee Reiber’s letter of November 2 , 2004, to Dr. Cordero stating that he has nothing to add to his position concerning Dr. Cordero’s request that the Trustee hold the §341 examination of the DeLanos | D:316 |
| 88. Dr. Cordero’s motion of November 4 , 2004, to enforce Judge Ninfo’s Order of August 30, 2004, by ordering Mr. DeLano to produce the requested documents and declaring that the Order does not and cannot prevent Trustee Reiber from holding a §341 examination of the DeLanos | D:317* |
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| 100. Letter of Karl S. Essler , attorney for David Dworkin and Jefferson Henrietta Associates, of February 22, 2005, to Judge Ninfo , stating Mr. Essler's belief that the Judge has done nothing that warrants granting Dr. Cordero's motion for his recusal | D:468 |
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| 103. Dr. Cordero's letter of March 10, 2005, to Assistant U.S. Trustee Schmitt accompanying the required blank tapes to have an official copy of the recording of the §341 examination of the DeLanos at Trustee Reiber's office on February 1, 2005 , and requesting an answer to the letter of March 1, 2005..... | D:471 |

104. Att. **Werner's** letter of **March 10, 2005, to** Trustee **Reiber** in response to the latter's letter of February 24 concerning **records of discharge of mortgages** of the DeLanos..... D:472
105. Dr. **Cordero's** letter of **March 19, 2005, to** Att. **Werner** stating that **no enclosures** were sent to Dr. Cordero with the copy of Att. Werner's letter to Trustee Reiber of March 10 and requesting that he send a list of everything that Att. Werner sent to the Trustee as well as a copy D:473*
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107. Letter of Ms. Jill **Wood, Assistant to** Trustee **Schmitt**, of March 23, 2005, **apologizing** for having sent a copy of a **recording** made on **March 8, 2004** -which had nothing to do with the DeLanos except the date of the meeting of creditors- and **accompanying** a copy of a **recording** labeled as that of the §341 examination of the DeLanos on **February 1, 2005** D:476
108. Att. **Werner's** letter of **March 24, 2005, to** Dr. **Cordero** with 14 "copies of the enclosures to our letter to Trustee Reiber of March 10, 2005, which were apparently omitted from your copy of the correspondence" D:477*
- a. **Printouts** of screenshots of February 25, 2005, electronic records **indexing** of the Monroe **County Clerk's** office D:478*
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acknowledging that she made the mistake of telling me that the recording included the introduction..... D:495

111. **Docket** of *In re DeLano*, no. 04-20280, WBNY, as of **April 13**, 2005..... D:496

2. TRANSCRIPT OF THE EVIDENTIARY HEARING IN BKR CT..... Tr:1-190

112. **Transcript** of the Evidentiary Hearing held on March 1, 2005, before Bankruptcy Judge Ninfo of the DeLanos' motion to disallow Dr. Cordero's claim, prepared by Bankruptcy Court Reporter Mary Dianetti..... Tr:i-190

3. ADDENDUM TO DESIGNATED ITEMS WITH BRIEF IN DIS CT..... Add:509-1170

113. Judge **Ninfo's statements** on pages 3 and 4 (D:5-6) of his decision on appeal of April 4, 2005, **portraying** Dr. **Cordero** as a **liar** and a **perjurer** concerning his status and work as a lawyer.....Add:509

114. Letters, briefs, motions, applications, and statements in which Dr. **Cordero** gave **notice** since 2002 that **he is a lawyer to Judge Ninfo and the parties** and in turn the parties acknowledged that fact to the Judge, which casts doubt on the truthfulness of the Judge's allegation that "neither the Court nor any of the courtroom staff recalls such an admission" or on his competency in reading those documents at all or with the minimal degree of due care required of a lawyer, let alone a judge.....Add:510

115. Dr. **Cordero's letter of September 27, 2002**, to Judge **Ninfo** identifying himself as a **lawyer**.....Add:513

116. Judge **Ninfo's letter of October 8, 2002 acknowledging receipt** of Dr. Cordero's letter of September 27, 2002.....Add:514

117. Report for Judge **Ninfo's search** of February 23, 2005, for **Richard Cordero** in the New York State **Attorney Directory**Add:515

118. Report for Judge **Ninfo's WestLaw Search of February 28, 2005**, of "Richard & Cordero"Add:516

119. **Letter of April 26, 2005**, of Mr. Samuel H. Younger, Chief Management Analyst, Attorney Registration Unit, **New York State Unified Court System, Office of Court Administration**, to Dr. **Cordero** indicating that there is **only one Richard Cordero** registered with the Office and listing the dates of registration, which indicate that he **retired since 1993**Add:518

120. Docket of the Chapter 11 **bankruptcy** case of **Heller, Jacobs & Kamlet**, no. 04-13127, SDNY, filed on May 7, 2004, as of May 16, 2005Add:520

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| 121. Affirmation of Leonard G. Kamlet , Esq., of April 14 , 2005, stating that a Richard Cordero worked at his former law firm of Heller, Jacobs & Kamlet in a paralegal capacity, was not a lawyer, and was not the Richard Cordero, Esq. , to whom he handed the affirmation..... | Add:526 |
| 122. Affirmation of Anthony M. Heller , Esq., of April 21 , 2005, stating that his former law firm of Heller, Jacobs & Kamlet employed a paralegal named Richard Cordero, who was never an attorney, but never employed Dr. Richard Cordero or anyone else named Richard Cordero who was an attorney, and that his firm went out of business at the end of 2003 | Add:529 |
| 123. Docket of <i>Pfuntner v. Gordon et al.</i> , no. 02-2230, WBNY..... | Add:531 |
| 124. Extracts from the American Bar Association Model Code of Professional Responsibility | Add:551 |
| 125. Extract from the New York Code of Professional Responsibility : Canons and Disciplinary Rules | Add:552 |
| 126. Letter of May 3 , 2005, of Linda C. Smith, Senior Account Representative at Martindale-Hubbell , to Dr. Cordero acknowledging that through an internal error his record was associated to that of the law firm of Heller, Jacobs & Kamlet..... | Add:553 |
| 127. FindLaw Manager Brian Doyle’s letter of May 4 , 2005, to Dr. Cordero stating that they could not identify any precise event or request that associated him to the law firm of Heller, Jacobs & Kamlet..... | Add:554 |
| a. FindLaw’s corrected listing as of April 26 , 2005, concerning Richard Cordero..... | Add:555 |
| 128. Dr. Cordero’s petition of January 20, 2005 , to the Supreme Court of the United States for a Writ of Certiorari to the Court of Appeals for the Second Circuit, docket no. 04-8371 | Add:557 |
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| VI. Conclusion..... | Add:629 |
| 129. 18 U.S.C. §3057(a) on the duty to report to the U.S. Attorney grounds for believing that bankruptcy fraud has been committed or that an investigation in connection therewith is needed | Add:630* |
| 130. 28 U.S.C. §158 Appeals (As amended April 20, 2005, P.L. 109-8, Title XII, § 1233(a), 119 Stat. 202), which provides for the judges in a circuit to choose whether appeals from bankruptcy judges go before one district judge of the same district or a panel of three judges from a different district, whereby the nature and objectivity of the review varies so considerably throughout the country as to deny equal protection under law | Add:630* |
| 131. U.S. District Court, WDNY, Local Rules of Civil Procedure Rule 5.1(h) on pleading a RICO count, which requires so many factual details before any discovery has been conducted as to render such pleading impossible in practice..... | Add:633* |
| 132. Judge Ninfo's citations to authority in his decision on appeal of April 4, 2005 | Add:637 |
| a. 9C Am Jur 2d Bankruptcy..... | Add:638 |
| b. Norton Bankruptcy Law and Practice 2d | Add:643 |
| c. 9 Collier on Bankruptcy § 3001.09, 15th Edition Revised..... | Add:649 |
| d. In re Youroveta Home & Foreign Trade Co., 297 F. 723 (1924)..... | Add:651 |
| e. In re Burrows, 156 F.2d 640 (2nd Cir. 1946) | Add:654 |
| 133. Dr. Cordero's Designation of April 18 , 2005, of Items in the Record and Statement of Issues on Appeal..... | D:1-499 |
| 134. Dr. Cordero's letter of April 18 , 2005, to Bankruptcy Court Reporter Mary Dianetti requesting that she state "the number of stenographic packs and the number of folds in each pack that you used to record that hearing and that you will be using to prepare the transcript" of her own recording of the evidentiary hearing in <i>DeLano</i> on March 1, 2005, and indicate the cost of the transcript | Add:681 |
| 135. Dr. Cordero's letter of April 19 , 2005, to Trustee Martini requesting that she remove Trustee Reiber and let Dr. Cordero know what she intends to do | Add:682 |
| 136. Dr. Cordero's letter of April 21 , 2005, to Trustee George Reiber requesting a response to his letter of March 29 concerning the uselessness of the printouts of screenshots from the Monroe County Clerk's Office that were to have provided information about the mortgages of the DeLanos and sending him a copy of the Designation and Statement..... | Add:683 |

137. Dr. **Cordero's** letter of **April 21, 2005, to** Trustee **Schmitt requesting** a **4th** **time** a statement of **her position** on Trustee Reiber's failure to investigate the DeLanosAdd:685
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- a. **Transmittal** form of **April 21, 2005, addressed to district clerk,** marking as transmitted to the District Court Dr. Cordero's **Notice of Appeal and** the **Statement of Issues and Designated Items of Appellant;** and as missing documents the Statement of Issues and/or Designated items of AppelleeAdd:687
139. **Bankruptcy Court's** electronic **filing** on **April 22, 2005,** of the title cover of Dr. **Cordero's Designation of Items** in the Record and Statement of Issues on Appeal of **April 18, 2005,** and **notice** that because it is **voluminous** it is available in **paper format only** and is available for review at the clerk's office Add:690*
- a. Notice of the court stating that the attachment to the document is voluminous and available only in paper form to be viewed in the clerk's office during regular business hours Add:691*
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141. **Bankruptcy Court's** electronic **filing** on **April 22, 2005,** of Judge Ninfo's scheduling order of the same dateAdd:694
142. Dr. **Cordero's Objection** of **May 2, 2005, to** Judge Larimer's **scheduling order,** because "contact with the court reporter for preparation of the transcript had only been initiated so that the **transcript has not been even started,** let alone delivered for the appellant to take into consideration when writing his brief on appeal", whereby the **transmittal** of the **record** from the bankruptcy to the district court was **premature;** and his request for the urgent **rescission** of the order and for the Judge to inform him of his decision promptly by fax on this occasion.....Add:695
143. Letter of **May 2, 2005,** by Devin L. **Palmer** on behalf of the DeLanos **to Bankruptcy Case Administrator** Tacy stating that **Appellant's designated documents** included the necessary items; that "However, Appellant failed to include the four exhibits attached to Judge Ninfo's April 4 Decision

and Order of Judgment Ninfo [sic]. Those exhibits, clearly part of the record as an attachment to the decision appealed by Mr. Cordero are enclosed hereto (and that they are enclosed and attached under Document No. 90 of the online Docket)”; [the **documents sent** to and received by Dr. Cordero are the following]Add:711

- a. James Pfuntner’s Interpleader Complaint filed on September 27, 2002, to “Determine Rights in Property of the Debtor and in Property in the Debtor’s Possession, to Grant Plaintiff and Compel the Trustee to pay Administrative Expenses or Otherwise Determine the Liability of Those Found to Hold an Interest in the Debtor’s Property or Property in Possession of the Debtor for the Use and Occupancy of the Plaintiff’s Real Property, and to Vacate the Automatic Stay of Actions”Add:712
- b. Judge Ninfo’s Order of July 15, 2003, providing for a series of “discrete” “discreet” hearings from October 16, 2003, in PfuntnerAdd:719
- c. Judge Ninfo’s Order of October 16, 2003, Disposing of Causes of Action in Pfuntner.....Add:725
- d. Judge Ninfo’s Decision and Order of October 16, 2003, Denying Recusal and Removal Motions and Objection of Richard Cordero to Proceeding with any Hearings and a Trial on October 16, 2003, in PfuntnerAdd:729
- e. Judge Ninfo’s “Cordero Oral Decision” of October 16, 2003, in PfuntnerAdd:731
- f. Judge Ninfo’s Decision & Order of October 23, 2003, Finding a Waiver of a Trial by Jury, in Pfuntner.....Add:741
- g. Judge Ninfo’s Scheduling Order of October 23, 2003, in Connection with the Remaining Claims of the Plaintiff, James Pfuntner, and the Cross-Claims, Counterclaims and Third-Party Claims of the Third-Party Plaintiff, Richard Cordero, in PfuntnerAdd:749

144. Dr. **Cordero’s** answer and **counterclaim** of November 1, 2002, in *Pfuntner*.....Add:770

- a. Plaintiff **Pfuntner’s** **Summons** of **October 3, 2002**, in an Adversary Proceeding, no. 02-2230, to Dr. **Cordero**.....Add:777
- b. Letter of Michael Beyma, Esq., attorney for M&T Bank, of August 15, 2002, to Dr. Cordero.....Add:778
- c. **Dr. Cordero’s** **letter** of August 26, 2002, to **Att. MacKnight**Add:780
- d. **Trustee Gordon’s** **letter** of September 23, 2002, to **Dr. Cordero**.....Add:781
- e. **Dr. Cordero’s** **letter** of October 7, 2002, to **Att. MacKnight**Add:782
- f. **Dr. Cordero’s** **letter** of October 17, 2002, to **Plaintiff Pfuntner**Add:783

145. Att. **Beyma’s** letter of **August 1, 2002**, to Dr. **Cordero**Add:784

146. Dr. **Cordero's third-party complaints** and cross-claims of November 21, 2002, in *Pfuntner*Add:785
- a. Letter of David Dworkin, owner/manager of Jefferson Henrietta Associates, of March 1, 2002, to Dr. CorderoAdd:805[816-30]
 - b. Bill for storage and insurance from Jefferson Henrietta Associates of March 7, 2002, to Dr. Cordero.....Add:806
 - c. Manager Dworkin's letter of April 25, 2002, to Dr. CorderoAdd:807
 - d. Trustee Gordon's letter of April 16, 2002, to Manager DworkinAdd:808
 - e. Trustee Gordon's letter of June 10, 2002, to Dr. CorderoAdd:809
 - f. Att. Stilwell's letter of May 30, 2002, to Dr. CorderoAdd:810
 - g. Letter of Michael Beyma, Esq., attorney for M&T Bank, of August 28, 2002, to Dr. Cordero.....Add:811
 - h. Att. MacKnight's letter of September 19, 2002, to Dr. Cordero.....Add:812
 - i. Trustee Gordon's letter of September 23, 2002, to Dr. CorderoAdd:813
 - j. Trustee Gordon's letter of October 1, 2002, to Judge Ninfo.....Add:814
147. Trustee **Schmitt's** letter of **October 8, 2002, to Dr. Cordero**Add:816
148. Judge **Larimer's** order of **May 3, 2005, rescheduling** Dr. Cordero's **appellant's brief** for June 13 **without** making any **reference to**, much less discussing, any of Dr. Cordero's legal and practical arguments for not scheduling the brief until after the filing of the **transcript**, whose preparation was **not yet even in sight**Add:831
149. **Bankruptcy Case Administrator** Tacy's **transmittal** form of **May 3, 2005, to** District Clerk Early, marking "Perfect Record consisting of: Letter and supporting documents filed by Appellee" and "Other: Please note that the Appellee paper filed a copy of Appellant's Designation of Items" (despite the fact that item no. 112 of Dr. Cordero's Designation and his April 18 letter to the Reporter gave notice that he wanted and had requested the transcript, which had **not** yet been **filed** so that the **record** could **not** have been **perfected** under FRBkrP 8007(b)).....Add:832
150. Reporter **Dianetti's** letter of **May 3, 2005, to Dr. Cordero** stating that the **transcript** will cost between **\$600 and \$650** and "Please understand that this is an estimate only", and that "The information you requested regarding how many packs of [stenographic] paper and the number of folds was given to you after the hearing"Add:834
151. Dr. **Cordero's** letter of **May 10, 2005, to Court Reporter Dianetti** asking by how much more her estimate of the **transcript** cost between **\$600 and \$650** can fluctuate and that such fluctuation "makes it all the more necessary that you state how many packs of stenographic paper and how many folds in each pack

constitute the whole of your recording. I trust you will have no problem in providing me with this information this time”Add:835

152. Dr. **Cordero’s motion of May 16, 2005, for the District Court to comply with FRBkrP 8007 in the scheduling of his appellate brief and “rescind its scheduling order requiring that he file his brief by June 13 and reissue no such order until in compliance with FRBkrP 8007(b) it has received a complete record from the clerk of the bankruptcy court”**Add:836
153. Judge **Larimer’s rescheduling order of May 17, 2005, pretending that “Appellant requested additional time within which to file and serve his brief”, and without referring to or discussing Dr. Cordero’s argument for the Judge’s compliance with the rules, requiring that “Appellant shall file and serve his brief within twenty (20) days of the date that the transcript of the bankruptcy court is filed with the Clerk of the Bankruptcy Court”**Add:839
154. Court Reported **Dianetti’s letter of May 19, 2005, to Dr. Cordero** stating that “I am unable to state by how much my estimate can fluctuate, if it fluctuates at all, unless I prepares the entire transcript” and that as to the **number of stenographic packs and folds** “I trust you already have that information”Add:840
155. Dr. **Cordero’s letter of May 26, 2005, to Court Reporter Dianetti** that her calling her price range ‘an estimate’ defeats the purpose of stating an upper limit and requesting that she state the **maximum cost of the transcript** and “the **number of stenographic packs** and the number of **folds** in each that comprise the whole recording of the evidentiary hearing and **that will be translated** into the transcript”Add:842
156. Court Reporter **Dianetti’s letter of June 13, 2005, stating that the maximum cost of the transcript is \$650** and “I am listing the number of stenographic packs and the number of folds in each pack and this is the same information that was given to you on the afternoon of the hearing”Add:843
157. Dr. **Cordero’s notice of June 20, 2005, to the District Court of his efforts to obtain the transcript**.....Add:845
158. Dr. **Cordero’s motion of June 20, 2005 for a stay in Pfuntner and a joinder of its parties to the DeLano appeal together:**Add:851
 - a. Dr. **Cordero’s statement of June 18, 2005, to the Pfuntner parties on Judge Ninfo’s linkage of Pfuntner and DeLano** in the Judge’s April 4 decision on appeal, where the Judge traced the origin of *DeLano* through **documents filed in Pfuntner, which he attached to his decision** and which the DeLanos’ attorney not only **included** in their Designation of Additional Items on the Record but even added other *Pfuntner* documents to them, whereby they all demonstrated that they viewed the **two cases inextricably linked** (Cf. ¶142 above).....Add:853

159. Dr. **Cordero's** letter of **June 25, 2005, to Reporter Dianetti** requesting that she state whether she merely **copied the numbers of packs and folds** that she gave him at the end of the March 1 evidentiary hearing **or counted** those that she will actually transcribe, which she necessarily had to do to calculate her cost estimate, **and** that she agree to **certify** that her **transcript will be complete, accurate, and free of tampering influence**Add:867
160. Court Reporter **Dianetti's** letter of **July 1, 2005, to Dr. Cordero** requiring that he **prepay \$650** for the transcript and stating that "The balance of your letter of June 25, 2005 is rejected"Add:869
161. Application of **July 7, 2005, by Christopher Werner, Esq., attorney for the DeLanos, for \$16,654 in legal fees** for services rendered to the DeLanos Add:871*
- a. Att. **Werner's** itemized **invoice of June 23, 2005, for legal services** rendered to the DeLanos, incurred almost exclusively in connection with Dr. Cordero's request for documents and the DeLanos' efforts to avoid producing them, beginning with the entry on April 8, 2004 "Call with client; Correspondence re Cordero objection" and ending with that on June 23, 2005 "(Estimated) Cordero appeal" Add:872*
162. Dr. **Cordero's motion of July 13, 2005, to stay** in Bankruptcy Court the hearing for **confirmation** of the DeLanos' debt repayment plan and the confirmation order, **withdraw** the case pending appeal, **remove** Trustee Reiber, and the District Court to take **notice of Dr. Cordero's** addition of issues to the **appeal**Add:881
- a. Dr. Cordero's affidavit of July 11, 2005, in support of his motion to stay confirmation hearing and order, withdraw case pending appeal, remove trustee, and give notice of addition to appealAdd:886
- b. Dr. Cordero's proposed order submitted to Judge Larimer with his motion of July 13, 2005, to stay, remove trustee, etc.Add:907
163. Dr. **Cordero's motion of July 18, 2005, to have Bankruptcy Court Reporter Mary Dianetti referred to the Judicial Conference** for investigation of her refusal to certify the reliability of her transcript.....Add:911
- a. Dr. **Cordero's proposed order submitted to Judge Larimer** with his motion of July 18, 2005, to **refer Reporter Dianetti to the Judicial Conference**.....Add:932
164. Att. **Werner's** ingratiating letter of **July 19, 2005, to Judge Larimer** accompanying:Add:935
- a. Att. **Werner's "Statement in opposition to Cordero motion [sic] to stay confirmation and other relief"**, because "Richard Cordero sets forth no substantive basis for any of the relief requested in his

current Motion, nor does he have any interest in the DeLano matter whatsoever, as determined by Judge Ninfo” (a conclusory assertion unsupported by any legal discussion, and revealing Att. Werner’s failure to recognize Dr. Cordero’s status as a party in interest, not to mention as appellant)Add:936

- 165. Trustee **Reiber’s undated “Findings of Fact and Summary of 341 Hearing”** Add:937*
 - a. **Undated and unsigned** sheet titled **“I/We filed Chapter 13** for one or more of the following reasons” Add:939*
- 166. Judge **Ninfo’s order of August 8, 2005, instructing M&T Bank to deduct \$293.08 biweekly from his employee, Debtor David DeLano, and pay it to Trustee Reiber** Add:940*
- 167. Judge **Ninfo’s order of August 9, 2005, confirming** the DeLanos’ Chapter 13 debt repayment **plan** after considering their testimony and “the Trustee’s Report” of Trustee Reiber (cf. ¶165 above) and **allowing** payment of legal fees in the amount of **\$18,005 to Att. Werner** by the DeLanos (who stated in Schedule B of their January 2004 bankruptcy petition that they had \$535 in cash and account)..... Add:941*
- 168. Trustee **Reiber’s Acknowledgment of August 19, 2005, of Claim and Notice of the Manner of the Proposed Treatment of Dr. Cordero’s Claim,** stating that its amount is zero and its classification is **“ignore”,** and remarking that the claim is **disallowed** Add:944*
- 169. Dr. **Cordero’s notice of motion and motion of August 23, 2005, to compel the production of documents and take other actions** necessary for the exercise of the Court's supervision over the Bankruptcy Court and of Appellant's right of appeal, and for the proper determination of this appeal, returnable on September 12..... Add:951*
 - a. Table of contents Add:953*
 - b. Propose **document** production order Add:977*
- 170. Letter of David D. **MacKnight, Esq.,** attorney for James Pfuntnr, of **September 2, 2005, to Judge Larimer** entering a **limited response** to Dr. **Cordero’s** motion of August 23 to compel production of documents, and asking that such **motion be denied** insofar as it concerns Mr. Pfuntnr and that the **name Pfuntnr be stricken** from any order issued in connection with that motionAdd:985
- 171. Att. **Werner’s** response of **September 7, 2005,** on behalf of the DeLanos, addressed to Judge **Larimer to oppose Dr. Cordero’s motion** by stating that “it does not appear that Cordero has fully perfected the appeal to date; Judge Ninfo has already determined that Cordero has no claim in this proceeding and is not a

creditor...[so] there is no basis for the current Motion herein by Cordero; [and] all other aspects of the Cordero Motion...have no merit nor any procedural basis herein"Add:988

- 172. Judge **Larimer's** decision and **order of September 13, 2005**, stating that Dr. Cordero's motion "to refer a bankruptcy court reporter to the Judicial Conference for an "investigation" is denied in all respects" because "The prolix submissions might lead one to believe that this is a significant problem. It is not. It is a tempest in a teapot" and with nothing more, let alone a legal argument, ordering that "The matter must be resolved as follows", where he **required** Dr. **Cordero** to **request** in writing Reporter Dianetti to prepare the **transcript**, which he "has no right to "condition" his request in any manner", **and prepay** her fee of \$650Add:991
- 173. Dr. **Cordero's** motion of **September 20, 2005**, for **reconsideration** of Judge Larimer's decision and order **concerning Reporter** Mary Dianetti and the **transcript** necessary to the appealAdd:993
- 174. Judge **Larimer's** decision and **order of October 14, 2005**, stating that "The motion for reconsideration is in all respects denied", with not a single argument indicating that the Judge had even read it or noticed that it was returnable on November 18, and then **directing** Dr. Cordero to **request** the **transcript within 14 days** and pay the \$650 fee lest he be found to have failed to perfect his appeal and have it dismissedAdd:1019
- 175. Judge **Larimer's** decision and **order of October 17, 2005**, "den[ying] in their entirety" Dr. **Cordero's** three pending **motions** [¶¶158, 162, 169, 173, above] but referring to not even one of his legal arguments, just to show that the Judge had bothered to read the motions before expediently getting them out of the way with the **conclusory fiats** that "there is no basis in law to support such relief", "these motions are wholly without merit", and "it completely lacks merit" Add:1021*
- 176. **Letter** of Bankruptcy Clerk Paul R. Warren of **October 20, 2005**, to Judge **Larimer** to **inform** him of Dr. **Cordero's letter** to Contracting Officer Frieday and qualifying it as "an effort to both avoid your Order and to intimidate the Bankruptcy Court's clerical staff"Add:1024
 - a. Dr. **Cordero's letter** of **October 18, 2005**, to **Contracting Officer** Melissa Frieday, stating in the first sentence that he had been **referred** to Officer Frieday **by** the **Chair** of the **Executive Committee** of the **Judicial Conference**, Chief Judge Carolyn Dineen King, CA5; and **requesting** that she **replace Reporter** Dianetti in preparing the transcript, investigate her refusal to certify its reliability, and refer the matter to U.S. Attorney General Alberto Gonzales.....Add:1025
- 177. Dr. **Cordero's** letter of **October 24, 2005**, to Reporter **Dianetti** **requesting** that she prepare the **transcript** of the March 1 evidentiary hearing in

Bankruptcy Court, enclosing with it a certified **check** for **\$650**, and stating that the request was being made **under the compulsion** of Judge Larimer's order and with **reservation** of all **his rights**Add:1027

- 178. Dr. **Cordero's notice** of **October 25**, 2005, to Judge **Larimer** that he complied with his order by **requesting** Reporter Dianetti to produce the **transcript** and providing payment, **but** did so **under compulsion** of his October 14 order and under reservation of his right to challenge the order and the request on appeal.....Add:1031
- 179. Dr. **Cordero's cover letter** of **October 25**, 2005, to the **Bankruptcy Court** **accompanying** his **notice** of the same date to the District Court of having **complied** with the order of Judge Larimer that directed him to request the transcript **and stating** that such notice was **his response** to Bankruptcy Clerk of Court **Warren's** letter to Judge Larimer of October 20Add:1037
- 180. Dr. **Cordero's notice** of **motion** and motion of **November 5**, 2005, under 11 U.S.C. §330(a) for Judge Ninfo to **revoke** his **order** of August 9, 2005, **confirming** the DeLanos' debt repayment **plan**, because it was procured by fraudAdd:1038
- 181. Dr. **Cordero's notice** of **November 9**, 2005, to the District Court of his **motion** filed in **Bankruptcy** Court for Judge Ninfo to **revoke** for fraud the **confirmation** of Debtor DeLanos' plan; **and** of his **intent** that the attached **copy** be **filed** in the District Court's **appeal docket** of *Cordero v. DeLano* Add:1064
- 182. Judge **Ninfo's letter** of **November 10**, 2005, to Dr. **Cordero denying**, without stating any reason whatsoever, his request to **appear by phone** at the **hearing** of his motion returnable on November 16, **to revoke** the confirmation of the DeLanos' plan due to its procurement by fraud, and **requesting** that he **renotice** his motion to **state** the missing **time of day** when the motion would be heardAdd:1065
- 183. Dr. **Cordero's request** of **November 11**, 2005, for a **statement of reasons** for Judge **Ninfo** to **deny** his request to **appear by phone** at the hearing in Rochester set for November 16, despite the fact that Dr. Cordero, who lives in New York City, has so appeared before Judge Ninfo in 12 previous occasions, that such hearings on average last 15 minutes, which does not justify the trip's substantial cost in time and money, and that other parties are still allowed to appear by phone, so that the denial appears **arbitrary and discriminatory**Add:1066
- 184. Dr. **Cordero's letter** of **November 11**, 2005, to the **parties advising** them that the time of the **hearing** on November 16 is 11:00a.m. and that they should **contact** the **Court** or consult its electronic calendar in **PACER**

(CM/ECF) before attending the hearing **given** Judge Ninfo's **denial** of Dr. Cordero's request to **appear by phone**.....Add:1068

185. Att. **Werner's response** of **November 11, 2005**, "**to Cordero motion** [sic] to revoke confirmation", that "Dr. Cordero was previously **found** to have **no standing** for **lack** of any proper interest or **claim against the Debtors**" and "his **motion** is wholly **without merit** and...is without merit and should be denied" (without Att. Werner discussing any of Dr. Cordero's legal arguments or element of his statement of facts)Add:1069
186. Dr. **Cordero's notice** of **November 12, 2005**, to the **District Court** of his filing a **request in Bankruptcy Court** for a statement of **reasons** for Judge **Ninfo** having **denied** his request to **appear by phone** at the hearing on November 16 of his **motion to revoke** for fraud the **confirmation of Debtors' debt repayment plan**Add:1070
187. Dr. **Cordero's motion** of **November 15, 2005**, for the **District Court** to **comply** with the FRBkrP for **docketing** the transcript, **entering** the appeal, and **scheduling** the appellate briefAdd:1081
 - a. Dr. **Cordero's proposed order** submitted to Judge Larimer in connection with his motion of November 15, 2005, for the **District Court** to **docket** the transcript, **enter** the appeal, and **schedule** the appellate briefAdd:1090
188. Judge **Larimer's order** of **November 21, 2005**, as if "Appellant **requests** an **extension** of time to file his brief", [**rather than** requests the **District Court** to **comply with** the FRBkrP on docketing, entering, and sche-duling], and extending such time; confirming that "briefs are deemed filed the day of mailing", and stating that "the remainder of the motion is denied" because "the appeal was docketed in April 2005 and all parties were notified...[and] it **now** appears that the **record** on appeal is **complete**"Add:1092
189. Judge **Ninfo's order** of **November 22, 2005** **denying** Dr. **Cordero's motion to revoke** due to fraud the confirmation of the **DeLanos' debt repayment plan** because Dr. Cordero has **no standing** in the case, is not a party in interest, and thereby cannot file the adversary proceeding necessary to seek revocationAdd:1094
190. Dr. **Cordero's notice of motion and motion** of **December 6, 2005**, in **Bankruptcy Court** to **quash** the order **denying** the motion to **revoke** due to fraud the order of confirmation of the DeLanos' plan, **revoke** the **confirmation**, and **remand** the case.....Add:1095
191. Dr. **Cordero's motion** of **December 7, 2005**, in **District Court** to **withdraw cases** [*DeLano* and *Pfuntner*] from Bankruptcy Court and **declare** both the **order denying** his motion to **revoke** due to fraud the order of confirmation of the DeLanos' plan; **and** the order **confirming** such plan **null** and void pending appeal.....Add:1097

- 192. Judge **Ninfo’s order of December 9, 2005**, peremptorily dispatching with an **“in all respects denied” one-liner** Dr. Cordero’s December 6 motion, issued on the day of the **motion’s** arrival and skipping any discussion of its detailed factual considerations and legal analysis of the Judge’s **November 22 order sought to be quashed** for denying confirmation revocationAdd:1125
- 193. Dr. **Cordero’s notice of December 16, 2005**, to the **District Court** of his filing in **Bankruptcy Court** of his **December 6 motion to quash** the order denying revocation of plan confirmation, to **revoke** such **confirmation**, and to **remand** the case, and pointing out how Judge Ninfo peremptorily dispatched the 25-page motion on the day of its arrival with his **“in all respects denied” one-liner** without any discussion of its detailed contentsAdd:1126
 - a. Dr. **Cordero’s motion of December 6, 2005**, in **Bankruptcy Court** to **quash** Judge Ninfo’s November 22 order **denying revocation** due to fraud of the DeLano Debtors’ debt repayment plan confirmation, to **revoke** such confirmation; **and to remand** DeLano to the District Court pending its appealAdd:1127
- 194. Judge **Larimer’s order of December 19, 2005**, stating that “Appellant’s motion is denied in all respects” concerning Dr. Cordero’s December 7 motion to withdraw *DeLano* and *Pfuntner* from Bankruptcy Court and nullify Judge Ninfo’s decisionsAdd:1155

4. POST-ADDENDUM WITH REPLY IN DISTRICT COURT Pst:1171-1500

- 195. **Local Rules 25 and 32(a)(1)** of October 24, 2005, of the **Court of Appeals** for the Second Circuit **requiring** the submission in counseled cases of a **copy** of a brief in digital format as a **PDF file**..... Pst:1171
- 196. Trustee **Reiber’s list of December 7, 2005**, of **allowed claims**, indicating a **debt forgiven** percentage of **87.39%** (as opposed to 78% provided for in the Plan (D:59) and the Notice of meeting of creditors (D:23)) and allowing Att. Werner a claim of \$9,948 (cf. Att. Werner’s fees of \$18,005 approved by Judge Ninfo in August 9, 2005; Add:872, 938, 942; although the DeLanos claimed in their petition to have in hand and on account only \$535 (D:27/Sch:B)) Pst:1174*
- 197. Dr. **Cordero’s notice of December 16, 2005**, of **filing a motion in Bankruptcy Court** to **quash** the order **denying** the motion to **revoke** due to fraud the order confirming the DeLanos’ Plan, revoke the confirmation, and remand the case..... Pst:1176
- 198. Docket of *Cordero v. DeLano*, no. 05cv6190L, WDNY Pst:1181

199. Letter from John **Folwell**, clerk at the District Court, of **January 3, 2006, to Dr. Cordero, returning his CD** with the Appellant’s Brief, the Designation of Items, and the Addendum in PDF files because “local court rules prohibit the Clerk’s office from accepting electronic filings...from pro se parties” Pst:1213

200. Judge **Larimer’s order of January 6, 2006, denying Dr. Cordero’s request** –made by phone to Clerks John Folwell and Jean Marie McCarthy– “that the Addendum in Support of Appellant’s Brief (Dkt. #31) be **filed electronically...**” because it “exceeds 1,300 pages. Scanning this lengthy document into the system would be very time consuming and unnecessary”, but without mentioning that the Appellant’s **Brief, the Designation of Items, and the Addendum** were provided by Dr. Cordero **on a CD in PDF files** so that there was no need to do any scanning Pst:1214

201. Dr. Cordero’s brief of December 21, 2005, in the appeal to the U.S. District Court, WDNY, from Judge Ninfo’s decision in *DeLano*..... Pst:1229*

 a. Table of Contents Pst:1231*

 b. Table of Headings of the Argument..... Pst:1255*

 c. Issues presented for review Pst:1257*

 d. Statement of facts Pst:1259*

 e. Proposed order for document production Pst:1307*

202. The DeLanos’ **answer of January 20, 2006, by Devin Lawton Palmer, Esq.**..... Pst:1361

203. Dr. **Cordero’s motion of January 23, 2006, for an extension of time** for him to mail and file his **reply** to February 10, 2006, **endorsed** by Judge **Larimer’s** grant of it Pst:1379

204. Dr. **Cordero’s reply of February 8, 2006, to the DeLanos’ answer** by Attorney Palmer..... Pst:1381

 a. Dr. **Cordero’s letter of February 10, 2006, to District Judge Larimer** stating that all the **record is complete**, all the briefs have been filed, and the case is ready for submission..... Pst:1382

 b. Table of Contents Pst:1383

 c. Table of Authorities Pst:1384

 d. Table of Headings in the Body of the Reply Pst:1393

 e. Body of the Reply..... Pst:1395

 f. Table of Mortgages referred to in the incomplete documents produced by the DeLanos to Trustee Reiber Pst:1397

 g. Table of Post-Addendum Items in the Record Pst:1422

[1424-1500 reserved]

5. SPECIAL APPENDIX WITH THE PRINCIPAL BRIEF IN CA2 SApp:1501-1699d

- 205. **Decision** of the District Court, Judge David G. **Larimer** presiding, of **October 21**, 2006, disposing of the appeal in *Cordero v. DeLano*, 05cv6190, WDNY, affirming in all respects the decision of the Bankruptcy Court, Judge John C. Ninfo, II, presiding, in *In re DeLano*, 04-20280, WBNY, of April 4, 2005..... SApp:1501*
- 206. Appellant Dr. Richard **Cordero's** motion of **September 11**, 2006, to the District Court requesting an **extension of time** to file the notice of appeal to the Court of Appeal for the Second Circuit (CA2)..... SApp:1505
- 207. District **Court's** endorsement of **September 12, 2006**, the motion **granting** the **extension** of time to file the notice of appeal by October 20, 2006 SApp:1506
- 208. Dr. **Cordero's notice of appeal** of October 13, **filed on October 16**, 2006, from Judge Larimer's decision in *Cordero v. DeLano*, 05cv6190 SApp:1507
- 209. Dr. **Cordero's** statement of **issues** to be presented on appeal **and designation** of the record to be certified and sent to the circuit clerk pursuant to FRAP Rule 6(b)(2)(B)(i), of **October 21, 2006**SApp:1508
 - a. Table of Designated Items in the Record, pages D:1-D:508g in volume I..... SApp:1513
 - b. Table of the Items in the Addendum to the Designated Items, pages Add:509-1155 in volume II..... SApp:21525
 - c. Table of the Items in the Post-Addendum to the Designated Items, pages Pst:1171-1380 in volume III..... SApp:1538
- 210. Sample of Dr. **Cordero's** letters of **October 21**, 2006, **to the parties** accompanying the statement of issues and redesignation of items and requesting their consent to electronic service by e-mail of documents in the PDF format..... SApp:1540
- 211. District Court's **Index** of the record on appeal in *Cordero v. DeLano*, 05-6190, as of **October 23**, 2006 SApp:1541
- 212. **District Clerk** Rodney C. Early's certification of **October 23**, 2006, by Deputy Clerk Margaret Ghysel, of document(s)/record sent to CA2 in *Dr. Richard Cordero v. David and Mary Ann DeLano*, 05-cv-6190..... SApp:1545
 - a. Docket #23, Transcript of 3/1/05 before Judge Ninfo
 - b. Docket #31, Addendum
 - c. Docket #1, Attachment to NoA from Bankruptcy Court

213. CA2 Clerk Roseann B. **MacKechnie's** notice of **October 25, 2006**, to counsel of having **docketed a notice of appeal** filed by Dr. Richard Cordero in *In Re: Dr. Richard Cordero v.*, 05-cv-6190, stating the name of Deputy Clerk Lynette Rodriguez, tel. (212)857-8526, with enclosures:.....SApp:1571
 - a. USCA Docket Sheet, including Caption Page.....SApp:1572
 - b. Instructions
 - c. Acknowledgment Form
214. CA2 Clerk Roseann B. **MacKechnie's** notice of **October 26, 2006**, to counsel by Deputy Clerk Lynette Rodriguez, that the district court **record** in DC Docket Number 05-cv-6190 was **electronically filed** on that date in CA2 and is available for viewing via Pacer while the original documents remain in the District Court.....SApp:1573
215. CA2 miscellaneous form for **notice of appearance** and request for oral argument time; filled out by **Dr. Cordero** on **November 2, 2006**, with handwritten note **requesting correction of the docket** by removing the mistaken reference therein to case number 93-7084 as a related caseSApp:1574
216. **CA2 docket** no. 06-4780 in *In Re: Dr. Richard Cordero v.* as of October 27, 2006; with **Dr. Cordero's note** requesting correction of the **erroneous inclusion** of case number 93-7084 as a related case.....SApp:1575
217. CA2 form for **electronic notification agreement**, filled out in agreement by Dr. CorderoSApp:1576
218. Dr. **Cordero's** motion of **November 20, 2006**, for the scheduling of the **filing** of the opening brief by the time certain of January 31, 2007; granted on December 13, 2006.....SApp:1578
219. Dr. **Cordero's** motion of **November 20, 2006**, for **leave** to submit the opening brief, appendix, and special appendix in **five paper copies and five CDs** containing them on Adobe PDFs; granted on December 13, 2006.....SApp:1579
220. Dr. **Cordero's** motion of **November 20, 2006**, for correction of the docket by **removal of a case wrongly listed** as related to the case in this appeal; granted on December 13, 2006SApp:1580
221. Copy for CA2 of Dr. **Cordero's** sample letter of **November 20, 2006**, to the parties regarding his three motions and **requesting their consent to electronic service** by e-mail of documents in the PDF format.....SApp:1581
222. Letter of Devin Lawton **Palmer, Esq.**, of **November 29, 2006**, amending the attorney of record for purposes of this appeal by replacing Christopher K. Werner, Esq.; opposing the introduction of any issues or documents by Dr. Cordero not previously before the District Court (without identifying which issues or documents Mr. Palmer is referring to); and stating in connection

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| with Dr. Cordero's three motions that Mr. Palmer requires paper copies and regular service | SApp:1583 |
| a. Att. Palmer's Acknowledgment Letter of October 25, 2006 | SApp:1585 |
| 223. Dr. Cordero's motion of December 6 , 2006, for Appellees' opposition to Appellant's Statement of issues and Designation of items to be disregarded | SApp: 1586 |
| 224. Dr. Cordero's motion of December 6 , 2006, for docketing papers already and therewith filed and correction of two errors in the docket..... | SApp:1596 |
| 225. Dr. Cordero's motion of December 6 , 2006, for Appellant to be served by e-mail during the December 18-January 8 Christmas Holidays..... | SApp:1598 |
| 226. Dr. Cordero's letter of December 6 , 2006, to the parties with copy to CA2 requesting that the parties serve him by e-mail during the Christmas Holidays..... | SApp:1599 |
| 227. CA2 Scheduling Order #1 of December 14 , 2006, by Deputy Clerk Lynette Rodriguez, requiring Appellant Dr. Cordero to file his brief by January 15 , 2007, and to do so in 10 copies of the brief and the appendix; and indicating that all telephone inquiries are to be made to (212)857-8526 | SApp:1601 |
| 228. CA2 Scheduling Order #2 of December 18 , 2006, by Deputy Clerk Lynette Rodriguez, requiring Appellant Dr. Cordero to file his brief by January 31 , 2007..... | SApp:1603 |
| 229. Dr. Cordero's motion of December 19 , 2006, for production of documents by Appellees necessary for the Court to determine this case and afford due process of law, such as the statements of their bank and credit and debit card accounts and the documents concerning their real property and mortgages and loans; and for the suspension of the scheduling order and its reissue after all documents have been produced.... | SApp:1606 |
| a. Table of the DeLanos' income of \$291,470, mortgage receipts of \$382,187, plus credit card borrowing of \$98,092, 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!..... | SApp:1608 |
| b. Table of officers that have disregarded their statutory duty to investigate the DeLano Debtors | SApp:1609* |
| c. The DeLanos' notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, and Deadlines (first page of their bankruptcy petition of January 27, 2004; the entire petition with Schedules is at D:22-59) | SApp:1610 |

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| d. Schedule A. Real Property | SApp:1611 |
| e. Schedule B. Personal Property | SApp:1612 |
| f. Statement of Financial Affairs | SApp:1613 |
| g. The DeLanos 1040 IRS forms for 2001-03 | SApp:1614 |
| h. Mortgage documents produced by the DeLanos on February 16, 2005, at Trustee Reiber's request..... | SApp:1617 |
| 230. Dr. Cordero's motion of January 18, 2007, for the two pending motions to be decided before the brief-filing deadline and for a new scheduling order | SApp: 1618 |
| 231. Dr. Cordero's motion of January 18, 2007, for suspension or extension of brief-filing deadline if by January 31 pending motions have not been decided | SApp:1620 |
| 232. Denial on January 24, 2007, of Dr. Cordero's motion of December 19, 2006, for production of documents by Appellees necessary for the Court to determine this case and afford due process of law | SApp:1623* |
| 233. Letter of Legal Assistant Sandra J. Ciaccia of January 25, 2007, accompanying Att. Palmer's affirmation | SApp:1624 |
| a. Certificate of service | SApp:1625 |
| b. Att. Palmer's affirmation of January 25, 2007, against the extension requested by Dr. Cordero for the suspension or extension of the deadline for filing and serving his appellate brief | SApp:1627 |
| 234. Remittance to the panel of Dr. Cordero's motion of December 6, 2006, for Appellees' opposition to Appellant's Statement of issues and Designation of items to be disregarded | SApp:1632 |
| 235. Mooting of Dr. Cordero's motion of December 6, 2006, for Appellant to be served by e-mail during the December 18-January 8 Christmas Holidays..... | SApp:1633 |
| 236. CA2' 1feb7 denial by implication of Dr. Cordero's January 18 motion for a document production order and grant of the request for extending by two weeks the brief-filing deadline | SApp:1634 |
| 237. CA2 Scheduling Order #3 of February 2, 2007, by Deputy Clerk Lynette Rodriguez, requiring Appellant Dr. Cordero to file his brief by March 5, 2007 | SApp:1635 |
| 238. Dr. Cordero's motion of February 15, 2007, for reconsideration and grant of the disregard opposition and document production motions | SApp:1637* |
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- b. Table of the DeLanos' income of \$291,470 + mortgage receipts of \$382,187 = \$673,657 and credit card borrowing of \$98,092, all of whose whereabouts remain unknown because Trustee Reiber did not require that the Debtor account for that money, the Debtors denied all discovery for the evidentiary hearing, and the bankruptcy, district, and circuit judges denied Dr. Cordero's motions for an order of production of documents, thereby covering up for the DeLanos' concealment of assets and evasion of debts through false financial statements..... SApp:1654*
- 239. Dr. **Cordero's letter of February 2, 2004, to Chief Judge John M. Walker, Jr., of the Court of Appeals for the Second Circuit, inquiring about the status of the complaint against Judge Ninfo, no. 03-8547, and updating its supporting evidence**..... SApp:1655
 - a. CA2 Deputy Clerk Patricia Chin Allen's acknowledgment of September 2, 2003, of filing Dr. Cordero's complaint under 28 U.S.C. §351 against Judge NinfoSApp:1657
 - b. CA2 order of November 13, 2003, granting Dr. Cordero's motion of November 3, 2003, for leave to introduce in the record of his appeal *In re Premier Van et al.*, no. 03-5023, CA2, an updating supplement on the issue of Judge Ninfo's bias [**Comment:** This order was attached to show that CA2 had established the precedent for the updatability of evidence concerning Judge Ninfo's bias.].....SApp:1658
- 240. **Statement of facts of March 19, 2004, setting forth a complaint [no. 04-8510] under 28 U.S.C. §351 about CA2 Chief Judge John M. Walker, Jr., addressed under Rule 18(e) of the Rules of the Judicial Council of the Second Circuit Governing Complaints against Judicial Officers to the Circuit Judge eligible to become the next chief judge of the circuit, namely, now CA2 Chief Judge Dennis Jacobs**SApp:1659
- 241. Docket excerpts from *Pfuntner v. Trustee Gordon et al.*, no. 02-2230, WBNY, that belie Judge Ninfo by showing that he knows that Dr. Cordero traveled from NYC to Rochester to Avon, NY, on May 19, 2003, to inspect his property, which Mr. Palmer had abandoned at Mr. Pfuntner's warehouse, and reported at the hearing on May 21 that it had been damaged or lost, whereupon Judge Ninfo denied Mr. Pfuntner's motion to be discharged from any liability and asked Dr. Cordero to resubmit his application for default judgment against Mr. PalmerSApp:1664
- 242. E-mail from **Case Manager Lian Yeh, Agency Team, CA2, of February 20, 2007, to Dr. Cordero requesting the completion of the T-1080 motion cover sheet**.....SApp:1666

243. Dr. **Cordero's** letter of **March 1, 2007, to CA2 Case Manager Yeh** concerning CA2's acceptance of the original cover sheet of Dr. Cordero's motion of February 15, and requesting information about the **status of that motion**, which was filed on an emergency basis and requested the suspension of the scheduling order requiring the filing of the principal brief by March 5, and asking for confirmation that the brief need not be filed until after the motion has been decided, and for a **new scheduling order** to that effect SApp:1667
244. Dr. **Cordero's** letter of **March 1, 2007, to Catherine Minuse, Esq.,** Supervisor Staff Attorney, CA2, requesting **legal certainty** concerning the deadline **for filing** the principal **brief** given that the motion of February 15 has not yet been decided SApp:1669
245. Dr. **Cordero's** letter of **March 3, 2007, to Arthur Heller, Esq.,** Senior Motion Attorney, CA2, **confirming** his statement that the motion of February 15, was denied and that the principal **brief** may be timely filed **by March 19;** and requesting that the **transfer** of the case from the Pro Se Unit **to the Agency Team not be misused to retaliate** against him because of the contentions of his appeal by applying brie and appendix **formatting requirements** to cause him unnecessary expense and aggravation..... SApp:1671
246. Dr. **Cordero's** letter of **March 3, 2007, to Att. Minuse** giving her notice of Att. Heller's statements to him and requesting to be timely informed if his reliance on them is misplaced; and expressing his concerns about the transfer of the case to the Agency Team SApp:1672
- a. Copy of Dr. Cordero's letter of March 3 to Att. Heller..... SApp:1673
247. Dr. **Cordero's** letter of **March 3, 2007, to CA2 Case Manager Yeh** giving him notice of Att. Heller's statements to him and requesting to be timely informed if his reliance on them is misplaced; and expressing his concerns about the transfer of the case to the Agency Team SApp:1674
- a. Copy of Dr. Cordero's letter of March 3 to Att. Heller..... SApp:1675
248. Dr. **Cordero's** letter of **March 3, 2007, to Donna Morgan-Steele,** Supervisor, Agency Team, CA2, giving her notice of Att. Heller's statements to him and requesting to be timely informed if his reliance on them is misplaced; and expressing his concerns about the transfer of the case to the Agency Team SApp:1676
- a. Copy of Dr. Cordero's letter of March 3 to Att. Heller..... SApp:1677
249. CA2's **denial** of **March 5, 2007, of Dr. Cordero's February 15 motion** for reconsideration of the January 24 denial of the December 19 motion for **production of documents** SApp:1678

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| 250. CA2’s grant of March 5 , 2007, of Dr. Cordero’s February 15 motion for an extension of time to file his principal brief , and notice of the new deadline of March 19 , 2007 | SApp:1679 |
| 251. Text of Selected Statutes and Rules Cited..... | SApp:1680 |
| 252. Docket of <i>Dr. Richard Cordero v. David and Mary Ann DeLano</i> , 06-4780-bk, CA2, as of March 17, 2007 | SApp:1690 |

6. PRINCIPAL BRIEF AND SUBSEQUENT DOCUMENTS IN CA2CA:1700-2233

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| 253. Dr. Cordero’s principal brief of March 17, 2007, in <i>CA2 in Dr. Cordero v. DeLano</i> | CA:1700* |
| http://Judicial-Discipline-Reform.org/Follow_money/DrCordero_v_DeLano_06_4780_CA2.pdf | |
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| e. Table of Notices to the 2nd Circuit Court of Appeals and Judicial Council the Circuit Judges, and others of Evidence of a Bankruptcy Fraud Scheme in the Bankruptcy and District Courts, WDNY since May 2, 2003..... | CA:1721* |
| f. Statement of facts | CA:1725* |
| g. Proposed document discovery order | CA:1777* |
| 254. CA2 Clerk’s notification of March 26 , 2007, to Dr. Cordero that his principal brief and special appendix do not comply with FRAP or the Local Rules in two instances and that “ motion needed to file documents as is ” | CA:1787 |
| 255. Dr. Cordero’s motion of March 29 , 2007, in CA2 to file his principal brief together with the Special Appendix and the items in the record as is | CA:1788 |
| a. Reasoned statement supporting the motion | CA:1789 |
| 256. Dr. Cordero’s letter of March 29 , 2007, to Devin Lawton Palmer , Esq., attorney for the DeLano Debtors indicating that it came to his attention that Mr. Palmer filed a letter in CA2 to default him for failure to file his brief timely, and that while Dr. Cordero did file it on time, he did not receive a copy of that letter and requesting that Mr. Palmer send him a copy | CA:1794 |

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| 257. Dr Cordero's letter of March 30, 2007, to CA2 Senior Motion Attorney Heller inquiring about the whereabouts of his timely filed but not yet docketed brief and appendixes..... | CA:1796 |
| 258. Dr Cordero' letter of March 30, 2007, to Supervisor Staff Attorney Minuse inquiring about the whereabouts of his timely filed but not yet docketed brief and appendixes..... | CA:1798 |
| 259. Att. Palmer's letter of March 6, 2007, to CA2 Clerk Rodriguez to "address the basis in part for this drop dead date [sic] with which [sic] Mr. Cordero had to file his brief" and to request the dismissal of the appeal, which letter Att. Palmer failed to serve on Dr. Cordero, who purchased a copy from the Clerk's office | CA:1800 |
| a. CA2's receipt of April 2, 2007, to Dr Cordero for his purchase of a copy of Att. Palmer's letter of March 6, 2007 | CA:1801 |
| 260. CA2's grant of April 12, 2007, of Dr. Cordero's motion to file his principal brief and appendixes "as is" | CA:1802 |
| 261. CA2's order of April 18, 2007, scheduling the filing of the DeLanos' response and Dr. Cordero's reply | CA:1803 |
| 262. The DeLanos' affidavit attesting the service of their response on Dr. Cordero on April 20, 2007 | CA:1804 |
| a. The DeLanos' response brief of April 19, 2007 | CA:1805 |
| 263. References in the DeLanos' response brief to Dr. Cordero's website, http://Judicial-Discipline-Reform.org , and articles therein written by him | |
| a. http://judicial-discipline-reform.org/About%20Us.htm | CA:1835 |
| b. A Bankruptcy Fraud Scheme and its Coordinated Cover Up by Federal Judges | CA:1837 |
| http://Judicial-Discipline-Reform.org/docs/Bkr_Fraud_Scheme.pdf | |
| c. A Case Showing How Federal Judges Disregard Not Only Conduct Guidelines, But Also Duties Imposed on Them By Law and Their Own Implementing Local Rules | CA:1840 |
| http://Judicial-Discipline-Reform.org/docs/Judges_disregard_duty_10jan7.pdf | |
| d. Synopsis of an Investigative Journalism Proposal Where the Leads in Evidence Already Gathered in 12 Federal Cases Would be Pursued in a Watergate-like <i>Follow the money!</i> Investigation to Answer the Question: Has a Federal Judgeship Become a Safe Haven for Coordinated Wrongdoing?..... | CA:1842 |
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| http://Judicial-Discipline-Reform.org/docs/Tables_of_Exhibits.pdf | |
| f. 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..... | CA:1845 |
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| g. Evidence of a Bankruptcy Fraud Scheme in U.S. Bankruptcy and District Courts in Rochester and Class Action Against Federal Judges | CA:1855 |
| http://Judicial-Discipline-Reform.org/docs/Rochester_bkr_fraud_scheme.pdf | |
| h. 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 | CA:1857 |
| http://Judicial-Discipline-Reform.org/docs/Statistics_of_systematic_dismissals.pdf | |
| i. 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..... | CA:1861 |
| http://Judicial-Discipline-Reform.org/docs/no_judicial_immunity.pdf | |
| 264. Letter of April 30, 2007, of Ms. Sandra J. Ciaccia, Att. Palmer's legal assistant, to the CA2 Clerk concerning the DeLanos’ motion to file their appendix and brief | CA:1863 |
| 265. Att Palmer's motion of April 30, 2007, for leave to file an appendix to the DeLanos’ brief and 25 copies of such brief though in violation of CA2 local rules | CA:1864 |
| 266. Dr. Cordero’s motion of May 6, 2007, to compel the Appellees to produce a letter that they filed with CA2 but have refused to serve on Appellant | CA:1877 |
| 267. CA2’s grant of May 7, 2007, of the DeLanos' motion to file to appendix and 25 copies of their brief | CA:1880 |
| 268. Att. Palmer’s letter of May 10, 2007, to CA2 informing it of his concurrent service on Dr. Cordero of Mr. Palmer’s March 6 letter to CA2..... | CA:1881 |
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| 269. Dr. Cordero’s letter of May 25, 2007, CA2 Staff Att. Greenberg concerning his request for an extension of time to file his reply to the DeLanos’ response..... | CA:1883 |
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| 271. | Title of Dr. Cordero's reply brief of June 14, 2007..... | CA:1893 |
| | a. Copy of Dr. Cordero's proposed order for document production | CA:1932 |
| 272. | Bkr. Judge Ninfo's order of June 29, 2007, allowing Trustee Reiber's final account, discharging the Trustee, enjoining creditors, releasing employer, and closing the DeLanos' estate | CA:1933 |
| 273. | Dr. Cordero's motion of July 18, 2007, suggesting en banc consideration of CA2' denials of his three motions for document production; and if denied, for the Court to disqualify itself due to a conflict of interests and refer the case to the Attorney General under 18 U.S.C. §3057(a)..... | CA:1943* |
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| | http://Judicial-Discipline-Reform.org/DeLano_record/CA2_produce_recuse_18jul7.pdf | |
| 274. | Dr. Cordero's brief of July 9, 2003, on appeal from <i>Pfuntner</i> , sub nom <i>Premier Van et al.</i> , 03-5023, CA2 | CA:2001 |
| 275. | CA2's referral of August 9, 2007, of Dr. Cordero's en banc motion and future motions to the panel..... | CA:2079 |
| 276. | Dr. Cordero's motion of August 29, 2007, for oral argument on his motion of July 18 suggesting en banc consideration of CA2's denials of his three motions for document production to be held before argument is heard on the case in chief | CA:2081 |
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| 277. | CA2's referral of September 10, 2007, to the panel of Dr. Cordero's motion for oral argument on his en banc motion | CA:2087 |

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| 278. CA2's notice to counsel of September 14, 2007, concerning its new rule, Interim Local Rule 34, requiring counsel to file a joint statement concerning oral argument of cases before the Court..... | CA:2091 |
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| 280. Att. Palmer and Dr Cordero's joint statement of September 24, 2007, on oral arg | CA:2096 |
| 281. Att. Palmer' letter of September 25, 2007, to CA2 requesting that it decide the appeal on the briefs without oral argument | CA:2097 |
| 282. Dr. Cordero's letter of October 22, 2007, to Case Manager Bolden concerning CA2's failure to docket the form on joint argument..... | CA:2098 |
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| 283. Trustee Reiber's Notice of November 1, 2007, of his appearance in CA2 in <i>DeLano</i> | CA:2100 |
| 284. Trustee Reiber's motion information statement of October 31, 2007, concerning his motion to dismiss <i>DeLano</i> | CA:2101* |
| 285. Trustee Reiber's motion of October 31, 2007, to dismiss addressed to "United States District Court of Appeals Second Circuit" | CA:2102* |
| 286. Dr. Cordero's response of November 8, 2007, to the Trustee's motion to dismiss..... | CA:2111 |
| 287. Trustee Reiber's amended motion of November 16, 2007, in CA2 to dismiss..... | CA:2129 |
| 288. Dr. Cordero's response of November 27, 2007, to Trustee Reiber's amended motion to dismiss..... | CA:2135 |
| 289. CA2's notice of December 19, 2007, of adding Trustee Reiber's motion to dismiss to the motion calendar of January 3, 2008 | CA:2143 |
| 290. Dr. Cordero's opposition of December 26, 2007, to the placement on the motions calendar of the Trustee's motion to dismiss and to transfer due to the Court's conflict of interest and denial of equal protection..... | CA:2151 |
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| a. CA2's denial of February 8, 2008, of Dr. Cordero's 29August7 motion of oral argument on his July 18 motion, suggesting en banc consideration of CA2's denials of his three motions for document production, to be held before argument is heard on the case in chief | CA:2181* |
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| 293. Dr. Cordero's motion of February 14, 2008, for extension of time to file a petition for panel rehearing and hearing en banc | CA:2183 |
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| 294. CA2's grant of February 26, 2008, of Dr. Cordero's motion to extend time to file for rehearing..... | CA:2186 |
| 295. CA'2 grant of March 24, 2008, of Dr. Cordero's motion to file 10 copies of the petition for panel rehearing and hearing en banc | CA:2189 |
| 296. Dr. Cordero's petition of March 14, 2008, in CA2 for panel rehearing and hearing en banc in <i>DeLano</i> to determine the question of exceptional importance: To what extent is the Court's integrity compromised by supporting or tolerating a bankruptcy fraud scheme? | CA:2191* |
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| 298. CA2’s notification of May 9, 2008, of its denial of Dr. Cordero’s petition for panel rehearing and hearing en banc | CA:2209* |
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| 300. Dr. Cordero’s motion of May 23, 2008, for CA2 to recall the mandate and stay or amend it or to stay the pending proceedings in <i>Pfuntner</i> in WB& DNY during the pendency of his petition to the U.S. Supreme Court for a writ of certiorari | CA:2211* |
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| 303. CA2’s denial of June 12, 2008, of Dr. Cordero’s May 24 motion to remove and stay the pending proceedings in <i>Pfuntner</i> | CA:2233* |
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7. IN-CHAMBERS APPLICATIONS & OTHER DOCUMENTS IN SCT US:2241

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| 305. Dr. Cordero’s in-chambers application of June 6, 2008, to Justice Ruth Bader Ginsburg, Circuit Justice for the Second Circuit, for injunctive relief in the form of a document production order and a stay in <i>DeLano</i> and <i>Pfuntner</i> | US:2241 |
| a. Proposed document production order | US:2293 |

| | |
|--|---------------|
| 306. Dr. Cordero’s in-chambers application of July 24, 2008, to Circuit Justice Ginsburg for extension of time to file the petition for a writ of certiorari | US:2303 |
| 307. Circuit Justice Ginsburg’s denial of July 24, 2008, of Dr. Cordero’s application for injunctive relief and a stay in <i>DeLano</i> and <i>Pfuntner</i> | US:2309 |
| 308. Circuit Justice Ginsburg’s grant of July 30, 2008, of Dr. Cordero’s application for extension of time to file the petition for a writ of certiorari | US:2310 |
| a. Notification list | US:2311 |
| 309. Dr. Cordero’s application of August 4, 2008, to the Justices of the Supreme Court for injunctive relief and a stay in <i>DeLano</i> and <i>Pfuntner</i> | US:2313 |
| a. Proposed order for document production | (see US:2293) |

18 U.S.C. §3057(a)

Any judge, receiver, or trustee having reasonable grounds for believing that any violation under chapter 9 of this title [18 U.S.C. §§152-157 on bankruptcy crimes] or other laws of the United States relating to insolvent debtors, receiverships or reorganization plans [e.g. 18 U.S.C. §1519 on destruction of bankruptcy records; §3284 on concealment of bankrupt's assets] has been committed, or that an investigation should be had in connection therewith, **shall** report to the appropriate United States attorney all the facts and circumstances of the case, the names of the witnesses and the offense or offenses believed to have been committed....[emphasis added]

28 USCS §158 (2005)

§ 158. Appeals

(a) The district courts of the United States shall have jurisdiction to hear appeals[--]

- (1) from final judgments, orders, and decrees;
- (2) from interlocutory orders and decrees issued under section 1121(d) of title 11 increasing or reducing the time periods referred to in section 1121 of such title; and
- (3) with leave of the court, from other interlocutory orders and decrees;

of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section 157 of this title [28 USCS § 157]. An appeal under this subsection shall be taken only to the district court for the judicial district in which the bankruptcy judge is serving.

(b) (1) The judicial council of a circuit shall establish a bankruptcy appellate panel service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and determine, with the consent of all the parties, appeals under subsection (a) unless the judicial council finds that--

- (A) there are insufficient judicial resources available in the circuit; or
- (B) establishment of such service would result in undue delay or increased cost to parties in cases under title 11.

Not later than 90 days after making the finding, the judicial council shall submit to the Judicial Conference of the United States a report containing the factual basis of such finding.

(2) (A) A judicial council may reconsider, at any time, the finding described in paragraph (1).

(B) On the request of a majority of the district judges in a circuit for which a bankruptcy appellate panel service is established under paragraph (1), made after the expiration of the 1-year period beginning on the date such service is established, the judicial council of the circuit shall determine whether a circumstance specified in subparagraph (A) or (B) of such paragraph exists.

(C) On its own motion, after the expiration of the 3-year period beginning on the date a bankruptcy appellate panel service is established under paragraph (1), the judicial council of the circuit may determine whether a circumstance specified in subparagraph (A) or (B) of such paragraph exists.

(D) If the judicial council finds that either of such circumstances exists, the judicial council may provide for the completion of the appeals then pending before such service and the orderly termination of such service.

(3) Bankruptcy judges appointed under paragraph (1) shall be appointed and may be reappointed under such paragraph.

(4) If authorized by the Judicial Conference of the United States, the judicial councils of 2 or more circuits may establish a joint bankruptcy appellate panel comprised of bankruptcy judges from the districts within the circuits for which such panel is established, to hear and determine, upon the consent of all the parties, appeals under subsection (a) of this section.

(5) An appeal to be heard under this subsection shall be heard by a panel of 3 members of the bankruptcy appellate panel service, except that a member of such service may not hear an appeal originating in the district for which such member is appointed or designated under section 152 of this title [28 USCS § 152].

(6) Appeals may not be heard under this subsection by a panel of the bankruptcy appellate panel service unless the district judges for the district in which the appeals occur, by majority vote, have authorized such service to hear and determine appeals originating in such district.

(c) (1) Subject to subsections (b) and (d)(2), each appeal under subsection (a) shall be heard by a 3-judge panel of the bankruptcy appellate panel service established under subsection (b)(1) unless--

(A) the appellant elects at the time of filing the appeal; or

(B) any other party elects, not later than 30 days after service of notice of the appeal, to have such appeal heard by the district court.

(2) An appeal under subsections (a) and (b) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts and in the time provided by Rule 8002 of the Bankruptcy Rules [USCS Court Rules, Bankruptcy Rules, Rule 8002].

(d) (1) The courts of appeals shall have jurisdiction of appeals from all final decisions, judgments, orders, and decrees entered under subsections (a) and (b) of this section.

(2) (A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that--

(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel--

(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

(C) The parties may supplement the certification with a short statement of the basis for the certification.

(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal is pending, issues a stay of such proceeding pending the appeal.

(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.

HISTORY:

(July 10, 1984, P.L. 98-353, Title I, § 104(a), 98 Stat. 341; Dec. 1, 1990, P.L. 101-650, Title III, § 305, 104 Stat. 5105; Oct. 22, 1994, P.L. 103-394, Title I, § § 102, 104(c), (d), 108 Stat. 4108-4110.)

(As amended April 20, 2005, P.L. 109-8, Title XII, § 1233(a), 119 Stat. 202.)

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

LOCAL RULES OF CIVIL PROCEDURE

RULE 5.1

FILING CASES

(h) Any party asserting a claim, cross-claim or counterclaim under the Racketeer Influenced & Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1961 et seq., shall file and serve a “RICO Case Statement” under separate cover as described below. This statement shall be filed contemporaneously with those papers first asserting the party’s RICO claim, cross-claim or counterclaim, unless, for exigent circumstances, the Court grants an extension of time for filing the RICO Case Statement. A party’s failure to file a statement may result in dismissal of the party’s RICO claim, cross-claim or counterclaim. The RICO Case Statement must include those facts upon which the party is relying and which were obtained as a result of the reasonable inquiry required by Federal Rule of Civil Procedure 11. In particular, the statement shall be in a form which uses the numbers and letters as set forth below, and shall state in detail and with specificity the following information.

(1) State whether the alleged unlawful conduct is in violation of 18 U.S.C. §§ 1962(a), (b), (c) and/or (d).

(2) List each defendant and state the alleged misconduct and basis of liability of each defendant.

(3) List the alleged wrongdoers, other than the defendants listed above, and state the alleged misconduct of each wrongdoer.

(4) List the alleged victims and state how each victim was allegedly injured.

(5) Describe in detail the pattern of racketeering activity or collection of unlawful debts alleged for each RICO claim. A description of the pattern of racketeering shall include the following information:

(A) List the alleged predicate acts and the specific statutes which were allegedly violated;

(B) Provide the dates of the predicate acts, the participants in the predicate acts, and a description of the facts surrounding the predicate acts;

(C) If the RICO claim is based on the predicate offenses of wire fraud, mail fraud, or fraud in the sale of securities the “circumstances constituting fraud or mistake shall be stated with particularity.” Fed. R. Civ. P. 9(b). Identify the time, place and contents of the alleged misrepresentations, and the identity of persons to whom and by whom the alleged misrepresentations were made;

(D) State whether there has been a criminal conviction for violation of each predicate act;

(E) State whether civil litigation has resulted in a judgment in regard to each predicate act;

(F) Describe how the predicate acts form a “pattern of racketeering activity”; and

(G) State whether the alleged predicate acts relate to each other as part of a common plan. If so, describe in detail.

(6) Describe in detail the alleged enterprise for each RICO claim. A description of the enterprise shall include the following information:

(A) State the names of the individuals, partnerships, corporations, associations, or other legal entities, which allegedly constitute the enterprise;

(B) Describe the structure, purpose, function and course of conduct of the enterprise;

(C) State whether any defendants are employees, officers or directors of the alleged enterprise;

(D) State whether any defendants are associated with the alleged enterprise;

(E) State whether you are alleging that the defendants are individuals or entities separate from the alleged enterprise, or that the defendants are the enterprise itself, or members of the enterprise; and

(F) If any defendants are alleged to be the enterprise itself, or members of the enterprise, explain whether such defendants are perpetrators, passive instruments, or victims of the alleged racketeering activity.

(7) State and describe in detail whether you are alleging that the pattern of racketeering activity and the enterprise are separate or have merged into one entity.

(8) Describe the alleged relationship between the activities of the enterprise and the pattern of racketeering activity. Discuss how the racketeering activity differs from the usual and daily activities of the enterprise, if at all.

(9) Describe what benefits, if any the alleged enterprise receives from the alleged pattern of racketeering.

(10) Describe the effect of the activities of the enterprise on interstate or foreign commerce.

(11) If the complaint alleges a violation of 18 U.S.C. § 1962(a), provide the following information:

(A) State who received the income derived from the pattern of racketeering activity or through the collection of an unlawful debt; and

(B) Describe the use or investment of such income.

(12) If the complaint alleges a violation of 18 U.S.C. § 1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.

(13) If the complaint alleges a violation of 18 U.S.C. § 1962(c), provide the following information:

(A) State who is employed by or associated with the enterprise; and

(B) State whether the same entity is both the liable “person” and the “enterprise” under § 1962(c).

(14) If the complaint alleges a violation of 18 U.S.C. § 1962(d), describe in detail the alleged conspiracy.

(15) Describe the alleged injury to business or property.

(16) Describe the direct causal relationship between the alleged injury and the violation of the RICO statute.

(17) List the damages sustained for which each defendant is allegedly liable.

(18) List all other federal causes of action, if any, and provide the relevant statute numbers.

(19) List all pendent state claims, if any.

(20) Provide any additional information that you feel would be helpful to the Court in processing your RICO claim.

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.



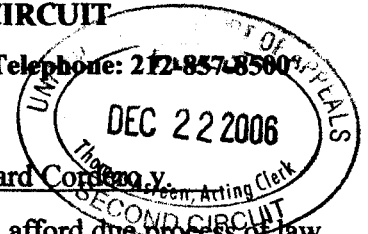
DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
August 21, 2006.

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Daniel Patrick Moynihan U.S. Courthouse at 500 Pearl Street, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT



Docket Number(s): 06-4780-bk

In Re: Dr. Richard Cordero, et al.

Motion for: production of documents necessary for the Court to determine this case and afford due process of law

- 1) A key issue presented below and in this appeal is a) whether Bankrupt David DeLano, a 39-year veteran of the banking industry... b) whether they resorted to the artifice of a motion to disallow Creditor-Appellant's claim... c) whether their motion was granted... 2) This Court needs those documents so as to assess the merits of the appeal... 3) Therefore, Appellant respectfully requests that this Court order that a) Bankrupt-Appellees produce within 30 days: i) the statements of all their individual & joint bank, credit, debit, and investment accounts... ii) complete documents relating to all real property... iii) the scheduling order be suspended and reissued after production of all documents.

MOVING PARTY: Dr. Richard Cordero, Creditor-Appellant, 59 Crescent Street, Brooklyn, NY 11208-1515, tel. (718) 827-9521; corderoric@yahoo.com

OPPOSING PARTY: David and Mary Ann DeLano, OPPOSING ATTORNEY: Devin L. Palmer, Esq., Boylan, Brown, Code, Vigdor & Wilson, LLP, 2400 Chase Square, Rochester, NY 14604, tel. (585)232-5300; fax (585)232-3528

MOVING ATTORNEY: Pro se

Court/Judge/Agency appealed from: U.S. District Court, WDNY, U.S. District Judge David G. Larimer

Has consent of opposing counsel: A. been sought? No B. been obtained? Has request for relief been made below? Is oral argument requested? Yes (requests for oral argument will not necessarily be granted) Has argument date of appeal been set? No

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL: Has this relief been previously sought in this Court? Requested return date and explanation of emergency:

Signature of Moving Attorney:

Dr. Richard Cordero

Date: December 19, 2006

Has service been effected? Yes

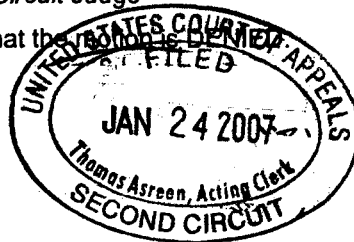
ORDER

Before: Hon. Peter W. Hall, Circuit Judge

IT IS HEREBY ORDERED that the

JAN 24 2007

Date



FOR THE COURT: THOMAS W. ASREEN, Acting Clerk by

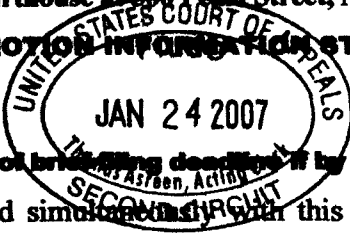
Arthur M. Heller, Motions Staff Attorney

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Daniel Patrick Moynihan U.S. Courthouse at 599 Pearl Street, New York, NY 10007; telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 06-4780-bk



In Re: Dr. Richard Cordero v.

Motion for suspension or extension of brief filing deadline if by 1/31/7 pending motions have not been decided

- 1. Appellant Dr. Cordero has filed simultaneously with this motion a motion for the two pending motions to be decided, namely:
a. for Appellees' opposition to Appellant's Statement of issues and Designation of items to be disregarded; dated, and filed on, December 6 and 7, 2006, respectively; and
b. for production of documents necessary for the Court to determine this case and afford due process of law; dated, and entered on, December 19 and 22, 2006, respectively.
2. The decision on these motions will affect profoundly the content and filing deadline of Appellant's opening brief, which the current scheduling order requires to be filed by next January 31.
3. Dr. Cordero wants to ensure that he is not found in default for missing the brief-filing deadline and that he has at least 30 days to write his brief in light of the Court's decision on those motions.

Therefore, Appellant Dr. Cordero respectfully requests this Court:

- a) if by January 31 no decision on either of those three motions has suspended the scheduling order,
i) to suspend such order until those motions have been decided, provided such suspension can be decided by the date certain of January 31;
ii) otherwise and only to avoid being found in default, to extend on the date certain of January, 31, such filing deadline from January 31 to March 2, 2007.

MOVING PARTY: Dr. Richard Cordero
Creditor-Appellant
59 Crescent Street, Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

MOVING ATTORNEY: Pro se

OPPOSING PARTY: David and Mary Ann DeLano
OPPOSING ATTORNEY: Devin L. Palmer, Esq.
Boylan, Brown, Code, Vigdor & Wilson, LLP
2400 Chase Square, Rochester, NY 14604
tel. (585)232-5300; fax (585)232-3528

Court-Judge-Agency appealed from: U.S. District Court, WDNY, U.S. District Judge David G. Larimer

Has consent of opposing counsel:

A. been sought? No B. been obtained? _____

Has request for relief been made below? No

Is oral argument requested? Yes
(requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? No

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL: N/A

Has this relief been previously sought in this Court? Requested return date and explanation of emergency:

Signature of Moving Attorney:

Dr. Richard Cordero

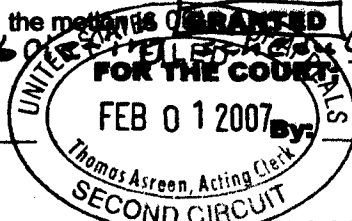
Date: January 18, 2007

Has service been effected? Yes [Attach proof of service]

ORDER

IT IS HEREBY ORDERED THAT the motion is GRANTED. THE DATES IN THE 601-FILE-06-4780 ARE ALL EXTENDED TWO WEEKS. THOMAS ASREEN, Acting Clerk of Court

Date: 2-1-07 Form T-1000 (Revised 11/01/06).



Sup. Staff Atty

Dr. Cordero's 1/18/7 motion for suspension or extension of brief-filing deadline; In Re Dr. R. Cordero v.06-4780 1

**The DeLanos' income of \$291,470,
+ mortgage receipts of \$382,187 = \$673,657
and credit card borrowing of \$98,092**

unaccounted for due to the judges' and the trustees' refusal to require the DeLanos to produce documents supporting their declaration in Schedule B (D:31) of their bankruptcy petition that at the time of its filing on January 27, 2004, they had in hand and on account only \$535!¹

| Exhibit page # | Mortgages referred to in the incomplete documents produced by the DeLanos to Chapter 13 Trustee George Reiber ^a (cf.Add:966§B) | Mortgages or loans | |
|---|---|------------------------|------------------------|
| | | year | amount |
| D ^b :342 | 1) from Columbia Banking, S&L Association | 16jul75 | \$26,000 |
| D:343 | 2) another from Columbia Banking, S&L Asso. | 30nov77 | 7,467 |
| D:346 | 3) still another from Columbia Banking, S&L Asso. | 29mar88 | 59,000 |
| D:176/9 | 4) owed to Manufacturers & Traders Trust=M&T Bank | March 88 | 59,000 |
| D:176/10 | 5) took an overdraft from ONONDAGA Bank | March 88 | 59,000 |
| D:348 | 6) another mortgage from Central Trust Company | 13sep90 | 29,800 |
| D:349 | 7) even another one from M&T Bank | 13dec93 | 46,920 |
| D:350-54 | 8) yet another from Lyndon Guaranty Bank of NY | 23dec99 | 95,000 |
| | 9) any other not yet disclosed? | Subtotal | \$382,187 |
| The DeLanos' earnings in just the three years preceding their voluntary bankruptcy petition of January 27, 2004 (D:23) | | | |
| 2001 | 1040 IRS form (D:186) | \$91,229 | \$91,229 |
| 2002 | 1040 IRS form (D:187) Statement of Financial Affairs (D:47) | \$91,859 | 91,655 |
| 2003 | 1040 IRS form (D:188) Statement of Financial Affairs (D:47) | +97,648 | +108,586 |
| to this must be added the receipts contained in the \$98,092 owed on 18 credit cards, as declared in Schedule F (D:38) ^c | | \$280,736 ^d | \$291,470 ^d |
| | | TOTAL | \$673,657 |

^a The DeLanos claimed in their bankruptcy petition that their only real property is their home, valued on November 23, 2003, at \$98,500, as to which their mortgage is still \$77,084 and their equity is only \$21,416 (D:30/Sch.A)...after making mortgage payments for 30 years! and having received during that same period at least \$382,187 through the known elements of a string of mortgages! *Mind-boggling!*

^b D=Designated items in the record of *Cordero v. DeLano*, 05-6190L, WDNY, of April 18, 2005.

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

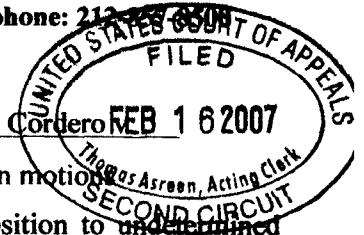
^d Why do these numbers not match?

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Daniel Patrick Moynihan U.S. Courthouse at 500 Pearl Street, New York, NY 10007 Telephone: 212-424-6500

ORIGINAL

MOTION INFORMATION STATEMENT



Docket Number(s): 06-4780-bk

In Re: Dr. Richard Cordero

Motion for: reconsideration and grant of the disregard opposition and document production motion

- 1) On December 6, 2006, Appellant-Creditor filed a motion for Appellee-Debtors' opposition to undetermined "issues or documents" to be disregarded. Instead of deciding it, the Court sent it to the panel, thereby depriving Creditor of the knowledge of what, not only the Court, the also Debtors themselves deem to be the "issues or documents" to be considered on this appeal and on which Creditor should write his brief.
- 2) On December 19, 2006, Creditor filed a motion for production of documents necessary for the Court to determine this case and afford due process of law. That motion was denied. Yet those documents can show that the Debtors have concealed assets in the known amount of a least \$673,657, that they practiced fraud on the court and the Creditor, and had it covered up by the courts below denying him every single document that he requested and conducting sham proceedings.
 - a) There is new evidence unwittingly provided by the Debtors that contrary to their declaration that they had only \$535 in cash and on account when they filed their petition, they actually had money to pay their attorneys' fees, not only those last known in the amount of \$27,953, but also to "continue" paying them their fees.
- 3) Appellant respectfully requests that this Court grant the relief requested in the attached motion; including this:
 - a) grant the motion to disregard Debtors' opposition or state what undetermined "issues or documents" it guessed the Debtors were referring to and how and why it took it upon itself to engage in guesswork;
 - b) order Debtors to produce within 30 days: **I**) the statements of all their individual & joint bank, credit, debit, and investment accounts and 1040 IRS filings since 1/1/96 to date; **II**) complete documents relating to all real property anywhere in which they have any interest in their names or in third parties', and to all their mortgages and loans, including those relating to their home bought in 1975;
 - c) suspend the order requiring Creditor's brief by March 5 and reissue its decision on the rest of this motion.

| | |
|---|--|
| <p>MOVING PARTY: Dr. Richard Cordero Creditor-Appellant 59 Crescent Street, Brooklyn, NY 11208-1515 tel. (718) 827-9521; corderoric@yahoo.com MOVING ATTORNEY: Pro se</p> | <p>OPPOSING PARTY: David and Mary Ann DeLano OPPOSING ATTORNEY: Devin L. Palmer, Esq. Boylan, Brown, Code, Vigdor & Wilson, LLP 2400 Chase Square, Rochester, NY 14604 tel. (585)232-5300; fax (585)232-3528</p> |
|---|--|

Court-Judge/Agency appealed from: U.S. District Court, WDNY, U.S. District Judge David G. Larimer

Has consent of opposing counsel:
 A. been sought? No B. been obtained? _____
 Has request for relief been made below?
 Is oral argument requested? Yes
 (requests for oral argument will not necessarily be granted)
 Has argument date of appeal been set? No

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has this relief been previously sought in this Court?
 Requested return date and explanation of emergency:
 Appellant-Creditor moved for relief on December 6 & 19. The Court took action on them on February 1.

Signature of Moving Attorney:
Dr. Richard Cordero

The Court's decisions of these motions will affect decisively what the Creditor is supposed to write his brief on. Creditor requests that the Court immediately suspend the scheduling order, give him actual notice thereof; & reissue it after deciding this motion and documents have been produced

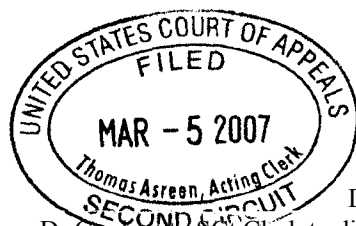
ORDER

Before: Hon. Peter W. Hall, Circuit Judge

IT IS HEREBY ORDERED that the motion by pro se appellant to reconsider Order (filed 1/24/07) denying motion for production of documents is DENIED.

FOR THE COURT:
 THOMAS ASREEN, Acting Clerk
 by

Arthur M. Heller
 Arthur M. Heller
 Motions Staff Attorney



Date _____
 SApp:1678

Denial of Dr Cordero's 15feb mtn to reconsider doc prod order denial
 Dr Cordero to Sec. Clerk to direct the application for injunctive relief to CJ Roberts Saug8

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Daniel Patrick Moynihan U.S. Courthouse at 500 Pearl Street, New York, NY 10007; telephone: (212)857-8500

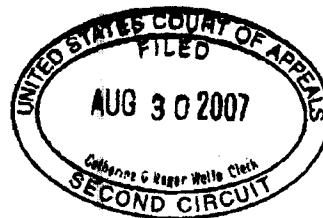
MOTION INFORMATION STATEMENT

Docket Number(s): 06-4780-bk

In Re: Dr. Richard Cordero v.

Motion: for oral argument on the motion of July 18 suggesting en banc consideration of the three denials of the motions for document production to be held before argument is heard on the case in chief

- a) The motion of July 18 suggesting en banc consideration was referred on July 31 to the panel assigned to hear this appeal and set for oral argument on September 25. It was removed from the calendar on August 2 and referred to the motions judge, who referred it back to the panel on August 9. However, no oral argument has been set for that motion or the case in chief.
b) The en banc motion requests an order of production because every single document that Dr. Cordero requested was denied by the bankruptcy court, the district court, and three times by this Court last January 24, February 1, and March 5. Hence, for the Court to proceed under these circumstances is:
1) to intentionally validate the lower courts' and its own violation of Dr. Cordero's right to discovery;
2) to force Dr. Cordero to argue in his briefs and at oral argument on the basis of information known to the Court to be incomplete because the Debtor, the trustees, and the judges withheld from him information to which he, like any other litigant and creditor similarly situated, was entitled; and
3) to intentionally deprive itself of information that will reveal a bankruptcy fraud scheme with the support or toleration of judges, trustees, and other officers, which works a cover up in the interest of self-preservation and constitutes a failure to perform the Court's supervisory duty to safeguard the integrity of judicial process and to afford Dr. Cordero due process of law.
i) Documents requested can explain, inter alia, how Exh.1 the Debtors bought their home in 1975 after taking a \$26,000 mortgage; Exh.2 two months before filing for bankruptcy in 2004, listed it as their sole real property and had it appraised at \$98,500, of which \$77,084 was their outstanding mortgage and only \$21,416 their equity after making mortgage payments for 30 years and receiving \$382,187 in a string of eight mortgages! (D:341-354)...yet only 2 1/2 months after Exh.3 being discharged on February 7, 2007, Exh.4 they sold it on April 23, 2007, for \$135,000, a 37% increase in value in a down real estate market. Pretty savvy, after all, Debtor DeLano was a 39-year veteran banker when he filed, continued working in the bankruptcy department of M&T Bank, and was aided by the trustees and judges to evade accounting for \$673,657 (SApp:1654).
c) Therefore, Dr. Cordero respectfully requests the Court:
1) to issue his proposed document production order since Debtors consented to it by not opposing the en banc motion requesting it;
2) in the alternative, to set the en banc motion for oral argument before hearing argument on the case in chief so that the Court may decide whether to order production of documents and allow rebriefing to take into account the documents produced; and
3) to provide him with all other relief that is just and proper, including the relief requested in his principal and reply briefs.



MOVING PARTY: Dr. Richard Cordero, Creditor-Appellant
59 Crescent Street, Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com
MOVING ATTORNEY: Pro se

OPPOSING PARTY: David and Mary Ann DeLano
OPPOSING ATTORNEY: Devin L. Palmer, Esq.;
Boylan, Brown, Code, Vigdor & Wilson, LLP, 2400 Chase Sq.,
Rochester, NY 14604; tel. (585)232-5300; fax (585)232-3528

Court/Judge/Agency appealed from: U.S. District Court, WDNY, U.S. District Judge David G. Larimer

Has consent of opposing counsel:
A. been sought? No B. been obtained? _____

Is oral argument requested? Yes Is its date set? No
Requested return date for this motion: October 2, 2007

Signature of Moving Attorney:
Dr. Richard Cordero

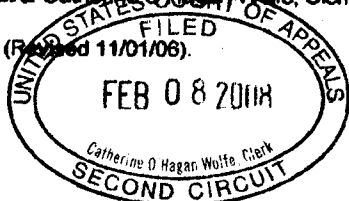
Has service been effected? Yes
Proof of service is attached hereto.
Date: August 29, 2007

ORDER: It is hereby ordered that the motion is GRANTED DENIED. Denied as moot in light of order dated 2/7/08.

For the Court: Catherine O'Hagan Wolfe, Clerk of Court
Form T-1080 (Revised 11/01/06)

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court

CA:2081



By: Judy Pisanont
Judy Pisanont, Motions Staff Attorney

FEB 8 2008

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Daniel Patrick Moynihan U.S. Courthouse at 500 Pearl Street, New York, NY 10007; telephone: (212)857-8500

MOTION INFORMATION STATEMENT

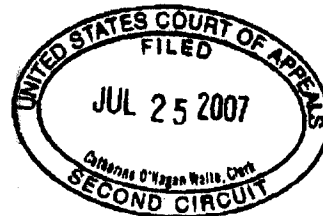
Docket Number(s): 06-4780-bk

In Re: Dr. Richard Cordero v.

Motion: suggesting en banc consideration of the 3 denials of the motions for document production; and if denied, for the Court to disqualify itself due to conflict of interests and refer the case to Att. Gen. under 18 U.S.C. §3057(a)

Relief sought: That the Court:

- a) order the production to the Court and the parties of all documents necessary to determine all the facts in DeLano and Pfuntner... b) after production of all necessary documents, allow the parties time to file supplemental briefs; c) if production of documents is denied: 1) declare null and void as tainted by partiality... 2) refer both cases under 18 U.S.C. §3057(a) to U.S. AG Alberto Gonzales... 3) disqualify itself from both cases. d) In the alternative, far from remanding this case and Dr. Cordero to the wrongdoing courts below... e) Provide Dr. Cordero with all other relief that is just and proper...



MOVING PARTY: Dr. Richard Cordero Creditor-Appellant 59 Crescent Street, Brooklyn, NY 11208-1515 tel. (718) 827-9521; CorderoRic@yahoo.com MOVING ATTORNEY: Pro se

OPPOSING PARTY: David and Mary Ann DeLano OPPOSING ATTORNEY: Devin L. Palmer, Esq. Boylan, Brown, Code, Vigdor & Wilson, LLP 2400 Chase Square, Rochester, NY 14604 tel. (585)232-5300; fax (585)232-3528

Court-Judge/Agency appealed from: U.S. District Court, WDNY, U.S. District Judge David G. Larimer

Has consent of opposing counsel: A. been sought? No B. been obtained? _____

Is oral argument requested? Yes Is its date set? No Requested return date for this motion: August 13, 2007

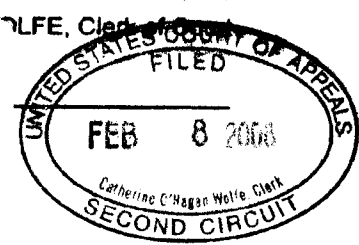
Signature of Moving Attorney: Dr. Richard Cordero

Has service been effected? Yes Proof of service is attached hereto. Date: July 18, 2007

IT IS HEREBY ORDERED THAT the motion is ORDER GRANTED DENIED. Denied as moot in light of order dated 2/7/08

Date: FEB 8 2008 Form T-1080 (Revised 11/01/06)

FOR THE COURT: Catherine O'Hagan Wolfe, Clerk of Court By: Judy Pisnanont, Motions Staff Attorney

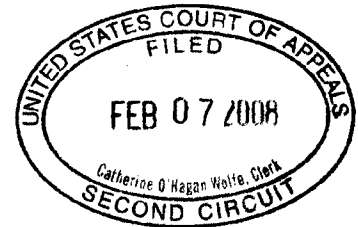


United States Court of Appeals
FOR THE
SECOND CIRCUIT

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

Present:

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



Dr. Richard Cordero,

Creditor-Appellant,

v.

06-4780-bk

David DeLano, Mary Ann DeLano,

Debtors-Appellees.

George M. Reiber, as Bankruptcy Trustee, moves to dismiss the appeal as moot. Although Appellant's argument that the Trustee's motion is deficient may be correct, any such deficiencies are minor and, in any event, the appeal is subject to dismissal under this Court's *sua sponte* authority. Upon due consideration, it is hereby ORDERED that the appeal is DISMISSED as equitably moot. *See In re Metromedia Fiber Network, Inc.*, 416 F.3d 136, 144 (2d Cir. 2005); *In re Chateaugay Corp.*, 988 F.2d 322, 326 (2d Cir. 1993).

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk

By: 

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

SAO-LB

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
THURGOOD MARSHALL U.S. COURT HOUSE
40 FOLEY SQUARE, NEW YORK, N.Y. 10007

Catherine O'Hagan Wolfe
CLERK OF COURT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 9th day of May two thousand and eight,

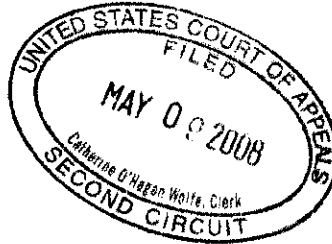
Dr. Richard Cordero,

Creditor-Appellant,

v.

David DeLano, Mary Ann DeLano,

Debtors-Appellees.



06-4780-bk

Appellant Dr. Richard Cordero, having filed a petition for panel rehearing, and for rehearing *en banc*, and the panel that determined the appeal having considered the request for panel rehearing, and the active members of the Court having considered the request for rehearing *en banc*,

IT IS HEREBY ORDERED that the petition is denied.

For the Court:
Catherine O'Hagan Wolfe, Clerk

By: 
Frank Perez, Deputy Clerk

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
Daniel Patrick Moynihan U.S. Courthouse at 500 Pearl Street, New York, NY 10007; telephone: 212-857-8500
MOTION INFORMATION STATEMENT

Docket Number(s): 06-4780-bk

In Re: Dr. Richard Cordero v.

Motion: to recall and stay the mandate in *DeLano* and stay pending proceedings in *DeLano* and *Pfuntner*

Relief sought: Appellant Dr. Cordero respectfully requests that the Court:

- a. recall and stay the mandate in *DeLano* pending the final disposition of that case by the Supreme Court on petition for a writ of certiorari;
- b. transfer all pending proceedings in *DeLano* and *Pfuntner* from the bankruptcy and district courts in the Western District to the U.S. District Court in Albany, NY, and stay them;
- c. otherwise, stay all proceedings in *DeLano* and *Pfuntner* in the bankruptcy and district courts in the Western District;
- c. declare null and void as tainted by bias, arbitrariness, and disregard for the law and the facts resulting in denial of due process all the decisions of:
 - 1) Judge Larimer in
 - (a) *Cordero v. Trustee Gordon*, 03cv6021L,
 - (d) *Cordero v. Palmer*, 03mbk6001L; and
 - 2) Judge Ninfo in
 - (a) *Pfuntner v. Trustee Gordon et al.*, 02-2230, WBNY;
- d. otherwise, return to Dr. Cordero the filing fee of \$455;
- e. provide him such further compensation as is fair and just.

RECEIVED
2008 MAY 28 PM 3:23
CLERK OF COURTS
U.S. COURT OF APPEALS

MOVING PARTY: Dr. Richard Cordero
Creditor-Appellant
59 Crescent Street, Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com
MOVING ATTORNEY: Pro se

OPPOSING PARTY: David and Mary Ann DeLano
OPPOSING ATTORNEY: Devin L. Palmer, Esq.
Boylan, Brown, Code, Vigdor & Wilson, LLP
2400 Chase Square, Rochester, NY 14604
tel. (585)232-5300; fax (585)232-3528

Court-Judge/Agency appealed from: U.S. District Court, WDNY, U.S. District Judge David G. Larimer

Has consent of opposing counsel:
A. been sought? No B. been obtained? _____
Is oral argument requested? Yes
Has argument date of appeal been set? No
If yes, enter date: _____

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:
Has this relief been previously sought in this Court? _____
Requested return date and explanation of emergency:

Signature of Moving Attorney:

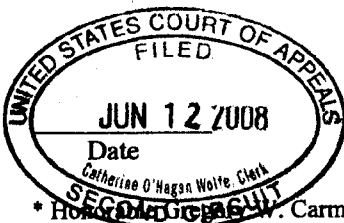
Dr. Richard Cordero

Date: May 23, 2008 **Has service been effected?** Yes
Proof of service is attached hereto.

ORDER

Before: Hon. Sonia Sotomayor, Hon. Debra Ann Livingston, *Circuit Judges*, and Hon. Gregory W. Carman, *Judge**

IT IS HEREBY ORDERED that Appellant Cordero's motion to recall and stay the mandate and other relief is DENIED.



FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

by

Joy Fallik
Joy Fallik, Administrative Attorney

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
Daniel Patrick Moynihan U.S. Courthouse at 500 Pearl Street, New York, NY 10007; telephone: 212-857-8500
MOTION INFORMATION STATEMENT

Docket Number(s): 06-4780-bk

In Re: Dr. Richard Cordero v.

Motion : to remove and stay *Pfuntner* or transfer it from WB&DNY to USDC, Albany, NY

Relief sought: Appellant Dr. Cordero respectfully requests that the Court:

- a. Remove the case that is related to the instant case in terms of judges, trustees, parties, issues, and facts, namely, *Pfuntner v. Trustee Gordon, et al*, 02-2230, WBNY, and that forms part of the same operative nucleus of a bankruptcy fraud scheme from the Bankruptcy Court, WBNY, and the District Court, WDNY, and stay it; or
- b. transfer *Pfuntner* to an impartial court, as is presumably the U.S. District Court in Albany, NY; and
 - 1) stay the proceedings; or
 - 2) cause the issue under 28 U.S.C. §294(d) of a certificate of necessity for the designation and assignment from the roster of senior judges of a retired judge from a circuit other than the Second Circuit (cf. 28 U.S.C. §152(b)) to begin discovery in *Pfuntner* in the court in Albany and try it to a jury there; and
 - 3) declare null and void the previous decisions in *Pfuntner*.

RECEIVED
2008 MAY 28 PM 3:24
CLERK OF APPEALS
U.S. COURT OF APPEALS

MOVING PARTY: Dr. Richard Cordero
Creditor-Appellant
59 Crescent Street, Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

OPPOSING PARTY: David and Mary Ann DeLano
OPPOSING ATTORNEY: Devin L. Palmer, Esq.
Boylan, Brown, Code, Vigdor & Wilson, LLP
2400 Chase Square, Rochester, NY 14604
tel. (585)232-5300; fax (585)232-3528

MOVING ATTORNEY: Pro se

Court-Judge/Agency appealed from: U.S. District Court, WDNY, U.S. District Judge David G. Larimer

Has consent of opposing counsel:
A. been sought? No B. been obtained? _____
Is oral argument requested? Yes
Has argument date of appeal been set? No
If yes, enter date: _____

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:
Has this relief been previously sought in this Court? _____
Requested return date and explanation of emergency:

Signature of Moving Attorney:

Dr. Richard Cordero

Date: May 24, 2008

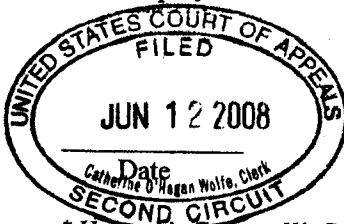
Has service been effected? Yes

Proof of service is attached hereto.

ORDER

Before: Hon. Sonia Sotomayor, Hon. Debra Ann Livingston, *Circuit Judges*, and Hon. Gregory W. Carman, *Judge**

IT IS HEREBY ORDERED that Appellant Cordero's motion to stay *Pfuntner v. Trustee Gordon* in the Bankruptcy Court for WDNY and other relief is DENIED.



FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

by

Joy Fallek
Joy Fallek, Administrative Attorney

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

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IN THE
SUPREME COURT OF THE UNITED STATES

Having considered the petition for a writ of certiorari to the Court of Appeals for the Second Circuit in *Dr. Richard Cordero v. David and Mary Ann DeLano*, 06-4780-bk, CA2, made by Petitioner Dr. Richard Cordero, Esq., and 28 U.S.C. §§1651 and 2101 and Rule 23 of the Rules of the Supreme Court of the United States, the Court orders as follows:

A. Persons and entities concerned by this Order

1. The subject judge;
2. David DeLano and Mary Ann DeLano (hereinafter the DeLanos), formerly resident at 1262 Shoecraft Road, Webster, NY 14580, and debtors in *In re David and Mary Ann DeLano*, 04-20280, WBNY; *Cordero v. DeLano*, 05-cv-6190L, WDNY; and *Dr. Richard Cordero v. David and Mary Ann DeLano*, 06-4780-bk, CA2, (hereinafter *DeLano*);
3. Devin L. Palmer, Esq. and Christopher K. Werner, Esq., attorneys 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 their law firm;
4. James Pfunter, at the address of his attorney, David MacKnight, Esq., or successor, at Lacy, Katzen, Ryen & Mittlemann, LLP, 130 East Main St., Rochester, NY 14604; tel. (585)454-5650, plaintiff in *Pfunter v. Trustee Gordon et al.*, 02-2230, WBNY (hereinafter *Pfunter*);
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. Ms. Diana G. Adams, U.S. Trustee for Region 2, and Deirdre A. Martini, former U.S. Trustee for Region 2, Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, NY 10004, tel. (212)510-0500, and any and all members of their staff;
7. 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;
8. Trustee Kenneth W. Gordon, Gordon & Schall, LLP, 1099 Monroe Ave., Ste. 2, Rochester, NY 14620-1730; tel. (585)244-1070, and any and all members of his staff;
9. M&T Bank, 255 East Avenue, Rochester, NY, tel. (800)724-8472;
10. David Palmer, 1829 Middle Road, Rush, NY 14543, and his company, Premier Van Lines, debtor in *In re Premier Van Lines*, 01-20692, WBNY (hereinafter Mr. Palmer/Premier and *Premier*);
11. David M. Dworkin & Jefferson Henrietta Associates, at the address of their attorney, Karl S. Essler, Esq., Fix Spindelman Brovitz & Goldman, P.C., 295 Woodcliff Drive, Suite 200, Fairport, NY 14450, tel. (585) 641-8000; fax (585)641-8080;
12. Mary Dianetti, Bankruptcy Court Reporter, 612 South Lincoln Road, East Rochester, NY 14445, tel. (585)586-6392;
13. Paul R. Warren, Esq., Clerk of Court, U.S. Bankruptcy Court, 1220 U.S. Courthouse, 100 State Street, Rochester, NY 14614, tel. (585)613-4200, and any and all members of his staff, including, but not limited to, Deputy Clerk in Charge Todd M. Stickle and Case Administrator Karen S. Tacy;
14. U.S. District Judge David G. Larimer and Rodney C. Early, Clerk of Court, U.S. District Court, 2120 U.S. Courthouse, 100 State Street, Rochester, N.Y. 14614, tel. (585)613-4000, fax (585) 613-4035, and any and all members of their staff; and

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

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

16. 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;

17. 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;

18. 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, under pain of being named the subject of a contempt proceeding under 28 U.S.C. §332(d);

19. Understand 'document' broadly to mean 'an object that holds information or data in any form', whether the form be print, digital, electronic, or otherwise; and the object be any of the following or similar objects:

- a) paper, including any type of graphic or photographic paper, film, and equivalent;
- b) a removable storage device, such as a floppy, CD, DVD, external hard disk; flash, stick, or card memory; electronic memory strip, such as found on plastic cards; and audio or video tape;
- c) fixed storage device, such as an internal hard disk of a computer, server, or mainframe;
- d) an audio or video cassette, such as used in a tape recorder or camcorder;
- e) a wireless handheld digital device, such as an iPod, Blackberry, or smartphone;

20. Understand any reference below to a specific type of document to include any other type of document in which the information referred to or derived therefrom, such as through addition, deletion, modification, correction, transformation from one form to another, or rearrangement for

inclusion in a database, is available;

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

- a. the time and amount of each such transaction;
- b. the rates, including but not limited to normal and delinquent rates, applied to the transaction;
- c. the opening and closing dates of the transactions reported in the document, such as a statement of account;
- d. the description of the goods or service concerned by the transaction;
- e. the source or recipient of funds or who made any charge or claim for funds;
- f. the opening date of, the payment due date of the amount owing on, and the good or delinquent standing of, the account, agreement, or contract concerned by the document;
- g. the beneficiary of any payment;
- h. the surety, codebtor, or collateral; and
- i. any other matter relevant to this Order or to the formulation of the terms and conditions of such document;

22. 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 it has not been the subject of any addition, deletion, correction, or modification 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 the whole document to the certificate;

23. Produce any document within the scope of this Order by producing a true and correct copy of it and hold the original available for inspection as provided for under ¶27 below;
24. In application of the principle “If in doubt, disclose”, 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 any individual or entity concerned by this Order has committed an offense, including, but not limited to, bribery, bankruptcy fraud, or supported or tolerated a bankruptcy fraud scheme involving any such, and/or any other, individual or entity; and
25. File any document produced or certificate made pursuant to this Order with this Special Committee and serve it on the Judicial Conference Committee on Judicial Conduct and Disability, Administrative Office of the U.S. Courts, One Columbus Circle NE, Washington, DC 20544, tel. (202)502-1100, fax (202)502-1033; Dr. Richard Cordero, Creditor in *DeLano* and Defendant in *Pfuntner*, 59 Crescent Street, Brooklyn, NY 11028, tel. (718)827-9521; and the trustee succeeding Trustee George Reiber when appointed (hereinafter the successor trustee).
26. The production of documents within the scope of this Order shall be made pursuant to the following timeframes:
 - a. within two weeks of the date of this Order, such documents dated January 1, 2000, or since, to date;
 - b. within 30 days of the date of this Order, such documents dated since January 1, 1975, to December 31, 1999, including the first and last dates of such period.
27. The holder of the original of any document 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 upon order of this Committee, the Judicial Council of the Second Circuit, the Judicial Conference, or its Judicial Conduct and Disability Committee (hereinafter the complaint authorities) or request of Dr. Cordero or the successor trustee.

C. Substantive provisions

28. 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 certain or likely whereabouts of, and state such whereabouts and the name and address of the known or likely holder of, such document:

- a. The subject judge's annual financial disclosure reports since 1992, required to be filed under the Ethics in Government Act of 1978, 5 U.S.C. Appendix;
- b. The minutes, transcript, stenographic packs and folds, audio tape, and any other recording of the status conference and pretrial hearing in *Pfundtner* requested by Trustee Schmitt on December 10, 2002, and held before Judge Ninfo on January 10, 2003;
- c. The transcript and stenographic packs and folds of the hearing in *Pfundtner* held before Judge Ninfo on:

- 1) December 18, 2002 4) April 23, 2003 7) July 2, 2003
- 2) February 12, 2003 5) May 21, 2003 8) October 16, 2003
- 3) March 26, 2003 6) June 25, 2003

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

- 1) 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;

- 2) its transcription on paper and as a PDF file on a floppy disc or CD; and
 - 3) the video tape shown at the beginning of such meeting and in which Trustee Reiber was seen providing the introduction to it.
- e. 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 as a PDF file on a floppy disc or CD;
- f. The original stenographic packs and folds on which Reporter Dianetti recorded the evidentiary hearing of the DeLanos' motion to disallow Dr. Cordero's claim, held on March 1, 2005, in the Bankruptcy Court, shall be kept in the custody of the Bankruptcy Clerk of Court and made available upon request to the complaint authorities, Dr. Cordero, and the successor trustee;
- g. The transcript and stenographic packs and folds of the hearing in *DeLano* held before Judge Ninfo on:
- | | | |
|--------------------|----------------------|----------------------|
| 1) March 8, 2008 | 4) August 25, 2004 | 7) November 16, 2005 |
| 2) July 19, 2004 | 5) December 15, 2004 | |
| 3) August 23, 2004 | 6) July 25, 2005 | |
- h. The documents obtained by Trustee Reiber in connection with *DeLano* and by Trustee Gordon in connection with *Pfuntner*, regardless of the source, up to the date of compliance with this Order, whether such documents relate generally to the DeLanos' or Mr. Palmer/Premier's bankruptcy petition or particularly to the investigation of whether either or both of them have committed fraud, regardless of whether such documents point to their joint or several commission of fraud or do not point to such commission but were obtained

in the context of such investigation;

- i. The statement reported in *DeLano*, WBNY docket 04-20280, entry 134, to have been read by Trustee Reiber into the record at the confirmation hearing on July 25, 2005, of the DeLanos' plan of debt repayment, of which there shall be produced a copy of the written version, if any, of such statement as well as a transcription of such statement exactly as read and the stenographic packs and folds used by the reporter to record it;
- j. The financial documents in either or both of the names of the DeLanos, or those of Mr. Palmer/Premier, or otherwise concerning a financial matter under the total or partial control of either or both of them, respectively, regardless of whether either or both exercised or still exercise such control directly or indirectly through a third person or entity, and whether for their benefit or somebody else's, in the case of the DeLanos since January 1, 1975, to date, and in the case of Mr. Palmer since he began to work for, or do business as, or acquired partially or totally, or otherwise controlled, Premier Van Lines 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, whether banking, financial, investment, commercial, or otherwise, in the world;
- (b) the unbroken series of documents relating to the purchase, sale, or rental of any property or share thereof or right to its use, wherever in the world such property may have been, is, or may be located, by the DeLanos and Mr. Palmer/Premier, respectively, 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 14580;

(ii) Premier Van Lines, any similar moving or storage company, or other business, whether incorporated or not incorporated;

(iii) moving and storage equipment, including, but not limited, to vehicles, forklifts, crates, padding and packaging material; and

(iv) personal property, including any vehicle, mobile home, or water vessel;

(c) mortgage documents;

(d) loan documents;

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

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

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

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

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, 2000, to date;

(b) within 30 days from the date of this Order, such documents dated since January 1, 1975, to December 31, 1999.

29. The Clerk of the Bankruptcy Court shall certify copies of all the orders in *DeLano* and *Pfuntner*, including the following of:

a. in *DeLano*:

- 1) July 26, 2004, for production of some documents by the DeLanos;
- 2) August 30, 2004, severing Dr. Cordero's claim against Mr. DeLano from *Pfuntner*, and requiring Dr. Cordero to take discovery from Mr. DeLano to prove his claim against him while suspending all other proceedings until the DeLanos' motion to disallow Dr. Cordero's claim was finally determined;
- 3) November 10, 2004, denying Dr. Cordero all his requests for discovery from Mr. DeLano;
- 4) December 21, 2004, scheduling *DeLano* for an evidentiary hearing on March 1, 2005;
- 5) April 4, 2005, holding that Dr. Cordero has no claim against Mr. DeLano and depriving him of standing to participate in any future proceedings in *DeLano*;
- 6) August 8, 2005, ordering M&T Bank to pay the Trustee;
- 7) August 9, 2005, confirming the DeLanos' debt repayment plan after hearing Trustee Reiber's statement and obtaining his "Trustee's Report", that is, his undated "Findings of Fact and Summary of 341 Hearing" and his undated and unsigned sheet titled "I/We filed Chapter 13 for one or more of the following reasons";
- 8) November 10, 2005, letter denying Dr. Cordero his request to appear by phone to argue his motion of November 5, 2005, to revoke the order of confirmation of the DeLanos' debt repayment plan;
- 9) November 22, 2005, denying Dr. Cordero's motion to revoke the confirmation of the plan;
- 10) Notice of January 24, 2007, releasing Mr. DeLano's employer, M&T Bank, from

making further payments to Trustee Reiber.

- 11) February 7, 2007, discharging the DeLanos after completion of their plan;
- 12) June 29, 2007, providing, among other things, for the allowance of the final account and the discharge of Trustee Reiber, the enjoinder of creditors, the closing of the DeLanos' estate, and the release of their employer from the order to pay the Trustee;

b. in *Pfuntner*:

- 1) December 30, 2002, to dismiss Dr. Cordero's cross-claims for defamation as well as negligent and reckless performance as trustee against Trustee Gordon;
- 2) February 4, 2003, to transmit the record in a non-core proceeding to the District Court, WDNY, combined with findings of fact, conclusions of law, and the Recommendation not to grant Dr. Cordero's request for entry of default judgment;
- 3) Attachment of February 4, 2003, to the Recommendation of the Bankruptcy Court that the default judgment not be entered by the District Court;
- 4) February 18, 2003, denying Dr. Cordero's motion to extend time to file notice of appeal;
- 5) July 15, 2003, ordering that a "discrete hearing" be held in Rochester on October 23, 2003, followed by further monthly hearings;
- 6) October 16, 2003, Disposing of Causes of Action;
- 7) October 16, 2003, denying Recusal and Removal Motions and Objection of Richard Cordero to Proceeding with Any Hearings and a Trial;
- 8) October 23, 2003, Finding a Waiver by Dr. Cordero of a Trial by Jury;
- 9) October 23, 2003, setting forth a Schedule in Connection with the Remaining Claims of the Plaintiff, James Pfuntner, and the Cross-Claims, Counterclaims and Third-Party Claims of the Third-Party Plaintiff, Richard Cordero;

10) October 28, 2003, denying Dr. Cordero's Motion for a More Definitive Statement of the Court's Order and Decision.

30. The Bankruptcy Clerk shall produce copies of the following documents referred to in the docket of *Premier* or connected to that case:

a. Documents entered in the docket:

1) the monthly reports of operation for March through June 2001, entered as entries no. 34, 35, 36, and 47;

2) the reports for the following months until the completion of the liquidation of Premier;

3) the court order closing that case, which is the last but one docket entry, but bears no number;

4) the court order authorizing the payment of a fee to Trustee Gordon and indicating the amount thereof, which is the last docket entry, but bears no number.

b. Documents that are only mentioned in other documents in that case but not entered themselves anywhere:

1) the court order authorizing payment of fees to Trustee Gordon's attorney, William Brueckner, Esq., and stating the amount thereof; cf. docket entry no. 72;

2) the court order authorizing payment of fees to Auctioneer Roy Teitsworth and stating the amount thereof; cf. docket entry no. 97;

3) the financial statements concerning Premier prepared by Bonadio & Co., for which Bonadio was paid fees; cf. docket entries no. 90, 83, 82, 79, 78, 49, 30, 29, 27, 26, 22, and 16;

4) the statement of M&T Bank of the proceeds of its auction of estate assets on which it held a lien as security for its loan to Premier; the application of the proceeds to set off

that loan; and the proceeds' remaining balance and disposition; cf. docket entry no. 89;

5) the information provided to comply with the order described in entry no. 71 and with the minutes described in entry no. 70;

6) the Final report and account referred to in entry no. 67 and ordered filed in entry no. 62.

31. The Committee requests under Rule 13(c) that the Director of the Administrative Office of the U.S. Courts hire special staff, such as a reputable and certified accounting and title firm, that is:

- a. from a state other than those in the Second Circuit;
- b. unfamiliar with any aspect of *DeLano* and *Pfuntner*;
- c. independent and unrelated and unknown to any party or officer in WDNY and WBNY;
- d. capable of faithfully representing pursuant to law the interests of the DeLanos' unsecured creditors and Mr. Palmer/Premier's unsecured creditors and customers;
- e. qualified to investigate the financial affairs of the subject judge and the other parties concerned by this Order on the basis of the documents described herein and similar documents, such as those already produced and included in the record of *DeLano* and *Pfuntner*, to determine whether such judge committed, or aided and abetted the commission of, whether alone or with others, tolerated, or failed to report under, among others, 18 U.S.C. §3057(a), bankruptcy fraud, particularly concealment of assets, wrongful valuation of assets or disposition thereof, wrongful handling of exemptions, other false or misleading financial statements, and solicitation or taking of a bribe or an unlawful gratuity or benefit, at any time and in any form in connection with a bankruptcy petition, a meeting of creditors, an evidentiary hearing, a confirmation hearing, or similar document or proceeding; and
- f. charged with producing a report, accompanied with supporting documents, of the inflow,

outflow, and current whereabouts of the assets of the subject judge and of the known earnings and mortgage receipts of at least \$673,657 that such judge allowed the DeLanos' not to account for (cf. *DeLano* record in CA2, page SApp:1654), -whether such assets of the judge be earnings, real or personal property, rights, or otherwise, or be held jointly or severally by him and/or others directly or indirectly under their control anywhere in the world since three years before his appointment to the bench in 1992 to date.

32. Notwithstanding the above and without detriment to any party's duty to carry it out, *DeLano* and *Pfuntner* are reported under 18 U.S.C. §3057(a) to the U.S. Attorney General, with the recommendation that they be investigated by U.S. attorneys and FBI agents, such as those from the U.S. 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 former or current staff of the offices of the Department of Justice or the FBI in either Rochester or Buffalo, NY, participate in any way whatsoever in conducting such investigation, except that such staff be required to provide all information requested of them and to volunteer all information in their possession or whose certain or likely whereabouts they know and that they consider, or similar staff unrelated to either case or the parties to them would consider, potentially or actually relevant to the investigation.

for THE SUPREME COURT OF THE UNITED STATES:

Date

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

July 30, 2008

Mr. Richard Cordero
59 Crescent Street
Brooklyn, NY 11208

Re: Richard Cordero
v. David DeLano, et ux.
Application No. 08A88


Dear Mr. Cordero:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Ginsburg, who on July 30, 2008 extended the time to and including October 6, 2008.

This letter has been sent to those designated on the attached notification list.

Sincerely,

William K. Suter, Clerk

by 

Melissa Blalock
Case Analyst

**Contents and Retrieval
of Documents Referred to by
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II. RETRIEVAL Bank of Hyperlinks

JDR's call for a Watergate-like *Follow the money!* investigation into a bankruptcy fraud scheme supported by coordinated judicial wrongdoing:
 C:1/E:1; C:271; C:441; C:551; C:711; C:821; C:981; C:1081; C:1285; C:1331; C:1611; C:1741
Pfuntner:A:1; 261; A:353; A:734; A:1061; A:1301; A:1601; A:1675; A:1765 E:1-60; E:1-62
DeLano: D:1; D:103; D:203; D:301; D:425; Add:509; Add:711; Add:911; Pst:1171; SApp:1501
 Transcript of the evidentiary hearing in *DeLano* held in Bankruptcy Court, WBNY, on March 1, 2005: Tr

Downloadable Bank of Hyperlinks

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

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

William K. Suter
Clerk of the Court
(202) 479-3011

October 6, 2008

Mr. Richard Cordero
59 Crescent Street
Brooklyn, NY 11208

Re: Richard Cordero
v. David DeLano, et al.
No. 08A69

Dear Mr. Cordero:

The Court today entered the following order in the above-entitled case:

The application for injunction and stay addressed to The Chief Justice and referred to the Court is denied.

Sincerely,



William K. Suter, Clerk