

## Dr. Richard Cordero

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May 2, 2004

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Dear Mr. Damuro,

I hereby submit to the Bureau evidence of bankruptcy fraud and judicial misconduct. Evidence of the latter initially involved the Chief Judge of the Bankruptcy Court for the Western District of New York, the Hon. John C. Ninfo, II, and then implicated the Chief Judge of the District Court for that District, the Hon. David G. Larimer. I filed a complaint about them (1, *infra*) only to be shocked by evidence of misconduct on the part of the Chief Judge of the Court of Appeals for the Second Circuit, the Hon. John M. Walker, Jr., (10 and 15, *infra*), against whom I also lodged a complaint, which, like the initial one, has neither been dismissed nor investigated. The gravamen of the complaints is that these judges together with administrative officers have disregarded the law, rules, and facts so repeatedly and consistently as to give rise to a pattern of non-coincidental, intentional, and coordinated acts of wrongdoing.

Now evidence has emerged of circumstances that not only point to the underlying forces that may be driving such wrongdoing, but that also indicate the presence of the most powerful driver of government corruption: a lot of money! This is the result of the concentration of *thousands* of bankruptcy cases on each of a handful of appointed private trustees (20 and 23.XI, *infra*). They have every financial interest in rubberstamping as many bankruptcy petitions as possible, not only regardless of their merits for relief under the Bankruptcy Code, but also especially those with the least such merits. From each petition approved by the court, the trustees are paid at least a legal fee as a percentage of the debtors' payments to the creditors. Are judicial officers and U.S. trustees being paid not to stop this scheme or even to exercise their power to extend it?

There is money to spread, for this scheme is self-reinforcing. The more people learn that bankruptcy petitions can be rubberstamped by paying due attention to certain steps, the more they have every incentive to binge on their credit, for they know there is no repayment day, just a bankruptcy petition waiting to be filed with one or more fees (21.X and 29, *infra*). As the scheme develops, it also claims more victims: the creditors, whose interests are ignored by their representatives, the trustees. The latter are being protected, despite the evidence (11-12; 23.1-4, *infra*), by the local and regional U.S. trustees, just as Chief Judge Walker has taken no action on the complaint about Judge Ninfo in *nine* months! How did he become a member of the panel hearing my appeal (03-5023)?, which was, by contrast, dismissed. How big is this scheme?!

I respectfully ask that you **do not** refer this matter to your Buffalo office, let alone that in Rochester, located in the same federal building where the judges and U.S. trustee sit, and whose agent refused to investigate it out of fear for his career. To discuss his reaction and similar evidence from the Circuit Executive and Court of Appeals Clerks (26 and 28, *infra*), I request a meeting with you. If you won't do anything about his matter either, which is taking a tremendous toll on me, I will bring it to the media by May 19.

Sincerely,

*Dr. Richard Cordero*

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of the evidence submitted on May 2 and 6, 2004  
to the U.S. Attorney's Office and the FBI Bureau in New York City  
of a pattern of non-coincidental, intentional, and  
coordinated acts of wrongdoing by  
judicial officers and bankruptcy trustees in CA2 and WDNY  
supporting bankruptcy fraud

by

**Dr. Richard Cordero**

1. Dr. Richard Cordero's **Statement of facts of August 11, 2003**, in support of a **complaint** under 28 U.S.C. §351 submitted to the Court of Appeals for the Second Circuit **concerning** the Hon. John C. **Ninfo, II, U.S. Bankruptcy Judge** and other court officers at the U.S. Bankruptcy Court and the U.S. District Court for the Western District of New York .....1 [C:63]
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Analysis of Evidence  
of judicial wrongdoing and bankruptcy fraud  
submitted on May 2 and 6, 2004  
to the U.S. Attorney’s Office and the FBI Bureau in New York City  
by  
**Dr. Richard Cordero**

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**I. A Chapter 13 trustee with 3,909 *open* cases cannot possibly have the time or the inclination to check the factual accuracy or internal consistency of the content of each bankruptcy petition to ascertain its good faith**

1. Pacer is the federal courts’ electronic document retrieval service. The information that it provides sheds light on why trustees may be quite unwilling and unable to spend any time investigating the bankruptcy petitions submitted to them by debtors to establish the reliability of their figures and statements. When queried with the name George Reiber, Trustee, -the standing Chapter 13 trustee in the Western District of New York- it returns this message at <https://ecf.nywb.uscourts.gov/cgi-bin/login.pl>: “This person is a party in 13250 cases.” When queried again about open cases, Pacer comes back at [https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L\\_916\\_0-1](https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L_916_0-1) with 119 billable pages that end thus:

Table 1. Illustrative row of Pacer's presentation of  
Trustee George Reiber's 3,909 *open* cases in the Bankruptcy Court

<a href="#">2-04-21295-JCN</a>	bk	13	William J. Hastings and Carolyn M. Hastings	Ninfo Reiber	Filed: 04/01/2004	Office: Rochester Asset: Yes Fee: Paid County: 2-Monroe
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Total number of cases: 3909

Open cases only

**PACER Service Center**

- Trustee Reiber has 3,909 *open* cases at present! This is not just a huge abstract figure. Right there are the real cases, in flesh and blood, as it were, for Pacer personalizes each one of them with the debtors' names; and each has a throbbing heart: a hyperlink in the left cell that can call that case to step up to the screen for examination. What is more, they are in good health since Pacer indicates that, with the exception of fewer than 44, they are asset cases. This means that Trustee Reiber has taken care to "consider whether sufficient funds will be generated to make a meaningful distribution to creditors, prior to administering the case as **an asset case**" (emphasis added; §2-2.1. of the Trustee Manual). By the way, JCN after the case number in the left cell stands for John C. Ninfo, the judge before whom the case has been brought.
  - Trustee Reiber is the trustee for the DeLano case (section 10, *infra*). For him "meaningful distribution" under the DeLanos' debt repayment plan is 22 cents on the dollar with no interest accruing during the repayment period. No doubt, avoiding 78 cents on the dollar as well as interest is even more meaningful to the DeLanos. By the same token, that means that the Trustee has taken care of his fee, which is paid as a percentage of what the debtor pays (28 U.S.C. §586(e)(1)(B)).
  - Given that a trustee's fee compensation is computed as a percentage of a base, it is in his interest to increase the base by having debtors pay more so that his percentage fee may in turn be a proportionally higher amount. However, increasing the base would require ascertaining the veracity of the figures in the schedules of the debtors as well as investigating any indicia that they have squirreled away assets for a rainbow post-discharge life, such as a golden pot retirement. Such investigation, however, takes time, effort, and money. Worse yet from the perspective of the trustee's economic interest, an investigation can result in a debtor's debt
- C:1336 A Chapter 13 bkr. trustee with 3,909 *open* cases! and no time or inclination to ascertain their good faith

repayment plan not being confirmed and, thus, in no stream of percentage fees flowing to the trustee. (11 U.S.C. §§1326(a)(2) and (b)(2)). “Mmm...not good!”

5. The obvious alternative is “never investigate anything, not even patently suspicious cases. Just take in as many cases as you can and make up in the total of small easy fees from a huge number of cases what you could have made by taking your percentage fee of the assets that you sweated to recover.” Of necessity, such a scheme redounds to the creditors’ detriment since fewer assets are brought into the estate and distributed to them. When the trustee takes it easy, the creditors take a heavy loss, whether by receiving less on the dollar or by spending a lot of money, effort, and time investigating the debtor only to get what was owed them to begin with.
6. Have U.S. Trustees contributed to the development of such an income maximizing mentality and implementing scheme by failing to demand that trustees perform their duty “to investigate the financial affairs of the debtor” (11 U.S.C. §§1302(b)(1) and §704(4)) and to “furnish such information concerning the estate and the estate’s administration as is requested by a party in interest” (§704(7))?
7. This income maximizing scheme has a natural and perverse consequence: As it becomes known that trustees have no time but rather an economic disincentive to investigate debtors’ financial affairs, ever more debtors with ever less deserving cases for relief under the Bankruptcy Code go ahead and file their petitions. What is worse, as people with no debt problems yet catch on to how easy it is to get a petition rubberstamped, they have every incentive to live it up by binging on their credit as if there were no repayment day, for they know there is none, just a bankruptcy petition waiting to be filed with the required fee...or perhaps ‘fees’?

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

8. On January 27, 2004, a bankruptcy petition under Chapter 13 of the Bankruptcy Code (Title 11, U.S.C.) was filed in the Bankruptcy Court for the Western District of New York in Rochester by David and Mary Ann DeLano (case 04-20280; 28, *infra*). The figures in its schedules and the surrounding circumstances should have alerted the trustee and his attorney to the patently suspicious nature of the petition. Yet, Chapter 13 Trustee George Reiber (section 9, *supra*) and Attorney James Weidman (11-12, *supra*) were about to submit its repayment plan to the court

for approval when Dr. Richard Cordero, a creditor, objected in a five page analysis of the figures in the schedules. Even so, the Trustee and his attorney vouched for the petition's good faith. Let's list the salient figures and circumstances:

9. The DeLanos incurred scores of thousands of dollars in credit card debt,
10. at the average interest rate of 16% or the delinquent interest rate of over 23%,
11. carried it for over 10 years by making only the minimum payments,
12. have ended up owing \$98,092 to 18 credit card issuers listed in Schedule F,
13. owe also a mortgage of \$77,084,
14. have near the end of their work life an equity in their house of only \$21,415,
15. declared earnings in 2002 of \$91,655 and in 2003 of \$108,586,
16. yet claim that after a lifetime of work their tangible personal property is only \$9,945,
17. claim as exempt \$59,000 in a retirement account,
18. claim another \$96,111.07 as a 401-k exemption,
19. make a \$10,000 loan to their son and declare it uncollectible,
20. but offer to repay only 22 cents on the dollar without interest for just 3 years,
21. argue against having to provide a single credit card statement covering any length of time 'because the DeLanos do not maintain credit card statements dating back more than 10 years in their records and doubt that those statements are available from even the credit card companies', even though the DeLanos must still receive every month the **monthly** credit card statement from each of the issuers of the 18 credit cards and as recently as last January they must have consulted such statements to provide in Schedule F their account number with, and address of, each of those 18 issuers, and
22. pretend that it is irrelevant to their having gotten into financial trouble and filed a bankruptcy petition that Mr. DeLano is *a 15 year bank officer!*, or rather more precisely, a bank **loan** officer, whose daily work must include ascertaining the creditworthiness of loan applicants and their ability to repay over the loan's life, and who is still employed that capacity by a major bank, namely, Manufacturers and Traders Trust Bank. He had to know better!
23. Did Mr. DeLano put his knowledge and experience as a loan officer to good use in living it up with his family and closing his accounts down with 18 credit card issuers by filing for bankruptcy? How could Mr. DeLano, despite his "experience in banking", from which he should have learned his obligation to keep financial documents for a certain number of years,



pretend that he does not have them to back up his petition? Those are self-evident questions that have a direct bearing on the petition's good faith. Did Trustee Reiber and Attorney Weidman ever ask them? How did they ascertain the timeline of debt accumulation and its nature if they did not check those credit card statements before approving the petition and getting it ready for submission to the court?

24. Until the DeLanos provide financial documents supporting their petition, including credit card statements, let's assume *arguendo* that when Mr. DeLano lost his job at a financial institution and took a lower paying job at another in 1989, the combine income of his and his wife, a Xerox technician, was \$50,000. Last year, 15 years later, it was over \$108,000. Let's assume further that their average annual income was \$75,000. In 15 years they earned \$1,125,000...but they allege to end up with tangible property worth only \$9,945 and a home equity of merely \$21,415!, and this does not begin to take into account what they already owned before 1989, let alone all their credit card borrowing. Where did the money go? Or where is it now? Mr. DeLano is 62 and Mrs. DeLano is 59. What kind of retirement are they planning for?
25. Did Trustee Reiber and Attorney Weidman ever get the hint that the figures and circumstances of this petition just did not make sense or were they too busy with their other 3,908 cases and the in-take of new ones to ask any questions and request any supporting financial documents? How many of their other cases did they also accept under the motto "don't ask, don't check, cash in"? Do other debtors and officers with power to approve or disapprove petitions practice the enriching wisdom of that motto? How many creditors, including tax authorities, are being left holding bags of worthless IOUs?
26. For his part, Trustee Reiber is being allowed to hold on to the DeLanos' case to belatedly "investigate" it, which he is doing only because of Dr. Cordero's assertion of his right to be furnished with financial information about the DeLanos (para. 6, *supra*). Yet, not to replace the Trustee –as requested by Dr. Cordero- but rather to allow him to be the one to investigate the DeLanos now, disregards the Trustee's obvious conflict of interest: It is in Trustee Reiber's interest to conclude his "investigation" with the finding that the DeLanos filed their petition in good faith, lest he indict his own agent, Attorney Weidman, who approved it for submission to the court, thereby rendering himself liable as his principal and casting doubt on his own proper handling of his other thousands of cases.
27. Indeed, if an egregious case as the DeLano's passed muster with them, what about the others?

Such doubts could have devastating consequences for all involved. To begin with, they could trigger an examination of Trustee Reiber's other cases, which could lead to his and his agent-attorney's suspension and removal. Were those penalizing measures adopted, they would inevitably give rise to the question of what kind of supervision the Trustee and his attorney have been receiving from the assistant and the regional U.S. trustees. From there the next logical question would be what kind of oversight the bankruptcy and district courts have been exercising over petitions submitted to them, in particular, and the bankruptcy process, in general.

28. What were they all thinking!/? Whatever it was, from their perspective it is evident that the best self-protection is not to set in motion an investigative process that can escape their control and end up crushing them. This proves the old-axiom that a person, just as an institution, cannot investigate himself zealously, objectively, and reassuringly. A third independent party, unfamiliar with the case and unrelated to its players, must be entrusted with and carry out the investigation and then tender its uncompromising report to all those with an interest in the case.

**III. Another trustee with 3,092 cases was upon a performance-and-fitness-to-serve complaint referred by the court to the Assistant U.S. Trustee for a "thorough inquiry", which was limited to talking to the Trustee and a party and to uncritically writing down their comments in an opinion, which the Trustee for Region 2 would not investigate**

29. At the beginning of 2002, Dr. Richard Cordero, a New York City resident, was looking for his property in storage with Premier Van Lines, Inc., a moving and storage company located in Rochester, NY. He was given the round-around by its owner, David Palmer, and others who were doing business with Mr. Palmer. After the latter disappeared from court proceedings and stopped answering his phone, the others eventually disclosed to Dr. Cordero that Mr. Palmer had filed a voluntary bankruptcy petition under Chapter 11 on behalf of Premier and that the company was already in Chapter 7 liquidation. They referred Dr. Cordero to the Chapter 7 trustee in the case, Kenneth Gordon, Esq., for information on how to locate and retrieve his property. However, Trustee Gordon refused to provide such information, instead made false and defamatory statements about Dr. Cordero, and merely referred him back to the same people that had referred him to Trustee Gordon.
30. Dr. Cordero requested a review of Trustee Gordon's performance and fitness to serve as trustee in a complaint filed with Judge Ninfo, before whom Mr. Palmer's petition was pending. Judge

Ninfo did not investigate whether the Trustee had submitted to him false statement, as Dr. Cordero had pointed out, but simply referred the matter to Assistant U.S. Trustee Kathleen Dunivin Schmitt for a “thorough inquiry”. However, what she actually conducted was only a quick ‘contact’: a substandard communication exercise limited in its scope to talking to the trustee and a lawyer for a party and in its depth to uncritically accepting at face value what she was told. Her written supervisory opinion of October 22, 2002, was infirm with mistakes of fact and inadequate coverage of the issues raised.

31. Dr. Cordero appealed Trustee Schmitt’s opinion to her superior at the time, Carolyn S. Schwartz, U.S. Trustee for Region 2. He sent her a detailed critical analysis, dated November 25, 2002, of that opinion against the background of facts supported by documentary evidence. It must be among the files now in the hands of her successor, Region 2 Trustee Deirdre A. Martini. It is also available as entry no. 19 in docket no. 02-2230, Pfuntner v. Trustee Gordon et al. ([www.nywb.uscourts.gov](http://www.nywb.uscourts.gov)). But Trustee Schwartz would not investigate the matter.
32. Yet, there was more than enough justification to investigate Trustee Gordon, for he too has *thousands* of cases. The statistics on Pacer as of November 3, 2003, showed that since April 12, 2000, Trustee Gordon was the trustee in 3,092 cases!

Table 2. Number of Cases of Trustee Kenneth Gordon in the Bankruptcy Court compared with the number of cases of bankruptcy attorneys appearing there

<https://ecf.nywb.uscourts.gov/cgi-bin/login.pl>

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

33. Chapter 7 Trustee Gordon, just as Chapter 13 Trustee Reiber (section 0, supra), could not possibly have had the time or the inclination to spend more than the strictly indispensable time on any single case, let alone spend time on a person from whom he could earn no fee. Indeed,

in his Memorandum of Law of February 5, 2003, in Opposition to Cordero’s Motion to Extend Time to Appeal, Trustee Gordon unwittingly provided the motive for having handled the liquidation of Premier Van Lines negligently and recklessly: “As the Court is aware, the sum total of compensation to be paid to the Trustee in this case is \$60.00” (docket no. 02-2230, entry 55, pgs. 5-6). Trustee Gordon had no financial incentive to do his job...nor did he have a sense of duty! But why did he ever think that telling the court, that is, Judge Ninfo, how little he would earn from liquidating Premier would in the court’s eyes excuse his misconduct?

34. The reason is that Judge Ninfo does not apply the laws and rules of Congress, which together with the facts of the case he has consistently disregarded to the detriment of Dr. Cordero (1-5 and 11-12, supra). Nor does he cite the case law of the courts hierarchically above his. Rather, he applies the laws of close personal relationships, those developed by frequency of contact between interdependent people with different degrees of power. Therein the person with greater power is interested in his power not being challenged and those with less power are interested in being in good terms with him so as to receive benefits and/or avoid retaliation. Frequency of contact is only available to the local parties, such as Trustee Gordon, as oppose to Dr. Cordero, who lives in New York City and is appearing as a party for the first time ever and, as such, in all likelihood the last time too.
35. The importance for the locals, such as Trustee Gordon, to mind the law of relationships over the laws and rules of Congress or the facts of their cases becomes obvious upon realizing that in the Bankruptcy Court for the Western District of New York there are only three judges and the Chief Judge is none other than Judge Ninfo. Thus, the locals have a powerful incentive not to ‘rise in objections’, as it were, thereby antagonizing the key judge and the one before whom they appear all the time, even several times on a single day. Indeed, for the single morning of Wednesday, October 15, 2003, Judge Ninfo’s calendar included the entries in Table 3:

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

<b>NAME</b>	<b># of APPEARANCES</b>	<b>NAME</b>	<b># of APPEARANCES</b>
Kenneth Gordon	1	David MacKnight	3
Kathleen Schmitt	3	Raymond Stilwell	2

36. When locals must pay such respect to the judge, there develops among them a vassal-lord

relationship: The lord distributes among his vassals favorable and unfavorable rulings and decisions to maintain a certain balance among them, who pay homage by accepting what they are given without raising objections, let alone launching appeals. In turn, the lord protects them when non-locals come in asserting against the vassals rights under the laws of Congress. So have the lord and his vassals carved out of the land of Congress' law the Fiefdom of Rochester. Therein the law of close personal relationships rules.

37. The reality of this social dynamic is so indisputable, the reach of such relationships among local parties so pervasive, and their effect upon non-locals so pernicious, that a very long time ago Congress devised a means to combat them: jurisdiction based on diversity of citizenship. Its potent rationale was and still is that state courts tend to be partial toward state litigants and against out-of-state ones, thus skewing the process and denying justice to all its participants as well as impairing the public's trust in the system of justice. In the matter at hand, that dynamic has materialized in a federal court that favors the locals at the expense of the sole non-local who dared assert his rights against them under a foreign law, that is, the laws of Congress.
38. Hence, when Trustee Gordon 'made the Court aware that "the sum total of compensation to be paid to the Trustee in this case is \$60.00", he was calling upon the Lord to protect him. The Lord came through to protect his vassal. Although Trustee Gordon himself in that very same February 5 Memorandum of Law of his (para. 33, supra) stated on page 2 that "On January 29, 2003, Cordero filed the instant motion to extend time for the filing of his Notice of Appeal", thereby admitting its timeliness, Judge Ninfo found that "the motion to extend was not filed with the Bankruptcy Court Clerk' until 1/30/03" (docket no. 02-2230, entry 57), whereby he made the motion untimely and therefore denied it! Dr. Cordero's protest was to no avail.
39. Are the local assistant U.S. trustee with her supervisory power and Trustee Gordon with his 3,092 cases and the money in a vassal-lord relationship to each other? Does the Region 2 Trustee know that a non-local has no chance whatsoever of turning the trustee into the subject of a "thorough inquiry" by the local U.S. trustee? Consequently, should she have investigated Trustee Gordon? What homage do local and regional U.S. trustees receive and what fief do they grant?

May 2, 2004

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May 6, 2004

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Dear Mr. Kelley,

I hereby submit to your U.S. Attorney's Office evidence of bankruptcy fraud and judicial misconduct. Evidence of the latter initially involved the Chief Judge of the Bankruptcy Court for the Western District of New York, the Hon. John C. Ninfo, II, and then implicated the Chief Judge of the District Court for that District, the Hon. David G. Larimer. I filed a complaint about them (1, *infra*) only to be shocked by evidence of misconduct on the part of the Chief Judge of the Court of Appeals for the Second Circuit, the Hon. John M. Walker, Jr., (10 and 15, *infra*), against whom I also lodged a complaint, which, like the initial one, has neither been dismissed nor investigated. The gravamen of the complaints is that these judges together with administrative officers have disregarded the law, rules, and facts so repeatedly and consistently as to give rise to a pattern of non-coincidental, intentional, and coordinated acts of wrongdoing.

Now evidence has emerged of circumstances that not only point to the underlying forces that may be driving such wrongdoing, but that also indicate the presence of the most powerful driver of government corruption: a lot of money! This is the result of the concentration of *thousands* of bankruptcy cases on each of a handful of appointed private trustees (20 and 23.XI, *infra*). They have every financial interest in rubberstamping as many bankruptcy petitions as possible, not only regardless of their merits for relief under the Bankruptcy Code, but also especially those with the least merits. From each petition approved by the court, the trustees are paid a legal fee as a percentage of the debtors' payments to the creditors. Who and what else is being paid?

There is money to spread, for this is a self-reinforcing scheme: The more people learn that bankruptcy petitions can be rubberstamped, the more they have every incentive to binge on their credit, for they know there is no repayment day, just a bankruptcy petition waiting to be filed with one or more fees (21.X and 29, *infra*). As the scheme develops, it also claims more victims: the creditors, whose interests are ignored by their representatives, the trustees. The latter are not being investigated by the U.S. trustees or the Rochester courts despite the evidence of a lot amiss (11-12; 23:26-28, *infra*), just as Chief Judge Walker has taken no action on the complaint about Judge Ninfo in *nine* months! How did he become a member of the panel hearing my appeal (03-5023)?, which, by contrast, was dismissed. How big is this scheme?!

I respectfully ask that you **do not** refer this matter to your Buffalo office, let alone that in Rochester, located in the same federal building where the judges and U.S. trustee sit. This is to avoid the same reaction as that of the FBI agent who refused to investigate it out of fear for his career, just as the Clerk of Court and the Circuit Executive, who work in the same building as Chief Judge Walker, will not even answer my letters (27 and 28, *infra*). If you too won't do anything about his matter, which is taking a tremendous toll on me, I will bring it to the media by May 24. Thus, I request a meeting with you.

Sincerely,

*Dr. Richard Cordero*

## Dr. Richard Cordero

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

59 Crescent Street  
Brooklyn, NY 11208-1515  
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May 6, 2004

Ms. Roslynn Mauskopf  
U.S. Attorney for the Eastern District of NY  
147 Pierrepont Street  
Brooklyn, NY 11201

[(718)254-7000; fax (718)254-6479]

Dear Ms. Mauskopf,

I hereby submit to your U.S. Attorney's Office evidence of bankruptcy fraud and judicial misconduct. Evidence of the latter initially involved the Chief Judge of the Bankruptcy Court for the Western District of New York, the Hon. John C. Ninfo, II, and then implicated the Chief Judge of the District Court for that District, the Hon. David G. Larimer. I filed a complaint about them (1, *infra*) only to be shocked by evidence of misconduct on the part of the Chief Judge of the Court of Appeals for the Second Circuit, the Hon. John M. Walker, Jr., (10 and 15, *infra*), against whom I also lodged a complaint, which, like the initial one, has neither been dismissed nor investigated. The gravamen of the complaints is that these judges together with administrative officers have disregarded the law, rules, and facts so repeatedly and consistently as to give rise to a pattern of non-coincidental, intentional, and coordinated acts of wrongdoing.

Now evidence has emerged of circumstances that not only point to the underlying forces that may be driving such wrongdoing, but that also indicate the presence of the most powerful driver of government corruption: a lot of money! This is the result of the concentration of *thousands* of bankruptcy cases on each of a handful of appointed private trustees (20 and 23.XI, *infra*). They have every financial interest in rubberstamping as many bankruptcy petitions as possible, not only regardless of their merits for relief under the Bankruptcy Code, but also especially those with the least merits. From each petition approved by the court, the trustees are paid a legal fee as a percentage of the debtors' payments to the creditors. Who and what else is being paid?

There is money to spread, for this is a self-reinforcing scheme: The more people learn that bankruptcy petitions can be rubberstamped, the more they have every incentive to binge on their credit, for they know there is no repayment day, just a bankruptcy petition waiting to be filed with one or more fees (21.X and 29, *infra*). As the scheme develops, it also claims more victims: the creditors, whose interests are ignored by their representatives, the trustees. The latter are not being investigated by the U.S. trustees or the Rochester courts despite the evidence of a lot amiss (11-12; 23:26-28, *infra*), just as Chief Judge Walker has taken no action on the complaint about Judge Ninfo in *nine* months! How did he become a member of the panel hearing my appeal (03-5023)?, which, by contrast, was dismissed. How big is this scheme?!

I respectfully ask that you **do not** refer this matter to your Buffalo office, let alone that in Rochester, located in the same federal building where the judges and U.S. trustee sit. This is to avoid the same reaction as that of the FBI agent who refused to investigate it out of fear for his career, just as the Clerk of Court and the Circuit Executive, who work in the same building as Chief Judge Walker, will not even answer my letters (27 and 28, *infra*). If you too won't do anything about his matter, which is taking a tremendous toll on me, I will bring it to the media by May 24. Thus, I request a meeting with you.

Sincerely,

*Dr. Richard Cordero*





U.S. Department of Justice  
United States Attorney  
Eastern District of New York

One Pierrepont Plaza, 14th Floor  
147 Pierrepont Street  
Brooklyn, New York 11201-2776

May 12, 2004

**BY FIRST CLASS MAIL**

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

Dear Mr. Cordero:

Your letter to United States Attorney Roslynn R. Mauskopf dated May 6, 2004, has been referred to the undersigned for response. As you are aware, the allegations set forth in your letter are currently the subject of two proceedings pending before the Judicial Council of the Second Judicial Circuit of the United States, to wit, the matters docketed as Judicial Conduct Complaint Nos. 03-8547 and 04-8510. Because the allegations discussed in your letter are the subject of these pending proceedings, and because United States Attorney's Offices have no involvement in complaints alleging judicial misconduct and no authority to take any action with regard to such complaints, we are unable to discuss your allegations with you or to take any other action in regards to them. If you are not satisfied with the Judicial Council's ultimate resolution of your complaints, you may exercise the rights afforded to you in 28 U.S.C. §§ 351 *et seq.* To the extent that your letter purports to raise allegations of impropriety on the part of private Trustees appointed by the Bankruptcy Court in the Western District of New York, you should direct those allegations to the office of the Honorable Deirdre Martini, United States Trustee for Region 2, 33 Whitehall Street, 21<sup>st</sup> Floor, New York, NY 10004, or to the Assistant United States Trustee for the Western District.

Sincerely yours,

ROSLYNN R. MAUSKOPF  
United States Attorney  
Eastern District of New York

By:

F. FRANKLIN AMANAT  
Assistant United States Attorney  
Deputy Chief, Civil Division  
(718) 254-6024

# Dr. Richard Cordero

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May 24, 2004

Mr. Pasquale J. Damuro  
Assistant Director in Charge  
FBI New York  
26 Federal Plaza, 23<sup>rd</sup>. Floor  
New York, NY 10278-0004

[212-384-1000; emergency 212-384-5000]

Dear Mr. Damuro,

In my letter to you of May 2, I brought to your attention evidence of bankruptcy fraud and judicial misconduct. I pointed out that judges together with administrative officers in the U.S. courts for the Western District of New York in Rochester and the Court of Appeals for the Second Circuit have disregarded the law, rules, and facts so repeatedly and consistently as to give rise to a pattern of non-coincidental, intentional, and coordinated acts of wrongdoing. I further indicated how the concentration of thousands of open cases in the hands of a single trustee can generate the money that incites to wrongdoing through the acceptance for a fee of meritless bankruptcy petitions. One such petition was filed by David and Mary Ann DeLano last January 27 in the Bankruptcy Court in Rochester, dkt. no. 04-20280. It deserves your attention because it is even facially so meritless for bankruptcy relief –Mr. DeLano is even a 15-year bank loan officer-. As a test case, its investigation can yield insight into how the bankruptcy scheme is being run. The coordinated effort by the trustees to prevent me from investigating it is now revealed by more evidence and justifies my renewed request that the FBI investigate it.

The DeLanos' petition was approved by Trustee George Reiber for submission to, and confirmation by, the court on March 8. Although it names me as a creditor and I traveled from NYC to Rochester to attend the meeting of creditors on that date, James Weidman, the Trustee's attorney, repeatedly asked *me* how much I knew about the DeLanos having committed fraud and when I did not reveal anything, he prevented me from examining the DeLanos; the Trustee ratified his action. I requested U.S. Assistant Trustee Kathleen Dunivin Schmitt and U.S. Trustee for Region 2 Deirdre Martini to remove them from the case and appoint an independent trustee to investigate how such a questionable petition (8, *infra*) was readied for confirmation and why I was not allowed to examine the Debtors. While Assistant Schmitt initially agreed, Trustee Martini refused to do so and effectively took the case from Trustee Schmitt (16, 55, *infra*).

Since then Trustee Martini has engaged in deception (1-5, *infra*) to avoid sending me information that could allow me to investigate this case on my own. Trustee Reiber has done likewise and in addition pretended to be investigating the case, but only after I requested that he describe his investigation did he for the first time, on April 20, ask the DeLanos for financial documents (44-54, *infra*). To date not even he, let alone me, has received any (61, *infra*). Why did Trustee Martini keep him on the case without investigating how many of his 3,909 open cases (20 in May 2 file) he approved despite not having even asked for supporting documents?

The accompanying materials supplement those already submitted and buttress my request that the FBI investigate this whole matter. I will keep investigating at my expense, but it will be unfortunate if the FBI waited until the explosion of corruption news in the media before realizing that it had leads, but failed to follow them.

Sincerely,

*Dr. Richard Cordero*

# Table of Exhibits

with updating evidence submitted on May 24, 2004  
to FBI Assistant Director in Charge Pasquale J. Damuro  
to request an FBI investigation  
of a coordinated effort by U.S. and private bankruptcy trustees  
to prevent an investigation by a creditor of the bankruptcy petition  
in *In re DeLano*, no. 04-20280, WBNY  
that can expose a bankruptcy fraud scheme and a cover up  
by  
**Dr. Richard Cordero**

## A. Documents presented for the first time:

1. Dr. Richard **Cordero's** letter of **May 10**, 2004, to U.S. Trustee for Region 2 Deirdre A. **Martini** stating that the letter that he received from her on May 6 but antedated as of April 14, was not accompanied by any list that she mentioned in her letter as being enclosed .....1 [D<sup>\*</sup>:141]
2. Stick-it of May 19, 2004, on **News release of April 16, 2003**, titled U.S. Credit Reporting Companies Launch New Identity Fraud Initiative, **sent by Trustee Martini** to Dr. Cordero instead of the requested list of credit card companies with their addresses, phone numbers, and names of contact persons .....2 [D:154]
3. Dr. **Cordero's** letter of **May 23**, 2004, to Trustee **Martini** requesting that she send him the list of credit card companies that she pretended to have sent him and that she refer the case to the FBI and relinquish control of it .....5 [D:158]

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\* **D**:=Designated items, i.e. documents, in the record for the appeal from Bankruptcy Judge Ninfo's decision in *In re DeLano*, 04-20280, WBNY, to the District Court in *Cordero v DeLano*, 05cv6190L, WDNY. These items are contained on the accompanying CD in the D folder.

The latter also holds **Add**:=Addendum to the D: files; **Pst**:= PostAddendum; and **Tr**:=transcript of the evidentiary hearing in *DeLano* held before Judge Ninfo on March 1, 2005.

Mr. DeLano is a 3rd-party defendant whom Dr. Cordero brought into *Pfuntner v. Trustee Gordon et al.*, 02-2230, WBNY, Judge Ninfo presiding. Later on, he filed for bankruptcy and included Dr. Cordero among his creditors because of the latter's claim against him arising from *Pfuntner*.

**B. Documents provided with Dr. Cordero’s letter of May 2, 2004, to Director Damuro, presented in chronological order with inclusion of the above ones, each keeping its original page number:**

4. Documents that triggered the case:

- a) Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, Deadlines in *In re DeLano*, no. 04-20280, WBNY .....29 [D:23]
- b) Chapter 13 Petition for Bankruptcy of January 26, 2004, of David DeLano and Mary Ann DeLano with Schedules .....31 [D:27]

5. Bankruptcy Court’s Order of February 9, 2004, to Debtor to pay Chapter 13 Trustee George Reiber.....7 [D:62]

6. Dr. Cordero’s Objection of March 4, 2004, to Confirmation of the DeLanos’ Chapter 13 Plan of Debt Repayment .....8 [D:63]

7. Letter of Assistant U.S. Trustee Kathleen Dunivin Schmitt, Esq., of March 11, 2004, to Dr. Cordero .....13 [D:70]

8. Letter of Christopher K. Werner, Esq., attorney for the DeLanos, of March 19, 2004 to Trustee Reiber providing dates for the examination under 11 U.S.C. §341 of the DeLanos .....14 [D:73]

9. Trustee Reiber’s letter of March 24, 2004, to Dr. Cordero.....15 [D:74]

10. Dr. Cordero’s Memorandum of March 30, 2004, to the parties on the facts, implications, and requests concerning the DeLano Chapter 13 bankruptcy petition, docket no. 04-20280 WDNY.....16 [D:77]

11. Dr. Cordero’s Notice of March 31, 2004, of Motion for a Declaration by Judge John C. Ninfo, II, of the Mode of Computing the Timeliness of an Objection to a Claim of Exemptions and for his Written Statement on and of Local Practice .....37 [D:97]

12. Dr. Cordero’s letter of April 3, 2004, to U.S. Trustee Martini accompanying the March 30 Memorandum .....43 [D:104]

13. Trustee Reiber’s letter, undated but received on April 15, 2004, to Dr. Cordero.....44 [D:111]

14. Dr. Cordero’s letter of April 15, 2004, to Trustee Reiber requesting that he send the missing letter(s) and state the nature and scope of his investigation of the DeLanos .....45 [D:112]

15. Trustee Reiber’s letter of April 20, 2004, to Dr. Cordero accompanying a copy of the Trustee’s letter of March 24 together with a copy of Mr. Werner’s letter of March 19 to the Trustee .....48 [D:122]

16. Trustee <b>Reiber's</b> letter of <b>April 20, 2004</b> , requesting Mr. <b>Werner</b> to <b>provide</b> him with financial <b>documents</b> concerning the DeLanos .....	49	[D:120]
17. Dr. <b>Cordero's</b> letter of <b>April 23, 2004</b> , to Trustee <b>Reiber commenting</b> on his April 20 letter and <b>requesting</b> , among other things, that he correct his deficient request to Mr. Werner for <b>information</b> concerning the DeLanos.....	51	[D:124]
18. Dr. <b>Cordero's</b> letter of <b>April 26, 2004</b> , to Trustee <b>Martini</b> requesting again that <b>Trustee Reiber be removed</b> and a trustee unrelated to the parties and unfamiliar with the case be appointed.....	55	[D:137]
19. Trustee <b>Reiber's</b> letter of <b>April 27, 2004</b> , to Dr. <b>Cordero</b> stating that he has not yet received the requested documents from the DeLanos that he needs to ask meaningful questions at the independent hearing that he wants to hold .....	56	[D:138]
20. Dr. <b>Cordero's</b> letter of <b>May 10, 2004</b> , to Trustee <b>Martini</b> stating that the <b>letter</b> that he received from her on May 6 but antedated as of April 14, was <b>not accompanied by any list</b> that she mentioned in her letter as being enclosed .....	1	[D:141]
21. Dr. <b>Cordero's</b> letter of <b>May 16, 2004</b> , to Trustee <b>Reiber</b> requesting once more the letter(s) that he sent to Att. Werner but not to him and requesting financial documents from the DeLanos .....	57	[D:147]
22. Trustee <b>Reiber's</b> letter of <b>May 18, 2004</b> , to Dr. <b>Cordero</b> , with copy of a letter to <b>Att. Werner of March 18, 2004</b> , requesting an update on the Trustee's request for documents of April 20 and a <b>copy</b> of the Trustee's letter of <b>March 12, 2004</b> , addressed to Att. Werner and Dr. Cordero but never sent to the latter .....	59	[D:151]
23. Stick-it of <b>May 19, 2004</b> , stuck on <b>News release of April 16, 2003</b> , titled "U.S. Credit Reporting Companies Launch New Identity Fraud Initiative", <b>sent by Trustee Martini</b> to Dr. Cordero instead of the requested list of credit card companies with their addresses, phone numbers, and names of contact persons .....	2	[D:154]
24. Dr. <b>Cordero's</b> letter of <b>May 23, 2004</b> , to Att. <b>Werner</b> requesting on the basis of Trustee Reiber's letter of March 12, financial documents from the DeLanos .....	64	[D:159]
25. Dr. <b>Cordero's</b> letter of <b>May 23, 2004</b> , to Trustee <b>Martini</b> requesting that she send him the list of credit card companies that she pretended to have sent him and that she refer the case to the FBI and relinquish control of it .....	5	[D:158]

# Dr. Richard Cordero

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[Sample of letter sent to each of the 37 members]

June 11, 2004

The Hon. F. James Sensenbrenner, Jr.  
Chairman  
U.S. House of Representatives, Judiciary Com.  
2138 Rayburn, House Office Building  
Washington, DC 20515

Dear Representative Sensenbrenner,

I hereby submit to you and your Committee evidence of judicial misconduct and bankruptcy fraud. Evidence of the former initially involved the Chief Judge of the Bankruptcy Court for the Western District of New York, the Hon. John C. Ninfo, II, and then implicated the Chief Judge of the District Court for that District, the Hon. David G. Larimer. I filed a complaint about them on August 11, 2003, with the Chief Judge of the Court of Appeals for the Second Circuit, the Hon. John M. Walker, Jr., (pgs. 1, 6, infra), only to be shocked by his disregard for the law and even refusal to accept additional evidence (7, 9). Indeed, despite the law of Congress at 28 U.S.C. §351 et seq. requiring “prompt” and “expeditious” handling of such complaints, Chief Judge Walker has neither dismissed nor investigated mine in 10 months! So on March 19, I complained about him (10, 15, 16). But in disregard also of the Circuit’s Rules Governing §351 complaints, requiring certain steps to be taken “promptly” and “expeditiously”, none has been taken. This justifies asking how the Chief Judge got on the panel that heard my appeal (dkt no. 03-5023) and dismissed it without even discussing how misconduct tainted the appealed orders.

Now evidence has emerged of the operation of the most powerful driver of misconduct: a lot of money! This is the result of the concentration of *thousands* of bankruptcy cases on each of a handful of private trustees (19). They have every financial interest in rubberstamping as many bankruptcy petitions as possible since they are paid percentage fees from each one confirmed by the court (cf. 27). In turn, the more people learn that bankruptcy petitions can be rubberstamped, the stronger the incentive to binge on their credit, knowing that there is no repayment day, just a petition to be filed after making the demanded payments. So is generated money to pay those with power to stop or promote this self-reinforcing scheme. Its evidence is in a test case.

It is petition 04-20280 (28). Without asking for any supporting documents despite its being patently suspicious (25.IV), the trustee readied it for confirmation on March 8 by Judge Ninfo. At my relentless instigation, the trustee asked for documents on April 20 (61, 63). To date the debtors have provided none. All this is condoned by the U.S. assistant and Region 2 trustees, who refuse to replace or investigate the trustee, though he prevented any examination at the meeting of creditors (11-12) and may be proceeding just as unlawfully in his other thousands of cases. Thus the scheme is protected while it claims more victims: the creditors, whose interests are ignored by their representatives, the trustees. In turn, the judges are protected by useless §351 complaints, for how else do you explain that in a society as litigious as ours, there can be years in which not one complaint is pending before the Judicial Conference (64-70)? That law needs to be revised, but before that, you can take action to find out who is in this scheme. How big is it!?

Therefore, I respectfully request that you cause the Committee to investigate this matter (71). While I have written to all your colleagues, I hope that when I bring this to the media (72) you appear as the one who first recognized and did your most to stamp out a scheme of bankruptcy fraud and judicial misconduct. Meantime, I look forward to hearing from you.

Sincerely, *Dr. Richard Cordero*

## Dr. Richard Cordero

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

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

[Sample of letter sent to each of the 19 members]

June 11, 2004

The Hon. Orrin G. Hatch  
Chairman  
U.S. Senate, Judiciary Committee  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear Senator Hatch,

I hereby submit to you and your Committee evidence of judicial misconduct and bankruptcy fraud. Evidence of the former initially involved the Chief Judge of the Bankruptcy Court for the Western District of New York, the Hon. John C. Ninfo, II, and then implicated the Chief Judge of the District Court for that District, the Hon. David G. Larimer. I filed a complaint about them on August 11, 2003, with the Chief Judge of the Court of Appeals for the Second Circuit, the Hon. John M. Walker, Jr., (pgs. 1, 6, *infra*), only to be shocked by his disregard for the law and even refusal to accept additional evidence (7, 9). Indeed, despite the law of Congress at 28 U.S.C. §351 et seq. requiring “prompt” and “expeditious” handling of such complaints, Chief Judge Walker has neither dismissed nor investigated mine in 10 months! So on March 19, I complained about him (10, 15, 16). But in disregard also of the Circuit’s Rules Governing §351 complaints, requiring certain steps to be taken “promptly” and “expeditiously”, none has been taken. This justifies asking how the Chief Judge got on the panel that heard my appeal (dkt no. 03-5023) and dismissed it without even discussing how misconduct tainted the appealed orders.

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Sincerely, *Dr. Richard Cordero*

Table of Members of the Judiciary Committees  
of the U.S. House of Representatives and the U.S. Senate  
to whom was individually addressed the letter of June 11, 2004  
requesting an investigation of the accompanying  
evidence of a judicial misconduct and bankruptcy fraud scheme  
by  
**Dr. Richard Cordero**

	Repfirst name	Replast name	Title	State	SenFirs tName	SenLastN ame	phone	fax
1.	Spencer	Bachus		Alabama				
2.	Tammy	Baldwin	Subcomm ittee on Courts	Wisconsin				
3.	Howard L.	Berman	Subcomm ittee on Courts	California				
4.	Marsha	Blackbur n		Tennessee				
5.	Rick	Boucher	Subcomm ittee on Courts	Virginia				
6.	Chris	Cannon		Utah				
7.	John R.	Carter		Texas				
8.	Steve	Chabot		Ohio				
9.	Howard	Coble		North Carolina			(202) 225- 3065	(202) 225- 8611
10.	John	Conyers, Jr.	Ranking Democratic Member Subcomm ittee on Courts	Michigan				
11.	William D.	Delahunt	Subcomm ittee on Courts	Massachus etts				
12.	Tom	Feeney		Florida				
13.	Jeff	Flake		Arizona				
14.	Randy J.	Forbes		Virginia				
15.	Elton	Gallegly		California				
16.	Bob	Goodlatt e		Virginia				
17.	Mark	Green		Wisconsin				
18.	Melissa A.	Hart		Pennsylvan ia				
19.	John N.	Hostettle r		Indiana				
20.	Henry J.	Hyde		Illinois				
21.	William L.	Jenkins		Tennessee				



22.	Ric	Keller		Florida				
23.	Steve	King		Iowa				
24.	Sheila	Jackson-Lee		Texas				
25.	Zoe	Lofgren	Subcommittee on Courts	California				
26.	Martin T.	Meehan	Subcommittee on Courts	Massachusetts				
27.	Jerrold	Nadler		New York				
28.	Mike	Pence		Indiana				
29.	Linda T.	Sanchez		California				
30.	Adam B.	Schiff		California				
31.	Robert C.	Scott		Virginia				
32.	F. James	Sensenbrenner, Jr.	Chairman	Wisconsin				
33.	Lamar	Smith		Texas				
34.	Maxine	Waters	Subcommittee on Courts	California				
35.	Melvin L.	Watt		North Carolina				
36.	Anthony D.	Weiner	Subcommittee on Courts	New York				
37.	Robert	Wexler	Subcommittee on Courts	Florida				
38.			Chairman	UTAH	Orrin G.	Hatch		
39.			Ranking Democratic Member	VERMONT	Patrick J.	Leahy		
40.				IOWA	Charles E.	Grassley		
41.				MASSACHUSETTS	Edward M.	Kennedy		
42.				PENNSYLVANIA	Arlen	Specter		
43.				DELAWARE	Joseph R.	Biden, Jr.		
44.				ARIZONA	Jon	Kyl		
45.				WISCONSIN	Herbert	Kohl		
46.				OHIO	Mike	DeWine		
47.				CALIFORNIA	Dianne	Feinstein		
48.				ALABAMA	Jeff	Sessions		
49.				WISCONSIN	Russell D.	Feingold		
50.				SOUTH CAROLINA	Lindsey	Graham		
51.				NEW YORK	Charles E.	Schumer		
52.				IDAHO	Larry	Craig		
53.				ILLINOIS	Richard J.	Durbin		
54.				GEORGIA	Saxby	Chambliss		
55.				NORTH CAROLINA	John	Edwards		
56.				TEXAS	John	Cornyn		

U.S House of Representatives  
Committee on the Judiciary  
2138 Rayburn HOB  
Washington, DC 20515  
(202)225-3951

[Judiciary@mail.house.gov](mailto:Judiciary@mail.house.gov) House of  
Representatives Judiciary Committee

**Republican Members address**

**Washington D.C. Office:**  
2468 Rayburn Office Bldg  
Washington, DC 20515

House Judiciary Committee Democratic Staff  
B-351-C Rayburn House Office Building  
Washington, DC 20515

Democratic Members of the H. Rep. Judiciary  
Committee with websites:

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accompanying the individually addressed letter of June 11, 2004  
to each of the 56 members of the Judiciary Committees  
of the U.S. House of Representatives and the U.S. Senate  
containing evidence warranting an investigation  
of a judicial misconduct and bankruptcy fraud scheme

by

**Dr. Richard Cordero**

1. Dr. Richard Cordero's **Statement of facts of August 11, 2003**, in support of a **complaint** under 28 U.S.C. §351 submitted to the Court of Appeals for the Second Circuit **concerning** the Hon. John C. **Ninfo, II, U.S. Bankruptcy Judge** and other court officers at the U.S. Bankruptcy Court and the U.S. District Court for the Western District of New York .....1 [C:63]
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The latter also holds **Add:**=Addendum to the D: files; **Pst:**= PostAddendum; and **Tr:**=transcript of the evidentiary hearing in *DeLano* held before Judge Ninfo on March 1, 2005.

Mr. DeLano is a 3rd-party defendant whom Dr. Cordero brought into *Pfuntner v. Trustee Gordon et al.*, 02-2230, WBNY, Judge Ninfo presiding. Later on, he filed for bankruptcy and included Dr. Cordero among his creditors because of the latter’s claim against him arising from *Pfuntner*.

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# TRUSTEES WITH THOUSANDS OF OPEN CASES AND ONE CASE THAT OPENS A WINDOW INTO THE OPERATION OF THE BANKRUPTCY FRAUD SCHEME

by  
Dr. Richard Cordero

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### **I. A scheme that works by taking money from many credit card issuers but not so much from anyone as to make it cost-effective to spend time, effort, and money pursuing a pennies-on-the-dollar recovery in risky bankruptcy proceedings**

1. The critical fact that should pique one’s curiosity and intrigue one into examining this case further is that each trustee has *thousands of open cases*. This fact can be corroborated independently through Pacer, as shown below. It inescapably begs the question: How can one lawyer in a one or two lawyer law firm, as are those in play here, can possibly have the

time to pay anything remotely close to adequate attention to so many cases? Keep in mind that the trustee must examine each petition to determine whether it meets the requirements of the Bankruptcy Code so that he may recommend to the court that its plan of debt repayment be confirmed. That requires his review of not only all the schedules that make up a petition, but also financial documents that provide the basis for the figures and statements that the debtor used to fill out the schedules.

2. Indeed, the trustee, as the representative of the creditors, must ascertain, for example, whether the debtor has truthfully stated all his debts, has neither hidden any of his assets nor underestimated the value of those that he has declared, and has not overestimated his current expenditures. But that is just the beginning, for then the trustee must monitor the debtor's performance of his debt repayment plan as the debtor makes monthly payments over the three to five years of the plan's life. How many seconds a month can the trustee dedicate to each of *3,909 open cases!*? Meanwhile he continues to take in new ones and must conduct in person the meeting of creditors, which he may have to adjourn one or more times. He must also appear in court not only to confirm debtors' plans, but also to state his views at hearings of motions raised by any of the parties. That is why he cannot waste time reviewing petitions. Here is where knowledge of other people's normal behavior in bankruptcy cases or, better still, what others have agreed to do, becomes such a key element for the trustee.
3. Many creditors, including institutional ones, cannot afford to spend the considerable amount of time, effort, and thus money necessary to recover on their bankruptcy claims unless the latter exceed a certain threshold of cost-effective participation. It comes down to not throwing good money after bad. As a result, people who know this cost barrier exploit their knowledge: They incur debts below the threshold, but to as many creditors as they can. Hence, the ideal target creditor is a credit card issuer, whose debt is unsecured and whose balance transfer feature allows the debtor to regulate his debt's threshold levels. So the debtor can charge to a card up to a certain limit of debt; keep making the minimum monthly payment to avoid a negative credit bureau report that would alert other issuers and could trigger their acceleration clauses; and move on to charging the next credit card. An industry insider, such as a bank loan official, would be in a position, not only to find out the threshold of participation of many credit card issuers, but also to use that knowledge for personal benefit as well as for the benefit of others, whether his clients or other parties. Knowledge is



a valuable asset and if it joins the legal authority vested in officers in the right position, the basic elements of a scheme are in place.

4. As this knowledge is provided to more people and as more and more bankruptcy petitions are approved without any review of supporting documents, let alone any determination of their good faith, the number of debtors filing petitions just keeps growing. Overwhelmed by them, the creditors must increase their threshold of participation. This dynamic puts in motion a vicious circle in which a necessary threshold is exploited by petitions below it and the increasing number of such petitions requires setting a higher threshold, which is exploited in turn and so on.
5. At the same time, money keeps rolling in for the schemers. For one thing, even if the total debt to any one creditor is intentionally kept relatively low, the debts to all creditors add up to serious money, as shown below. To escape paying all that money, a debtor has an incentive to pay all fees, legal and otherwise, demanded by the schemers. Similarly, even if the schemers make a small amount of money on each petition, they accept so many cases, *thousands of them!*, that their total in-take also adds up to serious money. They can be so indiscriminate in accepting cases regardless of their merits precisely because they do not waste time reviewing any petition beyond what is strictly necessary to make sure that it is below the creditors' threshold of participation. Actually, in the logic of the scheme, the fewer the merits for relief under the Bankruptcy Code a petition has, the higher its value to the schemers, who can raise any acceptance fee proportionally higher. High too as well as widespread are the loss and pain that they cause to so many creditors: those who trusted them enough to lend them their money and those who believed them to be doing the right thing on their behalf rather than engaging in irresponsible and self-serving conduct that rendered them liable for claims of compensation. Neither debtors nor schemers should be allowed to break bankruptcy laws and get rich with it.

**II. A Chapter 13 trustee with 3,909 *open* cases cannot possibly have the time or the inclination to check the factual accuracy or internal consistency of the content of each bankruptcy petition to ascertain its good faith**

6. Pacer is the federal courts' electronic document retrieval service. The information that it provides sheds light on why trustees may be quite unwilling and unable to spend any time

investigating the bankruptcy petitions submitted to them by debtors to establish the reliability of their figures and statements. When queried with the name George Reiber, Trustee, -the standing Chapter 13 trustee in the Western District of New York- it returns this message at <https://ecf.nywb.uscourts.gov/cgi-bin/login.pl>: “This person is a party in 13250 cases.” When queried again about open cases, Pacer comes back at [https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L\\_916\\_0-1](https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L_916_0-1) with 119 billable pages that end thus:

**Table 1. Illustrative row of Pacer’s presentation of Trustee George Reiber’s 3,909 open cases in the Bankruptcy Court**

<a href="#">2-04-21295-JCN</a>	bk	13	William J. Hastings and Carolyn M. Hastings	Ninfo Reiber	Filed: 04/01/2004	Office: Rochester Asset: Yes Fee: Paid County: 2-Monroe
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Total number of cases: 3909

Open cases only

**PACER Service Center**

7. Trustee Reiber has 3,909 *open* cases at present! This is not just a huge abstract figure. Right there are the real cases, in flesh and blood, as it were, for Pacer personalizes each one of them with the debtors’ names; and each has a throbbing heart: a hyperlink in the left cell that can call that case to step up to the screen for examination. What is more, they are in good health since Pacer indicates that, with the exception of fewer than 44, they are asset cases. This means that Trustee Reiber has taken care to “consider whether sufficient funds will be generated to make a meaningful distribution to creditors, prior to administering the case as **an asset case**” (emphasis added; §2-2.1. of the Trustee Manual). By the way, JCN after the case number in the left cell stands for John C. Ninfo, the judge before whom the case has been brought.
8. Trustee Reiber is the trustee for the DeLano case (section IV, *infra*). For him “meaningful distribution” under the DeLanos’ debt repayment plan is 22 cents on the dollar with no interest accruing during the repayment period. No doubt, avoiding 78 cents on the dollar as

well as interest is even more meaningful to the DeLanos. By the same token, that means that the Trustee has taken care of his fee, which is paid as a percentage of what the debtor pays (28 U.S.C. §586(e)(1)(B)).

9. Given that a trustee's fee compensation is computed as a percentage of a base, it is in his interest to increase the base by having debtors pay more so that his percentage fee may in turn be a proportionally higher amount. However, increasing the base would require ascertaining the veracity of the figures in the schedules of the debtors as well as investigating any indicia that they have squirreled away assets for a rainbow post-discharge life, such as a golden pot retirement. Such investigation, however, takes time, effort, and money. Worse yet from the perspective of the trustee's economic interest, an investigation can result in a debtor's debt repayment plan not being confirmed and, thus, in no stream of percentage fees flowing to the trustee. (11 U.S.C. §§1326(a)(2) and (b)(2)). "Mmm...not good!"
10. The obvious alternative is "never investigate anything, not even patently suspicious cases. Just take in as many cases as you can and make up in the total of small easy fees from a huge number of cases what you could have made by taking your percentage fee of the assets that you sweated to recover." Of necessity, such a scheme redounds to the creditors' detriment since fewer assets are brought into the estate and distributed to them. When the trustee takes it easy, the creditors take a heavy loss, whether by receiving less on the dollar or by spending a lot of money, effort, and time investigating the debtor only to get what was owed them to begin with.
11. Have U.S. Trustees contributed to the development of such an income maximizing mentality and implementing scheme by failing to demand that trustees perform their duty "to investigate the financial affairs of the debtor" (11 U.S.C. §§1302(b)(1) and §704(4)) and to "furnish such information concerning the estate and the estate's administration as is requested by a party in interest" (§704(7))?
12. This income maximizing scheme has a natural and perverse consequence: As it becomes known that trustees have no time but rather an economic disincentive to investigate debtors' financial affairs, ever more debtors with ever less deserving cases for relief under the Bankruptcy Code go ahead and file their petitions. What is worse, as people with no debt problems yet catch on to how easy it is to get a petition rubberstamped, they have every

incentive to live it up by binging on their credit as if there were no repayment day, for they know there is none, just a bankruptcy petition waiting to be filed with the required fee...or perhaps 'fees'?

**III. Another trustee with 3,092 cases was upon a performance and fitness to serve complaint referred by the court to the Assistant U.S. Trustee for a “thorough inquiry”, which was limited to talking to him and a party and to uncritically writing their comments in an opinion that the Trustee for Region 2 would not investigate**

13. At the beginning of 2002, Dr. Richard Cordero, a New York City resident, was looking for his property in storage with Premier Van Lines, Inc., a moving and storage company located in Rochester, NY. He was given the round-around by its owner, David Palmer, and others who were doing business with Mr. Palmer. After the latter disappeared from court proceedings and stopped answering his phone, the others eventually disclosed to Dr. Cordero that Mr. Palmer had filed a voluntary bankruptcy petition under Chapter 11 on behalf of Premier and that the company was already in Chapter 7 liquidation. They referred Dr. Cordero to the Chapter 7 trustee in the case, Kenneth Gordon, Esq., for information on how to locate and retrieve his property. However, Trustee Gordon refused to provide such information, instead made false and defamatory statements about Dr. Cordero, and merely referred him back to the same people that had referred him to Trustee Gordon.
14. Dr. Cordero requested a review of Trustee Gordon's performance and fitness to serve as trustee in a complaint filed with Judge Ninfo, before whom Mr. Palmer's petition was pending. Judge Ninfo did not investigate whether the Trustee had submitted to him false statement, as Dr. Cordero had pointed out, but simply referred the matter to Assistant U.S. Trustee Kathleen Dunivin Schmitt for a “thorough inquiry”. However, what she actually conducted was only a quick ‘contact’: a substandard communication exercise limited in its scope to talking to the trustee and a lawyer for a party and in its depth to uncritically accepting at face value what she was told. Her written supervisory opinion of October 22, 2002, was infirm with mistakes of fact and inadequate coverage of the issues raised.
15. Dr. Cordero appealed Trustee Schmitt's opinion to her superior at the time, Carolyn S. Schwartz, U.S. Trustee for Region 2. He sent her a detailed critical analysis, dated November 25, 2002, of that opinion against the background of facts supported by

documentary evidence. It must be among the files now in the hands of her successor, Region 2 Trustee Deirdre A. Martini. It is also available as entry no. 19 in docket no. 02-2230, Pfuntner v. Trustee Gordon et al. ([www.nywb.uscourts.gov](http://www.nywb.uscourts.gov)). But Trustee Schwartz would not investigate the matter.

16. Yet, there was more than enough justification to investigate Trustee Gordon, for he too has *thousands* of cases. The statistics on Pacer as of November 3, 2003, showed that since April 12, 2000, Trustee Gordon was the trustee in 3,092 cases!

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

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

17. Chapter 7 Trustee Gordon, just as Chapter 13 Trustee Reiber (section 0, supra), could not possibly have had the time or the inclination to spend more than the strictly indispensable time on any single case, let alone spend time on a person from whom he could earn no fee. Indeed, in his Memorandum of Law of February 5, 2003, in Opposition to Cordero’s Motion to Extend Time to Appeal, Trustee Gordon unwittingly provided the motive for having handled the liquidation of Premier Van Lines negligently and recklessly: “As the Court is aware, the sum total of compensation to be paid to the Trustee in this case is \$60.00” (docket no. 02-2230, entry 55, pgs. 5-6). Trustee Gordon had no financial incentive to do his job...nor did he have a sense of duty! But why did he ever think that telling the court, that is, Judge Ninfo, how little he would earn from liquidating Premier would in the court’s eyes excuse his misconduct?

18. The reason is that Judge Ninfo does not apply the laws and rules of Congress, which together with the facts of the case he has consistently disregarded to the detriment of Dr. Cordero (1-5 and 11-12, supra). Nor does he cite the case law of the courts hierarchically above his. Rather, he applies the laws of close personal relationships, those developed by frequency of contact between interdependent people with different degrees of power. Therein the person with greater power is interested in his power not being challenged and those with less power are interested in being in good terms with him so as to receive benefits and/or avoid retaliation. Frequency of contact is only available to the local parties, such as Trustee Gordon, as oppose to Dr. Cordero, who lives in New York City and is appearing as a party for the first time ever and, as such, in all likelihood the last time too.
19. The importance for the locals, such as Trustee Gordon, to mind the law of relationships over the laws and rules of Congress or the facts of their cases becomes obvious upon realizing that in the Bankruptcy Court for the Western District of New York there are only three judges and the Chief Judge is none other than Judge Ninfo. Thus, the locals have a powerful incentive not to ‘rise in objections’, as it were, thereby antagonizing the key judge and the one before whom they appear all the time, even several times on a single day. Indeed, for the single morning of Wednesday, October 15, 2003, Judge Ninfo’s calendar included the following entries:

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

<b>NAME</b>	<b># of APPEARANCES</b>	<b>NAME</b>	<b># of APPEARANCES</b>
Kenneth Gordon	1	David MacKnight	3
Kathleen Schmitt	3	Raymond Stilwell	2

20. When locals must pay such respect to the judge, there develops among them a vassal-lord relationship: The lord distributes among his vassals favorable and unfavorable rulings and decisions to maintain a certain balance among them, who pay homage by accepting what they are given without raising objections, let alone launching appeals. In turn, the lord protects them when non-locals come in asserting against the vassals rights under the laws of Congress. So have the lord and his vassals carved out of the land of Congress’ law the

Fiefdom of Rochester. Therein the law of close personal relationships rules.

21. The reality of this social dynamic is so indisputable, the reach of such relationships among local parties so pervasive, and their effect upon non-locals so pernicious, that a very long time ago Congress devised a means to combat them: jurisdiction based on diversity of citizenship. Its potent rationale was and still is that state courts tend to be partial toward state litigants and against out-of-state ones, thus skewing the process and denying justice to all its participants as well as impairing the public's trust in the system of justice. In the matter at hand, that dynamic has materialized in a federal court that favors the locals at the expense of the sole non-local who dared assert his rights against them under a foreign law, that is, the laws of Congress.
22. Hence, when Trustee Gordon 'made the Court aware that "the sum total of compensation to be paid to the Trustee in this case is \$60.00", he was calling upon the Lord to protect him. The Lord came through to protect his vassal. Although Trustee Gordon himself in that very same February 5 Memorandum of Law of his (para. 17, supra) stated on page 2 that "On January 29, 2003, Cordero filed the instant motion to extend time for the filing of his Notice of Appeal", thereby admitting its timeliness, Judge Ninfo found that "the motion to extend was not filed with the Bankruptcy Court Clerk' until 1/30/03" (docket no. 02-2230, entry 57), whereby he made the motion untimely and therefore denied it! Dr. Cordero's protest was to no avail.
23. Are the local assistant U.S. trustee with her supervisory power and Trustee Gordon with his 3,092 cases and the money in a vassal-lord relationship to each other? Does the Region 2 Trustee know that a non-local has no chance whatsoever of turning the trustee into the subject of a "thorough inquiry" by the local U.S. trustee? Consequently, should she have investigated Trustee Gordon? What homage do local and regional U.S. trustees receive and what fief do they grant?

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

24. On January 27, 2004, a bankruptcy petition under Chapter 13 of the Bankruptcy Code (Title 11, U.S.C.) was filed in the Bankruptcy Court for the Western District of New York in Rochester by David and Mary Ann DeLano (case 04-20280; 28, infra). The figures in its

schedules and the surrounding circumstances should have alerted the trustee and his attorney to the patently suspicious nature of the petition. Yet, Chapter 13 Trustee George Reiber (section II, supra) and Attorney James Weidman (11-12, supra) were about to submit its repayment plan to the court for approval when Dr. Richard Cordero, a creditor, objected in a five page analysis of the figures in the schedules. Even so, the Trustee and his attorney vouched for the petition's good faith. Let's list the salient figures and circumstances:

- a) The DeLanos incurred scores of thousands of dollars in credit card debt,
- b) at the average interest rate of 16% or the delinquent interest rate of over 23%,
- c) carried it for over 10 years by making only the minimum payments,
- d) have ended up owing \$98,092 to 18 credit card issuers listed in Schedule F,
- e) owe also a mortgage of \$77,084,
- f) have near the end of their work life an equity in their house of only \$21,415,
- g) declared earnings in 2002 of \$91,655 and in 2003 of \$108,586,
- h) yet claim that after a lifetime of work their tangible personal property is only \$9,945,
- i) claim as exempt \$59,000 in a retirement account,
- j) claim another \$96,111.07 as a 401-k exemption,
- k) make a \$10,000 loan to their son and declare it uncollectible,
- l) but offer to repay only 22 cents on the dollar without interest for just 3 years,
- m) argue against having to provide a single credit card statement covering any length of time 'because the DeLanos do not maintain credit card statements dating back more than 10 years in their records and doubt that those statements are available from even the credit card companies', even though the DeLanos must still receive every month the **monthly** credit card statement from each of the issuers of the 18 credit cards and as recently as last January they must have consulted such statements to provide in Schedule F their account number with, and address of, each of those 18 issuers, and
- n) pretend that it is irrelevant to their having gotten into financial trouble and filed a bankruptcy petition that Mr. DeLano is *a 15 year bank officer!*, or rather more



precisely, a bank **loan** officer, whose daily work must include ascertaining the creditworthiness of loan applicants and their ability to repay over the loan's life, and who is still employed that capacity by a major bank, namely, Manufacturers and Traders Trust Bank. He had to know better!

25. Did Mr. DeLano put his knowledge and experience as a loan officer to good use in living it up with his family and closing his accounts down with 18 credit card issuers by filing for bank-ruptcy? How could Mr. DeLano, despite his "experience in banking", from which he should have learned his obligation to keep financial documents for a certain number of years, pretend that he does not have them to back up his petition? Those are self-evident questions that have a direct bearing on the petition's good faith. Did Trustee Reiber and Attorney Weidman ever ask them? How did they ascertain the timeline of debt accumulation and its nature if they did not check those credit card statements before readying the petition for submission to the court?
26. Until the DeLanos provide financial documents supporting their petition, including credit card statements, let's assume *arguendo* that when Mr. DeLano lost his job at a financial institution and took a lower paying job at another in 1989, the combine income of his and his wife, a Xerox technician, was \$50,000. Last year, 15 years later, it was over \$108,000. Let's assume further that their average annual income was \$75,000. In 15 years they earned \$1,125,000...but they allege to end up with tangible property worth only \$9,945 and a home equity of merely \$21,415!, and this does not begin to take into account what they already owned before 1989, let alone all their credit card borrowing. Where did the money go? Or where is it now? Mr. DeLano is 62 and Mrs. DeLano is 59. What kind of retirement are they planning for?
27. Did the Trustee and his Attorney ever get the hint that the petitions' figures and circumstances made no sense or were they too busy with their other 3,908 cases and the intake of new ones to ask any questions and request any supporting documents? How many other cases did they also accept under the motto "don't ask, don't check, cash in"? Do other debtors and officers with power to approve or disapprove petitions practice the enriching wisdom of that motto? How many creditors, including tax authorities, are being left holding bags of worthless IOUs?
28. For his part, Trustee Reiber is being allowed to hold on to the DeLanos' case to belatedly

“investigate” it, which he is doing only because of Dr. Cordero’s assertion of his right to be furnished with financial information about the DeLanos (para. 11, supra). Yet, not to replace the Trustee –as requested by Dr. Cordero- but rather to allow him to be the one to investigate the DeLanos now, disregards the Trustee’s obvious conflict of interest: It is in Trustee Reiber’s interest to conclude his “investigation” with the finding that the DeLanos filed their petition in good faith, lest he indict his own agent, Attorney Weidman, who approved it for submission to the court, thereby rendering himself liable as his principal and casting doubt on his own proper handling of his other thousands of cases.

29. Indeed, if an egregious case as the DeLano’s passed muster with them, what about the others? Such doubts could have devastating consequences for all involved. To begin with, they could trigger an examination of Trustee Reiber’s other cases, which could lead to his and his agent-attorney’s suspension and removal. Were those penalizing measures adopted, they would inevitably lead to questioning the kind of supervision that the Trustee and his attorney have been receiving from the U.S. assistant and regional trustees. The next logical question would be what kind of oversight the bankruptcy and district courts have been exercising over petitions submitted to them, in particular, and the bankruptcy process, in general.
30. What were they all thinking!? Whatever it was, from their perspective it is evident that the best self-protection is not to set in motion an investigative process that can escape their control and end up crushing them. This proves the old-axiom that a person, just as an institution, cannot investigate himself zealously, objectively, and reassuringly. A third independent party, unfamiliar with the case and unrelated to its players, must be entrusted with and carry out the investigation and then tender its uncompromising report to all those with an interest in the case.

May 24, 2004

59 Crescent Street  
Brooklyn, NY 11208

*Dr. Richard Cordero*

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

Table of All 15 Memoranda and Orders  
of The Judicial Conference of the United States  
Committee to Review Circuit Council Conduct and Disability Orders  
since the adoption of the Judicial Conduct and Disability Act of 1980

sent to Dr. Cordero from the General Counsel's Office of the Administrative Office of the  
U.S. Courts and showing how few complaints under 28 U.S.C. §351 et seq. are allowed to  
reach the Judicial Conference as petitions for review of judicial council action

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

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

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

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

**PETITIONS FOR REVIEW**

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

Respectfully submitted,



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

**NOTICE**

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

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

---

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

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

---

## **ACCELERATED FUNDING**

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

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## **COMMITTEE ACTIVITIES**

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

## **COMMITTEE TO REVIEW CIRCUIT COUNCIL CONDUCT AND DISABILITY ORDERS**

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### **COMMITTEE ACTIVITIES**

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

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

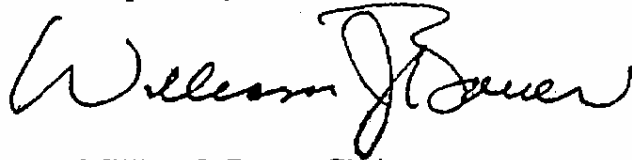
**TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE  
JUDICIAL CONFERENCE OF THE UNITED STATES:**

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Respectfully submitted,



William J. Bauer, Chairman  
Pasco M. Bowman  
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Stephanie K. Seymour

**NOTICE**

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

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

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

**AMENDMENTS TO THE JUDICIAL CONDUCT AND DISABILITY ACT**

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

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

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

**NOTICE**

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



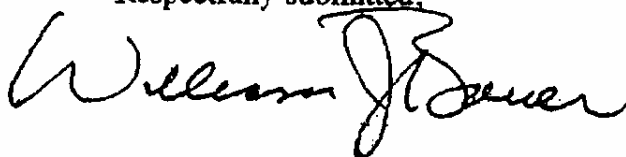
and Disability Act, 28 U.S.C. § 372(c)(6)(B), because of the judge's "intemperate, abusive and intimidating treatment of lawyers, fellow judges, and others." The sanctions consisted of (1) a public reprimand, (2) a one-year suspension from new case assignments, and (3) a three-year suspension from hearing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

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

#### **PETITIONS FOR REVIEW**

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William J. Bauer". The signature is fluid and cursive, with a large initial "W" and "J".

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

# Contact Information

sent on June 11, 2004, to  
the U.S. House of Representatives and U.S. Senate Judiciary Committees  
useful to investigate the evidence of  
a judicial misconduct and bankruptcy fraud scheme  
by  
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## Judges of the United States Courts

### Impeachments of Federal Judges

#### **John Pickering, U.S. District Court for the District of New Hampshire.**

Impeached by the U.S. House of Representatives on March 2, 1803, on charges of mental instability and intoxication on the bench; Trial in the U.S. Senate, March 3, 1803, to March 12, 1803; Convicted and removed from office on March 12, 1803.

#### **Samuel Chase, Associate Justice, Supreme Court of the United States.**

Impeached by the U.S. House of Representatives on March 12, 1804, on charges of arbitrary and oppressive conduct of trials; Trial in the U.S. Senate, November 30, 1804, to March 1, 1805; Acquitted on March 1, 1805.

#### **James H. Peck, U.S. District Court for the District of Missouri.**

Impeached by the U.S. House of Representatives on April 24, 1830, on charges of abuse of the contempt power; Trial in the U.S. Senate, April 26, 1830, to January 31, 1831; Acquitted on January 31, 1831.

#### **West H. Humphreys, U.S. District Court for the Middle, Eastern, and Western Districts of Tennessee.**

Impeached by the U.S. House of Representatives, May 6, 1862, on charges of refusing to hold court and waging war against the U.S. government; Trial in the U.S. Senate, May 7, 1862, to June 26, 1862; Convicted and removed from office, June 26, 1862.

#### **Mark W. Delahay, U.S. District Court for the District of Kansas.**

Impeached by the U.S. House of Representatives, February 28, 1873, on charges of intoxication on the bench; Resigned from office, December 12, 1873, before opening of trial in the U.S. Senate.

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[A Guide to the Preservation of Judges' Papers \(pdf\)](#)

**Charles Swayne, U.S. District Court for the Northern District of Florida.**

Impeached by the U.S. House of Representatives, December 13, 1904, on charges of abuse of contempt power and other misuses of office; Trial in the U.S. Senate, December 14, 1904, to February 27, 1905; Acquitted February 27, 1905.

**Robert W. Archbald, U.S. Commerce Court.**

Impeached by the U.S. House of Representatives, July 11, 1912, on charges of improper business relationship with litigants; Trial in the U.S. Senate, July 13, 1912, to January 13, 1913; Convicted and removed from office, January 13, 1913.

**George W. English, U.S. District Court for the Eastern District of Illinois.**

Impeached by the U.S. House of Representatives, April 1, 1926, on charges of abuse of power; resigned office November 4, 1926; Senate Court of Impeachment adjourned to December 13, 1926, when, on request of the House manager, impeachment proceedings were dismissed.

**Harold Louderback, U.S. District Court for the Northern District of California.**

Impeached by the U.S. House of Representatives, February 24, 1933, on charges of favoritism in the appointment of bankruptcy receivers; Trial in the U.S. Senate, May 15, 1933, to May 24, 1933; Acquitted, May 24, 1933.

**Halsted L. Ritter, U.S. District Court for the Southern District of Florida.**

Impeached by the U.S. House of Representatives, March 2, 1936, on charges of favoritism in the appointment of bankruptcy receivers and practicing law while sitting as a judge; Trial in the U.S. Senate, April 6, 1936, to April 17, 1936; Convicted and removed from office, April 17, 1936.

**Harry E. Claiborne, U.S. District Court for the District of Nevada.**

Impeached by the U.S. House of Representatives, October 9, 1986, on charges of income tax evasion and of remaining on the bench following criminal conviction; Trial in the U.S. Senate, October 7, 1986, to October 9, 1986; Convicted and removed from office, October 9, 1986.

**Alcee L. Hastings, U.S. District Court for the Southern District of Florida.**

Impeached by the U.S. House of Representatives, August 3, 1988, on charges of perjury and conspiring to solicit a bribe; Trial in the U.S. Senate, October 18, 1989, to October 20, 1989; Convicted and removed from office, October 20, 1989.

**Walter L. Nixon, U.S. District Court for the Southern District of Mississippi.**

Impeached by the U.S. House of Representatives, May 10, 1989, on charges of perjury before a federal grand jury; Trial in the U.S. Senate, November 1, 1989, to November 3, 1989; Convicted and removed from office, November 3, 1989.



# Supreme Court of the United States

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## Remarks of the Chief Justice

### Federal Judges Association Board of Directors Meeting May 5, 2003

Thank you Judge Jolly. I thought I would speak today about two topics that are of great concern to federal judges around the country. The first, of course, is the perennial topic of judicial pay. The second is the issue of Congressional concern about sentencing in the federal courts of the federal judiciary.

One of the critical challenges of American government is to preserve the legitimate independence of the judicial function while recognizing the role Congress must play in determining how the judiciary functions. Article III of the Constitution grants to Article III judges two significant protections of their independence: they have tenure during good behavior, and their compensation may not be diminished during their term of office. But federal judges are heavily dependent upon Congress for virtually every other aspect of their being -- including when and whether to increase judicial compensation.

Last December I met with President Bush to discuss the need for an increase in judges' pay. The President subsequently issued a statement urging Congress to authorize a pay increase for federal judges. On January 7, 2003, the National Commission on the Public Service, chaired by Paul Volcker, issued its report, "Urgent Business for America - Revitalizing the Federal Government for the 21st Century." Among its recommendations is that "Congress should grant an immediate and significant increase in judicial, executive and legislative salaries" and that "[i]ts first priority in doing so should be an immediate and substantial increase in judicial salaries." At the March meeting of the Judicial Conference, the Attorney General spoke in favor of increasing judges' pay, as did Senators Hatch and Leahy.

Whether this means that the stars are aligned for Congress to pass a bill to increase our pay, I cannot say. But I can say that we are closer than we have been for several years, and I am still hopeful that we may get something through during this Congress. The progress we have made is in large part due to the efforts of many federal judges, including the members and leadership of the Federal Judges Association. I particularly want to note the hard work of Deanell Tacha and Richard Arnold, the Chair and Vice-Chair of the Judicial Branch Committee of the Judicial Conference, Judge John Walker, who has helped pave the way for the President's support, and Judge Robert Katzmann, who worked very closely with the Volcker Commission.

The second topic I would like to address is the recent efforts by some in Congress to look into downward departures in sentencing by federal judges, in particular our colleague Judge James Rosenbaum. We can all recognize that Congress has a legitimate interest in obtaining information which will assist in the legislative process. But the efforts to obtain information may not threaten judicial independence or the established principle that a judge's judicial acts cannot serve as a basis for his removal from office.

It is well settled that not only the definition of what acts shall be criminal, but the prescription of what sentence or range of sentences shall be imposed on those found guilty of such acts, is a legislative function - in the federal system, it is for Congress. Congress has recently indicated rather strongly, by the Feeney Amendment, that it believes there have been too many downward departures from the Sentencing Guidelines. It has taken steps to reduce that number. Such a decision is for Congress, just as the enactment of the Sentencing Guidelines nearly twenty years ago was.

The new law also provides for the collection of information about sentencing practices employed by federal judges throughout the country. This, too, is a legitimate sphere of congressional inquiry, in aid of its legislative authority. But one portion of the law provides for the collection of such information on an individualized judge-by-judge basis. This, it seems to me, is more troubling. For side-by-side with the broad authority of Congress to legislate and gather information in this area is the principle that federal judges may not be removed from office for their judicial acts.

This principle is not set forth in the Constitution, which does grant federal judges tenure during good behavior and protection against diminution in salary. But the principle was established just about two centuries ago in the trial of Justice Samuel Chase of the Supreme Court by the Senate. Chase was one of those people who are intelligent and learned, but seriously lacking in judicial temperament. He showed marked partiality in at least one trial over which he presided, and regularly gave grand juries partisan federalist charges on current events.

For this the House of Representatives, at President Thomas Jefferson's instigation, impeached him, and he was tried before the Senate in 1805. That body heard fifty witnesses over a course of ten full days. The Jeffersonian Republicans had more than a two-thirds majority in the body, and if they had voted as a block Chase would have been convicted and removed from office. Happily, they did not vote as a block; the article on which the House managers obtained the most votes to convict was the one dealing with his charges to the grand jury; there the vote to convict was nineteen to fifteen, a simple majority but short of the requisite two-thirds vote needed to convict.

The significance of the outcome of the Chase trial cannot be overstated -- Chase's narrow escape from conviction in the Senate exemplified how close the development of an independent judiciary came to being stultified. Although the Republicans had expounded grandiose theories about impeachment being a method by which the judiciary could be brought into line with prevailing political views, the case against Chase was tried on a basis of specific allegations of judicial misconduct. Nearly every act charged against him had been performed in the discharge of his judicial office. His behavior during the Callender trial was a good deal worse than most historians seem to realize, and the refusal of six of the Republican Senators to vote to convict even on this count surely cannot have been intended to condone Chase's acts. Instead it

represented a judgement that impeachment should not be used to remove a judge for conduct in the exercise of his judicial duties. The political precedent set by Chase's acquittal has governed that day to this: a judge's judicial acts may not serve as a basis for impeachment.

In the years since the Chase trial, eleven federal judges have been impeached. Of those, three were acquitted, two resigned rather than face trial, and six were convicted. One conviction -- that of Judge West H. Humphreys in 1862 -- was by default since he had accepted appointment as a Confederate judge in Tennessee. The other five convictions were for offenses involving financial improprieties, income tax evasion, and perjury -- misconduct far removed from judicial acts.

But the principle that a judge may not be impeached for judicial acts does not mean that Congress cannot change the rules under which judges operate. Congress establishes the rules to be applied in sentencing; that is a legislative function. Judges apply those rules to individual cases; that is a judicial function. There can be no doubt that collecting information about how the sentencing guidelines, including downward departures, are applied in practice could aid Congress in making decisions about whether to legislate on these issues. There can also be no doubt that the subject matter of the questions, and whether they target the judicial decisions of individual federal judges, could amount to an unwarranted and ill-considered effort to intimidate individual judges in the performance of their judicial duties. We must hope that these inquiries are designed to obtain information in aid of the congressional legislative function, and will not trench upon judicial independence.

Thank you.

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## Dr. Richard Cordero

Ph.D., University of Cambridge, England  
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59 Crescent Street  
Brooklyn, NY 11208-1515  
tel. (718) 827-9521; CorderoRic@yahoo.com

June 29, 2004

Mr. David N. Kelley  
U.S. Attorney for the Southern District of NY  
One St. Andrews Plaza  
New York, NY 10007

[(212)637-2200; fax (212)637-2611]

Dear Mr. Kelley,

On May 6, I mailed you a letter with supporting documents in which I laid out evidence of judicial misconduct and bankruptcy fraud involving judges and other officers in the U.S. courts in Rochester and the Court of Appeals for the Second Circuit. They have disregarded the law, rules, and facts so repeatedly and consistently as to give rise to a pattern of non-coincidental, intentional, and coordinated acts of wrongdoing. I pointed out how the concentration of *thousands* of open cases in the hands of a single trustee can generate the money that incites to wrongdoing through the acceptance for a fee of meritless bankruptcy petitions. One such petition, dated January 26, 2004, was filed by David and Mary Ann DeLano in Rochester, dkt. no. 04-20280 WBNY. It deserves your attention because it is so meritless (page 8, para. 23, *infra*) for bankruptcy relief –Mr. DeLano is and has been a *loan* bank officer for 15 years- that its investigation as a test case (4.C) can yield insight into the bankruptcy scheme (1.A). To that end and since my submission cannot be found (but see iv), I am sending you a copy and this update.

The DeLanos' petition (92-127) was approved by Trustee George Reiber for confirmation on March 8 by the court. Although it names me as a creditor and I traveled from NYC to Rochester to attend the meeting of creditors on that date, James Weidman, the Trustee's attorney –it was unlawful for him to conduct the meeting-, repeatedly asked *me* how much I knew about the DeLanos having committed fraud. When I revealed nothing, he prevented me from examining them; the Trustee ratified his action as did Judge J. Ninfo. I requested his supervisors, Assistant U.S Trustee Kathleen Schmitt and U.S. Trustee for Region 2 Deirdre Martini, to replace Trustee Reiber with an independent trustee to investigate how such a questionable petition was approved and why I was not allowed to examine the Debtors. They have refused and he has not investigated anything. Instead, Trustee Martini has engaged in deception (77-84) to avoid sending me information that could allow me to investigate this case further.

Due to my insistence, Trustee Reiber obtained some documents from the debtors (28-58). Because they are late, he has moved for dismissal, which would also protect him from my investigation. Indeed, my analysis of those documents (16-27a) reveals their incompleteness as well as debt underreporting, account unreporting, and concealment of assets. Why did Trustee Martini keep him on the case without investigating how many of his 3,909 *open cases* (2.B) he approved without regard for their merits (8.D)? Yet, this is not the only trustee with such practices (4.C).

The misconduct of CA2 judges (85-89) and the Region 2 trustee within your district should be enough to give you jurisdiction to investigate any link between it and the misconduct and bankruptcy fraud in WDNY. I can support that proposition with facts beyond this executive summary because I have dealt with these people for 2½ years and have read or researched and written over 1,500 pages of documents. Consequently, I respectfully request to meet with you.

Sincerely,

*Dr. Richard Cordero*

# Dr. Richard Cordero

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June 29, 2004

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[(212)637-2200; fax (212)637-2611]

Dear Ms. Sandt,

Thank you for calling me last Tuesday, June 22, concerning my letter of last May 6 with supporting documents to U.S. Attorney David Kelley. Therein I laid out evidence of judicial misconduct and bankruptcy fraud involving judges in the U.S. Bankruptcy and District Courts in Rochester and the Court of Appeals for the Second Circuit as well as private and U.S. trustees and debtors there and here in NYC.

As stated, despite my inquiries, my submission has not yet been found, although I mailed it on May 7 (see page iv, *infra*). Hence, I am grateful that you requested a copy to review it. Since this is an on going case in both cities, herewith is an update. It concentrates on the workings of a bankruptcy fraud scheme (1A, *infra*) and the analysis (16-27a) of financial documents from bankruptcy petitioners (28-58). Their petition (92-127) can be considered a test case that through concrete facts and identified persons can provide firm stepping stones for your investigation (8D). The analyzed documents reveal not only their suspicious incompleteness despite repeated requests that at my instigation (59-76) the private trustee belatedly made for a whole set (11-15), but also debt underreporting, account unreporting, and concealment of assets. These findings beg the questions: How could the private and U.S. trustees (77-84) approve such a meritless (8, para. 23) bankruptcy petition? How many of the 3,909 *open cases* of the same trustee (2.B) are also meritless? Why does the bankruptcy judge keep confirming them? (4C)

Included in the update is also a letter with supporting material to the CA2 Chief Judge. I complain about the refusal to make available to me misconduct orders that by law are required to be made publicly available and which I need to prepare my appeal, which is deadlined to July 9, to the CA2 judicial circuit from his dismissal of my judicial misconduct complaint (85-89). To date, two weeks since my initial request on June 16, the Chief Judge has neither answered my letter nor made available the orders. This event and those that I described in the previous submissions concerning misconduct of CA2 judges (1<sup>st</sup> of May 2) and the Region 2 Trustee (2<sup>nd</sup> of May 24) here in NYC should suffice to provide your office with jurisdiction to investigate the link between misconduct here and misconduct and bankruptcy fraud in Rochester.

To be as persuasive as possible and enable you and your colleagues to assess this case on the best available evidence, I have included many copies of key documents; this will spare you having to hunt for them. However, I can provide pertinent clarifications and important details given my dealings with these people for 2½ years and familiarity with over 1,500 pages of documents. Thus, I respectfully request that you bring to Mr. Kelley's attention my cover letters, which are executive summaries for busy decision-makers, and arrange for us to meet. Meantime, I look forward to hearing from you soon and thank you for getting the review process underway.

Sincerely,

*Dr. Richard Cordero*

# Dr. Richard Cordero

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

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

June 29, 2004

Mr. David Jones  
Chief of the Bankruptcy Unit in Civil Matters  
U.S. Attorney's Office  
One St. Andrews Plaza  
New York, NY 10007

[(212)637-2200; fax (212)637-2611]

Dear Mr. Jones,

Thank you for calling me last Tuesday, June 22, concerning my letter of May 6 with supporting documents to U.S. Attorney David Kelley. Therein I laid out evidence of judicial misconduct and bankruptcy fraud involving judges in the U.S. Bankruptcy and District Courts in Rochester and the Court of Appeals for the Second Circuit as well as trustees and debtors there and here in NYC. As stated, despite my inquiries, my submission has not yet been found, although I mailed it on May 7 (see page iv, *infra*). Thus, I am grateful that you requested a copy.

Since this is an on going case in both cities, herewith is an update. It concentrates on the workings of a bankruptcy fraud scheme (1A, *infra*) and the analysis (16-27a) of financial documents from bankruptcy petitioners (28-58). Their petition (92-127) can be considered a test case that through concrete facts and identified persons can provide firm stepping stones for your investigation (8D). The analyzed documents reveal not only their suspicious incompleteness despite repeated requests that at my instigation (59-76) the private trustee belatedly made for a whole set (11-15), but also debt underreporting, account unreporting, and concealment of assets. These findings beg the questions: How could the private and U.S. trustees (77-84) approve such a meritless (8, para. 23) bankruptcy petition? How many of the *3,909 open cases of the same trustee* (2.B) are also meritless? Why does the bankruptcy judge keep confirming them? (4C)

Contrary to some views, the evidence contained in my initial submission, let alone as buttressed by this update, is sufficient to raise reasonable suspicion of wrongdoing, which your office can investigate to determine whether criminal activity has been or is being committed. It is not for me, as a private citizen rather than a private investigator, to go out and search for other creditors that can join me and lend credibility to my claims. In the process, I would risk a defamation lawsuit, which I could hardly defend since I lack what is required to investigate this case, such as your Office's subpoena power, manpower to conduct interviews and depositions, and the means to engage in forensic accounting and hunt for concealed assets or evidence of bribes. Nor can each piece of evidence be discarded individually as non-probative of any crime. How can the dots be connected to detect any pattern of conduct supportive of reasonable suspicion of wrongdoing if the dots are not even plotted on a chart to look at them collectively? Circumstantial cases in which a person can lose even his life look at the totality of circumstances. So here.

To be as persuasive as possible and enable you and your colleagues to assess this case on the best available evidence, I have included many copies of key documents; this will spare your having to search for them. However, I can provide pertinent clarifications and important details given my dealings with these people for 2½ years and familiarity with over 1,500 pages of documents. Thus, I respectfully request that you bring to Mr. Kelley's attention my cover letters, which provide executive summaries for busy decision-makers, and arrange for us to meet. Mean-time, I look forward to hearing from you soon and thank you for getting the review underway.

Sincerely,

*Dr. Richard Cordero*

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Ph.D., University of Cambridge, England  
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June 29, 2004

Karen Patton Seymour, Esq.  
Chief of the Criminal Division  
U.S. Attorney's Office  
One St. Andrews Plaza  
New York, NY 10007

(212)637-2200; fax (212)637-2611]

Dear Ms. Seymour,

Last May 6, I sent a letter with supporting documents to U.S. Attorney David Kelley. Therein I laid out evidence of judicial misconduct and bankruptcy fraud involving judges in the U.S. Bankruptcy and District Courts in Rochester and the Court of Appeals for the Second Circuit as well as trustees and debtors there and here in NYC. However, nobody can find that submission, which I mailed on May 7 (see page iv, *infra*). While inquiring about it, I was told that if it ever appeared, it would be sent to you. Consequently, I am submitting to you a copy.

Since this is an on going case in both cities, herewith is an update. It concentrates on the workings of a bankruptcy fraud scheme (1A, *infra*) and the analysis (16-27a) of financial documents from bankruptcy petitioners (28-58). Their petition (92-127) can be considered a test case that through concrete facts and identified persons can provide firm stepping stones for your investigation (8D). The analyzed documents reveal not only their suspicious incompleteness despite repeated requests that at my instigation (59-76) the private trustee belatedly made for a whole set (11-15), but also debt underreporting, account unreporting, and concealment of assets. These findings beg the questions: How could the private and U.S. trustees (77-84) approve such a meritless (8, para. 23) bankruptcy petition? How many of the *3,909 open cases of the same trustee* (2.B) are also meritless? Why does the bankruptcy judge keep confirming them? (4C)

Contrary to some views, the evidence contained in my initial submission, let alone as buttressed by this update, is sufficient to raise reasonable suspicion of wrongdoing, which your office can investigate to determine whether criminal activity has been or is being committed. It is not for me, as a private citizen rather than a private investigator, to go out and search for other creditors that can join me and lend credibility to my claims. In the process, I would risk a defamation lawsuit, which I could hardly defend since I lack what is required to investigate this case, such as you Office's subpoena power, manpower to conduct interviews and depositions, and the means to engage in forensic accounting and hunt for concealed assets or evidence of bribes. Nor can each piece of evidence be discarded individually as non-probative of any crime. How can the dots be connected to detect any pattern of conduct supportive of reasonable suspicion of wrongdoing if the dots are not even plotted on a chart to look at them collectively? Circumstantial cases in which a person can lose even his life look at the totality of circumstances. So here.

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Sincerely,

*Dr. Richard Cordero*

# Dr. Richard Cordero

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June 29, 2004

Donna Drori, Esq.  
Assistant U.S. Attorney  
U.S. Attorney's Office  
86 Chambers Street, 3<sup>rd</sup> Fl.  
New York, NY 10007

[(212)637-2200; fax (212)637-2611]

Dear Ms. Drori,

Thank you for calling me last Thursday, June 24, concerning my letter of last May 6 with supporting documents to U.S. Attorney David Kelley. Therein I laid out evidence of judicial misconduct and bankruptcy fraud involving judges in the U.S. Bankruptcy and District Courts in Rochester and the Court of Appeals for the Second Circuit as well as private and U.S. trustees and debtors there and here in NYC.

As stated, despite my inquiries, my submission has not yet been found, although I mailed it on May 7 (see page iv, *infra*). Hence, I am grateful that you requested a copy to review it. Contrary to some views, the evidence contained in my initial submission, let alone as buttressed by this update, is sufficient to raise reasonable suspicion of wrongdoing, which your office can investigate to determine whether criminal activity has been or is being committed. It is not for me, as a private citizen rather than a private investigator, to go out and search for other creditors that can join me and lend credibility to my claims. In the process, I would risk a defamation lawsuit, which I could hardly defend since I lack what is required to investigate this case, such as you Office's subpoena power, manpower to conduct interviews and depositions, and the means to engage in forensic accounting and hunt for concealed assets or evidence of bribes. Nor can each piece of evidence be discarded individually as non-probative of any crime. How can the dots be connected to detect any pattern of conduct supportive of reasonable suspicion of wrongdoing if the dots are not even plotted on a chart to look at them collectively? Circumstantial cases in which a person can lose even his life look at the totality of circumstances. So here.

Included in the update is also a letter with supporting material to the CA2 Chief Judge. I complain about the refusal to make available to me misconduct orders that by law are required to be made publicly available and which I need to prepare my appeal, which is deadlined to July 9, to the CA2 judicial circuit from his dismissal of my judicial misconduct complaint (85-89). To date, two weeks since my initial request on June 16, the Chief Judge has neither answered my letter nor made available the orders. This event and those that I described in the previous submissions concerning misconduct of CA2 judges (1<sup>st</sup> of May 2) and the Region 2 Trustee (2<sup>nd</sup> of May 24) here in NYC should suffice to provide your office with jurisdiction to investigate the link between misconduct here and misconduct and bankruptcy fraud in Rochester.

To be as persuasive as possible and enable you and your colleagues to assess this case on the best available evidence, I have included many copies of key documents; this will spare your having to hunt for them. However, I can provide pertinent clarifications and important details given my dealings with these people for 2½ years and familiarity with over 1,500 pages of documents. Thus, I respectfully request that you bring to Mr. Kelley's attention my cover letters, which provide executive summaries for busy decision-makers, and arrange for us to meet. Mean-time, I look forward to hearing from you soon and thank you for getting the review underway.

Sincerely,

*Dr. Richard Cordero*

## Dr. Richard Cordero

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

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tel. (718) 827-9521; CorderoRic@yahoo.com

June 29, 2004

Mr. Pasquale J. Damuro  
Assistant Director in Charge  
FBI New York  
26 Federal Plaza, 23rd. Floor  
New York, NY 10278-0004

[(212)637-2200; fax (212)637-2611]

Dear Mr. Damuro,

Last May 2 and 24, I sent you a letter with supporting documents and then with updating ones, respectively. Therein I laid out evidence of judicial misconduct and bankruptcy fraud involving judges in the U.S. Bankruptcy and District Courts in Rochester and the Court of Appeals for the Second Circuit in NYC as well as trustees and debtors there and here. While I never received acknowledgment of receipt, this past week A.S.S.A. Robert Silveri succeeded in tracking them down and promptly getting its review under way. I have requested that he bring this matter to your attention with a view to obtaining your input and opening an investigation.

Since this is an on going case in both cities, herewith is an update. It concentrates on the workings of a bankruptcy fraud scheme (1A, infra) and the analysis (16-27a) of financial documents from bankruptcy petitioners (28-58). Their petition (92-127) can be considered a test case that through concrete facts and identified persons can provide firm stepping stones for your investigation (8D). The analyzed documents reveal not only their suspicious incompleteness despite repeated requests that at my instigation (59-76) the private trustee belatedly made for a whole set (11-15), but also debt underreporting, account unreporting, and concealment of assets. These findings beg the questions: How could the private and U.S. trustees (77-84) approve such a meritless (8, para. 23) bankruptcy petition? How many of the *3,909 open cases of the same trustee* (2.B) are also meritless? Why does the bankruptcy judge keep confirming them? (4C)

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To be as persuasive as possible and enable you to assess this case on the best available evidence, I have included many copies of key documents. This will spare your agents having to hunt for them. By the same token, it is an effort on my part to cause your Office to investigate this pattern of wrongdoing. Since I can provide pertinent clarifications and important details given my dealings with these people for 2½ years and familiarity with over 1,500 pages of documents, I respectfully request a meeting with you. Meantime, I would appreciate it if you would acknowledge receipt of my three submissions.

Sincerely,

*Dr. Richard Cordero*

# Dr. Richard Cordero

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

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

June 29, 2004

Mr. Robert M. Silveri  
Acting Supervisory Special Agent, Squad C-4  
FBI New York  
26 Federal Plaza, 23rd. Floor  
New York, NY 10278-0004

[(212)637-2200; fax (212)637-2611 ext. 2219]

Dear Mr. Silveri,

Thank you for tracking down and discussing with me my submissions of last May 2 and 24, to Assistant Director in Charge Pasquale Damuro. Therein is evidence of judicial misconduct and bankruptcy fraud involving U.S. judges and other officers in Rochester and the Second Circuit Court of Appeals in NYC. They have disregarded the law, rules, and facts so repeatedly as to give rise to a pattern of non-coincidental, intentional, and coordinated acts of wrongdoing. The concentration of *thousands* of cases in a single trustee can generate the money that incites to wrongdoing through the acceptance for a fee of meritless petitions for bankruptcy relief. This update bears on one such petition, the DeLanos'. It deserves your attention because it is so meritless (page 8, para. 23, *infra*) –Mr. DeLano is and has been a *loan* bank officer for 15 years–that its investigation as a test case (4.C) can yield insight into the bankruptcy scheme (1.A).

The DeLanos' petition (92-127) was approved by Trustee George Reiber for confirmation on March 8 by the court. Although it names me as a creditor and I traveled from NYC to Rochester to attend the meeting of creditors on that date, James Weidman, the Trustee's attorney –it was unlawful for him to conduct the meeting–, repeatedly asked *me* how much I knew about the DeLanos having committed fraud. When I revealed nothing, he prevented me from examining them; the Trustee ratified his action as did Judge J. Ninfo. I requested his supervisors, Assistant U.S Trustee Kathleen Schmitt and U.S. Trustee for Region 2 Deirdre Martini, to replace Trustee Reiber with an independent trustee to investigate how such a questionable petition was approved and why I was not allowed to examine the Debtors. They have refused and he has not investigated anything. Instead, Trustee Martini has engaged in deception (77-84) to avoid sending me information that could allow me to investigate this case further.

Due to my insistence, Trustee Reiber obtained some documents from the debtors (28-58). Because they are late, he has moved for dismissal, which would also protect him from my investigation. Indeed, my analysis of those documents (16-27a) reveals their incompleteness as well as debt underreporting, account unreporting, and concealment of assets. Why did Trustee Martini keep him on the case without investigating how many of his *3,909 open cases* (2.B) he approved without regard for their merits (8.D)? Yet, this is not the only trustee with such practices (4.C).

The misconduct of CA2 judges (85-89) and the Region 2 trustee within your district should be enough to give you jurisdiction to investigate any link between it and the misconduct and bankruptcy fraud in WDNY. I can support that proposition with facts because I have dealt with these people for 2½ years and have read or researched and written over 1,500 pages of documents. Thus, I respectfully request that you bring to Mr. Damuro's attention my cover letters, which provide executive summaries, and arrange for us to meet. Meantime, I thank you for getting this review underway and look forward to hearing from you soon.

Sincerely, 



# Table of Exhibits

containing the update sent on June 29, 2004  
to U.S. Att. David N. Kelley, SDNY,  
FBI Assistant Director in Charge Pasquale J. Damuro  
and officers in their respective offices  
concerning the *DeLano* test case for investigating  
a judicial wrongdoing and bankruptcy fraud scheme  
by  
**Dr. Richard Cordero**

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\* **D:**=Designated items, i.e. documents, in the record for the appeal from Bankruptcy Judge Ninfo’s decision in *In re DeLano*, 04-20280, WBNY, to the District Court in *Cordero v DeLano*, 05cv6190L, WDNY. These items are contained on the accompanying CD in the D folder.

The latter also holds **Add:**=Addendum to the D: files; **Pst:**= PostAddendum; and **Tr:**=transcript of the evidentiary hearing in *DeLano* held before Judge Ninfo on March 1, 2005.

Mr. DeLano is a 3rd-party defendant whom Dr. Cordero brought into *Pfuntner v. Trustee Gordon et al.*, 02-2230, WBNY, Judge Ninfo presiding. Later on, he filed for bankruptcy and included Dr. Cordero among his creditors because of the latter’s claim against him arising from *Pfuntner*.

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# Trustees with thousands of open cases and one case that opens a window into the operation of the bankruptcy fraud scheme

(as of June 26, 2004)

by  
Dr. Richard Cordero

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### **A. A scheme that works by taking money from many credit card issuers but not so much from anyone as to make it cost-effective for any issuer to spend time, effort, and money pursuing a pennies-on-the dollar recovery in risky bankruptcy proceedings**

1. The critical fact that should pique one’s curiosity and intrigue one into examining this case further is that each trustee has *thousands of open cases*. This fact can be corroborated independently through Pacer, as shown below. It inescapably begs the question: How can one lawyer in a one or two lawyer law firm, as are those in play here, can possibly have the time to

pay anything remotely close to adequate attention to so many cases? Keep in mind that the trustee must examine each petition to determine whether it meets the requirements of the Bankruptcy Code so that he may recommend to the court that its plan of debt repayment be confirmed. That requires his review of not only all the schedules that make up a petition, but also financial documents that provide the basis for the figures and statements that the debtor used to fill out the schedules.

2. Indeed, the trustee, as the representative of the creditors, must ascertain, for example, whether the debtor has truthfully stated all his debts, has neither hidden any of his assets nor underestimated the value of those that he has declared, and has not overestimated his current expenditures. But that is just the beginning, for then the trustee must monitor the debtor's performance of his debt repayment plan as the debtor makes monthly payments over the three to five years of the plan's life. How many seconds a month can the trustee dedicate to each of *3,909 open cases!*? Meanwhile he continues to take in new ones and must conduct in person the meeting of creditors, which he may have to adjourn one or more times. He must also appear in court not only to confirm debtors' plans, but also to state his views at hearings of motions raised by any of the parties. That is why he cannot waste time reviewing petitions. Here is where knowledge of other people's normal behavior in bankruptcy cases or, better still, what others have agreed to do, becomes such a key element for the trustee.
3. Many creditors, including institutional ones, cannot afford to spend the considerable amount of time, effort, and thus money necessary to recover on their bankruptcy claims unless the latter exceed a certain threshold of cost-effective participation. It comes down to not throwing good money after bad. As a result, people who know this cost barrier exploit their knowledge: They incur debts below the threshold, but to as many creditors as they can. Hence, the ideal target creditor is a credit card issuer, whose debt is unsecured and whose balance transfer feature allows the debtor to regulate his debt's threshold levels. So the debtor can charge to a card up to a certain limit of debt; keep making the minimum monthly payment to avoid a negative credit bureau report that would alert other issuers and could trigger their acceleration clauses; and move on to charging the next credit card. An industry insider, such as a loan bank officer, would be in a position, not only to find out the threshold of participation of many credit card issuers, but also to use that knowledge for personal benefit as well as for the benefit of others, whether his clients or other parties. Knowledge is a valuable asset and if it joins the legal

authority vested in officers in the right position, the basic elements of a scheme are in place.

4. As this knowledge is provided to more people and as more and more bankruptcy petitions are approved without any review of supporting documents, let alone any determination of their good faith, the number of debtors filing petitions just keeps growing. Overwhelmed by them, the creditors must increase their threshold of participation. This dynamic puts in motion a vicious circle in which a necessary threshold is exploited by petitions below it and the increasing number of such petitions requires setting a higher threshold, which is exploited in turn and so on.
5. At the same time, money keeps rolling in for the schemers. For one thing, even if the total debt to any one creditor is intentionally kept relatively low, the debts to all creditors add up to serious money, as shown below. To escape paying all that money, a debtor has an incentive to pay all fees, legal and otherwise, demanded by the schemers. Similarly, even if the schemers make a small amount of money on each petition, they accept so many cases, *thousands of them!*, that their total in-take also adds up to serious money. They can be so indiscriminate in accepting cases regardless of their merits precisely because they do not waste time reviewing any petition beyond what is strictly necessary to make sure that it is below the creditors' threshold of participation. Actually, in the logic of the scheme, the fewer the merits for relief under the Bankruptcy Code a petition has, the higher its value to the schemers, who can raise any acceptance fee proportionally higher. High too as well as widespread are the loss and pain that they cause to so many creditors: those who trusted them enough to lend them their money and those who believed them to be doing the right thing on their behalf rather than engaging in irresponsible and self-serving conduct that renders them liable for claims of compensation. Neither debtors nor schemers should be allowed to break bankruptcy laws and get rich with it.

**B. A Chapter 13 trustee with 3,909 open cases cannot possibly have the time or the inclination to check the factual accuracy or internal consistency of the content of each bankruptcy petition to ascertain its good faith**

6. Pacer is the federal courts' electronic document filing and retrieval service. The information that it provides sheds light on why trustees may be quite unwilling and unable to spend any time investigating the bankruptcy petitions submitted to them by debtors to establish the reliability of their figures and statements. When queried on April 2, 2004, with the name

George Reiber, Trustee, -the standing Chapter 13 trustee in the Western District of New York- it returned this message at <https://ecf.nywb.uscourts.gov/cgi-bin/login.pl>: “This person is a party in 13250 cases.” When queried again about open cases, Pacer came back at [https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L\\_916\\_0-1](https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L_916_0-1) with 119 billable pages that ended thus:

**Table 1. Illustrative row of PACER’s presentation of  
Standing Chapter 13 Trustee George Reiber’s 3,909 open cases  
in the Bankruptcy Court, WBNY**

<a href="#">2-04-21295-JCN</a>	bk	13	William J. Hastings and Carolyn M. Hastings	Ninfo Reiber	Filed: 04/01/2004	Office: Rochester Asset: Yes Fee: Paid County: 2-Monroe
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Total number of cases: 3909

Open cases only

**PACER Service Center**

7. As of last April 2, Trustee Reiber had 3,909 *open* cases! This is not just a huge abstract figure. Right there are the real cases, in flesh and blood, as it were, for Pacer personalizes each one of them with the debtors’ names; and each has a throbbing heart: a hyperlink in the left cell that can call that case to step up to the screen for examination. What is more, they are in good health since Pacer indicates that, with the exception of fewer than 44, they are asset cases. This means that Trustee Reiber took care to “consider whether sufficient funds will be generated to make a meaningful distribution to creditors, prior to administering the case as **an asset case**” (emphasis added; §2-2.1. of the Trustee Manual). By the way, JCN after the case number in the left cell stands for the Hon. John C. Ninfo, II, the U.S. bankruptcy judge in Rochester before whom that case and so many others, as shown below, was brought.
8. Trustee Reiber is the trustee for the DeLano case (section D, *infra*). For him “meaningful distribution” under the DeLanos’ debt repayment plan is 22 cents on the dollar with no interest accruing during the repayment period (see the DeLano’s bankruptcy petition at the end of this package). No doubt, avoiding 78 cents on the dollar as well as credit card compounding interest as well as late and over the limit fees is even more meaningful to the DeLanos. By the same

token, that means that the Trustee has taken care of his fee, which is paid as a percentage of what the debtor pays (28 U.S.C. §586(e)(1)(B)).

9. Given that a trustee's fee compensation is computed as a percentage of a base, it is in his interest to increase the base by having debtors pay more so that his percentage fee may in turn be a proportionally higher amount. However, increasing the base would require ascertaining the veracity of the figures in the schedules of the debtors as well as investigating any indicia that they have squirreled away assets for a rainbow post-discharge life, such as a golden pot retirement. Such investigation, however, takes time, effort, and money. Worse yet from the perspective of the trustee's economic interest, an investigation can result in a debtor's debt repayment plan not being confirmed and, thus, in no stream of percentage fees flowing to the trustee. (11 U.S.C. §§1326(a)(2) and (b)(2)). "Mmm...not good!"
10. The obvious alternative is "never investigate anything, not even patently suspicious cases. Just take in as many cases as you can and make up in the total of small easy fees from a huge number of cases what you could have made by taking your percentage fee of the assets that you sweated to recover." Of necessity, such a scheme redounds to the detriment of the creditors, whose interests the trustee is supposed to represent, since fewer assets are brought into the estate and distributed to them. When the trustee takes it easy, the creditors take a heavy loss, whether by receiving less on the dollar or by spending a lot of money, effort, and time investigating the debtor only to get what was owed them to begin with.
11. This income maximizing scheme has a natural and perverse consequence: As it becomes known that trustees have no time but rather an economic disincentive to investigate debtors' financial affairs, ever more debtors with ever less deserving cases for relief under the Bankruptcy Code go ahead and file their petitions. What is worse, as people with no debt problems yet catch on to how easy it is to get a petition rubberstamped, they have every incentive to live it up by binging on their credit as if there were no repayment day, for they know there is none, just a bankruptcy petition waiting to be filed with the required fee...or perhaps 'fees'?
12. Have U.S. Trustees contributed to the development of that income maximizing mentality and implementing scheme by failing to demand that panel trustees –who are private trustees under their supervision- perform their duty "to investigate the financial affairs of the debtor" (11 U.S.C. §§1302(b)(1) and §704(4)) and to "furnish such information concerning the estate and the estate's administration as is requested by a party in interest" (§704(7))?



**C. Another trustee with 3,383 cases was upon a performance- and-fitness-to-serve complaint referred by the court to the Assistant U.S. Trustee for a “thorough inquiry”, which was limited to talking to him and a party and to uncritically writing down their comments in an opinion, which the Trustee for Region 2 would not investigate**

13. At the beginning of 2002, Dr. Richard Cordero, a New York City resident, was looking for his property in storage with Premier Van Lines, Inc., a moving and storage company located in Rochester, NY. He was given the round-around by its owner, David Palmer, and others who were doing business with Mr. Palmer. After the latter disappeared from court proceedings and stopped answering his phone, the others eventually disclosed to Dr. Cordero that Mr. Palmer had filed a voluntary bankruptcy petition under Chapter 11 on behalf of Premier and that the company was already in Chapter 7 liquidation. They referred Dr. Cordero to the Chapter 7 trustee in the case, Kenneth Gordon, Esq., for information on how to locate and retrieve his property. However, Trustee Gordon refused to provide such information, instead made false and defamatory statements about Dr. Cordero to the bankruptcy court and others, and merely referred him back to the same people that had referred him to Trustee Gordon.
14. Dr. Cordero requested a review of Trustee Gordon’s performance and fitness to serve as trustee in a complaint filed with Judge Ninfo, before whom Mr. Palmer’s petition was pending. Judge Ninfo did not investigate whether the Trustee had submitted to him false statements, as Dr. Cordero had pointed out, but simply referred the matter to Assistant U.S. Trustee Kathleen Dunivin Schmitt for a “thorough inquiry”. However, what she actually conducted was only a quick ‘contact’: a substandard communication exercise limited in its scope to talking to the trustee and a lawyer for a party and held back in its depth to uncritically accepting at face value what she was told. Her written supervisory opinion of October 22, 2002, was infirm with mistakes of fact and inadequate coverage of the issues raised.
15. Dr. Cordero appealed Trustee Schmitt’s opinion to her superior at the time, Carolyn S. Schwartz, U.S. Trustee for Region 2. He sent her a detailed critical analysis, dated November 25, 2002, of that opinion against the background of facts supported by documentary evidence. It must be among the files now in the hands of her successor, Region 2 Trustee Deirdre A. Martini. It is also available as entry no. 19 in docket no. 02-2230, Pfunter v. Trustee Gordon et al. ([www.nywb.uscourts.gov](http://www.nywb.uscourts.gov)). But Trustee Schwartz would not investigate the matter.
16. Yet, there was more than enough justification to investigate Trustee Gordon, for he too has

*thousands* of cases. The statistics on Pacer as of November 3, 2003, showed that Trustee Gordon was the trustee in 3,092 cases! What is more, as of June 26, 2004, Pacer replied on page <https://ecf.nywb.uscourts.gov/cgi-bin/login.pl> to a query of Trustee Gordon as trustee thus: "This person is a party in 3,383 cases". The latest one is:

[2-04-22525-JCN](#)

Thomas E. Smith

filed 06/14/04

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

[2-04-22720-JCN](#)

Norman G Kraft and Ellen K Kraft

filed 06/23/04

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

[2-04-02014-JCN](#)

Gordon v. Murphy

filed 01/29/04

18. Now comes a critically important piece of information, or rather three, for Pacer shows that in all those 76 cases in which Trustee Gordon is named a party, the judge has been none other than JCN, that is, the Hon. John C. Ninfo, II; that in 138 out of those 142 cases in which Trustee Gordon was named an attorney, the judge has been Judge Ninfo; and that in all but one of the 3,383 cases in which Trustee Gordon was the trustee, Judge Ninfo has been the judge. They have worked together in thousands of cases!, for years, day in and day out, with Trustee Gordon appearing before Judge Ninfo in the same session several times for different cases. It is more than reasonable to assume that they have developed, if not a personal bond, then the

working relationship between a grantor of rulings who is not to be challenged and a petitioner of rulings who wants them to be favorable. Such relationship benefits from cooperation and mutual support as well as the avoidance of even the appearance of defiance, not to mention antagonism. It induces its participants to become partners. Outsiders had better abstain from challenging either of them, let alone both of them.

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

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

19. Chapter 7 Trustee Gordon, just as Chapter 13 Trustee Reiber (section II, supra), could not possibly have had the time or the inclination to spend more than the strictly indispensable time on any single case, let alone spend time on a person from whom he could earn no fee. Indeed, in his Memorandum of Law of February 5, 2003, in Opposition to Cordero’s Motion to Extend Time to Appeal, Trustee Gordon unwittingly provided the motive for having handled the liquidation of Premier Van Lines negligently and recklessly: “As the Court is aware, the sum total of compensation to be paid to the Trustee in this case is \$60.00” (docket no. 02-2230, entry 55, pgs. 5-6). Trustee Gordon had no financial incentive to do his job...nor did he have a sense of duty! But why did he ever think that telling the court, that is, Judge Ninfo, how little he would earn from liquidating Premier would in the court’s eyes excuse his misconduct toward Dr. Cordero?
20. The reason is that Judge Ninfo does not apply the laws and rules of Congress, which together with the facts of the case he has consistently disregarded to the detriment of Dr. Cordero (see

his misconduct complaints). Nor does he cite the case law of the courts hierarchically above his. Rather, he applies the laws of close personal relationships, those developed by frequency of contact between interdependent people with different degrees of power. Therein the person with greater power is interested in his power not being challenged and those with less power are interested in being in good terms with him so as to receive benefits and avoid retaliation. Frequency of contact is only available to the local parties, such as Trustee Gordon, as oppose to Dr. Cordero, who lives in New York City and is appearing as a party for the first time ever and, as such, in all likelihood the last time too.

21. The importance for the locals, such as Trustee Gordon, to mind the law of relationships over complying with the laws and rules of Congress or being truthful about the facts of their cases becomes obvious upon realizing that in the Bankruptcy Court for the Western District of New York there are only three judges and the Chief Judge is none other than Judge Ninfo. Thus, the locals have a powerful incentive not to ‘rise in objections’, as it were, thereby antagonizing the key judge and the one before whom they appear all the time, even several times in a single day. Indeed, for the single morning of Wednesday, October 15, 2003, Judge Ninfo’s calendar included the following entries:

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

NAME	# of APPEARANCES	NAME	# of APPEARANCES
Kenneth Gordon	1	David MacKnight <sup>1</sup>	3
Kathleen Schmitt	3	Raymond Stilwell <sup>2</sup>	2

22. When locals must pay such respect to the judge, there develops among them a vassal-lord relationship: The lord distributes among his vassals favorable and unfavorable rulings and decisions to maintain a certain balance among them, who pay homage by accepting what they are given without raising objections, let alone launching appeals. In turn, the lord protects them

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

<sup>2</sup> Raymond Stilwell, Esq., was the attorney representing Mr. David Palmer.

when non-locals come in asserting against the vassals rights under the laws of Congress. So have the lord and his vassals carved out of the land of Congress' law the Fiefdom of Rochester. Therein the law of close personal relationships reigns supreme.

23. The reality of this social dynamic is so indisputable, the reach of such relationships among local parties so pervasive, and their effect upon non-locals so pernicious, that a very long time ago Congress devised a means to combat them: jurisdiction based on diversity of citizenship. Its potent rationale was and still is that state courts tend to be partial toward state litigants and against out-of-state ones, thus skewing the process and denying justice to all its participants as well as impairing the public's trust in the system of justice. In the matter at hand, that dynamic has materialized in a federal court that favors the locals at the expense of the sole non-local, Dr. Cordero, who dared assert his rights against them under a foreign law, that is, the laws of Congress.
24. Hence, when Trustee Gordon 'made the Court aware that "the sum total of compensation to be paid to the Trustee in this case is \$60.00"', he was calling upon the Lord to protect him. The Lord came to his vassal's assistance. Although Trustee Gordon himself in that very same February 5 Memorandum of Law of his (para. 19, supra) stated on page 2 that "On January 29, 2003, Cordero filed the instant motion to extend time for the filing of his Notice of Appeal", thereby admitting its timeliness, Judge Ninfo found that "the motion to extend was not filed with the Bankruptcy Court Clerk' until 1/30/03" (docket no. 02-2230, entry 57), whereby he made the motion untimely and therefore denied it! Dr. Cordero's protest was to no avail.
25. However, while this case started with Dr. Cordero, a non-citizen of the Fiefdom of Rochester, being dragged from New York City as a defendant into that diverse jurisdiction, it did not end when Dr. Cordero, naively thinking that he was in a federal court, had the 'temerity' to challenge the Deferential Counsel to the Court Gordon, and Lord Ninfo had no qualms in defending his Counsel by disregarding legality and dismissing Dr. Cordero's challenge. Far from it, thereupon Dr. Cordero, still disoriented by a compass pointing to the law of Congress, had the 'boldness' to go on appeal to the district court. Then it was time for Duke of the District David Larimer, who rules from the floor above that of Lord Ninfo in the same federal building, to come to the rescue of his very close colleague. By likewise disregarding the law, the rules, and the facts, the Duke dismissed Dr. Cordero from his jurisdiction.
26. Dr. Cordero came back to New York City to appeal to the judges of the circuit, whom he thought second to none in their respect for the law, their sense of duty, and fair-mindedness.

What a foolish idea! Only a man that believes in law and order can be led astray by so misguided idealism. Tightly knitted and long lasting working conditions give rise to office politics and vested interests that engulf into a morass of compromise and upside down priorities all but the strongest individuals. These are the ones who can stand alone on a limb for what is right and can even provide a point of anchor to those battered and in danger of being sunk by wave after wave of the misconduct of officers who were supposed to provide a safe haven. In what category of persons do you put yourself through your acts?

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

27. Are the local assistant U.S. trustee with her supervisory power and Trustee Gordon of the Seventh Chapter with his 3,383 cases and the money that they generate in a vassal-lord relationship to each other? Is the Region 2 Trustee aware that a non-local has no chance whatsoever of turning the trustee into the subject of a “thorough inquiry” by the local U.S. trustee? Consequently, should she have investigated Trustee Gordon? What homage do local and regional U.S. trustees receive and what fief do they grant? Let’s consider some facts.
28. On January 27, 2004, a bankruptcy petition under Chapter 13 of the Bankruptcy Code (Title 11, U.S.C.) was filed in the Bankruptcy Court for the Western District of New York in Rochester by David and Mary Ann DeLano (case 04-20280; the petition is at the end of this package). The figures in its schedules and the surrounding circumstances should have alerted the trustee and his attorney to the patently suspicious nature of the petition. Yet, Chapter 13 Trustee George Reiber (section II, supra) and his attorney, James Weidman, Esq., were about to submit its repayment plan to the court for approval when Dr. Richard Cordero, a creditor, objected in a five page analysis of the figures in the schedules. Even so, the Trustee and his attorney vouched in open court for the petition’s good faith. Yet, consider its salient figures and circumstances:
  - a) The DeLanos incurred scores of thousands of dollars in credit card debt,
  - b) at the average interest rate of 16% or the delinquent interest rate of over 23%,
  - c) carried it for over 10 years,
  - d) during which they were late in their payment at least 232 times documented by Equifax,
  - e) have ended up owing \$98,092 to 18 credit card issuers listed in Schedule F,
  - f) owe also a mortgage of \$77,084,

- g) have near the end of their work life an equity in their house of only \$21,415,
- h) declared earnings in 2001 of \$91,229, in 2002 of \$91,655, and in 2003 of \$108,586,
- i) yet claim that after a lifetime of work their tangible personal property is only \$3,445,
- j) and two cars worth \$6,500,
- k) claim as exempt \$59,000 in a retirement account,
- l) claim another \$96,111.07 as a 401-k exemption,
- m) make a \$10,000 loan to their son and declare it uncollectible,
- n) but offer to repay only 22 cents on the dollar without interest for just 3 years,
- o) refused for months to provide a single credit card statement covering any length of time ‘because the DeLanos do not maintain credit card statements dating back more than 10 years in their records and doubt that those statements are available from even the credit card companies’,
  - i. however, the DeLanos must still receive every month the monthly credit card statement from each of the issuers of the 18 credit cards and as recently as January 2004, must have consulted such statements to provide in Schedule F the numbers of their accounts with them and their addresses;
  - ii. when on June 14, 2004, they provided some in an attempt to avoid the Trustee’s motion for dismissal for “unreasonable delay”, they provided only 8 statements, which are incomplete and are, not the latest of May and June 2004, but rather of between July and October 2003,
- p) pretend that it is irrelevant to their having gotten into financial trouble and filed a bankruptcy petition that Mr. DeLano is a 15 year bank officer!, or rather more precisely, a loan bank officer, whose daily work must include ascertaining the creditworthiness of loan applicants and their ability to repay the loan over its life, and who is still employed in that capacity by a major bank, namely, Manufacturers and Traders Trust Bank. He had to know better!

29. Did Mr. DeLano put his knowledge and experience as a loan officer to good use in living it up with his family and closing his accounts down with 18 credit card issuers by filing for bankruptcy? How could Mr. DeLano, despite his “experience in banking”, from which he should have learned his obligation to keep financial documents for a certain number of years, pretend that he does not have them to back up his petition? Those are self-evident questions that have a

direct bearing on the petition's good faith. Did Trustee Reiber and Attorney Weidman ever ask them? How did they ascertain the timeline of debt accumulation and its nature if they did not check those credit card statements before readying the petition for submission to the court?

30. Until the DeLanos provide tax returns going back far enough to support their petition, let's assume arguendo that when Mr. DeLano lost his job at a financial institution and took a lower paying job at another in 1989, the combine income of his and his wife, a Xerox technician, was \$50,000. Last year, 15 years later, it was over \$108,000. Let's assume further that their average annual income was \$75,000. In 15 years they earned \$1,125,000...but they allege to end up with tangible property worth only \$9,945 and a home equity of merely \$21,415!, and this does not begin to take into account what they already owned before 1989, let alone all their credit card borrowing. Where did the money go? Or where is it now? Mr. DeLano is 62 and Mrs. DeLano is 59. What kind of retirement are they planning for?
31. Did the Trustee and his Attorney ever get the hint that the figures in the petition and the surrounding circumstances made no sense or were they too busy with their other 3,908 cases and the in-take of new ones to ask any questions and request any supporting documents? How many other cases did they also accept under the motto "don't ask, don't check, just cash in"? Do other debtors and officers with power to approve or disapprove petitions practice the enriching wisdom of that motto? How many creditors, including tax authorities, are being left holding bags of worthless IOUs?
32. For his part, Trustee Reiber is being allowed by the Assistant U.S. Trustee and the Trustee for Region 2 to hold on to the DeLanos' case despite Dr. Cordero's request for his replacement. Only because Dr. Cordero has asserted his right to be furnished with financial information about the DeLanos (para. 7, supra) has Trustee Reiber belatedly requested some documents. Yet, not to replace him but rather to allow him to be the one to "investigate" the DeLanos now, disregards the Trustee's obvious conflict of interest: It is in Trustee Reiber's interest to conclude his "investigation" with the finding that the DeLanos filed their petition in good faith, lest he indict his own agent, Attorney Weidman, who approved it for submission to the court, thereby rendering himself liable as his principal and casting doubt on his own proper handling of his other thousands of cases.
33. Indeed, if an egregious case as the DeLano's passed muster with them, what about the others? Such doubts could have devastating consequences for all involved. To begin with, they could



trigger an examination of Trustee Reiber's other cases, which could lead to his and his agent-attorney's suspension and removal. Were those penalizing measures adopted, they would inevitably lead to questioning the kind of supervision that the Trustee and his attorney have been receiving from the assistant and regional U.S. trustees. The next logical question would be what kind of oversight the bankruptcy and district courts have been exercising over petitions submitted to them, in particular, and the bankruptcy process, in general.

34. What were they all thinking!?! Whatever it was, from their perspective it is evident that the best self-protection is not to set in motion an investigative process that can escape their control and end up crushing them. This proves the old-axiom that a person, just as an institution, cannot investigate himself zealously, objectively, and reassuringly. A third independent party, unfamiliar with the case and unrelated to its players, must be entrusted with and carry out the investigation and then tender its uncompromising report to all those with an interest in the case and in the integrity of the courts and the U.S. Trustee Program. That third independent party must be a federal law enforcement agency with subpoena power to compel production of documents and the authority to obtain search warrants, manpower to conduct interviews and depositions, and the expertise and means to engage in forensic accounting and hunt for concealed assets or evidence of bribes. Dr. Cordero cannot do that. Are you up to the task?

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June 26, 2004  
59 Crescent Street  
Brooklyn, NY 11208

*Dr. Richard Cordero*

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

### Table comparing claims as of June 26, 2004, on David and Mary Ann DeLano in

1. their bankruptcy petition no. 04-20280 WBNY of January 26, 2004: columns 2, 15 (pages 92 et seq., infra) [C:1431-1468]
2. incomplete Equifax credit reports of April 26 and May 8, 2004: columns 3, 16-19 (pages 28-38, infra) [C:1469-1479]
3. Claims Register of the bankruptcy court as of June 23, 2004: columns 4, 20-21 (pages 39-45, infra) [C:1481-1487]
4. a few and incomplete credit card statements of account as of between July and October 2003: col. 13-14 (p 48-55, infra) [C:1491-98]

**Prepared and annotated by Dr. Richard Cordero, creditor.**

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.
1.	petition <sup>1</sup>	Equifax <sup>2</sup>	claims register <sup>3</sup>	creditors matrix <sup>4</sup>	Creditor (creditor in Equifax report)	Address (address in Equifax report)	City	State	Zip Code	Phone in Equifax	Account Number	Owed in credit card statements <sup>4</sup>	statement date	Owed in petition 26 Janry4	Owed in Equifax	balance as of	past due	last payment/activity	Owed in claims register 23June4	date of claim
2.	1.			7.	AT&T Universal	P.O. Box 8217	South Hackensack	NJ	07606-8217		5398-8090-0311-9990	0.0		1912.63	0.0				0.0	
3.	2.	D 1 (3)		8.	Bank of America	P.O. Box 53132 (P.O. Box 52326)	Phoenix	AZ	85072-3132 (85072-2326)	[(800) 242-5122]	4024-0807-6136-1712	0.0		3296.83	3335	Mar 04 <sup>5</sup>	308	Oct 03	0.0	
4.			1.	11.	Bank of America N.A.	PO Box 2278	Norfolk	VA	23501-2278			0.0		0.0	0.0				3335.08	Feb 9 04
5.	3.	D 4 (5)		9.	Bank One Cardmember Services (FirstUSA Na)	P.O. Box 15153 (P.O.Box 8650)	Wilmington	DE	19886-5153 (19899-8650)		4266-8699-5018-4134	9846.80	Oct 14, 03	9846.80	10425	Apr 04	1629	Sep 03 <sup>6</sup>	0.0	
6.	4.			9.	Bank One Cardmember Services	P.O. Box 15153	Wilmington	DE	19886-5153		4712-0207-0151-3292	5130.80	Sep 17, 03	5130.80	0.0				0.0	
7.	5.			9.	Bank One Cardmember Services	P.O. Box 15153	Wilmington	DE	19886-5153		4262-519-982-211 <sup>7</sup>	9876.49	Aug 13, 03	9876.49	0.0				0.0	
8.			10.	10.	Bank One Delaware, NA fka First USA, c/o Weinstein, Treiger & Riley, P.S.	2101 4th Av, Ste 900	Seattle	WA	98121			0.0		0.0	0.0				10,203.24	Mar 15 04

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.
1.	petition <sup>1</sup>	Equifax <sup>2</sup>	claims register <sup>3</sup>	creditors matrix	Creditor (creditor in Equifax report)	Address (address in Equifax report)	City	State	Zip Code	Phone in Equifax	Account Number	Owed in credit card statements <sup>4</sup>	state date	Owed in petition 26 Janry4	Owed in Equifax	balance as of	past due	last payment/activity	Owed in claims register 23June4	date of claim
9.			14.	10.	Bank One Delaware, NA fka First USA, c/o Weinstein, Treiger & Riley, P.S.	2101 4th Av, Ste 900	Seattle	WA	98121			0.0		0.0	0.0				5,317.97	Mar 15 04
10.	6.			12.	Capital One	P.O. Box 85147	Richmond	VA	23276		4388-6413-4765-8994	0.0		449.35	0.0				0.0	
11.	7.			12.	Capital One	P.O. Box 85147	Richmond	VA	23276		4862-3621-5719-3502	0.0		460.26	0.0				0.0	
12.		M 1 (4)			(Capital One)	(P.O. Box 85520 Internal Zip 12030-016)	(Richmond)	(VA)	(23285-5520)		4862-3622-6671-	0.0		0.0	0.0	May 04		Feb 04 <sup>8</sup>	0.0	
13.			8.	13.	Capital One Auto Finance	P.O. Box 260848	Plano	TX	75026			0.0		0.0	0.0				10,753.28	Mar 8 04
14.	20.			14.	Capital One Auto Finance <sup>9</sup>	PO Box 93016	Long Beach	CA	90809-3016		5687 652	0.0		10285	0.0				0.0	
15.				1.	Capital One Auto Finance Dept, c/o The Ramsey Law Firm PC	PO Box 201347	Arlington	TX	76006			0.0		0.0	0.0				0.0	
16.		M 2 (4)			Cbusasears						3480 0743 0	0.0		0.0	0.0	May 04		Oct 03 <sup>10</sup>	0.0	
17.	8.	M 3 (4)			Chase (Chase Na)	PO Box 1010 (1000 Duffy Ave)	Hicksville	NY	11802 (11801-3639)	(800) 327-2282	4102-0082-4002-1537	10909.01	Sep 11 03	10909.01	11651	Apr 04	1392	Nov 03 <sup>11</sup>	0.0	
18.				15.	Chase, Card Member Services	PO Box 15650	Wilmington	DL	19886-5650			0.0		0.0	0.0				0.0	

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.
1.	petition <sup>1</sup>	Equifax <sup>2</sup>	claims register <sup>3</sup>	creditors matrix <sup>4</sup>	Creditor (creditor in Equifax report)	Address (address in Equifax report)	City	State	Zip Code	Phone in Equifax	Account Number	Owed in credit card statements <sup>4</sup>	statement date	Owed in petition 26 Janry4	Owed in Equifax	balance as of	past due	last payment/activity	Owed in claims register 23June4	date of claim
19.			4.	16.	Chase Manhattan Bank USA, NA by eCast Settlement Corp, as agent	P.O. Box 35480	Newark	NJ	07193-5480			0.0		0.0	0.0				11,616.06	Feb 27 04
20.			2.	17.	Citi Cards	P.O. Box 3671	Urbandale	IA	50323			0.0		0.0	0.0				3,970.30	Feb. 17 04
21.	9.			19.	Citi Cards	P.O. Box 8116	South Hackensack	NJ	07606-8116		5457-1500-2197-7384	0.0		2127.08	0.0				0.0	
22.	10.			18.	Citi Cards	P.O. Box 8115	South Hackensack,	NJ	07606-8115		5466-5360-6017-7176	0.0		4043.94	0.0				0.0	
23.				20.	Citibank USA	45 Congress St.	Salem	MA	01970			0.0		0.0	0.0				0.0	
24.					Cordero, Dr...: see Dr. below															
25.			3.		Discover Bank Discover Financial Services	PO Box 8003	Hilliard	OH	43026			0.0		0.0	0.0				5,755.97	Feb 19, 04
26.	11.	D 2 (5) M 4 (4)		22.	Discover Card (Discover Financial Services)	P.O. Box 15251	Wilmington	DE	19886-5251		6011-0020-4000-6645	5219.03	Aug 16, 03	5219.03	0.0	Feb 04		Oct 03	0.0	
															0.0	Feb 04		Oct 03 <sup>12</sup>		
27.	12.		19.	23.	Dr. Richard Cordero	59 Crescent Street	Brooklyn	NY	11208					0.0					14,000.0	May 19, 04 <sup>13</sup>
28.			18.	5. & 39.	eCast Settlement Corp, assignee of Associates National Bank	P.O. Box 35480	Newark	NJ	07193-5480			0.0		0.0	0.0				2,227.57	Apr 16 04

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.
1.	pet ition <sup>1</sup>	Equi ifax <sup>2</sup>	clai ms reg <sup>3</sup> ister	cred itors matr ix	Creditor (creditor in Equifax report)	Address (address in Equifax report)	City	Stat e	Zip Code	Phone in Equi fax	Account Number	Owed in credit card sta- temnts <sup>4</sup>	state ment date	Owed in petition 26 Janry <sup>4</sup>	Owed in Equi fax	balan ce as of	past due	last pay - ment/ activity	Owed in claims register 23June <sup>4</sup>	date of claim
29.		D 3 (5)			First Premier						4610-0780- 0310- <sup>14</sup>	0.0		0.0	6.0	Apr 04	0.0	Mar 04	0.0	
30.			15.	2. & 24.	Fleet Bank (RI) N.A.& its assi gns, by eCast Settlement Corp, agent	P.O. Box 35480	Newar k	NJ	07193- 5480			0.0		0.0	0.0				2,137.64	Mar 18 04
31.	13.	M 5 (5)		25.	Fleet Credit Card Service (FleetNat'IBk)	P.O. Box 15368	Wilmi ngton	DE	19886- 5368		5487-8900- 2018-8012	0.0		2126.92	2184	Apr 04	297	Oct 03 <sup>15</sup>	0.0	
32.				3.	Genesee Regio nal Bank, fka Lyndon Guar anty Bank c/o Gullace & Weld LLP	500 First Federal Plaza	Roches ter	NY	14614			0.0		0.0	0.0				0.0	
33.	21.			26.	Genesee <sup>16</sup> Regional Bank	3670 Mt Read Blvd	Roches ter	NY	14616			0.0		77084.49	0.0				0.0	
34.			9.	27.	Genesee Regio nal Bank fka Lyndon Guaranty Bank (GMAC)	3380 Monroe Avenue	Roches ter	NY	14618			0.0		0.0	0.0				76,300.71	Mar 12 04
35.		M 6 (5)			(GMAC)						052-1504- 1-	0.0		0.0	0.0	Mar 99		Feb 99 <sup>17</sup>	0.0	
36.		M 7 (5)			(GMAC)						052-3036- 0-	0.0		0.0	0.0	Feb 97		Feb 97	0.0	
37.			5.	28.	HSBC Bank USA	PO Box 4215	Buffalo	NY	14273- 4215			0.0		0.0	0.0				9,447.80	Feb 23 04

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.
1.	petition <sup>1</sup>	Equifax <sup>2</sup>	claims register <sup>3</sup>	creditors matrix	Creditor (creditor in Equifax report)	Address (address in Equifax report)	City	State	Zip Code	Phone in Equifax	Account Number	Owed in credit card statements <sup>4</sup>	state date	Owed in petition 26 Janry4	Owed in Equifax	balance as of	past due	last payment/activity	Owed in claims register 23June4	date of claim
38.	14.			29.	HSBC Master Card/Visa HSBC Bank USA	Suite 0627	Buffalo	NY	14270-0627		5215-3125-0126-4385	9065.01	Sep 8, 03	9065.01	0.0				0.0	
39.	15.	D 5 (7)		31.	MBNA America	P.O. Box 15137	Wilmingon	DE	19886-5137		4313-0228-5801-9530	6422.47	July 03	6422.47	7304	Apr 04	930	Oct 03 <sup>18</sup>	0.0	
40.	16.	D 6 (7)		31.	MBNA America	P.O. Box 15137 (P.O. Box 15026)	Wilmingon	DE	19886-5137 (19850-5026)	[(800) 421-2110]	5329-0315-0992-1928	18498.21	Sep 9, 03	18498.21	0.0			Nov 03	0.0	
41.		M 8 (6)		30.	(M.B.N.A. Amer)	(P.O. Box 15026)	(Wilmingon)	(DE)	(19850-5026)	[(800) 421-2110]	4313-0229-9975-	0.0		0.0	0.0	Apr 04		Oct 03 <sup>19</sup>	0.0	
42.	17.	D 7 (7)		30.	MBNA America (MBNA America Checkmate)	P.O. Box 15102 (P.O. Box 15026)	Wilmingon	DE	19886-5102 (19850-5026)	[(800) 421-2110]	749-90063-031-903 <sup>20</sup>	0.0		3823.74	0.0			Nov 03	0.0	
43.			7.	4.	MBNA America Bank NA, by eCast Settlement Corp	PO Box 35480	Newark	NJ	07193-5480			0.0		0.0	0.0				6,812.31	Mar 5 04
44.			11.	32.	MBNA America Bank NA eCast Settlement Corp	PO Box 35480	Newark,	NJ	07193-5480			0.0		0.0	0.0				3,931.23	Mar 15 04
45.			12.	33.	MBNA America Bank, N.A. by eCast Settlement Corp, its agent	PO Box 35480	Newark	NJ	07193-5480			0.0		0.0	0.0				19,272.56	Mar 15 04

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.
1.	petition <sup>1</sup>	Equifax <sup>2</sup>	claims register <sup>3</sup>	creditors matrix <sup>4</sup>	Creditor (creditor in Equifax report)	Address (address in Equifax report)	City	State	Zip Code	Phone in Equifax	Account Number	Owed in credit card statements <sup>4</sup>	state date	Owed in petition 26 Janry4	Owed in Equifax	balance as of	past due	last payment/activity	Owed in claims register 23June4	date of claim
46.			13.	33.	MBNA America Bank, N.A. by eCast Settlement Corp, its agent	PO Box 35480	Newark	NJ	07193-5480			0.0		0.0	0.0				5,565.16	Mar 15 04
47.		M 9 (6)			(Manufacturers & Traders Trust)						738920	0.0		0.0	0.0	May 99		Apr 99 <sup>21</sup>	0.0	
48.		M 10 (6)			(ONONDAGA Bank/Overdraft)						1958-8202-02-	0.0		0.0	0.0	Apr 98		Feb 98 <sup>22</sup>	0.0	
49.		M 11 (6)			(Primus Automotive)						626-	0.0		0.0	0.0	May 99		Apr 99 <sup>23</sup>	0.0	
50.	18.	D 8 (7)		34.	Sears Card Payment Center (Sherman Acquisition LP-Sears)	P.O. Box 182149 (9700Bissonnet St, Ste 2000 PO Box 740281)	Columbus (Houston)	OH (TX)	43218-2149 (77274-0281)		34-80074-3-0593 0 <sup>24</sup>	0.0		3554.34	3857		3857	Dec 03 <sup>25</sup>	0.0	
51.			16.	35.	Sherman Acquisition LP, Resurgent Capital Services	PO Box 10587	Greenville	SC	29603-0587			0.0		0.0	0.0				4,170.45	Apr 15 04
52.			17.	35.	Sherman Acquisition LP, Resurgent Capital Services	PO Box 10587	Greenville	SC	29603-0587										1991.0	Apr 15 04
53.	19.				Wells Fargo Financial	P.O. Box 98784	Las Vegas	NV	89193-8784		1772-0544	0.0		1330.00	0.0				0.0	
54.			6.	38.	Wells Fargo Financial New York, Inc.	4137 121st Street	Urban dale	IA	50323			0.0		0.0	0.0				980.22	Feb 24 04

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.
1.	pet ition <sup>1</sup>	Equi ifax <sup>2</sup>	clai ms reg <sup>3</sup> ister	cred itors matr ix	Creditor (creditor in Equifax report)	Address (address in Equifax report)	City	Stat e	Zip Code	Phone in Equi fax	Account Number	Owed in credit card sta- temnts <sup>4</sup>	state ment date	Owed in petition 26 Janry4	Owed in Equi fax	bala nce as of	past due	last pay - ment/ activity	Owed in claims register 23June4	date of claim
55.	21		19									74,967.8 2		185,462.4 0 <sup>26</sup>	13,351			<sup>27</sup>	197,788.5 5 <sup>28</sup>	

<sup>1</sup> The bankruptcy petition of David and Mary Ann DeLano is dated January 26, 2004, (the Notice to Creditors was filed on February 6, 2004), in the U.S. Bankruptcy Court for the Western District of New York and bears docket no. 04-20280 (pages 92 et seq., infra). The petition and all other documents filed by parties or developed by the court since its filing can be accessed through that court's website at <http://www.nywb.uscourts.gov> by clicking on the Pacer icon to open the webpage of Pacer, the official court electronic document filing system that allows electronic retrieval of documents, and entering the case number. Registration with Pacer is required to retrieve documents for a fee.

The numbers in column 2 begin with the 19 unsecured nonpriority claims listed in Schedule F of the petition. Then there are added the two accounts concerning secured claims appearing in Schedule D, which are numbered in the column as 20 and 21, but are out of sequence because the controlling criterion is the alphabetical order of the creditors in column 6.

<sup>2</sup> The contents in this column's cells are to be read thus: D1(3) = Equifax report for **D**avid DeLano of account 1 on page 3 of 14 of the report (28, infra); M1(4) = Equifax report for **M**ary DeLano of account 1 on page 4 of 12 of the report (35, infra). The accounts with an outstanding balance on the Equifax report have been numbered just to facilitate reference to them.

The Equifax credit reports submitted by the DeLanos' attorney, Christopher Werner, Esq., with his letter of June 14, 2004, to Trustee George Reiber, are incomplete. The one for David DeLano of April 26, 2004, confirmation # 4117002205, begins on page 3 of 14 and continues with pages 5, 7, 9, 11, 13 of 14 (28-33, infra). The one for Mary Ann DeLano of May 8, 2004, confirmation # 4129001647, begins on page 3 of 12 and continues consecutively until page 7 of 12 (34-38, infra).

There is no excuse for either the DeLanos or Att. Werner submitting incomplete reports. Nor are they justified in not submitting reports by the other credit reporting bureaus, namely, TransUnion and Experian, as requested by Dr. Cordero in paragraph 80(b)(3) of his Memorandum of last March 30 to Att. Werner and Trustee Reiber (accessible through Pacer, docket no. 04-20280, entry 25),



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among others. For his part, if Trustee Reiber were intent on investigating efficiently the DeLanos' financial condition to determine the good faith of their bankruptcy petition, as requested by Dr. Cordero (62.IV, *infra*), he should have insisted that the DeLanos and Att. Werner submit credit reports of each of the three bureaus. They all must know that none of those reports is exhaustive or up to date as to each account; rather, they are complementary.

Mr. DeLano too must indisputably know that, for amazing as it may appear, he has been a bank officer for 15 years! What is more, he presently works at Manufacturers & Traders Trust as a *loan* bank officer! As such, he assesses loan applicants' creditworthiness and financial responsibility based on their credit history and current level of indebtedness relative to their income. To do that, credit reports by a third party are indispensable. Mr. DeLano also worked as a bank officer at First National Bank. As to Att. Werner, see footnote 4.

<sup>3</sup> Column 4 contains the list developed by the court of creditors that filed their claims by the deadline of June 7, 2004 (39, *infra*). The amount of the claim and date of filing are found in columns 20 and 21. By contrast, column 5 refers to the list as of June 23, of mailing labels that keeps growing with more names and addresses of, above all, financial institutions; so it is a creditors matrix (46, *infra*). However, some accounts, such as those in rows 18, 23, and 32, are only on that creditors matrix of column 5 (46, *infra*), but neither in the bankruptcy petition, the Equifax reports, nor the credit card statements of account, all submitted by the DeLanos, nor in the claims register (39, *infra*). Who are those creditors, how did they learn about this case, and what is their interest in it? In any event, the register and the matrix can be accessed through Pacer (footnote 1, *supra*).

<sup>4</sup> These are copies of only a few and incomplete statements of credit card account of the DeLanos (48-55, *infra*). They were submitted by Att. Werner, an officer of the court, who engages his professional responsibility when he submits incomplete documents in response to repeated requests for financial information about his clients. He was specifically requested by Trustee Reiber in his letter of April 20, 2004, to provide "For each of the credit cards indicated above [with indebtedness greater than \$5,000]...copies of the monthly statements for the three years prior to the filing of the bankruptcy petition" (¶2 at 11, *supra*). What is more, Dr. Cordero requested in ¶180(b)(1) and (2) of his March 30 Memorandum (accessible through Pacer, docket no. 04-20280, entry 25) as well as in his letter to Att. Werner of May 23 (76, *infra*), that his clients provide statements for all their credit cards since their indebtedness began, as the DeLanos allege in Schedule F of their petition, through "1990 and prior credit card purchases".

Yet, almost two months later, Att. Werner submits to only Trustee Reiber, thus failing to serve Dr. Cordero too, one single and

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incomplete credit card statement for each of only 8 cards, though in Schedule F there are 18 listed. Each of those statements is older than 8 months, the earliest one being for July 2003 from MBNA (48, *infra*) and the latest is as of October 14, 2003 from Bank One (55, *infra*). How could Att. Werner no realize how suspicious it is that he submits statements almost a year old but not those between then and the present? Yet, he represented to the court in his statement of April 16, 2004, that his clients “have maintained the minimum payments on those obligations for more than ten (10) years” (¶6 at 64-65, *infra*). If so, they have received monthly statements for each month during that period and certainly for each month since those statements to date.

More importantly, the credit card statements that Mr. Werner does submit are incomplete because they do not contain the entries stating from whom the DeLanos obtained goods and services on the credit of those cards. Att. Werner must be aware that those entries are the statements’ most compromising portion because Dr. Cordero pointed it out in heading III. and ¶¶16 and 17 of his Objection to Confirmation of March 4, 2004 (61, *infra*). There Att. Werner must have noted that the analysis of those statements will allow drawing the timeline of the DeLanos’ debt accumulation of \$98,092.91 on 18 credit cards; it would also allow determining the nature of the assets that the DeLanos purchased and must now declare to determine their assets and eventually make available for repayment if liquidation is in the creditors’ best interest.

Worse yet, the nature of the credit card purchases would make it possible to assess whether Att. Werner, “after an inquiry reasonable under the circumstances”, as required of him under Federal Rule of Bankruptcy Procedure Rule 9011, responsibly and truthfully submitted as counsel for the DeLanos a petition in which they claim that their household personal property (Schedule B) is, after a lifetime of work, only \$2,970! and two cars worth a total of \$6,500, plus \$535.50 in cash on hand and in the bank. Nevertheless, as discussed below, in the past few years the DeLanos have earned or borrowed over *half a million dollars!* (footnote 21, *infra*) Did Att. Werner help in preparing and submitting a good faith petition?

<sup>5</sup> On this account alone, Mr. DeLano has been late making payment 16 times since September 1997 (28, *infra*). In fact, in 7 of the 11 accounts reported in the 6 of 14 pages of his Equifax report that he cared to send through Att. Werner to Trustee Reiber (28-33, *infra*), he was 157 times late! For her part, Mrs. DeLano has been late 75 times in 6 of the 17 accounts reported in the 5 of 12 pages that she cared to submit (34-38, *infra*). They have been late at least 232 times and that is without counting the accounts on the pages of the Equifax report that they failed to send. This too belies Att. Werner’s representation in his statement to the court of April 16, 2004, that “The Debtors have maintained the minimum payments on those obligations for more than ten (10) years” (¶6 at 64-65, *infra*).

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<sup>6</sup> In Schedule F of the bankruptcy petition of January 26, 2004 (92 et seq., *infra*), this account was reported as having an outstanding balance of \$9,846.80, while at the time of the last payment in September 2003, the real outstanding balance was \$10,425 (29, *infra*), an increase in indebtedness of \$578.20. The pages that the DeLanos and Att. Werner cared to submit reveal that underreporting happened in other instances, which are listed in the table in the footnote to row 51.

<sup>7</sup> This number, so found in Scheduled F of the petition (92 et seq., *infra*), does not correspond to the format of a credit card account number consisting of four quadruplets. Either this is not a credit card account number, although the creditor, Bank One, issues them, or the number in the petition is wrong and three of 16 digits are missing.

<sup>8</sup> This account was not reported in the bankruptcy petition of January 26, 2004, although Equifax reports "Account Involved in Chapter 13 Debt Adjustment" (35, *infra*). How much was the balance paid off in February 2004, and where did the money come from? How many other accounts went unreported? Also unreported are M2(4) in row 16 and M8(6) in row 41 (footnote to row 41).

<sup>9</sup> See Schedule D of the petition (92 et seq., *infra*).

<sup>10</sup> The number of this account does not match that of any other account reported on the January 26 bankruptcy petition. Yet Equifax reports that as of January 2004, this account was 30-59 days past due and in February 2004 it was 60-89 days past due (35, *infra*). How much was owed but not reported? How much is still owed since the date of the last payment is October 2003? Also unreported are M1(4) in row 12 and M8(6) in row 41 (footnote to row 41).

<sup>11</sup> In Schedule F of the bankruptcy petition of January 26, 2004, this account was reported as having an outstanding balance of \$10,909.01, while at the time of the last payment in November 2003, the real outstanding balance was \$11,651 (35, *infra*), an increase in indebtedness of \$741.99. This means that the Delanos increased their indebtedness to this card issuer by \$741.99. What was the DeLanos' real indebtedness when they submitted their petition and what is it now? See the other instances of debt underreporting in the table in the footnote to row 51.

<sup>12</sup> Why did the DeLanos' attorney, Mr. Werner, submit with his letter of June 14, 2004 (14, *supra*), to Trustee Reiber a statement of account as old as of August 16, 2003 (50, *infra*), since the DeLanos' must have received a statement of account in January 2004, reporting that in December 2003, this account was already 60-89 days past due? How much do they actually owe on this account?

<sup>13</sup> Incremented by the capitalized fees paid since 1993 plus punitive and other damages (see Dr. Cordero's third-party complaint of

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November 21, 2002, in *Pfuntner v. Gordon et al*, docket no. 02-2230 WBNY)

<sup>14</sup> Neither the name of this creditor nor the number of this account appears anywhere else. Hence, it is justified to ask whether the DeLanos have other credit sources that they have not reported and from whom they keep borrowing although they have already filed a bankruptcy petition and, consequently, know that they cannot repay even what they owed at that time, let alone any addition to it.

<sup>15</sup> In the Schedule F of the bankruptcy petition of January 26, 2004 (92 et seq., *infra*), this account was reported as having an outstanding balance of \$2,126.92, while at the time of the last payment in October 2003, the real outstanding balance was \$2,184 (36, *infra*), an increase in indebtedness of \$57.08. See the other instances of debt underreporting in the table in the footnote to row 51.

<sup>16</sup> See Schedule D of the petition (92 et seq., *infra*).

<sup>17</sup> The two GMAC accounts, at least one of which Equifax describes as "Auto", were open in July 1995 and February 1993, and reached high credits of \$10,326 and \$10,793, respectively (36, *infra*). Yet they were paid off within four years or less. It appears that when the DeLanos do not want to risk repossession, they have the money to pay and, Equifax notes, "Pays as agreed...Account Paid/Zero Balance". By contrast, since repossession of items smaller than a car and charged to a credit card is less likely, they allow their repayment to creditors to be frequently past due for many months. Cf. M11(6) in row 49.

<sup>18</sup> In Schedule F of the bankruptcy petition dated January 26, 2004 (92 et seq., *infra*), this account was reported as having an outstanding balance of \$6422.47, while at the time of the last payment in October 2003, the real outstanding balance was \$7,304 (30, *infra*), an increase in indebtedness of \$881.53. See other instances of debt underreporting in the table in the footnote to row 51.

<sup>19</sup> This account was not reported in the January 26 bankruptcy petition, yet Equifax reports that in January, this account was already 30-59 days past due and that "Current Status-Account Included in Bankruptcy" (37, *infra*) Why was this account not reported and how much is owed on it? What is the real indebtedness of the DeLanos? The unreported accounts are the following:

Accounts unreported in the petition but appearing in Equifax	account	M1(4)	M2(4)	M8(6)
	in row	12	16	41
	page, infra	35	35	37

<sup>20</sup> So in Schedule F of the petition. If this is supposed to be a regular credit card number, it is missing 2 of the 16 digits.

<sup>21</sup> The accounts with Manufacturers & Traders Trust (MT&T) and ONONDAGA Bank each had a high credit of \$59,000; both were opened in March 1988; and both were paid in little over 10 years, either with money earned or by transfers of balance to credit cards (30, infra). Equifax notes for each of them that "Current status-Pays as agreed". Given that so many other accounts have been past due for so many months (footnote 5, supra), this money must have gone into something sufficiently important for the DeLanos not to risk losing it by failing to pay "as agreed". Therefore, where did \$118,000 go or in which asset(s) is it?

Note that in Schedule A. Real Property (92 et seq., infra), of their bankruptcy petition, the DeLanos declare that the current market value of their residential property at 1262 Shoecraft Road in Webster is \$98,500, as per appraisal of November 23, 2003, and the amount of the secured claim is \$77,084.49, which leaves them with equity of only \$21,415.51. Likewise, in Schedule B. Personal Property, they declare that their personal property, aside from their 401-k and retirement accounts totaling \$155,011.07, is only \$9,945.50, which includes \$535.50 in cash on hand and in the bank, and two cars worth \$6,500. This leaves them with household goods worth only \$2,910! How come?, for in the last three years they declared their earnings thus:

2001- \$91,229 adjusted gross income on the 1040 form (56, infra) [D:186-188]

2002- 91,859 on the 1040 form (57, infra), but \$91,655 in the petition's Statement of Financial Affairs [D:47]

2003- +108,586 in the Statement of Financial Affairs, but only \$97,648 on the 1040 form (58, infra). Why do these

numbers not match? \$291,674

Add to the \$291,674.00 earned in the last three years alone since 2001

the 98,092.91 that they have obtained by charging 18 credit cards, as declared so far in their Schedule F as well as the

+118,000.00 obtained through the MT&T and ONONDAGA loans paid off over five years ago by May 1999 and the

question bursts out: \$507,766.91 Where did a cool half a million dollars go or where is it?! In the nest for an approaching golden

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retirement? Why did Trustee Reiber not detect that something is wrong here?

How could Trustee Reiber not realize that the numbers in the DeLanos' petition just do not add up? Far from it, he was ready to submit the DeLanos' petition on March 8, 2004, to the Hon. John C. Ninfo, II, U.S. Bankruptcy Judge in Rochester, for confirmation of the repayment plan. That plan (at the end of these documents) proposes to pay unsecured creditors, owed \$98,092.91, only 22 cents on the dollar over three years with no interest accruing, which on credit cards is on average 16%, unless it is over 23% if the account is past due. How many of Trustee Reiber's other 3,909 *open* cases –as per Pacer at [https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L\\_916\\_0-1-](https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L_916_0-1-); (2.B; cf. 4.C, supra)- are as questionable as this one? Why do Assistant U.S. Trustee Kathleen Dunivin Schmitt and U.S. Region 2 Trustee Deirdre A. Martini refuse to investigate what is going on in this case, let alone the other thousands of cases of Trustee Reiber?

Yet, there is ample reason to investigate him and even to replace him. For one thing, Trustee Reiber violated his legal obligation to conduct personally the meeting of creditors in the DeLano case, held last March 8 in Rochester; cf. 28 CFR §58.6. Moreover, his attorney, James Weidman, Esq., who presided over it, prevented the only creditor who attended the meeting, namely, Dr. Cordero, from exercising his legal right to examine the DeLanos, shutting Dr. Cordero up after he had asked of Mr. DeLano only two questions. Instead, Att. Weidman asked Dr. Cordero at least three times whether he had any evidence that the DeLanos had committed fraud and to state his evidence that they had committed fraud. Did Mr. Weidman feel it dangerous to allow Dr. Cordero to ask the DeLanos under oath questions about their petition without first finding out how much Dr. Cordero knew about any fraud committed in this case?

To make these events all the more disturbing, when Dr. Cordero complained in open court about both Trustee Gordon and Att. Weidman for their unlawful conduct, Judge Ninfo supported them in spite of Dr. Cordero invoking his right to examine the debtors under 28 U.S.C. §§341 and 343. What is going on here!? It is reasonable to affirm that there are sufficient suspicious circumstance to warrant an official investigation.

<sup>22</sup> See footnote 21, supra.

<sup>23</sup> This account was opened in February 1997 and reached a high credit of \$6,719, yet it was paid off by April 1999 (37, infra). It appears that when the DeLanos do not want to risk repossession, they have the money to pay and, Equifax notes, "Pays as agreed...Account Paid/Zero Balance". Since repossession of items smaller than a car and charged to a credit card is less likely, they

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allow their repayment to credit card issuers to be frequently past due for many months (footnote 5, supra). Cf. M6(5) and M7(5) in rows 35 and 36, respectively.

<sup>24</sup> So in the petition. The fact that this is a store card may explain that its number has a format different from that of credit cards.

<sup>25</sup> In Schedule F of the bankruptcy petition dated January 26, 2004 (92 et seq., infra), this account was reported as having an outstanding balance of \$3,554.34, while at the time of the last activity in December 2003, the real outstanding balance was \$3,857, an increase in indebtedness of \$302.66 (30, infra). See the other instances of debt underreporting in the table in the footnote to row 51.

<sup>26</sup> In accord with the total liabilities declared in the Summary of Schedules in the DeLanos' January 26 bankruptcy petition (92 et seq., infra).

<sup>27</sup> By the time the DeLanos dated their petition on January 26, 2004, they had made their last payment on these accounts and their balance was higher than what they reported it to be. There is a pattern of underreporting their indebtedness. Consequently, what was and is their real indebtedness and who are the creditors?

Debt underreporting in bankruptcy petition compared with Equifax report			Increase in indebtedness
account	in row	page infra	
D4(5)	5	29	\$578.20
M3(4)	17	35	741.99
M5(5)	31	36	57.08
D5(7)	39	30	881.53
D8(7)	50	30	302.66
			\$2561.46

<sup>28</sup> In accord with the total claims in the Claims Register of the Bankruptcy Court as of June 23, 2004 (45, infra).

Blank



Blank

## United States Bankruptcy Court

04-20280

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

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

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

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

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

## Meeting of Creditors:

DATE: March 08, 2004  
TIME: 01:00 PM

Location: U.S. Trustees Office  
6080 U.S. Courthouse  
100 State Street  
Rochester, NY 14614

FEB - 6 2004

## Deadlines:

Papers must be received by the bankruptcy clerk's office by the following deadlines.

## Deadline to File a Proof of Claim:

For all creditors (except a governmental unit): June 07, 2004

For governmental units: July 26, 2004

## Deadline to Object to Exemptions:

Thirty (30) days after the conclusion of the meeting of creditors.

## Filing of Plan, Hearing on Confirmation of Plan

The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held:

DATE: March 08, 2004  
TIME: 03:30 PM

Location: U. S. Bankruptcy Court  
1400 U.S. Courthouse  
100 State Street  
Rochester, NY 14614

## Creditors May Not Take Certain Actions:

The filing of the bankruptcy case automatically stays certain collection and other actions against the debtor, debtor's property, and certain codebtors. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized.

The plan proposes payments to the Trustee of \$1,940.00 MO  
With unsecured claims to be paid 22 cents on the dollar.

PLEASE TAKE FURTHER NOTICE THAT ALL CLAIMS, INCLUDING THOSE CLAIMS PURPORTING TO BE A LIEN UPON REAL PROPERTY, MAY BE DEEMED TO BE UNSECURED UNLESS PROOF OF THE DEBT, THE PERFECTION OF THE LIEN AND THE VALUE OF THE SECURITY IS FILED WITH THE COURT AT OR BEFORE THE ABOVE MEETING OF CREDITORS.

A HEARING TO DETERMINE THE VALIDITY AND THE VALUE OF ANY CLAIMED SECURITY INTEREST IN PROPERTY OF THE DEBTOR, AND A HEARING TO DETERMINE VALIDITY OF ANY LIEN OR SECURITY INTEREST CLAIMED AGAINST EXEMPT PROPERTY COVERED BY SEC. 522 F, 11 USC WILL BE HELD AT THE HEARING ON CONFIRMATION.

WRITTEN OBJECTIONS TO CONFIRMATION MAY BE FILED WITH THE COURT AT ANY TIME PRIOR TO CONFIRMATION.

Address of the Bankruptcy Clerk's Office: U.S. Bankruptcy Court 100 State St.  Rochester, NY 14614	Website: <a href="http://www.nywb.uscourts.gov">http://www.nywb.uscourts.gov</a> Clerk of the Bankruptcy Court: PAUL R. WARREN DATED: February 03, 2004
--	--

Case filing information and deadline dates can be obtained free of charge by calling our Voice Case Information System: (716) 551-5311 or (800) 776-9578. Hours Open 8:00am to 4:30pm

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

# CERTIFICATE OF MAILING

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

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

AFFA

CERTIFICATE OF MAILING

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

COURT: 146  
DATED: 02/03/2004

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

32 NOTICES

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

RCM - Indicates notice served via Certified Mail

<b>FORM B1</b>	<b>United States Bankruptcy Court Western District of New York</b>	<b>Voluntary Petition</b>
----------------	--	---------------------------

Name of Debtor (if individual, enter Last, First, Middle): DeLano, David G.	Name of Joint Debtor (Spouse) (Last, First, Middle): DeLano, Mary Ann
--	--

All Other Names used by the Debtor in the last 6 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 6 years (include married, maiden, and trade names):
--	--

Last four digits of Soc. Sec. No. / Complete EIN or other Tax I.D. No. (if more than one, state all): xxx-xx-3894	Last four digits of Soc. Sec. No. / Complete EIN or other Tax I.D. No. (if more than one, state all): xxx-xx-0517
--	--

Street Address of Debtor (No. & Street, City, State & Zip Code): 1262 Shoecraft Road Webster, NY 14580	Street Address of Joint Debtor (No. & Street, City, State & Zip Code): 1262 Shoecraft Road Webster, NY 14580
--	--

County of Residence or of the Principal Place of Business: Monroe	County of Residence or of the Principal Place of Business: Monroe
---	---

Mailing Address of Debtor (if different from street address):	Mailing Address of Joint Debtor (if different from street address):
---	---

Location of Principal Assets of Business Debtor (if different from street address above):

**Information Regarding the Debtor (Check the Applicable Boxes)**

**Venue** (Check any applicable box)

- Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
- There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.

<p><b>Type of Debtor</b> (Check all boxes that apply)</p> <input checked="" type="checkbox"/> Individual(s) <input type="checkbox"/> Railroad <input type="checkbox"/> Corporation <input type="checkbox"/> Stockbroker <input type="checkbox"/> Partnership <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Other _____ <input type="checkbox"/> Clearing Bank	<p><b>Chapter or Section of Bankruptcy Code Under Which the Petition is Filed</b> (Check one box)</p> <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 11 <input checked="" type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Sec. 304 - Case ancillary to foreign proceeding
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<p><b>Nature of Debts</b> (Check one box)</p> <input checked="" type="checkbox"/> Consumer/Non-Business <input type="checkbox"/> Business	<p><b>Filing Fee</b> (Check one box)</p> <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only.) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.
---	--

**Chapter 11 Small Business** (Check all boxes that apply)

 Debtor is a small business as defined in 11 U.S.C. § 101  
 Debtor is and elects to be considered a small business under 11 U.S.C. § 1121(e) (Optional)

**Statistical/Administrative Information** (Estimates only)

 Debtor estimates that funds will be available for distribution to unsecured creditors.  
 Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

Estimated Number of Creditors	1-15	16-49	50-99	100-199	200-999	1000-over
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Estimated Assets							
\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Estimated Debts							
\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

THIS SPACE IS FOR COURT USE ONLY

**Voluntary Petition**

(This page must be completed and filed in every case)

Name of Debtor(s):  
DeLano, David G.  
DeLano, Mary Ann

**Prior Bankruptcy Case Filed Within Last 6 Years** (If more than one, attach additional sheet)

Location  
Where Filed: - None -

Case Number:

Date Filed:

**Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor** (If more than one, attach additional sheet)

Name of Debtor:  
- None -

Case Number:

Date Filed:

District:

Relationship:

Judge:

**Signatures**

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

I declare under penalty of perjury that the information provided in this petition is true and correct.  
[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.  
I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

**Exhibit A**

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11)  
 Exhibit A is attached and made a part of this petition.

**Exhibit B**

(To be completed if debtor is an individual whose debts are primarily consumer debts)  
I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

**X** /s/ David G. DeLano  
Signature of Debtor David G. DeLano  
**X** /s/ Mary Ann DeLano  
Signature of Joint Debtor Mary Ann DeLano  
\_\_\_\_\_  
Telephone Number (If not represented by attorney)  
January 26, 2004  
Date

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

**Exhibit C**

Does the debtor own or have possession of any property that poses a threat of imminent and identifiable harm to public health or safety?  
 Yes, and Exhibit C is attached and made a part of this petition.  
 No

**Signature of Attorney**

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

**Signature of Non-Attorney Petition Preparer**

I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.  
\_\_\_\_\_  
Printed Name of Bankruptcy Petition Preparer  
\_\_\_\_\_  
Social Security Number (Required by 11 U.S.C. § 110(c).)  
\_\_\_\_\_  
Address  
Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:

**Signature of Debtor (Corporation/Partnership)**

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.  
The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.  
**X** \_\_\_\_\_  
Signature of Authorized Individual  
\_\_\_\_\_  
Printed Name of Authorized Individual  
\_\_\_\_\_  
Title of Authorized Individual  
\_\_\_\_\_  
Date

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

**X** \_\_\_\_\_  
Signature of Bankruptcy Petition Preparer  
\_\_\_\_\_  
Date

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.

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

In re David G. DeLano,  
Mary Ann DeLano

Debtors

Case No. \_\_\_\_\_

Chapter 13

**SUMMARY OF SCHEDULES**

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

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



In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

### SCHEDULE A. REAL PROPERTY

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

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

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

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

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

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

Total > 98,500.00

0 continuation sheets attached to the Schedule of Real Property

(Report also on Summary of Schedules)

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

### SCHEDULE B. PERSONAL PROPERTY

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

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

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

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

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

3 continuation sheets attached to the Schedule of Personal Property

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

**SCHEDULE B. PERSONAL PROPERTY**  
(Continuation Sheet)

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

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

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

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

**SCHEDULE B. PERSONAL PROPERTY**  
(Continuation Sheet)

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

Sub-Total > 6,500.00  
(Total of this page)

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

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

**SCHEDULE B. PERSONAL PROPERTY**  
(Continuation Sheet)

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

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

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

(Report also on Summary of Schedules)

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

### SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

[Check one box]

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

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

0 continuation sheets attached to Schedule of Property Claimed as Exempt

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

**SCHEDULE D. CREDITORS HOLDING SECURED CLAIMS**

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

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

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

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

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

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

0 continuation sheets attached

Subtotal  
(Total of this page)

87,369.49

Total  
(Report on Summary of Schedules)

87,369.49

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

**SCHEDULE E. CREDITORS HOLDING UNSECURED PRIORITY CLAIMS**

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

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

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

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

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

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

**Extensions of credit in an involuntary case**

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

**Wages, salaries, and commissions**

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

**Contributions to employee benefit plans**

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

**Certain farmers and fishermen**

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

**Deposits by individuals**

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

**Alimony, Maintenance, or Support**

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

**Taxes and Certain Other Debts Owed to Governmental Units**

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

**Commitments to Maintain the Capital of an Insured Depository Institution**

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

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

0 continuation sheets attached



In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

**SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

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

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

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

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

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

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

3 continuation sheets attached

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

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

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions.)	C O D E B R O R	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	A M O U N T O F C L A I M
		H W J C				
Account No. 4262 519 982 211  Bank One Cardmember Services P.O. Box 15153 Wilmington, DE 19886-5153	H		1990 and prior Credit card purchases			9,876.49
Account No. 4388-6413-4765-8994  Capital One P.O. Box 85147 Richmond, VA 23276	H		2001- 8/03 Credit card purchases			449.35
Account No. 4862-3621-5719-3502  Capital One P.O. Box 85147 Richmond, VA 23276	H		2001 - 8/03 Credit card purchases			460.26
Account No. 4102-0082-4002-1537  Chase P.O. Box 1010 Hicksville, NY 11802	W		1990 and prior Credit card purchases			10,909.01
Account No. 5457-1500-2197-7384  Citi Cards P.O. Box 8116 South Hackensack, NJ 07606-8116	W		1990 and prior Credit card purchases			2,127.08
Subtotal (Total of this page)						23,822.19
Sheet no. <u>1</u> of <u>3</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims						

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

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

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

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

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

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

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

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

## **SCHEDULE G. EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

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

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

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

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

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

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

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

**SCHEDULE H. CODEBTORS**

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

Check this box if debtor has no codebtors.

NAME AND ADDRESS OF CODEBTOR	NAME AND ADDRESS OF CREDITOR
------------------------------	------------------------------

0 continuation sheets attached to Schedule of Codebtors

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

**SCHEDULE I. CURRENT INCOME OF INDIVIDUAL DEBTOR(S)**

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

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

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

(Report also on Summary of Schedules)

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

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

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

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

In re David G. DeLano,  
Mary Ann DeLano

Case No. \_\_\_\_\_

Debtors

**SCHEDULE J. CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)**

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

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

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

**[FOR CHAPTER 12 AND 13 DEBTORSONLY]**

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

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

(interval)



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

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

Case No. \_\_\_\_\_  
Chapter 13

**DECLARATION CONCERNING DEBTOR'S SCHEDULES**

**DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR**

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

Date January 26, 2004

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

Date January 26, 2004

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

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

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

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

Case No. \_\_\_\_\_  
Chapter 13

**STATEMENT OF FINANCIAL AFFAIRS**

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

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

*DEFINITIONS*

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

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

**1. Income from employment or operation of business**

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

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

**2. Income other than from employment or operation of business**

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

AMOUNT	SOURCE
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### 3. Payments to creditors

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**10. Other transfers**

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

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

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

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

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

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

**13. Setoffs**

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

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

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

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

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

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

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

NAME

**17. Environmental Information.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**19. Books, records and financial statements**

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

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

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

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

NAME AND ADDRESS	DATE ISSUED
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**20. Inventories**

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

DATE OF INVENTORY	INVENTORY SUPERVISOR	DOLLAR AMOUNT OF INVENTORY (Specify cost, market or other basis)
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None  b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY	NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY RECORDS
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**21 . Current Partners, Officers, Directors and Shareholders**

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

NAME AND ADDRESS	NATURE OF INTEREST	PERCENTAGE OF INTEREST
------------------	--------------------	------------------------

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

NAME AND ADDRESS	TITLE	NATURE AND PERCENTAGE OF STOCK OWNERSHIP
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**22 . Former partners, officers, directors and shareholders**

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

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

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

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

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

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

NAME OF PARENT CORPORATION	TAXPAYER IDENTIFICATION NUMBER
----------------------------	--------------------------------

**25. Pension Funds.**

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

NAME OF PENSION FUND	TAXPAYER IDENTIFICATION NUMBER
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**DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR**

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

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



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

In re David G. DeLano  
Mary Ann DeLano

Debtor(s)

Case No. \_\_\_\_\_  
Chapter 13

**DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR(S)**

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

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

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

Debtor       Other (specify):

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

Debtor       Other (specify):

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

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

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

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

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

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

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

**CERTIFICATION**

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

Dated: January 26, 2004

/s/ Christopher K. Werner, Esq.

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

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

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

Case No. \_\_\_\_\_  
Chapter 13

**VERIFICATION OF CREDITOR MATRIX**

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

Date: January 26, 2004

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

Date: January 26, 2004

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

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

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

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

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

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

Chase  
P.O. Box 1010  
Hicksville, NY 11802

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

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

Citibank USA  
45 Congress Street  
Salem, MA 01970

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

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

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

Genesee Regional Bank  
3670 Mt Read Blvd  
Rochester, NY 14616

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

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

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

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

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

Blank

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

In re David G. DeLano  
Mary Ann DeLano

Debtor(s)

Case No. \_\_\_\_\_

Chapter 13

**CHAPTER 13 PLAN**

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

a. **Administrative Expenses**

- (1) Trustee's Fee: 10.00%
- (2) Attorney's Fee (unpaid portion): NONE
- (3) Filing Fee (unpaid portion): NONE

b. **Priority Claims under 11 U.S.C. § 507**

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

c. **Secured Claims**

(1) **Secured Debts Which Will Not Extend Beyond the Length of the Plan**

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

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

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

d. **Unsecured Claims**

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

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

(2) **General Nonpriority Unsecured:** Other unsecured debts shall be paid 22 cents on the dollar and paid pro rata, with no interest if the creditor has no Co-obligors, provided that where the amount or balance of any unsecured claim is less than \$10,00 it may be paid in full.

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

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

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

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

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

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

Other Party	Description of Contract or Lease
-NONE-	

9. Property to Be Surrendered to Secured Creditor

Name	Amount of Claim	Description of Property
-NONE-		

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

Name	Amount of Claim	Description of Property
-NONE-		

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

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

13. Other Provisions:

Date January 26, 2004

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

Date January 26, 2004

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



CREDIT FILE: April 26, 2004

Confirmation # 4117002205

Personal Identification Information (This section includes your name, current and previous addresses, and any other identifying information reported by you or your lender.)

Name On File: David Gene Delano
Social Security #: 077-32-3894 Date of Birth: September 1, 1941
Current Address: 1262 Shoecraft Rd, Webster, NY 14580
Previous Address(es): 35 State St, Rochester, NY 14614
Last Reported Employment: TW CB TU 01;
Previous Employment(s): Central Trust Roche;
VICE President; First National Bank; Rocheste NY; Since 06/1978; Verified 02/1964

Please address all future correspondence to:

www.investigate.equifax.com
Equifax Information Services LLC
PO Box 740256
Atlanta, GA 30374
Phone: (800) 378-2732
M - F 9:00am to 5:00pm in your time zone.

In order to speak with a Customer Service Representative regarding the specific information contained in this credit file, you must call WITHIN 60 DAYS of the date of this credit file AND have a copy of this credit file along with the confirmation number.

Credit Account Information

(For your security, the last 4 digits of account number(s) have been replaced by X. (This section includes open and closed accounts reported by credit grantors.)

Account Column Title Descriptions:

Account Number - The Account number reported by credit grantor
Date Acct. Opened - The Date that the credit grantor opened the account
High Credit - The Highest Amount Charged
Credit Limit - The Highest Amount Permitted
Terms Duration - The Number of Installments or Payments
Terms Frequency - The Scheduled Time Between Payments
Months Reviewed - The Number of Months Reviewed
Activity Description - The Most Recent Account Activity
Creditor Class - The Type of Company Reporting The Account
Date Reported - The Month and Year of the Last Account Update
Balance Amount - The Total Amount Owed as of the Date Reported

Amount Past Due - The Amount Past Due as of the Date Reported
Date of Last Payment - The Date of Last Payment
Actual Pay Amt - The Actual Amount of Last Payment
Sched Pay Amt - The Requested Amount of Last Payment
Date of Last Activity - The Date of the Last Account Activity
Date Maj Delq Rptd - The Date the 1st Major Delinquency Was Reported
Charge Off Amt - The Amount Charged Off by Creditor
Deferred Pay Date - The 1st Payment Due Date for Deferred Loans
Balloon Pay Amt - The Amount of Final(Balloon) Payment
Balloon Pay Date - The Date of Final(Balloon) Payment
Date Closed - The Date the Account was Closed

Account History
Status Code
Descriptions
1: 30-59 Days Past Due
2: 60-89 Days Past Due
3: 90-119 Days Past Due
4: 120-149 Days Past Due
5: 150-179 Days Past Due
6: 180 or More Days Past Due
G: Collection Account
H: Foreclosure
J: Voluntary Surrender
K: Repossession
L: Charge Off

Bank of America PO Box 3028 Phoenix AZ 85026 (800) 432-5723

Table with columns: Account Number, Date Opened, High Credit, Credit Limit, Date of Last Payment, Actual Payment Amount, Scheduled Payment Amount, Date of Last Activity, Terms Duration, Terms Frequency, Minths Rptd, Activity Description, Creditor Classification, Balance Reported, Amount Past Due, Date Reported, Date of Last Payment, Charge Off Amount, Deferred Pay Start Date, Balloon Pay Amount, Balloon Pay Start Date, Date Closed.





**CREDIT FILE : April 26, 2004**

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Description	Creditor Classification
25243*	09/1985	\$928			Monthly	6		
Items As of Balance Date Reported Amount								
04/2004	05/1999							

**Current Status - Pays As Agreed ; Type of Account - Revolving ; Type of Loan - Charge Account ; Whose Account - Joint Account;**

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Description	Creditor Classification
431302285801*	01/1994	\$7,304	\$4,700			99		
Items As of Balance Date Reported Amount								
04/2004	10/2003							

**MSNA America PO Box 5025 Wilmington DE 19850-5025 (909) 271-2119**

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Description	Creditor Classification
532903150992*	05/1984					99		
Items As of Balance Date Reported Amount								
04/2004	11/2003							

**Current Status - Account Included In Bankruptcy ; Type of Loan - Credit Card ; Whose Account - Individual Account;**

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Description	Creditor Classification
7499006303*	11/1989					99		
Items As of Balance Date Reported Amount								
04/2004	11/2003							

**MSNA America Checkmate PO Box 5025 Wilmington DE 19850-5025 (909) 271-2119**

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Description	Creditor Classification
7499006303*	11/1989					99		
Items As of Balance Date Reported Amount								
04/2004	11/2003							

**Current Status - Account Included in Bankruptcy ; Type of Loan - Check Credit/Line Of Credit ; Whose Account - Individual Account;**

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Description	Creditor Classification
SEARS -348007430*	03/2004	\$3,857						Financial
Items As of Balance Date Reported Amount								
03/2004	03/2004							

**Current Status - Included in Wage Earner Plan ; Type of Loan - Factoring Compant Account ; Whose Account - Individual Account ; ADDITIONAL INFORMATION - Account involved in Chapter 13 Debt Adjustment ; Account Involved in Chapter 13 Debt Adjustment ;**

Company Information	Inquiry Date(s)
PRM-Indymac Home Lending	10/2003 08/2003 08/2003
PRM-Capital One Auto Finance	10/2003 10/2003
PRM-Direct Lending Source Inc	08/2003
PRM-Offersdirect	07/2003
PRM-Mutual of OMAHA	05/2003

C:1472

Equifax report of 4/26/4 for David DeLano, who produced it incompletely on 6/16/4 to Trustee Reiber

- **Outdated information may not be reported.** In most cases, a CRA may not report negative information that is more than seven years old; ten years for bankruptcies.
- **Access to your file is limited.** A CRA may provide information about you only to people with a need recognized by the FCRA -- usually to consider an application with a creditor, insurer, employer, landlord, or other business.
- **Your consent is required for reports that are provided to employers, or reports that contain medical information.** A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your permission.
- **You may choose to exclude your name from CRA lists for unsolicited credit and insurance offers.** Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete, and return the CRA form provided for this purpose, you must be taken off the lists indefinitely.
- **You may seek damages from violators.** If a CRA, a user or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court.

The FCRA gives several different federal agencies authority to enforce the FCRA:

FOR QUESTIONS OR CONCERNS REGARDING:	PLEASE CONTACT
CRA's, creditors and others not listed below	Federal Trade Commission - CRC 600 Pennsylvania Avenue, NW Washington, DC 20580 877-FTC-HELP
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name)	Office of the Comptroller of the Currency Customer Assistance Group 1301 McKinney Street - Suite 3450 Houston, TX 77010 800-613-6743
Federal Reserve System member banks (except national banks, and federal branches/agencies of foreign banks)	Federal Reserve Board Division of Consumer & Community Affairs Washington, DC 20551 202-452-3693
Savings associations and federally chartered savings banks (word "Federal" or initials "F.S.B." appear in federal institution's name)	Office of Thrift Supervision Consumer Programs Washington, DC 20552 800-842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 703-518-6360
State-chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Division of Compliance and Consumer Affairs Washington, DC 20429 877-275-3342 (800-ASK-FDIC)
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Interstate Commerce Commission	Department of Transportation Office of Financial Management Washington, DC 20590 202-366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator - GIPSA Washington, DC 20250 202-720-7051
Identity Theft	Identity Theft Data Clearinghouse 600 Pennsylvania Avenue, NW Washington, DC 20580 877-ID-THEFT

Upon completion, please return this document to the following address:

Equifax Information Services LLC  
 PO Box 740256  
 Atlanta, GA 30374

Or, if you prefer, you may initiate an investigation request via the internet at:

www.investigate.equifax.com

**Confirmation Number: 4117002205**

Intentionally making any false statement to a consumer reporting agency for the purpose of having it placed on a consumer report is punishable by law in some states.

If your identifying information differs from the information listed on this form, please fill in the correct information in the space provided below each item.

Name: David Gene Delano

SS#: 077-32-3894

DOB: September 1, 1941

Current Address: 1262 Shoecraft Rd, Webster, NY 14580

Previous Address(es): 35 State St, Rochester, NY 14614

Please provide a photocopy of your driver's license, social security card, or a recent utility bill that reflects the correct information.

Employment:

Daytime Phone Number:

Evening Phone Number:

List other names which you have used for credit in the past.

**Credit Account Information**

Company Name \_\_\_\_\_ Account Number \_\_\_\_\_

Reason for investigation:  Not Mine  Paid in Full  Current/Previous Payment Status Incorrect  Account Closed

Other (Please explain) \_\_\_\_\_

Company Name \_\_\_\_\_ Account Number \_\_\_\_\_

Reason for investigation:  Not Mine  Paid in Full  Current/Previous Payment Status Incorrect  Account Closed

Other (Please explain) \_\_\_\_\_

Company Name \_\_\_\_\_ Account Number \_\_\_\_\_

Reason for investigation:  Not Mine  Paid in Full  Current/Previous Payment Status Incorrect  Account Closed

Other (Please explain) \_\_\_\_\_

Company Name \_\_\_\_\_ Account Number \_\_\_\_\_

Reason for investigation:  Not Mine  Paid in Full  Current/Previous Payment Status Incorrect  Account Closed

Other (Please explain) \_\_\_\_\_

Company Name \_\_\_\_\_ Account Number \_\_\_\_\_

Reason for investigation:  Not Mine  Paid in Full  Current/Previous Payment Status Incorrect  Account Closed

Other (Please explain) \_\_\_\_\_

Company Name \_\_\_\_\_ Account Number \_\_\_\_\_

Reason for investigation:  Not Mine  Paid in Full  Current/Previous Payment Status Incorrect  Account Closed

Other (Please explain) \_\_\_\_\_



CREDIT FILE : May 8, 2004

Confirmation # 4129001647

Please address all future correspondence to:

www.investigate.equifax.com
Equifax Information Services LLC
PO Box 740256
Atlanta, GA 30374
Phone: (800) 290-8749
M - F 9:00am to 5:00pm in your time zone.

Personal Identification Information (This section includes your name, current and previous addresses, and any other identifying information reported by your creditors)

Name On File: Mary Ann Delano
Social Security #: 091-36-0517 Date of Birth: September 21, 1944
Current Address: 1262 Shoecraft Rd, Webster, NY 14580
Last Reported Employment: Product Specialist; Xerox;

In order to speak with a Customer Service Representative regarding the specific information contained in this credit file, you must call WITHIN 60 DAYS of the date of this credit file AND have a copy of this credit file along with the confirmation number.

Credit Account Information (For your security, the last 4 digits of account number(s) have been replaced by X. (This section includes open and closed accounts reported by credit grantors)

Table with columns: Account Number, Date Acct. Opened, High Credit, Credit Limit, Terms Duration, Terms Frequency, Credit Limit, Date Opened, High Credit, Date Reported, Balance Amount, Account History, Status Code, Descriptions. Includes details for account 541931041019\*.

Table with columns: Assoc/Credit/SD, Account Number, Date Reported, Balance Amount, Date Reported, Amount Past Due, Date of Last Payment, Actual Payment Amount, Scheduled Payment Amount, Date of Last Activity, Date of Del. 1st Rptd, Charge Off Amount, Terms Frequency, Min/Ms Revd, Activity Description, Creditor Classification, Deferred Pay Start Date, Balloon Pay Amount, Balloon Pay Start Date, Date Closed.

Current Status - Pays As Agreed ; Type of Account - Revolving ; Whose Account - Individual Account; ADDITIONAL INFORMATION - Account Paid/Zero Balance ;

Capital One PO Box 85520 Internal Zip 12030-015 Richmond VA 23265-5520

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Description	Creditor Classification
486236226671*	11/2002	\$32				18		
Items As of Balance	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date Mtd. Del. 1st Pktd	Charges Off Amount	Deferred Pay Start Date	Balloon Pay Start Date
05/2004 \$0	02/2004	02/2004		02/2004	03/2004			

Current Status - Included in Wage Earner Plan ; Type of Account - Revolving ; Type of Loan - Credit Card ; Whose Account - Individual Account; ADDITIONAL INFORMATION - Account Involved in Chapter 13 Debt Adjustment ;

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Description	Creditor Classification
348007430*	08/1982		\$3,140			78		
Items As of Balance	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date Mtd. Del. 1st Pktd	Charges Off Amount	Deferred Pay Start Date	Balloon Pay Start Date
05/2004 \$0	10/2003	10/2003		12/2003				

Current Status - 60 - 89 Days Past Due ; Type of Account - Revolving ; Type of Loan - Charge Account ; Whose Account - Authorized User ;

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Description	Creditor Classification
410200824002*	06/1983	\$11,651	\$7,600		Monthly	99		
Items As of Balance	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date Mtd. Del. 1st Pktd	Charges Off Amount	Deferred Pay Start Date	Balloon Pay Start Date
04/2004 \$11,651	11/2003	04/2003 \$450	\$233	12/2003	02/2004			

Current Status - Account Involved in Chapter 13 Debt Adjustment ;

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Description	Creditor Classification
601100204000*	12/1988	\$5,755			Monthly	99		
Items As of Balance	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date Mtd. Del. 1st Pktd	Charges Off Amount	Deferred Pay Start Date	Balloon Pay Start Date
04/2004 \$0	10/2003	10/2003 \$112		09/2003	04/2004			

Type of Account - Revolving ; Type of Loan - Credit Card ; Whose Account - Joint Account; ADDITIONAL INFORMATION - Account Closed At Consumers Request ;

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Revd	Activity Description	Creditor Classification
800491*	05/1994	\$400				27		
Items As of Balance	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date Mtd. Del. 1st Pktd	Charges Off Amount	Deferred Pay Start Date	Balloon Pay Start Date
09/1996 \$0				11/1995				

Current Status - Pays As Agreed ; Type of Account - Revolving ; Whose Account - Individual Account ;

CREDIT FILE : May 8, 2004

5 Fleet National Bank

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Mths Freq	Activity Description	Creditor Classification
548799002018*	02/1/993		\$4,200		Monthly			
Items As of Balance Past Due	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date Maj. Del. 1st Rpdt	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Start Date
04/2004 \$2,184	10/2003 \$172	\$172	\$47	12/2003	04/2004	\$2,184		
Current Status - Charge Off ; Type of Account - Revolving ; Type of Loan - Credit Card ; Whose Account - Individual Account ;								
Account History 02/2004 01/2004 10/2001 04/1999 02/1998 12/1996 08/1997								
with Status Codes 2 1 1 1 1 1 1 2								

6 GMAC

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Mths Freq	Activity Description	Creditor Classification
052-1504-1*	07/1/995	\$10,326				44		
Items As of Balance Past Due	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date Maj. Del. 1st Rpdt	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Start Date
03/1999 \$0			\$191	02/1999				
Current Status - Pays As Agreed ; Type of Account - Installment ; Whose Account - Joint Account ; ADDITIONAL INFORMATION - Account Paid/Zero Balance ; Auto ;								

7 J.C. Penney / Monogram Credit

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Mths Freq	Activity Description	Creditor Classification
052-3036-0*	02/1/993	\$10,793				47		
Items As of Balance Past Due	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date Maj. Del. 1st Rpdt	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Start Date
02/1997 \$0			\$224	02/1997				
Current Status - Pays As Agreed ; Type of Account - Installment ; Whose Account - Maker ; ADDITIONAL INFORMATION - Account Paid/Zero Balance ;								

J.C. Penney / Monogram Credit

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Mths Freq	Activity Description	Creditor Classification
-080246*	10/1/980	\$569	\$200		Monthly	80		
Items As of Balance Past Due	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date Maj. Del. 1st Rpdt	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Start Date
05/2004 \$57	04/2004 \$41	\$41	\$15	05/2004				
Current Status - Pays As Agreed ; Type of Account - Revolving ; Type of Loan - Charge Account ; Whose Account - Joint Account ;								
Account History 07/1998 01/1998 10/1997 08/1997								
with Status Codes 1 1 2 1								

J.C. Penney / Monogram Credit

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Mths Freq	Activity Description	Creditor Classification
-010699*	10/1/980							
Items As of Balance Past Due	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date Maj. Del. 1st Rpdt	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Start Date
05/2004				05/2004				
Current Status - Card Is Lost Or Stolen ; Type of Loan - Charge Account ;								

Kalman's

Account Number	Date Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Mths Freq	Activity Description	Creditor Classification
25243*	09/1/985	\$926			Monthly	99		
Items As of Balance Past Due	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date Maj. Del. 1st Rpdt	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Start Date
04/2004 \$0	05/1999			05/1999				
Current Status - Pays As Agreed ; Type of Account - Revolving ; Type of Loan - Charge Account ; Whose Account - Joint Account ;								

(Continued On Next Page)

Equifax report of 4/26/4 for Mary Ann DeLano, who produced it incompletely on 6/16/4 to Trustee Reiber C:1477



8 **M.B.N.A. Amer** PO Box 15026 **Wilmington DE 19850-5026 (610) 421-2110** **99** **99** **99**  
 Date Opened **01/1994** High Credit **99** Terms Duration **99** Terms Frequency **99** Activity Description **99** Creditor Classification **99**

Account Number	Amount Past Due	Date Reported	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date of Del. 1st Pmt	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Amount	Balloon Pay Start Date	Date Closed
431302299975*		04/2004	10/2003	02/2004		02/2003	02/2004					
<b>Current Status - Account Included in Bankruptcy ; Type of Loan - Credit Card ; Whose Account - Individual Account;</b>												
Account History	3	03/2004	02/2004	01/2004	05/2002	03/2002	01/2002	11/2001	10/2001	07/2001	05/2001	04/2001
with Status Codes	2	1	1	1	2	1	1	1	1	1	1	1
	1	12/1999	09/1999	02/1999	10/1998	08/1998	03/1998	09/1997				
	1	1	1	1	1	1	1	1				

Account Number	Amount Past Due	Date Reported	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date of Del. 1st Pmt	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Amount	Balloon Pay Start Date	Date Closed
738920*		05/1999	03/1988	\$59,000	\$723	04/1999						
<b>Manufacturers &amp; Traders Trust</b>												
<b>Current Status - Pays As Agreed ; Type of Account - Installment ; Whose Account - Joint Account; ADDITIONAL INFORMATION - Account Paid/Zero Balance ;</b>												

Account Number	Amount Past Due	Date Reported	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date of Del. 1st Pmt	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Amount	Balloon Pay Start Date	Date Closed
195882002*		04/1998	03/1988	\$59,000	\$733	02/1998						
<b>OMONDAGA Bank Overdraft</b>												
<b>Current Status - Pays As Agreed ; Type of Account - Installment ; Whose Account - Joint Account; ADDITIONAL INFORMATION - Account Transferred or Sold ;</b>												

Account Number	Amount Past Due	Date Reported	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date of Del. 1st Pmt	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Amount	Balloon Pay Start Date	Date Closed
626*		05/1999	02/1997	\$6,719		04/1999						
<b>Primus Automotive</b>												
<b>Current Status - Pays As Agreed ; Type of Account - Individual Account; ADDITIONAL INFORMATION - Account Paid/Zero Balance ; Auto ;</b>												

Account Number	Amount Past Due	Date Reported	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date of Del. 1st Pmt	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Amount	Balloon Pay Start Date	Date Closed
8601*		04/2004	12/1995	\$280	\$500	02/1997						
<b>The Bon Ton</b>												
<b>Current Status - Pays As Agreed ; Type of Account - Revolving ; Type of Loan - Charge Account ; Whose Account - Joint Account;</b>												

**Inquiries that display to companies (may impact your credit score)**  
 This section lists companies that requested your credit file. Credit grantors may view these requests when evaluating your creditworthiness.

Company Information	Inquiry Date(s)
Genesee Regional Bank	09/2003 06/2003
The Credit Bureau:3301 ONTARIO NATIONAL	08/2002

C:1478 Equifax report of 4/26/4 for Mary Ann DeLano, who produced it incompletely on 6/16/4 to Trustee Reiber

**Inquiries that do not display to companies (do not impact your credit score)**  
 (This section includes inquiries which display only to you and are not considered when evaluating your credit worthiness. Examples of this inquiry type include: pre-approved offer of credit, insurance, or periodic account review by an existing creditor.)

**Company Information - Prefix Descriptions:**

PRM - Inquiries with this prefix indicate that only your name and address were given to a credit grantor so they can provide you a firm offer of credit or insurance. (PRM inquiries remain for twelve months)  
 AM or AR - Inquiries with these prefixes indicate a periodic review of your credit history by one of your creditors.  
 (AM and AR inquiries remain for twelve months)  
 Equifax or EFX - Inquiries with these prefixes indicate Equifax's activity in response to your contact with us for a copy of your credit file or a research request.  
 ND - Inquiries with this prefix are general inquiries that do not display to credit grantors. (ND inquiries remain for twelve months)

Company Information	Inquiry Dates					
Equifax	05/2004					
AR-AssoC/Citibank SD	04/2004	02/2004	01/2004	12/2003	11/2003	10/2003
PRM-At&T Wireless	03/2004	01/2004				
PRM-First Premier Bank Promo	02/2004					
AR-Capital One	02/2004	01/2004	12/2003	11/2003	10/2003	09/2003
PRM-At&T Wireless Services	02/2004	06/2003				
AR-MBNA	12/2003	05/2003				
PRM-Evergreen Acceptance Corp.	10/2003					
PRM-Direct Lending Source Inc	10/2003	09/2003				
PRM-DM Services, Inc.	09/2003	07/2003				
PRM-Household Bank	05/2003					
PRM-AssoC Fin Ser Cons Div Promo	05/2003					

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# Western District of New York Claims Register

[2-04-20280-JCN David G. DeLano and Mary Ann DeLano](#)

Judge John C. Ninfo, II

Debtor Name: DELANO, DAVID G.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<i>Description:</i>
---------------------

Remarks:

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

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

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



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

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

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

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

### Claims Register Summary

**Case Name:** David G. DeLano and Mary Ann DeLano

**Case Number:** 2-2004-20280-JCN

**Chapter:** 13

**Date Filed:** 01/27/2004

**Total Number Of Claims:** 19

	<b>Total Amount Claimed</b>	<b>Total Amount Allowed</b>
<b>Unsecured</b>		
<b>Secured</b>		
<b>Priority</b>		
<b>Unknown</b>	\$197788.55	
<b>Administrative</b>		
<b>Total</b>	<b>\$197788.55</b>	

### PACER Service Center

#### Transaction Receipt

06/23/2004 09:45:27			
<b>PACER Login:</b>		<b>Client Code:</b>	
<b>Description:</b>	SearchClaims	<b>Case Number:</b>	2-04-20280-JCN
<b>Billable Pages:</b>	2	<b>Cost:</b>	0.14

## Creditors Matrix

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

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

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

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

**PACER Service Center**

**Transaction Receipt**

06/23/2004 08:49:29

<b>PACER Login:</b>		<b>Client Code:</b>	
<b>Description:</b>	Creditor List	<b>Case Number:</b>	2-04-20280-JCN
<b>Billable Pages:</b>	1	<b>Cost:</b>	0.07

Blank



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MBNA AMERICA  
P.O. BOX 15137  
WILMINGTON, DE 19886-5137

For account information call 1-800-828-2556  
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Address \_\_\_\_\_  
City ( ) State ( ) Zip \_\_\_\_\_  
Home phone \_\_\_\_\_  
Work phone \_\_\_\_\_

ACCOUNT NUMBER 4313 0228 5801 9530  
PAYMENT DUE DATE 08/12/03  
NEW BALANCE TOTAL \$6,422.47  
TOTAL MINIMUM PAYMENT DUE \$176.00  
AMOUNT ENCLOSED \_\_\_\_\_  
DETACH TOP PORTION AND RETURN WITH PAYMENT

X

MARY ANN DELANO  
1262 SHOECRAFT RD  
WEBSTER NY 14580-895462



12. 00642247000176000004313022858019530

New Balance \$9,876.49 Payment Due Date 09/07/03 Past Due Amount \$197.00 Minimum Payment \$2,270.49

Amount Enclosed \$

Make your check payable to Bank One  
New address or e-mail? Print on back.

2. (211) 00

426686995018413400227049009876499

CARDMEMBER SERVICE  
P.O. BOX 15153  
WILMINGTON DE 19886-5153

DAVID G DELANO  
4262 SHOECRAFT RD  
WEBSTER NY 14580-8954

4559613

5000 160 28 20 599 50 184 134 7



Statement Date: 07/15/03 - 08/13/03  
Payment Due Date: 09/07/03  
Minimum Payment Due: \$2,270.49

CUSTOMER SERVICE  
In U.S. 1-800-945-2006  
Español 1-888-446-3308  
TDD 1-800-955-8060  
Outside U.S. call collect  
1-302-594-8200

VISA ACCOUNT SUMMARY

Previous Balance \$9,893.32  
Payments, Credits - \$194.00  
Purchases, Cash, Debits + \$50.00  
Finance Charges + \$127.17  
New Balance \$9,876.49

Account Number: 4262 519 982 211  
Total Credit Line \$8,000  
Available Credit \$0  
Cash Access Line \$8,000  
Available for Cash \$0

ACCOUNT INQUIRIES  
P.O. Box 8650  
Wilmington, DE 19899-8650

PAYMENT ADDRESS  
P.O. Box 15153  
Wilmington, DE 19886-5153

VISIT US AT:  
www.cardmemberservices.com

TRANSACTIONS

Trans Date	Reference Number	Merchant Name or Transaction Description	Amount Credit	Amount Debit
07/15	74266836428NX0X9Y	PAYMENT - THANK YOU	\$194.00	
08/13		OVERLIMIT FEE		25.00
08/13		LATE FEE		25.00
08/13		FINANCE CHARGE		127.17

IF YOU'VE SIMPLY OVERLOOKED YOUR PAYMENT,  
PLEASE SEND IT NOW.

AN OVERLIMIT FEE WAS ASSESSED WHEN YOUR ACCOUNT BALANCE  
EXCEEDED THE ESTABLISHED CREDIT LIMIT ON 08/13/03.

FINANCE CHARGES

Category	Daily Periodic Rate 30 days in cycle	Corresponding APR	Average Daily Balance	PERIODIC RATE(S) AND APR(S) MAY VARY		
				Finance Charge Due To Periodic Rate	Transaction Fees	FINANCE CHARGES
Purchases	.04343%	15.85%	\$4,262.45	\$55.53	-	\$55.53
Cash advances	.04343%	15.85%	\$5,498.19	\$71.64	-	\$71.64
Total finance charges						\$127.17

Effective Annual Percentage Rate (APR): 15.85%

Grace Period Type: B (Please see back of statement for the Grace Period explanation.)

The Corresponding APR is the rate of interest you pay when you carry a balance on purchases or cash advances.  
The Effective APR represents your total finance charges - including transaction fees such as cash advance and balance transfer fees - expressed as a percentage.

IMPORTANT NEWS

MAKING ELECTRONIC PAYMENTS ON YOUR CREDIT CARD ACCOUNT IS  
FASTER AND EASIER THAN EVER! JUST CALL OUR DEDICATED PAYMENT  
LINE AT 800-436-7958 OR LOGON TO WWW.CARDMEMBERSERVICES.COM.  
PAYMENTS ARE POSTED TO YOUR ACCOUNT WITHIN ONE BUSINESS  
DAY AND THERE ARE NO FEES FOR THESE PAYMENT SERVICES.



payment due date **September 15, 2003** new balance **\$5,219.03**  
 minimum payment due **\$109.00**

account number **6011 0020 4000 6645**  
 enter amount enclosed below

\$

Please make check payable to Discover Card. You are overlimit. Pay the sum of the monthly minimum payment plus the overlimit amount of \$2,219.03.



16 SDNCRB03 0086915

**DAVID G DELANO**  
**MARY A DELANO**  
**1262 SHOECRAFT RD**  
**WEBSTER NY 14580-8954**

Simplify and Save! Use your Discover® Card to pay off high-rate balances today. You can save money and consolidate your debt into one convenient payment. Call 1-800-353-0942 to see if a special Balance Transfer offer is available for you.

**PO BOX 15251**  
**WILMINGTON DE 19886-5251**

Address or telephone change? Please print change in the space above, or go to Discovercard.com.

000006011002040006645052190300109000010900

**Discover Card Account Summary**

**Closing Date: August 16, 2003**

page 1 of 2

account number **6011 0020 4000 6645**  
 payment due date **September 15, 2003**  
 minimum payment due **\$109.00**  
 credit limit **\$3,000.00**  
 credit available **\$0.00**  
 cash credit limit **\$1,500.00**  
 cash credit available **\$0.00**

New York residents may contact the New York State Banking Department to obtain comparative listing information of credit cards, fees and grace periods. Call 1-800-518-8866.

previous balance	<b>\$5,207.33</b>
payments and credits	- <b>109.00</b>
purchases	+ <b>29.00</b>
cash advances	+ <b>0.00</b>
balance transfers	+ <b>0.00</b>
<b>FINANCE CHARGES</b>	<b>+ 91.70</b>
<b>new balance</b>	<b>= \$5,219.03</b>

You may be able to avoid Periodic Finance Charges, see the reverse side for details.

**SPECIAL BALANCE TRANSFER RATES!** Save money and simplify your life by consolidating your debt. Call 1-800-767-7339 today to see if an offer is available for you!

The Discover® Classic Card is issued by Discover Bank, Member FDIC.

For TDD (Telecommunications Device for the Deaf) assistance, please call 1-800-347-7449.

we compute the average daily balance for each transaction category by adding up all the daily balances in a billing period for a transaction category and dividing the total by the number of days in the billing cycle. We compute the daily balance for each transaction category on each day by first adding the following to the previous day's daily balance: transactions made that day, fees charged that day and Periodic Finance Charges accrued on the previous day's daily balance, and by then subtracting any credits and payments that are applied against the balance of the transaction category on that day. In calculating the daily balance, we subtract the "previous day's daily balance" to have been 0 on the first day of the billing period.

Old balances are excluded from the balance of the purchase and cash advance transaction categories. Special rate balance transfers and balance transfers are included in the daily balance transfer transaction category. Balance transfers that were subject to an initial special rate that has been terminated due to a late payment are also included in the daily balance transfer transaction category. Balance transfers that were subject to an initial special rate that has been terminated due to a late payment are also included in the daily balance transfer transaction category.

unpaid balance of those Balance Transfer Finance Charges and balance transfers that become purchase rate balance transfers on that day and we add that unpaid balance to the balance of the purchase transaction category.

All fees charged to your account are added to the purchase transaction category with the exception of Cash Advance Transaction Fee Finance Charges which are added to the cash advance transaction category and Balance Transfer Transaction Fee Finance Charges which are added to the balance transfer transaction category. If a transaction made in a previous billing period is itemized on this statement, we consider the transaction date to be the first day of the current billing period when we calculate your Periodic Finance Charges.

For TDD (Telecommunications Device for the Deaf) assistance, please call 1-800-347-7449.





MasterCard/Visa Monthly Statement

Make Checks Payable to:

HSBC BANK USA
SUITE 0627
BUFFALO NY 14270-0627



Payment Information

Account Number 5215 3125 0126 4385
New Balance \$9,065.01
Payment Due Date OCTOBER 3, 2003
Minimum Payment \$169.02

AMOUNT ENCLOSED \$

Changing your address?
Print new address to the right.



DAVID G DELANO
1262 SHOECRAFT RD
WEBSTER NY 14580-8954

50348



0501264385 24

MasterCard/Visa Monthly Statement

Balance Summary

Table with 2 columns: Description, Amount. Rows include Previous Balance, Payments and Other Credits, Purchases/Loans/Other Charges, Service Charge or Interest, Transaction Fees Loans Only, Total FINANCE CHARGE, Late Payment Fees, New Balance.

YOU MAY AVOID ADDITIONAL FINANCE CHARGES ON PURCHASES IF YOU PAY \$2,111.65 BY THE PAYMENT DUE DATE.

Account Summary

Table with 2 columns: Description, Amount. Rows include Account Number, Credit Line, Total Balance in Use, Available Credit, Days in Billing Cycle, Billing Date, Payment Due Date.

Table with 2 columns: Description, Amount. Rows include Amount Past Due, Minimum Due, Minimum Payment Terms.

Key Transactions at a Glance

Table with 5 columns: Trans Date, Post Date, Card Brand, Reference Number, Description of Transactions, Amount. Rows include 08/28, 09/08 transactions.

Finance Charge Rates Summary

Table with 5 columns: Fixed Rate Account, Periodic Rate, Average Daily Balance, Corresponding Annual Percentage Rate, Annual Percentage Rate. Rows include Purchases, Loans.

Important Information

YOUR ACCOUNT IS CURRENTLY CLOSED.

Call or Write

800-975-4722
800-975-HSBC
716-841-7212

HSBC BANK USA
P.O. BOX 9
BUFFALO, NY 14240

HSBC BANK IS
SUITE 0627

NEW YORK RESIDENTS MAY CONTACT THE NEW YORK STATE BANKING DEPARTMENT TO OBTAIN A COMPARISON OF CREDIT CARD RATES, FEES AND GRACE PERIODS. NEW YORK STATE BANKING DEPARTMENT, EARL B. SWANSON...



www.mbna.net/access.com

CARDHOLDER SINCE 1984

ACCOUNT NUMBER 5329 0315 0992 1928	
PAYMENT DUE DATE 10/07/03	NEW BALANCE TOTAL \$18,498.21
TOTAL MINIMUM PAYMENT DUE \$508.00	AMOUNT ENCLOSED

DETACH TOP PORTION AND RETURN WITH PAYMENT

Make check payable to:

MBNA AMERICA  
P.O. BOX 15137  
WILMINGTON, DE 19886-5137

For account information call 1-800-626-2556  
Print change of address or new telephone number below

Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Home phone \_\_\_\_\_ Work phone \_\_\_\_\_

DAVID DELANO  
1262 SHOECRAFT RD  
WEBSTER NY 14580-895462

08 01849821000508000005329031509921928

Account Number	Credit Line	Cash or Credit Available	Days in Billing Cycle	Closing Date	Total Minimum Payment Due	Payment Due Date
5329 0315 0992 1928	\$15,000.00		33	09/09/03	\$508.00	10/07/03

Posting Date	Transaction Type	Reference Number	Card Type	Category	Transactions	Charges	Credits (CF)
SEPTEMBER 2003 STATEMENT							
08/28	5532 MC				PAYMENT - THANK YOU		509.00 CI
TOTAL FOR BILLING CYCLE FROM 08/08/2003 THROUGH 09/09/2003						\$0.00	\$509.00 CI

YOUR BALANCE EXCEEDS APPROVED CREDIT LIMITS.

**IMPORTANT NEWS**

AN IMPORTANT AMENDMENT TO YOUR ACCOUNT TERMS IS ENCLOSED.

USE MBNA MORTGAGE PRODUCTS TO ACHIEVE YOUR FINANCIAL GOALS. CALL 1-877-688-8773.

PAY YOUR BILL QUICKLY WITH PAY-BY-PHONE SERVICE. CALL 1-866-297-9258 TO USE THIS AUTOMATED SERVICE. PAYMENT POSTS THE SAME OR NEXT BUSINESS DAY.

DON'T WORRY ABOUT ECONOMIC UNCERTAINTIES! HELP PROTECT YOUR ACCOUNT. ENROLL IN OPTIONAL CREDIT PROTECTION! CONTACT US: 1-800-840-9504 OR WWW.MBNAPROTECT.COM.

SUMMARY OF TRANSACTIONS							TOTAL MINIMUM PAYMENT DUE
Previous Balance	(-) Payments and Credits	(+) Cash Advances	(+) Purchases and Adjustments	(+) Periodic Rate FINANCE CHARGES	(+) Transaction Fee FINANCE CHARGES	(=) New Balance Total	Past Due Amount \$0.00
\$18,537.57	\$509.00	\$0.00	\$0.00	\$469.64	\$0.00	\$18,498.21	Current Payment \$508.00
							Total Minimum Payment \$508.00
							Due \$508.00

FINANCE CHARGE SCHEDULE Category	Periodic Rate	Corresponding Annual Percentage Rate	Balance Subject to Finance Charge
Cash Advances			
A. BALANCE TRANSFERS, CHECKS	0.076657% DLY	27.98%	\$877.04
B. ATM, BANK	0.076657% DLY	27.98%	\$0.00
C. PURCHASES	0.076657% DLY	27.98%	\$17,688.25

**FOR YOUR SATISFACTION, EVERY HOUR, EVERY DAY**

- For Customer Satisfaction and up to the minute automated information include balance, available credit, payments received, payments due, due date, payment address information, or to request duplicate statements, call 1-800-626-2556.
- For TDD (Telecommunication Device for the Deaf) assistance, call 1-800-346-3178.
- Mail payments to: MBNA AMERICA, P.O. BOX 15137, WILMINGTON, DE 19886-5137.
- Billing rights are preserved only by written inquiry. Mail billing inquiries, using form on the back, and other inquiries to: MBNA AMERICA, P.O. BOX 15026, WILMINGTON, DE 19886-5026.

FOR THIS BILLING PERIOD:  
**ANNUAL PERCENTAGE RATE..... 27.98%**  
 (Includes Periodic Rate and Transaction Fee Finance Charges.)  
 PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

3381 023 3QP 1112 0200 00  
 5329 0315 0992 1928 PAGE 1 OF 1

PAYMENT DUE DATE 10/06/03 | NEW BALANCE \$10,909.01 | MINIMUM DUE \$218.00

# Facsimile Copy

MARY ANN DELANO  
1262 SHOECRAFT ROAD  
WEBSTER NY 14580-8954

1784



Chase Visa®  
ACCOUNT NUMBER: 4102 0082 4002 1537

<b>NEW BALANCE</b> \$10,909.01	<b>PAYMENT DUE DATE</b> 10/06/03	<b>TOTAL CREDIT LINE</b> \$7,600	<b>TOTAL AVAILABLE CREDIT</b> \$0	<b>STATEMENT CLOSING DATE</b> 09/11/03
-----------------------------------	-------------------------------------	-------------------------------------	--------------------------------------	---

**Here is your Account Summary:**

	TOTAL
Previous Balance	\$10,851.99
(-) Payments, Credits	229.00
(+) Purchases, Cash, Debits	70.00
(+) FINANCE CHARGES	286.02
(=) New Balance	10,909.01
Minimum Due	218.00
Over Line - Pay Immediately	3,309.01
Minimum Payment Due	\$218.00

**Here are your Charges and Credits at a glance:**

TRAN. DATE	POST DATE	REF. NO.	DESCRIPTION OF TRANSACTIONS	CREDITS	CHARGES
09/11	09/11	VXJO	PAYMENT - THANK YOU	229.00	
09/11	09/11		OVERLIMIT FEE		35.00
			LATE CHARGE - MIN PYMT NOT RECD BY DATE		35.00
Total of your credits and charges				229.00	70.00
YOU ARE OVER YOUR CREDIT LIMIT. PLEASE SEND PAYMENT TO AVOID LOSING YOUR CREDIT PRIVILEGES. IF YOU'VE ALREADY PAID-THANK YOU.					

**Here's how we determined your Finance Charge\*:**

Days in Billing Cycle: 30

	DAILY PERIODIC RATE	AVERAGE DAILY BALANCE	PERIODIC / MIN. FINANCE CHARGE	TOTAL FINANCE CHARGE	NOMINAL ANNUAL PERCENTAGE RATE	ANNUAL PERCENTAGE RATE
Cash	0.06573%	\$6,240.94	\$123.06	\$123.06	23.99%	23.99%
Purchases	0.08573%	\$4,714.48	\$92.96	\$92.96	23.99%	23.99%

\* Please see reverse side for balance computation method and other important information.

Questions about your account? Credit Card lost or stolen? Call a Chase Representative, toll-free, at 1-800-235-3343 or write P.O. BOX 1010, HICKSVILLE, NY 11802-0000.  
Para Servicio al Cliente en Español: 1-800-545-0464.

1784  
 3993 0016 4234 4234  
 Page 4 of 4  
 7 19 630926  
 4234 8006 878

3292

New Balance \$5,130.80 Payment Due Date 10/12/03 Past Due Amount \$103.00 Minimum Payment \$2,535.80

Amount Enclosed \$ [ ]

Make your check payable to Bank One  
New address or e-mail? Print on back.

471202070151329200253580005130805

CARDMEMBER SERVICE  
P.O. BOX 15153  
WILMINGTON DE 19886-5153

DAVID DELANO  
1262 SHOECRAFT RD  
WEBSTER NY 14580-8954

3059711



⑆ 5000 160 2810 ⑆ 1060 701 5132 92 21 ⑆



Statement Date: 08/19/03 - 09/17/03  
Payment Due Date: 10/12/03  
Minimum Payment Due: \$2,535.80

CUSTOMER SERVICE  
in U.S. 1-800-945-2006  
Español 1-888-446-3308  
TDD 1-800-955-8060  
Outside U.S. call collect  
1-302-594-8200

**VISA ACCOUNT SUMMARY**

Account Number: 4712 0207 0151 3292

Previous Balance	\$5,195.72
Payments, Credits	- \$201.00
Purchases, Cash, Debits	+ \$40.00
Finance Charges	+ \$96.08
New Balance	\$5,130.80

Total Credit Line	\$2,800
Available Credit	\$0
Cash Access Line	\$2,800
Available for Cash	\$0

ACCOUNT INQUIRIES  
P.O. Box 8650  
Wilmington, DE 19899-8650  
  
PAYMENT ADDRESS  
P.O. Box 15153  
Wilmington, DE 19886-5153

VISIT US AT:  
www.cardmemberservice.com

**TRANSACTIONS**

Trans Date	Reference Number	Merchant Name or Transaction Description	Credit	Amount Debit
08/22	74712027A28NXB3R5	PAYMENT - THANK YOU	\$201.00	
09/17		OVERLIMIT FEE		20.00
09/17		LATE FEE		20.00
09/17		*FINANCE CHARGE*		96.08

IF YOU'VE SIMPLY OVERLOOKED YOUR PAYMENT,  
PLEASE SEND IT NOW.

AN OVERLIMIT FEE WAS ASSESSED WHEN YOUR ACCOUNT BALANCE  
EXCEEDED THE ESTABLISHED CREDIT LIMIT ON 09/17/03.

**FINANCE CHARGES**

PERIODIC RATE(S) AND APR(S) MAY VARY

Category	Monthly Periodic Rate 30 days in cycle	Corresponding APR	Average Daily Balance	Finance Charge Due To Periodic Rate	Transaction Fees	FINANCE CHARGES
Purchases	1.916%	22.99%	\$2,652.90	\$50.83	-	\$50.83
Cash advances	1.916%	22.99%	\$2,361.91	\$45.25	-	\$45.25

Total finance charges \$96.08

Effective Annual Percentage Rate (APR): 22.99%

Grace Period Type: B (Please see back of statement for the Grace Period explanation.)

The Corresponding APR is the rate of interest you pay when you carry a balance on purchases or cash advances.  
The Effective APR represents your total finance charges - including transaction fees such as cash advance and balance transfer fees - expressed as a percentage.

New Balance \$9,846.80    Payment Due Date 11/08/03    Past Due Amount \$197.00    Minimum Payment \$2,239.80

Amount Enclosed \$           

Make your check payable to Bank One  
New address or e-mail? Print on back.

4134

426686995018413400223980009846807

CARDMEMBER SERVICE  
P.O. BOX 15153  
WILMINGTON DE 19886-5153

DAVID G DELANOS  
1262 SHOECRAFT RD  
WEBSTER NY 14580-8954

4081562



⑆5000 160 28⑆ 20 599 50 184 134 7⑆



Statement Date: 09/13/03 - 10/14/03  
Payment Due Date: 11/08/03  
Minimum Payment Due: \$2,239.80

**CUSTOMER SERVICE**  
In U.S.: 1-800-945-2006  
Español 1-888-446-3308  
TDD 1-800-955-8060  
Outside U.S. call collect  
1-302-594-8200

**VISA ACCOUNT SUMMARY**

Previous Balance \$9,857.18  
Payments/Credits \$197.00  
Purchases/Cash/Debits + \$50.00  
Finance Charges + \$136.62  
New Balance \$9,846.80

Account Number: 4266 8699 5018 4134  
Total Credit Line \$8,000  
Available Credit \$0  
Cash Access Line \$8,000  
Available for Cash \$0

**ACCOUNT INQUIRIES**  
P.O. Box 8650  
Wilmington, DE 19899-8650

**PAYMENT ADDRESS**  
P.O. Box 15153  
Wilmington, DE 19886-5153

**VISIT US AT:**  
[www.cardmemberservices.com](http://www.cardmemberservices.com)

**TRANSACTIONS**

Trans Date	Reference Number	Merchant Name or Transaction Description	Amount	
			Credit	Debit
09/28	74266838F015MEGVV	PAYMENT - THANK YOU	\$197.00	
10/14		OVERLIMIT FEE		25.00
10/14		LATE FEE		25.00
10/14		FINANCE CHARGE		136.62

IF YOU'VE SIMPLY OVERLOOKED YOUR PAYMENT,  
PLEASE SEND IT NOW.

OUR ACCOUNT NUMBER SYSTEM HAS CHANGED! SEE YOUR NEW NUMBER ABOVE.

AN OVERLIMIT FEE WAS ASSESSED WHEN YOUR ACCOUNT BALANCE  
EXCEEDED THE ESTABLISHED CREDIT LIMIT ON 10/14/03.

**FINANCE CHARGES**

Category	Daily Periodic Rate 32 days in cycle	Corresponding APR	Average Daily Balance	PERIODIC RATE(S) AND APR(S) MAY VARY		
				Finance Charge Due To Periodic Rate	Transaction Fees	FINANCE CHARGE
Purchases	04348%	15.87%	\$4,291.09	\$59.70		\$59.70
Cash advances	04348%	15.87%	\$5,527.77	\$76.92		\$76.92

Total finance charges \$136.62

Effective Annual Percentage Rate (APR): 15.87%

Grace Period Type: B (Please see back of statement for the Grace Period explanation.)

The Corresponding APR is the rate of interest you pay when you carry a balance on purchases or cash advances.  
The Effective APR represents your total finance charges - including transaction fees such as cash advance and balance transfer fees - expressed as a percentage.

**IMPORTANT NEWS**

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

OMB No. 1545-0074

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

**Use the IRS label.** Otherwise, please print or type.  
 If a Joint Return, Spouse's First Name MI Last Name  
**Mary Ann DeLano**  
 Spouse's Social Security Number  
**091-36-0517**

Home Address (number and street). If You Have a P.O. Box, See Instructions. Apartment No.  
**1262 Shoecraft Rd**

City, Town or Post Office. If You Have a Foreign Address, See Instructions. State ZIP Code  
**Webster NY 14580**

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

**Presidential Election Campaign** (See instructions.)

Do you, or your spouse if filing a joint return, want \$3 to go to this fund? .....  Yes  No  Yes  No

**Filing Status**

1  Single

2  Married filing joint return (even if only one had income)

3  Married filing separate return. Enter spouse's SSN above & full name here ....

4  Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here ▶

5  Qualifying widow(er) with dependent child (year spouse died ▶). (See instructions.)

Check only one box.

**Exemptions**

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

b  Spouse

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

d Total number of exemptions claimed ..... 2

**Income**

7 Wages, salaries, tips, etc. Attach Form(s) W-2 ..... 7 90,790.

8a Taxable interest. Attach Schedule B if required ..... 8a 427.

b Tax-exempt interest. Do not include on line 8a ..... 8b

9 Ordinary dividends. Attach Schedule B if required ..... 9 12.

10 Taxable refunds, credits, or offsets of state and local income taxes (see instructions) ..... 10

11 Alimony received ..... 11

12 Business income or (loss). Attach Schedule C or C-EZ ..... 12

13 Capital gain or (loss). Attach Schedule D if required. If not required, check here .....  13

14 Other gains or (losses). Attach Form 4797 ..... 14

15a Total IRA distributions ..... 15a b Taxable amount (see instrs) .. 15b

16a Total pensions & annuities ..... 16a 3,257. b Taxable amount (see instrs) .. 16b 0.

17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E .. 17

18 Farm income or (loss). Attach Schedule F ..... 18

19 Unemployment compensation ..... 19

20a Social security benefits ..... 20a b Taxable amount (see instrs) .. 20b

21 Other income ..... 21

22 Add the amounts in the far right column for lines 7 through 21. This is your total income. ▶ 22 91,229.

**Adjusted Gross Income**

23 IRA deduction (see instructions) ..... 23

24 Student loan interest deduction (see instructions) ..... 24

25 Archer MSA deduction. Attach Form 8853 ..... 25

26 Moving expenses. Attach Form 3903 ..... 26

27 One-half of self-employment tax. Attach Schedule SE ..... 27

28 Self-employed health insurance deduction (see instructions) .. 28

29 Self-employed SEP, SIMPLE, and qualified plans ..... 29

30 Penalty on early withdrawal of savings ..... 30

31a Alimony paid b Recipient's SSN ..... 31a

32 Add lines 23 through 31a ..... 32

33 Subtract line 32 from line 22. This is your adjusted gross income ..... 33 91,229.

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

Label (See instructions.)

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

Presidential Election Campaign (See instructions.)

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

OMB No. 1545-0074
Your social security number 077-32-3894
Spouse's social security number 091-36-0517
Important! You must enter your social security number(s) above.

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

Filing Status

Check only one box.

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

Exemptions

If more than five dependents, see instructions.

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

Income

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

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

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

Table with 2 columns: Line number and Amount. Lines 7-22. Total income: 91,859.

Adjusted Gross Income

Table with 2 columns: Line number and Amount. Lines 23-35. Adjusted gross income: 91,859.

Label (See instructions.)

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

Presidential Election Campaign (See instructions.)

For the year Jan 1 - Dec 31, 2003, or other tax year beginning , 2003, ending , 20
Your first name MI Last name David G DeLano
Your social security number 077-32-3894
If a joint return, spouse's first name MI Last name Mary Ann DeLano
Spouse's social security number 091-36-0517
Home address (number and street). If you have a P.O. box, see instructions. Apartment no. 1262 Shoecraft Road
City, town or post office. If you have a foreign address, see instructions. State ZIP code Webster NY 14580

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

Filing Status

Check only one box.

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

Exemptions

If more than five dependents, see instructions.

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

Income

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

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

ROLLOVER

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

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

Adjusted Gross Income

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

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



Blank

## Useful addresses for investigating the judicial wrongdoing and bankruptcy fraud scheme

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

13.	<p>Mr. Leonidas Ralph Meham Director</p> <p>William Burchall, Esq. General Counsel</p> <p>Jeffrey <b>Barr</b>, Esq. Deputy General Counsel</p> <p><b>Administrative Office</b> of the U.S. Courts Office of the General Counsel One Columbus Circle, NE, Suite 7-290 Washington, DC 20544 tel. (202) 502-1100 fax (202) 502-1033</p>
14.	<p>Ms. Wendy Janis United States Judicial Conference (202)502-2400</p>
15.	



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

---

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

July 13, 2004

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

Dear Dr. Cordero:

After a careful review of the materials submitted by you with regard to the U.S. Bankruptcy Court and the District Court for the Western District of New York, please be advised that it has been determined that the materials do not state a basis for a federal criminal investigation by this Office.

Very truly yours,

DAVID N. KELLEY  
United States Attorney

By:

  
Janice Sandt  
Legal Assistant



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*


August 5, 2004

Bradley E. Tyler  
Attorney in Charge  
United States Attorney Office  
U.S. Courthouse  
100 State Street  
Rochester, NY 14614

Dear Mr. Bradley:

Enclosed please find a referral of an investigation to our Office by Dr. Richard Cordero. We have declined to open an investigation into this matter. I have spoken to Dr. Cordero and he requested that I forward the materials to your office for consideration, since some of the underlying conduct took place in your district.

Very truly yours,

  
KAREN PATTON SEYMOUR  
Chief, Criminal Division

cc: Dr. Richard Cordero  
(w/out enclosures)

# Dr. Richard Cordero

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

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

August 14, 2004

Bradley E. Tyler, Esq.  
U.S. Attorney in Charge [tel. (585)263-6760; fax (585)263-6226]  
620 Federal Building  
100 State Street  
Rochester, NY 14614

re: evidence of a judicial misconduct and bankruptcy fraud scheme

Dear Mr. Tyler,

Thank you for taking my call last Wednesday, when we briefly talked about the files that I prepared for your colleague David N. Kelley, U.S. Attorney for the Southern District of New York, and that his Chief of the Criminal Division, Karen Patton Seymour, Esq., forwarded to you. They concern a judicial misconduct and bankruptcy fraud scheme, which has shown further evidence of its existence and depth through an ongoing case in the Bankruptcy Court in your building, namely, David and Mary Ann DeLano, Chapter 13, docket no. 04-20280.

As mentioned, I have prepared a paper in the form of a motion (1-19, *infra*) that describes the latest developments of a pattern of non-coincidental, intentional, and coordinated acts of wrongdoing involving judicial officers, trustees, and the local parties. The motion demonstrates how these participants have undermined the integrity of the judicial and bankruptcy systems and why this matter deserves that a file be opened and treated with high priority.

The motion's Table of Contents serves as an executive summary. Its first paragraph lets you know of two important hearings in the Court right there where you are:

1. The one next Monday, August 23, at 3:30 p.m., will reconsider Trustee George Reiber's motion to dismiss the case (21, *infra*) due to the Debtors' unreasonable delay in producing documents as well as my statement in opposition (23, *infra*), which requests his removal on account of his conflict of interests between his duty to investigate this case and his self-preservation instinct of not uncovering documents that can incriminate him in bankruptcy fraud.
2. The other hearing is set for Wednesday, August 25, at 11:30 a.m. It was noticed by the Debtors' attorney, who seeks to disallow my claim (43, *infra*) in order to eliminate me from the case, for I am the only creditor who insists on obtaining documents that threaten to expose bankruptcy fraud, particularly concealment of assets. I will oppose him and again ask that the Hon. John C. Ninfo, II, issue the proposed order for the Debtors to produce certain documents (34, *infra*), which the Judge knew I had requested so that he had me fax the order to him only to refuse to issue it by citing the "expressed concerns" of the Debtor's attorney (39, *infra*), who nevertheless had earlier failed to preserve any objection to the order.

I trust that this overview will enable you to realize the importance of those two hearings for the parties and the future of this case. Hence, I respectfully urge you to attend them or have the attorney reviewing my files do so. Attending those hearings will also give you an opportunity to witness the interaction between the local parties and Judge Ninfo in their courtroom while I am absent appearing by phone from New York City. Therefore, I look forward to hearing from you as soon as you have decided whether to open a file in this matter and to attend the hearings.

Sincerely,

*Dr. Richard Cordero*

# TABLE OF EXHIBITS

accompanying the letter sent on August 14, 2004  
to Bradley E. Tyler, Esq., U.S. Attorney in Charge in Rochester, NY  
to request the U.S. Attorney's Office to open an investigation of  
a judicial wrongdoing and bankruptcy fraud scheme

by

**Dr. Richard Cordero**

1. **Dr. Richard Cordero's motion of August 14, 2004, for docketing and issue of proposed order, transfer, referral, examination, and other relief**.....1 [D:\*231]
  - a. **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** .....16 [D:217]
  - b. **Proposed order for docketing and issue of order, transfer, referral, examination, and other relief** .....17 [D:246]
  - c. **Dr. Cordero's telephone bill showing faxes to Judge Ninfo's fax machine at no. (585)613-4229 on July 20 and 22, 2004** .....19 [D:248]

## **Background documents**

2. **Trustee George Reiber's motion of June 15, 2004, to dismiss the DeLanos' Chapter 13 petition "for unreasonable delay" in submitting documents, noticed for July 19, 2004**.....21 [D:164]
3. **Dr. Cordero's Statement of July 9, 2004, in opposition to Trustee's motion to dismiss the DeLano petition** .....23 [D:193]
  - a. **Relief: contents of document production order requested to issue**.....29 [D:199][31]
4. **Dr. Cordero's letter of July 19, 2004, faxed to Judge Ninfo** .....33 [D:207]
  - a. **Proposed order for production of documents by the DeLanos and their attorney, Christopher Werner, Esq., obtained by reformatting the requested order contained in Dr. Cordero's statement of July 9, 2004**.....34 [D:208]
5. **Att. Werner's letter of July 20, 2004, to Judge Ninfo, delivered via messenger, objecting to Dr. Cordero's proposed order because it "extends beyond the direction of the Court"** .....39 [D:211]
6. **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] Attorney Werner expressed concerns in a July 20, 2004 letter"** .....41 [D:220]
7. **Att. Werner's notice of hearing and order objecting to Dr. Cordero's claim and moving to disallow it, dated July 19, but filed on July 22, 2004**.....43 [D:218]

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[\*D:=Designated items in the record for the appeal from Judge Ninfo's decision in *In re DeLano*, 04-20280, WBNY, to the District Court in *Cordero v DeLano*; 05cv6190L, WDNY; see items in D folder on CD.]

# Dr. Richard Cordero

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

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

August 17, 2004

Mr. Robert M. Silveri  
Acting Supervisory Special Agent, Squad C-4  
FBI New York  
26 Federal Plaza, 23rd. Floor  
New York, NY 10278-0004

faxed to (212)384-2999; tel. (212)384-2219

[(212)637-2200; fax (212)637-2611]

Re: a judicial misconduct and bankruptcy fraud scheme

Dear Mr. Silveri,

Thank you for taking my phone call yesterday and agreeing to contact your Buffalo and Rochester colleagues to find out the status of the complaint about a judicial misconduct and bankruptcy fraud scheme that I brought to your office on June 30 and that you forwarded to them. They still have not contacted me. I hope that you received the motion that I faxed to you yesterday. It describes the latest developments in a pattern of non-coincidental, intentional, and coordinated acts of wrongdoing involving judicial officers, trustees, and the local parties.

The Table of Contents of that motion serves as an executive summary. For its part, the first paragraph of the Notice lets you know of two upcoming hearings in the U.S. Bankruptcy Court in Rochester (tel. (585)613-4200; courtroom (585)613-4281)):

1. The one next Monday, August 23, at 3:30 p.m., will reconsider Trustee George Reiber's motion to dismiss the case due to the Debtors' unreasonable delay in producing documents as well as my statement in opposition, which requests his removal on account of his conflict of interests between his duty to investigate this case and his self-preservation instinct of not uncovering documents that can incriminate him in bankruptcy fraud.
2. The other hearing is set down for Wednesday, August 25, at 11:30 a.m. It was noticed by the Debtors' attorney, who seeks to disallow my claim in order to eliminate me from the case, for I am the only creditor who insists on obtaining documents that threaten to expose bankruptcy fraud, particularly concealment of assets. I will oppose him and again ask that the Hon. John C. Ninfo, II, issue the order that I proposed last July 19 for the Debtors to produce certain documents that can reveal the whereabouts of their earnings of \$291,470 in just the last three years, not to mention what they earned previously.

I trust that this overview will enable you to realize the importance of those two hearings for the parties and the future of this case. Hence, I respectfully ask that you urge your colleagues to send an agent to them. Attending those hearings will give them an opportunity not only to learn how these issues are handled, but also to witness the interaction between the local parties and Judge Ninfo in the courtroom in my absence, for I will be appearing by phone from New York City. Kindly call me today to let me know where we stand. Since the end of last June enough time has gone by for them to have made up their minds as to what they intend to do with a high priority complaint about wrongdoing that undermines the integrity of both the judicial and the bankruptcy systems.

Sincerely,

*Dr. Richard Cordero*



# Dr. Richard Cordero

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

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

August 23, 2004

Mr. Robert M. Silveri  
Acting Supervisory Special Agent, Squad C-4  
FBI New York  
26 Federal Plaza, 23rd. Floor  
New York, NY 10278-0004

faxed to (212)384-2999;  
tel. (212)384-2219 9  
(212)637-2200; fax (212)637-2611

Re: a judicial misconduct and bankruptcy fraud scheme

Dear Mr. Silveri,

Thank you for returning my phone call. Here is my reply to the motion of the Debtor's attorney, Christopher Werner, Esq., to disallow my claim, which would have the effect of dismissing me from the case.

Att. Werner knew even before signing and filing the DeLanos' bankruptcy petition of January 26, 2004, what the nature of my claim was, namely, the claim that I brought against Mr. DeLano in my complaint against him of November 21, **2002** in the case *Pfuntner v. Gordon et al*, docket no. 02-2230 in the same Bankruptcy Court of the Western District. If Att. Werner believed in good faith that he had valid legal grounds to disallow my claim, which he took the initiative to list in the petition, he had to submit them to the Court and to me as soon as possible for the sake of judicial economy and out of fairness to me, but he failed to do so.

Far from it, Att. Werner deemed me a creditor with the right to examine the DeLanos, to the point that he provided Chapter 13 Trustee George Reiber with dates for such examination. Att. Werner had reason to know that I would be the only creditor to attend and examine the DeLanos given that I was the only creditor out of 21 who showed up at the meeting of creditors of last March 8. He also considered me a creditor entitled to disclosure of financial documents of the DeLanos and thus, produced documents to me. By Att. Werner not moving to disallow my claim, but instead treating me for months like a creditor, he revealed that he did not believe that he had a legally cognizable objection to the validity of my claim.

I have been the only creditor who insists on obtaining documents from the DeLanos. But my posture changed qualitatively when in my reply of July 9 in opposition to the Trustee's motion to dismiss, I requested the Hon. John C. Ninfo, II, the presiding bankruptcy judge, that he order the DeLanos to submit bank as well as debit account statements, titles to ownership interest in specific types of property, and documents evidencing the money transfer and use concerning the loan to the DeLanos' son. I justified my request by indicating that the DeLanos must account for the \$291,470 that they earned in the last 3 years alone while they claimed that at the time of filing their petition they only had \$535.50 in hand and on bank accounts and only \$2,910 worth of household goods after a lifetime of work! What is more, I stated that until that money is not accounted for, there is reasonable suspicion of concealment of assets. That is an element of bankruptcy fraud. Att. Werner must have panicked, for on July 19 he filed his motion to disallow my claim, a thinly veiled subterfuge to eliminate the one creditor that by now they know will keep pushing for production of documents that they must keep undisclosed. His motion will be heard on Wednesday, August 25 at 11:30. Your colleagues should receive this update.

Sincerely,

*Dr. Richard Cordero*

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

In re David G. DeLano and Mary Ann DeLano

Chapter 13 bankruptcy  
case no: 04-20280

Reply in Opposition  
to Debtors' Objection to Claim  
and Motion to Disallow it

---

Dr. Richard Cordero, Creditor, states under penalty of perjury as follows:

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1. By their attorney, Christopher Werner, Esq., the Debtors object as follows to Dr. Cordero's claim:

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

**I. The DeLanos were so aware of Dr. Cordero's legal claim against them that they and their attorney themselves included it in the original bankruptcy petition**

2. To begin with, it escapes Att. Werner's attention the inconsistency of affirming in the first sentence that Dr. Cordero provides "no legal basis" for "any obligation" of the Debtors to him, only to follow it up in the next sentence with the statement that the basis of the claim is "a pending Adversary Proceeding". That Adversary Proceeding, pending in the U.S. Bankruptcy Court in Rochester, docket no. 02-2230, is a lawsuit with opposing claims at law. Regardless of how those claims will be finally decided, the Adversary Proceeding does provide the legal basis for Dr. Cordero's claim!
3. Likewise, it escapes Att. Werner's recollection that it was he and the Debtors who in the very first document in the instant case, that is, the bankruptcy petition that they signed last January 26, 2004, listed Dr. Cordero's claim, describing it as "2002 Alleged liability re: stored merchandise as employee of M&T Bank –suit pending US BK Ct.". Therefore, it is disingenuous to insinuate that Dr. Cordero only "apparently asserts a claim" given that they were the first to recognize the DeLanos' potential liability to him and were the first to state so in the petition before Dr. Cordero could even suspect, let alone know, that they would file for bankruptcy.
4. In the same vein, it escapes Att. Werner's candor when he states that Dr. Cordero provided "no legal basis" and only "apparently asserts a claim" despite the fact that Dr. Cordero served him with a copy of his proof of claim with an attached copy of his November 21, 2002 pleading in the Adversary Proceeding containing his claim against Mr. DeLano. Consequently, Att.

Werner knows full well not only the legal nature of Dr. Cordero's claim against Mr. DeLano, but also its precise substance.

5. Moreover, it escapes Att. Werner's capacity to spot legally significant facts that the Adversary Proceeding is *Pfuntner v. Gordon et al*, docket no. 02-2230, which is only derivatively related to the case that he cited in his above-quoted Objection, namely, "Premier Van Lines (01-20692)". It is to be hoped that Att. Werner's mistaken reference to only the Premier case is only a reflection on his lack of accuracy when raising an allegation against another party, rather than an intentional effort to mislead the Court and other parties by drawing their attention to a case where Mr. DeLano is not a named party.
6. In addition, it escapes Att. Werner's knowledge of first year law school Torts that a person is not insulated from "individual liability" just because he alleges that he "acted only as employee" of his employer. Debtor David DeLano is a named third-party defendant in that Adversary Proceeding just as M&T Bank is a named defendant as well as a cross-defendant therein. They can be jointly and severally liable because or in spite of their employer-employee relationship.

## **II. The Debtors cannot contest a bankruptcy claim on grounds that they may not be liable in another case**

7. As a matter of law and common sense, Mr. DeLano's liability in another pending case, that is, the Adversary Proceeding *Pfuntner v. Gordon et al.*, is not a matter that can be denied in this case as the basis to object to a creditor's claim against them. This is all the more so given that in his responsive pleading to Dr. Cordero's third-party claim against him in that other case Mr. DeLano did not even deny his liability in that case on the grounds now asserted for the first time in this case that "David DeLano acted only as employee and has no individual liability". It is not in the instant case where Att. Werner can announce the defense theory of Mr. DeLano's to claims in another case. What kind of lawyering is this on the part of Att. Werner, who is not even Mr. DeLano's attorney of record in the other case?!
8. Moreover, the Court in this case has no jurisdiction to decide the legal question whether Mr. DeLano is liable in another case. Not only has the trial in that other case not begun, but also no motion in that case has been raised, let alone heard, contesting Mr. DeLano's liability, whether on the ground now asserted here or on any other ground. That other case is so much in its 'infancy' that discovery has not even started! But even if a motion had been raised, the issue

whether Mr. DeLano is liable as an employee or in his personal capacity is one of fact that cannot be decided on the pleadings on the mere assertion that Mr. DeLano was M&T Bank's employee at the time. Consequently, even if the Court in the instant case were to arrogate to itself power to pick out an issue of fact from another case and decide it in isolation, it has absolutely nothing to go by except a specific, 31-page complaint with exhibits and a general 2-page denial in that other case.

9. Mr. DeLano's liability in another case is a matter to be decided by the court in that case through litigation in the context of all the parties, issues, and facts of the other case. As long as a decision in that case has not been reached and it has become final after exhaustion of all avenues of appeal, the claim against Mr. DeLano in that other case is viable. Hence, the claim in the other case provides a legally valid basis for a claim in the instant case.
10. Indeed, a claim can be asserted by a creditor regardless of whether it is reduced to judgment, whether the claim is liquidated, unliquidated, fixed, contingent, mature, unmatured, disputed, undisputed, legal, equitable, secured or unsecured. *United States v. Connery*, 867 F.2d 929, 934 (reh'g denied)(6th Cir. 1989), appeal after remand 911 F.2d 734 (1990).
11. Hence, the Debtors' objection to Dr. Cordero's claim because they dispute his claim in another case falls due to its own lack of legal basis and the court's lack of jurisdiction.

**III. The Debtor's attorney cannot possibly have a good basis belief in that he has standing to assert that a third party, namely, M&T Bank, in another case is not liable to a creditor in this case**

12. Att. Werner claimed at the hearing on July 19, 2004, that 'he has been in this business for 28 years', presumably meaning that he has been practicing law for that length of time. If so, he should know better than to pretend that the legally ridiculous allegation that "Further, no liability exists as against M&T Bank", a third-party in another case that has neither a claim nor standing in this case, provides grounds for the Debtors' objection to the claim of a creditor, Dr. Cordero, in the instant case.
13. Nor does Att. Werner have any standing to make such an allegation, for he is not M&T Bank's attorney in that other case. Therefore, he has no standing to represent M&T's legal position in that case, let alone in this case.
14. It should be noted that it is bad lawyering for Att. Werner to assert on behalf of the Debtors that M&T is not liable at all to Dr. Cordero in the other case, that is, the Adversary Proceeding

Pfuntner v. Gordon et al, docket no. 02-2230. That only means that Mr. DeLano does not hold M&T liable for his acts as its employee. By contrast, Mr. DeLano's denial of liability to Dr. Cordero carries no weight until finally established in the Adversary Proceeding. What an unintended 'unthought of' consequence if M&T Bank were to argue successfully that Mr. DeLano is estopped from arguing respondeat superior in that Proceeding as a way to shift liability from him to his employer. Would Att. Werner be liable to Mr. DeLano for malpractice for hanging him up out there to bear alone the liability that he may be found to have to Dr. Cordero by a court with jurisdiction?

15. But even if Att. Werner were the attorney for M&T Bank, his biased opinion on his client's lack of liability is absolutely irrelevant to the issue whether Dr. Cordero has a valid claim against a different client of Att. Werner in different case. Att. Werner's opinion on any party or issue whatsoever is not evidence of anything. Since the facts in the other case have not even been the subject of discovery yet, let alone found by a court with jurisdiction, much less been given anything even remotely sounding like collateral estoppel effect, not to mention anything about res judicata for issues, Att. Werner cannot rely on any facts in that case to argue anything in this case. He is left with nothing but that: an opinion, his biased opinion expressed at the wrong time in the wrong context for the wrong purpose.
16. Indeed, Att. Werner's purpose of defending the DeLanos by disallowing Dr. Cordero's claim in this case is not advanced a bit by his allegation that "Further, no liability exists as against M&T Bank". Even if M&T were found not to be liable to Dr. Cordero in the other case, such finding would not preclude the finding that Debtor David DeLano was personally liable to Dr. Cordero. This is so because in law the fact that an employer is not vicariously liable to a third party by application of the doctrine of respondeat superior, is not incompatible with the fact that his employee may be personally liable by application, among others, of the doctrine of ultra vires due to the employee having acted on a folly of his own outside the scope of his employment. The only thing accomplished by that ridiculous allegation is the undermining of Att. Werner's credibility as a lawyer, for he failed to do his legal research homework before coming to court to advocate his client's interests.

#### **IV. A creditor may assert a claim against only one of two debtors jointly filing a bankruptcy petition**

17. Att. Werner also alleges in his objection to Dr. Cordero's claim that "No basis for claim

against Debtor Mary Ann DeLano, is set forth, whatsoever”. What an absolutely meaningless allegation! Who ever said that creditors lose their claims against a debtor if the latter and his spouse file a joint petition for bankruptcy? Whose head ever conceived of the idea that a bankruptcy system, let alone a national economy, could be predicated on the principle that debtors can escape their financial responsibility to those holding claims against them by the simple subterfuge of filing for bankruptcy jointly with their spouses?

18. Assuming that Att. Werner understands the concept of consistency, would he dare argue in court that Mr. DeLano is not liable to either AT&T Universal, Bank of America, Bank One, or Capital One, etc., because these creditors, whom the Debtors listed in Schedule F of their petition, hold claims against Mr. DeLano alone, but not against Mrs. DeLano?
19. Look! There, in the petition! It instructs the debtors to:

If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an “H”. “W”, “J”, or “C” in the column labeled “Husband, Wife, Joint, or Community”.
20. The DeLanos and Att. Werner even marked their claims with either H, W, or J. As revealed by their own acts, they knew that the fact that a creditor holds a claim against one but not the other of the debtors was of absolutely no consequence. Yet, they went ahead and asserted the bogus objection to Dr. Cordero’s claim by stating that he has “no basis for claim against Debtor Mary Ann DeLano”. They knowingly raised a spurious objection. They acted in bad faith!
21. Att. Werner has cited not a single case or Bankruptcy Code section or Rule to object to Dr. Cordero’s claim. He does not have even a legally cogent argument, only his opinion, one so perfunctorily cobbled together that it would have shocked his professors of Torts and Civil Procedure in his first year of law school to the point of denying him a passing grade. Thus, what could possibly have possessed Att. Werner to think that those utterly untenable allegations would pass muster with the chief judge of a federal bankruptcy court? Desperation.

**V. The DeLanos’ objection is a desperate attempt to remove belatedly Dr. Cordero, the only creditor that objected to the confirmation of their Chapter 13 plan and that is relentlessly insisting on their production of financial documents that can show the bad faith of their petition**

22. For well over a year before filing their petition on January 26, the DeLanos have known the

exact nature of Dr. Cordero's claim against Mr. DeLano, contained in his complaint of November 21, 2002, in another case. So much so that they and Att. Werner took the initiative to include it in their petition opening this case. They even marked it as unliquidated and disputed. From that moment on they could have filed an objection to that claim because they already knew all the factual and legal elements supporting their dispute. Since then those elements have neither been strengthened nor added to. So what has changed? Only their level of desperation.

23. Their first manifestation of desperation took place at the meeting of creditors on March 8. As Mr. DeLano, a bank loan officer for 15 years must have expected, none of the 18 credit card issuers that they listed in Schedule F showed up. Far from taking advantage of consolidating and refinancing his and his wife's debt with a loan at a lower rate secured by property, Mr. DeLano took care to split their debt among so many unsecured nonpriority creditors so as not to give any of them a stake high enough to make it cost-effective to pursue their claims in bankruptcy court.
24. But something happened that was most unnerving: Dr. Cordero showed up in person, having traveled all the way from New York City to Rochester, and not only did he hand out written objections to confirmation, but also wanted to examine the DeLanos under oath! Swift to realize the danger was the Trustee's attorney, James Weidman, Esq., who was unlawfully presiding over the meeting, which the Trustee had the duty to conduct himself as provided under C.F.R. §58.6(a)(10). Att. Weidman asked Dr. Cordero whether he had any evidence that the DeLanos had committed fraud. Dr. Cordero indicated that he was not raising any accusation of fraud; rather, he was interested in establishing the good faith of the bankruptcy petition, an issue that is properly raised as to any petition. (cf. 11 U.S.C. §1325(a)(3))
25. The exchange alerted Att. Werner to danger. He contested on that very occasion that Dr. Cordero had a claim against the DeLanos and thus, his status as creditor. Dr. Cordero stated grounds supporting such status. Att. Werner relented. Dr. Cordero went ahead to ask questions of the DeLanos. However, in rapid succession, Att. Weidman asked Dr. Cordero more times to state his evidence of fraud. Dr. Cordero had even to insist that Mr. Weidman take notice that he was not alleging fraud. With that answer, Dr. Cordero failed to reveal how much he had already found out about the DeLanos, their petition, and their financial affairs. Att. Weidman panicked and put an end to the meeting after Dr. Cordero had asked only two questions of the DeLanos!



26. Later on in the courtroom before the Hon. John C. Ninfo, II, Trustee Reiber and Att. Weidman stated that the DeLanos' petition had been filed in good faith. Thus, Dr. Cordero impugned their capacity to conduct an impartial investigation of the DeLanos without any bias toward finding of good faith filing, the only one that can exonerate them of any charge of having approved, whether negligently or knowingly, a meritless petition filed in bad faith. Consequently, Dr. Cordero called for the replacement of the Trustee and the exclusion from the case of Att. Weidman.
27. All this gave notice to the DeLanos and Att. Werner that Dr. Cordero was serious about asserting his creditor status and claim. By then they had all the elements of law and fact concerning not only his claim, but also his determination to pursue it. If they had entertained a good faith belief that Dr. Cordero had no legal basis for asserting a claim against the DeLanos, they had to raise that objection timely on grounds of judicial economy and fairness. Nor did they do so after Dr. Cordero served Att. Werner with different papers in the course of the following months. Therefore, by their failure to raise that objection in a timely fashion, they created for Dr. Cordero a reliance interest in the reasonable assumption that they had given up any such objection and had accepted the legal validity of his claim. In reliance thereon, Dr. Cordero has invested his time, effort, and money pursuing his claim.
28. Therefore, more than four months later and only after Dr. Cordero's relentless request for financial documents threatens to prove that their petition was filed in bad faith, it is untimely for Att. Werner and the DeLanos to raise their objections to his claim...for the third time.

**VI. The DeLanos already objected to Dr. Cordero's creditor status and claim in their Statement to the court on April 16, to which Dr. Cordero timely replied on April 25, and the DeLanos did not pursue the issue, whereby they are now barred by laches from raising it again two months later**

29. On April 16, the DeLanos raised the already untimely objection that Dr. Cordero "is not a proper creditor in this matter". To this Dr. Cordero timely replied less than 10 days later thus:
  - a) This is what the Bankruptcy Code has to say as to who is a proper "creditor":  
B.C. §101. Definitions  
(10) "creditor" means (A) entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;...

[(15) "entity" includes person...]

In turn, it defines "claim" thus:

(5) "claim" means (A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or (B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured;

b) The Code's definition of who is a creditor is more than broad enough to include Dr. Cordero and his pre-petition claim against Mr. DeLano.

30. Not only did Att. Werner fail to provide any legal argument for their April 16 contention that Dr. Cordero was not a proper creditor, but they did not even counter with an objection, let alone a legal argument, to Dr. Cordero's legal basis for asserting his creditor status, not within the following 10 days, not within the next 30 days, not in the next two months. Far from it, to their repetition of their objection devoid of any legal argument they add an abundance of legally ridiculous, spurious, and thoughtless allegations. Hence, now they are barred from raising the objection not only by untimeliness and laches, but also by bad faith.
31. Furthermore, at the hearing on July 19, 2004, Att. Werner brought up the subject of raising a motion to challenge Dr. Cordero's status as a creditor of the DeLanos. Judge Ninfo himself pointed out to Att. Werner that Mr. DeLano's liability in the Adversary Proceeding could not be decided in this case. Dr. Cordero too mentioned many of the issues discussed here. Yet, Att. Werner went ahead and raised the motion without taking into account any of those issues and without presenting any legal argument that one would expect of a lawyer, particularly one 'in this business for 28 years'. He could not have reasonably have thought that he was acting responsibly when he disregarded the legal difficulties of his position pointed out by the court itself as well as by the opposing party for the record at a hearing.
32. Does Att. Werner expect the court and Dr. Cordero to rehash the same issues at the August 25 hearing of his motion? By his conduct, he shows that he wants simply to have another go at it while sparing himself the effort, time, and money required to do legal research, think through the legal issues, and write down an argument worthy of a lawyer. But in the process, he has

irresponsibly caused Dr. Cordero, who holds himself to the standards of a professional, to invest a lot of effort, time, and money to research and write this response. Att. Werner will also cause the court to revisit the same issue, compounded by the ridiculous and spurious statements that Att. Werner has added in his motion. For such irresponsible conduct and the waste that he has already caused and will still cause shortly, Att. Werner will be asked to compensate Dr. Cordero and to bear sanctions imposed by the court.

**VII. The Debtors cannot overcome the legal presumption of validity that Rule 3001(f) attaches to Dr. Cordero's proof of claim by merely repeating an abbreviated version of their April 16 objection, which was merely an allegation devoid of any legal support**

33. Rule 3001(a) provides thus:

(a) Proof of Claim

A proof of claim is a written statement setting forth a creditor's claim. A proof of claim shall conform substantially to the appropriate Official Form.

34. Dr. Cordero's proof of claim of May 15 not only conforms substantially to the appropriate form, but it was also contained in the official one provided to him with the notice of the meeting of creditors. Moreover, it was so formally correct, that it was filed by the clerk of court and entered in the register of claims.

35. FRBkrP Rule 3001(f) provides as follows:

(f) Evidentiary effect

A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.

36. Dr. Cordero's claim is now legally entitled to the presumption of validity. As a result, it is legally stronger than when the DeLanos and Att. Werner took the initiative to include it in the January 26 petition. It follows that by summarizing their April 16 objection, as to which they made no effort to support with law or precedent, and weakening it with the addition of legally ridiculous and spurious allegations made in bad faith, they cannot possibly overcome a claim now strengthened with prima facie evidence of validity as a result of the filing of Dr. Cordero's proof of claim.

## VIII. Relief Requested

37. Therefore, Dr. Cordero respectfully request that the Court:
- a) hold a hearing on the motion;
  - b) reject the motion to disallow his claim against the DeLanos;
  - c) award Dr. Cordero costs and any other proper and just relief.

August 17, 2004

59 Crescent Street  
Brooklyn, NY 11208

*Dr. Richard Cordero*

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

## CERTIFICATE OF SERVICE

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

In re David G. DeLano and Mary Ann DeLano

Chapter 13 bankruptcy  
case no: 04-20280

Notice of Motion  
for Sanctions and compensation  
for violation of FRBkrP Rule 9011(b)

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Madam or Sir,

PLEASE TAKE NOTICE, that Dr. Richard Cordero, Creditor, intends to seek under FRBkrP Rule 9011(c)(1)(A) and (2) sanctions to be imposed on, and compensation to be obtained from, Christopher Werner, Esq., attorney for Debtors David and Mary Ann DeLano, and his law firm of Boylan, Brown, Code, Vigdor & Wilson, LLP. for violation of subsection (b) thereof, as evidenced in the grounds adduced by Att. Werner in his motion of July 19, 2004, to object to Dr. Cordero's claim in this case and have it disallowed.

If as provided under 9011(c)(1)(A), Att. Werner does not timely withdraw or correct his motion to disallow Dr. Cordero's claim after service of the instant motion, Dr. Cordero will move this Court at the United States Courthouse on 100 State Street, Rochester, New York, 14614, at 9:30 a.m. on October 6, 2004, or as soon thereafter as he can be heard, for such sanctions and compensation. If the motion to disallow is withdrawn before its hearing next August 25 is held, Dr. Cordero asks that Att. Werner and his law firm jointly and severally compensate him in the nominal amount of \$2,500, for some of the expenses and attorneys' fees incurred in conducting legal research and writing to oppose Att. Werner's motion; otherwise, Dr. Cordero will move on October 6, for any reasonable addition compensation.

Dated: August 20, 2004  
59 Crescent Street  
Brooklyn, NY 11208

*Dr. Richard Cordero*

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

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

In re David G. DeLano and Mary Ann DeLano

Chapter 13 bankruptcy  
case no: 04-20280

**Brief in Support of the Motion  
for Sanctions and compensation  
for violation of FRBkrP Rule 9011(b)**

---

Dr. Richard Cordero, Creditor, states under penalty of perjury as follows:

1. On July 19, Christopher Werner, Esq., attorney for Debtors David and Mary Ann DeLano, filed a motion to object to Dr. Cordero’s claim in the Debtors’ case and disallow it. He limited himself in his motion to stating the following grounds, which he did not support with any citation to law, rule, or case:

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

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A. If Att. Werner believed in good faith that he had valid legal grounds to disallow Dr. Cordero's claim, he had to submit them to the Court and Dr. Cordero as soon as possible for the sake of judicial economy and out of fairness to Dr. Cordero, but he failed to do so.....	1533
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**I. Att. Werner has rendered himself liable to sanctions and for compensation by presenting in order to disallow Dr. Cordero's claim frivolous arguments incapable of being supported by evidence in this case**

2. At a hearing on July 19, 2004, which was noticed for a different matter, Att. Werner brought up the issue of objecting to Dr. Cordero's status as creditor to disallow his claim. He alleged that neither Mr. DeLano nor his employer, M&T Bank, are liable in another case to Dr. Cordero so that the latter's claim in this case based on liability to him in that other case is not valid. The Court pointed out, as did subsequently Dr Cordero, that Mr. DeLano's liability to Dr. Cordero in another case cannot be determined in this case.
3. As shown in the quote in ¶1 above, Att. Werner included the same allegations in his motion to disallow Dr. Cordero's claim. Such allegations concerning Mr. DeLano's liability to Dr.



Cordero in another case –whose correct name is not the one given by Att. Werner, but rather Adversary Proceeding *Pfuntner v. Gordon et al*, docket no. 02-2230– which is even at its pre-discovery stage as far as M&T and Mr. DeLano goes, and involves a third party, the Bank, that is not even a party to this case, cannot possibly be supported by any evidence in this case.

4. Consequently, by presenting such allegations in his motion to disallow, Att. Werner violated FRBkrP Rule 9011(b)(3), which provides thus:

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;

5. Att. Werner had a duty to review his position because an attorney operates under a “continuous obligation to make inquiries”, so that an attorney that advocates a position that has become untenable is sanctionable; *Battles v. City of Ft. Myers*, 127 F.3d 1298, 1300 (11<sup>th</sup> Cir., 1997).

6. By failing to ameliorate, whether before or after filing, the weaknesses inherent in his position, Att. Werner violated FRBkrP Rule 9011(b)(2); cf. *Sprewell v. Golden State Warriors*, 231 F.3d 520, 530 (9<sup>th</sup> Cir., 2000). That rule provides as follows:

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

7. Far from correcting or supporting such untenable allegations, Att. Werner further undermined his position by adding other legally ridiculous and spurious allegations, discussed by Dr. Cordero in his Reply of August 17 in opposition to Debtors’ Objection to Claim and Motion to Disallow it, which is incorporated herein by reference,

8. Att. Werner’s violation of Rule 9011 is all the more obvious because it is measured against a burden of proof that is heavier than the one that he had to bear when he signed and filed the DeLanos’ petition back in January. Indeed, once Dr. Cordero executed his proof of claim last May 15 in substantial accordance with the Official Form, as required under FRBkrP Rule 3001(a) and filed it, his claim constitutes prima facie evidence of validity under subsection (f). As a result, the form for objecting to a claim sets out in capital letters that the objecting party must provide:

DETAILED BASIS OF OBJECTION INCLUDING GROUNDS FOR  
OVERCOMING ANY PRESUMPTION UNDER RULE 3001(F)

9. Att. Werner's opinion as to who is liable in another case that is still at a pre-discovery stage is legally incapable of overcoming that presumption. Nor did Att. Werner make any attempt to argue why Dr. Cordero or his claim falls outside the scope of the applicable definitions of "creditor", "entity", and "claim" contained in 11 U.S.C. §101. His assertion in blatant disregard of existing law violates Rule 9011(b)(2).
10. By presenting his motion, Att. Werner certified that his arguments in it are either justified by existing law or are nonfrivolous arguments for modification of existing law. Nevertheless, the grounds adduced by Att. Werner 'have absolutely no chance of success under the existing precedent'. Hence, his motion to disallow based on such frivolous arguments violates Rule 9011; cf. *In re Sargent*, 136 F.3d 349, 352 (4<sup>th</sup> Cir, 1998), cert. denied, 525 U.S. 854, 119 S.Ct. 133, 142 L.Ed.2d 108 (1998).

**II. Although Att. Werner knew even before signing and filing the DeLanos' petition what the nature of Dr. Cordero's claim was, he treated for months Dr. Cordero as a creditor, thereby creating in him a reliance interest in that Att. Werner deemed the claim valid so that defeating that interest now by having the claim declared invalid renders Att. Werner liable to Dr. Cordero for compensation**

**A. If Att. Werner believed in good faith that he had valid legal grounds to disallow Dr. Cordero's claim, he had to submit them to the Court and Dr. Cordero as soon as possible for the sake of judicial economy and out of fairness to Dr. Cordero, but he failed to do so**

11. Att. Werner was so aware of the grounds for disputing Dr. Cordero's claim, that he qualified his claim as "disputed" when he listed it in Schedule F of the DeLanos' Chapter 13 bankruptcy petition of January 26, 2004. However, that qualification does not give notice that the claim is invalid given that the Bankruptcy Code at 11 U.S.C. §101(5)(A) expressly includes a disputed claim among valid claims for bankruptcy purposes.
12. Convinced of the validity of his claim, Dr. Cordero engaged in legal research and writing to compose his written objections to the DeLanos' plan of debt repayment. Then he traveled from New York City to Rochester to attend the meeting of creditors held on March 8, 2004.
13. At that meeting, when Dr. Cordero tried to exercise his right to examine the DeLanos under oath, Att. Werner objected alleging that Dr. Cordero was not even a creditor. However, he did not state any legal basis in support of his allegation, just as he would fail to do later on in his motion to disallow. Dr. Cordero stated the legal basis for his claim, Att. Werner relented, and

Dr. Cordero asked his first question of the DeLanos.

14. On that occasion, Dr. Cordero handed out his written objections to the DeLanos' plan. Therein he requested that Trustee George Reiber investigate their financial affairs, obtain therefor certain financial documents from them, and inform him of the result of the investigation.
15. By producing such objections and undertaking that trip, Dr. Cordero gave Att. Werner clear evidence that he believed that he had a valid claim and was making a considerable investment of effort, time, and money to pursue it. By not moving to disallow the claim, Att. Werner gave rise to the reasonable assumption that he had dropped his pro-forma objection to Dr. Cordero's claim, and thereby implicitly encouraged Dr. Cordero to continue making such investment.

**B. By Att. Werner not moving to disallow and just making in passing frivolous statements about Dr. Cordero's status as creditor while dealing with other matters, he revealed that he did not believe that he had a legally cognizable objection to the validity of Dr. Cordero's claim**

16. On March 29, Dr. Cordero filed with the court his Objection to a claim of exemption. Att. Werner did not counter with a motion to disallow, but rather with his "Debtors' Statement In Opposition To Cordero [Sic] Objection To Claim Of Exemptions" of April 16. Therein he stated that Dr. Cordero "is not a proper creditor in this matter". However, he failed to provide a single legal reference or argument of what a "creditor" is, or a "proper" as opposed to an 'improper creditor' is or how this "matter" made a difference in the properness of a creditor.
17. More than a month after Dr. Cordero had stated at the March 8 meeting the legal basis for his claim, and months after first learning from the DeLanos the nature of Dr. Cordero's claim, Att. Werner could still not come up with a single legal argument or citation to law, rule, or case supporting his objection to that claim. On the contrary, in that April 16 statement Att. Werner showed how devoid of legal support his objection was and how his failure to think through even basic legal notions revealed that his objection was merely pro-forma. He wrote thus:

12. Should Cordero wish to obtain such records, he is free to Subpoena them from the Bank should a proper proceeding be pending against the Debtors, after it is established that he is someone of proper standing with some substantial basis for process against the Debtors –none of which criteria are satisfied by Cordero.

18. To begin with, whatever "proper" means in Att. Werner's particular notion of "proper proceeding", the fact remains that a case *is* pending against Mr. DeLano: It is Adversary Proceeding

*Pfuntner v. Gordon et al.*, which has not been finally decided so that it is still open. Moreover, Mr. DeLano by his attorneys in that proceeding never disputed the legal sufficiency of Dr. Cordero' claim against him and M&T Bank contained in his complaint of November 21, 2002. They never moved to dismiss on the pleadings, for example, on a motion based by reference on FRCivP Rule 12(b)(6). In addition, the fact that a defendant contests liability –as all do, otherwise there would be no controversy before the court– does not mean that the proceeding is 'improper'.

19. Att. Werner also shows ignorance of the difference between having standing to sue an entity in a case, and prevailing on the merits. Successfully contesting liability is not what determines whether a person can be sued as a defendant in a cause of action cognizable at law.
20. And what about establishing that a person "is someone of proper standing with some substantial basis for process against the Debtors"?, which upon translation most likely means whether a person has standing to bring a cause of action against the debtor? Where is that supposed to be established? Can Att. Werner be trying to say the nonsense that Dr. Cordero's standing to sue Mr. DeLano in another case be established in this case? Or is he saying that before he can maintain his claim against Debtor DeLano in this case, he must first establish his standing to sue Mr. DeLano in the other case? Who ever said that!?! Where did Att. Werner get these things?, for he certainly did not cite any law, rule, or case. These points are so frivolous that by raising them Mr. Werner undermines his credibility as a lawyer and renders himself liable under Rule 9011 to sanctions and for compensation.
21. Indeed, Dr. Cordero had to invest further effort, time, and money to preserve his objection to Att. Werner's statements about his creditor status. In his reply of April 25, Dr. Cordero quoted and argued the definition under 11 U.S.C. §101 of what a creditor for purposes of the Bankruptcy Code is. After that 10 days went by, 30 days went by, months went by without Att. Werner presenting any legal support for his position or moving to disallow Dr. Cordero's claim. His conduct gave rise to the reasonable assumption that he had dropped his pro-forma objection to Dr. Cordero's claim. Dr. Cordero continued his efforts to have the DeLanos investigated.
22. Att. Werner did not even object when Dr. Cordero filed his proof of claim on May 15 and the clerk of court filed it on May 19. By failing to do so, the reasonable assumption that he had dropped his objection to Dr. Cordero's claim became a reasonable conclusion because the filing

of the claim entitled it to a legal presumption of validity that increased the burden of proof that Att. Werner had to bear to prove its invalidity. Yet, Att. Werner had been unable for months to bear the lesser, pre-filing burden of proof. He who cannot do the lesser cannot do the most.

**C. Att. Werner deemed Dr. Cordero a creditor with the right to examine the DeLanos and provided Trustee Reiber with dates for such examination**

23. Nor did Att. Werner object to Trustee Reiber's holding Dr. Cordero up as a creditor with the right to demand an investigation of the DeLanos' financial affairs. In a letter of March 12, 2004, Trustee Reiber wrote to Att. Werner thus:

I have reviewed [Dr. Cordero's] written objections which were filed with the Court on or about March 8, 2004. I believe there are some points within those objections which it is proper for him to question the debtors about.

24. Att. Werner confirmed his acknowledgment that Dr. Cordero was a "proper creditor" by writing in his letter of June 14 to Trustee Reiber:

We plan to appear for the scheduled June 21, 2004 §341 Meeting and Confirmation unless we are advised otherwise by your office.

25. Not only did Att. Werner fail to object to Dr. Cordero's right to ask questions of the DeLanos, but he even proposed dates when he would produce the DeLanos for such questioning! Such conduct is inconsistent with that of a competent lawyer who in good faith believes that a person is not a "proper creditor" with a valid claim against the lawyer's client, the debtor.

26. In this context, it is "proper" to notice that:

- a) the only creditor that showed up at the March 8 meeting of creditors was Dr. Cordero;
- b) the only creditor who objected to the confirmation of the DeLanos' repayment plan was Dr. Cordero;
- c) the only creditor who has ever expressed an interest in examining the DeLanos under oath is Dr. Cordero;
- d) the only creditor who caused Trustee Reiber to assert for the record in open court on March 8 that he deemed the DeLanos' petition to have been filed in good faith but that nevertheless he could not ask the court to confirm the plan because the filing of objections to it was Dr. Cordero;

e) therefore, the only creditor that Att. Werner could reasonably expect to show up at that “scheduled June 21, 2004 §341 Meeting” and examine the DeLanos was Dr. Cordero, a creditor, as attested to by Att. Werner’s own conduct.

**D. Att. Werner also considered Dr. Cordero a creditor entitled to disclosure of financial documents of the DeLanos and thus, produced documents to him**

27. Moreover, Trustee Reiber considered that Dr. Cordero’s standing as creditor was “proper” enough not only to ask questions of the DeLanos, but also to ask for documents of Att. Werner himself. In that same letter of March 12 sent to Mr. Werner, the Trustee wrote:

It would also be helpful if Mr. Cordero could transmit to Mr. Werner a list of any documents which he may desire prior to the [adjourned §341] hearing.

28. As soon as Dr. Cordero received a copy of that letter, which the Trustee had failed to send to him and in which he entitled Dr. Cordero as a “proper creditor” to communicate directly with Att. Werner to ask for documents, Dr. Cordero wrote to Att. Werner on May 23, 2004, thus:

I ask that you let me know whether you object to providing the Trustee or me any documents or, if only some, which. Please note that the DeLanos have a duty under B.C. §521(3) and (4) to cooperate with the trustee and provide him with information. If they refuse to provide any financial documents, then pursuant to B.C. §§1307(c) they risk a request of a party in interest or the U.S. trustee for conversion of their case to a case under Chapter 7.

29. Far from objecting to Dr. Cordero’s claim and the right deriving therefrom to request documents, Att. Werner provided some of the requested documents to Trustee Reiber on June 14. Then he provided some more documents directly to Dr. Cordero on July 13, 20, and 28, and August 5 and 13. However this trickling production of documents is late, incomplete, and falls utterly short of what Dr. Cordero requested and even the Court ordered, it is nevertheless a fact that Att. Werner provided them to Dr. Cordero, thereby treating him as a “proper creditor” entitled to know the financial affairs of Att. Werner’s clients, the DeLanos.

**E. If Att. Werner is to be assessed by the standard of a reasonable man, his conduct created in Dr. Cordero a reliance interest and his defeat of it gives rise to a right to compensation in Dr. Cordero**

30. If Att. Werner holds himself out as a reasonable person, then his conduct must be assessed by the standard of a reasonable person. He cannot conduct himself in a way that leads to a reasonable conclusion, while concealing all along that there was no reason for him to conduct himself in that way and that whenever it suited him, he would change course 180 degrees to conduct himself in the diametrically opposite direction...and that therefrom would flow no adverse consequences for him at all, but rather that the adverse consequences would be borne by the people that he led to such reasonable conclusion, such as Dr. Cordero. Such conduct is deceitful, unreasonable, and willfully irresponsible.
31. Therefore, applying the standard of a reasonable man to Att. Werner's conduct of treating Dr. Cordero as a creditor leads to the reasonable conclusion that Att. Werner created in Dr. Cordero a reliance interest, namely, that Att. Werner had dropped his threshold objection to Dr. Cordero's claim and that Dr. Cordero could proceed to invest the enormous amount of effort, time, and money that he, and that Att. Werner had reason to know that Dr. Cordero, has invested in opposing the confirmation of the DeLanos' plan of repayment and investigating whether their petition was filed in good faith.
32. If it were to be held that Dr. Cordero is not a "proper creditor", then it would follow that Att. Werner engaged in conduct that was deceitful, unreasonable, and irresponsible and that misled Dr. Cordero into further investing his effort, time, and money in uselessly and wastefully pursuing an invalid claim. Thereby Att. Werner rendered himself liable to Dr. Cordero.
33. If, on the other hand, it were to be held that Dr. Cordero is indeed a "proper creditor", then in moving now on frivolous grounds to have Dr. Cordero's claim disallowed Att. Werner has engaged in legally unjustifiable conduct motivated by bad faith that renders him liable to sanctions by the court and for compensation to Dr. Cordero.

**III. Att. Werner's motion to disallow Dr. Cordero's claim is motivated, not by a nonfrivolous argument, but rather by self-interest in casting from the case Dr. Cordero, the only creditor who insists on obtaining documents that threaten to expose bankruptcy fraud in the DeLanos' petition**

34. Since the complaint of November 21, 2002, that gave Mr. DeLano notice of Dr. Cordero's

claim against him, Mr. DeLano has known the nature of such claim. That knowledge is imputed to Att. Werner because under FRBkrP Rule 9011(b) he had the obligation to conduct:

...an inquiry reasonable under the circumstances [before] presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper...

35. Att. Werner signed and filed the DeLanos' petition of January 26, 2004. By that time and at the initiative of the DeLanos' and with his approval, he had already listed in Schedule F Dr. Cordero's claim and marked it as "disputed". At that very point in time, he had all the elements of information that he needed to raise a motion to disallow the claim...except the one that would provide him the motive to do so.
36. By taking the initiative to list Dr. Cordero's claim and giving him notice of the DeLanos' bankruptcy, Att. Werner provided for the inclusion of that claim among the dischargeable debts if discharge was granted. By contrast, if he had not included Dr. Cordero's claim, then despite any discharge, Dr. Cordero could still have been entitled to pursue his claim against the DeLanos.
37. As he stated at the July 19 hearing, Att. Werner 'has been in this business for 28 years', and Mr. DeLano is an insider of the lending industry who has been a bank *loan* officer for 15 years. Hence, they both knew from experience that in all likelihood no creditor would show up at the meeting of creditors. And that is exactly what happened: out of 21 creditors, 20 did not show up. Yet, these are institutional creditors with the resources to pay for a representative to travel to the meeting. What is more, not even those institutional creditors that did not have to incur any appreciable travel expense because they are located right there in Rochester or Buffalo showed up! All the more likely then that a non-institutional, unsecured, non-priority creditor that lived hundreds of miles away in New York City, such as Dr. Cordero, would not travel either all the way to Rochester to attend the meeting.
38. Moreover, what would Dr. Cordero do if he attended the meeting? The petition was submitted to Trustee Reiber, who according to PACER has 3,909 open cases, and thus, hardly the time or the incentive to examine any petition carefully. In fact, Trustee Reiber had readied it for submission to the court for it to approve its plan of repayment. Given that none of the creditors had filed an objection to the plan, not even Dr. Cordero, there was every reason for Experienced Insiders Werner and DeLano to assume that the meeting of creditors would be nothing but a pre-confirmation chat between friendly people. So Att. Werner had no incentive



to file a motion to disallow Dr. Cordero's claim and thereby alert him more than the indispensable minimum to the petition and the DeLano's financial affairs.

39. But the unimaginable happened: Dr. Cordero showed up and filed an objection! However, the imaginable came to the rescue: Trustee Reiber, willing to violate his duty to preside personally over the meeting of creditors, had assigned his attorney, James Weidman, Esq., to preside over it. For his part, Att. Weidman was willing to violate the law by preventing Dr. Cordero from examining the DeLanos, thereby frustrating the only purpose under the law for holding that meeting! Then Trustee Reiber and Att. Weidman vouched in open court for the good faith of the DeLanos' petition. With such advocates for his position, Att. Werner did not have to have a worry in the world.
40. The subsequent events comforted Att. Werner in that assurance, for despite complaining to the Court in his April 16 letter about the so many "pages of single-space text" that Dr. Cordero wrote asking Trustee Reiber to investigate the DeLanos or to be removed,
- a) Trustee Reiber had no intention to investigate the DeLanos;
  - b) had asked not for a single document from them;
  - c) when he did ask for documents, his request was just another pro-forma exercise in its scope and nature since he asked for:
  - d) just eight out of 18 credit cards listed in Schedule F,
  - e) for only 3 years out of 15 put in play by the DeLanos, and
  - f) did not include any bank account statements or titles of interest in property;
  - g) when the Trustee received some documents from Att. Werner on June 14, he did not even notice that they:
  - h) were incomplete due to missing pages;
  - i) did not consist of the statements of accounts covering from the present to three years back, instead there was inexplicably only one single statement between eight and 11 months old for each of only eight credit cards; and
  - j) they were not examined at all so that the 232 times that, according to even incomplete Equifax credit reports, the DeLanos had been late in paying their credit cards belied Att. Werner's key statement in his April 16 letter on behalf of the DeLanos' good faith that "The Debtors have maintained the minimum payments on those obligations for more than ten (10) years".
41. Best of all, such a trustee that would not notice the obvious, let alone investigate the suspicious,

would remain in his position given that both Assistant U.S. Trustee Kathleen Dunivin Schmitt and U.S. Trustee for Region 2 Deirdre A. Martini had rejected Dr. Cordero's request that he be replaced.

42. Att. Werner did not have a worry in the world...until Dr. Cordero pointed out to the Court in his Statement of July 9 that:

7. A closer check of those documents against the figures in the petition and the court-developed register of claims and creditors matrix points to debt underreporting, account unreporting, and unaccountability of assets in the petition. These grave defects call into question the good faith of the DeLanos' petition. They also support the reasonable inference that the DeLanos have been and are reluctant to submit more documents, let alone the complete set of requested documents, due to their awareness that more documents would only further deny such good faith and warrant an investigation into whether their petition was motivated by a fraudulent intent as part of a bankruptcy fraud scheme.

43. *The horror of it!* Dr. Cordero, who at the March 8 meeting had emphatically stated that he was not raising any charge that the DeLanos had committed fraud, was now pointing to evidence of a bankruptcy fraud scheme! Worse still, he requested the Court a detailed order directing the DeLanos to submit bank as well as debit account statements, titles to interest in specific types of property, and documents evidencing the money transfer and use concerning the loan to the son. Much worse still, he asked the Court to remove his advocate Trustee Reiber and

33. the court make a simultaneous referral of this case to the FBI for a concurrent investigation aimed at determining whether there has been fraud in connection with the DeLanos' bankruptcy petition and, if so, who is involved and to what extent;

44. And at the July 19 hearing the Court did not flatly reject that request, but rather adjourned it to another hearing on August 23...and for Att. Werner it was *PANIC TIME BIG TIME!*

45. That very same day Att. Werner moved the Court to disallow the claim of such threatening a creditor as Dr. Cordero and thereby remove him from the case. He did it by cobbling together the legally untenable, ridiculous, and spurious grounds quoted in ¶1 above and discussed in Dr. Cordero's Reply of August 17 to his motion to disallow, which Reply is already incorporated herein by reference.

46. In such unseemly irresponsible haste did Att. Werner scribble his perfunctory objection that in

his one single little rushed paragraph he challenged Dr. Cordero's claim by denying the liability of his client Mr. DeLano and his non-client M&T Bank to Dr. Cordero in "Premier Van Lines (01-20692)", a voluntary Chapter 11 bankruptcy petition in which neither of the three is a named party and liability among them is not an issue at all. Att. Werner got the Adversary Proceeding wrong!, which means that he did not check it with sufficient due diligence to know what he was talking about.

47. Why on earth Att. Werner, who 'has been in this business for 28 years', thought for a nanosecond that the 'grounds' that he so perfunctorily threw together in his motion could conceivably persuade the Court to disallow Dr. Cordero's claim is baffling, unless the explanation is only this: sheer Desperation!
48. After having for months treated Dr. Cordero as a "proper creditor", Att. Werner needed to have him declared 'improper' and cast out before Dr. Cordero could force the production of incriminating documents. Evidence of this is that Att. Werner and the DeLanos have disobeyed the Court's order of July 26 which required that:

The debtors are to produce any documents in their possession, regarding their credit card accounts, and provide copies to the Trustee and Dr. Cordero by the close of business on 8/11/04.

49. As of the close of business on August 20, 2004, no such documents had been produced. The debtors prefer to violate a Court order rather than to produce documents that could incriminate them in bankruptcy fraud, particularly through concealment of assets. So much for their pretense that it is Dr. Cordero's claim that is 'improper': It is their petition!
50. Att. Werner's untimely motion, already barred by laches, had nothing to do with bona fide legal considerations, and everything to do with Att. Werner's protection of his clients and his own professional survival. The motion is a thinly veiled subterfuge to eliminate the one creditor that by now they know will keep pushing for production of documents that they must keep undisclosed. Att. Werner raised that motion in bad faith! In so doing, he violated FRBkrP Rule 9011(b)(1), which provides thus:

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

51. Consequently, Att. Werner's conduct warrants that this Court impose on him, jointly and severally with his law firm, sanctions as well as the obligation to compensate Dr. Cordero for

the detriment that Att. Werner has caused him through such conduct.

**IV. Request for relief**

52. Therefore, Dr. Cordero respectfully requests that the Court:

- a) take judicial notice that Rule 9011 can be invoked by a pro se litigant just as sanctions can be invoked against him; cf. *Moore v. Time, Inc.*, 180 F.3d 463, 463 (2d Cir.), cert. denied, 528 U.S. 932, 120 S.Ct. 331, 145 L.Ed.2d 258 (1999) FCRH 289 fn11; and *Warren v. Guelker*, 29 F.3d 1386, 1390 (9th Cir., 1994). FCRH 290 fn17;
- b) order that Att. Werner and Boylan, Brown, Code, Vigdor & Wilson, LLP. jointly and severally compensate Dr. Cordero based on the hourly rate of \$250, which under the lodestar method to calculate attorney’s fees is applicable in the Rochester market;
- c) take judicial notice of the reasonableness of such fee given that the Court routinely awards fees to professional persons, including attorneys, under 11 U.S.C. §330, and given the “level and skill reasonably required to prepare the application”, as provided under subsection (a)(6) thereof;
- d) arrive at the compensation for work and expenses, including attorney’s fees, as follows:

	Description of Work Done	# of pages @ 2hrs/pg and \$250/pg	# of hours at \$250/hr	Amount
1.	(a) legal research and writing involved in preparing the following documents			
2.	Dr. Cordero’s reply of August 17, 2004, to Att. Werner’s motion of July 19, 2004	9 pages		\$4,500
3.	Dr. Cordero’s application for sanctions and compensation of August 20, 2004	13		6,250
4.	(b) Dr. Cordero’s preparation for and defense at the following hearings at the rate of \$250 per hour:			0
5.	hearing on August 25, 2004, to argue Att. Werner’s motion to dismiss Dr. Cordero’s claim		3	750
6.	hearing on October 6, 2004, to argue this motion for sanctions and compensation		3	750
7.	<b>TOTAL</b>			\$12,250

- e) allow Dr. Cordero to present his arguments by phone at the upcoming hearing and not cut off the phone connection to him until after the Court has declared the hearing concluded; and not allow thereafter any other oral communication between any of the parties to this case and the Court until the next scheduled public event;

## CERTIFICATE OF SERVICE

I, Dr. Richard Cordero, state under penalty of perjury, that I served the following above motion on the following parties:

<p>Christopher K. Werner, Esq. Boylan, Brown, Code, Vigdor &amp; Wilson, LLP 2400 Chase Square Rochester, NY 14604 tel. (585)232-5300 fax (585)232-3528</p> <p>Trustee George M. Reiber South Winton Court 3136 S. Winton Road Rochester, NY 14623 tel. (585) 427-7225 fax (585)427-7804</p> <p>Kathleen Dunivin Schmitt, Esq. Assistant U.S. Trustee New Federal Office Building 100 State Street, Room 6090 Rochester, New York 14614 tel. (585) 263-5812 fax (585) 263-5862</p> <p>Ms. Deirdre A. Martini U.S. Trustee for Region 2 Office of the United States Trustee</p>	<p>33 Whitehall Street, 21<sup>st</sup> Floor New York, NY 10004 tel. (212) 510-0500 fax (212) 668-2255</p> <p>Mr. George Schwergel Gullace &amp; Weld LLP Attorney for Genesee Regional Bank 500 First Federal Plaza Rochester, NY 14614 tel. (585)546-1980 fax (585)546-4241</p> <p>Scott Miller, Esq. HSBC, Legal Department P.O. Box 2103 Buffalo, NY 14240 tel. (716)841-1349 fax (716)841-7651</p> <p>Tom Lee, Esq. Becket and Lee LLP Agents for eCast Settlement &amp; Associates National. Bank P.O. Box 35480 Newark, NJ 07193-5480</p>	<p>tel. (610)644-7800 fax (610)993-8493</p> <p>Mr. Steven Kane Weistein, Treiger &amp; Riley P.S 2101 4<sup>th</sup> Avenue, Suite 900 Seattle, WA 98121 tel. (877)332-3543 fax (206)269-3489</p> <p>Ms. Vicky Hamilton The Ramsey Law Firm, P.C. Att.: Capital One Auto Fin. Dept. acc: 5687652 P.O. Box 201347 Arlington, TX 76008 tel. (817) 277-2011 fax (817)461-8070</p> <p>Ms. Judy Landis Discover Financial Services P.O. Box 15083 Wilmington, DE 19850-5083 tel. (800)347-5515 fax (614)771-7839</p>
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August 20, 2004

59 Crescent Street  
Brooklyn, NY 11208

*Dr. Richard Cordero*

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



**U.S. Department of Justice**

*United States Attorney  
Western District of New York*

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*620 Federal Building  
100 State Street  
Rochester, New York 14614*

*(585) 263-6760  
FAX(585) 263-6226*

August 24, 2004


Dr. Richard Cordero  
59 Crescent Street  
Brooklyn, New York 12208-1515

Dear Dr. Cordero:

We have reviewed the materials sent to us from the Southern District of New York regarding your allegations of bankruptcy fraud and judicial misconduct. Please be advised that we do not believe that the allegations warrant the opening of an investigation, and we will not be doing so. Accordingly, we are returning your original documents to you with this letter.

Sincerely,

MICHAEL A. BATTLE  
United States Attorney

By:   
RICHARD A. RESNICK  
Assistant U.S. Attorney

RAR/kmp  
Enclosure

# Dr. Richard Cordero

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

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

August 31, 2004

Bradley E. Tyler, Esq.  
Attorney in Charge  
100 State St., 620 Federal Bldg.  
Rochester, NY 14614

re: evidence of a judicial misconduct and bankruptcy fraud scheme

Dear Mr. Tyler,

Thank you for taking my call today. I appreciate your agreement to examine the documents concerning the above captioned matter that were forwarded to you weeks ago by the Office of Mr. David N. Kelley, U.S. Attorney for the Southern District of New York.

You gave them to your assistant, Richard Resnik, Esq., to review. I called him last Tuesday, August 24. He told me then that he had not taken a look at them and could not do so at that time because he was busy preparing to go to Washington, D.C. the next day; that he would review them upon his return and thereafter we would discuss them on the phone. However, that same day he wrote me a letter dated August 24 where he stated that "we do not believe that the allegations warrant the opening of an investigation, and we will not be doing so". Together with that letter he returned all the files, including the August 14 update that I had sent to you.

It is remarkable how Mr. Resnik made a sudden change of time management to review the 250 pages in the files submitted to you, including more than 30 pages of the bankruptcy petition with 10 schedules and a Statement of Financial Affairs, which upon analysis reveal their declarations and figures to be so incongruous as to render them suspicious; disposed of the matter right away; and even wrote me. I hope that when you examine them, you will allow yourself more time to consider that petition, other Debtors' documents, my analyses of them, and the account of their suspicious handling by bankruptcy and judicial officers that did not want to scrutinize them. Your investment of time in a deliberate examination of these documents is warranted by the stakes, namely, the integrity of the bankruptcy and the judicial systems.

In our conversation today you mentioned that Ms. Kathleen Dunivin Schmitt, the Assistant U.S. Trustee that has her office in your building, did not consider that there were grounds for an investigation of my complaint. I informed her of it since it stems from the DeLano bankruptcy petition, no. 04-20280 WBNY. It is to be hoped that in your conversation with her, an interested party, her views were not deemed deserving of implicit credibility and a substitute for an examination of the evidence, much less the justification for not going where the evidence would lead an objective observer who did not know her. Even if Ms. Schmitt were found not involved in the complained-about bankruptcy fraud scheme, her opinion that there is no need to investigate it or her trustee George Reiber, who has 3,909 *open* cases and failed to vet the DeLanos' petition, or his attorney James Weidman, Esq., who prevented me from examining the DeLanos at the meeting of creditors, might put her at fault. If your personal relation to her and trust in her word render my evidence just "speculations", as you put it, and cause your reluctance to examine it, not to mention investigate her, your objectivity might be compromised. If so, I respectfully request that you recuse yourself and support my referral to the Fraud Section of the U.S. Department of Justice, Criminal Division. I look forward to your statement one way or the other.

Sincerely,

*Dr. Richard Cordero*

# Evidentiary Files

containing the bankruptcy petition of January 26, 2004  
filed in the Bankruptcy Court, WBNY, by David and Mary Ann DeLano  
and other financial documents produced by them  
with the analyses of Dr. Richard Cordero  
that reveal evidence of a judicial misconduct and bankruptcy fraud scheme

**FORWARDED TO BRADLEY E. TYLER, ESQ.**

**U.S. ATTORNEY IN CHARGE OF THE U.S. ATTORNEY'S OFFICE IN ROCHESTER**

**BY DAVID N. KELLEY,**

**U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF NEW YORK,**

**RETURNED TO DR. CORDERO FROM THE ROCHESTER OFFICE**

**BY RICHARD RESNIK, ESQ., ON AUGUST 24, 2004**

**AND SENT BACK ON AUGUST 31, 2004**

**FOR REVIEW BY ATT. TYLER**

by

**Dr. Richard Cordero**

1. Copy of letter of May 6, 2004, and file sent to David N. Kelley, U.S. Attorney for the Southern District of New York..... 76 pages
2. Letter of June 29, 2004, and file sent to U.S. Attorney Kelley with letter of same date to his Chief of the Bankruptcy Unit in Civil Matters, David Jones, Esq..... 128 pages
3. Letter of August 14, 2004, and file sent to Bradley E. Tyler, Esq., U.S. Attorney in Charge of the U.S. Attorney's Office in Rochester,..... 46 pages  
250 pages
4. Letter of August 31, 2004, in this file sent to U.S. Attorney Tyler with the following updates:
  - a) Objection of July 19, 2004, by Christopher Werner, Esq., Attorney for the DeLanos, to Dr. Cordero's Claim, Notice of Hearing and Order.....1 [C:1548]
  - b) Dr. Cordero's reply of August 17, 2004, to Debtors' objection to claim and motion to disallow it .....3 [C:1515]
  - c) Dr. Cordero's application of August 20, 2004, for sanctions on and compensation from Att. Werner and his law firm for violation of FRBkrP Rule 9011(b).....13 [C:1529]



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

David G. DeLano  
Mary Ann DeLano

Chapter 13  
Case No. 04-20280

**OBJECTION TO CLAIM  
NOTICE OF HEARING AND ORDER**

Debtor(s)

**NOTICE**

NOTICE is hereby given of the objection by Debtors, by their attorney, Christopher K. Werner, Esq.  
[Trustee, Debtor or other party]

to your claim in the Western District of New York. A hearing on the objection will be held at the United States  
Bankruptcy Court,  
US Courthouse, 100 State Street, Rochester, NY 14614

New York, on August 25, 2004 at 11:30 A.M. only if a written request for a  
hearing is filed by the claimant as outlined below.

**“PURSUANT TO FRBP 9014 AND THE STANDING ORDERS IMPLEMENTING DEFAULT PROCEDURES  
IN ROCHESTER AND WATKINS GLEN; IF YOU INTEND TO OPPOSE THE MOTION, AT A MINIMUM,  
YOU MUST SERVE: (1) THE MOVANT AND MOVANT’S COUNSEL, AND (2) IF NOT THE MOVING  
PARTY (A) THE DEBTOR AND DEBTOR’S COUNSEL; (B) IN A CHAPTER 11 CASE, THE CREDITORS’  
COMMITTEE AND ITS ATTORNEY, OR IF THERE IS NO COMMITTEE, THE 20 LARGEST  
CREDITORS; AND (C) ANY TRUSTEE. IN ADDITION, YOU MUST FILE WITH THE CLERK OF THE  
BANKRUPTCY COURT WRITTEN OPPOSITION TO THE MOTION NO LATER THAN THREE (3)  
BUSINESS DAYS PRIOR TO THE RETURN DATE OF THE MOTION PURSUANT TO FRBP 9006(a). IN  
THE EVENT NO WRITTEN OPPOSITION IS SERVED AND FILED, NO HEARING ON THE MOTION  
WILL BE HELD ON THE RETURN DATE AND THE COURT WILL CONSIDER THE MOTION AS  
UNOPPOSED.”**

**IF YOU OPPOSE THE OBJECTION TO YOUR CLAIM, YOU MAY WANT TO ATTEMPT TO RESOLVE  
AND SETTLE THE CLAIM OBJECTION PRIOR TO FILING WRITTEN OPPOSITION AND AVOID THE  
NEED FOR AN ATTORNEY AND/OR A COURT APPEARANCE.**

**OBJECTION TO CLAIM**

The objecting party objects to the following claim in this case:

Claimant’s Name: Richard Cordero

Claim #: 19 Amount \$ 14,000 + "increments"

**DETAILED BASIS OF OBJECTION INCLUDING GROUNDS FOR OVERCOMING ANY PRESUMPTION UNDER  
RULE 3001(f)** Claimant sets forth no legal basis or facts substantiating any obligation of Debtors. Claimant apparently asserts a claim relating to  
a pending Adversary Proceeding in Premier Van Lines (01-20692) relating to M & T Bank, for whom David DeLano acted only as employee and has no individual liability.  
Further, no liability exists as against M & T Bank. No basis for claim against Debtor, Mary Ann Delano, is set forth, whatsoever.

Dated: July 19, 2004

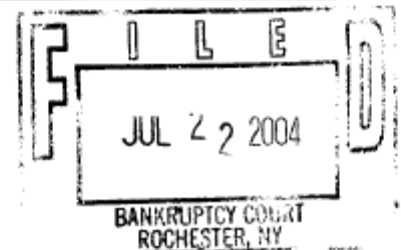
Christopher K. Werner, Esq. Attorney for Debtors

**Objecting Party**

**Address** 2400 Chase Square

**City/State/Zip** Rochester, NY 14604

(PLEASE SEE REVERSE)



This Notice and Objection are being sent to the Debtor, Debtor's Attorney, Chapter 7, 11, 12 or 13 Trustee, United States Trustee, Claimant, Claimant's Attorney (if known) or person designated as Power of Attorney, and any Creditors' Committee or Attorney for the Creditors' Committee.

(SAMPLE ORDER)

CASE NO. 04-20280

There having been no opposition to the herein objection to the claim of Richard Cordero in the amount of \$ 14,000 and the Court having considered the objection and determined the sufficiency of the claim, it is hereby

**ORDERED** the claim is:

- XXX DISALLOWED
- \_\_\_\_\_ ALLOWED AS A TIMELY FILED CLAIM IN THE AMOUNT  
Of \$ \_\_\_\_\_
- \_\_\_\_\_ ALLOWED AS A TARDILY FILED CLAIM IN THE AMOUNT  
OF \$ \_\_\_\_\_
- \_\_\_\_\_ OTHER (Complete if applicable)

DATED: \_\_\_\_\_

\_\_\_\_\_  
**John C. Ninfo, II**  
Chief United States Bankruptcy Judge

(THIS SAMPLE ORDER WAS INTENTIONALLY DRAFTED TO PROVIDE THE MOST BASIC STRUCTURE FOR ORDERS RESULTING FROM NOTICES OF OBJECTION TO CLAIMS(S). THE COURT RECOGNIZES THAT THERE WILL BE A BROAD SPECTRUM OF ORDERS ADDRESSING CLAIMS WHICH WILL REFLECT VARYING COMPLEXITY.)

(Rev.01/10/02)

# Dr. Richard Cordero

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

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

Att.: Ms. Carol  
Mr. Peter Ahearn  
Special Agent in Charge  
FBI Buffalo  
One FBI Plaza  
Buffalo, New York 14202-2698

September 13 [refaxed on September 15], 2004

faxed to (716)843-5288; tel. (716) 856-7800

re: evidence of a judicial misconduct and bankruptcy fraud scheme

Dear Mr. Ahearn,

I understand that my bound files concerning evidence of a judicial misconduct and bankruptcy fraud scheme that I had sent to FBI Assistant Director in Charge Pasquale J. Damuro of the NY City Office were forwarded on jurisdictional grounds to your Office in early July with a cover letter from Supervisory Special Agent Robert Silveri (212) 637-2200). Unfortunately, I have not yet heard from you although Agent Silveri informed me that your Office had stated to him that I would be contacted by letter or phone to be informed of the action that you had decided to take in this matter.

Those files contain evidence pointing to a bankruptcy scheme that exceeds the test case through which it has come to manifest itself, namely, the Chapter 13 bankruptcy petition filed by David and Mary Ann DeLano in the U.S Bankruptcy Court in Rochester, docket no. 04-20280. The petition as well as other financial documents that I received because I am a creditor of Mr. DeLano show very suspicious circumstances. Consider this summary of salient elements: Mr. DeLano has been for 15 years and still is a bank *loan* officer and his wife, a Xerox machines specialist, yet they cannot account for \$291,470 earned in just the last three years!...but declared in their petition only \$535 in hand and on account; owe \$98,092 on 18 credit cards, spent on what since they declared household goods worth merely \$2,910 at the end of two lifetimes of work!, but they made a \$10,000 loan to their son, undated and described as “uncollectible”.

Linked to the bankruptcy scheme is the judicial misconduct complaint, which arises from a pattern of non-coincidental, intentional, and coordinated acts of wrongdoing involving judicial officers, trustees, court administrators, and local parties. The force driving this pattern of wrongdoing is the money generated by fraudulent bankruptcy petitions that are rubberstamped for confirmation rather than vetted. The pool of such petitions is huge: according to PACER (<https://ecf.nywb.uscourts.gov/>), 3,907 *open* cases that Trustee George Reiber has before Bankruptcy Judge John C. Ninfo, II, and the 3,382 that Trustee Kenneth Gordon likewise has.

The latest wrongful act in this pattern is that after the DeLano Debtors have treated me as a creditor for six months, they have now moved to disallow my claim, for I am the only non-institutional creditor and the only one that has submitted evidence of bankruptcy fraud, particularly concealment of assets, to Judge Ninfo. Far from the Judge requiring the DeLanos to account for at least that \$291,470, he has allowed them to disobey with impunity his order of document production and has even suspended all proceedings in their case until the motion to disallow is determined next year! It is a foregone conclusion that my claim will be disallowed so that I am eliminated from the case and the DeLanos' plan of debt repayment of 22¢ on the dollar can be approved. If I am eliminated and you do not investigate this scheme, who will protect the integrity of the bankruptcy system and the public at large, who ends up paying the cost of all fraud? Therefore, I respectfully request that you let me know the status of my complaint.

Sincerely,

*Dr. Richard Cordero*

## Dr. Richard Cordero

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September 18, 2004

Michael Battle, Esq.  
U.S. Attorney for WDNY  
U.S. Attorney's Office  
138 Delaware Center  
Buffalo, NY 14202

tel. (716)843-5700; fax to (716)551-3052

Re: a judicial misconduct and bankruptcy fraud scheme

Dear Mr. Battle,

Last May and June, I submitted to your colleague David N. Kelley, U.S. Attorney for SDNY, files containing evidentiary documents and analyses of a judicial misconduct and bankruptcy fraud scheme. Since it has manifested itself through cases that originated in the U.S. Bankruptcy and District Courts in Rochester, on jurisdictional grounds the files were forwarded to Bradley Tyler, Esq., U.S. Attorney in Charge of the Rochester Office. I am hereby appealing Att. Tyler's decision not to open an investigation and bringing to your attention the questionable circumstances under which that decision was made.

In my conversation with Mr. Tyler on September 15, I requested that he forward to you all the files, that is, those of May 6 and June 29 to Mr. Kelley as well as those to him of August 14 and 31. Each is bound with a plastic spiral comb, like this one, has a cover letter that functions as an executive summary containing page references to the accompanying documents, and lists all such documents in its own Table of Contents or Exhibits. Their combined page count is 275. For your convenience, the cover pages are reproduced below to provide you with an overview of those files.

Since this is an on-going matter, I am submitting to you two of the latest documents. They consist in the order of August 30, 2004, of the judge presiding over the cases in question, namely, U.S. Bankruptcy Judge John C. Ninfo, II, and my motion of September 9, in the Court of Appeals for the Second Circuit to quash that order. The order goes to the judicial misconduct aspect of my complaint and he motion discusses how it provides further evidence of the already-complained about pattern of non-coincidental, intentional, and coordinated acts of wrongdoing by judicial officers and others. The motion also discusses the element that links judicial misconduct and bankruptcy fraud, that is, money, lots of it.

I trust that you will recognize that this complaint concerns a threat to the integrity of the judicial and the bankruptcy systems and that you will treat it accordingly. Therefore, I look forward to hearing from you and respectfully request that before you reach a final decision, you afford me the opportunity to be heard.

Sincerely,

*Dr. Richard Cordero*

## Dr. Richard Cordero

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M.B.A., University of Michigan Business School  
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Brooklyn, NY 11208-1515  
tel. (718) 827-9521; CorderoRic@yahoo.com

September 18, 2004

### APPEAL

to Michael Battle, Esq., U.S. Attorney for WDNY  
from the decision taken by  
Bradley Tyler, Esq., U.S. Attorney in Charge of the Rochester Office  
not to open an investigation into the complaint about  
a judicial misconduct and bankruptcy fraud scheme  
and statement of  
the questionable circumstances under which that decision was made  
by  
**Dr. Richard Cordero**

1. On May 6, followed by an update on June 29, 2004, Dr. Richard Cordero submitted to David N. Kelley, U.S. Attorney for the Southern District of New York, bound files containing evidentiary documents and analyses of a judicial misconduct and bankruptcy fraud scheme. The files pointed out how evidence of such scheme had manifested itself through two cases in the U.S. Bankruptcy Court in Rochester, NY, in which Dr. Cordero is a party, namely, the Adversary Proceeding *Pfuntner v. Chapter 7 Trustee Kenneth Gordon et al.*, docket no. 02-2230, on appeal since April 2003 in the Court of Appeals for the Second Circuit, docket no. 03-5023; and the more recent Chapter 13 bankruptcy petition filed by David and Mary Ann DeLano last January 27, docket no. 04-20280-, of whom Dr. Cordero is a creditor. On jurisdictional grounds the files were forwarded to Bradley Tyler, Esq., U.S. Attorney in Charge of the U.S. Attorney's Office in Rochester. These files were updated by the files that Dr. Cordero sent to Att. Tyler on August 14 and 31.
2. Att. Tyler informed Dr. Cordero on August 24, by letter of his assistant, Richard Resnik, Esq., and then in phone conversations on August 31 and September 15, 2004, that Dr. Cordero's "allegations" did not warrant an investigation. This is an appeal from that decision on grounds that to reach it neither Att. Tyler nor Att. Resnik reviewed the files but rather relied unquestioningly on the assessment of their building co-worker and presumably at least an acquaintance, Assistant U.S. Trustee Kathleen Dunivin Schmitt, who is a party with a vested interest in preventing the DeLano case from being investigated, lest she end up being investigated herself.
3. A telling **indication that neither Att. Tyler nor Att. Resnik** has reviewed Dr. Cordero's

complaint files is that neither has shown any awareness that aside from the DeLano case, the files also deal with the Pfunter v. Gordon et al. case and the judicial misconduct complaint arising therefrom. Trustee Schmitt's opinion on that complaint carries no special weight since it was filed, not under the Bankruptcy Code, but rather under 28 U.S.C. §351 and involves the disregard for the law, rules, and facts by Bankruptcy Judge John C. Ninfo, II, and other court officers and personnel so repeatedly and consistently to the detriment of Dr. Cordero, the only non-local party<sup>1</sup>, as to give rise to a pattern of non-coincidental, intentional, and coordinated acts of wrongdoing and bias toward the local parties and against Dr. Cordero.

4. But even if only the DeLano case is considered, **there are enough elements to raise reasonable suspicion that bankruptcy fraud has been committed** and that it may be so widespread as to form a scheme, which only buttresses the need for an investigation. The June 29 and August 14 files discuss those elements and the latter's cover letter (page 9, *infra*) even refers to the "statement in opposition (23)" that lists them on 26§IV therein. In brief, the listed elements show this:
5. Mr. DeLano has been for 15 years and still is a bank loan officer and his wife, a Xerox machines specialist, yet they cannot account for \$291,470 earned in just the last three years!...and declared in their petition only \$535 in hand and on account; owe \$98,092 on 18 credit cards, spent on what since they declared household goods worth merely \$2,910 at the end of two lifetimes of work! However, they made a \$10,000 loan to their son, undated and described as "uncollectible" while their home equity is just \$21,415 and their outstanding mortgage is \$77,084. Did the DeLanos conceal assets? If Att. Tyler had reviewed the files, he should have realized the need for an investigation to determine not only the whereabouts of the \$291,470, but also the DeLanos' earnings before 2001.
6. That realization was facilitated by the June 29 file, which discussed how **Mr. DeLano, a lending industry insider, must have known** that under a given threshold of loss credit card issuers will not consider it cost-effective to object to a petition. He may also have counted with no review by **Chapter 13 Trustee George Reiber**, either because the Trustee is

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<sup>1</sup> Bias against non-local parties by judges is such an undisputed and frequent cause of miscarriage of justice that Congress provided for access to federal courts on the basis of diversity of citizenship. The same bias is found, *mutatis mutando*, on the part of Judge Ninfo, who has developed a preferential relationship –whether for convenience or gain is to be determined by the investigators- with local parties that appear before him frequently and may have even thousands of cases before him (¶¶6 & 13, *infra*).

**accommodating or has a workload of 3,909<sup>2</sup> open cases**, which rules out his willingness or capacity to ascertain the veracity of each petition. The fact is that if Trustee Reiber uncovered fraud and objected to the debtor's debt repayment plan so that its confirmation by the court were blocked, there would be no stream of payments by the debtor under the plan and, consequently, no percentage fee for the Trustee. Hence, it was in the Trustee's interest to submit for confirmation by Judge Ninfo, before whom the Trustee had 3,907 cases, even a case as suspicious as the DeLanos'...or particularly one as suspicious as theirs. Obviously, debtors such as the DeLanos have so much greater incentive to pay what is needed to secure the confirmation of a plan that provides for their paying just 22¢ on the dollar, not to mention to avoid an investigation. If these elements are not sufficiently suspicious in Mr. Tyler's eyes to warrant an investigation, what is?

7. The above figures come straight from the declarations made by the DeLanos in their bankruptcy petition, a copy of which is contained in the May 6 file, page 38, and the June 29 file, page 95, and from reports contained in PACER Yet, Att. Tyler has shown in his conversations with Dr. Cordero to be unfamiliar with those suspicious elements, referring instead to Dr. Cordero's "allegations" without being able to state concretely what it is that he supposedly 'alleged'. That inability stems from his failure to review the files, as shown by these facts:
  - a) Att. Tyler stated on August 11 that he had not yet reviewed the files but would assign them to his assistant, Richard Resnik, Esq.;
  - b) Att. Resnik by his own admission had not reviewed them either by mid-afternoon of August 24 when he finally took Dr. Cordero's call and he could not have reviewed their 250 pages while preparing, as he said he was, his next day trip to Washington, D.C., by the time that same day when he wrote (pg. 11, *infra*) to Dr. Cordero that his "allegations" did not warrant an investigation and returned to him all the files (page 12, *infra*); and
  - c) Att. Tyler had still not reviewed the files, which after speaking with him on August 31 he agreed that Dr. Cordero could return to him, by September 15 when he finally returned Dr. Cordero's call and repeated conclusorily that they did not warrant an investigation and that Assistant U.S. Trustee Schmitt had told him so and that she had already decided not to investigate the case, and that he relied on her assessment of the case and decision.

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<sup>2</sup> As reported by PACER at [https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L\\_916\\_0-1](https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L_916_0-1) on April 2, 2004.

8. The fact is that even in that conversation on September 15, Att. Tyler gave the impression to be unaware of what a lawyer, expected to look for and question people's motives, should have realized: **Trustee Schmitt cannot possibly want to have her supervisee, Trustee Reiber, found to have rubberstamped the meritless bankruptcy petition of the DeLanos**, let alone to have done so for an unlawful fee. If so, the investigators would then ask how many of Trustee Reiber's 3,909 open cases he also rubberstamped. Were they to uncover other meritless cases, the investigators would not only search for the cause or the incentive for Trustee Reiber to approve them anyway, but also inquire why Trustee Schmitt allowed him to amass such a huge number of cases without suspecting that he could not adequately review each for its merits for relief under, and continued compliance with, the Bankruptcy Code. Soon Trustee Schmitt could go from a supervisor to an investigated party and her career could flash before her eyes.
9. In this context, **another circumstance shows that Att. Tyler did not review the files**. Dr. Cordero told him that his complaint had touched such sensitive vested interests that on September 8 **Agent Paul Hawkins of the FBI** Rochester Office called Dr. Cordero and with a hostile attitude from the outset told him that his complaint would not be investigated and that Dr. Cordero should stop wasting his own and other people's time pursuing this matter. When Dr. Cordero protested his attitude, Agent Hawkins even told him that he should stop harassing people with this matter. Dr. Cordero asked Agent Hawkins to send him a letter confirming those statements and the Agent said that he would think about it. Dr. Cordero has received no letter from Agent Hawkins or any other FBI agent. Since Dr. Cordero has never contacted the Rochester FBI Office with this matter, where did Agent Hawkins come up with this!?
10. Att. Tyler suggested that Trustee Schmitt might have referred Dr. Cordero's complaint to the FBI. Thereby he implied that he had not referred it and also revealed that he had not reviewed the June 29 cover letter (7, infra) or page 4 of that file where Dr. Cordero stated that both Trustee Schmitt and her boss, U.S. Trustee for Region 2 Deirdre A. Martini, had denied his request to investigate Trustee Reiber and that "Trustee Martini has engaged in deception (77-84 [of the June 29 file]) to avoid sending me information that could allow me to investigate this case further". Nor had Att. Tyler read in that file Dr. Cordero's letter to Trustee Martini of May 23 where he would have found this paragraph (page 83 of the June 29 file):

At the March 8 meeting of creditors, Trustee George Reiber's attorney, James Weidman, Esq., repeatedly asked *me* how much I knew about the DeLanos



having committed fraud and when I did not reveal anything, he prevented me from examining the DeLanos. Next day, I asked Assistant Trustee Kathleen Schmitt to remove Trustee Reiber and appoint a trustee unrelated to the parties and unfamiliar with the case; she said she could appoint one from Buffalo. But after consulting with you, she wrote that Trustee Reiber would remain on the case. When I spoke with you on March 17, you were adamant that you had made your decision and that he would remain, that it was up to me to consult a lawyer and pursue other remedies, that you wanted me to stop calling your office, and when I noted that I had called you only once and recorded a single message for your Assistant, Ms. Crawford, and that you sounded antagonist toward me, you said that you just wanted "closure". How odd, for the case had just gotten started!

11. **How could Att. Tyler fail to find these officers' attitude and their refusal to investigate suspicious?** (Joining them is Judge Ninfo, who stayed the case until Dr. Cordero is eliminated (pgs. 14, 22, infra). They even prevented, or condoned the prevention of, Dr. Cordero from examining the DeLanos under oath at the Meeting of Creditors held in Rochester on March 8, 2004, although such examination is the Meeting's sole purpose under 11 U.S.C. §§341 and 343 and he was the only creditor present so that there was more than ample time for him to ask questions.
12. If Att. Tyler had reviewed the files, he would have learned of Trustee Martini's strong determination to close this matter and of her shooting down Trustee Schmitt's agreement in principle to replace Trustee Reiber and appoint a trustee from Buffalo to conduct an internal investigation under her control. From these facts, he could have reasonably deducted that Trustee Martini would have been most unlikely to refer the matter to an outsider like the FBI, whose investigation would be out of her control from the beginning. By the same token, Trustee Schmitt would have been most unlikely to ignore her boss' decision and refer the matter to the FBI anyway. (Even if she had done so, the FBI would have reported back to Trustees Schmitt or Martini, rather than contacted Dr. Cordero by phone in such unprofessional way as Agent Hawkins'.)
13. In this vein, if Att. Tyler had bothered to read as far as page 4 of the June 29 file, he would have found evidence of Trustee Schmitt's reluctance to investigate another of her supervisees, Chapter 7 Trustee Kenneth Gordon. He also has the suspiciously heavy workload of 3,383<sup>3</sup> cases, 3,382 of them before Judge Ninfo. Although the Judge referred –pro forma?– to Trustee Schmitt

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<sup>3</sup> As reported by PACER at <https://ecf.nywb.uscourts.gov/cgi-bin/login.pl>. on June 26, 2004.

Dr. Cordero's complaint about Trustee Gordon's reckless and negligent performance and Trustee Gordon had already been sued under the same set of circumstances in *Pfuntner v. Trustee Gordon*, Trustee Schmitt failed to investigate him. Thus, the fact that Trustee Schmitt refused to investigate Trustee Reiber or the DeLano case is hardly conclusive that she did so strictly upon the merits of those cases and can result from the same vested interest in not investigating one of her supervisees and thereby investigate and incriminate herself.

14. Hence, Att. Tyler's suggestion that FBI Agent Hawkins could have contacted Dr. Cordero upon the referral of his complaint by Trustee Schmitt betrayed his unfamiliarity with the files that he dismissed without reviewing. So did his question **whether Dr. Cordero's files to him** –of August 14 and 31- **duplicated** the documents contained in **the files forwarded by Att. Kelley**–of May 6 and June 29-. Had he reviewed the files (cf. pg. 13¶4, infra), he would know the answer, particularly since each has a cover letter with a theme and its own Table of Contents or Exhibits.
15. Compounding his failure to review the files, **Att. Tyler unquestioningly accepted Trustee Schmitt's statements or failed to reflect before making his own**. When Dr. Cordero told him that the DeLanos cannot account for \$291,470 earned between 2001-03, Att. Tyler replied that if debtors declared their earnings in their tax returns, they do not have to account for them in bankruptcy. What an extraordinary comment! Even the man in the street knows that bankruptcy is predicated on the debtor's inability to pay his debts because his assets are not enough to meet his liabilities. It follows that he has to prove that state of financial affairs and cannot keep earnings enough to pay his debts while asking the court to confirm his plan to pay merely pennies on the dollar. To have the cake and not let the creditors eat it is fraudulent concealment of assets.
16. Moreover, if Att. Tyler had reviewed Dr. Cordero's Objections, contained in the June 29 file, page 59, to the DeLanos' Debt Repayment Plan, he would have noticed that the provisions of the Bankruptcy Code that he cited there -11 U.S.C. 704- provide that "The trustee shall...(4) investigate the financial affairs of the debtor", and "(7)...furnish such information concerning the estate and the estate's administration as is requested by a party in interest". Under either provision the debtor, upon request, has to account for the whereabouts of his assets and earnings. If assets were exempt from investigation, how could a case for concealment of assets ever be made?
17. If circumstantial evidence can be relied upon to deprive a person of even his life, then it can be relied upon here to find that **neither Att. Tyler nor Att. Resnik reviewed Dr. Cordero's files**

before dismissing his complaint. What is more, **they even got rid of the files by returning them** to Dr. Cordero, who instead was expecting Att. Resnik to read them after coming back from Washington, as he had said he would. Returning them revealed how embarrassing they found even their possession. This can hardly be standard practice. If so, how can Mr. Tyler, or any law enforcement officer for that matter, accumulate a sufficient number of complaints so that, if not the substance and evidentiary soundness of any of them, then the sheer weight of the related elements of all of them make it dawn upon him that there is something suspicious enough going on to warrant an investigation? In other words, how can a chart be drawn if the dots are not plotted?

18. This begs the question: Why did Att. Tyler too find the complaint in those files so embarrassing that he could not bear to review them although their captions indicate a stake as high as the integrity of the judicial and the bankruptcy systems? Since Att. Tyler has engaged in questionable conduct and has questions to answer, he is no longer a disinterested party capable of conducting an impartial, unprejudiced, and vigorous investigation. Far from it, as investigator he would have an interest in proving that, while it may have been a mistake not to review Dr. Cordero's files and instead rely only on Trustee Schmitt's assessment, upon his investigation of the complaint it turned out that all the parties were blameless, there was no such fraud, much less a scheme, so that after all he was right to trust Trustee Schmitt and dismiss Dr. Cordero's complaint.
19. Therefore, Dr. Cordero respectfully requests that:
  - a) his files be reviewed and the two linked aspects of the complained-about scheme, namely, judicial misconduct and bankruptcy fraud, be investigated;
  - b) the investigation be conducted by officers who belong to neither the U.S. Attorney's nor the FBI's Office in Rochester and who instead are unacquainted with those to be investigated, such as officers of the Office of the U.S. Trustees, the U.S. Bankruptcy and the District Courts for WDNY, and the DeLanos and their attorneys; and
  - c) Dr. Cordero be informed of the decision on his request for an investigation and, if negative, that this matter be reported to the Attorney General under 18 U.S.C. §3057(b).

Respectfully submitted on

September 18, 2004

59 Crescent Street  
Brooklyn, NY 11208

*Dr. Richard Cordero*

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

## Dr. Richard Cordero

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October 7, 2004

Ms. Jennie Bowman  
Executive Assistant to the US Attorney  
U.S. Attorney's Office for WDNY  
138 Delaware Center  
Buffalo, NY 14202

faxed to (716)551-3051; tel. (716)843-5700

Re: Resubmission to U.S. Att. Battle of appeal from Att. B. Tyler's decision

Dear Ms. Bowman,

Thank you for taking my call a few minutes ago. As agreed, I am faxing a copy of the letter that I sent to Michael Battle, Esq., U.S. Attorney for WDNY, last September 18. You indicated that you would pass it along to Duty Attorney Lynn Eilermann for review. I appreciate that and kindly request that you also bring to Att. Battle's attention the following:

1. My letter to Att. Battle was an appeal from a decision by Bradley Tyler, Esq., U.S. Attorney in Charge of the Rochester Office. It serves no purpose to send it back to Mr. Tyler for him to pass judgment on himself. See ¶18 of the Appeal.
2. My Appeal was accompanied by supporting and updating documents. They should be recovered from Att. Tyler and reviewed. If that cannot be done, let me know and I will send a copy.
3. In addition, there are four files in Att. Tyler's possession that contain supporting evidence of the complained-about judicial misconduct and bankruptcy fraud scheme. When I last spoke with Att. Tyler on September 15, I specifically requested that he forward those files to Att. Battle so that the latter may consider them in the context of my appeal. Indeed, I told Att. Tyler that I wanted to appeal his decision and asked who his supervisor was and he gave me Att. Battle's name and phone number. I also specifically asked Att. Tyler to write to me a letter stating why he had decided not to investigate the case. He said that he would send it to me with copy to Att. Battle. I have received no letter. Now I find out from you that he did not forward the files either. Att. Tyler's questionable conduct in not providing those files to Att. Battle and not sending me the promised letter only adds to his questionable conduct already pointed out in the appeal.
4. This case is not being investigated by Assistant U.S. Trustee Kathleen Dunivin Schmitt in Rochester. Nor can she do so because of her conflict of interests: She cannot want to find her supervisee, Trustee George Reiber, to have rubberstamped the meritless bankruptcy petition of David and Mary Ann DeLano, docket no. 04-20280. If so, she would be confronted with the question how many of Trustee Reiber's 3,909 *open* cases he also rubberstamped. If it were to be uncovered that Trustee Reiber approved other meritless cases, the next question would be not only why and on what incentive, but also why Trustee Schmitt allowed him to amass such a huge number of cases without suspecting that he could not adequately review each for its merits for relief under, and continued compliance with, the Bankruptcy Code. Soon Trustee Schmitt could go from a supervisor to an investigated party and her career could flash before her eyes. Nor can Att. Tyler investigate this case either because he has a vested interest in a certain outcome.

I trust that you realize the seriousness of this matter and will have Att. Battle decide it. Meantime, I look forward to hearing from him.

Sincerely, *Dr. Richard Cordero*

## Dr. Richard Cordero

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October 19, 2004

Mary Pat Floming, Esq.  
U.S. Attorney's Office for WDNY  
138 Delaware Center  
Buffalo, NY 14202

faxed to (716)551-3052 [tel. (716)843-5700]

Re: a judicial misconduct and bankruptcy fraud scheme

Dear Ms. Floming,

Thank you for returning my call today in which I inquired about the status of my appeal to U.S. Attorney Michael Battle from the decision of the U.S. Attorney in Charge of the Office in Rochester, Bradley Tyler, Esq. not to investigate my above-referenced complaint. Based on the facts stated in the appeal, it can be concluded that Mr. Tyler did not even read the cover letters of the two files forwarded to him from the office of Mr. David N. Kelley, U.S. Attorney for SDNY, on or around August 5. Instead, he relied on his conversations with one of the parties who could not have an interest in this matter being investigated because she could end up being investigated herself, namely, Assistant U.S. Trustee Kathleen Schmitt. Mr. Tyler and Ms. Schmitt work in the same small federal building in Rochester, where people can easily become acquaintances or friends, their word can be substituted for evidence, and an investigation can constitute betrayal.

It was only because of my repeated calls to Mr. Tyler and submissions of two written updates to him that I found out in a phone conversation with him on September 15 that he would not investigate my complaint. On that occasion, I told him that I would appeal to Mr. Battle and asked that he send me his decision in writing and forward the four files to Mr. Battle. Mr. Tyler agreed to do so. Yet, he has failed to send me any letter. Nor has he forwarded any files to Mr. Battle, as stated to me by Mr. Battle's Executive Assistant, Mrs. J. Bowman, and you.

I appealed in writing to Mr. Battle on September 18. Nothing happened. So I called Mr. Battle's office and eventually found out from Mrs. Bowman that my appeal file had been sent back to Mr. Tyler! One need not work at the U.S. Attorney's Office or know 28 U.S.C. §47 – Disqualification of trial judge to hear appeal: No judge shall hear or determine an appeal from the decision of a case or issue tried by him- to realize that an appeal cannot be determined by the person appealed from. I faxed a letter to that effect to Mrs. Bowman on October 7, together with a copy of my appeal so that, as agreed, Mrs. Bowman would bring it to Mr. Battle's attention. On October 12 I found out from her that she had forwarded that material to you. You have stated that is not the case. I have recorded messages for Mrs. Bowman, which have not been replied to.

Something is not right here. You can find out what it is by, as agreed, informing Mr. Battle directly of the complaint and the appeal. While at it, you can do better than that FBI Agent who learned from a flight school instructor that some foreigners wanted to learn just how to fly large airplanes but not how to take them off or land them. The agent just told his superior rather than pursue the matter all the way to the top on the good-sense intuition that something was not right and the stakes were too high to leave it to protocol. He missed his once-in-a-lifetime chance to prevent the 9/11 tragedy and become a hero of moral courage and civic responsibility. This is your chance, Ms. Floming, to become a heroine by finding out why the four complaint files have been kept from Mr. Battle and how widespread bankruptcy fraud has become...as the appeal and the files show, there is so much money to spread around! Rest assured I will pursue this matter.

Sincerely,

*Dr. Richard Cordero*

# Dr. Richard Cordero

Ph.D., University of Cambridge, England  
M.B.A., University of Michigan Business School  
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October 25, 2004

Mary Pat Floming, Esq.  
U.S. Attorney's Office for WDNY  
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Buffalo, NY 14202

faxed to (716)551-3052; tel. (716)843-5700

Re: a judicial misconduct and bankruptcy fraud scheme

Dear Ms. Floming,

Thank you for letting me know that you brought to U.S. Att. Michael Battle's attention my appeal from Att. Bradley Tyler's decision not to investigate the misconduct and bankruptcy fraud scheme evidenced in my four files and his failure to forward the latter to Mr. Battle.

This is an update showing Trustee George Reiber's factually and legally untenable allegations for refusing to examine under 11 U.S.C. §341 the DeLanos, who are the debtors in the case (dkt. no. 04-20280) that opens a window into the scheme. His motive for refusing is to prevent the DeLanos' fraud from being established. If it were, it would provide grounds for him to be investigated for having approved without any review a clearly questionable petition, for Mr. DeLano is a bank industry insider who has been for 15 years and still is a bank *loan* officer, and his numbers in the schedules are so incongruous as to red-flag his petition as highly suspicious. This would logically call for determining how many of his 3,909 *open* cases (as of April 2, 2004, according to PACER) Trustee Reiber approved that were also meritless or even fraudulent.

Such an investigation would entail a risk for Trustee Reiber's supervisor, Assistant U.S. Trustee Kathleen Schmitt. Indeed, she could also be investigated for having failed to provide adequate supervision and allowed one trustee to concentrate in his hands such an overwhelming and unmanageable workload. Could you read the petitions, check them against supporting documents, and monitor *monthly* plan repayments of thousands of cases? Bottlenecking thousands of cases through one person is outright questionable. It confers enormous power to control and generates a strong incentive to obey in a symbiotic relationship where supervisor and supervisee derive their respective benefits from prioritizing the approval of petitions and the concomitant unobstructed flow of percentage fees over compliance with Bankruptcy Code requirements.

Consequently, an investigation of the fraud scheme cannot limit itself to asking Trustee Schmitt to give her opinion about the evidence in the files, for she is unlikely to make any self-incriminating admission. The same applies to her supervisor, U.S. Trustee for Region 2 Deirdre A. Martini. In the first and only call that she has ever taken from me or returned, she was adamant that she would keep Trustee Reiber on the case and that she wanted me to stop calling her office because she wanted "closure". How odd, for the case had just started!: It was March 17 and only on March 8 had Trustee Reiber approved the suspicious termination by his attorney, James Weidman, Esq., of the §341 examination of the DeLanos after I, the only creditor present, had asked two questions but would not answer his insistent questions of how much I knew about their having committed fraud. Did Trustee Martini too not want me to examine the DeLanos?

I respectfully request that you share this update with Mr. Battle so that you both may 1) realize that just as Mr. Tyler cannot investigate my appeal from his decision, neither of Trustees Schmitt, Martini, or Reiber can investigate the bankruptcy fraud scheme; instead, they should be investigated; and 2) use the influence of your Office with the Executive Office of the U.S. Trustees to replace Trustee Reiber with an independent trustee to hold a §341 examination of the DeLanos. I look forward to hearing from you and receiving Mr. Battle's call.

Sincerely,

*Dr. Richard Cordero*



**U. S. Department of Justice**

*United States Attorney  
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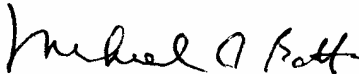
November 4, 2004

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

Dear Dr. Cordero:

Upon a careful review of the documentation which you have submitted to my office and in relation to our recent conversation, I find no basis for your claim of bankruptcy fraud. Thank you for bringing this matter to my attention. Best of luck to you.

Very truly yours,

  
MICHAEL A. BATTLE  
United States Attorney  
Western District of New York

MAB/jlb

## Dr. Richard Cordero

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November 15, 2004

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U.S. Attorney's Office  
138 Delaware Center  
Buffalo, NY 14202

faxed (716)551-3052; tel. (716)843-5700

Re: a judicial misconduct and bankruptcy fraud scheme

Dear Mr. Battle,

I am in receipt of your letter of November 4 in which you state that you find no basis for my claim of bankruptcy fraud and have closed this case. However, this is not in keeping with what you told me in our conversation on Monday, November 1, that you would do.

In that conversation you indicated that you had not yet received the files that I sent to the U.S. Attorney in Charge of the Rochester Office, Bradley Tyler, Esq., but that you would ask for them; that that you have very skilled people that would look into whether there was bankruptcy fraud; that it would take them several weeks to complete their review; and that after you reached your conclusion you would let me know and we would discuss them. I believed what you told me, not because I am naïve, but rather because I believe that the word of an attorney of the United States is not given lightly and should be taken seriously. Yet, what you told me that you would do could not have been done between November 1 and 4.

Indeed, you asked me what evidence I had of bankruptcy fraud and I told you that it was documentary evidence contained in the files that I sent to Mr. Tyler. I appealed to you on September 18 precisely because of the evidence that neither he nor his assistant, Richard Resnik, Esq., reviewed them, but instead relied on a building co-worker's assertion that no investigation was needed, that is, Assistant U.S. Trustee Schmitt, who has a vested interest in not having this matter investigated. But even that appeal to you, bound with supporting documents, was sent to Mr. Tyler for him to review an appeal against himself!, a decision that defies common sense and legal practice. So the only material that you could have reviewed was that 5-page appeal without supporting documents that I resubmitted by fax to you and which dealt with the questionable circumstances of Mr. Tyler's decision rather than with the evidence of the judicial misconduct and bankruptcy fraud scheme. So, you did not have the documentation to support your statement that "[You] find no basis for [my] claim of bankruptcy fraud"? No wonder you asked me at the beginning of our conversation to tell you what this was all about and what I wanted you to do.

That you had no other documentation, let alone reviewed it, can be inferred from the facts. Thus, after I sent you my appeal of September 18, I did not hear from your office in Buffalo or Rochester. I had to call you several times but could only speak with your Executive Assistant, Ms. J. Bowman, who eventually found out that the appeal file had been sent to Mr. Tyler. After I faxed her only the appeal and made more calls, her statement that it had been assigned to Mary Pat Floming, Esq., proved inaccurate. I made more calls requesting to speak with you.

Then on Wednesday, October 27, Ms. Bowman called me and said that you wanted to talk to me the next day at 3:00 p.m. I agreed. But on Thursday, that time came and went and you did not call. I called to find out what happened and Ms. Bowman said that you had been called to court urgently. She asked whether the conference could be rescheduled for Friday, at 9:00 a.m. I agreed. But you did not call either. Instead, at 9:42 Ms. Bowman called to say that you were on a



video conference with Washington, and whether you could call me at anytime later that day. I agreed. But you did not call either.

On Monday, November 1, I called and Ms. Bowman said that you had a 9:30 a.m. meeting and asked whether you could call me between 10:30 and 10:45. I agreed. But at about 11:02 she called back to reschedule your call for 11:45 a.m. When you finally called and although our conversation lasted some 12 minutes, you grew impatient toward the end of it, particularly when you asked me what type of evidence I had and I told you that it was the documents in the files and asked whether you had retrieved them from Mr. Tyler. Then you stated what you were going to do and put an end to the conversation.

If somebody told a jury or a fair-minded public servant how you ignored for well over a month an appeal made to you and then how you made appointments to discuss it only to successively ignore or reschedule them, could they reasonably believe that such hands-off treatment and informality revealed, or was intended to send the message of, how unimportant you considered the matter? If the answer is yes, would it be naïve or wishful thinking to expect them to believe that after our conversation on that Monday you dropped everything that you were doing, asked for the files from a person in another city, precisely the one who for over three months failed to deal with the four original files and the appeal, but who nevertheless dropped everything he was doing to send you five files with over 315 pages, which you reviewed and by Thursday you had with due diligence reached the decision that there was no basis for the claim of bankruptcy fraud? You even totally missed the other part of the scheme: judicial misconduct!

You could allow yourself to become hostile toward me because of this statement of facts, but that would be the wrong reaction. For one thing, I am not the suspect of criminal wrongdoing, but rather a responsible citizen appealing for your help. I need it and deserved it because for over two years I have suffered tremendous loss and aggravation at the hands of a group of powerful officers and have meticulously collected and analyzed evidence pointing to their motive therefor, money! Moreover, you are the top law enforcement officer in that area and your decision affects the public at large, for at stake here is the integrity of top judicial and bankruptcy officers and of systems set up for the common good, not for their private gain. In addition, it is not fair for you to ask me for evidence -particularly since you have not looked at what I already presented- since the law, at 18 U.S.C. §3057(a), does not even ask judges for evidence before they can make a report to a U.S. attorney about bankruptcy fraud, but just asks that they have “reasonable grounds for believing...that an investigation should be had in connection therewith”.

Therefore, I respectfully request that you:

1. retrieve the five files from Mr. Tyler;
2. entrust them and the investigation of a judicial misconduct and bankruptcy fraud scheme, not to him or his office, for the reasons in my appeal, but as you said, to the very skilled people that you have and were going to assign to it; or request that the Acting Attorney General appoint outside investigators, such as from Washington, D.C., or Chicago; and
3. let me talk to them because both I know a file that now has over 1,500 pages so that I can facilitate their work and this is an ongoing case so that I can provide additional evidence of the abuse and bias that these officers keep heaping on me as they operate their scheme.

Sincerely,

*Dr. Richard Cordero*



U.S. Department of Justice

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November 29, 2004

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

Dear Dr. Cordero:

Thank you very much for your letter of November 15, 2004. I am sorry, as you expressed that you feel I did not give adequate review to your claims following our most recent telephone conversation. The fact of the matter is I took what you said and requested very seriously. Immediately after our conversation, I contacted Assistant U.S. Attorney Brad Tyler and met with the other staff from who have had previous involvement with your case. These are all trusted professionals, tasked with the responsibility of representing the people of the United States of America.

During this time, I was provided with a detailed history. A review indicates that you were party to a bankruptcy action which was later appropriately resolved by a bankruptcy judge. From what I can gather, it appears that you are not in agreement with the final legal resolution. I do not, however, find that there was any impropriety in the decision of the court, and quite frankly, it is not within my authority to do so.

Nevertheless, as previously indicated, having more clearly examined your concerns, I do not find there is a legal basis for the challenges that you now raise. The employees of this office have adequately reviewed any and all documentation, including court records of prior proceedings. While you may be unhappy with the result, it is my opinion that the court's decision is unlikely to be disturbed. Litigants and parties who do not get the results they hope for in cases, commonly react the way that you have and that is understandable. You have asked for review and oversight by this office, which I have undertaken, and at this time, I would like to reiterate that I find there to be no impropriety.

Very truly yours,

MICHAEL A. BATTLE  
United States Attorney

MAB/sas

## Dr. Richard Cordero

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December 6, 2004

Michael Battle, Esq.  
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faxed to (716)551-3052 [tel. (716)843-5700]

Re: a judicial misconduct and bankruptcy fraud scheme

Dear Mr. Battle,

I received your letter of November 29. In your opening paragraph you stated as follows:

Thank you very much for your letter of November 15, 2004. I am sorry, as you expressed that you feel I did not give adequate review to your claims following our most recent telephone conversation. The fact of the matter is I took what you said and requested very seriously. Immediately after our conversation, I contacted Assistant U.S. Attorney Brad Tyler and met with the other staff from who [sic] had had previous involvement with your case. These are all trusted professionals, tasked with the responsibility of representing the people of the United States of America.

First, your reference to “our most recent telephone conversation” is misleading because in all the months that I have been pursuing this matter, and wrote to you, and made numerous calls to you, and left messages with your Executive Assistant, Mrs. J. Bowman, we have had one single conversation, i.e., the one that you quickly ended on November 1, which from the perspective of your writing on November 29 –triggered only by my message that day- is hardly recent.

Then you stated that you took what I “said and requested very seriously”, thereby revealing once more that when we spoke you did not know the facts of my case because you had not read **1**) my Appeal to you of September 18 (E\*-139), which despite appealing from the decision under questionable circumstances of Att. Tyler not to open an investigation into the complaint about a judicial misconduct and bankruptcy fraud scheme, you sent back to him so that contrary to common sense and legal practice he could deal with a complaint about himself –which he has failed to do to date- nor had you read **2**) any of the copies of that Appeal that I faxed to you. Had you taken “very seriously” what I “said and requested” in my Appeal, you would have mentioned it at least once and realized how injudicious it was to rely on the word of those complained-about.

Evidence that you did not read the Appeal, let alone any of the four evidentiary files (E-137) that upon my request Att. Tyler agreed on September 15 to forward to you but failed to do so, is your statement that you “met with the other staff from who [sic] have had previous involvement with your case”. But my Appeal discusses precisely the evidence that Att. Tyler failed to involve himself with the files because, following your example, he passed them on to an assistant, Att. Richard Resnick, whom the evidence shows not to have had the material possibility (E-136) of reviewing them before he wrote to me on August 24 (E-135) that no investigation would be opened and returned the four files. What they did is what you failed to read in ¶2 of the Appeal: “...neither Att. Tyler nor Att. Resnik reviewed the files but rather relied unquestioningly on the assessment of their building co-worker and presumably at least an acquaintance, Assistant U.S. Trustee Kathleen Dunivin Schmitt, who is a party with a vested interest in preventing the DeLano case from being investigated, lest she end up being investigated herself.” Had you taken this matter seriously, you would have known that they did not involve themselves with my evidence and would have tried to determine with what they involved themselves and why.

It was not with the facts that they involved themselves, these “trusted professionals” whose word you accept uncritically. Indeed, you wrote next thus:

During this time, I was provided with a detailed history. A review indicates that you were party to a bankruptcy action which was later appropriately resolved by a bankruptcy judge. From what I can gather it appears that you are not in agreement with the final legal resolution. I do not, however, find that there was any impropriety in the decision of the court, and quite frankly, it is not within my authority to do so.

*What are you talking about?!* No action to which I am a party has been “resolved by a bankruptcy judge”: The Pfuntner v. Gordon et al., dkt. no. 02-2230, WBNY, has been on appeal in the Court of Appeals for the Second Circuit since April 2003, from where it will go to the Supreme Court; and In re D. & M. DeLano, dkt. no. 04-20280, WBNY, has been reduced to the determination of the DeLanos’ July 19 motion to disallow my claim (E-73), including all appeals, as stated by Judge John C. Ninfo, II, in his **Interlocutory** Orders of August 30 (E-101) and November 10 (E-244). What “final legal resolution” did your “trusted professionals” or you are referring to? How can you possibly qualify as ‘appropriate’ a decision that does not yet exist?

Or does it already exist? The implication of so interpreting your gross mistake of fact is that your “trusted professionals” have had direct ex parte or indirect contact with Judge Ninfo and know the outcome of a case still in process. This would confirm what I have asserted (E-109): that the DeLanos’ motion, allowed by Judge Ninfo despite being untimely and barred by laches, is a subterfuge that by disallowing my claim against Mr. DeLano will remove me from the DeLano case so that I have no standing to ask for discovery of the DeLanos’ documents that will show how their January 27 bankruptcy petition (E-167) is fraudulent (E-57, E-63) but supported by judicial misconduct that forms part of a bankruptcy fraud scheme. No wonder Judge Ninfo has allowed Mr. DeLano, a bank *loan* officer for 15 years who must know too much to be exposed to discovery, to deny me all documents that I requested (E-234-246) and even to disobey his order for document production of July 26 (E-81). The whole process is a sham!...and you have the evidence!

While in order to keep you quiet your “trusted professionals” may have told you that an ‘appropriate’ “final legal resolution” had been reached, you have constructive knowledge that such could not be the case. You claim that “Immediately after our conversation” on November 1 you talked to Att. Tyler and the others involved with my case and wrote to me on November 4 that “I find no basis for your claim of bankruptcy fraud” (E-147). Yet, on November 15, I wrote to you “let me talk to [outside investigators] because...this is an ongoing case so that I can provide additional evidence of the abuse and bias that these officers keep heaping on me as they operate their scheme”. That is the last clause of the last sentence of the letter, which you did not read either!

This much analysis of your letter should suffice to let any fair-minded prosecutor realize how perfunctorily you have treated this matter: The issue that I posed to you was not even whether I was “in agreement with” any decision, let alone a “final legal resolution”, but, as stated in the caption, whether there is “a judicial misconduct and bankruptcy fraud scheme”. This affects “the people of the United States”, not just me. Therefore, if you take “very seriously” that you are “tasked with the responsibility of representing” all of them, I respectfully request that you:

1) refer the accompanying Request\* and Exhibits to the Acting U.S. Attorney General for investigation by officers unrelated to the DoJ or FBI staff in Rochester or Buffalo; and 2) copy me to the referral.

\* Exhibits=E and Request sent by mail

Sincerely,

*Dr. Richard Cordero*

Dr. Cordero’s letter of 12/6/4 to U.S. Att. Battle requesting that he refer the matter to the U.S. Att. General C:1567

December 6, 2004

**REQUEST**

to Michael A. Battle, Esq.

U.S. Attorney for the Western District of New York

to report to the Acting U.S. Attorney General

for investigation the evidence of

a judicial misconduct and bankruptcy fraud scheme

by

**Dr. Richard Cordero**

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## **I. The categories of evidence that raises reasonable suspicion of wrongdoing that should be investigated**

1. The evidence of judicial wrongdoing linked to a bankruptcy fraud scheme has accumulated for over two years and is contained or described in a file of over 1,500 pages. Of necessity, only a summary of it can be provided here. Likewise, only the most pertinent documents have been referenced, many of which have already been submitted in five previous files. However, all of those included in the Table of Exhibits (i, infra) but not attached hereto, and those referred to in the ones attached are available on request.
2. Yet, this evidentiary summary should be enough, not to establish the commission of a crime, but rather to satisfy the standard of reasonable suspicion applied to the opening of an official investigation. Then it is for those with the duty as well as the necessary legal authority and resources, to call for an investigation and conduct it. Although intertwined, that evidence can be described in a few principal categories:
  - 1) U.S. Bankruptcy Judge John C. Ninfo, II, and others have protected from discovery, let alone trial, **a)** a trustee sued for negligence and recklessness who had before the Judge some 3,000 cases! –how many do you have?–; **b)** an already defaulted bankrupt defendant against whom an application for default judgment was brought; **c)** parties who have disobeyed his orders, even those that they sought or agreed to; and **d)** debtors who have concealed assets, all to the detriment of Dr. Cordero and while imposing on him burdensome obligations.
  - 2) David DeLano –a lending industry insider who has been for 15 years and still is a bank *loan* officer- and Mary Ann DeLano are suspected of having filed a fraudulent bankruptcy petition and of engaging, among other things, in concealment of assets; but they are being protected from examination under oath and from compulsory production of financial documents, all of which could incriminate them and others in the fraud scheme.
  - 3) Chapter 13 Trustee George Reiber and his attorney, James Weidman, Esq., unlawfully conducted and terminated the meeting of creditors of the DeLanos, and Trustee Reiber, with the support of U.S. Trustees Kathleen Schmitt and Deirdre Martini, has since continued to fail his duty to investigate them, for an investigation could incriminate him for having approved at least a meritless and at worst a known fraudulent bankruptcy petition.

**A. Reasonable grounds for believing that Judge Ninfo and others have engaged in a pattern of wrongdoing aimed at preventing incriminating discovery and trial**

3. Judge Ninfo failed to comply with his obligations under FRCivP 26 to schedule discovery (Exhibit page 1=E-1) in *Pfuntner v. Chapter 7 Trustee Kenneth Gordon et al.*, WBNY docket no 02-2230, filed on September 27, 2002. As a result, over 90 days later the Judge still lacked the benefit of any discovery whatsoever.
4. By that time, Dr. Cordero had cross-claimed against Trustee Gordon for defamation as well as negligent and reckless performance as trustee and the Trustee had moved for summary judgment. Despite the genuine issues of material fact inherent in such types of claims and raised by Dr. Cordero, the Judge issued an order on December 30, 2002, summarily granting the motion of Trustee Gordon, a local litigant and fixture of his court. (E-2§II)
  - a) Indeed, the statistics on PACER as of November 3, 2003<sup>4</sup>, showed that since April 12, 2000, Trustee Gordon was the trustee in 3,092 cases! However, by June 26, 2004, he had added 291 more cases for a total of 3,383 cases, out of which he had 3,382<sup>5</sup> cases before Judge Ninfo...in addition to the 142 cases prosecuted or defended by Trustee Gordon and 76 cases in which the Trustee was a named party.
5. Could you handle competently such an overwhelming number of cases, increasing at the rate of 1.23 new cases per day, every day, including Saturdays, Sundays, holidays, sick days, and out-of-town days, cases in which you personally must review documents and crunch numbers to carry out and monitor bankruptcy liquidations for the benefit of the creditors, whose individual views and requests you must also take into consideration as their fiduciary? If the answer is not a decisive “yes!”, it is reasonable to believe that Judge Ninfo knowingly disregarded the probability that Trustee Gordon had been negligent or even reckless, as claimed by Dr. Cordero, and granted the Trustee’s motion to dismiss in order not to disrupt their modus operandi and to protect himself from a charge of having failed to realize or tolerated Trustee Gordon’s negligence and recklessness in this case...and in how many others of their thousands of cases? There is a need to investigate what is going on between those two...and the others, (cf. E-3§§B-E; E-86§II).
6. Judge Ninfo denied Dr. Cordero’s timely application for default judgment against David

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<sup>4</sup> <https://ecf.nywb.uscourts.gov/cgi-bin/login.pl>.

<sup>5</sup> Id.

Palmer, the owner of Premier, the moving and storage company to be liquidated by Trustee Gordon, WBNY docket no. 01-20692. However, Mr. Palmer had abandoned Dr. Cordero's property; defrauded him of the storage and insurance fees; and failed to answer Dr. Cordero's complaint. In his denial of Dr. Cordero's application for default judgment, Judge Ninfo disregarded the fact that the application was for a sum certain as required under FRCivP 55. Thus, he imposed on Dr. Cordero a Rule 55-extraneous duty to demonstrate loss, requiring him to search for his property and prejudging a successful outcome with disregard for the only evidence available, namely, that his property had been abandoned in a warehouse closed down for a year, with nobody controlling storage conditions because Mr. Palmer had defaulted on his lease, and from which property had been stolen or removed, as charged by Plaintiff Pfunter!

a) Judge Ninfo would not compel Bankrupt Owner Palmer to answer Dr. Cordero's claims even though his address is known and he submitted himself to the court's jurisdiction when he filed a voluntary bankruptcy petition. Why did the Judge need to protect Mr. Palmer from even coming to court, let alone having to face the financial consequences of a default judgment, although it was for Mr. Palmer, not for the Judge, to contest such judgment under FRCivP 55(c) and 60(b)? Their relation must be investigated as well as that between the Judge and other similarly situated debtors and the aid provided therefor by others (E-4§§C-D).

7. At the instigation of Mr. Pfunter, who said that property had been found in his warehouse that might belong to Dr. Cordero, Judge Ninfo ordered Dr. Cordero to travel from New York City all the way to Avon, outside Rochester, to conduct an inspection of it within a month or the Judge would order its removal at Dr. Cordero's expense to any warehouse in Ontario...that is, the N.Y. county or the Canadian province, the Judge could not care less!
8. Yet, for months Mr. Pfunter had shown contempt for Judge Ninfo's first order to inspect that property *in his own warehouse*, and neither attended nor sent his attorney nor his warehouse manager to the inspection nor complied with the agreed-upon measures necessary to conduct it, as provided for in the second order that Mr. Pfunter himself had requested. Though Mr. Pfunter violated both discovery orders, Judge Ninfo did not hold him accountable for such contempt or the harm caused to Dr. Cordero thereby. So he denied Dr. Cordero any compensation from Mr. Pfunter and held immune from sanctions his attorney, David D. MacKnight, Esq., a local whose name appeared as attorney in 479 cases as of November 3,



2003, according to PACER. Why does Judge Ninfo need to protect everybody, except Dr. Cordero? (E-5§E; E-90§III)

9. The underlying motive for such bias needs to be investigated. To that end, the DeLano case is the starting point because it provides insight into what drives such bias and links the activity of the biased participants into a scheme: money, lots of money! So who are the DeLanos?

**B. Reasonable grounds for believing that the DeLano Debtors have engaged in bankruptcy fraud, such as concealment of assets**

10. David and Mary Ann DeLano filed their bankruptcy petition under Chapter 13 of the Bankruptcy Code, 11 U.S.C., on January 27, 2004; WBNY docket no. 04-20280 (E-167). The values declared in their schedules and the responses provided to required questions are so out of sync with each other that simply common sense, not expertise in bankruptcy law or practice, is enough to raise reasonable suspicion that the petition is meritless and should be reviewed for fraud. (E-57) Just consider the following salient values and circumstances:

- a) Mr. DeLano has been a bank *loan* officer for 15 years! His daily work must include ascertaining the creditworthiness of loan applicants and their ability to repay a loan over its life. He is still employed in that capacity by a major bank, Manufacturers and Traders Trust Bank (M&T Bank). As an expert in the matter of remaining solvent, whose conduct must be held up to scrutiny against a higher standard of reasonableness, he had to know better than to do the following together with Mrs. DeLano, who until recently worked for Xerox as a specialist in one of its machines, and as such is a person trained to pay attention to detail and to think methodically along a series steps and creatively when troubleshooting a problem.
- b) The DeLanos incurred scores of thousands of dollars in credit card debt;
- c) carried it at the average interest rate of 16% or the delinquent rate of over 23% for years;
- d) during which they were late in their monthly payments at least 232 times documented by even the Equifax credit bureau reports of April and May 2004, submitted incomplete;
- e) have ended up owing \$98,092 to 18 credit card issuers listed in Schedule F (E-167 et seq.);
- f) owe also a mortgage of \$77,084;
- g) but have near the end of their work lives equity in their house of only \$21,415;
- h) however, in their 1040 IRS forms declared \$291,470 in earnings for just the 2001-03 fiscal years;
- i) yet claim that after a lifetime of work they have only \$2,910 worth of household goods!;

- j) the rest of their tangible personal property is just two cars worth a total of \$6,500;
  - k) their cash in hand or on account declared in their petition was only \$535;
  - l) but made to their son a \$10,000 loan, which they declared uncollectible and failed to date, for it may be a voidable preferential transfer;
  - m) claim as exempt \$59,000 in a retirement account and \$96,111.07 in a 401-k account;
  - n) but offer to repay only 22¢ on the dollar for just 3 years and without accrual of interest (E-199);
  - o) refused for months to submit any financial statements covering any length of time so that Trustee Reiber moved on June 15, for dismissal due to “unreasonable delay” (E-62; E-65§III; cf. 18 U.S.C. §152(9)).
11. A comparison between the few documents that they produced thereafter, that is, some credit card statements and Equifax reports with missing pages (E-64§II), with their bankruptcy petition and the court-developed claims register and creditors matrix revealed debt underreporting, accounts unreporting, and substantial non-accountability for massive amounts of earned and borrowed money. Dr. Cordero pointed up these indicia of fraud in a statement of July 9, 2004, (E-64§III) opposing Trustee Reiber’s motion to dismiss. The DeLanos responded on July 19 by moving to disallow Dr. Cordero’s claim. (E-73; E-117§B) How extraordinary! given that:
- a) The DeLanos had treated Dr. Cordero as a creditor for six months;
  - b) They were the ones who listed Dr. Cordero’s claim in Schedule F (E-167 et seq.)...for good reason because
  - c) Mr. DeLano has known of that claim against him since November 21, 2002, when Dr. Cordero brought him into *Pfuntner v. Trustee Gordon et al.* as a third-party defendant due to the fact that Mr. DeLano was the loan officer who handled the bank loan to Mr. Palmer for his company, Premier Van Lines, which then went bankrupt! (E-115§A)
12. Extraordinary, for that closes the circuit of relationships between the main parties to the *Pfuntner* and the *DeLano* cases. It begs the question: How many of Mr. DeLano’s other clients during his long banking career have ended up in bankruptcy and in the hands of Trustees Gordon and Reiber, who as Chapter 7 and 13 *standing* trustees, respectively, are unavoidable? (E-33§II)
13. An impartial observer could reasonably realize that the DeLanos’ motion to disallow Dr. Cordero’s claim is a desperate attempt to remove belatedly from their case Dr. Cordero, the only

creditor that objected to the confirmation of their repayment plan (E-57; E-199) and that is insisting on their production of financial documents that can show their concealment of assets, among other things (E-75; E-80; E-204). But not Judge Ninfo. He agreed with Dr. Cordero at the July 19 hearing and without objection from the DeLanos' attorney, Christopher Werner, Esq., to issue Dr. Cordero's document production order requested on July 9 (E-69¶31; E-76), whose contents all knew. But after Att. Werner untimely objected (E-79; E-92§IV), he refused to even docket it (E-80; E-84§I; 90§III) and only issued a watered down version on July 26 of Dr. Cordero's proposed order (E-76; E-81) that he then allowed the DeLanos to disobey by not producing the documents requested in the Judge's order! If not for leverage, what was it issued for?

14. Dr. Cordero moved (E-83) that the DeLanos be compelled to comply with the production order (E-98) and Judge Ninfo reacted by issuing his order of August 30 that suspends all proceedings in the DeLano case until their motion to disallow Dr. Cordero's claim has been determined, *including all appeals*. (E-107; E-121§III) That could take years! during which the other 20 creditors are prejudiced by not receiving any payments. But that is as inconsequential to Judge Ninfo as is his duty under 11 U.S.C. §1325(a)(3) to determine whether the DeLanos submitted their petition "by any means forbidden by law". Why Judge Ninfo disregards his duty and the interests of creditors and the public so as to protect the DeLanos needs to be investigated.
15. By contrast, Judge Ninfo has denied Dr. Cordero the protection to which he is entitled under §1325(b)(1), which entitles a single holder of an allowed unsecured claim to block the confirmation of the debtor's repayment plan; and under §1330(a), which enables any party in interest, even if not a creditor, to have that confirmation revoked if procured by fraud. But that is precisely what Judge Ninfo cannot allow, for if he lets the DeLanos' case go forward concurrently with the determination of their motion to disallow Dr. Cordero's claim, the DeLanos would have to be examined under oath on the stand and at an adjourned meeting of creditors, and Dr. Cordero, as a creditor or a party in interest, could raise objections and examine them. That is risky because the DeLanos, if left unprotected, could talk and incriminate others. Thus, for extra protection of all those at risk, Judge Ninfo stated at the August 25 hearing that until the motion to disallow is decided, no motion or other paper filed by Dr. Cordero will be acted upon. (cf. E-245¶2) To afford them protection, Judge Ninfo has gone as far as to deny Dr. Cordero access to judicial process! (E-121§§III-IV) The stakes must be very high!

16. Thus, in his August 30 order (E-101) Judge Ninfo required Dr. Cordero to prove his claim against Mr. DeLano, though he cited no legal basis therefor and ignored the legal basis for not doing so. (E-109) Yet, to comply with it, Dr. Cordero requested Mr. DeLano to produce documents (E-204; E-225). Mr. DeLano alleged that they were irrelevant to Dr. Cordero's claim against him and produced none. (E-230). Dr. Cordero raised a motion (E-234) where he discussed the scope of discovery under FRBkrP Rule 7026 and FRCivP Rule 26(b)(1). (E-237§II) He argued that he can request discovery not only to prove his claim against Mr. DeLano, but also to defend against the DeLanos' motion to disallow it by showing that it is a blatant attempt to remove him from the case before he can demonstrate that the DeLanos' petition is fraudulent and masks, among other things, concealment of assets.
17. The response to that motion of November 4 was ever so swift: On November 9, Mr. DeLano filed a response denying production of every document requested, alleging them to be irrelevant or not in his possession (E-242) and on November 10, without any hearing, Judge Ninfo entered an order stating that "The Cordero Discovery Motion is in all respects denied". (E-244) Neither the Judge nor the attorney for Mr. DeLano, Att. Werner, engaged in any legal discussion, much less cited any legal provision, (cf. E-40-42) for why waste time and effort researching and discussing the law, rules, and facts when the judge is on your side and he has no inhibition about resorting to conclusory statements to achieve his objective: to prevent at all costs Dr. Cordero from discovering information that can link judicial misconduct (E-1) to a bankruptcy fraud scheme. Would you feel proud of having written that order or rather, for standing up for your belief that just and fair process and the integrity of the judiciary require that an investigation should be had?

**C. Reasonable grounds for believing that Trustee Reiber and  
Att. James Weidman have violated bankruptcy law**

18. Chapter 13 Trustee Reiber violated his legal obligation under 28 CFR §58.6 to conduct personally the meeting of creditors of David and Mary Ann DeLano, held on March 8, 2004 (E-163). Instead, he appointed his attorney, James Weidman, Esq., to conduct it. After all, Trustee Reiber has 3,909<sup>6</sup> *open* cases! He cannot be all the time where he should be.
19. So at the March 8 meeting of creditors, Trustee Reiber's attorney, Mr. Weidman, repeatedly asked Dr. Cordero how much he knew about the DeLanos having committed fraud and when he

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<sup>6</sup> As reported by PACER at [https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L\\_916\\_0-1](https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L_916_0-1) on April 2, 2004.

did not reveal anything, Att. Weidman terminated the meeting although Dr. Cordero had asked only two questions and was the only creditor at the meeting so that there was ample time for him to keep asking questions. Later on that very same day, Trustee Reiber ratified in open court and for the record Att. Weidman's decision, vouched for the DeLanos' honesty, and stated that their petition had been submitted in good faith. (E-40-42)

20. But those were just words, for Trustee Reiber had not asked for any supporting documents from the DeLanos despite his duty to "investigate the financial affairs of the debtor" under 11 U.S.C. §704(4); after Dr. Cordero requested under §704(7) that he do so, Trustee Reiber misled him into believing that he was investigating the DeLanos. (E-65§III) Only after Dr. Cordero asked that he state concretely what kind of investigation he was conducting did the Trustee for the first time, on April 20, 2004, ask for documents, pro forma (E-64§II) and perfunctorily (E-66§IV).
21. Thus, Trustee Reiber merely requested documents relating to only 8 out of the 18 credit cards declared by the DeLanos, only if the debt exceeded \$5,000, and for only the last three years out of the 15 years put in play by the Debtors themselves, who claimed in Schedule F (E-167 et seq.) that their financial problems related to "1990 and prior credit card purchases". Incredible as it does appear, the Trustee did not ask them to account for the \$291,470 earned in just the 2001-03 fiscal years, according to their 1040 IRS forms, despite having declared to have in hand and on account only \$535! (E-66§IV; E-167 et seq.)
22. Despite Dr. Cordero's repeated requests that Trustee Reiber hold an adjourned meeting of creditors. (E-201; E-214; E-228) The Trustee has refused alleging that Judge Ninfo suspended all "court proceedings" until the DeLanos' motion to disallow Dr. Cordero's claim has been finally determined (E-213). What an untenable pretense! To begin with, his obligation to hold such meeting flows from 11 U.S.C. §341 for the benefit of the creditors and is not subject to the will of the judge. So much so that §341(c) expressly forbids the judge to "preside at, and attend, any meeting under this section including any final meeting of creditors". What the judge cannot even attend, he cannot order not to take place at all. It follows that a meeting of creditors does not fall among "court proceedings" and was not and could not be suspended by Judge Ninfo. (E-215)
23. Trustee Reiber is motivated by self-preservation, not duty, for if the DeLanos' petition were established to be fraudulent, he would be incriminated for having approved it despite its patently suspicious contents. That could lead to his being investigated to determine how many of his other 3,909 cases are also meritless or even fraudulent. Worse yet, if he were removed from the

DeLano case, as Dr. Cordero has repeatedly requested of Judge Ninfo and of the U.S. Trustees Schmitt and Martini (E-71¶32; E-93§V & §VI¶34d; E-224), he would be suspended from all his other cases under §324; cf. UST Manual vol. 5, Chapter 5-7.2.2. No wonder he has been so flagrantly disingenuous in pretending that he cannot hold a §341 examination of the DeLanos because Judge Ninfo's order does not allow him to. (E-215; E-219; cf. E-214)

24. So has been Assistant U.S. Trustee Kathleen Dunivin Schmitt, the supervisor of Private Trustees Reiber and Gordon. Dr. Cordero asked her in writing (E-224) and in messages left on her voice mail and with her assistants that she instruct Trustee Reiber to hold a §341 examination of the DeLanos or state why neither she or he will do so. She has failed to return his calls or write to him. Instead, she had an assistant state that she "is planning to contact George Reiber, Esq., so they can coordinate setting up an adjourned meeting of creditors in the [DeLano case]...and will contact you [when she will be in] the office on November 17 to handle court appearances...or prior to it". (E-227) However, although she has her office in the same small federal building in Rochester as Bankruptcy Judge Ninfo and the U.S. District Court as well as the U.S. Attorney and the FBI (cf. 14§III, *infra*), and she did appear in court on November 17, according to her assistants, and can get a hold of Trustee Reiber there and on the phone, and summon him to her office, she failed to contact Dr. Cordero on that date, prior to it or thereafter, and will not return his messages.
25. Trustee Schmitt has an interest in not letting that examination take place. If Dr. Cordero, as a creditor, examined the DeLanos and found out that their petition was fraudulent, not to mention that Trustee Reiber knew it, and Trustee Reiber were investigated, she too could be investigated for having allowed her Supervisee Reiber –just as she did her Supervisee Gordon- to accumulate thousands of bankruptcy cases that he cannot possibly handle competently, but from each of which he receives a fee. Why? How does she figure that Trustee Reiber could review the bankruptcy petition of each of those 3,909 cases –and Trustee Gordon his 3,383 cases-, ask for and check supporting documents, and monitor the debtors' compliance with the repayment plan *each month for the three to five years that plans last?* How could she expect those trustees to have time to do anything more than rubberstamp petitions and cash in? (11§IIA, *infra*) What was she thinking!?! Certainly, what she has been doing with those trustees needs to be investigated.
26. So does the kind of supervision that U.S. Trustee for Region 2 Deirdre A. Martini has been or not been exercising over Assistant U.S. Trustee Schmitt. (E-68§V) Dr. Cordero has served on her every paper that he has written in the DeLano case since the unlawful termination of the

March 8 meeting of creditors by Trustee Reiber and his attorney, Mr. Weidman; in addition, he has written to her specifically. She has actual and constructive knowledge of the details of this case. In fact, as early as March 17 and without any investigation of the motives for preventing Dr. Cordero from examining the DeLanos, she stated categorically to him that she would not remove Trustee Reiber from the DeLano case, as Dr. Cordero had requested, and that instead she just wanted "closure". How odd, for the case had just gotten started! Then she engaged in deception to avoid sending him information that could allow him to investigate the case on his own. (E-141¶10)

27. More recently, Trustee Martini has failed to state, as requested by Dr. Cordero, whether she will ask Trustee Schmitt to instruct Trustee Reiber to hold an examination of the DeLanos at an adjourned meeting of creditors. She too has failed to write to Dr. Cordero thereon as promised in their phone conversation on November 1, the second one that she has deigned to take from him (E-224; E-247), just as Trustee Schmitt failed to contact Dr. Cordero on that subject, as she let him know she would (E-227).
28. Something is not right here...or rather a lot. Why none of them wants Trustee Reiber to investigate the DeLanos and all have countenanced his failure to do so calls for an investigation. No doubt, Mr. DeLano, a loan officer for 15 years, knows and could say too much under examination.

## **II. The Evidence Points to the Operation of A Bankruptcy Fraud Scheme**

### **A. How a bankruptcy fraud scheme works**

29. The above-described few elements of the evidence, when reviewed as a 'totality of circumstances' instead of individually, give rise to the reasonable suspicion that these people are acting, not separately, but rather in a coordinated fashion, with judicial misconduct supporting a bankruptcy fraud scheme. (cf. fraudulent intent may be proven circumstantially. *United States v. Goodstein*, 883 F.2d 1362, 1370 (7th Cir. 1989), *cert. denied*, 494 U.S. 1007 (1990)) It is utterly unlikely that they began so to act just because Dr. Cordero is a party in the Pfuntner case and a creditor of the DeLanos. What is utterly likely is that these people have worked together on so many thousands of cases that they have developed a modus operandi which disregards legality as well as the interests of creditors and the public at large.
30. Thus, as insiders they know that institutional lenders do not participate in bankruptcy

proceedings if their respective stake does not reach their threshold of cost-effective participation. This is particularly so if they are unsecured lenders, which explains why the DeLanos distributed their debt over 18 credit card issuers and did not consolidate. Knowing that, they could not have imagined that Dr. Cordero, a pro se and non-local party without anything remotely approaching an institutional lender's resources, would even attend the meeting of creditors, let alone pursue this case any further. Hence, this should have been another garden variety fraudulent bankruptcy within their scheme, with all creditors as losers and the schemers as winners of something.

31. The incentive to engage in bankruptcy fraud is typically provided by the enormous amount of money that an approved debt repayment plan followed by debt discharge can spare the debtor. That leaves a lot of money to play with, for it is not necessarily the case that the debtor is broke.
32. As for a standing trustee, who is a private professional, not a federal employee, she is appointed under 28 U.S.C. §586(e) for cases under Chapter 13 and is paid 'a percentage fee of the payments made under the debt repayment plan of each debtor'. Thus, after receiving a petition, the trustee is supposed to investigate the financial affairs of the debtor to determine the veracity of his statements. If satisfied that he deserves bankruptcy relief from his debt burden, the trustee approves his plan and submits it to the court for confirmation. A confirmed plan generates a stream of payments from which the trustee takes her fee. But even before confirmation, money begins to roll in because the debtor must commence to make payments to the trustee within 30 days after filing his plan and the trustee must retain those payments, 11 U.S.C. §1326(b).
33. If the plan is not confirmed, the trustee must return the money paid, less certain deductions, to the debtor. This provides the trustee with an incentive to approve the plan and get it confirmed by the court because no confirmation means no further stream of payments and, hence, no fees for her. To insure her take, she might as well rubberstamp every petition and do what it takes to get the plan confirmed by every officer that can derail confirmation. Cf. 11 U.S.C. §326(b).
34. The trustee would be compensated for her investigation of the petition -if at all, for there is no specific provision therefor- only to the extent of "the actual, necessary expenses incurred", §586(e)(2)(B)(ii). An investigation of the debtor that allows the trustee to require him to pay his creditors another \$1,000 will generate a percentage fee for the trustee of \$100 (in most cases). Such a system creates the incentive for the debtor to make the trustee skip any investigation in exchange for an unlawful fee of, let's say, \$300, which nets her three times as much as if she



had sweated over the petition and supporting documents. For his part, the debtor saves \$700. Even if the debtor has to pay \$600 to make available money to get other officers to go along with his plan, he still comes \$400 ahead. To avoid a criminal investigation for bankruptcy fraud, a debtor may well pay more than \$1,000. After all, it is not as if he really had no money.

### **B. Reasonable Grounds For Believing That The Parties Are Operating a Bankruptcy Fraud Scheme**

35. Dr. Cordero does not know of anybody paying or receiving an unlawful fee in this case in violation of 18 U.S.C. §152(6) and does not accuse anybody thereof. But just as a jury is entitled to "put two and two together" at the time of deciding upon depriving a bankruptcy fraudster of his property or even his freedom (DoJ US Attorneys' Manual, Title 9, Criminal Resources Manual §840), Dr. Cordero too is entitled to use common sense in drawing reasonable inferences from what he does know and affirm:
- a) Trustee Reiber had 3,909 *open* cases on April 2, 2004, according to PACER (¶¶4a and 18, *supra*);
  - b) got the DeLanos' petition ready for confirmation by the court without ever requesting a single supporting document (E-64§I);
  - c) chose to dismiss the case rather than subpoena the documents requested but not produced (E-62, E-65§III);
  - d) has refused to trace the substantial earnings of the DeLanos' (E-68§V); and
  - e) after ratifying the unlawful termination of the meeting of creditors (E-40-42), refuses to hold an adjourned one where the DeLanos would be examined under oath, including by Dr. Cordero (E213, E-215).
36. Moreover, there is something fundamentally suspicious when a bankruptcy judge:
- a) protects bankruptcy petitioners from a default judgment and from having to account for \$291,470 (E-234, E-244);
  - b) allows the local parties to disobey his orders with impunity (E-234, E-244; ¶8, *supra*);
  - c) before any discovery has taken place, prejudices in his August 30 order that their motion to disallow Dr. Cordero's claim is not an effort to eliminate him from the case (E-106), although he is the only creditor that threatens to expose their bankruptcy fraud scheme (E-66¶¶17-20);
  - d) yet shields them from discovery by suspending all further process until their motion to

disallow Dr. Cordero's claim is finally determined (E-107) and agreeing that they may not produce any documents at all, not even those that he had ordered them to produce! (E-81, E-92§IV; E-114§II); cf. 18 U.S.C.§154(2)); and

e) engages and allows other court officers to engage in inexcusable docket manipulation (E-75, E-80, E-84§§I-II) and knowingly makes onerous requests on Dr. Cordero for no purpose at all (E-84§III; ¶6, supra) and disregards the law, the rules, and the facts (E-1; E-40-42; E-114§II) so repeatedly and consistently to the detriment of Dr. Cordero, the only pro se and non-local party, and to the benefit of the local parties (E-121§IV) so that his and their acts form a pattern of non-coincidental, intentional, and coordinated wrongdoing.

37. These facts and circumstances together with those of the DeLanos (¶10, supra; §IV, infra) support the reasonable suspicion that they have engaged in coordinated conduct aimed at attaining a mutually beneficial objective, that is, a scheme, and that such conduct originates in bankruptcy fraud. Consequently, what the scheme undermines is, not just the legal, economic, and emotional wellbeing of Dr. Cordero...as if anybody cares...but the integrity of judicial process and the bankruptcy system. That constitutes an offense and there are reasonable grounds for believing that it has been committed and that an investigation thereof should be had (cf. 18 U.S.C. §3057(a)). That investigation should be an official one because

18 U.S.C. §152 was enacted to serve the important interests of government, not merely to protect individuals who might be harmed by the prohibited conduct [to that end, §152] attempts to cover *all the possible methods* by which a bankrupt *or any other person* may attempt to defeat the Bankruptcy Act through an effort to keep assets from being equitably distributed among creditors, *Stegeman v. United States*, 425 F.2d 984, 986 (9th Cir.), *cert. denied*, 400 U.S. 837 (1970)(citation omitted; emphasis in original).

### **III. The need for investigators to be unacquainted with any party that may be investigated**

38. If that investigation is to have any hope of finding and exposing all the ramifications of the vested interests that have developed rather than being suffocated by them, it must be carried out by investigators that do not even know these people. This excludes not only all those that are their colleagues or friends, but also those that are their acquaintances either because they work

in the same small federal building, as do the U.S. attorneys and FBI agents, or live in the same small community in Rochester or Buffalo, NY. They too may fear the consequences of admitting that right under their noses such a scheme developed. The evidence contained in letters and conversations between Dr. Cordero and U.S. officers (E-135-152) justifies such request and warrants the following remarks.

39. A competent investigation cannot limit itself to asking officers, whether they be trustees, U.S. attorneys, or FBI agents, to file a report on what they and others have done concerning this matter. It should be quite obvious that they would not write a mea culpa incriminating themselves. Could any reasonable person expect them to do so? Rather, what they will choose to write down, or say upon being questioned or interrogated, will bear the spin that they have put on it in order to make themselves appear to have discharged their trustees duties adequately and their investigative or supervisory functions appropriately. The same goes for what judicial officers have written in their orders or decisions. One must read them between lines, both in the context of everything else in the cases in question and with a basic understanding of what motivates people's conduct. The former provides knowledge of the facts and the latter calls for intuition, common sense, and a feeling for what is just, fair...and you would like done to you.
40. So equipped, a forensic investigator can apply the principle of plausible explanations, which says that if two explanations adequately explain the same set of circumstances and observations, neither can be discarded without further investigation that brings to light new relevant circumstances or observations that show one explanation to be less adequate than the other because, for example, to a substantial degree it is inconsistent with, or incapable of explaining, the new elements. That principle is of such paramount importance in decision making that it provides the foundation of our criminal law in the form of the standard of beyond a reasonable doubt.
41. Thus, one of two plausible explanations for the conduct of people under investigation cannot be preferred over the other because those people are assumed to be honest and competent, if that is precisely what the evidence cast doubt on and what the investigation must determine. To make such assumption and systematically give the benefit of the doubt to them because they are judges or other U.S. officers is to conduct a pro forma exercise guided by a preconceived idea that they can do no wrong and their word is implicitly truthful and correct. While a person is presumed to be innocent until proven guilty, that is not the same as assuming that he or she is honest, let alone incapable of a lapse of judgment, immune from the temptation of an illegal

gain or advantage too good to be missed, and has the integrity not to indulge in abuse of power to obtain it. Such assumption does not lead an investigation to ascertaining the facts, but rather reaches the intended objective of a whitewash.

42. Nor can a competent investigation proceed on the assumption that the complainant is fundamentally dishonest and nothing but a nuisance. That attitude betrays a bias against him, born of the mentality that ‘we protect our own from outsiders that attack any of us’. Such way of thinking is inimical to the mentality of a public servant, one who welcomes the opportunity to serve a member of the public. But when the aim is to get rid of any of them, the first thing to go is his credibility, which results in discounting his statements as unreliable. Consequently, his statements are not used to check the reports received from the officers, which are accepted at face value, for why confront the truth and accuracy of “trusted professionals” (E-150) against the mere “allegations” (E-135)-of just ‘another unhappy litigant’ (E-150)?
43. Such uncritical acceptance of whatever officers say, which arbitrarily ignores the realistic possibility that their statements may be colored by their vested interests (cf. ¶¶4-5, supra), causes the investigator to follow them as if drawn by the nose, unaware of walking over a path strewn with gross mistakes of fact and reasoning, never caught because never searched for because always conceived as non-existent. The infirm conclusions arrived at by going through such motions of an investigation are not only unjust and unfair to the complainant, who is left to suffer even more abuse and bias (E-43 ftns. 2-5 and related text), but they also protect the officers from being exposed and thereby affords them the sense of security that encourages them to persist in their ways (cf. E-42). If their ways are the twisted ones of wrongdoing and substandard performance, the situation complained-about only worsens until it explodes into a scandal.
44. Hence, an investigation conducted by those so involved with people to be investigated that, at best, they trust them more than the evidence (E-136, E-143¶17), and at worse, they excuse or look the other way for fear of being investigated themselves (E-143¶18), is fundamentally flawed. Let out-of-towners, unrelated to any potential investigative target, conduct all aspects of the investigation.

#### **IV. Starting points for an investigation into the scheme**

45. Such investigation should take into account 18 U.S.C. § 152 and start by:

- a) subpoenaing the bank account and *debit* card statements of the DeLanos to establish the flow of their earnings since the date they alleged their financial problems began, that is, “1990 and prior credit card purchases” (E-167 et seq., Scheduled F; cf. 18 U.S.C. §152(9) and DoJ US Attorneys Manual, Title 9, Criminal Resources Manual §867);
- b) ascertaining the whereabouts of the \$291,407 earned in just the 2001-03 fiscal years according to their 1040 IRS forms (cf. 11 U.S.C. §542(a));
- c) establishing the nature and use of \$118,000 borrowed from Manufacturers & Traders Trust (MT&T) and ONONDAGA Bank, in two \$59,000 charges that, according to the Equifax credit report of May 8, 2004, for Mrs. DeLano, appear on accounts opened in March 1988; were paid in little over 10 years; and are noted by Equifax as “Current status-Pays as agreed”. Since the DeLanos have been late in paying their debts more than 232 times, according to that Equifax report and the one for Mr. DeLano of April 26, 2004, this money must have gone into something sufficiently important for the DeLanos not to risk losing it by failing to pay “as agreed”. Where did \$118,000 go or in which asset(s) is it? It is certainly not accounted for by their mere \$21,415 home equity or their meager \$2,910 worth of household goods (E-167 et seq., Schedules A and B)...near the end of two lifetimes of work! Will they retire to old-age poverty or to a golden nest?;
- d) establishing the circumstances of their \$10,000 loan to their son, undated and already declared uncollectible by the DeLanos, none too concerned by their financial security although at the time of their bankruptcy they declared only \$535 “cash on hand” and in accounts (E-167 et seq. Schedule B; cf. 18 U.S.C. § 152(7) and Criminal Resources Manual §§858 and 862); and
- e) examining the DeLanos under oath, for what a veteran bank loan officer and his technically-oriented wife know could lead to cracking a far-reaching bankruptcy fraud scheme!

## **V. Relief requested**

46. Therefore, Dr. Cordero respectfully requests that you:

- a) report this Request and Exhibits to the Acting U.S. Attorney General (28 U.S.C. §526(a)(1)) for an investigation (cf. 18 U.S.C. § 3057(b)) into the evidence of a judicial misconduct and bankruptcy fraud scheme, which has emerged in connection with the

following cases:

1. *Premier Van et al.*, docket no. 03-5023, CA2;
  2. Mr. Palmer's *Premier Van Lines, Inc. case*, docket no. 01-20692, WBNY;
  3. *Pfuntner v. Trustee Gordon et al.*, docket no. 02-2230, WBNY; and
  4. *In re David and Mary Ann DeLano*, docket no. 04-20280, WBNY;
- b) recommend to the Acting U.S. Attorney General that he appoint experienced investigators who are unrelated to and unacquainted with any of the parties that may be investigated in order to insure that they can conduct a zealous, competent, and exhaustive investigation of the nature and extent of the scheme regardless of who is found to be actively participating in it or looking the other way and that to that end, they be from U.S. Attorney or FBI Offices other than those in Rochester and Buffalo, NY, such as those in Washington, D.C. or Chicago;
- c) copy Dr. Cordero to your report and referral letter.

Respectfully submitted on,

December 6, 2004

*Dr. Richard Cordero*

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

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# TABLE OF EXHIBITS

in support of the Request of December 6, 2004  
to Michael A. Battle, Esq., U.S. Attorney, WDNY  
to report to the Acting U.S. Attorney General  
for investigation the evidence of  
a judicial misconduct and bankruptcy fraud scheme  
by  
**Dr. Richard Cordero**

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<sup>1</sup> D:=Designated items, i.e. documents, in the record for the appeal from Bankruptcy Judge Ninfo’s decision in *In re DeLano*, 04-20280, WBNY, to the District Court in *Cordero v DeLano*, 05cv6190L, WDNY. These items are contained on the accompanying CD in the D folder.

The latter also holds Add:=Addendum to the D: files; Pst:= PostAddendum; and Tr:=transcript of the evidentiary hearing in *DeLano* held before Judge Ninfo on March 1, 2005.

Mr. DeLano is a 3rd-party defendant whom Dr. Cordero brought into *Pfuntner v. Trustee Gordon et al.*, 02-2230, WBNY, Judge Ninfo presiding. Later on, he filed for bankruptcy and included Dr. Cordero among his creditors because of the latter’s claim against him arising from *Pfuntner*.

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71. Dr. <b>Cordero</b> 's notice of <b>motion</b> and supporting brief of <b>November 4, 2004</b> , to <b>enforce</b> Judge Ninfo's <b>Order</b> of August 30, 2004, by ordering Mr. <b>DeLano</b> to <b>produce</b> the requested documents and declaring that the Order does not and cannot prevent Trustee <b>Reiber</b> from holding a §341 <b>examination of the DeLanos</b> .....	234	[D:317]
72. Att. <b>Werner</b> 's <b>statement</b> of <b>November 9, 2004</b> , to the court on behalf of the DeLanos' "opposition to Cordero motion [sic] regarding <b>discovery</b> " and request that it <b>be denied in all respects</b> .....	242	[D:325]
73. Judge <b>Ninfo</b> 's Interlocutory <b>Order</b> of <b>November 10, 2004</b> , <b>denying</b> in all respects Dr. <b>Cordero</b> 's <b>motion</b> of November 4 and holding the hearing, noticed for November 17, to be moot .....	244	[D:327]
74. Dr. <b>Cordero</b> 's letter of <b>November 14, 2004</b> , to Trustee <b>Martini</b> <b>requesting</b> that she <b>send</b> him the <b>letter</b> that she agreed to send him to confirm her position that she will not remove Trustee Reiber and requesting that she <b>instruct</b> Trustee <b>Reiber</b> to conduct a §341 <b>examination</b> of the <b>DeLanos</b> .....	247	[D:330]

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# Dr. Richard Cordero

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December 27, 2004

Michael Battle, Esq.  
U.S. Attorney for WDNY  
U.S. Attorney's Office  
138 Delaware Center  
Buffalo, NY 14202

faxed (716)551-3052

Re: a judicial misconduct and bankruptcy fraud scheme

Dear Mr. Battle,

On 6 instant I faxed you a letter followed by a formal "REQUEST to Michael A. Battle, Esq. U.S. Attorney for the Western District of New York to report to the Acting U.S. Attorney General for investigation the evidence of a judicial misconduct and bankruptcy fraud scheme."

To date I have received no reply from you thereto although your Executive Assistant, Mrs. J. Bowman, has acknowledged receipt of both the letter and the Request. I have also left messages, recorded for you on your Office voice mail and in conversation with Mrs. Bowman, requesting a reply from you. However, I can reasonably expect a reply from you given that in your letter to me of last November 29, you stated the following:

I am sorry, as you expressed that you feel I did not give adequate review to your claims following our most recent telephone conversation. The fact of the matter is I took what you said and requested very seriously.

If you really did mean this, then you can take only more seriously my letter and Request because not only does evidence of a judicial misconduct and bankruptcy fraud scheme keeps piling up, but also the wrongdoing of the participants in the scheme is now compounded by the statements in your November 29 letter showing, among other things, that your "trusted professionals":

- 1) gave you factually wrong and misleading information that my case was "resolved by a bankruptcy judge" although I am party to not one, but two cases and both are ongoing;
- 2) must have had direct ex parte or indirect contact with Judge Ninfo through which they have learned the outcome of a case still in progress, thus turning it into a sham process;
- and 3)** have dissuaded you from opening an investigation into the judicial misconduct and bankruptcy fraud scheme that I complained about by pretending that I had complained about a "final legal resolution" that I was not "in agreement with" although there has not been a legal resolution to anything, let alone a final one, so that this matter is very much open and an investigation is very much called for. Anyway, who ever heard that a U.S. Attorney refrains from investigating evidence of bankruptcy fraud just because a judge complained-about for supporting it with his misconduct has "resolved" it?

Therefore, I respectfully reiterate my request that you:

- a) reply to my letter and request of December 6;
- b) refer the Request and its Exhibits to the Acting U.S. Attorney General for investigation by officers unrelated to the DoJ or FBI staff in Rochester or Buffalo; and
- c) copy me to the referral.

Sincerely,

*Dr. Richard Cordero*

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