# Dr. Richard Cordero

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January 8, 2006

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

Circuit Judge Dennis Jacobs
U.S. Court of Appeals for the Second Circuit
40 Foley Square
New York, NY 10007-1561

Dear Judge Jacobs,

I am addressing you, as member of the Judicial Council of the Second Circuit, so that you may bring to the attention of the Council two district local rules and cause it to abrogate them by exercising its authority to do so under 28 U.S.C. §§332(d)(4) and 2071, the latter providing thus:

> **§ 2071. Rule-making power generally**
>
> (a) The Supreme Court and **all courts** established by Act of Congress may from time to time prescribe rules for the conduct of their business. Such rules **shall be consistent with Acts of Congress and rules of practice and procedure** prescribed under section 2072 of this title.
>
> (c)(1)**A rule of a district court** prescribed under subsection (a) shall remain in effect unless **modified or abrogated by the judicial council** of the relevant circuit. (emphasis added)

In question is Rule 5.1(h) of the Local Rules of Civil Procedure adopted by the U.S. District Court, WDNY. (pages i-iii below) It requires over 40 discrete pieces of factual information to plead a claim under the Racketeer Influenced and Corrupt Organization ("RICO") Act, 18 U.S.C. §§1961-68. By requiring unjustifiably detailed facts to file the claim, Rule 5.1(h) is inconsistent with the notice pleading provision of FRCivP 8. Hence, in adopting it, the Court contravened and exceeded its authority under the enabling provision of FRCivP 83. (1-4).

It is suspicious that the Court has singled out RICO to raise an evidentiary barrier before discovery has started under FRCivP 26. The suspicion is only aggravated by the series of acts of District Court officers of disregard for the law, the rules, and the facts so consistent with those of the Bankruptcy Court, WBNY, as to form a pattern of non-coincidental, intentional, and coordinated wrongdoing. (4-12) These acts include the efforts to keep out of the record on appeal a transcript −cf. the secrecy fostered by Local Rule 83.5 banning recording devices in "the Court and its environs" (iv; 3¶6)− of an evidentiary hearing used to eliminate from a bankruptcy case a creditor who was inquiring why the bankrupt bank officer with 39 years' experience is allowed not to account for over $670,000 and a trustee to have over 3,909 *open* cases. (12-19) The evidence leads to conclude that the District Court devised Rule 5.1(h) as a preemptive attack to deter and impede the filing of any RICO claim so that, with the aid of Rule 83.5, no evidence collection through recording or discovery may expose a bankruptcy fraud scheme and the schemers.

Therefore, I respectfully request that **(1)** you bring the attached Statement and CD before the Council so that it may abrogate Rules 5.1(h) and 83.5; **(2)** investigate those District and Bankruptcy Courts for supporting a bankruptcy fraud scheme and the schemers; and **(3)** report this case to the Attorney General under 28 U.S.C. §3057(a). Meantime, I look forward to hearing from you.

Sincerely,

Dr. Richard Cordero

# List of members of the Judicial Council, 2nd Circuit

to whom were sent the letters of January 8, 2006, and
the statement requesting the abrogation of WDNY
local rule 5.1(h) on filing a case under RICO and
local rule 83.5 prohibiting cameras and other devices, because
inconsistent with FRCP and supportive of a bankruptcy fraud scheme

by

**Dr. Richard Cordero**

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Madam Justice **Ginsburg**
Circuit Justice for the Second Circuit
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tel. (202)479-3000

Circuit judges addressed individually:

The Hon. Jose A. **Cabranes**

The Hon. Guido **Calabresi**

The Hon. Dennis **Jacobs**

The Hon. Rosemary S. **Pooler**

The Hon. Chester J. **Straub**

The Hon. Robert D. **Sack**

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The Hon. Michael B. **Mukasey**
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# 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

## LOCAL RULES OF CIVIL PROCEDURE

### RULE 83.5

### CAMERAS AND RECORDING DEVICES

(a) No one other than officials engaged in the conduct of court business and/or responsible for the security of the Court shall bring any camera, transmitter, receiver, portable telephone or recording device into the Court or its environs without written permission of a Judge of that Court.

Environs as used in this rule shall include the Clerk's office, all courtrooms, all chambers, grand jury rooms, petit jury rooms, jury assembly rooms, and the hallways outside such areas.

(b) The Presiding Judge may waive any provision of this rule for ceremonial occasions and for non-judicial public hearings or gatherings.

### RULE 16.2

### ARBITRATION

(a) **Purpose and Scope**. This rule governs the consensual arbitration of civil actions as provided by 28 U.S.C. § 651 *et seq*. Its purpose is to promote the speedy, fair and economical resolution of controversies by informal procedures.

(g) **Arbitration Hearing: Conduct of Hearing**.

(7) **Transcripts**. A party may cause a transcript or recording to be made of the hearing at its expense but shall, at the request and expense of an opposing party, make a copy available to that party.

**Dr. Richard Cordero**

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January 7, 2006

# STATEMENT

To the Judicial Council of the Second Circuit

on how Rule 5.1(h) of the Local Rules of Civil Procedure of the U.S. District Court, WDNY,[1] requires exceedingly detailed facts to plead a RICO claim so that it contravenes FRCivP 8 and 83 and should be abrogated, and

how Rules 5.1(h) and 83.5 constitute a preemptive attack on any RICO claim that could expose the District and Bankruptcy Courts' support for a bankruptcy fraud scheme and the schemers

by

**Dr. Richard Cordero**

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[1] These Local Rules can be downloaded from the Court's website at http://www.nywd.uscourts.gov/; they are also contained on the CD attached hereto, which also includes the documents referred to between parentheses.

## I. Local Rule 5.1(h) contravenes FRCivP 8 and 83

1. The General Rules of Pleading of FRCivP 8(a)(2) ask only for "a short and plain statement of the claim showing that the pleader is entitled to relief"; and 8(e) adds that "each averment of a pleading shall be simple, concise, and direct". For its part, FRCivP 83(a)(1) provides that "A local rule shall be consistent with –but not duplicative of- Acts of Congress and rules adopted under 28 U.S.C. §2072 and §2075". As stated in the Advisory Committee Notes, 1985 Amendment to Rule 83, local rules shall "not undermine the basic objective of the Federal Rules", which Rule 84 sets forth as "the simplicity and brevity of statement which the rules contemplate". Thereby the national Rules, as indicated in the 1995 Amendments to Rule 83, aim at preventing that a local rule with "the sheer volume of directives may impose an unreasonable barrier". In that vein, the court in *Stern v. U.S. District Court for the District of Massachusetts*, 214 F.3d 4 (1st Cir. 2000) stated that "Even if a local rule does not contravene the text of a national rule, the former cannot survive if it subverts the latter's purpose".
2. Yet such barrier is precisely what the U.S. District Court, WDNY, erects with its Local Rule 5.1(h) (pages ii-iv above) [C:1287], which requires a party to provide over 40 discrete pieces of factual information to plead a claim under the Racketeer Influenced and Corrupt Organization ("RICO") Act, 18 U.S.C. §§1961-68 (1970, as amended). Such burdensome requirement contravenes the statement of the Supreme Court that to provide notice a claimant need not set out all of the relevant facts in the complaint (*Atchison, Topeka & Santa Fe Ry. v. Buell*, 480 U.S. 557, 568 n.15, 107 S. Ct. 1410, 94 L. Ed. 2d 563 (1987)). On top of this quantitative barrier a qualitative one is erected because the required information is not only about criminal, but also fraudulent conduct. The latter, by its very nature, is concealed or disguised, so that it is all the harder to uncover it before even disclosure, not to mention discovery, has started under FRCivP 26-37 and 45.
3. Even the requirement of FRCivP 9(b) that fraud be pled with particularity is "relaxed in situations

where requisite factual information is peculiarly within defendant's knowledge or control", *In re Rockefeller Ctr. Props., Inc. Secs. Litig*., 311 F.3d 198, 216 (3d Cir. 2002). Actually, Rule 9(b) provides that "Malice, intent, knowledge, and other condition of mind of a person may be averred **generally**" (emphasis added). So even in fraud cases the purpose of the complaint remains that of putting defendant on notice of the claim so that he may know what is at stake and decide how to answer; it does not change into a pretext for the court to prevent the filing of the claim or dismiss it on the pleadings.

4. Local Rule 5.1(h) refers to FRCivP 11 only to improperly replace its relative and nuanced standard of "to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances", by the absolute and strict standard of "facts [that the party] shall state in detail and with specificity us[ing] the numbers and letters as set forth below in a separate RICO Case Statement filed contemporaneously with those papers first asserting the party's RICO claim". To require "facts…in detail and with specificity" is inconsistent with FRBkrP 9011(b)(3), which allows the pleading of "allegations and other factual contentions…likely to have evidentiary support after a reasonable opportunity for further investigation or discovery". Hence, the Court in *Devaney v. Chester*, 813 F2d 566, 569 (2d Cir. 1987) stated that "We recognize that the degree of particularity should be determined in light of such circumstances as whether the plaintiff has had an opportunity to take discovery of those who may possess knowledge of the pertinent facts". By contrast, Local Rule 5.1(h) provides no opportunity for discovery, but instead requires setting forth facts with "detail and specificity us[ing its] numbers and letters" so as to facilitate spotting any "failure" to comply, which would "result in dismissal". This is the type of result unacceptable under the 1995 Amendments to FRCivP 83 where "counsel or litigants may be unfairly sanctioned for failing to comply with a directive".
5. It is suspicious that the District Court singles out RICO and blatantly impedes the filing, let alone the prosecution, of a claim under it. It is particularly suspicious that it does so by erecting an evidentiary barrier at the pleading stage that so flagrantly disregards and defeats the

Congressional Statement of Findings and Purpose that "organized crime continues to grow because of defects in the evidence-gathering process of the law inhibiting the development of the legally admissible evidence necessary to bring criminal and other sanctions or remedies to bear the unlawful activities of those engaged in organized crime". Hence, Pub.L. 91-451 §904 provided that RICO "shall be liberally construed to effectuate its remedial purpose". But Local Rule 5.1(h) defeats that purpose so that it incurs the sanction stated in *Weibrecht v. Southern Illinois Transfer, Inc.*, 241 F.F3 875, 879 (7th Cir. 2001) "to the extent a local rule conflicts with a federal statute, the local rule must be held invalid".

6. For its part, District Local Rule 83.5 banning cameras and recording devices anywhere in "the Court and its environs" (iv above) [C:1290] defeats the public policy expressed by the Judicial Conference "to promote public access to information", which provides the rationale for setting up the systems for electronic public access to case information and court records, such as PACER and CM/ECF, 28 U.S.C. §1914. Defying logic, such devices may be allowed "for non−judicial hearings or gatherings", that is, for inconsequential activities in terms of the business of the Court as well as for the "informal procedures" of arbitration, where the District Court by Local Rule 16.2(a) and (g)(7) permits "a transcript or recording to be made" as a matter of course (iv above). However, a litigant is forbidden to bring a recording device to make a transcript of a 'formal proceeding' where matters that could support a RICO claim would be formally discussed…for that would complicate the District Court's unlawful effort to deprive him of the transcript and prevent him from demonstrating by comparison the dismal quality of the official transcript. This is illustrated in this case (12§B & ¶52 below) and shows the insidious purpose of Local Rule 83.5.

7. Likewise, the sinister purpose behind Local Rule 5.1(h) is revealed by the evidence that court officers of both the District and the Bankruptcy Court, WBNY, together with trustees and third parties, have engaged in so long a series of mutually reinforcing acts of disregard for the law, the

rules, and the facts as to form a pattern of non-coincidental, intentional, and coordinated wrong-doing (4§II below). They all of do business in the same small federal building in Rochester, NY, so propitious for the formation of a clique, that houses those Courts as well as the Offices of the U.S. Trustees, the U.S. Attorneys, and the FBI. Their pattern of conduct shows that…

## II. Rule 5.1(h) is the result of the abusive exercise by the District Court of its local rule-issuing power to preemptively strike down any potential RICO claim that through the collection of evidence, whether by recording devices or discovery, could expose a bankruptcy fraud scheme and the schemers

8. The facts presented here lead (5§A below) from the Bankruptcy Court, WBNY, Judge John C. Ninfo, II, presiding, and its misuse of an evidentiary hearing in a process-abusive stratagem to eliminate Dr. Richard Cordero, a creditor, from *In re DeLano*, docket no. 04−20280, by disallowing his claim before he could obtain certain documents that would expose a bankruptcy fraud scheme and the schemers, (12§B below) to the repeated efforts by the District Court, Judge David G. Larimer presiding, to prevent Dr. Cordero from obtaining the incriminating transcript (see attached CD) of that hearing for his appeal, namely, *Cordero v. DeLano*, docket no. 05cv6190L, WDNY, and to impede public access to the transcript and to the appeal's supporting documents.

### A. Judge Ninfo and the trustees protected Mr. DeLano, a bank officer who despite his 39 years' experience went bankrupt, from having to produce documents that could expose his concealment of assets and thereby induce Mr. DeLano to enter into a plea bargain where he would incriminate top schemers in the bankruptcy fraud scheme

9. Mr. David and Mrs. Mary Ann DeLano are not average debtors. Mr. David DeLano has worked in financing for 7 years and as an officer at two banks for 32 years: 39 years professionally managing money!…and counting, for he is still working for a large bank, namely, Manufacturers & Traders Trust Bank (M&T), as a manager in credit administration (Transcript

page 15, line 17 to page 16, line 15=Tr:15/17-16/15). As such, he qualifies as an expert in how to assess creditworthiness and remain solvent to be able to repay bank loans. Thus, Mr. DeLano is a member of a class of people who should know better than to go bankrupt.

10. As for Mrs. Mary Ann DeLano, she was a specialist in business Xerox machines. As such, she is a person trained to think methodically so as to ask pointed questions of customers and guide them through a series of systematic steps to solve their technical problems with Xerox machines.

11. Hence, the DeLanos are professionals with expertise in borrowing, dealing with bankruptcies, and learning and applying technical instructions. They must be held to a high standard of responsibility…but instead they were allowed to conceal assets because they know too much.

12. Indeed, because of his very long career in finance and banking, Mr. DeLano has learned not only how borrowers use or abuse the bankruptcy system, but also and more importantly, how trustees and court officers handle their petitions so that rightfully or wrongfully they are successful in obtaining bankruptcy relief. Actually, Mr. DeLano works precisely in the area of bankruptcies at M&T Bank, collecting money from delinquent commercial borrowers and even liquidating their companies (Tr:17.14-19). As a matter of fact, he was in charge of the defaulted loan to Premier Van Lines, a storage company that filed for bankruptcy, *In re Premier Van Lines*, docket no. 01-20692, WBNY, (*Premier*), and gave rise to *Pfuntner v. Trustee Gordon et al.*, docket no. 02-2230, WBNY, (*Pfuntner;* Addendum to the Designated Items, page 531 et seq.=Add:531), and to the claim of Dr. Cordero against Mr. DeLano (Add:534/after entry 13; 891/fn.1). Both cases were brought before Judge Ninfo.

13. In preparation for their golden retirement, the DeLanos too appeared before Judge Ninfo by filing a joint voluntary bankruptcy petition on January 27, 2004 (Designated Items in the Record, pages 27-60=D:27-60; D:496) under 11 U.S.C. Chapter 13 (references to §# are to Title 11 unless the context requires otherwise). They listed 21 creditors, 19 as unsecured, including Dr. Cordero

(references to Schedules (Sch:) and other petition parts are to D:27/…; here D:27/Sch:F).

14. Based on what and whom Mr. DeLano knew, the DeLanos could expect their petition to glide smoothly toward being granted (D:269¶¶37-39)…except that a most unforeseen event occurred: a creditor, Dr. Cordero, went through the trouble of examining their petition. Realizing how incongruous their declarations in it were, he invoked §1302(b) and §704(4) and (7) to request a financial investigation of the DeLanos and documents of their in- and outflow of money. (D:63) That set off the alarms, for court officers and trustees were aware that Mr. DeLano could not be allowed to go down on a charge of bankruptcy fraud since he knows about their intentional and coordinated disregard for the law, the rules, and the facts in handling bankruptcy petitions, that is, of their participation in a bankruptcy fraud scheme. In other words, they are all in the same boat and if Mr. DeLano sinks, they plummet. Hence, the schemers closed ranks to protect Mr. DeLano from being investigated or having to produce incriminating documents.

15. Yet even a person untrained in bankruptcy could realize the incongruity of their declarations:

    a) The DeLanos earned $291,470 in just the 2001-2003 fiscal years (D:27/Statement of Financial Affairs and D:186-188);

    b) but they declared having only $535 in hand or accounts (D:27/Sch:B); yet, they and their attorney, Christopher Werner, Esq., know they can afford to pay $18,005 in legal fees for over a year's maneuvering to avoid producing the documents requested by Dr. Cordero to find the whereabouts of their $291,470 (Add:872-875; 942), not to mention any other concealed assets;

    c) indeed, they amassed a whopping debt of $98,092 (D:27/Sch:F), although the average credit card debt of Americans is $6,000, and spread it over 18 credit cards so that no issuer would have a stake high enough to make litigation cost-effective;

    d) despite all that borrowing, they declared household goods worth only $2,910 (D:27/Sch:B) …that's all they pretend to have accumulated throughout their combined worklives,

including Mr. DeLano's 39 years as a bank officer, although they earned over a *100* times that amount, $291,470, in only the three years of 2001-03…unbelievable!;

e) they also strung mortgages since 1975 through which they received $382,187 (21/Table 1 below) to pay for their home; yet today, 30 years later, they still live in the same home but now owe $77,084 and have equity of merely $21,415 (D:27/Sch:A). *Mindboggling!* (Add:1058¶54)

16. Although the DeLanos have received over $670,000, as shown by even the few documents that they reluctantly produced at Dr. Cordero's instigation, the officers that have a statutory duty to investigate evidence of bankruptcy fraud or report it for investigation not only disregarded such duty (21/Table 2 below), but also refused to require them to produce even statements of their bank and debit card accounts, which can show the flow of their receipts and payments.

17. What has motivated these officers to protect the DeLanos by sparing them production of incriminating documents? (D:458§V) This questions is pertinent because all of them have been informed of the incident at the beginning of *DeLano* that not only to a reasonable person, but all the more so to one charged with the duty to prevent bankruptcy fraud, would have shown that the DeLanos had committed fraud and were receiving protection from exposure: The meeting of their creditors, held pursuant to §341 on March 8, 2004, was attended only by Dr. Cordero. (D:68, 69) Yet, Trustee Reiber's attorney, James W. Weidman, Esq., unjustifiably asked Dr. Cordero whether and, if so, how much he knew about the DeLanos' having committed fraud, and when he would not reveal what he knew, Mr. Weidman, with the Trustee's approval, rather than let him examine the DeLanos under oath, as §343 requires, while officially being tape recorded, put an end to the meeting after Dr. Cordero had asked only two questions! (D:79§§I-III; Add:889§II)

18. Far from Trustee Reiber, Assistant U.S. Trustee Kathleen Schmitt, and U.S. Trustee for Region 2 Deirdre A. Martini investigating this cover up, they attempted or condoned the attempt to limit to one hour Dr. Cordero's examination of the DeLanos at an adjourned meeting (D:70). They

must have known that this limitation was unlawful since §341 provides for a *series* of meetings for the broad scope of examination set forth under FRBkrP 2004(b). (D:283) Upon realizing how broadly Dr. Cordero would examine the DeLanos, the officers attempted or condoned the attempt to prevent the examination by not holding the adjourned §341 meeting at all! (D:296, 299§II)

19. Meantime, Dr. Cordero kept asking Trustees Reiber, Schmitt, and Martini to conduct an investigation of the DeLanos and require them to produce certain documents, including the statements of their bank and debit card accounts, that could show their money flows. (D:77, 104, 112) They refused to request those documents. Instead, Trustee Reiber made a request that was pro forma since it concerned documents for only the last 3 years rather than at least 15 years comprised in the period of "1990 and prior Credit card purchases" in which the DeLanos declared 15 times to have incurred their credit card debts. (D:27/Sch:F) Likewise, his request concerned only 8 of their 18 credit card accounts. (D:120, 124) Yet, even those documents the Trustee allowed them to produce with missing pages or not at all! (D:289¶9 & Table I; 373§1)

20. No doubt Trustee Reiber knew that his document request was objectively insufficient to ascertain the flow of money. But as of April 2, 2004, Trustees Schmitt and Martini had allowed him to carry 3,909 *open* cases! (PACER at https:// ecf.nywb.uscourts.gov; D:92§C) All cannot be investigated just to oppose the confirmation of their debt repayment plan, when one is busy collecting the percentage set by law from every payment under a confirmed plan. (D:458§V)

21. While Trustee Reiber went on with his pretense at investigating the DeLanos and the latter produced only the documents that they wanted, Dr. Cordero filed his proof of claim on May 19, 2004 (D:142-146). Up to then the DeLanos had treated, and for months thereafter continued to treat, Dr. Cordero as a creditor.

22. However, on July 9, 2004, Dr. Cordero filed a statement showing on the basis of even the few documents that the DeLanos had produced at his instigation (D165-188) that they had

committed bankruptcy fraud, particularly concealment of assets. So he requested from Judge Ninfo an order for documents that could lead to the whereabouts of the assets. (D:196§§IV-V; 207, 208) Only then did they come up with the idea of a motion to disallow his claim (D:218) as a means to get rid of him before he could expose the bankruptcy fraud scheme and the schemers.

23. Judge Ninfo not only failed to issue the requested order, though he knew its contents and had agreed to issue it (D:217, 232§I), but also maneuvered to prevent even its docketing (D:234§§II & IV) As to the motion to disallow, which the DeLanos filed on July 22, 2004 (D:218), he disregarded without discussion its defects of untimeliness, laches, and bad faith (D:253§§V & VI) as well as the presumption of validity under FRBkrP 3001(f) in favor of a claim with a filed proof (D:256§VII). The Judge also disregarded Dr. Cordero's analysis showing that the motion was an artifice to get rid of him and his requests for documents that could prove the DeLanos' fraud. (D:240§IV, 253§V) Instead, he heard the motion on August 25 and required Dr. Cordero to take discovery of Mr. DeLano in the other case where his claim had originated (D:272/2nd¶; Add:891/ fn.1), in an attempt contrary to law to try it piecemeal within *DeLano* and eliminate Dr. Cordero from both (D:444§§I & II; Add:851). On December 15, 2004, discovery would be closed and the date set for an evidentiary hearing where to introduce the evidence gathered. (D:278¶¶3 & 4)

24. Revealingly enough, Judge Ninfo wrongly identified the case in which Dr. Cordero's claim originated as "Adversary Proceeding in Premier Van Lines (01-20692)", just as Att. Werner had done in his cursory motion (D:218). Had either read Dr. Cordero's proof of claim (D:144), they could have realized that his claim against Mr. DeLano originated in *Pfuntner v. Trustee Gordon et al.*, no. 02-2230, not in *Premier*. But since they had decided to eliminate him from *DeLano* regardless of his proof, they had not bothered to read it.

25. Further proving that the motion was an artifice, discovery was rigged, for both the DeLanos (D:314) and Judge Ninfo (D:327¶1) unlawfully denied *every single document* that Dr. Cordero

requested (D:287§§A & C, 320§II). What a mockery of process! Since Dr. Cordero did not take discovery of any other *Pfuntner* party, 'they had no clue what he could possibly do at the evidentiary hearing' (Tr:122/16-122/11). Hence, to find out in advance, the so-called meeting of creditors was set for and held on February 1, 2005. It was not intended for Dr. Cordero to examine the DeLanos, but rather for them to depose him! The facts prove it.

26. So, after Judge Ninfo issued his order concerning the evidentiary hearing, Trustees Reiber used it as a pretext to claim that it prevented him from holding the adjourned meeting of creditors and that it could only be held after the hearing…since it was a foregone conclusion that at the hearing the claim of Dr. Cordero would be disallowed and he would be stripped of standing to even call for a meeting. (D:301, 302) They were acting in coordination to evade their duty!

27. An appeal to Trustee Martini was never replied to (D:307). On the contrary, Trustee Reiber reiterated his decision not to hold the meeting. (D:311, 316) Dr. Cordero showed in a motion that a Judicial Branch officer could not prohibit the performance by an Executive Branch appointee of a duty imposed by the Legislative Branch. (D:321§III & ¶30.c) The Judge denied the motion summarily, thus displaying again his unwillingness and inability to argue the law. (D:328¶4) Another appeal to Trustee Martini went by without response. (D:330)

28. Eventually Trustee Reiber agreed to hold a §341 meeting, but gave no explanation for his reversal in his letter to Dr. Cordero of December 30, 2004 (D:333). However, on December 15, Judge Ninfo had set the date for the evidentiary hearing of the motion to disallow for March 1, 2005 (D:332). Now such meeting came in handy to find out what Dr. Cordero would do at the hearing.

29. That is why Trustee Reiber allowed Att. Werner to micromanage the meeting. (D:464/4$^{th}$ & 5$^{th}$¶¶), while refusing again to request statements of the DeLanos' bank and debit card accounts. Even the few mortgage documents that he got the Attorney to agree to produce, he allowed him to produce late, only after Dr. Cordero had reminded the Trustee that they were past due.

(D:341) Yet, Att. Werner attempted to avoid production (D:473 & 477), and then produced incomplete (D:342) or objectively useless documents (D:477-491). Then the Judge disallowed the claim (D:3) and the Trustee just stopped answering Dr. Cordero's requests (D:492).

30. For her part, Trustee Schmitt attempted to avoid producing copies of the tapes of the meeting of creditors on February 1, 2005, despite Dr. Cordero's request (D:474), sending instead tapes of a different meeting (D:476). Similarly, although Trustee Reiber wrote that "At the request of Dr. Cordero, I will have court reporter [sic] available as well as having a tape recording made of the meeting" (D:333), when Dr. Cordero requested a copy, Trustee Reiber denied it and told him to buy it from the reporter, preposterously alleging that the latter owns its copyright. But what the reporter produced is work for hire and Dr. Cordero was the reason for the Trustee to hire the reporter.

31. Neither the trustees nor the DeLanos ever intended the meeting of creditors to function as stated in the 1978 Legislative Report for §343: "The purpose of the examination is to enable creditors and the trustee to determine if assets have improperly been disposed of or concealed or if there are grounds for objection to discharge". Rather, it was an opportunity for them to pump information out of Dr. Cordero, just as Att. Weidman had tried to do at the first meeting on March 8, 2004, when he repeatedly asked Dr. Cordero what he knew about the DeLanos having committed fraud. The meeting on February 1, 2005, was another abuse of process, a coordinated charade! (Add:966§B)

32. At the evidentiary hearing on March 1, Judge Ninfo abandoned his duty impartially to take in evidence and behaved as Chief Advocate for Mr. DeLano while the latter was the only witness examined and Dr. Cordero the only one to introduce evidence. Although Mr. DeLano made consistent admissions against self-interest and his own attorney deemed his testimony "a fair statement of his position and facts" (Tr:187/21−25), the Judge arbitrarily dismissed them as made while "confused" (D:16)…a still employed bank officer with 39 years' experience bearing witness to his own actions! (Dr. Cordero's Brief=Br:24§§b-d) Thus he reached the predetermined outcome,

with no discussion of the law (Br:37§i), just as in his written decision (D:3), of disallowing the claim and stripping Dr. Cordero of standing to participate in *DeLano* anymore.[2] Dr. Cordero appealed on April 11, 2005 (D:1) and requested the transcript of the sham evidentiary hearing.

### B. Judge Larimer supported the cover up by trying repeatedly to prevent Dr. Cordero from obtaining the transcript and by denying also *every single document* that he requested, thus protecting from exposure the DeLanos as well as the bankruptcy fraud scheme and the schemers

33. Judge Larimer supported the charade of the meeting of creditors on March 8, 2004, and February 1, 2005, by protecting Trustees Schmitt and Reiber from having to produce any tapes or transcripts of them. To that end, he dispatched Dr. Cordero's requests that he order their production (Add:885¶15, 907, 980§§a & b), if only "for the proper determination of this appeal", let alone "appellant's right of appeal" (Add:951 1001§III), with a lazy and conclusory "These motions are wholly without merit and they are denied in their entirety" (Add:1022).

34. What is more, Judge Larimer repeatedly maneuvered to deprive Dr. Cordero of the transcript of the evidentiary hearing on March 1, 2005, where his colleague, Judge Ninfo, disallowed his claim in *DeLano*. This he did by issuing orders with disregard for the rules so as to schedule Dr. Cordero to file his appellate brief by a date by which he, Judge Larimer, knew the transcript would not be ready for Dr. Cordero to use it in writing his brief or make it part of the record.

35. Thus, Bankruptcy Clerk Paul Warren received Dr. Cordero's Designation of Items in the Record on April 21, 2005 (Add:690) and on that same day transmitted an incomplete record to the District Court in violation of FRBkrP 8007. (Add:686-689) In turn, Judge Larimer ordered the next day, April 22, that "Appellant shall file and serve its brief within 20 days after entry of this order on

[2] See in the CD attached hereto Dr. Cordero's Comments of March 18, 2005, against the reappointment to a new term of office of Judge Ninfo as well as his Supplements of August 2 and of September 5, 2005, submitted to the Court of Appeals and to each member of the Judicial Council of the Second Circuit.

the docket". (Add:692) Yet, the copy of Dr. Cordero's letter of April 18 to Reporter Dianetti accompanying the Designation (Add:681) gave notice to the Judge that the Reporter had barely received the original and that no "satisfactory arrangements" with her for the transcript's preparation and payment, as required under FRBkrP 8006, could have been made. There was not even a date in sight for the transcript's completion, let alone the record's. (Add:1007§V)

36. Judge Larimer issued that April 22 scheduling order as well as those of May 3 and 17 (Add:831, 839; cf. 695, 836), although he had no jurisdiction to issue any orders in the case because the record was incomplete under FRBkrP 8006 and 8007(b), consisting only of the Notice of Appeal and the Designation of Items, so that the transfer of the record from Judge Ninfo's court to him had been unlawful. By disregarding such clear contravention of the Rules, Judge Larimer showed contempt for due process of law and his intent to deprive Dr. Cordero of the transcript.

37. When due to Dr. Cordero's objections, those unlawful orders failed to prevent his eventual receipt of the transcript, Bankruptcy Court Reporter Mary Dianetti entered the scene. She refused to agree to certify that her transcript of her own stenographic recording of the evidentiary hearing would be complete, accurate, and free from tampering influence. (Add:867, 869) Dr. Cordero complained that her refusal rendered its reliability suspect and moved on July 18 for her referral for investigation to the Judicial Conference under 28 U.S.C. §753. (Add:911)

38. Faced with that objective basis for suspicion, a judge committed to preserving the substance as well as the appearance of the integrity of judicial process would have taken the initiative to replace the Reporter and investigate her refusal. Instead, Judge Larimer disregarded Dr. Cordero's factual and legal analysis and issued another lazy "The motion is in all respects denied", stating that if Dr. Cordero wanted the transcript, he had to request it from Reporter Dianetti (Add:991). He thus revealed his intention to determine the appeal based on a transcript that was suspect before being prepared. By contrast, he refused to request the DeLanos and the trustees to produce

documents that they have unjustifiably withheld and that could contribute to establishing the facts, thereby furnishing a just basis for judicial resolution of a controversy. (Add:951, 1022)

39. In his motion of September 20 for reconsideration (Add:993) of that denial, Dr. Cordero pointed out how suspicious it was that although the Reporter could lose her job if referred to the Conference for investigation and replacement, she was so sure that Judge Larimer would not refer her that she did not bother to file even a pink *stick-it* note to object to the initial motion of July 18 (Add:1001§§III & V). The suspicion was only graver because the risk of losing her career as a reporter was particularly heightened since this was the second time that she and Judge Larimer had tried to prevent Dr. Cordero from obtaining a transcript, which they first did in *Pfuntner* in January-March 2003. (Add:922§III, 1011§A) Nevertheless, disregarding once more and without any discussion Dr. Cordero's point of pattern evidence and legal arguments, Judge Larimer simply forced Dr. Cordero in his decision of October 14 to request the transcript from the Reporter and pay her for it lest his appeal be dismissed. (Add:1019, cf. 1025, 1027) Yet, Dr. Cordero's suspicion had been aggravated by the fact that Reporter Dianetti did not object to the motion for reconsideration either! How did the Reporter become so sure that Judge Larimer would not grant either of Dr. Cordero's motions due to her failure to answer any of them? If she did not care, why did the Judge protect her instead of granting either motion by default?

40. Exactly these facts and questions apply, mutatis mutandis, to Trustee Reiber. He too felt no need to object to Dr. Cordero's motions of July 13, August 23, and September 20 requesting his removal as trustee for the DeLanos for failure to investigate them and obtain documents. (Add:881, 953§I, 1017§e) Did he learn from Judge Larimer that the motions would not be granted by both violating the prohibition on "ex parte meetings", FRBkrP 9003(b), "or other communications concerning a pending…proceeding", Canon 3A(4) of the Code of Judicial Conduct?

41. Moreover, none of the other parties filed an answer to the September 20 motion although they

had it for over three weeks before the October 14 and 17 orders were issued. (Add:1019, 1021) Does their conduct constitute further evidence of non-coincidental, intentional, and coordinated acts in support of a bankruptcy fraud scheme? Would they have shown such indifference had this case been before a judge that they did not know at the U.S. District Court, NDNY, in Albany?

42. In neither of his orders did Judge Larimer discuss Dr. Cordero's factual or legal contentions. Instead, he lazily resorted to the catch-all phrase "denied in all respects" to dispatch five motions on the conclusory allegation, unsupported by even the semblance of legal argument, that they "are without any merit". These are not orders worthy of a lawyer, let alone a federal judge, but rather fiats that come under the condemnation of the Supreme Court in *Greenholtz v. Inmates of the Nebraska Penal & Correctional Complex*, 442 U.S. 1, 40 (1979), that "an inability to provide any reasons suggests that the decision is, in fact, arbitrary".

43. The arbitrariness of Judge Larimer's decisions is also revealed in that the September 20 motion for reconsideration was returnable on November 18 because on its very first page it "requests that the parties file and serve any answer by October 17 so that [Dr. Cordero] may have time to file and serve a reply as appropriate". (Add:993) Dr. Cordero was not only entitled but also required to make such statement under District Local Rule 7.1 "Service and Filing of Papers". Yet, as prematurely as October 14 the Judge issued his order "denying [it] in all respects". (Add:1019) So he decided over a month too early a motion that was not officially before him. Of course, he failed to explain his rush to deny the motion to reconsider and through it the original motion concerning Reporter Dianetti of July 18 (Add:911), which means that for months he had disregarded it.

44. By rushing to a decision, Judge Larimer deprived the other parties of the opportunity to file their answers. He deprived Dr. Cordero of the opportunity both to know those answers and reply thereto. More significantly, he deprived himself of the opportunity to receive such answers and reply. Thereby he showed that instead of approaching the motion with an open mind, as judges

are required to do, he had set his mind on a prejudged course of action and was not interested in informing himself or his decision with the parties' statements of facts, arguments, and authority. He showed prejudice and bias. (cf. 22/Table 3:Comment on J. Ninfo's order by knee-jerk reaction)

45. Dr. Cordero complied with Judge Larimer's order by requesting the transcript and paying for it. (Add:1031) However, the District Court failed to comply with its duty, for whereas Reporter Dianetti filed her transcript on November 4 with the Bankruptcy Court, which in turn transmitted it "forthwith" that same day from the first floor of the small, 6-story federal building to the District Court upstairs, the latter failed to file it as required under FRBkrP 8007(b). This non-compliance with the Rule caused Dr. Cordero to spend his time, effort, and money to research and write yet another motion on November 15 to move the District Court to comply with its duty to docket the transcript, enter the appeal, and schedule his brief. (Add:1081)

46. When the transcript was finally filed, it was only in the form of "Paper maintained in Clerk's office" (Post Addendum, page 1183, entry23=Pst:1183/entry 23). Yet, Reporter Dianetti submitted also a digital version as a PDF file and the Bankruptcy Court stated in the *DeLano* docket "Transmittal to U.S. District Court of Transcript…on CD-Rom".(D:508e/entry 145) So it could have been effortlessly uploaded to make it available to the public through PACER. Hence Judge Larimer failed to follow through on his own order that "The copy will be of such quality and in a format for the Court to scan it into the CM/ECF system" (Add:992¶3). Is the failure to do so a recognition of the transcript's substandard quality (¶52 below) or of its incriminating content?

47. In this context, note the Second Circuit Local Rule 32(a)(1) requiring the submission also of a copy in digital format as a PDF file of a brief and "any supplemental material", which even pro se litigants are encouraged to apply; and CA2 Local Rule 25 providing for the scanning of any paper document filed with the Court; both of which apply without page count limitation. (Pst:1171) In line with them, Dr. Cordero submitted his appellate brief, his Designated Items, its Addendum, and

the transcript, both in paper and as digital, PDF files on a CD-ROM, like the one attached hereto.

48. But that CD was returned to him (Pst:1213). Yet, "The Court clearly established, by General Order dated October 1, 2003, electronic filing procedures applicable to all civil and criminal cases", including "in PDF format…on CD-ROMs" (Pst:1209-10), making them mandatory for all attorneys admitted to WDNY (Pst:1191), and doing so without excluding digital filings on CD-ROMs by non-practicing attorneys, such as Dr. Cordero. What is more, Judge Larimer has formally indicated by elimination that he prefers to receive such filings in digital format rather than paper. (Pst:1211) Disregarding such official and personal choices, Judge Larimer refused to file electronically the Addendum (Pst:1214). While the brief was so filed, he did not even mention in his order of January 4, 2006, Dr. Cordero's PDF files. Instead, he pretended that only the paper version of only the Addendum was available and that it "exceeds 1,300 pages [and] scanning this lengthy document into the system would be very time consuming and is unnecessary". (id.) However, the Addendum consists of pages xv-xxvii, and 509-1155, and it has page numbers reserved, i.e. 657-680, 697-710, 753-770, 846-850, etc, so that its actual page count is less than 590. How disingenuous of Judge Larimer to disregard and misrepresent the facts! (cf. Add:839, 925¶¶37-38)

49. In that order, he quoted the Court's Administrative Procedure Guide for electronic filing §2(o)(i) (Pst:1203) providing that "[t]he court…may…authorize conventional filing of other documents otherwise subject to these procedures" (Pst:1215), which is totally inapplicable since Dr. Cordero never requested "conventional filing" so that the Judge could not "authorize" it; what "Dr. Cordero …orally requested" was that his PDF files on the CD "be filed electronically" (Pst:1214) Then Judge Larimer added that "pursuant to section 2(o)(i)(8)(c), "[a]ll other documents in the case, including briefs, will be filed and served electronically unless the court otherwise orders"…but this would be a quotation for applying to Dr. Cordero's files the Court's order making electronic filing the rule, were it not dealing with "(8) Social Security Cases"! (Pst:1205) While Judge Larimer could not

care less to find out what his own Court's Guide provides, he knows that he must at all cost, even disingenuously, keep the transcript from Dr. Cordero and prevent electronic public access to it, the Designated Items, and the Addendum. Should you and the Judicial Council not be curious to review them on the attached CD and find out why the Judge so fears that those files support Dr. Cordero's contentions that expose a bankruptcy fraud scheme and the schemers?

50. To answer, consider that after filing the transcript, the Judge rescheduled on November 21 the filing of Dr. Cordero's brief, stating that "It now appears that the record on appeal is complete, and no further action pursuant to Fed.R.Bankr.P. 8007 is required" (Add:1093). Thereby he unwittingly admitted both that the record was incomplete when he issued his order of April 22 (Add:692)− *7 months earlier!* at a time when there was not even an arrangement for Reporter Dianetti to begin preparing her transcript, let alone file it (Add:681, cf. 686-696, 831-845)− requiring Dr. Cordero to file his brief by May 12, and consequently, that he had violated FRBkrP 8006 and 8007.

51. Judge Larimer showed contempt for the law when he violated those Rules and allowed others to violate them too. Hence, it is reasonable to infer from his refusal to refer Reporter Dianetti to the Judicial Conference (¶37 above) that he was protecting himself and them from revealing such contempt. Nevertheless, the Judicial Council can ascertain his contemptuous attitude by reviewing the quality of work that he accepts or approves from them or produces himself. (22/Table 3 below)

52. Reporter Dianetti's transcript (in attached CD) illustrates this attitude. In it everybody appears speaking Pidgin English, babbling in broken sentences, uttering barbarisms, and sputtering so many solecistic fragments in each line that to recompose them into the whole of a meaningful statement is toil. So the participants at the evidentiary hearing, though professionals, come across in it as a bunch of speech impaired illiterates. Do you speak as they do? Those defects are compounded by the misalignment of *every* page of her PDF version and the ensuing discrepancy between the page numbers of that and the paper version. Her transcript cannot represent the stan-

dard of competence under 28 U.S.C. §753 to which the Conference or the Council holds reporters.

53. Thus the Judicial Council too can draw a significant inference from the work of Judges Larimer and Ninfo and the work that they, as chief judges who set the example of attitude and performance in their respective courts, accept from others: They manifest an anything-goes mentality. It is as tolerant of others' substandard performance as it is self-indulgent in their own lazy, sloppy orders. The little pride that they take in their own work reflects itself in their little respect for the rights of others; hence their contempt for due process, which allows them to use transcripts that are an objectively inferior reproduction of court proceedings, such as those of Reporter Dianetti, as the record on which they determine…your rights, your property claims, and maybe your liberty as a litigant. Do you like it? (Add:626¶86) That mentality has no qualms about either abusing the local rule-issuing power so as to protect them preemptively with Local Rules 5.1(h) and 83.5 from RICO claims or supporting a bankruptcy fraud scheme and the schemers.

## III. Conclusion and Relief Requested

54. The brewing influence-peddling scandal in Washington centered on Lobbyist Jack Abramoff shows that officers even at the top of the Legislative and Executive Branches are venal. So why should your peers in the Judiciary be deemed incorruptible? (Add:621§1) The fact is that over $670,000 is unaccounted for in just the one case of the DeLanos, and Trustee Reiber has now more than 3,909 cases and Chapter 7 Trustee Kenneth Gordon had 3,383 as of June 26, 2004, out which 3,382 were before Judge Ninfo (Add:592§A), from whom they can land on appeal before Judge Larimer. Hence, through Local Rules 5.1(h) and 83.5, the District and the Bankruptcy Court cause injury in fact by depriving litigants in general, and Dr. Cordero in particular, of access to RICO to protect their rights, thus forcing them to engage in costly, protracted, and exhausting litigation conducted abusively with the purpose of preventing the exposure of a bankruptcy fraud

scheme and the schemers. Will you protect the legally abused or join abusive peers?

55. Therefore, Dr. Cordero respectfully requests that the Judicial Council of the Second Circuit:

a) abrogate Local Rules 5.1(h) and 83.5, and declare RICO claims to be pled like any other;

b) investigate the District and the Bankruptcy Court for supporting a bankruptcy fraud scheme and the schemers, and stay the reappointment of Judge Ninfo until the investigation is done;

c) refer Reporter Dianetti to the Judicial Conference under 28 U.S.C. §753 for investigation of her refusal to agree that her transcript would be complete, accurate, and free from tampering influence, and of her qualification as a reporter in light of the substandard quality of her transcript;

d) refer this Statement together with the evidentiary documents on the CD to U.S. Attorney General Alberto Gonzales under 18 U.S.C. §3057(a), with the recommendation that this case be investigated by U.S. attorneys and FBI agents, such as those from the Department of Justice and FBI offices in Washington, D.C., or Chicago, who are unfamiliar with the case and unacquainted with any of the court officers, trustees, or parties directly or indirectly related to it or that may be investigated, and that no staff from such offices in either Rochester or Buffalo participate in any way in such investigation;

e) inform Dr. Cordero of the action taken.

Dated: January 7, 2006

Dr. Richard Cordero

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

Table 1: The DeLanos' mortgages and their unaccounted-for proceeds

| **Mortgages referred to in the incomplete documents produced by the DeLanos to Trustee Reiber** | **Exhibit: page #** | **Amounts of the mortgages** |
|---|---|---|
| 1) took out a mortgage for $26,000 in 1975; | D:342 | $26,000 |
| 2) another for $7,467 in 1977; | D:343 | 7,467 |
| 3) still another for $59,000 in 1988; as well as | D:346 | 59,000 |
| 4) an overdraft from ONONDAGA Bank for $59,000 and | D:176 | 59,000 |
| 5) owed $59,000 to M&T in 1988; | D:176 | 59,000 |
| 6) another mortgage for $29,800 in 1990; | D:348 | 29,800 |
| 7) even another one for $46,920 in 1993; and | D:349 | 46,920 |
| 8) yet another for $95,000 in 1999 | D:350-54 | 95,000 |
| To buy a home appraised on 11/23/03 at $98,500 (D:27/Sch:A) | Total | $382,187 |

Table 2: Officers that have disregarded their statutory duty to investigate the DeLano Debtors

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

Table 3

| Contempt for the law and litigants' rights shown in the dismal quality of the work produced by Judges Larimer and Ninfo and accepted by them from lawyers and clerks | | | |
|---|---|---|---|
| | **Officer of the court & type of work** | **References to work produced or accepted** | **Comment** |
| 1. | Judge Larimer and his orders | Add:692, 831, 839, 991, 1019, 1021, 1092, 1155<br>Pst:1214 | He rarely cites and never analyzes the law or the rules, and never discusses the motions on which he rules, which he dismisses so frequently with a lazy "has no merits and is denied in all respect" , which points to his not even reading them (Add:609§B, 1084§II); when he ventures beyond an offhand dismissal, his orders are sloppy because of grave mistakes of law and fact. |
| 2. | Judge Ninfo and his orders | D:3; 220, 272, 327, 332;<br>Add:719, 725, 729, 731, 741, 749 | His orders are equally devoid of legal reasoning and damned by any botched attempt at citing authority (Br:37§i) so that they are conclusory fiats; or<br>worse yet, knee-jerk reactions kicked out before receipt of any answer from the other parties, as shown by the chain of events in Add:1038→1065→1066→1094→1095→1125→ →1126. (cf. ¶44 above) |
| 3. | *Űber*-experienced Trustee Reiber (D:431§C; Add:891/Table) | Add:937-939 | He submitted shockingly unprofessional and perfunctory scraps of papers to confirm the DeLanos' debt repayment plan, which Judge Ninfo approved as "the Trustee's Report" (Add:941/2nd ¶; cf. 1041§I, 1094), as did Judge Larimer (Add:953§I, 980§d, 1022/last¶; cf. 1055§B). |
| 4. | Christopher Werner, Esq., the DeLanos' attorney in the bankruptcy case *DeLano*<br>Michael Beyma, Esq., Mr. DeLano's attorney in *Pfuntner* and partner in Underberg & Kessler, the law firm of which Judge Ninfo was a partner before becoming a judge | Br:25§c;<br>D:118, 205, 211 & 214-216 271, 314, 325;<br>Add:936, 988, 1069 | He writes back-of-napkin like statements with no discussion of the law, the facts, or the opposing party's arguments, so imitative of the Judges' own orders; hence Judge Ninfo found it unobjectionable that:<br>a) ) Att. Werner, who, according to PACER, at the time had appeared before Judge Ninfo in 525 cases, appeared at the evidentiary hearing on March 1, 2005, of his motion to disallow Dr. Cordero's claim without having read the claim or brought a copy of it (Br:32§e; Tr:54/6−55/5, 64/10−66/18, 124/4-20, 137/8-21, 143/17-145/13); and<br>b) Attorneys Werner and Beyma suborned perjury by signaling and mouthing answers to Mr. DeLano while on the stand during that evidentiary hearing (Br:33§f). |

| | | | |
|---|---|---|---|
| 5. | Clerks of court | ¶¶35 & 45 above;<br>D:106, 232§§I & II, 397§1, 416§F, 476, 495;<br>Add:832 | Their disregard for the rules that they are supposed to apply shows participation in a pattern of non-coincidental, intentional, and coordinated wrongdoing, for if their actions were simply 'mistakes' due to incompetence, then it would be reasonable to expect that half of such 'mistakes' would redound to Dr. Cordero's disadvantage and half to his advantage, rather than all of them consistently have a detriment impact on Dr. Cordero's procedural and substantive rights. |

# Table of Exhibits

of the statement of January 7, 2006
to the Judicial Council of the Second Circuit
on why Rules 5.1(h) and 83.5 of the Local Rules of Civil Procedure of the U.S. District Court, WDNY, should be abrogated because they are inconsistent with FRCP 8 and 83 and
are used by the District Court and the Bankruptcy Court, WBNY, to prevent the exposure of, and their support for, a bankruptcy fraud scheme and the schemers

by
**Dr. Richard Cordero**



♦Pst:=PostAddendum in the record on appeal in *Cordero v. DeLano*, no. 05cv6190L, WDNY. The exhibits listed here are in the Pst files contained in the D Add Pst Transcript folder on the accompanying CD.

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