

U.S. Bankruptcy Court
Western District of New York (Rochester)

Adversary Proceeding #: 02-2230

Date filed: 9/27/02

Assigned to: Hon. John C. Ninfo, II

Related Bankruptcy Case #: 01-20692

In Re: Premier Van Lines, Inc., a Corporation,

Demand: \$20,000

Nature of Suit: 456

=====

* Attorneys *

JAMES PFUNTNER
* plaintiff *

David D. MacKnight
Lacy, Katzen etal
130 East Main St.
Rochester, NY 14604
585-454-5650

v.

KENNETH W. GORDON, As Trustee
100 Meridian Centre Blvd.
Suite 120
Rochester, NY 14618
* defendant *

Kenneth W. Gordon
Gordon & Schaal
100 Meridian Centre Blvd.
Suite 120
Rochester, NY 14618
585-244-1070

RICHARD CORDERO
* defendant *

ROCHESTER AMERICANS HOCKEY
CLUB, INC.
* defendant *

M & T BANK
* defendant *

Michael J. Beyma
Underberg & Kessler
1800 Lincoln First Tower
Rochester, NY 14604
585-258-2890

v.

RICHARD CORDERO
59 Crescent Street
Brooklyn, NY 11208
* third party plaintiff *

v.

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INTERNAL USE ONLY: Events between 1/1/31 and 5/19/03.
02-2230 James Pfuntner v. Kenneth W. Gordon, et al

DISMIS

DAVID J. PALMER
* 3rd party defendant *

DAVID DWORKIN
* 3rd party defendant *
Karl S. Essler
Fix, Spindelman, Brovitz, Turk,
Himelein
500 Crossroads Building
2 State Street
Rochester, NY 14614
585-232-1660

JEFFERSON HENRIETTA ASSOCIATES
* 3rd party defendant *
Karl S. Essler
(See above)

DAVID DELANO
* 3rd party defendant *
Michael J. Beyma
Underberg & Kessler
1800 Lincoln First Tower
Rochester, NY 14604
585-258-2890

INTERNAL USE ONLY: Events between 1/1/31 and 5/19/03.

02-2230 James Pfuntner v. Kenneth W. Gordon, et al DISMIS

9/27/02 1 Complaint filed to (AP Dkt. 02-2230) James Pfuntner vs. Kenneth W. Gordon, Trustee; Richard Cordero, Rochester Americans Hockey Club, Inc; and M&T Bank to obtain a declaratory judgment relating to any of foregoing causes of action [1-1] FEE NOT PAID, CALLED D. Macknight's office, and will send check on Monday. (kt) [02-2230]

10/1/02 2 Filing fee paid; Receipt No.: 22052838 [2-1] re: adversary proceeding. (kt) [EOD 10/03/02] [02-2230]

10/3/02 3 Summons issued. [3-1] Answer due: 11/4/02 for M & T Bank, for Rochester Americans Hockey Club, Inc., for Richard Cordero, for Kenneth W. Gordon (kt) [02-2230]

10/8/02 4 Affidavit of Mailing re: summons [3-1], complaint to obtain a declaratory judgment relating to any of foregoing causes of action [1-1] [4-1] Clerk's Note: Defendant, M&T Bank was not served, per D. MacKnight's office, will serve and send in an Affidavit of Service. (kt) [EOD 10/09/02] [02-2230]

10/9/02 5 Answer filed on behalf of Kenneth W. Gordon [5-1] by Kenneth W. Gordon, Esq. (kt) [02-2230]

10/15/02 6 Affidavit of Mailing re: summons [3-1], complaint to obtain a declaratory judgment relating to any of foregoing causes of action [1-1] [6-1] served on: M & T Bank, attn: David DeLano, Assistant Vice President. (pf) [EOD 10/16/02] [02-2230]

10/17/02 7 Letter [7-1] from Dr. Richard Cordero, advising that he has not yet been served in this matter. SEE LETTER FOR FURTHER DETAILS. (kt) [EOD 10/23/02] [02-2230]

10/25/02 8 Waiver of Service of Summons and Petition for Clarification of Richard Cordero, Pro Se [8-1] (kt) [EOD 11/05/02] [02-2230]

11/1/02 9 Clerk's Note: Richard Cordero called to inquire when his answer was due; he was advised that the date certain is 11/4/02; he said that he will mail out his answer. Further on 10/31/02, Mr. Cordero was advised that an extension of time for the answer would need to be stipulated to, or a motion may be brought, but an extension of time to answer cannot be done ex-parte. 9-1] (kt) [EOD 11/05/02] [02-2230]

11/6/02 10 Answer filed on behalf of Richard Cordero, Defendant. Filed by R. Cordero, pro se defendant. [10-1] by , Esq. (kt) [02-2230]

11/6/02 11 Answer filed on behalf of M & T Bank [11-1] by Michael J. Beyma, Esq. (kt) [02-2230]

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Special Appendix to Dr. Cordero's brief of 7/9/3 in *Premier Van et al.*, 03-5023, CA2

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02-2230 James Pfunter v. Kenneth W. Gordon, et al DISMIS

11/12/02 12 Plaintiff's Reply to Richard Cordero's Counterclaim, filed by David MacKnight, Atty. [12-1] (kt) [02-2230]

11/12/02 13 Affidavit of Mailing re: Reply filed by D. MacKnight, Atty. [12-1] [13-1] (kt) [02-2230]

11/18/02 -- Third Party Complaint and Crossclaim filed to (AP Dkt. 02-2230)James Pfunter, Plaintiff vs. Kenneth Gordon, Tr., Richard Cordero, Rochester Americans Hockey Club, Inc., M&T Bank, defendants, cross-defendants; Richard Cordero, defendant and third party plaintiff, vs. David Palmer, David Dworkin, Jefferson Henrietta Associates and David Delano. [0-0] (kt) [EOD 11/21/02] [Edit date 11/26/02] [02-2230]

11/19/02 14 Third Party Summons issued. [14-1] Answer due: 12/19/02 for David Delano, for Jefferson Henrietta Associates, for David Dworking, for David J. Palmer (kt) [EOD 11/21/02] [02-2230]

11/25/02 17 Affidavit of Mailing re: [17-1]third party complaint and summons. Served on essential parties. (kt) [EOD 12/09/02] [02-2230]

11/25/02 18 Amended Answerwith cross-claims filed by Richard Cordero, Pro Se Defendant. [18-1] (kt) [EOD 12/09/02] [02-2230]

12/2/02 19 Copy of Appeal filed with the U.S. Trustee's office by Richard Cordero, Pro Se Defendant. [19-1] (kt) [EOD 12/09/02] [02-2230]

12/5/02 15 Notice of Motion for dismissal of cross-claim against trustee in an adversary proceeding [15-1] Hearing date and time: 9:30 12/18/02 at Rochester Courtroom Filed by: Kenneth Gordon, Esq. Affidavit of service: filed (pf) [EOD 12/06/02] [02-2230]

12/6/02 16 Letter [16-1]dated 12/5/02 from David MacKnight, Esq. to the Court that it might be helpful that the Trustee provide a listing from the debtors records of whose property debtor placed in the Henrietta location and whose property debtor placed in the Avon property. SEE LETTER FOR MORE DETAILS. (pf) [02-2230]

12/9/02 20 Letter [20-1] to Plaintiff's attorney to expedite prosecution of AP; matter will be set on trial calendar for 9:00 1/22/03 Deadline to file documents: 12/19/02 ; (kt) [02-2230]

12/10/02 21 Letter [21-1]from K. Gordon, Tr., re:records of stored property by debtor. SEE LETTER FOR FURTHER TERMS AND CONDITIONS. (kt) [EOD 12/11/02] [02-2230]

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- 12/12/02 22 Memorandum of Law in opposition, filed by Dr. Richard Cordero, Defendant, and Third Party Plaintiff(Pro Se) [22-1] re: motion for dismissal of cross-claim against trustee in an adversary proceeding [15-1] . (kt) [02-2230]
- 12/13/02 23 Letter [23-1]from Amber Barney, Atty., advising that Underberg & Kessler will not be representing David Dworkin a party in this action, but are requesting an extension of time to answer from Dr. Cordero. (kt) [EOD 12/16/02] [02-2230]
- 12/17/02 24 Answer filed on behalf of M&T Bank David Delano, Third Party Defendant [24-1] by Michael J. Beyma, Esq. (kt) [EOD 12/18/02] [02-2230]
- 12/17/02 26 Letter [26-1]from K. Gordon to Dr. Cordero, advising that he does not consent to an adj. in this matter. (kt) [EOD 12/18/02] [02-2230]
- 12/18/02 25 Notice of Pre-trial Conference: [25-1] 10:00 1/10/03 at Rochester - Judge's Chambers; sent to David MacKnight, Atty; Kenneth Gordon, Tr.; Michael Beyma, Atty; Richard Cordero, Pro Se; Raymond Stilwell, Atty., and U.S. Trustee. (kt) [02-2230]
- 12/18/02 27 Minutes [27-1] re: motion for dismissal of cross-claim against trustee in an adversary proceeding - granted. The Court finds that Mr. Gordon's letters were not defamatory and that he was not negligent. Order to be submitted. NOTICE OF ENTRY TO BE ISSUED. Appearances: Kenneth Gordon, Trustee/Defendant; and in opposition: Dr. Richard Cordero, Pro Se Third Party Plaintiff (by telephone). (kt) [EOD 12/19/02] [02-2230]
- 12/19/02 28 Copy of Letter from Dr. Cordero to Underberg and Kessler, conditionally granting extension of time to file answer to 12/31/02, on behalf of David Dworkin and Jefferson Henrietta Associates, third party defendants, subject to certain conditions required by Dr. Cordero. [28-1] (kt) [EOD 12/20/02] [02-2230]
- 12/23/02 29 Letter [29-1]from Raymond Stilwell, Atty., advising that he is unable to attend the 1/10/03 pretrial as he has a conflict. Mr. Stilwell further advises that his appearance may not be necessary. SEE LETTER FOR FURTHER DETAILS. (kt) [EOD 12/24/02] [02-2230]
- 12/23/02 30 Order [30-1] granting motion for dismissal of cross-claim against trustee in an adversary proceeding, and that Dr. Cordero's cross-claims against the Trustee are hereby dismissed. [15-1]Notice of Entry Issued To: Kenneth Gordon, Atty; Dr. Richard Cordero, Defendant/Third Party Plaintiff; and U.S. Trustee. (kt) [EOD 12/30/02]

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[02-2230]

- 12/26/02 51 Affidavit of Mailing re: [51-1]Default Judgment in a Non-Core Matter. Filed by Dr. Richard Cordero. (kt) [EOD 02/04/03] [02-2230]
- 12/30/02 31 Answer filed on behalf of David Dworkin, Jefferson Henrietta Associates [31-1] by Karl S. Essler, Esq. (kt) [02-2230]
- 12/30/02 32 Letter [32-1]from Dr. Cordero, requesting that he appear by telephone for the 1/10/03 pretrial(submitted the pre-trial option form). (kt) [02-2230]
- 12/30/02 33 Letter [33-1] from Michael Beyma, Atty., advising that he does not have an objection to Dr. Cordero appearing by telephone for the 1/10/03 pretrial. (kt) [02-2230]
- 1/2/03 34 Clerk's Note: Advised R. Stilwell, Atty., that his appearance will not be necessary at the 1/10/03 Pretrial. [34-1] (kt) [02-2230]
- 1/2/03 35 Affidavit of Mailing re: [35-1]filed by Dr. Richard Cordero, Defendant/Third Party Plaintiff, re: pt option form and application to enter a default judgment against David Palmer. (kt) [EOD 01/03/03] [02-2230]
- 1/3/03 36 Order [36-1], that Dr. Richard Cordero, Defendant and Third Party Plaintiff may appear by telephone for the 1/10/03 pretrial (kt) [EOD 01/06/03] [02-2230]
- 1/6/03 37 Pre-Trial option form Order of 1/3/03 was mailed to Dr. Richard Cordero, Defendant; Michael Beyma, Esq. Kenneth Gordon, Esq.; David MacKnight, Esq., and delivered to the U.S. Trustee. [37-1] (kt) [02-2230]
- 1/6/03 38 Copy of Letter [38-1]from K. Gordon, Tr., to Dr. Cordero, Defendant/Third Party Defendant, advising that he has no objection to Dr. Cordero appearing by telephone re: the pretrial. (kt) [02-2230]
- 1/13/03 39 Notice of appeal Richard Cordero re: order of 12/23/02. [30-1] . Receipt No.: 22055167 (kt) [02-2230]
- 1/13/03 40 Civil Cover Sheet filed. [40-1] (kt) [02-2230]
- 1/14/03 41 Letter [41-1]to Dr. Richard Cordero, Defendant/Third Party Plaintiff, advising him that his designation of items on appeal are due on or before 1/27/03. Copy of letter served on essential parties. (kt) [02-2230]
- 1/15/03 42 Notice of Appeal and Certified copy transmitted to District Court. Civil Case #03-cv-6021L [42-1] (kt) [EOD 01/17/03] [02-2230]

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1/27/03 43 Apellant's designation by Richard Cordero of Contents for Inclusion in Record on Appeal. (kt) [EOD 01/29/03] [02-2230]

1/27/03 54 Letter [54-1]from Dr. Richard Cordero, re: transcript of hearing of 12/18/02. SEE LETTER FOR FURTHER DETAILS. (kt) [EOD 02/05/03] [02-2230]

1/29/03 44 Affidavit of Mailing re: appellant designation [43-1] by Richard Cordero [44-1] (kt) [02-2230]

1/30/03 47 Notice of Motion to extend time to of time to file Notice of Appeal [47-1] Hearing date and time: 9:30 2/12/03 at Rochester Courtroom Filed by: Richard Cordero, Defendant Affidavit of service: not filed (kt) [EOD 02/03/03] [02-2230]

1/31/03 45 Letter [45-1]from Dr. Cordero re: his available travel dates to come to Rochester to inspect his property in storage. SEE LETTER FOR FURTHER DETAILS. (kt) [02-2230]

2/3/03 46 Letter [46-1]from Dr. Richard Cordero, Defendant, Third Party Plaintiff, re: entry of a default judgment. SEE LETTER FOR FURTHER DETAILS. (kt) [02-2230]

2/3/03 48 Letter [48-1]from K. Gordon, Tr., advising that he will not be attending the inspection of Dr. Cordero's personal property in storage in Avon, NY. (kt) [02-2230]

2/4/03 49 Clerk's Certificate of Default [49-1] (kt) [02-2230]

2/4/03 50 Affidavit of Dr. Richard Cordero [50-1] re:Non-Military Service. (kt) [02-2230]

2/4/03 52 Order [52-1], to Transmit Record to District Court, re: non-core default judgment, with attachment to Recommendation of th eBankruptcy Court The Default Judgment Not Be Entered By the District Court (kt) [02-2230]

2/4/03 53 Letter [53-1]to District Court enclosing the required Documents re: Non Core Default Application for Default. Clerk's Note: Proposed original order submitted to District Court. (kt) [02-2230]

2/6/03 55 Memorandum of Law [55-1] re: motion to extend time to of time to file Notice of Appeal [47-1] . (kt) [02-2230]

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- 2/12/03 56 Minutes [56-1] re: motion to extend time to of time to file Notice of Appeal - denied; This motion was not filed timely as required by Rule 8002(a). Appearances: Dr. Richard Cordero, Defendant/Third Party Plaintiff(appeared by telephone); in opposition: Kenneth Gordon, Tr., Defendant. Mr. Gordon will submit Order. NOTICE OF ENTRY TO BE ISSUED. (kt) [EOD 02/14/03] [02-2230]
- 2/12/03 58 Letter [58-1]from Raymond Stilwell, Atty., re: various issues in this matter, and that he does not represent David Palmer in this matter. SEE LETTER FOR FURTHER DETAILS. (kt) [EOD 02/19/03] [02-2230]
- 2/18/03 57 Order [57-1] denying motion to extend time to file Notice of Appeal [47-1]that the Notice of Appeal was filed in the Bankruptcy Court Clerk's Office on 1/13/03; and thereby not timely filed; that the provisions of Bankruptcy Rule 9006(e) and 9006(f) do not apply to extend the time limited for filing of the Notice of Appeal under Bankruptcy Rule 8002(a); that the last date for Richard Coredero, Defendant and Third Party Plaintiff, to file a motion seeking an extension under Bankruptcy Rule 8002(c) of his time to file his Notice of Appeal was 1/29/03; that the motion to extend was not filed with the Bankruptcy Court Clerk' until 1/30/03; and that a motion to dismiss the appeal is pending in the District Court. NOTICE OF ENTRY ISSUED TO: Dr. Richard Cordero, Third Party Plaintiff; Ken Gordon, Defendant and U.S. Trustee. (kt) [02-2230]
- 2/21/03 59 Letter [59-1]from M. Beyma, Atty., for M&T Bank, advising that M&T Bank has not yet decided whether someone from the bank will attend at the warehouse opening. SEE LETTER FOR FURTHER DETAILS. (kt) [EOD 02/24/03] [02-2230]
- 2/27/03 60 Notice of Motion for relief from order denying motion to extend time to file notice of appeal [60-1] Hearing date and time: 9:30 3/12/03 at Rochester Courtroom Filed by: Dr. Richard Cordero, Defendant Affidavit of service: filed. Clerk's Note: Advised Dr. Cordero that 3/12/03 is not a motion date, he will re-notice the motion for 3/19/03 or 3/26/03, and submit an amended affidavit of mail. (kt) [EOD 03/04/03] [02-2230]
- 3/4/03 61 Letter of Opposition filed by K. Gordon, Defendant [61-1] re: motion for relief from order denying motion to extend time to file notice of appeal [60-1] Clerk's Note: Advised Mr. Gordon that the date of 3/12/03 is not a hearing date, and that an amended notice if forthcoming. (kt) [02-2230]

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3/10/03 62 Amended Notice of Motion, re: the amended date of hearing to 3/26/03 at 9:30 at Rochester Courtroom filed by Dr. Richard Cordero, Defendant [62-1] re: motion for relief from order denying motion to extend time to file notice of appeal [60-1]Affidavit of Service filed. (kt) [EOD 03/11/03] [02-2230]

3/10/03 63 Letter [63-1]of Dr. Richard Cordero, Defendant, re: default of David Palmer. (kt) [EOD 03/11/03] [02-2230]

3/11/03 65 Copy of Letter [65-1]from Dr. Richard Cordero to Hon. David Larimer, re: default judgment against D. Palmer. (kt) [EOD 03/13/03] [02-2230]

3/11/03 66 Copy of Decision and Order by U.S. District Judge David G. Larimer; concurring in the Bankruptcy Judge's determination that judgment is not appropriate in this case, and that furthermore, it would appear that the Bankruptcy Court is the proper forum for conducting an inquest concerning damages and the matter is referred to the Bankruptcy Court for that purpose. SEE ORDER FOR FURTHER TERMS AND CONDITIONS. [66-1] (kt) [EOD 03/13/03] [02-2230]

3/12/03 64 Letter [64-1]to Dr. Richard Cordero, sent by Paul Warren, Clerk of the Court, re: the application for the entry of default against David Palmer. SEE LETTER FOR FURTHER TERMS AND CONDITIONS. (kt) [EOD 03/13/03] [02-2230]

3/13/03 67 Decision and Order of the Hon. David G. Larimer, U.S. District Judge, re:Notice of Appeal filed on 1/13/03, re: the Decision and Order dated 12/30/02, of the Hon. John C. Ninfo, II, Chief U.S. Bankruptcy Judge. ORDERED THAT the Trustee's motion to dismiss the appeal is granted, and the appeal is dismissed. [67-1] (kt) [EOD 03/14/03] [02-2230]

3/26/03 70 Minutes [70-1] denying motion for relief from order denying motion to extend time to file notice of appeal [60-1]Ms. Schaal to submit order. The Court reserves the right to supplement the order. NOTICE OF ENTRY TO BE ISSUED. Appearances: Dr. Richard Cordero, Defendant and Third Party Plaintiff (by telephone); in opposition: Deborah Schaal of counsel to K. Gordon, Trustee, and David MacKnight, Atty. for James Pfunter. (kt) [EOD 03/28/03] [02-2230]

3/26/03 71 Transcript [71-1] of proceedings held 12/18/03. (kt) [EOD 03/28/03] [02-2230]

3/27/03 68 Copy of Letter [68-1]from David MacKnight, Atty., to Dr. Richard Cordero, Defendant, advising of the available inspection dates: 4/23/03, 4/24/03, or 4/25/03, or earlier if Dr. Cordero would like. SEE LETTER FOR FURTHER DETAILS. (kt) [02-2230]

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- 3/27/03 69 Copy of Decision and Order [69-1], executed by David G. Larimer, U.S. District Judge re: Richard Cordero moves for a rehearing or reconsideration of this Court's Decision and Order enter 3/11/03. The motion is in all respects denied. (kt) [EOD 03/28/03] [02-2230]
- 4/2/03 72 Copy of Letter [72-1] from Dr. Richard Cordero to Court Reporter. (kt) [02-2230]
- 4/4/03 73 Order [73-1] denying Defendant, Third Party Plaintiff, Dr. Richard Cordero's motion for relief from order denying motion to extend time to file notice of appeal [69-2], that based on the findings of fact and conclusions of law, that Richard Cordero's motion for relief from the order dated 2/18/03 denying his motion for extension of time for filing a notice to appeal is hereby denied. NOTICE OF ENTRY ISSUED TO Debra Schall, of counsel to Kenneth Gordon, Atty., Dr. Richard Cordero, Defendant, and David MacKnight, Atty. (kt) [EOD 04/07/03] [02-2230]
- 4/7/03 74 Notice of entry issued to U.S. Trustee [74-1] re: Order of 4/4/03. (kt) [02-2230]
- 4/7/03 75 Notice of Motion for Measures relating to trip to Rochester and Inspection of Property [75-1] Hearing date and time: 9:30 4/16/03 at Rochester Courtroom Filed by: Dr. Richard Cordero, Pro Se, Defendant, and Third Party Plaintiff. Affidavit of service: filed. Clerk's Note: Dr. Cordero is advised by letter that 4/16/03 is not a scheduled date, and to please re-notice his motion for 4/23/03, or for one of the Court's motion dates that accommodates his schedule. (kt) [EOD 04/08/03] [02-2230]
- 4/7/03 76 Letter [76-1] to Dr. Richard Cordero, advising that due to the complexity of the legal issues that he has now raised and re: notice of motion for measures relating to trip to Rochester, the Court denies Dr. Cordero's request to appear by telephone in this matter. SEE LETTER FOR FURTHER DETAILS. (kt) [EOD 04/08/03] [02-2230]
- 4/11/03 77 Notice of Motion for an Order pursuant to FRBP 7056 and Federal Rules of Civil Procedure 56 and Federal Rules of Bankruptcy Procedure 7022 and Federal Rules of Civil Procedure 22 for an Order discharging James Pfuntner from any liability to any of the parties to this adversary proceeding [77-1] Hearing date and time: 9:30 4/23/03 at Rochester Courtroom Filed by: David MacKnight, Atty. Affidavit of service: not filed (kt) [EOD 04/14/03] [02-2230]

- 4/21/03 78 Brief of Dr. Richard Cordero, Pro Se [78-1] re: motion for an Order pursuant to FRBP 7056 and Federal Rules of Civil Procedure 56 and Federal Rules of Bankruptcy Procedure 7022 and Federal Rules of Civil Procedure 22 for an Order discharging James Pfunter from any liability to any of the parties to this adversary proceeding [77-1] Affidavit of Mailing filed. (kt) [02-2230]
- 4/21/03 79 Letter [79-1] from Mary Dianetti, Bankruptcy Court Reporter, in response to Dr. Cordero's letter. SEE LETTER FOR FURTHER DETAILS. (kt) [EOD 04/22/03] [02-2230]
- 4/23/03 81 Minutes [81-1] motion for an Order pursuant to FRBP 7056 and Federal Rules of Civil Procedure 56 and Federal Rules of Bankruptcy Procedure 7022 and Federal Rules of Civil Procedure 22 for an Order discharging James Pfunter from any liability to any of the parties to this adversary proceeding [77-1] Adj. to 9:30 5/21/03 at Rochester Courtroom. The court directed Dr. Cordero to inspect the goods by 5/21/03. Appearances: David MacKnight, Atty. for J. Pfunter, Plaintiff; in opposition: Dr. Richard Cordero, Defendant, and Third Party Plaintiff (by telephone). (kt) [EOD 04/29/03] [02-2230]
- 4/29/03 80 Clerk's Note: Appeal filed transmitted to District Court, for purposes of filing in the Second Circuit. [80-1] (kt) [02-2230]
- 5/5/03 82 Copy of Letter [82-1] from Dr. Cordero to James Pfunter, confirming that Dr. Cordero will be arriving in Rochester on May 21, 2003 at 10:45, to inspect his property in Avon. Affidavit of Service filed. (kt) [02-2230]
- 5/7/03 83 Letter [83-1] from Dr. Richard Cordero, Defendant, re: his travel arrangements for the inspection in Avon, NY., on 5/19/03. SEE LETTER FOR FURTHER DETAILS. (kt) [02-2230]
- 5/13/03 84 Copy of Letter [84-1] from J. Pfunter to Dr. Cordero, confirming that the inspection of the property at Sackett Road will take place on 5/19/03. SEE LETTER FOR FURTHER DETAILS. (kt) [02-2230]
- 5/15/03 85 Letter [85-1] from Dr. Richard Cordero, Defendant, advising that he will be in Rochester on 5/19/03. SEE LETTER FOR FURTHER DETAILS. (kt) [EOD 05/16/03] [02-2230]

Office Of The Clerk
United States District Court

Western District Of New York
2120 U.S. Courthouse
100 State Street
Rochester, New York 14614-1387
(585) 263-6263 / Fax (585) 263-3178

Rodney C. Early
Clerk

May 19, 2003

Roseann MacKechnie, Clerk
United States Court of Appeals
for the Second Circuit
U.S. Courthouse
Foley Square
New York, NY 10007

RE: 03-cv-6021 (USCA# 03-5023) - CORDERO VS GORDON

Dear Ms MacKechnie,

We are transmitting herewith the Record on Appeal in regards to the above mentioned action along with a Clerk's Certificate and a certified copy of a current docket sheet for your information as requested by your Court..

If I can be of any further assistance, please do not hesitate to call.

Very truly yours,


MARGARET GHYSEL
Deputy Clerk

Enclosures

CC Richard Cordero, Dr.
Kenneth W. Gordon, Esq.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RICHARD CORDERO, DR.,

Appellant,

vs

03 - CV - 6021 L
USCA#03-5023

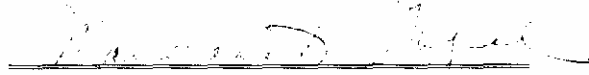
KENNETH GORDON, ESQ.,

Appellee.

I, RODNEY C. EARLY, Clerk of the United States District Court for the Western District of New York, do hereby certify that the copy of docket entries A through C together with the index numbered 1 through 11 constitute the Index to the Record on Appeal.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Rochester, New York, this 19th day of May, 2003.

FOR: RODNEY C. EARLY, CLERK



INDEX TO RECORD ON APPEAL
CIVIL DOCKET FOR CASE #: 03-CV-6021
Cordero v. Gordon
(USCA# 03-5023)

A - ¹ DOCKET ENTRIES.

- 1/15/03 1 BANKRUPTCY RECORD on appeal received (to)
- 1/16/03 3 ORDER, that appellant shall file and serve its brief within 20 days after entry of this order; appellee shall serve its brief within 20 days after service of appellants brief (signed by Chief USDJ David G. Larimer) Notice and copy of order sent to Kenneth W. Gordon, Richard (to)
- 1/17/03 2 MOTION by Kenneth Gordon to Dismiss appeal court to set return date (to) [Entry date 01/17/03]
- 1/22/03 4 ORDER, Response to Motion set to 2/14/03 for [2-1] motion to Dismiss appeal (signed by Chief USDJ David G. Larimer) Notice and copy of order sent to Kenneth W. Gordon, Richard Cordero (to) [Entry date 01/22/03]
- 1/24/03 5 ORDER, Vacating [3-1] order that appellant shall file and serve its brief within 20 days after entry of this order; appellee shall serve its brief within 20 days after service of appellants brief all dates in the 1/22/03 order remain in full force and effect (signed by Chief USDJ David G. Larimer) Notice and copy of order sent to Kenneth W. Gordon, Richard Cordero (to) [Entry date 01/27/03]
- 2/14/03 6 REPLY BRIEF by Richard Cordero Re: [2-1] motion to Dismiss appeal by Kenneth Gordon (to) [Entry date 02/14/03]
- 3/12/03 7 ORDER granting [2-1] motion to Dismiss appeal, to Dismiss action (signed by USDJ David G. Larimer) Notice and copy of order sent to Kenneth W. Gordon, Richard Cordero (to) [Entry date 03/12/03]
- 3/12/03 8 JUDGMENT for Kenneth Gordon against Richard Cordero (signed by Clerk). Notice and copy of judgment sent to Kenneth W. Gordon, Richard Cordero (to)

- 3/21/03 9 MOTION by Richard Cordero for Reconsideration of [8-1] judgment order, [7-1] order to Dismiss action (to)
- 3/27/03 10 ORDER denying [9-1] motion for Reconsideration of [8-1] judgment order, [7-1] order to Dismiss action (signed by USDJ David G. Larimer) Notice and copy of order sent to Kenneth W. Gordon, Richard Cordero (to)
- 4/25/03 11 NOTICE OF APPEAL by Richard Cordero . Fee Status: 105.00 (Also appealing 03-mbk-6001) (mg) [Entry date 04/28/03]

Office Of The Clerk
United States District Court

Western District Of New York
2120 U.S. Courthouse
100 State Street
Rochester, New York 14614-1387
(585) 263-6263 / Fax (585) 263-3178

Rodney C. Early
Clerk

May 19, 2003

Roseann MacKechnie, Clerk
United States Court of Appeals
for the Second Circuit
U.S. Courthouse
Foley Square
New York, NY 10007

RE: 03-mbk-6001 (USCA# 03-5023) - CORDERO VS PALMER

Dear Ms MacKechnie,

We are transmitting herewith the Record on Appeal in regards to the above mentioned action along with a Clerk's Certificate and a certified copy of a current docket sheet for your information as requested by your Court..

If I can be of any further assistance, please do not hesitate to call.

Very truly yours,


MARGARET GHYSEL
Deputy Clerk

Enclosures

CC Richard Cordero, Dr.
David Palmer
Raymond Stilwell, Esq.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RICHARD CORDERO, DR.,

Appellant,

vs

03 - MBK - 6001 L
USCA#03-5023

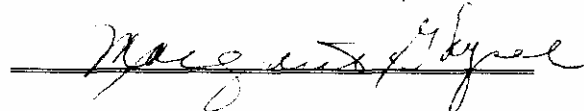
DAVID PALMER,

Appellee.

I, RODNEY C. EARLY, Clerk of the United States District Court for the Western District of New York, do hereby certify that the copy of docket entries A through B together with the index numbered 1 through 6 w/exhs. constitute the Index to the Record on Appeal.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Rochester, New York, this 19th day of May, 2003.

FOR: RODNEY C. EARLY, CLERK



MISCELLANEOUS DOCKET
UNITED STATES DISTRICT COURT

Docket
No. 03-mbk-6001

Title of Case	Attorneys
IN RE: Premier Van Lines, Inc. RICHARD CORDERO DAVID PALMER <i>Sucepto Ro A</i> <i>USCA# 03-5023</i>	For Plaintiff: Richard Cordero, Dr. 59 Cresent St. Brooklyn, NY 11208 For Defendant: 1829 Middle Rd. Rush, NY 14534 Raymond Stilwell, Esq. 300 Linden Oaks, Roch., ny 14625

Memoranda	Date	Name or Receipt No.	Received	Disbursed

Date	Proceedings	Date Order or Judgement Noted
2/4/03	1- #54 Non-core proceeding of Bankruptcy Court re: plaintiff's request for default judgment	
3/5/03	1- #55 Motion fo motion to enter default judgment against David Palmer and withdraw proceeding by Richard Cordero	
3/11/03	3- #56 Decision and Order denying request for default judgment; that judgment is not appropriated in this case; furthermore it would appear that the Bankruptcy court is the proper forum for conducting an inquest concerning damages and the matter is referred to the Bankruptcy Court for that purpose (DGL) Case Closed-file sent back to bankruptcy court	
3/21/03	4- #57 Motion for rehearing re: implied denial of motion to enter default judgment and with-draw proceeding	
3/27/03	5- #58 Order denying request for a rehearing and reconsideration (#57)	

Date	Proceedings	Date Order or Judgement Noted
4/25/03	6 - #59 Filed certified copy of Notice of Appeal - IN RE -3/11/03 order. (Also filed NOA in 03-cv-6021 case - CORDERO VS GORDON)	
4/28/03	Transmitted NOA along with 03-cv-6021 w/ certified copy of both docket sheets	
5/19/03	Certified and transmitted ROA to USCA, Second Circuit: (also sending ROA of 03-cv-6021) along with certified copies of both cases - (USCA# 03-5023)	
EXHIBITS		
A.	Cordero's Designation of Items and Statement Issues on Appeal filed 1/27/03 in Bankruptcy Court	

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
UNITED STATES COURT HOUSE
40 FOLEY SQUARE
NEW YORK 10007

ROSEANN B. MACKECHNIE
CLERK

Docketing Letter - Bankruptcy Case

DATE: May 16, 2003

Richard Cordero
59 Crescent St.
Brooklyn, NY 11208-1515

Re: 03-5023 In Re: Premier Van v.

District Court Docket No: 03-cv-6021

Deputy Clerk: Robert Rodriguez Telephone: (212) 857-8521

Dear Counsel:

We have today docketed a notice of appeal filed by Richard Cordero in the above referenced case as docket number 03-5023. This docket number must appear on all documents related to this case which are submitted to this Court. Enclosed are a copy of our docket sheet including the caption page, and instructions regarding the filing and processing of a civil appeal in this Court. Also enclosed is an acknowledgement letter. **Please return the enclosed acknowledgement within ten days of the date of this letter with the following information:**

YOUR CORRECT ADDRESS AND TELEPHONE NUMBER: Please check the enclosed attorney listing page of the docket sheet and advise this Court of any incorrect information in writing on the enclosed acknowledgement form. **THE COURT WILL GIVE NOTICE OR SERVE COPIES OF ORDERS TO ONLY ONE COUNSEL PER PARTY (OR GROUP OF COLLECTIVELY REPRESENTED PARTIES.) COUNSEL ARE REQUIRED TO DESIGNATE ON THE ATTACHED ACKNOWLEDGEMENT LETTER A LEAD ATTORNEY TO ACCEPT ALL NOTICE FROM THIS COURT IN THIS APPEAL, WHO WILL, IN TURN, BE RESPONSIBLE FOR NOTIFYING ANY ASSOCIATED COUNSEL.**

CAPTION: Attached is the full caption in this matter taken from the district court docket. Please review this attachment carefully and promptly advise this Court of any discrepancies in writing on the enclosed acknowledgement form.

APPELLATE DESIGNATIONS: Please review whether your client is correctly listed as appellant or appellee in the party listing page of the docket sheet and in the caption. Should you believe there is an error, please advise in writing on the acknowledgement form. Timely submission of the acknowledgment form will be constituted as compliance with the requirement to file a Representation Statement set forth in Rule 12(b) of the Federal Rules of Appellate Procedure.

Please read the enclosed instructions. If you have any questions with regard to this pending appeal, please call the Deputy Clerk whose name is given above.

Sincerely,

ROSEANN B. MACKECHNIE,
CLERK

Enclosures: USCA Docket Sheet, including Caption Page
 Instructions
 Acknowledgement Form

GENERAL DOCKET FOR
Second Circuit Court of Appeals

Court of Appeals Docket #: 03-5023
Nsuit: 3422 STATUTES-Bkrup Appeals 801
In Re: Premier Van, et al v.
Appeal from: U.S. District Court WDNY

Filed: 5/2/03

Case type information:
1) Bankruptcy
2) dc
3) none

Lower court information:
District: 0209-06: 03-cv-6021 and 03-MBK-6001L, see attached copy
Trial Judge: David G. Larimer of letter to Clerk Rodney C. Early
Date Filed: 1/15/03
Date order/judgment: 3/27/03
Date NOA filed: 4/25/03

Fee status: paid

Prior cases:
None
Current cases:
None

Panel Assignment:

Proceedings include all events.
03-5023 In Re: Premier Van, et al v.

Re: PREMIER VAN LINES
Debtor

RICHARD CORDERO
Third-Party-Plaintiff -
Appellant

Richard Cordero
718-827-9521
[COR LD NTC]
59 Crescent St.
Brooklyn, NY 11208-1515

KENNETH W. GORDON, Esq.
Trustee - Appellee

Kenneth W. Gordon, Esq.
585-244-1070
Suite 120
[COR LD NTC]
Gordon & Schaal, LLP
100 Meridian Centre Blvd.
Rochester, NY 14618

v.

DAVID PALMER
Third-Party-Defendant -
Appellee

David Palmer
[COR LD NTC]
1829 Middle Rd.
Rush, NY 14543

Proceedings include all events.
03-5023 In Re: Premier Van, et al v.

Official Caption 1/

Docket No. [s] : 03-5023

IN RE: PREMIER VAN LINES, INC.,
Debtor.

RICHARD CORDERO,
Third-Party-Plaintiff - Appellant

v.
KENNETH W. GORDON, Esq.,
Trustee - Appellee,

DAVID PALMER
Third-Party-Defendant - Appellee.

Authorized Abbreviated Caption 2/

Docket No. [s] : 03-5023

In Re: Premier Van Lines, Inc.,

1/ Fed. R. App. P. Rule 12 [a] and 32 [a].
2/ For use on correspondence and motions only.

Docket as of May 16, 2003 4:09 pm

Page 3

Proceedings include all events.
03-5023 In Re: Premier Van, et al v.

/03 Copy of notice of appeal and district court docket entries on behalf of Appellant Richard Cordero filed. [03-5023] "Fee Paid #64514". (ra)

5/2/03 Note: This appeal was PRO SE when filed. (ra)

5/2/03 Copy of decision and order dated March 11, 2003 (03-MBK-6001L), endorsed by Hon. David G. Larimer, United States District Judge, RECEIVED. [03-5023] (ra)

5/2/03 Copy of decision and order dated March 12, 2003, endorsed by Hon. David G. Larimer, United States District Judge, RECEIVED. (03-cv-6021L). [03-5023] (ra)

5/2/03 Copy of judgment dated March 12, 2003, endorsed by Deputy Clerk, RECEIVED. [03-5023] (ra)

Docket as of May 16, 2003 4:09 pm

Page 4

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

May 24, 2003

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

Re: Redesignation of Items in the Record and Statement of Issues on Appeal
for USCA 03-5023

Dear Ms. MacKechnie,

Thank you for your Docketing Letter of May 16, 2003. Please find herewith my acknowledgment letter with corrections and other forms that I have filled out as requested.

I would like to bring to your attention the fact that in the copy of neither the docket that I requested from the bankruptcy court or received unrequested from the district court is there any entry for the Redesignation of Items in the Record and Statement of Issues on Appeal that I submitted not only to the bankruptcy court, but also to the district court on May 5, 2003. That may explain why in docket 03-5023 there is no such entry either. I would appreciate it if you would explain the significance of that omission and how it could have occurred. Since some very odd events –to put it mildly- have occurred in those courts in Rochester, I wonder whether this is another one of them.

In any event, to be on the safe side I have enclosed a copy of that Redesignation and Statement. They concern the two cases involved in my appeal, namely:

Cordero v. **Gordon**, case no. 03-CV-6021L
Cordero v. **Palmer**, case no.03-MBK-6001L

Please also note what I already brought to the attention of the clerk of the District Court, Mr. Rodney C. Early, to wit, that I have collected each of the items listed in that Redesignation, including those initially submitted to the bankruptcy court back on January 23; sequentially numbered their pages, printed and bound them. I stand ready to submit that record to the Court of Appeals upon receiving leave from you to do so. This Redesignation is certainly more comprehensive than the record on appeal in the dockets that I have received from the bankruptcy and district courts.

I look forward to hearing from you and remain,

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

May 5, 2003

Mr. Rodney C. Early, Clerk
United States District Court
2120 U.S. Courthouse
100 State Street
Rochester, NY 14614-1387

Dear Mr. Early,

I am a party in adversary proceeding 02-2230 in bankruptcy court. Matters therein were referred to the district court, and you assigned to it the following case numbers:

Cordero v. **Gordon**, case no. **03-CV-6021L**
Cordero v. Palmer, case no.03-MBK-6001L

I have appealed from those orders to the Court of Appeals for the Second Circuit and in my notice of appeal, filed last April 25, I used those names and case numbers. However, the statement that thereupon your deputy, Ms. Margaret Ghysel, sent me on April 28, bears the following subject line:

Re: 03-cv-6021L – Cordero vs Palmer
03-MBK-6001 –Cordero vs Palmer

Obviously, there is a mistake since the defendant in 03-cv-6021L is Gordon, that is, Trustee Kenneth Gordon, not Palmer, or David Palmer, the defaulted defendant in the miscellaneous bankruptcy case. I kindly request that you correct this mistake promptly so that it does not lead to problems later on and that you let me know the course of action that you take to do so.

I spoke with yours Appeals Clerk Peggy, who indicated that I could submit to the district court my Redesignation of Items and Statement of Issues on Appeal, which I must prepare pursuant to FRAP Rule 6(b)(2)(B)(i). Hence, please find herewith a copy of it for good measure.

In this context, please note that I have collected each of the items listed in that Redesignation, including those initially submitted to the bankruptcy court back on January 23; sequentially numbered their pages, printed and bound them. I stand ready to submit that record either to you, if you request it in writing, or what is more inexpensive and practical, submit it upon your written instruction to the Court of Appeals directly. I believe that in this way I comply with FRAP 6(b)(2)(C)(ii), which provides that “all parties must do whatever else is necessary to enable the clerk to assemble and forward the record.”

I look forward to hearing from you and remain,

sincerely,

Dr. Richard Cordero

US Court of Appeals for the Second Circuit
Case Summary

Court of Appeals Docket #: 03-5023
Nsuit: 3422 STATUTES-Bkrup Appeals 801
In Re: Premier Van, et al v.
Appeal from: U.S. District Court WDNY

Filed: 5/2/03

Lower court information:

District: 0209-06: 03-cv-6021
Trial Judge: David G. Larimer

5/2/03 Copy of decision and order dated March 11, 2003 (03-MBK-6001L), endorsed by Hon. David G. Larimer, United States District Judge, RECEIVED. [03-5023] (ra)

5/2/03 Copy of decision and order dated March 12, 2003, endorsed by Hon. David G. Larimer, United States District Judge, RECEIVED. (03-cv-6021L). [03-5023] (ra)

5/2/03 Copy of judgment dated March 12, 2003, endorsed by Deputy Clerk, RECEIVED. [03-5023] (ra)

5/22/03 Record on appeal filed. (Original papers of district court.) Number of volumes: 1. Also included is the record from the bankruptcy court which is a separate volume. (ra)

5/28/03 Scheduling order #1 filed. Record on appeal due on 6/9/03. Appellant's brief and appendix due on 7/9/03. Appellee's brief due on 8/8/03. Argument as early as week of 9/22/03. (ra)

5/28/03 Notice to counsel regarding scheduling order #1 filed on 5/28/03. (ra)

5/28/03 Notice of appeal acknowledgment letter from Richard Cordero for Appellant Richard Cordero received. (ps30)

5/28/03 Letter dated 5-5-03 from appellant pro se Dr. Cordero to the district court requesting that the district court correct the mistake listed on the district court docket received (ps30)

5/28/03 Notice of appearance form on behalf of Richard Cordero, Esq., filed. (Orig in acco, copy to Calendar) (ps30)

5/28/03 Resignation of items in the record and statement of issues on appeal from Appellant Richard Cordero received. (ps30)

6/2/03 Notice of appeal acknowledgment letter from Kenneth W. Gordon for Appellee Kenneth W. Gordon received. (ps30)

6/5/03 Record on appeal received in records room from team. (reg)

6/5/03 1st supplemental index on appeal filed. (ps37)

6/13/03 Record on appeal received in records room from team. (reg)

PACER Service Center

Transaction Receipt

SPA-62

Special Appendix to Dr. Cordero's brief of 7/9/3 in *Premier Van et al.*, 03-5023, CA2

A:1442

CA2 docket of appeal from Cordero v Gordon, 3cv6021, WDNY, as of 7july3

07/07/2003 12:52:11			
PACER Login:		Client Code:	
Description:	dkt summary	Case Number:	03-5023
Billable Pages:	1	Cost:	0.07

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